University of North Carolina Asheville
Journal of Undergraduate Research
Asheville, North Carolina
Spring 2025

When God and the Grind Collide: Religious Accommodations in the Post-*Groff v. DeJoy* Workplace

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Abstract

This research examines the U.S. Supreme Court's 2023 decision, *Groff v. DeJoy,* and its impact on subsequent lower court rulings regarding religious accommodations in the workplace. The decision represents a significant shift by the Court in the interpretation of Title VII of the Civil Rights Act of 1964, by clarifying that employers denying an employee's accommodation must show a "substantial" rather than merely a "*de minimis"* (very small) cost to the organization. By analyzing recent lower court decisions applying this heightened standard*,* this research explores and synthesizes the evolving legal landscape and the various lower courts' interpretations of what, post-*Groff,* constitutes "undue hardship on the conduct of employer's business" under Title VII exempting the employer from providing an accommodation. The findings show a growing emphasis post-*Groff* on employees' rights, particularly those of employees with minority beliefs (e.g., Sunni Islam, Hebrew Nation, Seventh-Day Adventists), through the lower courts' more pragmatic, case-by-case review of the actual, practical costs of an accommodation within the unique context of a particular organization and consideration of all available alternative accommodations within that context. This research not only enhances the understanding of religious accommodations in

employment law but also offers guidance for employers and courts navigating this complex area.

Introduction

Religion plays a central role in the lives of millions of Americans, influencing not only their personal beliefs but also their daily routines, including work obligations. According to a 2022 Pew Research survey, approximately 63% of U.S. adults identify as religious, with many observing practices that conflict with standard workplace expectations.[1] This intersection of faith and employment raises a crucial legal question: To what extent must employers accommodate an employee's religious beliefs and practices?

One of the most significant recent developments in this area of law is the Supreme Court's 2023 decision in *Groff v. DeJoy,*[2] a case that reshaped the standard for religious accommodations in the workplace. The Court overrode decades of precedent interpreting Title VII by rejecting the long-standing *de minimis* standard established by *Trans World Airlines, Inc. v. Hardison*[3] in 1977. Under *Hardison*, employers could deny religious accommodations by showing only minimal hardship.[4] By clarifying what constitutes "undue hardship" for employers under Title VII of the Civil Rights Act of 1964, *Groff* has set the stage for a wave of new legal interpretations in lower courts. This new clarification directly impacts workers and businesses across the country. Significantly, *Groff's* heightened standard will serve to better protect the rights of employees, specifically those holding minority religious beliefs.[5] This paper analyzes *Groff v. DeJoy* and its broader implications for employment law, particularly how the ruling has influenced lower court decisions and, by extension, the rights of everyday workers. By examining recent cases and judicial trends, this research explores how courts are now balancing religious accommodations with business operations, signaling a shift in the legal landscape surrounding workplace rights.

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[1] Gregory A. Smith et al., *Religious Landscape Study*, Pew Research Center (February 26, 2025, at 2:20PM) https://www.pewresearch.org/religion/2025/02/26/religious-landscape-study-religious-identity/.
[2] Groff v. DeJoy, 600 U.S. 447 (2023).
[3] Trans World Airlines, Inc. v. Hardison, 432 U.S. 63 (1977).
[4] *Id*.
[5] Nick Reaves (Fall, 2023). *Article: Groff v. DeJoy: Hardison is Dead, Long Live Hardison!,* 2023 Harv. J.L. & Pub. Pol'y Per Curiam, 2023, 1. https://advance-lexis-com.proxy177.nclive.org/api/document?collection=analytical-materials&id=urn%3acontentItem%3a69FH-73W1-JC8V-44KG-00000-00&context=1519360&identityprofileid=G7S8Z854473.

First, this paper provides an overview of the legal framework governing religious accommodations in employment, including the undue hardship requirement of Title VII of the Civil Rights Act of 1964 and key Supreme Court precedents interpreting that requirement. Next, this paper analyzes the Supreme Court's 2023 decision in *Groff v. DeJoy* and how it has altered the interpretation of undue hardship. Then, this paper examines post-*Groff* lower court rulings to identify emerging legal trends and their practical consequences for both employers and employees. Finally, this paper discusses the broader implications of these rulings, offering insights into how businesses and workers can navigate this evolving legal terrain.

Background and Legal Framework

Title VII of the Civil Rights Act of 1964

Title VII of the Civil Rights Act of 1964[6] prohibits employers from discriminating against employees on the basis of race, color, religion, sex, or national origin. Initially, though Title VII prohibits employment discrimination based on religion, it did not explicitly require employers to accommodate employees' religious practices. In 1968, the Equal Employment Opportunity Commission (EEOC) promulgated guidelines on religious accommodations that required employers "to make reasonable accommodations to the religious needs of employees" whenever doing so would not create an "undue hardship on the conduct of the employer's business."[7] However, in 1971, the U.S. Supreme Court affirmed a lower court decision holding that Title VII did not require employers to make accommodations.[8] As *Groff* summarizes, in response to this decision, in 1972, Congress amended Title VII to incorporate the EEOC's guidelines,[9] now explicitly requiring employers to reasonably accommodate an employee's religious practice unless it would result in undue hardship. In particular, Congress defined "religion" in Title VII's prohibition from discrimination by employers to include

> all aspects of religious observance and practice, as well as belief, unless an employer demonstrates that he is unable to reasonably accommodate to an employee's or prospective employee's religious observance or practice without undue hardship on the conduct of the employer's business.[10]

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[6] Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e-2000e-17 (as amended).
[7] Groff v. DeJoy, 600 U.S at 453 (citing 29 CFR § 1605.1(1968)).
[8] Groff v. DeJoy, 600 U.S. at 448 (explaining that the Court in *Dewey v. Reynolds Metals Co*., 402 U.S. 679 (1971), citing Establishment Clause concerns, affirmed by an evenly divided vote a 6th Circuit decision rejecting the requirement that employers make accommodations).
[9] Groff v. DeJoy, 600 U.S. at 453.
[10] 42 U.S.C. §2000e(j)(1970 ed., Supp. II).

