

International Moot Court Competition ***in Law and Religion***

Cordoba, Spain

16-17 September 2022

[Case](#)

1 – The Facts

The Catholic parish of Bethania, in the State of Lightland, installed a camera system with facial recognition at its entrances that works by comparing actual photos or videos taken through a camera with the Church's database of the church attendants' photos. The camera system aims at monitoring the attendance of the believers at religious services, obtaining statistics on worship events that attract greater participation, and mostly for security purposes. In fact, The AI system that the parish used was purchased also through *Lightland's security-system subsidy program*, "Protecting our Religious Brothers and Sisters," which gave grants to "churches, mosques, temples, synagogues, and other houses of worship" to purchase security systems. Lightland created the subsidy program after a series of reports concerning security issues at various houses of worship across the country, including anonymous vandalism of religious statues, drug-induced attacks on ministers during services, and the hostage-taking of members of a synagogue, which reached a peaceful resolution. For these reasons, when the AI does not recognize people who are crossing the parish entrances – an event that is likely to occur when an individual is covering her head or part of her face – it sends an alert message to the custodians. They then intervene to verify the identity and intentions of the unrecognized person.

Halima, a Muslim woman, lives near the parish. When she is outdoors, she normally uses a headscarf that does not cover her face but only its edges and hair. Although she does not participate in the Catholic parish's religious services, she usually visits the parish's facilities for the various services it offers. In particular, Halima has often taken her daughter to watch shows that the parish organizes at its on-site theater, where it usually projects movies for public attendance but also sometimes hosts evangelizing movies and talks.

After the cameras were installed, Halima crossed the entrance gate for the first time when she accompanied her daughter to a new dance show for which it was receiving funding from the local municipality. After crossing the entrance gate, she was stopped by a newly-hired porter who received an alarm signal from the facial recognition system. The parish's porter asked her about the reason for visiting the parish's facilities. When she replied that she was taking her daughter to the dance show, the porter asked that she take off her veil and show her face to the camera again, so he could take a picture of her for the database.

She refused and was not allowed access.

1.1 – ECHR section

Halima filed a complaint to the local judge. She maintained that she had been discriminated against for religious reasons. Under the "Non Discrimination Act" of the State of Lightland, discriminatory behaviors in places open to the public based on a number of conditions, including religion, are prohibited. According to Halima, the parish violated this prohibition on the basis that its surveillance policy required that she remove her headscarf in order to give her access to the facility while accompanying her daughter to a publicly-funded activity.

The parish replies that: 1) the facial recognition system is necessary due to the threat of terrorist attacks and 2) that it is its duty to protect the safety of people who visit the facility, including those who are enrolled in the dance course. The initiative is, indeed, financed by public funding under the condition that the place of the course is suitable and safe.

The court of first instance found that the parish's policy was not impermissibly discriminatory. Having exhausted all national remedies, Halima turns the European Court of Human Rights, complaining that Lightland violated art. 9 of the Convention, also in conjunction with art. 14.

1.2 U.S. Supreme Court Section

Lightland is the 51st U.S. state.

Halima filed suit in the U.S. District Court for the District of Lightland, bringing two claims. First, she sued Bethania, challenging the movie theater's denial of access under Title II of the Civil Rights Act of 1964, 42 U.S.C. § 2000a, and seeking an injunction against the movie theater under 42 U.S.C. § 2000a-3(a) to permit her to attend events without removing her headscarf. Second, she brought an Establishment Clause claim against Lightland challenging Lightland's funding of the AI system because it singled out religious organizations for funding.

The district court ruled in favor of Bethania, holding that the movie theater is a "public accommodation" under the statute but Halima's denial of entry was not discrimination "on the ground of ... religion," given that she was not blocked from entering based on her status as a Muslim. It ruled against Lightland, holding that the funding was an impermissible establishment of religion because it singled out religious organizations for funding.

The U.S. Court of Appeals for the Lightland Circuit held that Bethania's actions did constitute discrimination "on the ground of ... religion." However, it ruled that the movie theater is not a "public accommodation" because it is run by a church and is sometimes used for evangelizing services. It also upheld the district court's ruling that the subsidy to religious organizations violated the Establishment Clause.

Halima and Lightland sought and were granted certiorari on the following issues:

(I) Did Bethania's action requiring Halima to remove her headscarf for identity purposes or be denied entry constitute discrimination "on the ground ... of religion" under 42 U.S.C. § 2000a?

(II) Does 42 U.S.C. § 2000a apply to a movie theater that is run by a parish?

(III) Did Lightland violate the Establishment Clause in creating a subsidy program for surveillance systems specifically for "churches, mosques, temples, synagogues, and other houses of worship"?

For the U.S. portion, please adhere to the following rules:

1. Argue only the three issues before the U.S. Supreme Court.
 - a. Do not argue standing.
 - b. Do not argue that Halima failed to exhaust any administrative or notice requirements.
 - c. Do not argue any potential claims of non-parties to the suit.
 - d. Do not argue that 42 U.S.C. § 2000a is unconstitutional or that there is an insufficient interstate nexus to the statute.
2. When considering 42 U.S.C. § 2000a, please refer to the provisions excerpted in the appendix to this prompt.
3. You may make constitutional-avoidance arguments, if any, in interpreting the statute.

Title 42 U.S.C. § 2000a, “Prohibition against discrimination or segregation in places of public accommodation,” provides, in relevant part.

a) Equal access

All persons shall be entitled to the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of any place of public accommodation, as defined in this section, without discrimination or segregation on the ground of ... religion

(b) Establishments affecting interstate commerce or supported in their activities by State action as places of public accommodation; lodgings; facilities principally engaged in selling food for consumption on the premises; gasoline stations; places of exhibition or entertainment; other covered establishments

Each of the following establishments which serves the public is a place of public accommodation within the meaning of this subchapter if its operations affect commerce, or if discrimination or segregation by it is supported by State action:

...

(3) any motion picture house, theater, concert hall, sports arena, stadium or other place of exhibition or entertainment; and

(4) any establishment (A)(i) which is physically located within the premises of any establishment otherwise covered by this subsection, or (ii) within the premises of which is physically located any such covered establishment, and (B) which holds itself out as serving patrons of such covered establishment.

...

(c) Private establishments

The provisions of this subchapter shall not apply to a private club or other establishment not in fact open to the public, except to the extent that the facilities of such establishment are made available to the customers or patrons of an establishment within the scope of subsection (b).

INFO

The rules for filing the briefs and the functioning of the hearings will be displayed soon on the webpages of the competition.

For information about the Program, teams and individuals can contact mccordoba2022@gmail.com.