

Christian Baker Appeals to Supreme Court in Gay Cake Drama

A Lakewood, Colorado, cake artist who declined to use his artistic talents to create a wedding cake celebrating a same-sex ceremony asked the nation's highest court Friday to take his case and rule that the government cannot force him to communicate a message with which he fundamentally disagrees.

Alliance Defending Freedom attorneys have filed the petition because the Colorado Supreme Court declined in April to take the case after the state's Court of Appeals affirmed a Colorado Civil Rights Commission decision from May 2014. That decision ordered Jack Phillips and his staff at Masterpiece Cakeshop to create cakes for same-sex celebrations. The decision also ordered Phillips to comply with Colorado's Anti-Discrimination Act by re-educating his staff and filing quarterly "compliance" reports for two years.

"No one—not Jack or anyone else—should be forced by the government to further a message that they cannot in good conscience promote," said ADF Senior Counsel Jeremy Tedesco. "And that's what this case is about. Jack, who has happily served people of all backgrounds for years, simply exercised the long-cherished American freedom to decline to use his artistic talents to promote a message and event with which he fundamentally disagrees. We are asking the U.S. Supreme Court to ensure that government understands that its duty is to protect the people's freedom to follow their beliefs personally and professionally, not force them to violate those beliefs as the price of earning a living."

According to a 2015 Marist poll, 65 percent of Americans oppose penalizing wedding vendors who choose not to provide

services for same-sex ceremonies on religious grounds.

In July 2012, Charlie Craig and David Mullins asked Jack Phillips, owner of Masterpiece Cakeshop, to make a wedding cake to celebrate their same-sex ceremony. In an exchange lasting about 30 seconds, Phillips politely declined, explaining that he would gladly make them any other type of baked item they wanted but that he could not make a cake promoting a same-sex ceremony because of his faith.

Craig and Mullins, now represented by the American Civil Liberties Union, immediately left the shop and later filed a complaint with the Colorado Civil Rights Commission, which eventually ruled against Phillips. The same-sex couple was easily able to obtain their desired rainbow-themed cake for free from another nearby cake artist.

In contrast to the ruling against Phillips, the commission found last year that three other Denver cake artists were not guilty of creed discrimination when they declined a Christian customer's request for a cake that reflected his religious opposition to same-sex marriage.

As the petition to the Supreme Court in *Masterpiece Cakeshop v. Colorado Civil Rights Commission* explains, the commission and the Colorado Court of Appeals reached their conclusions "despite the artistry of Phillips' cakes and the Commission's exemption of other cake artists who declined to create custom cakes based on their message. This analysis (1) flouts this Court's controlling precedent, (2) conflicts with Ninth and Eleventh Circuit decisions regarding the free speech protection of art, (3) deepens an existing conflict between the Second, Third, Sixth, and Eleventh Circuits as to the proper test for identifying expressive conduct, and (4) conflicts with free exercise rulings by the Third, Sixth, and Tenth Circuits."

"It is undisputed that the Colorado Civil Rights not apply

CADA [Colorado Anti-Discrimination Act] to ban (1) an African-American cake artist from refusing to create a cake promoting white-supremacism for the Aryan Nation, (2) an Islamic cake artist from refusing to create a cake denigrating the Quran for the Westboro Baptist Church, and (3) three secular cake artists from refusing to create cakes opposing same-sex marriage for a Christian patron," the petition states. "Neither should CADA ban Jack Phillips' polite declining to create a cake celebrating same-sex marriage on religious grounds when he is happy to create other items for gay and lesbian clients."

"This is not about the people who asked for a cake, it's about the message the cake communicates," added ADF-allied attorney Nicolle Martin of Lakewood, who is serving as co-counsel in the case. "No artist should be punished for declining to promote ideas or participate in events when they disagree with the message communicated."