Trans World Airlines, Inc. v. Hardison

Despite Congress's amendment of Title VII to require robust accommodations,[11] a landmark precedent in the evolution of religious accommodations for employees under Title VII, the 1977 Supreme Court decision in *Trans World Airlines, Inc. v. Hardison,*[12] weakened protections for employees. In this case, Larry Hardison was hired as a clerk in TWA's Kansas City Stores Department, which provided aircraft parts for repair and maintenance twenty-four hours a day, 365 days a year, in an "essential role."[13] Whenever there was to be an absence, an employee from another department or a supervisor had to fill the position Hardison occupied.[14]

Mr. Hardison, as a member of the Worldwide Church of God, requested Saturdays off to observe the Sabbath, which required him to refrain from work from sunset on Friday to sunset on Saturday. However, TWA refused to accommodate his religious observance, citing its seniority system and the operational needs of the airline. The case reached the U.S. Supreme Court, which ruled that TWA was not required to accommodate Hardison's request. The *Groff* Court noted, the Hardison decision "little space was devoted"[15] to evaluating when increased costs for the employer would amount to an "undue hardship" under Title VII; nonetheless, the Court articulated what became the "*de minimis* standard" for finding undue hardship: "To require TWA to bear more than a *de minimis* cost in order to give Hardison Saturdays off is an undue hardship"[16] and thereby violates the statute. As the *Groff* court explained, this minimal standard "suggested that even a pittance might be too much for an employer to be forced to endure."[17]

Even though the *Hardison* Court's reference to the *de minimis* standard was "fleeting"[18] (in a case that primarily concerned seniority rights guaranteed by a collective bargaining agreement[19]) and, according to *Groff*, "it is doubtful that it was meant to take on that large role,"[20] lower courts latched onto the standard as authoritative, which allowed employers to deny religious accommodations if the burden of doing so was

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[11] Reaves, *supra* note 5, at 18 (describing the required accommodations as "robust").
[12] Trans World Airlines, Inc. v. Hardison, 432 U.S. 63 (1977).
[13] Groff v. DeJoy, 600 U.S. at 448 (quoting Hardison, 432 U.S. at 66).
[14] *Id.* at 448.
[15] Groff v. DeJoy, 600 U.S. at 464.
[16] *Id*. at 449 (quoting TWA v. Hardison at 84).
[17] Groff v. DeJoy, 600 U.S. at 464.
[18] *Id.* at 449.
[19] See Dorothy Jane P. Modla, Survey of South Carolina Law: Religious Accommodations: The New Standard for South Carolina Employers Following Groff v. DeJoy 75 S.C. L. Rev. 649, 650, 659 (Spring, 2024), *available at* https://advance-lexis-com.proxy177.nclive.org/api/document?collection=analytical-materials&id=urn%3acontentItem%3a6C1W-6PS1-JC8V-41T1-00000-00&context=1519360&identityprofileid=G7S8Z854473 (explaining that the Hardison court "emphasized that Title VII recognizes the imprtance of 'seniortiy systems' by 'afford[ing]' them 'special treatment'" and that the *Hardison* holding was not "not predicated upon a general undue hardship analysis").
[20] *Id.*

trivial.[21] *Hardison* was significant because it limited religious accommodations in the workplace for decades by setting a relatively low standard for what counted as an "undue hardship." In practice, this meant that even minor accommodations, such as minimal time off for religious observance, could be denied if they caused only a minor disruption to the employer's business operations. This ruling sparked significant controversy, as it was seen by many as insufficiently protective of employees' religious rights, allowing employers to avoid accommodating religious practices under the guise of a minimal disruption. As Justice Thurgood Marshall wrote in a much-quoted dissent in *Hardison*, "The ultimate tragedy is that despite Congress' best efforts, one of this Nation's pillars of strength – our hospitality to religious diversity – has been seriously eroded. All Americans will be a little poorer until today's decision is erased."[22]

Lower Courts' Application of the *Hardison* Standard

When applying the low bar required by the *de minimis* standard, lower courts have allowed employers to reject accommodations in cases where the burden to the employer was minor. For example, in *Wagner v. Saint Joseph's/Candler Health System, Inc.*,[23] a hospital admissions worker, an Orthodox Jew, sought time off to observe the High Holy Days. Even though there was no financial harm to the hospital, the hospital successfully argued that this absence was an "undue hardship" because supervisors and coworkers had to take on a disproportionate workload. Similarly, in a 2017 case, *Camara v. Epps Air Serv., Inc.,*[24] a Muslim woman who wore a hijab was fired because her employer claimed that allowing her to wear it could harm the business due to "negative stereotypes and perceptions about Muslims."[25] Even though the accommodation would not have directly impacted operations, the court found that addressing customer perceptions constituted an undue hardship.

In *El-Amin v. First Transit, Inc.*,[26] a Muslim employee requested time to attend religious services, which conflicted with just two hours of training per week during a month-long training period. Upholding his termination, the District Court ruled that even this minor scheduling adjustment was a more than *de minimis* cost. Likewise, in *EEOC v. Sambo's of Ga., Inc.*,[27] a Sikh man was denied a restaurant manager position because his beard allegedly conflicted with "customer preference." The court accepted the employer's argument that accommodating his religious grooming practice would have been an undue hardship. Five years ago, the Seventh Circuit reinforced this standard in *EEOC v. Walmart Stores East, L.P.*,[28] holding that requiring Walmart to

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[21] In *Groff,* the Supreme Court did not overrule *Hardison* but took the approach that "it [w]as doubtful" the *Hardison* Court intended its reference to "*de minimis*" to constitute an "authoritative interpretation" or to "take on th[e] larger role" the lower courts had given it. Reaves, supra note 5, at 22 (quoting Groff, 143 S.Ct 2 2291-92).
[22] Trans World Airlines, Inc. v. Hardison, 432 U.S. 63, 97 (1977) (Marshall, dissenting).
[23] 2022 WL 905551, *4–*5 (SD Ga., Mar. 28, 2022).
[24] 292 F. Supp. 3d 1314, 1322, 1331–1332 (ND Ga., 2017).
[25] Groff v. DeJoy, 600 U.S. at 466 n.13 (quoting Camara v. Epps Air Serv., Inc., 292 F.Supp. at 1331-32*)*.
[26] Groff v. DeJoy, 600 U.S. at 466 n.13 (quoting El-Amin v. First Transit, Inc 2005 WL 1118175, *7–*8 (SD Ohio, May 11, 2005)).
[27] 2005 WL 1118175, *7–*8 (SD Ohio, May 11, 2005).
[28] EEOC v. Walmart Stores East, L.P. 992 F. 3d 656, 659–660 (2021) (cited in Groff v. DeJoy, 600 U.S. at 466 n.12).

