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Sandor Demkovich had gotten too heavy, his boss allegedly told him. It wasn't the first time. The cost of keeping him on the health insurance plan was too high, the boss had previously said. He suggested that Demkovich, who has diabetes and metabolic syndrome, walk the boss' dog to help lose weight.

Demkovich also claims his boss was no keener on his sexual orientation. The boss used epithets I can't print here to describe him and his same-sex partner. As the date of Demkovich's wedding neared, the boss called his colleagues to demand information about the ceremony, which the boss called a "f** wedding." Four days after he got married, the boss asked Demkovich for his resignation and fired him when he refused to tender it.

Most of the time, federal, state and local civil rights laws shield employees like Demkovich from these reprehensible behaviors. Last summer, the U.S. Supreme Court affirmed that longstanding protections against discrimination on the basis of sex cover members of the LGBTQ+ community as well.

But Demkovich was a church organist and his boss a Catholic parish priest. And for that reason, the Chicago Archdiocese argued in a federal appeals court last week, the church should be immune from a lawsuit in which Demkovich alleges all the events I've just described.

Sadly, stories about Catholic institutions firing LGBTQ+ employees have become all too familiar. Across the U.S., parishes and schools have dismissed numerous staff for marrying same-sex partners or even just showing support for LGBTQ+ friends and family members. As commentators have pointed out, Catholic employers have not taken comparable action against employees contravening other church teachings. America magazine, in a 2016 editorial, rightly labeled this approach "unjust discrimination" and, in 2020, called upon church leaders to avoid "an indiscriminate purging" of employees.

Demkovich's story differs from others in two critical respects, however. First, he is not asking for his job back, nor contesting the church's right to fire him for reasons related to its moral teachings. He is suing instead for damages he claims he sustained because of the hostile work environment he endured for two years at St. Andrew the Apostle Parish in Calumet City.

Second, Demkovich says it was not only because of his sexual orientation that he experienced harassment, but also because of his medical conditions — which, he points out, fall within the protections of the Americans with Disabilities Act. And unlike homosexuality, having diabetes is not considered intrinsically disordered in Catholic teaching, nor is it an intrinsic moral evil to struggle with managing one's weight.

The archdiocese's lawyer sought to persuade the judges of the Seventh Circuit that even the pastor's humiliating comments about Demkovich's personal appearance are protected under what's known as the ministerial exception.

Recently reaffirmed by the Supreme Court, the exception gives religious employers nearly absolute control over the hiring, supervision and termination of employees who fall into the category of "ministers." (Which employees those are, and how broadly the ministerial exception sweeps, are still open questions.) The exception arises out of the First Amendment, since for courts to review and possibly overturn an institution's personnel decisions would risk a minister being imposed on a church against its will — a form of governmental interference with religion the framers of the Constitution certainly would not have endorsed.

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The archdiocese's argument against Demkovich is that when his pastor ridiculed him for being gay and overweight, Demkovich's supervisor was simply exercising his constitutional right to discipline an employee. What the pastor said and did may have been objectionable, but a court simply cannot look into the matter.

Pressed by one judge, the archdiocese's attorney admitted that his argument would make the church immune from suit even if a senior minister repeatedly hurled the N-word at a subordinate and even if there was no conceivable religious or theological grounds for doing so. "It would be odious, and nobody would endorse that," James Geoly said. "But the question is, should the court be in the position of choosing which words the superior minister used to admonish the inferior minister?"

This may or may not be the law — the Supreme Court has not decided whether a religious employer's immunity when it comes to hiring and firing covers mistreating and harassing employees as well. (Last week's Seventh Circuit arguments happened

because a three-judge panel of the court split on the key legal question in Demkovich's case, so 10 judges took up the issue in a relatively rare "en banc" hearing.)

But beyond the law, the archdiocese's argument simply cannot be right as a matter of Catholic teaching and basic humanity. Not content with the right to hire, discipline and fire key employees on theological grounds, the archdiocese and religious institutions like it are asking judges to avert their eyes entirely where the treatment of some employees is concerned.

Yet in "Justice in the World," the Synod of Bishops insisted that for the church to be a credible witness, it must manage its internal affairs justly, sometimes even beyond what civil law requires or permits. "Hence we must undertake an examination of the modes of acting ... found within the Church herself," the bishops commented back in 1971.

If *imago Dei* and the intrinsic dignity of the human person mean anything, those "modes of acting" simply cannot include harassment and name-calling.

As divisive battles over religious liberty proliferate, religious institutions and society at large will benefit from neither over- nor under-stating what the free exercise of religion in a pluralistic democracy really means. Indeed, a recent survey by the Public Religion Research Institute reveals that white Christians, especially Republicans and independents, are alone in believing that religious liberty is at risk in the U.S. today.

A wise balance — although not one the Supreme Court appears inclined to strike — would be, when the employee in question has a clearly religious role, to allow religious employers the freedom to make personnel decisions in keeping with any of their sincerely held beliefs. Courts reviewing cases like Demkovich's would ask only whether an institution has a sincere theological basis for the decision being challenged — that is, not a sham reason concocted only to cover the institution's actions.

But where those actions are not grounded in the institution's teachings, as with the brutal shaming Demkovich reported, it would be treated just the same as any other employer.

Whatever the legal rule, just because courts may afford Catholic employers the right to act freely against some of their employees does not mean that the church ought to avail itself of that prerogative. To do so communicates terrible messages: that church employment is only for the perfect; that the church's moral understanding has no room for development; and that the church values doctrinal purity and the prerogatives of hierarchical authority over human respect and mutual encounter.

These messages would threaten the church's credibility at the best of times, but amid the ongoing fallout of decades spent concealing child sexual abuse from legal authorities, it reeks of hypocrisy.