

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

HAZEN PAPER CO. ET AL. v. BIGGINS

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

No. 91-1600. Argued January 13, 1993—Decided April 20, 1993

Petitioners fired respondent Biggins when he was 62 years old and apparently a few weeks short of the years of service he needed for his pension to vest. In his ensuing lawsuit, a jury found, *inter alia*, a willful violation of the Age Discrimination in Employment Act of 1967 (ADEA), which gave rise to liquidated damages. The District Court granted petitioners' motion for judgment notwithstanding the verdict on the "willfulness" finding, but the Court of Appeals reversed, giving considerable emphasis to evidence of pension interference in upholding ADEA liability and finding that petitioners' conduct was willful because, under the standard of *Trans World Airlines, Inc. v. Thurston*, 469 U. S. 111, 128, they knew or showed reckless disregard for the matter of whether their conduct contravened the ADEA.

Held:

1. An employer does not violate the ADEA by interfering with an older employee's pension benefits that would have vested by virtue of the employee's years of service. In a disparate treatment case, liability depends on whether the protected trait—under the ADEA, age—actually motivated the employer's decision. When that decision is wholly motivated by factors other than age, the problem that prompted the ADEA's passage—inaccurate and stigmatizing stereotypes about older workers' productivity and competence—disappears. Thus, it would be incorrect to say that a decision based on years of service—which is analytically distinct from age—is necessarily age-based. None of this Court's prior decisions should be read to mean that an employer violates the ADEA whenever its reason for firing an employee is improper in any respect. The foregoing holding does not preclude the possibility of liability where an employer uses pension status as a proxy for age, of

dual liability under the Employee Retirement Income Security Act of 1974 and the ADEA, or of liability where vesting is based on age rather than years of service. Because the Court of Appeals cited additional evidentiary support for ADEA liability, this case is remanded for that court to reconsider whether the jury had sufficient evidence to find such liability. Pp. 3-9.

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2. The *Thurston* "knowledge or reckless disregard" standard for liquidated damages applies not only where the predicate ADEA violation is a formal, facially discriminatory policy, as in *Thurston*, but also where it is an informal decision by the employer that was motivated by the employee's age. Petitioners have not persuaded this Court that *Thurston* was wrongly decided or that the Court should part from the rule of *stare decisis*. Applying the *Thurston* standard to cases of individual discrimination will not defeat the two-tiered system of liability intended by Congress. Since the ADEA affords an employer a "bona fide occupational qualification" defense, and exempts certain subject matters and persons, an employer could incorrectly but in good faith and nonrecklessly believe that the statute permits a particular age-based decision. Nor is there some inherent difference between this case and *Thurston* to cause a shift in the meaning of the word "willful." The distinction between the formal, publicized policy in *Thurston* and the undisclosed factor here is not such a difference, since an employer's reluctance to acknowledge its reliance on the forbidden factor should not cut *against* imposing a penalty. Once a "willful" violation has been shown, the employee need not additionally demonstrate that the employer's conduct was outrageous, provide direct evidence of the employer's motivation, or prove that age was the predominant rather than a determinative factor in the employment decision. Pp. 9–12.

953 F. 2d 1405, vacated and remanded.

O'CONNOR, J., delivered the opinion for a unanimous Court. KENNEDY, J., filed a concurring opinion, in which REHNQUIST, C. J., and THOMAS, J., joined.