SUPREME COURT OF THE UNITED STATES

No. 06–1431

CBOCS WEST, INC., PETITIONER *v.* HEDRICK G. HUMPHRIES

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

[May 27, 2008]

JUSTICE BREYER delivered the opinion of the Court.

A longstanding civil rights law, first enacted just after the Civil War, provides that "[a]ll persons within the jurisdiction of the United States shall have the same right in every State and Territory to make and enforce contracts . . . as is enjoyed by white citizens." Rev. Stat. §1977, 42 U. S. C. §1981(a). The basic question before us is whether the provision encompasses a complaint of retaliation against a person who has complained about a violation of another person's contract-related "right." We conclude that it does.

I

The case before us arises out of a claim by respondent, Hedrick G. Humphries, a former assistant manager of a Cracker Barrel restaurant, that CBOCS West, Inc. (Cracker Barrel's owner) dismissed him (1) because of racial bias (Humphries is a black man) and (2) because he had complained to managers that a fellow assistant manager had dismissed another black employee, Venus Green, for race-based reasons. Humphries timely filed a charge with the Equal Employment Opportunity Commission

(EEOC), pursuant to 42 U. S. C. §2000e–5, and received a "right to sue" letter. He then filed a complaint in Federal District Court charging that CBOCS' actions violated both Title VII of the Civil Rights Act of 1964, 78 Stat. 253, as amended, 42 U. S. C. §2000e *et seq.*, and the older "equal contract rights" provision here at issue, §1981. The District Court dismissed Humphries' Title VII claims for failure to pay necessary filing fees on a timely basis. It then granted CBOCS' motion for summary judgment on Humphries' two §1981 claims. Humphries appealed.

The U. S. Court of Appeals for the Seventh Circuit ruled against Humphries and upheld the District Court's grant of summary judgment in respect to his direct discrimination claim. But it ruled in Humphries' favor and remanded for a trial in respect to his §1981 retaliation claim. In doing so, the Court of Appeals rejected CBOCS' argument that §1981 did not encompass a claim of retaliation. 474 F. 3d 387 (2007). CBOCS sought certiorari, asking us to consider this last-mentioned legal question. And we agreed to do so. See 551 U. S.___ (2007).

II

The question before us is whether §1981 encompasses retaliation claims. We conclude that it does. And because our conclusion rests in significant part upon principles of *stare decisis,* we begin by examining the pertinent interpretive history.

A

The Court first considered a comparable question in 1969, in *Sullivan* v. *Little Hunting Park, Inc.*, 396 U. S. 229. The case arose under 42 U. S. C. §1982, a statutory provision that Congress enacted just after the Civil War, along with §1981, to protect the rights of black citizens. The provision was similar to §1981 except that it focused, not upon rights to make and to enforce contracts, but

rights related to the ownership of property. The statute provides that "[a]ll citizens of the United States shall have the same right, in every State and Territory, as is enjoyed by white citizens thereof to inherit, purchase, lease, sell, hold, and convey real and personal property." §1982.

Paul E. Sullivan, a white man, had rented his house to T. R. Freeman, Jr., a black man. He had also assigned Freeman a membership share in a corporation, which permitted the owner to use a private park that the corporation controlled. Because of Freeman's race, the corporation, Little Hunting Park, Inc., refused to approve the share assignment. And, when Sullivan protested, the association expelled Sullivan and took away his membership shares.

Sullivan sued Little Hunting Park, claiming that its actions violated §1982. The Court upheld Sullivan's claim. It found that the corporation's refusal "to approve the assignment of the membership share . . . was clearly an interference with Freeman's [the black lessee's] right to 'lease.'" 396 U. S., at 237. It added that Sullivan, the white lessor, "has standing to maintain this action," *ibid.*, because, as the Court had previously said, "the white owner is at times 'the only effective adversary' of the unlawful restrictive covenant." *Ibid.* (quoting *Barrows* v. *Jackson*, 346 U. S. 249 (1953)). The Court noted that to permit the corporation to punish Sullivan "for trying to vindicate the rights of minorities protected by §1982" would give "impetus to the perpetuation of racial restrictions on property." 396 U. S., at 237. And this Court has made clear that *Sullivan* stands for the proposition that §1982 encompasses retaliation claims. See *Jackson* v. *Birmingham Bd. of Ed.*, 544 U. S. 167, 176 (2005) ("[I]n *Sullivan* we interpreted a general prohibition on racial discrimination [in §1982] to cover retaliation against those who advocate the rights of groups protected by that prohibition").

