

No. 25-CV-1994

In the
Supreme Court of the United States
March Term 2026

CHURCH OF LIGHT, LLC,

v.

Petitioner,

LAURA MARSHALL

Respondent.

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

BRIEF FOR THE RESPONDENT

TEAM 36
Counsel for Respondent
February 6, 2026

QUESTIONS PRESENTED

- I. Whether the Campus Anti Doxxing Act, as a regulation of harmful conduct or true threats, nonetheless violates the First Amendment Free Speech rights of the Church of Light.
- II. Whether the Campus Anti-Doxxing Act violated the Church of Light's First Amendment Free Exercise rights where CADS is a neutral law of general applicability, enacted to quell the rise of doxxing incidents around Delmont's campuses, and does not actually interfere with the Church's proselytizing.

TABLE OF CONTENTS

QUESTIONS PRESENTEDi

TABLE OF CONTENTSii

TABLE OF AUTHORITIESiv

OPINIONS BELOW.....1

STATEMENT OF JURISDICTION.....1

STATEMENT OF THE CASE.....1

SUMMARY OF THE ARGUMENT4

ARGUMENT.....6

**I. THIS COURT SHOULD AFFIRM THE FIFTEENTH CIRCUIT BECAUSE IT
CORRECTLY HELD THAT CADS DOES NOT VIOLATE THE FIRST
AMENDMENT FREE SPEECH RIGHTS OF THE CHURCH OF LIGHT.6**

**A. Because doxxing is properly considered conduct rather than speech, the
Church’s First Amendment Free Speech rights are not implicated where
CADS proscribes exposing location information with intent to harm.6**

**B. Even if CADS does regulate speech, the Church’s Free Speech rights are not
violated because doxxing Marshall constituted a true threat, which is
unprotected by the First Amendment.7**

**C. Even if CADS restricts protected speech, it overcomes strict scrutiny because
it leaves ample alternative avenues for speech and advances Delmont’s
compelling interests in public safety and open discourse.12**

1. CADS is narrowly tailored.12

2. CADS furthers a compelling government interest.13

II. THIS COURT SHOULD AFFIRM THE FIFTEENTH CIRCUIT BECAUSE IT CORRECTLY HELD THAT CADS DOES NOT VIOLATE THE FIRST AMENDMENT FREE EXERCISE RIGHTS OF THE CHURCH OF LIGHT.....	15
A. CADS is neutral and generally applicable.....	16
1. <i>CADS is both facially and practically neutral.</i>	17
2. <i>CADS is generally applicable.</i>	19
B. The Fifteenth Circuit properly declined to adopt, and this Court should reject, the <i>Smith</i> hybrid rights exception.....	20
C. The Yoder framework is not applicable to this case because CADS poses no threat of undermining the Church’s religious dogma.	22
D. CADS is rationally related to the legitimate state interest of public safety.	23
1. <i>CADS satisfies rational basis review.</i>	23
2. <i>CADS survives both strict and intermediate scrutiny.</i>	24
CONCLUSION	25
APPENDIX A.....	26
CERTIFICATE OF COMPLIANCE	27

TABLE OF AUTHORITIES

UNITED STATES SUPREME COURT CASES

Adarand Constructors, Inc. v. Peña, 515 U.S. 200 (1995).....24

Burson v. Freeman, 504 U.S. 191 (1992)..... 14, 15

Cantwell v. Connecticut, 310 U.S. 296 (1940) 16

Church of Lukumi Babalu Aye, Inc. v. City of Hialeah, 508 U.S. 520 (1993)..... 13, 17, 18, 20

Counterman v. Colorado, 600 U.S. 66 (2023)..... 8, 9

Dunn v. Blumstein, 405 U.S. 330 (1972) 14

Emp. Div., Dept. of Human Res. of Or. v. Smith, 494 U.S. 872 (1990)..... 16, 19, 20, 23

Frisby v. Schultz, 487 U.S. 474 (1988)..... 12, 13, 24

Fulton v. City of Philadelphia, Pa., 593 U.S. 522 (2021) 19

Grutter v. Bollinger, 539 U.S. 306 (2003)..... 14

Heller v. Doe, 509 U.S. 312 (1993).....7

Mahmoud v. Taylor, 606 U.S. 522 (2025) 22

Masterpiece Cakeshop, Ltd. V. Colo. C.R. Comm’n, 584 U.S. 617 (2018)..... 18

New York Times Co. v. Sullivan, 376 U.S. 254 (1964)..... 15

R.A.V. v. St. Paul, 505 U.S. 377 (1992)..... 8

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Virginia v. Black, 538 U.S. 343 (2003)..... 8

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Ward v. Rock Against Racism, 491 U.S. 781 (1989) 12, 24

Williamson v. Lee Optical of Okla., Inc., 348 U.S. 483 (1955) 23

Wisconsin v. Yoder, 406 U.S. 205 (1972) 22

OTHER CASES

Aid for Women v. Foulston, 441 F.3d 1101 (10th Cir. 2006) 14

Axson-Flynn v. Johnson, 306 F.3d 1277 (10th Cir. 2002) 20, 21

Kissinger v. Bd. of Trs. Of the Ohio State Univ., Coll. of Vet. Med.,
5 F.3d 177 (6th Cir 1993) 21

Planned Parenthood of the Columbia/Willamette, Inc. v. Am. Coal. Of Life Activists, 290 F.3d
1058 (9th Cir. 2002) 8, 10

Rice v. Paladin Enters, Inc., 128 F.3d 233 (4th Cir. 1997) 7

Saltz v. City of Frederick, 538 F.Supp.3d 510 (D. Md. 2021) 14

Stormans, Inc. v. Wiesman, 794 F.3d 1064 (9th Cir. 2015) 23

Swanson v. Guthrie Indep. Sch. Dist., 135 F.3d 694 (10th Cir. 1998) 21

United States v. Dillard, 795 F.3d 1191 (10th Cir. 2015) 8

United States v. Gilbert, 884 F.2d 454 (9th Cir 1989) 8

United States v. Hanna, 293 F.3d 1080 (9th Cir. 2002) 9

United States v. Hart, 212 F.3d 1067 (8th Cir. 2000) 10

United States v. Viefhaus, 168 F.3d 392 (10th Cir. 1999) 8

Woollard v. Gallagher ,712 F.3d 865 (4th Cir. 2013) 15

STATUTES

28 U.S.C. § 1254(1) 1

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Dan A. Mitchell & Eugene Volokh, *Free Speech and Doxing* (Hoover Institution, 2025).....15

