

Nuns lose latest court battle to avoid contraception mandate

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(RNS) The Little Sisters of the Poor—nuns who have refused to comply with the Affordable Care Act contraception mandate—lost their latest court case Tuesday (July 14).

The U.S. Court of Appeals for the 10th Circuit ruled that the Little Sisters must comply with the law's requirement that they allow their insurers to offer free contraception coverage to employees.

There is an "accommodation" in the mandate that would allow the sisters to sign a paper that stated their religious objections to the Department of Health and Human Services mandate and thereby allow the insurers to step in with no other involvement by the Catholic sisters. However, the Little Sisters insisted such a letter would still violate their religious convictions because it would enable something they see as wrong to take place.

The appellate court ruled that the accommodation would "not substantially burden their religious exercise" under the Religious Freedom Restoration Act "or infringe upon their First Amendment rights."

The ruling says: "Having to file paperwork or otherwise register a religious objection, even if one disagrees with the ultimate aim of the law at issue, does not alone substantially burden religious exercise." And it calls the accommodation "at least as easy as obtaining a parade permit, filing a simple tax form, or registering to vote—in other words, a routine, brief administrative task."

On Tuesday, the Provincial of the Little Sisters of the Poor, Mother Loraine Marie Maguire, issued a statement saying, "We simply cannot choose between our care for the elderly poor and our faith. ... All we ask is to be able to continue our religious vocation free from government intrusion."

Becket Fund senior counsel Mark Rienzi, lead attorney for the Little Sisters, said in a press release that it is “a national embarrassment that the world’s most powerful government insists ... it must crush the Little Sisters’ faith and force them to participate.” The sisters are considering whether to appeal to the Supreme Court, the release said.

Last year the Supreme Court created an exemption for small, family-held corporations whose owners objected to providing contraception coverage on the basis of religion. It came in the case of craft store chain Hobby Lobby, whose evangelical owners objected to four of the 20 forms of contraception approved by the Food and Drug Administration because they considered them to cause abortions. Hobby Lobby continues to cover 16 forms of birth control.

On Friday (July 10), the White House issued a revised version of the mandate, now nicknamed the Hobby Lobby Rule. Religious owners of small companies can avail themselves of the same “accommodation” offered to faith-based groups such as the Little Sisters.

The *Boston Pilot*, published by the Archdiocese of Boston, on Friday reiterated the opposition of the U.S. Conference of Catholic Bishops, saying “it still requires religious organizations to facilitate activity that violates their religious beliefs.”

Anthony Picarello and Michael Moses, general counsel and associate general counsel for the U.S. Conference of Catholic Bishops, said in the *Pilot* that the “mandate continues to substantially burden the religious liberty of stakeholders with religious objections to the mandated coverage.”

The bishops are not satisfied with any form of accommodation being offered. They want the mandate removed so no faith-based group or religious owner of any business of any size would be required to allow contraception coverage for its workers.

Picarello summed it up in 2012: “If I quit this job and opened a Taco Bell, I’d be covered by the mandate.”

The American Civil Liberties Union called Tuesday’s ruling “a huge victory for women.” Brigitte Amiri, an ACLU senior staff attorney, said in a statement that the Little Sisters case, like other challenges by religious groups to the mandate, is a misuse of the claim to religious freedom. “Religious freedom doesn’t give the plaintiffs in these cases the right to discriminate against their female employees.”