

Civil Rights Commish Compares Christian Cake Artist to Nazis, Slave Owners

A new brief filed with the Colorado Court of Appeals reveals that a member of the Colorado Civil Rights Commission compared a Christian cake artist to slave owners and perpetrators of the Holocaust when the commission ordered him to re-educate himself and his employees about marriage.

Alliance Defending Freedom and an allied attorney represent Jack Phillips, a Lakewood, Colorado, cake artist who declined to use his artistic talents to celebrate a same-sex ceremony. Their brief filed Friday in *Masterpiece Cakeshop v. Craig* cites a July 25 commission hearing transcript (PDF | audio | video) from last year in which Commissioner Diann Rice makes the following comment just before denying Phillips' request to temporarily suspend the commission's re-education order:

"I would also like to reiterate what we said in ... the last meeting [concerning Jack Phillips]. Freedom of religion and religion has been used to justify all kinds of discrimination throughout history, whether it be slavery, whether it be the Holocaust ... I mean, we can list hundreds of situations where freedom of religion has been used to justify discrimination. And to me it is one of the most despicable pieces of rhetoric that people can use—to use their religion to hurt others."

"Such alarming bias and hostility toward Jack's religious beliefs—and toward religion in general—has no place in civil society, let alone on a governmental commission that sits in judgment of whether he may follow his faith in how he runs his business," said ADF Senior Legal Counsel Jeremy Tedesco.

"Commissioner Rice compared a private citizen who owns a small

bakery to slaveholders and Holocaust perpetrators merely for asking that the state respect his right to free speech and free exercise of religion. Her comments suggest that others on the commission may share her view. This anti-religious bigotry undermines the integrity of the entire process and the commission's order as well."

During the same hearing, Rice also erroneously stated (PDF | audio) that "the U.S. Supreme Court has found over and over that you cannot discriminate on the basis of race, *and sexual orientation is a status absolutely like race.*" The U.S. Supreme Court has never found that sexual orientation is a status equivalent to race. In fact, the high court has twice held that the First Amendment bars the government from relying on sexual orientation nondiscrimination laws to force people or groups to speak messages with which they disagree.

"The First Amendment plainly forbids this type of religious bias, which together with the commission's demonstrated misstatements of constitutional law raises serious questions about their judgment," added lead counsel Nicolle Martin, one of more than 2,500 attorneys allied with ADF. "Jack should not be forced by the government—or by another citizen—to endorse or promote ideas with which he disagrees. But it's worse when he is forced to do so by one or more officials who make serious errors in their legal analysis and justify coercing the speech of a private citizen by citing their own hostility to religion."

The commission's order requires cake artist Jack Phillips and his staff at Masterpiece Cakeshop to create cakes for same-sex celebrations, forces him to re-educate his staff that Colorado's Anti-Discrimination Act means that artists must endorse same-sex marriage regardless of their religious beliefs, compels him to implement new policies to comply with the commission's order, and requires him to file quarterly "compliance" reports for two years. The reports must include the number of patrons declined a wedding cake or any other

product and state the reason for doing so to ensure he has fully eliminated his religious beliefs from his business.

In July 2012, Charlie Craig and David Mullins asked Phillips 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 commission.