

No. 25-CV-1994

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IN THE  
**Supreme Court of the United States**

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THE CHURCH OF LIGHT, LLC

*PETITIONER,*

v.

LAURA MARSHALL

*RESPONDENT.*

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

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**BRIEF FOR THE PETITIONER**

*Counsel for Petitioner*

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Team 26

**QUESTIONS PRESENTED**

Does the Campus Anti-Doxxing Statute (CADS) violate the First Amendment Free Speech rights of The Church of Light, LLC?

Does the Campus Anti-Doxxing Statute (CADS) violate the First Amendment Free Exercise rights of The Church of Light, LLC?

## **PARTIES TO THE PROCEEDINGS**

Petitioner, The Church of Light, was the defendant-appellant in the United States Court of Appeals for the Fifteenth Circuit and the defendant in the United States District Court for the District of Delmont, Western Division. The Church of Light, the Lightbearers, are a religious denomination who spread their faith through public proclamation and witnesses. Laura Marshall was the plaintiff-appellee in the United States Court of Appeals for the Fifteenth Circuit and the plaintiff in the United States District Court for the District of Delmont, Western Division.

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## OPINIONS BELOW

The following proceedings are directly related to this case within the meaning of the Supreme Court Rule 14.1(b)(iii).

*Laura Marshall v. The Church of Light, LLC*, Civil Action No. 25-CV-1994, U.S. District Court for the District of Delmont, Western Division. Memorandum Opinion and Order granting Defendant’s motion for summary judgement, filed on December 8, 2025.

*Laura Marshall v. The Church of Light, LLC*, Civil Action No. 25-CV-1994, U.S. Court of Appeals for the Fifteenth Circuit. Memorandum Opinion and Order reversing the grant of summary judgement, filed December 29, 2025.

*The Church of Light, LLC v. Laura Marshall*, Docket No. 25-CV-1994, Supreme Court of the United States. Order granting petition for writ of certiorari.

## JURISDICTION

On December 29, 2025, the Fifteenth Circuit entered its judgment. Writ of certiorari is granted. The jurisdiction of this Court rests on 28 U.S.C. §1254.

## STATEMENT

In Fall 2024, tensions arose from a political debate over converting undeveloped land into areas for solar and wind energy production, resulting in rallies, marches, protests, and in some cases, violence. R. at 4-5. These two sides formed the Energy Coalition, who supported developing the alternative energy sources and the Nature Coalition, who did not support the development due to environmental concerns. R. at 5. The debate significantly impacted the college campuses in Delmont with students “doxxing” activists they disagreed with. R. at 5. On September 12, 2025, the legislature passed the “Campus Anti-Doxxing Statute of Delmont” (CADS) to combat the rising “doxxing” instances, R. at 6, with apparently no consultation with Petitioner. R. at 22. The new law created a private cause of action against those who “doxx” a member of a Delmont college or university community “with the intent to ‘stalk, harass, or physically injure.’” R. at 6 (quoting Del. Ann. Stat. §25.989 (2025)). Under the statute, “doxxing” includes the “disclos[ure of] private

information.” R. at 6. “Private information,” in turn, includes “any other personally identifiable information.” R. at 7 (quoting Del. Ann. Stat. § 163.732 (2020)).

As a matter of faith, Petitioner, requires its members to spread their prophecy through public proclamation. R. at 8. The Church’s foundation rests on relaying the faith through “personal, live, and public proclamation.” R. at 8. The public proclamation was extremely vital to new church members who were instructed by the Church’s creed to have a missionary year of proselytizing. R. at 8–9. In 2024, Petitioner used vans with LED screens on the sides to drive around campuses and proclaim their message. R. at 9.

Respondent, Laura Marshall, opposed Petitioner’s view on the energy debate. R. at 10. Respondent, a student activist, joined the Nature Coalition and recently spoke at a protest on the campus of Delmont State University (DSU). R. at 10. Her speech received heavy media attention and prompted Petitioner to use a clip of the speech in their van broadcasts. R. at 10. In addition to the speech, Petitioner displayed a photograph of Respondent sitting at the front desk of the Delmont Treatment Center while wearing a t-shirt displaying the Nature Coalition symbol. R. at 10. With the photograph was a list of treatment centers for substance abuse users, including the Delmont Treatment Center, R. at 10. Each resource listed had the “address, phone number, and hours of operation.” R. at 10.

After the broadcast was released, Respondent was confronted at Delmont Treatment Center. R. at 11. Respondent was both an employee and a patient at Delmont Treatment Center. R. at 11. She discussed her addictions with drug and alcohol in an online chat room and therapy sessions. R. at 11. During the confrontation, approximately twenty people insulted her and followed her to the parking lot where they keyed her car. R. at 11. The next night, she was confronted again, and she hit a pole trying to avoid the protestors. R. at 11. Respondent sued

Petitioner under CADS, seeking “damages and injunctive relief.” R. at 12. While the district court granted Petitioner’s motion for summary judgment, R. at 29, the U.S. Court of Appeals for the Fifteenth Circuit reversed. R. at 43.

### SUMMARY OF THE ARGUMENT

As a matter of settled constitutional law, the Campus Anti-Doxxing Statute of Delmont violates Petitioner’s fundamental rights to free speech and the “free exercise of religion” under the First Amendment to the U.S. Constitution. U.S. CONST. amend. I. Accordingly, Petitioner is entitled to summary judgment under this Court’s First Amendment jurisprudence.

First, CADS is a “content-based” statute that attempts to regulate protected speech. *See, Nat’l Inst. of Family and Life Advoc. v. Becerra*, 585 U.S. 755, 766 (2018) (distinguishing between “content-based” and “content-neutral” regulations). The Church’s message and public proclamations are extremely important to their mission as a religious denomination. *See* H. Rallston Tr. at 45:7. Under *Snyder*, Petitioner’s speech is entitled to “special protection” as it regards “a matter of public concern.” *Snyder v. Phelps*, 562 U.S. 443, 458 (2011). A “content-based” restriction of Petitioner’s speech, *see Becerra*, 585 U.S. at 766, that also fails strict scrutiny in that it is not “narrowly tailored to serve compelling state interests.” *Reed v. Town of Gilbert*, 576 U.S. 155, 163 (2015).

