



American Civil Liberties Union 2006 Bill of Rights Program

Sam Sedaei's opening at the American Civil Liberties Union debate in 2006 where Sam defended affirmative action by arguing that diversity was a compelling national interest. The debate took place in the Kalamazoo District Courthouse.

DIVERSITY AS A COMPELLING STATE INTEREST

By Sam Sedaei

Mr. Justice and May it please the court.

As my co-council William Sbach mentioned, the Supreme Court has held that the use of race is allowed if it is to be used in a narrowly-tailored fashion and to satisfy a compelling state interest. I, Sam Sedaei, will argue why diversity is a compelling state interest and my co-council, Patrick Castle, will explain why the affirmative action policy of University of Michigan is narrowly-tailored.

Today, we are faced with an important question of whether it is justified for the University of Michigan Law School to use race as a plus factor in its admissions process. Before answering that question, I will introduce some facts and then will proceed to explain three arguments. I will close my argument by reviewing some sections of Justice Powell's opinion from the Regents of the University of California v. Bakke case.

Currently in America, 75% percent of black students in K through 12th grade are at schools that are more than fifty percent minority, and of those schools, 85 percent are in areas of poverty. As the facts demonstrate, there is an unapparent – but real – inequality between minorities and whites in effect. This condition causes a major consequent under-representation of blacks and minorities in excellent institutions, such as U of M law school. My first argument follows these facts. If we do nothing to fix this problem, this cycle remains the same, preventing millions of leaders from ever getting exposed to the problems that minorities face in our society. The only way to break this cycle is to have a leadership in all areas that is not only well-qualified, but diverse, so these problems would cease to remain unattended.

A second point which I would like to draw your attention to is the amicus briefs filed for this case by the military and the corporate world. The briefs are written arguments of law and fact submitted to the court by outside parties who have an interest in the lawsuit. The military briefs were filed by former high-ranking officers and civilian leaders of the Army, Navy, Air Force, and Marine Corps, including former military-academy superintendents, Secretaries of Defense, and present and former members of the U.S. Senate. This military personnel members include such prominent figures as General Schwarzkopf, retired 4-star who served as commander in chief and overall commander of allied forces during the gulf war, Honorable William Cohen, the 20th Secretary of Defense, Senator Max Cleland who served as a combat officer in Vietnam and also chaired the Armed Services' Subcommittee on Personnel, and Major General Charles

Bolden, retired astronaut and 2-star and the nation's first African-American Marine astronaut who flew four space shuttle missions, commanding two, including the mission placing the Hubble telescope into earth orbit.

In their briefs, these leaders said that to have an officer corps that includes minority members in any numbers, there is no way to do it other than to give, not an overriding preference but a plus, for race in the admission process of military academies and high-level academic institutions. The argument is simple: there basically is no other way to have armed forces in which minorities will be represented among the officer cadre in order to command our nation's racially diverse enlisted ranks and fulfill its principle mission to provide national security.

A second sector from which many have filed briefs is the corporate world. The filers for these briefs included fortune 500 companies, companies such as 3M, American Air Lines, The Coca Cola Company, General Electric, Kellogg Company, Microsoft, Nike Inc., PepsiCo, Pfizer and Shell Oil Company just to name a few. These companies vary in size and industries, but there is one common point among all of their briefs, which is racial diversity is an imperative factor that enables them to educate their employees into becoming more culturally competent in order to appeal to a larger portion of the population with an extended understanding of more socioeconomic and racial categories.

My third argument revolves specifically around the admission process at law schools. Most top law schools demand excellent academic standing for admissions. Since those from under-advantaged schools are unable to meet strict numeric requirement, they would be denied admission and have to enroll in academically poorer institutions. Hence if we go with a race-free-numbers-only system, we are forcing institutions to elect between academic excellence and diversity. That would result in a less diverse leadership, creating leaders who are not sufficiently concerned in solving the problem of those under-represented. Such system would only feed the existing cycle of inequality for many years to come. Most importantly, diversity enriches the student body as whole. In the process of admission, by giving extra weight to those who have something unusual and important to bring to class, which is not just their race but life experiences that are attached to race in our society, we are serving the important interest of exposing the entire campus body to diverse view points.

Finally, I would like read a few of the points made by Justice Powell in his opinion of the court in Bakke case. In that opinion, Justice Powell established that "State has a substantial interest that legitimately may be served by a properly devised admissions program involving the competitive consideration of race and origin." Justice Powell emphasized that nothing more than the "nation's future depends upon leaders trained through wide exposure to the ideas and mores of students as diverse as this nation of many people." In seeking the "right to select those students who will contribute the most to the 'robust exchange of ideas,' " a university seeks "to achieve a goal that is of paramount importance in the fulfillment of its mission and experience lend support to the view that the contribution of diversity is substantial."

Today we are asking this court to review and uphold the affirmative action policies of the University of Michigan law school in light of the arguments made here, briefs filed by the military and commerce sector, Justice Powell's view on diversity, and more importantly, this court's own view on interests that these affirmative action policies serve.