

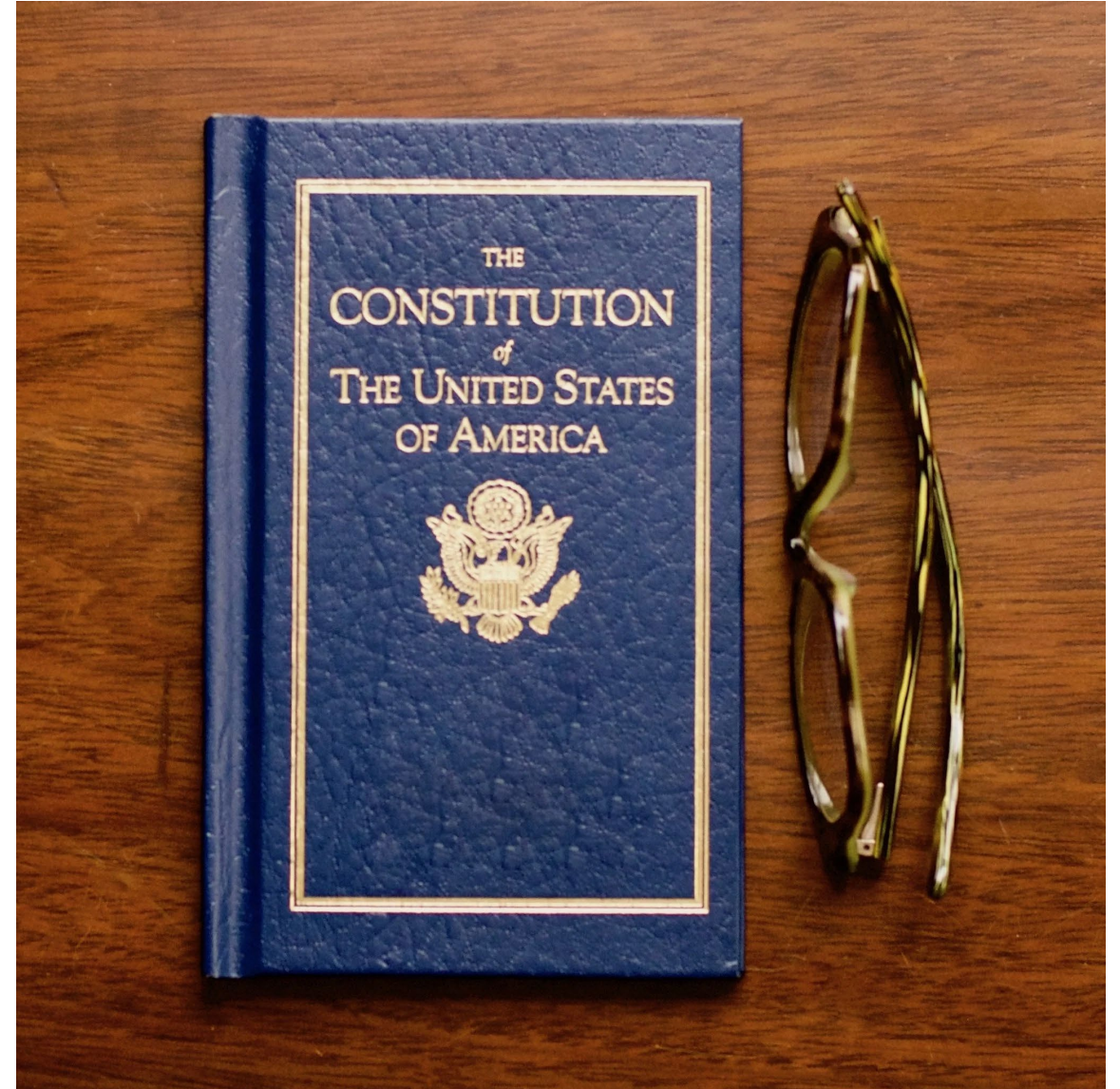
*Oklahoma Statewide
Virtual Charter School
Board v. Drummond
(2025)*

