

THOMAS, J., dissenting

**SUPREME COURT OF THE UNITED STATES**

No. 06–1321

MYRNA GOMEZ-PEREZ, PETITIONER *v.* JOHN E.  
POTTER, POSTMASTER GENERAL

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF  
APPEALS FOR THE FIRST CIRCUIT

[May 27, 2008]

JUSTICE THOMAS, with whom JUSTICE SCALIA joins,  
dissenting.

I join all but Part I of THE CHIEF JUSTICE’s dissent. I write separately to reiterate my view that *Jackson v. Birmingham Bd. of Ed.*, 544 U. S. 167 (2005), incorrectly conflated the concepts of retaliation and discrimination. The text of the federal-sector provision of the Age Discrimination in Employment Act of 1967 is clear: It prohibits only “discrimination based on age.” 29 U. S. C. §633a(a) (2000 ed., Supp. V). If retaliation is not “discrimination on the basis of sex,” *Jackson, supra*, at 185 (THOMAS, J., dissenting), or “discrimination based on race,” *CBOCS West, Inc. v. Humphries, ante*, at 4 (THOMAS, J., dissenting), it is certainly not “discrimination based on age.” Because §633a(a) provides no basis for implying a private right of action for retaliation claims, and its context only reaffirms its plain meaning, see *ante*, at 5–9 (opinion of ROBERTS, C. J.), I would affirm the judgment below.