

No. 25-CV-1994

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IN THE  
SUPREME COURT OF THE UNITED STATES

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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 PETITIONER**

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Team 28  
*Counsel for the Petitioner*  
February 6, 2026

## **QUESTIONS PRESENTED FOR REVIEW**

1. Whether the Campus Anti-Doxxing Statute (CADS) violated the First Amendment Free Speech rights of The Church of Light, LLC?
2. Whether the Campus Anti-Doxxing Statute (CADS) violated the First Amendment Free Exercise rights of The Church of Light, LLC?

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## **OPINIONS BELOW**

The opinion of the United States Court of Appeals for the Fifteenth Circuit is unreported and provided within the Decision on Appeal. See Record (“R.”) at 33-44. The opinion of the United States District Court for the District of Delmont, Western Division is unreported and provided in the Decision on Appeal. R. at 1-29.

## **STATEMENT OF JURISDICTION**

This Court has jurisdiction to review the decision of the United States Court of Appeals for the Fifteenth Circuit upon granting a writ of certiorari under 28 U.S.C. § 1254(1). The Fifteenth Circuit had jurisdiction to review the District Court’s final decision pursuant to 28 U.S.C. § 1291(a)(1). The District Court for the District of Delmont, Western Division had original jurisdiction for this federal question under 28 U.S.C. § 1331.

## **CONSTITUTIONAL AND STATUTORY PROVISIONS**

This case involves the Free Speech Clause and Free Exercise Clause of the First Amendment of the United States Constitution. This case also involved the Campus Anti-Doxxing Statute of Delmont (“CADS”), Del. Ann. Stat. §25.989 (2025).

## **STATEMENT OF THE CASE**

### **I. Statement of Facts**

Delmont is a large state containing diverse natural features, including several national parks. R. at 4. Delmont has several environmental groups dedicated to preserving these natural features. *Id.* While these groups share a common goal of environmental protection, they have conflicting views about how to achieve that end. *Id.* In the fall of 2024, the Delmont legislature considered whether to convert nearly one thousand acres of undeveloped, state-owned land into zones for wind and solar energy production. *Id.* While the proposed “energy farms” would promote

the State's goals of increasing alternative energy sources using solar panel arrays and windmill farms, it would also disrupt the existing wildlife habitats. *Id.*

Two coalitions formed in response to the proposal. *Id.* One led by non-profits favoring the development of alternative energy resources, and the other favoring wildlife preservation. *Id.* The conflict became entrenched by April 2025, when the state began the site clearing and installation of solar arrays and windmills. R. at 4-5. Clashes occurred at rallies and marches, some of which resulted in physical altercations prompting police intervention. *Id.* Supporters of the energy farms were known as the "Energy Coalition" while their opponents became known as the "Nature Coalition." R. at 5.

The dispute became particularly intense on college campuses in Delmont and was referred to as the "Energy Farm Controversy." *Id.* In August 2025, activism on campus intensified, at times resulting in disruptions to classes and facilities and creating points of conflict within the university community. *Id.* Police observed that these instances followed a rapid dissemination of students' personal information, or "doxxing", that allowed them to be identified, found, and intimidated before police intervention could occur. R. at 5-6. From late August to early September 2025, doxxing incidents on Delmont college campuses increased by 150%. R. at 6. On September 12, 2025, Delmont enacted the Campus Anti-Doxxing Statute ("CADS") which created a private cause of action against individuals who disclose private information of members of Delmont college communities with the intent to stalk, harass, or physically injure. R. at 6-7. The statute provides economic and non-economic damages, punitive damages, and injunctive relief for prevailing plaintiffs. R. at 6. There have been two successful CADS violations lawsuits, both involving communication that urged collective action to be taken against a protected person which was followed closely by harm to that person or their property. R. at 7.

Delmont State University (“DSU”) is a public, state-funded university in Delmont City with approximately 18,000 students. *Id.* The Energy Farm Controversy reached DSU in the fall of 2025. *Id.* The DSU Student Chapter of the Church of Light became involved in the Energy Controversy. R. at 8. The Church of Light is a religious denomination formed in Delmont during the 19<sup>th</sup> century by Uriah Webster. Members of the church are known as “Lightbearers.” *Id.* A foundational tenet of the church is the personal, live, and public proclamation of their religious message accompanied by the dissemination of *The Lantern*, a church-made publication that covers local news and religious tracts. *Id.* Historically, *The Lantern* took the form of a printed witness, but as print fell out of relevancy, their method of communication has followed the evolution of technological advances to reach a younger audience *Id.* Public proclamation and dissemination now falls on younger Lightbearers who must complete a missionary year between the ages of 18-22 to disseminate *The Lantern*. R. at 8-9. In 2024, Lightbearer Missionaries began using vans equipped with LED screens to disseminate their broadcasts and local information at public college campuses. R. at 9-10. Their on-campus organizations are known as “Lightbearer Missionaries”. R. at 9.

