

St. Isidore

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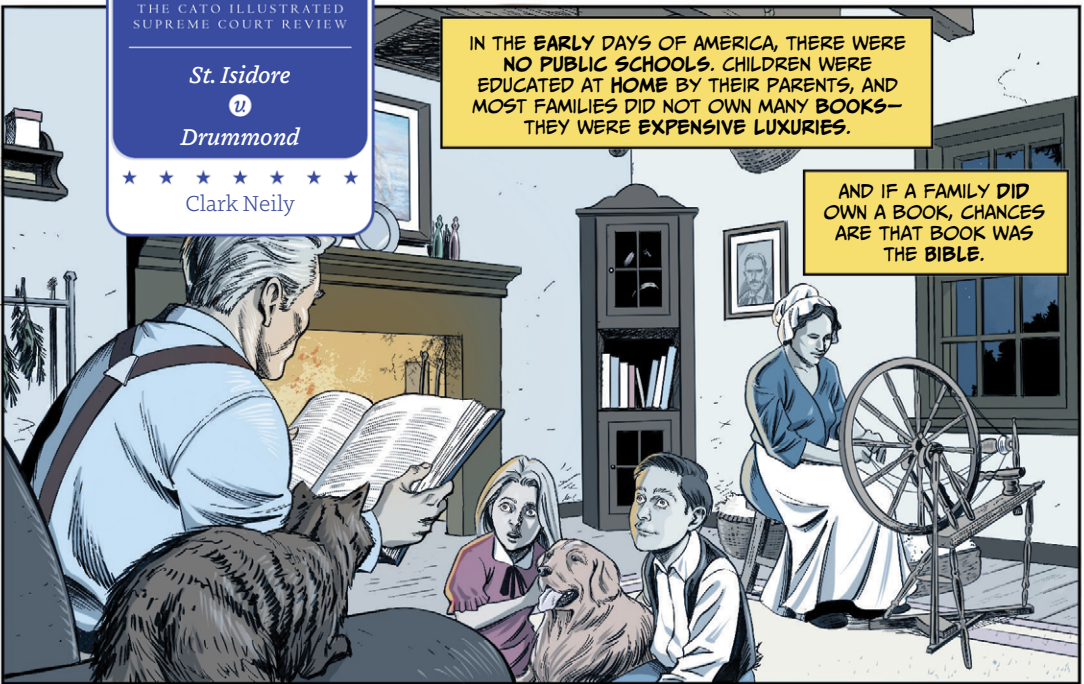
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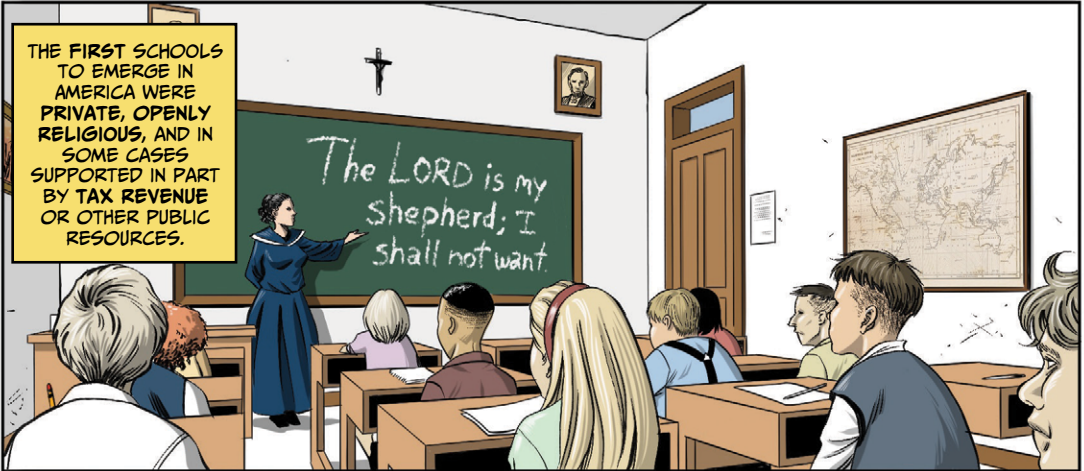
Clark Neily

