

OVERVIEW OF STOPTHECOP.COM **PROCEDURES TO WIN YOUR CASE**

STEP ONE: ARRAIGNMENT:

Listen to the audio until you can recite it by memory. Use this at your preliminary hearing. Role play and practice if necessary, as following this process is *crucial* to your success. Keep in mind, you are your own lawyer. This method was designed for traffic violations, but has been used for other tickets, such as a loose dog that injured no one.

Have the motions for preliminary hearing prepared and ready for presentation to the judge as necessary. These are the motions to Protect and Observe all of the accused Legal Rights, and to compel the court to identify itself. (See pages 5-6) Your case will hopefully be dropped right here. If it is, drop us an email and tell us about it.

STEP TWO: MOTIONS

If you get a judge that has no regard whatsoever for the law, he will enter a plea on your behalf and set a trial date. At that time, either set a date for a motions hearing, or mail by certified mail with a third party completing the proof of service, all motions (assuming all apply to your situation, which they probably will.) Do all motions even if you served the first two motions at the time of the arraignment. (See pages 4-10)

STEP THREE: TRIAL

Go to trial, with the proper motions and list of questions to ask the cop. (See pages 11-15). Be prepared by reviewing all of the trial information in the packet.

STEP FOUR: APPEAL

Get the appeal paperwork from the court clerk. Follow the appeal process in a timely fashion. You will probably have to post an appeal bond. Request a transcript of the court case at this time. There will probably be a small fee, but it is worth its weight in gold. Follow appeal process pages 16-17. Your appeal should be successful, your case dismissed, and your payment refunded. If your appeal is not successful, see your money back guarantee (page 18) for the process to receive the refund of your investment in the StopTheCop.com program. If you are successful at any stage, please let us hear from you, by sending an email to info@stopthecop.com

MOTIONS:

Have the first two motions with you at your preliminary hearing, prepared to give them to the judge when they are appropriate. Motions you will present at your preliminary hearing are: Motions to Protect and Observe All of the Accused's Legal Rights (how can they say no to that!!!), and Motion to Compel the Court to Identify Itself.

Motions can be made orally, or in writing. However, it is recommended that you make them orally while giving a written copy, and keeping written copies for yourself. Have at least three copies with you at all times: one for you, one for the judge, and one for any prosecutor that may be present. Only offer one copy to the judge, and give out the second copy only if instructed to do so.

If your judge refuses to honor the law and sends your case to trial by entering a plea on your behalf, you will ask for a motions hearing, or prepare and mail (by certified mail with a proof of mailing completed by a third party) additional motions. These will be the Motion to Strike Pleading, Motion to Recuse the Judge, Motion to Dismiss the Case, and possibly the Motion to Continue (use this only if your judge is claiming a Statutory Jurisdiction).

Refer the sample motions attached, and just fill in the required information if they fit your case.

To deliver your motions: Simply take them with you if you are granted a motions hearing. Otherwise, you have the option of hand carrying or mailing your motions to the court. If you hand carry them to the court clerk, take an extra copy with you that you have the clerk stamp to serve as proof that the original was served on the court. This way the court cannot deny that they received them. If you mail them, have a disinterested third party (ie: neighbor, friend, anyone not part of the case) do it by certified, return receipt mail with a certificate of mailing, as per the attached example. (See page 3) Fill in their address, the name of the motions, the name and address of the court naming the judge by name, and complete the location, date, and signature at the bottom. Keep a copy for yourself. This will prevent the court from claiming that all you did was mail an empty envelope.

PROOF OF SERVICE

I am an American Citizen, over the age of 18 and am a disinterested 3rd party, not a party to this action. My postal location is:

On the date below, I served by certified U.S. Mail the following documents described as:

on the interested parties to this action as follows:

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true, correct, and complete.

