

Burwell v. Hobby Lobby (2014)

In the 2014 case *Burwell v. Hobby Lobby*, the US Supreme Court ruled that the contraceptive mandate promulgated under the Patient Protection and Affordable Care Act violated privately held, for-profit corporations' right to religious freedom. In 2012, the US Department of Health and Human Services issued the contraception mandate, which required that employer-provided health insurance plans offer their beneficiaries certain contraceptive methods free of charge. In a five to four decision, the US Supreme Court maintained that the mandate, in cases of privately held, for-profit organizations like Hobby Lobby Inc., violated the Religious Freedom Restoration Act of 1993. Although the Court did not decide on the constitutionality of the mandate, their ruling enabled privately held, for-profit corporations that objected to the contraceptive mandate on religious grounds to be exempt from it.

On 23 March 2010, US President Barack Obama signed the Patient Protection and the Affordable Care Act, or ACA, into law. The ACA was a legislative overhaul of the US healthcare system that sought to minimize the number of uninsured US citizens. Many of the ACA's reforms were directed towards healthcare insurers and mandated which services they were required to cover. The ACA included a provision requiring employer-sponsored health insurance plans to cover certain preventative health services at no cost to the individual. In the provision, the ACA granted the US Department of Health and Human Services, or HHS, in Washington, D.C., authority to determine which preventive services health insurance plans must cover.

On 15 February 2012, the HHS, the US Department of Labor, and the US Department of Treasury finalized regulations that detailed which preventative health services insurers had to cover. Insurance plans had to cover all contraceptive methods approved by the Federal Food and Drug Administration, or FDA. According to the mandate, all employer-sponsored health care plans had to cover fourteen methods of contraception, free of cost to all female enrollees. Starting in 2014, all companies who failed to offer their employees health care plans that met all aspects of the ACA, including the contraceptive mandate, were charged a daily one-hundred-dollar tax penalty for each affected employee. If a corporation instead chose not to offer any healthcare plans to employees, the corporation was charged a 2,000 dollar fine each year for each employee it failed to insure. However, the HHS regulations included exceptions for certain corporations. Under the HHS regulations, non-profit religious organizations, such as religiously-affiliated hospitals, were not required to meet the contraceptive mandate.

On 12 September 2012, Barbara and David Green, along with their children Mart Green, Steven Green, and Darsee Lett, filed a lawsuit in the US District Court for the Western District of Oklahoma in Oklahoma City, Oklahoma, on behalf of their family-owned company, Hobby Lobby Stores Inc. The Hobby Lobby Corporation included over 500 stores that sold arts and crafts supplies throughout the United States. According to Green, the founder and CEO of Hobby Lobby, all of the stores that he had founded, including the first store opened in 1976, incorporated his Christian beliefs into their everyday functions. In 2012, Green and his son Steven, who was the president of the company, maintained ownership of all of the Hobby Lobby stores.

The Greens filed their suit against the director of Health and Human Services, or HHS, Kathleen Sebelius, and challenged the HHS contraceptive mandate of the Affordable Care Act. The Greens argued that the contraceptive mandate of the ACA violated the Religious Freedom Restoration Act of 1993, or RFRA, and the Free Exercise Clause of the First Amendment to the US Constitution. The RFRA prohibited the national government from substantially burdening individuals exercising their religious beliefs. The RFRA stipulated that the government can only burden one's religious

exercise if the government's actions meet two requirements.

First, the government's actions must advance a compelling government interest. Specially, the US government has an obligation to promote the general interest of its citizens. In the case of the ACA and the contraceptive mandate, the HHS argued that the mandate aimed to promote and protect the health of its citizens by offering women all FDA-approved contraceptive methods. Second, the government's actions must achieve that compelling interest in the least restrictive means possible. Though the government has a duty to promote the general interest of the public population, RFRA limits the scope of that power by requiring government interests to be advanced in a manner that limits the burden those actions place on religious freedoms.

According to the Greens, the contraceptive mandate interfered with their corporation's right to exercise their religious beliefs by forcing their employer-provided health plans to cover four FDA-approved contraceptive methods that they considered to induce abortions. The four contraceptive methods challenged by the Greens included two emergency contraceptive pills, Plan B and Ella, and two intrauterine devices, ParaGrad and Mirena. The Greens argued that under their religious beliefs, life begins when an egg is fertilized and that emergency contraceptive pills and intrauterine devices both have the potential to prevent a fertilized egg from implanting in the uterus. The Greens argued that those methods induced abortions by terminating fertilized eggs, which the Greens objected to on religious grounds. The Greens claimed that being mandated to cover those contraceptive methods violated their rights to exercise their religious freedoms enumerated in the First Amendment to the US Constitution and protected by the RFRA.

In response to the Greens' arguments, the HHS contested Hobby Lobby's ability to make claims under the RFRA. The HHS argued that the RFRA, as drafted by US Congress, protected only an individual's right to freedom of religion. A for-profit corporation, the HHS claimed, did not constitute an individual. According to the HHS, Hobby Lobby was a company composed of individuals with many different beliefs. The HHS argued that Hobby Lobby could not claim that the contraceptive mandate burdened the corporation's religious beliefs, as they were a non-religious corporation comprised of individuals capable of exercising their personal religious beliefs.

During the initial stages of the case, the Greens and Hobby Lobby sought a preliminary injunction that would require the HHS to cease enforcement of the contraception mandate to the involved parties for the duration of the trial. With a preliminary injunction, Hobby Lobby would not be charged any tax penalties for failing to meet the contraception mandate of the ACA until the case was decided. In November 2012, however, the judge who heard the case, Joe Heaton, denied Hobby Lobby's request for a preliminary injunction. According to Heaton, for-profit organizations, such as Hobby Lobby Inc., are not religiously affiliated and therefore cannot claim rights to religious freedom.

