
Failure to Accommodate: Assessing the Legacy of *Trans World Airlines, Inc. v. Hardison* on Working- Class People of Faith

J. Alex Touchet & Bradley J. Lingo*

Abstract. Congress amended Title VII of the Civil Rights Act in 1972 to require employers to accommodate their employees' religious practices absent the imposition of "undue hardship." But reliance on *Trans World Airlines, Inc. v. Hardison*'s interpretation of "undue hardship" to mean anything "more than a de minimis cost" has prevented our nation from realizing Title VII's promise of a workplace free of discrimination against religious Americans—particularly working-class employees.

More than 80% of religious accommodations cases involve working-class Americans, as shown by an analysis of Title VII religious accommodation cases that made it to the federal courts between 2000 and 2023. Litigants in occupations that require only "little" or "some" preparation, like a high school diploma and up to a year of experience, represent more than 60% of the cases that made it to the federal courts between 2000 and 2023. Including occupations that require only "medium" preparation, like two years of experience and vocational school, on-the-job experience, or an associate's degree, raises the proportion to over 80% of the cases.

This data supports Justice Marshall's prediction that "[a]ll Americans will be a little poorer until [Hardison] is erased." But the data also demonstrates that the American working class has suffered the most.

* J. Alex Touchet is the Constitutional Law Fellow with the Robertson Center for Constitutional Law, J.D., Regent University School of Law. Bradley J. Lingo is the Dean at Regent University School of Law and Executive Director of the Robertson Center for Constitutional Law, J.D., Harvard University. Thank you to Michael Francisco and Timothy J. Whittle for their help on the amicus brief from which portions of this article are drawn. See Brief of Amicus Curiae The Robertson Center for Constitutional Law in Support of Petitioner, *Groff v. DeJoy*, No. 22-174 (S. Ct. argued Apr. 18, 2023).

The Supreme Court granted certiorari in Groff v. DeJoy in early 2023 to consider whether it should disapprove Hardison’s “more-than-de-minimis-cost” test for refusing Title VII religious accommodations. It should do so despite pleas to retain Hardison on stare decisis grounds—for Congress already took steps to protect religious liberty when it amended Title VII in 1972. Continued reliance on Congress to correct Hardison’s error will almost certainly leave countless working-class, minority faith employees as collateral damage in the religious liberty culture-wars. In Groff, the Court has the chance to restore Title VII’s full protection to working-class Americans of faith.

Introduction

In the early 20th century, workers across the United States routinely lost job opportunities because their religious practices inconvenienced their employers.¹ Immigrants sought opportunity in America only to face a choice between their faith and their work.² A generation ago, against this backdrop, Congress attempted to address this problem through Title VII.³

But today, working-class Americans still lose jobs for requesting time off for their Sabbath.⁴ They still lose jobs for attending worship services.⁵ And they still lose jobs for requesting variances from dress and grooming requirements.⁶ Even more tragically, some have forsaken their religious practices to keep food on the table.⁷ This is the distressing legacy of *Trans World Airlines, Inc. v. Hardison*.⁸

In *Hardison*, Trans World Airlines fired a clerk when he refused to work on his Saturday Sabbath.⁹ There, the Supreme Court interpreted Equal Employment Opportunity Commission (“EEOC”) guidelines on Title VII that required employers to accommodate employees’ religious practices unless doing so would impose an “undue hardship” on the employer’s business.¹⁰ In a single line near the end of the opinion, the Court declared that “[t]o require TWA to bear *more than a de minimis cost* in order to give Hardison Saturdays off is an undue hardship.”¹¹ Because Hardison was fired before Congress added “undue hardship” to Title VII in 1972, it was actually the similarly worded EEOC guidelines from 1967 that were before the Court in *Hardison*.¹² That fact led Justice Thomas to

¹ See, e.g., JONATHAN D. SARNA, AMERICAN JUDAISM: A HISTORY 162 (2004).

² *Id.* at 162–63.

³ See Robin Knauer Maril, *Religiously Motivated Conduct and the Reasonable Accommodation Requirement Under Title VII: A New Framework for Analysis*, 66 VILL. L. REV. 731, 736 (2021).

⁴ See, e.g., *EEOC v. Walmart Stores E., L.P.*, 992 F.3d 656, 660 (7th Cir. 2021) (holding that requiring an employer to interfere with its rotation system to permit a Seventh-day Adventist employee to take off on the Sabbath would impose more than de minimis harm).

⁵ See, e.g., *Rojas v. GMD Airlines Servs., Inc.*, 254 F. Supp. 3d 281, 289, 297–98 (D.P.R. 2015) (holding that requiring an employer to allow a Pentecostal employee to take off Sunday shifts to attend weekly worship services would impose more than de minimis harm).

⁶ See, e.g., *Webb v. City of Philadelphia*, 562 F.3d 256, 264 (3d Cir. 2009) (holding that requiring an employer to allow a Muslim employee to wear a headscarf would impose more than de minimis harm).

⁷ See *infra* notes 117–118 and accompanying text.

⁸ 432 U.S. 63 (1977).

⁹ *Id.* at 69.

¹⁰ *Id.* at 72.

¹¹ *Id.* at 84 (emphasis added).

¹² See *id.* at 76, 76 n.11.

suggest, “*Hardison’s* comment about the effect of the 1972 amendment was thus entirely beside the point.”¹³

Regardless, *Hardison’s* de minimis take on the guidelines now defines Title VII’s “undue hardship” standard. Courts today uniformly interpret “undue hardship” in Title VII as anything more than a de minimis cost.¹⁴ As a consequence, generations of religious Americans have been denied Title VII’s promise of a workplace free of needless discrimination.

Three recent petitions for certiorari have asked the Court to reconsider *Hardison*. In 2020, Justice Alito, joined by Justice Gorsuch and Justice Thomas, concurred in denying certiorari to *Patterson v. Walgreen Company*¹⁵ and indicated that he would be open to reconsidering *Hardison* in an appropriate case.¹⁶ The Court denied two more petitions in 2021, prompting a dissent by Justice Gorsuch that was joined by Justice Alito.¹⁷

In January 2023, the Court granted certiorari to *Groff v. DeJoy*.¹⁸ *Groff* presents two questions: (1) whether the “Court should disapprove the more-than-de-minimis-cost test for refusing Title VII religious accommodations stated in *Trans World Airlines, Inc. v. Hardison*,” and (2) “[w]hether an employer may demonstrate ‘undue hardship on the conduct of the employer’s business’ under Title VII merely by showing that the

¹³ EEOC v. Abercrombie & Fitch Stores, Inc., 575 U.S. 768, 787 n.* (2015) (Thomas, J., concurring in part and dissenting in part).

¹⁴ See, e.g., EEOC v. Walmart Stores E., L.P., 992 F.3d 656, 660 (7th Cir. 2021) (“Three Justices believe that *Hardison’s* definition of undue hardship . . . should be changed. . . . Our task, however, is to apply *Hardison* unless the Justices themselves discard it.”).

¹⁵ 140 S. Ct. 685 (2020).

¹⁶ Justice Alito agreed with the Solicitor General’s argument that the Court should reconsider *Hardison’s* de minimis standard in an appropriate case. See *id.* at 685 (Alito, J., joined by Gorsuch, J., and Thomas, J., concurring in denial of certiorari); see also Brief for the United States as Amicus Curiae at 19–22, *Patterson v. Walgreen Co.*, 140 S. Ct. 685 (2020) (No. 18-349).

¹⁷ See *Small v. Memphis Light, Gas & Water*, 141 S. Ct. 1227 (2021) (Gorsuch, J., and Alito, J., dissenting from denial of certiorari); *Dalberiste v. GLE Assocs., Inc.*, 141 S. Ct. 2463 (2021).

¹⁸ 143 S. Ct. 646 (2023) (mem.). Gerald Groff, a Christian who worked for the United States Postal Service (“USPS”), believes keeping the Sabbath holy is his sacred obligation. See *Groff v. DeJoy*, 35 F.4th 162, 164 (3d Cir. 2022). Initially, USPS did not require employees like Groff to work on Sundays. *Id.* at 165. But that changed in 2013 when USPS contracted to deliver packages for Amazon. *Id.* USPS argued it did not need to accommodate Groff’s religious practice because doing so would have imposed more than a de minimis cost by violating a collective bargaining agreement and straining Groff’s fellow employees. Brief for Defendant-Appellee at 49–66, *Groff*, 35 F.4th 162 (No. 21-1900). The district court held for USPS, and the Third Circuit affirmed. *Groff*, 35 F.4th at 176. Judge Hardiman argued in dissent that “a burden on coworkers isn’t the same thing as a burden on the employer’s business”—and the text of Title VII only requires the latter. *Id.* at 177 (Hardiman, J., dissenting) (emphasis added); see also 42 U.S.C. § 2000e(j).

requested accommodation burdens the employee's coworkers rather than the business itself."¹⁹

Groff presents a typical case: a working-class employee with an uncommon religious practice is forced to choose between his religious practice and his job because an accommodation would impose "more than a de minimis cost."²⁰

Amicus briefs and petitions for certiorari in the recent cases asking the Court to reconsider *Hardison* have argued that those who practice minority faiths are overrepresented in Title VII religious accommodation claims from the past two decades.²¹ Because requested accommodations are often based on uncommon religious practices that do not match American cultural norms, employers often don't have existing mechanisms to accommodate those practices, and courts are thus led to conclude that they impose "more than a de minimis cost" on employers.²²

This Article goes beyond the often-made point about *Hardison's* impact on religious minorities. It instead looks at *Hardison's* impact on those in working-class occupations. Research shows that over 80% of religious accommodation cases over the past two decades involved working-class Americans.²³ Those employees are more likely to require religious accommodations due to inflexible job requirements like mandatory uniforms and restrictive schedules.²⁴ But when employers can

¹⁹ Petition for Writ of Certiorari at i, *Groff*, 143 S. Ct. 646 (No. 21-1900).

²⁰ See *Groff*, 35 F.4th at 175.

²¹ See generally Brief Amicus Curiae of Christian Legal Soc'y et al. in Support of Petitioner, *Small v. Memphis Light, Gas & Water*, 141 S. Ct. 1227 (2021) (No. 19-1388); Petition for Writ of Certiorari, *Dalberiste v. GLE Assocs., Inc.*, 141 S. Ct. 2463 (2021) (No. 19-1461); Brief Amicus Curiae of Christian Legal Soc'y et al. in Support of Petitioner, *Patterson v. Walgreen Co.*, 140 S. Ct. 685 (2020) (No. 18-349).

²² The petition for certiorari in *Dalberiste v. GLE Associates, Inc.* showed that minority faiths (including Sabbatarian Christian sects) succeed on appeal in religious accommodation cases about half as often as non-minority faiths. See Petition for Writ of Certiorari at 29–30, *Dalberiste*, 141 S. Ct. 2463 (No. 19-1461). In the three reported religious accommodation cases to reach the circuits since that petition was filed, the employer prevailed each time. See *Stanley v. ExpressJet Airlines, Inc.*, 808 F. App'x 351, 356 (6th Cir. 2020) (holding for the employer over a Muslim employee's requested accommodation); *EEOC v. Walmart Stores E., L.P.*, 992 F.3d 656, 660 (7th Cir. 2021) (holding for the employer over a Seventh-day Adventist employee's requested accommodation); *Groff*, 35 F.4th at 175 (holding for the employer over a Sabbatarian Christian employee's requested accommodation). "In short, members of minority faiths—who are involved in nearly 50% of all religious-accommodation appeals—are substantially less likely than members of non-minority faiths to have their rights vindicated." Petition for Writ of Certiorari at 30, *Dalberiste*, 141 S. Ct. 2463 (No. 19-1461).

²³ See *infra* notes 60–61 and accompanying text.

²⁴ See, e.g., *Webb v. City of Philadelphia*, 562 F.3d 256, 258, 262 (3d Cir. 2009) (holding that requiring a police department to modify its uniform policy to accommodate a Muslim employee would impose more than de minimis harm); Robert J. Friedman, *Religious Discrimination in the Workplace: The Persistent Polarized Struggle*, 11 TENN. J. BUS. L. 143, 158–59 (2010).

deny accommodations under a de minimis standard, it is often easier to terminate than to accommodate those religious employees.

This Article proceeds in three parts. First, we sketch the history of *Hardison's* break from the text and meaning of Title VII's "undue hardship" standard. Second, we describe our findings that over 80% of religious accommodation litigants under *Hardison* are in working-class occupations, and we consider how their struggles compound when they are also members of minority faiths. Third, we argue that the Court should not fall back on stare decisis in hopes that Congress will rectify *Hardison's* error. Rather, the Court should correct its own erroneous caselaw and return Title VII's protection to those who need it most.

