



WINNING A TRAFFIC COURT TRIAL IN CALIFORNIA

A Self-Help Publication From the Sponsors of Traffic Court Pros.com.

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FIGHTING TRAFFIC CITATIONS:

INTRO:

How Do You Fight A Traffic Citation?



Everyone who has ever received a traffic ticket has felt the urge to fight the ticket in court. Maybe you've even had the blissful day dreams of winning the case in court, and laughing at the police officer on your way out.

Of course, beating a traffic citation is usually not easy, but it can be done. You don't have to be a trial attorney, but you do have to be prepared. And there are lots of benefits to fighting a traffic citation if you win.

If you are found "not guilty" by a judge on one or more charges in a case, the charge(s) will be dismissed completely. Every charge you beat reduces your penalties. If you win on all of the charges in a case, the whole case will be dismissed, and you will walk away with no penalties.

And if you fight your ticket and win, you will save money. In some cases, a win means saving a lot of money - hundreds, even thousand of dollars in the long run. The fines, and increased insurance fees add up quick and are worth fighting against for many. This is especially true for those who are in danger of having their license suspended due to a high number of negligent driver points, or for those who require special licenses such as commercial drivers.

So the obvious question is: *How does an everyday person win a traffic court trial?* The following is our best effort at giving you the information you need to win. It is designed as meaningful self-help info, regardless of what kind of citation or case you have.

I. UNDERSTANDING THE TRIAL PROCESS

Just like in criminal cases, you are presumed innocent on traffic citations until the government proves you are guilty. Because of this fact, a driver ("defendant") who fights a traffic ticket starts out with an advantage. But to give yourself the best chance of winning a traffic court trial, you need to be prepared - regardless of whether or not you have a defense.

A Trial (in the traffic court world) is the procedure a court uses to determine if the defendant (person listed on the ticket) is guilty of the charges listed on the ticket (alleged violations). The charges are usually listed as numbers, which refer to sections in a book of laws called the “California Vehicle Code”, which is often abbreviated to “V.C” sec.. Trials don’t happen in every case. In fact, they are quite rare. In order to have a trial, you must request one.

Usually, the accused simply pays the fine that the court assigns to the violation, and the court treats it as an admission of guilt. Once payment is received, the court closes the case and there is no need for a trial. If you pay the fine for a citation before appearing in court, or plead guilty, your case will end, and you will be convicted without a trial.

With most California infractions and minor traffic offenses, **you have 2 choices from the first day:**

- plead “Guilty” and get your sentence, or
- plead “Not Guilty” and have a “Traffic Court Trial” (a.k.a. court trial).

Because of this, in order to fight a citation, **you must first plead “not guilty” and ask for a trial.** This is typically done at the first court date, which is called the “Arraignment”. An “Arraignment” is the time in which the court hears and records your plea of guilty or not guilty. If you assert your innocence by pleading “not guilty” instead of paying the fine, the court will set a date for a trial. When a defendant pleads “not guilty”, they are in effect requesting a trial. If the date the court gives to you is not convenient, request the date you want. It may work.

Most traffic court cases have more than one charge or violation listed. You can choose to have a trial on one or more of the charges, but sometimes it is best to just fight them all and see if the government’s evidence holds up.

The “trial” is usually a short hearing in which the judge hears the evidence and determines if the accused is guilty of the charges. It is only at the trial that you are allowed to present evidence, make a statement and to argue a case. It is only at the trial that the officer is required to appear.

Traffic Court Trials tend to be more informal than a civil or criminal trial, because there is less at stake. Because of this, there are variances in the way the judges handle the trials from courtroom to courtroom. Traffic court trials are usually the court’s lowest priority type of case, and get the least of the court’s attention and resources. Some courts will do 30 in one day. You should be ready for a short, get to the point now!, type of hearing at your trial.

II. DOES A TRIAL MAKE SENSE FOR YOU?

It is not always a good idea to have a trial. Sometimes the time and effort is not worth the benefits of winning. Don’t let emotion influence your decision to fight a citation. You must consider losing. If you try to have a trial simply because you are madd about how you were treated, chances are you will lose the trial, become more frustrated, and will face harsher consequences. Because of this, you should be careful to evaluate your goals, and the chances of reaching them before committing to a trial.

