

# Race & health justice in the classroom

Sidney D. Watson, Saint Louis University, Center for Health Law Studies

AALS Annual Meeting, January 2020

arate impact

Title VI / non discrimination

Sandoval

ACA

Title VI  
Simkins



# Race & health justice in the health law classroom %

---

Structural racism, institutional racism, interpersonal racism ,

- Law
- Social context
- Research
- History
- Cases
- Films
- Visuals, photos
- Books, stories, narratives
- Interactive activities

# Case: Linton v Carney (M.D. Tenn. 1990) &

- Title VI nursing home case
- Cap on Medicaid beds
- Structural racism
- Institutional racism
- Law - disparate impact theory &

break-in-service policy.” *Stevens*, 711 F.Supp. at 387 (quoting *Menhorn*, 738 F.2d at 1501-02).

NLO’s 1971 act of refunding Plaintiff’s retirement plan contributions, allegedly without explaining the consequences thereof, and its same year omission to restore credit for Plaintiff’s prior years of service, are the “acts or omissions” which gave rise to Plaintiff’s current cause of action. Plaintiff’s ERISA claims against Defendants thus clearly implicate events that occurred in 1971, before ERISA took effect.

Given that ERISA does not apply to Plaintiff’s cause of action herein, Plaintiff has failed to state a viable ERISA claim against Defendants. Defendants therefore are entitled to judgment as a matter of law.

#### B. Statute of Limitations Defense

Having determined that ERISA does not apply to the cause of action Plaintiff asserts, the Court need not consider Defendants’ claim that Plaintiff’s action is barred by the applicable statute of limitations. Nevertheless, the Court notes that, by his own admission, Plaintiff had notice as early as 1971 that he was not considered a retirement plan participant for purposes of his previous service. (*See* Doc. 1, p. 16). Plaintiff thus does not appear to have been prejudiced by the Court’s determination that his claims are not covered by ERISA.

It therefore is ORDERED that Defendants’ motion for judgment on the plead-

**Mildred Lea LINTON, by her Next Friend Kathy ARNOLD, on her own Behalf and on Behalf of all Other Persons Similarly Situated, Plaintiffs,**

v.

**Belle CARNEY, by her Next Friend Mary KIMBLE, on her own Behalf and on Behalf of all Other Persons Similarly Situated, Plaintiffs-Intervenors,**

v.

**COMMISSIONER OF HEALTH AND ENVIRONMENT, STATE OF TENNESSEE.**

No. 3:87-0941.

United States District Court,  
M.D. Tennessee,  
Nashville Division.

April 23, 1990.

