No. 24-1261

IN THE

Supreme Court of the United States

CAMBRIDGE CHRISTIAN SCHOOL, INC.,

Petitioner,

v.

FLORIDA HIGH SCHOOL
ATHLETIC ASSOCIATION, INC.,

Respondent.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT

BRIEF OF *AMICUS CURIAE* AMERICAN HINDU JEWISH CONGRESS IN SUPPORT OF PETITIONER

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TABLE OF CONTENTS

TABLE OF CITED AUTHORITIES

Page

Cases

Cited Authorities

Constitutional Provisions

Cited Authorities

Page

Rules

Other Authorities

Cited Authorities

Page

INTEREST OF AMICUS CURIAE[1]

The American Hindu Jewish Congress ("AHJC") is a national, non-partisan coalition representing the shared interests and concerns of Hindu Americans and Jewish Americans. Founded in 2025, AHJC unites two vibrant, millennia-old faith communities to advocate for religious liberty, mutual respect, and interfaith solidarity. The AHJC membership encompasses community leaders, houses of worship, cultural associations, student fellowships, and civil-rights advocates across all fifty States.

As minority faith communities in America, Hindus and Jews are facing escalating antisemitism and Hindu-phobia, including vandalism of temples and synagogues, harassment of students on college campuses, desecration of sacred spaces, and becoming targets of hate speech and hate crimes. AHJC, therefore, takes a keen interest whenever governmental entities censor religious expression under a mistaken theory of Establishment Clause compulsion or the government speech doctrine.

Noting the increasing hostilities against Jewish and Hindu Americans, these communities should not also face unjust discrimination by their government, against which the Constitution has served as a bulwark from the "suppression of unpopular religious speech and exercise [that] has been among the favorite tools of petty tyrants."

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1. AHJC files this brief under Supreme Court Rule 37.2, having provided timely notice to all parties. No counsel for a party authored this brief in whole or in part, and no person other than amicus or its counsel made a monetary contribution intended to fund its preparation or submission.

Shurtleff v. City of Boston, Massachusetts, 596 U.S. 243, 284-85 (2022) (Gorsuch, J., concurring). Such errors impermissibly chill religious speech by minority faiths which cannot command legislative majorities, media attention, or institutional leverage.

SUMMARY OF ARGUMENT

The Petition warrants review for at least three interlocking reasons. First, the Eleventh Circuit squarely conflicts with this Court's opinion in *Shurtleff v. City of Boston, Massachusetts*, which rejected Boston's attempt to brand a private religious flag as government speech merely because it occurred on a city owned flagpole. *See Shurtleff*, 596 U.S. 243. The court below replicated the City of Boston's error.

It concluded that two religious prayers (to be led by Cambridge Christian School ("CCS") and University Christian School ("UCS")) representatives over the public address system) would be government speech and should be prohibited. In so doing, the Florida High School Athletic Association ("FHSAA") effectively censored CCS and UCS. *Shurtleff* insists that the government speech doctrine should be used to restrict religious speech only where the government intentionally controlled the substantive content of other messages, a condition absent here (and in *Shurtleff*). Here, the FHSAA permitted a variety of unedited private secular messages to be broadcast to the audience through the PA system but barred prayer.

Second, the Eleventh Circuit's reasoning clashes with *Kennedy v. Bremerton School District*, 597 U.S.

507 (2022) which held that not all speech by public employees is government speech. *See Kennedy*, 597 U.S. 507 (2022). In that case, the Court found that a public-school football coach's public prayer was protected by the First Amendment. The coach prayed at midfield at the conclusion of several games and was disciplined. His religious expression, however, was protected private religious exercise notwithstanding his status as a government employee and the visibility of the prayer to students and spectators. *Kennedy* repudiated *Lemon v. Kurtzman*, 403 U.S. 602 (1971), and the notion that the Establishment Clause mandates suppression of religious speech by a state actor whenever any listener might infer governmental endorsement. Just as the public religious expression by a government employee (kneeling in prayer at the fifty-yard line) was neither government speech nor government endorsement of religion, neither were the requested prayers of private parties through a government owned PA system. By applying that repudiated standard, however, the court below resurrected *Lemon* and unconstitutionally censored religious speech.