In September 2025, after the enactment of CADS, the Missionaries filmed a speech by student activist for the Nature Coalition, Laura Marshall, during a campus protest. *Id.* Marshall was not a founding leader of the coalition but had attended many rallies and played a substantial organization role in their protests. *Id.* The speech was the first she had given but it received extensive coverage due to her strong rhetoric. *Id.* During the week of September 22, 2025, Missionary vans broadcasted a clip of Marshall’s speech followed by a photograph of her in a Nature Coalition t-shirt seated at the front desk of the Delmont Treatment Center, a non-profit assisting those with substance abuse located near DSU. *Id.* The photograph showed the center’s

name and logo and was accompanied by text listing substance abuse resources, including the addresses, contact information, and hours of operation for various treatment centers, with Delmont Treatment Center listed first. *Id.* Only one other treatment center was shown by photograph during the broadcast out of seven such facilities in Delmont City. *Id.*

At the time of the broadcast, Marshall worked part-time at the Delmont Treatment Center and received treatment there. R. at 11. In 2024, Marshall posted twice in an online chat room for Substance Abuse Survivors that she has had drug and alcohol issues and was participating in ongoing therapy. *Id.* Within twenty-four hours of the missionary van broadcast featuring Marshall, she was confronted by approximately twenty individuals wearing ski masks and Energy Coalition apparel outside the treatment center. *Id.* They photographed, insulted, and followed her to her vehicle and vandalized it. *Id.* A similar incident occurred the next night which resulted in Marshall damaging her car while attempting to get around the protesters. By the time she called the police, they were unable to identify or detain any of the involved individuals. *Id.* Marshall subsequently resigned from her job and withdrew from treatment at the facility. *Id.*

Before and after the Marshall incident, DSU Lightbearers reported on the Energy Farm Controversy from both sides of the issue. *Id.* They customarily posted information on student resources, including substance-abuse resources, but had not posted them with photographs prior to the Marshall incident. R. at 11-12. Marshall contacted the Lightbearer Missionaries to request that the image no longer be displayed with her speech. R. at 12. The Lightbearers declined and stated that they would follow their customary protocol. *Id.*

## **I. Procedural History**

On October 3, 2025, Respondent Laura Marshall filed suit against the Petitioners, The Church of Light, in the United States District Court for the District of Delmont, Western Division,

alleging violations of the CADS. R. at 12. Marshall sought damages and injunctive relief prohibiting any further display of the photograph. *Id.* The Church of Light moved for summary judgment, claiming First Amendment defenses. *Id.* The district court granted summary judgment in favor of The Church of Light, finding that CADS violated the Church's Free Speech and Free Exercise rights and that no genuine dispute of material fact existed. R. at 3, 29, 31. Marshall appealed to the United States Court of Appeals for the Fifteenth Circuit, which reversed the district court's judgment. R. at 43. The Church of Light filed a petition for writ of certiorari to this Court to review the judgment which was granted. R. at 49-50.

### **SUMMARY OF ARGUMENT**

Doxing statutes such as CADS are permitted under two limited circumstances: when there is an (1) active threat or (2) incitement to lawless action. The speech by the Church of Light falls within neither of these categories. They reposted news without commentary and offered publicly available information for drug treatment. The law is therefore subject to strict scrutiny as a content-based restriction. The state lacks a compelling interest to overcome the good which comes from the distribution of public health information, as identified by this court in *Sorrell v. IMS Health Inc.*, and, even if an interest of privacy is proffered, CADS is overbroad in executing its purported goal of privacy. The statute is therefore unconstitutional as applied to the Church of Light and the Court sits comfortably within its case law by protecting the Church's First Amendment rights.

Furthermore, CADS is unconstitutional as applied to the Free Exercise rights of the Church of Light by prohibiting their practice of core tenants of their religion. The controlling authority in Free Exercise claims, *Employment Division v. Smith*, is ineffective at properly considering burdens of the sort. It disempowers the full constitutional force which the founders intended for the Free Exercise clause by allowing substantial burdens on religious practices to be subject to a lower

review of scrutiny. As such, it should be overturned and replaced with the *Sherbert/Yoder* framework and a more robust form of strict scrutiny. If *Smith* governs, the application of CADS against the Church should still be subject to strict scrutiny independently on the following bases: 1) the Church was denied their Free Exercise right to a neutral decision-maker at the appellate level by the disparaging comments that were hostile to their religion, 2) the Church faces a burden of the same kind as that of *Yoder*, and 3) the Church has a tenable hybrid rights claim. Subsequently, CADS fails strict scrutiny by failing to provide a compelling government interest that is narrowly tailored.

