Honor Thy Father and Thy Mother: Religious Accommodation Under Title VII in Adeyeye v. Heartland Sweeteners, LLC

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HONOR THY FATHER AND THY MOTHER:
RELIGIOUS ACCOMMODATION UNDER TITLE VII
IN ADEYEYE V. HEARTLAND SWEETENERS, LLC

ZEKE KATZ *


I. INTRODUCTION

In Adeyeye v. Heartland Sweeteners, LLC (“Adeyeye”), an employer denied an employee’s request for a five-week leave of absence for the employee to participate in his father’s funeral ceremonies in Nigeria.1 This case exemplified the potential conflicts surrounding religious accommodation in the workplace. Under Title VII of the Civil Rights Act (“Title VII”), an employer must reasonably accommodate an employee’s request regarding a religious practice or observance, as long as that request does not impose an undue hardship on the employer.2 Courts look to previous Title VII jurisprudence and commentary to evaluate an employer’s obligation to accommodate an employee’s request for a leave of absence rooted in that employee’s religious practices or observances. In Adeyeye, the Seventh Circuit

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1 Adeyeye v. Heartland Sweeteners, LLC, 721 F.3d 444 (7th Cir. 2013).

Court of Appeals found that Heartland Sweeteners, LLC (“Heartland”) improperly rejected Sikiru Adyeye’s request for religious accommodation. The court’s decision epitomizes federal courts’ broader interpretation of both the qualifications of a religious tradition and an employer’s accommodation of religious traditions in the work place.

As federal courts implement a more tolerant approach to employees’ religious observances those courts simultaneously promulgate the general expansion and promotion of religious freedom in the workplace. This trend towards more religious accommodation is exemplified in the amendments to Title VII, the Guidelines of the Equal Employment Opportunity Commission (“EEOC”), federal case law, and the Seventh Circuit Court of Appeals’ opinion in Adeyeye. Federal courts’ purposeful development towards employers’ broader accommodation of employees’ religious traditions has appropriately influenced a greater acceptance and understanding of a diverse variety of religions in the workplace. Importantly, courts’ tolerant and progressive approach towards religious accommodation is consonant with the freedom of religion principles established in the First Amendment to the United States Constitution. The “reluctance to require more than a de minimis accommodation by employers seems to be inapposite to the societal goal of allowing members of all religions to practice their faith freely.”

For employees to experience the religious freedom guaranteed by the Constitution, employers must reasonably accommodate those employees’ religious practices and observances.

Title VII’s requirement that employers provide reasonable religious accommodations is closely intertwined with the freedom of religion under the First Amendment. The First Amendment to the United States Constitution states “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise

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thereof." Freedom of religion is applied to the states via the
Fourteenth Amendment to the United States Constitution, Section 1,
which states “[n]o State shall make or enforce any law which shall
abridge the privileges or immunities of citizens of the United States;
nor shall any State deprive any person of life, liberty, or property,
without due process of law; nor deny to any person within its
jurisdiction the equal protection of the laws.” Enforcing employers to
comply with employees’ reasonable religious requests encourages
religious freedom in the workplace. Title VII compels employers to
reasonably accommodate employees’ religious requests while the First
Amendment simultaneously supports individuals’ rights to practice
and observe their religious traditions. While the Constitution protects
individuals from government intrusion into their respective religious
traditions, Title VII protects employees from religious discrimination
in the workplace.

Under Title VII, following an employee’s request for religious
accommodation, “the employer can avoid liability by showing either
that it reasonably accommodated the employee’s observance or
practice, or that accommodation of the observance or practice would
result in an undue hardship for the employer.” If an employer engages
in conduct prohibited by Title VII—for example, by refusing to
provide a reasonable accommodation to an employee’s religious
request—a mistreated employee may pursue a cause of action against
the employer. If the requested accommodation would cause the
employer an undue hardship, the accommodation would not be
required under Title VII. Questions regarding the sufficiency of an employer’s religious accommodation or showing of undue hardship often arise when an employee requests days off of work, perhaps due to a weekly Sabbath observance, or as in Adeyeye, a one-off religious ceremony. Whether a request for a religious accommodation is a single or regularly scheduled occurrence, an employer’s denial of that request may discriminate against the employee if the employer cannot show that the employee’s absence would cause undue hardship.

II. INTERPRETATIONS OF RELIGIOUS ACCOMMODATION FROM TITLE VII TO ADEYEYE

A. Title VII of the Civil Rights Act of 1964

Congress enacted the Civil Rights Act of 1964 (the “Act”) in response to discrimination against racial minorities in the United States. Though prompted by racial inequality in the United States, the Act addressed discrimination based on race, religion, gender or national origin. In Title VII of the Act, legislators implemented statutory standards and protections to prevent discrimination of employees by employers. Title VII stated that “[i]t shall be an unlawful employment practice for an employer to … discharge any individual, or otherwise to discriminate against any individual with

11 Page, supra note 8, at 367-68 (citing EEOC v. Hacienda Hotel, 881 F.2d 1504, 1507, 1513 (9th Cir. 1989)).
12 See generally Adeyeye v. Heartland Sweeteners, LLC, 721 F.3d 444 (7th Cir. 2013).
respect to his compensation, terms, conditions, or privileges of employment, because of such individual’s race, color, religion, sex, or national origin.”

Under Title VII, if an employee requests a change in his or her work schedule to accommodate a religious observance or practice, the employer must provide a reasonable accommodation in response to that employee’s request, as long as that employee’s change in schedule or leave of absence would not cause an undue hardship for that employer.

1. The Purpose of Title VII

Title VII was “the first comprehensive federal employment discrimination legislation that prohibited employment discrimination because of, inter alia, an individual’s religion.” Title VII defined the term “religion” to include “all aspects of religious observance and practice, as well as belief.” The Seventh Circuit applied this comprehensive definition when analyzing an employee’s request for religious accommodation in Adeyeye. Nevertheless, an employee’s request for religious accommodation is limited by Title VII, which maintains that an employer is not obligated to fulfill an employee’s request for religious accommodation if that “employer demonstrates

that he [or she] is unable to reasonably accommodate to an employee’s … religious observance or practice without undue hardship on the conduct of the employer’s business.”

2. The Impact and Results of Title VII

After the Civil Rights Act of 1964 became law, courts consequently recognized a significant disparity between Title VII’s prohibition of religious discrimination in the work place and any positive requirement for an employer to accommodate an employee’s religious practices or observances. For example, “the Sixth Circuit interpreted religious discrimination in employment to require merely treating employees the same without regard to religion.” The court found that where an employer’s scheduling requirement “was generally applicable to all employees regardless of the employees’ religious beliefs, it did not discriminate against any employee’s religion.” While the original text of Title VII did not clearly place an affirmative duty on employers to reasonably accommodate employees’ religious requests, further analysis has shown that the legislators, in drafting Title VII, intended for Title VII to place an affirmative duty on employers to accommodate employees’ religious requests.

Instead, courts, such as the Sixth Circuit, found that rather than establishing any affirmative duty, Title VII imposed “a negative duty of not discriminating against employees based on religion.” That

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20 *Id.*


25 *Id.*
negative duty interpretation held that where an employer provided a religious accommodation for an employee, that employer “would be discriminating in favor of that employee,” an act that “was deemed to be just as prohibited as [the initial] discrimination against an employee.”

The negative duty interpretations of Title VII, where courts analyzed the Act in opposition to the drafters’ intentions, spurred appropriate responses via the EEOC Guidelines and the 1972 amendments to the Act. Prior to these 1972 amendments, “some employers took the position that they had to apply work rules uniformly in order to avoid allegations of religious favoritism, in spite of the fact that such uniform enforcement frequently had an uneven impact on the employees themselves.”