Third, the court below sanctioned viewpoint discrimination. The record demonstrates that the FHSAA has historically granted schools, students, sponsors, and local officials wide latitude to convey secular and religious messages during FHSAA games, including at championship and playoff events. Game announcers routinely broadcast corporate advertisements, halftime shows which include school chosen music which is sometimes religious. By excluding CCS's and UCS's prayers merely because the contemplated religious speech would be spoken on government property during a pregame segment of a state-actor's event, the FHSAA

engaged in the very discrimination *Shurtleff* condemns. The decision below thus greenlights a regime in which the government may purge faith perspectives from sporting events while favoring overwhelmingly secular messages. That is constitutionally intolerable and an *ex-post facto*, result-oriented conclusion that ignores this Court's rulings on religious speech.

Because the Eleventh Circuit's error threatens to suppress the voices of all faith communities, including minority communities, and thus exacerbate the present societal hostility toward minority religions, AHJC respectfully urges the Court to grant *certiorari*, reverse the Eleventh Circuit's Ruling and overrule *Santa Fe Independent School Dist. v. Doe*, 530 U.S. 290 (2000).

ARGUMENT

Religious freedom in the United States is safeguarded by a delicate, but indispensable, balance between the Free Exercise Clause, Free Speech and the Establishment Clause of the First Amendment. When that balance is upset by governmental actors who suppress and censor religious expression in public places, minority faith communities—often lacking demographic, cultural and political power—suffer. The decision below upsets that equilibrium by embracing a stifling view of government speech that conflicts with this Court's recent decisions in *Shurtleff* and *Kennedy*. Left uncorrected, the Eleventh Circuit's precedent, following in the misguided footsteps of *Santa Fe Independent School Dist. v. Doe* ("bristl[ing] with hostility to all things religious in public life" (*See id.*, at 318 (Rehnquist, J., dissenting)), encourages government actors to violate the Constitution by "exclude[ing] religious persons, organizations, or speech because of religion

from public programs, benefits, facilities, and the like" *Shurtleff*, 596 U.S., at 261 (Kavanaugh, J., concurring).

An Establishment Clause violation "does not automatically follow whenever a public school or other government entity "fail[s] to censor" private religious speech. *Board of Ed. of Westside Community Schools (Dist. 66) v. Mergens*, 496 U.S. 226, 250 (1990) (plurality opinion). Nor does it "compel the government to purge from the public sphere" anything an objective observer could reasonably infer endorses or "partakes of the religious." *Van Orden v. Perry*, 545 U.S. 677, 699 (2005) (Breyer, J., concurring in judgment).

The Eleventh Circuit, however, held that the FHSAA could bar two private Christian high schools from praying over the public-address system before the 2015 Class 2A football state-championship game, on the basis that the *pregame* use of the PA system at this particular game would be "government speech." The decision stated that since the FHSAA managed the pregame speech, approved the statements, and used a neutral announcer under contract, *any* use of the *PA system* before the game necessarily constituted government speech. Op. at 41, 45.

The Eleventh Circuit reached this conclusion even though the same microphone and loudspeakers were routinely opened to an eclectic array of private, secular expression—advertisements, halftime cheerleading performances with school-chosen musical selections, and various statements from corporate sponsors. By mislabeling the anticipated prayer by CCS and UCS as "government speech," the court below repudiated a core principle articulated in *Shurtleff* and *Kennedy* that the

Establishment Clause and Free Exercise and Free Speech are complementary provisions not at war with each other.

The Eleventh Circuit, however, endorses the silencing of religious speech in a limited public forum using the government speech doctrine to justify the conduct, thus buttressing the religious viewpoint discrimination that *Shurtleff* and *Kennedy* forbid. *Shurtleff*, 596 U.S. 243, 258 (2022), *Kennedy*, 597 U.S. 507, 533 (2022). Granting *certiorari* affords the necessary opportunity for this Court to reinforce the complementary nature of these foundational Constitutional provisions and the identification of what is and is not government speech. This Court's correction of the court below and the application of *Shurtleff* and *Kennedy* are urgently needed.

First, the Eleventh Circuit's decision sanctioned the FHSAA's silencing of religious expression and artificially transformed one portion of a high school football game—only the pregame announcements at this specific game—into a government speech zone and creating a pretext for censorship. The court below has already begun compounding the error. *See, e.g.*, *Jarrad v. Sheriff of Polk County*, 115 F.4th 1306 (11th Cir. 2024) (Rosenbaum, CJ, concurring in part) (observing the opinion below holding that "a 30 second religious address by a high school at the [FHSAA]'s state football championship qualified as 'government speech,'" which supported a conclusion that a volunteer jailhouse preacher's statements of belief to his flock may have been in an official government capacity (*Id.*, at 1333)).