The Supreme Court
considers a religious
charter school



First Amendment to the U.S. Constitution

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

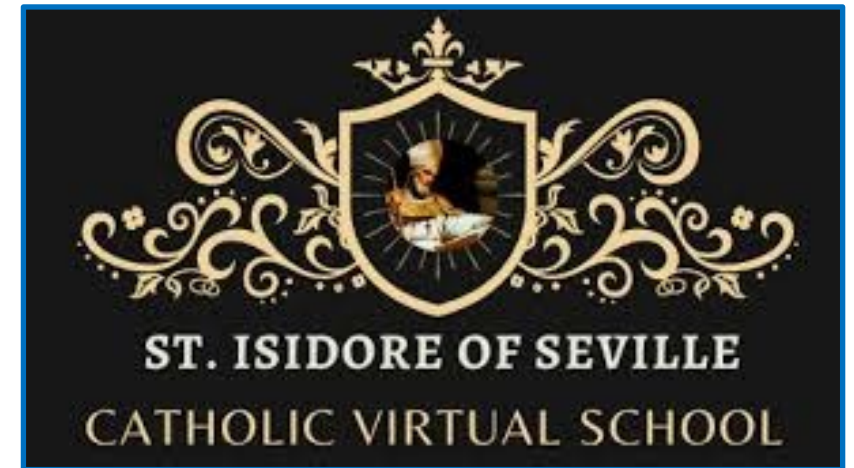


Oklahoma Statewide Virtual Charter School Board v. Drummond; St. Isidore of Seville Catholic Virtual School v. Drummond, 605 U.S. 165, (May 22, 2025)

Two Oklahoma Catholic dioceses formed a private organization to form a virtual Catholic charter school. The Oklahoma Charter School Board granted the charter and agreed to contract with the organization. The Oklahoma Attorney General challenged that decision, saying it amounted to government establishment of religion in violation of the First Amendment.

The Oklahoma Supreme Court decided:

- The school was governmental entity and state actor;
- The Board's contract with the organization violated Establishment Clause;
- The Free Exercise Clause did not preclude Oklahoma from denying a charter-school contract due to the school's religious purpose.



At the Supreme Court:

St. Isadore's (aided by the U.S. Solicitor General) argued:

- It is not a state actor, and the school would not be “government-run.”
- It simply contracts with the state to offer a free educational option for interested students.
- A state violates the Free Exercise Clause by excluding privately run religious schools from the state's charter school program solely because the schools are religious.

Drummond (supported by public school groups' amicus) argued:

- A charter school is a public school, operated by the state, not a mere contractor.
- Public education may be secular, free from religious instruction, as the Supreme Court said in *Carson v. Makin* (2022).
- To hold otherwise would be an astounding reversal of the Supreme Court's prior rulings saying a public school may not use its own voice to proselytize students, and public money may not support that effort.