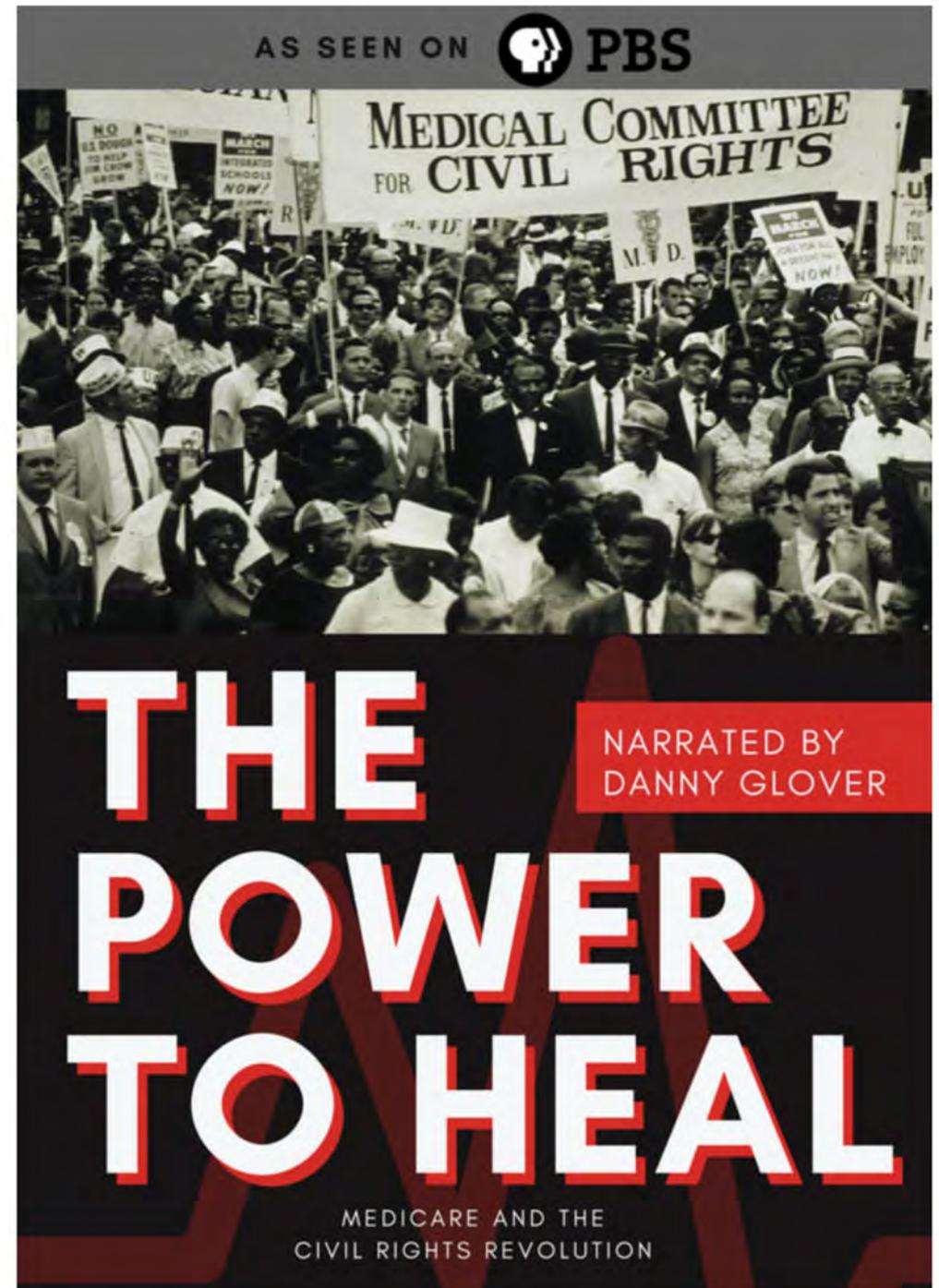
Action was brought challenging Tennessee policy under which only portion of beds in Medicaid participating nursing homes were certified to be available for Medicaid patients. The District Court, John T. Nixon, J., held that: (1) policy violated federal Medicaid statutes and regulations relating to nursing home survey and certification, and (2) policy had disparate impact on minorities, in violation of federal civil rights statute.

Ordered accordingly.

# Film (2018)

- History of segregated health care (
- Racism
  - Structural & institutional
- Law
  - Enforcing civil rights
  - Design approach

