13 States Ask Court'Still Room in America for Christianity?'

Multitudes support Washington florist in fight over right to live by faith

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Is there still room in America for the practice of Christianity, the faith of many of the founders, in the public square?

Has the "tolerance" agenda gained so much power that the answer is no?

That's a question being raised by the numerous friend-of-the-court briefs filed in Washington state on behalf of florist Barronelle Stutzman, who declined to use her artistry to promote a gay "wedding" and consequently was penalized by the state.

"This country has a rich history of protecting the rights of conscience and the free exercise of religion," said Arkansas Attorney General Leslie Rutledge.

Rutledge led a 13-state coalition that filed in support of Stutzman, whose case is pending before the state Supreme Court.

"Unfortunately, these rights have recently come under a sustained and coordinated assault even though they are the very reason many came to this country in the first place. Along with my colleagues, I am urging the Washington Supreme Court to recognize that the actions of the defendant are not discriminatory or unlawful but rather reflect sincerely held religious beliefs that should be accommodated in our pluralistic and tolerant society."

It was the Washington attorney general and the American Civil Liberties Union that sued Stutzman for acting consistently with her faith.

She is represented by the Alliance Defending Freedom.

"Barronelle and many others like her around the country have been willing to serve any and all customers, but they are understandably not willing to promote any and all messages," said Kristen Waggoner, a senior counsel for ADF.

“The briefs that have been filed in support of Barronelle encourage the court to affirm the broad protections that both the U.S. Constitution and the Washington Constitution afford to freedom of speech and conscience.

“These freedoms protect Barronelle in the same way that they protect an atheist painter’s right to decline to paint a mural for a church, or a pro-same-sex-marriage print shop owners’ right to decline to print materials for a rally promoting marriage as the union of one man and one woman.”

A lower court ordered Stutzman to pay penalties and attorneys’ fees for declining to use her artistic abilities to arrange flowers for a long-time customer’s same-sex ceremony.

Stutzman wrote of her customer, Rob Ingersoll, in a commentary that appeared in the Seattle Times.

“This case is not about refusing service on the basis of sexual orientation or dislike for another person who is preciously created in God’s image,” she said at the time. “I sold flowers to Rob for years. I helped him find someone else to design his wedding arrangements. I count him as a friend.”

She said she would like to believe that a state like Washington, “with our long commitment to personal and religious freedoms, would be as willing to honor my right to make those kinds of choices as it is to honor Rob’s right to make his.”

The various supporting arguments have been filed by 13 states, the Becket Fund for Religious Liberty, the Cato Institute, the Ethics and Religious Liberty Commission of the Southern Baptist Convention, International Christian Photographers, and law and religion practitioners.

The states put in context the idea that a government can order Christians to carry out an act that violates their religious beliefs.

“On July 18, 1775, the Continental Congress was about to confront one of the world’s most powerful armies. Though out-manned and out-gunned, the Continental Congress exempted scores of religious objectors from military service. … This example is particularly illuminating. If ever there were an interest that qualifies as ‘compelling,’ it is the preservation of the entire government in times [of] war – or, as the Continental Congress said, in times of ‘universal calamity.’ Yet even in this circumstance, our forebearers did not hesitate to grant religious objectors an exemption, despite the high costs to third parties.”

The Cato Institute pointed out that the U.S. Supreme Court “numerous times” has affirmed that the First Amendment “prohibits compelled speech.”

“Floristry exhibits all the characteristics of other expressive formats that the U.S. Supreme Court has recognized as constitutionally protected. To show that the Constitution protects even abstract expression, the court identified the ‘painting of Jackson Pollock, the music of Arnold Schoenberg, or Jabberwocky verse of Lewis Carroll’ as ‘unquestionably shielded’ by the First Amendment.”

The SBC said it’s straight Bible.

