

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION**

BEAR CREEK BIBLE CHURCH, et al.,	§	
	§	
Plaintiffs,	§	
	§	
v.	§	Civil Action No. 4:18-cv-00824-O
	§	
EQUAL EMPLOYMENT	§	
OPPORTUNITY COMMISSION et al.,	§	
	§	
Defendants.	§	

ORDER

The text of Title VII addresses religious accommodations at 42 U.S.C. § 2000e-1(a) and 42 U.S.C. § 2000e-2(e)(2). Generally, this provision permits religious organizations to limit employment to members of a particular religion. It does not apply beyond those organizations specified in this section. Many courts hold that this exception is limited to employment decisions related to co-religionists. *EEOC v. Pac. Press Publ’g Assoc.*, 676 F.2d 1272, 1276–77 (9th Cir. 1982). However, some courts and legal scholarship recognize that the statutory exemption permits religious employers to consider conduct¹, as well as denomination affiliation. *See* Stephanie N.

¹ Plaintiffs seek, among other things, a declaration that Title VII’s prohibition of discrimination on the basis of sex after *Bostock v. Clayton County*, 140 U.S. 1731 (2020), does not apply to certain of their employment practices based on their religious beliefs. They also seek a declaration as to the proper interpretation of Title VII, as it relates to their employment policies that affect homosexual and transgender conduct. They do not appear to seek a declaration as to whether Bear Creek Bible Church and/or Braidwood Management Inc. would fit within the existing Title VII religious exemption, nor whether the current scope of that exemption already protects them from Defendants’ enforcement actions related to their employment policies.

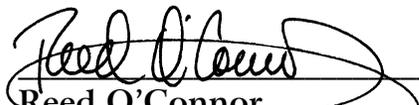
While not providing a detailed textual analysis, Defendants’ briefing and oral argument assert that the scope of the religious exemption in Title VII is limited to permitting a religious organization to hire only co-religionists.

To permit the Court to evaluate whether either Plaintiff in a Title VII claim would need to rely on the Religious Freedom Restoration Act, or the Constitutional claims, or whether *Bostock* has any effect on the acts they seek to have interpreted under Title VII, additional briefing is required.

Phillips, A Text-Based Interpretation of Title VII’s Religious-Employer Exemption, 20 Tex. Rev. L. & Pol. 295 (2016); *see also Corp. of Presiding Bishop of the Church of Jesus Christ of Latter-Day Saints v. Amos*, 483 U.S. 327, 339 (1987) (“[Section] 702 is rationally related to the legitimate purpose of alleviating significant governmental interference with the ability of religious organizations to define and carry out their religious missions.”); *Larsen v. Kirkham*, 499 F. Supp. 960, 966 (D. Utah 1980) (“[I]t is inconceivable that the exemptions would purport to free religious schools to employ those who best promote their religious mission, yet shackle them to a legislative determination that all nominal members are equally suited to the task.”), *aff’d without opinion*, No. 80-2152, 1982 WL 20024 (10th Cir. Dec. 20, 1982).

Accordingly, the parties are **ORDERED** that Plaintiffs submit briefing stating their positions on whether the text of the statutory exemptions for religious employers could exempt Bear Creek Bible Church or Braidwood Management Inc. from the mandates of Title VII no later than September 24, 2021. Defendants shall reply no later than September 30, 2021. Plaintiffs shall reply no later than October 5, 2021.

SO ORDERED on this **16th day of September, 2021.**


Reed O'Connor
UNITED STATES DISTRICT JUDGE