

No. 20-569

**IN THE SUPREME COURT
OF THE UNITED STATES**

ELIM ROMANIAN PENTECOSTAL CHURCH,
and LOGOS BAPTIST MINISTRIEES

Petitioners

v.

JAY ROBERT PRITZKER, in his official capacity as Governor of the State of Illinois

Respondent

*On Petition for a Writ of Certiorari
to the United States Court of Appeals
for the Seventh Circuit*

**MOTION FOR LEAVE TO EXCEED WORD LIMIT IN
REPLY IN SUPPORT OF PETITION FOR WRIT OF CERTIORARI**

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To The Honorable Brett M. Kavanaugh, Associate Justice of the United States Supreme Court and Circuit Justice for the Seventh Circuit

Pursuant to Rules 33(d) and 22, Petitioners, Elim Romanian Pentecostal Church and Logos Baptist Ministries (“Petitioners”) hereby move this Court for leave to exceed the word limit in their Reply in Support of Petition for a Writ of Certiorari by 1,200 words. In support thereof, Petitioners show unto the Court as follows:

1. Appellants filed their Petition for a Writ of Certiorari on October 30, 2020.

2. Since the filing of that Petition, this Court has granted numerous application for writs of injunction dealing with identical and substantially similar restrictions on the rights of Churches to gather for religious worship services. *See, e.g., Roman Catholic Diocese of Brooklyn v. Cuomo*, 141 S. Ct. 63 (2020); *South Bay United Pentecostal Church v. Newsom*, 141 S. Ct. 716 (2021); and *Harvest Rock Church v. Newsom*, No. 20A137, 2021 WL 406257 (U.S. Feb. 5, 2021). Those decisions represented a “seismic shift in Free Exercise law” during the COVID-19 era, *Calvary Chapel Dayton Valley v. Sisolak*, 982 F.3d 1228, 1232 (9th Cir. 2020), and have substantially changed the nature in which this Court evaluates challenges identical to those raised in Petitioners’ Petition for a Writ of Certiorari.

3. Not only has this Court issued a substantial shift in the jurisprudence at issue here, but the Court has issued numerous other orders in similar challenges vacating orders issued by lower courts that do not comply with *Roman Catholic Diocese*, 141 S. Ct. 63. *See, e.g., Harvest Rock Church v. Newsom*, No. 20A94, 2020 WL 7061630 (U.S. Dec. 3, 2020) (granting a petition for certiorari before judgment,

vacating the district court and Ninth Circuit’s denials of injunctive relief, and remanding for consideration in light of *Catholic Diocese*); *High Plains Harvest Church v. Polis*, 141 S. Ct. 527 (2020) (same); *Robinson v. Murphy*, No. 20A95, 2020 WL 7346601 (U.S. Dec. 15, 2020) (same); *Gish v. Newsom*, No. 20A120, 2021 WL 422669 (U.S. Feb. 8, 2021) (same).

4. Because of the number of decisions this Court has granted during the period since Petitioners first filed the instant Petition in October 30, 2020, the conflict among the lower courts has continued. *Compare Agudath Israel of Am. v. Cuomo*, 983 F.3d 620 (2d Cir. 2020) (enjoining New York’s discriminatory restrictions on religious gatherings to 10 or 25 people); *Calvary Chapel Dayton Valley v. Sisolak*, 982 F.3d 1228 (9th Cir. 2020) (enjoining Nevada’s 50-person numerical caps imposed only on religious gatherings); *Calvary Chapel Lone Mountain v. Sisolak*, 831 F. App’x 317 (9th Cir. 2020) (same); *Harvest Rock Church v. Newsom*, 985 F.3d 771 (9th Cir. 2021) (enjoining California’s 100 and 200-person numerical caps on religious gatherings not imposed on nonreligious gatherings of like kind); *South Bay United Pentecostal Church v. Newsom*, 985 F.3d 1128 (9th Cir. 2021) (same), *with* (App. 001a-012a (upholding the constitutionality of discriminatory restrictions on religious worship services of 10 people); *Calvary Chapel of Bangor v. Mills*, 984 F.3d 21 (1st Cir. 2020) (declining to enjoin discriminatory restrictions on religious worship services of 50 people, even after *Catholic Diocese*); *South Bay United Pentecostal Church v. Newsom*, 985 F.3d 1128 (9th Cir. 2021) (refusing to enjoin California’s total prohibition on religious worship services of any number even after *Catholic Diocese*);

Harvest Rock Church v. Newsom, 985 F.3d 771 (9th Cir. 2021) (same); *Harvest Rock Church v. Newsom*, No. EDCV 20-6414-JGB(KKx), 2020 WL 7639584 (C.D. Cal. Dec. 21, 2020) (refusing to enjoin California’s total prohibition on religious worship services even after *Catholic Diocese* and this Court’s GVR Order in the same case); *South Bay United Pentecostal Church v. Newsom*, No. 20-cv-865-BAS-AHG, 2020 WL 7488974 (S.D. Cal. Dec. 21, 2020) (same).

5. The conflict between the lower court’s decision at issue here, this Court’s recent precedents concerning virtually identical issues, and the vast conflict among the circuit courts has necessitated further explanation than is typical for a Reply in Support of a Petition for a Writ of Certiorari. Indeed, rarely does the landscape change in such a dramatic fashion while a Petition is pending though not fully briefed.

6. Petitioners are mindful of the Court’s time and resources and are working diligently to present the Court with the full presentation of the issues and the conflicts below in the most concise manner possible. Despite best efforts, Petitioners respectfully submit that an extension of the word limit by 1,500 words would facilitate a full and complete presentation of the issues for this Court while still respecting the interests of judicial economy.

7. No party will be prejudiced by the granting of the relief requested herein, and this Motion is not brought for purposes of undue delay.

8. Counsel are mindful of Rule 33(d)’s admonition that ordinarily a motion requested to exceed the word limit should be filed at least 15 days prior to the deadline for the filing. However, because Rule 16 provides only 14 days in which to

submit a Reply, Petitioners respectfully submit that compliance with the ordinary rule is not possible in the instant circumstances.

9. Prior to the filing of the instant Motion, Petitioners consulted with counsel for Respondent, who indicated that the relief requested herein is opposed.

WHEREFORE, for good cause shown, Petitioners respectfully request that this Court grant leave to exceed the word limit in their Reply in Support of the Petition for Writ of Certiorari by 1,200 words.

Respectfully submitted,

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