A trial will require 2 court appearances and several hours of work at a minimum. A live trial may take up two or three days of your life, especially when you consider the time it takes to get to court, get the trial date and to prepare for the trial. You must consider the consequences of having a trial and losing. If the court offers you a reasonable deal and you choose to have a trial instead, and then lose the trial, your penalties may increase dramatically. **Always ask the court for an offer before your trial. This can be done by asking for an “indicated sentence”,** which means “If I plead guilty, what will you sentence me to?”.

To avoid wasting time and money, be sure to honestly evaluate your chances of winning before you embark on the trial path. When making this consideration, you need to be aware of one crucial fact: in nearly all traffic court trials, the officer will present evidence against you including a written citation, and his/her own statements relating to the alleged violations. Ask yourself, “**What is it about my case that will get the judge to disregard the officer’s description of the violations?**” If you don’t have a clear and convincing answer to that question, a trial might not be the best idea.

Consider Traffic School.

For many moving violations, a driver can prevent the violation from showing on a DMV drivers record by attending and completing an approved “traffic school” - which the courts call a traffic offender program. For many people who want to fight a citation to protect their records, traffic school is a better option than a trial. It does cost more than if you get your citation dismissed completely, but going to traffic school is a sure fire way to prevent the violation from appearing on your record.

You can go to traffic school once every 18 months to clear one moving violation from your CA DMV record. In order to make this happen you must:

- 1) request a referral to traffic school from the court (usually at the clerk’s office but you can ask the judge in open court at any time);
- 2) sign up for an approved traffic school within 5 days of the referral;
- 3) complete traffic school;
- 4) deliver proof of completion to the court clerks office; and
- 5) pay the court’s fees in full.

***Practice Tip:** If want to fight a speeding ticket just to keep it off your record, and you don’t have a clear defense, completing traffic school may be a better option. If you’ve already been to traffic school within 18 months, ask for it anyway. There is a second offender program that the court can send you to.*

III. PREPARING FOR A TRIAL

You still want to fight your ticket? OK - here we go: Step 1: You must plead “Not Guilty” and ask for a trial date.

How To Get A Trial Date:

Trials for traffic citations come in 2 forms:

- Trial by Declaration (trial by paperwork), and
- Live Court Trial (in person)

A **Trial by Declaration** is a procedure where a judge makes a decision based upon the paperwork only (more on this below).

A **Live Court Trial** is a hearing during which you must show up in person at court to present your evidence, the officer usually testifies, and then the judge or commissioner makes a ruling or live on the spot.

In general, defendants in traffic court cases have a right to a “**Court Trial**”, where the judge makes a ruling on the case alone. In minor traffic **infractions**, there is no right to a Jury Trial. But if there are any **misdemeanor charges**, the defendant is eligible for a **Jury Trial**. In a jury trial, a jury makes the decision on the case instead of the judge.

***Practice Tip:** If you are serious about fighting a citation, starting early with a “**Trial by Declaration**” can pay off.*

Trial By Declaration Procedure.

If you are serious about doing all you can to fight a traffic ticket, a Trial by Declaration is a good way to start. It’s all done by paperwork, and there is a chance that you can win. Even if you lose a Trial by Declaration, you can still request a live court trial. Thus: there is no harm in trying.

To get a Trial by Declaration date, you must request one in writing to the court before the deadline listed as the date to appear on your citation. The court will then set a deadline for receiving your “Trial by Declaration Form”, and a date for the judge to rule on the case. The court clerk will also send out a request for the statement from the officer who wrote the citation. Both the defendants statement and the officers statement must be received before the deadline set by the clerk.

It is important that you keep really good records and copies of your request. Make sure you put the dates on a reliable calendar that will keep you informed.

After requesting a Trial by Declaration and getting a date to turn in the paperwork from the court, you must send (submit) your statement on the Trial by Declaration Form with all of your evidence. You can find the Form at www.courtinfo.ca.gov. (<http://www.courtinfo.ca.gov/forms/fillable/tr205.pdf>.)

