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Dec 05 2024

S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA
In the Supreme Court

IN THE ORIGINAL JURISDICTION OF THE SUPREME COURT

Yamilette Albertson, on her own behalf and on behalf of her children, Y., A., and J.; and
Constantine Shulikov, on his own behalf and on behalf of his children, A., E., P., N., and V.
..... Petitioners,

v.

Ellen Weaver, in her official capacity as State Superintendent of Education,Respondent.

**AFFIDAVIT OF YAMILETTE ALBERTSON IN SUPPORT OF PETITIONERS’
PETITION FOR ORIGINAL JURISDICTION AND EXPEDITED CONSIDERATION**

I, Yamilette Albertson, submit the following testimony under oath:

1. I am a citizen of the United States over eighteen years of age. I am of sound mind and fully competent to make this affidavit, which I make knowingly and based on my personal knowledge.

2. I submit this affidavit in support of Petitioners’ Petition for Original Jurisdiction and Expedited Consideration.

3. I am a single mother and I live in Bluffton, South Carolina with my three children. They are Y., my 17-year-old daughter, and A. and J., my six-year-old twin boys. My father, who is 65 years old, also lives with us. He is currently battling cancer.

4. Like my father, I am a military veteran. For a decade, I served my country as a Marine, where I worked as a recruiter at home and as a utilities engineer in the Middle East. After leaving the Marines, I had a short spell of unemployment before ultimately finding work as an operations

manager at a Sherwin-Williams store, where I have worked for seven years. Although money is tight, I make enough to support my family.

5. As Y. approached her senior year at public school, Y. and I concluded that her public school hadn't done a good job of providing her with post-graduation opportunities. We researched the Cross Schools in Bluffton, a local private school, and after going on a tour, we came away impressed. The school offered small class sizes, good career opportunities, a rigorous education, and religious values—all qualities that were missing from Y.'s public school.

6. After we visited the school, I started thinking about how great it would be if all my children could attend the school. The only problem was that sending all three of my children to the school was financially impossible. But after I spoke with the school's administration, I learned about the Education Scholarship Trust Fund ("ESTF") Program, which could provide scholarships for my children.

7. With my help, my children applied for—and received—admission to the school; they also applied for—and received—scholarships from the ESTF Program to pay a major part of the school's tuition. The ESTF scholarships—supplemented with my savings and earnings, and a part-time job Y. took on to bring more resources to the family—gave me enough resources to pay for their education.

8. My children are thriving at school. Y. is excelling academically, she is receiving the religious instruction that I am unable (but want) to provide, and she is making good friends. And she is also learning about career opportunities in a way that she wasn't at public school. While she has long wanted to follow my path into the Marines, she is also learning about alternative careers like welding.

9. For their part, the twins are doing great. They are reading in class and engaged in their subjects. A.'s teacher recently told me that he was one of the top students in class. And I have observed that, even over a short period of time, J. has matured and developed a real sense of purpose.

10. On September 11, 2024, I learned about the South Carolina Supreme Court's *Eidson v. South Carolina Department of Education* decision and the South Carolina Department of Education's policy and practice prohibiting use of ESTF funds for private school tuition and fees. I received an email from ClassWallet, the ESTF program administrator, sent on behalf of the Department, with the Department's seal, stating: "Today, the South Carolina Supreme Court ruled that sections of South Carolina's Education Scholarship Trust Fund (ESTF) program are unconstitutional. The practical impact of this decision is that – while expenses like tutoring, therapies, and other items remain eligible for purchase – as of today, **funds from this program may no longer be used for future tuition or fee payments to nonpublic schools.**" Attached as Exhibit A to this affidavit is a true and correct copy of the email I received. I did not alter or amend the email in any way.

11. On October 11, 2024, I received another email from the program administrator, sent on behalf of the Department, with the Department's seal. The email stated: "[W]hile families are no longer able to use ESTF funds for non-public, independent school tuition and fees, **funds can still be used for other allowed expenses like tutoring, therapies, curriculum, educational materials and technology.**" Attached as Exhibit B to this affidavit is a true and correct copy of the email I received. I did not alter or amend the email in any way.

12. When I learned about the *Eidson* decision and the policy and practice subsequently adopted by the Department, I was shocked. I thought to myself, “How can it be unconstitutional for my children to use a scholarship to go to school?” It did not make sense to me.

13. Despite this change in circumstance, I want to keep my children in school for the remainder of the year. I hope and expect to be able to rely on my family’s resources, as well as help from private donors, to make tuition payments for the remainder of the academic year. However, I have no guarantee that they will suffice. What *is* guaranteed is that my family will incur great financial hardships for the remainder of the academic year, as the school charges tuition on an ongoing basis, and I can no longer use the scholarships to pay for it. I am managing to scrape by, but it is a struggle.

14. Starting on January 15, 2025, I will have a short window in which I can re-apply for the scholarships and I intend to do so. As part of the application process, I must sign an agreement with the Department promising not to enroll my children in public school. If I do not sign the agreement, the Department will not approve the application.

