

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

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The Church of Light, LLC,  
*Petitioner,*

v.

Laura Marshall,  
*Respondent.*

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ON WRIT OF CERTIORARI TO THE  
UNITED STATES COURT OF APPEALS FOR THE FIFTEENTH CIRCUIT

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**BRIEF FOR RESPONDENT**

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## QUESTIONS PRESENTED

- I. Delmont created the Campus Anti-Doxxing Statute (CADS) to protect individuals that are associated with Delmont colleges from having their personal information shared, without consent, leading to harassment and harm. The Church of Light shared Laura Marshall's personal employer information which led to her experiencing multiple instances of harassment. Does CADS violate The Church of Light's First Amendment Free Speech Rights to disseminate Laura Marshall's information without her consent?
- II. This Court's holding in *Employment Division v. Smith* established that when a state incidentally burdens someone's religion by enacting a neutral and generally applicable law, and where no exception applies, that law is subject to rational basis review. Delmont passed CADS to prevent the rising violence on its college campuses, not to target The Church of Light or its adherents. Does CADS violate the First Amendment Free Exercise rights of The Church of Light?

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## **OPINIONS AND ORDERS ENTERED BELOW**

The decision of the United States District Court for the District of Delmont Western Division is reproduced on pages 2–29 of the record. The decision of the United States Court of Appeals for the Fifteenth Circuit is reproduced on pages 30–43 of the record.

## **CONSTITUTIONAL AND STATUTORY PROVISIONS**

The relevant constitutional provision is part of the First Amendment to the U.S. Constitution. The provision provides, in relevant part, “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech . . . .” U.S. Const. Amend. I. These prohibitions have been incorporated against the states, including Delmont, by the Fourteenth Amendment.

Additionally, this case discusses Delmont’s Campus Anti-Doxxing Statute (CADS). CADS created a private cause of action against any individual who without consent uses a communication platform of any type to disclose private information of an enrolled student, faculty member, administrative or staff member at a Delmont college or university with the intent to “stalk, harass, or physically injure.” Del. Ann. Stat. § 25.989 (2025). “Private information,” “intent,” “stalk,” “harass,” and “injure” as used in the statute are all defined in the statute. Those definitions are found on pages 6–7 of the record.

## STATEMENT OF THE CASE

### I. Factual History

Laura Marshall is a student activist who gave a powerful speech regarding the latest campus conflict in Delmont: The Energy Farm Controversy. R. at 5, 10. The Energy Farm Controversy concerns how to best protect the State of Delmont's many natural wonders. R. at 4. While both sides of the controversy want to protect Delmont and its nature, they have different ideas of how to achieve that end. *Id.* Members of the Energy Coalition believe the development of alternative energy resources should be the priority. *Id.* On the other side, members of the Nature Coalition believe land and wildlife preservation is paramount. *Id.*

The Energy Farm Controversy was particularly heated on Delmont's college campuses. R. at 5. There were incidents of libraries being stormed, classes were disrupted, protests broke out at administrators' homes, and there were even instances of students hospitalized. *Id.* The police noticed that most of these horrific incidents resulted from student-organizers flash-sharing a particular victim's personal information that often led to that individual being quickly harassed and even confronted physically. R. at 5–6. Because these doxxing incidents occurred shortly after the information was flash-shared, the police were rarely able to intervene early enough to be effective. *Id.*

In response to these incidents, the Delmont legislature passed CADS. R. at 6; Morrison Aff. 47–48. CADS created a private cause of action against individuals who flash-share another's personal information with the requisite intent. R. at 6–7. Before supporting CADS, the Governor of Delmont, Bill Morrison, carefully considered several alternative plans to address the doxxing issue in Delmont (doxxing instances in the state had increased by 150%). R. at 6; Morrison Aff. 47–48. Morrison considered a few different response options but ultimately felt that such measures

would not be enough. Morrison Aff. 47–48. CADS, drafted to be narrow, has already resulted in two successful lawsuits. R. at 7; Morrison Aff. 47–48. In both of those cases, the targeted individual experienced harassment within twenty minutes of their information being shared. R. at 7.

The Church of Light has gotten involved in the Energy Farm Controversy on the Energy Coalition side. R. at 8, 10. The Church of Light is a religious denomination formed in the 1800s in Delmont. *Id.* The Church’s members, “Lightbearers,” believe in the personal, live, and public proclamation of their religious message and sharing that message through a communicative format. *Id.* Today, that format is a LED screen attached to a van that is driven around Delmont’s college campuses. R. at 9.

After Marshall gave her powerful speech for the Nature Coalition at Delmont State University, The Church of Light began broadcasting it on their vans. R. at 10. The speech played several times a day, and immediately following the speech clip, the vans displayed a photograph of Marshall. *Id.* In the photograph, Marshall is wearing a Nature Coalition shirt and is clearly located at the Delmont Treatment Center, which is a nearby substance abuse non-profit. *Id.* The photograph was accompanied by text that listed substance abuse resources, including addresses, phone numbers, and hours for each. *Id.* Delmont Treatment Center was first on that list. *Id.* Although there were several resources listed, there were only two photos included. *Id.* And although the Lightbearers often share resources for students, they had never included photographs before posting Marshall’s. R. at 11–12.