In effect, the Eleventh Circuit approved the silencing of all religious speech while favoring a broad array private speech during the remainder of the game. Further, the

Eleventh Circuit endorsed this *ad hoc* contention without requiring any notice or articulation of a compelling interest in silencing private speech during the game except to target and suppress religious speech. The decision creates confusion among state actors and the lower courts concerning the definition of the boundary between private speech and government speech.

Second, it eviscerates *Kennedy's* commendation that "learning how to tolerate [] prayer of all kinds is part of learning how to live in a pluralistic society" which even teenagers are mature enough to realize. *Kennedy*, 597 U.S. 438. Third, it green-lights suppression of religious speech precisely where it is most vulnerable: on public property where approval of a government employee is required, and where the government invokes (unintentionally or otherwise) an exaggerated Establishment Clause hazard to prohibit even short, voluntary religious observances by persons invited to participate in the public event that are self-evidently not government speech.

The constitutional injury is significant for minority faiths, including members of the Hindu and Jewish traditions, who depend upon even-handed forum access to practice and preserve their distinctive religious identities in an era of escalating vandalism, violence, and social hostility. The petition presents a timely vehicle for reaffirming the First Amendment's dual commitment to free religious exercise and viewpoint neutrality through a further clarification of what constitutes government speech and what is not, as well as the relationship between the Establishment Clause and the Free Speech and Free Exercise clauses.

I. The Eleventh Circuit ignored *Shurtleff's* directive to examine the FHSAA's claim of "government speech" holistically.

In *Shurtleff*, this Court held that Boston violated the First Amendment when it rejected a Christian organization's request to fly its flag on a City Hall flagpole. The dispositive inquiry was whether the speech at issue was private or governmental. Emphasizing the City's *history* of granting flag-raising requests from a vast array of private groups, the Court observed that "the boundary between government speech and private expression can blur when . . . a government invites the people to participate in a program," and held that "when a government does not speak for itself, it may not exclude speech based on religious viewpoint." *Shurtleff*, 596 U.S., at 252-58. Boston's post-hoc invocation of Establishment Clause concerns could not justify religious discrimination because Boston was not speaking for itself, but rather censoring private religious speech under the guise of compliance with the government speech doctrine. *Id.*, at 259."

In this case, this is precisely what the FHSAA did. Upon receiving the requests, the FHSAA denied the requests, asserting that the Citrus Bowl Stadium was taxpayer supported and the FHSAA was a state actor. Op. at 10-11. Therefore, FHSAA could not permit either school to pray at the event despite the fact that private messages, including commercial ones, were being conveyed to the audience by an FHSAA-contracted speaker through the Citrus Bowl microphone and PA system. The FHSAA used the wrong test to evaluate the request, and then the Eleventh Circuit condoned the FHSAA's unconstitutional

decision misusing the government speech doctrine. In essence, it was thinly veiled viewpoint discrimination masquerading as government speech, in a word: censorship.

Significantly, the Eleventh Circuit's focus on the "key" factor of government control is a "dangerous misuse" of the government speech analysis. *Matal v. Tam*, 582 U.S. 218, 235 (2017). Here, as in *Matal*, the court below in error simply passed off private speech as government speech by merely "affixing a government seal of approval" to the speech. *Id*. Contrary to the Eleventh Circuit's reframing of the facts, the private schools here sought to have their own representatives provide a customary pregame invocation through the use of the PA system. The record reflects that CCS has a longstanding practice of communal prayer, considered integral to the schools' mission to stimulate the spiritual growth of its students. And therefore, the FHSAA cannot be said to be speaking with its own voice, but rather used the over-broad claim of an Establishment Clause violation "as subterfuge for favoring certain private speakers over others based on viewpoint." *Shurtleff*, at 262 (Alito, J., concurring) (quoting *Pleasant Grove City, Utah v. Summum*, 555 U.S. 460, 473 (2009)).

