



June 7, 2019

U.S. Supreme Court Holds Title VII Charge-Filing Requirement Is Not Jurisdictional

On June 3, 2019, the United States Supreme Court unanimously held that the charge-filing requirement of Title VII of the Civil Rights Act (“Title VII”) is not jurisdictional. The Court reasoned that: (1) the word “jurisdictional” is generally reserved for prescriptions delineating the classes of cases a court may entertain (i.e., subject-matter jurisdiction) and the persons over whom a court may exercise adjudicatory authority (i.e., personal jurisdiction); and (2) Title VII’s charge filing requirement is a nonjurisdictional claim-processing rule. As a result, the failure to file a charge is simply a defense that must be asserted as part of the normal litigation process.

Background

Title VII instructs a complainant, before commencing a Title VII action in court, to file a charge with the Equal Employment Opportunity Commission (“EEOC”). A complainant is then entitled to a “right-to-sue” notice 180 days after the charge is filed. Upon receipt of the right-to-sue notice, the complainant may, within 90 days of receipt of the right-to-sue notice, commence a civil action against her employer.

Lois M. Davis (“Davis”) filed a charge against her employer, Fort Bend County (“Fort Bend”) alleging sexual harassment and retaliation for reporting the harassment. While her EEOC charge was pending, Fort Bend fired Davis because she failed to appear for work on a Sunday, instead going to a church event. Davis attempted to supplement her EEOC charge by handwriting “religion” on a form called an “intake questionnaire,” but she did not amend the formal charge document. Upon receiving a right-to-sue letter, Davis commenced suit in Federal District Court, alleging religion-based discrimination and retaliation for reporting sexual harassment.

After years of litigation, only the religion-based discrimination claim remained in the case. Fort Bend then asserted -- for the first time -- that the District Court lacked jurisdiction to adjudicate Davis’ case because her EEOC charge did not include a claim of religious discrimination. The District Court

agreed and granted Fort Bend's motion to dismiss Davis' suit. On appeal from the dismissal, the Court of Appeals for the Fifth Circuit reversed, holding that Title VII's charge-filing requirement is not jurisdictional but rather a prudential prerequisite to suit, which Fort Bend forfeited in Davis' case by waiting too long to raise the objection. The Supreme Court affirmed.

Supreme Court Decision

In affirming the Fifth Circuit's decision, the Supreme Court reasoned that the word "jurisdictional" is generally reserved for subject-matter jurisdiction and personal jurisdiction. A claim-processing rule requiring parties to take certain procedural steps in, or prior to, litigation, may be mandatory in the sense that a court must enforce the rule if timely raised. But a mandatory rule of that sort, unlike a prescription limiting the kinds of cases a court may adjudicate, is ordinarily forfeited if not timely raised. In short, an employee's failure to file a charge is simply a defense that an employer must assert in a timely manner.

Takeaway for Employers

Employers should keep in mind that the Supreme Court has not nullified Title VII's charge-filing requirement. Complainants must still file charges with the EEOC or state agencies before filing suit in court. However, employers are cautioned they can lose the defense that a plaintiff did not comply with the charge-filing requirement if they wait too long to assert it. Thus, employers are encouraged to file exhaustion defenses early on.

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If you have any questions regarding the Supreme Court's ruling in *Fort Bend County, Texas v. Davis*, Case No. 18-525, please do not hesitate to contact us.

[PUTNEY, TWOMBLY, HALL & HIRSON LLP](#)