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News - USA

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June 30, 2020

Supreme Court says bye bye Blaines, rules that archaic, anti-religious law is unconstitutional

Becket

Today, the Supreme Court overturned the Montana Supreme Court's ruling and made it clear that children in Montana cannot be stripped of their right to participate in a scholarship program simply because they attend religious schools.

In an opinion written by Chief Justice Roberts, the Court said that the Blaine Amendments were "born of bigotry" and that the "no-aid provisions of the 19th century hardly evince a tradition that should inform our understanding of the Free Exercise Clause." The Court also said that "exclusion [of religious schools] from the scholarship program here is 'odious to our Constitution' and 'cannot stand.'"

"It was high time for the Blaine Amendments to bite the dust," said **Diana Verm**, senior counsel at Becket. "Our Constitution requires equal treatment for religious people and institutions. Relying on century-old state laws designed to target Catholics to exclude all people of faith was legally, constitutionally, and morally wrong. The Court was right to kick the Blaine Amendments to the curb."

[Read more...](#)

June 30, 2020

Attorney General's Statement on Ruling in Espinoza v. Montana Department of Revenue

U.S. Dept. of Justice

Attorney General William P. Barr has released the following statement:

"We are pleased with the Supreme Court's decision today in *Espinoza v. Montana Department of Revenue*. Montana's Blaine Amendment excluded religious schools from state scholarship programs that are open to other educational institutions. It thus prevented parents who send their children to religious schools from receiving scholarship funds that are available to the rest of the community.

The Supreme Court concluded today that Montana's Blaine Amendment violates the Free Exercise Clause of the First Amendment. The Court recognized that the Free Exercise Clause "condemns discrimination against religious schools and the families whose children attend them." As a result of the Court's decision, a state may no longer disqualify religious schools from scholarships or other programs "solely because they are religious."

[Read more...](#)

June 30, 2020

Supreme Court rules in favor of religious families

Christian Legal Society

“The Court correctly recognized that states should not discriminate against families who choose to send their children to religious schools,” said **Kim Colby**, Director of Christian Legal Society’s Center for Law and Religious Freedom. “For too long, state constitutions have been used to discriminate against religious citizens. The Court’s decision today remedies past discrimination based on state constitutional provisions rooted in Nineteenth Century biases.”

June 30, 2020

Buckeye State hits bullseye for religious freedom
One News Now

[The Christian Post](#) reports that [House Bill 164](#), also known as the Student Religious Liberties Act, passed the House in a vote of 90-3 and unanimously in the Senate. Attorney Matt Sharp of [Alliance Defending Freedom](#) (ADF) says the measure's adoption means Ohio schools must treat students of faith the same as secular students. "Students are free to share their faith at school, to incorporate aspects of their faith into school assignments where it's appropriate, and to otherwise not fear that they're going to be punished," Sharp details.

[Read more...](#)

June 29, 2020

Chief Justice John Roberts’s Lack of Courage Is Damaging the Supreme Court

National Review commentary by Dan McLaughlin

Without courage, even the clearest-written rights are empty promises, the plainest limitations on power are easily overwhelmed, and the entire project of rule by written law becomes just another hollow formality. Two of today’s Supreme Court decisions, on abortion and separation of powers, are further evidence of this. Chief Justice John Roberts has yet again shown the absence of courage that has so often undermined his Court.

Stare decisis is supposed to promote stability in the law by adhering to consistent and predictable rules, yet the opinions striking down the Louisiana law did no such thing. Roberts refused to join Justice Breyer’s opinion, but by joining its outcome he prevented the Court’s conservatives from doing anything to keep the Court from constantly rewriting its own rules.

[Read more...](#)

June 29, 2020

Navy bans troops from indoor religious services but permits protests and house parties, law firm says

FOX News

Major Daniel Schultz, USAF, currently assigned to a Navy command, is requesting a religious accommodation to attend the church where he leads worship after the Navy issued an order on *June 24* stating "service members are prohibited from visiting, patronizing, or engaging in . . . indoor religious services." **Mike Berry**, the First Liberty Institute general counsel who sent a letter on behalf of Shultz on Monday morning, called the order "unlawful and immoral" and is calling on President Trump to immediately demand its removal.

[Read more...](#)

June 26, 2020

Supreme Court’s LGBTQ Decision Is Formula for Chaos

Daily Signal commentary by Star Parker

The essence of a free country is allowing citizens freedom to make and be responsible for their own choices.

