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# The U.S. Supreme Court Resolves Dispute Among the Circuits on Disparate Treatment Standard under Title VII in a Unanimous Decision

In a notable moment of unanimity, the U.S. Supreme Court decided there is not a heightened evidentiary burden for members of purported majority groups to prove a claim of disparate treatment under Title VII of the Civil Rights Act of 1964. In doing so, the Court rejected the "background circumstances" test applied by courts in the Sixth, Seventh, Eighth, Tenth, and D.C. Circuits for Title VII disparate treatment claims brought by members of majority groups. In *Ames v. Ohio Department of Youth Services*, the Court held the background circumstances requirement is inconsistent with Title VII and the Court's long-established interpretation of the statute.

In *Ames*, the plaintiff (Marlean Ames), who identifies as heterosexual, worked for the Ohio Department of Youth Services. During her employment with the agency, she applied for and was not selected for a promotion. Although the agency interviewed her for the role, it hired a candidate who identifies as lesbian to fill it. The agency then removed Ames from her role as program administrator, and she accepted a demotion to a different role. The agency then hired a candidate who identifies as gay to fill the vacant program administrator position.

Ames sued the agency in the U.S. District Court for the Southern District of Ohio alleging, among other things, disparate treatment claims under Title VII based on her sexual orientation. In its order granting summary judgment in favor of the employer, the district court stated that to establish a disparate treatment sex-based discrimination claim under Title VII, a plaintiff "must show that background circumstances support the suspicion that the defendant is that unusual employer who discriminates against the majority."[1] The court found Ames failed to satisfy her burden of proof and dismissed her claims with prejudice. Ames appealed to the U.S.

Court of Appeals for the Sixth Circuit, which affirmed the trial court.[2] Ames appealed to the U.S. Supreme Court.

Citing to its decisions in *Griggs v. Duke Power Co.*[3] and *McDonald v. Santa Fa Trail Transportation Co.*,[4] issued in 1971 and 1976, respectively, the Court rejected the lower courts' analysis. It stated, "our case law thus makes clear that the standard for proving disparate treatment under Title VII does not vary based on whether or not a plaintiff is a member of a majority group."[5] The Court further stated, "the background circumstances rule flouts that basic principle," vacated the trial court's judgment, and remanded the case "for application of the proper *prima facie* standard."[6]

The Court's decision resolves a split among the circuits and provides much needed clarification. Employers should continue to review their workplace policies and procedures to ensure they are free from unlawful discrimination.

*This blog was drafted by Kami M. Hoskins, an attorney in the Phoenix, Arizona office of Spencer Fane. For more information, visit spencerfane.com.*

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[1] *See Ames v. Dep't of Youth Servs.*, No. 2:20-CV-05935, 2023 WL 2539214, at *7 (S.D. Ohio Mar. 16, 2023), aff'd sub nom. *Ames v. Ohio Dep't of Youth Servs.*, 87 F.4th 822 (6th Cir. 2023), cert. granted, 145 S. Ct. 118 (2024).

[2] *See Ames v. Ohio Dep't of Youth Servs.*", 87 F.4th 822 (6th Cir. 2023), cert. granted, 145 S. Ct. 118 (2024).

3 401 U. S. 424 (1971).

4 427 U. S. 273 (1976).

[5] *See Ames v. Ohio Dep't of Youth Servs.*", 605 U.S. ___, 6 (2025).

[6] *Id.* at 9.

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