

SUPREME COURT OF THE STATE OF NEW MEXICO

Moses v. Skandera

9 N.M. 87 (2015) · No. S-1-SC-34974 · Decided December 17, 2015

SUMMARY

The New Mexico Supreme Court considers whether the state's instructional-material loan program may provide books to students attending private schools. The Court holds that Article XII, Section 3 of the New Mexico Constitution prohibits using funds appropriated, levied, or collected for educational purposes to support private schools, whether secular or sectarian. The Court reverses the Court of Appeals and the district court and withdraws and substitutes its prior opinion.

CASE DETAILS

COURT	Supreme Court of the State of New Mexico
WRITING FOR THE COURT	Edward L. Chávez, Justice; Barbara J. Vigil, Chief Justice; Petra Jimenez Maes, Justice; Richard C. Bosson, Justice, Retired, sitting by designation; Charles W. Daniels, Justice
JURISDICTION	New Mexico
DECIDED	December 17, 2015
DOCKET	S-1-SC-34974
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Original proceeding on certiorari from the Court of Appeals' affirmance of summary judgment for the respondent in a declaratory-judgment action.
STANDARD OF REVIEW	The constitutional question was reviewed de novo. Legislative enactments were presumed valid, and petitioners bore the burden of showing beyond all reasonable doubt that the Legislature exceeded constitutional limits.
PRECEDENTIAL VALUE	Published New Mexico Supreme Court opinion; binding precedent in New Mexico.
PARTIES	Cathy Moses, Paul F. Weinbaum v. Hanna Skandera, Designate Secretary of Education, New Mexico Public Education Department, Albuquerque Academy, et al., Defendants/Intervenors-Respondents

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QUESTIONS PRESENTED

1. Whether the Instructional Material Law violates Article XII, Section 3 of the New Mexico Constitution by providing publicly funded instructional materials for use by students attending private schools.
2. Whether federal Mineral Lands Leasing Act funds used for the Instructional Material Fund are subject to the state constitutional restriction in Article XII, Section 3.
3. Whether Article XII, Section 3 prohibits indirect as well as direct support of private schools.

HOLDINGS

1. The Instructional Material Law violates Article XII, Section 3 because it uses funds appropriated, levied, or collected for educational purposes to provide support to private schools.
2. Article XII, Section 3 prohibits both direct and indirect support to sectarian, denominational, or private schools.
3. The use of Mineral Lands Leasing Act funds for the Instructional Material Fund does not preempt or otherwise override the limitation imposed by Article XII, Section 3.

KEY QUOTATIONS

“We hold that the plain meaning and history of Article XII, Section 3 forbids the provision of books for use by students attending private schools, whether such schools are secular or sectarian.” (source text ¶ 2)

“The broad language of this provision and the history of its adoption and the efforts to amend it evince a clear intent to restrict both direct and indirect support to sectarian, denominational, or private schools, colleges, or universities.” (source text ¶ 30)

“Consistent with the rules of statutory construction and the majority of jurisdictions interpreting similar state constitutional provisions, the IML violates Article XII, Section 3 because it provides support to private schools.” (source text ¶ 40)

FACTUAL BACKGROUND

New Mexico's Instructional Material Law authorized the Department of Public Education to purchase and lend approved instructional materials to qualified students attending public or approved private schools. Private schools received allocations based on enrollment, could select materials, and could spend up to fifty percent of their allocations on materials not on the state's approved list so long as the materials were not religious, sectarian, or nonsecular. Petitioners, New Mexico residents and taxpayers with children in public schools, challenged the use of public funds for materials loaned to private-school students under Article XII, Section 3 of the New Mexico Constitution.

PROCEDURAL HISTORY

Petitioners sought a declaration that New Mexico's Instructional Material Law violated several provisions of the New Mexico Constitution by allowing instructional materials to be provided to private-school students. The district court denied petitioners' summary-judgment motion and granted summary judgment to the respondent. The Court of Appeals affirmed, and the New Mexico Supreme Court granted certiorari. The Supreme Court withdrew its prior opinion, substituted this opinion, reversed both lower courts, and held that the schoolbook loan program violated Article XII, Section 3.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The Court reversed the Court of Appeals and the district court. The opinion does not state additional specific remand instructions.

CASES CITED

- *Zellers v. Huff*, 236 P.2d 949 (N.M. 1951)
- *Moses v. Skandera*, 2015-NMCA-036, 346 P.3d 396
- *Tri-State Generation & Transmission Ass'n v. D'Antonio*, 289 P.3d 1232 (N.M. 2012)
- *Bounds v. State ex rel. D'Antonio*, 306 P.3d 457 (N.M. 2013)
- *State v. Boyse*, 303 P.3d 830 (N.M. 2013)
- *State v. Nick R.*, 218 P.3d 868 (N.M. 2009)
- *Mitchell v. Helms*, 530 U.S. 793 (2000)
- *Forest Guardians v. Powell*, 24 P.3d 803 (N.M. Ct. App. 2001)
- *State ex rel. King v. Lyons*, 248 P.3d 878 (N.M. 2011)
- *State ex rel. Interstate Stream Commission v. Reynolds*, 378 P.2d 622 (N.M. 1963)
- *State ex rel. Sego v. Kirkpatrick*, 524 P.2d 975 (N.M. 1974)
- *Lawrence County v. Lead-Deadwood School District No. 40-1*, 469 U.S. 256 (1985)
- *California Teachers Ass'n v. Riles*, 632 P.2d 953 (Cal. 1981)
- *Gaffney v. State Department of Education*, 220 N.W.2d 550 (Neb. 1974)
- *Dickman v. School District No. 62C*, 366 P.2d 533 (Or. 1961)
- *Bloom v. School Committee of Springfield*, 379 N.E.2d 578 (Mass. 1978)
- *Paster v. Tussey*, 512 S.W.2d 97 (Mo. 1974)
- *In re Certification of a Question of Law from the United States District Court, District of South Dakota, Southern Division*, 372 N.W.2d 113 (S.D. 1985)
- *Spears v. Honda*, 449 P.2d 130 (Haw. 1968)
- *Permoli v. Municipality No. 1 of New Orleans*, 44 U.S. (3 How.) 589 (1845)

- Hackett v. Brooksville Graded School District, 87 S.W. 792 (Ky. 1905)
- Donahoe v. Richards, 38 Me. 379 (1854)

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