

# **U.S. Supreme Court Update**

## **City of Grants Pass v. Johnson**

League of Oregon Cities Conference

October 19, 2024



# **Eighth Amendment**

“Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.”

# Eighth Amendment

“Excessive bail shall not be required, nor excessive fines imposed, nor ***cruel and unusual punishments*** inflicted.”

# ***Martin v. City of Boise***



# ***Martin v. City of Boise***

“[T]he Eighth Amendment preclude[s] the enforcement of a statute prohibiting sleeping outside against homeless individuals with no access to alternative shelter.”

# ***Martin v. City of Boise***

Fn. 8: “Even where shelter is unavailable, an ordinance prohibiting sitting, lying, or sleeping outside at particular times or in particular locations might well be constitutionally permissible.”

# ***Johnson v. City of Grants Pass***





# ***Johnson v. City of Grants Pass***

- “[R]udimentary bedding supplies”
  - i.* NOT structures (e.g., tents), stoves, and fires
- Civil citations
- Classwide relief

# ***Johnson v. City of Grants Pass***









With support from States and cities across the country, Grants Pass urged this Court to review the Ninth Circuit's decision. We take up that task now.

<sup>3</sup>Supporters of Grants Pass’s petition for certiorari included: The cities of Albuquerque, Anchorage, Chico, Chino, Colorado Springs, Fillmore, Garden Grove, Glendora, Henderson, Honolulu, Huntington Beach, Las Vegas, Los Angeles, Milwaukee, Murrieta, Newport Beach, Orange, Phoenix, Placentia, Portland, Providence, Redondo Beach, Roseville, Saint Paul, San Clemente, San Diego, San Francisco, San Juan Capistrano, Seattle, Spokane, Tacoma, and Westminster; the National League of Cities, representing more than 19,000 American cities and towns; the League of California Cities, representing 477 California cities; the League of Oregon Cities, representing Oregon’s 241 cities; the Association of Idaho Cities, representing Idaho’s 199 cities; the League of Arizona Cities and Towns, representing all 91 incorporated Arizona municipalities; the North Dakota League of Cities, comprising 355 cities; the Counties of Honolulu, San Bernardino, San Francisco, and Orange; the National Association of Counties, which represents the Nation’s 3,069 counties; the California State Association of Counties, representing California’s 58 counties; the Special Districts Association of Oregon, representing all of Oregon’s special districts; the Washington State Association of Municipal Attorneys, a nonprofit corporation comprising attorneys representing Washington’s 281 cities and towns; the International Municipal Lawyers Association, the largest association of attorneys representing municipalities, counties, and special districts across the country; the District Attorneys of Sacramento and San Diego Counties, the California State Sheriffs’ Association, the California Police Chiefs Association, and the Washington State Association of Sheriffs and Police Chiefs; California Governor Gavin Newsom and San Francisco Mayor London Breed; and a group of 20 States: Alabama, Alaska, Arkansas, Florida, Idaho, Indiana, Kansas, Louisiana, Mississippi, Missouri, Montana, Nebraska, North Dakota, Oklahoma, South Carolina, South Dakota, Texas, Utah, Virginia, and West Virginia.

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vertently contributed to it. The numbers of “[u]nsheltered homelessness,” they represent, have “increased dramatically in the Ninth Circuit since *Martin*.” Brief for League of Oregon Cities et al. as *Amici Curiae* on Pet. for Cert. 7 (boldface and capitalization deleted). And, they say, *Martin*

Francisco's. In the judgment of many of them, the Ninth Circuit has inappropriately "limit[ed] the tools available to local governments for tackling [what is a] complex and difficult human issue." Oregon Cities Brief 2. The threat of

ways and to varying degrees. See Cities Brief 11. But many broadly agree that “policymakers need access to the full panoply of tools in the policy toolbox” to “tackle the complicated issues of housing and homelessness.” California Governor Brief 16; accord, Cities Brief 11; Oregon Cities Brief 17.

them. Cities across the West report that the Ninth Circuit's ill-defined involuntariness test has proven "unworkable." Oregon Cities Brief 3; see Phoenix Brief 11. The test, they



# Time, place, and manner regulations

Fn. 8: “Even where shelter is unavailable, an ordinance prohibiting sitting, lying, or sleeping outside at particular times of in particular locations might well be constitutionally permissible.”

# Time, place and manner regulations



# House Bill 3115

“Any city or county law that regulates the acts of sitting, lying, sleeping or keeping warm and dry outdoors on public property that is open to the public must be objectively reasonable as to time, place and manner with regards to persons experiencing homelessness.”



# House Bill 3115

“Any city or county law that regulates the acts of sitting, lying, sleeping or keeping warm and dry outdoors on public property that is open to the public must be **objectively reasonable as to time, place and manner** with regards to persons experiencing homelessness.”

# Portland



# Portland

- Portland City Code 14A.50.020
- Camping at night (8:00 p.m. to 8:00 a.m.)
- Protects certain sensitive areas (Schools, high-crash roads)
- Prohibits certain activities (fires, etc.)

# Portland

- Portland City Code **14A.50.140**
- Camping **reasonable alternative to shelter**
- Protects certain sensitive areas (Schools, high-crash roads)
- Prohibits certain activities (fires, etc.)

# Medford

- Sleeping and lying with bedding materials generally allowed, except in specific areas
- Tent camping not allowed, except in designated areas

# Thank you!



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