

THIRD CIRCUIT UPHOLDS DISMISSAL OF RELIGIOUS DISCRIMINATION LAWSUIT BASED ON STRICT POLICE DEPARTMENT UNIFORM POLICY

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In Webb v. City of Philadelphia, 2009 WL 915681 (3d Cir. April 7, 2009), the Third Circuit Court of Appeals affirmed the entry of summary judgment in favor of the City of Philadelphia. Webb, a City police officer, alleged religious discrimination under Title VII in connection with her desire as a practicing Muslim to wear a headscarf while on duty and in uniform.

Webb initially requested permission to wear the headscarf, but was denied pursuant to a department directive that prescribed the approved police uniform and equipment but did not authorize religious symbols or garb as part of that uniform. After filing a complaint with the EEOC, Webb wore her headscarf to work and was sent home after refusing to remove it. This occurred on three consecutive days and Webb was warned that her conduct might result in discipline. Despite the warning, Webb again reported to work with the headscarf and was given a 13 day suspension for insubordination.

The District Court determined that Webb established a prima facie case of religious discrimination because: “(1) she holds a sincere religious belief that conflicts with a job requirement; (2) she informed her employer of the conflict; and (3) she was disciplined for failing to comply with the conflicting requirements.” Nevertheless, her claim was dismissed because the City established that “reasonable accommodation would work on undue hardship.” The Third Circuit agreed with this analysis because the City articulated the importance, as a para-military entity, of religious neutrality in working and dealing with the public. In sum, the Court sided with the City’s concern that the values of impartiality, religious neutrality, uniformity, and the subordination of personal preference would be severely damaged. Notably, the Third Circuit distinguished its decision ten years earlier that the City of Newark had to allow religious exemptions from its “no beards” policy where it permitted medical exemptions. F.O.P. Newark Lodge No. 12 v. City of Newark, 170 F.3d 359 (3d Cir. 1999). The Third Circuit held that Philadelphia’s directive was different because it contained no exceptions. Finally, the Court found that there was no competent evidence that other officers had been permitted to display religious symbols on their uniform. The Webb decision demonstrates that liability can be avoided in this area if the department’s regulation is clear and strictly applied. At the same time, the outcome for a municipality is less likely to be favorable if there are exceptions in the regulation or in its application to each member of the department.