

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

PAUL ROYSE,	)	
	)	
Plaintiff,	)	
	)	Case No. 06Cv509CVE-FHM
vs.	)	
	)	Jury Trial Demand
STATE OF OKLAHOMA,	)	
OFFICE OF JUVENILE AFFAIRS,	)	
ROBERT E. "GENE" CHRISTIAN,	)	
in his individual and official capacities, and	)	
FRED FINCHEM, in his individual and	)	
official capacities,	)	
	)	
Defendants.	)	

**PLAINTIFF’S VERIFIED AMENDED COMPLAINT**

Comes now the plaintiff, PAUL ROYSE, and sues the STATE OF OKLAHOMA OFFICE OF JUVENILE AFFAIRS (“OJA”), ROBERT E. “GENE” CHRISTIAN, in his individual and official capacity as executive Director of the OJA, and FRED FINCHEM, in his individual and official capacity as head of security for the OJA, and states as follows:

**I. INTRODUCTION**

1. Plaintiff was employed by the OJA, a department of the State of Oklahoma. He informed his employer that his religious beliefs prohibited him from working on Sundays, which was his Sabbath. Rather than attempt to accommodate his religious beliefs, Defendants terminated his employment.

2. Plaintiff seeks judicial review of the Defendants’ violations of the First and Fourteenth Amendments to the United States Constitution, Title VII of the Civil Rights Act of 1964, and the Oklahoma Religious Freedom Act, 51 Ok. Stat. § 251 *et seq.*

3. Plaintiff seeks an order declaring Defendants' actions to be in violation of the rights to freedom of religion, due process and equal protection, as guaranteed by the First and Fourteenth Amendments to the United States Constitution, Title VII, and the Oklahoma Religious Freedom Act, and permanently enjoining such violations.

4. Plaintiff also seeks damages based on Defendants' policies and actions that violated his constitutional and statutory rights.

5. On July 22, 2005, the Plaintiff filed a complaint with the EEOC for religious discrimination pursuant to Title VII. A right to sue letter was issued on July 31, 2006. Plaintiff therefore brings this action in Federal District Court pursuant to 29 C.F.R. § 1614.110(b).

## **II. JURISDICTIONAL ALLEGATIONS**

6. Jurisdiction and venue in this Court are predicated on Title 28 U.S.C. § 1331(a), Title 28 U.S.C. § 1343, and Title 28 U.S.C. § 2201.

## **III. PARTIES**

7. Plaintiff Paul Royse is an individual and is, and was at all times relevant herein, a resident of Tulsa County, Oklahoma. Plaintiff worked at the Radars Center for the State of Oklahoma OJA, which is in the city of Sand Springs, Tulsa County, prior to his termination.

8. Defendant OJA is a State of Oklahoma agency and operates the Radar Center.<sup>1</sup>

9. Defendant Robert E. "Gene" Christian is the executive director for the OJA, and is sued in his individual and official capacity.

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<sup>1</sup> Plaintiff is only pursuing his Title VII and Oklahoma Religious Freedom Act claims against the OJA. He is not pursuing any constitutional claims against the OJA. Rather, the constitutional claims are brought against Robert Christian and Fred Finchem, in their individual and official capacities.

10. Defendant Fred Finchem is the head of security for OJA and is being sued in his individual and official capacity.

#### **IV. FACTUAL ALLEGATIONS**

11. Plaintiff is a Christian and attends the Crosstown Church of Christ in Tulsa, Oklahoma.

12. Plaintiff has a sincerely held religious belief that God requires church service attendance on Sundays. He has not missed a Sunday church service since at least December of 2004.

13. Plaintiff was hired on July 12, 2004, by the OJA to work as a Police Officer II<sup>2</sup> at the Radars Center.

14. On July 23, 2004, Plaintiff informed the head of security that he needed Sundays off so he could attend church.

15. The head of security accommodated Plaintiff's religious beliefs by scheduling him to work the night shift.

16. Working the Sunday night shift did not violate Plaintiff's religious beliefs as it did not prevent him from attending his Sunday evening worship service.

