

Applying the Traffic Ticket Defense Method to Challenge a Citation

Notice that I did not title this document “Applying the Traffic Ticket Defense Method to BEAT a Citation.”

Unfortunately, I can’t tell you a magic way to beat each and every possible speeding ticket. But what I can do is teach you a method about how to APPROACH your ticket so that you will at least know if it is worth contesting in court. If so, my method will give you a fighting chance to win. Most importantly, this approach works for all states. I will be specifically providing examples from Pennsylvania in what follows, but the strategy is universal.

Driving at an Unsafe Speed

To illustrate my method, I will be focusing on one section from the Pennsylvania Motor Vehicle Code, [Title 75, Section 3361](#) – Driving Vehicle at a Safe Speed. All other states have similar sections with similar wording as these few examples indicate:

- [California – Article 1, Section 22350](#)
- [New York – Article 30, Section 1180](#)
- [Florida – Chapter 316, Section 183](#)

Here is the actual wording of Pennsylvania’s law (I quote those other state laws later on):

*“No person shall drive a vehicle at a speed greater than is reasonable and prudent under the conditions and having regard to the actual and potential hazards then existing, nor at a speed greater than will permit the driver to bring his vehicle to a stop within the assured clear distance ahead. Consistent with the foregoing, **every person shall drive at a safe and appropriate speed when approaching and crossing an intersection or railroad grade crossing, when approaching and going around a curve, when approaching a hill crest, when traveling upon any narrow or winding roadway and when special hazards exist with respect to pedestrians or other traffic or by reason of weather or highway conditions.**”*

The Method You Should Follow

If you get a ticket for not driving at a safe speed, there are three steps to take to determine if it is worth contesting.

1. Read/Understand the statute you allegedly violated.

2. Interpret this statute to see if you really violated it (i.e. look for possible technicalities in the way the law was written that you can take advantage of)
3. Find case law to either support or reveal any technicalities that exist in the statute.

I can't stress enough that part three of the method is the most important, and yet most traffic help websites don't talk about this much at all. This is why I am a harsh critic of these websites which are, in reality, just "fronts" for law firms who don't want you to fight the ticket on your own. Instead, they want you to hire them (which is why they don't tell you all that you need to know).

If you are interested in my research into lame traffic ticket websites, I suggest you check out the following blog posts:

- [Yet Another Worthless Traffic Ticket Advice Website](#)
- [Most Traffic Ticket Websites Are Worthless.](#)

And for a discussion about how my website is superior, check out:

- [The Traffic Ticket Defense Blog – Its value and legitimacy explained to all of the doubters \(and haters\) out there.](#)

Step One – Read/Understand the Statute

Everyone giving traffic ticket advice will tell you to do Step One because it is the obvious place to start. But the first problem that you are going to run into when you actually read the statute is that it is, I would argue, intentionally vague. Pennsylvania does actually list some conditions to consider (which I bolded and underlined in the above quote), but the other states I cited are about as general as it comes:

California – ***"No person shall drive a vehicle upon a highway at a speed greater than is reasonable or prudent having due regard for weather, visibility, the traffic on, and the surface and width of, the highway, and in no event at a speed which endangers the safety of persons or property."***

New York – ***"No person shall drive a vehicle at a speed greater than is reasonable and prudent under the conditions and having regard to the actual and potential hazards then existing."***

Florida – ***"No person shall drive a vehicle on a highway at a speed greater than is reasonable and prudent under the conditions and having regard to the actual and potential hazards then existing. In every event, speed shall be controlled as may be necessary to avoid colliding with any person, vehicle, or other conveyance or object on or entering the highway in compliance with legal requirements and the duty of all persons to use due care."***

“Reasonable and prudent?”

“Under conditions?”

“Potential hazards?”

As I said earlier, the statutes are not very specific at all.

Step 2 – Interpret the Statute

When I say interpret the statute, I am talking about figuring out how what you were alleged to have done actually violates the wording of the law. As I indicated in the last section, except for Pennsylvania’s version, it doesn’t appear that there is much guidance in a speeding ticket of this type. Still, you need to make note of the conditions of the traffic/roadway and (if possible) take some pictures so that you have proof. You can always go back to do this, but the conditions may not be the same. You should also make notes (take pictures) concerning any objects or people which may have been nearby. Finally, the ticket will very likely have notes on it about the conditions at the time the citation was issued.

