



WEIL'S SCOTUS TERM IN REVIEW

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Supreme Court Holds that Members of Majority Groups Do Not Face a Heightened Standard For Proving Employment Discrimination

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Yesterday, the Supreme Court unanimously held that members of a majority group do not need to satisfy a heightened evidentiary standard to bring a claim of employment discrimination. In particular, the Court rejected the so-called “background circumstances” test that some lower courts had applied, which required members of majority groups to make an additional showing “to support the suspicion that the defendant is that unusual employer who discriminates against the majority.”

Petitioner Marlean Ames is a heterosexual woman who applied for a promotion. Her employer, the Ohio Department of Youth Services, ultimately hired a lesbian woman to fill the role. Soon after, the agency demoted Ames and hired a gay man to fill the newly vacant position. Ames sued the agency, alleging that it denied her promotion and then demoted her because of her sexual orientation. Ames relied on Title VII of the Civil Rights Act of 1964, which prohibits discrimination in employment on the basis of sex, which in turn has been interpreted to bar discrimination on the basis of sexual orientation.

The district court ruled in favor of the employer and the Sixth Circuit affirmed, holding that Ames had failed to show additional “background circumstances to support the suspicion that the defendant is that unusual employer who discriminates against the majority.”

In an opinion by Justice Jackson, the Court unanimously reversed and remanded for further proceedings. The Supreme Court explained that, on its face, Title VII “draws no distinctions between majority-group plaintiffs and minority-group plaintiffs.” Rather, the Court explained that Title VII protects all “individuals,” thus leaving no space for courts “to impose special requirements on majority-group plaintiffs alone.” Justice Jackson further noted that the “background circumstances” test was inconsistent with the Supreme Court’s rejection of other bright-line rules in disparate-treatment cases.

Justice Thomas wrote a separate concurring opinion, joined by Justice Gorsuch. Justice Thomas agreed with the Court’s opinion but he would have gone farther and more broadly rejected judge-made legal rules in Title VII cases. In particular, he would have rejected the Supreme Court’s famous *McDonnell Douglas* framework that lower courts have long applied in Title VII cases.

Justice Thomas and Gorsuch also wrote a dissent from the denial of a petition for a writ of certiorari in *Hittle v. City of Stockton, California, et al.*, No. 24-427, 604 U.S. ____ (2025), which asked the Supreme Court to review the vitality of the *McDonnell Douglas* framework. Justices Thomas and Gorsuch would have granted the petition, but four votes are required for certiorari and the petition was denied

The Supreme Court's ruling in *Ames* resolves a longstanding circuit split and thus clarifies that

members of majority groups must make the same evidentiary showing as members of minority groups. A court thus need not determine whether a person is a member of such a group, because the same standard applies regardless "majority" or "minority" status. The Court's decision also once again reinforces the Supreme Court's focus on textualism: the Court rejected the "background circumstances" rule largely because there was no textual basis for it.

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