

No. 25-CV-1994

In the Supreme Court of the United States

CHURCH OF LIGHT, LLC

PETITIONER,

v.

LAURA MARSHALL,

RESPONDENT.

*ON WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS FOR THE FIFTEENTH CIRCUIT*

BRIEF FOR RESPONDENT

Team Number 5

Respondent

QUESTIONS PRESENTED

The questions presented are:

1. Whether the Campus Anti-Doxxing Statute (CADS) violates the First Amendment's freedom of speech right, when it only targets speech that has a purpose of intimidating the victim and is about a private matter of concern, and when the law is aimed at the secondary effects of the speech.
2. Whether the Free Exercise Clause requires strict scrutiny of CADS, a facially neutral and generally applicable anti-doxxing statute when a religious organization claims that its dissemination of identifying information is religiously motivated.

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The opinion of the court of appeals is unpublished but may be found at C.A. No. 25-CV-1994 (15th Cir. 2025). The opinion of the district court is unpublished but may be found at No. 25-CV-1994 (D. Del. 2025).

STATEMENT OF JURISDICTION

On December 29, 2025, the Fifteenth Circuit entered its judgment. The petition for a writ of certiorari was filed on December 30, 2025, and was granted on January 7, 2026. This Court has jurisdiction under 28 U.S.C. §1254(1).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The First Amendment to the United States and The Campus Anti-Doxxing Statute (“CADS”), Del. Ann. Stat. §25.989 (2025), and associated statutory definitions are reproduced in the appendix.

STATEMENT OF THE CASE

I. Introduction Of The Parties

Petitioner, the Church of Light, LLC, was the appellee in the court below. Respondent Laura Marshall was the appellant in the court below.

II. Statement Of The Facts

In fall of 2024, Delmont experienced a “contentious and volatile” divide forming in response to a proposed environmental and energy policy. R. 4. By April of 2025, the conflict was inflamed—leading to multiple physical altercations. R. 4–5. This conflict between the Energy Coalition and the Nature Coalition was known as the Energy Farm Controversy and reached a fever pitch on Delmont’s college campuses, including Delmont State University (DSU). R. 5, 7.

As early as August 2024, the campuses were experiencing disrupted classes. R. 5. These clashes followed both students and staff home: “protests broke out at the homes of administrators; students were ambushed and accosted, sometimes physically, at their residences” leading to

multiple students being hospitalized and the fire department responding to a blaze set outside an administrator's home. *Id.* Students were also inundated with intimidating calls and belligerent messages on their personal phones as well as email and social media accounts. *Id.*

All the ambushes occurred as “sudden bursts of activity” driven by coordinated “‘flash shares’ of a particular victim’s phone number, picture, location, and other personal information.” R. 5–6. This allowed for quickly identifying, finding, and swarming a victim, leading to dangerous conditions and perpetrators completing the ambush before police responded. R. 6. This act of “publishing private information in order to intimidate someone” constitutes doxxing. *Id.* In less than a month, these instances of doxxing increased 150% mainly on the State’s college campuses. *Id.* In light of the threat to safety posed by doxxing, Delmont enacted the “Campus Anti-Doxxing Statute of Delmont” (CADS), which targets doxxing with the intent to “stalk, harass, or physically injure” by providing a private right of action. *Id.* It defines private information covered. R. 7. Since its enactment, CADS has been successfully used to combat instances of doxxing. *Id.*

The DSU Student Chapter of the Church of Light sided with the Energy Coalition. R. 9. The Church of Light (“the Church”) and the Lightbearer members proselytize their faith through live witness, with younger Lightbearers, ages 18 to 22, completing a missionary year and disseminating the church-made publication, *The Lantern*. R. 8–9. In addition to the Church’s religious message, *The Lantern* also contains local news and interests. *Id.* Originally, a print publication, *The Lantern* is now a live broadcast via vans driven by Lightbearers. *Id.*

As one of *The Lantern*’s broadcasts, Lightbearers filmed Laura Marshall, a student supporting the Nature Coalition giving a speech. R. 10. In addition to broadcasting Ms. Marshall’s first ever speech on the Energy Farm Controversy, a picture of Ms. Marshall sitting behind the front desk of the Delmont Treatment Center, where she worked and received substance abuse

treatment, was prominently displayed immediately after the speech. *Id.* With the picture the address, phone number and hours of operation of the Delmont Treatment Center were posted. *Id.* This marked a change from *The Lantern's* typical practice of only providing textual information for substance abuse resources. R. 12. The screen also includes similar textual information for the St. John's Church Counseling Center. R. 10. This pairing was part of the weekly rotation. R. 11.

Within twenty-four hours of Ms. Marshall's place of employment being plastered on the side of Lightbearer vans, was ambushed with 20 masked individuals wearing Energy Coalition shirts, who followed her to her car, completely surrounding her vehicle and keying the car. *Id.* The very next night, she was faced by a similar ambush, and in an attempt to escape her car was damaged. *Id.* Both times, the perpetrators had disappeared before police arrived. *Id.* Ms. Marshall no longer felt safe at her job. *Id.* Ms. Marshall asked the Lightbearers to stop airing the image of her working at the Delmont Center immediately after her speech, but the Lightbearers refused. *Id.*

III. Procedural History

Laura Marshall sued under the CADS in the District Court of Delmont, Western Division, having been injured by the Lightbearers' broadcast. R. 2. The court held for the Church emphasizing the public nature of (1) Ms. Marshall's speech and (2) her being an employee of the Delmont Treatment Center, a public entity. R. 3, 14–17. It held CADS was a content-based Free Speech restriction which restricted public debate. R. 16–18. Consequently, he analyzed and invalidated CADS under strict scrutiny, concerned that "lawfully obtained" counter speech would be chilled by CADS; and that Ms. Marshall "injected herself into the public debate." R. 18–19.