These details will help you interpret the statute based on your specific situation.

Although it may seem strange, the fact that these laws are so vague leaves open many possibilities for contesting them. In fact, I would imagine that Pennsylvania’s unsafe speed law is probably harder to fight than the others because of the specifications provided in the last sentence of the statute. Despite this, when I applied Step 3 (below) I still found technicalities which were useful. Based on this experience, my feeling is that citizens in other states will have an easier time challenging an unsafe speeding ticket than a PA resident.

Step 3 – Find Case Law

When my son got a stop sign ticket last year, I complete step 1 and 2 and came to the conclusion that his case was hopeless. He claimed that he did stop at the sign but the cop said he didn’t. Unlike driving at an unsafe speed (which is kind of vague), stop sign statutes are pretty cut and dry – you either stopped or you didn’t ...

... or so I thought ...

Then I went to [Google Scholar](#) and started researching stop sign cases. I found about twenty cases which opened up my eyes to all of the possible ways you could fight a stop sign ticket. You can read the basic strategy I discovered in my free PDF: [The Pennsylvania Stop Sign Ticket Defense in a Nutshell](#).

Below you will find a sampling of the case law related to [Title 75, Section 3361](#) – Driving Vehicle at a Safe Speed. When I publish my full Pennsylvania Speeding Ticket Defense book later this year, I will include the full list. For the purpose of this document, however, I only want to illustrate how Step 3 works. That way, if you want to challenge your ticket, you can follow my method as it applies to whatever state you live in.

Using Google Scholar to Find Relevant Case Law

I found relevant case law in Google Scholar by clicking on the Pennsylvania case law button and then typing Title 75, Section 3361 speeding into the search bar. Eighty-seven results came up. When I then tried a more specific search using quotes (“Title 75, Section 3361” speeding) to narrow the results, I got no results. You may want to try various combinations to see what works best for your particular state. The more results you get, the more work you will have sorting through helpful and useless cases that you find. On the other hand, if you restrict your search too much, you may miss important information that could help your defense.

It is important to note here that the case law won’t necessarily reveal a way for you to get out of your ticket.

I will cite some cases which do this, but most of the others are included to show you what **WON’T** work if you want to contest your ticket. Remember, the purpose of using my 3-step method is to determine if challenging the ticket makes sense or not. By knowing what others have tried to do in court, you can avoid the embarrassment of doing the same thing and looking like a fool before the judge.

Another important purpose of using case law is that it serves as precedent. If you can actually find a case with circumstances similar to yours, you are most likely going to win in court. You may not be successful at the lower court level (my son lost in Magisterial Court) because the judges there are probably friends with the cops (and are not as well-read about the law), but in higher courts of appeal, you stand an excellent chance of coming out on top. That was my son’s experience in the Court of Common Pleas. There, the judge could not ignore the case law he cited so she found him not guilty.

Case Law #1 – Commonwealth v. Monosky (Weather/Roadway Conditions Matter)

In any event, the most important case which I found was from the Pennsylvania Supreme Court – [Com. v. Monosky, 520 A. 2d 1192 – Pa: Supreme Court 1987](#). Here you can find clarification about what the conditions surrounding a violation for failure to drive at a safe speed are:

*“... appellant was initially observed by the two testifying patrol officers driving in excess of the posted speed limit of 25 miles per hour through a **residential area on a foggy, wet day** ... Secondly, both officers **tendered their opinions as to the speed of appellant’s motor vehicle.** **We hold this to be proper**, since lay people are competent to render such an opinion if, as here, adequate opportunity existed to observe the vehicle.”*

So, conditions such as a residential area, foggy/wet day and an officer’s opinion about your speed (no radar gun is necessary) are enough to convict you.

Case Law #2 – Commonwealth v. Vishneski (Weather/Roadway Conditions Matter)

[Com. v. Vishneski, 552 A. 2d 297 – Pa: Supreme Court 1989](#) is also a PA Supreme Court case which provides further information about conditions which would uphold a violation of this statute. In this case the appellant stated that:

“... the evidence is insufficient because the Commonwealth presented no evidence of weather and roadway conditions rendering appellant’s speed unreasonable nor was there any testimony that appellant was traveling at a speed greater than would permit him to bring his vehicle ‘to a stop within the assured distance ahead.’”

