

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF SANTA CRUZ  
BEFORE THE HONORABLE MICHAEL E. BARTON, JUDGE

THE PEOPLE OF THE )  
STATE OF CALIFORNIA, )  
 )  
Plaintiff, )  
 )  
-vs- ) No. 5SM085642, 4SM023894,  
 ) 4SMO28271, 4WM021512,  
RICHARD JAMES QUIGLEY, ) 3WMO18538, 4SM011246,  
 ) 4SM021812, 4SM044470,  
Defendant. ) 4WM023363, 4WM034801.  
 )

REPORTER'S TRANSCRIPT OF PROCEEDINGS

OCTOBER 7, 2005

DEPARTMENT 12, SANTA CRUZ, CALIFORNIA

APPEARANCES OF COUNSEL:

For The CHP: KAREN KIYO-HUSTER,  
Deputy Attorney General  
Department of Justice  
1515 Clay Street, 20th Floor  
P.O. Box 70550  
Oakland, CA 94612-0550

For The Defendant: RICHARD JAMES QUIGLEY,  
In Priori Persona  
-and-  
KATE WELLS, Attorney at Law

REPORTED BY: ELLARAE RAMEY MARKHART, RPR, CSR #9298  
Official Reporter

1 Santa Cruz, California

2 October 7, 2005

3 P-R-O-C-E-E-D-I-N-G-S

4

5 THE COURT: We're going to start, hopefully finish  
6 quickly because I have other things on this calendar.

7 Ms. Huster, where are we at? What's happening?

8 MS. HUSTER: Good afternoon, Your Honor.

9 THE COURT: Good afternoon.

10 MS. HUSTER: Karen Kiyu-Huster on behalf of the  
11 CHP.

12 MS. WELLS: Kate Wells on behalf of Richard  
13 Quigley.

14 THE DEFENDANT: Richard Quigley on behalf of  
15 Richard Quigley.

16 MS. HUSTER: Your Honor, we filed a petition  
17 yesterday. As the Court is aware there is some special  
18 service requirements which I can take care of now.

19 I'm handing Mr. Quigley a copy of the petition.  
20 And so we ask -- of course, it was just filed yesterday, we  
21 don't have any decision on any sort of stay, the request for  
22 the stay. And that's the status.

23 THE COURT: Now, I take it -- you have to bear with  
24 me, it's just been a long day today and I've not done a  
25 great deal of -- hopefully you can fill in some of the  
26 blanks, or Ms. Wells can fill in, or Mr. Quigley. I'm

1 assuming that once they get this thing they will expect a  
2 briefing schedule.

3 MS. HUSTER: Well, it's entirely discretionary with  
4 the Court of Appeal whether they want to deal with me at  
5 all. So if they do, then I expect that's what will happen.  
6 However, we've set forth our arguments pretty extensively in  
7 the petition.

8 THE COURT: What you anticipate a time for -- or  
9 some type of response from -- what would you normally  
10 expect? Better question.

11 MS. HUSTER: Your Honor, unfortunately I don't have  
12 enough experience in this area. The information that I do  
13 have has not been consistent, so it would be difficult to  
14 give me a reliable guess. I apologize.

15 THE COURT: Thirty days?

16 MS. HUSTER: Why don't we come back in 30 days, and  
17 if there is an answer, there will be an answer. We'll move  
18 forward from there.

19 THE COURT: Ms. Wells, Mr. Quigley, thirty days?  
20 Stayed to that point?

21 MS. WELLS: Well -- well, I guess --

22 THE COURT: That will give you obviously both a  
23 chance to read the petition. I'm assuming at some point  
24 I'll get it in the mail, one way or the other, and then  
25 we'll see what the Sixth wants to do.

26 THE DEFENDANT: Well, Your Honor, with great

1 respect, I'll be moving immediately to get it out of the  
2 Sixth, because as the record will show the exhibits that  
3 I've given you there was a decision made years ago, and in  
4 exchange for three no contest pleas in Santa Cruz with  
5 Referee Mulligan for certified questions to be sent to the  
6 Sixth Appellate Court. And those certified questions had to  
7 do with how and if 40 -- 303.5 applied to criminal law  
8 violations. And I mean, there's -- it asked everything, if  
9 you remember the order. It was signed by Judge Atack and --  
10 Judges Atack and Danner, and they kicked it back, did  
11 nothing on that. And so I don't know what the rulings are  
12 for that kind of behavior, but it seems to me like there's  
13 one bite at the apple thing sort of gets in the way. They  
14 had a shot at fixing this years ago before all the rest of  
15 these tickets. We were talking about six or seven tickets  
16 accumulated at that time. And we're 30 tickets beyond that  
17 now. And so I'm going to be -- I'm going to be asking the  
18 Supreme Court to reach down and grab this puppy.

