

# ANGRY AT HERBSTREIT

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“Where there is anger, there is always pain underneath.”<sup>2</sup>

## INTRODUCTION

During the summer of 2020, the murder of George Floyd sparked protests across the nation regarding police brutality and racial injustice. As summer gave way to fall, college football analyst and former standout quarterback for Ohio State University, Kirk Herbstreit, spoke out about the aftermath of Floyd’s killing on ESPN’s long-running and award-winning show, *College GameDay*.<sup>3</sup> Due to the ongoing COVID-19 pandemic, Herbstreit and his colleagues appeared via Zoom on September 5, 2020, for the first show of the season in which Herbstreit gave the following tearful, passionate speech:

It’s remarkable to see players to have an opportunity to come together and this show, and Maria [Taylor] has given them that platform to express how they feel. I also think if you’re a White player in these locker rooms, it’s incumbent upon you to

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<sup>2</sup> Eckhart Tolle, *96+ Satisfaction Anger And Pain Quotes That Will Unlock Your True Potential*, QUOTLR (Nov. 23, 2023), <https://quotlr.com/quotes-about-anger-and-pain> [<https://perma.cc/F8Q3-Y8GB>].

<sup>3</sup> *College GameDay Media Kit*, ESPN PRESS ROOM, <https://espnpressroom.com/us/media-kits/college-gameday/> [<https://perma.cc/SNF3-XMSX>] (last visited Nov. 16, 2023) (winning eight Sports Emmys for “best weekly studio show” over its nearly forty-year run).

really help with the change. I saw Dylan Boles there from Stanford involved and Trevor Lawrence at Clemson has been involved.

I think it's one thing to have rallies. It's one thing to skip a practice because of social injustice. It's one thing for the NBA and NFL to miss games to make a statement. Those things are great. But my question is, what's next? What does that lead to? You go back to practice the next day. What will lead to change? I was talking to David Shaw, the head coach at Stanford. He and I had a great talk. I loved listening to his wisdom and his thoughts, and he shared a quote to me from Benjamin Franklin. He said, "Justice will not be served until those who are unaffected are as outraged as those who are."

The Black community is hurting. If you've listened and the word empathy and compassion over these last four months, how do you listen to these stories and not feel pain and not want to help? It's like, wearing a hoodie and putting your hands at 10 and 2. Oh god, I better look out because I'm wearing Nike gear. Like what? What are we talking about? And so you can't relate to that if you're White but you can listen and you can try to help because this is not okay. It's just not. We gotta do better man. We gotta like lock arm and arm and be together. In a football locker room, that stuff is gone – those barriers are gone. We gotta do better.<sup>4</sup>

My initial reaction to hearing Herbstreit's speech: anger. As I continued to think about it, the anger grew. Part I of this Article explains the reason for my anger as a Black American and sheds light on how racial minorities experience racism. Part II briefly discusses the intersection of sports and racism. Part III discusses how Herbstreit's speech, although it initially caused anger, provides the keys to understanding and addressing systemic racism. This Article concludes that the support of the Black community by White allies<sup>5</sup> in America remains necessary for systemic change.

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<sup>4</sup> ESPN, *Kirk Herbstreit breaks down in tears during emotional message on racial injustice*, YOUTUBE (Sep. 5, 2020), [https://www.youtube.com/watch?v=EaW6vBOvLqA&ab\\_channel=ESPNCollegeFootball](https://www.youtube.com/watch?v=EaW6vBOvLqA&ab_channel=ESPNCollegeFootball) (omitting superfluous and repeating words and phrases such as 'you know', 'uh', and 'um') [<https://perma.cc/L82L-XS59>].

## WHY I WAS SO ANGRY AT HERBSTREIT

I felt such anger towards what Herbstreit said for two main reasons. First, it took video footage of a Black man being killed by the police and national protests for Herbstreit to acknowledge that the Black community is hurting.<sup>6</sup> Where have you been? The Black community has been hurting for decades, even centuries, because of racial injustice and police brutality.<sup>7</sup> Second, Herbstreit's recognition of the Black community's pain highlights the reality that Blacks deal with racism every single day, which many Whites fail to realize. Both of these points are discussed below.

A. *Where Have You Been?*

Slavery remains the biggest scar and the deepest wound in this country's history.<sup>8</sup> Slavery represents Blacks' first introduction

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<sup>5</sup> "A useful definition of allyship in the context of racial injustice is 'a *strategic* mechanism used by individuals to become *collaborators*, *accomplices*, and *co-conspirators* who fight injustice and promote equity ... through supportive personal relationships and public acts of sponsorship and advocacy.'" Janet Thompson Jackson, *Wellness and Law: Reforming Legal Education to Support Student Wellness*, 65 HOW. L.J. 45, 88 (2021) (quoting Tsedale M. Melaku, Angie Beeman, David G. Smith, & W. Brad Johnson, *Be a Better Ally*, HARV. BUS. REV., Nov.-Dec. 2020, <https://hbr.org/2020/11/be-a-better-ally> (emphasis in original)).

<sup>6</sup> See generally Angela Onwuachi-Willig, *The Trauma of Awakening to Racism: Did the Tragic Killing of George Floyd Result in Cultural Trauma for White?*, 58 HOUS. L. REV. 817, 818-26 (2012) (discussing how Whites viewing the video of George Floyd's murder, in which a "smirking then-Officer Derek Chauvin kne[lt] on George Floyd's neck for nine minutes and twenty-nine seconds" while other officers present failed to intervene, opened their eyes to racism); ISABEL WILKERSON, *CASTE: THE ORIGINS OF OUR DISCONTENT* 107 (2020) (discussing the police brutality faced by the bottom of the hierarchy in the American caste system, racial minorities).

<sup>7</sup> See Monique T. Curry, *"Get That Son Of A \*\*\*\*\* Off The Field": Regulating Student-Athlete Protest Speech In Public University Sports Facilities*, 61 How. L.J. 669, 694 (2018) (stating "[p]olice brutality is an issue that has plagued African Americans for centuries"); ISABEL WILKERSON, *CASTE: THE ORIGINS OF OUR DISCONTENT* 17 (2020) (discussing the dehumanization of Blacks, which is necessary to maintain the caste system that promulgates a hierarchy of Whites over Blacks and other racial minorities).

<sup>8</sup> See, e.g., Glenn C. Loury, *An American Tragedy: The legacy of slavery lingers in our cities' ghettos*, BROOKINGS (Mar. 1, 1998), <https://www.brookings.edu/articles/an-american-tragedy-the-legacy-of-slavery-lingers-in-our-cities-ghettos/> [https://perma.cc/E7P2-NK5C] (stating that the effects of slavery still linger and remain in America); Gill R. Scherto & Garrett Thomson, *Collective Healing to Address Legacies of Transatlantic Slavery: Opportunities and*

to the United States of America.<sup>9</sup> Ever since their arrival, Blacks have dealt with racism and discrimination, which continues today.<sup>10</sup> Slavery endured until the Emancipation Proclamation in 1863, although for slaves in Texas it persisted until June 19, 1865 (also known as Juneteenth).<sup>11</sup>

Bryan Stevenson, the author of *Just Mercy* and Founder and Executive Director of the Equal Justice Initiative, separates racism in the United States into four periods: (1) slavery; (2) the violent and widespread lynching of Blacks after emancipation, which led to many Black people moving from the South to the West, Midwest, and Northeast; (3) a period of segregation that included Jim Crow laws that partitioned the races based on the system of separate but equal, as well as residential segregation via racially restrictive covenants and federal policy, such as redlining; and (4) the current times consisting of racial disparity in health, wealth, education, employment, housing, and incarceration.<sup>12</sup> For example, as of 2022, police booked and admitted Blacks to jail at over four times the rate

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*Challenges*, 15 *Genocide Stud. & Prevention* 50-53 (2021) (explaining the history behind the generational trauma and wounds of slavery).

