

Orangeburg, SC

Edgar W. Dickson

Orangeburg County Circuit Court

First Judicial Circuit



Orangeburg Common Pleas

Case Caption: Thomasena Adams VS State Of South Carolina , defendant, et al
Case Number: 2020CP3800774
Type: Order/Other

So Ordered

s/ Edgar W. Dickson #2153

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STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
)	
COUNTY OF ORANGEBURG)	Civil Action No.: 2020-CP-38-_____
)	
Dr. Thomasena Adams,)	SUMMONS
)	
)	
Plaintiff,)	
)	
State of South Carolina, Governor)	
Henry McMaster, and Palmetto Promise)	
Institute,)	
Defendants.)	

TO: THE DEFENDANTS ABOVE NAMED:

YOU ARE HEREBY SUMMONED and required to answer the Complaint in this action, a copy of which is herewith served upon you, and to serve a copy of your Answer to the said Complaint on the subscriber at his office as 1281 Russell Street, Post Office Box 1084, Orangeburg, South Carolina, 29115, within thirty (30) days after the service hereof, exclusive of the day of such service, and if you fail to answer the Complaint within the time aforesaid, judgment by default will be rendered against you for the relief demanded in the Complaint.

/s/ Skyler Hutto #102741
 Skyler B. Hutto, Esquire
 WILLIAMS & WILLIAMS
 Post Office Box 1084
 Orangeburg, South Carolina 29116
 (803) 534-5218 phone
 (803) 536-6544 fax
skyler@williamsattys.com
 ATTORNEYS FOR PLAINTIFFS

July 21, 2020
 Orangeburg, South Carolina

7. On July 21, 2020, Defendant Governor Henry McMaster announced his plan to create “Safe Access to Flexible Education (SAFE) Grants,” which are one-time grants to subsidize private school students’ education at private schools in the State of South Carolina, including in Orangeburg County.

8. These subsidies and payments are allocated from the State’s CARES Act funding, specifically the Governor’s Emergency Education Relief fund.

9. These subsidies and payments to private schools purport to assist about five thousand students in the State of South Carolina.

10. There are over eight hundred thousand students in public schools in the State of South Carolina.¹

11. “Mysceduaction.org” is the online portal used by schools for Safe Access to Flexible Education (SAFE) Grant funding and for parents to receive notifications about these grants.

12. Orangeburg County will receive just under six million dollars in CARES Act funding, which will amount to approximately four hundred and seventy three dollars per student, in comparison to up to six thousand five hundred dollars per student through Safe Access to Flexible Education (SAFE) Grants.

13. A recipient of a full Safe Access to Flexible Education (SAFE) Grants will receive about thirteen times as much funding as the average public school student in Orangeburg. This disparity is even greater in districts such as Richland County School District Two, in which the

¹ *Public Education Finances: 2013*, Table 2, US Census Bureau, <https://www.census.gov/content/dam/Census/library/publications/2015/econ/g13-aspef.pdf>.

recipient of a full Safe Access to Flexible Education (SAFE) Grant will receive about forty-five times as much funding as the average public school student.

14. Title XI, Section 4 of the South Carolina Constitution states: “No money shall be paid from public funds nor shall the credit of the State or any of its political subdivisions be used for the direct benefit of any religious or other private educational institution.”

15. Defendant Governor McMaster’s proposed use of the Governor’s Emergency Education Relief would directly violate South Carolina jurisprudence: “We therefore hold that the use of public funds under the Act to provide tuition grants to students attending the participating religious institutions constitutes aid to such institutions within the meaning of, and prohibited by, Article XI, Section 9, of the Constitution of South Carolina.” *Hartness v. Patterson*, 255 S.C. 503, 508, 179 S.E.2d 907, 909 (1971).

**PETITION FOR A TEMPORARY RESTRAINING ORDER AND MOTION FOR A
PRELIMINARY INJUNCTION (Rule 65(b), SCRPC)**

16. Plaintiff repeats and re-alleges each of the allegations of paragraphs 1 through 15 as if set forth verbatim.

17. Rule 65 of the civil rules provides that an *ex parte* temporary restraining order (TRO) may not issue “unless it clearly appears from specific facts shown by affidavit or by a verified complaint that immediate and irreparable injury, loss or damage will result to the applicant before notice can be served and a hearing had thereon.” Rule 65(b), SCRPC.

18. A TRO should issue here to prevent *ultra vires* action by the State and Governor and to prevent the State from distributing monies it will not be able to recover.

19. If a distribution occurs, there will not be an adequate remedy at law.

20. Accordingly, a TRO should issue preventing the distribution of any Safe Access to Flexible Education (SAFE) Grants until a hearing is held and this matter more fully ruled upon.

FIRST CAUSE OF ACTION
(Declaratory Relief)

21. Plaintiff repeats and re-alleges each of the allegations of paragraphs 1 through 20 as if set forth verbatim.

22. Pursuant to South Carolina Code § 15-53-20 *et seq*, the Court should declare that:

- a. The proposed use of the Safe Access to Flexible Education (SAFE) Grants funded by the Governor's Emergency Education Relief fund is unconstitutional.
- b. The Governor's Emergency Education Relief fund monies cannot be spent on private or religious schools in a manner that would violate the South Carolina Constitution.

SECOND CAUSE OF ACTION
(Injunctive Relief)

23. Plaintiff repeats and re-alleges each of the allegations of paragraphs 1 through 22 as if set forth verbatim.

24. Pursuant to South Carolina Code § 15-53-120, the Court should enter a temporary and, after a merits hearing, permanent injunction enjoining the Defendants from any further actions related to the use of the Governor's Emergency Education Relief fund monies for private or religious schools and any further relief necessary to conform the Defendant's conduct to the law and effectuate the orders and judgment of this Court.

WHEREFORE, having fully set forth his complaint above, Plaintiff prays that this honorable Court grant her petition for a TRO and, after discovery, enter a final declaratory judgment and injunctive relief as set forth above, along with any further relief the Court deems

just and proper.

Respectfully submitted,

/s/ Skyler B. Hutto #102741

Skyler B. Hutto

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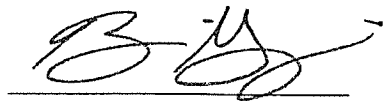
VERIFICATION:

I have read the petition for a temporary restraining order and complaint for declaratory and injunctive relief and verify that its contents are true and correct to the best of my knowledge.



Plaintiff – Dr. Adams

Sworn before me on July 21, 2020,



Bria Guinyard

Notary Public for South Carolina

My commission expires 10-11-2027