An Exercise in Futility: Does the Inquiry Required to Apply the Ministerial Exception to Title VII Defeat Its Purpose?

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I. INTRODUCTION

A Greek Orthodox bishop, dressed in the traditional cassock of his office, complete with a gleaming gold pectoral cross, walks up the aisle accompanied by a coterie of priests and deacons in their clerical garb aiding him on his way. He quietly sits in the chair, and with a soft, grandfatherly voice begins to answer questions about his Church. His answers explain the hierarchical leadership of the Greek Orthodox Church, and the theological, historical, and administrative reasons for such leadership. He then tenderly but firmly explains the role of women in the Church, explaining that their functions are outlined not only by millennia of Greek culture, but by the will of God.

This scene is not set in a grand cathedral, or within the confines of an onion domed Eastern-Orthodox church. Rather, it plays out in the sacred hall of secular justice, the United Stated District Court for the Western District of Pennsylvania. The Bishop is not teaching the congregation a religious lesson or delivering a sermon. Instead, he is testifying about the sacred teachings of his Church in defense of an anti-discrimination lawsuit.¹

One of the employees of the Greek Orthodox Diocese of Pittsburgh recently was dismissed from her position as diocesan administrator and replaced by a male.² She believed that this dismissal, as well as other alleged mistreatment by her coworkers, constituted sex discrimination, prohibited by Title VII of the Civil Rights Act of 1964.³

The Diocese countered that the employee fulfilled a ministerial function to the Church, and that to inquire into its decisions in regards to her employment status would be an unconstitutional intrusion of the state into Church business.⁴ As such, in order to prevail on the Diocese’s Rule 12 motion to dismiss the Title VII

2. Id. at 691.
3. Id. at 690.
4. Id.
claim, members of the Church had to explain the spiritual roles that the plaintiff filled.\(^5\)

This comment is intended to outline the broad scope that the federal court system has outlined for the application of the ministerial exception to Title VII. It will show that the process of ascertaining whether an employee fits within the exception requires a detailed examination of the teaching of the defendant church. As such, the application of the exception requires exactly what it purports to bar -- a governmental inquiry into the internal teachings and governance of religious organizations.

II. UNDUE INQUIRY: FIRST AMENDMENT PROBLEMS WITH TITLE VII AS APPLIED TO RELIGIOUS ORGANIZATIONS

Congress passed the Civil Rights Act of 1964 as a comprehensive measure to help eliminate discrimination in American society.\(^6\) Title VII of the Act is designed to ensure equal access to the workforce, and a discrimination-free workplace to all Americans.\(^7\) In providing a cause of action for even private discrimination in employment, Congress opened all employment decisions to the scrutiny of the courts.\(^8\) While this scrutiny was controversial as applied to any employer, it was especially so in relation to religious organizations.\(^9\)

The House of Representatives originally intended to provide a blanket exemption from Title VII for religious groups.\(^10\) As passed in the House, Title VII included the following provision: "This title shall not apply to an employer with respect to the employment of aliens outside any State or to a religious corporation, association, or society."\(^11\)

5. Id. at 692.
7. 42 U.S.C. § 2000e (1964). Title VII states that:
   It shall be an unlawful employment practice for an employer-
   (1) to fail or refuse to hire or to discharge any individual, with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, or national origin; or
   (2) to limit, segregate, or classify his employees in any way which would deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, because of such individual's race, color, sex, or national origin.
8. Id.
9. See McClure, 460 F.2d at 554.
10. See H.R. 7152, 88th Cong. (1964)
11. Id.
Senator Hubert H. Humphrey sponsored an alternate religious exception provision in the Senate, which ultimately was incorporated in the final version of the Title.\footnote{12} The Senator explained, “Section 702 has been amended to limit the general exemption of religious groups to those practices relating to the employment of individuals of a particular religion to perform work connected with the employer’s religious activities.”\footnote{13} The final form of Title VII exempts religious organizations from suits premised on religious discrimination, but not those based on the other enumerated factors of race, sex, color, or national origin.\footnote{14}

A difficult and perhaps unforeseen consequence of the limited exemption from Title VII arises when a minister of a religious institution brings a discrimination suit against the organization based upon non-religious reasons. In such case, a court would be compelled to inquire as to not only whether the minister was discriminated against, but also whether the alleged discrimination was premised upon acceptable religious grounds, or other, forbidden factors.

