No. 25-CV-1994

IN THE SUPREME COURT OF THE UNITED STATES

THE CHURCH OF LIGHT, LLC,

***Petitioner*,**

v.

LAURA MARSHALL,

***Respondent*.**

ON WRIT OF CERTIORARI FROM THE

UNITED STATES COURT OF APPEALS

FOR THE FIFTEENTH CIRCUIT

BRIEF FOR RESPONDENT

TEAM 018
Counsel for the Respondent

QUESTIONS PRESENTED

I. Whether the Campus Anti-Doxxing Statute of Delmont, as applied to unprotected speech in furtherance of a legitimate government interest in promoting public safety, violates the First Amendment Freedom of Speech.

II. Whether the Campus Anti-Doxxing Statute of Delmont, applying uniformly to all speakers and regulating only the nonconsensual disclosure of private identifying information with the intent to stalk, harass, or physically injury, violates the First Amendment Free Exercise Clause.

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Cases

Constitutional Provisions

Statutes

Rules

OPINIONS BELOW

The opinion of the United States District Court for the District of Delmont, Western Division, is unreported but available at *Marshall v. The Church of Light, LLC*, No. 25-CV-1994 (W.D. Dist. of Delmont 2025). R. at 2-29. The opinion of the United States Court of Appeals for the Fifteenth Circuit is also unreported but available at *Marshall v. The Church of Light, LLC*, C.A. No. 25-CV-1994 (15th Cir. 2025). R. at 30-43.

STATEMENT OF JURISDICTION

The District Court granted summary judgment in favor of Petitioner under Federal Rule of Civil Procedure 65. R. at 29. Laura Marshall appealed to the Fifteenth Circuit, which reversed and denied summary judgment. R. at 43. Petitioner timely filed, and this Court granted writ of certiorari. R. at 49. This Court now has jurisdiction to review pursuant to 28 U.S.C. § 1254(1).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Relevant constitutional and statutory provisions are reproduced in *Appendix A* to this brief.

STATEMENT OF THE CASE

A. Delmont Began Experiencing a Significant Threat to Public Safety.

The State of Delmont is home to a number of non-profit environmental groups with conflicting views regarding the development of ecological policies to protect the State's natural features. R. at 4. In 2024, Delmont legislature considered clearing land for solar panels and windmill farms, spurring the creation of two distinct sides of what evolved into the Energy Farm Controversy. R. at 4-5. One side identified with the sunburst symbol and favored clearing the land to develop energy farms in furtherance of environmental objectives ("Energy Coalition"), while the other, adopted the willow tree and pushed for habitat preservation efforts ("Nature Coalition"). *Id*. Both coalitions peacefully organized, protested, and lobbied for their viewpoints until April 2025, when

their demonstrations began leading to physical altercations requiring police intervention. R. at 4.

The Energy Farm Controversy reached an acute level, specifically on Delmont's college campuses, in August 2025. R. at 5. These campuses were inundated with disruptions of activities, protests at university administrators' homes, and physical ambushes of students, progressively worsening as both coalitions' student factions became more involved. *Id*. Student leaders coordinated a myriad of "flash shares" publicizing an individual's phone number, picture, location, and other personal information, enabling near immediate identification and location of victims. *Id*. This exacerbated the clash, cueing a slew of physical confrontations leading to hospitalization and intimidating cyber threats. R. at 5-6.

In just the few short weeks from late August to early September, doxxing[1] instances increased almost exclusively on Delmont's college campuses by 150%. R. at 6-7. Their sheer velocity, combined with their rapid onset and hostility, made protecting victims from harm solely using law enforcement insurmountable. R. at 6.

B. Delmont Enacted the Campus Anti-Doxxing Statute of Delmont.

Despite the Governor's honest efforts to thwart doxxing using pre-existing harassment, stalking, trespassing, and disorderly conduct provisions, these measures required harm to escalate before relief could be administered. R. at 48. This was ineffectively reactive, unable to curb the instigating flash shares proactively and decisively. *Id*. Finding no suitable alternative measures available to inhibit campus violence, the Governor signed the "Campus Anti-Doxxing Statute of Delmont" ("CADS") on September 12, 2025. R. at 6-7, 48. CADS created a private cause of action against any individual who, without consent, uses a communication platform to disclose private information of an enrolled student, faculty member, administrative or staff member at a Delmont

[1] Doxing is defined as "the nonconsensual online posting of someone's personal information, such as home address, email address, and place of employment, esp. for purposes of harassment." *Black's Law Dictionary* (12th ed. 2024).

college or university with the intent to "stalk, harass, or physically injure." *Id*.

However, not long after CADS declared doxxing actionable under law, The Church of Light's Lightbearer Missionaries ("Lightbearers") at Delmont State University ("DSU") ignored the legislation. R. at 10. On September 22, 2025, Lightbearers broadcast a clip of DSU student Laura Marshall's first speech at a campus protest—followed immediately by a photograph of Marshall wearing a Nature Coalition symbol T-shirt, seated at a desk in front of the logo for the Delmont Treatment Center ("DTC") where she worked and received patient-care, accompanied by the name, address, phone number, and hours of operation of DTC—on DSU's perpetually turbulent campus. *Id*. The Church of Light ("Petitioner") sides with the Energy Coalition, and Marshall's speech advocated for the Nature Coalition. *Id*. Within twenty-four hours, protestors swarmed Marshall as she exited DTC: catcalling her about her addiction and keying her car. R. at 11. This repeated the following evening, causing further property damage and instilling greater fear. *Id*. To protect herself from harm, Marshall was forced to withdraw from employment and counseling. *Id*.

C. Petitioner Objects to Limitations of Their Broadcasts Under CADS.

Petitioner was founded in Delmont during the nineteenth century and has practiced its faith by proselytizing its religious messages via live, personal, and public proclamation accompanied by printed witness using communicative formats. R. at 8, 44. Traditionally, Lightbearers travelled throughout Delmont proclaiming its religious proverbs on street corners and disseminating its physical publication, *The Lantern*. *Id*. However, as the denomination expanded, proclamation fell into the hands of young Lightbearers who modernized Petitioner's traditional practices. R. at 8-9. Petitioner came to believe the youth would become more resolute in their faith if they advocated for it while pursuing higher education and added a new college campus "missionary year" to its creed. R. at 8-9, 45. In the 1990s, digital communications began to supplant print media. R. at 9.

