

Oakland Traffic Court Clerk
Superior Court of California
County of Alameda

Wiley W. Manuel Courthouse
661 Washington Street, 1st Floor
Oakland, California 94607

Telephone: 510 627 4701

Thursday, 23 April 2009

Traffic Citation Number: 91485

Citing Officer: Gomez, No. 131, City of Berkeley Police Department

Re: Inability to Appear

Dear Sir/Madam,

On April 13, 2009 I was cited by Officer Gomez for running a stop sign while on my bicycle. As I find this citation unreasonable and unnecessary I would very much like to contest it. Unfortunately I will likely be leaving the United States before the 30-day waiting period has expired and do not know when I will be returning to the United States. Should I return, there is also a very good chance that I will not return to the State of California.

As I do not feel that I am guilty of a reasonable infraction of the law, and it is not my desire to be persecuted by the Superior Court of California for failure to pay what I believe to be an unreasonable charge, I am seeking your good advice and counsel.

Sincerely,

Roddy Stegemann
moogoonghwa@mac.com

On the Reasonableness of Punishing a Cyclist for Not Coming to a Complete Stop at a Residential Intersection

Officially Cited as Failure to Stop at a Stop Sign

On Monday, April 13, 2009 I was stopped by Officer Gomez and cited for failure to stop at a stop sign.

This citation was received on Addison Street, a residential street that connects the headquarters of the City of Berkeley Police Department with the West Campus Swim Center. The offense took place at the corner of Addison and Grant Streets -- approximately 20 yards from my residence at 1808 Addison Street. According to the officer's citation I was traveling at an estimated speed of 10 mph on a silver TREK mountain bike. The arresting officer's stated reason for my arrest was my failure to stop at a posted stop sign.

In fact, the bicycle that I own and was riding at the time is a 7.2 FX TREK bike -- a bicycle designed for bike paths and city streets -- not a mountain bike. Moreover, the distance between my residence and the corner of Grant and Addison Streets makes the officer's estimate of my speed of travel unlikely, if not impossible. This is especially true in light of the fact that we had both slowed.

The intersection where the alleged infraction took place is a four-way stop with a turn-around. In addition, there are clearly marked crosswalks (two widely separated parallel lines) in all directions. There are few, more safely constructed intersections.

As I approached the intersection I saw Officer Gomez's car. We both slowed, I nodded to the officer for yielding the right-of-way, and past in front of him. Shortly, thereafter I was stopped and cited. During the citation I was told my Officer Gomez that he was not obligated to cite me for failure to stop, but that he felt that it was necessary. because I had caused him to stop. Another officer who arrived later at the scene explained that cyclists are subject to the same rules of the road as motorists.

My motivation for contesting this violation is the reasonableness of the citation -- not my failure to stop.

1. Both Officer Gomez and I slowed as we approached the intersection. Only after I noted that the officer had slowed his vehicle did I proceed. Moreover, as I proceeded I nodded my head in a gesture of appreciation for the officer having indicated that he was prepared to yield the right-of-way. This same sequence of events occurs at nearly every intersection in the city at which there is no light and cross-walks are clearly visible. In effect, I did nothing that I and other bicyclers do not do every day on the streets of Berkeley.

My bicycle is my sole means of transportation, and I ride it nearly ever day -- often more than once. I have never been involved in an accident on my bicycle. Nor have I witnessed an accident involving a cyclist since my having arrived in Berkeley in July 2008. In effect, I have made many hundreds of journeys on my bicycle without incident. My behavior on the day of the incident was normal.

2. Officer Gomez's claim that my forcing him to stop was compelling reason for him to cite me is questionable on several accounts:
 - 2.1. At a four-way stop everyone is compelled to stop. Under the assumption that California rules of the road are similar to those of other US cities in which I have lived, the first to arrive at a four-way stop has the right-of-way. Officer Gomez and I arrived at the intersection simultaneously. Both of us were required to stop. Officer Gomez's claim that my passing in front of him caused him to stop unnecessarily is questionable.
 - 2.2. Although it is customary in most US cities that the person to the right has the right-of-way when two vehicles arrive at an intersection simultaneously, I was not driving a motor vehicle. Accordingly, it is also customary in most US cities that motor vehicles yield the right-of-way to pedestrians and cyclists

at cross-walks.

Admittedly I was still on my bicycle as I proceeded through the intersection. Nevertheless, I was prepared, as I am always prepared, to dismount and walk at a crosswalk when pedestrians are present. As there were no pedestrians present, this did not appear necessary. Important is that my behavior is common practice among cyclists both in Berkeley and other US cities where I have ridden a bicycle.

2.3. Even after several days I could not understand Officer Gomez's motivation for having cited me. As a result, I inspected the intersection and discovered the following:

2.3.1. The stop sign that would have compelled Officer Gomez to stop by law was poorly visible and could have easily been missed by someone more concerned with approaching traffic than the presence or absence of a posted sign. Is it not possible that Officer Gomez believed that he was not obligated to stop, when in fact he was?

In effect, rather than punishing me for the officer's mistake, would it not be better to advise the City of Berkeley to make the stop sign more visible. See photo exhibits.

3. Although cyclists, when on the road, are subject to the same rules of the road as motorists, their behavior should not be judged in the same way as the drivers of motor vehicles:

3.1. A car traveling at the same speed as a bicycle has the potential to create far more damage than does the bicycle. A car weighs many thousands of pounds, bicycles can sometimes weigh a fewer number of pounds than one can count on fingers and toes.

3.2. Cars and bicycles differ significantly in terms of the mechanical and physical effort required to stop and start them. Whereas the mechanical effort required to stop and start a motor vehicle is many times greater than that required to stop and start a bicycle, the physical effort required is very little. In contrast, restarting a stopped bicycle requires a significant amount of physical force that the driver of a motor vehicle is not required to apply.

3.3. Because of their exposure to the elements cyclists are generally far more aware of traffic conditions than are the drivers of motor vehicles who are sheltered by tinted glass, shock absorbers, and various other accoutrements not generally available to cyclists.

4. It was a very secure intersection with no pedestrian traffic and a cross-walk. Motorists are normally required to yield the right-of-way at cross-walks. There was nothing unsafe about my behavior.

5. Finally, Officer Gomez signaled no sign of emergency until after I passed through the intersection. There was no siren, no flashing lights; in short, there was nothing to indicate that Officer Gomez's vehicle should have been treated differently than any other motor vehicle.

In summary, although technically I broke the law, the citation was unreasonable, as I posed no threat to myself, Officer Gomez, nor the community. Moreover, my behavior was neither abnormal, nor unreasonable based on the conditions at the time of arrest.