

STATE OF NEW MEXICO  
COUNTY OF BERNALILLO  
SECOND JUDICIAL DISTRICT COURT

LADELLA WILLIAMS, SCOTT YELTON,  
SONJA GARCIA, ALONSO MAGALLANES,  
CHRISTINA GARCIA, RICKEY MAUK,  
SHERI GIBSON, and LANCE WILSON,

Plaintiffs,

v.

No. D-202-CV-2022-07562

CITY OF ALBUQUERQUE,

Defendants.

**ORDER VACATING PRELIMINARY INJUNCTION**

This matter is before the Court upon Plaintiffs' Motion to Modify Preliminary Injunction, which was filed on May 12, 2024 (the "Motion"). The Court has reviewed the Motion, Defendant City of Albuquerque (the "City's") April 1, 2024 response, and Plaintiffs' April 19, 2024 reply. On April 2, 2024, before briefing was complete, this Court held a status conference where all parties appeared through their counsel of record.

Following that status conference, also on April 2, 2024, the Court entered its Preliminary Order Granting in Part Plaintiffs' Motion to Modify Preliminary Injunction (the "Preliminary Order"). The Preliminary Order vacated that portion of this Court's preliminary injunction that enjoined the City from enforcing certain laws against involuntarily unhoused people living in Albuquerque.

This Court then held a further hearing on the Motion on May 13, 2024, where the parties again appeared through their counsel of record. Now, being fully advised in the premises, the Court finds the remainder of the preliminary injunction should be vacated.

The Court further finds and concludes as follows:

1. On September 21, 2023, this Court entered a preliminary injunction against the City (the “Preliminary Injunction”). The Preliminary Injunction enjoined the City from enforcing laws and ordinances against involuntarily unhoused people living in Albuquerque that criminalized their “mere presence” in outdoor public spaces. It also placed restrictions on the manner and process by which the City may seize and destroy homeless persons’ belongings.

2. On March 1, 2024, the Court modified the Preliminary Injunction. Those initial modifications were intended to provide more specificity as to the conduct of the City that was enjoined and the conduct that remained permissible.

3. A little less than two weeks later, on March 12, 2024, Plaintiffs moved to modify the Preliminary Injunction by filing the Motion that is now pending before the Court. In their Motion, Plaintiffs stated that “developments in the underlying law, as well as a procedural posture that has resulted in Plaintiffs defending their case in the New Mexico Supreme Court before Plaintiffs have had the opportunity to prove their claims at trial . . .” prompted them to seek to vacate all aspects of the Preliminary Injunction except one: the unlawful destruction of unhoused people’s belongings. *See* Motion at 1.

4. The development in the underlying law to which Plaintiffs referred is the case of *City of Grants Pass, Oregon v. Johnson*, which is pending before the United States Supreme Court. *See* No. 23-175, 2024 WL 133820 (U.S. Jan 12, 2024) (granting certiorari). *See also* <https://www.supremecourt.gov/search.aspx?filename=/docket/docketfiles/html/public/23-175.html> (Supreme Court of the United States docket for *City of Grants Pass*) (last visited May 17, 2024).

5. *City of Grants Pass* presents the following question: whether the enforcement of generally applicable laws regulating camping on public property constitutes cruel and unusual

punishment prohibited by the Eighth Amendment to the United States Constitution. *See City of Grants Pass* “Brief for Petitioner,” filed February 26, 2024, at “i” (available at the Supreme Court docket website cited in paragraph 4, above). *See also* Brief for Respondents, filed March 27, 2024, at “i” (presenting a similar legal question for review). *City of Grants Pass* remains pending before the United States Supreme Court.

6. The parties and the Court agree that the outcome of *City of Grants Pass* will likely affect these proceedings. *See, e.g.*, Motion at 4 – 5 (listing some of the possible arguments that could arise in this matter depending on the outcome of *City of Grants Pass*).

7. The facts in the record demonstrate that the City has destroyed the property of involuntarily unhoused people in violation of their constitutional rights to due process and against the unreasonable seizure of their personal property. The Court stands by its previous factual findings that the City has not, at times, provided involuntarily unhoused persons these basic constitutional protections before seizing and destroying their personal property.

8. However, the posture of this case as it presently stands presents considerable challenges for this Court in fashioning and enforcing a preliminary injunction on the sole issue of the unconstitutional destruction of the personal property of homeless people. It is possible, if not likely, that the legal bases supporting some of Plaintiffs’ constitutional claims will shift following the United States Supreme Court’s decision in *City of Grants Pass*.

9. The Court needs to review and evaluate those changed legal claims in order to fully evaluate the nature of Plaintiffs’ requested injunctive relief. This is especially true because Plaintiffs are requesting relief not only for themselves, but also on behalf of three different classes of homeless people, on a number of intertwined constitutional issues concerning the rights of unhoused people living outside in the City of Albuquerque.

10. Thus, this Court concludes that the enforcement of the Preliminary Injunction, even if modified only to address the destruction of homeless persons' property, is impracticable in light of the probable changes to Plaintiffs' legal arguments in the future. Stated differently, the facts presently in the record make fashioning the relief that Plaintiffs desire on the sole issue of the destruction of property unworkable, especially as to the three different proposed classes. *See, e.g., Insure New Mexico, LLC v. McGonigle*, 2000-NMCA-018, ¶ 6, 128 N.M. 611 (providing that the "practicability of granting and enforcing the order" is one of the factors that the court must evaluate when considering to grant or deny a request for injunctive relief).

It is therefore ORDERED as follows:


A. The Preliminary Injunction, as modified by order of this Court on March 1, 2024 and again on April 2, 2024, is hereby **VACATED**.

B. This Order is made without prejudice to Plaintiffs seeking the same or similar relief in the future once the legal bases for Plaintiffs' various claims is made clearer in this matter following the United States Supreme Court's decision in *City of Grants Pass*.

**IT IS SO ORDERED.**

  
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Joshua A. Allison  
District Court Judge

This certifies that a true and correct copy of this Order was served upon counsel of record through Odyssey.

  
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Mary B. Lovato  
TCAA to Division XXIII