

# Supreme court of the united states and reasonable accommodation

[Law](#), [Court](#)



The ad states that only African Americans need apply. In depth it is a bit different. If Tennington, Inc is approached by more highly qualified white males than other genders, races, etc then no violation has been committed. If not then it is likely a violation. The film industry is perfectly capable of using makeup on other races to make them look African. In any case it makes sense that a film about Africa should use people who look like Africans. Films about the civil war generally look for actors who look like Lincoln, etc... \*tangent\* historically in the music and theater industry there used to be "white face" and "black face", of the two only white face really still exists in the form of mimes) All in all this is a bit of fact mixed with opinion, and I'm not in any way a Business Law expert. Hopefully all people are experts in one sense or the other on Ethics though 35-2 Chinawa, a major processor of cheese sold throughout the United States, employs one hundred workers at its principal processing plant.

The plant is located in Heartland Corners, which has a population that is 50 percent white and 25 percent African American, with the balance Hispanic American, Asian American, and others. Chinawa requires a high school diploma as a condition of employment for its cleaning crew. Three-fourths of the white population complete high school, compared with only one-fourth of those in the minority groups. Chinawa has an all-white cleaning crew. Has Chinawa violated Title VII of the Civil Rights Act of 1964? Explain.

Educational requirements can be legally imposed providing the educational requirement is directly related to, and necessary for, performance of the job. The requirement of a high school diploma is not a direct, job-related

requirement in this case. Chinawa obviously comes under the 1964 Civil Rights Act, Title VII, as amended, and the educational requirement under the circumstances is definitely discriminatory against minorities. 35-3 PGA Tour, Inc. , sponsors professional golf tournaments. A player may enter in several ways, but the most common method is to successfully compete in a three-stage qualifying tournament known as the “ Q-School. Anyone may enter the Q-School by submitting two letters of recommendation and paying \$3, 000 to cover greens fees and the cost of a golf cart, which is permitted during the first two stages but is prohibited during the third stage. The rules governing the events include the “ Rules of Golf,” which apply at all levels of amateur and professional golf and do not prohibit the use of golf carts, and the “ hard card,” which applies specifically to the PGA tour and requires the players to walk the course during most of a tournament.

Casey Martin is a talented golfer with a degenerative circulatory disorder that prevents him from walking golf courses. Martin entered the Q-School and asked for permission to use a cart during the third stage. PGA refused. Martin filed a suit in a federal district court against PGA, alleging a violation of the Americans with Disabilities Act (ADA). Is a golf cart in these circumstances a “ reasonable accommodation” under the ADA? Why or why not? Yes, a golf cart is a reasonable accommodation for a talented golfer who suffers from a disability that prevents him from being able to walk the entire golf course.

To qualify on a claim under the ADA, Martin must show that he had a disability, was otherwise qualified for the PGA golf tournament, and was

excluded from the tournament solely because of his disability. Here, Martin suffers from a degenerative circulatory disorder, was otherwise qualified to play golf in the tournament, but was excluded because his disability made him unable to walk the course. Allowing Martin to use a golf cart in these circumstances would be a reasonable accommodation. The court ordered PGA to permit Martin to use a cart. PGA appealed to the U. S.

Court of Appeals for the Ninth Circuit, which affirmed the order of the lower court. PGA appealed to the United States Supreme Court, which affirmed the lower court's decision, ruling that a golf cart is a reasonable accommodation for a disabled athlete. PGA argued that making an exception to its "walking" rule would "fundamentally alter the sport of golf." The Supreme Court disagreed, stating that the "use of a cart is not inconsistent with the fundamental character of the game of golf," PGA's tours, or the third stage of the Q-School. Golf is defined by "shot-making," not by walking.

The Court explained that the Americans with Disabilities Act (ADA) is applied case by case. In other words, "the needs of a disabled person are evaluated on an individual basis." Thus, in this case, "even if petitioner's factual predicate is accepted, its legal position is fatally flawed because its refusal to consider Martin's personal circumstances in deciding whether to accommodate his disability runs counter to the ADA's requirement that an individualized inquiry be conducted." 35-4 The United Auto Workers (UAW) is the union that represents the employees of General Dynamics Land Systems, Inc.

In 1997, a collective bargaining agreement between UAW and General Dynamics eliminated the company's obligation to provide health insurance to employees who retired after the date of the agreement, except for current workers at least fifty years of age. Dennis Cline and 194 other employees over the age of forty but under age fifty objected to this term. They complained to the Equal Employment Opportunity Commission, claiming that the agreement violated the Age Discrimination in Employment Act (ADEA) of 1967. The ADEA forbids discriminatory preference for the "young" over the "old." Does the ADEA also prohibit favoring the old over the young?