To limit that freedom because of circumstance of birth—race or sex—is to make a mockery of freedom.

But to claim, as Douglas did, that once given freedom, it doesn’t matter what individuals choose—that there are no standards for right and wrong, good and evil—is to also make a mockery of freedom.

Gorsuch equates our protection against discrimination because of one’s circumstances of birth with discrimination against the choices individuals make.

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June 26, 2020

Assistant Attorney General Eric Dreiband on Federal Court’s Religious Liberty Ruling Concerning New York City and New York State

U.S. Dept. of Justice

"Today’s federal court decision is a win for religious freedom and the civil liberties of New Yorkers.

Government cannot discriminate by protecting free speech and the right to assemble while threatening or limiting religious exercise – it must protect all rights guaranteed under the First Amendment. The Department of Justice will continue to support people of faith who seek equal treatment against threats and actions by public officials who discriminate against them because of their religion. The Constitution and our oath to defend and protect it require nothing less."

[Read more...](#)

June 22, 2020

Unjust rules for religious believers

First Things commentary by Charles J. Chaput and Michael P. Farris

In the midst of the current pandemic, why should casinos have greater freedoms than churches? We are concerned that the government is discriminating against religious institutions in a way that violates the freedoms protected in the First Amendment by our founding fathers. The government is playing favorites, and choosing secular institutions over religious ones. That's as wrong as it is unconstitutional. When public officials allow people to gather in secular settings but not religious ones, the government effectively declares that religious practice is not really necessary. And that reveals not only a disregard for the First Amendment but also a complete misunderstanding of people of faith and why they gather to worship.

[Read more...](#)

June 22, 2020

HHS addresses "transgender mandate" in new rule ... but Supreme Court redefines "sex discrimination"

Freedom2Care commentary by Jonathan Imbody
The new HHS rule was influenced by a successful and ongoing **Christian Medical Association and Franciscan Alliance lawsuit** aimed at stopping the previous administration's "**transgender mandate**" that had trampled medical judgment and nixed conscience objections over transgender procedures and prescriptions. The old rule had interpreted "sex discrimination" under Section 1557 of the Affordable Care Act (Obamacare) to include not just biological sex but also termination of pregnancy and gender identity, which the old rule defined as "one's internal sense of gender, which may be male, female, neither, or a combination of male and female."
As **Roger Severino**, Director of the Office for Civil Rights at HHS, explained in announcing the new final rule, "HHS will continue to vigorously enforce federal civil rights laws prohibiting discrimination on the basis of race, color, national origin, disability, age, and sex in healthcare, as Section 1557 provides.

[Read more...](#)

June 22, 2020

Religious Liberty Is Alive and Well at the U.S. Supreme Court

CATO commentary by Walter Olson
The constitutional claims aimed at advancing the rights of religious believers in Espinoza and Fulton are way more important over the long term than the statutory stuff in Bostock, which will become passé next time Congress gets around to revising the discrimination statute and the President signs the bill. Whether besiegement is a fair metaphor for the social and cultural trends buffeting conservative religion, others can debate. But as a legal matter, religious liberty is in a stronger position today in

American law than some of its proponents seem prepared to concede.

[Read more...](#)

June 21, 2020

The True Extent of Religious Liberty in America, Explained

The Dispatch commentary by David French
Religious employers have a right to impose religious litmus tests on their employees. Title VII of the Civil Rights Act of 1964—the same statute at issue in Bostock—contains a provision specifically designed to protect the autonomy of religious organizations. It **states**, "This subchapter shall not apply ... to the employment of individuals of a particular religion to perform work connected with the carrying on by such corporation, association, educational institution, or society of its activities."

It's true that this carveout does not allow the religious organization to discriminate on other grounds (such as race or sex), but it does allow them to filter out all applicants who do not share the group's faith. This has a profound impact on the relevant applicant pool and (along with the First Amendment) permits employers to require that applicants agree to the organization's statement of faith.

[Read more...](#)

June 18, 2020

Legislating religious liberty

World magazine

"I personally think the decision shows us that if you're socially conservative and care about religious freedom, you'll want to engage in the legislative space to protect religious liberty as much as possible," said **Tim Schultz**, president of First Amendment Partnership.

