

NO. 25-CV-1994

IN THE
SUPREME COURT OF THE UNITED STATES
MARCH TERM 2026

LAURA MARSHALL,
Petitioner,

v.

CHURCH OF LIGHT, LLC
Respondent.

*On Writ of Certiorari to the
United States Court of Appeals
for the Fifteenth Circuit*

BRIEF FOR PETITIONER

Attorneys for Petitioner

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QUESTIONS PRESENTED

1. Does the Campus Anti-Doxxing Statute violate the free speech rights of the Church of Light by imposing liability for speech concerning a matter of wide public debate?
2. Does the Campus Anti-Doxxing Statute violate the Free Exercise Rights of the Church of Light by suppressing the Church of Light's religious practice?

OPINIONS BELOW

The Fifteenth Circuit's decision, entered on December 29, 2025, is reported at *Marshall v. Church of Light, LLC*, No. 25-CV-1994 (15th Cir. 2025). (R. at 30–43.) The District Court's decision, entered December 8, 2025, is reported at *Marshall v. Church of Light, LLC*, No. 25-CV-1994 (D. Delm. 2025). (R. at 2–29.)

STATEMENT FOR THE BASIS OF JURISDICTION

This Court has jurisdiction to review a decision upon granting a Writ of Certiorari under 28 U.S.C. § 1254(1). The United States Court of Appeals for the Fifteenth Circuit entered final judgement in favor of Respondent on December 29, 2025. (R. at 30–43.) Petitioner timely filed a Petition for Writ of Certiorari which was granted on January 7, 2026. (*Id.* at 50.)

INTRODUCTION

Freedom of expression and exercise are two of the most fundamental rights enshrined in our founding charter. Yet the Fifteenth Circuit infringed upon these rights by finding that the Church of Light's activity was not protected under the First Amendment. Delmont's Campus Anti-Doxxing Statute unjustly punishes protected activity and unduly burdens the ability of believers to practice their religion.

The Fifteenth Circuit failed in free expression analysis, improperly distinguishing the instant facts compared to *Snyder v. Phelps*, 562 U.S. 443 (2011). Distinguishing from *Snyder*

ignores the reality of First Amendment doctrine, as Delmont’s actions penalized expression doctrinally identical to that in *Snyder*. This Court should find *Snyder* governs here, and reverse the Fifteenth Circuit’s decision, reinstating the district court’s opinion which extended fundamental protections to people of Delmont.

The Fifteenth Circuit also failed in its analysis of the free exercise clause. The Fifteenth Circuit ignored centuries of Church history in Delmont to arrive at the erroneous conclusion that CADS is neutral and generally applicable. They disregarded controlling precedent in *Yoder*, 406 U.S. 205 (1972) and *Mahmoud*, 606 U.S. 522 (2025). They flouted the hybrid rights exception this Court outlined in *Emp. Div. v. Smith*, 494 U.S. 872 (1990). This Court should reaffirm its precedent by faithfully applying its free exercise jurisprudence and should accordingly reverse.

STATEMENT OF THE CASE

The Church’s Long History in Delmont

For over a century, The Church of Light (“the Church”) has spread their religious tenets through public, live, and personal expression. (R. at 8.) The Church arose in Delmont in the nineteenth century and from the start relied on missionaries called “Lightbearers” to spread its message through vocal proclamation and written witness. (*Id.* at 8, 44.) Specifically, Lightbearers disseminated *The Lantern*, a publication covering local news alongside religious messages. (*Id.* at 8.) *The Lantern* became many communities’ primary news source, favored for its free and reliable coverage. (*Id.*)

Today, the Church attracts new followers by broadcasting *The Lantern* on live television. (*Id.* at 8.) Campus groups of Lightbearers, called “Lightbearer Missionaries,” have grown to embrace the new technology. (*Id.* at 9.) In 2024, *The Lantern* evolved again, airing the live *Lantern*

broadcasts on screens mounted to a fleet of vans. (*Id.* at 9.) Lightbearers also disseminate resources, including substance abuse resources, to students on college campuses. (*Id.* at 12.)

Delmont Punishes Protected Expression

In the fall of 2024, the Delmont legislature took up the question of how best to balance environmental conservation and sustainable energy policy. Should a thousand acres of woodland, mountain, and plain lie undeveloped, or should those acres be devoted to renewable energy? (*Id.* at 4.) This question triggered passionate public debate, and two sides formed: the “Nature Coalition,” favoring conservation, and the “Energy Coalition,” favoring sustainable energy development. (*Id.* at 5.)

Protests erupted on college campuses resulting in a dispute that has become known as the Energy Farm Controversy (“the controversy”). (*Id.* at 5.) In August 2025, campus protests reached their peak when “flash shares” gained popularity. (*Id.*) In a flash share, an organizer disseminates an individual’s information, including their phone number, location, and a photo of them, and members of the opposing coalition quickly show up and accost the individual. (*Id.* at 6.)

In response, Delmont adopted the Campus Anti-Doxxing Statute (“CADS”). (*Id.* at 6.) CADS creates a private right of action against individuals who, without consent, use any communication platform to disclose the private information¹ of a student, faculty member, or staff member at a college or university, intending to “stalk, harass, or physically injure” them. (*Id.*) To date, only two successful lawsuits have been filed under CADS. (*Id.*)

¹ As relevant here, the statute defines “private information” as: “(A) [t]he plaintiff’s home address, email address... or any other personally identifiable information; (B) Contact information for the plaintiff’s employer; (C) Contact information for a family member of the plaintiff...” Del. Ann. Stat. § 163.732 (2020); (R. at 7.).

