

THE COURT: All right. So let's do then the Quigley matters. Mr. Quigley, Miss Brock.

MS. BROCK: Yes, a pleasure.

THE COURT: And everyone else who is going to join us this morning.

MS. BROCK: Present is Rebecca Connolly, representing Watsonville Police Department; Karen Huster, representing the California Highway Patrol -

REPORTER: I didn't get that name.

MS. BROCK: Huster, H-U-S-T-E-R; Captain Manriques and Lieutenant Walker from C.H.P.

THE COURT: Okay. Before I do that, Miss Brock, you know it's my habit - I don't know, Mr. Quigley, whether you gave a copy of this letter to Miss Brock.

MS. BROCK: He did.

THE COURT: Okay. And that's the first question I always ask. Otherwise I give you that letter. So where are we at this point? What's happening, if anything? Has anybody made any decisions other than what we've dealt with? Mr. Quigley?

DEFENDANT: Are you asking me, Your Honor?

THE COURT: Well, I know what your thought is. Go ahead.

DEFENDANT: I'm not sure I know what it is, Your Honor, but the first order of business is I would like that letter entered into the file, you know, and I don't know as evidence, but I would like it made part of the file if that's possible.

THE COURT: We'll mark that as an exhibit. It will just be attached. (Exhibit marked for identification.)

DEFENDANT: And I need to state my objection and, quite frankly, Your Honor, ask for a ruling relative to some of the

representation here. I'm not sure who the lady is from Watsonville, but if she's representing herself as an attorney representing Watsonville that's one thing. If she's a police officer from Watsonville . . .

THE COURT: She's an attorney.

DEFENDANT: She is an attorney from Watsonville?

THE COURT: And Miss Huster is from the Attorney General's Office; correct?

MS. HUSTER: Yes, Your Honor.

DEFENDANT: And I want to object on the basis of conflict of interest and diminishment of my rights. I am counting on the Attorney General to protect me, Your Honor, and the Attorney General has picked sides in a battle that her boss has already come down on.

But moreover -- And the Easy Riders case, I hesitate to point out that the transcripts of the hearing that you have in the file where the hearing on the injunction that was issued against the very behavior of which I'm the subject by the California Highway Patrol, the Attorney General argued in that case that if any portion of that injunction were upheld, it would render the helmet law unenforceable, and it was, and it did. And the Attorney General's Office did nothing past the point of losing that case and of course that meant that the Highway Patrol did nothing.

And the Attorney General has taken a side, and I believe where there clearly is no side taken. I believe they have attorneys at the California Highway Patrol. I believe that the protection of the Attorney General's Office should be made available to me and certainly not lost to me as effort for supporting an agency and a position which they have already argued is an unworkable statute.

MS. HUSTER: Your Honor, Mr. Quigley raised the identical argument on March 11th and the Court ruled on the concern at that time.

THE COURT: Yes, I understand. And it's just preservation of records at this point. And I understand, Mr. Quigley, it's an interesting position, but I'll overrule it.

At this point I'll allow Miss Huster to represent the Attorney General's Office. There are potentials and abilities for one office to represent more than one party in a suit, so I'll overrule that at this juncture.

DEFENDANT: But, Your Honor, just so that I'm full and complete in case it goes up, the -- as their attorney, the Attorney General now has communications with them that will be, although they deal with public matters and a matter of public policy, are going to become hidden behind that veil of attorney-client privilege, so I'm unable to peel that back and find out what's going on. And I don't have -- I don't have an unbiased Attorney General at this point, and if any bias has already been established by the Attorney General, it goes my way.

And I just for the life of me I don't understand how this conflict can exist or how to deal with it. I can't just pick up the phone and call Bill Lockyer and say, look what these people that are working for you are doing, Bill. I know he would do something about it. I've known him for a long time. He's an honorable man and he just doesn't know.

MS. HUSTER: Same response, Your Honor.

THE COURT: So I take it that -- and actually, Mr. Quigley, it's an interesting suggestion in your letter. I think the bigger difference is, though, and I'm not cutting off your response. I'm just musing at this point, for lack of a better term. The bigger difference is that I think that, at least as I recall the case, Buhl and Easyriders and the others, and then I also recall my discussion about at least what I believed to be covered by the helmet law and what a helmet is. We got to the point of, rightly or wrongly, that I indicated that the helmet that you believe qualified was not in fact what the law had anticipated, and I indicated

that you would be on notice if you continued to wear that what was termed a baseball cap for a helmet, a head covering that had, if I recall, the original one which I believe your indication was your favorite or your lucky one, it had the letters Bolt and the letters D.O.T. on the back if I'm not mistaken; correct?

