

APPELLATE DIVISION OF THE SUPREME COURT OF THE STATE OF NEW YORK, FIRST DEPARTMENT

Moye v. Mount Sinai Hosp.

2026 NY Slip Op 02374 · No. Index No. 156584/21; Appeal No. 6424; Case No. 2025-03598 · Decided April 21, 2026

SUMMARY

The Appellate Division, First Department, modified and otherwise affirmed an order addressing claims by Muslim Mount Sinai employees who alleged religious discrimination, failure to accommodate, and failure to engage in a cooperative dialogue after refusing to shave their beards to pass N-95 respirator fit testing. The court upheld dismissal of the selective-enforcement discrimination claims but held that issues of fact precluded summary judgment on the failure-to-accommodate and cooperative-dialogue claims. The court also reinstated Brian Jones's corresponding claims, holding that temporarily accepting an offered transfer did not categorically bar those claims.

CASE DETAILS

COURT	Appellate Division of the Supreme Court of the State of New York, First Department
WRITING FOR THE COURT	Renwick, P.J.; Friedman, J.; Gesmer, J.; Hagler, J.
JURISDICTION	New York Appellate Division, First Department
DECIDED	April 21, 2026
DOCKET	Index No. 156584/21; Appeal No. 6424; Case No. 2025-03598
DISPOSITION	other
PROCEDURAL POSTURE	Appeal and cross-appeal from an order granting defendants summary judgment dismissing the religious-discrimination claims and all claims by Brian Jones, denying defendants summary judgment on failure-to-accommodate and cooperative-dialogue claims, and denying plaintiffs' cross-motion for summary judgment.
STANDARD OF REVIEW	Summary judgment is appropriate only when the movant establishes entitlement to judgment as a matter of law; the court must deny summary judgment where genuine issues of material fact remain.
PRECEDENTIAL VALUE	Published intermediate appellate decision
PARTIES	The Mount Sinai Hospital, et al. v. Ronald Moye et al.

TOPICS

religious discrimination

employment law

appellate procedure

standard of review

PRACTICE AREAS

employment law

civil rights

QUESTIONS PRESENTED

1. Whether defendants were entitled to summary judgment dismissing plaintiffs' religious-discrimination claims based on selective enforcement of the N-95 fit-test policy.
2. Whether summary judgment was appropriate on plaintiffs' claims that defendants failed to reasonably accommodate their religious observance under the New York State Human Rights Law and New York City Human Rights Law.
3. Whether summary judgment was appropriate on plaintiffs' claims that defendants failed to engage in a cooperative dialogue under the New York City Human Rights Law.
4. Whether Jones's temporary acceptance of an alternative position categorically barred his failure-to-accommodate and cooperative-dialogue claims.

HOLDINGS

1. Defendants were entitled to summary judgment dismissing plaintiffs' claims that Mount Sinai selectively enforced the N-95 fit-test policy based on religion because all Building Services personnel were required to pass the fit test, defendants offered a legitimate nondiscriminatory safety reason, and plaintiffs failed to show pretext, discriminatory motivation, or disparate treatment of similarly situated non-Muslim employees.
2. Summary judgment was properly denied to all parties on Moye's and Shaw's failure-to-accommodate claims because factual issues remained regarding whether plaintiffs could remain in their existing jobs without N-95 respirators while avoiding COVID-positive areas or waiting before entering those areas, and whether accommodating them in their current positions would impose an undue hardship.
3. Summary judgment was properly denied on Moye's and Shaw's cooperative-dialogue claims because the record raised factual issues as to whether defendants cut the interactive process short and refused to consider accommodating plaintiffs in their existing positions.
4. An employee's acceptance of an accommodation offered as the only alternative to forced resignation does not categorically preclude the employee from claiming that the accommodation was unreasonable or that the employer failed to provide a cooperative dialogue.

KEY QUOTATIONS

"This knowledge "triggered a duty to engage" in the interactive process" (at 3)

"Acceptance of an accommodation as the only alternative to forced resignation does not categorically preclude an employee from claiming that the accommodation was not reasonable or that no cooperative dialogue was provided under the State and City HRLs." (at 4)

FACTUAL BACKGROUND

Plaintiffs were practicing Muslims who wore beards as part of their faith and worked as day-shift maintenance employees in Mount Sinai's Building Services Department. In February 2021, the hospital required Building Services personnel to pass fit tests for N-95 respirators and instructed plaintiffs to shave to obtain a proper seal; plaintiffs refused on religious grounds and were sent home, suspended, and threatened with termination. The hospital offered alternative positions in another department that did not require N-95 respirators; Moye and Shaw declined evening-shift positions and were treated as having resigned, while Jones accepted a day-shift food-preparer position but later stopped reporting to work and was terminated for job abandonment.

PROCEDURAL HISTORY

Supreme Court, New York County, granted defendants summary judgment dismissing plaintiffs' claims that Mount Sinai discriminated against them based on religion and dismissed all claims by Brian Jones. It denied defendants summary judgment on the failure-to-accommodate and cooperative-dialogue claims and denied plaintiffs' cross-motion for summary judgment on those claims. The First Department modified the order to reinstate Jones's failure-to-accommodate and cooperative-dialogue claims and otherwise affirmed.

DISPOSITION

other

REMAND INSTRUCTIONS

Jones's failure-to-accommodate and cooperative-dialogue claims were reinstated; the order was otherwise affirmed.

CASES CITED

- *Hamburg v. New York Univ. Sch. of Medicine*, 155 A.D.3d 66, 73 & n. 7 (1st Dep't 2017)
- *Tihan v. Apollo Mgmt. Holdings, L.P.*, 201 A.D.3d 557, 558 (1st Dep't 2022), lv. denied, 38 N.Y.3d 913 (2022)
- *Godbolt v. Verizon N.Y. Inc.*, 115 A.D.3d 493, 494 (1st Dep't 2014), lv. denied, 24 N.Y.3d 901 (2014)
- *Friedman v. Bloomberg, L.P.*, 230 A.D.3d 1060, 1061 (1st Dep't 2024)
- *Matter of Lebowitz v. Board of Educ. of City Sch. Dist. of the City of N.Y.*, 220 A.D.3d 537, 537 (1st Dep't 2023), lv. denied, 41 N.Y.3d 987 (2024)
- *Gordon v. Consolidated Edison Inc.*, 190 A.D.3d 639, 640-641 (1st Dep't 2021)
- *Hosking v. Memorial Sloan-Kettering Cancer Ctr.*, 186 A.D.3d 58, 64 (1st Dep't 2020)