On Free Exercise, the court held it was "undisputed" that although facially neutral, CADS "covertly suppresses" the Church. R. 22 (cleaned up). The court indicated the Church had lobbied against CADS prior to its enactment, to which the government was unresponsive. R. 22. Further,

the court emphasized that whether focusing on a *Yoder*-like burden on religious formation, or this Court's "hybrid-rights" analysis, CADS demands strict scrutiny. R. 23–24. It held that CADS, as applied, places an overbroad burden on the Lightbearers, and must be invalidated. R. 27–28.

The Fifteenth Circuit analyzed the juxtaposition of Ms. Marshall's speech with her place of work and its contact information. R. 33. In so doing, the court held for Ms. Marshall, concerned that the manner of the Lightbearers' presentation recklessly placed her in danger and thus falls into an unprotected speech category. R. 32, 33–34. The juxtaposition, the court said, "involuntarily dr[ew] [Ms. Marshall] into the fray"—thus she was not a public figure. The court was concerned with balancing the contrapositive right—that of Ms. Marshall to speak—with the counter speech emphasized by the district court. R. 33–34. It held the Church's dissemination of identifying information fell outside the core protections of the First Amendment—or not withstanding this, CADS reasonably regulates it. R. 33, 35–36. The court stated the public safety interest of Delmont, paired with the specific restriction on dissemination of identifying information, satisfies any level of judicial scrutiny, but applied rational basis. R. 37.

The circuit court also reversed the lower court's Free Exercise holding. R. 37. It emphasized the text of CADS, and clear legislative intent, in holding that CADS is facially neutral. R. 38. The court found no covert suppression either in CADS' construction or its application, and any burden on the Church of Light to be incidental. R. 38. It highlighted the distinctions between cases in which this Court found a lack of neutrality and general applicability. R. 39–40. Here, the court found that CADS applies to religious and secular actors equally using no individualized exceptions invalidated by this Court. R. 39. It also rejected the notion of a *Yoder*-type burden on the Church of Light, citing its status as a highly fact-sensitive outlier in this Court's jurisprudence. R. 40. The court rejected 'hybrid-rights,' emphasizing that it is dicta-based, rarely applied, and

risks collapsing Free Exercise doctrine by bootstrapping weak claims to stronger constitutional protections. R. 40-41. That argument was not based in binding law and had potential to abrogate Free Exercise precedent. R. 40-41. Ultimately, the circuit court reversed, applying rational basis review and holding for Ms. Marshall. R. 42.

The Church of Light petitioned for a Writ of Certiorari to the Fifteenth Circuit after this judgment, as to both the Free Speech and Free Exercise claims, which this Court granted.

SUMMARY OF THE ARGUMENT

The Court is presented here with an issue that is narrower than it may seem: whether a State has rightly enacted a tightly crafted piece of legislation to address a doxxing crisis on its college campuses. CADS supports healthy debate and speech among students, being taught how to be active participants in our society—which requires meaningful engagement with contentious issues. These lessons cannot be learned in an environment where anyone can intentionally chill debate by doxxing their opponents, regardless of who may do so. The solution to bad speech is more speech—but doxxing is unprotected regardless of who is engaging in it. Therefore, the Court is urged to hold for Ms. Marshall and affirm the Fifteenth Circuit, in ruling that CADS does not violate the Free Speech Clause nor the Free Exercise Clause of the First Amendment.

First, CADS does not violate the Free Speech Clause because it is constitutional under any applicable line of free speech precedent. The statute bans doxxing, the act of publishing private information in order to intimidate someone, which constitutes a true threat, thus it would be outside First Amendment protection. Further, restricting doxxing does not impermissibly restrict speech on matters of public concern because the employment information of a citizen exercising their right to speech or protest is a matter of *private*, not public concern. Finally, CADS is a content-neutral restriction because it targets doxxing’s secondary effects on the community and even

assuming, *arguendo*, that CADS is content based, it survives strict scrutiny because it serves the compelling state interest of public safety and is narrowly tailored to that interest. Since it survives strict scrutiny, *a fortiori* it survives the lower levels of scrutiny applied under other doctrinal lines.

Next, CADS is not a violation of the Free Exercise Clause because it is facially neutral and generally applicable to all people who engage in doxxing. This Court has ruled that where religious exercise is merely incidentally burdened by a statute of general applicability, the Free Exercise right of that individual or group is not violated. Therefore, rational basis review, not strict scrutiny, is warranted. While the Court has also recognized situations where a facially neutral, generally applicable statute can be invalidated where it may pose an existential threat to religion, this case falls well short of that slim, yet onerous exception. Other doctrines are simply too undeveloped, for good reason, to be applied in this case which falls squarely within established Free Exercise doctrine.

ARGUMENT

I. CADS DOES NOT VIOLATE THE FIRST AMENDMENT’S RIGHT TO FREE SPEECH BECAUSE IT IS A VALID RESTRICTION UNDER ANY LINE OF FREE SPEECH PRECEDENT.

The First Amendment, which applies to the States through the Fourteenth Amendment, states “Congress shall make no law . . . abridging the freedom of speech, or of the press.” *New York Times Co. v. Sullivan*, 376 U.S. 254, 276–77 (1964); U.S. CONST. amend. I. However, this Court has “long recognized that not all speech is of equal First Amendment importance.” *Dun & Bradstreet, Inc. v. Greenmoss Builders, Inc.*, 472 U.S. 749, 758 (1985). Speech can be restricted when slight social value is clearly outweighed by social interest in order and morality. *Chaplinsky v. New Hampshire*, 315 U.S. 568, 572 (1942). For example, a state can prohibit advocacy of the use of force when it is “direct to inciting or producing imminent lawless action and is likely to

incite or produce such action.” *Virginia v. Black*, 538 U.S. 343, 359 (2003) (quoting *Brandenburg v. Ohio*, 395 U.S. 444, 447 (1969) (per curiam)). Additionally, certain categories of speech like true threats are also outside First Amendment protection. *Id.* Underlying the determination of whether speech is protectable is tension between the protection afforded to speech under the Constitution and a state’s “legitimate interest in redressing wrongful injury.” *Gertz v. Welch*, 418 U.S. 323, 342 (1974).

