



Monday Minute

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Re-assessing Risk of Employment Discrimination Claims in Light of *Muldrow v. City of St. Louis*



The recent Supreme Court case of [*Muldrow v. City of St. Louis*](#) clarifies which employer actions violate Title VII's provisions against workplace discrimination. The Court held that for an employee to prevail on a Title VII claim alleging a discriminatory forced job transfer, the employee need only "show some harm." The *Muldrow* decision effectively overrules a previous line of lower court cases in which employees were required to show that their involuntary transfer caused a "significant employment disadvantage." In doing away with the so-called "significance test," the Supreme Court has lowered the bar for forced transferees and other aggrieved employees to succeed in discrimination claims.

The case involved a police officer, Sgt. Jatonya Clayborn Muldrow, who alleged that her new supervisor transferred her to a less desirable assignment so that he could replace her with a man. The involuntary transfer resulted in Muldrow spending more time on administrative matters, working irregular rotating work hours (including weekends), being assigned to lower-level cases, and losing her FBI deputization and unmarked take-home vehicle privileges.

But because Muldrow's salary and rank remained the same, the lower courts concluded that

she had not suffered a “significant” or “material” harm. The Supreme Court rejected this analysis. In a unanimous decision, the Court reasoned that Title VII’s language does not create a “significance” standard, and therefore Muldrow only had to demonstrate “some ‘disadvantageous’ change in an employment term or condition” to prevail on her claim.

Thus, post-*Muldrow*, a plaintiff need only (1) demonstrate that their transfer was motivated by discrimination, (2) show that the transfer affected a term or condition of employment, and (3) demonstrate that “some ‘disadvantageous’ change” resulted from that transfer.

The Court provided examples of “claims that failed under a significance standard” but “should now succeed” post-*Muldrow*:

- A NASA engineering technician who was reassigned from working in a lab setting to working inside of a 14-by-22-foot wind tunnel.
- A shipping worker who was transferred from day-time work to night-shift work.
- An educator who was reassigned from working as a school principal to working in a non-school-based administrative role.

**This client alert is for informational purposes and is not legal advice. View [previous issues](#) of Monday Minute.*

What's Next?

Employers who are considering supervisor requests to transfer or reassign a subordinate employee should carefully review the motives and effects of such requests—and may wish to consult counsel to assess whether the transfer would result in “some” harm to the transferee. Even if the employee has a similar rank or salary after the transfer, *Muldrow* tells us that the employee may still have a case.

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