RELIGIOUS LIBERTY LAW SECTION

STATE BAR OF ARIZONA

Newsletter / DECEMBER 2025

FROM *the* EDITOR

Welcome to the December 2025 issue of the *Religious Liberty Law Section Newsletter.*

Emmerich de Vattel (1714-1767) was a Swiss philosopher and jurist who, in 1758, published his seminal work, *The Law of Nations: Or, Principles of the Law of Nations Applied to the Conduct and Affairs of Nations and Sovereigns.* In one part of his work, Vattel discussed the ground of religious conscience and the principles of religious liberty, explaining why religious liberty was "a natural and inviolable right." Although largely forgotten today, except by scholars, in the 1760s, Vattel's work became available in the American colonies and proved to be of great interest to and an influence upon the founders of the American republic. Further, in *Armitz Brown v. U.S.*, 12 U.S. 110 (1814), Chief Justice Marshall, in the majority opinion, and Justice Story in dissent, both referenced Vattel as an authority. Given the importance of Vattel's discussion of religious conscience and religious liberty and its influence on the American founding and in American law, I have chosen for this issue's Great Moments in Religious Liberty History, an excerpt from Vattel's *The Law of Nations.*

Also, I want to, again, extend a personal note of thanks to John Bursch, who authored this issue's Feature Article – *2025 Supreme Court Religious Liberty Law Round-Up* – in which, for the fifth year in a row, he discusses the most important religious liberty law-related decisions rendered by the U.S. Supreme Court during the Court's most recently completed term.

As always, we hope you find this issue of the *Religious Liberty Law Section Newsletter* both informative and useful.

Bradley S. Abramson

Bradley S. Abramson, Editor

QUOTE DU JOUR

"In America, we don't worship government. We worship God."

— President Donald J. Trump

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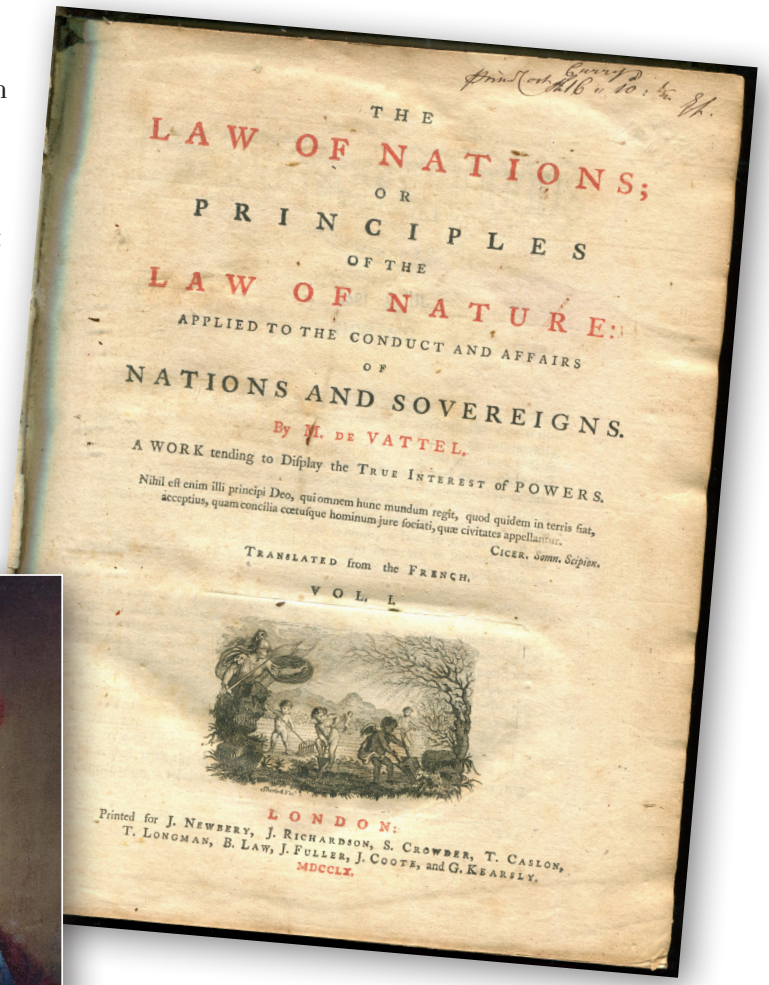
GREAT MOMENTS *in* RELIGIOUS LIBERTY HISTORY

Emmerich de Vattel, The Law of Nations, XII, 127-128 (1756)

Religion consists in the doctrines concerning the Deity … and in the worship appointed to the honour of the supreme Being. So far as it is seated in the heart, it is an affair of conscience, in which everyone ought be directed by his own understanding: … Every man is obliged to endeavor to obtain just ideas of God, to know his laws, his views with respect to his creatures, and the end for which they were created. Man, doubtless, owes the most pure love, the most profound respect to his Creator; and to keep alive these dispositions, and act in consequence of them, he should honour God in all his actions, and shew, by the most suitable means, the sentiments that fill his mind. This short explanation is sufficient to prove that man is essentially and necessarily free to make use of his own choice in matters of religion. His belief is not to be commanded; and what kind of worship must that be, which is produced by force! Worship consists in certain actions performed with an immediate view to the honour of God; there can then be no worship proper for any man, which he does not believe suitable to that end. The obligation of sincerely endeavoring to know God, of serving him, and adoring him from the bottom of the heart, being imposed on man by his very nature, – it is impossible that, by his engagements with society, he should have exonerated himself from that duty, or deprived himself of the liberty which is absolutely necessary for the performance of it. It must then be concluded, that liberty of conscience is a natural and inviolable right. It is a disgrace to human nature, that a truth of this kind should stand in need of proof.

