

Syllabus

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

SUPREME COURT OF THE UNITED STATES

Syllabus

ENGQUIST *v.* OREGON DEPARTMENT OF AGRICULTURE ET AL.

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

No. 07–474. Argued April 21, 2008—Decided June 9, 2008

Petitioner Engquist, an Oregon public employee, filed suit against respondents—her agency, her supervisor, and a co-worker—asserting, *inter alia*, claims under the Equal Protection Clause: She alleged she had been discriminated against based on her race, sex, and national origin, and she also brought a so-called “class-of-one” claim, alleging that she was fired not because she was a member of an identified class (unlike her race, sex, and national origin claims), but simply for arbitrary, vindictive, and malicious reasons. The jury rejected the class-membership equal protection claims, but found for Engquist on her class-of-one claim. The Ninth Circuit reversed in relevant part. Although recognizing that this Court had upheld a class-of-one equal protection challenge to state legislative and regulatory action in *Village of Willowbrook v. Olech*, 528 U. S. 562, the court below emphasized that this Court has routinely afforded government greater leeway when it acts as employer rather than regulator. The Court concluded that extending the class-of-one theory to the public-employment context would lead to undue judicial interference in state employment practices and invalidate public at-will employment.

Held: The class-of-one theory of equal protection does not apply in the public employment context. Pp. 4–16.

(a) There is a crucial difference between the government exercising “the power to regulate or license, as lawmaker,” and acting “as proprietor, to manage [its] internal operation.” *Cafeteria & Restaurant Workers v. McElroy*, 367 U. S. 886, 896. Thus, in the public-employment context, the Court has recognized that government has significantly greater leeway in its dealings with citizen employees

Syllabus

than in bringing its sovereign power to bear on citizens at large. See, e.g., *O'Connor v. Ortega*, 480 U. S. 709, 721–722. The relevant precedent establishes two main principles: First, government employees do not lose their constitutional rights when they go to work, but those rights must be balanced against the realities of the employment context. See, e.g., *id.*, at 721. Second, in striking the appropriate balance, the Court considers whether the claimed employee right implicates the relevant constitutional provision's basic concerns, or whether the right can more readily give way to the requirements of the government as employer. See, e.g., *Connick v. Myers*, 461 U. S. 138. Pp. 4–8.

(b) The Court's equal protection jurisprudence has typically been concerned with governmental classifications that "affect some groups of citizens differently than others." *McGowan v. Maryland*, 366 U. S. 420, 425. *Olech* did recognize that a class-of-one equal protection claim can in some circumstances be sustained. Its recognition of that theory, however, was not so much a departure from the principle that the Equal Protection Clause is concerned with arbitrary government classification, as it was an application of that principle to the facts in that case: The government singled Olech out with regard to its regulation of property, and the cases upon which the Court relied concerned property assessment and taxation schemes that were applied in a singular way to particular citizens. What seems to have been significant in *Olech* and the cited cases was the existence of a clear standard against which departures, even for a single plaintiff, could be readily assessed. This differential treatment raised a concern of arbitrary classification, and therefore required that the State provide a rational basis for it. There are some forms of state action, however, which by their nature involve discretionary decisionmaking based on a vast array of subjective, individualized assessments. In such cases treating like individuals differently is an accepted consequence of the discretion granted to governmental officials. This principle applies most clearly in the employment context, where decisions are often subjective and individualized, resting on a wide array of factors that are difficult to articulate and quantify. Unlike the context of arm's-length regulation, such as in *Olech*, treating seemingly similarly situated individuals differently in the employment context is par for the course. It is no proper challenge to what in its nature is a subjective and individualized decision that it was subjective and individualized. That the Court has never found the Equal Protection Clause implicated in this area is not surprising, given the historical understanding of the at-will nature of government employment. See, e.g., *Cafeteria & Restaurant Workers v. McElroy*, 367 U. S. 886, 896. Recognition of a claim that the State treated an employee differently

Syllabus

from others for a bad reason, or for no reason at all, is simply contrary to the at-will concept. The Constitution does not require repudiating that familiar doctrine. Finally, the Court is guided, as in the past, by the “common-sense realization that government offices could not function if every employment decision became a constitutional matter.” *Connick, supra*, at 143. If class-of-one claims were recognized in the employment context, any personnel action in which a wronged employee can conjure up a claim of differential treatment would suddenly become the basis for a federal constitutional claim. The Equal Protection Clause does not require “[t]his displacement of managerial discretion by judicial supervision.” *Garcetti v. Ceballos*, 547 U. S. 410, 423. Pp. 8–16.

478 F. 3d 985, affirmed.

ROBERTS, C. J., delivered the opinion of the Court, in which SCALIA, KENNEDY, THOMAS, BREYER, and ALITO, JJ., joined. STEVENS, J., filed a dissenting opinion, in which SOUTER and GINSBURG, JJ., joined.