Federal courts’ first major analysis of religious accommodation following Title VII’s enactment came from litigation surrounding conscientious objection to the military draft. Much like the Seventh Circuit’s analysis of Nigerian religious traditions in Adeyeye, the courts sought a broader understanding of what constitutes a religion in order to appropriately analyze the litigants’ claims under Title VII. The Supreme Court, in interpreting religious and non-religious conscientious objectors to the military draft in United States v. Seeger, 380 U.S. 163 (1965) and Welsh v. United States, 398 U.S. 333 (1970), broadened the characterization of “religious practices to include moral

26 Id.
or ethical beliefs as to what is right and wrong which are sincerely held with the strength of traditional religious views.”

In *Adeyeye*, the Seventh Circuit found that “*United States v. Seeger* provides a helpful definition of religion: The test ‘is whether a given belief that is sincere and meaningful occupies a place in the life of its possessor parallel to that filled by the orthodox belief in God.’” The EEOC stated that “[i]n interpreting what qualifies as religion under the broad statutory definition of Title VII, we have endorsed this standard that was used in *Seeger* to interpret the federal statute exempting conscientious religious objectors from military conscription, finding that the definition serves equally well for the purposes of Title VII.” The *Adeyeye* court further adhered to the *Seeger* court’s interpretation of sincerely held religious beliefs, finding that “[i]n such an intensely personal area, of course, the claim of the registrant that his belief is an essential part of a religious faith must be given great weight. … The validity of what he believes cannot be questioned. Some theologians, and indeed some examiners, might be tempted to question the existence of the registrant’s ‘Supreme Being’ or the truth of his concepts. But these inquiries are foreclosed to Government.”

In *Seeger*, the Court addressed Congress’s interpretation of religious beliefs with respect to the conscientious objector statute, finding that “Congress, in using the expression ‘Supreme Being’ rather than the designation ‘God,’ was merely clarifying the meaning of

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30 Adeyeye, 721 F.3d at 448 (emphasis added); *see* Redmond v. GAF Corp., 574 F.2d 897, 901 n. 12 (7th Cir.1978) (explaining that a religious belief is a belief that is considered religious “in [the] person’s own scheme of things” and is “sincerely held”).

31 Adeyeye, 721 F.3d at 448 (citing Seeger, 380 U.S. at 184 (reviewing criminal convictions for men claiming conscientious objections to military conscription)).
religious training and belief so as to embrace all religions and to exclude essentially political, sociological, or philosophical views." The Court in Seeger analyzed a sincere and meaningful belief as whether that belief "occupies a place in the life of its possessor parallel to that filled by the orthodox belief in God." This analysis represents a transition to the federal courts’ broader understanding of religious traditions and sincerely held religious beliefs. In Seeger, the court found that having "a conviction based upon religious training and belief" includes "all sincere religious beliefs which are based upon a power or being, or upon a faith, to which all else is subordinate or upon which all else is ultimately dependent."

In defining sincere religious belief, the Supreme Court in Seeger avoided "imputing to Congress an intent to classify different religious beliefs, exempting some and excluding others, and is in accord with the well-established congressional policy of equal treatment for those whose opposition to service is grounded in their religious tenets." This all-encompassing construction of sincere religious beliefs supports the Seventh Circuit’s ruling in Adeyeye regarding Adeyeye’s sincere and simultaneous beliefs in both Nigerian and Christian religious traditions.

C. The 1966 EEOC Guidelines Regarding Religious Accommodation in Response to Title VII: "Serious Inconvenience"

The 1966 Equal Employment Opportunity Commission Guidelines addressed an employer’s duty to accommodate an employee’s request for religious accommodation. In 1966, shortly

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33 Id. at 165-66.
34 Id. at 176.
35 Id.
36 42 U.S.C.A. § 2000e-4 (The EEOC is “composed of five members, not more than three of whom shall be members of the same political party. Members of the Commission shall be appointed by the President by and with the advice and consent of the Senate for a term of five years.” The EEOC
after the Civil Rights Act of 1964, the EEOC “issued a guideline stating that, under the Act, employers had an obligation to accommodate the religious needs of their employees when accommodation could be achieved without serious inconvenience to the conduct of their business.”\textsuperscript{37} These Guidelines first addressed the duty imposed on an employer to “reasonably accommodate an employee’s request for a change in schedule or use of vacation or personal time due to that employee’s religious practice or observance.”\textsuperscript{38}

The Guidelines on Discrimination Because of Religion stated that similar to an affirmative obligation, “the duty not to discriminate on religious grounds includes an obligation on the part of the employer to accommodate the reasonable religious needs of employees and, in some cases, prospective employees where such accommodation can be made without serious inconvenience to the conduct of the business.”\textsuperscript{39} This “serious inconvenience” standard played a significant role in courts’ analysis of religious accommodation in the workplace. The term “serious inconvenience” set a relatively low bar for the employer to hurdle in order to successfully deny the employee’s request for religious accommodation without discriminating against that employee due to the employee’s religion. The general understanding of what constitutes a serious inconvenience, as opposed to an undue hardship,

Guidelines do not hold precedential authority over the decisions of the Supreme Court or federal courts. However, those Guidelines do impose persuasive authority on judicial decision-making and legislative amendments. The purpose of the Guidelines is to advise legislators, courts and litigants as a statement of policy. Legislators have applied some of the standards and parameters set in the EEOC Guidelines to the amendments of Title VII.\textsuperscript{37} Zablotsky, \textit{supra} note 28, at 514.\textsuperscript{38} Guidelines on Discrimination Because of Religion, 29 C.F.R. § 1605.1 (1967) (codifying the 1966 Guidelines).\textsuperscript{39} 29 C.F.R. § 1605.1(a)(2) (1967); \textit{see} Trans World Airlines v. Hardison, 432 U.S. 63, 72 (1977); Smith v. Pyro Mining Co., 827 F.2d 1081, 1090-91 (6th Cir. 1987) (Krupansky, J., dissenting), \textit{cert. denied}, 108 S. Ct. 1293 (1988) (emphasis added).
further illustrates the relative ease with which an employer may demonstrate a relatively minor hindrance related to an employee’s religious request, and consequently deny that employee’s otherwise reasonable and justifiable claim of religious accommodation under Title VII.

In addition to analyzing religious accommodation, the EEOC fine-tuned these Guidelines as employers and courts evaluated “whether or not a practice or belief is religious.” In so doing, the EEOC Guidelines responded to employers’ and courts’ failure to recognize the variety of religious observances and practices for which employees seek accommodation. Finding that “Title VII’s definition of ‘religion’ [was] deficient, the EEOC, charged with administering Title VII, ... formulated its own definition of religion.” The Commission ... define[d] religious practices to include moral or ethical beliefs as to what is right and wrong which are sincerely held with the strength of traditional religious views.” The EEOC essentially borrowed and applied the Supreme Court’s analysis of the religiousness and sincerity of requests for accommodation that stemmed from the Courts’ conscientious objector decisions. In applying the EEOC’s definition of religious practices in Adeyeye, where the employee identified with both Nigerian and Christian religious traditions, the Seventh Circuit rightfully applied a comprehensive understanding of the employee’s religious beliefs in its analysis of religious accommodation under Title VII.

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40 29 C.F.R. § 1605.1; 45 FR 72612, Oct. 31, 1980, unless otherwise noted; Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e et seq.
41 Page, supra note 8, at 369.
42 29 C.F.R. § 1605.1; 45 FR 72612, Oct. 31, 1980, unless otherwise noted; Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e et seq.
44 “The fact that no religious group espouses [an employee’s particular claimed] beliefs or the fact that the religious group to which the individual professes to belong may not accept such belief will not determine whether

In the 1966 EEOC Guidelines, the first Guidelines the EEOC released regarding religious accommodation in the workplace, an employer was required to show that the religious accommodation would present a “serious inconvenience.” The 1966 EEOC Guidelines were amended in 1967, shortly after their release, and “require[d] employers to reasonably accommodate employees’ religious needs short of undue hardship on the employer’s business.” The amended Guidelines stated that “the employer [has an affirmative duty] to make reasonable accommodations to the religious needs of employees and prospective employees where such accommodations can be made without undue hardship on the conduct of the employer’s business.” This change in the EEOC Guidelines’ language from “serious inconvenience” to “undue hardship,” had a significant impact on courts’ understanding of religious accommodation under Title VII.

