

No. 24-756

In the Supreme Court of the United States

NATIONAL FEDERATION OF THE BLIND OF TEXAS, INC.,
ET AL., PETITIONER,

v.

CITY OF ARLINGTON, TEXAS

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

BRIEF OF AMICUS CURIAE THE KNIGHTS OF COLUMBUS SUPPORTING PETITIONER

JOHN P. ELWOOD
Counsel of Record
MICHAEL A.F. JOHNSON
CASEY CORCORAN
ARNOLD & PORTER
KAYE SCHOLER LLP
601 Massachusetts Ave., NW
Washington, DC 20001
(202) 942-5992
John.Elwood@arnoldporter.com

TABLE OF CONTENTS

	Page
Interests of <i>Amicus Curiae</i>	1
Summary of Argument.....	2
Argument	3
A. The Fifth Circuit’s Holding Threatens Charitable Organizations and Inhibits Charity	3
B. The Fifth Circuit’s Holding Stifles Religious Practice.....	11
C. The Fifth Circuit’s Holding Allows Governments to Target Charitable and Donative Speech.....	16
Conclusion	19

TABLE OF AUTHORITIES

Cases	Page(s)
<i>National Federation of the Blind of Texas, Inc. v. Abbott</i> , 647 F.3d 202 (5th Cir. 2011).....	17
<i>Planet Aid v. City of St. Johns, MI</i> , 782 F.3d 318 (6th Cir. 2015)	16, 18
<i>Vill. of Schaumburg v. Citizens for a Better Env't</i> , 444 U.S. 620 (1980)	16, 18
Statutes	
Arlington, Tex., Ordinance 18-044 (Aug. 21, 2018)	
§ 1.02	19
§ 2.01	3, 7, 8, 10, 18
§ 3.01(A).....	3, 14
§ 3.01(G).....	7, 9
§ 3.01(I).....	14
§ 3.03(D).....	4
§ 3.03(E).....	4, 10
§ 3.03(F).....	4
§ 3.03(G).....	4
§ 3.03(I).....	4
Religious References	
<i>Deuteronomy</i> 15:7–8	15
<i>Genesis</i> 26–31.....	14
<i>II Kings</i> 12:9–12	15
<i>James</i> 2:14–18.....	13
<i>John</i> 10:11.....	12
<i>John</i> 3:16.....	12
<i>John</i> 6:1–14.....	12
<i>Luke</i> 4:40	12
<i>Mark</i> 12:42–44	12
<i>Mark</i> 15:21–41	12

<i>Matthew 25:31–40</i>	12, 13
<i>Romans 5:8</i>	12
Other Authorities	
<i>Arlington, TX, Data USA</i> , https://bit.ly/3CEVQtZ	2
<i>The Benefits of Using a Local Clothing Donation Box</i> , Big Brothers of Vancouver, https://bit.ly/4gFjfcH	14
<i>How to Conduct a Food Drive for Capital Area Food Bank</i> , Capital Area Food Bank, https://bit.ly/42Oe1I3 .9	9
Catechism of the Catholic Church n. 2415	14
<i>Clothing & Footwear Donation Bins</i> , Children of Adam, https://bit.ly/42UDz6A	16
Charter of the Knights of Columbus (1882).....	1, 5
<i>Frequently Asked Questions About Scouting for Food</i> , Del-Mar-VA Council, https://bit.ly/4aZziR5	16
Jorge Garcia Castillo, <i>Deciding Between Cash-Based and In-Kind Distributions During Humanitarian Emergencies</i> , 11 J. Humanitarian Logistics and Supply Chain Mgmt. 272 (2021).....	10, 11
<i>The Importance of Charity Collection Boxes: How They Make a Difference in Fundraising Efforts</i> , Direct Fundraising (Aug. 23, 2023), https://bit.ly/4hyUH6m .17	17
<i>Laudato Si'</i> , Encyclical Letter of the Holy Father Francis ¶ 116 (2015)	13
Tzvi Freeman, <i>The Tzedakah (Charity) Box: Pushka Power</i> , Tzedakah Handbook, https://bit.ly/3WUNPrF	15
<i>Everything You Need to Know About In-Kind Donations</i> , GiveSmart (Jun. 8, 2023), https://bit.ly/41cXSe8	11
Moinul Islam, <i>In-Kind Donation Practices, Challenges and Strategies for NGOS and Donors</i> (Dec. 2013).....	10