Second, CADS violates Petitioner’s rights under the Free Exercise Clause. U.S. CONST. amend. I. Although *Smith* held that “the right of free exercise does not relieve an individual of the obligation to comply with a ‘valid and neutral law of general applicability on the ground that the law proscribes (or prescribes) conduct that his religion prescribes (or proscribes),’” CADS is neither “neutral,” nor “general[ly] applicab[le].” *Emp. Div., Dept. of Human Resources of Or. v. Smith*, 494 U.S. 872, 877 (1990). However, even if this Court holds that CADS satisfies the rule

announced in *Smith*, the Court should overrule *Smith* and hold the statute unconstitutional, on the grounds that *Smith*'s interpretation of the Free Exercise Clause departs from the Clause's ordinary meaning. *Fulton v. City of Philadelphia*, 593 U.S. 522, 553 (2021) (Alito, J., concurring in the judgment).

Accordingly, the Court should *reverse* the judgment of the court of appeals and instead hold that the First Amendment entitles Petitioner to summary judgment.

## ARGUMENT

### I. THE DELMONT CAMPUS-ANTI DOXXING STATUTE (CADS) IS UNCONSTITUTIONAL BECAUSE IT VIOLATES THE FREE SPEECH CLAUSE OF THE FIRST AMENDMENT.

The First Amendment guarantees to all Americans the fundamental right to free speech. U.S. CONST. amend. I (“Congress shall make no law . . . abridging the freedom of speech, . . .”). “[A]bove all,” this Court has held, “the First Amendment means that government has no power to restrict expression because of its message, its idea, its subject matter, or its content.” *City of Chicago v. Mosley*, 408 U.S. 92, 95 (1972). Under the First Amendment, the government is not free even to restrict speech whose content it deems as less deserving of protection. *See United States v. Stevens*, 559 U.S. 460, 470 (2010). This Court has also held that the First Amendment affords greater legal protection to speech on matters of “public [] concern, . . . , as determined by all the circumstances of the case.” *Snyder v. Phelps*, 562 U.S. 443, 451 (2011). The First Amendment is enforceable against the states under the Fourteenth Amendment. *Gitlow v. New York*, 268 U.S. 652, 666 (1925).

Under this Court's precedents, the First Amendment protects not only “the spoken or written word,” *Texas v. Johnson*, 491 U.S. 397, 404 (1989), but also conduct that is “sufficiently imbued with the elements of communication.” *Spence v. Washington*, 418 U.S. 405, 409 (1974).

This standard implies a constitutional minimum in that “an activity need not necessarily embody ‘a narrow, succinctly articulable message’” to qualify as speech, and the court need only discern “an intent to convey a ‘particularized message,’ along with a great likelihood that the message will be understood by those viewing it.” *Zalewska v. Cnty of Sullivan, New York*, 316 F.3d 314, 319 (2d Cir. 2003) (quoting *Hurley v. Irish American Gay, Lesbian and Bisexual Grp of Bos.*, 515 U.S. 557, 569 (1995)). It is also not necessary that that “an ordinary observer . . . infer a *specific* message.” *Holloman ex rel. Holloman v. Harland*, 370 F.3d 1252, 1270 (11th Cir. 2004). “Speech” also includes “the creation and dissemination of information.” *Sorrell v. IMS Health Inc.*, 564 U.S. 552, 570 (2011) (invalidating a state law barring the dissemination of records describing medical practice of doctors). That speech is communicated through new technology does not alter the protection it is due. *See Brown v. Ent. Merch. Ass’n*, 564 U.S. 786, 790 (2011).

Despite the Constitution’s emphatic guarantee of free speech, U.S. CONST. amend. I, and this Court’s clear precedents under the First Amendment, Respondent asks this Court to bless as perfectly valid a state law that restricts speech on the basis of its content. *Reed v. Town of Gilbert*, 576 U.S. 155, 163 (2015). By imposing civil liability on anyone who, with the requisite intent, reveals “private information” about members of the Delmont University community, Delmont’s Campus Anti-Doxxing Statute, (“CADS”), Del. Ann. Stat. §25.989 (2025), unconstitutionally restricts speech on the basis of its content. *Reed*, 576 U.S. at 163. For the reasons explained in this Brief, this Court should reject this argument and hold instead that, at least as applied to Petitioner, that law, Delmont’s Campus Anti-Doxxing Statute, Del. Ann. Stat. §25.989 (2025), abridges Petitioner’s First Amendment right to free speech. U.S. CONST. amend. I.

Summary judgment is appropriate where “the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law.” Fed. R.

Civ. P. 56(a). The Court reviews *de novo* judgments concerning questions of law. *See Highmark Inc. v. Allcare Health Mgmt Sys., Inc.*, 572 U.S. 559, 564 (2014).

**A. CADS Unconstitutionally Restricts Speech on a Matter of Public Concern.**

The government infringes the right of free speech where it impermissibly restricts speech on a matter of “public concern.” *Snyder*, 562 U.S. at 458; *see also Connick v. Myers*, 461 U.S. 138, 145 (1983) (“[S]peech on public issues occupies the highest ring of the hierarchy of First Amendment values, and is entitled to special protection.”) (internal quotation marks omitted). Speech assumes a public character when it reflects the “political, social, or other concern of the community.” *Connick*, 461 U.S. at 146. The controversial nature of the speech is immaterial to whether it is public. *See Rankin v. McPherson*, 483 U.S. 378, 387 (1987). To determine whether the speech relates to a matter of public concern, the court looks to “the content, form, and context of [the] speech, as revealed by the whole record.” *Dun & Bradstreet, Inc. v. Greenmoss Builders, Inc.*, 472 U.S. 749, 761 (1985). The First Amendment also bars the government from restricting speech on the basis of the speaker’s viewpoint. *See Rosenberger v. Rector and Visitors of the Univ. of Va.*, 515 U.S. 819, 829 (1995).

