



The US gay cake case

By **Mark Callaghan** - 28 June 2018

The US Supreme Court recently ruled in favour of a baker in Colorado, who refused to bake a wedding cake for a gay couple. The owner of the shop, Mr Jack Phillips, cited his Christian beliefs when he said that he would not provide a cake for a same-sex couple.

The couple felt understandably wronged and brought their case to the Colorado Civil Rights Commission (CCRC); the resulting case focussed on whether Mr Phillips' refusal was justified under the US's first amendment guaranteeing free speech. In a 7-2 majority judgment, the US Supreme Court stated that the first instance court, which ruled in favour of the couple, had violated the baker's first amendment rights.

It is important to note that the Supreme Court's ruling is narrow in scope and does not create an exception to the US law requiring public accommodation for religious speech. It did not provide guidance on whether a business in the US can refuse to serve gay people altogether, instead focussing on the treatment of Mr Phillips by the lower court. Justice Anthony Kennedy, in the majority judgment, said the CCRC had demonstrated "hostility" to the baker's beliefs when it ordered him to undergo anti-discrimination training.

The case is nevertheless likely to be seen as a blow to equality and LGBTQ campaigners and perhaps as a boon to free speech activists.

A case with similar facts is currently making its way through the UK system. The Court of Appeal upheld the County Court's decision that a Christian bakery had discriminated against a customer when it refused to bake a cake decorated with the slogan "support gay marriage". The court said that the bakers were not entitled to provide a service solely to customers sharing their own beliefs. The owners of the bakery appealed to the UK Supreme Court who heard arguments from both sides in May; the judgment is awaited.

For the time being, we are left to feed off the crumbs of the US case.