

Judge Dismisses Suit Against Homeless Activists

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was MC 6.36.010, A, which prohibits sleeping virtually anywhere in Santa Cruz city limits out of doors or in a vehicle from 11 p.m. to 8:30 a.m.

"That's nine and a half hours each night," Johnson reported outside the trial. "We once put on an event called 'Don't Sleep Tonight! Night' in which we asked people in houses to stay awake all night like the law orders homeless people to do. Only 2 people actually made it to 8:30 a.m.. I crashed around 4:30 a.m. when I got a headache, a stomach ache and experienced extreme fatigue. It's simply not possible or humane to follow the law."

The Koffee Klatchers had subpoenaed Mayor Fitzmaurice to testify for the defense. One amusing point in the trial occurred when Attorney Beauvais asked the mayor if the defendants had ever offered him coffee. "No, never," Fitzmaurice testified. Beauvais immediately played a recording in which the first voice heard was that of Robert Norse offering Fitzmaurice a cup of coffee.

Mayor Fitzmaurice testified he did not know when he was elected, or when the last council meeting in December was. He testified he did not know the date he met with defendants Norse and Johnson. He did not know if he had the authority to call for a special session unilaterally. He did not know when his term ended.

He testified that the first he heard of Anna Brooks' problems with the Koffee Klatchers was on December 20, when he found her weeping at her desk. Also testifying in court on behalf of the mayor's aide were Susan Jansen of the Redevelopment Agency, Patty Haymond of the mayor's office, and Brooks' immediate supervisor, Suzanne Haberman.

Jansen expressed fear of Norse. "I don't know what he has under that bathrobe," she testified with apparent seriousness, referring to Norse's habit of wearing a tattered bathrobe and carrying a stuffed bear to Sleeping Ban demonstrations. "I don't know what he has stuffed in that teddy bear."

Brooks testified that she had broken "two temporary and one permanent tooth"

due to tightness in her jaw from tension. She testified she had "lost sleep" due to the Klatchers presence in the public waiting area for several hours each day.

"How much sleep have homeless people lost with one eye open to watch for cops?" asked Bernard Klitzner, the head organizer of the Koffee Klatch.

Haberman testified that the charge of "attempting to pilfer food from a donation barrel" was based on an incident in which a homeless and hungry man had asked for some food from the barrel. "I told him no," Haberman testified. Neither Anna Brooks nor the defendants were present during the incident, but it did not stop Brooks from claiming the incident was an "attempt to pilfer" and evidence of harassment of her.

City Attorney John Barisone cross-examined defendant Becky Johnson about home phone numbers of members of the City Council listed on the flyer. "The flyer is dated December 1, 2000. The new Councilmembers (seated on November 28th) had not yet been assigned phone numbers at the council offices. We used the numbers the candidates had provided during the election. Some of them provid-

ed their home phone numbers."

He showed her a photo of Nzane, a homeless Koffee Klatcher in a wheelchair in the lobby. "How can this door be easily opened with that wheelchair there?" Barisone asked. Johnson pointed to the photo. "The wheelchair is parked right where the Second Harvest Food Donation barrel had been."

Critics estimate the City spent over \$12,000 prosecuting the Koffee Klatch 3 for "stealing pens" whose estimated value, according to testimony by Brooks, was \$2.10. "But they got to exclude us from Mayor Fitzmaurice's office for over five months," commented Norse.

In his ruling, Judge Stevens chastised the defendants, claiming it was "not a First Amendment case" but ended by ruling to dismiss the suit. He stated on record that the mayor could post rules regulating conduct in the office.

Courtwatcher Rabbi Chayim Levin praised Stevens' decision as: "A victory for the First Amendment and a victory for homeless activists everywhere."

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