

PUBLICATION

Employers, Be Wary of Judging "Sincerely Held Beliefs"

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The Fourth Circuit Court of Appeals recently upheld a \$586,860 verdict in a religious discrimination case brought by the EEOC against Consol Energy, Inc. What went so wrong for Consol?

The case involved a West Virginia coal miner, Beverly Butcher, who had worked for Consol for more than 40 years. In 2012, the company implemented a new hand scanner system to monitor employee attendance, which required employees to scan their right hands to clock in and out of their shifts. Butcher, an evangelical Christian, became convinced that the scanner would brand him with the "Mark of the Beast," the sign of followers of the Anti-Christ. Accordingly, Butcher requested that he be allowed to clock in and out in some other fashion.

In support of this request, Butcher presented a letter from his pastor outlining his "deep dedication" to his faith, as well as one he wrote himself, outlining his belief that the scanner would brand him with the Mark of the Beast and would thus be in violation of his religious beliefs. In response, the company provided Butcher with a letter from the scanner's manufacturer, confirming that the scanner would not leave a mark on him, and concluding that he could use his left hand instead, as only the right hand or forehead is typically associated with the Mark of the Beast.

At the same time that it refused to allow Butcher to bypass the scan, the company authorized two other employees to skip the hand scanning process and enter in their personnel numbers instead due to hand injuries. Rather than use the hand scanner, Butcher retired, and the EEOC brought suit. The district court found, and the Fourth Circuit affirmed, that Consol had discriminated against Butcher based on his religious beliefs by failing to accommodate his request to bypass the scanner while allowing others to do so. The courts further found that Butcher had presented sufficient evidence to establish that his religious beliefs were sincerely held, and emphasized that it was not Consol's place to question the correctness or "even the plausibility" of an employee's religious beliefs.

This case provides a good reminder to employers that when it comes to religion, employers must be wary of making judgment calls as to what is or is not a sincere religious belief worthy of Title VII protection. Once an employee presents evidence that his or her religious belief is sincerely held, an employer will have a hard time arguing that such a belief should not be protected merely because it is unusual, an incorrect interpretation of accepted religious teachings, or even defies all logic and common sense.

The case is *EEOC v. CONSOL Energy, Inc.*, No. 16-1230 (4th Cir. June 12, 2017).