No. _____

In the
# Supreme Court of the United States

MISSISSIPPI DISTRICT COUNCIL ASSEMBLIES OF GOD,
*Petitioner*,

v.

KEVIN BEACHY, EDDIE KINSEY, ANDRE MULET, AND KRIS WILLIAMS,
*Respondents.*

**On Petition for Writ of Certiorari to the Mississippi Supreme Court**

## PETITION FOR WRIT OF CERTIORARI


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## QUESTION PRESENTED

More than 150 years ago, this Court held that "legal tribunals must accept" the decisions of ruling church authorities as "final" and "binding" in intra-church disputes that turn on ecclesiastical questions. *Watson v. Jones*, 80 U.S. (13 Wall.) 679, 727 (1871). This Court has since made clear that the First Amendment compels such deference. *See, e.g.*, *Jones v. Wolf*, 443 U.S. 595, 602 (1979). That principle should have easily resolved this case. The Assemblies of God is a hierarchical church. Within its structure, Petitioner possesses the authority to supervise local assemblies and exercise direct control over those assemblies that fail to meet the requirements for self-governance set forth in the church's governing documents. When Petitioner exercised that ecclesiastical authority over the Gulf Coast Worship Center, Respondents refused to accept the new pastor that Petitioner had appointed. They instead claimed that the Worship Center had disaffiliated from the Assemblies of God, even though Respondents lacked authority to bind the Worship Center and failed to follow mandatory procedures for disaffiliation. Rather than risk a breach of the peace, Petitioner sought a peaceful resolution in the courts as to control over the Worship Center. But the court below refused to accept Petitioner's ecclesiastical decisions. It instead held that the First Amendment deprived it of jurisdiction to resolve the matter at all.

The question presented is:

Whether the First Amendment deprives courts of jurisdiction to enforce the ecclesiastical decisions of religious authorities in an intra-church dispute.

## PARTIES TO THE PROCEEDING

Petitioner Mississippi District Council Assemblies of God was plaintiff in the chancery court and appellee before the Mississippi Supreme Court. Respondents Kevin Beachy, Eddie Kinsey, Andre Mulet, and Kris Williams were defendants in the chancery court and appellants before the Mississippi Supreme Court.

## CORPORATE DISCLOSURE STATEMENT

The Mississippi District Council Assemblies of God is the Mississippi affiliate of the General Council of the Assemblies of God, the governing body of the Assemblies of God denomination of Pentecostal Christianity. It is a non-profit corporation, and no publicly traded company owns 10% or more of its stock.

## STATEMENT OF RELATED PROCEEDINGS

This case arises from and is related to the following proceedings within the meaning of Rule 14.1(b)(iii):

- *Mississippi District Council Assemblies of God v. Beachy, et al.*, No. 24CH1:17-cv-02624-JP (Miss. Ch. Ct. Harrison Cnty.), judgment entered July 23, 2021.
- *Beachy, et al. v. Mississippi District Council for Assemblies of God*, No. 2021-CA-01007-SCT (Miss.), judgment entered Aug. 24, 2023; motion for rehearing denied Oct. 19, 2023.

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## PETITION FOR WRIT OF CERTIORARI

The decision below deepens an entrenched division in the lower courts and flatly contradicts this Court's longstanding precedents. Over 150 years ago, this Court held that "the relation of church and state under our system of laws" requires courts to defer to the "ecclesiastical" decisions of "the highest of the[] church judicatories to which the matter has been carried." *Watson v. Jones*, 80 U.S. (13 Wall.) 679, 727 (1871). In the years since, the Court has repeatedly reaffirmed that "the First and Fourteenth Amendments mandate that civil courts shall not disturb the decisions" of ecclesiastical authorities within a hierarchical church. *Serbian E. Orthodox Diocese v. Milivojevich*, 426 U.S. 696, 709 (1976). They instead "must accept such decisions as binding on them, in their application to the religious issues of doctrine or polity before them." *Id.* This principle is known as "ecclesiastical abstention." And it has long served to protect the right of religious institutions "to decide for themselves . . . matters of church government as well as those of faith and doctrine." *Kedroff v. St. Nicholas Cathedral of Russian Orthodox Church*, 344 U.S. 94, 116 (1952).

The decision below thwarted that basic constitutional guarantee. Within the hierarchical church of the Assemblies of God, Petitioner oversees the subordinate local churches located in Mississippi, one of which is the Gulf Coast Worship Center ("Worship Center"). Starting in late 2016, the local church's pastor, Respondent Kevin Beachy, refused to renew his ministerial credentials. So, Petitioner exercised its authority to take control of the Worship

Center for the purpose of installing a new pastor. Rather than respect that ecclesiastical judgment, Beachy refused to yield. To make matters worse, he then attempted to take the church's property with his dissident faction by calling for a disaffiliation vote that indisputably violated the church's bylaws.

Seeking a peaceful resolution as to the issue of control over the Worship Center, Petitioner turned to the courts. The trial court, for its part, had no trouble resolving the dispute by identifying Petitioner as the authoritative church body and deferring to its ecclesiastical decisions—as more than 150 years of this Court's precedent commands. *See Watson*, 80 U.S. (13 Wall.) at 727. But the Mississippi Supreme Court reversed, holding that the First Amendment forbade the trial court from even exercising jurisdiction to decide the matter.

That decision exacerbates an openly acknowledged and deeply entrenched split among the lower courts. Along with Mississippi, at least ten other States, the District of Columbia, and three federal Courts of Appeals treat ecclesiastical abstention as a jurisdictional bar. These courts mistakenly believe that the First Amendment deprives them of any power to adjudicate claims that hinge on a religious authority's ecclesiastical decision. The net result in those jurisdictions is that the parties have no choice but to resort to self-help. By contrast, at least eight States and three federal Courts of Appeals hold that ecclesiastical abstention acts as a rule of decision, not a jurisdictional bar. Consistent with this Court's longstanding direction, these courts accordingly "accept" the ecclesiastical judgments of higher

religious authorities "as final, and as binding on them, in their application to the case[s] before them." *Id.*

Despite the lower courts' widespread confusion, this Court has provided no guidance on ecclesiastical abstention since 1979. *See Jones v. Wolf*, 443 U.S. 595 (1979). Just a few terms ago, however, this Court called for the views of the Solicitor General on a petition that similarly argued that "the First Amendment require[s] courts to defer" to religious authorities on ecclesiastical matters. *Roman Catholic Archdiocese of San Juan v. Feliciano*, 140 S. Ct. 696, 699 (2020) (per curiam). The Court ultimately granted certiorari, vacated, and remanded after identifying a removal-related jurisdictional issue. *Id.* at 701. Even so, two members of the Court expressly recognized that "the degree to which the First Amendment permits civil authorities to question a religious body's own understanding of its structure and the relationship between associated entities" may "well merit [this Court's] review." *Id.* at 702 (Alito, J., joined by Thomas, J., concurring).