Delmont passed CADS after its college campuses were swarmed with instances of “flashshar[ing]” personal information of victims, which directly led to the victims being ambushed and physically attacked as well as being assaulted with intimidating calls and electronic messages. R. 5–6. This association, “publishing personal information in order to intimidate someone, also known as doxxing is what CADS prohibits. R. 6. This Court has created multiple doctrinal lines within Freedom of Speech, and accordingly evaluates restrictions on speech under different levels of scrutiny based on the doctrinal lines. Under any of these applicable doctrinal lines of precedent, CADS is constitutional. First, CADS bans doxxing, which based on the facts here presents a clear threat to safety, thus a true threat, which can be restricted since it is outside First Amendment protection. Second, the law is so specifically targeted that it does not restrict speech on matters of public concern and works to prevent the chilling effect doxxing can cause. Third, CADS satisfies either test applied by the content-based/content-neutral line of cases.

A. CADS targets unprotected speech because doxxing constitutes a true threat.

True threats of violence “lie outside the bounds of the First Amendment’s protection.” *Counterman v. Colorado*, 600 U.S. 66, 72 (2023). They “encompass those statements where the 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). To determine if a threat exists, courts look at “what the statement conveys” to the receiver. *Elonis v. United States*, 575 U.S. 723, 733 (2015). When evaluating true threats, this Court has recognized that “a statement can count as such a threat based solely on its objective content.” *Counterman*, 600 U.S. at 73. Further, in *Virginia v. Black*, the Court stated “it would be constitutional to ban only a particular type of threat.” 538 U.S. at 362. While respondent may argue CADS is a content-based restriction, that is not determinative for a statute restricting true threats.

R. 3. Under true threat jurisprudence, even content-based restrictions on true threats do not violate the First Amendment because “no significant danger of idea or viewpoint discrimination exists” when “the basis for the content discrimination consists entirely of the very reason the entire class of speech at issue is proscribable.” *Black*, 538 U.S. at 361–62 (quoting *R.A.V. v. St. Paul*, 505 U.S. 377, 388 (1992)).

i. Doxxing is a true threat because, based on the history in Delmont, doxxing is a tool of intimidation and its prohibition under CADS does not unreasonably chill speech.

Doxxing is a type of true threat. Doxxing is defined as “[p]ublishing private information in order to intimidate someone.” R. 6. The act of disclosing private information “with the intent to stalk, harass, or physically injure” constitutes “no essential part of any exposition of ideas.” R. 6; *R.A.V. v. St. Paul*, 505 U.S. 377, 385 (1992) (quoting *Chaplinsky v. New Hampshire*, 315 U.S. 568, 572 (1942)). Like the cross burning in *Black*, doxxing has a history of being used to communicate threats of violence. *Black*, 538 U.S. at 354. During the Energy Farm Controversy, doxxing was used to identify victims, and swarm them with physical confrontations and inundate them with intimidating calls, emails, and social media messages. R. 6. Doxxing allowed the attack to be carried out “so quickly that the police could not intervene in time.” R. 5–6 (stating when police arrived, either the perpetrators would have already escaped or the situation would be so dangerous that it endangered “both the victims and the police”). These doxxing-prompted attacks

posed serious threats and resulted in students being hospitalized and a fire starting outside “the home of a college administrator.” R. 5.

Like the incidents of cross burning that prompted Virginia to enact a cross burning statute in *Black*, here the incidents of doxxing-related attacks—which rose by 150%—prompted Delmont to enact CADS. R. 6; *Black*, 538 U.S. at 355. “[A] State [may] choose to prohibit only those forms of intimidation that are most likely to inspire fear of bodily harm.” *Id.* at 363. Here, doxxing has been used as “a tool of intimidation” and after the series of coordinated attacks, it is also a “threat of impending violence.” *See id.* at 354. “[T]he history of violence associated with [doxxing] shows that the possibility of injury . . . is not just hypothetical.” *Id.* at 357; *Planned Parenthood v. Am. Coal. Of Life Activists*, 290 F.3d 1058, 1075 (9th Cir. 2002) (en banc) (holding the publishing of abortion providers’ names and faces online by an anti-abortion group constituted a true threat after previous violence committed against other abortion providers who had their names and faces similarly published). Further, like the posters in *Planned Parenthood v. American Coalition of Life Activists*, doxxing would be interpreted as a serious threat of death or bodily harm in light of the previous pattern of doxxing and subsequent attacks. *Id.* at 1063 (stating “ACLA was aware that a ‘wanted’-type poster would likely be interpreted as a serious threat of death or bodily harm by a doctor in the reproductive health services community who was identified on one, given the previous pattern of” violence against physicians previously identified on similar posters).

CADS “does not run afoul of the First Amendment insofar as it bans” doxxing with the intent to intimidate, stalk, and harass. *Black*, 538 U.S. at 362. CADS is unlike the statute in *R.A.V. v. St. Paul* because the Delmont statute does not only target doxxing “on the basis of race, color, creed, religion or gender.” 505 U.S. 377, 391 (1992). CADS “does not single out for opprobrium only that speech directed toward ‘one of the specified disfavored topics.’” *Black*, 538 U.S. at 362

(quoting *R.A.V. v. St. Paul*, 505 U.S. 377, 391 (1992)). Further, CADS does not contain any attempt to make doxxing prima facie evidence of intent. R. 6–7; *Black*, 538 U.S. at 363–64, 367 (holding that while a ban on cross burning was constitutional, the provision that cross burning is prima facie evidence of intent was unconstitutional).

