In a case involving procedural issues in employment discrimination litigation, the U. S. Supreme Court has found that federal court jurisdiction over Title VII claims is not determined by the statute's 15-employee minimum. The statutory requirement that, to be subject to Title VII, an employer must have 15 or more employees relates to the merits of the discrimination claim, rather than conferring the authority for a federal court to hear and decide the dispute. One of the practical effects of the 8-0 ruling is that an employer cannot seek to dismiss Title VII claims after trial, as was attempted by the employer in this case, based on an assertion that the employer had fewer than 15 employees and thus was not subject to the statute's anti-discrimination provisions. Such a challenge must be brought before trial, as it relates to the sufficiency of the charges rather than the jurisdiction of the court.

The individual sued her former employer in federal district court for sexual harassment in violation of Title VII and various related claims under state law. A jury returned a verdict in her favor, and the court entered judgment based on that verdict. At that point, the employer filed a motion to dismiss the entire litigation, asserting that the court did not have jurisdiction over the subject matter of the dispute. The employer based its motion on the fact that it had fewer than 15 employees at the time of the alleged misconduct and, therefore, was not covered by the requirements of Title VII.

Both the federal trial and appeals courts reluctantly agreed with the employer. The 15-employee numerosity requirement for Title VII coverage was jurisdictional, they found, meaning that an employer with fewer employees was not subject to suit in federal court for alleged violations of the statute. Further, as a jurisdictional requirement, the lack of 15 employees could be raised at any time during the proceeding, the courts concluded, even after entry of judgment, to dismiss the action in its entirety.

Reversing the judgment of the lower courts, the U. S. Supreme Court ruled that the 15-employee numerosity requirement does not determine whether a federal court has jurisdiction over claims of Title VII violations. The question of subject matter jurisdiction of the federal courts is answered by other federal statutes, which examine whether the claim arises under the Federal Constitution or laws, or involves diversity of citizenship among the parties and a minimum dollar amount in controversy. Even though the statute involved in the lawsuit contained a numerosity requirement, i.e., 15 employees, that requirement speaks to the merits of the individual claim, not the court’s jurisdiction over it.

In reaching its decision, the Supreme Court noted the various procedural consequences of finding the 15-employee threshold relevant to the legal sufficiency of the claim, rather than the court’s subject matter jurisdiction. Among them, the Court noted that jurisdiction cannot be waived or forfeited; that questions concerning jurisdiction are to be resolved by the trial judge, not a jury; that a lack of jurisdiction means dismissal of all claims in the litigation. “When Congress does not rank a statutory limitation on coverage as jurisdictional, courts should treat the restriction as non-jurisdictional in character,” the Court concluded.

Although procedural in nature, the decision means that employer challenges based on the 15-employee requirement under Title VII must be raised before trial. In the case in question, the insufficient number of employees under Title VII’s definition of “employer” was not raised until after the trial court entered judgment against the employer, at which point now it would be too late. As a practical matter, whether there are jurisdictional issues should be analyzed in the initial phase of responding to a Title VII complaint. Without jurisdiction over the matter, the case filed in federal court is closed. (Arbaugh v. Y & H Corp., dba The Moonlight Cafe, No. 04-944 [US Sup Ct, February 22, 2006].)