

SUPREME COURT BRINGS CLARITY TO “REVERSE DISCRIMINATION” CLAIMS

On June 5, 2025, the U.S. Supreme Court issued a unanimous opinion in which it held that Title VII does not impose a heightened or different burden of proof for majority-group plaintiffs. Simply put, “reverse discrimination” Title VII claims should be interpreted using the same framework as any other Title VII claim.

Factual and Procedural Background

In *Ames v. Ohio Dep’t. of Youth Services*, the plaintiff, a heterosexual woman, was employed by the Ohio Department of Youth Services for approximately fifteen years. In 2019, plaintiff applied for a promotion to a newly created management position, but a lesbian woman was selected over plaintiff. A few days after plaintiff’s interviewed for the new position, she was removed from her role as a program administrator and accepted a demotion to a secretarial role. After she did so, the Department hired a gay man to fill her prior role. Thereafter, plaintiff brought a lawsuit alleging she was discriminated against based on her sex in violation of Title VII.

The District Court granted summary judgment to the Department finding that Title VII plaintiffs in a majority group were required to satisfy a heightened evidentiary standard, and the Sixth Circuit affirmed the district court’s decision. In doing so, the Sixth Circuit reasoned that because the plaintiff was a member of a majority group, it was not enough for her to merely satisfy the “not onerous” first step of the *McDonnell Douglas* framework, rather, she had to establish “background circumstances to support the suspicion that the defendant is that unusual employer who discriminates against the majority.”

This ruling by the Sixth Circuit reflected one side of the then-current circuit split as to the standard applied to “reverse discrimination” claims brought under Title VII. In addition to the Sixth Circuit, four other circuits previously held or suggested majority-group plaintiffs must satisfy a heightened burden, while the Third and Eleventh Circuits expressly rejected it, and the remaining circuits did not impose a heightened burden.

Unanimous Supreme Court Opinion

In *Ames*, the Supreme Court stepped in to resolve the circuit split concerning the pleading standard for majority-group plaintiffs’ claims of disparate treatment under Title VII, and the holding was abundantly clear: “the Sixth Circuit’s ‘background circumstances’ rule cannot be squared with the text of Title VII or our longstanding precedents.” Thus, the Supreme Court concluded “that Title VII does not impose such a heightened standard on majority-group plaintiffs.”

The Supreme Court reasoned that the background circumstances rule was not supported by the text of Title VII, stating that “Title VII’s disparate-treatment provision draws no distinctions between majority-group plaintiffs and minority-group plaintiffs.” Instead, the

Supreme Court highlighted that the provision makes it unlawful to not hire, refuse to hire, fire, or discriminate against *any individual* because of an individual's race, color, religion, sex, or national origin. Because Title VII established protections for individuals, without regard to the individual's status as a minority, "Congress left no room for courts to impose special requirements on majority-group plaintiffs alone." Moreover, the Supreme Court cited to multiple cases that illustrated "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."

Concurring Opinion and What Might Become of the *McDonnell Douglas* Framework

The concurring opinion, authored by Justice Thomas and joined by Justice Gorsuch, joined the majority opinion in full, but took issue with the *McDonnell Douglas* framework itself. Justice Thomas stated the framework "lacks any basis in the text of Title VII and has proved difficult for courts to apply. Furthermore, he states he "would be willing to consider whether the *McDonnell Douglas* framework is a workable and useful evidentiary tool."

Particularly, Justice Thomas stated "that the *McDonnell Douglas* framework is incompatible with the summary judgment standard set forth in Federal Rule of Civil Procedure 56." Furthermore, he reasoned that Rule 56(a) requires movant to show there is no genuine dispute as to any material fact; whereas the rule articulated in the *McDonnell Douglas* framework speaks in terms of "proving" the facts based on a preponderance of the evidence. Justice Thomas concludes that "requiring a plaintiff to satisfy the *McDonnell Douglas* framework—as this court has described it—requires a plaintiff to prove too much at summary judgment."

Of note, while that issue was not before the court, Justice Thomas did state that "litigants and lower courts are free to proceed without the *McDonnell Douglas* framework. This Court has never required anyone to use it. And, district courts are well equipped to resolve summary judgment motions without it."

Takeaways

- ➔ Title VII makes it unlawful to discriminate against any individual without regard to whether the individual was in a minority or a majority group, and the same standards of proof apply, regardless of a plaintiff's characteristics.
- ➔ The removal of obstacles from certain individuals will likely lead to a further increase in the filing of discrimination claims by majority groups. As such, employers should ensure that workplace policies protect all employees from discrimination.
- ➔ Employers should monitor the application of the *McDonnell Douglas* burden-shifting framework given the concurrence, as a change to such standard could have a significant impact on how employment discrimination cases are decided.

For additional information regarding reverse discrimination and other related employment law matters, please contact Maynard Nexsen's Employment and Labor Law Team.