Further, CADS does not chill speech, because it includes a reckless *mens rea* as required by *Counterman*. 600 U.S. 66, 78 (2023). The Court stated that the government must prove the speaker was aware “that others regarded his statements as threatening violence and deliver[ed] them anyway.” *Id.* at 73, 78. A subjective standard helps avoid the “wide berth” people would give to threats if it was only evaluated under a reasonable observer standard. *Id.* at 78–79, 82 (holding unequivocally that the *mens rea* of reckless was the best choice to balance the potential chilling effect and the “benefit of enforcing laws against true threats”). Here, to prove intent under CADS, a person bringing a suit must prove that the individual disclosing the personal information acted “purposefully or recklessly to place a person in reasonable fear of bodily injury, death, or property damage as to cause severe emotional distress to such person.” R. 6 (citing DEL. ANN. STAT. §163.732 (2020)). By requiring a *mens rea* of “recklessly” or a higher *mens rea* of “purposefully,” CADS satisfies the Court’s demand for restrictions on true threats. Here, the Church would clearly satisfy the *mens rea* of CADS because in light of the history of doxxing as noted above, the Church was aware that its careful orchestration of posting Ms. Marshall’s place of employment immediately after clips of her speaking on a controversial topic, would place her in reasonable fear of bodily injury or violence and yet it still chose to publish her employer anyway.

ii. *CADS is constitutional under this Court’s true threat doctrine because it has a legitimate state interest and is rationally related that interest.*

A State “generally may prohibit” unprotected speech without “rais[ing] any Constitutional problems.” *Free Speech Coal., Inc. v. Paxton*, 606 U.S. 461, 471 (2025) (quoting *Chaplinsky v.*

New Hampshire, 315 US 568, 571-72 (1942)). “Such prohibitions are subject only to rational-basis review, the minimum constitutional standard that all legislation must satisfy.” *Id.* (citing *District of Columbia v. Heller*, 554 U.S. 570, 628 n. 27 (2008)). Thus, “a law will be upheld ‘if there is any reasonably conceivable state of facts that could provide a rational basis’ for its enactment.” *Id.* at 471–72 (quoting *FCC v. Beach Communications, Inc.*, 508 US 307, 313 (1993)). Here, CADS, a statute that prohibits doxxing with the intent to intimidate, has a rational basis to achieving the legitimate objective of safety and preventing intimidation by harassment, stalking, and physical injuries that resulted from personal information of victims being flash shared.

B. Ms. Marshall’s place of employment is a matter of private concern and prohibiting the disclosure of it does not inhibit the Energy Farm Controversy debate.

“At the heart of first amendment protection” is speech on matters of public concern. *Snyder v. Phelps*, 562 U.S. 443, 451 (2011). This stems from the “principle that debate on public issues should be uninhibited, robust, and wide-open.” *New York Times Co. v. Sullivan*, 376 U.S. 254, 270 (1964). On the other hand, speech on matters of private concern does not threaten “free and robust debate” nor risk speakers self-censoring. *Snyder*, 562 U.S. at 452 (citing *Dun & Bradstreet, Inc. v. Greenmoss Builders, Inc.*, 472 U.S. 749, 760 (1985)). Because of this distinction, courts often evaluate the chilling effect the restriction places on speech. R. 17. Here, the posting of personally identifiable information does not constitute a matter of public concern and further does not chill any speech that is related to matters of public concern—in fact, CADS protects against acts that would potentially chill speech.

- i. The speech that CADS targets, the posting of personal information, is a matter of private concern based on the content, form and context.*

Speech on matters of public concern receives higher protection than speech on matters of private concern. *Snyder*, 562 U.S. at 451–52 (citing *Dun & Bradstreet Inc v. Greenmoss Builders*,

472 U.S. 749, 758–59 (1985)). However, matters of public concern is limited only to speech which can “be fairly considered as relating to any matter of political, social, or other concern of the community.” *Id.* at 453 (citing *Connick v. Myers*, 461 U.S. 138, 146 (1983)). Courts evaluate the “‘content, form, and context’ of that speech” to determine if the speech is “of public or private concern.” *Id.*

While the district court attempts to analogize *Snyder*, the comparison is inaccurate. First, the content of the speech is distinguishable. Unlike the Westboro Baptist’s signs in *Snyder*, which conveyed their position on “the political and moral conduct of the United States and its citizens . . . [and] homosexuality in the military,” here, the posting of Ms. Marshall’s employer’s contact information (through the pairing of the photograph and contact information for the center) does not state the Church’s position on any matter of political, social, or other concern of the community. *Id.* at 454; R. 10, 31. CADS is not limiting messaging on the energy controversy, rather it is prohibiting the disclosure of personal information. If a credit report in *Dun & Bradstreet, Inc.* is a matter of private concern, surely a person’s home address, social security number, or contact information for their employer is a matter of private concern. 472 U.S. 749, 762 (1985); R. 7. The district court also confused the content of the Church’s speech when it focused on counter speech. What the Church engaged in by posting the image of Ms. Marshall at work and her employer’s contact information was not counter speech. Ms. Marshall’s speech did not touch on the issues of drug abuse or treatment; she spoke about the Energy Farm Controversy. And while drug abuse or treatment may be a matter of public concern, Ms. Marshall working at a drug treatment center is *not* a matter of public concern.

Second, the context of the speech is distinguishable. In *Snyder*, the Court stated that, on its own, the fact that the picketing was “connected with [Snyder’s] son’s funeral” was not sufficient

to be a matter of private concern. 562 U.S. at 454. Specifically, the Court highlighted Westboro was actively engaged in the speech at issue “long before it became aware of Matthew Snyder” and there was “no pre-existing relationship or conflict between Westboro and Snyder.” *Id.* at 455. However, here, the Lightbearers changed how they were posting substance abuse resources only after the speech aired—before Ms. Marshall gave her speech the Church only posted substance abuse resources in text form without photos and based on the record, Ms. Marshall was the only person visible in the photograph. R. 10–12.

