

IN THE SUPREME COURT OF THE UNITED STATES

No. 25-CV-1994

THE CHURCH OF LIGHT, LLC,

Petitioner,

v.

LAURA MARSHALL,

Respondent.

ON WRIT OF HABEAS CORPUS TO THE SUPREME COURT OF THE UNITED STATES

BRIEF FOR THE PETITIONER

QUESTION PRESENTED

Under the First Amendment, was the United States District Court for the District of Delmont Western Division correct when it found that the Campus Anti-Doxxing Statute (CADS) violated the Petitioner's First Amendment Free Speech rights?

Under the First Amendment, was the United States District Court for the District of Delmont Western Division correct when it found that the Campus Anti-Doxxing Statute (CADS) violated the Petitioner's First Amendment Free Exercise rights?

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BRIEF FOR THE PETITIONER

QUESTION PRESENTED

Under the First Amendment, was the United States District Court for the District of Delmont Western Division correct when it found that the Campus Anti-Doxxing Statute (CADS) violated the Petitioner’s First Amendment Free Speech rights?

Under the First Amendment, was the United States District Court for the District of Delmont Western Division correct when it found that the Campus Anti-Doxxing Statute (CADS) violated the Petitioner's First Amendment Free Exercise rights?

OPINIONS BELOW

The decision of the United States Court of Appeals for the Fifteenth Circuit reversing the trial court’s decision in *Marshall v. The Church of Light, LLC* is unreported and found on page 30 of the Record. The United States District Court for the District of Delmont Western Division in *Marshall v. The Church of Light, LLC* granting the motion for summary judgment is unreported and found on page 2 of the Record.

JURISDICTION STATEMENT

The district court opinion was entered on December 8, 2025. The judgment of the United States Court of Appeals for the Fifteenth Circuit was entered on December 29, 2025. Petitioners filed the Petition for Writ of Certiorari on December 30, 2025. and was granted on January 7, 2026. The jurisdiction of this Court rests on 28 U.S.C. §1254.

CONSTITUTIONAL PROVISION INVOLVED

The First Amendment to the United States 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....”U.S. Const. Amend. I.

STANDARD OF REVIEW

The United States Court of Appeals for the Fifteenth Circuit erred as a matter of law when it reversed the district court’s decision. Pursuant to Rule 56 of the Federal Rules of Civil Procedure, a motion for summary judgment is granted when there is no genuine dispute as to a material fact and the moving party is entitled to judgment as a matter of law. *See Fed. R. Civ. P. 56*. If the conclusions of law are inseparable from findings of fact, the Court is obligated to conduct a de novo review of First Amendment claims to ensure there is not an unlawful intrusion of free speech rights. *See Boy Scouts of Am. v. Dale*, 530 U.S. 640, 648 (2000).

STATEMENT OF THE CASE

This Court is being asked to overrule a decision from the United States Court of Appeals for the Fifteenth Circuit (“Fifteenth Circuit”) where it found the Church of Light’s (“Church”) First Amendment rights to Free Speech and Free Exercise were not infringed upon by Delmont’s Campus Anti-Doxxing Statute (“CADS”).

The Church is a fundamentalist religious organization that was founded in Delmont over one-hundred fifty years ago. R. at 8. The members of the Church are known as Lightbearers, and they dedicate their lives traveling through Delmont proclaiming their messages in public places and distributing physical copies of their publication called *The Lantern* for free. Id. In addition to disseminating *The Lantern* and making public proclamations, the Church uses community access channels, the Internet, and mobile vans equipped with LED screens to broadcast their content on Delmont college campuses. Id. The broadcasts are curated and shared by Lightbearers who are

serving a mandatory missionary year to fulfill their tenet of “serving as living witnesses while disseminating *The Lantern*.” Id.

In addition to publishing religious broadcasts, “news of local interest” is published in *The Lantern*. The Lightbearers are taught to “obtain the information and images they broadcast *only* from publicly available sources. Rallstone Affidavit at 44, *Marshall v. Church of Light, LLC*, No. 25-CV-1994 (15th Cir. 2025) (emphasis added). News of local interest includes the Energy Farm controversy in Delmont and resources for Delmont college students. The Lightbearers Student Chapter at the Delmont State University supports the Energy Coalition, who are in favor of solar and wind energy farms being developed in Delmont. Another group, the Nature Coalition, is strongly opposed to the development of energy farms because it will disrupt natural wildlife habitats. The Lightbearers share video clips of speeches made at protests from both viewpoints but do not give their opinion. The debate between both sides has turned hostile. Violent protests have broken out across college campuses throughout Delmont coordinated by student factions of the Nature Coalition and Energy Coalition.

A common antagonistic activity of the student factions is “doxxing” where an individual’s private information is published in order to intimidate them. In response, the Delmont State Legislature passed CADS which created a “private cause of action against any individual that, without consent, disclose private information of an enrolled student with the intent to stalk, harass, or physically injure that student.” Gov. Morrison Affidavit at 47, *Marshall v. Church of Light, LLC*, No. 25-CV-1994 (15th Cir. 2025). After CADS was passed, Laura Marshall (“Respondent”) gave a speech at a Nature Coalition protest. R at 10. The speech was videotaped and broadcast by a local public television channel, and on the Lightbearers’ TV vans.

Additionally, the TV vans shared information from the Delmont Treatment Center website, which included a picture of the Respondent because she is an employee there.

