No. 26-2020

In the

United States Court of Appeals for the Fourth Circuit

Larry Chavis
Plaintiff–Appellant,

v.

The University of North Carolina-Chapel Hill; and
Mary Margaret Frank
Defendants–Appellees.

On Appeal from the United States District Court
for the Middle District of North Carolina
at Greensboro

Opening Brief of Appellant Larry Chavis

Christopher S. Edwards
csedwards@wardandsmith.com
Jake D. Pugh
jdpugh@wardandsmith.com
P.O. Box 7068
Wilmington, NC 28406-7068
Telephone: 910.794.4800
Facsimile: 910.794.4877
Counsel for Plaintiff–Appellant

Table of Contents

Table of Authorities v

Introduction 1

Statement of Jurisdiction 4

Statement of the Issue 4

Statement of the Case 5

I. Larry Chavis, a Native American economics professor, adapted his advanced international development class to cover indigenous issues, and the university knew that as early as 2017. 5

A. Dr. Chavis became the director of the university's American Indian Center, and he adapted his course to align with that role. 6

B. Dr. Chavis kept the university abreast of his course content, and the university encouraged his teaching. 6

II. In 2023, the university hired Mary Margaret Frank as the dean of its business school, and Dr. Chavis tells her that he believes his Native ancestry has kept him from leadership roles. 8

III. Despite overwhelmingly positive course evaluations, the university opens an investigation into Dr. Chavis in March 2024. 10

IV. During a focus group for graduating seniors, two students complained that Dr. Chavis had singled out two white students more than a year earlier. 11

A. An associate dean reports Dr. Chavis for his stale comments and February 2024 email to Dean Frank, who permits her subordinates to record Dr. Chavis's classes. 11

B. The report eventually led to a teaching evaluation, which uncovered nothing university leadership didn't already know. 13

V. Dr. Chavis takes to legacy and social media to discuss how the university has treated him. 15

VI. Dean Frank, aware of Dr. Chavis's public criticisms, terminates his contract for reasons that remain unclear.....16

A. Dean Frank gives at least three different justifications for her decision. 17

B. Dr. Lundblad gives another conflicting explanation but cannot back it up. 19

C. At the same time, university leadership gives a white professor who berated foreign-born students a stern talking-to.....19

VII. Dr. Chavis sues, and the district court resolves his employment and constitutional claims on summary judgment. 20

Summary of the Argument 24

Argument 26

I. The standard of review is de novo. 26

II. The district court erred when it granted the university summary judgment on Dr. Chavis's Title VII and § 1981 retaliation claims. 27

A. Dr. Chavis engaged in protected activity. 27

1. Dr. Chavis's emails, LinkedIn posts, and interviews were protected, oppositional conduct. 28

2. Dr. Chavis's complaints went beyond mere personal grievance and opposed the university's discriminatory practices. 31

B. The record belies the university's non-pretextual explanations, which have shifted over time.....33

1. The "unapproved content" claim doesn't hold up as a genuine reason for Dr. Chavis's non-renewal. 33

2. Nor does the record support Dean Frank's safety rationale.....38

3. Dean Frank changed her rationale at least twice, which further suggests the university's reasons for terminating Dr. Chavis were pretextual.....42

4. The university abandoned its internal processes. 47

5. The timing and Dean Frank's own words point to the real reason for non-renewal. 50

6. The district court mistook evidence of pretext for a mere disagreement with the decision. 51

C. Pretext evidence and timing support but-for causation. 53

III. The district court likewise erred when it rejected Dr. Chavis's First Amendment retaliation claim. 54

A. Dr. Chavis spoke as a citizen on a matter of public concern, a right protected by the First Amendment. ..55

B. The pretext evidence supports but-for causation. 56

IV. A jury could find that race was a motivating factor in the non-renewal (Count II). 59

A. Under Title VII, the university can be liable for its students' racial animus. 61

B. A jury could find that race-based complaints drove the decision....64

Conclusion 67

Statement Regarding Oral Argument 67

Certificate of Compliance 69

Certificate of Filing and Service....70

Table of Authorities

Cases

Brnovich v. Democratic Nat'l Comm.,
594 U.S. 647 (2021) 62

Burlington Indus., Inc. v. Ellerth,
524 U.S. 742 (1998) 63

Constantine v. Rectors & Visitors of George Mason Univ.,
411 F.3d 474 (4th Cir. 2005) 22, 57

Cowgill v. First Data Techs., Inc.,
41 F.4th 370 (4th Cir. 2022).....33, 49, 51

Crist v. Focus Homes, Inc.,
122 F.3d 1107 (8th Cir. 1997) 63

DeJarnette v. Corning Inc.,
133 F.3d 293 (4th Cir. 1998) 51

DeMasters v. Carilion Clinic,
796 F.3d 409 (4th Cir. 2015) 28

Duvall v. Novant Health, Inc.,
95 F.4th 778 (4th Cir. 2024).....42, 60

Folkerson v. Circus Circus Enters.,
107 F.3d 754 (9th Cir. 1997) 63

Foster v. Univ. of Md.-E. Shore,
787 F.3d 243 (4th Cir. 2015) 22

Garcetti v. Ceballos,
547 U.S. 410 (2006) 55

Gross v. FBL Fin. Servs., Inc.,
557 U.S. 167 (2009) 60

Hill v. Lockheed Martin Logistics Mgmt., Inc.,
354 F.3d 277 (4th Cir. 2004) (en banc) 60, 61

Hollis v. Morgan State Univ.,
153 F.4th 369 (4th Cir. 2025).....26, 27, 47, 58

Hunter v. Town of Mocksville,
789 F.3d 389 (4th Cir. 2015).....55

Jacobs v. N.C. Admin. Office of the Cts.,
780 F.3d 562 (4th Cir. 2015).....46

Kincaid v. Unified Sch. Dist. No. 500,
94 F.4th 936 (10th Cir. 2024).....34

Laing v. Fed. Express Corp.,
703 F.3d 713 (4th Cir. 2013).....52

Laughlin v. Metro. Wash. Airports Auth.,
149 F.3d 253 (4th Cir. 1998).....28, 30

Laurent-Workman v. Wormuth,
54 F.4th 201 (4th Cir. 2022).....22, 27

Lockard v. Pizza Hut, Inc.,
162 F.3d 1062 (10th Cir. 1998).....63, 64

Love-Lane v. Martin,
355 F.3d 766 (4th Cir. 2004).....21

McDonnell Douglas Corp. v. Green,
411 U.S. 792 (1973).....22, 60

Merritt v. Old Dominion Freight Line, Inc.,
601 F.3d 289 (4th Cir. 2010).....34

Nichan v. Stratosphere Quality, LLC,
865 F.3d 922 (7th Cir. 2017).....63

Presnell v. Sharp Electronics Corp.,
2022 WL 17683126 (W.D.N.C. Dec. 14, 2022).....31

Randa v. Garland,
855 F. App'x 874 (4th Cir. 2021).....31, 32

Rodriguez-Hernandez v. Miranda-Velez,
132 F.3d 848 (1st Cir. 1998) 63

Sempowich v. Tactile Sys. Tech., Inc.,
19 F.4th 643 (4th Cir. 2021) 51, 53

Smyth-Riding v. Scis. & Eng'g Servs., LLC, 699 F. App'x 146
(4th Cir. 2017) 62

Staub v. Proctor Hosp.,
562 U.S. 411 (2011) 61, 62

Strothers v. City of Laurel,
895 F.3d 317 (4th Cir. 2018) 28, 53

Suarez Corp. Indus. v. McGraw,
202 F.3d 676 (4th Cir. 2000) 54, 55

Summa v. Hofstra Univ.,
708 F.3d 115 (2d Cir. 2013) 63

Vasquez v. Empress Ambulance Serv., Inc.,
835 F.3d 267 (2d Cir. 2016) 63

Villa v. CavaMezze Grill, LLC,
858 F.3d 896 (4th Cir. 2017) 34

Wannamaker-Amos v. Purem Novi, Inc.,
126 F.4th 244 (4th Cir. 2025) ..... passim

Watson v. Blue Circle Inc.,
324 F.3d 1252 (11th Cir. 2003) 63

Westmoreland v. TWC Admin. LLC,
924 F.3d 718 (4th Cir. 2019) 39

Statutes

28 U.S.C. § 1291 4

28 U.S.C. § 1331 4

28 U.S.C. § 1343 4

42 U.S.C. § 1983 20

42 U.S.C. § 2000e 20

42 U.S.C. § 2000e-2 59

Other Authorities

Indigenous Peoples,
World Bank Grp. (last visited Oct. 30, 2026). 3

Introduction

The University of North Carolina terminated Dr. Larry Chavis, a member of the Lumbee Tribe who is both Native American and Black, for speaking out because the university treated him differently.

In early 2024, Dr. Chavis met with the Dean of the Kenan-Flagler School of Business, Mary Margaret Frank, and told her that he believed that his race had kept him out of university leadership and depressed his salary. He expressed those same concerns publicly on LinkedIn. When the university later started recording his class in violation of university policy, he returned to LinkedIn to say the university was treating him differently because he was Lumbee and to criticize its record on diversity, equity, and inclusion. Print and broadcast media covered the situation. Dr. Chavis's statements were protected under either Title VII of the Civil Rights Act of 1964 or the First Amendment to the United States Constitution. Yet the university terminated his employment in June 2024 in retaliation for his comments.

Dr. Chavis has produced enough evidence that a reasonable jury could find pretext. The university claims it terminated him because he taught unapproved course content. For nearly 20 years, Dr. Chavis

taught BUSI 611: International Development. In 2019, after Dr. Chavis became director of the university's American Indian Center, he sought to introduce Indigenous issues into that course. As Dr. Chavis explained, Harvard Business School had similar courses. And the World Bank identifies Indigenous Peoples as "critical partners" for worldwide development. *Indigenous Peoples*, World Bank Grp., https://perma.cc/XFD3-VBML (last visited Oct. 30, 2026).

