

<p><b>ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, state bar number, and address):</b>                  Richard Quigley, Defendant/Appellant, pro se                  2860 Porter Street, pmb #12                  Soquel, CA 95073                  TELEPHONE NO.: 831-685-3108      FAX NO.:</p>	<p style="text-align: center;"><b>FOR COURT USE ONLY</b></p>
<p><b>ATTORNEY FOR (Name):</b>  <b>NAME OF COURT:</b> Superior Court of California, County of Santa Cruz  <b>STREET ADDRESS:</b> 701 Ocean Street  <b>MAILING ADDRESS:</b> 701 Ocean Street  <b>CITY AND ZIP CODE:</b> Santa Cruz, CA 95062  <b>BRANCH NAME:</b></p>	
<p style="text-align: center;"><b>PEOPLE OF THE STATE OF CALIFORNIA</b>                  vs.  <b>DEFENDANT/APPELLANT (Name):</b> RICHARD QUIGLEY</p>	
<p style="text-align: center;"><b>PROPOSED STATEMENT ON APPEAL (Infraction)</b></p> <p style="text-align: right;"><b>CASE NUMBER:</b> Sup. Ct. #00173447</p>	

Defendant/Appellant (Name): **QUIGLEY** submits the following *Proposed Statement on Appeal*.

**GROUND FOR APPEAL**

1. *Specify in detail your reason for why you feel the judge committed "error" regarding the law or procedure. Note that credibility of witnesses is generally **not** a basis for appeal):*
  - a. The court never had lawful jurisdiction – the court assumed jurisdiction without requiring the requisite filing of a verified complaint by the public prosecutor.
  - b. The court allowed the prosecutor to amend the complaint without input from the (police) officer who filed the complaint.
  - c. The court denied the defendant’s fundamental rights to due process relative to notice and opportunity to defend in an impartial forum in front of an impartial Triar of Fact.
  - d. The court allowed, and accepted, inadmissible testimony (or himself testified as to matters of which he had not personal knowledge) and allowed, if not promoted, prosecutorial misconduct on the part of the public prosecutor, to the detriment of the defendant.
  - e. The court either didn’t understand, or refused to abide by, the plain language of the relevant statutes, or relevant binding precedent decisions from courts of higher jurisdiction – either or both mis-citing or rewriting each to make a case for the prosecutor where none otherwise existed.
  - f. The court denied the defendant a fair and impartial trial (in the context of a trial) and in all other ways, denied the defendant’s constitutionally protected rights as a Free and Natural Person as defined in Article I, Section 1, of the Constitution of California.

**STATEMENT OF EVIDENCE**

2.  Theabove-entitled matter was reported by an official court reporter or electronically recorded and appellant intends to file a reporter’s transcript of the evidence and proceedings so reported and to make the transcript appellant’s statement on appeal.
3.  Instead of a transcript the appellant is submitting the following statement on appeal:

**TESTIMONY OF SANTA CRUZ POLICE OFFICER MARTIN**

Martin was sworn and took the stand.

**DIRECT:**

Martin testified that he had seen the defendant riding a motorcycle while wearing an object that looked like a baseball cap, so he stopped the defendant and cited him for not wearing a helmet while riding a motorcycle.

DA: “And in your training and experience, what do you define a helmet as?”

(continued on next page)

vs.

DEFENDANT/APPELLANT (Name): Richard Quigley

## 3. a. (witness testimony continued):

Martin: "A helmet, protective device, worn on the head, cover most of the scalp and forehead, designed to protect the head from being struck, it's a protective measure."

(The coaching of the *excluded witness* by the prosecution was obvious – references to "protect" and "protective" constituting such a major portion of the definition of a helmet in one tainted witness after the other.)

CROSS:

Defendant renewed his continuing objections to testimony about what constitutes a helmet by the officer.

The prosecutor called for a break. A break was taken.

