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 to the

United States Court of Appeals

for the Fifteenth Circuit

Brief of the Petitioner

Questions Presented

1) Does the Campus Anti-Doxxing Statute (CADS), Del. Ann. Stat. § 25.989 (2025), violate the First Amendment Free Speech rights of The Church of Light, LLC?
2) Does the Campus Anti-Doxxing Statute (CADS) violate the First Amendment Free Exercise rights of The Church of Light, LLC?

Table of Contents

Table of Authorities

Cases

Statutes

Opinions Below

The opinion of the United States District Court for the District of Delmont is unpublished and may be found at *Laura Marshall v. Church of Light*, *LLC*, No. 25-CV-1994 (D. Delmont 2025). The unpublished opinion of the United States Court of Appeals for the Fifteenth Circuit may be found at *Laura Marshall v. The Church of Light, LLC*, C.A. 25-CV-1994 (15th Cir. 2025).

Statement of Jurisdiction

The Supreme Court may review "[c]ases in the courts of appeals… by writ of certiorari granted upon the petition of any party… before or after rendition of judgment." *Dart Cherokee Basin Operating Co., LLC v. Owens*¸ 574 U.S. 81, 90 (2014) (quoting 28 U. S. C. §1254(1)). The Fifteenth Circuit Opinion was entered on Dec. 29, 2025. The petition for certiorari was filed on Dec. 30, 2025. As such, no timing issue interferes with the jurisdiction of this court. *See* 28 U. S. C. § 2101(c) ("Any other appeal or any writ of certiorari intended to bring any judgment or decree in a civil action… shall be taken or applied for within ninety days after the entry of judgment.")

Constitutional and Statutory Provisions Involved

Pertinent text included in the appendix for U.S. Const. amend. I and Del. Ann. Stat. § 163.732 (2020).

Statement of the Case

This case concerns whether the state of Delmont's Campus Anti-Doxxing Statute ("CADS") violates the Free Speech Clause and the Free Exercise Clause of the First Amendment.

Respondent the Church of Light ("the Church") is a religious denomination that has existed in the state of Delmont for over a century. A foundational belief of the Church is that its members must proselytize through public proclamation and printed witness. This proclamation must be

personal, live and shared through some kind of communicative format. The Church has adapted with the times, initially publishing a newspaper its members, known as Lightbearers, would spread throughout the countryside. The Church now has fully embraced modern technology, streaming news and television programs online and broadcasting them on screens attached to vans Lightbearers drive around college campuses.

Due to rising tensions over how best to manage the natural lands of Delmont, the state legislature passed CADS to prevent harassment of college students and faculty. The Church vehemently opposed CADS, believing that it would fundamentally prevent Lightbearers from exercising their religion as they had been since the Church's founding. After the passage of CADS, the Church ran a news segment featuring clips of a speech given by Laura Marshall ("Respondent") at a protest on one of Delmont's college campuses, along with a photo of her obtained from the website of her employer.

Protestors began showing up at Respondent's place of work, and she quit her job shortly thereafter. Respondent then sued the Church, alleging a violation of CADS. The Church moved for summary judgment, arguing that CADS violated both their Free Speech Rights and Free Exercise Rights under the First Amendment.

The District Court granted the Church's motion for summary judgment, finding CADS imposed a content-based restriction on speech, failed strict scrutiny, and was unconstitutional as applied to the Church. The District Court also found CADS to impose a similar burden on the exercise of religion as the burden in *Wisconsin v. Yoder*¸ its restrictions were overbroad, and that it was unconstitutional as applied to the Church.

The Court of Appeals for the Fifteenth Circuit reversed, holding that the restrictions on speech imposed by CADS survived strict scrutiny, and because CADS was a neutral and generally applicable law, the burden imposed on the exercise of religion was reasonable and survived rational basis. The Church petitioned for certiorari, and this Court granted review to determine:

1. Whether CADS violates the First Amendment Free Speech rights of the Church.
2. Whether CADS violates the First Amendment Free Exercise rights of the Church.

This Court should overturn the Fifteenth Circuit's ruling, recognizing that the First Amendment protects the Church's ability to freely practice its religion, and proselytize in a manner consistent with how it has been spreading its message for over a century.

Standard of Review

For appellate review of a lower court's finding of law, the Court should apply de novo review for matters of law. *Pierce v. Underwood*, 487 U.S. 552, 558 (1988). Questions of fact are reviewable for clear error, while matters of discretion are reviewed for "abuse of discretion." *Id.*

Statement of the Facts

Factual History

The Church of Light ("the Church") is a religious denomination formed in Delmont during the nineteenth century. R. at 8. The Church's members are known as "Lightbearers," and since its early days, have proselytized throughout the area through proclamation and printed witness. *Id.* Public proclamation is central to the beliefs of the Church, where that proclamation must be personal, live, and through some communicative format. *Id.* Under the Church's tenets, the personal interaction and printed witness are inseparable, and require "an individual encounter that leaves testimony of its impact through a message left in its wake." *Id.*