19 In the meantime, there's a -- I brought you a  
20 story, because you know I love to bring you stories. I  
21 brought you a couple...

22 I was up in the park a few weeks ago and sans  
23 helmet, or anything I didn't want to call a helmet or  
24 anything I claimed was a helmet. In other words, making  
25 sure I wasn't going to develop any tan lines. And Ranger  
26 Brennen talked to me up there in Big Basin, and he was

1 bothered by the fact that I was sans helmet, and I believe  
2 his words were get a chance to write alleged ticket, you  
3 write the ticket, which I thought was an interesting way to  
4 put it. And I have a copy of that with me.

5           At the time that he wrote it he wrote it  
6 correctable and in accordance with the law. And I'll let  
7 you take a look at that. And then I'd like to show it to  
8 the Court. Subsequent to that he sent me out an amended  
9 ticket. Some guy by the name of Kevin Williams who is his  
10 boss or something got this ticket in front of him and he  
11 made a determination that it was not a correctable  
12 violation, which is something that is fairly consistent with  
13 catching it in its finest terms. It's a bigoted move,  
14 Judge, when it happens. I've never known anybody that  
15 didn't have a negative opinion towards bikers in general.  
16 They have move to noncorrectable or any other elements of  
17 this stuff.

18           I talked to Mr. Williams about this and he said  
19 that he reached this conclusion on his own reading the  
20 statutes. And apparently the day that he sent out -- had  
21 officer -- or Ranger Brennen sent out a corrected ticket, he  
22 stopped and talked with the highway patrol officer up there  
23 somewhere, his name escapes me, to affirm for him that these  
24 were in fact not correctable violations.

25           So I wanted you -- I wanted you to know that at  
26 least some people can read this law and come to the same

1 conclusion that the officers in Hollister have, and that the  
2 officers -- some of the officers here in town have over the  
3 years. So you know what the statutes say. You've already  
4 ruled on that.

5 Oh, I gave you the wrong ticket. Totally. This is  
6 Ranger Brennen. Is this -- no. Yeah. I'm sorry. This is  
7 the one. Ranger Brennan. I need that other ticket back.  
8 I'm sorry. It was the one incorrectly issued the day I went  
9 to get that order signed.

10 Anyway, I didn't make you a copy of it, Judge. But  
11 I'll leave it with you. I don't know if you can bring that  
12 ticket up and put it with the rest of them or not.

13 THE COURT: We'll see what's going to happen on the  
14 7th. My question is, on that date what would you prefer,  
15 8:30 or 1:30?

16 MR. QUIGLEY: 1:30.

17 THE COURT: That work? I mean, unless obviously I  
18 get something from either the Appellate or Supreme Court  
19 that says everything is stayed, then everybody has to  
20 appear.

21 MS. HUSTER: At this point it's taken off calendar?

22 THE COURT: Sure.

23 MS. WELLS: Well, the other thing, brought you more  
24 than one story. It's been two months, Judge.

25 Last week I'm in Santa Cruz. I'm stopped by an  
26 officer. One of the finest I've ever been stopped by, by

1 the way. Pulls me over. I was wearing my -- out of respect  
2 to Lieutenant Martinez my two helmet configuration, the  
3 small hard plastic helmet and one that looks very much like  
4 a baseball cap helmet. And he pulls me over and wanted to  
5 know where my helmet was. And I chuckled. And I says,  
6 "Don't they test you guys -- test you guys before they give  
7 you a gun? I'm wearing two."

8 And he's says, "You're wearing two helmets?"

9 And I says, "Yeah." I take the one off, looks like  
10 a baseball cap, and I hang it on the mirror. And took the  
11 other one off and hang it on the mirror. And he picks it up  
12 and reveals what I believe to be the most fundamental  
13 problem with the helmet law in California today.

