

EEOC Fails to Establish Employer's Alleged Religious Discrimination

2 min read

Oct 3, 2013

An applicant sought a position with a retail clothing company that had a “Look Policy,” which required employees to dress in clothing that was consistent with the type of clothing sold in the stores. The policy precluded the wearing of caps, though the term was not defined. If, during the interview process, there is an issue about the application of the Look Policy, or if there’s a request for a deviation from the policy due to religious practices, the manager is to contact a supervisor or human resources to determine how to proceed.

Here, the applicant was a practicing Muslim who wore a black headscarf, which the managers had seen but which had not been discussed during interviews. The applicant did not inform the managers that she was Muslim or that she wore the headscarf for religious reasons or that she would need an accommodation in order to comply with the Look Policy.

The manager rated the applicant such that she would be recommended for hire, but the manager recognized that the black headscarf would be a problem since the Look Policy precluded employees from wearing black or caps. The manager, therefore, sought assistance from a higher manager, who then consulted with an even higher manager. It was determined that the applicant could not be hired because she wore a headscarf, which is a clothing item inconsistent with the Look Policy. The applicant was not hired.

The Equal Employment Opportunity Commission brought suit against the employer, alleging violations of Title VII on the grounds that the employer refused to hire the applicant because of her headscarf and failed to accommodate her religious beliefs.

The district court granted summary judgment in favor of the EEOC. The employer appealed and the appellate court reversed. The Tenth Circuit Court of Appeals found that the employer was actually entitled to summary judgment because there was no genuine dispute of material fact that the applicant never informed the employer prior to its hiring decision that she wore her headscarf for religious reasons and that she required a religious accommodation in light of the employer’s clothing policy.

The case was remanded to the district court on that basis.

Though the employer ultimately prevailed, it was undoubtedly embroiled in protracted litigation as a result of this dispute. When hiring, it is important to ensure that decision makers are making decisions based on legitimate, non-discriminatory business reasons.

Hinshaw & Culbertson LLP is a U.S.-based law firm with offices nationwide. The firm's national reputation spans the insurance industry, the financial services sector, professional services, and other highly regulated industries. Hinshaw provides holistic legal solutions—from litigation and dispute resolution, and business advisory and transactional services, to regulatory compliance—for clients of all sizes. Visit www.hinshawlaw.com for more information and follow @Hinshaw on LinkedIn and X.

Topics

Religious Discrimination, Tenth Circuit Court Of Appeals