The university's explanation doesn't hold water. When Dean Frank terminated Dr. Chavis, neither she nor any other administrator could say exactly what aspect of Dr. Chavis's course was unapproved. The university had known about—and tacitly approved of—the content of Dr. Chavis's course for years. Dr. Chavis first proposed the idea in 2019, and the then-director of undergraduate programming approved. And their replacement, Dr. Shimul Melwani, both knew about Dr. Chavis's course and told him the university "love[d] the topics that [he] [was] including." JA604. According to Dr. Melwani, professors have the freedom to update their courses by roughly 25% each year. Dr. Chavis's focus on Indigenous issues was a tweak that introduced new case studies. He'd done the same with East Asian issues before.

Aside from the course content, the university rested its decision on stale student comments based on racist stereotypes. In 2024, Dr. Melwani spoke to two seniors who'd taken Dr. Chavis's class a year earlier. They claimed he'd made a White student uncomfortable and that, during a lecture, he used the phrase "burn this bitch down." Dr. Melwani later admitted that Dr. Chavis's statement wasn't threatening. Yet the university latched on to those complaints, which were based on stereotypes about Native Americans, and factored them in when terminating Dr. Chavis. Doing so was mixed-motive race discrimination in violation of Title VII. Those comments were based on stereotypes, and the university knew or should have known as much. But rather than investigate the students' comments or engage in a dialogue with Dr. Chavis, the university acted. In that circumstance, the university acted as a cat's paw for the students' own racial animus.

The district court disagreed with Dr. Chavis on all fronts and granted the university's motion for summary judgment. This Court should reverse.

Statement of Jurisdiction

The district court had jurisdiction under 28 U.S.C. § 1331 and 28 U.S.C. § 1343. It entered judgment on June 30, 2026, and Dr. Chavis timely appealed on July 26, 2026. JA19, JA750. This Court has jurisdiction under 28 U.S.C. § 1291.

Statement of the Issues

I. Has Dr. Chavis shown that the university's explanation for his termination was a mere pretext for retaliation when he made protected oppositional statements, the university's avowed justification lacks factual support, and the decisionmaker's justification has evolved over time?

II. Has Dr. Chavis shown that the university's explanation for his termination was a mere pretext for retaliation when he spoke as a private citizen on a matter of public concern, the university's avowed justification lacks factual support, and the decisionmaker's justification has evolved over time?

III. Has Dr. Chavis shown that the university acted as a cat's paw sufficient to support a mixed-motive race discrimination claim under Title VII when he has shown that the university relied on racially

charged comments made by two students who were neither Native American nor Black that were based on racist stereotypes of Native Americans?

Statement of the Case

I. Larry Chavis, a Native American economics professor, adapted his advanced international development class to cover indigenous issues, and the university knew that as early as 2017.

Dr. Larry Chavis, who is Black and Native American, spent nearly 20 years teaching at the University of North Carolina's Kenan-Flagler School of Business. JA87. He joined the faculty in 2006 as a tenure-track economics professor. JA155–156. A few years later, he voluntarily took a non-tenure-track position. JA161, JA211. At Kenan-Flagler, Dr. Chavis taught courses ranging from graduate-level economics and finance to undergraduate electives. JA137, JA166, JA175. Throughout his tenure at the university, Dr. Chavis taught an advanced course on international development, listed in Kenan-Flagler's course catalog as BUSI 611. JA605.

A. Dr. Chavis became the director of the university's American Indian Center, and he adapted his course to align with that role.

In 2017, Dr. Chavis took on an additional role as the director of the university's American Indian Center. JA138, JA140–141. In 2019, with the support of the university's undergraduate program director, Dr. Chavis told the business school that—because of his role with the American Indian Center—he planned to "align" BUSI 611 "with American Indian topics" and wanted to list the course as part of the university's American Indian and Indigenous Studies Program. JA705. In his email, Dr. Chavis explained that he'd found a number of Harvard Business School case studies that would "allow [him] to change the geographic focus of the course without losing the business lessons" at its heart. JA705.

In response, the university told Dr. Chavis that his idea "sound[ed] ok[.]" JA705. After the university's positive response, Dr. Chavis began teaching BUSI 611 in early 2020, focusing on indigenous issues. JA610.

B. Dr. Chavis kept the university abreast of his course content, and the university encouraged his teaching.

Dr. Chavis never hid the course's content from the university. To start, professors were not required to consult the university for most

changes. They were allowed to "update [their] classes," so long as they retained "seventy-five percent" of the approved content. JA732. Dr. Chavis dutifully submitted his syllabus in 2021. JA704. Later, in October 2022, the undergraduate program asked faculty for routine catalog updates. JA610; JA707. In response, Dr. Chavis sent a description for BUSI 611 titled "International Development: Focus on Indigenous Issues." JA610; JA707. The university never added Dr. Chavis's updates to its course catalog because he never submitted a revised syllabus. JA610; JA707. But his failure to submit a syllabus didn't result in any discipline; to the contrary, the course ran for two more years with a focus on indigenous issues. JA610.

During that time, Dr. Chavis openly discussed his course with his superiors. For example, in summer 2023, Dr. Chavis emailed Dr. Shimul Melwani, an associate dean who oversaw the undergraduate curriculum, about the course. JA462–463 ¶ 3, JA605. He explained that the course had "evolved to include Indigenous issues around the world" and provided the syllabus he was using. JA605. And he assured Dr. Melwani that he "tie[d] it all together" in the course. JA462–463 ¶ 3, JA605. Later, in January 2024, Dr. Chavis submitted a policy discouraging students

from wearing clothes promoting teams with Native mascots (such as the Atlanta Braves) to Dr. Christian Lundblad and Dr. Bradley Staats, both senior associate deans in the business school. JA423–425. The policy opened, "This is an Indigenous studies course taught by an Indigenous professor." JA424.

Despite adding some new material, Dr. Chavis was "still teaching the same course that had been updated with new examples over the years, as any course should be." JA498. And the university enthusiastically supported him. When Dr. Melwani responded to Dr. Chavis's 2023 email, she told him that the university "love[s] the topics that you are including." JA604. Indeed, had Dr. Melwani found Dr. Chavis's approach problematic, she "would have just discussed" the problem with him "right away," and said, "we need to fix this." JA729. Needless to say, she never discussed an issue with Dr. Chavis.

II. In 2023, the university hired Mary Margaret Frank as the dean of its business school, and Dr. Chavis tells her that he believes his Native ancestry has kept him from leadership roles.

Dr. Chavis's course wasn't a problem until the university hired Mary Margaret Frank as Dean of Kenan-Flagler in August 2023. JA457 ¶ 3. During the academic year, she held a series of meetings with Kenan-

Flagler faculty, including Dr. Chavis, who met with Dean Frank in February 2024. JA458 ¶ 4. At first, Dr. Chavis thought the meeting had gone well. He and Dean Frank talked about how she knew another member of the Lumbee Tribe. JA467. They also talked about how she had "gotten pushback for teaching about issues of race and gender." JA467.

Dr. Chavis hoped that Dean Frank would help him advance his career. JA467. By February 2024, Dr. Chavis felt his career had stagnated. True, he'd advanced in some sense. He became director of the university's American Indian Center in 2017, JA138; was nominated for a fellowship with the American Council on Education in 2021, JA142–144; and was promoted to full clinical professor, JA171. But the university had passed over Dr. Chavis for leadership positions repeatedly. For instance, in 2020, he wrote to the chancellor and provost highlighting problems at Kenan-Flagler, including that he had twice been "passed over for promotion to associate dean of the undergraduate business program" for "white guys" who were "less qualified" and "less engaged." JA227. He raised similar concerns in 2023, during his annual review with Dr. Lundblad, after the university again turned him down

for associate dean of the undergraduate business program, a role he'd been "practically promised" for "years." JA244; JA353.

Dr. Chavis shared those concerns with Dean Frank during their meeting, and he followed up by email a few days later, adding that he sensed his colleagues resented his support for equity initiatives. JA290–291; JA458 ¶ 4. In his email, Dr. Chavis shared candid concerns about his standing with the university: his compensation was "below new assistant professors" and "some teaching professors," and the university had recently reduced his contract to one year, which made him nervous. JA290–291. Despite his candor and their earlier, positive meeting, Dr. Chavis heard nothing from Dean Frank for nearly two months. JA290, JA541.

III. Despite overwhelmingly positive course evaluations, the university opens an investigation into Dr. Chavis in March 2024.

In the meantime, Dr. Chavis continued as usual. He routinely received high marks for his BUSI 611 course. For instance, in Spring 2023, students praised Dr. Chavis for his willingness to "hear everyone out and discuss" difficult topics and fostering discussions for "all opinions," even students who voiced "differing opinions." JA715. Spring

2024 was no exception. The overwhelming majority of students said that he "treated students fairly and equitably," made "everyone feel included," and "fought for his students' privacy." JA717, JA719. Consistent with these student reactions, in February 2024, Dr. Lundblad told him to expect that his contract would be renewed for the 2024–25 academic year. JA506.

IV. During a focus group for graduating seniors, two students complained that Dr. Chavis had singled out two white students more than a year earlier.

That March, Dr. Melwani held a routine focus group for graduating seniors. JA581–582. Two students stayed after to complain about Dr. Chavis's BUSI 611 course, which they had both taken in 2023. JA582, JA585, JA587. In contrast to Dr. Chavis's overwhelmingly positive reviews, these two students complained that he singled out "a White male student in a fraternity" and that they believed "certain White students in the class" had been "targeted or marginalized." JA587–589.

A. An associate dean reports Dr. Chavis for his stale comments and February 2024 email to Dean Frank, who permits her subordinates to record Dr. Chavis's classes.

When Dr. Melwani pulled Dr. Chavis's 2023 evaluations, she saw that "[m]aybe one or two" of at least 20 student evaluations corroborated

the students' claims, though she could not confirm whether those evaluations came from the same students. JA590–591. In late March 2024, Dr. Melwani reported the incident to the university, a step she characterized as mandatory. *See* JA593, JA641–645.