facilitate voluntary shift trading to accommodate a Sabbath-observant assistant manager was too burdensome for Walmart, despite being the nation's largest private employer, with annual profits exceeding $11 billion. These cases illustrate how courts, when applying the *de minimis* standard, have repeatedly allowed employers to reject accommodations even when the burden on them was minimal. The standard set by *TWA v. Hardison* created a low threshold for employers to deny religious accommodations, whether the request involved leave for religious holidays, religious attire, attending worship services, or minor scheduling changes.

Impact of *Hardison* on Religious Minorities

Many argue that the low standard has been especially harmful to religious minorities. As one scholar explains, in appeals since 2000, employers won 83.7% of the time when raising the undue hardship defense, and "claims brought by Christian plaintiffs (excluding Christian faiths that are primarily practiced by racial minorities) were over twice as likely to prevail as claims brought by employees of minority faiths."[29] This scholar goes on to quote Circuit Judge Thapar who in a concurrence wrote:

> The irony (and tragedy) of decisions like *Hardison* is that they most often harm religious minorities–people who seek to worship their own God, in their own way, and on their own terms.[30]

Judge Thapar continues, "The American story is one of religious pluralism" but *Hardison* "thwarted" the First Amendment's and Title VII's efforts to protect minority rights.[31] The Supreme Court in *Groff* explained that numerous diverse religious organizations that filed amicus briefs asserted that *Hardison's* interpretation of Title VII made "it harder for members of minority faiths to enter the job market."[32] In particular, the Court referenced briefs by the Sikh Coalition, the Council on the American-Islamic Relations (noting loss of employment for Muslim women), the Union of Orthodox Jewish Congregations of America, and the Seventh Day Adventist Church in Canada *et a*l.[33]

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[29] Reaves, supra note 5, at 19 (citing Petition for Writ of Certiorari at 29-30, Dalberiste v. GLE Associates, 141 S. Ct. 2463 (2021) (mem.)); see also Mikko Biana, *Note: Dejoyful Noise: Reimagining Title VII Religious Accommodations in the Wake of Groff v. DeJoy,* 90 Brooklyn L. Rev. 263 (Fall, 2024), *available at* https://advance.lexis.com/api/document?collection=analytical-materials&id=urn%3acontentItem%3a6DMB-VMY1-JC8V-41T1-00000-00&context=1519360&identityprofileid=G7S8Z854473; see also Jonah Gavish, *ARTICLE: Religion and Work: Navigating the Terrain of Religious Accommodations Post Groff v. DeJoy,* 50 Human Rights 22, (January, 2025), *available at* https://advance.lexis.com/api/document?collection=analytical-materials&id=urn%3acontentItem%3a6FBF-9F83-S0JG-71TT-00000-00&context=1519360&identityprofileid=G7S8Z854473.

[30] Small v. Memphis Light, Gas & Water, 952 F.3d 823, at 829 (6th Cir. 2020) (Thapar, J., concurring).

[31] *Id*.

[32] Groff v. DeJoy, 600 U.S. 447 at 465.

[33] *Id.*

Hardison Standard Relative to State Standards

While Title VII, as interpreted by *Hardison*, sets a low bar for what constitutes "undue hardship," this standard does not preempt more protective state or local laws. The low bar after *Hardison* is underscored by the greater protection for employee rights afforded by some state laws. The 2013 case *Litzman v. NYPD*[34] demonstrates this point. The District Court considered the NYPD's refusal to accommodate an Orthodox Jewish officer's request to wear a one-inch beard. The department denied the request because officers are required to be certified to use a respirator, which is incompatible with facial hair. The court determined that while the NYPD was not obligated to grant the accommodation under Title VII based on *Hardison's de minimis* standard, it was required to do so according to the stricter "undue hardship" definition outlined in the New York City Human Rights Law, which defines it as "an accommodation requiring significant expense or difficulty."[35] The court reasoned that the NYPD had not provided details about the costs of the accommodation or the number of other officers who might request similar exemptions. Without this information, it could not "conclude that defendants would accrue significant expense or difficulty if the plaintiff joined the 30% of NYPD officers who are not… certified or those who qualify for a medical exemption."[36] This case underscores how local laws can offer more robust protections than Title VII, compelling employers to meaningfully assess accommodation requests beyond minimal federal requirements.

EEOC v. Abercrombie & Fitch

While the Court in *Hardison* seemed to interpret Title VII's protection for employees restrictively, minimizing employer duties, another pivotal U.S. Supreme Court case in the development of religious accommodation under Title VII, *EEOC v. Abercrombie & Fitch Stores, Inc.*,[37] seemed to move in the direction of interpreting employee protections more expansively.[38] Samantha Elauf, a Muslim woman, applied for a job at Abercrombie & Fitch. Elauf wore a headscarf as part of her religious observance and was denied employment based on the company's "Look Policy" dress code, which prohibited employees from wearing "caps." Elauf sued under Title VII for discrimination based on her religious practice. The lower court ruled in favor of Abercrombie, holding that an employer is not liable for failing to accommodate a religious practice until the applicant or employee provides the employer with "actual knowledge" of their need for the accommodation. Elauf had worn the scarf to her interview but hadn't stated that it was required. The Supreme Court reversed, ruling in favor of Elauf and finding that Abercrombie & Fitch had engaged in illegal religious discrimination under Title VII because Elauf's religious practice was a motivating factor in Abercrombie's decision.[39]

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[34] Litzman v. NYPD, 2013 U.S. Dist. LEXIS 99123 (S.D.N.Y. 2013).
[35] *Id.* at 20.
[36] *Id*. at *22*.
[37] EEOC v. Abercrombie & Fitch Stores, Inc., 575 U.S. 768 (2015).
[38] William R. Corbett, *Reasonably Accommodating Employment Discrimination Law*, 128:2 Penn State L.Rev. 535, 538 (2024).
[39] Abercrombie & Fitch, 575 U.S. at 772-73.

