

Supreme Court Strikes Down Sixth Circuit Rule Heightening Discrimination Standard for Members of Majority Groups

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A recent [Supreme Court decision](#) clarified that discrimination claims brought by members of majority groups in so-called “reverse discrimination” cases cannot be subject to a heightened evidentiary burden. In *Ames v. Ohio Department of Youth Services*, the Court ruled that a Sixth Circuit requirement that members of a “majority group” (such as heterosexual employees) must satisfy a heightened evidentiary standard for discrimination claims was incompatible with the language of Title VII and with Supreme Court precedent. The unanimous decision written by Judge Ketanji Brown Jackson resolves a circuit split, as the Sixth, Seventh, Eighth, Tenth, and D.C. circuit courts of appeals had previously imposed a higher evidentiary burden on discrimination claims brought by majority group members.

The Sixth Circuit’s “Background Circumstances” rule previously imposed a heightened evidentiary burden for discrimination claims brought by majority group members.

Before the *Ames* ruling, the Sixth Circuit applied a “background circumstances” rule for discrimination claims brought by members of a majority group. This heightened evidentiary burden required that such employees prove that “background circumstances support the suspicion that the defendant is that unusual employer who discriminates against the majority.”

In *Ames*, a heterosexual employee of the Ohio Department of Youth Services brought a discrimination action against her employer alleging that she was denied a management promotion and demoted because of her sexual orientation. The district court granted summary judgment in favor of her employer, holding that the employee had not provided “background circumstances supporting the suspicion that her employer would discriminate against a majority group.” The Sixth Circuit affirmed this decision.

The Supreme Court’s *Ames* ruling held that the same standard must apply to majority and minority group members.

Justice Brown Jackson’s majority opinion clarified that the “background circumstances” rule was incompatible both with Title VII’s text and with the Court’s longstanding precedent. Title VII’s language prohibits discrimination against “any individual” without reference to a majority or minority group. Justice Brown Jackson’s opinion specifically cited prior Supreme Court precedent—including *McDonald v. Santa Fe Trail Transportation Co.*, (1976), and *Bostock v. Clayton County*, (2020) among others—as examples where the Court had expressly applied the same standard for discrimination against minority or majority groups. Joined by Justice Gorsuch, Justice

Thomas' concurrence took aim at the *McDonnell Douglas* framework in its entirety—stating that in an appropriate case, “this Court should consider whether the *McDonnell Douglas* framework is an appropriate tool to evaluate Title VII claims at summary judgment.”

Next Steps and Takeaways for Employers

The Court's unanimous decision in *Ames* reduces the evidentiary burden on majority group employee plaintiffs to bring discrimination actions in jurisdictions that previously applied the “background circumstances” rule. Read more about how employers can navigate DEI policies and reverse discrimination claims in a shifting legal landscape [in our recent publication](#).

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