Unfortunately, after her speech, the Respondent was confronted by the Energy Coalition two nights in a row at her work. As a result, her car was keyed and there was damage to the left front portion of her car when she tried to get away from the protestors. Police could not identify protestors from the security cameras outside the Delmont Treatment Center. Respondent alleges that the Lightbearers broadcast of her public speech and public information from the Delmont Treatment Center website is prohibited under CADS. It is from this action that Respondent filed her initial complaint against the Church of Light.

SUMMARY OF THE ARGUMENT

A statute that imposes sanctions on protected speech and activities is unconstitutional. Additionally, a content-based statute is in violation of the First Amendment Free Speech and Free Exercise Clause if it is overbroad in its application and not generally applicable. Accordingly, this Court should reverse the Fifteenth Circuit Court of Appeals judgment.

The Fifteenth Circuit incorrectly reversed the district court's motion for summary judgment in favor of the Church. First, it wrongly held that CADS does not violate free speech when it proscribes the Church from disseminating public videos and photographs that were lawfully obtained. Second, the analysis of CADS was flawed and not based on logical or historical understanding of the Free Exercise Clause as it was written. Third, it erroneously ruled that CADS is neutral and generally applicable because it does not contain language referring to any religious practice or specifically target the Church even though its application does unfairly target the Church. Fourth, the court incorrectly determined the hybrid rights exception to be nonbinding, and thus did apply it in their analysis of CADS.

This Court's First Amendment jurisprudence permits statutes proscribing modes of speech directed at certain individuals if the statute does not reference the content of the regulated speech. When a statute references the content of speech, it is content-based and subject to strict scrutiny. To survive strict scrutiny under the First Amendment, the government must demonstrate that the statute is narrowly tailored to serve a compelling interest. If the statute does not reference the content of the regulated speech, then the statute is content-neutral and subject to intermediate scrutiny or a rational basis review.

CADS is subject to strict scrutiny because it is a content-based regulation on speech. The statute requires law enforcement to look at the subjective intent of the speaker to determine whether the speech is prohibited. Therefore, the CADS application is overbroad in relation to its plainly legitimate sweep and invalid under the First Amendment. Additionally, CADS violates First Amendment Free Exercise rights because it is not generally applicable. Even if it is considered facially neutral and generally applicable, it falls under the hybrid rights exception.

Here, the Lightbearers disseminated lawfully obtained public information that was shared by other sources. The ability to broadcast their messages publicly is pursuant the Church's religious doctrine. CADS unduly burdens Lightbearers serving their missionary year by limiting how they can practice their faith with the threat of lawsuits. Therefore, CADS infringes on the Church's right to engage in their religious activities and is a violation of the First Amendment's Free Speech Clause and Free Exercise Clause. For the above reasons this Court should hold that CADS fails strict scrutiny and reverse the judgment of the Fifteenth Circuit Court of Appeals.

ARGUMENT

CADS violates the Church of Light's First Amendment Freedom of Speech rights.

Statutes that are content-based are subject to strict scrutiny under the First Amendment. To overcome strict scrutiny, the government must show there is a compelling interest in limiting

free speech rights that cannot be achieved through less restrictive means. CADS imposes a content-based restriction on free speech by proscribing speech based on its communicative content. The application of CADS is overbroad in relation to the statute's plainly legitimate sweep and is invalid under the First Amendment overbreadth doctrine. Therefore, this Court must reverse.

The First Amendment to the United States Constitution guarantees "Congress shall make no law ... abridging the freedom of speech...." U.S. Const. Amend. I. A statute may proscribe modes of speech directed at certain individuals if the statute does not reference the content of the regulated speech.

A statute that aims to proscribe free speech is subject to strict scrutiny. Statutes that are content-based are presumptively invalid under the First Amendment. A statute is content-based on its face if the content of the speech needs to be examined in order to enforce it. *Sheehan v. Gregoire*, F.Supp.2d 1135, 1146 (W.D.Wash. 2003). Additionally, statutes that are overbroad in relation to the statute's plainly legitimate sweep are unconstitutional under the First Amendment pursuant to the overbreadth doctrine. *United States v. Hansen*, 599 U.S. 762, 770 (2023). The government must demonstrate that the statute is narrowly tailored to compelling interest in order to survive strict scrutiny. *Twitter, Inc. v. Garland*, 61 F.4th 686, 697 (9th Cir. 2023).

Respondent fails to demonstrate that CADS is narrowly tailored to serve a compelling state interest. CADS is content-based on its face because the communicative content and the subjective intent of the speaker must be analyzed to enforce the statute. Additionally, CADS is overbroad in its relation to the statute's plainly legitimate sweep because it proscribes both unprotected and protected speech. Because CADS attempts to regulate speech beyond

constitutional limits, and because the state fails to demonstrate a compelling interest that cannot be achieved through less restrictive means, this Court must reverse.

A. CADS fails strict scrutiny because it is a content-based regulation on speech that is not narrowly tailored to serve a compelling state interest.

CADS is a content-based regulation on speech and subject to strict scrutiny because it targets speech based on its communicative content. Because the state cannot show that the statute is narrowly tailored to serve a compelling state interest, CADS is presumptively invalid under the First Amendment.

