

COPY

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SANTA CRUZ
DEPARTMENT 12
BEFORE THE HONORABLE MICHAEL BARTON, JUDGE

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THE PEOPLE OF THE
STATE OF CALIFORNIA,
Plaintiff,
vs.
RICHARD JAMES QUIGLEY,
Defendant.

Case No.s
3WM018538
4SM011246
4SM021812
4SM023894
4SM028271
4SM044470
4WM021512
4WM023363
4WM034801

FILED
SUPERIOR COURT
COUNTY OF SANTA CRUZ
WATSONVILLE
OSCAR A. MORENO
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REPORTER'S TRANSCRIPT OF PROCEEDINGS
ORDER TO SHOW CAUSE
July 15, 2005

APPEARANCES:

For the California Highway Patrol: KAREN KIYO HUSTER,
Deputy Attorney General
For the Defendant: IN PROPRIA PERSONA &
KATE WELLS,
Amicus Curae
Official Court Reporter: OSCAR A. MORENO,
CSR 3441

1 Watsonville, California

July 15, 2005

2 P R O C E E D I N G S

3
4 THE COURT: Let's go on the record then on this
5 order to show cause and request for contempt.

6 In relation to my order, I'm assuming back, was it
7 May --

8 MS. KIYO HUSTER: May 20th.

9 THE COURT: What's happening on your taking me up on
10 that.

11 MS. KIYO HUSTER: Well, Your Honor, those papers are
12 being prepared.

13 THE COURT: So as I had indicated my thought is that
14 the problem is there is still a transcript that hasn't been
15 prepared; is that right?

16 MS. KIYO HUSTER: That's correct. I believe.

17 THE COURT: This is a small town; everybody tells
18 everybody everything. My understanding is one of the
19 Reporter's hasn't completed her transcript and I'm wondering
20 if that's the delay?

21 MS. KIYO HUSTER: That is not the sole cause of the
22 delay, Your Honor. There are other matters that we're trying
23 to sort out.

24 THE COURT: Okay.

25 So what's -- you are asking for some more time.
26 What's happening -- what's your present time line?

1 MS. KIYO HUSTER: Well, Your Honor, I would very
2 much like to be the person who will be handling this matter.
3 I will be out of the country for the next month starting
4 Monday, so I was just hoping that the matter could be put over
5 in enough time -- with enough time so that could I still
6 prepare the matter and so, my request on my response was 60
7 days.

8 THE COURT: And again I think that we're sort of all
9 on the same page which is that my hope is that someone other
10 than our appellate level will look at this and decide what
11 they are going to be doing and that's my assumption.

12 MS. KIYO HUSTER: And that's what I intend to
13 pursue.

14 THE COURT: Now, you are leaving Monday. You are
15 going to be gone a month. So if I understand what you are
16 saying then, assume that you will return and have enough time
17 to file it and have something from the Appellate Court to us
18 by that time and come back by that 60 days.

19 MS. KIYO HUSTER: Yes, sir. 60 days.

20 THE COURT: All right.

21 And I have -- I don't have a real problem with that,
22 because obviously it's what we're thinking about doing.

23 Mr. Quigley was in Court getting these signed. Was
24 that on the 22nd of June, Mr. Quigley, is that the ticket?

25 MR. QUIGLEY: I'm sorry, Your Honor?

26 THE COURT: The one ticket that -- 47327, what date

1 was that? Is that the 22nd of June?

2 MR. QUIGLEY: I was just looking for that, Your
3 Honor.

4 Did you make a copy of that?

5 THE COURT: I did but it didn't come out real well.

6 MR. QUIGLEY: Oh.

7 THE COURT: I'm sorry, it is the 22d of June.

8 So, again, just so you have an idea of why I'm
9 talking about this ticket because hopefully we can kind of
10 avoid problems in the future and especially considering we're
11 going to now put this out another 60 days, the issue is that
12 Mr. Quigley was in court -- he was having court orders signed
13 and doing nothing on other than having an order signed which
14 is what I signed when I put this on calendar so, he's in Court
15 he leaves, I'm then doing other matters, I don't remember
16 exactly what, because I was in Santa Cruz, comes back at about
17 3:30 in the afternoon and indicated he had been ticketed by
18 the Highway Patrol for no helmet.

