

6;No. 21-707

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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 RESPONDENTS**

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[11-28-22]

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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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### **SUMMARY OF ARGUMENT**

Me and my partner Thien Nguyen and myself Samuel Weaver have taken up the position of respondent in this case. To summarize this argument we made points of how the 14th amendment had not excluded certain people being given privileges due to race. Seeing as though the freedmen bureau existed. That gender affirmative action exists and doesn't seem to have as much uproar and race based affirmative action. As well as we defined the Grutter case as the way for schools to be diverse and have a good inclusive campus.

## **ARGUMENT**

### **I. Opening**

Me and my partner Thien Nguyen and myself Samuel Weaver have taken up the position of respondent in this case. UNC has for years been working towards a neutral race admission for years. The idea that these are biased admission is unprecedented and radically untrue. Brown had been working for a diverse university when he implemented this policy and this has been true till this day. This not only allows for more equal admissions but for the university itself to be more diverse.

### **II. 14th Amendment argument**

Me and my partner have come to the conclusion that the 14th amendment does not prohibit race-conscious affirmative action. The 14th amendment is defined as that it forbids any states from depriving any person of "life", liberty or property without due process of law, as well as not being able to deny anyone equal protection. In simple terms this means that you cannot discriminate based on race or stripping any specific rights. The key thing with the 14th amendment is that it in fact does not clarify what it means by this. From what the modern person would interpret from this is that no person can be discriminated against no matter the race. Which leads me into the main point. There are exceptions to this rule if the circumstances call for it. As the 14th amendment states no person can be denied any rights or privileges. But this does not mean that we can't grant certain people privileges for the greater good. This in a nutshell is what affirmative action is. This has even happened before to a greater extent during the time this amendment was ratified. It was called the Freedmen's

Bureau and it allowed for recently freed slaves to acquire benefits to try and fight back against the systemic racism that was very present during that time. The Freedmen's Bureau is a prime example as to why the 14th amendment never actually prohibited exceptions being made for certain underprivileged people. It only prohibits people being discriminated against because of their race.

### **3. What does Grutter really mean**

Now as the Grutter v. Bollinger case states affirmative action is not simply just someone being judged based on their race, it's a wide range of factors that go into whether or not this person is eligible for that college or university, the factor that race plays in affirmative action is that it allows for more diversity to be present on campus. If this means that they allow less privileged kids or grads to be transferred and taught on that campus or if it's just doing things like having more heritage events to make people more welcomed. Affirmative action is not race based quotas what it is doing is combating the present race discrimination still present to this day. Affirmative action even stated by the court is still needed in the foreseeable future as stated by the Grutter v. Bollinger "Notably Justin O'Conner said that while diversity of the campus is important this kind of affirmative action is still needed for a time." If the diversity of the campus is the main focus for an inclusive student community then affirmative action will continue to be necessary.

### **4. Does the court prohibit Sexual or gender based affirmative action**

Now on another topic relating to affirmative action affirmative action is not only necessary for race based

admission but as well for admission for other minorities present on campus. This includes any different sexual orientations than the ones that were the norm at the time, as well as women being included in these given rights in this case. The question is did Brown V. Board of education include rights for women and other sexual orientations. The given answer is in fact no. Brown V. Board of education did not include the equivalent rights for both women and different sexually oriented people. Meaning that in fact they were not considered during this time in this old case. Which leads to an interesting point. Should women and other groups be eligible for affirmative action? For some schools that is already the case. Gender based affirmative action has been present for a lot shorter time compared to race based affirmative action has. And yet the disputes over gender based affirmative action are a lot more minor compared to race based admissions. This proves that there is room for affirmative action if it can work for gender than race itself should not be as big of an issue as many petitioners make it out to be. The point of affirmative action is not to give unwarranted advantages to different minorities, it is to provide equal opportunity for every person who's trying to educate themselves. The fact that there is more than one version of affirmative action being used shows that it is not simply one example of one small circumstance, it is a given fact that for now it is needed and permitted.

#### **5. UNC wants race neutral admissions**

UNC would like to have nothing more but to have admissions from race neutral means and as pointed out Ryan Y. Park. But to say that any university has neutral race admissions is just simply untrue. It is not the race

itself that poses a problem but the differences in background, opportunity, and scrutiny that poses the real issue. UNC implements affirmative action because it is meant to combat this. Affirmative action at UNC is simply the placeholder for if or when we reach that perfect medium of free opportunity and rights. UNC has made sure to have affirmative action as a sort of safety net to not lose worthwhile students who just simply didn't have the resources to show up on the radar otherwise. UNC is not some grandiose villain who's trying to take earned opportunities from graduating students, it is simply trying to look out for the little guy. In today's climate things like affirmative action are necessary to uphold an even and diverse campus and community. Despite the stigma placed before it, despite the doubt, despite the arguments against it. At the end of the day not everyone was born with the same privilege. Not everyone is equal. Until we reach that day affirmative action will continue to be the equalizer for UNC.

## CONCLUSION

In conclusion Grutter V. Bollinger should not be overturned because to overturn the president leads to a lot of issues as seen with abortion being given to the states. Affirmative action is still needed today, it was set up to meet certain precedent that still hasn't been met today. The 14th amendment doesn't restrict affirmative action or different rights being given to groups and this even stretches to womens affirmative action as well. Mind you a version of affirmative action

that isn't nearly as well contested as race based affirmative action. At the end of the day precedent should not be overturned and affirmative action will for a long time be needed in the foreseeable future.

Respectfully submitted,  
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