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BAKING A GAY CAKE



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First published December 17, 2017

As usual, this is just my opinion.

This is concerning the baker who refused to make a wedding cake for a gay couple. He said he didn't want to and shouldn't be forced to do so. Although I am generally in favor of gays rights and agree with the laws banning discrimination based on sexual orientation, in this case I agree with the baker. Why? You are about to find out.

It is called common sense, which is apparently now obsolete. I read an article at *The Washington Post* on this baker question entitled "[The Supreme Court Cake Case has an Easy Answer](#)". It does indeed, but the author there missed it completely—I suspect purposefully. He had nothing to add to the question, simply stating that the baker should obey the law and make the cake. And if we go to reports on the initial proceedings at the Supreme Court, we again see a complete missing of the point. It appears these top judges can't figure this one out. They can't even come up with good questions to ask the attorneys. To me the whole thing looks scripted to avoid sense, as usual.

The baker's attorney is also misdirecting away from common sense and the easy answer, since he is framing this as a free speech issue. That sounds ridiculous, and I have to believe it was meant to sound ridiculous. The last thing they want you doing is making sense *of anything*.

Legally and logically, the whole question hinges on the difference between selling pre-manufactured widgets or wombats or donuts and selling special-order items. It concerns **work for hire**. If you are just cranking out hundreds or thousands or millions of similar items, then you can't claim you are too picky about your projects. But if you are someone like me, producing very small numbers of one-of-a-kind items (paintings, in my case), you can. I can't possibly serve all comers, so I can pick my projects. There is no way the government could force me to paint for everyone who offers to pay me. So I can easily refuse work, without even having to give a reason. I will have a reason, but I don't have to state it. It could be that I am too busy, or it could be that I am just not interested in the project. And that is just how it should be. You shouldn't be able to force people to do work they don't wish to do. Forcing people to work is slavery, not civil rights. If you forced me to paint something I didn't wish to paint, *my* civil rights would be violated.

The other big issue here not being addressed is your right to work with whomever you want, and *not* to work with whomever you want. You shouldn't be forced to spend time with people you don't wish to spend time with, for whatever reason. You shouldn't even be required to give a reason. It is your private affair. If you are selling pre-made donuts, you don't have to “work with” the customer to any degree. You take their money and they go. You don't have to know anything about them, and in most cases wouldn't know if they were gay or not. But if you are making a special-order cake, you *do* have to work with the customer. You have to spend some time talking to them: *finding out what they want*, and so on. If you are just selling donuts, you don't have to care what the customer wants. You can make the donuts you like, and if the customer doesn't like them, so what? Yes, you won't make as much money that way, but you are free to do that if you wish. And you know what, everyone who works for themselves works that way to some extent. They make the things *they like*. That is why they chose that business instead of another business: it appealed to them. That is the way it should be.

You will say I am just making excuses, and that I am really a homophobe who doesn't paint gay people because I don't like them. But that isn't true. I don't paint men in general, gay or straight, but it isn't because they are gay or straight. It is because I am far more interested in painting women—for obvious reasons. That doesn't mean I don't like men, it just means that I am not inspired to paint them. I like to have men as friends, but not so much as models. That is pretty much the definition of being a straight artist. Would it do anyone any good to force me to paint men? No. Supposing you could force me to do anything, the paintings would be garbage. My heart wouldn't be in it and it would show.

Which is another reason I don't understand the gay couple making a big deal out of the cake thing. I actually think they are agents and this whole case is another project, because it makes no sense. If I were a gay guy getting married and some baker said he didn't wish to make my cake, I would go find someone else to do it. Do you know why? Because that baker would be sure to do a lousy job, and I want a great cake. I want to find someone who is excited about making my wedding cake. I don't want to force some poor guy to make a cake he doesn't want to make.

So that is the lines the Supreme Court case should be argued on, not free speech. In that way, the Court could find in favor of the baker without jeopardizing standing civil rights laws in any way. No, the baker cannot put a sign in his window saying he doesn't serve gays, and he can't refuse to sell a pre-made donut to someone who “looks” gay. But he can refuse work-for-hire, for any reason or no reason. A specialty cake is work-for-hire.

Do you really think nine Supreme Court justices can't figure that out? Do you think the baker's lawyer can't figure that out? Just one more reason I believe this case is a fake. I wouldn't be surprised if the baker was also gay, in on the gag.

If you still don't agree, think of it this way: this gay couple is basically arguing they have an unalienable *right to hire*. That right is supposed to be some sort of civil right, we are told. But there is no such thing as a legal right to hire. If there were, then every person would have equal access to every worker. Everyone would have equal access to the services of Jodie Foster, for instance. She offers herself as an actor, so why shouldn't she come act for me? If I put money on the table, I should have the same access to her as Disney or MGM, right? Furthermore, if I don't like her normal acting, I should be able to hire her to act as I want her to, right? If this gay couple can demand any cake they want, I should be able to demand any kind of acting I want, and she should have to do it. If she doesn't, then I can claim she doesn't want to work with me because I am a straight man—and that my civil rights have thereby been violated.

Or say I want to buy some art. Well, I should be able to hire Cindy Sherman if I want to. And if I don't like the kind of art she normally does, I should be able to hire her to do art I like better. Maybe I want her to paint me a painting like Bob Ross.



