

The *303 Creative* Case

Case Name: *303 Creative LLC v. Elenis*

Case Status: Supreme Court heard oral arguments on December 5, 2022.

Significance: Whether the government can force Americans to speak contrary to their core beliefs.

Background: Lorie Smith is an artist who runs her own design studio, 303 Creative. She specializes in graphic and website design and loves to visually bring stories to life. Lorie left the corporate design world to start her own small business in 2012 so she could promote causes consistent with her beliefs and close to her heart, such as supporting children with disabilities, the beauty of marriage, overseas missions, animal shelters, and veterans. She was excited to expand her portfolio to create websites that celebrate marriage between a man and a woman, but Colorado made clear she's not welcome in that space. A Colorado law is censoring what Lorie wants to say and requiring her to create designs that violate her beliefs about marriage. Lorie enjoys working with people from all walks of life, but, like most artists, can't promote every message. She decides which projects to design based on the message requested, not the person requesting. After realizing Colorado was censoring her—and seeing Colorado use this same law to punish Masterpiece Cakeshop owner Jack Phillips—Lorie challenged it to protect her freedom and art studio.



In July 2021, the U.S. Court of Appeals for the Tenth Circuit ruled against Lorie, holding that Colorado can force her to create websites promoting messages that contradict her beliefs about marriage. Chief Judge Tymkovich wrote a powerful dissent, calling the majority's holding "unprecedented" and stating that "[t]he Constitution protects Ms. Smith from the government telling her what to say..." She appealed to the Supreme Court, which granted her petition for review on February 22, 2022. Oral arguments took place on December 5, 2022.

Key Points:

- A win for Lorie is a win for everyone. The government shouldn't be able to force Americans to say things they don't believe.
- All Americans should be free to express ideas even if the government disagrees with those ideas.
- Free speech is essential to a free country and benefits everyone. The government shouldn't deny free speech rights to Americans who create art for a living.
- Lorie works with people from all walks of life, including those who identify as LGBT. Whether she takes on a project always turns on *what* the message is, not *who* is requesting it.

Analogies: Should the government have the power to force...

- ...an LGBT designer to create a website promoting the Catholic Church's beliefs about marriage?
- ...a Jewish designer to create another faith's promotional flyers because he'd design one for a synagogue?
- ...a Democratic artist to design posters promoting the Republican Party?

The Bottom Line: A win for Lorie is a win for everybody. No one should be forced to say something they don't believe. Every American should be free to express ideas even if the government disagrees with those ideas.