

<p>ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, state bar number, and address): Richard Quigley, Defendant/Appellant, pro se 2860 Porter Street, pmb #12 Soquel, CA 95073 TELEPHONE NO.: 831-685-3108 FAX NO.:</p>	<p>FOR COURT USE ONLY</p>
<p>ATTORNEY FOR (Name): NAME OF COURT: Superior Court of California, County of Santa Cruz STREET ADDRESS: 701 Ocean Street MAILING ADDRESS: 701 Ocean Street CITY AND ZIP CODE: Santa Cruz, CA 95062 BRANCH NAME:</p>	
<p>PEOPLE OF THE STATE OF CALIFORNIA vs. DEFENDANT/APPELLANT (Name): RICHARD QUIGLEY</p>	
<p>PROPOSED STATEMENT ON APPEAL (Infraction)</p>	<p>CASE NUMBER: Sup. Ct. #00089880</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 DEPUTY PIFFERINI

The audio tape was mostly unintelligible, so by combination of reference to the portions of the tape that can understood, and memory, defendant constructs the following:
 Pifferini was sworn and took the stand.

DIRECT:

Pifferini 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.

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

The prosecutor asked Piffereini, “based on your (his) training and experience,” to define a helmet. The first thing out of Pifferini’s mouth was “something designed to protect your head” (surprise, surprise).

A discussion ensued between the defendant and the court about what testimony was relevant, and to what. The court explained that the officer did not need to know the law. All he had to have was an opinion that there was a difference, and that contained in that opinion was some reference to whether or not one or the other provided “adequate protection” – (as if the opinion of someone not expert in what constitutes “adequate protection” had anything to do with anything).

CROSS:

In preparing for questioning, the defendant was unclear as to which citation he was being faced. During the course of that conversation, the defendant imparted that he was only dealing with six of the more than 20 citations that had been issued to him . . . indicating that better sense had prevailed on the other dozen and a half.

Both parties and the court had a discussion of the change in the complaint (citation) a year earlier being changing the charge from 2-7-8-0-3-a, to 2-7-8-0-3-b – agreeing that they had been changed from the original citation. The court preserved the defendant’s renewed objection to the manner in which the change in the “complaint” was made.

Defendant attempted to question the officer as to whether or not he had written the citation based on information derived from the “Quik Code” – the legal challenge being that the Quik Code calls for a rider to wear an “approved helmet,” which would explain why the ticket was improperly issued . . . on a mistake of fact. The court said it wouldn’t make any difference if the defendant had been cited for violating the law as defined in the Quik Code, as opposed to violating the law as defined in the Vehicle Code, and insisted that the defendant move on to some other line of questioning.

The defendant tried to get the officer to explain which, if the defendant were to wear any one of them, of the helmets on the table in front of the defendant, could have prevented him from violating the helmet law. The officer continued to say, “I don’t know,” obviously evading the question so as to conceal his lack of knowledge as to what constitutes a compliant helmet.

The court supported this evasive tactic, stating: “He’s saying ‘I don’t know.’ He’s not going to give you a yes or no answer. He obviously doesn’t want to be pinned down as to that, and technically it probably isn’t (tape distorted) . . . I don’t know what his reasons are, but go ahead and ask the next question.”

When the defendant asked Pifferini if he had had a conversation with the prosecutor during the earlier break, Pifferini lied. First he claimed that he talked with the prosecutor about another case that was supposedly upcoming, then he lied, or withheld the truth, about the prosecutor telling him about what had transpired in the courtroom while he was excluded.

The defendant moved to impeach the witness, calling for a Pitchess motion to show a history of testilying. The court found the defendant’s challenge of Pifferini’s testimony “inappropriate” – threatening to adjourn the proceedings if the defendant did not acquiesce.

Defendant asked Pifferini to define a helmet. Pifferini responded: “Something that protects you.”

When asked about what the helmet was supposed to protect, and from what, Pifferini said that it was supposed reduce the impact to protect a rider’s head. Defendant asked the officer to describe what, if anything, about riding a motorcycle that would pose a threat to the head. The court interrupted stating that the inquiry was irrelevant. The defendant urged that the best protection for a motorcyclist’s head was to say out of an accident – which, the defendant concluded, had been the way he had protected himself for over forty years– and the defendant was looking for an admission that a helmet might actually cause an accident.

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3. a. (witness testimony continued):

Pifferini said he had had "zero" training with respect to enforcing the helmet law.

(The audio recording is so badly mangled, it is hard to tell if anything else of importance was said.)

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)