

Johnson v. City of Grants Pass, Oregon

Issue: Whether the enforcement of generally applicable laws regulating “camping” on public property constitutes “cruel and unusual punishment” prohibited by the Eighth Amendment.¹

Introduction

SCOTUS is considering a class action suit that challenges the constitutionality of an Oregon city’s ordinances attempting to regulate camping on public property.

Class members allege the City of Grants Pass has a combination of ordinances, customs, and practices that in aggregate punish people based on their status of being involuntarily homeless.

Grants Pass, Oregon has a population of about 40,000 people, a vacancy rate of one percent, essentially “no affordable housing,” and as many as 600 people experiencing homelessness.² Seeking how to manage public space, Grants Pass enacted a series of ordinances regulating use and access of public space.

Contested Ordinances

GPMC 5.61.030 Camping Prohibited: No person may occupy a campsite in or upon any sidewalk, street, alley, lane, public right of way, park, bench, or any other publicly owned property or under any bridge or viaduct, [subject to specified exceptions]. (Ord. 5475 §7, 2009)

GPMC 5.61.010 Definitions “Campsite” means any place where bedding, sleeping bag, or other material used for bedding purposes, or any stove or fire is placed, established, or maintained for the purpose of maintaining a temporary place to live, whether or not such place incorporates the use of any tent, lean-to, shack, or any other structure, or any vehicle or part thereof.

6.46.090 Camping in Parks

A. It is unlawful for any person to camp, as defined in GPMC Title 5 within the boundaries of the City parks. (Ord. 19-5752)

B. Overnight parking of vehicles shall be unlawful. For the purposes of this section, anyone who parks or leaves a vehicle parked for two consecutive hours or who remains within one of the parks as herein defined for purposes of camping as defined in this section for two consecutive hours, without permission from the City Council, between

¹ <https://www.scotusblog.com/case-files/cases/city-of-grants-pass-oregon-v-johnson/>

² <https://www.scotusblog.com/2024/04/supreme-court-to-hear-case-on-criminal-penalties-for-homelessness/>

the hours of midnight and 6:00 a.m. shall be considered in violation of this Chapter.
(Ord. 3869 §11, 1972)

6.46.350 Temporary Exclusion from City Park Properties: An individual may be issued a written exclusion order by a police officer of the Police Department barring said individual from a City park for a period of 30 days, if within a one-year period the individual:

- A. Is issued two or more citations in the same City park for violating regulations related to City park properties, or
- B. Is issued one or more citations for violating any state law(s) while on City park property.

The foregoing park exclusion order shall only apply to the particular City park in which the offending conduct under 6.46.350(A) or 6.46.350(B) occurred. (Ord. 5381 § 18, 2006)

1. imposing a \$295 fine for violations (with fine increases to \$537.60 if not paid);
2. allowing the city to issue an order that bans individuals from city property after two citations.
 - a. A violation of the order exposes the individual to a conviction on criminal trespass charges which carry penalties of up to 30 days in jail and a \$1250 fine.

Fines

The city imposes a \$295 fine for violations of the camping ordinances (with a fine increase to \$537.60 if it is not paid). Grand Pass Municipal Code 6.46.350.

Filing Suit

After the Ninth Circuit ruled in *Martin v. City of Boise*, John Logan, Gloria Johnson, and Debra Blake (who has since passed) challenged the constitutionality of the Grants Pass ordinances.

Legal Precedent

Robinson vs. State of California (1962): The Supreme Court found that it is unconstitutional under the Eighth Amendment for a state to punish a defendant for drug addiction when the defendant has not engaged in any illegal conduct involving drugs in their state of addiction. The courts established drug addiction as a status, not conduct, thus prohibiting any punishments based on an individual's status. States may still punish defendants for illegal conduct.

Martin vs. Boise (2018): The Ninth Circuit Court of Appeals held the Eighth Amendment prevents cities from enforcing criminal restrictions on camping in public spaces unless the person has "access to adequate temporary shelter."³ The Supreme Court rejected the request to hear the case, affirming the Ninth Circuit's ruling.

Blake vs. Grants Pass (2022) (the case on appeal to the Supreme Court): Now known as **Johnson vs. Grants Pass**, the Ninth Circuit Court of Appeals found:

1. The District Court did not lack jurisdiction. The Ninth Circuit rejected the City's arguments that the case was now moot and that the federal court did not have power to provide redress.
2. The District Court's certification of involuntary homeless persons was proper.
3. The Ninth Circuit upheld the U.S. District Court's prior ruling that people experiencing homelessness are entitled to take necessary minimal measures to keep themselves warm and dry while sleeping outside. The court held that punishing someone for the act of sleeping outside or for sleeping in vehicles at night when there is no other place in the city for them to go violates the Eighth Amendment.

Notably, **Johnson vs. Grants Pass** did not:

1. Consider in its decision whether the fines imposed on the plaintiffs violated the excessive fines clause of the Eighth Amendment.
2. Consider in its decision whether plaintiff's procedural due process claim had merit.
3. Prohibit cities from having time, place, and manner restrictions, even if the restrictions affected involuntary homeless persons.
4. Require cities to provide shelters for persons experiencing homelessness.

³ <https://cdn.ca9.uscourts.gov/datastore/opinions/2019/04/01/15-35845.pdf>

SCOTUS Oral Arguments

The Supreme Court heard oral arguments on April 22, 2024 and will likely rule on the case sometime in June. You can find the audio of oral arguments [here](#).

What *Johnson v. Grants Pass* Could Mean for Utah

State Statute

There are state statutes regarding camping regulation that may be impacted by *Johnson v. Grants Pass*.

Homeless Service Board Policy Recommendations

HB 298 Homeless Services Amendments (2024), sponsored by Representative Tyler Clancy, reconstituted the Homeless Services Board with new members and duties. One of the responsibilities of the board will be to make recommendations for “uniform standards for enforcing pedestrian safety and camping laws and ordinances.”⁴

Code Blue

HB 298 Homeless Services Amendments (2024), sponsored by Representative Tyler Clancy, amended Code Blue (the safety provisions that apply in severe winter weather) to allow a municipality to abate a camp during and immediately following a Code Blue Alert. While a municipality may enforce a camping ordinance, it may not seize any personal items for survival in cold weather from individuals including clothing, blankets, tents, and sleeping bags.

Shelter Mitigation Qualification

HB 421 Homeless and Vulnerable Populations Amendments (2024), sponsored by Representative Steve Eliason, required that qualified shelter cities may not receive any shelter mitigation funding unless the eligible cities both create and enforce an ordinance that prohibits camping — regardless of the capacity of the shelters in the county.⁵ Previously, municipalities were not required to enforce camping ordinances if all the shelters in the county were at capacity. In addition to enforcing camping ordinances, municipalities must “demonstrate improvement in reducing conduct in Subsections (2)(g)(i)(A) and (B) [camping and pedestrian safety (i.e., panhandling)].

Local Ordinances

⁴ <https://le.utah.gov/~2024/bills/static/HB0298.html>

⁵ <https://le.utah.gov/~2024/bills/static/HB0421.html>

Several municipalities throughout Utah have regulations surrounding camping in public areas. The outcome of *Johnson v. Grants Pass* will dictate whether those local ordinances are constitutional and enforceable.