Marshall works and receives treatment at Delmont Treatment Center. R. at 11. Within twenty-four hours of the Church circulating her speech and picture, 20 people in ski masks showed up at the treatment center to photograph, catcall, and insult Marshall. *Id.* As she left, these people

followed her to the parking lot, surrounded her car as she tried to drive away, and keyed it. *Id.* A similar incident happened the next night, leading to further damage to Marshall's car. *Id.* By the time the police got to the scene, the perpetrators were long gone. *Id.* These incidents made Marshall feel compelled to quit her job out of fear for her safety, and to withdraw from her treatments. *Id.* Marshall asked the Church to stop circulating her image along with her speech, but they refused. R. at 12.

## **II. Procedural History**

Seeking damages and an injunction, Marshall sued The Church of Light for its CADS violations. *Id.* In the district court, The Church of Light moved for summary judgment claiming CADS infringes its constitutional free speech and free exercise rights. *Id.* Finding CADS unconstitutional as applied to the Church on both free speech and free exercise grounds, and finding no genuine dispute of material fact, the district court granted the Church's summary judgment motion. R. at 3.

Marshall then appealed to the Fifteenth Circuit, which disagreed with and reversed the district court on both its free speech and free exercise determinations. R. at 32, 37. Starting with free speech, the circuit court found that CADS passed even strict scrutiny and was therefore constitutional. R. at 34–35. Regarding free exercise, the circuit court found CADS neutral, generally applicable, and dissimilar to *Yoder*. R. at 37–39. The circuit court also declined to adopt a stricter standard for hybrid rights claims. R. at 40–42. Therefore, rational basis review applied, which the circuit court found CADS easily passed. R. at 42.

This Court granted certiorari to decide whether CADS violates the Church's First Amendment free speech or free exercise rights. R. at 50.

## SUMMARY OF THE ARGUMENT

As the district court below even noted, “[t]he state of Delmont has no small interest in protecting students from harassment and intimidation . . . .” R. at 3. In response to increasing instances of Delmont students being harassed and physically injured, Delmont officials enacted CADS. CADS was carefully drafted to ensure a close fit between its means and ends, which again, are indisputably valid. The statute was also written to be neutral and generally applicable. Therefore, Petitioners constitutional challenges must fail.

Starting with free speech, CADS targets speech unprotected by the First Amendment and is therefore subject to a lower standard of scrutiny. The only speech CADS limits is the dissemination of certain personal information when shared with the intent to “stalk, harass, or physically injure.” In other words, CADS limits speech intended to produce violence, which is not protect by the First Amendment. CADS is therefore subject to highly deferential scrutiny, which the statute easily passes. However, even if this Court were to find the Church’s speech protected by the First Amendment, CADS passes any level of scrutiny, including strict scrutiny, because it only restricts private speech, is content neutral, and is narrowly tailored to achieve Delmont’s compelling state interest in ensuring public safety.

Turning to free exercise, CADS is neutral and generally applicable, and therefore constitutionally permissible. Exceptions for cases presenting a burden like the burden imposed in *Wisconsin v. Yoder* and for hybrid rights cases are not only doctrinally weak but also inapplicable here. Once again, CADS passes the low level of scrutiny the Court should find applies, although it can pass any level of scrutiny because the statute is narrowly tailored to meet compelling ends. For these reasons, summary judgment against Marshall is inappropriate. Marshall therefore

respectfully requests this Court affirm the Fifteenth Circuit’s decision and allow her CADS claim to proceed.

## **ARGUMENT**

### **I. CADS does not violate The Church of Light’s First Amendment Free Speech rights.**

The First Amendment states that “Congress shall make no law . . . abridging the freedom of speech.” U.S. Const. Amend. I. Additionally, the adoption of the Fourteenth Amendment requires State legislatures to follow the First Amendment. *Gitlow v. New York*, 268 U.S. 652, 666 (1925). However, First Amendment protection is not limitless.

The State of Delmont passed CADS, Delmont Annotated Statutes § 25.989 (2025), to protect its citizens from speech intended to result in the targeted individual being stalked, harassed or injured. Although CADS imposes limitations on speech, CADS does not violate the First Amendment Free Speech rights for three reasons. First, the speech CADS limits is not protected by the First Amendment. Second, when applying the First Amendment to CADS, CADS regulates private speech and is content neutral. Third, under any legal standard this Court deems appropriate to use in evaluating CADS, the statute remains constitutional.

#### **A. CADS limits speech that invites imminent lawlessness that is likely to occur, which is not covered by the First Amendment.**

##### **1. The First Amendment does not apply to speech that is intended to produce violence.**

The First Amendment protects “unfettered interchange of ideas for the bringing about of political and social changes desired by the people.” *Connick v. Myers*, 461 U.S. 138, 145 (1983) (quoting *Roth v. United States*, 354 U.S. 476, 484 (1957)). However,

[i]t is a fundamental principle, long established, that the freedom of speech and of the press which is secured by the Constitution, does not confer an absolute right to speak or publish, without responsibility, whatever one may choose, or an unrestricted and unbridled license that gives immunity for every possible use of language and prevents the punishment of those who abuse this freedom.

*Gitlow*, 268 U.S. at 666. Additionally, this Court has “long recognized that the government may regulate certain categories of expression consistent with the Constitution.” *Virginia v. Black*, 538 U.S. 343, 358 (2003); see *League of Women Voters of Kan. v. Schwab*, 317 Kan. 805, 815 (2023) (“Constitutionally unprotected speech may be freely restricted by the state so long as the regulations fall within the scope of its police power.”). One such category is “fighting” words that provoke immediate violence. *NAACP v. Claiborne Hardware Co.*, 458 U.S. 886, 927 (1982) (citing *Chaplinsky v. N.H.*, 315 U.S. 568, 572 (1942)).

