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U.S. SUPREME COURT UPDATE

U.S. Supreme Court Update

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Court Finds Free Exercise Clause Violation in State Tax Credit Scholarship Program Challenge

Before its recess, on June 30, 2020, the U.S. Supreme Court ruled in a 5-4 decision, in *Espinoza v. Montana Dep't of Revenue* (Docket No. 18-1195), that the Montana Supreme Court violated the Free Exercise Clause of the U.S. Constitution when it applied a state constitutional “no-aid” provision to bar religious schools from receiving scholarship money under Montana's Tax Credit Scholarship Program. In this issue, we feature the Court's decision, including Chief Justice Robert's majority opinion, in which Justices Thomas, Alito, Kavanaugh and Gorsuch joined, as well as the multiple concurring opinions (i.e., concurring opinion by Justice Thomas in which Justice Gorsuch joined and the concurring opinions of Justices Alito and Gorsuch) and dissenting opinions (i.e., dissenting opinion by Justice Ginsburg in which Justice Kagan joined, dissenting opinion by Justice Breyer, in which Justice Kagan joined as to Part I, and dissenting opinion by Justice Sotomayor).

In other matters, the Court continues its review of a dispute between Delaware and several other states concerning which states have priority rights to claim abandoned, uncashed MoneyGram official checks. The MoneyGram cases set for review are *Delaware v. Pennsylvania*, Case No. 22O145, and *Arkansas v. Delaware*, Case No. 22O146. As previously reported, the Court has assigned the Honorable Pierre N. Leval, of the U.S. Court of Appeals for the Second Circuit, as

Special Master in these cases. He is currently coordinating the taking of evidence and making reports. We will update readers as soon as the Special Master reports are available for these original jurisdiction cases.

Finally, a petition for certiorari remains pending before the Court in *Rogers County Bd. of Tax Roll Corrections v. Video Gaming Technologies, Inc.,* Docket 19-1298.

Background of *Espinoza v. Montana DOR*

As explained by the Court, in 2015, the Montana Legislature enacted a scholarship program for students attending private schools "to provide parental and student choice in education." The program grants a dollar-for-dollar tax credit (the "Tax Credit Scholarship Program") of up to $150 to any taxpayer (individuals and corporations) who contributes to a participating "student scholarship organization" ("SSO"). See Mont. Code Ann. §§15-30-3103(1) – 3111(1) (2019). An SSO funds tuition scholarships for students who attend private schools meeting the definition of "qualified education provider" ("QEP"). The Court noted that "[t]he Montana Legislature also directed that the program be administered in accordance with Article X, section 6, of the Montana Constitution, which contains a 'no-aid' provision barring government aid to sectarian schools." *See* Mont. Code Ann. §15-30-3101. Montana's No-Aid Provision states as follows:

> **Aid prohibited to sectarian schools.** . . The legislature, counties, cities, towns, school districts, and public corporations shall not make any direct or indirect appropriation or payment from any public fund or monies, or any grant of lands or other property for any sectarian purpose or to aid any church, school, academy, seminary, college, university, or other literacy or scientific institution, controlled in whole or in part by any church, sect, or denomination. (Mont. Const., art. X, §6(1)).

Soon after the Tax Credit Scholarship Program was created, the Montana Department of Revenue promulgated "Rule 1," (over the objection of the Montana Attorney General) which prohibited families from using scholarships at religious schools. Rule 1 did this by changing the definition of QEP "to exclude any school owned or controlled in whole or in part by any church, religious sect, or denomination." Per the Court, "[t]he Department explained that the Rule was needed to reconcile the scholarship program with the no-aid provision of the Montana Constitution."

Three mothers whose children attend a Christian school brought this lawsuit (the "Petitioners") against the Montana Department of Revenue in state court. While the Christian school their children attended met the statutory criteria for QEP, Rule 1 blocked Petitioners from using the scholarship funds at the school. Petitioners argued in state court that "Rule 1 conflicted with the statute that created the Scholarship Program and could not be justified on the ground that it was compelled by the Montana Constitution's no-aid provision." Petitioners also argued that "Rule 1 discriminated on the basis of their religious views and the religious nature of the school they had chosen for their children."

