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LEGAL UPDATE

U.S. Supreme Court Rules That Mandatory Job Transfer Can Be Discriminatory Under Title VII

On April 17, 2024, the U.S. Supreme Court issued a unanimous decision in *Muldrow v. City of St. Louis*, holding that a mandatory job transfer can constitute illegal discrimination under Title VII of the Civil Rights Act of 1964 (Title VII) if it causes harm with respect to an identifiable term or condition of employment, even if the harm is not significant.

Highlights

- On April 17, 2024, the Supreme Court held that a mandatory job transfer can be discriminatory under Title VII if it results in some harm with respect to a term or condition of employment.
- To constitute illegal discrimination, the forced transfer need not result in significant harm to the employee.

Background

Title VII makes it unlawful for an employer "to fail or refuse to hire or to discharge any individual, or otherwise discriminate against any individual" with respect to "compensation, terms, conditions or privileges of employment" on the basis of race, color, religion, sex or national origin (referred to as protected characteristics). Historically, the circuit courts have disagreed on whether a forced job transfer may be unlawful discrimination even if the transfer does not significantly disadvantage the employee (e.g., does not result in lower compensation or a loss of professional opportunities).

In *Muldrow*, the plaintiff was a female St. Louis Police Department officer. After working for years in the same position, she was forced to transfer to a different division where she retained the same compensation and title but experienced changes to her responsibilities, perks and schedule. Following her transfer, her employer placed a male officer in her prior position. Although her transfer did not result in any change to her pay or rank, the plaintiff alleged that she was subject to a discriminatory job transfer because of her gender. The lower courts held in favor of the defendant, stating that the transfer did not violate Title VII because the plaintiff did not suffer a material employment disadvantage.

Supreme Court Ruling

The Supreme Court vacated the lower court's ruling and remanded it back to the lower courts, holding that a forced job transfer can be discriminatory if the transfer brought about some harm with respect to an identifiable term or condition of employment but that **harm need not be significant**. Here, the Supreme Court held that a change in the plaintiff's responsibilities, perks and schedule may constitute sufficient harm to show illegal discrimination under Title VII. The Supreme Court also ordered circuit courts that previously required a showing of significant harm to apply this lower evidentiary standard.

Impact on Employers

Employers may consider greater care in mandating employee transfers, including lateral job transfers, to ensure that such decisions are not discriminatory and do not result in even insignificant harm with respect to identifiable terms and conditions of employment. For example, employers could revise existing transfer policies to ensure any decisions are based on objective, nondiscriminatory criteria and that such criteria are appropriately documented.