How should the court rule? Explain. The ADEA did also needed to prohibit favoring the old over the young. The ADEA should not only forbids discriminatory preference for the young over the old but should also forbids discriminatory preference for the old over the young. Just because the young are least likely to be using or needing health insurance they also need to be covered due to them also being human and they might as well need it due to health problems they might suffer accidentally, airborne, and/or genetic. 35-5 Kimberly Cloutier began working at the Costco store in West Springfield, Massachusetts, in July 1997.

Cloutier had multiple earrings and four tattoos, but no facial piercings. In June 1998, Costco promoted Cloutier to cashier. Over the next two years, she engaged in various forms of body modification, including facial piercing and cutting. In March 2001, Costco revised its dress code to prohibit all facial jewelry except earrings. Cloutier was told that she would have to remove her facial jewelry. She asked for a complete exemption from the code, asserting

that she was a member of the Church of Body Modification and that eyebrow piercing was part of her religion. She was told to remove the jewelry, cover it, or go home.

She went home and was later discharged for her absence. Cloutier filed a suit in a federal district court against Costco, alleging religious discrimination in violation of Title VII. Does an employer have an obligation to accommodate its employees' religious practices? If so, to what extent? How should the court rule in this case? Discuss. Under Title VII of the Civil Rights Act, an employer must offer a reasonable accommodation to resolve a conflict between an employee's sincere religious belief and a condition of employment, unless such an accommodation would create an undue hardship for the employer's business.

An accommodation constitutes an undue hardship if it imposes more than a minimal cost on an employer. The only accommodation that Cloutier considered reasonable was a complete exemption from the no-facial-jewelry policy. This could be construed to impose an undue hardship on Costco. The company's dress code could be based on the belief that employees reflect on their employers, especially employees who regularly interact with customers, as Cloutier did in her cashier position. Thus, Cloutier's facial jewelry could have affected Costco's public image.

Under this reasoning and in such a situation, an employer has no obligation to offer an accommodation before taking other action. The court should issue a judgment in Costco's favor. 35-6 For twenty years, Darlene Jespersen worked as a bartender at Harrah's Casino in Reno, Nevada. In 2000, Harrah's

implemented a “ Personal Best” program that included new grooming standards. Among other requirements, women were told to wear makeup “ applied neatly in complimentary colors. ” Jespersen, who never wore makeup off the job, felt so uncomfortable wearing it on the job that it interfered with her ability to perform. Unwilling to wear makeup and not qualifying for another position at Harrah’s with similar compensation, Jespersen quit the casino. She filed a suit in a federal district court against Harrah’s Operating Co. , the casino’s owner, alleging that the makeup policy discriminated against women in violation of Title VII of the Civil Rights Act of 1964. Harrah’s argued that any burdens under the new program fell equally on both genders, citing the “ Personal Best” short-hair standard that applied only to men.

Jespersen responded by describing her personal reaction to the makeup policy and emphasizing her exemplary record during her tenure at Harrah’s. In whose favor should the court rule? Why? The court granted a summary judgment to Harrah's. Jespersen appealed to the U. S. Court of Appeals for the Ninth Circuit, which affirmed the lower court’s judgment. The appellate court acknowledged that Jespersen was effectively terminated for failing to comply with the makeup requirement and agreed that “ appearance standards, including makeup requirements, may well be the subject of a Title VII claim for sexual stereotyping. In this case, however, there was no “ evidence to establish that complying with the ‘ Personal Best’ standards caused burdens to fall unequally on men or women, and there is no evidence to suggest Harrah's motivation was to stereotype the women bartenders. ” Some standards applied to members of both sexes, some only to men, and

some including the makeup policy only to women. “ The only evidence in the record to support the stereotyping claim is Jespersen's own subjective reaction to the makeup requirement. WerespectJespersen's resolve to be true to herself and to the image that she wishes to project to the world.

We cannot agree, however, that her objection to the makeup requirement, without more, can give rise to a claim of sex stereotyping under Title VII. If we were to do so, we would come perilously close to holding that every grooming, apparel, or appearance requirement that an individual finds personally offensive, or in conflict with his or her own self-image, can create a triable issue of sex discrimination. ” 35-7 Cerebral palsy limits Steven Bradley’s use of his legs. He uses forearm crutches for short-distance walks and a wheelchair for longer distances. Standing for more than ten or fifteen minutes is difficult.

With support, however, Bradley can climb stairs and get on and off a stool. His condition also restricts the use of his fourth finger to, for example, type, but it does not limit his ability to write—he completed two years of college. His grip strength is normal, and he can lift heavy objects. In 2001, Bradley applied for a “ greeter” or “ cashier” position at a Wal-Mart Stores, Inc. , Supercenter in Richmond, Missouri. The job descriptions stated, “ No experience or qualification is required. ” Bradley indicated that he was available for full- or part time work from 4: 00 P. M. to 10: 00 P. M. any evening.