The Incident

In the fall of 2025, Delmont State University (“DSU”), which had long hosted a Lightbearer Missionary chapter, became the latest university to play host to the controversy. (*Id.* at 8.) The DSU Lightbearers endorsed the Energy Coalition, and interspersed their neutral reporting on the controversy with messages favoring the Energy Coalition. (*Id.* at 11–12.)

Around September 22, 2025, the DSU Lightbearers reported on an impassioned speech in favor of the Nature Coalition. Laura Marshall, the Respondent, had delivered the speech at an earlier Nature Coalition protest, and the speech received extensive news coverage due to the strength of her rhetoric. (*Id.* at 10.) As part of their usual reporting on both sides of the controversy, the DSU Lightbearers included in their van-based broadcast a clip of Ms. Marshall’s speech taken from the local news. (*Id.* at 10, 45.) Following the speech, the vans displayed resources available to students including photos of two treatment centers, the Delmont Treatment Center and St John’s Church Counseling Center. (*Id.* at 10.) Accompanying the photos of the treatment centers was the address, phone number, and hours of each center. (*Id.*)

The photo of the Delmont Treatment Center, which was taken from the center’s website, showed Ms. Marshall sitting at the front desk. (*Id.* at 10, 45.) At the time the photos were broadcast, Ms. Marshall was both an employee and patient at the treatment center. (*Id.* at 1, 11.)

On September 23, 2025, a group wearing Energy Coalition shirts—unrelated to the Lightbearers—confronted Ms. Marshall as she was leaving the treatment center. (*Id.* at 11.) They insulted Ms. Marshall and keyed her car. (*Id.*) The following night a similar incident occurred, and Ms. Marshall, attempting to flee in her car, clipped a light pole, damaging both. (*Id.*) Ms. Marshall then quit her job at the treatment center. (*Id.* at 12.)

Procedural History

On October 3, 2025, Ms. Marshall sued the Church under CADS. (*Id.*) The Church moved for summary judgment on the ground that CADS, as applied to the Church, violates the Church's rights to free speech and free exercise. The District Court correctly agreed, granting the Church's motion and finding that CADS impermissibly infringes the Church's First Amendment rights. (*Id.* at 29.) As to the free speech claim, the District Court concluded that: (1) the First Amendment applies to the Church's activity; (2) CADS fails strict scrutiny; and (3) there is no genuine dispute of material fact because CADS is unconstitutional as applied to the Church. (*Id.* at 14, 19.) As to the free exercise claim, the court concluded that (1) the First Amendment applies, (2) CADS is not neutral and generally applicable and is thus subject to strict scrutiny, and (3) the law is not narrowly tailored and fails strict scrutiny. (*Id.* at 20, 28.) On appeal, the Fifteenth Circuit reversed on both issues.

SUMMARY OF THE ARGUMENT

CADS violates the Church's First Amendment right to free expression because the Church's broadcast was protected expression. CADS is a content-based regulation, so unless the Church's broadcast was unprotected expression, CADS is subject to strict scrutiny. *Snyder v. Phelps* held that speech substantively identical to the Church's is protected, and the Fifteenth Circuit's attempts to distinguish *Snyder* fail at once in their own terms and in their fundamental premises. Thus, CADS is subject to strict scrutiny, and it fails strict scrutiny because it is over- and underinclusive.

CADS also violates the Church's First Amendment right to free exercise. CADS is not neutral and generally applicable because it covertly suppresses religious activity while leaving comparable secular activity untouched. Even if CADS is neutral and generally applicable, CADS

contravenes *Yoder* and *Mahmoud* because it burdens the religious development of young Lightbearers. Further, because the Church’s religious practice and speech are inextricable, the Church’s free exercise right has been violated under the hybrid rights doctrine. All three of these violations require this Court to apply strict scrutiny. CADS fails strict scrutiny because it is not narrowly tailored.

ARGUMENT

Standard of Review. Summary judgment is proper when “the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law.” Fed. R. Civ. P. 56(a). A dispute is genuine only when “a reasonable jury could return a verdict in favor of the nonmoving party” based on the evidence presented. *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986). A fact is material if it “might affect the outcome of the suit under the governing law.” *Id.* While the court must view all facts and reasonable inferences drawn from them in the light most favorable to the non-moving party, summary judgment is warranted if the nonmovant fails to show the existence of a material fact. *Beard v. Banks*, 548 U.S. 521, 529 (2006); *United States v. Diebold, Inc.*, 369 U.S. 654, 655 (1962). Because the Church of Light has shown that there is no dispute of material fact, the burden has shifted to Laura Marshall, the nonmovant, to demonstrate that there is a dispute of material fact.

I. CADS VIOLATES THE FREE SPEECH CLAUSE BECAUSE IT SANCTIONS PROTECTED SPEECH.

The First Amendment protects the “freedom to think as you will and to speak as you think” from state-imposed and state-sponsored sanction. *303 Creative LLC v. Elenis*, 600 U.S. 570, 584 (2023) (quoting *Boy Scouts of Am. v. Dale*, 530 U.S. 640, 660–61 (2000)). That is because expression is of weighty value “both as an end and as a means.” *Id.* As an end, expression is among our “inalienable human rights,” valuable in itself. *Id.* And expression is a crucial means for a

democratic society because it furthers “the ultimate good desired”—political truth, which is “better achieved by free trade in ideas” than state regulation. *Abrams v. United States*, 250 U.S. 616, 630 (1919) (Holmes, J., dissenting). Thus, “[s]peech on public issues occupies the highest rung of the hierarchy of First Amendment values,” for when an individual speaks on a matter important both to themselves and their society, their speech is an end and means at once. *Snyder v. Phelps*, 562 U.S. 443, 452 (2011) (quoting *Connick v. Myers*, 461 U.S. 138, 145 (1983)).