The context of particular speech does not “transform” speech on a matter of public concern into speech on a matter of “private concern.” *Snyder*, 562 U.S. at 454–55. In *Snyder*, this Court invalidated a finding of liability for intentional infliction of emotional distress where the defendant members of a religious group picketed the funeral of a United States Marine who was killed while serving his country in Iraq. *Id.* at 449, 460. The defendants stood on a public plot near the church that hosted the funeral and displayed signs condemning America. *Id.* at 449. The defendants also communicated their plans in advance and abided by “police instruction.” *Id.* In holding that the First Amendment protected the defendants from liability, the nearly unanimous Court noted that

the combination of the defendant's choice of context, namely the funeral of the fallen soldier and the spiteful content of the speech—even though deliberately chosen—did not render the defendants liable in tort. *Id.* at 455–56. Because the defendant's speech, though highly offensive under the circumstances, related to “a matter of public concern,” the Court held that such speech was “entitled to ‘special protection’ under the First Amendment.” *Id.* at 458.

Here, as already noted by the district court below, Petitioner's live broadcasting of Respondent's speech and the display of her image relates to a “matter of public concern” and is therefore protected under the First Amendment. *Id.* at 455–56, 458. R. at 16. The speech given by Respondent in the video relates to ongoing political debates about energy policy and the use of public land. R. at 16. As in *Snyder*, the surrounding context of the broadcast, including the photograph of Respondent at her place of work, R. at 10, does not “transform” the public nature of Petitioner's speech into a private nature. *Id.* at 454–55. Additionally, as the district court also noted, Respondent “inserted herself into [the] public debate” by making her public speech on the topic. R. at 17. (citing *Time, Inc. v. Hill*, 385 U.S. 374, 388 (1967) (“Exposure of the self to others in varying degrees is a concomitant of life in a civilized community. The risk of exposure is an essential incident of life in a society which places a primary value on freedom of speech and of the press.”)). Under *Snyder*, Petitioner's display of the video and Respondent's image, R. 16–17, constitutes speech on a “matter of public concern” and is therefore “entitled to ‘special protection’ under the First Amendment.” *Snyder*, 562 U.S. at 458.

The public nature of Petitioner's use of the video and image, in the context of the ongoing political controversy concerning Delmont “energy policy” also renders the Fifteenth Circuit's conclusion that Petitioner's sole motive for engaging in such speech was “to endanger [Respondent's] safety” not only speculative but irrelevant. R. at 33. Contrary to the Fifteenth

Circuit's characterization, R. at 33, this Court's holding in *Snyder* relied not primarily on a balancing of state and individual interests but on the public nature of the defendant's speech. *Id.* at 458. Despite the holding of the court of appeals, this Court's cases afford Petitioner and its members "'special protection' under the First Amendment," and this Court should reverse the judgment of the Fifteenth Circuit. *Id.* at 458.

### **B. CADS Is a Content-Based Regulation of Speech That Fails Strict Scrutiny.**

Throughout its First Amendment cases, this Court has distinguished between "content-based" regulations and "content-neutral" regulations. See *Becerra*, 585 U.S. *Nat'l Inst. of Family and Life Advoc. v. Becerra*, 585 U.S. 755, 766 (2018). The former "targets" speech on account of its content; *Reed v. Town of Gilbert*, 576 U.S. 155, 163 (2015); whereas the latter regulates speech for "purposes unrelated to the content of expression." *Ward v. Rock Against Racism*, 491 U.S. 781, 791 (1989). Based on this distinction, the Court has held that "content-based" regulations of speech must satisfy strict scrutiny. *Reed*, 576 U.S. at 163. That is, the law is presumed void, and the government bears the burden of showing that the law is "narrowly tailored to serve compelling state interests." *Id.* The regulation will fail if the government's interest can be served by any less "restrictive means." *McCullen v. Coakley*, 573 U.S. 464, 478 (2014).

Laws that restrict the publication and dissemination of private information are subject to strict scrutiny under the First Amendment. *Florida Star v. B.J.F.*, 491 U.S. 524, 541 (1989). In *B.J.F.*, the Court invalidated a Florida statute creating civil liability for anyone to "print, publish, or broadcast . . . in any instrument of mass communication' the name of the victim of a sexual offense." *Id.* at 526 (quoting Fla. Stat. § 794.03 (1987)). The plaintiff victim had reported the offense to local sheriff's department, who then made the information accessible to the press. *Id.* at 527. At trial, the court rejected the defendant newspaper's defense under the First Amendment and

granted a directed verdict for the plaintiff. *Id.* at 528–29. Without opining on the question of whether the government may *never* punish “truthful publication,” this Court held that laws prohibiting the dissemination of the victim’s name are subject to strict scrutiny where (1) the publisher “‘lawfully obtains’” the information, *id.* at 534 (quoting *Smith v. Daily Mail Pub. Co.*, 443 U.S. 97, 103 (1979)); (2) the state’s interest is “unlikely to [be] advance[d]” by “punishing the press for its dissemination of information which is already publicly available . . . ;” *id.* at 535; and (3) imposing liability is likely to create “excessive media self-suppression.” *Id.* (quoting *Cox Broadcasting Corp. v. Cohn*, 420 U.S. 469 496 (1975)).

Under this framework, the Court held first that the defendant “lawfully obtained” the published information because the sheriff’s department had made it accessible. *Id.* at 536. Second, the Court held that the Florida statute did not serve the state’s interest in protecting victims’ identities because: (1) the sheriff’s department furnished the information to the defendant, *id.* at 538; (2) the “negligence *per se* [sic] standard applied under the [statute] . . . require[d] no case-by-case findings that the disclosure of a fact about a person’s private life was one that a reasonable person would find highly offensive,” *id.* at 539; and (3) the statute was “underinclusive,” in that it imposed liability only where the published information “appears in an ‘instrument of mass communication,’” *id.* at 540 (quoting Fla. Stat. § 794.03 (1987)). Thus, where the information at issue is “lawfully obtained,” the Court held that the state had to show that the law was “narrowly tailored to a state interest of the highest order, . . . .” *B.J.F.*, 491 U.S. at 541.

