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The Maryland Supreme Court ruled Aug. 14 that the religious exemption in the state's Fair Employment Practices Act "bars claims (of) religious, sexual orientation, and gender identity discrimination against religious organizations by employees who perform duties that directly further the core mission(s) of the religious entity."

In its 4-3 decision, the court also said that the ban on discrimination on the basis of sex in the fair employment law as well as in the Maryland Equal Pay for Equal Work Act does not include "sexual orientation."

The state Supreme Court ruling is the latest action in a case called *Doe v. Catholic Relief Services*.

"Doe" is a data analyst who is employed by CRS, the U.S. bishops' overseas relief and development agency based in Baltimore, and who sued the Catholic agency in 2020 claiming its refusal to provide health benefits to his husband was discrimination.

According to legal records, CRS initially provided the benefits to Doe's husband, but after months of discussions between Doe and the agency's human resources

department, the organization removed Doe's husband from the health plan in October 2017.

In 2018, Doe filed a discrimination complaint against CRS with the Equal Opportunity Employment Commission and followed that with the lawsuit.

On Aug. 3, 2022, Judge Catherine C. Blake of the U.S. District Court for the District of Maryland ruled in favor of the plaintiff, saying that CRS must offer health care coverage to the spouses of gay employees as long as the employees' jobs are nonreligious in nature.

"This case concerns a social service organization's employment benefit decisions regarding a data analyst and does not involve CRS' spiritual or ministerial functions," she said, but CRS in its court filing argued that because the agency "is a religious organization," the plaintiff "is involved in its activities."

Blake said CRS had violated Title VII of the Civil Rights Act of 1964 "by revoking the plaintiff's dependent health insurance because he was a man married to another man" and a jury would have to determine if Doe should be awarded any damages.

However in her ruling, Blake directed the Maryland Supreme Court to weigh in on a series of questions about state employment laws, including whether the ban on sex-based discrimination in the Maryland Fair Employment Practices Act, or MFEPA, and the Maryland Equal Pay for Equal Work Act, or MEPEWA, also includes sexual orientation.

She also said the court would have to decide whether the MFEPA exemption for religious organizations applies to the plaintiff's claim of discrimination based on sexual orientation.

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A summary of the Maryland Supreme Court's Aug. 14 ruling on these questions was posted on Justia.com, one of the largest online databases of legal cases.

"(1) The prohibition against discrimination on the basis of sex in MFEPA does not itself also prohibit sexual orientation discrimination, which is separately covered under MFEPA," the summary said. "(2) MEPEWA does not prohibit sexual orientation

discrimination; and (3) MFEPA's religious entity exemption applies with respect to claims by employees who perform duties that directly future the core mission of the religious entity."

In a statement emailed to OSV News Aug. 16, CRS said it "is reviewing the Court's majority opinion and considering its implications for the case."

Maryland's Attorney General Anthony Brown in an Aug. 15 statement called the Maryland Supreme Court's decision "a disheartening setback" because it "declined to follow the U.S. Supreme Court's protection of people on the basis of sexual orientation and identity in employment." He called on state legislators to "rectify this setback during the next legislative session."

In its court filing with the U.S. District Court for the District of Maryland, CRS had asked the judge to issue a summary judgment in its favor or dismiss the case altogether, saying religious exemptions provided in federal and state law "foreclose (the) plaintiff's discrimination claims."

"The plaintiff's claims "are incompatible" with the "fundamental right of religious freedom," the CRS filing stated, citing a religious exemption for organizations in Title VII of the federal Civil Rights Act of 1964.

The agency's filing also pointed to the federal Religious Freedom Restoration Act, or RFRA, and two state laws: the Maryland Fair Employment Practices Act and the Maryland Equal Pay for Equal Act, which "proscribes sex discrimination but not sexual orientation discrimination" -- those categories "are distinct under Maryland law."

The plaintiff, "who holds himself out as agnostic about religion, believes that he, and the court can dictate the correct understanding of Catholicism" to CRS, "an arm of the church," CRS told the court in its filing.

To Doe, "the lines CRS has drawn -- by employing persons who identify as LGBT but withholding spousal health benefits from persons who are not spouses in the eyes of the church, or by providing benefits to children of gay employees but not those employees' partners are arbitrary," it continued. "To the church and its institutions including Catholic Relief Services, these lines are compulsory."

"The First Amendment bars the court from exercising jurisdiction over (the) plaintiff's claims, which would require the court to analyze competing religious beliefs and

decide which health benefits are required by Catholic teaching," it argued.

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