[523 US 75]

JOSEPH ONCALE, Petitioner

v

SUNDOWNER OFFSHORE SERVICES, INCORPORATED, et al.

523 US 75, 140 L Ed 2d 201, 118 S Ct 998

[No. 96-568]

Argued December 3, 1997. Decided March 4, 1998.

Decision: Same-sex sexual harassment in workplace held actionable as sex discrimination under provision of Title VII of Civil Rights Act of 1964 (42 USCS § 2000e-2(a)(1)).

SUMMARY

A man employed as a roustabout on an eight-man oil platform crew alleged that (1) on several occasions, he had been forcibly subjected to humiliating sex-related actions against him by some male co-workers in the presence of the rest of the crew, (2) a male co-worker had physically assaulted him in a sexual manner and had threatened him with rape; and (3) after the employee's complaints to supervisory personnel had produced no remedial action, he had quit his job in the belief that otherwise he would have been raped or forced to have sex. The employee, filing a complaint against his former employer in the United States District Court for the Eastern District of Louisiana, alleged that he had been discriminated against in his employment because of his sex, in violation of a provision of Title VII of the Civil Rights Act of 1964 (42 USCS § 2000e-2(a)(1)). The District Court, in granting summary judgment for the employer, expressed the view that the employee had no cause of action under Title VII for harassment by male co-workers (1995 US Dist LEXIS 4119). On appeal, the United States Court of Appeals for the Fifth Circuit affirmed (83 F3d 118, 1996 US App LEXIS 11479).

On certiorari, the United States Supreme Court reversed and remanded. In an opinion by SCALIA, J., expressing the unanimous view of the court, it was held that (1) workplace sexual harassment is actionable as sex discrimination under Title VII where the harasser and the harassed employee are of the same sex; (2) harassing conduct need not be motivated by sexual desire to support an inference of employment discrimination on the basis of sex in violation of Title VII; (3) a plaintiff who brings a same-sex sexual harassment claim under Title VII must prove that the conduct at issue was not merely tinged with offensive sexual connotations, but actually

Summaries of Briefs; Names of Participating Attorneys, p 1185, infra.

constituted discrimination because of sex; and (4) in such cases—as in all Title VII sexual harassment cases—there must be careful consideration of the social context in which particular behavior occurs and is experienced by the target of the behavior.

THOMAS, J., concurring, expressed the view that the Supreme Court had properly stressed that in every sexual harassment case, the plaintiff must plead and ultimately prove Title VII's statutory requirement that there be discrimination because of sex.

HEADNOTES

Classified to United States Supreme Court Digest, Lawyers' Edition

Civil Rights § 7.7 — job discrimination — same-sex sexual harassment

1a-1f. Workplace sexual harassment is actionable as discrimination because of sex under a provision of Title VII of the Civil Rights Act of 1964 (42 USCS § 2000e-2(a)(1)) where the harasser and the harassed employee are of the same sex; that is, nothing in Title VII necessarily bars a claim of discrimination because of sex merely because the plaintiff and the defendant—or the person charged with acting on behalf of the defendant—are of the same sex, for (1) although male-on-male sexual harassment in the workplace was not the principal evil Congress was concerned with when it enacted Title VII, there is no justification in the statutory language or United States Supreme Court precedents for a categorical rule excluding same-sex harassment claims from Title VII's coverage; and (2) recognizing liability for same-sex harassment need not transform Title VII into a general civility code for the American workplace, as common sense and an appropriate sensitivity to social context enable courts and juries to distinguish between (a) simple teasing or roughhousing among members of the same sex, and (b) conduct which a reasonable person in a plaintiff's position would find severely hostile or abusive.

Appeal § 1289 — presumptions

2. On certiorari to review a Federal Court of Appeals' judgment which affirmed a Federal District Court's grant of summary judgment for the respondent, the United States Supreme Court must assume the facts to be as alleged by the petitioner.

Civil Rights § 7.5 — abusive working environment

3a, 3b. A provision of Title VII of the Civil Rights Act of 1964 (42 USCS § 2000e-2(a)(1)) is violated where a workplace is permeated with discriminatory intimidation, ridicule, and insult that is sufficiently severe or pervasive to alter the conditions of the victim's employment and create an abusive working environment; conduct that is not severe or pervasive enough to create an objectively hostile or abusive work environment—an environment that a reasonable person would find hostile or abusive—is beyond Title VII's purview.

