

Confusion Nation: What Does the Supreme Court Decision Against Coercion Really Say?

Last week the Supreme Court issued its landmark decision that Lorie Smith, a Colorado-based Christian graphic artist and web designer, did not have to create content that violated her beliefs. In response, Clara Jeffery, editor-in-chief of Mother Jones, tweeted, “perhaps gay stylists, designers, caterers and planners should start withholding services from Christian conservatives and see where that goes.” After all, Jeffery reasoned, if a Christian can refuse to create content for a gay couple, surely gay professionals can decline services to Christian conservatives.

More extreme was the reaction of actor Michael Imperioli, who posted on Instagram, “I’ve decided to forbid bigots and homophobes from watching The Sopranos, The White Lotus, Goodfellas or any movie or TV show I’ve been in. Thank you Supreme Court for allowing me to discriminate and exclude those who I don’t agree with and am opposed to. USA! USA!”

In her strong dissenting opinion, Justice Sonia Sotomayor argued that, “Today, the Court, for the first time in its history, grants a business open to the public a constitutional right to refuse to serve members of a protected class.” And she claimed that the ruling comes amid a “backlash to the movement for liberty and equality for gender and sexual minorities.”

Many headlines reflected similar sentiments, such as this one posted on the U.K. “Guardian”: “US supreme court strikes blow against LGBTQ+ rights with Colorado ruling.”

In reality, the ruling did no such thing, and Justice Neil Gorsuch was right to challenge Justice Sotomayor’s arguments.

He stated that Sotomayor's dissenting opinion "reimagines the facts" from "top to bottom." He also argued that she failed to answer the fundamental question of, "Can a State force someone who provides her own expressive services to abandon her conscience and speak its preferred message instead?"

In his view, what Justice Sotomayor was arguing for was for the court to allow the government to force an individual to "speak contrary to her beliefs on a significant issue of personal conviction." This is clearly a violation of our most fundamental constitutional rights.

That's why law professor Jonathan Turley described the Supreme Court decision as an "amazing moment" in history with regard to the First Amendment. And he rightly pointed out that the decision had nothing to do with discrimination, since Smith freely served a wide range of customers, including those who identified as LGBTQ.

As Turley noted, cases such as these "do not change the public accommodation laws. You cannot be refused to go into stores and buy items that are pre-made, for example, based on your race or your status."

But if someone wants to compel you to create something contrary to your convictions, the state cannot compel you to do so.

That is exactly what Colorado law was trying to do, and the Court, by a ruling of 6-3, shut that unjust law down.

Kristen Waggoner, CEO of the Alliance Defending Freedom, and Erin Hawley, an ADF attorney, echoed Turley's sentiments, writing, "The Supreme Court's decision in 303 Creative v. Elenis is a crucial victory for every American regardless of their religious, political, or ideological views. In that case, the Supreme Court reaffirmed the most fundamental of civil liberties—that the government may not tell people what to think or say."

As for the counter-argument raised by Jeffery and others, I'd love to hear their answer to these simple questions:

- Should a gay web designer be compelled by the state to design a website for a counseling service that helps people overcome same-sex attractions?
- Should an Orthodox Jewish web designer be compelled by the state to design a website for Jews for Jesus?
- Should an atheist web designer be compelled by the state to design a website called "Answering Atheism"?
- Should a trans-identified web designer be compelled by the state to design a website on the dangers of hormone therapy and sex-change surgery?
- Should a Muslim web designer be compelled by the state to design a website for a meat service specializing in pork products?
- Should an African American web designer be compelled by the state to design a website selling Confederate flags?
- Should a Christian web designer be compelled by the state to design an "Adultery Hookup" website?
- Should any web designer be compelled by the state to design a pornography website?
- If Jeffery or Imperioli was a website designer, should the state be able to compel either one to create pro-Trump content for a Republican lobbyist? Or content stating that he won the 2020 elections?

The answer to all these questions is obvious: None of these people should be compelled to create content that violates their beliefs or convictions. The state clearly has no right to compel them to do so.

And what about a gay-owned T-shirt company? Should it be compelled by the state to design a T-shirt with the words, "God does not recognize same-sex marriage"? Should a Christian-owned printing company be compelled by the state to design flyers for a satanic conference? The list goes on and on, and in every case, the answer is an obvious "No!"

But should these same individuals or companies be allowed to refuse general services to someone because they are gay or trans or Jewish or Muslim or Christian or Black or white? Obviously not.

That's why some of the Christians who have come under attack in recent years had served LGBTQ customers for years. Some of them even had LGBTQ employees. But when it came to creating artistic content that violated their beliefs (such as creating a wedding cake or designing a floral arrangement for a same-sex ceremony), they declined. And for that, they were dragged into court, with their lives turned upside down. (See [here](#) and [here](#) for prime examples.)

In the same way, if a gay person said to Lori Smith, "I'm Tony and I'm gay, and I'd like you to create a website for my window cleaning company," it would be illegal (not to say un-Christian and unethical) for her to say, "No, I won't do that because you're gay."

But if Tony said, "I'm Tony and I'm transgender, and I'd like you to create a website for my children's books that are designed to help kids recognize their hidden trans identity," it would be legal (and Christian and ethical) for her to politely decline.

That's why the Supreme Court's decision should have been 9-0, applauded by people from all backgrounds. The fact that it was 6-3, with many Americans outraged over the ruling, reminds us of just how confused our nation has become.

May truth and sanity prevail. {eo}