While the *Sullivan* decision interpreted §1982, our precedents have long construed §§1981 and 1982 similarly. In *Runyon* v. *McCrary*, 427 U. S. 160, 173 (1976), the Court considered whether §1981 prohibits private acts of discrimination. Citing *Sullivan*, along with *Jones* v. *Alfred H. Mayer Co.*, 392 U. S. 409 (1968) and *Tillman* v. *Wheaton-Haven Recreation Assn., Inc.*, 410 U. S. 431 (1973), the Court reasoned that this case law "necessarily requires the conclusion that §1981, like §1982, reaches private conduct." 427 U. S., at 173. See also *id.*, at 187 (Powell, J., concurring) ("Although *[Sullivan* and *Jones]* involved §1982, rather than §1981, I agree that their considered holdings with respect to the purpose and meaning of §1982 necessarily apply to both statutes in view of their common derivation"); *id.*, at 190 (STEVENS, J., concurring) ("[I]t would be most incongruous to give those two sections [§§1981 and 1982] a fundamentally different construction"). See also *Shaare Tefila Congregation* v. *Cobb*, 481 U. S. 615, 617–618 (1987) (applying to §1982 the discussion and holding of *Saint Francis College* v. *Al-Khazraji*, 481 U. S. 604, 609–613 (1987), a case interpreting §1981).

As indicated in *Runyon*, the Court has construed §§1981 and 1982 alike because it has recognized the sister statutes' common language, origin, and purposes. Like §1981, §1982 traces its origin to §1 of the Civil Rights Act of 1866, 14 Stat. 27. See *General Building Contractors Assn., Inc.* v. *Pennsylvania*, 458 U. S. 375, 383–384 (1982) (noting shared historical roots of the two provisions); *Tillman, supra,* at 439–440 (same). Like §1981, §1982 represents an immediately post-Civil War legislative effort to guarantee the then newly freed slaves the same legal rights that other citizens enjoy. See *General Building Contractors Assn., supra,* at 388 (noting strong purposive connection between the two provisions). Like §1981, §1982 uses broad language that says "[a]ll citizens of the United

States shall have the same right, in every State and Territory, as is enjoyed by white citizens . . . ." Compare §1981's language set forth above, *supra*, at 1. See *Jones, supra*, at 441, n. 78 (noting the close parallel language of the two provisions). Indeed, §1982 differs from §1981 only in that it refers, not to the "right . . . to make and enforce contracts," 42 U. S. C. §1981(a), but to the "right . . . to inherit, purchase, lease, sell, hold, and convey real and personal property," §1982.

In light of these precedents, it is not surprising that following *Sullivan*, federal appeals courts concluded, on the basis of *Sullivan* or its reasoning, that §1981 encompassed retaliation claims. See, *e.g.*, *Choudhury* v. *Polytechnic Inst. of N. Y.,* 735 F. 2d 38, 42–43 (CA2 1984); *Goff* v. *Continental Oil Co.*, 678 F. 2d 593, 598–599 (CA5 1982), overruled, *Carter* v. *South Central Bell*, 912 F. 2d 832 (CA5 1990); *Winston* v. *Lear-Siegler, Inc.*, 558 F. 2d 1266, 1270 (CA6 1977).

