



Petruska v. Gannon University 462 F. 3d 294 (3d Cir. 2006)

Employee, the chaplain of a Catholic university, sued for gender-based employment discrimination in violation of, among other things, Title VII. The court dismissed the action, saying that the university, as a religious institution, was not subject to Title VII.

Smith, J.

Gannon University is a private, Catholic, diocesan college established under the laws of the Commonwealth of Pennsylvania. Plaintiff employee was initially hired by Gannon as Director for the University's Center for Social Concerns and in considering and accepting this position, relied upon Gannon's self-representation as an equal opportunity employer that does not discriminate on the basis of, among other things, gender.

Following [Gannon's President] Rubino's resignation [after allegations of a sexual affair with a subordinate], Gannon engaged in a campaign to cover up Rubino's sexual misconduct. Employee was vocal in opposing this and other of the Administration's policies and procedures, which she viewed as discriminatory toward females. One such policy was [Bishop of the Roman Catholic Diocese of Erie] Trautman's willingness to allow allegedly abusive clergy to remain on campus, including at least one former Gannon priest who had been removed because of sexual misconduct directed at students.

Employee also strongly opposed the University's efforts, during the time that Rubino was coming under investigation for alleged sexual harassment of females, to limit the time frame within which victims of sexual harassment could file grievances. As Chair of the University's Institutional Integrity Committee, employee was instrumental in submitting a Middle States accreditation report which raised issues of gender-based inequality in the pay of Gannon's female employees and which was critical of the University's policies and procedures for addressing complaints of sexual harassment and other forms of discrimination. Despite pressure from the University's administration, employee refused to change those portions of the report which were critical of the University.

Employee contends that, in retaliation for the foregoing conduct and because of her gender, she was discriminated against in the terms and conditions of her employment. Believing that she was about to be fired,

employee served Gannon with two weeks notice of her resignation. Employee was advised the following day that her resignation was accepted effective immediately and that she was to pack her belongings and leave the campus. Her access to the campus and to students was strictly limited thereafter. Following employee's departure, her supervisor stated on several occasions to both students and staff that a female would not be considered to replace employee as Chaplain.

The University has moved to dismiss all claims on the ground that they are barred by the so-called "ministerial exception," which is frequently applied in employment discrimination cases involving religious institutions. The ministerial exception is rooted in the First Amendment which provides that "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof." Among the prerogatives protected by the Free Exercise Clause is the right of religious institutions to manage their internal affairs.

The Establishment Clause prohibits laws "respecting an establishment of religion." The Supreme Court held that a statute comports with the Establishment Clause if it has a secular legislative purpose, if its principal or primary effect neither advances nor inhibits religion, and if it does not foster an "excessive government entanglement with religion." Unconstitutional entanglement with religion may arise in situations "where a 'protracted legal process pit(s) church and state as adversaries,' and where the Government is placed in a position of choosing among 'competing religious visions.'"

The questions presented in this case are whether applying Title VII to Gannon's decision to restructure would infringe upon its free exercise rights and whether adjudication of Petruska's Title VII claims would result in unconstitutional entanglement under the Establishment Clause. Every one of our sister circuits to consider the issue has concluded that application of Title VII to a

minister-church relationship would violate—or would risk violating—the First Amendment and, accordingly,

Petruska alleges that Gannon demoted and constructively discharged her from her position as University Chaplain based on her gender and retaliated against her on the basis of her opposition to sexual harassment at the University. Her discrimination and retaliation claims are premised upon Gannon's decision to restructure, a decision which Petruska argues was merely pretext for gender discrimination. It is clear from the face of Petruska's complaint, however, that Gannon's choice to restructure constituted a decision about who would perform spiritual functions and about how those functions would be divided. Accordingly, application of Title VII's discrimination and retaliation provisions to Gannon's decision to restructure would violate the Free Exercise Clause. For that reason, Petruska's Title VII claims should be dismissed.

The First Amendment protects a church's right to decide matters of faith and to declare its doctrine free from

state interference. A church's ability to select who will perform particular spiritual functions is a necessary corollary to this right. The function of Petruska's position as University Chaplain was ministerial in nature, and therefore, her Title VII, civil claim must be dismissed. Based upon the foregoing reasons, the trial court's decision is **AFFIRMED** and **REMANDED**. [Petruska petitioned the U.S. Supreme Court to hear an appeal from this case and the Court denied the petition.]

Case Questions

1. Do you agree with the court's decision? Explain.
2. As a manager in this situation, how do you think you would have handled the chaplain's complaints?
3. Given the power that religious organizations have under Title VII, how do you think employment discrimination concerns can be addressed in the religious workplace?



Patterson v. McLean Credit Union

491 U.S. 164 (1989)

A black female alleged racial discrimination in violation of section 1981 in that she was treated differently from white employees and not promoted, on the basis of race. The Court held that section 1981 was not available to address this problem since the case did not involve the making of a contract, but rather its performance.

Kennedy, J.

Patterson, a black female, worked for the McLean Credit Union (MCU) as a teller and file coordinator for 10 years. She alleges that when she first interviewed for her job, the supervisor, who later became the president of MCU, told her that she would be working with all white women and that they probably would not like working with her because she was black. According to Patterson, in the subsequent years, it was her supervisor who proved to have the problem with her working at the credit union.

Patterson alleges that she was subjected to a pattern of discrimination at MCU which included her supervisor repeatedly staring at her for minutes at a time while she performed her work and not doing so to white employees; not promoting her or giving her the usually perfunctory raises which other employees routinely received; not arranging to have her work reassigned to others when she went on vacation, as was routinely done with other employees, but rather, allowing Patterson's work to