A typical Trial by Declaration will require 2-4 hours of your time.

***Practice Tip:** The only evidence the court will review is that provided by you, and that provided by the police officer. Make sure you provide all of the evidence you have - but make sure it helps your case in some way.*

The court will ask the officer who issued the citation to submit a written statement. Once the officers response is in, the judge reviews the paperwork, statements and evidence, and makes a ruling without anyone being present in court. Once a decision is made, the court clerk will notify you by mail of the judge’s ruling.

Some defenses are perfect for a Trial by Declaration setting. For example, in a case where an officer makes a mistake you can prove, such as there was a “Yield” sign where the officer thought there was a “Stop” sign. In that sort of case, a picture of the intersection attached to a signed Trial by Declaration Form is a good way to present that defense without wasting time in court.

Be sure to avoid the **#1 mistake made by people who lose a trial by declaration - they request it too late**. You must send in your written request for a Trial by Declaration before the deadline written on the ticket the police officer handed to you. Do not wait for a courtesy notice. If you are contesting a photo-enforcement citation, the deadline is the deadline listed in the first notice you received of the violation.

If you lose a Trial by Declaration, you can request a court trial, and start over. When the court sends you the decision that you lost, it will also include information on how to request a “Trial De Novo”, or a new live court trial. Basically, you must fill out the Request for Trial De Novo Form which you can find at: (<http://www.courtinfo.ca.gov/forms/fillable/tr220.pdf>) and submit it to the court.

Many traffic court cases are won at the Trial by Declaration stage, frequently because the officer fails to submit a statement on time. Thus, if you have a weak defense, this may be your best avenue for an early win.

How To Set A Live Court Trial.

Plead “Not Guilty” At the Arraignment:

In order to get a live court trial date, you must first make a court appearance at an “Arraignment”. The Arraignment is the date on which you enter your plea, and it usually takes place on the date written on the citation given to you by the police officer.

At the Arraignment, essentially, you have 2 choices - plead Guilty or Not Guilty. If you plead Not Guilty, the court will set a date for a live court trial. Most courts do the traffic court trials all at once, on a routine schedule, such as Wednesdays at 1:30 p.m. for example. You can request a date and time that you prefer if the date the court gives is not convenient for you.

Some courts will allow you to plead “Not Guilty” by mail, simply by filling out a form included on a “Courtesy Notice” and returning it to the court. However, not all courts send out Courtesy Notices, so don’t wait for one. Most courts will require that you actually appear in court on the date listed on your citation if you have not made prior arrangements, such as a Request for Trial By Declaration, or paid the fine.

As long as you request the trial before the deadline on your citations, it should be fairly easy.

What is “Bail” on a Traffic Citation?:

Some courts will require you to deposit the amount of Bail (the full fine amount if you are guilty) with the court in order to get a trial date. This is not actually a fine payment, but rather it is a deposit to make sure you show up for the trial. If you do not show, you will lose, and the court will keep your deposit as payment for the fine. But if this happens, your case may not end. The court can still issue a warrant for your arrest on a failure to appear charge. **Make sure you show up if you set a trial date.** Too many people make the mistake of setting a trial and then blowing it off. That is one of the quickest ways to a bad result.

If You Can Not Afford To Pay The Bail, Set a Pre Trial Date.

If you attempt to set a trial date with the court clerk and they require a bail amount you cannot afford, you should request a pre trial court date. Then, you can appear in front of the judge and request that the judge set the trial date and inform the judge that you cannot afford the bail amount. In most cases, the court will accommodate your request.

IV. UNDERSTANDING THE EVIDENCE.

The only evidence the court is going to review is that which you provide, and that which the officer provides.

Figure Out What You Have:

You may think at first that you do not have any evidence to present. But it is likely that you have more than you think. Evidence available to you may include:

The officer’s statements;

Your statements;

Photos of the scene;
Witness testimony
The citation

The Officer's Statements:

The officers statements can help if you listen to them carefully and are focused on what is important. Sometimes the officer will make a mistake and say something that is obviously not true, or doesn't make sense. Sometimes an officer will accuse you of things that do not appear on the citation.