17. In or around November of 2004, Fred Finchem became the new head of security.

18. In December of 2004, Plaintiff informed Tommy McDonnell, the night supervisor, that due to his sincerely held religious beliefs he could not work Sundays during church services.

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<sup>2</sup>Plaintiff's job title as "Police Officer II" is misleading. Plaintiff did not possess police powers, nor did he receive police officer training. He was not certified by the stated agency that licenses police officers. A more proper title would be a security officer or juvenile correctional officer.

19. At the end of February 2005, Mike Hayden, the day supervisor, and Mr. McDonnell informed Plaintiff that they wanted him to go to the day shift and work all Sundays.

20. Mr. Hayden informed Plaintiff that his “buddy” wanted to take Plaintiff’s night shift.

21. Plaintiff reminded Mr. Hayden and Mr. McDonnell that he could not work that shift because of his religious beliefs of having to attend church on Sunday morning and Sunday evening.

22. Plaintiff informed Mr. Hayden and Mr. McDonnell that he would work the day shift if it did not require him missing his church services on Sunday morning and evening.

23. Consequently, out of the total of 168 hours per week, Plaintiff only needed approximately 4 hours off to attend his worship services. Defendants were free to schedule Plaintiff during the remaining 164 hours.

24. A few days later, on February 28, 2005, Plaintiff received a letter from Mr. Finchem, the head of security, instructing him to see Mike Hayden about his days off and that he was going to the day shift temporarily. (The letter is attached as Exhibit A.)

25. On March 3, 2005, at 6:00 A.M., Plaintiff was given a letter by Mr. Hayden stating his shift would be on Sundays during church hours. (The letter is attached as Exhibit B.)

26. Mr. Hayden knew that Plaintiff could not work these hours as he was previously informed by Plaintiff about his religious convictions.

27. On March 3, 2005, at 8:00 A.M., Plaintiff sent an e-mail to Mr. Finchem informing him that Plaintiff could not work the shift due to his religious beliefs and requested an accommodation that he be allowed to remain on his shift. (The letter is attached as Exhibit C.)

28. Permitting Plaintiff to remain on the night shift would have been a reasonable accommodation as the OJA was short on help for the night shift.

29. The OJA had accommodated a Seventh Day Adventist a couple months before Plaintiff's request. The OJA had given this person weekends off to accommodate his religious beliefs about not working on his Sabbath, even though this person was a recent hire and did not have seniority, and even though the OJA was short of staff on the weekends.

30. Mr. Finchem did not respond to Plaintiff's email, so Plaintiff e-mailed him again, and faxed the Human Resources department, requesting an accommodation, and informing them that if they could not accommodate his religious beliefs, his last day of employment would be March 23, 2005. (Attached as Exhibit D.)

31. In this email, Plaintiff also requested that he be allowed to use a holiday for the following two Sundays to permit him to attend church.

32. On March 4, the next morning, Plaintiff received a letter from Mr. Finchem saying he would not accommodate Plaintiff's request as he could not let too many people off on Sundays, and said they accepted the letter as a letter of resignation and that it was not rescindable and he wished Plaintiff well. (The letter is attached as Exhibit E.)

33. Defendants terminated Plaintiff because he would not compromise his religious beliefs.

34. It was never Plaintiff's intent or desire to quit his employment if Defendants would accommodate his religious beliefs.

35. Defendants never even attempted to accommodate Plaintiff's religious beliefs.

36. There were numerous employees that Defendants could have chosen to work on the Sunday day shift, and many with less seniority than Plaintiff.

37. In the alternative, Defendants' refusal to accommodate Plaintiff's religious beliefs constituted a constructive discharge.

38. In the OJA manual, it stated that a person can file a discrimination grievance up to six months after the incident. In approximately June of 2005, Plaintiff filed a grievance with the Discrimination Officer of the OJA, claiming that the OJA discriminated against him by refusing to accommodate his religious beliefs and terminating him.

39. As required by the OJA manual, an OJA investigator interviewed Plaintiff concerning the situation.

40. However, contrary to the OJA manual, the investigator never sent Plaintiff a written report concerning his investigation or the grievance. (Relevant portions of the OJA manual are attached as Exhibit F.)

