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Ames Analysis: Reverse Discrimination Reversed



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On June 5, 2025, the Supreme Court issued a unanimous decision in *Ames v. Ohio Department of Youth Services*, striking down the “background circumstances” requirement in so-called “reverse discrimination” cases. The Court held that the rule is inconsistent with federal anti-discrimination law under Title VII and cannot stand.

As a result of this decision, majority-group plaintiffs no longer need to demonstrate “background circumstances” indicating that their employer is of the “unusual” type that discriminates against the majority,” thereby lowering the threshold for members of such groups to pursue reverse discrimination claims.

Reverse Discrimination & Ames

In a typical discrimination case, a plaintiff in a minority group (e.g., African American, LGBTQ+) must make an initial showing that the employer acted with a discriminatory motive in making an adverse employment decision. Once that initial showing is made, which is a low threshold, the burden shifts to the employer to show there was a non-discriminatory reason for the decision. The burden then shifts back to the plaintiff to show that the reason given was mere pretext and the real reason was discriminatory animus.

Reverse discrimination, by contrast, is discrimination against an individual in a majority group (e.g., Caucasian, male, heterosexual). Parties alleging reverse discrimination were previously required in several judicial circuits (including the Seventh Circuit) to meet an *additional* evidentiary burden to state a *prima facie* case: demonstrating “background circumstances to support the suspicion that the defendant is that unusual employer who discriminates against the majority.”

In *Ames*, a heterosexual, Caucasian woman alleged reverse discrimination by her employer, claiming that LGBTQ+ employees were promoted over her and ultimately placed in her former position following her demotion, despite her being more qualified. The Sixth Circuit applied the heightened “background circumstances” standard and affirmed summary judgment in favor of the employer on the grounds that she failed to make that showing.

In reviewing the text of Title VII—which bars employers from discriminating against “*any individual*” on the basis of race, color, religion, sex or national origin—the Court found no basis to impose “special requirements” on any particular *group*, including a majority group.

Instead, the Court concluded that Title VII’s prohibition on discrimination applies equally to all groups. Thus, the plaintiff needed only to initially show that she was discriminated against on the basis of her sexual orientation—heterosexual.

Employment Outcome

The Supreme Court's repeal of this additional burden will make it easier for majority group employees to bring claims of reverse discrimination. In anticipation of this decision, federal agencies have already begun to follow suit.

The U.S. Equal Employment Opportunity Commission ("EEOC") maintains that there is no such thing as "reverse" discrimination and therefore does not require a higher showing of proof for such claims. In light of the Supreme Court's decision, the applicability of the EEOC's guidance will now take full effect. At the EEOC and federal courts nationwide, including the Seventh Circuit, plaintiffs in reverse discrimination cases will no longer face a higher burden of proof.

How Will This Affect Your Business?

With the Supreme Court's decision mandating that anti-discrimination protections apply equally to all workers, an increase in discrimination claims filed by members of majority groups is anticipated.

Adhering to equal standards for all groups in the wake of the *Ames* decision is thus essential to protect both your business and employees from discriminatory practices—and the resulting risk of discrimination claims.

Potential Impact on DEI

While *Ames* did not directly address the current administration's attacks on employer DEI (Diversity, Equity, Inclusion) initiatives, it would not be a stretch to conclude that the *Ames* decision will bolster the argument that such programs unlawfully favor minority groups. Stay tuned for further developments on that front.

Next Steps for Employers

Now is a great time to review and update your anti-discrimination policies, like employee handbooks. Also, if your organization has a DEI program, like a sanctioned employee resource group (ERG), which is a voluntary, employee-led diversity and inclusion initiative, consider having the program reviewed for compliance with this new legal landscape.

Please do not hesitate to contact any of the attorneys in Gould & Ratner's [Human Resources and Employment Law Practice](#) to discuss the Supreme Court's decision and its effect on your business. Our team can evaluate your company's HR policies for compliance with the new guidance and to help establish policies, trainings or practices that can reduce the risk of potentially costly litigation.