



U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Office of Federal Operations

P.O. Box 77960

Washington, DC 20013

[REDACTED]
Andy B.,¹
Complainant,

v.

Jerome H. Powell,
Chair,
Federal Reserve Board of Governors,
Agency.

Appeal No. 2023002014

Agency No. FRB-EEO-21-11-009

DECISION

Complainant, a former law enforcement officer with the Federal Reserve (the "Agency"), requested a religious exemption to the Agency's COVID-19 vaccine mandate. The Agency denied the request and swiftly fired Complainant.

This appeal asks whether the Agency unlawfully deprived Complainant of an effective reasonable accommodation for his religious beliefs in violation of Title VII of the Civil Rights Act of 1964 (Title VII), as amended, 42 U.S.C. § 2000e et seq. We find that it did. Complainant religious beliefs were sincere, and the Agency did not persuasively show that an effective accommodation would have imposed an undue hardship on its operations. We are also persuaded Complainant was subjected to unlawful harassment based on his religious beliefs and his request for religious accommodation. Accordingly, we REVERSE the Agency's final order.

¹ This case has been randomly assigned a pseudonym which will replace Complainant's name when the decision is published to non-parties and the Commission's website.

BACKGROUND AND PROCEEDINGS BELOW

In September 2021, the Agency implemented its own COVID-19 vaccine mandate for all its employees.² Complainant, a law enforcement officer with several years of service with the Agency, promptly requested an exemption as a religious accommodation. The Agency was just as prompt in denying the request, taking only four days to conclude that granting the request or any alternative would impose an undue hardship on its operations. Complainant was placed on administrative leave and given a few weeks to comply or face termination. Complainant remained unvaccinated, and he was terminated.³

Complainant timely filed a formal complaint with the Agency alleging unlawful religious discrimination. After investigation, the Agency issued a final decision after Complainant declined to request a hearing before an EEOC administrative judge. The Agency's final decision rejected all claims. The instant appeal followed.

ANALYSIS

Complainant was entitled to an effective reasonable accommodation

"Title VII . . . requires employers to accommodate the religious practice of their employees unless doing so would impose an 'undue hardship on the conduct of the employer's business.'" Groff v. Dejoy, 600 U.S. 447, 453-454 (2023) (quoting 42 U.S.C. § 2000e(j)). The Agency's final decision concluded that accommodating Complainant would impose such an undue hardship.

² The Federal Reserve is structured differently compared to most other agencies in the Federal ecosystem. Its enabling statute, the Federal Reserve Act, preempts all other authorities, including the President, when it comes to regulating the Agency's employees. See 12 U.S.C. § 244. This means Executive Order 14043—which was also issued in September 2021 and required COVID-19 vaccination for most Federal employees—did not apply to the Federal Reserve. This also means that subsequent judicial injunctions against the Executive Order did not apply to the Federal Reserve's separate and independent vaccine mandate.

³ We have jurisdiction over the termination because Federal Reserve employees do not have appeal rights to the Merit Systems Protection Board. See Carney v. Bd. of Governors of the Fed. Reserve Sys., 64 M.S.P.R. 394 (1994).

Before addressing the undue hardship question, we must check a few prima facie boxes.

In a religious accommodation case, the employee must first demonstrate (1) he had a sincere religious belief or practice conflicting with an employment requirement; (2) he informed the employer of this conflict; and (3) the employer nevertheless took adverse action against him for failing to comply with the conflicting requirement. See e.g. Baker v. Home Depot, 445 F.3d 541, 546 (2d Cir. 2006); Storey v. Burns Int'l Sec. Svcs., 390 F.3d 760, 767 n. 17 (3d Cir. 2004); Jones v. TEK Indus., Inc., 319 F.3d 355, 359 (8th Cir. 2003); Daniels v. City of Arlington, 246 F.3d 500, 506 (5th Cir. 2001); Chalmers v. Tulon Co. of Richmond, 101 F.3d 1012, 1019 (4th Cir. 1996).