IN THE EARLY DAYS OF AMERICA, THERE WERE NO PUBLIC SCHOOLS. CHILDREN WERE EDUCATED AT HOME BY THEIR PARENTS, AND MOST FAMILIES DID NOT OWN MANY BOOKS—THEY WERE EXPENSIVE LUXURIES.

AND IF A FAMILY DID OWN A BOOK, CHANCES ARE THAT BOOK WAS THE BIBLE.



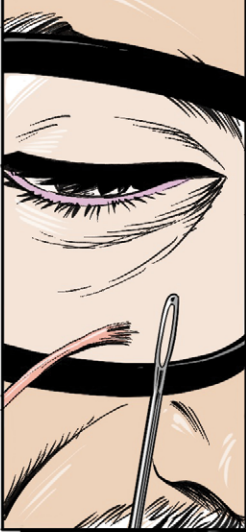
THE FIRST SCHOOLS TO EMERGE IN AMERICA WERE PRIVATE, OPENLY RELIGIOUS, AND IN SOME CASES SUPPORTED IN PART BY TAX REVENUE OR OTHER PUBLIC RESOURCES.



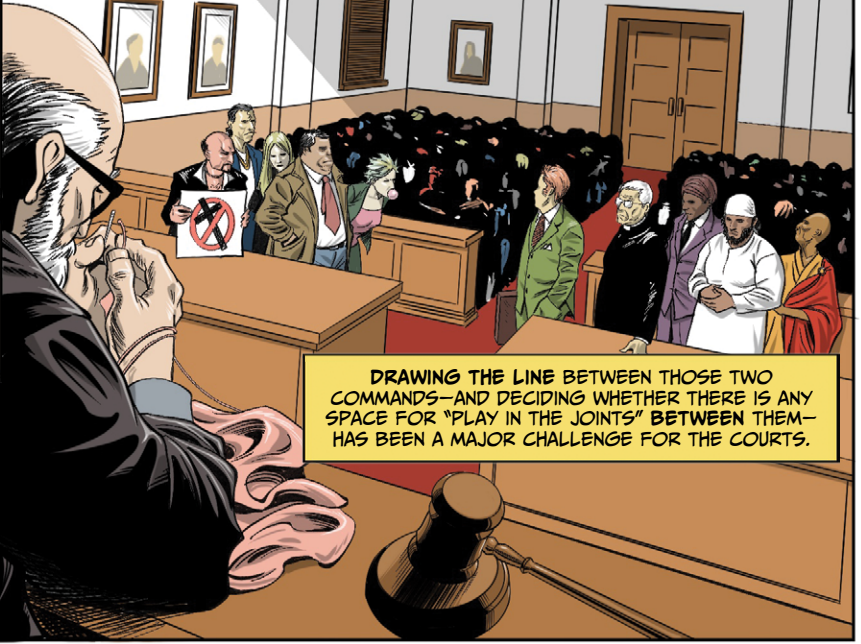
THE RELIGIOUS—SPECIFICALLY, PROTESTANT CHRISTIAN—CHARACTER OF MANY PUBLIC SCHOOLS CONTINUED WELL INTO THE 19TH AND EVEN 20TH CENTURIES.



THIS CAUSED GROWING TENSION WITH IMMIGRANTS FROM TRADITIONALLY CATHOLIC COUNTRIES SUCH AS IRELAND AND ITALY, WHO DID NOT APPRECIATE THEIR CHILDREN BEING TAUGHT BOTH READING AND THEOLOGY FROM THE KING JAMES BIBLE.