His employment history showed that he currently worked as a proofreader and that he had previously worked as an administrator. His application was



rejected, according to Janet Daugherty, the personnel manager, based on his “work history” and the “direct threat” that he posed to the safety of himself and others. Bradley claimed, however, that the store refused to hire him due to his disability. What steps must Bradley follow to pursue his claim? What does he need to show to prevail? Is he likely to meet these requirements? Discuss.

As per the law an employer is legally liable for discrimination against people with disabilities if as an employer he falls under these criteria's: private employers, state and local governments, employment agencies, labor organizations, and labor-management committees. The part of the ADA enforced by the EEOC outlaws job discrimination by: all employers, including State and local government employers, with 25 or more employees after July 26, 1992, and All employers, including State and local government employers, with 15 or more employees after July 26, 1994. Another part of the ADA, enforced by the U.

S. Department of Justice, prohibits discrimination in State and local government programs and activities, including discrimination by all State and local governments, regardless of the number of employees, after January 26, 1992. To be protected under the ADA, you must have a record of, or be regarded as having a substantial, as opposed to a minor, impairment. A substantial impairment is one that significantly limits or restricts a major life activity such as hearing, seeing, speaking, walking, breathing, and performing manual tasks, caring for oneself, learning or working.

If you have a disability, you must also be qualified to perform the essential functions or duties of a job, with or without reasonable accommodation, in order to be protected from job discrimination by the ADA. This means two things. First, you must satisfy the employer's requirements for the job, such as education, employment experience, skills or licenses. Second, you must be able to perform the essential functions of the job with or without reasonable accommodation. Essential functions are the fundamental job duties that you must be able to perform on your own or with the help of a reasonable accommodation.

An employer cannot refuse to hire you because your disability prevents you from performing duties that are not essential to the job. The crux of the matter is whether there is such a thing as a right to a job. Obviously there isn't. The only right here, which is violated by the federal agencies, is the one of the owner of the establishment. The right to one's property, a right protected by the constitution, which implies that one is free to hire whomever one wishes to and for whatever reason suits one's fancy.

While refusing admission or a job because of someone's race, gender, nationality or any reason other than lacking the required qualification and experience for the job may be foolish but one has the right to run one's own business foolishly if one wishes to. There is no right such as the right to a job, right to health care, right to education, etc. A right implies something one has by the virtue of being a human being, not a service to be provided or exchanges with another human being. If one has the right to demand an

exchange of services, not via mutual agreement but by force then that's slavery for the other person.

One has the right to one's property and dispose of it as one wishes to. As long as no one forces the parties involved to deal with each other, no one's rights are violated. Not real ones at least. One can imagine several non existing rights and cry foul play, however that won't hold ground constitutionally and reasonably. Hotels, clubs and several other organizations exercise this right; however some businesses are DISCRIMINATED against by the federal authorities and held liable for what is their right. At best Wal-Mart can be accused of foolish business practices, nothing more.

It is shocking that the courts completely disregard the basic tenets of the constitution. If something requires a service to be provided to me by someone else then it can not be a right. An exchange of services requires mutual agreement. The only thing required as far as the rights are concerned is that people don't violate yours. Again this is the case of the government preaching morality, which isn't the business of a government. Interestingly why has the federal government limited the application of discrimination statutes to firms with a specified number of employees, such as fifteen or twenty?

Shouldn't these laws apply to all employers, regardless of size? The federal government limits the application of discrimination to firms with 15 or 20 employees because an organization under the law is responsible for providing reasonable accommodation. The ADA does not, however, require

an employer to lower its product or performance standards to accommodate a disabled employee. If a particular accommodation would impose an undue hardship — such as a major financial strain on a company — a business owner must first try to find another way to comply.

If a small business cannot afford to install a wheelchair ramp, for example, it might offer to split the cost with the employee. In extreme cases, however, undue hardship can exempt you from ADA regulations on a case-by-case basis. If rights were indeed violated then the size of the company shouldn't matter at all. Whether an individual steals a single dollar or millions, its thievery, it is a violation of someone's right to their property. Just because a poor person steals doesn't make it alright.

The punishment ought to befit the crime; however that is a separate issue. The federal agencies can not discriminate and create rights that do not exist and then cherry pick the people it will hold liable for the violation of these supposed rights. The fact that this is unconstitutional and not enough people are outraged is a reflection of the extent to which the left has infested the mind of most people. Only in soviet Russia the need of a person is justification enough for the violation of someone's rights.