

July 3, 1999

M: = California Highway Patrol Officer R. K. Messing

Q: = Richard Quigley

Q: Yeah, there we go (referring to the fact that I *finally* got the tape recorder going). . . . I am wearing a helmet.

M: And would you like to show me your helmet?

Q: I've got it on my head.

M: You're not wearing a helmet, you're wearing a baseball cap.

Q: Well, that means you've made a determination of non-compliance on my helmet, and I think that you're a little bit short on your ability to do that, but . . .

M: Well, no actually I'm not. And the, and it was going through the court system, so I do need to see your driver's license though.

Q: You have it.

M: Essentially what I see here is an interim license, I need some form of formal identification. Some verified identification.

Q: I understand that. Do you know why I have that instead of the hard copy license?

M: I don't know, why?

Q: Well, because it takes a while from the time they take that picture and issue that document until the license arrives.

M: And it's not signed.

Q: Yeah.

M: Uh huh.

Q: And your point?

M: And your point is it's supposed to be signed.

Q: Okay, well it's not.

M: Could I see your registration on your motorcycle please?

Q: I don't have the registration papers with me.

M: Okay.

Q: But it is registered. You can see the number? . . . Okay.

(Break, while the officer calls in all the stuff.)

Q: And you might be right. It could be tire time on the back.

M: It sure looks like it.

Q: Yeah. But it ain't tire time on the front. I just took care of that a couple days ago.

(More radio transmission time.)

Q: I think you'll find my papers are in order. (I love to make that statement when dealing with the police -- I think it's important for them to know to what depths their duties have been lowered.)

M: (garbled -- something about a previous stop by another officer.)

Q: A guy named Bogard?

M: Yeah.

Q: Yeah, she stopped me 'cause she was ah . . . she was doin' one of those "waitin' 'cause I know he comes by here, I'm gonna check his paperwork"

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things. She was confused. There was a hold on my license. But I went and took care of that. I really appreciate the fact she pointed that out, because I went and took care of that before it turned into trouble.

M: So you're probably aware that the Highway Patrol did have an injunction on file several years ago for issuing citations on helmets when we could not prove that the party stopped and cited had knowledge that they weren't wearing a valid or approved DOT Federally approved helmet . . .

Q: Uh they . . .

M: I know for a fact that you have been stopped several times, including last time Officer Bogard stopped you . . .

Q: No. Bogard . . .

M: Also Officer Pedro advised you you were not wearing a uh compliant type helmet.

Q: Officer, not meaning to correct you, but Officer Bogard did not have, did not have one word to say about my helmet. Not a thing.

M: Officer Pedro told me that he did though.

Q: Who's Pedro?

M: Officer John Pedro. The gentleman with the brown mustache. He stopped you about two weeks ago. He said that you were wearing a baseball . . . uh, either a baseball cap or a baseball batting helmet, I believe.

Q: Okay. He uh, he was the gentleman who stopped me over in La Selva and did not cite me.

M: Yeah, he said he advised you that you were required wear it, but that's why I'm issuing the citation, because I know for a fact that he stopped and advised you.

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Q: Yeah, that's okay. And I do know about the injunction. And by the way, it didn't go away, it's still there, but that's not relevant to this so it doesn't matter. I'm not . . . I'm not runnin' . . .

M: As long as you know though.

Q: Yeah, I know what the injunction says. I helped write the paperwork that brought about that decision, so . . . (short pause) . . . would you like to know what it says?

M: (garbled something about "briefed me") At this particular point, I don't feel the need to.

Q: Okay. What I'll be expecting you to bring to court is a determination of noncompliance from an independent testing laboratory that there's been ah you know . . .

M: It is your responsibility to show that what's you're wearing is in compliance, so it falls on you.

Q: I . . . Boy, I hope that's true, I really do. Because if that's true, that sucker will fall like a rock. We've been havin' to fight it the other way.

M: Is your address still Fresno?

Q: Yeah. Yeah, if that . . . if you're right about that, if it's my affirmative duty to prove to every police officer I meet that my helmet is compliant, my friend, that that law will be gone, that law will be gone as soon as it gets to the highest court. I hope that that's the case, but I don't believe it is.

M: I know, I know you appear to be a passionate man for your right to, that you believe that to operate a vehicle, a motorcycle without a helmet. But, unfortunately the State of California says you are required to wear a helmet.

