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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SANTA CRUZ
DEPARTMENT 12
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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SUPERIOR COURT
CO. OF SANTA CRUZ
SANTE FE, CALIF.

REPORTER'S TRANSCRIPT OF PROCEEDINGS
DECISION ON MOTION/REQUEST FOR HEARING
July 14, 2006

APPEARANCES:

For the People: ROSS TAYLOR,
Deputy District Attorney
For the Defendant: IN PROPRIA PERSONA,
KATE WELLS
Attorney at Law
Official Court Reporter: OSCAR A. MORENO,
CSR 3441

1 Watsonville, California

July 14, 2006

2
3 P R O C E E D I N G S
4

5 THE COURT: On the record then in the Quigley
6 matter, Mr. Quigley is present, the People's representative
7 Mr. Taylor is present. So, Mr. Quigley, from your wrestling
8 what have you found? What are you proposing, or both?

9 THE DEFENDANT: Well, that leaves us with you didn't
10 discover anything that we could do?

11 THE COURT: I hadn't discovered anything
12 specifically and I unfortunately was also involved in a couple
13 of trials, so I'm a little bit behind, so go ahead.

14 THE DEFENDANT: Okay. If I may, Your Honor, there
15 is a couple of things I'd like to do preliminarily and then I
16 want to talk about the proceeding thing but there is some more
17 stuff that I'd like to provide the Court by way of motivation
18 to continue to help get this thing fixed, it's not like I
19 think you need any more but sometimes it just -- maybe some of
20 this will finally reach the D.A. and they will have a sense of
21 outrage.

22 So if I may, I'd like to explain to you -- oh, first
23 of all, I want to discuss legislative intent because that came
24 up somewhere in the briefs that I was reading from the
25 District Attorney. They were talking about how legislative
26 intent is to provide another safety benefit to motorcyclists.

1 And I don't think I told the Court that I researched this but
2 I don't think I've given you the results, so I want you to
3 understand that my understanding is and I am prepared to stand
4 to be corrected, is that the statute has not achieved the goal
5 of the intent of the legislature. In other words, their
6 intent was to provide another safety benefit to motorcyclists.

7 I recently got the statistics from 2004 and 2005.
8 And the statistic that I've also found the most valid as far
9 as the -- how much protection you get from a motorcycle
10 helmet, was the number of deaths per hundred accidents.

11 And it would seem to me that if helmet laws had an
12 effect, when you moved from fifty percent of the people riding
13 motorcycles which was the case in 1991 to 99.99 percent riding
14 motorcycles from 1992 forward because there is always that one
15 or two guys that is just not going to do it -- it would seem
16 that if the helmets provided a safety benefit that the
17 percentage of deaths per hundred accidents would go down but
18 in fact in 1990, the number of deaths per hundred accidents
19 was 2.8.

20 In 1991 the number of deaths per hundred accidents,
21 in the State of California was 2.78. Our research indicates
22 that in all the years prior to enactment of the helmet law the
23 figures stayed slightly under three percent and had for as
24 long as I've been riding, we've always rounded it off to
25 three percent. The chances of being killed was three percent.

26 And you'd think that when you move the number of

1 people wearing helmets up that that number would drop by some
2 noticeable amount, but in fact, Your Honor, in 19 -- pardon
3 me, in 2004, the number of deaths per hundred accidents in the
4 State of California was 3.05. In 2005 the number of deaths
5 per hundred accidents was 3.5 percent. It has consistently
6 been over three percent since enactment of the helmet law and
7 at no time has it gone down.

8 Now, I will admit that 3.5 percent is probably an
9 anomaly and if it's not an anomaly it's a dangerous trend.
10 But the point is that I believe that the statistics pretty
11 much assure us that we have -- there is no benefit to riders
12 from wearing a helmet, no noticeable appreciable benefit in
13 the number of deaths per hundred accidents. So I just wanted
14 to get that in front of so you that you'd understand. I've
15 always said that I was at a greater risk generally from
16 helmets because they make me less able to concentrate on
17 riding, but the statistical analysis of my chances of being
18 killed shows that the number of deaths per hundred accidents
19 has actually gone up and incidentally, that small percentage,
20 that difference between 2.78 and 3.5 means somewhere around
21 200 riders killed in 2004 and 2005 that did not need to die.
22 So that's the first thing I wanted to give you.