Schultz is one of the leading proponents of "Fairness for All," a legislative approach based on the 2015 "Utah Compromise." The measure in Utah changed the state's employment and housing anti-discrimination law to include lesbian, gay, bisexual, and transgender persons while including some religious exemptions. It made exceptions for churches, religious organizations, and private speech but not on-the-job speech or Christian business owners with more than 15 employees.

Greg Baylor, a higher education attorney for the religious liberty law firm Alliance Defending Freedom, said he still views Fairness for All with skepticism. "The impossibility of passing Fairness for All was confirmed for all the world to see last December when the bill was introduced and Democrats and the powerful LGBT advocacy organizations condemned it in no uncertain terms," he said. "Bostock doesn't change that."

[Read more...](#)

June 18, 2020

Get ready for slew of religious freedom lawsuits over Supreme Court's gay and transgender ruling

Washington Examiner commentary by Nicole Russell Alliance Defending Freedom, the attorneys who represented R. G. & G. R. Harris Funeral Homes in the Supreme Court case, were unhappy with the decision and expected it to create chaos in many scenarios, not just for religious people or institutions. Vice President of Appellate Advocacy **John Bursch** said: "Americans must be able to rely on what the law says, and it is disappointing that a majority of the justices were unwilling to affirm that commonsense principle. Redefining 'sex' to mean 'gender identity' will create chaos and enormous unfairness for women and girls in athletics, women's shelters, and many other contexts."

[Read more...](#)

June 17, 2020

Notre Dame Law School establishes Religious Liberty Clinic

ND News

[Notre Dame Law School](#) will put its rich tradition of religious liberty scholarship into practice by creating the Notre Dame Religious Liberty Clinic. The Law School also has appointed **Stephanie Barclay** as an associate professor to teach and generate scholarship related to the initiative as well as help launch the groundbreaking clinic that will train future Notre Dame lawyers to defend religious freedom by pursuing claims in trial courts as well as appeals up to and including the U.S. Supreme Court. Training Notre Dame lawyers how to protect religious liberty is central to the missions of both the law school and broader University. "The freedom of people of faith and religious institutions from government intervention is one of the founding pillars of our nation, and that freedom has helped create a more compassionate society and a vibrant democracy," said [Rev. John I. Jenkins, C.S.C.](#), Notre Dame's president.

[Read more...](#)

June 15, 2020

Alito Warns SCOTUS Decision Is a Threat to Religious Liberty

National Review commentary by John McCormack Healthcare benefits may emerge as an intense battleground under the Court's holding. Transgender employees have brought suit under Title VII to challenge employer-provided health insurance plans that do not cover costly sex reassignment surgery. Similar claims have been brought under the Affordable Care Act (ACA), which broadly prohibits sex discrimination in the provision of healthcare. Such claims present difficult religious liberty issues because some employers and

healthcare providers have strong religious objections to sex reassignment procedures, and therefore requiring them to pay for or to perform these procedures will have a severe impact on their ability to honor their deeply held religious beliefs.

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June 15, 2020

Alito Dissents: This Isn't Textualism

National Review

The Court's opinion is like a pirate ship. It sails under a textualist flag, but what it actually represents is a theory of statutory interpretation that Justice Scalia excoriated—the theory that courts should "update" old statutes so that they better reflect the current values of society. If the Court finds it appropriate to adopt this theory, it should own up to what it is doing. Many will applaud today's decision because they agree on policy grounds with the Court's updating of Title VII. But the question in these cases is not whether discrimination because of sexual orientation or gender identity should be outlawed. The question is whether Congress did that in 1964. It indisputably did not.

[Read more...](#)

June 12, 2020

Christian Medical Association doctors express hope that HHS gender rule will uphold medical judgment and conscience

Christian Medical Association news release

The 18,000-member Christian Medical Association (www.cmda.org) today expressed optimism that a just-finalized [rule](#) by the U.S. Department of Health and Human Services that deals with gender issues will help protect medical judgment and the exercise of conscience in healthcare.

"Health professionals know they must base medical decisions on biology and science, not ideology," said Dr. Jeff Barrows, CMA's Executive Vice President for Bioethics and Public Policy and an Ob-Gyn physician. "Biological gender carries very significant health implications that a physician must be able to recognize in making treatment decisions. The freedom for a health professional to base decisions on the medical science regarding biological gender also carries conscience concerns that should not be overruled by politics or ideology."