Additionally, the fact that Ms. Marshall “gave a speech at a rally and organized some protests” does not transform her into a public figure. R. 34. Ms. Marshall does not “assume special prominence in the resolution of” the Energy Farm Controversy. *Gertz*, 418 U.S. at 351. And extensive news coverage does not equal “general fame or notoriety in the community.” *Id.* As this Court stated in *Gertz*, “[w]e would not lightly assume that a citizen’s participation in community and professional affairs renders him a public figure for all purposes.” *Id.* at 352. Further, even if Ms. Marshall was “drawn into a particular public controversy” she would at most be a public figure for a limited range of issues which would be limited to the Energy Farm Controversy and does *not* include her employment at the Delmont Treatment Center. *Id.* at 351 (stating “absent clear evidence of general fame or notoriety in the community, and pervasive involvement in the affairs of society, an individual should not be deemed a public personality for all aspects of his life.”). To hold otherwise would eviscerate the distinction between private and public figures, transforming anyone who exercises their right to free speech on a matter of public concern into a public figure.

Finally, *Snyder* is even less analogous and less on point because *Snyder* addressed an intentional infliction of emotional injury claim, which is not present here, and the state’s compelling interest in protecting the public safety of its citizens was not at issue in *Snyder* but is

at present here. *See* R. 33; *Snyder*, 562 U.S. at 460 (“Our holding today is narrow . . . the reach of our opinion here is limited by the particular facts before us.”).

ii. The worry of chilling speech actually cuts against the district court’s holding because the act of doxxing chills speech.

The district court focused on “stifl[ing] public debate.” R. 17; *Snyder*, 562 U.S. at 461. While it is true that counter speech must be allowed, doxxing is not counter speech. The district court said “[i]f Ms. Marshall can express her viewpoint, we must allow those who oppose her to do the same.” R. 17. Ms. Marshall spoke about the Energy Farm Controversy and supporting the Nature Coalition. R. 10. The opposite viewpoint is not “here is where Ms. Marshall works.” CADS is not preventing the Church from responding to her view on the Energy Farm Controversy, rather CADS is preventing someone from posting where she works with the reckless intent to place her in a reasonable fear of bodily injury. R. 6. There is “no threat to the free and robust debate of public issues” by preventing the Church from posting her place of work. *Snyder*, 562 U.S. at 452.

If this Court held that a person’s employer’s contact information was a matter of public concern just because they exercised their First Amendment right to free speech and to protest by striking down a law preventing the posting of personal information with the intent to intimidate, it would chill speech and effectively shut down the marketplace of ideas. As the Fifteenth Circuit correctly recognized, “if people must live in fear of their personally identifiable information being leaked to those who oppose their viewpoints, then they will be less likely to express those viewpoints in the first place.” R. 33. Further, the argument that CADS would chill speech like the Church’s ignores the fact that CADS requires a *mens rea* of purposeful or reckless. As stated above, the Church will not be found at fault under the statute unless Ms. Marshall can prove they posted her information with at least a reckless disregard for the potential consequences.

C. CADS is constitutional viewed as either a content neutral or content based restriction.

The level of scrutiny a court reviews a restriction of speech under depends on whether the restriction is content-based or content neutral and this doctrinal distinction is typically determinative. *See Boos v. Barry*, 485 U.S. 312, 319-20 (1988). Here, however, the label of content-based or content-neutral is not determinative because CADS passes muster under both doctrinal lines.

- i. CADS is constitutional content-neutral restriction because it targets the secondary effects of doxxing and satisfies intermediate scrutiny.*

Content neutral restrictions on speech are those “justified without reference to the content of the regulated speech.” *Renton v. Playtime Theaters*, 475 U.S. 41, 48 (1986). This includes statutes that restrict speech but are aimed at “combat[ing] the undesirable secondary effects.” *Id.* at 49; *R.A.V. v. St. Paul*, 505 U.S. 377, 389 (1992) (stating content-based regulations that are associated with particular secondary effects can be considered content-neutral); *Cf. United States v. Eichman*, 496 U.S. 310, 317 (1990) (content-based rule focuses on the “communicative impact”). Here, CADS is content neutral because it targets the undesirable secondary effects of doxxing. The secondary effect of doxxing is the physical attacks and victim’s reasonable fear of it; this is comparable to the undesirable secondary effects of sexually oriented businesses in *Renton*. CADS is trying to limit the ambushes caused by doxxing, not limit speech as in *Young v. American Mini Theatres*, where the law was aimed at limiting crime not limiting speech. 427 U.S. 50, 55, 71 (1976).

Content-neutral restrictions are evaluated under intermediate scrutiny. *Turner Broad. Sys. v. FCC*, 512 U.S. 622, 662 (1994). A statute passes intermediate scrutiny if it “furthers an important or substantial governmental interest; if the government interest is unrelated to the suppression of

free expression; and if the incidental restriction . . . is no greater than essential to the furtherance of that interest.” *Id.* (quoting *United States v. O’Brien*, 391 U.S. 367, 377 (1968)). Here, protecting public safety of citizens is an important governmental interest and is unrelated to the suppression of free expression. The restriction of disclosing personal identifiable information without consent is no greater than essential to further that interest—it is extremely targeted on what it restricts and only restricts what is necessary to prevent flashsharing induced attacks.

ii. Even assuming, arguendo, that CADS was a content-based restriction, it is still constitutional.