Dr. Melwani's report went beyond Dr. Chavis's 2023 course evaluations, though. She also claimed that the students had told her that Dr. Chavis had made "threats against the business school," saying he planned to "burn this bitch down," and that he had "taught a class that he had not received curricular permission to teach." JA642. She also reported that, in Spring 2024, Dr. Chavis had "read out [the February 2024 email] that he had written" to Dean Frank, which created both "a hostile environment" for the students in the class and a "hostile work environment." JA642.

Dr. Melwani's report contained very little new or pressing information. By that point, the university had known about the content of Dr. Chavis's BUSI 611 course for nearly five years. While Dr. Melwani had led the undergraduate curriculum since 2021, JA462–463, in 2019 the then-undergraduate program director told Dr. Chavis it was "ok" to change "the geographic focus of the course" to focus on indigenous issues.

JA705. Indeed, Dr. Melwani did not know what course content the university had approved Dr. Chavis to teach. JA605, JA731. And the students weren't reporting an imminent threat: Dr. Chavis's comments were more than a year old. Dr. Melwani would later admit that she "did not believe [the statement] was a security threat." JA599–600.

Yet the university still decided to investigate Dr. Chavis. On April 8, it began secretly recording his classes, violating the university's own policies. JA651, JA655. Dr. Lundblad and Dr. Staats set up the recordings with Dean Frank's approval. JA374–375; JA542–543.

B. The report eventually led to a teaching evaluation, which uncovered nothing university leadership didn't already know.

Dr. Chavis learned about the recordings two weeks later, after Dr. Lundblad sent him a letter about the recordings and a review of student concerns. JA655. The letter promised a meeting to discuss those concerns and "an opportunity for open dialogue and clarification," all "intended to support [his] professional development." JA655. But none of that ever happened. JA377; JA516–517. The provost's office eventually made Dr. Lundblad and Dr. Staats lock the recordings away before they could

review them. JA377; JA544; JA699. The university then claimed it was shifting to "a more formal evaluation." JA377; JA544.

The university delivered that evaluation roughly a month later. JA696–699; JA703. It contained some serious inaccuracies. For example, while two students had complained about Dr. Chavis's class to Dr. Melwani, the evaluation claimed that "[s]everal students" had complained and that "a number of" student evaluations "mirror[ed]" their concerns. JA697. What's more, though the university "love[d]" Dr. Chavis's course content in 2023, JA604, the evaluation criticized him for changing course content without approval and using class time on personal matters, JA696.

The evaluation also repeated the "burn this bitch down" remark, JA696, even though it did not bother any of the university's staff. For instance, though she reported it, Dr. Melwani told Dean Frank that the remark came from an "old teaching evaluation from over a year ago" and that she "did not believe that was a security threat." JA599–600. Dr. Chavis said the same in an email response to the evaluation that he sent to Dean Frank and Dr. Lundblad. JA700. The phrase was a protest "metaphor" he had borrowed from activist Kimberly Jones and used in

class in spring 2023. JA500–501. As he explained in response to the teaching evaluation, he had even sent enrolled students an "[e]mail introduction" that included a recorded lecture discussing the phrase and the student complaint about it. JA695, JA700.

V. Dr. Chavis takes to legacy and social media to discuss how the university has treated him.

As the teaching evaluation wore on, Dr. Chavis took his concerns with the university public. In the past, Dr. Chavis had spoken frequently and openly about diversity and equity, as well as his own stalled advancement. He'd even done so in class. In 2022, for example, one student's course feedback told him to share less of his personal views in class; the university took no action and renewed his contract. JA195, JA226, JA272.

In April 2024, Dr. Chavis took to LinkedIn. He wrote a post explaining that the "average salary, including summer bonus, for the fifty highest-paid professors" at Kenan-Flagler was more than $440,000, while he made just over $212,000 despite teaching "25% more" than those professors. JA302–303, JA674. He added that he made "less in total compensation than every new tenure-track professor." JA172–173, JA674. Dr. Chavis then highlighted that he was the only professor with

similar credentials who had been denied access to university leadership. JA303. He tied it all together, opining that the university treated him differently "because [he was] Lumbee." JA303.

Later, over two weeks in April and May 2024, four media outlets—The Assembly, WRAL, ABC11, and Poets & Quants—all ran stories about the university's treatment of Dr. Chavis. JA657–676. He told reporters he had been passed over for promotion while the school steered him toward roles tied to his Native American heritage, that he was underpaid compared to white professors, and that he believed the recordings were retaliation for his public criticism of the school's record on race, diversity, and pay. JA662, JA669, JA673–674. He said the recordings broke the school's own posted policy, were "a breach of both student privacy and academic freedom," and should concern "the range of professors here at UNC, across campus." JA675–676. He also shared the coverage on his own social media. JA687–691.

VI. Dean Frank, aware of Dr. Chavis's public criticisms, terminates his contract for reasons that remain unclear.

Dean Frank was "aware" of Dr. Chavis's social media activity. His posts came up on her phone. JA530. More pointedly, Dr. Chavis told her about them. In April, before the teaching evaluation, he had emailed

Dean Frank a link to the LinkedIn post tying his lack of pay and advancement to his race, which he called "my situation at Kenan-Flagler." JA290. He referenced his February email, stating that he had read it to his students, who thought it deserved a reply. JA290. He explained that his LinkedIn post addressed how "the racial nature of the academy" had "cost[] [him] hundreds of thousands of dollars per year." JA290, JA538–540. Dean Frank viewed the LinkedIn post, JA539, and forwarded the email to Dr. Lundblad that night with one word: "FYI." JA290.

In June 2024, Dean Frank told Dr. Chavis his contract would not be renewed. JA548–549. That was six weeks after the first story ran, two months after Dr. Chavis's LinkedIn post, and four months after Dr. Lundblad told Dr. Chavis to expect another contract renewal for the 2024–25 academic year. JA506.

A. Dean Frank gives at least three different justifications for her decision.

The university's administration never developed a cohesive story about that decision. In August 2024, the university's equal opportunity and compliance office, or "EOC," interviewed Dean Frank, who suggested she'd terminated Dr. Chavis for his social media posts. JA553, JA748

("[T]he world we live in is all about social media . . . [and] that makes decision-making hard."). Later, she claimed Dr. Chavis taught unapproved content, and that was "the deciding factor." JA549, JA552. But she could not identify anything in Dr. Chavis's course that was unapproved; after reviewing the syllabus, the only thing she could point to was "[t]he title." JA554. She later claimed she didn't renew Dr. Chavis's contract because she had "concerns about [his students'] psychological safety." JA417–420. Eventually, she said social media "did not affect [her] decision," reversing course from her EOC interview. JA740, JA748–749.

Dean Frank's concerns kept shifting. By March 2026, she claimed that Dr. Chavis's teaching evaluation raised a "litany of concerns." JA460 ¶ 14. Safety was now "front and center." JA459–460 ¶¶ 12, 14. She described the "psychological safety" concern in detail. JA460 ¶ 13. And in discussing the burn-it-down metaphor, she invoked Hamas's surprise attack on Israel and other tragedies, JA459–460 ¶ 12—something that had not been a concern when she first learned of Dr. Chavis's comments because she accepted the university's threat-assessment team's decision

not to take action and allowed Dr. Chavis to keep teaching his courses as planned, JA527–529, JA548–552.

B. Dr. Lundblad gives another conflicting explanation but cannot back it up.

Dr. Lundblad's explanation was no more consistent. At first, he claimed that Dr. Chavis had improperly changed the course's content. JA513. But he never reviewed that content and was "not privy to" the course's "individual assignments or individual readings." JA516. Nor did he ask to see Dr. Chavis's slides or lesson plans or discuss what Dr. Chavis "actually w[as] teaching" with his peers. JA516, JA518. And he never "ma[d]e any effort" to meet with Dr. Chavis about the content of his course. JA516.

C. At the same time, university leadership gives a white professor who berated foreign-born students a stern talking-to.

Amid the university's ever-changing narrative, it handled a similar incident with a white non-tenure-track professor differently. After reports that a professor had singled out foreign-born exchange students in class, Dr. Melwani referred the matter to the EOC. JA559–563, JA570, JA572. Concerned about bias, the EOC changed how grading would be done in the professor's class, and he had "a couple of conversations" with

Dr. Lundblad and Dr. Staats. JA564–567, JA570, JA572. No one was sent to observe his class, and Dr. Melwani knew of no academic conduct review. JA571–572.

VII. Dr. Chavis sues, and the district court resolves his employment and constitutional claims on summary judgment.

Dr. Chavis sued in September 2024. JA21. He asserted four claims against the university and Dean Frank. Against the university, Dr. Chavis alleged retaliation and mixed-motive race discrimination, both in violation of Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e *et seq*. JA47–49. Against Dean Frank, he brought claims for retaliation in violation of the First Amendment, as enforced through 42 U.S.C. § 1983, and retaliation in violation of 42 U.S.C. §§ 1981 and 1983, for violation of his guarantee of equal rights under contract. JA49–51.

Dr. Chavis's retaliation claims, whether under Title VII, § 1981, or § 1983, rest on the premise that Dean Frank refused to renew his contract because of his protected activity. Since at least February 2024, Dr. Chavis had told Dean Frank that his career advancement had stagnated and that he was paid less than other, similarly situated white professors because he was Native American. Terminating Dr. Chavis as reprisal for

speaking out about his working conditions would violate both Title VII and § 1981. Similarly, Dr. Chavis's First Amendment retaliation claim stems from his private speech on a matter of public concern: the university's lack of minority hiring, its unauthorized recordings of his class, and the resulting chilling effect those recordings had on academic freedom.

Dr. Chavis based his mixed-motive race discrimination claim on Dr. Lundblad's handling of his academic evaluation. The university started monitoring Dr. Chavis only because two White students complained about his focus on race. Dr. Lundblad's teaching evaluation gave those two students' views disproportionate weight, essentially ignoring years of positive reviews. The students' comments were laced with racial stereotyping, and by crediting them, Dr. Chavis argued, Dean Frank, Dr. Lundblad, and the entire university discriminated against Dr. Chavis.

