
Bostock v. Clayton County

PETITIONER

Gerald Lynn Bostock

RESPONDENT

Clayton County, Georgia

DOCKET NO.

17-1618

DECIDED BY

Roberts Court (/courts?court=Roberts Court)

LOWER COURT

United States Court of Appeals for the Eleventh Circuit

CITATION

590 US __ (2020)
(<https://supreme.justia.com/cases/federal/us/590/17-1618>).

ADVOCATES

Pamela S. Karlan (advocates/pamela_s_karlan)
for the petitioner in 17-1618 and the respondent in 17-1623

Jeffrey M. Harris (advocates/jeffrey_m_harris)
for the respondent in 17-1618 and the petitioner in 17-1623

GRANTED

Apr 22, 2019

Noel J. Francisco (advocates/noel_j_francisco)
*Solicitor General, Department of Justice, for the United States,
as amicus curiae, supporting affirmance in 17-1618 and
reversal in 17-1623*

ARGUED

Oct 8, 2019

DECIDED

Jun 15, 2020

Facts of the case

Gerald Bostock, a gay man, began working for Clayton County, Georgia, as a child welfare services coordinator in 2003. During his ten-year career with Clayton County, Bostock received positive performance evaluations and numerous accolades. In 2013, Bostock began participating

in a gay recreational softball league. Shortly thereafter, Bostock received criticism for his participation in the league and for his sexual orientation and identity generally. During a meeting in which Bostock's supervisor was present, at least one individual openly made disparaging remarks about Bostock's sexual orientation and his participation in the gay softball league. Around the same time, Clayton County informed Bostock that it would be conducting an internal audit of the program funds he managed. Shortly afterwards, Clayton County terminated Bostock allegedly for "conduct unbecoming of its employees."

Within months of his termination, Bostock filed a charge of discrimination with the Equal Employment Opportunity Commission (EEOC). Three years later, in 2016, he filed a pro se lawsuit against the county alleging discrimination based on sexual orientation, in violation of Title VII of the Civil Rights Act of 1964. The district court dismissed his lawsuit for failure to state a claim, finding that Bostock's claim relied on an interpretation of Title VII as prohibiting discrimination on the basis of sexual orientation, contrary to a 1979 decision holding otherwise, the continued which was recently affirmed in *Evans v. Georgia Regional Hospital*, 850 F.3d 1248 (11th Cir. 2017).

(<https://law.justia.com/cases/federal/appellate-courts/ca11/15-15234/15-15234-2017-03-10.html>).

Bostock appealed, and the US Court of Appeals for the Eleventh Circuit affirmed the lower court. In addition to noting procedural deficiencies in Bostock's appeal, the Eleventh Circuit panel pointed out that it cannot overrule a prior panel's holding in the absence of an intervening Supreme Court or Eleventh Circuit en banc decision.

This case is consolidated for oral argument with *Altitude Express v. Zarda*, No. 17-1623

(<https://www.oyez.org/cases/2019/17-1623>).

Question

Does Title VII of the Civil Rights Act of 1964, which prohibits against employment discrimination “because of . . . sex” encompass discrimination based on an individual’s sexual orientation?

Conclusion

Sort: by seniority by ideology

6–3 DECISION FOR BOSTOCK

MAJORITY OPINION BY NEIL GORSUCH

Title VII prohibits an employer from discriminating against an individual on the basis of sexual orientation.

Clarence Thomas Stephen G. Breyer Sonia Sotomayor Neil Gorsuch



G. Roberts, Jr. Ruth Bader Ginsburg Samuel A. Alito, Jr. Elena Kagan Brett M. Kavanaugh

An employer who fires an individual employee merely for being gay or transgender violates Title VII of the Civil Rights Act of 1964. Justice Neil Gorsuch authored the opinion for the 6–3 majority of the Court.

Title VII prohibits employers from discriminating against any individual “because of such individual’s race, color, religion, sex, or national origin.” Looking to the ordinary public meaning of each word and phrase comprising that provision, the Court interpreted to mean that an employer violates Title VII when it intentionally fires an individual employee based, at least in part, on sex. Discrimination on the basis of homosexuality or transgender status requires an employer to intentionally treat employees differently because of their sex—the very practice Title VII prohibits in all manifestations. Although it acknowledged that few in 1964 would have expected Title VII to apply to discrimination against homosexual and transgender persons, the Court gave no weight to legislative history because the language of the statute unambiguously prohibits the discriminatory practice.

Justice Samuel Alito authored a dissenting opinion, in which Justice Clarence Thomas joined, criticizing the majority for attempting to “pass off its decision as the inevitable product of the textualist school of statutory interpretation,” but actually revising Title VII to “better reflect the current values of society.

Justice Brett Kavanaugh authored a dissenting opinion arguing that, as written, Title VII does not prohibit discrimination on the basis of sexual orientation (or by extension, transgender status).

Further analysis of the oral argument available at Oral Argument 2.0:

<https://argument2.oyez.org/2019/bostock-v-clayton-county/>
(<https://argument2.oyez.org/2019/bostock-v-clayton-county/>)

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