HOBBIE
v.
UNEMPLOYMENT APPEALS COMMISSION OF FLORIDA
SUPREME COURT OF THE UNITED STATES
480 U.S. 136
February 25, 1987
[8 – 1]

OPINION: BRENNAN...Appellant's employer discharged her when she refused to work certain scheduled hours because of sincerely held religious convictions adopted after beginning employment. The question to be decided is whether Florida's denial of unemployment compensation benefits to appellant violates the Free Exercise Clause of the First Amendment of the Constitution, as applied to the States through the Fourteenth Amendment.

I

Lawton and Company (Lawton), a Florida jeweler, hired appellant Paula Hobbie in October 1981. She was employed by Lawton for 21/2 years, first as a trainee and then as assistant manager of a retail jewelry store. In April 1984, Hobbie informed her immediate supervisor that she was to be baptized into the Seventh-day Adventist Church and that, for religious reasons, she would **no longer be able to work on her Sabbath**, from sundown on Friday to sundown on Saturday. The supervisor devised an arrangement with Hobbie: she agreed to work evenings and Sundays, and he agreed to substitute for her whenever she was scheduled to work on a Friday evening or a Saturday.

This arrangement continued until the general manager of Lawton learned of it in June 1984. At that time, after a meeting with Hobbie and her minister, the general manager informed appellant

that she could either work her scheduled shifts or submit her resignation to the company. When Hobbie refused to do either, Lawton discharged her.

On June 4, 1984, appellant filed a claim for unemployment compensation with the Florida Department of Labor and Employment Security. Under Florida law, unemployment compensation benefits are available to persons who become "unemployed through no fault of their own." Lawton contested the payment of benefits on the ground that Hobbie was "disqualified for benefits" because she had been discharged for "misconduct connected with her work."

A claims examiner for the Bureau of Unemployment Compensation denied Hobbie's claim for benefits, and she appealed that determination. Following a hearing before a referee, the Unemployment Appeals Commission (Appeals Commission) affirmed the denial of benefits, agreeing that Hobbie's refusal to work scheduled shifts constituted "misconduct connected with her work."

Hobbie challenged the Appeals Commission's order in the Florida Fifth District Court of Appeal. On September 10, 1985, that court summarily affirmed the Appeals Commission. We...now reverse.

II

Under our precedents, the Appeals Commission's disqualification of appellant from receipt of benefits violates the Free Exercise Clause of the First Amendment, applicable to the States through the Fourteenth Amendment. *Sherbert v. Verner*[1]. In *Sherbert* we considered South Carolina's denial of unemployment compensation benefits to a Sabbatarian who, like Hobbie, refused to work on Saturdays. The Court held that the State's disqualification of Sherbert "forced her to choose between following the precepts of her religion and forfeiting benefits, on the one hand, and abandoning one of the precepts of her religion in order to accept work, on the other hand. Governmental imposition of such a choice puts the same kind of burden upon the free exercise of religion as would a fine imposed against her for her Saturday worship."

We concluded that the State had imposed a burden upon Sherbert's free exercise rights that had not been justified by a compelling state interest.

In *Thomas*[2], too, the Court held that a State's denial of unemployment benefits unlawfully burdened an employee's right to free exercise of religion. Thomas, a Jehovah's Witness, held religious beliefs that forbade his participation in the production of armaments. He was forced to leave his job when the employer closed his department and transferred him to a division that fabricated turrets for tanks. Indiana then denied Thomas unemployment compensation benefits. The Court found that the employee had been "put to a choice between fidelity to religious belief or cessation of work" and that the coercive impact of the forfeiture of benefits in this situation was undeniable:

[1] Case 1A-R-035 on this website.
[2] Case 1A-R-058 on this website.

> "Not only is it apparent that appellant's declared ineligibility for benefits derives solely from the practice of [his] religion, but the pressure upon the employee to forego that practice is unmistakable." *Thomas*.

We see no meaningful distinction among the situations of Sherbert, Thomas, and Hobbie. We again affirm, as stated in *Thomas:*

> "Where the state conditions receipt of an important benefit upon conduct proscribed by a religious faith, *or where it denies such a benefit because of conduct mandated by religious belief, thereby putting substantial pressure on an adherent to modify his behavior and to violate his beliefs,* a burden upon religion exists. While the compulsion may be indirect, the infringement upon free exercise is nonetheless substantial."

Both *Sherbert* and *Thomas* held that such infringements must be subjected to strict scrutiny and could be justified only by proof by the State of a compelling interest. The Appeals Commission does not seriously contend that its denial of benefits can withstand strict scrutiny; rather it urges that we hold that its justification should be determined under the less rigorous standard articulated in Chief Justice Burger's opinion in *Bowen v. Roy*[3]: "The Government meets its burden when it demonstrates that a challenged requirement for governmental benefits, neutral and uniform in its application, is a reasonable means of promoting a legitimate public interest." Five Justices expressly rejected this argument in *Roy.* We reject the argument again today. As Justice O'CONNOR pointed out in *Roy,* "such a test has no basis in precedent and relegates a serious First Amendment value to the barest level of minimal scrutiny that the Equal Protection Clause already provides." See also *Wisconsin v. Yoder*[4] ("Only those interests of the highest order and those not otherwise served can overbalance legitimate claims to the free exercise of religion").