Executed at

Dated:

Signed: _____

THIS IS A SAMPLE MOTION. CHECK WITH THE COURT CLERK IN YOUR STATE TO LEARN THE PROPER FORMAT FOR PREPARING YOUR MOTIONS. READ THEM ALL TO MAKE SURE THAT EVERY WORD APPLIES BEFORE USING THEM IN YOUR CASE (Especially in the Motion to Recuse. Fill in the judge's first and last name in the space)

STATE OF _____ COUNTY

Name of Court Here (Example: Superior court of ___ county)
Branch name of court here, if applicable (Example: Northern Branch)
Street address of Court Here
City, State, and Zip Code of Court here

PROSECUTORS: The State of (your state here)

CASE NUMBER _____

Vs

ACCUSED: (Your Name Here)

MOTION TO Protect and Observe All of the Accused's Legal Rights

Now comes the accused, (your name here), respectfully requesting this court to: Protect and observe the accused's constitutional rights, his right to a fair trial, his right to due legal process, his rights given the accused in appropriate rules of court procedure for this jurisdiction, and his rights that are specified in the Bill of Rights; and to notify the accused, sua sponte, in all pursuant court proceedings, whenever any of his rights are at risk of being waived or compromised, and to identify to the accused exactly which right is at risk.

This motion should be granted because:

1. The accused insists that his rights be protected and observed in all court proceedings.
2. The accused has opted to exercise his right to proceed in propria persona with this case.
3. The accused is aware that the judge has sworn to uphold said rights by virtue of taking his oath of office.
4. The accused has observed the judge's dedication to impartiality.

Respectfully submitted,

Your Signature Here

Type your name here, In Pro Per
Type your street address here
Type your city, state, zip here

STATE OF _____

_____ COUNTY

PROSECUTORS: The State of

CASE NUMBER _____

Vs
ACCUSED:

MOTION TO Protect and Observe All of the Accused's Legal Rights

Now comes the accused, _____, respectfully requesting this court to:

Protect and observe the Accused's constitutional rights, his right to a fair trial, his right to due legal process, his right to know the jurisdiction under which the court is operating, his right to have all evidence against him placed before the court, his rights given the accused in appropriate rules of court procedure for this jurisdiction, and his rights that are specified in the Bill of Rights; and to notify the accused, sua sponte, in all pursuant court proceedings, whenever any of his rights are at risk of being waived or compromised, and to identify to the accused exactly which right is at risk.

This motion should be granted because:

1. The accused insists that his rights be protected and observed in all court proceedings.
2. The accused has opted to exercise his right to proceed in propria persona with this case.
3. The accused is aware that the judge has sworn to uphold said rights by virtue of taking his oath of office.
4. The accused has observed the judge's dedication to impartiality.

Respectfully submitted,

, In Pro Per

STATE OF _____

_____ COUNTY

PROSECUTORS: The State of

CASE NUMBER _____

Vs

ACCUSED:

MOTION TO Compel the Court to Identify Itself

Now comes the accused, _____, respectfully requesting this court to:

Identify whether it is a civil court, or a criminal court. If criminal, accused respectfully requests to know which of the two criminal jurisdiction authorized in The Constitution of the United States this will be: under the common law, or under Admiralty jurisdiction.

This motion should be granted because:

1. The accused insists that his rights be protected and observed in all court proceedings
2. The accused has opted to exercise his right to proceed in propria persona with this case.
3. The accused has a right to know the identity of the court so that he knows which rules of procedure apply so that he can properly defend himself.

Respectfully submitted,

, In Pro Per

STATE OF _____

_____ COUNTY

PROSECUTORS: The State of

CASE NUMBER _____

Vs

ACCUSED:

MOTION TO STRIKE

Now comes the accused, _____, respectfully requesting this court to:

Strike the pleading filed by the judge ostensibly on behalf of the defendant, and over the defendant's objections, in the above entitled case.

This motion should be granted because:

1. The accused insists that his rights be protected and observed in all court proceedings.
2. The accused has opted to exercise his right to proceed in propria persona with this case, and it is the accused's job to enter a plea on his own behalf.
3. The accused did not give the judge power of attorney to enter a plea on his behalf, and the judge was illegally practicing law from the bench, and defrauding defendant out of his power of attorney.

