

Is a philosophical belief in Stoicism a protected belief under section 10 of the Equality Act? Yes it is, says London South Employment Tribunal

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Mr S Jackson v Lidl Great Britain Ltd, Case Number 2302259/2019/V

Exciting developments in all things Equality Act 2010 from West Croydon, and we're not talking about the return of the much-missed jerk chicken van.

Facts

C was dismissed for refusing to apologise for offending his colleagues. C's position was that he had mixed up his words due to his dyslexia. The offence that he had caused was unintentional. He had refused to apologise, or to apologise sufficiently, for that reason. He asserted that he was being required to communicate in a way that could not be misinterpreted, and that as a Stoic this was something that he could not do.

C presented claims of direct disability discrimination and direct discrimination because of religion or belief. C's case was that he had a strong interest in philosophy and a thorough knowledge of the principles of Stoicism. He told the Tribunal that he believes that there is an objective moral reality to which we are subject and that there are several ethical "values" (wisdom, courage, moderation and justice) to which he must adhere as a consequence of this belief. An important part of his belief is that he is not a "consequentialist", i.e. the consequences of what he says and does do not prevent him from saying or doing that thing. His evidence, which was accepted by the Tribunal, was that he was striving towards what Stoics call "apatheia", or a state of equanimity.

The case was set down for a preliminary hearing to consider, amongst other things, whether Stoicism qualifies as a philosophical belief within the meaning of section 10 of the Equality Act 2010.

Stoicism

I didn't read Classics and had only the vaguest idea of what Stoicism as a belief system involves, so I looked it up on Wikipedia. It is "*a philosophy of ethics informed by its system of logic and its views on the natural world*", which holds that the way to happiness is found in living in the moment, without being controlled by the desire for pleasure or fear of pain (hence, presumably, C's assertion to the judge that he is "not a consequentialist"), and by working together and by treating others fairly and justly.

There is also a Wikipedia entry on "modern Stoicism", which "*covers both the revival of interest in the Stoic philosophy and the philosophical efforts to adjust Ancient Stoicism to the language and conceptual framework of the present*".

Law

By Section 10(2) of the Equality Act 2010, a belief is defined as "*any religious or philosophical belief and a reference to belief includes a reference to a lack of belief*".

The ET reminded itself of the EAT's guidance in Grainger plc and others v Nicholson [2010] ICR 260, which was heavily influenced by cases decided under Article 9 ECHR (freedom of thought, belief and religion). A belief can only qualify for protection if it is genuinely held; is not simply an opinion or viewpoint based on the present state of information available; concerns a weighty and substantial aspect of human life and behaviour; attains a certain level of cogency, seriousness, cohesion and importance; and is worthy of respect in a democratic society, is not incompatible with human dignity, and is not in conflict with the fundamental rights of others.

The ET also referred to Gray v Mulberry Company (Design) Ltd [2019] ICR 175, in which Choudhury P. commented that the bar for protection of a belief should not be set too high; on the other hand, he noted the importance of assessing cogency and coherence of a claimant's beliefs.

Judgment

EJ Cheetham QC observed that the focus should be upon the manifestation of the belief, and that it was hard to define how C's particular philosophical beliefs manifested in his daily life. He accepted C's evidence that that "*this belief system underpins almost every act that I perform in my life*" and that, for example, "*the realisation that the consequence of what I say would cause offence would not stop me from saying it*". The Judge considered that C does

try to adhere to the principles of Stoicism in daily life and that his beliefs guide and to an extent dictate what he says and does.

Applying the Grainger guidelines, the Judge found as follows:

- Stoicism is a philosophical belief system that has existed for about 2,300 years
- C's beliefs based on Stoicism are genuinely held
- C has had an interest in and adherence to this belief system for a number of years and it is more than merely holding an opinion
- Stoicism is "*just one of innumerable schools of thought attempting to answer the most profound questions that we ask*" and therefore concerned a weighty and substantial aspect of human life and behaviour
- C applies his belief consistently and it is an important part of his life; he is striving to achieve a state of equanimity, suggesting a guiding purpose giving cohesion to his beliefs; therefore it has attained a certain level of cogency, seriousness, cohesion and importance
- The Judge admitted to struggling with whether the belief was worthy of respect in a democratic society, given that it involved consciously disregarding the consequence of saying or doing something that might or probably will cause offence. However, he observed that there is no fundamental right not to be offended. He did not consider that C's belief in Stoicism fell into the same category as, for example, beliefs founded on racial superiority. The judge concluded that Stoicism is not unworthy of respect in a democratic society, incompatible with human dignity or in conflict with the human rights of others.

Accordingly, the Judge concluded that C's philosophical belief in Stoicism was protected under section 10 of the Equality Act 2010.

Comment

This is an interesting one, isn't it? The Judge's concern about extending the protection of the Act to a belief system that means its adherents are more likely to cause offence to others is an understandable starting point. Indeed the Judge did consider whether, for example, section 26 of the Equality Act 2010 amounts to a right not to be offended, in which case C's philosophical belief might be said to be unworthy of respect in a democratic society. He concluded that the section does not create a right not to be offended.

Overall, the decision that the Stoic philosophy of ethics as a belief system is worthy of respect in a democratic society seems reasonable, bearing in mind that Stoics believe in working together and treating others with fairness and dignity, although the Judge did not specifically take this into account.

First veganism, now Stoicism. It's exciting and refreshing to see the ambit of section 10 explored in different ways. What's next?

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