

No. 23-175

IN THE
Supreme Court of the United States

CITY OF GRANTS PASS,
Petitioner,
v.

GLORIA JOHNSON AND JOHN LOGAN, ON BEHALF OF
THEMSELVES AND ALL OTHERS SIMILARLY SITUATED,
Respondents.

**On Writ of Certiorari to the
United States Court of Appeals
for the Ninth Circuit**

**BRIEF OF *AMICUS CURIAE* GRANTS PASS
GOSPEL RESCUE MISSION
IN SUPPORT OF PETITIONER**

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**BRIEF OF GRANTS PASS
GOSPEL RESCUE MISSION
AS *AMICUS CURIAE***

Grants Pass Gospel Rescue Mission (“Mission”) respectfully submits this brief as amicus curiae in support of Petitioner City of Grants Pass. The Mission appears in this matter to provide information about the nature of the services it provides to the homeless in Grants Pass, Oregon and to explain how the Ninth Circuit’s interpretation of the Eighth Amendment has affected utilization of the Mission’s services by the homeless over time.¹

INTEREST OF *AMICUS CURIAE*

Grants Pass Gospel Rescue Mission is an Oregon nonprofit corporation that has served the homeless in Grants Pass, Oregon for more than 40 years. It does so not only by providing shelter services, but also counseling, job training, and many other related services to help people escape homelessness by addressing its underlying causes. Its interest is in successfully providing those services to as many people as possible.

SUMMARY OF THE ARGUMENT

The Mission, which is the only overnight shelter for homeless adults in Grants Pass, provides transitional housing and a broad range of services that have helped hundreds of formerly homeless people achieve independence and stability. The Ninth Circuit’s interpretation of the Eighth Amendment as applied in this case has significantly decreased the number of people who

¹ No party or counsel for a party helped to draft this brief, and no party or counsel to a party made a monetary contribution to fund the filing of this brief. Sup. Ct. R. 37.6.

access the Mission's services, as the City's inability to enforce its public camping ordinances has caused more of the City's homeless to remain on the streets instead.

ARGUMENT

I. GRANTS PASS GOSPEL RESCUE MISSION'S SERVICES

The Mission is an Oregon nonprofit corporation that serves the homeless with transitional housing and related services in Grants Pass, Oregon. The Mission is currently, and has been since this litigation was filed, the only facility providing overnight shelter beds to homeless adults in Grants Pass.

To stay at the Mission, residents must comply with certain rules. For instance, residents must abstain from alcohol and drugs including nicotine, must attend a Christian chapel service twice daily, and must abstain from intimate relationships during their stay at the Mission. The Mission receives no federal funding.

In total, the Mission's facilities can house 138 people. Residents who have agreed to follow the Mission's rules may spend their first 30 days in one of two separate buildings—one for men, and another for women and children. That initial 30-day period provides an initial point of stability, helps staff and residents build trust, and allows Mission staff to learn about each resident's strengths, challenges, and individual needs. If physically able, residents are assigned house or Mission duties by their second day. Based on needs and ability, residents might work in housekeeping, in the Mission's community garden, in the Mission's kitchen, or at one of the Mission's thrift stores. Those responsibilities enable residents to contribute to their stay and help residents gain valuable job skills.

After their first month, each Mission resident participates in a review with a Mission staff coordinator to observe their progress and confirm that they are remaining within the Mission's rules. Based on that review, they can be granted another month's stay through the Mission's "Pathway to Independence" program. In addition to continuing to provide shelter, food, and other essentials, that program assists in eliminating barriers to independence through counseling, assistance with acquiring birth certificates and DMV identification, job skills training, job search assistance, computer skills courses, and assistance in working with the Social Security Administration.

That monthly review process continues until the resident is discharged. For some, discharge occurs because they have decided not to participate or are unwilling to abide by the Mission's shelter rules. (Of those, some return months or even years later to renew their efforts.) But others—about 31% of the residents in any given year—are discharged because they have succeeded in securing income and a home, showing they are able to become financially stable and to live independently outside the Mission. Those successes represent the central goal of the Mission's work.

II. THE DECREASE IN SHELTER UTILIZATION AT THE MISSION SINCE *MARTIN V. CITY OF BOISE*

The Ninth Circuit's decision in *Martin v. City of Boise*, 902 F.3d 1031 (9th Cir. 2018), *opinion amended and superseded on denial of reh'g*, 920 F.3d 584 (9th Cir. 2019), on which the Ninth Circuit's decision in this case was chiefly based, has dramatically reduced the utilization of shelter beds in Grants Pass and the successful outcomes that its services make possible. In

short, the data indicate that hundreds of homeless individuals each year in Grants Pass *would* avail themselves of the Mission’s services, were they not allowed instead simply to camp in the City’s public parks. But because the City can no longer enforce its ordinances prohibiting such camping, more of those individuals elect to remain on the streets and on other City property. As a result, far fewer individuals participate in the Mission’s services—and discharge from its shelter with income and a home—than otherwise would.

In *Martin*, the Ninth Circuit concluded that “the Eighth Amendment prohibits the imposition of criminal penalties for sitting, sleeping, or lying outside on public property for homeless individuals who cannot obtain shelter.” 902 F.3d at 1048. In effect, *Martin* prevented local governments from enforcing their ordinances prohibiting camping and overnight sleeping on public property so long as the number of homeless individuals in a jurisdiction exceeds the number of available beds in homeless shelters. That decision was the central basis for the Ninth Circuit’s decision in this case. *Johnson v. City of Grants Pass*, 72 F.4th 868 (9th Cir. 2023).

The Ninth Circuit’s interpretation of the Eighth Amendment in those cases has had a dramatic and disheartening effect on the utilization of shelter beds in Grants Pass.

According to the Mission’s occupancy records, in the period spanning 2017 through 2019, during which the *Martin* case was being litigated, the Mission housed an average of 579 residents each year. But beginning in 2020, the number of people utilizing the Mission’s shelter services fell to 381, increasing the number of available beds that go unused. That trend has continued: In the period spanning 2020 through 2023, the Mission

housed an average of only 337 residents each year – a decrease of more than 40% from the preceding years.

Notably, the percentage of those residents who successfully discharge from the Mission—those who leave having secured income and a home—has not changed at all. In the period spanning 2017 through 2019, that average was 31%. In the period since, that average has remained at 31%. What *has* changed is the number of people who enter into the Mission’s programs. Far fewer people are housed at the Mission than before, and far more of its shelter beds go unused.

Crucially, the reduced number of individuals housed in the Mission’s shelters is not because the homeless population in Grants Pass has decreased, such that fewer people need the Mission’s services. Rather, the data here supports what Mission staff have seen first-hand: after 2019, fewer homeless individuals and families in Grants Pass are served, more available shelter beds go unused, and fewer residents overall are ultimately discharged from the Mission with income and a safe home to return to. Instead, they remain on the street—in tents in city parks, camped across sidewalks, sprawled on public benches.

The problem underlying that decrease is not that the City is unable to compel those who *would not* avail themselves of the Mission’s services for religious or other personal reasons. Rather, the problem is that even among the homeless population who *would* stay at the Mission—and who before the Ninth Circuit’s decisions had done so—nearly half no longer do.

CONCLUSION

Municipal public safety laws are a crucial tool in helping the homeless take advantage of available safe shelter resources. Taking away cities' power to enforce those laws, as the Ninth Circuit has done here, does not benefit the homeless as that court evidently hoped. Instead, it has only hindered the efforts of those in Grants Pass who devote each day to bettering the lives of those facing homelessness.

Respectfully submitted,

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