In December 2012, Hobby Lobby appealed Heaton's decision to the US Court of Appeals for the Tenth Circuit in Denver, Colorado. The Tenth Circuit Court disagreed with the district court's decision, stating that for-profit organizations could claim rights to religious freedom and that Hobby Lobby had standing to sue the HHS. On 27 June 2013, the Tenth Circuit reversed the district court's initial denial of injunction. The appeals court sent the case back to Heaton who granted Hobby Lobby's request for an injunction on 19 July 2013. That meant that employee health care plans offered by Hobby Lobby Inc. would not be required to meet the contraceptive mandate and that the tax penalties associated with the ACA would not apply to Hobby Lobby for the duration of the trial.

Soon after, the US federal government, disagreeing with the lower court's decision, petitioned the US Supreme Court in Washington, D.C., for a review of the Tenth Circuit Court's decision. The US Supreme Court granted the request for review on 26 November 2013. The US Supreme Court agreed to hear the case and consolidated Hobby Lobby with a similar case, in which Conestoga Wood Specialties, a for-profit corporation from Pennsylvania, challenged the contraceptive mandate of the ACA on similar grounds. On 25 March 2014, the US Supreme Court began to hear arguments for the case. On 10 April 2014, the Secretary for the HHS, Sebelius, resigned. Appointed as the new head of the HHS, Sylvia Burwell inherited the case on behalf of the department. The case was then renamed *Burwell v. Hobby Lobby*.

On 30 June 2014, the US Supreme Court decided *Burwell v. Hobby Lobby*. The Supreme Court voted

5 to 4 in favor of Hobby Lobby. Five Justices, Samuel Alito, John Roberts, Antonin Scalia, Anthony Kennedy, and Clarence Thomas, joined the majority opinion authored by Alito. In that opinion, Alito argued that the contraceptive mandate of the ACA placed a burden on the exercise of religion of Hobby Lobby, a corporation that indeed counted as an individual with the ability to practice religion. Hobby Lobby, Alito argues, was protected under RFRA. The ACA, Alito argued, violated Hobby Lobby's rights under RFRA by compelling Hobby Lobby to provide certain contraception methods that burdened the corporation's religious beliefs, but failed to do so in the least restrictive manner.

The US Supreme Court's ruling determined a for-profit corporation's ability to be classified as a person under the RFRA. The HHS argued that the regulations established by the contraceptive mandate applied only to the corporations themselves and so could not burden individuals managing the companies. Due to that, the Department claimed that the contraceptive mandate did not burden the religious views of the Greens and only established requirements for Hobby Lobby Inc., a corporation incapable of holding religious views under the RFRA. Five of the nine justices of the Supreme Court, on the other hand, held that the definition of persons included corporations and therefore Hobby Lobby could make free-exercise claims under the RFRA. According to the majority ruling, authored by Justice Alito, the Affordable Care Act did not specify what would and would not be considered a person. The majority relied on the dictionary definition of person, which they argued, included corporations and thus Hobby Lobby's exercise of religion could be infringed on under the RFRA.

The contraceptive mandate, Hobby Lobby argued, forced Hobby Lobby and other religiously affiliated corporations to choose between violating their religious principles and paying burdensome penalties for failing to meet the requirements of the mandate. Ruling in favor of Hobby Lobby, the court concluded that the burden placed on each corporation was substantial.

Under the RFRA, government actions can only burden a person's right to practice religion when the action promotes a substantial government interest and is the least restrictive way of accomplishing the governments intended goal. The Court, ruling partially in favor of the HHS, agreed that the contraceptive mandate promoted the significant government interest of promoting the health of its citizens. According to the HHS and Alito, author of the majority opinion, the government had a compelling interest in guaranteeing women have cost-free access to all FDA approved contraceptive methods.

Although the majority of justices agreed with the Department that the contraceptive mandate fostered a government interest, the five justices ultimately concluded that the government failed to accomplish their intended interest in the least restrictive manner. According to Alito, the government could have proposed other means of guaranteeing women access to the four debated methods of contraception without requiring employers to provide them through employee health plans.

Four Justices, Ruth Bader Ginsburg, Sonia Sotomayor, Stephen Breyer, and Elena Kagan, joined the dissenting opinion authored by Ginsburg. In the dissenting opinion, Ginsburg argued that the ACA's contraceptive mandate exemplified the least restrictive way the government could ensure that women had access to necessary contraception. According to Ginsburg, research conducted by the Guttmacher Institute, headquartered in New York City, New York, and Washington, D.C., predicted that the contraceptive method would reduce unintended pregnancies and abortions in the US. The exemption for for-profit organizations, Ginsburg argued, prevented women from receiving contraceptive care and jeopardized the overall health and well being of women working for those corporations. In a 5 to 4 ruling, the Court concluded that the contraceptive mandate of the ACA violated RFRA, meaning the government had to offer exemptions to religious for-profit corporations that claimed the contraceptive mandate burdened their religious beliefs.

Organizations opposed to the Supreme Court's ruling in *Burwell v. Hobby Lobby* argued that the consequences of the case would continue beyond the contraceptive mandate of the ACA. According to Adam Sonfield, a publisher for the American Medical Association's *Journal of Ethics*, the religious exemptions could potentially be applied to prevent organizations from providing necessary coverage for numerous other health care services. Supporters of the majority court's decision, such as the Becket Fund, a Washington, D.C., law firm that protects religious freedom in the US, argued that

Burwell v. Hobby Lobby exemplified a victory for religiously affiliated organizations. According to the Becket Fund, the court's decision protected the constitutional right of corporations to exercise their religious freedom.

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