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^AM-Subways Musicians,820<

^Transit Troubadours and Subway Saxaphonists Get Reprieve<

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NEW YORK (AP) — A subway musician fined for soliciting donations was willing to go to court, but the Transit Authority decided to put a moratorium on issuing summonses to troubadours rather than make a constitutional case out of it.

Hundreds of musicians perform on subway platforms each day, leaving their instrument cases open or a hat on the ground to catch coins tossed by straphangers grateful for the musical interlude.

"Is it soliciting or playing with an open guitar case?" asked Transit Police Lt. James Duffy. "It's hard to determine. If the cop, using his discretion, determined he was soliciting, he was given a summons."

Until Monday, that is.

After three summonses, two for soliciting and one for obstructing passenger traffic, classical guitarist Lloyd Carew-Reid went to the New York Civil Liberties Union.

"There were no clear guidelines and police were issuing summonses based upon whim or their own musical tastes," CLU lawyer Arthur Eisenberg said Friday. Clearer rules would "limit the abuse of discretion that we saw taking place."

When the case came to trial Monday, the judge allowed the Metropolitan Transportation Authority, the TA's parent agency, to withdraw the summons because it was working on new rules — rules that would be consistent with the MTA's own program of sanctioned musical performances.

"We are not going to rush it because we want to make sure we have a clear set of rules," said MTA spokeswoman Doris Gonzalez-Light.

But on Tuesday the TA police department issued a directive ordering officers not to give musicians summonses for solicitation.

Officers were told, however, that if a musician was interfering with operations or passenger safety, then officers could write a summons for the specific offense.

"I think it's as close as possible to a total victory," said Carew-Reid. Half his income comes from playing in the subways and the other half from people who, after hearing him there, hire him to play for parties. "The subways are responsible for my living."

The directive was the second time the TA's position on subway musicians had softened.

In the fall of 1985 a judge ruled that the TA's total ban on musical performances was an unconstitutional violation of the First Amendment right to free expression.