



PEOPLE v. JACINTO

Court of Appeal of California, Fourth Appellate District, Division Three

June 25, 2004, Filed

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Reporter

2004 Cal. App. Unpub. LEXIS 6058 *; 2004 WL 1426982

THE PEOPLE, Plaintiff and Respondent, v. VICTOR MANUEL JACINTO, Defendant and Appellant.

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Prior History: Appeal from a judgment of the Superior Court of Orange County, No. 02CF1839. Charles Margines, Judge.

Disposition: Reversed and remanded.

Core Terms

lamps, lights, majority opinion, license plate, visible, front, color, blue light, candela, vehicle code violation, reflectors, objectively reasonable, reasonable suspicion, motion to suppress, violation of law, superior court, emitted, detention, suppress, rear, inventory, driver's, yellow, bright, rested, suppress evidence, methamphetamine, illumination, interfered, credible

Counsel: Michael Ian Garey for Defendant and Appellant.

Bill Lockyer, Attorney General, Robert R. Anderson, Chief Assistant Attorney General, Gary W. Schons, Assistant Attorney General, Lilia E. Garcia and Janelle Boustany, Deputy Attorneys General, for Plaintiff and Respondent.

Judges: MOORE, J.; O' LEARY, ACTING P.J., FYBEL, J. concurred.

Opinion by: MOORE

Opinion

Defendant Victor Manuel Jacinto pleaded guilty to transportation and possession for sale of methamphetamine ([Health & Saf. Code, §§ 11378, 11379, subd. \(a\)](#)) and driving without a valid license ([Veh. Code, § 12500, subd. \(a\)](#); all further statutory references are to the Vehicle Code unless otherwise [*2] stated), following the court's denial of his motions to suppress evidence ([Pen. Code, § 1538.5](#)) and to set aside the information ([Pen. Code, § 995](#)). The court suspended imposition of sentence and placed defendant on three-years probation with various terms and conditions.

Defendant challenges the magistrate's denial of his motion to suppress and the court's denial of his renewed motion to suppress and motion to set aside the information. We conclude defendant was illegally detained because there was insufficient evidence to support a reasonable suspicion of unlawful activity. The judgment is reversed.

I

FACTS AND PROCEDURAL HISTORY

The facts relevant to defendant's motion to suppress are drawn from the transcript of the preliminary hearing transcript.

On July 17, 2002, at approximately 9:00 p.m., City of Orange Police Officer Armando Plascencia was on duty in the area of Batavia Street and Struck Avenue in Orange. A blue Chevy Nova with two small blue lights on the hood caught his attention. Plascencia followed the vehicle and noticed it also had a green rear license plate light. Plascencia initiated a traffic stop "based [*3] on the colors of the lamps they were in violation of [the] California Vehicle Code." He testified the blue lamps

were "bright enough for [him] to see them[.]" but much less bright than a headlight or turn signal light. He was unfamiliar with the term "candela," and did not know what .05 of a candela measured. He noticed the license plate lamp after he began following defendant's car and after he turned off his headlamps.

Defendant, the driver of the car, could not produce a California driver's license and told Plascencia he did not have one. Plascencia conducted a records check, which confirmed defendant's status as an unlicensed driver. He asked defendant and the three other occupants of the car "to step out of the vehicle and . . . sit on the curb" Pursuant to the Vehicle Code and department policy, Plascencia decided to impound the car and inventory its contents.

As Plascencia opened the rear passenger door, he saw part of a glass pipe wedged in between the seats. He recognized what he saw as part of a pipe used to smoke controlled substances. He closed the door and summoned a canine officer to search the car for drugs. The canine officer discovered a small white [*4] and orange box containing a plastic bag under the front passenger seat. Inside the plastic bag were two pieces of foil. The foil contained a white crystalline substance later determined to be methamphetamine. The total weight of the plastic bag and its contents was 30.4 grams. Plascencia located papers with defendant's name in the glove box, four prescription bottles in the center console, and one cellular telephone. He recovered another cellular telephone, \$ 500 in cash, and an address book from defendant's person.

