



Written by [Bob Adelman](#) on January 14, 2012

Supreme Court's "Ministerial Exception" Ruling

The [case](#) started when a teacher at a Lutheran school in Redford, Michigan, was fired for threatening to sue the school over an alleged discrimination violation. Cheryl Perich was diagnosed with [narcolepsy](#) and took a leave of absence. When she tried to return, she learned that the school had hired someone else to take her place. When she threatened a lawsuit under the Americans with Disabilities Act, she was fired for violating the church's doctrine by pursuing litigation rather than trying to resolve the situation internally.



The Equal Employment Opportunity Commission (EEOC) got involved and filed suit against the school. When the court ruled in favor of the school, the EEOC appealed. The appeals court reversed the decision, and the school took the case to the Supreme Court. At issue were core First Amendment rights: the Establishment Clause and the Free Exercise Clause, to wit: "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof."

Chief Justice John Roberts wrote a 39-page opinion, taking the time to iterate the Founders' intentions in the First Amendment to prohibit governmental interference in the internal affairs of religious groups, especially in their selection of their leaders in particular. He wrote:

The Establishment Clause prevents the government from appointing ministers and the Free Exercise Clause prevents it from interfering with the freedom of religious groups to select their own....

The interest of society in the enforcement of employment discrimination statutes is undoubtedly important. But so too is the interest of religious groups in choosing who will preach their beliefs, teach their faith, and carry out their mission. When a minister who has been fired sues her church alleging that her termination was discriminatory, the First Amendment has struck the balance for us. The church must be free to choose those who will guide it on its way.

The judgment of the Court of Appeals for the Sixth Circuit is reversed.

Bishop William Lori, chairman of the United States Conference of Catholic Bishops' ad hoc committee for religious liberty, said the decision represents "a great day for the First Amendment. The decision makes resoundingly clear the historical and constitutional importance of keeping internal church affairs off limits to the government — because whoever chooses the minister chooses the message."

Providing legal assistance for the school was [The Becket Fund for Religious Liberty](#) whose litigation director, Luke Goodrich, said "The message of today's opinion is clear. The government can't tell a church who should be teaching its religious message. [The decision] is a rebuke to the government, which was trying to regulate how churches select their ministers."

Specifically, the EEOC claimed that Perich's claim of discrimination should be the same whether she worked for a church, a labor union, a social club, or any other group with "free-association rights"



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under the First Amendment. Roberts responded in his opinion:

That ... is hard to square with the text of the First Amendment itself, which gives special solicitude to the rights of religious organizations. We cannot accept the [EEOC's] remarkable view that the religion clauses have nothing to say about a religious organization's freedom to select its own ministers.

Justice Clarence Thomas concurred but said that the decision didn't go far enough. The guarantee of religious freedom under the First Amendment "would be hollow ... if secular courts could [still] second-guess [that] organization's sincere determination that a given employee is a 'minister' under the organization's theological tenets: Uncertainty about whether its ministerial designation will be rejected [by a secular court] and a corresponding fear of liability may cause a religious group to conform its beliefs and practices ... to the prevailing secular understanding."

Nevertheless, the decision was a resounding victory in the ongoing battle between secular and spiritual forces in this country today. Deano Ware, a local attorney who worked with the school from the very beginning of the dispute, said:

For six years I fought the government, sacrificing my practice and livelihood because I believed the government had no right to choose teachers for our small school. In the end, we showed up at the steps of the Supreme Court with our sling and stone, in the company of the Becket Fund and the greater community of faith, fought the government and won. This is a great day for all Americans of every faith and all freedom-loving citizens.



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