19 I don't have a problem with that issue. I mean,
20 that's between the CHP and Mr. Quigley. But Mr. Quigley asked
21 for his right to have a probable cause hearing and that's not
22 quite the right term but it's a hearing under 42 --

23 MR. QUIGLEY: 40302(c), Your Honor.

24 THE COURT: Okay. And the officer would not do that
25 without impounding the bike and bringing Mr. Quigley to court
26 in custody.

1 My concern with that is -- I mean, obviously in
2 certain respects if the officer believes it's a continuing
3 violation and I understand the officer's position that letting
4 someone get on the bike and ride to Court isn't something they
5 are thrilled about doing.

6 But with this being in limbo and it being
7 potentially at least as I've indicated a fix-it ticket, I have
8 a problem with the fact that the bike is then going to be
9 impounded and Mr. Quigley is going to be taken to Court --

10 MS. WELLS: In custody.

11 THE COURT: -- in custody.

12 MS. KIYO HUSTER: Your Honor, what is the situation?
13 That Mr. Quigley had no helmet whatsoever or he had one of his
14 devices?

15 THE COURT: One of his devices.

16 MS. KIYO HUSTER: A device was being worn.

17 THE COURT: Under his softer device.

18 MR. QUIGLEY: No, Your Honor. That particular
19 configuration, begging the Court's pardon, was I had what most
20 people would like to call a bandana style helmet. They like
21 to call it a bandanna, but the lower helmet was a bandana and
22 then I had that other helmet that we have talked about -- that
23 smaller. This was not involved in that. My other
24 configuration is the smaller helmet under this one -- was the
25 two-helmet configuration.

26 THE COURT: The disc was there. Whether -- again

1 whether I'm right or wrong on that, it was there --

2 MR. QUIGLEY: Your Honor.

3 THE COURT: -- hang on, I'm not done yet. You'll
4 get it in a minute

5 So the problem I have is again that sort of the --
6 and I don't mind putting it out accommodating everybody but
7 the problem I have is that impounding of the vehicle and
8 bringing Mr. Quigley to a magistrate and I happened to be in
9 Santa Cruz when he got the ticket, so it might have come to
10 me. And I don't know, but all of those issues create major
11 problems because the bike is impounded and it costs -- it adds
12 money. And it adds other issues to a demand that he's making
13 and then we haven't had a decision as to what the next steps
14 are --

15 MS. KIYO HUSTER: It sounds like you are saying you
16 don't take issue with the ticket being given for the violation
17 of the Vehicle Code but you do have concerns about the
18 impoundment of the vehicle and Mr. Quigley's being taken into
19 custody.

20 THE COURT: Because he demanded a right to a
21 hearing.

22 MS. KIYO HUSTER: Okay.

23 THE COURT: I mean, so what he did was he ended up
24 taking the ticket, the officer left -- he then is on his bike
25 with his helmet devices and rides off and comes back to Court,
26 so that didn't -- and you can deal with the officers.

1 That didn't seem -- it's not these officers, but
2 that didn't seem to create a problem. Mr. Quigley signed the
3 ticket, the officer leaves, Mr. Quigley goes on his way so I
4 can't quite see the problem if he's asking for a hearing and
5 he's not 90 miles away from the courthouse if the officer is
6 willing to have him sign the ticket and ride off versus having
7 him sign the ticket and the two of them go to the courthouse
8 for the hearing without having the bike impounded, without
9 Mr. Quigley being escorted in the vehicle.

10 MR. QUIGLEY: Your Honor, that's what I wanted to
11 say something. I discussed this with an officer of the
12 Highway Patrol several years ago in an internet exchange
13 because he was curious about my activity.

14 And I asked him what he would do in that situation
15 where I demanded to be taken before a magistrate. He said,
16 "Well, I'd simply give you direction to the courthouse and
17 follow you there."

18 He says, "I'll have your license, your insurance,
19 your registration, where are you going to go? So I'll just
20 follow you down to the courthouse." So there's no reason when
21 they are sitting holding all viable papers that I have to have
22 in order to go anywhere for them not to follow me down to the
23 courthouse.

24 THE COURT: And again obviously you have, you know,
25 a lieutenant or captain here that you can talk to and I don't
26 mean to put you on the spot but I have a concern about that

1 issue.

2 MS. KIYO HUSTER: Sure. I understand. Could I take
3 two minutes to consult?

4 THE COURT: Sure, that's why we're here to do that.

5 MS. KIYO HUSTER: Thanks very much, Your Honor. Let
6 me just do that then.

7 MR. QUIGLEY: Are we off the record for that?

8 THE COURT: Yeah.

9 (Off the record.)