DEFENDANT: It was probably certified by the manufacturer, Your Honor.

THE COURT: That's fine.

DEFENDANT: And evidence of certification.

THE COURT: And evidence of certification.

DEFENDANT: And relevant to that, Your Honor, if I may, please, on your ruling on the 11th of November, and I commented on this at our last hearing, and your recollection was different from mine, so I've got it, I want to read to you where I got my recollection.

THE COURT: Okay.

DEFENDANT: When you were still numbering them, because you stopped doing it after the third and didn't pick it up until the sixth or the seventh, but on page 2 of the transcript, this Court ruled, and absolutely correctly I might add, and correctly as stated in Bianco and correctly as stated in Easyriders, both at the district court level and at the ninth circuit of appeals level.

This Court said, third, the requirement to decide fabrication is not necessary and is absurd. Now there is a -- again quoting Buhl, you said that's page 1622. And then there is an error by the transcriber because what it says here is then there needs to be a helmet with a certification of compliance from the Department of Transportation. What I recall you saying, and certainly what the decision says, is that all there needs to be is a helmet bearing a certification of compliance with the D.O.T. standards. So right there you say the requirement

to decide fabrication is not necessary and is absurd and that's precisely what Buhl said.

Then on page 3, and that's where the start of my confusion started with that portion where you made the determination of noncompliance, you slipped over into the land of common sense, applying common sense but when you applied the common sense standard, what you did, sir, was apply it to fabrication which you'd already deemed not necessary and absurd.

Now common sense dictates that the letters F.B.I. are not the same letters as the letters D.O.T., so common sense would dictate that the letters D.O.T. creates that rebuttable presumption that was stated in Bianco as a presumption of compliance. Your problem, the Court's problem is, and the arguments that I get from the other side is, is that it's ludicrous that a manufacturer could certify a Dixie cup and a shoestring and automatically that becomes a helmet.

But the basic fact of the law is whether or not that's ridiculous. That is exactly what the law allows for. And that common sense can't move into fabrication past the point where Buhl has said that the determination of fabrication would be absurd.

Now the determination of noncompliance was dealt with probably best by the ninth and here's a door where you can come back through. And what they wrote was, the district defined the determination of nonconformity with federal standards as, one, a determination of noncompliance issued by N.T.S.A. I believe there's been no -- nothing to that effect has been put in. Two, manufacturer recall of the helmet because of noncompliance also has not happened. Three, and it says or, other competent objective evidence from independent laboratory testing which is not what took place in your courtroom, that the helmet not meet 218. Then it said, this is the ninth circuit said, the district court declared that the injunction was to remain in effect until an

amendment of the helmet law or the regulations there, or a subsequent decision of the California courts, which could very well be you, quote, additional or revised provisions related to helmet compliance or enforcement standards.

The district court also required C.H.P. to provide notice of injunction to law enforcement agencies throughout California that rely on C.H.P. standards. And this was to uphold the portion of the injunction that said that it violated my fourth amendment rights for any agency to cite me on the basis of the officers' subjective opinion that my helmet would not pass the F.M.B.S.S. 218 test. The Ninth Circuit Court of Appeals upheld what Bianca - - what Buhl stated, and that is certification is everything, fabrication is nothing.

Now Bianco conflicts with that because they took away the "only." And there is a conflict in the fourth between those two courts. And their first opinion was blatant, and they had to modify that to try to get it back which is when they came with their criteria that there has to be a determination of noncompliance and that I have to have actual knowledge.

And with the criteria for the determination of noncompliance, that burden has not been met. So that, yes, is there a conflict between Buhl and Bianco, absolutely. And we need the decision, Your Honor, because I was working with Mr. Bianco at the time we made the decision not to take that conflict up to the Supreme Court.

What we did was allow a lawyer who could talk faster than we could listen to convince us that the avenue was to go into federal court for declaratory injunctive relief and that would solve the problem. And it would have solved the problem except the C.H.P. did not modify their behavior to conform to what the district court had said for them to do and the Ninth Circuit it upheld, that it'd then have it down. They're not going to go. Their

disregard for the law from my perspective is absolutely astonishing on this issue.