Eugene Volokh, *Speech as Conduct: Generally Applicable Laws, Illegal Courses of Conduct, “Situation-Altering Utterances,” and the Uncharted Zones*, 1277 Cornell L. Rev. 90, (2005).6

CONSTITUTIONAL PROVISIONS

U.S. Const. amend. I6, 16

OPINIONS BELOW

The opinion of the United States District Court for the District of Delmont, Western Division, is unreported and may be found at *Laura Marshall v. The Church of Light, LLC*, C. A. No. 25-CV-1994. (Dist. of Delmont 2025). R. at 2-29. The opinion of the United States Court of Appeals for the Fifteenth Circuit is unreported and may be found at *Laura Marshall v. The Church of Light, LLC*, C.A. No. 25-CV-1994. (15th Cir. 2025). R. at 30-43.

STATEMENT OF JURISDICTION

The United States Court of Appeals for the Fifteenth Circuit entered final judgment in favor of Respondent on December 29, 2025. R. at 41. Petitioner filed a petition for certiorari, which this Court granted on January 7, 2026. R. at 50. This Court has jurisdiction to review the decision of the Fifteenth Circuit pursuant to 28 U.S.C. § 1254(1).

STATEMENT OF THE CASE

I. Statement of Facts

In the summer of 2025, the state of Delmont was gripped by a political conflict regarding the development of state land for renewable energy. R. at 5. The debate quickly coalesced into two coalitions, Nature and Energy; became contentious; and spread onto Delmont college campuses. R. at 5. In August 2025, the controversy erupted and Delmont's colleges experienced a wave of violence, including disruption of classes, physical altercations, and intimidating phone calls. R. at 5, 48. Multiple students were hospitalized and a fire was started at a college administrator's home. R. at 5.

Law enforcement discovered that this violence was sparked by highly organized doxxing campaigns, referred to as "flash-shares." R. at 5. Student organizers would coordinate the rapid

dissemination of a victim’s personal information, allowing mobs to converge on the victim’s physical location and simultaneously send a wave of intimidating e-mails, phone calls, and social media messages. R. at 5-6. From late August to early September 2025, doxxing incidents increased by 150% in Delmont, with the vast majority occurring on college campuses. R. at 6.

In response to the rash of violence and volatility, the Delmont State Legislature passed the Campus Anti-Doxxing Statute (“CADS”) on September 15, 2025. R. at 6. The governor’s office evaluated other options, such as increased enforcement of criminal statutes, but found that existing alternatives were generally reactive. R. at 48. Therefore, they could not sufficiently address the underlying conduct causing harm. R. at 48. CADS was developed specifically to address doxxing and its proclivity for inciting violence. R. at 48.

CADS created a civil cause of action against any person who discloses private information of a Delmont college student, faculty, or staff member without consent on a communication platform, with the intent to stalk, harass, or injure. R. at 6. “Stalk,” “harass,” and “injure” have statutory definitions. CADS designates five categories of information as private: the plaintiff’s personally identifiable information, contact information for their employer, contact information for their family, photographs of their children, and identification of their children’s school. R. at 7.

There have been two successful lawsuits under CADS in Delmont state courts. R. at 7. In the first, the court awarded damages to a professor after his address was published in a student group chat and a mob subsequently threw rocks through his windows. R. at 7. In the second, after an activist’s workplace was published, protesters went to the address, blocked the entrance and prevented employees from leaving. R. at 7. The court enjoined the protesters from going to the jobsite. R. at 7.

The Church of Light (the “Church”) was founded in Delmont in the nineteenth century. R. at 8. Proselytizing via public proclamation and printed or communicative witness has always been a foundational practice of the Church, which requires all members to serve a missionary year between the ages of 18 and 22. R. at 8-9.

With advances in technology, the Church updated the format of its evangelism from printed newspapers to live television broadcasts, and then to internet livestreams. R. at 8-9. The Church’s student-missionaries now drive vans around college campuses that have large screens on the sides. R. at 9. The screens play Church broadcasts; they also show local news, weather, and other community resource information. R. at 9.

The Church’s missionaries at Delmont State University (“DSU”) supported the Energy Coalition. R. at 10. In September 2025, the missionaries filmed a speech given by Laura Marshall, a DSU student and Nature activist. R. at 10. The missionaries then began broadcasting a video of Marshall’s speech on the Church’s vans multiple times per day. R. at 10. Marshall’s speech was immediately followed by a photograph of Marshall at the Delmont Treatment Center (“DTC”), a substance abuse nonprofit. R. at 10. The name of the center was clearly visible, and DTC’s address and phone number were first on an accompanying list of student resources. R. at 10. Of the seven addiction treatment centers in Delmont City, the broadcast only featured photographs of two, including DTC. R. at 10.

At the time, Marshall was both a part-time employee and a patient at DTC. R. at 11. Within a day of the photograph’s publication on Church vans, protesters gathered at the treatment center, confronted and insulted Marshall as she was leaving, and keyed her car. R. at 11. Protesters appeared again the next night, forcing Marshall to quit her job and withdraw from treatment for her own safety and that of other patients. R. at 11.

II. Procedural History

On October 3, 2025, Marshall brought suit against the Church under CADS, seeking damages and injunctive relief. R. at 12. Marshall alleged that the Church's broadcast violated CADS when it published her private information with the intent that she would be subject to statutory harm. R. at 12. The Church moved for summary judgment on the basis that CADS infringed on its free speech and free exercise rights under the First Amendment. R. at 12.

On December 8, 2025, the District Court for the District of Delmont granted summary judgment for the Church. R. at 29. Marshall appealed, and on December 29, 2025, the Court of Appeals for the Fifteenth Circuit reversed the District Court and denied the Church's motion for summary judgment. R. at 43. The Fifteenth Circuit held that CADS did not violate either the Church's free speech or free exercise rights. R. at 43. The Church filed a petition for a writ of certiorari on December 30, 2025. R. at 49. On January 7, 2026, this Court granted certiorari to address whether CADS violates the First Amendment free speech or free exercise rights of the Church. R. at 50.

