

Supreme Court rules Title VII's ban on workplace discrimination applies to sexual orientation and gender identity



David Schelberg, Miriam L. Rosen | Monday, June 15, 2020

Monday, June 15, 2020, the United States Supreme Court issued a landmark employment decision, *Bostock v. Clayton County, Georgia*, ruling that the prohibitions against workplace discrimination and harassment in Title VII of the Civil Rights Act of 1964 protect employees from discrimination based on sexual orientation and gender identity. In other words, employees' LGBT identifications are now protected characteristics under federal law, along with such other protected characteristics as race, gender, national origin, and age, among others.

The Supreme Court's 6-3 decision was authored by Justice Neil Gorsuch, who along with Chief Justice John Roberts, was one of two members of the court's conservative majority that joined the court's liberal justices in the decision. Writing for the majority, Justice Gorsuch found that:

"[a]n employer violates Title VII when it intentionally fires an individual employee based in part on sex. . . . [b]ecause discrimination on the basis of homosexuality or transgender status requires an employer to intentionally treat individual employees differently because of their sex, an employer who intentionally penalizes an employee for being homosexual or transgender also violates Title VII."

This pivotal decision gives rise to immediate considerations for employers. In particular, employers should promptly review their EEO policies and employee handbooks to ensure they expressly prohibit discrimination and harassment based on LGBT worker statuses, in line with the Supreme Court's new,

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binding interpretation of Title VII. Employers should also review training and onboarding materials. In addition, it is important to consider training for managers and employees to ensure the employer's non-discrimination practices, including protection for sexual orientation and transgender status, are effectively communicated.

The [McDonald Hopkins Employment Law Team](#) will provide a detailed analysis of the decision and recommendations for employers. If you have any questions or would like more information on the ramifications of this decision on your business, the McDonald Hopkins Employment Team is available to assist.



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