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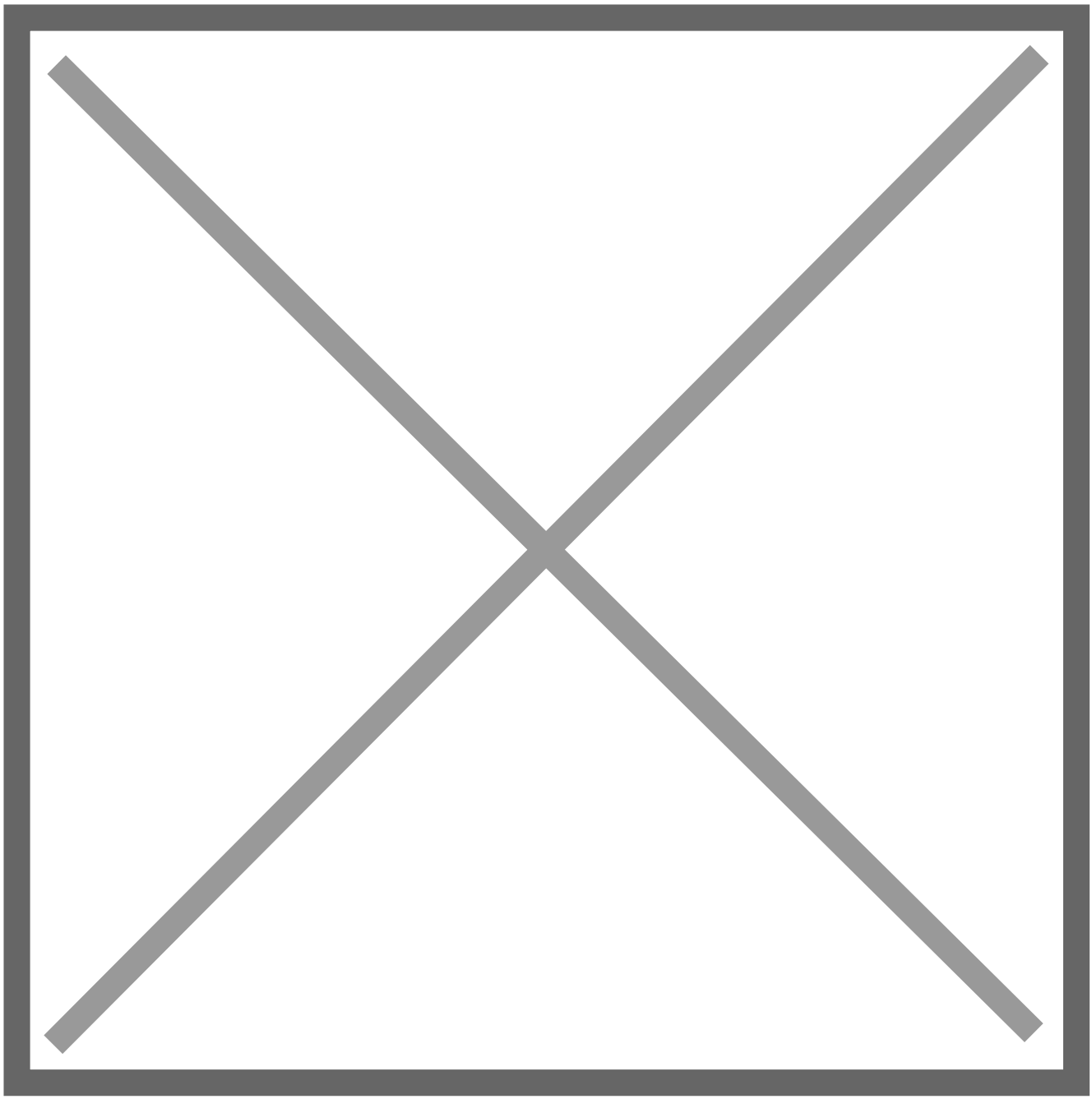

Cardinal Wilton D. Gregory of Washington celebrates Mass at Holy Angels Church in Avenue, Md., in this 2020 photo. The Archdiocese of Washington filed a lawsuit Dec. 11, 2020, objecting to Mass attendance restrictions imposed by the District of Columbia as a measure to minimize the spread of COVID-19. (CNS photo/Catholic Standard/Andrew Biraj)

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Washington — December 15, 2020
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The Archdiocese of Washington has petitioned the U.S. District Court for the District of Columbia to lift the 50-person cap on indoor religious gatherings in D.C.

In a lawsuit filed Dec. 11 with the court, the archdiocese contended this restriction, imposed by a Nov. 23 executive order issued by the District's Mayor Muriel Bowser, violates the Religious Freedom Restoration Act, the First Amendment's free exercise clause, and the First Amendment's guarantees of freedom of speech, assembly and association.

