***Two Competing Freedoms: Is Religious Liberty Simply Code for Discrimination?***
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*Among the most inestimable of our blessings, also, is that . . . of liberty to worship our Creator in the way we think most agreeable to His will; a liberty deemed in other countries incompatible with good government and yet proved by our experience to.*

Thomas Jefferson

Where does religious freedom end and antidiscrimination laws begin? Technically, businesses are allowed to refuse service to anyone, albeit with certain exceptions. The refusal cannot be based on race, color, religion, and in 22 states plus Washington, D.C. and Puerto Rico, sexual orientation (19 states plus Washington, D.C. and Puerto Rico outlaw discrimination based on gender identity or expression). Some believe The Religious Freedom Restoration Act (RFRA) allows exemptions in antidiscrimination laws, creating exceptions to the exceptions. But refusing someone service for who they are is the essence of discrimination.

Should religious beliefs trump civil rights? The response depends on who you ask, and where you ask the question. And like most things these days, it is a recycled concept.

Dating back to the 1970s, conservative Christian organizations used their religious beliefs to demand exemptions to the Civil Rights Act and similar laws. One of the most famous was South Carolina's Bob Jones University, which was retroactively stripped of its tax-exempt status due to discriminatory practices. After appealing to the Supreme Court the IRS's decision was upheld, yet the university instead chose to pay the one million dollars in taxes dating back to December 1970 and continue its race-based admissions and housing policies. It took a decline in financial contributions, unwanted media attention, and a change in leadership for the school to finally catch up with the times. That didn't happen until 2008.

Religious freedom is already covered under the First Amendment and the Georgia Constitution. Yet some Georgia lawmakers have been trying to pass their own version of RFRA (State Bill 129) for at least two years. As currently written, SB 129 boils down to one sentence intended to be the difference between whether a person can or cannot legally be discriminated against based on a business or individual's religious beliefs. That sentence reads: "Courts have consistently held that government has a fundamental, overriding interest in eradicating discrimination." Although the latest attempt stalled during the April legislative session, some worry SB 129 will just be tacked on to another pending bill and quietly passed anyway.

### *History of RFRA*

In *Employment Division v. Smith* (1990), two American Indians working as private drug rehab counselors ingested peyote (a hallucinogenic drug used in religious ceremonies performed by the Native American Church) and were subsequently fired from their jobs. They appealed, and the Supreme Court upheld that decision in 1993. Back in the good old days when bipartisanship wasn't such a foreign concept, politicians on both sides of the aisle disagreed with that ruling and the federal version of RFRA was passed almost unanimously (97-3 in the Senate). Ultimately, the Supreme Court ruled in 1997 that the Act couldn't be applied to states because Congress couldn't determine the way in which states enforced RFRA's restrictions.

Opponents view RFRA as a veiled attempt to discriminate against the LGBT community specifically. Photographers, bakers, police officers, and florists are just some of the business owners and employees who have used a "religious liberty" defense in order to refuse service to gay patrons. The legalization of same-sex marriage in some states also seems to have been a game changer, which fuels the desire for some states to enact their own versions of RFRA.

But who is to say that those sentiments couldn't eventually be extended to people of color, women, or any other minority, all while using religion as a buffer. Thus far, 22 states have created their own versions of RFRA modeled after the 1993 federal bill, and nine others are pending. According to aclu.org, 21 states currently have laws barring discrimination on the basis of sexual orientation (some include gender identity), and Georgia is not one of them.

Religious exemptions are also being sought thanks in part to the Affordable Health Care Act's requirement that for-profit companies provide full health care coverage that includes contraception (churches, religious hospitals, schools, and nonprofits were already exempt). The 2014 Hobby Lobby Supreme Court decision set the precedent that corporations can deny employees their legal rights, and then claim religious freedom as a defense. Similar lawsuits have been popping up countrywide using this defense ever since.

Additionally, as seen in Indiana, this state's economic future could be threatened if SB 129 is passed. "We do not want our future visitors to Georgia to be worried about being faced with any discriminatory behavior under the guise of this bill," wrote the Georgia Association of Conventions & Visitors Bureaus Board of Directors in a letter to members of the House Judiciary Committee. "This bill is unnecessary, divisive, and a distraction from the issues needed to advance Georgia."

So, where will the line be drawn? Is this something we want to see materialize in Georgia? It could happen since it is believed that the bill will resurface during the 2016 legislative session, if not sooner.

"This ill-conceived, discriminatory bill threatens not just the LGBT community, but women, racial minorities, members of minority faiths, and the economic climate of [Georgia]," said Sarah Warbelow, Legal Director of the Human Rights Campaign.