Following a *Miranda*¹ advisement, defendant told Plascencia the methamphetamine belonged to him and he intended to sell it. Defendant's statements confirmed Plascencia's suspicions. Plascencia believed other factors, namely the number of cellular telephones, amount of cash, and quantity of methamphetamine also demonstrated defendant had the intent to possess methamphetamine for the purpose of sales.

Defendant moved [*5] to suppress evidence at the preliminary examination. At the hearing, Plascencia testified that he believed the lights on defendant's hood and around his rear license plate violated section 26100.² [*6] He later admitted that this section was

inapplicable, but then relied on [section 25950](#)³ as the

any person use upon a vehicle, any lighting equipment, safety glazing material, or other device that does not meet the provisions of Section 26104. This section does not apply to a taillamp or stop lamp in use on or prior to December 1, 1935."

Section 26104 provides, "(a) Every manufacturer who sells, offers for sale, or manufactures for use upon a vehicle devices subject to requirements established by the department shall, before the device is offered for sale, have laboratory test data showing compliance with such requirements. Tests may be conducted by the manufacturer. [P] (b) The department may at any time request from the manufacturer a copy of the test data showing proof of compliance of any device with the requirements established by the department and additional evidence that due care was exercised in maintaining compliance during production. If the manufacturer fails to provide such proof of compliance within 30 days of notice from the department, the department may prohibit the sale of the device in this state until acceptable proof of compliance is received by the department."

³ [Section 25950](#) provides, "This section applies to the color of lamps and to any reflector exhibiting or reflecting perceptible light of 0.05 candela or more per foot-candle of incident illumination. Unless provided otherwise, the color of lamps and reflectors upon a vehicle shall be as follows: [P] (a) The emitted light from all lamps and the reflected light from all reflectors, visible from in front of a vehicle, shall be white or yellow, except as follows: [P] (1) Rear side marker lamps required by Section 25100 may show red to the front. [P] (2) The color of foglamps described in Section 24403 may be in the color spectrum from white to yellow. [P] (b) The emitted light from all lamps and the reflected light from all reflectors, visible from the rear of a vehicle, shall be red except as follows: [P] (1) Stoplamps on vehicles manufactured before January 1, 1979, may show yellow to the rear. [P] (2) Turn signal lamps may show yellow to the rear. [P] (3) Front side marker lamps required by Section 25100 may show yellow to the rear. [P] (4) Backup lamps shall show white to the rear. [P] (5) The rearward facing portion of any front-mounted double-faced turn signal lamp may show amber to the rear while the headlamps or parking lamps are lighted, if the intensity of the light emitted is not greater than the parking lamps and the turn signal function is not impaired. [P] (6) Reflectors meeting the requirements of and installed in accordance with Section 24611 shall be red or white, or both. [P] (c) All lamps and reflectors visible from the front, sides, or rear of a vehicle, except headlamps, may have any unlighted color, provided the emitted light from all lamps or reflected light from all reflectors complies with the required color. Except for backup lamps, the entire effective projected luminous area of lamps visible from the rear or mounted on the sides near the rear of a vehicle shall be covered by an inner lens of the required color when the unlighted color differs from the required emitted light color. Taillamps, stoplamps, and turn signal lamps that are visible to

¹ [Miranda v. Arizona \(1966\) 384 U.S. 436, 16 L. Ed. 2d 694.](#)

² Section 26100 provides, "No person shall sell or offer for sale for use upon or as part of the equipment of a vehicle, nor shall

basis for the stop.