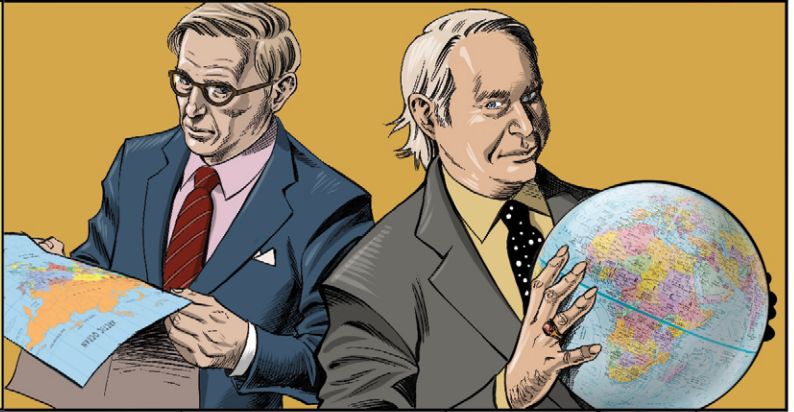


THE FIRST AMENDMENT SAYS THE GOVERNMENT MUST NEITHER ESTABLISH NOR PREVENT THE FREE EXERCISE OF RELIGION.

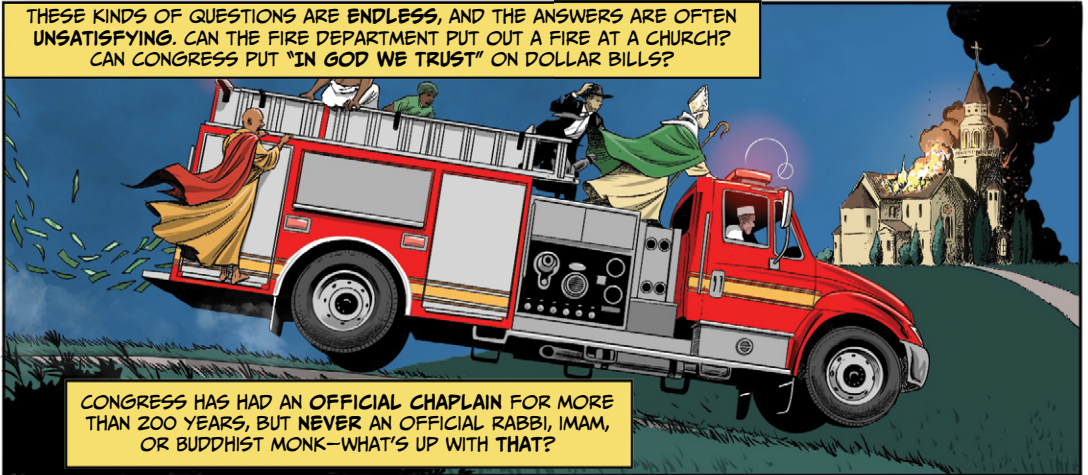


DRAWING THE LINE BETWEEN THOSE TWO COMMANDS—AND DECIDING WHETHER THERE IS ANY SPACE FOR “PLAY IN THE JOINTS” BETWEEN THEM—HAS BEEN A MAJOR CHALLENGE FOR THE COURTS.

AS ESSAYIST GEORGE F. WILL HUMOROUSLY RELATED IN A 2021 COLUMN, “DECADES AGO, THE SUPREME COURT RULED THAT THE FIRST AMENDMENT’S PROHIBITION OF ‘ESTABLISHMENT’ OF RELIGION WAS VIOLATED IF THE GOVERNMENT SUPPLIED MAPS TO RELIGIOUS SCHOOLS, BUT NOT IF IT SUPPLIED BOOKS. SO, SENATOR DANIEL PATRICK MOYNIHAN MISCHIEVOUSLY WONDERED: WHAT ABOUT ATLASES, WHICH ARE BOOKS OF MAPS?”



