

Wiley Rein Files Supreme Court *Amicus* Brief in *Martin v. City of Boise*

URGES REVIEW OF NINTH CIRCUIT DECISION UNDERMINING LOCAL EFFORTS TO ADDRESS THE PROBLEMS ASSOCIATED WITH HOMELESSNESS

September 27, 2019

Washington, DC – Along with co-counsel Professor F. Andrew Hessick of the University of North Carolina School of Law, assisted by law student Darpan Patel, Wiley Rein filed a brief with the U.S. Supreme Court on behalf of *amici curiae* MaryRose Courtney and Ketchum-Downtown YMCA of Los Angeles, supporting a petition for a writ of certiorari in a case involving the power of local governments to address the problem of homelessness. The *amicus* brief argues that the U.S. Court of Appeals for the Ninth Circuit erred in deciding that local ordinances in Boise, Idaho, prohibiting public camping in the city could not be enforced because they violate the Eighth Amendment by making the status of being homeless a criminal offense.

The case began in 2009, when several homeless individuals challenged Boise’s restrictions on public camping and sleeping. Their suit alleged that enforcement of those ordinances violated the Eighth Amendment’s Cruel and Unusual Punishment Clause. A federal district court’s dismissal of the suit was reversed by the Ninth Circuit, which held that cities cannot prohibit public camping unless they provide shelter beds for all homeless people in their jurisdiction. The City of Boise’s petition to the Supreme Court argues that the Ninth Circuit ruling effectively exempts public encampments from health and safety laws.

Wiley Rein’s brief is unusual, as it is written in substantial part in the first-person voice of MaryRose Courtney, whose brother has been homeless and struggled with mental illness and substance abuse on

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and off for the past twenty years. Ms. Courtney recounts her family's experiences attempting to help her brother. Ms. Courtney and Ketchum-Downtown YMCA also describe the devastating impact of encampments in Los Angeles on local communities. The brief explains how certain promising programs with win-win aspects for homeless people and local communities in which encampments are located have been derailed by the threat of litigation based on the Ninth Circuit's decision.

"The bottom line is that governments need flexibility to promote housing and safety for a variety of vulnerable people who suffer from a variety of conditions," the brief argues. "Some homeless people simply cannot afford housing, but others have mental health and substance abuse problems. Court rulings like the Ninth Circuit's in this case do far more harm than good because they lead to deregulation and generate apathy and inaction, as well as a sense of frustration that discourages further efforts to help the homeless."

Wiley Rein partner Richard A. Simpson is Counsel of Record in the firm's pro bono representation of the *amici* on this brief.

The brief can be read [here](#).