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No. 21-0097

IN THE SUPREME COURT OF APPEALS OF WEST VIRGINIA

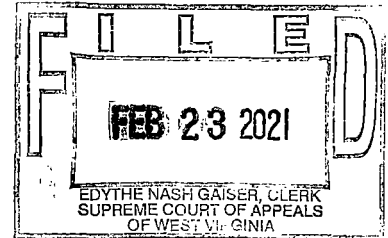
State of West Virginia *ex rel.*
West Virginia Academy, Ltd.,

Petitioner,

v.

West Virginia Department of Education,

Respondent.



BRIEF IN SUPPORT OF KATIE SWITZER AS *AMICUS CURIAE* IN SUPPORT OF WEST VIRGINIA ACADEMY PETITION FOR WRIT OF MANDAMUS

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**BRIEF IN SUPPORT OF KATIE SWITZER AS *AMICUS CURIAE* IN SUPPORT OF
WEST VIRGINIA ACADEMY PETITION FOR WRIT OF MANDAMUS**

I. Introduction

Katie Switzer submits this brief¹ in support of the petition of the West Virginia Academy, Ltd. ("the Academy") for a writ of mandamus directing the Respondent, the West Virginia Department of Education, to accept the Academy's application to form a public charter school pursuant to W. Va. Code §§18-5G-1 *et seq.* ("the Act") and authorize said charter.

II. Statement of Interest

Ms. Switzer is the mother of three children, the oldest of whom will be attending kindergarten in the fall of 2021. Ms. Switzer is a resident of Monongalia County, one of the counties that would be served by the Academy's proposed charter school. Ms. Switzer would like to have the option to enroll her children in a charter school, whether that is the charter school proposed by the Academy, or another school that may be filed by a subsequent charter school applicant.

Ms. Switzer is a West Virginia taxpayer, and as such is interested in having her taxes support an educational system that produces superior graduates and provides families with opportunities to send their children to schools best suited to their interests and talents, where they can flourish and become productive citizens. Charter schools such as that proposed by the Academy would present an option for families who are seeking the best educational outcome for their children, a result that would benefit them and the taxpayers of the state.

¹ Pursuant to W. Va. R. App. P. 30(e)(5), counsel of record herein represents that he authored this brief in whole, and neither any counsel nor any party made any monetary contribution specifically intended to fund the preparation or submission of this brief.

III. Argument

Counsel for the Academy has set out a cogent statutory analysis explaining why it is entitled to a writ of mandamus that would compel issuance of a public school charter to the Academy. Those arguments need no further gloss from Ms. Switzer. What Ms. Switzer can offer is a parent's affirmation of the importance of charter schools role in providing the "thorough and efficient system of free schools" promised by the West Virginia Constitution. W. Va. Const. art. 12, §1.

Charter schools provide an option for parents whose children may not be effectively served by existing public schools, with their one-size-fits-all approach to public education. They present an opportunity to tailor instruction to the needs of children that may learn differently, or want to emphasize an area of study. They are representations of the popular will, as they can only be viable if there are sufficient parents like Ms. Switzer and her children willing to support them. But they can only be successful if they are given an opportunity to demonstrate what they bring to the educational table.

By refusing to properly convene and to act on the Academy's application within 90 days, the Boards of Education of Monongalia and Preston Counties ("the Boards") have attempted to thwart the will of parents, and that of the West Virginia Legislature when it adopted the Act. The Legislature anticipated this foot-dragging, and to prevent inaction from becoming a barrier to charter school formation, provided that failure by the authorizer (in this case, the Boards) to approve or deny a charter school application within 90 days of filing "shall be deemed an approval by the authorizer." W. Va. Code 18-5G-6(d). Unless this Court orders Respondent to act on that approval and certify the Academy as a public charter school, Ms. Switzer and those

similarly situated will be deprived of the option of sending children to a public charter school in 2021, and probably beyond.

The West Virginia Legislature, in adopting the Act, clearly believed that public charter schools could be an effective use of taxpayer dollars, and provided a complement to non-charter school public education in West Virginia. A more effective school system can result in a better-educated populace, which in turn produces better, and more productive, citizens. It is in the interests of West Virginia's taxpayers, such as Ms. Switzer, to allow public charter schools to show whether they can live up to the expectations of the legislators who passed the Act, and the citizens who voted for them. It should not be for boards of education, or Respondent, to foreclose the public charter school option.

Ms. Switzer understands that the Academy's charter school petition presented the Boards with the first petition that was filed under the Act, and the Boards had to tread new ground. But the map that was provided by the Legislature was clear on how they were to proceed. They were to consider each charter school as presented and take action in the manner set out in the statute. In this case, failing to take action in accordance with the Act, was effectively a decision to approve the charter. This Court should accept the Boards' decisions and require Respondent to certify approval of the school's charter.

Ms. Switzer acknowledges that public charter schools are controversial, and that they have been vociferously opposed by some education professionals. Change can be difficult, but it can present tremendous opportunities as well. For those opportunities to have any chance of being realized, action needs to be taken as soon as possible so that a charter school can open in the fall of 2021. Ms. Switzer hopes that this Court will act promptly to allow that to happen, and

respectfully requests that it grant the writ of mandamus requested by the Academy, and order Respondent to approve the Academy's application.

Respectfully submitted this 23rd day of February 2021.

Katie Switzer
By counsel

Counsel for Katie Switzer



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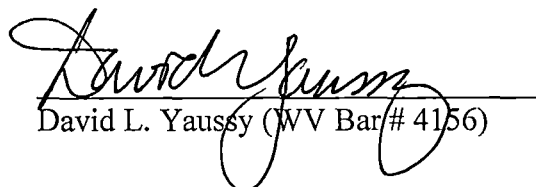
Respondent.

CERTIFICATE OF SERVICE

I hereby certify that I served the foregoing **Motion of Katie Switzer for Permission to File Brief in Support of West Virginia Academy Petition for Writ of Mandamus and the Brief in Support of Katie Switzer as *Amicus Curiae* in Support of West Virginia Academy Petition for Writ of Mandamus** on February 23, 2021, by mailing copies via the U. S. Mail, addressed to the following:

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