Law and Human Rights – Essay II

Toni Smith is owner of WebDesign Inc, South Dakota company

The South Dakota Anti-Discrimination Act restricts a public accommodation’s ability to refuse to provide services based on a customer’s identity. Under SDADA’s “Accommodation Clause,” a public accommodation may not:

directly or indirectly . . . refuse . . . to an individual or a group, because of . . . sexual orientation . . . the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of a place of public accommodation …

WebDesign Inc, is a for-profit, graphic and website design company; Ms. Smith is its founder and sole member-owner. She is willing to work with all people regardless of sexual orientation. She is also generally willing to create graphics or websites for lesbian, gay, bisexual, or transgender (“LGBT”) customers. Ms. Smith sincerely believes, however, that same-sex marriage conflicts with God’s will. WebDesign Inc., does not yet offer wedding-related services but intends to do so in the future. Consistent with Ms. Smith’s religious beliefs, she intends to offer wedding websites that celebrate opposite-sex marriages but intends to refuse to create similar websites that celebrate same-sex marriages. Her objection is based on the message of the specific website. She will not create a website celebrating same-sex marriage regardless of whether the customer is the same-sex couple themselves, a heterosexual friend of the couple, or even a disinterested wedding planner requesting a mock-up. She also intends to publish a statement explaining her religious objections. Here is her proposed statement:

“These same religious convictions that motivate me also prevent me from creating websites promoting and celebrating ideas or messages that violate my beliefs. So, I will not be able to create websites for same-sex marriages or any other marriage that is not between one man and one woman. Doing that would compromise my Christian witness and tell a story about marriage that contradicts God’s true story of marriage –the very story He is calling me to promote.”

She has filed for approval of the statement above, but the SD Anti-Discrimination Council has determined this violates the Accommodation Clause and Substantive Due Process decisions by the US Supreme Court.

Question

Here we have a religious belief competing with a person’s right of free speech. How will the Supreme Court decide this case?

Please cite cases we have reviewed to discuss you decision.