

United States Supreme Court Ruling Lowers the Bar for Bringing Reverse Discrimination Claims

In a decision of resounding importance for employers, the United States Supreme Court, on June 5, 2025, unanimously held, in *Ames v. Ohio Department of Youth Services*, that plaintiffs are not required to meet any heightened evidentiary standard to make out a *prima facie* case of discrimination under Title VII of the Civil Rights Act of 1964 (“Title VII”) based on a majority-group characteristic—*i.e.*, white, male, straight, etc. In other words, the same standard must be applied when courts analyze discrimination claims, irrespective of a plaintiff’s “majority” or “minority” status. The decision is significant in that it eases the path for majority-group employees to bring claims of “reverse discrimination” and may influence how employers defend themselves against such claims in certain jurisdictions.

A Plaintiff’s Burden Under Title VII

As employers are likely aware, under Title VII, it is unlawful for an employer “to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to the individual’s compensation, terms, conditions, or privileges of employment, because of such individual’s race, color, religion, sex, or national origin.” Following Title VII’s enactment, courts have historically analyzed Title VII discrimination claims of disparate treatment based on circumstantial evidence under the traditional multi-step framework set forth in *McDonnell Douglas Corp. v. Green*, 411 U.S. 792 (1973). The first step of that framework requires the plaintiff to make a “*prima facie*” showing that the defendant acted with discriminatory motive. A plaintiff may establish a *prima facie* case of disparate treatment by showing, for example, that the plaintiff applied for an available position for which the plaintiff was qualified, but was rejected under circumstances which give rise to an inference of unlawful discrimination.

Prior to the *Ames* decision, several federal Circuit Courts of Appeals (specifically, the Sixth, Seventh, Eighth, Tenth and D.C. Circuits) imposed a heightened burden for plaintiffs from majority groups to make a *prima facie* case of disparate treatment under Title VII. For example, the Sixth Circuit Court of Appeals (which has jurisdiction over federal appeals arising from courts in Kentucky, Michigan, Ohio and Tennessee) required plaintiffs from majority groups to provide *additional* evidence of “background circumstances” suggesting that the defendant was the rare employer who discriminates against members of a majority group. The Supreme Court in *Ames* rejected this test and instead held that claims of *all* employees, regardless of whether they identify as part of majority or minority groups, should be evaluated using the same criteria without any need to prove such “background circumstances.”

The *Ames* Decision

In this case, the plaintiff, Marlean Ames, was employed as a program administrator by the Ohio Department of Youth Services, where she had been working since 2004. In 2019, Ames applied and interviewed for a management position with her employer, but a different candidate, a lesbian woman, was selected instead. Shortly after interviewing for the management position, Ames was demoted to a secretarial role, and a gay man was hired to fill her prior role. Ames, who is a straight, cisgender woman, alleged that she was passed over for the promotion and demoted because of her sexual orientation.

The District Court, applying the “background circumstances” rule, granted summary judgment in favor of the Ohio Department of Youth Services and dismissed the claims. The Sixth Circuit Court of Appeals, also relying on the “background circumstances” rule, affirmed the lower court’s decision, noting that Ames had not produced background evidence, such as that a member of the same minority group made the employment decision at issue or that statistical evidence showed a pattern of discrimination against members of the majority group (*i.e.*, straight employees).

The Supreme Court, however, found that the “background circumstances” requirement was not consistent with Title VII’s language prohibiting discrimination nor the Court’s prior decisions construing the statute. The Supreme Court’s unanimous decision, authored by Justice Ketanji Brown Jackson, states that “Congress left no room for courts to impose special requirements on majority-group plaintiffs alone” as “Title VII’s disparate-treatment provision draws no distinctions between majority-group plaintiffs and minority-group plaintiffs.” The Court further stated that “[the Court’s] precedents reinforce that understanding of the statute” that Title VII prohibits discriminatory preference for any group—minority or majority. The Court thus vacated the judgment and remanded “for application of the proper prima facie standard.”

Takeaways for Employers

Employers should take note of the lower evidentiary threshold now in place for majority-group employees to establish a discrimination claim under Title VII, as this represents a new, less stringent standard within several Circuits. Notably, however, other Circuits, including the Second Circuit which includes New York and the Ninth Circuit which includes California (together viewed as the more liberal of Circuit benches), have not required majority-group plaintiffs to meet any heightened threshold to prove discrimination, and thus the law in these jurisdictions remains unchanged.

For precautionary purposes, employers may wish to consult with counsel regarding risks attendant to potential promotion or demotion decisions, especially where there may be concerns that particular employees might claim discrimination (including “reverse discrimination”) based on the outcome of those decisions. And employers should continue to be mindful that Title VII and other anti-discrimination laws apply to all employees, not just those who identify as having a minority-group characteristics.

Key Contacts

Our Labor & Employment Law team is available to assist employers in navigating full compliance with Title VII and other anti-discrimination and anti-retaliation laws, and to assist employers in managing their employer-employee relations and avoiding discrimination and all other workplace claims.

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