

Man loses 7-year case involving Christian bakery that refused to make pro-gay marriage cake

Mike Snider, USA TODAY

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More importantly, the Baker WON!

Gay rights activist Gareth Lee, center, leaves Laganside court in Northern Ireland on March 26, 2015. A top European court said Jan. 6, 2022 that it could not rule in a high-profile gay rights discrimination case centered on a request to decorate a cake with the words "Support Gay Marriage."

A man lost his legal fight against a Northern Ireland bakery that refused to make a cake for him decorated with the words "Support Gay Marriage" and the "Sesame Street" characters Bert and Ernie.

The European Court of Human Rights on Thursday said it won't rule on Gareth Lee's request to overturn an earlier U.K. ruling supporting Ashers Baking Co. Instead, [the court said](#) his application "was

inadmissible" because Lee had not raised the [European Convention on Human Rights](#) – including the right to respect for private life and freedoms of thought and expression – in his earlier court actions.

Lee said he was frustrated in the outcome based on what he called "a technicality" and said that freedom of expression "must equally apply to lesbian, gay, bisexual and trans people."

This is just the latest turn in a 7-year legal tussle that began in 2014 when Lee ordered the cake for a same-sex marriage campaign event in Northern Ireland. [Same-sex marriage](#) became legal there in 2020.

At the time, Ashers Baking refused to make the cake because it was a "Christian business" and would not create products with messages at odds with its beliefs. Courts in Northern Ireland found that the bakery discriminated against Lee, who is gay.

But the U.K. Supreme Court in 2018 overturned the decision, ruling that the bakery did not discriminate against Lee. Subsequently, Lee took his case to the European Court of Human Rights in Strasbourg, France, and argued that the U.K. court breached the European Convention on Human Rights.

In its decision, the European court said it could not rule because Lee had not raised the convention in his U.K. court actions. "By relying solely on domestic law, the applicant had deprived the domestic courts of the



opportunity to address any Convention issues raised, instead asking the Court to usurp the role of the domestic courts," the court said. "Because he had failed to exhaust domestic remedies, the application was inadmissible."

Lee's attorney Ciaran Moynagh of Phoenix Law in Belfast told [The Guardian](#) they would consider a new legal challenge.

"None of us should be expected to have to figure out the beliefs of a company's owners before going into their shop or paying for their services," Lee told The Guardian.

In a similar case, the [U.S. Supreme Court in 2018 absolved Colorado baker Jack Phillips](#) of discrimination, ruling that the Colorado Civil Rights Commission showed anti-religious bias when it sanctioned him for refusing to make a same-sex wedding cake for Charlie Craig and Dave Mullins, a couple.

The European court's ruling was met with criticism by gay rights groups. "Today's decision by the European Court of Human Rights is a backward step for equality. Human rights belong to people, not businesses," [tweeted Stonewall](#), an LGBTQ+ organization headquartered in London.

LGBTQ support group [the Rainbow Project](#) called the ruling disappointing. "When a commercial business is providing services to the public, they cannot discriminate against their customers or clients on any grounds protected by equality law," John O'Doherty, the group's director, said.

He said the 2018 U.K. Supreme Court ruling created legal uncertainty throughout the country. "Unfortunately, with today's decision, that uncertainty will remain," he said.

[The Christian Institute](#), which had backed the legal fight of the McArthur family that runs Ashers Baking, welcomed the ruling that a spokesman called "good news for free speech, good news for Christians, and good news for the McArthurs."

"The U.K. Supreme Court engaged at length with the human rights arguments in this case and upheld the McArthurs' rights to freedom of expression and religion," spokesman Simon Calvert said."