Shortly after the Church's founding, the Lightbearers began traveling throughout Delmont, proclaiming their gospel in public areas and distributing a free, church-made publication called *The Lantern*. *Id. The Lantern* did not only contain religious texts, but also news of local interest. *Id. The Lantern* grew to be very successful, giving the surrounding community free and easy access to local news and event calendars. *Id.* As the Church grew, younger members began taking up more of the role of public proclamation, as they had more time and energy to disseminate *The Lantern*. *Id.* All Lightbearers must complete a year of missionary work between the ages of eighteen and twenty-two, allowing them to become more resolute in their faith through direct advocacy. *Id.* at 8–9. Many Lightbearers complete this missionary year while pursuing higher education, with their college campus organizations being known as "Lightbearer Missionaries." *Id.*

The Church has refused to remain stagnant, adapting to the changing times and the ways people consume information. During the 1990s, the Church overhauled *The Lantern*, transforming it into a live TV broadcast on community access channels in Delmont college towns. *Id.* at 9. Lightbearer Missionaries produce the broadcast in studios on college campuses and open the studios to those who are interested in the teachings of the Church. *Id.* The broadcasts feature religious programming, local news, current events, musical performances by local musicians, and interviews with local public figures. *Id.* All the broadcasts are live to meet the Church's requirements for a living witness that is live, personal, and a public proclamation of their message. *Id.* As technology developed, the Church began livestreaming the community access broadcasts on the internet to reach an even wider audience. *Id.*

In 2024, Lightbearer Missionaries began driving vans around campuses, equipped with high-definition LED screens, around college campuses in Delmont. *Id.* The screens display the Lightbearer livestreams, as well as other local news, weather, information about events, and more.

Id. at 9–10. The vans are driven by Lightbearer Missionaries, who often park near popular areas on campuses while fielding questions about the Church. *Id.* at 10.

Delmont is home to many environmental groups who want to protect the State's natural beauty and develop "progressive ecological policies." *Id.* at 4. However, many of these groups do not agree on the best strategies to achieve these goals. In 2024, the Delmont legislature began debating plans to convert thousands of acres of undeveloped land into areas for solar and wind energy production. *Id.* These plans led to division among the environmental groups, some of whom believed the undeveloped land was essential for wildlife preservation, while others believed environmental objectives were impossible to achieve without the development of clean energy infrastructure. *Id.* Groups in favor of the preservation of the undeveloped land became known as the "Nature Coalition." while those in favor of the clean energy plans became known as the "Energy Coalition." *Id.* at 5. The Church is one of the groups involved in the Energy Coalition. *Id.* at 8, 10.

As time passed, and the State began starting work on clearing some of the undeveloped land, tensions began to rise between the two coalitions. *Id.* at 4–5. Conflicts between individuals of the two groups began to break out during the summer of 2024, particularly on Delmont college campuses. *Id.* at 5. Some of these conflicts became violent, requiring police involvement, while others resulted in targeted harassment of individual activists. *Id.* at 4–6. Much of this targeted harassment was the result of "doxxing," publishing someone's private information with the intent to intimidate them. *Id.* at 6.

From August to September of 2024, doxxing incidents in Delmont increased exponentially by 150%, almost exclusively on college campuses. *Id.* In response, the state legislature passed the "Campus Anti-Doxxing Statute of Delmont" ("CADS") *Id.* CADS created a private cause of action

for those enrolled or employed at Demont universities whose private information was disclosed on a communication platform of any kind, with that disclosure being made with the intent to "stalk, harass, or physically injure." Del. Ann. Stat. §25.989 (2025).

The Church vehemently opposed the passage of CADS. R. at 46. The Church believes that CADS poses an existential threat to their existence and message, putting them at risk for a deluge of lawsuits if they continue to practice their faith as they have done for more than a century. *Id.* at 45. The Church attempted to appeal to the Governor of Delmont, John Morison, through their television broadcasts, public proclamations, letters from Lightbearers, and personal appeals from the president of the Church. *Id*. at 45–46. However, these efforts were unsuccessful, and CADS passed the state legislature without the Church ever receiving a reply from the Governor about their concerns. *Id.*

During mid-September 2025, following the passage of CADS, Lightbearer Missionaries from Delmont State University ("DSU") filmed a speech given by Laura Marshall ("Respondent") at a protest on campus. *Id.* at 10. Respondent is a member of the Nature Coalition, and the speech attracted significant media attention due to the powerful rhetoric Respondent used. *Id.* The following week, DSU Lightbearer Missionary Vans broadcast clips of the speech during their news segments. *Id.* Following the clips of the speech, the broadcast displayed a photo of Petitioner wearing a T-shirt with the Nature Coalition's symbol prominently featured. *Id.* The picture was obtained from the Delmont Treatment Center's website, where Respondent was employed at the time. *Id.* The name of the treatment center was clearly visible in the photograph, and a description accompanying the photo contained contact information for resources around the city for those struggling with substance abuse. *Id.*

