

IN THE SUPREME COURT OF THE UNITED STATES

No. 22-193

JATONYA CLAYBORN MULDROW, PETITIONER

v.

CITY OF ST. LOUIS, MISSOURI, ET AL.

ON WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT

MOTION OF THE UNITED STATES FOR LEAVE TO PARTICIPATE IN ORAL
ARGUMENT AS AMICUS CURIAE AND FOR DIVIDED ARGUMENT

Pursuant to Rule 28 of the Rules of this Court, the Solicitor General, on behalf of the United States, respectfully moves for leave to participate in the oral argument in this case as amicus curiae and requests that the United States be allowed ten minutes of argument time. Petitioner has agreed to cede ten minutes of argument time to the United States and consents to this motion.

This case concerns the scope of the protections in a provision of Title VII of the Civil Rights Act of 1964, 42 U.S.C. 2000e et seq. As relevant here, Title VII makes it unlawful for certain employers 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." 42 U.S.C. 2000e-2(a)(1). The question presented is whether Section 2000e-2(a)(1) prohibits discrimination in transfer decisions absent a determination that the transfer decision caused a significant disadvantage.

The United States has a substantial interest in that question. The Equal Employment Opportunity Commission (EEOC) enforces Title VII's anti-discrimination provisions against private employers, and the Department of Justice enforces them against state- and local-government employers. See 42 U.S.C. 2000e-5(f)(1). Title VII also includes anti-discrimination provisions applicable to the federal government as an employer. 42 U.S.C. 2000e-16. At the Court's invitation, the United States filed an amicus brief in this case at the petition stage. Consistent with the EEOC's longstanding view, see, e.g., EEOC Dec. No. 71-1552, 1971 WL 3869 (Mar. 30, 1971), the United States' amicus brief agrees with petitioner that Section 2000e-2(a)(1) prohibits discrimination in transfer decisions without imposing any additional significant-disadvantage requirement.

The United States has frequently participated in oral argument as amicus curiae or as a party in cases involving the interpretation and application of Title VII. See, e.g., Groff v. DeJoy, 143 S. Ct. 2279 (2023); Bostock v. Clayton Cnty., 140 S. Ct. 1731 (2020); Fort Bend Cnty. v. Davis, 139 S. Ct. 1843

(2019); EEOC v. Abercrombie & Fitch Stores, Inc., 575 U.S. 768
(2015); Burlington N. & Santa Fe Ry. Co. v. White, 548 U.S. 53
(2006). The United States' participation in oral argument in this
case accordingly may be of material assistance to the Court.

Respectfully submitted.

ELIZABETH B. PRELOGAR
Solicitor General
Counsel of Record

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