[*7] The magistrate denied defendant's motion, stating, "Going first to the issue of the stop. The court recalls the officer's testimony that he was stopped at a stop light preparing to turn left off of Struck [Avenue] on to Batavia [Street]. He stopped at a red light and he saw in the dark at night a vehicle pass in front of him southbound on Batavia [Street], and he saw two blue lights on the hood of the vehicle. And the officer believed that those lights were illegal. [P] And I would concede that he did not state the correct code section, but he believes that those lights are illegal and he saw them clearly. He didn't create the blue lights. [P] Based on the fact that the lights were clearly perceptible, they were clearly blue, and they were clearly on the hood of [defendant's] car, and that the Vehicle Code says perceptible __ and I don't know a candela from a birthday candle __ but they were perceptible and they were on the front and they weren't white and they weren't yellow, the court does find that the stop was valid. [P] I understand your argument, Mr. Garey, and I respect it, but I disagree with it. The court, in hearing the testimony, before reading [*8] any cases, before hearing any argument, had no problem whatsoever with saying I could understand why that stop was made. Those lights weren't there legally."

"In terms of the inventory, reasonable minds can differ. And the court heard the evidence in the manner that the officer was going to write the cite. He found that [defendant] was unlicensed, he had an identification index card from the Department of Motor Vehicles [DMV], or someone with that birth date had an index card with the Department of Motor Vehicles. [P] In looking at the DMV record which was submitted into evidence by the People, there is no description, there is an address, but there is no description of any sort other than a birth date to proceed with an inventory prior to storing the vehicle and then encountering the meth pipe __ let me back up. [P] To proceed with an inventory with the intent to store the vehicle while taking [defendant] to the department to confirm [his] identity to issue the cite, the court does not find to be unreasonable or inappropriate in any way. [P] And I would agree with [the prosecutor's] argument that once the meth pipe was found all bets were off in terms of the [*9] inventory and the entire vehicle is subject to search and the contents of the box were going to be found either by completion of the inventory or by the search which was generated

the rear may be white when unlighted on vehicles manufactured before January 1, 1974."

by the finding[] of the meth pipe. [P] The court did find the officer to be credible. Not incredibly articulate, but credible. And I simply do not find any problems with anything that he did. So I will deny the motion to suppress at this time"

II

DISCUSSION

Following the preliminary examination, defendant renewed his motion to suppress evidence and filed a [Penal Code section 995](#) motion to set aside the information on the ground that it rested entirely on evidence obtained by an illegal search and seizure. The court denied both motions following a hearing and defendant challenges both rulings.

Motion to suppress evidence

In reviewing a motion to suppress, we defer to the lower court's findings of fact supported by substantial evidence, but exercise independent judgment in determining whether the detention was reasonable under the Fourth Amendment. ([People v. Glaser \(1995\) 11 Cal.4th 354, 362.](#)) To uphold this search we must conclude, under [*10] the facts found by the magistrate, that Plascencia harbored a reasonable suspicion for suspecting defendant of criminal activity. ([Whren v. U.S. \(1996\) 517 U.S. 806, 809-810, 135 L. Ed. 2d 89](#); [People v. White \(2003\) 107 Cal.App.4th 636, 641.](#)) "The prosecution retains the burden of proving that the warrantless search or seizure was reasonable under the circumstances. [Citations.]" ([People v. Williams \(1999\) 20 Cal.4th 119, 130.](#))

Defendant initially relies on the fact Placencia first cited the wrong code as the basis for the detention. However, "an officer's reliance on the wrong statute does not render his actions unlawful if there is a right statute that applies to defendant's conduct." ([In re Justin K. \(2002\) 98 Cal.App.4th 695, 700](#); [U. S. v. Wallace \(9th Cir. 2000\) 213 F.3d 1216, 1220.](#)) On appeal, the Attorney General argues defendant violated [section 25950](#), but alternatively contends the lights on defendant's hood violated some portion of the Vehicle Code "without dispute." We are not convinced that any statute proscribes the lighting evident on defendant's vehicle.

[Section 25950](#) provides, in [*11] pertinent part, "This section applies to the color of lamps and to any reflector exhibiting or reflecting perceptible light of 0.05 candela or more per foot-candle of incident illumination: *Unless*

provided otherwise, the color of lamps and reflectors upon a vehicle shall be as follows: [P] (a) the emitted light from all lamps and the reflected light from all reflectors, visible from in front of a vehicle, shall be white or yellow . . . [P] . . . (b) The emitted light from all lamps and the reflected light from all reflectors, visible from the rear of a vehicle, shall be red" (Italics added.)