Emmerich de Vattel (1714-1767)



THE
LAW OF NATIONS;
OR
PRINCIPLES
OF THE
LAW OF NATURE:
APPLIED TO THE CONDUCT AND AFFAIRS
OF
NATIONS AND SOVEREIGNS.
By M. DE VATTEL.
A WORK tending to Display the TRUE INTEREST of POWERS.
Nihil est enim illi principi Deo, qui omnem hunc mundum regit, quod quidem in terris fiat, acceptius, quam concilia cœtusque hominum jure sociati, quæ civitates appellantur.
CICER. Somn. Scipion.
TRANSLATED from the FRENCH.
VOL. I.
LONDON:
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MDCCLX.

SELECTED U.S. CASE LAW *Updates*

CASE 1 ***Smith v. City of Atlantic City, et al.***
138 F.4th 759 (3rd Cir. 2025)

A CITY'S DENIAL OF A FIREFIGHTER'S REQUEST FOR A RELIGIOUS ACCOMMODATION TO ALLOW HIM TO WEAR A BEARD VIOLATED TITLE VII.

In this case, a Christian firefighter requested a religious accommodation to be able to wear a beard, contrary to fire department regulations. After the fire department denied the accommodation, the firefighter sued the city, alleging that the denial of his religious accommodation request violated the Free Exercise Clause of the First Amendment, the Equal Protection Clause, and Title VII.

Smith believed men should grow and maintain beards based upon the teachings of the Holy Scriptures and early Christian theologians. Smith believed that beards emulate Jesus Christ and the prophets and are symbols of masculinity, maturity, and man's natural role as "head and leader". However, the Atlantic City fire department prohibited firefighters from wearing beards, based primarily on concerns that beards would interfere with a firefighter's use of self-contained breathing apparatus (SCBAs). However, Smith was an Air Mask Technician and, as such, did not fight fires or wear SCBAs in the performance of his job duties.

The court first addressed the plaintiff's Free Exercise claim, finding first that the government had a legitimate interest in protecting firefighters from hazardous air and finding that the fact that the department allowed closely trimmed mustaches and sideburns did not compromise the city's claim that the "no beards" rule was a neutral rule of general applicability because there was no evidence that the mustache and sideburn exceptions to the grooming rule interfered with the intended operation of SCBAs. However, the court found that two other exceptions to the "no beards" rule did render that rule not generally applicable, namely that the rule allowed administrative staff to forgo SBCA fit testing and allowed fire Captains to exempt employees from the grooming and other rules as long as the Captains bore responsibility for the rule deviation they were allowing.

Having found that the grooming rule was not generally applicable, the court determined that the rule was subject to strict scrutiny.

Applying strict scrutiny, the court found that ensuring firefighter safety is clearly a sufficiently compelling governmental interest. However, the court also found that the city's "no beards" grooming rule was not sufficiently narrowly tailored to serve that compelling safety interest. In particular, the court

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found that the city could have served its safety interest while at the same time accommodating the plaintiff's religious beliefs in at least three ways: (1) by removing the plaintiff from fire suppression duty, which had already been done in the past, (2) by reclassifying the plaintiff as a civilian not subject to the grooming policy, or (3) by at least trying to fit test the plaintiff with an SCBA to see whether the plaintiff's facial hair did, in fact, interfere with the effective operation of the SCBA. As the court said, "so long as the government can achieve its interests in a manner that does not burden religion, it must do so." Therefore, the court found that the city's policy failed strict scrutiny.

The court then addressed the plaintiff's Title VII religious accommodation claim.

Because the parties assumed that the plaintiff's religious beliefs about beards were religious and sincere, the plaintiff had told the city about the conflict, and the plaintiff had been disciplined for not adhering to the policy, the court found the plaintiff had stated a prima facie case. The court then turned its attention to whether the city would have suffered an undue hardship had it given the plaintiff the requested accommodation, noting that an employer must consider a requested accommodation and has a defense for not providing an accommodation only if the hardship the employer would suffer from making the accommodation is an undue hardship.

Referencing the recent U.S. Supreme Court *Groff* decision, the court explained that an employer suffers an undue hardship only if the accommodation would create a burden that is "substantial in the overall context of the employer's business." The burden must be more severe than a mere burden, and must rise to an "excessive" or "unjustifiable" level.