This case provides the ideal vehicle for resolving that critically important question. And only this Court can resolve the split that has divided the lower courts. The Court should thus grant certiorari to restore uniformity in the law—and to reaffirm that the First Amendment requires civil courts to accept and defer to the ecclesiastical decisions of higher religious authorities.

## OPINIONS BELOW

The Mississippi Supreme Court's opinion is reported at 371 So.3d 1237 and reproduced at Pet.App.1-34. The chancery court's opinions are

unreported, but its order denying Respondents' motion to dismiss is available at 2019 WL 13445827 and reproduced at Pet.App.35-45. Its order granting summary judgment to Petitioner is available at 2021 WL 12139502 and reproduced at Pet.App.46-50.

## JURISDICTION

The Mississippi Supreme Court issued its opinion on August 24, 2023, and denied a timely petition for rehearing on October 19, 2023. On January 16, 2024, Justice Alito extended the time to file a petition for writ of certiorari to February 16, 2024. On February 8, 2024, Justice Alito again extended the time to file a petition for writ of certiorari to March 15, 2024. This Court has jurisdiction under 28 U.S.C. § 1257(a).

## CONSTITUTIONAL PROVISIONS INVOLVED

The First Amendment provides, in relevant part, that "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof." U.S. Const. amend. I.

## STATEMENT OF THE CASE

### A. The Ecclesiastical Abstention Doctrine

Under the First Amendment, this Court has long recognized that civil courts must "accept [the] decisions" of religious authorities on ecclesiastical matters. *Serbian E. Orthodox Diocese v. Milivojevich*, 426 U.S. 696, 725 (1976); *see Kedroff v. St. Nicholas Cathedral*, 344 U.S. 94, 116 (1952). This principle has become known as the "ecclesiastical abstention," "religious autonomy," or "church autonomy" doctrine. Lael Weinberger, *The Limits of Church Autonomy*, 98 Notre Dame L. Rev. 1253, 1255 n.4 (2023).

This Court first conceived of ecclesiastical abstention as a matter of federal common law in *Watson v. Jones*, 80 U.S. (13 Wall.) 679 (1871). Specifically, *Watson* held that "whenever the questions of discipline, or of faith, or ecclesiastical rule, custom, or law have been decided by the highest of the[] church judicatories to which the matter has been carried, the legal tribunals must accept such decisions as final, and as binding on them." *Id.* at 727. The Court later rooted the doctrine expressly in the First Amendment and applied it to the States through the Fourteenth Amendment. *See Kedroff*, 344 U.S. at 116. In so holding, this Court explained that *Watson* "radiates . . . a spirit of freedom for religious organizations" from "secular control or manipulation" that flows from the First Amendment's guarantees. *Id.* The right of hierarchical church authorities "to decide for themselves . . . matters of church government as well as those of faith and doctrine" thus has "federal constitutional protection as a part of the free exercise of religion." *Id.*

This Court has since reaffirmed that principle, while clarifying that the Constitution does not compel deference to religious authorities on all questions. *See Jones v. Wolf*, 443 U.S. 595, 602 (1979). While courts must always "defer to the resolution of issues of religious doctrine or polity by the highest court of a hierarchical church organization," *id.*, courts can take a different approach for secular issues. On such matters, courts are "constitutionally entitled," though not required, "to adopt neutral principles of law as a means of adjudicating a church property dispute." *Id.* at 604.

### B. Factual Background

This case involves an intra-church dispute within a hierarchical religious body. The General Council Assemblies of God is a Pentecostal Christian denomination governed by a three-tiered structure. Pet.App.26, 252. The General Council sits atop the hierarchy, District Councils like Petitioner occupy the middle tier, and the local assemblies led by pastors round out the bottom. Pet.App.26, 252. The General Council's Constitution and Bylaws enshrine this hierarchy. Pet.App.71-75, 94-101.

The church's governing documents also provide the process by which a local assembly applies for formal affiliation with the General Council. Pet.App.73-75, 97-101, 163-67, 227-28. As relevant here, the local assembly must, among other requirements, "[a]ccept the tenets of faith of the Assemblies of God," "[m]ake provision for a pastor who is a credentialed minister in good standing," and agree to abide by the terms of the General Council's and relevant District Councils' governing documents. Pet.App.3, 26, 73, 164.

In 1988, Gulf Coast Worship Center's congregation decided to affiliate with the Assemblies of God and followed the specified procedures for doing so. Pet.App.245-50. The Worship Center's members "agreed to be governed by and to accept the constitution and bylaws of the General and District Council." Pet.App.3. In so doing, they agreed that the Worship Center could be placed under Petitioner's supervision if it failed to adhere to the requirements for an affiliate church. Pet.App.230. And they resolved to deed all of the Worship Center's property to the Assemblies of God. Pet.App.3, 173. The

General Council confirmed the Worship Center's affiliation soon thereafter. Pet.App.250-51. Then, for decades, the church enjoyed the benefits that this status confers upon local assemblies. For example, the Worship Center received $15,500 from Petitioner in the aftermath of Hurricane Katrina. Pet.App.254.

The present dispute arose in late 2016, when the Worship Center's then-pastor, Kevin Beachy, failed to timely renew his credentials as an ordained minister. Pet.App.4. When Petitioner contacted him about the matter, Beachy declared that he had no intention of renewing his credentials. Pet.App.4. Petitioner responded by placing Beachy under investigation in January 2017. Pet.App.4. Its officers then met with him the following month to seek reconciliation. Pet.App.4, 254. But Beachy advised that he did not intend to renew his credentials and that members of the Worship Center were considering disaffiliation from the General Council Assemblies of God. Pet.App.4, 38, 271.

