



Decision Strikes Affordable Care Act (ACA) Provision

Wednesday, June 30, 2014

The U.S. Supreme Court Monday morning released its long-awaited decision in the combined cases *Burwell v. Hobby Lobby* and *Conestoga Wood Specialties v. Burwell*, saying in a 5-4 decision that some companies may refuse to offer insurance coverage of specific birth control methods if they conflict with the owner's religious beliefs. [Burwell refers to the recently appointed secretary of the U.S. Department of Health and Human Services (HHS), Sylvia Burwell.]

Basing the decision on the Religious Freedom Restoration Act (RFRA) of 1993, which prohibits the "Government [from] substantially burden[ing] a person's exercise of religion even if the burden results from a rule of general applicability" unless the government "demonstrates that application of the burden to the person -- (1) is in furtherance of a compelling governmental interest; and (2) is the least restrictive means of furthering that compelling governmental interest," the Court majority upended a provision of the Affordable Care Act (ACA) that requires employers to furnish "preventive care and screenings."

That care was defined by the Health Resources and Services Administration of HHS, with the Court explaining, "Nonexempt employers are generally required to provide coverage for the 20 contraceptive methods approved by the Food and Drug Administration, including the four that may have the effect of preventing an already fertilized egg from developing any further by inhibiting its attachment to the uterus."

The Court noted that religious employers and religious nonprofit organizations already are exempt from the contraceptive mandate, finding that the "HHS regulations imposing the contraceptive mandate violate RFRA."

The majority opinion was written by Justice Samuel Alito Jr. and joined by Chief Justice John G. Roberts Jr. and Justices Antonin Scalia, Anthony Kennedy and Clarence Thomas.

The dissent was written by Justice Ruth Bader Ginsburg, who, according to media reports, read it from the bench Monday. It was joined by Justice Sonia Sotomayor in total and in part by Justices Stephen Breyer and Elena Kagan.

Reactions were swift and predictable. The following is a summary of statements issued by Ohio organizations and policy makers:

Democratic gubernatorial nominee and Cuyahoga County Executive Ed FitzGerald

"Today's decision on the *Hobby Lobby* case is bad for both women and families across Ohio. Not only does this ruling inappropriately involve a woman's boss in extremely personal health care decisions, but it also hits at the pocketbooks of families who are already struggling to get by. ..."

Ian James, co-founder and executive director of FreedomOhio

"Today's ruling is incredibly disappointing. By holding that corporate leaders can implement religious ideology on their employees, the Supreme Court has challenged our most basic rights and civil liberties.

"This decision applies to a specific group of corporations, but it has prioritized the interests of these organizations over individuals' basic freedom. Corporate leadership may now enforce their own doctrine on all of their employees by refusing to provide comprehensive health care coverage. This ruling is yet another step down a very slippery slope -- allowing corporations and their leaders extensive power at the expense of individual freedom.

"Nevertheless, FreedomOhio will continue our efforts to ensure freedom and equality for all Ohioans. This verdict, however frustrating, will not weaken our commitment to equal rights. It is now more important than ever that the Employment Non-Discrimination Act (ENDA) be implemented immediately without broad sweeping religious exemptions."

Innovation Ohio Communications Director Dale Butland

"By finding in favor of Hobby Lobby today, the U.S. Supreme Court struck another blow against women's rights, and took another step toward corporate rule in America.

"In the *Citizens United* case of 2010, the Court's conservative majority ruled that corporations have 'free speech' rights. Today, they granted corporations 'religious rights.' ...

"The clearest victims of today's ruling are female employees, who must now effectively get their bosses' permission if they want access to birth control under company insurance policies. Tomorrow's victims may include *any* worker who needs a medical treatment -- including, say, a blood transfusion -- to which his or her employer has a religious objection.

"There was a time in America when the First Amendment was not interpreted to include the right to impose one's religious beliefs on others. We can only hope that day will come again."

U.S. Rep. Bob Latta (R-OH)

"Freedom of religion is a bedrock principle of our nation guaranteed by the First Amendment of the Constitution. I am extremely pleased that the Supreme Court decision in *Burwell v. Hobby Lobby* recognizes that the Obamacare mandate tramples on that right by illegally forcing Americans to choose between violating their faith and conscience or jeopardizing their livelihood. All Americans should be able to live and work according to their beliefs without fear of punishment by the government, and today's decision reaffirms this critical pillar of our nation's foundation."

Kellie Copeland, executive director of NARAL Pro-Choice Ohio

"This ruling by the U.S. Supreme Court is a slippery slope. This decision allows bosses to reach beyond the boardroom and into their employees' bedrooms. Today it's birth control; tomorrow it could be any personal medical decision, from starting a family to getting life-saving vaccinations or blood transfusions.

"Health insurance is part of compensation, like your paycheck. Just as your employer has no right to tell you how to spend the money that they pay you, they should have no right to dictate whether or not your insurance provides coverage for care that they disagree with. Ninety-nine percent of women use birth control at some point in our lives; it is outrageous we're still fighting about whether women should have access to it through their health insurance. ..."

Mike Gonidakis, president of Ohio Right to Life

"Today the U.S. Supreme Court ruled that the federal government and Obamacare cannot violate Americans' religious freedoms. Specifically, Obamacare cannot force employers and taxpayers to pay for abortion-inducing drugs. Of course, if an employer wants to offer an insurance plan that covers abortions and contraception, then they are free to do so. However, our government cannot force anyone to participate if it violates their Christian beliefs. We thank President Bill Clinton for signing the Religious Freedom Restoration Act (RFRA) into law during the 1990s. The Supreme Court today upheld RFRA which protects the conscience rights of all Americans."

ProgressOhio Executive Director Brian Rothenberg

"Eighty-eight percent of women under 45 will at some point use the types of contraceptives covered by the Affordable Care Act. This ruling may leave many of them scrambling to find out what a 'closely held' company is and whether they work for one. If the CEO of Hobby Lobby has religious objections to birth control, I'd urge him not to use any. Religious freedom should protect your right not to have your boss's religious beliefs forced upon your personal life."

David Pepper, Democratic nominee for Ohio Attorney General

"Today is a sad day for the freedom of Ohio women to make their own health care decisions. We've entered an unprecedented new era where women in the workplace could have to defer to the moral and religious views of their boss in making their most intimate health care decisions.

The ripple effects will be felt long into the future.

“Ohioans deserve to know that Mike DeWine led the charge nationally, using his public office and taxpayer dollars to wage a three-year ideological crusade. He has entered courts across the country to stop birth control coverage and even authored the amicus brief on behalf of numerous attorneys general at the Supreme Court to support Hobby Lobby. This case was all about Washington, D.C. politics and the Tea Party agenda, and DeWine advocated against Ohio’s women every step of the way. ...”

U.S. Sen. Rob Portman (R-OH)

“Today’s ruling reaffirms our nation’s commitment to religious freedom. The government should not force citizens to violate their religious beliefs in order to operate a business, and Obamacare’s contraception mandate infringes upon religious liberties. I am pleased that the Court has ruled that the mandate is unlawful.”

U.S. Rep. Tim Ryan (D-OH)

“I am very disheartened to hear that the Supreme Court has chosen to stand against decades of progress made by women. No woman should have to choose between necessary health care and having to pay their bills. This ruling will place many Americans in a difficult situation because of their employers’ ability to force their religious beliefs upon them and it will lead to an increase in unplanned pregnancies.

“Today’s ruling against women’s rights not only turns back the clock, but also ushers in a new era of uncertainty. Allowing privately-owned corporations the ability to push their religious beliefs onto their employees opens the gate to possible injustices yet to be realized.”

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