The *Abercrombie* Court also considered whether a neutral policy, like a ban on all headgear, satisfied Title VII. It held that it did not, emphasizing that Title VII requires employers to accommodate religious practices, even if doing so means giving the employee favorable treatment.[40] Writing for the eight-to-one majority, Justice Scalia explained that

> Title VII does not demand mere neutrality with regard to religious practices—that they be treated no worse than other practices. Rather, it gives them favored treatment, affirmatively obligating employers not "to fail or refuse to hire or discharge any individual… because of such individual's" religious observance and practice. [41]

In other words, an employer cannot avoid liability by citing a neutral policy that incidentally disadvantages religious employees. Instead, the employer must accommodate religious practices unless doing so would cause an undue hardship. The decision reinforces that the burden is on employers to ensure that their policies do not result in indirect discrimination against religious individuals: "Title VII requires that otherwise-neutral policies to give way to the need for an accommodation,"[42] here allowing Elauf to wear her headscarf even though other employees were not permitted to wear headgear.

Abecrombie demonstrates Title VII's protection of minority faiths, reinforcing the idea that the law ensures that religious accommodations are not limited to widely recognized or mainstream religions. As one scholar writes, "The Court's decision strongly supports the broad accommodation of religious dress practices for minority faiths, affirming the important principle that civil rights protections against religious discrimination apply to all religions."[43] As such, *Abercrombie* highlights the need for employers to be flexible in their policies, adjusting their "neutral policies to accommodate religious practices, particularly for faiths that are often misunderstood or face discrimination."[44]

Analyzing Abercrombie alongside earlier cases like *Trans World Airlines, Inc. v. Hardison*[45] highlights the tension between employees' religious rights and employers' operational concerns, as well as the Supreme Court's evolving approach under Title VII. *Hardison*, which established the controversial *de minimis* standard for undue hardship, and its progeny allowed employers to deny accommodations if the burden was minimal,[46] drawing criticism that the standard gave employers too much leeway. In contrast, *Abercrombie* exposed the limits of this standard, pushing for a more proactive approach to accommodation. *Abercrombie* brought into sharp focus the distinction

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[40] EEOC v. Abercrombie, 575 U.S. at 775.
[41] *Id.* at 768.
[42] *Id.* at 776.
[43] James A. Sonne, *The Law and Culture of the Abercrombie Case*, Stanford Law School Blogs, Related Organizations: Mills Legal Clinic, Religious Liberty Clinic in (June 15, 2015), https://law.stanford.edu/2015/06/15/the-law-and-culture-of-the-abercrombie-case/
[44] *Id.*
[45] Trans World Airlines, Inc. v. Hardison, 432 U.S. 63 (1977).
[46] *Id*. at 81.

between *de minimis* costs and "undue hardship," terms that have been crucial in shaping the interpretation of Title VII's accommodation requirements. *Abercrombie* underscored that employers cannot use broad, neutral policies as a shield to avoid making accommodations for religious practices. It also highlighted the ongoing challenge of determining when religious accommodations truly result in undue hardship for the employer.

Ultimately, the *Abercrombie* case, along with earlier precedents, illustrates the evolving nature of the legal landscape surrounding religious accommodations in the workplace. While *Hardison* established the *de minimis* standard, *Abercrombie* highlighted its limitations and clarified that employers must engage in a more thoughtful process when deciding whether to accommodate religious practices. This set the stage for *Groff v. DeJoy*, in which the Court explicitly outlined the employer's burden.

Groff v. DeJoy

Background

Almost fifty years after *Hardison* and eight years after *Abercrombie*, the Supreme Court decided *Groff v. DeJoy*[47] in 2023. Like *Abercrombie*, *Groff* emphasized stronger protections for employees' religious beliefs and practices, but it went further by clarifying the standard employers must meet to deny an accommodation. Gerald Groff, an evangelical Christian, sued the United States Postal Service (USPS) after he was denied accommodation for his religious practice. Groff believes that Sunday should be reserved entirely for worship and rest, which is consistent with his religious beliefs. Initially, when Groff began working for USPS in 2012, USPS did not require him to work on Sundays. However, a subsequent business partnership with Amazon in 2013 required Sunday shifts. In response, hoping to avoid the Sunday shifts, Groff transferred to a different USPS location in a rural location with only seven employees that did not require Sunday deliveries. However, after Sunday Amazon deliveries also began at that location, Groff remained unwilling to work Sundays, and USPS assigned his deliveries to other staff, including the postmaster, whose job normally did not include mail delivery. As a result, Groff received "progressive discipline" for not showing up to work on Sundays, and he eventually resigned in 2019.[48]

Groff filed a lawsuit under Title VII, claiming that USPS could have reasonably accommodated his religious practice without imposing undue hardship on the employer. The District Court, however, applying the *de minimis* standard from *Hardison*,[49] concluded that exempting Groff from Sunday shifts would impose a more than *de minimis* burden. The Third Circuit affirmed, noting that the standard was "'not a difficult

[47] Groff v. DeJoy, 600 U.S 447, 451 (2023).
[48] *Id.* at 454-55.
[49] Trans World Airlines, Inc. v. Hardison, 432 U.S. 63 (1977).

threshold to pass'"[50] and that this "low standard"[51] was met because exempting Groff imposed on his coworkers, disrupted workplace efficiency, and lowered morale, thereby creating an "undue hardship."

Supreme Court Ruling

The central question in *Groff* was whether USPS could reasonably accommodate Groff's religious practice of abstaining from work on Sundays without imposing an "undue hardship" on the employer. This case revisited the interpretation of "undue hardship" under Title VII set by *Hardison* almost 50 years earlier, determining whether "undue hardship" in Title VII refers to a burden greater than a trivial or minor cost, as suggested in Hardison.