To ensure that a statute's regulation of speech is not prohibited by the First Amendment, courts must determine if the statute is content-based or content-neutral. *Twitter, Inc. v. Garland*, 61 F.4th at 697. A statute is content-based if it (1) targets speech based on its communicative intent, (2) prohibits public discussion of an entire topic, (3) or single[s] out specific subject matter for differential treatment. *Id.* (quoting *In re Nat'l Sec. Letter*, 33 F.4th 1058, 1072 (9th Cir. 2022) (internal quotations omitted)). Content-based statutes are subject to strict scrutiny under the First Amendment and will only be satisfied if the government demonstrates that the restriction on speech is narrowly tailored to serve a compelling state interest. *Id.* at 698. A statute is narrowly tailored if a less restrictive alternative to serve the government's interest does not exist. *Id.*

In contrast, a content-neutral statute does not reference the content of the regulated speech and aims to regulate constitutionally prescribable modes of speech directed at certain individuals. *Gregoire*, F.Supp.2d at 1146. The essential question to determine content neutrality is whether "the government adopted a regulation because of agreement or disagreement with the message it conveys." *Dahlstrom v. Sun-Times Media*, 777 F.3d 937, 950 (7th Cir. 2015) (quoting *American Civil Liberties Union of Illinois v. Alvarez*, 679 F.3d 583, 603 (7th Cir. 2012)). A

content-neutral regulation survives First Amendment scrutiny if it (1) “furthers an important or substantial government interest, (2) if the governmental interest is unrelated to the suppression of free expression, and (3) if the incidental restriction on alleged First Amendment freedoms is no greater than is essential to the furtherance of that interest. *Sun-Times Media*, 77 F.3d at 952 (quoting *Turner Broad Sys., Inc. v. FCC*, 512 U.S. 622, 662 (1994)).

A statute is content-based on its face if the content of the speech needs to be examined in order to enforce it. *Sheehan v. Gregoire*, F.Supp.2d at 1146. The government cannot assert a compelling interest to enforce content-based restrictions based on the speaker’s communicative content if the same speech would be permissible in other situations. *Id* at 1147. Specifically, prohibiting speech based solely on the subject of the speech or the speaker’s subjective intent is unconstitutional in the absence of a compelling government interest. *Id*. For example, the plaintiff in *Gregoire* was statutorily prohibited from disseminating publicly available information that was lawfully procured, but the same information made available by the government in the public domain was not prohibited. *Id*. A compelling government interest to protect a specific group of people from harm is not effectively demonstrated if a third party can gather the same information with the intent to cause harm “without entering the scope of the statute.” *Id*.

If public safety goals are “unrelated to the content of [the regulated] expression” then the statute is content-neutral and subject to intermediate scrutiny. *Sun-Times Media*, 77 F.3d at 950 (quoting *Ward v. Rock Against Racism*, 491 U.S. 781, 791 (1989)). Even though the Driver’s Privacy Protection Act (“DPPA”) does regulate the communicative content of speech, the Seventh Circuit determined the statute was content-neutral because it aimed to regulate the source of information as well as the subject matter. *Id*. The DPPA proscribes the practice of unlawfully obtaining and publishing personal identifiable information from motor vehicle

records. *Id.* The Seventh Circuit distinguishes the difference between publishing personal information gathered from unlawful sources and lawful sources to demonstrate that the DPPA is neither proscribing lawful activities nor favoring one category of speech over another. *Id.* The Seventh Circuit finds support from the *Bartnicki* Court which concluded that statutes that prohibit information disclosure “by virtue of the source, rather than the subject matter” are content-neutral. *Id.* at 949. Therefore, the DPPA withstood intermediate scrutiny because it was narrowly tailored to promote public safety by (1) deterring the unlawful acquisition of personal information and (2) protecting individuals whose information was unlawfully obtained without substantially burdening free speech interests more than necessary. *Id.* at 954.

In the case at bar, the Washington statute in *Gregoire* more closely resembles CADS than the DPPA in *Sun-Times Media*. Like the plaintiff in *Gregoire*, the Church lawfully obtained and shared information relating to the Respondent. Further, CADS does not distinguish between lawfully obtained information and unlawfully obtained information. Instead, CADS relies on the speaker’s subjective intent for sharing the content. Therefore, CADS imposes a content-based restriction on lawfully obtained, publicly available information and is presumptively invalid under the First Amendment.

Statutes that focus on the subject matter of the speech are content-based restrictions and impermissible under the First Amendment absent a compelling government interest. Because CADS is regulating the communicative content of the Church’s broadcast, it is content-based on its face and subject to strict scrutiny. CADS fails under strict scrutiny because the state cannot show the statute is narrowly tailored to serve a compelling interest to justify the substantial and burdensome restriction on speech.

B. CADS fails strict scrutiny because its application on speech is overbroad in relation to the plainly legitimate sweep of the statute.

CADS is unconstitutional under the First Amendment pursuant to the overbreadth doctrine because its application extends beyond the regulation of the few narrow categories of unprotected speech. Respondent attempts to bring action against the Church under CADS for broadcasting information that was lawfully obtained. Because CADS has numerous potential applications unrelated to unprotected speech, the statute is not narrowly tailored to the state's interest and is unconstitutional on its face.

