

Supreme Court Holds That Discriminatory Transfer Claims Under Title VII Do Not Require Proof of “Significant” Harm

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Recently, the United States Supreme Court unanimously determined that under certain circumstances, an intra-company job transfer can form the basis for a discrimination claim under Title VII. This opinion alters the legal landscape and re-defines what can give rise to an actionable claim of discrimination when an employee is transferred to a new role.

In [*Muldrow v. City of St. Louis*](#), the Court rejected any reading of Title VII that would require the employee to show that their transfer caused any sort of “significant” harm or material disadvantage¹. In so holding, the Court overruled tests historically used by lower courts in evaluating whether a transfer violated Title VII, finding that these standards “compel[ed] workers to make a showing that the statutory text [of Title VII] does not require.” However, the Court shied away from a wholesale elimination of the harm requirement under Title VII.

Muldrow arose from the interoffice transfer of a St. Louis, Missouri police officer who worked with the department’s specialized Intelligence Division. In this position, Sergeant Muldrow enjoyed a heightened status and several notable perks, including increased authority and a personal unmarked vehicle. Despite strong performance reviews, the department transferred Sergeant Muldrow to a different division and replaced her with a male officer. Despite the fact that her salary and rank remained the same, Sergeant Muldrow alleged that her new job lacked the same perks and benefits as her former role.

Sergeant Muldrow sued the City of St. Louis under Title VII, claiming that her transfer was discriminatory and based on her sex. The Eastern District of Missouri granted summary judgment in favor of the City, finding that Sergeant Muldrow had failed to show that her transfer had caused a “significant” change in her working conditions resulting in any “material employment disadvantage.” The Eighth Circuit affirmed, holding that Muldrow had only shown “minor changes in working conditions” which under the historical tests, could not survive summary judgment.

In rejecting the lower courts' rulings, the Supreme Court clarified what the relevant inquiries in a Title VII transfer case are:

- First, the Court held that the transfer plainly fell within Title VII's prohibition on discrimination in the "terms" and "conditions" of employment, as it directly affected the "what, where, and when of [Muldraw's] police work,"; and
- Second, the Court stated that Sergeant Muldraw must show only that the post-transfer job resulted in her being treated worse than her previous role. This, the Court said, was the only level of harm required for Muldraw's claim to survive.

Notably, the Court refused any requirement that a plaintiff show the degree to which the transfer harmed them.

***Muldraw's* Implications for Employers**

Notwithstanding this latest guidance from the Court, much remains unclear with regard to how lower courts will determine which job transfers constitute harm under Title VII versus those that do not. Will Justice Alito's prediction of very little substantive change come true? Or will courts truly be able to filter out cases where a plaintiff is unable to show harm under Title VII? No matter the outcome, employers should be aware that *Muldraw*, in the Court's own words, "lowers the bar Title VII plaintiffs must meet" to establish a viable discriminatory transfer claim.

For more information or specific advice on how you can implement best business practices in light of *Muldraw* and other relevant employment law updates, contact an attorney in the Nelson Mullins Employment and Labor Practice Group.

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