Beachy's statements led Petitioner to exercise its authority under the church's governing documents to place the Worship Center under its control. Pet.App.4, 256. On March 16, 2017, the superintendent informed Beachy that the Worship Center had been reclassified as a "District supervised assembly." Pet.App.4, 256. In addition, the superintendent reminded Beachy that the General Council's and Petitioner's "Constitution requires that the Representatives of the district be allowed to address your congregation to state its case for continued affiliation." Pet.App.256.

The decision to place the Worship Center under District supervision had significant consequences for

how the church could operate. As the bylaws make clear, a local assembly under District supervision lacks any independence it might otherwise possess. The church becomes "subject to the District Officiary for guidance and supervision in all matters, including its transactions, legal or otherwise, elections or appointments and operational affairs." Pet.App.169, 234. Most of the church's positions are automatically vacated. Pet.App.169, 234. And the assembly cannot "conduct any business . . . without the consent of the District Superintendent and Sectional Presbyter." Pet.App.169, 234. Simply put, the District Council gains complete control over the local church's affairs.

Three days after Petitioner placed the Worship Center under formal supervision, Beachy and the other Respondents held a meeting in which they voted for the Worship Center to disaffiliate from the Assemblies of God. Pet.App.5. That meeting "[w]ithout dispute" violated the relevant provisions of the church's governing documents. Pet.App.27. Respondents held their meeting without giving Petitioner the required notice of the vote or granting one of its representatives an opportunity to address the congregation. Pet.App.32, 39. Respondents also voted to amend the Worship Center's constitution to remove a provision that called for the church's property to revert to Petitioner. Pet.App.27, 40.

In May 2017, Petitioner sent a written request to Beachy, asking that he summon the Worship Center's congregation to inform them that Petitioner had exercised its power to obtain supervisory authority over the Worship Center; that it had removed Beachy and appointed a new pastor; and that the actions

taken at the March 19 meeting "were null and void due to reclassification by the Assembly and lack of consent by [the] District Superintendent and District Presbytery." Pet.App.258-60. Beachy and the other Respondents did not oblige and "refused to honor the decisions of the District Council." Pet.App.30.

**C. Proceedings Below**

Rather than risk a breach of the peace by forcibly installing the new pastor, Petitioner filed this action in Mississippi chancery court. Pet.App.265-78. Petitioner requested a declaration that the vote held on March 19, 2017 by Beachy and the other Respondents was void and that all of the Worship Center's property remained under Petitioner's control. Pet.App.276. It also requested that the court enjoin Respondents from claiming any position of authority with the Worship Center. Pet.App.276.

Following discovery, the parties filed competing motions for summary judgment, and the trial court ruled in Petitioner's favor. Pet.App.35-45. As the court explained, the Assemblies of God "is a hierarchical church." Pet.App.25. And Petitioner is a higher authority within that structure that took control of the Worship Center on March 16, 2017. Pet.App.26. At that point, Respondents "had no authority to take any action, including that taken at the March 19, 2017 meeting." Pet.App.39. These actions were "void and of no legal effect." Pet.App.41. Accordingly, the court ruled that "(1) the meeting held by the pastor and board of [the Worship Center] on March 19, 2017 and the actions taken at said meeting [were] void; (2) [the Worship Center] has been under District supervision since March 16, 2017; and (iii) all

[Worship Center] personal property, real property, and improvements are under the control of the District Council." Pet.App.41.

On appeal, the Mississippi Supreme Court reversed. It held that the trial court "should have abstained from addressing the purely ecclesiastical issues concerning the congregation's decision concerning disaffiliation and the selection of their pastor." Pet.App.11. As the majority saw things, the First Amendment rendered the trial court "without jurisdiction to address the disaffiliation matter." Pet.App.13-14. The majority believed that "[m]aking a judicial determination of whether [the Worship Center] is to remain a member of the General Council and under its control intrudes into the affairs of church government." Pet.App.13. So it held that the trial court erred in ruling "that the actions taken by [Respondents] during the congregational meeting on March 19, 2017, [were] void." Pet.App.13.[1]

Chief Justice Randolph dissented. He likewise believed that "the ecclesiastical abstention doctrine was applicable, for indeed the Assemblies of God was a hierarchical church." Pet.App.30-31. But that did not mean the First Amendment posed a jurisdictional barrier to enforcing Petitioner's ecclesiastical decision to place the Worship Center under its supervision and "assume control." Pet.App.31. Instead, Chief Justice

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[1] The court remanded on the separate issue of "ownership of the property" between the Worship Center and Petitioner. Pet.App.21. But its First Amendment ruling means that no court can decide who controls the Worship Center in the first place. Without this Court's intervention, then, the trial court will be powerless to meaningfully resolve the property dispute.

Randolph explained, the court could "determine the issue of control" by enforcing Petitioner's ecclesiastical decisions and "review[ing] the controlling documents through a secular lens." Pet.App.31. That review established beyond dispute that "[t]he futile attempt by [Respondents] to disaffiliate and amend [the Worship Center's] constitutions and bylaws were void." Pet.App.34. "[C]ontrol and authority of [the Worship Center] belonged to the District Council." Pet.App.34.

## REASONS FOR GRANTING THE PETITION

The decision below contradicts this Court's clear precedents and deepens a widespread and intractable conflict among the lower courts. Despite this Court's longstanding precedents, lower courts have fractured over whether the First Amendment permits them to effectuate the decisions of religious authorities in adjudicating intra-church disputes. And that "split in authority regarding whether the ecclesiastical abstention doctrine serves as . . . a jurisdictional bar" is both openly acknowledged and deeply entrenched. *Holy Spirit Ass'n for Unification of World Christianity v. World Peace & Unification Sanctuary, Inc.*, 2022 WL 969057, at *6 n.13 (M.D. Pa. Mar. 30, 2022). On one side, many courts exercise jurisdiction and resolve disputes within hierarchical denominations by deferring to the ecclesiastical decisions of church authorities. On the other side, many like the Mississippi Supreme Court here believe that the First Amendment deprives them of jurisdiction to effectuate such ecclesiastical judgments.

Only this Court's intervention can resolve the doctrinal divide, and this case presents an ideal

vehicle to "clear up [this] chaotic area of law." Mark Strasser, *When Churches Divide: On Neutrality, Deference, and Unpredictability*, 32 Hamline L. Rev. 427, 475 (2009). The decision below falls on the wrong side of the growing split. It squarely conflicts with more than a century of this Court's precedent. And it highlights the turmoil that some lower courts' misguided jurisdictional approach has spawned.

The Court should grant the petition for certiorari and reverse.

