

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

UNITED STATES OF AMERICA and GLEN GREENWOOD

Plaintiffs,

v.

STATE OF OHIO, *et al.*,

Defendants,

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
and GLEN GREENWOOD,

Plaintiffs,

v.

OHIO EMPLOYMENT RELATIONS BOARD, *et al.*,

Defendants.

Case No. 05-CV-799
Judge Gregory L. Frost
Magistrate Judge King

Case No. 05-CV-881
Judge Gregory L. Frost
Magistrate Judge King

PLAINTIFF-INTERVENOR GREENWOOD'S FIRST AMENDED COMPLAINT

Glen Greenwood, through counsel, files his Intervenor's complaint against the above-named Defendants in case No. 05-CV-881 and alleges:

I. *Nature of the Case.*

1. This is an action under Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e, *et seq.*, to correct unlawful employment practices. Glen Greenwood has sincerely held religious beliefs which prohibit him from joining or paying the required fees to the Defendant Ohio Civil Service Employees Association, AFSCME Local 11, AFL-CIO ("OCSEA" or "Union") and its

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affiliates. Mr. Greenwood requested an accommodation of his sincere religious beliefs from the defendant. He offered to pay his union fees to a mutually agreed-upon charity. The Union refused to accommodate him. After suit was filed, the Union retaliated against Mr. Greenwood by countersuing him for essentially all of his wages earned since 1978.

II. *Jurisdiction:*

2. This Court has jurisdiction and venue over this action pursuant to 28 U.S.C. §§ 1331, 1337, 1343, 1345 and 42 U.S.C. § 2000e-5(f)(1)&(3). Plaintiff-Intervenor also seeks a declaration of his rights pursuant to 28 U.S.C. §§ 2201 and 2202.

3. On or about December 9, 2002, Mr. Greenwood filed charges with the United States Equal Employment Opportunity Commission (EEOC) against the OCSEA. The EEOC, on April 30, 2003, issued a Determination finding a violation of law by both the OCSEA and the Ohio State Employment Relations Board.

4. On, September 23, 2005, the EEOC, the original plaintiff, filed suit against the Union to correct unlawful employment practices under Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e, *et seq.* (Title VII). The complaint filed by the EEOC against the Union is premised upon charges filed by Mr. Greenwood against the Union for refusing to accommodate his sincerely held religious beliefs which prohibit him from joining or paying fees to the Union.

III. *Original Plaintiff:*

5. Plaintiff EEOC is charged with the enforcement of Title VII.

IV. *Plaintiff-Intervenor:*

6. Glen Greenwood is a "person" within the meaning of 42 U.S.C. § 2000e(f). Mr. Greenwood intervenes in this litigation pursuant to 42 U.S.C. § 2000e-5(f)(1).

V. *Defendants:*

7. Defendant OSCEA is a "labor organization" within the meaning of 42 U.S.C. § 2000e(d) and (e). It is the exclusive bargaining representative of Mr. Greenwood.

8. Rule 19 Defendants Ohio Environmental Protection Agency ("EPA"), Ohio Department of Administrative Services ("DAS") and Ohio State Employment Relations Board ("SERB") are all agencies of the Rule 19 Defendant State of Ohio. All are "employers" within the meaning of 42 U.S.C. § 2000e (b).

VI. *Facts:*

9. Mr. Greenwood is an employee of the State of Ohio working in the EPA. He is part of a bargaining unit represented by the OCSEA. Mr. Greenwood is obliged to join the OCSEA or pay a fee to it if he continues his employment with the EPA.

10. Mr. Greenwood is a member of the First Presbyterian Church in Lancaster, Ohio (PCUSA). He is an Elder of the Church and has been a member for more than 25 years. As a Christian, he believes that God is the Authority for his life and the Bible is the framework for his beliefs. Everything he does and believes comes from his religious faith which forms his world view.

11. Mr. Greenwood believes that the Bible teaches that an abortion constitutes the taking of a human life and that homosexual practice is contrary to the law of God.

12. Mr. Greenwood believes that the Defendant Union and its affiliates are a unified organization, all of which receive some portion of his compulsory union fees. Mr. Greenwood understands that this unified organization takes a position in support of the pro-choice position on abortion and in favor of homosexual rights. For Mr. Greenwood to join or financially support

the Defendant Union and its affiliates would be contrary to his sincerely held religious beliefs as formed by his understanding of the teachings of the Bible.

13. On June 17, 2002, Mr. Greenwood sent a letter to the Union informing it of the conflict between his religious beliefs and the requirement that he join or financially support the OCSEA and its affiliates.

14. The General Counsel of the OCSEA responded on June 26, 2002, informed him that there was a procedure for obtaining a religious accommodation, and that procedure required him to go to the Ohio State Employee Relations Board to obtain a religious accommodation.

