JAMES HO AND AFFIRMATIVE ACTION

Highlights:

- James Ho opposed affirmative action.
    - Ho opposed affirmative action, arguing that it had a negative impact on Asian Americans.

Ho Opposed Affirmative Action

HO OPPOSED AFFIRMATIVE ACTION, ARGUING THAT IT HAD A NEGATIVE IMPACT ON ASIAN AMERICANS

1996: Ho Wrote An Op-Ed In Favor Of Prop 209 In California Which Opposed Affirmative Action Calling Racial Preferences "Counterproductive." According to the Senate Judiciary Committee, "FEINSTEIN: In 1996, you wrote an op-ed urging Californians to vote for Proposition 209, which prohibited the state 'from discriminating or granting preference on the basis of race.' You argued in relevant part that racial preferences can create a harmful stigma for those who benefit from them, and you wrote that racial '[p]references are counterproductive and dilute the message of nondiscrimination that antidiscrimination is supposed to send.' In what way are racial preferences 'counterproductive'? HO: There is an on-going public debate over the extent to which various admissions policies positively or negatively affect certain communities, including the Asian American community. Because such issues could someday come before me if I am so fortunate as to be confirmed to be a federal judge, as a pending federal judicial nominee, I should refrain from stating a personal view on those debates. If confirmed, I would follow the precedents of the U.S. Supreme Court concerning university admissions policies." [Senate Judiciary Committee, 11/22/17]

Ho Claimed That Affirmative Action Policies Had A Negative Effect On Asian American Communities. According to the Senate Judiciary Committee, "HO: There is an on-going public debate over the extent to which various admissions policies positively or negatively affect certain communities, including the Asian American community. Because such issues could someday come before me if I am so fortunate as to be confirmed to be a federal judge, as a pending federal judicial nominee, I should refrain from stating a personal view on those debates. If confirmed, I would follow the precedents of the U.S. Supreme Court concerning university admissions policies." [Senate Judiciary Committee, 11/22/17]

Ho Said He Would Follow Supreme Court Precedent On University Admissions Policies During His Confirmation Hearing

Ho Said He Would Follow Precedents Of Supreme Court Rulings On University Admissions Policies Including Fisher V. University Of Texas During Confirmation Hearing. According to the Senate Judiciary Committee, "WHITEHOUSE: You have publicly opposed affirmative action programs. As a federal district court judge, would you uphold Supreme Court precedent that protects these programs, such as Fisher v. University of Texas? HO: If I am so fortunate as to be confirmed to be a federal judge, I would follow the precedents of the U.S. Supreme Court concerning university admissions policies, including Fisher" [Senate Judiciary Committee, 11/22/17]

HO: "DIVERSITY HAS INCREASINGLY BECOME A CODE WORD FOR DISCRIMINATION"

In A Workplace Discrimination Case, Ho Wrote A Concurrence To Highlight How "Diversity Has Increasingly Become A Code Word For Discrimination." According to Ho in the United States Court of Appeals for the Fifth Circuit, "I write separately to highlight Plaintiff's contention that the use of the term 'diversity' may be evidence of his employer's discriminatory intent. Specifically, Plaintiff alleges that a plant manager told a supervisor that the company 'needed more diversity in the workplace.' Ante, at 3. Plaintiff took the reference to 'diversity' to mean that the company should hire fewer African Americans in the future, due to the racial composition of the existing workforce at the plant. Cases like this reflect the

growing concern that diversity has increasingly become a code word for discrimination." [United States Court of Appeals for the Fifth Circuit, 12/15/23]

Hos Concurrence Focused On Affirmative Action In Higher Education Despite The Case Focusing On Workplace Discrimination. According to Ho in the United States Court of Appeals for the Fifth Circuit, "Likewise, courts have warned that diversity has become the "rationale of convenience' to support racially discriminatory admissions programs' at many colleges and universities. [...] It's no defense that a diversity policy may be well intended—and that it's designed, not to disfavor any particular group, but to favor other groups. That's because favoring one race necessarily means disfavoring those of another race—whether at a company or on a college campus." [United States Court of Appeals for the Fifth Circuit, 12/15/23]