The day after the vans broadcast the news segment, Respondent was confronted by a group of twenty people while leaving work. *Id.* at 11. The group followed her into the parking lot, took photos of her and insulted her as she tried to leave. *Id.* A similar incident happened the following night, where Respondent clipped a light pole while attempting to avoid hitting the protesters with her car. *Id.* Following the second confrontation, Respondent quit her job at the treatment center. *Id.*

DSU Lightbearers had covered the news of the protests and conflicts between the coalitions long before they broadcast Respondent's speech. *Id.* at 11–12. Their news coverage covered the issue from both sides, with separate editorial content favoring the Energy Coalition. *Id.* The DSU Lightbearers customarily post information about resources available to students during their coverage, such as information about the various treatment centers. *Id.* at 12. Prior to litigation, Respondent reached out to the missionaries requesting them to stop running the story with her picture, but the Church declined, choosing to follow their customary protocol. *Id.*

Procedural History

In October 2025, Respondent brought a lawsuit under CADS against the Church for damages and injunctive relief. *Id.* The Church moved for summary judgement, arguing that as applied CADS violated their Free Speech rights and Free Exercise of Religion rights under the First Amendment. *Id.* The US District Court for the District of Delmont agreed, finding that the Church's news story was protected speech under the First Amendment and that CADS violated their free exercise rights. *Id.* at 19, 28. The District Court then granted summary judgement for the Church. *Id.* at 29.

The United States Court of Appeals for the Fifteenth Circuit reversed, holding CADS does not violate the Free Speech clause, overcoming strict scrutiny, and that CADS did not unduly

burden the Church's free exercise rights because it was neutral and generally applicable. *Id.* at 37, 42. The Church then appealed to this Court. *Id.* at 49.

Summary of the Arguments

Free Speech Claim

The First Amendment's Free Speech Clause states that Congress is prohibited from making any law that abridges freedom of speech. The Bill of Rights has been incorporated against the states for close to a century, preventing individual states from passing laws impeding the freedom of speech. Not all speech is protected under the First Amendment, with Congress and States being able to impose restrictions on certain categories of speech. As a threshold matter, a court must determine whether a restriction on speech is content-neutral or content-specific. Content-neutral restrictions are sometimes referred to as time, place, and manner restrictions and do not require the message of the speech to be understood to know whether it violates the challenged law. Content-based restrictions do require the message of the speech to be understood to know whether it violates the challenged law and are viewed with heightened skepticism. Content-neutral restrictions on speech receive intermediate scrutiny, while content-based restrictions receive strict scrutiny, unless the specific type of speech being regulated is one of the unprotected categories of speech.

Here, CADS is a content-based restriction on speech, one that should receive strict scrutiny. The content targeted in CADS does not amount to a true threat, or any other unprotected category of speech. Under strict scrutiny, while Delmont has a compelling state interest in preventing intimidation/harassment, CADS is not sufficiently narrowly tailored to achieving this outcome. CADS is overbroad. Therefore, this court should find that CADS is a violation of the Free Speech Clause, as applied to the Church.

Free Exercise Claim

The First Amendment's Free Exercise Clause states that Congress is prohibited from making any law that abridges the free exercise of religion. The Bill of Rights has been incorporated against the states for close to a century, preventing individual states from passing laws impeding the free exercise of religion. This Court has found that a law violates the Free Exercise Clause when it either is not neutral towards religion, is not generally applicable, or if the burden imposed on religion is of the same character as the burden in *Wisconsin v. Yoder*. A law is considered not neutral if it was passed with animus towards religion. A law is considered not generally applicable if it creates exceptions to who or what it applies to, and courts are skeptical of laws that create exceptions for comparable secular conduct but not religious conduct. In *Yoder*, the law at issue burdened the Amish's right to raise their children in proper accordance with their religious beliefs. If a law is either not neutral, not generally applicable, or imposes a burden in a character similar to *Yoder*, courts apply strict scrutiny.

Here, CADS imposes burdens on the exercise of religion in a manner that is similar to the burden imposed by the statute at issue in *Yoder*. Working in broadcast/spreading the gospel is instrumental in the development of Lightbearers as fully-fledged members of the Church of Light. CADS will prevent Lightbearer Missionaries from fully engaging in their sacred obligation to engage in spreading the gospel, preventing them from fully completing their mandatory obligations under the church. This is similar to how the mandatory education rules at issue in *Yoder* prevented parents from raising their children in a way that would fully actualize them as members of the Amish. Further, this law violates the FEC through the hybrid-rights theory imposition on their free speech rights by imposing a content-based restriction that will prevent them from engaging in religious speech. Additionally, even if this Court does not find the burden imposed by CADS to be

in a similar character of the burden in *Yoder*, the law is not neutral or generally applicable, strict scrutiny should still be applied. Because CADS imposes a burden on religious practice similar to the burden imposed in *Yoder*, the Court should apply strict scrutiny. While Delmont has a compelling interest in preventing harassment/intimidation, this law is not sufficiently tailored to justify the burden on religious practice.

