

COMMONWEALTH OF MASSACHUSETTS  
Division of Administrative Law Appeals

---

ITEIASIA JENKINS,	:	Docket No. DET-23-0017
<i>Petitioner</i>	:	
	:	
	:	
v.	:	
	:	
DEPARTMENT OF	:	
UNEMPLOYMENT ASSISTANCE,	:	
<i>Respondent</i>	:	

---

**Appearance for Petitioner:**

Iteiasia Jenkins, *pro se*  
Walpole, MA 02081

**Appearance for Respondent:**

John Cronin, Esq.  
Department of Unemployment Assistance  
Boston, MA 02114

**Administrative Magistrate:**

Eric Tennen

**SUMMARY OF DECISION**

The Petitioner is not entitled to unemployment benefits. She requested a religious exemption to the Commonwealth’s vaccine requirement, which was denied. At the hearing, she was unable to explain the religious basis for her beliefs. Rather, her concerns were personal, *i.e.*, secular. Accordingly, her failure to comply with the vaccine requirement was an appropriate ground for termination.

**DECISION**

Pursuant to G.L. c. 151A, § 39, the Petitioner, Iteiasia Jenkins, appeals a determination by the Department of Unemployment Assistance (“DUA”) denying her unemployment benefits. The Petitioner was a probationary employee of the DUA. She applied for unemployment benefits on November 28, 2021. Her claim was denied on December 15, 2021. She filed an appeal and

DUA then referred the matter to the Division of Administrative Law Appeals (“DALA”) for a hearing. *See* G.L. c. 151A, § 39(b).

With the parties’ assent, I conducted a hearing via the Webex platform on March 10, 2022. I presided over the hearing from the DALA office located at 14 Summer Street, 4<sup>th</sup> Floor, Malden, MA 02148. Ms. Jenkins testified on her behalf; the Board called Stephanie Ross, Director of Labor Relations at the Department of Workforce Development. I swore in Ms. Jenkins and Director Ross and was able to observe their demeanor throughout their testimony. I admitted 17 exhibits. I also recorded the hearing via digital audio, which serves as the official recording of the hearing. The parties presented closing arguments at the conclusion of hearing, whereupon the administrative record was closed.

### **FINDINGS OF FACT**

Based on the testimony, and the exhibits admitted into evidence, I make the following findings of fact:

#### Background

1. The Petitioner began working at the Office of Labor & Workforce Development on April 5, 2021. (Ross Testimony; Exhibit 1.)
2. She was a Job Service Representative. (Ross Testimony; Exhibit 1.)
3. All employees begin in a probationary status and remain there until they have worked for over nine months. (Ross Testimony.)
4. When the Petitioner began, her position was fully remote. However, the expectation was that the position would become in-person at some point. (Ross Testimony; Exhibits 1 and 2.)
5. The Petitioner began work at time when the State was still developing plans around the

newly developed vaccines.

6. On August 19, 2021, Governor Baker issued Executive Order 595 requiring all executive department employees to provide proof of vaccination against the COVID-19 virus by October 17, 2021. (Exhibit 3).
7. The notice was e-mailed to all employees, including the Petitioner. (Exhibit 5.)
8. DUA sent numerous follow up e-mails between August and November. (Exhibit 5.)
9. The Petitioner did not intend to be vaccinated and requested an exemption. (Exhibit 6.)

Exemption Review Process

10. Director Ross explained the protocols in place to process exemption requests. (Ross Testimony.)
11. The process involved several stages. In the first stage, a form was provided for any employee wishing to claim an exemption. (Ross Testimony; Exhibit 6.)
12. Then the request was reviewed by a diversity officer from Human Resources. (Ross Testimony.)
13. The diversity officer would contact the employee to verify their reasons and gather any additional information. (Ross Testimony.)
14. Once the diversity officer made an initial determination, the application went through a secondary internal review. The purpose of the secondary review was to make sure decisions were consistent. (Ross Testimony.)
15. Once a final determination was made, the employee was notified. If the review upheld the exemption request, the next step involved attempting to accommodate the employee. (Ross Testimony.)
16. If the review denied the exemption, for probationary employees like the Petitioner, they

were given one more chance to comply with the mandate. If they refused, they were immediately terminated.<sup>1</sup> (Ross Testimony.)

