

**06-1505 MEACHAM, ET AL V. KNOLLS ATOMIC POWER LAB., ET AL**

DECISION BELOW: 461 F3d 134

LOWER COURT CASE NUMBER: 02-7378, 02-7474

**QUESTION PRESENTED:**

The Age Discrimination in Employment Act (ADEA) prohibits employment practices that have an unjustified disparate impact on older workers, *Smith v. City of Jackson, Miss.*, 544 U.S. 22(2005), but also provides that it "shall not be unlawful for an employer . . . to take any action otherwise prohibited . . . where the differentiation is based on reasonable factors other than age." 29 U.S.C. § 623(f)(1). The questions presented are:

1. Whether an employee alleging disparate impact under the ADEA bears the burden of persuasion on the "reasonable factors other than age" defense, as held by the Second Circuit in this case in conflict with the decisions of other circuits and a regulation of the Equal Employment Opportunity Commission.
2. Whether respondents' practice of conferring broad discretionary authority upon individual managers to decide which employees to lay off during a reduction in force constituted a "reasonable factor other than age" as a matter of law.

LIMITED TO QUESTION 1 PRESENTED BY THE PETITION EXPEDITED  
BRIEFING SCHEDULE JUSTICE BREYER TOOK NO PART  
CERT. GRANTED 1/18/2008