

Plaintiff's Attorney Statement on Stoltzfus v. Cuomo Decision
November 5, 2019

On November 4th, only six days after oral argument, the Court in Seneca County denied an Amish Plaintiff's request for a preliminary injunction of the religious exemption repeal law.

Judge Daniel Doyle's bare-bones, elementary opinion is frustrating and disheartening. The glaring absence of any analysis of the plaintiff's strongly-held religious beliefs shows an open and callous disrespect for religious freedom. Shockingly, the Judge's order does not even mention that the Plaintiff's family is Amish, completely ignoring that the Amish are a religious sect which fled persecution in Europe seeking religious liberty in America which they enjoyed in NY for 242 years (1777-2019).

In his opinion, Judge Doyle represents that he conducted a balancing test dictated by the *Catholic Charities* case. However, he only weighed one side of the scale. Despite a clear record to the contrary, Judge Doyle placed "the presumption that the Legislature has investigated and found the facts necessary to support the legislation" ignoring that the Legislature held no hearings prior to passing the repeal law. Without any discussion of Plaintiff's religious beliefs, the Judge concluded that "[t]he Plaintiffs have failed to meet their burden of clear and convincing evidence that repeal of Section 9 was an 'unreasonable interference' on their religious freedom." This conclusion illustrates that Judge Doyle's clear lack of understanding of the invasive nature of vaccination and an ignorance of the religious objections to vaccinations. Judge Doyle appears to be blindly worshipping the religion of pharmaceuticals instead.

As part of his decision, Judge Doyle denied the State's request for a stay pending the outcome of Mr. Sussman's case brought in Albany. At a minimum, the courts in both Seneca and Steuben understand that these cases are not the same as Mr. Sussman's case and therefore, all should be able to proceed independently to trial. We agree with this aspect of the decision.

Attorneys James Mermigis and Kevin Barry will be re-arguing in Steuben County in front of Judge Wiggins on November 25, 2019. Judge Wiggins, who clearly read and analyzed the full record before writing his opinion, concluded confidently that (1) "the legislative history, devoid of any committee hearings or substantial debate, suggests that the free exercise rights of its citizens was callously disregarded by the Legislature," (2) the danger to the public has been "overstated", and (3) "children not vaccinated because of a religious exemption make up less than 1% of the population, which hardly seems like a public health crisis." We look forward to visiting Bath, NY again.

The Repeal Law is unconstitutional as it violates the Free Exercise Clause of the NY State Constitution. The pursuit of judicial recognition of this view, and a preliminary injunction which would allow 26,000 healthy children to return to school where they belong, resumes on November 25th in Bath, NY.

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