A situation like this, where the government speech doctrine would be used as "a cover for censorship" was cautioned against in *Shurtleff*. *Shurtleff*, 596 U.S., at 163 (Alito, J., concurring). It is hard to conceive what government message might be conveyed in two pregame prayers said over the PA system by the two Christian school participants in a high school football game attended by players, parents and fans, even where the FHSAA exercised some control over the form and substance of

some of the speech during the game. Here the prayers would not be said by an FHSAA functionary, but rather by private actors and representatives of one of the schools practicing their faith before players, parents, and fans as was customary. The Eleventh Circuit endorsed the FHSAA claims that such statements are government speech because it "critically" retains "control over" the messages from FHSAA's game sponsors. Op. at 49. But such control or "final approval authority" is not endorsement but is indistinguishable from "censorship of private speech" (*Shurtleff*, 596 U.S., at 264).

The analogy between *Shurtleff* and the present case is compelling: Both involve government invitations to private entities to participate in a government sponsored forum and to communicate messages on government property. For decades the FHSAA has invited participating schools, community sponsors, and halftime performers to use the public-address system at FHSAA events, including state championship contests. Those parties choose their own words, only some of which are edited by the FHSAA. The messages include advertisements by corporate sponsors, commentary, public-safety announcements, and half-time presentations by schools. As for half-time, schools could and did deliver messages and play music without FHSAA prior approval, including at the championship game in question. Cambridge Christian, 942 F.3d 1215, 1225 (11th Cir. 2019). Although the FHSAA occasionally provides a script for mandatory safety disclosures and acknowledges corporate sponsors whose donations underwrite the costs of the event, it does not—and never has—pre-screened every syllable transmitted through the loudspeakers.

Notably, the FHSAA made the decision to close the pregame microphone to the two Christian schools

competing in the finals, to prevent both from praying to God, to give thanks, and to worship. The FHSAA prevented the religious speech with no prior notice and despite its historical precedent that such pregame announcements by participating schools—including prayers—had been welcomed previously. It gave no compelling rationale for its decision. Lastly, it did not distinguish between FHSAA events indicating that prayer would be permitted at some events and proscribed at others. It simply censored the religious practice of the two schools on this particular occasion.

Shurtleff's holistic test counsels a different result. The non-exclusive considerations are (1) the history of the expression at issue, (2) the extent of governmental control over selection and content, and (3) the public's perception as to who is speaking. The Eleventh Circuit erred when it concluded that each factor weighed strongly in favor of treating the proposed prayers as government speech, and it compounded its error by focusing on the "key" factor of control. Op. at 46.

First, the Eleventh Circuit improperly narrowed its focus of the relevant historical context of the "expression at issue," to the *pregame* announcements at championship games "as opposed to any other game, sport, or period of the championship game." Op. at 35. Said another way: how, and to what extent, the FHSAA communicates *its own message* over PA speakers at sporting events that it coordinates, is the exact question the Eleventh Circuit should have, and inexplicably failed, to address. Rather than consider the whole of speech permitted at FHSAA's various sporting events, the Eleventh Circuit and the FHSAA, for the first time, artificially narrowed the

analysis to pregame speech only. There was no reason the court's inquiry should be so artificially constrained. It ignored the pertinent twofold inquiry: (1) the FHSAA's programming and messaging at all high school events, and in particular various sports' state championships and (2) CCS and UCS's history of pregame and in-game announcements.

The curiously restrictive temporal focus serves as loaded dice for the FHSAA's position. Even so, the Eleventh Circuit still must discard countervailing facts and conflate extraneous facts to arrive at its holding. In addressing whether the "history of the expression at issue" evidences that the government has "traditionally communicated messages on behalf of the government" in pregame championship announcements Op. at 36, there is surprisingly absent any discussion of how CCS and UCS, and their audience, historically used and understood pregame and in-game announcements, or how the FHSAA had communicated its messages at other games.

By way of example, the analysis of Boston's flag-flying would be missing a substantive component if the Court failed to consider the "general history" of the practice as there would be no basis for contextualizing the communicative nature of flags. *Shurtleff*, 596 U.S., at 253. But such similar contextual analysis is missing in the opinion below. Not only is it missing, but it is paradoxically rejected in search for the very "traditional" use of pregame announcements. *See* Op. at 36.