Content-based restrictions on speech, which “draw[] distinctions based on the message a speaker conveys,” are subject to strict scrutiny. *Reed v. Gilbert*, 576 U.S. 155, 163–64 (2015). To satisfy strict scrutiny the law must serve a compelling government interest and be narrowly tailored. *R.A.V.*, 505 U.S. at 403. Even if CADS was a content-based restriction, it satisfies strict scrutiny. Here, Delmont has a compelling government interest in the public safety of its citizens. *See id.* at 395–96. The conditions on campuses were “extremely volatile” and students and staff were hounded and even hospitalized—people were fearful for their safety due to the increase in doxxing-related attacks. R. 6, 33, 47. CADS is narrowly tailored because it targets only the exact thing causing the public safety danger—the only way to prevent doxxing-induced attacks is to restrict the act of doxxing as outlined in CADS.

II. RATIONAL BASIS REVIEW APPLIES TO CADS BECAUSE THE STATUTE IS FACIALLY NEUTRAL AND GENERALLY APPLICABLE.

CADS is a facially neutral, generally applicable statute, and therefore, *Employment Division, Department of Human Resources of Oregon v. Smith* applies and anchors the analysis of this issue in rational basis review—not strict scrutiny. The Court has historically recognized that Free Exercise is a bedrock, but not inexorable value embedded in the Constitution. *See Emp. Div.*,

Dep't of Hum. Res. Of Ore. v. Smith, 494 U.S. 872, 890 (1990); *Reynolds v. United States*, 98 U.S. 145, 167 (1878) (cases in which the Court upheld state statutes incidentally burdening religious practice, citing that Free Exercise is not absolute). *Smith* compels the Court to review facially neutral, generally applicable statutes incidentally burdening religious activity under rational basis review. See generally *Smith*, 494 U.S. at 872. CADS applies to all, neither explicitly nor implicitly targeting religious conduct. Likewise, CADS does not fall under any of the exceptions this Court has recognized in *Smith*'s progeny because there are no acts of covert suppression undermining religion.

A. CADS is facially neutral and generally applicable because of its equal application, without targeting religious conduct.

The Free Exercise Clause guarantees the free exercise of religion and prohibits the government from enacting laws that forbid religious practice. U.S. CONST. amend. I. The Free Exercise Clause does not relieve individuals or organizations of the obligation to comply with neutral laws of general applicability. *Id.*; *Smith*, 494 U.S. at 889. Neutral statutes of general applicability which incidentally burden religious conduct are subject to rational basis review, even if that statute would prohibit free exercise. *Smith*, 494 U.S. at 889. Religious beliefs, assumed to be reasonably and sincerely held, are not a loophole for “compliance with an otherwise valid law prohibiting conduct that the State is free to regulate.” *Id.* at 879, 887–88; *Thomas v. Rev. Bd. of Ind. Emp. Sec. Div.*, 450 U.S. 707, 714 (1981). The State need only demonstrate that the statute is reasonably related to a legitimate government interest. *Smith*, 494 U.S. at 883.

In *Smith*, members of the Native American Church were fired after ingesting peyote as part of a sacramental religious ceremony. *Id.* at 874. Oregon law classified peyote as a controlled substance and prohibited its use without religious exemption. *Id.* After their termination, plaintiffs were denied unemployment benefits because their actions were deemed “misconduct.” *Id.* at 874–

75. Plaintiffs argued that enforcement of the law against them violated the Free Exercise Clause because the prohibited conduct was religiously mandated. *Id.* at 875. The Court, emphasizing the difficulty of determining the sincerity of religious beliefs, held for Oregon and upheld the State statute. *Id.* at 886–87. In so doing, the Court established that incidental violation of religious beliefs by a neutral and generally applicable state statute does not require a compelling state interest. *Id.* at 889–90.

Here, the CADS is a facially neutral law of general applicability that regulates conduct, and any burden it imposes on the Church’s religious exercise is incidental. CADS applies to all speakers, regardless of religious motivation, and prohibits the dissemination of identifying information when done with the intent to harass, stalk, or cause harm. The statute does not single out religious conduct, regulate belief or worship, or prohibit preaching as such; it regulates only the dissemination of information creating a risk of harm. As in *Smith*, the Church does not dispute that its conduct falls within the statute, arguing only that enforcement of CADS against religious conduct violates the Free Exercise Clause.

Although Petitioner argues their beliefs are sincerely held, and the conduct at issue is faith-based, this is what Justice Scalia directly addressed in *Smith*. He states, “[i]t may fairly be said that leaving accommodation to the political process will place at a relative disadvantage those religious practices that are not widely engaged in; but that unavoidable consequence of democratic government must be preferred to a system in which each conscience is a law unto itself . . .” *Smith*, 494 U.S. at 890. This echoes the Court in *Reynolds*, where it emphasized the supremacy of government, even in cases of incidental religious burden. *See Reynolds v. U.S.*, 98 U.S. 145, 167 (1878) (discarding the argument that religious belief is an absolute shield from incidental burden, using “every citizen is a law unto itself” language). That argument for strict scrutiny is indeed

closed by the clear language of *Smith*. 494 U.S. at 890. The Free Exercise Clause does not exempt compliance with neutral laws of general applicability. Because CADS imposes, at most, an incidental burden on religiously motivated conduct, rational basis governs here.

B. CADS falls under none of the recognized exceptions to *Smith* because any religious burden is incidental, and not a covert suppression.

Strict scrutiny may apply where government departs from neutrality or general applicability in purpose or effect. A law is not neutral where its operation targets religion for disfavored treatment, through selective prohibitions, carefully drawn exceptions, or unequal enforcement. *Church of Lukumi Babalu Aye, Inc. v. Hialeah*, 508 U.S. 520, 528 (1993). Strict scrutiny likewise applies where government officials exhibit hostility toward religion, treat religious reasons as less worthy than secular justifications, or enforce a regulatory scheme in a manner biased against religious belief. *Masterpiece Cakeshop, Ltd. v. Colo. C.R. Comm'n*, 584 U.S. 617, 634–36 (2018). Where a law permits individualized exemptions for secular conduct but denies similar accommodation for religious exercise, it is not generally applicable. *Fulton v. City of Philadelphia*, 593 U.S. 522, 535–36 (2021). There, the statute must be the least restrictive means to effectuate a compelling government interest to survive strict scrutiny.

