

U.S. Supreme Court Reverses ‘Reverse’ Employment Discrimination Pleading Standard

By Samia M. Kirmani, Michael D. Thomas, Carolyn G. Burnette, Ana C. Shields & Patricia Anderson Pryor

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Meet the Authors



Samia M. Kirmani

Principal
(617) 367-0025
Samia.Kirmani@jacksonlewis.com



Michael D. Thomas

Principal
(949) 885-5240
Michael.Thomas@jacksonlewis.com



Carolyn G. Burnette

Office Managing Principal

Takeaways

- The U.S. Supreme Court invalidated the “background circumstances” rule for Title VII claims, resolving a split in the circuits and holding that courts must evaluate claims brought by majority-group plaintiffs under the same evidentiary framework as minority-group plaintiffs.
- Justices Thomas and Gorsuch outlined their criticisms of the *McDonnell Douglas* framework and encouraged parties to litigate Title VII discrimination claims under the summary judgment standard used in almost all other contexts.
- Employers should continue to focus on equal employment for all individuals regardless of their race, color, sex, national origin, religion, age, disability, or other classification and regardless of any perceived “majority” status.

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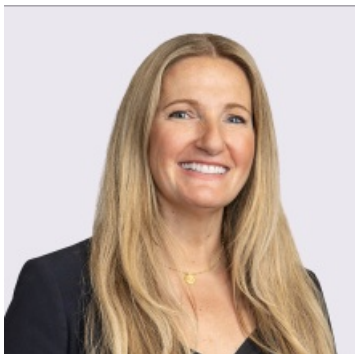
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Article

On June 5, 2025, the U.S. Supreme Court invalidated the “background circumstances” rule in “reverse” employment discrimination claims brought under Title VII of the Civil Rights Act in a unanimous decision overturning precedent held by five federal circuit courts of appeals. [*Ames v. Ohio Department of Youth Services*, No. 23-1039.](#)

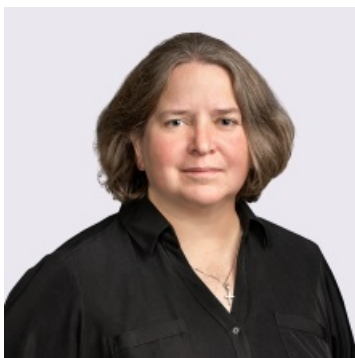
The [background circumstances rule](#) required plaintiffs from historically advantaged groups — typically, White or male employees — to provide additional evidence suggesting that their employer was inclined to discriminate against the majority. Justice Ketanji Brown-Jackson, writing for the Court, explained that under this framework, “plaintiffs who are members of a majority group bear an additional burden ... : They must also establish background circumstances to support the suspicion that the defendant is that unusual employer who discriminates against the majority.” The imposition of this additional burden, Justice Jackson wrote, “cannot be squared with the text of Title VII or our longstanding precedents.”

The Supreme Court’s decision resolves a split in the circuits and now all courts must evaluate claims brought by majority group plaintiffs under the same framework as any



Ana C. Shields

Office Managing Principal
(631) 247-4657
Ana.Shields@jacksonlewis.com



Patricia Anderson Pryor

Office Managing Principal
513-322-5035
Patricia.Pryor@jacksonlewis.com

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other Title VII claim, without the need for plaintiffs to prove “background circumstances.”

Background

Marlean Ames, a straight woman, started working for the Ohio Department of Youth Services (DYS) in 2004. Ames claimed that DYS discriminated against her when it promoted a gay man instead of her.

Holding

The Court held that the “background circumstances” rule is irreconcilable with the plain text of Title VII. Title VII establishes “the same protections for every individual—without regard to that individual’s membership in a minority or majority group,” the Court said, leaving “no room for courts to impose special requirements on majority-group plaintiffs alone.” And Supreme Court precedent has consistently interpreted Title VII faithfully to its plain text.

Citing *Bostock v. Clayton County*, 590 U.S. 644 (2020), Justice Jackson outlined the basic principle “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,” but rather “works to protect individuals ... from discrimination.”

Justice Jackson observed that the Court always has said that courts should be flexible when determining whether a plaintiff met her burden of proving her initial case. Justice Jackson wrote, “The ‘background circumstances’ rule disregards this admonition by uniformly subjecting all majority-group plaintiffs to the same, highly specific evidentiary standard in every case.... [T]he rule effectively requires majority-group plaintiffs (and only majority-group plaintiffs) to produce certain types of evidence—such as statistical proof or information about the relevant decisionmaker’s protected traits—that would not otherwise be required to make out a *prima facie* case.”

Thomas/Gorsuch Concurrence; Fate of *McDonnell Douglas* Framework

Justice Clarence Thomas and Justice Neil Gorsuch joined the Court’s opinion in full but wrote separately “to highlight the problems that arise when judges create atextual legal rules and frameworks.” In their concurrence, Justices Thomas and Gorsuch criticized the longstanding *McDonnell Douglas* framework, a legal standard established by the Supreme Court in *McDonnell Douglas Corp. v. Green*, 411 U. S. 792 (1973), and applied when there is no direct evidence of discrimination.

Acknowledging that *Ames* did not present the question of whether the *McDonnell Douglas* framework is an “appropriate tool for evaluating Title VII claims at summary judgment,” Justice Thomas promised that if that issue comes before the court, he would “consider whether the framework should be used for that purpose.” Justice Thomas noted that litigants and lower courts were free to apply the standard until that time but encouraged them instead to apply the straightforward summary judgment standard used by district courts “every day—and in almost every context except the Title VII context.”

The issue, in fact, did come before the Court early this year on plaintiff’s petition for *certiorari* in *Hittle v. City of Stockton*, 145 S. Ct. 759 (2025). The Court denied review on March 10, 2025. Justices Thomas and Gorsuch wrote a rare dissent to the denial outlining their criticisms of the framework.

Impact on Employers

Ames v. Ohio Youth Services joins two other recent Supreme Court cases with significant impact on employment discrimination law: *Students for Fair Admissions, Inc. v. President & Fellows of Harv. Coll.*, 600 U.S. 181 (2023); and *Muldrow v. City of St. Louis*, 601 U.S. 346 (2024). Although Justice Thomas's concurrence questioning the legitimacy of the *McDonnell Douglas* framework is not controlling, it likely will affect how parties plead and litigate discrimination cases going forward. Employers may see an uptick in discrimination claims from all individuals (including, but not limited to, those historically believed to be in the "majority").

Employers should continue to focus on equal employment for all individuals regardless of their race, color, sex, national origin, religion, age, disability, or other classification and regardless of any perceived "majority" status.

Jackson Lewis attorneys are available to answer questions about the potential impact of the Court's decision and help develop effective nondiscrimination policies.

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