

Supreme Court Issues Landmark Ruling, Extending Federal Anti-Discrimination Protections to the LGBT Workforce

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This morning, SCOTUS issued its decision in *Bostock v. Clayton County, Georgia*, a case heard during the first week of its current term. In the decision, the Court extends anti-discrimination protections in the workplace to LGBT employees, in a 6-3 decision written by Justice Gorsuch and joined by Chief Justice Roberts.

Up to this point, Title VII of the Civil Rights Act's protection against discrimination "on the basis of sex" was not interpreted to be so expansive as to cover discrimination on the basis of sexual orientation or gender identity. While some states (including Illinois) have included sexual orientation as a protected class within their state civil rights statutes, there was no parallel protection under federal law, until now.

In the series of cases argued as *Bostock*, multiple employers terminated employees for their sexual orientation or gender identity. Each employee sued, and the Eleventh Circuit held that since Title VII does not prohibit discrimination on the basis of sexual orientation or gender identity, the terminations were lawful.

The employees appealed their case to the Supreme Court, which in its opinion today wrote, "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. . . There is simply no escaping the role intent plays here: Just as sex is necessarily a but-for cause when an employer discriminates against homosexual or transgender employees, an employer who discriminates on these grounds inescapably intends to rely on sex in its decision-making."

On the heels of this decision, employers will need to revise their sexual harassment policies and handbooks to include gender identity and sexual orientation as protected classes. Further, the EEOC will now have jurisdiction to investigate such claims. If you have any questions about the implications of this landmark decision, please contact the Labor and Employment Team at Sandberg Phoenix.