No. 25-CV-1994

IN THE SUPREME COURT OF THE UNITED STATES

THE CHURCH OF LIGHT, LLC,

Petitioner,

v.

LAURA MARSHALL,

Respondent.

On Appeal from the United States Court of Appeals

for the Fifteenth Circuit

BRIEF FOR THE RESPONDENT

Team 16

Counsel for the Respondent

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QUESTIONS PRESENTED

I. Whether a civil statute prohibiting Petitioner from disclosing the location, hours of operation, and contact information of a Delmont student's employer when it shares that information with the intent to physically injure that student, and where that student had recently spoken publicly on an issue of widespread debate, unconstitutionally regulates Petitioner's First Amendment Free Speech rights.

II. Whether a civil statute which has the incidental effect of limiting Petitioner's ability to display images or videos in accordance with religious practices, but which images or videos disclose a person's certain personally identifiable information without that person's consent in violation of the statute, unconstitutionally restricts Petitioner's First Amendment Free Exercise rights.

STATEMENT OF THE CASE

In the fall of 2024, State of Delmont lawmakers began debating whether to convert nearly one thousand acres of state land into zones for solar and wind energy production. (R. at 4). This included clearing certain woodlands for solar arrays and windmill farms. *Id.* Two factions formed around the issue, and by April 2025 the dispute had escalated. (R. at 4–5). By summer of 2025, the conflict became most pronounced on Delmont's college campuses. (R. at 5). Protests and counterprotests escalated into harassment and violence. *Id*. Libraries were stormed, classes were disrupted, students were ambushed and accosted at their residences, several of them requiring hospitalization, and firefighters even responded to a blaze at a college administrator's home. (R. at 47).

Local law enforcement determined that many incidents occurred in sudden bursts, "as if on cue," after organizers coordinated "flash-shares" of a targeted person's phone number, picture, location, and other personally identifying information across multiple platforms. (R. at 5–6, 47). This practice, known as doxxing, enabled perpetrators to identify and locate victims so quickly that law enforcement often could not intervene in time, or arrived only after the situation had escalated and perpetrators dispersed. (R. at 6, 47). Police data reflected that from late August to early September of 2025, doxxing incidents in Delmont increased by approximately 150%, almost exclusively on college campuses. (R. at 6).

On September 12, 2025, Governor Bill Morrison signed the Campus Anti-Doxxing Statute of Delmont ("CADS"), Del. Ann. Stat. §25.989 (2025). *Id*. CADS provides a private cause of action against any individual who, without consent, uses a communication platform to disclose defined private information of an enrolled student, faculty member, or staff member at a Delmont college or university, when done with the intent to stalk, harass, or physically injure. (R. at 6–7). The statute defines intent to include acting purposefully or recklessly so as to place a person in reasonable fear of bodily injury, death, or property damage as well as cause severe emotional distress. *Id*. CADS authorizes economic and non-economic damages, punitive damages, and injunctive relief. (R. at 7). Governor Morrison attested that Delmont's existing laws were generally reactive and did not address the initial disclosure practice that created predictable risks by pairing identity with sensitive location and timing cues, and that alternatives were evaluated but did not address those predictable risks. (R. at 48). He further attested that CADS was drafted narrowly to focus on nonconsensual dissemination of identifying information in defined, sensitive contexts closely associated with campus life. *Id*.

Delmont State University ("DSU") is a four-year, state-funded public institution in Delmont City with an enrollment of approximately eighteen thousand students. (R. at 8). During the Energy Farm Controversy, Laura Marshall, a DSU student, delivered a speech at a Nature Coalition protest on campus. (R. at 10). Her speech received extensive attention during the controversy. *Id*. The Church of Light is a religious denomination whose members engage in evangelization through public proclamation and dissemination of materials, including content distributed through modern media. (R. at 8–10, 45). In 2024, DSU "Lightbearer Missionaries," as they are called, began using mobile vans with HD LED screens to display livestreamed content and local information while driving and parking around campus areas. (R. at 10). During the week of September 22, 2025, after CADS was enacted, DSU Lightbearer Missionary vans broadcasted a video loop that included a clip of Ms. Marshall's protest speech and a still photo of her seated at the front desk of the Delmont Treatment Center. (R. at 10–11). The treatment center's name was visible behind her in the photograph. (R. at 11). The broadcast also displayed text listing substance abuse resources including addresses, phone numbers, and hours of operation with the Delmont Treatment Center listed first. *Id*. At the time, Marshall worked part-time at the Delmont Treatment Center's front desk and was also a patient receiving treatment. *Id*. In 2024, Marhsall posted in an internet chat room for substance abuse survivors stating she suffered from drug and alcohol addiction and was part of an ongoing therapy group. *Id*.

Within twenty-four hours of the Lightbearers's broadcast, Marshall was confronted while leaving the Delmont Treatment Center by approximately twenty people wearing ski masks and Energy Coalition shirts. *Id*. These people photographed her, catcalled her, insulted her about her addiction, followed her, surrounded her car, and keyed her car. *Id*. A similar incident occurred the following night. *Id*. While attempting to drive away, Marshall clipped a light pole, damaging her

car and triggering her airbag. *Id*. Marshall then quit her job and withdrew from her counseling at the Delmont Treatment Center. (R. at 11–12). The record reflects that Lightbearers customarily posted information about resources available to students, including substance abuse resources, but had listed them in text form without photos prior to the Marshall incident. (R. at 12). After Marshall resigned and asked the Lightbearer Missionaries to stop running the image in conjunction with her speech, they responded that they would continue to follow their customary protocol and did not stop. *Id*.

