In the

United States Court of Appeals

For the Seventh Circuit

No. 25-2743

BROOKE MASON,

Plaintiff-Appellant,

v.

COOK COUNTY, ILLINOIS,

Defendant-Appellee.

Appeal from the United States District Court for the
Northern District of Illinois, Eastern Division.
No. 1:23-cv-16339 — **Matthew F. Kennelly**, *Judge*.

ARGUED JUNE 2, 2026 — DECIDED SEPTEMBER 28, 2026

Before JACKSON-AKIWUMI, LEE, and TAIBLESON, *Circuit Judges*.

LEE, *Circuit Judge*. Brooke Mason was fired from her job as a hospital pharmacist after she refused to obtain a COVID-19 vaccine, purportedly for religious reasons. She sued Cook County for religious discrimination in violation of Title VII of the Civil Rights Act of 1964. *See* 42 U.S.C. § 2000e-2(a). The district court granted summary judgment to the County, finding no dispute of material fact that the County would have

faced undue hardship by exempting Mason from the mandatory vaccine policy. We affirm.

I

We construe the facts in the light most favorable to Mason, the party opposing summary judgment. *Lohmeier v. Gottlieb Mem'l Hosp.*, 147 F.4th 817, 821 (7th Cir. 2025). Mason was an employee of Cook County Health, which is operated by Cook County (collectively, "the County"). The County operates John H. Stroger Jr. Hospital, where Mason worked as a pharmacist from 2010 through May 2022. She worked in a room with twenty other pharmacists and forty pharmacy technicians. She also counseled patients from the pharmacy window one day per month, and she brought medications to the floor of the hospital where patients with COVID-19 were treated.

The COVID-19 pandemic strained the County's already short-staffed healthcare system. Alongside a wave of infections in the general population, hospital staff contracted the virus at increasingly high rates. Seeking to limit the spread of COVID-19, the County implemented a policy in August 2021 mandating that staff members receive the COVID-19 vaccine by October 2021.

The County based this policy on guidance from federal and state public health authorities. The Center for Disease Control and Prevention (CDC) found that COVID-19 vaccination was the best way to reduce transmission and prevent severe illness, hospitalization, and death. Other evidence had shown a vicious cycle of infection within hospitals: healthcare workers faced increased risk of contracting COVID-19 through patients and fellow staff, and healthcare workers in

turn faced increased risk of infecting their medically vulnerable patients. The County determined that other mitigation methods alone, such as masking, social distancing, and testing, did not sufficiently address patient and employee safety.

Employees could request an exemption from this policy based on a sincerely held religious belief. Based on guidance from the County's Infection Control and Epidemiology Department and the CDC, the County determined that exemptions could be granted only to employees whose jobs could be performed fully remotely. Even employees not engaged in direct patient care needed to be vaccinated for in-person work, the County determined, because they had close contact with other employees who did have patient care duties. Approximately 102 Cook County Health employees sought a religious exemption; exemptions were granted to 9 who could work remotely.

In September 2021, Mason requested an exemption from the vaccine mandate based on her Christian faith. Her request quoted 1 Corinthians 6:19: "Or do you not know that your body is a temple of the Holy Spirit within you, whom you have from God? You are not your own for you were bought with a price. So glorify God in your body." She further described why vaccination conflicted with her faith:

> I am unable to comply with Cook County Health's Covid vaccine mandate as it runs counter to my Christian beliefs and request an accommodation. My beliefs are an all encompassing guide, leading my daily life and central to these beliefs is the requirement to keep my body and soul pure. Although I am not perfect I strive to honor the Lord our Savior in all I do. God's word tells us to keep thy body pure: My body is the

> temple of the Holy Spirit and shall not be defiled. I am fully immunized as the good Lord intended. Thank you for your consideration.

The County informed Mason that it could not grant her request because doing so would "compromise workplace safety… [and] pose an undue hardship." The County allowed Mason 90 days to apply to a remote position within their system, but no such positions were available. At the end of this 90-day period, in May 2022, the County fired Mason.

Mason filed this lawsuit in November 2023. She asserted that the County's denial of religious accommodation and later discharge violated Title VII of the Civil Rights Act of 1964. *See* 42 U.S.C. § 2000e-2(a). She also alluded to a discrimination claim based on disparate treatment, stating that another County employee with the title "Sanitarian I" violated the vaccine policy but was not fired like she was. This employee, who worked in Rolling Meadows for the Department of Public Health (an affiliate of Cook County Health), was participating in a blind study on the COVID-19 vaccine but ultimately received the vaccine.

The County moved for summary judgment, and the district court granted the motion. The court assumed Mason could establish a prima facie case of religious discrimination (based on the County's failure to accommodate a religious belief) but concluded that no reasonable juror could find that the County could accommodate her request without suffering undue hardship. Allowing her to work unvaccinated during a public health crisis would have "jeopardized the health of [County] staff and patients." The court also determined that the Sanitarian I employee was not similarly situated to Mason

because that employee did not work at Stroger Hospital, so the disparate treatment claim failed.

II

A. Failure-to-Accommodate Claim

Under Title VII, an employer may not discriminate against any individual with respect to their employment because of the individual's religion. 42 U.S.C. § 2000e-2(a)(1). To sustain a claim for failure to accommodate a religious belief, an employee needs to establish that (1) her belief was religious and conflicted with her employer's requirements, (2) she notified her employer of her religious belief, and (3) her need for a religious accommodation was a motivating factor in the adverse employment decision. *See Kluge v. Brownsburg Cmty. Sch. Corp.*, 150 F.4th 792, 802 (7th Cir. 2025). Then, the burden shifts to the employer to show that any reasonable accommodation would have resulted in undue hardship. *Id.* at 802–03; 42 U.S.C. § 2000e(j). This court reviews a grant of summary judgment de novo. *Lohmeier*, 147 F.4th at 825.

