

# Testimony of Concepción Escobar<sup>†</sup>

## Examination by Jodie-Marie Masley,<sup>‡</sup> Counsel for Intervening Defendants

Q: Ms. Escobar . . . [w]here are you a student today?

A: I'm at the University of Michigan Law School.

Q: I'm going to ask you a series of questions just about your background to start out. Where were you born?

A: In Chicago.

Q: Can you tell us something about your parents?

A: My mother is an immigrant from Mexico and my father is originally from Arizona and he is an Apache or was Apache. He is deceased.

Q: Okay. Is there anything else you would -- more you would like to tell us about your parents?

A: Well, they both came to Chicago when they were thirteen years old. They have less than a first grade education. When they came to Chicago, they came alone. My father was abandoned by his parents when he was eight years old and pretty much grew up on the street, and, at thirteen years old went to Chicago and started working in factories. . . .

Q: And what does your mother do?

A: She is a factory worker.

Q: How long has she been a factory worker?

A: For 38 years.<sup>1</sup>

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Q: I'm going to ask you a series of questions and your testimony in this case is very important and it's going to go to two areas, the alleged double standard that the Plaintiff asserts that exists between white and minority, under-represented minority applicants, and also the bias that is offset by affirmative action, and your testimony is going to be very important to helping the Judge understand your distinct experience at Amherst. First, how did you get to Amherst College [where Ms. Escobar did her undergraduate work]?

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<sup>†</sup> Ms. Escobar appeared as a witness for the Intervening Defendants (Student Intervenors) on February 6, 2001. Her testimony was excerpted from Trial Transcript, *Grutter v. Bollinger*, 137 F. Supp. 2d 821 (E.D. Mich. March 27, 2001) (No. 97-75928), available at <http://www.umich.edu/~urel/admissions/legal/grutter/gru.trans/gru2.06.01a.html>.

<sup>‡</sup> Ms. Masley was one of the named Student Intervenors in this case. She joined the firm of Scheff & Washington in Detroit, MI, in June, 2000, after graduating from the University of Michigan Law School, where she was a campus leader in the struggle to defend affirmative action.

1. Trial Transcript at 159-60, *Grutter v. Bollinger*, 137 F. Supp. 2d 821 (E.D. Mich. March 27, 2001) (No.97-5928), available at <http://www.umich.edu/~urel/admissions/legal/grutter/gru.trans/gru2.06.01a.html>.

A: I was a student at Whitney Young Magnet High School, which is -- it's widely recognized as the best public high school in Chicago, but it's a segregated school, it's mostly black, and, you know, about maybe ten percent white students, some Asians and some Latinos. I was a student there and I took the PSAT test, I think at the beginning of my junior year, and I did well on that test, so I started receiving mailings from colleges all across the country, but I -- I had a part-time job and I was taking a full load, so I didn't really have time to read all of that stuff. And just one day at school I overheard one of my English teachers talking to another teacher and he happened to mention that Amherst was a very good school, so I went home and I looked for the stuff from Amherst, and, you know, I filled out the postcard and sent it in to get more information. And after I did that, the college was -- you know, they kept in touch with me, encouraging me to apply.<sup>2</sup>

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Q: Did you experience tracking in your high school?

A: Yes, I did. I was tracked really from kindergarten through twel[fth] grade. When I started school my grandmother used to babysit us, my mom's mom, and so she only spoke Spanish and so we only spoke Spanish. My father spoke English, but he just wasn't around a lot, so we spoke some English, but more Spanish. So I was put into the Spanish language kindergarten. And so I was in Spanish language classes up to second grade. And I don't know, this is just a side note, but I just remember feeling desperate to learn English, because I just felt like the English classes were superior to ours. And in second grade, I actually was -- I have a sister who is eleven months older than me, we were in the same classes, and around second grade I was doing her homework and stuff, so I got transferred into a third grade class that was in English. And I was in some kind of gifted program where I was pulled out of class for one or two periods a day and given special instruction with other kids in the gifted program in special things like creative writing and things like that. And then in middle school, there were actually honors and regular classes, so I was put in the honors class for seventh and eighth grade. And for seventh and eighth grade I had a teacher who came from a family of teachers and one of her siblings taught at a magnet high school, and he had given her applications to give to kids in my class so that we could apply to magnet high schools. And so she only chose four students in my whole class to give applications to so they could take the entrance exams for the high schools. So I was chosen and three other kids were chosen, I was the only one who got into Whitney Young. Then at Whitney Young, there was also that system of regulars and honors classes and based on your score on the entrance exams of the high school, you were put in either track, so I was put into the honors classes.

