

**IN THE COURT OF APPEALS
FIRST APPELLATE DISTRICT OF OHIO
HAMILTON COUNTY, OHIO**

STATE OF OHIO,	:	APPEAL NO. C-100568
Plaintiff-Appellee,	:	TRIAL NO. 10TRD-33861
vs.	:	<i>JUDGMENT ENTRY.</i>
KRISTEN PESSELL,	:	
Defendant-Appellant.	:	

We consider this appeal on the accelerated calendar. This judgment entry is not an opinion of the court.¹

Following a bench trial, defendant-appellant Kristen Pessell challenges her conviction for speeding, in violation of Cincinnati Municipal Code 506-8, a minor misdemeanor.

On June 18, 2010, Cincinnati police officer Michael Flamm observed Pessell driving west on Interstate 74 at a rate of speed considerably faster than nearby traffic. Officer Flamm activated an LTI 20-20 hand-held laser speed-measuring device and determined that Pessell had been traveling 75 miles per hour in a zone where the posted speed limit was 55 miles per hour. In his opinion, that speed was excessive for the conditions. The officer testified at trial that he had been trained to operate the LTI 20-20 and was a certified instructor in the device's operation. He also described how he had performed the required calibration checks on the device and had ascertained that it had

¹ See S.Ct.R.Rep.Op. 3(A), App.R. 11.1(E), and Loc.R. 12.

been in proper working order at the beginning of his patrol. After taking judicial notice of the reliability of the LTI 20-20 device, the trial court found Pessell guilty of speeding. It imposed a \$30 fine plus court costs.

Pessell's first assignment of error, in which she asserts that the trial court erred in taking judicial notice of the reliability of the LTI 20-20, is overruled on the authority of this court's decision in *State v. Wiest*.² Since the reliability of the laser device had been established by appellate court decision, the trial court was within its authority to take judicial notice of that reliability.³

The second assignment, in which Pessell contests the sufficiency of the evidence adduced to support her conviction, is also overruled. The record reflects substantial, credible evidence from which the trial court could have reasonably concluded that the state had proved each element of the charged crime of speeding beyond a reasonable doubt.⁴

Therefore, the trial court's judgment is affirmed.

Further, a certified copy of this judgment entry shall constitute the mandate, which shall be sent to the trial court under App.R. 27. Costs shall be taxed under App.R. 24.

SUNDERMANN, P.J., HENDON and CUNNINGHAM, JJ.

To the Clerk:

Enter upon the Journal of the Court on April 8, 2011

per order of the Court _____
Presiding Judge

² 1st Dist. No. C-070609, 2008-Ohio-1433, ¶17.

³ See *State v. Levine*, 158 Ohio App.3d 657, 2004-Ohio-5992, 821 N.E.2d 613, ¶10.

⁴ See Cincinnati Municipal Code 506-8; see, also, *Jackson v. Virginia* (1979), 443 U.S. 307, 319, 99 S.Ct. 2781; *State v. Conway*, 108 Ohio St.3d 214, 2006-Ohio-791, 842 N.E.2d 996, ¶36.