Civil Rights § 7.7 — sex discrimination

4. The prohibition of employment discrimination because of "sex" in a provision of Title VII of the Civil Rights Act of 1964 (42 USCS § 2000e-2(a)(1)) protects men as well as women.

Evidence § 383 — presumptions — discrimination

5. Because of the many facets of human motivation, it is unwise to presume as a matter of law that human beings of one definable group will not discriminate against other members of that group.

Civil Rights § 7.7 — sexual harassment

6. With respect to the prohibition, in a provision of Title VII of the Civil Rights Act of 1964 (42 USCS § 2000e-2(a)(1)), of discrimination because of sex in the terms or conditions of employment, the United States Supreme Court's holding that this prohibition includes sexual harassment must extend to sexual harassment of any kind that meets the statutory requirements.

Civil Rights § 7.7 — sex discrimination

7. The prohibition, in a provision of Title VII of the Civil Rights Act of 1964 (42 USCS § 2000e-2(a)(1)), of employment discrimination because of sex does not prohibit all verbal or physical harassment in the workplace; rather, the critical issue is whether members of one sex are exposed to disadvantageous terms or conditions of employment to which members of the other sex are not exposed.

Civil Rights § 68 — job discrimination — sexual harassment — evidence

8. Harassing workplace conduct need not be motivated by sexual desire to support an inference of employment discrimination on the basis of sex in violation of a provision of Title VII of the Civil Rights Act of 1964 (42 USCS § 2000e-2(a)(1)); a trier of fact may reasonably find such discrimination where a female victim is harassed in such sex-specific and derogatory terms by another woman as to make it clear that the harasser is motivated by general hostility to the presence of women in the workplace; a same-sex harassment plaintiff in a Title VII suit may properly offer direct comparative evidence about how the alleged harasser treated members of both sexes in a mixed-sex workplace; whatever evidentiary route the plaintiff chooses to follow, he or she must always prove that the conduct at issue was not merely tinged with offensive sexual connotations, but actually constituted discrimination because of sex.

Civil Rights § 7.7 — sex discrimination — harassment

9. The prohibition, in a provision of Title VII of the Civil Rights Act of 1964 (42 USCS § 2000e-2(a)(1)), of employment discrimination because of sex does not reach genuine but innocuous differences in the ways men and women routinely interact with members of the same sex and of the opposite sex; the prohibition of harassment on the basis of sex requires neither asexuality nor androgyny in the workplace, but rather forbids only behavior so objectively offensive as to alter the conditions of the victim's employment.

Civil Rights § 7.7 — sex discrimination — harassment

10. In same-sex sexual harassment cases brought under an employment discrimination provision of Title VII of the Civil Rights Act of 1964 (42 USCS § 2000e-2(a)(1)), as in all sexual harassment cases brought under § 2000e-2(a)(1)—in which cases the objective severity of harassment should be judged from the perspective of a reasonable person in the plaintiff's position, considering all the circumstances—that inquiry requires careful consideration of the social

context in which particular behavior occurs and is experienced by the target of the behavior.

Civil Rights § 7.7 — sex discrimination — harassment

11. A professional football player's working environment is not severely or pervasively abusive—and thus there is no sexual harassment for purposes of a provision of Title VII of the Civil Rights Act of 1964 (42 USCS § 2000e-2(a)(1))—where the coach smacks him on the buttocks as he heads onto the field, even if the same behavior would reasonably be experienced as abusive by the coach's secretary, male or female, back at the office.

RESEARCH REFERENCES

45A Am Jur 2d, Job Discrimination § 151; 45B Am Jur 2d, Job Discrimination §§ 954, 969

42 USCS § 2000e-2(a)(1)

L Ed Digest, Civil Rights §§ 7.7, 68

L Ed Index, Sex Discrimination; Sexual Harassment

Annotations:

Sex discrimination—Supreme Court cases. 27 L Ed 2d 935.

Same-sex sexual harassment under Title VII (42 USCS §§ 2000e et seq.) of Civil Rights Act. 135 ALR Fed 307.

When is work environment intimidating, hostile, or offensive, so as to constitute sexual harassment in violation of Title VII of Civil Rights Act of 1964, as amended (42 USCS §§ 2000e et seq.). 78 ALR Fed 252.

APPEARANCES OF COUNSEL ARGUING CASE

Nicholas Canaday, III argued the cause for petitioner.

Edwin S. Kneedler argued the cause for the United States, as amicus curiae, by special leave of court.

