

A Notice from the AGNCN District Officers
Regarding the Legal Challenges to the Restrictions on Church Attendance
12/22/2020

After the SCOTUS decision on NY Catholic Diocese v. Governor Cuomo, District Courts in Nevada, Oregon, Colorado, New York, and New Jersey have ruled that the Governor's orders in those states violated the First Amendment.

Within the last 24 hours, two cases in California were decided: South Bay United Pentecostal v. Newsom and Harvest Rock v. Newsom.

These cases are similar in many respects: both argue First Amendment rights, both appeal that the restrictions are unequal and unreasonable, both were heard in Federal District Courts.

The cases are dissimilar in some respects: they arise in different counties and districts (and therefore cite different circumstances). The most important distinction is that *SBUP* was heard on appeal, whereas *Harvest* case was vacated by SCOTUS and remanded by SCOTUS for reconsideration.

The decision in both instances was to deny the church and uphold Governor Newsom.

Judge Bashant denied South Bay UPC, opining that the restrictions in San Diego were equally applied, and the lack of hospital beds in San Diego and the rise of COVID in San Diego necessitated the restrictions. ¹

Judge Bernal denied Harvest, opining that CA restrictions are "neutral or generally applicable" and therefore distinct from the circumstances resulting in the decision in NY Catholic Diocese.

"The courts must first assess whether a law is "neutral or generally applicable." The Court finds that California's Blueprint is. The Blueprint offers something the New York and Nevada Orders did not: the ability to legally congregate in unlimited numbers for worship—so long as that worship occurs outside. In so doing, the Blueprint treats religious activity better than comparable secular activity and even better than essential services. This is distinct from both the New York and Nevada restrictions and compels the conclusion that the Blueprint is neutral. ²

Both churches have appealed these rulings to the 9th Circuit Court of Appeals.

Bottom Line: Although churches in Nevada can legally meet indoors, churches in California cannot legally meet indoors, unless they are in a zone that allows it.

¹ <https://www.courthousenews.com/wp-content/uploads/2020/12/South-Bay-v-Newsom-TRO-Denial.pdf>

² https://www.courthousenews.com/wp-content/uploads/2020/12/HarvestRock_Calif-TROdenial.pdf