Applying this test, the court found that it would not have imposed an undue hardship on the city to have accommodated the plaintiff's religious beliefs regarding grooming. This was so, the court noted, because no Air Mask Technician, like the plaintiff, had been called upon to perform fire suppression in several decades and there were other firefighting personnel sufficient to cover emergencies. On those findings, the court stated that "the City can only theorize a vanishingly small risk that Smith will be called on to engage in the sort of firefighting activities for which an SCBA is required."

The court also found that the plaintiff had stated a prima facie Title VII retaliation claim, but ultimately found against the plaintiff on that claim. Because that claim was not directly based on his religious accommodation claim, this portion of the court's opinion will not be discussed here, other than to point out that the court found that the plaintiff's claim that the city's denial of his accommodation claim constituted, in and of itself, an adverse employment action, was without merit because, if it did, every employer's denial of a religious accommodation claim would constitute an adverse employment action for retaliation purposes, which would render the adverse employment action prong of accommodation claims superfluous. This is important because the EEOC has held otherwise.

The court rejected the plaintiff's Equal Protection claim, primarily because the court found that the plaintiff's comparators were not valid.

Based on these findings, the court entered a preliminary injunction in the plaintiff's favor, finding that the plaintiff was likely to prevail on the merits and that "the loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury."

J. Chung dissented.

CASE 2 *Nussbaumer v. Secretary, Florida Department of Children and Families*

150 F.4th 1371 (11th Cir. 2025)

A STATE DOMESTIC VIOLENCE INTERVENTION PROGRAM THAT MANDATED THE PARTICIPATION OF DOMESTIC VIOLENCE OFFENDERS BUT EXCLUDED FAITH-BASED INTERVENTION PROGRAMS DID NOT VIOLATE THE FREE SPEECH OR FREE EXERCISE RIGHTS OF RELIGIOUS PROVIDERS.

In this case, the plaintiff, who is a Florida minister with a doctorate in counseling and who is a licensed clinical Christian Psychologist, sued the state of Florida, claiming the state violated his First Amendment Free Speech and Free Exercise rights when it refused to certify him for participation in Florida's domestic violence intervention program because his program was faith-based. The statutorily created program requires those convicted of domestic violence to complete an intervention program in which private parties certified by the state provide the intervention services. However, the program prohibits intervention programs from employing any "faith-based ideology associated with a particular religion or denomination."

The court first addressed the plaintiff's Free Speech claim. In doing so, it started with the observation that, although the Free Speech Clause of the First Amendment restricts government regulation of private speech, it does not regulate government speech. The court stated that, where the government speaks, the First Amendment has no application.

The court then addressed the issue of government speech conveyed by private parties, saying that, although "[t]he government can speak directly through its own members, but a government may still 'exercise this same freedom to express its views when it receives assistance from private sources for the purpose of delivering a government-controlled message.'"

In determining whether messages conveyed by private parties are, in fact, government speech, the court applied a three

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factor analysis, taking into consideration: (1) the history of the expression at issue, (2) the public's likely perception as to who (the government or a private person) is speaking, and (3) the extent to which the government has actively shaped or controlled the expression.

With respect to the history of the expression at issue, the court determined that Florida court-ordered programs had consistently been used to convey a government message. With respect to court-ordered domestic violence programs in particular, the court noted that the state had chosen to require attendance at programs with specific content that the state believed should be communicated to counter domestic violence.

With respect to the public's perception as to who is speaking, the court found that, because the program is a government program mandated by law, the public would reasonably believe the state had endorsed the curriculum of the domestic violence intervention program.

Finally, the court found that the state had, in fact, actively shaped and controlled the expression communicated in the domestic violence intervention program because the state had always imposed minimum standards on the content of the state-mandated programs.

For these reasons, the court found that the content of the state-mandated domestic violence intervention program was government speech and, for that reason, the plaintiff's Free Speech claim could not proceed.

Turning to the plaintiff's Free Exercise claim, the court noted, first, that the Free Exercise Clause protects not only the right to harbor religious beliefs inwardly, but also protects the ability of religious believers to live out their faiths in their daily lives through the performance of and abstention from physical acts. However, the court observed that "'the government's own speech cannot support a claim that the government has interfered with a private individual's free exercise rights'" and that "'the Free Exercise Clause simply cannot be understood to require the government to conduct its own internal affairs in ways that comport with the religious beliefs of particular citizens."

Because the court had determined that the content of the domestic violence intervention program constituted government speech, the court concluded that the plaintiff's Free Exercise claim must also fail.

In conclusion, the court stated that "This case asks whether a service provider, who seeks the privilege of working with court-ordered participants, can use the First Amendment as a sword to morph the government's message into his own. He cannot."

CASE 3 *Detwiler v. Mid-Columbia Medical Center*

__F.4th __, 2025WL2700000, (9th Cir. 2025)

TERMINATED EMPLOYEE FAILED TO PLEAD A PRIMA FACIE TITLE VII RELIGIOUS ACCOMMODATION CLAIM WHERE THE EMPLOYEE'S OBJECTION TO A COVID-19 NASAL SWAB TEST WAS A SECULAR PREFERENCE RATHER THAN A BONA FIDE RELIGIOUS BELIEF.