Both subdivisions (a) and (b) have certain exceptions that are inapplicable here. Plascencia testified he detained defendant's car solely based on the color of the lamps. However, not all colored lights visible to the front of a vehicle violate [section 25950](#). [Section 25950](#) specifically states it applies "*unless provided otherwise*." Apparently, Plascencia was unaware of [section 25400](#).

[Section 25400, subdivision \(a\)](#), states, "Any vehicle may be equipped with a lamp or device on the exterior of the vehicle that emits a *diffused nonglaring light of not more than 0.05 candela [*12] per square inch of area*." (Italics added.) And, subdivision (b) provides, "Any diffused nonglaring light shall not display red to the front, *but may display other colors*." Blue falls under the category of other colors permissible for display to the front. "Indeed, 'a lamp or device on the exterior of the vehicle that emits *diffused nonglaring* light or not more than 0.05 candela per square inch of area . . . shall not display red to the front, *but may display other colors*,' provided it does 'not resemble nor be installed within 12 inches or in such position as to interfere with the visibility or effectiveness or any required lamp, reflector, or other device upon the vehicle.' ([§ 25400](#), italics added.)" ([People v. Hernandez \(2003\) 110 Cal.App.4th Supp. 1, 4.](#))

To prove defendant violated the law required evidence the blue lights were concentrated and glaring, produced more than 0.05 candela per square inch of light, were placed at least 12 inches away from other required light, or not otherwise interfered with the visibility of required headlights. The prosecution relied solely on the color of the lights. Plascencia provided no other testimony regarding [*13] the lights other than they were on the hood, blue, and perceptible. He did not testify as to the exact location of the lights. He did not testify they were glaring and bright. He did not state they interfered with the visibility of other lights. The magistrate and the superior court also based their ruling solely upon the color of lights. However, in light of [section 25950](#), Plascencia's testimony fails to establish he held an objectively reasonable belief defendant violated the law.

Plascencia's belief, such as it is supported by the record, constitutes an error of law. ([People v. Hernandez, supra, 110 Cal.App.4th Supp. at p. 5.](#)) A mistake of law cannot provide a legal basis for a traffic stop. ([U. S. v. King \(9th Cir. 2001\) 244 F.3d 736, 739](#); [U. S. v. Wallace, supra, 213 F.3d at p. 1220](#); [People v. Hernandez, supra, 110 Cal.App.4th Supp. at p. 5](#); [People v. White \(2003\) 107 Cal.App.4th 636, 641](#); [In re Justin K., supra, 98 Cal.App.4th at p. 700.](#)) Plascencia articulated a single basis for defendant's detention, [section 25950](#). However, [section 25950](#) is subject to other provisions of the [*14] Vehicle Code, including [section 25400](#). Here, the prosecution failed to introduce evidence defendant violated [section 25400](#), i.e., evidence the lights were too bright, caused glare, or otherwise interfered with the visibility of defendant's required headlamps. Thus, the motion to suppress should have been granted.

Our dissenting colleague contends the majority opinion applies the wrong standard of proof. We disagree. As a reviewing court, we must exercise our independent judgment to determine whether the detention was objectively reasonable based on the facts adduced at the suppression hearing. With proper deference to the trial court's findings of fact, we nonetheless conclude Plascencia's subjective belief the blue lights on defendant's hood violated the Vehicle Code was not objectively reasonable. Our colleague relies on [People v. White, supra, 107 Cal.App.4th 636](#), but we believe this reliance is misplaced. As noted in *White*, "there is no good faith exception to the exclusionary rule for police who enforce a legal standard that does not exist." (*Id. at p. 644.*)

