Conservative Caucus
of Delaware

Review of the Supreme Court's 2023 Decisions

Supreme Court's 2023 Decisions

Higher Education Cases

- *Students for Fair Admissions, Inc. v. President and Fellows of Harvard College, University of North Carolina (UNC)*
- *Biden v. Nebraska*

Religious Liberty Cases

- *Groff v. DeJoy, Postmaster General*
- *303 Creative LLC v. Elenis*

Environmental Case

- *Sackett v. Environmental Protection Agency*

Supreme Court 2023

Image Credit: Collection of the Supreme Court of the United States

Students for Fair Admissions, Inc. v. President and Fellows of Harvard College, 600 U.S. __ (2023)

Students For Fair Admissions, Inc

Photo: Students for Fair Admissions

Harvard College and University of North Carolina

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Students for Fair Admissions, Inc. v. President and Fellows of Harvard College, 600 U.S. __ (2023)

- Students for Fair Admissions (SFFA) sued Harvard College, alleging that their admission process, violated Title VI of the *Civil Rights Act of 1964* by discriminating against Asian American applicants.
- Harvard admitted that it uses race as one of many factors but argued that its process adheres to the requirements for race-based admissions outlined in the Supreme Court's decision in *Grutter v. Bollinger*.
- The district court found in favor of Harvard. SFFA appealed, and the U.S. Court of Appeals for the 1st Circuit affirmed.

Students For Fair Admissions, Inc. v. President and Fellows of Harvard College, 600 U.S. __ (2023)

For 45 years, the Court has grappled with race-based admissions.

- *Regents of University of California v. Bakke*, 438 U.S. 265 (1978)
- *Grutter v. Bollinger*, 539 U.S. 306 (2003)

Decision for SFFA

- Equal Protection Case* – the **Equal Protection Clause** is part of the 14th Amendment (1 of 3 Reconstruction Amendments)
- Early Court decisions explained that the 14th Amendment guaranteed "that the law in the States shall be the same for the black as for the white; that all persons,…shall stand equal before the laws of the States."

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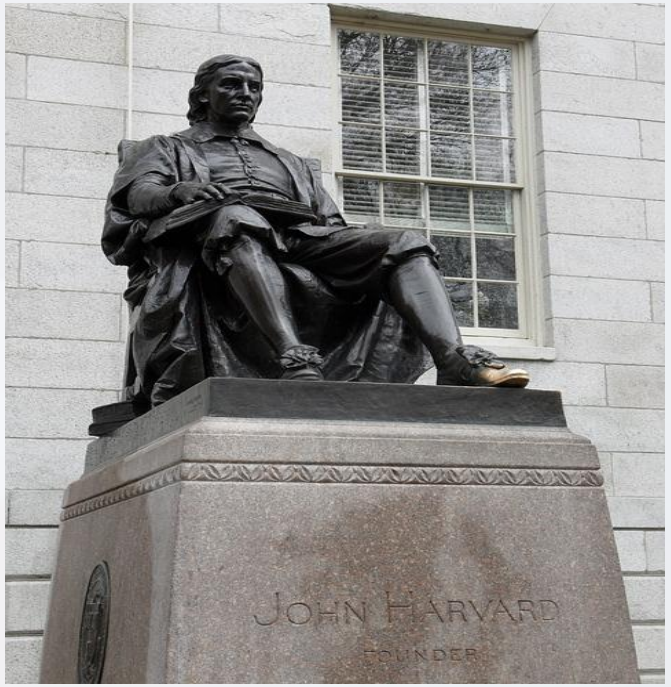
Students for Fair Admissions, Inc. v. President and Fellows of Harvard College, 600 U.S. __ (2023)

Chief Justice John Roberts wrote the 6-3 Decision.



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"Strick Scrutiny" Test used for Equal Protection Cases. The colleges had to show that:

1. Racial classification is used to further a compelling governmental interest; and

2. That the government's use of race is "narrowly tailored (meaning necessary) to achieve that interest."

Students For Fair Admissions, Inc. v. President and Fellows of Harvard College, 600 U.S. __ (2023)

1. "Preparing future leaders," "Better educating its students through diversity," and "producing new knowledge stemming from diverse outlooks."

