

Victory Over Santa Cruz Sleeping Ban

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Canada's trial had begun in June 2007 with testimony from Santa Cruz police officers and a park ranger to prove they'd caught him sleeping at night, thus issuing those expensive tickets. After four officers testified, I was told, Judge Guy continued the trial, telling Canada to return later, and to represent himself without an attorney despite his request for one, to present that highly specific necessity defense.

DAVID AND GOLIATH

By the time I caught wind of this trial, Judge Guy had said "yes" to his presentation of a necessity defense. It seemed to me that for once, David had lobbed Goliath right in the temple, just by Canada getting the judge to permit his necessity defense.

The Santa Cruz ordinance in question, MC 6.36.010, has several sections which criminalize sleep at night. First, the ordinance prohibits sleeping on any public property between 11 p.m. and 8:30 a.m. Another article prohibits covering up with blankets. A third part bans the use of tents or camping equipment at any time if used "with the intention of staying overnight."

If Craig Canada nods off at night outdoors, he's instantly a criminal in Santa Cruz, even though many of the police who ticketed him must have known he's disabled.

The anti-sleep ordinance is both absurd and cruel. Like other "behavior laws" used to harass, banish or balk certain people for sitting too long downtown or leaning against a wall, it is better suited for Inquisition times.

When I have talked with passers-by downtown in Santa Cruz, they always say in amazement to my information about sleeping ban tickets, "Surely there is an alternative for people who really need a place to sleep?" They don't want to know that the system their taxes support is terribly broken, so most decide rather to "blame the victim." I suppose they can maintain their denial through some sort of collective ignorance.

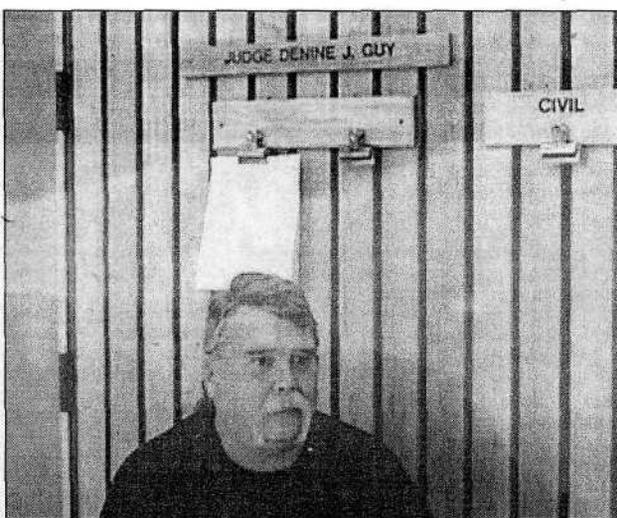
On first seeing defendant Canada in this trial, I realize we'd met casually before somewhere — and now here he is before Judge Guy as Man of Action archetype, a veritable peaceful warrior, forced by an absurd lattice of laws into admitting to a "crime" where the crime itself is less of a crime than the law that names it a crime.

Canada turns out to be among those victimized over and over by the sleeping ban law, yet so far he's been able to overcome obstacles I would've found insurmountable during homelessness, "swimming uphill" to the satisfaction of the judge. All those seemingly disparate legal elements had to somehow fit together for this defendant who prefers saying what is truthful. Dostoevsky couldn't have set up a better drama.

Canada's trial proves important for anyone around here who has to live outside. Yet I doubt you'll hear much about it in the commercial media because those guys are not around when it's time to be talking with the locked-out and opted-out men and women.

Craig Canada brought Eichorn's necessity defense to life for Judge Guy. I still can't believe people would permit such treatment if they understood the longer term consequences. This city's ordinance against letting homeless people sleep at night needs the light of day.

To her credit, Judge Guy was attentive to Mr. Canada, striving to understand and accommodate his disabilities, striving to be fair with him as he represented himself. I was impressed by the integrity,



Defendant Craig Canada waits outside Judge Guy's courtroom.

HUFF photo

To her credit, Judge Guy was attentive to Craig Canada, striving to understand and accommodate his disabilities, striving to be fair with him as he represented himself. I was impressed by the integrity, gentleness and determination of this homeless, disabled man.

gentleness and determination of this homeless, disabled man. He remained determined to defend himself in court no matter how things were going. This, to me, is yet another measure of success.

Hopefully, this court case can help to reclaim the man's right to social dignity and his stature as human and citizen despite contrary social and police treatment over the long haul. Despite the fact that we housed people treat homeless people worse than our ancestors treated lepers. Despite the fact that six police officers had each misrepresented facts in their initial testimony.

THE ISSUE OF MEDICAL MARIJUANA

A possibly novel aspect which proved successful for Craig Canada was the assertion that his medicine, cannabis, is necessary for his health. Laws around medical marijuana are by definition ambiguous and problematic because the federal government's harshly restrictive DEA position — however unscientific and inhumane — is at odds with California's medical marijuana laws. The struggles of Wo/Man's Alliance for Medical Marijuana and other health care advocates are under attack by federal forces, as if a giant boot can decide any moment to land on hundreds or thousands of disabled or sick people.

