

Supreme Court Hears Employment Discrimination Case

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The U.S. Supreme Court heard oral arguments last week to determine whether the City of New Haven, Conn., violated federal anti-discrimination laws or acted to uphold them.

Ricci v. DeStefano involves New Haven's decision not to certify the results of a civil service exam administered to firefighters because the city claimed to do so would have discriminated against minority firefighters and consequently would be unlawful under Title VII of the Civil Rights Act of 1964.

A group of 19 white firefighters and one Latino who had scored well on the exam, but were not promoted when New Haven declined to certify the test results, allege they were discriminated against based on their race in violation of Title VII and the Equal Protection Clause of the U.S. Constitution. The firefighters argue that, by abandoning the exams, New Haven violated their protection from disparate treatment and allege that it was actually race-based politics that motivated the city's decision. The lower federal courts sided with New Haven and dismissed the case.

Before the Supreme Court, New Haven asserted it was fulfilling its obligation to avoid race discrimination by refusing to rely on a flawed and discriminatory test. "An employer should not be encouraged or forced to make a promotion on the basis of a questionable practice," counsel for New Haven told the Justices.

During oral argument, Justice David Souter said New Haven faced a "damned if you do, damned if you don't situation" when it received test results that showed a racial disparity. He said the city's decision if in "good faith" was a reasonable response to that dilemma.

The case will help determine what steps public and private employers can take when they determine that an employment practice is having a discriminatory impact on particular racial groups.

Supporting New Haven's position, NLC joined a brief filed by the International Municipal Lawyers Association, the National Association of Counties and the International Public Managers Association for Human Resources. The brief was drafted in part by the Yale Law School Supreme Court Clinic.

The Supreme Court is expected to decide the case by this summer.

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