Harry M. Reasoner argued the cause for respondents.

Summaries of Briefs; Names of Participating Attorneys, p 1185, infra.

SYLLABUS BY REPORTER OF DECISIONS

Petitioner Oncale filed a complaint against his employer, respondent Sundowner Offshore Services, Inc., claiming that sexual harassment directed against him by respondent co-workers in their workplace constituted "discriminat[ion] . . . because of . . . sex" prohibited by Title VII of the Civil Rights Act of 1964, 42 USC § 2000e-2(a)(1) [42 USCS § 2000e-2(a)(1)]. Relying on Fifth Circuit precedent, the District Court held that Oncale, a male, had no Title VII cause of action for harassment by

male co-workers. The Fifth Circuit affirmed.

Held: Sex discrimination consisting of same-sex sexual harassment is actionable under Title VII. Title VII's prohibition of discrimination "because of . . . sex" protects men as well as women, *Newport News Shipbuilding & Dry Dock Co.* v *EEOC*, 462 US 669, 682, 77 L Ed 2d 89, 103 S Ct 2622, and in the related context of racial discrimination in the workplace this Court has rejected any conclusive presumption that an employer will not discriminate against members of his own race, *Castaneda* v *Partida*, 430 US 482, 499, 51 L Ed 2d 498, 97 S Ct 1272. There is no justification in Title VII's language or the Court's precedents for a categorical rule barring a claim of discrimination "because of . . . sex" merely because the plaintiff and the defendant (or the person charged with acting on behalf of the defendant) are of the same sex. Recognizing liability for same-sex harassment will not transform Title VII into a general civility code for the American workplace, since Title VII is directed at discrimination because of sex, not merely conduct tinged with offensive sexual connotations; since the statute does not reach genuine but innocuous differences in the ways men and women routinely interact with members of the same, and the opposite, sex; and since the objective severity of harassment should be judged from the perspective of a reasonable person in the plaintiff's position, considering all the circumstances.

83 F3d 118, reversed and remanded.

Scalia, J., delivered the opinion for a unanimous Court. Thomas, J., filed a concurring opinion.

OPINION OF THE COURT

[523 US 76]

Justice **Scalia** delivered the opinion of the Court.

[1a] This case presents the question whether workplace harassment can violate Title VII's prohibition against "discriminat[ion] . . . because of . . . sex," 42 USC § 2000e-2(a)(1) [42 USCS § 2000e-2(a)(1)], when the harasser and the harassed employee are of the same sex.

I

[2] The District Court having granted summary judgment for respondents, we must assume the facts to be as alleged by petitioner Joseph Oncale. The precise details are irrelevant

[523 US 77]

to the legal point we must decide, and in the interest of both brevity and dignity we shall describe them only generally. In late October 1991, Oncale was working for respondent Sundowner Offshore Services, Inc., on a Chevron U. S. A., Inc., oil platform in the Gulf of Mexico. He was employed as a roustabout on an eight-man crew which included respondents John Lyons, Danny Pippen, and Brandon Johnson. Lyons, the crane operator, and Pippen, the driller, had supervisory authority, App. 41, 77, 43. On several occasions, Oncale was forcibly subjected to sex-related, humiliating actions against him by Lyons, Pippen, and Johnson in the presence of the rest of the crew. Pippen and Lyons also physically assaulted Oncale in a sexual manner, and Lyons threatened him with rape.

Oncale's complaints to supervisory personnel produced no remedial action; in fact, the company's Safety Compliance Clerk, Valent Hohen, told Oncale that Lyons and Pippen

"picked [on] him all the time too," and called him a name suggesting homosexuality. *Id.*, at 77. Oncale eventually quit—asking that his pink slip reflect that he "voluntarily left due to sexual harassment and verbal abuse." *Id.*, at 79. When asked at his deposition why he left Sundowner, Oncale stated: "I felt that if I didn't leave my job, that I would be raped or forced to have sex." *Id.*, at 71.

Oncale filed a complaint against Sundowner in the United States District Court for the Eastern District of Louisiana, alleging that he was discriminated against in his employment because of his sex. Relying on the Fifth Circuit's decision in *Garcia* v *Elf Atochem North America*, 28 F3d 446, 451-452 (1994), the District Court held that "Mr. Oncale, a male, has no cause of action under Title VII for harassment by male coworkers." App. 106. On appeal, a panel of the Fifth Circuit concluded that *Garcia* was binding Circuit precedent, and affirmed. 83 F3d 118 (1996). We granted certiorari. 520 US 1263, 138 L Ed 2d 192, 117 S Ct 2430 (1997).