We jump straight to the matter of undue hardship. (Like the district court, we assume without deciding that Mason has stated a prima facie case of failure to accommodate based on a sincerely held religious belief). Mason challenges the district court's conclusion that no reasonable juror could find that accommodating her would not cause undue hardship to the County. She maintains that her continued practice—working unvaccinated, using other transmission-prevention methods such as masking and social distancing—could not possibly impose additional costs because that "was exactly what she had been doing until the moment she was forbidden from doing it."

An organization suffers undue hardship when "granting an accommodation would result in substantial increased costs in relation to the conduct of its particular business." *Groff v. DeJoy*, 600 U.S. 447, 470 (2023). This inquiry is fact-specific; courts look to "all relevant factors … including the particular accommodations at issue and their practical impact in light of the nature, size, and operating cost" of the employer. *Kluge*, 150 F.4th at 803 (quoting *Groff*, 600 U.S. at 470–71). In similar factual scenarios, several of our sister circuits have upheld findings of undue hardship regarding religious exemptions to COVID-19 vaccine policies. *See, e.g.*, *Hall v. Sheppard Pratt Health Sys., Inc.*, 155 F.4th 747 (4th Cir. 2025) (affirming summary judgment because allowing admissions coordinator at a clinic to work unvaccinated would have constituted undue hardship for hospital system by jeopardizing patient and employee safety and increasing risk of disruptive outbreaks in a sensitive environment); *Peterson v. Snohomish Reg'l Fire & Rescue*, 150 F.4th 1211 (9th Cir. 2025) (same for firefighters at fire department); *Kizer v. St. Jude Child.'s Rsch. Hosp.*, No. 24-5207, 2024 WL 4816856 (6th Cir. Nov. 18, 2024) (same for records analyst at hospital).

We agree with the district court that the County made an adequate showing at this stage that accommodating Mason could not be accomplished without undue hardship, and that no triable issues of material fact remained. At summary judgment, the County provided declarations from its Associate Chief Human Resources Officer, Equal Employment Opportunity Director, and Department Chair of Infection Control and Epidemiology. They describe the County's decision-making process regarding the protective measures taken throughout the pandemic, explaining that the County's operations had been jeopardized by healthcare workers' high risk of

contracting and transmitting COVID-19 compared to the general population. According to these individuals, outbreaks among staff strained the County's ability to provide necessary services, and vaccination afforded additional protection against the increased risk of staff contracting COVID-19 and infecting medically vulnerable patients. Thus, once the vaccine was available, the County determined, based on scientific research and CDC guidance, that masking and social distancing alone did not adequately reduce risks to patient and employee safety nor the operational costs of likely staff shortages. *See Peterson*, 150 F.4th at 1218–20.

Our dissenting colleague has no disagreement with the legal framework the district court applied but believes that the County failed to meet its burden to prove that accommodating Mason would have caused an undue hardship to its operations, citing *Groff*, 600 U.S. 447, and *EEOC v. Abercrombie and Fitch Stores, Inc.*, 575 U.S. 768 (2015). But, as the Supreme Court has stated time and again, when assessing whether a requested accommodation amounts to an "undue hardship," we cannot consider the accommodation in isolation but must consider it "in the context of an employer's business" in a "common sense manner." *Groff*, 600 U.S. at 471. *See also id.* at 468 (noting that "'undue hardship' is shown when a burden is substantial in the overall context of an employer's business.").

Here, Mason worked as a pharmacist in a hospital setting. She not only worked in the same room with numerous other pharmacists and technicians, but, as a pharmacist, she regularly interacted with patients and visited patient floors, where the risks and consequences of spreading the COVID-19 virus were high. This context is markedly different from *Groff*,

where an employee's religion precluded him from delivering mail for the Postal Service on Sundays, and from *Abercrombie*, where an employee's religious beliefs prevented her from complying with the store's no-headwear policy. *Groff*, 600 U.S. at 454–55; *Abercrombie*, 575 U.S. at 770.

This is not to say that the County could not have done more in this case. For example, it could have presented expert testimony detailing why individual masking and social distancing would not have adequately protected the hospital's patients and employees from the virus as compared to universal vaccination (although the affidavits do cite to applicable CDC guidance and scientific studies on those points). And it could have recounted in detail the analytical steps it took to arrive at this conclusion as well as, perhaps, a roster of the different positions at the hospital where an employee with Mason's qualifications could work.

But, as our colleague acknowledges, the County did present affidavits attesting that "other mitigation methods, such as masking, social distancing, and regular COVID-19 testing did not sufficiently address the patient and employee safety risks across its facilities." For example, one affiant stated that the County's "decision to only allow vaccinated employees to work in patient-facing and employee-facing roles in person was based on the CDC's recommendation that vaccination is the best way to protect against severe illness, hospitalization and death, and the best way to reduce transmission." Moreover, the County's own experiences in 2020 and 2021 alerted its leaders "that healthcare workers were at increased risk of contracting COVID-19 through infected patients and other healthcare staff, and that healthcare workers were at increased risk of infecting patients, including individuals who

were medically vulnerable." Another affiant added, "Health care workers at [the facility] are in regular contact with persons at increased risk of serious complications and death from COVID-19, including persons who are immunocompromised, have other comorbidities, and/or are elderly."

