News



The Supreme Court in Washington, Nov. 4, 2020. (AP/J. Scott Applewhite, File)

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The Supreme Court on Tuesday ruled against a law banning "conversion therapy" for LGBTQ+ kids in Colorado, one of about two dozen states that ban the discredited practice.

An 8-1 high court majority sided with a Christian counselor who argues the law banning talk therapy violates the First Amendment. The justices agreed that the law raises free speech concerns and sent it back to a lower court to decide if it meets a legal standard that few laws pass.

Justice Neil Gorsuch, writing for the court, said the law "censors speech based on viewpoint." The First Amendment, he wrote, "stands as a shield against any effort to enforce orthodoxy in thought or speech in this country."

In a solo dissent, Justice Ketanji Brown Jackson wrote that states should be free to regulate health care, even if that means incidental restrictions on speech. The decision, Jackson wrote, "opens a dangerous can of worms" that "threatens to impair states' ability to regulate the provision of medical care in any respect."

The decision is the latest in a line of recent cases in which the justices have backed claims of religious discrimination while taking a skeptical view of LGBTQ+ rights.

Counselor Kaley Chiles, with support from President Donald Trump's Republican administration, said the law wrongly bars her from offering voluntary, faith-based therapy for kids.

Chiles contends her approach is different from "conversion therapy" practices from decades ago, like shock therapy. Her attorneys argued that the ban makes it hard for parents to find therapists willing to discuss gender identity with kids unless the counseling affirms transition.

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Colorado disagreed, saying its law does allow wide-ranging conversations about gender identity and sexual orientation and exempts religious ministries. The state says the measure simply bars using therapy to try to "convert" LGBTQ+ people to heterosexuality or traditional gender expectations, a practice that has been scientifically discredited and linked to serious harm.

The law doesn't violate the First Amendment, Colorado argued, because therapy is different from other types of speech since it's a form of health care that the state has a responsibility to regulate.

The 2019 law carries the possibility of fines and license suspension, but no one has been sanctioned under it. The ruling is expected to eventually make similar laws in other states unenforceable.

Chiles was represented by the Alliance Defending Freedom, a conservative legal organization that has appeared frequently at the court in recent years. The group also represented a Christian website designer who successfully challenged Colorado anti-discrimination law because she didn't want to work with same-sex couples.