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## ***Burwell v. Hobby Lobby Stores, Inc.*: Protection of Corporate Religious Beliefs or the Hindrance of Women's Rights in the 21st Century**

**T**he Affordable Care Act, widely called Obamacare, mandates that coverage of certain contraceptives, such as birth control pills and intrauterine devices, be included as part of most health insurance plans. The privately-owned corporation Hobby Lobby challenged this requirement in *Burwell v. Hobby Lobby Stores, Inc.*, arguing that the corporation should not be required to provide coverage for emergency contraception that is considered as an alternate means to abortion under the owners' religious beliefs. Ultimately, the Supreme Court ruled in favor of Hobby Lobby because it is a "closely held" company and therefore entitled to religious freedom. As a result, thousands of Hobby Lobby employees and their dependents lost their previously held right to certain methods of birth control, in the name of religious freedom.

The *Burwell v. Hobby Lobby Stores, Inc.* decision not only affects the Affordable Care Act, but also women rights in general. What is really paramount and telling in this decision, is that all of the three female justices of the court dissented, arguing that the holding creates a limitation on women's rights. To that end, in writing the dissenting opinion, Justice Ruth Bader Ginsburg argued that "[t]he exemption sought by Hobby Lobby and Conestoga would override significant interests of the corporations' employees and covered dependents. It would deny legions of women who do not hold their employers' beliefs access to contraceptive coverage that the ACA would otherwise secure."<sup>1</sup> Justice Ginsburg further pointed out economic concerns, noting that a minimum-wage earner, such as an employee of Hobby Lobby, would need to save a month's pay in order to pay for an IUD, which could affect the woman's well-being in the meantime.

Furthermore, here, the majority, composed of five male justices, essentially held that the Religious Freedom Restoration Act did not protect a woman's right to choose a particular method of birth control. This is troublesome, given the fact that certain women can only utilize a particular method of birth control due to medical concerns. Here, the court undoubtedly seems insensitive to such concerns and appears to put the interests of closely held corporations above those of its female employees (and dependents). As a result of the court's decision, many of the female employees,

as well as female dependents of male and female employees, of closely held corporations, such as Hobby Lobby, have lost free or low-cost access to important family planning options, including the most effective form of birth control. Consequently, most of these women do not have the luxury of simply quitting their job and finding other employment that would provide them with such access, especially not in today's job market. Alternatively, no legislation has been passed that would provide such access to those women who desperately need it.

Ultimately, legislation is required to reverse the potential impacts of *Burwell v. Hobby Lobby Stores, Inc.* Currently, the Department of Health and Human Services provides an accommodation to religious non-profit corporations so that the insurer could provide birth control without billing the corporation. In the majority opinion, Justice Alito suggests that the Health and Human Services department could extend such an accommodation to for-profit companies as well. However, no such extension has been offered. Here, the majority depends on the Religious Freedom Restoration Act in its decision to ultimately side with Hobby Lobby stores, therefore, as a result, Congress will need to consider repealing or amending certain portions of the act. A proposed bill should address alternative ways to providing coverage for employees (and their dependents) of closely held companies that refuse to provide coverage for certain emergency contraception because of owners religious beliefs. As of now, it is obvious that some problems will arise in regards to funding of such coverage, as well as the accessibility of such coverage.

In addition, this decision could potentially affect a broader range of individuals in the future. For example, Justice Ginsburg elaborated by noting whether the exemption as articulated by the majority would “extend to employers with religiously grounded objections to blood transfusions (Jehovah's Witnesses); antidepressants (Scientologists); medications derived from pigs, including anesthesia, intravenous fluids, and pills coated with gelatin (certain Muslims, Jews, and Hindus); and vaccinations (Christian Scientists, among others)?”<sup>2</sup> This leads to the notion of opening the flood gates to much more litigation in regards to the exemption and the Supreme Court needs to be ready to address such concerns in the future when they arise.

Americans have come a long way since 1776, and women especially, since the 1900's. One of the most sacred rights a woman has is the right to bodily integrity and the right to privacy. However, it seems that the holding of *Burwell v. Hobby Lobby Stores, Inc.* runs contrary to the rights women have fought for centuries to obtain. If the women on the bench have ruled against Hobby Lobby, why did the men not support them? The only way women's rights can continue to flourish is by pursuing a common vision, one that does not place religious freedom of a corporation over the reproductive

rights of its employees.

<sup>1</sup> 134 S. Ct. 2751, 2790 (2014) (Ginsburg, R., dissenting).

<sup>2</sup> 134 S. Ct. 2751, 2805 (Ginsburg, R., dissenting).