Second, the Eleventh Circuit acknowledged that the FHSAA ceded significant control of pregame and in-game announcements in the appropriately wider

historical context, finding that "there's no evidence that the FHSAA actively monitored those early round playoff games[.]" Op. at 38. Even though "the FHSAA prepares the PA scripts for all playoff football games," CCS (and presumably UCS) engaged in pregame prayers without interference by the FHSAA. *Id*. Though the FHSAA evidently "aggressive[ly] and direct[ly]" engaged in editorial control at this championship game, that is more indicative of impermissible censorship and unconstitutional transmutation of private speech to government speech. *See*, *Shurtleff*, 596 U.S., at 264. One wonders which players, parents or fans thought that the prayers said during those pay-off games were government speech as opposed to the religious expression of the competing schools?

The opinion below also makes much ado about the ownership of the microphone and PA system, while assiduously avoiding conducting a forum analysis. The broader set of facts demonstrate that advertisers, corporate sponsors, and school messages had all been conveyed to FHSAA school audiences throughout the seasons without this erroneous censorial control or concern that the speech was government speech.

Third, that a combination of a "neutral announcer" making use of a "government-owned PA system" at a sports stadium would convey to a "reasonable spectator" that pregame prayers by CCS and UCS representatives among a kaleidoscope of school-specific utterances would somehow confuse the school's supporters-in-attendance that the FHSAA endorsed the prayers is a Hail Mary. Op. at 44. Overlooked in the Eleventh Circuit's overanalytical

application of the endorsement factor is the simple question of whether a reasonable member of this championship game audience, that is students, parents, and supporters who came to witness two Christian schools play football, would think that pregame prayers by school officials would also be an endorsement by the FHSAA? Even less so when the schools' representatives who customarily pray invocations at their other games and events; or that this game was played at the Citrus Bowl, and not city hall. A reasonable observer would be hard pressed to provide a justification for why one would think such a prayer would be endorsed by the government.

Because the prayers would have been offered alongside secular private speech, the forum was necessarily a limited public forum. The FHSAA's suppression constitutes viewpoint discrimination barred by the Free Speech and Free Exercise Clauses. *Shurtleff* leaves no room for the Eleventh Circuit's contrary ruling, which would allow the government to claim ownership of any message spoken through a microphone owned by a government entity—an approach incompatible with the First Amendment's prohibition against content-based restraints.

II. The Eleventh Circuit's decision is irreconcilable with *Kennedy*'s reaffirmation that overt religious expression in the school context may be protected, private exercise.

Kennedy reaffirmed that the First Amendment's protections against government censorship of religious speech is a "natural outgrowth of the framers' distrust of government attempts to regulation religion and suppress dissent." *Kennedy*, 597 U.S., at 524. In *Kennedy*, a public

high-school football coach knelt at the fifty-yard line to offer a quiet, thirty-second prayer after each game. *Id.*, at 519. The school district disciplined him, asserting that visible religious observance by a school employee on school property could be perceived as official endorsement. *Id.*, at 518-19. This Court rebuffed that rationale, explaining that the First Amendment, and specifically the Free Exercise and Free Speech Clauses, protects the coach's expression, and that the Establishment Clause does not trump the other two clauses to compel the government "to purge from the public sphere anything an objective observer could reasonably infer endorses or partakes of the religious." 597 U.S., 535 (internal quotations omitted) (citing *Van Orden v. Perry*, 545 U.S. 677, 699 (2005) (Breyer, J., concurring in judgment)). *Kennedy* emphasized the "history and tradition" (*see*, *Lemon*, 597 U.S., at 546 (Sotomayor, J., dissenting)) of private religious activity in the public sphere and lamented the lower courts' reliance on the now-repudiated entanglement test derived from *Lemon v. Kurtzman* (*Kennedy*, 597 U.S., at 534).

The parallels here are unmistakable. CCS and UCS—both private actors—sought to begin the championship with short prayers, consistent with their longstanding religious tradition and pregame conduct. Like the coach in *Kennedy*, they did not demand governmental participation or mandate audience compliance. The prayers—thirty seconds in duration—would have occurred at a time when spectators expect pregame ceremonies and were accustomed to pregame prayer. The FHSAA's fear that listeners might construe the prayers as an official endorsement reprised precisely the reasoning *Kennedy* rejected. Importantly, *Kennedy* observed that "learning how to tolerate prayer of all kinds is 'part of learning

how to live in a pluralistic society,' a trait of character essential to 'a tolerant citizenry.'" *Id.* at 538 (quoting *Lee v. Weisman*, 505 U.S. 577, 590 (1992)).