Any statute that criminalizes pure speech must be interpreted within the commands of the First Amendment. *Watts v. United States*, 394 U.S. 705, 707 (1969). Under the overbreadth doctrine, this Court has invalidated statutes as facially unconstitutional due to its overbroad application on protected speech in relation to the statute's plainly legitimate sweep. *Hansen*, 599 U.S. at 770. Statutes that may inhibit or deter free expression and constitutionally protected speech are susceptible to a facial challenge, even if the speech is constitutionally proscribed by a narrower statute. *Gregoire*, at 1135. Constitutionally proscribed speech includes defamation, incitement, speech integral to criminal conduct, fighting words, true threats, and speech presenting some grave and imminent threat the government has the power to prevent. *League of Women Voters v. Schwab*, 549 P.3d 363, 374 (Kan. 2024) (citing *United States v. Alvarez* 567 U.S. 709, 717 (2012) and *United States v. Stevens* 559 U.S. 460, 468-69 (2010)).

A First Amendment challenge pursuant to the overbreadth doctrine arises when a statute decidedly sanctions protected conduct. *Gregoire* at 1140 (citing *Members of City Council of Los Angeles v. Taxpayers for Vincent*, 466 U.S. 789, 796 (1984)). Under the overbreadth doctrine analysis deployed by this Court, if a showing is made that the law punishes a "substantial amount of protected free speech, [i]n relation to the statute's plainly legitimate sweep, all enforcement of that law is invalidated." *Virginia v. Hicks*, 539 U.S. 113, 113 (2003) (quoting *Broadrick v.*

Oklahoma, 413 U.S. 601, 615 (1973)) (internal citations omitted). Since the overbreadth doctrine invalidates all enforcement, this Court does not “causally emplo[y]” the doctrine to all facial challenges. *Hansen*, 599 U.S. at 770. Therefore, any chilling effect on the protected speech must be both real and substantial and not readily subject to a narrow construction. A statute that requires censorship of one’s own thoughts and subjective intent requires an overbreadth doctrine analysis. *Gregoire* at 1149.

In *Gregoire*, the statute at issue proscribed the release of personal information of law enforcement officers and court employees with the intent to harm or intimidate. *Id.* at 1139. While action against the plaintiff’s speech pursuant to the statute was never taken, the court found that the statute had a real and substantial chilling effect on constitutionally protected speech. “Disclosing and publishing information obtained elsewhere is precisely the kind of speech that the First Amendment protects. *Id.* (citing *Bartnicki v. Vopper*, 532 U.S. 514, 527 (2001)). The defendants in *Gregoire* erroneously premised that the release of personal identifiable information with the intent to harm or intimidate is a true threat and suggest that subjective intent alone transforms constitutionally protected speech to a true threat. *Id.* at 1141-45. The court rejected the defendant’s arguments explaining that true threats do not hinge on the subjective intent of a speaker and are governed by a reasonable person objective standard. *Id.* at 1147. (citing *Planned Parenthood v. Am. Coalition of Life Activists*, 290 F.3d 1058, 1074 (9th Cir. 2002)).

Here, Respondent asserts that the Church’s only motivation for including her public speech and photograph in their broadcast was to endanger her safety. However, the record demonstrates how the Church lawfully obtained a video and photograph of Respondent and broadcast it on their TV vans with the intent to report interesting local news with their religious

messages. R at 10. The Church has previously shared information related to Delmont’s energy farm controversy and resources offered by the Delmont Treatment Center. Under an objective standard, a reasonable person would not consider the Church’s broadcast a true threat or incitement of violence against the Respondent. While the State attempts to provide a compelling interest in protecting people from wrongful injury, CADS relies on the analysis of the speaker’s subjective intent to create a cause of action. Like the Washington statute in *Gregoire*, CADS aims to “punis[h] the communication of truthful lawfully-obtained, publicly-available information.” *Gregoire* at 1249.

Respondent also asserts CADS promotes political speech by protecting people who engage in matters of public concern from their personally identifiable information being leaked and finds support from this Court in *Milkovich*. This assertion is incorrect as the Court in *Milkovich* held that opinions that reasonably imply false factual assertions about an individual are not protected by the First Amendment. *Milkovich v. Lorain Journal Co.*, 497 U.S. 1, 2 (1990). The record does not show that the Church was broadcasting an opinion nor presenting false factual assertions about the Respondent. Beyond lawfully obtaining the video and photograph of the Respondent from other publications, the record does not provide evidence that the Church engaged in speech proscribed by the First Amendment.

Statutes that have a real and substantial chilling effect on free speech in relation to the statute's plainly legitimate sweep are unconstitutional under the First Amendment pursuant to the overbreadth doctrine. Because CADS does not purport to regulate constitutionally-proscribed speech and hinges on the speaker’s subjective intent, it is overbroad in its application and therefore unconstitutional.

CADS violates the Church of Light’s First Amendment right to Free Exercise of religion.

The First Amendment to the United States Constitution guarantees “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof . . .” U.S. Const. Amend. I. Strict scrutiny will apply to government restrictions that specifically target religious conduct for distinctive treatment or are not neutral and generally applicable. *Emp. Div., Dep't of Hum. Res. of Oregon v. Smith*, 494 U.S. 872, 873 (1990).

CADS interferes with the religious development of the Lightbearers—an injury that should be categorized as in the same character as the Amish children in *Yoder*. The Church requires any witness to be living and any proclamation of messages to be “live, personal, and public.” Given the changes in communication since the advent of the internet and other telecommunication formats since 1990, the Church has had to make some adjustments to what counts as live, personal, and public. The Church had to evolve with the communicative formats due to the faith’s requirement of a living witness, the elders were led to a different solution. Rallston Aff. at 44. This gives rise to the issues before us about the broadcasts from the Lightbearers’ vans.

