

1 STATE OF COLORADO

2 CITY AND COUNTY OF DENVER

3

4 Colorado Civil Rights Commission Meeting

5 Held on July 25, 2014

6 Colorado State Capitol

7 200 East Colfax Avenue, Old Supreme Court Chambers

8

9 In re: CHARLIE CRAIG and DAVID MULLINS v.

10 MASTERPIECE CAKESHOP, INC.

11 Case No: P20130008X, CR2013-0008

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15 This transcript was taken from an audio

16 recording by Katherine A. McNally, Certified

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1 P R O C E E D I N G S

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4 (Commencement of audio at 00:00.0.)

5 THE CHAIRMAN: Calling the meeting to order.

6 This is the Friday, July 25th, 2014, meeting of the
7 Colorado Civil Rights Commission.

8 Would all of those that are present please feed
9 your name into the record?

10 COMMISSIONER VELASQUEZ: Susie Velasquez,
11 Greeley, Colorado.

12 COMMISSIONER RICE: Diane Rice, Loveland,
13 Colorado.

14 MS. McPHERSON: Jennifer McPherson, with the
15 Division.

16 MS. MALONE: Shayla Malone, with the Division.

17 MR. MORTURE: Vince Morture (phonetic), Deputy
18 Attorney General, counsel for the Division.

19 MR. MAXFIELD: Eric Maxfield, First Assistant
20 AG, from the Division.

21 COMMISSIONER ADAMS: Commissioner Adams,
22 Fountain, Colorado Springs, Colorado.

23 COMMISSIONER HESS: Commissioner Hess, from
24 Grand Junction, Colorado.

25 COMMISSIONER SAENZ: Rosa Saenz, from Denver.

1 COMMISSIONER JAIRAM: Raju Jairam, Fort Collins
2 Colorado.

3 THE CHAIRMAN: And --

4 MS. MARTIN: Oh, I'm just observing.

5 THE CHAIRMAN: Yes, ma'am. But you need to tell
6 us who you are, please.

7 MS. MARTIN: Oh, I'm Nicolle Martin.

8 THE CHAIRMAN: Okay. Nicolle Martin with --

9 MS. MARTIN: Counsel for complainants -- I'm
10 sorry. Counsel for respondents and appellants --

11 THE CHAIRMAN: Oh. Okay, (indiscernible).

12 MS. MARTIN: -- (indiscernible) Masterpiece.

13 THE CHAIRMAN: Okay. Thank you.

14 And I guess we do have a quorum.

15 (Conclusion of audio at 01:13.8; commencement of
16 audio at 08:40.0.)

17 THE CHAIRMAN: Okay. Eric.

18 MR. MAXFIELD: So there is a Motion to Stay
19 final agency order filed by respondents in the Craig v.
20 Masterpiece Cakeshop case. There is a complainant's
21 response in option to the Motion for Stay that was
22 filed, I think, yesterday. And (indiscernible) has to
23 take a look at that.

24 Procedurally, the -- either party
25 (indiscernible) a stay of the final agency order from

1 the Commission. And then if that is granted, there'll
2 be a stay in place. If it's denied, then they may also
3 seek a stay from the Court of Appeals. The Court of
4 Appeals could grant or deny the stay during the pendency
5 of the appeal, which was also noticed by Masterpiece,
6 Inc.

7 So if there are questions about the Commission's
8 authority and the reasoning around the possible granting
9 of the stay or denial, I can try to answer those. It
10 is -- and then that's something that I can do here and
11 now to you, you know, in open session, or if you would
12 want to waive attorney/client privilege, or you could
13 ask to go into -- make a motion to go into executive
14 session, and we could have a closed session for attorney
15 advice on the merits of the Motion to Stay.

16 THE CHAIRMAN: My question is, Do we need to
17 respond to this or make a motion today or need a motion
18 today?

19 MR. MAXFIELD: Yes. This -- this ought to
20 receive action today, either a grant or denial of the
21 stay.

22 THE CHAIRMAN: Okay.

23 MALE SPEAKER: I would like to have an
24 opportunity to read this. I don't know about the
25 others.

1 FEMALE SPEAKER: And maybe we can sometime take
2 a short break, and when we finish the public -- and at
3 the beginning of our executive session and a few minutes
4 to read this stuff, because we --

5 MALE SPEAKER: Yes.

6 FEMALE SPEAKER: -- I don't think we've seen it
7 until now.

8 MALE SPEAKER: (Indiscernible) last night.

9 MR. MAXFIELD: One thing that I could offer is
10 that the -- the legal standard identified by both
11 parties in the general sense is the same. So I don't
12 think that there's a contest about that. And so you'll
13 see the elements -- four elements set out clearly by
14 both parties, and for which I think there's agreement.