Q: And what was the racial composition of honors classes?

A: They were almost all white. I would say every class had about 30 students. Each class had about 20 white students, five white students -- I mean five Asian students, and, you know, the rest Latino and black.

Q: Apart from hearing, overhearing a conversation with your teachers, did you

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2. *Id.* at pp.160-161.

have any other notion of Amherst College?

A: No.

Q: And did you ever get any help from a counselor?

A: Well, I went for help to a counselor. My high school had four counselors and 2,000 students, so each counselor was responsible for 500 students, and their job was, you know, to help people with emotional problems, to help them pick classes, to help them choose colleges, and when I had already made the decision to apply to Amherst, I went to the college counselor to ask her how I could request a transcript and to ask for financial aid information about -- to see if she knew about any scholarships or anything. And she just directed me to a file cabinet outside her office. And that was very different treatment from the treatment that, you know, my white classmates, Asian classmates got. Well, when she -- she said, oh, you know, you're thinking about college? That's very good. What schools are you thinking of? And so I told her Amherst College, and she thought I said Elmhurst College, which was a college in Illinois that's not very selective, and she said, oh, that's great. And I said, no, Amherst College. And she said, oh. Oh, yeah, I went to, you know, a function there once, and, you know, all I remember are pearls and white gloves. You'll never fit in. And that was her advice to me. So she didn't tell me about any scholarships or give me any useful information. I had to find out all this stuff on my own. And I found out later on, like at graduation, where they were giving out all these scholarships and awards and things, I found out that there were scholarships available from my high school that she just didn't tell me about. And I think that the reason she didn't tell me was because of my race I mean, and it just didn't happen with her, it happened every time somebody was tapped, you know, to compete in something or to represent the school somewhere, it was just assumed that the only kids who were in the top ten, ranked in the top ten, which I was, were white, and in fact, they were all white except for me. So that was my experience with college counseling.<sup>3</sup>

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Q: Had you had experiences with being in a minority before getting to Amherst?

A: I had -- well, up to eighth grade I had gone to neighborhood school, and I had no notion of being a so-called minority. I had never even heard that term. When I went to high school, the high school was mostly black, but I was in mostly all white classes, but I didn't feel like a minority, because the school was all black. . . . [T]he high school itself was right next to a ghetto, but the students didn't come exclusively from that area, the students came from all over the city, from all levels of socioeconomic background, so there was a lot of diversity there among the black students. And then I had worked as a lifeguard at a beach in Chicago. The first year that I worked there, there were 50 white lifeguards and me, and that was my first experience of being, you know, a minority with the majority population, it was a really, really bad experience.

Q: Can you say why?

A: It was the first time that I felt representative of my race, yet I wasn't on an equal playing field with, you know, the people who would, you know, say things to

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3. *Id.* at 163-66.

me, which were the supervisors, and they would say things like, oh, you're my little Mexican *senorita*, and, you know, if I said something back, they would say, oh, hot salsa, you know. If any Latinos came to the beach it was a -- mostly the patrons at the beach were mostly white, because it's right in an area called the Gold Coast where rich people live, and these rich people were mostly all white, so it's kind of their beach, and when Latinos would come to the beach the supervisors would call them the Spanish Armada. So it was that kind of thing that would just make me really angry, and when I would say something back to them about, you know, calling me a *senorita* or trying to speak to me in Spanish, I would get punished. . . . But when I was thinking about going to Amherst, I didn't realize that it was a -- well, such a white school, and when I did realize that it was such a white school, I didn't think that it was going to be as bad as my experience at the beach, because I just couldn't -- I mean, I thought that these people at the beach that, you know, they weren't people who did well in school, that they were just a bunch of jocks, that, you know, that these weren't the kind of people that I was going to meet at a place like Amherst College.

Q: And did you end up finding that that was true?

A: No. Well, I think that people's -- well, most of the students had come from homogeneous backgrounds. Most of the students of color had come from segregated schools and most of the white students had come from all white schools. So no one had much experience with anybody that was really outside of their race or -- you know, minorities went to minority schools, not necessarily of their race, but no one had a lot of experience with each other. And, I mean, my social group became the women who lived on my floor in my dorm, and I think there were about 30 women on the floor. Three were Asian, two were black, there was me, and the rest were white on my floor. And, you know, I mean, I thought initially that everybody was very polite, but, you know, later on we had conflicts where I just felt very uncomfortable.

Q: What kind of conflicts did you have?