Respectfully submitted,

, In Pro Per

STATE OF _____

_____ COUNTY

PROSECUTORS: The State of

CASE NUMBER _____

Vs
ACCUSED:

MOTION TO RECUSE THE JUDGE

Now comes the accused, _____, respectfully requesting this court to:

Recuse Judge _____ from this case.

This motion should be granted because:

1. The accused insists that his rights be protected and observed in all court proceedings.
2. The accused has opted to exercise his right to proceed in propria persona with this case.
3. The judge was illegally practicing law from the bench by defrauding defendant out of his power of attorney by entering a plea on defendant's behalf and over the defendant's objections.
4. The judge failed to identify for the defendant a Constitutionally valid jurisdiction under which this case is being tried.
5. The judge claimed this was a statutory case, and when asked for the Rules of Criminal Procedure for Statutory Cases, the defendant was referred to the Motor Vehicle Code. No such Rules of Criminal Procedure exists with that Code.

Respectfully submitted,

, In Pro Per

STATE OF _____

_____ COUNTY

PROSECUTORS: The State of

CASE NUMBER _____

Vs
ACCUSED:

MOTION TO DISMISS THE CASE

Now comes the accused, _____, respectfully requesting this court to:

dismiss the above referenced case.

This motion should be granted because:

1. The accused insists that his rights be protected and observed in all court proceedings.
2. The accused has opted to exercise his right to proceed in propria persona with this case.
3. The court has failed to identify the nature and cause of the case against defendant. The constitution grants this court two different criminal jurisdictions: one is a criminal jurisdiction under a Common Law, and the other is a criminal action that constitutes a condition of contract under the criminal aspects of a colorable Admiralty Jurisdiction, which is in fact a Military Tribunal of Legislative Venue under color of Constitution Article 1, Section 8, Clause 17. The court has repeatedly failed to identify under which of these jurisdictions defendant is being tried. Because the Rules of Criminal Procedure under a Common Law jurisdiction are very different from the Rules under a colorable Admiralty jurisdiction, defendant needs to know which jurisdiction this court intends to try him under in order to proceed with this case.

Respectfully submitted,

, In Pro Per

STATE OF _____

_____ COUNTY

PROSECUTORS: The State of

CASE NUMBER _____

Vs
ACCUSED:

MOTION TO CONTINUE THE CASE

Now comes the accused, _____, respectfully requesting this court to:

Continue this case until such time as Defendant can be provided a published copy of the Rules of Criminal Procedure under Statutory Jurisdiction.

This motion should be granted because:

1. The accused insists that his rights be protected and observed in all court proceedings.
2. The accused has opted to exercise his right to proceed in propria persona with this case.
3. The accused has a right to know the rules of procedure of the court so that he can properly defend himself.

Respectfully submitted,

, In Pro Per

AT THE TRIAL

Before trial: familiarize yourself with the rest of this package, especially thinking in advance to the appeal process. You want to try to get the judge to make comments that fit into the grounds for appeal. Also, familiarize yourself with the trial questions so that you don't appear to be using a prepared package. You are, of course, allowed to have private notes at your disposal for your defense. Remember, you are acting as your own attorney. In fact, did you know that by the very act of hiring an attorney, you have declared yourself incompetent and a ward of the court?

IMPORTANT: Begin the case with the same routine you did at the preliminary hearing, demanding to know the jurisdiction under which you are being tried, so that you can properly defend yourself. Act as if it is your preliminary hearing all over, and use the audio information you already learned. While you are hoping he will drop the case, as he should, expect the judge to stonewall and demand that the trial begin.

If you didn't previously have a motions hearing, have three copies of each of the motions you had mailed with you, and ask him to rule individually on them. Ask for a continuance until such time as receiving the proper rules of procedure. Be prepared for him to tell you to get a lawyer. Use your same routine from the preliminary hearing. If the judge threatens contempt, use your same line from the audio, but proceed with the case if you must. It is better to proceed with the trial and win on appeal. If the judge has threatened you with contempt for simply asking what is your legal right to know, he has probably given ample grounds for appeal.