III. AN ATTEMPT AT A JUDICIALLY CRAFTED SOLUTION: THE MINISTERIAL EXCEPTION TO TITLE VII

It was in this aforementioned type of situation that the Fifth Circuit Court of Appeals formulated the ministerial exception to Title VII in the case of McClure v. The Salvation Army.\footnote{15} Mrs. Billie McClure was an ordained minister of the Salvation Army, who was terminated from her employment after several years of service.\footnote{16} She brought suit against the Salvation Army for sex discrimination in violation of Title VII, alleging that, as a woman, she was paid less than similarly ranked male employees, and that her dismissal was in retaliation for her complaints to the Equal Employment Opportunity Commission (hereinafter “E.E.O.C.”).\footnote{17} The Salvation Army contended that, as a church, the application of Title VII in such situation would constitute a violation of

\begin{thebibliography}{9}
\bibitem{12} 110 Cong. Rec. 12818 (1964).
\bibitem{13} Id.
\bibitem{15} McClure v. The Salvation Army, 460 F.2d 553 (5th Cir. 1972).
\bibitem{16} Id. at 555.
\bibitem{17} Id. The Equal Employment Opportunity Commission is charged by the Civil Rights Act of 1964 with the enforcement of the act.
\end{thebibliography}
the First Amendment of the Constitution of the United States. It argued that section 702 of Title VII, which provides that the Title shall not apply to a religious organization when the employment decision in question concerns the relationship of a religious organization to one of its ministers, did not apply to its situation. The Salvation Army argued that although, as Mrs. McClure contended, the language of section 702 on its face bars only claims of religious discrimination by a church, any inquiry by the E.E.O.C. or a court to determine whether the church’s motives were religious or otherwise would be an unconstitutional intrusion of the government into religion. The Salvation Army argued that any employment decision between a religious organization and its minister should be beyond scrutiny. The Fifth Circuit agreed. The court explained that numerous Supreme Court decisions explain that “although the wall of separation between permissible and impermissible intrusion of the State into matters of religion may blur, or become indistinct, or vary, it does and must remain high and impregnable.” The court stated that “[t]he relationship between an organized church and its ministers is its lifeblood.” Further, the court reasoned that just as the selection of a minister is an important matter of church governance, so too is the decision to terminate or transfer a minister. The Fifth Circuit explained that the Supreme Court long had held that internal matters on church governance and administration were beyond the purview of civil authorities. The McClure decision thus carved the “ministerial ex-

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18. Id. at 556. The First Amendment reads, in relevant part: “Congress shall make no law respecting the establishment of a religion nor prohibiting the free exercise thereof.” U.S. CONST. amend. I.
19. McClure, 460 F.2d at 556.
20. Id. at 558.
21. Id.
22. Id.
23. Id. (quoting Everson v. Board of Education, 300 U.S. 1 (1947)).
24. McClure, 460 F.2d at 558.
25. Id. at 559.
26. Id., citing, Watson v. Jones, 13 Wall. 679, 727 (1871) Watson established that the decisions of internal governance of a religious organization must, pursuant to the First Amendment, be granted deference by the government:
Whenever the questions of discipline, or of faith, or ecclesiastical rule, custom or law have been decided by the highest of these church judicatories to which the matter has been carried, the legal tribunals must accept such decisions as final, and as binding on them, in their application to the case before them.
Watson, 13 Wall. at 727.
Ministerial Exception to Title VII

The application of the ministerial exception is simple when the plaintiff alleging discriminatory employment practices is an ordained minister or cleric. In such circumstances, the exception serves as an automatic bar to any Article VII claim. The situation has been complicated, however, in situations wherein a lay person performing a religious or spiritual function for a religious organization alleges the discrimination. In such cases, the courts have applied the ministerial exception to bar a Title VII action if the person performs a role that is so sufficiently spiritual as to create a First Amendment issue were the E.E.O.C. or a court to scrutinize the employer's motives.

The seminal case holding that clerical ordination is not a prerequisite to the application of the ministerial exception is Rayburn v. General Conference of Seventh Day Adventists. Carole Rayburn was a member of the Sligo Seventh Day Adventist Church. Ms. Rayburn had the title of an associate in pastoral care, which denoted that she had received seminary training but was not an ordained member of the clergy. After being rejected for the job of Associate of Pastoral Care at her Church, Ms. Rayburn brought suit against the church pursuant to Title VII. Her complaint alleged that she was discriminatorily passed over for racial and gender reasons.

