

SCOTUS Aligns Application of Statute of Limitations in Constructive Discharge and Actual Discharge Cases

1 min read

May 24, 2016

The U.S. Supreme Court held in [Green v. Brennan](#) that the statute of limitations for a constructive discharge begins to run on the date of resignation, not the date of the employer's last discriminatory act, resolving a circuit split. As a result, in determining the deadline for filing a charge of discrimination with the EEOC, constructive discharge cases will be treated the same way as actual discharge cases.

Before delving into the court's reasoning, let's review what a constructive discharge is. A constructive discharge occurs when an employee quits in response to discriminatory conduct making the employee's working conditions so intolerable that a reasonable person in the employee's position would have felt compelled to resign. In such circumstances, Title VII treats the resignation as an actual discharge.

Now back to the opinion. The majority offered three persuasive reasons for holding the employee's resignation triggers the limitations clock. First, the standard rule is that a claim accrues when a plaintiff has a "complete and present cause of action." Like with an actual discharge, the claim becomes a complete and present cause of action upon constructive *discharge*. Second, nothing in Title VII indicates an exception to the standard rule. And third, it would be impractical to require an employee to file a charge after an employer's discriminatory conduct, then amend the charge following constructive discharge.

What this ruling means for employers:

Employers can no longer assert a statute of limitations defense based on the last date of discriminatory conduct, which is typically earlier than an employee's resignation. Although the filing period is now longer, employees will still need to prove a constructive discharge. The longer an employee waits to resign following a discriminatory act, the weaker the inference of a constructive discharge. If there is an upside, because employees will no longer need to file a pre-resignation charge of discrimination to avoid being time-barred, the number of multiple or amended charges should decrease, eliminating the costs associated with responding to and litigating multiple claims.

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Topics

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