

Jehovah's Witness's Claims Highlight Employer Need To Manage Workplace Religion Issues

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A “split decision” on a Jehovah's Witness's claims against his university employer serves as a good refresher for employers on the issues they must be aware of in dealing with employee religious issues. For this week's letter of the law, J is for Bernard Westbrook, the Jehovah's Witness who brought these claims in [Westbrook v. NORTH CAROLINA A&T STATE UNIVERSITY](#).

Bernard Westbrook was first employed by North Carolina A&T University in 1994, and first began working for the university's police department as a parking services officer in 2006. The department's orders required officers to be trained in and carry defensive weapons, but when Mr. Westbrook was first assigned this order was not enforced, and for religious reasons he did not do so. Mr. Westbrook alleged that he began being treated differently in 2008 after he declined a new interim police chief's request that he oversee a Christmas party, a holiday he does not celebrate. Soon after, his request for vacation to attend a religious conference was, he alleged, granted only if he told his colleagues of the reason for the leave and got their written consent thereto. Finally, the existing weapons policy began to be enforced. When a new police chief took over, Mr. Westbrook was directed to attend weapons training. He refused and was subsequently terminated. He filed a lawsuit alleging that he was terminated because of his religion, was subjected to a hostile work environment, and that the University failed to accommodate him by finding him another position.

Before we tell you the answer, employers should immediately recognize a few challenging aspects of this situation regardless of the truth or falsity of the core allegations:

- Mr. Westbrook was a long term employee and there is no indication he had not been practicing his faith without incident throughout his employment.
- A policy that was not enforced began to be enforced.
- The University has about 10,000 students, so it has a fairly substantial number of employees, thus generally speaking it will have more accommodation opportunities than a smaller employee.

None of those factors are decisive, those are just issues that employers will recognize as factors that can make defending a case more difficult. The first two bullet points would apply in any termination situation; the third bullet

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really only to accommodation situations (which could also include disability discrimination cases). On the employer's motion for summary judgment, the court dismissed the discriminatory termination claims, and found that the alleged conduct was insufficient to support a hostile work environment. However, the court found that there was an issue of fact that must be decided by a jury on the question of whether the University reasonably accommodated Mr. Westbrook in its efforts to find him other employment at the University. The court particularly noted that Mr. Westbrook had worked in other positions in his long tenure at the University.

As always, every case is somewhat specific to its own facts and we cannot draw sweeping conclusions about the particular case based on our limited information, but the decision does flag for employers some caution points. Certainly it would be advisable to touch base with counsel before terminating any employee over issues that might implicate the employee's religious beliefs.