On October 3, 2025, Marshall filed suit under CADS against the Church of Light, seeking damages and injunctive relief. *Id*. The Church moved for summary judgment, asserting CADS violates its First Amendment rights. *Id.* The district court granted summary judgment for the Church, holding CADS unconstitutional as applied and therefore not reaching the Church's intent. (R. at 3–4). The Fifteenth Circuit reversed. (R. at 43). This Court granted certiorari. (R. at 1).

SUMMARY OF THE ARGUMENT

I. Delmont's Campus Anti-Doxxing Statute (CADS) does not unconstitutionally restrict Petitioner's free speech rights. Although the First Amendment prohibits Congress from making any law that "abridg[es] the freedom of speech, or of the press," legislatures are not powerless to regulate speech on matters of private concern as is the case here. Contrary to Petitioner's argument, Respondent was not a public figure, and her employment details were not matters of public concern. As a result, Delmont had the authority to regulate the intentional release of Respondent's personally identifiable information when done with the intent to harm. Furthermore, Petitioner's conduct, as alleged, constituted a true threat, which states may more

freely regulate. Even if neither of these exceptions applied, Delmont narrowly tailored CADS to further a compelling state interest that would survive strict scrutiny review.

II. CADS does not unconstitutionally interfere with Petitioner's Free Exercise rights under the First Amendment. True, Congress and the States are not at liberty to establish laws "prohibiting the free exercise," U.S. Const. amend. I, of religion, but neutral laws of general applicability, which have only an incidental effect on the free exercise of religion, do not relieve individuals from their obligation to comply with such laws. Exceptions to this general rule, such as the so-called "hybrid rights" exception, are not applicable in this instance. Thus, because CADS is a neutral law of general applicability, it does not violate Petitioner's Free Exercise rights under the First Amendment.

STANDARD OF APPELLATE REVIEW

This case presents a First Amendment constitutional challenge to a state statute. Constitutional questions are reviewed *de novo*, and in First Amendment cases this Court conducts an independent review of the record to ensure that the judgment does not intrude on protected expression. *Bose Corp. v. Consumers Union of U.S., Inc.*, 466 U.S. 485, 499-511 (1984).

ARGUMENT

I. CADS is not unconstitutional as applied to Petitioner because its "intent to physically injure" requirement, coupled with the private nature of Petitioner's speech, places it beyond the First Amendment's full protection, and the law is narrowly tailored.

The First Amendment provides that "Congress shall make no law . . . abridging the freedom of speech, or of the press." U.S. Const. Amend. I. As a result, the government generally has little "power to restrict expression because of its message, its ideas, its subject matter, or its

content" unless the measure survives strict scrutiny. *Police Dep't of Chicago v. Mosley*, 408 U.S. 92, 95 (1972); *Reed v. Town of Gilbert*, 576 U.S. 155, 163 (2015). This constitutional protection is strongest where speech relates to matters of public concern. *Snyder v. Phelps*, 562 U.S. 443, 451–52 (2011).

Nevertheless, the First Amendment does not extend to all speech equally. *Dun & Bradstreet, inc. v. Greenmoss Builders, Inc.*, 472 U.S. 749, 758 (1985). The government may more freely regulate speech of "purely private significance" and speech of such little value to society that the interest in its proscription outweighs its benefit. *Id.*; *United States v. Stevens*, 559 U.S. 460, 470 (2010). Historical exceptions to the First Amendment include defamation, incitement and true threats. *Counterman v. Colorado*, 600 U.S. 66, 73–74 (2023). Although not "invisible to the Constitution," the state may more freely regulate the content of these categories of speech. *R.A.V. v. City of St. Paul*, 505 U.S. 377, 383–84 (1992). Here, CADS implicates the public/private speech distinction and true threats exception.

A. CADS implicates private speech beyond the scope of the First Amendment's full protection because details of Respondent's employment did not concern matters of public interest and Respondent was not a public figure.

First Amendment protections are at their greatest when speech centers on matters of public concern or public figures, because democratic debate must be "uninhibited, robust, and wide-open." *Snyder*, 562 U.S. at 451–52. When speech falls into either of these categories, the government may not regulate its content merely because it is inappropriate, outrageous, or even insulting. *Id.* at 453–54, 458.

i. Petitioner's speech was not on a matter of public concern.

Speech is of public concern when it relates "to any matter of political, social, or other concern to the community," or is "a subject of general interest and of value and concern to the

public." *Id.* at 453. Conversely, speech that is "solely in the individual interest of the speaker and its specific business audience," is of private concern. *Dun & Bradstreet*, 472 U.S. at 762. It is irrelevant to the analysis of public or private concern whether the speech is "inappropriate or controversial." *Rankin v. McPherson*, 483 U.S. 378, 387 (1987). To determine whether speech is of public concern, courts must examine the "content, form, and context of a given statement as revealed by the whole record." *Connick v. Myers*, 461 U.S. 138, 147–48 (1983).

