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7 SUPERIOR COURT OF THE STATE OF CALIFORNIA
8 FOR THE COUNTY OF LOS ANGELES
9 APPELLATE DEPARTMENT

10 PEOPLE OF THE STATE OF CALIFORNIA,

11 Plaintiff and Respondent,

12 v.

13 HAL SINGLETON,

14 Defendant and Appellant.

) BR 032646
) (Municipal Court of the
) Glendale Judicial District
) Case No. 121206)

) RESPONDENT'S BRIEF
) (Concession)

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19 STATEMENT OF THE CASE

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21 Appellant was convicted of violating Vehicle Code¹ section 27803(b),
22 operating a motorcycle on July 15, 1992, without wearing a safety helmet as required under
23 subparagraph (a), an infraction. Subparagraph (a) provides that a driver and any passenger
24 of a motorcycle must wear a helmet meeting the requirements established pursuant to Vehicle
25 Code section 27802.

26
27 STATEMENT OF FACTS

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29 Glendale Police Officer Soboleski testified: "At that day I observed [appellant]
30 southbound on Brand and Colorado. And I observed him to be wearing an unapproved
31 motorcycle helmet." (RT 3:1-12.)² The officer stopped appellant, advised him of the
32 violation, and cited him. (RT 1:4 6, 11 12.)

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34
35 1. Unless otherwise indicated, all further statutory references are to the Vehicle Code

36 2. "RT" refers to the reporter's transcript of appellant's September 8, 1992, trial.

1 When appellant bought the helmet at issue, it was certified by the manufacturer
2 as complying with federal standards, as required under section 27802 of the Vehicle Code.³
3 Shortly thereafter, the California Highway Patrol (hereinafter "CHP") received notice from
4 the U.S. Department of Transportation (hereinafter "DOT"), which indicated that the helmet
5 did not pass minimum federal safety standards. The CHP officer thereupon issued an agency
6 Information Bulletin No. 34, dated June 1, 1992, which stated: "Effective immediately the
7 helmet may no longer be sold as DOT approved. Further, it stated: "The CHP will issue
8 citations to individuals wearing the E & R helmet for violation of CVC Section 27803." This
9 bulletin was put into evidence by the CHP officer. (People's Ex. 1.)

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11 ISSUE

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13 This court has asked counsel to direct argument to the effect of the helmet
14 being declared unsafe after purchase and without notice of the change to appellant.

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16
17 ARGUMENT

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19 APPELLANT WAS NOT SHOWN TO HAVE VIOLATED
20 SECTION 27803

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22 Section 27803 provides, *inter alia*:

23
24 (a) A driver and any passenger shall wear a safety helmet meeting requirements
25 established pursuant to Section 27802 when riding on a motorcycle, motor-driven
26 cycle, or motorized bicycle.

27 (b) It is unlawful to operate a motorcycle, motor-driven cycle, or motorized
28 bicycle if the driver or any passenger is not wearing a safety helmet as required
29 by subdivision (a).⁴

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31 //

32
33 3. Both appellant's testimony and the People's Exhibit (CHP Bulletin No. 34) indicate
34 that the helmet was originally sold as a helmet conforming to federal safety standards.

35 4. Subparagraph (f) of section 27802 provides: "In enacting this section, it is the intent
36 of the Legislature to ensure that all persons are provided with an additional safety benefit
while operating or riding a motorcycle..."

1 Section 27802 provides:

2 (a) The department [CHP⁵] may adopt reasonable regulations establishing
3 specifications and standards for safety helmets offered for sale, or sold, for use
4 by drivers and passengers of motorcycles and motorized bicycles as it
5 determines are necessary for the safety of those drivers and passengers. The
6 regulations shall include, but are not limited to, the requirements imposed by
7 Federal Motor Vehicle Safety Standard No. 218 (49 C.F.R. Sec. 571.218) and
8 may include compliance with that federal standard by incorporation of its
9 requirements by reference. Each helmet sold or offered for sale for use by
10 drivers and passengers of motorcycles...shall be conspicuously labeled in
11 accordance with the federal standard which shall constitute the manufacturer's
12 certification that the helmet conforms to the applicable federal motor vehicle
13 safety standards.

14 (b) No person shall sell, or offer for sale, for use by a driver or passenger of
15 a motorcycle... any safety helmet which is not of a type meeting requirements
16 established by the department.

17 "When sections 27802 and 27803 are harmonized, as they must be (citation
18 omitted), it is clear the law requires only that the consumer wear a helmet bearing a
19 certification of compliance." (Bull v. Hannigan (June 30, 1993), 93 D.A.R. 8501, emphasis
20 in the original.)

21 Since appellant wore a helmet that was sold as conforming to federal standards,
22 i.e., certified by the manufacturer, he appears to have committed no offense under section
23 27803.

24 CONCLUSION

25 For the reason set forth above, and if this court agrees, appellant's conviction
26 should be set aside.

27 Respectfully submitted,

28 GIL GARCETTI
29 District Attorney of
30 Los Angeles County
31 By

32 HARRY B. SONDELM
33 Head Deputy District Attorney

34 HELENE STONE
35 Deputy District Attorney
36 Attorney for Plaintiff and Respondent

5. "Department" as used in Division 12 of the Vehicle Code means Department of the California Highway Patrol. (Vehicle Code sections 290 and 24000.)