

20-1088 CARSON V. MAKIN

DECISION BELOW: 979 F.3d 21

LOWER COURT CASE NUMBER: 19-1746

QUESTION PRESENTED:

In *Espinoza v. Montana Department of Revenue*, 140 S. Ct. 2246 (2020), this Court held that a state may not exclude families and schools from participating in a student-aid program because of a school's religious *status*. This Court acknowledged, but did not resolve, the question of whether a state may nevertheless exclude families and schools based on the religious *use* to which a student's aid might be put at a school. In the decision below, the First Circuit upheld a religious exclusion in Maine's tuition assistance program on the ground that the exclusion does not bar students from choosing to attend schools with a religious status, but rather bars them from using their aid to attend schools that provide religious, or "sectarian," instruction.

The question presented is:

Does a state violate the Religion Clauses or Equal Protection Clause of the United States Constitution by prohibiting students participating in an otherwise generally available student-aid program from choosing to use their aid to attend schools that provide religious, or "sectarian," instruction?

CERT. GRANTED 7/2/2021