To decide on appeal whether Complainant clears these hurdles, we approach the record de novo, meaning we “review the documents, statements, and testimony of record” with fresh eyes, and we make our decision based on “[our] own assessment of the record and . . . interpretation of the law.” Equal Employment Opportunity Management Directive for 29 C.F.R. Part 1614 (EEO MD-110), at Chap. 9, § VI (Aug. 5, 2015). Our factual conclusions are “based on a preponderance of the evidence.” 29 C.F.R. § 1614.405(b).

The first element, whether Complainant had a sincere religious practice in conflict with an employment requirement, is the most impactful. Complainant avers that his Christian religious beliefs would not allow him to take a vaccine derived from fetal cell lines obtained through abortion.⁴ Complainant explains this belief is rooted in scripture and prayer.

The Agency’s final decision assumed Complainant’s belief was sincere. In our de novo review, we do not just assume Complainant’s sincerity, we are convinced of it. Complainant was forced to choose between his faith and his livelihood, “the most horrifying of Hobson’s choices.” Sambrano v. United Airlines, Inc., 19 F.4th 839, 841 (5th Cir. 2021) (Ho, J. dissenting).

⁴ The Agency does not dispute that some of the then-available vaccines were developed using fetal cell lines obtained through abortion.

That Complainant was willing to lose his job to protect his faith is powerful evidence of his sincerity. We are persuaded Complainant meets this, and all other, prima facie elements.⁵

Since Complainant has made his prima facie case, the Agency will be liable unless it can demonstrate that providing an effective reasonable accommodation would have imposed an undue hardship. The law on this point has developed in the interim. In its final decision, the Agency applied a “de minimis” standard derived from the Supreme Court’s decision in Trans World Airlines, Inc. v. Hardison, 432 U.S. 63, 84 (1977). A few months after the Agency issued its final decision, the Court clarified, “the de minimis reading of Hardison is a mistake.” Groff, 600 U.S. at 454. The correct reading is that an “undue hardship is shown when a burden is substantial in the overall context of an employer’s business.” Id. at 468 (quotations omitted). We approach the record with this correct reading in mind.⁶

Undue hardship is an affirmative defense, meaning the Agency bears “the burdens of production and persuasion.” 42 U.S.C. § 2000e(m). After careful review of the record, we are not persuaded the Agency discharges these burdens. The main problem we face is that the Agency did not include in the record any of the evidence it purported to rely on when it concluded that any effective reasonable accommodation would impose an undue hardship. Without this evidence, we have no way to validate the Agency’s contentions that masking and testing in lieu of vaccination would have been intolerably unsafe and that the costs of tests for Complainant and others seeking similar accommodation would have been prohibitively expensive.

And we are concerned by the Agency’s apparent lack of engagement with Complainant on his request. We do not see evidence that the Agency put serious thought into his request, and we think the Agency may have already made up its mind before Complainant and others even put in their accommodation requests.

⁵ The Agency effectively concedes the other prima facie elements, namely that Complainant promptly informed it of the basis for his accommodation request and that the Agency nevertheless enforced the vaccine requirement.

⁶ Although Groff was decided after the events in this case, its holding “must be given full retroactive effect in all cases still open on direct review and as to all events, regardless of whether such events predate or postdate [the Court’s] announcement of the rule.” Harper v. Virginia Dep’t of Tax’n, 509 U.S. 86, 97 (1993).

In Complainant's case the Agency charged head-long towards termination rather than taking time to consider the full contours of his request. Had the Agency pumped the brakes, it might have recognized that Complainant's request might not have excluded all vaccination options. Though it is clear Complainant sincerely objected to vaccines *derived* from fetal cell lines, it is not clear if his objection extended to vaccines *tested* on fetal cell lines but derived independently. It is possible that Complainant would have willingly complied had the Agency explained in plainer terms the various vaccination options then available. Considering the information asymmetry between the parties, we find the Agency responsible for this breakdown in the interactive process. It was neither fair nor reasonable for the Agency to withhold this information from Complainant and to force him to do his own lay research.

