

PREJUDICE ON TRIAL

Students for Fair Admissions, Inc. v. President and Fellows of
Harvard College

PRIOR CASE HISTORY

- *Regents of the University of California v. Bakke* (1978): medical school could not reserve some slots with separate admissions standards for minority applicants, but could consider race and ethnicity in admissions decisions
- *Gratz v. Bollinger* (2003): University of Michigan had unconstitutionally used an undergraduate admissions system in which underrepresented minority applicants received points based on their ethnic or racial background
- *Grutter v. Bollinger* (2003): University of Michigan's law school within its constitutional rights in considering applicants' race and ethnicity because it did so through a "holistic" review and not by simply awarding points based on race and ethnicity
- *Fisher v. University of Texas at Austin* (2013): lower courts needed to apply "strict scrutiny" and not give colleges deference in reviews of challenges to the consideration of race and ethnicity in admissions decisions

PLAINTIFF'S ARGUMENT

Main: School's admission process forces Asian Americans to clear a higher bar to get admitted by using racially and ethnically discriminatory policies in its undergraduate admissions program at their expense

School Policy: systematically assigning Asian Americans an artificially low "personal rating;" a crucial consideration in its admissions scheme that evaluates personality qualities "such as kindness, humor and courage"

Remedy: all colleges should no longer consider race in its admissions process, and the Supreme Court rulings in support of affirmative action have "been built on mistakes of fact and law"



DEFENDANT'S ARGUMENT

- Main: most applicants could succeed and thrive at the university; nonacademic factors may be decisive because there is little difference academically
 - Factors include extracurricular activities, life experiences, other personal factors
 - Race is one of the factors, but it is never used against an applicant nor is it a deciding factor
- Their current admissions system is beneficial to student life and necessary to create diversity on campus

WEAKNESSES

SAFA

- “No-victim problem”
- Disparity in personal ratings did not burden Asian American applicants significantly more than the race-conscious policies burdened white applicants

HARVARD

- “A personal rating problem”
- Statistics showed Harvard’s admission officers giving Asian American applicants lower “personal scores” than other groups

DECISION

- Harvard's admissions policies are lawful and consistent with Supreme Court precedent
- Harvard does not discriminate
- Diversity and Inclusion Central in Higher Education
- Race-Neutral Alternatives are not workable
- No statistically significant difference between white and Asian American applicants