

JOHNSON V. GRANTS PASS PASS: A MAJOR SETBACK, BUT NOT THE LAST WORD IN CRIMINALIZATION OF HOMELESSNESS IN THE U.S.

The Johnson v. Grants Pass Supreme Court ruling allows cities to penalise homeless individuals for sleeping outdoors, overturning protections from Martin v. Boise. Despite this setback, advocates are pushing for systemic solutions like housing-first policies, which have successfully reduced homelessness in cities like Houston and Milwaukee. Globally, homelessness is recognised as a human rights issue, highlighting the need for housing justice and solidarity. This article was first published on the Housing Rights Watch Website on October 31, 2024, and we are grateful for their permission to share it here, with full attribution.

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By **Eric Tars**, senior policy director, National Homelessness Law Centre

The fight against the criminalization of homelessness in the U.S. has experienced a significant setback with the Supreme Court ruling in [Johnson v. Grants Pass](#). However, the struggle for justice is far from over. More than 600,000 people in America experience homelessness on any given night, with nearly half – 250,000 – sleeping outside. To understand the current state of homelessness policy in the U.S., it's essential to look at both the legal and political landscapes that have shaped this issue, especially how past rulings, like [Martin v. Boise](#), and the strategies adopted by advocates, have influenced the present and future.

THE LEGAL HISTORY: FROM MARTIN V. BOISE TO GRANTS PASS

The legal battle against criminalizing homelessness gained traction in 2018 with the landmark decision in [Martin v. Boise](#). In that case, the Ninth Circuit Court of Appeals ruled that it is unconstitutional to punish homeless people for sleeping or sheltering outdoors if no alternative indoor accommodations are available. This ruling cited the Eighth Amendment's prohibition on cruel and unusual punishment, marking a significant win for advocates fighting for the rights of unhoused individuals.

The *Martin* decision immediately led to the [suspension of anti-camping ordinances](#) in many cities under the Ninth Circuit's jurisdiction, which covers much of the western U.S. This ruling was not just about preventing fines or arrests. It led to broader changes, including millions of dollars of increased investments in housing, shelter services, and homelessness prevention programs. Policymakers began recognizing that punitive approaches do not solve homelessness but worsen it.

In 2019, the [U.S. Supreme Court refused to review the Martin decision](#), leaving it intact. The ruling became a powerful legal precedent even outside the Ninth Circuit, though it was not binding elsewhere. The decision even helped stop efforts by the Trump administration to push for national anti-camping policies, which would have sought to force unhoused individuals into makeshift camps.

In the years following *Martin*, similar cases cropped up, building on its precedent. One such case is *Grants Pass v. Johnson*, which emerged from the city of Grants Pass, Oregon. Here, the city enforced harsh penalties, including fines of \$295 for those sleeping outdoors without access to shelter – despite the city having no year-round emergency shelter, and the rental vacancy rate is one percent – basically zero. There simply isn't enough housing that people can afford. This mirrors a nationwide issue, as many US cities face a significant shortage of affordable and safe housing units.

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In 2022, a district court ruled in favor of Johnson and other unhoused plaintiffs, reinforcing the *Martin* precedent and adding an excessive fines claim under the Eighth Amendment. The 9th Circuit affirmed that ruling and many of the principles established in *Martin*. However, the Supreme Court accepted the case for review in January 2024, signaling a potential reversal. The Court's willingness to reconsider the matter reflects a broader legal shift in how the judiciary views the balance between local government powers and individual rights in the context of homelessness.

LEGAL STRATEGY IN GRANTS PASS: ADVOCACY BEYOND THE COURTROOM

Homeless rights advocates knew the stakes in *Grants Pass* were high. The *Martin* decision had given them a powerful tool to reduce harm, but it didn't address the root problem: the lack of affordable housing. Knowing the unlikelihood of winning in the current conservative-dominated Supreme Court, the [National Homelessness Law Center](#) adopted a two-part strategy in organizing support for the case. The goal was to fight the legal battle while using the spotlight to galvanize public support and drive long-term change to solve homelessness.

The legal strategy in court involved a wide coalition of voices. The plaintiffs were supported by [amicus briefs](#) from various legal, religious, social science, human rights, and historical experts. These briefs argued that criminalizing homelessness, in places where shelter was unavailable, was not only unconstitutional but also cruel and counterproductive. Advocacy groups emphasized the severe personal and societal costs of punitive measures, focusing on the intersectional harm faced by marginalized groups, including racial minorities, women, and people with disabilities.