Lightbearers then disseminated *The Lantern* through live TV broadcasts, interspersing publicly sourced local news with religious programming on community access channels in Delmont college towns. R. at 9, 45. Though TV broadcasts successfully satisfied the faith's requirements for thirty-four years, in 2024, Petitioner deemed it "necessary" to reach more potential converts by driving vans broadcasting *The Lantern* on LED screens around Delmont colleges. *Id*. Petitioner now believes this is the only way to spread its faith and CADS risks its religious decline. *Id*.

D. Proceedings.

On October 3, 2025, Marshall filed suit against Petitioner in the United States District Court for the District of Delmont, Western Division, seeking damages and injunctive relief under CADS. R. at 12. Marshall alleged Petitioner violated CADS by publicly disclosing her private information in a volatile campus environment, resulting in harassment, property damage, and disruption of her employment and medical care. R. at 10-12. Petitioner responded that CADS, as applied, violated its rights under the Free Speech and Free Exercise Clauses of the First Amendment. R. at 12.

The District Court granted Petitioner's motion for summary judgment. R. at. 29. Marshall then appealed and the Fifteenth Circuit reversed, denying summary judgment R. at 43. In response, Petitioner petitioned for a Writ of Certiorari to this Court, which this Court granted. R. at 43, 50

SUMMARY OF THE ARGUMENT

This case presents an as-applied challenge to Delmont's imposition of liability under CADS on Petitioner's religious broadcast, *The Lantern*. Under CADS, Marshall brought a private cause of action after Petitioner disclosed her private information—as an enrolled DSU student—on a communication platform with the intent to stalk, harass, or physically injure.

Petitioner asserts that CADS, as applied, is a presumptively unconstitutional content-based restriction in violation of the freedom of speech. This presumption, however, bears no weight where Petitioner's speech falls outside the scope of First Amendment protection. Petitioner

improperly maintains that broadcasting Marshall's speech and photograph at DTC are protected matters of public concern because they inform the community about the Energy Farm Controversy and Delmont's substance abuse services. Be that as it may, the manner in which Lightbearers chose to broadcast this information was intended and understood as communicating actual facts about Marshall's employment and medical condition, inciting violence, and threatening harm; all of which are unprotected. As properly decided by the Fifteenth Circuit, CADS directly relates to reinstating public safety at Delmont universities by deterring doxxing and is thus constitutional. The burden to prove otherwise lies with Petitioner, and Petitioner fails to meet that burden.

Furthermore, CADS does not violate the Free Exercise Clause as applied to Petitioner by burdening religiously motivated expression. The Free Exercise Clause does not entitle religious actors to exemptions from neutral and generally applicable laws that regulate harmful conduct. The statute neither targets religious beliefs nor selectively burdens religious conduct and contains no mechanism for individualized exemptions. Additionally, CADS does not impose coercive interference with religious belief formation or education comparable to *Wisconsin v. Yoder*, and the so-called hybrid rights theory provides no basis for heightened scrutiny where neither the Free Exercise claim nor any accompanying constitutional claim independently warrants it. CADS therefore needs only pass rational basis review, which it unequivocally satisfies.

I. CADS AS APPLIED TO PETITIONER'S BROADCAST DOES NOT VIOLATE THE RIGHT TO FREE SPEECH.

The First Amendment prohibits Congress from enacting laws abridging the freedom of speech. U.S. Const. amend. I; *Gitlow v. New York*, 268 U.S. 652, 666 (1925). However, "not all speech is of equal First Amendment importance." *Dun & Bradstreet, Inc. v. Greenmoss Builders, Inc.*, 472 U.S. 749, 758 (1985). "First Amendment protection of particular types of speech must be balanced against a state's interest in protecting its residents from wrongful injury." *Gertz v. Robert Welch*

Inc., 418 U.S. 323, 342–43 (1974). Speech perceived as stating "actual facts about an individual," *Milkovich v. Lorain J. Co.*, 497 U.S. 1, 2 (1990), "defamation, incitement, speech integral to criminal conduct, fighting words, [and] true threats," *League of Women Voters v. Schwab*, 549 P.3d 363, 374 (Kan. 2024), are unprotected speech. Accordingly, this Court declared states may impose liability on such speech through statutes "reasonable in relation to its subject and…adopted in the interests of the community." *W. Coast Hotel Co. v. Parrish*, 300 U.S. 379, 391 (1937).

The state of Delmont necessarily implemented CADS in response to an ongoing threat to public safety. This threat stemmed from violent attacks on individuals, following flash shares of private information, amidst the Energy Farm Controversy. R. at 6. Declaring CADS unconstitutional as applied to Petitioner would chill political speech, discouraging individuals from expressing their viewpoints out of fear that their personal information will be disclosed. R. at 33. Such a ruling would antithetically endanger, rather than encourage, a robust marketplace of ideas.

This Court should affirm the Fifteenth Circuit's decision because (1) Marshall's private information is a matter of private concern, (2) Petitioner's broadcast is in a category of unprotected speech, (3) CADS need only reasonably relate to the government's substantial interest in deterring violence, and (4) this interest outweighs any incidental burdens on otherwise lawful expression.

A. Broadcasting Marshall's Employment and Medical Information for Doxxing is an Unprotected Matter of Private Concern.

The First Amendment prohibits statutory liability only where speech contains matters of public concern relating to political, social, or other community concerns. *Snyder v. Phelps*, 562 U.S. 443, 453 (2011). By contrast, matters of private concern are "in the individual interest of the speaker," lacking protectable social import and limiting this Court's ability to circumscribe state law. *See Dun & Bradstreet, Inc.*, 472 U.S. at 758-59; *New York Times Co. v. Sullivan*, 376 U.S. 254, 301-302 (1964) (Goldberg, J., concurring in the result) (liability for private speech does not abridge the

First Amendment). Whether speech is a matter of public or private concern turns on its "content, form, and context…as revealed by the whole record." *Snyder*, 562 U.S. at 453.

