



Written by [James Murphy](#) on July 6, 2023

Arizona AG to Ignore Supreme Court Decision on Free Speech

On June 30, Arizona Attorney General Kris Mayes announced her intention to ignore the recent U.S. Supreme Court ruling in [303 Creative v. Elenis](#), which found that a Colorado law forcing businesses to provide services to people, causes, or groups that some find morally repugnant was unconstitutional.

Mayes called the six justices who affirmed the free-speech rights of Americans “woefully misguided,” and signaled that she would enforce an almost identical law in Arizona and prosecute Arizona citizens who violate that law.



AP Images
Kris Mayes

“Today, a woefully misguided majority of the United States Supreme Court has decided that businesses open to the public may, in certain circumstances, discriminate against LGBTQ+ Americans,” Mayes said in a [statement](#). “While my office is still reviewing the decision to determine its effects, I agree with Justice [Sonia] Sotomayor — the idea that the Constitution gives businesses the right to discriminate is ‘profoundly wrong.’”

She added: “Despite today’s ruling, Arizona law prohibits discrimination in places of public accommodation, including discrimination because of sexual orientation and gender identity. If any Arizonan believes that they have been the victim of discrimination on the basis of race, color, religion, sex (including sexual orientation and gender identity), national origin, or ancestry in a place of public accommodation, they should file a complaint with my office. I will continue to enforce Arizona’s public accommodation law to its fullest extent.”

The AG’s office ended the statement with a recommendation that “Any Arizonan who believes they have been discriminated against based on their sex, sexual orientation, or gender identity in a place of public accommodation may file a complaint with the Arizona Attorney General’s Office — Division of Civil Rights....”

Lorie Smith of 303 Creative LLC, a web design company, said she was “willing to work with all people regardless of classifications such as race, creed, sexual orientation, and gender,” but also said she would not “produce content that ‘contradicts biblical truth’.”

The 6-3 majority agreed that the Colorado law, which echoes the Arizona law, was unconstitutional in that it essentially compelled individuals to perform services for people and organizations with which they disagree on moral or religious grounds.

“The First Amendment prohibits Colorado from forcing a website designer to create expressive designs speaking messages with which the designer disagrees,” said the decision, penned by Justice Neil Gorsuch.



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Gorsuch cited several previous cases in which the Free Speech Clause was similarly decided including *Boy Scouts of America v. Dale*; *Whitney v. California*; and *West Virginia Bd. of Ed. v. Barnette*.

Gorsuch appeared to have foreknowledge of Mayes' objections, writing, "These cases illustrate that the First Amendment protects an individual's right to speak his mind regardless of whether the government considers his speech sensible and well intentioned or deeply 'misguided'."

As to the central issue of the case, Gorsuch wrote: "Generally, too, the government may not compel a person to speak its own preferred messages."

However, Mayes sided with the minority, specifically Justice Sonia Sotomayor, who wrote that "Today, the Court, for the first time in its history, grants a business open to the public a constitutional right to refuse to serve members of a protected class."

Of course, states have the right to dissent to federal laws or federal judicial opinions they find *unconstitutional* through the nullification process. But Mayes' proclamation isn't nullification. It's the case of a rogue attorney general announcing that she will simply not abide by a Supreme Court ruling because she disagrees with its conclusions.

Consider another Supreme Court decision that many vehemently disagreed with — *Roe v. Wade*, which became a de facto federal law in 1973 despite not having been passed by either house of Congress or signed by any president. This decision was in place for nearly 50 years without any state attorneys general insisting they wouldn't abide by the landmark decision.

Roe v. Wade was about the killing of children — not about whether a gay couple needed to find someone else (and there are a plethora of options) to create a wedding which cannot, biblically speaking, be ordained by God.

Still, Mayes appears set in her intention to ignore the Supreme Court decision, and it's only a matter of time before a left-wing activist group files a suit arguing against the decision in *303 Creative v. Elenis*.

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