Off to See the Wizard

Erick Muñoz†

Before beginning law school I had a clear picture of what I wanted to do: focus on learning the law, develop the skills to be an outstanding attorney and have a lucrative and successful career. The motivating factors behind my goals were unchanged as my first semester got underway. I felt a tremendous responsibility to help my family, without whose support I would never have had this opportunity. I was disillusioned, feeling that one person could not make a difference in the grand scheme of things. Perhaps most importantly, I viewed the law and the legal profession as controlled by some mystical outside force which I would never fully understand, much less ever be a part of.

However, upon arriving at Boalt Hall I was just like Dorothy in Oz, dazed and confused in a foreign and unexpected environment. With each passing day at school the dynamic, committed activism of my fellow classmates began to chip away at my previously rock solid idea of pursuing a lucrative and successful career as a lawyer. As I became more and more involved, law school became a potter's wheel on which I was being molded by the passion of my peers into a different person. Before I knew it, it was October and I was helping to host a symposium of immense significance. A seemingly endless stream of Latino and Latina attorneys, judges, activists, and professors were all gathered speaking the same message: the law is a social tool of immense power and all of those with access to it have a responsibility to wield that tool in the name of just causes. What was even more striking was how much my identity as a Latino amplified this tremendous responsibility. This was never clearer than when the Chief Justice of the New Mexico Supreme Court, Patricio Serna, asked all the Latino and Latina law students in attendance to raise their hands. He then asked for those of us who were the first in our families to go to law school to keep our hands raised. Nearly all of our hands remained in the air. I finally lowered mine to wipe away tears. As the symposium went on it became even more clear that the views with which I entered law school were at best incomplete. In fact, those views had been blinding me to the consequences of my previous decision to give up on working for social justice. I realized how grave these consequences could be when Justice Serna asked, "If not you, who? If not now, when?" Yet there still loomed a question that the trip to Cincinnati has forever answered for me: what was it time for me to do? While I could relate to the participants and attendees of the symposium as people, I could not relate to them as professionals. The law was still a mythical intangibility to me, a magical tradition of power distribution whose details and nuances were still beyond my reach.

Around this time the case challenging the affirmative action policies at the University of Michigan’s undergraduate and law school campuses - *Grutter v. Bollinger* - was being appealed to the Sixth Circuit. I agreed to travel with my classmates to hear the opening arguments in *Grutter* because I wanted to be part of the energy and activism which had changed my perspective. Still, even as I joined this amazing group of students that left school so close to final exams and even as I

† Erick Muñoz is a second-year student at Boalt Hall (UC Berkeley) School of Law.
spoke in front of our classmates – who missed class to show their support – and explained why our journey was so critical, I did not see myself as an active participant in the law. This was reflected in my short answer to the question of why we were all traveling: to see the opening arguments in *Grutter*. For me, the law was still something I had to watch from the outside looking in. The part of the legal system which affected the issues I was once again passionate about was still foreign. While the symposium had given me courage, in my development as an attorney I was still like the Scarecrow – my mind was not yet equipped to pursue my goals. With every step on our journey the Sixth Circuit became more and more like the Emerald City, where the answers to all my questions would be.

As we listened to the arguments in the Sixth Circuit Courthouse, the curtain of mystery finally seemed to be flung open and it all became clear. We were watching the law “happen,” we were witnessing the shaping of history. The smoke and mirrors behind which the processes of justice had stood were gone. In that room were the judges who would be deciding whether affirmative action lived or died. Would the student-organized gathering of Latino leaders that impacted me so deeply ever happen again? It depended greatly on what these judges decided that day. Would another young Latino from my neighborhood ever go through the growth and transformation I had during my first semester of law school? It was up to them. But, my experience at the Sixth Circuit taught me this wasn’t entirely true. After Cincinnati, I could say to myself that someday I could be “them.” We could all be a part of this process. I could follow what the attorneys were saying and why they were saying it. I could follow the questions of the judges and see the motivations behind their lines of reasoning. I could have been a part of that decisive dialogue. It wasn’t up to “them,” it was up to “us”. I was empowered as an activist like never before and my role as an attorney was sharply defined. Justice Sema’s words also resonated crisply as I realized this was exactly the type of battle he was inspiring us to fight. I suddenly became living proof of what the attorneys and judges were trying to abstract. For the first time, I was experiencing what the law meant in practice and how much it could mean for the future of communities like mine.

The moment crystallized how much my own perspective represented the diversity that affirmative action programs were supposed to contribute to legal education. It was vital that someone who knows what it is like to be one of only 16 Latinos in a first-year class, who knows what it is like to be the only Latino in a classroom, who knows what it is like to have the librarian ask if they are a student at the law school, be a voice in any legitimate discussion about affirmative action. Deciding who has access to legal education is a decision about distributing power. The unimaginable force which comes from the diversity of our nation’s history and each and every one of its inhabitant’s varied experiences and perspectives has to be reflected in who gains that access. It is therefore of irreplaceable importance to the vitality of our nation’s law schools that they be as diverse of the populations they serve. This reflection of diversity must burn brightly in all of our institutions if the principles of this nation are to have any integrity. In working toward this goal it is crucial to understand that these institutions’ failure to adequately reflect our nation’s diversity is neither accident nor coincidence, but rather is the intended result of a history of purposeful exclusion. As the attorney who defended the law school’s affirmative action program argued, affirmative action’s merits lie not just in the value of diversity, but in the importance of desegregation. What I took with me from Cincinnati is the unwavering commitment to focus my energy toward making the vision of a truly integrated society a reality.