

Federal judge issues order exempting all religious services from Gov. Beshear's order against gatherings of more than 10 people

A federal judge has ruled that Kentucky churches can resume in-person worship without fear that police and health officials will enforce Gov. Andy Beshear's emergency order banning gatherings of more than 10 people during the coronavirus pandemic.

U.S. District Judge Gregory Van Tatenhove issued a temporary restraining order Friday in a lawsuit filed Wednesday by Tabernacle Baptist Church of Nicholasville. At the request of Attorney General Daniel Cameron, he made it statewide, saying Beshear and Health Secretary Eric Friedlander could not enforce "the prohibition on mass gatherings with respect to any in-person religious service which adheres to applicable social-distancing and hygiene guidelines." The church said it would follow those guidelines, and the judge made that a condition of his order.

Van Tatenhove's language appears to permit the guidelines that Beshear issued Friday for

in-person religious services beginning May 20, which include limiting attendance to one-third of capacity, maintaining six feet of physical distance between attendees, not providing communal food or beverages, avoiding handshaking and hugs, wearing masks or face coverings, and avoiding live choir or singing.

"Two other federal judges in Kentucky — David Hale of Louisville and William Bertelsman of Covington — had previously ruled that the ban on in-person church services was constitutional," reports Andrew Wolfson of the Louisville Courier Journal. "But after the 6th U.S. Circuit Court of Appeals sent the case back to Hale, he also issued an injunction Friday night against enforcement of the order, pending the state's appeal."

"That case was filed by Maryville Baptist Church in Hillview, which Beshear has said is the only church he knows of that has violated his order, and the only one where

attendees were given notices to self-quarantine. But in a footnote to his 13-page opinion, Van Tatenhove wrote, "The governor, to this point in the litigation, evinces an intent to continue enforcing the orders at issue."

UPDATE, May 9: "Saturday, three judges for the U.S. Court of Appeals in Cincinnati granted Maryville an injunction pending appeal, which also allows in-person services at the church, reports Karla Ward of the Lexington Herald-Leader. "The order said that three congregants wanted to meet for in-person worship on Sunday."

In the two cases and the political rhetoric around the issue, opponents of Beshear's order have argued that it is unconstitutional to prohibit in-person worship when customers patronize businesses that Beshear had deemed essential.

During a telephone hearing Friday, Van Tatenhove paraphrased a part of the church's complaint and asked an attorney for

Beshear, "Why can someone safely walk down a grocery store aisle and not a pew?"

Beshear attorney Travis Mayo said shopping is "transitory," something that is concluded after purchases are made, while worship services have "congregants sit near one another for an hour or more," Wolfson reports. "Matthew Martens, a Washington lawyer for the church, said there is no time limit for shopping under Beshear's order that allows visits to stores offering essential services. And Van Tatenhove, who was appointed by President George W. Bush, said during the hearing that the state introduced no scientific evidence that church services are inherently more dangerous."

There is evidence that singing creates aerosols that can spread viruses, but it hasn't been presented to Van Tatenhove, who wrote, "Evidence that the risk of contagion is heightened in a religious setting any more than a

secular one is lacking. If social distancing is good enough for Home Depot and Kroger, it is good enough for in-person religious services which, unlike the foregoing, benefit from constitutional protection."

Beshear has said he is treating all gatherings alike, "but Deputy Attorney General Barry Dunn noted that every day eight to 12 people, including reporters, gather in the governor's office for his daily briefing," Wolfson reports. "He submitted photos as evidence."

The church said in its suit that it "has a sincerely-held religious belief that online services and drive-in services do not meet the Lord's requirement that the church meet together in person for corporate worship, and cited Hebrews 10:25, which calls for "not forsaking the assembling of ourselves together."

Van Tatenhove wrote that Beshear was acting "beyond what was reasonably required for the safety of the public,"

a standard in such cases. He said Beshear "must have a compelling reason for using his authority to limit a citizen's right to freely exercise something we value greatly—the right of every American to follow their conscience on matters related to religion.... Despite an honest motive, it does not appear at this preliminary stage that reason exists." He set a scheduling conference for Monday to hear further arguments in the case.

At the start of his opinion, Van Tatenhove wrote, "This is a hard and difficult time. A new virus sweeps the world, ravages our economy and threatens our health. Public officials, including the defendants in this case, make minute-by-minute decisions with the best of intentions and the goal of saving the health and lives of our citizens. But what of that enduring Constitution in times like these? Does it mean something different because society is desperate for a cure or prescription?"

Fiscal Court Meets

Continued from Page 1

Items bid on for EMA will be paid for out of CSEPP funds.

An easement was approved for Columbia Gas. A gas line will be installed at the back lot of the BB&T Bank Building which was purchased by the county.

Judge Watson presented his budget proposal for the fiscal year beginning July 1. He told magistrates that no vote was required at Tuesday's meeting.

He asked magistrates to look over the budget and make their recommendations at the next court meeting.

A portion of Walton Road was restored to the county road system. Watson said that 900 feet of the road had somehow been deleted from the county road plan, and there were nine families living in that section.

The fiscal court approved claims before adjourning.

Editor's Note: The editor downloaded the "Go To Meeting" app on an Ipad. Before this meeting started, the editor entered the nine digit access code for the meeting. You can also access the meeting by calling in a telephone number and then entering the access number. The phone numbers and access numbers change for each meeting. You can also go online. All of this information is listed at least 24 hours before a meeting.