In this landmark decision, the Supreme Court ruled unanimously in favor of the employee. The Court clarified that the standard for "undue hardship" in religious accommodation cases requires employers to show a "substantial increase in costs in relation to the conduct of its particular business."[52] Marking a significant departure from the *de minimis* interpretation established in Hardison,[53] the *Groff* Court explained that *Hardison* "cannot be reduced to that one phrase" and highlighted *Hardison's* repeated references to "substantial burdens."[54] *Groff* rejected the *de minimis* interpretation, ruling that Title VII's "undue burden" should be understood as a "substantial" burden on the employer's business operations, rather than a trivial inconvenience:

> We therefore, like the parties, understand *Hardison* to mean that "undue hardship" is shown when a burden is substantial in the overall context of an employer's business. This fact-specific inquiry comports with both *Hardison* and the meaning of "undue hardship" in ordinary speech.[55]

Citing *Hardison* in support, the Court wrote, "we think it is enough to say that an employer must show that the burden of granting an accommodation would result in substantially increased costs in relation to the conduct of its particular business."[56] The Court emphasized that Title VII mandates a more robust inquiry into whether an accommodation would impose a true hardship on the employer's business, taking "into account all relevant factors in the case at hand," including the particular accommodation requested and their "practical impact" on the "nature," "size and operating costs" of the employer.[57] Importantly, the Court explained that an employer must show that the accommodation would result in a meaningful disruption to business, not just a minor inconvenience. The Court's reasoning was rooted in both the statutory text of Title VII

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[50] Groff v. DeJoy, 600 U.S. at 456 (quoting Groff v. DeJoy, 35 F.4th 162, 2022 LEXIS 14195 (3d Cir. Pa., May 25, 2022)).
[51] Groff v. DeJoy, 600 U.S. at 456.
[52] *Id*. at 470.
[53] *Id*.
[54] Groff v. DeJoy, 600 U.S. at 468.
[55] *Id.* at 468.
[56] *Id.* at 470.
[57] *Id*. at 470-71.

and an examination of prior precedents. *Groff* clarified that Hardison's "erroneous"[58] *de minimis* interpretation of "undue hardship," requiring the employer to show only a minor burden, was inconsistent with the statutory goals of Title VII.

The ruling in *Groff* is particularly significant because it offers a more nuanced understanding of religious accommodation under Title VII. Employers must now take into account the overall context of the business and the specific circumstances of the employee's religious practice. The Court noted that the *de minimis* standard had been misapplied in lower courts and had been used to deny even minor religious accommodations.[59] In rejecting the *de minimis* standard, the Court articulated a broader, more practical approach to assessing undue hardship. It stressed that "undue hardship" should reflect a more substantial burden that is "excessive" or "unjustifiable" in relation to the employer's business. This new interpretation aligns more closely with the original legislative intent behind Title VII, which sought to protect employees from religious discrimination while still allowing employers the flexibility to manage their business operations.[60] In that vein, the Court emphasized that while employee morale and the efficiency of business operations are legitimate concerns, these factors cannot be the sole basis for denying religious accommodations unless the hardship is substantial.[61] In that regard, the Court emphasized that not all impacts on coworkers are relevant to the determination; only coworker impacts that also affect the "conduct of the business" are relevant.[62] Thus, for example, coworker animosity to a particular religion or "to the very notion of accommodating religious practice cannot be considered undue."[63]

Having clarified Title VII's undue hardship standard, the Supreme Court returned the case to the lower court to apply the "clarified context-specific" standard, including considering possible accommodations it may have previously dismissed under the lower *de minimis* standard, such as "incentive pay" or the "administrative cost of coordinating with other nearby postal stations with a broader set of employees."[64]

Groff's Impact on Lower Courts

The Supreme Court's decision in *Groff v. DeJoy*, which "upended"[65] the *de minimis* interpretation of Title VII, has had a significant impact on lower courts, altering how they assess religious accommodation claims under Title VII.[66] *Groff* requires courts to examine employee claims of undue hardship more rigorously, particularly for

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[58] *Id*. at 471.
[59] *Id*. at 454.
[60] Groff v. DeJoy, 600 U.S. at 471.
[61] Groff v. DeJoy, 600 U.S. at 472.
[62] *Id*.
[63] *Id.*
[64] *Id.* at 473.
[65] Dorothy Jane P. Modla, *Survey of South Carolina Law: Religious Accommodations: The New Standard for South Carolina Employers Following Groff v. DeJoy*, 75 S.C. L. Rev. 649, 650 (Spring, 2024), *available at* https://advance-lexis-com.proxy177.nclive.org/api/document?collection=analytical-materials&id=urn%3acontentItem%3a6C1W-6PS1-JC8V-41T1-00000-00&context=1519360&identityprofileid=G7S8Z854473.
[66] Reaves, supra note 5 at 34 ("*Groff* is . . . a significant repudiation of nearly 50 years of precedent interpreting Title VII. Lower courts therefore cannot ignore *Groff*.").

employees with minority religious beliefs.[67] In the wake of this ruling, lower courts have demanded that employers provide concrete evidence of substantial burdens rather than relying on generalized assertions of safety, efficiency, or workplace disruption. This section surveys some of the most common[68] cases applying *Groff*, particularly relating to grooming policies, dress requirements, and time-off cases.

Grooming Policies and Dress Requirements Post-*Groff*

A 2023 Fifth Circuit case, *Hebrew v. Tex. Dep't of Crim. Just.,*[69] involved a correctional officer, Elimelech Hebrew, a devout follower of the Hebrew Nation religion, which required him to keep his hair and beard long. His employer, the Texas Department of Criminal Justice (TDCJ), fired him for refusing to cut his hair and beard. TDCJ's grooming policy prohibited male officers from having beards unless they had a medical condition and banned male officers from having long hair. TDCJ gave Hebrew two options: break his religious vow and cut his hair, or leave the training academy without pay while his accommodation request was pending. Hebrew chose the second option. Two months later, his accommodation request was denied. TDCJ cited safety and security issues, such as being able to wear gas masks and detecting contraband in the hair. The District Court, which decided the case before the U.S. Supreme Court's decision in *Groff*, applied the *de minimis* standard and found an undue burden to TDCJ because coworkers would have to "perform extra work to accommodate" Hebrew's religious practice.

