

LEGAL UPDATES

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U.S. Supreme Court Unanimously Rejects Heightened Standard for "Reverse Discrimination" Claims

On June 5, 2025, in *Ames v. Ohio Department of Youth Services*, the U.S. Supreme Court unanimously rejected the “background circumstances” test previously applied by several federal circuits in “reverse discrimination” cases. Writing for the court, Justice Ketanji Brown Jackson held that Title VII of the Civil Rights Act does not impose a heightened evidentiary burden on majority-group plaintiffs in employment discrimination cases.

The court’s decision

The court vacated the Sixth Circuit’s judgment, which had required Marlean Ames, a heterosexual woman, to demonstrate background circumstances suggesting that her employer discriminated against majority groups—a requirement not imposed on minority plaintiffs.

Justice Jackson’s opinion unequivocally stated that “this additional ‘background circumstances’ requirement is not consistent with Title VII’s text or our case law construing the statute.” *Ames v. Ohio Dep’t of Youth Servs.*, No. 23-1039 (U.S. June 5, 2025). The court concluded that Title VII does not impose such a heightened standard on majority-group plaintiffs. *Id.*

Case background

Marlean Ames began working for the Ohio Department of Youth Services in 2004 as an executive secretary and was later promoted to program administrator. In 2019, she applied for a management position but was not selected; instead, a lesbian woman was hired. After her interview, Ames was removed from her program administrator role and accepted a demotion back to her secretarial position, resulting in a significant pay cut. A gay man was hired to fill the program administrator position.

Ames filed a lawsuit under Title VII, alleging discrimination based on her sexual orientation. The district court granted summary judgment to the agency, applying the McDonnell Douglas framework and finding that Ames failed to make a prima facie case because she did not provide evidence of background circumstances indicating that the agency discriminated against majority group members.

The Sixth Circuit affirmed, holding that Ames, as a straight woman, needed to provide additional evidence beyond the usual requirements for establishing a prima facie case.

The court's reasoning

Overview

The court's reasoning is rooted in the plain language of Title VII and its focus on individual rights. The justices noted that the law's protections are not group-based but instead guarantee equal treatment for "any individual." Imposing a higher evidentiary hurdle on majority-group plaintiffs, the court found, was not only unsupported by the statute but also at odds with longstanding precedent making clear that Title VII prohibits discriminatory preference for any group, minority or majority.

The court also criticized the "background circumstances" rule as an inflexible, judge-made doctrine that complicated the legal process and risked unequal justice. By removing this hurdle, the court reaffirmed that all discrimination claims under Title VII—no matter who brings them—are to be evaluated under the same, straightforward standard.

Textual analysis of Title VII

Justice Jackson emphasized that Title VII's disparate-treatment provision focuses on individuals rather than groups: The provision focuses on individuals rather than groups, barring discrimination against "any individual" because of protected characteristics. The court held that "by 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." *Id.*

Consistency with prior precedent

The court reaffirmed that "discriminatory preference for any group, minority or majority, is precisely and only what Congress has proscribed in Title VII." *Id.* (citing *Griggs v. Duke Power Co.*, 401 U. S. 424, 431). Therefore, our case law thus makes clear 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.

Rejection of the "background circumstances" rule

The court firmly rejected the background circumstances rule, which had been applied by five federal circuits. The rule was criticized for imposing a uniform and specific evidentiary standard on majority-group plaintiffs, which contradicts the flexible approach required in Title VII cases.

Justice Jackson noted that “this court has long rejected such ‘inflexible formulation[s]’ of the *prima facie* standard in disparate-treatment cases. We do so again today.” *Id.*

Justice Thomas’s concurrence

Justice Thomas, joined by Justice Gorsuch, wrote separately to highlight broader concerns about judge-made legal rules that lack textual basis. He characterized the “background circumstances” rule as “a paradigmatic example of how judge-made doctrines can distort the underlying statutory text.” *Id.* (Thomas, J., concurring). In addition, Justice Thomas expressed skepticism about the *McDonnell Douglas* framework, observing that it, too, has no foundation in the text of Title VII and has proven challenging for courts to implement. Although he agreed with the court’s decision to reject the background circumstances rule, he indicated that, in a future case, the court should consider whether the *McDonnell Douglas* framework remains appropriate.

Resolution of circuit split

This decision resolves a significant circuit split regarding the evidentiary burden for majority-group plaintiffs in Title VII cases. Prior to this ruling, the Sixth, Seventh, Eighth, Tenth, and D.C. Circuits all applied the “background circumstances” requirement, while the Third and Eleventh Circuits expressly rejected it. The First, Second, Fourth, Fifth, and Ninth Circuits likewise did not apply this requirement.

The court’s unanimous decision creates a uniform standard across all federal circuits, ensuring that the same evidentiary burden applies to all Title VII plaintiffs, regardless of their majority or minority status.

Implications for employers

The court’s ruling has several significant implications for employers:

1. **Equal evidentiary standards:** All discrimination claims will now be evaluated under the same evidentiary standards, regardless of whether they are brought by members of majority or minority groups.
2. **Increased litigation risk:** With the elimination of the background circumstances test, employers in previously affected jurisdictions may see an increase in discrimination claims from majority-group employees.

3. **Scrutiny of DEI initiatives:** As Justice Thomas noted, the background circumstances rule previously required courts to assume that only an “unusual employer” would discriminate against those it perceives to be in the majority. Without this presumption, employers’ diversity, equity, and inclusion initiatives may face greater legal scrutiny.
4. **Procedural simplification:** The decision removes the need for courts to classify employees as belonging to majority or minority groups.

Recommended actions for employers

In light of this ruling, employers should consider the following steps:

1. **Review anti-discrimination policies:** Ensure that workplace policies explicitly protect all employees from discrimination, regardless of their membership in majority or minority groups.
2. **Evaluate DEI programs:** Review diversity initiatives to confirm they focus on opportunities for all employees without creating actual or perceived disadvantages for majority-group employees.
3. **Document decision-making processes:** Maintain thorough documentation of hiring, promotion, and demotion decisions, focusing on objective qualifications and performance metrics that would withstand scrutiny in potential litigation.
4. **Train managers and HR personnel:** Provide updated training on non-discriminatory practices that emphasizes equal treatment for all employees, regardless of their majority or minority status.
5. **Conduct self-audits:** Consider conducting privileged reviews of employment patterns to identify any practices that could be perceived as disadvantaging majority-group employees.

What this means to you

The Supreme Court’s unanimous decision in *Ames v. Ohio Department of Youth Services* represents a significant clarification of Title VII’s application. By confirming that all individuals are subject to the same legal standards when bringing discrimination claims, the court has eliminated a procedural hurdle that had previously made it more difficult for majority-group members to pursue such claims in certain jurisdictions.

Justice Jackson’s opinion for the court reinforces that Title VII’s protections extend equally to all individuals, while Justice Thomas’s concurrence raises broader questions about judge-made frameworks in discrimination law. Together, they signal the court’s commitment to a textualist

approach to employment discrimination law that treats all plaintiffs equally, regardless of their majority or minority status.

Contact us

For more information or to discuss how this ruling might affect your organization, please contact a member of Husch Blackwell's Labor & Employment team.