Business information is not a matter of public interest simply because it is available to the public. *Dun & Bradstreet*, 472 U.S. at 762. In *Dun & Bradstreet*, this Court found that a business's credit report was a matter of private interest even though that report was relevant to the company's business audience. *Id.* This Court explicitly rejected the argument that the "strong interest in the flow of commercial information" justified classifying the report as a matter of public concern.

Nevertheless, individuals may lose protection over private information if they willingly disclose their employment information to the public. In *DeHart v. Tofte*, three elected members of a local school board attempted to invoke Oregon's anti-doxxing statute after parents posted each member's employment information to a Facebook chatroom with instructions to boycott those companies and tell them it was because they disagreed with the actions of the board members. 533 P.3d 829, 837–42 (Or. Ct. App. 2023). The court dismissed the claims because it found the board members had no interest in keeping the information private. *Id.* at 847–48. It reasoned that each of the three men had published their employment information to LinkedIn, the news, or their campaign websites and showed no interest in keeping the information private. *Id.*

While the video of Respondent's speech was a clear issue of public concern, the photo of Respondent at the Delmont Treatment Center was not. As this Court held in *Dun & Bradstreet*,

the availability of information about a business does not render that information a public concern. 472 U.S. at 762. Here, Petitioner cannot claim his advertisement of Respondent's employer, its contact, and its hours were matters essential to public debate. (R. at 10) The only argument it would have is that such information is necessary to the free flow of commercial information, but this Court explicitly rejected that argument in *Dun & Bradstreet*. 472 U.S. at 762. No information about Respondent's employment with the Delmont Treatment Center required publication and discussion for meaningful debate on public issues.

Although Petitioner may attempt to analogize to *DeHart*, arguing that the image of Respondent at the Delmont Treatment Center was already publicly available and therefore she cannot claim it is private information, that comparison is inapt. In *DeHart*, the Court of Appeals of Oregon held that the plaintiffs' employment information was a matter of public concern not because the public could have found the information on its own, but because the plaintiffs were each public officials who actively publicized their employment and did not seek to keep it private. 533 P.3d at 847. The record does not suggest Respondent made any publication of her employment on LinkedIn or elsewhere and she was not a public official that would expect such scrutiny.

ii. <u>Respondent was not public figure, even for limited purposes.</u>

Even speech on matters of private concern will attain the protections afforded to public speech when the target of the speech is a public figure. *Milkovich v. Lorain Journal Co.*, 497 U.S. 1, 14 (1990). Public figures are "those who, by reason of the notoriety of their achievements or the vigor and success with which they seek the public's attention" have attained positions of influence *Gertz v. Robert Welch, Inc.*, 418 U.S. 323, 342 (1974). An individual is either a public figure for all purposes or for particular public controversies. *Waldbaum v. Fairchild Publications,*

Inc., 627 F.2d 1287, 1291 (D.C. Cir. 1980), *cert. denied*, 449 U.S. 898 (1980). A private figure becomes a public figure for limited circumstances when he "attempts to have, or realistically can be expected to have, a major impact on the resolution of a specific public dispute that has foreseeable and substantial ramifications for persons beyond its immediate participants." *Id.* at 11–12. In making this determination, courts must look through the eyes of a reasonable person at the facts taken as a whole. *Id.* at 12.

Trivial or tangential participation in a public controversy is not enough to turn a private figure into a public one, even for that limited purpose. *Waldbaum*, 627 F.2d at 1297. The individual must purposely, or reasonably expect to, "thrust [herself] to the forefront" of a controversy such that she achieves special status and becomes a factor in its ultimate resolution. *Id.* This analysis requires looking to the individual's past conduct, the extent of press coverage, and the public's reaction. *Id.* Finally, counter speech against the individual's otherwise private person must be germane to that individual's participation in the controversy. *Id.* at 1298.

Merely injecting oneself into a standing controversy, even if that participation is public, is not enough on its own to render an individual a public figure for limited purposes. In *Gertz*, Attorney Gertz represented a family in civil litigation for an officer-involved shooting. 418 U.S. at 325. Gertz was present for the coroner's inquest, but he played a minimal role. *Id.* at 352. Otherwise, he never spoke to the press or attempting to gain the public's interest, despite widespread attention to the underlying murder. *Id.* Therefore, despite entering into a well-observed and reported event, such that his name became known, did not render Gertz a public figure and open him up to defamation regarding his involvement in the dispute. *Id.*

Here, Respondent's speech did not render her a public figure for limited purposes because she played no more than a trivial or tangential role in the Energy Farm Controversy. First, the

energy controversy raged across the entire state of Delmont and did not constrain itself to any single college campus. (R. at 4–6). Even at Delmont State University, where Respondent played a substantial role in organizing protests, she was not a founding leader in the movement and she was only one of 18,000 students at the school. (R. at 7, 10). Second, the speech she gave was her first and only. (R. at 10). While Respondent may have been passionate about the Nature Coalition's cause, the scale of the issue and her limited role meant that she could not realistically expect to become a factor in the debate's ultimate resolution as required by *Waldbaum*. Finally, just as was true with *Gertz*, Respondent made no effort to seek media attention that would expose her to stronger counter speech. Therefore, Respondent did not expose herself to Petitioner's attacks.

Furthermore, although counter speech is a necessary component of public debate, exposing every participant to an infinite number of verbal wounds because he chose to share his opinion does not promote the free interchange of ideas, but would instead chill it. If opponents are free to unleash the mob on any citizen who voices an opinion contrary to theirs, as was the case when Petitioner published Respondent's employment information in the direct context of her views, there would be no debate at all. (R. at 11). Because Respondent was not a public figure, Petitioner's disclosure went beyond the scope of permissible counter speech and is not entitled to heightened First Amendment protections.

