

Supreme Court Denies A Request To Temporarily Enjoin The Contraceptive Mandate

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On Dec. 26, 2012, Supreme Court Justice Sonia Sotomayor issued a order denying Hobby Lobby's request to temporarily enjoin the application of part of the Patient Protection and Affordable Care Act (ACA) to the company while the courts considers whether the ACA infringes upon the free exercise of religion. A copy of this decision, *Hobby Lobby Stores, Inc. v. Sebelius*, [can be found here](#).

Hobby Lobby, an arts and crafts retail chainstore, and Mardel, Inc., a chain of Christian-themed bookstores, object to a provision of the ACA, commonly known as the contraceptive mandate, which requires most employer health plans to provide coverage for contraceptive services. Hobby Lobby and Mardel claim that the contraceptive mandate requires them to provide their employees with insurance coverage for certain drugs and devices which the companies believe can cause abortions. The companies argue this requirement violates their religious principles. Hobby Lobby and Mardel filed suit in the United States District Court for the Western District of Oklahoma and asked for a temporary injunction while the court addressed the merits of their challenge. The District Court denied the companies' request for a temporary injunction, so the companies appealed to the United States Court of Appeals for the Tenth Circuit. When the Tenth Circuit denied the companies' request for an injunction pending appeal, they asked the Supreme Court to enter the injunction. Justice Sotomayor wrote that the Supreme Court only grants injunctions where necessary to exercise jurisdiction and where "the legal rights at issue are indisputably clear." Justice Sotomayor found that the companies failed to meet both of these requirements.

First, she found the companies did not need an immediate injunction of the contraceptive mandate to pursue their constitutional challenge. She also found that the merits of companies' constitutional claims were not "indisputably clear" as the Court has yet to address the issue, and the lower courts are split on whether to issue these injunctions. Since the Supreme Court's order did not address the underlying merits of the companies' constitutional claims, the case will return to the lower courts for resolution. As courts across the country work to define the boundaries of religious liberty for for-profit employers, the Supreme Court is likely to face additional cases involving the contraceptive mandate in the near future.

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