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SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF SANTA CRUZ  
DEPARTMENT 12

COPY

BEFORE THE HONORABLE MICHAEL BARTON, JUDGE

THE PEOPLE OF THE  
STATE OF CALIFORNIA,  
Plaintiff,  
vs.  
RICHARD JAMES QUIGLEY,  
Defendant.

Case No.s  
3WM018538  
4SM011246  
4SM021812  
4SM023894  
4SM028271  
4SM044470  
4WM021512  
4WM023363  
4WM034801

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FILED  
SUPERIOR COURT  
CO. OF SANTA CRUZ  
VICTORVILLE, CA

REPORTER'S TRANSCRIPT OF PROCEEDINGS

OSC HEARING

November 14, 2005

APPEARANCES:

For the CHP: KAREN KIYO HUSTER,  
Deputy Attorney General

For the Defendant: IN PROPRIA PERSONA &  
KATE WELLS,  
Amicus Curae

Official Court Reporter: OSCAR A. MORENO,  
CSR 3441

1 Watsonville, California

November 14, 2005

2 P R O C E E D I N G S

3 THE COURT: Good afternoon. Let's go then on the  
4 record in the Quigley matters. Mr. Quigley is present as well  
5 as Ms. Wells is present. Ms. Huster?

6 MS. HUSTER: Good afternoon, Your Honor, Karen  
7 Huster.

8 THE COURT: So I guess the question is is what, if  
9 anything, have you got as far as movement on the writ?

10 MS. HUSTER: Well, Your Honor, I did have my office  
11 contact the Court of Appeal and late on Friday they issued a  
12 stay of the order and Mr. Quigley will have a chance to  
13 prepare an opposition and then we'll have a chance to prepare  
14 apply so the wheels are in motion.

15 THE COURT: Mr. Quigley, Ms. Wells?

16 MS. WELLS: Well, I'll let Mr. Quigley take it.

17 THE DEFENDANT: Okay. Yes, and it was actually,  
18 Thursday, Your Honor. It was late Thursday after the close of  
19 business they apparently issued a stay and gave us a briefing  
20 schedule. I've got to have something to them in response to  
21 the brief that's in there by the 28th of November.

22 And they are supposed to have ten days to have to  
23 respond to that. My immediate concern now is going to become  
24 an issue. I think, what I have to do is figure out how I'm  
25 going to handle it but there has definitely a stay been issued  
26 if you haven't seen a copy of the order, neither have I but

1 it's on the website that they've issued one so I'm assuming  
2 that there is some basis in fact for that.

3 I've insisted here before you that I think the  
4 Attorney General is the wrong -- they got a conflict of  
5 interest in this case. And I don't know, I don't think they  
6 should be bringing this thing in the first place to the Sixth  
7 and I'm trying to figure out as a real party in interest if I  
8 can challenge that or if this Court has to do that.

9 The other thing that I'm curious about, Your Honor,  
10 is their brief. The issues as they defined them have to do  
11 with a determination that this Court did not make as we've  
12 discussed earlier.

13 They came in and argued that the issue is whether or  
14 not 40610 and the provision of 40610 applied to violations of  
15 -- and I'm not going to hold them up on the typo of the  
16 87803(A) or whatever they had. It's 27803(A) so basically  
17 they argued whether or not 40610 applies to tickets for 27803  
18 and I don't want to go to the Sixth and argue something that  
19 you didn't rule. And so I don't know how to handle that. And  
20 the third issue that I'm concerned with and I'm trying to  
21 figure out how to deal with is they want to raise the issue of  
22 disqualifying conditions and as I understand it, since this  
23 Court did not issue a specific finding of facts and  
24 conclusions of law that someone walking in off the street  
25 might look at and make a determination. I know because I sat  
26 there, and I believe that it is the case that this Court found

1 as a matter of fact that the disqualifying conditions set out  
2 in 40610(B) do not apply to these citations and they are  
3 wanting to raise that.

4 And in this matter as an issue to argue and I didn't  
5 know that we could argue issues of findings of fact at the  
6 appellate level either in a petition or on appeal. Those are  
7 the only things I know of.

8 Now, I've got the Court's back, Your Honor, as far  
9 as what I can do as a pro se litigant to prepare and have  
10 something to them by the 28th of November. But I just spoke  
11 to the people down in Los Angeles that I'm working with and I  
12 told them about my intention of getting a stay from the  
13 Supremes on the stay from the 6th on the basis that I laid out  
14 just now that we got a conflict of interest with the Attorney  
15 General, 40610 and the provisions thereof in subsection A; do  
16 not apply and whether or not findings of fact can be  
17 challenged so that's where I'm at.

