



## U.S. Supreme Court Decision re: Title VII and Internal Transfers

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### Introduction

On April 17, 2024, the United States Supreme Court issued a decision that broadens an employee's right to assert claims under Title VII of the Civil Rights Act if the employee is subject to an involuntary transfer. (*Muldrow v. City of St. Louis*, 601 U.S. \_\_\_, 2024 W. L. 1642826 (2024)). This whitepaper seeks to provide an overview of the decision and its implications.

### Overview

Plaintiff Muldrow worked for the St. Louis Police Department. She alleged that she was transferred from the intelligence department to an alternative, uniformed position because she was a woman. The St. Louis Police Department did not alter her title, pay, or benefits. As a result of the transfer, however, the plaintiff was no longer eligible to use a department vehicle and was required to work on weekends.

The Eighth Circuit Court of Appeals dismissed the complaint on the basis that the plaintiff's claims did not present a "materially significant disadvantage." The Supreme Court reversed, holding that an employee challenging a job transfer under Title VII must show that the transfer brought about some harm with respect to an identifiable term or condition of employment. The harm need not be significant in order to be asserted.

Key points from the ruling include the following:

- Title VII requires the employee to show that the transfer brought about some disadvantageous change in an employment term or condition.
- Plaintiffs must prove that the employer acted for discriminatory reasons—"because of" sex or race or another protected trait.
- The Court defined "discriminate against" as "treat worse" because of the protected category.

The decision did not alter requirements that plaintiffs follow litigation prerequisites such as the filing of a charge of discrimination with the Equal Employment Opportunity Commission. Plaintiffs must also still prove that a job transfer was made for an illegal reason (because of the plaintiff's protected category).

This decision lowers the legal bar for challenging involuntarily job transfers even if employers maintain pay and benefits. Members should evaluate the risk, document business reasons for a decision to transfer an employee, and consult with counsel as necessary.