

Argument against citation

Daniel Connelly
djconnel@yahoo.com

California Vehicle Code

Relevant sections of the California Vehicle Code follow, from which I have placed **in bold face** sections pertinent to my case.

21200 (*authority to cite bicycles*)

21207.

- a) This chapter does not prohibit local authorities from establishing, by ordinance or resolution, bicycle lanes separated from any vehicular lanes upon highways, other than state highways as defined in Section 24 of the Streets and Highways Code and county highways established pursuant to Article 5 (commencing with Section 1720) of Chapter 9 of Division 2 of the Streets and Highways Code.
- b) Bicycle lanes established pursuant to this section **shall be constructed in compliance with Section 891 of the Streets and Highways Code.**

21208.

- a) Whenever a bicycle lane has been established on a roadway pursuant to Section 21207, any person operating a bicycle upon the roadway **at a speed less than the normal speed of traffic** moving in the same direction **at that time** shall ride within the bicycle lane, except that the person may move out of the lane under any of the following situations:
 - 1) **When overtaking and passing another bicycle**, vehicle, or pedestrian within the lane or about to enter the lane if the overtaking and passing cannot be done safely within the lane.
 - 2) When preparing for a left turn at an intersection or into a private road or driveway.
 - 3) When reasonably necessary to leave the bicycle lane to avoid debris or other hazardous conditions.
 - 4) When approaching a place where a right turn is authorized.
- b) No person operating a bicycle shall leave a bicycle lane until the movement can be made with reasonable safety and then only after giving an appropriate signal in the manner provided in Chapter 6 (commencing with Section 22100) in the event that any vehicle may be affected by the movement.

What Occurred

On the morning Saturday, 15 Mar, I had traveled to Los Altos to participate in the memorial ride for Kristy Gough and Matt Peterson, which was to occur that afternoon. During the morning, I went for a ride From Los Altos, through Portola Valley, Woodside, and back.

At approximately 9:40 am, I was riding behind a large group of riders on Portola Valley road when one of the riders in that group turned back to gesture to me. I moved to the left to pass him and the nearby riders, although there was heavy bicycle traffic, so moving up was difficult. At this point, a police car approached us from behind, shouting through his bullhorn that we were to ride in the bicycle lane. The pace of riders ahead slowed slightly, so I responded by slowing slightly as well. My view was that the region to the right of the right line was not marked in accordance with state standards for bicycle lanes, and thus was a shoulder instead of a bicycle lane, and that the officer was unjustified in representing it as a bicycle lane. I therefore pulled proximate to the police car, and said "It's not a bike lane; it's a shoulder." He flashed his lights, which I interpreted as a command to pull over. I stopped at the northernmost intersection of Family Farm and Portola Valley Road, approximately 0.2 miles north of the intersection of Portola Valley Road with Old La Honda Road, approximately 0.7 miles (measured on my computer and verified on Google Maps) from the Woodside town line. An attached image (Figure 6) shows the Google Maps measurement, where the Woodside Town line is indicated immediately south of the southernmost intersection of Family Farm Road with Portola Valley Road.

I informed him that this was not a valid lane consistent with the definitions of the highway design manual chapter 1000. He informed me that there was a sign marking it as a bike lane within the town of Woodside, placed at the border between Portola Valley and Woodside. He then cited me for a violation of 21200 (authority to cite cyclists) and 21208 (failing to ride within the bicycle lane).

As he was writing the citation, I asked him how many vehicles, besides his, had been following. He responded that two vehicles had been following. I noted this was less than five. He paused, then responded that bicycles also counted as vehicles for this purpose. I failed to see how this was relevant, but said I was fairly sure there had been no bicyclists directly behind me.

After he left, I turned back to inspect the town line sign. I noted there was indeed a bike lane sign (CA R81) under the sign indicating the town line (see photograph in Figure 2). However, this was the only such sign between the town line and the location of the citation, and there were neither pavement markings indicating a bike lane, nor was there a change in lane striping between the shoulder in Portola Valley and the region in Woodside the officer claimed as a bike lane.