In this case, the plaintiff, who was employed by an Oregon hospital as a Privacy Officer and Director of Health Information, sued the hospital after the hospital denied her religious accommodation request that she not be required to undergo mandatory COVID testing. The plaintiff claimed that her Christian beliefs required her to avoid taking substances into her body that could potentially cause physical harm to her body. The hospital had granted the plaintiff a religious accommodation exemption from having to receive a COVID vaccination, but drew the line on exempting her from COVID testing that required the plaintiff to have a cotton swab dipped in ethylene oxide inserted into her nostril. The plaintiff claimed that ethylene oxide was a carcinogenic substance and stated that "[a]s a Christian protecting my body from defilement according to God's law, I invoke my religious right to refuse any testing which would alter my DNA and has been proven to cause cancer. I find testing with carcinogens and chemical waste to be in direct conflict with my Christian duty to protect my body as the temple of the Holy Spirit." The hospital denied the testing accommodation request and eventually terminated her. The plaintiff sued under Title VII and Oregon's parallel state law.

The court began its analysis to determine whether the plaintiff had pled a prima facie case of failure to accommodate her religious beliefs. Although the court acknowledged that Title VII defines religion to "include all aspects of observance and practice, as well as belief", the court noted that "this protection is not limitless and does not encompass secular preferences." "Accordingly", the court stated, "a plaintiff fails to state a prima facie case if the belief motivating her accommodation request is not, in fact, religious."

In determining whether a claimant's asserted belief is religious, the court stated that, although courts "may not substitute their own judgment for that of the believer's … Nor … adjudge the reasonableness of a belief", "courts need not accept entirely conclusive assertions of religious belief." The court noted that, sometimes, secular and religious beliefs may overlap and, to the extent they do so, such beliefs are presumably protected. However, the court noted, "the challenge lies in distinguishing purely secular concerns from preferences that overlap with a bona fide religious belief.'

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The court noted that a plaintiff "need not establish her belief is consistent, widely held, or even rational. However, a complaint must connect the requested exemption with a truly religious principle. Invocations of broad religious tenets cannot, on their own, convert a secular preference into a religious conviction."

Applying these principles, the court found that the plaintiff's objection to the nasal swab testing was not religious, but merely a secular preference, because the plaintiff's belief that the nasal swab test was harmful and carcinogenic was based on her interpretation of medical research. "In essence," the court stated, the plaintiff "labels a personal judgment based on science as a direct product of her general religious tenet." Therefore, "her alarm about the test swab is far too attenuated from the broad [religious] principle to treat the two as part of a single belief." Because the plaintiff would have no objection to the nasal swab testing apart from her belief that the test was harmful and carcinogenic, "her secular judgment offers the sole basis of her objection."

For that reason, the court found that the plaintiff had failed to plead a prima facie Title VII failure to accommodate claim – although the court did acknowledge that some sister circuits had adopted the more lenient standard for which the plaintiff had contended, finding that those more lenient standards were "far too permissive" and would "result in an unmanageable expansion of Title VII protections" for secular preferences cloaked in religious terms.

Justice Vandyke dissented, arguing that the majority's standard "is unworkable and necessarily embroil courts in resolving intractable questions about how much of a claimant's religiously motivated objection is 'truly religious,' versus how much of the objection derives from an erroneous 'personal judgment based on science' … and "creates a pathway for right-thinking judges to decide which religious claims merit protection and which are too benighted to qualify." Justice Vandyke stated that he would have followed "the majority of other circuits" that have adopted the plaintiff's more lenient standard of analysis.

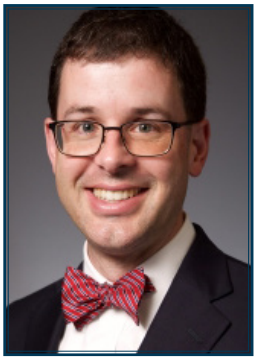
CASE 5 *Order Adopting Comment to Canon 4 of the Texas Code of Judicial Conduct*

Texas Supreme Court, Misc. Docket No. 25-9082

IT IS NOT A VIOLATION OF THE TEXAS CANONS OF JUDICIAL CONDUCT FOR A TEXAS JUDGE TO DECLINE TO PERFORM SAME-SEX MARRIAGE CEREMONIES IF DOING SO IS CONTRARY TO THE JUDGE'S RELIGIOUS BELIEFS.

This action follows a public warning that the Texas State Commission on Judicial Conduct issued against a McLennan County Justice of the Peace who refused to marry same-sex couples because performing same-sex wedding ceremonies would be inconsistent with the Justice of the Peace's religious faith. The Commission opined that the Justice of the Peace's refusal to conduct same-sex marriage ceremonies violated Canon 4 of the Texas Canons of Judicial Conduct in that her refusal to perform same-sex weddings while performing opposite-sex weddings cast doubt on her ability to act impartially as a judge. As a result of the Commission's warning, the Justice of the Peace stopped performing all weddings and sued the Commission under the Texas Religious Freedom Restoration Act, claiming that the Commission's warning substantially burdened her freedom of religion.

