

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 observa-
tion: 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 Compli-
ance 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

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Labor Relations Act); *Tasty Baking Co. v. NLRB*, 254 F. 3d 114, 127–128 (CADC 2001) (same), cited in Brief for United States as *Amicus Curiae* 11.