



December 16, 2020

Dear Sisters and Brothers in Christ,

As you might have heard in the news, the 9th Federal District Court upheld two petitions from Nevada houses of worship seeking modification of the state's emergency directives regarding a cap on the number of attendees for religious services. The basis for the petitions was the recent Supreme Court opinion, *Roman Catholic Diocese of Brooklyn, New York, v. Andrew Cuomo and Agudath Israel of America, et al. v. Cuomo*. Subsequent to that Supreme Court opinion, I directly petitioned the governor for the modification for houses of worship with similar arguments. The court's opinion was clear and applicable to the situation in Nevada and the possible remedy—elimination of the numerical cap—was simple and reasonable, without the need for further litigation.

The current emergency directives impose a limit of 25% (previously 50%) of fire code capacity for casinos, restaurants, and bars. In contrast, the state had imposed a limit of 50 people (previously 250) on houses of worship, without consideration of the size of a building or fire code capacity. Houses of worship are comparable facilities to restaurants, casinos, and bars in that all are in the category of risk for Covid transmission since people will be mostly stationary in one space for an extended period of time.

Since the Supreme Court decision in *Employment Division v. Smith*, written by Justice Antonin Scalia, a law that is neutral and generally applicable does not violate the First Amendment Free Exercise Clause, unless it can be proven otherwise. This ruling turned the previous standard upside down and necessitated federal and state Religious Freedom Restoration Acts. This standard generally guided the Supreme Court's opinion on the injunctive relief application by the Diocese of Brooklyn and the Agudath of Israel congregations, which contended that the state's restrictions did not treat houses of worship the same as comparable facilities, that is, the restrictions were not neutral.

Yesterday Governor Sisolak complied with the 9th District Court's action and has removed the limit of 50 people for religious services during the extended statewide pause. The limit now is 25% of fire code capacity with social distancing and other mitigation measures, which is the same as those imposed for bars, restaurants and casinos.

The attendance limit for all churches in the Diocese of Reno is now: the capacity with social distancing (6 feet front, back and side) for household units not to exceed 25% of fire code capacity.

In our diocesan planning for resuming liturgies, all parishes were asked to calculate the social distancing capacity of their church buildings and to mark off clearly pew and seat spacing for this. All parishes were asked to update their churches fire code capacity. These calculations are necessary in order to determine the actual number of people who can attend Masses in accord with the modified emergency restrictions.

This court decision and lifting of the 50-person limit will have the biggest effect on larger churches with fire code capacities of 800 to 1,100 people. For smaller ones, the impact might be minor or even none at all.

I ask you to have patience and cooperate with your parish as it complies with all our diocesan safety protocols on:

- Social distancing
- Wearing facial coverings at all times throughout liturgies, and this includes presiders, deacons, lectors and other ministers
- Contact tracing information
- Hand sanitizer availability
- Disinfecting surfaces and door handles/knobs after services.

You remain in my prayers as we navigate this pandemic together working to balance protecting life with our right to worship as community within a neutral regulatory environment.

Yours in Christ,

A handwritten signature in black ink, appearing to be 'R. Calvo', with a long horizontal line extending to the right.

Most Reverend Randolph R. Calvo
Bishop of Reno