

# More *Sinister Sidewalk Singing* Citation Trials

**Tuesday July 20 9:30 AM Dept. 10**

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

***Music & Munchables* in front of the County Courthouse 701 Ocean St.**

**(Demo and Digestibles at 9:30 AM, Trial at 10 AM or shortly thereafter)**

- **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**, who recently began PeaceCamp2010 protest at the County Building will defend Facer; Norse will defend himself.
- This ordinance bans daytime "unreasonably disturbing noise" 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.*"
- **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>. Judge Almquist did not allow Johnson a court reporter, rushed the trial, interrupted the defense conclusion, and fined Johnson \$250 (translated into Community Service). Attorney **Ed Frey** is appealing Johnson's conviction.
- City attorney **John Barisone** is using city money to prosecute a heckler's complaint about political songs disturbing his sleep at 2-3 PM in the afternoon. Since this is a citizen's complaint and citation by St. George resident Sean Reilly, Barisone's participation is unusual and may be an example of targeted and selective prosecution.
- 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 Atask**--the law firm with offices above Borders--for drumming during the day. Drummer **Tamorack** has also received a second citation, reportedly from the same people at the same location.
- Wednesday Drum Circle participants, though largely undisturbed at their new location at Soquel and S. River St. next at the "levy triangle" next to the Soquel bridge, have reported police continue to demand drummers and musicians "**stop playing and leave**", improperly citing MC 9.36.020 to run them off.
- MC 9.36.020 does not give the SCPD or private complainants license to shut down performers they don't like. But cops and the hidden complainants are not asking that people play more quietly, but simply demanding they stop playing entirely.
- 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.

More info at <http://www.indybay.org/newsitems/2010/04/29/18646105.php>

<http://beckyjohansononewomantalking.blogspot.com/2010/01/downtown-music-by-petula-clark-lyrics.html>

<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 7-13-10