Activity Report

A Fayette County circuit court warrant was served May 7 by Officer Jason Conrad on Josiah L. Moses, 19, of Winchester, Ky.

Joshua Tyler Neal, 23, of Sandhill Road, Irvine was cited May 5 on a charge of cultivation of marijuana, five plants or more, first offense.

KSP Trooper Ty Robinson said he went to Neal's residence after receiving an anonymous tip that a wanted subject was inside the residence.

The citation states a female opened the door, and Robinson could smell a strong odor of marijuana. She told him her son had smoked some in the house before he went to a camper.

The trooper stated that

he entered the house under probable cause that marijuana was growing inside due to the strong odor and a past arrest at this house years ago for cultivating marijuana.

He said he observed multiple marijuana plants growing and a sophisticated grow setup with lights, irrigation system, potting soil, two insulated tents for growing marijuana, and other marijuana growing materials.

The citation states the items were found in Neal's bedroom, and one of the tents was located in a large walk-in closet in the hallway. All materials were seized.

Neal was cited and given a court date in July due to the COVID-19 pandemic.

IPD executes search warrant; arrests 4

Continued from Page 1

first degree, first offense (heroin); and drug paraphernalia - buy/possess.

A woman, Patricia Lynn McCoy, 41, of 8th Street, Ravenna, was also arrested.

Officer Jason Conrad stated that when IPD arrived, McCoy was in the kitchen. When that area was searched, the officer reports that two small baggies containing a crystal like substance were located. The substance was suspected methamphetamine.

Conrad said that IPD also located 2 1/2 suboxone pills, a xanax bar, digital scale, plastic baggies, and a meth pipe.

McCoy was charged with possession of a controlled substance, first degree and first offense (methamphetamine), possession of a controlled substance, first degree and second offense (drug unspecified), possession of a controlled substance, third degree (drug unspecified), and drug paraphernalia - buy/possess.

IPD also arrested Charles M. Harrison, 50, of Wall Street, Irvine who was inside the residence during the execution of the search warrant.

Officer Morris said that Harrison had a bottle with four suboxone in his pocket. He also had \$2,669 in cash.

Morris stated that a pill bottle containing 13 xanax was found inside Harrison's truck.

A female who was not arrested reportedly told Irvine Police that Harrison had been delivering pills to Young. She stated that she overheard a conversation from Young about a delivery.

Morris said the female also stated that when Harrison showed up at Young's residence, she was made to leave.

Harrison was charged with trafficking in a controlled substance, first degree and first offense (> 2 grams methamphetamine), possession of a controlled substance,

second degree and possession of a controlled substance, third degree (drugs unspecified).

Jeffrey Hardy, 58, homeless, was located in the kitchen of the residence.

He was charged by Officer Conrad with possession of a controlled substance, first degree and first offense (methamphetamine), possession of a controlled substance, second degree; possession of a controlled substance, third degree (drugs unspecified); and drug paraphernalia - buy/possess.

Officer James Marshall also assisted with executing the search warrant.

Teen is charged with trafficking in pot

Two teens were arrested Friday night on Lincoln Farm Road by the Irvine Police Department related to trafficking in marijuana.

A citation by Officer Stuart Morris says that IPD had conducted a traffic stop on Front Street and could smell marijuana coming from the vehicle.

The unidentified male allegedly gave IPD information about illegal drug activity on Lincoln Farm Road. He described the vehicle as a white Chevrolet truck.

The male also told police that he had bought

marijuana from the driver earlier that day.

Officer Morris and Chief John Sturniolo went to Lincoln Farm Road and observed a white Chevrolet truck over that matched the description. The traffic stop was made to verify proof of insurance.

Officer Morris stated the truck had a strong odor of marijuana, and marijuana was visible in plain sight in the floor. He said that less than eight ounces of marijuana were found inside the vehicle.

Scales and rolling papers were also located,

along with \$434 in assorted bills and \$16.25 in coins.

Officer Morris charged the truck driver, Travon Charles Durham, 19, of Elmer Richardson Road, Irvine with failure of non-owner operator to maintain required insurance, unlawful transaction with a minor, second degree, trafficking in marijuana (less than 8 ounces) second or greater offense, and drug paraphernalia - buy/possess.

A male passenger in the vehicle, Kevin Damrell, 18, of Vincent Drive, Irvine was charged with

possession of marijuana, unlawful transaction with a minor, second degree, public intoxication of a controlled substance (excludes alcohol), and giving officer false identifying information.

Damrell's citation said that he stated he was there to smoke marijuana with the other occupants. Officer Morris said that Damrell lied and gave false information about his identity.

IPD says there were two juveniles in the vehicle. Because they are juveniles, any charges made against them are confidential.

The Garden Bug Growing several feet a day and covering 7 million acres in the southeastern United States, this invasive vine was first brought from Japan in 1876. Aggressive promotion of the plant as an aid in combating soil erosion, and as a fodder crop for livestock, resulted in its over-planting.

Source: <http://www.invasivespeciesinfo.gov/plants/kudzu.shtml>

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Community Tire Amnesty

May 27, 28, 29, 9-3

County lot in front of the Animal Shelter

You must wear a mask and unload your own tires

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