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## Case Bulletin: Employment Law

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The United States Court of Appeals for the Third Circuit Applied the Ministerial Exception Based on the First Amendment Barring an Employee's Employment Discrimination Claims Against a Private Catholic College

Lynette M. Petruska v. Gannon University, et al.  
The United States Court of Appeals for the Third Circuit  
Case No. 05—1222  
Decided September 6, 2006

In the case of *Petruska v. Gannon University, et al.*, a former University chaplain, Lynette Petruska, appealed an order from the US District Court for the Western District of Pennsylvania dismissing her federal employment discrimination and state law claims against Gannon University.

Gannon University is a private Catholic diocesan college located in Erie, Pennsylvania. Gannon hired Lynette Petruska as the University's Director of Social Concerns in July of 1997. Petruska was promoted to permanent University Chaplain in July of 1999, the first female in Gannon's history to serve in that position.

During 2000, then Gannon president, Monsignor David Rubino, was alleged to have had a sexual affair with a female subordinate. The University attempted to cover up Rubino's misconduct and Petruska strenuously and vocally objected. After a series of events, including the restructuring of Petruska's contract, which operated as a demotion, Petruska, believing that she was about to be fired, resigned in October of 2002. The University accepted her resignation shortly thereafter.

Petruska took action and exhausted her administrative remedies through the Equal Opportunity Commission and then proceeded to file a lawsuit in the US District Court for the Western District of Pennsylvania. Her claim was based on (1) Gender discrimination in violation of Title VII, (2) Retaliatory discrimination in violation of Title VII, (3) Fraudulent misrepresentation against Gannon, (4) Civil conspiracy against certain Gannon employees, (5) Breach of contract against Gannon, and (6) Negligent supervision and retention against Gannon.

The District Court granted Gannon's Motion to Dismiss for failure to state a claim on which relief can be granted. The US Court of Appeals for the Third Circuit upheld the District Court's holding with the exception of Petruska's breach of contract claim, which it remanded to the District Court for further consideration.

The issues on appeal were whether applying Title VII to Gannon's decision to restructure Petruska's contract would infringe upon Gannon's free exercise rights and whether adjudication of Petruska's Title VII claims would result in unconstitutional entanglement under the Establishment Clause. The Appeals Court held that the "ministerial exception", a doctrine rooted in the First Amendment, barred Petruska's claims. Title VII of the Civil Rights Act of 1964, under which Petruska brought the majority of her claims, prohibits discrimination in employment on the basis of race, sex, national origin, or religion. Title VII exempts religious entities and educational institutions from its nondiscrimination mandate to the extent that an employment decision is based on an individual's religious preferences. In other words, Title VII makes clear that religious institutions may base relevant hiring decisions upon religious preferences.

The First Amendment provides that Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof. The Free Exercise Clause of the First Amendment protects not only the individual's right to believe and profess whatever religious doctrine one desires, but also a religious institution's right to decide matters of faith, doctrine, and church governance. First, a church must be free to express religious beliefs, profess matters of faith, and communicate its religious message. Unlike an individual who can speak on her own behalf, the church as an institution, needs a messenger. That messenger is its minister, who is the voice of the faithful and therefore



the embodiment of the church's message. Accordingly, the process of selecting a minister is per se a religious exercise that cannot be restricted by an act of Congress. Second, the church has a right protected under the Free Exercise Clause to decide matters of governance and internal organization.

Petruska's positions with Gannon involved spiritual functions such as teaching, spreading the faith, church governance, and supervision of a religious order. Accordingly, Gannon's decisions regarding who to install in those positions and the manner in which their duties would be divided were choices protected from government interference by the Free Exercise Clause. The Court held that the ministerial exception operated as a bar to any claim, the resolution of which would limit a religious institution's right to select who would perform particular functions. The court held that the resolution of Petruska's claims, since they are governed by state or federal law, with the exception of her contract breach claim, would impose unconstitutional limits on Gannon's First Amendment right to the free exercise of religion. They were therefore barred by the ministerial exception.

Gannon, as a religious institution, has a Constitutionally protected right to decide matters of faith and to declare its doctrine free from state interference. This translates into an almost unfettered right to select who will perform particular spiritual functions. Therefore, Gannon's decision to restructure Petruska's contract and in fact demote her was immune from her legal challenges, which sought to restrict its right to do so granted to it as a religious institution under the First Amendment.