Argument

Free Speech Claim

The First Amendment provides that "Congress shall make no law … abridging the freedom of speech, or of the press." U.S. Const. amend. I. That protection applies to the States through the Fourteenth Amendment. *See Gitlow v. New York*, 268 U.S. 652, 666 (1925). Speech on matters of public concern occupies "the highest rung of the hierarchy of First Amendment values" and is entitled to special protection from civil liability. *Snyder v. Phelps,* 562 U.S. 443, 452 (2011). In determining whether speech addresses a matter of public concern, courts consider "the content, form, and context" of the expression "as revealed by the whole record." *Id.* at 453 (quoting *Connick v. Myers*, 461 U.S. 138, 147–48 (1983)).

The threshold inquiry in a speech challenge is whether the government has adopted a content-based restriction. A law is content based if it "applies to particular speech because of the topic discussed or the idea or message expressed." *Reed v. Town of Gilbert,* 576 U.S. 155, 163 (2015). Content-based laws are "presumptively unconstitutional" and may be upheld only if the government proves that the regulation is narrowly tailored to serve compelling state interests. *Id*. at 163; *see also United States v. Stevens*, 559 U.S. 460, 468 (2010).

Even where the State asserts privacy or safety interests, the First Amendment purposefully limits civil liability for publishing truthful information that was lawfully obtained and relates to a matter of public significance. If a speaker "lawfully obtains truthful information about a matter of

public significance," the State generally may not punish publication absent an interest "of the highest order." *Florida Star v. B.J.F.*, 491 U.S. 524, 533 (1989); *see also Smith v. Daily Mail Publ'g Co.*, 443 U.S. 97, 103 (1979). And while the government may regulate certain unprotected categories such as true threats and incitement, those exceptions are narrow and demand specific showings. See *Virginia v. Black*, 538 U.S. 343, 359 (2003); *Brandenburg v. Ohio*, 395 U.S. 444, 447 (1969).

Content May not be Used as the Basis for Regulating Speech

The First Amendment prohibits laws that restrict speech "because of the topic discussed or the idea or message expressed." *Reed*, 576 U.S. at 163 (2015). CADS is content-based as applied because liability turns on whether a speaker's communication includes specified categories of "private information," including employer contact information and related identifiers. R. at 4–6. To determine whether CADS applies, a court must examine the content of the broadcast to see whether it contains the regulated information. That is the hallmark of a content-based restriction.

Because CADS is content-based as applied, it is "presumptively unconstitutional" and may be upheld only if the State proves it is narrowly tailored to serve a compelling interest. *Id*. The State's interest in preventing stalking, harassment, and violence is weighty and can be assumed compelling in the abstract. *Id.* at 18. The problem is tailoring. CADS does not focus on unprotected conduct, such as threats, stalking, vandalism, or intimidation. *Id.* at 6. Instead, it targets publication of information, including truthful information, and predictably burdens core speech. *Id.* at 6, 9-10.

CADS is not narrowly tailored because it burdens substantially more speech than necessary to achieve the State's interests. The statute's trigger is the presence of defined informational categories, not a direct link to imminent unlawful action or a true threat. *See id.* at 18. That structure sweeps in protected speech that is commonplace in public debate, including reporting about

controversy participants, calls for accountability, and discussion of where officials or advocates can be reached. It also chills speech by attaching liability to an intent standard that can be pled easily and litigated expensively, even when the speech is part of broader expression. Where less speech-restrictive tools exist, including enforcement of generally applicable laws targeting harassment, stalking, threats, and vandalism, the State cannot justify a speech-targeted civil liability regime. *See Stevens*, 559 U.S. at 468 (2010).

As applied to the Church's broadcast, CADS punishes the Church for disseminating a mix of local news and religious messaging concerning the Energy Farm Controversy. R. at 10. The broadcast included a clip of Respondent public rally speech, followed by information framed as community resources. *Id.* at 10. The State may characterize the inclusion of employer contact information as "doxxing," but the constitutional question is whether the State may impose content-based civil liability on the Church's controversy-related broadcast because it included information that CADS defines as "private." *Id.* at 6; *see also id.* at 18. Under *Reed's* framework, strict scrutiny applies,[1] and CADS fails because its reach into protected speech is far broader than necessary to prevent the unlawful acts the State fears.

It is Unlawful to Use the Civil Court to Punish Truthful Lawful Information

Even apart from strict scrutiny, this Court has repeatedly held that the First Amendment sharply limits civil liability for publishing truthful information that is lawfully obtained and relates to a matter of public significance. If a speaker "lawfully obtains truthful information about a matter of public significance," the State generally may not punish publication absent an interest "of the highest order." *Florida Star*, 491 U.S. at 533; *see also Smith v. Daily Mail Publ'g Co.*, 443 U.S. at 103. This principle reflects a constitutional judgment that the government must ordinarily protect

[1] Strict scrutiny is more fully addressed in the fourth part of this section.

sensitive information at the source rather than suppress downstream speakers who obtain it lawfully.

