

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

JAMES J. NINI
CLERK

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U.S. DISTRICT COURT
SOUTHERN DIST. OHIO
EAST TOWN, COLUMBUS

Civil No. 02 07 048

JUDGE FROST

MAGISTRATE JUDGE ABEL

CAROL A. KATTER,

Plaintiff,

v.

OHIO EMPLOYMENT RELATIONS BOARD, CRAIG
R. MAYTON, KAREN L. GILLMOR, and
MICHAEL G. VERICH,

Defendants,

PLAINTIFF CAROL KATTER'S VERIFIED COMPLAINT

Carol Katter, through counsel, files her complaint against the above-named

Defendants and alleges:

I. Nature of the Case:

1. Carol Katter has sincere religious objections to joining or financially supporting the labor union at her place of employment. She filed an application with the Ohio State Employment Relations Board to receive a religious accommodation which would allow her to redirect her compulsory union fees to an agreed upon charity. Her application was denied solely because she is a Roman Catholic and not a Mennonite or a Seventh-day Adventist. When she brought her need for religious accommodation to the attention of her union representative, she was told that the

only way for her to obtain an accommodation was to change her religion. This case seeks a declaration that the Ohio State statute which underlies SERB's decision is an unconstitutional establishment of religion and seeks an injunction against further discrimination by SERB on the basis of religion.

II. Jurisdiction and Venue

2. This Court has jurisdiction pursuant to 28 U.S.C. § 1331, and under 28 U.S.C. § 1343, to provide remedies under 42 U.S.C. § 1983, to protect plaintiff's rights under the First, Fifth and Fourteenth Amendments to the United States Constitution; and pursuant to 28 U.S.C. § 2201 and 2202, to declare the plaintiff's rights.
3. Venue is proper in this Court pursuant to 28 U.S.C. § 1391 and 1392. Defendant State Employment Relations Board is located within this judicial district. Additionally, plaintiff's claims arose in this judicial district.

III. Parties

4. Plaintiff, Carol Katter, is a teacher in the St. Marys City Schools. She began teaching at St. Marys in 1986.
5. Defendant Ohio State Employment Relations Board ("SERB") is an agency of the State of Ohio.
6. Defendant Craig R. Mayton is the Chairman and a Member of SERB and is sued in his official capacity.

7. Defendant Karen L. Gillmore is the Vice Chairman and a Member of SERB and is sued in her official capacity.
8. Defendant Michael G. Verich is a Member of SERB and is sued in his official capacity.

IV. Facts

9. Carol Katter is required, pursuant to a collective bargaining agreement between the St. Marys City Schools and the Saint Marys Education Association/Ohio Education Association/National Education Association (“Union”), to either join the Union or pay an agency fee to the Union as a condition of employment.
10. Ms. Katter has not previously joined the Union or financially supported it.
11. Ms. Katter is a member of the Holy Rosary Church, which is her local Roman Catholic Church. She has been a member of the Catholic Church her entire life.
12. Ms. Katter objects to supporting the Union because it acts counter to her religious beliefs. Of most concern to her is that the Union supports abortion rights. Ms. Katter believes that if she were to promote abortion by supporting the Union, she would sin against God and violate her obligations to the Roman Catholic Church. This could result in the loss of her eternal life.
13. On January 25, 2006, Carol Katter applied to SERB for a “religious exemption” which would allow her to redirect her compulsory union fees to an agreed upon charity.

14. SERB docketed her case and assigned it case number 06-RLX-01-0002.
15. On January 31, 2006, SERB sent Ms. Katter a letter under the signature of Dory A. McClendon informing her that her religious exemption was contingent upon providing:
 - a. Verification of her membership and adherence to the tenets or teaching of the Holy Rosary Church;
 - b. A written statement from an official specifically verifying that the Holy Rosary Church “has historically held conscientious objections to joining or financially supporting [a labor union];” and,
 - c. Documentation of such objections from the church tenets, constitution, bylaws, or other document that established rules of conduct for members of the Holy Rosary Church.
16. Ms. Katter provided timely information to SERB as to the position of the Catholic Church on abortion and provided a statement that giving money to the Union “is absolutely, 100% in violation of my religion,” but she was unable to provide documentation that the Holy Rosary Church “has historically held conscientious objections to joining or financially supporting [a labor union].”
17. On May 18, 2006, as a result of her failure to “file the proper verification as specified in Ohio Revised Code § 4117.09(C),” SERB Chairman Mayton, with the concurrence of Vice Chairman Gillmor and Board Member Verich, denied

Ms. Katter's application - thus denying her a religious accommodation.