The prosecution also contends we may rely solely on the green license plate light. [*15] Not so. "Under [section 1538.5, subdivision \(i\)](#), a suppression motion in superior court does not result in a de novo hearing where, *as here*, an unsuccessful motion to suppress was earlier made at the preliminary hearing. Rather, the superior court hearing on the suppression motion is limited to consideration of the evidence presented at the preliminary hearing, with the superior court assuming the role of a reviewing court. In that role, the superior court is required to draw all inferences in favor of the magistrate's findings where such findings are supported by substantial evidence. [Citations.]" ([People v. Galindo \(1991\) 229 Cal. App. 3d 1529, 1534-1535, 281 Cal. Rptr. 155](#), fn. omitted; see also [People v. Bennett \(1998\) 68 Cal. App. 4th 396, 405.](#))

Both parties agree the magistrate made no express

finding on this issue. In fact, the magistrate's sole reference to the license plate lamp was made during defense counsel's argument, the full extent of which was the comment that she would not take "into account the license plate" if that made the case less complex. But we take the magistrate at her word. To the extent the superior court relied [*16] on this evidence, it did so in error.

Section 995

Defendant moved to set aside the information on the ground that it rested entirely on evidence obtained by an illegal search and seizure. On a motion to set aside the information, "The superior court [sits] only as a court of review, examining the magistrate's ruling for evidentiary support and declining to reweigh or take new evidence. The situation is like review of a motion to set aside an information [citation] or to suppress evidence where the superior court considers only that evidence presented on a prior motion before the magistrate [citation]. In either case [the appellate] court disregards the superior court ruling and directly examines the magistrate's. [Citations.] We, like the superior court, must draw every legitimate inference in favor of the magistrate's ruling and cannot substitute our judgment, on the credibility or weight of the evidence, for that of the magistrate. [Citation.]" (People v. Woods (1993) 12 Cal.App.4th 1139, 1147-1148.)

Plascencia testified that after he began following defendant, he also noticed a green license plate lamp, which he believed also violated section [*17] 26100. He later cited section 25950. We assume Plascencia believed the little green license plate lamp violated the same statute since there was no separate Vehicle Code section cited by the officer or the prosecution. Section 25950, subdivision (b), provides "The emitted light from all lamps and the reflected light from all reflectors, visible from the rear of a vehicle, shall be red" This subdivision is of course preceded by the "unless provided otherwise" language of the statute, and there is another section to consider when dealing with license plate lamps.

Section 24601 provides, "Either the taillamp or a separate lamp shall be so constructed and placed as to illuminate with a white light the rear license plate during darkness and render it clearly legible from a distance of 50 feet to the rear. *When the rear license plate is illuminated by a lamp other than a required taillamp, the two lamps shall be turned on or off only by the same*

control switch at all times." (Italics added.) The statute does not specifically prohibit colored lighting in addition to the mandatory white light, and there was no evidence regarding defendant's license plate lamps other than a couple [*18] of references to the green license plate light. Plascencia did not testify defendant failed to have the mandatory white light. Further, it appears Plascencia decided to stop defendant's vehicle upon seeing the blue lights on the hood and the license plate light was a mere afterthought.

We need not consider the legality of the inventory search. An illegal detention renders inadmissible the fruits of any related search. With the suppression of all evidence seized as a result of the illegal detention, the information must be dismissed for insufficiency of the evidence. In conclusion, Plascencia stopped defendant under the mistaken belief the Vehicle Code prohibits any lighting, other than white or yellow, to be visible from the front, and further prohibits green lighting around the license plate. As noted, neither condition is a violation of law absent other facts that Plascencia did not articulate. Plascencia's belief, unsupported by statute, constitutes a mistake of law, which cannot support a finding of reasonable suspicion. Therefore, the motion to suppress should have been granted.

III

DISPOSITION

The judgment is reversed. The matter is remanded to the trial court for [*19] further proceedings.

MOORE, J.

I CONCUR:

O' LEARY, ACTING P. J.

FYBEL, J., Dissenting.

I respectfully dissent.

The majority opinion correctly states to affirm we must conclude, under the facts found by the magistrate that are supported by substantial evidence, "that Plascencia harbored a reasonable suspicion for suspecting defendant of criminal activity." (Maj. opn., *ante*, p. 6.) But the majority opinion changes the test in mid-course and asks whether there is sufficient evidence to conclude a violation of the law occurred because the prosecution failed to prove exceptions to that law. As a result of analyzing the evidence by a standard requiring the prosecution to disprove exceptions - rather than the

reasonable suspicion standard of whether a possible violation of law occurred - the majority opinion reaches the wrong conclusion.

