

The *David Benham Arrest Case*

Case Name: *Benham v. City of Charlotte*

Case Status: ADF attorneys filed a federal lawsuit April 18 with the U.S. District Court for the Western District of North Carolina, Charlotte Division.

Significance: Whether the government can use a pandemic to justify silencing people because it doesn't like their point of view.



Background: David Benham is president of Cities4Life, which provides counseling to pregnant women near abortion clinics in a peaceful, prayerful, and non-violent way, and also provides social services to them—including diapers, baby furniture, bottles, baby clothes, maternity clothes, groceries, and money for rent, utilities, vehicles, vehicular repair, gas, prenatal care, and follow-up ultrasounds. Love Life—a separate organization—engages in similar types of activities. On April 4, Benham and members of Love Life were on public sidewalks near an abortion facility to pray and offer counseling and services to anyone desiring it. Mindful of both the North Carolina governor's emergency order and the similar joint proclamation issued by the city of Charlotte and Mecklenburg County, Benham and the others ensured that, at all times, they were spaced at least six feet apart from any person, and that they were equipped with hand sanitizer, as required by the social distancing provisions of the order and proclamation. Their social service activities are allowed under several other provisions of the proclamation. Nevertheless, Benham was cited and arrested, and so were others. Police documents said they were in violation of the order and proclamation because 10 or more of them had assembled, but, as the ADF lawsuit explains, none of the emergency orders and proclamations place that restriction on non-profit charitable social service organizations, which is what Cities4Life and Love Life are, or on any citizens who are merely walking on public sidewalks.

Key Points

- We support authorities' efforts to prioritize the public's health and safety. But if other groups are free to assemble, people of faith should be, too.
- If abortion facilities can stay open during the pandemic, Christians should be allowed to pray outside—particularly those abiding by health and safety guidelines.

Key Facts

- The County's policy is a moving target; the only consistent thing about it was that it cracked down on Christians providing material support and counseling outside of an abortion facility.
- A police officer made clear to Love Life members that they can be arrested even if they have less than ten in their group if the officer can see others in the area that make them exceed ten. The policy permits shopping, picnicking, and golfing without those restrictions. Any reasonable policy should allow citizens to speak on a public side walk if it allows gathering in a park or the local Home Depot.

The Bottom Line: This is a clear case of the government abusing its power. Even during a crisis, banning the First Amendment is not an option.