After the 5th Circuit Court of Appeals, amidst the Justice of the Peace's lawsuit, requested a clarification of the State's Judicial Code, the Texas Supreme Court adopted a new Comment to Canon 4 of the Texas Canons of Judicial Conduct specifically providing that *"It is not a violation of these canons for a judge to publicly refrain from performing a wedding ceremony based upon a sincerely held religious belief."*



ABOUT THE AUTHOR

JOHN BURSCH serves as Senior Counsel and Vice-President of Appellate Advocacy with Alliance Defending Freedom. He also owns and operates his own law firm, Bursch Law, PLLC. He has argued 13 cases before the U.S. Supreme Court and more than three dozen cases before state supreme courts. He served as the Solicitor General of the State of Michigan from 2011 through 2013. Bursch earned his J.D., magna cum laude, from the University of Minnesota Law School, where he served as Chief Note and Comment Editor of the Minnesota Law Review. After law school Bursch served as a law clerk for the Hon. James B. Loken of the U.S. Court of Appeals for the 8th Circuit. He has been inducted into the American Academy of Appellate Lawyers and serves as a member of the American Law Institute. Bursch frequently litigates on behalf of clients seeking to vindicate religious liberty, free speech, parental rights, marriage and families, and the right to life.

FEATURE ARTICLE

2025 Supreme Court Religious Liberty Law Round-Up

By John J. Bursch

After a somewhat quiet 2023 Term from the perspective of religious litigants, the U.S. Supreme Court returned with gusto in its 2024 Term, issuing major wins for religious plaintiffs in *Mahmoud v. Taylor* and *Catholic Charities Bureau v. Wisconsin LIRC*, and considering but ultimately punting on religious charter schools in *Oklahoma Charter Board v. Drummond*. In closely adjacent cases of interest to people of faith, the Court also upheld a state law protecting minors with gender dysphoria from dangerous and experimental drugs and medical procedures (*United States v. Skrmetti*) and ruled in favor of pro-life advocates (*Medina v. Planned Parenthood*). We'll explore each of these decisions, then touch on a few interesting cases already on the Court's docket for next Term. Let's begin.

1 *United States v. Rahimi*, 602 U.S. 680 (2024)

In a major victory for religious liberty, the Supreme Court ruled 6–3 in *Mahmoud v. Taylor* that parents have a constitutional right to be notified and opt their children out of classroom instruction that conflicts with their deeply held religious beliefs. The case arose after the Montgomery County Board of Education rescinded a policy allowing parents to excuse their children from lessons featuring storybooks that promoted LGBTQ orthodoxy contrary to the parents' faith.

In an opinion authored by Justice Alito, the Court held that forcing students to participate in this instruction "substantially interferes with the religious development of [the parents'] children." 145 S. Ct. at 2353. As such, the policy violated the Free Exercise Clause of the First Amendment. The Court made clear that the government may not compel children to absorb moral teachings that contradict their family's religious convictions—especially when reasonable accommodations are readily available, such as advance notice and opt-out options.

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This decision restores an essential balance between the state's educational interests and the fundamental rights of parents. The Constitution does not allow government officials to override parents' spiritual formation of their children in the name of inclusivity. The Court's ruling affirms that tolerance must work both ways: schools can promote respect for all people without disregarding the conscience rights of families of faith.

Mahmoud reminds public schools that families, not bureaucrats, are the primary educators of children—and that genuine pluralism requires respecting religious conscience in the public square. For faith-based communities and religious liberty advocates, this decision is a landmark affirmation that freedom of religion includes the freedom to live and raise children according to one's faith.

❷ *Catholic Charities Bureau, Inc. v. Wisconsin Labor & Industry Review Commission, 605 U.S. 238 (2025)*

In a unanimous ruling on June 5, 2025, the Supreme Court struck down denominational discrimination in *Catholic Charities Bureau v. Wisconsin Labor and Industry Review Commission*. The Court held that Wisconsin violated the First Amendment when it denied a religious exemption to Catholic Charities Bureau, a nonprofit ministry of the Diocese of Superior that provides housing, job training, and support for people with disabilities—services offered to anyone in need, regardless of faith.

At issue was whether Catholic Charities qualified for a state unemployment-tax exemption available to organizations "operated primarily for religious purposes." 605 U.S. at 241. Wisconsin officials claimed that because Catholic Charities' programs did not include worship services or religious instruction, they were primarily charitable and secular. The Supreme Court rejected that claim.

Writing for the Court, Justice Sotomayor explained that the state's approach "favors some denominations over others" based on "theological choices driven by the content of different religious doctrines." 605 U.S. at 252. The Constitution requires neutrality—not a government test of religiosity. An organization's decision to live out its faith through acts of service, rather than proselytizing, does not somehow make it less religious.

The decision strengthens constitutional protections for religious organizations across the country, especially those engaged in charitable work. It ensures that governments cannot penalize ministries simply because their faith compels them to serve everyone. Unfortunately, Wisconsin may not be finished discriminating. After remand, the Wisconsin Attorney General proposed to the Wisconsin Supreme Court that the court remedy the First Amendment violation by invalidating the statutory religious exemption entirely. The Wisconsin court has now requested briefing on that question. Stay tuned.