On its face, the Eleventh Circuit's conclusion that the players, students, parents and other fans would think that the prayers were the government speaking for itself is ludicrous. The much more reasonable conclusion is that the two Christian schools who customarily pray before games requested permission to pray, one more time at the most significant game of their year.

The Eleventh Circuit's conclusion that the prayers would be "closely associated" with the FHSAA because the prayers would be near to patriotic trappings like the national anthem and pledge of allegiance made by an announcer who "maintains neutrality while calling plays" Op. at 42 rests on a hypothetical tone deaf listener who is oblivious to obvious contextual cues and to the identity of the competitors. Supreme Court precedent rejects such an ill-informed "heckler's veto" standard. See *Good News Club v. Milford Central School,* 533 U.S. 98, 119 (2001); cf. *Capitol Square Review & Advisory Bd. v. Pinette*, 515 U.S. 753, 779-80 (1995) (Connor, J., concurring in part and concurring in judgment). The reasonable observer standard presupposes familiarity with the community and forum's "history and context." *Id.* Here, fans likely knew the schools generally supplied announcers, halftime bands, and cheer squads. They understood that the championship game was sponsored by commercial entities and televised by a third party. The presence of disclaimers—standard practice at prior events—would further reinforce the private nature of the prayer. *See Lindke v. Freed*, 601 U.S. 187, 202 (2024);

The Eleventh Circuit described the FHSAA's pregame PA system as an instrument of government speech, ignoring the analysis presented in *Kennedy*, which demanded a holistic analysis. In *Kennedy*, the coach was unquestionably a government employee practicing his faith on school premises, yet his prayer remained private conduct outside his official duties. Here, by contrast, the speakers would have been school representatives from private religious schools, not state officials. If *Kennedy* protects a public-school coach's prayer from government suppression, it certainly shields CCS's and UCS's prayers as well. There is simply no confusion as to who is praying, and if the FHSAA thinks there might be confusion, then it could simply disclaim endorsement announcing, as it did in 2012, that the FHSAA was turning over the microphone to representatives of the CCS and UCS to pray or be even more explicit that their prayers are not endorsed by the FHSAA. Either would be preferable to the FHSAA's unconstitutional censorship.

III. The Eleventh Circuit's decision threatens to further isolate minority faiths, including those of the Hindu and Jewish communities.

Suppression of religious speech carries real and serious consequences for non-majoritarian religions. Recent events call to mind the distressing and steady cadence of violence targeting Hindus and Jews: temples in Kentucky[2]

2. A teen is accused of vandalizing a Hindu temple with spray-painted crosses and religious phrases, CNN, https://www.cnn.com/2019/02/01/americas/kentucky-temple-vandalized-hate-crime-trnd, February 4, 2019 (last accessed July 7, 2025).

and New York[3] vandalized with anti-Hindu messages; synagogues in New York,[4] New Jersey,[5] and Colorado[6] defaced, set ablaze, or targeted by would-be shooters; and Hindu temples vandalized in California[7]. Between 2020 and 2023, the FBI's National Incident-Based Reporting System shows an approximately two-fold increase in anti-Jewish incidents.[8] Furthermore, 2023 notched the

3. Community, advocate groups speak out after Hindu temple vandalized in Melville, Long Island, ABC 7 New York, https://abc7ny.com/post/long-island-temple-vandalism-community-advocate-groups-edge-after-hindu-place-worship-spray-painted/15315099/ (last accessed July 7, 2025).

4. *See, e.g.*, New York Man Pleads Guilty to Hate Crime for Threatening Jewish Synagogue in Albany, Office of Public Affairs, U.S. Dept. of Justice, https://www.justice.gov/opa/pr/new-york-man-pleads-guilty-hate-crime-threatening-jewish-synagogue-albany (last accessed July 7, 2025).

5. *See, e.g.*, Passaic County Man Arrested for Attempt to Firebomb Synagogue, United States Attorney's Office District of New Jersey, February 1, 2023, https://www.justice.gov/usao-nj/pr/passaic-county-man-arrested-attempt-firebomb-synagogue (last accessed July 7, 2025).

6. *See, e.g.*, Police investigate vandalism at Colorado Synagogue, CBS News, April 1, 2025, https://www.cbsnews.com/colorado/news/police-investigate-vandalism-aurora-colorado-synagogue/ (last accessed July 7, 2025).