The *Brandenburg* Court further explained that State legislatures are permitted to limit speech that is “directed to inciting or producing imminent lawless action and is likely to incite or produce such action.” *Brandenburg v. Ohio*, 395 U.S. 444, 447 (1969). The timing of the conduct is important as advocating for an illegal action at an indefinite future time is not sufficient for the State to punish the speech. *Hess v. Indiana*, 414 U.S. 105, 108 (1973). There must be a direct connection in the speech between the encouraging of unlawful acts and the imminent illegal conduct. *Ashcroft v. Free Speech Coalition*, 535 U.S. 234, 253–54 (2002). Therefore, when speech (1) invites imminent lawlessness and (2) the imminent lawlessness is likely to occur, the speech falls outside of First Amendment protection. *United States v. Fullmer*, 584 F.3d 132, 154 (3d Cir. 2009). Evaluating this case under the *Brandenburg* standard clarifies that CADS prohibits speech not protected by the First Amendment.

**2. CADS protects against speech that intends to produce violence and The Church of Light’s speech violated CADS.**

CADS provides a cause of action when an individual releases private information of an enrolled student at Delmont college or university with the intent to stalk, harass, or physically injure. Del. Ann. Stat. § 25.989 (2025). Because Delmont chose to attach an intent element to the

statute, the only speech that is restricted is that speech that intends or results in a form of violence or harm to the victim. Put another way, CADS only limits speech that invites lawlessness. Therefore, CADS satisfies the first element of the *Brandenburg* standard.

Although the statute does not mention the timing of the threat, the history surrounding the implementation and successful CADS claims show a timing element. Governor Morrison stated that Delmont implemented CADS to respond to a growing issue where activists and organizers would share a targeted individual's personal information which often very quickly resulted in violence and harassment. Morrison Aff. 47 ("Organizers would coordinate a "flash-share" of a targeted person's information across multiple platforms. *Within a short time*, victims experienced violence and harassment . . . .") (emphasis added). While Governor Morrison and Delmont never articulated exactly what that length of time would be, it is clearly nowhere near courts' concerns of an indefinite future time period. Instead, there is a causal connection from the sharing of the information to the immediate targeted harm to the individual. This is also reflected by the two previous cases where an individual has successfully brought a CADS claim. Both individuals, after having their information shared, experienced harassment within twenty minutes of their information being shared.

Considering both the history of the statute's intent to establish a causal connection between the sharing of the information and the harm to the individual coupled with the harassment occurring shortly after satisfies the imminent lawlessness is likely to occur from the speech. Therefore, CADS satisfies the *Brandenburg* standard and generally regulates speech that does not receive First Amendment protection.

An examination of The Church of Light's speech shows that their conduct violated CADS and invited imminent lawlessness against Marshall that was likely to occur. At the height of the

campus conflict, The Church of Light published Marshall's powerful speech from a recent campus protest. Immediately following the speech, The Church of Light then published pictures of Marshall at her place of employment along with the address and hours of operation. Within twenty-four hours, Marshall experienced harassment and property damage from about twenty people wearing ski masks as she attempted to leave her job.

Evaluating The Church of Light's conduct, with the benefit of retrospect, clarifies the Church violated CADS. First, The Church of Light published Marshall's employer contact information in violation of Delmont law. R. at 6-7. Additionally, not only was imminent lawlessness likely to occur, but Marshall did experience imminent lawlessness. Finally, The Church of Light's conduct was intentional. There is no explanation for sharing an impassioned political speech, in the height of a heated campus conflict, and immediately following the speech with that individual's information other than The Church of Light intending for individuals to seek out Marshall and harass her. Therefore, when The Church of Light displayed Marshall's personal information, The Church of Light incited individuals to immediately take action to harass and harm Marshall, and violated CADS. Because The Church of Light violated CADS, and The speech it displayed intended to and did lead to the imminent harm of Marshall, The Church of Light's speech is not protected by the First Amendment.

**B. Even when applying First Amendment protection to The Church of Light's speech, CADS does not violate Free Speech.**

Before considering any First Amendment protection the Church's speech may have, an analysis of what CADS restricts is important. CADS only restricts the disclosure of private information. Therefore, when analyzing The Church of Light's speech, the only aspect of its speech that is deemed improper is the posting of Marshall's picture and employer information. There is no CADS violation for replaying Marshall's speech. Therefore, the analysis of First

Amendment protection is only related to the dissemination of Marshall’s private information related to her employment.

When analyzing the restrictions on this information, there are two points that demonstrate why the restriction CADS imposes warrants decreased First Amendment protection. First, CADS serves to regulate private speech and not public speech. Second, CADS is content neutral. Further, no matter the standard this Court decides to evaluate CADS under, CADS survives the analysis.

**1. CADS regulates private, not public, speech.**

Speech related to a matter of public concern is “at the heart of the First Amendment’s protection.” *Dun & Bradstreet v. Greenmoss Builders*, 472 U.S. 749, 758–59 (1985) (citing *First Nat’l Bank v. Bellotti*, 435 U.S. 765, 776 (1978)). This reflects the First Amendment’s commitment to protecting uninhibited, robust, and wide-open debate of public issues. *Snyder v. Phelps*, 562 U.S. 443, 452 (2011) (citing *New York Times Co. v. Sullivan*, 376 U.S. 254, 270 (1964)). Further, “speech on public issues occupies the highest rung of the hierarchy of First Amendment values, and is entitled to special protection.” *Id.* (quoting *Connick v. Myers*, 461 U.S. 138, 145 (1983)).