The Appeals Commission also suggests two grounds upon which we might distinguish *Sherbert* and *Thomas* from the present case. First, the Appeals Commission points out that in *Sherbert* the employee was deemed completely ineligible for benefits under South Carolina's unemployment insurance scheme because she would not accept work that conflicted with her Sabbath. The Appeals Commission contends that, under Florida law, Hobbie faces only a limited disqualification from receipt of benefits, and that once this fixed term has been served, she will again "be on an equal footing with all other workers, provided she avoids employment that conflicts with her religious beliefs." The Appeals Commission argues that such a disqualification provision is less coercive than the ineligibility determination in *Sherbert,* and that the burden it imposes on free exercise is therefore permissible.

This distinction is without substance. The immediate effects of ineligibility and disqualification are identical, and the disqualification penalty is substantial. Moreover, *Sherbert* was given controlling weight in *Thomas,* which involved a disqualification provision similar in all relevant respects to the statutory section implicated here.

[3] Case 1A-R-074 on this website
[4] Case 1A-R-045 on this website.

The Appeals Commission also attempts to distinguish this case by arguing that, unlike the employees in *Sherbert* and *Thomas,* Hobbie was the "agent of change" and is therefore responsible for the consequences of the conflict between her job and her religious beliefs. In *Sherbert* and *Thomas,* the employees held their respective religious beliefs at the time of hire; subsequent changes in the conditions of employment made *by the employer* caused the conflict between work and belief. In this case, **Hobbie's beliefs changed during the course of her employment, creating a conflict between job and faith that had not previously existed**. The Appeals Commission contends that "it is . . . unfair for an employee to adopt religious beliefs that conflict with existing employment and expect to continue the employment without compromising those beliefs" and that this "intentional disregard of the employer's interests . . . constitutes misconduct."

In effect, the Appeals Commission asks us to single out the religious convert for different, less favorable treatment than that given an individual whose adherence to his or her faith precedes employment. We decline to do so. The First Amendment protects the free exercise rights of employees who adopt religious beliefs or convert from one faith to another after they are hired. The timing of Hobbie's conversion is immaterial to our determination that her free exercise rights have been burdened; the salient inquiry under the Free Exercise Clause is the burden involved. In *Sherbert, Thomas,* and the present case, the employee was forced to choose between fidelity to religious belief and continued employment; the forfeiture of unemployment benefits for choosing the former over the latter brings unlawful coercion to bear on the employee's choice.

Finally, we reject the Appeals Commission's argument that the awarding of benefits to Hobbie would violate the Establishment Clause. This Court has long recognized that the government may (and sometimes must) accommodate religious practices and that it may do so without violating the Establishment Clause. See *Wisconsin v. Yoder* (judicial exemption of Amish children from compulsory attendance at high school); *Walz v. Tax Comm'n*[5] (tax exemption for churches). As in *Sherbert,* the accommodation at issue here does not entangle the State in an unlawful fostering of religion:

> "In holding as we do, plainly we are not fostering the 'establishment' of the Seventh-day Adventist religion in South Carolina, for the extension of unemployment benefits to Sabbatarians in common with Sunday worshipers reflects nothing more than the governmental obligation of neutrality in the face of religious differences, and does not represent the involvement of religious with secular institutions which it is the object of the Establishment Clause to forestall."

III

We conclude that Florida's refusal to award unemployment compensation benefits to appellant violated the Free Exercise Clause of the First Amendment. Here, as in *Sherbert* and *Thomas,* the State may not force an employee "to choose between following the precepts of her religion and forfeiting benefits, . . . and abandoning one of the precepts of her religion in order to accept work." The judgment of the Florida Fifth District Court of Appeal is therefore *Reversed.*

[5] Case 1A-R-039 on this website.

CONCURRENCE: POWELL...**This Court's decision last Term in *Bowen v. Roy* did nothing to undercut the applicability of *Sherbert* and *Thomas* to the present case. A plurality in *Roy* indicated that "some incidental neutral restraints on the free exercise of religion," such as the requirement that applicants for Social Security benefits use assigned numbers, need not be supported by a compelling justification. The plurality distinguished *Sherbert* and *Thomas* as cases where the statute at issue "created a mechanism for individualized exemptions." The plurality noted:**

> **"If a State creates such a mechanism, its refusal to extend an exemption to an instance of religious hardship suggests a discriminatory intent. . . . In *Sherbert* and *Thomas*, therefore, it was appropriate to require the State to demonstrate a compelling reason for denying the requested exemption."**

Thus, the decision in *Roy* makes explicitly clear that its reasoning does not apply to the state conduct in this case.

The Court recognizes in a footnote that the reasoning of *Roy* does not apply to this case. Instead of relying on this distinction, however, the Court reaches out to reject the reasoning of *Roy in toto*. This strikes me as inappropriate and unnecessary. Given its context, the Court's rejection of *Roy's*reasoning is dictum. The proper approach in this case is to apply the established precedent of *Sherbert* and *Thomas.* Because the Court goes further, I concur only in the judgment.

CONCURRENCE: STEVENS...[Not Provided.]

DISSENT: REHNQUIST...I adhere to the views I stated in dissent in *Thomas v. Review Bd.*...I would affirm.