

Watsonville, California May 6, 2005

PROCEEDINGS

THE COURT: Mr. Quigley.

THE COURT: So where are we at this point?

THE DEFENDANT: Was that question addressed to me?

THE COURT: Yes, sir, I'm sorry. Mr. Quigley, where are we?

THE DEFENDANT: First of all, I owe your typographer here some money. If I can give him that then I can talk you to otherwise, I don't feel that he's really obliged to write anything down.

THE COURT: Is that for changing the transcript in certain ways?

THE DEFENDANT: I won't be changing anything if I can help it, Your Honor. I have a declaration that I brought in.

THE COURT: Okay.

THE DEFENDANT: And report back on my efforts to comply with your instructions at my last hearing.

I went to the California Highway Patrol on April 1st the first time to get the ticket signed off there.

The short version is is that Lieutenant Jordan who is no longer in this area, he's gone back to northern California, further north, said that CHP policy forbids his signing anything off. And that was April 1st.

I had -- I did have a video camera there that day and did take try to care of this in the lobby and we couldn't do that because he wouldn't come out so we talked in his office.

THE COURT: So to shortcircuit things because I'm setting something up to go to Ms. Brock, basically no one is going to sign off on your helmet.

THE DEFENDANT: And the decision -- the reason for that is they do not agree with your decision.

THE COURT: Well, that's sort of in certain respects why I did it.
Ms. Brock.

MS. BROCK: Yes, Your Honor.

THE COURT: I'm not sure, and again this may sound like a very stupid question, I'm not sure exactly what your position is this morning, so . . .

MS. BROCK: My position is that Mr. Quigley was given the opportunity to try to have a ticket signed off. If law enforcement does not believe that he has corrected the problem, which is what I understand to be their issue, then we need to proceed to sentencing and have Mr. Quigley sentenced on all of the outstanding tickets.

THE COURT: So that's your office's position?

MS. BROCK: Yes.

THE COURT: Again, I'm not having a problem with that.

Again I just want things as clear as I can try to make it so that we can get to hopefully where we need to get to. So -- in a minute. So, I'm not trying to put words in your mouth. The District Attorney's position is that there has been no compliance and that's why the departments, the two relative departments have not signed off on the tickets?

MS. BROCK: Yes, but I certainly can't speak for the agencies. Ms. Connolly is here on behalf of the Watsonville and I'm not sure where Ms. Huster is with regard to the California Highway Patrol.

THE COURT: The other woman who was here earlier?

MS. BROCK: Yes, I left her a message yesterday reminding her of Court today but I did not get a call back.

THE DEFENDANT: She was here earlier, Your Honor, and then left.

THE COURT: Yeah. Because there was someone here that -- I mean, it's a small town; I can figure out most of who is in the Court including most of the defendants, so you know I noticed that there wasn't an attorney here so who -- at least a person who looked like an attorney who was sitting on the front side of the bar but then after the break I haven't seen her so I don't know where she's at.

Ms. Connolly?

MS. CONNOLLY: I'll represent that that was Ms. Huster from the Attorney General's office, Your Honor.

THE COURT: That would have been my guess, Ms. Connolly, your position?

MS. CONNOLLY: Your Honor -

THE COURT: Or your reasoning for being here. Maybe that's a better question.

MS. CONNOLLY: My reason for being here is just simply to observe what's going on here. If the Court feels that it would like testimony with respect to whether or not Mr. Quigley in fact complied with the law that would be the first question, which I don't believe we have come to this the second question.

THE COURT: I think the testimony was taken months ago whether or not he complied simply -- because I'm not putting words in your mouth but Watsonville's position and I'm assuming a similar position with the CHP was that his helmet didn't comply and that's where we got started to begin with. All right -

THE DEFENDANT: Your Honor?

THE COURT: Yes.

THE DEFENDANT: Before you proceed, there is a huge difference between what took place and what Ms. Brock represented to you.

THE COURT: Oh, I understand that.

THE DEFENDANT: You do understand that there was - they wouldn't have cared if I had a Shoei 5000, 35 pound "Belch Fire Special," the conversation was not about what I had there to be signed off; it was about the fact that they weren't signing it off.

THE COURT: And that was pretty much my guess awhile ago.

MS. CONNOLLY: But, Your Honor, I don't believe there was any evidence that a helmet was in fact brought into compliance with the law and that's our position.

THE COURT: And again, not sort of laughing at you, Ms. Connolly, but I have no doubt that if you have whoever was there and Mr. Quigley, someone is going to say there was a helmet, someone is going to say there wasn't. That's why we're here today. The issue that I hoped to frame and, again, maybe just to put it to a specific position so that both sides can decide what their next step is going to be, I pretty much guessed that Watsonville and the CHP were not going to sign off on whatever Mr. Quigley presented, even as you said, the top of the line hardshell full-face helmet that my guess was and that's sort of why I set it up, that the position is these aren't tickets that can be signed off.