17. Every application was evaluated through this same process. (Ross Testimony.)
18. Director Ross estimated her department of approximately 1,200 employees received about 90 requests for medical and/or religious exemptions. The department did approve some medical and religious exemptions. For every exemption which was allowed, the employee was accommodated. However, for every exemption that was denied, if the employee still refused to comply with the mandate, they were terminated. (Ross Testimony.)
19. Director Ross was a credible witness who had first-hand knowledge about the Department's vaccine policy.
20. The Department's policy for processing exemptions was reasonable and uniformly enforced.

Petitioner's Exemption Request

21. After receiving notice of the vaccine mandate, the Petitioner submitted a timely exemption request on October 6, 2021. She explained her reasons for the request:

My beliefs conflict with this vaccine mandate because the organization that I am a part of does not rely or expose ourselves to modern science in the event that we are unsure of any potential long-term effects.

(Exhibit 6.)

22. She appended a letter which was unsigned and did not have a name. It was on behalf of the House of God Church and confirmed the Petitioner was a member. The letter gave no

---

<sup>1</sup> If the employee was past their probationary period, they were entitled to some additional procedural protections prior to termination, *i.e.* a 5-day and then 10-day suspension. (Ross Testimony.)

religious grounds for abstaining from the vaccine. The most it said was that “we here at the House of God Church do not support or par take [sic] in the receiving of this vaccine . . . within our religious home we do not wish to practice this method.” (Exhibit 7.)

23. DUA processed the Petitioner’s request and interviewed her on October 21, 2021. On November 8, 2021, it denied her request:

You have represented that you object to the vaccines because you believe:

- The organization you are a part of does not rely on modern medicine.
- Their long term effects are unknown.
- It is unknown how they affect different races.

Based upon my conversation with you on October 21, 2021 it is my understanding that you are asserting that your sincerely held beliefs are inconsistent with the requirements of the Executive Order.

- You have stated that you take other medications.
- Persons of various ethnic backgrounds participated in the trials of all three vaccines.
- You articulated a philosophical distrust in the vaccines.
- The Centers for Disease Control and Prevention (CDC) have posted on their website, that the “COVID-19 vaccines are safe and effective.”

Based on the foregoing, you have not established that taking the vaccine would conflict with your stated religious beliefs, practices, or observances, and your request for an exemption is denied.

After a thorough consideration of all documents, discussions and available evidence, the direct link between a sincerely held religious belief and all three COVID-19 vaccines, and a conflict with the Governor's Executive Order, could not be ascertained.

(Exhibit 8.)

24. After she was informed of the denial, the Petitioner confirmed she would not comply with the Executive Order. She was immediately terminated on November 9, 2021.

(Exhibits 9 & 10.)

25. At the hearing, I gave the Petitioner ample opportunity to explain the basis for her

religious beliefs. She testified as follows: (Jenkins Testimony.)

- she was a remote worker, and it was not clear if she would ever work in-person;
- she offered to have the diversity officer speak with her Deacon, but they never did;
- her church is Pentecostal and she attends services most Sundays;
- when one looks at the history of medicine overall, there are connections between vaccines and the effects that they have on people with different ethnic backgrounds;
- there appear to be people who are now having side effects from the vaccines;
- She again said did not want to put something in her body without knowing how it would affect her, especially since she was working from home;
- A lot of members of her church were hesitant to get the vaccine because they did not know enough about it. (But she did not say their hesitancy was grounded in religious belief).

(Jenkins Testimony.)

26. When I asked her if she wanted to tell me anything else about the connection between her religious beliefs and the vaccine, she said, “We didn’t know how that would affect our bodies down the line.” (Jenkins Testimony.)
27. She again said her Deacon did not get vaccinated, nor did several members of her church because “we didn’t know how this is going to affect us.” (Jenkins Testimony.)
28. On cross-examination, she was given more chances to explain the religious basis for her exemption request, but she just reiterated she did not want to put something in her body without knowing how it would affect her. (Jenkins Testimony.)
29. She did explain she does not take prescribed medications, but mainly because she has a “clean bill of health.” She admitted she takes some medicines, like Tylenol. (Jenkins Testimony.)

