

# City of Moscow Loses Big

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- Judge rules that Christ Church's 2020 psalm sing protest of city covid restrictions was a lawful and constitutionally protected gathering.
- City of Moscow acted unlawfully in arresting and charging protesters.
- Gabriel Rench and others are cleared of any wrongdoing.
- Constitutional rights cannot be suspended during a pandemic.

**[Moscow, Idaho]** – On February 2<sup>nd</sup>, 2023 Senior United States District Judge Morrison C England, Jr. denied the City of Moscow's motion to dismiss Gabriel Rench's case against the City of Moscow, as well as Moscow City supervisor Gary Riedner, city attorneys Mia Bautista and Elizabeth Warner, Moscow Chief of Police James Fry, and Will Krasselt, Megan Vincello, and Jake Lee for violating his 1<sup>st</sup> and 4<sup>th</sup> amendment rights.

From Judge England's **Memorandum and Order**: "Plaintiffs [Protestors] should never have been arrested in the first place, and the constitutionality of what the City thought it's [sic] code said is irrelevant.... The prosecutor's charging decisions were likewise flawed." Judge England did not hold back: "Somehow, every single City official involved overlooked the exclusionary language [of constitutionally protected behavior] in the Ordinance."

The City of Moscow had moved for a summary judgment against Rench and two other protesters who had been arrested, Sean and Rachel Bohnet. But the City failed to meet its burden of showing both that the facts and the law were in their favor. Judge England's ruling included a footnote stating that the court had not seen a failure like it in all its years on the bench, but: "This case shows, as the adage goes, there is a first time for everything."

Gabriel Rench, who was a candidate for County Commissioner and a loud critic of City covid policies at the time of his arrest, was thrilled by the outcome: "As a local taxpayer, it sickens me, not only how much damage the City of Moscow did to local citizens and businesses with their ridiculous, so-called emergency orders, but that they would then turn around and spend taxpayer money fighting us for years when they had no case, they never had a case, and the outcome was inevitable, all thanks to their incompetence at reading their own ordinances before they started arresting political opponents. Yes, this is a constitutional victory for Idahoans, but it is also a showcase of how dumb petty, tyrannical mayors and unelected city officials can be, and where they end up when abused citizens have the endurance to fight back and defend their rights."

The arrests happened on September 23<sup>rd</sup>, 2020 at a psalm sing protest in the parking lot of City Hall. The protest had been organized by Christ Church, where Gabriel Rench was a deacon, and the ensuing news coverage spread far and wide, even to President Trump's twitter feed. Many around the country were outraged by the decision of MPD to arrest peaceful protestors, while others raged at Christ Church for behaving, they believed, unlawfully and unsafely. Since that time, Christ Church has proven to have been right about the flawed science behind Moscow's covid orders, and now they have proven to have been right on the law as well. Their psalm sing was constitutionally protected "expressive and associative conduct" and officers did not even have grounds to ask for the ID of participants, let alone make arrests.

As a result of his wrongful arrest, Gabriel became the target of verbal abuse, threats of harassment and physical assault, and his family was put in danger, not only locally but nationwide. "It got bad," Rench said. "So many people questioned my faith and my character, and others were out for blood. Even my extended family was harassed. To make matters worse, the Mayor and City Council doubled down on their stupid orders and refused any peaceful resolution with us. That's how this turned into a three-year battle."

Next up, Judge England has ordered a settlement conference, which he has offered to oversee: "Given that Plaintiffs were wrongfully arrested, the City indisputably erred in interpreting its own Code, the City consequently misadvised its officers as to the Code's application, and Plaintiffs are so far reasonable in their damage requests, this case should not need to see the inside of a courtroom."

Rench is looking forward to closing the book on his struggle. But for the City, the consequences of their actions surrounding covid may have only just begun. "Stickergate" is up next.

"Moscow just keeps betting more taxpayer money on stupid," Rench said. "The Wilson brothers, who were at the psalm sing with me, were charged with thirteen misdemeanors each for protesting my wrongful arrest with nondamaging stickers that made fun of the city. Turns out, those boys were right about the law, and the cops and prosecutors were in the wrong up to their necks. I'm betting Moscow has spent well over six figures of tax dollars chasing them by now, and judging from how they handled me, I doubt the City will stop until a judge is slapping them and saying he's never seen anything like their failure in all his days. That's our town. Sadly."

After protesting Rench's arrest, Rory Wilson was eventually convicted of one count of placing a sign or a flier without permission, which is a misdemeanor. Charges against his brother and his father were dropped. The three Wilsons remain the only people ever cited or prosecuted for placing a sign or flier in Moscow in the entire history of the City's ordinance. Rory's case is now on appeal. All three have filed a lawsuit against the City of Moscow *et al.*