

Supreme Court Rules in Favor of Baker in LGBT Discrimination Case

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On June 4, the [Supreme Court](#) voted 7-2 in favor of a Christian Colorado baker and owner of Masterpiece Cakeshop, who had refused to create a custom wedding cake for a gay couple due to his religious objections to gay marriage.

Although the case previously had been litigated on free speech grounds, the Court's opinion largely avoids this constitutional question, and does not address whether Title VII prohibits discrimination based on sexual orientation. Instead, the decision focuses on the Colorado Civil Rights Commission's decision finding against Masterpiece Cakeshop and, more specifically, what Justice Kennedy described as the Commission's "impermissible hostility" as to the baker's religious beliefs.

In the underlying administrative proceeding that preceded the *Masterpiece Cakeshop* lawsuit, the Commission found that Masterpiece Cakeshop engaged in religious bias in violation of the First Amendment's free exercise clause. In its impassioned decision, one of the Commission members rejected the breadth of the free exercise clause as a justification for Masterpiece Cakeshop's actions, noting that "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." In dissent, Justice Ginsburg, joined by Justice Sotomayor, wrote that such comments in the Commission's decision should not be "taken to overcome" Masterpiece Cakeshop's conduct, given the "several layers of independent decision-making" throughout the various hearings leading up to the Supreme Court decision. Justice Ginsburg added that unlike other cases addressing freedom of religion (for example, where religious customers have requested anti-gay messages from secular bakers), here, the circumstances were fundamentally different because Masterpiece Cakeshop regularly made the kind of cake the couple requested and refused to sell it to them simply because of their sexual orientation.

The Court's decision is narrowly tailored, however, and leaves open the broader constitutional issues of sexual orientation discrimination and free exercise of religion. In addition, the ruling's effect on employers may be limited due to the extremely fact-specific nature of the decision. In fact, while the scope of Title VII, [has recently been expanded by Circuit Courts to include LGBT workers](#), has not been considered by the Supreme Court and therefore all lower court precedents still apply. For example, the U.S. Supreme Court has refused to take any action in a [pending case](#) involving a [Washington florist](#) who refused to provide arrangements for a same-sex wedding, which presented

similar constitutional issues as *Masterpiece Cakeshop*. Stay tuned for any further updates addressing these important issues.

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