

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF HILLSDALE

STATE OF MICHIGAN,

Plaintiff-Appellee,

VS

BRIAN RICHARD JAMES

Defendant-Appellant.

District Court No. E 074355 SI

Circuit Court No. 09-676 AV

Valerie R. White (P48036)
Attorney for Plaintiff-Appellee
61 McCollum Street
Hillsdale, MI 49242
(517) 439-1419

Lawrence S. Katkowsky (P15740)
Dondi R. Vesprini (P60390)
Attorneys for Defendant-Appellant
30200 Telegraph Road, Suite 430
Bingham Farms, MI 48025
(248) 901-3400

ORDER

At a session of said Court, held in the Circuit Court
for the City and County of Hillsdale, State of Michigan
on the 5th day of November, 2009.

PRESENT: THE HONORABLE MICHAEL R. SMITH, CIRCUIT JUDGE

This matter having come on to be heard upon the Claim of Appeal by the
Defendant from a civil infraction judgment of July 31, 2009, by the Hillsdale County
District Court, the Claim of Appeal being timely filed on August 21, 2009, the record
transmitted to the Circuit Court on September 24, 2009, and the appellate brief being
timely filed on October 14, 2009, the Court having received no responsive brief from the
Plaintiff-Appellee, and the Court finding no necessity for oral argument in light of no

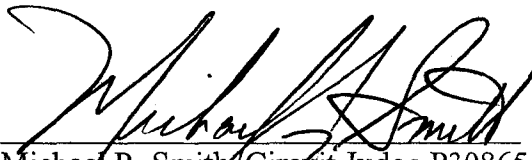
counter argument, and the Court having reviewed the Defendant-Appellant brief, the applicable Court transcript, and the Court being otherwise fully advised in the premises;

IT IS HEREBY ORDERED AND ADJUDGED that the District Court civil infraction judgment of July 31, 2009, **shall be and the same is hereby reversed.** The Plaintiff-Appellee has failed to prove a violation of MCL 257.658 (4) in that there has been insufficient proof that the helmet in question violates the applicable statute. The Defendant-Appellant exhibits indicate that a consumer may remove the DOT sticker and labels without penalty and there is insufficient proof of the necessity for a one inch thick inner liner as contended by the investigating agency.

IT IS FURTHER ORDERED AND ADJUDGED that any fines and/or costs assessed the Defendant and paid by him shall be refunded by the Hillsdale County District Court to the Defendant-Appellant.

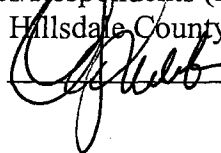
IT IS FURTHER ORDERED that the citation **shall be and the same is hereby dismissed for lack of sufficient proofs.**

IT IS FURTHER ORDERED that this resolves the last pending claim and closes the case.


Michael R. Smith, Circuit Judge P30865
Dated: November 5, 2009

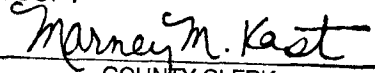
Proof of Service

On November 5, 2009, I did provide a true copy of this Order to the attorneys of record or to the Appellants/Petitioners and Appellees/Respondents (if not represented by an attorney), with the original being filed in the Hillsdale County Circuit Court.



A TRUE COPY

By _____


COUNTY CLERK