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Bob Jones University v. United States 461 U.S. 574 (1983)

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Governmental antidiscrimination objectives and religious liberty concerns were pitted against each other in *Bob Jones University v. United States*, a 1983 U.S. Supreme Court decision holding that educational organizations eligible for federal tax-exempt status may not discriminate on the basis of race. In addition to recognizing this antidiscrimination requirement, the Court rejected Bob Jones University’s claim that racially discriminatory practices rooted in religious belief should be exempted from Internal Revenue Service antidiscrimination regulations. In the context of the Court’s earlier decision in *United States v. Lee* (1982) and subsequent decisions such as *Bowen, Secretary of Health and Human Services, et al. v. Roy* (1986), *Lyng v. Northwest Indian Cemetery Protective Association* (1988), and *Employment Division, Department of Human Resources of Oregon v. Smith* (1990), the Supreme Court’s refusal to grant a special exception from a generally applicable eligibility scheme to a religious organization was to be expected. What made the *Bob Jones University* decision especially noteworthy was the political firestorm that surrounded the decision, thanks to Reagan administration efforts to moot the *Bob Jones University* litigation by rescinding the IRS’s antidiscrimination requirement.

Bob Jones University calls itself “the world’s most unusual university.” Although unaffiliated with any established church, the university is dedicated to the teaching and propagation of fundamentalist religious beliefs. In pursuit of these goals the university dictates strict rules of conduct for its students. To enforce one such rule forbidding interracial dating and marriage, the university denies admission to applicants engaged in or known to advocate interracial dating and marriage.

The Bob Jones University controversy began in November 1970, when the U.S. District Court for the District of Columbia in *Green v. Kennedy* (D.C., 1970) enjoined the IRS from according tax-exempt status to racially discriminatory private schools in Mississippi. The *Green* court suggested that the IRS would not be permitted to grant tax-exempt status to institutions that violate the government’s public policy of nondiscrimination. The IRS then reversed its position of granting tax exemptions to racially discrimina-
tory institutions and notified the university that it intended to challenge the tax-exempt status of private schools that maintain racially discriminatory admissions policies. In response, the university in 1971 sought to enjoin the IRS from revoking its tax-exempt status. That suit culminated in *Bob Jones University v. Simon*, a 1974 Supreme Court decision that "prohibited the University from obtaining judicial review by way of injunctive action before the assessment or collection of any tax."

The IRS in January 1976 formally revoked the university's tax exemption. After paying a portion of the federal unemployment taxes due, the university filed suit for a refund, contending that it was statutorily and constitutionally entitled to reinstatement of its tax exemption. In April 1981 the U.S. Court of Appeals for the Fourth Circuit upheld the revocation of the exemption. The Supreme Court granted certiorari in *Bob Jones University and in Goldsboro Christian Schools, Inc. v. United States*, cases presenting identical issues. On January 8, 1982, the Justice Department petitioned the Court to vacate these cases as moot in light of the Reagan administration's decision to reinstate the tax-exempt status of racially discriminatory private schools. Because of a related court order that prevented the administration from reinstating the tax-exempt status, however, the administration withdrew its request that the Court declare the cases moot. On May 24, 1983, the Supreme Court, by a vote of 8 to 1, denied tax exemptions to the two petitioner schools. In its decision the Court made certain general pronouncements, both on the meaning of the Internal Revenue Code's exemption provision and on the IRS's authority to issue rulings in accordance with its own interpretation of the code. The majority, in an opinion written by Chief Justice Warren Burger, held that a tax-exempt institution must confer some "public benefit" and that its purpose must not be at odds with the "common community conscience." The Court further held that the IRS has broad authority to interpret the code and to issue rulings based on its interpretation.

The Court also considered the religious liberty claims of Bob Jones University and Goldsboro Christian Schools. Noting that the "Government has a fundamental overriding interest in eradicating racial discrimination in education," the Court concluded that this governmental interest "substantially outweighs whatever burden denial of tax benefits" places on the exercise of religious belief. By holding that equality of treatment on the basis of race is the Constitution's most essential protection, and that the government's broad interest in racial discrimination in education was at issue, the Court had little difficulty in disposing of the religious liberty claims of Bob Jones University and Goldsboro Christian Schools. In fact, the Court devoted only three pages of its thirty-page opinion to the religious liberty issue.

The Court, however, overstated the government interest as it applied to Bob Jones University. Racial discrimination in education (or public support of such discrimination) was not the precise government interest at issue. More accurately, the government interest is a much more limited one, focusing on discriminatory policies applied by a religious school for religious reasons. Moreover, unlike Goldsboro Christian Schools, Bob Jones University admitted both minority and non-minority students.

The Court's failure to treat Bob Jones University's religious liberty claim seriously or to distinguish the religious liberty interests of the two schools can probably be attributed to the justices' efforts to make *Bob Jones University* a case of great symbolic value. Although the case initially was perceived as a religious liberty lawsuit, the Reagan policy shift transformed it into a socially significant racial discrimination lawsuit. Indeed, although several religious groups (including the American Baptist Churches, United Presbyterian Church, and National Association of Evangelicals) supported Bob Jones University's religious liberty claim, the vast majority of amicus curiae filings—sometimes joined by religious interests such as the American Jewish Committee—were by civil rights organizations that strenuously opposed Bob Jones University. Under these circumstances, the Court may have thought it best to keep the focus of the case narrow and to make the language about the evils of racial discrimination universal.

The Court should not be faulted too much for this interpretation. Between nondiscrimination in education and religiously inspired discrimination, the Court's endorsement of nondiscriminatory objectives is hardly surprising. To give substantial attention to religious liberty concerns would—by

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making the case appear more complex—indirectly limit the forcefulness of the Court's embrace of equal educational opportunity. In other words, the Court seemed to recognize the political impact of the decision and thus spoke in general terms about the meaning of the tax-exemption provision of the Internal Revenue Code and the evils of racial discrimination.

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Bibliography

Cases Cited