10 THE COURT: We'll go on the record. What I'm
11 indicating is that he's asking for his rights under the
12 Vehicle Code. He hasn't refused, he hasn't come to understand
13 (a) or Sub (b). He's just asking for his rights under the
14 Vehicle Code. If he was anybody else, I mean, and I'm not
15 saying it's just Mr. Quigley, let's say it's a broken
16 windshield, and I want a hearing before I sign that ticket.
17 Let's say it's me.

18 I don't understand why the vehicle has to be
19 impounded. If it wasn't going to be impounded with the ticket
20 anyway, and why the person has to go into custody when they
21 are asking for their rights under the Vehicle Code.

22 MS. KIYO HUSTER: And my question since we're on the
23 record now was, are you saying that the fact of the May 20th
24 order bears some relationship to the scenario that you are
25 describing where Mr. Quigley's vehicle was impounded and he
26 was taken into custody?

1 THE COURT: In and of itself, no.

2 MS. KIYO HUSTER: So this is a situation which you
3 would raise whether or not the prior order had been issued?

4 THE COURT: Right.

5 MS. KIYO HUSTER: Yes.

6 THE COURT: Because again, in certain respects it's
7 unfortunate it's Mr. Quigley, but if a motorcyclist is stopped
8 and cited for whatever Vehicle Code section they are stopped
9 and cited for, cited for by an officer of -- a peace officer
10 in this state and it doesn't have to be Highway Patrol, it
11 doesn't matter to me, but it seems somewhat unjust that if the
12 person is cited, signed a ticket, and drives off that's the
13 end of it.

14 If they are asking for a hearing which they've a
15 right to have, the vehicle goes into impound and the person
16 goes into custody, that doesn't make sense to me because they
17 are not refusing. They are just asserting their rights under
18 40302(c) which says I have a right to be brought in front of a
19 magistrate.

20 I'm not saying I won't sign it, I'm not saying I'm
21 an idiot, I'm not saying this, that or the other. I'm not
22 coming into (a) or (b), I'm coming into (c), and whether it's
23 Mr. Quigley or anyone else it just seems onerous to have a
24 vehicle impounded and the person going into custody because
25 they are demanding their right to be brought in front of a
26 magistrate.

1 MS. KIYO HUSTER: Well, it sounds like --

2 MR. QUIGLEY: -- your Honor.

3 THE COURT: Let me finish and then I'll go to him.

4 MS. KIYO HUSTER: I think that the impoundment and
5 custody is not punitive. It's just administrative because
6 they can't just leave the vehicle alongside of the road --
7 it's more of a practical application of getting this person to
8 a magistrate without endorsing a further violation of the law.

9 THE COURT: But, again the issue is if I sign the
10 ticket and I don't ask for a hearing I get to drive that
11 vehicle off. So, I don't understand why if I demand a right
12 under the Vehicle Code that it's going to cost me money
13 whereas if I give up that right it doesn't.

14 Mr. Quigley.

15 MR. QUIGLEY: I can clear this whole thing up, Your
16 Honor. I can clear it up I swear if I can get through this
17 without losing my place. When I asked him for the appearance
18 in front of the magistrate is when I saw in the citation when
19 he marked it noncorrectible.

20 I have been bothered by and I am living with the
21 fact that you have ruled the helmet tickets in Santa -- well,
22 these helmet tickets are a correctible violation.

23 THE COURT: Let me stop you. Hang on, hang on. Let
24 me stop you.

25 I'm beyond that issue. Because my issue is is that,
26 correctible or not, if you're asking for a right you shouldn't

1 have to pay to have that right.

2 MR. QUIGLEY: That's correct.

3 THE COURT: That's where I'm at.

4 MR. QUIGLEY: But what's hanging her up is she
5 thinks that I did something wrong and it's not me; it's the
6 officer.

7 THE COURT: We got beyond that. Okay. Go ahead.

8 MS. KIYO HUSTER: I'd like to say just as a
9 procedural matter, I didn't come here today prepared to
10 discuss 40302(c). If the Court is interested in my analysis
11 of that statute I would request time to research it and brief
12 it.