However, First Amendment protection is less rigorous when the speech is of purely private significance. *Id.* (citing *Hustler Magazine v. Falwell*, 485 U.S. 46, 56 (1988)). Private speech receives lower First Amendment protection because private matters do not threaten the “free and robust debate of public issues.” *Id.* (quoting *Dun & Bradstreet*, 472 U.S. at 760).

The *Snyder* Court highlighted factors to consider when determining whether speech is public or private. First, the Court must examine the “‘content, form, and context’ of the speech ‘as revealed by the whole record.’” *Id.* at 453 (quoting *Connick*, 461 U.S. at 147–48). No single factor is determinative and all circumstances of the speech must be evaluated. *Id.* at 454.

Evaluating CADS restriction on The Church of Light's speech, CADS is clearly only restricting private speech. CADS restrictions relate only to private information. The content of the speech that is restricted is only the private employment information that The Church of Light published. The Church of Light displayed this information on a loop on a screen attached to a van driving all over campus immediately after displaying Marshall giving an impassioned political speech during the height of campus conflict. Again, the speech itself is not subject to CADS. But, the juxtaposition of the Church displaying Marshall's employer information immediately following her powerful speech on a divisive current issue that has already led to doxxing incidents cannot be ignored.

By inserting Marshall's private information, The Church of Light is not attempting to further public debate. The Church of Light is likely to argue that highlighting a substance abuse clinic could be considered information that is of interest to the public. However, the purpose of displaying Marshall's photo at the clinic is clearly to expose her private information that would lead to future harassment and injury, not to inform the public of an available service, which could be done just as well without including Marshall's photo. Therefore, CADS restrictions of The Church of Light's speech is an attempt to regulate private speech and is subject to lower protection by the First Amendment.

## **2. CADS is content neutral.**

Laws that target speech based on its communicative content are "presumptively unconstitutional and may be justified only if the government proves that they are narrowly tailored to serve compelling state interests." *Reed v. Town of Gilbert*, 576 U.S. 155, 163 (2015) (citing *R. A. V. v. St. Paul*, 505 U.S. 377, 395 (1992)). The "regulation of speech is content based if a law applies to particular speech because of the topic discussed or the idea or message expressed." *Id.*

Courts must consider whether the regulation of speech distinguishes speech based on the message the speaker conveys. *Id.* (citing *Sorrell v. IMS Health Inc.*, 564 U.S. 552, 564 (2011)). Speech is content neutral when the regulations “are justified without reference to the content of the regulated speech.” *Renton v. Playtime Theatres*, 475 U.S. 41, 48 (1986) (quoting *Virginia Pharmacy Bd. v. Virginia Citizens Consumer Council, Inc.*, 425 U.S. 748, 771 (1976)). However, even if the restriction appears to be content neutral, if the purpose is to suppress speech or burden expression then the restriction is unconstitutional. *Sorrell*, 564 U.S. at 566. “The principal inquiry in determining content neutrality . . . is whether the government has adopted a regulation of speech because of disagreement with the message it conveys.” *Ward v. Rock Against Racism*, 491 U.S. 781, 791 (1989) (citing *Clark v. Community for Creative Non-Violence*, 468 U.S. 288, 295 (1984)).

CADS exclusively limits the sharing of individuals’ private information to protect them from harassment and injury. The restriction itself is not focused or related to any specific message being conveyed. Instead, CADS only attempts to generally restrict the dissemination of personal information with the intent of harassing and injuring individuals. Further, Delmont adopted CADS to prevent the harm and harassment of individuals, not to suppress the political discourse. Therefore, CADS is content neutral and is not presumptively unconstitutional.

**C. Under any standard that this Court uses to evaluate CADS, the statute survives.**

**1. Even if this Court determines that CADS is not content neutral, CADS survives strict scrutiny.**

If this Court determines that CADS is not content neutral, then CADS is presumptively unconstitutional unless it satisfies strict scrutiny. *Reed*, 576 U.S. at 163–64. To survive strict scrutiny, CADS will have to establish two points. First, that Delmont had a “compelling state interest” to enact CADS. *Id.* at 163. Second, that CADS restrictions are narrowly tailored to achieve the state’s interest. *Id.* For the State to establish a compelling state interest it must identify

a problem that needs solving and limiting speech must be necessary to the solution. *Brown v. Ent. Merchs. Ass'n*, 564 U.S. 786, 799 (2011) (citing *United States v. Playboy Ent. Group*, 529 U.S. 803, 822–23 (2000)).

**i. CADS is facially neutral because it does not refer to any religious practice.**

Courts have consistently recognized that health and safety are legitimate state interests. *Norris v. Stanley*, 73 F.4th 431, 436 (6th Cir. 2023) (citing *Roman Catholic Diocese v. Cuomo*, 592 U.S. 14, 18 (2020)). See also *Burk v. Augusta-Richmond Cnty.*, 365 F.3d 1247, 1267 (11th Cir. 2004) (“It is axiomatic that a government has a compelling interest in providing for the safety of its citizens.”). Justice Thomas best explains this in his concurrence, where he explains that the Constitution “principally entrusts ‘[t]he safety and the health of the people’ to the politically accountable officials of the States ‘to guard and protect.’” *S. Bay United Pentecostal Church v. Newsom*, 590 U.S. 965, 967 (2020) (Thomas, J., concurring) (quoting *Jacobson v. Massachusetts*, 197 U.S. 11, 38 (1905)).

