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“However [political parties] may now and then answer popular ends, they are likely in the course of time and things, to become potent engines, by which cunning, ambitious, and unprincipled men will be enabled to subvert the power of the people and to usurp for themselves the reins of government, destroying afterwards the very engines which have lifted them to unjust dominion.”

George Washington, Farewell Address, September 17, 1796

Supreme Court Grants Religious Liberty Victory

Late in the night before Thanksgiving, the Supreme Court handed a [victory](#) to religious liberty by stopping New York Governor Andrew Cuomo from limiting the number of people who can gather together to worship at churches and synagogues. The ruling was on two cases brought by the Roman Catholic Diocese of Brooklyn and Agudath Israel of America, a nearly 100-year old Orthodox Jewish organization based in New York City. Agudath Israel specifically contended that Governor Cuomo’s coronavirus red and orange zones limiting capacity in synagogues to 10 and 25 people, respectively, unconstitutionally targeted the Jewish community just two days prior to the celebration of three traditional Jewish holidays, not only prohibiting typical religious gatherings but also restricting gatherings that are special and sacred to religious Jews. Even as Governor Cuomo severely limited the number of attendees in churches and synagogues, he placed no limitations on how many people could gather in many so-called essential and even non-essential businesses in red and orange zones.

In its [5-4 ruling](#), the Court reasserted the fundamental right of all Americans to exercise their religious belief through physical gatherings with fellow believers. The Court’s *per curiam* opinion states that religious believers would likely succeed on the merits of the case because New York’s “regulations cannot be viewed as neutral because they single out houses of worship for especially harsh treatment.” The Court recognized that the New York edicts were “far more restrictive than any COVID-related regulations that have previously come before the Court,” including [Calvary Chapel Dayton Valley](#) and South Bay United Pentecostal Churches that were denied relief by the Supreme Court earlier this year. In this case, religious believers would suffer irreparable harms if they were not granted relief from Governor Cuomo’s orders, since even “remote viewing is not the same as personal attendance.” Despite arguments by the state that restricting worship was necessary to prevent spread of the coronavirus, the Court found no evidence to show that allowing churches and synagogues to increase their capacity would harm the public. Instead, singling out churches for discriminatory treatment amounted to an intolerable violation of the First Amendment. In his concurring opinion, Justice Neil Gorsuch ironically writes, “So, at least according to the Governor, it may be unsafe to go to church, but it is always fine to pick up another bottle of wine, shop for a new bike, or spend the afternoon exploring your distal points and meridians. Who knew public health would so perfectly align with secular convenience?” Justice Gorsuch critiques not only Governor Cuomo’s apparent disregard for constitutional liberties, but similar actions by other state governors who arbitrarily decided that some businesses are essential while churches are not. “In far too many places, for far too long,” Justice Gorsuch writes, “our first freedom has fallen on deaf ears.” Justices Thomas, Alito, Kavanaugh, and Barrett joined in the majority opinion, leaving Justices Breyer, Kagan, Sotomayor, and Chief Justice Roberts on the dissenting side. The Court’s decision granted worshippers only temporary relief as their case awaits appeal at the 2nd Circuit Court of Appeals.

Christian School Appeals to U.S. Supreme Court to Reopen

Danville Christian Academy in Danville, Kentucky, has [appealed to the U.S. Supreme Court](#) to intervene after a lower court ruling upheld Kentucky Governor Andy Beshear's ban on in-person instruction at all schools. The governor issued the order to close all schools on November 18, citing concerns over the spread of COVID-19. The school, joined by state Attorney General Daniel Cameron, filed suit charging the order violated the free exercise clause of the Constitution, and won a victory from a district court on November 25. The governor then appealed to the 6th Circuit Court of Appeals, which ruled that the order could be enforced because it was neutral, applying to both secular and religious schools. However, Danville Christian and Cameron filed an emergency appeal with the Supreme Court, citing the recent decision for religious liberty in *Roman Catholic Diocese of Brooklyn v. Cuomo*. The school's [filing](#) also points out the inconsistencies with the governor's order: "If closing all religious schools is necessary to contain COVID-19, then why has Governor Beshear allowed all manner of other in-person activities in Kentucky to continue? Why can a 12-year-old go to the movies along with two dozen other people, but she can't watch the Greatest Story Ever Told with a smaller group in Bible class? Why can Kentuckians cheer on their favorite NCAA basketball teams indoors, attend a size-restricted wedding, or keep up Black Friday shopping traditions, but children can't gather for school chapel?" Justice Kavanaugh has called for Governor Beshear to respond to the charges by Friday, December 4.

Ohio Expands School Choice Program

Ohio Governor Mike DeWine signed into law an expansion of the state's current school choice program, effectively [granting school choice](#) to half of Ohio's families. Prior to this expansion, the state's EdChoice Program provided vouchers for students who were assigned to a "low-performing" public school or whose families were at or below 200% of the poverty line. Senate Bill 89, signed into law last Friday, [expanded the program](#) to include students from families at or below 250% of the poverty line, students in districts where 20% of the population is low income, and students assigned to schools that rank in the bottom 20% of the state performance standards. Before the expansion, close to 50,000 students benefited from the school choice program. Teachers unions opposed the expansion, claiming that growing the program would hurt public schools; however, an average scholarship is just over \$4,700, less than half of what the [state spends per pupil](#) in public schools. The [editorial board](#) of the *Wall Street Journal* noted that the union's "real concern is that more school choice will force more accountability by increasing competition." The same op-ed also recognized the growing popularity of school choice among minority groups, pointing out that in states where school choice has been expanded, Republicans gained advantages in the past November election. The fact that [31 states](#) will have legislatures with a Republican majority in 2021 could provide positive momentum for school choice expansion across the country.

In Case You Missed It:

[Weekly Market Update](#) provided by Jeff Beach of the [AACIS Investment Team at Merrill Lynch](#)

[Vermont Governor Instructs Schools to Interrogate Students about Family Thanksgiving Gatherings](#)

[The Mayflower Compact and Foundations for Religious Liberty](#)

[DeVos Says Push for Free College is Socialist Takeover of Higher Education](#)

[Big Wins for Religious Liberty in TN and the Sanctity of Human Life in TN: A Reminder that Elections and Federal Courts Matter](#)