Specifically, these modifications addressed the necessary conditions that permit an employer to deny an employee’s request for the belief is a religious belief of the employee or prospective employee.”


a religious accommodation. This change in language essentially transformed the duty of the employer from a neutral duty, to an affirmative one.\textsuperscript{48} The improved text of the 1967 Guidelines made “clear that the Commission believed, contrary to its earlier view, that in certain instances employers would be required to excuse employees from work for religious observances.”\textsuperscript{49}

\textit{E. Conscientious Objectors Revisited in Welsh v. United States, (1970)}

The Supreme Court reaffirmed its analysis of sincere religious belief from \textit{Seeger} in \textit{Welsh v. United States}. \textit{Welsh}, like \textit{Seeger}, addressed a conscientious objector’s sincerely held religious beliefs. In \textit{Welsh}, the Court reversed the lower court’s decision and ruling due to “its fundamental inconsistency with \textit{United States v. Seeger}.”\textsuperscript{50} The \textit{Welsh} Court, much like the \textit{Seeger} Court, presented a broad understanding of what may constitute a sincere religious belief.

The \textit{Welsh} Court found that whether the draft registrant specifically referred to his or her belief as “religious” was “highly unreliable” to the government agency or judicial fact finder that ultimately determined whether the claim at issue was based on that registrant’s sincerely held religious belief.\textsuperscript{51} This analysis was analogous to the facts presented in \textit{Adeyeye}. In \textit{Adeyeye}, as described in further detail below, the employee’s written requests for a leave of absence did not explicitly state that his requirement to participate in his father’s funeral ceremony was a religious obligation. However, in congruence with the Supreme Court’s holding in \textit{Welsh}, the Seventh Circuit did not hold that the absence of any explicit reference to

\textsuperscript{48} Kaminer, \textit{supra} note 13, at 581. 
\textsuperscript{49} \textit{Id.} at 581-82 (citing Trans World Airlines v. Hardison, 432 U.S. 63, 86 n.1 (1977) (Marshall, J., dissenting)). 
\textsuperscript{51} \textit{Welsh}, 398 U.S. at 341.
religion in Adeyeye’s written requests would bar him from receiving a reasonable accommodation.

As with employees requesting a religious accommodation, with respect to conscientious objectors, “very few registrants [were] fully aware of the broad scope of the word ‘religious’ as used in [the applicable and pertinent statute], and accordingly a registrant’s statement that his beliefs are nonreligious is a highly unreliable guide for those charged with administering the exemption.”52 The Welsh Court highlighted the potential for a draft registrant or employee’s lack of familiarity with the standards regarding the sincerity of religious beliefs. In doing so, the Court emphasized the need for a broad understanding of religion with respect to the exact language expressed in a conscientious objection to military service or a request for religious accommodation in the workplace. A finder of fact must be open to a broad conceptualization of religion to properly analyze whether a request is sincerely based in that requester’s understanding of religion.

For example, although Welsh “originally characterized his beliefs as nonreligious, he later upon reflection wrote a long and thoughtful letter to his Appeal Board in which he declared that his beliefs were ‘certainly religious in the ethical sense of the word.’”53 Similarly, in Adeyeye, the employee, in his two letters to Heartland requesting a leave of absence, did not clarify that his requests were based on his sincerely held religious beliefs.54 As in Welsh, the Seventh Circuit likewise did not require that Adeyeye explicitly include that his

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52 Id.
53 Id. at 341-42 (“He explained: ‘I believe I mentioned taking of life as not being, for me, a religious wrong. Again, I assumed Mr. (Bradey, the Department of Justice hearing officer) was using the word ‘religious’ in the conventional sense, and, in order to be perfectly honest did not characterize my belief as ‘religious.’’ App. 44.”).
54 See Adeyeye v. Heartland Sweeteners, LLC, 721 F.3d 444, 450 (7th Cir. 2013).
particular requests were religious for the court to reach that appropriate conclusion on its own.\textsuperscript{55}

\textit{F. The 1972 Amendments to Title VII}

The 1972 Amendment to Title VII addressed the disparity between preventing religious discrimination and requiring adherence to religious tolerance in the work place by incorporating “an affirmative duty of accommodation” into Title VII’s definition of religion.\textsuperscript{56} While “Congress had declared religious discrimination in employment unlawful” via Title VII, Congressional Representatives had not addressed an employer’s scope of duty with respect to religious accommodation under Title VII, and notably did not “indicate if an employer had an affirmative duty to accommodate employee religious practices.”\textsuperscript{57} Influenced by the 1967 EEOC Guidelines written in response to the Act, the United States Congress codified the change in the amended language of the 1967 EEOC Guidelines by enacting section 701(j) of the Civil Rights Act in 1972.\textsuperscript{58} “[B]y amending section 701 of Title VII in accordance with the 1967 Guidelines of the EEOC,” Congress attempted to resolve the disparity between the EEOC Guidelines and the contrasting holdings of some of the federal courts.\textsuperscript{59} This section defined “[t]he term ‘religion’ [to] include[] all aspects of religious observance and practice, as well as belief, unless an employer demonstrate[d] that he [was] unable to reasonably accommodate to an employee’s religious observance or practice without undue hardship on the conduct of the

\textsuperscript{55} \textit{Id.}

\textsuperscript{56} Kaminer, supra note 13, at 580.

\textsuperscript{57} Zablotsky, supra note 28, at 513-14.

\textsuperscript{58} 42 U.S.C. § 2000e(j) (1994); Kaminer, supra note 13, at 583-84.

employer’s business.”60 This language, embedded in the Act’s definition of religion, became the controlling language for federal courts’ analysis of religious accommodation in the workplace, and was consequently the standard applied by the Seventh Circuit in Adeyeye. “In effect, the definition of religious discrimination as contained in the amendment made it an unlawful employment practice under … Title VII for an employer not to reasonably accommodate, in the absence of undue hardship to the employer’s business, the religious practices of his employees.”61 This section was added in 1972 to illuminate the meaning of religious discrimination under the statute.62

Nevertheless, the Supreme Court, in TWA v. Hardison, reluctantly noted, “like the EEOC Guidelines, the [1972 amendment to Title VII] provide[d] no guidance for determining the degree of accommodation that is required of an employer. The brief legislative history of § 701(j) is likewise of little assistance in this regard.”63 Ultimately, while the 1972 amendment did follow the legislators’ intention to clarify and strengthen an employer’s obligation to accommodate religious requests, the Court found that the amended language of the statute had not provided an ultimate and final determination regarding the required degree of accommodation. In an important footnote, the TWA Court elaborated on the legislative history of section 701(j)’s definition of religion to accurately interpret the legislature’s intentions and full meaning of “religious accommodation.”64

61 Zablotsky, supra note 28, at 515.
64 Id. at 74 n. 9.
The Court explained that “[s]ection 701(j) was added to the 1972 amendments on the floor of the Senate.” The TWA opinion continued by noting that the brief floor debate in the Senate regarding the 1972 amendment’s definition of religion comprised the majority of section 701(j)’s legislative history. That brief Senate floor debate consisted “principally of the views of the proponent of the measure, Senator Jennings Randolph.” “When Congress was reviewing Title VII in 1972, Senator Jennings Randolph informed the Congress of these decisions,” improperly addressing unequal treatment of employees rather than the undue hardship of the employer, “which, he said, had ‘clouded’ the meaning of religious discrimination. He introduced an amendment, tracking the language of the EEOC regulation, to make clear that Title VII requires religious accommodation, even though unequal treatment would result.” Left with limited guidance from the 1972 Amendment to Title VII, to formulate the appropriate methodology, the Seventh Circuit borrowed its analysis of religious accommodation from the statute, case law and EEOC Guidelines.

