

Destiny Church leader Brian Tamaki walks free on Covid-19 protest charges



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Senior Multimedia Journalist · NZ Herald · 20 Nov, 2024 02:07 PM 5 mins to read

- **Brian Tamaki and three others had all charges dismissed after a three-year legal battle.**
- **Tamaki faced up to six months in prison for allegedly violating Covid-19 lockdown rules.**
- **Judge June Jelas approved the dismissal of the final charges after the Crown deemed it not in the public interest.**

After a three-year legal battle culminating in more than two weeks of trial testimony this month, Destiny Church founder Brian Tamaki has had all charges against him dismissed for a series of Covid-19 lockdown protests.

Wife Hannah Tamaki, along with church members Kaleb Cave and Jennifer Marshall, have also walked free.

Brian Tamaki could have faced up to six months in prison and thousands of dollars in fines had he been found guilty of four counts of intentionally failing to comply with the Covid-19 Public Health Response Act by attending or organising large gatherings at Auckland Domain where lockdown rules were allegedly ignored.

“The number of attendees was well in excess of the maximum,” Crown prosecutor Matthew Nathan said during his opening statement earlier this month in Auckland District Court.

“It was obvious that the crowds were not in compliance... A reasonable person would not have remained and actively participated in a non-compliant gathering.”

Defence lawyer Ron Mansfield filed court documents last week asking Judge June Jelas, who oversaw the non-jury trial, to dismiss some of the charges based on an interpretation of the law and whether they had purposely planned an unlawful gathering.

Earlier this week, the judge agreed to dismiss all charges except for two against Brian Tamaki and two against Marshall.

Then today, during the morning break, the Crown prosecutor overseeing the case indicated it was no longer in the public interest to proceed with the remaining charges. Judge Jelas approved the dismissal of the final charges.

In a video posted to his followers today, Tamaki appeared in good spirits.

“Good outcome, people,” he said. “Ron Mansfield is the greatest lawyer in the world.”

During the first week of trial, the defence submitted the transcript of a Zoom call between Brian Tamaki and Police Commissioner Andrew Coster in which Tamaki said he fully intended to make the gathering compliant with lockdown rules, including hand sanitising stations and facemasks.

Coster expressed his reservations about the protest but ultimately offered to provide masks for participants.

“I don’t know whether you’ve got any messaging to your people involved in this about what a safe protest looks like in terms of ... the risk of transmission - distancing between groups,” Coster said.

Tamaki responded: “Well, we actually have, Andy. I’ve gone out of my way to talk to the team. That’s been most of the talk in the past couple of weeks - why the big open area of the public area of the domain.

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"It gives us the ability to have distancing, and the mask and then the QR stations, the scanning and stuff for the hands. So we're going out of our way to do everything."

Coster, although friendly throughout the conversation, did not seem persuaded.

"Do you think that's achievable?" he asked. "I imagine that will be quite a large number."

Tamaki responded with a reference to then Prime Minister Dame Jacinda Ardern.

"Well probably," he said. "As your boss says, let's be the first in the world to show a great example of how to do it. Also ... we can have a positive outlet valve. This is gonna be a good catharsis for a lot of people.

"And it stops a lot of problems you might pick up on the other side in police, you know? ... We've got to control this. I believe I've got good influence with a lot of the leaders and they're willing to follow this.

"I think it sends a good message not only to the public of New Zealand but globally."

Mansfield suggested the online meeting showed that police were not initially concerned with the protests themselves as long as precautions such as distancing were adhered to. The couple's arrest only came after a pressure campaign on police from Parliament and the media, he argued earlier this month as he questioned a former adviser for the Police Commissioner.

"The New Zealand Police knew pressure was on to make an example of Brian Tamaki and [Destiny Church-affiliated protest group] the Freedom and Rights Committee," he said, suggesting that if the arrests hadn't been political then leaders of the prior Black Lives Matter and Groundswell protests would have also been charged.

After his first arrest, Brian Tamaki was accused on three occasions of violating his bail conditions by continuing to attend subsequent rallies. However, the alleged bail breaches did not result in new criminal charges and were not part of the trial.

One alleged bail breach — his attendance at an anti-vaccine rally in Christchurch attended by more than 100 people — resulted in him spending over a week in jail in January 2022 before he was released on 24-hour curfew. His bail restrictions were eventually loosened significantly as nationwide Covid-19 restrictions were also lifted.

The courtroom victory comes just days after Destiny Church organised another protest - this one regarding the usage of flags other than New Zealand's - in which [participants again infuriated police](#) for alleged rules breaches, this time for stopping on a motorway.

Craig Kapitan is an Auckland-based journalist covering courts and justice. He joined the Herald in 2021 and has reported on courts since 2002 in three newsrooms in the US and New Zealand.

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