High court avoids race decision

BRIEANNE PORTER

Affirmative action in college admissions has been a highly debated topic since the 1978 ruling in *Bakke v. Board of Regents*. In that decision, the Supreme Court ruled that racial quotas did not represent compelling state interest, but it did hold that the use of race as a factor in admissions to increase diversity is constitutional. Since then there have been numerous decisions from lower courts that cloud the topic.

In the 1996 case of *Hopwood v. University of Texas-Austin*, a Texas court banned the use of race-based admissions at public universities in Texas. In December, the University of Michigan's affirmative action policy was upheld by a federal judge, but its law school was barred from using race as a factor in its law school admissions by a federal court in March. Now, the Supreme Court has denied an appeal involving the issue at the University of Washington Law School.

The issue is not whether affirmative action has any place in admissions but that the Supreme Court needs to make a decision about the subject. Without clear guidelines, admissions officers and applicants are at a loss as to whether race is an allowable factor.

With these multiple and contradictory decisions, the Supreme Court had an opportunity to clear the air and offer an answer to the question of the constitutionality of affirmative action. Yet, it has continued to do what it does best lately — nothing. The court would rather let lower courts stumble blindly around the issues of affirmative action and constitutionality, while the Supreme Court watches from the fence post.

On one side of the issue is the argument that affirmative action has become reverse discrimination. To the proponents of this, the use of race as a deciding factor causes an overrepresentation of the minority population. This was a main argument in the University of Washington Law School case.

Opponents of race-based admissions state that race does not contribute to whether a person is a promising student. Admissions should be based not on race but on grades, test scores, activities and other such factors. Past performances and achievements are better factors on which to base decisions.

Proponents of affirmative action programs say it is a way to help diversify universities and enhance the education received there. "Blacks and other minority groups have defended affirmative action programs as a way to make up for past discrimination," according to a CNN article.

Others feel that preventing colleges from using its discretion when admitting students is a violation of the 14th Amendment's equal protection clause. By using race as a factor, the colleges are protecting a racial group that has been historically affected by discrimination. Considering race also helps because minorities that traditionally do not have such things as alumni connections that contribute to college admission.

According to a *New York Times* editorial, "To tamper now with the ability of colleges and universities to toss race into this mix in pursuit of diversity, and hence a richer educational experience, would be a monumental error both as a matter of law and as social policy."

Whatever side one considers to be correct does not matter. The issue that truly has reached the threshold of urgency is in need for a concise decision. Without comment or decision from the high court, the states will continue to battle this problem.

From these battles will come more confusion on the subject, leaving universities and students wondering the constitutionality of affirmative action.

The Supreme Court must not let this issue fall aside and be forgotten. It is an issue that will not end by silence. The time for action is now and whatever the decision is, at least it will be a decision.

Brieanne Porter is a junior political science major.

Five wives to one man

Polygamy not seen as religious freedom by court

J.J. TREVINO

The Western idea of legal marriage involves two people — one man and one woman. However, for one Utah man, his many commitments have him awaiting the outcome of an appeal of a state conviction decided earlier this month.

Tom Green, an outspoken practitioner of polygamy, is now facing a possible 25-year prison sentence for four counts of bigamy, along with one count of failure to pay child support, for practicing what was once an acceptable Mormon belief. Green, who lives with a total of five wives and 29 children, has sparked national attention.

Bigamy is the criminal offense of registering a second marriage with the state when a first marriage is still recognized. Although Green filed divorce requests to enable him to lawfully proceed with his subsequent marriages, the requests were invalidated by a judge before his trial.

The judge ruled that under Utah law, those who were at one time married and later divorced but continue to cohabit as married individuals for a period of time, could still be prosecuted. To prove Green was guilty, the prosecution showed Green knew he had a wife when he married the other women, according to a polygamy Website.

Although Green claims his decision to marry multiple women was done in a religious sense, Utah's decision to prosecute is not unfair because he continued to reside with all five of his wives and had more than one wife registered with the state.

