Schuette v. Coalition to Defend Affirmative Action/Fact Sheet

Supreme Court Oral Arguments: October 15, 2013

Schuette v. Coalition to Defend Affirmative Action is a case that involves a challenge to Proposal 2, a 2006 Michigan ballot initiative that led to a state constitutional ban on race-conscious college admissions policies, creating a discriminatory system of determining school admissions criteria. In 2011, Proposal 2 was declared unconstitutional by the United States Court of Appeals for the Sixth Circuit because it places an unfair burden on those seeking to have race considered as one of many factors in university admissions.

The ACLU, NAACP Legal Defense Fund and others challenged Proposal 2 on behalf of students, faculty and prospective applicants to the University of Michigan. ACLU attorney Mark Rosenbaum will be arguing the case before the Supreme Court on October 15.

Key points related to *Schuette v. Coalition to Defend Affirmative Action*:

- **Proposal 2 unfairly and unconstitutionally rigs the admissions system against minority students**. Michigan's Proposal 2 codifies racial discrimination into law and effectively creates two separate and unequal systems for determining the admissions criteria used at state universities. Minority students and others who support a broadly diverse student body should not have to overturn a constitutional amendment simply to have their voices heard in the admissions process when everyone else can go directly to the university.

- **Proposal 2 has already had a significant negative effect on minority enrollment at Michigan universities**. **For example:**
    - African-American undergraduate enrollment fell by 33 percent between 2006-the year before Proposal 2 could have affected admissions-and 2012, even as overall enrollment grew by 10 percent. During the same period, Hispanic enrollment declined by 10 percent. [1]
    - From 2004 to 2010, African Americans earned 10.3 percent of the medical degrees in Michigan, but in 2012, this dropped to 4.8 percent, a decline of more than 50 percent.[2]

- **The Supreme Court has already struck down ballot initiatives that suppress minority civic participation.** The Supreme Court has previously struck down laws and ballot initiatives that place extra burdens on the ability of minorities to participate as equals in the political process, including:
    - A Washington ballot initiative that eliminated Seattle's late-1970s busing plan designed to integrate the city's K-12 public schools.[3]
    - A 1964 amendment to the city of Akron's charter that prevented the City Council from implementing any ordinances that address racial, religious or ancestral

[1] http://www.americanbar.org/content/dam/aba/publications/supreme_court_preview/briefs-v2/12-682_resp_amcu_crp-etal.authcheckdam.pdf

[2] https://www.aamc.org/download/321538/data/2012factstable30.pdf

[3] http://www.law.cornell.edu/supremecourt/text/458/457

discrimination in housing without first obtaining approval of a majority of the city's voters.[4]

- A Colorado ballot initiative, Amendment 2, which amended the state Constitution to prevent any jurisdiction within the state from taking action to protect the rights of gays and lesbians.[5]

Schuette v. Coalition to Defend Affirmative Action comprises two lawsuits that were brought separately and make different arguments. *Schuette v. Coalition to Defend Affirmative Action* is the name of one case brought by BAMN. The court joined it with the case, *Cantrell v. Granholm*, brought by the ACLU, NAACP Legal Defense Fund and others on behalf of students, faculty and prospective applicants to the University of Michigan challenging Proposal 2. Attorneys from BAMN and the ACLU will each present their respective legal arguments against Proposal 2 at the Supreme Court on October 15, 2013.

[4] https://supreme.justia.com/cases/federal/us/393/385/case.html
[5] http://caselaw.lp.findlaw.com/scripts/getcase.pl?court=US&vol=000&invol=U10179