

15-35 E. TEXAS BAPTIST UNIVERSITY V. BURWELL

DECISION BELOW: 793 F.3d 449

LOWER COURT CASE NUMBER: 14-20112

QUESTION PRESENTED:

The text of the Affordable Care Act says nothing about contraceptive coverage, but it does require employers to "provide coverage" for "preventive care" for women. Despite the obvious implications for many employers of deep religious conviction, HHS interpreted that statutory mandate to require all nonexempt employers to provide at no cost the full range of FDA-approved contraceptives, including some that cause abortions, under the auspices of their plans. This Court has already considered this contraception mandate and concluded that it imposes a substantial burden on religious exercise and violates the Religious Freedom Restoration Act (RFRA). However, the government offers nonprofit religious employers such as petitioners one option for complying with the contraception mandate not available to for-profit employers - namely, executing certain forms that ensure that their employees receive the full range of contraception coverage under the auspices of the employers' healthcare plans and, in the government's view, put these religious employers in compliance with the statutory "provide coverage" obligation. It is undisputed that petitioners have a sincere religious objection to complying with the mandate in this way and that non-compliance will result in draconian fines. The question presented is:

Does the availability of a regulatory option for nonprofit religious employers to comply with HHS's contraceptive mandate eliminate either the substantial burden on religious exercise or the violation of RFRA that this Court recognized in *Burwell v. Hobby Lobby Stores, Inc.*, 134 S.Ct. 2751 (2014)?

CONSOLIDATED WITH 14-1418, 14 -1453, 14-1505, 15-105, 15-119 AND 15-191.

ORDER OF MARCH 29, 2016: THE PARTIES ARE DIRECTED TO FILE SUPPLEMENTAL BRIEFS THAT ADDRESS WHETHER AND HOW CONTRACEPTIVE COVERAGE MAY BE OBTAINED BY PETITIONERS' EMPLOYEES THROUGH PETITIONERS' INSURANCE COMPANIES, BUT IN A WAY THAT DOES NOT REQUIRE ANY INVOLVEMENT OF PETITIONERS BEYOND THEIR OWN DECISION TO PROVIDE HEALTH INSURANCE WITHOUT CONTRACEPTIVE COVERAGE TO THEIR EMPLOYEES. . . .

CERT. GRANTED 11/6/2015