<sup>9</sup> See *Immigration and Relocation in U.S. History*, LIBRARY OF CONGRESS, <https://www.loc.gov/classroom-materials/immigration/african/beginnings/> (last visited Sep. 28, 2023) [<https://perma.cc/DD3M-K6XN>] (stating that the introduction of Africans to America would “shape the African experience in America for centuries to come”); Tod G. Hamilton, “*Black Immigrants and the Changing Portrait of Black America*,” 46 *ANN. REV. SOCIOLOGY* 295, 297-298 (2020).

<sup>10</sup> See Gwendolyn Scott-Jones & Mozella Richardson Kamara, *The Traumatic Impact of Structural Racism on African Americans*, *DELAWARE J. OF PUBLIC HEALTH* (Nov. 7, 2020), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8352535/> [<https://perma.cc/6MKZ-RBC5>] (explaining the theory, Post Traumatic Slavery Syndrome (PTSS), as the continued experience of trauma for many African Americans); Benjamin Quarles, *Black history unbound*, *Daedalus* 163, 164-165 (1974) (discussing the historical context of the racism that Black people have experienced).

<sup>11</sup> *The Historical Legacy of Juneteenth*, NATIONAL MUSEUM OF AFRICAN AMERICAN HISTORY & CULTURE, <https://nmaahc.si.edu/explore/stories/historical-legacy-juneteenth> (last visited Sep. 28, 2023) [<https://perma.cc/GKJ2-PVK2>]; see generally Charles A. Taylor, *JUNETEENTH: A CELEBRATION OF FREEDOM*, Open Hand Publishing LLC (2002).

<sup>12</sup> Palma Joy Strand, *Racism 4.0, Civity, and Re-Constitution*, 42 *HASTINGS CONST. L.Q.* 763, 765 (2015). According to Yale Law Professor James Whitman, evidence supports the facts that our country’s racist laws and practices served as exemplars and models for Adolf Hitler and other Nazi leaders (including Nazi lawyers) in creating the Nazi regime’s own discriminatory laws. See generally James Q. Whitman, *Hitler’s American Model: The United States and The Making of Nazi Race Law* 2, 12, 135 (2018).

of Whites.<sup>13</sup> Also, Black and Hispanic households possess just 2.9 and 2.8 percent of wealth in the United States, respectively, even though they make up 15.6 percent and 10.9 percent of the population, respectively. Whites, on the other hand, hold 86.8 percent of wealth in the United States while constituting just 68.1 percent of the population.<sup>14</sup>

In addition to the disparities in wealth, health, housing, and employment that Blacks have suffered for years, police brutality and racist killings of Blacks have ravaged our country since its inception.<sup>15</sup> The list of Black men and boys who suffered death by lynching (such as Emmet Till) or police brutality are too many to count.<sup>16</sup> Just prior to George Floyd, in February of 2020, Ahmaud Arbery was murdered in a racially motivated crime when he was jogging.<sup>17</sup> A month later, police killed Breonna Taylor when they executed a no-knock warrant at her apartment searching for her ex-boyfriend; her then-current boyfriend, thinking an intruder had entered the apartment, traded gun shots with the police who shot Taylor.<sup>18</sup>

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<sup>13</sup> Julie Wertheimer, *Racial Disparities Persist in Many U.S. Jails*, PEW (May 16, 2023), <https://www.pewtrusts.org/en/research-and-analysis/issue-briefs/2023/05/racial-disparities-persist-in-many-us-jails#:~:text=As%20of%202022%2C%20Black%20people,population%20observed%20for%20Black%20individuals> [https://perma.cc/GB4V-EWRA].

<sup>14</sup> Aditya Aladangady & Akira Forde, *Wealth Inequality and the Racial Wealth Gap*, BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM (Oct. 22, 2021), <https://www.federalreserve.gov/econres/notes/feds-notes/wealth-inequality-and-the-racial-wealth-gap-20211022.html> [https://perma.cc/WRR3-9A39].

<sup>15</sup> *The Lancet: More than half of police killings in USA are unreported and Black Americans are most likely to experience fatal police violence*, THE INSTITUTE FOR HEALTH METRICS AND EVALUATION (Sep. 30, 2021), <https://www.healthdata.org/news-events/newsroom/news-releases/lancet-more-half-police-killings-usa-are-unreported-and-black> [https://perma.cc/X38E-Z2A7].

<sup>16</sup> *History of Lynching in America*, NAACP, <https://naacp.org/find-resources/history-explained/history-lynching-america> (last visited Sep. 28, 2023) [https://perma.cc/N94U-WNET]; see generally Jacqueline Goldsby, *A SPECTACULAR SECRET: LYNCHING IN AMERICAN LIFE AND LITERATURE*, University of Chicago Press (2020).

<sup>17</sup> Richard Fausset, *What We Know About the Shooting Death of Ahmaud Arbery*, THE NEW YORK TIMES (Aug. 8, 2022), <https://www.nytimes.com/article/ahmaud-arbery-shooting-georgia.html> [https://perma.cc/3X9Z-USK3].

<sup>18</sup> Richard A. Oppel Jr. et al., *What to Know About Breonna Taylor's Death*, THE NEW YORK TIMES (Mar. 9, 2023), <https://www.nytimes.com/article/breonna-taylor-police.html> [https://perma.cc/LZ24-2UAR].

Why did it take seeing a video of George Floyd's killing for Kirk Herbstreit, and frankly many others, to acknowledge the suffering of the Black community? When people hear about the killing of unarmed Black men and boys by police or others, why does a video of one of those killings suddenly make it real for some people?<sup>19</sup> When Herbstreit failed to recognize and accept these horrors without a video, it frustrated me.

*B. Blacks and People of Color Endure Racism Every Day*

I also reacted to Herbstreit's speech with anger because it demonstrated that some White people do not understand that Blacks and other racial minorities deal with racism every single day. The first tenet of Critical Race Theory provides that racism is a normal, everyday occurrence for Black people.<sup>20</sup> As a Black American,<sup>21</sup> I encounter racism every day.

Whether being followed in stores or perceived by White individuals as out of place due to being one of the few Black people in a neighborhood or workplace, Black individuals encounter racism on a daily basis.<sup>22</sup> I have lived in Saint Paul, Minnesota, for almost three years, and I have seen two other Black men in my neighborhood, which is overwhelmingly White and affluent. When my Mexican-American wife and I lived in Santa Monica and owned a condo six blocks from the beach, a White woman mistook me for

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<sup>19</sup> My oldest son came home one day in Eighth Grade and asked if Wilt Chamberlain really scored 100 points in a game. I said, "Of course he did. Why do you ask?" He responded, "Some of my friends at school are saying it never happened because there is no video of it." Many acts, including heinous ones, have occurred and been recorded in history, even though no videos of them exist.