Failed to show compelling government interest.

2. To achieve the educational benefits of diversity, the colleges measure the racial composition of their classes based on imprecise racial categories.

Failed to show connection between the means used and the goals pursued.

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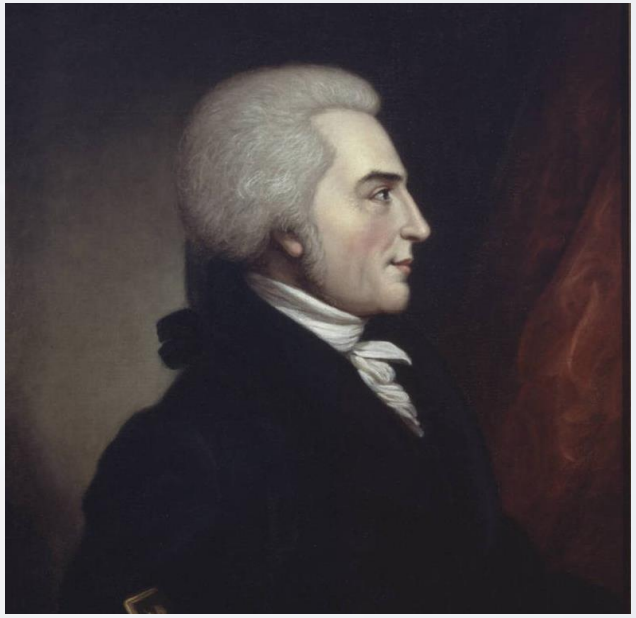
Students for Fair Admissions, Inc. v. President and Fellows of Harvard College, 600 U.S. __ (2023)

Race-based Admission Policy failed twin commands of Equal Protection Clause



William Richardson Davie

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The colleges have used:

1. **Race as a negative** – Policy resulted in fewer Asian-Americans and white students being admitted.

2. **Stereotyping** – Policy rests on stereotype that "a black student can usually bring something that a white student cannot offer."

Students For Fair Admissions, Inc. v. President and Fellows of Harvard College, 600 U.S. __ (2023)

Class Year	Black Student Share of Class	Hispanic Student Share of Class	Asian Student Share of Class
2009	11%	8%	18%
2010	10%	10%	18%
2011	10%	10%	19%
2012	10%	9%	19%
2013	10%	11%	17%
2014	11%	9%	20%
2015	12%	11%	19%
2016	10%	9%	20%
2017	11%	10%	20%
2018	12%	12%	19%

Students for Fair Admissions, Inc. v. President and Fellows of Harvard College, 600 U.S. __ (2023)

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Lastly: Race–based Admissions Programs lack logical end-point

- In 2003, the *Grutter* Court determined that these admission policies must end.
- The *Grutter* Court expressed its expectations that, in 25 years, “the use of racial preferences will no longer be necessary.” Twenty years have passed since *Grutter*, with no end to race-based college admissions in sight.

Biden v. Nebraska, 600 U.S. __ (2023)

Joe Biden

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Nebraska

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Biden v. Nebraska, 600 U.S. __ (2023)

- Biden administration announced its intent to forgive, via executive action, $10,000 in student loans for borrowers with an annual income of less than $125,000. Pell Grant borrowers could receive a discharge of $20,000.
- Nebraska, Missouri, Arkansas, Iowa, Kansas and South Carolina challenged the forgiveness program, arguing that it violated the separation of powers and the *Administrative Procedure Act*.
- The district court dismissed the challenge. The 8th Circuit Court stayed the forgiveness program pending the appeal.

Biden v. Nebraska, 600 U.S. __ (2023)

Chief Justice Roberts wrote the 6-3 opinion.