❸ *Oklahoma Charter School Board v. Drummond, 605 U.S. 165 (2025)*

In a closely watched case with implications for religious liberty and education, the Supreme Court issued a 4–4 decision in *Oklahoma Statewide Charter School Board v. Drummond* on May 22, 2025. The deadlock leaves in place the Oklahoma Supreme Court's ruling that blocked the nation's first religious public charter school, St. Isidore of Seville Catholic Virtual School, from opening. But importantly, the decision also leaves the larger constitutional question unresolved.

The case began when Oklahoma's Charter School Board approved St. Isidore's application to operate as a faith-based charter school that would integrate Catholic teaching throughout its curriculum. The state attorney general, Gentner Drummond, sued, arguing that a religious charter school would violate Oklahoma law requiring public schools to be nonsectarian, plus the Establishment Clause of the U.S. Constitution. The Board and St. Isidore countered that excluding faith-based schools from public charter programs violates the Free Exercise Clause by discriminating against religious organizations simply because they are religious. Because Justice Barrett recused herself, the Court heard the case with only eight justices and then split evenly – leaving the Oklahoma decision intact without setting precedent. While the result is disappointing for those who champion equal access for religious educators, it offers a silver lining: the issue remains alive for future litigation.

At stake is whether states may bar faith-based organizations from participating in neutral public programs solely because of their religious identity. Recent Supreme Court precedents – *Trinity Lutheran* (2017), *Espinoza* (2020), and *Carson v. Makin* (2022)—strongly suggest the answer should be no. That's because a state's anti-establishment interest does not justify excluding religious participants from public benefits. The exclusion of religious charter schools represents the next logical step in that line of decisions. Again, stay tuned.

❹ *United States v. Skrmetti, 145 S. Ct. 1816 (2025)*

In *Skrmetti*, a 6–3 Supreme Court upheld Tennessee's law protecting minors from irreversible medical interventions such as puberty blockers and cross-sex hormones. In so doing, the Court rejected the Biden administration's challenge to Tennessee's 2023 statute, which prohibits doctors from prescribing these treatments to minors for the purpose of gender transition. Although this is not a religious liberty law decision per se, the Court's analysis of the gender-identity issue is likely to have substantial implications in future religious-liberty cases.

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Chief Justice Roberts, writing for the majority, concluded that Tennessee's law does not violate the Equal Protection Clause of the Fourteenth Amendment because the statute does not differentiate based on sex or gender identity, only the benefits and risks of the proposed treatment. Applying rational-basis review, the Court found that Tennessee had legitimate reasons—rooted in science, ethics, and medical caution – to restrict experimental procedures that carry permanent consequences for children. In the face of scientific uncertainty about potentially life-altering medical interventions for minors, a state can protect children.

This decision represents a significant victory for children struggling with gender dysphoria. These children deserve compassionate care rooted in biological reality – not experimental and irreversible interventions. There is substantial evidence of serious long-term risks associated with puberty blockers and hormone treatments, including infertility, sterility, bone loss, and lifelong dependence on medical supervision. The Court's decision allows these states to continue protecting minors from procedures whose full effects remain unknown.

❺ *Medina v. Planned Parenthood South Atlantic, 145 S. Ct. 2219 (2025)*

Finally, in a 6–3 decision that will be of interest to many people of faith who share the conviction that unborn human lives are sacred and must be protected, the Supreme Court delivered a major win for states and pro-life advocates in *Medina v. Planned Parenthood South Atlantic*. The Court ruled that Medicaid recipients cannot sue a state under federal law to challenge the state's decision to exclude abortion providers from the Medicaid program.

The case arose after South Carolina terminated Planned Parenthood South Atlantic from its Medicaid program, citing the organization's continued involvement in abortion. Although the State continued to cover non-abortion services through other qualified providers, Planned Parenthood and a former client sued, claiming that the Medicaid Act's any-qualified-provider provision gave a private right to challenge the state's decision in federal court. A federal district court forced South Carolina to put Planned Parenthood back on the Medicaid payroll, and the Fourth Circuit affirmed.

The Supreme Court reversed. Writing for the majority, Justice Gorsuch explained that the federal Medicaid statute does not clearly create an individual right enforceable through private lawsuits. In plain terms, Congress never authorized Medicaid patients to drag states into court over provider eligibility decisions. The Court emphasized that oversight of Medicaid programs rests with the federal government, not with individual litigants or abortion providers seeking to preserve public funding.

The decision restores proper limits on federal judicial power and strengthens states' ability to protect life and conscience in their health-care programs. It ensures that taxpayers are not compelled to subsidize organizations that perform or promote abortion – the intentional taking of innocent human life. And it is a crucial step toward disentangling taxpayer dollars from abortion and reaffirming the states' moral authority to defend the dignity of every human being, born and unborn.

What's Next?

The Court is already moving full speed ahead into its 2025 Term, and it could be a blockbuster.

