

FILED
United States Court of Appeals
Tenth Circuit

UNITED STATES COURT OF APPEALS

July 26, 2021

FOR THE TENTH CIRCUIT

Christopher M. Wolpert
Clerk of Court

303 CREATIVE LLC, a limited liability
company; LORIE SMITH,

Plaintiffs - Appellants,

v.

AUBREY ELENIS; CHARLES GARCIA;
AJAY MENON; MIGUEL RENE ELIAS;
RICHARD LEWIS; KENDRA
ANDERSON; SERGIO CORDOVA;
JESSICA POCOCK; PHIL WEISER,

Defendants - Appellees.

No. 19-1413
(D.C. No. 1:16-CV-02372-MSK-CBS)
(D. Colo.)

FOUNDATION FOR MORAL LAW;
CATO INSTITUTE; CENTER FOR
RELIGIOUS EXPRESSION;
CATHOLICVOTE.ORG EDUCATION
FUND; LAW AND ECONOMIC
SCHOLARS; TYNDALE HOUSE
PUBLISHERS; CROSSROADS
PRODUCTIONS, INC., d/b/a Catholic
Creatives; WHITAKER PORTRAIT
DESIGN, INC., d/b/a Christian
Professional Photographers; THE BRINER
INSTITUTE, INC.; STATE OF
ARIZONA; STATE OF ALABAMA;
STATE OF ALASKA; STATE OF
ARKANSAS; STATE OF KENTUCKY;
STATE OF LOUISIANA; STATE OF
MISSOURI; STATE OF MONTANA;
STATE OF NEBRASKA; STATE OF
OKLAHOMA; STATE OF SOUTH
CAROLINA; STATE OF TENNESSEE;
STATE OF TEXAS; STATE OF WEST

VIRGINIA; ROBERT P. GEORGE,
Professor; AMERICAN CIVIL
LIBERTIES UNION OF COLORADO;
AMERICAN CIVIL LIBERTIES UNION
FOUNDATION; AMERICANS UNITED
FOR SEPARATION OF CHURCH AND
STATE; ANTI-DEFAMATION LEAGUE;
BEND THE ARC: A JEWISH
PARTNERSHIP FOR JUSTICE;
CENTRAL CONFERENCE OF
AMERICAN RABBIS; GLOBAL
JUSTICE INSTITUTE, METROPOLITAN
COMMUNITY CHURCHES;
HADASSAH, THE WOMEN'S ZIONIST
ORGANIZATION OF AMERICA, INC.;
HINDU AMERICAN FOUNDATION;
INTERFAITH ALLIANCE
FOUNDATION; INTERFAITH
ALLIANCE OF COLORADO; MEN OF
REFORM JUDAISM; PEOPLE FOR THE
AMERICAN WAY FOUNDATION;
RECONSTRUCTIONIST RABBINICAL
ASSOCIATION; SIKH COALITION;
WOMEN OF REFORM JUDAISM;
UNION FOR REFORM JUDAISM;
STATE OF MASSACHUSETTS; STATE
OF CALIFORNIA; STATE OF
CONNECTICUT; STATE OF
DELAWARE; DISTRICT OF
COLUMBIA; STATE OF HAWAII;
STATE OF ILLINOIS; STATE OF
MAINE; STATE OF MARYLAND;
STATE OF MINNESOTA; STATE OF
NEVADA; STATE OF NEW JERSEY;
STATE OF NEW MEXICO; STATE OF
NEW YORK; STATE OF NORTH
CAROLINA; STATE OF OREGON;
STATE OF PENNSYLVANIA; STATE
OF RHODE ISLAND; STATE OF
VERMONT; STATE OF VIRGINIA;
STATE OF WASHINGTON; LAW
PROFESSORS OF THE STATE OF
COLORADO; LAW PROFESSORS

FROM THE STATE OF KANSAS; LAW PROFESSORS FROM THE STATE OF NEW MEXICO; LAW PROFESSORS FROM THE STATE OF OKLAHOMA; LAW PROFESSORS FROM THE STATE OF UTAH; LAW PROFESSORS FROM THE STATE OF WYOMING; LAWYERS' COMMITTEE FOR CIVIL RIGHTS UNDER LAW; SOUTHERN POVERTY LAW CENTER; ASIAN AMERICAN LEGAL DEFENSE & EDUCATION FUND; LATINOJUSTICE PRLDEF; LEADERSHIP CONFERENCE ON CIVIL AND HUMAN RIGHTS; NATIONAL ACTION NETWORK; THE CENTER FOR CONSTITUTIONAL RIGHTS; CENTER FOR CONSITUTIONAL RIGHTS; FLOYD ABRAMS; ERWIN CHEMERINSKY; WALTER DELLINGER; KERMIT ROOSEVELT; AMANDA SHANOR; REBECCA TUSHNET; MAX H. BAZERMAN; MONICA C. BELL; ISSA KOHLER-HAUSMANN; DAVID LAIBSON; ADAM J. LEVITIN; MARY-HUNTER MCDONNELL; NEERU PAHARIA; NINA STROHMINGER; TOM R. TYLER; LAUREN E. WILLIS; LAMBDA LEGAL DEFENSE & EDUCATION FUND, INC.,

Amici Curiae.

JUDGMENT

Before **TYMKOVICH**, Chief Judge, **BRISCOE**, and **MURPHY**, Circuit Judges.

This case originated in the District of Colorado and was argued by counsel.

The judgment of that court is affirmed.

Entered for the Court

A handwritten signature in black ink, appearing to read 'C. Wolpert', written in a cursive style.

CHRISTOPHER M. WOLPERT, Clerk