SUMMARY OF THE ARGUMENT

CADS does not violate the First Amendment Free Speech or Free Exercise rights of the Church of Light.

I. Free Speech

This Court should affirm the decision of the Fifteenth Circuit because CADS only penalizes doxxing by proscribing the publication of a target's location data with the intent to harm. Doxxing, articulating no ideational expression and functioning strictly to harass and incite violence, is conduct and not speech. Thus, CADS fits within a well-established tradition of regulating similarly caustic and unexpressive communications as a harmful course of conduct

unprotected by the Constitution. Because CADS only restricts doxxing, it does not violate the Church's free speech rights.

However, if CADS does regulate speech, it only restricts true threats which are not protected by the First Amendment. The Church's act of doxxing Marshall harmed and recklessly endangered her, therefore, constituting a true threat. What's more, even if CADS is subject to strict scrutiny as content based regulation of protected speech, it is narrowly tailored by sanctioning only the publication of private information intended to harm others while advancing the compelling interest of public safety. The State of Delmont enacted CADS to prevent actions leading to physical injury and public fear of serious harm. Where a lack of action would be a governmental dereliction of duty, CADS passes strict scrutiny.

II. Free Exercise

This Court should affirm the decision of the Fifteenth Circuit because CADS is neutral and generally applicable. CADS is uniformly applied to any individual with the intent to "stalk, harass, or physically injure" another member of the Delmont community. Because the law is designed to improve public safety for all community members, CADS does not violate the free exercise rights of the Church by specifically banning their religious practices, nor does it meet the requirements of exceptions reflected within the Court's dicta. Thus, CADS does not satisfy the hybrid rights and *Yoder* extensions of strict scrutiny and must only subject itself to a rational basis test. Even if the Court chooses to embrace either exception, CADS survives both strict and intermediate scrutiny because it is narrowly tailored to advance the compelling government interest in public safety.

This Court should uphold the ruling of the Fifteenth Circuit on both the Free Speech and Free Exercise questions. There is no greater protection for the First Amendment than securing the safety of the citizens who exercise it.

ARGUMENT

I. THIS COURT SHOULD AFFIRM THE FIFTEENTH CIRCUIT BECAUSE IT CORRECTLY HELD THAT CADS DOES NOT VIOLATE THE FIRST AMENDMENT FREE SPEECH RIGHTS OF THE CHURCH OF LIGHT.

The first issue on appeal is whether CADS violates the Church's First Amendment Free Speech rights. The First Amendment states that "Congress shall make no law respecting an establishment of religion, or prohibiting the exercise thereof; or abridging the freedom of speech." U.S. Const. amend. 1. The judgement of the Fifteenth Circuit should be affirmed because it properly held that the Church's right to free speech was not infringed by CADS.

A. Because doxxing is properly considered conduct rather than speech, the Church's First Amendment Free Speech rights are not implicated where CADS proscribes exposing location information with intent to harm.

Courts have long recognized that when spoken or written words are used as the instrument of professional practice, criminal activity, and actionable harassment, those words may be treated as regulated conduct rather than speech. Eugene Volokh, *Speech as Conduct: Generally Applicable Laws, Illegal Courses of Conduct, "Situation-Altering Utterances," and the Uncharted Zones*, 1277 Cornell L. Rev. 90, 1284 (2005). Professional counseling, fraudulent misrepresentations, criminal solicitation, agreements in restraint of trade, and harassing communications all involve speech, yet the state may regulate them without involving the First Amendment. *Id.* at 1284-90. Additionally, publishing a news story revealing the identity of a witness may violate laws criminalizing the facilitation of witness intimidation; writing an article sourcing to pirated material may constitute contributory copyright infringement; creating advertisements advocating for jury nullification may be punished by laws prohibiting attempts to influence jurors; and protesting the development of a group home for the disabled could violate the Federal Housing Act's proscription on interfering with any person's right to be free from disability-based housing discrimination. *Id.* at 1279-81 (2005). Accordingly, there is a well-

established tradition of treating speech offering minimal expression and largely harmful effects as conduct not covered by the First Amendment.

Doxxing is properly considered conduct rather than speech and therefore does not implicate the First Amendment. The preceding examples of speech defined as conduct all have low expressive value relative to their potential for harm when left unregulated. Because doxxing causes harassment and real-world violence, is meant to injure, and presents no creative or political articulation, it is more conduct than speech. Therefore, by restricting the violent practice of doxxing, CADS does not implicate the First Amendment. “[S]peech which, in its effect, is tantamount to legitimately proscribable nonexpressive conduct may itself be legitimately...punished...[and] regulated.” *Rice v. Paladin Enters, Inc.*, 128 F.3d 233, 243 (4th Cir. 1997).

CADS does not implicate speech; therefore, the Church’s challenge raises no issue of fundamental rights and is subject only to rational basis review. *Heller v. Doe*, 509 U.S. 312, 319-20 (1993). Under rational basis, CADS is rationally related to securing the legitimate interest of stopping campus harassment and promoting public safety.

Because CADS regulates behavior not protected by the Constitution, the Church’s First Amendment Free Speech rights are not violated.

B. Even if CADS does regulate speech rather than conduct, the Church’s Free Speech rights are not violated because doxxing Marshall constituted a true threat, which is unprotected by the First Amendment.

Even if CADS is a content-based speech restriction, it does not violate the Church’s First Amendment rights because: (1) CADS, by prohibiting threats, proscribes categorically unprotected speech; (2) doxxing qualifies as a true threat by instilling a reasonable fear of violence through targeted disclosures; and (3) CADS restricts only doxxing.

Laws regulating true threats are not subject to strict or intermediate scrutiny because true threats are “outside the bounds of First Amendment protection.” *Counterman v. Colorado*, 600 U.S. 66, 69 (2023). The Constitutional inquiry asks whether the statute (1) is limited to threats and (2) avoids sweeping in protected speech through overbreadth, vagueness, or viewpoint discrimination. *Id.* In such cases, the state may place “restrictions upon the content of speech” clearly harmful to “the social interest in order and morality.” *R.A.V. v. St. Paul*, 505 U.S. 377, 383 (1992) (citation and punctuation omitted). Therefore, content-based restrictions of speech constituting a true threat are evaluated simply to determine whether their restraints are limited to such threats.

