

9th Circuit Rules in Favor of Reopening Nevada Churches

“Las Vegas. Now Open!”

So declared an ad that ran June 9 announcing the reopening of casinos after closures due to COVID-19.

But while hundreds of thousands of people streamed into casinos, Nevada churches were prohibited from holding worship services with more than 50 people—under threat of criminal and civil penalties.

That’s a clear, and unconstitutional, double standard. And one Nevada church took a stand to correct it.

After having stopped in-person services for streaming in the spring, Calvary Chapel Dayton Valley hoped to resume in-person worship services with certain restrictions. Calvary Chapel even developed a comprehensive health and safety plan, including meeting at less than 50% of its building’s capacity, practicing social distancing, using face masks and limiting services to 45 minutes.

But Nevada Gov. Steve Sisolak had other plans.

Instead of prioritizing religious freedom, Gov. Sisolak continued to restrict church meetings while providing exceptions for “nonessential” businesses—such as casinos, restaurants, bars, theme parks and gyms.

While these secular organizations could reopen at 50% capacity, churches faced criminal and civil penalties if they opened their doors to 50 or more attendees.

With people pouring into the recently reopened casinos—many failing to social distance or wear face masks—a clear double standard was exposed. That’s why Alliance Defending Freedom

(ADF) filed a lawsuit on behalf of Calvary Chapel Dayton Valley. This lawsuit challenges Gov. Sisolak's unconstitutional ban on church gatherings.

On Tuesday, the 9th U.S. Circuit Court of Appeals ruled in favor of overriding the statewide ban in favor of churches.

"This is a significant win. There is no constitutional right to gamble, but there is one that protects attending worship services," said Alliance Defending Freedom Senior Counsel and Vice President of U.S. Litigation David Cortman. "The government has a duty to respect the First Amendment, so it can't single out churches for harsher treatment than secular activities. The 9th Circuit made clear that, at a minimum, Calvary Chapel Dayton Valley can't be treated more harshly than Nevada's casinos, bowling alleys, retail businesses, restaurants and arcades. Such disparate treatment is both illogical and unconstitutional."

In addition to the lawsuit, Calvary Chapel has also filed two petitions with the U.S. Supreme Court asking it to declare Nevada Gov. Steve Sisolak's coronavirus restrictions on churches unconstitutional. The Supreme Court has not yet addressed the second petition, though it did decline to immediately halt Nevada's restrictions when Calvary Chapel filed an emergency motion in July 2020.

In a strong dissent to that decision, Justice Samuel Alito wrote: "The Constitution guarantees the free exercise of religion. It says nothing about the freedom to play craps or blackjack, to feed tokens into a slot machine or to engage in any other game of chance."

As ADF Senior Counsel Ryan Tucker put it: "The government can certainly prioritize public health and safety, but it can't move businesses and nonreligious activities to the front of the line for reopening and push churches to the back." {eoas}