

IN THE SUPREME COURT OF THE UNITED STATES

---

No. 19-123

SHARONELL FULTON, ET AL., PETITIONERS

v.

CITY OF PHILADELPHIA, ET AL.

---

ON WRIT OF CERTIORARI  
TO THE UNITED STATES COURT OF APPEALS  
FOR THE THIRD CIRCUIT

---

MOTION OF THE UNITED STATES FOR LEAVE TO  
PARTICIPATE IN ORAL ARGUMENT AS AMICUS CURIAE  
AND FOR DIVIDED ARGUMENT

---

Pursuant to Rules 28.4 and 28.7 of the Rules of this Court, the Solicitor General, on behalf of the United States, respectfully moves that the United States be granted leave to participate in the oral argument in this case and that the United States be allowed ten minutes of argument time. This case presents the question whether the City of Philadelphia's termination of the contract that allowed Catholic Social Services to help place children in the city with foster parents, on the basis of Catholic Social Services' unwillingness to endorse same-sex couples as foster parents, violated the Free Exercise Clause of the First

Amendment. The United States has filed a brief as amicus curiae supporting petitioners, arguing that the City has violated the Free Exercise Clause. Petitioners have agreed to an allocation of ten minutes of argument time to the United States and therefore consent to this motion.

The United States has a substantial interest in this case. As a general matter, the United States has a substantial interest in the preservation of the federal constitutional right of free exercise of religion. In addition, the federal government has prohibited discrimination on the basis of sexual orientation in certain contexts. The United States is thus well positioned to address the reconciliation of such anti-discrimination efforts with the freedom of religion protected by the First Amendment. Moreover, the United States previously presented oral argument as an amicus curiae in Masterpiece Cakeshop, Ltd. v. Colorado Civil Rights Commission, 138 S. Ct. 1719 (2018) (No. 16-111). Participation by the United States could therefore materially assist this Court in its consideration of this case.

Respectfully submitted.

JEFFREY B. WALL  
Acting Solicitor General  
Counsel of Record

AUGUST 2020