A true threat is defined as a statement that puts someone in fear of violence. *Virginia v. Black*, 538 U.S. 343, 359 (2003). Courts consider all speech intended to “inflict evil, injury or damage on another” as a threat even if the message lacks explicitly violent language. *Planned Parenthood of the Columbia/Willamette, Inc. v. Am. Coal. of Life Activists*, 290 F.3d 1058, 1075 (9th Cir. 2002); *See, e.g., United States v. Gilbert*, 884 F.2d 454, 457 (9th Cir. 1989) (“[t]he fact that a threat is subtle does not make it less of a threat”). What’s more, a threat can be made regardless of the speaker’s intent to “carry it out.” *Id.*; *See, e.g., United States v. Dillard*, 795 F.3d 1191, 1199 (10th Cir. 2015) (“the speaker need not intend to actually act upon the threat”) (citation and punctuation omitted). Nor is it necessary to prove that the speaker had “the apparent ability to carry out the threat;” instead the question “is whether those who hear or read the threat reasonably consider that an actual threat has been made. It is the making of the threat [. . .] that violates the law.” *United States v. Viefhaus*, 168 F.3d 392, 395-96 (10th Cir. 1999).

Because CADS only prohibits doxxing, the Church’s free speech rights are not implicated, given that there is no First Amendment right to threaten. Doxxing is “the public

release of an individual’s private, sensitive, personal information, such as [. . . e]mployer and employer contact info [. . . which is already] publicly available.” Julian MacAllister, *The Doxing Dilemma: Seeking a Remedy for the Malicious Publication of Personal Information*, 85 Fordham L. Rev. 2451, 2456 (2017). By sharing the location of a target, doxxing “moves the harassment from the internet into the physical world, putting the subject in actual physical danger. In addition, doxing makes personal information more accessible [. . .] increasing the harassment by putting the subject at risk of injury or violence from a large audience.” *Id.* at 2457. Doxxing therefore facilitates targeted harassment. Delmont is not alone in experiencing a rise in doxxing related crime as such incidents have increased throughout the country, surging after 2024.¹ Accordingly, Delmont and many other states have created civil and criminal penalties for doxxing.² Because doxxed individuals are made to fear for their safety, the practice is a true threat. By restricting only personal information shared with the intent to harm, CADS only burdens speech which the Church has no constitutional right to make.

Proof that a speaker acted recklessly is dispositive of whether they possessed the necessary intent to make a threat. *Counterman*, 600 U.S. at 69. A threat is made recklessly when a speaker consciously disregards a substantial risk that their conduct will cause harm. *Voisine v. United States*, 579 U. S. 686, 691 (2016). Context and the reaction of listeners are probative of whether a speaker was reckless. *United States v. Hanna*, 293 F.3d 1080, 1087 (9th Cir. 2002).

¹ “Since 2024, incidents of doxxing and swatting have increased significantly. Factors contributing to this trend include the accessibility of low-cost technologies, heightened political tensions, and online disinformation.” *Escalating Threats of Doxxing and Swatting: An Analysis of Recent Developments and Legal Responses*, Nat’l Ass’n Attys. Gen., www.naag.org/attorney-general-journal/the-escalating-threats-of-doxxing-and-swatting-an-analysis-of-recent-developments-and-legal-responses/ (Aug. 25, 2025).

² For a complete list of states criminalizing doxxing, *See, Doxing: State Protections Against Digital Threats*, Council of State Gov’ts, www.csg.org/2025/10/31/doxing-state-protections-against-digital-threats/ (Oct. 31, 2025).

The audience reaction to and the climate in which an otherwise innocuous statement is made can determine its meaning as a threat. *United States v. Hart*, 212 F.3d 1067, 1071 (8th Cir. 2000). In *Hart*, the Eighth Circuit rejected Fred Hart’s argument that “merely parking a Ryder truck at the entrance of an abortion clinic cannot in and of itself constitute a threat of force.” *Id.* at 1072 (internal quotation marks omitted). Hart argued that the trucks presented no danger and “were unaccompanied by threats of death or physical injury.” *Id.* However, given the association of Ryder trucks with the Oklahoma City bombing³ and the fear their presence caused to clinic staff, the jury was justified in finding Hart’s expressive conduct was not constitutionally protected. *Id.* at 1072. Thus, under the circumstances, Hart’s placement of the Ryder trucks demonstrated that he recklessly disregarded the substantial risk that his communications would be interpreted as threatening violence. *Id.*

Much like Hart’s use of a truck synonymous with an infamous bombing, the Church’s publication of Marshall’s location information and political demonstration, on a campus gripped by a doxxing crisis precipitated by intense political disagreement, constitutes a true threat. The context in which Marshall’s information was presented is framed by a “history...giv[ing] meaning to the medium.” *Planned Parenthood of the Columbia/Willamette, Inc.*, 290 F.3d at 1078. The history here is that of targeted attacks by Energy Farm Coalitionists against Nature Coalitionists and vice versa. On the DSU campus, the medium of sharing someone’s personal information in conjunction with their political action is, therefore, given the meaning of a threat.

³ The explosive detonated in the Oklahoma City Bombing was placed in a rented Ryder truck parked outside the Alfred P. Murrah Federal Building. *Oklahoma City Bombing*, Fed. Bureau Investigation, <https://www.fbi.gov/history/famous-cases/oklahoma-city-bombing> (last visited Jan. 28, 2026).

The Church was at least reckless by pairing Marshall's employment information with footage of her stumping for the Nature Coalition. Of the seven substance abuse treatment facilities in Delmont City, the Church's broadcast pictured the only one connected to Marshall at the top of its list. Within twenty-four hours of the Church's van displaying Marshall's picture, she was confronted by some twenty Energy Coalition activists outside her work. A similar attack occurred the next night, forcing Marshall to quit her job. Both Marshall and her harassers understood the Church's message as a threat. Marshall would not have quit her job and withdrawn from treatment if she did not fear for her safety, nor would the Energy Coalitionists have attacked her if their political agitation was not given form in Marshall's person. By including Marshall's polarizing speech alongside her location information, in a setting charged with political violence, the Church consciously disregarded the substantial risk that their communications would be understood as threatening violence. The principal inquiry in a true threat analysis is whether viewers interpreted the message as threatening violence, and on that basis, the Church's speech is revealed as constitutionally unprotected.