## I. The Decision Below Exacerbates A Split Of Authority Among The Lower Courts.

"The current case law is all over the map on whether, and in what way, church autonomy is jurisdictional." Lael Weinberger, *Is Church Autonomy Jurisdictional?*, 54 Loyola U. Chi. L.J. 471, 476 (2022). Courts are thus deeply divided as to whether they may enforce the decisions of ecclesiastical authorities on religious matters. In fact, the only thing courts appear to agree on is that the doctrine in this area is "unclear." *McRaney v. N. Am. Mission Bd. of the S. Baptist Convention, Inc.*, 966 F.3d 346, 348 n.1 (5th Cir. 2020).

### A. Many Courts Exercise Jurisdiction And Enforce The Ecclesiastical Decisions Of Hierarchical Church Authorities.

Consistent with this Court's direction in *Watson* and its progeny—and in direct conflict with the decision below—at least eight States and three federal Courts of Appeals have held that it is proper to exercise jurisdiction and enforce the ecclesiastical decisions of church authorities within hierarchical denominations.

The Michigan Supreme Court's decision in *Winkler v. Marist Fathers of Detroit, Inc.*, 901 N.W.2d 566 (Mich. 2017), exemplifies that approach. There, the court explained that "the ecclesiastical abstention doctrine informs *how* civil courts must adjudicate claims involving ecclesiastical questions; it does not deprive those courts of subject matter jurisdiction over such claims." *Id.* at 572-73 (emphasis added). In particular, "the doctrine calls for deference to the decisions of the authorized tribunals of a religious entity in ecclesiastical matters." *Id.* at 574 (citation omitted). And "that deference simply requires civil courts to 'accept such decisions as final, and as binding on them, in their application to the case before them.'" *Id.* (quoting *Watson*, 80 U.S. (13 Wall.) at 574). "It does not divest courts of jurisdiction over every claim or case involving such a decision." *Id.*

Other state supreme courts have applied the doctrine in the same way. For instance, the Minnesota Supreme Court has held "that the ecclesiastical abstention doctrine is not a jurisdictional bar," even if it "could function as an affirmative defense" in an appropriate case. *Pfeil v. St. Matthews Evangelical Lutheran Church of Unaltered Augsburg Confession of Worthington*, 877 N.W.2d 528, 535 (Minn. 2016). As a result, courts in Minnesota will exercise jurisdiction to enforce the "decisions of religious tribunals." *Id.* at 533 n.6. The Iowa Supreme Court has likewise held that a religious authority's "decision of [a] property dispute [was] conclusive," and it effectuated that decision by exercising jurisdiction to affirm a trial court's grant of injunctive relief in favor of the religious authority. *Fonken v. Cmty. Church of Kamrar*, 339 N.W.2d 810, 817 (Iowa 1983).

In a similar vein, the Kentucky Supreme Court has squarely held that "the ecclesiastical-abstention doctrine is *not* . . . a bar to subject-matter jurisdiction." *St. Joseph Catholic Orphan Soc'y v. Edwards*, 449 S.W.3d 727, 737 (Ky. 2014) (emphasis in original). Accordingly, the courts of the Bluegrass State enforce the decisions of religious authorities implicating the "internal governance of a religious entity." *Id.* at 740. The Indiana Supreme Court, Nevada Supreme Court, and New Mexico Court of Appeals have ruled to the same effect. *See Brazauskas v. Fort Wayne-S. Bend Diocese, Inc.*, 796 N.E.2d 286, 290, 292-94 (Ind. 2003); *Tea v. Protestant Episcopal Church*, 610 P.2d 182, 183-84 (Nev. 1980); *Celnik v. Congregation B'Nai Israel*, 131 P.3d 102, 105 (N.M. Ct. App. 2006).

And California courts have similarly rejected the argument (which the Mississippi Supreme Court accepted here) that courts "lack[] jurisdiction" when confronted with ecclesiastical disputes. *Kim v. True Members of Holy Hill Cmty. Church*, 236 Cal. App. 4th 1435, 1449 (Ct. App. Cal. 2015). They have instead resolved such disputes—consistent with the foregoing authority—by "defer[ring] to the ecclesiastical decisions made by the highest authority within a hierarchical religious institution." *Id.* (emphasis omitted); *see also Episcopal Church Cases*, 198 P.3d 66, 84 (Cal. 2009).

Numerous federal Courts of Appeals agree. Most notably, the decision below directly conflicts with the longstanding view of the Fifth Circuit, which governs all federal cases in Mississippi. In *Church of God in Christ, Inc. v. Cawthon*, 507 F.2d 599, 600-01 (5th Cir. 1975), as here, a pastor sought to lead his congregation

to withdraw from the national denomination and take the local church's property. The national denomination filed suit in federal court, seeking an injunction to nullify the pastor's actions and his attempt to exercise control over the church. *Id.* at 601. The district court granted that relief, and the Fifth Circuit affirmed, holding that "the District Court was correct" in "enjoining the dissident faction from attempting to exercise acts of possessory control over the local church property" and in "void[ing]" the actions of those who "renounced adherence to the plaintiff national church." *Id.* at 602. "[A]s a church of hierarchical polity," the national church had "established its right to possession and control." *Id.* (citing *Watson*, 80 U.S. (13 Wall.) at 722, 726).

The Tenth Circuit has likewise recognized that ecclesiastical abstention is a "constitutional rule arising out of the Free Exercise Clause" that speaks to the "sufficiency of [a] plaintiff's claims," not to a court's jurisdiction. *Bryce v. Episcopal Church in the Diocese of Colo.*, 289 F.3d 648, 654 (10th Cir. 2002). Thus, the Court of Appeals affirmed a district court's ruling to defer to and respect the church's position on "an internal ecclesiastical dispute and dialogue protected by the First Amendment." *Id.* at 659.

The Eighth Circuit has also declined to treat the issue as jurisdictional, *see Church of God in Christ, Inc. v. Graham*, 54 F.3d 522, 527 (8th Cir. 1995), over a dissent, *id.* at 529 (Gibson, J., dissenting). Therefore, federal courts in the Eighth Circuit exercise jurisdiction and "defer to the highest ecclesiastical determination" within a church of

hierarchical polity on religious questions. *Id.* at 527 (majority op.).

