

2012 John W. Davis Appellate Advocacy Competition Problem

On April 7, 2008, Plaintiff Suzanne Peters filed suit in the Western District of Lexington. Plaintiff Peters is a Caucasian female who attended Jacob Triolo High School in Triolo, Lexington. Plaintiff applied for admission to the University of Lexington at Triolo (“LX” or the “University”) in the fall of 2008. She was rejected. Plaintiff sued the University and most of the administration (collectively “Defendants”). Plaintiff contended the admissions policies and procedures currently applied by Defendants discriminate against Plaintiff on the basis of her race in violation of her right to equal protection of the laws under the Fourteenth Amendment of the United States Constitution, U.S. Const. amend. XIV, § 1, and federal civil rights statutes, 42 U.S.C. §§ 1981, 1983, and 2000d *et seq.* Plaintiff sought declaratory and injunctive relief, including evaluation of Plaintiff’s applications for admission under race-neutral criteria, and attorneys’ fees and costs.

On December 11, 2009, the District Court found that the admissions policy of the University of Lexington, following current Supreme Court affirmative action jurisprudence, did not violate the Equal Protection Clause of the Fourteenth Amendment.

On January 15, 2010, Plaintiff Peters appealed to the United States Court of Appeals for the Twelfth Circuit. On February 29, 2011, the Twelfth Circuit unanimously affirmed the opinion of the district court, again pointing to the affirmative action jurisprudence of the Supreme Court.

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Plaintiff Peters now appeals to the Supreme Court of the United States. On January 29, 2012, the Supreme Court granted certiorari and requested that the parties address the following questions:

QUESTIONS PRESENTED

1) Whether the University of Lexington at Triolo's use of race in undergraduate admissions is constitutional under this Court's affirmative action jurisprudence; and

2) Whether this Court's decisions interpreting the Equal Protection Clause of the Fourteenth Amendment, including *Regents of the University of California v. Bakke*, 438 U.S. 265, 309 (1978) and *Grutter v. Bollinger*, 539 U.S. 306 (2003), regarding affirmative action should be overturned by this Court.

IMPORTANT DATES

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| Problem Distribution | Tuesday 9/4 |
| Brief & Oral Advocacy Primer | Wednesday 9/5 |
| Briefs Due | Sunday 9/16 at 5:00 P.M. |
| Round I | Monday 9/17 – Friday 9/21 |
| Round II | Monday 9/24 – Friday 9/28 |
| Quarterfinal Round | Wednesday 10/3 – Thursday 10/4 |
| Semifinal Round | Thursday, 10/11 |
| Final Round | Friday, 10/19 |