Respondent fails to demonstrate that CADS is both facially neutral and generally applicable. Even if CADS is considered to be facially neutral, the statute cannot be generally applied and places a burden on religious practices. Additionally, this Court should recognize that the hybrid rights exception is not dicta and therefore binding, and CADS falls under the exception because it disallows religious speech. This Court should apply strict scrutiny and consequently reverse the lower court’s decision.

C. CADS constitutes a violation of the right to Free Exercise of the Church when analyzed under the logic and history of the First Amendment as it was written.

The doctrine of neutral and generally applicable laws established in *Smith* is confusing and lacks historical basis for its application which has allowed the government to stifle the religious freedoms of minority religions. *Smith*, 494 U.S. 872 at 873. This doctrine fails to

recognize precedent, mistakes the Constitution’s original meaning, and has overall “proven unworkable in practice.” *Fulton v. City of Philadelphia.*, 593 U.S. 522, 618 (2021) (Gorsuch, J. Concurring). Therefore, this Court should adopt a modified strict scrutiny that respects the historical analysis of the Free Exercise Clause as it was understood at the time of its writing and move away from *Smith* for clarity purposes.

The *Sherbert Test* articulated by this Court originally consisted of (1) a sincere belief central to the religion of the plaintiff was substantially burdened; (2) whether there is a compelling state interest that would outweigh the infringement; and (3) whether alternative forms of regulation can avoid the infringement and achieve the state’s end. *Sherbert v. Verner*, 374 U.S. 398, 403-410 (1963). Following *Sherbert*, in practice, courts would oftentimes place immense value on how the religious interest balanced against the state interest. *See Wisconsin v. Yoder*, 406 U.S. 205, 214 (1972) (explaining “a state interest of sufficient magnitude to override the interest claiming protection’ may allow a state to interfere with a legitimate religious belief”). The Court in *Smith* wrote that “the government’s ability to enforce generally applicable prohibitions of socially harmful conduct . . . ‘cannot depend on measuring the effects of a governmental action on a religious objector’s spiritual development.’” *Smith*, 494 U.S. 872 at 885 (quoting *Lyng v. Nw. Indian Cemetery Protective Ass’n*, 485 U.S. 439, 451 (1988)).

Following the Court’s decision after *Smith*, Congress immediately took action passing both the Religious Freedom Restoration Act of 1993 (RFRA) and the Religious Land Use and Institutionalized Persons Act of 2000 (RLUIPA). 42 U.S.C.A § 2000bb-1, 2000cc. These laws reintroduced a modified version of the *Sherbert Test* in cases of federal employees, zoning laws, or institutionalized persons. *Id.* Both laws proscribed any law that substantially burdened any exercise of a person’s religion. *Id.* There is a narrow exception to both rules that should a law be

in furtherance of a compelling government interest and utilize the least restrictive means of furthering that interest, the Court may declare the law to be constitutional. *Id.*

In effect, the RFRA and RLUIPA reinstated the popular scheme of *Sherbert* but eliminated the balancing test, squaring it with the concerns of *Smith* while creating a historical basis that *Smith* lacks. Additionally, the RFRA and RLUIPA does not require the central beliefs of the individual to be analyzed, remedying the issue of the secular court improperly analyzing the religious tenets of a group. The result is a straightforward modified version of the *Sherbert* test that remedies all of the issues outlined in *Smith* and clarifies the test for lower courts, while bringing analysis much closer to the historical understanding of the Free Exercise Clause present in its inception.

Under this outlined test, the Church can show that CADS violates its First Amendment rights because it meets every element of the test. In application, courts have emboldened the new least restrictive means test from RFRA and RLUIPA to have much more teeth than the *Sherbert Test*. See *Burwell v. Hobby Lobby Stores, Inc.*, 573 U.S. 682, 691-92 (2014) (holding under the RFRA that the requirement of a for-profit corporation to provide contraceptive healthcare against the religion of the owners was compelling but not the least restrictive means of achieving the government interest). The Church is a sincere religion that has developed a canon over the course of more than a century that mandates public proclamation just like the organization from *Hobby Lobby Stores, Inc.* Therefore, CADS does not survive this articulated modified strict scrutiny test because it is not narrowly tailored. Based on this Court's support of the RFRA least restrictive test, CADS should be subject to enhanced scrutiny.

Upon Congress's creation of the RFRA and RLUIPA, the government created a test that recognizes precedent, respects the Constitution's original meaning, and is workable unlike *Smith*.

It would be proper for this Court to adopt a similar version of this test for the case at bar to determine that CADS clearly violates the Free Exercise rights of the Church.

D. Even if this Court applies the doctrine of Neutral and General Applicability, CADS is not generally applicable toward the Church’s religious practices.

While CADS may be seen to be facially neutral, it fails to be generally applicable because it burdens religious practices. Therefore, CADS is subject to strict scrutiny for the same reasons this Court found in *Wisconsin v. Yoder*.

This Court recognizes “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).’” *Smith*, 494 U.S. at 879 (holding laws that are neutral and generally applicable and only burden religion incidentally are not subjected to strict scrutiny). To pass strict scrutiny, the government must show the statute furthers a compelling interest and is neutral and generally applicable. *Fulton v. Philadelphia*, 593 U.S. 522, 533 (2021). To determine whether the law is neutral, “we must begin with its text” as “the minimum requirement of neutrality is that a law not discriminate on its face.” *Church of the Lukumi Babalu, Aye, Inc. v. City of Hialeah*, 508 U.S. 520, 533-34 (1993) (holding when a “law targets religious conduct for distinctive treatment or advances legitimate governmental interests only against conduct with a religious motivation will survive strict scrutiny only in rare cases”).

