

Life Legal Urges Supreme Court to Overturn Forced Speech Case

WASHINGTON — Life Legal submitted a "friend of the Court" or amicus brief today on behalf of Lorie Smith, a Colorado graphic artist and website designer who wants to design wedding websites, but is afraid she will be forced to provide her services to same sex couples. Colorado's Anti-Discrimination Act (CADA) prohibits businesses from refusing to provide goods and services based on a customer's identity, including sexual orientation. Smith challenged the law in federal court and lost when the Tenth Circuit Court of Appeals held that Smith's First Amendment rights were trumped by Colorado's "compelling interest" in protecting the dignity of marginalized groups and allowing them access to Smith's unique talents.

We filed our brief because it is easy to imagine how laws like CADA will be used to compel pro-abortion speech. In fact, California recently tried to force pro-life pregnancy centers to tell women how they could get free, state-funded abortions. In that case, the Supreme Court struck down the "Reproductive FACT Act" as unconstitutional, but the Court did not address other circumstances under which states could compel speech.

In Smith's case, the 10th Circuit held that laws compelling speech must satisfy "strict scrutiny," meaning they must serve a "compelling governmental interest" and be narrowly tailored to accomplish that interest. We argue in our brief that courts have diluted "compelling" interests to the point that almost any interest can be used to justify forcing someone to say something that violates his or her most deeply held beliefs.

This renders the compelling interest standard useless to protect the constitutional rights of anyone whose views differ from the mainstream — or from the government's own opinions.

While Life Legal objects to any situation where the government would force speech, we are particularly concerned about cases implicating the protection of human life. If the Tenth Circuit's ruling is upheld, its reasoning could be used not only to force pro-abortion speech, but in certain cases could even be used to force pro-life physicians and nurses to perform abortions and euthanize patients.

As we note in our brief, "The State could compel anyone to provide any service that the State favors and deems equivalent to other services, no matter how irrational, immoral, or repugnant to their conscience (i.e., abortion, assisted suicide or euthanasia)."

"It is unfathomable that our First Amendment right not to speak would be forced to give way to the woke dictates of a state bureaucracy, whether regarding the institution of marriage or the protection of human life," stated Life Legal's Chief Legal Officer and co-author of the amicus brief, Katie Short.

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No one should be forced to speak — particularly to speak a message that violates his or her conscience — in the service of purported 'compelling' governmental interests, which are now a dime a dozen.
By Life Legal Defense Foundation
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The Court will hear oral argument in Smith's case, *303 Creative v. Elenis*, No. 21-476, during its 2022-2023 term, which begins in October.

Here's the link to the brief: <https://lifelegaldefensefoundation.org/wp-content/uploads/2022/05/lldf-bdf-creative-303-amicus-brief.pdf>

About Life Legal Defense Foundation

Life Legal Defense Foundation was established in 1989, and is a nonprofit organization composed of attorneys and other concerned citizens committed to giving helpless and innocent human beings of any age, and their advocates, a trained and committed voice in the courtrooms of our nation. For more information about the Life Legal Defense Foundation, visit www.lldf.org.