I. *Hardison* Has Prevented America from Fully Realizing Title VII's Promise of a Workplace Free of Religious Discrimination

Americans have long connected the freedom to work and the freedom to worship. For example, Alexander Hamilton believed that "a perfect equality of religious privileges," more than "mere religious toleration," would encourage skilled workers to "flock from Europe to the [U]nited [S]tates to pursue their own trades or professions."²⁵

History teaches that this aspiration has been elusive. For example, the combination of a Monday–Saturday work week and "strictly enforced" Sunday closure laws had a particularly devastating effect on the lives of Jewish immigrants.²⁶ "[U]nsympathetic employers" told their Jewish employees, "if you don't come in on Saturday, don't bother coming in on Monday."²⁷

Others share in that struggle. Muslims, Sikhs, Seventh-day Adventists, and many others face religious discrimination in the workplace simply because their religious practices are uncommon.²⁸ The petitioners in recent cases asking the Court to reconsider *Hardison*

²⁵ Alexander Hamilton, *Report on Manufactures* (Dec. 5, 1791), in 5 THE FOUNDERS' CONSTITUTION 95 (Philip B. Kurland & Ralph Lerner eds., 1986); see also James Madison, *Property* (Mar. 29, 1792), in 1 THE FOUNDERS' CONSTITUTION 598 (describing the freedom to work and freedom of worship as property rights).

²⁶ Sarna, *supra* note 1, at 162.

²⁷ *Id.*; see also *Jews in America: Shabbat as Social Reform* (1925), JEWISH VIRTUAL LIBRARY, <https://perma.cc/EQ4Q-VDBR> ("Almost no employers—even Jewish employers—honored Saturday as a day of rest.").

²⁸ See Brief Amicus Curiae of Christian Legal Soc'y et al. in Support of Petitioner at 17–19, *Groff v. DeJoy*, No. 22-174 (S. Ct. argued Apr. 18, 2023) (detailing *Hardison's* disproportionate effect on religious minorities).

exemplify typical litigants: a Jehovah's Witness service dispatcher;²⁹ a Sabbatarian industrial hygienist;³⁰ a Sabbatarian trainer at Walgreens;³¹ and a U.S. Postal Service employee who wishes to observe the Sabbath in accordance with his religious beliefs.³²

Congress passed Title VII to eliminate such discrimination. But the relief was short-lived. Only five years after Congress strengthened Title VII's protections, *Hardison* placed working-class religious minorities back in the position of their immigrant ancestors—at the mercy of their employers.³³

A. *Congress Amended Title VII to Protect Religious Minorities from "Generally Applicable" Employment Practices*

The contrast between *Hardison*'s de minimis interpretation and the text of Title VII³⁴ is even more troubling when one considers the history of the 1972 amendment.³⁵ Although the Civil Rights Act of 1964 did not mention religious accommodations for employees,³⁶ the EEOC issued guidance in 1966 that required employers to accommodate their employees' religious practices.³⁷ This guidance came in response to inquiries about how to treat employees whose religious beliefs affected

²⁹ *Small v. Memphis Light, Gas & Water*, 952 F.3d 821 (6th Cir. 2020), *cert. denied*, 141 S. Ct. 1227 (2021).

³⁰ *Dalberiste v. GLE Assocs., Inc.*, 814 F. App'x 495 (11th Cir. 2020), *cert. denied*, 141 S. Ct. 2463 (2021).

³¹ *Patterson v. Walgreen Co.*, 727 F. App'x 581 (11th Cir. 2018), *cert. denied*, 140 S. Ct. 685 (2020).

³² *Groff v. DeJoy*, 35 F.4th 162 (3d Cir. 2022), *cert. granted*, 143 S. Ct. 646 (2023).

³³ See Petition for Writ of Certiorari at 30, *Dalberiste*, 141 S. Ct. 2463 (No. 19-1461) ("Employers . . . know they can make almost any request for an accommodation sound like it will impose more than de minimis hardship, and therefore . . . they do not even try to accommodate religious employees—especially members of minority faiths.").

³⁴ See, e.g., *Groff*, 35 F.4th at 176 n.1 (Hardiman, J., dissenting) (questioning "whether simple English usage permits 'undue hardship' to be interpreted to mean 'more than de minimis cost,' particularly when such a reading can 'effectively nullify[] Title VII's promise of religious accommodation'" (quoting *Trans World Airlines v. Hardison*, 432 U.S. 63, 89, 93 n.6 (1977) (Marshall, J., dissenting))).

³⁵ See Debbie N. Kaminer, *Title VII's Failure to Provide Meaningful and Consistent Protection of Religious Employees: Proposals for an Amendment*, 21 BERKELEY J. EMP. & LAB. L. 575, 589 (2000) ("Despite the fact that § 701(j) was enacted for the express purpose of protecting Sabbatarians, the majority determined that the statute's legislative history was of 'little assistance.'").

³⁶ See 42 U.S.C. § 2000e-2(a)(1).

³⁷ Guidelines on Discrimination Because of Religion, 31 Fed. Reg. 8370, 8370 (June 15, 1966) (codified at 29 C.F.R. pt. 1605 (1966)). The 1966 guidelines required employers to accommodate religious practices as long as doing so did not cause "serious inconvenience to the conduct of business." *Id.*

their ability to follow a “regular workweek.”³⁸ The 1966 guidance identified Saturday Sabbatarians as the likely recipients of accommodations.³⁹ In 1967, the EEOC issued additional guidance that exempted employers from the accommodation requirement if accommodating an employee imposed an “undue hardship.”⁴⁰

In response to intervening court decisions that had cast aside the 1967 Guidance and its “undue hardship” requirement,⁴¹ Congress passed the Equal Employment Opportunity Act in 1972.⁴² The Act codified the 1967 guidance and added the “undue hardship” language to the statute.⁴³ There, too, the central focus of the amendment—which passed the Senate unanimously—was protecting observers of the Saturday Sabbath.⁴⁴ Thus, Congress affirmed that employers must provide religious accommodations unless doing so would impose an undue hardship.

B. *Reliance On the Hardison Standard Has Enfeebled the 1972 Amendment’s Protections*

Hardison’s facts presented the precise situation the EEOC and Congress had contemplated in the 1966 and 1967 guidance and the 1972 amendment: a Saturday Sabbatarian who wished to observe the Sabbath

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ Guidelines on Discrimination Because of Religion, 32 Fed. Reg. 10298, 10298–99 (July 13, 1967) (codified at 29 C.F.R. pt. 1605 (1967)).

⁴¹ Two decisions, *Dewey v. Reynolds Metals Company*, 429 F.2d 324 (6th Cir. 1970), and *Riley v. Bendix Corporation*, 330 F. Supp. 583 (M.D. Fla. 1971), discarded the 1967 guidelines’ “undue hardship” standard as being inconsistent with Title VII. See Sara L. Silbiger, *Heaven Can Wait: Judicial Interpretation of Title VII’s Religious Accommodation Requirement Since Trans World Airlines v. Hardison*, 53 *FORDHAM L. REV.* 839, 843 n.33 (1985). The Sixth Circuit held in *Dewey* that Title VII protected employees only from religious *discrimination*, but it did not require an employer to *accommodate* an employee’s religious practice. *Dewey*, 429 F.2d at 334–35; see also *id.* at 334 (“The requirement of accommodation to religious beliefs is contained only in the EEOC Regulations, which in our judgment are not consistent with the Act.”). And in *Riley*, a district court came to the same conclusion, noting that the EEOC had never expressly repealed its statement in the 1966 guidelines that an employer is free “to establish a normal work week . . . generally applicable to all employees,” notwithstanding that such a schedule “may not operate with uniformity in its effect upon the religious observances of his employees.” *Riley*, 330 F. Supp. at 589.

⁴² See Maril, *supra* note 3, at 745.

⁴³ 42 U.S.C. § 2000e(j).

⁴⁴ Silbiger, *supra* note 41, at 842; see 118 Cong. Rec. S2515/H1746, 705–06 (Senate ed. Jan. 21, 1972) (statement of Sen. Randolph) (drawing attention to the struggles of Orthodox Jews, Seventh-day Adventists, and Seventh-day Baptists due to, among other things, the American system becoming “more pluralistic and more industrialized”); see also 118 Cong. Rec. S2515/H1746, D8 (daily digest Jan. 21, 1972).

in accordance with his religion, subject to an otherwise “regular” workweek.⁴⁵ Larry G. Hardison was a clerk in a Trans World Airlines’ (“TWA”) store department who, along with his fellow employees, was subject to a collective-bargaining seniority system.⁴⁶ When TWA scheduled Hardison to work on his Saturday Sabbath, Hardison refused to work.⁴⁷ Rather than accommodate him, which TWA alleged would violate the seniority system, the company fired Hardison for insubordination.⁴⁸ The district court held for TWA, and the Eighth Circuit reversed.⁴⁹

At the core of the Supreme Court’s decision in *Hardison* was the surprising conclusion that, despite the 1972 amendment’s plain text and history, requiring the employer “to bear more than a *de minimis* cost in order to give Hardison Saturdays off [was] an undue hardship.”⁵⁰ As many have explained, the phrase “*de minimis* cost” invokes a standard that is significantly more deferential to employers than the plain meaning of “undue hardship” suggests.⁵¹

That decision has scarred the Title VII religious accommodation landscape. Not only does *Hardison* harm minority faiths, it damages the working-class Americans who need Title VII’s protection the most.

⁴⁵ Guidelines on Discrimination Because of Religion, 31 Fed. Reg. 8370, 8370 (June 15, 1966) (codified at 29 C.F.R. pt. 1605 (1966)); Guidelines on Discrimination Because of Religion, 32 Fed. Reg. 10298, 10298 (July 13, 1967) (codified at 29 C.F.R. pt. 1605 (1967)); 118 Cong. Rec. S2515/H1746, 705–06 (Senate ed. Jan. 21, 1972) (statement of Sen. Randolph).

⁴⁶ *Hardison v. Trans World Airlines*, 375 F. Supp. 877 (W.D. Mo. 1974), *rev’d*, 527 F.2d 33 (8th Cir. 1975), *rev’d*, 423 U.S. 63 (1977).

⁴⁷ *Id.*, 432 U.S. at 69.

⁴⁸ *Id.*

⁴⁹ *Id.* at 69–70.

⁵⁰ See *id.* at 84–85; compare *id.* at 84–85 with *id.* at 89 (Marshall, J., dissenting) (“[T]he Court today, in rejecting any accommodation that involves preferential treatment, follows the *Dewey* decision in direct contravention of congressional intent.”).

⁵¹ See, e.g., *Small v. Memphis Light, Gas & Water*, 141 S. Ct. 1227, 1228 (2021) (Gorsuch, J., dissenting from denial of certiorari) (“*Hardison’s de minimis* cost test does not appear in the statute. The Court announced that standard in a single sentence with little explanation or supporting analysis. Neither party before the Court had even argued for the rule.”); *Patterson v. Walgreen Co.*, 140 S. Ct. 685, 685 (2020) (Alito, J., concurring in denial of certiorari) (“I agree . . . that we should reconsider the proposition, endorsed by the opinion in *Trans World Airlines, Inc. v. Hardison*, that Title VII does not require an employer to make any accommodation for an employee’s practice of religion if doing so would impose more than a *de minimis* burden.”) (citation omitted); see also *Groff v. DeJoy*, 35 F.4th 162, 176 n.1 (3d Cir. 2022) (Hardiman, J., dissenting) (echoing Justice Marshall’s *Hardison* dissent in “question[ing] whether simple English usage permits undue hardship to be interpreted to mean more than *de minimis* cost, particularly when such a reading can effectively nullify Title VII’s promise of religious accommodation” (internal quotations omitted) (cleaned up)).

II. Working-Class People of Minority Faiths Need Title VII's Protection from Religious Discrimination the Most

It is well-known that *Hardison* often hurts those who practice minority faiths. As others have observed, “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 time.”⁵²

In support of recent petitions asking the Court to reconsider the *Hardison* standard, parties and amici have filed briefs collecting data on religious accommodation cases decided on summary judgment motions using the “undue hardship” standard over the past two decades.⁵³ Based on that data, those briefs conclude that although minority faiths and Saturday Sabbatarians make up a small portion of the population, they constitute a majority of the litigants in religious accommodations cases.⁵⁴

For example, those briefs found that while practicing non-Christian faiths⁵⁵ constituted only 5.9% of the American population in 2014, they represented 35.6% of accommodation cases through 2023.⁵⁶ That metric rises to 62.1% of cases when one includes minority sects of Christianity that observe the Sabbath on Saturday, such as Seventh-day Adventists.⁵⁷ What’s more, one brief showed that members of minority faiths prevail on appeal only half as often (14.3%) as members of non-minority faiths (30.7%).⁵⁸

A closer look at those religious accommodation cases reveals another disturbing pattern: litigants are overwhelmingly likely to be working-class Americans—the ones who need Title VII’s protection most.⁵⁹

⁵² *Small v. Memphis Light, Gas & Water*, 952 F.3d 821, 829 (6th Cir. 2020) (Thapar, J., concurring).