<sup>20</sup> Richard Delgado & Jean Stefancic, CRITICAL RACE THEORY: AN INTRODUCTION 8 (3rd ed. 2017).

<sup>21</sup> Technically, I am half-Polish and half-Guyanese (part Black and part Indian). When strangers see my dark skin, I doubt they immediately recognize my Polish heritage.

<sup>22</sup> Randy T. Lee et al., On the prevalence of racial discrimination in the United States, NATIONAL LIBRARY OF MEDICINE (Jan. 10, 2019), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6328188/> [<https://perma.cc/V7R3-LB5K>]; See B.B. Boutwell et al., The Prevalence of Discrimination Across Racial Groups in Contemporary America: Results from a Nationally Representative Sample of Adults, 12 PLOS One 8, Aug. 2017, at 1-2, <https://doi.org/10.1371/journal.pone.0183356> [<https://perma.cc/QC7Z-6LRW>] (analyzing the prevalence of racial discrimination across all races).

a local grocery store manager when I had a tie on<sup>23</sup> and another White woman assumed I drove a bus for a living.

Like many Black professionals, being mistaken for the help comes with the territory.<sup>24</sup> When I worked at Jones Day on the 45<sup>th</sup> floor in a skyscraper in Los Angeles, I often ate Subway sandwiches for lunch. I would go to the first floor, purchase my meal at a nearby Subway, and then return to my office. The elevator required a key card to access any floor. Security stopped me on several occasions to inform me that I could not take the elevator without a key card. They probably figured I was an errand boy delivering Subway sandwiches to, presumably, important people in the building.

As a student at Duke Law School, the police pulled me over in my car about twenty feet from my apartment on Central Campus.<sup>25</sup> The officer told me about a report of a female Duke student who

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<sup>23</sup> A (fellow) customer came up to me quite irate that she could not find any shopping carts, and she asked me, “As the manager, do you know where I can find a shopping cart?” I told her where I had seen a few and went on my way.

<sup>24</sup> See Zulekha Nathoo, *Why people of colour are misidentified so often*, BBC (May 25, 2021), <https://www.bbc.com/worklife/article/20210519-why-people-of-colour-are-misidentified-so-often> [https://perma.cc/7DV3-LBSB]; Emily M. Olson, *Physician Identification Badges: A Multispecialty Quality Improvement Study to Address Professional Misidentification and Bias*, 97 MAYO CLINIC PROCEEDINGS 658, 658-667 (2022) (discussing the bias that exists from patients in regards to whether they identify someone as a doctor or not); Kim Elsesser, *Female Lawyers Face Widespread Gender Bias, According to New Study*, FORBES (Oct. 1, 2018, 3:34 PM), <https://www.forbes.com/sites/kimelsesser/2018/10/01/female-lawyers-face-widespread-gender-bias-according-to-new-study/?sh=62dab8b44b55> [https://perma.cc/T2C8-CZZM] (according to a study by the ABA’s Commission on Women in the Profession and the Minority Corporate Counsel Association, 57% of female lawyers of color reported being mistaken for janitors, court personnel, or administrative staff); Kendall Ross, *‘Are you the defendant?’: Black law student mistaken for defendant at court*, ABC NEWS (Mar. 10, 2022, 6:02 AM), <https://abcnews.go.com/GMA/Living/defendant-black-law-student-mistaken-defendant-court/story?id=83327100> [https://perma.cc/8FT5-DURU] (recounting how a Black female law student representing a client with her conditional Bar card was mistaken in court as a criminal defendant even though she was standing in a line of attorneys prior to court hearings; quoting one Black attorney, “People still, even in 2022, feel like a lawyer looks like a white male, period.”).

<sup>25</sup> Michael Ramos, *Four years later, future of Central Campus remains uncertain with no current plans for development*, THE CHRONICLE (Feb. 24, 2023), <https://www.dukechronicle.com/article/2023/02/duke-central-campus-residential-housing-quadex-dorms-future> [https://perma.cc/VY9Z-GEQV] (stating that students no longer live on Central Campus and the apartment buildings there have been demolished).

was assaulted by a Black male, six feet tall. I am 5'6". The officer asked me what I was doing on Duke's campus. I told the officer that I was a law student at Duke. He asked for my driver's license and Duke student ID. After several minutes, the officer came back from his police car and sternly told me, "You can go." Getting stopped by the police because a Black person "matches a description" or for driving while Black (also known as DWB) happens often.<sup>26</sup>

When snow does not occupy most of the landscape in Minnesota, my older son, whose dark skin mirrors mine,<sup>27</sup> sometimes likes to ride his bike in and around our neighborhood. We tell him to wear his zip bag that features his Catholic high school logo on it to let people know he is not a threat and he lives in the neighborhood.<sup>28</sup> We tell him that if someone approaches him or he is stopped by the police, he should tell them he and his family own a house in the neighborhood on (such and such street). Every single day my wife and I worry that something tragic might happen when our son is riding his bike. Trayvon Martin, wearing a hoodie and returning from buying Skittles from a convenience store, lost his life after a neighborhood watch member followed Trayvon because he "looked suspicious."<sup>29</sup> George Zimmerman, the

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<sup>26</sup> *Driving While Black: What it is and why it's Important*, ACLU MICHIGAN, <https://www.aclumich.org/en/news/driving-while-black-what-it-and-why-its-important> (explaining evidence that African American drivers were 72% of those pulled over; however, they represent only 14% of drivers) [<https://perma.cc/4HKV-556Q>]; see generally Jamila Jefferson-Jones, "Driving While Black" as "Living While Black", 106 IOWA L. REV. 2281 (2021) (explaining the historical policing of black freedom of movement).

<sup>27</sup> My younger son's lighter skin resembles my wife's complexion.

<sup>28</sup> This instruction followed the talk we already had with him about how to interact with the police as a young Black man. German Lopez, *Black parents describe "The Talk" they give to their children about police*, VOX (Aug. 8, 2016), <https://www.vox.com/2016/8/8/12401792/police-black-parents-the-talk> [<https://perma.cc/C5R8-WQ26>];

Erica Gunderson, *Having 'The Talk': How Families Prepare Black Children for Police Interactions*, WTTW (Jun. 8,

2020), <https://news.wttw.com/2020/06/08/having-talk-how-families-prepare-black-children-police-interactions>

[<https://perma.cc/9H3B-XYP9>]; Leslie A. Anderson, "The Talk" and Parenting While Black in America: Centering

*Race, Resistance and Refuge*, 48 JOURNAL OF BLACK PSYCHOLOGY (2021) (discussing the racial socialization of black families).

