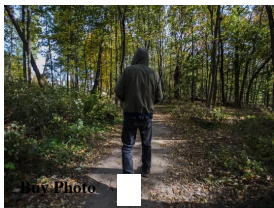


Judge: North Ave. homeless men can stay put for now

Jess Aloe, Burlington Free Press

Published 12:06 p.m. ET Oct. 25, 2017 | Updated 12:05 p.m. ET Oct. 26, 2017



(Photo: RYAN MERCER/FREE PRESS)

RUTLAND - A federal judge will decide early next week whether three homeless men can stay put at their camp off North Avenue in Burlington or the city can proceed with a planned disbandment.

Burlington officials had initially slated the camp's removal for Monday but federal Judge Geoffrey Crawford on Friday blocked officials from taking action when he granted the homeless men an initial temporary restraining order until Wednesday's hearing. Crawford on Wednesday extended the order until he decides whether to grant an ACLU request to block the city from evicting camps while the underlying case is heard.

On Friday, American Civil Liberties Union of Vermont lawyers, acting on behalf of camp residents Brian Croteau, Larry Priest and Richard Pursell, filed the lawsuit that argues the city's planned removal of the camp

at 311 North Ave. is unconstitutional and "criminalizes homelessness."

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From center left, Brian Croteau and Larry Priest wait outside of federal court in Rutland on Wednesday morning, Oct. 25, 2017, during a break in testimony. Both men are plaintiffs in the ACLU of Vermont suit against the City of Burlington, which is attempting to evict them and a third man living in a camp in the woods off North Avenue. (Photo: RYAN MERCER/FREE PRESS)

City Attorney Eileen Blackwood countered that the camp was scheduled for removal because of environmental concerns. The camp is located in an area the city describes as an "urban wild "

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At the beginning of Wednesday's hearing lawyer Jared Carter argued on behalf of the three homeless men that the city was violating the Eighth Amendment by criminalizing the status of homelessness. He said stopping the city from disbanding the camp would still allow the city to enforce environmental and criminal laws.

Blackwood said the city is tolerant of homeless camps but "must be able to regulate conduct."

Blackwood, flanked by a team of three assistant city attorneys, brought several city officials to U.S. District Court in Rutland to testify, including land steward Dan Cahill, Deputy Chief Shawn Burke and the police department's community affairs liaison, Lacey-Ann Smith.

City officials maintained that their goal with the camps was to balance health and safety with compassion and tolerance.

Cahill, who testified he had initiated the removal of the North Avenue camp because of concerns about erosion on nearby bluffs and other environmental impacts, said he had previously arranged trash pickup with another set of campers nearby until that camp was removed in July.

Croteau and Priest also took the stand to speak about their attempts to access shelter beds. Both men said they had failed to get a spot in one of the city's emergency shelters and had nowhere else to go.

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ACLU lawyer Jay Diaz argued that the city did not give the men suggestions for an alternative place to camp.

Under a previous administration, city officials did, at least on one occasion, try to direct homeless campers to a new location as they moved to disband them due to complaints from neighbors.

In May 2002 when city officials moved to shut down a camp occupied by several dozen people at the edge of the Intervale in the Old North End, they passed out maps pointing to an alternative site.

However, the suggested site had not been cleared with then-Mayor Peter Clavelle or City Attorney Joe McNeil. Several days later the group was ordered to move from the new campsite. McNeil said the new site could leave the city liable for problems.

In court on Wednesday, the ACLU's lawyer, Carter, argued that the city's policy on homeless encampments has been in flux.

City officials are currently working under a draft policy for removal that provides a framework for when and how to remove a camp.

After the hearing, which was scheduled for two hours on Wednesday morning but stretched until the end of the day, Blackwood said the administration was reviewing the policy and working towards a final draft.

Documents obtained by the Burlington Free Press show city officials, including former Parks director Jesse Bridges, workers from the city's Community and Economic Development Office and members of the mayor's staff, working on the policy throughout 2015 and 2016.

The court showdown comes a week after the city moved to disband a camp in Burlington's South End because of safety concerns. Some of those campers have [relocated to a new lot a few feet from their former camp \(/story/news/2017/10/24/evicted-homeless-campers-relocate-neighboring-lot/794582001/\)](/story/news/2017/10/24/evicted-homeless-campers-relocate-neighboring-lot/794582001/).



A camp off of North Avenue in Burlington is at the center of a lawsuit filed Friday, Oct. 20, 2017 by the ACLU of Vermont against the City of Burlington, who wants to remove the camp. The ACLU lawyers say that disbanding the camp and uprooting the three men who live there is unconstitutional. The city attorney says that the camp poses an environmental threat to the area. Seen on Monday, Oct. 23, 2017. (Photo: RYAN MERCER/FREE PRESS)

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