

**AFFIRMING MICHIGAN'S ACTION: THE MICHIGAN JOURNAL OF  
RACE & LAW'S RESPONSE TO DR. CARCIERI'S "GRUTTER v.  
BOLLINGER AND CIVIL DISOBEDIENCE"**

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Abstract

In Part I, we examine the history of racial inequality and its current manifestations. We present a brief history of the case law and legal history which served as the backbone for the Court's rulings in Grutter and Gratz and suggest that the diversity rationale and reasoning in Grutter are strongly grounded in the Court's jurisprudence. Part II turns to the issue of civil disobedience and whether Carcieri's proposal for race-based grading and recommendations is in fact analogous to Paul Butler's theory of race-based jury nullification. In short, the answer is no. After analyzing the use of race in our criminal jury system as well as highlighting power inequities in our society, we will argue that Carcieri's suggested race-based actions are antithetical both to Butler's theory of nullification as well as our accepted notions of civil disobedience. In Part III we examine Carcieri's specific proposal for the use of distorted grading and letters of recommendation. We dispute his assertion that these methods are a measured response to admissions policies similar to Michigan's, arguing that his means create a significant harm to uninvolved third parties. Finally, in Part IV, we offer a theory of affirmative action that reflects the acute social conditions in which our society presently resides. By exposing the fallacy of colorblindness, we discuss the importance of utilizing race based affirmative action programs to dismantle racial hierarchies in order to achieve true equality.