

1975

IN COURT

Low-Court Ruling

LOS ANGELES, CA—Penal Code Section 647-D was ruled unconstitutional Sept. 8 in Van Nuys by L.A. Municipal Judge Harold Sinclair.

This Penal Code section prohibits loitering "in or about any toilet open to the public for the purpose of engaging in or soliciting any lewd or lascivious or any unlawful act."

In *People v. Mike Legenback*, Judge Sinclair agreed with gay attorney Thomas F. Coleman that the state could not make a law that punishes people for their thoughts.

Coleman had filed a demurrer charging the law was unconstitutional on three grounds: vagueness, being a status crime (not for overt conduct but a state of mind) and overly broad (the prohibition is not limited to loitering for an illegal act).

Judge Sinclair ruled in favor of Coleman's argument that the section was a status crime and, therefore, unconstitutional.

If the decision is not appealed by the City Attorney's office, it will only apply to this judge's court. If it is appealed and upheld, it could set precedent for the entire state.

—Judy Willmore

Probation Reform

LOS ANGELES, CA—Gay attorney Thomas F. Coleman has succeeded in overturning repressive conditions of probation routinely handed out by judges and commissioners ruling on misdemeanor charges under provision 647(a) of the California Penal Code.

Two conditions of probation casually handed out to gay people are particularly odious: the provision that the defendant "stay out of places and areas where homosexuals congregate," and that the defendant "not publicly associate with known homosexuals."

Coleman was representing a gay client in municipal court when the usual conditions of probation were prescribed to his client.

In an outburst before the hearing commissioner, Coleman charged that these conditions were illegal because they would prevent his client from associating with him, his attorney, and thereby prevent him from using his right to counsel.

The commissioner noted the objection and Coleman took the matter up with Municipal Court Judge Eric E. Younger, who responded by ordering that "commencing immediately the 'a' conditions will cease to be imposed in the Central Arraignment Courts.

"We should, in the near future, move toward the creation of sensible conditions of probation for non-commercial sexual crimes if we find a need for them," Judge Younger wrote to the commissioners of his court and to other judges.