

The Burger Court Opinion Writing Database

Meritor Savings Bank, FSB v. Vinson
477 U.S. 57 (1986)

Paul J. Wahlbeck, George Washington University
James F. Spriggs, II, Washington University in St. Louis
Forrest Maltzman, George Washington University



W

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
THE CHIEF JUSTICE

May 27, 1986

84-1979 - Meritor Savings Bank v. Vinson

Dear Bill:

I join.

Regards,



Justice Rehnquist

Copies to the Conference

Supreme Court of the United States
Washington, D. C. 20543

April 24, 1986

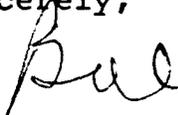
CHAMBERS OF
JUSTICE WM. J. BRENNAN, JR.

Re: Meritor Savings Bank v. Vinson
No. 84-1979

Dear Bill:

I share John's reservation with respect to part III of your draft opinion regarding the employer's liability for the conduct of a supervisor. I hope you will consider accomodating this concern.

Sincerely,



Justice Rehnquist

Copies to the Conference

APR 25 1986

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE Wm. J. BRENNAN, JR.

June 11, 1986

No. 84-1979

Meritor Savings Bank v. Vinson

Dear Thurgood,

Please join me.

Sincerely,

A handwritten signature in cursive script, appearing to read "Bui", is written below the word "Sincerely,".

Justice Marshall

Copies to the Conference

(12)

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE BYRON R. WHITE

May 19, 1986

84-1979 - Meritor Savings Bank, FSB v. Vinson

Dear Bill,

Please join me.

Sincerely yours,



Justice Rehnquist

Copies to the Conference

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

May 1, 1986

Re: No. 84-1979-Meritor Savings Bank v. Vinson

Dear Bill:

I agree with John and Bill Brennan on the question of employer liability, and therefore cannot join your opinion as it is now written.

Sincerely,

J.M.

T.M.

Justice Rehnquist

cc: The Conference

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

May 28, 1986

Re: No. 84-1979 - Meritor Savings Bank, FSB v.
Mechelle Vinson

Dear Bill:

In due course, I shall circulate a dissent in this one.

Sincerely,



T.M.

Justice Rehnquist

cc: The Conference

Justice Brennan
 Justice White
 Justice Blackmun
 Justice Powell
 Justice Rehnquist
 Justice Stevens
 Justice O'Connor

From: Justice Marshall

Circulated: JUN 6 - 1986

Recirculated: _____

1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 84-1979

MERITOR SAVINGS BANK, FSB, PETITIONER *v.*
 MECHELLE VINSON ET AL.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF
 APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

[June —, 1986]

JUSTICE MARSHALL, concurring.

Part III of the Court's opinion leaves open the circumstances in which an employer is responsible under Title VII for sexual harassment in the workplace. Because I would answer today the question the Court leaves to another day, I write separately.

The issue the Court declines to resolve is addressed in the EEOC Guidelines on Discrimination Because of Sex, which are entitled to great deference. See *Griggs v. Duke Power Co.*, 401 U. S. 424, 433-434 (1971) (EEOC Guidelines on Employment Testing Procedures); see also *ante*, at 6. The Guidelines explain:

"Applying general Title VII principles, an employer . . . is responsible for its acts and those of its agents and supervisory employees with respect to sexual harassment regardless of whether the specific acts complained of were authorized or even forbidden by the employer and regardless of whether the employer knew or should have known of their occurrence. The Commission will examine the circumstances of the particular employment relationship and the job functions performed by the individual in determining whether an individual acts in either a supervisory or agency capacity.

"With respect to conduct between fellow employees, an employer is responsible for acts of sexual harassment

STYLISTIC CHANGES THROUGHOUT ✓

P. 1

- Justice Brennan
- Justice White
- Justice Blackmun
- Justice Powell
- Justice Rehnquist
- Justice Stevens
- Justice O'Connor

From: Justice Marshall

Circulated: _____

Recirculated: JUN 12 1986

2nd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 84-1979

MERITOR SAVINGS BANK, FSB, PETITIONER v.
MECHELLE VINSON ET AL.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF
APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

[June —, 1986]

JUSTICE MARSHALL, with whom JUSTICE BRENNAN and
JUSTICE STEVENS join, concurring in the judgment.

I fully agree with the Court's conclusion that workplace
sexual harassment is illegal, and violates Title VII. Part III
of the Court's opinion, however, leaves open the circum-
stances in which an employer is responsible under Title VII
for such conduct. Because I believe that question to be
properly before us, I write separately.