THESE KINDS OF QUESTIONS ARE ENDLESS, AND THE ANSWERS ARE OFTEN UNSATISFYING. CAN THE FIRE DEPARTMENT PUT OUT A FIRE AT A CHURCH? CAN CONGRESS PUT “IN GOD WE TRUST” ON DOLLAR BILLS?



CONGRESS HAS HAD AN OFFICIAL CHAPLAIN FOR MORE THAN 200 YEARS, BUT NEVER AN OFFICIAL RABBI, IMAM, OR BUDDHIST MONK—WHAT’S UP WITH THAT?

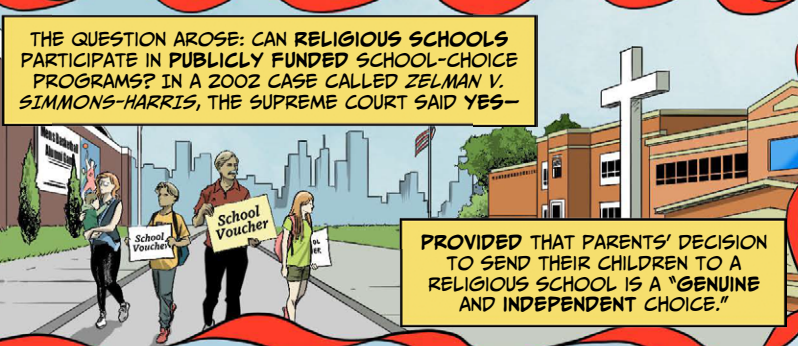
MEANWHILE, THE FACE OF EDUCATION HAS CHANGED RADICALLY: FROM NO PUBLIC SCHOOLS, TO UNABASHEDLY RELIGIOUS PUBLIC SCHOOLS, TO TODAY'S SECULAR PUBLIC SCHOOLS—REQUIRED BY COURTS TO AVOID RELIGIOUS INSTRUCTION ON CONSTITUTIONAL GROUNDS.



IN RECENT DECADES—AND PARTICULARLY IN THE WAKE OF THE 2020 COVID-19 PANDEMIC—THE SCHOOL-CHOICE MOVEMENT HAS TAKEN OFF, ALLOWING A GROWING NUMBER OF FAMILIES TO CHOOSE AMONG AN ARRAY OF PUBLIC AND PRIVATE EDUCATIONAL OPTIONS.



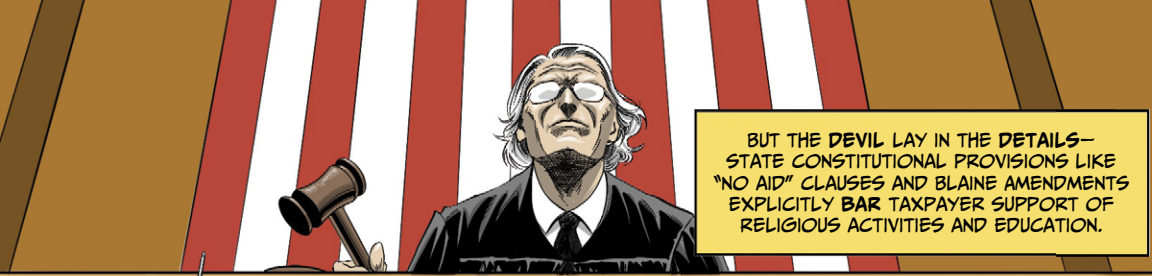
THE QUESTION AROSE: CAN RELIGIOUS SCHOOLS PARTICIPATE IN PUBLICLY FUNDED SCHOOL-CHOICE PROGRAMS? IN A 2002 CASE CALLED *ZELMAN V. SIMMONS-HARRIS*, THE SUPREME COURT SAID YES—



