

STATE OF CONNECTICUT
OFFICE OF PUBLIC HEARINGS

December 10, 2015

CHRO No. 1230397 - Commission on Human Rights and Opportunities, ex rel., Andrea Sokolowski, Complainant v. Trinity Christian School, Respondent

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Ruling on Motion to Dismiss

The complainant, Andrea J. R. Sokolowski, filed an Affidavit of Illegal Discriminatory Practice (the complaint) with the Connecticut Commission on Human Rights and Opportunities (the CHRO) on April 19, 2011. In her complaint she alleged that Trinity Christian School (respondent) terminated her employment based on her sex, marital status and pregnancy in violation of the Connecticut Fair Employment Practices Act, Conn. Gen. Stat. §§ 46a-60(a)(1), 46a-60(a)(7) (CFEPA) and 46a-58(a), seeking to enforce the substantive provisions of Title VII of the Civil Rights Act of 1964, 42 U.S.C. 2000e, et seq. (Title VII).

On March 9, 2015, the respondent filed its second motion to dismiss this matter; the first one having been denied. (See CHRO No. 1110391, Commission on Human Rights and Opportunities ex rel. Andrea J.R. Sokolowski v. Trinity Christian School, February 1, 2013, RULING ON RESPONDENT'S MOTION TO DISMISS, Ellen E. Bromley, Referee.) On April 24, 2015, the CHRO filed a Memorandum of Law in Opposition to Respondent's Motion to Dismiss, which included by reference its Memorandum of Law in Opposition, dated December 13, 2012. On June 4, 2015, the respondent filed a Reply Memorandum to Opposition to Motion to Dismiss. For the following reason, the motion is denied.

After the filing of the motion to dismiss (arguing, based on Rweyemamu v. CHRO, 98 Conn. 646 (2006), that section 52-571b(d) requires the dismissal of this action), the objection (explaining that the Rweyemamu decision does not stand for that proposition but does affirm the availability of the "ministerial exception"), and the response to the objection (arguing, that the complainant is a ministerial employee), the dispute remains the same as in the October 2012 motion to dismiss, i.e., the applicability of the "ministerial exception." Therefore, the previous ruling on that question should be honored.

The respondent's 2015 motion to dismiss misreads the Rweyemamu decision. The court clearly stated that "the employment of ministers and clergy by a religious institution is a 'religious belief' under subsection (d). It did so, immediately after reasoning that "If we interpreted the 'exercise' of religion language used in subsections (a) and (b) to apply to all religious beliefs, including a religious institution's employment of ministers and clergy, we would render the language exempting religious beliefs from the application of the statute superfluous." p.330-331. The Rweyemamu court then concluded that:

"Because we are persuaded that the employment practices of religious institutions are a form of 'religious belief' for purposes of subsection (d), we conclude that the language of that subsection prevents the application of the strict scrutiny test of subsections (a) and (b). Section 52-571b, therefore, does not displace the ministerial exception. Accordingly, the trial court affirmed the commission's application of the ministerial exception and its determination that it lacked jurisdiction," 98 Conn. App. 646, 665 (2006).

There was no dispute in the Rweyemamu case whether the complainant, a Roman Catholic priest, was a ministerial employee of the diocese. That decision sheds no light on the principles to be used to determine when a person is a "minister" or "clergy" or "ministerial employee" in the eyes of the law. (Even the United States Supreme Court declined to "adopt a rigid formula for deciding when an employee qualifies as a minister," holding only that the exception did apply to the complainant teacher, "given all the circumstances of her employment." Hosanna-Tabor v. EEOC, 132 S.Ct. 694, 707 (2012).)

The commission states that the complainant is not a minister.¹ (The complainant did not file a response to this motion to dismiss, but asserted that the complainant is not a minister in her opposition to the October 2012 motion to dismiss. The complainant's attorney, noted that the complainant "was fired because she was pregnant and unmarried," asserts that the complainant was not employed as a "minister," but only as "an assistant to a full time salaried pre-school teacher and as a child-care provider in a before and after school program.") The respondent's reply to the commission's 2015 opposition is essentially the same argument that it made in its 2012 motion to dismiss.²

¹ The commission argues that, "the complainant's job function does not fall within the scope of religious beliefs that § 52-571b(d) was enacted to cover.... Respondent cannot make a case that the Complainant performed any duties even remotely akin to a 'minister'. Here the complainant was merely watching preschool children at the Respondent's before and after pre-school program. She did not teach any type of religious education or engage in any type of religious activities. The Complainant merely kept a watchful eye on children who came to school before the beginning of regular school activities, in addition to monitoring the children after school until their parents picked them up. Thus, this case is not comparable to Rweyemamu because the complainant is a nonministerial employee, not an embodiment of the church's message. She was not performing religious functions, as was the priest in Rweyemamu." CHRO 2015-brief p. 3.

² Once again, the respondent asserts that the complainant is one of its ministers. To support this assertion, Respondent's counsel points to the fact that the complainant signed a document acknowledging that she had "received a copy of the school Staff Manual and that she had read it, understood it, was familiar with its contents, and would "comply with the standards that it has established." (R-reply brief p.4, Exhibit B, p.108.) Respondent's counsel argues that the complainant "engaged in conduct with violated the statement of faith of the biblical [principles] under which Trinity United Methodist Church and Trinity Christian School operate, the Faculty and Staff Handbook and the biblical standard for professional conduct as expressed in Luke Chapter 6 Verse 40." The Respondent also argues that "it is axiomatic that Trinity considered Sokolowski to [be] a minister because it held her out to be. The most dispositive evidence is that Sokolowski's written acknowledgement that she agreed to

The respondent, in effect, is seeking a determination at this juncture, without an evidentiary hearing, of whether the documents attached to his reply brief, and the assertions contained in the reply brief, support a finding that the complainant's duties are "inextricably intertwined in the school's mission and [her] role in fulfilling it."

Having addressed the respondent's assertions regarding the scope of section 52-571b, this latest motion raises no new arguments to support dismissing this case at this point in the proceedings. The motion is denied.

It is so ordered this 10th day of December 2015.



Alvin R. Wilson, Jr.
Presiding Human Rights Referee

comply with the terms and [principles] contained in the Trinity manual and handbook as a term of her employment.... Even a cursory reading of the first few sections is sufficient to ascertain the overarching theme; Trinity expects its faculty and staff to live according to the [principles] of Trinity Methodist Church and to promote the church's teachings. In fact, the last paragraph of the Manual's introduction plainly states 'your ministry at Trinity Christian School is important. May the Lord bless you and guide you as you serve Him.' (R-reply brief pp. 4-5, Exhibit B, p.43.)

The respondent continues, "it is equally clear that part of Sokolowski's daily duties were to spread the church's message and carry out its mission. For example, section 3.4.3 of the Manual under the heading of 'General Responsible (sic) and Duties', states: 'Duties will involve ... those responsibilities related to the spiritual ministry to which you are called – the training of the child in Christian faith and practices.' Similarly, section 3.4.12 of that Manual states, 'Teachers are expected to integrate Biblical concepts with every subject they teach.'" (R-reply brief p. 5, Exhibit B, p. 48).