

## Publications

### Supreme Court of the United States Poised to Clarify Standard in Discrimination Claims

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#### CLIENT ALERT | 3.11.2025

On February 26, 2025, the U.S. Supreme Court heard oral arguments in *Ames v. Ohio Department of Youth Services*, a case that could alter the legal landscape for employment discrimination claims under Title VII of the Civil Rights Act of 1964. At issue is whether plaintiffs who belong to a majority group—such as heterosexual individuals—must meet a heightened evidentiary burden by proving “background circumstances” suggesting their employer is the rare one that discriminates against the majority. The case comes from the Sixth Circuit, which upheld the dismissal of Ames’s claims on the grounds that she failed to satisfy this additional requirement.

While working for the Ohio Department of Youth Services, Marlean Ames, a heterosexual woman, alleges she applied for a promotion but was passed over in favor of a gay colleague and was subsequently demoted to a lower-paying position, with her former role filled by a younger gay man. Ames filed suit under Title VII, alleging discrimination based on sexual orientation. The District Court rejected her claim, and the Sixth Circuit affirmed, noting that, because she is a member of the “majority group,” she was required to provide additional evidence demonstrating “background circumstances” supporting her allegation of *reverse* discrimination.

During oral argument, the Justices expressed deep skepticism toward the “background circumstances” requirement. Notably, both parties agreed that Title VII should impose the same standard on all plaintiffs, regardless of their demographic status. Justice Neil Gorsuch characterized this as “radical agreement” between the parties, signaling that the Court is likely to reject the Sixth Circuit’s heightened burden for majority-group plaintiffs. Counsel for the Ohio Department of Youth Services conceded that all Title VII plaintiffs should be held to the same standard, but nonetheless urged the Court to affirm the Sixth Circuit’s ruling on the narrower ground that Ames still failed to present sufficient evidence of discrimination.

The Justices largely resisted Ohio's invitation to sidestep the primary issue. Justice Elena Kagan emphasized that the key question before the Court was whether majority-group plaintiffs must meet a higher evidentiary burden under Title VII—not whether Ames had enough evidence to prevail. Justice Brett Kavanaugh suggested that, if the Sixth Circuit applied an improper legal standard, the Court's role should be to strike it down and allow the case to be reconsidered under the correct framework. Meanwhile, Justice Ketanji Brown Jackson probed whether any prior Supreme Court precedent supported the “background circumstances” test, to which neither Ohio's counsel nor the government's attorney could provide a clear answer. The absence of any binding authority for the heightened standard further undermined Ohio's position.

By the end of oral argument, the Justices appeared strongly inclined to eliminate the “background circumstances” requirement. While the scope of their ruling remains uncertain, a narrow decision would strike down the Sixth Circuit's approach while leaving room for courts to develop alternative evidentiary frameworks. A broader decision could explicitly hold that all Title VII plaintiffs must satisfy the same prima facie test, regardless of their majority or minority status. Given the Justices' questioning and Ohio's concessions, the Court's ruling is expected to be a decisive rejection of the heightened burden for majority-group plaintiffs. Employers should prepare for the potential consequences, including an increase in what otherwise have been referred to as reverse discrimination claims. Companies should review their internal policies and training programs to ensure they mitigate legal risks associated with discrimination claims from employees of all backgrounds.

A decision in *Ames* is expected by the summer. For more information on how the Supreme Court's ruling may impact your business, please contact your Vorys lawyer.

*Note: This Client Alert is based on the oral arguments and available information as of March 6, 2025. The Supreme Court's final decision may further clarify these issues.*