

Electronic Alert

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U.S. Supreme Court Holds That a Lateral Transfer May Be Discrimination Under Title VII

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Today, the U.S. Supreme Court held in *Muldrow v. City of St. Louis* that a lateral transfer of an employee to a position with similar rank and pay can be an adverse employment action under Title VII of the Civil Rights Act of 1964 even if the employee cannot show that the transfer caused a “materially significant disadvantage.”

The Facts of the Case

Ms. Muldrow worked as a plainclothes officer in the St. Louis Police Department’s (“Department”) Intelligence Division. After a new commander took over the Intelligence Division, he asked the Department to transfer her out of the unit and replace her with a male officer. Against her wishes, the Department transferred her to a uniformed job within the Department.

Ms. Muldrow sued the Department alleging discrimination based on her sex in violation of Title VII based on her transfer to a lesser position. While her rank and pay remained the same in her new position, “her responsibilities, perks, and schedule did not.” She described her situation as follows:

“I went from straight days, weekends off with a take-home car and more visibility and responsibility within the Department to a rotating schedule with few weekends off, assigned to ... uniformed patrol,” with “responsibilities being limited to that of administrative work” and “supervising officers on patrol.”

The Court’s Decision

The lower courts ruled that Ms. Muldrow’s Title VII claim failed because she could not show that her transfer caused a “materially significant disadvantage” because her rank and pay remained the same.

The Supreme Court disagreed and held that “[a]lthough an employee must show some harm from a forced transfer to prevail in a Title VII suit, she need not show that the injury satisfies a significance test. Title VII’s text nowhere establishes that high bar.”

The Supreme Court’s decision means that an employee can now prevail on a Title VII discrimination claim if they can show a forced transfer was discriminatory and caused *some* harm—which does not have to be *significant*.

What Does This Mean for Employers?

This decision means that employers should carefully review transfers and changes to assignments and job responsibilities to evaluate whether they could be viewed as discriminatory the same way as they would review a demotion or termination of employment.

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