To sum up, the Agency has not established that providing Complainant an effective reasonable accommodation would have imposed an undue hardship on its operations. Our decision today should not be read to mean that an employer can never demonstrate undue hardship where a vaccine is concerned. As the Court emphasized in Groff, the inquiry is always "context specific." 600 U.S. at 473. And in other contexts, courts have found an undue hardship tied to an employee's request for a religious exemption to a vaccine mandate. See e.g. Wise v. Children's Hosp. Med. Ctr. of Akron, No. 24-3674, 2025 WL 1392209, at *4 (6th Cir. May 14, 2025); Bushra v. Main Line Health, Inc., No. 24-1117, 2025 WL 1078135, at *2 (3d Cir. Apr. 10, 2025). The crucial distinction is that the employers in those cases put up robust affirmative defenses supported by ample evidence. The Agency in this case declined to show its receipts. We cannot overlook the dearth of evidence before us, nor can we make up the shortfall by drumming up evidence from outside sources on the Agency's behalf. Our decision reminds agencies that when it comes to undue hardship, they alone bear the ultimate burden of persuasion.

Complainant was unlawfully harassed for his religious beliefs

If termination wasn't enough, Complainant alleged that other employees made derogatory and coercive comments about his decision to forgo vaccination for religious reasons. The worst was when a coworker taunted that he would "get the vaccine and put it in [Complainant's] ass." ROI at 98. Complainant promptly reported these incidents to a supervisor, yet there is no indication in the record that the Agency took any corrective action.

We are persuaded that these events occurred and that they were motivated by animus against Complainant's religious beliefs and his request for accommodation. And we conclude, considering the totality of the circumstances, that the harassment was sufficiently severe to "alter the conditions of [Complainant's] employment." Harris v. Forklift Systems, Inc., 510 U.S. 17, 21 (1993) (quotations and citations omitted). Though the harassment was concentrated in a short period, we find the underlying remarks sufficiently severe to pass this high bar. To insult someone's sincere religious beliefs is profoundly insulting. Given the gravity of the choice Complainant faced, any reasonable employee in his position would have been understandably and deeply wounded by the discriminatory insult and ridicule permeating his workplace.

We hold the Agency vicariously liable for this hostile work environment since it has not shown that it took any corrective action once learning of the harassment. See Faragher v. City of Boca Raton, 524 U.S. 775, 807 (1998) (the employer has the burden to demonstrate it "exercised reasonable care to prevent and correct promptly [the] harassing behavior"). The Agency neglected its duty to ensure that its employees can freely request religious accommodation without intimidation and interference from their peers.

CONCLUSION

Accordingly, we reverse the Agency's final order and remand to the Agency for proceedings on relief and damages per the orders below.

ORDER

The Agency shall take the following remedial actions:

1. Within **sixty (60) calendar days** from the date this decision is issued, the agency shall issue Complainant an unconditional offer of reinstatement to his prior position of Canine Law Enforcement Office at the Agency's Washington, D.C. or a substantially equivalent position. Complainant's placement into the position shall be retroactive to January 28, 2022. Complainant shall be placed in the grade and step level that he would be in with satisfactory performance had he not been removed.

The Agency's offer shall provide Complainant with **fifteen (15) calendar days** from receipt of the offer to notify the Agency of whether he accepts or declines the offer.

Failure to accept the offer within **fifteen (15) calendar days** will be considered a declination of the offer, unless Complainant can show that circumstances beyond his control prevented a response within the time limit. Any back pay liability shall cease to accrue with either the actual placement of Complainant into the position or with the date the offer was declined.

2. Within **sixty (60) calendar days** of the date this decision is issued, the Agency shall rescind and expunge the Notice of Removal issued to Complainant, effective January 28, 2022, and any reference thereto, from Complainant's official personnel file, and any other associated records. The Agency shall issue written notice to Complainant that it rescinded the January 28, 2022, Notice of Removal and expunged all references to the Notice of Removal.

