

Sherbert, Adell

(1902–1989)

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Adell Sherbert's refusal to work on the Sabbath (Saturday) led to a U.S. Supreme Court decision that expanded the legal rights of seventh day Sabbathkeepers as well as those of other people whose religious scruples kept them from working on a different day.

Family

Adell Hoppes Sherbert was born August 22, 1902.¹ Her husband was William Morgan Sherbert (1902-1953).² They had five children: John Morgan Sherbert (1921-1990), Dewey William Sherbert (1923-1966), Lois Lucille Sherbert Roscoe (1927-2005), Walter Franklin Sherbert (1933-2012), and Joseph A. Sherbert (1939-2013).³ Adell and her family lived in Spartanburg, S.C.⁴

Spartan Mills

At the age of 19, Mrs. Sherbert began to work at a Spartan Mills textile plant⁵ as a spool tender.⁶ About 37 years later, in 1957, she joined the Seventh-day Adventist Church. At that time the mill only operated five days a week, Monday through Friday. Two years later, Spartan Mills changed their required workweek to six days, Monday through Saturday.⁷



Adell Sherbert

Source: *Find A Grave*,

<https://www.findagrave.com/memorial/24356070/adell-sherbert>

She requested to be excused from Saturday work because of her religious beliefs. Management denied her request.⁸ After she missed six Sabbaths, the mill fired her on July 27, 1959.⁹ Now a widow, she needed a source of income. Although she applied at three other mills in the Spartanburg, South Carolina, area, none of them wanted to employ someone willing to work only five days a week. Consequently, she filed a claim for unemployment insurance, indicating that she was willing to accept work in any other textile mill in the area, or even in some other industry, as long as she could abstain from Saturday work.¹⁰ The South Carolina Unemployment Security Commission denied her request, because in order to receive compensation one needed to accept “without good cause 'suitable work when offered ... by the employment office or the employer.’”¹¹ As one writer pointed out, “Essentially, the claims officer decided that Mrs. Sherbert's religious convictions regarding the Seventh-Day Sabbath were not 'good cause' to refuse to work on Saturday.”¹²

Legal Battle

Mrs. Sherbert asked the Carolina Conference of Seventh-day Adventists for help. They employed James Cobb, an attorney with Whitlock, Dockery, Ruff, and Perry, to represent both Mrs. Sherbert and Sally Lloyd, another veteran Spartan Mills employee who had also been fired for refusing to work on the Sabbath. Cobb had good reason to expect victory, because he had won a similar case against Cannon Mills in North Carolina.¹³

Unfortunately for Cobb—and for Mrs. Sherbert as well as Ms. Lloyd—South Carolina had a precedent on the issue that was the opposite of that of its neighbor to the north. Another Seventh-day Adventist, Pierce W Strange, had been denied unemployment benefits after losing his job over Sabbath observance. Judge Robert R. Moss, who was later promoted to the state Supreme Court, had written the decision denying his legal appeal. Relying on the *Strange* case, the judge in Mrs. Sherbert's trial ruled against her, declaring that being fired for “good cause” did not necessarily mean that the person had engaged in “censurable conduct.”¹⁴

South Carolina Supreme Court

Mrs. Sherbert and her supporters decided she would appeal to the South Carolina State Supreme Court. Sally Lloyd didn't appeal, but both parties in the controversy agreed that whatever was decided about Mrs. Sherbert would also apply to Ms. Lloyd. By the time the case reached the State Supreme Court, the very judge that had ruled against Mrs. Sherbert had been promoted to that court. Although he didn't take part in the State Supreme Court's decision, another justice with a conflict of interest, Robert R Moss, the judge who had written the *Strange* decision, did participate.¹⁵

Not surprisingly, the State Supreme Court ruled against Adell Sherbert. Her lawyers had appealed on the basis that she was being deprived of her religious freedom. However, the South Carolina “Supreme Court held specifically that her ineligibility” to receive unemployment benefits “infringed no constitutional liberties, because it places no restriction upon the appellant's freedom of religion nor does it in any way prevent her in the

exercise of her right and freedom to observe her religious beliefs in accordance with the dictates of her conscience. ¹⁶