"Southern Baptists' authority for the denomination's definition of marriage is based on the Bible viewed as an inspired and inerrant text, authoritative for instructing Christians and Southern Baptists in the ways of Christian morals, living and salvation. Therefore, the denomination's convictions on marriage are not revisable or subject to redefinition since the denomination cannot alter biblical teaching."

That, critics contend, is exactly what the U.S. Supreme Court did in creating same-sex "marriage" across the nation.

The protections for people of faith, however, long have been in the bull's-eye for the Obama administration.

And WND reported recently a new report from the U.S. Commission on Civil Rights moves pointedly that direction, even lamenting that the Constitution limits governmental burdens on religion.

The agency's recent report, "Peaceful Coexistence: Reconciling Nondiscrimination Principles with Civil Liberties," gets immediately to the point.

Religion 'infringes' on civil rights

On the first of 306 pages, the "letter of transmittal" to Barack Obama states, "Religious exemptions to the protections of civil rights based upon classifications such as race, color, national origin, sex, disability status, sexual orientation, and gender identity, when they are permissible, significantly infringe upon these civil rights."

It says the fault lies with the First Amendment's Establishment Clause, which "constricts the ability of government actors to curtail private citizens' rights to the protections of nondiscrimination laws and policies."

"Although the First Amendment's Free Exercise Clause and the Religious Freedom Restoration Act … limit the ability of government actors to impede individuals from practicing their religious beliefs, religious exemptions from nondiscrimination laws and policies must be weighed carefully and defined narrowly on a fact-specific basis," states the letter.

The letter, based on hundreds of pages of arguments compiled for the past three years, says the commission believes "overly-broad religious exemptions unduly burden nondiscrimination laws and policies."

"Federal and state courts, lawmakers, and policy-makers at every level must tailor religious exceptions to civil liberties and civil rights protections as narrowly as applicable law requires."

The commission says RFRA "protects only religious practitioners; First Amendment free exercise rights, and it does not limit others' freedom from government-imposed religious limitations under the Establishment Clause."

"In the absence of controlling authority to the contrary such as a state-level, RFRA-type statute, the recognition of religious exemptions to nondiscrimination laws and policies should be made pursuant to the holdings of Employment Division v. Smith, which protect religious beliefs rather than conduct."

Then the commission gets to what it really wants, stating federal legislation "should be considered to clarify that RFRA creates First Amendment Free Exercise Clause rights only for individuals and religious institutions and only to the extent that they do not unduly burden civil liberties and civil rights protections against status-based discrimination."

"States with RFRA-style laws should amend those statutes to clarify that RFRA creates First Amendment Free Exercise Clause rights only for individuals and religious institutions. States with laws modeled after RFRA must guarantee that those statutes do not unduly burden civil liberties and civil rights with status-based discrimination."

'War on religious freedom'

The nonprofit legal group Liberty Counsel called the commission's recommendations "a shocking example of the war against religious freedom in America."

"The commission's report is a shameful anti-American and anti-God document that trashes religious freedom," said Mat Staver, founder and chairman of Liberty Counsel.

Staver charge the commission's chairman, Democrat Martin Castro, is "out of touch with reality and with our Constitution."

"He and the other members of the commission who agree with him want to throw out the First Amendment and trash religious freedom whenever faith and practice collides with an intolerant LGBT agenda," Staver said. "The report is a declaration of war against religious freedom. George Washington said anyone who works against the twin pillars of religion and morality cannot be called a 'Patriot.' This report is un-American."

Commissioner Kirsanow, the panel's lone Republican, said the problem is that people are enamored with "gay rights" and "transgender rights" and are inserting their own desires into the Constitution.

"The tension between nondiscrimination and religious liberty is based on the assumption that the rights in conflict are of equal weight, or even that nondiscrimination is of greater weight," he said. "This assumption is erroneous. Religious liberty is an undisputed constitutional right. With the exception of racial nondiscrimination principles embedded in the Thirteenth, Fourteenth, and Fifteenths Amendments, nondiscrimination principles are statutory or judicially created constructs."

