

Camping Ban May Go To Court

Homeless
9-29-88
SUN

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As local gadflies rally around the city council with pleas to rescind the camping ban, one California challenge could legitimize local complaints, and possibly, set legal precedent in the realm of public sleeping and homelessness.

A case filed on behalf of homeless "lawbreakers" in San Diego is challenging the state vagrancy code, which declares sleeping on public or private

property without permission illegal. This code provides the legal foundation for the Santa Cruz camping ban, and if the American Civil Liberties Union-supported case succeeds, ACLU attorney Kenneth Klein suspects camping ordinances throughout the state may fall along with this one.

According to Klein, who is volunteering for the San Diego ACLU on behalf of homeless defendants charged with misdemeanors for sleeping in public, the legal assault is three-pronged and has constitutional overtones. Klein argues that the 1872 California statute declaring public sleeping illegal was meant to apply only to structures and not to the outdoors. The original law, revised after a state Supreme Court challenge in 1961, deems as "disorderly conduct" lodging "in any building, structure, vehicle, or place... without the permission of the owner." This, says Klein, does not mean the outdoors.

But if the judge rejects this argument, Klein and attorney Tom Homann are also challenging the statute on two constitutional grounds: "It's illegal for a law to have a status," Klein told *The Sun* in an interview from his San Diego office, but this statute discriminates against homeless people as arbitrarily as a law that targets people with red hair.

"We have one defendant who was issued a citation because he'd been sleeping in the park for two hours. Now, I suspect that if he was wearing expensive beach clothes and lying on the beach for two hours, if he was wearing suntan oil, he would not have gotten a citation," Klein said.

In San Diego slightly fewer than 900 public bed spaces confront a nightly homeless population estimated at up to 2,000. "Every night 1,200 people have no place to go and it cannot be said that they are doing an involuntary act," Klein continued. "Their status of being homeless cannot be illegal." The attorneys also charge that the vagrancy law is unconstitutionally vague, and that a person reading the text would never know that sleeping outdoors is illegal.

Whatever the outcome of this case,
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Local homeless activists are keeping a close eye to San Diego and are mulling over a similar challenge based on similar circumstances. In Santa Cruz, for instance, slightly over a hundred bed spaces are meant to accommodate a homeless population estimated at anywhere between 200 and 600. And like the homeless defendants in San Diego, scores of local homeless have collected tomes of tickets for sleeping outdoors, and many may never pay them until a judge considers the tick-

ets in bulk.

Activists also point to other California cities that have considered similar challenges or threats of challenges. Santa Barbara legislators, after being faced with a "New York activist" who threatened legal challenge, relaxed their camping ban to the point where the homeless can sleep outdoors, according to Santa Barbara Councilmember Sidney Smith. And following legal action in Los Angeles, police can now only ticket a wayfar-

ing camper once the person has been offered a free bedspace and a ride to the shelter.

"They're really opening themselves up to some tremendous lawsuit," concurred local homeless activist and council candidate Martha Jane Imler about the Santa Cruz City Council and its steadfast stand on the camping ban. "I'm confident that in time if they don't rescind it [the camping ban], it's going to come down, there's just no two ways around it."