And that's why I suggest to Your Honor that an order -- even if it's an order to show cause why you shouldn't issue an order, that's going to move them. But I'm sitting here where I got the D.A. that's supposed to be looking out for me as much as they are for the state's interests, I got the A.G. standing here supposed to be looking out for me as much as they are for the state's interests, and neither one will help you move this case to a point where we can get her fixed.

And the D.A. 's argument says, I have nine convictions out of 33 helmet tickets. Well, I don't. If you look at it realistically on paper it may seem that way. But my first three convictions where I pled no contest to have the issues that this Court has ruled on certified to the sixth so we can get it ended there. So I pled no contest to get those issues to the sixth. When it got to the sixth, they just threw it back, wouldn't deal with it.

The next six convictions were at the hands of Judge Danner, and the record clearly reflects that in those six cases there was no trial. Now in spite of the fact that that was upheld by our superior appellate panel, Your Honor, I think there was no trial being ignored to support conviction is pretty far out there. So my personal feeling is that I -- there's not been one legitimate conviction had against me on this matter. And here I'm still at odds with both the District Attorney and the Attorney General.

So I know that you've taken a very courageous stand, and I appreciate that. And I hope that they're not going to let them drive you away from it. I can't make But it's up to you. their move. I don't want to go to federal court. I want to fix this thing in state court. It's our own business. I don't like federalism. I prefer the independence of the republic and I'd just soon not to run to the feds to get this fixed, but if these people are going to continue to drag their feet on the solution, Your Honor, then I've got to do

something. So I'm asking you, I'm just asking you, what's the downside of you ordering them to show cause, why you shouldn't order them to sign off whatever I carry in there with evidence of certification, what's the downside?

THE COURT: The only issue is that I had already indicated that, and even the helmet that is being produced by yourself which appears a lot like a baseball cap with the letters D.O.T. on the back I indicated didn't qualify. That was my ruling.

Now what I have a problem ordering -- and I'll consider. I'm not going to order that yet because I'll let you all respond, is because I describe what at least I believe in the transcript F.M.V.S.S. 218 anticipated when we talked about the anvils, the reflection, the strikers, all of those other issues, was something more than a wind and sun and rain covering, but that it was a hard shell or surface to protect. And it was my intention hopefully to find some ground where we could deal with it, would be to indicate that if you walked into C.H.P. or to Watsonville, and I think it would be best to leave it to those two since we're at that location, with a hard shell covering that it was anticipated by the Court with the certification, that they should sign that off. Yes, Miss Brock?

MS. BROCK: Yes, Your Honor. Mr. Quigley makes it sound like we're relitigating this whole issue, and that's not the intent of today.

THE COURT: I'm not.

MS. BROCK: Today was to either have him show proof that he has had the tickets signed off or to have him be sentenced. I understand the Court's indication of wanting to get this moving along and wanting him to get a helmet.

What would be the downside to having Mr. Quigley ordered to bring in his helmet that he wants to get signed off and have the Court see what it is that he's trying to present to law enforcement? Because my understanding is that he's not presented any legitimate helmet that fell

within what the Court described to law enforcement so they have not even been in a position to determine what it is that they would do at that point. And I certainly don't want to speak for law enforcement, but that's been my understanding.

MS. HUSTER: That's correct, Your Honor on behalf of C.H.P.

MS. CONNOLLY: And that's correct as well on behalf of the City of Watsonville.

DEFENDANT: I'm sorry, Your Honor. I got another letter I need to give you guys. Could I get another pen, please? One over here.

I'm not going to put up with that, Your Honor. Nobody said one thing about what I brought in. The agencies told me they weren't going to sign them off. It was a matter of policy and that was it. They didn't care what I had with me. They made it clear they didn't care. And it's a letter that I wrote to Miss Brock right after that was over but I'm getting tired of having to come in here and deal with everything else I have to deal with, I got to deal with lies.

And how am I supposed to deal with that? How am I supposed to handle that? I was extremely careful, Your Honor, to make sure that I did what you told me to do exactly. And when I got there these guys didn't want to talk at all about anything that resembled helmets. Nothing about how they were fabricated. Nothing about whether or not they were certified.

Their position was they didn't agree with your ruling, end of story, they weren't signing off nothing. And now they send their lawyers in here and lie to this Court about what took place that day. I got a declaration in there from my attorney and you've got my testimony as to it. I won't lie to you, certainly not about this.

MS. HUSTER: Your Honor, the declaration is inadmissible hearsay and we have Lieutenant Walker here who can testify as to that issue if you'd like.