30. The Petitioner filed for unemployment benefits on November 28, 2021. (Exhibit 11.)
31. On December 15, 2021 her claim was denied. The Department explained she was discharged because of a knowing violation of a uniformly enforced company rule or policy, specifically, the vaccination requirement. (Exhibit 15.)
32. The Petitioner filed her appeal on January 3, 2022. Although late, DUA ultimately allowed her appeal to proceed. (Exhibit 17.)<sup>2</sup>

### CONCLUSION AND ORDER

In analyzing the Petitioner’s case, I am mindful that chapter 151A “shall be construed liberally in aid of its purpose, which purpose is to lighten the burden which now falls on the unemployed worker and his family.” G.L. c. 151A, § 74.

Because the claimant was terminated from her employment, her qualification for benefits is governed by G.L. c. 151A, § 25(e)(2), which provides, in pertinent part, as follows:

[No waiting period shall be allowed and no benefits shall be paid to an individual under this chapter] . . . (e) For the period of unemployment next ensuing . . . after the individual has left work . . . (2) by discharge shown to the satisfaction of the commissioner by substantial and credible evidence to . . . a knowing violation of a reasonable and uniformly enforced rule or policy of the employer, provided that such violation is not shown to be as a result of the employee’s incompetence[.]

“[T]he grounds for disqualification in § 25(e)(2) are considered to be exceptions or defenses to an eligible employee’s right to benefits, and the burdens of production and persuasion rest with the employer.” *Still v. Comm’r of Dept. of Employment and Training*, 423 Mass. 805, 809 (1996) (citations omitted).

The Department of Unemployment Assistance Board of Review has decided at least seven cases regarding an employee’s refusal to comply with a COVID-19 vaccination

---

<sup>2</sup> Under G.L. c. 151A, § 39, DUA is empowered to allow an untimely appeal to proceed if there is good cause. It found good cause in this case.

requirement. One case involved a medical exemption, *see* Decision No. 0073 680 42 (Bd. of Rev., July 29, 2022), and six cases involved religious exemptions, *see* Decision No. 0074 2961 03 (Bd. of Rev. March 24, 2023); Decision No. 0073 9497 77 (March 24, 2023); Decision No. 0074 8702 80 (Bd. of Rev., Jan. 25, 2023), Decision No. 0074 5320 24 (Bd. of Rev., Jan. 25, 2023); Decision No. 0073 9363 41 (Bd. of Rev., Oct. 27, 2022); and Decision No. 0073 4319 07 (Bd. of Rev., Sep. 26, 2022).

In the religious exemption cases, the Board’s analysis rested on whether the employee’s belief was sincere. In the one case where DUA found there was a reasonable, uniformly enforced policy, refusal based on a “sincerely” held belief was excused as the result of the employee’s “incompetence.” *See* Decision No. 0073 4319 07.<sup>3</sup>

DALA has issued two decisions, both denying the claimant unemployment benefits for failure to comply with a vaccination mandate. *See Roman v. DUA*, DET-22-336, 2022 WL 17185546 (Nov 17, 2022); *Geryk v. DUA*, DET-22-0185, 2022 WL 16921480 (Aug. 4. 2022). In *Roman*, the employee did not claim a medical or religious exemption but argued remote workers should be exempt. Her claim was denied because the policy was reasonable and uniformly enforced. In *Geryk*, the employee did claim a religious exemption, but the Chief Magistrate found she knowingly violated a reasonable and uniformly enforced policy of the employer. He did not find her belief was “sincere.”

---

<sup>3</sup> The other cases found there was no reasonable or uniformly enforced policy. Rather, DUA analyzed whether the employee’s refusal was “wilful,” a ground not advanced here by DUA. *See* G.L. c. 151A, § 25(e)(2) (no benefits paid if discharge . . . “attributable to deliberate misconduct in wilful disregard of the employing unit’s interest.”). Nevertheless, the outcome of those cases also turned on the sincerity of the applicant’s belief. If the belief was sincere, the violation was not willful, and the applicant was entitled to unemployment benefits. Therefore, though not at issue in this case, the Petitioner would fare no better under those grounds since I ultimately find she did not possess a sincerely held religious belief.