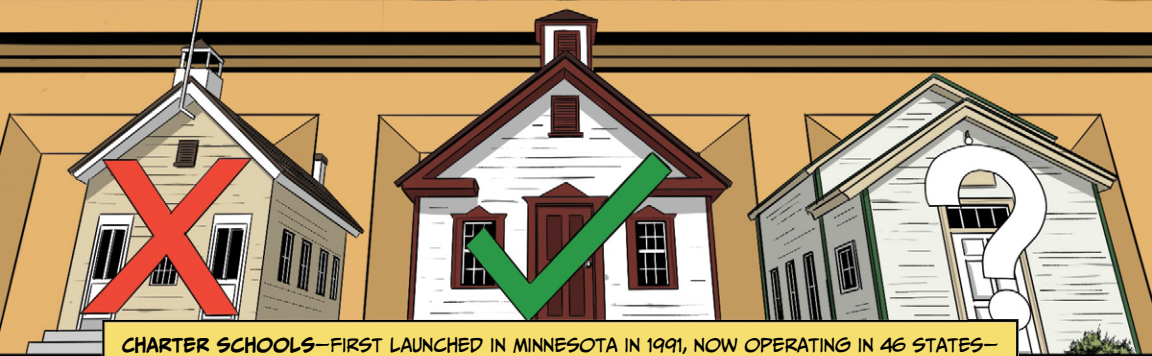
PROVIDED THAT PARENTS' DECISION TO SEND THEIR CHILDREN TO A RELIGIOUS SCHOOL IS A "GENUINE AND INDEPENDENT CHOICE."

THAT DECISION WAS HARDLY SURPRISING, GIVEN THAT TAX DOLLARS HAD LONG BEEN SUPPORTING RELIGIOUS HOSPITALS, DAY CARE FACILITIES, AND EVEN HIGHER EDUCATION AT OPENLY RELIGIOUS SCHOOLS SUCH AS THE UNIVERSITY OF NOTRE DAME, VIA PELL GRANTS AND THE GI BILL.

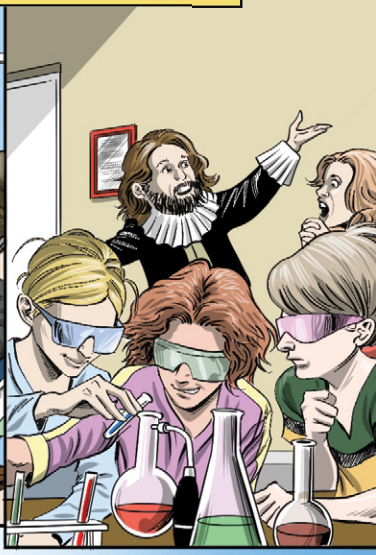
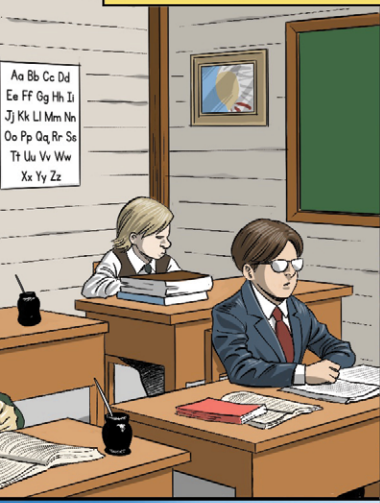




