

City wins religious dispute with worker

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In a recent opinion, the 7th U.S. Circuit Court of Appeals shed light on what is a reasonable accommodation for an employee's religious needs. In doing so, the court gave employers some guidance and framework for how to deal with such issues. In *Porter v. City of Chicago*, No. 11-2006 (Nov. 8, 2012), the 7th Circuit upheld a district court's ruling granting summary judgment for the employer, the city of Chicago, in a Title VII action. The decision, authored by Judge [William J. Bauer](#), affirmed U.S. District Judge [Virginia M. Kendall](#)'s opinion that the employee was offered reasonable accommodations for her religious needs by the city.

Porter was a senior data entry specialist for the Chicago Police Department's records department. The data specialists are civilian employees that process information into electronic databases, such as the location of towed, stolen or repossessed vehicles. Porter's section, the field services section, operates 24 hours a day and seven days a week. Porter, who identified herself as Christian, attends church services, Bible studies and prayer services at the Apostolic Church of God. She attended church services every Sunday as well as church related events on Tuesday, Wednesday and Friday nights. It was undisputed that church services were held on Sunday at 9 a.m., 11:45 a.m. and sometimes 4 p.m.

Prior to 2005, Porter had the Sunday and Monday shifts off. Based on a need in her division at the time, Porter's off days were switched to Friday and Saturday. She requested an accommodation so that she could attend her church services on Sunday. She requested to be switched back to the group with Sundays and Mondays off. The city declined her request, but instead offered to change Porter to a later watch on Sundays starting at 3 p.m. to allow her to attend church services in the morning.

Porter filed suit alleging that the reassignment of her off days violated Title VII because it failed to accommodate her religious practices and discriminated against her based on her religion. The city moved for

summary judgment arguing that they attempted to reasonably accommodate Porter.

The 7th Circuit agreed with the district court that the city attempted to reasonably accommodate Porter by offering to change her shift time on Sundays. The court held that the offer to assign Porter to a later shift on Sunday was sufficient accommodation for purposes of Title VII where the assignment would allow Porter to attend morning church services without affecting her pay or benefits. The 7th Circuit cited the Supreme Court decision in *Ansonia v. Bd. Of Educ. v. Philbrook*, 479 U.S. 60,70, 107 S.Ct. 367, 93 L.Ed.2d 305 (1986) and held that Title VII is meant to ensure that an individual can observe religious practices, but is not meant to mandate an employer to grant every accommodation at all costs.

The fact that the plaintiff wanted all Sundays off as her preferred accommodation did not mandate a different result. In fact, the 7th Circuit's holding cites the Supreme Court's decision in *Philbrook*, where the Supreme Court held that the accommodation need not be the employee's preferred accommodation, but only needs to reasonably "eliminate the conflict between employment requirements and religious practices." *Philbrook*, 479 U.S. at 70.

The 7th Circuit's strong opinion should give employers confidence as they encounter issues with employees of any religious background. If the employer makes a legitimate effort to accommodate the employee's religious needs, the employer should feel somewhat secure from Title VII liability. Further, in this holding the 7th Circuit reiterated that the act of offering an accommodation is sufficient if it would reasonably cure the conflict between the employment and religious practice, regardless of whether the employee actually accepts the offer.

In reiterating the concepts from the Supreme Court's opinion in *Philbrook*, the 7th Circuit continued its pro-business stance. The court certainly takes into consideration the difficulties employers face, especially in tough economic times, and will not require an employer to grant every accommodation request. In this holding, instead, the 7th Circuit has reiterated that employers need only make reasonable efforts to accommodate.

Of course, in *Porter*, the accommodation offered was an easy solution because services were held at three different times on Sundays.

This holding would not necessarily carry the day if the employee's religion dictated that she could not work at all that day or if the accommodation somehow would have affected her pay or benefits. As the court noted, an employer cannot be asked to grant every accommodation at all costs, but instead is asked to make reasonable accommodations. The district courts will certainly continue looking at the facts of each situation and utilizing a balancing test to determine whether the accommodation offered is reasonable, just as Kendall did in this case. Employers need to be aware of this balancing when weighing the accommodation offered against the religious need of the employee.

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