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Alert | Labor & Employment

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Supreme Court Eliminates Heightened Discrimination Standard Under Title VII

On June 5, 2025, the U.S. Supreme Court issued a unanimous decision in *Ames v. Ohio Department of Youth Services*, rejecting a heightened evidentiary burden for a plaintiff who is a member of a "majority group" under Title VII of the Civil Rights Act of 1964. Claims brought by such majority-group plaintiffs are sometimes referred to as "reverse discrimination" claims.

The Supreme Court considered whether, to satisfy the Title VII prima facie burden, a majority-group plaintiff must also show "background circumstances to support the suspicion that the defendant is that unusual employer who discriminates against the majority." Previously, the Sixth, Seventh, Eighth, Tenth, and D.C. Circuits applied this heightened background circumstances requirement, following the D.C. Circuit's ruling in *Parker v. Baltimore & Ohio R. Co.*[1] *Parker* altered the traditional prima facie elements set forth in *McDonnell Douglas Corp v. Green*[2] for a "majority plaintiff." In lieu of demonstrating that a plaintiff is a member of a protected class, majority-group plaintiffs were instead required to show "background circumstances" that the employer discriminated against that group. Prior to *Ames*, the circuit courts were split as to whether this heightened standard applied to majority-group plaintiffs, with respect to their protected characteristics.

[1] 652 F. 2d 1012 (1981).
[2] 411 U.S. 792 (1973).

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In *Ames*, the plaintiff—a heterosexual woman—alleged discrimination based on her sexual orientation after being passed over for a promotion and later demoted, both times in favor of LGBTQ+ colleagues. The Sixth Circuit applied *Parker* and dismissed her claim for failure to demonstrate the required "background circumstances."

The Supreme Court reversed, with Justice Ketanji Brown Jackson writing for the Court, explaining that the "background circumstances" requirement conflicts with the plain language of Title VII and established precedent. The Court held that all Title VII plaintiffs, regardless of majority or minority status, are subject to the same standard under Title VII. Elaborating, the Court explained that "[b]y establishing the same protections for every 'individual'—without regard to that individual's membership in a minority or majority-group—Congress left no room for courts to impose special requirements on majority-group plaintiffs alone."[3]

Justice Clarence Thomas authored a concurring opinion, with Justice Neil Gorsuch joining, inviting the Court to reexamine the *McDonnell Douglas* standard and opining that lower courts should be free to proceed without using the standard at all.

Key Takeaways for Legal and HR Professionals

- **No More "Background Circumstances" Requirement**: Employers may no longer rely on the argument that a plaintiff failed to show the employer is inclined to discriminate against majority-group employees as a threshold defense.
- **Burden-Shifting Framework Remains (For Now)**: Once a prima facie case is established, the burden shifts to the employer to articulate a legitimate, non-discriminatory reason. The ultimate burden of proof remains with the plaintiff. However, the concurring opinion suggests the Court may reconsider this framework if the appropriate case is presented to the Court.
- **Increased Attention to Reverse Discrimination Claims**: Coupled with the Court's April 2024 ruling in *Muldrow v. City of St. Louis*[4] (which expanded the actions that qualify as an "adverse employment action"), the *Ames* decision signals heightened judicial attention to reverse discrimination claims.
- **Risk Management**: Employers should ensure that employment decisions, including promotions, transfers, or restructurings, are based on clear, documented, and legally defensible criteria. In addition, employers should ensure that group employment decisions do not have a disparate impact on any class of employees, including majority-group employees.
- **Policy and Practice Audit**: On June 6, 2025, the EEOC issued a press release about the *Ames* decision, stating that "[t]houghtful employers will take note and review their policies to ensure compliance with Title VII." HR and legal teams should review all company materials, including any diversity, equity, and inclusion initiative, policies, and/or training materials, to enhance compliance with anti-discrimination laws as applied to all employees, regardless of any purported majority or minority status.

[3] 605 U. S. _____ at 6.
[4] 601 U.S. 346 (2024).

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