

An Englewood Municipal Court judge imposed an illegal sentence when he sent a motorist to jail for 10 days for failure to yield to a pedestrian, a Superior Court Judge in Hackensack ruled Wednesday.

Judge Eugene Austin reversed most of the findings by Judge James Dow Jr. in the case of *Curt Kellinger*, a retired and decorated Port Authority police officer who was handcuffed in Dow's courtroom and taken to the Bergen County Jail last year after Dow found him guilty of two traffic violations.

"This is one of the worst decisions I have ever seen," Arthur Carmano, Kellinger's attorney, said of Dow's sentence at a hearing in Hackensack.

Bergen County prosecutors opposed Kellinger's appeal of the traffic convictions, but they, too, conceded that the jail term was out of line.

Court papers show that *Englewood Police Officer Lynn Gladstone*, **who was off duty and driving her personal car**, stopped at a traffic circle to let a pedestrian cross a street on Sept. 16, 2010.

Gladstone alleged that Kellinger stopped behind her, honked his horn and passed her while the pedestrian was crossing the street.

Kellinger said that no pedestrian was crossing the street, and that he passed Gladstone while she was having an animated conversation on her cell phone while driving.

Gladstone then followed Kellinger and, when he stopped in traffic, showed her badge and told him to pull over, according to court papers.

Kellinger chuckled, made the "pshaw" sound and kept driving, according to a filing by prosecutors. Gladstone then returned to her car, followed him some more and again tried to stop him, according to court papers.

When Kellinger ignored her, she called 911, and Kellinger was eventually stopped by Leonia police.

Kellinger said he refused to stop because he didn't know Gladstone was a police officer, adding that she was screaming profanities at him.

"I teach my children not to stop for someone like that," he said Wednesday.

Kellinger's former colleague, Port Authority Police Sgt. Michael Barry, said a departmental rule bars the agency's officers from making stops or arrests in their personal vehicles while off duty.

"I am surprised that Englewood police have not initiated an internal affairs investigation into this," Barry said.

Englewood Police Chief Arthur O'Keefe, however, said that it is not uncommon for off-duty officers to make stops if they see a dangerous driver.

Kellinger appeared before Dow on July 19, 2011, and the judge found him guilty of failure to yield to a pedestrian and improper passing.

Dow imposed a \$200 fine and suspended Kellinger's license for a month.

"Now, in addition to the other parts of the sentence, I'm going to sentence you to jail for 10 days," Dow is quoted as saying in court papers.

"Jail?" Kellinger asked.

"Yes, for 10 days," the judge replied. "You should have been charged with eluding, because, in my opinion, you knew this was a police officer, but you were determined to ignore her."

Officers then handcuffed him, put him in the back of a police car, strip-searched him at the county jail and processed him, Kellinger said.

He spent one night in jail, with the general inmate population, but served the rest of his sentence under the work-release program, which allowed him to be out during the day for work and return to the jail every night.

Kellinger said he was never disciplined in his 23-year career as a police officer.

Austin found that Kellinger was properly convicted of failure to yield to a pedestrian

He said Dow went "certainly beyond his power" in imposing a jail sentence.

. But he threw out the conviction on the improper passing, and declined to impose any sentence other than a suspended fine of \$200.

"We cannot correct an illegal sentence ... that has already been served," he said.