7. California hate crime hotline gives Hindus more evidence of shortfall in FBI reporting, Religion News Service, May 25, 2024, https://religionnews.com/2024/05/24/as-hate-crimes-grow-religious-minorities-look-to-fbi-to-increase-reporting/ (last accessed, July 7, 2025).

8. *See* Federal Bureau of Investigation's Crime Data Explorer, https://cde.ucr.cjis.gov/LATEST/webapp/#/pages/explorer/crime/hate-crime (last accessed, July 7, 2025).

greatest number of anti-Jewish incidents recorded by the FBI since it began collecting such data in 1991.[9] Such incidents underscore the fragility of religious pluralism. When governmental entities like the FHSAA relegate faith expression to the shadows, the social climate deteriorates, emboldening private actors who equate marginalization with license to intimidate.

Moreover, minority faith traditions often rely on public events—interfaith vigils, cultural festivals, school assemblies—to communicate their beliefs and foster understanding. If local officials can silence a Christian's public prayer at a state actor's event said over a PA system by declaring, "It is government speech," they can just as readily muzzle a rabbi's Chanukah blessing or a Hindu priest's Diwali invocation at community gatherings conducted on municipal property. Free exercise of faith not only Constitutional, it enriches America's pluralistic tapestry and is essential to healthy democracy.

IV. First Amendment rights must be guarded closely.

The first Congress overwhelmingly appreciated the necessity of protecting freedom of religion as articulated in the First Amendment passing the Bill of Rights on September 25, 1789. The states then ratified the Bill of Rights on December 15, 1791. The complementary nature of the Establishment and Free Exercise Clauses is obvious. In the same breath, the Constitution prohibits

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9. *See* Anti-Jewish hate crimes increased by 63% since 2023, FBI reports, ADL, September 23, 2024, https://www.adl.org/resources/press-release/new-fbi-data-reflects-record-high-number-anti-jewish-hate-crimes

the federal government from both legislating religion and also from infringing on Americans' free exercise of religion. Here, the FHSAA's conduct was a naked effort to suppress religious expression, which the Eleventh Circuit wrongly condoned.

The Constitutional protections for free exercise as sought by CCS should not be muffled by a state actor under the guise of "government speech" or an illusory fear of government establishment of religion. Free exercise demands not only the right to practice religion in private but the right to express it publicly. If that right can be so easily trampled when advanced by two Christian schools playing in a public venue, before members of their communities, how much easier is it to state actors to muzzle minority, poorly understood, least heard faiths?

For too long in our more recent past, freedom of religious expression has been undermined by courts. The more recent opinions of this Court have begun the process of restoring the Constitutional protection of free exercise, but after decades of neglect, restoring robust protection against government censorship is not complete. *Certiorari* is imperative to restore doctrinal coherence and safeguard the right to religious expression.

This Court has labored for years to correct the relationship between the First Amendment's Establishment Clause and the Free Exercise Clause and to distinguish between private and government speech. *See, e.g.*, *Shurtleff*, 596 U.S. 243; *Kennedy*, 597 U.S. 507; *see also*, *Lindke v. Freed*, 601 U.S. 187 (2024); *Carson as Next Friend of O.C. v. Makin*, 596 U.S. 767 (2022); *Fulton v. City of Philadelphia*, 593 U.S. 522 (2021);

Little Sisters of the Poor Saints Peter and Paul Home v. Pennsylvania, 591 U.S. 657 (2020); *American Legion v. American Humanist Association*, 588 U.S. 29 (2019). The Eleventh Circuit's decision subverts these holdings, creating a patchwork regime where a public employee may pray on the fifty-yard line after a game, but religious schools may not pray into a microphone before a game; where a private organization may raise a Christian flag outside Boston's City Hall, but Christian schools may not pray over a loudspeaker in Orlando. This jurisdictional split must be resolved by this Court.

CONCLUSION

The American Hindu Jewish Congress respectfully urges the Court to grant CCS's Petition and accept *certiorari* and reverse the lower court and reverse *Santa Fe Independent School Dist. v. Doe* in order to affirm the constitutional rights of all faith communities—especially those minority traditions most vulnerable to suppression—have to practice their religion in public spaces, without fear of government censorship.

Respectfully submitted,

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