23 The second one is if you remember the basis of my
24 motion to have this thing declared unconstitutional and
25 dismissed was the effect of the CHP's training as to what and
26 how the helmet law was to be enforced, mainly this base

1 believe that helmets had to be DOT-approved.

2 And on July 4th, independence day, for the United
3 States, I was down in San Diego. And I was at a protest rally
4 down there and the intent of the rally was that we were going
5 to ride out from the gathering place, do our speeches,
6 everybody get on their motorcycles and ride approximately five
7 or six miles to a motorcycle shop and have a party.

8 The guy in charge of the run stopped by the little
9 police trailer that was at the entrance to the island there in
10 San Diego and started visiting with them to see if he could
11 coordinate our moving all the motorcycles in a pack through
12 that area and so on, and happened to mention that this is
13 going to be part of the protest and here came more motorcycle
14 cops than I've ever seen in my life. I don't think the
15 California High Patrol has as many motorcycle officers as they
16 got in San Diego.

17 Any way, I look up and I see this lieutenant
18 standing over there talking to Mr. Barren(phonetic) the guy
19 that set up this run and I go wondering over to see what's
20 going on and I get there just in time to hear him explain that
21 he is going to be stopping people and arresting them and
22 impounding their motorcycles for riding without helmets.

23 And so I kind of imposed myself on this because I'm
24 not one to live with threats. I don't like the sound of
25 them -- you know, threats don't impress me, and we kind of
26 tangled up a little bit and I asked him by what authority and

1 he pretty much kind of leaned toward his badge like it was a
2 little heavy for him to hold up and I said, "That don't cut it
3 if you got something better than that," and he told me it
4 would be Penal Code 148 and then he said that that would be
5 willful failure to obey a lawful order which as you know, Your
6 Honor, 148 is intentional interference with an officer, but I
7 said, "Well, your order is not lawful so, you know, you'd have
8 to be acting out on some condition of probation" and he said
9 nevertheless, and I said, "Well, if you are going to threaten
10 to arrest me I fully intend to ride this protest. Why don't
11 you just cuff me up now," and I go over there to the cop car
12 and I opened the back door and started hollering at him, "You
13 cuff me up and put me in there." Well, the back door as I
14 yanked it open slammed shut again and I reached over and
15 grabbed it again and opened it and about that time the officer
16 that was driving the car says, "Keep your hands off my car."
17 I put both hands immediately up in the air, stepped back, and
18 I looked over at the lieutenant and I pointed at him, and I
19 says, "Now, that, Lieutenant, is a lawful order" and I backed
20 away from the car.

21 So I gave that whole thing about 20 minutes to calm
22 down, maybe 30, because the lieutenant really wanted to get
23 out of there for some strange reason and I drove -- rode over
24 to the police trailer and told the sergeant that was on duty
25 that I wanted to talk to that lieutenant. And that lieutenant
26 came over and the ensuing conversation occurred. I have a

1 transcript here and I have my little miracle player here and
2 it's a six minute recording and if you got six minutes, Your
3 Honor.

4 THE COURT: I got six minutes but to be fair to
5 Mr. Moreno, he is not going to take it down.

6 THE DEFENDANT: I was going to say I recommend that
7 we go off the record for this period.

8 THE COURT: That's fine.

9 THE DEFENDANT: And then go back on once this thing
10 is done and then this transcript can serve as the transcript
11 for the hearing.

12 (To the clerk) Would you hand that to the judge,
13 please?

14 MR. TAYLOR: Thank you.

15 THE DEFENDANT: So we're off the record now?

16 THE COURT: Well, right. I mean, it's -- we're sort
17 of on the record but he cannot -- he's good, but he's not that
18 good.

19 THE DEFENDANT: Oh, no, no. He and I talked about
20 it, Your Honor. I knew going into this it's going to be
21 difficult.

22 THE COURT: Yeah.

23 THE DEFENDANT: So if you want to read along.

24 THE COURT: Okay, I will.

25 (Tape recording played off the record.)