Jon D. Levenson, <i>Why Give? Religious Roots of Charity</i> , Harv. Divinity News (Nov. 26, 2018)	15, 16
<i>Giving USA: U.S. Charitable Giving Totaled \$557.16 billion in 2023</i> , Lily Gamily School of Philanthropy (June 25, 2024), https://bit.ly/3Ewa8gP	10
<i>Recycle Eyeglasses</i> , Lions Clubs, https://bit.ly/42YhZxM	8
<i>Organize a Coat Drive in 3 Steps</i> , One Warm Coat, bit.ly/41b5PAr	9, 16
<i>Organizer FAQs</i> , One Warm Coat, bit.ly/42OgqCz	9
<i>Our Work, One Warm Coat</i> , https://bit.ly/4b2UjKP	9
<i>Mission</i> , Planet Aid, https://bit.ly/42PLXUG	9, 16
Nationall Council of Nonprofits, <i>Nonprofit Impact Matters</i> , (Sept. 2019), https://bit.ly/3QdIp7f	10
<i>Schedule A Pickup</i> , Salvation Army (Feb. 13, 2025), https://bit.ly/3QlkGSw	9
<i>What are the Scout Oath and Scout Law?</i> , Scouting America, https://bit.ly/41dG0jt	16
<i>Scouting for Food</i> , St. Louis Boy Scouts of America, https://bit.ly/40X6HYl	7
<i>How the Program Works</i> , Toys for Tots, https://bit.ly/40T8Pjf	8
Adam Weingar, <i>The Complete Guide to In-Kind Donations for Nonprofits</i> , https://bit.ly/41dwFIr	11, 13
<i>Capital Kosher Food Collection Locations</i> , Yad Yehuda of Greater Washington, Yad Yehuda of Greater Washington, https://bit.ly/40ZZOpb	15

INTERESTS OF *AMICUS CURIAE*¹

The Knights of Columbus (“the Order”) is a religiously based fraternal beneficiary society with more than two million members worldwide. First chartered in 1882, the Order aims to “unite members in their Catholic identity and the practice of their Catholic faith.” Charter of the Knights of Columbus § 2 (1882).

Since the organization’s founding, the Order has embraced Charity as its defining principle, an indispensable embodiment of its Catholic character. *Ibid.* (listing “charitable works” as one of the Order’s purposes). As a Catholic organization, the Order exists to bear witness to Christ’s Gospel and to spread the Good News to others by performing works of charity.

The Order works with countless partners at the local, national, and international levels to help those in need. As a fraternal beneficiary society, the Knights of Columbus operates through a lodge system, with units known as local councils that often are centered around a Catholic parish. Local councils tailor the Order’s charitable programming to the needs of their communities. For example, local councils in areas with colder climates carry out their charitable ministry, in part, by collecting coats for distribution to children in need (Knights of Columbus Coats for Kids®). In so doing, councils frequently deploy simple collection technology such as cardboard boxes, plastic bins, and small cargo vehicles such as vans and box trucks—all of which fall within Arlington’s definition of a “donation box.”

The Order thus has an interest in protecting the right to engage in charitable activities, including through the

¹ No counsel for any party authored this brief in whole or in part. No person other than *Amicus Curiae* or its counsel made a monetary contribution to its preparation or submission. The parties were given timely notice of *Amicus*’ intent to file this brief.

use of donation boxes. This is particularly true given how closely the Order’s charity is intertwined with its Catholic mission.

SUMMARY OF ARGUMENT

The petition for a writ of certiorari should be granted because the Fifth Circuit’s judgment upholding Arlington’s donation-box law threatens charitable organizations and allows governments to target charitable and donative speech.

A. Arlington’s law would devastate charitable efforts. Of Arlington’s nearly 400,000 residents, about 50,000 people—one eighth of its population—live below the poverty line. See *Arlington, TX, Data USA*, <https://bit.ly/3CEVQtZ> (last visited Feb. 13, 2025). The law imposes strict permitting requirements: boxes are banned in residential zones; boxes must be made of metal rather than wood, plastic, or cardboard; and, even if all other requirements are met, only one box is allowed per lot.

These restrictions severely hamper the operations of many charitable organizations, including Knights of Columbus local councils’ food and clothing drives, Scouting America’s food drives, Marine Corps Reserve’s Toys for Tots program, Lions Club’s eyeglass collection, and One Warm Coat winter-coat drives. Arlington’s restrictions would make it practically impossible for these organizations to continue these efforts, because all of them involve the use of noncompliant collection technologies or depend upon locating collection points (at least temporarily) in residential areas, where many churches stand.