Here, the statute challenged by Petitioner is similarly subject to strict scrutiny. *Id.* By its plain text, CADS prohibits the disclosure of “private information” of a member of any “Delmont college or university with the intent to ‘stalk, harass, or physically injure.’” R. at 6 (quoting Del. Ann. Stat. § 25.989 (2025)). The statutory definition of “private information” embraces a broad

range of information, including “[t]he plaintiff’s home address, personal email address, personal phone number, social security number, or *any other personally identifiable information*; . . .” (emphasis added). Del. Ann. Stat. § 25.989 (2025). As in *B.J.F.*, the information obtained and used by Petitioner, was “lawfully obtained,” in that Petitioner’s members lawfully recorded Respondent during a public speech she gave at Delmont State University, R. at 10, and the photograph of Respondent was already made accessible to the public via her employer’s website, R. at 17. *Id.* at 541. Respondent herself disclosed in internet chat rooms that she was undergoing drug and alcohol treatment. R. at 11.

Additionally, as in *B.F.J.*, Delmont’s interest in protecting individuals from “doxxing” is underserved by CADS, as like Fla. Stat. § 794.03 (1987), CADS is unlikely to deter doxxing where the defendant can obtain the plaintiff’s personal information from already accessible online material. *Id.* at 535. CADS is also “underinclusive” in that it prohibits only the publication of “private information” on a “*communication platform of any type*” (emphasis added). Del. Ann. Stat. § 25.989 (2025). *B.J.F.*, 491 U.S. at 540.<sup>1</sup> Thus, CADS meets at least two of the criteria in *B.J.F.* and is therefore subject strict scrutiny under the First Amendment. *B.J.F.*, 491 U.S. at 540.

This Court’s cases consistently affirm that laws which restrict speech on the basis of its content, even highly sensitive content, are subject to strict scrutiny. *Reed v. Town of Gilbert*, 576 U.S. at 163. CADS expressly prohibits speech containing “private information” where the defendant acts with the requisite intent. Del. Ann. Stat. §25.989 (2025). The Court should apply strict scrutiny and find that Respondent has failed to show that CADS is “narrowly tailored to a

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<sup>1</sup> The statute’s use of the phrase “any type” does not resolve the problem of underinclusiveness, because, as in *B.J.F.*, the statute does not define “communication platform.” 491 U.S. at 540.

state interest of the highest order” and reverse the judgment of the court of appeals. *B.J.F.*, 491 U.S. at 540.

**C. Even If the Court Holds That CADS Is Content-Neutral, CADS Still Fails Intermediate Scrutiny and Therefore Violates the First Amendment.**

Under this Court’s cases, “content-neutral” regulations are valid only to the extent that they are “narrowly tailored to serve a significant governmental interest, and [to the extent] that they leave open ample alternative channels for communication of the information.” *Ward*, 491 U.S. at 791 (quoting *Clark v. Cmty. for Creative Non-violence*, 468 U.S. 288, 293 (1984)). Whether government regulation is “content-neutral” turns principally on “whether the government has adopted [the] regulation of speech because of disagreement with the message it conveys.” *Ward*, 491 U.S. at 791. An incidental effect on the speaker or his message is not enough to warrant strict scrutiny. *Id.* While intermediate scrutiny does not require that the government use only the least restrictive means of accomplishing its goal, *Turner v. Broad. Sys., Inc. v. F.C.C.*, 512 U.S. 622, 662 (1994), this Court has also made clear that such regulation is only neutral “so long as it is ‘justified [sic] without reference to the content of the regulated speech.’” *Ward*, 491 U.S. at 791 (quoting *Clark*, 468 U.S. at 293).

Respondent and the court of appeals argue that CADS is “content-neutral” and is therefore subject only to intermediate scrutiny. *Ward*, 491 U.S. at 791. R. at 35. In *Ward*, the Court upheld a city regulation restricting the volume of the plaintiff’s music as a “reasonable restriction[] on the time, place, or manner of the speech.” *Id.* at 792. The regulation, the Court reasoned, “had nothing to do with content,” *id.* (quoting *Boos v. Barry*, 485 U.S. 312, 320 (1988)), and the regulation also preserved “ample alternative channels of communication” in that the city’s mere requirement that the volume be kept at a reasonable level “ha[d] no effect on the quantity or content of th[e] expression.” *Ward*, 491 U.S. at 802. Yet, unlike in the city regulation at issue in *Ward*, CADS is

“not narrowly tailored to serve a significant governmental interest,” *id.* at 791 that is “unrelated to the content of speech.” *Id.* at 796. On its face, CADS restricts the disclosure of private information of a campus member. Del. Ann. Stat. §25.989 (2025); R. at 6. However, Delmont law also defines private information as including “any [] personally identifiable information.” Del. 163.732 (2020); R. at 7. Not only does CADS restrict a particular kind of speech (i.e., that related to private information), but its plain language is much too broad and fails to “leave open ample alternative channels of communication.” *Ward*, 491 U.S. at 802. So long as the plaintiff can establish the requisite intent on the part of the defendant, CADS subjects Petitioner and its members to liability for any message communicating a person’s private information, Del. Ann. Stat. §§ 25.989, 163.732, despite Petitioner’s genuine religious conviction that it can only spread its message through “a living witness – a live, personal, public proclamation.” R. at 9.

Thus, the regulation challenged by Petitioner is not analogous to the city regulation at issue in *Ward*, and the Court should hold, albeit in the alternative, that CADS fails intermediate scrutiny. *Ward*, 491 U.S. at 802.

**D. The Disclosure of Private Information Is Not a Form of Unprotected Speech Under the First Amendment.**

Finally, as the district court below correctly held, CADS unconstitutionally punishes speech not within any category that is unprotected by the First Amendment. R. at 17. *See R.A.V. v. City of St. Paul*, 505 U.S. 377, 383 (1992). This Court’s cases have held that the First Amendment is not a complete bar to government regulation. *See Counterman v. Colorado*, 600 U.S. 66, 73–74 (2023) (identifying several areas of speech that may be constitutionally proscribed by governmental regulation). Respondent may argue that these cases permit Delmont’s regulation of Petitioner’s right to free speech, U.S. CONST. amend. I. *Counterman*, 600 U.S. at 73–74. Specifically, Respondent may attempt to classify Petitioner’s broadcast as a form of “true threat,”

undeserving of protection from regulation. *See Virginia v. Black*, 538 U.S. 343, 359 (2003) (upholding a state prohibition on cross-burning with the “intent to intimidate,” Va. Code. Ann. § 18.2–423 (1996), the victim). A “true threat” is a “statement[] where the speaker means to communicate a serious expression of an intent to commit an act of unlawful violence to a particular individual or group of individuals.”). However, nowhere in the record does Petitioner express such an intent. *Black*, 538 U.S. at 359. The coincidental and subsequent attack which befell Respondent does not alter this fact. R. at 11. For similar reasons, any attempt by Respondent to classify Petitioner’s conduct as an unprotected attempt to incite “imminent lawless action” is likely to fail. *Brandenburg v. Ohio*, 395 U.S. 444, 447 (1969).