The dissent believes such statements are too conclusory, likening them to "mere assertions" of undue hardships rather than facts. The statements by the County witnesses, however, offer facts, not conclusory assertions of law. To be sure, the County could have provided more, but given the particularized challenges COVID-19 presented in the hospital setting, what the County provided was sufficient to satisfy its burden. *See*, *e.g.*, *Peterson*, 150 F.4th at 1219 (firefighters); *Hall*, 155 F.4th at 753 (employee at eating disorders clinic).

On the other side of the ledger, Mason provided no evidence that her proposed accommodation (continuing to mask and social distance) would have been a reasonable alternative to vaccination. She does not contest, for instance, that vaccination was more effective than masking or social distancing, or that the mission of Cook County Health was to provide "the safest care possible." Nor does she deny that she worked in a room with sixty other employees; that she counseled patients directly at least once per month; that she delivered medication to a hospital floor dedicated to treating patients with COVID-19; or that vaccination provides additional protection from severe illness and transmission of COVID-19 as compared to masking.[†] Of course, our dissenting colleague is correct that

[†] To the extent Mason challenges the district court's consideration of the impact of an exemption on her coworkers, the court did not err.

the burden to establish "undue hardship" lies with the County in the first instance. But when gauging the sufficiency of the County's evidence, it is fair to consider if its factual contentions are undisputed as they are here.

That said, Mason does challenge the County's overall contention that accommodating her would have caused an undue hardship by pointing to another employee (whom both parties refer to as "Sanitarian I"). According to Mason, the County allowed Sanitarian I to keep working even though it knew the individual was unvaccinated. But the comparison is inapt.

In October 2021, Sanitarian I replied to the County-wide email about the vaccine policy, explaining she was participating in a blind study on the COVID-19 vaccine and, as a result, she did not know whether she had received a vaccine or a placebo. A Public Health Medical Officer replied, suggesting she ask for an exemption. In June 2022, upon noting internally that the employee had not applied for an exemption, Human Resources emailed the employee telling her to unblind her study participation and ensure compliance with the policy. After a few months of back-and-forth, Sanitarian I notified HR that she had learned she had received the placebo vaccine in the study and promptly obtained the COVID-19 vaccination.

Contrary to Mason's contention, their situations are not analogous, and the County's treatment of Sanitarian I does not support Mason's argument that the County would not have faced undue hardship by accommodating her. Unlike Mason, the County did not *know* that the Sanitarian I

Impacts on coworkers that "affect the overall business" may be considered. *Kluge*, 150 F.4th at 803 (quoting *Groff*, 600 U.S. at 472).

employee was unvaccinated. Instead, at least one person at the County was aware that the employee had received either the vaccine or a placebo as part of her study participation. More significantly, once Human Resources realized that the employee might not be in compliance with the vaccine policy, the County actively sought to confirm the employee's vaccination status, required her to unblind her study participation, and required prompt vaccination once she learned she had received the placebo.

Furthermore, Mason has not pointed to any evidence that Sanitarian I worked in-person (as she did) rather than remotely, or that the employee had frequent interactions with patients and staff (again, as she did). Meanwhile, the County presented evidence that Mason's position did not allow her to work remotely and required regular close contact with other pharmacists and patients. To the extent Mason believes that the County's treatment of Sanitarian I undermines its claim of undue hardship, she was required to point to evidence in the record, but she has failed to do so. *See Swetlik v. Crawford*, 738 F.3d 818, 829 (7th Cir. 2013).

B. Disparate Treatment Claim

Mason also mounts a conclusory challenge to the district court's determination that she could not identify an apt comparator to make out a disparate treatment claim of religious discrimination. She again invokes the example of the Sanitarian I employee who was not fired, even though she argues that employee committed the same policy violation. Mason emphasizes that they were similarly situated because both worked in person and were subject to the vaccine policy.

The district court correctly concluded that the two employees were not comparable. A similarly situated employee must be "directly comparable" to the plaintiff "in all material respects," meaning they held the same job, committed the same policy violation, did not hold the same religious beliefs, and were treated more favorably. *See Patterson v. Ind. Newspapers, Inc.*, 589 F.3d 357, 365–66 (7th Cir. 2009). Typically, the similarly situated employee also must report to the same supervisor. *Lohmeier*, 147 F.4th at 826. But Mason and Sanitarian I had completely different jobs, in different locations, with different supervisors. Mason worked as a pharmacist at Stroger Hospital in Chicago for Cook County Health, while Sanitarian I worked for the Department of Public Health in Rolling Meadows, Illinois. What's more, Sanitarian I—unlike Mason—neither sought nor was granted an exemption.

* * *

The judgment of the district court is AFFIRMED.

TAIBLESON, *Circuit Judge*, dissenting. For more than ten years, Brooke Mason worked as a hospital pharmacist for Cook County Health ("CCH"). She showed up for work through the uncertain early days of the COVID-19 pandemic in 2020 and 2021. She masked, she socially distanced, and she tested. When COVID-19 vaccines became available, Mason declined to receive one, citing her religious beliefs. For that, CCH fired her. CCH reasoned that vaccines were the best method to avoid COVID-19 transmission and declined to grant religious exemptions to any in-person employees—and that was that.