That doctrine fits this case. The Church's broadcast addressed the Energy Farm Controversy, a statewide political dispute. R. at 6. Marshall herself participated publicly by delivering a fiery speech at a campus rally, placing her advocacy squarely within public discourse. *Id.* at 10. The Church's broadcast incorporated that rally clip, and then displayed a still image of Marshall at the Delmont Treatment Center along with a resource list that included the Center's address, phone number, and hours. *Id.* at 10–12. The Church maintains that the image and resource information were obtained from the Treatment Center's own website. *Id.* at 10. On that record, the broadcast involved truthful information obtained through lawful means and presented in the context of public controversy. As the lower court put it, "Delmont has no small interest in protecting students from harassment and intimidation; but when that interest collides with the publication of truthful, lawfully obtained information about a participant in a heated political controversy, the First Amendment insists that speech, not silence, is the default." *Id.* at 7.

Under the *Daily Mail* line of cases, the State bears a heavy burden to justify civil punishment of such publication. The asserted interests in safety and preventing harassment are real, but they do not grant the State a roving power to penalize the dissemination of truthful information embedded in public debate. *Florida Star* itself rejected civil liability even for publication of sensitive identifying information when the press obtained it lawfully, and emphasized that punishment for truthful publication requires precision, not broad deterrence. 491 U.S. at 533. Similarly, *Bartnicki v. Vopper* extends constitutional protection to publication of truthful information on matters of public concern where the publisher did not participate in any unlawful acquisition. 532 U.S. 514, 528 (2001). If that principle protects publication even when

the underlying source acted unlawfully, it applies with particular force where, as here, the Church asserts lawful acquisition from a publicly accessible website. R. at 10.

CADS cannot be reconciled with this doctrine as applied. The statute imposes civil liability based on disclosure of defined informational categories even when the information is truthfully conveyed, lawfully obtained, and part of a public controversy broadcast. That approach flips the First Amendment's default rule. Rather than requiring the State to protect information at the source or to punish only unlawful conduct, CADS punishes speakers for publishing truthful information in the course of political and religious expression. *See id.* at 9–10, 18–19. The First Amendment does not permit that result absent an exceptionally strong and narrowly tailored justification, which CADS lacks as applied here.

The Broadcast was not a True Threat or Speech as Part of Unlawful Conduct

The State will likely argue that CADS targets speech that causes harassment and violence. But the First Amendment permits regulation of speech only within narrow, historically unprotected categories. The Church's broadcast clearly does not fall into them.

First, the broadcast is not a true threat. True threats involve statements where the speaker communicates a serious expression of intent to commit unlawful violence against a particular individual. *Virginia v. Black*, 538 U.S. 343, 359 (2003). The Church did not threaten Marshall. It aired a clip of her public rally speech and displayed information framed as community resources. Liability cannot be sustained by recasting truthful disclosure as a threat simply because third parties might react badly. R. at 10, 12.

Second, the broadcast is not incitement. Incitement requires advocacy "directed to inciting or producing imminent lawless action" and "likely to incite or produce such action." *Brandenburg*, 395 U.S. at 447. The Church did not exhort viewers to commit vandalism, confrontation, or

violence, and the record's later incidents involved unidentified actors whose conduct occurred after the broadcast. R. at 17. That is not the immediacy and direction *Brandenburg* requires.

Third, the broadcast is not "speech integral to criminal conduct." That category covers situations where speech is used as a mechanism to accomplish a crime, such as solicitation or coordination of unlawful acts. CADS, however, targets a communicative act that also has an asserted lawful purpose: broadcasting local news and religious witness about a public controversy. *Id.* at 4–5. Even if the State believes disclosure of employer contact information can enable harassment, the First Amendment does not allow the government to treat controversy-related reporting as presumptively integral to crime based on speculative downstream misconduct by unknown third parties. Otherwise, protected speech would be reduced to a trigger of liability whenever public debate becomes heated, a disastrous standard for this court to set.

Marshall's allegations of harm are serious, and the State has ample authority to punish those who commit threats, stalking, intimidation, and vandalism. *Id.* at 11, 47. But the constitutional line does not allow shifting responsibility from the wrongdoers to a speaker engaged in public controversy commentary by imposing content-based civil liability for truthful disclosure, nor should it. Because the broadcast does not fit within any unprotected category, CADS cannot be upheld by relabeling the Church's speech as threats or incitement. *See id.* at 17–18.

Strict Scrutiny Analysis

CADS is a content-based restriction on speech. It imposes civil liability when a speaker communicates defined categories of "private information," such as employer contact information and related identifiers, and it applies only after the decisionmaker reads the communication to determine whether the regulated content is present. A law that "applies to particular speech because of the topic discussed or the idea or message expressed" is content based and therefore

"presumptively unconstitutional." *Reed*, 576 U.S. at 163. Because CADS restricts speech based on communicative content, it must satisfy strict scrutiny. *Id.*

To survive strict scrutiny, the State must prove that CADS is narrowly tailored to serve a compelling governmental interest. *Id.* The State's interest in preventing stalking, harassment, and physical injury is compelling. The question is whether CADS is the least speech-restrictive means of advancing that interest. It is clearly not.

