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9th Circuit to take up challenge to Calif. ban on felons becoming EMTs

Daniel Wiessner

January 10, 2022

(Reuters) - Two California men with felony records are asking a U.S. appeals court to revive their challenge to the state's ban on convicted felons being certified as emergency medical technicians, with the backing of groups from across the ideological spectrum.

A 9th U.S. Circuit Court of Appeals panel will hear oral arguments in Pasadena on Tuesday that will focus on whether the plaintiffs' claim that the 2010 regulation is not justified by the state's interest in protecting public safety is enough to survive the state's bid to toss their lawsuit.

California bars people convicted of multiple felonies from being certified as EMTs for life. An individual convicted of a single felony cannot become an EMT for ten years after his or her sentence ends.

Dario Gurrola and Fernando Herrera, who each have two felonies on their records, claim the ban violates their equal protection and due process rights under the U.S. Constitution. And the men say they can never realize their goals of becoming full-time firefighters because those jobs require EMT certification.

A federal judge in Sacramento dismissed the case last February, agreeing with the state that its interest in preserving public safety provided a rational basis for adopting the ban.

The American Civil Liberties Union, National Association for the Advancement of Colored People, and conservative groups, including the Cato Institute and Pacific Legal Foundation, have joined the plaintiffs in urging the 9th Circuit to revive the case.

The ACLU and other left-leaning groups in amicus briefs filed in May focused on the ban's disproportionate impact on Black and Latino people, who are more likely to have felony

convictions. And the conservative groups told the court that categorical licensing bans for convicted felons often have no connection to the underlying jobs and can increase recidivism by depriving people of work opportunities.

The California Attorney General's office in an August brief said the case was properly dismissed because the plaintiffs did not show that they were "similarly situated" to EMT applicants with no criminal history.

The AG noted that criminal laws frequently distinguish between individuals with and without felony convictions, and no court has found that unconstitutional.

The plaintiffs countered that not all felony crimes are relevant to whether a person is fit for EMT licensing, so it was arbitrary for the state to bar certification for all convicted felons.

The ban is particularly vexing, they said, because California uses prisoners to help fight wildfires but then effectively bars them from becoming firefighters once they are released.

The case is *Gurrola v. Duncan*, 9th U.S. Circuit Court of Appeals, No. 21-15414.

For the plaintiffs: Andrew Ward of Institute for Justice

For the state: Deputy Attorney General Lisa Tillman

For the other defendants: Louis Castoria of Kaufman Dolowich & Voluck; Wendy Motooka of Rivera Hewitt Paul.