

MCGEE CIVIL RIGHTS MOOT COURT 2021-2022 PROBLEM
*Presented by Mitchell Hamline School of Law with
the University of Minnesota Law School*

You are counsel arguing on appeal *State of McGee v. Frocker*, a criminal appeal of the misdemeanor conviction of Kendra Frocker for violating McGee’s unlawful-camping statute. Before trial, Frocker moved to dismiss the charge, arguing that the Eighth and First Amendments of the United States Constitution prohibited enforcement of the statute against her on the night in question because no shelter was practically available to her that night. The district court denied the motion to dismiss.

Frocker and the state agreed to a stipulated-facts court trial, based on the facts the court found in its motion to dismiss. The court found Frocker guilty and sentenced her to one day in jail with credit for one day of time served, along with a statutory-minimum \$50 fine. The court also placed Frocker on probation for a period of six months, with an additional 14 days of jail time stayed, subject to conditions of probation.

Because the case was decided on stipulated facts, on appeal you are limited to considering and arguing the facts included in the “Findings of Fact” section of the order denying Frocker’s motion to dismiss.

The case presents two claims: an Eighth Amendment claim and a First Amendment claim.

The issues on appeal are as follows:

1. The Eighth Amendment Claim

Assuming no other shelter was available to Frocker, does the Eighth Amendment’s prohibition on Cruel and Unusual Punishments prevent the state from enforcing the unlawful-camping statute against her?

2. The First Amendment Claim

Would criminal conviction and punishment in this case violate the First Amendment, given the explicitly Christian characteristics of the only available shelter and the rules Frocker would have been required to follow to stay there?

Each team must address both the Eighth Amendment issue and the First Amendment issue. Briefing and argument must be limited to the above-described issues, and the parties should not address issues outside the identified constitutional questions.

This proceeding takes place in the McGee state Court of Appeals. Therefore, while decisions of the United States Supreme Court are, of course, binding precedent, decisions of federal courts and of other state courts are not binding, though they may be persuasive.