B. <u>By requiring an "intent to physically injure" and defining both the mens rea and statutory harm, CADS properly regulates true threats.</u>

First Amendment protections do not extend to true threats. *Stevens*, 559 U.S. at 470. True threats are statements that, when taken in context, "convey a real possibility that violence will

follow." *Counterman*, 600 U.S. at 74. A speaker does not need to intend to carry out the threat, so long as the statement conveys a legitimate fear of violence to the recipient. *Id.*

Intimidation, which occurs when a speaker directs a threat to a person or group with the intent of placing that victim in fear of bodily injury, is a type of true threat that states may regulate. *Virginia v. Black*, 538 U.S. 343, 360 (2003). In *Black*, this Court held that Virginia could criminalize cross burnings that served to intimidate victims. *Id.* at 363. It reasoned that cross burnings had historical connotations that violence would follow, and the state had a legitimate interest in preventing the fear that would naturally result from the burning. *Id.* at 354, 363.

To prevent overreach into areas of protected speech, however, legislative restrictions on true threats must include at least a "reckless" scienter requirement. *Id.* at 82. In *Counterman*, this Court considered a Colorado statute making it unlawful to "repeatedly make any form of communication with another person in a manner that would cause a reasonable person to suffer serious emotional distress and does cause that person to suffer serious emotional distress." *Id.* at 70. The question was not whether Colorado could constitutionally regulate speech that would cause a reasonable person to suffer serious emotional distress, but whether the speaker needed to possess a culpable mindset. *Id.* at 69. This Court held that in true threat contexts, the speaker must act at least recklessly. *Id.* at 82. It reasoned that true threats risk serious harm to citizens and society but acknowledged that a clueless speaker may not recognize the danger particular words pose in particular circumstances. *Id.* at 76. By imposing at least a recklessness standard, the government can regulate threats detrimental to its people without accidentally prohibiting innocent, protected expression. *Id.* at 77.

Following this ruling, Circuit Courts have upheld harassment statutes that focus on this on threatening conduct even where there is an incidental burden to free speech. *See, e.g.*, *United States v. Dennis*, 132 F.4th 214 (2d Cir. 2025). In *Dennis*, the Second Circuit Court of Appeals upheld the constitutionality of a criminal statute that prohibited "[expression] that causes, attempts to cause, or would be reasonably expected to cause substantial emotional distress" when carried out with the intent to kill, injure, harass, or intimidate that person. *Id.* at 228–29. It reasoned that because the law required the State to demonstrate the defendant's subjective intent, and the "harass or intimidate" requirement could be interpreted in line with the true threat exception to the First Amendment, the statute punished conduct outside of the First Amendment's protection. *Id.* at 230.

Here, Petitioner's share of Ms. Marshall's information in the context of the Energy Farm Controversy's fierce debate amounted to a true threat. Just as the historical connotation of cross burnings led to a finding of proscribable intimidation in *Virginia v. Black*, the violent context of the Energy Farm Controversy supports a finding that Petitioner's share of information put Respondent in immediate fear that violence would follow. In the month leading up to Petitioner's display of Ms. Marshall's employer's information, doxxing instances increased exponentially by 150%. (R. at 6.). These events occurred almost exclusively on Delmont college campuses and were frequently violent. *Id.* Protesters accosted and attacked students at school and at their residences, hospitalizing several, and the fire department had to put out a fire set outside of a college administrator's home. (R. at 5). Furthermore, protesters and victims knew that the speed of the attacks prevented police from responding quickly. (R. at 5–6). In this charged atmosphere, with protesters eager to swarm their opponents, Petitioner knew or should have known that its share of Respondent's information in the context of her fierce support for the Nature Coalition

would direct the standing mob in Respondent's direction. This is precisely what happened when, less than 24 hours after Respondent's information appeared, 20 Energy Coalition supporters appeared at the Delmont Treatment Center to threaten Respondent. (R. at 11).

Furthermore, CADS, as alleged in this case, complies with the scienter requirement set forth in *Counterman* because Respondent must prove that Petitioner acted with the "intent to injure." (R. at 6). Delmont's legislature then defines "intent" as "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." *Id.* This standard matches the "reckless" standard required by *Counterman* and avoids overburdening legitimate speech. Respondent could not use CADS to punish the innocuous release of prohibited information; rather, she must prove Petitioner acted purposefully or recklessly in releasing personal information that would put her at risk. There is therefore little concern that the statute will lead to untenable self-censorship in Delmont.

Finally, this intent requirement mirrors the statute that the Second Circuit approved in *Dennis*. CADS's requirement that a violator act with intent to "stalk, harass, or physically injure" closely resembles the "intent to kill, injure, harass, or intimidate" scienter requirement the *Dennis* court found sufficient in true threat cases. 132 F.4th at 228–29. Furthermore, the underlying harm of both statutes is very similar. Under the facts of this case, CADS requires Respondent to prove Petitioner released her employment information purposefully or recklessly to place her in reasonable fear that she would be subject to bodily injury or property damage. (R. at 6). This places a higher burden on Respondent than the statute in *Dennis* placed on the government. There, the prosecution only needed to prove that the defendant's conduct sought to cause substantial emotional distress, a lesser harm than the physical injury required here.

