



Ex Ante

From: John Morris

ALERT READER JOHN MORRIS emailed the following excerpt from a recent judicial opinion. His subject line reads: “Does a work of literature exist if it’s not cited in a judicial footnote?”

“Whether the pitcher hits the stone or the stone hits the pitcher, it will be bad for the pitcher.’ Miguel de Cervantes, *Don Quixote*, Part II, ch 43 (1615).” [*State v. Reed* (1990) 101 Or.App. 277, 279–280]

In this case of first impression, we conclude a defendant who intentionally pushes another person into the path of an oncoming vehicle has used that vehicle as a “deadly weapon” in violation of Penal Code section 245, subdivision (a)(1).

Now we know. As Morris says, “It seems the citation to the original source does not suffice for these judicial Bishop Berkeleys.”

People v. Russell,
129 Cal. App. 4th 776
(2005).



Don Quixote, made real by the Court of Appeal of California,
Second Appellate District, Division Seven.
From Masterpieces from the Works of Gustave Doré (1887).