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Supreme Court Adopts Narrow Definition of “Supervisor” under Title VII

The Supreme Court’s recent 5-4 decision in *Vance v. Ball State University* held that an employee is a “supervisor” for purposes of workplace harassment or discrimination under Title VII of the Civil Rights Act of 1964 (“Title VII”) only if he or she is authorized by the employer to take tangible employment actions against the victim. This decision will no doubt make it harder for an employee to prove his or her employer should be liable for workplace harassment and discrimination.

Significance of “Supervisor” Status. Whether an alleged harasser qualifies as a “supervisor” under Title VII is significant because an employer’s liability for workplace harassment (or discrimination) often depends on the status of the harasser (*i.e.*, whether the harasser is a “supervisor” as opposed to a mere co-worker).

- If an employee is harassed by his or her co-worker, the employer is liable only if the employer is negligent in controlling working conditions.
- On the other hand, it is easier for an employee to prove liability where the harassment involves a “supervisor,” since an employer may be automatically liable for the harassment (and thus, the employee does not have to prove that the employer was negligent).

Differing Views on “Supervisor” Status. The EEOC has advocated an expansive and plaintiff-friendly definition of “supervisor” – someone with the ability to exercise significant direction over another’s daily work. Some federal courts have adopted this rule, but others have taken a more narrow view of “supervisor” – someone who is authorized to take tangible employment actions (*e.g.*, hire, fire, promote) against the victim.

In *Vance*, the Supreme Court adopted the more narrow view and rejected the broader and more permissive test set forth by the EEOC. Specifically, the Court held that a “supervisor” is someone who has authority to effect a significant change in employment status, such as hiring, firing, failing to promote, reassignment with significantly different responsibilities, or a decision causing a significant change in benefits.

Impact on Employers. The *Vance* decision makes it harder for employees to prove their employers are liable for workplace harassment or discrimination under Title VII. However, it remains to be seen whether the decision will actually lessen the frequency of claims brought by employees.

To help reduce liability, employers are well advised to ensure that proper anti-harassment and anti-discrimination policies are in place and are adhered to and that all employees are well-trained on the subjects.

Contact Information. For more information on this subject, please contact Douglas Towns (404.888.8852) or Emily Friedman (404.888.8871).

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