

Homeless Not Entitled to Emergency Shelter in District of Columbia

Washington Legal Clinic for the Homeless v. Barry , No. 96-7066 (D.C. Cir. Mar. 4, 1997)
Clearinghouse No. 51,731

The District of Columbia (DC) Circuit Court of Appeals has reversed the district court ruling that DC law created a constitutionally protected entitlement to emergency shelter. In 1984 DC voters passed the Right to Overnight Shelter Act (ROSA), which guaranteed all persons the right to adequate shelter. The city council later enacted a law creating a temporary shelter program for eligible families. Citing an "explosion" in costs, the city council amended both acts to state that neither created an entitlement to overnight shelter. Because the city lacked space to accommodate all families seeking shelter and because the ROSA and its regulations did not direct the shelter office how to allocate shelter, the shelter office developed a system for allotting space to eligible families. Plaintiff appellee legal clinic for the homeless alleged that defendant appellant violated due process and equal protection guarantees by imposing unnecessary and burdensome documentation requirements and by failing to afford timely hearings for disappointed shelter applicants. The court held that although DC law established objective eligibility criteria for families seeking shelter, the homeless lacked an expectation of shelter sufficient to create a property right. The court reasoned that city could not provide enough shelter to meet the needs of all those eligible, and the allocation of limited space was left to the unfettered discretion of city administrators. The court, however, held that city's policy limiting advocate visits to a shelter office waiting room violated the First Amendment because city did not offer tenable reasons for restricting access, and its rationale for guarding against overcrowding was not reasonable.

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