26 THE DEFENDANT: There it is, Judge. 400 miles from

1 home and this officer believes that I've got to wear a helmet
2 approved by the State of California or certified by the State
3 of California. An interesting side note on this is that the
4 city attorney's office right after the Easy Riders injunction
5 was issued continued to just ignore the Easy Riders injunction
6 and they got a visit from the attorney that did the Easy
7 Riders injunction, his name is Skip Raring, and they settled
8 out of Court and they said they were going to fix the problem,
9 there wouldn't be any more of this junk, and it's been almost
10 ten years ago.

11 Okay. The next thing that I brought you and I don't
12 know whether it should be entered into evidence, it depends on
13 what you want to do with it, a friend of mine, his name is Joe
14 Cliff, known him for years, he went over to see his daughter
15 over in Hollister and I have a letter from him explaining what
16 took place there and essentially, Your Honor, what happened
17 was was that he was stopped by an officer, he was stopped by
18 an officer, and the officer stopped him because he wasn't --
19 CHP officer stopped him because he wasn't wearing a
20 DOT-approved helmet and if you flip back to the back page,
21 he's had this ticket for a long time, and had this helmet for
22 a long time, beat a lot of tickets with it, but nonetheless
23 has got to go through the whole process all over again,
24 because this law is on the books, they still don't know how to
25 enforce it but if you look an at the citation to both him and
26 his wife, the line on the violation says 27803(B) (D) (C), DOT

1 helmet required, right on the ticket, both tickets, DOT helmet
2 required. It was a half shell -- the one -- yeah, the one
3 that started this whole thing, the one that was specifically
4 the reason for the injunction. As Mr. Bianco pointed out I've
5 got to absurd lengths with my helmet selection so that the
6 Court could see the absurdity of this statute and what we're
7 faced with, and he wasn't anywhere near my neighbor. He was
8 doing what -- he passed by as he explains in his story, dozens
9 of cops. Nobody bothered him until he hit one and then his
10 rights go out the window, he's got to deal with this whole
11 thing. It happens all the time. And to give you a idea, Your
12 Honor, of the magnitude of what you and you and I are dealing
13 with and what you and I are trying to accomplish, it's strange
14 how these things happen. On the internet I have a website
15 that covers every state's helmet law and so people can go to
16 that website and they can check each state's helmet law that
17 has one. There is only 20 states that have them for adults
18 still. And in there is the question is asking how much the
19 fine is and people generally will contact me and tell me and I
20 never put it up there so they'll continue to contact me. But
21 I've never had anybody ever do anything except send me the
22 amount of the fine until July 10th.

23 And somehow in the cosmic connection Doug Little
24 sent me an Email about the amount of the fine for North
25 Carolina.

26 And in his Email it reads, "To whom it may concern,

1 was in North Carolina over the week of July 4th, got stopped
2 on Wednesdays July 5th, 3:45 p.m. riding U.S. 74 along with a
3 buddy from New York. We thought for his headlight that had
4 burned out that day, Trooper HJ Allen wanted to see our
5 helmets, nothing else, wrote us both tickets for a hundred
6 dollars payable by mail. \$25 fine, 75-dollar court cost for
7 wearing none DOT approved helmets.

8 And then just to make the cosmic connection
9 complete, this morning on Bastille day, I get a letter from
10 Keith Allen who talks about his experience with the Nebraska
11 helmet law.

12 Mr. Quig, I just received your Email address from
13 Government Affairs Department, AMA and they thought you could
14 answer some of my questions. I was recently pulled over in
15 Omaha Nebraska for not wearing a DOT approved helmet. I was
16 wearing a Nazi pot and that, Your Honor, is a half shell
17 helmet that has kind of a lip going out on the edge sort of
18 like the old Nazi combat helmets. This is the only reason
19 they stopped me. They give me a ticket for no motorcycle
20 helmet and then confiscated it and again you know, we have --
21 our constitutional rights, Your Honor, are just being trounced
22 on by these helmet laws and what you and I are doing here,
23 what we are trying to do here to get the California statute
24 fixed will have repercussions across this entire nation.

25 I just wish that we could figure out some way to get
26 the District Attorney to help. Which brings us to the part of

1 the conversation that I think that you really wanted to get
2 to.

