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Supreme Court Unanimously Concludes That Title VII Permits Third-Party Retaliation Claims

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In *Thompson v. North American Stainless, LP*, 562 U.S. ___ (2011), the U.S. Supreme Court held that third parties may pursue retaliation claims under Title VII of the Civil Rights Act of 1964.

Both plaintiff Eric Thompson and his fiancée, Miriam Regalado, were employed by North American Stainless (“NAS”). Three weeks after learning that Regalado had filed a charge alleging sex discrimination with the Equal Employment Opportunity Commission, NAS fired Thompson. Thompson alleged that his employment was terminated *because* his fiancée, Regalado, had filed the discrimination charge. The question before the Court was whether Thompson, who was a mere third party—and not the person who engaged in the protected activity—was entitled to sue for retaliation under Title VII.

The Court first considered whether the firing could constitute “retaliation” for purposes of Title VII. Title VII’s antiretaliation protections sweep broadly, prohibiting employment actions that “well might have dissuaded a reasonable worker from making or supporting a charge of discrimination.” The Court found that the present case easily met this standard because “a reasonable worker might be dissuaded from engaging in protected activity if she knew that her fiancé would be fired.”

Assuming the employer had engaged in unlawful retaliation, the next question was whether Thompson was an individual “claiming to be aggrieved” and therefore entitled to the remedies available under Title VII. The Court rejected both the Sixth Circuit’s broad interpretation of “aggrieved” and the employer’s argument that relief was available only to the employee engaging in the protected activity.

Instead, the High Court adopted a “zone of interests” test, which enables an individual to state a claim if his or her interests are of the sort that Title VII sought to protect. Applying that test, the Court found that Title VII was intended to protect employees like Thompson from his employer’s unlawful conduct—punishing Regalado for making a complaint by injuring her fiancé instead of injuring her directly. Therefore, the Court found that Thompson had standing to sue because he was “well within” the zone of interests protected by Title VII.

Implications for Employers Employers should be aware that the protections of Title VII now extend beyond the employee who directly asserts his or her rights. This expansion of the law is likely to bring an onslaught of retaliation cases and will, without a doubt, further complicate how employers manage their work forces. Employers are encouraged to consult with counsel if faced with these challenging retaliation issues.