I will be told a wedding cake isn't analogous to either of my examples here, since it is neither rare nor art. But, again, the question doesn't hinge on the cake being art or being rare. It hinges on the cake being on a limited list of things being offered by an artisan. An artisan has a list of things he or she does, which is basically a list of “things I enjoy making”. Most things aren't going to be on that list. The menu is limited, and a customer has no unalienable right to order off-the-menu. The artisan may agree to work off-the-menu, but he isn't required to. In fact, this would apply even to mass-produced items, like pancakes at IHOP. IHOP can't refuse to serve pancakes to gays or blacks or women, but it doesn't have to offer off-the-menu items to anyone. Say this gay couple came into IHOP and demanded a pancake in the shape of a phallus. Would IHOP be required to provide that pancake, as a nod to civil rights? Of course not.

Well, you will say, what if the gay couple came into the bakery and tried to purchase a pre-existing wedding cake? They simply planned to take it home and take the wife off, replacing her with a second husband. In that case, yes, I agree, there isn't much the baker can do at that point, under the current laws. The cake isn't work for hire, and he can't argue it isn't on his menu.

However, even in this case I feel he shouldn't be forced to sell. It rubs me the wrong way, since I wouldn't want the government forcing me to sell my creations to people I don't like. My work means a lot to me, and I don't want it ending up in the wrong hands. In my case, that doesn't mean gay people. In fact, I *have* sold to gay people, not that it was ever a factor in the sale. No, in my case it means rich vulgar people who I don't like for whatever reasons. You will say that this baker disliking people just because they are gay isn't right, and I agree. But maybe he didn't dislike them *just* because they were gay. Maybe he disliked them because they weren't very likeable. Not all gay people are likeable, you know. But regardless of that, you can't force people to like one another. You can't legislate stuff like that.

The point of these laws against discrimination is to be sure minorities have equal access to commodities and services, specifically things like housing, food, clothing, jobs, and so on. The laws make total sense in that regard. But you can't legislate equal access to everything, as I showed above. No matter what you do, artists and artisans are going to make what they want and sell to whom they want, and I see nothing wrong with that. As the direct creator, author, or builder, they should have that right, even in the case they are small-minded about it. But this can have very little effect on the larger

market, because most things aren't sold that way. Houses aren't sold that way, except in the rarest of cases. Maybe a few Frank Lloyd Wright houses were sold that way by Frank, but I would say he had the right to sell his houses to whomever he wanted. If he took a disliking to me and refused to sell me his house for whatever reason, good or bad, I would think it was his right.

So let's look at houses, to show this isn't a matter of luxury items, specialty items, or art. Houses already on the market can't be refused to gays, for obvious reasons. In that case there is no possible argument for not selling to them. But if a gay person came to a builder with plans for a house, and tried to hire him, the builder automatically should have a right to say no. The builder may not wish to build that house for any number of reasons, including the reason that the design didn't appeal to him. And yes, maybe the design was "too gay", whatever that might mean to the builder. In any case, the builder has the right to like what he likes and dislike what he dislikes, without having to justify it in court. And anyway, we have to assume there are plenty of high-end gay architects, so we don't have to worry about our gay person going homeless.

But back to the case at hand. On the way out, I beg you to consider how strange it is that this baker case ever hit the papers or came to trial. Consider how easy it is not to sell to someone, giving any excuse you like. We have all done it, or something similar. It is easy to get out of things, without having to give your real reason, isn't it? "What is the wedding date? Oh, sorry, I am booked until then." "I just sprained my wrist and won't be making any specialty cakes for two months." "My assistant just quit, so I have no help right now." "My mother died and I have to go to Chicago for three weeks." "I go in for surgery on my shoulder next week and will be out for six weeks". And so on and so on.

And if the cops get called, the baker can still hedge: "I didn't refuse service because this guy is gay, I refused service because he is a pushy asshole who was rude and said I was short and ugly". It is then the baker's word against the gay's, and courts aren't interested in such squabbles. So why did this baker—being in retail and surely knowing the laws about equal access—decide to admit he was refusing service based on sexual orientation? Does that make any sense to you? Don't you think people refuse service all the time and find some way to avoid confrontation? Of course they do. I have done it and so have you. I have been refused service myself, and in a couple of cases I suspect it was because the person didn't like the way I looked. I suspect it was because of how I was dressed or how my hair was styled. It may have even been because the person thought I was gay. I am not gay, of course, but I do dress with a bit too much flair and color for some people, so who knows. Did I think of making a stink about it? No. I just took my business elsewhere. That is the way the world really works.

Which means. . . this baker case has all the signs of being another project. It was probably manufactured by the same people who manufacture every other project. Why? Well, we saw the answer to that above: they want to create these laws and customs by which you *must* perform for them. In an older paper, I recommended you boycott the billionaires and all their businesses, products, and projects. But if they can pass these laws and interpret them broadly enough, you won't be able to boycott anyone for any reason. Not only will you have to sell to them, you will have to *buy* from them. Yes, they are slowly pushing the laws and customs in that direction, so that when they are finished redefining the law, you can be jailed or fined for not working with the rich. Boycotting the rich will then be defined as violating *their* civil rights. If you think that is a stretch, you need to sit for a while and chew on the question, because it isn't a stretch at all. It is precisely where society is moving.

The rich see a revolution coming, and they want to prevent any manifestation of it on any level. In the past century, they have become less afraid of a violent uprising and more afraid of broad consumer

boycotts, bank runs, and such things. So they are revamping the laws in answer to that fear. In my opinion, that is what this current story is about. Big mainstream stories are never about what they seem to be about. Remember that. You always have to dig deeper.