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U.S. Supreme Court Upholds Michigan Constitutional Requirement for Equal Treatment in College Admissions

*6-2 Decision Upholds Article 1, Section 26 of Michigan Constitution,
Ending an Eight Year Legal Battle Over the People's Decision*

LANSING - Attorney General Bill Schuette today praised a 6-2 decision by the U.S. Supreme Court to uphold Article I, Section 26 of the Michigan Constitution, otherwise known as the Michigan Civil Rights Initiative (MCRI).

"Today's decision by the U.S. Supreme Court is monumental. The ruling is a victory for the Constitution, a victory for Michigan citizens, and a victory for the rule of law.

"In 2006, the citizens of Michigan enshrined the basic concept of equality and fairness into our Constitution. It is fundamentally wrong to treat people differently based on the color of their skin.

"The U.S. Supreme Court heard the voices of equality and the voices of the People."

Respect for Democracy and the Will of the People

Schuette noted that Justices Kennedy, Roberts and Alito acknowledged the importance of the People's democratic right to govern themselves, when they wrote their lead opinion:

- "By approving Proposal 2 and thereby adding Section 26 to their state constitution, the Michigan voters exercised their privilege to enact laws as a basic exercise of their democratic power." (p. 15)
- "This case is not about how the debate about racial preferences should be resolved. It is about who may resolve it." (p. 18)
- "It is demeaning to the democratic process to presume that the voters are not capable of deciding an issue of this sensitivity on decent and rational grounds." (p. 17)
- "Democracy does not presume that some subjects are either too divisive or too profound for public debate." (p. 18)

Schuette v. By Any Means Necessary Coalition

With eight justices participating in the decision (Justice Kagan recused herself), six justices agreed that Michigan voters did not violate the equal protection clause when they required equal treatment in university admissions.

The lead opinion was written by Justice Anthony Kennedy and joined by Chief Justice John Roberts and Justice Samuel Alito. Two concurring opinions were also handed down, one by Justice Antonin Scalia and Justice Clarence Thomas and a second by Justice Stephen Breyer.

The three opinions primarily differed on whether to they would limit a particular precedent (Justice Kennedy's approach), overturn it (Justice Scalia's preference), or distinguish it (Justice Breyer's approach). But all six justices agreed that Michigan's amendment was valid.

History of Article 1, Section 26

Article 1, Section 26 was approved by a 58% majority of Michigan voters in November, 2006.

The day after the measure was approved, several organizations filed suit to invalidate MCRI. The measure was previously upheld in December 2006 when a separate three judge panel from the 6th Circuit issued a preliminary ruling that unanimously concluded the measure passed Constitutional muster.

On July 1, 2011, a three judge panel of the U.S. Court of Appeals for the 6th Circuit issued a 2-1 decision that declared Michigan's constitutional ban on racial preferences in public education unconstitutional on the grounds it allegedly violated the 14th Amendment of the U.S. Constitution.

Schuette filed a request for a rehearing en banc with the U.S. Court of Appeals for the 6th Circuit. The rehearing was considered by fifteen judges from the 6th Circuit on March 7, 2012. Two judges recused themselves from the rehearing. The 6th Circuit later ruled against MCRI by a razor-thin margin, 8-7. Schuette appealed to the U.S. Supreme Court, and the case was argued in October 2013.