### B. Other Courts Treat Ecclesiastical Abstention As A Jurisdictional Bar.

By contrast, at least eleven States, the District of Columbia, and three federal Courts of Appeals hold that ecclesiastical abstention operates as a jurisdictional bar, thereby depriving them of the power to enforce the ecclesiastical decisions of church authorities within hierarchical denominations.

The decision below places Mississippi squarely on this latter side of the divide. As described above, the Mississippi Supreme Court held that the First Amendment forbade it from giving effect to the ecclesiastical judgments of the District Council. Pet.App.11. Rather than defer to the higher religious authority, the court held that it was "without jurisdiction to address the disaffiliation" issues that would have easily resolved this case. Pet.App.13. It believed it could not "undertake the adjudication of this internal church matter," because it was "predominantly ecclesiastical in nature." Pet.App.13-14.

The high courts of South Dakota, Hawaii, and Tennessee have adopted the same mistaken view. The South Dakota Supreme Court has held that the First Amendment bars courts from resolving competing claims as to the "identity of corporate leaders and members" in a church. *Wipf v. Hutterville Hutterian Brethren, Inc.*, 808 N.W.2d 678, 685 (S.D. 2012). In that court's view, such ecclesiastical matters regarding "church leadership" are "beyond a secular court's

jurisdiction." *Id.*; *see Hutterville Hutterian Brethren, Inc. v. Waldner*, 791 N.W.2d 169, 179-80 (S.D. 2010). The Hawaii Supreme Court also maintains that "civil courts have no authority to resolve disputes that turn on matters of church doctrine, practice, polity, or administration," and that "when faced with such claims, courts must dismiss them." *O'Connor v. Diocese of Honolulu*, 885 P.2d 361, 371 (Haw. 1994). The Tennessee Supreme Court has similarly concluded that the First Amendment "preclude[s] judicial review of matters involving religious institutions that are ecclesiastical and internal in nature." *Redwing v. Catholic Bishop for the Diocese of Memphis*, 363 S.W.3d 436, 449 (Tenn. 2012). It instead perceives "the ecclesiastical abstention doctrine, where it applies," to "function[] as a subject matter jurisdictional bar." *Church of God in Christ, Inc. v. L. M. Haley Ministries, Inc.*, 531 S.W.3d 146, 159 (Tenn. 2017). *But see id.* at 177 (Kirby, J., concurring) ("[I]t is far from clear whether the ecclesiastical abstention doctrine is a bar to subject matter jurisdiction.").

Other States have taken an analogous approach to the ecclesiastical abstention doctrine. "In Florida, courts have interpreted the doctrine as a jurisdictional bar." *Flynn v. Estevez*, 221 So. 3d 1241, 1247 (Fla. Dist. Ct. App. 2017). The Supreme Court of Texas has maintained that ecclesiastical abstention is jurisdictional too. *See In re Diocese of Lubbock*, 624 S.W.3d 506, 512 n.1 (Tex. 2021). In doing so, it specifically declined to extend this Court's decision in *Hosanna-Tabor Evangelical Lutheran Church & School v. EEOC*, 565 U.S. 171, 195 n.4 (2012), which held that the "ministerial exception"—another facet of church autonomy protected by the First

Amendment—is "not a jurisdictional bar." Just to the north of Texas, the Oklahoma Supreme Court has flip-flopped on the issue in *Hosanna-Tabor*'s wake, most recently concluding that ecclesiastical abstention deprives courts of jurisdiction. *See Okla. Annual Conf. of the United Methodist Church, Inc. v. Timmons*, 538 P.3d 163, 169-70 (Okla. 2023) (overruling *Doe v. First Presbyterian Church U.S.A.*, 421 P.3d 284, 290-91 (Okla. 2017)).

State courts in North Carolina, Illinois, Arizona, and Ohio have also held that the First Amendment provides "a jurisdictional bar to courts adjudicating 'ecclesiastical matters of a church.'" *Bigelow v. Sassafras Grove Baptist Church*, 786 S.E.2d 358, 365 (N.C. Ct. App. 2016) (citation omitted); *see Lee v. Son*, 2012 WL 6962978, at *6 (Ill. App. Ct. Sept. 28, 2012); *In re Glass & Garden Drive-In Church*, 2016 WL 233103, at *8 (Ariz. Ct. App. Jan. 19, 2016); *Plishka v. Skurla*, 204 N.E.3d 1250, 1267 n.5 (Ohio Ct. App. 2022), *appeal denied*, 213 N.E.3d 720 (Ohio 2023), *petition for cert. filed*, No. 23-732 (U.S. Dec. 27, 2023). And so has the D.C. Court of Appeals. *See Samuel v. Lakew*, 116 A.3d 1252, 1260-61 (D.C. 2015).

The confusion is not limited to the state courts, as at least three federal Courts of Appeals have treated abstention as a jurisdictional bar. The Eleventh Circuit has long maintained that "[c]ivil courts lack jurisdiction to entertain disputes involving church doctrine and polity." *Rutland v. Nelson*, 857 F. App'x 627, 628 (11th Cir. 2021) (citing *Crowder v. S. Baptist Convention*, 828 F.2d 718, 727 (11th Cir. 1987)). The Fourth Circuit has similarly misconstrued *Watson* as "disavow[ing] the ability" of courts "to resolve a

dispute between a national religious organization and one of its local churches" on ecclesiastical matters. *Bell v. Presbyterian Church (U.S.A.)*, 126 F.3d 328, 331 (4th Cir. 1997). And in the Second Circuit, courts "lack jurisdiction to adjudicate . . . claims on ecclesiastical abstention grounds" wherever the doctrine applies. *Hyung Jin Moon v. Hak Ja Han Moon*, 833 F. App'x 876, 880 (2d Cir. 2020).

The district courts cannot make heads or tails of the doctrine either, with many—though not all—treating the ecclesiastical abstention doctrine as jurisdictional. *See Kavanaugh v. Zwilling*, 997 F. Supp. 2d 241, 248 n.7 (S.D.N.Y. 2014) (collecting cases). Other district courts have just thrown up their hands. For example, in one case, the U.S. District Court for the District of Columbia said that "without definitive guidance otherwise from the Supreme Court or the D.C. Circuit," it would simply follow the "long-standing" majority view and "treat[] questions of ecclesiastical entanglement as jurisdictional." *Gregorio v. Hoover*, 238 F. Supp. 3d 37, 45-46 (D.D.C. 2017); *see also Holy Spirit Ass'n*, 2022 WL 969057, at *6 n.13 ("In the absence of any controlling precedent, the court will join the majority of courts to have considered the issue and will treat the ecclesiastical abstention doctrine as a jurisdictional issue . . . .").

