

Wisconsin Institute for Law & Liberty: Files amicus brief in Christie v. NCAA with U.S. Supreme Court

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Joins other national legal organizations in asking court to clarify whether Congress can tell states what laws they can, cannot repeal

September 7, 2017 – Milwaukee, WI – Last week the Wisconsin Institute for Law & Liberty's Center for Competitive Federalism ("CCF") joined the Pacific Legal Foundation, Competitive Enterprise Institute, and Cato Institute in an [amicus curiae brief with the United States Supreme Court in support of the petitioners in Christie v. NCAA](#). Petitioners are asking the Supreme Court to answer a very simple question – is it constitutionally permissible for Congress to tell states what laws they can and cannot repeal? They answer should be an unequivocal and emphatic "no."

At issue in the case is the federal Professional and Amateur Sports Protection Act (PASPA), which forbids states from "authorizing" sports betting by law. After New Jersey repealed certain of its prohibitions on sports wagering in specific venues in the state, the Third Circuit interpreted PASPA as making it "unlawful" for New Jersey to repeal its prohibitions. In so holding, the court essentially declared it constitutional for federal law to dictate the extent to which states must maintain prohibitions on sports wagering.

"As we argue in the brief, every schoolchild learns (or certainly should learn) that our Constitution establishes a system of dual sovereignty between the states and the federal government," commented CCF Litigator Jacob Curtis. "This is a bedrock principle of our federal republic that it is directly under assault. The federal government simply cannot be allowed to dictate which laws states can and cannot have on their respective books."

"As the Supreme Court held some 25 years ago in *New York v. United States*, the Constitution has never been understood to confer upon Congress the ability to require the states to govern according to its instructions," noted WILL President Rick Esenberg. "As we have emphasized in several of our reports, commandeering like the kind at issue in this case threatens federalism by converting states from independent sovereigns into mere instrumentalities of the federal government. That is not the system our founders established. We are thrilled to stand alongside organizations like PLF, CEI, and Cato in defending the Constitution's core principles."

For additional information regarding the Center for Competitive Federalism, including a full listing of its recent policy reports and model legislation, please visit the [CCF page on the WILL website](#).