The district court resolved all four of Dr. Chavis's claims on summary judgment. Consistent with this Court's precedent, the district court analyzed the Title VII and § 1981 retaliation claims together. JA7–8; *see Love-Lane v. Martin*, 355 F.3d 766, 786 (4th Cir. 2004) (burden-shifting framework appropriate to evaluate §§ 1981 and 1983 claims).

Both claims share the same elements: a plaintiff must establish "(1) that he engaged in a protected activity; (2) that his employer took an adverse action against him; and (3) that there was a causal link between the two events." *Laurent-Workman v. Wormuth*, 54 F.4th 201, 212 (4th Cir. 2022) (cleaned up); *Constantine v. Rectors & Visitors of George Mason Univ.*, 411 F.3d 474, 499 (4th Cir. 2005).

The court recognized that Dr. Chavis had no direct evidence, so it analyzed Dr. Chavis's claims under the burden-shifting framework set out in *McDonnell Douglas Corp. v. Green*, 411 U.S. 792 (1973). Under that framework, the plaintiff must establish a prima facie case by presenting evidence supporting each element of his claim. *See Foster v. Univ. of Md.-E. Shore*, 787 F.3d 243, 250 (4th Cir. 2015). If he does, the burden shifts to the employer to show that its retaliatory action was the result of "a legitimate non-retaliatory reason." *Id.* If it does so, the plaintiff then must show that a reasonable jury could conclude the employer's proffered justification was a pretext for retaliation. *Id.*

Below, the court resolved Dr. Chavis's three retaliation claims in one pass. It assumed that Dr. Chavis had made out a prima facie case. JA9. It also accepted Dean Frank's explanation of a nonretaliatory

reason—that she acted based on the teaching evaluation, including unapproved course content as the "deciding factor" and concerns about student safety. JA9–10. The court resolved the university's motion on the final step: pretext. In particular, it found no evidence of pretext, reasoning that Dean Frank's explanations had not changed over time. JA12. It also determined that the evaluation's findings were "valid reasons for not renewing a professor's contract," and dismissed Dr. Chavis's contrary evidence as mere "speculation." JA13.

On the mixed-motive claim, the court held that the students whose complaints fed the evaluation were not decisionmakers and that nothing suggested race motivated their complaints. JA15. On the First Amendment claim, the court treated causation as dispositive and relied on its retaliation analysis. JA16–17. It added that the claim challenged the non-renewal, not the recordings, JA17, and that Dean Frank's remark that social media "makes decision-making hard" "merely state[s] the obvious," JA18.

The court summed up: all of Dr. Chavis's claims ran into the same "hurdle"—the teaching evaluation. JA18.

Summary of the Argument

This Court should reverse the district court's judgment and remand Dr. Chavis's claims for a jury trial.

1. A jury could find that Dean Frank terminated Dr. Chavis because he publicly accused the university of race discrimination. The district court assumed a prima facie case and granted summary judgment on pretext alone. It erred on pretext, and if this Court reaches the prima facie case, Dr. Chavis made that too.

A. Dr. Chavis engaged in protected oppositional activity.

1. Viewing the record in the light most favorable to Dr. Chavis, he told Dean Frank that the university had discriminated against him because of his race in two ways: (1) denying him leadership positions and (2) depressing his pay. Both statements qualify as protected oppositional activity.

2. The university's contrary arguments fall flat. Dr. Chavis's comments were not generalized complaints, as the university claimed below. Rather, he specifically tied his comments to his race.

B. Dr. Chavis has shown pretext.

1. Though Dean Frank said the "deciding factor" was unapproved course content, her conclusion rested on the course's title alone. She did not know what Dr. Chavis taught or what he'd been approved to teach. To the contrary, the university had known about Dr. Chavis's course and its content for years, and no one disapproved.

2. Dean Frank's other justifications shifted and grew between her deposition and her declaration. Her safety concerns lacked support; even Dr. Melwani conceded that Dr. Chavis's "burn this bitch down" comment was not threatening. What's more, Dean Frank never acted on her purported concerns.

3. The university broke its own policy to secretly record his classes and never held the meeting it promised before ending his employment.

4. Timing points to the real reason: Dean Frank ended his employment six weeks after his complaints hit the press. She even brought up his social media activity unprompted amid the university's investigation.

2. A jury could find that Dean Frank terminated Dr. Chavis because he spoke as a private citizen on a matter of public concern. The

university does not dispute that Dr. Chavis's LinkedIn posts and media mentions were protected activity. And Dean Frank's explanation does not hold up for the same reasons discussed above.

3. A jury could find that the university violated Title VII by engaging in mixed-motive race discrimination. The cat's paw theory is based on agency principles. Though the students were not formally the university's agents, agency law holds a principal liable for conduct that he knows or should know about and fails to correct. Other courts that have addressed the issue have held that employers can be liable for third-party conduct, like harassment. And the university should have known that the students' comments were based in racial stereotyping, a form of race discrimination.

Argument

The district court erred in granting the university's motion for summary judgment. This Court should reverse.

I. The standard of review is de novo.

This Court reviews a district court's summary judgment ruling de novo, drawing all inferences in favor of the non-movant. *Hollis v. Morgan State Univ.*, 153 F.4th 369, 378–79 (4th Cir. 2025). When it comes to

employment discrimination, "courts must take special care when considering a motion for summary judgment . . . because motive is often the critical issue." *Id.* at 379.

II. The district court erred when it granted the university summary judgment on Dr. Chavis's Title VII and § 1981 retaliation claims.

Viewing the facts in the light most favorable to Dr. Chavis, a jury could find that the university terminated his employment because he accused it of race discrimination. To succeed on a retaliation claim under either Title VII or § 1981, a plaintiff must show "(1) that he engaged in a protected activity; (2) that his employer took an adverse action against him; and (3) that there was a causal link between the two events." *Laurent-Workman*, 54 F.4th at 212 (cleaned up). The university did not dispute that Dr. Chavis suffered an adverse employment action. But it did argue that Dr. Chavis never took any protected activity and that he could not establish a causal link between the two events. The university is wrong on both counts.

A. Dr. Chavis engaged in protected activity.

Although the district court resolved the university's motion on pretext, the university first argued that Dr. Chavis's retaliation claim

failed because he didn't engage in protected activity at all. Not so. An employee engages in protected activity when he voices his opinions "to bring attention to an employer's discriminatory activities." *Laughlin v. Metro. Wash. Airports Auth.*, 149 F.3d 253, 259 (4th Cir. 1998). That includes "complaining to superiors about suspected [Title VII] violations[.]" *Strothers v. City of Laurel*, 895 F.3d 317, 328 (4th Cir. 2018). Indeed, "when an employee communicates to [his] employer a belief that the employer has engaged in a form of employment discrimination, that communication virtually always constitutes the employee's opposition to the activity." *DeMasters v. Carilion Clinic*, 796 F.3d 409, 417 (4th Cir. 2015) (cleaned up).

1. Dr. Chavis's emails, LinkedIn posts, and interviews were protected, oppositional conduct.

The "threshold for oppositional conduct is not onerous," *id.* at 417, and Dr. Chavis's communications with Dean Frank easily clear it. For example, during his February 2024 in-person meeting with Dean Frank, Dr. Chavis told her that "he was concerned that he had been passed over for different roles" in the university, coupling those concerns with his belief that the university treated him differently because of his status "as a Native American." JA406. Viewing the facts in the light most favorable

to Dr. Chavis, the record supports the inference that Dr. Chavis told Dean Frank that he had previously been the victim of race discrimination.

Dr. Chavis's follow-up email confirms that, during their earlier conversation, Dr. Chavis complained that his race kept him out of leadership. Consistent with Dean Frank's recollection of the meeting, Dr. Chavis wrote that he had "stalled out" and would not become "part of the leadership team," JA290, reinforcing his belief that he'd been passed over for roles because of his race. His email continues, explaining that, over his tenure at the university, he had suffered persistent "micro and macro aggressions," including a colleague who called him "nominally Native American." JA291. He closed his email by explaining that he usually avoided group social events because the university and his colleagues mistreated him because of his race. JA291.

Dr. Chavis's April 2024 email is another, separate protected activity. In it, Dr. Chavis directed Dean Frank to a recent LinkedIn post. JA290. In that post, Dr. Chavis wrote that he had "been turned down for several leadership positions in the school" and that "[t]en of the thirteen credits [he] taught [in 2022–23] were canceled or moved to other professors." JA303. Dr. Chavis explicitly tied these concerns to his race,

writing that he was treated differently "because I'm Lumbee." JA303. Dr. Chavis echoed those same sentiments in his April email, explaining that he struggled with the "racial nature of the academy," which "literally costs [him] hundreds of thousands of dollars per year." JA290. So if Dr. Chavis's February conversation and follow-up email weren't enough, his April email directly ties his lack of advancement and pay to his race.

Dr. Chavis did not limit his protected activity to emails to Dean Frank; he also engaged in protected opposition by going to the media. Protected opposition activity can include using "informal grievance procedures," "staging informal protests," or "voicing one's opinions" to "bring attention to an employer's discriminatory activities." *Laughlin*, 149 F.3d at 259. A May 2024 story by Raleigh-based WTVD quotes Dr. Chavis accusing the university of singling him out: "Were we following our publicly posted policy or was there a policy just for Larry, an outspoken Lumbee guy from Robeson County?" JA667. Coupled with the story's report that Dr. Chavis believes the university's climate does not "always feel accepting of marginalized groups," *id.*, a jury could reasonably understand this article to show Dr. Chavis complaining that the university treated him differently because of his race.

Viewing those complaints in the light most favorable to Dr. Chavis, they were protected oppositional conduct.

2. Dr. Chavis's complaints went beyond mere personal grievance and opposed the university's discriminatory practices.

Below, the university rejected that characterization and instead cherry-picked some of Dr. Chavis's statements out of context, arguing that the statements were self-interested and generalized. That argument does not withstand scrutiny.

