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## Arizona Supreme Court Applies First Amendment to Artwork Case

The Arizona Supreme Court ruled September 16 on behalf of Christian calligraphers and painters Joanna Duka and Breanna Koski. They found that the artists could not be compelled to produce art they find objectionable.

The case was different from some same-sex vendor cases in that the women have no problem serving gay customers in general. Rather, they do not wish to specifically produce artwork with their business, Brush & Nib Studios, which, according to their operating agreement, “communicates ideas or messages...that contradict biblical truth, demean others, endorse racism, incite violence, or promote any marriage besides marriage between one man and one woman...”

The court had to decide whether the custom artwork was to be interpreted the same as freedom of speech, and protected by the Constitution. If protected, then forcing the business to produce art would be a First Amendment violation, infringing on the princi-

ple that “an individual has autonomy over his or her speech and thus may not be forced to speak a message he or she does not wish to say.”

The women’s hand-produced words, images, calligraphy, and artwork were determined to be in the same category as tattoo artists, who are recognized as creating art. Deemed “pure speech,” their art could be seen to be used to advance a message rather than merely to provide a service. Commercial businesses such as restaurants and hotels provide a service which may not be denied. The court found custom artwork to be in a different category.

The court quoted the Supreme Court of the United States in *West Virginia v. Barnette*, “As governmental pressure toward unity becomes greater, so strife becomes more bitter as to whose unity it shall be,” reinforcing that guarantees of free speech and freedom of religion are applicable to all, whether or not one is in agreement with a stance.

# Catholic Hospital System Fires Doctor Over Suicide Drugs

A Colorado doctor was fired for violating an employment agreement that prohibits encouraging assisted suicide or euthanasia. Barbara Morris, MD, had sued Centura Health, a Catholic-run hospital network, for the right to dispense assisted suicide medication.

Colorado passed the Access to Medical Aid in Dying act in 2017, though many hospitals have prohibited physicians from assisted suicide on moral grounds. In August 2019 Morris and a 64-year-old patient with stage four cancer filed the lawsuit saying that Centura could not legally prohibit or penalize Morris for providing these services, including prescribing the patient aid-in-dying medication to be used elsewhere.

Centura physicians must sign an agreement that they will not provide any services "that are in violation of the Ethical and Religious Directives for Catholic Health Care Services." The hospital network notes that "Dr. Morris has, within her employment, encouraged an option she knew was morally unacceptable to her employer," and this "warranted the termination of her employment."

Centura responded to the August filing with their own documents requesting the first case be removed from state to federal court, recognizing their right to practice according to faith. This case is one of the first that will determine the right of faith-based hospitals to prohibit employee participation in assisted suicide.

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- *Currently in the U.S. District Court for the Western District of Washington is a Sabbath case regarding Joelle and Joseph Chung, Adventist siblings who play competitive high school tennis. Top player Joelle was disqualified from the Washington Inter-scholastic Activities Association (WIAA) postseason competition because the last day was scheduled for Saturday. Their parents have sued WIAA on behalf of their children.*

- *An ongoing tuition assistance case (see Waymarks 2019 Vol. 4) in Montana's — labeled anti-Catholic by some — Blaine Amendment, which recently moved to the U.S. Supreme Court, was joined by an amicus brief filed by the Catholic Association Foundation. Any faith-based school may benefit if tuition aid from tax credits is deemed allowable.*

- *Switzerland's supreme court has ruled against parents' right to homeschool their children, though regulations will vary within regions. In French-speaking Vaud, Catholic and Protestant parents — many who homeschool for religious reasons — may soon be required to obtain teaching credentials in order to continue. More than 1,000 children are currently homeschooled in Switzerland.*

# Print Shop Owner Goes to Kentucky Supreme Court Regarding Gay-rights T-shirt

A print shop owner in Lexington, Kentucky, refused to print a shirt promoting an LGBT pride festival in 2012. He appeared before the Kentucky Supreme Court in August 2019 to argue his case.

Blaine Adamson, owner of Hands-On Originals, was accused in 2012 of violating

Lexington's gay-rights fairness ordinance by the city's Human Rights Commission (HRC). He was represented at the Supreme Court by an attorney who argued that First Amendment rights protect Adamson from promoting a message against his religious beliefs. The HRC countered that he was

not allowed to be selective in whom he serves.

The Supreme Court heard the arguments, but will issue a ruling in the future.

# U.S. Supreme Court to Hear Title VII Arguments for LGBT Employees

Two cases regarding anti-discrimination aspects of Title VII of the Civil Rights Act of 1964 and whether they protect LGBT employees will be brought before the U.S. Supreme Court in October 2019.

Some states provide local protection, but the court will decide whether those protections apply nationwide. Two employers, one regarding a funeral home and the other a skydiving instructor, have claimed the right to discriminate based on sexual orientation and/or transgender status.

The funeral home case, *R.G. & G.R. Harris Funeral Homes v. EEOC*, addresses transgender status and sex stereotyping and whether Title VII prohibits workplace discrimination against such. The owner of a funeral home in Michigan hired Aimee Stephens in 2007. Stephens identified as a man at the

time. In 2013 Stephens identified as a woman and wanted to wear women's clothing. The owner fired Stephens because of his belief that this "violated God's law." After the EEOC filed suit against the owner, the 6th Circuit Court of Appeals ruled in favor of Stephens. The owner has appealed to the Supreme Court.

The skydiving instructor case, *Altitude Express v. Zarda*, addresses gay and lesbian employees and whether Title VII prohibits discrimination against them. The employer, Altitude Express, fired Donald Zarda, skydiving instructor. Zarda filed a lawsuit because he said his employer fired him because he was gay. The case was thrown out in trial court based on Title VII not protecting against LGBT discrimination. The 2nd Circuit Court of Appeals re-

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versed this, saying that it is a "subset of sex discrimination," which Title VII protects against.

Congress has not previously specified LGBT rights as part of Title VII, and both employers are arguing this and asking for clarification. A Supreme Court decision in favor of the employees could have longer reaching implications on faith-based organizations and their ability to hire consistently with their faith. There is also concern that ruling out LGBT discrimination could affect access to Title IX funding. An amicus brief has been filed by members of House and Senate. They say that "sex" in Title VII should already encompass sexual orientation and gender identity.

The Supreme Court is expected to make a decision on both cases in 2020.

## NEWS OF THE WORLD

# Religious Prisoner Denied Medicine by Saudi Arabian Government

Religious prisoner of conscience Raif Badawi has been denied access to medicine in Saudi Arabia, and has declared a hunger strike. Badawi was arrested in 2012 for "apostasy" and insulting Islam. The U.S. Commission on International Religious Freedom (US-

CIRF), working on his behalf since 2013, has called for his immediate relief.

Badawi authored the blog *Free Saudi Liberals*, challenging Saudi Arabia's enforced religious doctrine. His sentence is 10 years' imprisonment, 1,000 whiplashes, and the equivalent

of \$266,000 in fines. He was publicly lashed 50 times in 2015, but no more since, due in part to chronic medical conditions.

Vice President Mike Pence called for his release earlier in 2019. Nothing further has been pursued because the U.S. State Depart-

ment has a waiver on Saudi Arabia that prevents legislative action.

The USCIRF is an independent, bipartisan federal government entity established by the U.S. Congress to monitor, analyze, and report on threats to religious freedom abroad.

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