

NONPRECEDENTIAL DISPOSITION

To be cited only in accordance with Fed. R. App. P. 32.1

United States Court of Appeals

For the Seventh Circuit

Chicago, Illinois 60604

Argued May 18, 2026

Decided June 3, 2026

Before

MICHAEL Y. SCUDDER, *Circuit Judge*

THOMAS L. KIRSCH II, *Circuit Judge*

REBECCA TAIBLESON, *Circuit Judge*

No. 25-2786

BOWEI XI,
Plaintiff-Appellant,

v.

THE TRUSTEES OF PURDUE
UNIVERSITY,
Defendant-Appellee.

Appeal from the United States District
Court for the Northern District of
Indiana, Hammond Division.

No. 4:23-cv-00088-PPS

Philip P. Simon,
Judge.

ORDER

Bowei Xi is a tenured Associate Professor of Statistics at Purdue University. Xi filed this action against Purdue, alleging sex discrimination and retaliation. The district court entered summary judgment in Purdue's favor. Because Xi failed to offer any evidence that would allow reasonable jurors to find sex discrimination and waived her retaliation claim, we affirm.

Since 2004, Professor Xi has worked at Purdue—first as an assistant professor of statistics and later as a tenured associate professor. In 2022, Xi applied for and was awarded Purdue's Research Refresh Award, which was designed to reinvigorate slowed faculty research. In Xi's application for that award, she cited pregnancy

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complications and difficulty finding childcare during the COVID-19 pandemic as reasons for her slowed research progress.

That same year, Xi also applied for promotion to full professor. Purdue has a multi-level review process for faculty seeking promotion. A Primary Committee, consisting of the head of the relevant department and all the department's tenured faculty, will first review and vote on a faculty member's application. Then, the Area Committee, consisting of the college's dean, each department head, and elected full professors, will review the application and the dean will decide whether to accept the Area Committee's recommendation. Xi's promotion application was unanimously approved by the Primary Committee. However, the Area Committee voted eleven to ten against promotion. The Area Committee noted that Xi did not have active, competitive federal grant funding, that she had recently been awarded the Research Refresh Award, and could not determine whether Xi was a key contributor in many of her publications.

After her application was denied, Xi met with Lucy Flesch, the then-Senior Associate Dean of the College of Science who was present (but did not vote) at the Area Committee meeting, and Hao Zhang, a Professor of Statistics, to discuss her application. Dean Flesch said that the Area Committee had considered the fact that she'd received the Research Refresh Award as indicative that her research had slowed and that it was not clear that her funding was awarded through a competitive process, and Professor Zhang similarly explained that a candidate's application to the Award could be taken to mean that the individual had fallen behind on their research. Flesch also said some members of the committee perceived Xi as "less productive because of family obligations" because of her receipt of the Research Refresh Award.

Xi requested that Purdue reconsider her promotion application, asserting that the denial was based on "grossly inadequate consideration" of her professional competence and "judgments based on erroneous or misinterpreted information." Xi provided a comparison of her credentials with those of two other male professors who were promoted, claiming that they had inferior qualifications. Purdue refused to reconsider its decision. Afterwards, Professor Dennis Lin, the Head of the Department of Statistics, stepped down from his position, citing the refusal to promote Xi as the reason he was leaving his post. Xi then met with Interim Department Head Daniel Cziczko for her annual review. Prior to this meeting, Professor Cziczko noted that it would be difficult for Xi to reapply for promotion in 2023 given Purdue's policy prohibiting applicants

from replacing reference letters in consecutive applications. Cziczko said that she should give up re-applying for promotion to full professor.

Xi filed this lawsuit in federal district court, alleging retaliation and discrimination based on age, sex, race, and national origin in violation of the Age Discrimination in Employment Act, 29 U.S.C. § 621 *et seq.*, Title VII, 42 U.S.C. § 2000e *et seq.*, and 42 U.S.C. § 1981. Xi later abandoned her ADEA and § 1981 claims. Purdue moved for summary judgment on the remaining Title VII discrimination and retaliation claims, and the district court granted that motion. As Xi conceded during oral argument, she appeals only her sex discrimination and retaliation Title VII claims.

We review a district court's grant of summary judgment *de novo*. *Palmer v. Franz*, 928 F.3d 560, 563 (7th Cir. 2019). Summary judgment is appropriate where there is "no genuine dispute as to any material fact," and the moving party "is entitled to judgment as a matter of law." Fed. R. Civ. P. 56(a).

Xi primarily presents her sex discrimination case using the holistic approach under *Ortiz v. Werner Enterprises, Inc.*, 834 F.3d 760 (7th Cir. 2016). But even if we were to apply the burden-shifting framework set forth in *McDonnell Douglas Corp. v. Green*, 411 U.S. 792 (1973), her discrimination claim collapses into a single inquiry: since Purdue asserts that Xi has not demonstrated that she was qualified for promotion and because Xi argues that Purdue's proffered reason for denying her promotion was pretext for discrimination, "the *McDonnell Douglas* and *Ortiz* frameworks come together," and we proceed directly to pretext. *Napier v. Orchard Sch. Found.*, 137 F.4th 884, 892 (7th Cir. 2025).

Purdue has put forward a nondiscriminatory reason for its failure to promote Xi—that Xi was not qualified for promotion due to her insufficient record of research and scholarship. That means Xi must show that Purdue's stated reasons aren't why she wasn't promoted. Pretext is "a lie, specifically a phony reason for some action, not just faulty reasoning or mistaken judgment on the part of the employer." *Id.* (citation modified). Yet pretext alone is not enough; Xi must also prove that the explanations are a cover for prohibited animus. *Chatman v. Bd. of Educ.*, 5 F.4th 738, 747 (7th Cir. 2021).