Sometimes - and its actually common - the officer will leave something out on a particular violation. For example, if the officer spends his entire statement on explaining how he caught you speeded, and never presents any evidence on the insurance violation, he has done you a favor. In order to take advantage of it, you will have to hear it, remember it, and then point it out to the judge in your final argument.

Deciding Which of Your Evidence Is Best:

Not all evidence carries the same weight. What you want is more convincing evidence, not a more evidence. In most traffic citation trials, the defendant's own statements about what happened are the best, and the only evidence a defendant offers. Because of this, you need to decide what you might say in your statement. And in order to do that you will have to imagine in advance what the evidence against you will be.

Look Up The Statutes:

In California, nearly all traffic citations are violations of the California Vehicle Code. Normally, the number of the specific section that the officer claims you violated will be written on the citations. For Example: A Speeding Citation will list the term "V.C. 22350" as the violation. This refers to Vehicle Code section 22350. You can look up the sections for free on the DMV web site.

Once you look up the sections of your violations, read them carefully, and focus on what they require. If all the requirements are not met by the evidence presented during the trial, then you are innocent of that charge. For Example: If you are charged with a violation of blocking a public roadway, and there's no evidence that it was public, you have a defense.

V. PRESENTING YOUR CASE.

The first step in preparing is to identify your best defenses. You should come up with at least one. Obviously, you cannot do this unless you are aware of the charges. Because of this, make sure you know what you are charged with.

Many traffic court cases involve several charges. For example, if you got pulled over speeding, and you did not have proof of insurance and registration, you probably have 3 separate charges: Speeding; No proof of Insurance; No Proof of Current Registration.

When you have a trial, you will be accused of all three of the charges. However, you may only want to focus on one, and that is OK. This is up to you. It is OK to go to trial solely for the purpose of trying to beat the speeding charge, but be ready to win on the others if an officer makes a mistake. If you have many violations, you can also plead guilty to one or more violations, and have a trial only on the remaining charges.

So the bottom line is that you should know what you are charged with. Ask to review the courts file before the trial starts if necessary.

Figure out what about your case is important, and what is not. Far too many defendants waste a chance to win their case by trying to explain away a violation with an explanation that is not a defense. For example - the excuse "I could not see the the stop sign" is not a defense to a failure to appear in court. And here is another hint: a description of a family problem will never help you win a traffic court trial. Many have tried, it never works.

Try to anticipate what the officer is going to say. If you know he is going to say he clocked you going 90, get ready for it. Prepare a response in advance. Focus on one or two points that you think can make a difference.

What To Expect On The Day of The Trial.

The first step on the day of the trial is getting to court, and the best advice for this part of the project is simple: Get There Early. Expect parking to be difficult, expect long security lines, and confusion as to where you should go. If you plan on these difficulties, it will reduce your stress.

Most traffic court trials are very short. They last anywhere between 30 seconds, and half an hour. Most judges will limit them to 15 minutes or so per case, due to the volume off cases. In some courtrooms, the court can go through 20 or more trials in a single day. So don't expect your trial to be long, or come with any kind of written opinion. And beware - most judges will not hesitate to cut you off early if you are not making sense or are not winning.

The first step in the trial is that the bailiff or courtroom clerk will "swear in" everyone in the room. The room may be full or standing room only but the court swears everyone in at once. "Swearing in", means that you are legally promising to tell the truth. Once this oath is made conducted by the court, the penalty of perjury attaches to any lies or misrepresentations made to the court. In many courts, they will also play a tape or video describing your rights.

Following the swearing in process, the judge typically comes out, makes an introductory statement, and starts calling the cases one by one.

The trial starts when the judge asks the officer why he issued the citation. The officer will then give his or her statement, and present any additional evidence. The officer will always provide a statement first. Usually, the officers are well trained to spit out a well rehearsed litany of what they believe beginning happened, begging from the first time they claim to have spotted you.

Once the officer is done, the court may ask the officer questions to fill in gaps in the testimony.

