

# *The Sinister Sidewalk Singing Citation Circus*

**Tuesday August 3 10 AM Dept. 10**

**in the basement of the County Building 701 Ocean St.**

***Music & Munchables* 9:30 AM in front of the Courthouse 701 Ocean St.**

- **Robert "Blindbear" Facer**, a homeless street musician, and **Robert Norse**, a housed activist and long-time supporter of homeless civil rights, go to trial for violation of MC 9.36.020. Attorney **Ed Frey**, founder of the **PeaceCamp2010 protest** will defend Facer; Norse will defend himself.
- This law used against the political protesters bans daytime "**unreasonably disturbing noise**" [udn] that is "unreasonably disturbing or physically annoying to people of ordinary sensitiveness or which are so harsh or so prolonged or unnatural or unusual in their use, time or place as to cause physical discomfort to any person, and (b) which are not necessary in connection with an activity which is otherwise lawfully conducted." The noise banned is singing.
- In April, **Judge Almquist** fined singer **Becky Johnson** \$250 for singing "Downtown" with homeless lyrics in the same protest in front of the Bookshop Santa Cruz on January 6<sup>th</sup>. Almquist allow Johnson a court reporter, refused media coverage, rushed the trial, interrupted the defense conclusion, and fined Johnson \$250 (translated into Community Service). **Frey** has appealed Johnson's conviction.
- In the Facer and Johnson cases, city attorney **John Barisone** and his office are prosecuting St. George resident **Sean** Reilly's private citation against political songs "disturbing his afternoon nap" at 2-3 PM on a busy street. Since this peculiar heckler's and not the SCPD made the complaint & signed the citation, Barisone's participation is unusual, apparently targeted, selective prosecution. Barisone also explicitly took the case to closed session of City Council for authorization. <http://www.indybay.org/newsitems/2010/04/12/18644482.php>
- Mayor **Mike Rotkin** assured some of the participants and other members of **HUFF** (*Homeless United for Friendship & Freedom*) at a January meeting, later rebroadcast on **Free Radio Santa Cruz** that political singing wasn't covered by the law.
- Some members of the **Street Performers Guild** have expressed strong concerns that this new Almquist ruling gives the anyone who dislikes music or drumming on Pacific Avenue a blank check "heckler's veto". The **SPG** has taken no formal position on the case, but is discussing it at its monthly meetings. Some members recently observed and recorded the ticketing of drummer **Brent Adams** downtown.
- Last month Adams was ticketed, and threatened with a second "disturbing the peace" ticket on a second occasion--reportedly by a worker at **Pennrose and Atack**--the law firm with offices above Borders--for drumming during the day. Drummer Tamarack has also received a second citation, reportedly from the same people at the same location. Acoustic guitarist Shannon **Jae** has also received a udn citation.
- At the Soquel bridge levee Wednesday Drum Circle's new playing spot, police demanded drummers and musicians "**stop playing and leave**", improperly citing MC 9.36.020 to run them off. Several weeks later on July 27<sup>th</sup> P&R bureaucrat **Andrew Eisenberg** followed up by **destroying and quarantining the area**. Public Wqorks crews clear cut the trees there and taped off the public with "No Trespassing" signs.
- MC 9.36.020 does not give the SCPD or private complainants license to shut down performers they don't like. Cops and the hidden complainants are acting as though it does. They are not asking that people play more quietly, but simply **demanding they stop playing entirely or face court**.
- This police practice of shutting down and moving along musicians on the basis of the "heckler's veto" instead of advising them to play more quietly seems an **unlawful interpretation of the actual wording** of the law, as well as an **unconstitutional suppression of the First Amendment**.
- Once a ticket is issued, the performer is chilled from subsequent playing--under threat of a much more severe penalty (the second offense is a misdemeanor punishable by up to **6 months in jail** and/or \$1000 fine). Even the first offense requires the musician to go to court or pay a \$400+ bail forfeiture fine.
- As of August 12, the new "three unattended infractions" law goes into force. This allow Barisone to charge any new infraction (whether for performing, sitting, sleeping, littering, smoking, etc.) as a misdemeanor. Even if the infractions are subsequently paid off, an infraction of any kind for the next year can be charged as a misdemeanor. This also makes the **act of sleeping at night a jailing crime**.

More info at <http://www.indybay.org/newsitems/2010/07/20/18654398.php>

<http://beckyjohansononewomantalking.blogspot.com/2010/04/confessions-of-song-criminal.html>

<http://beckyjohansononewomantalking.blogspot.com/2010/01/sing-song-go-to-jail.html>

Flyer by HUFF (*Homeless United for Friendship & Freedom*) 831-423-4833 [www.huffsantacruz.org](http://www.huffsantacruz.org) 309 Cedar PMB #14B Santa Cruz 7-30-10