In October, the Court heard oral arguments in *Chiles v. Salazar* and considered whether a Colorado law violates the First Amendment when it prohibits licensed counselors from helping minors with gender dysphoria seek change to regain comfort with their bodies. The penalty? Loss of the license to practice! ADF represents Petitioner Kaley Chiles, a licensed professional counselor in Colorado who seeks to live out her Christian faith in every aspect of her life, including her work.

At oral argument on December 2, the Court will consider a jurisdictional question involving First Choice Women's Resource Centers, a Christian, pro-life, medical nonprofit that serves pregnant mothers, mothers of newborns, and fathers. New Jersey's attorney general targeted ADF client First Choice by demanding that the nonprofit disclose its donors' identity and information on the allegation – with no complaints or evidence – that donors may have contributed without realizing that First Choice does not perform abortions. (Not likely.) The question is whether the federal courts must decide First Choice's federal constitutional claims or whether those courts should instead defer to New Jersey state courts.

In January, the Court will consider a pair of cases, *Little v. Hecox* and *West Virginia v. B.P.J.*, to decide whether states have the authority to protect women's safety and fairness by assigning sports teams based on sex rather than gender identity. The Fourth Circuit in *B.P.J.* held that such laws – adopted in 27 states – violate Title IX. And the Ninth Circuit in *Hecox* held that such laws violate the Equal Protection Clause. ADF is co-counseling with the Attorneys General of Idaho and West Virginia in the cases. With male athletes identifying as women and frequently winning women's athletic competitions, the future of women's sports is at stake. As legal "sequels" to *Skrimetti*, these will also be critical harbingers of how the Court will address gender-identity issues in future religious-liberty cases.

❶ ADF filed an amicus brief in support of the Petitioners.
❷ ADF filed an amicus brief in support of the Petitioner.
❸ ADF represented the Petitioner.
❹ ADF filed an amicus brief in support of the Respondent.
❺ ADF represented the Petitioner and Mr. Bursch argued the case.

NEWS *and* ANNOUNCEMENTS

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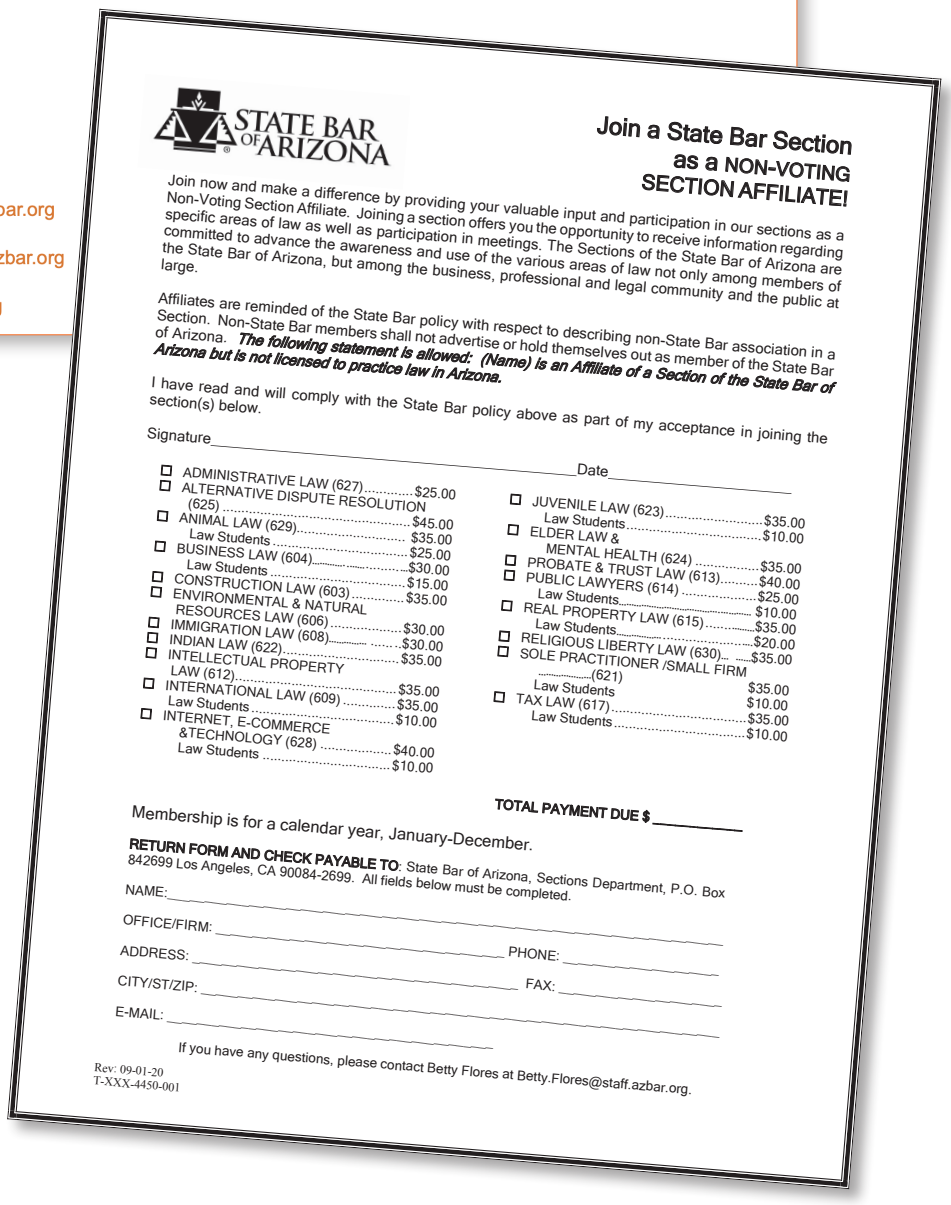

