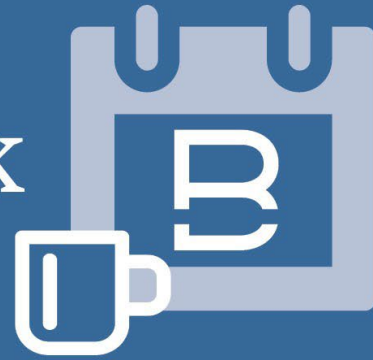


The Work Week

Bassford Remele Employment Practice Group



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Welcome to another edition of *The Work Week with Bassford Remele*. Each Monday morning, we will publish and send a new article to your inbox to hopefully assist you in jumpstarting your work week.

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SCOTUS Hears Oral Arguments in Reverse Discrimination Case

[Michael J. Pfau](#)

On February 26, 2025, the U.S. Supreme Court heard oral arguments in *Ames v. Ohio Department of Youth Services*, a case addressing whether plaintiffs from majority groups must meet a higher evidentiary standard to prove discrimination under Title VII of the Civil Rights Act of 1964. The plaintiff, Marlean Ames, a heterosexual woman, alleges she was denied a promotion and subsequently demoted in favor of less qualified gay colleagues, asserting that this constitutes discrimination based on her sexual orientation.

Background of the Case

Marlean Ames has been employed by the Ohio Department of Youth Services since 2004. In 2019, she applied for a promotion to Bureau Chief, a position for which she was qualified. After an eight-month vacancy, the role was awarded to a gay colleague. Shortly thereafter, Ames was demoted, and her previous position was filled by a 25-year-old gay man. Ames contends that these decisions were influenced by her sexual orientation, constituting reverse discrimination.

The Sixth Circuit concluded in 2023 that Ames had not shown the required “background circumstances” indicating that a defendant accused of workplace bias is “that unusual employer who discriminates against the majority.”

Supreme Court Proceedings

Ashley Robertson, arguing for the U.S. Justice Department, said a ruling favoring Ohio would risk screening out meritorious discrimination cases. The burden on plaintiffs is already high, Robertson said, and the Sixth Circuit in this case added a requirement that many plaintiffs cannot meet.

During oral argument, the justices appeared skeptical of the “background circumstances” requirement imposed by some lower courts on majority-group plaintiffs. Justice Neil Gorsuch questioned the validity of such a rule, suggesting that Title VII’s protections should apply uniformly, without additional burdens based on the plaintiff’s group status. Ohio’s Solicitor General, T. Elliot Gaiser, conceded that imposing a higher evidentiary standard on majority-group plaintiffs is inappropriate, aligning with the position of the plaintiff and the U.S. Solicitor General.

Implications of the Case

A ruling in favor of Ames could have significant implications for employment discrimination law, potentially eliminating the heightened evidentiary burden for majority-group plaintiffs and leading to an increase in reverse discrimination claims. This case also raises questions about the future of diversity, equity, and inclusion initiatives, as a decision supporting Ames may prompt challenges to such programs on the grounds of reverse discrimination.

The Supreme Court is expected to issue its decision by the end of June 2025.

The Bassford Remele Employment Group can guide employers through the ever-shifting landscape of federal employment and labor law. Please reach out with any questions.

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