* * *

Simply put, there is a firmly entrenched split as to whether the First Amendment "precludes a court's subject matter jurisdiction over ecclesiastical matters." *Hubbard v. J Message Grp. Corp.*, 325 F. Supp. 3d 1198, 1208 (D.N.M. 2018); *see* Weinberger, *Is Church Autonomy Jurisdictional?*, *supra*, at 473-74.

That doctrinal disarray calls out for this Court's immediate intervention.

## II. The Decision Below Is Wrong.

The question presented has not only divided the lower courts, but the decision below stands on the wrong side of that split. Indeed, it conflicts with this Court's precedent at almost every turn. Contrary to *Watson* and its progeny, the Mississippi Supreme Court refused to defer to the ecclesiastical decisions of higher church authorities. And, contrary to *Wolf*, the court failed to apply neutral principles of law that, if correctly applied, would have led to the same outcome.

### A. Courts Must Defer To The Ecclesiastical Decisions Of Higher Religious Authorities.

The first "fallacy fatal to the judgment [below] is that it rests upon an impermissible rejection of the decisions of the highest ecclesiastical tribunals" that the "issues in dispute" reached. *Milivojevich*, 426 U.S. at 708. The Assemblies of God is a hierarchical church. Pet.App.26, 71-75, 99-100, 252. And all agree that Petitioner's decisions to place the Worship Center under supervision and replace Beachy as its pastor were "ecclesiastical in nature." Pet.App.14, 25. But the Mississippi Supreme Court held that the First Amendment deprived it of jurisdiction to respect and to enforce those resolutions. Pet.App.11.

That approach squarely conflicts with this Court's decision in *Watson*. There, an ecclesiastical schism within the hierarchical Presbyterian Church in the United States led to a similar dispute over who controlled a local church's property. *See* 80 U.S. (13 Wall.) at 681. The congregation of the Walnut Street

Church divided over the issue of slavery, with each side "asserting that *it* constituted the church." *Id.* at 692 (emphasis in original). In response to this fracture, the General Assembly of the Presbyterian Church decided to "permanently exclude[]" the pro-slavery faction and declare that the anti-slavery group constituted "the true and lawful" church. *Id.* But the pro-slavery group refused to acquiesce. Accordingly, to enforce the ecclesiastical decision of the "superior church judicatories," the anti-slavery group "resort[ed] to the judicial tribunals of the State for the maintenance of rights which the church . . . found itself unable to protect." *Id.* at 692, 713.

Unlike the decision below, the Circuit Court in *Watson* held that it was bound "by the action of the General Assembly." *Id.* at 698 (emphasis omitted). It thus declared that the pro-slavery faction's Reverend "was not [the] pastor" of the Walnut Street Church and "enjoined" the pro-slavery defendants "from using or controlling the church edifice and property." *Id.* at 699-700.

This Court affirmed that grant of injunctive relief. *Id.* at 735. Along the way, it said everything necessary to reverse the lower court's decision here. As *Watson* explained, the "rule of action which should govern the civil courts" when confronted with ecclesiastical issues is compulsory deference to "the highest of the[] church judicatories to which the matter has been carried." *Id.* at 727. That is, "the legal tribunals must accept such decisions as final, and as binding on them, in their application to the case before them." *Id.* And this is true even where the "civil right" to be adjudicated "depends upon an ecclesiastical matter." *Id.* at 731

(citation omitted). In that scenario—as with any other—the underlying ecclesiastical decisions of the governing church body provide "the law . . . applicable to the case," and "no civil court [can] reverse, modify, or impair" them by refusing to give them effect. *Id.* at 732, 735.

The lower courts' confusion on the jurisdictional question appears to stem from *Watson*'s statement that courts "exercise no jurisdiction" over "ecclesiastical" matters. *Id.* at 733. But, as this Court has repeatedly explained, "[j]urisdiction" is "a word of many, too many, meanings." *Wilkins v. United States*, 143 S. Ct. 870, 875 (2023) (quoting *Arbaugh v. Y & H Corp.*, 546 U.S. 500, 510 (2006)). Until recent years, this Court was "not always consistent in [its] usage of the term." Weinberger, *Is Church Autonomy Jurisdictional?*, *supra*, at 477. And it "ha[d] more than occasionally misused the term 'jurisdictional' to refer to nonjurisdictional prescriptions." *Wilkins*, 142 S. Ct. at 877 (citation omitted).

*Watson* did just that. Properly understood, *Watson*'s "reference to jurisdiction was in the sense that the federal government is one of limited, delegated powers, with the Religion Clauses negating any power" to "make a law that regulates the church with respect to matters of internal governance." Carl H. Esbeck, *An Extended Essay on Church Autonomy*, 22 Federalist Soc'y Rev. 244, 266 (2021). And *Watson*'s holding itself makes crystal clear that its reference to "jurisdiction" could not have been "in the sense of the judicial authority." *Id.* After all, the Court "pronounce[d] the judgment of the law" by affirming an injunction enforcing the ecclesiastical decisions of

the Presbyterian Church's General Assembly—precisely what the Mississippi Supreme Court refused to do here. 80 U.S. (13 Wall.) at 735. In fact, it was the *dissent* that was "of the opinion that the Circuit Court had no jurisdiction." *Id.* at 737 (Clifford, J., dissenting).

Accordingly, the *Watson* majority's loose language might explain why the lower courts have divided over the question presented. *See supra* Section I. But its holding and reasoning refute the approach adopted below. Civil courts are "bound to look at the fact that the local congregation is itself but a member of a much larger and more important religious organization, and is under its government and control, and is bound by its orders and judgments." *Watson*, 80 U.S. (13 Wall.) at 726-27 (majority op.). As a result, civil courts must defer to and enforce those ecclesiastical judgments of higher church authorities when confronted with an intra-church dispute. *See id.* at 727.