Thus, under this Court’s cases, CADS unconstitutionally restricts Petitioner’s First Amendment right to free speech, U.S. CONST. amend. I, on a matter of public concern. *Snyder*, 562 U.S. at 458. The statute also restricts Petitioner’s speech on the basis of its content without satisfying strict scrutiny. *B.J.F.*, 491 U.S. at 541. And, even if the Court finds that CADS is “content-neutral,” CADS also fails intermediate scrutiny. *Ward*, 491 U.S. at 802. Therefore, as no recognized exception to the First Amendment applies, the Court should hold that CADS unconstitutional violates Petitioner’s right to free speech. U.S. CONST. amend. I. Accordingly, this Court should reverse the judgment of the court of appeals and hold that CADS violates Petitioner’s rights under the Free Speech Clause of the First Amendment. U.S. CONST. amend. I.

## **II. THE CAMPUS ANTI-DOXXING STATUTE (CADS) VIOLATES PETITIONER’S CONSTITUTIONAL RIGHTS UNDER THE FREE EXERCISE CLAUSE.**

The plain text of the First Amendment to the U.S. Constitution guarantees the sacred right to exercise one’s religion free from governmental interference or punishment. U.S. CONST. amend. I (“Congress shall make no law respecting an establishment of religion, or prohibiting the free

exercise thereof; . . . .”). This guarantee protects not only the right to adhere to religious beliefs, but also the right to live those beliefs in a public manner. *Kennedy v. Bremerton Sch. Dist.*, 597 U.S. 507, 524 (2022) (citing *Employment Div., Dept. of Human Resources of Or. v. Smith*, 494 U.S. 872, 877 (1990)). As this Court has also stated, “[t]he First Amendment is not a majority rule, . . . .” *Town of Greece, N.Y. v. Galloway*, 572 U.S. 565, 582 (2014). Under the Due Process Clause of the Fourteenth Amendment, this fundamental guarantee enshrined in the Bill of Rights is equally enforceable against state governments. *See Cantwell v. Connecticut*, 310 U.S. 296, 303–04 (1940).

Of particular concern under the First Amendment are laws that seek to target religious belief or practice for discriminatory purposes. *See Trinity Lutheran Church of Columbia, Inc. v. Comer*, 582 U.S. 449, 466 (2017) (holding that Missouri’s denial of a public benefit to a church on the basis of its identity as a religious institution violates the Free Exercise Clause). In fact, “only [governmental] interests of the highest order and those not otherwise served can overbalance legitimate claims to the free exercise of religion.” *Wisconsin v. Yoder*, 406 U.S. 205, 215 (1972); *see also Torasco v. Watkins*, 367 U.S. 488 (1961) (invalidating a state law mandating that public officials attest to a belief in the existence of God); *see also McDaniel v. Paty*, 435 U.S. 618 (1978) (invalidating a law prohibiting clergy members from serving as public officials).

However, under this Court’s precedents, the First Amendment’s prohibition against burdens on the free exercise of religion does not extend only to express attacks on religious belief or practice, as this Court has also invalidated laws that have the purpose or effect of burdening religious exercise. *See, e.g., Church of Lukumi Babalu Aye v. City of Hialeah*, 508 U.S. 520, 534 (1993) (rejecting the argument that “[f]acial neutrality [alone] is determinative.”). It is only where the law at issue is completely “neutral and of generally applicability” with regard to religious exercise that the government need not demonstrate that the law is “justified by a compelling

governmental interest.” *Id.* at 531 (citing *Employment Division v. Smith*, 494 U.S. 872 (1990)). To that end, the Free Exercise Clause “forbids [even] subtle departures from neutrality,” *Gillette v. United States*, 401 U.S. 437, 452 (1971), as well as “covert suppression of particular religious beliefs.” *Bowen v. Roy*, 476 U.S. 693, 703 (1986).

Despite this Court’s precedents under the First Amendment, Respondent asks this Court to hold that Delmont’s Campus Anti-Doxxing Statute (“CADS”), Del. Ann. Stat. §25.989 (2025), should be subject only to minimal, rational-basis scrutiny. R. at 42. However, for the reasons explained in this Brief, the Court should reject this assertion and instead require Respondent to show that the burden imposed on Petitioner is “essential to accomplish an overriding governmental interest.” *United States v. Lee*, 455 U.S. 252, 257 (1982). In short, this Court should reaffirm its consistent holding that laws burdening the First Amendment’s guarantee of the constitutional right to Free Exercise must be “neutral and of general applicability.” *Lukumi*, 508 U.S. at 534.

**A. CADS Is Not a Neutral and Generally Applicable Law Under This Court’s Precedents.**

In *Smith*, this Court held that laws which do expressly target religion still offend the Free Exercise Clause where they are not “neutral and general[ly] applicab[le].” *Smith*, 494 U.S. at 879. The government fails to act in a neutral manner where “it proceeds in a manner intolerant of religious beliefs or restricts practices because of their religious nature.” *Fulton v. City of Philadelphia*, 593 U.S. 522, 533 (2021) (citing *Masterpiece Cakeshop, Ltd. v. Colo. Civ. Rts. Comm’n*, 584 U.S. 617, 636–40 (2018)). The government also violates neutrality where it “treat[s] any comparable secular activity more favorably than religious exercise.” *Tandon v. Newsom*, 593 U.S. 61, 62 (2021). In determining whether a government action is sufficiently neutral under *Smith*, the Court considers the following factors: (1) the history behind the government’s decision, (2)

“the specific series of events leading to the enactment or official policy in question,” and (3) “the legislative or administrative history” leading up to the action. *See Lukumi*, 508 U.S. at 540.

