



## **Push for religious freedom legislation likely after Supreme Court rejects photographer's case**

By Jason Pye

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The Supreme Court unceremoniously announced yesterday that it would not hear arguments in *Elane Photography v. Willock*, a case involving a New Mexico-based photographer who had refused to provide services for a lesbian couple's commitment ceremony.

Elane Huguenin, a Christian and owner of Elane Photography, doesn't support same-sex marriage and argued that her free speech rights were violated by an anti-discrimination statute that compels her to offer her services. New Mexico's public accommodation law is broadly written, leaving little room for businesses to object to serve, even on religious grounds.

Though Elane Photography did initially make a religious liberty argument, Lyle Denniston explains that Huguenin's attorneys didn't bring that question to the Supreme Court. "Instead," Denniston notes, "they argued that, since photography is a form of expression, the government should not be allowed to compel the use of that freedom in ways that the business owners find objectionable."

The Cato Institute filed a brief in support of Elane Photography in December, noting that even though the libertarian think tank supports marriage equality, "a commitment to egalitarian principles can't justify the restriction of constitutionally protected fundamental rights like freedom of speech or association."

"The Supreme Court has never held that the compelled speech doctrine is only applicable when an individual is forced to serve as a courier for the message of another," reads the summary of the Cato Institute's brief. "Instead, the Court has said repeatedly that what the First Amendment protects is a 'freedom of the individual mind,' which the government violates whenever it tells a person what she must or must not say.

"Forcing a photographer to create a unique piece of art violates that freedom of the mind," the libertarian think tank added.

This case doesn't tell us anything about how the Court may rule in future cases in which a business owner cites religious liberty as a reason for refusal of service. Had Elane Photography made that specific argument, this case may have turned out different.

The effect of the Court's decision not to hear the case will likely lead to more state legislatures to push for religious exemption measures. An off-year, like 2015, would make it easier for lawmakers to push through measures similar to the federal Religious Freedom Restoration Act.