This Court has never strayed from those principles. On the contrary, it held nearly a century later that *Watson*'s holding "necessarily follows in order that there may be free exercise of religion." *Kedroff*, 344 U.S. at 121. In particular, the First Amendment requires that "[e]ven in those cases when [a] property right follows as an incident from decisions of the church . . . on ecclesiastical issues, the church rule controls." *Id.* at 120-21. Or, as the Court put it more recently, courts "must accept [the] decisions" of higher church authorities "as binding on them, in their application to the religious issues of doctrine or polity before them," despite the fact that those resolutions may "affect[] the control of church property in addition

to the structure and administration of the [church]." *Milivojevich*, 426 U.S. at 709. Secular courts "must accept that consequence as the incidental effect of an ecclesiastical determination that is not subject to judicial abrogation." *Id.* at 720; *see also Gonzalez v. Roman Catholic Archbishop*, 280 U.S. 1, 16 (1929) ("[D]ecisions of the proper church tribunals on matters purely ecclesiastical, although affecting civil rights, are accepted in litigation before the secular courts as conclusive.").

This Court's latest pronouncement on ecclesiastical abstention's role in property disputes confirms that understanding. In *Wolf*, a majority of this Court held, for the first time, that "a State is constitutionally entitled to adopt neutral principles of law as a means of adjudicating a church property dispute." 443 U.S. at 604. *But see id.* at 614 (Powell, J., dissenting) (arguing that the First Amendment "requires a court to give effect in all cases to the decisions of the church government" in matters implicating church property). Even so, the majority took pains to limit its new rule so that it would be "completely secular in operation." *Id.* at 603 (majority op.). It reaffirmed that "the [First] Amendment requires that civil courts defer to the resolution of issues of religious doctrine or polity by the highest court of a hierarchical church organization." *Id.* at 602. And it cautioned that courts "must take special care" not to undermine such religious judgments, which the Free Exercise Clause commits to the "authoritative ecclesiastical body" of a hierarchical church. *Id.* at 604.

The Mississippi Supreme Court failed to heed that warning here. It did not dispute that the Assemblies

of God "is a hierarchical church," nor that Petitioner is superior in that hierarchy to the Worship Center. Pet.App.25. Yet it refused to defer to Petitioner's undisputedly ecclesiastical decisions to place the Worship Center under its supervision and take control of its property for the "purpose of installing an interim pastor." Pet.App.9, 11. Under this Court's precedents, however, the lower court was bound to "accept such decisions as final." *Watson*, 80 U.S. (13 Wall.) at 727; *see Milivojevich*, 426 U.S. at 724-25. Beachy and the dissident faction "had no lawful authority" to defy those authoritative ecclesiastical judgments and act on the Worship Center's behalf. *Watson*, 80 U.S. (13 Wall.) at 714. Their subsequent attempt to disaffiliate—and take the Worship Center's property with them—was thus "void and of no legal effect." Pet.App.32, 41. And Petitioner's "right to have this question decided" peacefully in the civil courts "cannot be doubted." *Watson*, 80 U.S. (13 Wall.) at 714.

Not only did the decision below flout *Watson* and its progeny, but it makes even less sense when considered in light of this Court's recent precedent. Since the turn of the century, this Court "ha[s] endeavored 'to bring some discipline' to use of the jurisdictional label." *Boechler, P.C. v. Commissioner*, 596 U.S. 199, 203 (2022) (quoting *Henderson v. Shinseki*, 562 U.S. 428, 435 (2011)). And, as noted above, in *Hosanna-Tabor*, the Court clarified that the ministerial exception is a substantive doctrine, not a "jurisdictional bar." 565 U.S. at 195 n.4. There is no reason why ecclesiastical abstention should be treated any differently than that other "offshoot of the broader church autonomy doctrine." *Tucker v. Faith Bible Chapel Int'l*, 36 F.4th 1021, 1028-29 (10th Cir. 2022).

Neither implicates the courts' "power to hear [a] case." *Hosanna-Tabor*, 565 U.S. at n.4 (alteration adopted; citation omitted). Instead, they provide rules of decision that "inform[] how civil courts must adjudicate claims involving ecclesiastical questions." *Winkler*, 901 N.W.2d at 573.

In short, the Mississippi Supreme Court's ruling flips this Court's precedent on its head. It nullified Petitioner's First Amendment "free[dom] to choose those who will guide [the church] on its way." *Hosanna-Tabor*, 565 U.S. at 196. It thwarted the church hierarchy established by the Assemblies of God. And it deprived Petitioner of "the protection of the law" that religious organizations are "equally" entitled to seek. *Watson*, 80 U.S. (13 Wall.) at 714; *see Espinoza v. Mont. Dep't of Rev.*, 140 S. Ct. 2246, 2254-55 (2020). The lower court should have affirmed the trial court's decree, just as this Court did in *Watson*.

### B. The Application Of Neutral Principles Would Lead To The Same Result.

The same result would apply even under *Wolf*'s neutral-principles approach. As the dissent below recognized, "another legal principle came into play" when Respondents "failed to relinquish control not only of the pulpit but also other church property." Pet.App.31. Namely, in addition to the longstanding rule that Petitioner's ecclesiastical decisions must be enforced, "there are neutral principles of law" that "can be applied" in this case to reach the same outcome. *Wolf*, 443 U.S. at 599 (citation omitted).

Indeed, a straightforward application of the church's governing documents to the undisputed facts compels a conclusion that Respondents' disaffiliation

attempt failed. When the Worship Center affiliated with the Assemblies of God, its members agreed to "[a]ccept and be governed by the Constitution & Bylaws of the General Council and District Council." Pet.App.26. Petitioner acted pursuant to its authority under those governing documents to "reclassify [the Worship Center] as a District Supervised Assembly" on March 16, 2017. Pet.App.256. At that point, the Worship Center was "subject to the District Officiary for guidance and supervision in all matters." Pet.App.169, 234. And members of the local assembly could not "conduct any business . . . without the consent of the District Superintendent and Sectional Presbyter." Pet.App.27, 37, 169. That unavoidable conclusion flows directly from the governing documents.

Yet, Respondents acted in open defiance of those requirements. "Without dispute," Respondents "conducted a business meeting in violation of the District Council's constitution and bylaws." Pet.App.27. At that meeting, Respondents "voted to disaffiliate from the Assemblies of God and voted to amend [the Worship Center's] constitution and bylaws by removing a provision that its property would revert to the District Council." Pet.App.27. But they were powerless to do so. As explained above, the church's bylaws expressly forbade such unilateral actions. And, even if they did not, Respondents' disaffiliation attempt violated other provisions of the General Council's and Petitioner's bylaws that required a local assembly contemplating disaffiliation to "invite the district officiary," so that he could "present the case for continued General Council affiliation." Pet.App.230. Respondents concede that never occurred.

