

Electronic Alert

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Supreme Court Cuts the Cake Thin in Colorado Bakery Case By Donovan Bonner

On Monday, June 4, 2018, the U.S. Supreme Court made the final ruling in a highly anticipated decision involving a same-sex couple and a religious baker. In *Masterpiece Cakeshop LTD v. Colorado Civil Rights Commission*, the owner of Masterpiece Cakeshop in Lakewood, Colorado declined to make a wedding cake for two gay men because the owner refused to promote same-sex marriage due to his religious beliefs. The owner argued that his business of making cakes is a form of expression or creativity, giving him the right to discriminate based on Constitutional free speech protections.

Many legal scholars have been expecting the Court to answer the question of whether the Constitution provides a right to discriminate in places of public accommodation, which includes businesses that are open to the public, such as Masterpiece Cakeshop. However, the Court took a much narrower approach and ruled that the Colorado Commission's application of its Anti-Discrimination Act resulted in unfair treatment of the owner's genuine religious beliefs. The Supreme Court noted that state actors must not show hostility toward religious views, but give "neutral and respectful consideration."

The decision does not resolve a similar and highly publicized Oregon case involving the former owners of Sweet Cakes by Melissa. The broader questions relating to when religious freedom trumps public accommodation law, and vice versa, will, for now, be decided at the state level.

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