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June 09, 2020

Lankford Continues to Push for Charitable Giving

Sen. James Lankford

Senator **James Lankford** (R-OK) today provided testimony before the [Joint Economic Committee](#) during a hearing entitled “Supporting Charitable Giving during the COVID-19 Crisis.” In 2017, Lankford [introduced the Universal Charitable Giving Act](#), which creates a universal charitable deduction in addition to the standard deduction for individuals and married couples that do not itemize. Lankford [offered an amendment](#) to the Coronavirus Aid, Relief, and Economic Security (CARES) Act to increase bill’s \$300 limit on the charitable giving deduction to one-third of the standard deduction (\$4,000 for an individual filer and \$8,000 for married joint filers) for the remainder of 2020.

[Read more / watch video...](#)

June 10, 2020

Supreme Court Should Protect Faith-Based Agencies and Free Exercise

Newsweek commentary by Edwin Meese, III Philadelphia government officials are trying to exclude a Catholic agency from caring for foster children, and its legal defense depends on a flawed 30-year-old Supreme Court decision that severely restricted religious liberty protections. The Constitution's text, history and our national traditions all point to the same conclusion: Ours is a nation of religious freedom, and our government cannot trample that freedom without some compelling justification. This was always true, but the modern sprawl of government power—especially through ever-increasing regulations that few Americans understand—adds new urgency to the question. Unlike in the Founding era, our government now routinely grows into areas once reserved for religious exercise.

[Read more...](#)

June 09, 2020

Protests Confirm Kavanaugh’s Dissent: Church Restrictions Were Arbitrary All Along

The Federalist commentary by Nicole Russell But as things have evolved, the church saw a gross inequity. So it took it upon itself to petition the court and point out that these particular state executive orders violated its First Amendment rights, which supersede any state mandates, especially in this very specific case where it appeared the church was not being treated equally to businesses. Kavanaugh concurred with this logic and dissented from Roberts’ majority opinion, along with Neil Gorsuch, Samuel Alito, and Clarence Thomas. Writing separately, he said, “California’s discrimination against religious worship services contravenes the Constitution.” Kavanaugh actually took the time in his dissent to target the primary issue of the case, which is not federalism, state’s rights, or even judicial activism, but the obvious difference between the way the church and secular businesses are being treated.

[Read more...](#)

June 09, 2020

Hawley Writes to Barr over State Discrimination against Religious Groups

National Review

In a letter sent this morning, Senator Josh Hawley (R., Mo.) called on U.S. attorney general Bill Barr to investigate the disparities between how states are treating ongoing protests and the regulations they have placed on religious services during the COVID-19 outbreak. “State officials have violated the free speech and free exercise rights of religious Americans by treating religious gatherings and speech differently than the speech and mass gatherings of protests,” Hawley alleges in the letter.

[Read more...](#)

June 09, 2020

Despite Win in Wisconsin, Religious Discrimination Remains During Lockdown

Daily Signal commentary by Zack Smith

As the **Becket** Fund for Religious Liberty [pointed out](#), “Under Madison/Dane County’s previous [reopening] order, shopping malls, bars, restaurants, spas, gyms, salons, museums, movie theaters, community centers, bowling alleys, skating rinks, and trampoline parks were allowed to open at 25 percent capacity, while houses of worship were subject to an arbitrary 50-person cap regardless of how large the church building was.” In practice, this meant that some churches “were held to less than 5 percent capacity.” Moreover, threats communicated by government officials as to how they would enforce these orders were particularly troubling.

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June 07, 2020

Open Our Churches Now

Newsweek commentary by Dr. Albert Mohler and Kelly Shackelford

Justice Kavanaugh, writing also for Justices Thomas and Gorsuch, disagreed in at least one important respect. He [concluded](#) that the plaintiff church raising its concern to the U.S. Supreme Court "would suffer irreparable harm from not being able to hold services on Pentecost Sunday in a way that comparable secular businesses and persons can conduct their activities." Treating churches unequally is wrong. Governors have erred to think that only the things that are material are "essential," thus neglecting things like character, charity, hope, love, liberty and peace—the true society essentials that the church undergirds.

