

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF VIRGINIA, RICHMOND DIVISION

Cameron Johnson, et al. v. A. Scott Fleming, et al.

Johnson v. Fleming · No. 3:25CV407 (RCY) · Decided March 31, 2026

SUMMARY

The United States District Court for the Eastern District of Virginia addresses constitutional challenges to Virginia’s Tuition Assistance Grant Program and Virginia National Guard State Tuition Assistance Program. The court grants the defendants’ motion to dismiss in part as to claims against the State Council defendants, relying on *Locke v. Davey*, but denies dismissal as to the Department of Military Affairs defendants because of the limited factual record. The court denies plaintiffs’ motion for a preliminary injunction, concluding that they are unlikely to succeed on the merits.

CASE DETAILS

COURT	United States District Court for the Eastern District of Virginia, Richmond Division
WRITING FOR THE COURT	Roderick C. Young
JURISDICTION	United States District Court for the Eastern District of Virginia, Richmond Division
DECIDED	March 31, 2026
DOCKET	3:25CV407 (RCY)
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiffs brought a civil-rights action challenging the denial or prospective denial of state tuition-assistance grants for religious or theological education. Defendants moved to dismiss under Federal Rule of Civil Procedure 12(b)(6), and Plaintiffs moved for a preliminary injunction under Rule 65.
STANDARD OF REVIEW	On a Rule 12(b)(6) motion, the court accepts well-pleaded factual allegations as true, views the complaint in the light most favorable to the plaintiff, and determines whether the complaint states a facially plausible claim. For a preliminary injunction, the plaintiff must show likelihood of success on the merits, likely irreparable harm, that the balance of equities favors relief, and that an injunction is in the public interest; failure to satisfy any factor is fatal.

PRECEDENTIAL VALUE

unpublished district court memorandum opinion; persuasive rather than binding outside the case

TOPICS

free exercise clause

establishment clause

equal protection

civil rights

federal spending

PRACTICE AREAS

constitutional law

civil rights

education law

religious liberty

preliminary injunctions

QUESTIONS PRESENTED

1. Whether the VTAG program's exclusion of funding for religious training or theological education violates the Free Exercise Clause, Establishment Clause, or Equal Protection Clause.
2. Whether the complaint plausibly states those constitutional claims against the administrators of the Virginia National Guard STAP program despite *Locke v. Davey*.
3. Whether Johnson and Thomas have standing to pursue claims concerning STAP after their claims against the VTAG administrators are dismissed.
4. Whether Plaintiffs are entitled to a preliminary injunction requiring tuition assistance or reimbursement.

HOLDINGS

1. The VTAG program's exclusion of state funding for programs providing religious training or theological education is constitutional under *Locke v. Davey* and does not violate the Free Exercise Clause, the Establishment Clause, or the Equal Protection Clause.
2. The complaint plausibly states Free Exercise, Establishment Clause, and Equal Protection claims against Ring and Unmussig at the motion-to-dismiss stage.
3. Johnson and Thomas lack standing to pursue claims concerning STAP because they did not allege that they applied for STAP grants and their injuries are not traceable to the Department defendants.
4. Plaintiffs are not entitled to a preliminary injunction requiring STAP funding or reimbursement.

KEY QUOTATIONS

"Unless and until Locke is overruled or abrogated by the United States Supreme Court, the VTAG Program passes constitutional muster." (Part III.A)

"The Court is not prepared today to dismiss alleged constitutional violations under the Religion Clauses and Equal Protection provision of the federal Constitution based on a factual record that is underdeveloped with respect to the Virginia National Guard STAP and its administration." (Part III.B)

"Finally, finding all surviving claims unlikely to succeed on the merits in light of the Supreme Court's holding in Locke, the Court will deny Plaintiffs' Request for Preliminary Injunction." (Part V)

FACTUAL BACKGROUND

Virginia administers the Virginia Tuition Assistance Grant program and the Virginia National Guard State Tuition Assistance Program. Both programs exclude funding for institutions or programs whose primary purpose is religious training or theological education, although VTAG permits certain funding for religious studies and some double-major arrangements. Johnson and Thomas sought or intended to seek VTAG funding for religious-vocation programs at Liberty University, while Stevens was denied STAP funding for religion or theological programs and sought funding for a Master of Divinity program.

PROCEDURAL HISTORY

Plaintiffs filed the complaint on May 28, 2025. Defendants moved to dismiss, and Plaintiffs moved for a preliminary injunction; both motions were fully briefed. The court dismissed all claims against the State Council defendants, dismissed Johnson and Thomas for lack of standing as to the surviving STAP claims, allowed Stevens's claims against the Department defendants to proceed, and denied the preliminary-injunction motion.

DISPOSITION

other

CASES CITED

- Megaro v. McCollum, 66 F.4th 151 (4th Cir. 2023)
- Republican Party of N.C. v. Martin, 980 F.2d 943 (4th Cir. 1992)
- Bell Atl. Corp. v. Twombly, 550 U.S. 544 (2007)
- Conley v. Gibson, 355 U.S. 41 (1957)
- Mylan Labs., Inc. v. Matkari, 7 F.3d 1130 (4th Cir. 1993)
- Philips v. Pitt Cnty. Mem'l Hosp., 572 F.3d 176 (4th Cir. 2009)
- Ashcroft v. Iqbal, 556 U.S. 662 (2009)
- Neitzke v. Williams, 490 U.S. 319 (1989)
- Locke v. Davey, 540 U.S. 712 (2004)
- Espinoza v. Mont. Dep't of Revenue, 591 U.S. 464 (2020)
- Trinity Lutheran Church of Columbia, Inc. v. Comer, 582 U.S. 449 (2017)
- Carson ex rel. O.C. v. Makin, 596 U.S. 767 (2022)
- Hall v. Fleming, 2025 WL 2021022 (E.D. Va. May 9, 2025)
- Fulton v. City of Philadelphia, 593 U.S. 522 (2021)
- Malbon v. Penn. Millers Mut. Ins. Co., 636 F.2d 936 (4th Cir. 1980)
- Mahmoud v. Taylor, 606 U.S. 522 (2025)
- Employment Division, Department of Human Resources of Oregon v. Smith, 494 U.S. 872 (1990)
- Sherbert v. Verner, 374 U.S. 398 (1963)
- Everson v. Bd. of Ed. of Ewing, 330 U.S. 1 (1947)
- Catholic Charities Bureau, Inc. v. Wisconsin Labor & Industry Review Commission, 605 U.S. 238 (2025)
- Epperson v. Arkansas, 393 U.S. 97 (1968)

- Tandon v. Newsom, 593 U.S. 61 (2021)
- Church of Lukumi Babalu Aye, Inc. v. City of Hialeah, 508 U.S. 520 (1993)
- Johnson v. Robison, 415 U.S. 361 (1974)
- Lujan v. Def. of Wildlife, 504 U.S. 555 (1992)
- Simon v. E. Ky. Welfare Rights Org., 426 U.S. 26 (1976)
- Ex parte Young, 209 U.S. 123 (1908)
- W. Va. Citizens Def. League, Inc. v. City of Martinsburg, 483 F. App'x 838 (4th Cir. 2012)
- Di Biase v. SPX Corp., 872 F.3d 224 (4th Cir. 2017)
- Real Truth About Obama, Inc. v. Fed. Election Commission, 575 F.3d 342 (4th Cir. 2009)
- University of Texas v. Camenisch, 451 U.S. 390 (1981)

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