However, this is not completely determinative, so this Court articulated a generally applicable analysis in *Yoder*. 406 U.S. 205 (1972). The *Yoder* Court determined that requiring Amish children to go to the public school during their high school years was a burden on their free exercise rights, as it would “substantially interfer[e] with the religious development of the Amish child” *Id.* at 218. The school requirement contravened the basic religious tenets and

practice of the Amish faith, both as to the parent and the child. *Yoder*, at 218. This Court later explained in *Mahmound v. Taylor* that when a law imposes a burden of the same character as that in *Yoder*, strict scrutiny is appropriate regardless of whether the law is neutral and generally applicable. 606 U.S. 522, 565 (2025). (holding that, without an injunction, “the parents will continue to suffer an unconstitutional burden on their religious exercise, and such a burden unquestionably constitutes irreparable injury) Therefore, a plaintiff must show that “the threatened injury is certainly impending, or there is a substantial risk that the harm will occur.” *Id.* at 560. (See also *Susan B. Anthony List v. Driehaus*, 573 U.S. 149, 157-160 (2014), and *FOP Newark Lodge No. 12 v. City of Newark* 170 F.3d 359, 367 (3d Cir. 1999) (holding a system that allows an exception of a proscribed action for a secular reason but not a religious reason, “cannot survive any degree of heightened scrutiny and thus cannot be sustained.”).

Here, CADS seems to be facially neutral. The text does not specifically discriminate against the Church of Light. It does not mention religious activities specifically, nor does it mention the specific activities of the Lightbearers. However, CADS is not generally applicable because it unduly burdens the religious activities of the Lightbearers like the Amish children in *Yoder*. The broadcasts are a way of ensuring that young adult Lightbearers live out their mission year and become more resolute in their faith through religious advocacy. The Lightbearers fulfill their tenet of live, personal, and public proclamation by broadcasting the messages on TV vans.

The Respondent demonstrates that CADS fulfills a compelling state interest in public safety. However, the broadcasting of a public speech on a topic of public interest that the Church lawfully obtained, does not impact that purpose. CADS substantially burdens the religious practice of the Lightbearers ability to have a live, personal, public proclamation of their message. The public speech given by the Respondent was lawfully obtained by the Lightbearers, in line

with their training, to include in their broadcasts. Permitting publication and dissemination of public speeches for one media source and proscribing other media sources is discriminatory, proving that CADS is impeding the Church's freedoms. Ultimately, the Lightbearers are being proscribed under CADS, but the secular local public news station is not. Therefore, CADS is not generally applicable because it prohibits religious conduct.

Even though CADS is neutral on its face, it is not generally applicable because it burdens the Church's religious practices. Because CADS interferes with the development of young adult Lightbearers like the Amish children in *Yoder*, this Court should apply strict scrutiny and determine the statute is not generally applicable.

E. CADS violates both First Amendment rights to free speech and free exercise and triggers the hybrid rights exception recognized by this Court in *Smith*.

Even if CADS is neutral and generally applicable, the statute triggers the hybrid rights exception rule recognized and retroactively applied by this Court in *Smith* because it violates the Church's free speech and free exercise rights.

A statute that is neutral and generally applicable but unduly burdens the free exercise of religion is subject to strict scrutiny under the hybrid rights exception. *Smith*, at 881-882. *Smith* permits courts to apply strict scrutiny to a law if it is not truly generally applicable due to secular or discretionary exemptions. This requires individual assessments on a case-by-case basis, to determine if statutes target religion in purpose or effect or implicates hybrid rights. This Court articulated that the hybrid rights exception is triggered when the "Free Exercise Clause in conjunction with other constitutional provisions such as freedom of speech and of the press[.]" *Id.* at 881. Even though the hybrid rights exception was not the holding from *Smith*, it is not dicta because it was extended retroactively to previous decisions and provides guidance on how the rule should be applied. *See Cantwell v. Connecticut*, 310 U.S. 296, 304-307 (1940), *Murdock v.*

Pennsylvania, 319 U.S. 105, 117 (1943); *Follett v. McCormick*, 321 U.S. 573, 577-79 (1944); *Pierce v. Society of Sisters*, 268 U.S. 510, 534-36 (1925); and *Wisconsin v. Yoder*, 406 U.S. 205, 236 (1972).

Following the retroactive application of the hybrid rights doctrine by this Court in *Smith*, some circuits have successfully applied the rule. See *Telescope Media Grp. v. Lucero*, 936 F.3d 740, 758-60 (8th Cir. 2019) (finding support in *Yoder* and *Murdoch* that videographers properly alleged a hybrid rights claim under the Free Exercise and Free Speech Clauses in declining to produce videos for same-sex weddings); and *Henderson v. McMurray*, 987 F.3d 997, 1005-06 (11th Cir. 2021) (recognizing the hybrid rights doctrine articulated in *Smith*). However, the hybrid rights exception only applies to statutes that reach beyond regulating the time, place, and manner of speech. *Id.* The hybrid rights exception is especially important in protecting religious freedom, but other circuit courts treat the hybrid rights exception as non-binding dicta. See e.g. *Kissinger v. Bd. of Trs. of Ohio St. Univ.*, 5 F.3d 177, 180 (6th Cir. 1993) (finding the hybrid rights exception “swallows the rule” because it is unintentionally broad); *Knight v. Conn. Dept. of Pub. Health*, 275 F.3d 156, 167 (2d Cir. 2001) (refusing to apply the hybrid rights exception and applying *Pickering* instead); and *Combs v. Homer-Center School Dist.*, 540 F.3d 231 (3d Cir. 2008) (concluding the hybrid rights exception is dicta until the Supreme Court provides direction). The failure to recognize the hybrid rights exception as binding implies that neutral and generally applicable laws are not subject to strict scrutiny and cannot be barred by the First Amendment.