The Church argued that the suit should be dismissed for lack of jurisdiction because of the ministerial exception to Title VII. Ms. Rayburn countered that she was not, and could never be, ordained in the Church. The Fourth Circuit stated,

The ministerial exception to Title VII first articulated in McClure v. Salvation Army, does not depend upon ordination but upon the function of the position. As a general rule, if the

27. Id. at 560.
29. Id.
30. Id. at 1165.
31. Id. The Seventh Day Adventist Church does not allow for the ordination of women. Although women may receive seminary training and participate in the ministry of the Church, they may not be ordained as pastors or associate pastors. Id.
32. Id. at 1165.
33. Rayburn, 772 F.2d at 1165.
34. Id.
35. Id.
employee's primary duties consist of teaching, spreading the
faith, church governance, supervision of a religious order, or
supervision or participation in religious ritual or worship, he
or she should be considered "clergy."36

Thus, the court stated, the ministerial exception encompasses a
broader range of persons than those officially ordained by a reli-
gious organization.37 The exception is applied based on a func-
tional, rather than a titular, scrutiny.38

The court then stated that its role was to determine whether
Ms. Rayburn's function as an associate of pastoral care was "im-
portant to the spiritual mission of the Seventh Day Adventist
Church."39 Next, the court pointed out that the evidence that the
Church placed a strong emphasis on "spirituality" in its selection
of associates of pastoral care was unrefuted.40 Further, in making
appointments to the position, "[t]he guidance of the Holy Spirit is
always sought so that the one chosen can be God's appointed, as
well as one who has the support of his/her fellow church mem-
bers."41 The court held that Ms. Rayburn's role in the Seventh Day
Adventist Church was sufficiently spiritual so as to make scrutiny
by the state a violation of the First Amendment.42 It stated, "It is
axiomatic that the guidance of the state cannot substitute for that
of the Holy Spirit and that a courtroom is not a place to review a
church's determination of 'God's Appointed.'"43

Although Rayburn held that the ministerial exception may bar
suit by a non-ordained employee of a Church, the spiritual role
played by Ms. Rayburn was that of clergy in all but title.44 Ms.
Rayburn led the congregation in worship, stood on the platform
during services, and even preached from the pulpit in some in-
stances.45 Courts have subsequently illustrated that the ministe-
rial exception is substantially broader than the circumstances in
Rayburn, even encompassing roles that have little or no connec-
tion to actual religious worship or indoctrination.

36. Id. at 1168-69.
37. Id. at 1169.
38. Rayburn, 772 F.2d at 1169.
39. Id.
40. Id. at 1170.
41. Id.
42. Id. at 1168.
43. Rayburn, 772 F.2d at 1168.
44. Id.
45. Id. at 1168.
One of the first cases to apply the ministerial exception to Title VII to bar the discrimination suit of an employee with no connection to religious worship was *Little v. Wuerl.* Susan Long Little was employed as a teacher by a Catholic school in the Diocese of Pittsburgh; she held that position for nine years before being terminated. The Diocese hired Little knowing that she was a protestant. As such, she was limited to teaching secular subjects. She did, however, attend religious ceremonies with her students and participate in faculty retreats.

Ms. Little was terminated after entering into what the Church saw as an illicit marriage. She brought a Title VII suit, alleging that the Church discriminated against her for religious reasons. Specifically, she alleged that a Catholic school was barred from discriminating against her because her conduct did not conform to Catholic mores.

The court pointed out that Title VII has been interpreted to bar discrimination by religious organizations against their non-minister employees. On the contrary, the court explained, any attempt to forbid religious discrimination by a church against even a non-ministerial employee is constitutionally suspect if that employee has any religious significance. Thus, in order to determine whether Ms. Little's claim was justiciable under the Title, the court had to first ascertain whether her role in the Church was ministerial in nature.

As a protestant, Ms. Little clearly had no role in conducting the Diocese's worship. Nor, as a teacher, was she permitted to teach religion class. In order for her to have been considered ministerial, the role of a parochial school teacher itself must have been deemed to have a spiritual function within the Church.

