


OSBA Townhall Meeting

U.S. Supreme Court decision:
Bostock v. Clayton County

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Bostock v. Clayton County

- A landmark United States Supreme Court civil rights case in which the Court held that Title VII of the Civil Rights Act of 1964 protects employees against discrimination because they are homosexual or transgender.

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Case History

- Gerald Bostock was an employee of Clayton County, within the Atlanta, Georgia metropolitan area, as an official for its juvenile court system since 2003.
- In early 2013, he joined a gay softball league and promoted it at work.
- In April 2013, Clayton County conducted an audit of funds controlled by Bostock and fired him for "conduct unbecoming a county employee."
- Bostock believed that the county used the claim of misspent funds as a pretext for firing him for being gay and sued for workplace discrimination in 2016 in the United States District Court for the Northern District of Georgia.

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Case History

- The county sought to dismiss the claim of prohibited discrimination—the District Court agreed to dismiss, on the basis of precedent established in 2017.
- *Evans v. Georgia Regional Hospital* decided by the Eleventh Circuit (of which the District is part) held that the Civil Rights Act's Title VII does not include protection against discrimination towards sexual orientation.

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Case History

- Bostock appealed to the Eleventh Circuit, where the three-judge panel affirmed the District Court's ruling in 2018.
- In upholding the ruling, the Eleventh Circuit pointed to their ruling in *Evans* that dismissed the Supreme Court's precedent against sex discrimination established by two previous cases (*Price Waterhouse* and *Oncale*).

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Case History

- The Eleventh Circuit's ruling in *Evans* conflicted with that of the Seventh Circuit in *Hivley v. Ivy Tech Community College of Indiana* (2017) in which the Circuit found that discrimination in employment on the basis of sexual orientation violated Title VII.
- The Second Circuit came to the same conclusion in *Zarda v. Altitude Express, Inc.* (2018).

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Case History

- Thus the Eleventh Circuit, on the one hand, and the Second and Seventh Circuits, on the other, were divided on the question of the interpretation of Title VII.
- These cases and a related case, *R.G. & G.R. Harris Funeral Homes Inc. v. Equal Employment Opportunity Commission*, in which the Sixth Circuit found Title VII also covered transgender employment discrimination, set the stage for the Supreme Court's decision in *Bostock*.

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Supreme Court Decision

- Justice Neil Gorsuch delivered the opinion of the Court in this case on June 15, 2020.
- In a 6–3 decision, the Court held that Title VII protections pursuant to § 2000e-2(a)(1) did extend to cover sexual orientation and gender identity.
- The decision, then, involved the statutory interpretation of Title VII, not constitutional law, as in other recent cases involving the rights of LGBT individuals.

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Supreme Court Decision

- The Court further held that Title VII protections against sex discrimination in the employment context apply to discrimination against particular individuals on the basis of sex, as opposed to discrimination against groups.
- Thus, Title VII provides a remedy to individuals who experience discrimination on the basis of sex even if an employer's policy on the whole does not involve discrimination.

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Supreme Court Decision

- Gorsuch wrote:
"An employer who fired 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. Those who adopted the Civil Rights Act might not have anticipated their work would lead to this particular result. But the limits of the drafters' imagination supply no reason to ignore the law's demands. Only the written word is the law, and all persons are entitled to its benefit."

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Supreme Court Decision

- Gorsuch's decision also addressed concerns that the judgment may set a sweeping precedent that would force gender equality on traditional practices.
- "They say sex-segregated bathrooms, locker rooms, and dress codes will prove unsustainable after our decision today but none of these other laws are before us; we have not had the benefit of adversarial testing about the meaning of their terms, and we do not prejudge any such question today."

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Important Take-aways

- Bostock* clearly establishes that homosexual and transgender employees now have workplace protections under the 1964 Civil Rights Act (Title VII).
- Religious liberties violations are not addressed by this decision.

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Important Take-aways

- For school districts, *Bostock* directly impacts staff and employment practices.
- *Bostock's* rationale has the potential to be applied/extended in the future to students through Title IX (education) cases.
- As noted in the decision, *Bostock* does not clarify dress codes, bathroom or locker rooms issues in schools.

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