

# Injustice 5, Justice 4

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The Supreme Court struck a blow for discrimination this week by stripping a key civil rights law of much of its potency. The majority opinion, by Justice Samuel Alito, forced an unreasonable reading on the law, and tossed aside longstanding precedents to rule in favor of an Alabama employer that had underpaid a female employee for years. The ruling is the latest indication that a court that once proudly stood up for the disadvantaged is increasingly protective of the powerful.

Lilly Ledbetter, a supervisor at the Goodyear Tire & Rubber Company in Gadsden, Ala., sued her employer for paying her less than its male supervisors. At first, her salary was in line with the men's, but she got smaller raises, which created a significant pay gap. Late in her career, Ms. Ledbetter filed a complaint with the Equal Employment Opportunity Commission. A jury found that Goodyear violated her rights under Title VII of the Civil Rights Act of 1964.

Goodyear argued that she filed her complaint too late and, by a 5-4 margin, the Supreme Court agreed. Title VII requires employees to file within 180 days of "the alleged unlawful employment practice." The court calculated the deadline from the day Ms. Ledbetter received her last discriminatory raise. Bizarrely, the majority insisted it did not mat-

ter that Goodyear was still paying her far less than her male counterparts when she filed her complaint.

In dissent, Justice Ruth Bader Ginsburg noted that there were strong precedents supporting Ms. Ledbetter. The Supreme Court ruled in a similar race discrimination case that each paycheck calculated on the basis of past discrimination is unlawful under Title VII. The courts of appeals have overwhelmingly agreed. So did the E.E.O.C., the agency charged with enforcing Title VII.

In addition to interpreting the statute unreasonably and ignoring the relevant precedents, the majority blinded itself to the realities of the workplace. Employees generally do not know enough about what their co-workers earn, or how pay decisions are made, to file a complaint precisely when discrimination occurs. At Goodyear, as at many companies, salaries were confidential. The court's new rules will make it extraordinarily difficult for victims of pay discrimination to sue under Title VII. That is not how Congress intended the law to be enforced, merely how five justices would like it to be.

It is disturbing that Anthony Kennedy, the court's swing justice, cast the deciding vote in favor of gutting a key part of the Civil Rights Act. Fortunately, Congress can amend the law to undo this damaging decision. It should do so without delay.