



CARSON V. MAKIN

United States Supreme Court | June 21, 2022

QUICK FACTS

Vote: 6-3

Opinion Author: Roberts (joined by Thomas, Alito, Gorsuch, Kavanaugh, and Barrett)

SUMMARY

A Maine law banning parents from using educational vouchers to send their children to certain religious schools is unconstitutional religious discrimination.

CASE BACKGROUND

The state of Maine has several rural school districts without public schools. Maine provides educational vouchers to parents in these districts to allow the parents to send their children to any school they want – as long as the school is not a religious school with faith-based curricula and activities. (Parents may, however, use the vouchers to send their children to schools that are religious in name only.) First Liberty challenged Maine’s ban on fully religious schools, arguing that barring families from a school choice program just because they want to send their children to a religious school is religious discrimination. The Supreme Court took the case in fall of 2021 and issued its opinion in June 2022.

THE OPINION

The Supreme Court said that the Free Exercise Clause forbids states from discriminating against religious entities. States may not disqualify a religious entity from receiving a public benefit (like an educational voucher) “solely because of [its] religious character.” Such discrimination is “odious to our Constitution.” States are not required to provide educational vouchers to families, but once they do, they cannot “disqualify some private schools solely because they are religious.”

The Court held that giving vouchers to parents, and then allowing parents to make an independent choice to use the vouchers to send their children to religious schools, does not offend the Establishment Clause. Instead, Maine’s ban on religious schools violates the Free Exercise clause by “effectively penalize[ing] the free exercise of religion.” Maine’s disqualification of religious schools, solely because they promote faith through their curriculum and activities, is unconstitutional religious discrimination.

RELIGIOUS LIBERTY IMPLICATIONS

A state is not required to offer an educational voucher program. But if a state offers such a program, it cannot disqualify religious schools from the program just because they promote their faith. Such religious discrimination is unconstitutional. Parents are free to choose the best education for their children. Similarly, anytime the government offers a neutral benefit to the public, it cannot ban recipients from receiving the benefit just because they are religious.

KEY QUOTE

“[T]here is nothing neutral about Maine’s program. The State pays tuition for certain students at private schools—so long as the schools are not religious. That is discrimination against religion.”

For Government Affairs,
contact Kelley McLean at
kmclean@firstliberty.org