The university's self-interested argument rests on a thin reed. Below, it cited *Presnell v. Sharp Electronics Corp.*, 2022 WL 17683126 (W.D.N.C. Dec. 14, 2022), to argue that acting in one's self-interest is not protected under Title VII. It also cited *Randa v. Garland*, 855 F. App'x 874 (4th Cir. 2021), for the proposition that generalized complaints don't amount to protected activity under Title VII. But in *Presnell*, the district court decided only that complaints about pay divorced from discrimination could not support a Title VII retaliation claim. 2022 WL 17683126, at *10. And in the unpublished *Randa* decision, this Court observed that "generalized complaints about [a prosecutor's] evaluation

did not alert [her supervisors] that she thought they discriminated against her." 855 F. App'x at 877.

Dr. Chavis's complaints weren't divorced from race discrimination. For instance, during his February 2024 meeting with Dean Frank, he told her that "he was concerned that he had been passed over for different roles" in the university and told her that the university treated him differently because of his status "as a Native American." JA406. That complaint goes beyond a generalized grievance about a lack of advancement. It specifically ties Dr. Chavis's lack of advancement to his race. Viewing the facts in the light most favorable to Dr. Chavis, it is inferable that he complained of race discrimination.

Nor does the university's suggestion that any employee who makes a self-interested statement forfeits their Title VII retaliation protections make sense. Oppositional statements are almost always self-interested: an employee complains when she believes that she's being treated unfairly because of her race. That's why the statements need only address things that the employee reasonably believes to violate Title VII. Here, Dr. Chavis specifically tied his lack of advancement to his race in at least one face-to-face conversation, in emails, in social media posts,

and in news articles. Whether those statements were self-interested, they are protected oppositional activity.

B. The record belies the university's non-pretextual explanations, which have shifted over time.

The district court assumed Dr. Chavis had participated in protected activity but concluded he couldn't show pretext. That conclusion is wrong. A plaintiff shows pretext by producing evidence "that an employer's purported nondiscriminatory reason for [his] termination is false." *Wannamaker-Amos v. Purem Novi, Inc.*, 126 F.4th 244, 257 (4th Cir. 2025). This Court has described pretext as evidence to suggest that an employer was "looking for a reason to get rid of the employee." *Cowgill v. First Data Techs., Inc.*, 41 F.4th 370, 383 (4th Cir. 2022) (cleaned up). When the university's reasons are judged against that standard and viewed in the appropriate light, they demonstrate pretext.

1. The "unapproved content" claim doesn't hold up as a genuine reason for Dr. Chavis's non-renewal.

Start with Dean Frank's claim that Dr. Chavis had been teaching "unapproved content" and that his doing so was the "deciding factor" in her decision not to renew his contract. That claim is both factually unsupported and based on an inadequate, surface-level investigation,

both of which support an inference of pretext. Unsupported rationales are evidence of pretext. *See, e.g.*, *Merritt v. Old Dominion Freight Line, Inc.*, 601 F.3d 289, 299 (4th Cir. 2010). So too is an "obviously inadequate investigation into the employee's [purported] misconduct." *Villa v. CavaMezze Grill, LLC*, 858 F.3d 896, 905 (4th Cir. 2017); *accord Kincaid v. Unified Sch. Dist. No. 500*, 94 F.4th 936, 946 (10th Cir. 2024) ("[A]n inadequate investigation into alleged misconduct by an employee can support an inference of pretext.").

Although Dean Frank claims she terminated Dr. Chavis over unapproved course content, the record shows that none of the business school's administrators knew whether Dr. Chavis was teaching unapproved content or made any effort to learn. Start with what professors could—and couldn't—do with their courses. Dr. Melwani explained that professors could "update [their] classes," so long as they retained "seventy-five percent" of the approved content. JA732. In the university's own words, teaching unapproved course content means changing a course's content by more than 25%. None of Dr. Melwani, Dr. Lundblad, or Dean Frank could say whether Dr. Chavis's course had changed more than 25%. Nor did anyone identify a baseline to measure

against. Dr. Chavis had taught the course since 2006, and no one could say what its "approved" content even was. JA605, JA731.

That ignorance was not for lack of information. The administrators knew what Dr. Chavis was teaching because he routinely provided the university with updated syllabi and course descriptions. JA610 (referencing "syllabi collected in Spring 2020 and 2021"), JA704–707. He also openly discussed his course and its evolution with Dr. Melwani, the associate dean in charge of the undergraduate curriculum. JA462–463 ¶ 3, JA605. He told her that his course had "evolved to include Indigenous issues around the world," but he assured Dr. Melwani that he "tie[d] it all together" in the course. JA605. Dr. Melwani never raised any concerns with Dr. Chavis's course. Nor could she judge whether or when it crossed the 25% threshold. As she explained, she "sort of inherited" Dr. Chavis's BUSI 611 course, so she "didn't really look at" whether it had impermissibly changed. JA731.

If Dr. Melwani knew little, Dr. Lundblad and Dean Frank knew even less. Although Dr. Lundblad initially claimed Dr. Chavis had improperly changed the course's content, he never reviewed the content—whether before or after the university started investigating Dr.

Chavis. For example, Dr. Lundblad was "not privy to" the course's "individual assignments or individual readings," JA516, and did not ask about Dr. Chavis's slides or lesson plans or otherwise discuss what Dr. Chavis "actually w[as] teaching" with his peers, JA516, JA518. He knew nothing about the specifics of Dr. Chavis's course. JA512–518. Similarly, Dean Frank could not point to a single unauthorized lesson in Dr. Chavis's syllabus. The only thing she could point to was "[t]he title," JA554.

This veil of ignorance reveals a flaw in the university's defense. Dean Frank's claim that Dr. Chavis taught unapproved course content has no factual basis. The university had allowed Dr. Chavis to "change the geographic focus of the course without losing the business lessons" as early as 2019. JA705. And since Dr. Melwani assumed responsibility for the undergraduate curriculum in 2021, she too had known about—and at least tacitly approved—Dr. Chavis's course materials for years, dating back to at least 2021. JA462–463 ¶ 3, JA731. Despite her role, she never raised concerns about Dr. Chavis's course. Dean Frank thus had no basis for her conclusion. Indeed, basic research would have shown that Dr. Melwani knew about Dr. Chavis's course and praised it. In May 2024, Dr.

Melwani forwarded a 2023 email chain to Dr. Staats, who sent it to Dr. Lundblad. JA603. In that chain, Dr. Chavis not only described how he included Indigenous issues but also discussed student feedback on the content shift. JA603–606.

Below, the university argued emphatically that Dr. Chavis violated its policy requiring the administration to approve major course changes. But that was at best a disputed issue of fact. No one in the university—neither Dean Frank, Dr. Lundblad, nor Dr. Melwani—knew what had or had not been approved. And Dr. Chavis explained that he was teaching the same course that he always had. During his deposition, Dr. Chavis explained that he added new case studies to his course every year, updating the course "10 to 20 percent . . . with new cases," JA196–197, which fits comfortably within the university's policy allowing faculty to update their courses each year by up to 25%, JA732. And it's not as if Dr. Chavis was altering his program 10-20% *more* each year; his testimony makes clear that he was updating case studies. "For example, you know, a few years before, [he] had a lot of cases around China and East Asia. [He] could have called [the course] international development with a focus on East Asian issues." JA198. As Dr. Chavis told Dr. Melwani, he

took these new cases and "tie[d] it all together" by the end of the course. JA605.

Viewing the facts in the light most favorable to Dr. Chavis, a jury could conclude that Dean Frank's reasons were a pretext for retaliation. The university had known about his course content since 2019, and Dr. Melwani, the current administrator in charge of course materials, had known about Dr. Chavis's focus since 2021. She neither reported him nor discussed the need to have his course reapproved. She admitted that either would have been the appropriate next step. JA728–729. Instead, Dr. Melwani told Dr. Chavis that the university "love[d]" his course. JA604. Yet the same course that earned Dr. Chavis so much praise became his downfall after he told Dean Frank that his race cost him promotions and hundreds of thousands of dollars.

2. Nor does the record support Dean Frank's safety rationale.

Eventually, Dean Frank added another justification—student safety. But the record shows that neither Dean Frank, Dr. Melwani, nor Dr. Lundblad seriously believed Dr. Chavis posed a safety concern. A plaintiff may show pretext by showing his "employer's purported nondiscriminatory reason for [his] termination is false." *Wannamaker-*

Amos, 126 F.4th at 257. A jury may find that an employer's justification is "so flimsy as to be untrue or implausible." *See Westmoreland v. TWC Admin. LLC*, 924 F.3d 718, 728 n.4 (4th Cir. 2019). Viewing the record in the light most favorable to Dr. Chavis, a jury could conclude just that.

Dean Frank eventually claimed that she terminated Dr. Chavis because she was concerned about his students' physical and psychological safety. At first, Dean Frank downplayed those concerns, claiming that Dr. Chavis's unapproved course content was her primary motivation for terminating him although safety was part of her "mindset." JA414. She raised psychological safety only when her own counsel asked about it. JA416–420. But Dean Frank's safety concerns do not hold up under scrutiny.

Start with the physical safety concern, which stems almost entirely from Dr. Chavis's use of the phrase "burn this bitch down" in a lecture. From the start, Dean Frank knew that Dr. Chavis's quote was not a threat. Dr. Melwani told Dean Frank that the phrase came up in an "old teaching evaluation from over a year ago" and that she "did not believe that was a security threat." JA599–600. Dr. Chavis further explained that, in context, the remark was not a threat, but a quote tied to a slide

deck he used in class. JA700. When Dean Frank terminated Dr. Chavis, she also knew that the university's independent threat assessment team had taken no action. JA527, JA550.

Dean Frank's conduct further belies her concern for physical safety. Although she refused to concede that the threat assessment had found "no threat," JA550, she conceded that she took no action herself, JA528–529. For example, she did not suspend Dr. Chavis, JA528, and let Dr. Chavis keep teaching, keep his office, and keep working with colleagues, JA528–529. When pressed, Dean Frank could not even explain the source of her concern. JA552. Given Dean Frank's inability to substantiate her physical safety concern, coupled with Dr. Melwani's admission that it was not a threat, a jury could conclude that the university's justification was pretext.