Xi argues that Purdue's better treatment of male faculty members shows that it was lying about why it declined to promote her. See *Napier*, 137 F.4th at 894 (comparator evidence is relevant to the pretext inquiry). "When using comparators to demonstrate pretext, a plaintiff must usually show that the comparators (1) dealt with the same supervisor, (2) were subject to the same standards, and (3) engaged in similar

conduct without such differentiating or mitigating circumstances as would distinguish their conduct or the employer's treatment of them." *Id.* (citation modified). Indeed, "[s]imilarly situated employees must be directly comparable to the plaintiff in all material respects." *Id.* at 895 (citation modified).

Xi asks us to infer sex discrimination because Professor Anindya Bhadra, a male faculty member from the Department of Statistics, was promoted to full professor during the same application cycle on a fast-tracked schedule. Xi claims that Purdue conceded below that Bhadra is a similarly situated comparator. That is not the case. While Purdue conceded that Bhadra was a similarly situated comparator for the purpose of Xi's prima facie case, the district court explicitly noted that "Purdue has ... not conceded anything with respect to ... Bhadra's status as similarly situated to Xi for pretext purposes." And Xi cannot make that showing now. On appeal, Xi vaguely asserts that Bhadra had "lesser relative credentials in certain areas" and that Xi's record was "at least comparable, if not stronger in several respects." Moreover, Bhadra did not receive the Research Refresh Award and had a competing offer from a different university for a full professorship, which shows that he is not a suitable comparator. Xi's arguments to the contrary are undeveloped and waived. See *Puffer v. Allstate Ins. Co.*, 675 F.3d 709, 718 (7th Cir. 2012).

Xi's other arguments do not show that Purdue discriminated against her. Xi asserts that Purdue's proffered reasoning for not promoting her has been inconsistent, because the initial reason the Area Committee gave was that her research had slowed, but later Dean Flesch indicated that the Area Committee's decision was based on its determination that Xi did not have competitive funding. But Xi concedes in her brief that one of the reasons for the Area Committee's decision was her lack of competitive funding, and regardless, the Area Committee generally criticized Xi's research and funding, and nuances in explanations do not make Purdue's proffered reasoning inconsistent. Xi also asserts that the Area Committee improperly considered the Research Refresh Award as a negative aspect of her application. More specifically, she points to the comments that Flesch and Zhang made to her concerning how the Research Refresh Award was perceived in her application, including that the Area Committee perceived Xi as "less productive because of family obligations" because of her receipt of the award. But Xi did not make an argument based on this fact below, and therefore this argument is waived. *Brown v. Auto. Components Holdings, LLC*, 622 F.3d 685, 691 (7th Cir. 2010). And even if it's not waived, it's debatable whether Flesch's comment is related to gender. See *Coffman v. Indianapolis Fire Dep't*, 578 F.3d 559, 563–64 (7th Cir. 2009) ("We have not yet decided in this circuit whether we recognize a 'sex-

plus' theory of discrimination[.]"); *Chadwick v. WellPoint, Inc.*, 561 F.3d 38, 43 (1st Cir. 2009) ("[Title VII] does not prohibit discrimination based on caregiving responsibility."). And even assuming Flesch's comment is evidence of sex discrimination, no reasonable jury could conclude, based on the single comment, that Xi was discriminated against based on her sex. See *Ortiz*, 834 F.3d at 764–65. Xi disagrees with how the Area Committee evaluated her qualifications for promotion, but that's not evidence of sex discrimination.

Finally, Xi suggests that Lin's resignation from his role as Department Head shows that Purdue's reasoning was pretextual. But Lin resigned because he disagreed with the decision not to promote Xi, not because he believed she was discriminated against.

Considering all of the evidence together, no reasonable jury could find that Xi wasn't promoted because of her sex. See *id.* The district court properly granted summary judgment on the Title VII discrimination claim.

Xi also appeals the district court's grant of summary judgment on her Title VII retaliation claim. Xi's counsel waived this claim at oral argument, see *Argyropoulos v. City of Alton*, 539 F.3d 724, 739–40 (7th Cir. 2008), but it fails on the merits, too. To prove a Title VII retaliation claim, Xi needed to demonstrate that: (1) she engaged in an activity protected by the statute; (2) she suffered an adverse employment action; and (3) there is a causal link between the protected activity and the adverse action. *Lesiv v. Ill. Cent. R.R. Co.*, 39 F.4th 903, 911 (7th Cir. 2022). Xi fails on the first element. She claims that she engaged in protected activity under Title VII first when she made her internal appeal challenging the denial of her promotion, and later when she filed an EEOC charge. "Although filing an official complaint with an employer may constitute statutorily protected activity under Title VII, the complaint must indicate the discrimination occurred because of sex, race, national origin, or some other protected class." *Tomanovich v. City of Indianapolis*, 457 F.3d 656, 663 (7th Cir. 2006). While the request for reconsideration made some passing references to her sex, there is nothing in her request that indicates that Purdue discriminated against her based on sex. See *Sitar v. Ind. Dep't of Transp.*, 344 F.3d 720, 727 (7th Cir. 2003). And Xi's argument about the EEOC charge was raised for the first time on appeal and is therefore waived. See *Brown*, 622 F.3d at 691.

AFFIRMED