

## Christian baker vindicated by SCOTUS back in court for not baking a gender transitioning cake

By [Alex Swoyer](#)

Washington times, August 15, 2018

The Christian baker who fought in the Supreme Court to preserve his right to refuse to make cakes for same-sex weddings says he is now the target of harassment by Colorado and some of its more mischievous residents, who have made a crusade out of trying to force him to bake cakes offensive to him.

One requester demanded that [Jack Phillips](#) bake a cake for Satan, complete with a working sex toy.

Another request involved a cake that was blue on the outside and pink on the inside — which wasn't a problem until the caller said it was meant to commemorate her transition from male to female.

Just weeks after the Supreme Court ruled that Colorado bungled its case against [Mr. Phillips](#) over the same-sex wedding cake and found the state showed "hostility" to his religious beliefs, the state's Civil Rights Commission slapped him with a judgment over the transgender cake.

He said the state crossed the line into harassment and sued Tuesday in federal court, asking a judge to order it to leave him alone.

"For over six years now, Colorado has been on a crusade to crush plaintiff [Jack Phillips](#) ... because its officials despise what he believes and how he practices his faith," his attorneys say in the lawsuit.

[Mr. Phillips](#) and Masterpiece Cakeshop have been at the spear's tip of the clash between gay rights advocates and devout business owners, who say their beliefs are trampled when they are forced to provide services for messages that they find offensive.

[Mr. Phillips](#) has plowed new ground with his argument that his cakes are art and that requiring him to bake cakes conveying messages he disagrees with interferes with his religious beliefs and his First Amendment free speech rights.

Colorado and other states say that is not a good enough reason to violate their public accommodation laws, which prohibit businesses from refusing service to anyone based on religion, race, sexual orientation or national origin.

[Mr. Phillips](#) took that argument to the high court.

The justices in June found that the state does have the power to protect gay residents' access to services, but they also ruled that the Civil Rights Commission showed striking hostility toward [Mr. Phillips](#)' religious beliefs that tainted the panel's ruling. They ordered the commission to conduct a do-over, with instructions to give [Mr. Phillips](#)' deeply held beliefs more respect.

Since his case reached the high court, [Mr. Phillips](#) said, he has faced "venomous" harassment including death threats and "countless hateful phone calls." He also lost 40 percent of his income and had to cut more than half of his workforce.

He said a Colorado lawyer, August Scardina, has made a crusade out of pestering him with outrageous cake requests and then complaining to state officials when he refuses.

On the day the Supreme Court accepted his case, he said, Ms. Scardina called to ask for the blue and pink transgender cake.

He refused.

She called back later that year, he says in his lawsuit, asking for a "birthday" cake for Satan, showing the prince of darkness smoking marijuana.

On the June day when the Supreme Court ruled on the same-sex wedding cake case, someone claiming to be from the Church of Satan emailed a request for a three-tiered cake with "a large figure of Satan, licking a 9-inch black Dildo."

"I would like the dildo to be an actual working model, that can be turned on before we unveil the cake," the request read.

A few weeks later, [Mr. Phillips](#) said, he believes Ms. Scardina visited his shop and asked for a cake with a pentagram — which he said he refused because of its association with witchcraft.

[Mr. Phillips](#) said he would be willing to bake a cake for Ms. Scardina with a message that is not objectionable to him and would sell her any of the pre-made cakes in his shop. But forcing him to make a cake with a message he disagrees with goes too far, he said.

Ms. Scardina didn't respond to a request for comment, but, she said in her complaint last year that the store had no problem baking the blue and pink cake until it became clear that it was meant to celebrate the transition from male to female.

The Civil Rights Commission concluded that the shop's refusal wasn't about the message but rather his disapproval of the customer and that it violated her rights as part of two protected classes: her sex and her gender identity.

The commission, which declined a request for comment, cited in its June ruling the Supreme Court's decision and pointed to the justices' affirmation that Colorado can protect gay people's access to services.

[Mr. Phillips'](#) complaint says the commission is singling him out. He points to commissioners' decision not to cite other bakeries that refused to make cakes for a Christian man who wanted them to contain messages opposing same-sex marriage.

Sen. Ben Sasse, Nebraska Republican, said Colorado is headed down a troubling path.

"A state powerful enough to tell bakers what to bake is powerful enough to tell journalists what stories to write. This is not healthy for the country," he said.

Kristen Waggoner, a lawyer for the religious liberty law firm Alliance Defending Freedom, which is representing [Mr. Phillips](#), said there is little question that the state has it in for [Mr. Phillips](#).

"You have to capture what he has been through to understand the way that Colorado has set out to ruin his life and his vocation," she said.

But Jennifer Pizer, policy director at Lambda Legal, a pro-LGBTQ organization, said by representing people such as [Mr. Phillips](#), Alliance Defending Freedom is promoting a "religious license to discriminate."

"Given the already harsh conditions for many LGBT people, and for transgender Americans in particular, ADF's dedication to discrimination should be recognized as profoundly problematic and inconsistent with essential civil rights norms," Ms. Pizer said.

While the high court sent [Mr. Phillips'](#) case back to Colorado, as well as a case involving a florist in Washington who declined to work on a same-sex wedding, other cases are winding their way through the courts.

Robert Tuttle, a law professor at George Washington University, said one of those cases will end up at the Supreme Court, forcing the justices to settle the free-speech versus gay rights clash, which they ducked in their June ruling.

"It doesn't tell you what happens if an administrative process [without] that sort of overt bias still decides the cake shop is liable, and my guess is that's what is going to happen in Washington state," Mr. Tuttle said.

Copyright © 2018 The Washington Times, LLC. [Click here for reprint permission.](#)

*The Washington Times Comment Policy*

The Washington Times welcomes your comments on Spot.im, our third-party provider. Please read our [Comment Policy](#) before commenting.