Where a facially neutral state law or ordinance targets religious conduct through its structure and operation, it warrants strict scrutiny. *Lukumi*, 508 U.S. at 527–28. In *Lukumi*, the Court invalidated city ordinances prohibiting animal sacrifice while permitting the secular killing of animals, which in context applied almost exclusively to Santeria practices. *Id.* at 534–36. The Court rejected the argument that it could only look to the ordinance itself to find the City’s legislative intent, and anti-Santerian sentiment in drafting a seemingly neutral ordinance. In *Masterpiece Cakeshop*, the Court looked to state administrative hearings, to find a lack of neutrality towards a baker refusing to make a same-sex wedding cake on religious grounds.

Masterpiece Cakeshop, Ltd., 584 U.S. at 634–36. The Court determined that the tribunal’s application of the Colorado statute violated the baker’s Free Exercise rights through outright hostility by state officials. *Id.* at 639–640.

In *Fulton v. City of Philadelphia*, the Court concluded a foster-care policy was not generally applicable where it authorized discretionary exemptions, granting secular exemptions but denying comparable consideration to religious objections. *Fulton v. City of Philadelphia*, 593 U.S. 522, 541–43 (2021). The Free Exercise Clause does not require exemption from neutral laws that do not coerce individuals into violating their beliefs, even where those laws incidentally burden religiously motivated conduct. *See Bowen v. Roy*, 476 U.S. 693, 699–701 (1986); *Lyng v. Nw. Indian Cemetery Protective Ass’n*, 485 U.S. 439, 449–51 (1988). Read together, these cases illustrate the limited circumstances in which facially neutral laws depart from neutrality and trigger strict scrutiny under the Free Exercise Clause post-*Smith*.

CADS does not fall under any of the foregoing exceptions the Court has created to *Smith*’s rational-basis review. CADS in function responds directly to an ongoing doxxing crisis, through a blanket ban on the intentional publication of personal information which could result in harm for individuals on college campuses. R. 48. Specifically, the Church’s “orchestrated presentation,” as described by the Fifteenth Circuit, placing the photo of Ms. Marshall next to her workplace’s contact information following the speech, informs this issue. R. 33. While the Church argues their intent was not to injure Ms. Marshall, their conduct falls under CADS because the Church should reasonably have known their presentation was likely to damage Ms. Marshall. R. 33–34. Even small changes to the presentation—the removal of contact information alone—would have satisfied CADS. *See generally* R. 34-35. Still, CADS is indiscriminate as to who is engaging doxxing and the record indicates no intent to specifically silence or otherwise discriminate against

the Church of Light. R. 38–39. As such, the incidental burden placed on the Church is not the result of any targeting by the government of Delmont. R. 38. Nor is the Church through CADS being asked to endorse beliefs contrary to its religion, or even to completely stop its live proselytizing; only to take steps to protect private individuals from harassment.

CADS permits a civil cause of action and has no tribunal process that could break down the neutrality of CADS in application. R. 39. Unlike the other records in *Masterpiece Cakeshop* or *Fulton*, there is only the text of CADS and the opinions of the District and Circuit courts. R. 39. Although the District Court argued that the Delmont governor’s lack of response to the Church of Light’s lobbying constituted a lack of neutrality, this is meritless. *See* R. 22; *But see* R. 38. Governments have no obligation to respond to lobbying; and the only source within the record of the Church of Light’s lobbying is within that opinion. *Minn. State Bd. for Cmty. Colls. v. Knight*, 465 U.S. 271, 286 (1984). Indeed, there is no evidence to support that the Delmont government is covertly suppressing the Church in CADS’ enforcement or application. Therefore, this Court should not look towards this threadbare allegation in coming to a neutrality conclusion. For the same reasons, the Church cannot demonstrate a lack of neutrality at any stage of legislation or application such as those present in *Masterpiece Cakeshop* or *Fulton*.

C. CADS is firmly anchored in state authority flowing from *Smith*, easily satisfying rational basis review.

Smith’s progeny provides no doctrinal support to the Church of Light—returning this Court’s analysis back to *Smith* and demanding rational basis review. Delmont government officials were faced with violent civil unrest in the wake of the Energy Farm controversy. R. 4–5. With college students and administrators being harassed—even assaulted and hospitalized—a crisis had emerged as a direct result of doxxing. R. 5–6. Faced with a decentralized, digital epicenter, “flash-shares,” Delmont took action by narrowly crafting CADS to outlaw such conduct. *Id.* The

Lightbearers were ultimately mere players in the crisis whose conduct violated CADS. There is no evidence whatsoever that Delmont targeted the Lightbearers. Therefore, faced with far more than a legitimate government interest in quelling the crisis on its campuses; and indeed, stopping the resulting violence, CADS was rightly enacted and tailored specifically to the crisis. CADS, therefore, easily satisfies rational basis review and Delmont’s authority to enact it lies firmly within *Smith*.