## **ARGUMENT**

The First Amendment is not so fickle, and its protections, not so weak, as to shrink and give way at the first sign of offense. The Framers contemplated a durable body of law, meant to provide for the distribution of speech that is ordered to the public good. The Church of Light spoke within these protected and hollowed grounds, and it is only for the Court to affirm what has been near to her understanding of the First Amendment since its inception: that the benevolent distribution of public service material is protected speech under the First Amendment.

### **I. THE FIRST AMENDMENT PROTECTS SPEECH THAT IS DISTRIBUTED IN GOOD FAITH FOR THE PUBLIC GOOD.**

#### **A. Content-based discriminations are subject to strict scrutiny under the First Amendment.**

The question presented in this case is whether the distribution of treatment options is protected speech under the First Amendment. It is axiomatic that content-based restrictions on speech triggers strict scrutiny. *New York Times Co. v. U.S.*, 403 U.S. 713, 714 (1971) (“Any system of prior restraints of expression comes to this Court bearing a heavy presumption against its

constitutional validity.”). The first inquiry is thus whether CADS imposes content-based restrictions—that is, whether the permissibility of the speech turns upon what the speaker says. *Sorrel v. IMS Health Inc.*, 564 U.S. 552, 566 (2011) (citing *Renton v. Playtime Theatres, Inc.*, 475 U.S. 41, 48 (1986)) (“Content-neutral speech regulations’ are “those that are justified without reference to the content of the regulated speech.”).

“The beginning point” of determining whether CADS makes content-based distinctions “is the text.” *Id.* at 562. CADS classifies impermissible speech not in reference to its time, place, or manner but rather in reference to what the speaker says, e.g., if it relates certain facts pertaining to the plaintiff. *See* Del. Ann. Stat. § 25.989 (2025). Whether speech is actionable under CADS turns on the speech’s content.

In this case, both the news clip and the substance abuse information are objected to in “reference to the content of the... speech,” *Sorrel*, 564 at 566, namely, that the news clip displayed her speech and the treatment center showed her place of work. Plaintiff asks relief from this Court because the content is about her, but by resting her argument upon the content of the post, she has tacitly conceded to CADS’ content-based scheme.

Plaintiff objects that even if there is a content-based regime under CADS, the news clip and treatment information are not protected forms of speech in this context. We can consider both posts in their turn: first the News clip, then the treatment information.

**B. The Church of Light’s news posting is protected speech under the First Amendment.**

News is protected speech under the First Amendment, restrictions on which are subject to heightened judicial scrutiny. *Moody v. NetChoice, LLC.*, 603 U.S. 707, 740-43 (2024). The Church of Light provides news as part of its Evangelical efforts to attract people’s attention and draw them

in. When they posted the plaintiff's speech, they simply reposted her public address. They offered her words without commentary or analysis. They only played what she had already made public. And the plaintiff cannot plead privacy to what she made public. The Court must therefore consider any limitation of this post with heightened judicial scrutiny.

**C. The Church of Light's dissemination of drug abuse treatment.**

We can now consider the second post: the information about substance abuse treatment. The dissemination of public information is also protected speech. *Sorrell*, 564 at 552 ("[T]he creation and dissemination of information are speech within the meaning of the First Amendment."). In *Sorrell* the State of Vermont passed the "Prescription Confidentiality Law," which sought to limit the information relating to a doctor's prescription practices. *Id.* at 557, 559. The Court held that the dissemination of information is a protected form of speech under the First Amendment, even if it is not expressive speech, because such "[f]acts... advance human knowledge" and help "to conduct human affairs." *Id.* at 570.

The Court held that banning certain information was a "content-and speaker-based restriction on... prescriber-identifying information." *Id.* at 563-64. The Court took particular issue with the fact that the state was limiting the flow of health information. *Id.* at 564. ("As a result of these content...based rules, detailers cannot obtain... information.") In weighing the privacy concerns of the doctors against the health benefits of the information the Court emphatically held the latter to be a higher concern. *Id.* at 566. "[I]n the fields of medicine and public health" the Court held "information can save lives." *Id.*

As in *Sorrell*, the speech in this case was the type of "information" that "can save lives." It does not express a viewpoint. It listed the name and address of two treatment centers, side-by-side one another. This is a neutral post—offered without insinuation. This case therefore differs in

important respects from traditional speech cases. There is no political message shown. Unlike the Baptist Church in *Snyder* or those who opposed the Vietnam war in *Tinker*, the Church of Light was not acting as an advocate for a position. *Snyder v. Phelps*, 562 U.S. 443 (2011); *Tinker v. Des Moines Indep. Cmty. Sch. Dist.*, 393 U.S. 503 (1969). The Church of Light was performing a public service function. Among purest forms of speeches for the First Amendment to embrace is what is offered merely for the public good to make available drug treatment, and that is precisely what the court has before it today.

