

**EEOC DETERMINATION LETTER
ON BRUCE ANDERSON v. ORANGE COUNTY
TRANSIT AUTHORITY, CHARGE NO. 345960598**

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
San Diego Area Office

Charge Number: 345960598

Bruce Anderson


Charging Party

Orange County Transit Authority
550 S. Main Street Orange, CA 92613
Respondent

DETERMINATION

Under the authority vested in me by the Commission, I issue the following determination as to the merits of the subject filed under Title VII of the Civil Rights Act of 1964, as amended.

All requirement for coverage have been met. Charging Party alleges that Respondent discriminated against him on the basis of religion in violation of Title VII of the Civil Rights Act of 1964, as amended. Specifically, Charging Party asserts that he is a strict vegetarian due to moral and ethical beliefs as to what is right and wrong, and that he sincerely holds these beliefs with the strength of traditional religious views. Charging Party asserts that he was removed suspended and ultimately discharged from his position of bus driver after informing Respondent of the conflict between his strongly held moral and ethical beliefs and the work assignment to "...personally

hand out coupons for free Carl's Jr. hamburgers..." Additionally, Charging Party maintains that Respondent failed to reasonably accommodate him and terminated his employment claiming that he was insubordinate.

Respondent denies that it discriminated against the Charging Party in violation of Title VII of the Civil Rights Act of 1964, as amended, and contends that Charging Party was terminated based solely on his refusal to perform a management directive.

Examination of the evidence of record evinces that on June 4, 1996, Charging Party informed Respondent of the conflict between his strongly held moral and ethical beliefs and the requirement that he distribute hamburger coupons to passengers entering the bus he operated. Respondent failed to reasonably accommodate Charging Party and suspended him without pay on June 4, 1996. On June 7, 1996, after an internal hearing, Charging Party was discharged for failing to comply with Respondent's directive.

Title VII of the Civil Rights Act of 1964, as amended, requires that an employer reasonably accommodate an employees religious observance or practice unless there is an undue hardship. The Commission defines religious practices to include moral or ethical beliefs as to what is right and wrong which are sincerely held with the strength of traditional religious views. This standard was developed by the United States Supreme Court in *United States v. Seeger*, 380 U.S. 163 (1965) and *Welsh v. United States*, 390 U.S. 333 (1970).

In that instant case, Respondent failed to make any effort to reasonably accommodate Charging Party and raises no undue hardship defense. Consequently, I find Respondent discriminated against Charging Party because of his strongly held moral and ethical beliefs by failing to accommodate him. Moreover, Respondent violated Section 703 (a) of Title VII of

the Civil Rights Act of 1964, as amended, by suspending and discharging Charging Party.

Additionally, Section 704(a) of Title VII of the Civil Rights Act of 1964, as amended, makes it an unlawful employment practice to discriminate against any employee because he has opposed any practice made unlawful by the statute. I find sufficient evidence to believe that Charging Party was discharged because he opposed Respondent's unlawful refusal to accommodate him.

Section 706(b) of Title VII requires that if the Commission determines that there is reason to believe that violations have occurred, it shall endeavor to eliminate the alleged unlawful employment practices by informal methods of conference, conciliation, and persuasion. Having determined that there is reason to believe that a violation has occurred, the Commission now invites the parties to Join with it in a collective effort toward a just resolution of this matter. A representative of this office will be in contact with each party in the near future to be in the conciliation process. Disclosure to information obtained by the Commission during the conciliation process will be made in accordance with Section 706(b) of Title VII and Section 1601.26 of the Commission's Procedural Regulations. When the Respondent declines to enter into settlement discussions, or when the Commission's representative for any other reason, is unable to secure a settlement acceptable to the office Director, the Director shall so inform the parties in writing and advise them of the court enforcement alternative available to the Charging Party, aggrieved persons, and the Commission.

8/20/96 Date

on Behalf of the Commission:

/s/ Patrick Matarazza, Director San Diego Area Office