First, CADS is fatally overinclusive. By tying liability to the disclosure of defined informational categories, the statute sweeps in a substantial amount of protected speech. Journalists routinely publish workplace contact information when reporting on public institutions. Advocacy groups publish contact information to facilitate petitioning, public comment, and accountability.. CADS makes those communications actionable whenever a plaintiff alleges the requisite intent element, which chills protected speech and invites litigation costs that operate as punishment. *See* R. at 45. The First Amendment does not tolerate sweeping prohibitions that capture lots of protected expression even if alongside the State's legitimate targets. See *Stevens*, 559 U.S. at 468.

Second, CADS is not the least restrictive means. The State has several more direct tools to address the stated harms without burdening protected expression. If the State's concern is threats, stalking, harassment, intimidation, or vandalism, it can punish threats, stalking, harassment, intimidation, and vandalism. A statute that penalizes publication of information, rather than the unlawful conduct itself, is obviously not narrowly tailored when its enforcement includes so much protected speech.

Third, CADS is underinclusive in a way that reveals poor tailoring. R. at 19. The harms the State invokes are caused by unlawful acts and intimidation dynamics, not simple communication. Yet CADS "burden[s] protected speech that poses no imminent or intended threat," and thus misses many equally dangerous pathways to harassment. *Id.* at 17. Underinclusion of this kind is a classic sign that the statute is not crafted with the precision strict scrutiny requires.

Finally, CADS effectively adopts a civil "heckler's veto" model, where controversial speech can be punished because of the feared or actual reactions of third parties. R. at 11. The First Amendment does not permit the State to suppress protected speech because listeners might respond unlawfully, this court has rejected such many times. When the State's approach makes speakers responsible for the unlawful acts of others by imposing liability based on the content of speech, the statute chills speech at the heart of democratic debate.

Because CADS is a content-based civil liability regime that burdens substantial protected speech, is not the least restrictive means, and is not narrowly tailored to the State's compelling interests, it fails strict scrutiny. *Reed*, 576 U.S. at 163. The Court should therefore hold CADS unconstitutional under the Free Speech Clause and invalidate it in its entirety.

Free Exercise Claim

The First Amendment establishes that "Congress shall make no law … prohibiting the free exercise [of religion]". U.S. Const. amend. I. The First Amendment right to free exercise of religion has been incorporated against the states by the Fourteenth Amendment. *See Cantwell v. Connecticut,* 310 U.S. 296, 303 (1940). It is settled law that "religious beliefs need not be acceptable, logical, consistent, or comprehensible to others in order to merit First Amendment protection." *Thomas v. Rev. Bd. Of Ind. Emp't Sec. Div.,* 450 U.S. 707, 714 (1981). It is not the role

of the court to become "arbiters of scriptural interpretation" but rather the court must accept their religious motivations at face value. *Id* at 716.

"The right of free exercise does not relieve an individual of the obligation to comply with a valid and neutral law of general applicability of the ground that the law proscribes (or prescribes) conduct that his religion prescribes (or proscribes)." *Employment Division v. Smith*, 494 U.S. 872, 880 (1990). After a burden on religion is found, "in most circumstances" the court then inquires if "the burdensome policy is neutral and generally applicable." *Mahmoud v. Taylor*, 606 U.S. 522, 564 (2025). If the law is not neutral and generally applicable, the court "will proceed to ask whether the policy can survive strict scrutiny." *Id.* However, "when the burden imposed is of the same character as that imposed in *Yoder*, [the court] need not ask whether the law is neutral or generally applicable before proceeding to strict scrutiny." *Id.*

Further, "the First Amendment bars application of a neutral, generally applicable law to religiously motivated action" where the action involves "the Free Exercise Clause in conjunction with other constitutional protections." *Smith*, 494 U.S. at 881. "This exception to the ordinary rule for free-exercise claims… is often called the hybrid-rights doctrine." *Henderson v. McMurray*, 987 F.3d 991, 1005 (2021).

In the Character of *Yoder*

Yoder "embodies a principle of general applicability, and that principle provides more robust protection for religious liberty than [an] alarming narrow rule that… guarantee['s] [] nothing more than protection against compulsion or coercion to renounce or abandon one's religion." *Mahmoud*, 606 U.S. at 564–565. In *Yoder*, the law at issue "compel[ed] [the Amish], under threat of criminal sanction, to perform acts at odds with fundamental tenets of their religious beliefs." *Wis. v. Yoder*, 406 U.S. 205, 218. Further, it carried with it "a very real threat of undermining the

[] community and religious practice as they exist" requiring that they "either abandon belief… or be forced to migrate to some other and more tolerant region." *Id*. The record showed that "enforcement of the State's requirement… would gravely endanger if not destroy the free exercise of respondents' religious beliefs." *Id*. at 219.

The burden imposed in *Mahmoud* was "of the exact same character as the burden in *Yoder*." *Mahmoud*, 606 U.S. at 565 . The policies of the school, rather than the state, "pose[d] a very real threat of undermining the religious beliefs and practices that the parents wish to instill in their children." *Id.* (internal quotes omitted). In *Mahmoud*, the interference occurred via a requirement to engage with material that undermines the teachings of the faith. *See id.* at 592 (J. Thomas concurring). Government interference in the nature of *Yoder* exists where the government is "substantially interfer[ing] with religious development" rather than interfering with religious practice. *Id.* at 546. Determining if "a law substantially interferes with [] religious development… will always be fact-intensive" and determining that the law interferes with religious development "will depend on the specific religious beliefs and practices asserted." *Id.* at 550.