Dean Frank's psychological safety concern fares no better. It rests on complaints from two seniors who took Dr. Chavis's class more than a year earlier. The seniors told Dr. Melwani in spring 2024, during an open forum for soon-to-be graduates. JA585, JA587. When Dr. Melwani looked at Dr. Chavis's "20 or 23" evaluations from 2023, she found "[m]aybe one or two" that echoed what the students told her. JA590. But she also

conceded that, because evaluations are anonymized, those two evaluations could have "reflected" what the students said rather than "corroborating" it. JA591. In other words, they could have been the students' own evaluations.

To claim that Dr. Chavis threatened his class's psychological safety, Dean Frank had to place two students' concerns against a host of positive evaluations from both 2023 and 2024. Other students from his 2023 class reported that Dr. Chavis was "happy to hear everyone out and discuss things even if your opinion differs from his personal opinion"; when "students did voice differing opinions, . . . he respectfully heard them out and had civil discussions"; "is one of the most inclusive professors at this school"; and "opens up discussions for all opinions." JA715. And 33 of his 35 Spring 2024 evaluations agreed. The students praised Dr. Chavis for treating "students fairly and equitably" and for making "everyone feel included." JA546, JA717, JA719. Spring 2024 students reported that he "creates a safe environment for people to openly share their thoughts and experiences" and "always holds a safe space for students to participate." JA719, JA722.

Viewing the facts in the light most favorable to Dr. Chavis, a jury could determine that Dean Frank's physical and psychological safety justifications were a mere pretext for retaliation.

3. Dean Frank changed her rationale at least twice, which further suggests the university's reasons for terminating Dr. Chavis were pretextual.

Viewing the record in the light most favorable to Dr. Chavis, a jury could also conclude that Dean Frank's other reasons for Dr. Chavis's termination were pretextual because they kept changing. "[S]hifting, conflicting, and unsubstantiated explanations" are "indicative of pretext." *Duvall v. Novant Health, Inc.*, 95 F.4th 778, 790 (4th Cir. 2024). The university initially offered no justification for Dr. Chavis's termination. Later, it offered a principal justification: Dr. Chavis's course content. But even that justification has morphed over time. Indeed, the university has shifted its justification even during litigation. Under this Court's precedent, those shifts indicate pretext.

Start with Dean Frank's initial communication with Dr. Chavis. The notice informing Dr. Chavis that the university was not renewing his contract provided no explanation, adhering to standard university practice. JA548–549. When Dean Frank testified in December 2025, her

account was narrow: unapproved content was "the deciding factor," she mentioned safety as part of her "mindset," and nothing else. JA549, JA552. Student evaluations got "[m]inimal" or no weight. JA547–548. And psychological safety came up only when her own lawyer suggested it. JA416–420.

Only after months of litigation did Dean Frank express grave concerns about Dr. Chavis's language. *See* JA460. Although she had earlier testified that she had no specific reason to be concerned about Dr. Chavis's "burn this bitch down" remark, for example, she later submitted a declaration that explained that his comments caused her grave concern: the university was "recovering from two lockdowns related to gun violence" in fall 2023; "Hamas launched a surprise attack from the Gaza Strip into Southern Is[ra]el in October 2023"; and three students had been murdered at the University of Virginia in 2022, when she "was a campus leader" there. JA459–460. Dean Frank could have voiced those concerns in 2024, when Dr. Melwani told Dean Frank that she didn't feel threatened by Dr. Chavis and when those events were closer in proximity. What's more, had Dean Frank had those concerns in 2024, she

could have acted on them by suspending Dr. Chavis or limiting his access to campus. Instead, she did nothing. JA528–529.

Dean Frank's declaration did more than emphasize previously trivial concerns; it added new justifications for Dr. Chavis's termination. She emphasized that the teaching evaluations raised a "litany of concerns," which factored into her decision. JA460 ¶ 14. That evaluation relies primarily on "student complaints," including "student complaints issued directly to the [undergraduate business program], along with multiple comments from 2023 and 2024 student written evaluations." JA696. Indeed, three of the four areas of concern identified in the teaching evaluation cited student complaints, JA696–699, which Dean Frank previously said she gave only "minimal" weight, JA547–548.

Dean Frank's shifting explanations closely resemble those at issue in *Wannamaker-Amos v. Purem Novi, Inc.*, 126 F.4th 244 (4th Cir. 2025). There, Purem terminated Carmen Wannamaker-Amos at the direction of its chief quality executive, Javad Hosseini. *Id.* at 250, 253. Before terminating Wannamaker-Amos, Hosseini compiled a list of eight alleged performance issues, but when Hosseini met with Wannamaker-Amos to terminate her, he provided only one, which she disputed. *Id.* at 253.

Later, when the EEOC contacted Purem, it gave another reason unrelated to those on Hosseini's list. *Id.* at 254.

The Court concluded those facts were enough to show pretext and that Wannamaker-Amos was entitled to a trial. Though the Court recognized that "an employer may have multiple legitimate reasons for firing an employee," Purem's efforts to "retract certain reasons initially offered by the decisionmaker may suggest that none of those reasons were ever the true reasons and instead were pretext for discrimination." *Id.* at 258. Purem's decision to raise a new justification before the EEOC, the Court said, suggested that none of its justifications were pure. *Id.* at 258–59.

The university's explanations followed the same pattern. After initially giving no reason for Dr. Chavis's termination, Dean Frank said in December 2025 that she terminated Dr. Chavis because he taught unapproved content—a statement no one has been able to verify. At the same time, she said student safety was part of her "mindset," but did not mention any psychological-safety concern—at least not until her attorney asked about it. Even then, she disclaimed any specific reason for the concern.

Fast forward to March 2026, when Dean Frank produced detailed reasons to support her student safety concern: prior campus lockdowns, Hamas's attack on Israel, prior experiences, all of which were closer in time to her decision to terminate Dr. Chavis than March 2026. In addition, although Dean Frank previously gave student evaluations minimal weight, in March 2026 she backtracked—saying that the teaching evaluation, which relied principally on those evaluations, justified her decision.

Below, the university argued that Dr. Chavis could point only to minor discrepancies or changing legal arguments to support his shifting-explanation argument. But that is inaccurate; Dean Frank's testimony evolved significantly over time. An employer's justification need not be "internally inconsistent" to demonstrate pretext. *Jacobs v. N.C. Admin. Office of the Cts.*, 780 F.3d 562, 576 (4th Cir. 2015). Rather, this Court has allowed employees to rely on a "constellation of justifications," including when "many of the purported justifications were not raised at the time of termination" or "were not documented." *Id.*

Dean Frank's evolving justifications meet that standard. At first, she relied only on Dr. Chavis's unapproved course content. Only when

her own lawyer questioned her did she add psychological safety. Finally, when she submitted a declaration in support of the motion for summary judgment, her student safety concerns had evolved, and she, for the first time, relied on the teaching evaluation.

Viewing the facts in the light most favorable to Dr. Chavis, a jury could find that Dean Frank's shifting justifications were pretext for retaliation.

4. The university abandoned its internal processes.

So too does the university's failure to adhere to its own internal policies support an inference of pretext. When an employer "fail[s] to follow its own internal policies," those deviations are "circumstantial evidence from which pretext and discriminatory intent may be inferred." *Hollis*, 153 F.4th at 383. For example, in *Wannamaker-Amos*, this Court credited Purem's failure to place Wannamaker-Amos on a performance improvement plan, a step mandated by the company's policies, as evidence of pretext. 126 F.4th at 260–61. That's because an employer's "extreme overreaction to a minor infraction" suggests that the decisionmaker was "looking for a reason to get rid of the plaintiff." *Id.* at

260 (cleaned up). To get rid of Dr. Chavis, the university waved its policies away at least twice.

First, the university violated its policies when it secretly recorded Dr. Chavis's classes. The university recorded Dr. Chavis's class on four occasions "using the existing Panopto camera in the classroom." JA655. But the university's published "Panopto Terms of Use" didn't allow those recordings. To start, "[c]lass recordings are distributed for the exclusive use of students in the UNC Kenan-Flagler class for which it was recorded." JA651. What's more, the policy provides that "[i]ndividual classes" may be recorded only "with the expressed permission of Faculty," who must "opt-in by approving [a] request form." JA651. Needless to say, Dr. Chavis did not consent, opt in, or even know that he was being recorded. Indeed, the provost's office made Dr. Lundblad and Dr. Staats lock the recordings away before they could review them. JA377, JA544, JA699.

Next, the university terminated Dr. Chavis's contract, rather than affording him the "open dialogue" that it promised. In Dr. Lundblad's letter disclosing the university's surreptitious recordings, he promised Dr. Chavis that the investigation would end with "an opportunity for

open dialogue and clarification" "intended to support [his] professional development." JA655. That would have been the usual course. According to Dr. Melwani, who oversaw the undergraduate curriculum, if she had noticed a problem with Dr. Chavis's course material, she "would have just discussed" the problem with him "right away," and said, "we need to fix this." JA728–729. Instead, she told Dr. Chavis that the university "love[d] the topics that [he] [was] including." JA604. In contrast, the university gave that chance to a White professor accused of singling out foreign-born students. He had "a couple of conversations" with Dr. Lundblad and Dr. Staats, and no one observed his class. JA564–567, JA571–572.

Both deviations suggest that the university was looking for a reason to get rid of Dr. Chavis. As this Court has explained, "it is highly suspicious [when] [an employer] fail[s] to coach [an employee] toward improvement as contemplated by [its procedures]." *Cowgill*, 41 F.4th at 383. Yet rather than hold the university responsible for its deviation, the district court rejected Dr. Chavis's evidence altogether. In particular, it claimed that Dr. Chavis had pointed to "no evidence" the recording was against policy. JA11. But the university used the Panopto cameras in the

classroom, and it has never disputed that Dr. Chavis accurately quoted the Panopto terms of use in his email to Dr. Lundblad. Viewing the evidence in the light most favorable to Dr. Chavis, a reasonable jury could conclude that the university deviated from its policies to hasten Dr. Chavis's termination.

