



FOR IMMEDIATE RELEASE

June 30, 2023

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OFFICIAL PRESS STATEMENT

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IF YOU THOUGHT THE BATTLE WAS OVER, THE SUPREME COURT REMINDS US IT AIN'T!

DETROIT – In a 1983 speech to staff members at the Equal Employment Opportunity Commission, which he headed, Clarence Thomas cited laws that must be appropriately followed and adhered to, i.e., Civil Rights Act of 1964, Voting Rights Act of 1965, which dealt with the advancement and protection of the rights of Blacks in America. He indicated their paramount importance to him. He said, *“But for them God only knows where I would be today. They are all that stand between the first 17 years of my life and the second 17 years.”* These laws affirmed the necessary action along with Affirmative Action that must be taken to provide equal opportunity and access to the American dream. In a 1991 New York Times article, Yale University officials indicated that Thomas was admitted *“Under an explicit Affirmative Action plan with the goal of having Black and other minority members make up about 10% of the entering class.”* Today, in a 58-page concurrence with the majority opinion to end Affirmative Action Thomas writes, *“The solution to our nations racial problems thus cannot come from policies grounded in Affirmative Action or some other conception of equity.”* He argues that the constitution requires *“Colorblind government policies. Only that promise can allow us to look past our differing skin colors and identities.”* Yet we still wrestle with Article 1 Section 2 of the U.S. Constitution which states *“For purposes of representation in Congress, enslaved Black people in a state would be counted as three-fifths of the number of white inhabitants of that state.”* It would appear that there are those that still prefer 3/5s rather than one whole as we deal with over 400 voter suppression bills in state houses around the nation, the elimination of student debt relief for 44 million people by this same court, elimination of LGBTQ rights, and the obvious disregard for the systemic barriers that prevent movement up the American ladder of opportunity.

Justice Sonia Sotomayor in a scathing dissent writes to this extremist majority, *“The court cements a superficial rule of colorblindness as a constitutional principle in an endemically segregated society where race has always mattered and continues to matter. The court subverts the constitutional guarantee of equal protection by further entrenching racial inequality in education.”* The court has seemingly, in the view of Sotomayor, turned its back on 45 years of jurisprudence aimed at promoting more inclusive and equal schools. It appears that the concept of stare decisis, a Latin term meaning to stand by things that are decided, in other words precedent, is now a dream deferred. Just about every candidate for the U.S. Supreme Court when asked will they adhere to precedent answers in a resounding *“Of course, precedent is critical to the court.”* One must ask, is it really? Blacks have established a precedent for commitment, patriotism, and even love for this nation which seems to be overlooked. Frederick Douglass pointed out to Abe Lincoln when the unions very survival was on the line, *“Black Americans in the south were almost the only reliable friends the nation had. But for their help the rebels might have succeeded in breaking up the union.”* Senator John Sherman during reconstruction said *“We are bound by every obligation, by Black Americans service on the battlefield, by their heroes who are buried in our cause, by their patriotism in the hours that tried our country. We are bound to protect them and all their rights.”*

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Affirmative Action

It is indeed informative that the only part of Affirmative Action that can still be maintained is that race can still be used as a factor in admission criteria for military academies to teach about fighting war. Justice Ketanji Brown Jackson describes it well, *"Racial diversity in higher education is only worth potentially preserving as it might be needed to prepare Black Americans and other minorities for success in the bunker but not the boardroom."* In other words, we are valued enough to die for America, but not worthy enough to live a quality of life in America. It is clear to the three Supreme dissenters, Sotomayor, Kagan, and Jackson, as stated by Justice Jackson, *"No one benefits from ignorance. If the colleges of this country are required to ignore a thing that matters, it will not just go away. It will take longer for racism to leave us. Ignoring race just makes it matter more."* This is America at the crossroads. It is not a battle between Clarence Thomas and Ketanji Brown Jackson, the two Blacks who sit on the court. It is a battle between a glorious future or a recalcitrant past. A battle between an America of inclusion or a nation of eternal exclusion. It is not a battle between Asians, African Americans, Latinos, or Native Americans. Let us not be reduced to that and let no one take advantage of an attempted wedge that is being forced between our groups. Legacy offers Black and brown people no security, for our families have never been able to take advantage of any prior opportunities. Edward Blum, the bearer of this lawsuit against Harvard University and the University of North Carolina has, along with many conservative groups, been attempting to dismantle the Voting Rights Act, Civil Rights Act, Roe vs. Wade, and Affirmative Action. They now have the advantage of a court that leans more towards rewriting a negative history than forging a pathway toward a positive future. We must pursue Diversity No Matter What. It is good business. It costs more to maintain discrimination and racism than that which is required to provide opportunity and equity to all people.

Following the murder of George Floyd, companies and business leaders across the nation committed themselves to diversity and inclusion. They indicated they would look inside their companies to implement policies and programs that would provide opportunity, particularly for minorities. This has to be more than just talking the talk. One has to really walk the walk. Several corporate leaders and their top executives stood in Downtown Detroit, stating publicly their commitment to the cause of diversity and inclusion. Now, following the attempted death of Affirmative Action, is the heart for inclusion still beating with any vigor to maintain such commitment? Diversity is still a great tool to expand talent, share ideas, be inspired by creativity, and to increase the profit margin. Chief Justice John Roberts did leave a doorway to opportunity when he wrote in his decision, *"Nothing in this opinion should be construed as prohibiting universities from considering an applicants discussion of how race affected his or her life, be it through discrimination, inspiration, or otherwise."* So now is not the time to stand down. Now is the time to stand up. The adversity that students have faced to achieve their accomplishments in life, financial needs of the family, are all metrics that can be used in the application process. The effects of racism upon your forward movement must be considered. It is the racial box that can no longer be checked. The economic disparities between Black and white families are very apparent as reflected in 2019 and beyond. As an example, just four years ago Black family's median wealth was approximately \$24,000, white families was approximately eight times as much at \$188,000. White families with college degrees have over \$300,000 more wealth than Black families with college degrees. The disparity according to the National Academy of Education, citing U.S. Census Bureau statistics, has accelerated over time from a roughly \$40,000 gap between white and Black household median net worth in 1993 to a roughly \$135,000 gap in 2019. Median income numbers from 2019 tell a similar story - \$76,056 for white households, \$98,174 for Asian households, \$56,113 for Latino households, and \$45,438 for Black households. It is clear that there is room for growth and room for inclusion.

We must not sit on our laurels and accept the dismantling of opportunity in our nation. We have come too far to be turned back. It is indeed revealing, as we celebrate the 60th anniversary of the great march in the city of Detroit, June 1963, as well as in Washington, D.C. in August of that same year. Dr. Martin Luther King, Jr. declared to the nation, *"I Have A Dream."* He said he came to Washington *"To collect on a check that was due to Black America."* But he found that the check came back marked *"insufficient funds."* In 2023 the check is still bouncing. However, Ella Baker, former Director of Branches for the NAACP in New York and throughout the south, also had a declaration. It was very simply, *"We who believe in freedom cannot rest until it comes."* Certainly, to all of those who believe in freedom, democracy, and equity, regardless of race, location, or station, WE MUST FIGHT UNTIL WE WIN!

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