46. 929 F.2d 944 (3d. Cir. 1991).
47. *Id.* at 945.
48. *Id.*
49. *Id.*
50. *Id.*
51. *Wuerl,* 929 F.2d. at 946. Ms. Little was remarried after being divorced from her first husband. *Id.* Because her first marriage was not granted an annulment according to Church Canon law, her second marriage is illicit according to Catholic teaching. 1983 CODE c. 1085.
52. *Id.* at 945.
53. *Id.*
54. *Id.* at 948.
55. *Id.*
56. *Wuerl,* 929 F.2d at 948-50.
57. *Id* at 945.
The court pointed out that "the religious significance of parochial schools – and their teachers in particular – is proclaimed by the Catholic Church, has been recognized by the courts, and is not challenged by Little." The court then included a footnote from a document promulgated by the National Conference of Catholic Bishops, which stated,

The integration of religious truth and values with the rest of life is brought about in the Catholic School, not only by its unique curriculum but, more important, by the presence of teachers who express an integrated approach to learning and living in their private and professional lives.

Further, the Third Circuit pointed out that the United States Supreme Court recognized the importance of Catholic schools to the mission of the Church, stating, "In recent decisions involving aid to parochial schools we have recognized the critical and unique role of the teacher in fulfilling the mission of a church-operated school."

The court then pointed out that the Supreme Court had also recognized that the Establishment Clause places limits on the relationship between parochial schools and their teachers. The Third Circuit held that in order to rule on Ms. Little's discrimination claim it would be required to determine what constitutes the teachings of the Catholic Church on marriage, the role of a Catholic school teacher, and, ultimately, whether Little violated them. This, the court stated, would be in violation of the Establishment Clause. Thus, the ministerial exception was applied to bar her suit against the Diocese.

The limits of the ministerial exception were tested once again in *E.E.O.C. v. The Roman Catholic Diocese of Raleigh*. In this case, the Fourth Circuit Court of Appeals held that the ministerial exception to Title VII must be applied to bar a discrimination suit

58. Id.
59. Id. at 948 n.5.
60. Id. at 948 n.6. (quoting: NLRB v. Catholic Bishop, 440 U.S. 490, 501 (1979)).
62. Id.
63. Id. at 948.
64. Id. at 949.
brought on behalf of an organist and music director of the Diocese’s cathedral.  

Joyce Austin was hired by the Diocese as the folk music director of the cathedral. Her primary duties included directing the parish choir, assisting with music at mass, teaching the congregation to sing along with the hymns, and recruiting and training cantors. Ms. Austin was also required to attend the meetings of the cathedral’s worship committee and approve music to be played at weddings.

After a parish survey revealed dissatisfaction with the music used in worship, the rector of the cathedral informed Austin that she would be terminated from her post. She was subsequently replaced by a male music director who was not even a Catholic. After filing a complaint alleging discrimination based on sex, the E.E.O.C. brought a Title VII suit on her behalf.

The primary issue involved in the case was whether a music director could be considered a minister pursuant to Title VII. Specifically, the case concerned whether someone with only a tangential relationship to the conduct of religious worship, and no role as a teacher of religious doctrine or mores, was in the same category as an ordained minister for Title VII analysis. The court held that Ms. Austin was a minister, and that her suit was barred by the ministerial exception.

The court held that the focus of Title VII analysis is on the “function of the position at issue and not on categorical notions of who is or is not a ‘minister.” The court found that a music minister can be considered ministerial for Title VII purposes because the role is “important to the spiritual and pastoral ministry of the Church.”

In order to show that the music ministry is an integral part of Catholic worship, an affidavit was submitted by Father Michael

66. Id. at 797.
67. Id.
68. Id. at 798.
69. Id.
70. Catholic Diocese of Raleigh, 213 F.3d at 798.
71. Id.
72. Id. at 799.
73. Id. at 802.
74. Id.
75. Catholic Diocese of Raleigh, 213 F.3d at 805.
76. Id. at 801.
77. Id.
He stated that music "helps the faithful to be more easily moved to devotion and better disposed to receive grace from God." Further, the court explained the importance of music across denominational or even religious lines, as follows:

Whether spoken or sung, psalms lift eyes unto the hills. It is not for us to place the oratorios of Handel, the cantatas of Bach, or the simplest of hymns beneath the reading of the sacred texts from which they draw. The Songs of the Confucian Sacrificial Ceremony, the gamelan music of Javanese mysticism, and the ballads of Sephardic song can be every bit as spiritually intimate as spoken prayers.

The broadest definition of minister laid down by any court was in Alicia-Hernandez v. Catholic Bishop of Chicago. Gloria Alicia Hernandez was the Hispanic Communications Director for the Diocese of Chicago. Her duties included composing media releases for the Hispanic community, translating Church materials into Spanish, and helping to foster a working relationship with the Hispanic media. After a series of disagreements with her superiors culminated in her being replaced by a male, Ms. Alicia-Hernandez brought a Title VII discrimination claim against the Diocese, alleging that she was discriminated against based upon her sex and national origin.