A: Well, first there was -- it was the socioeconomic difference. Like, I found out that I was the only person on my whole floor who was getting any kind of financial aid. The tuition at the school was \$23,000 a year at the time, and they were paying it in full and that was a total shock to me. I just couldn't believe that there were people, you know, in this country who could afford to pay that much money in one year, you know, for four years for school. Another conflict was that the college had a minority pre-orientation program. I think it was two or three days. And basically, they sent letters to every student that had identified as a minority student, inviting them to come to the school two or three days before, you know, the -- well, before the white students came to campus. And they had started this program because -- well, really as a result of complaints and demonstrations by previous students of color who felt like they had no support at the college for dealing with an environment that was suddenly nearly all white. So I went to this pre-orientation weekend and we were encouraged by the different facilitators of the different sessions that they had to sign up for groups like the Black Students Union and Asian American Students Association and Latino Student Group and groups like that. You know, so we all signed up. And, you know, so at the time I was the only person on my whole floor who had gone to that program, so like when I moved in, I was -- I was the only one on my whole floor, plus the resident counselor who was on my floor. And when everybody else moved in, and, you know, they found out that -- they

didn't know before they came that there had been this pre-orientation weekend, so when they showed up and they found out that the school had had this for us, that they had spent money on this program and that they hadn't invited the white students, you know, the white students expressed anger at that.

Q: And what did you think of that?

A: Well, intuitively I thought that there was something wrong with their reaction, and that they didn't see anything wrong with their reaction, because they were complaining to me, and, you know, I tried to say that, maybe people in the past had been victims of racism on the part of other students and that the school was just trying to help us cope before anything happened and just trying to express support, trying to say that if something like this did happen to anybody, that, they had people in the administration to go to that would be sympathetic. But my white friends didn't accept that explanation. They just said that this was wrong and that even having these groups, these cultural groups was wrong, because, it encouraged us to separate ourselves, that it gave us an advantage. They claimed that these groups made it easier for us socially because we had an instant group of friends, that's how they put it, an instant group of friends that they didn't have, that they had to try harder to make friends.

Q: Had you experienced racism in your education before getting to Amherst?

A: I had -- I mean, one thing that I can remember very clearly was when I was in high school and I was taking a psychology class and it was with this teacher who never had us do much work, his cubicle was right outside of our classroom, so usually he would stand outside and talk to people for fifteen minutes while we just sat there and did nothing, and then, you know, he would walk in and just talk to us about current events or whatever was going on. Every once in a while we had a real class, but one day, you know, he walked in fifteen minutes late, it was a 40-minute class, and he said, today we're going to talk about stereotypes. You know, don't you guys notice that here in school that, people think things about other people based on their race, but they never say it, but you know you think it. And, that there is not one Thanksgiving that goes by that your families don't say things about other races, and I mean, what do you guys think about that, and what do you guys think of the fact that this class is nearly all white, and it's an honors class, and, you know, 90 percent of the students in this school are black. Why do you think that is? And that was the first time ever in my life that this topic had been introduced in a class at all, really, in a group of, you know, mixed race people. So people initially were reluctant to participate, so he wrote on the board, white, Hispanic, black, Asian, and Jews, and then he just went to each group and had people throw out stereotypes that they thought were common about these groups. And I wasn't participating at all. I felt very uncomfortable with that discussion, especially because it was a class where, you know, fifteen students were white, three were Asian, I don't think there were any blacks in that class, and I was the one Latino. So the stereotypes about white people and about Asians were all positive, and about Jews they -- nobody wanted to say anything about Jews. There was at least one Jewish kid in the class, and so the teacher asked him straight out, you're Jewish, aren't you? You had a Bar Mitzvah, didn't you? And he said, yeah. And he said, well, what should we put for Jews? And the kid said, well, we eat matzoh balls, and that was all that they could come up with for Jews. But then when they got to blacks, it was -- the list was really derogatory and after every item, everybody was just totally laughing and they said things about blacks like, they like

watermelon. They like fried chicken. They like fruit flavored soda. They cheat the welfare system. There was like about a five-minute discussion about the proper way to -- what to write on the board to say that black men had big penises, and then the teacher said, well, let's just say well endowed, you know. And also that they cheat the welfare system and that they use drugs. So it was a big long list compared to all the other groups. And then for the Latinos, it was a similar set of negative characteristics, like they are illegal. They don't speak English. They are lazy. They become maids. . . .

Q: How many years ago was that?

A: It was in 1989.

Q: How vividly do you remember that discussion?

