

Syllabus

NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States v. Detroit Timber & Lumber Co.*, 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES**Syllabus****BURLINGTON NORTHERN & SANTA FE RAILWAY
CO. v. WHITE****CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR
THE SIXTH CIRCUIT**

No. 05-259. Argued April 17, 2006—Decided June 22, 2006

Title VII of the Civil Rights Act of 1964 forbids employment discrimination based on “race, color, religion, sex, or national origin,” 42 U. S. C. §2000e-2(a), and its anti-retaliation provision forbids “discriminat[ion] against” an employee or job applicant who, *inter alia*, has “made a charge, testified, assisted, or participated in” a Title VII proceeding or investigation, §2000e-3(a). Respondent White, the only woman in her department, operated the forklift at the Tennessee Yard of petitioner Burlington Northern & Santa Fe Railway Co. (Burlington). After she complained, her immediate supervisor was disciplined for sexual harassment, but she was removed from forklift duty to standard track laborer tasks. She filed a complaint with the Equal Employment Opportunity Commission (EEOC), claiming that the reassignment was unlawful gender discrimination and retaliation for her complaint. Subsequently, she was suspended without pay for insubordination. Burlington later found that she had not been insubordinate, reinstated her, and awarded her backpay for the 37 days she was suspended. The suspension led to another EEOC retaliation charge. After exhausting her administrative remedies, White filed an action against Burlington in federal court claiming, as relevant here, that Burlington’s actions in changing her job responsibilities and suspending her for 37 days amounted to unlawful retaliation under Title VII. A jury awarded her compensatory damages. In affirming, the Sixth Circuit applied the same standard for retaliation that it applies to a substantive discrimination offense, holding that a retaliation plaintiff must show an “adverse employment action,” defined as a “materially adverse change in the terms and conditions” of employment. The Circuits have come to different conclusions about

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whether the challenged action has to be employment or workplace related and about how harmful that action must be to constitute retaliation.

Held:

1. The anti-retaliation provision does not confine the actions and harms it forbids to those that are related to employment or occur at the workplace. The language of the substantive and anti-retaliation provisions differ in important ways. The terms “hire,” “discharge,” “compensation, terms, conditions, or privileges of employment,” “employment opportunities,” and “status as an employee” explicitly limit the substantive provision’s scope to actions that affect employment or alter workplace conditions. The anti-retaliation provision has no such limiting words. This Court presumes that, where words differ as they do here, Congress has acted intentionally and purposely. There is strong reason to believe that Congress intended the differences here, for the two provisions differ not only in language but also in purpose. The anti-discrimination provision seeks a workplace where individuals are not discriminated against because of their status, while the anti-retaliation provision seeks to prevent an employer from interfering with an employee’s efforts to secure or advance enforcement of the Act’s basic guarantees. To secure the first objective, Congress needed only to prohibit employment-related discrimination. But this would not achieve the second objective because it would not deter the many forms that effective retaliation can take, therefore failing to fully achieve the anti-retaliation provision’s purpose of “[m]aintaining unfettered access to statutory remedial mechanisms,” *Robinson v. Shell Oil Co.*, 519 U. S. 337, 346. Thus, purpose reinforces what the language says, namely, that the anti-retaliation provision is not limited to actions affecting employment terms and conditions. Neither this Court’s precedent nor the EEOC’s interpretations support a contrary conclusion. Nor is it anomalous to read the statute to provide broader protection for retaliation victims than for victims of discrimination. Congress has provided similar protection from retaliation in comparable statutes. And differences in the purpose of the two Title VII provisions remove any perceived “anomaly,” for they justify this difference in interpretation. Pp. 6–12.

2. The anti-retaliation provision covers only those employer actions that would have been materially adverse to a reasonable employee or applicant. This Court agrees with the Seventh and District of Columbia Circuits that the proper formulation requires a retaliation plaintiff to show that the challenged action “well might have ‘dissuaded a reasonable worker from making or supporting a charge of discrimination.’” *Rochon v. Gonzales*, 438 F. 3d 1211, 1219. The Court refers to *material* adversity to separate significant from trivial

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harms. The anti-retaliation provision seeks to prevent employer interference with “unfettered access” to Title VII’s remedial mechanisms by prohibiting employer actions that are likely to deter discrimination victims from complaining to the EEOC, the courts, and employers. *Robinson, supra*, at 346. The Court refers to a *reasonable* employee’s reactions because the provision’s standard for judging harm must be objective, and thus judicially administrable. The standard is phrased in general terms because the significance of any given act of retaliation may depend upon the particular circumstances. Pp. 12–15.

