

SPECTRUM

U. S. Supreme Court Narrows the Definition of “Supervisor”; Issues Decision in *Vance v. Ball State University*

Background

In their decisions in *Faragher v. Boca Raton* and *Burlington Industries, Inc. v. Ellerth*, the U.S. Supreme Court set the standard that an employer can be held responsible (vicariously liable) for its supervisor’s actions for unlawful harassment under Title VII of the Civil Rights Act of 1964.

The U.S. Supreme Court held the employer is always liable for a supervisor’s harassment if it culminates in a tangible employment action. If the harassment does not result in an adverse employment action, the employer may be able to avoid liability or limit damages by establishing “(1) that it exercised reasonable care to prevent and promptly correct any harassing behavior and (2) that the plaintiff unreasonably failed to take advantage of any preventative or corrective opportunities that were presented”.

In contrast, if the harasser is a co-worker, the complainant must prove the employer was negligent in regards to the harassing conduct before

the employer can be held responsible. To meet this threshold, the complainant generally must show that the employer knew or should have known about the harassing conduct and took no action to stop or prevent the harassment.

In the *Vance* case, the U.S. Supreme court was asked to determine who is a “supervisor” for the purpose of Title VII unlawful harassment claims.

Vance Summary

Maetta Vance, an African-American woman, began working for Ball State University in 1989 as a substitute server in their Dining Services. Ms. Vance subsequently became a full-time catering assistant in 2007. Ms. Vance had interactions with Sandra Davis, a white woman employed as a catering specialist. Ms. Vance alleged that Ms. Davis was her supervisor and that Ball State University was liable for Ms. Davis’ creation of a racially hostile work environment. Both parties agree that Ms. Davis did not have the power to

hire, fire, demote, transfer, or discipline Ms. Vance.

The plaintiff argued that a “supervisor” was defined by the meaning of the word in general usage in that Ms. Davis had leadership responsibilities, and that Ms. Davis at times led or directed Ms. Vance and other employees.

“Supervisor” Defined

The Court rejected this argument and held in a 5-4 split decision instead “that an employee is a ‘supervisor’ for purposes of vicarious liability under Title VII if he or she is empowered by the employer to take tangible actions against the victim.”

More specifically, the Court noted the ability to take tangible employment actions generally involves the ability “to effect a ‘significant change in employment status, such as hiring, firing, failing to promote, reassignment with significantly different responsibilities, or a decision causing a significant change in benefits.”



The U.S. Supreme Court clarifies the definition of “supervisor” for Title VII harassment cases.