As explained by the U.S. Supreme Court, the trial court “enjoined Rule 1, holding that it was based on a mistake of law. The court explained that the Rule was not required by the no-aid provision, because that provision prohibits only ‘appropriations' that aid religious schools, ‘not tax credits.'” As a result, the only SSO in the Scholarship Program, Blue Sky Scholarships, awarded scholarships to students that were used to attend religious schools. In December 2018, the Montana Supreme Court reversed the trial court.

The Montana Supreme Court initially examined the Tax Credit Scholarship Program unmodified by Rule 1 and held that the program aided religious schools in violation of the No-Aid Provision of the Montana State Constitution. As such, the Montana Supreme Court “went on to hold that the violation of the No-Aid Provision required invalidating the entire scholarship program” and the credit was no longer available to support scholarships at religious or secular private schools. The Montana Supreme Court also ruled that the Montana Department of Revenue exceeded its authority in promulgating Rule 1. Various judges wrote differing opinions on whether the Tax Credit Scholarship Program was consistent with the Montana and U.S. Constitutions.

The majority in the U.S. Supreme Court observed, “the Montana Supreme Court acknowledged that ‘an overly broad' application of the no-aid provision ‘could implicate free exercise concerns' and that ‘there may be a case' where ‘prohibiting the aid would violate the Free Exercise Clause.' But, the Court concluded, ‘this is not one of those cases.'” (A footnote to the majority's opinion provides that “Justice Sotomayor argues that the Montana Supreme Court expressly declined to reach any federal issues,” but Chief Justice Roberts points to this part of the lower court's opinion for support that the Montana Supreme Court expressly concluded that “this is not one of those cases.”).

The majority opinion.

The Court began its review by examining the Religion Clauses of the First Amendment, which provide that “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof.” The Court noted that “[w]e have recognized a ‘play in the joints' between what the Establishment Clause permits and the Free Exercise Clause compels.” The Court also acknowledged that the parties did not dispute that the Tax Credit Scholarship Program is permissible under the Establishment Clause, a component of the First Amendment. The Court agreed, stating that the Court has “repeatedly held that the Establishment Clause is not offended when religious observers and organizations benefit from neutral government programs.” It added that any Establishment Clause objection to the Tax Credit Scholarship Program would be “particularly unavailing because the government support makes its way to religious schools only as a result of Montanans independently choosing to spend their scholarships at such schools.” Notwithstanding, the Court noted that the “Montana Supreme Court, however, held as a matter of state law that even such indirect government support qualified as ‘aid' prohibited under the Montana Constitution.”

As such, the Court explained that the question for the Court is “whether the Free Exercise Clause precluded the Montana Supreme Court from applying Montana's no-aid provision to bar religious schools from the scholarship program.” In this regard, the Court “accept[ed] the Montana Supreme Court's interpretation of state law–including its determination that the scholarship program provided impermissible ‘aid' within the meaning of the Montana Constitution–and we assess whether excluding religious schools and affected families from that program was consistent with the Federal Constitution.”

The Free Exercise Clause and *Trinity Lutheran* precedent.

The Free Exercise Clause applies to the states under the Fourteenth Amendment inasmuch as it “protects religious observers against unequal treatment” and against “laws that impose special disabilities on the basis of religious status.” *See Trinity Lutheran Church of Columbia, Inc. v. Comer,* 137 S. Ct. 2012 (2017). In rendering the majority opinion, Justice Roberts relied on *Trinity Lutheran* where the Court struck down a similar public benefits restriction that discriminated on the basis of religious status. According to the majority, “*Trinity Lutheran* distilled these and other decisions to the same effect into the unremarkable conclusion that disqualifying otherwise eligible recipients from a public benefit solely because of their religious character imposes a penalty on the free exercise of religion that triggers the most exacting scrutiny.”

Trinity Lutheran involved grants provided by the State of Missouri to assist nonprofit organizations to pay for playground resurfacing, but a state policy disqualified any organization “owned or controlled by a church, sect, or other religious entity.” Based on this policy, an otherwise eligible church-owned preschool was denied a grant to resurface its playground. Per Chief Justice Robert's summary, “Missouri's policy discriminated against the Church simply because of what it is–a church, and so the policy was subject to the strictest scrutiny,” which it failed. And, furthermore, Justice Roberts noted that the “State's discriminatory policy was odious to our Constitution all the same.” “Here too,” he stated “Montana's ‘no-aid provision bars religious schools from public benefits solely because of the religious character of the schools...' and the ‘parents who wish to send their children to a religious school from those same benefits' again solely because of the religious character of the school.” Roberts makes clear that “this is apparent from the plain text” of the No-Aid Clause which, as cited above, bars aid to any school “controlled in whole or in part by any church, sect, or denomination.”

