

Supreme Court Rules Title VII Protects Gay and Transgender Employees

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In a historic decision, the Supreme Court held that an employer who fires an individual for being gay or transgender violates Title VII of the Civil Rights Act. In a 6-3 decision, the Court concluded that Title VII's prohibition against discrimination "because of sex" includes protections against employment decisions due to bias against gay and transgender employees.

Before the Court were three cases each involving termination of an employee after the employer learned that the employee was homosexual or transgender.

In writing for the majority, Justice Neil Gorsuch wrote that "an employer violates Title VII when it intentionally fires an individual employee based in part on sex," noting that it makes no difference if other factors besides the employee's sex contributed to the decision. "Because 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." On that basis, the Court found that it is impossible to discriminate against a person for being homosexual or transgender, without discriminating against that individual, based on sex, because homosexuality and transgender status are "inextricably bound up with sex."

"An employer who fires an individual for being homosexual or transgender fires that person for traits or actions it would not have questioned in members of a different sex," Gorsuch wrote. "Sex plays a necessary and undisguisable role in the decision, exactly what Title VII forbids."

The employers raised several arguments before the Court, one of them being that the original drafters in 1964 would not have expected Title VII to be interpreted as prohibiting discrimination against those who are homosexual or transgender. While Gorsuch acknowledged that the drafters of Title VII may not have envisioned this result, he observed that this fact was likely true with many of the current applications of Title VII. Rejecting the invitation to apply the law only in those scenarios the drafters of the legislation imagined it would be applicable, Gorsuch opined that the "limits of the drafters' imagination supply no reason to ignore the law's demands."

The Court's decision resolves inconsistent applications of Title VII by the Circuit Courts. Prior to the decision, only 22 states had passed statutes providing protection against employment discrimination on the basis of sexual orientation. While such statutes remain in place, federal law now provides similar protection for LGBTQ employees in the rest of the country.

The lawyers at Campbell Durrant stand ready to assist and answer any questions regarding the Supreme Court's decision.