

# Catholic Priest Sues California Governor for Violating Religious Rights

One Catholic priest has had enough of California Gov. Gavin Newsom's seemingly endless "state of emergency" and the constitutional violations incurred with the resultant lockdown. Attorneys from the Thomas More Society have filed a lawsuit in California Superior Court against Newsom and 19 other state, county and municipal officials on behalf of Father Trevor Burfitt. Submitted Sept. 29, 2020, the case charges each of the named parties with eight distinct violations of Burfitt's rights under the constitution of California.

Burfitt oversees mission churches in Kern, San Bernardino, San Diego and Los Angeles counties, each of which has been severely restricted during Newsom's seven-month lockdown of the state. These restrictions imposed and enforced by Newsom and the other named officials in regard to COVID-19 have severely obstructed the rights of Burfitt and others throughout California, despite the guarantees promised in the state constitution.

The complaint seeks declaratory and injunctive relief for the constitutional violations committed by Newsom and those under his authority throughout California. The filing states that "Newsom's lockdown was originally supposed to be only a temporary emergency measure. However, nearly seven months later it appears that, absent judicial intervention, there will never be a 'reopening' to normal, pre-COVID activity, despite incontestable facts—including California's own data— ... showing that the lockdown is no longer warranted and is causing far more harm than good."

The lawsuit details how Burfitt's priestly ministry has been radically restricted by Newsom's lockdown in several specific ways:

- A severe occupancy restriction placed on houses of worship has not been imposed on businesses deemed "essential" (by Newsom's arbitrary judgement alone).
- A total ban on indoor worship, imposed for the second time on July 13, 2020, has discriminated against churches in 38 counties (which include 86% of California's population), including those in which Burfitt engages in ministry.
- A "social distance" bubble zone of six feet around every person is required, which precludes proper conduct of Catholic worship.
- A "face covering" mandate radically interferes with Catholic worship in numerous ways and also irrationally threatens individual health in multiple ways.

Thomas More Society Special Counsel Paul Jonna said, "It is now beyond reasonable dispute that, absent judicial intervention, Gov. Newsom intends to continue indefinitely a massive and baseless suspension of the constitutional rights of Father Burfitt and nearly 40 million other residents of the state of California. He continues to levy strict limits or outright prohibitions on public and private worship activities, which continue to be designated as 'nonessential,' while liquor stores, marijuana dispensaries and the Hollywood movie industry are allowed to operate unhindered. California's residents are apparently expected to live their lives behind makeshift 'face coverings' while maintaining an arbitrary distance of six feet from everyone they encounter outside their homes. And to complete Newsom's despotic mandates, anyone who declines to obey faces criminal and civil penalties. This is unconstitutional and a blatant violation of the rights guaranteed by California's constitution."

The lawsuit argues three key constitutional points:

1. Under the California constitution, a public health “emergency” cannot be whatever the governor says is an emergency, nor end only when he says so—no matter how long it continues or how dubious the rationale for its prolongation.
2. The California constitution does not permit the state’s governor to impose any “emergency” restriction of fundamental rights that he deems appropriate. Rather, any restrictions or measures that the governor imposes must be narrowly tailored, limited in time and serve interests of the highest order, as opposed to any goal that the governor wishes to achieve.
3. There cannot be absolute judicial deference to the exercise of a governor’s purported “emergency” powers. Rather, there must be a judicial inquiry into the factual basis for their invocation, their limits and their continuation, with the burden of proof being on the state at all times. To hold otherwise would allow tyranny to be exercised by the executive branch and incur a total abandonment of the separation of powers intrinsic to California’s constitutional scheme. {eo}

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