15. The January 15 deadline is not the only upcoming deadline I face. On January 8, 2025, my boys will be automatically re-enrolled in school for the 2025–26 year. I will have until January 22 to opt them out of the automatic re-enrollment; if I exercise that option, then they will lose their spots in school, which will be given to children on the school’s waitlist. If I do not exercise that option by January 22, but decide by March 21 not to re-enroll my children, then the school will charge me a \$1,000 fee for each child. If I decide after March 21 not to re-enroll my children, then the school will charge me a \$2,000 fee for each child.

16. If the Department’s policy and practice are not changed or enjoined, I will be unable to use the ESTF scholarships to pay for tuition and fees at my children’s private school. If they are

not changed or enjoined, I will also lose the opportunity to apply for, and receive, ESTF scholarships that I can use to pay for tuition and fees at my children's private school in the future.

17. Thinking about the future has put me under great financial and psychological strain. If the ESTF Program does not go back to what it was before, I will be faced with a choice. I will either have to endure tremendous financial hardship or, more likely, withdraw my children from the Cross Schools and re-enroll them in public schools—public schools that, to me, do not provide the best education for my children—following the conclusion of the school year.

18. As a parent, this is heartbreaking. I know I can pull together enough resources so that Y. can graduate from school, but my boys will probably not be so fortunate. I dread the prospect of having to send my boys back to a public school that isn't right for them, that doesn't deliver the same kind of education, and that doesn't provide the same religious education that I wish I could give them. The things I value most for my boys at their private school—better education, small class sizes, religious instruction, and professional opportunities—will disappear.

19. I just want my children to attend the school I believe works for them. But because of the Department's newly adopted policy and practice barring use of ESTF scholarships to pay for tuition and fees at private schools, I cannot use the scholarships at the school simply because it is a private school. This is very frustrating because it is only by using the scholarships for the private school's tuition and fees that the school is affordable for me. I know that the scholarships can still be used for expenses like textbooks and curricula, which would be particularly useful if I wanted to homeschool my children or hire tutors for them, but that's not what I want. I am a single mother who works full-time, and it is impracticable, as well as undesirable, for me to use the scholarships for those educational alternatives.

20. If I had chosen to homeschool my children, have them tutored, or have them attend an out-of-district public school, I would be able to use the scholarships for the attendant expenses. But because of the Department's policy and practice, I cannot use my children's scholarships for the education I know is best for them: private schooling.

21. This testimony is true and correct to the best of my knowledge.

FURTHER AFFIANT SAYETH NOT.



Yamilette Albertson

SWORN to and subscribed before me this 4 day of December 2024.



Notary Public in and for the State of South Carolina

My commission expires 02/16/2027.



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Dec 05 2024

S.C. SUPREME COURT

Exhibit A

Affidavit of Yamilette Albertson in Support of
Petitioners' Petition for Original Jurisdiction and Expedited Consideration

From: **South Carolina Department of Education | ClassWallet** <info@classwallet.com>
Date: Wed, Sep 11, 2024 at 7:03 PM
Subject: South Carolina Supreme Court Ruling
To: <yamilette0416@gmail.com>

Info about your ClassWallet account

[View this email in your browser](#)



CLASSWALLET



On behalf of the South Carolina Department of Education (SCDE)

Dear ESTF Parent:

Today, the South Carolina Supreme Court ruled that sections of South Carolina's Education Scholarship Trust Fund (ESTF) program are unconstitutional.

The practical impact of this decision is that – while expenses like tutoring, therapies, and other items remain eligible for purchase – as of today, **funds from this program may no longer be used for future tuition or fee payments to nonpublic schools.** No parent will be expected to repay any funds spent prior to today's ruling.

We share your confusion and frustration over this decision, and we are committed to doing everything in our power to support the least disruptive path forward for your student.

We will be in contact with you and your school in the coming days as we gather more information on a potential path forward. We strongly urge you to communicate directly with your child's school to discuss this situation as well.

Respectfully,

The SCDE Team

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Exhibit B

Affidavit of Yamilette Albertson in Support of
Petitioners' Petition for Original Jurisdiction and Expedited Consideration

From: **South Carolina Department of Education | ClassWallet** <info@classwallet.com>
Date: Fri, Oct 11, 2024, 12:14
Subject: Important Update from the South Carolina Department of Education
To: <yamilette0416@gmail.com>

Info about your ClassWallet account

[View this email in your browser](#)



CLASSWALLET



On behalf of the South Carolina Department of Education (SCDE)

Dear ESTF Parent:

As a reminder, **funding for Q2 (\$1,500) will be deposited into each participating student's ESTF account on or before October 31st.** In addition, while families are no longer able to use ESTF funds for non-public, independent school tuition and fees, **funds can still be used for other allowed expenses like tutoring, therapies, curriculum, educational materials and technology.**

The Department continues to work closely with the Governor, General Assembly and others to find a solution for all families affected by the September court ruling and we expect to have more news soon.

Respectfully,
The SCDE Team

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