- The Secretary of Education's grant of authority to "waive or modify" loan terms is limited and could not be extended to the student loan forgiveness program.
- The "modifications" would result in discharging nearly every borrower in the country - unlikely that Congress authorized such a sweeping loan cancellation program of $430 billion.
- Clear congressional authorization was required.

Miguel Cardona

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Groff v. DeJoy, Postmaster General, 600 U.S. __ (2023)

Gerald Groff

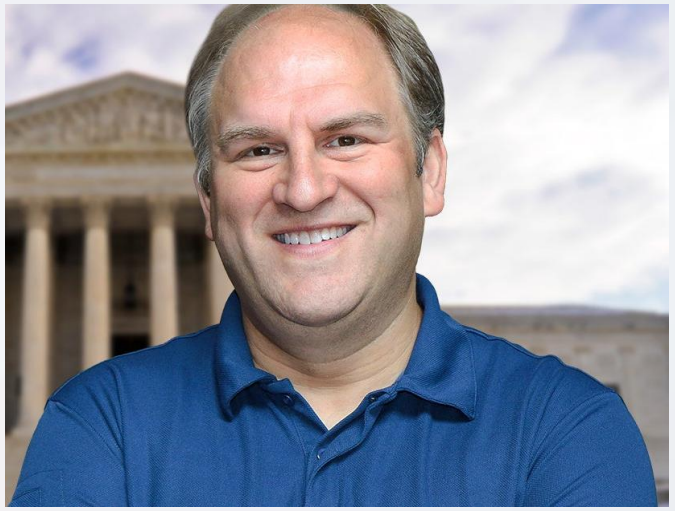
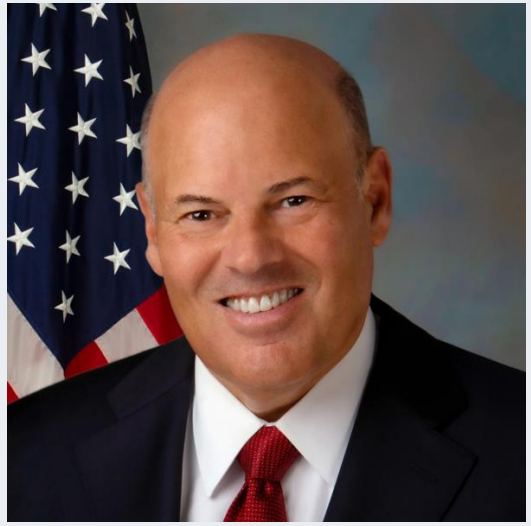


Photo Credit: First Liberty Institute

Louis DeJoy



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Groff v. DeJoy, Postmaster General, 600 U.S. __ (2023)

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- Gerald Groff is an Evangelical Christian hired by USPS in 2012 at the Quarryville, PA location. His position did not involve working on Sundays.
- In 2016, USPS started delivering packages for Amazon on a rotating Sunday schedule, to avoid working Sundays, Groff transferred to a rural USPS office in Holtwood, PA.
- In 2017, Amazon began deliveries in Holtwood. Groff was unwilling to work Sundays. USPS offered to find employees to swap shifts with him, but on numerous occasions, no co-worker would swap, and Groff did not work. Groff resigned.

Groff v. DeJoy, Postmaster General, 600 U.S. __ (2023)

- Groff sued USPS under Title VII of the *Civil Rights Act of 1964*, claiming USPS failed to reasonably accommodate his religion.

- The district court concluded Groff's request posed an undue hardship on USPS and granted summary judgment for USPS. A majority of the 3rd Circuit Court affirmed.
- A dissenting judge on the 3rd Circuit found that the "adverse effects on USPS employees in Lancaster or Holtwood" did not alone suffice to show the needed hardship.

Photo Credit: First Liberty Institute

Groff v. DeJoy, Postmaster General, 600 U.S. __ (2023)

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- First time in 46 years that the Supreme Court reviewed the “undue hardship standard” under Title VII of the *Civil Rights Act of 1964* for a religious accommodation.
- In the *Hardison* case, TWA and the International Association of Machinists & Aerospace Workers rejected Larry Hardison’s request to not work on the Sabbath because he lacked ***seniority***.
- In *Hardison,* the Court found that Title VII provided special protection for the seniority system and “to require TWA to bear more than a *de minimis* cost in order to give Hardison Saturdays off is an undue hardship.”