⁵³ See Brief Amicus Curiae of Christian Legal Soc’y et al. in Support of Petitioner at 17–19, *Groff v. DeJoy*, No. 22-174 (S. Ct. argued Apr. 18, 2023); Brief Amicus Curiae of Christian Legal Soc’y et al. in Support of Petitioner at 15–17, *Small*, 141 S. Ct. 1227 (No. 19-1388); Petition for Writ of Certiorari at 27–31, *Dalberiste v. GLE Assocs., Inc.*, 141 S. Ct. 2463 (2021) (No. 19-1461); Brief of Amicus Curiae of Christian Legal Soc’y et al. in Support of the Petition at 23–25, *Patterson*, 140 S. Ct. 685 (No. 18-349).

⁵⁴ See, e.g., Brief Amicus Curiae of Christian Legal Soc’y et al. in Support of Petitioner at 17–19, *Groff*, No. 22-174.

⁵⁵ “Non-Christian faiths” includes Jews, Muslims, Sikhs, Hebrew Israelites, Rastafarians, African religions, and idiosyncratic faiths. See *id.* at 18.

⁵⁶ *Id.* at 18–19.

⁵⁷ *Id.* at 19.

⁵⁸ Petition for Writ of Certiorari at 29–30, *Dalberiste*, 141 S. Ct. 2463 (No. 19-1461).

⁵⁹ Lucy V. Katz, *Caesar, God and Mammon: Business and the Religion Clauses*, 22 GONZ. L. REV. 327, 338 (1986) (“[E]mployees who can obtain the voluntary cooperation of their colleagues or their employers are not in need of Title VII’s protection. Those workers, and there are many, whose

A. *Working-Class Employees Litigated More Than 80% of Religious Accommodation Cases Decided on Summary Judgment Since 2000*

Litigants in occupations that require only “little” or “some” preparation, like a high school diploma and up to a year of experience (e.g., receptionists, cashiers, and correctional officers), represent *more than* 60% of the religious accommodations cases that made it to the federal courts between 2000 and 2023.⁶⁰ Including occupations that require only “medium” preparation, like two years of experience and vocational school, on-the-job experience, or an associate’s degree (e.g., police officers, automotive mechanics, and nurses), the proportion rises to *over 80%* of the cases.⁶¹

This data supports Justice Marshall’s prediction that “[a]ll Americans will be a little poorer until [*Hardison*] is erased.”⁶² But the data also demonstrates that the American working class has suffered the most.

Building on the prior work of parties and amici that determined how much *Hardison* has damaged minority faiths,⁶³ we compiled a universe of 140 religious accommodation cases decided between 2000 and 2023 on summary judgment motions relating to “undue hardship.” We then examined each case to identify the occupation of the litigant.⁶⁴

employers are willing to arrange their work to fit their religion do not invoke the statute. They also are unlikely to be found in the blue collar ranks, where most weekend work is required, and where scheduling is most rigid.”).

⁶⁰ See Appendix.

⁶¹ *Id.*

⁶² *Trans World Airlines, Inc. v. Hardison*, 432 U.S. 63, 97 (1977) (Marshall, J., dissenting).

⁶³ See *supra* notes 53–58 and accompanying text.

⁶⁴ See Appendix (collecting cases and identifying and categorizing litigant occupations); see also Brief of Amicus Curiae The Robertson Center for Constitutional Law in Support of Petitioner at 7–8, *Groff v. DeJoy*, No. 22-174 (S. Ct. argued Apr. 18, 2023). First, we referred to the lists of cases compiled by amici and parties in prior cases asking the Court to reconsider *Hardison*: specifically, the amicus brief of the Christian Legal Society in *Small* and the petition for certiorari in *Dalberiste*. See Brief Amicus Curiae of Christian Legal Soc’y et al. in Support of Petitioner at app. 1–12, *Small v. Memphis Light, Gas & Water*, 141 S. Ct. 1227 (2021) (No. 19-1388); Petition for Writ of Certiorari at app. c 32a–51a, *Dalberiste v. GLE Assocs., Inc.*, 141 S. Ct. 2463 (2021) (No. 19-1461). Then we updated that body of cases through the Westlaw database to include recent Title VII decisions from district and circuit courts, narrowing (as did the briefs in *Small* and *Dalberiste*) by summary judgment dispositions which dealt with “undue hardship.” Employment and religious classifications were derived from language in the court opinions or, when necessary, court filings. Cases were excluded from this count when, for example, the court found that the employee did not have a sincere religious belief, or that the employer reasonably accommodated the employee’s religious practice.

An analysis of these cases shows that working-class occupations⁶⁵ represented 83.57% of litigants (117 out of 140). Occupations that usually require no more than a high school diploma and up to a year of experience accounted for 61.43% (86 out of 140) of litigants. Occupations that may require an associate's degree or up to two years of training added 20% (28 out of 140). And occupations that may require a high school diploma or a few months of training accounted for another 2.14% of litigants (3 out of 140).

By contrast, managerial or professional occupations represented a total of 15% of litigants (21 out of 140). Occupations that usually require a bachelor's degree or several years of experience make up 11.43% of litigants (16 out of 140). And occupations that often require graduate school or extensive experience make up 3.57% of litigants (5 out of 140).

To come to those conclusions, we first identified the occupation of the litigants in those cases. Then, we categorized the occupation according to federal standards that define and describe occupations using the Occupational Information Network (O*NET) system. The O*NET system is a "comprehensive database of occupational competency profiles" sponsored by the U.S. Department of Labor.⁶⁶ O*NET is based on the Bureau of Labor Statistics' Standard Occupational Classification system, which also "classif[ies] workers and jobs into occupational categories" and is used by the Equal Employment Opportunity Commission and other federal agencies.⁶⁷

O*NET assigns occupations to one of five "job zones" that correspond to the level of education, related experience, and on-the-job training required for that occupation.⁶⁸ For the purposes of this Article, occupations in the first three zones are described as "working class," while occupations in the fourth and fifth zones are described as "managerial or professional."⁶⁹

- **Job Zone 1:** Occupations in Job Zone 1 "may" require a high school diploma or GED certificate, "anywhere from a few days to a

⁶⁵ See, e.g., Oren Cass et al., *Work, Skills, Community: Restoring Opportunity for the Working Class*, OPPORTUNITY AMERICA 12 (2018), <https://perma.cc/5BQQ-XSFR> (defining "working class" as "people with at least a high school diploma but less than a four-year college degree living in households between the 20th and 50th income percentiles").

⁶⁶ U.S. BUREAU OF LAB. STAT. *2018 Standard Occupational Classification User Guide* 21 (2017), <https://perma.cc/MG22-99HC>.

⁶⁷ *Id.* at 2, 21–22.

⁶⁸ See *O*NET OnLine Help: Job Zones*, O*NET ONLINE, <https://perma.cc/C7RE-R63B>; see also *Browse by Job Zone*, O*NET ONLINE, (listing all occupational classifications and related job zones), <https://perma.cc/PC6L-PHCC>.

⁶⁹ See generally Cass et al., *supra* note 65, at 12.

few months of training,” and often “involve following instructions and helping others.”⁷⁰

- **Job Zone 2:** Occupations in Job Zone 2 “usually require a high school diploma,” require “anywhere from a few months to one year of working with experienced employees,” and often involve using “knowledge and skills to help others.”⁷¹
- **Job Zone 3:** Most occupations in Job Zone 3 “require training in vocational schools, related on-the-job experience, or an associate’s degree,” “one or two years of training,” and “usually involve using communication and organizational skills to coordinate, supervise, manage, or train others to accomplish goals.”⁷²
- **Job Zone 4:** Most Job Zone 4 occupations require a four-year bachelor’s degree, “several years of work-related experience” or training, and “involve coordinating, supervising, managing, or training others.”⁷³
- **Job Zone 5:** Most Job Zone 5 occupations require graduate school, “[e]xtensive skill, knowledge, and experience,” and “often involve coordinating, training, supervising, or managing the activities of others to accomplish goals.”⁷⁴

By matching each litigant’s occupation with an O*NET definition and that definition’s associated job zone, we differentiated between cases in which the litigant’s occupation requires “little” to “medium” preparation (Zone 1, Zone 2, and Zone 3) or “considerable” to “extensive” preparation (Zone 4 and Zone 5).⁷⁵

This chart illustrates the findings, and the underlying data supporting our findings can be found in the Appendix.

⁷⁰ O*NET OnLine Help: Job Zones, O*NET ONLINE, <https://perma.cc/C7RE-R63B>.

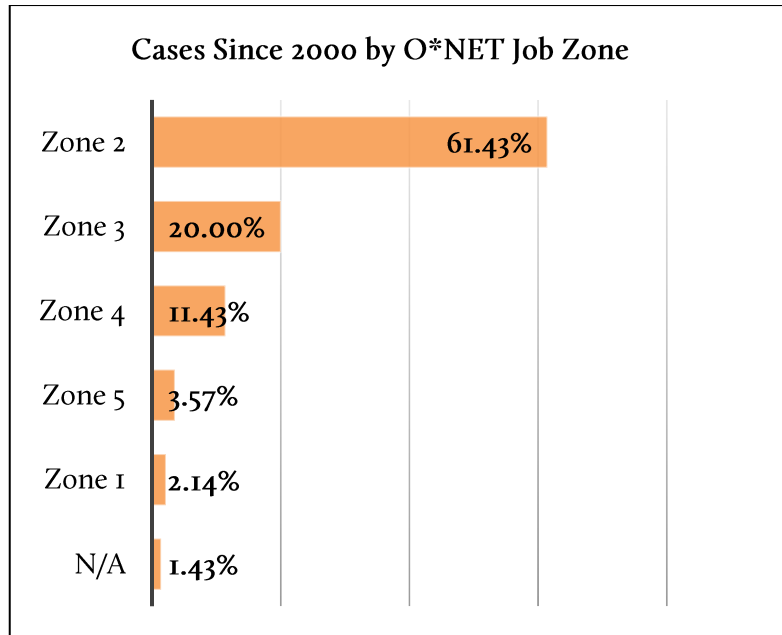
⁷¹ *Id.*

⁷² *Id.*

⁷³ *Id.*

⁷⁴ *Id.*

⁷⁵ *Id.* See, e.g., *Lorenz v. Wal-Mart Stores*, 225 F. App’x 302, 302 (5th Cir. 2007) (“In March 2003, Appellant was hired as a cashier by Wal-Mart Stores, Inc.”); *Cashiers: 41-2011.00*, O*NET ONLINE, (noting that cashiers fall within “Job Zone Two”) <https://perma.cc/MLD5-F8QL>; see also Appendix.



This data should not come as a surprise. Those in the working class often have relatively little flexibility in their schedules.⁷⁶ Moreover, as one study on reasonable accommodations noted, “[c]lerical, service, and blue-collar workers are easier and cheaper to replace than to accommodate” compared to managerial and professional workers.⁷⁷ When an employer can refuse to accommodate based on anything more than a de minimis cost, there is little reason to accommodate—rather than replace—the religious employee.

In sum, as our amicus brief in *Groff* explained, the overwhelming majority of Title VII accommodation cases involve working-class Americans.⁷⁸ Working-class employees are simply “easier and cheaper to replace than to accommodate,”⁷⁹ especially under *Hardison*.

Another amicus in *Groff* looked at a similar issue using different data. The brief of the Muslim Public Affairs Council analyzed 139 religious accommodation cases from a similar timeframe based on occupational categories from the Bureau of Labor Statistics’ current population

⁷⁶ See Friedman, *supra* note 24, at 157–60.

⁷⁷ Sharon L. Harlan & Pamela M. Robert, *The Social Construction of Disability in Organizations: Why Employers Resist Reasonable Accommodations*, 25 WORK OCCUPATIONS 397, 422 (1998).

⁷⁸ See generally Brief of Amicus Curiae The Robertson Center for Constitutional Law in Support of Petitioner, *Groff v. DeJoy*, No. 22-174 (S. Ct. argued Apr. 18, 2023).

⁷⁹ Harlan & Robert, *supra* note 77, at 422.

survey.⁸⁰ That survey designates as “professional”⁸¹ occupations such as sales managers⁸² and property managers.⁸³ Even then, litigants in non-professional occupations still outnumbered those in professional occupations by a wide margin. By that brief’s count, 74% of cases represented non-professional occupations while only 26% represented professional occupations.⁸⁴

B. *Religious Discrimination Hits Members of Minority Faiths in Working-Class Occupations Particularly Hard*

Harms to working-class employees, who often have more stringent schedules and uniform requirements, compound when those employees are also members of minority faiths. If religious practices like wearing headcoverings or observing the Sabbath on a Saturday were commonplace, employees would need far fewer accommodations because their religious practices would be “accommodated by default.”⁸⁵ Thus, “[b]ecause facially or formally neutral workplace policies by nature reflect the perspective of the cultural majority, they will disproportionately come into conflict with the practices of religious minorities.”⁸⁶ Thus, it is no surprise that minority faiths are overrepresented in religious accommodation claims but underrepresented in wins on appeal.⁸⁷

Consider these recurring occupations: litigants since 2000 included five postal service workers,⁸⁸ nine bus or truck drivers,⁸⁹ nine retail

⁸⁰ Brief of the Muslim Pub. Affairs Council as Amicus Curiae Supporting Petitioner at 1a, *Groff*, No. 22-174, [hereinafter Brief of the Muslim Pub. Affairs Council]; see also *Labor Force Statistics from the Current Population Survey*, U.S. BUREAU OF LAB. STAT., <https://www.bls.gov/cps/cpsaat11b.htm>.