**1. CADS suppresses Petitioner’s free exercise of religious belief and is therefore not neutral toward religion.**

In *Church of Lukumi Babalu Aye, Inc. v. City of Hialeah*, this Court invalidated city ordinances that prohibited animal sacrifice in a manner that disproportionately affected members of a particular local religion. *Id.* at 526–28. Noting that “[t]he Free Exercise Clause, . . . extends beyond facial discrimination,” *id.* at 535, the Court held that both the text and the effect of the challenged ordinances sought to proscribe religious conduct in violation of the First Amendment. *Id.* at 535, 539–40. While some of the ordinances at issue in *Lukumi* made direct reference to religious or sacrificial use of animal killings, and the Court focused partially on the records from the city council meetings leading up to the ordinances’ enactment, the Court also emphasized the collective effect of the laws. *Id.* at 534–536 (“The net result of the gerrymander is that few if any killings of animals are prohibited other than Santeria sacrifice, which is proscribed because it occurs during a ritual or ceremony . . . .”). Therefore, to avoid strict scrutiny, the government must do more than refrain from enacting laws that have the purpose of burdening religious practice, rather, the government also suppresses the constitutional right to free exercise where it “has the incidental effect of burdening a particular religious practice.” *Id.* at 531.

Similarly, the government violates the First Amendment’s neutrality requirement where it fails to afford individuals “respectful consideration” of their religious beliefs and practices, as well as their claims regarding possible threats to religious liberty. *See Masterpiece Cakeshop*, 584 U.S. at 634. In *Masterpiece Cakeshop*, this Court held that a local baker’s right to practice his religious beliefs was unconstitutionally infringed where a department of state government refused to grant any “respectful consideration” his claims that his religious beliefs regarding the nature of marriage

prevented him from baking a wedding cake for a same-sex couple. *Id.* at 630–31, 634. In responding to the complaint filed against the baker, the members of the Colorado Civil Rights Commission made overtly hostile comments directed at the baker’s “sincerely held religious beliefs,” and some “commissioners endorsed the view that religious beliefs cannot legitimately be carried into the public sphere or commercial domain.” *Id.* at 634. Referencing its previous holding in *Lukumi*, the Court held that the Constitution requires government to remain rigidly neutral toward religion. *Id.* at 638–39. Where the government expresses hostility and declines to give due consideration to claims regarding the sincerity of religious belief and practice, it violates the First Amendment’s fundamental requirement of neutrality. *Id.* at 640.

Here, the statute challenged by Petitioner violates *Smith*’s rigid requirement of neutrality. *Smith*, 494 U.S. at 878–82. First, as pointed out by the district court below, the government had substantial reason to know of the harm that CADS would inflict on Petitioner, especially given Petitioner’s history within the state of Delmont. R. at 22. As in *Lukumi*, the Delmont statute works a unique harm against Petitioner by making Petitioner and its members civilly liable for communicating their sincerely held religious beliefs in a manner required by their religion. *See Lukumi*, 508 U.S. at 531. R. at 22. Respondent may contend that CADS allows Petitioner and its members to avoid liability so long as they avoid disclosing someone’s “private information,” Del. Ann. Stat. §25.989 (2025), and that disclosing such information is not itself expressly required by Petitioner’s faith. R. at 8. However, as this Court has consistently held, “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). Thus, while the exact language of the statute may not indicate a hostile governmental purpose, R. at 21, its effect is to leave Petitioner and its members vulnerable to civil liable simply for practicing their sincerely

held religious beliefs, *see Masterpiece Cakeshop*, 584 U.S. at 634, and therefore amounts to a “covert suppression of particular religious beliefs.” *Bowen*, 476 U.S. at 703. Under these circumstances, the state cannot reasonably claim to act with neutrality. *Smith*, 494 U.S. at 878–82.

Second, the state of Delmont declined to afford Petitioner the requisite “respectful consideration” concerning its claims of unconstitutional suppression. *Masterpiece Cakeshop*, 584 U.S. at 634. As also recognized by the district court, the government took no apparent heed of Petitioner’s concerns regarding its religious practices despite Petitioner’s repeated attempts to communicate with state officials. *See* H. Rallston Tr. at 44:11; *see also* R. at 22. The government remained aloof despite Petitioner’s well-known lobbying campaign against CADs. R. at 22. Respondent may argue that the Court’s holding in *Masterpiece Cakeshop* was predicated on findings of open hostility by government officials toward claims of religious suppression. *Masterpiece Cakeshop*, 584 U.S. at 640.

However, just as there is nothing in the record showing express hostility on the part of state officials, there is also nothing in the record to show that the government expressed any concern for Petitioner’s claims. *Masterpiece Cakeshop*, 584 U.S. at 634. Additionally, the Court’s consideration of “the specific series of events leading to the enactment or official policy in question” as a relevant factor in determining whether the government acted with the requisite neutrality requires that the government also remain attentive to the legitimate concerns of its citizens regarding threats to religious liberty. *Id.* at 639. The state’s failure to do so indicates a failure, however “subtle,” to treat Petitioner’s religious beliefs neutrally. *Id.* at 640 (quoting *Lukumi*, 508 U.S. at 534).

In *Smith*, this Court held that the First Amendment requires that the government remain absolutely neutral in its treatment of religious exercise. *Smith*, 494 U.S. at 878–82. However, as

subsequent decisions have held, that neutrality is violated where the law at issue exacts an undue burden on religious exercise, *Lukumi*, 508 U.S. at 531, or where the government displays a lack of concern for claims of attacks on religious liberty. *Masterpiece Cakeshop*, 584 U.S. at 634. In both ways, CADS reflects a level of governmental indifference not permitted under *Smith*. *Smith*, 494 U.S. at 878–82.

