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Contact:

National Homelessness Law Center
Erika Lopez, Communications Associate
202-638-2535 x. 110, elopez@homelesslaw.org

Ninth Circuit Upholds & Clarifies Homeless Persons' Right to Survive in Absence of Housing

Court Reiterates Martin v. Boise Holding that Civil and Criminal Punishments for Homelessness are Cruel & Unusual

(September 29, 2022, Washington, DC) – On September 28, people experiencing homelessness in Grants Pass, Oregon—and across the Ninth Circuit—could breathe a sigh of relief as their right to survive in the absence of adequate housing was reaffirmed.

The U.S. Ninth Circuit Court of Appeals issued an opinion in *Johnson v. City of Grants Pass* (formerly *Blake v. City of Grants Pass*), affirming in large part a [2020 ruling](#) from the District of Oregon and reiterating the framework from the Ninth Circuit's decision in *Martin v. City of Boise* that prohibits criminalization of the basic, life-sustaining activities of people experiencing homelessness who have no alternative housing or shelter.

Despite having no shelter in town, Grants Pass engaged in a deliberate campaign to pass and heavily enforce specific ordinances targeting the life-sustaining conduct of people experiencing homelessness, with the City Council President openly stating, “the point is to make it uncomfortable enough for them in our city so they will want to move on down the road.”

“The Ninth Circuit’s decision today in *Johnson v. Grants Pass* is consistent with well-established precedent that it is unconstitutionally cruel to punish homeless people for unavoidable acts of survival,” said Tristia Bauman, Senior Attorney for the National Homelessness Law Center. “The Ninth Circuit clarified that *Martin v. Boise* applies to civil citations that subject homeless people to future criminal punishment for sleeping outside or taking simple measures to stay warm and dry. Because this decision is rooted in settled law and sensible policy, the Ninth Circuit’s ruling should not be controversial: So long as people have no option but to live outside, they should not be punished for doing what all human beings must do to survive in that condition.”

This case is part of a nationwide movement against the criminalization of homelessness, spearheaded as part of the [Housing Not Handcuffs Campaign](#). The case was filed by the Oregon Law Center. The National Homelessness Law Center, with pro bono assistance from Dechert,

LLP and the University of Miami School of Law Human Rights Clinic, provided amicus briefs and legal support, and their [2019 Housing Not Handcuffs Report](#) was cited in the underlying opinion.

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The National Homelessness Law Center is a national organization dedicated to using the power of the law to prevent and end homelessness. With the support of a large network of pro bono lawyers, we address the immediate and long-term needs of people who are homeless or at risk through outreach and training, advocacy, impact litigation, and public education.