

19-431 LITTLE SISTERS OF THE POOR V. PENNSYLVANIA

DECISION BELOW: 930 F.3d 543

LOWER COURT CASE NUMBER: 17-3752, 18-1253, 19-1129, 19-1189

QUESTION PRESENTED:

Since 2011, federal courts have repeatedly considered whether forcing religious objectors to provide health plans that include contraceptive coverage violates the Religious Freedom Restoration Act (RFRA). Over and over again, this Court has reviewed these cases on an emergency basis or on the merits. Yet it has never definitively resolved the RFRA dispute. In 2016, an eight-Justice Court in *Zubik v. Burwell* did not reach the RFRA question and instead remanded for the parties to try to reach a resolution, on the evident assumption that the executive branch possessed the power to provide broader accommodations and/or exemptions. After months of negotiations (and an intervening election), the agencies finally agreed to promulgate new rules providing a broader exemption, seemingly bringing an end to this long-running dispute.

Those new rules were challenged, however, by several states, resulting in a nationwide injunction on the theory that RFRA and the Affordable Care Act not only do not require, but do not even allow, the religious exemption rules. That nationwide injunction has stagnated other cases, and it conflicts with the judgments of many courts that have issued final orders affirmatively requiring comparable exemptions under RFRA. The rights of religious objectors—including the Little Sisters' right to defend an exemption—remain very much at issue.

The questions presented are:

1. Whether a litigant who is directly protected by an administrative rule and has been allowed to intervene to defend it lacks standing to appeal a decision invalidating the rule if the litigant is also protected by an injunction from a different court?
2. Whether the federal government lawfully exempted religious objectors from the regulatory requirement to provide health plans that include contraceptive coverage?

CONSOLIDATED WITH 19-454 FOR ONE HOUR ORAL ARGUMENT.

PRESS RELEASE OF APRIL 3, 2020

IN KEEPING WITH PUBLIC HEALTH GUIDANCE IN RESPONSE TO COVID-19, THE COURT WILL POSTPONE THE ORAL ARGUMENTS CURRENTLY SCHEDULED FOR THE APRIL SESSION.

PRESS RELEASE OF APRIL 13, 2020

RESCHEDULED FOR ORAL ARGUMENTS BY TELEPHONE CONFERENCE. THE JUSTICES AND COUNSEL WILL ALL PARTICIPATE REMOTELY.

CERT. GRANTED 1/17/2020