

# The Legal Intelligencer

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## Title VII: Protecting Veganism and Other Sincerely Held Ethical and Moral Beliefs

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*Chenzira v. Cincinnati Children's Hosp. Med. Ctr.*, No. 1:11-cv-00917 (S.D. Ohio Dec. 27, 2012), highlights a rarely litigated issue in Title VII cases: what constitutes a religious practice or belief. In *Chenzira*, a customer service representative who worked at an Ohio hospital for more than 10 years was discharged from employment for refusing a flu shot. Sakile Chenzira, a vegan, does not ingest any animal or animal byproducts, and therefore getting vaccinated for the flu, which traditionally has involved inoculating viral strains in fertilized chicken eggs, would violate her religious and philosophical convictions. Chenzira alleged that the hospital had accommodated her request not to be vaccinated for the flu in prior years.

The hospital, via a motion to dismiss, asserted that Chenzira did not state a religious discrimination claim because veganism does not qualify as a religion. The hospital asserted that veganism is simply a dietary preference or social philosophy. Chenzira responded by stating that her practice of veganism is a moral and ethical belief, which is sincerely held with the strength of religious views. Chenzira also cited various Bible verses and provided an essay, "The Biblical Basis of Veganism," in her opposition to the motion to dismiss. The hospital contended that the Bible verses were "cherry-picked," as the Bible also contains verses indicating that it is permissible to consume animal products.

The District Court for the Southern District of Ohio sided with Chenzira, finding that she stated a plausible claim for religious discrimination under Title VII. The court reasoned that Chenzira "could subscribe to veganism with a sincerity equating that of traditional religious views." The court also found persuasive the fact that Chenzira was not alone in espousing her beliefs, while noting that it is not necessary for a plaintiff to show that a religious group espouses the plaintiff's articulated beliefs.

*Chenzira* should serve as a reminder that Title VII's prohibition of religious discrimination is construed broadly. Indeed, a 1972 amendment to Title VII defines religion to include "all aspects of religious observance and practice, as well as belief, unless an employer demonstrates that he is unable to reasonably accommodate an employee's or prospective employee's religious observance or practice without undue hardship on the conduct of the employer's business."

The Equal Employment Opportunity Commission's (EEOC) regulations further explain what is meant by "religious observance, practice and belief." The EEOC notes that "in most cases, whether or not a practice or belief is religious is not at issue." When it is an issue, however, "the commission will define religious practices to include moral or ethical beliefs as to what is right and wrong which are sincerely held with the strength of traditional religious views." The EEOC also notes that "the fact that no religious group espouses such beliefs or the fact that the religious group to which the individual professes to belong may not accept such belief will not determine whether the belief is a religious belief of the employee or prospective employee."

The EEOC regulation is based principally on two U.S. Supreme Court cases, *United States v. Seeger*, 380 U.S. 163 (1965) and *Welsh v. United States*, 398 U.S. 333 (1970). Both are conscientious objector cases involving the interpretation of "religious training and belief" under the Universal Military Training and Service Act (UMTSA), 50 U.S.C. app. §456(j). In *Seeger*, the Supreme Court held that "religious training and belief" covers a "sincere and meaningful belief which occupies

in the life of its possessor a place parallel to that filled by the God of those admittedly qualifying for the exemption.” The *Seeger* court further stated that the statute “does not distinguish between externally and internally derived beliefs.” In *Welsh*, the Supreme Court elaborated on *Seeger*, noting that *Seeger* “held that ‘intensively personal’ convictions which some might find ‘incomprehensible’ or ‘incorrect’ come within the meaning of ‘religious belief’” in the UMTSA. The *Welsh* court reiterated that the religious belief “need not be confined in either source or content to traditional or parochial concepts of religion,” and that “the central consideration in determining whether [an individual’s] beliefs are religious is whether these beliefs play the role of a religion and function as a religion in the [individual’s] life.”

Over the years, Title VII has been applied to various beliefs and practices. For example, courts have held that atheists are protected from religious discrimination under Title VII. (See, e.g., *Young v. Sw. Sav. & Loan Ass’n*, 509 F.2d 140, 144 (5th Cir. 1975).) A member of the World Church of the Creator, which promotes white supremacy, also was found to hold a religious belief protected under Title VII. (See *Peterson v. Wilmur Commc’ns*, 205 F. Supp. 2d 1014, 1023-24 (E.D. Wis. 2002).) Courts, however, have held that the Klu Klux Klan is not a religion protected by Title VII, but is political and social in nature. (See, e.g., *Slater v. King Scoopers*, 809 F. Supp. 809, 810 (D. Colo. 1992).)

The broad application of religious practices and beliefs under Title VII has not been extended to all fair employment practice statutes. For instance, in *Friedman v. S. Cal. Permanente Med. Grp.*, 125 Cal. Rptr. 2d 663 (Cal. Ct. App. 2002), the California Court of Appeals held that veganism is not protected as a “religious creed” under the California Fair Employment and Housing Act, noting that the state statute is not as broad as Title VII.

So what can be learned from *Chenzira* and other cases exploring the bounds of religious protection under Title VII? First, practitioners must recognize that employees expressing strong moral or ethical beliefs, even if not associated with organized religions, may be protected from religious discrimination under Title VII. Second, practitioners should ensure that company managers and supervisors are trained on the scope of Title VII religious protection, so that they do not take adverse action against an employee based on the employee’s religious beliefs, or summarily dismiss religious accommodation requests. Next, companies should be prepared to handle any religious discrimination complaints and all religious accommodation requests on a case-by-case basis, with due consideration given to how the employee expresses his or her beliefs and whether those beliefs may be protected under Title VII (and/or applicable state or local fair employment practices laws). This step-by-step approach should reduce a company’s potential liability exposure for religious discrimination under Title VII.

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