3 THE COURT: Yes.

4 THE DEFENDANT: What are we going to do now? Well,
5 against the District Attorney's declaration it will be our
6 position that law enforcement officers can continue to cite
7 Mr. Quigley, from page six of the transcript of our last
8 hearing, and can cite other people not only in Santa Cruz
9 County but throughout the state until a higher court, you
10 know, rules on this thing, that is pretty much to me, "Let
11 them eat cake." That's what it sounds like to me. It is bad
12 faith all the way.

13 I did a little research to find out what it is that
14 you can do. And it and it seems, Your Honor, that because
15 this is a traffic matter, you have been -- you are limited in
16 your jurisdiction. You are not really a full blown Superior
17 Court Judge as it goes to this; you are a traffic Court Judge.
18 And so you can't really move as you would if you were a
19 Superior Court Judge. So I've got that.

20 And it was a real bitter pill for me to accept
21 because you are empowered by the very Constitution I'm
22 counting on to protect me, to protect me and yet it somehow or
23 other doesn't work that way.

24 But when I went through 26500 of the Government Code
25 that talks about the District Attorney and where he comes from
26 and all that kind of stuff, and the annotated code under

1 Section 10, and the reason I'm bringing this up, Your Honor,
2 is I realize this is an old case, this is 1911, 1910, these
3 cases I'm going to be talking about, these cases have been
4 around all that time and still remain in the annotated code
5 and I assume that that's because they are still valid. They
6 hasn't been overturned or they wouldn't be in the annotated
7 code. But I find it interesting under Liability Section 10 of
8 the annotated code it says, a court order requiring the
9 District Attorney to proceed further with the prosecution
10 would be mandatory on him and his failure to obey it would
11 involve a violation of duty for which he can be removed from
12 office or otherwise punished.

13 And so that even though this particular case speaks
14 to the prosecution of a case, when you read that through the
15 eyes of Section 9 called Fairness to Accused, it says, fair
16 trial for defendant should invite and receive from District
17 Attorney same solicitous consideration as conviction of
18 guilty, and it is as much his duty to safeguard defendant's
19 constitutional rights as to seek conviction.

20 So that tells me -- and by the way that is People v.
21 Pang Sui Lin 15 Cal.App. 260, it's a 1911 case. And the one
22 prior to that is entitled Ex Parte Hayter, 16 Cal.App. 211.

23 But that tells me that if you have the authority and
24 can order the District Attorney to protect my rights which is
25 his duty, that there is a remedy for his failure to do that
26 which has to do with if I read that right, remove him from

1 office or slap his wrists or anywhere in between.

2 So I don't know whether or not there is enough there
3 to let a traffic court judge or a Superior Court Judge sitting
4 as traffic court judge do that.

5 But -- whether you got the authority to order the
6 District Attorney to stop prosecuting these cases until such
7 time as it can be demonstrated that it can be done without the
8 violations of constitutional rights that the cases that are in
9 front of you have demonstrated. Until it can be done in such
10 a way that it doesn't violate that Federal injunction, until
11 it can be done in such a way that it is not selective or
12 arbitrary, capricious, and or for lack of a better word,
13 bigoted -- "discriminatory" I think is the word that I'm
14 looking for.

15 I actually worked pretty hard to help Bob Lee get
16 elected and I am really sorry I did that. I don't much care
17 for the woman that he beat, but I can't imagine that she would
18 be worse except I wouldn't have the knife in my back, you
19 know, if she had won rather than him. So, I'm kind of living
20 with that.

21 So I have within my thinking processes, I've come up
22 with a couple of ideas, like I said wrestling with weasels
23 requires some pretty strange moves, so I'm thinking the D.A.
24 argued in their last brief that we had not tried the tenth
25 ticket on the list of ten tickets.

26 And so I'm saying, Okay, how about we don't dismiss

1 that one? How about, Your Honor, how about we set that one
2 for trial so that I can turn in the same exact discovery
3 request through this Court that I've tried to get through
4 other courts, so that the CHP can produce the very elements
5 that are required by the Easy Riders injunction that are
6 pretty much provided by Bianco and Buhl and all the California
7 case law and the statute, have them bring that to the Court
8 and then we can move in that case. The Court will hold
9 jurisdiction over the helmet law issue so that we could go to
10 the next step and then go ahead and get those other nine
11 tickets gone because I'd appreciate not having that big of a
12 load behind me for a myriad of reasons.