13 THE COURT: Well, I guess what I'm asking for is the
14 trade off.

15 At least for this next 60 days, the driver's license
16 -- while everything continues to be in limbo and you leave the
17 country, he has the ability if he's going to get cited and he
18 requests a hearing not to have the vehicle impounded and not
19 to have him go into custody. I mean, I would say that's
20 reasonable for anybody even if it is Mr. Quigley. I mean, I
21 have a problem with that because it's a two hundred dollar
22 impound.

23 MS. KIYO HUSTER: What if it was the case that that
24 were the standard operating procedure for any time that a
25 motorist is pulled over and the motorist invokes their right
26 under 40302(c) then it sounds like you are asking us to craft

1 out a special rule for Mr. Quigley.

2 THE COURT: Well, you want some time to deal with
3 40302(c)?

4 MS. KIYO HUSTER: Well, whether or not I'm given an
5 additional 60 days, Mr. Quigley still has this issue before
6 him today.

7 THE COURT: I understand but it's coming from me
8 because of Mr. Quigley and I'm trying to avoid applying it
9 just to Mr. Quigley but right now that's where we're at. I
10 mean, I have a real concern that a vehicle has to be impounded
11 because someone is asking for their right to a hearing.

12 MS. WELLS: And I'd like to point out the fact that
13 we wouldn't have this next 60 days unless you were asking for
14 it, for a further extension.

15 THE COURT: Well, again, that's not as important as
16 my concern it just doesn't seem to be equitable.

17 MS. KIYO HUSTER: First of all, it's not a further
18 extension. It's my first request for an extension.

19 THE COURT: I'm not trying to go there. You are
20 asking me my thoughts and opinions.

21 My feeling is is that with the issue of someone
22 asking for their right under a hearing, I just have a real
23 problem that a vehicle has to be impounded and the person has
24 to go into custody, Quigley or not, you, me, anyone, and I
25 have a concern with that but I'll have -- I'll give you more
26 time because I didn't mean to just dump this on your lap but

1 we have kind of a 60 day hiatus where I'd like to know that
2 it's not going to happen.

3 I mean, if an officer sees him and cites him and
4 does whatever and Mr. Quigley asks for a hearing, then --

5 MS. KIYO HUSTER: Then you are suggesting that the
6 officer should then put Mr. Quigley back on his motorcycle and
7 drive along with him?

8 THE COURT: Or leave Mr. Quigley where he's at and
9 say, "I'll meet you at the courthouse." He shows up at the
10 courthouse. If Mr. Quigley shows up, fine; if not, then
11 obviously -- he hasn't signed a ticket, he's bailed on
12 everything else, and he's subject to arrest.

13 MS. KIYO HUSTER: Well, I guess I need to know if
14 that's the Court's order or if you are asking me to consult
15 with my client and see if they'll agree to do that.

16 THE COURT: Consult with your client.

17 MS. KIYO HUSTER: All right.

18 THE COURT: Off the record.

19 (Brief pause in proceedings.)

20 THE COURT: Let's try this one last time.

21 MS. KIYO HUSTER: Well, it sounds like we're going
22 to need an order, Your Honor, and I'll tell you the concerns.
23 The concerns are that if Mr. Quigley is going to the
24 magistrate with no helmet along with the CHP, that's like an
25 endorsement by the CHP. And if Mr. Quigley, got forbid, has
26 some kind of crash on the way then there is the argument that

1 could be made that the CHP had caused that situation by
2 allowing it, endorsing it to happen. And the only way that
3 the CHP's's liability concerns can be addressed is if that
4 sort of thing happens pursuant to a court order.

5 There is also a moral issue, obviously.

6 THE COURT: Yeah, I understand that, but again it's
7 sort of -- it's still my issue that -- and unfortunately it's
8 Mr. Quigley that we're talk being about, it just seems to be
9 blatantly unfair for a citizen who is asking for a hearing to
10 have their vehicle impounded so they can have a right to their
11 hearing. Quigley aside.

12 I mean, I understand that there is a lot of thoughts
13 about Mr. Quigley but that's dependant upon --

14 MS. KIYO HUSTER: That doesn't have anything to do
15 with this analysis, Your Honor.

16 THE COURT: I'm trying to be a little light hearted.
17 So --

18 MR. QUIGLEY: Obviously it does, Your Honor. She's
19 talking about the department's moral being based about what
20 I'm allowed to do? I mean, my God, do you mean to tell me
21 that --

22 MS. KIYO HUSTER: It has nothing do with
23 Mr. Quigley. It has to do with --

24 MR. QUIGLEY: -- the department is going to fall
25 apart if they follow the law and this Court's ruling?

26 MS. WELLS: May I also follow the fact that if they

1 let him go after signing the ticket and don't stop him I guess
2 there could be the same liability saying why didn't you keep
3 him from driving away from there in that unsafe condition?