B

In 1989, 20 years after *Sullivan,* this Court in *Patterson* v. *McLean Credit Union*, 491 U. S. 164, significantly limited the scope of §1981. The Court focused upon §1981's words "to make and enforce contracts" and interpreted the phrase narrowly. It wrote that the statutory phrase did not apply to "conduct by the employer *after the contract relation has been established*, including breach of the terms of the contract or imposition of discriminatory working conditions." *Id.,* at 177 (emphasis added). The Court added that the word "enforce" does not apply to post-contract-formation conduct unless the discrimination at issue "*infects the legal process* in ways that prevent one from enforcing contract rights." *Ibid.* (emphasis added). Thus §1981 did not encompass the claim of a black employee who charged that her employer had violated her employment contract by harassing her and failing to

promote her, all because of her race. *Ibid.*

Since victims of an employer's retaliation will often have opposed discriminatory conduct taking place *after* the formation of the employment contract, *Patterson*'s holding, for a brief time, seems in practice to have foreclosed retaliation claims. With one exception, we have found no federal court of appeals decision between the time we decided *Patterson* and 1991 that permitted a §1981 retaliation claim to proceed. See, *e.g.*, *Walker* v. *South Central Bell Tel. Co.*, 904 F. 2d 275, 276 (CA5 1990) *(per curiam); Overby* v. *Chevron USA, Inc.*, 884 F. 2d 470, 473 (CA9 1989); *Sherman* v. *Burke Contracting, Inc.*, 891 F. 2d 1527, 1534–1535 (CA11 1990) *(per curiam).* See also *Malhotra* v. *Cotter & Co.*, 885 F. 2d 1305, 1312–1314 (CA7 1989) (questioning without deciding the viability of retaliation claims under §1981 after *Patterson*). But see *Hicks* v. *Brown Group, Inc.*, 902 F. 2d 630, 635–638 (CA8 1990) (allowing a claim for discriminatory discharge to proceed under §1981), vacated and remanded, 499 U. S. 914 (1991) (ordering reconsideration in light of what became the Eighth Circuit's en banc opinion in *Taggart* v. *Jefferson Cty. Child Support Enforcement Unit*, 935 F. 2d 947 (1991), which held that racially discriminatory discharge claims under §1981 are barred).

In 1991, however, Congress weighed in on the matter. Congress passed the Civil Rights Act of 1991, §101, 105 Stat. 1071, with the design to supersede *Patterson*. *Jones* v. *R. R. Donnelley & Sons Co.*, 541 U. S. 369, 383 (2004). Insofar as is relevant here, the new law changed 42 U. S. C. §1981 by reenacting the former provision, designating it as §1981(a), and adding a new subsection, (b), which, says:

> "'Make and enforce contracts' defined
>
> "For purposes of this section, the term 'make and enforce contracts' includes the making, performance,

> modification, and termination of contracts, and the enjoyment of all benefits, privileges, terms, and conditions of the contractual relationship."

An accompanying Senate Report pointed out that the amendment superseded *Patterson* by adding a new subsection (b) that would "reaffirm that the right 'to make and enforce contracts' includes the enjoyment of all benefits, privileges, terms and conditions of the contractual relationship." S. Rep. No. 101–315, p. 6 (1990). Among other things, it would "ensure that Americans may not be harassed, *fired* or otherwise discriminated against in contracts because of their race." *Ibid.* (emphasis added). An accompanying House Report said that in "cutting back the scope of the rights to 'make' and 'enforce' contracts[,] *Patterson* . . . has been interpreted to eliminate retaliation claims that the courts had previously recognized under section 1981." H. R. Rep. No. 102–40, pt. 1, pp. 92–93, n. 92 (1991). It added that the protections that subsection (b) provided, in "the context of employment discrimination . . . would include, but not be limited to, claims of harassment, discharge, demotion, promotion, transfer, *retaliation*, and hiring." *Id.*, at 92 (emphasis added). It also said that the new law "would restore rights to sue for such retaliatory conduct." *Id.*, at 93, n. 92.