CADS penalizes a manner of speech excepted from First Amendment protection. It does not burden political advocacy or public debate; it narrowly reaches only the doxxing of personal information made with the intent to harm (a more rigorous mens rea standard than that of recklessness set forth by the Supreme Court). In a community beset by doxxing-related harassment intertwined with political conflict, the Church's decision to spotlight Marshall's political expression with her location information predictably invited confrontations at her workplace, causing her to fear for her safety. Because the Church's conduct constitutes a true threat that may be properly regulated by the state, the Church's free-speech challenge fails.

C. Even if CADS restricts protected speech, it overcomes strict scrutiny because it leaves ample alternative avenues for speech and advances Delmont’s compelling interests in public safety and open discourse.

Strict scrutiny applies to laws that regulate speech based on its content, meaning the subject matter, topic, or message of the speech. *Reed v. Town of Gilbert, Ariz.*, 576 U.S. 155, 163-64 (2015). Such a law must be narrowly tailored to advance a compelling government interest. *Republican Party v. White*, 536 U.S. 765, 774 (2002).

1. *CADS is narrowly tailored.*

A statute is narrowly tailored when it addresses a public need without burdening more speech than necessary to satisfy that need. *Frisby v. Schultz*, 487 U.S. 474, 485 (1988). Narrow tailoring exists when no less restrictive means would adequately fulfill a statute’s purpose. *Ward v. Rock Against Racism*, 491 U.S. 781, 800 (1989).

Even broad restrictions on speech can be narrowly tailored when protecting individual privacy and security. *Frisby*, 487 U.S. at 488. In *Frisby*, an ordinance “that prohibited all picketing in residential neighborhoods” was upheld as narrowly tailored. *Id.* at 476. The purpose of the ban was “the protection [. . .] of the home through assurance that members of the community enjoy [. . .] a feeling of well-being, tranquility, and privacy.” *Id.* at 477 (citation and punctuation omitted). The ban was deemed necessary because “the practice of picketing before or about residences and dwellings causes emotional disturbance and distress to the occupants” and is meant to “harass[. . .] such occupants.” *Id.* The code was not broader than necessary in that it only prevented demonstrations in front of a certain residence and left ample alternative forms of protest unrestrained, such as going door-to-door, distributing literature, and contacting residents by telephone. *Id.* at 483-84.

CADS is narrowly drawn to reach a small, high-risk subset of communicative behavior. The application of CADS is limited to the use of communication platforms to disseminate the

private information needed to physically confront someone. Speech excluding such information remains untouched by CADS, as do generalized descriptions and criticisms of individuals.

Furthermore, CADS only imposes liability for the publication of location information when made with the intent to stalk, harass, or injure. This mens rea element confines CADS' focus to weaponized disclosures, not inadvertent or newsworthy uses of personal information.

Accordingly, the law is crafted to capture doxxing that is part of a course of conduct expected to facilitate injury; precisely the pattern that occurred when Energy Coalitionists used the Church's broadcast to locate Marshall at her workplace.

No less restrictive means would effectively redress the doxxing epidemic in Delmont. Existing criminal laws are inadequate ex ante. Laws policing assault, vandalism, and generic harassment only respond after the harm they inflict occurs. They do not restrain the front-end act of being doxxed. Delmont rightly determined that without addressing the initial step, it could not effectively deter and prevent doxxing on its campuses. Alternatives like mere time, place, and manner or content-neutral harassment policies would not stop a speaker from sharing the very information that makes doxxing so dangerous.

Ample alternative channels for speech remain unrestrained by CADS. Similar to how activists in *Frisby* were not prevented from proselytizing and holding general protests, the Church remains free to, for example, replay Marshall's speech, criticize her views, denounce the Nature Coalition, and exercise other sundry forms of urgent, politically charged expression. CADS forbids only the specific act of publicizing location information with the intent to harm.

2. *CADS furthers a compelling government interest.*

Under strict scrutiny, a compelling state interest is one that is necessary to achieve critical social objectives. *Church of Lukumi Babalu Aye v. City of Hialeah*, 508 U.S. 520, 546 (1993).

Courts have recognized a variety of priorities as compelling. *See e.g., Grutter v. Bollinger*, 539 U.S. 306 (2003) (holding that promoting diversity in education is a compelling state interest); *Aid for Women v. Foulston*, 441 F.3d 1101 (10th Cir. 2006) (protecting public health, particularly that of minors, is compelling); *Saltz v. City of Frederick*, 538 F. Supp. 3d 510 (D. Md. 2021) (government actions aimed at addressing threats to public safety, such as riots or disorder, are necessary forms of state action); *United States v. Lee*, 455 U.S. 252, 258-59 (1982) (holding that the government has a compelling interest in enforcing participation in the social security system). States, when acting to protect the public and further their collective welfare, may burden constitutional rights so long as such burdens do not fail strict scrutiny. *Dunn v. Blumstein*, 405 U.S. 330, 342 (1972).

Even highly protected speech can be restricted to achieve a compelling interest. *Burson v. Freeman*, 504 U.S. 191, 199 (1992). *Burson* held that a Tennessee law prohibiting the solicitation of votes, and display or distribution of campaign materials outside polling stations, despite being a content-based restriction of political speech,⁴ did not abridge First Amendment rights. *Id.* at 195. The statute proscribed “speech in quintessential public forums” without being a “facially content-neutral time, place, or manner restriction.” *Id.* at 196-97. Nonetheless, Tennessee’s interest in protecting “the right of its citizens to vote freely” and without disruption was sufficiently compelling to overcome these considerations. *Id.* at 197-99.

