Robertson Center for Constitutional Law

Mission
Established in 2020, the Robertson Center for Constitutional Law pairs scholarship and advocacy to promote first principles in constitutional law, including limited government, originalism, separation of powers, and religious liberty. The Center defends these principles in the courts, expounds them in the academy, and educates students and citizens regarding their importance. It also cultivates the next generation of attorneys while serving as a beacon of light and a bastion of hope in the legal academy.

The Center has participated in four U.S. Supreme Court matters and three matters before the federal circuit courts of appeals. It has represented former members of Congress and religious organizations including Christian Legal Society, Jewish Coalition for Religious Liberty, Campus Crusade for Christ, Young Life, and InterVarsity.

The Center’s scholarship has been published by the Wake Forest Law Review, the Regent University Law Review, Pro Tempore, National Review Online, and the Center for Christian Thought & Action. Moreover, esteemed faculty have offered advanced courses on constitutional law, including State Constitutional Law, Religious Liberty, Constitutional Jurisprudence, and First Amendment Law.

We Need Your Help
Please consider supporting the Center. Your financial contribution will help fund fellowships and intern stipends, help cover printing and filing fees, and host distinguished speakers. To donate your gift, go to constitutionallaw.regent.edu.

“Regent University School of Law was established to train leaders to defend our Constitution and the principles upon which our nation was founded. The creation of this center is one more step toward fulfilling that mission.”
DR. M.G. “PAT” ROBERTSON
Case Studies: Integrating Advocacy & Scholarship

**Fulton v. City of Philadelphia**

- In June 2020, the Center filed an amicus brief arguing that the Supreme Court should overrule Employment Division v. Smith, a 1990 case that eroded protections for the free exercise of religion by holding that general laws could be applied to curtail religious liberty. This means that so long as a law applies generally, its impact on religion does not matter. This is not the view of the Free Exercise Clause shared by the Founders. Indeed, the text of that clause provides special protections for religious exercise, and thus Smith has been criticized for decades.

- In December 2020, the Center published a law review article examining the jurisprudence leading to Smith, the problems with that case, and the developments in the thirty years after Smith.

- On June 17, 2021, the United States Supreme Court issued a unanimous ruling in favor of Catholic Social Services in Fulton v. City of Philadelphia. While the Court stopped short of overruling Smith, its reasoning narrowed Smith. Further, Fulton was the first U.S. Supreme Court decision in which a majority of Justices agreed that Smith should be overruled.

- The Fulton opinion, however, left open several important questions.

- In December 2021, the Center represented the Jewish Coalition for Religious Liberty and asked the Supreme Court to take a case that would provide another opportunity to overturn Smith.

- In 2022, the Center published an article, *A Second-Class First Amendment Right? Text, Structure, and Free Exercise after Fulton*, in the *Wake Forest Law Review*, addressing some of the matters left open in Fulton.

- The Center continues to look for more opportunities to press this important issue at the U.S. Supreme Court.

**Dobbs v. Jackson Women’s Health Organization**

- Working closely with the late Judge Kenneth Starr and the Christian Legal Society, the Center wrote an amicus brief focused on the importance of federalism and history and tradition in constitutional analysis. The brief argued that the U.S. Supreme Court should overturn *Roe v. Wade* and *Planned Parenthood v. Casey*.

- The Center followed that advocacy with articles in *Pro Tempore* and *National Review Online* in May 2022, further explaining the concepts discussed in its brief.

- On June 24, 2022, the Supreme Court issued its Dobbs decision, overruling *Roe* and *Casey*. The Court’s ruling was driven largely by an analysis of history and tradition.

- Currently, the Center’s faculty and student interns are researching state constitutional law and preparing to support the related litigation currently taking place in state courts all around the country.

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**BRIEFS FILED BEFORE THE U.S. SUPREME COURT:**

- Dobbs v. Jackson Women’s Health Organization
- Fulton v. City of Philadelphia
- Hedican v. Walmart Stores East, L.P.
  - Dr. A v. Hochul

**BRIEFS FILED BEFORE THE FEDERAL COURT OF APPEALS:**

- Fellowship of Christian Athletes v. San José Unified School District Board of Education
- Maxon v. Fuller Theological Seminary
- New York v. U.S. Department of Health & Human Services

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