Speech on a matter of private concern is inconsequential to public discourse and falls outside the scope of First Amendment protection. *Milkovich*, 497 U.S. at 2 (public debate will not suffer for lack of 'imaginative expression' or… 'rhetorical hyperbole'). This includes speech that can reasonably be interpreted as stating "actual facts" about an individual, *id*. at 2, 4 (newspaper article "Maple beat the law with the 'big lie'" released day after Maple coach testified unprotected where reasonably interpreted as stating actual facts about coach's perjury), and speech furthering an individual interest, *Connick v. Meyers*, U.S. 138, 148 (1983) (employee's internal questionnaire private concern, despite one question's ability to aid public concern, when disseminated in extension of personal employment dispute). *C.f. DeHart v. Tofte*, 326 Or. App. 720, 745-46 (2023) (posting school board's employment in Facebook group discussing board's vote banning social justice emblems in schools not private interest doxxing where inextricable from public concern). *But see Snyder*, 562 U.S. at 454-55 (church picketing military homosexuality at a soldier's funeral was public concern where no pre-existing relationship suggested intent to mask private dispute as public). While defamation cases carve out limited protection for speech regarding public figures, speech about private individuals remains unprotected. *See Waldbaum v. Fairchild Publications, Inc.*, 627 F.2d 1287, 1291-92 (1980); *see also Time, Inc. v. Firestone*, 424 U.S. 448, 457 (1976) (private individual involuntarily drawn into public forum does not sacrifice legal protection).

Lightbearers broadcast Marshall's photograph to share actual facts about her in their private interest of doxxing her for her opposing viewpoints. The broadcast circulated a list of substance abuse resources featuring a photograph of Marshall behind the front desk at DTC, where she both worked and received treatment. R. at 10. By adjoining Marshall's photograph, a reasonable person

would deduce this as stating actual facts about her private employment, substance abuse, or both. This is concretely evidenced by the twenty individuals who, within twenty-four hours of the broadcast, located Marshall at DTC while leaving work and mocked her addiction. R. at 11. Though this private information offers no value to anyone other than Marshall, the District Court contends DTC provides valuable services to the community and its information is a public concern. R. at 16-17. However, such concern is dispelled when it is a mere foil for private interest. *Connick*, 461 U.S. at 148. As emphasized in *Snyder*, the primary case the District Court urges this Court to follow, the character of speech turns not only on its words but its circumstances. 562 U.S. at 454. The Energy Coalition, which Lightbearers support, and Nature Coalition, which Marshall sides with, notoriously coordinated flash shares to doxx the opposite faction. R. at. 5, 10. The broadcast also strategically featured a photograph of Marshall wearing a Nature Coalition shirt. R. at 10. Taken together, this suggests that sharing this information was to instigate doxxing, thereby negating any public concern protections that would otherwise be afforded to DTC's information.

Furthermore, it is insignificant that the information followed Marshall's Nature Coalition speech. R. at 10. While the Energy Farm Controversy is indisputably a matter of public concern, Marshall's private information is not; nor is it critical to or inseparable from public discourse such that discourse would be hindered by its exclusion. *DeHart*, 326 Or. App. at 745-46. It at most tangentially relates to public concern, while saliently infringing on Marshall's privacy.

While the District Court suggests that Marshall's privacy interests are secondary to First Amendment protections of counterspeech because Marshall is a public figure, applying this carveout is fallacious for numerous reasons. R. at 17. Marshall delivered only one untelevised speech. R. at. 10. This does not transform her into a public figure simply because Lightbearers and the news unilaterally decided to film and broadcast it. *Id*. Additionally, this exception exists solely

because public figures may use the media to defend against reputational harm without aid from the law. *Waldbaum*, 627 F.2d at 1291. As the Fifteenth Circuit properly asserts, this is incongruous as CADS protects *all* people from violence that neither public nor private individuals are insulated from. R. at 34. Finally, Lightbearers clearly broadcast DTC's information not to contribute value to society but to expose Marshall's private information for doxxing. This cannot be obfuscated by the false pretense of protected counterspeech on a public concern, where doxxing lacks social value within the marketplace of ideas. Therefore, the Fifteenth Circuit's decision should be affirmed.

B. The Broadcast was Intended to Harm Marshall and is Unprotected Speech.

Even if this Court finds the broadcast is a protectable public concern, Lightbearers intended to endanger Marshall's safety, placing it beyond the scope of the First Amendment. Speech intended as incitement, *Brandenburg v. Ohio*, 395 U.S. 444, 447-49 (1969), or a true threat of violence, *Virginia v. Black*, 538 U.S. 343, 359-60 (2003), is unprotected speech. As a result, it may be "freely restricted by the state." *League of Women Voters v. Schwab*, 539 P.3d 1022, 1029 (Kan. 2023).

1. The Broadcast Implicitly Constitutes Incitement.

States may proscribe free speech advocating for violence to effect political change when it is incitement. *Brandenburg*, 395 U.S. at 447. Incitement occurs where a speaker explicitly or implicitly encourages violence or lawless action, intends that his speech will result in violence or lawless action, and the imminent use of violence or lawless action is likely to result. *Bible Believers v. Wayne County, Mich.*, 805 F.3d 228, 246 (6th Cir. 2015). The "character of [this speech] depends on the circumstances in which it is done." *Shenck v. United States*, 249 U.S. 47, 52 (1919).