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65 Id.
67 118 Cong. Rec. 705-706 (1972). Ultimately in TWA, the Supreme Court found “that TWA made reasonable efforts to accommodate” Hardison’s request for religious accommodation, “and that each of the Court of Appeals’ suggested alternatives would have been an undue hardship within the meaning of the statute as construed by the EEOC Guidelines.” TWA, 432 U.S. at 77.
68 TWA, 432 U.S. at 89 (Marshall, J., dissenting); 118 Cong. Rec. 706 (1972).
III. HEARTLAND’S REFUSAL TO ACCOMMODATE ADEYEYE’S REQUEST FOR LEAVE OF ABSENCE TO ATTEND AND PARTICIPATE IN HIS FATHER’S FUNERAL CEREMONIES AND RITUALS IN NIGERIA

A. Summary of the Facts in Adeyeye v. Heartland Sweeteners, LLC

Sikiru Adeyeye was born in Nigeria and relocated to the United States in 2008. Sometime after his arrival in the U.S., Adeyeye began working for Heartland Sweeteners, LLC (“Heartland”), and was employed by Heartland from as late as July 2008 until October 2008. Following the death of his father, Adeyeye “requested several weeks of unpaid leave so he could travel to Nigeria to lead his father’s burial rites.” In his two separate written requests to Heartland, written in July and September of 2010, Adeyeye asked Heartland for sufficient time off from work in order to travel to Nigeria to participate in his father’s funeral ceremonies. In those written requests Adeyeye stressed the significance of participating in his father’s funeral ceremonies. He indicated that his involvement “was ‘compulsory’ and that if he failed to lead the burial rites, he and his family members would suffer at least spiritual death.” Adeyeye identified these religious rites in his letters requesting unpaid leave, quoted [below], as well as in his deposition and declaration. They included leading an extended procession through the village, animal sacrifice in the form of killing five goats, and cutting off his mother’s hair and anointing her head twice with snail oil while she remained secluded in her home for one month of mourning until Adeyeye coaxed her to exit her home and to reenter society. Although Heartland denied Adeyeye’s

69 Adeyeye v. Heartland Sweeteners, LLC, 721 F.3d 444, 447 (7th Cir. 2013).
70 Id. (“Adeyeye was born in Nigeria and lived there until he moved to the United States as a legal permanent resident in 2008.”).
71 Id.
72 Id. at 450-51.
73 Id. at 447.
74 Id. at 452.
request for a leave of absence, he still chose to travel to Nigeria in order to participate in the funeral ceremonies for his father, and consequently, he did not appear for work during this absence. As a result of his leave of absence, Adeyeye was terminated by Heartland when he attempted to return to work after travelling back to the United States from Nigeria.\(^{75}\)

In the Seventh Circuit’s analysis of whether Adeyeye clearly communicated the religious nature of his request to his employers, the court looked to the letters that Adeyeye sent to Heartland regarding his request for a leave of absence. His first written request, dated July 19, 2010, stated:

I hereby request for five weeks leave in order to attend funeral ceremony of my father. This is very important for me to be there in order to participate in the funeral rite according to our custom and tradition. The ceremony usually cover from three to four weeks and is two weeks after the burial, there is certain rite[s] that all of the children must participate. And after the third week, my mother will not come out until after one month when I have to be there to encourage her, and I have to [k]ill five goats, then she can now come out. This is done compulsory for the children so that the death will not come or take away any of the children's life. I will appreciate if this request is approved.\(^{76}\)

This request was denied, and Adeyeye submitted a second letter to Heartland on September 15, 2010, stating:

I hereby request for my one week vacation and three weeks leave in order to attend the funeral ceremony of my father in my country, Nigeria—Africa, which is taking place by October next month. This is the second time I will inform you and request for this travelling trip from the company but no

\(^{75}\) Id. at 447, 450-51.

\(^{76}\) Id. at 450.
reply to this matter. Nevertheless, the burial will be taking place by October next month and I have to be there and involved totally in this burial ceremony being the first child and the only son of the family. I therefore request for this period stated above for this trip and back to my work by November 4th, 2010. Your help towards this matter will highly be appreciated.  

In this second request, although Adeyeye “reduced his request from five weeks of unpaid leave to one week of (already earned) vacation and three weeks of unpaid leave,” his request for a leave of absence was again denied.  

Adeyeye filed his lawsuit against Heartland under Title VII, claiming that Heartland failed to accommodate his request for a leave of absence prompted by his religious obligations surrounding the funeral ceremony for his father. The district court eventually granted Heartland’s motion for summary judgment, “finding that Adeyeye’s two written requests did not present evidence sufficient for a reasonable jury to find that he had provided Heartland notice of the religious character of his request for unpaid leave.” Adeyeye appealed the district court’s granting of Heartland’s motion for summary judgment, and the Seventh Circuit heard that appeal.

B. The Holding from Adeyeye v. Heartland Sweeteners, LLC

Hon. David Frank Hamilton authored and wrote the Seventh Circuit’s opinion in this case, a unanimous decision. Hon. Diane S. Sykes and Hon. Joseph Peter Stadtmueller of the United States District Court, Eastern Wisconsin, sitting by designation, comprised the panel. The decision was made on July 31, 2013. The judgment of the district court was reversed and the case was remanded for further proceedings.

77 Id.
78 Id.
79 Id. at 447.
80 Id.
consistent with the opinion. The Seventh Circuit held that Adeyeye’s lawsuit against Heartland should survive Heartland’s motion for summary judgment because there was a genuine issue of material fact regarding whether Adeyeye provided Heartland with sufficient notice of his need for a leave of absence and whether that leave of absence was requested based on Adeyeye’s own sincere religious beliefs. The court found that Adeyeye’s letters to Heartland requesting a leave of absence were “sufficient to present a genuine issue of material fact regarding whether Heartland had notice of the religious nature of the request.” Moreover, the court held that Adeyeye’s “discharge was a result of his religious observance” and that his particular religious accommodation of unpaid leave and vacation “would not have created an undue hardship on” Heartland. Consequently, the Seventh Circuit reversed and remanded the opinion of the United States District Court for the Southern District of Indiana.

IV. ANALYSIS OF THE SEVENTH CIRCUIT’S APPLICATION AND INTERPRETATION OF RELIGIOUS ACCOMMODATION UNDER TITLE VII IN ADEYEYE

A. Adeyeye Presented a Prima Facie Title VII Case

Adeyeye satisfied the three-part test necessary to establish a prima facie case that Heartland failed to accommodate his religious observance. First, he demonstrated that he had a sincere or bona fide

81 See generally id.
82 Id. at 447.
83 See generally id.
84 Id. at 447-48.
85 Kaminer, supra note 13, at 596-97; see Opoku-Boateng v. California, 95 F.3d 1461, 1467 (9th Cir. 1996) (quoting Heller v. EBB Auto Co., 8 F.3d 1433, 1438 (9th Cir. 1993)); see also Protos v. Volkswagen of America, Inc., 797 F.2d 129, 133 (3rd Cir. 1986), Smith v. Pyro Mining Co., 827 F.2d 1081, 1085 (6th Cir. 1987); see also 1 Fair Empl. Prac. § 8:69 (internal citations omitted).
religious belief, the practice of which conflicted with an employment duty or job requirement. Second, he informed Heartland of his religious observance’s conflict with his work schedule via two separate written requests. Third and finally, Heartland “nevertheless enforced the job requirement against the employee, disciplined the employee for failing to comply with the conflicting requirement, or took other adverse employment action against the employee.”

