

U.S. Supreme Court Extends the “Ministerial Exception” to Teachers at Religious Elementary Schools

Labor & Employment Law Update

By John Hayes on July 14, 2020

On July 8, 2020 the United States Supreme Court ruled that the U.S. civil rights laws barring discrimination on the job do not apply to most lay teachers at religious elementary schools. The decision extends earlier Supreme Court rulings that shielded religious organizations from employment-discrimination claims by ministers, called the “ministerial exception.” This principle, which courts derived from the First Amendment, bars the government from telling a religious institution whom to choose as its faith leaders. Respecting that principle sometimes requires the courts to stay out of employment disputes when the employer is a religious institution, even when a worker claims unlawful discrimination.

The decision consolidated two cases, each alleging discrimination by elementary school teachers at religious schools in California. In the first case, plaintiff Agnes Morrissey-Berru was seeking to sue Our Lady of Guadalupe School in Los Angeles for age discrimination. The other case accused St. James School in Torrance, California, of discriminating on the basis of disability when it fired Kristen Biel after she had undergone chemotherapy. The schools both said the women had important religious duties, including teaching classes about Catholicism, leading prayers and participating in mass with the students, thus bringing them inside the ministerial exception.

The vote was 7 to 2, with Justice Samuel Alito writing the majority opinion. Justice Sonia Sotomayor wrote the dissent, joined by Justice Ruth Bader Ginsburg. In agreeing with the schools that the two teachers were “ministers” qualifying for the exception, Justice Alito wrote:

“There is abundant record evidence that they both performed vital religious duties. Educating and forming students in the Catholic faith lay at the core of the mission of the schools where they taught, and their employment agreements and faculty handbooks specified in no uncertain terms that they were expected to help the schools carry out this mission and that their work would be evaluated to ensure that they were fulfilling that responsibility.

As elementary school teachers responsible for providing instruction in all subjects, including religion, they were the members of the school staff who were entrusted most directly with the responsibility of educating their students in the faith.

In a country with the religious diversity of the United States, judges cannot be expected to have a complete understanding and appreciation of the role played by every person who performs a particular role in every religious tradition. A religious institution's explanation of the role of such employees in the life of the religion in question is important."

Ultimately, the Supreme Court instructed courts to consider all relevant circumstances to determine whether each position implicates the ministerial exception's fundamental purpose. By refusing to adopt a rigid approach, the Supreme Court has allowed for a broader interpretation of the exception beyond employees who hold the title of minister.

The decision effectively expands the ministerial exception to include teachers who lacked religious titles and training, potentially stripping fair employment protections from many of the roughly 149,000 teachers at religious elementary schools, where they frequently teach religion alongside other subjects.

The ruling comes weeks after the court ruled that gay and transgender workers can sue for job discrimination under federal law. This decision underscores an important qualification to that ruling, giving faith-based groups broader discretion to disregard certain civil rights laws, including those extending LGBTQ protections.

Although the case involved only two elementary school teachers, given the broad language of the decision—that the absence of a "minister" position title and of specific religious training does not mean the exception will not apply—and the deference the Court gave to the religious employers' judgment and assessment of the positions, it will likely have sweeping implications for the millions of employees working in the U.S. at religious institutions.

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