The medical marijuana law allows folks to use marijuana to find relief from pain and other serious medical problems — often when no pharmaceutical industry drugs help at all, or when those that may help could leave a person with terrible side effects. Or, when one can grow a pot plant almost free, yet often cannot afford the patented and FDA-cajoled prices of "establishment drugs."

Yet, homeless people are effectively held to a harsher standard with regard to the medicine's use. In fact, there is no public shelter in Santa Cruz County which currently can permit a licensed medical marijuana user a bed for the night. If you think this is outrageous, which it is, may I submit, as a formerly homeless parent of young children, that it is one of many outrageous particulars which needlessly destroy the lives of some folks who have become homeless.

Craig Canada's trial boiled down to not being allowed a shelter bed when he needed one — or probably ever — because he uses pot for his medicine. I submit that even without the medical marijuana, he

would be offered few nights in public shelters in Santa Cruz. Bringing the issue of his medicine to court was a courageous and important move.

No matter what the police officers say to you in your bedroll at night, and no matter how long Santa Cruz County makes its pages of services available for homeless adults, most nights they will not find an emergency shelter "bed" — which includes mats on winter floors of armories throughout California.

On average, a shelter bed will be available to you on less than one night out of every 45 or so, if you can even adapt to the institutionalization of shelter life at all. If you're very lucky and well-supported, sometimes you can get a two-week stretch, like a lottery prize, maybe once every three years. But homeless people leaving hospitals get first dibs on those few beds, so you can't even know if you have a bed until after bedtime.

I do not mean to indict Santa Cruz in particular. Our county has made great strides in just the past five years to create more low-income and accessible housing, and has improved its outreach to certain groups of homeless men. Tons of private and nonprofit resources are being leveraged creatively to increase capacity for homeless people here. Still, it seems impossible to keep stride with the growing numbers of new homeless people, let alone the throngs of already homeless men and women.

Mr. Canada had been excluded from the emergency shelters because of his medicine, and because of his unwillingness to just lie about its use, a common practice that gets one thrown out for days or a month or longer at the primary emergency shelter. Wouldn't it be better for employees or executive boards to draft a basic policy regarding this legal medicine?

It could be supportive, as the compassionate use doctrine of the medical marijuana law intended, except for the fact of a real exclusion policy, namely Federal dollars, which seem to be valued more highly than human lives and health.

Mr. Canada, amazingly, maintains his integrity despite all those elements needed for his compound legal defense. With a little coaching and a bottle of water from the judge, he pulls it off! Meanwhile, every night, men who were healthy when they became homeless become permanently sick and broken, and some die.

The homeless man is now before the judge as Man of Action archetype, a veritable peaceful warrior, forced by an absurd lattice of laws into admitting to a "crime" where the crime itself is less of a crime than the law that names it a crime.

Canada's resources — full Social Security benefits due to long years working, part-time friends, intelligence, and more — seemed to be enough to help him keep his wits and present to the judge the truth about disparity of services and discrimination leading to exclusion from the Coral Street shelter because of his medicine.

Canada had to rattle off his budget, annual, monthly and immediate, as part of his necessity defense in court. Can you do that? Then how do you expect a homeless person to do it? Oh I see, you expect him to go die in a quiet corner of the Greenbelt like some of his peers. Why not help us change the City of Santa Cruz's badly constructed, unfairly enforced anti-poor laws, instead? Nobody should have to do what Canada so effectively did on July 6th in Judge Guy's courtroom.

AN EXPERT WITNESS

As for being an "expert witness," it felt really good to actually see my sons of hours spent in bureaucratic, homeless and community meetings, and the corridors of this courthouse, for 30-plus years, directly helping a real-time actual person. Trying to help folks through the system's mazes, and conducting analysis, tallying numbers and doing community problem-solving seldom grants instant gratification. In fact, now I get migrants.

The "credentials" needed that day in court pertain to my role as a participant in the Homeless Action Partnership (HAP), a huge, countywide and diverse collaborative team, which is also the "Continuum of Care" Board, a federal designation, for Santa Cruz County.

I've attended local HAP meetings for six years or so. For the past four years, I have participated in a HAP subcommittee which ranks the annual stack of draft funding requests for submission as a "consolidated" proposal to HUD. As a formerly homeless person, I am supposed to represent "consumers" (homeless people) on HAP.

I was relieved to realize, under open-fire questioning, that I have a functional knowledge of structural and policy issues as they pertain to local homelessness. My fear of fumbling some crucial datum due to tension was wasted energy.

I was able to describe some of the difficulties created by federal funding and other laws and politics, as well as limitations of rules and procedures within our County's various shelters and service providers. At the same time, I also replied at times from personal experiences, having slept on cement and in a car with my teenage daughter, and in a shelter where my infant son was taken from me and put in a foster home when shelter providers noticed I was ill (defeating the point of going into the shelter).

In questioning me, Judge Guy did not stray for an instant from her six-headed objective, the necessity defense proofs. Yet I left the stand, after answering her staccato questions, feeling certain she got an earful of news she had not heard so clearly before. Defendant Canada did not need to call his final witness because the judge's questions probed so thoroughly that my answers must have helped establish other prongs of the necessity defense.