



GIVE TODAY

WHERE THE SPIRIT OF THE LORD IS,
THERE IS LIBERTY.

—2 CORINTHIANS 3:17

**Court Deposition from Expert Witness Dr. Ryan Cole
Destroys Mandate Argument in Marines Case**

**The "Respect for Marriage Act" Sets the Stage to
Overturn *Obergefell v. Hodges* By Mat Staver**

While I am disappointed that the "Respect for Marriage Act" (RFMA) passed the U.S. Congress, I am convinced that this bill will be the undoing of the Supreme Court's 2015 same-sex marriage opinion in *Obergefell v. Hodges*. We fought hard to stop HR 8404, and we came very close to killing the bill thanks to so many citizens engaged in preserving religious freedom in America. To them, I would say, "Don't get discouraged." Now we move to the next strategy, in which I have a high level of confidence. The advocates of RFMA may celebrate today, but that celebration will not last.

Lawmakers and LGBTQ advocates have unwittingly created the perfect scenario to fix the mess the High Court originally created. *Obergefell*, like *Roe v. Wade*, has no constitutional foundation. Overturning *Obergefell* would return the regulation and definition of marriage to the States as it was throughout our history up till the Court issued its flawed opinion in June 2015. Like abortion, many states would return to their laws prior to the Court's decision — meaning most states would define marriage as the union of one man and one woman.

Past history is prologue

To give you some context for why I am optimistic, let me share a few points from recent legal history.

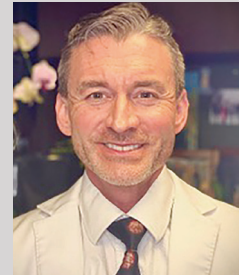
In 1990, when the Supreme Court severely weakened the Free Exercise Clause, Liberty Counsel pioneered a new legal strategy to win. We argued the Free Speech Clause protects religious expression and acts of worship. We developed the viewpoint discrimination argument. Now this is a common legal argument, but it was novel at the time. This legal argument resulted in many victories at the High Court, including our 9-0 win this year in the *Shurtleff v. City of Boston* Christian flag and Coach Kennedy cases.

When a generic prayer offered by a Rabbi at a high school graduation was struck down in 1992, we pioneered student-initiated prayer — and we won in the *Adler v. Duval County School Board* case against the ACLU. And beyond graduation prayer, our legal strategy included overturning the 1971 *Lemon v. Kurtzman* case that was frequently used to censor religious expression, symbols, and displays. And this year with our Christian flag and the Coach Kennedy cases, we got that awful precedent overturned.

***Obergefell* is hanging
by a thread**

Prior to 2015, we had won about 50 cases defending marriage as one man and one woman. Then the 5-4 *Obergefell* opinion was released. Three of the five
continued>>

Expert witness Dr. Ryan Cole gave a deposition via Zoom on December 9, 2022, in our Marines vax mandate case, *Colonel Financial Management Officer, et al. v. Austin, III, et al.*, which is scheduled for trial on January 23, 2023. Considered an international expert on the SARS-COV-2 virus, Dr. Cole is a Mayo Clinic-trained, board-certified anatomic and clinical pathologist, with Ph.D. training in immunology and virology.



During his illustrious career, he has personally diagnosed over 500,000 patients via microscope and analyzed over 175,000 COVID tests. It was during the COVID-19 pandemic, however, that Dr. Cole's work garnered worldwide attention for bringing awareness to COVID vaccine risks.

In his legal declaration, Dr. Cole said, "In my professional opinion, a 'vaccine' against a coronavirus cannot, and never will be, protective nor safe. Knowing the family of coronavirus, it will always mutate ahead of any vaccinal efforts..The majority of individuals in the United States, and other western nations, have already had COVID, and have formed a broad (not just spike) immune response to the entire constituents of the virus, thereby forming COVID recovered natural immunity, which, in countless studies around the world, has shown to be far superior to investigational COVID 'vaccines.' To require a spike-based injection in someone who has recovered from COVID, markedly increases that individual's risk for hyperimmune responses, to include heart inflammation, clotting, and auto-immune disease."

Besides going on record with evidence-based medical reasons for discontinuing the military mandate, Dr. Cole also addressed the mandate's violation of the plaintiffs' religious rights under the law since all COVID vaccines used aborted fetal cell lines in the development and/or testing phase.