Because Respondent alleged that Petitioner released her employer's information with an intent to physically injure her, and the context of the Energy Farm Controversy made it sufficiently likely that physical injury or legitimate fear thereof would result from the sharing of this information, CADS is a constitutional proscription as applied to Petitioner because it regulates a true threat with the proper mens rea requirement.

C. Because Petitioner's speech falls outside of the First Amendment's full protection and the statute is not unreasonable, arbitrary, or capricious, CADS constitutes a lawful exercise of Delmont's police powers.

So long as CADS conforms to one of the recognized exceptions to traditional First Amendment protections, the proper standard of review is the rational-basis test. *Free Speech Coal. Inc. v. Paxton*, 606 U.S. 461, 471 (2025). Under that standard, the statute is constitutional if it is not "unreasonable, arbitrary, or capricious." *Nebbia v. New York*, 291 U.S. 502, 525 (1934). This framework requires courts to assume that the challenged legislation is within the power of the legislature and the "knowledge and experience of the legislators." *United States v. Carolene Prods. Co.*, 304 U.S. 144, 152 (1938). The statute does not need to be closely tailored to its goal, or the most efficient option; it is enough that the statute is a rational solution to the "evil at hand." *Williamson v. Lee Optical*, 348 U.S. 483, 487–88 (1955).

CADS satisfies this rational-basis test because it is a nonarbitrary solution to the legislature's identified evil: doxxing on Delmont's college campuses. By August 2025, local authorities recognized that agitators were employing doxxing—"flash-shares" of victims' personal information meant to incite bursts of harassing activity—to incite campus protests and attacks against individuals involved in Delmont's Energy Farm Controversy. (R. at 5). Police quickly realized they could not respond fast enough to arrest perpetrators, and existing law was

inadequate to preempt attacks or hold perpetrators accountable. (R. at 5–6, 48). To protect campus students and staff, Delmont's legislature quickly enacted Del. Ann. Stat. §25.989 (CADS), which created a private cause of action for victims of doxxing. (R. at 5–6, 48). Specifically, CADS prohibited anyone from sharing defined, personally identifiable information about a member of a Delmont college or university if the sharer intended to harass, stalk, or injure the recipient. (R. at 6). By addressing the exact doxxing evil plaguing Delmont's campuses, CADS satisfies rational-basis review.

D. Even if CADS constituted a content-based restriction under the First Amendment, the Law satisfies strict scrutiny review because it advances Delmont's compelling interest in the safety and security of its college campuses without infringing on innocent speech.

If no exception to the First Amendment applies, a legislature may still restrict speech because of its topic, idea, or message—known as content-based limitations—so long as the state can prove the law serves a compelling state interest and they have narrowly tailored it to advance that purpose. *Reed v. Town of Gilbert*, 576 U.S. 155, 163 (2015).

The government has a compelling interest in ensuring public safety and order. *See Thornhill v. Alabama*, 310 U.S. 88, 105 (1940) ("The power and duty of the State to take adequate steps to preserve the peace and to protect the privacy, the lives, and the property of its residents cannot be doubted."). Recently, this Court acknowledged that a law restricting public access outside of abortion centers seeking to prevent violence against care providers and patients served a compelling state interest. *McCullen v. Coakley*, 573 U.S. 464, 469, 486 (2015). It noted the longstanding legitimacy of public safety and order as compelling state interests. *Id.* at 486.

As for the narrow tailoring prong, the standard is exacting, but not insurmountable. *See Williams-Yulee v. Florida Bar*, 575 U.S. 433, 444 (2015). In *Williams-Yulee,* this Court upheld a

Florida prohibition against judicial candidates soliciting their own campaign funds despite being a content-based restriction on speech. *Id.* It observed that although the law proscribed slightly more speech than necessary to achieve its goal, strict scrutiny does not require a perfect fit. *Id.* at 449. A content-based restriction may prohibit slightly more or less than it intends. *Id.* at 449.

Here, Delmont has a compelling interest in protecting public safety and order on its college campuses. At the time Delmont enacted its anti-doxxing statute, campuses state-wide were enduring unprecedented violence and harassment stemming from doxxing practices related to the Energy Farm Controversy. (R. at 5–6). In accordance with this Court's view in *Thornhill*, Delmont's interest in preserving peace, privacy, lives, and property extends to protecting college students from doxxing, harassment, and threats. 310 U.S. at 105.

Furthermore, contrary to the District Court's finding that CADS is overinclusive, Delmont narrowly tailored the statute to cure only the specific threat to its college campuses. (R. at 7). First, the government exhausted all existing remedies before enacting the statute. (R. at 48). As the Governor explained Delmont was unable to combat flash shares of information under existing law or administrative procedures. *Id.* Specifically, the speedy nature of the attacks made it impossible to stop or hold perpetrators accountable under the state's "harassment, stalking, trespass, and disorderly-conduct provisions" because police could not respond in time. (R. at 5–6, 48). Additionally, campus safety measures and administrative guidance were insufficient. (R. at 48). Delmont required a method for punishing those who incited the attacks and Delmont Annotated Statutes §25.989 provided the precise civil cause of action necessary to hold doxxers accountable and deter future threats through the prospect of financial penalties. (R. at 6, 48).

