

USCCB ARGUMENTS ON LGBT RIGHTS ARE SOUND

Catholic League president Bill Donohue comments on the legal arguments put forward by counsel for the United States Conference of Catholic Bishops (USCCB) regarding Title VII:

When the Congress passed the 1964 Civil Rights Act it was principally concerned about undoing racial discrimination against African Americans; to a lesser extent, it was aimed at providing equal protection for women. Title VII bans discrimination on the basis of race, color, religion, sex, or national origin. LGBT activists have long argued that the category of sex should include sexual orientation.

Oral arguments for three related cases will be heard next month by the U.S. Supreme Court. One case, *Altitude Express v. Zarda*, involves a skydiving instructor who was fired when a customer found out he was a homosexual. The USCCB is not involved in this case.

R.G. & G.R. Harris Funeral Homes v. EEOC and Aimee Stephens, involves a male funeral home director who was fired when he said he was going to dress like a woman while working at a Christian funeral home.

Bostock v. Clayton County turns on a decision to fire a child welfare services coordinator when the employer learned he was a homosexual.

More than 200 corporations have weighed in on the side of LGBT activists. They want Title VII to include sexual orientation as a protected class, alongside the category of sex.

Everyone concedes that when Title VII was rendered, it was designed to level the playing field for blacks and women, having nothing to do with sexual orientation. No matter, the

corporations are attempting to do just that: they want sexual orientation to be indistinguishable in law from sex.

The USCCB's friend-of-the-court briefs on the latter two cases maintain that of the five protected categories in Title VII, four are immutable characteristics, not subject to change: race, color, sex, and national origin. Religion, being a constellation of beliefs and practices, is clearly amenable to change. Most important, it is simply wrong, on many levels, to conflate sex with sexual orientation.

Sex is immutable; sexual orientation is not. Despite efforts to criminalize those who work in professions that help homosexuals to transition to a heterosexual status, the fact remains that some homosexuals have been able to change their orientation. Ergo, sexual orientation is not an immutable characteristic analogous to sex.

Lawyers representing the LGBT activists see no difference between arguing on behalf of homosexuals and defending transgender persons—it's all a matter of treating people equally regardless of their sexual orientation or their gender identity. But such characteristics are not in any way analogous to race, color, religion, sex, or national origin.

In the *Harris Funeral Homes* brief, the USCCB says, quite rightly, that "Sex cannot be changed even by surgical alteration of the genitals." That is correct. Bruce Jenner may call himself Caitlyn Jenner, have his genitals changed, and dress like a woman, but he cannot change his chromosomal makeup: he still carries a Y chromosome (as well as an X). In other words, he is a man. No amount of self-identification, which is a psychological variable, can undo what nature has ordained.

In the *Bostock* brief, the USCCB makes an equally sound argument when it contends that many religions hold that "there is a difference between an *inclination* toward homosexual

conduct, which they do not regard as *per se* immoral, and homosexual *conduct*, which they do." This commonsensical view eludes the corporate brief in behalf of the LGBT agenda.

It is fundamentally wrong to equate discrimination based on race or sex with sexual orientation. Being white or black, or a man or a woman, doesn't orient anyone toward anything: race and sex are attributes anchored in nature and have nothing to do with conduct. The same is not true of sexual orientation: The object of the orientation is behavior. As such, this puts it into a moral category, one that may rationally elicit approval or disapproval. Those who harbor religious objections to certain sexual acts or relationships should not be told they have no right to object.

In the *Harris* brief, the USCCB says, with good reason, that if Title VII were to forbid discrimination based on gender identity, it could mean "the ability of faith-based and other schools to deal effectively and prudently with the problem of gender dysphoria, in such areas as locker room and bathroom access, use of pronouns, single-sex housing, and the preservation of athletic opportunities for women."

Similarly, in the *Bostock* brief, the USCCB argues that "Interpreting 'sex' to mean 'sexual orientation' could affect the ability of faith-based homeless shelters, transitional homes, and schools to offer and to make appropriate placements with respect to housing."

When I first took over as president of the Catholic League, I was contacted by a woman who had placed an ad for someone to be a live-in provider for her mentally disabled son. One of the persons who sought the job complained when he was disqualified because of his homosexual status. Was not the mother entitled to reject his application based on his sexual orientation and her Catholic convictions?

Let's pray the right decision will be reached when the high

court renders its final decision next year.