

# Justices Reject Higher Standard for “Reverse Discrimination” Claims

by Jack Sullivan and Monica Delgado

The United States Supreme Court has held that the evidentiary standards for “reverse discrimination” claims under federal employment law must be the same as those set for claims brought by members of minority groups.

The unanimous June 5, 2025, decision rejected a higher standard, applied in some circuit courts, under which members of majority groups who allege workplace discrimination in violation of Title VII of the Civil Rights Act were required to present evidence of “background circumstances” that support a suspicion that “the defendant is that unusual employer who discriminates against the majority.”

The decision comes when public and political attention is focused on diversity, equity and inclusion (“DEI”) programs in workplaces and other contexts. The Trump Administration is pressing legal and political attacks on employers and institutions over DEI programs, claiming that the programs impermissibly favor members of minority groups over members of majority groups.

In its decision, the Supreme Court revived a lawsuit brought by an Ohio woman who accused her employer of discriminating against her because she is heterosexual. The woman, Marlean Ames, alleged in her lawsuit against the Ohio Department of Youth Services that she was passed over for a promotion and then later demoted. Ames claims that in both instances the person hired for the position was less qualified and gay.

The district court granted summary judgment dismissing Ames’s lawsuit. In addition to the longstanding elements of a workplace discrimination claim, the district court held that Ames needed to, and did not, present evidence of background circumstances sufficient to suggest her employer “was the rare employer who discriminates against members of a majority group.” The United States Court of Appeals for the Sixth Circuit affirmed the dismissal, explaining that majority-group members must show “a member of the relevant minority group (here, gay people) made the employment decision at issue” or present “statistical evidence showing a pattern of discrimination . . . against members of the

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majority group.”

Justice Ketanji Brown Jackson wrote the court’s opinion reversing the Sixth Circuit. Justice Jackson noted that the statutory language of Title VII does not distinguish between members of majority or minority groups but instead prohibits discrimination against “any individual . . . because of such individual’s race, color, religion, sex, or national origin.” Justice Jackson underscored the significance of the statute’s focus on individuals, not groups, and held that the “background circumstances” test improperly forced “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.”

The “background circumstances” test had been applied in the Sixth, Seventh, Eighth, Tenth, and District of Columbia circuits.