

NATIONAL LAW CENTER ON HOMELESSNESS & POVERTY

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Ninth Circuit Court Hears Arguments Challenging Boise's Ban on Sleeping in Public

Law Center urges court to strike down the city's ordinances that criminalize homelessness

(July 13, 2017, Boise, Idaho) - Today the National Law Center on Homelessness & Poverty (the Law Center), together with co-counsel Idaho Legal Aid Services, and with pro bono support from Latham & Watkins LLP, presented oral arguments in the 9th Circuit Court of Appeals in *Martin v. City of Boise*, a case challenging the city of Boise's ordinances that prohibit sleeping in public.

"Not only is it unjust to punish homeless people for harmless, life-sustaining activities such as sleeping," said Maria Foscarinis, executive director of the Law Center, "it's an unconstitutional and wasteful use of city resources that could instead be put toward a solution, such as permanent and affordable housing."

The case was originally filed in 2009 to challenge Boise's enforcement of its Camping and Disorderly Conduct Ordinances against persons experiencing homelessness who need to sleep in public in the absence of adequate housing or shelter. The city of Boise amended the Ordinances in 2010 and 2014 in response to the lawsuit, but homeless persons continued to be issued citations and jailed. In 2013, the 9th Circuit overturned a previous dismissal of the case on procedural grounds and sent it back to the lower court, but in 2015 the lower court dismissed the case again without reaching the merits. The Plaintiffs filed the current appeal to contest that dismissal.

The case gained national attention in 2015 when the U.S. Department of Justice filed a Statement of Interest brief in the case, reinforcing longstanding federal policy that the criminalization of being homeless is bad policy and often unconstitutional.

"Boise's own count shows there are simply not enough beds for every homeless person in Boise," said lead local counsel Howard Belodoff of Idaho Legal Aid Services. "It is cruel and unusual punishment to criminally punish someone for sleeping in public when they have nowhere else to go."

Michael Bern of Latham & Watkins, who made the oral argument before the 9th Circuit, stated, "As we explained in our complaint, Boise's criminalization of homelessness violates the Eighth Amendment. Moreover, as the Department of Justice has made clear, criminalizing homelessness

is not only unconstitutional, but misguided public policy. Constructive measures should be taken to address the underlying causes of homelessness.”

This case is part of a nationwide movement against the criminalization of homelessness, spearheaded by the Law Center and more than 500 groups and individuals who have endorsed the [Housing Not Handcuffs Campaign](#).

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The [National Law Center on Homelessness & Poverty](#) (the Law Center) is the only national organization dedicated solely to using the power of the law to prevent and end homelessness. With the support of a large network of pro bono lawyers, we address the immediate and long-term needs of people who are homeless or at risk through outreach and training, advocacy, impact litigation, and public education.