

# Defending “Homes on Wheels” in Santa Barbara: Anti-Homeless Parking Laws Again on Hold

(Prospective Story for January 2005 *Street Spirit* by Robert Norse 12-3-04)

Fighting bad laws with good lawyers, The *Committee for Social Justice's Legal Project* won another victory in Santa Barbara in late October, confounding the City's latest strategem to drive homeless vehicle dwellers out of town.

Victorious in more than 135 of the 145 cases, he's undertaken pro bono for homeless people, former head Public Defender **Glen Mowrer** successfully established the necessity defense, virtually ending sleeping and camping tickets against vehicularly-housed Santa Barbarans [see “Santa Barbara's Sleeping Ban Stumbles in the Courts” *Street Spirit* 6-01, “New Blows Against the Santa Barbara Sleeping Ban” *Street Spirit* 9-01, “Defender of Homeless Rights Wins Important Court Ruling” *Street Spirit* 2-02)] Of the 145 cases Mowrer has taken,, Mowrer has won 135 of them.

Mowrer has also won the far-reaching **Cooper/Mobley decision** in appeals court. The court ruled that folks living in vehicles cannot be forced to use shelter that requires religious exerices. Secondly they not be expected to go to a shelter abandoning their property, pets, and privacy, if they already have their own reasonable vehicular housing.

This decision, though unpublished, has had significant consequences in Santa Barbara, prompting the city to shift from sleeping/camping ban law enforcement to new “no parking” laws—which Mowrer is also successfully challenging.

Mowrer won a Temporary Restraining Order in March 2003 from **Judge James Brown** putting on hold two “no parking for the homeless” laws until adequate warning signage was posted. [See “Taking Bigoted City Laws to Court in Santa Barbara” *Street Spirit* 4-03] The first law bans parking an recreational vehicle [RV] for more than 2 hours anywhere in the city; the second bans parking RV vehicles at all on city streets from 2 AM to 6 AM.

In a subsequent court appearance Santa Barbara declared it had designed and was posting adequate signage. Judge Brown took the unsupported declaration under submission and shortly there after lifted the TRO. Not so fast, responded Mowrer, appealing because Brown had held no public hearing on the signage.

More than a year later, in October 2004, the appeals court agreed with Mowrer, awarding him \$2700 in court costs. It remanded the case back to Santa Barbara for a hearing on whether the “No RV parking” signs were comprehensible, whether they were posted visibly in enough spots, and whether, as Mowrer argued, they had to be posted on each individual street and not just on city entrances, as the city attorney argued.

Though the appeals court rejected Mowrer's argument that the city cannot selectively ban a type of vehicle, like an RV, it did intimate it would consider argument that the law was designed to ban a class of people. This “equal protection” concern was the basis on which a Carmel “keep off the grass” law was thrown out in the late 60's: Specifically designed to remove hippies, it was found to be unconstitutional.

After the appeals court victory, Mowrer got Judge Brown to disqualify himself, and approached a new **Judge--Denise Debellefeuille**. Debellefeuille held the hearing Brown wouldn't, and rejected the modified signage proposal brought forward by the City. She ruled that the signs were confusing in their wording and looked like general "no parking" signs; and they were hard to read and not placed in enough spots to give adequate notice.

While the case was on appeal, the City gave out the suspect "no-RVs" tickets and forced homeless folks in the vehicles outside city limits into the county, which has a "no camping" but not a "no parking" law.

**Peter Marin** is a long-time local writer and social activist around homeless issues. After Mowrer's victory in Debellefeuille's court, Marin says, "They've suspended all ticketing. However they've already broken up the large communities of RV's, which had collected in a few places. These [RV's] may have constituted a real problem. But the City could have dealt with them by local signage or permits on problem streets--without such a draconian law which drove all RV dwellers out of the city."

Mowrer summed up: "The city passed a law and started enforcing it without any signs. Then the Court of Appeals found those signs inadequate. The City proposed new signs. Judge Debellefeuille found the modified signage insufficient. Now the city wants to come back into court again with a third version. How many times are we going to have to go through this? We're asking that they wait [and the Preliminary Injunction stay in force] until the trial in February or March."

The problem, Maurer, adds is a selectively enforced ban. "I know of 3 RV's parked on the street. I see them when I walk my dog. These are 'respectable' vans used by families for temporary housing when they visit relatives."

The case hasn't been cheap. Funded most recently by a Grant from the Fund for Santa Barbara, it's expected to cost over \$30,000, with expert witness testimony about the adequacy of signage taking up a chunk of the change.

At the December 16 case management hearing, Mowrer plans to argue that the City's repeated attempts to lift the Preliminary Injunction with yet another "signage" proposal should wait until the actual trial for the Permanent Injunction in March. He also hopes to add the equal protection concern successfully raised in the Carmel 'hippies off the grass' case. Another argument in the case is the right to intrastate travel guaranteed by the California Constitution. The City's ban on RV parking makes travel problematic or impossible for a targeted group.

Concludes Mowrer, "We're still fighting and pushing on....[O]ur arguments are correct...The court is going to have [to have] the courage to risk offending the powers that be, the Santa Barbara city council, and those who support this law..."

The **Committee for Social Justice's Legal Project** can be reached at (805) 560-6062. **Homes on Wheels** can be reached at (805) 963-8533.

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