Given the state of the law, because I find there was a reasonable and uniformly enforced policy, the only issue before me is whether the Petitioner’s beliefs are sincere *and* religious, regardless of whether I agree with them. This has been the approach in other instances in which a religious exemption has been claimed from otherwise applicable law. *See e.g. Burwell v. Hobby Lobby Stores, Inc.*, 573 U.S. 682 (2014); *U.S. v. Seeger*, 380 U.S. 163, 185 (1965). “It is not our function to pass on the merits of the plaintiff’s religious beliefs. No matter how misguided or even ridiculous such beliefs may appear to be to the court, or to the overwhelming majority of the people.” *Dalli v. Bd. of Education*, 358 Mass. 753 (1971). However, “[p]urely secular views do not suffice.” *Frazer v. Ill. Dept. of Emp. Sec.*, 489 U.S. 829, 833 (1989); *see Larson v. Minnesota State College Southeast*, 2023 WL 193984 (Minn. App. Ct., Jan. 17, 2023) (employee’s reason for refusing Covid-19 vaccine, though premised as “religious,” was really based on his views about efficacy and safety).

The analyses in prior court decisions attempting to sort out whether beliefs actually have religious basis are helpful. For example, in one case where an employee challenged a hospital’s flu vaccine mandate, the court found his objection was not religious:

It does not appear that these beliefs address fundamental and ultimate questions having to do with deep and imponderable matters, nor are they comprehensive in nature. Generally, he simply worries about the health effects of the flu vaccine, disbelieves the scientifically accepted view that it is harmless to most people, and wishes to avoid this vaccine. In particular, the basis of his refusal of the flu vaccine—his concern that the flu vaccine may do more harm than good—is a medical belief, not a religious one. He then applies one general moral commandment (which might be paraphrased as, “Do not harm your own body”) to come to the conclusion that the flu vaccine is morally wrong. This one moral commandment is an “isolated moral teaching”; by itself, it is not a comprehensive system of beliefs about fundamental or ultimate matters.

*Fallon v. Mercy Catholic Medical Center of Southeastern Pennsylvania*, 877 F.3d 487, 492 (3<sup>rd</sup> Cir. 2017); *see Troulliet v. Gray Media Group, Inc.*, 2023 WL 2894707 (E.D.La. April 11, 2023)

(Plaintiff’s “[c]omplaint is replete with medical arguments why [his employer’s] policy was inadvisable and accusations that [the employer] was motivated by virtue signaling. These allegations suggest that [Plaintiff’s] beliefs regarding the COVID-19 vaccine were based on purely secular considerations or were merely a matter of personal preference. Such beliefs cannot form the basis of a religious discrimination claim.”); *cf. Wisconsin v. Yoder*, 406 U.S. 205, 216 (1972) (philosophical and personal beliefs, rather than religious, do not rise to the demands of the Religion Clauses.).

Here, although couched as “religious beliefs,” the Petitioner’s reasons for refusing the vaccine are entirely secular. She had multiple opportunities to explain the religious basis for her beliefs, but she failed to tie her beliefs to any religious doctrine, teaching, or practice. Even the Deacon’s letter fails to explain any *religious* belief which counsels against vaccination. The only discussion about religion was when the Petitioner testified she attends church most Sundays. But she did not explain any part of her, or her church’s, belief system that relate to modern science or vaccinations. *See Geryk, supra* (“failure to discuss the religious factors she put forward in her application for a religious exemption undercut her credibility.”).

Instead, she mentioned multiple times that she did not understand why she had to get vaccinated if she was working remotely and she did not want to put anything in her body without knowing how it would affect her. The Petitioner’s repeated references to these concerns lead me to believe she was hesitant to get vaccinated for philosophical and personal (*i.e.*, secular) reasons, and was looking for a way to justify her refusal.

That other members of her church shared her skepticism does not mean her beliefs have religious roots; it just means some members of her congregation have the same concerns.

Ultimately, I find the Petitioner is sincere in her distrust of the vaccine, but I do not credit her testimony that her beliefs are “religious.”

**CONCLUSION**

Because she did not hold a sincerely held religious belief, the Petitioner knowingly violated a reasonable and uniformly enforced policy. The Department’s determination is **affirmed**.

SO ORDERED.

DIVISION OF ADMINISTRATIVE LAW APPEALS

*Eric Tennen*

---

Eric Tennen  
Administrative Magistrate