The Fifth Circuit reversed, stating that *Groff* requires that the employer's burden rise to an "excessive" or "unjustifiable" level.[70] The court described it as a "heavy burden" and, quoting *Groff*, requiring something akin to "substantial costs and substantial expenditures" and that the undue hardship affected "the conduct of the employer's business."[71] The court emphasized that, under *Groff*, evidence of impacts on coworkers is irrelevant unless they place a substantial strain on the employer's business.[72] Furthermore, if the employee's requested accommodation poses an undue hardship, the employer is obligated, on their own, to consider other accommodations. Applying these requirements, the court ruled that the TDCJ failed to present evidence of substantial costs or operational burdens for denying the prison guard's request. TDCJ never identified the "actual costs" it would face if it granted the accommodation. Instead, it relied on vague claims about security and safety concerns without showing how the accommodation would pose a real risk. The department also argued that granting the request would require other employees to take on additional work, but failed to specify

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[67] See *id*. at 34 ("While only time will tell, [*Groff*] appears to be a significant victory for religious minorities and for all those who seek the opportunity to make a living without sacrificing their faith.).

[68] SeeAnn C. McGinley, *ARTICLE: Religious Accommodations in the Dobbs Era,* 27 Empl. Rts. & Employ. Pol'y J. 276, 283 (2024), *available at* https://advance.lexis.com/api/document?collection=analytical-materials&id=urn%3acontentItem%3a6D7Y-J3N1-DYRW-V2VM-00000-00&context=1519360&identityprofileid=G7S8Z854473 (Noting dress codes, scheduling, and expression as three of the most common accommodation requests).

[69] Hebrew v. Tex. Dep't of Crim. Just., 80 F.4th 717 (5th Cir. 2023)

[70] *Id.* at 722 (quoting *Groff*, 143 S.Ct. at 2294).

[71] Hebrew v. Tex. Dep't of Crim. Just., 80 F.4th at 722.

[72] *Id.*

what tasks would be impacted or how the burden would be substantial. The court's decision reinforces the post-*Groff* expectation that employers must offer concrete evidence of undue hardship rather than rely on generalized assertions.

This analysis of the costs of providing Hebrew's accommodations highlights the post-*Groff* landscape, which requires a case-by-case evaluation and better protection for employees of all faiths. TDCJ had argued that Hebrew could hide contraband in his hair and beard. However, the court noted that TDCJ already searches everyone entering the unit, including employees, and the fact that searching Hebrew might take a few extra minutes did not pose a "substantial" burden in light of TDCJ's $2.4 billion budget. The court rejected TDCJ's hypothetical argument that allowing all officers to have long beards would require changes to the search process. It stated that *Groff* instructs courts to focus on the "case at hand" and the "particular accommodation."[73] The court likewise evaluated and dismissed TDCJ's arguments relating to the potential safety risks of wearing a gas mask with a beard (TDCJ had offered no evidence "whatsoever" of a greater safety risk to Hebrew) or inmates grabbing his hair (female officers may have long hair for *any* reason). Confirming that *Groff* has changed the landscape to better protect employees' religious beliefs, the court concludes by stating, "*Groff* enables Americans of all faiths to earn a living without checking their religious beliefs and practices at the door."[74]

Similarly, in a 2024 District Court case, *Ellis v. Chronister,*[75] the plaintiff, Jeremy Ellis, a member of the Sunni sect of Islam, began working as a community service officer for the sheriff's office and requested accommodations to observe his religious practices by wearing a religious head covering (a kufi) and growing his beard long. (After working for the sheriff's office for a decade, Ellis converted to the sect in 2020.) Referring to *Groff,* the District Court emphasized the heightened standard for showing undue burden and the need for a "fact-specific inquiry."[76] Similar to the court's analysis in *Hebrew,* the court evaluated the particular costs of accommodating the employee's request and found that the employer, the Shawnee County Sheriff's Office (HCSO), failed to properly fulfill its obligations under Title VII. Quoting *Groff*, the *Ellis* court, like the *Hebrew* court, emphasized that Title VII requires employers to actively explore alternative accommodations, not merely examine the employee's requested accommodation:[77]

> Title VII requires [HCO to] reasonably accommodate [Ellis's] practice of religion, not merely that [HCSO] assess the reasonableness of a particular possible accommodation.[78]

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[73] *Id.* at 723.
[74] *Id.* at 725.
[75] Ellis v. Chronister, No. 2024 U.S. Dist. LEXIS 98187 (D. Kan. 2024).
[76] *Id.* at 21.
[77] *Id.* at 23.
[78] *Id*. at 24 (quoting Groff v. DeJoy, 600 U.S. at 473).

The court found no evidence that HCSO considered any other potential solutions, such as modifying uniform policies, and thus denied HCSO's motion for summary judgment.[79]

However, Groff's heightened standard does not preclude employers from denying accommodations if they have substantial, legitimate concerns about undue burden. In a 2023 Third Circuit case, *Smith v. City of Atlantic City*,[80] the District Court upheld the Atlantic City Fire Department's (ACFD) refusal to accommodate a firefighter's request to grow a beard, citing safety concerns. Smith, a Christian firefighter, requested the accommodation to grow a three-inch beard, but the court found that allowing the beard would pose a significant risk. Specifically, it would prevent him from properly securing a self-contained breathing apparatus (SCBA) mask, a critical safety component. The ACFD has a strict no-facial-hair policy for all personnel required to use SCBA masks.

