

North Carolina Judges' Religious Freedom Safe ... for Now

A law passed in 2015 that allowed judges and other magistrates who perform marriages to opt-out of performing same-sex "marriages" on faith-based grounds survived its first legal challenge this week.

But it may not survive the next one.

U.S. District Judge Max Cogburn dismissed a case brought by several people who say, as taxpayers, their tax dollars were being misspent in conjunction with the law. While suggesting that element of Senate Bill 2—not to be mistaken for House Bill 2, also known as the "bathroom bill"—could cause "real or emotional harm" to citizens, he said the plaintiffs had not established enough evidence that they were directly harmed by the law.

According to state records, at least 32 magistrates and five register of deeds employees have taken the opt-out, which is done in secret. Those who opt-out may not perform any marriages for six months, after which time they can abstain from same-sex "marriages" permanently.

It is likely LGBT advocates are now seeking out potential plaintiffs with better "standing" against the law.

Liberty Counsel represented an anonymous magistrate as an intervenor in the case. Their attorneys argued both the North Carolina and U.S. Constitutions require accommodation of sincerely held religious views, even for government officials.