

An Unmarried Catholic Schoolteacher Got Pregnant. She Was Fired.

A lawsuit that she filed in New Jersey is testing the First Amendment limits of religious freedom.



By Tracey Tully

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When a Catholic school art teacher was asked to take on extra responsibilities, she requested a raise, explaining that she was about to have a baby.

Weeks later, she was fired from her New Jersey elementary school. The principal, a Roman Catholic nun, told her she was being terminated “because she was pregnant and unmarried,” court records show.

The woman sued. Her daughter is now 7, but the lawsuit remains in limbo, caught in a yearslong back-and-forth between New Jersey’s trial and appellate courts.

An appeals court has twice sided with the ex-teacher, Victoria Crisitello. But last month, the state’s highest court, acting on an appeal by the school, agreed to hear the case, signaling a willingness to wade into the highly charged debate over the relationship between the government and religion.

Its decision comes less than a year after the United States Supreme Court upheld the rights of church-run schools to terminate lay teachers, one of a string of recent decisions by a court far more likely to rule in favor of religious rights than not.

The archdiocese that oversees the New Jersey school, St. Theresa in Kenilworth, has framed its legal argument as a must-win fight for the “fundamental freedom of religion.”

“Sex out of wedlock violates a fundamental Catholic belief that the school in this instance felt it could not overlook,” lawyers for St. Theresa’s wrote in a petition to the state Supreme Court.

Ms. Crisitello’s lawyer, Thomas A. McKinney, says the case is as much about gender discrimination and sexual double standards as it is about First Amendment rights.

The principal acknowledged in depositions that she made no effort to determine if other staff members, including men, were engaged in extramarital sex, court records show.

Because the school’s only proof of a violation of its morals code was the pregnancy itself, “only a woman could be punished, not a man,” Mr. McKinney said.

“If you’re going to punish someone for doing something,” he said, “it has to be applied equally and evenly.”

Ms. Crisitello, who attended St. Theresa School as a child, was fired in 2014 and no longer works as a teacher. Her daughter was later baptized in the Catholic church that runs the prekindergarten-to eighth-grade school.

Ms. Crisitello, through her lawyer, declined to comment. School officials did not return a call for comment.

“I don’t think she expected any of this,” Mr. McKinney said. “I don’t look at this as an attack on the Catholic Church.”

Last July, the Supreme Court ruled that federal employment discrimination laws do not apply to teachers at church-run schools whose duties include religious instruction. In doing so, it expanded the scope of employees deemed outside the reach of employment discrimination protections — known as the “ministerial exception” to workplace bias laws.

It is no longer only trained or ordained ministers and religious leaders who may be excluded from work bias protections; the federal court ruled that lay employees involved in promoting church doctrine were also exempt from federal employment discrimination laws.

The broadened definition could arguably be applied to nearly any employee of a religious school, significantly altering job protections, even in a state like New Jersey, where workers have traditionally enjoyed strong legal safeguards, said Stacy Hawkins, a Rutgers Law School professor who teaches employment law.



Victoria Crisitello

Ms. Crisitello's lawsuit was twice tossed out by trial court judges, only to be restored each time on appeal.

Her lawyer, seeking to differentiate the case from the Supreme Court decision that expanded the ministerial exception — *Our Lady of Guadalupe School v. Morrissey-Berru* — stressed that Ms. Crisitello taught art, not religion. She was first hired as an aide in a preschool classroom, he said, and had never taught religion.

New Jersey's appellate court, citing legal precedent, found there was evidence the school had not attempted to enforce its morals code equally, invoking in its ruling characters from Nathaniel Hawthorne's "The Scarlet Letter."

"While a religious school employer may validly seek to impose moral doctrine upon its teaching staff, punishment singularly directed at the Hester Prynnes, without regard to the Arthur Dimmesdales, is not permissible," the judges quoted.

The appellate judges published the opinion, making it the guiding legal standard in New Jersey unless overturned. That has increased the urgency of the case for the Archdiocese of Newark.

"This case affects the fundamental freedom of religion not only for the Catholic Church and its institutions, but also for the operations of other religious organizations," a spokeswoman for the archdiocese, Maria Margiotta, said in a statement. "Potentially, all religious organizations, including all Catholic schools in the archdiocese, are impacted."

The school also brought on an additional lawyer, Peter G. Verniero, a former state attorney general and state Supreme Court judge.

Mr. Verniero said the school's successful request for intervention by the state Supreme Court spoke for itself and declined additional comment.

The school argued in its petition to the court that the Guadalupe decision covered employees like Ms. Crisitello. It also said that a male teacher at another school in the archdiocese was discharged after his unmarried girlfriend became pregnant, undercutting the claim that only women could be punished.

"Religious institutions of many faiths in this state are now at risk of being swept into the vortex of employment litigation, contrary to the constitutional vision regarding the separation of church and state," the petition states.

The court has not set a date for oral arguments in the case, which is being watched closely by experts in workplace bias law and a national Catholic schoolteacher union.

Depending on the outcome, it could attract the attention of the United States Supreme Court, lawyers said.

Professor Hawkins said she believed that would be unlikely unless more than one state veered from the legal standard established in Guadalupe. "I think the court will likely wait to see if there is any broader concern that lower courts are not adhering to its decision before it will revisit the issue," she said.

It is not the first time a teacher at a church-run school was penalized for personal decisions.

An unwed teacher was fired in 2018 from a Catholic school in Pennsylvania after becoming pregnant. In 2016, a female basketball coach who was also a dean at Paramus Catholic High School in Bergen County, N.J., was terminated after marrying another woman. (The Archdiocese of Newark later reportedly settled the woman's lawsuit out of court.)

Catholic schools, already coping with declining enrollments, often face complaints from parents concerned about flagrant deviations from church moral teachings by teachers, creating a tension that can be difficult for tuition-reliant private schools to navigate, said Mary Kay Rossi, president of the Catholic Teachers Union of South Jersey.

Still, she said her union has handled at least two similar cases involving pregnancies, both of which were resolved without termination.

Rita Schwartz, president of the National Association of Catholic School Teachers, which represents about 3,000 parochial school employees nationwide, bristled at the decisions made by a church still caught in the throes of a sex abuse scandal involving priests.

“The church is supposed to hate the sin, but not hate the sinner,” Ms. Schwartz said. “They should be very happy that she’s not having an abortion. Don’t you think?”

“It should have been handled with love,” she added. “The whole thing in our religion is not fear. It’s not firing. It’s love. She needs help here. She needs people to work with her, and that’s what they’re supposed to be doing — not ‘Off with her head.’”