Two worldviews

Kirsanow described the sharp differences on the commission as a "conflict between two worldviews."

"The first, which is secularism, holds an individual's unfettered sexual self-expression as a preeminent concern because it is an aspect of their self-creation," he explained. "This interest in the individual is now construed as a positive responsibility to ensure that everyone has the ability to engage in sexual conduct without cost or consequence, whether in money, unwanted children, or hurt feelings.

“An individual’s sexual behavior is considered an act of self-creation and something that goes to the deepest level of their identity. Criticism of an individual’s behavior is considered an attack on the dignity of the person. Naturally, this worldview is at odds with many aspects of traditional morality grounded in sexual restraint.

“The second worldview holds that individuals are not their own judge, but rather are subject to divine law and divine judgment. The morality of a person’s conduct does not ultimately depend upon whether he thinks it is right, or whether it accords with his desires, but whether it conforms to divine law.”

He said the “rub” is that the first group does not recognize sin as sin, and the second group does.

Christianity illegal?

WND earlier this year reported on an ominous court decisions regarding religious liberty.

It was when the U.S. Supreme Court left standing a lower court decision that Washington state pharmacists who are Christian must violate their faith in order to practice their profession.

The Supreme Court’s move alarmed Justice Samuel Alito, who warned there was evidence that the “impetus for the adoption of the regulations was hostility to pharmacists whose religious beliefs regarding abortion and contraception are out of step with prevailing opinion in the state.”

Washington state adopted rules forcing pharmacists to sell abortion pills to customers regardless of religious beliefs that consider abortion tantamount to murder.

The state provided no exception for religious beliefs and refused to allow an accommodation that would simply allow pharmacists with abortion objections to refer customers to another location.

After the Supreme Court refused to even review the case, Senior Counsel Kristen Waggoner of the Alliance Defending Freedom said all Americans “should be free to peacefully live and work consistent with their faith without fear of unjust punishment, and no one should be forced to participate in the taking of human life.”

“We had hoped that the U.S. Supreme Court would take this opportunity to reaffirm these long-held principles,” she said.

Waggoner noted the state of Washington “allows pharmacists to refer customers for just about any reason – except reasons of conscience.”

“Singling out people of faith and denying them the same freedom to refer is a violation of federal law. All 49 other states allow conscience-based referrals, which are fully supported by the American Pharmacists Association, the Washington Pharmacy Association, and 36 other pharmacy associations. Not one customer in Washington has been denied timely access to any drug due to a religious objection. As the trial court found, the government designed its law for the ‘primary – if not *sole* – purpose’ of targeting religious health care providers. We are disappointed that the high court didn’t take this case and uphold the trial court’s finding.”

Alito, whose concerns were endorsed by Chief Justice John Roberts and Justice Clarence Thomas, said the case is “an ominous sign.”

“At issue are Washington State regulations that are likely to make a pharmacist unemployable if he or she objects on religious grounds to dispensing certain prescription medications,” the three agreed.

“There are strong reasons to doubt whether the regulations were adopted for – or that they actually serve – any legitimate purpose. And there is much evidence that the impetus for the adoption of the regulations was hostility to pharmacists whose religious beliefs regarding abortion and contraception are out of step with prevailing opinion in the state.

“Yet the Ninth Circuit held that the regulations do not violate the First Amendment, and this court does not deem the case worthy of our time,” Alito wrote.

“If this is a sign of how religious liberty claims will be treated in the years ahead, those who value religious freedom have cause for great concern…. Ralph’s [pharmacy] has raised more than ‘slight suspicion’ that the rules challenged here reflect antipathy toward religious beliefs that do not accord with the views of those holding the levers of government power. I would grant certiorari to ensure that Washington’s novel and concededly unnecessary burden on religious objectors does not trample on fundamental rights.”