



Cake baker's 7-2 SCOTUS win affirms religious liberty

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WASHINGTON (BP) -- The U.S. Supreme Court delivered an important, if not wide-ranging, victory for religious liberty Monday (June 4) in its continuing faceoff with sexual liberty.

In a 7-2 opinion, a high court majority that included conservatives and liberals ruled the Colorado Civil Rights Commission violated the religious free exercise clause of the First Amendment by penalizing Jack Phillips for declining to design and decorate a cake for the wedding of two men. The commission demonstrated "religious hostility" toward Phillips in its action, the justices said in a decision on one of multiple court cases involving wedding vendors who oppose using their talents in support of same-sex marriage.

Religious freedom advocates praised the high court's decision.

"The Supreme Court got this one right," said Russell Moore, president of the Southern Baptist Ethics & Religious Liberty Commission (ERLC), in a written statement. "I have long been concerned by the erosion of religious liberty and the characterizing of some of the most basic religious convictions of millions of Americans as hateful or bigoted. So I was very glad to see the strong rebuke of hostility toward religious people's viewpoints."

In 2012, Phillips, a Christian, refused a request from the men as a cake artist and owner of Masterpiece Cakeshop because of his belief that marriage is only between a male and a female. He told them, however, he would make and sell them all other baked items. At the time, gay marriage was not legal in Colorado.

After the men filed a complaint with the state, the Colorado Civil Rights Commission ordered Phillips to create custom cakes for same-sex ceremonies or quit designing wedding cakes. He stopped designing wedding cakes. The commission also ordered him to re-educate his employees on complying with the Colorado Anti-discrimination Act (CADA), which includes sexual orientation as a protected class and the panel found Phillips had violated.

When Phillips appealed, the Colorado Court of Appeals upheld the commission's order, and the Colorado Supreme Court declined in 2016 to review the decision.

In his majority opinion, Associate Justice Anthony Kennedy said the commission did not treat Phillips' case "with the religious neutrality that the Constitution requires."

"The Commission's hostility was inconsistent with the First Amendment's guarantee that our laws be applied in a manner that is neutral toward religion," Kennedy wrote. "Phillips was entitled to a neutral decision-maker who would give full and fair consideration to his religious objection as he sought to assert it in all of the circumstances in which this case was presented, considered, and decided."

Kennedy pointed to two ways hostility was demonstrated -- in the disparaging language from the commission to describe Phillips' beliefs and in the panel's finding that at least three other bakers acted legally in refusing to create cakes with messages that opposed same-sex marriage.

Phillips expressed his gratitude to the high court for its decision. "It's hard to believe that the government punished me for operating my business consistent with my beliefs about marriage," he said in a written release. "That isn't freedom or tolerance."

Kristen Waggoner -- senior counsel for Alliance Defending Freedom who represented Phillips before the justices in December's oral arguments -- said in a written statement, "Government hostility toward people of faith has no place in our society, yet the state of Colorado was openly antagonistic toward Jack's religious beliefs about marriage. The court was right to condemn that. Tolerance and respect for good-faith differences of opinion are essential in a society like ours."

The ERLC filed a friend-of-the-court brief last year in support of Phillips, and Moore called the high court ruling "a win for all Americans."

"At stake at this debate was the question of whether or not the state can force an individual to violate their conscience," he said. "We need to live in the kind of country where we can be free to persuade one another, not bully each other into silence."

"The Supreme Court's responsibility is to protect Americans from governments and agencies that would make such a demand," Moore said. "I'm glad to see they have. My hope is that this will be a sign that the Court will continue to uphold conscience freedom and personal liberty in future cases."

In its majority opinion, the Supreme Court indicated other contexts with similar facts may result in different decisions.

"[I]t is proper to hold that whatever the outcome of some future controversy involving facts similar to these, the Commission's actions here violated" the free exercise of religion, Kennedy wrote.

"Our society has come to the recognition that gay persons and gay couples cannot be treated as social outcasts or as inferior in dignity and worth," Kennedy said. "For that reason the laws and the Constitution can, and in some instances must, protect them in the exercise of their civil rights. At the same time, the religious and philosophical objections to gay marriage are protected views and in some instances protected forms of expression."

He wrote, "The outcome of cases like this in other circumstances must await further elaboration in the courts, all in the context of recognizing that these disputes must be resolved with tolerance, without undue disrespect to sincere religious beliefs, and without subjecting gay persons to indignities when they seek goods and services in an open market."

The Human Rights Campaign (HRC) -- the country's largest lesbian, gay, bisexual and transgender (LGBT) civil rights organization -- described the high court's actions as a "narrow ruling." HRC President Chad Griffin said in a written release, "Anti-[LGBT] extremists did not win the sweeping 'license to discriminate' they have been hoping for -- and today's ruling does not change our nation's longstanding civil rights laws."

Joining Kennedy in the judgment of the majority were Chief Justice John Roberts and Associate Justices Clarence Thomas, Stephen Breyer, Samuel Alito, Elena Kagan and Neil Gorsuch. Associate Justices Ruth Bader Ginsburg and Sonia Sotomayor dissented.

In addition to the ERLC, others filing briefs in support of Phillips included 86 members of Congress, 20 states or governors of states, Becket, Billy Graham Evangelistic Association, Christian Legal Society, U.S. Conference of Catholic Bishops, Agudath Israel of America, the libertarian Cato Institute, National Black Religious Broadcasters and National Hispanic Christian Leadership Conference. The Christian Life Commission of the Missouri Baptist Convention was among those joining the ERLC in its brief.

Among those signing onto briefs in support of the Colorado commission were the Baptist Joint Committee for Religious Liberty; 211 members of Congress; 19 states and the District of Columbia; American Bar Association; NAACP; Americans United for Separation of Church and State; Freedom From Religion Foundation; and various religious, disability and lesbian, gay, bisexual and transgender organizations.