

Michigan's Whitmer Blames Court's GOP Appointees for Blocking COVID Actions

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By Brian Trusdell

October 5, 2020

Michigan Gov. Gretchen Whitmer railed against Republican-appointed members of her state's Supreme Court, saying they "undermined" her when they declared her executive orders regarding the outbreak of the novel coronavirus unconstitutional.

"This threat is still very real and the sad irony is on the day that the president was admitted to the hospital with the very virus he called a hoax, the Supreme Court in Michigan undermined my emergency rule, my emergency orders that I've had to enact that puts us in the same state as all other states in this nation, to save lives," Whitmer said Sunday on [CNN](#).

"We've saved thousands of lives and the Supreme Court, on a slim majority Republican vote, undermined that effort."

Whitmer's reaction followed Friday's decision by the Michigan Supreme Court in which it ruled the governor did not have the authority to unilaterally and continually declare states of emergency to issue restrictions to stem the spread of the coronavirus.

Her comments referred to only one half of the [court's decision](#), the other half of which was unanimous against her.

At issue was Whitmer's orders and the law she cited to justify them. Whitmer declared a state of emergency in March and extended it in April with another. The Republican-controlled legislature affirmed her second, which expired on April 30.

Whitmer continued to extend the declarations without legislative approval and cited two laws, a 1976 Emergency Management act and a 1945 Emergency Powers of the Governor Act. The Michigan Supreme Court ruled unanimously 7-0 that Whitmer violated the 1976 law and 4-3 that the 1945 law was unconstitutional.

"We conclude that the governor lacked the authority to declare a 'state of emergency' or a 'state of disaster' under the EMA after April 30, 2020, on the basis of the COVID-19 pandemic. Furthermore, we conclude that the EPGA is in violation of the Constitution of our state because it purports to delegate to the executive branch the legislative powers of state government — including its plenary police powers — and to allow the exercise of such powers indefinitely," Justice Stephen J. Markman on behalf of the court.

The ruling came in the case of several health care providers who were prohibited from performing "non-emergency" medical procedures.

Attorney Katherine Henry, who has argued against Whitmer in court for six months, took a slap at the governor having finally prevailed.

"The governor has had some very creative reading skills when it comes to our state laws in Michigan and the constitution," Henry said. "(The) 7-0 (ruling) specifically said that the legislature has to be involved after 28 days, according to the 1976 emergency management act.

"They did give that first extension on April 7 (when) they voted to give her another 23 days, After April 30, the only way they could continue is if the legislature voted to extend the state of emergency yet again. Which they did not. So the court, in a 7-0 decision said, very clearly, the governor had to get the approval of the legislature to go beyond that initial 28 days."