Of course, the First Amendment protects more than just public speech of the highest order. As a general matter, the First Amendment prohibits any regulation that singles out particular forms of expression for sanction. See *Ashcroft v. ACLU*, 535 U.S. 564, 573 (2002) (“The First Amendment means that government has no power to restrict expression because of its message, its ideas, its subject matter or its content.” (quoting *Bolger v. Youngs Drug Prods. Corp.*, 463 U.S. 60, 65 (1983))). Such “[c]ontent-based regulations are *presumptively invalid*.” *R.A.V. v. City of St. Paul*, 505 U.S. 377, 382 (1995) (emphasis added).

This general rule has just a few “well-defined and narrowly limited” exceptions. *United States v. Stevens*, 559 U.S. 460, 468–69 (2010) (quoting *Chaplinsky v. New Hampshire*, 315 U.S. 568, 571–72 (1942)). “[I]t does not embrace,” for example, “defamation, incitement, obscenity, and pornography produced with real children,” *Ashcroft v. Free Speech Coal.*, 535 U.S. 234, 245–46 (2002), forms of speech commonly described as being of the slightest social value and the gravest danger to the public order, *Stevens*, 559 U.S. at 470. And, to be sure, nondefamatory yet tortious speech may be unprotected as well—so long as that speech addresses solely matters of private concern. See *Fla. Star v. B.J.F.*, 491 U.S. 524, 541 (1989) (declining to address whether “truthful publication is automatically constitutionally protected”); *Snyder*, 562 U.S. at 451–52.

Crucially, however, the description for unprotected categories of speech is “just that—descriptive.” *Stevens*, 559 U.S. at 471. The government has no “freewheeling authority to declare new” unprotected categories of speech after a mere cost-benefit analysis, even when seeking to further undoubtedly important interests. *See id.* at 472.

But creating a new unprotected category of speech—“doxxing”—after a mere cost-benefit analysis is precisely what Delmont did here. Faced with the problem of volatile mobs on campuses, Delmont’s position while drafting CADS was sympathetic. Surely the United States’ position was sympathetic when it sought to tamp down on animal cruelty and child exploitation by forbidding all depictions of animal cruelty and child exploitation. But even in those cases, the Court did not backslide into permitting the government to suppress protected speech. *Stevens*, 559 U.S. at 460 (holding that not all “[d]epictions of animal cruelty” are unprotected); *Free Speech Coal.*, 535 U.S. at 239 (striking down a law that banned all “sexually explicit images that appear to depict minors”).

The Fifteenth Circuit, meanwhile, not once expressly identifying what unprotected category comprises the Church’s speech, yet repeatedly emphasizing Delmont’s interests, effectively treated the Church’s speech as unprotected. *See, e.g.*, (R. at 33–34) (“Here, the state is protecting public safety.”); (“[The Church’s] arguments are a mere pretext for exactly the sort of doxxing . . . prohibited by CADS in the interest of public safety.”). Even absent directly controlling precedent, that approach would be faulty because speech is presumptively protected, not presumptively unprotected. And in any event, directly controlling precedent exists.

A. The Church’s Broadcast is Protected Speech Under Snyder.

Snyder v. Phelps controls this case: the Church’s broadcast is protected speech because it was nondefamatory and on a matter of public concern. 562 U.S. at 458 (“Given that [defendant’s]

speech was at a public place . . . on a matter of public concern, that speech is entitled to ‘special protection’ under the First Amendment.”). In *Snyder*, the Westboro Baptist Church (“Westboro”), an ultrafundamentalist Protestant church, picketed the Catholic funeral of a marine who had been killed in the line of duty in Iraq. They held signs. *Id.* at 448. Anti-American signs said things like “Thank God for IEDS”; anti-Catholic signs said things like “Priests Rape Boys”; and homophobic signs included deeply hurtful slurs. *Id.* When the plaintiff, the marine’s father, sued for, as relevant here, intentional infliction of emotional distress (“IIED”) and intrusion upon seclusion, *id.* at 450, Westboro conceded that their speech was tortious, *see id.* at 465 (Alito, J., dissenting), and argued that the First Amendment protected their speech even so, *id.* at 450.

This Court agreed. Because the signs’ messages went to matters of public concern such as the moral state of the nation and the abuse crisis in the Catholic Church, and because speech on matters of public concern is of special First Amendment importance, the Court held that the First Amendment foreclosed liability for the signs. *See id.* at 451–52 (“Whether the First Amendment prohibits holding Westboro liable for its speech . . . turns largely on whether that speech is of public or private concern”); *see also id.* at 454.

Here, the Church’s broadcast was likewise on a matter of public concern, and so the First Amendment likewise forecloses liability for it. To determine whether certain speech is on a matter of public or private concern, this Court looks to the “content, form, and context of that speech, as revealed by the whole record.” *Snyder*, 562 U.S. at 454. The Court then inquires whether the speech relates to any “issue of interest to society at large” or instead touches only “matters of ‘purely private concern.’” *Id.* (quoting *Dun & Bradstreet v. Greenmoss Builders, Inc.*, 472 U.S. 749, 759 (1985)).