B. By blocking these efforts, Arlington’s law also blocks religious expression. For the Knights of Columbus, charitable giving through donation boxes represents a core religious practice rooted in Biblical

teachings. The same is true for individuals and organizations of other faiths. By restricting donation boxes, Arlington's ordinance substantially impairs the ability of these organizations and individuals to practice their faith through charitable works.

C. Arlington's law targets charitable or donative speech. The First Amendment protects charitable appeals as a specific form of expressive, donative messaging. Arlington's law singles out that content for such onerous restriction that it is in many instances effectively silenced.

The Fifth Circuit missed this issue because it adopted an exceedingly narrow interpretation of what counts as charity, and determined that—because some donation boxes might fall outside of that cramped definition—Arlington had not targeted charitable messaging.

That interpretation is wrong. All donation boxes carry a charitable, donative message. So Arlington's law—which applies only to donation boxes and not to other comparable non-donative receptacles such as dumpsters, garbage cans, and recycling bins—targets only messages soliciting donations.

ARGUMENT

A. The Fifth Circuit's Holding Threatens Charitable Organizations and Inhibits Charity

1. Arlington has decreed it “unlawful for any person to place or maintain, or allow to be placed or maintained, a donation box at any location within the City ... without a valid permit.” Arlington, Tex., Ordinance 18-044 § 3.01(A) (“Arlington Ordinance”). That proscription applies “to *all* donation boxes,” which Arlington defines broadly to include “*any* drop-off box, container, trailer or other receptacle that is intended for use as a collection point for accepting donated textiles, clothing, shoes,

books, toys, dishes, household items, or other salvageable items of personal property.” *Id.* § 2.01 (emphasis added).

Through its permitting requirement, Arlington imposes severe restrictions that make it exceedingly difficult for organizations such as the Knights of Columbus to fulfill their mission in the jurisdiction.

To qualify for a permit, a donation box must be metal—wood, plastic, and cardboard containers are verboten, even for single-day donation drives—and must be painted only one solid color. *Id.* § 3.03(G), (F). The City generally allows but a single box per lot; an exception for shopping centers and office developments affords a city “Administrator” discretion to allow a second box on such properties, but no more. *Id.* § 3.03(D). Donation boxes must also be “setback” from any street or right-of-way by “existing landscape” in “good condition,” or 40 feet. *Id.* § 3.03(I). No permit will issue for a box measuring over 120 cubic feet—about the size of a small dumpster—a size well below the capacity of most minivans and all box trucks. See *id.* § 3.03(E).

Arlington’s ordinance banishes donation boxes from wide swaths of the City—including all those zoned “Residential”—where organizations like the Knights of Columbus would otherwise focus much of their charitable solicitation and expression.

As Judge Graves explained in his partial dissent, after passing its initial permitting requirement,

The city * * * layered [a] zoning provision over the top of [the material, size, and appearance] provisions. And the zoning provision’s effect is much more drastic. It outright bans the boxes not just from the Community Commercial zones that are the focus of the city’s concerns, but also from the 577 city acres that are zoned Office Commercial and from all residential zones,

where at least some churches are located. Those are areas where, if the boxes were properly maintained, their presence would seem to be both appropriate and particularly useful to the Charities.

Nat'l Fed'n of the Blind of Texas, Inc. v. City of Arlington, Texas, 109 F.4th 728, 742 (5th Cir. 2024) (Graves, J., dissenting in part).

2. Judge Graves is right: the Arlington ordinance severely impairs charitable work and expression, including the kind of charitable work and expression the Knights of Columbus engage in.

The Knights of Columbus exists to perform acts of charity. Father Michael McGivney established the Order in 1882, specifically to provide faith-based, charitable outreach. The Order's founding Charter expressly proclaims that the organization is meant to "raise up, support and encourage a fraternity whose members are practical Catholics united by their faith and by the principles of charity," "through common worship, charitable works, meetings, and rites of initiation, to form its members in Catholic faith and virtue," and "to promote and conduct educational, charitable, religious, social welfare, war relief, public relief, and other activities." Charter of the Knights of Columbus § 2.

