SCHOOLS LEGAL SERVICE

LAW UPDATE
LABOR AND EMPLOYMENT

PHONE: (661) 636-4830 • FAX: (661) 636-4843
E-mail: sls@kern.org • www.schoolslegalservice.org

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THE UNITED STATES SUPREME COURT SPEAKS – WHAT IS THE REQUIRED LEGAL SHOWING FOR AN EMPLOYER TO DEMONSTRATE IT CANNOT PROVIDE A RELIGIOUS ACCOMMODATION TO AN EMPLOYEE UNDER TITLE VII OF THE CIVIL RIGHTS ACT?

On June 29, 2023, a unanimous United States Supreme Court clarified the required legal showing related to religious accommodations under Title VII of the Civil Rights Act in the case of *Groff v. Dejoy* (2023 U.S. LEXIS 2790) for the first time in nearly 50 years.[1] The decision in this case provides important direction for any district addressing employee religious accommodation matters.

Under Title VII of the Civil Rights Act of 1964, employers are required to accommodate the religious practices of their employees unless doing so would cause an undue hardship on the conduct of the employer's business. The United States Supreme Court case of *Trans World Airlines, Inc. v. Hardison* (432 (1977) U.S. 63, 84) interpreted "undue hardship" to mean any effort or cost that is "more than…*de minimis*." The Supreme Court in *Groff* specifically sets out to clarify what Title VII requires.

Factual Background

Gerald Groff worked for the United States Postal Service, which has more than 600,000 employees. Groff is an Evangelical Christian whose religious beliefs are that Sunday should be reserved for rest and worship, not labor and delivery of consumer goods. When he first started working for the USPS there was no requirement to work Sunday hours. A few years later, USPS entered into an agreement with Amazon which led to Sunday deliveries. When this agreement first would have required Groff to work on Sundays, he transferred to a rural USPS station that still did not have Sunday deliveries. Several years later, that rural USPS station began Amazon deliveries as well. Groff remained unwilling to work on Sundays. USPS had to make other arrangements, including having deliveries made by the postmaster whose job did not normally

[1] https://www.supremecourt.gov/opinions/22pdf/22-174_k536.pdf

include delivering mail because other carriers were not available and redistributing deliveries to other carriers assigned to a regional hub. Throughout this time, Groff was receiving progressive discipline and he eventually resigned. A few months later, Groff brought action under Title VII on the basis that USPS could have accommodated his Sunday Sabbath practice without undue hardship on the conduct of USPS's business. The lower courts granted summary judgment in favor of the USPS, with the Court of Appeals finding that exempting Groff from Sunday work burdened his co-workers, disrupted the workplace and workflow, and diminished employee morale creating an undue burden on USPS. The United States Supreme Court granted review of the case.

Legal Decision

In the unanimous decision authored by Justice Samuel Alito, he explained for the Court why undue hardship on an employer must be viewed in the overall context. Specifically, "showing 'more than a *de minimis* cost,' as that phrase is used in common parlance, does not suffice to establish 'undue hardship' under Title VII. *Hardison* cannot be reduced to that one phrase." The Court went on to clarify that "'undue hardship' is shown when a burden is substantial in the overall context of an employer's business. [Citation omitted.]. This fact-specific inquiry comports with both *Hardison* and the meaning of 'undue hardship' in ordinary speech."

The Court further clarified the now preferred language for analysis of religious accommodation under Title VII: "We think it is enough to say that an employer must show that the burden of granting an accommodation would result in substantial increased costs in relation to the conduct of its particular business." In addition, the Court added that "Courts must apply the test in a manner that takes into account all relevant factors in the case at hand, including the particular accommodations at issue and their practical impact in light of the nature, 'size and operating cost of [an] employer.'" The impact of a coworker's dislike of a religious practice or expression or the mere fact of an accommodation should not come into the inquiry according to the Court. Only the coworker's impacts that go on to affect the employer's business should be considered in the analysis.

There is much current guidance published by the Equal Employment Opportunity Commission (EEOC) regarding religious accommodation under Title VII.[2] The Supreme Court specifically stated that this clarification may prompt "little, if any, change in the agency's guidance explaining why no undue hardship is imposed by temporary costs, voluntary shift swapping, occasional shift swapping, or administrative costs." However, the Supreme Court noted that it would not be prudent to "ratify" EEOC guidance that, as a whole, had not had the benefit of the clarification provided in the *Groff* opinion.

[2] For example, see https://www.eeoc.gov/laws/guidance/section-12-religious-discrimination

In its opinion, the Court also addressed a question that often comes up in the context of religious accommodations writing: "Title VII requires that an employer reasonably accommodate an employee's practice of religion, not merely that it assess the reasonableness of a particular possible accommodation or accommodations." This speaks to the necessity of consideration of multiple options related to the employee's religious accommodation request to comply with the provisions of Title VII governing religious accommodations, not just the accommodations that the employee may have originally brought forward.

Our office is available to assist with any questions related to Title VII religious accommodations or other employment matters. Please reach out as needed for assistance.

~Abby Auffant

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