

July 2020

Dear Friends and Supporters,

June of each year can be a very exciting or very depressing time for constitutional lawyers. It is in the last weeks of June that the U.S. Supreme Court releases opinions on cases that it has considered for the preceding year. This year, there are three significant cases to report.

The first opinion, *Bostock v. Clayton County, GA*, came out on June 15, which expanded the definition of “sex” under the Civil Rights Act of 1964 to include not only your biological sex, which was the way the act was written, but now to social orientation and gender identity. This will affect hiring practices of some employers and will include churches. There is a religious exemption, but it does not apply to all employees. There will be significant litigation for churches and ministries related to this new definition. If you have questions, let us know and we can provide you with a detailed memo that has already been distributed to churches and others.

The second case, *June Medical Services v. Rosso*, decided June 29, deals with a law requiring abortion doctors to have admitting privileges to a local hospital. By a five-four decision, with the Chief Justice joining the liberal Justices, the court struck down that requirement as unconstitutional. It is a complex opinion and difficult to interpret. Having the Chief Justice join the majority was disappointing, but there is still room for optimism that the court will ultimately find abortion is not a protected right.

The third case, *Espinoza v. Montana*, decided June 30, struck down a state law that prohibited families from using state tax dollars for scholarships at religious schools. It held the Free Exercise Clause protects religious observers from unequal treatment and by taking advantage of the scholarships, that was not an entanglement with religion. This opinion will be advantageous for school choice.

We will provide detailed analysis of these three cases in our coming Educational Updates. If you have questions, concerns, or needs in the meantime, please do not hesitate to contact us.

The most immediate need relates to church school and daycare openings during the pandemic. This month’s Educational Update provides some guidance during this very uncertain time.

Yours very truly,

A. Eric Johnston