The Order's charitable activities encompass an almost infinite variety of local, national, and international projects. It has partnered with the Special Olympics to help organize nearly 4,000 competitions and donate more than \$4 million. The Order joined with the Global Wheelchair Mission to give the gift of mobility to thousands of people. It assists with international crises, aiding victims of tornadoes, hurricanes, wildfires, and war; partnering with Habitat for Humanity; and giving over \$33 million in relief to support persecuted Christians

in Nigeria, Iraq, Syria, and Lebanon, rebuilding their communities through housing, education, and healthcare.

There are many Knights of Columbus efforts that hinge on donation boxes. At a programmatic level, the Order has run Coats for Kids® for nearly twenty years, where Knights gather lightly used coats from the community to give to children in need. Coats for Kids® often involves donation boxes and, through it, the Order has collected over 1.5 million coats. Similarly, the Knights of Columbus has run Food for Families drives since 2015. Food for Families strives to eradicate hunger in the community and, through it, Knights have collected nearly 70 million pounds of food.

Knights of Columbus local councils are key to the Order's charitable efforts. Council 14573 in Melbourne, Florida places donation boxes outside its parish church's doors once a month after Sunday Mass to collect food. Council 11170 in Fort Belvoir, Virginia places boxes in the local chapel to collect not only food, but also coats and toys. Two local councils in Michigan—Councils 13419 and 7418—use donation boxes to collect coats for needy children in preparation for cold midwestern winters. Council 5058 has used donation boxes to collect thousands of pairs of socks to be distributed through the Assisi House in Baltimore, MD. There are simply too many of these types of efforts to name them all here.

Arlington's permitting scheme—combined with its zoning restrictions—would put an end to most, if not all, of these endeavors. Arlington will not issue a donation-box permit for boxes in residential areas, nor for boxes in large parts of the city's commercial areas. *Nat'l Fed'n of the Blind of Texas, Inc.*, 109 F.4th at 742 (Graves, J., dissenting in part). The permitting process brooks no exception, exiling donation boxes to a few peripheral industrial areas. A local Knights of Columbus council should not be compelled by the City to place a box in an

industrial park on the outskirts of town and hope that people chance upon it there or make a special pilgrimage to it. Councils need to position their boxes in community gathering places for their efforts to succeed—and to spread the Christian charitable message that such boxes convey. Take Knights of Columbus Councils 13573 and 11170. They place boxes outside of their local parish after Mass because their faith-based charity thrives among the faithful. Yet if those churches happen to sit in a nonconforming zone, as some in Arlington do, *see id.*, those local councils would be out of luck.

On top of that, Arlington's other permitting requirements would squash any of the Knights of Columbus councils' box-based efforts that managed to dodge the *per se* zoning ban. The City's insistence that the boxes be made out of metal hits particularly hard. See Arlington Ordinance § 3.01(G). The Order's councils rely on the volunteer efforts of their members. Forcing local volunteers to buy or make a metal box large enough to collect donations—as opposed to just reusing a cardboard one—skyrockets the entry cost to charitable giving, pricing people out of collecting for charity.

3. The Knights of Columbus is not alone in facing often-insurmountable hurdles to charitable giving under laws like Arlington's. Other organizations have similar operations: charitable drives facilitated by donation receptacles that run largely on the backs of local actors and volunteers. To name a few:

- Scouting America conducts an annual food drive to collect nonperishable food for local food banks. See, *e.g.*, Scouting for Food, St. Louis Boy Scouts of America, <https://bit.ly/40X6HYI> (last visited Feb. 6, 2025). Scouts leave containers, often bags, outside their neighbors' doors for them to fill with nonperishable food, and then Scouts return to collect the full containers. *Ibid.* In Arlington,

because these bags constitute “receptacle[s] * * * intended for use as a collection point” for donations, they qualify as covered “donation boxes.”² Arlington Ordinance § 2.01. And because the program operates exclusively in residential areas, the Scouts could never hope for a permit in Arlington.

