

Federal Court Debates on Potential Overturn of LGBTQ Employment Protections



The United States Court of Appeals for the Fifth Circuit held oral arguments on Tuesday in the case of *Braidwood Management v. EEOC*. This is a class-action lawsuit filed by a wellness business and a church seeking a declaratory judgment that the First Amendment and the Religious Freedom Restoration Act (RFRA) allow for employment policies that prohibit "homosexual or transgender behavior" for either religious or non-religious reasons. This lawsuit comes in the wake of the Supreme Court ruling that Title VII of the Civil Rights Act of 1964 protects LGBTQ employees.

The Fifth Circuit is hearing the case on appeal from a United States District Court of Northern Texas decision written by Judge Reed O'Connor. O'Connor was appointed by former President George W. Bush in 2007 and gained notoriety for his 2018 ruling that the Affordable Care Act was unconstitutional due to violation of the nondelegation doctrine. This ruling was eventually reversed on appeal, with attorneys representing both sides of the legal conflict in the 2012 and 2015 Supreme Court hearings on the Affordable Care Act calling the ruling "lawless" in a New York Times opinion article.

During oral arguments, Ashley Cheung Honold of the Department of Justice argued on behalf of the EEOC. Honold claimed that the District Court had issued a series of "categorical, abstract rulings" untethered to any particular facts and without a concrete case or controversy. She also declared O'Connor's opinion a "violation of Article III principles." She argued that it was inconsistent with Supreme Court precedent, which stresses the need for individualized analysis.

John Mitchell, counsel for Braidwood Management, defended the case by highlighting the "unpalatable options" faced by the plaintiffs. Mitchell argued that the plaintiffs were faced with either violating their religious beliefs by allowing homosexual or transgender behavior or facing the risk of immediate penalties from the government. Under questioning from the court, Mitchell admitted that the plaintiffs' religious conduct had not been chilled but instead argued that the threat of prosecution had caused a chilling effect.

The outcome of this case has the potential to impact the rights of LGBTQ employees in the United States, particularly about religious freedom. The oral arguments before the Fifth Circuit provided a glimpse into the arguments being made by both sides and the legal principles being invoked. The decision of the Fifth Circuit will be eagerly anticipated by those who have a stake in the outcome of this case.

REFERENCES:

US federal court hears arguments in case that could overturn LGBTQ employment protections