Justice, successfully represented dozens of homeless people, showing that they had no alternative housing other than their vehicles. The problem became especially acute when the shelter was closed in summer months. Mowrer's arguments overturned sloppily written police tickets by using the legal requirement in criminal cases that proof be "beyond a reasonable doubt." He used the necessity defense to challenge charges for living in a vehicle.

Defendants who use the necessity defense in court admit the crime, abandon any technical or substantive claims of innocence and don't challenge the constitutionality of the bans. Yes, she slept in her vehicle (or outside) as charged. Yes, that is legally a crime. But the evil she acted to avoid — the threat to her health and survival by not sleeping at all — profoundly outweighed the "crime." Hence, her actions were "a necessity." [See "Taking Bigoted City Laws to Court in Santa Barbara," Street Spirit, April 2003.]

The necessity defense arose as a shield in defending the homeless right to survive in the wake of the 1994 Tobe case. There, the California Supreme Court overturned a lower court's decision that would have struck down camping bans statewide. It held that such bans might be a reasonable restriction on some (non-homeless) people. Hence they were not always or facially unconstitutional as written. Instead, homeless people with severe needs could try to raise the necessity defense.

In the 1999 Eichorn case, a homeless man named James Eichorn was charged with violating Santa Ana’s anti-camping law. The high court ruled that the necessity defense, normally an option which the judge could grant or deny, must be allowed in "sleep crime" or camping cases, particularly in cities with too few of former city employee Jhon Colder, who lives in his van. After being forced out of his booth with threats to his dog’s life, Colder was jailed for weeks in a bogus arrest at City Hall, where he had tried to arrange a meeting with City Manager Dick Wilson, the real power behind the mayor.

Wilson issued a trespass letter ordering Golder to stay away from all city employees and offices, and subsequently tied him up in a year and a half of court trials. In the course of researching information with this author this spring on the exclusion of homeless vehicles from Santa Cruz’s Lighthouse Field area, the peaceful Golder was again falsely arrested for violating an expired stay-away order.

Doug McGrath lives in his vehicle with his wife Marilyn. He summed up the repeated 4 a.m. wake-ups and vehicle seizures: "Vehicle abatement should deal with abandoned vehicles. They don’t deal with stolen cars, broken-down cars, cars for sale, cars there for months. But if someone lives there, they immediately move in, ticket 'em, and then, if they...