

A Major Win for Religious Freedom in the Supreme Court



[Freedom In America Today](#)

Dear Friends,

Important decision goes with the Constitution –
Something not to be taken lightly today!

Robert



January 12, 2012

A Major Win for Religious Freedom: the Supreme Court's Decision in *Hosanna-Tabor*

Yesterday, the U.S. Supreme Court issued a unanimous [decision](#) that resoundingly affirms the freedom of religious groups to choose their own ministers. *Hosanna-Tabor Evangelical Lutheran Church and School v. EEOC* involved a lawsuit brought by an employee against a church-operated school. The employee alleged that her employment was terminated in violation of a federal anti-discrimination law.

The question in this case was “whether the Establishment and Free Exercise Clauses of the First Amendment bar such an action when the employer is a religious group and the employee is one of the group’s ministers.”

In an opinion authored by Chief Justice Roberts, the Court answered in the affirmative, stating that: “[b]oth Religion Clauses bar the government from interfering with the decision of a religious group to fire one of its ministers.”

For several reasons, the Court’s ruling is a landmark victory for religious freedom.

First, the ruling unambiguously affirms the vital constitutional doctrine known as the “ministerial exception.” As the Court explained, since certain federal anti-discrimination laws were enacted, the U.S. Court of Appeals “has uniformly recognized the existence of a ‘ministerial exception,’ grounded in the First Amendment, that precludes application of such legislation to claims concerning the employment relationship between a religious institution and its ministers.”

In *Hosanna-Tabor*, the Court agreed “that there is such a ministerial exception.” Furthermore, the Court held that the rule is grounded in the Religion Clauses themselves, which reflect the “special solicitude to the rights of religious organizations” that is given by the First Amendment.

Second, the Court expressly agreed with every federal court of appeals to have considered the question that the ministerial exception “is not limited to the head of a religious congregation.” The teacher who sued the church-operated school in this case taught religion as well as other school subjects. Some argued that this teacher should not count as a “minister” because, among other reasons, she performed many secular as well as religious duties.

The Supreme Court rejected this unduly narrow view and noted that “heads of congregations themselves often have a mix of duties, including secular ones such as helping to manage the congregation’s finances, supervising purely secular personnel, and overseeing the upkeep of facilities.” Instead of adopting an extreme view that would have severely restricted religious freedom, the Court considered a variety of factors and concluded that the employee in this case was a minister for purposes of the ministerial exception.

Third, the Court clarified that the protections of the ministerial exception are not limited to cases where a religious group fires a minister only for a religious reason. Such a suggestion, the Court explained, “misses the point of the ministerial exception.... The exception instead ensures that the authority to select and control who will minister to the faithful—a matter ‘strictly ecclesiastical’—is the church’s alone.”

The Court’s decision yesterday represents another important victory by [the Becket Fund for Religious Liberty](#), a public interest law firm that, along with Professor Douglas Laycock, represented the church-operated school in this case.

[Continue reading about the latest win for religious liberty and tell us what you think about religious hiring rights >>](#)



[Freedumb In America Today](#)