

Walk a Mile in Their Shoes

By Jan Collins

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The last time I looked, men could not get pregnant. Also the last time I looked, every single one of the U.S. Supreme Court justices owned a cell phone. Could these seemingly disparate facts help explain two of the high court's recent rulings: *Burwell v. Hobby Lobby Stores, Inc.* and *Riley v. California*?

Or, as veteran Supreme Court watcher and writer Linda Greenhouse puts it: “The justices can put themselves in other people’s shoes, but only, it seems, when they own a similar pair themselves.”

The 5-4 *Hobby Lobby* decision held that the owners of closely held, profit-making corporations cannot be forced under the Affordable Care Act (Obamacare) to provide their employees with insurance coverage for certain kinds of contraceptives that offend the owners’ religious beliefs. The five votes in favor of Hobby Lobby, a national chain of craft stores, were cast by male justices; the three female justices dissented furiously. Many of Hobby Lobby’s female employees undoubtedly don’t share their bosses’ religious objections but apparently will be bound by them anyway.

As opposed to this narrowest of rulings, the justices decreed unanimously in *Riley v. California* that the government (this includes the police) needs a warrant to search your cell phone in almost all situations. Those five male justices who voted in favor of Hobby Lobby cannot get pregnant, as I mentioned earlier, but they all have cell phones. What can I say? They had a dog in the *Riley* fight.

Now the funny thing about Hobby Lobby is that it claims to operate “in a manner consistent with Biblical principles.” Except, apparently, when it comes to the company’s retirement plan.

According to CNN and other media outlets, three months after the company’s owners filed their lawsuit, “Hobby Lobby’s 401 (k) employee retirement plan held more than \$73 million in mutual funds with investments in companies that produce emergency contraceptive pills such as Plan B [the “morning after” drug], and Ella,

intrauterine devices, and drugs commonly used in abortions. Hobby Lobby makes large matching contributions to its company-sponsored 401 (k).”

These pills and devices are, of course, the very same products that are so offensive to the religious beliefs of Hobby Lobby, according to Hobby Lobby.

We are talking hypocrisy here, folks. We are also talking false science. The company argues that emergency contraceptive pills and IUDs prevent a fertilized egg from implanting in a woman’s uterus, thereby inducing abortions. But this contention is roundly rejected by medical researchers, who say that emergency contraceptive pills and IUD devices simply “delay ovulation or make it harder for sperm to swim to the egg.”

The Hobby Lobby decision is disturbing in other ways, too.

- It has been described as a narrowly drawn ruling that affects only “closely held” corporations. But those types of corporations are estimated to represent nine out of 10 businesses, employing 52 percent of the American workforce. Not so narrow after all.
- It will encourage other closely held businesses to seek an exemption from specific coverage requirements of Obamacare on the basis that these requirements conflict with their owners’ religious beliefs. What if, for example, your boss says blood transfusions and vaccinations offend his religious beliefs. Can he then refuse to provide coverage to you and his other workers for such important medical services – just because his religion is against them?
- It opens the door to job discrimination against women. Here is Justice Ruth Bader Ginsburg, 81, one of the three female justices who voted against Hobby Lobby and who also wrote a lashing dissent. “What of the employer whose religious faith teaches that it’s sinful to employ a single woman without her father’s consent, or a married woman without her husband’s consent?” she asked a group of alumni and students recently from the Duke University School of Law. The court, she added, had “ventured into a minefield.”
- It dismisses the importance of birth control to women. Again, here is Justice Ginsburg, quoting from the 1992 case *Planned Parenthood of Southeastern Pennsylvania v. Casey*: “The ability of women to participate equally in the economic and social life of the Nation has been facilitated by their ability to control their reproductive lives.”

- It will likely lead to even more abortions. Birth control pills, Plan B drugs, and IUDs are relatively expensive, and many American workers can't afford birth control without the help of the Affordable Care Act. The inevitable result is more unintended pregnancies, and more abortions.

But, hey, the five male justices who voted for Hobby Lobby can't get pregnant, so why should they worry?

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Jan Collins is a Columbia-based freelance writer, editor, and journalist. She is the co-author of *Next Steps: A Practical Guide to Planning for the Best Half of Your Life* (Quill Driver Books, 2009).