⁸¹ See *Labor Force Statistics from the Current Population Survey*, U.S. BUREAU OF LAB. STAT., *supra* note 80.

⁸² See *EEOC v. Walmart Stores E., L.P.*, 992 F.3d 656, 656 (7th Cir. 2021); see also Brief of the Muslim Pub. Affairs Council at 2a.

⁸³ See *Dixon v. The Hallmark Cos., Inc.*, 627 F.3d 849, 852 (11th Cir. 2010); see also Brief of the Muslim Pub. Affairs Council at 14a.

⁸⁴ Brief of the Muslim Pub. Affairs Council at 6–7.

⁸⁵ See Brief of Amicus Curiae the General Conference of Seventh-Day Adventists Supporting Petitioner at 29, *Groff v. DeJoy*, No. 22–174 (S. Ct. argued Apr. 18, 2023).

⁸⁶ Brief Amicus Curiae of Christian Legal Soc’y et al. in Support of Petitioner at 17, *Groff v. DeJoy*, No. 22–174 (S. Ct. argued Apr. 18, 2023).

⁸⁷ See *supra* note 58 and accompanying text.

⁸⁸ See *Groff v. DeJoy*, 35 F.4th 162, 164–65 (3d Cir. 2022); *Graff v. Henderson*, 30 F. App’x 809, 809–10 (10th Cir. 2002); *Harrell v. Donahue*, 638 F.3d 975, 977 (8th Cir. 2011); *Rose v. Potter*, 90 F. App’x 951, 952 (7th Cir. 2004); *Thomas v. Nat’l Ass’n of Letter Carriers*, 225 F.3d 1149, 1149 (10th Cir. 2000).

⁸⁹ See *Antoine v. First Student, Inc.*, 713 F.3d 824, 827, 830 (5th Cir. 2013); *Fouche v. NJ Transit*, 470 F. App’x 96, 96 (3d Cir. 2012); *Cameau v. Metro. Atlanta Rapid Transit Auth.*, No. 11–cv–04036,

workers,⁹⁰ and thirteen police or correctional officers.⁹¹ Such cases are typical—these employees often require accommodations due to the restrictive nature of their jobs.⁹² But the uncommon nature of minority faith practices often makes getting those accommodations difficult.

For example, Sabbatarian litigants must overcome “neutral” work schedules to receive accommodations.⁹³ Under *Hardison*, that is a steep climb. Courts hold tight to *Hardison*’s statement that the EEOC “did not purport to change the view expressed in its 1966 guidelines that work schedules generally applicable to all employees may not be unreasonable, even if they do not ‘operate with uniformity . . . upon the religious observances of [all] employees.’”⁹⁴

In one case, a Seventh-day Adventist lost a job offer as an assistant manager because his religious beliefs required him to observe the Sabbath on Saturday.⁹⁵ The Seventh Circuit held that the accommodation would

2014 WL 11379548, at *1–2 (N.D. Ga. Feb. 20, 2014); EEOC v. Triangle Catering, LLC, No. 15–CV–00016, 2017 WL 818261, at *2 (E.D.N.C. Mar. 1, 2017); *Maroko v. Werner Enters., Inc.*, 778 F. Supp. 2d 993, 995 (D. Minn. 2011); EEOC v. Thompson Contracting, Grading, Paving, & Utils., Inc., 499 F. App’x 275, 277 (4th Cir. 2012); *Virts v. Consol. Freightways Corp. of Del.*, 285 F.3d 508, 511 (6th Cir. 2002); *Jones v. United Parcel Serv., Inc.*, No. 06–CV–1535, 2008 WL 2627675, at *1 (N.D. Tex. June 30, 2008); *Weber v. Roadway Express, Inc.*, 199 F.3d 270, 272 (5th Cir. 2000).

⁹⁰ See *Chavis v. Wal-Mart Stores, Inc.*, 265 F. Supp. 3d 391, 396 (S.D.N.Y. 2017); EEOC v. Walmart Stores E., L.P., 992 F.3d 656, 657–58 (7th Cir. 2021); EEOC v. Kroger Ltd. P’ship I, 608 F. Supp. 3d 757, 761 (E.D. Ark. 2022); *Adams v. Retail Ventures, Inc.*, 325 F. App’x 440, 441 (7th Cir. 2009); *Gay v. Lowe’s Home Ctrs., Inc.*, No. 05cv237, 2007 WL 1599750, at *1 (S.D. Miss. June 4, 2007); *Sánchez-Rodríguez v. AT&T Mobility P.R., Inc.*, 673 F.3d 1, 4 (1st Cir. 2012); U.S. EEOC v. Abercrombie & Fitch Stores, Inc., 966 F. Supp. 2d 949, 952–54, 956 (N.D. Cal. 2013); EEOC v. Abercrombie & Fitch Stores, Inc., 731 F.3d 1106, 1110 (10th Cir. 2013); EEOC v. Rent-A-Ctr., Inc., 917 F. Supp. 2d 112, 113 (D.D.C. 2013).

⁹¹ See EEOC v. Geo Grp., Inc., 616 F.3d 265, 269–70 (3d Cir. 2010); *Hebrew v. Collier*, No. H–21–2929, 2022 WL 4866719, at *1 (S.D. Tex. Sept. 19, 2022); *Jamil v. Sessions*, No. 14–CV–2355, 2017 WL 913601, at *1–2 (E.D.N.Y. Mar. 6, 2017); *Ashley v. Chafin*, No. 07–cv–177, 2009 WL 3074732, at *1, *3 (M.D. Ga. Sept. 23, 2009); *Fazlovic v. Maricopa Cnty.*, No. CV 09–1151, 2012 WL 12960870, at *1 (D. Ariz. Sept. 28, 2012); *Finnie v. Lee Cnty.*, 907 F. Supp. 2d 750, 756, 758 (N.D. Miss. 2012); *Leonce v. Callahan*, No. 03–CV–110, 2008 WL 58892, at *1 (N.D. Tex. Jan. 3, 2008); *Daniels v. City of Arlington*, 246 F.3d 500, 501 (5th Cir. 2001); *Perkins v. Town of Princeville*, 216 F. App’x 293, 293 (4th Cir. 2007); *Wallace v. City of Philadelphia*, No. 06–4236, 2010 WL 1730850, at *1 (E.D. Pa. Apr. 26, 2010); *Webb v. City of Philadelphia*, 562 F.3d 256, 258 (3d Cir. 2009); *Litzman v. N.Y.C. Police Dep’t*, No. 12 Civ. 4681, 2013 WL 6049066, at *1 (S.D.N.Y. Nov. 15, 2013); *Endres v. Ind. State Police*, 334 F.3d 618, 621 (7th Cir. 2003).

⁹² See, e.g., *Groff*, 35 F.4th at 175 (reasoning that merely “impos[ing] on . . . coworkers” by accommodating a mail carrier’s Sabbath is “more than a de minimis cost”); *Vaynshelboym v. COMHAR, Inc.*, No. CV 20–2690, 2021 WL 4399651, at *7 (E.D. Pa. Sept. 27, 2021) (reasoning that requiring other employees to cover for an employee’s Sabbath, which often resulted in overtime pay, imposed more than a de minimis cost).

⁹³ See *supra* note 44 and accompanying text.

⁹⁴ *Trans World Airlines, Inc. v. Hardison*, 432 U.S. 63, 72–73 n.7 (1977) (alteration in original).

⁹⁵ See *Walmart Stores E.*, 992 F.3d at 658.

have imposed more than a de minimis cost “when vacations, illnesses, and vacancies reduced the number of other assistant managers available.”⁹⁶ Similarly, a cashier was denied a scheduling accommodation for his Sabbath because it would have affected the shift preferences of his secular coworkers.⁹⁷ And a store department greeter was denied an accommodation because her absence on Sunday might increase duties for or affect the schedules of other employees.⁹⁸ Even where an employer would incur no extra costs to accommodate an employee’s Sabbath, a court has held that the resulting “hard feelings” of other employees would impose more than a de minimis cost.⁹⁹

Application of *Hardison* also results in working-class employees of various faiths being denied accommodations for uniform and grooming policies. In one case, a Muslim police officer was suspended for wearing a headcovering in accordance with her religious beliefs.¹⁰⁰ The City argued that police department policies “encourage[] the subordination of personal preferences in favor of the overall policing mission,” and the Third Circuit agreed.¹⁰¹ In other words, religious obligations may fare no better than “personal preferences” when those obligations must yield to even the slightest “burdens” on the employer.

Another police department refused to grant an Orthodox Jewish officer a religious accommodation from its no-beard policy, which was meant to enable officers to use respirators.¹⁰² While only 69.3% of the police department’s officers were trained for and issued respirators, the court held that accommodating the officer’s religious practice would impose more than a de minimis cost, because it would “decreas[e] the efficiency of the Department to respond to emergencies.”¹⁰³

Even “the mere possibility of an adverse impact on co-workers” can be enough to impose more than a de minimis cost on a business.¹⁰⁴ Indeed,

⁹⁶ *Id.* at 660.

⁹⁷ *Adams v. Retail Ventures, Inc.*, 325 F. App’x 440, 443 (7th Cir. 2009).

⁹⁸ *George v. Home Depot, Inc.*, 51 F. App’x 482, at *4 (5th Cir. 2002) (per curiam) (“The Fifth Circuit has further noted that an employer need not actually incur costs before claiming that an accommodation would result in costs that are more than *de minimis*”).

⁹⁹ *Leonce v. Callahan*, No. 03–CV–110, 2008 WL 58892, at *5 (N.D. Tex. Jan. 3, 2008).

¹⁰⁰ *Webb v. City of Philadelphia*, 562 F.3d 256, 258 (3d Cir. 2009).

¹⁰¹ *Id.* at 261, 264.

¹⁰² *Litzman v. N.Y. City Police Dep’t*, No. 12 Civ. 4681(HB), 2013 WL 6049066, at *1–2 (S.D.N.Y. Nov. 15, 2013).

¹⁰³ *Id.* at *2, *6; see also *id.* (“An employer may show that the cost of accommodation is more than minimal by showing either ‘lost efficiency in other jobs or higher wages.’” (quoting *Trans World Airlines, Inc. v. Hardison*, 432 U.S. 63, 84 (1977))).

¹⁰⁴ *Weber v. Roadway Express, Inc.*, 199 F.3d 270, 274 (5th Cir. 2000) (citing *Hardison*, 432 U.S. at 81).

Hardison stated as much: “It would be anomalous to conclude that by ‘reasonable accommodation’ Congress meant that an employer must deny the shift and job preference of some employees”¹⁰⁵

Working-class Americans need Title VII’s protection more than those in professional occupations. Those in working-class occupations are often easier to replace than to accommodate and their schedules are often less flexible and more demanding.¹⁰⁶ It’s not surprising, then, that more than 80% of religious accommodation litigants come from the working class.

III. *Stare Decisis* Does Not Counsel the Supreme Court to Preserve *Hardison*.

As religious employees challenge *Hardison*’s atextual gloss on “undue hardship,” employers recite a unified defense: the Supreme Court should leave any changes to Congress.¹⁰⁷ True, *stare decisis* is generally stronger when reconsidering statutory interpretations.¹⁰⁸ But that stronger *stare decisis* is not absolute. “[E]nacting new legislation is difficult—and far more difficult than the Court’s cases sometimes seem to assume.”¹⁰⁹

It is especially difficult to enact new legislation when the subject of the legislation is religious liberty. Much has changed since the Senate approved RFRA by a vote of 97 to 3 and that same law received “such broad support it was adopted on a voice vote in the House.”¹¹⁰ Today, some view “religious liberty” and “religious freedom” as “code words for discrimination, intolerance, racism, [and] sexism.”¹¹¹ And diverse Americans who want merely to consecrate the Sabbath or adorn themselves with an outward manifestation of their faith are caught in the crossfire.

For almost two decades after RFRA’s passage, members of Congress have introduced legislation to reverse *Hardison*.¹¹² Some of these attempts

¹⁰⁵ *Hardison*, 432 U.S. at 81.

¹⁰⁶ See Harlan & Robert, *supra* note 77, at 422.

