



This Wednesday, Jan. 27, 2021, photo shows the Holy Name of Jesus Cathedral in Raleigh, N.C. (AP/Allen G. Breed)

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A Catholic school in North Carolina had the right to fire a gay teacher who announced his marriage on social media a decade ago, a federal appeals court ruled Wednesday, reversing a judge's earlier decision.

A panel of the 4th U.S. Circuit Court of Appeals in Richmond, Virginia, reversed a 2021 ruling that Charlotte Catholic High School and the Roman Catholic Diocese of Charlotte had violated Lonnie Billard's federal employment protections against sex discrimination under Title VII of the Civil Rights Act. The school said Billard wasn't invited back as a substitute teacher because of his "advocacy in favor of a position that is opposed to what the church teaches about marriage," a court document said.

U.S. District Judge Max Cogburn determined Billard — a full-time teacher for a decade until 2012 — was a lay employee for the limited purpose of teaching secular classes. Cogburn said a trial would still have to be held to determine appropriate relief for him. A 2020 ruling by the U.S. Supreme Court declared Title VII also protected workers who were fired for being gay or transgender.

But Circuit Judge Pamela Harris, writing Wednesday's prevailing opinion, said that Billard fell under a "ministerial exception" to Title VII that courts have derived from the First Amendment that protects religious institutions in how they treat employees "who perform tasks so central to their religious missions — even if the tasks themselves do not advertise their religious nature."

That included Billard — who primarily taught English as a substitute and who previously taught drama when working full-time — because Charlotte Catholic expected instructors to integrate faith throughout the curriculum, Harris wrote. And the school's apparent expectation that Billard be ready to instruct religion as needed speaks to his role in the school's religious mission, she added.

"The record makes clear that (Charlotte Catholic) considered it "vital" to its religious mission that its teachers bring a Catholic perspective to bear on Shakespeare as well as on the Bible," wrote Harris, who was nominated to the bench by then-President Barack Obama. "Our court has recognized before that seemingly secular tasks like the teaching of English and drama may be so imbued with religious significance that they implicate the ministerial exception."

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Billard, who sued in 2017, began working at the school in 2001. He met his now-husband in 2000, and announced their decision to get married shortly after same-sex marriage was made legal in North Carolina in 2014.

In a news release, the American Civil Liberties Union and a Charlotte law firm that helped Billard file his lawsuit lamented Wednesday's reversal as "a heartbreaking decision for our client who wanted nothing more than the freedom to perform his duties as an educator without hiding who he is or who he loves."

The decision threatens to encroach on the rights of LGBTQ+ workers "by widening the loopholes employers may use to fire people like Mr. Billard for openly discriminatory reasons," the joint statement read.

An attorney for a group that defended the Charlotte diocese praised the decision as "a victory for people of all faiths who cherish the freedom to pass on their faith to the next generation." The diocese operates 20 schools across western North Carolina.

"The Supreme Court has been crystal clear on this issue: Catholic schools have the freedom to choose teachers who fully support Catholic teaching," said Luke Goodrich with The Becket Fund for Religious Liberty. Attorneys general from nearly 20 liberal-leaning states as well as lawyers from Christian denominations and schools and other organizations filed briefs in the case.

Circuit Judge Paul Niemeyer, an appointee of former President George H.W. Bush, joined Harris' opinion. Circuit Judge Robert King, a nominee of former President Bill Clinton, wrote a separate opinion, saying he agreed with the reversal while also questioning the use of the ministerial exemption. Rather, he wrote that Charlotte Catholic fell under a separate exemption in Title VII for religious education institutions dismissing an employee.