The issue the Court declines to resolve is addressed in the
EEOC Guidelines on Discrimination Because of Sex, which
are entitled to great deference. See *Griggs v. Duke Power
Co.*, 401 U. S. 424, 433-434 (1971) (EEOC Guidelines on
Employment Testing Procedures of 1966); see also *ante*, at 6.
The Guidelines explain:

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. . . is responsible for its acts and those of its agents and
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ment regardless of whether the specific acts complained
of were authorized or even forbidden by the employer
and regardless of whether the employer knew or should
have known of their occurrence. The Commission will
examine the circumstances of the particular employment
relationship and the job functions performed by the
individual in determining whether an individual acts in
either a supervisory or agency capacity.

P. 1

Justice Brennan
 Justice White
 Justice Blackmun
 Justice Powell
 Justice Rehnquist
 Justice Stevens
 Justice O'Connor

From: **Justice Marshall**

Circulated: _____

Recirculated: **JUN 16 1986**

3rd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 84-1979

**MERITOR SAVINGS BANK, FSB, PETITIONER v.
 MECHELLE VINSON ET AL.**

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF
 APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

[June —, 1986]

JUSTICE MARSHALL, with whom JUSTICE BRENNAN, JUSTICE BLACKMUN, and JUSTICE STEVENS join, concurring in the judgment.

I fully agree with the Court's conclusion that workplace sexual harassment is illegal, and violates Title VII. Part III of the Court's opinion, however, leaves open the circumstances in which an employer is responsible under Title VII for such conduct. Because I believe that question to be properly before us, I write separately.

The issue the Court declines to resolve is addressed in the EEOC Guidelines on Discrimination Because of Sex, which are entitled to great deference. See *Griggs v. Duke Power Co.*, 401 U. S. 424, 433-434 (1971) (EEOC Guidelines on Employment Testing Procedures of 1966); see also *ante*, at 6. The Guidelines explain:

"Applying general Title VII principles, an employer . . . is responsible for its acts and those of its agents and supervisory employees with respect to sexual harassment regardless of whether the specific acts complained of were authorized or even forbidden by the employer and regardless of whether the employer knew or should have known of their occurrence. The Commission will examine the circumstances of the particular employment relationship and the job functions performed by the

13

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

June 13, 1986

Re: No. 84-1979, Meritor Savings Bank v. Vinson

Dear Thurgood:

Please join me.

Sincerely,



Justice Marshall

cc: The Conference

W
Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

April 28, 1986

84-1979 Meritor Savings Bank v. Vinson

Dear Bill:

Please join me.

Sincerely,



Justice Rehnquist

lfp/ss

cc: The Conference

APR 29 1986

LEWIS F. POWELL, JR.

Justice Brennan
 Justice White
 Justice Marshall
 Justice Blackmun
 Justice Powell
 Justice Stevens
 Justice O'Connor

From: Justice Rehnquist

Circulated: APR 22 1986

Recirculated: _____

1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 84-1979

MERITOR SAVINGS BANK, FSB, PETITIONER *v.*
 MECHELLE VINSON ET AL.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF
 APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

[April —, 1986]

JUSTICE REHNQUIST delivered the opinion of the Court.

This case presents important questions concerning claims of workplace "sexual harassment" brought under Title VII of the Civil Rights Act of 1964, 78 Stat. 253, as amended, 42 U. S. C. § 2000e *et seq.*

I

In 1974, respondent Michelle Vinson met Sidney Taylor, a vice president of what is now petitioner Meritor Savings Bank (the bank) and manager of one of its branch offices. When respondent asked whether she might obtain employment at the bank, Taylor gave her an application, which she completed and returned the next day; later that same day Taylor called her to say that she had been hired. With Taylor as her supervisor, respondent started as a teller-trainee, and thereafter was promoted to teller, head teller, and assistant branch manager. She worked at the same branch for four years, and it is undisputed that her advancement there was based on merit alone. In September 1978, respondent notified Taylor that she was taking sick leave for an indefinite period. On November 1, 1978, the bank discharged her for excessive use of that leave.

Respondent brought this action against Taylor and the bank, claiming that during her four years at the bank she had "constantly been subjected to sexual harassment" by Taylor

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

April 24, 1986

Re: 84-1979 - Meritor Savings Bank v. Vinson

Dear John:

I am willing to make a sixth vote, but not a fifth one, for the position on employer's absolute liability for hostile environment which you expound in your letter of April 24th.