Then, finally, it is the defendants turn to present the defense case. It is at this point that you can give your statement, and present your evidence. If you have questions for the officer, you should ask the judge for permission to cross examine the officer, and tell the judge how many questions you have.

Most courtrooms are set up the same. There is a courtroom clerk, who handles the paperwork and the scheduling. There is a bailiff, who is typically a sheriff's deputy, and is in charge of security. Usually, it is the bailiff who you check in with as you first enter the court room. If you have questions, they should go to the bailiff first.

There will be chalk boards / dry erase boards available for your use. You can present pictures and diagrams that you make or bring in.

VI. PRESENTING YOUR CASE:

Once the officer is done testifying, you will have the opportunity to present your own case. But in most cases the officer has the burden to prove by more than half the evidence (a “Preponderance” of the evidence) that you are guilty of the charges. Because of this, technically, you don’t have to do anything, and you can just say “Your honor, there is not enough evidence.” But if you want to have a good shot at winning, you will need to be more direct.

A good approach to “Presenting your case” can be summed up with this four step process: 1) ask questions of the officer (if necessary); 2) present your evidence (photos, etc., if any); 3) make your statement; and 4) tell the judge what you want.

You Can Ask the Officer Questions (but only if it helps you):

Rule #1 about asking questions is: Don’t ask questions unless you have a specific reason to do so. Before you do, be sure the answer will help your case. Don’t ask any questions of the officer if the answer will not help you win, or if you do not know what the answer will be. Asking pointless questions can only hurt your case. If you can win without asking the officer questions, you should not ask questions.

The reason for this advice is that the officers are trained and skilled at testifying. They know exactly what the judge wants to hear, because they have been in that situation many, many times. It is very unlikely that an officer is ever going to give you the answer you want if you ask questions. And those questions can easily backfire and lead to more evidence the officer forgot to add.

Nonetheless, if you have specific, relevant questions for the officer here is how you should approach it: once the officer is done, ask the judge for permission to ask the officer some questions. You should tell the judge how many questions you have, and you should have a rough idea of what they are before you get to court.

Present Your Evidence:

If you have photos or other evidence you want the judge to consider, you should tell the judge what you have, and allow the bailiff to take it to the judge for you. Make sure you have a reason for including every piece of evidence you offer, and mention each piece in your statement.

Making Your Statement:

Tell the judge why each violation should be dismissed, and present your evidence (if any) and the reason why. Don’t be afraid to just say “there is not enough evidence to support the charge of _____”. There is no problem with that defense, and it does work at times. The important point is: **have a reason to dismiss each violation you are trying to fight.**

If you are fighting 4 violations on one citation, say something about each. If you fail to present an argument of some kind on a violation, you will lose on that part of the case. Be sure to pay special attention to the most serious violation you are fighting. If the speeding charge is the most important to you, address that one first, and completely before moving on to a less serious violation.

Usually, it is best to make your statement short and to the point. You should limit it to less than 2-3 minutes, unless you have a specific reason to keep talking.

Avoid giving excuses for what happened, or explanations that are not defenses. Remember: you need to prove you were not in violation of the law, or show that the government has not proven their case. Excuses or explanations are not defenses, and will not help. **It doesn't matter why you were speeding if you admit to speeding.** You are going to lose if you admit the violation. Many people lose their traffic court trials because they fail to understand the difference between an excuse, and a defense - don't be one of them!

Address the Evidence Against You:

Make sure you address the evidence against you. A classic mistake people make in their trials is that they fail to confront the evidence that the judge hears from the officer. If the officer says he saw you speeding, you will need to counter that piece of evidence to be successful. For example, if the officer says he saw you roll through a stop sign, you will need to explain or address it in some way, such as "Your honor, the officer testified that there were many cars going through that busy intersection on during this evening rush hour, and he must have been distracted, or focused on too many things, because I fully stopped."

Have 1 argument for each violation you are fighting - even if all you have is an argument that there is not enough evidence to prove by a Preponderance of the Evidence that you are guilty.

Summarizing Your Case:

Once the evidence is in, you will have the opportunity to sum up your case in an informal "final argument". What this means is you get to explain to the court how you believe the facts and the law fit together in the case. Always ask the judge for a specific outcome in the argument, even if you think you cannot get it. If you are clear and specific, you will increase the chances the judge will do exactly what you ask, or something close to it.

