

Pursuant to California Vehicle Code (CVC) 40902, I respectfully submit this Trial By Written Declaration to the Court. I plead Not Guilty to the charge of CVC 23123(a).

As required, I have previously made a payment for \$130 of bail payment. Please refund \$130 in the event that the court finds me not guilty.

On Monday, January 6, 2009, I was driving on the eastbound of Hwy 44 in a stop and go traffic. At approximately 2:58 PM my work cell phone had began ringing loudly. Since this cell phone was in the passenger seat and continued ringing for the next couple of minutes I leaned over to shut it off. The loud ringing had obstructed me from driving safely specially in the traffic I was stuck in. I had no intention to talk on the cell phone since I am well aware of the new cell phone law that was effective July 1, 2008.

At the moment I had leaned over to turn off the cell phone Officer Smith saw that I had a cell phone in my hand and pulled me over. Once Officer Smith had pulled me over, I stated that my cell phone was nowhere near my ear, and that I was not actively talking on the cell phone. Before I was given the opportunity to fully explain my situation, Officer Smith had already proceeded in writing me a ticket for CVC 23123(a) for cell use while driving.

I believe this was a very unfortunate situation and it does not reflect my driving behavior. I have had no traffic violations on my driving record over the past 5 years, and believe this incident does not reflect my driving behavior. Thank you for your time and I hope you will determine that I am not guilty based on my situation.

If the court finds me guilty, I request a Trial de Novo, and an option to attend traffic school level one and have the fine reduced.

In addition, please send me the "Decision and Notice of Decision" (TR-215) by mail.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

---

M Copper, Defendant in Pro Per