

Supreme Court upholds church school's exception to laws against firing

WASHINGTON - The Supreme Court Jan. 11 upheld the idea that a "ministerial exception" to anti-discrimination laws means the church can't be sued for firing an employee who the church classified as a minister.

For the first time, the court held that such an exception to federal employment laws exists. The unanimous opinion reversed a ruling by the 6th U.S. Circuit Court of Appeals.

The opinion written by Chief Justice John Roberts said *Hosanna-Tabor v. EEOC* was the first Supreme Court case to raise the question of whether a ministerial exception exists and the unanimous conclusion of the court was "yes."

"The members of a religious group put their faith in the hands of their ministers," Roberts wrote. "Requiring a church to accept or retain an unwanted minister, or punishing a church for failing to do so, intrudes upon more than a mere employment decision. Such action interferes with the internal governance of the church, depriving the church of control over the selection of those who will personify its beliefs."

The court stopped short of saying whether the exception would apply to nonministerial employees and left open the possibility that the Michigan Lutheran school teacher who sued might have a case under another legal argument. The court also pointedly avoided setting boundaries for who can be considered a religious employee, concluding only that Cheryl Perich fit the definition.

The decision was quickly hailed by advocates for the Catholic Church, which had been among entities urging the court to support *Hosanna-Tabor Church*; the school has been closed for several years.

Bishop William E. Lori of Bridgeport, Conn., chairman of the U.S. bishops' Ad Hoc

Committee for Religious Liberty, called it “a great day for the First Amendment.”

In a statement issued by the U.S. Conference of Catholic Bishops, Bishop Lori said the ruling makes clear “the historical and constitutional importance of keeping internal church affairs off limits to the government – because whoever chooses the minister chooses the message.”

Anthony Picarello, general counsel and an associate general secretary for the USCCB, said the decision “affirms the common-sense proposition that religious schools must be free to choose religion teachers based on religion, without interference from the state.”

Perich sued Hosanna-Tabor Evangelical Lutheran Church and School in Redford, Mich., after she was fired after threatening to sue the school under the Americans with Disabilities Act when she tried to return to work following a lengthy sick leave, but was instead encouraged to resign.

Perich had been a teacher with a class load of primarily secular courses when she went on sick leave in 2004. When she tried to return to work, administrators urged her to quit, saying they already had hired a replacement for her. When she threatened to sue under the disabilities law, the school fired her, saying she had been insubordinate by threatening to go outside the church’s ecclesiastical appeal procedures.

The school countered that because she was a “called” minister of the church, the decision to fire her was protected by the First Amendment.

Roberts noted that the court was expressing an opinion only about Perich, as a minister, and her church’s decision to fire her.

“We hold only that the ministerial exception bars such a suit,” he wrote. “We express no view on whether the exception bars other types of suits.... There will be time enough to address the applicability of the exception to other circumstances if and when they arise.”

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