

December 22, 2020

A U.S. district judge has once again ruled against a Pasadena church that continues to meet illegally despite a debilitating surge in coronavirus infections that threatens to overwhelm intensive care units.

In a ruling issued Monday, **Judge Jesus Bernal denied a temporary restraining order and preliminary injunction against Gov. Gavin Newsom's stay-at-home orders.**

In a hearing last week, attorneys for Harvest Rock could not successfully explain how the governor's order violates the First Amendment. The church has again appealed Bernal's ruling to the Ninth Circuit Court of Appeals.

According to an article in *Courthouse News*, when asked to explain exactly how California's public health order unfairly targets the church, the Harvest Rock attorneys compared church gatherings to grocery stores and malls. However, Bernal said that movie theaters and concert halls were a more apt comparison.

Newsom's order allows for outdoor religious services. Seth Goldstein, a California deputy attorney general, told Bernal the state's indoor gathering restrictions are neutral, backed by undisputed scientific evidence.

"Throughout the current pandemic, the state has been fine-tuning its restrictions and trying less restrictive alternatives in light of developing scientific knowledge and changing circumstances, as strict scrutiny requires," the brief said.

"This court should not lift restrictions on particularly risky activities and create the danger of 'super-spreader' events at the very time that our healthcare system is least able to deal with them."

In October, Bernal ruled that the church's right to free speech was not being violated and that Newsom's order instead opposed where the speech was occurring. On Dec. 3, the U.S. Supreme Court vacated the lower court orders involving the emergency petition of the churches and directed the district court to reconsider in light of the High Court's previous ruling granting an injunction for churches and synagogues in New York.

However, that ruling largely rested on a health order treating churches the same way as "comparable businesses." It was not a First Amendment lawsuit like the one that Harvest Rock has filed.

In August, city officials sent church leaders a cease and desist order and threatened to fine them if they continued meeting indoors. The letter states that the city of Pasadena will continue to enforce the governor's orders "until the present emergency ends." So far, the church has not complied. It was not known if church leaders have been cited.

In the latest state order, Newsom allowed for outdoor gatherings for protests and religious gatherings.

The virus is running rampant in Southern California and has just about filled up intensive care unit beds across the region. Huntington Hospital has activated surge tents for patients with non-life-threatening emergencies. The hospital's 30 ICU beds are full, according to the hospital's information dashboard. On Monday, a hospital spokesperson said that staffing and resources could soon become "scarce."

Despite the health crisis, the church continues to battle in court.

"The U.S. Supreme Court has already issued its Constitutional roadmap for houses of worship that should lead courts to find Gov. Gavin Newsom's executive edicts violate the First Amendment," said Harvest Rock attorney Matt Staver.

"The High Court has ruled and therefore ALL lower courts must obey that decision to allow houses of worship their First Amendment freedom."