

IN THE SUPREME COURT OF THE UNITED STATES

No. 23-175

CITY OF GRANTS PASS, OREGON, PETITIONER

v.

GLORIA JOHNSON, ET AL., ON BEHALF OF THEMSELVES
AND ALL OTHERS SIMILARLY SITUATED

ON WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

MOTION OF THE UNITED STATES FOR LEAVE TO PARTICIPATE
IN ORAL ARGUMENT AS AMICUS CURIAE, FOR DIVIDED ARGUMENT,
AND FOR ENLARGMENT OF TIME FOR ARGUMENT

Pursuant to Rule 28 of the Rules of this Court, the Solicitor General, on behalf of the United States, respectfully moves that the United States be granted leave to participate in the oral argument in this case, that the time for oral argument be enlarged to 65 minutes, and that the time be allotted as follows: 30 minutes for petitioner, 10 minutes for the United States, and 25 minutes for respondents. The United States has filed a brief as amicus curiae in support of neither party. Respondents have consented to this motion and agreed to cede 5 minutes of argument time to the United States. Petitioner is unwilling to cede any of

its time, but does not oppose the United States' participation in the argument or the enlargement of the argument time to 65 minutes to afford the United States 10 minutes of argument time. Cf. Tyler v. Hennepin County, 143 S. Ct. 1443 (2023) (No. 22-166) (enlarging argument by 5 minutes in a similar situation); Shoop v. Twyford, 142 S. Ct. 1612 (2022) (No. 21-511) (similar).

This case involves claims that a city's ordinances prohibiting camping in public spaces cannot constitutionally be applied to individuals who have no access to indoor shelter. Under those ordinances, individuals are prohibited from sleeping or camping on public property, including streets, sidewalks, and parks. Respondents contend that the City's enforcement of the challenged ordinances violates the Eighth Amendment as interpreted in Robinson v. California, 370 U.S. 660 (1962).

The United States has filed a brief as amicus curiae in support of neither party. The United States argues that the court of appeals correctly held that the Eighth Amendment as interpreted in Robinson prohibits a local government from effectively criminalizing the status of homelessness by completely barring individuals without access to shelter from residing in the jurisdiction. But the United States further argues that the application of that principle to a particular person requires an inquiry into that person's circumstances, and that the court of appeals erred in affirming broad injunctive relief without requiring such particularized showings.

The question presented implicates several substantial interests of the United States. Under the Violent Crime Control and Law Enforcement Act of 1994, 34 U.S.C. 12601, the Department of Justice is authorized to bring suits to protect the rights of individuals to be free from unconstitutional policing practices. The United States has a strong interest in working with state and local governments to address the problem of homelessness and to ensure that all Americans have a safe and stable place to live. See, e.g., 42 U.S.C. 11313. It also has an interest in ensuring that the Nation's cities can respond appropriately and humanely to public health and safety issues caused by encampments. As the owner of public buildings and land, the United States has an interest in ensuring that public property is protected, accessible, and maintained in a manner suitable for its intended uses. And the United States has an interest in the proper interpretation and application of constitutional provisions governing criminal prosecutions and punishments.

The United States has previously presented oral argument as amicus curiae in cases concerning the interpretation and application of the Eighth Amendment. See e.g., Kahler v. Kansas, 140 S. Ct. 1021 (2020); Baze v. Rees, 553 U.S. 35 (2008). The position of the United States -- informed by federal agencies' experience confronting the problem of homelessness -- does not fully align with the position of either party. Oral presentation of the views

of the United States will therefore materially assist the Court in its consideration of this case.

Respectfully submitted.

ELIZABETH B. PRELOGAR
Solicitor General
Counsel of Record

APRIL 2024