Hobby Lobby Gets Obamacare Fee Reprieve While Battling Contraception Mandate

Arts and crafts chain **Hobby Lobby** may be exempt from a requirement in U.S. President Barack Obama's 2010 healthcare overhaul to provide free contraception coverage in its employee health insurance plans, a federal appeals court ruled.

Thursday's decision by the 10th U.S. Circuit Court of Appeals in Denver could spare the family-owned company from potentially paying millions of dollars in fines as soon as next week for not complying with the law.

In reversing a lower-court ruling that rejected Hobby Lobby's request for an exemption, the 10th Circuit drew praise from groups that oppose the coverage mandate, and criticism from groups favoring reproductive rights and church-state separation.

Hobby Lobby operates 525 retail stores across the country and employs more than 13,000 full-time workers.

The Green family, which owns the Oklahoma-based company, has said that providing coverage for the morning-after pill and similar contraceptives, which they regard as tantamount to abortion, violates their Christian beliefs.

In a 165-page decision, a divided 10th Circuit found that Hobby Lobby and its smaller affiliate Mardel, a Christian-oriented bookstore and educational supply company, have a right to religious freedom under federal law.

Five of the nine judges found that the company met at least some of the requirements needed for temporary protection from the mandate while the lawsuit proceeds, and that their religion-based claim is likely to succeed.

“Because the contraceptive-coverage requirement places substantial pressure on Hobby Lobby and Mardel to violate their sincere religious beliefs, their exercise of religion is substantially burdened,” a majority of the judges concluded.

“Hobby Lobby and Mardel have drawn a line at providing coverage for drugs or devices they consider to induce abortions, and it is not for us to question whether the line is reasonable,” they added.

The appeals court sent the case back to the district court in Oklahoma to consider several factors, including whether an exemption would serve the public interest.

A Justice Department spokeswoman did not immediately respond to a request for comment. The government has said contraception coverage is needed to promote public health and gender equality.

Praise and Dissent

Hobby Lobby’s lawyer Kyle Duncan of the Becket Fund, a non-profit law firm in Washington, D.C., applauded the 10th Circuit for the reversal.

“We will …. seek a preliminary injunction in due speed,” Duncan said.

Hobby Lobby has said it would incur $1.3 million in daily fines if it failed to provide contraception coverage by July 1.

Its challenge is one of more than 60 lawsuits raising challenges to the contraception mandate, including more than 30 brought by for-profit businesses, according to the Becket Fund.

Hobby Lobby’s case is the first to be decided by a federal appeals court. In an unusual move, the case was heard by the full 10th Circuit, rather than a three-judge panel.

The Catholic Association, which opposes the contraception mandate, called the decision “the most decisive victory yet against the abortion pill mandate.”

Reproductive rights advocates, and supporters of church-state separation, criticized the ruling.

“A business like Hobby Lobby cannot use religion to discriminate by denying women coverage for contraception,” said Louise Melling, a lawyer with the American Civil Liberties Union, which filed a court brief supporting the government.

Americans United for Separation of Church and State said in a statement that the decision would open the door for other religion-based objections to the law.

As an example, it suggested that Jehovah’s Witnesses employers might refuse, on moral grounds, to cover surgery that includes blood transfusions.

The case is Hobby Lobby Stores Inc et al v. Sebelius et al, 10th U.S. Circuit Court of Appeals, No. 12-6294.