¹⁰⁷ See, e.g., Brief of Amicus Curiae The Robertson Center for Constitutional Law in Support of Petitioner at 17–18, *Groff v. DeJoy*, No. 22-174 (S. Ct. argued Apr. 18, 2023); Brief in Opposition at 17–18, *Dalberiste v. GLE Assocs., Inc.*, 141 S. Ct. 2463 (2021) (No. 19-1461); Brief in Opposition at 27–28, *Small v. Memphis Light, Gas & Water*, 141 S. Ct. 1227 (2021) (No. 19-1388); Brief in Opposition at 28–29, *Patterson v. Walgreen Co.*, 140 S. Ct. 685 (2020) (No. 18-349).

¹⁰⁸ *Kimble v. Marvel Ent., LLC*, 576 U.S. 446, 456 (2015).

¹⁰⁹ *Ramos v. Louisiana*, 140 S. Ct. 1390, 1413 (2020) (Kavanaugh, J., concurring in part).

¹¹⁰ Remarks on Signing the Religious Freedom Restoration Act of 1993, 2 Pub. Papers 2000, 2000 (Nov. 16, 1993).

¹¹¹ U.S. COMM’N ON CIVIL RIGHTS, PEACEFUL COEXISTENCE: RECONCILING NONDISCRIMINATION PRINCIPLES WITH CIVIL LIBERTIES 29 (2016), <https://perma.cc/D4B7-ZSWU>.

¹¹² E.g., S. 3686, 112th Cong. (2012); H.R. 1431, 110th Cong. (2007); S. 893, 108th Cong. (2003).

have garnered impressive bipartisan rosters of cosponsors.¹¹³ Nevertheless, these bills have failed to gain much traction, struggling to “find[] room in a crowded legislative docket.”¹¹⁴ Any such proposal seems destined to fail in our present political climate, which may explain why no similar bill has been filed in over a decade.¹¹⁵ Continued reliance on Congress to correct *Hardison*’s error will almost certainly leave countless working-class, minority faith Americans as collateral damage in the religious liberty culture- wars.

This suffering is unnecessary. Congress has already acted to protect the rights of such religious employees. Given the plain text of Title VII, employers cannot claim a legitimate reliance interest in the right to discriminate against religious employees and prospective employees. “[S]tare decisis isn’t supposed to be the art of methodically ignoring what everyone knows to be true.”¹¹⁶

Hardison is wrong. And it wrongly breaks a fundamental American promise and places impossible burdens on religious minorities.

Conclusion

No American should face the “cruel choice of surrendering their religion or their job.”¹¹⁷ For example, consider the plight of Jewish immigrants to America. Pressure for Sabbath work has long undermined Jewish workers’ ability to live out their faith:

A heartrending Yiddish prayer (*techinah*) written in America for women to recite privately when they lit their Sabbath candles, and printed in a widely distributed women’s prayer book . . . laments that in “this diaspora land” where the “burden of making a living is so great,” resting on Sabbath and holidays had become impossible, and it pleads for divine compassion. “Grant a bountiful living to all Jewish children,” it entreats, “that they should not . . . have to desecrate your holy day.”¹¹⁸

Working families of many faiths share in that lament and join in that prayer. The time has come for the Court to restore the protection plainly required by the text of Title VII before further harm is done to religious, working-class American.

¹¹³ See, e.g., *H.R.1431 – Workplace Religious Freedom Act of 2007 – Cosponsors*, CONGRESS.GOV, <https://perma.cc/R3FX-H8T9>; *S. 893 – Workplace Religious Freedom Act of 2003 – Cosponsors*, CONGRESS.GOV, <https://perma.cc/H28Y-3SHV>.

¹¹⁴ See *Ramos*, 140 S. Ct. at 1413 (Kavanaugh, J., concurring in part).

¹¹⁵ See S. 3686; H.R. 1431; S. 893.

¹¹⁶ *Ramos*, 140 S. Ct. at 1405.

¹¹⁷ *Hardison*, 432 U.S. at 87 (Marshall, J., dissenting); see also *Abramson v. William Paterson Coll.*, 260 F.3d 265, 290 (3d Cir. 2001) (Alito, J., concurring).

¹¹⁸ Sarna, *supra* note 1, at 164 (quoting SHAS TEHINAH HADASHAH 38–41 (Hebrew Publ’g Co. 1916)).

APPENDIX

Breakdown by Employee's Occupation and O*NET Job Zone in Religious Accommodation Cases Decided on Summary Judgment Motions Relating to "Undue Hardship" from 2000 to 2023

Case	Religious affiliation	Occupation	Job Zone	O*NET Code	O*NET Description
<i>EEOC v. 704 HTL Operating, LLC</i>	Muslim (minority)	"housekeeping" staff	I	37-2012.00	Maids and Housekeeping Cleaners
<i>Logan v. Organic Harvest, LLC</i> ²	Unspecified Sabbatarian	"hot bar cook"	I	35-2021.00	Food Preparation Workers

¹ 979 F. Supp. 2d 1220, 1222, 1224 (D.N.M. 2013).

² No. 18-cv-00362, 2020 WL 1547985, at *1 (N.D. Ala. Apr. 1, 2020).

Case	Religious affiliation	Occupation	Job Zone	O*NET Code	O*NET Description
<i>Winchester v. Wal-Mart Stores Inc.</i> ³	Salvation Army (Christian)	“Rotisserie Associate”	1	35-2021.00	Food Preparation Workers
<i>Abdelwahab v. Jackson State Univ.</i> ⁴	Muslim (minority)	“residence hall receptionist”	2	43-4171.00	Receptionists and Information Clerks
<i>Adams v. Retail Ventures, Inc.</i> ⁵	Unspecified Christian	“door greeter”	2	41-2031.00	Retail Salespersons
<i>Adeyeye v. Heartland Sweeteners, LLC</i> ⁶	African Religions	“material handler” and “packer/palletizer”	2	53-7064.00	Packers and Packagers, Hand

³ No. 15-CV-00025, 2016 WL 2993221, at *1-2 (W.D. Ky. May 23, 2016), *vacated*, No. 16-5890, 2017 WL 11489879 (6th Cir. 2017).

⁴ No. 09CV41TS, 2010 WL 384416, at *1 (S.D. Miss. Jan. 27, 2010).

⁵ 325 F. App'x 440, 441 (7th Cir. 2009).

⁶ 721 F.3d 444, 452, 455 (7th Cir. 2013).

Case	Religious affiliation	Occupation	Job Zone	O*NET Code	O*NET Description
<i>Antoine v. First Student, Inc.</i> ⁷	Seventh-day Adventist (minority)	“bus driver”	2	53-3051.00	Bus Drivers, School
<i>Ashley v. Chafin</i> ⁸	Seventh-day Adventist (minority)	“detention officer”	2	33-3012.00	Correctional Officers and Jailers
<i>Batson v. Branch Banking & Tr. Co.</i> ⁹	Hebrew Israelite (minority)	“senior teller” and “relationship banker”	2	43-3071.00	Tellers
<i>Bethea v. Access Bank</i> ¹⁰	Jewish (minority)	“teller”	2	43-3071.00	Tellers

⁷ 713 F.3d 824, 827 (5th Cir. 2013).

⁸ No. 07-cv-177, 2009 WL 3074732, at *1 (M.D. Ga. Sept. 23, 2009).

⁹ No. RDB-11-01690, 2012 WL 4479970, at *1 (D. Md. Sept. 25, 2012).

¹⁰ No. 17CV135, 2018 WL 3009114, at *1, *3 (D. Neb. June 15, 2018).

Case	Religious affiliation	Occupation	Job Zone	O*NET Code	O*NET Description
<i>Bolden v. Caravan Facilities Mgmt., LLC</i> ¹¹	Baptist	“janitor”	2	37-2011.00	Janitors and Cleaners, Except Maids and Housekeeping Cleaners
<i>Burdette v. Fed. Exp. Corp.</i> ¹²	Seventh-day Adventist (minority)	“operations manager”	2	53-1041.00	Aircraft Cargo Handling Supervisors
<i>Cameau v. Metro. Atlanta Rapid Transit Auth.</i> ¹³	Seventh-day Adventist (minority)	“bus operator”	2	53-3052.00	Bus Drivers, Transit and Intercity

¹¹ 112 F. Supp. 3d 785, 787 (N.D. Ind. 2015).

¹² 367 F. App'x 628, 629 (6th Cir. 2010).

¹³ 11-CV-4036, 2013 WL 11319425, at *2 (N.D. Ga. Nov. 18, 2013), *report and recommendation adopted*, 11-CV-4036, 2014 WL 11379548 (N.D. Ga. Feb. 20, 2014).

Case	Religious affiliation	Occupation	Job Zone	O*NET Code	O*NET Description
<i>Chavis v. Wal-Mart Stores, Inc.</i> ¹⁴	Pentecostal	“Asset Protection Manager”	2	33-9099.02	Retail Loss Prevention Specialists
<i>Cherry v. Sunoco, Inc.</i> ¹⁵	Hebrew Israelite (minority)	“catalyst cracking unit” employee	2	51-8093.00	Petroleum Pump System Operators, Refinery Operators, and Gaugers
<i>Cloutier v. Costco Wholesale Corp.</i> ¹⁶	Idiosyncratic Religions	“cashier”	2	41-2011.00	Cashiers
<i>Creusere v. Bd. of Educ.</i> ¹⁷	Unspecified Sabbatarian	“carpenter”	2	47-2031.00	Carpenters

¹⁴ 265 F. Supp. 3d 391, 397 (S.D.N.Y. 2017).

¹⁵ No. 07-CV-223, 2009 WL 2518221, at *1 (E.D. Pa. Aug. 17, 2009).

¹⁶ 390 F.3d 126, 129 (1st Cir. 2004).

¹⁷ 88 F. App'x 813, 814 (6th Cir. 2003).

Case	Religious affiliation	Occupation	Job Zone	O*NET Code	O*NET Description
<i>Creusere v. James Hunt Constr.</i> ¹⁸	Unspecified Sabbatarian	“carpenter”	2	47-2031.00	Carpenters
<i>Dale v. TWC Admin. LLC</i> ¹⁹	Unspecified	“sales agent”	2	41-3091.00	Sales Representatives of Services, Except Advertising, Insurance, Financial Services, and Travel
<i>Daniel v. Kroger Ltd. P’ship I</i> ²⁰	Unspecified Christian	“meat cutter”	2	51-3021.00	Butchers and Meat Cutters

¹⁸ 83 F. App’x 709, 710 (6th Cir. 2003).

¹⁹ No. 14-CV-169-FL, 2016 WL 11430762, at *1 (E.D.N.C. Aug. 11, 2016), *report and recommendation adopted*, 686 F. App’x 240, 241 (4th Cir. 2017).

²⁰ No. 11cv245-DWD, 2011 WL 5119372, at *1 (E.D. Va. Oct. 27, 2011).

Case	Religious affiliation	Occupation	Job Zone	O*NET Code	O*NET Description
<i>Doughty v. Dep't of Dev. Servs. STS</i> ²¹	Unspecified	"Cook Attendant"	2	31-1122.00	Personal Care Aides
<i>EEOC v. Abercrombie & Fitch Stores, Inc.</i> ²²	Muslim (minority)	"sales-floor employee"	2	41-2031.00	Retail Salespersons
<i>EEOC v. Abercrombie & Fitch Stores, Inc.</i> ²³	Muslim (minority)	"sales floor" associate	2	41-2031.00	Retail Salespersons
<i>EEOC v. Alamo Rent-A-Car LLC</i> ²⁴	Muslim (minority)	Car "rental agent"	2	41-2021.00	Counter and Rental Clerks
<i>EEOC v. Aldi, Inc.</i> ²⁵	Unspecified Christian	"cashier"	2	41-2011.00	Cashiers

²¹ No. 11 CV 1082 (WWE), 2014 WL 10897005, at *1 (D. Conn. June 11, 2014, *aff'd*, 607 F. App'x 97, 98 (2d Cir. 2015).

²² 731 F.3d 1106, 1112 (10th Cir. 2013).

²³ 966 F. Supp. 2d 949, 953–54 (N.D. Cal. 2013).

²⁴ 432 F. Supp. 2d 1006, 1008 (D. Ariz. 2006).

²⁵ No. 06-01210, 2008 WL 5429624, at *1 (W.D. Pa. Mar. 28, 2008).

Case	Religious affiliation	Occupation	Job Zone	O*NET Code	O*NET Description
<i>EEOC v. Bridgestone/Firestone, Inc.</i> ²⁶	Unspecified Christian	“tire builder”	2	51-9197.00	Tire Builders
<i>EEOC v. Consol. Energy, Inc.</i> ²⁷	Evangelical Christian	“coal miner”	2	47-5044.00	Loading and Moving Machine Operators, Underground Mining
<i>EEOC v. JBS USA, LLC</i> ²⁸	Muslim (minority)	“meat packing plant” employees	2	51-3023.00	Slaughterers and Meat Packers

²⁶ 95 F. Supp. 2d 913, 916–17 (C.D. Ill. 2000).

²⁷ 860 F.3d 131, 136 (4th Cir. 2017).

²⁸ No. 10-cv-02103-PAB-KLM, 2013 WL 3302429, at *1 (D. Colo. July 1, 2013).