After enactment of the new law, the Federal Courts of Appeals again reached a broad consensus that §1981, as amended, encompasses retaliation claims. See, *e.g.*, *Hawkins* v. *1115 Legal Serv. Care*, 163 F. 3d 684, 693 (CA2 1998); *Aleman* v. *Chugach Support Servs., Inc.*, 485 F. 3d 206, 213–214 (CA4 2007); *Foley* v. *University of Houston System*, 355 F. 3d 333, 338–339 (CA5 2003); *Johnson* v. *University of Cincinnati*, 215 F. 3d 561, 575–576 (CA6 2000); 474 F. 3d, at 403 (case below); *Manatt* v. *Bank of America, NA*, 339 F. 3d 792, 800–801, and n. 11 (CA9 2003); *Andrews* v. *Lakeshore Rehabilitation Hospital*, 140

F. 3d 1405, 1411–1413 (CA11 1998).

The upshot is this: (1) in 1969, *Sullivan*, as interpreted by *Jackson*, recognized that §1982 encompasses a retaliation action; (2) this Court has long interpreted §§1981 and 1982 alike; (3) in 1989, *Patterson*, without mention of retaliation, narrowed §1981 by excluding from its scope conduct, namely post-contract-formation conduct, where retaliation would most likely be found; but in 1991, Congress enacted legislation that superseded *Patterson* and explicitly defined the scope of §1981 to include post-contract-formation conduct; and (4) since 1991, the lower courts have uniformly interpreted §1981 as encompassing retaliation actions.

C

Sullivan, as interpreted and relied upon by *Jackson*, as well as the long line of related cases where we construe §§1981 and 1982 similarly, lead us to conclude that the view that §1981 encompasses retaliation claims is indeed well embedded in the law. That being so, considerations of *stare decisis* strongly support our adherence to that view. And those considerations impose a considerable burden upon those who would seek a different interpretation that would necessarily unsettle many Court precedents. See, *e.g.*, *Welch* v. *Texas Dept. of Highways and Public Transp.*, 483 U. S. 468, 494–495 (1987) (plurality opinion) (describing importance of *stare decisis*); *Patterson*, 491 U. S., at 172 (considerations of *stare decisis* "have special force in the area of statutory interpretation"); *John R. Sand & Gravel Co.* v. *United States*, 552 U. S. ___, ___ (2008) (slip op., at 8–9) (same).

III

In our view, CBOCS' several arguments, taken separately or together, cannot justify a departure from what we have just described as the well-embedded interpreta-

tion of §1981. First, CBOCS points to the plain text of §1981—a text that says that "*[a]ll persons* . . . shall have the same right . . . to make and enforce contracts . . . as is enjoyed by *white citizens*." 42 U. S. C. §1981(a) (emphasis added). CBOCS adds that, insofar as Humphries complains of retaliation, he is complaining of a retaliatory action that the employer would have taken against him whether he was black or white, and there is no way to construe this text to cover that kind of deprivation. Thus the text's language, CBOCS concludes, simply "does not provide for a cause of action based on retaliation." Brief for Petitioner 8.

We agree with CBOCS that the statute's language does not expressly refer to the claim of an individual (black or white) who suffers retaliation because he has tried to help a different individual, suffering direct racial discrimination, secure his §1981 rights. But that fact alone is not sufficient to carry the day. After all, this Court has long held that the statutory text of §1981's sister statute, §1982, provides protection from retaliation for reasons related to the *enforcement* of the express statutory right. See *supra*, at 3.

Moreover, the Court has recently read another broadly worded civil rights statute, namely, Title IX of the Education Amendments of 1972, 86 Stat. 373, as amended, 20 U. S. C. §1681 *et seq*., as including an antiretaliation remedy. In 2005 in *Jackson*, the Court considered whether statutory language prohibiting "discrimination [on the basis of sex] under any education program or activity receiving Federal financial assistance," §1681(a), encompassed claims of retaliation for complaints about sex discrimination. 544 U. S., at 173–174. Despite the fact that Title IX does not use the word "retaliation," the Court held in *Jackson* that the statute's language encompassed such a claim, in part because: (1) "Congress enacted Title IX just three years after *Sullivan* was decided"; (2) it is

"'realistic to presume that Congress was thoroughly familiar'" with *Sullivan;* and (3) Congress consequently "'expected its enactment'" of Title IX "'to be interpreted in conformity with'" *Sullivan*. *Jackson, supra*, at 176. The Court in *Jackson* explicitly rejected the arguments the dissent advances here—that *Sullivan* was merely a standing case, see *post*, at 8–11 (opinion of THOMAS, J.). Compare *Jackson*, 544 U. S., at 176, n. 1 ("*Sullivan*'s holding was not so limited. It plainly held that the white owner could maintain his *own* private cause of action under §1982 if he could show that he was 'punished for trying to vindicate the rights of minorities'" (emphasis in original)), with *id*., at 194 (THOMAS, J., dissenting).

