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SCOTUS Ruling Sets Standard for Title VII Suits Over Job Transfers

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On Wednesday, April 17, 2024, the U.S. Supreme Court issued a ruling in *Muldrow v. St Louis*, No. 22-193, resolving a circuit split and holding Title VII of the Civil Rights Act of 1964 (“Title VII”) prohibits discriminatory job transfers where the transfers cause some harm, regardless of whether that harm is considered significant or not, with respect to an identifiable term or condition of employment.

From 2008 to 2017, Sergeant Jatonya Clayborn Muldrow, a female, worked as a plainclothes officer in the St. Louis Police Department’s specialized Intelligence Division. In 2017, the new Intelligence Division commander transferred Muldrow to a different unit so that he could replace her with a male officer. Muldrow opposed the transfer, but she was reassigned to a uniformed job elsewhere in the department. While Muldrow’s rank and pay remained the same in her new position, her overall responsibilities, job perks, and work schedule were altered. For example, instead of working with high-ranking officials on important department priorities in the Intelligence Division, Muldrow was tasked with handling administrative work related to duties performed by neighborhood patrol officers. Muldrow was also even asked to engage in patrol work herself, a task she had not been expected to undertake for many years in her previous role. Further, as a member of the Intelligence Division, Muldrow had been assigned to a task force with the Federal Bureau of Investigation, which granted her FBI credentials, an unmarked take-home vehicle, and the authority to pursue investigations outside of St. Louis. When she was transferred out of the Intelligence Division, Muldrow lost her status with the FBI and the benefits that the position afforded her, including the use of her take-home car. Finally, Muldrow’s work schedule changed dramatically when she was transferred. In her position with the Intelligence Division, she worked a traditional schedule Monday through Friday. When she was transferred to her uniformed position, she was forced to work a rotating schedule that included working weekend shifts.

Muldrow ultimately filed suit alleging her transfer out of the intelligence unit constituted sex discrimination under Title VII. The trial court and the appellate court held that she had not been discriminated against in violation of Title VII because she could not show “significant” harm as a result of her job transfer or a “significant” change to the terms and conditions of her employment. The appellate court defined “significant” as requiring Sergeant Muldrow to show that the transfer caused a “materially significant disadvantage.”

Thereafter, Muldrow appealed to the United States Supreme Court. On April 17, 2024, Justice Kagan delivered the opinion of the Court, rejecting the “significant harm” approach promulgated by the lower courts. The Supreme Court stated that the task before it was to “resolve a Circuit split over whether an employee

challenging a transfer under Title VII must meet a heightened threshold of harm—be it dubbed significant, serious, or something similar.” The Court held that “[t]o make out a Title VII discrimination claim, a transferee must show some harm respecting an identifiable term or condition of employment” but that the statute did not require any significant, serious, or substantial harm. Applying this standard to Muldrow’s case, the Supreme Court stated she only needed to show “some injury respecting her employment terms or conditions” and that the “transfer left her worse off, but need not [have] left her significantly so.”

The Supreme Court declined to find whether Muldrow satisfied the standard and remanded this case for further proceedings. However, the Court held that if Muldrow’s allegations were properly preserved and supported (due to some procedural questions in the lower courts), Muldrow had shown the transfer did in fact cause “some injury” to the terms and conditions of her employment.

Employers should be aware of this new standard for discrimination claims brought under Title VII arising out of job transfers. Such transfers create a new potential pit fall to employers attempting to ensure they have the right personnel in the right positions. Regardless of this new standard, would-be plaintiffs still must successfully articulate that they were transferred, and suffered “some harm,” as a result of their membership in a protected class.

If you have any questions about this case or this alert, please feel free to contact the member of our Labor and Employment team with whom you are regularly in contact.

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