My bicycle has a rear hub (Powertap SL 2.4) which measures, among other values, my speed, which it reports via a wireless link to a handlebar unit, which logs the data. This has been calibrated via a rollout test which is accurate to within 0.5 cm per 2.1 meter wheel rotation: an accuracy of $\pm 0.24\%$, or at 35 mph, an error of ± 0.08 mph. The data from the time of the incident are indicated in the plot of Figure 1. The plot indicates my estimation of the time of the key events. The interaction with the police officer, from when he shouted into his bullhorn to when I interpreted his flashing lights as a command to pull over, was approximately one minute. It can be seen for the three minutes prior to this, the speed only dipped below 30 mph briefly.

Later, I returned to several locations between the town line and Family Farm Road along Portola Valley Road and photographed the paint marking the edge of the vehicular lane. As can be seen from the ruler visible in the photographs (Figures 2, 3, 4, and 5), the length of this stripe in none of the measurements

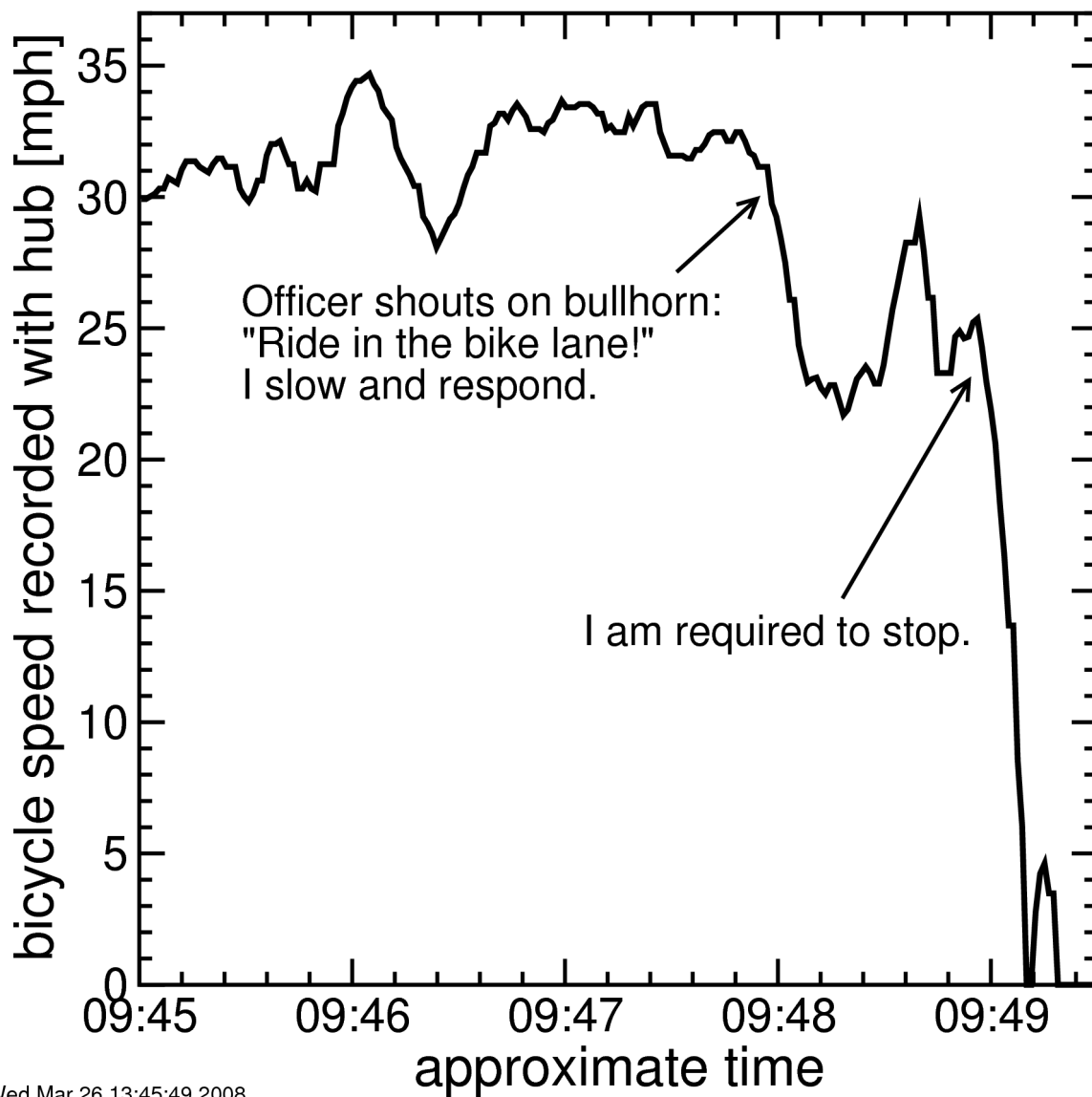
exceeds 14 cm (5.5 inches). These locations were chosen essentially at random; no section of the line was observed to be significantly wider than those photographed.

