

2 Bikers had 4 cops surrounded

Tuesday June 9, 2009 Don Blanscet was riding his Harley Eastbound on Greenback Lane in Citrus Heights. Don was next to a Citrus Heights PD car and noticed that the car had ended up behind him, but since we had worked through CHPD on a helmet ticket 3 years ago, which nearly stopped all helmet tickets, he was surprised to see the lights flashing and hear the siren chirp twice.

The officer (Oleson) had radioed a motorcycle officer (Lewis) for advice, and Officer Lewis gave the green light to stop him, even though it was based on a verbal description of Don's helmet. So since the cop insisted on pulling Don over for the helmet, they found themselves in an out of the way parking lot, with Don's bike in a legal parking space. Officer Lewis showed up seconds later.

Oleson had to inform Don it was the helmet that was the reason he was stopped. Don insisted his helmet was legal, because it was certified by the manufacturer. Then Don demanded to have the Watch Sgt. called to either supervise or reverse the officer's transgressions. As Sgt. McVay was called, Don was on the phone to me, so I high tailed it to the scene; if there are tickets being written for "non-compliant helmet" then I want mine, too.

There were 3 of Citrus Heights' "finest" on scene as I parked. I immediately turned on the digital recorder, asked who was the arresting officer and asked if the Sgt. had arrived yet. Not much later, Sgt. McVay showed up, and the full blown party was in process.

After discussion about the helmet ticket 3 years ago, and asking to talk to the officer who was Sgt back then, the groundwork had been laid to get them wondering what went on between me and Sgt. Mattke in 2006. They spent 18 man-hours in court chairs back then, and that was on a ticket for what they decided was a "baseball cap."

The arresting officer (Oleson) had finished getting Don's signature and asked for my license, registration and insurance while I schooled the supervising Sgt on why he was wrong to think they had "Probable Cause" to arrest (ticket) us. Oh, he argued, and suggested we wear helmets that are "normal" instead of these "non-compliant" CD sized helmets that can be slid into a back pocket after dropping the kickstand. I reminded him that since the manufacturer's certification of compliance was on our helmets (commonly called a DOT symbol) and quoted from the Buhl v Hannigan decision that he can't tell by looking at a helmet if it is fabricated properly, we were legal. Buhl goes on to explain all that is required of the rider is to wear a helmet bearing the manufacturer's certification of compliance.

Meanwhile Don was suggesting there would be a case of "Selective Prosecution" if the second ticket (mine) was not issued. Sgt McVay said we needed to do better at complying with the law until the state changes it. I explained that the state *had* changed it by drastically limiting how he could enforce it, but he was obviously not listening to the Judicial branch of state government. Sgt. McVay must have heard enough to want to investigate our words.

McVay hurried off to another call. So he says. Less than 10 minutes later he was on Officer Oleson's cell phone telling him to put Don on the phone, get Don's ticket back, and to not let me sign my ticket. He put the brakes on. Sgt. McVay had checked case law and said Don was right regarding helmet

enforcement and that Officer Oleson was going to void both tickets. McVay said all Don had to do was give his copy of the ticket back to officer.

Of course Don told Oleson once the ticket was signed and the yellow copy was handed to Don, it was Don's property and the officer was not allowed to see it without a Warrant. It was safely tucked away in Don's saddlebag. "There is a procedure for pulling a ticket back, and your Sgt knows what it is," Don boomed.

Officer Oleson handed my license and papers back, but when I said, "Hey you forgot to give me my yellow copy of the ticket" he simply shook his head "no" and walked away.

Have you ever heard an officer say "please" while begging to void your ticket? Don has. Have you ever heard a Watch Sgt. apologize for writing a ticket and admit he made a mistake? Well, you can hear Don talking to McVay on Oleson's phone on the audio recording of the last 30 minutes of the traffic stop on the "Resources" page, as McVay "Mans Up" to his error.

Blanscet and Temple had just conducted what I like to call a Roadside Seminar. In what took just under 45 minutes, we made the helmet law "battlefield" geographically smaller and made an entire Police Department conform to the new, friendlier CHP helmet enforcement policy. No expense or time involved in a trial. No lawyer screwing things up. A department with **no** written policy on enforcement became a department **with** a written policy. And the apology can be read on www.boltofca.com

Knowing the content and concepts on the BOLT website and carrying a digital recorder when you ride will help you to know and protect your Rights. And since all of the progress against the helmet law has been made through the courts, you should use the court decisions to keep your local Officers from overstepping their authority. I consider it my duty as a Citizen.

Nothing can be implied in law; everything must be written word for word into the law, so people can read and understand it. If an officer in your neighborhood is enforcing his idea of what is "safe" instead of enforcing the law, there is no objective standard. Without an objective standard, it is ad hoc and arbitrary, which is the foundation of vague law; vague law is unconstitutional.

I hope you enjoy the documents and audio available as a result of this traffic stop, but more than that I hope you decide to read every word on this website and have fun with becoming a little more Free.

Mark Temple
BOLT of California