Delmont’s interest in protecting public safety and open discourse regarding state policy from organized attacks is compelling. Here, Delmont enacted CADS after a 150% spike in doxxing across the state, concentrated on college campuses. Student factions “flash-shared”

⁴ Political expression is high value speech afforded full First Amendment protection. *Republican Party*, 416 F.3d at 749.

personal information, leading to orchestrated attacks at homes and workplaces, threats, property damage, and several hospitalizations. Thus, the “harms [here] are real, [and] not merely conjectural.” *Turner Broad. Sys. v. FCC*, 512 U.S. 622, 664 (1994). Delmont is obligated to secure the safety of its citizens and preserve the free exchange of ideas. *See e.g., Woollard v. Gallagher*, 712 F.3d 865, 877 (4th Cir. 2013) (“public safety and the prevention of crime are...compelling government interests”); *See also, New York Times Co. v. Sullivan*, 376 U.S. 254, 270 (1964) (the First Amendment reflects “a profound national commitment to the principle that debate on public issues should be uninhibited, robust, and wide-open”). Consequently, state inaction in this instance would represent the abdication of these responsibilities. Therefore, Delmont has a duty to enact CADS to combat the doxxing epidemic. If Tennessee may regulate high-value political speech to prevent the possibility⁵ of voter fraud and “confusion,” then Delmont may regulate low-value⁶ speech to prevent the certainty of organized violence.

II. THIS COURT SHOULD AFFIRM THE FIFTEENTH CIRCUIT BECAUSE IT CORRECTLY HELD THAT CADS DOES NOT VIOLATE THE FIRST AMENDMENT FREE EXERCISE RIGHTS OF THE CHURCH OF LIGHT.

The second issue on appeal is whether CADS violates the Church’s First Amendment Free Exercise rights. The judgment of the Fifteenth Circuit should be affirmed because it properly found that the Church’s right to free exercise of religion was not infringed by CADS.

⁵ The Court held that “ballot-access law” does not “require a state to make a particularized showing of the existence of voter confusion, ballot overcrowding, or the presence of frivolous candidacies prior to the imposition of reasonable restrictions on ballot access.” *Burson*, 504 U.S. at 226.

⁶ Doxxing is likely not even “low value” speech but simply conduct unprotected by the First Amendment. *See, Emma Laurie, The Construction of Doxxing in Judicial Opinions*, 76 *Stan. L. Rev.* 1813 (2024) (courts often already treat doxxing as part of a pattern of harassing and threatening conduct rather than speech afforded any level of First Amendment protection). Even scholars generally opposed to legislation burdening speech accept that doxxing often falls outside protection. *See, Dan A. Mitchell & Eugene Volokh, Free Speech and Doxxing* (Hoover Institution, 2025).

The Free Exercise clause of the First Amendment states that “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof.” U.S. Const. amend. 1 § 1, cl. 1. It “embraces two concepts – freedom to believe and freedom to act. The first is absolute but, in the nature of things, the second cannot be.” *Cantwell v. Connecticut*, 310 U.S. 296, 303-04 (1940). In *Smith*, this Court held that the Free Exercise clause does not “relieve an individual of the obligation to comply with a ‘valid and neutral law of general applicability.’” *Emp. Div., Dept. of Human Res. Of Or. v. Smith*, 494 U.S. 872, 879 (1990). Such neutral and generally applicable statutes are not subject to strict scrutiny because “even the exercise of religion may be at some slight inconvenience in order that the state may protect its citizens from injury.” *Cantwell*, 310 U.S. at 306.

CADS prohibits unsafe behavior while remaining neutral and generally applicable and overcoming both the hybrid rights and *Yoder* exceptions to the *Smith* rule. Therefore, the statute is subject to rational basis review, which it passes. Even if the Church proves the existence of an exception, CADS survives strict scrutiny because it is narrowly tailored to prohibit only behavior which has been shown to cause harm.

A. CADS is neutral and generally applicable.

This Court “has never held that an individual’s religious beliefs excuse him from compliance with an otherwise valid law prohibiting conduct that the State is free to regulate.” *Smith*, 494 U.S. at 878-79. If it did excuse him, every citizen would become “a law unto himself.” *Id.* at 879. Where the burdening of religion is “merely the incidental effect of a generally applicable and otherwise valid provision, the First Amendment has not been offended.” *Id.* at 878.

Here, any burden placed on the Church’s religious practice is merely the incidental effect of a valid, necessary statute. CADS is facially neutral, it does not constitute covert suppression of religion, and it is generally applicable against all who violate it. Therefore, it passes *Smith* analysis, and strict scrutiny should not apply.

1. *CADS is both facially and practically neutral.*

When a law is alleged to burden religious exercise, the threshold question is whether the text of the law is discriminatory on its face. “A law lacks facial neutrality if it refers to a religious practice without a secular meaning discernable from the language or context.” *Lukumi*, 508 U.S. at 533. In *Lukumi*, the Court found the city’s statutes to be facially neutral even though they referred specifically to “sacrifice” and “ritual,” both of which carry strong religious connotations. *Id.* at 534. Because both words have well-known secular uses, and the city ordinances defined “sacrifice” in secular terms, it could not be determined that the statute addressed religious practice directly. *Id.*

Here, there is no similar issue of connotation. CADS contains neither language nor context which could under any interpretation be construed to relate to religion. The statute prohibits doxxing, defined in the statute by a speaker using a communication platform of any type to disclose private information with the intent to stalk, harass, or physically injure. This language has only straightforward secular meanings. Therefore, CADS is facially neutral.

Facial neutrality is important but not determinative; the Court must also examine a statute for “subtle departures from neutrality” which might constitute “covert suppression” of religious exercise. *Lukumi*, 508 U.S. at 534. The Court in *Lukumi* looked to the practical effect of the city ordinances as “strong evidence of its object.” *Id.* at 535. Although the ordinances purported to address animal welfare and public health concerns, in reality they applied almost only to the

Church of Lukumi's religious practices. *Id.* For example, one ordinance prohibited ritual or ceremonial killing of animals if not for the primary purpose of food consumption, and another banned ritual killing of animals *with* the intent of consuming the animal, unless the activity occurred in a licensed food establishment. *Id.* at 535-37. Through careful language, the ordinances exempted almost all killing of animals except for those carried out by the Church of Lukumi. *Id.*

Here, there are no such departures from neutrality. Unlike the ordinances in *Lukumi* that used careful language to exempt secular animal slaughter, CADS applies to all people who share others' private information under the particular circumstances laid out in the statute. It aims to eliminate a general social harm evidenced by the 150% increase in doxxing incidents on campuses statewide. The statute does not include targeted exemptions that would allow secular doxxing to continue while silencing the Church. Thus, CADS is practically neutral.

