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A Redefining Moment

Araceli Martínez-Olguín[†]

I started keeping a journal my senior year in high school. It has been my practice to record in its volumes important events. That is why it shocks me that there is not a single entry from the trip to Cincinnati. It was extremely formative of my sense of self as a law student.

As an admitted student, I was in touch with one of the students who went to Michigan to hear *Grutter v. Bollinger* at the district court level. After her return, Marisa described the whirlwind 36 hours. I remember being impressed at the commitment those students made, wished I could have traveled with them, and I looked forward to being among them the coming year.

Prof. Margaret Montoya was the first person I heard speak of the importance of a student presence in Cincinnati on December 6, 2001. She was at Boalt for the Latino Judges Symposium speaking about the importance of student activism. She emphasized the power students possess to make change happen. She impressed on me the need to be ever conscience of that ability and of the value of going to Cincinnati.

Despite her passion, I'm not sure I understood *why* it was so important that we go, but knew I wanted to go. I wanted to witness what would happen that day. I was partly interested in going because I had never been inside a court room, much less heard arguments about an issue that is of great interest to me inside of one. It struck me as a great learning opportunity. However, it never occurred to me how much it would personally affect me.

As we prepared to go, the significance of the journey and the case became evident. *Grutter v. Bollinger* would most likely decide the fate of affirmative action. Moreover, it was the first time that a court would have before it the ideas and sentiments of students as it ruled on affirmative action. The inclusion of their desires and thoughts confirmed Prof. Montoya's assertion that students could be vehicles for change.

As the day of the trip drew closer, I grew nervous about leaving right before exams. I'm not the sort that ever misses class, much less feels right about it. I even asked the organizers of the press conference that was held before we left for the airport how late I could arrive, so that I would miss as little of my Civil Procedure class as possible. Ironically, the topic for the day was intervenors.

I arrived, 30 minutes late, to an impressive sight. Close to no press came that day, and yet it didn't matter because I saw my fellow travelers surrounded by dozens of students that supported what we were doing, and who were sending us as their representatives.

Everything we did, from getting driven to the airport, standing in line to be searched, stopping to get food during the drive between Louisville and Cincinnati – the smallest things – had such significance. Every step of the way was important, and brought us closer to the court room. I truly felt a part of a group that had a common mission. In retrospect, that cannot be true, since I personally had no

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mission, but traveling with the Cincinnati 9 made me feel otherwise: we were there to make our presence known.

Yet, we were not allowed to sit in the courtroom; those given admission were a select few. The judges acknowledged our presence in the simulcast room, and apologized that the court room they were in could not accommodate all of us. However, sitting there among other students whose ideology I shared was nonetheless powerful, as was going to a restaurant to talk with several students from the University of Michigan afterwards.

Two things about the arguments themselves surprised me. First, I was initially surprised by the limited nature of the argument's scope. In my experience, debates about affirmative action included a plethora of competing ideas regarding what affirmative action means for students of color's self esteem, or the adverse impact programs have on white students, to name a few. Accordingly, I was shocked that remediation and diversity were the only theories under which I heard affirmative action justified or discussed by counsel for the University of Michigan. My professor for Civil Procedure later explained to me that because of case law those were the only theories left to debate. However, Miranda Massie, counsel for the student intervenors, introduced an argument I had yet to consider: if top public schools in the nation were not allowed to aggressively use affirmative action, students of color would find themselves with unequal educational opportunities and resegregated into less prestigious schools.

Second, I was later also shocked by the way the judges distanced themselves from the ability to influence public policy. At the time, the line the judges drew between themselves and Congress made sense to me. After all, I'd spent the entire first semester learning about the formalistic way in which the law is created. Yet more time in law school and reflection about the trip has made me skeptical about questions of policy and politics not entering the mix when judges rule.

I knew I wanted to go to law school because it would some how empower me to work towards my vision of social justice. Despite fulfilling my craving for academic stimulation, law school nonetheless proved to be a bit of disconnect from the issues I was passionate about before I arrived. It was not until the trip to Cincinnati that I could see how the skills I was acquiring could be used for the benefit of others and to further social change.

The trip to Cincinnati was a redefining moment because it allowed me, for the first time, to combine my desire to be active in affecting change and my desire to succeed as a law student. The trip to Cincinnati illuminated the struggle ahead: Miranda Massie's arguments showed me that to be successful in court one need be creative and effective; sitting with the Cincinnati 9 and with the other students in the simulcast room, I was relieved and inspired to learn there were many who shared a vision. These things combined showed me how to use the skills I am acquiring to fight for what I believe in. Before the trip, I knew this was something I would need to do but was unsure how. Since returning, I am inspired knowing there are people around me who seek the same end, who are committed to that end, and who will be allies on the road ahead.