

# FATHER AND SON STICK TO GUNS TO PROVE RADAR WRONG

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Lightning is not supposed to strike twice, but the Simotas family of West Pennant Hills have given traffic police a couple of jolts that will make them heroes of any motorist who has copped a doubtful speeding fine.

In 2005 Jerry Simotas successfully challenged a \$160 speeding fine, proving in court that the hand-held radar gun that was said to show he was travelling at 133 kmh in a rented Pulsar had never been properly calibrated, tested or maintained.

Last week his son Michael, 25, went one better; overturning a speeding conviction and fine by downloading the information from his car's GPS unit to show that he was travelling at or below the speed limit and not at 85 kmh in a 60 kmh zone as alleged by two police officers, who admitted in court they had incorrectly used a hand-held radar unit.

The experience has cost the family more than \$27,000 in fees for lawyers and experts, but justice, they said, had been worth the money and created a legal precedent that their lawyers said could spark more regular challenges to technology that experts say is questionable and prone to inaccuracy.

Jerry Simotas was driving from Melbourne in May 2004 when he was clocked by police on the Hume Highway at Jugiong, 40 kilometres north of Gundagai, allegedly doing 133 kmh in a 110 kmh zone.

He challenged the fine in court, questioning how rigorously police recalibrated their radar guns for accuracy each year and presenting documents in court, which showed police certified the US-made Kustom Silver Eagle gun as accurate even though half of the possible 18 tests - which cover issues such as temperature, vibration stability, noise and phone interference, and humidity - were never done.

After three days in court, in which two experts in radar gun technology gave evidence, the police gave up. It cost Jerry Simotas \$20,000 in legal fees.

Michael Simotas was charged a few weeks after his father - his first speeding fine - while driving his Subaru WRX home just before midnight along Marsden Road in Carlingford. He was stopped and charged by two patrol officers driving in the opposite direction.

The officers had clocked him with a hand-held radar allegedly doing 85 kmh in a 60 kmh zone, but conceded in court they had not taken the reading for the required length of time. Instead they relied on their own experience and visual estimate.

The evidence Michael Simotas presented that was downloaded from his GPS unit showed that between Eastwood and Carlingford the car once briefly touched 61 kmh but was mostly at 57 kmh. An expert in GPS systems provided corroborative evidence in court.

Despite this, the magistrate convicted him on the evidence of the visual estimate of the most senior officer and fined Mr Simotas \$203. Last week the conviction and fine were overturned on appeal in the District Court after the police again backed down.

Jerry Simotas said he was concerned about the police's use of radar equipment. "The message is that police have an obligation to use this equipment properly. Motorists have the right to expect that they prove it is accurate."

Michael Simotas's lawyer, Dennis Miralis, went further. The first case in NSW where GPS has been admissible in evidence to contest the accuracy of police radar would not be the last, he said.

"There is an enormous amount of conservatism in the legal fraternity about acceptance of new technology. Magistrates seem to prefer to accept whatever police say in defence of their own equipment, but there are growing doubts."