

Bedrolls can be seized, judge says

Ruling in trial of homeless-rights advocate

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SANTA CRUZ — The police practice of confiscating the belongings of homeless and homeless-rights advocates when writing tickets for city infractions does not violate First Amendment rights, a Municipal Court judge has ruled.

Judge Tom Kelly on Wednesday determined that police do not need search warrants to seize possessions of street people as evidence of alleged infractions, including maintaining a public nuisance, blocking a sidewalk and illegal camping.

The ruling came as a result of a motion to suppress evidence in the upcoming public-nuisance trial of homeless-rights activist Jay Green, 33.

Green's attorney, Margaret Marr, argued in the hearing that her client's "First Amendment

rights to political discourse" were violated by Santa Cruz Police officers, who searched and seized belongings — illegally and without warrants, she said — from the so-called "homeless table" at Front and Water streets Jan. 26 in one of more than a dozen raids this year.

Green and another activist were ticketed for maintaining a public nuisance. Marr and the activists claim the seizures are part of a police effort to deny the activists' free-speech rights, and to discourage the activists' ongoing protests at the table against the city's camping ban, which makes it illegal to sleep outdoors between the hours of 11 p.m. and 8 a.m.

The judge ruled otherwise, likening the items taken from the homeless table — bedrolls, sleeping bags, backpacks and personal effects — to police searches and confiscations in an automobile.

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"I'm deeply saddened and terribly troubled by this decision," Marr said. "Some very poor people have lost everything they own to the police. Where I come from, that is not only wrong, it is cruel."

Marr said she would probably appeal the issue.

Prosecutor Paul Marigonda could not be reached for comment.

Santa Cruz Police continue to make

regular visits to the homeless table, located next to the downtown Post Office, writing tickets for public nuisance infractions and, at night, for illegal camping.

Judge Kelly reminded the police that when making busts at the table, they should continue to leave the actual table and homeless-rights literature on it, as it is protected by free-speech rights and does not constitute a public nuisance. Such things as bedrolls, however, are not protected by First Amendment rights to

free speech, he said, and may be confiscated as evidence that a crime has been committed.

Homeless-rights advocate Robert Norse, who has been ticketed by police numerous times at the table, called Judge Kelly's decision a "total disaster. ...

"The homeless are now open-season, fair game for the police searches and seizures without a warrant. ...It gives police a blank check to root through homeless possessions at will as a means of driving them out of town," Norse said.