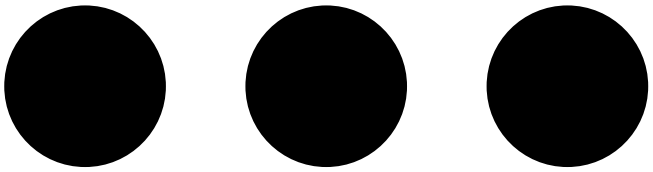
Written by **Bob Adelmann** on September 12, 2022

Court Beats Back New York State From Forcing Christian Adoption Agency to Allow Same-sex Parents to Adopt Their Kids

The same court that originally upheld New York state in its determination to force New Hope Family Services — a privately-funded Christian adoption agency that has placed more than 1,000 children with traditional parents since its founding in 1965 — to comply with a new state law demanding placement of children with unmarried or same-sex parents was forced to reverse that decision last week.



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Last week, U.S. District Court Judge Mae A. D'Agostino found cogent reasons to reverse her previous ruling, thanks to demands from the U.S. Court of Appeals for the Second Circuit that she do so.

Initially she upheld the complaint of New York State's Office of Children and Family Services (OCFS) against New Hope that the Christian agency — by refusing to place children with unmarried and/or same-sex couples, according to their Christian beliefs — violated the state's new law. She found that New Hope's policy was "discriminatory and impermissible" under that law.

For years New York prohibited adoption by any couple other than a heterosexual, married couple. In 2010, however, the state — reflecting the continued erosion of Christian, traditional values and their consequent replacement with secular, non-Christian values — reversed. It rewrote the law, allowing — not demanding — adoption agencies to place children with unmarried or same-sex parents.

Later, that law was turned into a demand. When the agency turned its attention and its new anti-Christian-religion animus toward New Hope, demanding that the agency change its policy, the agency sued.

They lost. But on appeal, they won. With the assistance of Alliance Defending Freedom (ADF), a nonprofit law firm focused on providing legal assistance in cases like this one, the appeals court demanded that Judge D'Agostino reverse her previous decision.

Which she did, in spades:

> "'At the heart of the First Amendment' is the principle 'that each person should decide for himself or herself the ideas and beliefs deserving of expression, consideration, and

> adherence.'"…
>
> "Consistent with this principle, freedom of speech means that the 'government may not prohibit the expression of an idea,' even one that society finds 'offensive or disagreeable.'"…
>
> "For much the same reason, [the] government also cannot tell people that there are things 'they must say.'"…
>
> "Thus, when [the] government 'direct[ly] regulat[es] … speech' by mandating that persons explicitly agree with government policy on a particular matter, it 'plainly violate[s] the First Amendment.'"…

She concluded:

> New Hope has demonstrated that it is entitled to a permanent injunction prohibiting the State of New York from requiring New Hope to provide adoption services to unmarried or same-sex couples.
>
> First, New Hope has succeeded on the merits of its First Amendment claim against OCFS, as detailed above.
>
> Second, "[t]he loss of First Amendment freedoms, even for minimal periods of time, unquestionably constitutes irreparable injury." [From *Elrod v. Burns*, 1976.]

As Douglass Dowty noted on Syracuse.com:

> D'Agostino this week ruled in favor of New Hope after the higher court's decision. She found that New Hope had a First Amendment right [after all] to deny adoptions to same-sex or unmarried couples.

The appeals court sending the case back to D'Agostino uncovered a "suspicion of religious animosity" by the state's commission given the way it used the law as a bludgeon to force New Hope to violate its First Amendment rights. The court wrote:

> It is plainly a serious step to order an authorized adoption agency such as New Hope — operating without complaint for 50 years, taking no government funding, successfully placing approximately 1,000 children, and with adoptions pending or being supervised — to close all its adoption operations.

ADF senior counsel Roger Brooks celebrated the legal victory:

> The court's decision is great news for children waiting to be adopted and for the parents partnering with New Hope Family Services to provide loving, stable homes.
>
> New Hope is a private religious ministry that doesn't take a dime from the government. Shutting down an adoption provider for its religious beliefs—needlessly and unconstitutionally reducing the number of agencies willing to help—benefits no one—certainly not children.

> New Hope's faith-guided services don't coerce anyone and do nothing to interfere with other adoption providers who have different beliefs about family and the best interests of children.
>
> The decision from the court simply allows New Hope to continue serving the community so that more kids find permanent homes, more adoptive parents welcome a new child, and more birth parents enjoy the exceptional support that New Hope has offered for decades.
>
> The state's attempt to shutter New Hope did nothing other than violate core rights protected by the First Amendment—the freedom to speak what you believe and the freedom to practice the teachings of your faith.

The victory is just one in the long, sustained, and accelerating battle between atheists and Christ and His followers. The office violating New Hope's First Amendment rights said it was "deeply disappointed with the decision and maintains that discrimination on any basis should not be tolerated. We're reviewing our options for next steps."