



Electronic Alert

Volume 23, Issue 31

June 15, 2020

Just in from the U.S. Supreme Court: Title VII Makes it Illegal for Employers to Discriminate against Gay & Transgender People

By Nicole Elgin

On June 15, 2020, the United States Supreme Court ruled 6-3, in *Bostock v. Clayton County*, that Title VII prohibits workplace discrimination against gay and transgender people. Justice Neil Gorsuch wrote the Court's opinion that is available [here](#).

Title VII of the Civil Rights Act of 1964 makes it unlawful for an employer to discriminate against any individual in employment "because of such individual's race, color, religion, **sex**, or national origin." Prior to this decision, U.S. Circuit Courts of Appeals split as to whether the language "because of sex" included workplace protections for discrimination against gay or transgender people.

The Court writes:

Today we must decide whether an employer can fire someone for being homosexual or transgender. The answer is clear. An employer who fires an individual for being homosexual or transgender fires that person for traits or actions it would not have questioned in members of a different sex. Sex plays a necessary and undisguisable role in the decision, exactly what Title VII forbids.

The decision makes clear that "homosexuality and transgender status are distinct concepts from sex." However, "discrimination based on homosexuality or transgender status necessarily entails discrimination based on sex; the first cannot happen without the second."

Employers operating in the Pacific Northwest know that for many years, this type of discrimination has already been unlawful under Oregon and Washington state law. Now, those laws are joined by the U.S. Supreme Court.

For questions on how employers can adapt their anti-harassment and discrimination policies to the latest state and federal guidance or for workplace anti-harassment training, please contact Nicole Elgin at (503) 276-2109 or nelgin@barran.com.