Second, after exhausting all existing remedies, Delmont's legislature crafted CADS to cure the exact problem that plagued Delmont's college campus. To be liable under the statute, a

person must: (1) share sensitive, personally identifiable information set out in five defined categories; (2) about a student or faculty member at a Delmont college or university; (3) with the intent stalk, harass, or physically injure (each of which the statute defines). (R. at 6). This narrow scope serves to solve a single course of conduct: the nonconsensual dissemination of identifying information intending to dox those associated with Delmont campus life. (R. at 48).

Contrary to the District Court's ruling in this case, the statute's limited class, content, and intent requirement provide the least restrictive means for prohibiting the doxxing on Delmont's campuses. (R. at 19). It does not punish legitimate counter speech because not even counter speech on matters of public concern protect can excuse the true threats this statute addresses. Furthermore, as this Court noted in *Williams-Yulee,* strict scrutiny does not require a perfect fit and a statute may proscribe slightly more speech to further its stated interests. 575 U.S. at 449. Finally, CADS's strict and clear burdens will not chill free speech in Delmont because it creates clear expectations about what conduct will fall within its reach.

II. CADS IS BOTH NEUTRAL AND GENERALLY APPLICABLE SO IT DOES NOT VIOLATE PETITIONER'S FIRST AMENDMENT FREE EXERCISE RIGHTS.

CADS is facially neutral because it is devoid of any language "referring to any religious practice and certainly avoids any language targeting [the Petitioner]." (R. at 38.). Both lower courts in this case have acknowledged as much. (R. at 21, 38.). The question remains, however, whether CADS represents a "subtle" or "covert" departure from neutrality that unfairly targets Petitioner. The answer is that it does not. Furthermore, CADS is a law of general applicability because it prohibits the intentional dissemination of personal information *by anyone*, not just by religious entities like the Petitioner. Finally, this Court should refuse to apply the so-called "hybrid rights" exception.

In *Employment Div., Dept. of Human Resources of Oregon v. Smith*, this Court recognized that "the right of free exercise does not relieve an individual of the obligation to comply with a 'valid and neutral law of general applicability on the ground that the law proscribes (or prescribes) conduct that his religion prescribes (or proscribes).'" 494 U.S. 872, 879 (1990) (internal citation omitted). Moreover, Free Exercise rights are not offended where the incidental effects of an otherwise generally applicable law burden religion. *Id.* A neutral and generally applicable law is not reviewed under strict scrutiny but rather is subjected only to rational-basis review. *City of Boerne v. Flores*, 521 U.S. 507, 514 (1997).

A. CADS does not represent a "subtle" nor "covert" departure from neutrality and it is generally applicable.

Though the district court in this matter recognized that CADS is facially neutral, it nonetheless concluded, and Petitioner maintains on appeal, that CADS is not neutral *as applied* to Petitioner because the statute represents a "covert suppression of a particular religious belief," and so represents a "subtle" departure from neutrality. (R. at 22.). The record does not support such a conclusion.

Governmental neutrality can be shown to exist by assessing three factors, all of which the district court failed to discuss in its memorandum opinion. Those factors are (1) "the historical background of the decision under challenge," (2) "the specific series of events leading to the enactment or official policy in question," and (3) "the legislative or administrative history, including contemporaneous statements made by members of the decisionmaking body." *Church of Lukumi Babalu Aye, Inc. v. City of Hialeah*, 508 U.S. 520, 540 (1993). Analyzing CADS under these factors, the law's neutrality becomes apparent.

The historical background and specific series of events leading to CADS' enactment is well-established. In the fall of 2024, the Delmont legislature began considering whether to develop a thousand acres around the state into "zones for solar and wind energy production." (R. at 4.). As a result, two groups formed: one group in favor of alternative energy development and another group opposed and instead advocating for wildlife preservation. *Id.* The situation became volatile, and by April 2025, the conflict "became inflamed." *Id.* The conflict was most pronounced on Delmont's college campuses. (R. at 5.). Students were ambushed, accosted, and even hospitalized. *Id.* Moreover, students, on both sides of the issue, received intimidating phone calls and text messages. *Id.* Law enforcement discovered that these incidents typically happened suddenly and in bursts. *Id.* It was determined that organizers "were coordinating 'flash-shares' of a particular victim's phone number, picture, location, and other personal information." *Id.* This phenomenon is known as "doxxing." "From late August to early September . . . doxxing instances in Delmont increased . . . by 150%." (R. at 6.). It was in response to this precipitous rise in doxxing incidents, that the Delmont legislature passed CADS, and which was signed into law by Governor Morrison in September 2025. *Id.*

Governor Morrison's November 2025 affidavit supports CADS' historical background. The governor attested that in the period leading up to CADS' enactment, "Delmont experienced campus-centered incidents in which students . . . were subject to non-consensual dissemination of personally identifiable information." (R. at 47 ¶ 4.). According to the governor, CADS was enacted to create "a private cause of action against *any individual* that, without consent, discloses private information of an enrolled student with the intent to . . . harass . . . that student." *Id.* ¶ 8 (emphasis added). Crucially, CADS was enacted following a sharp rise in doxxing instances between late August and early September 2025, and not in response to the facts involving Ms. Marshall and

Petitioner in this instance, which occurred after CADS' enactment. This supports a finding that CADS was enacted as a neutral law intended to restrict the public generally rather than to burden religion specifically. Cf. *Church of Lukumi*, 508 U.S. at 540-41 (city council had made no attempt to address animal sacrifice before June 1987, just weeks after the Church announced plans to open).

