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Were I called upon for my reasons why I deem so highly of the American character, I would assign them in a very few words . . . by the love of liberty, and the love of law. . . . But law and liberty cannot rationally become the objects of our love, unless they first become the objects of our knowledge.
James Wilson, Lectures on Law

SCOTUS Rules Unanimously: Philadelphia Violated Religious Liberty of Christian Foster Care Agencies
This Thursday, the Supreme Court ruled unanimously in favor of Christian foster care agencies in the case *Fulton v. Philadelphia*. The case began in 2018, when Philadelphia notified Catholic Social Services, an organization that has served the needy in Philadelphia for over two centuries, that its 50-year contract would be terminated unless the agency agreed to place foster children in the homes of same-sex married couples. The city cited a non-discrimination provision in the foster care agency's contract and in its local Fair Practices Ordinance. CSS and three of its foster parents sued, alleging that the city violated the First Amendment.

The Supreme Court agreed with CSS's religious freedom arguments. Chief Justice John Roberts, writing in the majority opinion, declared that "it is plain that the City's actions have burdened CSS's religious exercise by putting it to the choice of curtailing its mission or approving relationships inconsistent with its beliefs." The Court ruled that Philadelphia's policies were not "neutral and generally applicable," a standard set up in the controversial case *Employment Division v. Smith* (1990). One reason the Court cites for Philadelphia's failure to make neutral and generally applicable law was the provision that allowed exceptions to the non-discrimination requirement to be granted at the "sole discretion" of the commissioner. Although an exception existed, the city refused to grant it to CSS. Another problem with Philadelphia's treatment of CSS was its classification of the foster care agency as a place of public accommodation. Roberts highlighted the significant differences between public accommodations such as restaurants, public buses, and hotels and the complex processes of a foster care agency. The Court stated, "We agree with CSS's position . . . that its 'foster services do not constitute a "public accommodation" under the City's Fair Practices Ordinance, and therefore it is not bound by that ordinance.'"

Justice Alito wrote a separate and strongly argued concurring opinion that revealed his exasperation with the Court's refusal to revisit bad precedent. Rather than face the erroneous decision in *Smith* head on, Alito argues, the Court makes temporary rulings that only partly solve the real problems. In Alito's estimation, "This decision might as well be written on the dissolving paper sold in magic shops. . . . If the City wants to get around today's decision, it can simply eliminate the never-used exemption power. If it does that, then violá, today's decision will vanish—and the parties will be back where they started." Alito closed his opinion with a sharp rebuke of the Court for writing "a wisp of a decision that leaves religious liberty in a confused and vulnerable state." While the Court's unanimous ruling is a victory for religious institutions, only a return to the fundamental principles in the First Amendment will secure long-term protections against government violations of religious liberty.

Supreme Court to Conference on Maine School Choice Case
Lawyers have recently briefed the Supreme Court on a school choice case in Maine. The case, *Carson v. Makin*, is similar to last year's Supreme Court decision in *Espinoza v. Montana Department of Revenue*, which upheld the right of parents to use public funding to send their children to a religious school. In Maine, a U.S. Court of Appeals has upheld the state's decision to exclude religious schools that overtly teach religion from their town tuition assistance program. According to Patrick R. Gibbons on Redefined, "The court got clever with the wording. The judges argued that the Espinoza case prohibited states from discriminating against the schools' religious *status*, whereas Maine was not discriminating against religious status but prohibiting religious *use*." This strategic argument opens the door for the state to discriminate against religious schools in the program, not because they identify as religious—an argument that was struck down in *Espinoza v. Montana*—but because they teach religion. The Institute for Justice is representing the parents in *Carson v. Makin* and is responsible for briefing the Supreme Court. Institute for Justice Senior Attorney Michael Bindas argued, "The Constitution requires government neutrality toward religion, not hostility. Maine's exclusion of religious options violates that constitutional command of neutrality." Supreme Court justices will decide on June 24 whether or not they will review the case. (*Written by summer intern Zach Jewell*)

Governor DeSantis Signs Bill Requiring Moment of Silence in Public Schools
Public schools in Florida will now be required to set aside time at the beginning of each school day for their students to reflect or pray. The bill signed into law by Governor Ron DeSantis also bans "teachers from making suggestions as to the nature of any reflection that a student may engage in during the moment of silence." DeSantis praised the bill as a way to get God back into public schools. He commented, "The idea that you can just push God out of every institution and be successful—I'm sorry, our Founding Fathers did not believe that." Another important section of the bill also amends a section of a Florida statute to read, "The district school board may install in the public schools in the district a secular program of education including, but not limited to, an objective study of the Bible and of religion." While DeSantis's view of getting God back into public schools may be clear, the bill does not allow Christianity or any other religion to be taught as the basis or origin of objective truth. The bill received criticism from State Rep. Omari Hardy who voted against it because he believes Republicans are lying about their intentions. Hardy tweeted, "The Republican who sponsored the bill said that it wasn't about prayer in school. (Of course it was!)" Whether this bill will make more prayer in public schools a reality cannot be known right now, but Florida's governor and state legislature have paved a way to make more prayer in public schools a possibility in the future. (*Written by summer intern Zach Jewell*)

In Case You Missed It:

Weekly Market Update provided by Jeff Beach of the AACS Investment Team at Merrill Lynch

Practical Legal Help for Christian Schools: ADF Ministry Alliance

Promise to America's Children

Christian College Asks Appeals Court to Halt Biden Gender Identity Policy in School Dorms, Showers

In Reversal of Trump-Era Stance, Biden Says Transgender Students Protected Under Title IX

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