Delmont’s officials faced a difficult decision regarding how to prevent the campus-centered violence. This violence stemmed from sharing a targeted person’s information, without permission, which often lead to violence, harassment, and in some cases hospitalization of victims. To address this public safety concern, Delmont’s government chose to limit speech that disseminated certain private information if that information was shared with the requisite intent, which is essentially to cause that person harm. Therefore, Delmont has a compelling state interest to protect public health and to prevent attacks on, and harassment of, its citizens.

**ii. CADS is narrowly tailored to further Delmont’s legitimate interest.**

For speech to be narrowly tailored, it must not “burden substantially more speech than is necessary to further the government’s legitimate interest.” *McCullen v. Coakley*, 573 U.S. 464,

486 (2014) (*quoting Ward*, 491 U.S. at 796). Additionally, if the regulation is considered underinclusive, or otherwise a poor fit, this can undermine the credibility of the stated rationale for restricting the speech. *Republican Party v. White*, 536 U.S. 765, 780 (2002).

Prior to enacting the statute, Delmont's government carefully considered several alternatives to ensure they chose the best course of action. Knowing those other measures would fail to protect Delmont's people, Delmont's officials chose to move forward with CADS. Additionally, CADS itself was drafted to be narrow, focusing only on the nonconsensual dissemination of a person's personal information with the intent of causing that person harm. Any limitations on speech are confined to a limited set of information in limited situations. Therefore, because Delmont has a compelling interest to ensure public safety and CADS was drafted narrowly to address this interest, CADS survives strict scrutiny.

**2. Because CADS is content neutral, evaluating CADS under intermediate scrutiny indicates that CADS is constitutional.**

Content neutral restrictions are analyzed using intermediate scrutiny. *Turner Broad. Sys., Inc. v. F.C.C.*, 512 U.S. 622, 662 (1994). A content-neutral restriction will survive intermediate scrutiny if "it furthers an important or substantial governmental interest; if the governmental interest is unrelated to the suppression of free expression; and if the incidental restriction on alleged First Amendment freedoms is no greater than is essential to the furtherance of that interest." *Id.* (*quoting United States v. O'Brien*, 391 U.S. 367, 377 (1968)).

This intermediate scrutiny standard is lower than strict scrutiny. *See Recht v. Morrissey*, 32 F.4th 398, 410 (4th Cir. 2022) ("[I]ntermediate scrutiny is 'less onerous' than strict scrutiny."). As discussed above, Delmont has a compelling government interest in promoting public safety and CADS is narrowly tailored to achieve that end. Therefore, CADS clearly survives the lower threshold imposed by intermediate scrutiny.

**3. If this Court deems CADS is outside the scope of First Amendment protection, then applying rational basis review indicates CADS is constitutional.**

Regulations on speech that are not protected by the First Amendment will be upheld “if there is any reasonably conceivable state of facts that could provide a rational basis for its enactment.” *Free Speech Coal., Inc. v. Paxton*, 606 U.S. 461, 471–72 (2025) (quoting *FCC v. Beach Commc’ns, Inc.*, 508 U.S. 307, 313 (1993)). Further under the rational basis review, “[t]he general rule is that legislation is presumed to be valid and will be sustained if the classification drawn by the statute is rationally related to a legitimate state interest.” *City of Cleburne v. Cleburne Living Ctr.*, 473 U.S. 432, 440 (1985) (citing *Schweiker v. Wilson*, 450 U.S. 221, 230 (1981)). Additionally, the law need not be logically consistent to be constitutional if there is an issue that needs to be corrected and the regulation was determined a rational way to correct it. *Williamson v. Lee Optical of Oklahoma, Inc.*, 348 U.S. 483, 487–88 (1955).

As previously stated, Delmont attempted to address this issue where individuals experienced harm quickly after having their personal information released to the public. Delmont chose to enact CADS to prevent this nonconsensual sharing of people’s personal information. This state action is clearly a rational response to address the issue plaguing Delmont. Therefore, whether this Court chooses to analyze CADS under strict scrutiny, intermediate scrutiny, or rational basis review, CADS is constitutional and any limitations on the Church’s speech does not violate its First Amendment Free Speech rights.

**II. CADS is neutral and generally applicable; therefore the *Smith* test governs and CADS does not violate First Amendment Free Exercise rights.**

The Free Exercise Clause forbids laws that “prohibit[t]” the free exercise of religion. U.S. Const. Amend. I. “The crucial word in the constitutional text is ‘prohibit,’ for it makes clear the Free Exercise Clause is written in terms of what the government cannot do to the individual, not

in terms of what the individual can exact from the government.” *Mahmoud v. Taylor*, 606 U.S. 522, 601 (2025) (Sotomayor, J., dissenting) (cleaned up). The Free Exercise Clause does not require the government to behave in ways “that the individual believes will further his or her spiritual development or that of his or her family.” *Id.* While “we might wish that it were otherwise, government simply could not operate if it were required to satisfy every citizen's religious needs and desires.” *Lyng v. Nw. Indian Cemetery Protective Ass'n*, 485 U.S. 439, 452 (1988).

