



'IN THE END, WE'RE MISSIONARIES OF JESUS CHRIST, OR WE'RE NOTHING AT ALL.' Archbishop Charles Chaput of Philadelphia gave an inspired homily at the Mass to conclude the Fortnight for Freedom July 4. He encouraged all of us, 'True freedom knows no attachments other than Jesus Christ. It has no love of riches or the appetites they try to satisfy. True freedom can walk away from anything — wealth, honor, fame, pleasure. Even power. It fears neither the state, nor death itself.' Matthew Rarey/CNA



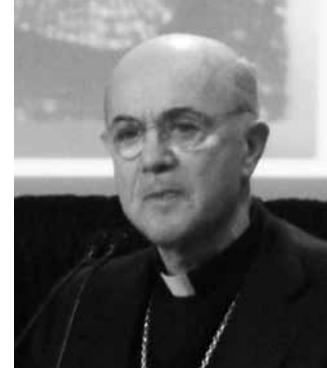
RESOLUTE LEADERS. Cardinal Seán O'Malley of Boston (r) and Cardinal Marc Ouellet of Montreal celebrate the closing Mass for the Ecclesia in America conference Dec. 12 at the Church of St. Mary in Traspontina, outside the Vatican. Cardinal O'Malley was a key figure in the defeat of a ballot measure that would have legalized assisted suicide in Massachusetts. Alan Holden/CNA



ICONIC REMINDER. A statue of the Blessed Mother stands amid the devastation wrought by Hurricane Sandy in the Breezy Point neighborhood of the Queens borough of New York City Nov. 8. Mario Tama/Getty Images



VP CANDIDATE. Rep. Paul Ryan, R-Wis., was chosen to be Mitt Romney's vice-presidential candidate. Despite being criticized for his apparent embrace of elements of Ayn Rand's philosophy of objectivism, Ryan's comments reflected his belief in Catholic moral and social teaching, and he was supported by his ordinary, Bishop Robert Morlino of Madison. Matthew Cavanaugh/Getty Images



RELIGIOUS FREEDOM UNDERMINED. U.S. nuncio Archbishop Carlo Viganò told a gathering at the University of Notre Dame that the Church is hampered by Catholic public figures and university faculty who publicly dissent from definitive Church teaching: 'There is a divisive strategy at work here, an intentional dividing of the Church; through this strategy, the body of the Church is weakened, and thus the Church can be more easily persecuted.' Michelle Bauman/CNA

Religious Freedom Center Stage

Three "Stand Up for Religious Freedom" rallies were held throughout the United States in 2012 in protest of the federal contraception mandate, which would mean that people who are morally opposed to contraception, sterilization and abortion would be obliged to pay for that in their health-care packages.

The Church's "Fortnight for Freedom" event spawned awareness and activities throughout the nation, embroiled in an election year that sadly divided Catholics (51% voted for President Barack Obama; 45% voted for Republican candidate Mitt Romney). While same-sex "marriage" was approved by voters in Maine, Maryland and Washington, a ballot measure to endorse euthanasia in Massachusetts was defeated.

Hurricane Sandy devastated parts of New York and New Jersey, and, while civil and Catholic charities responded quickly, the region is still recovering.

Also, the year brought us two American saints, including the first American Indian, and the first episcopal ordinariate in the United States was established.



WELCOME HOME! Msgr. Jeffrey Steenson (l) was named to lead the Personal Ordinariate of the Chair of St. Peter, the first Anglican ordinariate in the United States that was established Jan. 1. He met with Archbishop John Myers of Newark, N.J., at the U.S. bishops' fall meeting in Baltimore. Michelle Bauman/CNA



TOUCHY SUBJECT. Cardinal Timothy Dolan's Alfred E. Smith Memorial Foundation Dinner invitation to President Barack Obama in October drew criticism and praise. The cardinal, decisively opposed to the federal contraception mandate, gave the closing benediction at the respective Democratic and Republican national conventions. Mario Tama/Getty Images

N.Y. 'Preliminary Victory'

Judge Rules Archdiocese's HHS Challenge Should Proceed

BY JOAN FRAWLEY DESMOND
SENIOR EDITOR

NEW YORK — Faced with an explosion of legal challenges to the federal contraception mandate filed by objecting religious institutions, the Obama administration has petitioned to have the lawsuits dismissed, arguing in court papers that the church-state dispute would ultimately be resolved and that the time was not "ripe" for the cases to advance.

