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Texas Impact Joins Amicus Supporting the Constitutionality of In-person Gathering Restrictions

Texas Impact and the Texas Interfaith Center for Public Policy have joined with other religious organizations including the Anti-Defamation League and Americans United for Separation of Church and State in filing an amicus brief in [Spell v. Edwards](#). The brief urges the U.S. Fifth Circuit Court of Appeals to uphold the constitutionality of generally applicable and neutrally written emergency stay-at-home orders as applied to houses of worship during a pandemic.

“Traditional American religious liberty protects the free exercise of religion from government interference absent a compelling government interest, but if protecting human life from a deadly virus is not compelling, then I do not know what is,” said attorney Joshua Houston, Advocacy Director for Texas Impact. “In a global pandemic, people of faith gathering in-person on Sunday affects the rest of the community the other six days of the week. A court mandating a special exemption for houses of worship in this case would endanger those of us that do not follow that faith, and overturn long-standing precedents that prevent individuals from imposing their religion on others.”

Background on *Spell v. Edwards*

As COVID-19 began to spread in the United States, numerous state and local governments enacted “stay-at-home orders” that restrict the size of any in-person gathering. In Louisiana, Governor John Bel Edwards issued an order, which included such a restriction to any gathering larger than 50 percent of a facility’s maximum capacity. The plaintiff house of worship has challenged the constitutionality of Louisiana’s order.

Across the country, a vocal minority has challenged similar orders. The First, Third, Fourth, Seventh, Eighth, and Ninth Circuits have denied such claims. Additionally, on May 29, the U.S. Supreme Court denied an application for injunctive relief in *South Bay United Pentecostal Church v. Newsom* with Chief Justice Roberts writing that California’s restrictions “appear consistent with the Free Exercise Clause of the First Amendment.”

The Free Exercise Clause has limits. The U.S. Supreme Court has consistently held that exemptions to generally applicable laws are not constitutionally required (see [Church of Lukumi Babalu Aye, Inc. v. City of Hialeah](#), 508 U.S. 520 (1993), and cannot detrimentally affect third parties without unconstitutionally preferring one religion over another (see [Cutter. V. Wilkinson](#), 544 U.S. 709, (2005); [Estate of Thornton v. Caldor, Inc.](#), 472 U.S. 703, 709-710 (1985)). If the church in this case were to prevail, the Fifth Circuit would remarkably depart from long-held principles of American religious liberty.

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Texas Impact was established by Texas religious leaders in 1973 to be a voice in the Texas legislative process for the shared religious social concerns of Texas’ faith communities. Texas Impact is supported by more than two-dozen Christian, Jewish and Muslim denominational bodies, as well as hundreds of local congregations, ministerial alliances and interfaith networks, and thousands of people of faith throughout Texas.