While the line between public and private speech was “not well defined” when *Snyder* was decided, *id.* at 452, and remains “a little fuzzy,” *Berge v. Sch. Comm. of Gloucester*, 107 F.4th 33, 42 (1st Cir. 2024), the Church’s speech is well on the public side of it. The content of the Church’s broadcast—what was said—is of two parts: (1) the clip of Ms. Marshall’s speech; and (2) the following photo of Ms. Marshall at the Delmont Treatment Center that was accompanied by information about substance abuse resources. Each part relates to an issue of interest to Delmont society. First, Ms. Marshall’s speech was a “str[ong]” piece of rhetoric in favor of the Nature Coalition’s position on the controversy, an issue “dominating debate statewide.” (R. at 16.)

Second, Ms. Marshall’s photo only “presents a closer question” when taken in isolation. (*Id.*) Examining the record as a whole reveals that Ms. Marshall’s photo and identity relate to the controversy by connection to Ms. Marshall’s speech. (*Id.* at 10.) The Church’s broadcast, after all, did not show a speech by *somebody else* and then show *Ms. Marshall’s* photo. Rather, the broadcast showed a speech on a matter of decisive public concern, and the broadcast then reported on who gave the speech. Even taking that move in its worst light—as an *ad hominem* attack on the Nature Coalition’s position by connecting it to the personal struggles of its members—that attack would still go to the controversy, and “[t]he inappropriate or controversial character of a statement is irrelevant to the question whether it deals with a matter of public concern.” *Rankin v. McPherson*, 483 U.S. 378, 387 (1987).

Examining the broadcast’s form and context—the how and where of what was said—buttresses the conclusion that the broadcast was on a matter of public concern. As to form, the clip and photo of Ms. Marshall were part of a regular Church production, including local news, the weather, and event calendars. Additionally, the Church has long covered the controversy, both

reportorially and editorially. The broadcast, at bottom, was part of a newscast. And if anything has “historically functioned as a mechanism to raise awareness of contemporary social issues,” it is newscasts. *Bell v. Itawamba Cnty. Sch. Bd.*, 799 F.3d 379, 409 (5th Cir. 2015).

As to context, a documentary shown even to a small, invite-only audience is made far from a “purely private context,” *Spacecon Specialty Contractors, LLC v. Bensinger*, 713 F.3d 1028, 1038 (10th Cir. 2013). Here, the Church’s broadcast was made on a public street, so it was made even further from a purely private context. Taken together, content, form, and context all point in the same direction: the Church’s broadcast was on a matter of public concern.

That brief analysis resolves this case; the Fifteenth Circuit missed it for two main reasons. First, the Fifteenth Circuit focused more on the nature of Delmont’s interests than the Church’s speech, turning First Amendment analysis on its head; Second, the Fifteenth Circuit confused two distinct questions: whether speech is on a matter of public concern and whether it is about a public figure.

1. The Fifteenth Circuit Erroneously Concluded that Snyder Does Not Apply Here.

According to the Fifteenth Circuit, *Snyder* involved a “state’s interest in protecting reputations from defamation,” while here Delmont seeks to protect public safety, so the cases are distinguishable. (R. at 33.) But *Snyder* did not involve defamation. The plaintiff in *Snyder* had initially sued Westboro for defamation, but that claim had long been dismissed by the time the case reached this Court. *See* 562 U.S at 450. The Fifteenth Circuit’s more fundamental error, however, is its implicit premise that First Amendment protection hinges more on the nature of the state interest at issue than the speech at issue.

That is not how the First Amendment works, and *Snyder* itself shows as much. For one thing, while *Snyder* had a “narrow” holding (because whether speech is on a matter of public concern is a fact-sensitive inquiry), it applied a broad principle. *See id.* at 451, 460 (“Whether the First Amendment prohibits [liability] . . . turns largely on whether [Westboro’s] speech is of public or private concern, *as determined by all the circumstances of the case.*”) (emphasis added).

For another thing, the *Snyder* Court treated the same First Amendment principles as applicable across a range of contexts implicating different state interests. The Court began with the IIED analysis and relied upon multiple defamation cases, all without qualification and even though IIED and defamation serve different state interests. *See, e.g., id.* at 452 (citing *Dun & Bradstreet, Inc.*, 472 U.S. at 749). And when it turned to the intrusion upon seclusion analysis, the Court considered only whether the captive audience doctrine applied; the Court did not reappraise whether being on a matter of public concern was enough to protect Westboro’s speech, even though IIED and intrusion upon seclusion serve different state interests. *See Snyder*, 562 U.S. at 459–60.

Finally, *Snyder* was perhaps clearest in what it did not do. Were there ever a case that invited careful interest-balancing, it was a case that had signs replete with slurs on the one side of the scales and on the other a father’s “incalculable grief.” *Id.* at 456. But that invitation was rejected, and another approach taken. *Snyder* said, again and again, that speech on matters of public concern is entitled to special protection, and it said little about the state interests behind IIED and intrusion upon seclusion. *See id.* at 456, 458. It was the dissent that centered on state interests. *Id.* at 471–74.