<sup>29</sup> History.com Editors, *Florida Teen Trayvon Martin Shot and Killed*, HISTORY (Feb. 24, 2021), <https://www.history.com/this-day-in-history/florida-teen-trayvon-martin-is-shot-and-killed> [<https://perma.cc/RL9U-CE2N>].



neighborhood watch member, killed Travon in an altercation, but Zimmerman evaded conviction after he was acquitted of second degree murder.<sup>30</sup> Three White men chased and killed Ahmaud Arbery while he was jogging in the neighborhood.<sup>31</sup> A jury found the three men guilty on multiple murder counts and other charges, including, but not limited to, aggravated assault and false imprisonment.<sup>32</sup>

Racism does not just occur in traumatic and dramatic events that are publicized on television. Racism occurs in minor and major ways all the time, and racial minorities must constantly deal with racism. Herbstreit's speech revealed the simple truth that some or many Whites do not understand or think about what racial minorities encounter on a daily basis, likely because they are not personally affected by it every day.

Shortly after I saw Herbstreit's talk on television, I spoke to the college athletes at my previous institution (St. Mary's University) about sports and race. The Athletics Director at the university asked me to speak on the topic because I worked as a law professor at the university, and I had just completed an article that addressed how sports can help combat racism.<sup>33</sup> Also, I played football at Rice University and lettered all four years. As a first-generation Black American and based on my experiences, I brought a unique perspective to the topic. The St. Mary's University Athletics Department publicized my talk as the "Inaugural Fireside Chat" with athletes, coaches, and the athletics administration on race and racial relations in the United States post-George Floyd.<sup>34</sup>

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<sup>30</sup> *Id.*

<sup>31</sup> *As it happened: Three men guilty of murdering black jogger in US*, BBC (Nov 24, 2021), <https://www.bbc.com/news/live/world-us-canada-59379518> [https://perma.cc/WNR8-U2NC].

<sup>32</sup> Elliott C. McLaughlin, Devon M. Sayers, Alta Spells and Steve Almasy, *Ahmaud Arbery killing: 3 men found guilty of murder*, CNN (Nov 24, 2021), <https://www.cnn.com/2021/11/24/us/ahmaud-arbery-killing-trial-wednesday-jury-deliberations/index.html> [https://perma.cc/3KGG-P5TY].

<sup>33</sup> See generally David A. Grenardo, *It's Worth a Shot: Can Sports Combat Racism in the United States?*, 12 HARV. J. SPORTS & ENT. L. 237 (2021).

<sup>34</sup> St. Mary's University Athletics, *St. Mary's Athletics Hosts First Fireside Chat Wednesday Night* (Sep 9, 2020), RATTLE ATHLETICS, <https://rattlerathletics.com/news/2020/9/9/saac-st-marys-athletics-hosts-first-fireside-chat-wednesday-night.aspx?print=true> [https://perma.cc/TA8G-R3ED].

An honest talk about sports and race required a discussion about my anger, but I also wanted to convey a positive message to the college athletes moving forward. Before doing that, I needed to give them some context on the intersection of sports and racism, the good and the bad. The following section provides an overview of that intersection.

### THE INTERSECTION OF SPORTS AND RACISM

Nelson Mandela famously said, “Sport has the power to change the world. . . It has the power to unite people in a way that little else does. . . Sport can create hope where once there was only despair. It is more powerful than government in breaking down racial barriers.”<sup>35</sup> Sports can serve as a powerful tool that unites people. Herbstreit correctly noted how a locker room can transcend racial barriers and overcome racism because playing a team sport requires people coming together in a powerful way to achieve a goal through trust, respect, and love.<sup>36</sup> Sports can bring together entire towns (e.g., high school football games under Friday night lights),<sup>37</sup> large communities (such as in College Station, Texas, or Tuscaloosa, Alabama for a Saturday of college football),<sup>38</sup> and sometimes entire nations (e.g., during the World Cup or the

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<sup>35</sup> *Celebrating the Legacy of Our Patron on Mandela Day*, LAUREUS (July 18, 2019), <https://www.laureus.com/news/celebrating-the-legacy-of-a-hero-on-mandela-day> [https://perma.cc/WN44-B3KL].

<sup>36</sup> Brandon Kinsey, *What we all can learn from a locker room...*, LINKEDIN (Jan. 7, 2021), <https://www.linkedin.com/pulse/what-we-all-can-learn-from-locker-room-brandon-kinsey/> [https://perma.cc/8SE2-88K5] (stating that locker rooms teach equality, love, and respect); see generally Timothy J.

Curry, *Fraternal Bonding in the Locker Room: A Profeminist Analysis of Talk about Competition and Women*, 8 *Sociology of Sport Journal* 119 (1991), <https://journals.humankinetics.com/view/journals/ssj/8/2/article-p119.xml?content=pdf>.

<sup>37</sup> *The Community-Building Power of Sport*, YMCA OF GREENSBORO, <https://www.ymcagreensboro.org/blog/community-building-power-sport> [https://perma.cc/47AM-BF9H] (last visited Sep. 28, 2023).

<sup>38</sup> *The Craziest College Football Towns to Visit*, AMERICAN LIFESTYLE, <https://americanlifestylemag.com/life-culture/travel/craziest-college-football-towns-visit/> (last accessed Jan. 1, 2024) [https://perma.cc/36N2-PQ4G].

Olympics).<sup>39</sup> Since sports reflect society, though, sports display the same type of racism seen throughout society.<sup>40</sup>

Formal and informal segregation of Blacks and Whites existed in sports just as it did in society. In the nineteenth and twentieth centuries, Blacks could not attend colleges and universities in the South, and Jim Crow laws prevented Blacks and Whites from interacting with each other.<sup>41</sup> When a northern university played a college from the south, the northern school typically forbade its Black player(s) from competing or even traveling to the games against the southern school.<sup>42</sup>

Professional sports in the United States also subjugated Blacks through segregation that manifested in two separate, but not equal (in resources), professional baseball leagues—the Negro League and Major League Baseball (MLB).<sup>43</sup> Even after Jackie Robinson broke the color barrier in MLB, racism persisted.<sup>44</sup> In football, the term stacking refers to coaches cabining Black players into positions that traditionally require great athleticism while preventing them from playing positions that require more thinking and leadership abilities, such as quarterback, center, and middle linebacker.<sup>45</sup> Today, even though there are a number of successful Black quarterbacks in the NFL, racism pervades sports.<sup>46</sup>

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<sup>39</sup> Mark A. Leon, *Why the Olympics Bring the World Together*, CHARLESTON DAILY (Feb. 11, 2018), <https://charlestondaily.net/why-the-olympics-bring-the-world-together/> [https://perma.cc/CR3N-4BSS].

<sup>40</sup> Richard Lapchick, *Once again, racist acts in sports are on the rise*, ESPN (Jan. 3, 2019), [https://www.espn.com/espn/story/\\_/id/25675586/racism-sports-continued-rear-ugly-head-2018](https://www.espn.com/espn/story/_/id/25675586/racism-sports-continued-rear-ugly-head-2018) [https://perma.cc/34ED-HTJF].

<sup>41</sup> Matthew J. Mitten Et Al., SPORTS LAW AND REGULATION 700-02 (5th ed. 2019).

<sup>42</sup> *Id.*

<sup>43</sup> *Id.*; see generally Walter T. Champion, Jr., SPORTS LAW: CASES, DOCUMENTS, AND MATERIALS 621 (2d ed. 2014) (describing the inferiority of the Negro League in resources to the MLB).

<sup>44</sup> Martin Stezano, *Jackie Robinson's Battles for Equality On and Off the Baseball Field*, HISTORY (updated Apr. 16, 2019), <https://www.history.com/news/jackie-robinson-color-barrier-baseball> [https://perma.cc/Q3LS-CVYY].