41. Plaintiff filed a charge with the Oklahoma Human Rights Commission and the EEOC on July 22, 2005. (The charge is attached as Exhibit G.)

42. About a year later, Plaintiff was issued the right to sue letter on July 31, 2006. (Attached as Exhibit H.)

43. Plaintiff never received a poor job evaluation. Plaintiff had excellent work attendance in 2005. He performed his duties as a Police Officer II with excellence.

44. After Plaintiff was no longer employed, Defendants stated that the assignments were only going to be for a couple weeks until the new employees completed training.

45. Defendants never informed Plaintiff that the transfer was going to only be for two weeks.

46. Defendants knew, or should have known, that their policies and actions as stated herein violated clearly established law.

47. All of the actions alleged to be taken by Defendants were taken under color of state law.

**V. FIRST CLAIM FOR RELIEF—VIOLATION OF TITLE VII OF THE CIVIL RIGHTS ACT OF 1964.<sup>3</sup>**

48. Plaintiff realleges all matters set forth in the preceding paragraphs and incorporates them herein.

49. Plaintiff has a sincerely held religious belief to not work on Sundays during the morning and evening, to permit him to worship at his church during those times.

50. Plaintiff's religious beliefs do not prohibit him from working early in the morning on Sundays (before his worship service begins) or later in the evening (after his worship service ends).

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<sup>3</sup> The Title VII claim is only being pursued against the OJA.

51. Plaintiff's religious beliefs conflict with an employment practice.

52. In July of 2004, Plaintiff notified Defendant OJA concerning this conflict, and requested an accommodation of his sincerely held religious beliefs.

53. From July of 2004 until March of 2005, Defendant OJA accommodated Plaintiff's religious beliefs by not scheduling him to work the Sunday day shift.

54. In March of 2005, Defendant OJA refused to continue accommodating Plaintiff's religious beliefs.

55. Defendant OJA failed to reasonably accommodate Plaintiff's sincerely held religious beliefs.

56. In March of 2005, Defendant OJA refused to even attempt to accommodate Plaintiff's sincerely held religious beliefs.

57. When Defendant OJA received Plaintiff's March 3, 2005, letter requesting an accommodation, its first and only response was to terminate his employment.

58. Defendant OJA could have accommodated Plaintiff's religious beliefs without suffering any hardship.

59. Defendant OJA's refusal to accommodate Plaintiff's religious beliefs violated Plaintiff's civil rights under Title VII of the Civil Rights Act of 1964 (42 U.S.C. § 2000-e et seq.)

60. Defendant OJA's decision to respond to Plaintiff's letter of March 3, 2005 (Exhibit D) by treating it as an unrescindable letter of resignation, rather than attempting to accommodate Plaintiff's religious beliefs, violated Title VII.

**VI. SECOND CLAIM FOR RELIEF—VIOLATION OF FREE EXERCISE CLAUSE OF THE FIRST AMENDMENT OF THE UNITED STATES CONSTITUTION.**



61. Plaintiff realleges all matters set forth in the preceding paragraphs and incorporates them herein.

62. Plaintiff has a sincere religious belief that he is to not work on the Sabbath, which to Plaintiff, is Sunday. Consequently, Plaintiff cannot work either the morning or evening shift on Sundays as it would prohibit him from attending his worship services.

63. Defendants refused to accommodate Plaintiff's religious beliefs and terminated his employment.

64. Defendants have a policy and practice of not attempting to reasonably accommodate all employees' days of worship.

65. Defendants' policy and practice is not neutral, nor generally applicable.

66. Defendants' policy and actions of treating Plaintiff's March 3, 2005, letter as an unrescindable letter of resignation, rather than attempt to accommodate Plaintiff's religious beliefs, were not neutral, nor generally applicable.

67. There is no compelling state interest sufficient to justify the Defendants' discriminatory treatment of Plaintiff.

68. The Defendants' refusal to allow Plaintiff to have Sundays off to worship is not the least restrictive means to accomplish any government interest.

69. The Defendants' policy and actions as described herein are not the least restrictive means of achieving a governmental interest.