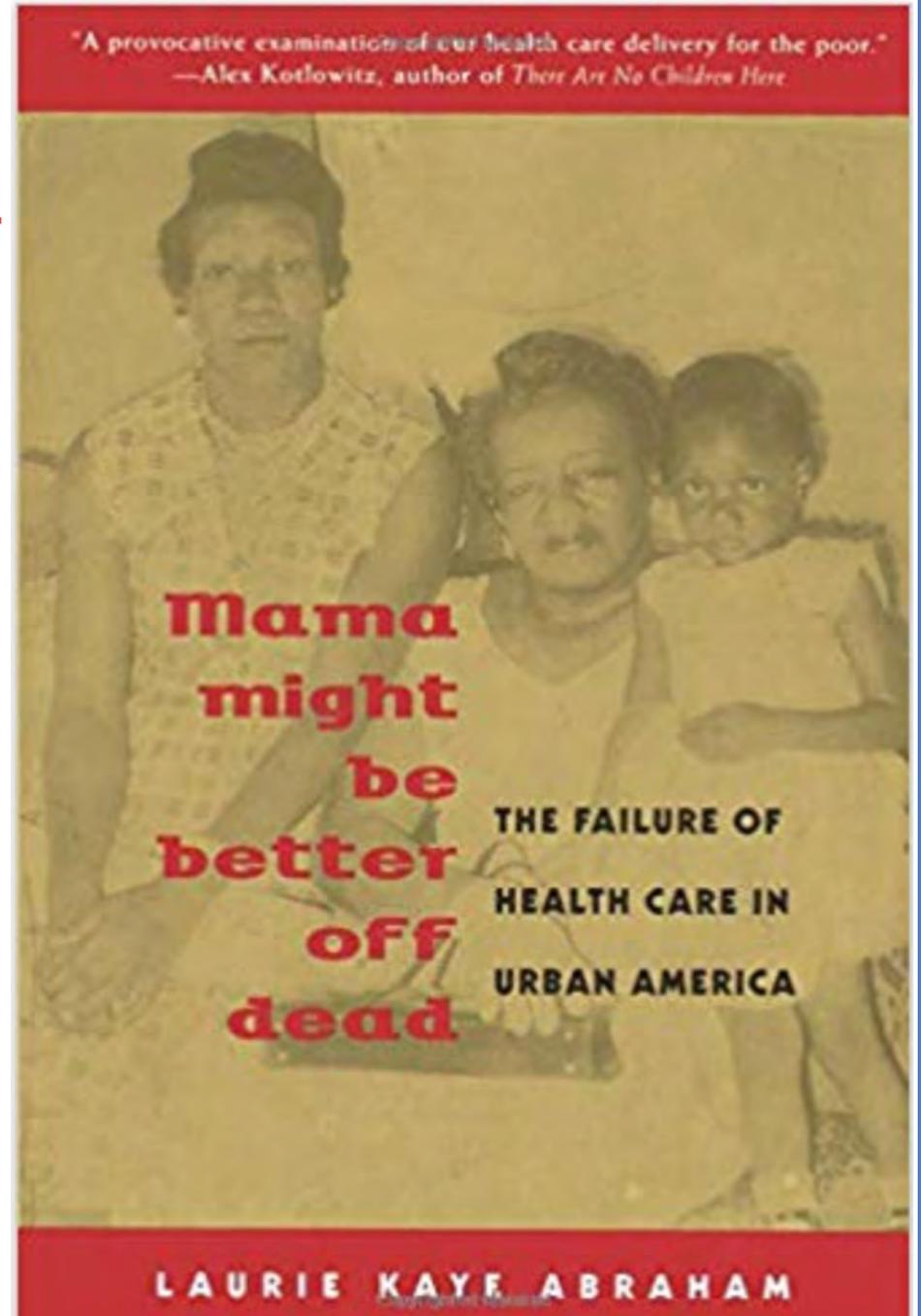
<https://www.blbfilmproductions.com>



# Book

---

“Told sympathetically but without sentimentality, their story reveals an inadequate health care system that is further undermined by the direct and indirect effects of poverty. **When people are poor, they become sick easily. When people are sick, their families quickly become poorer.**”



# Pictures, research and implicit bias \*



A



B



E



F



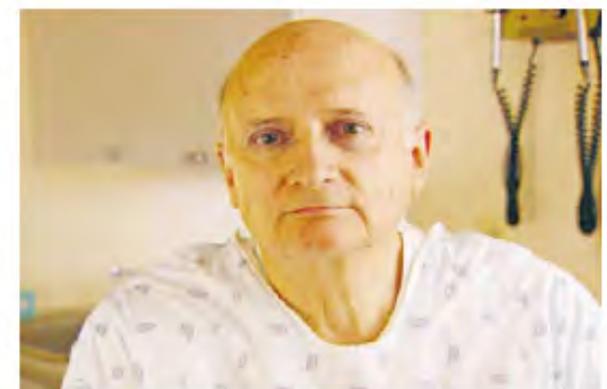
C



D



G



H

Kevin A. Schulman, et al, The Effect of Race and Sex on Physicians' Recommendations for Cardiac Catheterization, 340 N.E.J.M. 618 (1999)



# Interactive

## Religion IAT

**Religion ('Religions' IAT).** This IAT requires some familiarity with religious terms from various world religions.

## Presidents IAT

**Presidents ('Presidential Popularity' IAT).** This IAT requires the ability to recognize photos of Donald Trump and one or more previous presidents.

## Arab-Muslim IAT

**Arab-Muslim ('Arab Muslim - Other People' IAT).** This IAT requires the ability to distinguish names that are likely to belong to Arab-Muslims versus people of other nationalities or religions.

## Sexuality IAT

**Sexuality ('Gay - Straight' IAT).** This IAT requires the ability to distinguish words and symbols representing gay and straight people. It often reveals an automatic preference for straight relative to gay people.

## Age IAT

**Age ('Young - Old' IAT).** This IAT requires the ability to distinguish old from young faces. This test often indicates that Americans have automatic preference for young over old.

## Gender-Career IAT

**Gender - Career.** This IAT often reveals a relative link between family and females and between career and males.

## Gender-Science IAT

**Gender - Science.** This IAT often reveals a relative link between liberal arts and females and between science and males.

## Disability IAT

**Disability ('Disabled - Abled' IAT).** This IAT requires the ability to recognize symbols representing abled and disabled individuals.