13 So if we can dismiss the nine and hold the one for
14 trial, we would like to come back, and I've got some attorneys
15 in Southern California that are going to help work with Kate
16 and work with me, and we want to file a declaratory and
17 injunctive relief action with the Superior Court of Santa Cruz
18 County. We will file with it, since this Court will have an
19 active helmet law case in front of it, and because nobody to
20 my knowledge is anywhere near as knowledgeable on this subject
21 as you are and the -- for judicial --

22 THE COURT: Economy?

23 THE DEFENDANT: -- economy, my God it's been what,
24 three years, Judge? You know, that it would seem appropriate
25 to me that a declaratory relief action with a notice of
26 related case would be assigned to this Court, and at that time

1 we'll be able to bring these things to you as a Superior Court
2 Judge who can damn well -- you will have the power to fix the
3 problem.

4 THE COURT: Forum.

5 THE DEFENDANT: Yeah, it will be in a forum where
6 you could fix this problem.

7 THE COURT: -- or not. My turn?

8 THE DEFENDANT: Well, no -- I'm trying to give you
9 all the weasel moves, Judge. If I'm already wrong then you go
10 ahead and tell me.

11 THE COURT: No, one and one. So far, go ahead.

12 THE DEFENDANT: What we're going to need to make
13 that happen from the Court will be a combination of things,
14 stipulations which I assume we're never going to get from the
15 District Attorney, I'll bet you the last dollar I ever make
16 that they won't even concede that DOT doesn't approve helmets.
17 So we're not going to be able to do much with stipulations but
18 we need findings of fact and conclusions of law because that
19 will be the -- your reasons for deciding the way you have on
20 these cases is going to -- we can tailor the declaratory and
21 injunctive relief action around what this court has already
22 gleaned from all the evidence that you have in front of that
23 one foot thick stack of paper.

24 And the only other little weasel move to try to deal
25 with this situation, was I don't know whether or not during
26 the pendency of the trial on the tenth ticket and whatever

1 it's going to take for the declaratory and injunctive relief
2 action, I don't know whether or not it is possible, but I
3 would like to approach the presiding judge or perhaps if it's
4 not unethical -- you know, I don't want to break any rules,
5 and I know that you are not going to do it and you wouldn't
6 allow me to, and that's good because you keep me straight on
7 that, but if the presiding judge will just simply refer all
8 helmets tickets to you until such time as a declaratory and
9 injunctive relief action has been handled, then there is no
10 chance that there is going to be any anybody's constitutional
11 rights violated and that's probably the best reason to do that
12 in addition to the judicial economy.

13 And the only other question I would have is if we're
14 going to do all this in the findings of fact and conclusions
15 of law, do you want us to address 40303.5 or have we gone so
16 far past the correctability issue it wouldn't even need to be
17 brought up?

18 THE COURT: All right. So kind much in reverse
19 order, I don't think the correctability issue needs to be
20 brought up because it's either going to be -- depending on
21 which way I go or which way everybody else goes -- would
22 beyond us, I don't think that's the main issue for anybody
23 here or anybody involved in the tickets. That in and of
24 itself I wouldn't say is the major issue.

25 Out of slight reverse order.

26 The request and -- you know me, I'll read your

1 cases, but my guess is that especially thinking about the age
2 of those cases I wasn't practicing law in 1911, but thinking
3 about the cases, thinking about what's changed between then
4 and now and even in the 35 years I have been involved in the
5 law, my guess is that if I order the D.A. to do something
6 along those lines, it would be more within their specific
7 issues and duties. Traffic in and of itself normally isn't at
8 this point in time involving the D.A. so I'm not sure that
9 there would be a great deal of impact if I ordered the D.A.'s
10 office to do anything and I don't think that that would make
11 any real ripple because it just wouldn't be worth it.

12 The proposal for the tenth ticket makes the most
13 sense because again, what I think I left you all with is the
14 idea that if there is a way to get to a level beyond me
15 because as you know, I mean people are listening to what I
16 say, agreeing or disagreeing but nothing much has changed and
17 even just setting this case up, and the D.A. knew I set the
18 case up so that it would go up to the Sixth and maybe beyond
19 that or at least there and get some other type of a decision,
20 it went up and nothing has happened.