Why I was not in violation of 21208

I was not in violation of 21208A for the following reasons:

1. The lane in question is not marked in compliance with the requirement for a 6-inch stripe mandated by Section 9C.04 of the MUTCD California Supplement. See Fig. 9C-101 (CA) Detail 39 of the California MUTCD (26 September 2006). This section is referenced by Section 1003.2(2) of the California Highway Design Manual, which establishes the uniform standards described in Sections 890.8 and 891 of the state Streets and Highways Code. As I described in the last section, the width of the white line along the section of roadway between the Woodside town line and where I was cited is only 5.5 inches. Thus this section of roadway does not have a legal bicycle lane.
2. The citation indicates the violation is at the intersection of Family Farm Road and Portola Valley Road. There are two such intersections: I was ticketed at the northernmost such intersection in Woodside, which is 1200 meters from the Woodside town line. Bicycle lanes are required by Section 9B.04 of the MUTCD California Supplement to be signed every 800 meters. I verified immediately following the citation that there was no additional marking or signage along these 1200 meters. Thus the sign at the town line did not apply to the roadway where I was cited, or to the 400 meters preceding where I was cited.
3. 21208 of the California Vehicle Code explicitly excludes the case where the bicycle is traveling at the speed of traffic at that time. Since bicycles constitute traffic, and since my progress was retarded by the cyclists ahead of me, it is clear that I was traveling the speed of traffic at that time. I was unable to safely travel faster.
4. In the minutes leading up to the citation, I had overtaken the group ahead, and was in the act of passing the bicyclists to the right of me. Overtaking and passing bicyclists is explicitly described as a reason to not be within the bicycle lane by 21208 of the CA vehicle code.

Figures



Wed Mar 26 13:45:49 2008

Figure 1: Collected data showing my speed relative to the posted speed limit in the minutes up to my citation.



Figure 2: A photograph taken (26 Mar 2008) of the view approaching the town line. A single sign indicating a bike lane is evident, but there is no change in the lane striping, and the striping beyond the sign is less than the regulation 6 inch width (15.24 cm).



Figure 3: A photograph (26 Mar 2008) showing a measurement of the roadway stripe with a cm scale showing 14 cm width (5.5 inches), taken on the Woodside side of the town line.



Figure 4: The measurement taken at the southernmost intersection of Family Farm Road and Portola Valley Road. Again the stripe is 14 cm (5.5 inches). Photo taken 26 Mar 2008.

