

Judge Rules: 'No Pandemic Exception to Constitution'

A federal judge in North Carolina granted a statewide temporary restraining order on Saturday to block Gov. Roy Cooper's executive order that criminalizes churchgoers for attending indoor worship services of more than 10 people.

In his ruling, James C. Dever III wrote, "There is no pandemic exception to the Constitution of the United States or the Free Exercise Clause of the First Amendment."

In making this ruling, Judge Dever heavily quoted Liberty Counsel's two Court of Appeals decisions involving Kentucky church client, Maryville Baptist Church. In that case, the Court of Appeals ruled in favor of parking lot services and then ruled in favor of in-person church services.

Berean Baptist Church in Winston-Salem and its fellow plaintiffs Return America Inc. and People's Baptist Church Inc. sued Gov. Cooper, who in previous executive orders barred churches from hosting indoor gatherings of more than 10 people amidst the COVID-19 pandemic. Outdoor gatherings were still allowed, but the governor targeted religious gatherings.

As part of their claim against the governor, Berean Baptist Church says barring physical assembly in a church building prevents them from a "God-commanded part of their worship."

Judge Dever's ruling highlighted that Cooper's "stay-at-home" order did not set the same standard for churches as other entities such as businesses which are limited to 50% capacity and funeral services that are allowed to hold up to 50 people. The judge wrote, "The record, at this admittedly early stage of the case, reveals that the governor appears to trust citizens to perform non-religious activities indoors (such as shopping or working or selling merchandise) but does not trust

them to do the same when they worship together indoors.”

The judge also mentioned that 15 other governors in the country provided exemptions for religious gatherings from attendance limitations. Judge Dever states, “The governor has failed to cite any peer-reviewed study showing that religious interactions in those 15 states have accelerated the spread of COVID-19 in any manner distinguishable from non- religious interactions. Likewise, common sense suggests that religious leaders and worshipers (whether inside or outside North Carolina) have every incentive to behave safely and responsibly whether working indoors, shopping indoors or worshipping indoors.”

Liberty Counsel Founder and Chairman Mat Staver said, “Here is another constitutional and common-sense victory for religious freedom. There is no pandemic pause button on the First Amendment. I have yet to see one order restricting churches that comports with the First Amendment. These unconstitutional restrictions on churches that violate the free exercise of religion must end.” {eo}

This article originally appeared at Liberty Counsel.