Groff v. DeJoy, Postmaster General, 600 U.S. __ (2023)

Justice Samuel Alito wrote the unanimous decision.

- He stated that the standard established in *Hardison* is insufficient to meet the “undue hardship” term under Title VII.
- Now, an employer has to show that granting an accommodation would result in “substantial increased costs in relation to the conduct of its particular business.”
- The case was returned to the federal district court to resolve the case using the new standard.

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303 Creative LLC v. Elenis, 600 U.S. __ (2023)

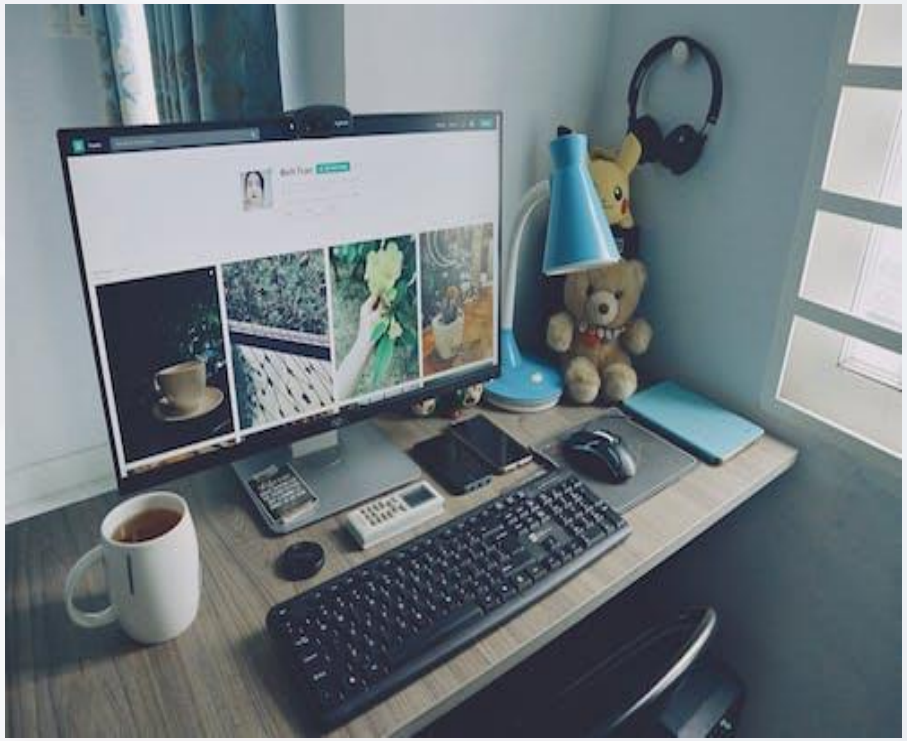
Lorie Smith

Photo Credit: Alliance Defending Freedom

Aubrey Elenis

Photo Credit: Colorado Civil Rights Division

303 Creative LLC v. Elenis, 600 U.S. __ (2023)



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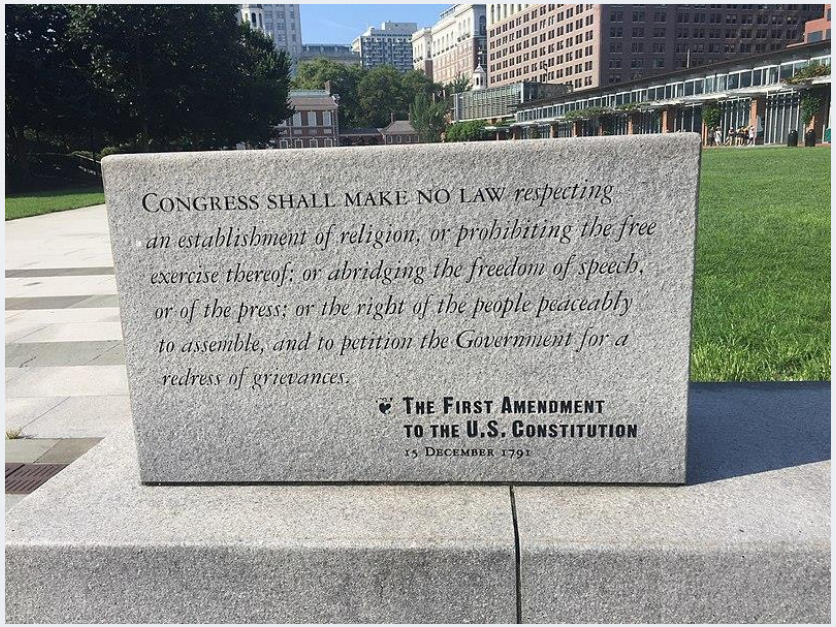
- In planning to expand her business into wedding websites, Lorie Smith, a graphic designer, sought an injunction to prevent Colorado from using the *Colorado Anti-Discrimination Act* to force her to create websites for marriages that "contradict biblical truth" in violation of the Free Speech Clause of the First Amendment.
- The *Colorado Anti-Discrimination Act* prohibits businesses that are open to the public from discriminating on the basis of numerous characteristics, including sexual orientation.
- The district court granted summary judgment for the state, and the 10th Circuit Court affirmed.

303 Creative LLC v. Elenis, 600 U.S. __ (2023)

Justice Neil Gorsuch wrote the 6-3 opinion.

- He said that “the framers designed the Free Speech Clause of the First Amendment to protect the ‘freedom to think as you will and to speak as you think’.”
- To find otherwise would allow the government to dictate what artists, speechwriters, and others whose services involve speech to communicate what they do not believe on pain of penalty.



Sackett v. Environmental Protection Agency, 600 U.S. __ (2023)

Michael and Chantell Sackett

Photo Credit: Pacific Legal Foundation via Flickr

EPA

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Sackett v. Environmental Protection Agency, 600 U.S. __ (2023)

