



## Radar ruling aside, speeding charge still fought

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**By RUDY MILLER**  
**The Express-Times**

EASTON -- Although he hasn't proved police used a defective radar gun to arrest Joshua Losito, attorney Jason Jenkins said Tuesday he is still trying to have Losito's drunken-driving and speeding charges dismissed.

Northampton County Judge Leonard N. Zito denied Jenkins' request Monday to have the charges thrown out against Losito, 29, of Whitehall.

Jenkins argued state police Corporal Edgardo Colon should have known better than to use a Decatur Genesis radar gun to stop Losito from speeding Dec. 4, 2003, on Route 22 in Hanover Township.

Former state police radar technician J.T. Shingara testified in December that police had a moratorium on the use of the guns from Sept. 4, 2003, until Dec. 14, 2003. Shingara testified radar guns can give false readings when plugged into a cigarette lighter in running police cruisers. He said electronic noise from the car's alternator interferes with the radar.

Shingara testified more recently, however, that the moratorium applied only to police who used the guns in Ford Crown Victoria cars manufactured in 2003 or later. Colon used a 2001 Crown Victoria during Losito's arrest.

Zito's ruling notes Jenkins "offered no evidence that the specific serial numbered Genesis radar gun used by Trooper Colon in stopping (Losito) was defective, improperly used, unapproved or untested."

State police spokesman Jack Lewis said the guns are accurate and reliable. Jenkins is unconvinced the guns work. He said Tuesday he is awaiting service records for the radar gun Colon used against Losito before he will concede that the radar gun is reliable.

"I think they were all defective, and I think the state police knew they were defective," Jenkins said. "Can I prove whether this one in this particular instance malfunctioned? That will be a tough go of it."

Jenkins said he knows 31 of the Decatur Genesis guns have been taken out of service by police for repairs. He speculated one of the guns could have been the gun Colon had used. Lewis said guns are routinely taken out of service for repairs, but none needed to be serviced because they were making inaccurate readings.

Jenkins also argued the charges should be thrown out because they were filed too late -- 31 days after the incident. He said they were filed without the district attorney's approval.

"We had an initial preliminary hearing," Jenkins said. "The officer never showed up."

Assistant District Attorney Abraham Kassis said Losito was also absent for a scheduled

preliminary hearing and was declared a fugitive. He said he disagrees with Jenkins' claim that the charges will be dismissed but refused further comment.

Jenkins has until Feb. 8 to file legal papers in support of his arguments to have the charges dismissed against Losito.

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