

# Lewiston man beats speeding ticket after two-year battle

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- By Brad W. Gary of the Tribune

Getting a \$75 speeding ticket thrown out may have taken two years, but it didn't cost David M. Estes a penny.

The Lewiston man and retired police officer fought a 2007 conviction for driving 10 mph over the limit all the way to the Idaho Court of Appeals. The court ruled to reverse that conviction in a written opinion issued earlier this week.

"To me it's a victory for the ordinary person," Estes said when reached by phone Wednesday. He filed countless public records requests and court documents as he represented himself in the appeal, but Estes said it did not cost him any money to contest the ticket.

The three-judge panel decided an Idaho State Police trooper's estimation of a car traveling down the Lewiston Hill was insufficient on its own to base a conviction.

The trooper's laser radar clocked Estes going 65 mph in a 55 mph zone, but Magistrate Judge Jay P. Gaskill threw out those results at trial. According to the opinion, prosecutors incorrectly told Estes during the pretrial information-sharing process known as discovery that the trooper had used a Doppler radar device prior to the stop.

Estes sought to dismiss the case during a trial based upon the incorrect radar information. The judge later convicted Estes, according to the opinion, based upon implied statements by the trooper that he was certified in visually estimating the speed of a car. The trooper did not disclose whether such certification is required, the appeals court wrote, nor did he say what the accuracy rate of that certification was.

A District Court judge upheld the \$75 ticket, but the appeals court reversed that decision in a unanimous ruling Tuesday.

"Here, the trial evidence is void of any information at all on the officer's accuracy rate," the court wrote. "In addition, the state produced no evidence of the distance between the officer's location and Estes' vehicle when the officer made his estimation, the angle of view, or how long he observed the vehicle before reaching his conclusion."

Estes, who ran as an unsuccessful independent write-in candidate for Nez Perce County sheriff in 2008, said he has a 100 percent success rate getting other people out of speeding tickets working as a paralegal. He said he hoped the decision would lead the courts and prosecutors to take citizens seriously when they represent themselves in court.

He also hoped the decision would begin being used by courts as a standard of preventing law enforcement from basing a ticket solely on their visual estimation of a speeder.

"Visual estimation of speed can be a tool," he argued, "but it is a tool that has to be used in conjunction with other evidence in order to convict."

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