Speech purposefully delivered in a combustible setting to effectuate, and ultimately result in, violence is implicit incitement. *N.A.A.C.P. v. Claiborne Hardware Co.*, 458 U.S. 886, 927 (1982). In *Claiborne*, a civil rights leader delivered a speech to a crowd of black citizens, calling for their boycott of white merchants with few references to possible neck breaking and the "Sheriff could

not sleep with boycott violators at night." *Id*. This Court held these references implicitly conveyed a stern message in a politically charged atmosphere, constituting incitement if violence had promptly occurred. *Id*. at 928. *See also Nwanguma v. Trump*, 903 F.3d 604, 611-12 (6th Cir. 2018) (Donald Trump's "get 'em out of here" leading supporters to shove protestors at rally sufficient environment for perceiving intent of incitement if not expressly accompanied by "don't hurt 'em").

Lightbearers knowingly shared their broadcast on DSU's anarchic campus intending to incite violence, and violence thereafter occurred. The District Court's assertion that the broadcast cannot be incitement because it does not explicitly call for or threaten violence is a misapplication of the law. R. at 18. Incitement may occur when speech is shared in a passionate atmosphere, leading to violence against its target. *Claiborne*, 458 U.S. at 927-28. Delmont universities, including DSU, had been experiencing volatility sparked by the coalitions' student factions' doxxing for six months. R. at 5. This is precisely the type of passionate atmosphere that creates a breeding ground for implicit incitement, parallel to the *Nwanguma* crowd of political participants unsympathetic to those with opposing ideologies. 903 F.3d at 611-12. Lightbearers actively engaged with the Energy Coalition and understood that flash shares of identifying information on campus routinely sparked confrontation. R. at 5. Thus, they were keenly aware that broadcasting Marshall's speech, immediately followed by her photograph in a Nature Coalition symbol t-shirt, with the name, logo, address, phone number, and hours of operation for her workplace—on DSU's known-to-be tumultuous campus—would lead those disagreeing with her to attack. R. at 10. The broadcast was clearly implicitly intended to incite violence. Though incitement was barred in *Claiborne,* 458 U.S. at 928, as violence failed to occur for several weeks, and *Nwanguma,* 903 F.3d at 612, where a statement dispelling violence explicitly accompanied the inciting speech, here no such dispositive bars to recovery exist. Lightbearers knew DSU's campus was conducive to violence,

intended to incite violence, and within twenty-four hours, violence ensued. R. at 11.

2. The Broadcast was Understood to be a True Threat.

Statements communicating a "serious expression of an intent to commit an act of unlawful violence to a particular individual" are unprotected true threats. *Black*, 538 U.S. at 359-60. True threats exist where a statement conveys a threat to the listener, even if the speaker did not intend for the threat to be carried out. *Counterman v. Colorado*, 600 U.S. 66, 74, 84 (2023). It need only be proven that a speaker was aware "that others could regard [the] statements as threatening violence" and still recklessly delivered the speech. *Id*. at 79.

Speech delivered with conscious disregard for the risk that it will cause harm, understood by the listener as threatening harm, is an unprotected true threat. *Id*. In *Counterman*, a singer received Facebook messages including "Good morning sweetheart," "was that you in the white Jeep?" and "staying in cyber life is going to kill you" from a stranger, leading her to cease walking alone, cancel performances, and suffer anxiety because she believed he was going to hurt her. *Id*. at. 70. This Court held the messages would be unprotected true threats if the stranger was aware that they could have been understood as threats before delivering them. *Id*. at 82. Though the lower courts suggested this could chill protected non-threatening speech, this Court reasoned that requiring the speaker to have understood the speech's threatening nature shielded that risk. *Id*. at 75.

Lightbearers knew broadcasting Marshall's speech and photograph with DTC's information, on DSU's campus, could lead to violence against her yet shared it anyway. The Energy Farm Controversy caused an influx of "flash-shares" of student's personal identifying information, leading to violence on Delmont college campuses, including DSU, for several months. R. at 5. Lightbearers not only attended Delmont universities during the height of campus conflicts but actively participated. R. at 10. As such, Lightbearers patently knew violence not only could occur—but would occur—as a result of its broadcast. Moreover, listeners understood the broadcast

as threatening violence. Twenty individuals soon thereafter confronted Marshall at her workplace on multiple occasions. R. at 11. Marshall also understood the broadcast and its aftermath as threatening continuous harm against her, forcing her withdrawal from employment and treatment at DTC for protection. *Id*. Nevertheless, the District Court contends the broadcast could not be a true threat because it did not explicitly threaten, nor did Marshall suffer, bodily harm or damage. R. at 17-18. However, this is proximately analogous to the previously meritorious CADS case, involving the swarming of a Nature Coalition activist's employer by Energy Coalition protesters after a text from an Energy Coalition Leader. R. at 7. This is further moot as it misconstrues *Counterman* as requiring harm. 600 U.S. 74, 84. A true threat requires only that a speaker recklessly delivered speech that a listener understood as threatening harm, irrespective of whether that harm *actually* ensues. *Id*. at 79. Petitioner's broadcast does both.

C. Where the Broadcast is Unprotected Speech Under the First Amendment, CADS Need Only Be Reasonable.

A state statute prohibiting unprotected speech need only satisfy rational basis review. *Free Speech Coal., Inc. v. Paxton*, 606 U.S. 461, 471 (2025). To pass, the statute must merely not be "unreasonable, arbitrary, or capricious" and the means selected must have a "substantial relation to the object sought to be attained." *Nebbia v. New York*, 291 U.S. 502, 525 (1934).

A statute reasonably relating to public safety, adopted in the interest of the community, passes rational basis review. *W. Coast Hotel Co.*, 300 U.S. at 391; *see also McCullen v. Coakley*, 573 U.S 464, 486 (2014) (stating "we…recogniz[e] the legitimacy of the government's interests in ensuring public safety"). Prior to CADS, Delmont's college campuses were in a state of turmoil: experiencing months of classroom disruptions, property damage, and violent attacks following flash shares of an individual's private information. R. at 5, 47. Delmont's enactment of CADS expressly prohibits only these flash shares, directly improving campus conditions for the

community's safety. This is inarguably a substantial government interest and passes rational basis review. Therefore, this Court should affirm the Fifteenth Circuit's decision.