<sup>45</sup> See Timothy Davis, *The Myth of the Superspade: The Persistence of Racism in College Athletics*, 22 FORDHAM URB. L.J. 615, 659-60 (1995).

<sup>46</sup> See generally Grenardo, *supra* note 33. Internationally, racism is alive and well in sports, too. *Kick It Out: Record-high reports of discrimination up 65% in 2022-23 season*, BBC Sport (July 12, 2023), <https://www.bbc.com/sport/football/66168427> [https://perma.cc/4WTA-KMN5]; Matt Foster, *Reports of Discriminatory behavior in soccer hit 'alarming' record number*,

Black athletes (and even Black coaches) at all levels encounter racism in modern day sports.<sup>47</sup> In high school, five Iowa football players in a photo wore KKK hoods, brandished a firearm, burned a cross, and showcased a Confederate flag, earning expulsion from the team.<sup>48</sup> Someone posted on Snapchat the following comments in response to a high school football player, again in Iowa, kneeling during the national anthem, “kick this f—ing n—— off the football team like honestly who the f— kneels for the national anthem.”<sup>49</sup> In California, fans called football players and cheerleaders from the visiting team the n-word during a high school football game.<sup>50</sup>

In college, a broadcaster referred to a Black player from Angola on Maryland’s basketball team as an ape.<sup>51</sup> North Arkansas College in Harrison, Arkansas, purportedly one of the most racist towns in America, christened their competitors, community college basketball teams from Kansas comprised of predominantly Black men and women, with monkey noises and crow caws.<sup>52</sup> Following Florida State’s football loss to the rival University of Florida, a man

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according to *Kick It Out*, CNN (Jul. 12, 2023), <https://www.cnn.com/2023/07/12/sport/discrimination-football-kick-it-out-intl-spt/index.html> [https://perma.cc/FG75-FJMR] (claiming the anti-discrimination organization Kick It Out received 1,007 reports of racism from the professional game, grassroots soccer—which is akin to recreational soccer in the United States—and social media).

<sup>47</sup> Paul Steinbach, *Iowa Broadcaster Suspended for ‘King Kong’ Comment*, ATHLETIC BUS. (Feb. 24, 2019), <https://www.athleticbusiness.com/sports-media/iowa-broadcaster-suspended-for-king-kong-comment.html> [https://perma.cc/8XUF-2PGZ].

<sup>48</sup> Richard Lapchick, *Racist Acts in Sports Were on the Rise in 2017*, ESPN (Jan. 11, 2018), [https://www.espn.com/espn/story/\\_/id/22041345/racism-continued-rear-ugly-head-sports-2017](https://www.espn.com/espn/story/_/id/22041345/racism-continued-rear-ugly-head-sports-2017) [https://perma.cc/SVV8-FGQR].

<sup>49</sup> *Id.*

<sup>50</sup> Alex Wigglesworth, *Racist Slurs Hurlled at San Clemente High Football Game, Investigation Confirms*, L.A. TIMES (Sept. 23, 2019, 9:10 AM), <https://www.latimes.com/california/story/2019-09-23/racist-slurs-san-clemente-high-football-game-investigation-confirms> [https://perma.cc/KY5X-5WEH].

<sup>51</sup> See, e.g., Nathan Kalman-Lamb, Derek Silva and Johanna Mellis, *‘We told you so’: For Black athletes racism from college fans is a familiar story*, THE GUARDIAN (Oct. 6, 2022), <https://www.theguardian.com/sport/2022/oct/06/college-sports-racist-abuse-rachel-richardson> [https://perma.cc/FD3W-QT72].

posted a racist image on social media depicting Willie Taggart—FSU’s head coach at the time and the first Black man to hold that position—with a noose around his neck.<sup>53</sup>

In the pros, a Black NFL player became the target of racism when his home was robbed and spray-painted with a swastika, the letters KKK, Go Back to Africa, and Trump.<sup>54</sup> Someone posted on a Black professional hockey player’s social media that he should stick to basketball.<sup>55</sup> An NFL player who joined Colin Kaepernick in kneeling during the national anthem received hate mail that threatened his life and repeatedly called him the n-word.<sup>56</sup>

Racism even reaches younger levels of sports, including when a hockey team told an opposing player, a Black eighth grader, to get off the ice and go back to basketball.<sup>57</sup> The team also called the young athlete the n-word—these events took place during a hockey tournament in Maryland.<sup>58</sup> In a youth basketball league in

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<sup>52</sup> Lapchick, *supra* note 40; Padraig Moran, *Residents of the ‘most racist town in America’ say they’re working hard to shake that reputation*, THE CURRENT (Oct. 26, 2020), <https://www.cbc.ca/radio/thecurrent/the-current-for-oct-26-2020-1.5775035/residents-of-the-most-racist-town-in-america-say-they-re-working-hard-to-shake-that-reputation-1.5775050> [https://perma.cc/5BN7-59EW] (describing, in 2020, the city’s “long association with white supremacy” and noting its “billboards promoting white supremacy in the town” and that the Knights of the nearby headquartered Ku Klux Klan used “a post office box in Harrison as its mailing address”).

<sup>53</sup> Lapchick, *supra* note 40; *see also* Chaunte’l Powell, *FSU Fan Post Stating Willie Taggart Should Be Lynched Prompts Outrage, Review by State Attorney*, SUN SENTINEL (Nov. 25, 2018), <https://www.sun-sentinel.com/sports/florida-state-seminoles/os-sp-fsu-willie-taggart-outrage-1126-story.html> [https://perma.cc/9X7U-RBCR].

<sup>54</sup> Richard Lapchick, *Lapchick: The Year in Racism and Sports*, ESPN (Jan. 24, 2017), [https://www.espn.com/espn/story/\\_/id/18543159/racism-sadly-reared-ugly-head-sports-2016](https://www.espn.com/espn/story/_/id/18543159/racism-sadly-reared-ugly-head-sports-2016) [https://perma.cc/4L4Q-DD3A].

<sup>55</sup> Richard Lapchick, *Racism Reported in Sports Decreasing but Still Prevalent*, ESPN (Feb. 19, 2020), [https://www.espn.com/espn/story/\\_/id/28738336/racism-reported-sports-decreasing-prevalent](https://www.espn.com/espn/story/_/id/28738336/racism-reported-sports-decreasing-prevalent) [https://perma.cc/L4F6-HA9M].

<sup>56</sup> Lapchick, *supra* note 54.

<sup>57</sup> Lindsey Feingold, *Team Rallies Around Black Hockey Player After He Receives Racist Taunts*, NPR (Jan 9, 2019), <https://www.npr.org/2019/01/09/683501433/father-and-son-who-are-african-americans-discuss-racism-in-youth-hockey> key [https://perma.cc/RP9F-FSC4].

