

LEGAL UPDATES

U.S. Supreme Court Says “Reverse Discrimination” Is Equally Unlawful – Clarifies Standard for Majority-Group Plaintiffs in Title VII Claims

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The U.S. Supreme Court today swung wide open the door for all persons who experience employment discrimination based on their race, color, religion, sex or national origin to bring suit under Title VII of the 1964 Civil Rights Act – *regardless* of their majority or minority status.

On June 5, 2025, the Supreme Court issued a unanimous decision in *Ames v. Ohio Department of Youth Services*. In the opinion, written by Justice Katanji Jackson, with a concurrence by Justice Thomas joined by Justice Gorsuch, the Court held that Title VII does not impose a heightened evidentiary burden on plaintiffs who are members of a majority group (such as white or heterosexual employees). The Court consequently threw out an analytical tool (the “background circumstances” rule) that has been used by five of the 12 federal circuit courts of appeal.

Background

Marlean Ames, a heterosexual woman employed by the Ohio Department of Youth Services, alleged that she was denied a promotion and demoted based on her sexual orientation. The lower courts, applying the background circumstances rule, required Ames to show additional evidence that the employer was an “unusual employer” who discriminates against majority-group members. The Sixth Circuit affirmed summary judgment in favor of the employer, finding that Ames failed to meet this burden.

Supreme Court Decision

Justice Jackson, writing for the unanimous Court, rejected the rule. The Court emphasized 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.”

The Court reaffirmed that Title VII protects “any individual” from discrimination on the basis of race, color, religion, sex or national origin, regardless of whether the

Related People

Mark Mathison

Partner

Minneapolis

612.632.3247

mark.mathison@lathropgpm.com

Jake Lorence

Counsel

Minneapolis

612.632.3530

jake.lorence@lathropgpm.com

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plaintiff is a member of a minority or majority group. The decision clarifies that all plaintiffs must be treated equally under the law.

Key Takeaways for Employers

- **Equal Standards for All Plaintiffs** — Employers should be aware that all Title VII plaintiffs, whether they belong to a majority or minority group, face the same burden of proof. There is no heightened standard for majority-group plaintiffs.
- **Policy Review** — Employers should undertake legal review of equal employment opportunity, anti-discrimination and DEI policies and materials to ensure they reflect this equal treatment standard and avoid frameworks that create favoritism or unequal burdens that exclude individuals based on a characteristic, status or belief protected by Title VII. The need for such review is underlined by Justice Thomas's footnote in his concurrence, which states that, "A number of this Nation's largest and most prestigious employers have overtly discriminated against those they deem members of so-called majority groups. American employers have long been 'obsessed' with 'diversity, equity, and inclusion' initiatives and affirmative action plans."
- **Document Decision-Making** — Employers should continue to document legitimate, nondiscriminatory reasons for employment decisions and ensure consistent and equal application of employment policies.
- **McDonnell Douglas Framework** — The Court's ruling does not affect the McDonnell Douglas burden-shifting proof framework widely used by courts in Title VII cases. However, Justice Thomas's concurrence questioned the continued viability of judge-made frameworks in Title VII cases. It can be expected that such a ruling may issue in the near future, which could mean that employers will see more majority-group plaintiff cases (often colloquially referred to as "reverse discrimination" cases), and that more employment discrimination of all types could survive summary judgment and get to trial.

Conclusion

The *Ames* decision is a Title VII case. As such, it impacts all employers with 15 or more employees. The case resolves a longstanding circuit split and reinforces Title VII's focus on equal protection of individual rights for all. Employers should take steps to align their practices and training with this principle and ensure consistent application of non-discriminatory equal employment opportunity policies.

If you have questions about how this ruling may impact your business, please contact [Mark Mathison](#) or [Jake Lorence](#), or your regular Lathrop GPM attorney.