

Criminalization of Homelessness Still on Trial in Boise

Plaintiffs File Appeal to the Ninth Circuit Court of Appeals

Boise, ID - On October 28, 2015, the [National Law Center on Homelessness & Poverty](#) and [Idaho Legal Aid Services](#), with the pro bono representation of [Latham & Watkins](#) LLP, filed a Notice of Appeal with the Ninth Circuit Court of Appeals appealing the dismissal, on jurisdictional grounds, of the case challenging the City of Boise's policies that criminalize people experiencing homelessness for sleeping outside. The Court's decision did not consider the merits of the Plaintiffs' constitutional claims. Plaintiffs prevailed in a prior appeal after the Court dismissed the case.

The case gained national attention this summer when the Department of Justice filed a Statement of Interest reiterating its longstanding federal policy opposing the criminalization of being homeless.

The case, originally filed in 2009, challenged Boise's Camping and Disorderly Conduct Ordinances which criminalizes sleeping in public. In response to the lawsuit, Boise amended the Ordinances in 2010 and 2014, but continues to direct police officers to issue citations and jail homeless persons although the total number of homeless people in Boise far exceeds the number of beds. The case was dismissed because in the six years since the case was filed, several of the Plaintiffs are currently housed or are staying in a shelter and others had become difficult to locate, leading the Judge to find that they no longer have a fear of prosecution under the Ordinances and thereby lack the required legal "standing" to bring a claim.

"We were disappointed that the district court chose to dismiss this case on procedural grounds rather than rule on the substance of our argument - that people experiencing homelessness in Boise are being denied their constitutional rights based on their status," said Maria Foscarinis, Executive Director of the Law Center.

“There are more homeless people in Boise than available and accessible shelter beds,” explained Eric Tars, Senior Attorney at the Law Center. “Therefore criminally punishing those forced to be on the streets for the simple act of sleeping is cruel and unusual punishment, as well as a terrible misuse of the city’s resources.”

“The City has failed to address the root causes of homelessness in Boise and continues its unconstitutional practice of citing and jailing homeless persons for sleeping when shelter beds are not available to an individuals,” said Howard Belodoff, lead counsel on the case from Idaho Legal Aid Services. “The Plaintiffs will continue to seek a remedy to ensure the constitutional rights of homeless persons are protected.”

Scott Jones, of Latham & Watkins, added, “While some procedural questions have been decided, many substantive issues remain in this case and we are pleased to continue to support NLCHP and Idaho Legal Aid in its efforts to protect the rights of homeless individuals.”

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The National Law Center on Homelessness & Poverty (www.nlchp.org) 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.

Last updated on November 19, 2015.

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