

U.S. Supreme Court: Forced Transfers of Employees Without Loss of Pay or Rank Violate Title VII

April 19, 2024

Federal law prohibits employers from relying on certain protected statuses (race, color, religion, sex, or national origin) when making employment decisions. Lower courts have required employees suing employers to point to a materially adverse harm caused by the alleged employer discrimination. But is a forced transfer of an employee to another department—with no loss of pay or rank—an “adverse employment” decision? On April 17, 2024, the U.S. Supreme Court **ruled 9-0** in the affirmative.

In *Muldrow v. City of St. Louis*, a female police sergeant alleged she was transferred from one job to another because she is a woman, in violation of Title VII. While her rank and pay remained the same in the new position, her responsibilities (moving from being a plainclothes intelligence officer to a more administrative role), perks (e.g., no longer having a take-home car), and schedule (fewer weekends off) did not. The District Court reiterated Title VII’s prohibition against basing employment decisions on a person’s gender, but further opined that because the female police sergeant did not demonstrate there was a “significant” change in working conditions producing “material employment disadvantage,” her discrimination claim failed as a matter of law. The District Court reached this conclusion because she suffered no “change in salary or rank,” and therefore, there was no harm and no foul. The U.S. Court of Appeals for the Eighth Circuit agreed, concluding that the plaintiff did not have a viable employment discrimination claim because her job transfer “did not result in a diminution to her title, salary, or benefits.”

Writing for a unanimous court, Justice Elena Kagan reversed the Eighth Circuit, ruling that an employee need not show “significant, serious” or “material” change in employment conditions to maintain a discrimination claim “because the text of Title VII imposes no such requirement.” More specifically, the Supreme Court reasoned that there is nothing in Title VII that distinguishes “between transfers causing significant disadvantages and transfers causing not-so-significant ones.” All a plaintiff need show in a forced discriminatory transfer case is that the transfer left the employee “worse off,” but not “significantly worse” as numerous federal appellate decisions have previously held.

If you have any questions on the impact that *Muldrow* may have on any contemplated decisions in your workspace, please feel free to reach out to your Miller Canfield attorney or the authors of this e-alert.