

JENNIFER GRATZ and PATRICK HAMACHER, PETITIONERS

v.

LEE BOLLINGER et al.

– U.S. – (June 23, 2003)

CHIEF JUSTICE REHNQUIST delivered the opinion of the Court.

We granted certiorari in this case to decide whether “the University of Michigan's use of racial preferences in undergraduate admissions violate[s] the Equal Protection Clause of the Fourteenth Amendment, Title VI of the Civil Rights Act of 1964.” Because we find that the manner in which the University considers the race of applicants in its undergraduate admissions guidelines violates these constitutional and statutory provisions, we reverse that portion of the District Court's decision upholding the guidelines.

I

A

Petitioners Gratz and Hamacher both applied for admission to the University of Michigan's (University) College of Literature, Science, and the Arts (LSA) as residents of the State of Michigan. Both petitioners are Caucasian. ...

B

The University has changed its admissions guidelines a number of times during the period relevant to this litigation, and we summarize the most significant of these changes briefly. The University's Office of Undergraduate Admissions (OUA) ... considers a number of factors in making admissions decisions, including high school grades, standardized test scores, high school quality, curriculum strength, geography, alumni relationships, and leadership. OUA also considers race. During all periods relevant to this litigation, the University has considered African-Americans, Hispanics, and Native Americans to be “underrepresented minorities,” and it is undisputed that the University admits “virtually every qualified ... applicant” from these groups....

Beginning with the 1998 academic year, the OUA [adopted] a “selection index,” on which an applicant could score a maximum of 150 points. This index was divided linearly into ranges generally calling for admissions dispositions as follows: 100-150 (admit); 95-99 (admit or postpone); 90-94 (postpone or admit); 75-89 (delay or postpone); 74 and below (delay or reject).

Each application received points based on high school grade point average, standardized test scores, academic quality of an applicant's high school, strength or weakness of high school curriculum, in-state residency, alumni relationship, personal essay, and personal achievement or leadership. Of particular significance here, under a “miscellaneous” category, an applicant was

entitled to 20 points based upon his or her membership in an underrepresented racial or ethnic minority group. The University explained that the “development of the selection index for admissions in 1998 changed only the mechanics, not the substance of how race and ethnicity were considered in admissions.”....

Starting in 1999 the University established an Admissions Review Committee (ARC), to provide an additional level of consideration for some applications. Under the new system, counselors may, in their discretion, “flag” an application for the ARC to review after determining that the applicant (1) is academically prepared to succeed at the University, (2) has achieved a minimum selection index score, and (3) possesses a quality or characteristic important to the University's composition of its freshman class, such as high class rank, unique life experiences, challenges, circumstances, interests or talents, socioeconomic disadvantage, and underrepresented race, ethnicity, or geography. After reviewing “flagged” applications, the ARC determines whether to admit, defer, or deny each applicant.

II.

* * *

B

Petitioners argue, first and foremost, that the University's use of race in undergraduate admissions violates the Fourteenth Amendment. Specifically, they contend that this Court has only sanctioned the use of racial classifications to remedy identified discrimination, a justification on which respondents have never relied. Petitioners further argue that “diversity as a basis for employing racial preferences is simply too open-ended, ill-defined, and indefinite to constitute a compelling interest capable of supporting narrowly-tailored means.” But for the reasons set forth today in [*Grutter v. Bollinger*](#), the Court has rejected these arguments of petitioners.

Petitioners alternatively argue that even if the University's interest in diversity can constitute a compelling state interest, the District Court erroneously concluded that the University's use of race in its current freshman admissions policy is narrowly tailored to achieve such an interest. Petitioners argue that the guidelines the University began using in 1999 do not “remotely resemble the kind of consideration of race and ethnicity that Justice Powell endorsed in *Bakke*.”...

It is by now well established that “all racial classifications reviewable under the Equal Protection Clause must be strictly scrutinized.” This “standard of review ... is not dependent on the race of those burdened or benefitted by a particular classification.” Thus, “any person, of whatever race, has the right to demand that any governmental actor subject to the Constitution justify any racial classification subjecting that person to unequal treatment under the strictest of judicial scrutiny.”

To withstand our strict scrutiny analysis, respondents must demonstrate that the University's use of race in its current admission program employs “narrowly tailored measures that further

compelling governmental interests.” Because “[r]acial classifications are simply too pernicious to permit any but the most exact connection between justification and classification,” *Fullilove v. Klutznick*, 448 U. S. 448, 537 (1980) (STEVENS, J., dissenting), our review of whether such requirements have been met must entail “a most searching examination.” We find that the University's policy, which automatically distributes 20 points, or one-fifth of the points needed to guarantee admission, to every single “underrepresented minority” applicant solely because of race, is not narrowly tailored to achieve the interest in educational diversity that respondents claim justifies their program.

