

# Santa Cruz Activist Files Suit to Stop Police Attacks on Homeless

by Thomas Leavitt

It's hard getting attorneys for homeless activists in Santa Cruz. But Rhonda and Jim Fossbinder of Hawaii heard about *Street Spirit* writer Robert Norse's arrest and felt the constitutional issues were clear enough to take his case to federal court.

On January 30, 2002, Sgt. Loran "Butchie" Baker put Norse in handcuffs for "blocking the sidewalk," and shut down Norse's table where he was circulating a petition urging the boycott of three business downtown — Sushi Now!, Ali Baba's Cafe (now Cafe Campesino) and New Leaf Market. After days of surveillance, Baker colluded with Matthew Selman, the owner of Sushi Now!, to stop Norse's campaign to resist a proposed fencing-off of public space to provide a new sitting area for the three businesses.

Sgt. Baker escalated Selman's suppression of Norse's basic civil rights, by turning an infraction citation that was already done without probable cause into a custodial arrest. Baker ignored the fact that Norse's table took up less than 20 percent of the broad sidewalk. He also ignored a city code exempting political tablers from the "obstructing the sidewalk" law.

The City's concern was to drive away a daily gathering of youth — goths, skateboarders, hippies, and homeless people who hung out and sat on the edge of an adjacent large planter. The planter itself was one of four left on the mall where it was legal to sit. New anti-sitting laws make sitting on 95 percent of the sidewalks or on other planters a \$162 crime.

Within a month after Norse's arrest, the Redevelopment Agency (RDA) had constructed a wrought-iron fence. This privatized the area of open sidewalk between the businesses. It gave the three businesses an exclusive "customers only" sitting area, walled off two-thirds of the previously public sidewalk and planter seating area, and fenced out the "undesirables" who had gathered there.

In a period of six months, Baker had initiated three custodial arrests of Norse — all on infraction citations not punishable by jail and all ultimately dropped in court. Yet on all three occasions, Baker took Norse away in handcuffs, either to the police station or to jail.

Baker's arrest report, Norse said, was

the longest infraction police report he'd ever seen — six pages of "profile" and ten pages of narrative. Six months later, a police-friendly judge, Commissioner Irwin Joseph, wouldn't dismiss the charge, in spite of the clear wording in the law exempting political tablers.

To bolster the faltering case, the City Attorney's office added an additional charge. Norse, they said, violated a Downtown Ordinance that set up forbidden zones for activists and musicians. Witnesses and photos of the table confirmed that Norse was not in one of the forbidden zones.

By September 27, 2002, the City's prosecution had forced Norse to hire an attorney and to make more than six appearances in the County Courthouse. On the day of trial, however, neither Baker, Baker's superior Lt. Patty Sapone, Police Chief Steve Belcher, Assistant City Attorney George Kovacevitch, nor the supposed original complainant Matthew Selman appeared in court. Commissioner Joseph was forced to dismiss all charges for lack of evidence.

"Baker's high-profile arrest and the City's subsequent prosecution," said Norse, "was meant to chill peaceful and lawful protest" against the City's escalating homeless-hostile policies.

It also constituted a dangerous and improper collusion of police with merchants to deprive others of constitutional rights. Norse said, "The legalized violence against me was intimidating and damaging, but perhaps even worse was the chilling effect on the activist and homeless community. Some activists were now afraid to table at all: Zoe Einbinder, who was arrested with me, would not return to register voters."

Norse's federal lawsuit names Baker, Sapone, Belcher, Selman, and the City of Santa Cruz. It alleges violations of the First and 14th amendments, asks for injunctive relief, claims failure to train and supervise the police, and demands a jury trial in federal court.

Updates on the Norse case can be found at [www.santacruz.indymedia.org](http://www.santacruz.indymedia.org) and also at [www.huffsantacruz.org](http://www.huffsantacruz.org)

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