Pet.App.27. Their defiance of the bylaws thus voided their disaffiliation vote and, in turn, their claim to the church property at issue. Pet.App.34, 41.

By refusing even to "review[] the controlling documents through a secular lens," the decision below thwarted *both* the governing authority's ecclesiastical decision *and* the application of neutral legal principles to this dispute. Pet.App.31. There is no conception of this Court's precedents or the First Amendment that allows—let alone compels—that backwards approach. Nor is there any concern here that "[e]nforcement of [the governing] documents, in accordance with neutral principles, [would] prevent any individual member of [the Worship Center] from exercising his or her religious preference to leave" the Assemblies of God. *Peters Creek United Presbyterian Church v. Wash. Presbytery*, 90 A.3d 95, 122 (Pa. Commw. Ct. 2014). That is simply not the issue in this case. Instead, "[t]he problem lies in [Respondents'] efforts to take the church property with them," without having followed the required procedures. *Episcopal Church Cases*, 198 P.3d at 84 (quoting *Protestant Episcopal Church in the Diocese of N.J. v. Graves*, 417 A.2d 19, 25 (N.J. 1980)). "This they may not do." *Id.* (citation omitted).

* * *

The Mississippi Supreme Court erred at every turn. It mistakenly held that the First Amendment deprived it of jurisdiction. Instead, the Free Exercise Clause and over 150 years of this Court's precedent required it to defer to and enforce Petitioner's ecclesiastical decision. By refusing to do so, the lower court thwarted, rather than protected, free exercise rights. And, even if it had merely applied neutral

principles to the dispute at hand, there would have been no doubt that Petitioner should have prevailed. The lower court's radically mistaken conception of this Court's ecclesiastical abstention decisions underscores the need for this Court's review.

## III. The Question Presented Is Exceptionally Important, And This Case Provides An Ideal Vehicle For Resolving It.

The question presented is exceptionally important and recurring. Long ago, this Court recognized that internal church governance and property disputes have "intrinsic importance and far reaching influence" on all parties involved. *Watson*, 80 U.S. (13 Wall.) at 734. The ecclesiastical abstention doctrine thus provides an orderly and constitutionally compelled method for resolving such disputes. But the upshot of the decision below—and the many other lower courts that have adopted the same misguided approach—is that courts are powerless to decide intra-church disputes that hinge on ecclesiastical judgments. Under that hands-off approach, squatter's rights prevail, and a church authority's only recourse is to resort to self-help.

The First Amendment does not demand such anarchy. Indeed, the First Amendment was designed to avoid sectarian conflict, not to force intra-church disputes out of the courts and into the streets. Yet, the lower courts have interpreted this Court's precedents in a way that has led to widespread confusion and an entrenched split that will not resolve itself without this Court's intervention. The sheer magnitude of the split illustrates that the issue is frequently recurring, and recent years have seen an "increase in

intradenominational strife" that only confirms the pressing need for clarity in the law. Jeffrey B. Hassler, *A Multitude of Sins? Constitutional Standards for Legal Resolution of Church Property Disputes in a Time of Escalating Intradenominational Strife*, 35 Pepp. L. Rev. 399, 455 (2008).

The Court has not provided any guidance on the ecclesiastical abstention doctrine in the nearly fifty years since *Wolf*. And the resulting uncertainty has exacted a "great human price." Michael W. McConnell & Luke W. Goodrich, *On Resolving Church Property Disputes*, 58 Ariz. L. Rev. 307, 309 (2016). This case provides a prime illustration. If allowed to stand, the decision below will effectively render Petitioner powerless to enforce its governing documents and ecclesiastical decisions. It will undermine Petitioner's authority to govern other local assemblies. And it will leave Petitioner "at the mercy of anyone who appropriate[s]" church "property with an assertion of religious right to it." *Maktab Tarighe Oveyssi Shah Maghsoudi, Inc. v. Kianfar*, 179 F.3d 1244, 1248 (9th Cir. 1999).

In that way, the question presented also has broad importance for all hierarchical religious organizations. The deep split of authority means that church authorities in some jurisdictions will receive judicial protection from rebellious factions while others will not. In fact, within Mississippi, that question will turn on whether a case is filed in state or federal court. That is precisely the type of doctrinal disorder that warrants this Court's review.

Perhaps recognizing the lower courts' confusion, two members of this Court recently noted that "the

degree to which the First Amendment permits civil authorities to question a religious body's own understanding of its structure and the relationship between associated entities" is a "question[] that may well merit [the Court's] review." *Roman Catholic Archdiocese of San Juan v. Feliciano*, 140 S. Ct. 696, 702 (2020) (Alito, J., joined by Thomas, J., concurring). This case squarely presents that question.

And it provides an opportunity to bring clarity to this tumultuous area of law. The "jurisdictional" red herring that has splintered the lower courts' understanding of the ecclesiastical abstention doctrine has itself created additional, unresolved questions. For instance, may the losing party seek an immediate interlocutory appeal? *Compare McCarthy v. Fuller*, 714 F.3d 971, 974-76 (7th Cir. 2013), *with In re Roman Catholic Diocese of Albany, New York, Inc.*, 745 F.3d 30, 35-36 (2d Cir. 2014). Will a party forfeit or waive arguments based on the ecclesiastical abstention doctrine by failing to timely present them? *Compare Conlon v. InterVarsity Christian Fellowship*, 777 F.3d 829, 836 (6th Cir. 2015), *with Petruska v. Gannon Univ.*, 462 F.3d 294, 308-09 (3d Cir. 2006). Is a court required to raise the issue *sua sponte*? *See Boechler*, 142 S. Ct. at 203. This Court can clarify those issues as well by settling the jurisdictional question.

Finally, this case provides an ideal vehicle for resolving the question presented. The issue is outcome determinative. It is fully preserved and exhaustively briefed on a summary-judgment record. It divided the court below, with the majority and dissent offering conflicting views of what ecclesiastical

abstention demands. And, if this Court declines to step in, the Worship Center will become an island outside of the law, as no court will be able to decide whether Petitioner or Respondents control it. That is not—and has never been—what the First Amendment requires. In fact, it undermines the very free exercise rights that the ecclesiastical abstention doctrine protects.

## CONCLUSION

For the foregoing reasons, the Court should grant the petition for a writ of certiorari.

Respectfully submitted,

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