D. Even if this Court Applies Heightened Scrutiny, CADS Passes Muster.

When a statute restricts only unprotected speech, "the unprotected features of the [speech] are, despite their communicative character, essentially a 'nonspeech' element" for purposes of the First Amendment." *Free Speech Coal*., 606 U.S. at 492. As such, content-based restrictions that facially target only unprotected speech are treated like non-speech, warranting at most intermediate scrutiny if an incidental burden on lawful speech occurs. *Id*. at 495. Such a restriction passes if it advances a substantial government interest, the government interest is unrelated to the suppression of free expression, and the incidental restriction on alleged First Amendment freedoms is no greater than is essential to further that interest. *United States v. O'Brien*, 391 U.S. 367, 377 (1968).

Narrowly tailored restrictions on unprotected speech that advance substantial government interest pass intermediate scrutiny. *See Free Speech Coal.*, 606 U.S at 478, 496. In *Free Speech Coal.*, a law requiring proof of age to access pornography was passed to further the government's interest in shielding minors from obscene content. *Id*. at 496. Though the law was content-based, the law facially regulated solely minors' access to obscene content—which the First Amendment does not protect—with just an incidental burden on adults' lawful access. *Id*. at 492. Thus, the law was treated as a non-speech restriction requiring only intermediate scrutiny, which it passed. *Id*. at 492, 495. It was adopted purely to advance the government's legitimate interest in shielding children from sexually explicit content, that interest would be achieved less effectively absent the restriction, and it narrowly burdened only as much speech as necessary to do so. *Id*. at 495.

CADS facially restricts only nonconsensual disclosure of private information with the intent to "stalk, harass, or physically injure," which is unprotected for *everyone* under the First Amendment.

R. at. 6. Doxxing also is not, as the District Court avers, protected counterspeech within the marketplace of ideas. R. at 17. Consequently, CADS is a non-speech restriction with no incidental burden on lawful speech, requiring only rational basis review. *Free Speech Coal.*, 606 U.S. at 471-72. As this Court warned, to apply strict scrutiny to all content-based restrictions regardless of the restricted speech's nature would call into question the validity of all statutes passed in furtherance of a legitimate government interest; the interest here being public safety. *Id*. at 487.

Nonetheless, even if this Court finds CADS incidentally limits lawful Energy Farm Controversy counterspeech, only intermediate scrutiny should be applied, and CADS passes. R. at 35. Both lower courts agree that Delmont maintains an indisputably strong interest in protecting citizens against doxxing, harassment, and threats; an epidemic that mutilates Delmont's college campuses at an increasingly alarming rate. R. at 6, 19, 34. In direct response, CADS was adopted solely in Delmont's substantial interest of promoting public safety by eliminating doxxing, and nothing in the statute's language or motive indicates otherwise. R. at 48. Though the District Court contends that CADS is not narrowly tailored where it sweeps in speech governed by alternative laws and publicly available information, this is immaterial. R. at 19. This Court has never held that if other laws broadly govern, a narrower adaptation is *per se* overbroad. *O'Brien*, 391 U.S. at 380 ("it has never been suggested that there is anything improper in Congress' providing alternative statutory avenues…to assure the effective protection of one and the same interest.") It is equally irrelevant that the photograph was publicly available on the DTC website. *See Fla. Star v. B.J.F.*, 491 U.S. 524, 541 (1989) (lawfully obtained information on matter of public significance may be punished under state law to further state interest of the highest order). To satisfy intermediate scrutiny, CADS may limit as much speech as necessary to effectively achieve the government's public safety interest. *Free Speech Coal.*, 606 U.S. at 496. CADS limits only the harmful

dissemination of an individual associated with Delmont's universities' private information to directly address violence spurred by publicizing this exact information. R. at. 6. For months, Delmont attempted to control doxxing through law enforcement, which only proved ineffective as police could not timely intervene. R. at 5-6. The Governor also explored enhancing campus violence policies and nonbinding institutional guidance, but found these measures were equally unable to deter the initial instigation of violence. R. at 48. Seeing no other fruitful solution, the legislature enacted CADS. R. at 6. This is not overbroad and passes intermediate scrutiny.

While intermediate scrutiny does not require the means selected be the least restrictive means to achieve a legitimate government interest, *McCullen*, 573 U.S. at 478, CADS still satisfies this requirement and passes strict scrutiny as well. Petitioner may still engage in political discourse surrounding the Energy Farm Controversy without specifically targeting individuals at Delmont's universities through communication platforms. Delmont, however, cannot protect its citizens' safety on its universities' campuses through any other effective means. As such, CADS, as applied to Petitioner, passes whether this Court applies rational basis, intermediate, or strict scrutiny. Accordingly, the Fifteenth Circuit's decision should be affirmed.

II. CADS AS APPLIED TO PETITIONER'S BROADCAST DOES NOT VIOLATE THE FREE EXERCISE CLAUSE.

The First Amendment, as applied to the states, provides "Congress shall make no law… prohibiting the free exercise" of religion. U.S. Const. amend. I; *Cantwell v. Connecticut*, 310 U.S. 296, 303 (1940). However, this only protects "the right to believe and profess whatever religious doctrine one desires." *Emp't Div. v. Smith*, 494 U.S. 872, 877 (1990). While legislatures "cannot interfere with mere religious belief and opinions, they may with practices." *Reynolds v. United States*, 98 U.S. 145, 166 (1878). The Free Exercise Clause does not excuse religious actors from complying with neutral and generally applicable laws that burden religious conduct. *Smith*, 494

U.S. at 878-79. Such laws warrant review under rational basis scrutiny, *City of Boerne v. Flores*, 521 U.S. 507, 514 (1997), which is satisfied if the law is "rationally related to a legitimate governmental purpose," *Stormans, Inc. v. Wiesman*, 794 F.3d 1064, 1084 (9th Cir. 2015).

CADS is rationally related to Delmont's legitimate interest in preventing campus violence in pursuit of public safety. R. at 6, 48. States must retain the ability to regulate conduct that escalates into intimidation, property damage, and physical violence, particularly when rapid dissemination of private information renders law enforcement intervention ineffective. R. at 6.

