News



A homeless couple moves their belongings to the side of a freeway on land under state jurisdiction, after being evicted from a downtown location on the side of a city street, in San Diego, Feb. 26, 2024. (OSV News/Mike Blake, Reuters)

Kate Scanlon

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The Supreme Court on April 22 heard a case concerning the constitutionality of local laws that ban public camping and their impact on people who are homeless.

The case concerns an ordinance adopted by Grants Pass, Oregon, prohibiting public camping within city limits. The city claimed the ordinance prohibiting public camping — which it defined as sleeping outside and using materials including blankets — applies to everyone, but challengers argued the ordinance criminalized homelessness, violating the Eighth Amendment's prohibition on cruel and unusual punishment.

The case, City of Grants Pass, Oregon v. Johnson, is the most significant case concerning homelessness to reach the high court in decades.

During oral arguments lasting more than two hours, justices and lawyers grappled with the balance between the civil rights of individuals experiencing homelessness and city officials seeking to regulate public spaces.

Justice Elena Kagan suggested the city's ordinance may have veered too far from protecting public spaces into criminalizing a basic human function.

"Sleeping is a biological necessity," Kagan said. "Sleeping in public is kind of like breathing in public."

In a tense line of questioning, Kagan asked a lawyer for the city where homeless individuals were expected to go.

"Where do we put them if every city, every village, every town lacks compassion? And passes a law identical to this? Where are they supposed to sleep? Are they supposed to kill themselves not sleeping?" she asked.

Meanwhile, some of the court's justices from its conservative wing expressed concern that implementing such policies was improperly falling to judges rather than

state and local lawmakers. Chief Justice John Roberts at one point asked a lawyer for the federal government why "these nine people" — referring to the high court — were the right venue for the question.

The case made for some strange political bedfellows, with some liberal or progressive leaders joining conservatives in backing stricter ordinances.

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In a friend-of-the-court brief urging the justices to side with Grant's Pass, Gov. Gavin Newsom, D-Calif., acknowledged problems presented by criminalizing homelessness, but argued that state and local officials are "trapped, at risk of suit for taking action but also accountable for the consequences of inaction."

Newsom pointed out that the problem of homeless camping is nationwide and requires officials to balance competing concerns. He stated the National Park Service, after attempting to get individuals into long-term housing, ultimately had to clear a homeless encampment in Washington's McPherson Square near the White House — but noted that the City of San Francisco, facing a similar situation, has its hands tied by the 9th U.S. Circuit Court of Appeals.

As some of the arguments in the case centered around how many beds in homeless shelters were available in the city, Becket, a Washington-based religious liberty law firm, filed a friend-of-the-court brief arguing that religious shelters were improperly excluded from the city's tally of available beds in shelters for the homeless.

"Ignoring the good work of religious homeless shelters flouts basic human decency and common sense," Daniel Chen, counsel at Becket, said in a statement. "These ministries should not be treated as suspect when they are on the front lines helping solve our nation's homelessness problem."

A decision in the case is expected by the end of the Supreme Court's term, typically in June.