In *Masterpiece Cakeshop*, the Court cited "the historical background of the decision under challenge, the specific series of events leading to the enactment [. . .] in question, and the legislative or administrative history" as factors that may help evaluate government neutrality. *Masterpiece Cakeshop v. Colo. C.R. Comm'n*, 584 U.S. 617, 639 (2018). Here, each factor points to Delmont's neutrality in enacting CADS. CADS was necessitated by a rash of violent altercations on Delmont college campuses, each of which developed out of a "flash-share" doxxing incident. The Governor of Delmont cited the violence and the volatility of the campus environment as driving the need for an anti-doxxing statute. Additionally, the governor's office examined alternatives, such as criminal harassment provisions and campus safety measures, but found that no existing policy was applicable to the specific case of flash-shares. The background and administrative history show that the government's aim was not to target the Church, but to

eliminate a specific type of behavior that was inciting violent outbursts on Delmont campuses. CADS was neutral as enacted and is neutral as applied.

2. *CADS is generally applicable.*

The second prong of *Smith* Free Exercise analysis asks whether a statute or policy is “generally applicable.” *Smith*, 494 U.S. at 879. A generally applicable law is one that creates no individual exemptions when applied. *Fulton v. City of Philadelphia, Pa.*, 593 U.S. 522, 533. A law loses its status as generally applicable only when it invites the government to consider a person’s conduct by providing “a mechanism for individualized exemptions.” *Id.* In *Fulton*, the Court held that the statute was not generally applicable because it contained a formal system of individualized exemptions, available at the government’s discretion. *Id.* at 535-36. In fact, the commissioner had “sole discretion” to grant exceptions. *Id.* The system would have allowed the government to favor secular motivations over religious ones. *Id.*

Here, CADS is generally applicable because it adopts no such system of individualized exemptions and instead applies a uniform prohibition to any individual without considering the particular reasons for their conduct. Unlike the mechanism for exceptions in *Fulton*, the text of CADS reserves no issue to the government’s discretion. CADS lays out five specific categories of information that are considered private and prohibits the sharing of that information without consent and with the intent to stalk, harass, or injure. It is not for the state to determine whether sharing is warranted or which information is considered private; additionally, “stalk,” “harass,” and “injure” have statutory definitions. Of the two successful lawsuits under CADS, one was against the Energy Coalition and the other was against the Nature Coalition. Therefore, CADS is not being applied in a way that singles out any group, religious or otherwise, for discrimination.

CADS enforces a uniform restriction on the nonconsensual sharing of personal information whether it is done for religious or secular reasons. Because the law is neutral and generally applicable, it passes the *Smith* rule and does not trigger strict scrutiny.

B. The Fifteenth Circuit properly declined to adopt, and this Court should reject, the *Smith* hybrid rights exception.

In *Smith*, the Court sought to distinguish the case before it from previous free exercise claims by invoking a concept that has come to be known as “hybrid rights.” *Smith*, 494 U.S. at 881. The Court noted that where the free exercise clause is invoked “in conjunction with other constitutional provisions,” even a neutral law of general applicability may be in violation of the First Amendment. *Id.* The Court mentioned five provisions that could underpin a hybrid rights claim: freedom of speech, freedom of the press, parents’ right to control their children’s upbringing, freedom from compelled expression, and freedom of association. *Id.* Examples of such cases included a licensing system or tax on religious solicitations; compulsory school attendance laws that ran afoul of religious dogma; and compelled expression cases “decided exclusively upon free speech grounds,” but which involved freedom of religion. *Id.* at 881-82. Such hybrid cases would be subject to strict scrutiny in spite of the statutes’ neutrality and general applicability. *Id.*

Here, the Church alleges both free speech and free exercise claims. The District Court concluded that the hybrid rights framework should be adopted, and that the Church’s case fits within it; the Fifteenth Circuit dismissed the hybrid rights theory altogether.

The idea of hybrid rights “has been roundly criticized from every quarter” – and for good reason. *Axson-Flynn v. Johnson*, 356 F.3d 1277, 1296 (10th Cir. 2004). The *Smith* distinction as it stands is “ultimately untenable.” *Lukumi*, 508 U.S. at 567 (Souter, J., concurring). If a litigant may claim hybrid rights to “obtain an exemption from a formally neutral, generally applicable

law under another constitutional provision,” then the Court need never analyze free exercise at all in those cases. *Id.* And, as the Sixth Circuit noted, it is patently illogical to hold that a regulation “would violate the Free Exercise Clause if it implicates other constitutional rights but does not violate the Free Exercise Clause if it does not implicate other constitutional rights.” *Kissinger v. Bd. of Tr. of Ohio State Univ., Coll. of Vet. Med.*, 5 F.3d 177, 180 (6th Cir. 1993). This Court should seize the opportunity to do away with a confusing and circular piece of dicta and hold plainly that each claim brought by a First Amendment litigant must stand on its own.

If this Court does choose to embrace the hybrid rights framework, it should construe the companion claim narrowly. The Ninth and Tenth Circuits have attempted to elucidate a workable standard for these claims. In *Swanson*, the Tenth Circuit considered a free exercise claim in conjunction with the parental right to control children’s upbringing. *Swanson v. Guthrie Indep. Sch. Dist.*, 135 F.3d 694, 699 (10th Cir. 1998). The court ultimately adopted the hybrid rights scheme, subject to the requirement that the additional (i.e. non-free exercise) claim be “colorable.” *Id.* at 700. Later, the court defined “colorable” as having “a fair probability or likelihood, but not a certitude, of success on the merits.” *Axson-Flynn*, 356 F.3d at 1297.

Applying the colorable claim standard, this case still does not present a viable hybrid rights situation. The free speech claim put forth by the Church here does not have a fair probability of success. On the contrary, as laid out above, the Church’s speech doxxing Marshall constitutes a true threat, which receives no First Amendment protections. An unfounded companion claim dooms a hybrid rights analysis under the Tenth Circuit standard. *Axson-Flynn*, 356 F.3d at 1295-96. Therefore, the Church’s hybrid rights claim should fail, and CADS should be subject only to rational basis review as a neutrally and generally applicable law.

