

News & Insights

Employment Alert! Landmark Supreme Court Decision for Gay and Transgender Employees

June 15, 2020

Hall Estill Employment Alert

https://conta.cc/37KNLA5

The United States Supreme Court ruled on June 15, 2020 that gay and transgender workers are protected from workplace discrimination by Title VII of the Civil Rights Act of 1964. In *Bostock v. Clayton County*, the Court combined three cases from across the country; two involving a gay worker, and one involving a transgender employee. All were long-time employees who were fired shortly after revealing he or she is homosexual or transgender, and their employers all acknowledged the decision was based on that status. In the 6-3 opinion, Justice Gorsuch wrote that, with respect to Title VII, "An employer who fires an individual merely for being gay or transgender defies the law."

In the last several years, lower federal courts have differed on whether the prohibition of sex discrimination in Title VII prohibited discrimination based on sexual orientation and transgender status. To make the issue even more complicated, the Equal Employment Opportunity Commission, the federal agency that enforces Title VII, has interpreted and enforced Title VII as forbidding any employment discrimination based on gender identity or sexual orientation. The dispute among the EEOC and the several lower federal courts has now been resolved by the United States Supreme Court.

Title VII applies to most employers with 15 or more employees, and bars employment discrimination against any individual with respect to compensation, terms, conditions, or privileges of employment, because of their race, color, religion, sex, or national origin. The question for the Court was whether discrimination "because of sex" applies to gay and transgender workers. The Court held: "It is impossible to discriminate against a person for being homosexual or transgender without discriminating against that individual based on sex."

For the many employers covered by Title VII, the decision means immediate changes are needed to written policies, employee training, management training, and some workplace practices. Contact a member of the **Hall Estill Employment Team** today to assist and guide you in this process.

Practices

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