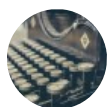


HEALTH

WND

Appeals court rules ban on 'conversion therapy' unconstitutional

'This case is the beginning of the end' for similar laws



By **WND Staff**

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(Image courtesy Pixabay)

A federal appeals court on Friday ruled that ordinances in Florida banning the licensed counseling of people with unwanted same-sex attractions are unconstitutional violations of the freedom of speech.

"We hold that the challenged ordinances violate the First Amendment because they are content-based regulations of speech that cannot survive strict scrutiny," the ruling from the 11th U.S. Circuit Court of Appeals said.

The decision was the first from a federal appeals court laws against so-called "conversion therapy" – a term rejected by proponents – since a 2018 U.S.

Supreme Court ruling. In *NIFLA v. Becerra*, the high court ruled the government cannot force an individual or organization to express a message chosen by the government.

The current case, *Otto, et al v. City of Boca Raton*, found that bans by Boca Raton and Palm Beach County violate the Constitution.

The case was fought by Liberty Counsel, which represents Robert Otto and Julie Hamilton and their minor clients.

Liberty Counsel Chairman Mat Staver said the ruling sets a precedent.

"This case is the beginning of the end of similar unconstitutional counseling bans around the country," he said.

The licensed therapists say they provide lifesaving counseling to minors who want to conform their attractions, behaviors and gender identities to their sincerely held religious beliefs.

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Under the laws struck down by the 11th Circuit, a counselor could encourage a client to take life-altering hormone drugs or undergo invasive surgery to remove healthy body parts. But a counselor was barred from helping a client who seeks to overcome unwanted same-sex attractions.

The 2-1 decision from Judge Britt Grant, who was joined by Judge Barbara Lagoa, said the therapy is controversial, but as it is only "talk," it is protected.

The dissent cited various left-leaning medical associations that claim such talk

therapy is damaging to children.

The court said: "Nor can the local governments evade the First Amendment's ordinary presumption against content-based speech restrictions by saying that the plaintiffs' speech is actually conduct. We can understand why they would make this claim; if the ordinances restricted only non-expressive conduct, and not speech, then they would not implicate the First Amendment at all. Our Court, though, has already rejected the practice of relabeling controversial speech as conduct. In a case quite similar to this one, we laid down an important marker: 'the enterprise of labeling certain verbal or written communications 'speech' and others 'conduct' is unprincipled and susceptible to manipulation/'"

Under such ordinances, which have been implemented across the nation, it "only matters that some words about sexuality and gender are allowed, and others are not," the court said.

"Speech does not need to be popular in order to be allowed. The First Amendment exists precisely so that speakers with unpopular ideas do not have to lobby the government for permission before they speak," the opinion said.

"The local governments are not entirely wrong when they characterize speech-based SOCE as a course of conduct. SOCE, after all, is a therapy, and plaintiffs say they want to 'engage' in it. But plaintiffs have the better of the argument. What the governments call a 'medical procedure' consists—entirely—of words. As the district court itself recognized, plaintiffs' therapy 'is not just carried out in part through speech: the treatment provided by Drs. Otto and Hamilton is entirely speech.' If SOCE is conduct, the same could be said of teaching or protesting—both are activities, after all. Debating? Also an activity. Book clubs? Same answer. But the law does not require us to flip back and forth between perspectives until our eyes hurt."

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