

Federal Court Ends DC Church Attendance Restrictions

A federal judge ruled March 25 that D.C. Mayor Muriel Bowser's numerical and percentage cap restrictions on churches "discriminate against houses of worship."

Judge Trevor McFadden, nominated by President Trump in 2017 to the U.S. District Court for the District of Columbia, ended the 250-person cap and 25% limit on church services stating that the attendance restrictions are unconstitutional and an outlier in comparison to the rest of the country.

In Roman Catholic Archbishop of Washington v. Muriel Bowser, Becket Law represents the Archdiocese of Washington.

McFadden wrote, "The District's order states that 'houses of worship may admit no more than' the lesser of 25% of their capacity or 250 persons. ...Yet, after the District's repeal of the same limit on '[f]ood sellers and big box stores selling a range of essential and non-essential goods,' those entities are subject to no maximum-capacity limitations. ... In practical terms, this means that the Archdiocese's churches must stop admitting parishioners once they become a quarter full, but Whole Foods or Target can take in as many customers as they wish while complying with social-distancing requirements.

"The District's approach to regulating houses of worship reflects a lack of adequate consideration for constitutional rights. The District would no doubt acknowledge that there is risk attendant in many activities it has classified as 'essential,' such as picking up a bottle of wine or takeout from a local restaurant. But the District has permitted essential businesses to stay open (often with less-onerous restrictions) because the public's need for those things apparently outweighs the risk. On the other hand, the

District's restrictions have not recognized religious exercise as essential in the same way," wrote McFadden.

Last October, McFadden ruled in favor of Capitol Hill Baptist Church and stated then that the mayor's restrictions limiting religious gatherings violates the Religious Freedom Restoration Act, a law established to protect religious liberty. The court also noted that in June, Bowser spoke at a protest at Black Lives Matter Plaza, a recently renamed two-block stretch of 16th Street Northwest that is on the district's land.

"It ignores the church's sincerely held (and undisputed) belief about the theological importance of gathering in person as a full congregation," McFadden said in last year's ruling. "It is for the church, not the district or this court, to define for itself the meaning of 'not forsaking the assembling of ourselves together' [from] Hebrews 10:25."

The turning point against the COVID worship restrictions throughout the nation began with last year's ruling from the U.S. Supreme Court granting an emergency petition for an injunction pending appeal on behalf of New York City synagogues and Roman Catholic churches in Roman Catholic Diocese of Brooklyn v. Cuomo and Agudath Israel v. Cuomo. Then in February, the high court ruled in favor of Harvest Rock Church and Harvest International Ministry and partially granted the injunction pending appeal in the federal lawsuit against California Gov. Gavin Newsom's total ban on indoor worship. This was the second time Liberty Counsel appealed to the high court on behalf of these churches. The ruling also included South Bay United Pentecostal Church. Liberty Counsel represents Harvest Rock Church, HIM and Pastor Ché Ahn.

Liberty Counsel founder and chairman Mat Staver said, "Judge Trevor McFadden clearly acknowledges that the First Amendment does not disappear because of Coronavirus. Mayor Muriel Bowser has clearly discriminated against every church in D.C. while

participating in a mass gathering of protestors with no limitations. This unequal treatment of churches is unconstitutional. We will continue the fight until religious freedom is totally restored." {eoa}

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