Mason sued Cook County under Title VII, and in my opinion, her case should proceed to trial. Title VII "does not demand mere neutrality with regard to religious practices." *EEOC v. Abercrombie & Fitch Stores, Inc.*, 575 U.S. 768, 775 (2015). Instead, it "gives them favored treatment," affirmatively requiring employers to accommodate their employees' religious practices. *Id.* To prevail in this suit, the County must show that accommodating Mason's request would have been an "undue hardship"—meaning an "excessive" or "unjustifiable" burden that "would result in substantial increased costs in relation to the conduct of its particular business." 42 U.S.C. § 2000e(j); *Groff v. DeJoy*, 600 U.S. 447, 469–70 (2023) (citation omitted). And to prevail at summary judgment, the County had to make that showing so definitively that no reasonable jury could conclude otherwise.

The County has not made that showing. Indeed, it hasn't really even tried. Instead, the County has explained the reason why CCH adopted a broad vaccination policy: that public health officials recommended it as the best means of limiting COVID-19 transmission. That's a start. But when it comes to

religious practices, Title VII requires employers to make exceptions to their generally applicable policies—even to policies supported by public health guidance—unless doing so would be an undue hardship. The record contains no evidence that CCH seriously considered doing so in Mason's case. Although alternatives to vaccination (like masking, testing, socially distancing, and partial remote work) were available, the County has not shown that permitting those alternatives for Mason would have been an unjustifiable burden. And it is the County, not Mason, that bears the burden of proof on the undue-hardship question. Summary judgment in the County's favor is therefore unwarranted.

The federal courts have been flooded with Title VII claims related to COVID-19 vaccine policies. This is our first time considering when summary judgment is appropriate on the question of undue hardship in such a case. The issue will come up again, many times over. Title VII and binding Supreme Court precedent require that we treat undue hardship as a defense to be proven, not an excuse to be presumed, even in a pandemic. In my opinion, the majority does not hold Cook County to that standard, and so I respectfully dissent.

I. Background

A.

Beginning in 2010, Mason worked as a pharmacist at John H. Stroger Jr. Hospital, which is part of CCH. She was responsible for checking prescriptions, verifying the drugs given to patients, and calling doctors if there were problems with the prescriptions. Mason worked in a room with approximately twenty other pharmacists and forty pharmacy technicians. Once a month, she was assigned to counsel patients at the

pharmacy window, where she would see approximately eight patients per shift.

In March of 2020, the World Health Organization declared COVID-19 a pandemic. The pandemic put a strain on CCH, which was already dealing with staffing shortages. In response, CCH made personal protective equipment available to all staff, provided masks to anyone who entered its medical facilities, and required staff to wear N95 masks when they were providing some forms of direct patient care. CCH also required Mason and her coworkers to clean their workstations and practice social distancing. Mason complied with these requirements. She also volunteered to occasionally deliver medications to a separate floor of the hospital where patients with COVID-19 were treated.

During the summer of 2021—about a year and a half into the pandemic—the FDA fully approved certain COVID-19 vaccines. In August, CCH implemented a vaccination policy requiring all staff to either receive the COVID-19 vaccine, or seek an exemption based on a medical need or a sincerely held religious belief, by October 1, 2021. CCH explained that its policy was "based on public health guidance," citing "the CDC's recommendation that vaccination was the best way to protect against severe illness, hospitalization and death, and reduce transmission of COVID-19." By mid-September, CCH also began weekly COVID-19 testing for employees who had not yet been vaccinated, including Mason.

Shortly after CCH announced its policy, Mason submitted a request for a religious exemption. She explained that getting the vaccine would run "counter to [her] Christian beliefs," which included "the requirement to keep [her] body and soul pure." She cited 1 Corinthians 6:19: "Or do you not know that

your body is a temple of the Holy Spirit within you, whom you have from God? You are not your own for you were bought with a price. So glorify God in your body."

CCH's original policy stated that exemption requests like Mason's would be "considered individually," evaluating factors like the employee's "work environment, available ventilation, frequency[] and duration of direct contact with employees and patients, the number of fully vaccinated Personnel in the work location, potential alternative shift/work assignments, and the availability of social distancing." In September of 2021, however, the leadership team at CCH decided that religious exemptions "could only be granted to employees whose duties could be performed on a fully remote basis." CCH based that determination on the same CDC guidance that informed its decision to require vaccines generally: that vaccination offered the best protection against the virus.

While some of Mason's duties could be performed remotely—such as pre-verification of prescriptions and data entry—CCH concluded that her essential job functions could not be done remotely. It accordingly denied her exemption request. Other employees had the same experience, although the total number of religious exemption requests was relatively modest: Approximately 102 of CCH's nearly 6,000 employees submitted such requests, and CCH granted only nine of them (to fully remote employees).

CCH gave Mason 90 days of unpaid leave to search for another CCH job compatible with full-time remote work. The record is scant on whether CCH helped with that process; Mason recalls being told that finding a remote position was an "unrealistic prospect." That prediction turned out to be accurate, and Mason never found a remote job at CCH. In May of

2022, CCH fired Mason for "[g]ross [i]nsubordination" given her failure to comply with the vaccination policy.

Meanwhile, another unvaccinated CCH employee—whom the parties refer to as "Sanitarian I"—was having a very different experience.[1] In October of 2021, Sanitarian I emailed several CCH officials informing them that she had not complied with the vaccination policy because she was part of a double-blind study on the efficacy of a new COVID-19 vaccine. The next day, a CCH senior public health official suggested that Sanitarian I "pass on this information to employee health and ask for an exemption." That official also said she thought that Sanitarian I "need[ed] to take a weekly COVID test" as it was unclear whether she had received the trial vaccine or a placebo, and the trial vaccine had not yet been approved by the FDA.