3. Within **sixty (60) calendar days** of the date this decision is issued, the Agency shall determine the appropriate amount of back pay, with interest, and other benefits due Complainant, pursuant to 29 C.F.R. § 1614.501. The back pay amount shall be computed in the manner prescribed by 5 C.F.R. § 550.805. The Complainant shall cooperate in the Agency's efforts to compute the amount of back pay and benefits due and shall provide all relevant information requested by the Agency. If there is a dispute regarding the exact amount of back pay and/or benefits, the Agency shall issue a check to the Complainant for the undisputed amount within sixty (60) calendar days of the date the Agency determines the amount it believes to be due. The Complainant may petition for enforcement or clarification of the amount in dispute. The petition for clarification or enforcement must be filed with the Compliance Officer, at the address referenced in the statement entitled "Implementation of the Commission's Decision."

Complainant may, within thirty (30) calendar days of filing his tax return for the year in which they received the lump sum back pay amount, submit a request for reimbursement to the Agency (not the EEOC Office of Federal Operations). Complainant has the burden of establishing the amount of increased tax liability, if any. The issue of adverse tax consequences (if applicable) shall be resolved within 120 days of the date Complainant submits his request for reimbursement.

Complainant is advised that any claim for reimbursement should include the tax documentation and calculations showing the tax liability that Complainant actually incurred for each year of the back-pay period, the tax liability that Complainant would have incurred in each of those years if Complainant had received the back pay in the form of a regular salary, and the difference in the

amounts (i.e. tax liability that Complainant incurred solely as a result of Complainant's receipt of the lump-sum back-pay award).

If applicable, Complainant may provide documentation to support reimbursement of any costs and fees incurred from hiring a certified public accountant to calculate the amount of increased tax liability. Within sixty (60) calendar days of receipt of Complainant's claim and supporting documents, the Agency shall pay the amount of adverse tax consequences and associated attorney or CPA costs and fees.

4. Within **120 calendar days** of the date this decision is issued the Agency shall conduct and complete a supplemental investigation to determine whether Complainant is entitled to compensatory damages. In so doing, the Agency shall:

a. Issue a notice to Complainant of his right to submit evidence based on our guidance in Carle v. Dep't of the Navy, EEOC Appeal No. 01922369 (Jan. 5, 1993) and request evidence from Complainant in support of compensatory damages. The Notice shall provide Complainant with 30 calendar days to respond (with an option and instructions to request an extension in the case of extenuating circumstances). Complainant has a duty to cooperate with Agency's investigation to determine compensatory damages, including responding to agency requests for documentation or completing agency forms.

b. Issue a new final agency decision ("Compensatory Damages FAD") based on the findings of the supplemental investigation. The Compensatory Damages FAD shall state the amount (if any) of compensatory damages owed to Complainant and explain how the Agency determined that amount. The Compensatory Damages FAD shall include appeal rights to the Commission.

c. Within **60 calendar days** of the date the Compensatory Damages FAD is issued, the Agency shall pay Complainant the amount of compensatory damages it determined are owed. If there is a dispute over the exact amount of compensatory damages owed, the Agency shall pay the undisputed amount to Complainant. If Complainant disagrees with the Agency's award, they may challenge the Agency's decision on the amount of compensatory damages by filing an appeal of the Compensatory Damages FAD with the Commission. Instructions on how to appeal, including the deadline to file, will be included in the appeal rights portion of the Compensatory Damages FAD.

5. Within **90 calendar days** of the date this decision is issued, the responsible management officials shall complete four hours of online or live training on the Agency's obligations under Title VII with an emphasis on accommodating employee's religious practices and preventing hostile work environment. For assistance in obtaining the necessary training, the Agency may contact the Commission's Outreach, Training and Engagement Division via email, at FederalTrainingandOutreach@eeoc.gov. The Agency shall provide the Compliance Officer with proof of attendance, as well as the contents and materials it used for the training. If the responsible management officials have left the Agency's employment, then the Agency shall furnish documentation of his/her/their departure date.