It is objected that the public service message was not about making treatment available but was instead a pretense. By this the plaintiff intends to prove that the Church of Light acted with “imminent lawless action.” *Brandenburg v. Ohio*, 395 U.S. 444, 447 (1969). The allegation is born of the conviction that the Church of Light was engrossed in this conflict. But the facts fail to support this. The speech however, taken both at its face value and in context is news reporting in the first place and public service information in the second. The District Court, it is true, asserted that “the Church of Light took the side of the Energy Coalition,” yet failed to show how the Church of Light acted as partisans in the fray. The Church of Light indeed posted edits of the energy coalitions cause, but they posted videos for both viewpoints. And even if this Court believes the Church of Light was advocating for an issue, that is not the same as advocating or suggesting violence against others.

Two key pieces of evidence are offered by the plaintiff to show that the showing of the message was a pretense. First, the Church of Light previously displayed the video of the plaintiff speaking and second, that when the plaintiff asked the Church of Light to take down the image, they did not. Let us examine each in turn.

First, the plaintiff would have this court believe the Church of Light aired it in the same manner Fox News would play a clip of Joe Biden or CNN of Donald Trump, but in both instances the media outlet comments upon it. Here, however, the Church simply played the clip and said nothing on the matter. The objective observer would be more likely to conclude that in airing the unedited clip the Church of Light agreed with the plaintiff.

Second, the plaintiff says that the Church of Light refused to take down the image once asked, suggesting their real purpose was doxing. This is to be expected. Any news agency receives plenty of requests to take their story down. They cannot acquiesce to every demand. The Church of Light simply did not depart from their policy in keeping the image up.

In both successful suits under CADS the defendants made public what was private, but when the Church of Light spoke in this case, they reposted nothing new. They never went to the plaintiffs house or place of work, never sought out private information which came to life. The Church of Light reposted here reposted what was already public material. The image, which the plaintiff now considers doxing, was not brought to light by the Church of Light, but *by her own employer*. If the Church of Light “doxed” her the plaintiff then her employers doxed her first.

There is no material difference between the plaintiff’s employer posting the image of her and the Church of Light doing so. That both could be “doxing” evidences the overbroad nature of the statute. The law has therefore restricted protected speech and is subject to strict scrutiny.

This Court has long held in suspect content-based restrictions. The Church of Light displays public service material and news. The state's doxing statute as applied here has singled out content offered for public benefit and news reporting.

**D. CADS fails strict scrutiny.**

The State's application of the Doxing Statute to the Church of Light must therefore survive strict scrutiny. *Reed v. Town of Gilbert*, 576 U.S. 155, 163–64 (2015). The State must offer a compelling interest, *id.*, and show that the statute narrowly tailored to accomplish this interest. *McCullen v. Coakley*, 573 U.S. 464, 478 (2014). This Court recognizes no higher scrutiny than that which they afford to laws which abridge fundamental rights such as Free speech.

Plaintiff's argument, however, is not without reference to this court's jurisprudence in claiming that the state has an interest in protecting its citizens from the harm which may come from doxing. The Court has therefore recognized limited circumstances where doxing bans are permitted. (1) If the language of the speech contains an active threat. *Counterman v. Colorado*, 600 U.S. 66, 69 (2023). (2) If the language is "directed to inciting or producing imminent lawless action and is likely to incite or produce such action." *Brandenburg*, 395 U.S. at 447.

Neither are implicated in this case. First, plaintiff is unable to point to any active threat by the Church of Light. Second, plaintiff argues that this post was made with the intent to "dox" her and that the information was a mere pretense. As was aforesaid, the Church of Light acted consistent with its practices in offering news and treatment options.

*Brandenburg* makes it the task of this court to distinguish between the reasonable response of words and an irrational response. *See id.* An informed party would see the post in question and, if needed, seek treatment. Nothing about the image is incendiary. It may be objected that in the context of the controversy, showing the plaintiff's image was irresponsible. But, again, the Church of Light was not alone in showing this photo. The Treatment center kept the image up, demonstrating that one may show the image not expecting folks to react in the manner that they

did. We again come upon the overbroad nature of this statute: if the Church of Light was reckless in showing this photo, then the plaintiff's employer was first.

*Sorrell* weighs the interest of dispensing health information against privacy for this court. The Court recognized the importance of privacy without going a step further and believing that it outweighs the importance of the information. 564 at 557 (“It can be assumed that these interests [e.g. privacy] are significant.”) It is a greater good to provide for the free flowing of medical information. *Id.* at 566.

Even if the Court views privacy as a compelling interest, the statute is overbroad. Under CADS an employer may be found “reckless” in merely posting their employees name and photo. Indeed, what the Church of Light is here sued for posting what any responsible employer with a decent website would.