A: Like it was yesterday. Well, the thing about that discussion was, it was the first time in school that I had got really, really angry. I had never been so mad, so angry that I couldn't speak. And, I mean, I think he meant to go on, the teacher meant to go on and discuss these, but we only got as far as making the lists and everybody laughing about the lists and then the class was over. And when the class was over, a student sitting next to me said, your nose is bleeding. And I hadn't realized that I had gotten a nose bleed, and it was from being so angry. So, you know, I just pinched my nose and left the class and my teacher saw that. And I just said, I have to go to the bathroom. He said, okay. And then the next day, there was no -- we didn't finish the discussion. That was the end of it. It was just this list of stereotypes, everybody laughing, and nothing more.

Q: Did you go to Amherst believing you would have any difficulties because of your race?

A: No. When I had gone for that preview weekend [for high school seniors of color who were considering applying to Amherst], I think because I was hosted by black students and because, you know, we went to parties at the Black Culture House and because the group that I was socializing with were other minority high school students, I saw the white students around, but I didn't get the sense that it was, you know, such a white school, such a majority white school. And I thought that because, you know, these people were educated, Amherst is ranked the number one small college in the country, I thought that because these people were educated that, they would be open minded, that I wouldn't face any kind of discrimination, that I wouldn't feel uncomfortable, that my stereotype of college in general, the idea that I had, and been inspired by my whole life before actually going to college was that it was an environment of transcendentalists, basically, of Renaissance people, people who wanted to learn about everything, people who were interested in learning. You know, one of the things I had said on the application for Amherst was that they look at the whole person and that they encourage the students to interact with each other, because you have to remember that they looked at the whole person and so that there was something to --, that everyone could contribute, and they encouraged people to look for that in their classmates. So I really expected that, I took that literally, and I really didn't expect to have any problem at all.

Q: Were you valued as a whole person?

A: Not at all. I mean, one of my first experiences at Amherst was, I think we had like the two or three days of the minority orientation and then we had about four days, you know, with the rest of the students of orientation, so it was about a week all together. I think like on the very first night that the white students came, there was like a welcoming reception at the President's house and I went

to that with other people on my floor. And we got there when there weren't many people there, so we got to meet him and talk to him, and his comments to everybody were like where are you from, and, oh, had you wanted to come to Amherst for a long time. And all of my friends had some kind of connection to Amherst, like a relative had gone there or a teacher had gone there or, you know, they had met him when they visited, things like that, he knew their parents. Except when he got to me, and he said, where are you from, and I said Chicago, he said, you're very lucky to be here. And he knew absolutely nothing about me, except that I was from Chicago, and he said, you're very lucky to be here. And, you know, then he asked me more about, what do your parents do, and I said my mom is a factory worker. And, where did you go to high school, and I said Whitney Young. And he said, I don't think we ever had anybody come here from there. Finally, he said, you have a lot to teach people here. So, I mean, that kind of set the tone for my whole experience at the school, if the President of the college could, make all of these judgments about me in the first five minutes that I met him.

Q: Was that the same treatment that white students received?

A: No. I mean, there was -- the way that he talked to the girls that I went with, who happened to be white, and he didn't say anything like that to them. And, there was also this white student, his name was Rich Lawson, and he was also poor, he wasn't as poor as I was, but his parents were divorced and he lived with his father and he just told everybody, like that when he was little he lived in a trailer park, and that his father worked so hard, but that he really couldn't afford to go to Amherst, but that here he was, because he had worked so hard. And everybody, you know, treated him like he was some kind of hero like he had overcome so much and that he was so extraordinary. . . . And he was received very positively. He wasn't given the message, you're very lucky to be here, you have a lot to teach. . . . So I just really saw a contrast that way, that, I mean, I had suspected sometimes, maybe I'm getting treated this way because I'm poor maybe it's not because I'm not white, but when I saw how this kid was treated, it made me think that it was because of race.<sup>4</sup>

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Q: What was . . . the racial composition of your classes?

A: Well, they were almost all white. Even though most classes were small, the classes that I took, because they were freshman classes, three of them had over 100 people in them -- no, maybe about 100 people in them, and one of them had about 35 students in them, but each of those classes was overwhelmingly white.

Q: Were you forthcoming with speaking in those classes?

A: No. I mean, my very first day of class was in one of those big classes and I thought of myself as well prepared. I hadn't realized by the first day of class that I wasn't as well prepared as the other students in my freshman class. I thought, you know, that I was intelligent, that I had taken the most challenging classes in my high school, that I had done very well. You know, the administrators at my high school were always reminding us that we were the best high school in the city, so I felt very competent, but that first day, just in

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4. *Id.* at 168-81.

reaction to the number of white students that I saw in that classroom, that lecture hall, it just made me feel less confident and like I didn't want to be noticed, because I just felt like that to them I was going to be representative of brown people, because there were, in my entire freshman class, there was only one other Latino student, no Native American students, a number of Asians, maybe fifteen Asians.