On Nov. 27, two separate lawsuits filed by the Dioceses of Nashville and Pittsburgh were both dismissed, suggesting that the administration's legal strategy was working. But on Dec. 5, U.S. district Judge Brian Cogan of the Eastern District of New York allowed a lawsuit filed by the Archdiocese of New York to move forward, marking a breakthrough for religious opponents of the HHS mandate.

"It is noteworthy that, with this decision, the court has recognized that the Archdiocese of New York and other plaintiffs in this case are facing current and imminent harm from the government's contraception coverage mandate," Joseph Zwilling, a spokesman for the New York Archdiocese, said in a statement released after the ruling.

Gerard Bradley, an expert on the U.S. Constitution at the University of Notre Dame Law School, described the ruling as a "welcome" reprieve for embattled religious institutions. But Bradley stressed that it was a "preliminary victory for religious liberty."

Judge Cogan "decided that the Church's lawsuit could go forward to a later decision on the merits," Bradley said. "He thus rejected the Obama administration's arguments that the case was not yet 'ripe,' due to the temporary moratorium on enforcement of the HHS mandate."

Added Bradley, "To reach this result, Judge Cogan agreed with the Church's lawyers that, even now, the Church was suffering from the impending enforcement of the mandate. And he rejected the reasoning of several other courts (in cases involving Belmont Abbey College,

Wheaton College and Legatus), which bought the administration's claim that there was, so far, no 'harm' visited by the mandate. There is reason here for a cautious optimism that this judge, at least, will get this case right in the end."

Kyle Duncan, general counsel for the Becket Fund for Religious Liberty, welcomed Judge Cogan's decision, predicting it would strengthen the appeal at the D.C. Circuit Court of Appeals by Belmont Abbey College and Wheaton College.

"The judge characterized the mandate as a 'speeding train' headed toward these organizations," said Duncan.

On Dec. 18, the appellate court in Washington ruled in favor of Wheaton and Belmont Abbey, reinstating their lawsuits and ordering the Obama administration to report progress on its promise to issue a new rule that protects institutions' religious freedom. The court ordered that the draft rule be issued by the end of March 2013.

"There will, the government said, be a different rule for entities like the appellants," the court noted, "and we take that as a binding commitment."

Duncan, who argued the case before the appeals court, said the D.C. decision offers hope to all religious plaintiffs. "The court is not going to let the government slide by on non-binding promises to fix the problem down the road," he said in a Dec. 18 statement.

Judge Cogan's ruling in November expressed open skepticism regarding several key elements of the government's stance that cases involving objecting religious plaintiffs were premature.

He rejected the assertion that the court and the plaintiffs should "trust" the administration to equitably resolve the church-state dispute at a later date. "[T]he First Amendment does not require citizens to accept assurances from the government that, if the government later determines it has made a misstep, it will take ameliorative action. There is no, 'Trust us; changes are coming' clause in the Constitution," stated the ruling.

"To the contrary, the Bill of

Rights itself and the First Amendment in particular reflect a degree of skepticism towards governmental self-restraint and self-correction."

In the wake of a hard-fought presidential election that showcased a partisan battle over the HHS mandate, the judge concluded that "there is simply no way to predict what, if any, changes to the coverage mandate will be made, even if some policymakers favor certain changes."

More importantly, the plaintiffs had good reason to press ahead with their challenge, given that the administration still had not formally approved its own proposal, Advance Notice of Proposed Rulemaking ("ANPRM"). "This case has been pending for six months. The earliest case challenging the coverage mandate was commenced more than a year ago. The ANPRM was announced nearly 10 months ago and entered in the Federal Register over eight months ago," Judge Cogan noted. "In that time, the departments have had ample opportunity to enact a meaningful change to the coverage mandate. The fact that they have not further suggests the likelihood of injuries to plaintiffs."

The ruling acknowledged that objecting religious institutions could not afford to wait until the deadline for compliance had passed and the extent of injury could be fully established. Their responsibility to clients and employees obliged them to develop contingency plans now, and such preparations involved immediate costs. In court papers, the archdiocese said it could face almost \$200 million in annual penalties if it was forced to comply with the mandate.

Matt Bowman of the Alliance Defending Freedom, a public interest group representing a number of for-profit businesses that also have challenged the contraception mandate, applauded Judge Cogan's decision.

Said Bowman, "Whether the government is targeting a nonprofit group or Christians running a business, this decision shows the government cannot disrespect their religious freedom and play bureaucratic games with the First Amendment."

(Catholic News Agency contributed to this report.)

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