



Written by [Bob Adelman](#) on May 30, 2020

Kavanaugh Dissents From SCOTUS Decision Siding With California Against Church

Chief Justice John Roberts [joined with the four liberals](#) on the Supreme Court on Friday when the court tossed a complaint from a church over California Governor Gavin Newsom's COVID restrictions.

Justice Brett Kavanaugh dissented, along with the other three originalists.

Newsom has declared that churches may not exceed 25 percent of capacity during in-person church services, and at no time may there be more than 100 people attending in total.



The South Bay United Pentecostal Church in Chula Vista protested, asking the court to rule in time for the church to celebrate Pentecost on Sunday, May 31. In the majority opinion, Roberts wrote, "although California's guidelines place restrictions on places of worship, those restrictions appear consistent with the Free Exercise Clause of the First Amendment.... The notion that it is 'indisputably clear' [as Kavanaugh notes in his dissent] that the Government's limitations are unconstitutional seems quite improbable."

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Kavanaugh dissented:

I would grant the Church's requested temporary injunction because California's latest safety guidelines discriminated against places of worship and in favor of comparable secular businesses. Such discrimination violates the First Amendment....

In my view, California's discrimination against religious worship services contravenes the Constitution....

The State ... has substantial room to draw lines, especially in an emergency. But as relevant here, the Constitution imposes one key restriction on that line-drawing. The State may not discriminate against religion....

In sum, California's 25% occupancy cap on religious worship services indisputably discriminates against religion, and such discrimination violates the First Amendment.

Some have expressed concerns that Kavanaugh isn't the "true bill" in supporting the Constitution that they had originally expected. This dissent should help neutralize such concerns.

In addition, with Roberts' waffling once again on the Bill of Rights, it is clear that President Trump needs to take advantage of the next opening on the high court in order to remove Roberts' ability to rule with the liberals in cases as important as this one.

Photo: AP Images

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