Once the trial begins, the "prosecution" will go first. The judge will probably play a dual role as prosecutor (which is one of the reasons why you'll win on appeal), and ask questions to the cop. She is going to answer by telling the story. Example: "I observed defendant traveling westbound on Hwy 32 at 2:35 p.m. Monday August 33, 2004. Defendant appeared to be traveling at an excessive rate of speed. I pointed my radar gun, and determined that defendant was traveling 82 MPH in a 65 MPH zone. I put

on my lights and drove up behind defendant, who pulled to the side of the road. I asked for defendant's license, registration and insurance. I cited defendant with the notice to appear, and we both left the scene."

LISTEN TO EACH WORD, AND TAKE NOTES OF THE TESTIMONY. (Don't trust your memory – after all, being your own lawyer can be a bit nerve-wracking.) It is possible that the judge may only let you directly respond to comments made by the officer. Every word the officer speaks should be challenged if it opens up any of the questions on your list. Ask the provided questions to the police officer, in this order as much as possible. Expect the judge to interrupt and interfere as you attempt to do so. If he does, state, "Your Honor, I'm trying to lay a foundation necessary to my defense. I am seeking to establish that the officer is biased; is involved in a conspiracy to deprive me of my property; and lacked the legal authority to pull me over, make a warrantless arrest, and issue a notice to appear. I am seeking to establish that he is therefore is an incompetent witness as it relates to the issue before the court."

Be aware that these questions and citations are based upon California law and the California Motor Vehicle Code. In your state, you should go to your Department of Motor Vehicles or local law library to obtain a copy of the Motor Vehicle Code, or look it up at www.findlaw.com. Look up the sections numbers that apply and use your state's Code Sections where appropriate.

If the judge only allows questions from the testimony, you still have ample room. Most of the questions below will still be valid. Try to ask each and every one, and move to the next if the judge is objecting. In fact, hope that he objects, because then he is acting as both judge and attorney for the prosecution witness – another ground for appeal. A judge is supposed to be an impartial arbiter, not objecting on behalf of the prosecution!!

TRIAL QUESTIONS TO ASK THE COP:

- Are you an injured party in this case?
- Did you witness me injure any person or property?
- Did you have reasonable cause to suspect I was about to injure you or the person or property of another?
- Do you follow the California Motor Vehicle Code (MVC) procedure on violations involving motor vehicles?
- Upon which code section, specifically, were you relying as your authority to pull me over? Please read that code section for the record. (let her/him read it, then ask: where specifically in that section does it authorize you to pull me over?) (if no answer to original question: then do you admit that you do not have personal knowledge of any authority under the MVC to pull me over?)
- At the time that you began writing the notice to appear, was I under arrest? (If no, ask her if she is familiar with the court case People v Monroe and read the quotation from it into the record)
- Did you read me my Miranda rights? (Or, “at what point did you read me my Miranda rights?”)
- Did you have a warrant for my arrest with my name on it?
- Would you kindly read aloud for the record California Motor Vehicle Code Division 17, Chapter 2, Procedure on arrests, section 40300.5 regarding arrests without warrants?
- Did you have reasonable cause to suspect I was under the influence of alcohol?
- Did you have reasonable cause to believe I had been in a traffic accident?
- Did you have reasonable cause to believe I was obstructing a roadway?
- Did you have reasonable cause to believe I was a flight risk?
- Did you have reasonable cause to believe I was about to injure myself or property if not arrested?
- Did you have reasonable cause to believe I was about to destroy evidence of a crime?
- (If she says no to those six questions) Therefore, do you admit that MVC 40300.5 did not give you the authority to make a warrantless arrest?

