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SUPREME COURT MODIFIES TITLE VII DISCRIMINATION TEST TO APPLY IN CASES OF INVOLUNTARY TRANSFERS

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On April 14, 2024, the U.S. Supreme Court issued an opinion that makes it easier for employees to claim that an involuntary transfer from one position to another violates Title VII of the Civil Rights Act of 1964. *Muldrow v. City of St. Louis*, 601 U.S. ___, 2024 W. L. 1642826 (2024). Employees no longer need to prove that they suffered “significant harm” as a result of the transfer, rejecting a higher level of proof previously required by lower courts.

In *Muldrow*, a female police officer alleged that she was transferred from the department’s plain clothes Specialized Intelligence Division to a less prestigious uniformed position because she was a woman. The St. Louis Police Department did not change her title, pay, or benefits. However, in the new position, Muldrow’s responsibilities changed; she was no longer eligible to use a department vehicle, and she was required to work on some weekends.

The Court rejected the “materially significant disadvantage” standard applied by the Eighth Circuit Court of Appeals, stating that the “text of Title VII imposes no such requirement.” However, the majority found that proof of “some” harm was required in order for a plaintiff to prevail.

What was left unanswered is what constitutes “some” harm and how the courts are to apply the test. As Justice Alito noted in his concurring opinion, “I have no idea what this means, and I can just imagine how this guidance will be greeted by lower court judges.”

Please contact any of our public law attorneys if you have specific questions about the Supreme Court's recent decision.

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