Breaking News: U.S. Supreme Court Makes It Easier for Employees to Prove "Reverse Discrimination"

Labor & Employment Law Update

By Kevin Kleine and Jeffrey Risch on June 6, 2025

Yesterday, the U.S. Supreme Court clarified in the case of *Ames v. Ohio Dept. of Youth Services*, that ***"the standard for proving disparate treatment under Title VII does not vary based on whether or not the plaintiff is a member of a majority group."***

In the underlying case, the plaintiff (Marlean Ames) claimed that she was denied a promotion, and subsequently demoted from her then-current position at the Ohio Department of Youth Services (with a significant drop in pay), on the basis that she is heterosexual. Her position was filled by a gay man. She further alleged that her employer would hire and promote less qualified gay people. The promotion she sought was ultimately filled by a gay woman.

The district court dismissed her lawsuit, which was then affirmed by the Sixth Circuit Court of Appeals. The lower courts' decisions placed a *higher burden on her for being heterosexual*. The Sixth Circuit explained that she needed to prove her case by showing "background circumstances to support the suspicion that the defendant is that *unusual employer who discriminates against the majority*." The Supreme Court rejected this additional burden for workers who are part of a historical majority.

By **unanimous** decision, the U.S. Supreme Court reversed the Sixth Circuit Court of Appeals, which applied a standard of proof that required workers in a "majority group" to meet a more rigorous burden than others who have historically faced discrimination. By removing these extra hurdles, the Supreme Court made it easier for employees who are in the majority (i.e., white men and women and heterosexuals) to prove "reverse" discrimination claims.

Last year, the Supreme Court also made it easier for employees to bring and prove workplace discrimination claims under Title VII in the Court's *Muldrow v. City of St. Louis* decision, under which the Court held that employees only have to show that they suffered "some harm" with respect to an identifiable term or condition of employment. The Court also explained in *Muldrow* that employees only have to show they were "worse off" because of the alleged adverse

employment action. This lower "some harm" legal standard is being applied by federal courts to other workplace claims, such as workplace harassment/hostile work environment claims.

In light of the Supreme Court's recent decisions, it is critical for employers, now more than ever, to consult experienced labor and employment counsel to revisit and review workplace discrimination, harassment, and retaliation policies. It is very important for employers to review all hiring and firing practices, policies, and procedures—and, in particular, note that "reverse" discrimination should be viewed like any historical form of discrimination. This is all very significant because lowering legal standards makes it easier for workplace discrimination and harassment claims to avoid dismissal and have the dispute proceed to trial.

Bottom Line: Discrimination is discrimination and employers must be vigilant in combating it in any and every form in the workplace.