Arguments advanced by the Respondents and rejected by the majority.

Respondents, the Montana Department Revenue (the “Department”), challenged the application of *Trinity Lutheran*, arguing that the No-Aid Provision “applies not because of the religious character

of the recipients, but because of how the funds would be used – for religious education." In other words, the No-Aid Provision does not restrict based on the *status* of the recipients, but rather on how the funds are to be *used.* To support this proposition, the Department recited, among other things, the language of the decision below, "indicating that the no-aid provision has the goal or effect of ensuring that government aid does not end up being used for 'sectarian education' or 'religious education.'"

The Court was, however, unpersuaded by Respondent's arguments, correcting the Department's reasoning by noting that "those considerations were not the Montana Supreme Court's basis for applying the no-aid provision to exclude religious schools; that hinged solely on religious status." Furthermore, the Court makes clear that "[t]his case also turns expressly on religious status and not religious use" and clarified that "[s]tatus-based discrimination remains status based even if one of its goals or effects is preventing religious organizations from putting aid to religious uses."

The Respondents contended that the case should not be governed under *Trinity Lutheran*, but instead by *Locke v. Davey*, 540 U.S. 712 (2004), a case which concerned Washington's denial of a scholarship which was to be *used* for a religious purpose – to prepare for the ministry. The Court disagreed, distinguishing the present case from *Locke* in that the state in *Locke* had "merely chosen not to fund a distinct category of instruction..." and the "state's program allowed scholarships to be used at 'pervasively religious schools' that incorporated religious instruction throughout their classes."

By contrast, according to the Court, "Montana's Constitution does not zero in on any particular 'essentially religious' course of instruction at a religious school. Rather, as we have explained, the no-aid provision bars all aid to a religious school 'simply because of what it is,' putting the school to a choice between being religious or receiving government benefits..." and "families to a choice between sending their children to a religious school or receiving such benefits." Drawing a further distinction, the Court added that *Locke* invoked a "historic and substantial" state interest in not funding the training of clergy, which was not found here.

Strict scrutiny applies and cannot be met.

After briefly addressing approaches raised by some of the dissenting Justices that would "grant the government 'some room' to 'single . . . out' religious entities 'for exclusion,'" (advocated by Justice Sotomayor) or "a flexible, context-specific approach" (advocated by Justice Breyer), Justice Roberts found that "these dissents follow from prior separate writings, not from the Court's decision in *Trinity Lutheran* or the decades of precedent on which it relied." According to the Court, "these precedents have repeatedly confirmed the straightforward rule that we apply today: When otherwise eligible recipients are disqualified from a public benefit 'solely because of their religious character,' we must apply strict scrutiny."

Justice Roberts rejected the Montana Supreme Court's assertion that the No-Aid Provision "serves Montana's interest in separating church and State 'more fiercely' than the Federal Constitution..." stating "that interest cannot qualify as compelling in the face of the infringement of free exercise here..." and that a [s]tate's interest "in achieving greater separation of church and State than is already ensured under the Establishment Clause ... is limited by the Free Exercise Clause."

In reply, the Department contended that "the no-aid provision actually *promotes* religious freedom" by protecting the "religious liberty of taxpayers by ensuring that their taxes are not directed to religious organizations, and it safeguards the freedom of religious organizations by keeping the government out of their operations." The Department also claimed that "the no-aid provision advances Montana's interests in public education." According to the Department, "the no-aid provision safeguards the public school system by ensuring that government support is not diverted to private schools."

The Court dismissed both assertions. First, the majority stated "we doubt that the school's liberty is enhanced by eliminating any option to participate in the first place." Next, the majority found that Montana's interest in public education cannot justify a No-Aid Provision that requires "only religious private schools to 'bear [its] weight.'" Per the Court, "[a] State need not subsidize private education. But once a State decides to do so, it cannot disqualify some private schools solely because they are religious."

Elimination of the Tax Credit Scholarship Program did not cure the free exercise violation.

