PETITIONER

Andrea Sommerville

main reasons:

- *Pickering v. Bd. of Educ.* and *Adams v. Trs. o the Univ. of N.C. Wilmington* -> issues of public concern

1. Speaking as citizen upon a matter of public concern
    a. Affirmative action, identified as private person, speech originated outside the university (see *Adams* -- speech does not become employment-related)
2. Interest in speaking outweighed government's interest in providing effective/efficient services
    a. Extremely important issue, difficult to weigh this issue but has implications for women and men across the country
3. Employee's speech was a substantial factor in the employee's adverse employment decision.
    a. Clearly yes, see Professor Bronner's (Department Chair) promise vs Dean Noble's decision

Majority was misguided in dismissing Court's analysis in *Garcetti* re: academic freedom. Court explicitly carved out an exception to their ruling (teaching), and so as far as the facts pertain to teaching the majority is incorrect. But the majority of her actions did not pertain to teaching, and rather pertained to self-expression.

RESPONDENT

Andrea Sommerville

main reasons:

- *Garcetti* applies
- *Pickering v. Bd. of Educ.* and *Adams v. Trs. o the Univ. of N.C. Wilmington* -> issues of public concern (Pickering-Connick)

Garcetti applies in instances where an employee is carrying out the duties of their job (*Garcetti v. Ceballos*). Controlling factor was that his expressions were made pursuant to his duties as a deputy.

Not speaking as citizen

-> The same thing applies to Petitioner. Part of her duties were to engage in discussion about gender studies. University didn't like them, fired for just cause.

4. **Interest in speaking outweighed government's interest in providing effective/efficient services**
   a. Community disapproval
   b. Discontinued donations
   c. Affected athletic programs, recruiting future athletes
   d. Applications filed by men were down by 20% -- diversity impact

Government has substantial interest in distancing itself from Sommerville -- so fails second prong of Pickering-Connick test