Although the National Defense Authorization Act (NDAA) repealed the military vaccine mandate, Liberty Counsel continues to fight on behalf of service members in the courts. We will utilize Dr. Cole's testimony, among others, and pursue a permanent injunction against the Department of Defense regarding the military's flawed religious accommodation policy for immunizations. **LC**

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>>continued from the "Respect for Marriage Act" Sets the Stage...

Justices in the slim *Obergefell* majority are no longer on the Court — Kennedy, Breyer, and Ginsburg. Chief Justice John Roberts issued a stinging dissent. In it, he wrote, "The majority's decision is an act of will, not legal judgment. The right it announces has no basis in the Constitution or this Court's precedent."

Besides Roberts, Justice Thomas and Justice Alito also dissented. Justices Gorsuch, Kavanaugh, Barrett, and Jackson have since joined the High Court. The slim majority in 2015 is gone.

What RFMA did and did not do RFMA cannot define marriage for the states

In 2013, the Supreme Court in *United States v. Windsor*, struck down that part of the Defense of Marriage Act (DOMA) that purported to define marriage for all the states as the union of one man and one woman. The Court noted that domestic relations and the definition of marriage is "an area that has long been regarded as a virtually exclusive province of the States."

The second part of DOMA said that one state did not have to recognize same-sex marriage of another state. This is the provision that the Respect for Marriage Act repealed, and now requires one state to recognize the same-sex marriage of another state.

RFMA has doomed *Obergefell*

Until now, the biggest obstacle to overturning *Obergefell* was based on those who relied on the decision to obtain a marriage license. What happens to these licenses? The consequence of overturning *Obergefell* is now off the table and is no longer a policy reason for upholding the opinion.

In other words, it is easy to attack *Obergefell* on the merits, but the consequence of overturning it could, until now, result in chaos. The merits argument of why *Obergefell* should be overturned is easy. The policy argument that doing so would cause disruption has always been the most difficult to overcome — until now.

Our case involving former Kentucky Clerk Kim Davis may be a vehicle to overturn *Obergefell*

The Kim Davis case is working its way back to the Supreme Court where one of the arguments will be that *Obergefell* was wrongly decided. Justices Thomas and Alito have already invited future challenges to *Obergefell* since the decision was never constitutional.

Justice Thomas previously wrote, "Davis found herself with a choice between her religious beliefs and her job." He continued, "Davis may have been one of the first victims of this Court's cavalier treatment of religion



in its *Obergefell* decision, but she will not be the last." Justice Thomas said "the Court has created a problem that only it can fix. Until then, *Obergefell* will continue to have ruinous consequences for religious liberty."

The drafters and supporters of RFMA did not intend for the consequence that is forthcoming. But it will come. Like *Roe*, the days of *Obergefell* are numbered. **TC**



Over 500 Health Care Workers Benefit from \$10.3M NorthShore Vax Mandate Settlement

More than 500 current and former health care workers who were denied religious exemptions from the COVID shot mandate will get paid from the \$10.3 million class action settlement in *Jane Doe 1, et al. v. Northshore University HealthSystem*.

The case is a historic, first-of-its-kind class action settlement against a private employer who unlawfully denied hundreds of religious exemption requests to COVID-19 shots. As a result, NorthShore will pay \$10,337,500 to compensate these health care employees who were discriminated against and punished for not taking a shot that used aborted fetal cells in the research and development phase and violated their religious beliefs.

Almost none of the those eligible to receive settlement benefits opted out, so over 500 health care workers will receive checks in the mail within 60 days. What's more, as part of the settlement agreement, NorthShore will also change its "no religious accommodations" policy and start providing them in every position across its numerous facilities. No position in any NorthShore facility will be considered off limits to unvaccinated employees with approved religious exemptions.

"The drastic policy change and substantial monetary relief required by the settlement will bring a strong measure of justice to NorthShore's employees who were callously forced to choose between their conscience and their jobs," says Harry Mihet, Vice President of Legal Affairs and Chief Litigation Counsel. "This settlement should also serve as a strong warning to employers across the nation that they cannot refuse to accommodate those with sincere religious objections to forced vaccination mandates." **TC**