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Ruqaiijah Yearby

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Race Based Medicine, Color Blind Disease: How Racial Preferences in Violation of the 14th Amendment are Killing Us All

Case Legal Studies Research Paper No. 2016-5

Ruqaiijah Yearby
Saint Louis University - School of Law

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Abstract

Disease is color blind, but medicine is not. For example, sickle cell disease is often discussed in terms of a Black disease; however, people of all different races suffer from sickle cell. Moreover, sickle cell is found in a number of places that have little to no Blacks, such as Afghanistan, Bangladesh, Burma, and Honduras. Nevertheless, health care providers often provide people of different races different levels of care justifying their disparate treatment based on scientific claims. However, not only are these scientific claims baseless, but also the explicit use of race to determine what medical treatment is provided patients is a violation of the Equal Protection Clause of the 14th Amendment of the U.S. Constitution. Just as the states violated the Equal Protection Clause when they used racial classifications to provide separate and unequal education to Black and White children, which was found unconstitutional in *Brown v. Board of Education*, publicly funded health care providers and health care facilities are violated the Equal Protection Clause when they use racial classifications to provide separate and unequal care to Black and White patients. Thus, health care providers receiving federal funds must be prohibited from using race to determine patient treatment.

My article will discuss the problem with race-based medicine and why it violates the U.S. Constitution. Specifically, it will discuss how health care providers often misdiagnose patients of all races because they use race to determine who has a disease, instead of being colorblind and using symptoms to determine who has a disease. Furthermore, my article will discuss the fact that there is no scientifically proven link between race and disease, because there is no scientific way to establish race. Consequently, there is no scientific or legal justification for using race in medicine. Finally, my article will discuss why federally funded health care providers are state actors and thus are prohibited by the Equal Protection Clause of the 14th Amendment from using race, a suspect class, in their treatment decisions to limit the care all races receive.

Keywords: 14th Amendment, equal protection, racial bias, medicine

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