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Reverse Age Discrimination

**Reverse Age Discrimination: A Short Review of General Dynamics Land Systems Inc. v. Cline**

By Philip W. Harris

### I. Introduction

An irreversible fact of life is that all people in this world, whether male or female, black or white, conservative or liberal, will all die. The human body continues to develop throughout life and in some cases age presents limitations that make it harder to function, particularly in the workplace. So the American government has provided protection for the older working class against discrimination in favor of younger laborers. This statute is called the Age Discrimination in Employment Act of 1967 (ADEA). This short review will show that the intentions behind the ADEA do not provide protection for discrimination of the younger, citing the case General Dynamics Land Systems Inc. v. Cline as an example. By examining the reasons for and characteristics of the ADEA, the decision in General Dynamics Land Systems Inc. v. Cline, prior cases addressing the issue, and the intent of the ADEA to protect the older worker from unfair replacement by the younger.

### II. Reasons For And Characteristics Of The ADEA

In 1964 the Civil Rights Act did not have specifications relating to age discrimination but it did call for the Secretary of Labor to make a full and complete study. This study was to address factors which may tend to result in employment discrimination because of one's age and of the consequences of such discrimination. The ADEA was written in response to the findings of the Secretary of Labor about the growing

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113
social problem of age discrimination that had led to the mistreatment of older workers. This can be clearly seen in the opening section of the act. The ADEA states its purpose, “to promote employment of older persons based on their ability rather than age; to prohibit arbitrary age discrimination in employment; to help employers and workers find ways of meeting problems stemming from the impact of age on employment.”

This well defined purpose shows that the portion of the working class to be protected is the older class. This term “older” is defined later as employees “at least 40 years of age.” Thus, no one under 40 years of age would be entitled to any ruling on their behalf due to reverse age discrimination. If Congress intended to protect the younger employee they would not have simply failed to include those under the age of 40 in the ADEA, but rather would have provided specific protection for all employees including even the part-time worker still in adolescence.

The aim of the legislation as interpreted by the courts in pondering this issue is to protect older American workers from discrimination based on age. The Congress more specifically stated the problem as follows: “In the face of rising productivity and affluence, older workers find themselves disadvantaged in their efforts to retain employment, and especially to regain employment when displaced from jobs.” The intent of the Congress in this case was particularly to provide protection to the “older” workers in relation to the “younger” workers. Therefore, Congress’ intent was not to prevent reverse age discrimination but only to prevent bias in which the older worker was disadvantaged arbitrarily for the younger worker.

III. THE DECISION INVOLVING CLINE

In the case of General Dynamics Land Systems Inc. v. Cline the topic at hand was again whether the ADEA made reverse age discrimination allowable. In the year 2001, a collective bargaining agreement by the

4 Age Discrimination in Employment Act § 631(a).
5 Id. at § 621(a)(1).
company and the United Auto Workers Union, limited retiremen
t health insurance benefits to those 50 years of age or older. Current
and prior employees between ages 40-49 proposed that the ADEA's
prohibition covered "discrimination...because of [an] individual's age." This suit, brought by nearly 200 employees--called Cline
collectively--alleged that there had been age discrimination in favor
of the older employees. This case came before the lower courts and
was consequently appealed all the way to the Supreme Court of the
United States. The issues and decisions declared in the lower courts
will be discussed later in part to acknowledge opinions contrary to
those of the Supreme Court on the issue of reverse age discrimination.

The court returned to the investigation by the Secretary of
Labor in the late 1960s which found that the cost of hiring older
employees was higher and there were legitimate reasons to question an
older employee's ability to perform their task. These reasons included
less physical capability and lack of up to date training in the field. So the
Court looked to the intent of the legislators at the time and issues at hand.
They concluded, "...from the voluminous records of the hearings, we
have found (and Cline has cited) nothing suggesting that any workers were
registering complaints about discrimination in favor of their seniors." Through examination of the original situation, the court found the root
of the problem to be discrimination of the older in favor of the younger.

The court heard three major arguments by Cline that supported
their declaration of palpable discrimination. The first contention of Cline
came from the multiple uses of the word "age" in the ADEA document.
Cline pointed to other cases as precedents, where the same word held a
constant meaning throughout a document. Here the court disagreed
for two reasons. First, in reading law we must discern the meaning of
the word from those that enclose it. Additionally, the court disagreed
due to the many ways the sentences were connected to the word "age."

Cline's second argument relied upon the words of an original
ADEA proponent. During the 1967 hearings, Senator Yarborough was
asked his opinion on the ability of the act to forbid discrimination of

6 Id. at § 623(c)(2).
parties both within the protected age class and not. Senator Yarborough stated, "The law prohibits age being a factor in the decision to hire, as to one age over the other, whichever way his decision went." These remarks did support Cline's assertion in a small way, but this evidence was insufficient in overruling the precedent established by past case findings.

