

Can the Government Refuse to Hire a Pro-Life Nurse?

No sooner had the disastrous results of Ireland's recent referendum to repeal that country's longstanding constitutional protection of unborn children been announced did the pro-abortion side began making noises about the need to coerce even religiously objecting doctors and nurses into participating in the grisly procedures or face loss of their professional licenses.

There's something about a society's acceptance of such blatant moral evils that leads their proponents to insist that everyone approve of, celebrate and, worse still, participate in the (apparently conscience-stricken) proponents' own depravity. As Lincoln observed in his Cooper Union Address in the context of the slaveholders' demands to be left alone:

"[W]hat will satisfy them? ... This and only this: cease to call slavery wrong and join them in calling it right. And this must be done thoroughly—done in acts as well as in words. Silence will not be tolerated—we must place ourselves avowedly with them."

As with slavery, so with abortion. For Irish pro-lifers, the fight begins now to ensure that the pro-abortion side does not succeed in soothing their guilty consciences by silencing the defenders of unborn life or driving them from the health care professions. Here in this country, that's a fight we've been having ever since *Roe v. Wade*.

In fact, for a quarter century now we at the ACLJ have been going to court on behalf of pro-life health care providers (and others) who find themselves in jeopardy of losing their livelihoods at the hands of both government and private employers. We've represented doctors, nurses, pharmacists and

other health care workers in federal and state courts from Maine to Hawaii and Alaska to Florida. We rely on a number of legal tools at our disposal: federal and state anti-discrimination laws, a patchwork of so-called “conscience clauses” enacted by Congress and state legislatures in the wake of Roe and, where the conscience-coercing action is coming from government actors, the First and Fourteenth Amendments to the Constitution.

But those laws don’t enforce themselves. In order to keep the pro-abortion side from forcing pro-lifers to “cease to call [abortion] wrong and join them in calling it right ... in acts as well as in words,” we have to let the pro-abortion side see that conscience laws have teeth and that we’re prepared to make those teeth bite.

Our aim in each of these cases is straightforward: to defend the rights of those on the front lines of the battle to preserve the sanctity of human life. It’s one thing to take a pro-life stand when there’s little chance of facing any serious consequences for doing so. It’s another thing entirely to take that same stand when it might cost you your job or, in many cases, your right to pursue your chosen vocation as part of the healing professions.

Sometimes the coercion is in the form of pressuring a doctor or nurse to participate in abortion procedures themselves; at other times, it’s a matter of penalizing a health care worker merely for having or expressing a pro-life viewpoint. Again, in Lincoln’s formulation: Cease to call it wrong, join them in calling it right—or else.

Our latest case, an example of a government employer penalizing pro-life speech, involves a nurse who was denied a position with a hospital owned and operated by the state of Indiana. Our client, clearly the most qualified candidate for a teaching position with the hospital (she had already been hired to teach the course on a temporary basis) was turned

down for the post after being grilled in an interview about how she would use science and medicine when discussing “a controversial issue” with nursing students.

The fact that our client had recently published a widely disseminated article about how she uses science and medicine when discussing abortion with nursing students was no coincidence. (The article also revealed how our client—formerly “pro-choice”—had come to change her mind about abortion and was now pro-life.) Nor was it a coincidence that the person doing the grilling—and the one who made the ultimate decision to bypass our client—holds a position with the local Planned Parenthood affiliate.

We hope to be able to reveal more details about this case as it unfolds in the courts, but for now, suffice it to say that, as with all of our conscience cases, we intend to vigorously pursue justice for our client. We also want to put this government employer on notice that retaliating against someone for expressing their viewpoint about issues of grave public concern is against the law.

It’s against the applicable state conscience clause, but more important, it’s a blatant violation of the First Amendment to the Constitution of the United States.

Our client will not be silent, and neither will we. {eo}

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