

Illinois Supreme Court Schools Former Principal

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February 12, 2021

First Amendment religious freedoms barred the retaliatory discharge claims of a fired parochial school principal against her former employer, according to the Illinois Supreme Court's unanimous February 4, 2021 decision in *Rehfield v. Diocese of Joliet*.¹ Likewise, those claims were also barred by her employment contract for a definite term.

Former principal Mary Rehfield alleged (and the Diocese denied) that the Diocese fired her for her reports to police of a parent's threatening communications to a parish priest, among others. After winning dismissal of Rehfield's claims in the circuit and appellate courts, the Diocese (represented in the trial and intermediate appellate courts by Vedder Price, and in the Illinois Supreme Court by its Diocesan attorney) persuaded the Illinois Supreme Court that the ministerial exception, a federal Constitutional Doctrine rooted in the First Amendment's Free Exercise Clause, barred Rehfield's retaliatory discharge claims. The State's highest court also held that Rehfield's fixed-term employment contract barred her retaliatory discharge claims.

The Ministerial Exception

The ministerial exception entitles religious organizations to "select and control their ministers without judicial review or government interference." To avoid becoming mired in "internal church matters," courts apply the ministerial exception to dismiss discrimination claims by ministers against religious organizations. More recently, the U.S. Supreme Court has clarified that 'ministers' to whom the exception applies extend significantly beyond just ordained clergy, priests, ministers, rabbis, or imams, and may include lay employees who provide religious leadership, such as parochial school educators. Moreover, "a religious organization's reason for terminating a minister's employment is irrelevant to whether the ministerial exception applies."²

The ministerial exception applies to retaliatory discharge claims

Despite trial and appellate court defeats, Rehfield urged the Illinois Supreme Court to hold that the ministerial exception was inapplicable to her retaliatory discharge claims, arguing that the exception had not been, and should not be applied "to her whistleblower claim because [it] involve[d] public policies and societal interests beyond the protection of an individual's right to be free from employment discrimination." Rehfield also denied that she was a 'minister' subject to the exception, claiming that her duties were primarily secular. The Illinois Supreme Court, however, like the circuit and intermediate appellate courts before it, rejected these contentions.

While the Rehfield court acknowledged that "[t]he United States Supreme Court has not addressed application of the ministerial exception to a whistleblower claim," making the question one of "first impression in this State," it rejected Rehfield's distinction between discrimination and retaliatory discharge claims, finding that the ministerial exception applies to retaliatory discharge claims. Among other authority, the Rehfield court considered a Ninth Circuit federal decision

¹*Rehfield v. Diocese of Joliet*, 2021 IL 125656.

²*Rehfield*, citing, *Hosanna-Tabor Evangelical Lutheran Church & School v. Equal Employment Opportunity Comm'n.*, 565 U.S. 171 (2012).

holding that the ministerial exception applies to state law retaliatory discharge claims was persuasive authority that the Diocese appropriately invoked the exception to defeat Rehfield's case.³

The former principal was a 'minister' subject to the ministerial exception

Rehfield next argued that even if the exception applied, she was not a 'minister' under the exception because her employment contract referred to her as a "lay principal," not a minister. Following the U.S. Supreme Court's March 2020 decision in *Our Lady of Guadalupe School v. Morrissey-Berru*, however, the *Rehfield* court observed that "what matters, at bottom, is what an employee does," not the employee's title.⁴

Rehfield, the Illinois Supreme Court reasoned, was indeed a "minister" under the exception, since Diocese "principals are required to provide an identifiably Catholic atmosphere in the school, visit classrooms and supervise teachers in their provision of a Catholic education, establish student-instructional programs that include regular religious education, and develop and participate in religious programming for staff."

The former principal's fixed-term contract barred her retaliatory discharge claim

The *Rehfield* court also held that Rehfield's fixed-term employment contract barred her retaliatory discharge claim, recognizing precedent holding that contracted employees may not press claims for retaliatory nonrenewal of employment contracts for a fixed term. Notably, Rehfield made a one-year employment contract with the Diocese before it relieved her of her duties, though the Diocese continued to pay her through the term of the contract, even after it relieved her of all responsibilities. Thus, Rehfield was not an "at-will" employee, and could not bring a retaliatory discharge claim; from the inception of her contract, its termination was a mutually recognized reality.

Conclusion

The Illinois Supreme Court's *Rehfield* decision brings some clarity to Illinois' religious employers, extending the ministerial exception to retaliatory discharge claims, and recognizing that 'ministers' under the exception may well include lay people who are entrusted with religious leadership and educational duties. For nonreligious employers, *Rehfield* teaches that fixed-term employment contracts may also extinguish contracted employees' retaliatory discharge claims.

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³ *Elvig v. Calvin Presbyterian Church*, 375 F.3d 951, 969 (9th Cir. 2004).

⁴ *Our Lady of Guadalupe School v. Morrissey-Berru*, 591 U.S. ____ (2020) (holding that parochial school teachers who alleged disability discrimination were 'ministers,' having been "entrusted most directly with the responsibility of educating their students in the faith").