

#FreeTheHair: Locking Black Hair to Civil Rights Movements

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CLE Outline

I. Introduction

II. Grooming Codes Discrimination—definition and its scope

III. Historical and contemporary instances of race, color, and gender-based discrimination on the basis of hair

IV. Brief History of Federal Jurisprudence in Race-Based Hair Discrimination cases

- a. Brief overview of the Civil Rights Act of 1964
- b. 1981: Renee Rogers was required to cover her hair while at work due to American Airlines' policy that prohibited flight attendants from wearing all braided hairstyles while working. She filed suit for sex and race discrimination as a violation of Title VII. Her claims under Title VII were dismissed because the policy was gender neutral and the court found that hair was not an immutable characteristic. - *Rogers v. American Airlines, Inc.*, 527 F. Supp. 229 (S.D.N.Y. 1981).
- c. 2016: *EEOC v. Catastrophe Management Solutions* (Eleventh Circuit, 2016): The court held that Catastrophe Management Solutions' rescission of the petitioner's offer of employment due to her refusal to cut her locs did not violate Title VII of the Civil Rights Act. The Eleventh Circuit found that hair was not an immutable characteristic and stated that Title VII protects people in categories based on immutable characteristics, but not their cultural practices. - <https://www.naacpldf.org/case-issue/eec-v-catastrophe-management-solutions>; <https://www.fisherphillips.com/en/news-insights/the-roots-of-the-crown-act-what-employers-need-to-know-about-hairstyle-discrimination-laws.html>
- d. Professor Greene co-authored an Amicus Brief filed by the NAACP Legal Defense Fund in *EEOC v. Catastrophe Management Solutions*.

- e. Professor Greene serves as a legal expert in a case wherein the NAACP-Legal Defense Fund represents De’Andre Arnold and Kaden Bradford against the school district that has likewise enforced its grooming policy to bar male students from growing their locs
 1. <https://www.khou.com/article/news/local/court-rules-barbers-hill-high-school-student-does-not-have-to-cut-his-locs/285-b4c29c9b-9c98-4236-a2cf-05802cf1cbb0>
 2. 2023: Darryl George, a Black 18-year-old student, was suspended multiple times for refusing to cut his locs as required by his Texas school’s dress code. - <https://www.npr.org/2023/12/06/1217580867/black-texas-student-returns-to-class-suspended-again-natural-hair#:~:text=Darryl%20was%20suspended%20from%20Barbers,passed%20law's%20protections%20for%20individuals>

<https://drexel.edu/law/about/news/in-the-news/2023/September/greene-texas-crown-act-hair-discrimination/>
 3. Professor Greene shares advocacy on behalf of Mya and Deanna Cook in 2017
2017: Mya and Deana Cook, twin sisters in Massachusetts, had to serve detention when school officials determined that their braids violated school policy.

V. Invisible and Visible Harms of Race-Based Discrimination on the Basis of Hair

- a. The Perception Institute “Good Hair Study”
- b. Health related consequences
- c. Economic consequences
- d. Relevant Litigation and Regulation

VI. A Legislative Response: CROWN Act (Creating a Respectful and Open World for Natural Hair Act)

- a. CROWN stands for “Creating a Respectful and Open World for Natural Hair” - <https://www.thecrownact.com/>
- b. The Study behind the CROWN Act - <https://www.cbsnews.com/news/crown-act-california-becomes-first-state-to-ban-discrimination-against-natural-hair/>
 - a. As part of its efforts against race-based hair discrimination, in 2021 Dove released research from the "Dove 2021 CROWN Research Study for Girls"

- b. Black women are 80% more likely to alter their natural hair to conform to social norms or expectations at work
- c. 53% of Black mothers whose daughters experienced race-based hair discrimination said that their daughters experienced this discrimination as young as the age of 5
- d. 86% of Black teens who experience this discrimination have endured it by the age of 12
- c. Discussion of the federal CROWN Act, co-drafted by Professor Wendy Greene
- d. First introduced in CA in 2019 by State Senator Holly Mitchell and the first to be signed into law in 2020 – Professor Greene served as the legal expert
 - a. <https://www.vox.com/identities/2019/7/3/20680946/california-crown-act-natural-hair-discrimination>
- e. First introduced into the United States House of Representatives by former Congressman Cedric Richmond and Senator Cory Booker (H.R. 2116) in 2019; legislation that has been passed by the U.S. House of Representatives twice and introduced during each session since 2019
- f. Has been passed by the state legislatures of: California, Oregon, Washington, Nevada, New Mexico, Colorado, Nebraska, Arkansas, Louisiana, Texas, Tennessee, Minnesota, Illinois, Michigan, New York, Vermont, Maine, Massachusetts, Connecticut, New Jersey, Maryland, Delaware, Virginia, and Alaska - <https://www.thecrownact.com/about>
- g. Discussion of Illinois: Jeff Hawkins Act (2020) and Commission on Human Relations in the matters of *Scott v. Owner of Club 720* and *Lyke v. Owner of Club 720* (February 16, 2011)

VII. After & Beyond the CROWN Act

- a. Administrative agency enforcement guidance
- b. Darryl George and his mother sued for a violation of the Texas CROWN Act, however the judge ruled that the CROWN Act was not violated because it did not protect the length of hair, which was at issue in George’s case. - <https://www.epi.org/blog/loc-ing-students-out-darryl-george-the-crown-act-and-the-need-to-combat-racial-discrimination-in-the-classroom/>
- c. Since its enactment in California, only one case has been filed using the state’s CROWN Act law. Jeffrey Thornton filed a complaint under the CROWN Act when a San Diego office of an events company rescinded a job offer because he refused to trim his locs.
 - a. Professor Greene was quoted in the following article about the case, saying that if what was described in the complaint was true, Encore made a “clear violation” of the CROWN Act. She followed up to say

that the purpose of the CROWN Act is to get employers to focus on gifts and talents inside of one's head, not what is on top of their head.
<https://www.cbsnews.com/news/jeffrey-thornton-lawsuit-crown-act-encore-global/>

- d. In late 2020, in the wake of states enacting CROWN Act laws, [UPS](#) took the initiative to set its own hair policies, walking back prior rules on appearance to support freedom of all employees to wear natural Black hairstyles (the policy also covers facial hair).
- e. Discussion of corporate and organizational policies affirming identity expression and appearance choices in alignment with the CROWN Act
- f. Discussion of the American Bar Association resolution that endorses the CROWN Act, educational trainings and CLEs on implicit and explicit biases related to appearance and grooming codes discrimination
- g. Discussion of global impact of the civil rights legislation and natural hair movements, namely in the UK and France