Case	Religious affiliation	Occupation	Job Zone	O*NET Code	O*NET Description
<i>EEOC v. Jetstream Ground Servs., Inc.</i> ²⁹	Muslim (minority)	“cabin cleaners”	2	53-7061.00	Cleaners of Vehicles and Equipment
<i>EEOC v. Kroger Ltd. P’ship</i> ³⁰	Unspecified Christian	“associates”	2	41-2031.00	Retail Salespersons
<i>EEOC v. Oak-Rite Mfg. Corp.</i> ³¹	Unspecified Christian	“press operator”	2	51-4031.00	Cutting, Punching, and Press Machine Setters, Operators, and Tenders, Metal and Plastic

²⁹ 134 F. Supp. 3d 1298, 1306, 1311, 1313 (D. Colo. 2015).

³⁰ 608 F. Supp. 3d 757, 761 (E.D. Ark. 2022).

³¹ No. 1P99-1962-C-H/G, 2001 WL 1168156, at *1 (S.D. Ind. Aug. 27, 2001).

Case	Religious affiliation	Occupation	Job Zone	O*NET Code	O*NET Description
<i>EEOC v. Papin Enters, Inc.</i> ³²	Idiosyncratic Religions	“assistant manager”	2	35-1012.00	First-Line Supervisors of Food Preparation and Serving Workers
<i>EEOC v. Red Robin Gourmet Burgers, Inc.</i> ³³	African Religions (minority)	“server”	2	35-3031.00	Waiters and Waitresses
<i>EEOC v. Rent-A-Ctr., Inc.</i> ³⁴	Seventh-day Adventist (minority)	“Store Manager”	2	41-1011.00	First-Line Supervisors of Retail Sales Workers

³² No. 07-cv-1548-Orl-28, 2009 WL 961108, at *1 (M.D. Fla. Apr. 7, 2009).

³³ No. C04-1291JLR, 2005 WL 2090677, at *1 (W.D. Wash. Aug. 29, 2005).

³⁴ 917 F. Supp. 2d 112, 114 (D. D.C. 2013).

2023]

Failure to Accommodate

31

Case	Religious affiliation	Occupation	Job Zone	O*NET Code	O*NET Description
<i>EEOC v. Robert Bosch Corp.</i> ³⁵	Old Path Church of God	“foundry casting” employee	2	51-4052.00	Pourers and Casters, Metal
<i>EEOC v. Sw. Bell Tel., L.P.</i> ³⁶	Jehovah’s Witness (minority)	“customer service technicians”	2	49-9052.00	Telecommunications Line Installers and Repairers
<i>EEOC v. Tex. Hydraulics, Inc.</i> ³⁷	Unspecified Sabbatarian	“saws department” employee	2	51-4031.00	Cutting, Punching, and Press Machine Setters, Operators, and Tenders, Metal and Plastic

³⁵ 169 F. App’x 942, 943 (6th Cir. 2006).

³⁶ 550 F.3d 704, 706 (8th Cir. 2008).

³⁷ 583 F. Supp. 2d 904, 907 (E.D. Tenn. 2008).

Case	Religious affiliation	Occupation	Job Zone	O*NET Code	O*NET Description
<i>EEOC v. Thompson Contracting, Grading, Paving, & Util.</i> ³⁸	Hebrew Israelite (minority)	“dump truck driver”	2	53-3032.00	Heavy and Tractor-Trailer Truck Drivers
<i>EEOC v. Triangle Catering, LLC</i> ³⁹	Rastafarian (minority)	“delivery driver”	2	53-3031.00	Driver/Sales Workers
<i>EEOC v. Walmart Stores East, L.P.</i> ⁴⁰	Seventh-day Adventist (minority)	“assistant manager”	2	41-1011.00	First-Line Supervisors of Retail Sales Workers
<i>Farah v. A-1 Careers</i> ⁴¹	Muslim (minority)	“Centrinex” (call center) employee	2	43-2021.00	Telephone Operators

³⁸ 499 F. App'x 275, 277 (4th Cir. 2012).

³⁹ No. 15-CV-00016, 2017 WL 818261, at *1, *2 (E.D.N.C. Mar. 1, 2017).

⁴⁰ 992 F.3d 656, 657 (7th Cir. 2021).

⁴¹ No. 12-2692, 2013 WL 6095118, at *1 (D. Kan. Nov. 20, 2013).

Case	Religious affiliation	Occupation	Job Zone	O*NET Code	O*NET Description
<i>Fazlovic v. Maricopa Cty.</i> ⁴²	Muslim (minority)	“detention officer”	2	33-3012.00	Correctional Officers and Jailers
<i>Finnie v. Lee Cnty., Miss.</i> ⁴³	Pentecostal	“detention officer”	2	33-3012.00	Correctional Officers and Jailers
<i>Fouche v. NJ Transit</i> ⁴⁴	Unspecified Christian	“bus driver”	2	53-3052.00	Bus Drivers, Transit and Intercity
<i>Gay v. Lowe’s Home Ctrs., Inc.</i> ⁴⁵	Unspecified Christian	“installed sales coordinator”	2	41-1011.00	First-Line Supervisors of Retail Sales Workers

⁴² No. CV 09-1151, 2012 WL 12960870, at *1 (D. Ariz. Sept. 28, 2012).

⁴³ 907 F. Supp. 2d 750, 757 (N.D. Miss. 2012).

⁴⁴ 470 F. App’x 96, 96 (3d Cir. 2012).

⁴⁵ No. 05cv237, 2007 WL 1599750, at *1 (S.D. Miss. June 4, 2007).

Case	Religious affiliation	Occupation	Job Zone	O*NET Code	O*NET Description
<i>George v. Home Depot Inc.</i> ⁴⁶	Catholic	“cashier” and “greeter”	2	41-2011.00	Cashiers
<i>Groff v. Dejoy</i> ⁴⁷	Evangelical Christian	“United States Postal Service” employee	2	43-5052.00	Postal Service Mail Carriers
<i>Graff v. Henderson</i> ⁴⁸	Worldwide Church of God	“United States Postal Service” employee	2	43-5051.00	Postal Service Clerks
<i>Harrell v. Donahue</i> ⁴⁹	Seventh-day Adventist (minority)	“United States Postal Service” employee	2	43-5052.00	Postal Service Mail Carriers

⁴⁶ 51 F. App’x 482, 2002 WL 31319124, at *1 (5th Cir. 2002).

⁴⁷ No. 19-1879, 2021 WL 1264030, at *1 (E.D. Penn. April 6, 2021) *aff’d*, 35 F.4th 162, 164, 176 (3d Cir. 2022).

⁴⁸ 30 F. App’x 809, 809 (10th Cir. 2002).

⁴⁹ 638 F.3d 975, 978 (8th Cir. 2011).

Case	Religious affiliation	Occupation	Job Zone	O*NET Code	O*NET Description
<i>Hebrew v. Collier</i> ⁵⁰	Unspecified	“Correctional Officer”	2	33-3012.00	Correctional Officers and Jailers
<i>Hill v. Cook Cty.</i> ⁵¹	Jewish (minority)	“patient transporter”	2	31-1132.00	Orderlies
<i>Hussaini v. G4S Secure Sols. (USA) Inc.</i> ⁵²	Muslim (minority)	“security guard”	2	33-9032.00	Security Guards
<i>Hussein v. Hotel Emps. & Rest. Union, Local 6</i> ⁵³	Muslim (minority)	“roll call waiter”	2	35-3031.00	Waiters and Waitresses
<i>Hussein v. The Waldorf-Astoria</i> ⁵⁴	Muslim (minority)	“banquet waiter”	2	35-3031.00	Waiters and Waitresses

⁵⁰ No. H-21-2929, 2022 WL 4866719, at *1 (S.D. Tex. Sept. 19, 2022).

⁵¹ No. 05 C 588, 2007 WL 844556, at *1 (N.D. Ill. Mar. 19, 2007).

⁵² 379 F. Supp. 3d 679, 681 (N.D. Ill. 2019).

⁵³ 108 F. Supp. 2d 360, 363 (S.D.N.Y. 2000).

⁵⁴ 134 F. Supp. 2d 591, 593 (S.D.N.Y. 2001).

Case	Religious affiliation	Occupation	Job Zone	O*NET Code	O*NET Description
<i>Jacobs v. Scotland Mfg., Inc.</i> ⁵⁵	Unspecified	“Lead Hand”	2	51-4031.00	Cutting, Punching, and Press Machine Setters, Operators, and Tenders, Metal and Plastic
<i>Jamil v. Sessions</i> ⁵⁶	Jewish (minority)	“correctional officer”	2	33-3012.00	Correctional Officers and Jailers
<i>Jones v. United Parcel Serv., Inc.</i> ⁵⁷	Seventh-day Adventist (minority)	“package car driver”	2	53-3033.00	Light Truck Drivers

⁵⁵ No. 10CV814, 2012 WL 2366446, at *1 (M.D.N.C. June 21, 2012).

⁵⁶ No. 14-CV-2355, 2017 WL 913601, at *1–2 (E.D.N.Y. Mar. 6, 2017).

⁵⁷ No. 06-CV-1535, 2008 WL 2627675, at *1 (N.D. Tex. June 30, 2008).

Case	Religious affiliation	Occupation	Job Zone	O*NET Code	O*NET Description
<i>Kilpatrick v. Hyundai Motor Mfg. Ala., LLC</i> ⁵⁸	Seventh-day Adventist (minority)	“glass repair” employee	2	49-3022.00	Automotive Glass Installers and Repairers
<i>King v. Borgess Lee Mem’l Hosp.</i> ⁵⁹	Muslim (minority)	“secretary”	2	43-6013.00	Medical Secretaries and Administrative Assistants
<i>Leonce v. Callahan</i> ⁶⁰	Seventh-day Adventist (minority)	“detention officer”	2	33-3012.00	Correctional Officers and Jailers
<i>Lorenz v. Wal-Mart Stores</i> ⁶¹	Muslim (minority)	“cashier”	2	41-2011.00	Cashiers

⁵⁸ 911 F. Supp. 2d 1211, 1213 (M.D. Ala. 2012).

⁵⁹ No. 13-CV-397, 2015 WL 852324, at *2 (W.D. Mich. Feb. 26, 2015).

⁶⁰ No. 03-CV-110, 2008 WL 58892, at *1 (N.D. Tex. Jan. 3, 2008).

⁶¹ 225 F. App’x 302, 302 (5th Cir. 2007).

Case	Religious affiliation	Occupation	Job Zone	O*NET Code	O*NET Description
<i>Maroko v. Werner Enters., Inc.</i> ⁶²	Seventh-day Adventist (minority)	“delivery-truck driver”	2	53-3032.00	Heavy and Tractor-Trailer Truck Drivers
<i>McIntyre-Handy v. W. Telemarketing Corp.</i> ⁶³	Atheist (minority)	“telemarketing representative”	2	41-9041.00	Telemarketers
<i>Miller v. Port Auth. of N. Y. & N. J.</i> ⁶⁴	Jewish (minority)	“utility systems maintainer”	2	47-2073.00	Operating Engineers and Other Construction Equipment Operators

⁶² 778 F. Supp. 2d 993, 995 (D. Minn. 2011).

⁶³ 97 F. Supp. 2d 718, 722 (E.D. Va. 2000), *aff'd*, 238 F.3d 413 (4th Cir. 2000).

⁶⁴ 788 F. App'x 886, 886, 887 (3d Cir. 2019).

Case	Religious affiliation	Occupation	Job Zone	O*NET Code	O*NET Description
<i>Mohamed v. 1st Class Staffing, LLC</i> ⁶⁵	Muslim (minority)	“line associates” at packaging facility	2	53-7064.00	Packers and Packagers, Hand
<i>Nichols v. Ill. Dep’t of Transp.</i> ⁶⁶	Muslim (minority)	“Highway Maintainer”	2	47-4051.00	Highway Maintenance Workers
<i>Prach v. Hollywood Supermarket, Inc.</i> ⁶⁷	Seventh-day Adventist (minority)	“produce clerk, register clerk,” and “service desk clerk”	2	41-2021.00	Counter and Rental Clerks
<i>Privler v. CSX Transp. Inc.</i> ⁶⁸	Jewish (minority)	“utility worker” for locomotives	2	49-3043.00	Rail Car Repairers

⁶⁵ 286 F. Supp. 3d 884, 888 (S.D. Ohio 2017).

⁶⁶ 152 F. Supp. 3d 1106, 1111 (N.D. Ill. 2016).

⁶⁷ No. 09–13756, 2010 WL 3419461, at *1 (E.D. Mich. Aug. 27, 2010).

⁶⁸ No. 18-cv-1020, 2021 WL 3603334, at *1–*4, *7 (N.D.N.Y. Aug. 13, 2021).