[523 US 78]

II

[3a] Title VII of the Civil Rights Act of 1964 provides, in relevant part, that "[i]t shall be an unlawful employment practice for an employer . . . to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, or national origin." 78 Stat. 255, as amended, 42 USC § 2000e-2(a)(1) [42 USCS § 2000e-2(a)(1)]. We have held that this not only covers "terms" and "conditions" in the narrow contractual sense, but "evinces a congressional intent to strike at the entire spectrum of disparate treatment of men and women in employment." *Meritor Savings Bank, FSB* v *Vinson*, 477 US 57, 64, 91 L Ed 2d 49, 106 S Ct 2399 (1986) (citations and internal quotation marks omitted). "When the workplace is permeated with discriminatory intimidation, ridicule, and insult that is sufficiently severe or pervasive to alter the conditions of the victim's employment and create an abusive working environment, Title VII is violated." *Harris* v *Forklift Systems, Inc.*, 510 US 17, 21, 126 L Ed 2d 295, 114 S Ct 367 (1993) (citations and internal quotation marks omitted).

[1b, 4, 5] Title VII's prohibition of discrimination "because of . . . sex" protects men as well as women, *Newport News Shipbuilding & Dry Dock Co.* v *EEOC*, 462 US 669, 682, 77 L Ed 2d 89, 103 S Ct 2622 (1983), and in the related context of racial discrimination in the workplace we have rejected any conclusive presumption that an employer will not discriminate against members of his own race. "Because of the many facets of human motivation, it would be unwise to presume as a matter of law that human beings of one definable group will not discriminate against other members of their group." *Castaneda* v *Partida*, 430 US 482, 499, 51 L Ed 2d 498, 97 S Ct 1272 (1977). See also *id.*, at 515-516, n 6, 51 L Ed 2d 498, 97 S Ct 1272 (Powell, J., joined by Burger, C. J., and Rehnquist, J., dissenting). In *Johnson* v *Transportation Agency, Santa Clara Cty.*, 480 US 616, 94 L Ed 2d 615, 107 S Ct 1442 (1987), a male employee claimed that his employer discriminated against him because of his sex when it preferred a female employee for promotion. Although

[523 US 79]

we ultimately rejected the claim on other grounds, we did not consider it sig-

nificant that the supervisor who made that decision was also a man. See *id.*, at 624-625, 94 L Ed 2d 615, 107 S Ct 1442. If our precedents leave any doubt on the question, we hold today that nothing in Title VII necessarily bars a claim of discrimination "because of . . . sex" merely because the plaintiff and the defendant (or the person charged with acting on behalf of the defendant) are of the same sex.

Courts have had little trouble with that principle in cases like *Johnson*, where an employee claims to have been passed over for a job or promotion. But when the issue arises in the context of a "hostile environment" sexual harassment claim, the state and federal courts have taken a bewildering variety of stances. Some, like the Fifth Circuit in this case, have held that same-sex sexual harassment claims are never cognizable under Title VII. See also, *e.g.*, *Goluszek* v *H. P. Smith*, 697 F Supp 1452 (ND Ill. 1988). Other decisions say that such claims are actionable only if the plaintiff can prove that the harasser is homosexual (and thus presumably motivated by sexual desire). Compare *McWilliams* v *Fairfax County Board of Supervisors*, 72 F3d 1191 (CA4 1996), with *Wrightson* v *Pizza Hut of America*, 99 F3d 138 (CA4 1996). Still others suggest that workplace harassment that is sexual in content is always actionable, regardless of the harasser's sex, sexual orientation, or motivations. See *Doe* v *Belleville*, 119 F3d 563 (CA7 1997).

[1c, 6] We see no justification in the statutory language or our precedents for a categorical rule excluding same-sex harassment claims from the coverage of Title VII. As some courts have observed, male-on-male sexual harassment in the workplace was assuredly not the principal evil Congress was concerned with when it enacted Title VII. But statutory prohibitions often go beyond the principal evil to cover reasonably comparable evils, and it is ultimately the provisions of our laws rather than the principal concerns of our legislators by which we are governed. Title VII prohibits "discriminat[ion]

[523 US 80]

. . . because of . . . sex" in the "terms" or "conditions" of employment. Our holding that this includes sexual harassment must extend to sexual harassment of any kind that meets the statutory requirements.