To begin its analysis, the Seventh Circuit found that “Adeyeye’s claim for failure to accommodate his religion [was] straightforward,” noting that Adeyeye “assert[ed] that his request for unpaid leave was motivated by his own genuine, sincerely held religious beliefs that he had to perform his father’s burial rites.” The court recognized that Adeyeye “provided … Heartland ample notice that he sought unpaid leave for religious reasons. He then missed work to perform the burial rites and was fired because of this absence.” Importantly, “[o]nce the plaintiff has established a prima facie case of religious discrimination,” as Adeyeye did, “the burden then shifts to the employer to produce evidence showing that it cannot reasonably accommodate the worker without incurring undue hardship.” These facts supporting Adeyeye’s prima facie case ultimately supported the Seventh Circuit’s decision to reverse the district court’s grant of Heartland’s motion for summary judgment.

B. The Definition and Interpretation of Religion

Often the religiousness of the employee’s request for accommodation is straightforward and does not come into question.

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86 Kaminer, supra note 13, at 596-97.
87 Id.
88 1 Fair Emp. Prac. § 8:69 (internal citations omitted).
89 Adeyeye, 721 F.3d at 449.
90 Id.
91 Protos, 797 F.2d at 134; see also Smith, 827 F.2d at 1085; Opuku-Boateng, 95 F.3d at 1468; Heller, 8 F.3d at 1438 (internal quotation marks omitted).
For example, an employee may request a change in work schedule due to his or her weekly Sabbath observance. In that instance, the religiousness of that employee’s request for accommodation is clear because the employee’s religion instructed the employee to refrain from working on the Sabbath. Where the religiousness of the employee’s request for accommodation is ambiguous, the EEOC has applied a broad definition of religion, and “define[d] religious practices to include moral or ethical beliefs as to what is right and wrong which are sincerely held with the strength of traditional religious views.”92 The equally accepting statutory definition of religion “includes all aspects of religious observance and practice, as well as belief.”93

In Adeyeye, the court found that Title VII’s definition of religion encompassed three points.94 First, the statutory definition provided “a broad substantive definition of religion.”95 Second, the statute incorporated “an implied duty to accommodate employees’ religions.”96 Third and lastly, the statute contained “an explicit affirmative defense for failure-to-accommodate claims if the accommodation would impose an undue hardship on the employer.”97 Each of those points contained within Title VII’s applicable and pertinent definition of “religion” will be addressed below.

93 42 U.S.C. § 2000e(j); Adeyeye, 721 F.3d at 448.
94 Adeyeye, 721 F.3d at 448 (“The statutory definition of “religion” in Title VII is drafted as an unusual blend.”).
95 Id.
96 Id.
97 Id.
The Adeyeye court deconstructed the analysis of “whether a belief is in fact religious for purposes of Title VII” to three factors. First, the court asked whether the belief “must actually be religious.” Second, the court investigated whether the “belief must be sincerely held.” Third, and lastly, the court looked to whether the accommodation of that belief “impose[d] an undue hardship on the employer.” The distinction between the analysis of religiousness and sincerity is an important one. In most cases, courts should not analyze religiousness, but it is permissible, and possibly necessary for courts to analyze sincerity. As laid out in Adeyeye, “proof of a sincere religious belief is the first element of the prima facie case that an employee must show in order to be successful under Title VII.”

Notably, courts are often wary of stepping outside of their proper judicial boundaries to analyze the religiousness of an employee’s request, and instead focus their evaluation on facts supporting or refuting that employee’s sincerity in his or her chosen religious tradition. While courts attempt to remain outside of the determination of the religiosity of an individual’s belief, courts “are willing to consider the sincerity of any purported belief.” Here, courts have found that “[p]roving the sincerity of one’s belief is part of establishing that one has a bona fide religious belief.”

98 Id.  
99 Id.  
100 Id.  
101 Id. (citing Redmond v. GAF Corp., 574 F.2d 897, 901 n. 12 (7th Cir.1978)).  
104 Likins, supra note 18; see Equal Emp’t Opportunity Comm’n v. Union Independiente de la Autoridad de Acueductos y Alcantarillados, 279
sincerity, an employer may challenge an employee’s claim for religious accommodation by “demonstrating that the employee’s conduct has been inconsistent with or contrary to the asserted belief.”  

With the separation between analyzing religiousness and sincerity in mind, the Seventh Circuit noted in analyzing sincerity that the finder of fact should not evaluate that belief as being “orthodox or even mandated by an organized religious hierarchy.” This approach permits a variety of religious traditions to qualify as sincere under Title VII, whether those traditions comply with commonly held religious doctrine or are exclusive and particular to the employee whose request for accommodation is at issue. By acknowledging personal religious traditions alongside commonly accepted religious traditions, the Seventh Circuit signified its broader understanding of religion under Title VII. It progressed from the Supreme Court’s analysis in Seeger and Welsh, where the various religious beliefs at issue were directly compared to a belief in God or a supreme being. With the proper analysis, the sincerity of the belief is based on that individual’s inner convictions rather than established religious traditions or commonly held beliefs. Moreover, the Seventh Circuit found that “[c]ourts should not undertake to dissect religious beliefs because the believer admits that he is ‘struggling’ with his position or because his beliefs are not articulated with the clarity and precision that a more sophisticated person might employ.”

The Adeyeye court applied a broad analysis of an employee’s sincere religious belief by holding that the belief’s consistency with or


105 Likins, supra note 18; see Peter M. Panken, Religion and the Workplace: Harmonizing Work and Worship 2, in ALI-ABA COURSE OF STUDY MATERIALS, CURRENT DEVELOPMENTS IN EMPLOYMENT LAW 4 n.10 (2005).

106 Adeyeye v. Heartland Sweeteners, LLC, 721 F.3d 444, 452 (7th Cir. 2013).

adherence to any predetermined orthodoxy or established religious tradition need not be a determining factor in the sincerity of that belief. Moreover, the Seventh Circuit found that an individual’s belief need not be perfectly consistent “in observance, practice, and interpretation” with his or her own religious observances, practices and interpretations “when determining if a belief system qualifies as a religion or whether a person’s belief is sincere.” The court found that a broader interpretation of sincere religious beliefs permitted a flexible understanding of any person’s religious traditions, observances or practices. In addition, this approach prevented courts from interfering in an ultimately impracticable and futile analysis of whether an individual’s beliefs adhere to their own practices, or the established practices of any one religious tradition.

Less common religious observances and practices, such as the Nigerian funeral traditions at issue in *Adeyeye*, compelled the court to apply a broader understanding of those religious traditions in order to apply the Act evenly to all requests for religious accommodation rooted in sincere religious beliefs. “The Act protects not only orthodox religious beliefs, observances, and practices, but also those which are unorthodox and which might be characterized by most persons as mistaken or incomprehensible.” In order to properly analyze the sincerity of less common religious beliefs, courts must construe

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108 *Adeyeye*, 721 F.3d at 453.
109 *Id.*
110 *Id.* (stating “[c]ourts are not arbiters of scriptural interpretation.”) (citing Thomas v. Review Bd. of Indiana Employment Sec. Division, 450 U.S. at 716); see also Grayson v. Schuler, 666 F.3d 450, 454–55 (7th Cir. 2012) (“[A] sincere religious believer doesn't forfeit his religious rights merely because he is not scrupulous in his observance; for where would religion be without its backsliders, penitents, and prodigal sons?”).
111 *Adeyeye*, 721 F.3d at 453.
religion and religious beliefs more broadly. The court in Adeyeye found that “a genuinely held belief that involves matters of the afterlife, spirituality, or the soul, among other possibilities, qualifies as religion under Title VII.” The court recognized that while “the religious beliefs and practices Adeyeye referred to are not as familiar as beliefs and practices closer to the modern American mainstream[,] … the protections of Title VII are not limited to familiar religions.”

