

Supreme Court Ruling Expands the Scope of Retaliation Protections Under Title VII to Include Third Party Retaliation Claims

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If an employer terminates the fiancé of an employee who has complained about discrimination, does the fiancé have a claim against the employer? Yes, according to a ruling yesterday by the U.S. Supreme Court. The Court's decision overturns a ruling by a federal court of appeals that had held to the contrary.

In *Thompson v. North American Stainless, LP*, Miriam Regalado filed a charge with the Equal Employment Opportunity Commission (EEOC) alleging sex discrimination against her employer, North American Stainless (NAS). At the time the charge was filed, Regalado was engaged to another NAS employee, Eric Thompson. Three weeks after learning of the charge, NAS terminated Thompson's employment. Thompson brought a retaliation claim under Title VII, alleging that NAS fired him to retaliate against his fiancée.

In its opinion, the Court addressed two issues. First, whether NAS's termination of Thompson constituted unlawful retaliation, and second, if so, whether Thompson had a cause of action under Title VII.

On the first issue, the Court found that "a reasonable worker might be dissuaded from engaging in

protected activity if she knew that her fiancé would be fired." Therefore, Thompson's termination constituted unlawful retaliation. Significantly for employers, the Court declined to create a rule limiting third-party retaliation to specific relationships. The court did note, however, that firing a close family member will almost always meet the requisite standard, while firing a "mere acquaintance" will almost never be sufficient.

On the second issue, the Court examined whether Thompson (the fiancé) was a person "claiming to be aggrieved" – the applicable legal standard under Title VII. The Court's decision hinged on the meaning of "aggrieved." Ultimately, the Court held that Congress did not intend the term to apply only to the person discriminated against; in this case, Regalado. Rather, because "the purpose of Title VII is to protect employees from their employers' unlawful actions," and because Thompson was an employee of NAS, he was within the "zone of interests" Congress intended Title VII to protect. Moreover, firing Thompson "was the unlawful act by which the employer punished [Regalado]." Thus, Thompson could sue NAS even

though he never complained about discrimination or engaged in any other protected activity.

For employers, yesterday's decision underscores the importance of focusing first on the legitimate, non-discriminatory reasons for taking adverse employment actions against employees. Identifying those reasons, and ensuring their even-handed application to all employees, is at the core of any employer's defense to an employment-related claim, regardless of who may assert that claim.

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