Here, "[a] foundational dimension of practicing the [] faith is the personal, live, and public proclamation of their religious message and the sharing of the same through some kind of communicative format." R. at 8. "Every Lightbearer must serve a missionary year" between the ages of 18 and 22. *Id*. at 9. While serving in the missionary year, Lightbearers produce and disseminate "live religious programming interspersed with local news and information." *Id*. "These broadcasts are [] the only way to spread [the] faith while remaining true to [the] tenet[s]." *Id*. at 45. Lightbearers spread the word while "pursuing higher education and preparing for careers" in belief that they will become "more resolute in their faith through becoming advocates for it." *Id*. at 8. "[A]t this time in life, [a Lightbearer] must also grow in his faith and his relationship to

the [] community." *Yoder*, 406 U.S. at 212. As this case demonstrates, CADS creates a risk of "a flood of lawsuits brought against the Church." R. at 45. As a result, CADS infringes on the ability Lightbearers to produce and disseminate live religious programming which threatens to undermine the religious development of its young members.

The infringement on the religious development is a violation in the character of *Yoder.* As such, strict scrutiny should apply without a need to address neutrality and general applicability. However, in the event this Court disagrees that the interference is in the character of *Yoder*, the law fails under neutrality and general applicability analysis.

Neutral and Generally Applicable

"Neutrality and general applicability are interrelated… failure to satisfy one requirement is a likely indication that the other has not been satisfied." *Church of Lukumi Babalu Aye v. City of Hialeah*, 508 U.S. 520, 531 (1993). "The neutrality analysis focuses on the purposes or motivation behind a policy, and requires examination of policymakers' subjective intent; the general-applicability inquiry, on the other hand, focuses on the objective sweep of a policy: whom it covers, whom it exempts, and how it makes that distinction." *Civil Rights Dep't v. Cathy's Creations, Inc.*, 109 Cal. App. 5th 204, 264 (2025) (quoting (*Spivack v. City of Philadelphia* 109 F.4th 158, 167 (3d Cir. 2024).))

A government policy is neutral if it does not "restrict[] practices because of their religious nature" or evince "intoleran[ce] of religious beliefs." *Fulton*, 593 U.S. at 533. When determining if a law is neutral "we must begin with its text" as "the minimum requirement of neutrality is that a law not discriminate on its face." *Church of the Lukumi Babalu, Aye*, 508 U.S. at 533. However, we do not stop there as "the Free Exercise Clause protects against government hostility which is masked as well as overt." *Id*. at 534. For masked hostility towards religion courts look to "the

historical background of the decision 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." *Id*. at 540.

To be generally applicable, the government policy may not "provide a mechanism for individualized exemptions or prohibit religious conduct while permitting secular conduct that undermines the government's asserted interests in a similar way." *Kennedy v. Bremerton Sch. Dist.*, 597 U.S. 507, 526 (2022). Government regulations are not neutral and generally applicable and therefore trigger strict scrutiny under the Free Exercise Clause, whenever they treat *any* comparable secular activity more favorably than religious exercise. *See Roman Catholic Diocese of Brooklyn* v. *Cuomo*, 592 U. S. 14, (2020) (*per curiam*) "It is no answer that a State treats some comparable secular businesses or other activities as poorly as or even less favorably than the religious exercise at issue." *Tandon v. Newsom*, 593 U.S. 61, 62 (2021).

Here, CADS indisputably passes "the minimum requirement of neutrality" that a law not facially discriminate. *Church of the Lukumi Babalu, Aye*, 508 U.S. at 533. However, masked government hostility appears in CADS. The Church was founded in Delmont in 1873. R. at 44. The Church has spread their religious message through coverage of local news since the early years of the Church. *Id*. at 8. Against this historical background, the Church "appealed to Governor Morrison through numerous means" to reject CADS. *Id*. at 46. The Governor points to the specific series of events leading to CADS as justification of its neutrality. While it is beyond dispute that "campus conditions became extremely volatile" in part because of the distribution of personally identifiable information. *Id.* at 47. Other legal solutions to non-consensual dissemination of personally identifiable information "were… generally reactive." *Id*. CADS is also reactive requiring the disclosure to have occurred with and those disclosing to have been "acting

purposefully or recklessly to place a person in reasonable fear of bodily injury… as to cause severe emotional distress." Del. Ann. Stat. § 163.732 (2020). When viewed plainly that the justification based on the current events – a non-reactive solution – was not achieved by CADS, nor could it be achieved by CADS, the historical background and the willing paired with the fact of the Governor ignoring the Church's lobbying efforts all indicate that CADS was not neutral.

