

The *R.G. & G.R. Harris Funeral Homes* Case

Case Name: *R.G. & G.R. Harris Funeral Homes v. Equal Employment Opportunity Commission*

Case Status: On April 22, 2019, the U.S. Supreme Court announced it would hear the case. The oral argument date has not been determined yet.

Significance: Whether a court or government agency can usurp the role of Congress by redefining the word “sex” in federal law to mean “gender identity.”



Background: Since 1910, R.G. & G.R. Harris Funeral Homes has ministered to grieving families in the Detroit area. Employees of the small, family-owned business work hand in hand with those suffering the loss of a loved one, following policies designed to meet the needs of the families they serve. In 2007, this multi-chapel funeral home hired a male employee who agreed to comply those policies, including the company’s sex-specific dress code, which is crafted to emphasize professionalism and keep the focus on those mourning the loss of a loved one. In 2013, however, the employee notified funeral home owner Tom Rost that he intended to begin dressing as woman at work, when interacting with the bereaved, in violation of the company’s dress code. Tom determined that allowing this would not be in the best interests of his clients processing their grief. He offered the employee a severance package, which the employee refused. The Equal Employment Opportunity Commission then targeted the funeral home for prosecution, seeking to bring about its own political goal by rewriting “sex” in Title VII of the Civil Rights Act of 1964 to mean “gender identity.” The U.S. Court of Appeals for the 6th Circuit adopted the EEOC’s argument and rewrote Title VII.

Title VII is a federal law intended to ensure equal opportunities in employment, regardless of a person’s race, color, religion, national origin, or sex (that is, male or female). “Sex” and “gender identity” are not the same thing. “Sex” treats whether someone is male or female as an objective fact based in biology. In contrast, “gender identity” is a fluid and difficult-to-define concept based on subjective perceptions.

Key Points

- Neither government agencies nor courts have the authority to rewrite federal law.
- Replacing “sex” with “gender identity” in federal law is a drastic change with widespread consequences for everyone. It forfeits bodily privacy rights and equal educational opportunities for women and girls, and it threatens religious liberty.
- The EEOC should not target a funeral home for punishment simply for enforcing policies that seek the best interests of those who are grieving.
- Businesses have the right to rely on what the law is—not what government agencies want it to be—when they create and enforce employment policies.

Key Facts

- The EEOC targeted a small family-owned funeral home for punishment to achieve its political objective of replacing “sex” in Title VII with “gender identity.”
- Harris Funeral Homes’ priority is for families to focus on their loss and their grief. Its policies are crafted to emphasize professionalism and encourage employees to blend into the background.
- Small businesses are allowed under the law to differentiate between men and women in their dress codes. The EEOC’s own manual says that a “dress code may require male employees to wear neckties at all times and female employees to wear skirts or dresses at all times.”

The Bottom Line: Neither government agencies nor the courts have authority to rewrite federal law by replacing “sex” with “gender identity”—a change with widespread consequences for everyone.