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If you have any questions, please contact Betty Flores at Betty.Flores@staff.azbar.org.

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T-XXX-4450-001

RESOURCES

LAW RESOURCES

Federal Statutes

Religious Freedom Restoration Act of 1993 – 42 U.S.C. § 2000bb, et seq.

Religious Land Use and Institutionalized Persons Act (RLUIPA) – 42 U.S.C. § 2000cc, et seq.

Equal Access Act – 20 U.S.C. § 4071

Executive Orders

February 6, 2025, Executive Order: Eradicating Anti-Christian Bias.
www.whitehouse.gov/presidential-actions/2025/02/eradicating-anti-christian-bias

Office of the U.S. Attorney General

October 6, 2017 Memorandum: Federal Law Protections for Religious Liberty.
www.justice.gov/crt/page/file/1006786/download

October 6, 2017 Memorandum: Implementation of Memorandum on Federal Law Protections for Religious Liberty.
www.justice.gov/crt/page/file/1006791/download

July 30, 2018 Memorandum: Religious Liberty Task Force.
www.justice.gov/opa/speech/file/1083876/download

U.S. Department of State

February 5, 2020 Declaration of Principles for the International Religious Freedom Alliance.
www.state.gov/declaration-of-principles-for-the-international-religious-freedom-alliance

2019 Annual Report of the U.S. Commission on International Religious Freedom.
www.uscirf.gov/sites/default/files/2019USCIRFAnnualReport.pdf

July 26, 2019 2nd Annual Ministerial to Advance Religious Freedom: Remarks by Vice President Pence.
https://trumpwhitehouse.archives.gov/briefings-statements/remarks-vice-president-pence-2nd-annual-religious-freedom-ministerial

U.S. Department of Justice and U.S. Department of Education

January 16, 2020 Guidance on Constitutionally Protected Prayer and Religious Expression in Public Elementary and Secondary Schools.
www2.ed.gov/policy/gen/guid/religionandschools/prayer_guidance.html

U.S. Department of Health and Human Services

Final Regulations Protecting Statutory Conscience Rights in Health Care 45 CFR Part 88
www.hhs.gov/sites/default/files/final-conscience-rule.pdf

U.S. Department of Veterans Affairs

VA Directive 0022, Religious Symbols in VA Facilities.

Arizona Statutes

Arizona Freedom of Religion Act –
Ariz. Rev. Stat. § 41-1493.01

Other Resources

American Charter of Freedom of Religion and Conscience.
http://www.americancharter.org

Religious Liberty Law Section

EXECUTIVE COUNCIL

CHAIR
Steven D. Keist
Keist Thurston O'Brien
steve@ktolawfirm.com

VICE-CHAIR
Brian M. Bergin
Bergin, Frakes, Smalley & Oberholtzer, PLLC
bbergin@bfsolaw.com

SECRETARY/BUDGET OFFICER
Kyle McCutcheon
Provident Law
kyle.mccutcheon@providentlawyers.com

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Andrew J. Petersen
Humphrey & Petersen PC
apetersen@humphreyandpetersen.com

MEMBER AT LARGE
Kevin L. Beckwith
The Law Office of Kevin L. Beckwith, P.C.
kbeckwith@kevinbeckwithlaw.com

MEMBER AT LARGE
Brian M. Bergin
Bergin, Frakes, Smalley & Oberholtzer, PLLC
bbergin@bfsolaw.com

MEMBER AT LARGE
Sierra A. Brown
Alliance Defending Freedom
sbrown@adflegal.org

MEMBER AT LARGE
Michael L. Kitchen, Jr.
Sacks Tierney
michael.kitchen@sackstierney.com

MEMBER AT LARGE
Mark E. Lassiter
The Lassiter Law Firm
mlassiter@lassiterlawfirm.com

MEMBER AT LARGE
Bethany S. Miller
Center for Arizona Policy
bmiller@azpolicy.org

MEMBER AT LARGE
Scott C. Uthe
Timothy D. Ducar, PLC
scuthe@gmail.com

MEMBER AT LARGE
Charlene Anne Warner
Snell & Wilmer
cwarner@swlaw.com

MEMBER AT LARGE
Mark A. Winsor
Winsor Law Group
mark@winsorlaw.com

SECTION ADMINISTRATOR
Mona Fontes
State Bar of Arizona
mona.fontes@staff.azbar.org