I also knew that, no offense meant, Mr. Quigley, you weren't going to walk in with that type of a helmet.

So I wanted it to be in a position where one side or the other would take up some my ruling by way of writ because we have had at least similar rulings go to the appellate level of this county's bench and that didn't settle it.

So that's my position. My hope is that it will somehow leapfrog that by way of writ, and get to the Sixth who might at least be willing to say what a helmet is or if there is such a thing as a helmet and whether I was right or wrong.

I mean I've always -- I have been in this job long enough that I know that the Sixth or whatever appellate division reviews what ever I do has no compunction of saying whether I'm right or wrong, and I have no problem with being told I was wrong one way or the other, but I think that -- I'm trying to frame it so that we can get at least something above the county level of an opinion one way or the other where we're going with both of these issues.

With that said, anything you want to add to that Mr. Quigley?

THE DEFENDANT: Well, Your Honor, yes.

I would think that -- I thought about the writ. And I think this Court is aware because I think it is in evidence that I attempted to file a writ to get Watsonville - particularly in the case of the application of Vehicle Code 2800, not to arbitrarily arrest me and tow my vehicle and take me down to their station and chain me to a bench. And I sought a writ for that probably -- within the last six months and just about everything

I've served over the net in this county in 25 years that was slammed back at me without so much as a by your leave, no explanation of law, my experience with the Sixth is when I go to the Sixth, I have a history with them, not dissimilar from that, their opinions come in an unpublished form that are unique to me, there is a ruling for example from the Sixth that says that all police reports are public documents and that was served as the foundation for my inability to sue the Santa Cruz County District Attorney's Office for providing unsubstantiated police reports to the law firm of Bosso and company. And, you know, so there is no relief for me in these courts in this county or in the Sixth or if there is to be a writ for me I would think the only writ that I'm going to be able to muster would be one for certiorari over the entire history of these helmet tickets and I don't know, Your Honor, in my current state of health whether I'll live long enough to draft it, nevermind see the Honorable Ron George deal with it, so I don't know.

That's the reason I haven't already filed a writ of mandamus is because I don't believe I can file it in this Court. I think that that writ -- there is a writ, Judge, down in Santa Cruz they want me to deal with and I believe that he's already expressed his attitude toward anything with my name on it. So, there is a definition of an insanity that has to do with repeating the same behavior and expecting a different outcome and I try to avoid anything that is openly substantiating people's impression that I might be insane. So, I don't know.

I know that this time I did precisely what you told me to do; no more, no less. I filed nothing, I didn't bring anybody to court today but me. We're flying without a net. Ms. Wells is out of town which is why you got the declaration. And that's -- I'm pretty much bound up, Your Honor, I don't know what I'm supposed to do.

THE COURT: I understand. But also what I had hoped is that the other side, whether it was the District Attorney's office or the Attorney General's Office, might take umbridge with my ruling, umbridge because I would think that the Sixth might take better notice, no offense meant of their writ versus your writ which is why I pretty much sort of did what I did.

THE DEFENDANT: Do you recall, Your Honor, that in the evidence package here there was certified questions on all of these issues that date back over six years that were sent to the Sixth and as sort as certified questions from the Appellate Court, that was just -- again, slapped back across the net without so much as a by your leave.

THE COURT: They may do that again but that's what my hope was initially when I set it in the position I set it in, is that somebody might give us a more definitive answer because it seems incredible to me, not your position, Ms. Brock, but seems incredible to me that someone hasn't just decided that the amount of time and effort spent in all of this, it would may have been easier for some legislature to decide or define -- in other words, then what the statute presently lists what a helmet is. And I know that's not your job and I know that right now you are the messenger and I'm not planning on shooting you, the messenger -

MS. BROCK: Thank you.

THE COURT: -- but -

MS. BROCK: Thank you.

THE COURT: That's why I'm hoping somebody will apparently decide and maybe Watsonville or the CHP will decide that I'm obviously out in left field with my ruling, that Mr. Quigley can take something that I've described to the agency or agent sees and they will sign off.

Because obviously that was an issue that all of the agencies had which is their position is and your position is, these are these are not correctable tickets in that respect. And again it's your request that judgment be entered at this point?

MS. BROCK: Yes, Your Honor.

THE COURT: I'm not going to do that this morning, Mr. Quigley. I will indicate that it's my recommendation because I have indicated that I believe that these are correctable tickets that the officer or the Attorney General or Watsonville PD should in fact take that issue to the Sixth but at this point I'm not going to enter judgment because the departments have refused to sign off on those helmets. I will -- let's put one of these over so we don't have to do minute orders.

