

No. 21-707

In the
Supreme Court of the United States

STUDENTS FOR FAIR ADMISSIONS, INC.,
Petitioner,

v.

UNIVERSITY OF NORTH CAROLINA, et al.,
Respondents.

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

BRIEF FOR PETITIONER

DAVID RODRIGUEZ
Counsel of Record

Creekview Highschool 3201
Old Denton Rd, Carrollton,
TX 75007

AMANDA MESTANZA
Creekview Highschool
3201 Old Denton Rd,
Carrollton, TX 75007

Dec 7, 2022

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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438 U.S. 265 (1978)**

**[HTTPS://EDUCATION.NATIONALGEOGRAPHIC.ORG/RESOU
RCE/KU-KLUX-KLAN](https://education.nationalgeographic.org/resource/ku-klux-klan)**

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U.S. CONST. AMEND XIV, § 1

ACT OF MARCH 3, 1865, CH. 90, § 1, 13 STAT. 507

GRUTTER V. BOLLINGER, 539 U.S. 306 (2003)

**DOBBS V. JACKSON WOMEN'S HEALTH ORGANIZATION
NO. 19-1392, 597 U.S. ____ (2022)**

SUMMARY OF ARGUMENT

In today's case we will be addressing that Affirmative action is not consistent with the fourteenth amendment in the United states Constitution.

ARGUMENT

May it please the court. My name is David Rodriguez along with my co-council Amanda. We represent Petitioner in today's case of Students for fair admission V University of North Carolina. My first point being that affirmative action doesn't follow the 14 amendment which is, that everyone has to be equal. My second point being that affirmative action should be something that benefits everyone.

Moving on to my first point, Affirmative Action is an action that lets minorities have a greater chance to get into a University, even if there is a person more qualified than them. The confrontation clause of the Fourteenth Amendment was made to share equality among all races, it was created to protect the people that were enslaved and make them all the same no matter their race or the color of their skin. Affirmative Action on the other hand suggests the use of race to allow or not allow some people into their campus or to that University. The legislation enacted by congress in the 1860s and 1870s took place because white people did not want black people or any other race to have rights, become citizens, be free and be able to vote. The government had to put more protection for these people to be able to reach equality among them, and to stop people from trying to take their rights away. "The Fourteenth Amendment addressed Black Codes and other discriminatory legislation by guaranteeing rights to all citizens, including those former slaves who were newly made citizens" The KKK movement of the black code did not want equality for everyone, they wanted to have those privileges or those rights that no one else did. Affirmative Action is one of them, but now the tables have turned.

They allowed minorities to have greater chances to enter a University, but at the same time putting down other races or other people because of this action. The 14th amendment it's for the good of all races and all people, but affirmative action is not. Equality is a meaning of everyone getting the same things, and no one receiving more than the other. Parent Involved in Community Schools V Seattle School Dist. (2007) In this case Seattle School Dist started to see race as an important factor as they were receiving applications. Although in Regents of the University of California v. Bakke (1978) was established that race may be used in consideration not as an important factor. Otherwise this type of system is unconstitutional. In these 2 cases, the problem was race, the problem was that they did not see the people as just people they saw them as an ethnicity or a skin color. The 14th Amendment suggested for people to just stop looking at others as a race but as someone that deserves the same things as them. We will never fulfill the intentions of the 14th Amendment if we don't move on from seeing everyone differently based on the color of their skin or just for being who they are. So many problems, conflicts, and even wars have happened because of skin differences. The 14th Amendment was made after the civil war, a war that revolved everything on race and equality. Let's not forget the true intentions of the 14th amendment, equality and respect towards one another.

Moving on to my second point. If the 14th Amendment included privileges for African descent because they had gone through slavery, or through rough times, these privileges would need to still be given to members of other races. The 14th Amendment was made

for Equality and not for Quality. Everyone would need the same advantages or the same privileges others have. As we know this is still a problem to this day. Minorities are still being targeted, and have been victims of racism among other stuff, this is because of the people that receive privileges or still have some sort of an advantage. Affirmative action it's just another way of an advantage or another way of privilege, but now for minorities. I understand that affirmative action was created to help those races that were damaged in the past. Although affirmative action also stops those races that didn't have anything to do with what happened in the past, or what happened to that race. Regents of the University of California v. Bakke (1978) In this case, students were being rejected from universities because 16 out of 100 spots were for minorities. Students that just want to have an education, to do well in life, should not be rejected just because of the color of their skin, something they didn't get to choose, or have an option on. We have to understand that all races have a high, middle, and low class. This action was made because the thought of all minorities being a low class was popular, and it's somewhat true. Although they forgot that not all minorities are low class people. Some minorities are doing really well in life, and they are still receiving the advantages given by Affirmative action, even if other people have worked harder than them or deserve it more than them. Denying the right to study due to a process based on race is something that was in the past, and should stay in the past. Let's go back to when Racial Segregation was happening in the 18th and 19th century. We all know that during this time white people, and black people were being

separated, each on their own side. Even schools where part of Racial Segregation, a black kid could not go to a white school. Even while Segregation took place white people still had advantages for being white, one of them being that they got to sit in front of the bus for being white. The Civil Rights Act of 1964 declared this act unconstitutional while overturning the “separate but equal” doctrine. Affirmative action is just another way of segregation but now it’s from opposite races. Now people of color are the ones getting the advantages, the ones being in front of applications because of the color of their skin. There should not be any advantages if they won’t benefit all ethnicities. Affirmative action is dividing us into sides, history tells us the effects of these separations. Let’s not let history repeat itself.