THE COURT: So what you're saying is that what Mr. Quigley is saying is wrong, that the C.H.P. would have signed off something other than the baseball cap?

MS. HUSTER: That's not correct. What I'm saying is Mr. Quigley appeared at the office of the C.H.P. with a baseball cap, and that Lieutenant Walker who is present today would not sign off on a baseball cap.

DEFENDANT: That is not true, not true.

THE COURT: And I'm sorry, Mr. Quigley, did you go to -

DEFENDANT: One moment, Your Honor, please.

THE COURT: Sure.

DEFENDANT: I'm sending a man out to get what I had with me, Your Honor, but nobody asked to see it. Nobody said one thing about what did I bring in to get it signed off, the discussion never went there, period.

I don't know. You know, with my kids, I could deal with them when they lied to me because it broke a very important trust between me and them and they had to live with that the rest of the time they knew me, but I don't know what to do with the government. In relation to Watsonville,

THE COURT: Hang on. did you go to them at all? Just so I can clear that up.

DEFENDANT: With my lawyer.

THE COURT: Did you go to Watsonville?

DEFENDANT: With my lawyer. She was with me. She put in her declaration. She can't be here today either.

THE COURT: I understand.

DEFENDANT: She was there with me. There wasn't one word said about anything to do with my head gear. The only discussion was they weren't going to sign it off because they didn't agree with your decision.

THE COURT: That doesn't surprise me, but we'll see where we're at. Ms. Huster?

MS. HUSTER: Yes, Your Honor. To the extent Mr. Quigley is claiming that he showed up with a baseball cap and it was incumbent upon Lieutenant Walker to say, well, do you have anything else, is there something else you can show me, I would submit that that's not the role of the Mr. Quigley needs to bring in something for their C.H.P. consideration. He brought in a baseball cap. The baseball cap did not comply. And until Mr. Quigley brings in something which complies with what the Court describes -

THE COURT: I have a feeling I know what is coming in that I think it's something we saw the last time, one of the last times, that fits under a baseball cap.

DEFENDANT: Your Honor, I wear -- I wear my helmet everywhere. I wore it everywhere but into the courtroom today.

THE COURT: Listen to my question.

DEFENDANT: I did not represent to them that I was -

THE COURT: I understand that. Listen to my question, Mr. Quigley. What's coming from your truck or your car is the smaller hard plastic that fits under the cap?

DEFENDANT: Yes, Your Honor. The same one that I held up and showed to you and asked you if that was hard and told you that that was the one, because I know what it is signed off. I got to wear it. And that is hard, Your Honor, and it's got certification right there, it's got the name of the manufacturer right here. Got all that padding they want in there. Do I think it's safe? I don't know. Riding motorcycles ain't safe. Leavin' the house ain't safe. If I wanted to be safe, I'd be in a closet at home covered with a bunch of pillows. You know it's a dangerous world out there.

THE COURT: Yes, it is. So Miss Huster, if, in fact, Mr. Quigley now presents those two items as a combination to C.H.P., what's their position?

MS. HUSTER: The C.H.P. will not sign off on that apparatus, Your Honor.

THE COURT: And the reason being?

MS. HUSTER: First of all, it does not comply with what the Court set forth as a correctible helmet. Secondly, the C.H.P. does in fact disagree with the Court's assertion that helmet violations are fixable.

THE COURT: Out of curiosity, why haven't you taken it up?

MS. HUSTER: Well, Your Honor, it's our position that until Mr. Quigley presents something that even remotely conforms to what the Court described, the issue is not ripe to be taken up.

THE COURT: Okay. So we have these two items.

MS. HUSTER: If the Court rules that those two items are in conformance with what the Court believes the C.H.P. should sign off on as a fixable helmet offense, then it would be our position that we could take that up on a writ and that the issue is ripe.

THE COURT: So I'll rule that way. If that's what we've got to do, we've got to do it. So we can take your writ. We're done.

MS. HUSTER: Thank you, Your Honor.

DEFENDANT: Thank you, Your Honor.

MS. HUSTER: Your Honor, we'll need to see an order to that effect, obviously.

THE COURT: Mr. Quigley, if you'll produce an order, I'll sign it.

MS. BROCK: Your Honor, should those items be moved into evidence?

DEFENDANT: No. I'll photograph them, they'll be attached to the order.

THE COURT: And do not lose them.

DEFENDANT: No sir.

THE COURT: All right. We're done.

(End of proceedings.)