Although Ms. Alicia-Hernandez was essentially a translator and press-agent for the diocese, with no role in either the teaching or the worship of the Church, the Seventh Circuit held that she was a minister and that her claim was barred by the ministerial exception to Title VII. The court acknowledged that "[w]hether the ministerial exception applies to the position of press secretary is a novel question in this circuit." The court stated that the responsibility of a press secretary is to convey the message of an organization to the public at large. Thus, the press secretary for a

78. Id. at 802.
79. Id. Father Clay holds graduate degrees in liturgical music and theology. Id.
80. Catholic Diocese of Raleigh, 213 F.3d at 802.
81. 320 F.3d 698 (7th Cir. 2003).
82. Alicia-Hernandez, 320 F.3d at 700.
83. Id.
84. Id.
85. Id. at 699.
86. Id.
87. Alicia-Hernandez, 320 F.3d at 704.
Church is by nature disseminating the Church’s message. The Seventh Circuit reasoned that “the determination of whose voice speaks for the church is per se a religious matter.” Thus, the position of Diocesan press secretary was ministerial in nature and Ms. Alicia Hernandez’s Title VII claim failed for want of jurisdiction.

In Shaliehsabou v. Hebrew Home of Greater Washington, the Fourth Circuit continued to broaden the scope of the ministerial exception. Whereas the courts had previously held that one need not be ordained clergy in order to be considered a minister, in Shaliehsabou the court held that one need not even be employed by a traditional religious organization, such as a church, diocese, or synagogue.

Ferman Shaliehsabou was employed as the kosher supervisor, or mashgiach, of a predominately Jewish nursing home. As such, it was his responsibility to ensure that the meals and preparatory facilities at the nursing home adhered to the Jewish dietary laws.

Upon dismissal from the Hebrew Home, Mr. Shaliehsabou brought an action against it pursuant to the Fair Labor Standards Act, claiming that he was improperly denied overtime wages. The nursing home claimed that the plaintiff’s suit lacked jurisdiction because of the ministerial exception to the F.L.S.A., which is identical in scope to that of Title VII. The plaintiff countered that the nursing home could not claim protection by the ministerial exception because it was not a religious organization, and that his role at the home was not ministerial.

In determining whether a mashgiach is a ministerial role, the court outlined the role that a mashgiach plays in the Jewish

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88. Id.
89. Id. (quoting Minker v. Baltimore Annual Conference of the United Methodist Church, 894 F.2d 1354 (D.C. Cir. 1990).
90. Id.
92. Shaliehsabou, 363 F.3d at 299.
93. Id. at 301.
94. Id. at 302. The Kosher regulations concerning the preparation of food, the storage thereof, and the ritual cleanliness of the kitchen facilities are aspects of Halakha, the body of Jewish law. Id.
96. Shaliehsabou, 363 F.3d at 304.
97. Id. at 306. The first case to recognize a ministerial exception to the Fair Labor Standards Act was Dole v. Shenandoah Baptist Church, 899 F.2d 1389 (4th Cir. 1990).
98. Shaliehsabou, 363 F.3d at 308.
faith.\textsuperscript{99} In doing so, the court quoted extensively from a guide to Jewish observance.\textsuperscript{100} As to the importance of a Kosher diet, it quoted as follows:

The Jewish dietary laws prescribe not merely a diet for the body, but a diet for the soul as well, not so much a diet to maintain one's physical well being as a diet to maintain one's spiritual well being. The faithful Jew observes the laws of kashrut (kosher) not because he has become endeared to its specific details nor because it provides him with pleasure, nor because he considers them good for his health, nor because the Bible offers him clear-cut reasons, but because he regards them as Divine commandments and yields his will before the will of the Divine and the disciplines imposed by his faith.\textsuperscript{101}

Thus, the court found that due to the great importance of kosher in the Jewish faith, the one charged with overseeing and enforcing those dietary laws was implicitly ministerial in function.\textsuperscript{102}

The second issue that the court had to address was whether the ministerial exception could apply to bar a suit against an employer that was not a traditional religious organization.\textsuperscript{103} The court pointed out that the other circuits have held that a "religious institution" encompassed religiously affiliated organizations, such as schools, hospitals, and corporations.\textsuperscript{104} The court held that "a religiously affiliated entity is a 'religious institution' for purposes of the ministerial exception whenever that entity's mission is marked by clear and obvious religious characteristics."\textsuperscript{105} The court stated that because its primary role was to provide a home for elderly Jews to live according to the Jewish law, Hebrew Home of Greater Washington was a religious institution and the ministerial exception served to bar suit by Mr. Shaliehsabou.\textsuperscript{106}