In *Bakke*, Justice Powell reiterated that “[p]referring members of any one group for no reason other than race or ethnic origin is discrimination for its own sake.” 438 U. S., at 307. He then explained, however, that in his view it would be permissible for a university to employ an admissions program in which “race or ethnic background may be deemed a 'plus' in a particular applicant's file.” *Id.*, at 317. He explained that such a program might allow for “[t]he file of a particular black applicant [to] be examined for his potential contribution to diversity without the factor of race being decisive when compared, for example, with that of an applicant identified as an Italian-American if the latter is thought to exhibit qualities more likely to promote beneficial educational pluralism.” *Ibid.* Such a system, in Justice Powell's view, would be “flexible enough to consider all pertinent elements of diversity in light of the particular qualifications of each applicant.” *Ibid.*

Justice Powell's opinion in *Bakke* emphasized the importance of considering each particular applicant as an individual, assessing all of the qualities that individual possesses, and in turn, evaluating that individual's ability to contribute to the unique setting of higher education. The admissions program Justice Powell described, however, did not contemplate that any single characteristic automatically ensured a specific and identifiable contribution to a university's diversity. ... Instead, under the approach Justice Powell described, each characteristic of a particular applicant was to be considered in assessing the applicant's entire application.

The current [Michigan admissions] policy does not provide such individualized consideration. The LSA's policy automatically distributes 20 points to every single applicant from an “underrepresented minority” group, as defined by the University. The only consideration that accompanies this distribution of points is a factual review of an application to determine whether an individual is a member of one of these minority groups. [The] automatic distribution of 20 points has the effect of making “the factor of race ... decisive” for virtually every minimally qualified underrepresented minority applicant.

Also instructive in our consideration of the LSA's system is the example provided in the description of the Harvard College Admissions Program, which Justice Powell both discussed in, and attached to, his opinion in *Bakke*. The example was included to “illustrate the kind of significance attached to race” under the Harvard College program. *Id.*, at 324. It provided as follows:

“The Admissions Committee, with only a few places left to fill, might find itself forced to choose between A, the child of a successful black physician in an academic community with promise of superior academic performance, and B, a black who grew up in an inner-city ghetto of semi-literate parents whose academic achievement was lower but who had demonstrated energy and leadership as well as an apparently abiding interest in black power. If a good number of black students much like A but few like B had already been admitted, the Committee might prefer B; and vice versa. If C, a white student with extraordinary artistic talent, were also seeking one of the remaining places, his unique quality might give him an edge over both A and B. Thus, the critical criteria are often individual qualities or experience *not dependent upon race but sometimes associated with it.*” *Ibid.* (emphasis added).

This example further demonstrates the problematic nature of the LSA's admissions system. Even if student C's “extraordinary artistic talent” rivaled that of Monet or Picasso, the applicant would receive, at most, five points under the LSA's system. ... At the same time, every single underrepresented minority applicant, including students A and B, would automatically receive 20 points for submitting an application. Clearly, the [Michigan] system does not offer applicants the individualized selection process described in Harvard's example. Instead of considering how the differing backgrounds, experiences, and characteristics of students A, B, and C might benefit the University, admissions counselors reviewing LSA applications would simply award both A and B 20 points because their applications indicate that they are African-American, and student C would receive up to 5 points for his “extraordinary talent.”

Respondents emphasize the fact that the LSA has created the possibility of an applicant's file being flagged for individualized consideration by the ARC. We think that the flagging program only emphasizes the flaws of the University's system as a whole when compared to that described by Justice Powell. Again, students A, B, and C illustrate the point. First, student A would never be flagged. This is because, as the University has conceded, the effect of automatically awarding 20 points is that virtually every qualified underrepresented minority applicant is admitted. Student A, an applicant “with promise of superior academic performance,” would certainly fit this description. Thus, the result of the automatic distribution of 20 points is that the University would never consider student A's individual background, experiences, and characteristics to assess his individual “potential contribution to diversity,” *Bakke, supra*, at 317. Instead, every applicant like student A would simply be admitted....

Respondents contend that “[t]he volume of applications and the presentation of applicant information make it impractical ... to use the ... admissions system” upheld by the Court today in *Grutter*. But the fact that the implementation of a program capable of providing individualized consideration might present administrative challenges does not render constitutional an otherwise problematic system. See *J. A. Croson Co.*, 488 U. S., at 508 (citing *Frontiero v. Richardson*, 411 U. S. 677, 690 (1973) (plurality opinion of Brennan, J.) (rejecting “administrative convenience” as a determinant of constitutionality in the face of a suspect classification)). Nothing in Justice Powell's opinion in *Bakke* signaled that a university may employ whatever means it desires to

achieve the stated goal of diversity without regard to the limits imposed by our strict scrutiny analysis.

We conclude, therefore, that because the University's use of race in its current freshman admissions policy is not narrowly tailored to achieve respondents' asserted compelling interest in diversity, the admissions policy violates the Equal Protection Clause of the Fourteenth Amendment. We further find that the admissions policy also violates Title VI and 42 U. S. C. § 1981. Accordingly, we reverse that portion of the District Court's decision granting respondents summary judgment with respect to liability and remand the case for proceedings consistent with this opinion.

It is so ordered.

Justice O'Connor, with whom Justice Breyer joined except for the last sentence, concurred.

Justice Thomas concurred.

Justice Breyer concurred in the judgment.

Justice Stevens, with whom Justice Souter joined, dissented.

Justice Souter, with whom Justice Ginsburg joined as to Part II, dissented.

Justice Ginsburg, with whom Justice Souter joined, dissented.

[All these separate opinions are omitted.]