After delivering the opinion, Justice Roberts addressed the Department's argument that was persuasive to the dissent: "there was no free exercise violation here because the Montana Supreme Court ultimately eliminated the scholarship program altogether." According to the Department, "now that there is no program, religious schools and adherents cannot complain that they are excluded from any generally available benefit."

Justice Roberts, and the majority, were unpersuaded by this argument. In reply, Justice Roberts turned the tables on the Department, writing:

> Had the Court recognized that this was, indeed, "one of those cases" in which application of the no-aid provision would violate the Free Exercise Clause, . . . the Court would not have proceeded to find a violation of that provision. And, in the absence of such a state law violation, the Court would have had no basis for terminating the program. Because the elimination of the program flowed directly from the Montana Supreme Court's failure to follow the dictates of federal law, it cannot be defended as a neutral policy decision, or as resting on adequate and independent state law grounds.

Per the Court, in accordance with the Supremacy Clause that provides that "the Judges in every State shall be bound by the Federal Constitution, . . . the Montana Supreme Court should have disregard[ed] the no-aid provision and decided this case 'conformably to the [C]onstitution' of the United States."

Concurring opinion–Justice Thomas and Justice Gorsuch: Re-evaluating the Establishment Clause.

In a concurring opinion, Justice Thomas and Justice Gorsuch write "to explain how this Court's interpretation of the Establishment Clause continues to hamper free exercise rights." The Justices declare that "[u]ntil we correct course on that interpretation, individuals will continue to face needless obstacles in their attempts to vindicate their religious freedom." The opinion calls out what the Justices believe are the reality of claims brought under Religion Clauses of the First Amendment, noting that "in all cases involving a state actor, the modern understanding of the Establishment Clause is a 'brooding omnipresence'... ever ready to be used to justify the government's infringement on religious freedom."

Under what the concurrence refer to as the "modern, but erroneous, view of the Establishment Clause, the government must treat all religions equally and treat religion equally to nonreligion." Under this principal, what the concurrence calls the "equality principal" the government is prohibited "from expressing any preference for religion – or even permitting any signs of religion in the governmental realm" and, as a result, "when a plaintiff brings a free exercise claim, the government may defend its law, as Montana did here, on the ground that the law's restrictions are required to prevent it from 'establishing' religion."

The concurrence insists that "this understanding of the Establishment Clause is 'unmoored' from the original meaning of the First Amendment" and that "[p]roperly understood, the Establishment Clause does not prohibit States from favoring religion. They can legislate as they wish, subject to the limitations in the State and Federal Constitutions." Or, stated differently, "[u]nder a proper understanding of the Establishment Clause, robust and lively debate about the role of religion in government is permitted, even encouraged, at the state and local level." But as the concurrence argues, "[u]nder the Court's 'distorted' view of the Establishment Clause, the entire subject of religion is problematically removed from the 'realm of permissible governmental activity, instead mandating strict separation.'"

Concurring opinion–Justice Alito: Examining the motivation for the no-aid provision.

Justice Alito's concurring opinion took a different approach, examining the origin of Montana's No-Aid Provision. Justice Alito stated that "[r]egardless of the motivation for the No-Aid Provision or its predecessor, its application here violates the Free Exercise Clause," but "[n]evertheless, the

provision's origin is relevant under the decision [the Court] issued earlier this Term in *Ramos v. Louisiana*, 590 U.S. __ (2020)."

Justice Alito used his concurrence to trace the origins of Montana's No-Aid Provision to the "failed Blaine Amendment to the U.S. Constitution." This Amendment "would have 'bar[red] any aid' to Catholic and other 'sectarian' schools." James Blaine, the Congressman who introduced it in 1875, was prompted by "virulent prejudice against immigrants, particularly Catholic immigrants...." Justice Alito noted that a "prominent supporter of this ban was the Klu Klux Klan." While the Blaine Amendment was defeated, per Justice Alito, "most States adopted provisions like Montana's to achieve the same objective at the state level, often as a condition to entering the Union." Indeed, according to Justice Alito, "[t]hirty-eight states still have these 'little Blaine Amendments' today."

