

**A Notice from the AGNCN District Officers**  
**Regarding the Supreme Court Decision and Church Attendance Restrictions**

Shortly before midnight on Thanksgiving Eve, the US Supreme Court ruled 5-4 in favor of the church in the *NY Catholic Diocese v. Governor Cuomo*. We are rejoicing that the court has found its way to honor our First Amendment rights!

**The case:**

NY Governor had placed an attendance limit of 10 persons in Red zones, and 25 persons in Orange zones. The church argued that the restrictions were unequal (as compared to other businesses) unreasonable (relative to building size). A NY Synagogue also argued that the Governor had gerrymandered the restrictions to target the Jewish community and resulted in the complete exclusion of women from worship. Both plaintiffs argued that the standards treated houses of worship more harshly than secular entities and violated their First Amendment right to free exercise of religion. Both argued that they had the ability to comply with reasonable health regulations and had done so for months without a single outbreak.

**The court agreed with the plaintiffs and ruled the restrictions as unenforceable.** The court weighed the right of the Governor to implement health restrictions against the people's First Amendment right to worship. The court noted that, while many religious activities can be conducted online, remote viewing is not the same as personal attendance. The court also noted that, "even in a pandemic the Constitution cannot be put away and forgotten."

**It must be noted that the court did not rule that the Governor cannot not impose any restrictions,** only unequal and unreasonable ones. In a related case, *Spell v. Edwards*, Pastor Spell argued that the governor's orders forbade the right of the church to "fully assemble," stated that the governor's orders "are not law," and that the governor had no authority to regulate religious worship. Justice Alioto (who voted in favor of the church in *NY Diocese*) refused to even hear the case. The court is sending a signal that reasonable and equal restrictions are enforceable, unreasonable and unequal ones are not.

**What is the impact on CA and NV?**

It important to realize that a SCOTUS decision does not automatically invalidate a state law—the law is still the law until a court says otherwise. It is also important to realize that the SCOTUS decision will not invalidate all restrictions, some restrictions will likely apply.

When will this happen? We expect that the SCOTUS decision will be felt here very soon. A SCOTUS decision is binding on all courts immediately. Any new cases in CA or NV that raise similar circumstances and similar arguments must be judged by this decision. There is already a similar case before the Federal court in Southern California, and Justice Kagan has required Governor Newsom to reply by 2PM November 30. We may be hearing that result very soon.

Another possibility is that the Governor might proactively adjust the restrictions to avoid a legal challenge. Either way, we expect to learn more within the next few days.