Cincinnati, a team received an ejection from the league for placing racist names on the back of the children's jerseys, including coon and "knee grow."<sup>59</sup>

A relatively recent, memorable, and impactful intersection between sports and race, which has already been mentioned in this article, involved the kneeling of Colin Kaepernick. Kaepernick became the central figure in the protest of racial injustice and police brutality prior to George Floyd's murder when he began kneeling during the national anthem before NFL games.<sup>60</sup>

He contended with scrutiny from fans, NFL owners, and even the sitting president of the United States.<sup>61</sup> They accused Kaepernick of attacking the United States military and the country that gave him the right to free speech.<sup>62</sup> Kaepernick asserted that he chose to kneel during the national anthem to show respect for the military while also protesting social and racial injustice, as well as police brutality.<sup>63</sup> He lost his football career, despite previously taking his team to the Super Bowl as a starting quarterback, because he stood up against racism and discrimination.<sup>64</sup> He eventually settled a lawsuit he brought against the NFL and its owners, claiming that they had colluded to keep him out of the NFL.

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<sup>58</sup> *Id.*

<sup>59</sup> Lapchick, *supra* note 40.

<sup>60</sup> Phil Helsel, *49ers Quarterback Colin Kaepernick Defends National Anthem Protest*, NBC NEWS (Aug. 28, 2016), <https://www.nbcnews.com/news/us-news/49ers-quarterback-colin-kaepernick-defends-national-anthem-protest-n639> [https://perma.cc/XT9S-CMYQ]. 116

<sup>61</sup> *See, e.g.*, Associated Press, *Trump Says NFL Should Fire Players Who Kneel During National Anthem*, L.A. TIMES (Sept. 22, 2017), <https://www.latimes.com/nation/nationnow/la-na-trump-nfl-anthem-20170922-story.html> [https://perma.cc/3H2P-S49Q] (quoting Trump saying "Wouldn't you love to see one of these NFL owners, when somebody disrespects our flag, you'd say, 'Get that son of a b— off the field right now. Out!'").

<sup>62</sup> *See, e.g., id.*

<sup>63</sup> Elliot C. McLaughlin, *Colin Kaepernick reveals what led him to risk his career kneeling for social justice*, CNN (Aug. 20, 2019), <https://www.cnn.com/2019/08/20/us/colin-kaepernick-mario-woods-paper-magazine/index.html> [https://perma.cc/KX38-7DV4].

<sup>64</sup> Steve Wyche, *Colin Kaepernick explains why he sat during national anthem*, NFL (Aug. 27, 2016), <https://www.nfl.com/news/colin-kaepernick-explains-why-he-sat-during-national-anthem-0ap3000000691077#> [https://perma.cc/Q9PZ-3BJW].

<sup>65</sup> Since the 2016-2017 season when he protested by kneeling, Kaepernick has not played in the NFL.<sup>66</sup>

Sports can help combat racism and unite people, but sports can also function in a manner that fosters and promotes racism. Herbstreit's speech, which represents the former, sought to use sports to bring athletes and teams together to make positive changes in society.

#### ALLIES IN THE MAJORITY CAN HELP BRING ABOUT INSTITUTIONAL AND SYSTEMIC CHANGES

As I prepared for my talk with the St. Mary's University college athletes, my initial anger from Herbstreit's comments finally started to wane, and feelings of hope began to emerge. While the country had previously witnessed protests against police brutality targeting racial minorities, the demonstrations following George Floyd's murder felt distinctly different. The latter protests spanned the entire nation, and they included people of all races, including Blacks and Whites.<sup>67</sup> My talk needed to include the raw emotions I felt since the death of George Floyd, along with my reaction to Herbstreit's speech. But it also needed to provide college athletes and myself a productive way to process the emotions and confront the harsh realities of racism, bias, and prejudice moving forward.

Herbstreit himself laid out the necessary steps for Whites: (1) listen with as much empathy as possible with the understanding that you may not be able to empathize fully;<sup>68</sup> and (2) pursue

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<sup>65</sup> Dan Mangan, *Colin Kaepernick reaches settlement in national anthem kneeling collusion case against NFL*, CNBC (Feb. 15, 2019), <https://www.cnbc.com/2019/02/15/colin-kaepernick-reaches-settlement-in-collusion-case-against-nfl-lawyer-says.html> [https://perma.cc/9DNK-WLKP].

<sup>66</sup> Juan Carlos Guerrero, *TIMELINE: Colin Kaepernick's journey from San Francisco 49ers star to kneeling to protest racial injustice*, ABC 7 NEWS (Aug. 29, 2020), <https://abc7news.com/colin-kaepernick-kneeling-when-did-first-kneel-date-what-does-do-now/4147237/> [https://perma.cc/487F-MQT8].

<sup>67</sup> Jiachuan Wu, Nigel Chiwaya and Savannah Smith, *Map: Protests and rallies for George Floyd spread across the country*, NBC (Jun. 1, 2020), <https://www.nbcnews.com/news/us-news/map-protests-rallies-george-floyd-spread-across-country-n1220976?ex=digest> [https://perma.cc/7G28-BL7S] (noting that over 450 protests took place in cities across the entire nation within one week of Floyd's murder, and those protests included "people of all ages and races").

significant change together with Blacks. Herbstreit's ardent call to action was, indeed, moving and powerful. He recognized that momentary gestures are nice, but they do not result in systemic or long-term change. The path forward for Blacks and other racial minorities must include telling our stories and sharing our experiences with Whites to help them understand, to the extent possible, the pain and frustration that we face. Blacks must also embrace the support that Whites can provide to create systemic and institutional changes. Blacks can benefit from the help of Whites who are allies to make those large-scale changes.

Since the murder of George Floyd, Whites and Blacks have worked together to create institutional change. For example, over half of the states passed legislation regarding policing reforms relating to the issues surrounding the murder of George Floyd, such as the use of force, the duty of officers to intervene in fellow officers' misconduct, reporting police misbehavior, and sanctions for police wrongdoing.<sup>69</sup> In Minneapolis, after an extensive investigation following the death of George Floyd, the Minneapolis Police Department must now operate under a consent decree between the City of Minneapolis and the Minnesota Department of Human Rights that requires substantial changes to the manner in which the police department operates.<sup>70</sup>

Even if every effort to create systemic change is not successful, that does not mean those efforts are not important in building the foundation for substantial changes in the future. For instance, although the federal legislation that bears Floyd's name, The George Floyd Justice in Policing Act, has only been passed by the House of Representatives and not the Senate, it still represents an effort to seek systemic change.<sup>71</sup>

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<sup>68</sup> Timothy Davis, *America's Race-Based Caste Structure: Its Impact in College and Professional Sports*, 9 TEX. A&M L. REV. 599, 650 (2022) (noting the importance of empathy).

<sup>69</sup> Ram Subramanian & Leily Arzy, *State Policing Reforms Since George Floyd's Murder*, BRENNAN CENTER (May 21, 2021), <https://www.brennancenter.org/our-work/research-reports/state-policing-reforms-george-floyds-murder> [https://perma.cc/A9G6-DY4K].

<sup>70</sup> Fox 9 Staff, *Court approves consent decree requiring Minneapolis, MPD to implement changes*, FOX (Jul 13, 2023), <https://www.fox9.com/news/court-approves-consent-decree-requiring-minneapolis-mpd-to-make-changes> [https://perma.cc/43UT-3DVC].



