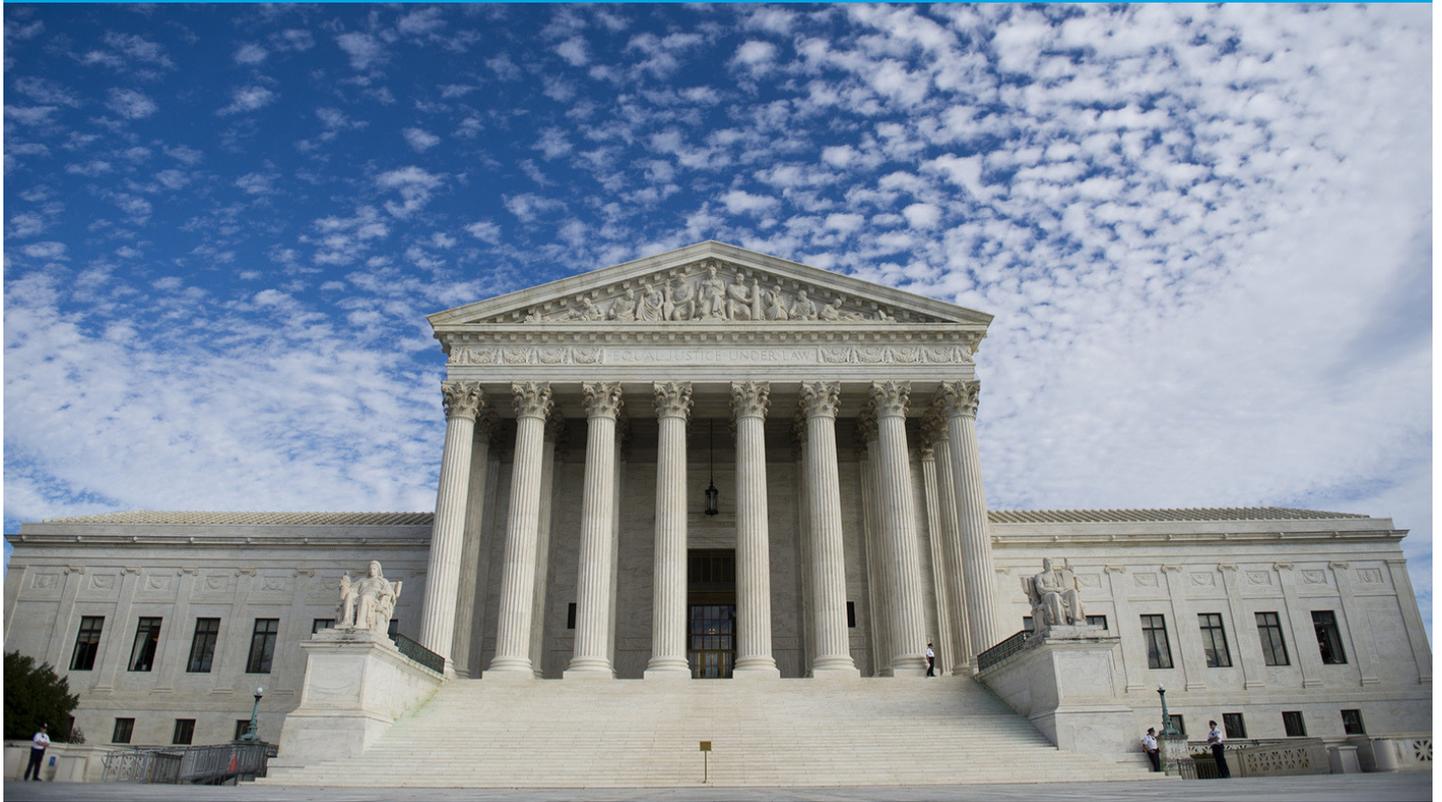


JUNE 4, 2018



WHAT THE MASTERPIECE CAKESHOP DECISION MEANS FOR LGBT RIGHTS

Today, the Supreme Court issued its long-awaited decision in *Masterpiece Cakeshop v. Colorado Civil Rights Commission*, ruling narrowly for the baker based on perceived hostility toward religion by the Commission.

At the outset, it's important to understand what the decision does and does not do.

It does recognize the right of LGBT people to be treated fairly and with dignity. The majority opinion states explicitly that “gay persons and gay couples cannot be treated as social outcasts or as inferior in dignity and worth” and that “the exercise of their freedom on terms equal to others must be given great weight and respect by the courts.”

It does recognize that states can broadly prohibit discrimination based on sexual orientation. Justice Kennedy said that it is “unexceptional” that states can “protect gay persons . . . in acquiring whatever products and services they choose on the same terms and conditions as are offered to other members of the public.”

It does not carve out a broad religious exemption to civil rights laws. To the contrary, Justice Kennedy recognized that “it is a general rule” that religious and philosophical objections “do not allow business owners and other actors in the economy and in society to deny protected persons equal access to goods and services under a neutral and generally applicable public accommodations law.”

Perhaps most relevantly in light of the Williams Institute’s work, the decision recognizes the harm that discrimination and stigma create for the LGBT population. As Justice Kennedy emphatically stated, “any decision in favor of the baker would have to be sufficiently constrained, lest all purveyors of goods and services who object to gay marriages for moral and religious reasons in effect be allowed to put up signs saying ‘no goods or services will be sold if they will be used for gay marriages,’ something that would impose a serious stigma on gay persons.” >>

MASTERPIECE

The impact of that “serious stigma” for LGBT people was the focus of the Williams Institute’s amici brief to the Court. Our brief explained our research showing that when a business refuses to serve LGB people, the stigmatizing experience is a prejudice event, a type of “minority stressor” that can have powerful tangible and symbolic negative effects on the health and wellbeing of the LGB community. Justice Kennedy’s understanding of the harm caused by stigma underscores how social science research can bolster evidence-based decision making.

To be sure, the decision denies relief to Charlie Craig and Dave Mullins, who now, regrettably, have no recourse for the discrimination and stigma to which they were subjected. And it’s important to realize that there are other cases pending before different courts that raise the issue of the proper balance between religious liberty and civil rights and could endanger the fragile – and as yet unfinished – progress we have made. We will continue to do independent, rigorous research on the impact of discrimination on LGBT people and will continue to educate the courts that religious liberty, while a core value underlying American democracy, cannot be extended so far that it threatens the rights of other vulnerable individuals. ✦

More Religious Exemptions

In January, the US Department of Health and Human Services issued a proposed rule to expand protections for health care workers who refuse to provide health services for religious or moral reasons.

*Read about the risks of
the so-called
“Conscience Rule” in our
Advocate op-ed.*
