**Week 7 Case Studies**

**Minority Set Asides: Q3 and Q4**

**And**

**Consenting to Sexual Harassment: Q1**

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**Minority Set Asides: Q3 and Q4**

Question: Do you believe that there was sufficient evidence of racial discrimination to justify the city’s plan? Who is right about this – Justice O’Connor or Justice Marshall?

Given the information in the case study is the only information that is available I do not believe that there is enough viable information to properly determine whether or not racial discrimination was the major contributing factor to the issue in Richmond.

Council-Person Marsh’s opinion that the construction industry is heavily biased with racial discrimination in this case study, is just that, his opinion. While the case study does state that only .67 percent of construction contracts had been awarded to MBE’s , the case study does not reveal, how many construction contracts were up for consideration as part of the statistics for this issue.

There is also a lack of basic information on how many MBEs applied for construction projects, what they bid, or any other information that could properly shed light on how much this statistic was influenced by racial discrimination.

While I can agree that racial discrimination may have been a factor in Richmond, there is no way to tell the extent of this, and therefore no way to properly quantify the impact. As such, I agree with Justice O’Connor. I also agree with O’Connor in that allowing policies of this nature to be passed would work counter to the goal of true equality. Continued discrimination should not be allowed, but neither should this policy.

Question: Justice O’Connor and the majority of the court seem to believe that there must be some specific, identifiable individuals who have been discriminated against before race-conscious measures can be adopted to remedy past discrimination. Do you agree that affirmative action measures must meet this standard?

While I do not believe in affirmative action, if there is going to be affirmative action, then yes, there must be some form of identifiable individual or at the very least specific companies that can prove discrimination, before any type of race-conscious measures can be adopted.

To adopt measures of affirmative action without this proof, would encourage policies to be written based on sociological opinions and biased guesses as to what level of discrimination has occurred.

While not part of the questions for this case study, this is also part of the flaw of affirmative action. If there is proof of the discrimination, then those that have been discriminated against can be directly compensated or remedied, and policies can be put into place specifically for the issue at hand vs. policies that attempt to create blanket coverage resolutions, and thus introduce new social biases that previously had not existed.

**Consenting to Sexual Harassment: Q1**

Question: According to her own testimony, Vinson acquiesced to Taylor’s sexual demands. In this sense her behavior was “voluntary.” Does the voluntariness of her behavior mean that she had “consented” to Taylor’s advances? Does it mean that they were “welcome”? Do you agree that Vinson’s acquiescence shows there was no sexual harassment? Which court was right about this?

To the question of whether or not her voluntariness means that she had consented to Taylor’s advances, yes she consented. Had she not consented, she would have said no, and reported him to someone else much sooner than she did. This however does not mean that those advances were “welcome”, and does not absolve Taylor of sexual harassment.

As for which court got things right. I think the Supreme Court got the decision correctly.

The lower court got the employer was not properly notified part correct, but completely failed in their rational that the relationship was not work related. That particular stance might have been acceptable, had the reported relationship been seen as something that was strictly outside of the work environment, however considering that sexual actions had taken place on work property, there was no way to even remotely say that it was not work related.

Unfortunately, while the appeals court, correctly ruled on the sexual harassment side of things; trying to say that employers are responsible for their employees’ actions regardless of whether or not they had been properly notified is absurd, as the employer never had an appropriate opportunity to stop the sexual harassment from happening.

In this case, while Taylor was Vinson’s boss she should have requested that he stop making sexual advances, and then when that failed gone up the chain to Taylor’s boss. When the complaint had been registered with Taylor’s boss, then the company would have been notified, and if nothing was done to remedy the situation then the company would have been liable.