The archdiocese claimed the District's hard cap on religious services singles out religious groups for more restrictive COVID-19 limitations on public gatherings than those placed on businesses and other venues in the city.

The suit requested the court "issue temporary, preliminary and permanent injunctive relief prohibiting defendants from enforcing their unlawful policies against plaintiff's religious beliefs and activities."

"We do believe that we should, as religious people, be allowed the same latitude that other public structures are — such as grocery stores and other public venues that have no limits or at least very generous limits. Too often, churches and other houses of worship have more restrictions," Cardinal Wilton D. Gregory of Washington

said in an interview with Christiane Amanpour for CNN International and PBS.

He said the archdiocese has been committed to following strict safety protocols during the coronavirus pandemic, which in local Catholic churches has included mandatory mask wearing, social distancing and sanitizing. Parishes also have been livestreaming Masses for people to watch at home since coronavirus restrictions began.

"We, here in the Archdiocese of Washington, have received no cases — at least none that we know of — where people have been infected by attending church," the cardinal told Amanpour.

"So we have asked for at least the possibility of proportional attendance," he explained. "We just think we should not be treated any differently and certainly not unfairly in comparison to other public places for attendance."

Fr. Daniel Carson, archdiocesan vicar general and moderator of the curia, said Dec. 14 the archdiocese is seeking to have the District remove that imposed 50-person cap, and instead "implement a percentage (limit), based upon capacity of the worship space of the building."

In an interview with the Catholic Standard, archdiocesan newspaper, the priest noted that surrounding Maryland jurisdictions responding to the COVID-19 pandemic have currently implemented limitations on attendance at worship services based on a percentage of the seating capacity of the building.

This the limit now being imposed is 50% in Southern Maryland and up to 25% in Prince George's and Montgomery counties. The territory covered by the archdiocese includes the five Maryland counties that surround the District.

After Bowser and Maryland officials declared a public health emergency in March due to the coronavirus pandemic, the Archdiocese of Washington suspended public Masses and resumed them after Memorial Day as local jurisdictions began allowing churches and other places to have indoor public gatherings and nonessential business to resume operation — all with safety restrictions.

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Like the cardinal, Carson pointed out that since public Masses have resumed in the archdiocese with those strict safety measures, there have been no known cases of people being infected with COVID-19 by attending Mass in local Catholic churches.

"I consider the need for public worship as essential to the well-being of the faithful, and since we've reopened, we've done it safely," the priest told the Catholic Standard. He added, "There's no reason to think we can't continue safe worship."

Carson said pastors in the District have said the restrictions prevent them from ministering to some of their parishioners, because they've had to turn people away from attending Mass because of the 50-person cap.

He noted how the Basilica of the National Shrine of the Immaculate Conception, the largest Catholic church in North America, can seat 3,000 worshippers. Only allowing 50 people to attend Mass there is unreasonable, he said, adding: "In any of our churches, it's unreasonable."

In a Dec. 7 letter to Bowser asking her to remove the fixed cap on houses of worship, the archdiocese noted, "If the shrine were converted into a fitness center, the District's rules would permit more than 600 people to exercise there."

The archdiocese's lawsuit was filed by attorneys from Jones Day and Becket, a religious liberty law firm.

"These restrictions (on Mass attendance) are unscientific, in that they bear no relation to either the size of the building or the safety of the activity. These restrictions are discriminatory, in that they single out religious worship as a disfavored activity, even though it has been proven safer than many other activities the District favors," the suit said.

Noting that as Christmas approaches, the District has imposed 50-person caps on Mass attendance, even for masked, socially distanced services in churches that in many cases can seat more than 1,000 people, the suit said.

The lawsuit pointed out that the restrictions on the number of people allowed to attend church is stricter than its capacity-based limits on public libraries, personal service businesses and indoor dining facilities, and on gyms and fitness centers that have limits based on square footage.

"By adopting policies that facially discriminate against houses of worship, defendants have targeted plaintiff's religious activities for discrimination and chilled the free exercise of religion," the lawsuit said.

Documentation for the lawsuit also noted the Catholic Church and its ministries have "been on the front lines of responding to the COVID crisis," including Catholic Charities of the Archdiocese of Washington, which has served more than 1 million meals since the pandemic began.

A Dec. 11 tweet from @BECKETlaw about the suit said because of its 50-person cap on Mass attendance, "D.C. is telling churches that there is no room at the inn this Christmas."

The suit underscored the importance of the Christmas season for the faithful. "Christmas should be a time for reconciliation and joy," it said, "and the archdiocese simply wants to welcome its flock home. It respectfully requests that it be allowed to do so."