

No. 21-707

In the  
Supreme Court of the United States

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STUDENTS FOR FAIR ADMISSIONS, INC.,  
*Petitioner,*

v.

UNIVERSITY OF NORTH CAROLINA, et al.,  
*Respondents.*

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**On Writ of Certiorari to the  
U.S. Court of Appeals for the Fourth Circuit**

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**BRIEF FOR **PETITIONER/RESPONDENTS****

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**QUESTIONS PRESENTED**

Should this Court overrule *Grutter v. Bollinger*, 539 U.S. 306 (2003), and hold that institutions of higher education cannot use race as a factor in admissions?

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**THE "ASIAN TAX" IN COLLEGE ADMISSIONS  
LLOYD NIMETZ**

***Background: Bollinger, a case decided by the United States Supreme Court on June 23, 2003, upheld the affirmative action admissions policy of the University of Michigan Law School. The petitioner is Grutter, a white Michigan resident with a 3.8 GPA and 161 LSAT score. She had discriminated against her on the basis of race in violation of the Fourteenth Amendment, Title VI of the Civil Rights Act of 1964, and 42 U.S.C. § 1981. She Alleged that, she have been rejected because of the affirmative action.***

**SUMMARY OF ARGUMENT**

**AFFIRMATIVE ACTIONS SETS A UNEQUAL ASSESSMENT OF AN INDIVIDUAL BASED ON RACE THAT CAUSES THE IDEA OF WHY THE EXISTENCE OF AFFIRMATIVE ACTION ITSELF, TO BE A CONTRADICTION. AFFIRMATIVE ACTION HAS AMANY REAONS WHY ITS FAULTY, AND HOW THE SYSTEM IT SELF SIMPLY JUST GOES AGAINST THE PRINCIPLES IT TRIES TO ACHIEVE AND FOLLOW, THUS CAUSSES IT TO JUST NOT WORK AND TO ENTRUST A FAIR AND NEUTRAL PROGRAM . NOW IN THIS AGE EVERYONE ARE SEEN AS EQUAL, THE 14TH ADMEMENDMENT AND THE CIVIL RIGHTS ACT PROTECT DISCRIMINATION TOWARD EVERYONE. NOT JUST THE AFFIRMATIVE ACTION SETS DISCRIMINATE CERTAIN RACES, THE AFFMATIVE ACTION WILL EVEN HURT THE MINORITIES THAT GOT ACCEPTED TO COLLEGE BECAUSE OF THE AFFIRMATIVE ACTION.**

## ARGUMENT

***I. Racial situations are, in this day of age , addressed and publicly spoken on, so having a system that was meant to spread awareness of equalness between races during a time period where minorities were seen as less than, is no longer needed since our generation has made many changes where now racism is widely looked down upon, and spoken on, and faced head on.***

***A. Many movemets that have occurred in newer generations have addressed the racism that minorities have faced, and circumstances where people of power are purposely putting minorities down are no longer simply just ignored.***

Affirmative action, the current policy, was presented in the early 1960s United States to combat racial prejudice during the hiring process of an individual, and later on, expanded to address gender discrimination. The reason affirmative action was presented to the United States is due to racial discrimination that was still occurring even



after every man and woman who was considered a minority was free, and were expected to be treated the same no matter what race they were. For example, if a person who applied to a college or job around this time had a different skin tone than the preferred tone of the employer, they would be heavily discriminated against simply for this fact, thus, causing them to be denied immediately. Affirmative action was created to combat unequalness and unaddressed racism so that no individuals would be denied because of skin tone. It was a system created during a time when racism was simply just socially accepted without any regard of if true or not. But racism compared to this day of age is extremely looked down upon, and heavily criticized in today's media, and not just thrown to the side as it once was. Numerous movements and petitions have arisen in our generation voicing the concerns and many instances of their experiences with racism at work, or simply for living, now making the topic knowledgeable and now known and causing these individuals who are racist, to now face mass repercussions of their actions and words against minorities. The Black Lives Matter movement is an example of this. This movement originated after the death of Trayvon Martin and continued to grow with the death of Michael Brown, both young black men whom both were shot while unarmed by an officer of the law. But, the movement became a national and well-known hashtag after the death of George Floyd, a black man living in Minneapolis after

having a brutal death in police custody. Black activists used George Floyd's death as a symbol of the intolerance and injustice that they experience simply for being their race. During this movement, 15 million to 26 million people in the U.S. participated in George Floyd protests, arguing that Black lives matter, and expressing their anger against the racist assumptions and actions that officers and individuals in power have made simply on an individual's race. This movement has been one of the largest racial justice protests in the United States since the Civil Rights Movement, and went far beyond that, inspiring a global reckoning with racism across the nation's border. In this generation, minorities are no longer a silent group. They have voices. And this movement proves that. Affirmative action is no longer needed because we as a generation, speak on racism, we have evolved as a whole since then.

***II. affirmative action does not follow the principles of a meritocracy, which causes social tensions to arise between races. It causes more harm than good.***

- A. College admissions should solely be based upon the principles of a meritocracy, instead of accepting an individual based on their race.

A meritocracy is a government or the holding of power by people selected on the basis of their ability. That being said, it's the exact opposite of affirmative action, which affirmative action strives to be.