More than nine months later, in July of 2022, CCH official Anitha Nimmagadda followed up with Sanitarian I. Nimmagadda was the Medical Director of Employee Health Services at CCH and was listed as a "Policy Lead" for its vaccination policy. In an email, Nimmagadda reminded Sanitarian I that she still had not complied with CCH's policy because she had never provided proof of vaccination. Sanitarian I responded a few weeks later that she had asked for the study to be unblinded and would receive those results in August. Nimmagadda reached out again on September 27, requesting once more a copy of Sanitarian I's unblinded study results. On

[1] A sanitarian primarily "conduct[s] health and sanitation inspections" of businesses to ensure compliance with public health regulations. *McDonald v. Vill. of Palatine, Ill.*, 524 F. App'x 286, 288 (7th Cir. 2013); *see also* 225 ILL. COMP. STAT. 37/21 (discussing sanitarian licensing requirements).

October 12, Sanitarian I finally informed Nimmagadda that the study had been unblinded, that she had been part of the placebo group, and that she had received her first dose of the vaccine the previous day. Although she did not comply with CCH's vaccination policy for more than a year, nothing in the record suggests that Sanitarian I was ever disciplined.

B.

After her termination, Mason sued Cook County under Title VII of the Civil Rights Act of 1964. She alleged that CCH had failed to accommodate her religious practices and discriminated against her based on her religion. *See* 42 U.S.C. § 2000e-2(a). The parties engaged in discovery, during which Mason was deposed and answered interrogatories. She also obtained CCH email correspondence about Sanitarian I. The County, for its part, produced sworn affidavits from CCH officials.

The County's affidavits are particularly relevant here. They came from three CCH officials: (1) the Associate Chief Human Resources Officer, (2) the Department Chair of Infection Control and Epidemiology, and (3) the former Equal Employment Opportunity Director. The affidavits are brief, totaling fifteen pages all together, and at times repetitive; several paragraphs are copied and pasted almost verbatim into more than one affidavit. They describe basic facts about CCH, its response to the COVID-19 pandemic, and its vaccination policy. They also describe CCH's decision to deny all religious exemption requests for in-person employees and to grant those employees 90 days of unpaid leave to find a remote position.

Like the policy itself, the affidavits recite public health guidance that vaccination afforded the best protection against COVID-19. Beyond that, the explanation for why alternatives to vaccination were unacceptable for Mason consists entirely of the following statements:

- "CCH determined that other mitigation methods, such as masking, social distancing, and regular COVID-19 testing did not sufficiently address the patient and employee safety risk across its facilities." R.58-12, ¶ 25 (Pramuk-Volk Affidavit);
- "While mitigations such as masking and testing are important tools to prevent the spread of the SARS-Co-V 2 virus, vaccination afforded employees additional protection from severe illness and death due to COVID-19. In 2021, unvaccinated persons were found to be more likely than a fully vaccinated person[] to experience serious illness or death from COVID-19." R.58-13, ¶ 17 (Welbel Affidavit);
- "Brooke Mason's position as a Pharmacist at Stroger Hospital required her to work at the hospital, in person, be in regular contact with patients and coworkers, and it was not always possible for her to socially distance." R.58-14, ¶ 15 (Krasucki Affidavit); Pramuk-Volk Affidavit, ¶ 29 (same with slight wording differences).

On that record, the County moved for summary judgment. The district court granted the County's motion. The district judge found that the County had proven, as a matter of law, that accommodating Mason would have been an undue hardship. The judge also concluded that Mason's disparate-

treatment theory failed because she was not legitimately comparable to Sanitarian I and therefore had insufficient evidence to prove that CCH had discriminated against her based on her religion. Mason appealed.

II. Discussion

Title VII of the Civil Rights Act of 1964 makes it an "unlawful employment practice" for an employer "to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's … religion." 42 U.S.C. § 2000e-2(a)(1). The statute defines "religion" to "include[] all aspects of religious observance and practice, as well as belief, unless an employer demonstrates that he is unable to reasonably accommodate to an employee's or prospective employee's religious observance or practice without undue hardship on the conduct of the employer's business." *Id.* § 2000e(j).

Title VII thus "prohibits employers from discriminating against employees and job applicants based on their religion," *Adeyeye v. Heartland Sweeteners, LLC*, 721 F.3d 444, 448 (7th Cir. 2013), just as it prohibits discrimination based on characteristics like "race" and "sex," 42 U.S.C. § 2000e-2(a)(1). And in its definition of "religion," Title VII imposes the additional requirement that employers affirmatively "accommodate the religious practice of their employees unless doing so would impose an 'undue hardship on the conduct of the employer's business.'" *Groff*, 600 U.S. at 453–54 (citation omitted); *see Trans World Airlines, Inc. v. Hardison*, 432 U.S. 63, 74 (1977).

In this case, Mason alleges that CCH violated Title VII in both ways: by failing to accommodate her religious practice,

and by disparate treatment of religious employees. Like Mason and the majority, I focus on her failure-to-accommodate theory, although her disparate-treatment theory requires a brief discussion as well.