21 So we're here. So that's why I sort of -- and I
22 like the idea. I sort of threw it back to you with the idea
23 you know, set it up where everybody is on notice -- I mean
24 like the last time when you were asking for injunctive relief.
25 I knew that the DA's office or the AG's office if they are
26 representing the CHP or whoever, have to have notice that I

1 may be doing this. Because otherwise if I do something
2 without notice no matter what it is, this case, any other kind
3 of criminal case, anything, somebody is going to come in and
4 say, "Didn't know about it; it's void" and we start over.
5 Didn't want to get in that position again, so this -- you
6 know, the trying the eleventh or the tenth ticket makes sense
7 and, you know, we can just see where it gets to.

8 And you know, in -- a lot of relations what I've
9 said in certain respects and what you've indicated is in and
10 of itself, the District Attorney's office doesn't really have
11 much involved in this fight because the changes of the law
12 over the years have pretty much taken the D.A.'s office out of
13 traffic court. It's sort of like it's taken a Superior Court
14 judge out of traffic court. But, they are representing
15 certain aspects. The Attorney General's Office with the CHP,
16 they are involved more than the D.A.'s office but they are
17 here because they put on evidence during our trials. So that
18 works.

19 But then, you know, they are on notice that this is
20 how we're proceeding so that -- and everybody else then
21 ultimately will be so it makes more sense.

22 And I think that your -- and I think it -- again,
23 just so as you say it's above board, the request of going to
24 the PJ, and I know she would be more than happy and I know a
25 that the present traffic referee would be more than happy to
26 get rid of some of that caseload to this Court. She'll do

1 that. So that makes sense too and then I won't be directly
2 involved and it's easier, because again, everybody knows where
3 everything is sort of -- which way things are marching but at
4 least that way then its another aspect of involvement in this
5 Court in those things.

6 THE DEFENDANT: Slash my throat before I interrupt,
7 but what you are saying is we're going to ask the presiding
8 judge to send them -- okay, excuse me.

9 MS. WELLS: We are or --

10 THE COURT: You are.

11 MS. WELLS: We are.

12 THE COURT: She'll do it. I mean there's -- you
13 know, unless I call and say, you know, no way, no how, burn me
14 at the stake before I would do anything like that, she'll do
15 it because I mean it makes sense. Because this is issues that
16 we're trying to ultimately resolve and ultimately it's going
17 to be easier one way or the other. It's either going to do a
18 way with a lot of caseload, or if somebody ultimately says
19 that I'm wrong or somebody else is wrong, it's easy.

20 Then these tickets are either provable on sight or
21 they change the law or they are provable a different way
22 because there is a different law and it will be easier in the
23 long run so that's fine.

24 THE DEFENDANT: Okay. Your Honor, I do have one
25 question about that so I don't look like I'm trying to sneak
26 in but it suddenly occurred to me -- maybe I was, because in

1 order for that transferring for all helmet ticket cases to you
2 to be effective, in other words to drive something to happen,
3 once that was done I would be want to go come back here and
4 encourage to you summarily dismiss every one on the grounds
5 that as enforced the helmet law is unconstitutional because
6 that would be great for the tourist trade of Santa Cruz County
7 I assure you, and if you have an expense to this Court of, you
8 know, of extra cost to the clerk in having to send out these
9 notices of dismissals rather than notices of appearance I
10 think I could get sponsors for that so that the county will
11 not end up eating that, okay? I mean, we got at least
12 four million guys out there that don't like this law.

13 So that is -- like I say, we're up -- I'm in a
14 battle with weasels. I'm not used to doing this. I'm used to
15 the old, you know, stand in the middle of the ring and take
16 the best shot.

17 THE COURT: But I think the -- probably the first
18 step is -- and I don't know what number it is and,
19 Mr. Quigley, knowing that you are in certain respects more
20 organized in relationship to all of this than I am, what is
21 the number of the outstanding ticket, do you know?

22 THE DEFENDANT: 4WM034801 -- oh, no, I couldn't be
23 more wrong.

24 THE COURT: And it can't be that.

25 THE DEFENDANT: No, I'm absolutely wrong about that.
26 That's a Watsonville ticket.

1 THE COURT: And it's a '94 ticket.

2 THE DEFENDANT: Then I'm not certain, Your Honor.

3 THE COURT: I'll find it.

4 THE DEFENDANT: I can tell you when it was written
5 if that will help. It was written the day that you signed the
6 order ordering the CHP to sign off helmet tickets. That's the
7 day I brought you that order.