MS. BROCK: Your Honor, may I just inquire because you are asking agencies to sign off on something that is not in existence.

According to Ms. Connolly, Mr. Quigley cannot show up at Watsonville Police with a Watsonville helmet so how can they possibly sign off on something that does not exist? I mean, I just think we're spinning our wheels.

THE DEFENDANT: Your Honor, I suggest on the other hand that you have been very clear: There's no objective standard for a helmet been given to me or anyone by anyone that can do that citing an authority.

Now, I do have one other possibility and I don't know if this will work because as you know, I take exception to your ruling relative to the determination of noncompliance that you made on the helmet that I had in the beginning.

And is there a possibility that this Court can entertain within the confines of these cases, a declaratory relief action where we can come back in here and find out what in fact is available in the way you have objective information that will -- that will support the contention that anything is or is not a legal helmet?

THE COURT: Well, I think and again, it is my recollection that I gave a description of what I believe the departments could sign off on.

THE DEFENDANT: Yes, and that is what I took, Your Honor -

THE COURT: I'm not done. But I'll look at that transcript and I'll consider your request for declaratory relief.

I'm not sure I have the ability to do that but off to top of my head I'm not just going to shoot from the hip. I've gotten some problems recently. I'll set it on the 13th of June and I'll research- you want it sooner?

THE DEFENDANT: Yes, Your Honor.

Please, if I - the one thing I'd like to get on the record so that if you're going to review this transcript, it will be there, is that when I went to these agencies to ask them to sign these tickets off and they refused to on the basis that they do not agree with your decision irrespective of what I had in my hand, I thought well, here a Court has ruled that these are correctable violations and these police agencies say they are not, therefore, they are not going to follow the process called for by law and that confused me. But then I look back and with great respect and not meaning any -

THE COURT: You are throwing those words around. Go ahead.

THE DEFENDANT: The Buhl Court which is like three or four judges -- I think it's three of them as I recall, sat there and said of the statute, that the proposition that the statute would require of the consumer or the enforcement officer to decide if a helmet

is properly fabricated is absurd. Now it appears to me on the one hand in your ruling in your original ruling, you ruled that that's the case.

And then to my confusion, you came back and de-certified or found maybe a determination of noncompliance of my helmet on the basis of a test that was run that is not even listed anywhere near FMVSS218 that it was setting the helmet on a flat surface and having me use my finger to replace a head form and a striker to find out if I could push the top of my helmet to the surface below.

And that's not written any where in FMVSS 218 and, with great respect, has to do solely with whether or not the helmet is properly fabricated.

And just that observation, Your Honor, and again no offense -

THE COURT: Not going to get into a debate but I don't think overall the transcript indicates that.

But I could be wrong.

All right. May 16.

MS. CONNOLLY: Your Honor, my one point is that the Appellate issue from the City of Watsonville's perspective isn't ripe until we have a determination with respect to the helmet that's brought in and so that's the first step we make --

THE COURT: But I think the first step is whether or not your office is willing to sign off on the helmet to begin with because I don't think that any department was willing to do that but at least it then puts it right in the position.

Whether his helmet is -- I'm not saying that at this point.

As I started out with, the proposition is, I doubt that any department is going to sign off on anything that is presented by Mr. Quigley and I'm not saying just Mr. Quigley. If it were a different ticket, if it were Mr. Moreno that had the ticket and I said his was something that could be signed off and he walked in with the top of the line hard shell full face helmet, I'm not sure your department is going to say yeah, we find that this meets the statute.

I don't think they want that liability. I think that is something I set up with the very beginning. I don't think your department want that liability.

That's why partially I set it up.

I want somebody to say, "You're right, no department is ever going to have to sign off and this or that is a helmet, period."

That's why I have set it up the way I have.

So you and the District Attorney and the AG can decide whether I'm crazy and you want to take me up, whether it's going to happen or not, but at this point, I'll look at the question for declaratory relief, I'll also look at my decision on the transcript and we'll be back here on the 16th.

MS. BROCK: Your Honor might we have a day other than a Monday because I have prelims on Mondays.

I doubt I could get down here before 4:00 o'clock.

THE COURT: Actually -- and I don't know whether it makes it easier that week I will be in Santa Cruz.

MS. BROCK: Okay.

THE COURT: Starting on the 18th.

THE DEFENDANT: Safer for me in Santa Cruz than it is Watsonville, Your Honor.

THE COURT: So Wednesday the 18th, I've got a double calendar that morning. How about let's just set it at 10:00? May 18th at 10:00 and I'll say Department II. Either 1 or 2, I think I'll be in 2 so I won't be very far you can find me. All right?

MS. BROCK: Thank you.

THE DEFENDANT: See you then, Your Honor.

(End of proceedings.)