D. The Hybrid Rights Framework does not apply due to this Court’s reluctance to develop and apply it outside of *Yoder*.

Strict scrutiny has applied in specific cases where a challenged law (1) burdens religious exercise and (2) infringes on a separate constitutional protection carrying independent, substantive force which reinforces, not bootstraps the Free Exercise claim. *See Wisconsin v. Yoder*, 406 U.S. 205, 233–34 (1972); *Mahmoud v. Taylor*, 606 U.S. 522, 549–50 (2025). The Court has referred to these as “hybrid rights” cases; but has historically not recognized this as a doctrinal exception to *Smith*, bar certain, highly fact-specific scenarios. *Yoder*, 406 U.S. at 233–34; *Mahmoud*, 601 U.S. at 549–50. Justices of the Court have indicated that this is not a freestanding doctrine because of its doctrinal pitfalls. *See Lukumi*, 508 U.S. at 566–67 (Souter, J., concurring) (the proposition that a Free Exercise claim must be independently strong such that it is not bootstrapped to a much stronger claim warranting strict scrutiny, lest it essentially “swallow” *Smith*); *See Fulton*, 593 U.S. at 543–44 (Barrett, J., concurring) (positing that a replacement of *Smith*, cannot broadly apply strict scrutiny because that solution lacks the doctrinal nuance of strict scrutiny itself). Indeed, “hybrid rights” has been derided by Justices, Circuit Judges, and legal scholars alike as “completely illogical dictum” that is not justiciable in practice. William J. Haun, *A Standard for Salvation: Evaluating “Hybrid-Rights” Free-Exercise Claims*, 61 CATH. U. L. REV. 265, 267 (2012).

In *Wisconsin v. Yoder*, the Court invalidated the application of a compulsory education law that required Amish parents to send their 13 to 14-year-old children to public high school beyond eighth grade. *Yoder*, 406 U.S. at 209–10. They cited evidence that attendance would fundamentally undermine the Amish way of life and their system of religious formation. *Id.* at 209–12. The law forced Amish parents to choose between compliance with state law and adherence to religious obligation toward their children, existentially threatening their religion. *Id.* at 218–19. The Court in *Mahmoud v. Taylor* invalidated an education policy it deemed plausibly interfered with parents’ ability to direct the religious upbringing of their children from preschool to fifth grade. *Mahmoud*, 601 U.S. at 565. State law forced exposure to beliefs parents viewed as hostile to their faith, extending *Yoder*’s reasoning beyond compulsory attendance to state-imposed curricular exposure. *Id.* at 565–66 (only where “a law imposes a burden of the same character [as] *Yoder*” should strict scrutiny apply).

CADS should not be analyzed under a “hybrid-rights” analysis because the incidental burden placed on the Church of Light is not of the same character as *Yoder* or *Mahmoud*. It is undisputed that live preaching is an integral aspect of their religion, likened to baptism. R. 3; R. 44. The Church of Light essentially argues that without the ability to dox private individuals, their religion will face an existential threat. R. 44. That argument requires that CADS effectively ban the Church of Light’s proclamation central to their faith. CADS merely forbids the doxxing of individuals on college campuses by anyone—not the Church of Light’s entire religious practice. R. 47–48. Doxxing is only incidental to that practice. Additionally, the Court has only recognized *Yoder* burdens where the rearing of minor children, ranging from toddlers to early teens, was tied to Free Exercise. *See generally Mahmoud*, 601 U.S. at 565–66. Here, the Church of Light argues that CADS burdens young Lightbearers, ages 18–22; but ignores Delmont’s interest of protecting

all students from physical violence and civil unrest. R. 4–6; 33–34. Neither are analogous to the factors in *Yoder* or *Mahmoud* which make those cases so distinct and comprise their “character.” Therefore, application of hybrid rights to these facts obscures the analysis and produces precisely the same bootstrapping concerns identified by Justices Souter and Barrett.

Even within *Smith*, the Court questions the efficacy of a “hybrid-rights” analysis, and in large part speculates on the administrability of such a rule, and how it might impact other First Amendment jurisprudence. *See generally Smith*, 494 U.S. at 882–83 (recognizing that Free Exercise claims are oftentimes tied to expression and association; but the mere presence of either does not automatically warrant strict scrutiny, which would effectively collapse all First Amendment claims into one). Indeed, the Court has been wary of hybrid rights for a myriad of reasons, relegating the “doctrine” to dicta by not explicitly building it out or using it. The Free Exercise claim here therefore remains governed by *Smith*’s general applicability rule, and the incidental burden imposed by CADS does not approach the kind of existential interference required to qualify as “of the same character as *Yoder*.” A hybrid-rights analysis is thus improper, and rational-basis review must apply, which CADS would clearly survive.

CONCLUSION

For the foregoing reasons, Respondent respectfully requests this Court affirm the Fifteenth Circuit.

Respectfully submitted,

Team 5

Attorneys for Respondent

APPENDIX

Constitutional Provision

First Amendment of the United States Constitution:

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

Statutory Provisions

Delmont Annotated Statutes §25.989 (2025):

The Campus Anti-Doxxing Statute of Delmont creates a private cause of action against any individual who without consent uses a communication platform of any type to disclose private information of an enrolled student, faculty member, administrator, or staff member at a Delmont college or university with the intent to stalk, harass, or physically injure. A plaintiff who prevails under CADS is entitled to economic and non-economic damages, punitive damages, and injunctive relief.

Delmont Annotated Statutes §163.732 (2020):

Intent means acting purposefully or recklessly to place a person in reasonable fear of bodily injury, death, or property damage as to cause severe emotional distress to such person.

Stalk means to engage in a pattern of unwanted, obsessive, and intrusive behavior that would cause a reasonable person to feel threatened or fear for their safety or the safety of others.

Harass means to subject another to severe emotional distress such that the individual experiences anxiety, fear, torment or apprehension that may or may not result in a physical manifestation of severe emotional distress or mental health diagnosis and is protracted rather than merely trivial or transitory.

Injure means to subject another to bodily injury or death or property damage.

Private information is defined as:

(A) The plaintiff's home address, personal email address, personal phone number, social security number, or any other personally identifiable information;

(B) Contact information for the plaintiff's employer;

(C) Contact information for a family member of the plaintiff

(D) Photographs of the plaintiff's children;

(E) Identification of the school that the plaintiff's children attend

BRIEF CERTIFICATION

Team 5 certifies the work product contained in all copies of Team 5's brief is in fact the work product of the team members, Team 5 has complied fully with our law school's governing code; and Team 5 has complied with all the Competition Rules.