5. The timing and Dean Frank's own words point to the real reason for non-renewal.

The timeline points to Dr. Chavis's speech as the real reason. In February 2024, his renewal was expected. JA506. Then he went public. His April 3 email to Dean Frank about his draft LinkedIn post was followed, days later, by secret recordings; his complaints hit the press starting April 30; and Dean Frank saw his posts as they came in. JA290, JA530, JA538–540, JA655, JA657–676, JA738. Six weeks after the first story, his job was gone. JA548.

Dean Frank's own words fill in the rest. Given an open chance to add anything to her EOC interview, she chose to say that "the world we live in is all about social media" and "that makes decision-making hard." JA553, JA748. Her denial that it affected her decision came only in this lawsuit. JA740. The district court said the remark "merely state[s] the obvious." JA18. But a jury could see it differently: as Dean Frank's

unprompted admission that Dr. Chavis's public criticism motivated her decision—just as the timeline suggests. At summary judgment, that inference belonged to Dr. Chavis.

The district court brushed the timing aside, reasoning that Dr. Chavis had spoken out "for years" without consequence. JA13. But those years came under other deans. Dean Frank took over in August 2023, and the trouble started within weeks of Dr. Chavis voicing his complaints to her. JA457 ¶ 3. That earlier deans tolerated Dr. Chavis's advocacy says nothing about Dean Frank's motives. *Cf. Sempowich v. Tactile Sys. Tech., Inc.*, 19 F.4th 643, 653 (4th Cir. 2021) (same-actor inference rests on the same person hiring and firing). A jury could find that the university, through Dean Frank, was "looking for a reason to get rid of" Dr. Chavis, and that the real reason was his speech, not his syllabus. *Cowgill*, 41 F.4th at 383.

6. The district court mistook evidence of pretext for a mere disagreement with the decision.

The district court incorrectly treated all of this as a dispute over whether the evaluation was right. It warned that courts do "not sit as a kind of super-personnel department[.]" JA12 (quoting *DeJarnette v. Corning Inc.*, 133 F.3d 293, 299 (4th Cir. 1998)). And it called the

evaluation's findings "valid reasons for not renewing a professor's contract" while labeling the rest of the record "only . . . speculation." JA12–13.

But the question isn't whether a reason is valid; it's whether the reason is genuine. A court need not decide whether an employer's judgment was "wise, fair, or even correct, ultimately, so long as it truly was the reason[.]" *Laing v. Fed. Express Corp.*, 703 F.3d 713, 722 (4th Cir. 2013).

The record gives ample reason to doubt the university's explanations. Consider Dean Frank's myriad, but inconsistent, concerns: a "deciding factor" she could tie only to a title, a safety threat she never acted on, skipped processes, and a non-renewal six weeks after Dr. Chavis's complaints hit the press. On multiple fronts, the record creates genuine issues of fact that cast doubt on the stated reasons. What the court called "speculation" were inferences that must be taken in Dr. Chavis's favor on summary judgment.

On this record, a jury could conclude that the university's reasons are pretextual.

* * *

The district court thus erred when it rejected Dr. Chavis's pretext evidence.

C. Pretext evidence and timing support but-for causation.

This Court has "made abundantly clear that temporal proximity suffices to show a causal relationship." *Sempowich*, 19 F.4th at 654 ("[T]he court erred by holding that temporal proximity alone cannot establish a causal relationship."). A plaintiff "simply" needs to "show[] that (1) the employer either understood or should have understood the employee to be engaged in protected activity and (2) the employer took adverse action against the employee soon after becoming aware of such activity." *Strothers*, 895 F.3d at 336.

Both parts are met. Dean Frank knew. Dr. Chavis emailed her directly on April 3, and she forwarded the email to Dr. Lundblad that night. JA290. She knew that spring that he was criticizing Kenan-Flagler on social media, and his posts came up on her phone. JA530, JA738. And the university moved fast. The Monday after his April 3 email, it began secretly recording his classes, with Dean Frank's sign-off. JA542–543, JA655. He then accused the university of targeting him because of his race, and The Assembly was the first to publish his complaints on April

30. JA657, JA662. Six weeks later, Dean Frank ended his employment. JA548. That is sufficient.

* * * * *

On this record, a jury could find that the university retaliated against Dr. Chavis in violation of both Title VII and § 1981. Both claims rest on the same evidence. That evidence shows that Dr. Chavis engaged in protected activity. And it confirms that the university's stated reasons were really a pretext for retaliation.

III. The district court likewise erred when it rejected Dr. Chavis's First Amendment retaliation claim.

Viewing the facts in the light most favorable to Dr. Chavis, a jury could conclude that the university terminated his employment because he engaged in First Amendment-protected activity. The First Amendment protects free speech, including "not only the affirmative right to speak, but also the right to be free from retaliation by a public official for the exercise of that right." *Suarez Corp. Indus. v. McGraw*, 202 F.3d 676, 685 (4th Cir. 2000). Much like a Title VII or § 1981 retaliation claim, to prove a First Amendment retaliation claim, the plaintiff must show that he engaged in a protected activity, suffered an adverse employment action, and that his protected activity caused the

defendant's conduct. *Id.* at 685–86. Below, the university argued that Dr. Chavis did not engage in protected activity and that, in any event, his protected activity did not cause his termination. Both arguments founder.

A. Dr. Chavis spoke as a citizen on a matter of public concern, a right protected by the First Amendment.

Like with Dr. Chavis's other retaliation claims, the district court assumed that he had engaged in protected activity and resolved the university's motion on causation. Even so, the university also argued that Dr. Chavis did not engage in protected activity. The university is wrong. Dr. Chavis spoke to the media as a citizen on a matter of public concern. Citizen speech on "matters of public concern lies at the heart of the First Amendment." *Hunter v. Town of Mocksville*, 789 F.3d 389, 396 (4th Cir. 2015). That's true even when the speech addresses the speaker's public employment. *See id.* Public employees "do not renounce their citizenship when they accept employment," and public employers cannot demand that their employees surrender their constitutional rights. *Id.* The First Amendment thus protects a public employee's speech so long as he speaks "as [a] citizen[] about matters of public concern." *Garcetti v. Ceballos*, 547 U.S. 410, 419 (2006).

Below, the university did not seriously dispute that the First Amendment protected Dr. Chavis's social media posts and media interviews. For example, it did not argue that Dr. Chavis engaged with the media within the course and scope of his employment. Nor did it claim that Dr. Chavis's comments about Kenan-Flagler's lack of diversity, his lack of advancement, or the university's surreptitious recordings fell outside the realm of public concern. Indeed, the university initially argued that Dr. Chavis's emails to Dean Frank were not matters of public concern. Even if that were true, though, it never made the same claim about Dr. Chavis's media and social media engagements. So viewing the evidence in the light most favorable to Dr. Chavis, the Court should conclude that he spoke as a private citizen on a matter of public concern.

B. The pretext evidence supports but-for causation.

The district court accepted the university's argument that the record undisputedly prevented Dr. Chavis from proving that his protected activity caused his termination. To prove causation, the plaintiff must show "that the defendant was aware" of his protected activity and "some degree of temporal proximity." *Constantine*, 411 F.3d

at 501. Contrary to the district court's conclusion, Dr. Chavis's evidence shows both.

First, viewing the facts in the light most favorable to Dr. Chavis, there's no dispute that Dean Frank knew about Dr. Chavis's social media posts and media interviews. In April 2024, Dr. Chavis sent Dean Frank an email that directed her to a recent LinkedIn post discussing the "racial nature of the academy" and how racial bias and a lack of diversity had "cost[] [him] hundreds of thousands of dollars per year." JA290. And when asked about Dr. Chavis's social media activity, Dean Frank said she "didn't have to" make "any effort" to see Dr. Chavis's posts because they "c[a]me up on [her] phone . . . because of the algorithms." JA530. In one such post, Dr. Chavis promoted a piece published by WTVD—the same piece in which he accused the university of singling him out, JA667 ("Were we following our publicly posted policy or was there a policy just for Larry, an outspoken Lumbee guy from Robeson County?"). When asked whether she'd seen that article, Dean Frank could not rule it out. *See* JA744.

And below, the university did not dispute that Dr. Chavis's social media activity and media publications satisfied the "temporal proximity"

requirement. Dean Frank terminated Dr. Chavis's employment roughly two months after his protected activity. This Court has said that three months between "protected activity and adverse action" is "a degree of temporal proximity" that its precedent "suggests may allow a jury to infer a causal connection." *Hollis*, 153 F.4th at 384. Given this Court's statement in *Hollis* and the university's apparent concession, the record, viewed in the light most favorable to Dr. Chavis, supports an inference of causation.

Even so, the district court determined Dr. Chavis's evidence could not prove causation because Dean Frank relied solely on the teaching evaluation. JA16–17. But the evidence, viewed in the light most favorable to Dr. Chavis, doesn't warrant that conclusion. To the contrary, Dean Frank has never offered a consistent rationale—she changes her story or flips her emphasis each time she discusses Dr. Chavis's termination. The university also abandoned its policies and ignored the conversation that it promised Dr. Chavis.

Two other facts undercut the district court's rationale. First, in her EOC interview following Dr. Chavis's termination, Dean Frank specifically mentioned his social media presence. When asked if she had

anything else to share, Dean Frank said, "[T]he world we live in is all about social media, right? And that makes decision-making hard, right?" JA739, JA748. Although Dean Frank later disclaimed her reliance on social media, JA739–741, she never told the EOC investigator that, JA740, JA748. Second, when Dean Frank terminated Dr. Chavis, she did so amid the University of North Carolina System's push to repeal its diversity, equity, and inclusion policies. JA110. Dean Frank's comments, and the university's larger political context, are significant because Dr. Chavis's social media comments targeted the university's diversity shortcomings.

Viewing the evidence in the light most favorable to Dr. Chavis, the Court should conclude that his evidence demonstrates causation.