The late Justice Scalia often remarked that the Soviet Union had a more robust Bill of Rights than our own, but the words meant nothing because they were not protected in fact. Justice Scalia, “Opening Statement on American Exceptionalism to a Senate Judiciary Committee” (October 5, 2011). The Court today has the opportunity to uphold those foundational protections. This case is far simpler than Plaintiff would make it out to be. The Court need only protect the display of a public address and information for substance abuse treatment. Protecting the speech of the Church of Light requires no innovation in case law but the affirmation of our first principles.

## **II. CADS VIOLATES THE CHURCH OF LIGHT'S FIRST AMENDMENT FREE EXERCISE RIGHTS BY PROHIBITING THEIR RELIGIOUS CONDUCT AND PUTTING THEM TO AN IMPERMISSIBLE CHOICE.**

The First Amendment's Free Exercise Clause provides, “Congress shall make no law...prohibiting the free exercise” of religion, applied to the states through reverse incorporation

of the Fourteenth Amendment. U.S. Const. amend. I; *Cantwell v. Connecticut*, 310 U.S. 296, 303 (1940). Under the *Employment Division v. Smith* regime, laws that are neutral and generally applicable are subject to rational basis review even if they incidentally burden religion. 494 U.S. 872, 874 (1990). CADS infringes upon the Church of Light’s rights under the First Amendment by prohibiting their right to the free exercise of their religion. CADS is not neutral and generally applicable, and consequently is subject to strict scrutiny, not rational basis review.

Alternatively, CADS is subject to strict scrutiny independently on each of the following grounds: 1) the Church was denied their Free Exercise right to a neutral decision-maker at the appellate level, evidenced by the disparaging comments that were hostile to their religion, 2) the Church faces a burden of the same kind as, and 3) the Church has a tenable hybrid rights claim. Each independent basis makes the present case exempt from the general rule under *Smith*, and is thus subject to strict scrutiny.

Accordingly, CADS fails strict scrutiny by not being in furtherance of a compelling government interest and not being narrowly tailored in its claim to do so.

**A. The Court should overturn *Smith* and reinstate the *Sherbert/Yoder* framework for evenhanded and predictable analysis of Free Exercise right claims.**

In the 2021 term this Court began to contemplate the limits of *Smith*. See e.g. *Fulton v. City of Phila.*, 593 U.S. 522, 533 (2021). Despite the controversy surrounding this framework, the Court has refrained from addressing the issue. In *Kennedy v. Bremerton School District*, the Court stated, “[W]hile the [*Smith*] test we do apply today has been the subject of some criticism, we have no need to engage with that debate today because no party has asked us to do so.” 597 U.S. 507, 525

n.1 (2022) (citation omitted). Up until this point, there has been neither a proper vehicle nor a proper petition for doing so. This present case provides both.

*Smith* was a misadventure. The Court should overturn the *Smith* framework and return to the *Sherbert/Yoder* analysis of necessitating a law burdening the free exercise of religion to be narrowly tailored to a compelling government interest. See *Sherbert v. Verner*, 374 U.S. 398 (1963); *Yoder*, 406 U.S. at 205. Several reasons compel this change. First, a neutral and generally applicable law can still substantially infringe upon religious liberty. The First Amendment’s religious liberty clauses are sacred and go back to this country’s core values at inception. Religious liberty is “our first freedom.” *Roman Catholic Diocese v. Cuomo*, 592 U.S. 14, 22 (2020) (Gorsuch, J., concurring). Few liberties are so cherished by the American heart. Robust protections are integral to the preservation of these rights. As Justice Blackmun said in dissent in *Smith*, “I do not believe the Founders thought their dearly bought freedom from religious persecution a ‘luxury,’ but an essential element of liberty—and they could not have thought religious intolerance ‘unavoidable,’ for they drafted the Religion Clauses precisely in order to avoid that intolerance.” 494 U.S. 872, 909 (1990) (Blackmun, J. dissenting) (internal citations omitted).

Second, Congress acted immediately after *Smith* to protect the religious freedoms which *Smith* threatened. The Religious Freedom Restoration Act (RFRA) passed with nearly unanimous bipartisan support in direct response to the *Smith* decision. 42 U.S.C.S. § 2000bb-1(a). RFRA provides that any law that burdens religious freedom may be justified only if it is the least restrictive means of pursuing a compelling government interest, reinstating the *Sherbert/ Yoder* analysis of free exercise claims, except through a statutory framework. *Id.* Since the Court in *City of Boerne* held RFRA unconstitutional as applied to the states, 29 states adopted their own RFRAs and 10 others have RFRA like protections. 521 U.S. 507, 536 (1997); see also Federal & State

RFRA Map, Becket Fund, <https://becketfund.org/research-central/rfra-info-central/map/>. While this is arguably the process encouraged by *Smith* in which citizens of a state request exemptions through the legislative body as opposed to the judiciary— the mere fact that 78% of the 50 states have had to seek recourse for a constitutionally enshrined protection that was limited to their detriment is evidence that the current *Smith* framework is deficient for protecting the fundamental rights of Americans.

