

Constitution Assignment - Masterpiece Cakeshop

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Due Saturday by 11:59pm **Points** 100 **Submitting** a file upload
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Constitution Assignment



How does our Constitution change?

As you learned in your text, a formal amendment can be approved by Congress and ratified by the legislatures of 3/4 of the states. Sometimes, the meaning just evolves - as the President's role in war changed during the Cold War. The most common way, though, is through judicial interpretation, especially by the U.S. Supreme Court.

The First Amendment to the Constitution begins "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof..." What exactly does that mean? The second part, the "free exercise clause," seems pretty clear - the government can't prohibit the free exercise of your religion. Are there limits? Of course. You can't practice human sacrifice - even if you truly believe in it. That exercise of your rights would be an unreasonable intrusion on someone else's rights. On the other hand, the courts have ruled that family businesses can, in some cases, refuse to offer

certain abortion-inducing forms of birth control as part of their employee health insurance, despite an Affordable Care Act requirement that those drugs and devices be provided.

Jack Phillips is a baker in Colorado. In 2012, he refused to make a cake for a same-sex marriage, citing his religious beliefs. The couple sued. Lower courts ruled in favor of the couple, citing a state civil-rights law that prohibits discriminatory business practices. Phillips, who calls himself a "cake artist," is asking the Supreme Court to overturn this ruling, citing his free exercise of religion, and his First Amendment free speech rights, which the courts have long held covers artistic expression in addition to speech.

The vagueness of our Constitution allows the Supreme Court to revisit concepts like free speech and the free exercise of religion as social norms evolve, and to put these 200-year-old concepts into a modern context.

For your assignment, find a case called [*Masterpiece Cakeshop, Ltd. v. Colorado Civil Rights Commission*](http://www.scotusblog.com/case-files/cases/masterpiece-cakeshop-ltd-v-colorado-civil-rights-commn/) [\(http://www.scotusblog.com/case-files/cases/masterpiece-cakeshop-ltd-v-colorado-civil-rights-commn/\)](http://www.scotusblog.com/case-files/cases/masterpiece-cakeshop-ltd-v-colorado-civil-rights-commn/).

Write a 2 - 5 page (double spaced, normal margins, etc.) essay about the case. Explain the basic arguments for each side. How did the Supreme Court decide this case, and why? What is a dissenting opinion, and what did Justices Ginsburg say in hers? If you were on the Supreme Court, how would you rule, and why?

Submit in Word. Cite your sources.

Additional Resources

The New York Times covered the court's decision:

<https://www.nytimes.com/2018/06/04/us/politics/supreme-court-sides-with-baker-who-turned-away-gay-couple.html> [\(https://www.nytimes.com/2018/06/04/us/politics/supreme-court-sides-with-baker-who-turned-away-gay-couple.html\)](https://www.nytimes.com/2018/06/04/us/politics/supreme-court-sides-with-baker-who-turned-away-gay-couple.html).

Here's the decision: https://www.supremecourt.gov/opinions/17pdf/16-111_j4el.pdf [\(https://www.supremecourt.gov/opinions/17pdf/16-111_j4el.pdf\)](https://www.supremecourt.gov/opinions/17pdf/16-111_j4el.pdf)

The SCOTUS blog is always a great place to start: <http://www.scotusblog.com/case-files/cases/masterpiece-cakeshop-ltd-v-colorado-civil-rights-commn/> [\(http://www.scotusblog.com/case-files/cases/masterpiece-cakeshop-ltd-v-colorado-civil-rights-commn/\)](http://www.scotusblog.com/case-files/cases/masterpiece-cakeshop-ltd-v-colorado-civil-rights-commn/)

Here's what the baker has to say: https://www.washingtonpost.com/opinions/im-the-masterpiece-cakeshop-baker-will-the-supreme-court-uphold-my-freedom/2018/04/26/3f04cf42-4896-11e8-827e-190efaf1f1ee_story.html?noredirect=on&utm_term=.99fa78515a2e [\(https://www.washingtonpost.com/opinions/im-the-masterpiece-cakeshop-baker-will-the-supreme-court-uphold-my-freedom/2018/04/26/3f04cf42-4896-11e8-827e-190efaf1f1ee_story.html?noredirect=on&utm_term=.99fa78515a2e\)](https://www.washingtonpost.com/opinions/im-the-masterpiece-cakeshop-baker-will-the-supreme-court-uphold-my-freedom/2018/04/26/3f04cf42-4896-11e8-827e-190efaf1f1ee_story.html?noredirect=on&utm_term=.99fa78515a2e)

The New York Times' Adam Liptak is always great on Supreme Court

news: <https://www.nytimes.com/2017/06/26/us/politics/supreme-court-wedding-cake-gay-couple-masterpiece-cakeshop.html> [.\(https://www.nytimes.com/2017/06/26/us/politics/supreme-court-wedding-cake-gay-couple-masterpiece-cakeshop.html\)](https://www.nytimes.com/2017/06/26/us/politics/supreme-court-wedding-cake-gay-couple-masterpiece-cakeshop.html)

Stephen Wermiel has a great article: <http://www.scotusblog.com/2017/12/scotus-law-students-splitting-free-speech-community/> [.\(http://www.scotusblog.com/2017/12/scotus-law-students-splitting-free-speech-community/\)](http://www.scotusblog.com/2017/12/scotus-law-students-splitting-free-speech-community/)

The liberal *New York Times* says it's about the freedom to

discriminate: <https://www.nytimes.com/2017/11/29/opinion/gay-religious-freedom-cake.html> [.\(https://www.nytimes.com/2017/11/29/opinion/gay-religious-freedom-cake.html\)](https://www.nytimes.com/2017/11/29/opinion/gay-religious-freedom-cake.html)

The conservative *National Review* says it's about whether someone has to advance a message they don't support: <http://www.nationalreview.com/article/454228/masterpiece-cakeshop-supreme-court-should-uphold-first-amendment> [.\(http://www.nationalreview.com/article/454228/masterpiece-cakeshop-supreme-court-should-uphold-first-amendment\)](http://www.nationalreview.com/article/454228/masterpiece-cakeshop-supreme-court-should-uphold-first-amendment)

You can listen to the oral arguments here: <https://www.c-span.org/video/?436814-1/masterpiece-cakeshop-v-colorado-civil-rights-commission-oral-argument> [.\(https://www.c-span.org/video/?436814-1/masterpiece-cakeshop-v-colorado-civil-rights-commission-oral-argument\)](https://www.c-span.org/video/?436814-1/masterpiece-cakeshop-v-colorado-civil-rights-commission-oral-argument)

Or read a transcript of the oral arguments

here: https://www.supremecourt.gov/oral_arguments/argument_transcripts/2017/16-111_f314.pdf [.\(https://www.supremecourt.gov/oral_arguments/argument_transcripts/2017/16-111_f314.pdf\)](https://www.supremecourt.gov/oral_arguments/argument_transcripts/2017/16-111_f314.pdf)