



Supreme Court Rejects 'Significant Harm' Requirement for Lateral Job Transfer Cases

On April 17, 2024, the U.S. Supreme Court issued its [decision](#) in *Muldrow v. City of St. Louis, Missouri*. The question presented in *Muldrow* was whether an employee seeking to prove discrimination as a result of a lateral job transfer under Title VII of the Civil Rights Act of 1964 must show that the transfer caused significant harm. The Court resolved a split of authority between several federal circuit courts, and determined that while some harm must be shown, an employee need not show that the harm was significant or serious.

In *Muldrow*, Sergeant Jatonya Clayborn Muldrow had worked as a plainclothes officer in the St. Louis Police Department's Intelligence Division for several years. In that position, she had a regular schedule, participated in high level investigations, and also was a Task Force Officer with the Federal Bureau of Investigations. In 2020, Muldrow's supervisor transferred her to a uniformed position in the department's Fifth District. While Muldrow received the same rank and pay in the new position, her responsibilities and some other aspects of her position did not remain the same. She contended she was transferred to a less prestigious position due to her sex in violation of Title VII. The city contended that even if the transfer was because of sex, the changes in Muldrow's terms and conditions of employment were not significant changes producing material employment disadvantage, and that therefore the transfer was not an adverse employment action. The Court of Appeals for the Eighth Circuit affirmed, and Muldrow brought the case to the Supreme Court.

The Supreme Court reviewed. In reversing, the Court held that the language of Title VII does not support a "significant harm" requirement, regardless of what it is called. As a result, while an employee alleging a discriminatory transfer must show that there was some harm in the transfer, that harm need not be significant, serious, or

material.

Key Takeaway

- In making a lateral transfer in which employees lose no formal pay or benefits, employers should bear in mind that an employee seeking to show that the action was discriminatory need not demonstrate any substantial or significant loss under Title VII. Instead, the employee must only show that the transfer caused some harm to the employee.

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