2. The Fifteenth Circuit Erroneously Applied *Snyder*.

Below, the Fifteenth Circuit argued in the alternative that, even if *Snyder* applies, it does not forestall Ms. Marshall's recovery because she was not a public figure. While this argument fails on its own terms because Ms. Marshall *was* a public figure, the argument's more serious flaw is that it confuses the distinct public concern and public figure analyses.

To be sure, the analyses are somewhat related. They are related insofar as speech about a public figure is effectively on a matter of public concern as well for purposes of constitutional protection. *Gertz v. Robert Welch, Inc.*, 418 U.S. 323, 333–34 (1974); *Dun & Bradstreet*, 418 U.S. at 758–59. Put another way, speech being about a public figure is a sufficient condition for it being on a matter of public concern. But the analyses are distinct because sufficient conditions are not the same as necessary conditions. In *Dun & Bradstreet*, the plaintiffs were not public figures, limited-purpose or otherwise, but the Court still analyzed whether the defendant's speech was on a matter of public concern (and found that it was not). *Dun & Bradstreet*, 472 U.S. at 761–62. In *Snyder*, the plaintiff's decedent was not a public figure, but the Court still analyzed whether Westboro's speech was on a matter of public concern (and found that it was). *Snyder*, 562 U.S. at 445–48. So, even if Ms. Marshall were not a public figure, the Church's speech would still be protected.

Nevertheless, to the extent that speech about a public figure is effectively a matter of public concern as well, that Ms. Marshall was a limited-purpose public figure further supports the conclusion that the Church's speech is constitutionally protected. A limited-purpose public figure is someone who "voluntarily injects himself or is drawn into a particular public controversy," and speech about them is constitutionally protected so long as it fairly relates to the "limited range of

issues” constituting that controversy. *Gertz*, 418 U.S. at 351. In *Gertz*, the Court held that an attorney did not voluntarily inject himself into public controversy surrounding the criminal prosecution of a police officer merely by representing the plaintiffs in a related civil suit against that officer, reasoning that the attorney had never “discussed either the criminal or civil litigation” with the press. *Id.* at 326–28, 352. Here, by contrast, Ms. Marshall voluntarily injected herself into the controversy by giving a public speech in favor of the Nature Coalition “at the height of the campus conflicts” surrounding the controversy. In so doing, she “engage[d] the public’s attention in an attempt to influence [the] outcome” of the controversy. *Gertz*, 418 U.S. at 399.

In sum, the Church’s broadcast was on a matter of public concern, so the First Amendment imposes strict scrutiny on CADS.

B. The Church’s Broadcast is Not a True Threat or Incitement.

But even if *Snyder* did not control this case, Ms. Marshall would still have the burden of showing that the Church’s broadcast was otherwise unprotected, which Ms. Marshall cannot do.

First, the broadcast was not a true threat. By a true threat, a “speaker means to communicate a serious expression of an intent to commit an act of unlawful violence to a particular individual or group of individuals.” *Virginia v. Black*, 538 U.S. 343, 359 (2003). And that intent is the speaker’s intent. *See id.* (“The *speaker* need not actually intend to carry out the threat.”) (emphasis added). Here, then, the broadcast was not a true threat because, even taking Ms. Marshall’s characterization of the broadcast as true, the broadcast meant to express *third parties’* intent to commit unlawful acts. Incitement, the unprotected category associated with third-party lawlessness, is the more natural—and last—refuge of CADS.

But the broadcast was not incitement either. Incitement is (1) “advocacy of the use of force or of law violation” (2) that is (a) “directed to inciting or producing imminent lawless action” and (b) “is likely to incite or produce such action.” *Brandenburg v. Ohio*, 395 U.S. 444, 447 (1969). Here, however, the Church’s broadcast included no mention of the use of force or of law violation: the broadcast showed a speech, identified the one who gave that speech, and provided information about substance-abuse resources. So, the first prong of the *Brandenburg* test can only be met if advocacy of lawless action were inferred from the fact that, in this particular instance, lawless action resulted. Such a line of reasoning, however, would swallow the first prong of the *Brandenburg* test into its second prong, so *Brandenburg* itself forecloses it. To be sure, doxxing may often take a form close to incitement. But “[p]rotected speech does not become unprotected merely because it resembles the latter. The Constitution requires the reverse.” *Free Speech Coal.*, 235 U.S. at 255.

C. CADS Fails Strict Scrutiny.

CADS facially regulates the content of protected speech, so strict rather than intermediate scrutiny is appropriate, and CADS fails strict scrutiny. *See Free Speech Coal. v. Paxton*, 606 U.S. 461, 482 (2025). Under strict scrutiny, a regulation “may be justified only if the government proves that [it] is narrowly tailored to service compelling state interests.” *Reed v. Town of Gilbert*, 576 U.S. 166, 163 (2015). And while Delmont’s interest in public safety is compelling, CADS is too loosely tailored to overcome strict scrutiny.

To start, CADS is overinclusive. CADS is meant to work as a sort of prophylactic medicine: it is meant to prevent the disorderly mobs triggered or enabled by flash shares by “address[ing] the initial disclosure practice”—doxxing—“that create[s] the risk.” (R. at 47–48.)

But CADS is too strong a medicine, imposing liability for speech that creates *no* such risk. Suppose an employee at a store treats a customer poorly. If that customer, excessively disgruntled, goes on social media and makes a “post” naming the employee and encouraging others to call the store and ask that the employee be fired, they violate CADS. The customer disclosed the employee’s personal information—contact information for the employee’s employer—with the intent of getting the employee fired—something sure to cause “severe emotional distress” manifesting in at least “anxiety,” but very unlikely to incite a mob. (R. at 6 n.1, 7.)

