

**IN THE DISTRICT COURT OF APPEAL
STATE OF FLORIDA
FIRST DISTRICT**

CITIZENS FOR STRONG SCHOOLS, INC.;
et al.,

Plaintiffs/Appellants,

DCA Case No. 16-2862

vs.

Lower Case No. 09-CA-4534

FLORIDA STATE BOARD OF EDUCATION;
et al.,

Defendants/Appellees,

and

CELESTE JOHNSON; et al.,

Intervenors/Defendants/Appellees.

APPELLANTS' SUGGESTION FOR CERTIFICATION

Plaintiffs/Appellants, by and through their undersigned counsel, respectfully suggest that the trial court decision under review by this Court is one that should be certified for immediate review by the Florida Supreme Court pursuant to Florida Constitution Article V, Section 3(b)(5), and Florida Rule of Appellate Procedure 9.125, and declare as follows:

1. In this action originally filed in 2009, Plaintiffs/Appellants (“Parents”) allege that Defendants/Appellees (“State”) are breaching their constitutional paramount duty to provide a uniform, efficient, safe, secure and high quality

system of free public schools that allows students to obtain a high quality education, as required by Article IX, Section 1(a) of the Florida Constitution. Parents sought declaratory relief.

2. Parents are six individuals (grandmother, three parents and two students) and two citizen organizations. The State Defendants are the Florida State Board of Education, the Speaker of the Florida House of Representatives, the Senate President and the Florida Commissioner of Education, all in their official capacities.

3. The State moved to dismiss on several grounds, including that Parents' claim raised a non-justiciable political question. The trial court denied the motion. The State subsequently petitioned this Court for a writ of prohibition. In 2012, this Court sitting en banc denied the State's petition, but certified the following question to the Florida Supreme Court:

Does Article IX, section 1(a), Florida Constitution, set forth judicially ascertainable standards that can be used to determine the adequacy, efficiency, safety, security and high quality of public education on a statewide basis, so as to permit a court to decide claims for declaratory judgment (and supplemental relief), alleging noncompliance with Article IX, section 1(a) of the Florida Constitution?

Haridopolos v. Citizens for Strong Schs., Inc., 81 So. 3d 465, 473 (Fla. 1st DCA 2012). The Supreme Court declined review. *Haridopolos v. Citizens for Strong Schs., Inc.*, 103 So. 3d 140 (Fla. Sept. 11, 2012).

4. After a bench trial, the trial court issued a final judgment concluding that the claim was non-justiciable and violated separation of powers, but at the same time upholding as constitutionally adequate the state public education system. *See* App. A.

5. Appellants timely appealed, and the appeal is currently pending.

6. Appellants suggest that this Court certify this appeal for immediate resolution by the Florida Supreme Court pursuant to Florida Constitution Article V, Section 3(b)(5), and Florida Rule of Appellate Procedure 9.125.

7. As grounds for the suggestion, Appellants state the following to support the public importance of the case:

a. Florida Constitution Article IX, Section 1(a), describes the education of all of the State's children as a "fundamental value of the people" and places a "paramount duty" upon the State to make "adequate provision by law for a uniform, efficient, safe, secure, and high quality system of free public schools that allows students to obtain a high quality education."

b. This case has statewide importance, which is amplified by the trial court's concern that children are consigned for years to failing schools. App. A, at 14; App. B ¶ 183. Forty-two percent of students cannot pass the state reading assessment. App. B ¶ 208.

One-third of African American students fail to graduate. App. B ¶ 230. Yet the trial court found there were no judicially manageable standards to determine whether the system is “uniform, efficient, safe, secure and high quality.” App. A, at 18-19.

- c. This Court en banc previously found this question to be one of public importance. 81 So. 3d at 473. It is no less important now.
- d. Other legal conclusions by the trial court regarding political question and separation of powers also present questions of public importance needing finality and resolution by the Florida Supreme Court. App. A, at 19-21.

8. As grounds for the suggestion, Appellants state the following to support the need for immediate resolution of the case:

- a. Since this case was filed in 2009, a generation of children have failed to achieve. The trial court noted its discomfort with students consigned to these failing schools, writing:

However, the Court must note that it was surprised at how long a school could remain in “F” status pursuant to the enactments of the legislature. ... There can be little doubt that allowing a school to remain in F status for an extended period of time raises serious issues regarding the constitutional acceptance of such an event.

App. A, at 13-14.

- b. A lack of resolution of these issues amounts to a nullification of the constitutional provision itself. There is a need for finality after eight years of litigation, and that finality can properly be supplied by the Florida Supreme Court.
- c. This suggestion to certify to the Florida Supreme Court will not deprive this Court of the opportunity to examine and express itself on the case. This Court en banc already has spoken concerning the jurisdictional issues and certified a question to the Florida Supreme Court, which declined review at that time. *See supra*. This Court already stated that questions about the State's paramount duty under Article IX are "significant, but unsettled." 81 So. 3d at 466.
- d. In the interest of judicial economy, certification will allow the Florida Supreme Court an opportunity to rule sooner and resolve matters of public importance regarding whether Florida's children continue to be deprived of a high quality public education system. This eight-year ramble through the Florida court system is harming the students who are not achieving and are not being offered the high quality education they need to succeed.

CERTIFICATE OF COUNSEL

I EXPRESS A BELIEF, based on a reasoned and studied professional judgment, that this appeal warrants and requires immediate resolution by the Florida Supreme Court, and that the appeal involves an issue of the greatest public importance.

/s/ Jodi Siegel _____

Attorney for Appellants

Respectfully submitted this 28th day of June 2016.

/s/ Jodi Siegel

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I HEREBY CERTIFY that a copy of this Suggestion for Certification was
furnished to the following list by electronic mail this 28th day of June, 2016.

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