Church of Lukumi is distinguishable from the matters presented in this appeal. There, this Court made it clear that the City of Hialeah's pattern in enacting certain ordinances restricting the sacrifice and killing of animals disclosed "animosity to Santeria adherents and their religious practices; the ordinances by their own terms target this religious exercise." *Church of Lukumi*, 508 U.S. at 542. The Court noted that "Santeria alone was the exclusive legislative concern." *Id.* at 536. The Hialeah ordinances were so targeted toward the tenets of the Santeria religion that the laws' design accomplished a "religious gerrymander." *Id.* at 535 (internal quotation and citation omitted). Not only was the language of the Hialeah ordinances focused on restricting the tenets of the Santeria religion, but several statements by the city council also make it clear that the city's ordinances were in response to Church of Lukumi moving into the city. In fact, one councilmember even remarked, "[w]hat can we do to prevent the church from opening?" *Id.* at 541.

The legislative and historical background presented in this case make it clear that Petitioner was not the target of CADS. There is no evidence in this record that supports an argument that Delmont's legislature enacted CADS to restrict religious practice generally or the Church of Light specifically. The only comments from a public official come from Governor's Morrison's affidavit, and even there the governor maintains that CADS was enacted as a response to the statewide problem of doxxing. (R. at 47 ¶¶ 4–6, 8.).

The facts above, reinforced by Governor's Morrison's affidavit, should lead to the conclusion that CADS is a law of general applicability. "A law . . . lacks general applicability if it prohibits religious conduct while permitting secular conduct that undermines the government's asserted interests in a similar way." *Fulton v. City of Phila., Pennsylvania*, 593 U.S. 522, 533 (2021). Furthermore, "[a] law is not generally applicable if it "invite[s]" the government to consider the particular reasons for a person's conduct by providing "'a mechanism for individualized exemptions.'" *Id.* (quoting *Smith*, 494 U.S. at 894). CADS does not prohibit Petitioner from continuing their practice of sharing "The Lantern" via mobile LED televisions on their vans. (R. at 42.). What CADS does prohibit the Church from doing, however, is sharing another person's personal information without that person's permission and with intent to "stalk, harass, or physically injure." (R. at 6.). This prohibition, however, is not targeted at Petitioner or their practices, or any other religious entity, for that matter. Likewise, the statute is devoid of any language providing individualized exemptions from its applicability to secular entities. CADS provides a cause of action against "any individual" if an individual shares another person's personal information without consent. Full stop.

Under the *Church of Lukumi* factors, as well as the facts motivating CADS's enactment, this record supports the conclusion that CADS does not represent "covert" suppression of religious beliefs nor a "subtle" departure from neutrality. Furthermore, the record evidence shows that CADS is a law of general applicability. As such, because CADS is both neutral and generally applicable, it is subject to rational-basis review.

i. <u>CADS does not impose a burden "of the same character as that in *Yoder*" on the Church of Light.</u>

Because CADS is a neutral law of general applicability, it remains subject to rational-basis review. The *Yoder-Mahmoud* exception does not apply to this case, so strict scrutiny remains inappropriate. In *Mahmoud v. Taylor*, this Court explained that "when a law imposes a burden of the same character as that in *Yoder*, strict scrutiny is appropriate regardless of whether the law is neutral or generally applicable." 606 U.S. 522, 565 (2025). *Yoder* followed a long line of cases recognizing parents' rights in the religious upbringing of their children. *Wisconsin v. Yoder*, 406 U.S. 205, 213-14 (1972). Those parental rights are violated when the government "'substantially interfere[es] with the religious development' of children." *Mahmoud*, 606 U.S. at 546 (quoting *Yoder*, 406 U.S. at 218).

Yoder involved Wisconsin's compulsory-attendance law, requiring all students to attend school through the age of sixteen. Amish parents challenged the law on grounds that adherence to such requirement would be "undeniably at odds with fundamental tenets of their religious beliefs." *Yoder*, 406 U.S. at 218. In essence, Amish parents would have been forced to choose between following fundamental tenets of their religion, under threat of criminal sanction, *id.*, or ignore their religious beliefs and comply with Wisconsin's law, which would substantially interfere with the parents' rights to direct the religious upbringing of their children. *Id.*; *Mahmoud*, 606 U.S. at 546. The Court held that the compulsory-attendance law violated the parents' First Amendment Free Exercise rights. *Yoder*, 406 U.S. at 234.

Similarly, *Mahmoud* involved a local school board that required elementary schools to introduce "LGBTQ+ inclusive" storybooks into their curricula. *Id.* at 530. The board refused to give parents notice as to when these books would be presented in class and refused to allow parents to opt their child out of those presentations. In response, parents of various faiths sued the school

board claiming that the board's actions would conflict with their religious beliefs. *Id.* at 539. A majority of this Court agreed. *Id.* at 569.

