

# Good critical thinking about johnson v. transportation agency

[Law](#), [Criminal Justice](#)



The case of Johnson v Santa Clara Transportation Agency is one of the seminal decisions relating to employment discrimination and affirmative action plans. A background of the circumstances attending the institution of the case is important in this respect. In the year 1978, the defendant in this case voluntarily adopted an Affirmative Action Plan for hiring and promotion of women. The plan provided among other things, that while making promotions senior roles within traditionally segregated job categories where women had been marginalized, the Agency was permitted to consider the sex of the applicants as a factor for consideration in such promotions. The Plan was meant to garner an annual improvement in the hiring and promotion of the marginalized groups such as women in job categories where they were underrepresented. The long-term goal of the affirmative action plan was to achieve a team that reflected the proportion of women and minorities in the labor force. The affirmative action plan had not set out any accurate figure of positions for women but called for the establishment of short-term goals and their yearly adjustment so as to act as a guide for employment decisions.

Following an announcement by the agency for a promotion job of a road dispatcher, several people applied including the applicant Paula Johnson and a female named Diane Joyce. At the time, out of the 238 positions in the Skilled Craft Workers job classification including the position of the Dispatcher, none of the senior position was held by a woman. Following the interview, the Agency by passed the best qualified applicant, a male employee Paula Johnson who had scored seventy five points in favor of the female Diane Joyce who scored seventy three points. Upon the promotion of

Joyce, Johnson petitioned the Equal Employment Opportunity Commission which gave him a right to sue. He subsequently filed suit at the Federal District Court impugning the decisions by the Agency to promote Joyce and contended that the Agency had gone against Title VII of the Civil Rights Act of 1964. The trial district court was of the view that the affirmative action plan of the Agency was invalid in consonance with the decision in *Steelworkers v Weber* in that the Plan was temporary. The Court thereby found that Joyce's sex or gender was the determining factor in the promotion. The Ninth Circuit Court of Appeal reversed the finding of the lower court. The Supreme Court affirmed the decision of the Court of Appeal in holding that what the Agency did was right in taking into account sex as one of the many factors in the promotion. The Supreme Court further held that the affirmative action plan was valid as it provided a moderate and case by case approach of addressing the imbalance of employment biases against minorities and women. In holding thus, the court found that the Plan was consistent with Title VII of the Civil Rights Act of 1964.

I disagree with the approach taken by the Supreme Court as it makes little sense to me. The Supreme Court in arriving at the conclusion that the Affirmative Action Plan was valid and the action to promote Joyce was appropriate did not look into the past practices of the public employer. It misapplied and misconstrued Title VII as well as the decision in the *Weber* case. On the contrary, the Court stated that an employer seeking to justify their adoption of affirmative action plans should not point to their prior discriminatory practices. Rather, he or she was to point to any imbalance present in the traditionally segregated job categories. Further, the court

failed to appreciate that the affirmative action plan as adopted was only voluntary in the sense that it permitted the Agency to take into account gender as one of the many factors so as to cure the imbalance. The court, therefore, misapplied Title VII by stating that its purpose was to eliminate the effects of discrimination in the workplace. What makes little sense was the decision by the court in justifying the consideration of the sex of applicants during promotion upon an existence of an inequity that manifested the marginalization of women. This is because the Plan sought to address any imbalances that occurred and that the Agency had not leveled discrimination against women in the past. In fact, the underrepresentation of women in these positions was due to their failure to take up these roles. The decision by the court had the effect of militating against the advancement of male employees in violation of the holding of the court in the Weber case. As an employer, I would have taken into account merit and qualifications ahead of the gender considerations based on the voluntary nature of the affirmative action plan, without much emphasis on the gender of the applicant. This is consistent with the equal employment opportunities and so as to give value to the taxpayers. Indeed, the considerations made by the court in arriving at the institution of an affirmative action program are consistent with my thoughts over the same. The court found it superfluous to consider the past practices of the Agency in imposing a voluntary affirmative action plan on the Agency. At a personal level, my supposition was that affirmative action programs are meant to remedy imbalances among employment organizations which have engaged in past discriminatory practices. The mere existence of an imbalance may not be due to the refusal

by the employer to employ women or other minority groups. Again, this imposition of voluntary programs means that taxpayers and shareholders do not get full value of what they deserve.

### **Works Cited**

Lonzo, TJ. " Johnson v Transportation Agency: Are We Equal?" Creighton Law Review (2006): 34-47.

Marks, Theresa. " Johnson v Santa Clara Transportation Agency." Golden State University Law Review (2010): 1-22.