15 FEMALE SPEAKER: Okay.

16 MALE SPEAKER: And then if we need any advice,
17 then we could go into closed session?

18 MR. MAXFIELD: Yes.

19 THE CHAIRMAN: Okay.

20 MR. MAXFIELD: Yeah.

21 THE CHAIRMAN: So it -- I guess we all finished
22 through the public session, take maybe a 10-, 15-minute
23 break, give everyone have a chance to read this --

24 MALE SPEAKER: Um-hmm.

25 THE CHAIRMAN: -- and then we'll discuss it.

1 MALE SPEAKER: Okay.

2 THE CHAIRMAN: Does that work?

3 FEMALE SPEAKER: Um-hmm. And then if we --
4 before we break up executive session --

5 THE CHAIRMAN: Before -- yeah, if we need to go
6 into executive session (indiscernible).

7 FEMALE SPEAKER: Okay. (Indiscernible) --

8 THE CHAIRMAN: (Indiscernible) merit.

9 FEMALE SPEAKER: -- if we have this on the
10 agenda, we'll (indiscernible) --

11 THE CHAIRMAN: Yes.

12 FEMALE SPEAKER: -- have to go into executive
13 session (indiscernible), okay?

14 THE CHAIRMAN: Is that acceptable?

15 FEMALE SPEAKER: Yes.

16 THE CHAIRMAN: All right. Any audience
17 participation?

18 (Conclusion of audio at 11:48.4; commencement of
19 audio at 17:35.1.)

20 THE CHAIRMAN: Okay. What we have here in front
21 of us is -- anyway, we're here to discuss the
22 Masterpiece Cakeshop, Case (indiscernible). Anyway,
23 here's the agenda.

24 FEMALE SPEAKER: Oh, yeah.

25 THE CHAIRMAN: Oh, here it is. Okay. We're

1 here to discuss Case P2013008X, CR2013-00H, Charlie
2 Craig and David Mullins versus Masterpiece Cakeshop.

3 MALE SPEAKER: Um-hmm.

4 THE CHAIRMAN: There's a motion for a stay of
5 the final Commission -- I mean, the Commission's final
6 order, and then there's a response by the defendant in
7 opposition. And then there's -- we've also been given a
8 notice of appeal regarding a court, the appellate court,
9 I guess.

10 So anyone want to lead off?

11 FEMALE SPEAKER: I'll lead.

12 Mr. Chair, I move that the Commission deny the
13 Motion to Stay in -- for the Commission case.

14 FEMALE SPEAKER: Second.

15 THE CHAIRMAN: Okay. There's a motion on the
16 floor and a second to deny the respondent's motion for a
17 stay of the final order by this Commission.

18 MALE SPEAKER: Um-hmm.

19 THE CHAIRMAN: Okay. Are there any comments or
20 discussions about this before I put it to a vote?

21 FEMALE SPEAKER: Yes, sir.

22 THE CHAIRMAN: Go ahead.

23 FEMALE SPEAKER: I'd like to make a couple
24 comments.

25 First of all, I think for us to grant a stay

1 would be to say that we disagree with our own order,
2 final order. And of the arguments that are made, I
3 think there is -- by virtue of our order, we determined
4 that there is a public -- bless you --

5 FEMALE SPEAKER: Thank you.

6 FEMALE SPEAKER: -- there is a public interest
7 in enforcing this, that clearly the public is hurt by
8 actions such as those taken by Masterpiece Cake.
9 Complying with the order is not harmful or irreparable
10 to Masterpiece Cake. I don't see that any harm is done
11 there.

12 I -- I further believe that if you're going to
13 do business in Colorado, you have to follow the Colorado
14 Antidiscrimination Act, and for us to give a stay in
15 this case would be to say, oh, unless you don't want to.
16 So anyway, I -- I believe that we have to live by our
17 convictions and our orders (indiscernible) the
18 respondent to do so.

19 THE CHAIRMAN: Susan?

20 FEMALE SPEAKER: I would just like to point out,
21 and I agree with the documents of the plaintiffs that --
22 that the document that was in front of us from the --
23 the plaintiffs' response.

24 THE CHAIRMAN: Oh, okay.

25 FEMALE SPEAKER: -- that they have not

1 demonstrated a likelihood of success, because they were
2 rejected three times before. And as Diane pointed out,
3 we made a decision then. And I don't believe that --
4 that they have a likelihood of success.

