

FAITH MONEY

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## Court suspends city rule demanding photographer promote same-sex unions

**Government can't force celebration of 'marriage their conscience doesn't condone'**



By **WND Staff**

Published August 15, 2020 at 2:50pm



An order has been issued by U.S. District Court for the Western District of Kentucky that halts the enforcement of a city ordinance that it says is likely to be found in violation of the U.S. Constitution.

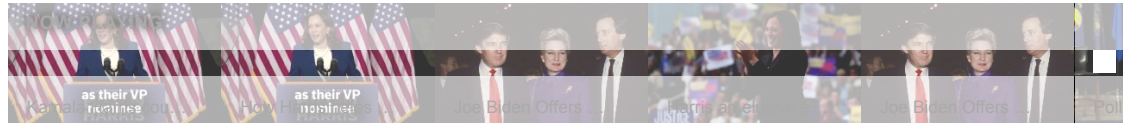
At issue is Louisville's demand that photographers, if they provide services to traditional weddings, provide the same services to same-sex duos, even if their faith forbids it.

The case involves photographer Chelsey Nelson and her Chelsey Nelson Photography.

The city rule not only required Nelson to provider her artistry, which courts already have defined as speech, in support of same-sex duos in violation of her faith, it forbade her from talking about her faith in her business.

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The court suspended the demand, saying, "Nelson is substantially likely to succeed on her Free Speech claim."

"To cut to the chase," the court said, "Nelson is likely to win by applying binding precedents and straightforward principles: Her photograph is art. Art is speech. The government can't compel speech when it violates the speaker's religious or political principles."

The order came in Nelson's fight against the city law that was adopted not long ago.

"Just like every American, photographers and writers like Chelsey should be free to peacefully live and work according to their faith without fear of unjust punishment by the government," said Jonathan Scruggs, counsel for Alliance Defending Freedom who is working on Nelson's case.

"The court was right to halt enforcement of Louisville's law against Chelsey while her case moves forward. She serves everyone. She simply cannot endorse or participate in ceremonies she objects to, and the city has no right to eliminate the editorial control she has over her own photographs and blogs."

"Just as gay and lesbian Americans 'cannot be treated as social outcasts or as inferior in dignity and worth,' neither can Americans 'with a deep faith that requires them to do things passing legislative majorities might find

unseemly or uncouth.' 'They are members of the community too,'" said the court opinion.

The fight is with the Louisville-Jefferson County Metro Government.

"And under our Constitution, the government can't force them to march for, or salute in favor of, or create an artistic expression that celebrates, a marriage that their conscience doesn't condone. America is wide enough for those who applaud same-sex marriage and those who refuse to," they ruling said.

The lawsuit argues that the Louisville law violates various provisions of the U.S. Constitution, including the First Amendment's Free Speech and Free Exercise clauses. Specifically, the lawsuit challenges Louisville Metro Ordinance § 92.05, a public accommodation law that threatens Nelson with unspecified damages, compliance reports, and court orders to force her to participate in and to create photographs and blogs praising same-sex wedding ceremonies, if she does the same to celebrate weddings between a man and a woman.

The Department of Justice earlier endorsed Nelson's position in the dispute.

Similar disputes have arisen in Oregon, New Mexico, Colorado, California and other states. LGBT activists have targeted bakers, photographers, florists, video makers and calligraphers with their demands for those services, even if they violate the providers' faith.

The U.S. Supreme Court's 2015 majority opinion in its decision establishing a right to same-sex marriage assured Americans who oppose same-sex marriage that their right of religious expression would be protected.

But Associate Justice Samuel Alito wasn't convinced.

"I assume that those who cling to old beliefs will be able to whisper their thoughts in the recesses of their homes, but if they repeat those views in public, they will risk being labeled as bigots and treated as such by governments, employers, and schools," he warned in a minority opinion.

The DOJ, in Nelson's case, said the U.S. "has a substantial interest in the preservation of its citizens' rights to free expression and the free exercise of religion."

The dispute centers on "whether the government can compel a wedding photographer to photograph, provide photography editing services for, and blog about weddings of which she does not approve, and does not wish to photograph or to promote."

"The answer is no," the DOJ said. "The Supreme Court has made plain that the government cannot 'compel individuals to mouth support for views they find objectionable.'"