



MARTIN V. BOISE: WHAT DOES IT MEAN FOR COMMUNITIES?



MARTIN V. BOISE

On September 4, 2018, the 9th Circuit Court of Appeals affirmed that the state may not “criminalize conduct that is an unavoidable consequence of being homeless—namely sitting, lying, or sleeping on the streets” when there are more homeless persons than available shelter beds or in the absence of other adequate alternatives. Alternatives must be *practically accessible* to a given individual, taking into account disability, religious beliefs, or other restrictions.



LEGAL RATIONALE

The 9th Circuit reasoned that sitting, lying down, and sleeping in public is unavoidable conduct that is inseparable from a homeless person's status when they have no other place to live. To punish that conduct is akin to punishing a person's homeless status - a result that cannot be tolerated under the 8th Amendment. This rationale can be - and has been - applied to laws ranging from camping bans to disorderly conduct laws.



EFFECT ON PEOPLE EXPERIENCING HOMELESSNESS

This case makes it illegal for your community to punish you for sitting, lying down, or sleeping outside when you have no option to do so inside. If you are asked to leave public space, you have the right to ask where you can go, instead. If there is no other place for you to lawfully go, and you are violating no other law, then you may have the right to refuse to move.



EFFECT ON COMMUNITIES

The rationale underscoring the *Martin v. Boise* decision may apply to a wide range of policies and practices that have the effect of punishing a homeless person for sitting, lying down, and sleeping outside when they have no other option. Communities should immediately repeal such ordinances and view this as an opportunity to invest in cost-effective solutions proven to prevent and end homelessness. Elected officials can create wins for business, taxpayers, and homeless persons by actually reducing homelessness, rather than just its visible effects.



EFFECT ON ADVOCATES & SERVICE PROVIDERS



Advocates and service providers should emphasize that this ruling does not limit their community's options but rather opens them up to the proven cost-effective solutions that have worked elsewhere and that they know how to implement. Advocates and service providers can call on local governments to redirect savings from reduced law enforcement to outreach, low-barrier shelter, and Housing First solutions that will reduce the number of homeless persons on the street, and thus the visible impacts of those people.

ADDITIONAL RESOURCES

Model policies, communications materials, and other resources are available at www.housingnohandcuffs.org and www.nlchp.org/modelpolicies



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