



A Supreme Court ruling for the gay couple in wedding cake case would set gay rights back Casey Given

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December 7, 2017

On Tuesday, the Supreme Court heard oral arguments in the case of *Masterpiece Cakeshop Ltd. v. Colorado Civil Rights Commission*, a hotly debated case about free speech, religious liberty, and non-discrimination protections for LGBT citizens.

The facts of the case are all too familiar: a gay couple (David Mullins and Charlie Craig) walks into a cake shop (Masterpiece Cakeshop) to order their wedding dessert. The cake shop owner (Jack Phillips) refuses, explaining that it violates his religious beliefs. The gay couple turns to their state government (the Colorado Civil Rights Commission) to sue, citing anti-discrimination protections.

Contrary to the popular perception by the LGBT movement, I believe a victory for the Commission would be vastly detrimental to gay rights in the long-term.

As expected, the nine justices seemed closely divided judging by their questions, with Justice Anthony M. Kennedy expected to be the deciding vote. As for the legal questions at stake, it may come down to whether baking a cake is legally protected speech under the First Amendment. If so, the government cannot compel bakers to express a viewpoint they disagree with — whether it be a Christian baker for a cake with two grooms on it or Jewish baker for a cake with a swastika. The Cato Institute makes the case for free association beautifully in their amicus curiae brief on the issue:

The First Amendment right to sing, write, and the like also rebuts the notion that people who choose to make custom wedding cakes for some ceremonies may on that basis be required to do them for all others. Creating expressive is constitutionally different than non-expressive activity like delivering food, renting out ballrooms, or driving limousines. States thus cannot impose new burdens on speech-creators as a result of their having exercised First Amendment rights. Legal issues aside, it distresses me as a gay man that the LGBT movement, just two short years after achieving full marriage equality, would so quickly turn from oppressed to oppressors. For centuries, gay Americans were legitimately persecuted — be it involuntary confinement,

electroshock therapy, attempted civil service restrictions like the Briggs Initiative, and gay marriage bans. Finally, after achieving a history, decades-long march to equality culminating in Obergefell v. Hodges, the movement seems hell-bent on manufacturing new positive rights to hammer individuals with sincere religious beliefs into submission.

Personally, I don't think the cakemaker, Jack Phillips, deserves any sympathy for his beliefs. Had he refused service to me, I would have happily marched out of his cake shop and given my money to a more LGBT-friendly cake-maker. But, by turning to the state, Mullins and Craig have made a martyr out of a bigot.

Using the state to effectively hold a business owner at gunpoint is bullying, pure and simple. As Cato's brief points out, there are 26 cake shops in the couple's town, Lakewood, Colo. Craig and Mullins could have easily purchased a cake from another baker. Moreover, if they wished to draw attention to Phillips' discriminatory business practices, they could have easily galvanized the public's attention in the age of the Internet.

Instead of turning to civil society — to friends, to family, to supporters — they turned to the state. This disturbing mentality, which seems all too popular these days, has major repercussions on how we view our neighbors; not as beings to make a personal connection with, but as objects to be regulated. In that critical shift of mentality, the LGBT movement has lost its way.

Gay rights have made such dramatic strides in such a short period of time precisely because of our humanity. "Gay brothers and sisters... you must come out... once and for all, break down the myths, destroy the lies and distortions," Harvey Milk urged at Gay Freedom Day in 1978. By coming out to our loved ones, America soon realized that gays are not boogeymen; they are the country's sons and daughters deserving of love and respect.

But, love and respect are only truly achieved by human emotion. It cannot be coerced by the state. For this reason, should the Colorado Civil Rights Commission come out victorious in their battle, the decision will not be an advancement for LGBT by any stretch of the imagination. It will only take the gay rights movement one step further away from our humanity to becoming just another special interest group participating in the toxic politics that characterizes modern America.