14 Words out of his mouth were, "Is this DOT  
15 approved?"

16 Helmet law has been in effect since 1992, we're 13  
17 years into it. I'm dealing with an absolutely fine officer  
18 working out of his quick code, and his belief was until I  
19 talked to him that DOT approves helmets. I don't know how  
20 to get the courts to understand and recognize that the  
21 devastating effect of that belief on enforcement, on  
22 compliance. It under -- it undermines whatever they wanted  
23 to do legitimately and supports whatever they wanted to do  
24 illegitimately, which I've felt the helmet law has always  
25 been. Brought in with lies being enforced with -- I mean --  
26 ad hock, arbitrary, capricious, all of those words. All of

1 those words. And as long as that myth persists, and it  
2 doesn't look like it's ever going away, that will be proof  
3 to be the first standard. Behind that they will fall back  
4 to a position to well somebody's got to approve them, and  
5 they never let go of that. You can't get them to let go of  
6 the main contention, and you can't get people to let go of  
7 the belief behind that that somebody has got to approve of  
8 these things. I don't know how to deal with that in this  
9 context.

10 THE COURT: I think that's why I've done sort of  
11 all the strange and bazaar things that I have done. And I  
12 have no doubt that there are -- there's a great divide on  
13 this, which is both sides think I'm totally out of my mind.

14 THE DEFENDANT: Who does?

15 THE COURT: Both sides.

16 THE DEFENDANT: Not this side.

17 THE COURT: I don't think that there is a doubt in  
18 that. But the issue becomes that hopefully either the  
19 Appellate Court on the Sixth, or the Supreme Court will tell  
20 us where we are on the 7th. So I'll see all back here 1:30.

21 I have another calendar to get to, so be real  
22 quick.

23 THE DEFENDANT: This is going to be a hat dropper.  
24 I've been diagnosed with advanced lymphoma.

25 THE COURT: I'm sorry.

26 THE DEFENDANT: It is what it is.

1 THE COURT: Okay.

2 THE DEFENDANT: Time is not a luxury I have now.  
3 So that as we move with this I'd appreciate if the Court  
4 would acknowledge the restraint on this. I did promise you  
5 early on that if you followed the law as best you can, given  
6 the nature of the way it's written, that I'd back your act  
7 all the way to the U.S. Supreme Court, if necessary. I  
8 probably won't be able to do that directly. My attorney  
9 will keep this case alive, Kate Wells, for as long as is  
10 necessary to make sure that you're not left hanging out  
11 there. And the American Motorcycle Association through  
12 Michael Asborne has assured me that they, on behalf of their  
13 23,000 members is also prepared to step in on this issue of  
14 your ruling and back your act all the way to the U.S.  
15 Supreme Court if necessary.

16 In the mean time, I don't know if the Court can, I  
17 will ask, for all the reasons that are right and just, that  
18 between now and the 7th of next month that you consider some  
19 sort of an order that will allow me the exemption of the  
20 helmet law for my remaining days.

21 They're -- they're stated attempt to provide  
22 another safety benefit does not really apply in my case at  
23 this point, and I would generally like to finish out what I  
24 got left free.

25 THE COURT: I'll consider that, Mr. Quigley. So  
26 we'll see you all on the 7th, 1:30 here.

1 MS. HUSTER: Your Honor, would the Court consider  
2 allowing me to appear by court call?

3 THE COURT: Sure.

4 MS. HUSTER: All right. Thank you very much.

5 THE DEFENDANT: And you're going to get the ticket  
6 from the rangers, and if they get ahold of me I'll tell them  
7 you got that case?

8 THE COURT: Yeah.

9 THE DEFENDANT: And the ticket I got from the  
10 officer when I was coming to get that order signed?

11 THE COURT: I'll keep that one at this point.

12 THE DEFENDANT: It's not going to be dismissed  
13 yet?

14 THE COURT: Not yet.

15 THE DEFENDANT: You'll keep that case here as  
16 well?

17 THE COURT: And it will not go to warrant.

18 THE DEFENDANT: By the way, the wake will be the  
19 13th of November.

20 MS. WELLS: The 12th.

21 THE DEFENDANT: The 12th of November. And you're  
22 invited.

23 THE COURT: You know what, I hope I don't go.

24 THE DEFENDANT: No, the wake's going -- it's a  
25 living wake, Judge.

26 THE COURT: Oh, okay, then I'll come.

1 THE DEFENDANT: I've got time, and I know it's  
2 coming. I see the shots, but I figure --

3 THE COURT: You got it.

4 THE DEFENDANT: I figure that would be better for  
5 anybody. Thank you.

6 THE COURT: We're done.

7 -o0o-

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26