The court held that this didn’t matter because:

- There was a truck traveling on the road at the same time.
- The appellant was traveling 30 miles over the limit in an area where cars merge and exit within a distance of 1/10 mile.

Case Law #3 – Commonwealth v. Walker (Weather/Roadway Conditions Matter)

[Commonwealth v. Walker, 5 Pa. D. & C. 4th 631 – Pa: Court of Common Pleas 1990](#) clarifies the “speeding” part of the failure to drive at a safe speed. Here are the details of this case:

- *“The road conditions were dry and visibility was unlimited.”*
- *“Traffic was light ... there were no vehicles between his patrol car and defendant’s vehicle even though defendant’s vehicle was already a considerable distance ahead of Officer Battistilli’s vehicle.”*
- *“... there is no evidence of any pedestrians in sight ...:*

- *“... Nor is there any evidence of any vehicles attempting to park or attempting to leave parking places along West Mahoning Street.”*
- *“West Mahoning Street at its intersection with Gilpin Street is primarily commercial in nature and continues to be commercial in nature for a few hundred feet in a westerly direction after which it is primarily residential in nature.”*

Even though the judge in this case acknowledged that Walker was traveling 10-15 miles over the limit, he still ruled in his favor anyway because speed, by itself, without any other applicable conditions, is not enough in a Section 3361 violation. By the way, all of those conditions listed above are excellent potential “technicalities” that you may find helpful when contesting your similar ticket.

Case Law #4 – Commonwealth v. Strausser (Potential Hazards Not Enough)

Incidentally, another case, [Commonwealth v. Strausser, 18 Pa. D. & C. 4th 517 – Pa: Court of Common Pleas 1993](#) arrives at the same conclusion but provides even more possible technicalities. When you first see the list of conditions which the police officer highlights, you would think, for sure, that Strausser is going to lose – but he won.

*“The officer used a hand-drawn diagram of the area to show the lay of the land where the citation was issued. The diagram showed the area to be **residential in nature, with many driveways** exiting onto the road where the defendant was observed. The weather conditions on the day in question were dry and clear. Officer Chowka stated he could not recall seeing any other vehicles or any pedestrians in the area, but that the **area was frequently used by joggers and children riding bikes**. In fact, it appears that the reason the officer cited the defendant under section 3361 was the heavy use of the area by pedestrians and children, coupled with the many driveways in the area, thereby giving rise to **potential hazards**.”*

Strausser won because the indication of mere “potential hazards” is not enough:

“The Commonwealth must show that the prevailing conditions, and/or the existence of actual or potential hazards rendered the defendant’s rate of travel unreasonable and imprudent at that particular place and time.”

Case Law #5 – Commonwealth v. Heberling (The Intersection is Key)

I include this last case because it highlights that even under perfect weather and road conditions you can still possibly be found guilty of driving at an unsafe speed. In [Com. V. Heberling, 678 A. 2d 794 – Pa: Superior Court 1996](#) the ...

“... weather conditions were clear and normal. No other traffic was affected nor were any pedestrians at risk.”

The issue here was that an intersection and a crest of a hill were within 1/10 and 3/10 of a mile, respectively, ahead when Heberling was pulled over. The judges considered this a hazardous situation and the appellant was found guilty.

Circumstances ... and Precedent

Hopefully you get the point that accurately documenting the circumstances surrounding your alleged violation is vital. Pictures are of utmost importance so that it is not your word against the cop's. I also hope that you understand how the method that I illustrated here in this document is an effective one to use when deciding whether to fight your ticket in court.

Finally, as I mentioned earlier, if you find a case which is exactly or almost exactly like yours, you are going to win. The judge in [Commonwealth v. Strausser](#) basically states this outright:

“... we find the case of [Commonwealth v. Walker, 5 D.&C.4th 631 \(1990\)](#), as very persuasive in reaching our decision due to its striking similarity to the instant situation ... The Commonwealth must show that the prevailing conditions, and/or the existence of actual or potential hazards rendered the defendant's rate of travel unreasonable and imprudent at that particular place and time.”