In order for Adeyeye’s claim to survive summary judgment, Adeyeye had to show that his religious beliefs were religious in his “own scheme of things” and that this religious belief was “sincerely held.” The court concluded that Adeyeye presented sufficient evidence “to show that Adeyeye’s religious request to attend his father’s funeral in Nigeria so that he could perform specific rites, traditions, and customs was borne from his own personally and sincerely held religious beliefs.” Adeyeye explained in his deposition testimony and declaration that his “family’s religion is a blend of Christianity and customs, traditions, and ceremonial rites developed in his Nigerian village.” A significant aspect of Adeyeye’s religion is that “the specific dictates of [his] family’s

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113 Kramer, supra note 112.
114 Adeyeye, 721 F.3d at 448; see Kaufman v. McCaughtry, 419 F.3d 678, 681 (7th Cir.2005) (“[W]hen a person sincerely holds beliefs dealing with issues of ultimate concern that for her occupy a place parallel to that filled by God in traditionally religious persons, those beliefs represent her religion.”) (internal quotations and ellipses omitted).
115 Adeyeye, 721 F.3d at 451; see Redmond v. GAF Corp., 574 F.2d 897, 900-01 (7th Cir. 1978) (Title VII protects conduct that is “religiously motivated” and includes “all forms and aspects of religion, however eccentric”) (quoting Cooper v. General Dynamics, 533 F.2d 163, 168 (5th Cir.1976)).
116 Redmond, 574 F.2d at 901 n. 12 (internal quotations omitted); see also Adeyeye, 721 F.3d at 451.
117 Adeyeye, 721 F.3d at 451-52 (“That is to say, a jury could find that for Adeyeye to observe his religion appropriately, it was necessary for him to participate in the burial ceremonies.”).
118 Id. at 452.
religious practice[s] are identified, determined, and required by [his] father.” Therefore, Adeyeye has incorporated his father’s “rites and traditions” as a necessary element of his own religious practices and observances.\footnote{119} Adeyeye clarified his simultaneous practice and belief in both his Christian and Nigerian religious traditions, stating:

The Christian religion in which [he] was raised incorporates the traditional rites and customs of my village and family. Under these traditions, my father, as the head of the family, determined the religious practices, beliefs and customs for his household. I believe that I was spiritually compelled to follow these practices, beliefs, and customs in connection with the death and burial of my father.\footnote{120}

The court explained this as “an inter-generational form of faith and practice where part of the belief system is that the head of each household has the privilege and responsibility of determining the family’s exact practices.”\footnote{121}

Adeyeye clarified that his Christian and Nigerian religious traditions were interconnected. Those simultaneous traditions established his identity as a Christian and provided a sincere religious belief in the Nigerian traditions surrounding his father’s funeral, as well as his devout need to participate in that ceremony. Adeyeye stressed the sincerity of his request by explaining “the spiritual consequences of his failure to carry out his father's burial rites.”\footnote{122} He asserted that he “was compelled by [his] religious beliefs to follow the traditional rites and customs established by [his] father as head of the

\footnote{119} Id. (“Adeyeye explained this in his deposition: ‘I have to go to Nigeria to go to perform my rites. Being my rites—what I mean by rite, we have a customary rite, our whole culture. So being the main child of the family, so I have to go there and perform a rite.’

\footnote{120} Id. at 453.

\footnote{121} Id.

\footnote{122} Id. at 451-52.
household in connection with [his] father’s death and funeral.”\textsuperscript{123} In addition, he stated that “if [he] failed to follow these rites, [his] father’s death would have brought spiritual death upon both [his] mother and [him]self and would have prevented [he and his] mother … from finding spiritual peace.”\textsuperscript{124} The Seventh Circuit recognized that these statements showed that Adeyeye’s request to travel to Nigeria for his father’s funeral was deeply rooted in his own religious traditions and sincere religious beliefs.

Describing his role in the traditional Nigerian funeral practices in further detail, “Adeyeye explained that as the first son, he was required both to cut his mother’s hair and to ensure that she exited her home a month later ‘so that she will not be disgraced … and the death will not come upon her.’”\textsuperscript{125} According to Adeyeye’s religious beliefs, if he did not participate in his father’s funeral ceremony, the spirits of his deceased ancestors would lie, as heavy spiritual weight, on himself, his siblings, and his mother.\textsuperscript{126} Adeyeye, his siblings and his mother needed to perform the necessary traditional Nigerian funeral rites “to avoid disgrace and to avoid the [spiritual] death of [his] mother[,] … his attendance was mandatory ‘so that the death will not come or take away any of the children’s life.’”\textsuperscript{127}

The Adeyeye opinion includes a particular instruction from the Bible, to “honor thy father and thy mother.”\textsuperscript{128} In full, this verse, in the book of Exodus, reads, “Honour thy father and thy mother: that thy days may be long upon the land which the Lord thy God giveth thee.”\textsuperscript{129} Alternatively, in the book of Deutoronomy, this verse states, “Honour thy father and thy mother, as the Lord thy God hath commanded thee; that thy days may be prolonged, and that it may go

\begin{itemize}
    \item \textsuperscript{123} \textit{Id.} at 453-54.
    \item \textsuperscript{124} \textit{Id.} at 454.
    \item \textsuperscript{125} \textit{Id.} at 454 n. 3.
    \item \textsuperscript{126} \textit{Id.}
    \item \textsuperscript{127} \textit{Id.}
    \item \textsuperscript{128} \textit{Id.} at 454.
    \item \textsuperscript{129} \textit{Exodus} 20:12 (King James).
\end{itemize}
The teaching from the Bible, to honor thy father and thy mother, represents Adeyeye’s simultaneous adherence to two religious traditions. By participating in his father’s funeral ceremony with his mother, Adeyeye acted in accordance with his Nigerian traditions, and, in doing so, recognized his Christianity by honoring his father and mother. Heartland, as well as the district court, found that Adeyeye’s request to participate in the Nigerian traditions of his father’s funeral was not sufficiently connected to Adeyeye’s personal and sincere Christian beliefs to warrant religious accommodation. By highlighting the phrase “honor thy father and thy mother” in the Adeyeye opinion, the Seventh Circuit emphasized that a genuine issue of material fact remained as to whether Adeyeye held sincere religious beliefs with respect to both Nigerian and Christian traditions. That particular lesson from the Bible elucidated the harmony and sincerity of Adeyeye’s Nigerian and Christian religious traditions. Moreover, by finding that Adeyeye’s request for accommodation may have been reasonable and did not impose an undue hardship on Heartland, the Seventh Circuit incorporated this broad and accepting understanding of diverse and unique, but still sincere, religious beliefs into their overall analysis of religious accommodation.

C. The Definition and Interpretation of Religious Accommodation

Some legal commentators have determined that even after Title VII’s amendment in 1972, Congress failed to resolve “the definition of reasonable accommodation as that term is used in section 701(j) and

\[130\] Deuteronomy 5:16 (King James).
relates to section 703(a)(1) of Title VII.”\textsuperscript{131} While the 1972 amendment may have failed to elaborate on the meaning of Title VII, importantly, “the amendment [does clarify] that an employer has an affirmative obligation to act.”\textsuperscript{132} However, “[t]he amendment offers no guidance regarding the extent of the effort required, i.e., guidance with respect to what effort is a reasonable effort.”\textsuperscript{133} The 1972 Amendment to Title VII made clear that an employer’s reasonable accommodation to an employee’s religious request was an affirmative duty, but the amendment did not prescribe any standards for what that reasonable accommodation might entail.

