

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

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WEST, SECRETARY OF VETERANS AFFAIRS v.
GIBSONCERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR
THE SEVENTH CIRCUIT

No. 98–238. Argued April 26, 1999— Decided June 14, 1999

In 1972, Congress extended Title VII of the Civil Rights Act of 1964 to prohibit employment discrimination in the Federal Government, 42 U. S. C. §2000e–16, to authorize the Equal Employment Opportunity Commission (EEOC) to enforce that prohibition through “appropriate remedies, including reinstatement or hiring . . . with or without back pay,” §2000e–16(b), and to empower courts to entertain an action by a complainant still aggrieved after final agency action, §2000e–16(c). In 1991, Congress again amended Title VII in the Compensatory Damages Amendment (CDA), which, among other things, permits victims of intentional discrimination to recover compensatory damages “[i]n an action . . . under [§2000e–16],” §1981a(a)(1), and adds that any party in such an action may demand a jury trial, §1981a(c). Thereafter, the EEOC began to grant compensatory damages awards in Federal Government employment discrimination cases. Respondent Gibson filed a complaint charging that the Department of Veterans Affairs had discriminated against him by denying him a promotion on the basis of his gender. The EEOC found in his favor and awarded him the promotion plus backpay. Gibson later filed this suit asking for compensatory damages and other relief, but the District Court dismissed the complaint. The Seventh Circuit reversed, rejecting the Department’s argument that, because Gibson had failed to exhaust his administrative remedies with respect to an award of compensatory damages, he could not bring that claim in court. In the Seventh Circuit’s view, the EEOC lacked the legal power to award compensatory damages; consequently there was no administrative remedy to exhaust.

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Held:

1. The EEOC possesses the legal authority to require federal agencies to pay compensatory damages when they discriminate in employment in violation of Title VII. Read literally, the language of the 1972 Title VII extension and the CDA is consistent with a grant of that authority. Section 2000e-16(b) empowers the EEOC to enforce §2000e-16(a) through a “remedy” that is “appropriate.” Although §2000e-16(b) explicitly mentions only equitable remedies—reinstatement, hiring, and backpay—the preceding word “including” makes clear that the authorization is not limited to the remedies specified. See *Phelps Dodge Corp. v. NLRB*, 313 U. S. 177, 189. The 1972 Title VII extension’s choice of examples is not surprising, for in 1972 (and until the 1991 CDA) Title VII itself authorized only equitable remedies. Words in statutes can enlarge or contract their scope as required by other changes in the law or the world. See, e.g., *Browder v. United States*, 312 U. S. 335, 339–340. The meaning of the word “appropriate” permits its scope to expand to include Title VII remedies that were not appropriate before 1991, but in light of legal change wrought by the 1991 CDA are appropriate now. Examining the purposes of the 1972 Title VII extension shows that this is the correct reading. Section 717’s general purpose is to remedy discrimination in federal employment by creating a system that requires resort to administrative relief prior to court action to encourage quicker, less formal, and less expensive resolution of disputes. To deny that an EEOC compensatory damages award is, statutorily speaking, “appropriate” would undermine this remedial scheme. This point is reinforced by the CDA’s history, which says nothing about limiting the EEOC’s ability to use the new damages remedy or in any way suggests that it would be desirable to distinguish the new Title VII remedy from the old ones. Respondent’s arguments in favor of depriving the EEOC of the power to award compensatory damages— that the CDA’s reference to an “action” refers to a judicial case, not to an administrative proceeding; that an EEOC compensatory damages award would not involve a jury trial, as authorized by the CDA; and that any waiver of the Government’s sovereign immunity to permit the EEOC to award compensatory damages must be construed narrowly— are unconvincing. Pp. 4–10.

2. Respondent’s claims that he can proceed in District Court on alternative grounds include matters that fall outside the scope of the question presented in the Government’s petition for certiorari. The case is remanded so that the Court of Appeals can determine whether these questions have been properly raised and, if so, decide them. Pp. 10–11.

137 F. 3d 992, vacated and remanded.

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BREYER, J., delivered the opinion of the Court, in which STEVENS, O'CONNOR, SOUTER, and GINSBURG, JJ., joined. KENNEDY, J., filed a dissenting opinion, in which REHNQUIST, C. J., and SCALIA and THOMAS, JJ., joined.