6. Within **120 calendar days** from the date this decision is issued, the Agency shall consider disciplining the responsible employees for their actions violating Title VII found to have occurred in this decision. *The Commission does not consider training to be disciplinary action.* The Agency shall report its decision to the Compliance Officer. If the Agency decides to take disciplinary action, it shall identify the action taken. If the Agency decides not to take disciplinary action, it shall set forth the reason(s) for its decision not to impose discipline. If these individuals have left the Agency's employ, the Agency shall furnish documentation of their departure dates.

7. Within **30 calendar days** of the date this decision is issued, the Agency shall post a notice in accordance with the section listed below, entitled "Posting Order." The Agency shall provide the Compliance Officer with the original signed and dated notice, reflecting the dates that the notice was posted, along with evidence that the notice was physically posted at the facility and electronically.

POSTING ORDER (G0617)

The Agency is ordered to post, at its Law Enforcement Unit, Management Division located in Washington, D.C., copies of the attached notice. Copies of the notice, after being signed by the Agency's duly authorized representative, shall be posted **both in hard copy and electronic format** by the Agency within 30 calendar days of the date this decision was issued, and shall remain posted for 60 consecutive days, in conspicuous places, including all places where notices to employees are customarily posted. The Agency shall take reasonable steps to ensure that said notices are not altered, defaced, or covered by any other material.

The original signed notice is to be submitted to the Compliance Officer as directed in the paragraph entitled "Implementation of the Commission's Decision," within 10 calendar days of the expiration of the posting period. The report must be in digital format and must be submitted via the Federal Sector EEO Portal (FedSEP). See 29 C.F.R. § 1614.403(g).

ATTORNEY'S FEES (H0124)

If Complainant has been represented by an attorney (as defined by 29 C.F.R. § 1614.501(e)(1)(iii)), they are entitled to an award of reasonable attorney's fees incurred in the processing of the complaint. 29 C.F.R. § 1614.501(e). The award of attorney's fees shall be paid by the Agency. The attorney shall submit a verified statement of fees to the Agency -- **not** to the Equal Employment Opportunity Commission, Office of Federal Operations -- within thirty (30) calendar days of receipt of this decision. The Agency shall then process the claim for attorney's fees in accordance with 29 C.F.R. § 1614.501.

IMPLEMENTATION OF THE COMMISSION'S DECISION (K0719)

Under 29 C.F.R. § 1614.405(c) and §1614.502, compliance with the Commission's corrective action is mandatory. Within seven (7) calendar days of the completion of each ordered corrective action, the Agency shall submit via the Federal Sector EEO Portal (FedSEP) supporting documents in the digital format required by the Commission, referencing the compliance docket number under which compliance was being monitored. Once all compliance is complete, the Agency shall submit via FedSEP a final compliance report in the digital format required by the Commission. See 29 C.F.R. § 1614.403(g). The Agency's final report must contain supporting documentation when previously not uploaded, and the Agency must send a copy of all submissions to the Complainant and his/her representative.

If the Agency does not comply with the Commission's order, the Complainant may petition the Commission for enforcement of the order. 29 C.F.R. § 1614.503(a). The Complainant also has the right to file a civil action to enforce compliance with the Commission's order prior to or following an administrative petition for enforcement. See 29 C.F.R. §§ 1614.407, 1614.408, and 29 C.F.R. § 1614.503(g). Alternatively, the Complainant has the right to file a civil action on the underlying complaint in accordance with the paragraph below entitled "Right to File a Civil Action." 29 C.F.R. §§ 1614.407 and 1614.408. A civil action for enforcement or a civil action on the underlying complaint is subject to the deadline stated in 42 U.S.C. 2000e-16(c) (1994 & Supp. IV 1999).

If the Complainant files a civil action, the administrative processing of the complaint, including any petition for enforcement, will be terminated. See 29 C.F.R. § 1614.409.

Failure by an agency to either file a compliance report or implement any of the orders set forth in this decision, without good cause shown, may result in the referral of this matter to the Office of Special Counsel pursuant to 29 C.F.R. § 1614.503(f) for enforcement by that agency.