Argument II

Affirmative action is not only one of the main root causes of unsuitable workers and employees in the workforce, but it also lowers the bar for students of color. Through giving POC advantages, such as being accepted into schools that they are underqualified for, consequently makes it easier to get into these schools. This creates an unlevel playing field because affirmative action favors some, but not all. An example of this is illustrated in cases such as *Bakke v. University of California* and *Grutter v. Bollinger*. A similarity in both of these cases is that the defendants were denied access to universities that they were overqualified to be in, simply due to the fact that the universities were more focused on race and ethnicity than the intelligence of those who are in their school. The same privileges and rights should be granted to all students. Gender and race-based acceptances are not only unconstitutional but also unethical and unfair. Segregation and racism have been around since forever and the damage caused to minorities can't be undone, but an equal playing field to their white classmates and equal treatment is much more important and necessary now.

Secondly, affirmative action negatively affects students applying to universities and colleges by creating an unequal playing field. It favors potentially under qualified students and judges based on race or ethnicity rather than academic merit. To add further context, racial preference has a negative impact on the future of these unskilled workers entering the workforce and providing low-quality service to their jobs. This is bad for everyone as it can lead to corruption if workers don't know what to do. Expanding further on what was previously mentioned, affirmative action results in access being denied to overqualified students, once again, based solely on race or ethnicity.

Affirmative action and racial preference are intended to be used to help minorities who do not have access to the same

opportunities as others because of their race. Affirmative action and racial preference are meant to be used to help minorities who otherwise would not have access to the same opportunities as someone due to their race, ethnicity, etc. I believe that affirmative action provides a temporary solution to an issue that has been around for a long time. It is clearly shown that minorities have been met with fewer opportunities and more challenges than white people. It has also been shown that affirmative action hasn't ended discrimination but only enhanced the idea that someone's race has more power to enter a school than academics. Due to that fact, a more permanent solution would be changing the system. This doesn't just positively affect students, this affects everyone. The problems found through racial preferences (unfair acceptances, unlevel playing field, etc.) could be fixed if the root of the problem was dealt with. If minorities aren't targeted in the first place, they would not need an extra boost or help to have equal opportunities as white people.

Affirmative action doesn't mean or stand for the same thing that it did all those years ago- equality. Affirmative action and racial preference are used now to showcase the diversity and sell the idea of something rather than the actual intelligence of someone. This was meant to solve the issue of unequal standing to white classmates and for a while, it was working. Now, this leads to a false sense of identity, forced diversity, and negative effects on the future of the workforce. Now it is evident that colleges and universities just want to benefit off of minorities- and only accept them for their campus's home page. The wanted appearance of diversity is unethical especially when it is forced and leads to low-quality work and students. Universities are not worried about intelligence levels anymore, but they are fixated on their brand or look. The idea of a diverse campus and community is more appealing because it makes more people want to apply. This also causes a false sense of identity because the people joining through

affirmative action believe that they are there due to scores and applications when really it is due to the fixation that universities have with seeming accepting. This also comes with double standards for white people joining while, as previously mentioned, lowering standards dramatically to POC.

I believe that racial preferences and affirmative action won't last forever. Eventually, we will get to a point of more diversity which should evidently lead to more tolerance- and less racism. As time goes on, races will spread and an increase in diversity is inevitable. That being said, racism will never end and the damage caused to these minorities will never fully be fixed, but at one point we have to stop and realize that unless we see through race and ethnicity, we will only continue to damage the workforce and everyone impacted by it.

Lastly, affirmative action is unconstitutional which can be found in the case of *Gratz v. Bollinger*. In this case, the overly mechanicalized point system the college was using was deemed unconstitutional. *Brown v. Board of Education* prohibited race-conscious affirmative action when it was ruled that choosing and/or denying students access to public schools solely based on race was unconstitutional. In *Grutter v. Bakke*, this is seen when Allen Bakke was denied his application to the University of California two times after seeing way less qualified people of color applicants to be accepted over him due to their race, ethnicity, etc.

CONCLUSION

In conclusion, affirmative action negatively affects students applying to universities and colleges by creating an unequal playing field. It favors potentially under qualified students and judges not by academic intelligence, but by race and ethnicity(something

uncontrollable). This also has negative side effects in the future when these under qualified workers step into the workforce and produce low-quality work. This negatively affects everyone because without workers knowing what to do/how to do it it can lead to corruption. Affirmative action leads to potentially overqualified students being denied access purely on their race, gender and ethnicity.

Abortions are simliar to admision offices due to the fact that they both don't have equal rights.

Respectfully submitted,

DAVID RODRIGUEZ
COUNSEL OF RECORD

CREEKVIEW HIGHSCHOOL
3201 OLD DENTON RD,
CARROLLTON, TX 75007

AMANDA MESTANZA
CREEKVIEW
HIGHSCHOOL 3201 OLD
DENTON RD,
CARROLLTON, TX 75007

[12/7/2022]