CADS is underinclusive as well. If an individual is a student—those the Delmont legislature putatively had in front of mind when passing CADS—a mob can find and harass them just as well with knowledge of their class schedule as with knowledge of their personal address. CADS, however, imposes no liability for disclosing a class schedule; nor does it impose liability for sharing where someone works, worships, or relaxes, despite the fact that a mob can take advantage of such information. To the extent CADS incorporates such information under the vague description of “other personally identifiable information,” that underscores rather than undercuts CADS’s constitutional infirmity. The “unusual” doctrine of First Amendment overbreadth exists precisely because of the unique risk to free expression posed by vague, “[o]verbroad laws” that “may deter or chill constitutionally protected speech.” *United States v. Hansen*, 599 U.S. 762, 769–70 (2023).

II. CADS VIOLATES THE FREE EXERCISE CLAUSE BECAUSE IT BURDENS THE CHURCH’S RELIGIOUS PRACTICE.

CADS also violates the Church’s right to free exercise of religion. The First Amendment, incorporated against the states through the Fourteenth, provides that “Congress shall make no law... prohibiting the free exercise” of religion. U.S. Const. Amend. I; *Cantwell v. Connecticut*,

310 U.S. 296, 303 (1940). The Free Exercise Clause protects “the ability of those who hold religious beliefs of all kinds to live out their faiths in daily life through ‘the performance of (or abstention from) religious acts.’” *Kennedy v. Bremerton Sch. Dist.*, 597 U.S. 507, 524 (2022) (quoting *Emp. Div. v. Smith*, 494 U.S. 872, 877 (1990)). “Religious beliefs need not be acceptable, logical, consistent, or comprehensible to others in order to merit First Amendment protection.” *Thomas v. Rev. Bd.*, 450 U.S. 707, 714 (1981).

A. CADS is Not Neutral and Generally Applicable.

The Free Exercise Clause does not relieve an individual of the obligation to comply with a neutral, generally applicable law. *Smith*, 494 U.S. at 880. Laws that incidentally burden religion are ordinarily not subject to strict scrutiny. *Id.* at 882. But “the government fails to act neutrally when it proceeds in a manner intolerant of religious beliefs or practices because of their religious nature.” *Fulton v. City of Philadelphia*, 593 U.S. 522, 533 (2021). When the government fails to show that it acted neutrally, the law can only be upheld if it survives strict scrutiny. *Masterpiece Cakeshop, Ltd. v. Colo. Civ. Rts. Comm’n*, 584 U.S. 617, 644 (2018).

1. CADS is Not Neutral.

CADS is not neutral. A law fails to be neutral if it discriminates against a religious group on its face or in its purpose. *Church of Lukumi Babalu Aye v. City of Hialeah*, 508 U.S. 520, 533 (1993). Even if a law’s text does not discriminate, the Free Exercise Clause still “forbids subtle departures from neutrality” and “covert suppression of particular religious beliefs.” *Gillette v. United States*, 401 U.S. 437, 452 (1971); *see also Bowen v. Roy*, 476 U.S. 693, 703 (1986). “Apart from the text, the effect of a law in its real operation is strong evidence of its object.” *Lukumi*, 508 U.S. at 535. The Court must “survey meticulously the circumstances of governmental categories to eliminate... religious gerrymanders.” *Walz v. Tax Comm’n*, 397 U.S. 664, 696 (1970) (Harlan, J., concurring). The historical background of the state law and the series of events leading to its

enactment are two relevant factors to consider when assessing neutrality. *Masterpiece Cakeshop*, 584 U.S. at 619.

The Church’s widespread presence in Delmont and unique religious practices put state legislators on notice that CADS would impermissibly burden the Church’s religious practice. (R. at 22.) The Church of Light has a long history in Delmont. The Church was founded in Delmont in 1873. (*Id.* at 44.) Church members “dedicate [their] lives to travelling through Delmont, proclaiming [their] message in public places and disseminating a free, church-made publication called *The Lantern*.” (*Id.*) These *Lantern* broadcasts are the only way for Lightbearers to “spread [their] faith while remaining true to [their] tenet of serving as living witnesses.” (*Id.* at 45.) The record in this case compels the conclusion that CADS’s object was to suppress the Church of Light.

The Church of Light even appealed to Delmont Governor John Morrison. (*Id.* at 46.) The Church used its own television broadcasts and public proclamations to plead with Governor Morrison not to pass CADS. (*Id.*) Several Lightbearers wrote letters to Governor Morrison to inform him of the immense burden that CADS would place on the Church of Light. (*Id.*) Clearly, Delmont was on notice of, and thus contemplated, the covert suppression of the Church of Light’s religious beliefs.

2. CADS is Not Generally Applicable.

CADS also fails to be generally applicable. When a law provides some exemptions, it may not refuse to extend that system of exemptions to cases of religious hardship without a compelling reason. *See Lukumi*, 508 U.S. at 568; *see also Thomas*, 450 U.S. at 723 n. 1 (Rehnquist, J., dissenting). Laws that grant some exemptions are not generally applicable because they invite the government to decide which reasons for not complying with the law are worthy of solicitude. *See Fulton v. City of Philadelphia*, 593 U.S. 522, 537 (2021) (quoting *Smith*, 494 U.S. at 884). And CADS provides for a system of exemptions from the law because it imposes an intent requirement

on defendants. (R. at 6.) Defendants who show that they acted negligently, rather than purposefully or recklessly, are immune from suit under CADs. (*Id.*) This is despite the fact that the negligent release of personal information also undermines the public safety concerns behind CADs. *See also Tandon v. Newsom*, 593 U.S. 61, 62 (2021) (“[G]overnment regulations are not neutral and generally applicable . . . whenever they treat *any* comparable secular activity more favorably than religious exercise.”).

