

JOSÉ A. CABRANES, *Circuit Judge, concurring in the judgment*:

I concur only in the judgment of the Court. It will take the courts years to sort out how each of the theories presented by the majority applies to other Title VII protected classes: “race, color, religion, . . . [and] national origin.” 42 U.S.C. § 2000e-2(a)(1).

This is a straightforward case of statutory construction. Title VII of the Civil Rights Act of 1964 prohibits discrimination “because of . . . sex.” *Id.* Zarda’s sexual orientation is a function of his sex. Discrimination against Zarda because of his sexual orientation therefore *is* discrimination because of his sex, and is prohibited by Title VII.

That should be the end of the analysis.¹

¹ Cf. 1 *Callimachus* fr. 465, at 353 (Rudolfus Pfeiffer ed., 1949) (3d century B.C.) (μέγα βιβλίον . . . μ[έ]γ[α] κακ[όν]).