



SCOTUS cake shop ruling bodes well for religious school choice

Neal McCluskey

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Despite the sea, sun, and fine citrus, there are angry people in Florida.

A recent Orlando Sentinel article reported that a large number of institutions participating in the state's school choice programs are fundamentalist Christian, teaching such things as the Earth was created around 6,000 years ago and God has guided human affairs, including favoring Protestants over Catholics.

This has upset many people who despise such teachings, and Floridians are not alone — we've seen similar disquiet in [North Carolina](#) and [nationally](#). But the U.S. Supreme Court's just-issued [Masterpiece Cakeshop](#) ruling has potentially big implications for what cannot be driven by such feelings: education policy.

Perhaps no one has [seemed more irate](#) than Sentinel columnist Lauren Ritchie.

“Do fundamentalists want their kids to learn a bunch of hillbilly science? Handle venomous snakes?” Ritchie asked in a blistering piece. “Knock yourself out. Just don't expect anyone else to pay for it, and stop calling it education.”

Quoted in a [Huffington Post](#) article about fundamentalist schools, David Brockman, a researcher at Rice University's Baker Institute for Public Policy, critiqued selections from some fundamentalist history textbooks he was presented with.

While taking a more measured tone than Ritchie, he questioned whether the books were truly Christian: “The textbook simply distorts history,” he wrote. “And given the biblical command not to bear false witness, I would question whether a distorted history is consistent with Christian teaching.”

Of course, people have every right to reject what fundamentalists believe. What the Supreme Court ruling suggests they cannot do is demand government action against fundamentalists based on opposition to those beliefs.

Specifically, it ruled that because the Colorado Civil Rights Commission evinced hostility to a cake shop owner's religious convictions, punishing him for refusing to bake a cake for a gay wedding was unconstitutional.

"The government...cannot impose regulations that are hostile to the religious beliefs of affected citizens and cannot act in a manner that passes judgment upon or presupposes the illegitimacy of religious beliefs and practices," read the decision.

This is big for school choice, potentially protecting choice programs from attack driven by some — maybe even most — people rejecting the religious teachings of some chosen schools. And choice is essential to achieve even more basic justice in education, because public schooling today inherently makes religious Americans unequal under the law.

How are they treated unequally? They are required to pay for public schools that cannot be religious, which may be fine for atheists and agnostics but is unacceptable to them.

That forced payment for only public schools violates conscience rights is not a new revelation. Conservative Protestants in the early days of the "common schools" pointed out that the schools, intended to be free of any "sectarian" instruction by stripping out doctrines about which Protestant denominations disagreed, were de facto Unitarian and hence unequal.

When Catholics began arriving in large numbers, they campaign vigorously for a share of the education funds they had to furnish but that went to unacceptable public schools.

It wasn't until the 1960s, in response to lawsuits by atheists and others against public schools that still had religious exercises, that the U.S. Supreme Court banished all official religion from the schools. That made them much more agreeable for long-marginalized atheists and agnostics, but pushed many religious Americans aside.

School choice programs such as those in Florida, North Carolina and many other states are the obvious way to treat everyone equally. Let all people choose schools according to their beliefs, force no one to fund a monolithic system that must fall on one side or the other on religious or other highly contentious matters.

To be clear, the Supreme Court has never ruled that choice is constitutionally necessary. But what it has now ruled is that while you may absolutely condemn people's religious beliefs, that cannot justify rendering them unequal under the law. And that's an important step toward full educational justice.

Neal McCluskey directs the Cato Institute's Center for Educational Freedom and contributed to the book "Deep Commitments: The Past, Present, and Future of Religious Liberty."