And to consider religiously-motivated conduct to not fall into an exemption tends to exhibit hostility, not neutrality, toward religion. *See Bowen*, 476 U.S. at 708. If the Church’s religious practices can be considered “purposefully or recklessly . . . plac[ing] a person in fear . . . to cause severe emotional distress,” then CADs tends to exhibit hostility toward the Lightbearers. (R. at 6.) Because CADs subtly departs from neutrality and is not generally applicable, CADs is subject to strict scrutiny.

B. CADs Contravenes Yoder and Mahmoud.

Even if CADs is neutral and generally applicable, this Court should still apply strict scrutiny because CADs contravenes *Wisconsin v. Yoder*, 406 U.S. 205 (1972). That is because strict scrutiny applies even to a neutral and generally applicable law “[w]hen the burden imposed [on Free Exercise rights] is of the same character as that imposed in *Yoder*.” *Mahmoud v. Taylor*, 606 U.S. 522, 564 (2025). *Yoder*, that is, is an “exception to the general rule that governments may burden religious exercise pursuant to neutral and generally applicable laws.” *Id.*

In *Yoder*, this Court held that requiring Amish parents to send their children to public school violated their right to free exercise. 406 U.S. at 218. The public school requirement “contravenes the basic religious tenets and practice of the Amish faith, both as to the parent and the child.” *Id.* Moreover, the impact of the law on the practice of the Amish religion was “not only

severe, but inescapable.” *Id.* The Court in *Yoder* described the public school requirement as a substantial interference with the “religious development” of Amish children and their “integration into the way of life” of the community. *Id.*

So too here, compliance with CADS contravenes the basic religious tenets and practice of Lightbearers. Lightbearers “dedicate [their] lives to travelling through Delmont, proclaiming [their] message in public places and disseminating a free, church-made publication called *The Lantern*.” (R. at 44.) One of the Church’s central tenets is serving as living witnesses. (*Id.* at 45.) The Church was founded upon a mission of evangelization. (*Id.* at 44.) That mission fails without the Church’s young adults. (*Id.* at 45.) The Church believes that “during their adult years, while pursuing higher education and career life, members would become more resolute in their faith and advocate for it, specifically through serving a missionary year during the ages of eighteen and twenty-two.” (*Id.*) If Lightbearer missionaries are prohibited from proselytizing, this will interfere with their religious development and will impede their integration into the Lightbearer way of life. Like the law in *Yoder*, CADS substantially interferes with Lightbearers’ religious development and their integration into the way of life of their community.

Mahmoud involved public schools that introduced LGBTQ-inclusive books into their curriculum. 606 U.S. at 528–29. The school board initially adopted a policy of notifying parents when the books would be taught so that parents could opt to have their children excused from class. *Id.* at 538. The Board eventually ended the notification and opt-out policies, and parents asserted that their Free Exercise right to control their children’s religious upbringing was infringed. *Id.* The Court held that the Board’s policies substantially interfered with the children’s religious development and posed a “very real threat of undermining the religious beliefs and practices that the parents wish[ed] to instill in their children.” *Id.* at 565. The court in *Mahmoud* noted that

parents were forced to “make a choice—either adhere to their faith or receive a free public education for their children. Forcing parents to make such a choice was... a burden on their religious exercise.” *Id.* at 545 (internal quotation marks omitted).

Here, the choice Lightbearers are left with is even more alarming. Lightbearers may either continue to practice their faith and risk a flood of lawsuits—which would sink the Church through bankruptcy—or they may abandon their faith and the Church will decline. (R. at 45) Delmont has left Lightbearers in an “inescapable” catch–22, *Yoder*, 406 U.S. at 218, so ““objective danger”” to the Church’s free exercise of religion “is present here,” *Mahmoud*, 606 U.S. at 546. Moreover, like the parents in *Mahmoud*, Lightbearers believe that proselytizing is necessary for their religious development. (R. at 45.) Surely, the right at issue here is of the same character as the right in both *Yoder* and *Mahmoud*.

C. The Church of Light Has a Cognizable Hybrid Rights Claim.

Even if this Court thinks CADS is neutral and generally applicable, this court carved out an exception for hybrid rights claims in *Smith*. 494 U.S. 872, 882 (1990). When free exercise claims are connected with communicative activity, strict scrutiny should be applied even when the law is neutral and generally applicable on its face. *Id.*

Murdock and *Cantwell* are instructive. *Murdock* involved a solicitation statute that required anyone soliciting orders for goods to pay a fee and obtain a license. *Murdock v. Pennsylvania*, 319 U.S. 105, 106 (1943). Jehovah’s Witnesses were arrested for soliciting people to buy religious books without first acquiring a license. *Id.* at 106–07. This Court equated the statute’s licensing fee to taxing a preacher “for the privilege of delivering a sermon.” *Id.* at 112. The combined concerns of free exercise and freedom of expression made free exercise “so costly as to deprive

[the religion] of the resources necessary for its maintenance.” *Id.* As such, this Court held the First Amendment prohibited application of the law to the Witnesses. *Id.* at 112.