This Court has applied strict scrutiny to free exercise claims solely where a law lacks neutrality or general applicability or compels conduct of the kind at issue in *Wisconsin v. Yoder*, 406 U.S. 205 (1972); *Mahmoud v. Taylor*, 606 U.S. 522, 564-65 (2025). Further, it has never done so under the "hybrid rights" theory referenced in *Smith*. R. at 40-41. CADS does not fall within any one of those circumstances. It regulates only nonconsensual disclosures of private identifying information made with the intent to stalk, harass, or physically injure, which does not violate free exercise.

This Court should therefore affirm the Fifteenth Circuit because CADS (1) is a neutral and generally applicable law restricting secular conduct for all actors; (2) does not trigger the *Yoder* or hybrid rights exception; and satisfies both (3) rational basis and (4) strict scrutiny.

A. CADS is a Neutral and Generally Applicable Statute that Applies to Everyone Irrespective of Their Religious Beliefs.

"Not all burdens on religion are unconstitutional." *Bowen v. Roy*, 476 U.S. 693, 702 (1986). "Conscientious scruples" at odds with relative concerns of a political society do not relieve an individual from obedience to a "general law not aimed at the promotion or restriction of religious beliefs." *Minersville Sch. Dist. Bd. Of Educ. V. Gobitis*, 310 U.S. 586, 594 (1940). Consistent with that principle, "the right of free exercise does not relieve an individual of the obligation to comply with a valid and neutral law of general applicability," even when such a law incidentally burdens

religious practice. *Smith*, 494 at 879. Where a statute is both neutral and generally applicable, state governments need not "radically restrict the operating latitude of the legislature." *Braunfeld v. Brown*, 366 U.S. 599, 606 (1961).

1. CADS is Neutral.

"A law is neutral so long as its object is something other than the infringement or restriction of religious practices." *Grace United Methodist Church v. City of Cheyenne*, 451 F.3d 643, 649-50 (10th Cir. 2006). To assess neutrality, this Court considers "the historical background of the [statute] under challenge, the specific series of events leading to the enactment or official policy in question, and the legislative or administrative history, including contemporaneous statements made by members of the decision-making body." *Masterpiece Cakeshop v. Colorado C.R. Comm'n*, 584 U.S. 617, 639 (2018) (quoting *Church of the Lukumi Babalu Aye, Inc. v. City of Hialeah*, 508 U.S. 520, 540 (1993)).

This Court's decisions in *Smith* and *Lee* are instructive in assessing neutrality. 494 U.S. 872, 890 (1990); *United States v. Lee*, 455 U.S. 252, 261 (1982). In *Smith*, this Court upheld Oregon's criminal prohibition on peyote because it applied without regard to religious motivation and made no reference to religious belief, even though it incidentally burdened sacramental use. 494 U.S. at 890. Likewise, in *Lee*, this Court sustained mandatory participation in the Social Security system despite its conflict with Amish religious beliefs. 455 U.S. at 261. In doing so, this Court emphasized that neutrality is preserved where a law regulates conduct for secular purposes and applies uniformly rather than singling out religion for adverse treatment. *Id*.

Considered in light of this Court's precedent, CADS reflects a targeted legislative response to escalating campus unrest and coordinated doxxing, not an effort to suppress religious practice. The statute was enacted amid a sharp increase in the dissemination of personal information that

repeatedly precipitated harassment, physical confrontations, and property damage on Delmont's college campuses. R. at 5-6. CADS text and structure regulate conduct based on the disclosure of private information with the intent to intimidate or harm without reference to religion. R. at 6-7.

Neither Petitioner's longstanding presence in Delmont nor the Governor's awareness that CADS would incidentally affect some religious expression undermines the statutes' neutrality. R. at 44-46. Neutrality is not lost merely because a generally applicable law incidentally burdens religiously motivated conduct, or because the legislature declines to create religious exemptions. *Smith*, 494 U.S. at 878–79; *Bowen*, 476 U.S. at 707. Absent evidence of hostility, disparaging statements, or selective targeting, governmental inaction in response to religious objections does not amount to "covert suppression of particular religious beliefs." *Lukumi*, 508 U.S. at 534 (quoting *Bowen*, 476 U.S. at 703). Here, the historical background and sequence of events reflect a secular objective of protecting student safety and preventing intimidation through the misuse of private information. R. at 5-7. The events involving Marshall confirm that objective, as the publication of identifying information was swiftly followed by a coordinated attack, property damage, and the forced disruption of her employment and medical treatment. R. at 10-11. The contextual factors identified in *Masterpiece*, therefore, reinforce the conclusion that CADS is neutral under the Free Exercise Clause. 584 U.S. at 639.

2. CADS is Generally Applicable.

To evaluate general applicability, this Court examines whether a law treats religiously motivated conduct the same as "similar" secular conduct. *Lukumi*, 508 U.S. at 543. "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 exceptions.'" *Fulton v. City of Philadelphia*, 593 U.S. 522, 533 (2021) (quoting *Smith*, 494 U.S. at 884).

Applying these principles, this Court has repeatedly upheld restrictions that apply evenhandedly and do not permit religious carveouts. In *Christian Legal Soc'y Chapter of the Univ. of Cal. v. Martinez*, this Court rejected a religious group's challenge because the school's "all-comers" policy was a reasonable and viewpoint-neutral condition that applied uniformly to all other student organizations. 561 U.S. 661, 669 (2010). Utilizing the same principle, this Court in *Jimmy Swaggart Ministries v. Board of Equalization of California* also upheld a law as generally applicable where it applied uniformly to all regulated conduct, regardless of religious status, and did not permit religious exemptions. 493 U.S. 378, 391 (1990).

