

Little Sisters waging big fight at Supreme Court

by [Richard Wolf](#)

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WASHINGTON, D.C. — Constance Veit has been caring for the elderly poor for 28 years—feeding them, treating their illnesses, sitting with them until they take their last breaths.

She wasn't looking for a fight with the federal government. But today (March 23), Veit is present as the Supreme Court hears a landmark case pitting her charity—the Little Sisters of the Poor—and several other religious non-profits against the United States.

It's one that divided the high court along ideological lines in 2014, when it ruled that companies cannot be forced under the Affordable Care Act to offer insurance coverage for certain birth control methods they equate with abortion. Now religious non-profits want an even broader exemption.

"We've always lived our lives quietly and out of the limelight," said Veit, who serves at the Little Sisters' home for the elderly across from Catholic University. "We don't go around filing lawsuits."

But they do know how to handle the attention that comes from being the most high-profile plaintiff among the schools, hospitals, charities, and Roman Catholic clergy whose seven separate lawsuits have been joined before the justices. As Little Sisters' communications director, Veit has grown accustomed to granting interviews, conducting tours, even writing op-eds in the *New York Times*.

The 177-year-old charity, founded in the wake of the French Revolution, now includes 2,300 sisters who operate 190 residential facilities in 31 countries. Its 27 homes in the U.S. each serve about 100 residents.

One of the residents in Washington is Carl Bergquist, 78, the “mayor” of the D.C. home by virtue of chairing the resident council. He said he’ll pray for the plaintiffs during the 90-minute oral argument Wednesday and is “just hoping common sense will prevail.”

While the case brings together issues of religious freedom and reproductive rights under the umbrella of Obamacare, it boils down to a more narrow dissection of government regulations, exemptions, and accommodations. The Little Sisters and others say any involvement in the offering of birth control methods they equate with abortion goes against their religious beliefs. That extends even to filing a form or writing a letter.

The government says that while only religious institutions such as churches, synagogues, and mosques are exempt, religious non-profits can opt out of the so-called contraceptive mandate simply by notifying the government of their objections. Veit doesn’t buy that definition.

“In reality, it’s an opt-in, a permission slip,” she said.

The alternative is paying a big fine—as much as \$70 million a year for the Little Sisters, she said.

The justices must decide if the deal the Obama administration tried to strike with the religious groups satisfies the requirements of the Religious Freedom Restoration Act of 1993, which bars the government from burdening religious beliefs unless it has a “compelling interest” and uses the “least restrictive means.” All federal appeals courts but one that have considered the issue have said the government met that requirement.

In 2014, the Supreme Court ruled 5-4 that the Hobby Lobby chain of craft stores and other for-profit businesses whose owners object to the mandate on religious grounds did not have to offer birth control directly to their employees. It said women working for those companies could get the more controversial forms of contraception, such as morning-after pills and IUDs, from the government or private insurers.

That decision required the vote of Justice Antonin Scalia, a devout Catholic and a hero to the Little Sisters of the Poor, many of whom attended his funeral mass at the nearby Basilica of the National Shrine of the Immaculate Conception. His death last month, Veit said, “was definitely untimely from any perspective.” Now the religious

groups must sway at least one liberal justice to their side; a 4-4 ruling would leave in place the many lower court rulings against them.

“We realize that things are more complicated now, without Justice Scalia,” Veit said.

But she and others take solace in the visit by Pope Francis last September, which a Vatican spokesman later said was intended to show support. “That just really bolstered us,” she said.

The Justice Department argues that under Supreme Court precedents, “an adherent may not use a religious objection to dictate the government’s conduct of its internal affairs.” Allowing such objections, it said, “would have startling consequences, subjecting countless government programs to strict scrutiny.”

This will be the fourth go-round at the high court for Obama’s health care law. While Hobby Lobby was a defeat, the justices upheld the law, its mandate that most people buy insurance, and its system of state or federal health care exchanges in 2012 and 2015 rulings.

“For us, it’s not at all about Obamacare,” Veit said. “We’re not a group that looks for controversy or to buck the rules. . . . We thought that things would be worked out far short of the Supreme Court.”