4 MS. KIYO HUSTER: Well, in that situation as
5 Mr. Quigley well knows, he could be pulled over two miles down
6 by a completely separate officer who has no idea of the prior
7 situation.

8 THE COURT: You are then leaving when?

9 MS. KIYO HUSTER: Well, my last day is today, Your
10 Honor. It looks like I've got another hour and 45 minutes and
11 then I'm off to France.

12 THE COURT: Can someone prepare an order for me and
13 fax it so that I can sign it on Monday?

14 MS. KIYO HUSTER: Are you asking my office to
15 prepare the order, Your Honor? Well, what would you like it
16 to say?

17 THE COURT: That at this point if Mr. Quigley is
18 ticketed for a violation of 27803 of the Vehicle Code, riding
19 without a helmet and he requests to be brought before a
20 magistrate pursuant to 40302(c), that his vehicle will not be
21 impounded and he will not be taken into custody.

22 MS. KIYO HUSTER: That the vehicle will not be
23 impounded and he will not be taken into custody as a
24 consequence of his invoking the right under that code section?

25 THE COURT: Requesting that hearing, yes.

26 MS. KIYO HUSTER: It doesn't preclude the CHP from

1 impounding Mr. Quigley's vehicle or taking him into custody
2 for other reasons?

3 THE COURT: Yeah. I mean, if he violates some
4 other law that would allow them that's the -- the only issue
5 is as I've said it's within 27803.

6 MR. QUIGLEY: I'll appeal that, Your Honor.

7 THE COURT: Which? I mean, if they do?

8 MR. QUIGLEY: No, I've -- this -- we've lost track
9 of where we are.

10 MS. KIYO HUSTER: I agree.

11 MR. QUIGLEY: I'm going to try to help them. I'm
12 going to try to just jam my way through here to see if we can
13 fix this.

14 THE BAILLIFF: Mr. Quigley, I'm sorry, if you are
15 going to give something to the judge you have to give it to
16 me.

17 THE COURT: New bailiff; it's okay.

18 MR. QUIGLEY: Good enough. Here is the return on
19 the order from Watsonville; it's been signed off with no
20 indicator of which one of the many pieces of headgear I
21 brought in, you are going to dismiss these when I give them to
22 you because they are signed off. I don't want you to do that.

23 THE COURT: I'm sorry, you do or don't?

24 MR. QUIGLEY: I don't want you to do that for two
25 reasons: I want you to dismiss but I don't want you to
26 dismiss them today because the District Attorney is not here

1 and the day of the dismissal marks the time for the appeal.

2 The problem is, Your Honor, that you and I are the
3 only two people in this county that appreciate your ruling.

4 I'm not talking about the words of it, I'm not
5 talking about the fact of it. I'm talking about the law of
6 it.

7 . As I understand the law, as the law is supposed to
8 work when you make a finding based on what? Two years, that
9 this case had been going on and the evidence that has been
10 presented to you that helmet tickets are correctible
11 violations, that from that day forward, unless it's been
12 overturned by an appeal, that that is the state of the law in
13 this county.

14 Now, the District Attorney is totally prepared to
15 let this thing go, dismissed, in a sure and certain statement
16 of belief that the Appellate Court, Appellate Division of
17 Superior Court would overturn you, and that's good enough for
18 her to leave the state of the law in this county that helmet
19 tickets are noncorrectible and completely disregard your
20 ruling in a vacuum. Except that the four tickets of mine go
21 away. I didn't get those four tickets so I could make them go
22 away. I got the four tickets so that we could make the
23 elements of this law that are offensive to the constitutional
24 protections of the law go away. And one of them is that it's
25 being treated as a noncorrectible violation.

26 And, I mean, they are signed off, like I said with

1 no indicator at all from Watsonville PD. When I called their
2 city attorney, I says, "Can you tell me how to comply with the
3 helmet law with certainty in Watsonville because signing off
4 those tickets didn't help." And she said, "I cannot give you
5 legal advice." So we're right where we were when we started
6 as to Watsonville.

