

Petitioner-K. Reed, T. Lee, Elkins, WV

Student Name: Katy Reed & Tayler Lee

Petitioner

Elkins HS, Elkins, WV

<https://www.youtube.com/watch?v=JzjjsKQyZWQ>

Table of Cited Authorities:

The Fourteenth Amendment

Ricci v. Destafano

Parents Involved in Community Schools v. Seattle School District No. 1, 551 U.S. 701

Equal Protection Clause

Justice Roberts – Oral Arguments; Fisher vs. University of Texas at Austin

Regents v. Bakke

The University of Texas at Austin’s Acceptance Policy

Kaiser Family Foundations

Freedman’s Bureau

Statement of Argument:

In representation of Miss Abigail Fisher, the petitioner would like to remind the defendant of the Fourteenth Amendment involving “equal protection of the law.” The phrase in the Fourteenth Amendment means that everyone is to be treated equally and not biased due to their ethnicity, religion, or age. No exceptions should be made. The prime issue in this case is that the University of Texas at Austin has and still does follow a policy that is discriminatory towards certain and multiple ethnic groups. It is known to those applying to the University that the majority of the freshman class is made up of students who graduated in the top 10% of their high school class, beyond that the remaining freshman students accepted are based off of their testing scores, graded essays, resumes, and ethnic backgrounds. In previous cases known to the Supreme Court of the United States, such as; *Regents v. Bakke* the Supreme Court of the United States agreed that “affirmative action” violated the “equal protection” clause of the Fourteenth Amendment. Likewise, in the previous *Parents Involved in Community Schools v. Seattle School District No. 1, 551 U.S. 701* the Court struck down the “affirmative action” policy of one school district completely.

In considering the question of whether race conscious affirmative action is consistent with the Fourteenth Amendment, the University of Texas at Austin is in the wrong. It is not constitutional to discriminate students or persons' based on their race and ethnic background.

Argument:

1. I. Applying Equal Protection Clause to Ethnicity

Let's go way back into the past to the time of The Constitution of the United States of America, a time when our founding fathers all signed to our rights and freedoms. The Fourteenth Amendment is one of the most important amendments in the entire Constitution. This amendment ensures an "Equal Protection Clause" of the Law to every United States citizen. In Miss Fisher's case, she is being much mistreated when being declined to the University of Texas. Abigail Fisher applied to the University's summer program as well and received a letter saying she was grossly considered but unfortunately declined. Behind this case Fisher feels as if she had a better resume and testing scores than other students accepted above her.

1. II. Discrimination in Public Setting

May the petitioner bring attention to the Court the *Ricci v. Destafano* case in which there was conflict and discrimination towards certain firefighters in the New Haven Fire Department in 2009? Firefighters were competing against one another in multiple ways such as physical and educational testing in order to be promoted in the fire department. However the fire department threw out test results whenever minorities did not score as well as higher scoring fire fighters, and no promotions were given. As a result the Court ruled that the cities actions were unfair and that the work place is no place for discrimination. The Court also ruled that taking test scores into consideration is very important and that the decision of the fire department was wrong in way of which they should not have favored minorities the way they did. This case has proven that testing scores are very important when there is a situation involving both minorities and majorities. In more instances than Miss Abigail Fisher, there are certainly other students who are being treated unfairly and not being accepted to schools nationwide due to minorities being accepted over them because of their situation. This is a major problem because universities are discriminating towards students who have a better possible academic standing and living ways under students who might be lazy or not eligible to do such school work. All of this is not fair for the University to favor someone based off of their color just for a university or

college to reach a large diversity in students. The Fourteenth Amendment says that everyone is equal under the law.

1. III. **Minority Preference in Academia**

Another important case to look into is the *Parents. V. Seattle Schools*. In 2007 a high school was accepting applications from upcoming students and due to the school becoming “oversubscribed,” administrators decided which students to accept based solely off the students’ race. The assignments that the school gave were created and made up to promote and ensure racial diversity inside the school. In the end of this case, the Court ruled that the schools ways of accepting students was unconstitutional and that it violated the “Equal Protection Clause.” Justice John Roberts held that the school could still take into a small consideration a students’ race; however, the school was not allowed to accept students based off ethnicity only. This is exactly what the University of Texas at Austin is doing! The university is taking those minorities who don’t meet the top 10% and accepting and declining them completely based largely on ethnicity. Are they even looking into test scores? Resumes? Previous academic achievements? Miss Abigail felt that she had a better academic history than some of the minorities accepted into the University over and instead of her. This is a fact for Universities all over the country, that schools are accepting minorities due to their home story and past completely over how well or badly they perform in school. The petitioner would like to bring to attention the first run through the Supreme Courts hearing on the Fisher vs. the University of Texas at Austin. Justice Roberts brought to attention that the University is indeed reaching an extremely high diversity due to the top 10% plan already. With this being said, the petitioner would like to push towards the removal of race on college applications. The University is taking students from schools all over the state, from cities to suburbs, and accepting them based off of their school education and grades throughout high school for the top 10% plan which is perfectly okay. However, race based acceptance does not agree and pass by The Constitution.

