

# McGee Moot Court Competition

Problem Overview



**MINNESOTA LAW**

UNIVERSITY OF MINNESOTA

# The State Statute: McGee 609.480

## Prohibited Camping.

### (a) In this section:

1. “Camp” means to reside temporarily in a place, with shelter.
2. “Shelter” includes a tent, tarpaulin, lean-to, sleeping bag, bedroll, or any form of semipermanent or permanent shelter which is designed to protect a person from weather conditions that threaten personal health and safety. Clothing is not “shelter” within the meaning of this statute.

### (b) A person is guilty of the misdemeanor offense of prohibited camping if the person intentionally or knowingly camps in a public place without the express consent of an officer or agency who has the legal duty or authority to manage the public place.

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## Prohibited Camping.

- C. The actor's intent to camp in a public place or knowledge that the actor is doing so may be established through evidence of activities indicative of such knowledge or intent, including but not limited to:
1. Cooking;
  2. Building a fire;
  3. Storing personal belongings;
  4. Erecting a structure for shelter; and
  5. Sleeping.
- D. Violation . . . Is a misdemeanor [90 days jail / \$500]

# The Background Facts

- City of McGee has three homeless shelters:
  - All are private (not operated by the state/city)
  - Two operated by Open Doors, Inc.
    - Total of 148 people (men, women, children)
    - Arrive by 8 pm
    - No religious iconography/activities
  - One operated by Disciple Homes
    - Christian nonprofit
    - 64 people/families with children (private rooms), and
    - 120 single adults (large hall)
    - Must arrive by 8 pm, open to all faiths/no faith

# The Background Facts

- Disciple Homes Procedures:
  - Singles hall has large mural with Christian imagery, including a cross, and phrases “Jesus is King” and “This is a Holy Place” in 3-foot-high-script.
  - 8:10 pm: Pastor leads an explicitly Christian prayer of thanks and praise in the singles hall
  - Paper with prayer distributed to everyone
    - Not required to recite
    - Required to accept the paper, and either recite or remain silent
    - Must stand if able and remove headwear
    - Refuse to follow = discharged from shelter/must leave

# The Background Facts

- Shelter/Police Informal Agreement:
  - 8:30 pm, Open Doors and Disciple Homes call police and report whether they've reached capacity.
  - Police generally do not enforce camping ordinance when shelters are full.

# Case Facts: Kendra Flocker

- March 9, 2021, 46 degrees, light rain
- Open Doors full; Disciple Homes not full
- 10:15 pm, police find Flocker in the park
  - Sleeping on the ground
  - Foil blanket
  - Head resting on a bunched-up sweatshirt
  - Covered with plastic dropcloth, fixed with zipties to tree branches and park bench; belongings in cart
- Police wake Flocker

# Case Facts: Kendra Frocker

- Frocker tells police:
  - Open Doors full at 7:15 pm when she arrived
  - Stayed at Disciple previously, but:
    - Did not feel welcome due to her non-Christian religious beliefs
    - Felt she was forced to (silently) participate in Christian prayer
- Police would typically issue citation
- But temp predicted to drop, so arrest
  - Deemed necessary for person's safety
- Booked 11:15 pm released 7:00 am



# Procedural Posture

- Frocker moves to dismiss unlawful camping charge, under 8th and 1st Amendments.
- District court denies:
  - 8th Amendment prohibits enforcement of McGee unlawful camping statute against a person without shelter. BUT
  - Shelter was available to Frocker; (her 1st Amendment claim fails)
- Stipulated-facts trial (guilty)
- Appeal to McGee state Court of Appeals
- Record – Findings of Fact + Problem Overview