STATEMENT OF RIGHTS - ON APPEAL
RECONSIDERATION (M0425)

The Commission may, in its discretion, reconsider this appellate decision if Complainant or the Agency submits a written request that contains arguments or evidence that tend to establish that:

1. The appellate decision involved a clearly erroneous interpretation of material fact or law; or
2. The appellate decision will have a substantial impact on the policies, practices, or operations of the agency.

Requests for reconsideration must be filed with EEOC's Office of Federal Operations (OFO) **within thirty (30) calendar days** of receipt of this decision. If the party requesting reconsideration elects to file a statement or brief in support of the request, **that statement or brief must be filed together with the request for reconsideration.** A party shall have **twenty (20) calendar days** from receipt of another party's request for reconsideration within which to submit a brief or statement in opposition. See 29 C.F.R. § 1614.405; Equal Employment Opportunity Management Directive for 29 C.F.R. Part 1614 (EEO MD-110), at Chap. 9 § VII.B (Aug. 5, 2015).

Complainant should submit their request for reconsideration, and any statement or brief in support of their request, via the EEOC Public Portal, which can be found at <https://publicportal.eeoc.gov/Portal/Login.aspx>. Alternatively, Complainant can submit their request and arguments to the Director, Office of Federal Operations, Equal Employment Opportunity Commission, via regular mail addressed to P.O. Box 77960, Washington, DC 20013, or by certified mail addressed to 131 M Street, NE, Washington, DC 20507. In the absence of a legible postmark, a complainant's request to reconsider shall be deemed timely filed if OFO receives it by mail within five days of the expiration of the applicable filing period. See 29 C.F.R. § 1614.604.

An agency's request for reconsideration must be submitted in digital format via the EEOC's Federal Sector EEO Portal (FedSEP). See 29 C.F.R. § 1614.403(g). Either party's request and/or statement or brief in opposition must also include proof of service on the other party, unless Complainant files their request via the EEOC Public Portal, in which case no proof of service is required.

Failure to file within the 30-day time period will result in dismissal of the party's request for reconsideration as untimely, unless extenuating circumstances prevented the timely filing of the request. **Any supporting documentation must be submitted together with the request for reconsideration.** The Commission will consider requests for reconsideration filed after the deadline only in very limited circumstances. See 29 C.F.R. § 1614.604(f).

COMPLAINANT'S RIGHT TO FILE A CIVIL ACTION (R0124)

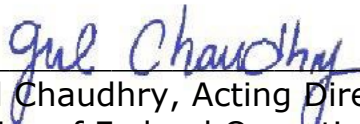
This is a decision requiring the Agency to continue its administrative processing of your complaint. However, if you wish to file a civil action, you have the right to file such action in an appropriate United States District Court **within ninety (90) calendar days** from the date that you receive this decision. In the alternative, you may file a civil action **after one hundred and eighty (180) calendar days** of the date you filed your complaint with the Agency, or filed your appeal with the Commission. If you file a civil action, you must name as the defendant in the complaint the person who is the official Agency head or department head, identifying that person by their full name and official title. Failure to do so may result in the dismissal of your case in court. "Agency" or "department" means the national organization, and not the local office, facility or department in which you work. **Filing a civil action will terminate the administrative processing of your complaint.**

RIGHT TO REQUEST COUNSEL (Z0815)

If you want to file a civil action but cannot pay the fees, costs, or security to do so, you may request permission from the court to proceed with the civil action without paying these fees or costs. Similarly, if you cannot afford an attorney to represent you in the civil action, you may request the court to appoint an attorney for you. **You must submit the requests for waiver of court costs or appointment of an attorney directly to the court, not the Commission.** The court has the sole discretion to grant or deny these types of requests.

Such requests do not alter the time limits for filing a civil action (please read the paragraph titled Complainant's Right to File a Civil Action for the specific time limits).

FOR THE COMMISSION:



Gul Chaudhry, Acting Director
Office of Federal Operations

August 4, 2025
Date