

# Judge Compares Pennsylvania COVID Restrictions to Communist China

A friend of mine owns a convenience store in suburban Philadelphia. Refusing to wear a mask, he allows his customers to decide whether or not they want to do the same.

Recently, a woman entered his store claiming to be from the health department. She demanded that everyone wear a mask, that he and his wife practice social distancing, and that he take down the articles displayed on the front window dissenting on the efficacy of lockdowns. He refused and threw her out.

Appalled by his defiance, she called the police. The police confirmed that she was from the health department, but they refused to enforce the COVID restrictions on otherwise law-abiding citizens. They had higher priorities.

My friend is a Chinese Christian immigrant who recognizes tyranny when he sees it. But he is not alone.

In a [September 14 ruling](#), Pittsburgh-based Federal District Court Judge William S. Stickman IV ruled that some of the state's lockdown restrictions on gatherings violated the First Amendment's right of assembly. He also ruled that the state's stay-at-home and business closure restrictions violate the due process clause of the 14<sup>th</sup> Amendment, while business closures also violate the 14<sup>th</sup> Amendment's equal protection clause.

Democratic Governor Tom Wolf and his administration testified that restrictions of this kind are permissible in temporary emergencies like pandemics, an argument that survived scrutiny two weeks earlier under U.S. District Judge R. Barclay

Surrick. In his opinion, [Surrick writes](#), “We are skeptical of claims seeking to challenge emergency government action taken to combat a once-in-a-lifetime global health crisis.”

Judge Stickman, in an apparent rebuttal to Surrick’s decision, acknowledged the circumstances of the lockdown orders but observed nonetheless that “even in an emergency, the authority of government is not unfettered.” In his concluding paragraph, he powerfully defended constitutional rights:

The liberties protected by the Constitution are not fair-weather freedoms—in place when times are good but able to be cast aside in times of trouble... [T]he solution to a national crisis can never be permitted to supersede the commitment to individual liberty that stands as the foundation of the American experiment. The Constitution cannot accept the concept of a ‘new normal’ where the basic liberties of the people can be subordinated to open-ended emergency mitigation measures. Rather, the Constitution sets certain lines that may not be crossed, even in an emergency.

Surrick claimed that the restrictions were temporary and therefore justified. Stickman disagreed. What was supposed to be temporary and limited has dragged on for months, with little evidence that these measures will be permanently ended anytime soon. Indeed, government officials admit that previous suspensions of restrictions could be reimposed at any time. They went even further saying these restrictions are a “new normal.” Interventions of indeterminate length pose a grave danger, wrote Stickman, because they “may ultimately lead to the suspension of constitutional liberties themselves.”

Restrictions on the constitutionally protected right of assembly were inconsistently applied while exceptions to the rules were frequent. For instance, “life-sustaining” businesses were allowed to remain open while the constitutionally protected right to worship was suspended.

Furthermore, the way the administration decided what was a “life-sustaining” business was “shockingly arbitrary” and had the effect of choosing winners and losers. The definition was never written down but the list of businesses that were considered “life-sustaining” was revised ten times between March 19 and May 28.

Lockdown orders were indeed “unprecedented” in U.S. history. Contrary to government testimony, what Pennsylvania did was “nothing remotely approximating” what was done during the Spanish Flu. Indeed, state orders were “draconian” in their imitation of lockdowns in China, “a nation unconstrained by concern for civil liberties and constitutional norms.”

The lockdowns are also “unprecedented” because they don’t work. [Study](#) after [study](#) after [study](#) shows they make little to no difference. They only postpone the inevitable spread of the virus while causing tragic unintended consequences like [suicide](#), [drug abuse](#), [domestic abuse](#), and [starvation](#).

But there are several other subtle reasons we should consider the unprecedented nature of the lockdowns. Are lockdowns unprecedented because in years past Americans would not tolerate a dramatic curtailment of their freedoms? Do we tolerate them now because we take our constitutional rights for granted, or because we have too much faith in our inept and controlling elected officials and their “experts”? Are we too willing to accept uncritically the [frightening stories](#) reported by the media?

My friend knows what it’s like to be deprived of his civil rights. Perhaps Americans can learn to rekindle an appreciation of their birthright from immigrants who know what it means to live in servitude.

—

Image Credit:

Flickr-Governor Tom Wolf, CC BY 2.0