

50 YEARS AGO VS. TODAY: PIGGIE PARK & THE HIGH STAKES OF THE MASTERPIECE CAKESHOP CASE

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Fifty years ago this week, the U.S. Supreme Court issued a landmark ruling in *Newman v. Piggie Park Enterprises*.¹ Piggie Park, a small barbecue chain that is still open today, refused to serve African American customers. The owner, a segregationist, claimed that the Civil Rights Act violated his religious freedom. In a decision handed down on March 18, 1968, the Supreme Court disagreed.

This case is an important part of our nation's Civil Rights history. Yet, the Court is currently considering *Masterpiece Cakeshop vs. Colorado Civil Rights Commission*, a new case that has the potential to take our country back to a shameful era in our nation's history where businesses could claim a right to discriminate as they see fit. The stakes of this case couldn't be higher—not just for LGBT people, but also for people of color, women, minority faiths, people with disabilities, and others.

What was the *Piggie Park* case about? Following the passage of the federal Civil Rights Act of 1964, it became illegal to discriminate based on race, ethnicity and other characteristics in employment, housing, and public accommodations such as restaurants.



Fifty years ago, the Supreme Court decided a barbecue chain couldn't refuse to serve customers based on their race. Click the image above to view the ad spot.

The owner of Piggie Park, a chain of barbecue restaurants in South Carolina, refused service to several patrons because they were Black. In addition to claiming that the restaurant chain was not a place of public accommodation, and thus not covered by the Title II of the Civil Rights Act of 1964, the restaurant chain also argued that the Civil Rights Act's prohibition on discrimination based on race violated the owner's freedom of religion, because his "religious beliefs compel him to oppose any integration of the races whatever."²

The U.S. Supreme Court resoundingly and swiftly rejected this claim in a ruling issued 50 years ago in March 1968.

How is the *Masterpiece Cakeshop* case similar to *Piggie Park*?

Similar to the restaurant chain, Masterpiece Cakeshop, a bakery in Colorado, is asking the Supreme Court for permission to discriminate—in violation of Colorado's nondiscrimination law—against a same-sex couple. The bakery argues that the state's law prohibiting discrimination based on sexual orientation violates its freedom of speech, freedom of expression, and religious freedom.



Today the Supreme Court is deciding if a bakery can refuse to serve same-sex couples. Click the image above to view the ad spot.



A win for the bakery in *Masterpiece* could return us to a time when businesses can legally discriminate. Click the images above to view the ad spots.

Just as the *Piggie Park* case was about more than just barbeque dinners, the *Masterpiece Cakeshop* case is about so much more than cakes. Like *Piggie Park*, this case is about whether laws against discrimination can continue to be enforced without sweeping exemptions. If the bakery wins, the Supreme Court's decision could extend well past bakeries, and to customers well beyond same-sex couples.

Why? The bakery is arguing that the Constitution's free speech protections should allow businesses that involve a creative element to refuse service to customers to whom a business objects, even when that refusal of service otherwise violates state and federal nondiscrimination laws.

A ruling in favor of the bakery in *Masterpiece* would open the door to much wider ranging forms of discrimination. This kind of right to turn customers away could include any kind of business or service where someone claims there is an element of creativity or expressiveness involved—for example: a restaurant, a caterer, a hair salon or barber shop, a tailor, a school counselor, a florist, a picture-framer, an architect, or an interior designer, a funeral home director, just to name a few—as highlighted in an amicus brief filed by nine leading racial justice and legal organizations:

*The unprecedented carve-outs proposed by Masterpiece and the federal government could apply well beyond the wedding context to other businesses that are also arguably engaged in expressive activities, such as culinary arts, interior design and architecture firms, fashion boutiques, beauty salons, and barber shops, who would prefer not to associate with racial, ethnic, or other underrepresented minorities. And even beyond artistic commercial enterprises, a free-speech exception could potentially exempt a broad range of businesses that claim free-speech objections from serving particular customer groups.*³

Just as a ruling in favor of the *Piggie Park* restaurant chain would have created a broad exemption to the federal Civil Rights Act, a ruling for the bakery in *Masterpiece* could sanction and encourage discrimination not just against LGBT people, but also people of color, interfaith couples, women, people with disabilities, and others. The *Piggie Park* case was a landmark decision supporting the American ideal that all people are created equal. *Masterpiece* threatens to become its undoing.

ENDNOTES

¹ *Newman v. Piggie Park Enterprises, Inc.*, 390 U.S. 400 (1968) was decided on March 18, 1968.

² Citing a lower court ruling in the case, *Newman v. Piggie Park Enterprises*, 256 F. Supp. 941 (1996).

³ "Brief for Lawyers' Committee for Civil Rights Under Law, Asian American Legal Defense and Education Fund, Center for Constitutional Rights, Color of Change, the Leadership Conference on Civil and Human Rights, National Action Network, National Association for the Advancement of Colored People, National Urban League, and Southern Poverty Law Center As Amici Curiae Supporting Respondents." <https://lawyerscommittee.org/wp-content/uploads/2017/10/16-111-bsac-Lawyers-Committee-for-Civil-Rights-Under-Law-2.pdf>.

Learn more about what's at stake in the *Masterpiece* case for people of color, women, religious minorities, people with disabilities, LGBT people and others at www.OpenToAll.com. Organizations are also invited to contact Open To All to add their voice to the chorus ensuring that businesses that are open to the public remain open to everyone on the same terms.