Q: If I, if I, if I were not compelled by the State of California to wear a helmet, I would not be wearing one. That is correct.

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M: (garbled) they require you to wear a helmet for your own safety and the costs to our society in treating injuries when somebody is not wearing a compliant helmet.

Q: Well, the fact of the matter is, as I understand it, there is no societal costs that's ever been established as valid. I know that there's been a lot of assertions, but there's never been a . . .

M: That's why the legislature decided to . . .

Q: I know what the intent was.

M: (garbled)

Q: No. See, you're assumin' facts not in evidence. What you're assuming is is that Floyd didn't lie to the Legislature. But see, Floyd did lie to the Legislature. He brought a bunch of bogus statistics in and told them how much not wearing helmets was costing the taxpayers, and so they voted for the helmet law.

M: (answering a radio call)

Q: Yep. That's me. (responding to the stuff on the radio)

M: Okay, thank you. Yeah, everything's cool.

Q: Yeah, I know. Anyway, so Floyd was approached by a guy from the San Jose Mercury News that says uh . . . telling Floyd, "We checked out your numbers, and these people that you cited said they never gave you any numbers, that they don't have any numbers, that you just made it up." And his his response was, now this is, I'm just quoting him, so I'm not swearing at you, he says, "Who give a fuck. I don't care what the figures area. They either wear the hats or they go to jail." So that, sir, is the foundation of the helmet law in the State of California. . . . I don't make these things up. Oh, as far as the exhaust goes . . .?

M: Yeah.

Q: The whole motorcycle's custom.

M: But aren't you aware that the Vehicle Code requires that a manufacturer, is required to sell a motorcycle, and any replacement mufflers that are for sale in the State of California are required to comply with Federal regulation requiring somebody policing a ah or operating a motorcycle with a non-compliant violation on it is an equipment violation.

Q: Okay, if this is a non-compliant muffler, all they gotta do is show me how, but you think I've got an affirmative duty to prove that it is, and I'm sittin' here sayin' wait a minute, I've had these exhausts, this is the third motorcycle I've had 'em on, I run them for probably ten years and you're the first person to ever take exception to them. . . . But that's okay. It kinda trashes up a nice clean little ticket but that's okay with me. . . . Correctable violation, right?

M: Well, portions of it are, but (garbled).

Q: The helmet's not?

M: No.

Q: Well how's that?

M: (garbled)

Q: Well, why isn't that a correctable violation? It's Division 12.

M: If you read what 40610(b) says, it's the option of the officer based on (garbled) whether they want to issue an equipment violation . . .

Q: Perfect, now what I want to know is, are you accusing me of fraud?

M: Negligence on your part.

Q: Persistent neglect?

M: (garbled)

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Q: Well no ah, negligence isn't one things under 40610(b) . . . you got fraud, persistent neglect ah . . .

M: Persistent neglect . . . I like that one.

Q: You like that one? Okay.

M: Due to the fact that you've been stopped so many times.

Q: Do you have idea how many tickets that were written for those beanie helmets . . . between 1992 and '93?

M: No. I wrote quite a few of them myself at one point.

Q: There were forty thousand of them written. Out of forty thousand of them, guess how many people were actually guilty? None! That's what the injunction was for. (chuckle) So the fact that I've had four other officers cite me, and another half dozen stop me, doesn't change the fact that I'm not violating any lawful statute. I don't want you to think that I'm a criminal. (delay, waiting for the paperwork) You seem to have a lot of information about me. Where'd you come by all this?

M: Oh, I just heard about you.

Q: Really?

M: (garbled), letters you've written into the paper. I read the paper every day.

Q: Letters I've written to the paper about what?

M: Articles in the opinion section.

Q: Nary a one. You've got me confused with somebody else. Definitely got me confused with somebody else. I've written some opinion pieces, but I don't remember a newspaper ever printing one. (another chuckle)

M: Well, I think they did.

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Q: I don't think so, but that's okay . . . I'm surprised I haven't heard of you. If you wrote that many of them beanie tickets, it seems it would have come up. . . . Did you ever hear of a case called Buhl versus Hannigan?

M: Uh huh.

Q: Do you know what the Appellate Court said in Buhl versus Hannigan?

M: No, not (garbled) . . .