Here, CADS applies uniformly to any individual who discloses defined categories of private information without consent and with the requisite intent to stalk, harass, or physically injure. R. 6-7. It does so regardless of the speaker's identity, motivation, or viewpoint. CADS does not authorize exemptions or individualized assessments that turn on the reasons for the disclosure. The statute was enacted in response to a rise in coordinated doxxing and campus violence during the Energy Farm Controversy. R. at 6. This conduct cut across ideological lines and involved participants from both the Energy Coalition and the Nature Coalition. R. at 5-6. Consistent with that scope, the statute has been enforced against actors affiliated with different causes, including individuals whose disclosures led to immediate property damage and workplace intimidation. R. at 7. This is squarely in keeping with the standard articulated in *Martinez*, as nothing in CADS's text or enforcement permits officials to excuse otherwise prohibited disclosures based on the speaker's religious or secular objectives. 561 U.S. at 697.

CADS does not target religious beliefs or single out religious conduct. Instead, it responds to an escalating public-safety crisis by regulating harmful conduct that repeatedly provoked violence on Delmont's university campuses. R. at 5-6. Its text, context, and operation reflect solely a secular

objective of protecting members of university communities from coordinated attacks. R. at 6-7. The Free Exercise Clause does not require the State to carve out religious exemptions that would undermine its ability to address serious threats to student safety, and CADS operates well within the bounds of the legislature's constitutional authority. Therefore, CADS is generally applicable.

B. CADS Does Not Fall Within Either of the Two Narrow Exceptions Requiring Heightened Scrutiny.

Because CADS is neutral and generally applicable, it triggers strict scrutiny only if it falls within one of this Court's two carefully circumscribed Free Exercise exceptions. *Yoder*, 406 U.S. at 231; *Mahmoud*, 606 U.S. at 564-65. CADS does not impose the type of coercive interference with religious upbringing identified in *Yoder* or give rise to a cognizable hybrid rights claim.

1. CADS Does Not Impose Coercive Interference with Religious Education or Belief Formation.

First recognized in *Yoder*, a narrow exception under the Free Exercise Clause permits strict scrutiny when a neutral and generally applicable law substantially interferes with parents' efforts to direct the religious upbringing of their children through compulsory educational requirements. 406 U.S. 234-35; *Mahmoud*, 606 U.S. at 564–65, 568. Whether that exception applies is a "fact-intensive inquiry" that turns on the nature of the asserted religious burden and the character of the governmental action at issue. *Mahmoud*, 606 U.S. at 550.

In *Yoder*, the challenged law required Amish parents to send their children to formal secondary schools. 406 U.S. at 208. This Court characterized these schools as hostile to Amish beliefs, subjecting children at a crucial and formative stage of development to sustained pressure to conform to values fundamentally inconsistent with their faith. *Id*. at 211-12. Under these limited circumstances, this interference violated the Free Exercise Clause. *Id*. at 218. Likewise, in *Mahmoud*, this Court reviewed a school policy that required elementary students to participate in instruction using LGBTQ+ inclusive storybooks without notice to parents or ability to opt out. 606

U.S. at 528-30. This Court held compelling such participation burdened parents' religious exercise because it subjected young children to instruction posing a "very real threat of undermining" the religious beliefs parents sought to instill. *Id*. at 530 (quoting *Yoder*, 406 U.S. at 218).

CADS bears no resemblance to the laws governed by the *Yoder* exception. Unlike the compulsory education laws in *Yoder*, 406 U.S. 234-35, and *Mahmoud*, 606 U.S. at 564–65, requiring children to remain in school settings that threatened to undermine parents' efforts to direct their children's religious development, CADS does not regulate education, curriculum, or access to public schooling. It also does not compel individuals to affirm beliefs or adopt values hostile to their faith, nor does it target children or govern the religious upbringing of minors. Instead, CADS regulates a narrow category of conduct limited to the nonconsensual disclosure of private identifying information with the intent to stalk, harass, or physically injure members of a university community. R. at 6. Petitioner remains free to engage in live public proclamation and printed witness of its message through any means of its choosing; restricted only in that they may not do so with intent to cause harm. R. at 6, 8. This does not "contravene[] the basic religious tenets" of their faith in the sense contemplated by *Yoder*. 406 U.S. at 218.

Petitioner's view that young adulthood is an important period of religious development is also insufficient to transform CADS into a *Yoder*-type burden. *Yoder* did not establish that any law affecting religious practice during formative years triggers strict scrutiny. *Id*. at 235-36. Rather, it addressed an extraordinary intrusion into the comprehensive religious upbringing of children through compulsory education. *Id*. Extending that exception to a neutral public-safety regulation governing harmful conduct by adults would not only dramatically expand *Yoder* beyond its carefully circumscribed scope, but also undermine the rule discouraging individualized exceptions articulated in *Smith*. *Id*.; *Smith*, 494 U.S. at 890.

CADS neither coerces belief nor reshapes religious development through state-controlled institutions. It instead regulates conduct to address concrete and escalating harms. Where CADS does not impose a burden of the same character as that identified in *Yoder*, strict scrutiny is not required. As such, the Fifteenth Circuit's denial of summary judgment should be affirmed.

2. The Hybrid Exception Does Not Apply.

CADS does not trigger strict scrutiny under the so-called "hybrid rights" theory referenced in *Smith*. 494 U.S. at 896. In *Smith*, this Court made only a passing observation that some prior cases involved the Free Exercise Clause "in conjunction with other constitutional protections, such as freedom of speech and of the press," *id*. at 881, but it did not apply heightened scrutiny on that basis. To the contrary, this Court has repeatedly declined to adopt or rely on a hybrid rights exception when given the opportunity. *See Mahmoud*, 606 U.S. at 565.

