News



In this photo taken Wednesday, April 15, 2020, Kansas Gov. Laura Kelly answers questions about the coronavirus pandemic, during a news conference at the Statehouse in Topeka, Kan. Kelly faces a federal lawsuit filed by two churches and their pastors over an order she issued limiting religious gatherings to 10 or fewer congregation members. (AP/John Hanna)

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A federal judge signaled that he believes there's a good chance that Kansas is violating religious freedom and free speech rights with a coronavirus-inspired 10-person limit on in-person attendance at religious services or activities and he blocked its enforcement against two churches that sued over it.

The ruling April 18 from U.S. District Judge John Broomes in Wichita prevents the enforcement of an order issued by Gov. Laura Kelly against a church in Dodge City in western Kansas and one in Junction City in northeast Kansas. The judge's decision will remain in effect until May 2; he has a hearing scheduled April 23 in the lawsuit filed against Kelly by the two churches and their pastors, on whether he should issue a longer-term or broader injunction.

Kelly continued to defend her order in a statement: "This is not about religion. This is about a public health crisis."

Broomes' action comes amid strong criticism of the Democratic governor's order from the Republican-controlled Legislature and increasing pressure from GOP lawmakers to lift at least part of a stay-at-home order for all 2.9 million Kansas residents that took effect March 30 and is set to continue until May 3.

"Churches and religious activities appear to have been singled out among essential functions for stricter treatment," Broomes wrote in his order.

COVID-19-related deaths rose April 18 by two, to 86, and confirmed coronavirus cases increased by 85 to 1,790. Kelly's office said six deaths and 80 cases are tied to religious gatherings.

For most people, the new coronavirus causes mild or moderate symptoms that clear up within three weeks. For some, especially older adults and people with existing health problems, it can cause more severe illness and death.

The lawsuit over church gatherings was filed April 16 by First Baptist Church in Dodge City and Pastor Stephen Ormond and Calvary Baptist Church in Junction City and Pastor Aaron Harris. The lawsuit said both churches held indoor Easter services with 20 or more members of the congregation present.

Broomes directed the churches to abide by recommendations for social distancing that people stay 6 feet apart and to continue following other practices the lawsuit said they had imposed, such as not using collection plates.

"Public safety is important, but so is following the Constitution," said Tyson Langhofer, senior counsel for the Christian-founded and conservative Alliance for Defending Freedom, which was involved in the case. "We can prioritize the health of safety of ourselves and our neighbors without harming churches and people of faith."

Kelly's order limits in-person religious services or activities to 10 congregation members but didn't limit the number of pastors, choir members and others who could put on the service, so long as they practiced social distancing. Kansas Attorney General Derek Schmidt, a Republican, warned that it would be unconstitutional to cite or fine churches and pastors for violating Kelly's order.

"Ultimately, the people were forced to stop her," Kansas Senate President Susan Wagle, a Wichita Republican, said in a statement.

Many Kansas churches have moved services online, but the pastors and churches suing Kelly said they believe God calls them to engage in "corporate" prayer.

They argued Kelly could have imposed less restrictive measures on churches to help slow the spread of the coronavirus. They also said that Kelly's stay-at-home order had exceptions for numerous "essential" businesses, so her policies unfairly targeted and showed "hostility" toward churches.

Broomes noted the exceptions for some businesses, calling the different treatment of churches "arbitrary."

But Kelly called the judge's decision "preliminary."

"There is still a long way to go in this case," Kelly said. "And we will continue to be proactive and err on the side of caution where Kansans' health and safety is at stake," Kelly said.

Top Republican legislative leaders moved last week to revoke Kelly's order on church gatherings themselves, only to see the Democratic governor thwart their efforts by contesting their action before the Kansas Supreme Court. The state's highest court let her order stand on technical grounds, without deciding whether it violated freedoms guaranteed by the U.S. or Kansas constitutions.

Kansas House Speaker Ron Ryckman Jr., a Kansas City-area Republican, texted that people need to stay home, but, "the state cannot and should not set up a double standard."

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