Case	Religious affiliation	Occupation	Job Zone	O*NET Code	O*NET Description
<i>Rice v. U.S.F. Holland, Inc.</i> ⁶⁹	Seventh-day Adventist (minority)	“driver/dockman position”	2	53-3032.00	Heavy and Tractor-Trailer Truck Drivers
<i>Rivera v. Choice Courier Sys., Inc.</i> ⁷⁰	Evangelical Christian	“courier”	2	43-5021.00	Couriers and Messengers
<i>Robinson v. Children’s Hosp. Bos.</i> ⁷¹	Muslim (minority)	“administrative associate”	2	43-6013.00	Medical Secretaries and Administrative Assistants
<i>Rose v. Potter</i> ⁷²	Seventh-day Adventist (minority)	“United States Postal Service” employee	2	43-5052.00	Postal Service Mail Carriers

⁶⁹ 410 F. Supp. 2d 1301, 1303, 1304, 1308 (N.D. Ga. 2005).

⁷⁰ No. 01 Civ.2096, 2004 WL 1444852, at *1–2 (S.D.N.Y. June 25, 2004).

⁷¹ No. 14-10263, 2016 WL 1337255, at *2–3 (D. Mass. Apr. 5, 2016).

⁷² 90 F. App’x 951, 952–53 (7th Cir. 2004).

2023]

Failure to Accommodate

41

Case	Religious affiliation	Occupation	Job Zone	O*NET Code	O*NET Description
<i>Ross v. Colo. Dep't of Transp.</i> ⁷³	Unspecified Christian	"Administrative Assistant"	2	43-6014.00	Secretaries and Administrative Assistants, Except Legal, Medical, and Executive
<i>Rumfol v. Total Petrochemical USA, Inc.</i> ⁷⁴	Unspecified Sabbatarian	"Control Specialist"	2	51-8091.00	Chemical Plant and System Operators
<i>Sanchez-Rodriguez v. AT & T Mobility P.R., Inc.</i> ⁷⁵	Seventh-day Adventist (minority)	"Retail Sales Consultant"	2	41-2031.00	Retail Salespersons

⁷³ No. 11-CV-02603, 2012 WL 5975086, at *2 (D. Colo. Nov. 14, 2012).

⁷⁴ No. 10-CV-460, 2012 WL 860405, at *1 (M.D. La. Mar. 13, 2012).

⁷⁵ 673 F.3d 1, 4 (1st Cir. 2012).

Case	Religious affiliation	Occupation	Job Zone	O*NET Code	O*NET Description
<i>Shatkin v. Univ. of Tex. at Arlington</i> ⁷⁶	Unspecified Christian	“administrative assistants”	2	43-6014.00	Secretaries and Administrative Assistants, Except Legal, Medical, and Executive
<i>Slater v. Douglas Cty.</i> ⁷⁷	Unspecified Christian	“County Clerk’s Office” employee	2	43-4031.00	Court, Municipal, and License Clerks
<i>Stanley v. ExpressJet Airlines, Inc.</i> ⁷⁸	Muslim (minority)	“flight attendant”	2	53-2031.00	Flight Attendants

⁷⁶ No. 06–CV–882, 2010 WL 2730585, at *1 (N.D. Tex. July 9, 2010).

⁷⁷ 743 F. Supp. 2d 1188, 1190 (D. Or. 2010); Complaint at 2, *Slater*, 743 F. Supp. 2d 1188 (Oct. 7, 2007) (No. 09-6274-TC).

⁷⁸ 356 F. Supp. 3d 667, 671 (E.D. Mich. 2018).

Case	Religious affiliation	Occupation	Job Zone	O*NET Code	O*NET Description
<i>Stolley v. Lockheed Martin Aeronautics Co.</i> ⁷⁹	United Church of God	“aircraft assembler”	2	51-2011.00	Aircraft Structure, Surfaces, Rigging, and Systems Assemblers
<i>Thomas v. Nat’l Ass’n of Letter Carriers</i> ⁸⁰	Pentecostal	“United States Postal Service” employee	2	43-5052.00	Postal Service Mail Carriers
<i>Vaughn v. Waffle House, Inc.</i> ⁸¹	Seventh-day Adventist (minority)	“district manager”	2	11-9051.00	Food Service Managers

⁷⁹ 228 F. App’x 379, 380 (5th Cir. 2007).

⁸⁰ 225 F.3d 1149, 1152–53 (10th Cir. 2000).

⁸¹ 263 F. Supp. 2d 1075, 1077 (N.D. Tex. 2003).

Case	Religious affiliation	Occupation	Job Zone	O*NET Code	O*NET Description
<i>Virts v. Consol. Freightways Corp. of Del.</i> ⁸²	“[B]orn again” Christian	“over-the-road truck driver”	2	53-3032.00	Heavy and Tractor-Trailer Truck Drivers
<i>Wagner v. Saint Joseph’s/Candler Health Sys., Inc.</i> ⁸³	Jewish (minority)	“Admissions Notification Specialist”	2	43-9041.00	Insurance Claims and Policy Processing Clerks
<i>Weber v. Roadway Express, Inc.</i> ⁸⁴	Jehovah’s Witness (minority)	“truck driver”	2	53-3032.00	Heavy and Tractor-Trailer Truck Drivers

⁸² 285 F.3d 508, 511–12 (6th Cir. 2002).

⁸³ No. 4:20-cv-284, 2022 WL 905551, at *1 (S.D. Ga. Mar. 28, 2022).

⁸⁴ 199 F.3d 270, 272 (5th Cir. 2000).

Case	Religious affiliation	Occupation	Job Zone	O*NET Code	O*NET Description
<i>EEOC v. Chemsico, Inc.</i> ⁸⁵	Church of God, Sabbatarian	“line worker”	2	51-9199	Production Workers, All Other
<i>Kenner v. Domtar Indus., Inc.</i> ⁸⁶	Unspecified Christian	“super will sheet operator” ⁸⁷	2	51-9199	Production Workers, All Other

⁸⁵ 216 F. Supp. 2d 940, 942, 944 (E.D. Mo. 2002).

⁸⁶ No. 04-CV-4021, 2006 WL 522468, at *1 (W.D. Ark. Mar. 3, 2006).

⁸⁷ There were not enough details to attribute a particular O*NET code with a matching job zone. The job zone was assigned based on language from the case and similar O*NET occupational descriptions. See *Kenner*, 2006 WL 522468, at *1 (“At Domtar, Kenner’s job title is super will sheet operator, and Kenner operates machine number 17 along with three other operators.”); O*NET OnLine, *Adhesive Bonding Machine Operators and Tenders: 51-9191.00*, <https://www.onetonline.org/link/summary/51-9191.00> (listing as a work activity “[u]sing either control mechanisms or direct physical activity to operate machines or processes”).

Case	Religious affiliation	Occupation	Job Zone	O*NET Code	O*NET Description
<i>Mohamed-Sheik v. Golden Foods/Golden Brands LLC</i> ⁸⁸	Muslim (minority)	“manufacturing floor” employees ⁸⁹	2	51-3099	Food Processing Workers, All Other
<i>Tabura v. Kellogg USA</i> ⁹⁰	Seventh-day Adventist (minority)	“packaging” and “processing” employees at food production plant	2	53-7064.00	Packers and Packagers, Hand

⁸⁸ No. 303CV737H, 2006 WL 709573, at *1 (W.D. Ky. Mar. 16, 2006).

⁸⁹ There were not enough details to attribute a particular O*NET code with a matching job zone. The job zone was assigned based on the court’s opinion and similar O*NET occupational descriptions. See *Mohamed-Sheik*, 2006 WL 709573, at *1 (noting that the employees “began working on the manufacturing floor” at a plant that converted edible oil to shortening); O*NET OnLine, *Food Batchmakers: 51-3092.00*, <https://www.onetonline.org/link/summary/51-3092.00> (describing the position as one that “[s]et[s] up and operate[s] equipment that mixes or blends ingredients used in the manufacturing of food products”).

⁹⁰ 880 F.3d 544, 546, 547 (10th Cir. 2018).

Case	Religious affiliation	Occupation	Job Zone	O*NET Code	O*NET Description
<i>Walker v. Alcoa, Inc.</i> ⁹¹	Unspecified Christian	finish metal operator in “Extrusion Department”	2	51-4021.00	Extruding and Drawing Machine Setters, Operators, and Tenders, Metal and Plastic
<i>Aron v. Quest Diagnostics, Inc.</i> ⁹²	Jewish (minority)	“phlebotomist”	3	31-9097.00	Phlebotomists
<i>Barton v. Metro. Gov’t of Nashville & Davidson Cnty.</i> ⁹³	Jehovah’s Witness (minority)	“Information System Specialist”	3	11-3012.00	Administrative Services Managers

⁹¹ No. 06–CV–120, 2008 WL 2356997, at *1, *6 (N.D. Ind. June 9, 2008).

⁹² 174 F. App’x 82, 82–83 (3d Cir. 2006).

⁹³ No. 20-cv-00118, 2022 WL 989100, at *1 (M.D. Tenn. Mar. 31, 2022).

Case	Religious affiliation	Occupation	Job Zone	O*NET Code	O*NET Description
<i>Brown v. F.L. Roberts & Co.</i> ⁹⁴	Rastafarian (minority)	“lube technician”	3	49-3023.00	Automotive Service Technicians and Mechanics
<i>Dalberiste v. GLE Assocs., Inc.</i> ⁹⁵	Seventh-day Adventist (minority)	“industrial hygiene technician”	3	19-5012.00	Occupational Health and Safety Technicians
<i>Daniels v. City of Arlington</i> ⁹⁶	Evangelical Christian	“police officer”	3	33-3051.00	Police and Sheriff’s Patrol Officers

⁹⁴ 419 F. Supp. 2d 7, 9 (D. Mass. 2006).

⁹⁵ F. App’x 495, 495 (11th Cir. 2020).

⁹⁶ 246 F.3d 500, 501 (5th Cir. 2001).

Case	Religious affiliation	Occupation	Job Zone	O*NET Code	O*NET Description
<i>Davis v. Fort Bend Cty.</i> ⁹⁷	Unspecified Christian	“Desktop Support Supervisor”	3	15-1232.00	Computer User Support Specialists
<i>EEOC v. Dalfort Aerospace</i> ⁹⁸	Seventh-day Adventist (minority)	“Aviation Maintenance Technician” trainee	3	49-3011.00	Aircraft Mechanics and Service Technicians
<i>EEOC v. Firestone Fibers & Textiles Co.</i> ⁹⁹	Living Church of God	“lab technician”	3	19-4031.00	Chemical Technicians

⁹⁷ 765 F.3d 480, 483, 496, 500 (5th Cir. 2014).

⁹⁸ No. 00–CV–0666, 2002 WL 255486, at *1, *2 (N.D. Tex. Feb. 19, 2002).

⁹⁹ 515 F.3d 307, 309 (4th Cir. 2008).

Case	Religious affiliation	Occupation	Job Zone	O*NET Code	O*NET Description
<i>EEOC v. Geo Grp., Inc.</i> ¹⁰⁰	Muslim (minority)	“correctional officer,” “chronic infectious disease nurse,” and “intake specialist”	3	29-2061.00	Licensed Practical and Licensed Vocational Nurses
<i>Endres v. Ind. State Police</i> ¹⁰¹	Baptist	State Police “Gaming Commission agent”	3	33-3051.00	Police and Sheriff’s Patrol Officers
<i>Hommel v. Squaw Valley Ski Corp.</i> ¹⁰²	Unspecified	“ski instructor”	3	25-3021.00	Self-Enrichment Teachers

¹⁰⁰ 616 F.3d 265, 267–69 (3d Cir. 2010).

¹⁰¹ 349 F.3d 922, 924 (7th Cir. 2003).

¹⁰² 89 F. App’x 650, 650 (9th Cir. 2004).

Case	Religious affiliation	Occupation	Job Zone	O*NET Code	O*NET Description
<i>Jean-Pierre v. Naples Cmty. Hosp.</i> ¹⁰³	Seventh-day Adventist (minority)	“clinical technician”	3	29-2012.00	Medical and Clinical Laboratory Technicians
<i>Jiglov v. Hotel Peabody, G.P.</i> ¹⁰⁴	Unspecified Christian	“kitchen mechanic”	3	49-9071.00	Maintenance and Repair Workers, General
<i>Litzman v. N.Y.C. Police Dep’t</i> ¹⁰⁵	Jewish (minority)	“Probationary Police Officer”	3	33-3051.00	Police and Sheriff’s Patrol Officers

¹⁰³ 817 F. App’x 822, 824 (11th Cir. 2020).

¹⁰⁴ 719 F. Supp. 2d 918, 921–22 (W.D. Tenn. 2010).

¹⁰⁵ No. 12 Civ. 4681, 2013 WL 6049066, at *1 (S.D.N.Y. Nov. 15, 2013).

