SCOTUS Clarifies Employer's Undue Hardship Standard for Religious Accommodations

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On June 29, 2023, in *Groff v. DeJoy*, the Supreme Court of the United States, in a rare unanimous decision written by Justice Samuel Alito, held an employer may deny a religious accommodation request from an employee only if it would result in a substantial undue hardship on the company?s operations. This case is the first Supreme Court decision since *Trans World Airlines, Inc. v. Hardison* (*Hardison*) to clarify religious accommodations in the workplace and the employer?s burden of proof in such claims. 432 U.S. 63 (1977).

This case arose when a former United States Postal Service (USPS) worker, Gerald Groff (Mr. Groff), an evangelical Christian, informed his employer that his religious beliefs prevented him from working on Sundays. Although in the past this had not been an issue because USPS did not deliver mail on Sundays, USPS began delivering Amazon packages, including on Sundays. Mr. Groff requested the day off and ultimately refused to work on Sundays, citing his religious beliefs. USPS shifted Mr. Groff?s Sunday work to other postal workers, but also progressively disciplined him for not working. Mr. Groff eventually resigned and sued under Title VII, arguing USPS could have accommodated his religious beliefs without undue hardship.

Under Title VII, employers are required to accommodate an employee?s sincerely held religious beliefs unless doing so poses an undue hardship on the employer. It is the employee?s burden to prove that the request was reasonable; it is the employer?s burden to prove undue hardship. In its decision, the Court?s analysis focused on the meaning of undue hardship and sought to clarify what *Hardison*?s ?*de minimis*? language meant because it has been interpreted as requiring that the employer prove only a minimal cost in order to constitute undue hardship. The Court rejected that interpretation. As noted in the Court?s Opinion, even the *Hardison* Court, using the *de minimis* language, ?described the governing standard quite differently, stating three times that an accommodation is not required when it entails ?substantial? ?costs? or ?expenditures.??

The *Groff* Court embraced this interpretation and held that undue hardship means the imposition of *substantial* costs on the employer and not, as lower courts had previously interpreted, merely something greater than *de minimis* costs. Under the Court?s decision, an undue hardship exists ?when a burden is substantial in the overall context of an employer?s business.? This determination is a ?fact-specific inquiry.? The Court cited approvingly to EEOC guidance on religious accommodation but stated they would not adopt such guidance ?*in toto*.? However, they did note that ?a good deal of the EEOC?s guidance? on religious accommodations ?will, in all likelihood, be unaffected by [this] clarifying decision [].?

The Court further stated, ?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*.? (Emphasis added.) As previously stated, this is a ?fact-specific inquiry? and must take into account ?all relevant factors,? including ?the particular accommodations at issue and their practical impact? based on the ?nature, ?size and operating cost of [an] employer.?? The Court also stated the employer?s analysis must focus on reasonably accommodating an employee?s religious practice, not just assessing ?the reasonableness of a particular possible accommodation or accommodations.?

Justice Sonia Sotomayor, in a concurrence joined by Justice Ketanji Brown Jackson, reviewed the EEOC?s guidance on religious accommodation and explained how its standard for undue hardship has long been whether an accommodation would cause the employer ?to incur substantial additional costs in the form of lost efficiency or higher wages.? Justice Sotomayor further wrote that ?undue hardship on the conduct of a business may include undue hardship on the business?s employees.? This EEOC guidance identifies other potential factors lower courts may use in deciding whether an employer has experienced an undue hardship, with employers needing to consider how a religious accommodation may burden other employees.

This decision raises the standard for employers when handling requests for religious accommodation, requiring a fact intensive assessment in each instance. Absent a showing of undue hardship, meaning a substantial cost to the business of the employer, there is likely very little basis an employer will have to refuse a request for a reasonable religious accommodation. Further, Justice Sotomayor?s concurrence indicates some of the factors that lower courts may use in assessing undue hardship.

Employers are encouraged to consult with labor and employment attorneys to ensure their policies and practices for handling religious accommodations are compliant with the new decision, as well as to ensure they are properly assessing requests for religious accommodation.

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