IV. A jury could find that race was a motivating factor in the non-renewal (Count II).

Finally, the district court erred in rejecting Dr. Chavis's mixed-motive race discrimination claim. An employer may violate Title VII even if race was not the sole underlying cause for an adverse employment action. Title VII also prohibits adverse employment actions in which race "was a motivating factor[.]" 42 U.S.C. § 2000e-2(m). To succeed on a mixed-motive claim, the employee need only show that his employer "was

motivated to take the adverse employment action by both permissible and forbidden reasons." *Hill v. Lockheed Martin Logistics Mgmt., Inc.*, 354 F.3d 277, 284 (4th Cir. 2004) (en banc), *abrogated in part on other grounds by Gross v. FBL Fin. Servs., Inc.*, 557 U.S. 167 (2009).

A mixed-motive claim also relaxes the proof structure. For example, the plaintiff need not show that race was a but-for cause of his dismissal. *Duvall*, 95 F.4th at 788. What's more, because mixed-motive is a separate "avenue[] of proof," the plaintiff may prove mixed-motive discrimination without resorting to the *McDonnell Douglas* burden-shifting framework. *Hill*, 354 F.3d at 284–85.

Below, the district court rejected Dr. Chavis's mixed-motive claim for two independent reasons. First, the court reasoned that the students who complained were not "decisionmakers," JA15, so even if they had racial animus, it could not be imputed to the university. Second, the court determined that Dr. Chavis failed to introduce evidence supporting the inference that race motivated the students' negative feedback. Neither reason holds water.

A. Under Title VII, the university can be liable for its students' racial animus.

First, Title VII permits Dr. Chavis's theory: The university can be liable for decisions based on its students' racial animus. A plaintiff can prove a mixed-motive claim even in the absence of a "formal decisionmaker['s]" racist "actions or statements." *Hill*, 354 F.3d at 290. As this Court has explained, forcing a plaintiff to prove that the ultimate decisionmaker harbored racial animus "would thwart the [statute's] very purposes," "allowing employers to insulate themselves from liability simply by hiding behind" a formal decisionmaker's "blind" decision. *Id.* at 290–91. But there's debate on where the racial animus that influenced the decisionmaker's decision may originate.

Although this Court originally placed tight constraints on the actionable sources of racial animus, the Supreme Court has since loosened those restraints—something this Court has acknowledged. For example, in *Hill*, this Court held that a biased subordinate "who has no supervisory or disciplinary authority" was not a decisionmaker "simply because he had a substantial influence on the ultimate decision." *Id.* at 291. Later, in *Staub v. Proctor Hosp.*, 562 U.S. 411 (2011), the Supreme Court concluded that a decision "influenced by previous company action

that is the product of . . . animus in someone else" was actionable under the Uniformed Services Employment and Reemployment Rights Act, which the Court said was "very similar to Title VII." *Id.* at 417. Under *Staub*, the pertinent question is whether the unlawful input was a proximate cause of the ultimate decision. *Id.* at 419–20. If so, the decisionmaker's own judgment does not automatically cut the link to biased input. *Id.*

While *Staub* dealt with reports by the employee's supervisor, it left open whether the rule (referred to as the "cat's paw theory") reaches bias from a coworker or third parties. *Id.* at 422 n.4; *accord Smyth-Riding v. Scis. & Eng'g Servs., LLC*, 699 F. App'x 146, 155 (4th Cir. 2017) (the question "has not been resolved by the Supreme Court"). This Court does not appear to have addressed the question, but it should conclude that the cat's paw theory does reach third parties, like the students here.

Holding an employer liable for a third party's conduct, at least in certain circumstances, comports with the underpinnings of the cat's paw theory. *Staub*'s cat's paw theory rests on traditional agency principles. *See, e.g.*, *Brnovich v. Democratic Nat'l Comm.*, 594 U.S. 647, 689 (2021); *Smyth-Riding*, 699 F. App'x at 155. And those principles may sometimes

"impose liability on employers" for wrongs committed by someone who "would not ordinarily be deemed [an] agent[]," if the employer "was negligent or reckless" in its response to the third party's conduct. *Vasquez v. Empress Ambulance Serv., Inc.*, 835 F.3d 267, 273 (2d Cir. 2016) (cleaned up). For example, in *Burlington Industries v. Ellerth*, 524 U.S. 742 (1998), the Supreme Court held that, though an employee's sexual harassment might be "outside the scope of" his employment, the employer may still be liable for that harassment if the employer "knew or should have known about the conduct and failed to stop it." *Id.* at 758–59.

Other courts of appeals have extended that logic to third-party conduct. *See, e.g.*, *Nischan v. Stratosphere Quality, LLC*, 865 F.3d 922, 931 (7th Cir. 2017); *Summa v. Hofstra Univ.*, 708 F.3d 115, 124 (2d Cir. 2013); *Watson v. Blue Circle, Inc.*, 324 F.3d 1252, 1259 (11th Cir. 2003); *Lockard v. Pizza Hut, Inc.*, 162 F.3d 1062, 1073–74 (10th Cir. 1998); *Rodriguez-Hernandez v. Miranda-Velez*, 132 F.3d 848, 854 (1st Cir. 1998); *Crist v. Focus Homes, Inc.*, 122 F.3d 1107, 1108 (8th Cir. 1997); *Folkerson v. Circus Circus Enters.*, 107 F.3d 754, 756 (9th Cir. 1997). As the Tenth Circuit has explained, "[a]n employer who condones or

tolerates" a third party's misconduct should be held liable for that misconduct because the employer has the power to stop it. *Lockard*, 162 F.3d at 1073–74. For the same reason, the university should be liable for acting on its students' racial animus.

B. A jury could find that race-based complaints drove the decision.

The district court erred in rejecting Dr. Chavis's mixed-motive claim because the university knew, or should have known, that the student comments that triggered its investigation were racially motivated. Viewing the evidence in the light most favorable to Dr. Chavis, a jury could reasonably conclude that the university knew or should have known that at least one of the students who spoke to Dr. Melwani in 2024 was motivated by racial animus.

The student comments were racially motivated, and the university should have known it. The two students who complained were neither Native American nor Black. JA583. And, viewing the facts in the light most favorable to Dr. Chavis, the students' complaints were stereotypes of Dr. Chavis as an angry minority. One student told Dr. Melwani that "if you were a White male student in a fraternity wearing [a] Greek letter [t]-shirt," Dr. Chavis "would sort of draw attention to that." JA588. Those

comments stand in stark contrast to the vast majority of Dr. Chavis's student reviews, which praise his inclusivity. JA715, JA719, JA722. Indeed, Dr. Melwani conceded that the students raised concerns that there were "White students in the class who were targeted or marginalized." JA589.

The university knew or should have known that those comments were racially motivated. Dr. Melwani immediately recognized that the comments were race-based. In her "hotline report," she stated that the students had "reported that the professor made them feel unsafe because of their racial status." JA642. Her report also highlighted the complaints' staleness: the students had taken Dr. Chavis's class more than a year earlier. JA642.

What's more, the university placed disproportionate emphasis on students' reviews when it evaluated Dr. Chavis's teaching. Three of the four concerns identified student feedback as the basis for the negative teaching evaluation. JA313–316. Although the university received only one or two race-based comments, including those from 2023 claiming that Dr. Chavis "attacked" white people, the evaluation cites "several students" who complained about the content of Dr. Chavis's course.

JA313, JA715. Some of the comments included in the evaluation ridicule Dr. Chavis for making statements about "how 'oppressed' he was" and bemoan that Dr. Chavis merely "ranted and ranted on random topics to the point where anyone could fall asleep or be better off watching" YouTube. JA314.

The university knew that those comments—ridiculing Dr. Chavis's belief he was oppressed and criticizing him for ranting—were loaded with racial animus. In 2022, Dr. Chavis complained to the university about a similar student comment: "If I wanted a degree in some sort of Native American studies or African American studies, I would not have pursued an MBA." JA195. Dr. Chavis later explained that this comment was "just mean and walks right up to and probably crosses a line into being offensive." JA441. He also sent the comment to Kenan-Flagler's leadership, including the university's vice provost for diversity, equity, and inclusion. JA279–280. In that same email, Dr. Chavis characterized the evaluation as "clearly racist" and "a personal attack on [him] and [his] identity." JA280. The comments that the university included in—and relied on to support—the teaching evaluation are of a piece: they were also an attack on Dr. Chavis's race.

* * * * *

For those reasons, the Court should reverse the district court's judgment on mixed-motive race discrimination.

Conclusion

For these reasons, this Court should reverse the district court's judgment and remand for further proceedings.

Statement Regarding Oral Argument

Dr. Chavis requests oral argument. He acknowledges that this case presents a close question, and that this Court's precedent does not control its outcome. Given the legal issues, coupled with the complex record, Dr. Chavis believes that oral argument will significantly aid this Court's decisional process.

Respectfully submitted, this the 30th of October 2026.

WARD AND SMITH, P.A.

/s/ Chris Edwards
Christopher S. Edwards
N.C. State Bar I.D. No.: 48385
csedwards@wardandsmith.com
Jake D. Pugh
N.C. State Bar I.D. No.: 64424
jdpugh@wardandsmith.com
P.O. Box 7068
Wilmington, NC 28406-7068
Telephone: 910.794.4800
Facsimile: 910.794.4877

Certificate of Compliance

1. This brief complies with the type-volume limit of Rule 32(a)(7)(B) because, exclusive of the portions of the document exempted by Rule 32(f), this document contains 12,999 words.

2. Further, this document complies with the typeface requirements of Rule 32(a)(5) and the type-style requirements of Rule 32(a)(6) because it has been prepared in a proportional-width typeface using Microsoft Word 2016 in 14-point Century Schoolbook.

WARD AND SMITH, P.A.

/s/ Chris Edwards
Christopher S. Edwards

Certificate of Filing and Service

I hereby certify that on October 30, 2026, I caused the foregoing to be electronically filed with the Clerk of this Court using CM/ECF, which will send notifications of such filing to all registered participants.

WARD AND SMITH, P.A.

/s/ Chris Edwards
Christopher S. Edwards

DOCUMENTS 20426780, v. 2