**2. Even if CADS is generally applicable, strict scrutiny should still apply because CADS substantially interferes with the fundamental right to free exercise.**

Government action is not “general[ly] applicab[le],” *Smith*, 494 U.S. at 879 where it allows for consideration of the “reasons for a person’s conduct by providing ““a mechanism for individualized exceptions”” *Id.* at 884 (quoting *Bowen v. Roy*, 476 U.S. 693, 708 (1986)). Government action also is not generally applicable where it “prohibits religious conduct while permitting secular conduct that undermines the government’s asserted interests in a similar way.” *Fulton*, 593 U.S. at 534 (citing *Lukumi*, 508 U.S. at 542-46). This Court has also clarified that the government’s failure to abide by one of these criteria indicates a failure to abide by the other. *Lukumi*, 508 U.S. at 531. Laws that fail the *Smith* test are subject to strict scrutiny. *Id.* at 533. However, it is not necessary that the government make exceptions for the law at issue to violate the Free Exercise Clause. *Fulton*, 593 U.S. at 537.

A law that is neutral and generally applicable under *Smith* may still be subject to strict scrutiny where the law “imposes a burden of the same character as that in [*Wisconsin v. Yoder*, 406 U.S. 205 (1972)].” *Mahmoud*, 606 U.S. 522, 564–65 (2025). As described by the district court below, R. at 22–23, *Yoder* held that a Wisconsin law imposing criminal punishment on parents who failed to send their children to school until the age of sixteen violated the Free Exercise Clause. *Yoder*, 406 U.S. at 234–36. Although the Court reasoned that “[a] way of life, however virtuous and admirable, may not be interposed as a barrier to reasonable state regulation of

education if it is based on purely secular considerations,” *id.* at 216, the Wisconsin statute unconstitutionally required the Amish criminal defendants charged with violating the law to contradict their sincerely held religious beliefs. *Id.* at 218.

The Court rejected Wisconsin’s argument that only religious belief, rather than religious conduct, is protected by the First Amendment. *Id.* at 220 (“[T]o agree that religiously grounded conduct must often be subject to the broad police power of the State is not to deny that there are areas of conduct protected by the Free Exercise Clause . . . , even under regulations of general applicability.”). Instead, the Court held that laws infringing conduct genuinely rooted in religious belief must undergo strict scrutiny. *Id.* at 221. *See also Sherbert v. Verner*, 374 U.S. 398, 402–03 (1963) (applying strict scrutiny to invalidate governmental action that “substantial[ly] infringe[s] appellant’s First Amendment right.”).

Just last year, the Court reaffirmed its central holding in *Yoder. Mahmoud*, 606 U.S. at 564. There, parents of children enrolled in a Maryland public school district alleged that the school board’s use of LGBTQ+ materials and its refusal to allow the parents to opt their children out of class instruction regarding these materials violated their rights under the Free Exercise Clause. *Id.* at 543. Rejecting the argument that the Constitution protects only the right against coercion or compelled religious instruction, *id.* at 558-59 (citing *id.* at 601 (Sotomayor, J., dissenting)), the majority rightly held that school board’s policy placed an impermissible burden on the parent’s fundamental right to control the religious upbringing of their children. *Id.* at 569 (majority opinion). The Court noted that, even under *Smith*, “[w]hen the burden imposed is of the same character as that imposed in *Yoder*, we need not ask whether the law at issue is neutral or generally applicable before proceeding to strict scrutiny.” *Id.* at 564.

Here, as described by the district court below, CADS burdens religious liberty in a manner resembling the law challenged in *Yoder*. R. at 26. As in *Yoder*, the statute challenged by Petitioner “substantially and systemically interfere[s] with the religious development of [Petitioner’s members’] children.” *Mahmoud*, 606 U.S. at 558. By prohibiting Petitioner’s members from abiding by their church’s requirement that members communicate a living witness, CADS “contravenes [Petitioner’s] basic religious tenets and practice.” R. at 23-24 (quoting *Yoder*, 406 U.S. at 218). As in *Yoder*, CADS inhibits Petitioner’s youth from communicating their faith “in the requisite live and public way” and substantially burdens the development of their faith. R. at 23-24. Therefore, even if Respondent is correct that CADS is “neutral and general[ly] applicab[le],” *Smith*, 494 U.S. at 879, this Court has consistently applied strict scrutiny to laws that work a unique burden on genuinely held religious beliefs. *See Yoder*, 406 U.S. at 221; *see also Mahmoud*, 606 U.S. at 564.

### **3. The Challenged Statute Fails Strict Scrutiny Under This Court’s Precedents.**

Accordingly, the Court should hold that CADS does not satisfy strict scrutiny. Under strict scrutiny, the challenged restriction is presumed void, and the government bears the burden of showing that the law is “narrowly tailored to serve compelling state interests.” *Reed*, 576 U.S. at 163. The regulation will fail if the government’s interested can be served by any less “restrictive means.” *McCullen*, 573 U.S. at 478. Narrow tailoring requires that the restriction “targets and eliminates no more than the exact source of ‘evil’ it seeks to remedy.” *Frisby v. Schultz*, 487 U.S. 474, 485 (1988). The state of Delmont has a “compelling” interest in protecting campus members from doxxing and the real potential for subsequent violence, particularly in the midst of ongoing political controversies. *Reed*, 576 U.S. at 163. However, the statute is not “narrowly tailored” in that it imposes civil liability for the public disclosure of “any [] personally identifiable

information” on “a communication platform of any type.” Del. Ann. Stat. §§ 162.732 (2020) and 25.989 (2025). As the district court below correctly found, CADS imposes such liability for protected and unprotected speech. R. at 19 (citing *Broadrick v. Oklahoma*, 413 U.S. 601, 615 (1973)). Therefore, the Court should hold that CADS is impermissibly overinclusive under the First Amendment and that it fails to satisfy strict scrutiny. R. at 19 (citing *Broadrick*, 413 U.S. at 615).

