

The *Brush & Nib* Case

Case Name: *Brush & Nib Studio v. City of Phoenix*

Case Status: On Nov. 20, 2018, the Arizona Supreme Court agreed to take up a case that involves two artists who risk jail time and fines if they violate a sweeping Phoenix criminal law.

Significance: Whether the government can force artists to design and create custom artwork expressing messages that violate their core beliefs.



Background: Joanna Duka and Breanna Koski co-own a Phoenix art studio called Brush & Nib Studio, which specializes in hand-painting, hand-lettering, and calligraphy for weddings and other events. Brush & Nib is challenging a city ordinance that, as Phoenix interprets it, forces the studio's owners to use their artistic talents to create artwork celebrating same-sex marriage. The ordinance also forbids them from publicly expressing the Christian beliefs that prevent them from doing so and the beliefs that require them to create art celebrating only marriages between one man and one woman. The law threatens up to six months in jail, \$2,500 in fines, and three years of probation for each day that there is a violation.

In a June ruling, the Arizona Court of Appeals struck down part of the ordinance that forbids Joanna and Breanna from discussing their religious beliefs about marriage. But the court upheld other parts of the ordinance, which allow the city to override Joanna and Breanna's artistic and religious decisions about what messages to convey through their hand-painted and hand-lettered artwork. The court also upheld part of the ordinance that forbids Joanna and Breanna from publicly discussing what artwork they can and cannot create consistent with their beliefs. Alliance Defending Freedom attorneys then asked the high court to take the case because Phoenix's position and the lower court's decision violate fundamental principles of freedom of speech and religion. State legislators and other third parties also filed their own briefs with the court to encourage it to take the case.

Key Points

- Joanna and Breanna serve everyone, but cannot create art celebrating all events.
- People of faith should not be treated like second-class citizens.
- Creative professionals should be free to create art consistent with their convictions without the threat of government punishment.
- Americans have the right to challenge unjust laws. We don't have to wait to be punished or thrown in jail before we seek justice.

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

- ...a Democratic speechwriter for not writing speeches promoting the Republican Party?
- ...an LGBT filmmaker for not creating a film promoting a church's views on marriage?
- ...a Muslim singer for not singing Christian hymns at a church's Easter service?
- ...a pro-abortion photographer for declining to photograph the March for Life?

The Bottom Line: The government shouldn't threaten artists with fines and jail time to force them to create artwork that violates their beliefs.