

Employment Case Law Update

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Title VII: *Groff* and its Early Progeny

Groff v. DeJoy, 600 U.S. 447 (2023).

In a unanimous decision issued on June 29, 2023, the United States Supreme Court revisited the question of employers' obligations with respect to religious accommodations under Title VII. The Court noted that Title VII requires covered employers to accommodate employees' religious observation or practice unless doing so would impose an "undue hardship" on the conduct of the employer's business. Clarifying the "undue hardship" provision, the Court held that, to defend a denial of a religious accommodation under Title VII, 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. This marks a departure from the widespread prior understanding that, to justify denying a religious accommodation, an employer needed only to demonstrate that the requested accommodation would require the employer to bear more than a *de minimis* cost.

In *Groff*, the Supreme Court explained further that, in applying the appropriate undue hardship standard, courts must take into account all relevant factors in the case at hand, including the requested accommodations, and their practical impact in light of the employer's size and operating costs. Although an accommodation may affect coworkers, the impact of an accommodation on coworkers only constitutes an undue hardship if it also affects the conduct of the employer's business. The Court noted that a requested accommodation which interferes with bona fide seniority system may well create an undue hardship for an employer.

Groff involved a Christian postal employee who, for religious reasons, objected to working on Sundays. Although the employee initially transferred to a facility that did not require Sunday work, the second facility's requirements changed. After receiving progressive discipline for refusing to work on Sundays, the employee ultimately resigned and sought relief under Title VII

for his employer's refusal to accommodate his religious belief by exempting him from Sunday work. The lower courts found in favor of the postal service, concluding that the employee's accommodation request imposed more than a *de minimis* cost on the employer. After clarifying the appropriate standard and analysis for the undue hardship defense, the Supreme Court remanded the case.

Hebrew v. Tex. Dep't of Criminal Justice, 80 F.4th 717 (5th Cir. 2023).

On September 15, 2023, the Fifth Circuit applied *Groff* to the employment setting of a Texas prison. See *Hebrew v. Tex. Dep't of Criminal Justice*, 80 F.4th 717 (5th Cir. 2023).

Applying the *Groff* decision, the Fifth Circuit in *Hebrew* found that the TDCJ did not meet its burden of demonstrating undue hardship when it denied a correctional officer's request for a religious accommodation which would enable him to retain his long hair and beard.

The TDCJ argued in the district court that the correctional officer's request created an undue hardship because it would impose more than *de minimis* costs. The Fifth Circuit reversed, explaining that an employer needs to prove that the burden of the proposed religious accommodation is substantial in the overall context of the employer's business. This analysis must account for the nature, size, and operating cost of the employer, and impacts on coworkers are not necessarily sufficient to demonstrate undue hardship. The Fifth Circuit noted that, even if an accommodation would cause an impact on coworkers which would place a substantial strain on the employer's business, that impact cannot constitute an undue hardship if it is attributable to religious bias or animosity. Additionally, the court explained that, because Title VII requires employers to reasonably accommodate an employee's practice of religion, the employer must *sua sponte* consider other possible accommodations when a requested accommodation poses an undue hardship.

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