## **VII. THIRD CLAIM FOR RELIEF—VIOLATION OF EQUAL PROTECTION.**

70. Plaintiff realleges all matters set forth in the preceding paragraphs and incorporates them herein.

71. Defendants have a policy and practice of unequally accommodating employees' days off.

72. Defendants refused to permit Plaintiff to take his Sabbath off, and terminated his employment.

73. Defendants do accommodate the requests of other employees for certain days off for religious and other reasons.

74. Similarly situated employees are not treated alike by the Defendants.

75. This unequal treatment constitutes a violation of the Plaintiff's equal protection rights as guaranteed by the Fourteenth Amendment of the United States Constitution.

**VIII. FOURTH CLAIM FOR RELIEF—VIOLATION OF THE DUE PROCESS CLAUSE OF THE FOURTEENTH AMENDMENT OF THE UNITED STATES CONSTITUTION.**

76. Plaintiff realleges all matters set forth in the preceding paragraphs and incorporates them herein.

77. Defendants have a policy and practice of unequally accommodating employees' days off.

78. Defendants have interpreted and enforced this policy in an unconstitutional and discriminatory manner.

79. This policy lends itself to discriminatory enforcement by government officials in an arbitrary and capricious manner.

80. This policy, on its face and as applied to deny the Plaintiff the right to not work on his day of Sabbath, is an unconstitutional violation of the Plaintiff's due process rights under the United States Constitution.

**X. FIFTH CLAIM FOR RELIEF—VIOLATION OF THE OKLAHOMA RELIGIOUS FREEDOM ACT.**

81. Plaintiff realleges all matters set forth in the preceding paragraphs and incorporates them herein.

82. Plaintiff has a sincere religious belief that he is to not work on the Sabbath, which to Plaintiff, is Sunday. Consequently, Plaintiff cannot work either the morning or evening shift on Sundays as it would prohibit him from attending his worship services.

83. Defendants have refused to accommodate Plaintiff's religious beliefs and terminated his employment.

84. There is no compelling state interest sufficient to justify the Defendants' discriminatory treatment of Plaintiff.

85. Defendants' actions are not the least restrictive means to accomplish any government interest.

**IX. PRAYER FOR RELIEF**

WHEREFORE, Plaintiff requests the following relief:

- A. That this Court enter a judgment declaring (1) the Defendant OJA violated Plaintiff's rights under Title VII, (2) Defendants Robert Christian and Fred Finchem violated Plaintiff's constitutional rights under the Free Exercise, Due Process, and Equal Protection Clauses of the First and Fourteenth Amendments to the United States Constitution, and (3) Defendants OJA, Robert Christian and Fred Finchem violated Plaintiff's rights under the Oklahoma Religious Freedom Act, 51 Ok. St. § 251 *et seq.*;

- B. That this Court order Defendants OJA, Robert Christian and Fred Finchem to pay Plaintiff damages;
- C. That this Court order Defendants to reinstate Plaintiff to his prior position;
- D. That this Court enter a permanent injunction prohibiting Defendants from continuing to illegally discriminate against the Plaintiff;
- E. That this Court grant such other and further relief as to which the Plaintiff may be entitled, including court costs and reasonable attorney's fees, as provided by Title VII, 42 U.S.C. § 1988, and 51 Ok. Stat. § 256.

Dated: February 6, 2007

s/ Joel L. Oster

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**VERIFICATION OF COMPLAINT**

I declare under penalty of perjury, pursuant to 28 U.S.C. § 1746, that I have read the foregoing Verified Amended Complaint and the factual allegations thereof and that to the best of my knowledge the facts alleged therein are true and correct.

Executed this 31st day of January, 2007.

s/ Paul Royse\*  
Paul Royse

\*I certify that I have the signed original of this document, which is available for inspection at any time by the Court or a party to this action.

s/ Joel L. Oster  
Joel L. Oster

**CERTIFICATE OF SERVICE**

I hereby certify that on February 6, 2007, I electronically filed the foregoing with the Clerk of the Court using the EM/ECF system, which will send notification of such filing to the following: Kindanne C. Jones.

By s/Joel L. Oster  
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