SUPREME COURT OF THE UNITED STATES

No. 99–536

ROGER REEVES, PETITIONER *v.* SANDERSON PLUMBING PRODUCTS, INC.

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

[June 12, 2000]

JUSTICE GINSBURG, concurring.

The Court today holds that an employment discrimination plaintiff *may* survive judgment as a matter of law by submitting two categories of evidence: first, evidence establishing a "prima facie case," as that term is used in *McDonnell Douglas Corp.* v. *Green*, 411 U. S. 792, 802 (1973); and second, evidence from which a rational fact-finder could conclude that the employer's proffered explanation for its actions was false. Because the Court of Appeals in this case plainly, and erroneously, required the plaintiff to offer some evidence beyond those two categories, no broader holding is necessary to support reversal.

I write separately to note that it may be incumbent on the Court, in an appropriate case, to define more precisely the circumstances in which plaintiffs will be required to submit evidence beyond these two categories in order to survive a motion for judgment as a matter of law. I anticipate that such circumstances will be uncommon. As the Court notes, it is a principle of evidence law that the jury is entitled to treat a party's dishonesty about a material fact as evidence of culpability. *Ante*, at 12. Under this commonsense principle, evidence suggesting that a defendant accused of illegal discrimination has chosen to give a false explanation for its actions gives rise to a rational inference that the defendant could be masking its actual,

illegal motivation. *Ibid.* Whether the defendant was in fact motivated by discrimination is of course for the finder of fact to decide; that is the lesson of *St. Mary's Honor Center* v. *Hicks*, 509 U. S. 502 (1993). But the inference remains– unless it is conclusively demonstrated, by evidence the district court is required to credit on a motion for judgment as a matter of law, see *ante*, at 15–16, that discrimination could not have been the defendant's true motivation. If such conclusive demonstrations are (as I suspect) atypical, it follows that the ultimate question of liability ordinarily should not be taken from the jury once the plaintiff has introduced the two categories of evidence described above. Because the Court's opinion leaves room for such further elaboration in an appropriate case, I join it in full.