**B. Even If CADS Satisfies *Smith* or Is Not Subject to Strict Scrutiny, the Court Should Overrule *Smith* and Reinstate the Court’s Previous Test Under *Sherbert*.**

Finally, if this Court holds that Petitioner’s claim fails under *Smith*, the Court should overrule *Smith*. As articulated by Justice Alito in his concurring opinion in *Fulton v. City of Philadelphia*, *Smith* not only does not comport with the original meaning of the Free Exercise Clause but also reduces the Clause’s protection to little more than an “anti-discrimination provision,” 593 U.S. at 553 (Alito, J., concurring in the judgment), empowering the government to restrict on religious liberty so long as its restrictions apply equally to those engaged in purely secular conduct. *Id.* at 567. For examples, as Justice Alito points out, under *Smith*, a federal law prohibiting the use or consumption of alcohol would be constitutionally valid even though it necessarily would infringe on the religious liberty of Catholics to use wine for communion. *Id.* at 545. Invalidating laws based only on the government’s discretion to create individualized exceptions provides too little protection for religious liberty. *Id.* at 551–53. For that reason, Justice Alito notes, five members<sup>2</sup> of this Court have called for *Smith* to be reconsidered. *Id.* at 554.

On its face, Free Exercise Clause does not distinguish between “generally applicable” laws and those that are not “generally applicable.” *Id.* at 567. Rather, “the ordinary meaning of

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<sup>2</sup> The list included in Justice Alito’s concurrence included Justice Breyer, who is, of course, no longer a member of the Court.

‘prohibiting the free exercise of religion’ was (and still is) forbidding or hindering unrestrained religious practices or worship.” *Id.* at 566. Accordingly, the First Amendment does not require that government act with the intent to infringe religious liberty. *Id.* at 569. Instead, the ordinary meaning of the First Amendment provides protection for *religious* conduct; it does not provide the same protection for secular conduct. *Id.* at 571–72. Historically, the Free Exercise Clause permitted laws that infringed religious liberty only if those laws were deemed necessary to advance “public peace” or “safety.” *Id.* at 575 (citations omitted). By contrast, *Smith*’s sanctioning of laws that infringe both religious and secular conduct ignores the Court’s consistent tendency to “permit[] exemptions from generally applicable laws in First Amendment cases.” *Id.* at 602 (citing *Boy Scouts of America v. Dale*, 530 U.S. 640, 656 (2000)).

Furthermore, *Smith* has also proved unworkable among the lower courts. *Fulton*, 593 U.S. at 603–09 (Alito, J., concurring). First, *Smith*’s “hybrid rights exception” largely renders the limitation of permissible governmental action to neutral and generally applicable laws essentially meaningless, as challenges under the Free Exercise Clause commonly invoke or supplement challenges brought under other constitutional protections. *Id.* at 599–600; *see also Lukumi*, 508 U.S. at 567 (Souter, J., concurring in part and concurring in the judgment). The courts of appeals have essentially divided into three camps in their application of the exception. *Id.* at 603–05. Similar points of confusion exist with regard to whether a given law actually targets religion, *id.* at 605–06, and whether the law provides equal treatment to both secular and religious conduct. *Id.* at 610.

*Smith* erroneously construed the Free Exercise Clause to require only that the government approach impositions on religious conduct in the same manner as it approaches impositions on non-religious conduct. *Id.* at 567. This meaning undermines the First Amendment’s fundamental

guarantee of religious liberty by allowing religious discrimination wherever it is thought to be “neutral and generally applicable.” *Id.* at 567. This Court should finally overrule *Smith* and instead hold that laws which substantially burden religious belief or practice are invalidate unless narrowly tailored to achieve a compelling governmental interest. *Id.* at 556 (citing *Sherbert v. Verner*, 374 U.S. 398 (1963)).

Thus, for the reasons given above, under this Court’s holding in *Smith*, CADS does not qualify as “neutral and generally applicable,” *Smith*, 494 U.S. at. 879, in that its enforcement disproportionately affects Petitioner’s right to free exercise. *Lukumi*, 508 U.S. at 531. Additionally, even if the Court deems CADS a law that is neutral and generally applicable under *Smith*, it is still subject to strict scrutiny in that it “imposes a burden of the same character as that in [*Wisconsin v. Yoder*, 406 U.S. 205 (1972)].” *Mahmoud*, 606 U.S. at 564–65. Finally, this case presents the Court with the opportunity to correct *Smith*’s erroneous reconstruction of First Amendment law. *See Fulton v. City of Philadelphia*, 593 U.S. 522, 617–18 (2021) (Alito, J., concurring in the judgment).

### CONCLUSION

For the foregoing reasons, this Court should hold that CADS violates Petitioner’s rights under the Free Speech and Free Exercise Clauses of the U.S. Constitution. Accordingly, the judgment of the court of appeals should be *reversed*.

Respectfully submitted,

\_\_\_\_\_ TEAM 26 \_\_\_\_\_

Counsel for Petitioner

February 6, 2026

## CONSTITUTIONAL PROVISION INVOLVED

The First Amendment to the U.S. Constitution provides:

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.

U.S. CONST. amend. I.

## STATUTORY PROVISION INVOLVED

Campus Anti-Doxxing Statute of Delmont provides:

Any individual has a private cause of action against any individual who without consent uses a communication platform of any type to disclose private information of an enrolled student, faculty member, administrative or staff member at a Delmont college or university with the intent to “stalk, harass, or physically injure.” “Intent is described as “acting purposefully or recklessly to place a person in reasonable fear of bodily injury, death, or property damage as to cause severe fear emotional distress to such person.” A plaintiff who prevails under CADS is entitled to economic and non-economic damages, punitive damages, and injunctive relief. These terms “stalk”, “harass,” and “injure” are all defined in the statute and “private information” is defined as:

- A) The plaintiff’s home address, personal email address, personal phone number, social security number, or any other personally identifiable information;
- B) Contact information for the plaintiff’s employer;
- C) Contact Information for a family member of the plaintiff;
- D) Photographs of the plaintiff’s children;
- E) Identification of the school that the plaintiff’s children attend.

Delmont Annotated Statutes §25.989 (2025)

**CERTIFICATE**

We hereby affirm all work product contained in all copies of the brief is in fact the work product of all team members.

We hereby affirm the team has complied with Team 26's law school's governing honor code.

We hereby affirm the team has complied with all the Competition Rules.

Signed: \_\_\_\_\_ TEAM 26 \_\_\_\_\_

Date: \_\_\_\_\_ Feb. 6, 2026 \_\_\_\_\_