Q: Relative to the constitutionality of the helmet law for vagueness, 'cause nobody knows what a helmet is, the court said that the proposition that the statute would require a consumer or enforcement officer to determine proper helmet fabrication, is absurd. That's what the court said. But that's kinda of what you're doin', isn't it? (The plane overhead was a friend of mine who spotted me from the air, and was doing fly-overs to check on my progress.)

M: I think I got everything here . . . **What the citation's for Mr. Quigley is one, 27803(b), not wearing an approved helmet according to Federal Motor Vehicle Safety Standard 218**, and couple fix it tickets for the rear tire, the tread's less than a 1/32 and you have a non-certified, non-stock modified exhaust. I need your signature, and you have to make an appearance no later than the first of September. The court will probably send you some courtesy information in the mail within the next five to ten working days. I also put the phone number at the very bottom there.

Q: No problem. I'll probably be grouping all these together here in the next couple weeks.

M: Well how many do you have?

Q: This makes five. . . . I don't know why you guys keep writin' 'em. You know, it seems to me that one would do it. But, if you want to keep writin' them, there's nothing I can do about it. I have no way to prevent you from writing tickets.

M: But I mean . . . I would hate to come up on an accident where somebody would inadvertently pull out in front of you and have you go down on the pavement . . .

Q: But you see . . .

M: . . . and have to come talk to you in the hospital, or try to notify the next of kin or something.

Q: You know, you know what worries me? What worries me is that somebody's going to do that to you, and that that helmet that you've got is going to break your neck. And that your family is going to have to sit there a live with a paraplegic his whole life because he was trying to do the safe thing a wear one of them big-ass heavy brain buckets and nobody told you that they're dangerous. So I worry as much about you, if not more, than you do about me, trust me.

M: Do you understand the mechanics of approved safety helmets, though; why they have the foam safety liner, the attenuation material in it and the hard shell on the outside? And the . . .

Q: Whoa, whoa, whoa, whoa, whoa, whoa, do me a favor, and and and get off that approved 'cause nobody approves them. There's no such thing. Well, your theory may be correct, except for the first year of the helmet law in California, death by neck injuries went up 800% for motorcyclists. Now . . .

M: What did they go up from 3 to 6 or something? 3 to 8, 4 to 8, 2 to 8, 800%? The thing is . . .

Q: I don't, I don't, I don't lie I don't lie like the CHP does. I try to keep my figures straight. I don't know what the exact number were. I can find out for you. I just find it is significant that the number of deaths per hundred accidents remained unchanged, if anything it went up slightly as it does in every state where they put in a helmet law. When they put in a helmet law, the deaths per hundred accidents goes up. When they take out a helmet law, the deaths per hundred accidents goes down. Don't know why that is. I think it probably has something to do with the helmets. The number of people that die from broken necks instead of head injuries goes up 800%. You know, I can't imagine that it don't have something to do with the weight of that helmet. I went down a couple weeks ago, man. I put my head on the ground pretty good. The bike threw me down and jumped on top of me and smacked me on the head, and somebody says, "Don't you wish you were wearing a

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helmet?" And I says, well wait a minute, I was wearing a helmet, but do I wish that I'd been wearing some sorta extra protection right there in that spot on my head where that the . . .

M: (garbled interruption, or attempted interruption)

Q: Did I wish I'd a had something right on that spot where I got hit, and of course, I'm not an idiot, yeah. I would'a liked to have had something there. And if I'd a known that that what was gonna happen, I'd a put on something right on that spot on my head so it wouldn't get whacked. But when you get on a motorcycle, man, you don't know what the asshole's gonna do that's gonna kill ya.

M: That's true.

Q: Okay, so you don't know whether that the helmet's gonna protect your head or break your neck. And when I write to NHTSA and I say, "NHTSA, on the theory that you can't shake a baby because it breaks their neck, how old does that baby have to be before it can accommodate the weight of a three pound helmet without putting that same neck-breaking dynamic into the formula?" And I think you'd be surprised to know that NHTSA don't have the answer to that.