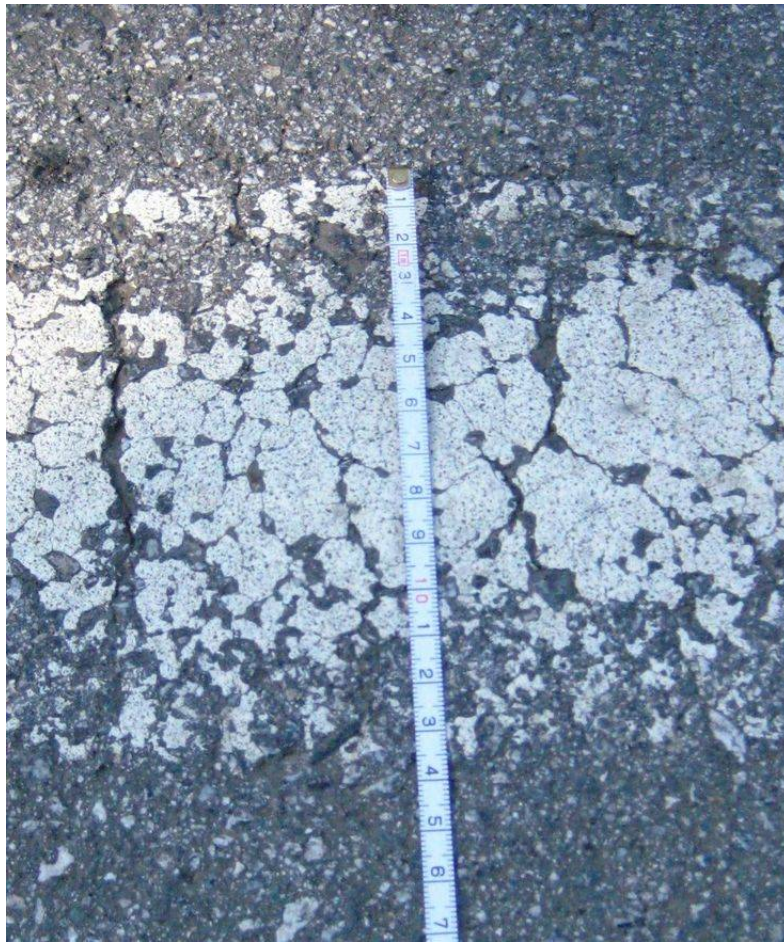


Figure 5: A third measurement taken near the intersection of Old La Honda road and Portola Valley Road. Again the stripe width is 14 cm. Photo taken 26 Mar 2008.



Figure 6: Google Maps showing the distance from the town line to the location of the citation is 1200 meters, exceeding the 800 meter requirement for bicycle lane marking frequency. There were no markings or signs, except for the one at the town line, along this section of roadway.

Appendix: Bicycle Lane Requirements

In the California Vehicle Code, bikeways, including bicycle lanes, are defined subject to guidelines, where I have formatted the text to highlight the most relevant content:

890.6. The department, in cooperation with county and city governments, shall establish minimum safety design criteria for the planning and construction of bikeways and roadways where bicycle travel is permitted. The criteria shall include, but not be limited to, the design speed of the facility, minimum widths and clearances, grade, radius of curvature, pavement surface, actuation of automatic traffic control devices, drainage, and general safety. The criteria shall be updated biennially, or more often, as needed.

*890.8. **The department shall establish uniform specifications and symbols for signs, markers, and traffic control devices to designate bikeways,** regulate traffic, improve safety and convenience for bicyclists, and alert pedestrians and motorists of the presence of bicyclists on bikeways and on roadways where bicycle travel is permitted.*

891. All city, county, regional, and other local agencies responsible for the development or operation of bikeways or roadways where bicycle travel is permitted shall utilize all minimum safety design criteria and uniform specifications and symbols for signs, markers, and traffic control devices established pursuant to Sections 890.6 and 890.8.

The California Highway Design Manual (September 1, 2006), Figure 1003.2A specifies a minimum Class II Bike Lane width of 4 feet adjacent to a soft shoulder, 5 feet adjacent to a curb. Furthermore, Section 1003.2(2) states:

Signing and Pavement Markings. Details for signing and pavement marking of Class II bikeways are found in the MUTCD and California Supplement, Section 9C.04.

Section 9B.04 of this Supplement states:

The Bike Lane (CA Code R81) sign shall be placed at the beginning of each designated Bike Lane and along each Bike Lane at every arterial street, at all major changes in direction, and at maximum 800 m (1/2 mile) intervals. The R81 (CA Code) sign shall be used to regulate bicycle and motor vehicle traffic, in accordance with CVC Sections 21207, 21207.5, 21208, 21209 and 21717.

Section 9C.04 states that it is mandatory that bike lanes be marked with 6-inch lines, solid except within 200 feet of an intersection, where the line becomes dashed.