

Supreme Court Accepts Three Cases Surrounding Discrimination

Based on Sexual Orientation and Gender Identity in the Workplace

On the morning of Monday, April 22, The Supreme Court of the United States made history by granting petitions for writs of certiorari for three cases contemplating whether federal anti-discrimination laws should apply to discrimination surrounding sexual orientation and gender identity in the workplace. The acceptance of these cases brought excitement to members of the LGBTQ+ community across the nation, bringing a sense of hope that the court will begin to consider more high-profile LGBTQ+ issues following the beginning of its next term this fall.

Two of the three cases the court acquired -- *Bostock v. Clayton County, Georgia*, and *Altitude Express, Inc. v. Zarda* -- were combined because both revolve around accusations of discrimination displayed by employers on the basis of sexual orientation. The third case and arguably the most controversial, *R.G. & G.R. Harris Funeral Homes v. EEOC*, asks whether current discrimination laws apply to transgender employees. The extent of the court's review of this case is curbed to only question which asks "whether Title VII prohibits discrimination against transgender people based on (1) their status as transgender or (2) sex stereotyping." The Supreme Court's mention of Title VII is referring to the portion of the Civil Rights Act of 1964 which keeps employers from discriminating on the basis of race, color, religion, sex, and national origin; however, more recently, lower federal courts have argued about whether or not the same protections should apply to people discriminated against based on their sexual orientation or gender identity. In the case of *R.G. & G.R. Harris Funeral Homes v. EEOC*, the funeral home had taken on new employee Aimee Stephens back in 2007, whose employment records indicated

that Stephens was a man. Six years later, Stephens told the owner of the chain of funeral homes, Thomas Rost, that she identified as a woman and wanted to wear women's clothing to work, triggering Rost to fire Stephens due to Rost's beliefs that allowing Stephens to wear women's clothes would not only violate the funeral home's dress code, but would also be "violating God's commands" by allowing an individual assigned as a man at birth to dress in women's clothing.

The second case, *Altitude Express Inc. v. Zarda*, deals

JUMP: with Donald Zarda, a skydiving instructor who was fired from his job based on his sexual orientation. A federal trial court rejected his accusations, arguing that the Civil Rights Act does not exempt him from losing his job because of his identification as a gay man. In February, 2018, the full

Second Circuit Court of Appeals decided that discrimination based on sexual orientation is a type of discrimination based on sex that is lawfully prohibited under Title VII.

In *Bostock v. Clayton County, Georgia*, the first case mentioned, Gerald Lynn Bostock was fired from his position as a county child welfare services coordinator when his employer discovered that he identified as a homosexual man. In May, 2018, the Eleventh Circuit Court of Appeals denied a requested reconsideration of a 1979 decision wrongly excluding discrimination based on sexual orientation from insurance under Title VII's ban on sex discrimination. This appeal to reconsider was brought forth by Bostock.

Depending on the resulting decisions of these cases, this movement by the Supreme Court could be seen as a progressive shift toward stronger rights and protections for LGBTQ+ people in the United States, further representing a possible shift in overall momentum following

the Supreme Court's issuing of its landmark decision that legalized same-sex marriage four years ago.