

(SEATBELTTICKET12272012TRIALBYDEC5202013)

STATEMENT OF FACTS (item 6. Declaration of Facts for page 2 of Trial by Declaration Form)

DESCRIPTION OF INCIDENT ON 12-27-2012

I was traveling North on Milliken on the Western side of the Ontario Mills Shopping Center on 12-27-2012. I was in one of the central lanes (not in the far right nor in the far left lane) although I was planning to eventually turn East on Foothill.

I believe that I was near the Concours street entrance to the mall when I saw the blue/red dome lights of a police car in my rear view mirror. I was not driving erratically, I was not weaving, I was not driving unsafely. I was not speeding and probably more importantly, I was not driving too slowly which might cause other drivers behind me to become frustrated which could easily become a safety issue. The only thought that occurred to me was that I was being stopped for a repair ticket because my right headlight low beam had failed two days earlier and I had been driving with my high beams actuated until I could get the headlight replaced. I immediately drove as safely as I could, trying to avoid traffic behind me, and stopped my vehicle and waited for the police officer to explain why he had stopped me. See 1 page attachment of a Mapquest map showing the general area. I don't know exactly how Officer Lepe's vehicle was positioned when he claims to have seen me not wearing my seat belt. He could have been going East on I.E. Blvd. or West on Mall Dr. or West on I.E. Blvd. (just North of Ontario Mills Pkwy.). In any of these positions, he would have had to have turned North on Milliken. If he were the lead car at these intersections, turning right would not have been too much of a problem. In the one case above where it would have required a left turn on his part, this could have been a problem without help from the stoplight.

When Officer Lepe approached my driver's side door, I thought it strange that he immediately, before looking at me in the eye and saying anything, looked down at my unattached seat belt. He then announced that the reason that he stopped me was for my failure to have my seat belt attached in accordance with the vehicle code. He then asked me if I knew that I had my "brights" on. I related to him the information already stated above and told him that I did not want to run the risk of being stopped by the police by having only one of my low beam headlights on. For the couple of nights involved until I could get the headlight replaced, I elected to drive with my brights on. At no time from the instant that I noticed the colored warning lights to the time that our roadside meeting was ended did Officer Lepe turn on his vehicle spotlight.

GENERAL CONSIDERATIONS

I received this ticket at about 9:30PM on 12-27-2012 which was only 6 days past the Winter Solstice (12-21-2012). The Winter Solstice is known for being the start of Winter and having the least sunlight of the year. It probably started getting dark around 4PM

that day. My point is that at 9:30PM when Officer Lepe stopped me, it was probably about as dark as it was going to be that evening.

Officer Lepe indicated that he stopped me (data on the ticket) on "Milliken Ave C/OF Inland Empire". I have no idea what he meant by C/OF. It can be seen from that attached map, that Inland Empire intersects Milliken at two different locations. Although it is not critical as to the exact spot that he stopped me, at no time did his vehicle appear to approach mine closely from the rear or the side so that he might have a better view inside my car to ascertain if I was wearing a seat belt. Even when he turned on his warning lights, he was still at least 1-2 car lengths behind me.

CONCLUSIONS/DISCUSSION

Your Honor, to get right to the point, I have strong doubts that Officer Lepe actually saw me driving my vehicle without my seat belt attached lawfully according to the vehicle code. I firmly believe, based upon all of the above, that he saw my vehicle pass by one of the 3 possible intersections mentioned above and saw that my bright lights were on and decided as a minimum, to cite me with a repair ticket. When he arrived at my front window and saw that my seat belt was not buckled, he changed his direction as I related above.

A very important criterion that I am using, Judge, is the fact that it is extremely difficult, if not impossible for me to determine if someone else in some other vehicle is driving with their seat belt on—*at night!* If I have my bright lights on (as I did for several evenings) and I come up within several feet of the bumper when stopping at a stoplight, it is possible *only if* they don't have their rear window tinted. For the record, Officer Lepe's vehicle was never directly behind mine at any stoplight. If this were the case, how could he have known that my bright lights were on? He must have been approaching Milliken from one of the intersections at a 90 degree angle and I seriously doubt as to whether he could have determined that I was not wearing my seat belt for the very short time when I was passing by the intersection in the central lane(s) on Milliken. In the past few years, I have received 2 seat belt tickets, but both were in the light of day where it is relatively easy to determine if a driver has his seat belt attached. I have never before received a seat belt ticket at night because of the obvious difficulty in making this determination when visibility is relatively poor.

I have attached one sheet which lists the first 4 amendments to the U.S. Constitution. I would like to direct your attention, which is the main part of my defense, to the Fourth Amendment:

"The right of the people to be secure in their *persons*, houses, *papers* and *effects*, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized."

I have also attached a 2-page email from a CHP representative in Sacramento who confirmed to me several weeks ago that Officer Lepe, like all new CHP officers, must swear an oath to both the Constitution of the U.S. and the California Constitution.

Judge, since I was not hurting anyone or driving irresponsibly, the act of a police officer stopping me is certainly a violation of his oath to protect the U.S. Constitution and my rights under the 4th Amendment. I would have understood if he had just given me a repair ticket for the headlight.

Since I have 2 engineering degrees, I have taken more than one course in statistics. I would strongly question the results of any traffic safety study which tries to conclude that wearing seat belts is safer than NOT wearing them. I have always found that wearing a seat belt is an impediment to trying to turn my body while at the wheel in order to see if someone is in my blind spot when I intend to change lanes. Based upon my experience behind the wheel for 49 years, I believe that most other people are just lazy and rely solely on their rear view mirrors which often leads to side-to-side collisions. In just the last 3 weeks, I was almost the victim of a serious collision on 4 different occasions when the other driver did not see my car because he was relying on his mirrors. I am sure that no statistical study takes this possibility into account. Even if report makers tried to take this into account, how would they generate data on accidents that did not happen? The question quickly becomes, Your Honor, how can I in good conscience fasten my safety belt if I strongly believe that it will not increase my safety but, instead, will actually encourage the opposite effect? It is up to me to provide for my own safety, not Officer Lepe and the "nanny state" government supervisors who give him his orders. If I had to find them, I know that I could produce various Supreme Court cases that clearly state that the police have no charter or responsibility to protect individual people.

Your Honor, in view of the constant degeneration of our individual rights that are supposed to be protected by the U.S. Constitution and the Bill of Rights, the whole idea that I could be given a citation because Officer Lepe or the California General Assembly thinks that they know better how to provide for my safety than I do is absolutely outrageous. This is the type of intrusion that is so offensive when we are so close to losing our country due to other federal government actions (especially the Federal Reserve). Officer Lepe's action, while giving him his perceived appearance of merely enforcing the law, actually makes it appear to me and others that he is simply a bagman or revenue agent for big government

I am not asking or expecting you, Your Honor, to change any laws for my benefit. However, in the interest of fairness, I am asking for your consideration in dismissing this case because not only is the seat belt law a bad law, it makes all of the people that I *want* to respect, i.e., the police, the courts, the legislature, etc., appear to have "feet of clay".

Thanks for your review and honest assessment of my remarks.