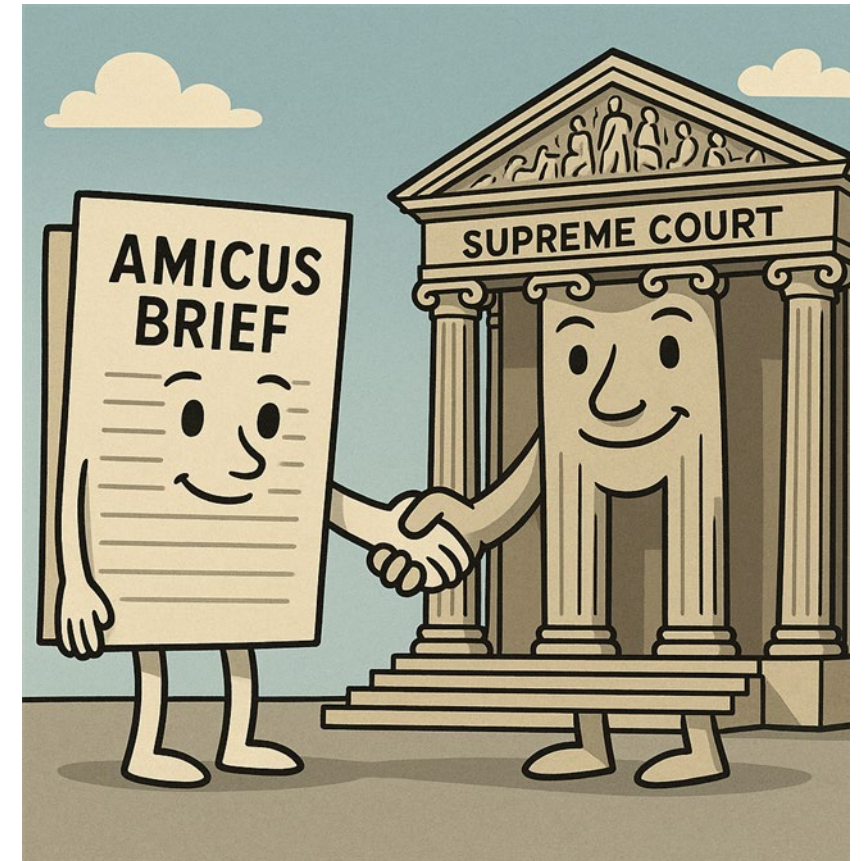
AASA-NSAA Amicus Brief

NSAA and AASA, along with several public education groups, filed an amicus brief asserting:

Public Education Is A Bedrock Of American Democracy And Charter Schools Are Part Of The Public Education System.

Requiring States To Authorize Religious Charter Schools Would Undermine State Public Education And Harm Traditional Public Schools.

- Religious charter schools would draw funds away from traditional public schools, which would harm students with disabilities in particular.
- Religious charter schools would present extraordinary operational challenges for public school administrators.
- Religious charter schools could become the only neighborhood schools in some communities, leaving students without an accessible nonsectarian option.



Oral argument – *Drummond v. OK State Charter School Board*

Justices Kavanaugh, Gorsuch, Alito, Thomas made clear that they viewed this case as a state program excluding religious entities. Kavanaugh: it's "rank discrimination."

Chief Justice Roberts expressed concern about the "state action" issue. He asked about the extent of state oversight in running charter schools.

Justices Sotomayor, Kagan, and Jackson raised alarm bells about how religious schools can be public schools and still operate consistent with their religious beliefs. Won't all ask for exceptions for curriculum, staff choices, student admissions?

Justice Barrett did not participate.



Per Curiam

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SUPREME COURT OF THE UNITED STATES

Nos. 24–394 and 24–396

OKLAHOMA STATEWIDE CHARTER SCHOOL
BOARD, ET AL., PETITIONERS

24–394

v.

GENTNER DRUMMOND, ATTORNEY GENERAL
OF OKLAHOMA, EX REL. OKLAHOMA

ST. ISIDORE OF SEVILLE CATHOLIC VIRTUAL
SCHOOL, PETITIONER

24–396

v.

GENTNER DRUMMOND, ATTORNEY GENERAL
OF OKLAHOMA, EX REL. OKLAHOMA

ON WRITS OF CERTIORARI TO THE SUPREME COURT
OF OKLAHOMA

[May 22, 2025]

PER CURIAM.

The judgment is affirmed by an equally divided Court.

JUSTICE BARRETT took no part in the consideration or decision of these cases. |





What you should know:

- The Supreme Court’s “tie” decision affirms the Oklahoma Supreme Court’s ruling that St. Isidore’s contract with the state’s charter board is not permitted under the Establishment Clause.
- The Chief Justice’s interest in the involvement of the state may lead to states adjusting their charter school programs.
- Another challenge is likely.