Collaborative initiatives for institutional change involving White, Black, and other minority groups sometimes succeed initially, but often face challenges after getting established. The most notable institutional change after George Floyd entailed the creation of diversity, equity, and inclusion, or DEI, departments throughout the business world and academia.<sup>72</sup> However, as the public memory of George Floyd fades, DEI efforts have faced increasing attacks. Furthermore, progress in this area has stalled or even reversed, particularly after the U.S. Supreme Court ruling that significantly curtailed affirmative action in college and

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<sup>71</sup> Joan E Greve, *What is the George Floyd Justice in Policing Act and is it likely to pass?*, THE GUARDIAN (Feb. 6, 2023), <https://www.theguardian.com/us-news/2023/feb/06/george-floyd-justice-in-policing-act-explainer-tyre-nichols> [https://perma.cc/PP2W-8MEF].

<sup>72</sup> See Jim Fickess, *More Than 80% of Organizations Acted on DEI Initiatives in 2021*, WORLDATWORK (Sept. 27, 2021), <https://worldatwork.org/workspan/articles/more-than-80-of-organizations-acted-on-dei-initiatives-in-2021> [https://perma.cc/VGW4-778V] (stating more than eighty-three percent of the 656 organizations surveyed “say they have been taking action on DEI initiatives”). The push for greater diversity in sports has not resulted in tangible results in many areas, such as head coaches and general managers at the professional level and athletics directors and head coaches in collegiate sports. Timothy Davis, *America’s Race-Based Caste Structure: Its Impact in College and Professional Sports*, 9 TEX. A&M L. REV. 599, 608-09, 611-13 (2022). After the 2024 hiring cycle for NFL head coaches, though, the NFL included nine head coaches of color, which is the highest number the NFL has ever seen. Brent Schrotenboer, *Super Bowl is a reminder of how family heritage, nepotism still rule the NFL*, USA TODAY (Feb. 8, 2024), <https://www.usatoday.com/story/sports/nfl/super-bowl/2024/02/08/super-bowl-nepotism-nfl-49ers-chiefs-kyle-shanahan-andy-reid/72488948007/> [https://perma.cc/X3NW-BVTW]. Still, the 28% head coaches of color (nine out of 32) in the NFL remained disproportionate to the 60% of Black players in the NFL. Schrotenboer, *supra* note 72. See Jonathan Landrum Jr., *9 People of Color Are NFL Head Coaches in 2024 Season, Setting League Record*, THEGRIO (Sept. 7, 2023), <https://thegrio.com/2023/09/07/9-people-of-color-are-nfl-head-coaches-in-2024-setting-league-record/> [https://perma.cc/7ABR-WFF5]. At the end of the 2025 hiring cycle, the NFL now includes seven head coaches of color (Raheem Morris, Mike Tomlin, DeMeco Ryans, Todd Bowles, and Aaron Glenn, who are Black, Dave Canales, who is Mexican American, and Mike McDaniell, who is multiracial). See Charean Williams, *Jets announce the hiring of Aaron Glenn as the 22nd head coach in franchise history*, PRO FOOTBALL TALK (Jan. 2, 2025), <https://www.nbcsports.com/nfl/profootballtalk/rumor-mill/news/jets-announce-the-hiring-of-aaron-glenn-as-the-22nd-head-coach-in-franchise-history> [https://perma.cc/XC7S-7KJ]; See also Patrick Daugherty, *RotoPat’s 2025 NFL head coach rankings: Analysis for all 32 teams*, NBC SPORTS (Apr. 10, 2025), <https://www.nbcsports.com/fantasy/football/news/rotopats-2025-nfl-head-coach-rankings-analysis-for-all-32-teams> [https://perma.cc/R9YQ-65NZ].

university admissions.<sup>73</sup> More recently, the federal government ended all of its DEI programs.<sup>74</sup> Furthermore, more than half of the states introduced or passed legislation banning DEI.<sup>75</sup> Despite the federal and state action against DEI, “most businesses remain committed to DEI.”<sup>76</sup> Notably, the NFL came out after the federal ban on DEI to reaffirm its commitment to diversity efforts, which NFL Commissioner Roger Goodell asserted make the NFL better.<sup>77</sup> Despite the backlash against DEI, we must remain hopeful that collaboration between White allies and racial minorities can create significant societal change, addressing the inequities and injustices faced by minority communities.

The Civil Rights movement stands as a prime example of White allies providing crucial support alongside racial minorities in the fight against systemic racism and discrimination.<sup>78</sup> For

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<sup>73</sup> See, e.g., Jessica Guynn, *DEI under siege: Why more businesses are being accused of ‘reverse discrimination’*, USA TODAY (Dec. 20, 2023), <https://www.usatoday.com/story/money/careers/2023/12/20/dei-reverse-discrimination-lawsuits-increase-woke/71923487007/> [https://perma.cc/SH6R-96BD]; Nicquel Terry Ellis and Catherine Thorbecke, *DEI efforts are under siege. Here’s what experts say is at stake*, CNN (Jan. 11, 2024), <https://www.cnn.com/2024/01/07/us/dei-attacks-experts-warn-of-consequences-reaj/index.html> [https://perma.cc/8WW6-2JT2]; Students for Fair Admissions, Inc. v. President & Fellows of Harv. Coll., 143 S. Ct. 2141 (2023).

<sup>74</sup> Exec. Order No. 14151, 90 Fed. Reg. 8339 (Jan. 20, 2025).

<sup>75</sup> Char Adams & Nigel Chiwaya, *Map: See which states have introduced or passed anti-DEI bills*, NBC NEWS (Mar. 2, 2024, 6:10 AM), <https://www.nbcnews.com/data-graphics/anti-dei-bills-states-republican-lawmakers-map-rcna140756>, [https://perma.cc/9PPK-CBZU].

<sup>76</sup> Nathaniel Meyersohn, *Trump is attacking DEI. Big businesses believe DEI is valuable*, CNN (Jan. 31, 2025), <https://www.cnn.com/2025/01/31/business/dei-trump-on-plane-crash/index.html> [https://perma.cc/WH7U-4R8D].

<sup>77</sup> Kalyn Kahler, *Roger Goodell says NFL ‘better’ because of diversity efforts*, ESPN (Feb. 3, 2025), [https://www.espn.com/nfl/story/\\_/id/43682448/roger-goodell-says-nfl-better-diversity-efforts](https://www.espn.com/nfl/story/_/id/43682448/roger-goodell-says-nfl-better-diversity-efforts) [https://perma.cc/XK75-HKDG] (discussing, among other things, the Rooney Rule, which requires teams to

interview “minority or female candidates for open head coach, general manager, coordinator, quarterbacks coach, and senior level positions”).