Justice Alito noted that "Respondents and one of the dissents argue that Montana's no-aid provision was cleansed of its bigoted past because it was readopted for non-bigoted reasons in Montana's 1972 constitutional convention." However, he further points out that "[u]nder *Ramos,* it emphatically does not matter whether Montana readopted the no-aid provision for benign reasons. The provision's 'uncomfortable past' must still be '[e]xamined.' And here, it is not so clear that the animus was scrubbed."

Concurring opinion–Justice Gorsuch: No distinction between status and use.

In a separate concurrence, Justice Gorsuch, wrote to address the Court's conclusion that the Montana Constitution discriminates against parents and schools based on "religious status and not religious use." Justice Gorsuch explained that he "was not sure about characterizing the State's discrimination in *Trinity Lutheran* as focused only on religious status, and [he is] even less sure about characterizing the State's discrimination here that way." According to Justice Gorusch, "discussion of religious activity, uses, and conduct – not just status – pervades this record." More particularly, he observed that "not only is the record replete with discussions of activities, uses, and conduct, any jurisprudence grounded on a status-use distinction seems destined to yield more questions than answers." Stated differently, Justice Gorusch asked: "Does Montana seek to prevent religious parents and schools from participating in public benefits program (status)? Or does the State aim to bar public benefits from being employed to support religious education (use)?" Justice Gorsuch responded that "it seems equally, and maybe more, natural to say that the State's discrimination focused on what religious parents and schools *do* – teach religion."

Justice Gorsuch asserted that the First Amendment does not care, nor does it distinguish between status and use. Rather, it only forbids laws that prohibit the free exercise of religion and "protects not just the right to be a religious person, holding beliefs inwardly and secretly; it also protects the right to act on those beliefs outwardly and publicly." Gorsuch elaborated, stating that,

> At the time of the First Amendment's adoption, the word “exercise” meant (much as it means today) some “[l]abour of the body,” a “[u]se,” as in the “actual application of anything,” or a “[p]ractice,” as in some “outward performance....” By speaking of a right to “free exercise,” rather than a right “of conscience,” an alternative the framers considered and rejected, our Constitution extended the broader freedom of action to all believers.... So whether the Montana Constitution is better described as discriminating against religious status or use makes no difference: It is a violation of the right to free exercise either way, unless the State can show its law serves some compelling and narrowly tailored governmental interest, conditions absent here for reasons the Court thoroughly explains.

Gorsuch concluded, “[t]he right to be religious without the right to do religious things would hardly amount to a right at all... [c]alling it discrimination on the basis of religious status or religious activity makes no difference: It is unconstitutional all the same.”

Dissenting opinion – Justices Ginsburg and Kagan: Where is the differential treatment?

After briefly reviewing the application of the First Amendment, Justices Ginsburg and Kagan wrote a dissenting opinion, asking where the “differential treatment” is. The Justices point out that the “Montana court remedied the state constitutional violation by striking the scholarship program in its entirety. Under that decree, secular and sectarian schools alike are ineligible for benefits, so the decision cannot be said to entail differential treatment based on petitioners' religion.” Due to the invalidation of the Tax Credit Scholarship Program, the dissent notes there are simply no scholarship funds to be had and, as a result, because Montana's Supreme Court did not make “a decision – its judgment put all private school parents in the same boat – this Court had no occasion to address the matter.”

Dissenting opinion – Justices Breyer and Kagan: Where is the “play in the joints?”

Justices Breyer and Kagan wrote another dissenting opinion, highlighting the “play in the joints” doctrine; which, according to the Justices, the majority “barely acknowledges.” The Justices note that the Court has held that “there is room for play in the joints between what the Establishment Clause permits and the Free Exercise Clause compels.” The dissent adds that the Court has held that there “are some state actions permitted by the Establishment Clause but not required by the Free Exercise Clause.” Yet, the dissent feels the majority referred to this doctrine only in passing, leaving it “a shadow of its former self.”

The Justices also disagreed with the application of *Trinity Lutheran* as opposed to *Locke,* which also concerned a state program and which the dissent finds is “strikingly similar” to the Tax Credit

Scholarship Program at issue. The dissent asserted that “[l]ike the State of Washington in *Locke*, Montana has chosen not to fund (at a distance) ‘an essentially religious endeavor' – an education designed to ‘induce religious faith'” and “[t]hat kind of program simply cannot be likened to Missouri's decision to exclude a church school from applying for a grant to resurface its playground.”