\textsuperscript{99} Id.
\textsuperscript{100} Rabbi Hayim Halevy Donin, To Be a Jew: a Guide to Jewish Observance in Contemporary Life 29 (1972).
\textsuperscript{101} Shaliehsabou, 363 F.3d at 301-2 (quoting Donin, supra note 57 at 98).
\textsuperscript{102} Id. at 309.
\textsuperscript{103} Id.
\textsuperscript{104} Id. at 310.
\textsuperscript{105} Id.
\textsuperscript{106} Id.
IV. BACK TO THE BASICS: CONGRESS' ORIGINAL PLAN AS A COMPLETE BAR TO JUDICIAL SCRUTINY OF RELIGIOUS BELIEFS AND PRACTICES

The courts have carved the ministerial exception out of Title VII with the stated intent of preventing "excessive government entanglement with religious institutions prohibited by the First Amendment." First Amendment jurisprudence long has recognized that the government's danger of entanglement with religion is most sensitive when dealing with parochial schools, and especially with churches themselves. The exception has, however, accomplished the exact opposite of its stated attempt. The threshold determination of whether the exception should apply at all often requires an intensive examination of the exact nature of a plaintiff's role within the organization.

This examination burdens the religious organization by forcing them to outline their sacred beliefs in a secular context. This is especially so when the plaintiff is not a clergy member, but a lay person who fulfills a function that is arguably spiritual. In such cases, the courts often require an evidentiary hearing, as well as detailed briefs to determine the nature of the plaintiff's job. Even if the religious organization prevails in its ministerial exception defense, the costs in fees and time expended in establishing that defense may be significant.

The required inquiry of the court in determining whether or not the plaintiff fits within the established ministerial exception arguably constitutes the very entanglement with religion contrary to the First Amendment that the exception intended to avoid. The very determination of whether the plaintiff fulfilled a religious role requires at least a basic -- and often a very intense -- scrutiny into the teachings of the religious group.

The courts' opinions in the above cases illustrate the depth of inquiry into religious teachings and practices required in ministerial exception cases. At times, they read more like religion lessons.

106. Id.
108. Rayburn, 772 F.2d at 1170. Lynch v. Donnelly, 465 U.S. 668 (1984), held that whereas the dangers of state entanglement with religion is serious with regard to parochial schools, they are especially so with respect to the church itself, for "while schools may serve both secular and sectarian functions, the purpose of the church is fundamentally spiritual." Lynch, 465 U.S. at 688.
than jurisprudence. In Shaliehsabou,\textsuperscript{109} nearly two pages of the court's opinion were dedicated, by necessity, to an explanation of the nature of the Jewish halakha.\textsuperscript{110} In E.E.O.C. \textit{v. the Roman Catholic Diocese of Raleigh},\textsuperscript{111} the Fourth Circuit provided an outline of the spiritual use of music both within Catholicism and across world religions that was more befitting a cultural anthropology text than a judicial document.\textsuperscript{112} By reading Title VII ministerial exception cases, one can get a clearer understanding of the American religious experience than of the application of the exception.

The ministerial exception to Title VII has not fulfilled its purpose of preventing the entanglement of the state and religion. Not only does the exception actually require government inquiry into religious beliefs and roles, but its continued extension by the courts actually undermines Title VII's ability to combat discrimination.

Because of the varying nature of ministerial roles across the spectrum of religious organizations, a legislative definition of "minister" is impossible. The only alternative that would provide protection to religious organizations from unconstitutional inquiry into their practices and beliefs, while eliminating the need for courts to undertake an inquiry into the relationship of an employee to those beliefs, is to eliminate the need for the ministerial exception altogether. This can be accomplished by amending Title VII to the original House version, which provided a blanket exemption from liability under the act to religious organizations. Because of the increasingly broad application of the ministerial exception by the courts, a blanket exemption would still provide a substantial amount of protection, while preventing the present entanglement of the courts into religion.

\textit{William S. Stickman, IV}

\textsuperscript{109} Shaliehsabou, 363 F.3d at 299.
\textsuperscript{110} Id. at 301.
\textsuperscript{111} Catholic Diocese of Raleigh, 213 F.3d at 795.
\textsuperscript{112} Id. at 802.