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The US Supreme Court has unanimously held that Title VII plaintiffs from a majority group must not meet higher evidentiary burdens, potentially making it harder for employers to prevail in discrimination cases.

Key takeaways

- The US Supreme Court ruled on 5 June 2025 that plaintiffs do not have to show “background circumstances” that their employer discriminates against majority groups when bringing Title VII claims
- The unanimous decision could signal the beginning of the end of the decades-old *McDonnell Douglas* framework
- A possible uptick in employer discrimination claims may increase pressure on HR teams and their advisors



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The US Supreme Court has ruled that plaintiffs do not have to show “background circumstances” proving their employer discriminates against majority groups when bringing claims under Title VII of the Civil Rights Act 1964. Justice Ketanji Brown Jackson delivered the 5 June 2025 opinion, writing that the standard for proving workplace discrimination “does not vary based on whether or not the plaintiff is a member of a majority group.”

The decision in *Ames v Ohio Department of Youth Services* sends the case back down to the US Court of Appeals for the Sixth Circuit, which will

have to determine whether Ames has adequately stated a claim to support an inference of discriminatory motive, without the benefit of background circumstances related to her majority group status.

Ames, a heterosexual woman, filed a sex-based discrimination charge with the US Equal Employment Opportunity Commission (EEOC) after being rejected from consideration for a management role and demoted from her program administrator position at the Ohio Department of Youth Services, a state agency. The positions were subsequently offered to a homosexual woman and a homosexual man, respectively.

After the US District Court for the Southern District of Ohio granted Ohio summary judgment, Ames appealed to the Sixth Circuit. The appeals court affirmed, holding that Ames failed to “show background circumstances to support the suspicion that the defendant is that unusual employer who discriminates against the majority” and found that Ohio provided non-discriminatory reasons for its decisions.

Following oral arguments on 26 February 2025, the US Supreme Court seemed to be “in radical agreement” that the Sixth Circuit wrongly held Ames to a higher evidentiary standard. Matt Sarelson, partner at Dhillon Law Group, said this “was an easy decision” and one that many in the legal community expected.

“Background circumstances” rule conflicts with Title VII

The 5 June opinion focused on the Sixth Circuit’s application of the “*McDonnell Douglas* Framework,” derived from the US Supreme Court’s 1973 decision in *McDonnell Douglas v Green*. The *McDonnell Douglas* framework is a three-step enquiry under which:

- the employee must produce enough evidence to support an inference of a discriminatory motive to establish a prima facie case;
- if the employee can meet the first step's criteria, the evidentiary burden shifts to the employer to provide a non-discriminatory explanation; and
- if the employer has such an explanation, the employee must have an opportunity to challenge it.

Jackson said the Sixth Circuit's background circumstances requirement improperly imposed "an additional burden" on employees who belong to majority groups. That additional burden required Ames to establish that:

- she was a member of a protected class;
- she suffered from adverse employment decisions;
- she was qualified for the position to which she applied; and
- her employer showed preference toward a similarly qualified member from a different protected class.

Jackson observed that, under the Sixth Circuit's ruling, "plaintiffs who are members of a majority group bear an additional burden at step one" by establishing "'background circumstances' to support the suspicion that the defendant is that unusual employer who discriminates against the majority." She said the background circumstances rule "cannot be squared with the text of Title VII or [the US Supreme Court's] longstanding precedents."

"As a textual matter, Title VII's disparate-treatment provision draws no distinctions between majority-group plaintiffs and minority-group plaintiffs," Jackson wrote. "By establishing the same protections for every 'individual'—without regard to that individual's membership in a minority or majority group—Congress left no room for courts to impose special requirements on majority-group plaintiffs alone."

Jackson also said the background circumstances rule ignores the US Supreme Court's instruction to "avoid inflexible applications of *McDonnell Douglas* first prong."

Sarelon agreed that the appeals court overreached in its application of the rule.

"The Sixth Circuit created this new standard which isn't found in any statute, and other courts don't use it. No one knows where it came from, but [Ames] was in the majority so the court said she had to show more than others," he said. "This is sort of a variation of what some people improperly refer to as 'reverse discrimination.' There is no such thing as reverse discrimination. There's simply discrimination."

Sarelon said he expects *McDonnell Douglas* "will go away in the long-term," as "too many valid Title VII cases have been improperly dismissed" because plaintiffs have not been able to satisfy the framework. He said it has long been used by employers "as a get-out-of-jail-free card."

Conversely, Constangy, Brooks, Smith & Prophete attorney Colin Finnegan said he "didn't see anything in the opinion" that signalled the US Supreme Court will revisit *McDonnell Douglas*.

"Whenever there's a Supreme Court case that even cites *McDonnell Douglas*, everyone's ears perk up because it's been around for so long and is such a fundamental part of employers and the decisions they make," Finnegan said. "But I didn't necessarily read anything in the opinion to make me think it's being targeted."

Justice Clarence Thomas, joined by Justice Neil Gorsuch, concurred with the court's opinion, writing separately to "highlight the problems that arise when judges create atextual legal rules and frameworks." He pointed not only to the Sixth Circuit's background circumstances rule as "one example of this phenomenon," but also to *McDonnell Douglas*.

Thomas noted that the court assumed without deciding that *McDonnell Douglas* is "an appropriate tool to evaluate Title VII claims at summary judgment," and indicated his willingness to participate in deciding just that if "an appropriate case" were to come before the court.

Finnegan noted that Thomas and Gorsuch seem to be the only two justices that "would definitely entertain a discussion about whether to continue with the *McDonnell Douglas* framework," but that its absence from the unanimous opinion indicates that it's "not on the Supreme Court's radar."

How should employers proceed?

Sarelon said the US Supreme Court's decision in *Ames* "means nothing for employers in the short-term."

"All the court did is direct the Sixth Circuit to go back and evaluate the case under the traditional approach. The employer may still be able to get out of the case on summary judgment, and the employer may still prevail at trial," Sarelon said. "I don't think most employers paid a lot of attention to the background circumstances test anyways . . . so getting rid of it probably has no impact."



