



Washington Beat: Supreme Court Hands Off Ruling On Affirmative Action

The Supreme Court decided to sidestep a sweeping ruling on affirmative action on Monday, sending the case back to a lower court. NY1's Washington reporter Michael Scotto filed the following report.

By: Michael Scotto – June 24, 2013

Both sides called Monday's Supreme Court decision on Fisher v. University of Texas a victory, from Abigail Fisher, who challenged the University of Texas' admissions policies, to the civil rights groups that were worried the high court would strike down affirmative action.

"I'm grateful to the justices for moving the nation closer to a day when students' race isn't used at all in college admissions," Fisher said.

"A duck is better than a no, but it's not as good as an affirmation," said the Reverend Al Sharpton of the National Action Network. "You know, it's like asking a young lady to a date. Her telling you, 'I'll think about it' is not a yes, but it beats 'No.'"

In a 7-1 opinion, the Supreme Court sidestepped the larger questions surrounding affirmative action, and instead decided to send the case involving the University of Texas back to a lower court.

The case stems from a challenge brought by Abigail Fisher, who claimed she was rejected by the University because of her race.

In their opinion, the justices ordered a federal appeals court to re-evaluate the university's admissions policy using a higher legal standard, writing, "Strict scrutiny does not permit a court to accept a school's assertion that its admissions process uses race in a permissible way without closely examining how the process works in practice."

"I think the strict scrutiny will be fatal to the university's program. In other cases, we'll just have to see," said Ilya Shapiro of the Cato Institute. But I think this may be an example of Chief Justice [John] Roberts trying to have the court speak with more of one voice.

Justice Ruth Bader Ginsburg, the sole dissenter in the case, argued that there was no need to send the case back to a lower court, claiming Texas' program is perfectly legal.

She writes, "[T]he University's admissions policy flexibly considers race only as a 'factor of a factor of a factor' in the calculus."

By Monday the Supreme Court still needed to issue decisions in high-profile cases involving same-sex marriage and the Voting Rights Act. Those opinions could come as early as Tuesday.