**A. The *Smith* test is the appropriate inquiry for CADS because the law is neutral and generally applicable.**

This Court’s holding in *Employment Division v. Smith* extracted a single categorical rule from the Court’s long history of free exercise precedents, which is that: the government is generally free to place incidental burdens on religious exercise so long as it does so pursuant to a *neutral* policy that is *generally applicable*. *Mahmoud*, 606 U.S. at 564. Accordingly, once the government is found to have burdened the free exercise of religion, the first inquiry is to determine whether the regulation at issue is both neutral and generally applicable. Thus, in most circumstances, two questions remain after finding a burden on religious exercise. The first is whether the regulation at issue is neutral and generally applicable.

**1. CADS is facially neutral and exhibits no attempt at covert suppression of religious belief.**

**i. CADS is facially neutral.**

The Government fails to act neutrally “when it proceeds in a manner intolerant of religious beliefs or restricts practices because of their religious nature.” *Fulton v. Philadelphia*, 593 U.S. 522, 533 (2021). There are many ways to demonstrate that the object or purpose of a law is religious intolerance or the suppression of religious practices or conduct. The foremost method for demonstrating such intolerance is to begin with the law’s text, “for the minimum requirement of neutrality is that a law not discriminate on its face.” *Church of Lukumi Babalu Aye, Inc. v. City of*

*Hialeah*, 508 U.S. 520, 533 (1993). Under this inquiry, a law will be deemed to lack facial neutrality “if it refers to a religious practice without a secular meaning discernable from the language or context.” *Id.*

CADS was passed by the Delmont State Legislature and signed into law by the Governor of the state of Delmont on September 12, 2025. 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 a Delmont college or university with the intent to ‘stalk, harass, or physically injure.’” R. at 6. CADS also defines key terms, including: “intent,”<sup>1</sup> “stalk,”<sup>2</sup> “harass,”<sup>3</sup> “injure,”<sup>4</sup> and “private information.”<sup>5</sup>

The text of CADS is facially neutral. It does not mention The Church of Light or Lightbearers, nor does it refer to religious practice or adherents of any kind. Its terms are secular on their face. For that reason, CADS passes this Court’s requirement of facial neutrality.

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<sup>1</sup> “Intent” is defined as “acting purposefully or recklessly to place a person in reasonable fear of bodily injury, death, or property damage as to cause severe emotional distress to such person.” Del. Ann. Stat. § 163.732 (2020).

<sup>2</sup> “Injure” means to subject another to bodily injury or death or property damage.

<sup>3</sup> “Harass” means to subject another to severe emotional distress such that the individual experiences anxiety, fear, torment or apprehension that may or may not result in a physical manifestation of severe emotional distress or a mental health diagnosis and is protracted rather than merely trivial or transitory.

<sup>4</sup> “Stalk” means to engage in a pattern of unwanted, obsessive, and intrusive behavior that would cause a reasonable person to feel threatened or fear for their safety or the safety of others.

<sup>5</sup> “Private Information” means: (A) The plaintiff’s home address, personal email address, personal phone number, social security number, or any other personally identifiable information; (B) Contact information for the plaintiff’s employer; (C) Contact information for a family member of the plaintiff; (D) Photographs of the plaintiff’s children; (E) Identification of the school that the plaintiff’s children attend.

**ii. CADS exhibits no attempt at the “covert suppression” of religion.**

While facial neutrality is necessary, it is not determinative. The protections of the Free Exercise Clause extend beyond facial neutrality, forbidding not only explicit but also subtle departures from neutrality, which result in the covert suppression of religious beliefs. *Lukumi*, 508 U.S. at 534. Accordingly, “official action that targets religious conduct for distinctive treatment cannot be shielded by mere compliance with the requirement of facial neutrality.” *Id.* This Court has developed a myriad of ways to probe for the existence of the covert suppression of religious beliefs. Specifically, this Court has found various factors relevant to the assessment of governmental neutrality, including: “the historical background of the decision under challenge, the specific series of events leading to the enactment or official policy in question, and the legislative or administrative history, including contemporaneous statements made by members of the decisionmaking body.” *Masterpiece Cakeshop v. Colorado C.R. Comm’n*, 584 U.S. 617, 639 (2018).

The historical background and the events leading up to the passage of CADS confirm that it was enacted in response to escalating campus doxxing, and not out of a desire for religious hostility. It began in the Fall of 2024, when the Delmont legislature began debating a development project. R. at 4. In response to the matter, two sides formed. *Id.* Both sides organized, protested, and lobbied for their viewpoints. The issue soon became contentious, and in April 2025, it became inflamed, leading to clashes between the sides at rallies and marches, sometimes resulting in physical altercations that required police intervention. R. at 4–5. The clashes were most pronounced on college campuses in Delmont, where incidents including the storming of libraries, the disruption of classes, and the ambush, intimidation, and physical assault of students occurred. R. at 5. Police discovered that the incidents on campuses occurred because of “flash-shares,” in

which a particular victim’s phone number, picture, location, and other personal information are shared across multiple formats, allowing them to be identified and located quickly, so quickly that the police could not intervene in time. This practice of sharing personal information to intimidate someone is known as “doxxing.” Within Delmont, prior to CADS’ passage, doxxing incidents increased by 150%, with almost all occurring on Delmont college campuses. R. at 6.