Q: Out of how many?

A: Out of 416 students. So that very first day, I just felt like that these students were going to look to me as a representative of the brown race, because I was aware by then that almost everyone had come from homogeneous backgrounds, and I was just convinced that that's what it was going to be.

Q: Did you have to make any decisions at Amherst about how you were going to sustain yourself at the school given the atmosphere there?

A: Yeah, I mean, I felt like that I couldn't talk about -- well, about where I came from to my class, in my classes or to my friends, you know, who were all rich. And, you know, my close group of friends were, you know, two white women and three Asian women and they were all rich, and they just had no idea about the kind of community that I had grown up in, the kind of school that I had gone to. I could see then, you know, after a few weeks at college how bad my high school had been, that there were just so many things that we didn't have that all of my classmates had had as high school students, you know, that really made me feel like administrators at my high school were stupid, because here they thought that they had the best high school in the city, that they were really doing something right, they were doing something good for minority students in Chicago, you know, but that really we had a crappy school. Like, I didn't want to -- I didn't want to fit the stereotype for my friends, you know, which I felt like I did, or like my family did. So like, early on in the year we had had discussions with the girls on my floor, where everybody talked about where they came from, what their school was like, what their parents did, things like that, and so I just didn't feel comfortable sharing about the truth about my background, so I lied and I said that my mother was a teacher, and that's about it. I mean, I just said I was from Chicago. I didn't say where in Chicago. You know, I just didn't talk much about who I was. And I mean, my family really had, like, very little idea about what I was doing, where I was going to school, what my classmates were like. They just had no clue.

Q: Did you talk to your mother at some point about how you were doing?

A: Yeah, I mean, I was 17 years old then, you know, and very idealistic, you know. I thought things like that, it didn't matter if you were poor, that we all had the same opportunities, this was America, we're all equal, and one of the things, too, was that your parents should be there for you, that you could tell your parents anything, right? But I felt bad telling my mom . . . because I just felt like she would be so disappointed. For me to have gone to college was such a big deal, you know, I was the first in my family to do that and I got into, you know, one of the very best schools and, to my mom, that just -- she just thought that that was totally wonderful. So I didn't really want to tell her, but then I got to a point where I felt like I had to tell somebody, so thinking, well, you can tell your parents anything, right? I told her one day that I was -- that I wasn't really happy at school, that like some of the things that my friends had said, just about minorities in general, how they resented like having anything that, like was in support of minority studies, just describing racism in general to my mom. And



she -- it made her really sad, and I felt really bad about it, but I felt like, my mom will help me, but it turned out then that she worried and that night couldn't sleep. And like, the next day she went to work and her job at the -- I mean, I have never seen what it is exactly her job is, but I know she has to push like metal sheets through this machine where there are just a bunch of blades cutting the metal, and the next day that I had told her that, she was pushing the metal sheet in and cut one of her fingers, and it sliced like half of it off. And I felt like it was my fault, for having distressed her that way. I mean, so that was pretty much the end of me sharing any of this with my mom. I just acted like like I was in school and like, oh, I was learning so much, and that I was going to have better opportunities later on. I mean, basically, confirming the ideas that she had, about what my life was like. I just went along with it.<sup>5</sup>

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Q: So you made it through Amherst and you did well; is that right?

A: Yes.

Q: Did your GPA -- was it able to express this?

A: After my first semester, I did well. I started with a C plus average my first semester, and I ended with an A minus average.

Q: What does your GPA represent?

A: I think what I thought was that my Amherst world, that that was my future, that wherever I worked, wherever I went to school, wherever I was going to function after college was going to be that kind of environment, so that I should get used to it, that I should just learn to cope, learn to function. And I feel like that's what I did. I just turned off to my world at home when I was at school. I mean, after, after the first year, it was less so that way, because there were more Latino students that I could relate to, that had a lot of the same issues. Things that I would have been ashamed to tell, you know, to share with any student who weren't Latino or black, I would laugh about it with other Latino students. So it got better that way. And my professors were always encouraging, you know. I got the sense that they wanted me to do well. But, I mean, as far as the GPA, it represents progress to me, and, well, hard work.

Q: Is there a white student any more qualified to attend the U of M Law School than you are?

A: I don't think so.

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5. *Id.* at 184-92.