Similarly, *Cantwell* involved a statute providing an administrator with the discretion to refuse a license to solicit support for a religious cause if he believed the cause to in fact be secular. *Cantwell v. Connecticut*, 310 U.S. 296, 303–06 (1940). The defendants were arrested for distributing religious materials and brought a free exercise challenge to the law. *Id.* at 300. The particular act at issue involved solicitation of support for religious views, which was a communicative activity. *Id.* at 301–02. The *Smith* court interpreted *Cantwell* to stand for the principle that the First Amendment prevents prosecution of religious free exercise when doing so would contemporaneously abridge the freedom to communicate information within the Free Speech Clause. *Smith*, 494 U.S. at 881–82. *Smith* emphasizes that the combination of the religious implication with communicative activity exempts the religious group from obeying the law. *Id.* at 881.

When enforcement of a law would amount to censorship of a communicative activity and of religious exercise, this Court should apply strict scrutiny. *Murdock*, 319 U.S. at 114. Like the costly tax on the Jehovah’s Witnesses in *Murdock*, CADS requires the Church of Light to pay individuals who may be adversely impacted by the dissemination of their religious message. (R. at 45.) And like the distribution of religious materials in *Cantwell*, the Lightbearers engage in a communicative activity through their vans. (*Id.* at 9–10.) The Church’s religious beliefs and speech are inextricably linked, and thus this case exemplifies a state’s violation of hybrid rights.

While this Court is yet to articulate a test for evaluating hybrid rights claims, several Courts of Appeals have recognized hybrid rights as an exception to the *Smith* rule. See *C.L.s. for Urban Believers v. City of Chicago*, 342 F.3d 752, 765 (7th Cir. 2003) (recognizing the ability to bring a

hybrid rights claim but declining to apply the exception to the case at bar); *Cornerstone Bible Church v. City of Hastings*, 948 F.2d 464, 473 (8th Cir. 1991) (same); *Soc’y of Separationists, Inc. v. Herman*, 939 F.2d 1207, 1209 (5th Cir. 1991) (same); *Henderson v. Kennedy*, 253 F.3d 12, 19 (D.C. Cir. 2001) (same). The Tenth Circuit has an articulated, explicit analytical framework for the analysis of hybrid claims. See *Axson-Flynn v. Johnson*, 356 F.3d 1277, 1295 (10th Cir. 2004). The Tenth Circuit requires “the hybrid-rights claimant to show that the companion constitutional claim is colorable.” *Id.* at 1296–97. Here, the Church of Light’s free speech claim is colorable. See *supra* Part II.

D. CADS Fails Strict Scrutiny.

If a law is not neutral and generally applicable, the law must survive strict scrutiny. *Mahmoud*, 606 U.S. at 564. When the burden imposed is of the same character as that in *Yoder*, courts also apply strict scrutiny. *Id.* A law restrictive of religious practice must advance interests of the highest order and must be narrowly tailored in pursuit of those interests. *Lukumi*, 508 U.S. at 546 (quoting *McDaniel v. Paty*, 435 U.S. 618, 628 (1978)). Laws that target religious conduct will survive strict scrutiny only in rare cases. *Id.* The government bears the burden of establishing that a challenged law survives strict scrutiny. *Tandon*, 593 U.S. at 63. CADS, however, cannot survive strict scrutiny because it is over- and underinclusive. See *supra* Section II.C.

Delmont’s purported compelling interest is in protecting its citizens. But CADS is not drawn in narrow terms to accomplish that interest. Delmont’s interests could be achieved by narrower ordinances that burden religion to a far lesser degree. The absence of narrow tailoring is sufficient to establish the invalidity of the ordinances. *Ark. Writers’ Project, Inc. v. Ragland*, 481 U.S. 221, 232 (1987). Narrow tailoring requires the government to show that measures less

restrictive of the First Amendment activity could not address its interest in public safety. *Tandon*, 593 U.S. at 63.

CADS is both overbroad and underinclusive. CADS is overinclusive because it prohibits conduct that does not serve the government's interest in public safety. *See supra* Section II.C. CADS is underinclusive because it does not target all conduct that threatens the public safety. For one, CADS prohibits doxxing only of students, faculty, and staff at Delmont colleges and universities. (R. at 6.) This excludes other Delmont citizens. Moreover, CADS requires use of a "communication platform." (*Id.*) If an individual used word of mouth to spread information in order to dox someone, the victim would have no recourse under CADS. Because CADS is not narrowly tailored, it fails strict scrutiny and this Court must strike it down.

CONCLUSION

CADS, as applied in this case, violates Petitioner's First Amendment rights to free expression and free exercise, and CADS fails strict scrutiny. Petitioner therefore respectfully requests that this Court REVERSE the Fifteenth Circuit.

APPENDIX A

Constitutional Provisions

U.S. Const. amend. I

Congress shall make no law respecting an establishment of religion, or prohibiting the exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

CERTIFICATE OF COMPLIANCE

In compliance with the Official Competition Rules for the Seigenthaler-Sutherland Moot Court Competition, Counsel for Petitioner certifies that:

1. The work product contained in all copies of our brief is the work product of our team;
2. Our team has fully complied with our school's governing honor code; and
3. Our team has fully complied with all Competition Rules.

Team 3

Counsel for Petitioner