



Written by [Bob Adelman](#) on October 9, 2023

Colorado Supreme Court Likely to Continue Harassment of Denver Cake Baker

The Colorado Supreme Court [agreed last week to review a lower court's decision](#) to fine Jack Phillips for not baking a cake. The cake would have “celebrated” the transition of a man into a woman. This violates Phillips’ Christian belief system, so he turned down Autumn Scardina’s request to make a blue and pink cake. Scardina is a male who has declared himself to be a woman — and is also an activist attorney seeking to continue the culture war against Christians holding firmly to their biblical views.



AP Images
Jack Phillips of Masterpiece Cakeshop

The harassment of Phillips and his company, Masterpiece Cakeshop, located in Lakewood, Colorado, goes back more than a decade. In 2012, two men wanted him to bake a cake to celebrate their “marriage,” and Phillips refused. The two men filed suit.

The lower court predictably ruled against Phillips in that case, reflecting the state’s own “transition” from dark red to dark blue thanks to implementation of the [“Colorado Model,”](#) funded by gay billionaires.

That court required Phillips and his company not only to provide cakes for same-sex marriages, but to “change its company policies, provide ‘comprehensive staff training’ regarding public accommodations discrimination, and provide quarterly reports for the next two years regarding steps it has taken to come into compliance and whether it has turned away any prospective customers.”

With the assistance of the Alliance Defending Freedom (ADF), Phillips filed an appeal. Not surprisingly, the appeals court affirmed the lower court’s ruling. When he and his attorneys filed an appeal to the state’s high court, it predictably declined to hear it.

Phillips then appealed to the U.S. Supreme Court, which did agree to hear his complaint and ultimately ruled against Colorado, claiming that the Colorado Civil Rights Commission failed “to act in a manner neutral to religion [which] violated the First Amendment to the United States Constitution.” (*Masterpiece Cakeshop v. Colorado Civil Rights Commission*)

The day that the Supreme Court agreed to hear Phillips’ appeal was the same day that Scardina called his shop and asked him to build a “transition” cake. Phillips said no, and the next skirmish in the great war against Christ and His followers was on.

Predictably the first round went to the dark blue state of Colorado: Phillips must pay a \$500 fine for violating the Colorado Anti-Discrimination Act (CADA).

Phillips appealed that ruling in April. In June the ground shifted in Phillips’ favor: in *303 Creative LLC v.*



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Elenis, the Supreme Court ruled that “The First Amendment prohibits Colorado from forcing a website designer to create expressive designs speaking messages with which the designer [Lorie Smith, a Christian] disagrees.”

Last week attorneys from ADF filed a supplement in their request for an appeal to the state’s Supreme Court, using that ruling as additional support for Phillips:

Petitioners [i.e., Phillips and his company] affirm that the U.S. Supreme Court held that government may not apply CADA to “compel an individual to create speech [he] does not believe.”

This rule protects Petitioners here, who the Court said are engaged in “nearly identical conduct” to [Lorie Smith and her company] in *303 Creative*...

303 Creative controls here. Given its clarity, Petitioners ask this Court to grant review, vacate the decision below, and enter judgment for Petitioners.

Also in favor of Phillips is Colorado’s own state constitution, which, in Article II, Section 4, states:

The free exercise and enjoyment of religious profession and worship, without discrimination, shall forever hereafter be guaranteed; and no person shall be denied any civil or political right, privilege or capacity, on account of his opinions concerning religion.

Jake Warner, ADF’s senior counsel, declared:

Free speech is for everyone.

As the U.S. Supreme Court held in *303 Creative*, the government can’t force artists to express messages they don’t believe. Because the attorney asked Jack to create a custom cake that would celebrate and symbolize a transition from male to female, the requested cake is speech under the First Amendment.

The Colorado Supreme Court should apply *303 Creative* to reverse the appeals court’s decision punishing Jack. You don’t need to agree with Jack’s views to agree that Americans shouldn’t be compelled to express what they don’t believe.

Colorado’s high court can’t weasel out of this one the way it did earlier. It must face the overwhelming high-court precedents protecting Phillips and others professing Christ from being harassed for their beliefs — or the case will be appealed to the Supreme Court itself, where the lower courts’ vindictive rulings against Phillips and his company are certain to be tossed.

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