5 THE CHAIRMAN: Okay. Commissioner Saenz?

6 FEMALE SPEAKER: I --

7 THE CHAIRMAN: No comments?

8 FEMALE SPEAKER: No.

9 THE CHAIRMAN: Commissioner Hess?

10 COMMISSIONER HESS: I agree with what's been
11 said.

12 THE CHAIRMAN: Commissioner Adams?

13 COMMISSIONER ADAMS: I would agree with
14 Commissioner Rice's and (indiscernible) assessment of
15 what has transpired.

16 FEMALE SPEAKER: I have one more comment.

17 THE CHAIRMAN: Go ahead.

18 FEMALE SPEAKER: In regard to the respondent's
19 argument -- endless argument, this is that they -- this
20 argument's been made before, and it -- it holds no
21 water, as far as I'm concerned, whatsoever. You -- and
22 we said this in the hearing, and we need to repeat this
23 over and over, you cannot separate the fact that these
24 men -- their -- their sexual orientation from the action
25 of wanting to celebrate the marriage, anymore than you

1 could a case between races in many years gone past.

2 And the U.S. Supreme Court has found over and
3 over that you cannot discriminate on the basis of race,
4 and sexual orientation is a status absolutely like race
5 or -- so -- and you can't separate the fact that these
6 gentlemen want to marry from the fact that they are
7 homosexual.

8 THE CHAIRMAN: Okay. (Indiscernible.)

9 I have some comments, and that is, you know,
10 Mr. Phillips says that he wants to be respected or his
11 views and religious views to be respected, and I believe
12 that the general public also needs to -- you know, their
13 views need to be respected.

14 The -- the issue here is whether or not the
15 couple that went in to get service were treated with
16 dignity and respect, and the fact of the matter are they
17 were not, and it's also clear that they were turned
18 away. And those have all been established.

19 And I don't believe that the individual's right
20 to practice his religion violates other people's rights
21 to free access, especially when the business is open to
22 the public and serving the public.

23 Now, what Mr. Phillips does in private is his
24 own business. And I agree that, you know, we cannot
25 separate same sex marriage and say that I'm not

1 discriminating against gay couples, because I mean, by
2 the very definition, when two people of the same sex
3 want to get married, it tells me that they are of a
4 certain sexual orientation. So that argument, again,
5 fails.

6 Go ahead.

7 FEMALE SPEAKER: Well, I just want to point out
8 that this -- this case is really not about same sex
9 marriage. It's -- it's about a couple -- it's just
10 about a gay couple that wanted a cake to celebrate a
11 life event in their life.

12 FEMALE SPEAKER: Um-hmm.

13 FEMALE SPEAKER: That doesn't really -- it could
14 have been a civil union. It could have been a -- you
15 know, let's wrap, you know, ribbon around a tree and --
16 and -- and say that we hope, you know, the world gets to
17 be a better place with us in it as a couple. So it's
18 not -- I mean, I think there's some rhetoric that this
19 is a case about same sex marriage. Well, it's really
20 not. It's really about a case about denial of service.

21 FEMALE SPEAKER: You -- yeah, you're exactly
22 right --

23 MALE SPEAKER: Um-hmm.

24 FEMALE SPEAKER: -- Commissioner Hess.

25 I would also like to reiterate what we said in

1 the hearing or the last meeting. Freedom of religion
2 and religion has been used to justify all kinds of
3 discrimination throughout history, whether it be
4 slavery, whether it be the holocaust, whether it be -- I
5 mean, we -- we can list hundreds of situations where
6 freedom of religion has been used to justify
7 discrimination. And to me it is one of the most
8 despicable pieces of rhetoric that people can use to --
9 to use their religion to hurt others. So that's just my
10 personal point of view.

11 THE CHAIRMAN: Okay. Any other comments?

12 Okay. So there's a motion on the floor to deny
13 the respondent's Motion for Stay of our final order.
14 And all those in favor, please signify by saying aye.

15 (A chorus of ayes.)

16 THE CHAIRMAN: Those opposed?

17 Any abstentions?

18 Therefore the Commission denies the respondent's
19 motion for a stay of our final order.

20 (Conclusion of audio at 27:54.1.)

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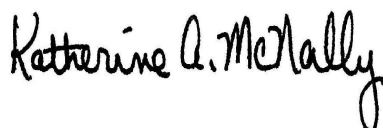
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C E R T I F I C A T E

I, Katherine McNally, Certified
Transcriptionist, do hereby certify that the foregoing
pages 1 through 12 constitute a full, true, and accurate
transcript, from electronic recording, of the
proceedings had in the foregoing matter, all done to the
best of my skill and ability.

SIGNED and dated this 8th day of August
2014.



KATHERINE A. McNALLY
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