The historical background underlying the adoption of CADS, as well as the specific events underlying its enactment, demonstrate that CADS was adopted to solve “a wide-ranging problem in Delmont, not to target the Lightbearers.” R. at 38. CADS was adopted to address the growing issue of flash-shares, which had increased by 150% prior to the statute’s passage, resulting in a wave of physical confrontations, calls, and e-mail or social media messages swarming victims. Accordingly, CADS demonstrates no signs of the “covert suppression” of religion and is thus neutral.

**2. CADS is generally applicable because it provides no form of individualized exceptions, nor does it allow secular activity whilst disallowing religious activity of the same nature.**

Beyond neutrality, the free exercise clause also requires that laws that burden religious practice must be generally applicable. *See Fulton*, 593 U.S. at 533. General applicability represents the “principle that government, in pursuit of legitimate interests, cannot in a selective manner impose burdens only on conduct motivated by religious belief.” *Lukumi*, 508 U.S. at 543. In determining whether a law is generally applicable, this Court has found that a law is *not* generally applicable if it “invites the government to consider the particular reasons for a person’s conduct by providing a mechanism for individualized exemptions.” *Fulton*, 593 U.S. at 523 (cleaned up). Furthermore, this Court has also found a law to lack general applicability if it “prohibits religious conduct while permitting secular conduct that undermines the government’s asserted interests in a similar way.” *Id.* at 534.

CADS is generally applicable for two reasons. First, it contains no mechanism for individualized exemptions. Second, it does not permit comparable secular conduct that undermines Delmont’s anti-doxxing interest. Examining the text of CADS reveals that there exists no system for providing individualized exceptions to the law’s application; the law is quite explicit in the prohibition against the intentional dissemination of personal information by “any individual.” R. at 6. Regarding the prohibition of religious conduct whilst allowing secular conduct that undermines the law’s objectives, CADS does not prohibit any conduct that is religious in nature. Rather, CADS prohibits the use of any “communication platform . . . to disclose [the] private information of an enrolled student, faculty member, administrative or staff member at a Delmont college or university.” *Id.* While this prohibition does run into conflict with The Church of Light’s requirement of the “personal, live, and public proclamation of their religious message,” such a conflict does not establish that CADS is not generally applicable. Rather, what matters is that CADS does not prohibit this conduct for religious purposes and that it doesn’t allow it for secular purposes either. In the words of the Fifteenth Circuit, “the same restrictions on the sharing of personal information” apply regardless of whether the information is shared for a religious or non-religious reason. Accordingly, CADS is generally applicable.

**B. The exception to the *Smith* standard articulated within *Mahmoud v. Taylor* for cases resembling a burden imposed of the kind found in *Wisconsin v. Yoder* is inapplicable to the present case.**

Under this Court’s precedents, the government is generally free to place incidental burdens on the free exercise of religion so long as they are done pursuant to a neutral and generally applicable policy. *Mahmoud*, 606 U.S. at 564. Accordingly, under normal circumstances, the free exercise clause requires a two-step inquiry. *Id.* However, this Court has articulated an exception to this standard inquiry in cases in which the burden imposed is of the same character as that imposed in *Wisconsin v. Yoder*, 406 U.S. 205 (1972). *Mahmoud*, 606 U.S. at 564 (“When the

burden imposed is of the same character as that imposed in *Yoder*, we need not ask whether the law at issue is neutral or generally applicable before proceeding to strict scrutiny. That much is clear from our decisions in *Yoder* and *Smith*.”).

*Yoder* concerned Amish parents who wished to withdraw their children from conventional schooling after the eighth grade, in contravention of Wisconsin law, which required children to attend school until the age of 16. *Id.* at 543, 549. In *Yoder*, this Court found that the threat to religious exercise was premised on the fact that mandatory high school education would expose Amish children to worldly influences in terms of “attitudes, goals, and values contrary to their beliefs and would ‘substantially interfere’ with the religious development of the Amish child.” *Id.* at 549 (cleaned up). This Court held that that substantial interference violated the parents’ free exercise rights because the compulsory education law carried with it “precisely the kind of objective danger to the free exercise of religion that the First Amendment was designed to prevent,” because it placed Amish children into “an environment hostile to Amish beliefs,” where they would face “pressure to conform” to contrary viewpoints and lifestyles. *Id.* at 549–50.

Despite the District Court’s contentions to the contrary, the above demonstrates how narrow this Court’s holding in *Yoder* is and that the “burden imposed” was a substantial interference with a parent’s right to direct the religious development of their minor children. In examining the present case, there is no evidence that CADS creates an environment hostile to the Lightbearers’ beliefs. Nor is there any evidence that Lightbearers face “pressure to conform” because of CADS. While it has been argued that CADS prevents “*the young missionaries from spreading their message*,” CADS does no such thing. Rather, it merely prohibits any individual from using a communication platform to “disclose private information of an enrolled student, faculty member, administrative or staff member at a Delmont college or university with the intent

to ‘stalk, harass, or physically injure.’” R. at 6. Beyond this, CADS also fails to invoke the unique circumstances underlying *Yoder* because of the population implicated by the statute. *Yoder* focused specifically on interference with the religious development of the Amish child; CADS instead focuses on the spread of private information through communication platforms. A comparison of the two couldn’t be more inapposite. Accordingly, application of *Yoder*’s exception to the standard Free Exercise inquiry would be inappropriate to the present case.