Essentially, Green could have maintained his relationships had he not have been so concerned with registering all of his marriages.

The Mormon Church, which once supported polygamy in the early 19th century, now calls for anyone practicing polygamy to be excommunicated. Despite the ban, Green continues to cite religious freedom as his defense.

However, at no point should Green expect protection from the United States Constitution, which guarantees one's right to religious freedom, because the Mormon Church already denounced the practice. The Mormon Church has not supported the practice of polygamy in over 100 years, and justifiably, has left Green to fight his court battle alone.

Ironically, Green's marital arrangements never coincided with his deeply rooted attitude, "You'll pretend we don't exist, and we'll pretend you don't exist," as he was once quoted as saying. Unlike an estimated 30,000 polygamists, most who currently live in Utah in a secluded, underground lifestyle, Green's lifestyle became publically known, according to CNN.

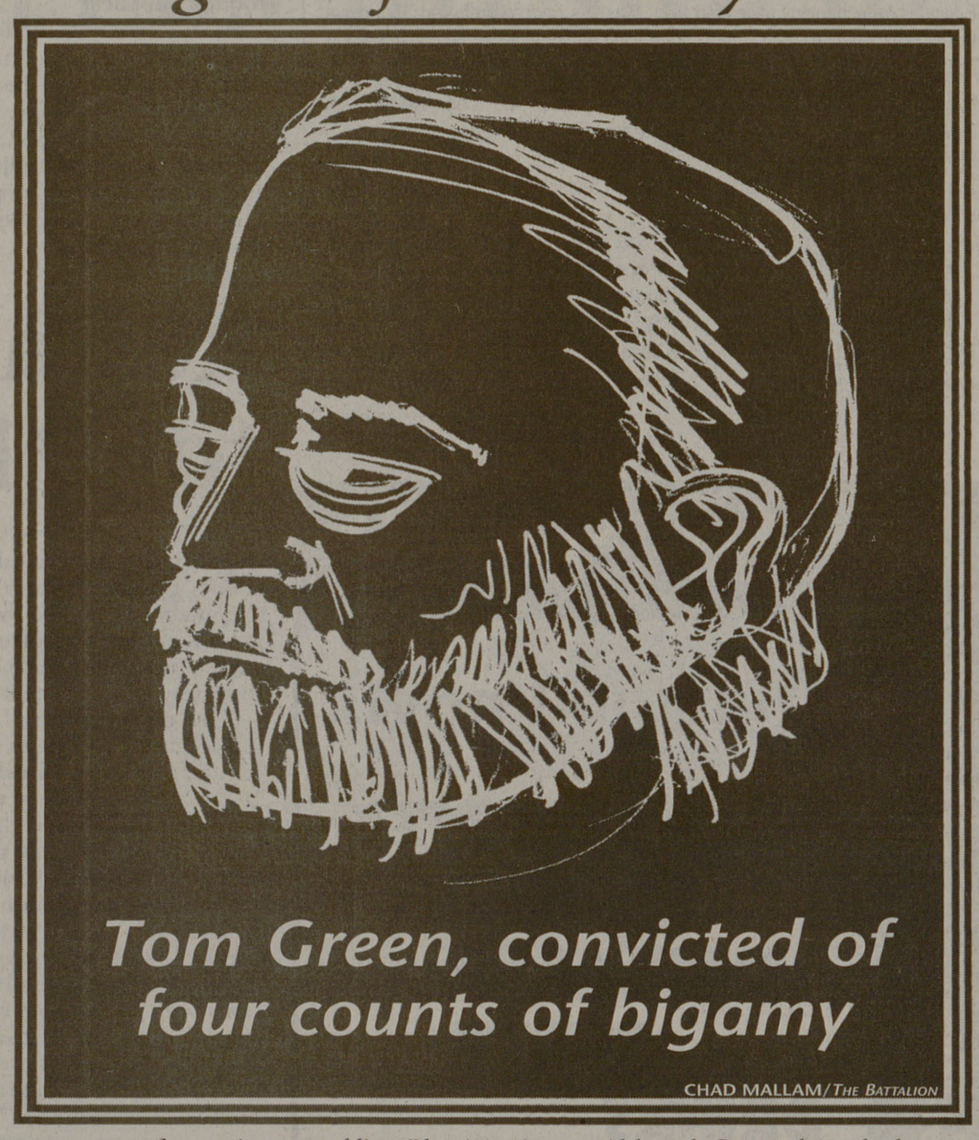
Green's personal motivation to gain public acceptance of polygamy is precisely what invited the criminal charges from the beginning. For more than a decade before his indictment, Green's beliefs were broadcasted into the homes of thousands of Americans, when he chose to make his story public on television shows such as "Dateline NBC" and "The Jerry Springer Show."