Regardless, the linguistic argument that CBOCS makes was apparent at the time the Court decided *Sullivan*. See 396 U. S., at 241 (Harlan, J., dissenting) (noting the construction of §1982 in *Jones*, 392 U. S. 409 was "in no way required by [the statute's] language,"—one of the bases of Justice Harlan's dissent in *Jones*—and further contending that the Court in *Sullivan* had gone "yet beyond" *Jones*). And we believe it is too late in the day in effect to overturn the holding in that case (nor does CBOCS ask us to do so) on the basis of a linguistic argument that was apparent, and which the Court did not embrace at that time.

Second, CBOCS argues that Congress, in 1991 when it reenacted §1981 with amendments, intended the reenacted statute *not* to cover retaliation. CBOCS rests this conclusion primarily upon the fact that Congress *did not* include an *explicit* antiretaliation provision or the word "retaliation" in the new statutory language—although Congress has included explicit antiretaliation language in other civil rights statutes. See, *e.g.,* National Labor Relations Act, 29 U. S. C. §158(a)(4); Fair Labor Standards Act of 1938, 29 U. S. C. §215(a)(3); Title VII of the Civil Rights Act of 1964, 42 U. S. C. §2000e–3(a); Age Discrimination in Employment Act of 1967, 29 U. S. C. §623(d); Ameri-

cans with Disabilities Act of 1990, 42 U. S. C. §§12203(a)–(b); Family and Medical Leave Act of 1993, 29 U. S. C. §2615.

We believe, however, that the circumstances to which CBOCS points find a far more plausible explanation in the fact that, given *Sullivan* and the new statutory language nullifying *Patterson,* there was no need for Congress to include explicit language about retaliation. After all, the 1991 amendments themselves make clear that Congress intended to supersede the result in *Patterson* and embrace pre-*Patterson* law. And pre-*Patterson* law included *Sullivan*. See Part II, *supra*. Nothing in the statute's text or in the surrounding circumstances suggests any congressional effort to supersede *Sullivan* or the interpretation that courts have subsequently given that case. To the contrary, the amendments' history indicates that Congress intended to restore that interpretation. See, *e.g.*, H. R. Rep. No. 102–40, at 92 (noting that §1981(b) in the "context of employment discrimination . . . would include . . . claims of . . . retaliation").

Third, CBOCS points out that §1981, if applied to employment-related retaliation actions, would overlap with Title VII. It adds that Title VII requires that those who invoke its remedial powers satisfy certain procedural and administrative requirements that §1981 does not contain. See, *e.g.*, 42 U. S. C. §2000e–5(e)(1) (charge of discrimination must be brought before EEOC within 180 days of the discriminatory act); §2000e–5(f)(1) (suit must be filed within 90 days of obtaining an EEOC right-to-sue letter). And CBOCS says that permitting a §1981 retaliation action would allow a retaliation plaintiff to circumvent Title VII's "specific administrative and procedural mechanisms," thereby undermining their effectiveness. Brief for Petitioner 25.

This argument, however, proves too much. Precisely the same kind of Title VII/§1981 "overlap" and potential cir-

cumvention exists in respect to employment-related direct discrimination. Yet Congress explicitly created the overlap in respect to direct employment discrimination. Nor is it obvious how we can interpret §1981 to avoid *employment*-related overlap without eviscerating §1981 in respect to *non*-employment contracts where no such overlap exists.