- Upon what basis did you believe you had the authority to arrest me? (if she cites anything from the Penal Code, ask her if she is familiar with the court case of People v. Wohlleben and read the provided section for the record, if she cites MVC 40302 read the section of People v Superior Court into the record)
- Do you follow the California Motor Vehicle Code procedure on notice of violations and notice to appear?
- Would you kindly read aloud for the record Section 40600 of the California Motor Vehicle Code regarding reasonable cause for issuance of a notice to appear?
- Since you previously stated that you did not have reasonable cause to believe I was in a traffic accident, do you admit that you did not have authority under MVC 40600 to issue a notice to appear?
- Under which section of the MVC were you relying when you issued the notice to appear? (LET HER ANSWER, and if she gives a MVC code section, say: Please read that code section for the court. (WHEN SHE IS DONE READING: Where in that specific code section does it authorize you to make a warrantless arrest and give me a notice to appear? (IF SHE CITES PENAL CODE, ask if she is familiar with the court case People v. Wohlleben and read the quotation from it into the record)
- (Ask any other question you believe relevant that may have arisen from officer's responses.)
- No further questions.

YOUR CLOSING STATEMENT: Your honor, because the only witness against me did not have the authority to pull me over, make a warrantless arrest, or to issue a notice to appear, I make a motion that this case be dismissed, and that I be legally judged to be not guilty of the crime charged.

If the judge has illegally allowed things to progress this far, expect this motion to be denied and to have to post an appeal bond equal to the amount of your fine. Then get him on appeal.

Court Citations that you may need at your arraignment or trial
(You can access the entire case law by using the citation provided through legal search engines such as www.findlaw.com)

If the judge cites contempt when you ask for your 6th amendment right to know the nature and cause of the accusations:

Miller vs U.S., 120 F 2nd 486,489 (this is a Federal case)

“The claim and exercise of a Constitutional right cannot be converted into a crime”

If the cop says that you were not placed under arrest:

People v Monroe, 12 Cal.App.4th 1174 (this is a California case)

“Where a minor Vehicle Code violation is involved, the arrest is complete when, after an investigatory stop, “the officer determines there is probable cause to believe that an offense has been committed and begins the process of citing the violator to appear in court”

To show that the Vehicle code is civil, not penal

People v Wohlleben, 261 Cal.App.2d 461 (this is a California case)

“The procedure on arrests without a warrant for misdemeanor Vehicle Code violations is that prescribed by the Vehicle Code and not the procedure prescribed by the Penal Code.”

To show that sections of the vehicle code in and of themselves are not enough to be a basis for arrest:

People v. Superior Court, 7 Cal.3d 186 (this is a California case)

“Upon analysis it will be seen that one cannot be arrested on the sole authority of section 40302: “such section is not penal in nature and cannot form the basis for a lawful arrest.” The section by its terms applies only when a person “is arrested for any nonfelony violation of this code” and one of the four specified conditions is met. It thus assumes the violator has already been arrested under a substantive provision of the code, and simply declares the procedure which is then to be followed.”

Instructions for Appeal

Complete the appeal documents provided by the court clerk IN A TIMELY FASHION. The court will not accept a late appeal, so you automatically lose if you are late. Those in the example are taken from an actual successful appeal from the State of California. Make sure that each item applies to your case prior to putting it on your appeal.

You will be required to type in the name of the court, your name, address, case number, and a few basic blanks. In the area for stating the grounds for appeal, type “See Attachment 1” unless you believe it will fit in the space provided. You should type your own Attachment using the sample, however, if every single item in the sample applies to your case, you can fill in the blanks and use it. Complete Attachment 1 by filling in the name of the state, your name, and your case number in the blanks at the top. Under Section (a), fill in the name of your state. In Section (e), fill in the date your motions were signed for by the court. If not every item applies to your case, you will have to retype the sample to omit the items that do not apply.

When you submit your appeal documents, you may do this in person, being sure to get a receipt for them so you have proof that they were delivered. This is best done by having a second copy with you that you’ll keep, that you ask the court to stamp with the date of receipt. You can even take a witness with you. If you chose to mail them, use the proof of mailing process that you used for motions.