18 THE COURT: Well, I think that as far as a couple of  
19 issues you brought up, most of them are going to end up either  
20 in perhaps the Sixth or the Supremes because I think you have  
21 a -- I'm not exactly sure, but I believe that in your response  
22 you would have the ability to challenge the standing of the AG  
23 and their position, more than you do here.

24 I think that's just where it has to happen. It's  
25 not going to happen here. I could be wrong and they may  
26 bounce that back to me. At least that's my first thought.

1           The other issues I think also are issues you need to  
2 respond or raise in your brief which then might shift the  
3 focus of the stay.

4           Ms. Huster, in relation again, because I do not --  
5 or have not done appellate level cases as a general rule, so  
6 if Mr. Quigley files by the 28th then have you ten days to  
7 respond as he indicated; is that correct?

8           MS. HUSTER: I believe that's correct, Your Honor.

9           THE COURT: And then they will then pick -- set out  
10 a date in your response unless Mr. Quigley requests more time  
11 or files for some other type of response, will they then pick  
12 a date for argument?

13          MS. HUSTER: It sounds like you are asking two  
14 questions: You are asking one question about seeking of  
15 extension of time to prepare papers and the second question as  
16 to do with setting of oral argument; is that correct?

17          THE COURT: No, what I'm saying is unless  
18 Mr. Quigley asks for time beyond your response, once you have  
19 filed your response they'll set a date for argument; is that  
20 correct?

21          MS. HUSTER: Correct.

22          THE COURT: And generally how far out is that?

23          MS. HUSTER: Your Honor, I don't know. It really  
24 depends on how backlogged the Court is at that time and I  
25 don't -- I just don't know the answer to that question.

26          THE COURT: Mr. Quigley.

1           THE DEFENDANT: One more question, Your Honor, and  
2 that is the -- as I pointed out in the brief itself there is  
3 no request for any action and what they have moved on at the  
4 Sixth according to what I could get off the internet because  
5 I've not sent anything else -- I did see a copy of the letter  
6 -- yes, a copy of the letter from the attorney general's  
7 office, that letter did not come from counsel that we're  
8 talking to but it came from Supervisor Neary, so I'm wondering  
9 is that not a change of Counsel on that side or did we just --  
10 I work with Ms. Huster until suddenly, boom, somebody pops in  
11 for one shot. It's a little hard for me to figure out who I'm  
12 dealing with here.

13           THE COURT: I believe it's probably Ms. Huster  
14 unless they substitute or file some form of substitution.

15           One second.

16           Did you file the request for stay, Ms. Huster?

17           MS. HUSTER: Are you talking to me?

18           THE COURT: Yes.

19           MS. HUSTER: It's Huster.

20           THE COURT: I keep forgetting, I'm sorry.

21           MS. HUSTER: You are asking if I filed a petition?

22           THE COURT: Yes.

23           MS. HUSTER: Yes, I did.

24           THE COURT: So it's basically in your ballpark?

25           MS. HUSTER: Your Honor, if Mr. Quigley is wondering  
26 who he needs to deal with in our office that would be me. The

1 reason that Mr. Neary handled the correspondence is it is a  
2 bit unorthodox for the Attorney General's office to be  
3 contacting the Court of Appeals in this way and it was  
4 recommended that a supervisor handle that and that's how it  
5 happened.

6 THE COURT: All right.

7 THE DEFENDANT: Your Honor, being just for  
8 clarification for the record, I never said that she didn't  
9 file a petition.

10 THE COURT: Okay.

11 THE DEFENDANT: What I said was the documents that  
12 actually caused the court to move and cause and effect being  
13 what they are onto the 9th they got the letter and on the 10th  
14 they issued the stay. I would say that probably the letter is  
15 what the caused the stay, that was filed by an attorney named  
16 Neary and not by an attorney named Huster.

17 THE COURT: But as she indicated that's her  
18 supervisor and I guess the office felt that the Sixth might  
19 pay more attention to a supervisor and, no offense meant, than  
20 a line deputy.

21 MS. HUSTER: No offense taken, Your Honor.

22 THE COURT: So let's do this: I'll set this back on  
23 calendar on the 19th of December. That gives you time for  
24 your response, their response, and then hopefully a briefing  
25 date and we'll note what the next step is.

26 THE DEFENDANT: That's good with me, Your Honor.

1 THE COURT: Same time. It's a Monday; does that  
2 work?

3 MS. HUSTER: 1:30?

4 THE COURT: 1:30.

5 MS. HUSTER: Thank you, Your Honor.

6 THE COURT: All right.

7  
8 (End of proceedings.)  
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