

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 Lumber Co.*, 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

Syllabus

UNITED STATES *v.* BURKE ET AL.

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

No. 91-42. Argued January 21, 1992—Decided May 26, 1992

As part of the settlement of a sex discrimination claim under Title VII of the Civil Rights Act of 1964, the Tennessee Valley Authority (TVA) paid backpay to affected employees, including respondents, from which it withheld federal income taxes. The Internal Revenue Service (IRS) disallowed respondents' claims for refund of the withheld taxes. In a subsequent refund action, the District Court ruled that, since respondents had obtained only backpay due them as a result of TVA's discriminatory underpayments rather than compensatory or other damages, the settlement proceeds could not be excluded from their gross incomes as "damages received . . . on account of personal injuries" under 26 U.S.C. §104(a)(2). The Court of Appeals reversed, holding that TVA's discrimination constituted a personal, tort-like injury to respondents, and rejecting the Government's attempt to distinguish Title VII, which authorizes no compensatory or punitive damages, from other statutes thought to redress personal injuries.

Held: Backpay awards in settlement of Title VII claims are not excludable from gross income under §104(a)(2). Pp.4-13.

(a) IRS regulations formally link identification of a "personal injury" for purposes of §104(a)(2) to traditional tort principles, referring to "prosecution of a legal suit or action based upon tort or tort type rights." 26 CFR §1.104-1(c). In order to fall within the §104(a)(2) exclusion, respondents must show that Title VII, the legal basis for their recovery of backpay, redresses a tort-like personal injury. Pp.4-5.

(b) A hallmark of traditional tort liability is the availability of a broad range of damages to compensate the plaintiff for harm sustained. Title VII, however, permits the award of only backpay and other injunctive relief. Congress sought through Title VII to restore victims to the wage and employment

positions they would have occupied absent discrimination, but declined, in contrast to other federal antidiscrimination statutes, to recompense victims for any of the other traditional harms associated with personal injury, such as pain and suffering, emotional distress, harm to reputation, or other consequential damages. Thus, Title VII cannot be said to redress a tort-like personal injury within the meaning of §104(a) (2) and the applicable regulations. Pp.5-13.

UNITED STATES v. BURKE

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929 F.2d 1119, reversed.

BLACKMUN, J., delivered the opinion of the Court, in which REHNQUIST, C. J., and WHITE, STEVENS, and KENNEDY, JJ., joined. SCALIA, J., and SOUTER, J., filed opinions concurring in the judgment. O'CONNOR, J., filed a dissenting opinion, in which THOMAS, J., joined.