Regardless, we have previously acknowledged a "necessary overlap" between Title VII and §1981. *Patterson*, 491 U. S., at 181. We have added that the "remedies available under Title VII and under §1981, although related, and although directed to most of the same ends, are separate, distinct, and independent." *Johnson* v. *Railway Express Agency, Inc.*, 421 U. S. 454, 461 (1975). We have pointed out that Title VII provides important administrative remedies and other benefits that §1981 lacks. See *id.,* at 457–458 (detailing the benefits of Title VII to those aggrieved by race-based employment discrimination). And we have concluded that "Title VII was designed to supplement, rather than supplant, existing laws and institutions relating to employment discrimination." *Alexander* v. *Gardner-Denver Co.*, 415 U. S. 36, 48–49 (1974). In a word, we have previously held that the "overlap" reflects congressional design. See *ibid*. We have no reason to reach a different conclusion in this case.

Fourth, CBOCS says it finds support for its position in two of our recent cases, *Burlington N. & S. F. R. Co.* v. *White*, 548 U. S. 53 (2006), and *Domino's Pizza, Inc.* v. *McDonald*, 546 U. S. 470 (2006). In *Burlington*, a Title VII case, we distinguished between discrimination that harms individuals because of "who they are, *i.e.*, their status," for example, as women or as black persons, and discrimination that harms "individuals based on what they do, *i.e.*, their conduct," for example, whistle-blowing that leads to retaliation. 548 U. S., at 63. CBOCS says that we should draw a similar distinction here and

conclude that §1981 only encompasses status-based discrimination. In *Burlington*, however, we used the status/conduct distinction to help explain why Congress might have wanted its explicit Title VII antiretaliation provision to sweep more broadly (*i.e.*, to include conduct *outside* the workplace) than its substantive Title VII (status-based) antidiscrimination provision. *Burlington* did not suggest that Congress must separate the two in all events.

The dissent argues that the distinction made in *Burlington* is meaningful here because it purportedly "underscores the fact that status-based discrimination and conduct-based retaliation are distinct harms that call for tailored legislative treatment." *Post*, at 5. The Court's construction of a general ban on discrimination such as that contained in §1981 to cover retaliation claims, the dissent continues, would somehow render the separate antiretaliation provisions in other statutes "superfluous." *Ibid*. But the Court in *Burlington* did not find that Title VII's antiretaliation provision was redundant; it found that the provision had a broader reach than the statute's substantive provision. And in any case, we have held that "legislative enactments in this area have long evinced a general intent to accord parallel or overlapping remedies against discrimination." *Alexander*, *supra*, at 47. See *Great American Fed. Sav. & Loan Assn.* v. *Novotny*, 442 U. S. 366, 377 (1979) ("[S]ubstantive rights conferred in the 19th century [civil rights acts] were not withdrawn, *sub silentio*, by the subsequent passage of the modern statutes"). Accordingly, the Court has accepted overlap between a number of civil rights statutes. See *ibid*. (discussing interrelation of fair housing provisions of the Civil Rights Act of 1968 and §1982; between §1981 and Title VII). See also *supra*, at 11–12 (any overlap in reach between §1981 and Title VII, the statute at issue in *Burlington*, is by congressional design).

CBOCS highlights the second case, *Domino's Pizza*, along with *Patterson*, and cites *Cort* v. *Ash*, 422 U. S. 66 (1975) and *Rodriguez* v. *United States*, 480 U. S. 522 (1987) *(per curiam)*, to show that this Court now follows an approach to statutory interpretation that emphasizes text. And that newer approach, CBOCS claims, should lead us to revisit the holding in *Sullivan,* an older case, where the Court placed less weight upon the textual language itself. But even were we to posit for argument's sake that changes in interpretive approach take place from time to time, we could not agree that the existence of such a change would justify reexamination of well-established prior law. Principles of s*tare decisis,* after all, demand respect for precedent whether judicial methods of interpretation change or stay the same. Were that not so, those principles would fail to achieve the legal stability that they seek and upon which the rule of law depends. See, *e.g., John R. Sand & Gravel Co.,* 552 U. S., at ___ (slip op., at 8–9).

IV

We conclude that considerations of *stare decisis* strongly support our adherence to *Sullivan* and the long line of related cases where we interpret §§1981 and 1982 similarly. CBOCS' arguments do not convince us to the contrary. We consequently hold that 42 U. S. C. §1981 encompasses claims of retaliation. The judgment of the Court of Appeals is affirmed.

It is so ordered.