

1 Michael V. Pelletier, *pro per*
2 543 Bluefield Drive
3 San Jose, California 95136-2009
4 Phone: (408)723-2741

5 Craig W. Irwin, *pro per*
6 20415 Hunters Hill Road
7 San Jose, California 95120
8 Phone: (408)464-1042

9 **SUPERIOR COURT OF CALIFORNIA**
10 **TRAFFIC DIVISION**
11 **CITY OF SAN JOSE, COUNTY OF SANTA CLARA**

12 **PEOPLE,**) Case No.: **H02536833, H02536834**
13)
14 Plaintiff,) **TRIAL CLOSING STATEMENT**
15 **v.**)
16) November 1, 2001
17 **PELLETIER, MICHAEL VINCENT &**)
18 **IRWIN, CRAIG WESELY,**) **Comm. Deborah Ryan, Dept. 99, presiding**
19 Defendants)
20)

21 **DEFENDANTS' STATEMENT**

22 "Liberty" is defined as "the power to do as one pleases, the power of choice."¹ "Freedom" is defined as
23 "the absence of necessity, coercion, or constraint in choice of action."²

24 Volume 11 of *American Jurisprudence* expands on these basic definitions as follows:

25 Personal liberty largely consists of the right of locomotion – to go where and when one
26 pleases – only so far restrained as the rights of others may make it necessary for the welfare of all
27 other citizens. The right of a citizen to travel upon the public highways and to transport his
28 property thereon, by horse-drawn carriage, wagon, or automobile, is not a mere privilege which
29 may be permitted or prohibited at will, but a common right which he has under his right to life,
30 liberty, and the pursuit of happiness. Under this constitutional guaranty one may, therefore, under
normal conditions, travel at his inclination along the public highways or in public places, and

¹ Merriam-Webster Collegiate Dictionary, Online Edition, <http://www.m-w.com/>

² *Ibid.*

1 while conducting himself in an orderly and decent manner, neither interfering with nor disturbing
2 another's rights, he will be protected, not only in his person, but in his safe conduct.³

3 Protected, in other words, from being subject to arrest and fines for the *malum prohibitum* "crime" of
4 traveling along the public highways seated in a pickup truck, while restrained in a similar manner to a
5 motorcyclist.

6 It is absurd that the compelling state interest in saving lives and promoting the public welfare *cannot* be
7 applied against the liberty interest to force a competent individual to accept a blood transfusion to prevent their
8 *imminent and certain death*,⁴ but *can* be applied in prohibiting an activity that is, by virtue of the surrounding
9 steel of the pickup bed, arguably less dangerous than riding a motorcycle.

10 It is also absurd that even a *prisoner* in California should have the right to refuse State measures intended
11 to benefit his health and physical well-being,⁵ but a free adult citizen, traveling the state's roadways in an orderly
12 and decent manner, *should not*.

13 Our own Ninth Circuit Court of Appeals, in the characteristically august language of the court, described
14 this type of policy as "paternalistic" when enforced by an employer.⁶ How much more so, when enforced by the
15 very government that is charged with defending our liberty?

16 The U.S. Supreme Court stated, "it is the duty of courts to be watchful for the constitutional rights of the
17 citizen, and against any stealthful encroachments thereon. Their motto should be *obsta principiis*,"⁷ or in other
18 words, "nip it in the bud." This duty, and motto, should be as binding today as it was 115 years ago.

19 We reaffirm our "not guilty" plea as an assertion of the supremacy of our own will, and as a dispute
20 against the authority of government to interfere with its exercise,⁸ and pray that this court will act to uphold the
21 timeless principles of individual liberty set forth by the Supreme Court and the Constitution of the United States.

22
23 We thank the court for its consideration of this matter.
24

25 ³ 11 Am.Jur. Constitutional Law §329

26 ⁴ *Fosmire v. Nicoleau*, 144 A.D.2d 8 (1989), 536 N.Y.S.2d 492 (1988)

27 ⁵ Cal. Penal Code §2670 *et seq.*

28 ⁶ *Echazabal v. Chevron USA, Inc.*; 226 F.3d 1063, 18 NDLR P 54, 00 Cal. Daily Op. Serv. 7915 (2000)

29 ⁷ *Boyd v. United States*, 6 S.Ct. 524, 116 U.S. 616, 29 L.Ed. 746 (1886)

30 ⁸ *Jacobson v. Massachusetts*, 197 U.S. 1904; 25 S.Ct. 358; 49 L.Ed. 643 (1905)

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Dated this 1st day of November, 2001

By: _____

Michael V. Pelletier
543 Bluefield Drive
San Jose, California 95136

By: _____

Craig W. Irwin
20415 Hunters Hill Road
San Jose, California 95120