

'Sign crime' Called Violation of Court Order

by The City Hall Sleepers' Protest

On Wednesday, August 28, Gideon Cisna and Jennifer "Zen" Hearst were arrested at the City Hall Sleepers Protest after Santa Cruz City Manager Dick Wilson refused to respond to Gideon's repeated requests to speak with Mayor Mike Rotkin.

In late August, Gideon was arrested for misdemeanor sleeping (sleeping outside twice within 48 hours inside the city limits). Zen, upset at the arresting manner of Sergeant Butchie Baker and three other cops, was charged with obstructing an officer and released two days later with no charges and no court date.

In June, Gideon was arrested for a misdemeanor violation of the Rotkin-engineered injunction barring sleeping or covering up with blankets at City Hall at night; the injunction makes any act of sleeping at City Hall a real act of courage punishable by up to six months in jail for "contempt of court".

On Thursday, August 29, *Free Radio Santa Cruz* broadcasters John and Leslie Hernandez were arrested for refusing to give up a small "Legalize Sleep" sign at City Hall. Leslie reported that she was thrown to the ground and her tape recording of the "Sign crime" incident was confiscated. The two were released later that day. Both face up to 6 months in jail and a \$1000 fine if convicted.

In Santa Cruz, City police have issued hundreds of tickets for "sleep-crimes" at the City Hall Sleepers Protest since it began on March 1.

With the closing of the Armory and the Coral St. Open Air Shelter, Santa Cruz's 500-1500 shelterless people have fewer than 100 legal floor spaces.

Protesters have asked the City Council to:

- ❖ declare an amnesty on past sleeping tickets as San Francisco has done;
- ❖ remove the Sleeping Ban sections of the Santa Cruz City Camping Ban (MC6.36) to allow people to sleep legally *somewhere* at night; and
- ❖ reopen a legal low-income campground to deal with Santa Cruz's declared Shelter Emergency.

BAN UPHELD: JUDGE SAYS SLEEPING IS 'CAMPING'

On Friday, August 30, Municipal Court Judge Tom Kelly heard arguments

that the City's Sleeping Ban violates the California and U.S. Constitutions. Kelly ruled to uphold the ban after refusing to hear evidence that (a) protesters had exhausted their legislative remedies before beginning the 185-night-long vigil; (b) that no legal places exist for 90% of the homeless residents of Santa Cruz.

Assistant City Attorney Anthony Condotti stipulated that the Sleeping Ban was selectively enforced against protesters but not against other "nonpolitical" sleepers nearby.

Kate Wells, attorney for the protesters, argued that the Sleeping Ban violated protesters' rights to move freely from place to place since they faced the choice of jail or exile at night when they needed to sleep. She said that the Sleeping Ban created a "status" crime, wherein simply being homeless and needing sleep is interpreted as a crime. Wells concluded that the Sleeping Ban was a form of cruel and unusual punishment and violated the equal protection of the laws.

Condotti replied that the California Supreme Court had ruled in the *Tobe* case last year that city camping bans are constitutional if they are rationally related to a legitimate governmental function.

Wells replied that the *Tobe* decision okayed camping bans, but not sleeping bans. The distinction, Wells insisted, was obvious to the simplest observer. A camping ban bars tents, fires and cooking equipment. A Sleeping Ban makes criminal the act of sleeping itself.

Defendants will return to court in mid-October to face dozens of trials around the sleep-tickets as well as more serious contempt of court charges. Kelly's ruling may not reach the higher courts on appeal before December.

Meanwhile, the nightly sleep-out at Santa Cruz City Hall continues, and supporters gather every Saturday at 2 p.m. for a march down Pacific Avenue. Activists plan to regularly challenge Mayor Mike Rotkin's "arrest-the-sleepers" policy with visible and audible protests. Rotkin, running for a fourth term in the fall elections, is the "swing vote" on the sleeping ban.

For more information, call: The Commonthreads Coalition at (408) 421-9250; or Homeless United for Friendship and Freedom at (408) 423-4833.

Cops Jail Four at Santa Cruz Sleepers Protest