After the break, Martin testified that the difference between a baseball cap and a helmet is that a helmet has a hard outer shell, a strap, foam padding, and provides protection.

The defendant asked if any of those identifiers could be found in the statute. The court found that the inquiry was calling for a conclusion from the witness, stating: "I understand your argument and I allowed him to say it. He said what he said, okay. He said that. What more do you want?"

The defendant asked for a stipulation that the officer didn't know the difference between a helmet and a baseball cap. The court said, "No. I think he does know the difference. That's fundamental to the entire issue here."

Defendant: "Yes, your honor. And I'm trying to find out what the difference is."

Court: "You're not going to get it from this witness. Nor does his opinion necessarily count."

Defendant: "Your honor, his opinion is the foundation of the citation . . . the reason that I'm here."

Court: "He's trying to enforce the law, okay, as he knows it to be, alright. And he's giving you why he said he gave you a citation, because you were wearing a baseball cap not a helmet."

Defendant: "And what I'm trying to do is show the court that he doesn't know the difference relative to 2-7-8-0-3 or to 2-7-8-0-2. I'm trying to find out if he can describe the difference."

Court: "You're not going to do any good with him on that. His opinion is not going to matter to me. So, at this point it's not relevant. I've allowed it and I understand part of your argument, but it doesn't make any difference to me, okay? What makes a difference to me is what the law says. And if the law says it's defined like this, and there's nobody who can tell based on the definition, based on the definition of what a helmet is, that's one thing. It's quite another thing to say a baseball cap, as described, as cited for by this officer, is against the definition of a helmet, alright? Those are issues that are legal. His opinions are not going to help you on that."

Defendant: "I'm confused how we don't have a definition of a helmet but we know that a baseball cap doesn't fit it? That's what I'm hearing. I'm not being flip. I'm just trying to understand."

Court: "(recording is bad) . . . said from early on is that this is a fundamental issue, that you might be able to argue the point about what a helmet is when you hold up the second item there (a 4" diameter plastic helmet) with the straps hanging from it and everything, maybe there's an argument there. In fact the one officer said he wouldn't even give you a citation for it. But the point that I'm making to you is, as I understand the people's position, is that there is a fundamental difference between a baseball cap and a helmet."

When asked, Martin said that he would have issued a citation for the ultra-light helmet (the 4" diameter model") that CHP Officer Ulrich said he would not have cited me for, and when asked why, said something about it not offering protection (an other indication of the coaching by the prosecutor).

(continued on next page)

vs.

DEFENDANT/APPELLANT (Name): Richard Quigley

3. a. (witness testimony continued):

Defendant inquired about whether or not the officer would have cited him for any of the other devices that were on the counsel table, and the officer said something about inspecting the helmet.

Defendant: "Why would you inspect the helmet?"

Martin: "To see if it has the appropriate straps (garbled) . . ."

Defendant: "What appropriate straps?"

The court would not let the defendant get testimony from the officer which would have established the officer's belief that one of the main reasons he did not believe the defendant was wearing a helmet was because what appeared to be a baseball cap, did not have a chin strap; and nothing in the statute requires that a helmet have a chin strap. Court: "We're not going to do any of that. It doesn't help me here, what this officer thinks the law is or isn't. We're just not going to get anywhere on that."

Defendant asked what evidence the officer had, beyond its appearance, that what he was wearing was not a helmet. The court would not let the defendant get the answer.

The court informed the defendant that the audio recording was fouled up because the machine was shutting off (which is now painfully obvious — I'm having to reconstruct from mostly memory this statement).

The next witness was called.

(See other attached Proposed Statements on Appeal)

**FINDINGS OF THE COURT**

4. The court determined I was guilty and assessed a fine of: SEVENTY-SEVEN DOLLARS

5. Number of pages attached \_\_\_\_\_

Date November 26, 2001

Richard Quigley



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(TYPE OF PRINT NAME)

(SIGNATURE OF DEFENDANT/APPELLANT OR ATTORNEY)