
IN THE SUPREME COURT OF FLORIDA

Case Nos. SC04-2323, SC04-2324, SC04-2325

GOVERNOR JOHN ELLIS “JEB” BUSH, ET AL., APPELLANTS,

v.

RUTH D. HOLMES, ET AL., APPELLEES

MOTION FOR LEAVE TO FILE AMICUS BRIEF OF THE COALITION OF MCKAY SCHOLARSHIP SCHOOLS; THE FLORIDA ASSOCIATION OF ACADEMIC NONPUBLIC SCHOOLS; THE FLORIDA COUNCIL OF INDEPENDENT SCHOOLS; THE FLORIDA ASSOCIATION OF CHRISTIAN COLLEGES AND SCHOOLS; THE CHILD DEVELOPMENT EDUCATION ALLIANCE; REDEMPTIVE LIFE ACADEMY; LEAH ASHLEY COUSART; ED AND CARMEN DELGADO; MARTHA PARKER; AND MICELLE EMERY IN SUPPORT OF APPELLANTS GOVERNOR JOHN ELLIS (“JEB”) BUSH, CHARLES J. CRIST, JR., BRENDA MCSHANE, ET AL.

Movants, the Coalition of McKay Scholarship Schools; the Florida Association of Academic Nonpublic Schools; the Florida Council of Independent Schools; the Florida Association of Christian Colleges and Schools; the Child Development Education Alliance; Redemptive Life Academy; Leah Ashley Cousart; Ed and Carmen Delgado; Martha Parker; and Micelle Emery (hereinafter collectively referred to as “Movants”), by and through their undersigned counsel and pursuant to Fla. R. App. P. 9.370(a), hereby move this court for entry of an order granting them leave to file their Amicus Brief in support of Appellants, Governor John Ellis (“Jeb”) Bush, Charles J. Crist, Jr., and Brenda McShane, et al.

As grounds therefor, Movants state as follows:

CONSENT OF PARTIES

All parties have consented to the filing of the proposed Amicus Brief.

STATEMENTS OF INTEREST OF THE *AMICI* PARTIES

Coalition of McKay Scholarship Schools – Established in December, 2002, the Coalition of McKay Scholarship Schools is a not-for-profit Florida corporation whose mission is to serve as a clearinghouse and disseminate information concerning the John M. McKay Scholarship Program from sources such as the Florida Department of Education, Florida Legislature, schools, parents, and the community at large. The Coalition also advocates for McKay Scholarship schools and students with disabilities to ensure the viability of the McKay scholarship program.

Florida Association of Academic Nonpublic Schools – The Florida Association of Academic Nonpublic Schools (“FAANS”) is an association of academic school associations. Currently, 23 different associations comprise the membership of FAANS. No post-secondary or vocational schools are members of FAANS. It is estimated that more than 270,000 Florida children attend schools that are affiliated with FAANS, many of whom are enrolled in those schools using funds obtained through various state-sponsored scholarship programs directly implicated in the lower court’s ruling.

Florida Council of Independent Schools – The Florida Council of Independent Schools (“FCIS”) was established in 1954 to set high standards for quality elementary and secondary nonpublic education. Through an accreditation process, it assures that member schools maintain high standards and independence in the areas of administration and academic programs. As one of the nation’s largest associations of independent schools, the FCIS represents over 73,000 students in 159 member schools. Pupils attending FCIS-affiliated schools are among the thousands of Florida school children affected by the lower court’s ruling.

Florida Association of Christian Colleges and Schools – The mission of the Florida Association of Christian Colleges and Schools (“FACCS”) is to provide services to affiliated Christian schools to enhance their provision of a quality spiritual and academic education to students. The members of the FACCS include traditional church-affiliated and independent Christian schools/academies. The FACCS also provides services to desiring church-related home school groups and Christian colleges.

Child Development Education Alliance – The Child Development Education Alliance (“CDEA”) is a professional organization for early care educators which encourages nurturing environments in quality, Christian early-childhood education programs. The CDEA encourages, *inter alia*, child development education, quality accreditation, networking of Christian early care educators, and a quality, comprehensive curriculum, inclusive of Christian materials and values. Inasmuch as faith-based child-care providers qualify as “eligible pre-kindergarten providers” under the recently enacted Florida Voluntary Universal Pre-Kindergarten Program, the CDEA’s members are concerned about the ramifications of the lower court’s ruling as it relates to its members’ ability to administer Pre-K services to some of the 150,000 children that are expected to enroll in the Voluntary Pre-K Program next fall.

Redemptive Life Academy – Redemptive Life Academy is a private, faith-based school in West Palm Beach, Florida, whose student body includes pupils enrolled with scholarship funds from the Opportunity Scholarship Program, Corporate Income Tax Credit Scholarship Program, and the John M. McKay Scholarship Program.

Leah Ashley Cousart – Leah Cousart is a college sophomore attending Southeastern College, a private religious university in Lakeland, Florida on a Bright Futures scholarship.

Southeastern describes its curriculum as “Christ-centered education, equipping graduates to creatively serve in both professional careers and ministry-related fields.”¹

Ed and Carmen Delgado – Ed and Carmen Delgado’s two sons, David and Francisco Delgado, attend Tampa Baptist Academy using McKay Scholarships.

Martha Parker – Lucius Parker, the son of Martha Parker, attends Tampa Baptist Academy on a Corporate Income Tax Credit scholarship.

Micelle Emery – Micelle Emery’s son, Erid, and daughter, Aislinn, will be eligible to attend pre-school in the upcoming school year under the recently-enacted Florida Voluntary Universal Pre-Kindergarten Program.

ISSUES TO BE ADDRESSED

The issues addressed in the Amici’s Brief are:

1) Whether the lower court erred by interpreting the final clause of Article I, Section 3 of the Florida Constitution to impose additional substantive restrictions on government actions beyond those already implicit in the Florida Establishment Clause?

2) Whether the lower court’s interpretation of Article I, Section 3, if left undisturbed, will place at risk a wide array of educational and social programs designed to assist some of Florida’s neediest citizens?

HOW THE *AMICI* CAN ASSIST THE COURT

The *amici* parties can assist the court in the disposition of this case by explaining how the lower court misapprehended Article I, Section 3 by interpreting Section 3’s third and final sentence to impose additional restrictions on governmental action rather than reading all three sentences of Article I, section 3 as complementary of one another such that its third sentence merely clarified and reinforced limitations already implicit in the Florida Establishment Clause.

¹ www.secollege.edu/CollegeProfile.htm

The *amici* parties can also assist the court by highlighting the deleterious effects that the lower court's interpretation of Article I, Section 3 would have on the viability of a wide range of state-sponsored educational programs.

RELIEF REQUESTED

The *amici* parties, The Coalition of McKay Scholarship Schools; the Florida Association of Academic Nonpublic Schools; the Florida Council of Independent Schools; the Florida Association of Christian Colleges and Schools; the Child Development Education Alliance; Redemptive Life Academy; Leah Ashley Cousart; Ed and Carmen Delgado; Martha Parker; and Michelle Emery respectfully request that their motion for leave to file an amicus brief be granted.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 3rd day of February, 2005 a true and correct copy of the foregoing *Motion for Leave to File Amicus Brief* has been furnished by U.S. Mail to:

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