None other than Robert R. Moss authored the decision. It was a clear case of religious discrimination, because it was brought to the court's attention that one provision of the law was that "no employee shall be required to work on Sunday who is conscientiously opposed to Sunday work." Thus, the court's decision meant that Sunday-keepers' rights would be respected in such a situation, but Saturday-keepers would not have the same rights!¹⁷

United States Supreme Court

Eleven days after the South Carolina Supreme Court announced its May 17, 1962, decision, General Conference officers decided to appeal it to the United States Supreme Court, which on December 17, 1962, agreed to hear the case. The Court released its decision on June 17, 1963.¹⁸

Speaking for the court's majority, Associate Justice William J. Brennan, Jr., wrote that South Carolina's "ruling forces her to choose between following the precepts of her religion and forfeiting benefits, on the one hand, and abandoning one of the precepts of her religion in order to accept work on the other hand. Governmental imposition of such a choice puts the same kind of burden upon the free exercise of religion as would a fine imposed against appellant for her Saturday worship."¹⁹

Brennan added that overturning the South Carolina Supreme Court's decision did not foster "the 'establishment' of the Seventh-day Adventist religion in South Carolina, for the extension of unemployment benefits to Sabbattarians in common with Sunday worshipers reflects nothing more than the governmental obligation of neutrality in the face of religious differences and does not represent that involvement of religious with secular institutions which is the object of the establishment clause to forestall.... Nor does the recognition of the appellant's right to unemployment benefits under the state statute serve to a bridge any person's religious liberties."²⁰

Brennan also said, "Our holding today is only that South Carolina may not constitutionally apply the eligibility provisions so as to constrain a worker to abandon his religious convictions respecting the day of rest. This holding but reaffirms a principle that we announced a decade and a half ago, namely that no State may 'exclude individual Catholics, Lutherans, Mohammedans, Baptists, Jews, Methodists, Non-believers, Presbyterians, or the members of any other faith, because of their faith, or lack of it, from receiving the benefits of public welfare legislation.'"²¹

Dissenting, John Marshall Harlan II suggested that the court was violating the principal of neutrality between religious and nonreligious claims regarding unemployment insurance.²²

After the US Supreme Court had agreed to review the South Carolina Supreme Court's decision, *Review and Herald* associate editor Ray F. Cottrell declared, "The facts of the case are clear and uncontested. It would seem

that Adell Sherbert's constitutional right to compensation benefits is equally clear and should be made retroactive to July 27, 1959.... Surely the time has not yet come when the United States will permit its citizens to be deprived of religious freedom, due process, and equal justice all at one fell swoop.²³ After the announcement of the final decision, that publication's editor-in-chief, Francis David Nichol, responded, "For this clear-cut decision we may well thank God anew for His protective care over those who conscientiously witness for the truth of the Sabbath at the risk of discrimination in the matter of unemployment compensation."²⁴

Constitutional Significance

This case established the constitutional precedents that a law can unconstitutionally infringe on religious freedom even if it applied to everybody and doesn't specifically target a particular group,²⁵ and that it can't "burden the exercise of a religious practice"²⁶ unless the state had a compelling interest in limiting such action and can't find a less intrusive way of accomplishing that objective.²⁷ This was referred to as the *Sherbert* test,²⁸ and it was applied to a number of subsequent Supreme Court cases.²⁹

The *Sherbert* test reigned supreme for 27 years, after which it was essentially overturned in *Employment Division v. Smith*. The majority opinion in that case, written by Justice Antonin Scalia, said the freedom to disobey generally applicable laws because of religious convictions was a "'luxury' that a well-ordered society cannot afford, and that the repression of minority religions is an 'unavoidable consequence of democratic government.'"³⁰ Congress was only partially successful in its attempt to legislatively restore rights lost in this case.³¹

Awaiting Her Heavenly Mansion

Adell Sherbert did not live to see her constitutional legacy dissipated. While still living in Spartanburg³² on December 11, 1989 when, at the age of 87, she passed to her rest.³³ She was buried beside her husband in Sunset Memorial Park in her home town.³⁴ Her tombstone reads, "In my Father's house are many mansions."³⁵

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