**C. The hybrid rights exception articulated by this Court is inapplicable. Since its announcement, this Court has only ever applied the doctrine retroactively, and it has since divided lower courts. Justice Souter’s concurrence illustrates the unworkable nature of such a doctrine.**

This Court, in *Smith*, characterized the “only decisions” in which it invalidated otherwise neutral and generally applicable laws burdening the free exercise of religion as constituting instances wherein the Free Exercise Clause is implicated in conjunction with other constitutional protections. *Emp. Div. v. Smith*, 494 U.S. 872, 881 (1990) (“The only decisions in which we have held that the First Amendment bars application of a neutral, generally applicable law to religiously motivated action have involved 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.”). This marked the inception of the so called “hybrid-rights doctrine.” *Henderson v. McMurray*, 987 F.3d 997, 1005 (11th Cir. 2021) (“The ‘hybrid-rights doctrine’ is derived from a paragraph in *Smith* in which the Supreme Court explained why its decision was consistent with earlier decisions recognizing rights to exemptions from general laws that incidentally burdened the free exercise of religion.”).

Since this Court’s opinion in *Smith* recognizing the hybrid-rights doctrine, it has yet to find the doctrine to apply in any other case. R. at 40. In fact, this Court has explicitly declined to apply the doctrine when given the opportunity to do so. *See Mahmoud*, 606 U.S. at 565 n.14 (“We need

not consider whether the case before us qualifies as such a ‘hybrid rights’ case.”). The precarious position this doctrine occupies within this Court’s jurisprudence is best summarized by Justice Souter: “the distinction *Smith* draws strikes me as ultimately untenable. If a hybrid claim is simply one in which another constitutional right is implicated, then the hybrid exception would probably be so vast as to swallow the *Smith* rule.” *Lukumi*, 508 U.S. at 566–67 (Souter, J., concurring).

The questions regarding the application of the hybrid-rights didn’t end with Justice Souter. Lower courts have routinely reached conflicting conclusions regarding whether to apply the hybrid-rights doctrine. *See Telescope Media Grp. v. Lucero*, 936 F.3d 740, 759–60 (8th Cir. 2019) (“*Smith* did more than simply speculate about how to treat a hybrid claim in some hypothetical future case. Rather, it described the operation of an *existing* [hybrid-rights] doctrine, one that it then applied to the parties.”); *Henderson*, 987 F.3d at 1006–07 (“As an inferior court, we must do the best we can with the hybrid-rights doctrine—dicta or not.”); *Knight v. Connecticut Dep’t of Pub. Health*, 275 F.3d 156, 167 (2d Cir. 2001) (“The allegation that a state action that regulates public conduct infringes more than one of a public employee’s constitutional rights does not warrant more heightened scrutiny than each claim would warrant when viewed separately.”); *Kissinger v. Bd. of Trs. of Ohio State Univ., Coll. of Veterinary Med.*, 5 F.3d 177, 180–81 (6th Cir. 1993) (“We do not see how a state regulation would violate the Free Exercise Clause if it implicates other constitutional rights but would not violate the free Exercise Clause if it did not implicate other constitutional rights . . . Such an outcome is completely illogical.”); *Leebaert v. Harrington*, 332 F.3d 134, 144 (2d Cir. 2003) (“We decline to adopt this approach. We agree . . . with the Sixth Circuit’s view of the [hybrid-rights doctrine]).”

This Court, in evaluating the petitioner’s claim, should side with Justice Souter, the Second, Sixth, and Fifteenth Circuits, and hold that the hybrid-rights doctrine, while relevant to this Court’s

past decisions, no longer makes jurisprudential sense and is confined to the annals of history. Accordingly, this Court should decline to apply the hybrid-rights doctrine in the present case and should instead find that The Church of Light's claims against CADS may be evaluated only under the general *Smith* framework.

**D. CADS is rationally related to a legitimate government interest and is thus constitutionally valid.**

When subject to rational basis review, a contested law is to be upheld when there exists a rational relation between the law and the legitimate governmental purposes underlying its passage. *Stormans, Inc. v. Wiesman*, 794 F.3d 1064, 1084 (9th Cir. 2015).

Delmont has a legitimate interest in preventing intimidation and violence on its campuses by deterring doxxing. CADS advances that interest in a rational way. It targets the disclosure of private information through any communication platform. And it requires an individual to have the intent of "acting purposefully or recklessly to place a person in reasonable fear of bodily injury, death, or property damage." R. at 6. These components focus potential liability on doxxing, used to facilitate threats, intimidation, and actual harm, rather than on ordinary speech. While Petitioner will likely argue that CADS burdens their "personal, live, and public proclamation of their religious message," rational basis review does not require the government to adopt the least restrictive means. Rather, all that is required is that the rule adopted rationally relates to the government's legitimate interest. Based on the above-stated facts, the rational basis review has been more than satisfied, and CADS is constitutional.

## CONCLUSION

For the foregoing reasons, Marshall respectfully requests that this Court affirm the Fifteenth Circuit's decision and allow her CADS claim to proceed.

Respectfully submitted,  
Respondent 35  
February 6, 2026  
Counsel for Respondent

## CERTIFICATE OF COMPLIANCE

We, the undersigned members of Team Respondent 35, certify the following:

- (1) The work product contained in all copies of our brief is in fact the work product of our team members;
- (2) We team has complied fully with our law school's governing honor code; and
- (3) We have complied with all Competition Rules.

Respectfully submitted,

Team Respondent 35