## Weight IAT

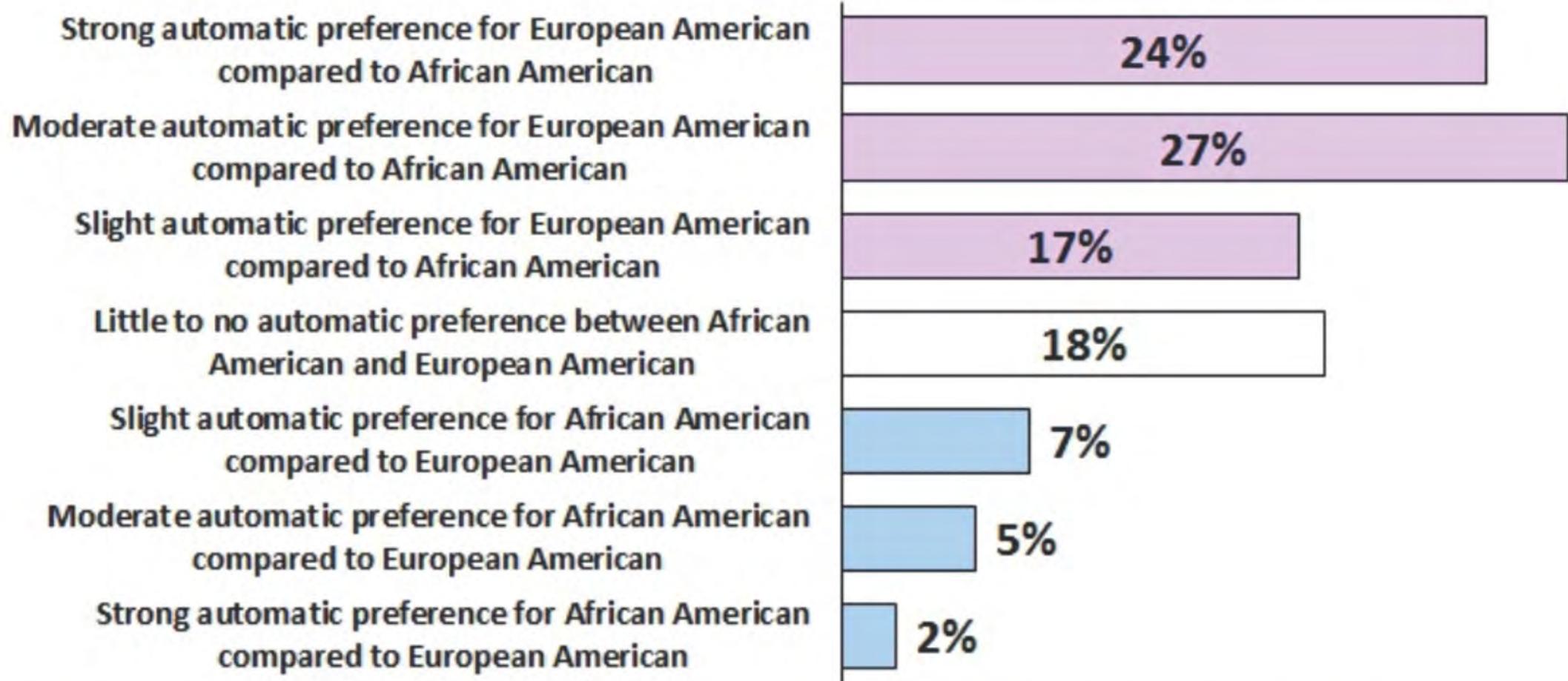
**Weight ('Fat - Thin' IAT).** This IAT requires the ability to distinguish faces of people who are obese and people who are thin. It often reveals an automatic preference for thin people relative to fat people.

## Race IAT

**Race ('Black - White' IAT).** This IAT requires the ability to distinguish faces of European and African origin. It indicates that most Americans have an automatic preference for white over black.



## Percent of web respondents with each score



This distribution summarizes 3,314,277 IAT scores for the Race task completed between December 2002 and December 2015.

# Thank you

---



[Sidney.Watson@slu.edu](mailto:Sidney.Watson@slu.edu)



[law.slu.edu/healthlaw](http://law.slu.edu/healthlaw)



[@SLU\\_Law@SLU\\_HealthLaw](https://twitter.com/SLU_Law)



SAINT LOUIS UNIVERSITY

CENTER FOR HEALTH LAW STUDIES