



Drawing Goal Lines: *Stare Decisis* and the U.S. Supreme Court

Stare decisis is ... a Latin legal term that means “to stand by.” As a concept, *stare decisis* conveys the idea that courts adhere to past cases – which are often called “precedent” – when the facts in subsequent cases are similar. **In the usual sense**, courts are understood either to apply *stare decisis*, or to ignore it. Broadly speaking, this is true of the U.S. Supreme Court’s behavior. Some of the Court’s most dramatic rulings have been “reversals” – that is, explicit rejections of precedent. In perhaps the most famous example, the Court overruled the “separate but equal” doctrine of *Plessy v. Ferguson* in its decision in *Brown v. Board of Education*. But *stare decisis* can also be understood **as a narrow concept**. The Court considers issues of precedent in cases that do not overturn broad principles of law. This is the sense in which I treat *stare decisis* in



I trace Title VII case law ... through three baseline cases that comprise the “playing field:” *Griggs v. Duke Power* (1971), *McDonnell Douglas v. Green* (1973), and *Alexander v. Gardner-Denver Co.* (1974). I argue a) that *Griggs* signals that **the Court will give Title VII teeth**; b) that *McDonnell Douglas* provides the litigation framework to accomplish its goals in *Griggs*; and c) that *Alexander* establishes the legal system’s control over questions of Title VII violations. After I describe how the Court laid down the “playing field,” I shift the focus to the **Title VII principles of a single justice, Lewis Powell**. Focusing on one justice allowed me to consider the narrow application of *stare decisis*. Though Justice Powell was instrumental in laying down the legal “playing field” of Title VII law, he also had a readily identifiable principle for interpreting

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my research. My study considers the development of case law stemming from a completely new statute, **Title VII of the Civil Rights Act of 1964**, which set forth a series of federal hiring rules barring discrimination based on race, color, religion, gender, and nationality. In my study of Title VII, I propose that the Court **strategically uses *stare decisis*** in its narrow sense to effect desired outcomes. To better explain this process, I coined the terms of the “playing field” and the “goal lines” to conceptualize this narrow application of precedent. I argue that the Court defines the **broad boundaries of a legal “playing field”** in the baseline Title VII cases. Subsequent cases see individual justices argue for narrower interpretations of the law in a process akin to drawing the boundaries of a goal area on an already agreed-upon field of play, a **process I call “goal-line drawing.”**

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narrower Title VII questions. I distill Justice **Powell’s core Title VII principle as “fundamental fairness.”** Essentially, Justice Powell believed that all Title VII rulings should hinge on an interpretation of what is fundamentally fair, and that the Court should not punish beyond what is fair simply to give Title VII more clout. I then argue that in two dissents, Justice Powell uses ***stare decisis* in the narrow, goal-line drawing sense** to advocate for his idea of “fundamental fairness.” In those dissents, *Connecticut v. Teal* (1982) and *Franks v. Bowman Transportation Co.* (1976), Justice Powell argues that **the majority incorrectly applies *stare decisis* in the narrow sense**. In both cases, I show that Justice Powell makes an argument using *stare decisis* to advocate for a goal line drawn with fundamental fairness in mind.