

# I Failed 'Be a Light' Opportunity to Defend 303 Creative Case Before SCOTUS

To: The Epoch Times Editorials.

Cc: SCOTUS; 303 Creative, LLC; UPEP

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Early this morning, as I was reflecting on last night's Constitutional Law course where we did a Moot Court practice of arguing sides on a case presently before the Supreme Court of the United States (SCOTUS); I realized I missed two opportunities to defend the pro-freedom-of-religious-belief-and-speech precedent-setting position of 303 Creative before SCOTUS, in front of the class of 12 intelligent inmate students and 3 University of Utah staff. I felt reprimanded by the Spirit as I realized I did not seize the opportunity, which created a void that was filled by a super-antagonistic, pseudo-proponent controlling the narrative in an ultra-atheistic/anti-freedom/anti-Christian manner. I was given a second opportunity after that set was done (extended to anyone), and again demurred.

The case, briefly, of 303 Creative, LLC of Colorado (area code 303) is of Lorie Smith's wedding announcement website creation service. The state's position is that Colorado's Anti-Discrimination Act (ADA) "requires that the Company sell its website-design services to the public regardless of the customer's

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sexual orientation, religion, or other protected characteristics." (p. 14 of state briefing, 3rd ¶.) They say, "The mere act of selling something—even something that may contain expressive elements—is not itself expressive conduct" (p. 9, 4th ¶) and thus not covered/protected by the First Amendment.

Smith's opposing position is that she holds as a deeply-held Christian belief "that marriage is only between one man and one woman. Smith believes that her creative abilities are a gift that must be used in ways that glorify and honor God. Pet. App. 180a." (303 Creative's briefing, p. 4, 3rd ¶.)

"Smith is not a passive conduit for her client's messages; she designs, creates, and publishes her wedding websites, retaining final editorial control over them, and stamps each of them with 303 Creative's logo and website address. This is Smith's speech and her message." (pp. 12, bot.; 13, top.) She wants SCOTUS to "hold that the First Amendment protects artists' rights to speak messages consistent with their beliefs" (p. 15, 2nd ¶) and not be compelled to support views seriously contrary, such as a same-sex couple wanting a uniquely-created website, in her case.

In the class' Moot Court exercise, we separated into three classrooms then took turns (4 mins) arguing the petitioner's (Smith's) case, with questions from the judge (UPEP staff), then opposed by the

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respondent's (state's) case (ditto), concluded with a final 1-min. rebuttal by the petitioner. I was a bit uncomfortable, not having the polish I would prefer to have in presenting Smith's case.

We then all came back to the original classroom, where the gifted instructor, Sam Macomber asked who would like to present the petitioner's case, the respondents, and serve as judges asking questions. Oblivious to (1) the opportunity to be a light, (2) my not-yet realizing I was probably the best-qualified to present the petitioners' position, and (3) my not-yet realizing that I got into the flow of presenting when taking on the respondent position when we were in subgroups; and perhaps intimidated by a perception that the outspoken majority of the class was antagonistic to the website builder being opposed to same sex marriages; I neglected to jump at the opportunity to articulate the petitioner's case, then only timidly raised my hand when Sam asked for volunteers to play the role of one of the 3 questioning judges. In retrospect, I would wish I had seized the moment. It's unlike me to be timid.

Seeing the void, inmate Craig Crawford, who is married to a man, jumped at the opening, saying he was taking the position of a "Christian" defending the indefensible—according to his demeanor, words, and body language. With feigned zealous aplomb, he said

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essentially, "With God on our side, ~~we~~ <sup>we</sup> Christians do whatever we want, regardless of law and what society has come to see as prudent. It doesn't matter what you think; I can say anything I want."

In retrospect, as I reflected on this, Craig's acting brings to mind the Silas type evil Christian zealot depicted in Dan Brown's Da Vinci Code; whereas I come closer to Prof. Langdon, but with better wisdom about how Jesus being married and having offspring does not rule out his being sired by resurrected Father in Heaven (e.g. via an artificial-insemination-like teleportation of the seed). (I found out last week, on 2/12, that my mother is a direct descendant of Mary Magdalene, as are many others, who are hidden from the world per D&C 86:8, 9.)

After that set, when Sam then asked if anyone else wanted to give it a shot, in addition to my previous internal excuses, I looked at the clock, thinking we didn't have time (but we did), declining again — "coward!" I mused with retrospect.

Getting up from laying down, at ~4:25 am, I turned on RAV TV to multi-task (while recording this impression), and caught anchor Steve Grubber playing a clip of Demar Hamlin being interviewed by another NFL football player on NBC asking him about why he collapsed on the field last month, live on TV. Obviously uncomfortable with coming out openly on

such a controversial issue, he mumbled, "Umm, umm," then said something about it being "complicated," <sup>for "personal"</sup> instead of boldly stating, "The COVID vax weakened my heart, resulting in my sudden death, from which I was gratefully revived, twice!" He didn't dare say that. Coward.

That made two of us, synchronistically.

This editorial is my effort to reverse my not stepping forward on this SCOTUS case as I should have done in class yesterday.

That said, I am grateful for the discussion we were able to have because no one took Sam's invite to do another round. I asked <sup>Sam</sup> him why the Court would shy away from ground-breaking, precedent-setting cases, establishing new rules. "It seems that is opposite of courage." Sam wisely responded that establishing rules is the legislature's role.

With that in mind, I have greater appreciation for pp. 15-18 of the 303 Creative, LLC petitioner's briefing that sets forth many precedents that apply to this case.

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#Defending303CreativeSCOTUS\_case