The constitutionally enshrined religious liberties of citizens of states who have not passed statutory exemption models to mirror the federal RFRA are unfairly disadvantaged by a statutory deficiency. It does not follow that a citizen should have to petition for state legislative recourse for violations of their Free Exercise rights whenever the right arises out of and is ought to be duly protected by the Constitution. The ballot often fails to remedy burdens on fundamental rights. Under the *Smith* regime, the Court is unintentionally, though detrimentally, causing the strength of one's Free Exercise rights to be bolstered or diminished depending on the luck of where they are within the jurisdiction of the United States. While it is noble that the Court in *Smith* sought to prevent erosion of legislative power, it has preserved it through the erosion of rights of the individual American. Essentially, the Court has taken from Peter to pay Paul.

The fallacy of this statutory framework is exemplified in the present case, where the Church has dutifully followed the democratic process the majority advocated in *Smith*, yet is still left unprotected. The Church employed various channels to lobby the legislature and the governor through various channels against CADS prior to its passing. They thoroughly emphasized the detriment the law would have to their free exercise rights, yet received no redress. Again, constitutionally enshrined protections are being unjustly decided as a matter of legislative grace.

The appropriate analysis for such claims is and should be the *Sherbert/Yoder* framework, in which the government must make a showing that the law is narrowly tailored to address a compelling government interest. However, the Court must also additionally adhere to the heightened standard of strict scrutiny the Court has since established in post-RFRA and RLUIPA case law. *See Holt v. Hobbs*, 574 U.S. 352, 358 (2015); *Gonzales v. O Centro Espirita Beneficente Uniao do Vegetal*, 546 U.S. 418, 428-431 (2006); 42 U.S.C. §2000cc-1(a). A more robust form of strict scrutiny is not only necessary to embolden the current state of religious liberty, it is required by our tradition.

The First Amendment's Free Exercise Clause provides: "Congress shall make no law...prohibiting the free exercise" of religion, and applies to the states through reverse incorporation of the Fourteenth Amendment. U.S. Const. Amend. I; *Cantwell v. Connecticut*, 310 U.S. 296, 303 (1940). CADS infringes upon the Church of Light's rights under the First Amendment by prohibiting their right to the free exercise of their religion. CADS is not neutral and generally applicable, and consequently is subject to strict scrutiny, not rational basis review.

Alternatively, CADS is subject to strict scrutiny independently on each of the following grounds: 1) the Church was denied their Free Exercise right to a neutral decision-maker at the appellate level, evidenced by the disparaging comments that were hostile to their religion, 2) the Church faces a burden of the same kind as *Yoder*, and 3) the Church has a tenable hybrid rights claim. Each independent basis makes the present case exempt from the general rule under *Smith*, and is thus subject to strict scrutiny.

Accordingly, CADS fails strict scrutiny by not being in furtherance of a compelling government interest and not being narrowly tailored in its claim to do so.

**B. CADS is not neutral and generally applicable and is thus subject to strict scrutiny under *Smith*.**

Even if *Smith* applies, CADS is not neutral and generally applicable. The analysis of a law's neutrality begins with its text. *Church of Lukumi Babalu Aye v. City of Hialeah*, 508 U.S. 520, 533 (1993). If there is any language singling out religion (without a secular meaning), the law is facially discriminatory and thus fails the neutrality prong of rational basis review. *Id.* However, there are other ways a statute may fail neutrality. Even "subtle departures from neutrality" or "covert suppression" of religious exercise can sufficiently show a lack of neutrality. *Id.* at 534. (internal citations omitted). The presence of covert discrimination can be evidenced by the "actual effect" of a law in its "real operation." *Id.* at 535.

In *Lukumi*, the Court applied strict scrutiny to a facially neutral and generally applicable law because of its covert but discernible discriminatory object. *Id.* at 540. Relevant factors the Court utilized in their conclusion included the impact on the Church's particular religious practices, the historical background of the decision being challenged, contemporaneous comments by the decision-making body, and other circumstantial evidence the Court found significantly indicative of the legislative drafters' maligned intent. *Id.* at 534-547.

