

## US Supreme Court to Weigh In on Employees' Rights to Sue for Bias-Driven Workplace Transfers



The US Supreme Court recently granted certiorari in the case of *Muldraw v. City of St. Louis, Missouri*. The central question at hand is whether employees have the right to sue for discrimination based on bias-motivated transfers within the workplace under Title VII of the Civil Rights Act.

The court's order, released on Friday, focused on a specific aspect of the case, stating, "The petition for a writ of certiorari is granted limited to the following question: Does Title VII prohibit discrimination in transfer decisions absent a separate court determination that the transfer decision caused a significant disadvantage?" This narrower focus is a refinement of the original scope proposed by Jatonya Clayborn Muldraw in her petition, which sought to address whether Title VII prohibits discrimination in all aspects of employment or only when it results in material disadvantages for employees, as determined by the courts.

The National Employment Lawyers Association (NELA) expressed support for Muldraw's petition and filed an amicus curiae brief, advocating for a recognition that Title VII safeguards employees against selective allocation of benefits and burdens based on unlawful criteria such as race, sex, religion, or other protected characteristics.

Furthermore, the United States government filed its own amicus brief in favor of certiorari, asserting that all forced job transfers and denials based on an employee's race, color, religion, sex, or national origin should be actionable under Title VII. The brief argued against the Eighth Circuit's rule, which requires a plaintiff to prove that a discriminatory job transfer resulted in a "materially significant disadvantage," asserting that such a rule lacks a foundation in Title VII's text, structure, or purpose.

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The case revolves around Jatonya Clayborn Muldraw's employment with the St. Louis, Missouri, Police Department (SLMPD). Muldraw alleges that she was transferred from a prestigious and desirable position within an intelligence unit to accommodate a male colleague who desired the position, thereby discriminating against her based on her gender. While both positions offered similar monetary benefits like salary and health insurance, Muldraw contends that the new position lacked the same level of prestige, opportunities for upward mobility, and scheduling flexibility. In contrast, the SLMPD, in its brief opposing the petition, asserts that the transfer was routine and not motivated by Muldraw's gender.

In 2019, the US District Court Eastern District of Missouri ruled in favor of the SLMPD, granting summary judgment. The court maintained that Muldraw had not provided sufficient evidence to establish that the transfer was pretextual or that it caused harm. The Eighth Circuit Court of Appeals upheld the lower court's ruling, emphasizing Muldraw's failure to demonstrate any injury or harm resulting from the City of St. Louis's decision not to transfer her from the Fifth District.

Aside from *Muldraw v. City of St. Louis*, the US Supreme Court is also considering whether to hear another related case, *Davis v. Legal Services Alabama, Inc.* This case concerns whether paid suspensions can be considered adverse employment actions under Title VII. The Eleventh Circuit Court of Appeals upheld the dismissal of the suit by a lower court, prompting Davis to seek a writ of certiorari in 2022.

The outcome of *Muldraw v. City of St. Louis* has significant implications for employees' rights under Title VII and the fight against workplace discrimination. By addressing the issue of bias-motivated transfers, the Supreme Court's ruling will shape the interpretation and application of Title VII in relation to various aspects of

employment. Stay informed as this case unfolds, as it carries the potential to establish important legal precedents and reinforce the principles of workplace equality and fairness.

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