15. Mr. Greenwood followed the instructions of the Union and filed a religious accommodation request with SERB.

16. SERB denied Mr. Greenwood's request for religious accommodation on September 19, 2002. The basis for that denial was that Mr. Greenwood's religious beliefs about supporting the Union were based on his personal understanding of the Bible, and he could not verify that he was a member of a church with "historically held conscientious objections to joining or financially supporting an employee organization."

17. On or about December 9, 2002, the Mr. Greenwood filed charges with the EEOC against the Union. The EEOC, on April 30, 2003, issued a Determination finding a violation of law by both the Union and SERB and invited each to enter into conciliation.

18. Conciliation failed, and the Union continues to take Mr. Greenwood's money in violation of his sincere religious beliefs, rather than accommodate Mr. Greenwood, because he is not a member of a church with doctrines approved by the State of Ohio.

19. Mr. Greenwood fulfilled all conditions precedent to intervening into this lawsuit.

VII. *Claim For Relief:*

First Count: Violation of Title VII

20. By the forgoing, the Defendant Union violated Title VII of the Civil Rights Act of 1964 (42 U.S.C. § 2000e *et seq.*) by failing to reasonably accommodate the religious beliefs of Mr. Greenwood.

Second Count: Retaliation

21. In response to the filing of his charge before the Equal Employment Opportunity Commission, which culminated in the filing of his original complaint against the Defendant Union, as well as the complaints in this consolidated case by the United States of America and the Equal Employment Opportunity Commission against the Union, the Union filed a counterclaim in this case against Mr. Greenwood.

22. The Union's counterclaim demanded that Mr. Greenwood pay an unspecified sum of money to the Union which appeared to Mr. Greenwood to be most, if not essentially all, of his lifetime earnings with the State of Ohio.

23. The Union's counterclaim has a causal connection to Mr. Greenwood's original complaint, and the additional litigation which his EEOC filings spawned, because the Union requested at page 3 of its counterclaim, that Mr. Greenwood also reimburse the Union for all of its costs in defending against the claims brought against it in these consolidated cases.

24. The Union's counterclaim was not warranted by existing law, had no substantial factual basis and was used to coerce, intimidate and discriminate against Mr. Greenwood for his attempt to enforce his rights under Title VII in violation of 42 U.S.C. § 2000e-3.

25. On November 14, 2005, Mr. Greenwood filed retaliation charges against the Union

with the EEOC. On June 6, 2006, the EEOC issued a right to sue letter to Mr. Greenwood allowing him to file suit in federal court within 90 days on his retaliation claim.

VIII. *Prayer For Relief:*

WHEREFORE, Plaintiff Glen Greenwood, prays that this Court:

A. Grant a permanent injunction enjoining Defendant Union, its officers, successors, assigns, affiliates and all persons in active concert or participation with it, from engaging in any employment practice which discriminates on the basis of religion against Mr. Greenwood.

B. Grant a permanent injunction enjoining Defendant Union, its officers, successors, assigns, affiliates and all persons in active concert or participation with it, from retaliating against Mr. Greenwood based on his efforts to obtain a religious accommodation under Title VII.

C. Grant a permanent injunction enjoining Defendant Union to inform all employees which it represents that those with conscientious objections to the payment of union fees are entitled to pay those fees to a charity.

D. Declare that Glen Greenwood has the right to an accommodation of his sincere religious beliefs that requires the entire Union fee collected from Mr. Greenwood (including the fees for the OCSEA's affiliates) be redirected to a mutually agreed upon charity.

E. Declare that Ohio Revised Code § 4117.09(C) in no way limits employees rights under Title VII because, among other things, it is unconstitutional on its face and as applied by SERB and the Union in this case.

F. Grant a permanent injunction requiring the Defendant Union to pay all fees collected from Mr. Greenwood since June 17, 2002, until present to a charity mutually agreed upon by the Union and Mr. Greenwood and enjoining the Union from demanding or collecting any union fees

from Mr. Greenwood in the future. The injunction is not intended to prohibit the Union from requiring that Mr. Greenwood provide the Union with proof that he has paid the amount of the objecting nonmember's fee to a mutually agreed upon charity.

G. Award Mr. Greenwood his costs in this action, including reasonable attorneys' fees.

H. Grant such further relief as the Court deems necessary and proper.

I. To retain jurisdiction of this action for a reasonable period after final judgment to ensure that the Union complies with the Orders of this Court and the requirements of Title VII.

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that the filed copy of the foregoing Plaintiff-Intervenor Glen Greenwood's First Amended Complaint in case No. 05-CV-881 was made via electronic mail with the Clerk of the United States District Court, Southern District of Ohio, Eastern Division, using the CM/ECF system, which will send notification of such filing to the parties listed below on the 12th day of June, 2006:

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