

Santa Cruz Convicts the Homeless of 'Sleep Crimes'

by Robert Norse

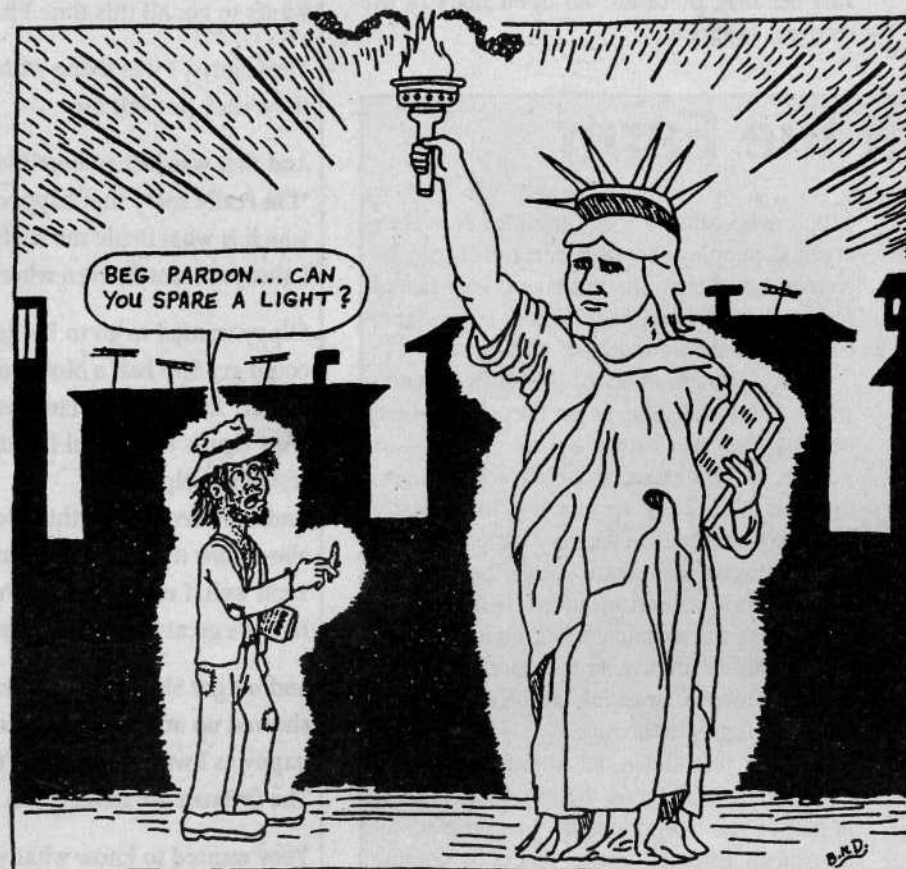
Santa Cruz homeless activist Robert Flory was fined \$1800 in the first big Sleepcrime trial of the year, on January 17. Last spring, during the City Hall Sleepers Protest, Flory was arrested repeatedly for sleeping at the vigil in resistance to the city's anti-homeless Sleeping Ban.

In the first month of the seven-and-a-half month protest, then-Mayor Rotkin and Lieutenant Haebe told Flory several times that he would be arrested for merely being present at the vigil after 11 p.m. — asleep or not. At his two-day trial, Flory was not allowed to present defense witnesses to testify that police selectively ticketed protesters, while ignoring other homeless people half a block away.

Flory was sentenced to pay \$75 for each time he fell asleep or covered up with blankets at Santa Cruz City Hall — 24 times in all. That peaceful protest sought to awaken the conscience of the City Council in a town with a liberal reputation, an anti-homeless Sleeping Ban, and no legal place for most homeless people to sleep (even outdoors).

Flory says he will ask Barton to order community service with the local Food Not Bombs group, at which he has put in thousands of hours in the last five years. In the past, Flory has been jailed for principled refusal to do community service for protest citations, arguing that the law does not allow jail for infractions.

Downtown activist "QZ", whose home is a van, got a stiffer sentence from Judge Robert Attack later that month. Attack, nicknamed "artichoke-heart" after he gave a 45-



Art by B.N. Duncan

day sentence to activist Sandra Loranger for serving the homeless free food in 1989, gave QZ two \$162 fines for "sleeping" in his van — once outside a house where he was doing work, once when he claimed he wasn't asleep at all. QZ unsuccessfully argued he was due a prior warning to leave, which he did not receive. Attack ruled the warning section did not apply.

Those who have the temerity to be found asleep outdoors or covered with a blanket within the city limits after 11 p.m.

are usually given \$162 fines. The law under the spotlight is the Santa Cruz City Sleep Ban, a section of the larger Camping Ban enacted in 1978 and enforced selectively against homeless people, protesters, and protest leaders.

Sandra Roth, a non-homeless civil rights activist, also was found guilty of 12 counts of sleepcrimes at the vigil and was sentenced to \$100 per count. If she succeeds in paying off the fines, she still faces more serious misdemeanor sleep-

The sheer spectacle of homeless people going to jail for innocent sleep may have an impact on the community. As the Winter Shelter closes down and the City Council continues to ignore basic shelter needs, the pressure of increased misery may provoke renewed protest.

crime charges in late March. Hers will be the first jury trial ever held in Santa Cruz County for a misdemeanor violation of the Sleeping Ban. She is an articulate, outspoken, environmental activist also involved in civil disobedience up in the northern California Headwaters struggle.

The Sleeping Ban has always been treated as a minor infraction not involving jail sentences. Police capriciously and vindictively jailed activists for misdemeanors in the past, but charges always disappeared before trial. Why? Misdemeanor cases allow poor defendants the right to free legal counsel and a jury trial. They are costly, time-consuming, and politically more volatile than infraction trials, which take a fraction of the time and happen before a judge sitting without a jury.

They also raise the specter of jury nullification: the right of a jury or just one juror to say "not guilty" even if a defendant is technically in violation of the law. If a juror believes the prosecution is malicious,