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Slippery Slope:

First Reproductive Rights, Then Civil Rights?

Two companies seek to opt out of mandated paid coverage for women seeking contraception.

By Mike Wood

With a final decision expected sometime in June, the U. S. Supreme Court on March 25 heard oral arguments in the case of Sebelius vs. Hobby Lobby Stores & Conestoga Wood Specialities Corp. Conestoga Wood is based in East Earl, placing the local business at the crossroads of a national debate.

The two privately owned-companies named in the suit are seeking exceptions to healthcare requirements set forth in the Affordable Care Act. The ACA requires that insurance plans provided by employers include paid coverage for women seeking contraception. Hobby Lobby and Conestoga Wood are arguing that ACA's mandate violates rights afforded them in the First Amendment.

Will a Lancaster County company's legal challenge to providing contraceptive care eventually curtail LGBT civil rights?

The Supreme Court heard whether or not corporations can opt out of the law on religious grounds and, after 90 minutes of oral arguments, the Court seems evenly split along conservative and liberal lines. This may leave the deciding vote to Chief Justice John G. Roberts. A decision on the case is expected sometime in June.

The Oklahoma City-based Hobby Lobby chain is owned by the Green family, evangelical Christians who say they run their business on biblical principles. They operate some 600 stores in 41 states across the country with more than 15,000 full-time employees who are eligible for health insurance benefits.

The other company named in the lawsuit, Lancaster County's Conestoga Wood

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Specialties Corporation, based out of East Earl, is a far smaller company (less than 1,000 employees) that manufactures wood cabinets and is owned and operated by a religious family of Mennonite Christians. Both companies want an exemption from ACA's contraception mandate. Hobby Lobby's lawyers claim the healthcare reform law violates the corporation's free exercise of religion by requiring that they provide their employees with a health plan that covers the intrauterine device (IUD) and oral contraceptive pills that go against their clients' religious beliefs. According to Hobby Lobby's website the Greens and their family businesses "have no moral objection to providing 16 of the 20 FDA-approved contraceptives required under the HHS mandate and do so at no additional cost to employees under their self-insured health plan." What the Greens do object to is having to provide contraceptive care to their employees that they deem to be forms of abortion (like the "morning after pill").

Marci A. Hamilton, a professor of law at Cordoza Law School at Yeshiva University in New York City, who advises lawmakers on church-state issues, tells *Central Voice* that science refutes the idea that the four types of birth control Hobby Lobby refuses to cover are, in fact, abortifacients (abortion-inducing agents) , and asks, "what happens when the next employer fights funding for vaccinations, blood transfusions, or HIV medications? The primary problem for the believers in this case is that they have not offered a credible limiting principle to their theory."

As noted by Hamilton, this case is inextricably linked to LGBT rights in this country because of what could become the slippery slope in varying interpretations of the Supreme Court's decision to and its language that could lead to discrimination. One need only look to the highly-publicized case of Arizona governor Jan Brewer vetoing the so-called "turn the gays away" bill only after pressure from outside sources warned her of its far-reaching implications. The case in Arizona is not an isolated incident. Similar bills are springing up across the country under the guise of religious protections and religious freedoms. On April 1 the Mississippi legislature approved a measure that would enable businesses and individuals to refuse services to any person they choose purely on religious grounds referencing the Religious Freedom Reformation Act (RFRA) of 1993 which prevents laws that burden a person's free exercise of religion.

And while there is no mention of LGBT individuals specifically in the Mississippi measure, the legislation would certainly discriminate against LGBT people seeking any number of services in the state because these services—from dining at a restaurant or being treated at a hospital—could be refused or denied based solely upon one's personal religious convictions. When one considers what a religious exemption could cover, the implications are frightening. Where is the line ultimately drawn? All the Mississippi bill needs is a signature from governor Phil Bryant and, at press time, he says he's going to sign the bill, which means it will go into effect July 1.

Activists for religious freedom cite the First Amendment and believe individuals and corporations should be able to refuse service to whomever they choose if it conflicts with one's religious beliefs. Because of the First Amendment, churches are exempt from nondiscrimination laws in most cases, but private companies are not religious institutions even if they are owned by religious-minded people. Hamilton believes the RFRA is "a license for mischief and for believers to pursue ends that are beyond the pale. It is a formula that invites discrimination and inevitably hurts the vulnerable."

This may all sound familiar to those who remember Mitt Romney's caught-on-video "corporations are people" catchphrase that exploded the debate about the differences between corporations and individuals back in 2011. Sebelius vs. Hobby Lobby is poised to become the Citizens United of the war against marriage equality and refuel or add fuel to the already blazing cultural war in this country. The question at the heart of this case is nearly the same: Do corporations have, in this case freedom-of-religion, rights like individuals do? If the Supreme Court finds that they do, then religious employers of for-profit corporations will have grounds for refusing coverage on a litany of items that could include anything from HIV medications for a gay patient or pre-natal care for an unwed mother because of religious objections about that person's "lifestyle."

While only Hobby Lobby and Conestoga Wood Specialties are named in the lawsuit, some 100 companies have also sued the U.S. government for the same rights to deny some type of medical coverage on religious grounds. If Hobby Lobby prevails in the Supreme Court case and its plaintiffs have religious or moral objection to providing contraception, surely it stands to reason that other types of privately-owned, for-profit businesses would be able to find convenient ways to discriminate against all kinds of people—LGBT, minorities, women—based on so-called religious freedom.

Central Voice reached out to Hobby Lobby and Conestega Wood but were told by their representatives they were not available for interviews or comment at this time.