The third argument in Cline's case came as a claim that the courts should defer to the U.S. Equal Employment Opportunity Commission's (EEOC) understanding and reading of the statute. In 1981, the EEOC adopted a regulation which gives an example of employees with ages 42 and 52 applying for the same position. The regulation states that "the employer may not lawfully turn down either one on the basis of age, but must make such decision on the basis of some other factor." Thus Cline wanted the Court to defer based on this ordinance of the EEOC which had already been written. Unfortunately the court's reply was that deference would be given "only when the devices of judicial construction have been tried and found to yield no clear sense of congressional intent." The court decided here that the intent of Congress had been established through prior decisions reached by numerous other cases. A few of these decisions will be addressed later and it will be shown that upon correct interpretation of the act by the courts, the intent of the act and process has been upheld. So, in relation to this case, the Court denied deference due to Cline's lack of proof and generally rejected Cline's arguments for reverse age discrimination.

IV. PRIOR CASES

In our examination, the precedents established by prior cases deserve attention. These rulings have established precedents in interpretation of the law as written by Congress. One case that pertains to the topic at hand is Dittman v. General Motors. This case

10 General Dynamics Land Systems, Inc., 124 S. Ct. at 1236.
was brought before the District Court in Connecticut with allegations that the employer, GM, made generous retirement plan offers to workers who were over 50 years of age, but left out part of the “older” class contained from 49-50. The district court held that the “ADEA specifically allows retirement plans such as the one in question, and ADEA does not bar discrimination against the young in favor of the old.”\[11\] This court also applied the section of the ADEA that related to retirement and pension plans. The ADEA is not violated because “an employee pension benefit plan...provides for the attainment of a minimum age as a condition of eligibility for normal or early retirement benefits.”\[12\] This section provides for employers to be able to make judgments as to which portion of the “protected class” may be eligible for specific benefits in relation to a retirement plan.

The case Parker v. Wakelin also addresses this issue, in part, and supports the intent of the ADEA. This case was again about the protected class of those between the ages of 40-49, and one issue was whether these teachers could claim discrimination based on disparate impact due to the writing of the retirement plan requirements. The Court gave their opinion and ruling based on the ADEA, saying: “The ADEA has never been construed to permit younger persons to claim discrimination against them in favor of older persons.” The Court continued, “Indeed the existence of minimum age requirements suggests that it was only discrimination in favor of younger individuals that the law is designed to prohibit.”\[13\] So the holding in this case again bolsters the intent of the ADEA as being to prevent discrimination against older workers based solely on their age, not younger workers being discriminated against in favor of the older workers.

Another ruling in support of this topic came down from the United State Court of Appeals, Seventh Circuit in Hamilton v. Caterpillar Inc. In a similar situation to the prior cases mentioned, the court again ruled that the ADEA does not provide for claims of reverse discrimination. The Court ruled that the ADEA “does not protect

the young as well as the old, or even, we think, the younger against the older.” This statement is important in relation to the Cline case because though the younger are in the protected class of age 40 and above, they are not protected in relation to the older part of the protected class.

V. INTENT OF THE ADEA

One of the main causes of contradictory decisions from lower and higher courts was intent versus the literal wording of the statute. It seems that the Supreme Court relied on the objective of the legislatures in writing the statute, while the Sixth Circuit Court and dissenting justices of the Supreme Court seemed to base part of their ruling on the exact wording used in the statute.

The Sixth Circuit Court ruled in favor of Cline, and Justice Cole’s opinion included his view that “Congress’s choice of language, whether specifically intended or not, prohibits age discrimination that favors older over younger protected employees.” The major opinion against the holding of the Supreme Court comes from the language used in the act itself. This includes the protection of “any individual...because of such individual’s age.” Justice Cole’s opinion points to Sections 623 and 631 of the ADEA which summarized says that discrimination is against the law and any person 40 or older would be protected and have the right to sue their employer. This opinion allows for reverse age discrimination cases to be upheld, due to the language of the ADEA.

Essential to the discussion at hand is the value of interpretation and the value of the plain language. By analyzing the two different opinions on sides of the issue we see how important intent and language are. In this case a few short words have made all the difference. One might question whether the courts should take the language within the statutes to be exact and, if not, how far should they go to infer the purpose of congress many years ago. The Supreme

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14 Hamilton v. Caterpillar, 966 F.2d 1226, 1227 (7th Cir.1992).
16 Age Discrimination in Employment Act § 631(a) (1967).
Court reaffirmed past holdings regarding reverse age discrimination. By looking to the social climate, reason and proceedings of the actual composition of the act, they have found the true intent of Congress, which in 1967 included protection of the older worker from discrimination in favor of the younger. If there is a social problem of favoring the older versus the younger, then an investigation similar to that of 1967 is required and legislation may be necessary.

The ruling in *General Dynamics Land Systems Inc. v. Cline* is essential to understanding the intent of the ADEA. This act was written for the protection of older workers' rights from abuse by employers wanting cheaper, younger labor. By understanding the language of the act, the intent is clear. The precedents and rulings of prior cases for decades show that the judicial system has upheld that intent, particularly in *Land Systems Inc. v. Cline*. Age discrimination may continue to be a problem in the future, but with a clearer understanding of the intent of the ADEA, employers and employees will be able to know how they are limited and to what they are entitled.