3. Applying the standard to the facts of this case, there was a sufficient evidentiary basis to support the jury’s verdict on White’s retaliation claim. Contrary to Burlington’s claim, a reassignment of duties can constitute retaliatory discrimination where both the former and present duties fall within the same job description. Almost every job category involves some duties that are less desirable than others. That is presumably why the EEOC has consistently recognized retaliatory work assignments as forbidden retaliation. Here, the jury had considerable evidence that the track laborer duties were more arduous and dirtier than the forklift operator position, and that the latter position was considered a better job by male employees who resented White for occupying it. Based on this record, a jury could reasonably conclude that the reassignment would have been materially adverse to a reasonable employee. Burlington also argues that the 37-day suspension without pay lacked statutory significance because White was reinstated with backpay. The significance of the congressional judgment that victims of intentional discrimination can recover compensatory and punitive damages to make them whole would be undermined if employers could avoid liability in these circumstances. Any insufficient evidence claim is unconvincing. White received backpay, but many reasonable employees would find a month without pay a serious hardship. White described her physical and emotional hardship to the jury, noting that she obtained medical treatment for emotional distress. An indefinite suspension without pay could well act as a deterrent to the filing of a discrimination complaint, even if the suspended employee eventually receives backpay. Thus, the jury’s conclusion that the suspension was materially adverse was reasonable. Pp. 15–18.

364 F. 3d 789, affirmed.

BREYER, J., delivered the opinion of the Court, in which ROBERTS, C. J., and STEVENS, SCALIA, KENNEDY, SOUTER, THOMAS, and GINSBURG, JJ., joined. ALITO, J., filed an opinion concurring in the judgment.

2

A horizontal sequence of 20 empty square boxes arranged in four rows of five. This visual representation is used throughout the document to denote the number 20.

A horizontal row of ten empty square boxes, each with a black border, intended for children to draw or color in.

1

□ □

A horizontal row of 20 empty square boxes, intended for students to write their answers in. The boxes are arranged in two columns of 10.

□ □

A horizontal row of ten empty square boxes, used for input fields or placeholder text.

10 / 10

A grid of 100 empty square boxes arranged in 10 rows of 10 boxes each. The boxes are white with black outlines, and they are evenly spaced both horizontally and vertically.

A large grid of 100 small squares arranged in 10 rows and 10 columns. The squares are outlined in black and filled with white space.

1

2

A horizontal sequence of 20 empty square boxes arranged in two rows of 10. The boxes are evenly spaced and aligned horizontally.

A horizontal row of ten empty rectangular boxes, each divided into two equal vertical sections by a vertical line.

1

A horizontal row of 20 empty square boxes, intended for children to draw or color in.

□ □

A horizontal row of ten empty square boxes, intended for children to draw or color in.

2

A horizontal row of 20 empty square boxes, each with a thin black border, intended for children to practice writing their names.

A horizontal row of ten empty square boxes, intended for handwritten responses or drawings.

A diagram consisting of seven groups of three empty boxes each. The filling pattern for each group is as follows: Group 1: All three boxes are filled. Group 2: The first box is filled. Group 3: The middle box is filled. Group 4: The last box is filled. Group 5: The first and middle boxes are filled. Group 6: The first and last boxes are filled. Group 7: The middle and last boxes are filled.

□ □

The image displays five horizontal rows of binary data. Each row consists of a sequence of small black squares (representing bits) on a white background. The lengths of the rows vary: the first row has 16 segments, the second has 24, the third has 16, the fourth has 16, and the fifth has 24. This visual representation is typical for digital signal processing or data transmission diagrams.

A horizontal row of 20 small squares, each containing a vertical line segment.

The diagram consists of two groups of boxes. The first group has two empty boxes side-by-side. The second group has six boxes in a row. The third box from the left in this group is filled with grey, while the others are empty.

A horizontal row of 20 empty square boxes, intended for children to draw or color in.

1

A horizontal row of ten empty square boxes, intended for children to draw or color in.

A horizontal bar chart with 10 categories. The categories are represented by colored bars: blue, orange, red, green, yellow, purple, pink, brown, grey, and black. The length of each bar corresponds to the frequency of data points in that category.

A large grid of 100 small squares arranged in 10 rows and 10 columns. The squares are outlined in black and filled with white space.

の実施報告書

新規開拓事業実施報告書

本報告書は、新規開拓事業実施報告書として、新規開拓事業の実施状況を記載するものである。本報告書は、新規開拓事業の実施状況を記載するものである。

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A horizontal row of ten empty square boxes, each with a thin black border, used for input fields or marking options.

A large grid of 100 small squares arranged in 10 rows and 10 columns. The squares are outlined in black and filled with white space.

三

A horizontal row of 20 empty square boxes, each with a thin black border, intended for children to practice writing their names.