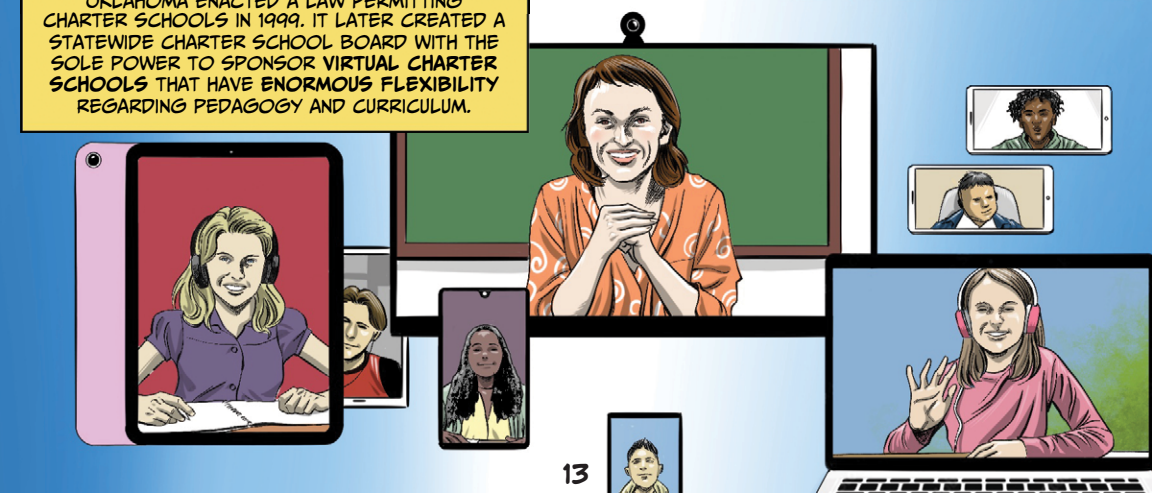
BUT THE DEVIL LAY IN THE DETAILS—  
STATE CONSTITUTIONAL PROVISIONS LIKE  
“NO AID” CLAUSES AND BLAINE AMENDMENTS  
EXPLICITLY BAR TAXPAYER SUPPORT OF  
RELIGIOUS ACTIVITIES AND EDUCATION.



**CHARTER SCHOOLS**—FIRST LAUNCHED IN MINNESOTA IN 1991, NOW OPERATING IN 46 STATES—  
ARE PUBLICLY FUNDED BUT INDEPENDENTLY RUN, GIVING THEM FLEXIBILITY TO OPERATE  
DIFFERENTLY THAN TRADITIONAL SCHOOLS WHILE EXPANDING PARENTAL CHOICE.



OKLAHOMA ENACTED A LAW PERMITTING  
CHARTER SCHOOLS IN 1999. IT LATER CREATED A  
STATEWIDE CHARTER SCHOOL BOARD WITH THE  
SOLE POWER TO SPONSOR VIRTUAL CHARTER  
SCHOOLS THAT HAVE ENORMOUS FLEXIBILITY  
REGARDING PEDAGOGY AND CURRICULUM.



IN 2023, THE CATHOLIC ARCHDIOCESE OF OKLAHOMA CITY AND THE DIOCESE OF TULSA FORMED THE ST. ISIDORE OF SEVILLE CATHOLIC VIRTUAL SCHOOL AND APPLIED TO JOIN OKLAHOMA'S CHARTER SCHOOL PROGRAM—MAKING CLEAR THAT THE NEW SCHOOL WOULD INTEGRATE RELIGION INTO ITS PROPOSED CURRICULUM.



CONCERNED THAT EXCLUDING ST. ISIDORE FROM THE CHARTER SCHOOL PROGRAM MIGHT AMOUNT TO UNCONSTITUTIONAL ANTI-RELIGIOUS DISCRIMINATION, THE BOARD APPROVED THE APPLICATION.



OKLAHOMA'S ATTORNEY GENERAL FILED SUIT THE NEXT DAY—ARGUING THAT ALLOWING ST. ISIDORE TO PROVIDE RELIGIOUS EDUCATION WITH PUBLIC DOLLARS WOULD VIOLATE STATE LAW, THE OKLAHOMA CONSTITUTION, AND THE US CONSTITUTION. THE OKLAHOMA SUPREME COURT AGREED.

