

Supreme Court says Nevada can impose tighter virus limits on churches than casinos

WASHINGTON - The Supreme Court ruled late Friday that Nevada can impose tighter restrictions on churches than casinos while a legal dispute over its social distancing policies continues.

The 5-4 ruling included dissents from conservative justices who said limiting church gatherings to 50 worshipers while allowing bars, restaurants, casinos, and indoor amusement parks to operate at 50% capacity violates freedom of religion.

Chief Justice John Roberts joined the court's four liberal justices in turning aside a challenge from a Nevada church. The same five justices ruled the same way in May, when a California church sought to exceed a 25% capacity threshold under the theory that local businesses were allowed to do so. In that case, Roberts said religious observances are comparable to public assemblies, not secular businesses.

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In the Nevada case, the five justices in the majority did not explain their ruling. But the dissenting justices wrote 24 pages to complain that churches were not being treated equally with public assemblies, a violation of the First Amendment in their view.

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A woman prays while wearing a face mask at the International Church of Las Vegas. Two other churches seeking to overturn Nevada's 50-person cap on religious gatherings amid the coronavirus pandemic were dealt a setback when a federal judge sided with the state. John Locher/AP

"The Constitution guarantees the free exercise of religion. It says nothing about the freedom to play craps or blackjack, to feed tokens into a slot machine, or to engage in any other game of chance," Associate Justice Samuel Alito wrote.

"Under the governor's edict, a 10-screen multiplex may host 500 moviegoers at any time," Associate Justice Neil Gorsuch noted. "A casino, too, may cater to hundreds at once, with perhaps six people huddled at each craps table here and a similar number gathered around every roulette wheel there.

"But churches, synagogues, and mosques are banned from admitting more than 50 worshipers - no matter how large the building, how distant the individuals, how many wear face masks, no matter the precautions at all," Gorsuch said.

And Associate Justice Brett Kavanaugh complained that "the risk of COVID-19 transmission is at least as high at restaurants, bars, casinos, and gyms as it is at religious services. Indeed, people congregating in restaurants, bars, casinos, and gyms often linger at least as long as they do at religious services."

Lawyers for the state had argued that religious services require tougher limits than commercial establishments because of their duration and close quarters. They said other venues, from movie theaters to museums, faced the same 50-person limit.

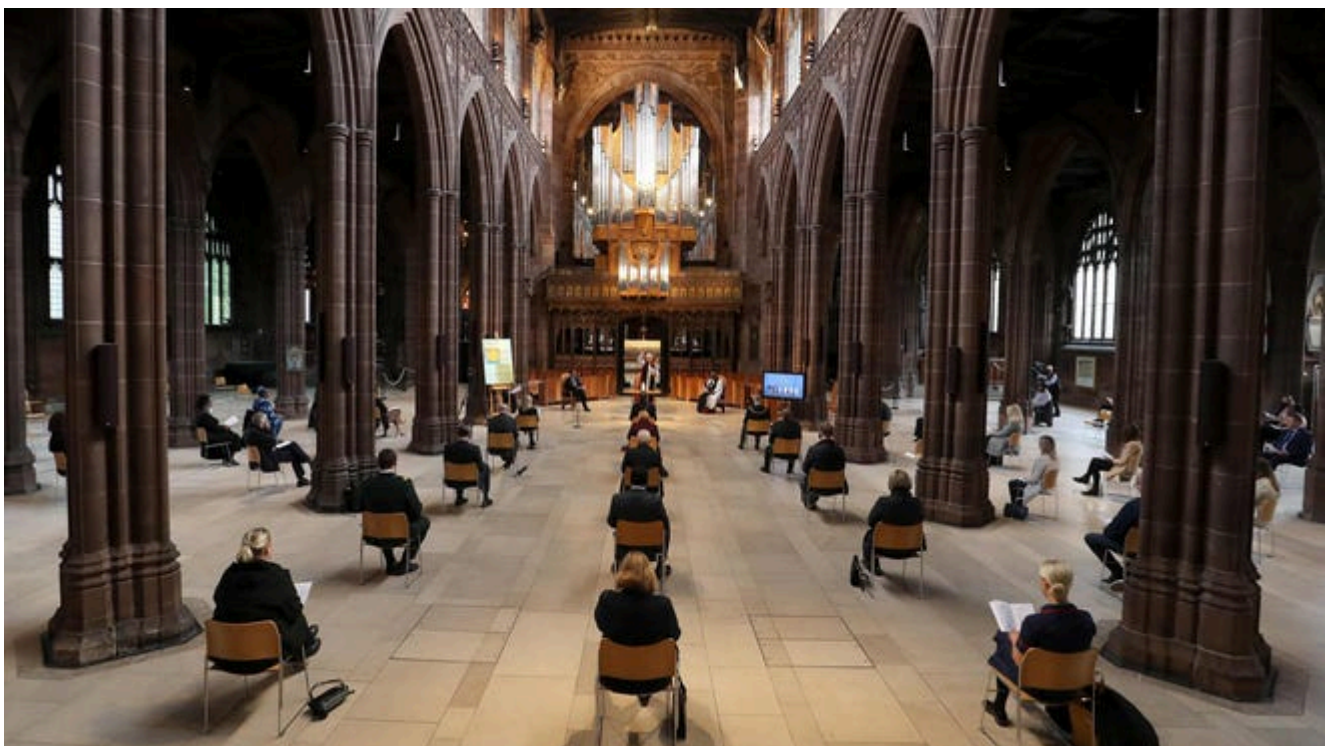
“Sadly, the types of communal, interpersonal gatherings that put Nevada citizens most at risk for spreading the virus include larger, in-person religious services – which are a major source of COVID-19 infections,” the state’s lawyers said.

The high court’s earlier ruling on the issue came on May 29, when Roberts sided with the liberal justices in a ruling against California’s South Bay United Pentecostal Church. Roberts said choosing when to lift restrictions during a pandemic is the business of elected officials, not unelected judges.

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At that time, Kavanaugh wrote that “the basic constitutional problem is that comparable secular businesses are not subject to a 25% occupancy cap, including factories, offices, supermarkets, restaurants, retail stores, pharmacies, shopping malls, pet grooming shops, bookstores, florists, hair salons, and cannabis dispensaries.”

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