<sup>78</sup> See Staige Blackford, *One Man’s South*, 44 EMORY L.J. 847, 855 (1995) (stating that Whites and Blacks marched on Selma, Alabama, during the height of the Civil Rights Movement). A skeptic, realist, pessimist, or even a Critical Race Theorist, might argue that a paradox exists on this topic: Blacks need Whites to make institutional changes, but the institution itself is inherently racist, and Whites will never fully transform their institutions because that would require losing their dominant power.

instance, the Freedom Riders, who were civil rights activists that protested segregated bus terminals by taking bus rides throughout the South in 1961, consisted of both Blacks and Whites.<sup>79</sup> The Reverend Dr. Martin Luther King, Jr. led the Civil Rights Movement with unbelievable courage, unparalleled vision, and relentless determination. Ultimately, his efforts culminated in systemic change via the Civil Rights Act of 1964, the Voting Rights Act of 1965, and, following King's assassination, the Civil Rights Act of 1968, that President Lyndon B. Johnson and a predominately White Congress pushed through.<sup>80</sup>

George Floyd's death prompted NFL stars to demand the league's backing in their fight against racial injustice and police brutality, leading Commissioner Roger Goodell to concede publicly that the NFL had erred by not supporting player activism sooner.<sup>81</sup> "We, the National Football League, condemn racism and the systematic oppression of black people," Goodell said.<sup>82</sup> "We, the National Football League, admit we were wrong for not listening to NFL players earlier and encourage all players to speak out and peacefully protest. We, the National Football League, believe that Black lives matter."<sup>83</sup> Furthermore, the NFL rolled out a league-wide anti-racism campaign, transforming end zones and player helmets into visible canvases for social justice messages such as "End Racism" and "It Takes All of Us."<sup>84</sup> The NFL, comprised of

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See, e.g., Charles R. Lawrence III, *The Fire This Time: Black Lives Matter, Abolitionist Pedagogy and the Law*, 65. J. LEGAL EDUC. 381, 396 (2015) (discussing how institutions make token concessions and power rarely gives up more power than is necessary to maintain the status quo and peace).

<sup>79</sup> History.com Editors, *Freedom Riders - Facts, Timeline & Significance*, HISTORY (Feb. 2, 2010),

<https://www.history.com/topics/black-history/freedom-rides> [https://perma.cc/VCN6-B8SU] Douglass S Massey,

*The Past & Future of American Civil Rights*, 140 *Race, Inequality & Culture* 37-54 (2011) [https://perma.cc/CJ6Y-AYS7].

<sup>80</sup> History.com Editors, *Civil Rights Movement Timeline - Timeline & Events*, HISTORY (Dec. 4, 2017), <https://www.history.com/topics/black-history/civil-rights-movement-timeline> [https://perma.cc/PT9Z-KL73].

Massey, *supra* note 79.

<sup>81</sup> Kevin Seifert, *NFL commissioner Roger Goodell says NFL was 'wrong' not to listen to its players about racism*, ESPN (Jun. 5, 2020), [https://www.espn.com/nfl/story/\\_/id/29272780/nfl-commissioner-roger-goodell-says-nfl-was-wrong-not-listen-players-racism](https://www.espn.com/nfl/story/_/id/29272780/nfl-commissioner-roger-goodell-says-nfl-was-wrong-not-listen-players-racism) [https://perma.cc/9TKD-K9G7].

<sup>82</sup> *Id.*

<sup>83</sup> *Id.*

nearly all White owners and a White commissioner, eventually joined its players, the majority of whom are Black, in the battle against racism.<sup>85</sup>

White individuals, including law professors, may feel unqualified and/or uncomfortable speaking on the topic of race because they do not fully comprehend the experience of racial minorities, which is completely understandable.<sup>86</sup> But even if Whites cannot fully understand the experiences of racial minorities, they can still help effect positive change. When Whites acknowledge that racism and discrimination exist for Blacks and other racial minorities, they support racial minorities and can influence other Whites to achieve change.<sup>87</sup> Instead of just racial minorities saying these issues are real, White allies in the majority confirming that racial issues exist leads to opportunities for institutional and systemic change.<sup>88</sup>

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<sup>84</sup> Howard Bryant, *Police, Protest, Pandemic and the End of the 9/11 Era*, ESPN (Sept. 29, 2020), [https://www.espn.com/espn/story/\\_/id/29979519/police-protest-pandemic-end-9-11-era](https://www.espn.com/espn/story/_/id/29979519/police-protest-pandemic-end-9-11-era) [https://perma.cc/Z3PV-Q52F].

<sup>85</sup> Arif Hasan, *List of the NFL Owners* (Updated 2023), PRO FOOTBALL NETWORK (Jul. 20, 2023), <https://www.profootballnetwork.com/list-of-the-nfl-owners/> [https://perma.cc/9UDX-8SZ4]. One could argue these changes are symbolic, while more meaningful change, such as hiring more Black head coaches and general managers, is slow to occur, although the hiring cycle for the spring of 2024 produced the most head coaches of color ever in the NFL. Schrottenboer, *supra* note 72.

<sup>86</sup> Laura Smith, et al., *White Professors Teaching About Racism: Challenges and Rewards*, THE COUNSELING PSYCHOLOGIST (2017), <https://www.apa.org/education-career/ce/white-professors-racism.pdf> [https://perma.cc/EJ6Z-UDH4] (stating the difficulties White professors face when teaching about racism).

<sup>87</sup> Laura Harold, *What Is White Fragility?*, VERYWELLMIND (updated Jan. 03, 2023), <https://www.verywellmind.com/white-fragility-4847115> [https://perma.cc/AF8T-FBMU] (explaining the concept of White fragility and how being an effective ally supports Black Americans); Robin DiAngelo, *White Fragility: Why It's So Hard for White People to Talk About Racism*, THE GOOD MEN PROJECT (Apr. 9, 2015), [https://goodmenproject.com/featured-content/white-fragility-why-its-so-hard-to-talk-to-white-people-about-racism-t\\_wlm/](https://goodmenproject.com/featured-content/white-fragility-why-its-so-hard-to-talk-to-white-people-about-racism-t_wlm/) [https://perma.cc/4N6U-5GLA].

<sup>88</sup> *White Anti-Racism: Living the Legacy*, LEARNING FOR JUSTICE, <https://www.learningforjustice.org/professional-development/white-antiracism-living->

As Whites possess political, economic, and social power, Blacks need to welcome the support that White allies offer to bring about systemic change. This country thrives when Blacks and Whites lock arm and arm to battle obstacles that can only be overcome together.

### CONCLUSION

It is normal for racial minorities to feel anger and frustration as the result of racism, discrimination, and prejudice. But those emotions can also give rise to positive action. “It is wise to direct your anger towards problems—not people; to focus your energies on answers—not excuses.”<sup>89</sup> Finding ways to address and overcome racial injustices and social inequities are key to racial minorities who want to find peace and justice in this country and live with hope.

Welcoming and embracing the help that allies in the majority are willing to provide remains critical to achieving favorable systemic and institutional changes for racial minorities. Together we are stronger as a team and as a nation. “The Black community is hurting . . . We gotta do better.”<sup>90</sup> We need to come together, lock arm and arm, to make real change.<sup>91</sup> Herbstreit was right . . . and I’m still angry.

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the-legacy, (last accessed Sep. 28, 2023) (stating that being a White anti-racist/ally means one must act) [<https://perma.cc/G8MP-A48K>]; Shauntae Brown White, *Just Do the Right Thing: On White Allies and Intervention*, 43 *Woman and Language* 155, 154-55 (2020) (describing that a White ally needs courage to do the right thing).

<sup>89</sup> William Arthur Ward, *25 Quotes on Anger*, PSYCHOLOGY TODAY, <https://www.psychologytoday.com/us/blog/here-there-and-everywhere/201208/25-quotes-anger>, (Aug. 23, 2012) [<https://perma.cc/9JYL-D55K>].

<sup>90</sup> ESPN, *supra* note 4.

<sup>91</sup> *Id.*