Now, Petitioner comes to this Court asking it to recognize the same burden on its own religious exercise as that identified in *Yoder* and *Mahmoud*. This case, however, does not present the "exact same" burden as *Yoder* or *Mahmoud*. *Id.* at 565. Inherent in the challenges presented in those cases are the rights of *parents* and their ability to direct their child's religious upbringing. Indeed, both *Yoder's* and *Mahmoud's* holdings were directed at government action that burdened a parent's right to direct their child's religious upbringing, and which offended the parents' religious beliefs. For the *Yoder-Mahmoud* exception to apply, state action must burden the parent-child relationship vis-à-vis religious exercise.

Examining this record, there is no evidence tending to show that CADS substantially interferes with parents' rights to direct the religious upbringing of their child. Because this critical aspect—essential to both *Yoder* and *Mahmoud*—is missing, the *Yoder-Mahmoud* exception is not applicable. For the exception to apply, it is not enough that a burden be "similar enough," (R. at 24), to *Yoder*. *Mahmoud* requires that the burden be "of the exact same character as the burden in *Yoder*." *Mahmoud*, 606 U.S. at 565.

B. <u>This Court should refuse to adopt the so-called "hybrid rights" exception to the *Smith* rule.</u>

In *Smith*, the Court speculated that neutral laws of general applicability may still be subject to strict scrutiny if a plaintiff alleges a violation of their Free Exercise rights "in conjunction with other constitutional protections, such as freedom of speech and of the press." *Smith*, 494 U.S. at 881. The so-called "hybrid rights" exception has been met with scrutiny by other members of this Court, as well as by the lower courts. Because the exception has failed to produce a workable

standard to guide this Court, and all other federal courts, it should refuse to recognize the "hybrid rights" exception.

Justice Souter, concurring in *Church of Lukumi*, commented that the "hybrid rights" exception is untenable because "[i]f a hybrid claim is simply one in which another constitutional right is implicated, then the hybrid exception would probably be so vast as to swallow the *Smith* rule . . ." *Church of Lukumi*, 508 U.S. at 567 (Souter, J., concurring in part). The Sixth Circuit has explained that the "hybrid rights" exception produces illogical results. *Kissinger v. Bd. of Trs. of Ohio St. Univ*, 5 F.3d 177, 180 (6th Cir. 1993). In *Kissinger*, the Sixth Circuit refused to apply a strict scrutiny standard on Kissinger's Free Exercise claims even though her complaint against Ohio State implicated other constitutional protections. A unanimous three-judge panel noted that it did not see how "a state regulation would violate the Free Exercise Clause if it implicates other constitutional rights but would not violate the [F]ree Exercise Clause if it did not implicate other constitutional rights." *Id.* The court observed that "the *Smith* court did not explain how the standards under the Free Exercise Clause would change depending on whether other constitutional rights are implicated." *Id.* As such, Judge Martin explained that "at least until the Supreme Court holds that legal standards under the Free Exercise Clause vary depending on whether other constitutional rights are implicated, we will not use a stricter legal standard than that used in *Smith* to evaluate generally applicable . . . regulations under the Free Exercise Clause." This Court had the opportunity to answer Judge Martin's call as early as June 2025. It declined. *Mahmoud*, 606 U.S. at 565 n.14 (Supreme Court declining to analyze implications of "hybrid rights" exception to facts of the case). *See also Fulton v. City of Phila., Pennsylvania*, 593 U.S. 522, 603–05 (Alito, J., concurring in the judgment) (hybrid rights exception "has baffled the lower courts.").

In the instant matter, the district court cited *Telescope Media Grp. v. Lucero*, 936 F.3d 740, 758–61 (8th Cir. 2019), to support its alternative ruling that the "hybrid-rights" exception applies to the case at bar. But *Lucero* itself did not illuminate a standard to guide application of the exception; rather, the Eighth Circuit was simply doing its best to adhere to the Supreme Court's recognition of *some* "hybrid rights" doctrine—as lower courts are bound to do. Similarly, the Eleventh Circuit in *Henderson v. McMurray*, 987 F.3d 997, 1005–07 (11th Cir. 2021), failed to explain how the "hybrid rights" exception is practically applied.

Unless and until this Court provides substantive guidance on the applicability of the "hybrid rights" exception, Free Exercise litigants should be prohibited from circumventing the *Smith* rule by simply alleging another constitutional violation in conjunction with an otherwise tenuous Free Exercise claim. For these reasons, the "hybrid rights" exception does not remove CADS from the application of the *Smith* rule, and so rational-basis review applies here.

C. CADS is subject to rational-basis review.

CADS is a neutral law of general applicability. In any Free Exercise challenge to the statute, the federal courts need only review it for a rational basis. To survive this standard, "a state law need only be rationally related to legitimate government interests." *Box v. Planned Parenthood of Indiana and Kentucky Inc.*, 587 U.S. 490, 491 (2019). As was made evident in Governor Morrison's affidavit, CADS was enacted as a response to the precipitous rise of "doxxing" incidents on Delmont's college campuses, which resulted in college students enduring violence and harassment. (R. at 47 ¶ 5.). Indeed, CADS was enacted to protect Delmont's citizens from violent attacks. Undoubtedly, this is a legitimate government interest. Enacting a statute which prohibits someone from sharing another person's personal information is a rational response to achieving Delmont's desired interest.

CONCLUSION

For the foregoing reasons, this Court should affirm the holding of the Fifteenth Circuit Court of Appeals.

BRIEF CERTIFICATE

The work contained in all copies of this team's brief is in fact the work product of the team members.

The team has complied fully with our law school's governing honor code.

The team has complied with all Competition Rules.