

## *Neely v. Wyoming Commission on Judicial Conduct and Ethics*

**Cert Petition (request for review) filed at U.S. Supreme Court:** 8/4/2017

**U.S. Supreme Court Docket No.:** TBD

**Background:** In December 2014, a small-town Wyoming reporter set out to expose Judge Ruth Neely's religious beliefs about marriage. In response to his questions about her willingness to officiate same-sex weddings, Judge Neely said that she believes marriage is the union of a man and a woman, that her faith would not allow her to perform same-sex weddings, and that other judges were available for those weddings. The reporter published these statements. In addition to serving her town for more than two decades as a municipal judge, Judge Neely was a part-time circuit court magistrate who had authority to perform weddings but the discretion to deny wedding requests. In fact, the state allows magistrates to decline wedding requests for countless secular reasons—because they refuse to perform weddings for strangers, they simply don't feel like marrying the couple, or they prefer to watch a football game. But the state punished Judge Neely for saying that she would need to refer some wedding requests for a religious reason. In March 2015, the Wyoming Commission on Judicial Conduct and Ethics filed a complaint against her, alleging that her comments about marriage constituted judicial misconduct. The commission sought to remove her from both her role as municipal judge (in which she does not have authority to solemnize marriages) and her role as a magistrate (in which she has discretion when solemnizing marriages). After the commission rejected Judge Neely's arguments in February 2016, it recommended that she be removed from both positions. Judge Neely appealed to the Wyoming Supreme Court and argued that if the state punished her for her comments about marriage, that would violate her free-exercise and free-speech rights under the First Amendment. In March 2017, that court, in a 3-2 decision, publicly censured Judge Neely and forced her to stop solemnizing marriages, which virtually guaranteed that she would lose her magistrate position. About a week after the court's ruling, that is exactly what happened. On Aug. 4, 2017, Alliance Defending Freedom attorneys asked the U.S. Supreme Court to take up the case.



### **Key Facts**

- Judge Neely was never asked to marry a same-sex couple. If she were ever asked to officiate a same-sex wedding, she would connect the couple to a magistrate able to solemnize their marriage.
- Magistrates have discretion when solemnizing marriages and may decline to perform weddings for a variety of secular reasons, including that they will not marry strangers, that they simply don't feel like marrying the couple, or that they prefer to watch a football game.
- The Wyoming Supreme Court said that it had to punish Judge Neely to uphold "judicial integrity" even though it recognized that there was "no evidence" that Judge Neely's comments harmed "respect for the judiciary" or "any person."
- Judge Neely has an unblemished record of integrity, impartiality, and fairness in the courtroom. If a case were to come before her that required her to recognize a same-sex marriage, it is undisputed that she would recognize that marriage.
- Judge Neely personally participates in each marriage ceremony she officiates, doesn't get paid by the state for doing it, and does it on her own time.

### **What's at Stake**

- Whether the government may disfavor religious magistrates by punishing them for stating their religious need to refer some wedding requests while allowing other magistrates to decline wedding requests for nearly any secular reason.
- Whether the Wyoming Supreme Court's decision will continue to threaten countless judges with punishment simply for speaking their views or acknowledging a conflict between their religious beliefs and a task they might be asked to perform.
- Whether Americans of goodwill and good faith who hold a variety of beliefs about marriage and other contentious issues should be punished for voicing those beliefs.

**The Bottom Line:** The state insists that a religious need to refer wedding requests is less worthy than a secular one. Such targeting of religion for disfavored treatment is odious to the First Amendment. The U.S. Supreme Court should affirm that the government is not acting neutrally toward religion when it treats religious reasons worse than others.