18. SERB has previously granted members of the Seventh-day Adventist Church and the Mennonite Church religious exemptions on the basis that those churches qualify as having historically held conscientious objections to joining or financially supporting labor unions.
19. After Ms. Katter was denied a religious exemption by SERB, she spoke with Linda K. Fiely, counsel for the Union (specifically, General Counsel of the Ohio Education Association). Ms. Fiely told Ms. Katter that the only way for her to obtain a religious accommodation would be to change her religion to Seventh-day Adventist or Mennonite. Ms. Katter was unwilling to convert from her Catholic faith.

V. Claim for Relief: (Violation of 42 U.S.C. § 1983 and the Constitution of the United States)

20. By the foregoing, SERB and its Members, under color of state law (Ohio Revised Code § 4117.09(C)), have discriminated against Carol Katter on the basis of her religious preference in violation of the First and Fourteenth Amendments to the Constitution of the United States.
21. By the foregoing, and pursuant to the authority of state law, SERB and its Members violated the Establishment Clause of the First Amendment to the Constitution of the United States by depriving Ms. Katter of a reasonable

accommodation of her religious beliefs because she was not a member of a church with doctrines approved by the State of Ohio and SERB.

VI. Prayer for Relief

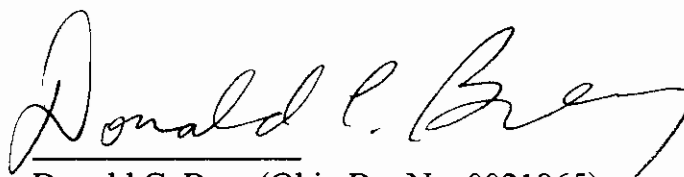
22. Wherefore, Carol A. Katter requests the following relief:

A. Declaratory: That this Court enter a declaratory judgment, pursuant to 28 U.S.C. § 2201, declaring that Ohio Revised Code § 4117.09(C) is unconstitutional as applied by SERB and its Members, and that Carol Katter is retroactively entitled to a religious exemption.

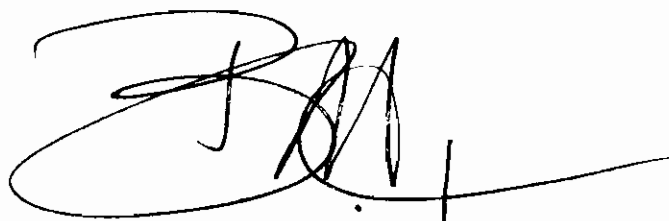
B. Injunctive: That this Court enter a permanent injunction which enjoins SERB and its Members from applying Ohio Revised Code § 4117.09(C) in a way which discriminates on the basis of religion, prefers one religious denomination over another, or prefers a religious belief based on denominational teaching over a personally held religious belief, and which enjoins them to retroactively grant Carol Katter a religious exemption.

C. Costs and Attorneys' Fees: Pursuant to 42 U.S.C. § 1988, this Court award Carol A. Katter her costs and attorneys' fees incurred in the litigation of this case.

D. Other: That the Court grant Carol Katter such other and further legal or equitable relief as the Court may deem just and proper.



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Attorneys for Plaintiff Carol A. Katter


VERIFICATION OF COMPLAINT

Carol A. Katter, pursuant to 28 U.S.C. § 1746, declares as follows:

I am the plaintiff in this case. I have read the foregoing complaint, and state upon my personal knowledge, information, and belief that the factual allegations contained herein are true. The factual allegations contained in paragraph 18 of my complaint are based on my belief, rather than my personal knowledge.

I verify under penalty of perjury that the foregoing is true and correct.

Executed on January 4, 2007.



CAROL A. KATTER