C. The *Yoder* framework is not applicable to this case because CADS poses no threat of undermining the Church’s religious dogma.

This Court held in *Mahmoud* that when a law imposes a burden of the same character as that in *Yoder*, strict scrutiny is appropriate even if the law is neutral and generally applicable. *Mahmoud v. Taylor*, 606 U.S. 522, 564-65 (2025). In *Yoder*, a compulsory-education law ran directly counter to Amish values and the Amish way of life. *Wisconsin v. Yoder*, 406 U.S. 205, 218 (1972). In *Mahmoud*, an elementary school curriculum that included LGBT-friendly children’s books with no opportunity for parents to opt out imposed “normative” messaging contrary to parents’ religious beliefs. *Mahmoud*, 606 U.S. at 550. Both policies “substantially” interfered with children’s religious development, and posed “a very real threat of undermining” the religious beliefs that parents wished to instill in their children. *Id.* at 553-54. Where a law imposes such a heavy burden as these, heightened scrutiny is appropriate regardless of the law’s validity under the *Smith* rule. *Id.* at 564.

The *Mahmoud* framework, however, is inapposite to this case because CADS does not impose a burden at all similar to that in *Yoder*. CADS does not stop parents from directing their children’s upbringing in line with a particular set of religious values, nor does it force parents to send their children to school beyond the age at which they wish to retreat to their religious community. (In fact, CADS does not affect children at all, since the Church’s missionaries are college-aged young adults.) CADS does not proscribe the Church’s core tenet of proselytizing through public proclamation and printed witness. It does not narrow the topics on which the Church may take a position or the particular positions that it may take. It requires only that, while the Church’s young adult missionaries are broadcasting news and driving vans around campus and otherwise living out their faith, they refrain from publishing private information about people with whom the Church disagrees in order to injure, harass, or stalk those people.

Such a requirement poses no threat of undermining the missionaries' religious beliefs. Therefore, CADS is not subject to a *Yoder* strict scrutiny analysis.

D. CADS is rationally related to the legitimate state interest of public safety.

The enactment of CADS in the interest of public safety satisfies rational basis review. Even if strict or intermediate scrutiny were to apply, CADS overcomes both by enforcing the least restrictive option needed to combat Delmont's doxxing epidemic.

1. *CADS satisfies rational basis review.*

Because CADS is neutral, generally applicable, and does not trigger the hybrid rights or *Yoder* exceptions, it is only subject to rational basis review, which it satisfies. Under the First Amendment, a law that is neutral and generally applicable does not need to be justified by a compelling governmental interest, even if it has the incidental effect of burdening a particular religious practice. *Smith*, 494 U.S. at 878. However, such laws are subject to rational basis review, where a statute must be upheld "if they are rationally related to a legitimate government purpose." *Stormans, Inc. v. Wiesman*, 794 F.3d 1064, 1084 (9th Cir. 2015). Moreover, it is the duty of the legislature, not the court, to balance the advantages and disadvantages and pass a law in the best interest of its citizens. *Williamson v. Lee Optical of Okla., Inc.*, 348 U.S. 483, 487 (1955). The law need only be sufficient to recognize that a problem needs to be solved with the best interest of its citizens in mind. *Id.* at 487-488.

In this case, Delmont has a legitimate interest in ensuring the safety of its campus community. A 150% increase in campus doxxing incidents almost exclusively on Delmont college campuses endangered student, faculty, and staff safety. The state legislature passed CADS to reduce doxxing and its consequences after past executive branch measures failed. By restricting the non-consensual disclosure of sensitive private information with the specific intent

to “stalk, harass, or physically injure,” the legislature provided a rational deterrent against the conduct responsible for fear and violence occurring in Delmont.

2. *CADS survives both strict and intermediate scrutiny.*

Even if the Court determines that heightened scrutiny should be applied, CADS must still be upheld. Strict scrutiny requires that a law be narrowly tailored to further a compelling governmental interest. *Adarand Constructors, Inc. v. Peña*, 515 U.S. 200, 232 (1995). A law is narrowly tailored if precise enough to eliminate no more than the source of a problem. *Frisby*, 487 U.S. at 485. A content-neutral law satisfies intermediate scrutiny when promoting “a substantial government interest that would be achieved less effectively absent the regulation.” *Ward*, 491 U.S. at 799.

Whether considered under strict or intermediate scrutiny, CADS remains constitutional because it is the least restrictive means of protecting the public from the specific evil of targeted doxxing. CADS does not ban all speech or even all disclosure of information. Instead, it only prohibits the disclosure of a narrow set of “private information” when done in combination with the specific intent to cause harm. The intent requirement ensures the law does not broaden to attack other content that lacks the purpose of placing a victim in fear for their safety. The governor’s office concluded that enforcement under harassment, stalking, trespass and disorderly conduct provisions could be helpful, but those laws were generally reactive. They did not preempt the conduct and did not address practices that created the risk. In the interest of public safety, CADS proactively addresses the predictable risks of doxxing where other laws failed by creating a private right of action for affected students. Such a law also promotes a substantial government interest; the governor’s office concluded that its response to the doxxing crisis would be less effective without CADS. Whether evaluated under strict scrutiny, intermediate

scrutiny, or a rational basis standard, CADs is a constitutional exercise of state power designed to protect the campus community from a targeted injury and should be upheld in the name of public safety.

CONCLUSION

For the foregoing reasons, Petitioners' petition should be denied, and the judgment of the Fifteenth Circuit Court of Appeals should be affirmed.

Respectfully submitted,
Team 36
Counsel for Respondent

APPENDIX A

Constitutional Provisions

U.S. Const. amend. I.

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

Statutory Provisions

28 U.S.C. § 1254(1).

Cases in the courts of appeals may be reviewed by the Supreme Court by the following methods: (1) By writ of certiorari granted upon the petition of any party to any civil or criminal case, before or after rendition of judgment or decree; . . .

CERTIFICATE OF COMPLIANCE

In compliance with Rule III(C)(3) of the Seigenthaler-Sutherland Cup National First Amendment Moot Court Competition Official Competition Rules 2025-2026, we certify that:

1. The work product contained in all copies of our team's brief is in fact the work product of our team members;
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Respectfully submitted,
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