



Written by [Michael Tennant](#) on April 6, 2026

Supreme Court: Colorado Can't Force Counselors to Affirm Kids' Gender Identities

The Supreme Court [ruled 8-1](#) Tuesday that a Colorado law prohibiting licensed counselors from helping minors shed unwanted same-sex attraction or gender confusion violates the First Amendment.

Writing for the majority, Justice Neil Gorsuch observed:

Colorado may regard its policy as essential to public health and safety. Certainly, censorious governments throughout history have believed the same. But the First Amendment stands as a shield against any effort to enforce orthodoxy in thought or speech in this country. It reflects instead a judgment that every American possesses an inalienable right to think and speak freely, and a faith in the free marketplace of ideas as the best means for discovering truth.



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Censor Nonsense

Kaley Chiles, a licensed Colorado counselor, offers talk therapy — and only talk therapy — to children and adolescents experiencing, among other things, sexual and gender issues. Chiles, a Christian, does not impose her views on her clients. If a client is comfortable with his same-sex attraction or gender dysphoria but wants help dealing with related family or social issues, Chiles provides such assistance. If, on the other hand, a client wishes to confront his problems, Chiles helps him work through them.

In 2019, Colorado enacted a law banning licensed counselors from performing “conversion therapy” on minor patients. Specifically, they are forbidden to engage in “any practice or treatment ... that attempts ... to change an individual’s sexual orientation or gender identity.” At the same time, the law explicitly permits practices that affirm patients’ existing sexual or gender tendencies or support patients undergoing “gender transition.”

Chiles explained the situation in a [Fox News op-ed](#):

In effect, the state is forcing counselors to be silent or participate in a one-size-fits-all mandate pushing kids down the path of gender transition and toward dangerous drugs and surgeries. This mandate forbids certain kids and families from getting the counseling they want that actually helps them — counseling to help them accept their bodies. Colorado



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thinks it knows better than families what counseling they should receive.

Counselor at Law

Not waiting to be punished by the state to the tune of thousands of dollars in fines or even the loss of her license, Chiles sought a federal injunction against the law, arguing that it violates her First Amendment right to freedom of speech — which, by the way, is also guaranteed by the Colorado constitution. Both a federal district court and the 10th Circuit Court of Appeals denied Chiles' request, accepting the state's argument that the law regulates "professional conduct" and delineates which treatments are permissible, affecting speech only "incidentally." Chiles appealed to the Supreme Court, which overruled the lower courts.

"The State's premise is simply mistaken," declared Gorsuch:

In many applications, the State's law banning "conversion therapy" may address conduct — such as aversive physical interventions. But here, Ms. Chiles seeks to engage only in speech, and as applied to her the law regulates what she may say. Her speech does not become conduct just because the State may call it that. Nor does her speech become conduct just because it can also be described as a "treatment," a "therapeutic modality," or anything else. The First Amendment is no word game. And the rights it protects cannot be renamed away or their protections nullified by "mere labels."

As to the state's contention that it can regulate counselors' speech if it deviates from the prevailing "standard of care," Gorsuch — the court's [harshesht critic](#) of the Covid-19 tyranny — rejoined, "So what if that kind of reflexive deference to currently prevailing professional views may not always end well?"

"A prevailing standard of care may reflect what most practitioners believe today, but it cannot mark the outer boundary of what they may say tomorrow," he elaborated. "Far from a test of professional consensus, the First Amendment rests instead on a simple truth: '[T]he people lose' whenever the government transforms prevailing opinion into enforced conformity."

Dissent Into Lunacy

Regular readers of *The New American* will not be surprised to learn that the lone dissenting justice in this case was also the one [unable to define the word woman](#) — namely, Justice Ketanji Brown Jackson. As revealed in her dissent, which was longer than the majority opinion and a concurring opinion by Justice Elena Kagan combined, Jackson swallowed Colorado's arguments whole.

"It is baffling that we could now be standing on the edge of a precipitous drop in the quality of healthcare services in America," Jackson opined, contending that "conversion therapy" is both futile and harmful. "Stranger still is the fact that this possibility looms in the 21st century — given what science now enables us to know about medical conditions and treatments, what our cases say, and what we all should have learned by now from history."

What is truly baffling is that a Supreme Court justice could hear what even the liberal Kagan called a "textbook" free-speech case and conclude that the law in question was not only permissible but beneficent. Indeed, Jackson's dissent was so bizarre that both Gorsuch and Kagan felt the need to critique it in their own opinions.



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At a press conference following the court's decision, Chiles [said](#):

Kids deserve real help affirming that their bodies are not a mistake, and that they are wonderfully made. I'm grateful that my speech is protected, but I'm even more excited that families and children seeking access to counseling that respects biological reality will be able to get the help they need.



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