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Open Case: Masterpiece Cakeshop, Ltd. v. Colorado Civil Rights Commission

Ellis Gamache

Endicott College

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Professor Bader-Mustone

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This current open Supreme Case specifically regards the First Amendment and whether Colorado is violating a man's rights under the First Amendment. A gay couple, Mullins and Craig, were planning their upcoming wedding and requested that their wedding cake be made by Masterpiece Cakeshop in Colorado. However, the owner of the cake shop, Phillips, declined the request due to the fact that making cakes for gay couples goes against his religious beliefs. The owner stated that his work is "art and God would be displeased" (Masterpiece Cakeshop, Ltd. v. Colorado Civil Rights Commission, n.d.) with making art for a same sex couple. This statement then opened doors for court cases to come.

Mullins and Craig, along with Colorado Civil Rights Division, filed discrimination charges against Phillips. The charges alleged that the discrimination was based on sexual orientation, which fell under the Colorado Anti-Discrimination Act (CADA). Once the Colorado Civil Right Division found that there was probable cause, Craig and Mullins filed a more formal complaint through the court system. This complaint stated that Phillips and Masterpiece Cakeshop "discriminated against them in a place of public accommodation in violation of CADA" (Masterpiece Cakeshop, Ltd. v. Colorado Civil Rights Commission, n.d.).

The case was finally taken into the Administrative Courts and the case was heard. The Administrative Law Judge ended up ruling in favor of Mullins and Craig, a decision that was affirmed by the Civil Rights Commission of Colorado. The case then went to the Court of Appeals, where, on appeal, the court once again ruled in favor of Mullins and Craig. Now, at the Supreme Court level, the question at hand and the main issue for this case is: "Does the application of Colorado's public accommodations law to compel a cake maker to design and

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make a cake that violates his sincerely held religious beliefs about same-sex marriage violate the Free Speech or Free Exercise Clauses of the First Amendment?” (Masterpiece Cakeshop, Ltd. v. Colorado Civil Rights Commission, n.d.).

Masterpiece Cakeshop v. Colorado Civil Rights Commission was argued in front of the Supreme Court on December 5, 2017 and has yet to be decided. The main amendment that this case is looking at is the First Amendment. The First Amendment states “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances” (First Amendment Definition, n.d.). The First Amendment is the core defense for Phillips due to the fact that making the cake would violate his First Amendment rights.

The brief by the Foundation for Moral Law, which was written in support of the petitioners, discusses the First Amendment in their argument for the petitioners. The Foundation states “The Colorado Court of Appeals (CCA) fundamentally erred in elevating a right not found in the Constitution (same-sex marriage) above the most basic rights expressly set forth therein” (Eidsmoe, 2017). This is one of the main points that many of the briefs written in favor of the petitioners makes in hopes of the Supreme Court ruling in the petitioners favor.

However, there are also many issues that could arise if the Supreme Court does rule in favor of Masterpiece Cakeshop and Mr. Phillips. One of these issues includes the potential to undercut all anti-discrimination laws. Ruling in favor of Masterpiece Cakeshop and Mr. Phillips could also mean that the Colorado Court of Appeals completely violated the Involuntary

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Servitude Clause, featured in the Thirteenth Amendment, when they ruled in favor of Mullins and Craig.

While there are many briefs that support the petitioners, there are also many that support the respondents, Mullins and Craig. One of which is the *Brief of Massachusetts, Hawaii, California, Connecticut, Delaware, The District of Columbia, Illinois, Iowa, Maine, Maryland, Minnesota, New Mexico, New York, North Carolina, Oregon, Pennsylvania, Rhode Island, Vermont, Virginia, and Washington as Amici Curiae in Support of Respondents*. Some of the highlighted points in this brief include: states across the country enacting laws to stop any discrimination against LGBTQ in the commercial marketplace to protect economic, social, and personal harms, and the fact that the First Amendment does not exempt commercial businesses from state anti-discrimination laws. With these two points in consideration for the respondents, both sides are very realistic and unbiased opinions.

However, there are also briefs that support neither party, and instead just make valid points for both sides. The *Brief for Cake Artists as Amici Curiae in Support of Neither Party* is an example for this specific case. This brief makes two points that have viewpoints for both sides. One argument that could be considered in favor of the respondents is that “wedding cakes are an example of a cake artist’s craft and same-sex wedding cakes can be the most artistic of them all” (Young, 2017). The argument that could be seen to be in favor of the petitioners would be that “the design and preparation of custom cakes is an artistic and expressive activity” (Young, 2017).

While there are many other briefs, whether they be for the petitioners, for the respondents, or in support of neither party, these three mentioned above do make great points to

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assist the Supreme Court in making a decision. I believe that the Supreme Court will rule in favor of Craig, Mullins, and Colorado Civil Rights Commission. Based on the above briefs of amici curiae and the rulings of the lower courts, it only seems right that the Supreme Court will rule that way. If, like the brief for the respondents says, the First Amendment does not exempt commercial businesses from state anti-discriminatory acts, then Masterpiece Cakeshop cannot be protected under the First Amendment. While hate speech is protected under the First Amendment, this is more than hate speech, therefore hate speech can be ruled out and can eventually help the respondents win the case. Finally, Masterpiece Cakeshop is in violation of Colorado's state law and is violating any laws that prevent harming the economy because of discrimination.

In conclusion, I not only believe that the Supreme Court will rule in favor of the respondents, but I also think that it is the right thing to do. While I do see Phillips argument that he is protected under the First Amendment, I do not think that that argument is strong enough to carry him through a Supreme Court case. Especially in regards to all of the lower court rulings in favor of Mullins and Craig, the hearings, and the briefs from amici curiae.

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