
ENCOURAGING TAKEAWAYS FROM *BRUSH AND NIB* RULING

The Arizona Supreme Court sided with Joanna Duka and Breanna Koski in its narrow ruling. But, the reasoning behind it reads much broader than some claim. Consider these strong points made in the ruling:

1. **The potential effect of the ruling is not as narrow as some claim.** The court ruled Brush & Nib’s custom wedding invitations were “pure speech” protected by Arizona’s Constitution over against the City’s ordinance. In its discussion, the Court noted other examples of “pure speech” include paintings, music, written and spoken words, film, poetry, and pictures. This suggests that other wedding vendors such as photographers, writers, videographers, musicians, painters, and poets who create unique works with celebratory messages would likely also be protected.
2. **The Court based its favorable ruling on *both* free speech and religious freedom grounds.** This strengthens the message sent to Arizona municipalities and counties considering similar sexual orientation and gender identity (SOGI) laws.
3. **The Court cited Arizona’s Free Exercise of Religion Act (FERA) when affirming the Phoenix ordinance unmistakably “coerces” Joanna and Breanna to “abandon their religious beliefs.”** It noted the stark choice the law provides, “On one hand, they can choose to forsake their religious convictions and create wedding invitations celebrating same-sex marriage. But, on the other hand, if they choose to remain faithful to their beliefs and violate the Ordinance by refusing to make such invitations, they face severe civil and criminal sanctions. Indeed, for every day Duka and Koski are in violation of the Ordinance, they may be ordered to serve up to six months in jail.”
4. **The court repeatedly spells out the ordinance’s violation of Joanna and Breanna’s rights saying,** “The enduring strength of the First Amendment is that it allows people to speak their minds and express their beliefs without government interference. But here, the City effectively cuts off Plaintiffs’ right to express their beliefs about same–sex marriage by telling them what they can and cannot say.”
5. **The court rejected the City’s arguments one after another,** and acknowledged a key distinction. Joanna and Breanna served *all* customers, but believed creating celebratory wedding invitations for same sex weddings violated their deeply held religious beliefs.
6. **The Arizona high court’s ruling and the reasoning behind it will be used to argue similar cases throughout the country, with strong statements that leave little room for doubt,** i.e.: “But the guarantees of free speech and freedom of religion are not only for those who are deemed sufficiently enlightened, advanced, or progressive. They are for everyone. After all, while our own ideas may be popular today, they may not be tomorrow.” And “Given this reality, the government must not be allowed to force persons to express a message contrary to their deepest convictions.”