According to Green, "The issue is of freedom from government interference in personal lives," but it is more involved than that. Green's feelings are invalid, because his outspokeness served as the government's rationale to evaluate his lifestyle.

Although he lives nearly 100 miles away from any town, Green could not expect the nation to ignore his behavior because he deliberately attracted this "unwanted" attention.

Although Green claims he has been unfairly singled out, the prosecution's actions to proceed with the trial were appropriate. Green's sentence of 25 years in jail should come as a warning to the thousands of people who currently practice polygamy in hiding.

J.J. Trevino is a senior journalism major.



Tom Green, convicted of four counts of bigamy

CHAD MALLAM/*The Battalion*

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Space not a factor

Veterans deserve memorial on the Mall

(U-Wire) — With partisan bickering at a high level with the recent defection of Sen. James Jeffords from the Republican Party, President George W. Bush has a tough road ahead of him. However, some issues, believe it or not, are not — or should not be — partisan.

When Bush announced last Monday the signing of a law allowing for the construction of a World War II Memorial in Washington D.C., I found myself nodding my head in agreement. Although the decision's timing was questionable, that didn't make it a bad one.

There has been much controversy over the years over the building of a memorial on the famous National Mall in Washington, centering on spatial issues. The National Coalition to Save Our Mall has concerns that the monument will ruin the "open green space" between the Lincoln Monument and the Washington Memorial on the Mall. The monument would take up a 7.4-acre portion of the Mall — nearly half of the total space.

Concerns are valid; these people are not against the recognition of World War II veterans. It is a matter of priorities. The National Coalition to Save Our Mall wants to make sure the memorial will not "ruin" the National Mall, as if the debate was over converting the Mall into a huge nuclear power plant and not a grand memorial.

Even if the memorial would hurt the Mall's image, it is a ludicrous claim that the landscape of the Mall is more important than the World War II veterans themselves. We are talking about 16 million people who served for the United States, not to mention the more than 400,000 who died. The memorial will contain granite pillars, bronze wreaths and gold stars, all surrounding a pool, a design which some have described as overly grandiose or even ugly, although it sounds nice.

But even if the monument is not as aesthetically pleasing as the open atmosphere — which is unlikely considering the $160 million budget for the project — it is also true that the war itself was not pretty either. This is why the monument needs to be made in the first place. Honoring those who served our country in this special way is more important than honoring the perceived beauty of the National Mall.

The memorial definitely would not be unprecedented, either. The National Mall already has memorials of former presidents Thomas Jefferson and Franklin Delano Roosevelt, as well as memorials for Korean War and Vietnam War veterans. Why World War II veterans would be seen as less important is beyond comprehension.

Politics definitely played a role in Bush's signing of the law, as it always seems to. No one should think that it's a coincidence that the law was signed on Memorial Day and in the midst of a $75 million opening weekend of the film *Pearl Harbor*. The timing is akin to signing an anti-flag burning law on the Fourth of July. It is much more difficult to oppose a memorial such as this when patriotism is so strong; a controversial issue is made to seem less so under that type of circumstances.

Bush was right to sign the bill. Many World War II veterans are dying, and there is a sense of urgency that they get paid homage before many more of them pass away. Reservations about details of the memorial are not more important than the memorial itself.

I will give precedence to World War II veterans over an open space any day.

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