Example: Your honor, because the officers could not prove I was in violation of the basic speed law, I ask that you dismiss the citation.

Sample Final Argument:

Your honor, here the evidence showed: [insert the evidence on your side]. **The law states:** [insert the law if it helps you] **Here, the officer has not provided credible evidence that I was in violation of the law. And, to the contrary, I have shown:**

[Insert your best evidence].

Because of that, you should rule that the government has not met their burden to prove I am guilty of these charges. The court should find me not guilty. Thank you.

Court trials for traffic citations are very short, and simple. the court will ask the officer why he= or she issued the citation, and the officer will provide a prepared (usually canned) response. Then, you will have the opportunity to ask the officer questions, and to respond.

Here are some sample question lines that may help:

1. Isn't it true that you did not witness the violation, and just wrote the ticket for another officer? (**If the officer did not witness the violation personally**, and was relaying on another officer's story, that is a classic and common "Hearsay" problem. If this happens, you should ask that the hearsay be excluded from the trial.)

2. Isn't it true that there were other many other cars on the road at the same time? Isn't true that you could have confused another car for my car?

3. Isn't it true that you don't have an independent memory of the event today, and that you are relying on your notes?

4. The weather was clear and the roads were dry at the time right?

This incident happened several [weeks/months] ago, right? Isn't it true that you do not currently remember what happened that day, and you are relying on your notes?

Feel free to be creative and fill out these question lines to fit your facts. But don't expect to get more than 3 or 4 useful questions in during the trial.

If the officer has only cited you for an insurance violation, for example, bring that point out with a question: Isn't it true that you only cited me for an insurance violation and there is no written record of your claim that I was speeding before your stopped me.

The goal of questions is to get out information that makes you look good and helps your defense. Even if you don't score any points with your questions, you'll demonstrate the illusion of a defense. Don't ask too many questions, though. stay on task of presenting your evidence.

The law states that the burden of proof is on the officer in a traffic court trial. This means that you only need to address the evidence that the officer offers against you. Nothing else is relevant - or in other words, - helpful.

The officer must prove that he stopped you for a legal reason. In most cases, this means that he or she must establish by competent evidence that you were observed committing a Vehicle Code or similar violation.

There must be evidence on each and every one of your charges; Every element must be found.

Don't be afraid to remind the judge that the **burden of proof is not on you**, but that it is on the government. If the government does not meet its burden of proof, you should request a dismissal

Narrow down your focus.

Give the Judge a Reason to Rule in Your Favor:

The judge in a traffic court trial should give you a chance to sum up your case and/or defense in a final "argument". It is at this time that you want to give the judge a way to rule in your favor, and to reiterate your strongest point. If can logically tell the judge a reason why he should rule in your favor in 2 sentences or less, you greatly increase your chances of winning.

For example, sometimes police officers forget to present evidence on why they stopped a driver in the first place. If at the trial there was no evidence presented to justify the officer's stop of the driver, the driver can sum up the case effectively with something like:

“Your Honor, there was no evidence presented here to show that the officer pulled me over for a legal reason. Because of that, I request the court dismiss the citation.”

In order to rule in your favor, the judge must have a reason. If the judge has to think about why he should rule in your favor, your chances of winning are low. If your best defense is that there was not enough evidence, do not be afraid to state it, and request that the judge find in your favor for that reason. And do not be afraid to be creative.

VII. ALWAYS TRY THESE DEFENSES AND OBJECTIONS:

THERE WAS NOT ENOUGH EVIDENCE TO MEET THE GOVERNMENT’S BURDEN OF PROOF

If you don’t have a great defense, you can always point out that there was not enough evidence to prove by the required “preponderance of the evidence” that you violated the law. You should not assume there is - and bring it up as one of your defenses. It’s your job to defend yourself, so don’t be afraid to try it. You are presumed innocent. Innocent is a powerful word - more powerful than “not guilty”. You are presumed innocent! Tell the judge.

