GINSBURG, J., concurring

SUPREME COURT OF THE UNITED STATES

No. 09–291

ERIC L. THOMPSON, PETITIONER v. NORTH AMERICAN STAINLESS, LP

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

[January 24, 2011]

JUSTICE GINSBURG, with whom JUSTICE BREYER joins, concurring.

I join the Court’s opinion, and add a fortifying observation: Today’s decision accords with the longstanding views of the Equal Employment Opportunity Commission (EEOC), the federal agency that administers Title VII. In its Compliance Manual, the EEOC counsels that Title VII “prohibit[s] retaliation against someone so closely related to or associated with the person exercising his or her statutory rights that it would discourage or prevent the person from pursuing those rights.” Brief for United States as Amicus Curiae 12–13 (quoting EEOC Compliance Manual §8–II(C)(3) (1998)). Such retaliation “can be challenged,” the Manual affirms, “by both the individual who engaged in protected activity and the relative, where both are employees.” Id., at 25–26 (quoting Compliance Manual §8–II(B)(3)(c)). The EEOC’s statements in the Manual merit deference under Skidmore v. Swift & Co., 323 U.S. 134 (1944). See Federal Express Corp. v. Holowecki, 552 U.S. 389, 399–400 (2008). The EEOC’s interpretation of Title VII, I further note, is consistent with interpretations of analogous statutes by other federal agencies. See, e.g., NLRB v. Advertisers Mfg. Co., 823 F. 2d 1086, 1088–1089 (CA7 1987) (adopting NLRB’s position that retaliation against a relative violates the National
GINSBURG, J., concurring