

Supreme Court supports churches in employment case

by Randy Bright <http://www.tulsabeacon.com/?p=5703>

The U.S. Supreme Court ruled last week in favor of a church that had fired a ministerial employee, signaling a hopeful change of attitude toward the rights of churches to conduct their own affairs according to their own beliefs.

Former teacher Cheryl Perich had been employed and trained by the Hosanna-Tabor Evangelical Lutheran Church and School in Redford, Michigan, for six years before being called by the church to be a minister. Suffering from narcolepsy, she took a leave of absence, but when the church refused to take her back, she and the Equal Employment Opportunity Commission sued the church, claiming that her Constitutional rights and rights under the Americans with Disabilities Act (ADA) had been violated.

Throughout American history, lower courts have held that the government has no right to interfere with a church's employee relationship with ministerial staff. However, this was the first time that a case involving the issue made its way to the U.S. Supreme Court.

Perich and the EEOC argued that because she had taught secular courses at the school, the religious exemption did not apply.

The Obama Administration and the Department of Justice agreed with Perich and challenged the validity of the exemption.

The court did not agree. Overruling a previous decision by the 6th U.S. Circuit Court of Appeals, Chief Justice 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. By imposing an unwanted minister, the state infringes the free exercise clause, which protects a religious group's right to shape its own faith and mission through its appointments. According the state the power to determine which individuals will minister to the faithful also violates the establishment clause, which prohibits government involvement in such ecclesiastical decisions."

The court found that the exception to employment laws did apply to churches, and that it "ensures that the authority to select and control who will minister to the faithful is the church's alone."

The court also found that Perich was not entitled to back pay or reinstatement to her former job because requiring the church to do so would penalize the church for exercising its constitutional rights.

The U.S. Supreme Court's decision comes as a welcome and pleasant surprise to those of us who have been concerned that Justice appointments from the Obama Administration may have created a majority that could be hostile to constitutional rights, including religious rights. Even more refreshing, the court was unanimous in upholding the rights of the church in this decision. Despite this victory, there are still deep causes for concern.

Last year, a case involving the Rocky Mountain Christian Church in Boulder, Colorado, nearly made it to the U.S. Supreme Court docket. At stake were the church's rights under the First Amendment of the Constitution and RLUIPA (Religious Land Use and Institutionalized Persons Act). Fortunately, the court refused to hear the case. The concern was that, because of the court's dismal ruling in the *Kelo v. New London* case, RLUIPA might have been ruled unconstitutional.

Kelo vs. New London ruled that private property could be seized and given to another private entity using eminent domain. The reasoning of the court was that public good could be defined as including the economic interests of a community.

Traditionally, the U.S. Supreme Court has ruled in favor of religious rights, but lower court rulings on whether or not RLUIPA is Constitutional has gone both ways.

Eventually, courts may have to decide if a church's architecture – which includes the design and placement of its buildings on its own property – or whether a church can even use its property at all - is an extension of the First Amendment rights guaranteed by our Constitution.

Architecture has always been an expression of beliefs and that is especially true for churches. If we were to have a government that could tell churches what they could or could not build on their own property, would we not have a government that can tell churches what they could or could not do on their property?

Last week's decision at least settled part of that question, but we have a very long way to go in protecting all of our church's rights.

©2012 Randy W. Bright

Randy W. Bright, AIA, NCARB, is an architect who specializes in church and church-related projects. You may contact him at 918-582-3972, rwbrightchurcharch@sbcglobal.net or www.churcharchitect.net.

This entry was posted on Thursday, January 19th, 2012 and is filed under [Columns](#).