7 With the CHP nothing has changed. They stand right
8 where they stood in 1992 before the Buhl case, in 1994 before
9 the Bianco case, in 1995 before the Easy Riders injunction, in
10 1996 before the Ninth Circuit Court of Appeals upheld that
11 injunction and the Attorney General's Office themselves said
12 if any portion of this injunction is upheld and rendered under
13 the law unenforceable and it was and it did and it just goes
14 on and on and on.

15 And until something happens that forces these people
16 to follow the law as written and interpreted by these courts,
17 this nightmare will never end, Your Honor.

18 Now, this is the Watsonville tickets and I do want
19 them signed off but I want an appeal filed on this.

20 THE COURT: That's where I think we're at.

21 MR. QUIGLEY: But they are not buying this, Your
22 Honor. This is Watsonville; she's not going to file an appeal
23 on these tickets.

24 THE COURT: True, but the issue is is at least the
25 way I've set the order my assumption is that the appellate
26 court above our appellate division will tell me that I'm

1 either out of my mind or that I'm correct.

2 So, back to -- we will be back then September 1? Or
3 thereabouts?

4 MS. KIYO HUSTER: I'll be back September 1st.

5 Your Honor, I have a summary judgment motion hearing
6 on the 16th --

7 THE COURT: You were asking for 60 days. I'm just
8 trying to start figuring those days.

9 MS. KIYO HUSTER: All right.

10 THE COURT: So on or about the 1st you are back?

11 MS. KIYO HUSTER: Yes.

12 THE COURT: So if I set it on the Seventh of
13 October, something will have been filed hopefully with the
14 appellate division, appellate courts, that's a month after you
15 are back?

16 MS. KIYO HUSTER: If you set the second OSC hearing?

17 THE COURT: Yes.

18 MS. KIYO HUSTER: October 7th?

19 THE COURT: Yes.

20 MS. KIYO HUSTER: Yes.

21 MS. WELLS: Let me get that straight. That's what
22 the appeal must be filed by that date?

23 MS. KIYO HUSTER: Judge, you are nodding in the
24 affirmative?

25 THE COURT: Yes, I'm sorry.

26 So that if in fact -- my assumption is that at least

1 since you are probably taking it via writ, but by that point
2 the Sixth will tell me that I will either hold off on my
3 contempt or that they are not going to hear it then we go
4 forward on my issues.

5 I mean, one of the two is going to happen.

6 MS. KIYO HUSTER: Well, it sounds like, Your Honor,
7 that maybe the OSC hearing should be put off until such time
8 as there is a decision whether the writ will be taken up or
9 not whether or not the day the petition is due, is that --

10 THE COURT: Well, no, because I mean, I'm giving you
11 60 days. If your office doesn't file anything then my order
12 stands and we're moving forward. If your office files it then
13 my assumption is that there will be a stay on the proceedings
14 from the Sixth and we'll know what to do with the next issue.
15 But one of those two --

16 MS. KIYO HUSTER: But, Your Honor, you are
17 authorized to stay the proceedings as well.

18 THE COURT: I understand but I'm staying them until
19 the 7th. I want to know -- either your office is taking me up
20 or you're abandoning it and my ruling stands.

21 MS. KIYO HUSTER: I understand.

22 THE COURT: One of those two things is going to
23 happen on the 7th.

24 MS. KIYO HUSTER: Understood.

25 MR. QUIGLEY: Which ruling, Your Honor, are they
26 taking up?

1 THE COURT: I assume they are taking everything but
2 at least the last order which is if the CHP has to sign off on
3 your helmets.

4 MR. QUIGLEY: Okay. Can I get these four
5 Watsonville tickets dismissed?

6 THE COURT: Do you want them dismissed today or do
7 you want to wait until the 7th on those?

8 MR. QUIGLEY: I don't know. I was going to hand
9 them to the clerk. I'm sorry.

10 THE COURT: That's okay.

11 MR. QUIGLEY: I'm not used to having to be nervous
12 about being around the clerks. I want to put what happened in
13 Hollister on the record real quick, Your Honor. I can tell
14 that story real fast.

15 This is what happens in a county that follows the
16 law. I got a ticket in Hollister in 2001.

17 I went into get the thing -- to get it signed off
18 and it was marked correctible by the officer. I went in to
19 get it signed off. The clerk wouldn't let me do it said I had
20 to talk to a judge. I went and saw judge I think his name is
21 Steve -- it will come to me.

