

Wiley Files Supreme Court *Amicus* Brief Supporting Petition Asking the Court to Apply Title VII Racial Discrimination Protection to Military Servicemembers



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Washington, DC – On behalf of the nonprofit advocacy groups Protect Our Defenders and the Black Veterans Project, Wiley has submitted an *amicus* brief to the U.S. Supreme Court in support of a petition that seeks to apply racial discrimination protection to active-duty members of the military under Title VII of the Civil Rights Act.

The petition, in *Jackson v. Braithwaite*, seeks the Supreme Court’s review of a February 2020 ruling by the U.S. Court of Appeals for the District of Columbia Circuit that Title VII applies only to civilian employees in the military, not to uniformed servicemembers. The case stems from a lawsuit brought against the U.S. Department of the Navy by a former servicemember who allegedly endured harassment, belittlement, and mistreatment on the basis of his race during his active-duty service, and suffered personal and financial ruin as a result of emotional trauma caused by the discrimination.

“No one questions that the military has made significant strides in combatting overt racial discrimination,” Wiley said in the August 13 *amicus* brief, noting that racial minorities now constitute 43% of military servicemembers. “Nonetheless, contemporary data suggests that racism in the military continues to manifest itself in subtler – but still devastating – ways.” The Wiley brief assists the Court by providing a detailed survey and analysis of the empirical evidence showing that racial discrimination remains a serious problem in the military.

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Practice Areas



Issues and Appeals

Protect Our Defenders is devoted to ending racial discrimination and bias, rape and sexual assault in the United States military. The Black Veterans Project focuses on advancing research and storytelling to address systemic racial inequities across the military and veteran landscape.

The Wiley team is led by Pro Bono Partner Theodore A. Howard and Richard A. Simpson, a partner in the firm's Appellate Practice. The team also includes associates Lukman S. Azeez, Boyd Garriott, Ysabelle G. Reyes, and Alexander R. Lichtenstein; legal assistant **Eden Hankin**; and special assistant **Nicole Grodin**.

The brief argues that the U.S. military's primary anti-discrimination system, the Military Equal Opportunity (MEO) Program, is "woefully inadequate" for addressing racial bias or discrimination. Title VII is "a far more potent antidiscrimination tool" because it provides an adversarial process that allows servicemembers to file racial discrimination claims without fear of retaliation and provides for robust remedies, the Wiley team explained.

"Allowing servicemembers to bring discrimination claims under Title VII of the 1964 Civil Rights Act would represent a giant leap forward in stemming the racial bias and discrimination that remains deeply ingrained in the United States military," Wiley said in the brief.

To read the *amicus* brief, please [click here](#).