

Worker Denied Ability to Maintain Discrimination Claim Based on Sexual Orientation

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After working on the 2007 Country Music Awards production, a theater producer complained to his union that one of his co-workers harassed him based upon his homosexual orientation. Shortly thereafter, according to the employee, the union local stopped referring him for jobs. The employee sued, alleging violations of the Tennessee Human Rights Act and Title VII of the Civil Rights Act of 1964, as amended, for gender discrimination and retaliation, and also alleged violation of the union's duty of fair representation. The U.S. Court of Appeals for the Sixth Circuit dismissed the employee's claims because neither federal nor the applicable state law prohibit discrimination based upon sexual orientation. Courts have uniformly held that the reference to "sex" in Title VII does not refer to sexual orientation. The employee had attempted to circumvent those decisions by arguing that he was discriminated against for failing to conform to sexual stereotypes, a claim which has been found to be viable under Title VII. The court rejected this argument, finding that the employee's claim was simply one for discrimination based on sexual orientation, which is not prohibited under Tennessee or federal law. Employers—especially those that conduct business in numerous states—must be mindful of both state and federal anti-discrimination laws, which are often different in terms of what constitutes a protected characteristic. More than 20 states prohibit discrimination based upon sexual orientation. Read more about this case [here](#).

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