8 THE COURT: That would be this year.

9 THE DEFENDANT: That would be this year. No, no,
10 that was last year.

11 THE COURT: May of last year.

12 THE DEFENDANT: Yeah, it was -- I think was June. I
13 think it was actually in June of last year, Your Honor.

14 THE COURT: But it would be an '05 number, I mean
15 that's -- off the record.

16 (Off the record.)

17 THE DEFENDANT: Can we file the declaratory relief
18 action in the context of the two remaining citations and if so
19 will that invoke your jurisdiction as full blown Superior
20 Court Judge?

21 THE COURT: I think so.

22 THE DEFENDANT: Okay.

23 THE COURT: And that's why I'm setting them for
24 trial and you filing whatever issues you need to file with the
25 support makes perfect sense, and then obviously notice to the
26 District Attorney's office if they are going to still be

1 involved.

2 Now, the May or June ticket in 2005, what agency?

3 THE DEFENDANT: One of them was CHP.

4 THE COURT: So that would have been -- so the oldest
5 is CHP, the other one is Park Ranger?

6 THE DEFENDANT: Yes, sir, Your Honor.

7 THE COURT: Both state agencies. I'm sort of
8 talking out loud because my guess is then that the Attorney
9 General in some aspects represents both of them.

10 I mean, the District Attorney is maybe involved in
11 actually putting forth evidence if they choose or whatever
12 they choose to prosecute the case.

13 MS. WELLS: They should be noticed.

14 THE DEFENDANT: Right. But the declaratory relief
15 action -- okay, got it.

16 THE COURT: But what I would say is notice because
17 they are both state agencies, the AG, so if the AG wants to
18 get involved, Attorney General, wants to get involved because
19 I have a feeling they are still not happy with the last thing
20 I did, that they will.

21 THE DEFENDANT: We'll never know because that last
22 thing just kind of went into the black hole that our friend in
23 the wheelchair talks about all the time.

24 THE COURT: All right. And Mr. Taylor, for the
25 entertainment value at least you are here and it's obviously
26 something that you won't get to see often. I would normally

1 set -- let's go off the record.

2 (Off the record.)

3 THE COURT: I'll set both of those for trial -- so
4 I'll set those two tickets for trial on the 25th of August at
5 1:30 in this department.

6 THE CLERK: That's a Court trial, right?

7 THE COURT: Court trial.

8 THE CLERK: And so there is a plea of not guilty
9 today and time waived?

10 THE COURT: Time continues to be waived, yes.

11 And we'll see where we --

12 MS. WELLS: Did you want to give us a briefing
13 schedule on that or shall we just do it -- just do it in time
14 that it's going to be.

15 THE COURT: So that everybody that's going to holler
16 has time to holler.

17 THE DEFENDANT: So can I get you to dismiss the
18 other nine because they are unconstitutional?

19 THE COURT: I've taken those under submission so
20 I'll do that today. So we're in recess.

21 THE DEFENDANT: Wait, wait.

22 MS. WELLS: You just did it?

23 THE COURT: Yeah.

24 MS. WELLS: Do we want findings of facts and
25 conclusions?

26 THE COURT: I think that's what I had done and now

1 I've taken it under submission which I had declared -- I was
2 dismissing them because I declared them -- that their
3 enforcement as they were given was unconstitutional because
4 its -- I forgot what I said the last time, it was an
5 unconstitutional enforcement as applied by the officers in
6 relation to your helmet and your riding without complying with
7 the requirements of the code.

8 THE DEFENDANT: Okay. So those nine tickets are as
9 effective now are dismissed and gone on constitutional
10 grounds? How can we do this findings of facts and conclusions
11 of law such that it's going to be the least amount of trouble
12 to you?

13 THE COURT: I think that again in the paperwork --

14 THE DEFENDANT: You want me to write it? Because
15 I'm real close.

16 THE COURT: Set it out.

17 THE DEFENDANT: Okay. We're real close. I got a
18 couple of cases that I can give you that I cited today.

19 THE COURT: I'll take those.

20

21 (End of proceedings.)

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