THE STOP (DETENTION) WAS ILLEGAL

You have the absolute right to be free from unreasonable seizures. This right comes from the 4th Amendment to the US Constitution, and applies to a police stop of your vehicle. All warrant-less seizures of you and your vehicle are presumed to be illegal under the constitution unless the government justifies them.

Because of this, the legality of the detention (stop) of the motorist is a key - and often winning - issue in every traffic court trial. The U.S. **Constitution prohibits the police from detaining you unreasonably**, and the law requires that **all detentions are presumed to be illegal** unless they are justified. In a traffic court trial, this means that **the officer has the burden to prove the stop was legal**. If he or she does not prove the stop was legal, the presumption of an illegal detention remains and the stop must be considered illegal by the court. However, to use this as a defense, you must bring it up yourself, and present it to the judge as a way to rule in your favor.

In order for a stop to be legally justified, the officer must present: “specific and articulate facts” that would lead another reasonable officer in the same circumstances to believe that **you** were “in violation of the law - **before**” they decided to pull you over. If the only evidence the officer presents is that you did not have insurance, then the officer has not justified the detention, it should be presumed illegal under the 4th amendment to the US Constitution, and you should ask for a dismissal on that basis.

THE SPEED WAS SAFE AND REASONABLE UNDER THE CONDITIONS

Driving 56 mph in a 50 mph zone is not automatically a speeding violation if you were driving at a safe and reasonable speed for the conditions. In this situation, you should present evidence that your speed, even if a bit high, was safe and reasonable under the weather and traffic conditions. Read the statute listed on your citation for the specifics on what the law says.

If it was a speeding allegation that the officer uses to justify stopping you, you should argue that your speed was safe and reasonable, and the stop was therefore illegal (see above).

TIPS

Trial Tips Designed to Help You Win.

The judge only wants to hear evidence that helps your defenses. Know the difference between an excuse and a defense.

Excuses are explanations for what happened. Defenses are explanations recognized by the law as a way a person may get out of a ticket. For example if your response to a speeding ticket is that everyone was speeding - that is an excuse, not a defense. This is because the law does not recognize the defense of "everyone does it". However, the law does recognize the defense of "the officer could not tell which car his radar was tracking."

If You Have an Insurance Violation, Get Insurance Before Your Court Date.

The law states that if you had insurance **at the time of the citation** but did not have proof to show the officer, you may provide proof of insurance to the clerk of the court either by mail or in person. The violation can be dismissed on payment of a \$10 transaction fee. [VC §§16029(e), 40611.]

If you did not have insurance at the time of the citation, but get it before your trial date, you are eligible for the minimum fine. [VC §16029(e)(1).] (See also: http://www2.courtinfo.ca.gov/cjer/courses/traffic/stats/vc_2.htm#16029_e)

When you check in for your trial, ask if the officer has checked in. If there is no officer to offer evidence against you, you are entitled to a dismissal.

If the officer is not present when court begins for your trial, you should request a dismissal. The easiest way is to say something to the effect of "Your honor, with the citing officer's testimony, the court has no competent evidence to rule on." It's ok to remind the court that the burden of proof is on the government. You don't have to prove anything until they produce evidence.

Keep your statements short and to the point.

Short statements about why the judge should rule in your favor are likely to be the most effect for you in the limited time a judge will give you.

Tell the judge exactly what you think should happen.

"You honor, because there has been no evidence to show that the officer pulled me over legally, I ask that you dismiss the case."

Use a diagram of the incident where possible.

Most courtrooms will allow you to use the court's dry erase board, or chalkboard during your case. Often, it can be helpful to show the court visually what you are talking about.

Ask for Traffic School Before Your Trial.

If you qualify for traffic school, you can request a referral from the judge at any time before the trial. If you get there in the day of the trial and change your mind, request traffic school. You can request traffic school even after losing a trial, but the court is unlikely to give it to you.

Glossary

Key definitions to help you understand traffic court proceedings.

“Suspended Sentence”

A suspended sentence is one which is not actually carried out, so long as the terms of the sentence are not violated. If a judge suspends your fine, that means you do not have to pay it, so long as you do what he or she instructs you to do.

