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U.S. Supreme Court Issues Ground-Breaking Decision on Religious Accommodations in the Workplace

3 min read

Jul 3, 2023

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On June 29, 2023, the U.S. Supreme Court issued *Groff v. Dejoy*, a ground-breaking decision that changes a long-recognized standard for religious accommodations in the workplace. This new interpretation effectively expands an employer's obligation to provide religious accommodations. For years, appellate courts recognized an employer's authority to reject a religious accommodation merely by showing it creates a *de minimus* burden on the employer or co-workers. With this decision, the Court rejected the routine application of the *de minimus* standard in favor of one where the employer must show the "accommodation would result in substantial increased costs in relation to the conduct of its particular business" if rejected. Now an employer must make an individualized assessment as to the impact of the accommodation, taking into account the employer's nature, size, and resources. Even where the requested accommodation would result in substantially increased costs, the employer is obligated to evaluate the feasibility of alternative accommodations.

Here, an Evangelical Christian employee requested a religious accommodation that would exempt him from working on the Sabbath. The employer rejected the accommodation, contending that it would force others to work overtime and violate work rules, thus creating more than *de minimus* burden. The appellate court found in favor of the employer, but, voting 9-0, the Supreme Court rejected the basis for its conclusion. Writing for the majority, Justice Alito rejected the *de minimus* standard and explained that under the newly announced interpretation, when faced with such an accommodation request, it would not be enough for an employer to conclude that forcing other employees to work overtime would constitute an undue hardship. Instead, consideration of other options, such as voluntary shift swapping, would also be necessary before it lawfully could reject the accommodation.

In rejecting the *de minimus* standard, the Court looked to the language of Title VII and explained that the statute "requires employers to accommodate the religious practice of their employees unless doing so would impose an 'undue hardship on the conduct of the employer's business." The Court focused on the meaning of the term "undue hardship," insisting the lower courts were wrong to interpret it as calling for a "*de minimus"* or very low

standard. The Court reasoned that this widespread misinterpretation of "undue hardship" arose from one line in a 1977 religious discrimination case decided by the Court that was taken out of context by lower courts.

While the Court's discussion of the religious accommodation standard seems more in line with the way disability accommodations are evaluated under the Americans with Disabilities Act, the Court declined to adopt the ADA cases as interpretive guidance when evaluating religious accommodations. Instead, the Court found it "appropriate to leave the context-specific application…to the lower courts in the first instance."

The Court also commented approvingly on prior EEOC guidance, which cautioned against the rejection of religious accommodations merely due to administrative costs involved in reworking schedules, infrequent or temporary payment of premium wages for a substitute, and voluntary substitutes and swaps when they are not contrary to a *bona fide* seniority system.

As a result of this opinion, employers may not dismiss an accommodation request if it creates more than a *de minimus* burden. Further, unlike the prior standard, employers must take affirmative steps to evaluate other feasible options to accommodate the employee's religion, even if the *specific* accommodation requested creates a substantial increased cost to their particular business. Employers should be aware that while the newly defined standard appears very similar to the ADA standard for disability accommodations, the Court declined to use ADA precedent to interpret the contours of religious accommodations. It did not compare the ADA to Title VII, in terms of which accommodation standard is more onerous, and employers are advised to stay tuned as the lower courts interpret this newly announced standard.

Topics

Undue Hardship, SCOTUS, Workplace Accommodation, Religious Accommodation