Case	Religious affiliation	Occupation	Job Zone	O*NET Code	O*NET Description
<i>Mathis v. Christian Heating and Air Conditioning, Inc.</i> ¹⁰⁶	Non-religious	"[HVAC] installation mechanic"	3	49-9021.00	Heating, Air Conditioning, and Refrigeration Mechanics and Installers
<i>Morris v. Four Star Paving, LLC</i> ¹⁰⁷	Seventh-day Adventist (minority)	"base foreman"	3	47-1011.00	First-Line Supervisors of Construction Trades and Extraction Workers
<i>Nobach v. Woodland Vill. Nursing Ctr., Inc.</i> ¹⁰⁸	Non-religious	"nursing home activities aide"	3	31-1131.00	Nursing Assistants

¹⁰⁶ 158 F. Supp. 3d 317, 321 (E.D. Pa. 2016).

¹⁰⁷ No. 12-cv-0387, 2013 WL 1681835, at *1-2 (M.D. Tenn. Apr. 17, 2013).

¹⁰⁸ 799 F.3d 374, 375, 376 (5th Cir. 2015).

Case	Religious affiliation	Occupation	Job Zone	O*NET Code	O*NET Description
<i>O'Barr v. United Parcel Serv., Inc.</i> ¹⁰⁹	Church of God	"mechanic"	3	49-9071.00	Maintenance and Repair Workers, General
<i>Perkins v. Town of Princeville</i> ¹¹⁰	Unspecified Christian	"police officer"	3	33-3051.00	Police and Sheriff's Patrol Officers
<i>Rojas v. GMD Airlines Servs., Inc.</i> ¹¹¹	Pentecostal	"mechanic"	3	49-3011.00	Aircraft Mechanics and Service Technicians

¹⁰⁹ No. 11-CV-177, 2013 WL 2243004, at *1 (E.D. Tenn. May 21, 2013).

¹¹⁰ No. 04-CV-168, 2006 WL 4694727, at *1 (E.D.N.C. Apr. 19, 2006), *aff'd*, 216 Fed. Appx. 293 (4th Cir. 2007).

¹¹¹ 254 F. Supp. 3d 281, 288–89 (D.P.R. 2015).

Case	Religious affiliation	Occupation	Job Zone	O*NET Code	O*NET Description
<i>Small v. Memphis Light, Gas and Water</i> ¹¹²	Jehovah's Witness (minority)	"electrician" and "service dispatcher"	3	51-8012.00	Power Distributors and Dispatchers
<i>Tagore v. United States</i> ¹¹³	Sikh (minority)	"revenue agent for the IRS"	3	13-2081.00	Tax Examiners and Collectors, and Revenue Agents
<i>Vaynsheboy v. COMHAR, Inc.</i> ¹¹⁴	Jewish (minority)	"licensed practical nurse"	3	29-2061.00	Licensed Practical and Licensed Vocational Nurses

¹¹² 952 F.3d 821, 823 (6th Cir. 2020).

¹¹³ 735 F.3d 324, 326 (5th Cir. 2013).

¹¹⁴ No. 20-2690, 2021 WL 4399651, at *1 (E.D. Pa. Sept. 27, 2021).

Case	Religious affiliation	Occupation	Job Zone	O*NET Code	O*NET Description
<i>Villareal v. Rocky Knoll Health Care Ctr.</i> ¹¹⁵	Unspecified Christian	“licensed practical nurse”	3	29-2061.00	Licensed Practical and Licensed Vocational Nurses
<i>Wallace v. City of Philadelphia</i> ¹¹⁶	Muslim (minority)	“police officer”	3	33-3051.00	Police and Sheriff’s Patrol Officers
<i>Webb v. City of Philadelphia</i> ¹¹⁷	Muslim (minority)	“police officer”	3	33-3051.00	Police and Sheriff’s Patrol Officers

¹¹⁵ No. 21-CV-729, 2022 WL 17092090, at *1, *2 (E.D. Wis. Nov. 21, 2022).

¹¹⁶ No. 06-4236, 2010 WL 1730850, at *1, *4 (E.D. Pa. Apr. 26, 2010).

¹¹⁷ 562 F.3d 256, 258 (3d Cir. 2009).

Case	Religious affiliation	Occupation	Job Zone	O*NET Code	O*NET Description
<i>Westbrook v. N.C. A&T State Univ.</i> ¹¹⁸	Jehovah's Witness (minority)	"parking services officer"	3	33-3051.00	Police and Sheriff's Patrol Officers
<i>Lindsey v. Bridge Rehab, Inc.</i> ¹¹⁹	Unspecified Christian	"treatment aide" ¹²⁰	3	21-1099	Community and Social Service Specialists, All Other

¹¹⁸ 51 F. Supp. 3d 612, 616 (M.D.N.C. 2014).

¹¹⁹ 369 F. Supp. 3d 1204, 1208 (N.D. Ala. 2019).

¹²⁰ There were not enough details to attribute a particular O*NET code with a matching job zone. The job zone was assigned based on the court's opinion and similar O*NET occupational descriptions. See *Lindsey*, 369 F. Supp. 3d at 1208 ("As a treatment aide, Ms. Lindsey supervised clients' safety and conducted basic living skills group instruction sessions."); O*NET OnLine, *Occupational Therapy Aides: 31-2012.00*, <https://www.onetonline.org/link/summary/31-2012.00> (listing as a task "[e]ncourag[ing] patients and attend[ing] to their physical needs to facilitate the attainment of therapeutic goals").

Case	Religious affiliation	Occupation	Job Zone	O*NET Code	O*NET Description
<i>Baltgalvis v. Newport News Shipbuilding, Inc.</i> ¹²¹	Unspecified Christian	“Senior Analyst Technician”	4	13-1081.00	Logisticians
<i>Brown v. Hot Springs Nat. Park Hosp. Holdings, LLC</i> ¹²²	Seventh-day Adventist (minority)	“Director of Physician Clinic Operations”	4	11-9111.00	Medical and Health Services Managers
<i>Cassell v. Skywest, Inc.</i> ¹²³	Seventh-day Adventist (minority)	“pilot”	4	53-2011.00	Airline Pilots, Copilots, and Flight Engineers

¹²¹ 15 F. App'x 172 (4th Cir. 2001); 132 F. Supp. 2d 414, 415 (E.D. Va. 2001).

¹²² No. 12CV00356, 2013 WL 1968483, at *1 (E.D. Ark. May 13, 2013).

¹²³ No. 19-cv-00149, 2022 WL 375855, at *1–2 (D. Utah Feb. 8, 2022).

Case	Religious affiliation	Occupation	Job Zone	O*NET Code	O*NET Description
<i>Dixon v. Hallmark Cos.</i> ¹²⁴	Unspecified Christian	“property manager” and “maintenance technician”	4	11-9141.00	Property, Real Estate, and Community Association Managers
<i>EEOC v. Healthcare & Ret. Corp. of Am.</i> ¹²⁵	Sikh (minority)	“Nurse Supervisor”	4	11-9111.00	Medical and Health Services Managers
<i>Filinovich v. Claar</i> ¹²⁶	Seventh-day Adventist (minority)	“Director of Finance”	4	11-3031.00	Financial Managers

¹²⁴ 627 F.3d 849, 852–53 (11th Cir. 2010).

¹²⁵ No. 07–13670, 2009 WL 2488110, at *1 (E.D. Mich. Aug. 11, 2009); Plaintiff Equal Employment Opportunity Commission’s Motion for Partial Summary Judgment at 1, *Healthcare & Ret. Corp.*, No. 07–13670, 2009 WL 2488110 (Jan. 2., 2009).

¹²⁶ No. 04 C 7189, 2005 WL 2709284, at *1, *4 (N.D. Ill. Oct. 19, 2005).

Case	Religious affiliation	Occupation	Job Zone	O*NET Code	O*NET Description
<i>Ford v. City of Dallas</i> ¹²⁷	Seventh-day Adventist (minority)	“Code Compliance Department” employee	4	11-9199.02	Compliance Managers
<i>Kennedy v. Bremerton Sch. Dist.</i> ¹²⁸	Unspecified Christian	“football coach”	4	27-2022.00	Coaches and Scouts
<i>Lizalek v. Invivo Corp.</i> ¹²⁹	Unspecified	“RF [Radio Frequency] Engineer”	4	17-2072.01	Radio Frequency Identification Device Specialists

¹²⁷ No. 05-CV-1676, 2007 WL 2051016, at *1, *3 (N.D. Tex. July 12, 2007).

¹²⁸ 991 F.3d 1004, 1010 (9th Cir. 2021).

¹²⁹ No. 06-C-1109, 2008 WL 11452043, at *1–5 (E.D. Wis. Sept. 18, 2008), *aff’d*, 314 F. App’x 881, 881–82 (7th Cir. 2009).

Case	Religious affiliation	Occupation	Job Zone	O*NET Code	O*NET Description
<i>O'Brien v. City of Springfield</i> ¹³⁰	Unspecified Christian	"public school teacher"	4	25-2022.00	Middle School Teachers, Except Special and Career/Technical Education
<i>Quental v. Conn. Comm'n on Deaf & Hearing Impaired</i> ¹³¹	Unspecified Christian	"interpreter"	4	27-3091.00	Interpreters and Translators
<i>Shelton v. Univ. of Med. & Dentistry of N.J.</i> ¹³²	Pentecostal	"staff nurse"	4	29-1141.00	Registered Nurses

¹³⁰ 319 F. Supp. 2d 90, 93–94 (D. Mass. 2003).

¹³¹ 122 F. Supp. 2d 133, 136–37 (D. Conn. 2000).

¹³² 223 F.3d 220, 222 (3d Cir. 2000).

Case	Religious affiliation	Occupation	Job Zone	O*NET Code	O*NET Description
<i>Shepherd v. Gannondale</i> ¹³³	Jehovah's Witness (minority)	"Fiscal Supervisor"	4	11-3031.00	Financial Managers
<i>Zamora v. Gainesville City Sch. Dist.</i> ¹³⁴	Jehovah's Witness (minority)	"Finance Administrative Assistant/Workers Comp Coordinator"	4	11-3111.00	Compensation and Benefits Managers
<i>Berry v. Dep't of Soc. Servs.</i> ¹³⁵	Evangelical Christian	"Department of Social Services" welfare transition employee	4	21-1099	Community and Social Service Specialists, All Other

¹³³ No. 14-cv-8, 2014 WL 7338714, at *1 (W.D. Pa. Dec. 22, 2014).

¹³⁴ No. 14-CV-00021, 2015 WL 12851549, at *1-2 (N.D. Ga. June 22, 2015).

¹³⁵ 447 F.3d 642, 646 (9th Cir. 2006).

Case	Religious affiliation	Occupation	Job Zone	O*NET Code	O*NET Description
<i>Patterson v. Walgreen Co.</i> ¹³⁶	Seventh-day Adventist (minority)	“training instructor”	4	13-1151.00	Training and Development Specialists
<i>Andrews v. Va. Union Univ.</i> ¹³⁷	Unspecified Christian	“Chair of the Department of Social Work”	5	11-9033.00	Education Administrators, Postsecondary
<i>Bruff v. N. Miss. Health Servs.</i> ¹³⁸	Unspecified Christian	“Employee Assistance Program” counselor	5	21-1012.00	Educational, Guidance, and Career Counselors and Advisors

¹³⁶ 727 F. App'x 581, 583 (11th Cir. 2018).

¹³⁷ No. 07cv447, 2008 WL 2096964, at *1, *3, *10 (E.D. Va. May 16, 2008).

¹³⁸ 244 F.3d 495, 497–98 (5th Cir. 2001).

Case	Religious affiliation	Occupation	Job Zone	O*NET Code	O*NET Description
<i>Moore v. Metro. Human Serv. Dist.</i> ¹³⁹	Unspecified Christian	“social worker”	5	21-1023.00	Mental Health and Substance Abuse Social Workers
<i>Noesen v. Med. Staffing Network, Inc.</i> ¹⁴⁰	Catholic	“pharmacist”	5	29-1051.00	Pharmacists
<i>Crider v. Univ. of Tenn.</i> ¹⁴¹	Seventh-day Adventist (minority)	“Programs Abroad Coordinator”	5	25-9099	Educational Instruction and Library Workers, All Other

¹³⁹ 2010 WL 1462224, at *1-2 (E.D. La. Apr. 8, 2010).

¹⁴⁰ 232 F. App’x 581, 583 (7th Cir. 2007).

¹⁴¹ 492 F. App’x 609, 610 (6th Cir. 2012).

Case	Religious affiliation	Occupation	Job Zone	O*NET Code	O*NET Description
<i>Peterson v. Hewlett-Packard Co.</i> ¹⁴²	Unspecified Christian	“office” employee ¹⁴³	N/A	N/A	N/A
<i>Seaworth v. Pearson</i> ¹⁴⁴	Unspecified Christian	Unclear ¹⁴⁵	N/A	N/A	N/A

¹⁴² 358 F.3d 599, 601 (9th Cir. 2004).

¹⁴³ There were not enough details to attribute a particular O*NET code or assign a job zone.

¹⁴⁴ 203 F.3d 1056, 1057 (8th Cir. 2000).

¹⁴⁵ There were not enough details to attribute a particular O*NET code or assign a job zone.