“Relevance”

Relevance refers to the ability of a fact or piece of evidence to shed light on an issue the judge must consider. In a speeding case, the weather may be relevant, because it sheds light on the safety of the speed. However, where you were going at the time is not relevant, because it doesn't shed any light on the issue of whether or not you violated the law.

“Stipulation”

A “stipulation” is an “agreement” that the court makes a record of. If the prosecutor “stipulates” that you were traveling at a safe speed - he or she is agreeing with that fact.

“Charges” and “Counts”

A case may be based on several alleged “violations” of the Vehicle Code. Every listed violation in a case is listed as a “Count” in the courts file, and collectively, the counts are all known as “Charges”. One case may have many charges, and each one will have a Count number.

“Penalty Assessment”

In California there is now a law that allows the courts to add a fee of roughly 300% of your fine to your fine. It is called a “Penalty Assessment” and it is really a bizarre government way to describe what is really a fine for getting a fine. Almost always, the Penalty Assessment will be way more than the fine itself. **You should always ask the court to suspend the penalty assessment, because it is harsh, and violates the 14th Amendment to the US Constitution. Just say it, it works sometimes.**

“Statute”, “Code” and “Section”

A “Code”, such as the Vehicle Code, is the official publication of laws by the government. It's usually a thick book in its paper form. A “Statute” is another name for a single law within a Code. A “Section” is a number - like a chapter - inside the Code book. Sections are used to look up Statutes within Codes. You can look up Vehicle Code sections for free on the CA DMV web site.

“Plead” and “Pleas”

When a defendant “enters a plea” it means that he or she is telling the court (in a formal way) how they want the case to proceed. In most traffic court cases, there are only 3 options for entering a plea: guilty, no contest, and not guilty. “Guilty” and “no contest” are effectively the same thing (unless there was a collision involved in the incident).

“Correctable Violation” and “Proof of Correction”

A correctable violation is one that is dismissed as a matter of law once the violation is corrected. For example, the failure to have a front license plate is a correctable violation. Once you repair it, it can be dismissed. However, there are rules as to how you must prove it was corrected. Typically, a police officer must inspect and approve a repair. If you have proof that you repaired a violation, bring it to court with you, even if it is not signed by an officer.



SOURCES FOR MORE INFO:

I recommend researching your defense and the law at other sources to get fully prepared.

Look Up The Text of the Vehicle Code

Look at your citation to find the code section to look up in the Vehicle Code. Use this link

<http://www.courtinfo.ca.gov/selfhelp/traffic/> (cut and paste it) to look up those sections. Pay attention to what it requires for a violation.

Watch Some Trials

Get there early, or go a day early, and watch what happens in the trials before yours. Ask yourself. "what was done right, what was done wrong"?

Traffic Court Trials tend to be very short and repetitive. You should be able to pick up on the patterns in a short time.

Traffic Court Pros.com Blog

The Traffic Court Pros Blog at www.TrafficCourtBlog.com is a wealth of articles on traffic court problems and related issues. Users can review the free self-help information, and post questions or comments for review. Post your questions there, and we will try our best

to give you quality self help information.

Use the Court's Own Publications

The California Courts Self-Help Center's section on [traffic cases](http://www.courtinfo.ca.gov/selfhelp/traffic/), (<http://www.courtinfo.ca.gov/selfhelp/traffic/>) which contains useful information for the general public and for defendants in traffic cases [who](#) will represent themselves;

Disclaimer: The information provided here deals with the subject of fighting traffic infractions in California only. It does not deal with criminal cases, charges or subject, and is not meant to be specific advice on your case. It may contain errors. Rely on this information at your own risk. All cases are different, and outcomes cannot be predicted accurately. Traffic Court Pros.com is not a law firm, and does not itself give out legal advice. If you want specific advice on your facts and case, you should contact a lawyer for a detailed case review. We encourage you to search for quality info from other sources, but at traffic court pros.com, you can get a free and private case review from one of our sponsor attorneys (if they can help). Thank you! Good Luck.

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If you have a special or unique experience that you think others could learn from, let us know! We may publish your story, or use it to improve our publications.

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