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- Michael and Chantall Sackett own a residential lot near Priest Lake, Idaho, and planned to build a home there.
- Shortly after they began backfilling with sand and gravel, the federal Environmental Protection Agency (EPA) told them that they could not build on their lot because construction on the land violated the *Clean Water Act*.
- According to the EPA, the Sacketts' lot contained wetlands that qualify as "navigable waters" regulated by the Act, so they needed to remove the sand and gravel and restore the property to its natural state.
- Litigation ensued. The Sacketts lost at the federal district level and before the 9th Circuit Court.

Sackett v. Environmental Protection Agency, 600 U.S. __ (2023)

Photo Credit: Pacific Legal Foundation via flickr

Justice Alito wrote for the unanimous decision.

- He found that the EPA too broadly defined "waters of the United States" and similarly gave an expansive interpretation of "wetlands" that could "virtually [cover] any parcel of land containing a channel or conduit…through which rainwater or drainage may occasionally or intermittently flow."
- *The Clean Water Act* extends only to wetlands that have a continuous surface connection with "waters" of the United States—i.e., with a relatively permanent body of water connected to traditional interstate navigable waters.

Summary of 2023 Decisions

Court Constraining Agency Reach

- Secretary of Education
- EPA – both *Clean Water Act* and last year, *Clean Air Act (West Virginia v. EPA)*

Righting Precedent

- Equal Protection Clause - Race-based college admissions
- “Undue Hardship” standard in Title VII of the *Civil Rights Act of 1964*
- Unconstitutional - Abortion - last year’s *Dodds v. Jackson Women’s Health Organization*

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Our Mission is to promote conservative viewpoints on issues, such as fiscal responsibility, lower taxes, right to life, religious liberty, educational freedom, and less regulation to counter the anti-American Left, whose mission is to erode our freedoms.

Consider joining The Caucus – Annual Membership only $20.00

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