If, as you say, "in the hostile environment type of case, it would seem to me that normal principles of agency law would impose liability on the employer for conditions that fell squarely within the responsibility of the supervisor," I would think the draft would already satisfy you, since that is the position taken there. The draft also reflects the EEOC position taken in this Court, and I have seen nothing in the Act or legislative history that would persuade me that Congress intended to apply some doctrine other than the normal law of agency in this situation.

Sincerely,



Justice Stevens

cc: The Conference

STYLISTIC CHANGES THROUGHOUT

p. 15

To: The Chief Justice
Justice Brennan
Justice White
Justice Marshall
Justice Blackmun
Justice Powell
Justice Stevens
Justice O'Connor

From: Justice Rehnquist

Circulated: _____

MAY 5 1986

Recirculated: _____

2nd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 84-1979

MERITOR SAVINGS BANK, FSB, PETITIONER *v.*
MECHELLE VINSON ET AL.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF
APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

[May —, 1986]

JUSTICE REHNQUIST delivered the opinion of the Court.

This case presents important questions concerning claims of workplace "sexual harassment" brought under Title VII of the Civil Rights Act of 1964, 78 Stat. 253, as amended, 42 U. S. C. § 2000e *et seq.*

I

In 1974, respondent Michelle Vinson met Sidney Taylor, a vice president of what is now petitioner Meritor Savings Bank (the bank) and manager of one of its branch offices. When respondent asked whether she might obtain employment at the bank, Taylor gave her an application, which she completed and returned the next day; later that same day Taylor called her to say that she had been hired. With Taylor as her supervisor, respondent started as a teller-trainee, and thereafter was promoted to teller, head teller, and assistant branch manager. She worked at the same branch for four years, and it is undisputed that her advancement there was based on merit alone. In September 1978, respondent notified Taylor that she was taking sick leave for an indefinite period. On November 1, 1978, the bank discharged her for excessive use of that leave.

Respondent brought this action against Taylor and the bank, claiming that during her four years at the bank she had "constantly been subjected to sexual harassment" by Taylor

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE JOHN PAUL STEVENS

April 24, 1986

Re: 84-1979 - Meritor Savings Bank v. Vinson

Dear Bill:

Although I agree with most of your draft opinion, I have serious reservations about the conclusion of Part III with respect to the employer's liability for the conduct of a supervisor.

As I understand the cases, the Courts of Appeals are unanimous in holding that there is strict liability in the "quid pro quo" type of case, as in other Title VII cases, but the rule is less certain in a "hostile environment" type of case. It would seem to me to make a good deal of sense to have the same rule apply to both kinds of cases because as a matter of statutory construction, it seems doubtful that Congress would have intended different rules to apply to the two Title VII claims. I assume that there will be a good many situations in which the plaintiff's claims will involve a mixture of both. Moreover, in the hostile environment type of case, it would seem to me that normal principles of agency law would impose liability on the employer for conditions that fell squarely within the responsibility of the supervisor. Accordingly, instead of leaving the issue in some doubt, I would favor giving our approval to the rule that Courts of Appeals have pretty well already developed, namely that the employer is strictly liable for the conduct of the supervisor concerning the environment and the employees that are directly under his or her supervision. See e.g., Horn v. Duke Homes, 755 F.2d 599, 603-606 (CA7 1985).

Apart from this concern, I am prepared to join your opinion.

Respectfully,

Justice Rehnquist

Copies to the Conference



CHAMBERS OF
JUSTICE JOHN PAUL STEVENS

Supreme Court of the United States
Washington, D. C. 20543

June 9, 1986

Re: 84-1979 - Meritor Savings Bank v. Vinson

Dear Thurgood:

Please join me.

Respectfully,

Justice Marshall

Copies to the Conference

Justice Brennan
Justice White
Justice Marshall
Justice Blackmun
Justice Powell
Justice Rehnquist
Justice O'Connor

From: **Justice Stevens**

Circulated: JUN 13 1986

Recirculated: _____

1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 84-1979

**MERITOR SAVINGS BANK, FSB, PETITIONER v.
MEHELLE VINSON ET AL.**

**ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF
APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT**

[June —, 1986]

JUSTICE STEVENS, concurring.

Because I do not see any inconsistency between the two opinions, and because I believe the question of statutory construction that JUSTICE MARSHALL has answered is fairly presented by the record, I join both the Court's opinion and JUSTICE MARSHALL's opinion.



CHAMBERS OF
JUSTICE SANDRA DAY O'CONNOR

Supreme Court of the United States
Washington, D. C. 20543

May 8, 1986

No. 84-1979 Meritor Savings Bank v. Vinson

Dear Bill,

Please join me.

Sincerely,

Sandra

Justice Rehnquist

Copies to the Conference