[1d, 7] Respondents and their *amici* contend that recognizing liability for same-sex harassment will transform Title VII into a general civility code for the American workplace. But that risk is no greater for same-sex than for opposite-sex harassment, and is adequately met by careful attention to the requirements of the statute. Title VII does not prohibit all verbal or physical harassment in the workplace; it is directed only at "*discriminat[ion]* . . . because of . . . sex." We have never held that workplace harassment, even harassment between men and women, is automatically discrimination because of sex merely because the words used have sexual content or connotations. "The critical issue, Title VII's text indicates, is whether members of one sex are exposed to disadvantageous terms or conditions of employment to which members of the other sex are not exposed." *Harris*, *supra*, at 25, 126 L Ed 2d 295, 114 S Ct 367 (Ginsburg, J., concurring).

[8] Courts and juries have found the inference of discrimination easy to draw in most male-female sexual harassment situations, because the challenged conduct typically involves

explicit or implicit proposals of sexual activity; it is reasonable to assume those proposals would not have been made to someone of the same sex. The same chain of inference would be available to a plaintiff alleging same-sex harassment, if there were credible evidence that the harasser was homosexual. But harassing conduct need not be motivated by sexual desire to support an inference of discrimination on the basis of sex. A trier of fact might reasonably find such discrimination, for example, if a female victim is harassed in such sex-specific and derogatory terms by another woman as to make it clear that the harasser is motivated by general hostility to the presence of women in the workplace. A same-sex harassment plaintiff may also, of course, offer direct

[523 US 81]

comparative evidence about how the alleged harasser treated members of both sexes in a mixed-sex workplace. Whatever evidentiary route the plaintiff chooses to follow, he or she must always prove that the conduct at issue was not merely tinged with offensive sexual connotations, but actually constituted "*discrimina[tion]* . . . because of . . . sex."

[3b, 9] And there is another requirement that prevents Title VII from expanding into a general civility code: As we emphasized in *Meritor* and *Harris*, the statute does not reach genuine but innocuous differences in the ways men and women routinely interact with members of the same sex and of the opposite sex. The prohibition of harassment on the basis of sex requires neither asexuality nor androgyny in the workplace; it forbids only behavior so objectively offensive as to alter the "conditions" of the victim's employment. "Conduct that is not severe or pervasive enough to create an objectively hostile or abusive work environment—an environment that a reasonable person would find hostile or abusive—is beyond Title VII's purview." *Harris*, 510 US, at 21, 126 L Ed 2d 295, 114 S Ct 367, citing *Meritor*, 477 US, at 67, 91 L Ed 2d 49, 106 S Ct 2399. We have always regarded that requirement as crucial, and as sufficient to ensure that courts and juries do not mistake ordinary socializing in the workplace—such as male-on-male horseplay or intersexual flirtation—for discriminatory "conditions of employment."

[1e, 10, 11] We have emphasized, moreover, that the objective severity of harassment should be judged from the perspective of a reasonable person in the plaintiff's position, considering "all the circumstances." *Harris*, *supra*, at 23, 126 L Ed 2d 295, 114 S Ct 367. In same-sex (as in all) harassment cases, that inquiry requires careful consideration of the social context in which particular behavior occurs and is experienced by its target. A professional football player's working environment is not severely or pervasively abusive, for example, if the coach smacks him on the buttocks as he heads onto the field-even if the same behavior would reasonably be experienced as abusive by the coach's secretary (male or female) back at the office. The

[523 US 82]

real social impact of workplace behavior often depends on a constellation of surrounding circumstances, expectations, and relationships which are not fully captured by a simple recitation of the words used or the physical acts performed. Common sense, and an appropriate sensitivity to social context, will enable courts and juries to distinguish between simple teasing or roughhousing among members of the same sex, and conduct which a reasonable person in the

plaintiff's position would find severely hostile or abusive.

III

[1f] Because we conclude that sex discrimination consisting of same-sex sexual harassment is actionable under Title VII, the judgment of the Court of Appeals for the Fifth Circuit is reversed, and the case is remanded for further proceedings consistent with this opinion.

It is so ordered.

SEPARATE OPINION

Justice **Thomas**, concurring.

I concur because the Court stresses that in every sexual harassment case, the plaintiff must plead and ultimately prove Title VII's statutory requirement that there be discrimination "because of sex."