1. IV. **Quota System for Higher Education**

More into the *Regents of the University of California v. Bakke* case, the university reserves 16 out of 100 spots at U.C. Davis Medical School for minorities. This is known as the “quota system.” The court once again ruled that this action was unconstitutional. Accepting minorities due to race and ethnicity is NOT constitutional! Schools are allowed to take ethnicity into consideration but it is not the main purpose in accepting students. Although, the University of Texas isn’t reserving specific seats like the University of California, they are still accepting students in similar ways to the University of California.

1. V. Acknowledgement of Race in Students Applying After Top 10% Is Not Important

The University of Texas at Austin followed a policy prior to the Fisher case and continues to today. With this being said, the University of Texas' acceptance policy includes 80% of the upcoming freshman class being made of the top 10% of surrounding high schools in the state of Texas. After those students are accepted the remaining 20% of the freshman class are accepted after their applications are reviewed and analyzed. However, the university has said and admitted to allowing diversity to play a major factor into the certain persons' acceptance in order to find a critical mass for the campus. The petitioner would like to state that the campus already would reach a very high diversity due to the difference in students accepted in the top 10% rule. If the University of Texas at Austin is accepting students from all over the state of Texas, from multiple different ethnic areas, different background groups, etc. the campus is bound to have a multitude of diversity amongst the upcoming freshman class. The point of is this students should not have to include or fill out a section on college applications including their race and ethnicity.

Kaiser Family Foundation statistics show that 15% of the United States citizens are living in poverty, of that total, 10% are white/non-Hispanic. Unfortunately, the University of Texas at Austin is accepting Hispanic and African American minorities over white/non-Hispanic minorities. The university needs to focus on the students' academic performance and accuracy in schooling more than the students' background story or home life. In ways alike the US Bureau of Refugees in 1865, after the Civil War, the government worked to help out by giving freed slaves and poor whites housing, land, food, and medical aid from those who were previous slave owners and the rich. This is similar in ways that even though times have changed, the ways of the past of helping black and white minorities still applies to today's standards. Miss Fisher and her family are fighting to reach the same treatment for herself in being accepted to the university. The University of Texas should consider the history of how minorities have been treated and still apply these strategies when accepting the last 20% of the freshman class. In 1965, the Bureau did not take into consideration the race of the persons in need, they simply accepted and helped them. Therefore, if a white/non-Hispanic minority and an African American or Hispanic minority are going up against each other in acceptance to a school, the choice should be solely taken from academic performance.

Conclusion:

In the *Fisher v. University of Texas at Austin*, Fisher felt as if the University of Texas' policy dealing with ethnicity in applicants was unconstitutional. Petitioners felt that the university needed to change their policy in ways of which applicants should not be accepted nor

declined due to their ethnicity. The Fourteenth Amendment speaks of how everyone has equal protection of the law, meaning that everyone is to be treated fairly no matter race, age, or religion. Therefore saying, if a white male and a black male score the exact same scores, the black male shouldn't be accepted over the white male just due to their his skin color. The court should find that this action being done by the University of Texas and Austin is unconstitutional and does not follow the Fourteenth Amendment in any ways. Equal is Equal no matter the time or place, bias of race, religion, or age. Going back to the *Ricci v. Destafano* case the court ruled that the work place is no place for racism. If work is no place for racism, what makes a University an okay place for racism? Eventually, after college persons' will go off to the working world and if they attended a University who made their student enrollment based off of ethnicity, students will continue to live by those standards. The Universities biggest goal for the campus is to reach a critical mass by offering a gross diversity in ethnic groups. However, like mentioned earlier, the campus will reach a very large amount of diversity in students by accepting the top 10% of the states' high schools. To accept a student over another after playing race as a factor is unfair and goes against The Constitution in ways of which it violates the "Equal Protection Clause." Most respectfully and thoughtfully the Court should rule in favor of Miss Abigail Fisher. Also, towards the University of Texas at Austin revoking their policy of seeking a "critical mass" in the student body based solely off race. The University should accept and/or decline students based solely off of academic history. In conclusion of the argument in the case Fisher vs. The University of Texas at Austin, the university needs to take into consideration in changing their acceptance policy due to race based equality. In the near future the petitioner hopes to see the court finds this policy as unfair and unconstitutional and pushes to see that the University changes their applications as to where students do not have to include race as a primary factor into their acceptance into the school.

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