

**What did the Ninth Circuit Federal Court of Appeals rule in the *Martin v. City of Boise* case?**

In April 2019, the Ninth Circuit Federal Court of Appeals case ruled the U.S. Const. Eighth Amendment's prohibition on cruel and unusual punishment bars a city from prosecuting people criminally for sleeping outside on public property when those people have no home or other shelter to go to (such as space in a shelter or a legal place to rest).

Note, in footnote 8 of the *Martin* case, the court set forth limits on the scope of its ruling:

1. The ruling does not cover individuals who have access to adequate temporary shelter but choose not to use it.
2. Even when shelter is unavailable, an ordinance may prohibit sitting, lying, or sleeping outside at certain times or in certain locations.
3. An ordinance may prohibit obstruction of rights-of-way or the erection of certain types of structures.

**Does the *Martin* ruling apply to the City of Chico?**

Yes. California is part of the Ninth Circuit, so this decision applies to California municipalities, including the City of Chico.

**Can the City of Chico seize personal property at encampments?**

Yes, so long as those seizures adhere to the requirements set forth in a different Ninth Circuit case, *Lavan v. City of Los Angeles*, which addresses due process requirements for the removal of unauthorized encampments on public property. Under the *Lavan* ruling, prior to clearing encampments, local governments must provide notice to camp residents -- 72-hour minimum notice is common. (It is also important to have outreach personnel present during encampment removal, whose job it is to help individuals in an encampment identify shelter options or alternative locations to go to. Personal property found during the encampment removal must be held for a certain amount of time so that the owner may claim it. Storage of 60 days is common.)

### **Have anti-camping ordinances similar to the City of Chico's been upheld in other Federal Court of Appeals Circuits?**

Yes. In *Joel v. City of Orlando*, the Eleventh Circuit upheld an anti-camping ordinance against an Eighth Amendment challenge, which is one of the causes of action in the *Warren* lawsuit. **In *Joel*, the City of Orlando presented unrefuted evidence that the homeless shelters in the City of Orlando had never reached capacity and that the plaintiffs had always enjoyed access to shelter space.** Those unrefuted facts were critical to the court upholding the constitutionality of the City of Orlando's anti-camping ordinance.

### **What have the plaintiffs alleged in the *Warren* lawsuit?**

Based on the *Martin* ruling, the plaintiffs in the *Warren* case have alleged the Eighth Amendment's prohibition on cruel and unusual punishment bars the City of Chico from prosecuting people criminally for violating its Municipal Code for sleeping outside on public property when those people have no home or other shelter to go to.

Based on the *Lavan* ruling, the plaintiffs in the *Warren* case have alleged the City of Chico has violated due process requirements for the removal of unauthorized encampments on public property. Under *Lavan*, prior to clearing encampments and personal property in them, the City of Chico must provide notice (72-hour minimum notice is common).

### **What is the status of the *Warren* case?**

The *Warren* case settled on January 14, 2022, and was dismissed with prejudice on that date.

### **What are the terms of the *Warren* settlement?**

The terms of the settlement agreement may be reviewed here: [https://chico.ca.us/sites/main/files/file-attachments/warren\\_v.\\_chico\\_-\\_settlement\\_agreement.pdf?1642705274](https://chico.ca.us/sites/main/files/file-attachments/warren_v._chico_-_settlement_agreement.pdf?1642705274). Additionally, various FAQs regarding the *Warren* settlement are available here: [https://chico.ca.us/sites/main/files/file-attachments/warren\\_settlement\\_faq\\_final.pdf?1645242402](https://chico.ca.us/sites/main/files/file-attachments/warren_settlement_faq_final.pdf?1645242402).