Affirmative action portrays a system where all bases are about equality, but in reality, it harms it, because not everyone is given equal chances with this system implemented. *University of California v. Bakke* is a prime example of how this system does not establish fair chances for all. Bakke was a white male who applied to medical school at the University California at Davis. Tests-wise, and results, his scoring was acceptable and rather admirable. He was an above-average admittee applying, yet was simply denied because of a race quota the school that to ensure to fulfill. Bakke sued the university, arguing that him being denied on such reasonings was unconstitutional and a violation of the Civil Rights Act of 1964. The Court held that these entrance standards disregarded the Equal Protection Clause and the Civil Rights Act of 1964. The Court corresponded the analysis of the two, finding that a violation of the Equal Protection Clause is prejudice, which the Civil Rights Act of 1964 prohibits. In this case, the court applied rigorous scrutiny, reasoning that the Equal Protection Clause mandates that a government has a persuasive claim with scarcely tailored means to blatantly establish their actions on race alone, as was the case here. When making this system of affirmative action, the main purpose was to ensure equality for minorities alongside individuals who are white, or of any other race under affirmative action. But this so-called equality only goes so far. Affirmative action tries to create a system out of Meritocracy principles but goes against the definition of a meritocracy. , Why try to achieve a system of equality, promising every individual a fair chance of success and admission, when clearly, the way you try to fix this simply does not fit those principles. This

system simply just causes more discourse between races, and individuals, and does not cause any good to occur in this day of age.

*III. Affirmative action supports an unfair system where certain minority groups are favored*

***A: The affirmative action goes against the purpose of XIV amendment***

The constitution quote “ *All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.*” Every person who is a US citizen deserves to be treated fairly under constitution XIV. There shall be no privileges that created unfairness for all citizens. But affirmative action have goes against the purpose of the 14 amendmentss by create an unfairness in accepting certain minorities over other races as a facor in college admissions.

The University of Texas was among the many universities that applies admissions policies. In 2003, the university already had in place an admissions policy designed to raise the number of under-represented minority students attending its flagship campus in Austin

by admitting the "top 10%" of the graduates of each Texas high school without regard to SAT scores. 21% of which was composed of under-represented minorities. But the school is not satisfied with the number of minorities. So Under the new policy, the proportion of the student body composed of Under presented race rose to 25%. Many universities have raised the bar for minority students too high which result in unfairness in academic admission. Standard that whites and Asians must meet in order to gain admission. This will widen unfairness and less opportunities for other students. Colleges have been too reliant and prioritize race for admission. This led to the violation of the Civil right act and the purpose of the constitution.

Now According to research from Princeton University, students who identify as Asian must score, on average, 140 points higher on the SAT (out of 1600) than whites to have the same chance of admission to private colleges. They must score 450 points higher on the SAT than African-Americans. This is the Unequality that have heated up some argument in recent years. The fact that Asians have to do better academically than others to get admitted into selective US colleges shouldn't be a thing if the affirmative action if Grutter v. Bollinger is overturned. Let's me emphasize how much 450 points on the Sat is (out of 1600). If a person scored 1550 on a SAT test, they would be in the 99th percentile, according to 2021 stats, Out of the 2.13 million test-takers, 8323 scored the same or higher than them. To be exact only .39% of students scored the same or higher than 1550. Now if a person scored a 1100, around 900 thousand people scored the same or higher than you 1550. That's almost a million people in different. Affirmative action have a negative impact on certain races (especially Asian).

**IV: The affirmative action have not achieve  
it true purpose.**

**A: Acedemic mismatch have greatly  
affected minority students.**

Affirmative action laws are policies instituted by the government to help level the playing field for those historically disadvantaged due to factors such as race, color, religion, sex, or national origin. These laws typically pertain to equal opportunities in employment,

education, and business. But as time goes by, people have started question the affectiveness of the affirmative action. Minority students' lack of interest in academic careers offers one example of the consequences of mismatch, but the strongest evidence comes from the fields of science and engineering. Compared to what many might expect, college-bound African-American and Hispanic students are just as interested as white students in majoring in science and engineering. But these are difficult majors that many students abandon. Significantly, African-American and Hispanic students jump ship at much higher rates than whites. It is not surprising that students with lower entering academic credentials give up on their ambitions to get degrees in science and engineering more often than students with higher academic credentials. The affirmative action have hurts student more than it helps them. One consequence of widespread race-preferential policies is that minority students tend to enroll in colleges and universities where their entering academic credentials put them toward the bottom of the class.

As demonstrated by research over the last decade. For example, in one study of top law schools, more than 50 percent of African-American law students were in the bottom 10 percent of their class. And the dropout rate among African-American students was more than twice that of their white peers. As there's a similar dropout rate among students admitted due to affirmative action policies and white students accepted as "legacies" with

entering academic statistics that match those of students admitted because of a race preference. The student who is underprepared relative to others in that class falls behind from the start and becomes increasingly lost as the professor and his classmate's race ahead. Worse, the experience may well made students panic and self-doubt, making learning even harder. Affirmative action in many studies has shown that there is unequal academic across different minority groups. Affirmative action has not only created unfair competition between all races but a barrier for minority students to achieve their own success.



**CONCLUSION**

Affirmative action does not follow the principles and does not in fact promise equal opportunity for all students. The reasonings stated by me, and my partner, have proved that this system does far more harm than it does good, and simply should not be used as a future feature that colleges and unis rely on to accept admittees, and judge them if they do want to achieve a sense of equality.

Respectfully submitted,

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