To that end, the Justices assert that the present case does not involve a claim of status-based discrimination: “The schools do not apply or compete for scholarships, they are not parties to this litigation, and no one here purports to represent their interests.” Instead, the Justices believe it concerns a “suit by parents who assert that their free exercise rights are violated by the application of the no-aid provision to prevent them from using taxpayer-supported scholarships to attend the schools of their choosing.” In other words, “the problem, as in *Locke*, is what petitioners ‘propos[e] to do—use the funds to' obtain a religious education.”

In consideration of the examples set by *Locke* and *Trinity Lutheran*, the dissent “believes that Montana's differential treatment of religious schools is constitutional” and “[i]f any room exists between the two Religion Clauses, it must be here.”

Dissenting opinion – Justice Sotomayor.

Justice Sotomayor wrote separately, leading her dissent by stating that “[t]he majority holds that a Montana scholarship program unlawfully discriminated against religious schools by excluding them from a tax benefit. The threshold problem, however, is that such tax benefit no longer exists for anyone in the State.” Similar to Justice Ginsburg, Justice Sotomayor maintained that “nothing required the state court to uphold the program or the state legislature to maintain it. The Court nevertheless reframes the case and appears to ask whether a longstanding Montana constitutional provision is facially invalid under the Free Exercise Clause, even though petitioners disavowed bringing such a claim.” Thus, Justice Sotomayor concluded that “[n]ot only is the Court wrong to decide this case at all, it decides it wrongly.” In her view, “the Court invokes [*Trinity Lutheran*] to require a State to subsidize religious schools if it enacts a tax credit. Because this decision further ‘slights both our precedents and our history' and ‘weakens this country's longstanding commitment to a separation of church and state beneficial to both,' I respectfully dissent.”

Justice Sotomayor rejected Petitioner's Free Exercise claim in its entirety. She noted that the Free Exercise Clause protects against “indirect coercion or penalties on the free exercise of religion.” Accordingly, “this Court's cases have required not only differential treatment ... but also a resulting burden on religious exercise.” Concluding in a similar fashion to Justices Ginsburg and Kagan, Sotomayor declares that “[n]either differential treatment nor coercion exists here because the Montana Supreme Court invalidated the tax-credit program entirely.” She added that:

> Today's ruling is perverse. Without any need or power to do so, the Court appears to require a State to reinstate a tax-credit program that the Constitution did not demand

> in the first place. We once recognized that while the Free Exercise Clause clearly prohibits the use of state action to deny the rights of free exercise to anyone, it has never meant that a majority could use the machinery of the State to practice its beliefs.

"Today's Court," she added, "rejects the Religion Clauses' balanced values in favor of a new theory of free exercise, and it does so only by setting aside well-established judicial constraints."

Pending Petition

In *Rogers County Bd. of Tax Roll Corrections v. Video Gaming Technologies, Inc.,* Docket 19-1298, ruling below at Okla. S. Ct. Docket No. 117491 (Dec. 17, 2019), Video Gaming Technologies, Inc. ("VGT") brought claims for relief that the local ad valorem tax on its gaming equipment was preempted by federal law–the Indian Gaming Regulatory Act ("IGRA," 25 U.S.C. § 2701-2721 (2018)25 U.S.C. § 2701-2721 (2018)) and Indian Trader Statutes, as well as federal case law. The Oklahoma Supreme Court agreed with VGT and reversed the lower court's order of summary judgment, remanding the matter to the district court to enter an order of summary judgment for VGT.

Rogers County Board of Tax Roll Corrections challenges the Oklahoma Supreme Court's decision and presents the following question in its petition for writ of certiorari:

> Whether a generally applicable state *ad valorem* tax, as assessed against personal property owned by a non-Indian, out-of-state corporate entity and leased to a tribe for use in its casino operations, is preempted by the Indian Gaming Regulatory Act and the Court's "particularized inquiry" balancing test, see *White Mountain Apache Tribe v. Bracker*, 448 U.S. 136 (1980), where the tax does not infringe on any federal regulatory purpose contained in the IGRA, the tax does not interfere with any tribal sovereignty interests, and the tax supports relevant and important government interests, such as law enforcement, schools and health services.

The Tulsa County Assessor John A. Wright filed an amicus brief in support of the petitioners, focusing on the state's legitimate interest in raising revenue from the uniform application of ad valorem tax laws.

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