In the present case, though the language of CADS is innocuous, the discrimination is of a more furtive kind, akin to that articulated in *Lukumi*. Given the history of the Church's closely intertwined relationship to the state of Delmont, the legislature was aware of their religious practices and how CADS would pose a substantial burden to the Church's ability to freely exercise them. Further, the Church's president testified that the Church repeatedly attempted to convey these dangers to Governor Morrison through television broadcasts, public proclamations, and letters. These were efforts to inform the governor that this statute would put them at odds with

practicing a key tenet of their religion under the threat of civil penalty, while additionally prohibiting them from evangelizing to new members, causing their membership to dwindle over time. Despite this, nothing in the record reflects that the Church's concerns were ever investigated by a neutral body (typically evidenced by research, findings, or at a minimum, acknowledgement of the concerns). The silence itself is evidence of a legislative lack of neutrality. When, as it has here, a legislature enacts a regulation of which they are aware will practically prohibit practice religion's core tenant, the Court should consider this awareness, in combination with the surrounding facts and circumstances, to be subtle departures from neutrality amounting to covert suppression of and hostility for the Church of Light's religious practices under *Lukumi*.

Moreover, the Free Exercise Clause mandates that decision-makers afford neutral, tolerant, and respectful consideration of cases, free from any hostility towards religion. *Masterpiece Cakeshop, Ltd. v. Colo. Civil Rights Comm'n*, 584 U.S. 617, 634-38 (2018). In *Masterpiece*, members of the governing commission violated this standard through disparaging comments they made during the adjudication of a cakemaker's refusal to serve wedding cakes to same-sex couples on account of his religious objections. *Id.* at 638. The Court considered the commission's characterization of the cakemaker's religious views as something "merely rhetorical" to be disparaging to his religion, as it implied his beliefs were "unsubstantial and insincere." *Id.* at 635. The Court applied strict scrutiny, and the cakemaker prevailed on account that he was entitled to a neutral decision-maker who would "give full and fair consideration to his religious objection as he sought to assert it." *Id.* at 640. Thus, the commission's disparaging comments violated the Free Exercise Clause when they demonstrated hostility towards his sincerely held beliefs. *Id.* at 639-640.

Here, disparaging comments made by Judge Shelley at the Fifteenth Circuit Court of Appeals violated the Church's rights in precisely the same way the commission's did in *Masterpiece*: as a rhetorical sham. The appellate court categorized the Church's religious speech (via the LED presentation of *The Lantern*) rationale as an attempt to "obfuscate its purposes" in sharing the video and photo of Ms. Marshall, subsequently calling the Church's sincerely held beliefs as "mere pretext" for doxxing. R. at 34. Furthermore, they said "there could be no motivation behind this carefully orchestrated presentation other than to endanger" Marshall's safety. *Id.* at 33. Because these disparaging comments demonstrate hostility of the same type as evidenced in *Masterpiece*, depriving the church of their entitlement to a neutral, tolerant, and respectful decision-maker, the correct standard is strict scrutiny, not rational basis.

**C. Alternatively, CADS is subject to strict scrutiny under the *Mahmoud/Yoder* and hybrid rights exceptions to *Smith*.**

The Court has recognized several "exceptions" to the general rule under *Smith*. Simply put, there are multiple acknowledged ways to bypass *Smith* straight to strict scrutiny. Two are applicable here: the *Mahmoud/Yoder* exception and the hybrid rights claim exception. *Mahmoud v. Taylor*, 606 U.S. 522, 565 (2025); *Wisconsin v. Yoder*, 406 U.S. 205, 214-234 (1972).

*Smith* distinguished itself from *Yoder* by the kind of burden the claimants in *Yoder* endured. 494 U.S. at 881. In *Yoder*, the law requiring Amish children to remain in school until the age of 16 substantially burdened the Amish religion, to the point where it threatened the core practices and survival of the religious community under the law. *Yoder*, 406 U.S. at 216-218. The Court in *Mahmoud* solidified this view of *Yoder* as exceptional: "when a law imposes a burden of the same character as that in *Yoder*, strict scrutiny is appropriate, regardless of whether the law is neutral and generally applicable." *Mahmoud*, 606 U.S. at 565.

A burden “of the same kind as *Yoder*” is imposed here on the Church of Light, and particularly among the Lightbearer Missionaries. Lightbearer Missionaries are to serve their year of mission work between the ages of 18-22, because of their specific ability to be able to evangelize to other youth on college campuses. CADS impermissibly limits this ability and gives them two options: 1) stop practicing their faith and follow the law or 2) stop following their law and practice their faith. If they chose to remain at Delmont public colleges and practice their religion, the Church, under CADS, faces continual threat of civil liability in the form of economic and non-economic damages, punitive damages, and injunctive relief. While CADS is not a de jure prohibition on the Lightbearer’s ability to practice a core tenet of their faith, it is a de facto one. Much like the Amish in *Yoder*, the elders of the Church of Light have expressed realized fears that CADS will bring stagnation in membership, possibly even bringing its decline.

