



NATIONAL LAW CENTER
ON HOMELESSNESS & POVERTY

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**ACLU AND NLCHP VICTORIOUS IN LAWSUIT CHALLENGING
BOISE'S NEW ANTI-SOLICITATION ORDINANCE**

*Court stops City of Boise from enforcing new anti-solicitation law that could have had
discriminatory impacts and banned constitutionally protected speech*

Boise, ID—Today U.S District Federal Court Judge Edward J. Lodge ruled in favor of the plaintiffs in *ACLU of Idaho v. City of Boise*. In doing so, the Court enjoined the City of Boise from enforcing its new Anti-Solicitation Ordinance (ORD-34-13) scheduled to take effect today, January 2, 2014.

In the decision Judge Lodge found that purpose of the ordinance “is to suppress particular speech” and that the case “is not about whether being asked for a donation of money on a sidewalk makes a person feel uncomfortable,” but instead “about whether under our Constitution a person has a First Amendment right to ask for money” in public. “Business owners and residents simply not liking panhandlers in acknowledged public areas does not rise to a significant governmental interest,” the court concluded.

“We are grateful that the Court validated the concerns of the plaintiffs and upheld the constitutional right to free speech,” said Richard Eppink, Legal Director for the ACLU of Idaho representing the plaintiffs. “I don’t know why, when it comes to protecting the rights of those struggling with poverty and homelessness in Boise, it keeps taking a federal court to force City leaders to follow the constitution and laws they swore they’d uphold.”

Joining the ACLU of Idaho in this lawsuit was the National Law Center on Homelessness and Poverty (NLCHP), which is already involved in an ongoing lawsuit against the City of Boise to protect persons experiencing homelessness from being harassed for sleeping in public when they have no alternative.

“We thank Judge Lodge for affirming what numerous other courts and the federal government have already said numerous times,” said Eric Tars, Director of Human Rights and Children’s Rights Programs with the NLCHP. “Although they may have lost their home, homeless persons do not lose their constitutional and human right to freedom of expression when they are on the streets.”

The court also refuted the City's assertion that the ordinance would not apply to street performers. Judge Lodge wrote, "The City misses the point, it is not that the street performances that create a possible violation, it is the street performer's request for money or donations to support the performance" that the ordinance would criminalize.

The ACLU of Idaho was the lead plaintiff in the lawsuit and was joined by two Boise residents, Larry Shanks and Troy Minton. Larry and Troy both live in their vehicles and are considered homeless. Larry is a street musician who is learning to play for donations on the streets of Boise. Troy solicits money on the streets and sidewalks of Boise to raise money for gas so that he can travel to jobs he gets through temp agencies.

"I am very relieved," said Larry Shanks. "It's a huge weight of my shoulders. Every night I would go to bed thinking about what would happen if this passed. I am relieved for my family and the common citizens as their rights were also in trouble."

Boise's Anti-Solicitation Ordinance was approved by the City Council on Tuesday, September 17, 2013. The lawsuit challenged part of the ordinance which aimed to criminalize *all* solicitation, including peaceful solicitation, in certain public spaces. Under the ordinance, "solicitation" would have included speech aimed to "request, ask, or beg, whether by words, bodily gestures, signs, or other means, for an immediate donation of money or other thing of value..."

The court noted that the ordinance was written so broadly that "*every* person who solicits for money or property in the public areas defined in the statute are potentially criminally liable based merely on the content of their speech."

The court entered a preliminary injunction halting enforcement of nearly every part of the new ordinance. That injunction will remain in place while the ACLU of Idaho and NLCHP continue to litigate the case.

A copy of the decision can be downloaded from the ACLU of Idaho website at:

<http://acluidaho.org/aclu-and-nlchp-victorious-in-lawsuit-challenging-boises-new-anti-solicitation-ordinance>

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The National Law Center on Homelessness and Poverty is a leader in the movement to prevent and end homelessness. To achieve its goal, the Law Center uses three main strategies: policy advocacy, public education, and impact litigation.