M: (garbled)

Q: Well then why in God's name . . . no, not on a baby . . . but you got . . . the reason I asked them was I seen this little 10-12 year old kid on the back of his daddy's motorcycle wearing a 3-pound helmet, and I'm thinkin', "My God. That father loves that kid. And when that helmet cripples that kid, that father's gonna have to live with the fact that he made the decision to put that helmet on that kid's head before he hit that pot hole that snapped that kid's neck." NHTSA doesn't know what helmets do. All they know is that when they put a helmet law in a state, that the ridership goes down, which means that the exposure to the insurance industry goes down, and since they work for the insurance industry, that's good for their pay window, so they come up with all this crap about helmet safety. But there's no, there is all the evidence points the other way. All the evidence says that in spite of even reason, . . .

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M: But see, I have personal knowledge. I mean, I started riding motorcycles on dirt when I was 14 years old.

Q: I started ridin' them on the road when I was 14.

M: And my first year on the job, I worked down in L.A., I was workin' graveyard and we got called to an accident involving a motorcycle who was drag racing a Trans-Am, coming up the 605 freeway . . .

Q: Damn . . .

M: . . . and lost control and went down on the pavement.

Q: Damn . . .

M: I went out to inventory the motorcycle to measure where it was, pick it up and help put it on the tow truck. They guy's scalp was peeled back, all the way down, clear down to the brain matter, and you know what? Strapped to the motorcycle was his helmet, and it had, it didn't . . .

Q: But, but, but you don't see . . . what you don't understand, officer, is that puttin' that helmet on wouldn't have made him any smarter. Don't you agree . . .

M: (garbled)

Q: I'll go back to what I said, puttin' that helmet on wouldn't have made him any smarter. I think what killed him was drag racing on a motorcycle, was it not?

M: Probably.

Q: Right, so puttin' a helmet . . . you want . . . so what the Hell . . . so let me see if I get this, what we want to do is we want to keep somebody alive stupid enough to be performing like that, by taking people that aren't that stupid and putting them at risk by making them wear these things that they don't know at what point they break the neck.

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M: No, if you're driving at the legal speed limit down Portola out here at 35 miles per hour and somebody inadvertently forgets to check traffic and pops a left turn in front of you and you hit the side of that vehicle and get launched at 35 miles an hour, you land on your head . . .

Q: Well, I don't know about you, okay. I know about me. I know that the guy that . . .

M: My concern is . . .

Q: Well me too, and that's why this mirror works, and this mirror works, and this mirror works. I know about that some-bitch behind me, and I know that he either one, can't see me, or two, he's gonna try to kill me. So I know about him, I know about the one in front of me, I know about the one that's gonna cross that road over there. I know that either, A, can't see me, or B, gonna try to kill me. Now in forty years, I have managed to avoid every idiot in the world that would have tried to kill me.

M: You've been lucky.

Q: No. No. It's not a matter of luck. It's a matter of caution. I don't go out and drag race.

M: The best defensive driving in the world, I mean, I think I have great defensive driving skills on a motorcycle. I've got all the training of the department. I've got so many years with the department. I've got years, and years, and years of riding a motorcycle on the street and in the dirt. My coordination, my physical health are in real good condition. You know what, there are times when you just don't have complete control yourself on a bike, and some idiot's going to pull out in front of you. You don't have the physical opportunity to perceive and react and end up on the pavement.
(garbled)

Q: When this thing (talking about my bike) threw me on the ground, when this thing threw me on the ground, it was the first time in forty years I'd ever been down moving. I've fallen off a couple of them sitting like this when I leaned too far back and they fell over, but I'd never been down moving before. And it sorta surprised me. And in all those years, I've had opportunities you know, to go down, but my concern is that when that

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occasion happens, because it's bound to, that some idiot gets me in a situation where I absolutely cannot escape and I'm gonna do something horrible, I'm absolutely satisfied sir that it will not be the weight of the helmet that will break my neck. I'm absolutely satisfied that it won't be, because I just won't slap one of them heavy things on. And I do worry about you guys wearing those. I don't like 'em. They're too big, and then they put all that damned radio equipment in it . . . it's too heavy. The one advantage that you have is that you've had a lot of years of wearing that thing, while you're being yanked around back and forth, and your neck is built up to it. So you're probably more resistant to it than somebody's that's never worn one of those.

M: Could be, yeah.

Q: Yeah, but all . . . but all the normal bikers out there, they don't wear that kind of heavy damned helmet. (With that, he decided to pack up and leave.) . . . We're done, right?

end.