The magistrate expressly found the officer was "credible" and that he "saw two blue lights on the hood of the [defendant's] vehicle. And the officer believed that those lights were illegal." As the majority recognizes, the fact Plascencia initially cited the wrong Vehicle Code section as the basis for the stop did not render the officer's actions [*20] unlawful. "An officer's reliance on the wrong statute does not render his actions unlawful if there is a right statute that applies to the defendant's conduct." (*In re Justin K.* (2002) 98 Cal.App.4th 695, 700.)

The magistrate correctly denied the motion to suppress based on the officer's testimony and [Vehicle Code section 25950](#). [Section 25950](#) provides, in pertinent part: "This section applies to the color of lamps and to any reflector exhibiting or reflecting perceptible light of 0.05 candela or more per foot-candle of incident illumination. Unless provided otherwise, the color of lamps and reflectors upon a vehicle shall be as follows: [P] (a) The emitted light from all lamps and the reflected light from all reflectors, visible from in front of a vehicle, shall be white or yellow"

The majority opinion rests the reversal on the exceptions contained in [Vehicle Code section 25400 to section 25950](#); those exceptions fall into the category of "unless provided otherwise" of [section 25950](#). The majority opinion analyzes whether or not the evidence was sufficient to establish a Vehicle Code violation and concludes [*21] "in light of [sections 25950](#) [and 25400, subdivision (a)], Plascencia's testimony fails to establish he held an objectively reasonable belief defendant violated the law." (Maj. opn., ante, p. 8.) To affirm, the majority requires introduction of "evidence defendant violated [section 25400](#), i.e., evidence the lights were too bright, caused glare, or otherwise interfered with the visibility of defendant's required headlamps." (*Ibid.*)

I disagree with the majority opinion because the test on a motion to suppress is whether "it was objectively reasonable" for the officer to believe there was a "possible violation of the Vehicle Code." (*People v. White* (2003) 107 Cal.App.4th 636, 642.) That test was demonstrably satisfied on the record before us: The officer testified to facts under which it was objectively reasonable for the officer to believe there was a possible violation of the Vehicle Code, namely [section 25950](#), because the record shows there were blue lights

visible from the front of the vehicle. To require the officer to prove the exceptions of [section 25400](#) by sufficient evidence before the detention stop is a misapplication of the test on a motion to [*22] suppress.

The majority opinion states that my reliance on *People v. White*, supra, 107 Cal.App.4th 636 is "misplaced." (Maj. opn., ante, p. 9.) This comment is based on the majority's own misapplication of *People v. White*. In that case, the defendant's car was stopped because there was no front license plate and there was an object hanging from the car's rearview mirror. (*People v. White*, supra, at p. 640.) As to the first ground, the car was licensed in Arizona and had only one plate, in full compliance with Arizona law. (*Id.* at p. 643.) As to the second ground, there was no testimony the object impeded the driver's view, a necessary requirement of the Vehicle Code violation. (*Id.* at p. 642.) Thus, the officer's decisions based on the number of license plates and the hanging object rested on undisputed facts that did not and could not establish a possible violation of law. In sharp contrast, in this case, the undisputed facts show the lights were not white or yellow lights as permitted by [Vehicle Code section 25950](#); they were blue lights. Whether the exceptions to [section 25400](#) were [*23] satisfied depended on the amount of candela of perceptible light emitted from the lamps. The legality of the search should not depend upon whether the officer could and did accurately calculate that amount before stopping the vehicle.

The significant fact is that when the car was stopped, the officer had an objectively reasonable belief a violation of the law was possible. The majority sets a different, higher, and unwarranted standard. The majority suggests the prosecution was required to produce evidence "to prove defendant violated the law." (Maj. Opn., ante, p. 8.)