A horizontal row of ten empty square boxes, each with a thin black border, used for input fields or placeholder text.

A large grid of 100 small squares arranged in 10 rows and 10 columns. The squares are white with black outlines, set against a light gray background. They are evenly spaced both horizontally and vertically, creating a clean, geometric pattern.

A large grid of empty square boxes arranged in 10 rows and 10 columns, designed for handwriting practice.

A horizontal row of 20 empty square boxes, intended for children to draw or color in.

□ □ □

A horizontal row of ten empty square boxes, intended for children to draw or color in.

A large grid of 100 small squares arranged in 10 rows and 10 columns. The squares are outlined in black and filled with white space.

A large grid of 100 rows and 10 columns of small squares, used for handwriting practice. The grid is composed of thin black lines forming a continuous pattern of small squares across the entire page.

三

A horizontal sequence of 20 empty square boxes arranged in a single row.

A horizontal row of ten empty square boxes, each with a thin black border, used for input fields or placeholder text.

The image shows a uniform grid of 100 empty rectangular boxes. The grid is composed of 10 horizontal rows and 10 vertical columns, creating a total of 100 individual boxes. Each box is defined by a thin black outline and is completely empty inside, with no text or other markings.

1

A horizontal row of 20 empty square boxes, intended for children to draw or color in.

三

A horizontal row of ten empty square boxes, intended for children to draw or color in.

A large grid of 10 rows and 10 columns of small squares, used for handwriting practice.

三

A horizontal row of 20 empty square boxes, each with a thin black border, intended for children to practice writing their names.

A horizontal row of ten empty square boxes, each with a thin black border, used for input fields or marking options.

A large grid of 100 rows and 100 columns of small squares, forming a 10x10 grid pattern. The grid is composed of numerous small, uniform squares arranged in a regular, repeating pattern across the entire page.

A horizontal row of 20 empty square boxes, intended for children to draw or color in.

□ □ □

A horizontal row of ten empty square boxes, intended for children to draw or color in.

A horizontal row of ten empty square boxes, each with a thin black border, intended for children to draw or color in.

A large grid of 100 empty rectangular boxes arranged in 10 rows and 10 columns. The boxes are evenly spaced and cover most of the page area.

1

三

A horizontal sequence of 20 empty square boxes arranged in a single row.

A horizontal row of ten empty rectangular boxes, intended for children to draw or color in.

A large grid of 100 empty square boxes arranged in 10 rows and 10 columns. The boxes are outlined in black and have a light gray fill. They are evenly spaced both horizontally and vertically, creating a clean, organized layout.

A horizontal row of 20 empty square boxes, intended for children to draw or color in.

□ □ □

A horizontal row of ten empty square boxes, intended for children to draw or color in.

三

A horizontal sequence of 20 empty square boxes arranged in a single row.

A horizontal row of ten empty square boxes, each with a thin black border, used for input fields or marking options.

A large grid of empty square boxes arranged in 10 rows and 20 columns, designed for handwriting practice.

1

A horizontal row of 20 small squares, with the first 10 being white and the last 10 being grey.

A horizontal row of 20 empty square boxes, arranged in two rows of ten. This is intended for students to draw their own arrays or other visual representations.

1

A horizontal row of 20 empty square boxes, intended for students to draw their own patterns or designs.

A horizontal sequence of 20 empty square boxes, followed by a row of 10 small squares.

A horizontal row of ten empty square boxes, intended for children to write their names in.

1

□ □ □ □ □ □ □

2

A horizontal row of fifteen empty square boxes, intended for children to draw or color in.

The image consists of ten horizontal rows of small, empty square boxes. Each row contains approximately 20-25 boxes, arranged side-by-side. The rows are evenly spaced and extend across the width of the frame.

A large grid of 100 small squares arranged in 10 rows and 10 columns. The squares are white with black outlines, set against a light gray background. They are evenly spaced both horizontally and vertically, creating a clean, organized pattern.

二〇

二〇二〇年二月二日午後二時三十分

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A horizontal row of 20 empty square boxes, intended for children to draw or color in.

2

1

A grid of 100 empty square boxes arranged in a 10x10 pattern. The boxes are white with black outlines, and they are evenly spaced both horizontally and vertically.

蒙古族传统节日与蒙古族文化

蒙古族传统节日与蒙古族文化

蒙古族传统节日与蒙古族文化

A horizontal row of 20 empty square boxes, intended for children to draw or color in.

1

A row of 15 empty square boxes used for students to write their answers.

A large grid of 100 empty rectangular boxes arranged in 10 rows and 10 columns. The boxes are evenly spaced and cover most of the page area.

2

A horizontal sequence of 20 empty square boxes arranged in two rows of 10. The boxes are evenly spaced and aligned horizontally.

10