- The Marine Corps Reserve direct the Toys for Tots program. Through that program, local veterans place collection boxes within the community. *How the Program Works*, Toys for Tots, <https://bit.ly/40T8PjF> (last visited Feb. 6, 2025). People put toys in the boxes, and the veterans give those toys to children in need at Christmas. *Ibid.* Arlington’s law would severely restrict this effort.
- The Lions Club runs the Recycle for Sight program, wherein local chapters of the Club put out eyeglass collection boxes in “local businesses, schools, optical shops, libraries, places of worship, city administrative centers and eye care [offices].” *Recycle Eyeglasses*, Lions Clubs, <https://bit.ly/42YhZxM> (last visited Feb. 6, 2025). They give collected glasses to those who “lack access to basic eye care services.” *Ibid.* Yet because “local businesses, schools, optical shops, libraries, places of worship, city administrative centers and eye care [offices]” are mostly located

² The law covers “any * * * container * * * or other receptacle that is intended for use as a collection point for accepting donated * * * household items, or other salvageable items of personal property.” *Id.* § 2.01 (emphasis added). Its express terms thus cover receptacles for food donations, as items such as a can of beans, a jar of peanut butter, or a box of pasta fall well with the broad scope of the governing term—“household items * * * salvageable items of personal property”—from which the Ordinance specifies no exceptions. *Ibid.*

in residential or commercial spaces, and because the boxes are generally cardboard, Arlington's law would stop this program in its tracks.

- One Warm Coat organizes coat drives all over the country to "provide free coats to children and adults in need." *Our Work*, One Warm Coat, <https://bit.ly/4b2UjKP> (last visited Feb. 6, 2025). Local volunteers plan and execute the drives by constructing their own donation boxes and placing those boxes around town. See *Organize a Coat Drive in 3 Steps*, One Warm Coat, <https://bit.ly/41b5PAr> (last visited Feb. 6, 2025). One Warm Coat promises that "[p]utting a collection bin together is super easy." *Organizer FAQs*, One Warm Coat, bit.ly/420gqCz (last visited Feb. 7, 2025). Not so in Arlington, unless the volunteer happens to be a metal fabricator. See Arlington Ordinance § 3.01(G).
- Capital Area Food Bank runs canned food drives. Local volunteers create their own collection system, often "boxes," and place those receptacles in public places to collect food donations. *How to Conduct a Food Drive for Capital Area Food Bank*, Capital Area Food Bank, <https://bit.ly/420e1I3> (last visited Feb. 7, 2025). Arlington's law would again force these volunteers to craft metal boxes and bar those boxes from much of the city.
- Planet Aid is a nonprofit organization that places large yellow bins in public areas to collect donated clothes and shoes. *Mission*, Planet Aid, <https://bit.ly/42PLXUG> (last visited Feb. 6, 2025). In Arlington, these boxes would be relegated to fringe industrial zones and would be banished from most church parking lots.

- The Salvation Army will dispatch a truck to pick up donated goods. *Schedule A Pickup*, Salvation Army, <https://bit.ly/3QlkGSw> (Feb. 13, 2025). Arlington's law (which includes "trailer[s]" in its nonexclusive list of examples) could even be used to cover this kind of "collection point for accepting donat[ions]." Arlington Ordinance § 2.01; see *id.* § 3.03(E).

4. Because of the dispersed, local nature of these programs, the physical impact of laws like Arlington's is difficult to quantify. But it must not be underestimated. There are over 1.2 million charitable nonprofit organizations in the United States. Nat'l Council of Nonprofits, *Nonprofit Impact Matters*, at 1 (Sept. 2019), <https://bit.ly/3QdIp7f>. They are supported by tens of millions of donors, *ibid.*, who give over a half a trillion dollars annually to charity, *Giving USA: U.S. Charitable Giving Totaled \$557.16 billion in 2023*, Lily Gamily School of Philanthropy (June 25, 2024), <https://bit.ly/3Ewa8gP>.

Of that half trillion, "roughly \$58 billion" comes from in-kind charitable donations, i.e., goods and services donations. Moinul Islam, *In-Kind Donation Practices, Challenges and Strategies for NGOS and Donors* 6 (Dec. 2013). "Individuals and community groups contribute the largest share of in-kind donations." *Ibid.*

Arlington's law primarily targets precisely this common type of charitable giving: goods donated to local drives through donation boxes. Donation boxes most frequently collect physical items: canned goods, coats, shoes, and toys. By restricting donor access to boxes, Arlington is restricting donee access to those goods.

That hits particularly hard because those in need rely on quick access to goods. When disaster strikes, vulnerable populations struggle to find basic, physical necessities. Jorge Garcia Castillo, *Deciding Between*

Cash-Based and In-Kind Distributions During Humanitarian Emergencies, 11 J. Humanitarian Logistics and Supply Chain Mgmt. 272, 272 (2021). In-kind aid addresses their “specific needs,” by rapidly “increas[ing] the availability of products” that they require the most. *Id.* at 274; accord *Everything You Need to Know About In-Kind Donations*, GiveSmart (Jun. 8, 2023), <https://bit.ly/41cXSe8> (“[I]n-kind donations provide * * * goods and services that serve your immediate needs.”).