[Read more...](#)

June 05, 2020

Blaine Amendments and the Future of Religious Liberty

National Review commentary by Cameron Hilditch
The original intention of the Blaine Amendments was not to make American public schools more secular in a strict sense, only to make them less Catholic. “Sectarian” (read, Catholic) education was the target of these initial measures. Over time, this discrimination was co-opted by the courts as a mechanism of full-on secularization. As Stone observes, ever since *Everson v. Board of Education* in 1947, the establishment clause has been read by the Supreme Court as including “an unwritten Blaine Amendment.”

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June 04, 2020

US bishops ask Supreme Court to protect Catholic foster agency in Philadelphia

CNA
In a brief filed with the Supreme Court, the U.S. bishops argued that a Catholic agency should not be banned from participation in the Philadelphia foster care system due to its beliefs on marriage. “The Catholic Church serves orphans through adoption and foster care not simply because it cares about children, but because it is compelled to do this work—out of obedience to God’s Word, and in response to God’s love toward mankind,” the amicus brief said. “The Church’s theological commitment, present from its inception, to providing this privileged form of ministry helps illustrate the irreparable harm that the Church would suffer should it be blocked from continuing to do so.”

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June 04, 2020

Trump Delivers on Promise to Advance Religious Freedom Abroad

Newsweek commentary by Kelsey Zorzi
From now on, the U.S. government’s recommendations about foreign assistance will include explicit consideration of a country’s record on religious freedom. Tying human rights to foreign relations is precisely what human rights activists have been demanding for decades. Western leaders have long been called out for prioritizing national and economic interests over human rights. Now “America First” Trump, of all leaders, is going to put his money where his mouth is, tying diplomatic and economic decisions to international human rights considerations.

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June 02, 2020

Lankford Issues Statement in Support of Executive Order to Advance International Religious Freedom

Sen. James Lankford
“Many people across the world are still persecuted for daring to exercise what we as Americans know is a fundamental human right of all people—the right to choose, practice, or change their faith. Jews, Christians, Muslims, Buddhists, Fallin, Dafa, Bahá’í, Ughur, Yazidi, Hindu, Cao Dai, and secularists around the world are among those who have been persecuted for their faith. Nations such as China, Iran, North Korea, Eritrea, Pakistan, Saudi Arabia, Sudan, Tajikistan, and Turkmenistan have been identified by the State Department as countries that engage in severe violations of religious freedom. The Administration has promoted our nation’s value for religious freedom and it has resulted in success for people around the world, like the release of Pastor Andrew Brunson who was unjustly held in Turkey for years. Today’s Executive Order continues to advocate for America’s engagement in an even more meaningful way through training for all foreign service personnel, the use of tools like visa restrictions or sanctions and ensuring religious freedom is an integral part of our national security strategy. We must continue to work to protect the universal right of religious freedom, the right to choose any faith, change your faith, or have no faith at all.”

[Read more...](#)

June 02, 2020

Executive Order on Advancing International Religious Freedom

The White House
By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:
Section 1. Policy. (a) Religious freedom, America’s first freedom, is a moral and national security imperative. Religious freedom for all people worldwide is a foreign policy priority of the United States, and the United States will respect and vigorously promote this freedom. As stated in the 2017 National Security Strategy, our Founders understood religious freedom not as a creation of the state, but as a gift of God to every person and a right that is fundamental for the flourishing of our society.

[Read more...](#)

June 01, 2020

It wasn't just religious liberty that Chief Justice Roberts strangled

The Hill commentary by Andrew McCarthy
Most startling was that Chief Justice [John Roberts](#) not only joined the court's four left-leaning justices ([Ruth Bader Ginsburg](#), [Stephen Breyer](#), [Sonia Sotomayor](#), [Elena Kagan](#)) in declining to uphold religious liberty. [Roberts also wrote a brief opinion](#) explaining his decision. That opinion is an eye-opener. Roberts accords the right to worship no deference by virtue of its being a fundamental liberty expressly protected by the First Amendment.

[Read more...](#)

June 01, 2020

Freedom to worship must not be sacrificed to government restrictions during COVID-19 pandemic

The Washington Times commentary by Michael P. Orsi
But while spiritual fulfillment is important, the actual reason religion enjoys constitutional protection is because people of faith feel themselves under an obligation to worship God, and government must not impede their ability to do so. The right exists because of the commitment. Whatever benefits individual spirits may derive are secondary. This is the understanding of faith on which the nation's Founders — men steeped in scriptural familiarity and the undisputed Christian culture of their time — based the Constitution.

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