



**National
Urban League**

To Be Equal #40

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Supreme Court To Hear Major Affirmative Action Case

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"The educational benefits that flow from diverse colleges and universities are no less apparent today than they were three decades ago when Justice Powell cast the deciding vote in Bakke, nine years ago when the Court decided Grutter, or five years ago, when it reaffirmed this Grutter principle..." NAACP Legal Defense Fund

On Wednesday, October 10, the United States Supreme Court will hear arguments in a case that once again challenges the right of colleges and universities to consider race as a factor in ensuring that all students receive the educational benefits of diversity. In Fisher v. University of Texas at Austin, Abigail Fisher, a white student who was denied admission to the University in 2008, argues that her race was the only reason she was not admitted.

When race-based college admissions were outlawed 16 years ago in Texas, the state passed a law granting admission to the state's colleges to all students in the top 10% of their graduating class. Since then race-based admissions have been reinstated and the remaining slots now go to students who must qualify through a regular admissions process that factors race into the decision. When she applied to UT in 2008, Abigail Fisher was not a top 10% student and was turned down. Claiming racial discrimination, her argument directly challenges the landmark 2003, Grutter v. Bollinger Supreme Court case which ruled that "student body diversity is a compelling state interest that can justify using race in university admissions." The National Urban League is among 70 organizations and individuals to file Supreme Court Amicus Briefs in support of diversity in the University of Texas case, more than a dozen Members of Congress; the former Chairman of the Joint Chiefs of Staff, General Colin L. Powell; and the NAACP Legal Defense Fund (LDF), America's premier legal organization fighting for racial justice.

The case will be closely watched by those of us in the civil rights community who understand that centuries of oppression and decades of exclusion that still linger today require remedies that only affirmative action can bring. It should be remembered that until 1950, African Americans were barred from attending the University of Texas Law School. In its 1950 Supreme Court victory, Sweatt v. Painter, the NAACP Legal Defense Fund made it possible for Heman

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Marion Sweatt to be the Law School's first black student. In its Fisher v. University of Texas Amicus Brief, the LDF states that "From 1997 through 2004, UT did not consider race in admissions. The impact was devastating." Despite the fact that 13% of Texas high school graduates were African American, "at no point between 1997 and 2004 did African American students comprise more than 4.5% of the entering year class, Nearly four out of every five UT undergraduate classes had zero or one African American students."

Some progress has been made in recent years, but the numbers are still low and the University of Texas admits that it can and must do better. Debo Adegbile, LDF's Acting President and Director-Counsel said, "In Grutter the Supreme Court recognized the significant educational benefits of diversity – not just for students of color, but for all students. A diverse college experience better prepares students to participate in our Nation's civic life." The balance of the Court has shifted right since Grutter. But we are hopeful that the High Court will reaffirm the nation's highest values by continuing its support of diversity in our colleges and universities.

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