A. Failure to Accommodate

Religious accommodation cases follow a burden-shifting framework. *See Kluge v. Brownsburg Cmty. Sch. Corp.*, 150 F.4th 792, 802 (7th Cir. 2025). Mason must first establish a *prima facie* case by showing that: (1) her beliefs are sincerely held, are religious in nature, and conflicted with CCH's requirements; (2) she notified CCH of her religious beliefs; and (3) the need for a religious accommodation was a motivating factor for her termination. *See id.* If Mason makes out a *prima facie* case, the burden shifts to the County "to show that any reasonable accommodation would result in undue hardship." *Id.* at 802–03.

The majority, like the district court, assumes that Mason has made out a *prima facie* case. *See* Maj. Op. at 5. That assumption is correct. Indeed, the parties dispute only whether Mason's request was based on a sincerely held religious belief. On this point, Mason carries a "low burden," requiring her to show only that "(1) 'the belief for which protection is sought [is] religious in [the] person's own scheme of things' and (2) that it is 'sincerely held.'" *Kluge*, 150 F.4th at 811 (alterations in original) (citation omitted). We have previously concluded that an exemption request nearly identical to Mason's met that standard on its face. *See Passarella v. Aspirus, Inc.*, 108 F.4th 1005, 1009–10 (7th Cir. 2024). Here, nothing in the record rebuts that conclusion as a matter of law, so Mason has made out a *prima facie* case that survives summary judgment. *See Bube v. Aspirus Hosp., Inc.*, 108 F.4th 1017, 1020 (7th Cir. 2024)

("courts should avoid putting themselves in the impossible position of trying to define religious legitimacy").

The real dispute in this case concerns undue hardship, an issue on which the County bears the burden of proof. An "undue hardship" is a "burden" that "rise[s] to an 'excessive' or 'unjustifiable' level." *Groff*, 600 U.S. at 469 (citation omitted). To prevail on this point, the County must prove that accommodating Mason through precautions other than vaccination "would result in substantial increased costs in relation to the conduct of its particular business." *Id.* at 470. And at the summary judgment stage, the County had to "demonstrate why the record is so one-sided as to rule out the prospect of a finding in favor of" Mason on this question. *Hotel 71 Mezz Lender LLC v. Nat'l Ret. Fund*, 778 F.3d 593, 601 (7th Cir. 2015) (explaining standard "[w]here, as here, the movant is seeking summary judgment on a claim as to which it bears the burden of proof"). In my view, the County has not made that showing.

As the majority recounts, the County's undue-hardship evidence focused on the legitimate difficulties of running a health-care system during the COVID-19 pandemic. Health-care workers were at greater risk than the general public of contracting COVID-19, and CCH was dealing with staffing shortages. Once vaccines became available, CCH followed public health guidance indicating that vaccination was the best way to control the virus. While CCH had already established other mitigation strategies (like masking, social distancing, and testing), it resolved to adopt the most effective measure available.

With that evidence, the County is off to a good start in explaining why CCH adopted a vaccination mandate in the first

place. Indeed, Mason does not dispute many of these points—including that CCH reasonably understood the vaccine to provide the best protection against COVID-19. But in a religious accommodation case, Title VII requires more than a sensible explanation for the employer's policy. It also requires the employer to grant *exceptions* to that policy for specific employees' religious practices, even if those exceptions are burdensome, as long as the burden does not "rise to an 'excessive' or 'unjustifiable' level." *Groff*, 600 U.S. at 469 (citation omitted); *see also Kluge*, 150 F.4th at 807.

In *Groff v. DeJoy*, for example, the Postal Service reasonably determined that requiring all its drivers to deliver packages on Sundays was optimal, given its contractual obligation to Amazon to make Sunday deliveries. 600 U.S. at 454. When faced with an employee whose religion precluded working on Sundays, however, the Postal Service had to do much more than justify its policy as the best one for its business. It had to "reasonably accommodate [its] employee's practice of religion" by granting an exception to its optimal policy, or otherwise demonstrate that any such accommodation would be an undue hardship. *Id.* at 473. It "would not be enough," for example, for the Postal Service to simply "conclude that forcing other employees to work overtime would constitute an undue hardship"; instead, serious "[c]onsideration of other options, such as voluntary shift swapping, would also be necessary." *Id.*

Similarly, in *EEOC v. Abercrombie & Fitch Stores, Inc.*, Abercrombie & Fitch's no-headwear policy for its retail employees may well have been an important means of preserving the store's aesthetic and promoting clothing sales—its core business mission. *See* 575 U.S. at 770. But when faced with a

potential employee whose religion required a headscarf, Title VII required more than "mere neutrality" from Abercrombie in following that policy. *Id.* at 775. The law instead required "favored treatment," such that Abercrombie's optimal policy might need "to give way to the need for an accommodation." *Id.*

When it comes to religious accommodations, then, an employer cannot defeat a Title VII suit with a good explanation of its chosen policy. The employer must also prove that granting an exception to that policy for an employee's religious practice would have been unduly burdensome. And on this critical point, the record here is very thin. While CCH's original policy contemplated more robust consideration of individual exemptions, CCH ultimately "determined" that it would simply deny all religious exemption requests for in-person employees. CCH then applied that rule to Mason. As a result, there is no evidence that CCH meaningfully considered any accommodations for Mason other than fully remote work. *See Groff*, 600 U.S. at 473 (explaining that Title VII is not satisfied if employer "merely … assess[es] the reasonableness of a particular possible accommodation" without "[c]onsideration of other options"). Nor, it seems, did CCH make any efforts to help Mason find a remote position other than giving her 90 days of unpaid leave. *See e.g.*, *Cherry v. Wash. State Dep't of Fish & Wildlife*, __F.4th__, No. 25-4763, 2026 WL 2451427, at *6 (9th Cir. Aug. 21, 2026) (Title VII not satisfied where employer offered "nothing more than an opportunity for reassignment, couched in language that made success appear unlikely"). When Mason found that no fully remote jobs were available, CCH fired her.

