



Written by [Michael Tennant](#) on June 7, 2020

## Michigan Supreme Court Vacates Order Closing Barbershop for Violating Governor's Edict

The Michigan Supreme Court unanimously vacated an appeals court order demanding that an Owosso barber close up shop because he was in violation of Democratic Governor Gretchen Whitmer's COVID-19 executive orders.



On Friday, the state Supreme Court found fault with the May 28 Court of Appeals decision that led to ordering a lower court to issue a preliminary injunction to shutter 77-year-old Karl Manke's barbershop. In addition to vacating the order, the court remanded the case to the Court of Appeals for further consideration.

Manke made national headlines when he reopened his shop May 4 despite Whitmer's order forcing "nonessential" businesses to close. Manke had complied with Whitmer's initial order but balked at remaining closed after she unilaterally extended the COVID-19 state of emergency on April 30 when the legislature refused to do so.

Manke also participated in a May 20 protest of the order, performing haircuts on the Michigan Capitol lawn in Lansing.

"I have a right to work," Manke [said](#) Wednesday. "Either Jesus comes, they cut my hands off or she [Whitmer] resigns, one or the other."

Shiawassee County Circuit Judge Matthew Stewart twice rebuffed state attempts to force Manke to close. The state appealed, and a three-judge panel of the Court of Appeals, in a 2-1 decision, sided with the state. The next day, the majority judges ordered Stewart to enjoin Manke from plying his trade.

Manke kept right on shearing. "I could care less," he [told](#) the Associated Press after the appeals court ruled. "If they want to put me in jail, put me in jail. ... I will be governed — fair governing — but not ruled. This is a police state action."

On May 29, before the appeals court ordered his shop's closure, Manke appealed to the state Supreme Court, arguing that Whitmer's April 30 order has no force of law, and even if it does, it is invalid because it picks and chooses which businesses are allowed to operate. Manke further contended that the state hasn't demonstrated that his shop is causing illnesses, as required by law.

"This case is about forced compliance with unchecked executive authority under the guise of public health," Manke said in his appeal.

"The state's entire case rests upon fear, speculation and hyperbole," the brief maintains. "Rather than providing evidence of infection being spread by Mr. Manke, the state just repeatedly proclaims the general dangers from the COVID-19 virus. We live in a free country whose Constitution remains relevant and in force, even during a pandemic."



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In the Supreme Court's order, Justice David Viviano took issue with how the appeals court had handled the case, calling it "inexplicable." The court not only ordered the closure of Manke's shop while his appeal to the Supreme Court was pending but also did so despite that fact that, according to Manke's attorney, [David Kallman](#), Supreme Court rules require decisions of this nature to be unanimous.

"Courts decide legal questions that arise in the cases that come before us according to the rule of law," Viviano [wrote](#). "One hopes that this great principle — essential to any free society, including ours — will not itself become yet another casualty of COVID-19."

Coincidentally — or perhaps not — Whitmer [announced](#) Friday that barbershops and beauty salons will be allowed to reopen June 15 as long as they abide by certain protocols alleged to prevent the spread of COVID-19. In light of that, the Supreme Court told the appeals court to consider whether the state's "motion for a preliminary injunction is rendered moot."

Although Kallman [told](#) MLive.com that he and his client are "ecstatic" about the Supreme Court's decision, he is well aware that Manke is not home free yet. He still faces two misdemeanor charges for violating Whitmer's order and is appealing the state's revocation of his barber's license, which was a clear act of retribution against him. Furthermore, the state attorney general's office, after sending two agents to Manke's shop on June 1 to verify that he was still in business, is asking Stewart to find him in contempt of court and fine him \$7,500 for each day he is found to be in violation of Whitmer's order plus \$5,000 in damages. That hearing is scheduled for Thursday.

*Photo of Karl Manke: AP Images*

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