

US Supreme Court extends exemption of contraception mandate for church-affiliated institution

Alan Gilman
27 January 2014

The US Supreme Court on Friday extended a temporary order from Justice Sonia Sotomayor exempting Little Sisters of the Poor from certifying that it is a religious institution in order to be exempt from paying for contraception coverage, as required by the Affordable Care Act (ACA), Obama's health care overhaul. The order was unsigned and applies pending further court action in the case.

The Little Sisters of the Poor is a Catholic order of nuns that runs 30 nursing homes throughout the country, employing several hundred workers, many of whom are not affiliated with the religious order.

The Affordable Care Act mandates that most health insurance plans have to cover all Food and Drug Administration-approved contraceptives as preventive care for women, free of cost to the patient. Churches and other houses of worship are exempt from this requirement, but under the initial law affiliated institutions that serve the general public were not. That includes charitable organizations, universities and hospitals.

Last year, in the face of opposition from Catholic and Protestant fundamentalist groups, the Obama administration exempted church-affiliated institutions from paying the cost of contraceptive coverage for their employees, requiring insurance companies to cover the cost themselves. In order to qualify for this exemption, institutions like Little Sisters need only certify that they are nonprofit organizations and because of religious objections are opposed to providing coverage for some or all contraceptive services.

Emboldened by the administration's capitulation, the religious right filed this federal suit on behalf of the Little Sisters of the Poor, asserting that the mere act of

filling out the form to claim the exemption from this mandate violates their religious freedom, since it would result in authorizing their insurance company to provide contraceptive coverage to employees.

In the case of Little Sisters, however, an even further loophole in the requirement is exposed. The insurance broker used by the order, the Christian Brothers Employee Benefit Trust, is a Catholic group that has already been exempted from the contraceptive mandate by the Obama administration. In other words, the lawsuit seeks to "protect" the group of nuns from a non-existent threat in an effort to obtain a further right-wing ruling from the Supreme Court.

The lawsuit has been funded by the far-right Beckett Fund for Religious Liberty.

Making clear its willingness to accommodate the religious institutions, the Obama administration's solicitor general, Donald Verrilli, responded to the Supreme Court ruling by saying, "With the stroke of their own pen [by certifying that they are a religious institution], applicants can secure for themselves the relief they seek from this court—an exemption from the requirements of the contraceptive-coverage provision."

In pursuing the case, Little Sisters asserts that by the government requiring it to certify that it is a religious institution, it is forced to participate in "the government's system to distribute and subsidize contraception."

This argument directly attacks the separation of church and state by granting religious organizations the right to impose their religious beliefs on their employees, irrespective of their employees' beliefs, as well as extending this to third parties, in this case insurance companies. Consequently the workers

employed by such organizations must comply with the religious dictates of their employer.

The Supreme Court initially intervened in this suit when Justice Sotomayor blocked the contraceptive coverage mandate for the nuns on New Year's Eve, only hours before that portion of the law's coverage was to go into effect.

In Friday's ruling the Supreme Court enjoined the federal government from enforcing the ACA mandate against the Little Sisters of the Poor and their plaintiffs while their appeal is pending.

The Supreme Court has already agreed to hear two other cases involving for-profit companies that have religious objections to this same requirement. One case involves Hobby Lobby, which runs more than 500 arts-and-craft stores, employs about 13,000 people and operates its business "in a manner consistent with biblical principles," according to the company. Hobby Lobby is also being represented by the Beckett Fund For Religious Liberty.

The other case involves Conestoga Wood Specialties, a Pennsylvania woodworking firm run by a Mennonite family that employs almost 1,000 workers. Both cases are expected to be argued before the Court in March.



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