The thin record here is particularly glaring given that Mason was *already* masking, testing, and socially distancing at work, which are precisely the types of accommodations that she sought going forward. Despite having a test run of these protocols, the County did not attempt—either contemporaneously or in this litigation—to quantify the burden it would have faced had Mason continued these precautions in lieu of vaccinating. Where an employer has already accommodated the employee, its failure to demonstrate any specific hardship arising from those accommodations undermines the employer's argument that those measures would cause undue hardship in the future. *See Kluge*, 150 F.4th at 806 (explaining that, in these circumstances, the employer must "prove both that there was a hardship, and that the accommodation caused that hardship").

To be sure, the County's affidavits do state that CCH "determined that other mitigation methods, such as masking, social distancing and regular COVID-19 testing did not sufficiently address the patient and employee safety risk across its facilities." But that "determination" is nothing more than a conclusion, akin to the County arguing that any accommodations would impose an undue hardship because it "determined" as much. Mere "[a]ssertions of undue hardship are not enough"; there must instead "be a showing—with facts and evidence—of what the costs on the employer are." *Cherry*, 2026 WL 2451427, at *9. The record is devoid of such facts and evidence here. For example, the County offers no evidence measuring the "safety risk" that a masked, tested, socially distanced, and/or partially remote Mason would have caused. Nor does the County offer evidence that CCH was overrun with similar exemption requests. Instead, the County says that only 102 out of nearly 6,000 employees—less than 2%—

submitted religious exemption requests, nine of whom worked fully remotely. The County makes no effort to quantify the burden of accommodating the remaining 93 religious employees. "Conclusory evidence offered without a factual foundation is insufficient" on summary judgment, *Osborn v. JAB Mgmt. Servs., Inc.*, 126 F.4th 1250, 1258 (7th Cir. 2025)—even in the aftermath of a pandemic.

CCH's blanket "determination" that nothing other than vaccination would suffice is also seriously undermined by the evidence about Sanitarian I. For a year, CCH knew that Sanitarian I had violated its vaccination policy by failing to provide proof of an approved vaccine. While Mason promptly sought an exemption for religious reasons, Sanitarian I dragged her feet in responding to CCH's inquiries about vaccination. CCH fired Mason in May of 2022—at which point, CCH had yet to even follow up with Sanitarian I about her vaccination status, despite learning seven months earlier that she was participating in a double-blind study.[2] Sanitarian I remained employed and unvaccinated for five more months after Mason's termination, and the record contains no indication that she faced adverse employment consequences. Given

[2] The County argues there is no evidence that CCH was informed of Sanitarian I's vaccination status because Sanitarian I never formally submitted an exemption request. But the record includes an email dated October 2, 2021, from Sanitarian I to "covid19vaccine@cookcountyhhs.org," with five CCH employees CC'd, informing them of her participation in the vaccine trial study. One of those employees, a Senior Public Health Medical Officer at CCH's Department of Public Health, responded to Sanitarian I the following day. Construing all reasonable inferences in Mason's favor, she has at least established a genuine issue of material fact as to whether that email put relevant CCH officials on notice of Sanitarian I's vaccination status.

these facts, the County's insistence that any unvaccinated employee posed an unacceptable "safety risk" is the subject of real dispute. A jury, not a judge, should evaluate that claim.

In concluding otherwise, the majority emphasizes the "particularized challenges COVID-19 presented in [] hospital setting[s]" like the one where Mason worked. Maj. Op. at 9. Those challenges were real and they are certainly relevant here. But on the record before us, they do not justify CCH's blanket policy of denying religious vaccine exemptions to every single in-person employee. Mason, for example, was not a pulmonologist on the front lines of treating COVID-19 patients; she was a pharmacist who usually saw customers at a consultation window one day per month and who could do part of her job from home. Yet CCH gave no serious thought to accommodating her—and that lack of consideration is reflected in the pitiful record it offered to prove undue hardship. At the same time, CCH's treatment of Sanitarian I undermines the County's claim that even a single unvaccinated employee was intolerable in its strained health-care system. Title VII has no exceptions for hospitals or pandemics, and the County's hand-waving about COVID-19's challenges cannot substitute for actual evidence that accommodating Mason would have been an undue hardship.

The majority also cites decisions from our sister circuits that "have upheld findings of undue hardship regarding religious exemptions to COVID-19 vaccine policies." Maj. Op. at 6. And to be fair, I am aware of no circuit decision going the other way. Whether those decisions are all correct is a question for the Supreme Court. Even if some of them are, the records in those cases tend to highlight the deficiencies in the County's evidence here. In *Petersen v. Snohomish Regional Fire*

and Rescue, for example, the employer's evidence of undue hardship included an expert's "extensive declaration" describing how the employee-firefighters had to enter private residences, transport patients in vehicles, and eat and sleep in a communal setting at the firehouse. 150 F.4th 1211, 1218–19 (9th Cir. 2025). In addition, the employer established that almost one quarter of its entire force had requested vaccine accommodations, that one of its substantial contracts required proof of employee vaccination, and that its insurer would deny coverage for any suit involving COVID-19 transmission by an unvaccinated employee. *Id.* at 1220–22; *see also Hall v. Sheppard Pratt Health Sys., Inc.*, 155 F.4th 747, 750, 753–54 (4th Cir. 2025) (affirming summary judgment for hospital where evidence established heightened COVID risk in eating disorder treatment center populated with medically vulnerable patients who were regularly in close contact with employee-plaintiff); *Kizer v. St. Jude Children's Rsch. Hosp.*, No. 24-5207, 2024 WL 4816856, at *6 (6th Cir. Nov. 18, 2024) (affirming summary judgment for hospital where evidence established that continued "extensive testing and contract-tracing protocols[] would be costly in both time and money"). If cases like *Petersen* set the bar for an undue-hardship showing, then the County has fallen far short here.