The burden in *Yoder* focuses specifically on Amish children, specifically because it implies an additional constitutional right. Such is the source of the elusive “hybrid right” claim. *Yoder* explained, and *Smith* reaffirmed in its first footnote, in the context of combining the right of parents to direct their children’s upbringing in combination with the Free Exercise claim, strict scrutiny is the appropriate standard, even though the law itself is neutrally applicable. *Yoder* 406 U.S. at 233.; *Smith*, 494 U.S. at 881 n.1 (1990). Since then, the doctrine of hybrid rights has extended to other combinations of constitutional rights, such as free exercise and free speech in cases like *Telescope Media Grp. v. Lucero*, where the 8th Circuit reaffirmed that *Smith* intended hybrid rights claims to represent a doctrinal avenue, not merely “dicta” as suggested by other courts. 936 F.3d at 759-60. Other cases like *Masterpiece* and *Mahmoud* had colorable hybrid claims, but did not attempt to articulate such arguments.

In the present case, the Church of Light has two valid hybrid rights claims: a Free Exercise claim combined with either a parental rights claim or a free speech claim. The Free Speech and Free Exercise rights of the Church can not be separated into distinct claims without causing a detriment to the integrity of each. The two rights were not merely implicated in this case. They arose out of the same conduct and are inextricably and inseparately linked. For the Church, their live, personal, and public proclamation of their religious message and then sharing the same through a communicative format are “deemed inseparable” under their core tenets. They can not practice their religion without speaking publicly about it. Hence, because the Church itself can not separate their rights in practice, the Church’s claims should not have to be tempered for the Court’s doctrinal familiarity.

For the parental rights claim, though the right recognized in *Yoder* applied toward high school students, college students fall within this protection when there is a substantial burden placed upon their religious practices. *See Yoder*, 406 U.S. at 218. College age children are still subject to coercion and influence, evidenced by culturally pervasive pejorative generalizations calling colleges “indoctrination zones.” In fact, the record reflects some circumstantial evidence that parents’ are indeed directing their student’s choice of major: education at Delmont College: over 70% of Lightbearer Missionaries on average are communications and journalism majors. Whether it is through *Lukumi/Masterpiece*, *Mahmoud/Yoder*, or the doctrine of hybrid rights, the analysis is the same: strict scrutiny is the appropriate standard.

**D. CADS fails strict scrutiny.**

Under strict scrutiny, the government must show both: the law is in furtherance of a compelling government interest, and the law is narrowly tailored and the least restrictive means of achieving that interest. *Fulton*, 593 U.S. at 524. If it fails on either account, the Court must strike

down the law as unconstitutional. *Id.* If a government can achieve its interests in a manner that does not burden religion, it *must* do so. *Id.* at 541. The mere presence of safety concerns do not by themselves grant the state the right to enforce overbroad regulations. *See Roman Catholic Diocese*, 592 U.S. at 21-24 (Gorsuch, J., concurring).

In the present case, the government's stated interest in protecting the health and safety of Delmontians through anti-doxxing laws is overbroad, un compelling, and ineffective, while also failing to be the least restrictive means to address the interest. Thus, the government fails strict scrutiny on account of failing to have a properly stated compelling government interest and failing to further it through the least restrictive means.

### **CONCLUSION**

For the foregoing reasons, we respectfully request that the judgment of the Fifteenth Circuit Court of Appeals be reversed.

Respectfully Submitted,

*Team 28*

*Counsel for Petitioner*

## APPENDIX A

### *Constitutional Provisions*

#### **U.S. Const. Amend. I.**

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

### *Statutory Provisions*

#### **28 U.S.C. § 1292(a)(1)**

(a) Except as provided in subsections (c) and (d) of this section, the courts of appeals shall have jurisdiction of appeals from:

(1) Interlocutory orders of the district courts of the United States, the United States District Court for the District of the Canal Zone, the District Court of Guam, and the District Court of the Virgin Islands, or of the judges thereof, granting, continuing, modifying, refusing or dissolving injunctions, or refusing to dissolve or modify injunctions, except where a direct review may be had in the Supreme Court;

#### **28 U.S.C. § 1331**

The district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States.

#### **28 U.S.C. § 1254(1)**

Cases in the courts of appeals may be reviewed by the Supreme Court by the following methods:

(1) By writ of certiorari granted upon the petition of any party to any civil or criminal case, before or after rendition of judgment or decree; . .

## CERTIFICATE OF COMPLIANCE

In compliance with Rule III(C)(3) for the 2028 Seigenthaler-Sutherland Moot Court Competition,

Team 28 hereby certifies that:

1. The work product contained in all copies of this team's brief is the work product of the team members only,
2. All members of the team have complied fully with the law school honor code, and
3. We have complied with all rules of the Seigenthaler-Sutherland Cup Moot Court Competition.

By: /s/ Team No. 28

*Counsel for Petitioner*