[Outside the courtroom](#), the strategy shifted to movement-building. Advocates worked to raise awareness about the broader issues tied to homelessness, including racial and gender inequities, the high costs of housing, and the failure of existing systems to support people in crisis. By emphasizing the intersectional nature of the problem, advocates aimed to mobilize a wide range of groups and individuals in the fight for affordable housing justice.

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This approach recognizes that even a court victory in *Grants Pass* would have limited impact. A ruling might preserve the status quo, but it wouldn't address the systemic issues that lead to homelessness in the first place. By building a broader coalition, the movement seeks to push for real, structural changes that will solve homelessness at its roots.

THE PATH FORWARD: FIGHTING THE IMMEDIATE CRISIS AND BUILDING LONG-TERM SOLUTIONS

Unfortunately, the Supreme Court, as feared, overturned the lower court ruling, thereby enabling communities to enforce anti-homeless ordinances regardless of *whether or not individuals have access to any indoor shelter alternatives*. In the wake of the decision to hear more than 100 communities have already introduced or passed [new anti-camping laws](#) across the U.S., rolling back many of the protections gained in the wake of *Martin*. These measures often criminalize people for being unable to afford housing, effectively punishing them for their poverty.

However, there is a growing movement to counteract these policies. Advocates are pushing for federal, state, and local [legislation](#) that restores the protections lost in court, ensuring that cities cannot criminalize people simply for existing in public spaces when they have no other options. Legal advocates continue to file lawsuits using other constitutional or statutory theories.

Beyond the legal battles, advocates are also pushing for broader systemic [reforms](#). The long-term solution to homelessness lies in addressing the root causes. The lack of affordable housing, insufficient mental health services, and inadequate support systems for those in crisis will continue to drive homelessness in the U.S. unless these issues are addressed. Housing-first policies – like those successfully implemented in [Finland](#), where homelessness has significantly declined – are gaining traction in the U.S. These policies focus on providing stable, permanent housing as a first step, without preconditions, along with supportive services.

Efforts are also being made to expand [crisis response teams](#) that can address homelessness in a more compassionate and effective way. These teams focus on providing medical, mental health, and housing support rather than relying on law enforcement. Programs like these not only reduce the immediate harm caused by homelessness but also pave the way for longer-term housing solutions.

Many U.S. cities have proved that these models work to end homelessness. Florida's [Miami – Dade County](#) established the nation's first dedicated funding source for homeless services in 1992, resulting in a reduction of homeless individuals from over 8,000 to fewer than 1,000. [Milwaukee](#) saw a 92 percent decrease in its unsheltered population following the start of a housing – first program in 2015. [Houston](#), the nation's fourth most populous city, provided more than 25,000 homeless people with apartments and houses that helped to reduce homelessness by 63 percent.

THE GLOBAL PERSPECTIVE: HOUSING AS A HUMAN RIGHT

While the fight against the criminalization of homelessness faces major setbacks in the U.S., it remains a critical issue globally. Advocacy groups have long worked to frame homelessness as a violation of human rights, pushing for international [recognition](#) of criminalization as cruel, inhuman, and degrading treatment.

This argument has been accepted in many parts of the world, with international human rights bodies [condemning](#) the criminalization of homelessness. In Europe, for example, countries have implemented housing – first policies that have reduced homelessness significantly, demonstrating that punitive measures are not the solution. We all face huge challenges due to the commodification of housing, which has turned homes into investments rather than essential human rights. [International capital](#) is playing an increasing role in shaping housing markets, deepening an affordability crisis worldwide. To fight this global trend, advocates are calling for solidarity across borders, urging all nations to prioritize housing justice and push back against the forces that commodify housing and displace vulnerable populations.

CONCLUSION: A LONG ROAD AHEAD, BUT NOT THE END

The *Johnson v. Grants Pass* case marks a critical moment in the fight against the criminalization of homelessness in the U.S. While the legal outcome may be a setback, it is not the end of the road. Advocates are mobilizing for long-term solutions that focus on housing, services, and justice. The path forward requires sustained effort, both in the courts and in the streets, to ensure that homelessness is not treated as a crime but as a societal failure that can and must be addressed.

By building a broad, intersectional movement and learning from successful models abroad, the fight for housing justice can continue. While the immediate future may be uncertain, the movement is committed to ensuring that every person has the right to a safe and secure home.

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