Here, if CADS is considered neutral and generally applicable, it triggers the hybrid rights exception because CADS regulates the Church’s actions that are inseparable from their religious doctrine. See R. at 22. (proclamations need to be personal, public, and in live settings). Like the

statutes in *Cantwell*, *Murdock*, and *Follet*, CADS is regulating the Church's organizational freedom by proscribing categories of speech the Church uses in its broadcasts. Like the statute in *McMurray*, CADS regulation on speech extends beyond time, place, and manner of the speech. Thus, CADS prohibits actions by the Church that are encased in its commingled rights of Free Exercise and Freedoms of Speech and Press and fall under the hybrid rights.

Under *Sherbert v. Verner*, the Court found in free exercise cases that governments are required to provide a demonstration of a compelling state interest and a narrow tailoring of the law or statute to accomplish that interest, effectively holding that any government actions substantially burdening be held to the flames of strict scrutiny. While *Smith* did not explicitly overrule *Sherbert*, it added that laws that are neutral and generally applicable may not be subject to strict scrutiny. However, under *Smith*, even when a law prohibiting religiously motivated action is considered neutral or generally applicable, it may yet still be subject to strict scrutiny when it involves not only the "Free Exercise Clause alone, but the Free Exercise Clause in conjunction with other constitutional protections, such as freedom of speech and of the press" *Smith*, at 881 (1990). Therefore, the hybrid rights exception is binding, and CADS falls under the exception because it violates the Church's free exercise rights and free speech rights.

1. The hybrid rights exception is binding on this Court and not simply dicta because the Court used its reasoning retrospectively to rationalize prior decisions.

The *Smith* court made it clear that the facts of the case at issue fell outside of the hybrid rights exception. Instead the hybrid rights exception was applied retrospectively, providing the current basis for a multitude of prior cases. For example, *Smith* retroactively reasoned that while a flat tax on solicitation materials was religiously neutral, it was still barred by the First Amendment in *Murdock v. Pennsylvania*. *Smith*, 494 U.S. 872 at 881. This Court reasoned

because when the tax is applied to Jehovah's Witnesses distributing religious materials, the tax places a burden not only on the Free Exercise but the Freedom of Speech and Press that the Jehovah's Witnesses had in distributing their literature. *Id.* (citing *Murdock v. Pennsylvania*, 319 U.S. 105, 117 (1943)). Similarly, the *Smith* Court used this same combination of rights to explain its holdings in *Cantwell* and *Follet*, which the Court characterized the laws at issue to be “neutral generally applicable laws.” *Id.* (citing *Cantwell v. Connecticut*, 310 U.S. 296 at 304-307 and *Follett v. McCormick*, 321 U.S. 573 (1944)). Comparably, the *Smith* court explained that Free Exercise and the parental right to direct education of one's children may also trigger the exception, as it explains was the case in *Wisconsin v. Yoder*. *Id.* (citing *Wisconsin v. Yoder*, 406 U.S. 205 (1972)). Even though the hybrid rights exception has been applied retrospectively by this Court, there is a circuit split as to whether the exception exists as binding law or nonbinding dicta.

Recently, federal circuits have analyzed their facts under the hybrid rights exception. In the Eighth Circuit, the court extended the hybrid rights doctrine to a photographer who denied a same-sex couple services for religious reasons. *Telescope Media Group*, 936 F.3d 740 at 759-60. The Eighth Circuit ruled in favor of the photographer holding that the hybrid rights doctrine was not dicta, but rather an existing doctrine formed from a pattern of previous cases—like *Yoder* and *Murdock*—which the Court utilized to explain that while the Free Exercise Doctrine could no longer be used as an isolated shield against any law burdening religious practices, the long line of cases occurring were never overruled and thus based upon the doctrine of hybrid rights. *Id.*

Likewise, the Eleventh Circuit found the hybrid rights doctrine was not dicta and successfully applied the exception to a municipal code regulating the sound of speech. *Henderson v. McMurray*, 987 F.3d 997 at 1006-1007 (holding the code was unconstitutional in

its application to religiously backed anti-abortion protests). The Eleventh Circuit differentiated their case from *Cantwell*, *Murdock*, and *Follette* and reasoned that “the regulation was far more intrusive than “general and non-discriminatory legislation regulat[ing] the times, the places, and the manner of soliciting,’ because ‘[i]f a certificate [was] procured, solicitation [was] permitted without restraint but, in the absence of a certificate, solicitation [was] altogether prohibited.”” *Id.* at 1006-07 (citing *Cantwell*). Even though the hybrid rights exception did not apply to the facts in *McMurray*, the Eleventh Circuit explained that “[i]nferior courts owe more fidelity to the opinions of the Supreme Court than the Second Circuit showed in *Leebaert*.” *Id.*

In contrast, the Second Circuit refused to determine whether the hybrid rights exception was binding on itself. *Knight v. State Dep't of Pub. Health*, 275 F.3d 156, 167 (2d Cir. 2001) (reasoning that the significant interest of the state to regulate expressive content of its own employees required application of the *Pickering* test instead). Similarly, the Sixth Circuit failed to understand the doctrine and discarded it. *Kissinger v. Board of Trustees of Ohio State University* 5 F.3d 177, 180 (6th Cir. 1993). However, the lower courts need to show more fealty to the Supreme Court because “[t]here is dicta and then there is dicta, and then there is Supreme Court dicta.” *Telescope Media Group*, 936 F.3d 740 at 758-60 (quoting *Schwab v. Crosby*, 451 F.3d 1308, 1325 (11th Cir. 2006)). If this is considered dicta, it is from the highest Court in the land and carries more weight than other dicta.

