U.S. Supreme Court Extends Scope of Title VII to Include LGBTQ Workers

Article By
Ashlee Williams
Wilson Elser Moskowitz Edelman & Dicker LLP
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In the landmark decision *Bostock v. Clayton County*, the United States Supreme Court has ruled that federal civil rights laws prohibit an employer from discriminating against an employee on the basis of their sexual orientation and gender identity. The ruling comes after the Court heard a set of cases that required the Justices to resolve whether Title VII of the Civil Rights Act of 1964 applies to gay or transgender employees. The plain language of Title VII bars discrimination on the basis of race, color, religion, national origin and sex.

In each of the cases brought before the Court, an employer fired an employee as a direct result of their homosexuality or transgender status. While the Eleventh Circuit held that Title VII protections do not include sexual orientation, the Second and Sixth circuits allowed such claims to move forward, prompting the Court to address the circuit split.

The employers in these cases did not dispute that the relevant termination decisions were made because of the employee’s sexual orientation or gender identity. Instead, the employers asserted that intentional discrimination against gay or transgender employees does not give rise to Title VII liability in an attempt to draw a distinction between sex and sexual orientation and identity. The employers did not argue that compliance with Title VII would infringe upon their religious liberties, and while other employers may raise this issue for consideration, it was not addressed by the Court’s decision.

The Court held in no uncertain terms that a statutory violation of Title VII occurs
where an employer terminates an employee merely for being gay or transgender because the termination decision intentionally relies in part on an employee’s sex.

In the 6–3 majority opinion written by Justice Neil M. Gorsuch, the Court reasoned that Title VII necessarily prohibits an employer from firing an individual for being gay or transgender because sex plays a “necessary and undisguisable” role in the decision. The Court further explained that an employer who fires an employee because of their sexual orientation or identity is firing that employee for traits or actions the employer would not question outside the gay or transgender context.

As a result of this historical decision, employers should be careful not to make any adverse employment decisions on the basis of sexual orientation or gender identity. Making employment decisions on these grounds is now a clear violation of Title VII.

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