Additionally, lower courts have consistently treated the hybrid rights theory with skepticism. *E.g. Swanson v. Guthrie Indep. School Dist.*, 135 F.3d 694, 700 (10th Cir. 1998); *Brown v. Hot, Sexy, and Safer Products, Inc.*, 68 F.3d 525, 539 (1st Cir. 1995); *Kissinger v. Bd. of Trs. Of Ohio St. Univ.*, 5 F.3d 177, 180 (6th Cir. 1993). Courts have emphasized the theory "originates in [*Smith*'s] dictum" and lacks any coherent limiting principle. *Nat'l Inst. of Fam. & Life Advocates v. Treto*, 777 F. Supp. 3d 867, 899 (N.D. Ill. 2025). Although *Smith* noted some cases involved the Free Exercise Clause "in conjunction with other constitutional protections," courts have uniformly rejected the view that simply pairing a free exercise claim with another constitutional allegation triggers strict scrutiny. 494 U.S. at 881–82. As the Ninth Circuit explained, "a plaintiff does not allege a hybrid rights claim entitled to strict scrutiny analysis merely by combining a free exercise claim with an utterly meritless claim of the violation of another alleged fundamental right." *Miller v. Reed*, 176 F.3d 1202, 1207–08 (9th Cir. 1999). Put more succinctly, "in law as in mathematics

zero plus zero equals zero." *Henderson v. Kennedy*, 253 F.3d 12, 19 (D.C. Cir. 2001). The District Court cited a singular case in support of the hybrid rights theory and even that decision acknowledged that "it is not at all clear that the hybrid rights doctrine will make any real difference in the end. *Telescope Media Grp. v. Lucero*, 936 F.3d 740, 760 (8th Cir. 2019); R. at 41. After all, the [plaintiff]'s free-speech claim already requires the application of strict scrutiny." *Id*.

That logic applies here. Many religious practices involve speech, but that overlap does not automatically trigger heightened scrutiny for neutral and generally applicable laws regulating harmful conduct. If a hybrid claim were understood to arise whenever "another constitutional right is implicated," the exception "would probably be so vast as to swallow the *Smith* rule." *Lukumi*, 508 U.S. at 567 (1993) (Souter, J., concurring in part and concurring in the judgment).

In short, Plaintiffs' hybrid rights theory rests on a doctrinal foundation this Court has never endorsed, and lower courts have consistently declined to apply. R. at 25. Where, as here, neither the free exercise claim nor the accompanying free speech claim independently justifies heightened scrutiny, their combination does not compel a different result. CADS, therefore, remains subject to rational basis review.

C. Where CADS is Neutral and Generally Applicable, it Passes Rational Basis as it Relates to Delmont's Legitimate Interest in Public Safety.

Because CADS is neutral and generally applicable, and none of the limited exceptions that trigger heightened scrutiny apply, rational basis review applies. Under rational basis review, a statute is upheld if it "rationally relate[s] to a legitimate government purpose." *Wiesman*, 794 F.3d at 1084. The legislature need not adopt the least restrictive means, nor must it produce empirical proof that the statute will eliminate the harm entirely. *Heller v. Doe*, 509 U.S. 312, 320-21 (1993).

Delmont's purpose in enacting CADS to promote public safety is plainly legitimate. CADS was adopted in response to a documented surge in coordinated violence during the Energy Farm

Controversy on Delmont's college campuses. R. at 6. Protecting students, faculty, and staff from physical harm is a core governmental responsibility. Restricting the nonconsensual disclosure of private identifying information with the intent to injure is rationally related to that responsibility, particularly where such disclosures repeatedly trigger rapid escalation that law enforcement cannot prevent. R. at 5-6. Because CADS reasonably advances a legitimate public safety interest, it easily survives rational basis review. Consequently, the Fifteenth Circuit's decision should be upheld.

D. Should this Court Apply Strict Scrutiny, CADS Still Remains Constitutional.

Even if this Court were to conclude that strict scrutiny applies, CADS satisfies that standard as well. A law subject to strict scrutiny must "serve a compelling government interest and must be narrowly tailored to further that interest." *Adarand Constructors, Inc. v. Peña*, 515 U.S. 200, 235 (1995). Only interests "of the highest order" suffice. *Yoder*, 406 U.S. 205, 215 (1972). The District Court correctly determined that the State's interest in protecting its citizens being stalked, harassed, or physically injured is sufficiently compelling. R. at 27. The District Court erred, however, in concluding that the statute is not narrowly tailored. *Id*.

CADS regulates only the nonconsensual disclosure of private identifying information of individuals associated with Delmont's college campuses, and only when undertaken with the specific intent to stalk, harass, or injure. R. at 6–7. The District Court's contrary conclusion rested on a mistaken understanding of the statute's scope. The District Court hypothesized a scenario in which a Lightbearer would be prohibited from sharing a CEO's business address. R. at 28. That conduct, however, falls outside of CADS unless the individual is an enrolled student, faculty member, administrative or staff employee at a Delmont college or university. R. at 6, 28.

By limiting its reach to a defined campus community and conditioning liability on both the nature of the information disclosed and the presence of harmful intent, CADS targets the precise

source of the harm it seeks to prevent while leaving lawful advocacy and expression untouched. The statute, therefore, is narrowly tailored and survives strict scrutiny. As such, this Court should affirm the Fifteenth Circuit's decision.

CONCLUSION

For the foregoing reasons, Laura Marshall respectfully requests this Court affirm the Fifteenth Circuit's decision based on this Court's conclusion that CADS, as applied to Petitioner, limits only unprotected speech and is a neutral and generally applicable law warranting rational basis review, which CADS passes.

DATED: February 6, 2026

Respectfully submitted,

Team 018

Attorney for Respondent, Laura Marshall

APPENDIX A

Constitutional Provisions

U.S. Const. amend. I.

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 peaceably to assemble, and to petition the Government for a redress of grievances.

Statutory Provisions

28 U.S.C. §1254(1).

Cases in the courts of appeals may be reviewed by the Supreme Court by the following methods: (1) By writ of certiorari granted upon the petition of any party to any civil or criminal case, before or after rendition of judgment or decree;...

BRIEF CERTIFICATE

We certify that we each have complied with the academic integrity requirements of the School of Law Honor Code, and the instructions set forth by the 2026 Seigenthaler-Sutherland Cup National First Amendment Moot Court Competition. We have neither given nor received any unauthorized assistance in preparing this brief. The work product contained in this brief is solely the work of Team 018.