The court agreed with the ACFD's concerns, noting that allowing the beard would undermine the department's ability to safely conduct operations, imposing an undue hardship on the employer. The court found that ACFD had made a good faith effort to accommodate Smith by consulting with the SCBA vendor for alternatives, but no mask was available that would fit safely with facial hair.[81] Even though Smith's role as an Air Mask Technician limited his involvement in fire suppression, he was still occasionally required to perform those duties. On one occasion, Smith's refusal to respond to an emergency left the department short-staffed, with only three firefighters available instead of the required four. The court emphasized the safety risks posed by Smith's request, stating, "It would be hard-pressed to imagine a circumstance that would create a greater undue burden—or a higher cost—on a fire department than the potential risk of injury or loss of life to a fellow firefighter or member of the public."[82]

Time-Off Requests Post-*Groff*

Since the *Groff* decision, the issue of time-off requests for religious observances has received increased scrutiny in lower courts. Like grooming and dress policy cases, courts are now requiring employers to provide more specific evidence when asserting that accommodating such requests would impose undue hardship. In time-off cases, employers must demonstrate that granting religious accommodations would result in significant operational disruptions, economic or otherwise, instead of generalized claims of inconvenience or inefficiency.

Courts have adopted a more demanding standard for evaluating time-off requests for religious accommodations under Title VII. In *Taylor v. SEPTA,*[83] the court examined a time-off request for religious accommodation involving a Muslim employee's need to schedule his follow-up drug tests outside Ramadan and/or daylight hours. The employee worked as a construction-equipment operator for the transit authority, a position that requires random drug testing. The court found that Southeastern

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[79] *Id*.
[80] Smith v. City of Atlantic City, No. 2023 U.S. Dist. LEXIS 212014 (D.N.J. 2023).
[81] *Id.* at 524.
[82] *Id.* at 525.
[83] Taylor v. SEPTA, No. 2024 U.S. Dist. LEXIS 113214 (E.D. Pa. 2024).

Pennsylvania Transportation Authority (SEPTA) could have reasonably accommodated Taylor's religious practice by scheduling drug tests before sunrise during Ramadan, without undue hardship.

In J*ohnson v. York Academy Regional Charter School*,[84] the court relied on *Groff* to deny the employer school's motion to dismiss. The employee, a business manager, requested a four-day workweek to observe the Lunar Sabbath. The school denied her request months later, claiming it would cause an undue hardship, but failed to provide specific evidence of how it would substantially increase costs or disrupt business operations. The court found that the school had not met this standard. *Groff* raised the bar for what counts as undue hardship, leading the court to conclude that the employee's claims of failure to accommodate and retaliatory constructive discharge could proceed. These cases demonstrate how, under the post-*Groff* standard, courts are now requiring employers to more carefully consider practical alternatives when denying time-off or scheduling accommodations for religious observances, rather than relying on generalized claims of difficulty.

However, time-off-request cases can still be denied even under the more rigorous *Groff* standard. In *Suarez v. State*,[85] Suarez, a nondenominational Christian and certified nursing assistant at a state-run facility, requested specific days off to observe her Saturday Sabbath and religious holidays. Her position required weekend shifts governed by a collective bargaining agreement, which prioritized scheduling based on seniority. The court found that granting Suarez's request would have imposed an undue hardship by violating this seniority system. Additionally, the court noted that Suarez could have applied for other open positions within the facility that offered more flexible schedules. Because the employer had made reasonable efforts to notify staff of such alternatives and had not singled Suarez out unfairly, the court concluded that the accommodation request was properly denied.[86]

These cases and others[87] illustrate the evolving legal landscape in religious accommodations, with courts requiring employers to provide concrete evidence of undue hardship, rather than vague claims. As courts apply this heightened standard, employees' rights to religious expression are better safeguarded, especially for minority religions. This shift also serves as a reminder to employers to prioritize flexibility and

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[84] Johnson v. York Acad. Reg'l Charter Sch., 2023 U.S. Dist. LEXIS 178435, 2023 WL 6448843 (U.S.D. Ct. for the M. D. of Penn., October 3, 2023, Filed), *available at* https://advance.lexis.com/api/document?collection=cases&id=urn%3acontentItem%3a699V-WWJ1-F81W-2006-00000-00&context=1519360&identityprofileid=G7S8Z854473.

[85] Suarez v. State, 2024 Wash. LEXIS 372 (Wash. 2024).

[86] *Id.*

[87] Many other cases deal with vaccination accommodation arising from COVID-19. See, e.g., Bazinet v. Beth Israel Lahey Health, Inc., 2024 U.S. App. LEXIS 20349; Bellard v. Univ. of Tex. MD Anderson Cancer Ctr., 2024 U.S. Dist. LEXIS 45343; Montgomery v. N.Y. Presbyterian Hosp., 2024 U.S. Dist. LEXIS 144125; Troutman v. Teva Pharms. USA, Inc., 2024 U.S. Dist. LEXIS 138782 (5th Cir. 2024), Stroup v. Coordinating Center, No. MJM-23-0094, 2023 WL 6308089 (D. Md. Sept. 28, 2023); Isaac v. Exec. Off. of HHS, 2023 U.S. Dist. LEXIS 219788; Montgomery v. N.Y. Presbyterian Hosp., 2024 U.S. Dist. LEXIS 144125.

consider alternatives to provide reasonable accommodations, considering the practical impact on both the workplace and the religious rights of individuals.

Post-*Groff* World

Employer Responsibilities and Concerns

Groff introduces a major shift for employers, now requiring that undue hardship be substantial in relation to the employer's business operations. These accommodations arise particularly in cases involving dress and grooming policies, time-off requests, and religious expression in the workplace.[88] This assessment is now fact-specific, considering factors such as the business's size, nature, and costs. Employers must identify and evaluate the actual costs faced when denying an accommodation and proactively consider alternatives.

While beneficial to employees, particularly of minority faiths, the new standard could raise concerns among some employers and legal commentators. Requiring evidence of substantial hardship could result in a disproportionate burden on small businesses lacking the resources to absorb even moderate disruptions. In addition, in ambiguous situations, this problem may be exacerbated because businesses may err on the side of providing the accommodation in light of *Groff* while the case law is being worked out. The case-by-case, fact-specific approach *Groff* demands could lead to inconsistent outcomes across different courts, at least initially, creating uncertainty for employers trying to comply with Title VII. While *Groff* increases protection for religious rights, it may unintentionally strain smaller workplaces and complicate uniform policy enforcement.

