

Supreme Court Raises Standard for Denial of Religious Accommodations

by Briana Al Taqatqa and Joshua Hughes

Yesterday, the U.S. Supreme Court issued an important decision altering the standard for religious accommodations under Title VII of the Civil Rights Act of 1964. In Groff v. DeJoy, the Court held employers must “show that the burden of granting an accommodation would result in substantial increased costs in relation to the conduct of its particular business.” In doing so, the Court overruled the long-standing “*de Minimis*” test for religious accommodations under Title VII. However, the Court declined to apply its new standard, leaving lower courts to determine when an accommodation creates a substantial burden under the new rule.

Groff involved a claim of religious discrimination brought by a former employee of the United States Postal Service (“USPS”). Groff requested a religious accommodation not to work on Sundays. In 2013, the USPS began contract package delivery services on Sundays, so Groff transferred to a post office that did not make Sunday deliveries. However, once Sunday deliveries began at Groff’s new post office in 2017, Groff maintained that he would not work on Sundays. Groff’s Sunday assignments were divided between other USPS staff, and Groff received progressive discipline for his refusal to make Sunday deliveries.

Groff ultimately resigned and filed a religious discrimination complaint against the USPS under Title VII. The District Court and Third Circuit found the USPS met its burden to show that Groff’s accommodation would impose “more than a *de minimis* cost,” constituting an “undue hardship” under Title VII.

Justice Alito, writing for a unanimous court, vacated the decisions of the lower courts. The Court rejected the previous application of the permissive *de minimis* standard, holding Title VII’s “undue hardship” language requires employers prove an accommodation imposes a burden that is “substantial in the overall context of [an employer’s] particular business.” Importantly, the Court recognized that “a hardship that is attributable to employee animosity to a particular religion, to religion in general, or to the very notion of accommodating a religious practice cannot be considered ‘undue.’” In

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other words, employers can deny a religious accommodation on the basis of coworker objections only to the extent that the effect on coworkers *also* affects “the conduct of the business[,]” and not merely coworker concerns.

But that’s where the Court’s analysis ended. The Court remanded the case for further proceedings. Declining to elaborate further on how the new “undue hardship” standard ought to be applied in the Title VII context, the Court appeared to embrace a totality-of-the-circumstances approach: “What matters...is that courts must apply the test 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 refused to adopt either the familiar accommodation standards under the Americans with Disabilities Act (“ADA”) or EEOC guidance on disability accommodations in the Title VII religious accommodation context. Groff asked the Court to apply ADA case law and regulations to religious requests under Title VII. The USPS instead sought the Court’s endorsement of EEOC guidelines. Despite the Court recognizing “a good deal of the EEOC’s guidance in this area is sensible and will, in all likelihood, be unaffected by our clarifying decision today[,]” it refused to take either approach, leaving employers little additional guidance.

For now, employers should proceed with caution when considering religious accommodation requests. With little guidance on how the “substantial costs” standard applies, employers should anticipate that “‘undue hardship’ in Title VII means what it says, and courts should resolve whether a hardship would be substantial in an employer’s business in the common sense manner that it would use in applying any such test.” In short, employers should carefully consider the actual costs to their business in determining whether to deny religious accommodations.