In sum, the County failed to substantiate its claim that accommodating Mason would have been an undue hardship. At every stage, this case has been litigated as though Mason bore the burden of proof on that question. But the law imposes that burden on the County, and the County has not carried it—certainly not enough to win summary judgment.

B. Disparate Treatment

As the majority implies, Mason gave her disparate-treatment theory of liability short shrift both in the district court and before us. *See* Maj. Op. at 11–12. I am not inclined to belabor an argument that Mason herself barely made. But ultimately, the same evidence that supports Mason's failure-to-accommodate theory also indicates that a jury should hear about her alleged disparate treatment, and so I address it briefly here.

The "singular question" at the heart of Mason's disparate-treatment claim is whether her religion was a motivating factor in her termination. *Purtue v. Wis. Dep't of Corr.*, 963 F.3d 598, 602 (7th Cir. 2020); *see also Abercrombie*, 575 U.S. at 773 ("Title VII … prohibit[s] even making a protected characteristic a 'motivating factor' in an employment decision.") (citing 42 U.S.C. § 2000e-2(m)). To show that it was, Mason can point to "better treatment of people similarly situated but for" their religious faith. *Joll v. Valparaiso Cmty. Schs.*, 953 F.3d 923, 929 (7th Cir. 2020).

In my view, the evidence about Sanitarian I could support a reasonable jury's conclusion that Mason was terminated, at least in part, because of her religion. The County's asserted "legitimate, nondiscriminatory reason" for firing Mason was her refusal to comply with the vaccination policy. *Mitchell v. Exxon Mobil Corp.*, 143 F.4th 800, 809 (7th Cir. 2025) (citation omitted). But Sanitarian I was subject to the same vaccination policy, and she was not terminated (nor even placed on unpaid leave) despite also failing to comply. Mason did not comply for religious reasons, while Sanitarian I did not comply for secular reasons. Although not a smoking gun, this evidence suffices for Mason to survive summary judgment. *See,*

e.g., *Filar v. Bd. of Educ. of Chi.*, 526 F.3d 1054, 1061 (7th Cir. 2008) ("All things being equal, if an employer takes an action against one employee in a protected class but not another outside that class, one can infer discrimination."); *Dunlevy v. Langfelder*, 52 F.4th 349, 354 (7th Cir. 2022) ("If a comparator engaged in equivalent or more egregious conduct than the plaintiff but received a lighter punishment, or none at all, that satisfies the inquiry.").

The majority disagrees, finding that Sanitarian I was not "similarly situated" to Mason for purposes of this claim. Maj. Op. at 12. But we have "warned against using a mechanical 'magic formula' for the similarly-situated inquiry." *Johnson v. Advoc. Health and Hosps. Corp.*, 892 F.3d 887, 895 (7th Cir. 2018) (citation omitted). Rather, "[s]imilarly situated means 'directly comparable' in all *material* respects," which demands a "flexible, common-sense, and factual" inquiry. *Id.* (emphasis added) (citations omitted); *see also Mitchell*, 143 F.4th at 810 (explaining that the purpose of the "similarly situated inquiry is to eliminate other possible explanatory variables, … [to] isolate the critical independent variable—discriminatory animus") (alterations in original) (citation omitted).

Here, that inquiry suggests that Mason and Sanitarian I were similarly situated in the ways that matter, at least on the record before us. The same CCH policy applied to both, and neither complied. Mason was promptly placed on unpaid leave and terminated for gross insubordination. Sanitarian I, by contrast, was gently nudged to comply until she ultimately received the vaccine a year later. Without more context to differentiate the two, that difference in treatment is enough to "support an inference of intentional discrimination." *Joll*, 953 F.3d at 929.

The majority's emphasis on other distinctions between Mason and Sanitarian I misses the mark. That Mason and Sanitarian I had "different jobs, in different locations, with different supervisors," Maj. Op. at 12, is immaterial here, because they were both subject to the same CCH-wide policy and the relevant decisions were made by CCH public health officials, not individual supervisors. Nor does it matter that Mason formally sought an exemption while Sanitarian I did not, given that CCH was aware of Sanitarian I's non-compliance and the reasons for it even without a formal exemption request. Indeed, the fact that Sanitarian I never bothered to seek a formal exemption—despite being asked to do so—only exacerbates her flouting of CCH's policy.

In my opinion, then, a jury should get to hear Mason's disparate-treatment theory as well.

* * *

There is no question that the COVID-19 pandemic was devastating. It strained health-care providers nationwide, and CCH was no exception. But "even in a pandemic," the law "cannot be put away and forgotten." *Roman Cath. Diocese of Brooklyn v. Cuomo*, 592 U.S. 14, 19 (2020). Under Title VII, CCH's blanket refusal to accommodate its in-person religious employees cannot carry the day at summary judgment, and this case should proceed to trial. I respectfully dissent.