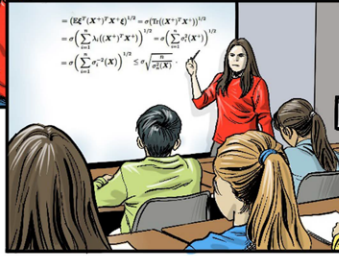
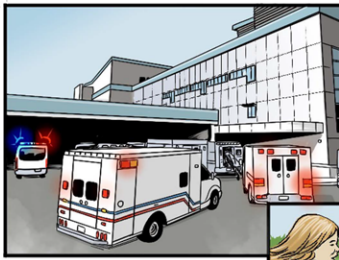
ST. ISIDORE AND THE STATEWIDE CHARTER SCHOOL BOARD APPEALED TO THE US SUPREME COURT, ARGUING THAT RELIGIOUS CHARTER SCHOOLS ARE INDEED CONSTITUTIONAL, AND THAT IT WOULD BE UNCONSTITUTIONAL RELIGIOUS DISCRIMINATION TO EXCLUDE ST. ISIDORE FROM THE STATE-FUNDED PROGRAM.



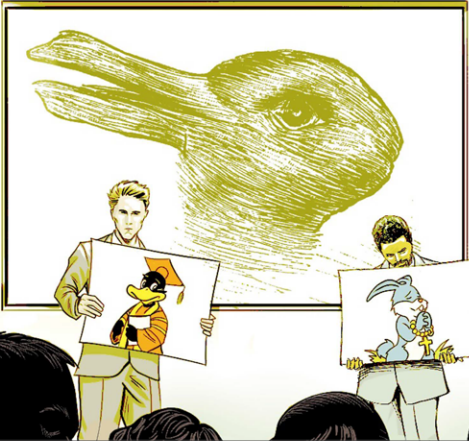
AT THE SUPREME COURT, THE OPPOSING PARTIES PRESENTED THE JUSTICES WITH TWO RADICALLY DIFFERENT TAKES. IN ONE TELLING, ST. ISIDORE IS AN UNABASHEDLY RELIGIOUS INSTITUTION THAT SEEKS TO INDOCTRINATE CHILDREN UNDER THE AUSPICES OF EDUCATING THEM.



IN THE OTHER TELLING, ST. ISIDORE IS JUST ANOTHER ONE OF THE **COUNTLESS** PRIVATE ENTITIES THAT STATES ROUTINELY CONTRACT WITH TO PROVIDE VARIOUS PUBLIC SERVICES, INCLUDING HEALTH CARE, CHILD CARE—AND, YES, EDUCATION.

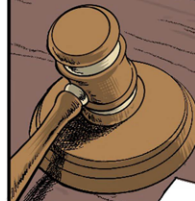


THE PARTIES ESSENTIALLY PRESENTED THE JUSTICES WITH A LEGAL OPTICAL ILLUSION—TWO COMPLETELY DIFFERENT REALITIES IN THE SAME SET OF FACTS.



WHICH ONE YOU SEE—A **SCHOOL** THAT HAPPENS TO BE RUN BY A RELIGIOUS INSTITUTION, OR A **RELIGIOUS INSTITUTION** THAT HAPPENS TO PROVIDE EDUCATION—DETERMINES THE OUTCOME OF THE CASE.

AND HERE IS LITERALLY EVERYTHING THE SUPREME COURT HAD TO SAY ABOUT THIS CASE.



**SUPREME COURT OF  
THE UNITED STATES**  
ST. ISIDORE OF SEVILLE CATHOLIC  
VIRTUAL SCHOOL  
v.  
GENTNER DRUMMOND, ATTORNEY  
GENERAL OF OKLAHOMA  
PER CURIAM, (May 22, 2025)  
The judgment is affirmed by an equally  
divided Court.  
JUSTICE BARRETT took no part in the  
consideration or decision of these cases.

IF YOU THINK EVERYTHING ABOUT THIS CASE BESIDES THE SPECIFIC OUTCOME FOR ST. ISIDORE REMAINS VERY MUCH IN QUESTION—including whether the result might have been different had JUSTICE BARRETT NOT RECUSED—YOU'RE RIGHT!