22 Any way, the judge picked up his Vehicle Code, read
23 it, "I agree, it's correctible" that was the end of that.

24 I went back there last week on the 4th -- the 3rd of
25 July, I'm leaving -- I have been downtown, been wearing --
26 this is the only headgear I had with me is this one that's

1 like a baseball cap, it's my newest helmet. I rode around all
2 the way down there, no trouble down there, I'm leaving town,
3 the wind had come up and it started to come off me so I took
4 it off and stuck it in my jacket and by the time I got to
5 San Benito County -- I mean, San Juan Bautista I'm riding bare
6 headed, I'm leaving San Benito after lunch headed back to
7 Santa Cruz, the sheriff's officer pulls me over.

8 "Mr. Quigley" -- he didn't know my name, he says,
9 "Where is your helmet?" I says "Right here" and I pulled the
10 thing out of my jacket and he looks at it and he says, "Well,
11 that's a helmet?" It's got DOT and everything, approved
12 helmet. He says, "Well, why aren't you wearing it?" I says,
13 "Well, I got a problem with the retention system in these high
14 winds you got here, so I've got to do some adjustment on it,
15 it looks like." He says, "Well, were you down in Hollister?"
16 I said, "Yes." He said, "Did you get any tickets down there?"
17 I said, "No, as a matter of fact I didn't." He said, "Well, I
18 can't let it go." he said, "But it's okay, it's correctible."
19 Now, I had already talked with the police department downtown,
20 the officers down there. I talked to them and it would have
21 been correctible if I had have gotten one down there.

22 To my knowledge, it would have been correctible in
23 San Benito County since 2001 when the judge made the ruling in
24 his Court that it is a correctible violation. So I tried to
25 get it signed off and dismissed, but their procedure for
26 dismissing didn't give me enough time. They hadn't gotten

1 their copy of the ticket back and I hadn't received this and
2 that, but I gave you a copy and I already gave her a copy of
3 the ticket correctly marked correctible. I went down there
4 and got it signed off by the same agency that wrote it. There
5 was no court proceedings, didn't have to issue any orders,
6 didn't have to jump through any hoops, the sergeant came out,
7 looked at what he thought was a helmet, good enough for him,
8 signed it off.

9 So that's the way it works when the government
10 follows the law.

11 What we have been dealing with in this county since
12 1998 is how it works when they don't.

13 And so I don't know -- I don't know -- when I asked
14 the attorney general six months ago to sit down at a table
15 with me and hash these elements out so that we could get on
16 the same page so that I could move for a writ of mandamus or a
17 declaratory relief action or something or they could move or
18 somebody could move to get this fixed without all of this,
19 they flipped me off. They treat me like I'm some -- I mean,
20 third class citizen, just slime, just in their way. Rude, and
21 wrong, and wrong. And will not, will not, put forth one iota
22 of energy into fixing the problem.

23 Now, I believe, I believe in my heart of hearts that
24 their boss, Bill Lockyear, would absolutely clean house if he
25 knew this junk was going on. I don't know how to get his
26 attention.

1 I believe that your boss, Ron George, would
2 absolutely clean house, some of the stuff that I know that's
3 going on up and down in this state if he knew what was going
4 on. But I haven't been able to get their attention, Judge.

5 And she's not helping me get there. It's her job to
6 protect me. And I ain't seen a gram of it. I ain't seen one
7 iota of it. Nothing. So that protest is on the record.

8 Dismiss if you will; don't dismiss. They are signed
9 off from Watsonville; that's what happens in the county. I
10 don't know what the state of the law is here. It's my
11 understanding, res judicata, correctible violation.

12 THE COURT: Well, we'll see.

13 MS. KIYO HUSTER: Your Honor, getting back to the
14 order.

15 THE COURT: Yes.

16 MS. KIYO HUSTER: I need clarification from the
17 Court on whether the order is going to prevent the CHP from
18 parking Mr. Quigley's vehicle and then transporting him rather
19 than impounding or storing the vehicle.

20 That is to say that he would not incur additional
21 monetary expense but that he would not be allowed to continue
22 breaking the law as he is traveling to a magistrate.

23 THE COURT: At this point he'll be allowed to take
24 his vehicle to the courthouse.

25 MS. WELLS: And I would like another housekeeping
26 matter since we've extended this now past 60 days, we've got

1 until October 7th, I would ask that the order cover that
2 period.

3 THE COURT: Yes. All right -- so we have a civil
4 case -- so October 7th here at 1:30.

5 (End of proceedings.)

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