Synthesis of Early Case Applications

Early cases applying *Groff* help illustrate how courts are beginning to navigate these new requirements. First, the cases demonstrate the serious, universally applicable nature of the undue hardship requirement. Even correctional facilities, which perhaps have the most legitimate safety concerns of many employers, cannot simply dismiss a guard's request for religious dress, such as a Kufi and beard, without actually specifying the legitimate safety concerns and considering alternatives.[89] That said, where an employer demonstrates a legitimate safety concern due to the nature of the work, such as a fire department showing no feasible alternative accommodation, an employer may deny the accommodation.[90]

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[88] See Edward G. Phillips and Brandon L. Morrow, *Column: The Law at Work: The New Undue Hardship Standard in Religious Accommodation Cases,* 59 Tenn. B.J. 34 , (September/October, 2023), *available at* https://advance.lexis.com/api/document?collection=analytical-materials&id=urn%3acontentItem%3a693D-PMG1-F8D9-M00D-00000-00&context=1519360&identityprofileid=G7S8Z854473.

[89] Ellis v. Chronister, No. 2024 U.S. Dist. LEXIS 98187 (D. Kan. 2024).

[90] Smith v. City of Atlantic City,No. 2023 U.S. Dist. LEXIS 212014 (D.N.J. 2023).

Courts will closely examine the employer's stated costs to determine whether they rise to the level of substantial. For example, where it takes only a few extra minutes per day for the employer to search a guard's long hair at a correctional facility in light of a $2.4 million budget, the employer can no longer avoid the request.[91] Similarly, where an employer can schedule a drug test before sunrise to accommodate a Muslim employee's religious obligation, they must do so.[92] Likewise, where a school employee requests a frequent four-day workweek for a Lunar Sabbath practice, the employer cannot deny it without examining the actual costs to the business.[93]

These post-Groff decisions, only made within the last two years since *Groff* was decided, already represent a variety of religions and thereby demonstrate how the higher standard provides significantly stronger protection for all faiths, especially minority religions (e.g., Sunni Islam,[94] Hebrew Nation,[95] Seventh Day Adventists,[96] Lunar Sabbath,[97] Norse Paganism[98]).

Legal Realism

On a theoretical level, this post-*Groff* context-specific analysis reflects the courts' shift toward a legal realist approach to deciding religious accommodation cases. Legal realism advocates for an approach to law that focuses on practical outcomes and real-world effects of the law.[99] Legal realists contend that legal decisions are influenced by social, political, and economic factors, as well as the judge's own experience, values, and beliefs, and should consider the real-world consequences of legal rulings.[100] In the context of religious accommodations in the workplace, this theory highlights the necessity of balancing employee interests with broader workplace policies.

Groff v. DeJoy serves as a prime example of legal realism because it highlights the evolving interpretation of undue hardship under Title VII. Specifically, the Court shifted from the rigid *de minimis* standard, which required minimal practical analysis of real-world impacts, to a more robust, context-sensitive evaluation that considers the actual burden on employers of providing the requested religious accommodation. This shift better aligns the law with the experiences of both employees and employers,

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[91] Hebrew v. Tex. Dep't of Crim. Just., 80 F.4th 717 (5th Cir. 2023).
[92] Taylor v. SEPTA, No. 2024 U.S. Dist. LEXIS 113214 (E.D. Pa. 2024).
[93] Johnson v. York Acad. Reg'l Charter Sch., 2023 U.S. Dist. LEXIS 178435, 2023 WL 6448843 (United States District Court for the Middle District of PennsylvaniaOctober 3, 2023, Filed), *available at* https://advance.lexis.com/api/document?collection=cases&id=urn%3acontentItem%3a699V-WWJ1-F81W-2006-00000-00&context=1519360&identityprofileid=G7S8Z854473.
[94] Ellis v. Chronister, No. 2024 U.S. Dist. LEXIS 98187 (D. Kan. 2024).
[95] Hebrew v. Tex. Dep't of Crim. Just.,80 F.4th 717 (5th Cir. 2023).
[96] Ramos v. Envoy Air Inc., 2024 U.S. Dist. LEXIS 95112, 2024 WL 2754055.
[97] *Id.*
[98] Sughrim v. New York, 690 F. Supp. 3d 355, 2023 U.S. Dist. LEXIS 156519.
[99] Marmor, Andrei and Alexander Sarch, *The Nature of Law*, The Stanford Encyclopedia of Philosophy (Fall 2019 Edition), https://plato.stanford.edu/archives/fall2019/entries/lawphil-nature.
[100] Intro to Realism and the Law, in *Readings in the Philosophy of Law* 87 (Keith C. Culver & Michael Giudice eds., 3d ed. 2017).

ensuring that legal standards are grounded in the realities of the workplace. The emphasis is no longer solely on whether a request technically fits within the legal framework, but on whether it functions effectively in practice—a hallmark of legal realism.[101]

From a practical standpoint, the heightened standard for religious accommodations established in *Groff* has substantial real-world implications for employers, legislators, and regulators. The decision will shape how businesses approach religious requests, influencing HR training and organizational policies. In the wake of *Groff,* legislators and regulators may decide to set out specific protocols for employers to follow to ensure that employers properly consider, among other factors, reasonable alternatives before denying an accommodation.

Conclusion

The Supreme Court's decision in *Groff v. DeJoy* reshaped the legal landscape of religious accommodations in the workplace. While *Groff* did not overturn *TWA v. Hardison,* it clarified the flawed interpretation that lower courts had adopted from that case. By establishing a stricter standard for employers to demonstrate "undue hardship," the Court expanded protections for religious employees and reinforced Title VII's intent. This ruling has already influenced how courts evaluate accommodation requests, requiring a case-by-case assessment of actual employer costs and feasible alternatives. As a result, religious practices across all faiths now receive stronger protections. Employers must now adjust to this heightened standard, while courts continue to define its scope. Ultimately, *Groff* set a new precedent and highlighted the evolving nature of religious protections, especially for minority religions.

Acknowledgement

I would like to express my sincere gratitude to Professor Harvey for her invaluable guidance, support, and insightful feedback throughout the development of this paper. Her expertise and encouragement were essential to the completion of this work.

[101] Legislation Hub Editorial Staff, *Understanding Legal Realism: A Comprehensive Overview,* Key Principles of Legal Realism (March 2024) https://legislationhub.com/legal-realism/.