Even though CADS appears to treat all distributors of information uniformly, with a private cause of action against any individual and regardless of communication platform, CADS inherently treats some comparable secular activity more favorably than the Church's religious exercise. The Church has always focused "on news of local interest." R. at 8. The impact of CADS is that news about college campuses, something that Lightbearers are inherently more involved in, is treated less favorably than news anywhere else.

As CADS is not neutral and generally applicable, the court should turn to the question of if CADS can survive strict scrutiny. *See Mahmoud v. Taylor*, 606 U.S. at 564. Yet, if the Court finds that CADS is neutral and generally applicable, then it should apply the hybrid rights doctrine.

Hybrid Rights Doctrine

Even if this court finds that the statute is neutral and generally applicable, it falls into the hybrid-rights doctrine articulated in *Smith* prompting strict scrutiny. 494 U.S. at 881. Where the claim is that of a "Free Exercise Clause [violation] in conjunction with other constitutional protections" the court has "held that the First Amendment bars application of a neutral and generally applicable law to religious motivated action." *Id*.

This Court in *Mahmoud*, without having to reach hybrid rights, made clear that hybrid rights are an enshrined part of the Free Exercise Doctrine. *Mahmoud*, 606 U.S. at 565 n.14. ("We

need not consider whether the case before us qualifies as such a hybrid rights" case… it is sufficient to note that the burden imposed here is of the exact same character as that in *Yoder*.") (internal quotation omitted). "Freedom of speech and of the press" are expressly named as "constitutional protections" that "in conjunction" with a Free Exercise Claim can bar application of a neutral and generally applicable law under the hybrid rights doctrine. *Smith*, 494 U.S. at 881. This Court has made clear "that the First Amendment doubly protects religious speech." *Kennedy*, 597 U.S. at 523. To make a hybrid rights claim, the right brought in conjunction with Free Exercise must have a "fair probability… of success on the merits" to warrant heightened scrutiny. *San Jose Christian Coll. v City of Morgan Hill*, 360 F.3d 1024, 1032 (9th Cir. 2004).

Here, the Church's Free Exercise Claim cannot be separated from the Free Speech Claim. It is a "foundational dimension of practicing the [] faith" that the individual publicly proclaims the religious message. R. at 8. The "personal interaction and the printed witness" are inseparable in the eyes of the Church. *Id*. The claim at issue here is expressly named in *Smith* as having strict scrutiny apply even when burdened by neutral and generally applicable laws. 494 U.S. at 881. As discussed above, the free speech claim in this case can win on its own and clearly has a likelihood of success on the merits. Therefore, the hybrid rights doctrine calls for strict scrutiny to apply.

Strict Scrutiny Review

"The most demanding test known to constitutional law" is that of strict scrutiny. *City of Boerne v. Flores,* 521 U.S. 507, 534 (1997). To satisfy strict scrutiny, "a law restrictive of religious practice must advance interests of the highest order and must be narrowly tailored in pursuit of those interests. *Church of Lukumi Babalu Aye*, 508 U.S. at 546 (1993) (internal quotes omitted). In the free exercise context, "so long as the government can achieve its interest in a manner that does not burden religion, it must do so." *Fulton v. City of Philadelphia*, 593 U.S. 522, 541 (2021).

"Only those interests of the highest order… can overbalance legitimate claims to the free exercise of religion." *Yoder*, 406 U.S. at 215. Here, the government's interest in preventing stalking, harassment and physical injury is sufficiently compelling.

The second prong, the Symplegades of constitutional analysis, requires that the law is narrowly tailored such that "it targets and eliminates no more than the exact source of evil it seeks to remedy." *Frisby v. Schultz*, 487 U.S. 474, 485 (1988). Under CADS a Lightbearer lawfully encouraging others to lobby the Dean of Delmont State University to change the policies on the campus they all attend would be unable to give those fellow students contact information for the Dean to lobby for that change. As such, CADS prevents more "than the exact source of evil it seeks to remedy." *Id.* Additionally, as the government can achieve the goal of preventing stalking, harassment, and physical injury "in a manner that does not burden religion" it is compelled to do so rather than burden the Churches free exercise. *Fulton*, 593 U.S. at 541. As CADS both unnecessarily burdens religion, and is overbroad, it finds itself amongst many other statutes that have been unable to pass through the Symplegades of narrow tailoring.

Conclusion

In conclusion, we ask this Court to overturn the Fifteenth Circuit's ruling, and hold that, as applied, CADS violates the Church's Free Speech rights and Free Exercise rights guaranteed under the First Amendment.

Respectfully submitted,

Team 22

ATTORNEYS FOR PETITIONER

Appendix

Statutory Provisions

Del. Ann. Stat. § 163.732 (2020)

Intent: 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

Del. Ann. Stat. § 25.989 (2025)

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

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

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

Private Information:

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

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

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

(D) Photographs of the plaintiff's children;

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

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.

Certificate of Authenticity and Compliance

1. All materials in this brief are the work product of the members of this team.
2. Our team has fully complied with Team 22's school honor code while creating this brief.
3. This team has fully complied with the official competition rules set for the Seventy-Sixth Annual Seigenthaler-Sutherland Cup National First Amendment Moot Court Competition.