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SCOTUS Clarifies Workplace Religious Accommodation Standard

On June 29, 2023, the United States Supreme Court issued a decision in *Groff v. DeJoy*, clarifying the standard for an employer to deny a religious accommodation request under Title VII of the 1964 Civil Rights Act. Under the decision, an employer may deny a request for religious accommodation if granting the request will result in “substantial increased costs in relation to the conduct of its particular business.”

Under Title VII, employers are required to “reasonably accommodate” an employee’s religious observance or practice if it is possible to do so without “undue hardship” on the conduct of the employer’s business. *Groff v. DeJoy* focuses on interpreting precedent from the court’s 1977 decision in *Trans World Airlines Inc. v. Hardison*, establishing the well-known standard that an employer may deny a religious accommodation if the accommodation would create more than a *de minimis* burden on the employer.

Background

Groff worked for the United States Postal Service (USPS) as a Rural Carrier Associate, an employee who fills in on an as-needed basis. Groff argued that as a Christian, it is against his religious beliefs to work on Sundays. Although he initially was able to avoid Sunday work, his employer increasingly scheduled him for Sunday shifts due to a shortage of rural carriers. Groff continued to decline Sunday work for which he received progressive discipline, and eventually resigned. Groff then sued Postmaster General DeJoy, alleging his employer violated Title VII by failing to provide him a religious accommodation.

The Decision

A unanimous Supreme Court changed the test for granting or denying a religious accommodation. The court rejected Groff’s argument that undue hardship requires the employer to face “significant difficulty or expense,” but stated the court now “understands *Hardison* to mean that ‘undue hardship’ is shown when a burden is substantial in the overall context of an employer’s business.” In applying this test, a court must do so 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 court also held that an accommodation’s impact on the employee’s co-workers may be relevant if the impact of the accommodation affects the conduct of the business. In this case, the court stated, “it would not be enough for an employer to conclude that forcing other employees to work overtime would constitute an undue hardship.” The employer would need to consider the employer’s other options, “such as voluntary shift swapping.” In addition, the court noted that animosity towards religion, religious practices, or religious accommodations cannot create an undue hardship because, “[i]f bias or hostility to a religious practice or a religious accommodation provided a defense to a reasonable accommodation claim, Title VII would be at war with itself.”

Going forward, employers facing requests for religious accommodations will find it harder to demonstrate that a proposed accommodation will result in “undue hardship.”

However, it appears that USPS never raised the issue of whether the accommodation Groff proposed was “reasonable.”

Under Title I of the Americans with Disabilities Act (ADA), an employer is likewise required to reasonably accommodate an applicant’s or employee’s disability unless the accommodation creates an undue hardship for the employer. As the Supreme Court held in *U.S. Airways, Inc. v. Barnett*, 535, U.S. 391 (2002), the issues of “reasonable accommodation” and “undue hardship” are different. The issue of undue hardship becomes irrelevant if the employee’s proposed accommodation is not reasonable. *Id.* at 402.

Most, but not all, circuit courts of appeal have determined that in order to be “reasonable” under the ADA, an accommodation must be one that allows the employee to perform the essential functions of the job now or in the immediate future. *Myers v. Hose*, 50 F.3d 278, 283 (4th Cir. 1995); *Rogers v. International Marine Terminals, Inc.*, 87 F.3d 755, 759-760 (5th Cir. 1996); *Hudson v. MCI Telecommunications Corp.*, 87 F.3d 1167 (10th Cir. 1996); *Wood v. Green*, 323 F.3d 1309 (11th Cir. 2003). Whether courts will likewise enforce Title VII’s reasonableness requirement remains to be seen. But it will likely behoove employers to first determine if a proposed religious accommodation is reasonable before addressing the secondary issue of undue hardship.

If you have questions on the impact of this decision on requests for religious accommodations, contact your Thompson Hine attorney.

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