Generally, federal courts have interpreted the reasonable effort of an employer’s accommodation to be a minimal effort.\textsuperscript{134} This application of a minimal accommodation standard may be due to the influence of the Supreme Court’s decision in \textit{Trans World Airlines, Inc. v. Hardison} (“\textit{TWA}”), where the court “narrowly interpreted an employer’s obligation to accommodate a religious employee” when it “addressed the scope of § 701(j).”\textsuperscript{135} A close analysis of the Supreme Court’s narrow interpretations of religious accommodation in \textit{TWA}, in contrast to the Seventh Circuit’s broad interpretation in \textit{Adeyeye}, emphasizes courts’ progression towards greater freedom of religious observance and practice, as well as an expanded acceptance of religious traditions.

\textsuperscript{131} Zablotsky, \textit{supra} note 28, at 521.
\textsuperscript{132} \textit{Id.}
\textsuperscript{133} \textit{Id.}
\textsuperscript{134} Kaminer, \textit{supra} note 13, at 577 (“The lower courts have, for the most part, interpreted § 701(j) as requiring only a minimal level of accommodation of religious employees.”).
\textsuperscript{135} \textit{Id.}

In *TWA*, the employee requested that his employer not schedule him to work on Saturdays, his religion’s Sabbath.\(^{136}\) Ultimately, “no accommodation could be reached, and [the employee] was discharged for refusing to work on Saturdays.”\(^{137}\) In response to his termination, the employee “brought an action for injunctive relief against TWA … claiming that his discharge constituted religious discrimination in violation of s 703(a)(1) of the Act, which makes it an unlawful employment practice for an employer to discriminate against an employee on the basis of his religion.”\(^{138}\)

The Supreme Court clearly stated that “[t]he issue in [TWA] was the extent of the employer’s obligation under Title VII to accommodate an employee whose religious beliefs prohibit him from working on Saturdays.”\(^{139}\) The employee’s “claim of religious discrimination was based on the 1967 [EEOC] Guidelines in effect at the time requiring an employer, short of ‘undue hardship,’ to make ‘reasonable accommodations’ to the religious needs of its employees, and on similar language in the 1972 amendments to Title VII.”\(^{140}\)


\(^{137}\) *Id.*

\(^{138}\) 42 U.S.C. § 2000e-2(a)(1); *Trans World Airlines, Inc. v. Hardison*, 432 U.S. 63, 63 (1977) (“Hardison, having first invoked the administrative remedy provided by Title VII, brought this action for injunctive relief in the United States District Court against TWA … claiming that his discharge by TWA constituted religious discrimination in violation of Title VII.”).

\(^{139}\) *TWA*, 432 U.S. at 66.

\(^{140}\) 42 U.S.C. § 2000e(j) (1970 ed., Supp. V); 29 CFR § 1605.1 (1968); *TWA*, 432 U.S. at 63-64. Initially, employee plaintiff “invoked the administrative remedy provided by Title VII of the Civil Rights Act of 1964.” “Hardison’s claim of religious discrimination rested on 1967 EEOC Guidelines requiring employers ‘to make reasonable accommodations to the religious needs of employees’ whenever such accommodation would not
Court ultimately held that “it would be anomalous to conclude that by ‘reasonable accommodations’ Congress meant that an employer must deny the shift and job preferences of some employees, as well as deprive them of their contractual rights, in order to accommodate or prefer the religious needs of others.”\textsuperscript{141} The TWA Court stated that Title VII “makes it an unlawful employment practice for an employer to discriminate against an employee or a prospective employee on the basis of his or her religion.”\textsuperscript{142} The Court took note of the EEOC’s Guidelines requiring “that an employer, short of ‘undue hardship,’ make ‘reasonable accommodations’ to the religious needs of its employees.”\textsuperscript{143} The Court also recognized that the Act had adopted the language of those EEOC Guidelines.\textsuperscript{144}

With this holding, the Court essentially applied an outdated standard of religious accommodation. This standard improperly focused on an employer’s efforts on maintaining equal employment standards for all employees, regardless of their religion.\textsuperscript{145} This holding was in stark contrast to the appropriate standard emphasized in the later EEOC Guidelines and amendments to Title VII. That proper standard permitted the unequal treatment of employees in order to reasonably accommodate certain employees’ religious practices. The TWA Court erred by ignoring the EEOC Guidelines and instead applying this outdated interpretation of religious accommodation under Title VII.

The Court found that “Title VII does not contemplate [the] unequal treatment” of employees that may result from a particular

\textsuperscript{141} TWA, 432 U.S. at 64.
\textsuperscript{143} 29 CFR § 1605.1(b) (1968); TWA, 432 U.S. at 66.
\textsuperscript{145} TWA, 432 U.S. at 64. (“Title VII does not require an employer to go that far. Pp. 2274-2275.”).
employee’s request for religious accommodation.\textsuperscript{146} It emphasized that their interpretation and application of Title VII to prevent unequal treatment aimed to eliminate employment discrimination “when it is directed against majorities as well as minorities.”\textsuperscript{147} In doing so, the Court concluded that if TWA reasonably accommodated one employee’s request for a weekly Sabbath observance, they would accordingly “deny the shift and job preference of some employees … in order to accommodate or prefer the religious needs of others.”\textsuperscript{148}

The Court found that this denial of scheduling preferences to some employees to accommodate the religious request of another employee was not reasonable, and instead qualified as an undue hardship on the employer, finding that “Title VII does not require an employer to go that far.”\textsuperscript{149} In contrast to the Court’s narrow reading of Title VII in \textit{TWA}, later interpretations of religious accommodation, such as the Seventh Circuit’s analysis in \textit{Adeyeye}, appropriately incorporated both the EEOC Guidelines and the 1972 amendment to reach a broader understanding of religious accommodation that complies with the statute as well as the First Amendment.

Justice Marshall, joined by Justice Brennan, dissented from the majority’s opinion in \textit{TWA}.\textsuperscript{150} Their dissent promotes a broad interpretation of religious accommodation under Title VII, evidently placing an affirmative duty on employers to accommodate employees’ religious requests. Justice Marshall’s methodology is aligned with the Seventh Circuit’s approach in \textit{Adeyeye}, rather that the Supreme Court’s approach in \textit{TWA}.

Justice Marshall noted that difficulties with religious accommodation and discrimination under Title VII often arise with regard to “adherents to minority faiths who do not observe the holy days on which most businesses are closed,” and instead “need time off

\begin{thebibliography}{9}
\bibitem{TWA} \textit{TWA}, 432 U.S. at 81.
\bibitem{Id} \textit{Id}.
\bibitem{Id} \textit{Id}.
\bibitem{Id} \textit{Id}.
\bibitem{Id} \textit{Id}.
\bibitem{Id} \textit{Id}.
\bibitem{Id} \textit{Id}.
\bibitem{Marshall} at 85 (Marshall, J., dissenting).
\end{thebibliography}
for their own days of religious observance. “\textsuperscript{151} Marshall’s approach to minority religions is particularly relevant in \textit{TWA}, as well as in \textit{Adeyeye}. Justice Marshall accurately concluded that religious accommodation resulting in certain unequal treatment is acceptable under Title VII, and should even be expected in cases regarding the accommodation of a minority religion. Justice Marshall explained that where an “employee is to be exempt” from a particular work schedule, that exemption “will always result in a privilege being ‘allocated according to religious beliefs,’” unless the employer permits that exemption for their entire staff.\textsuperscript{152} For example, closing a business on Sunday may accommodate the religious needs of many Christians who observe their Sabbath. However, adherents to those minority religions who observe their Sabbath on a day of the week other than Sunday, a tradition that affects some sects of Christianity, are left without appropriate religious accommodations for observing their Sabbath.