Thus, the majority opinion changes from the correct standard of review of reasonable suspicion to stop to an incorrect standard of sufficiency of the evidence to convict for a Vehicle Code violation. In doing so, the majority opinion misapplies *People v. White* and well-established standards of review. The officer in *People v. White* had no legal basis for the stop: the car could legally have one Arizona plate and nothing impeded the driver's view. In this case, the officer had reasonable suspicion of a possible violation of the Vehicle Code based on the blue lights that were indisputably on the hood and [*24] visible from the front of the vehicle. For the purposes of the reasonable suspicion test, the officer is not required to prove the amount of candela at

the time of the stop, as the majority has, in my opinion, mistakenly required.

MOORE, J.

O' LEARY, ACTING P. J.

FYBEL, J.

Dissent by: FYBEL

Dissent

I respectfully dissent.

The majority opinion correctly states to affirm we must conclude, under the facts found by the magistrate that are supported by substantial evidence, "that Plascencia harbored a reasonable suspicion for suspecting defendant of criminal activity." (Maj. opn., *ante*, p. 6.) But the majority opinion changes the test in mid-course and asks whether there is sufficient evidence to conclude a violation of the law occurred because the prosecution failed to prove exceptions to that law. As a result of analyzing the evidence by a standard requiring the prosecution to disprove exceptions - rather than the reasonable suspicion standard of whether a possible violation of law occurred - the majority opinion reaches the wrong conclusion.

The magistrate expressly found the officer was "credible" and that he "saw two blue lights on the hood of the [defendant's] vehicle. And the officer [*25] believed that those lights were illegal." As the majority recognizes, the fact Plascencia initially cited the wrong Vehicle Code section as the basis for the stop did not render the officer's actions unlawful. "An officer's reliance on the wrong statute does not render his actions unlawful if there is a right statute that applies to the defendant's conduct." (*In re Justin K. (2002) 98 Cal.App.4th 695, 700.*)

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The majority opinion states that my reliance on [People v. White, supra, 107 Cal.App.4th 636](#) is "misplaced." (Maj. opn., *ante*, p. 9.) This comment is based on the majority's own misapplication of [People v. White](#). In that case, the defendant's car was stopped because there was no front license plate and there was an object hanging from the car's rearview mirror. ([People v. White, supra, at p. 640.](#)) As to the first ground, the car was licensed in Arizona and had only one plate, in full compliance with Arizona law. (*Id. at p. 643.*) As to the second ground, there was no testimony the object impeded the driver's view, a necessary requirement of the Vehicle Code violation. (*Id. at p. 642.*) Thus, the officer's decisions based on the number of license plates and the hanging object rested on undisputed facts that did not and could not establish a possible violation of law. In sharp contrast, in this case, the undisputed [*28] facts show the lights were not white or yellow lights as permitted by [Vehicle Code section 25950](#); they were blue lights. Whether the exceptions to

[section 25400](#) were satisfied depended on the amount of candela of perceptible light emitted from the lamps. The legality of the search should not depend upon whether the officer could and did accurately calculate that amount before stopping the vehicle.

The significant fact is that when the car was stopped, the officer had an objectively reasonable belief a violation of the law was possible. The majority sets a different, higher, and unwarranted standard. The majority suggests the prosecution was required to produce evidence "to prove defendant violated the law." (Maj. Opn., *ante*, p. 8.)

Thus, the majority opinion changes from the correct standard of review of reasonable suspicion to stop to an incorrect standard of sufficiency of the evidence to convict for a Vehicle Code violation. In doing so, the majority opinion misapplies *People v. White* and well-established standards of review. The officer in *People v. White* had no legal basis for the stop: the car could legally have one Arizona plate and nothing [*29] impeded the driver's view. In this case, the officer had reasonable suspicion of a possible violation of the Vehicle Code based on the blue lights that were indisputably on the hood and visible from the front of the vehicle. For the purposes of the reasonable suspicion test, the officer is not required to prove the amount of candela at the time of the stop, as the majority has, in my opinion, mistakenly required.

FYBEL, J.