

# Grants Pass v. Johnson: The Supreme Court Rules on Approach to Homelessness



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On June 28, 2024, the U.S. Supreme Court issued a decision in *Grants Pass v. Johnson* that could increase the challenges faced by unhoused individuals and the CAAs that serve them. The Supreme Court upheld city ordinances in Grants Pass, Oregon, barring people from sleeping or camping outside in public areas. The Court held that the ordinances did not violate the Eighth Amendment's protection against cruel and unusual punishment and therefore can remain in effect. The *Grants Pass* decision comes amidst a rise in homelessness and could spark further efforts at the state and local level to address homelessness.

## Lead-Up to the Supreme Court

In Grants Pass, Oregon, as many as 600 individuals experience homelessness on a given day, with the homeless population outnumbering available shelter beds. The Grants Pass ordinances at issue prohibit sleeping on public sidewalks, streets, or alleyways, and camping or overnight parking in certain public spaces. While initial violations trigger a fine, multiple violations of the Grants Pass ordinances may result in imprisonment.

A lawsuit was filed on behalf of unhoused individuals living in Grants Pass, claiming that the city's ordinances against public camping violated the Eighth Amendment's protection against cruel and unusual punishment. The U.S. Court of Appeals for the Ninth Circuit (Ninth Circuit) initially affirmed the lower court's injunction which stopped the city of Grants Pass from enforcing these ordinances. The injunction was largely based on a prior case in the Ninth Circuit, *Martin v. Boise*, which held that the Eighth Amendment bars cities from enforcing public camping ordinances against the "involuntarily homeless". According to that case, homeless individuals are considered involuntarily homeless when the number of homeless individuals exceeds the number of practically available shelter beds.

## The Supreme Court's Opinion

The Supreme Court granted review of *Grants Pass* to decide whether a city's enforcement of public camping laws against the involuntarily homeless violates the Eighth Amendment. In a 6-3 decision, the Supreme Court said no. Ultimately, it determined that enforcement of the Grants Pass ordinances did not constitute cruel and unusual punishment under the Eighth Amendment.

The Supreme Court justices wrestled with whether the Grants Pass ordinances punished those who are involuntarily homeless based on their status as unhoused individuals, because they need to sleep and have nowhere else to do so. The majority decided that the public camping ordinances do not punish the status of homelessness because they prohibit actions by any person, not solely those who are unhoused. For example, the majority noted that the ordinances in question apply equally to backpackers on vacation



passing through town as they do to unhoused individuals sleeping in the same location. According to the Court's majority, the fines and a maximum sentence of 30 days in jail as imposed by the ordinances do not qualify as "cruel" punishments because the penalties are not designed to further terror, pain, or disgrace individuals. Furthermore, the punishments are not "unusual" because fines and jail time continue to remain the usual modes for punishing criminal offenses across the country.

Justice Sonia Sotomayor, writing for the dissent, criticized the majority decision in *Grants Pass* for criminalizing homelessness. Because sleep is a biological necessity and the decision permits laws prohibiting unhoused individuals from sleeping outside when there is nowhere else for them to go, the dissent believes the majority decision wrongfully punishes individuals for being homeless.

Ultimately, Justice Neil Gorsuch, writing for the majority, concluded that homelessness is a complex issue and that the American people should decide how best to address it. *Grants Pass* thus empowers states and localities to take their own approaches to addressing homelessness in their communities.

### What CAAs Need to Know

- Keep up to date on state and local laws governing the use of public space by unhoused individuals. States and localities may respond to the decision by restricting camping like Grants Pass with fines or jail time, or by choosing to implement further protections for the unhoused.
- Support and educate staff so they can keep the unhoused informed and help them avoid facing adverse treatment under the law.
- Refresh your understanding of applicable lobbying and political activity requirements, since the Court's decision more squarely places the issue of homelessness in the hands of state and local legislators. See CAPLAW's [Election Year Refreshers for Nonprofit and Public CAAs](#) and [Lobbying Q&A](#).
- Be aware of restrictions on fundraising that apply to federal funds as *Grants Pass* may emphasize the need to generate more funds to address homelessness.
- Reconsider the data collected about services provided to the unhoused as *Grants Pass* amplifies the need for evidence-based, permanent solutions to end homelessness.

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