Justice Marshall consequently found that “if an accommodation can be rejected simply because it involves preferential treatment, then the regulation and the statute, while brimming with ‘sound and fury,’ ultimately ‘signif[ies] nothing.’”\textsuperscript{153} In this fashion, Justice Marshall found that religious accommodation, especially for minority religions, would inevitably lead to some unequal treatment amongst employees. He further noted that this unequal treatment was not prohibited by Title VII, and in fact may be necessary to reasonably accommodate religious requests and to preserve religious freedom without imposing undue hardship on the employer. The appropriate standard is not whether the religious accommodation causes unequal treatment amongst the employees, but whether the religious accommodation causes undue hardship for the employer.\textsuperscript{154}

\begin{itemize}
  \item \textsuperscript{151} \textit{Id.}.
  \item \textsuperscript{152} \textit{Id.} at 87 (Marshall, J., dissenting).
  \item \textsuperscript{153} \textit{Id.} at 85 (Marshall, J., dissenting).
  \item \textsuperscript{154} \textit{Id.} at 87 (Marshall, J., dissenting) (“In each instance, the question is whether the statute says, in plain words, … that such allocations are required unless ‘undue hardship’ would result.”).
\end{itemize}
2. Religious Accommodation in Adeyeye

To begin its analysis of Adeyeye’s request for religious accommodation from Heartland, the Seventh Circuit applied the three-part analysis it previously utilized in *Porter v. City of Chicago*.\(^ {155}\) In *Porter*, the Seventh Circuit found that an employee must prove three things in order to present a sufficient claim that the employer failed to accommodate that employee’s religious request.\(^ {156}\) First, the employee must show that “the observance or practice conflicting with an employment requirement is religious in nature.”\(^ {157}\) Second, the employee must have “called the religious observance or practice to [the] employer’s attention.”\(^ {158}\) And third, “the religious observance or practice [must be] the basis for [the employee’s] discharge or other discriminatory treatment.”\(^ {159}\) As discussed below, Adeyeye clearly satisfied all three of these requirements.

*D. The Interpretation of Undue Hardship*

Under Title VII, an employer is not obligated to accommodate any and all of an employee’s requests for religious accommodation. Instead, Title VII permits an employer to deny an employee’s request for religious accommodation if that employer can show that accommodating the request would impose an undue hardship on the employer. Without this balance in Title VII, religious accommodation would present a tremendous roadblock to otherwise functioning businesses. Moreover, it is not unfair or unconstitutional for an employer to deny the accommodation of an employee’s religious

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\(^ {155}\) *Porter v. City of Chicago*, 700 F.3d 944, 951 (7th Cir.2012) (internal quotations omitted); *see also* Adeyeye v. Heartland Sweeteners, LLC, 721 F.3d 444, 449 (7th Cir. 2013).

\(^ {156}\) *Porter*, 700 F.3d at 951.

\(^ {157}\) Id.

\(^ {158}\) Id.

\(^ {159}\) Id.
request where that employee’s religious needs impose a substantial burden or undue hardship on the employer.

1. The Demonstration of Actual Undue Hardship is Necessary

In the analysis of undue hardship under Title VII, an employer must present evidence that the employer’s accommodation of the employee’s religious request would cause, or has caused, an actual undue hardship on the employer. Only after a showing of actual undue hardship may an employer be exempt from complying with the employee’s request for religious accommodation.\(^{160}\)

There are a number of factors that may influence a court’s analysis of whether an employee’s request for religious accommodation presents actual undue hardship to an employer. Some of those factors include: (1) violation of the “seniority provision of a valid collective bargaining agreement”; (2) “suffering more than minimal costs in terms of money or efficiency in attempting to replace the absent worker”; or (3) “requiring employees of other religions or nonreligious employees to work at times that are undesirable to them in place of a worker who is absent because of a religious conflict with work hours.”\(^{161}\) The costs of covering or replacing an absent worker were particularly relevant to Heartland’s claim of undue hardship in *Adeyeye*.


The court in *Adeyeye* analyzed Heartland’s potential undue hardship based on Adeyeye’s specific position at Heartland. While employed at Heartland, Adeyeye was a material handler and a packer/palletizer. Significantly, the court noted, “that Heartland expects and plans for high turnover of workers in both job categories without compromising quality or productivity.” Due to Heartland’s expectation of high turnover, Heartland could not meet the undue hardship standard under Title VII. Because temporary workers could readily replace Adeyeye’s position, Heartland was unable to show that Adeyeye’s absence would inconvenience them to the level of undue hardship. The Seventh Circuit consequently found that Heartland did not present evidence showing that “any reasonable jury would have to find that permitting Adeyeye to take three weeks of unpaid leave in conjunction with his week of vacation would have created an undue hardship for Heartland.”

2. Heartland Sweeteners Was Unable to Show any Undue Hardship as a Result of Adeyeye’s Request for Religious Accommodation

The Seventh Circuit noted that once Adeyeye has established his prima facie case for religious accommodation, “the burden then shifts to [Heartland] to show that it could not accommodate the employee’s religious belief or practice without causing the employer undue hardship.” In Adeyeye’s second written request for religious

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162 Adeyeye v. Heartland Sweeteners, LLC, 721 F.3d 444, 455 (7th Cir. 2013).
163 *Id.*
164 *Id.*
165 *Id.* ("Heartland expected and planned for the frequent turnover of employees by keeping a ready list of temporary workers who usually reported to Heartland within an hour of a request.” In addition, the court found that “Title VII requires proof not of minor inconveniences but of hardship, and “undue” hardship at that.” (citing 42 U.S.C. § 2000e(j))).
166 *Id.*
167 *Id.* at 449 (citing Baz v. Walters, 782 F.2d 701, 706 (7th Cir.1986)).
accommodation, he presented Heartland with a suggestion to accommodate his leave of absence, proposing that he may “take his one week of vacation together with three weeks unpaid leave to allow enough time to travel to Nigeria and participate in the burial rites.”

Importantly, the Adeyeye Court’s analysis of undue hardship found that “[t]he Supreme Court has recognized unpaid leave as a reasonable and generally satisfactory form of accommodation for religious faith and practice.”

VI. THE SEVENTH CIRCUIT’S INTERPRETATION OF TITLE VII IS THE APPROPRIATE UNDERSTANDING OF RELIGIOUS ACCOMMODATION

The Seventh Circuit, by finding that Adeyeye had a claim for religious accommodation that was sufficient to survive Heartland’s motion for summary judgment, properly interpreted religious accommodation under Title VII. The Seventh Circuit’s analysis of Title VII in Adeyeye appropriately accentuated an accepting approach to lesser-known minority religious traditions and a broad application of an employer’s duty to reasonably accommodate an employee’s religious request. This implementation of Title VII aptly followed the amendments to Title VII as well as the EEOC Guidelines. In doing so, the Seventh Circuit’s conclusions in Adeyeye were in congruence with the trend towards greater religious acceptance and understanding as reflected in the statutory language of Title VII and the evolution of the EEOC guidelines regarding religious accommodation. Moreover, the Seventh Circuit’s broad understanding of religious accommodation in

168 Id. at 455.
169 Id. (quoting Ansonia Bd. of Educ. v. Philbrook, 479 U.S. 60, 70-71 (1986) (internal quotations omitted) (“The provision of unpaid leave eliminates the conflict between employment requirements and religious practices by allowing the individual to observe fully religious holy days and requires him only to give up compensation for a day that he did not in fact work. Generally speaking, the direct effect of unpaid leave is merely a loss of income for the period the employee is not at work; such an exclusion has no direct effect upon either employment opportunities or job status.”).
Adeyeye promotes religious freedom in accordance with the First Amendment of the United States Constitution.