Regarding sections (b) and (f), if you are in a different state than California, you may wish to omit the court cases referenced, as they are California law. You can research www.findlaw.com to see if there is similar law in your state, or you can also go to your local law library (your courthouse probably has one free of charge) to do this research. The law librarian can assist you. You can also omit these two points referring to California law if you feel that the remaining reasons are sufficient. Remember, the judge only needs ONE reason to throw out your case – you are providing eight as the attachment currently stands. However, the more reasons you give, the more likely you will be successful.

Section (g) will also not apply to all cases. Make sure that this actually happened in your trial before you list it in your grounds for appeal.

If your transcript proves the judge made statements going to the specific points on appeal (example: in section c if he stated that “The State of XXX is the injured party”) quote his exact words and the page number and line number of the transcript. With Section F, if the judge has done this to you, cite the page and line number of the transcript in your appeal. Also, if your transcript proves judicial error other than those enumerated on the example, don’t be afraid to add them.

Attachment 1. Grounds for Appeal

- a. This hearing was in the wrong court due to jurisdiction error. There is no legal foundation for a criminal jurisdiction under the statutes of the State of . The constitution allows for criminal jurisdiction under the common law and under admiralty, but mentions nothing about under statutes. Defendants repeatedly asked for clarification of jurisdiction each time he entered court, including making a written motion, which was not ruled on.
- b. The hearing was in the wrong court since it was civil, not penal. The Motor Vehicle Code is civil, not penal, so should be in a civil, not criminal court. See People v. Wohlleben, 261 Cal.App.2d. (“not the procedure prescribed by the Penal Code”) and People v. Superior Court, 7 Cal.3d 186 (“such section is not penal in nature and cannot form the basis for a lawful arrest”).
- c. This hearing was in the wrong court because the State cannot be both a party and judge on the same case. In the absence of an injured party, the State is implying that it is the injured party. However, if the state is an injured party in a lawsuit, it needs to be heard in the proper venue. A state cannot be a party to, and judge of, its own action.
- d. The judge exceeded his role of impartial arbitrator by acting as the prosecuting attorney and attorney for the state’s witness. He entered objections on behalf of the witness when she didn’t know how to answer defendant’s questions.
- e. The judge failed to perform his duty by failing to rule on a motion to strike the pleading, which was entered over defendant’s protests by a judge practicing law from the bench. The judge failed to perform his duty by failing to rule on a motion to dismiss based on the court’s refusal to identify the nature and cause of the charge against me. I was forced into a trial without knowing the nature and cause of the charges against me or the identity of the court and thus the proper Rules of Procedure. These motions were served by certified mail and received by the court on . Copies of both motions, proof of service and proof of mailing are attached.
- f. The judge erred by stating I was not arrested and refused to allow questions regarding my arrest. See People v. Monroe, 12 Cal.App. 4th 1174 which states “Where a minor Vehicle Code violation is involved, the arrest is complete when...the officer...begins the process of citing the violator to appear in court.” See also People v. Superior Court, 7 Cal.3d 186.
- g. The judge exceeded his role of impartial arbitrator when he practiced law from the bench by entering in a negative my wish to go to traffic school despite the fact that I did not specifically make a statement one way or the other on that issue pending appeal of my case.
- h. The judge granted the motion to protect and observe my legal rights but failed to do so by committing the above-enumerated errors.

YOUR 100% MONEY BACK GUARANTEE

We are so sure that this process will work for you that we offer a 100% money back guarantee for your traffic infraction.

If you use this process, your ticket will probably be dropped at the preliminary hearing, however, if it is not, and you use this process all the way through to appeal and still lose your case, we will refund 100% of your money. To receive your refund, attach to this guarantee: a copy of your traffic ticket, transcript of the preliminary hearing and court trial (so that we can verify that you properly followed the process), your written appeal, and your written appeal denial.

This guarantee applies to any ticket received 30 days or less prior to your purchase of the StopTheCop.com program, and is subject to the attached disclaimer.

Your Name _____

Address _____

Phone _____

Return to Stop The Cop, Inc., P.O. Box 27740, Las Vegas, NV 89126

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