Ultimately, this Court should hold that the hybrid rights exception is a binding exception to the doctrine of neutral and generally applicable rules for clarity purposes from previous decisions and interpretability functions in future cases. If the hybrid rights exception is held to be nonbinding dicta, *Smith* would effectively stand only for the notion that neutral and generally applicable rules are not subject to strict scrutiny and cannot be barred by the First Amendment.

Therefore, there would be no reasoning for the holdings in *Murdock*, *Cantwell*, or *Follett* because the statutes at issue would be considered neutral and generally applicable under *Smith*. It is only through the hybrid rights exception that these cases possess a logically derived and predictable outcome under the doctrine of neutral and general applicability. Consequently, this Court should hold that the hybrid rights exception is binding on its current decision because it was intended to be so by the *Smith* court. Without the reasoning from the *Smith* Court several Supreme Court cases become entirely unintelligible to the new revision of case law. Therefore, the hybrid rights doctrine is not dicta. It finds support from multiple circuit courts and in an opinion from this Court. Because this doctrine is applied, CADS is subject to strict scrutiny.

2. This Court should apply the Hybrid Rights Exception and therefore apply strict scrutiny to CADS.

The hybrid rights exception applies to CADS even if CADS is considered to be religiously neutral and generally applicable. This would apply to First Amendment issues that involve “not the Free Exercise Clause alone, but the Free Exercise Clause in conjunction with other constitutional protections, such as freedom of speech and of the press.” *Smith*, at 881. CADS proscribes the Church from proclaiming their “message personally, publicly, and in live settings” which is an inseparable part of their doctrine. R. at 22. Additionally, CADS regulates speech of the Church by setting specific boundaries as to the type of speech the Church cannot utilize in its messaging. Thus, CADS prohibits actions by the Church that are encased in its commingled rights of Free Exercise and Freedoms of Speech and Press under the hybrid rights exception from *Smith*.

The regulation of the Church’s freedoms in CADS is like the regulation of the religious organization’s freedoms in *Cantwell*, *Murdock*, and *Follett*. Similarly, the regulations censor the entirety of the speech the Church seeks to share, because the Church is prohibited from engaging

in any speech covered under CADS. This wholesale censorship is distinguishable from the permitted municipal code regulating volume of speech in the Eleventh Circuit because the regulation of speech extends beyond regulation of time, place, and manner of the speech. Thus, even under a narrow understanding of the exception outlined by the Eleventh Circuit CADS would fall under the hybrid rights exception.

Further, the case at bar is distinguishable from the Second Circuit because CADS does not strictly regulate the actions of government employees. This change is significant for two reasons. First, since *Knight v. State Department of Public Health* concerned religious speech made by government employees, the Second Circuit had to consider the Establishment Clause in addition to the Free Speech and Free Exercise Clause. Therefore, the Second Circuit did not have to apply the hybrid rights exception because a third constitutional provision was implicated. Second, regulation of government employees' actions would not be considered neutral and generally applicable under *Smith*, therefore the hybrid rights exception is not triggered.

Accordingly, the hybrid rights doctrine should apply to the facts of this case because it involves a Free Exercise Clause claim in conjunction with a freedom of speech claim. Because of this, the Court should apply strict scrutiny to CADS to determine that it is unconstitutional.

CONCLUSION

CADS is unconstitutional pursuant to the Free Speech Clause and Free Exercise Clause of the First Amendment. The Church has a right to disseminate their messages in public forums to achieve their religious tenets, and CADS infringes on that right. Even if the Respondent demonstrates CADS does serve a compelling state interest in public safety, the statute is unnecessarily restrictive in relation to the statute's legitimate sweep. This Court should reverse the decision of the Fifteenth Circuit.

CERTIFICATE OF SERVICE

This document certifies electronic delivery of one copy of the foregoing brief to the organizer's mailbox on this sixth day of February 2026.

CERTIFICATE OF COMPLIANCE

This document certifies that this brief was completed using Microsoft Word software, Time New Roman font, in 12-point type. It contains 8,626 words. This brief complies with the length requirements of this Court.

This document further certifies that the authors of this brief have complied with all applicable honor code requirements of their law school and Competition Rules, including the requirement that the brief is the sole work product of the team members competing in the competition.

APPENDIX

CADS Statute

The Campus Anti-Doxxing Statute of Delmont ("CADS") creates 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 Delmont college or university with the intent to "stalk, harass, or physically injure."

Personal 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 plaintiff's children attend.

Intent is defined as "acting purposefully or recklessly to place a person in reasonable fear of bodily injury, death, or property damages as to cause severe emotional distress to a person." Del. Ann. Stat. §163.732 (2020).