It also hits particularly hard because the organizations themselves rely on collecting those goods. Organizations leverage local volunteers to have an outsized impact on their communities through low-cost, efficient donation-box drives. In this way, in-kind donations provide organizations with “cost savings,” and the ability to offer “expand[ed] services.” *Everything You Need to Know About In-Kind Donations*, GiveSmart (Jun. 8, 2023), <https://bit.ly/41cXSe8> (“[I]n-kind donations provide * * * goods and services that serve your immediate needs.”). They also “foster community engagement” and offer organizations “flexibility in meeting [their] operational requirements.” *Ibid.* “Without the support of in-kind donations, [a charitable organization] could face significant challenges in fulfilling its missions and delivering services to those in need.” *Ibid.*

Laws like Arlington’s take a devastating bite out of all these benefits. The Fifth Circuit’s ruling blesses that result.

B. The Fifth Circuit’s Holding Stifles Religious Practice

1. The Knights of Columbus’ focus on Charity as its first principle flows directly from its Catholic character. Jesus instructed,

When the Son of Man comes in his glory, and all the angels with him, he will sit upon his glorious throne, and all the nations will be assembled before him. And he will separate them one from another, as a shepherd separates the sheep from the goats. He will place the sheep on his right and the goats on his left. Then the king will say to those on his right, “Come, you who are blessed by my Father. Inherit the kingdom prepared for you from the foundation of the world. For I was hungry and you gave me food, I was thirsty and you gave me drink, a stranger and you welcomed me, naked and you clothed me, ill and you cared for me, in prison and you visited me.” Then the righteous will answer him and say, “Lord, when did we see you hungry and feed you, or thirsty and give you drink? When did we see you a stranger and welcome you, or naked and clothe you? When did we see you ill or in prison, and visit you?” And the king will say to them in reply, “Amen, I say to you, whatever you did for one of these least brothers of mine, you did for me.”

Matthew 25:31–40. Christ lived these words: He fed the hungry, *John 6:1–14*, tended to the sick, *Luke 4:40*, and ultimately gave His very life for sinners, *Mark 15:21–41*; *John 10:11, 3:16*; *Romans 5:8*. For Catholics, helping those in need is not merely an option—it is a calling, a divinely mandated purpose of their lives. By doing so, they follow Jesus’s teaching and example. It is critical to their salvation.

Through donation boxes, Knights of Columbus members thus live their Catholic faith. Acts of charity are, after all, specifically directed by Jesus as the way to live as God intends. One day, Jesus observed a poor widow putting “two small coins” into the temple treasury. *Mark 12:42*. While the coins were only “worth a few

cents,” they were also essentially “all she had” to live on. *Id.* 12:42, 44. Jesus highlighted this woman’s charitable efforts, “[c]alling his disciples to him,” to ensure they knew what she had done and would know to be like her in their own lives. *Id.* 12:43.

They also facilitate the precise kind of loving assistance that the Bible prescribes. As the Letter of James emphasizes, faith alone is not enough for salvation, followers of Christ *must* perform charitable acts:

What good is it, my brothers, if someone says he has faith but does not have works? Can that faith save him? If a brother or sister has nothing to wear and has no food for the day, and one of you says to them, “Go in peace, keep warm, and eat well,” but you do not give them the necessities of the body, what good is it? So also faith of itself, if it does not have works, is dead. Indeed someone may say, “You have faith and I have works.” Demonstrate your faith to me without works, and I will demonstrate my faith to you from my works.

James 2:14–18. Donation boxes allow followers to give “the necessities of the body” to those who have “nothing to wear” and “no food for the day.” *Id.* 2:15–16.

The Knights of Columbus’ charitable activities help its members live the life demanded by the Catholic faith, and the Order uses donation boxes to accomplish precisely the tasks that Jesus laid out to his followers in *Matthew*, see *supra* pp. 11-12. Knights of Columbus members give food and drink to the hungry and clothing to the naked. See *Matthew* 25:31–40. They “show * * * [their] faith from [their] works.” *James* 2:18. When cities ban or otherwise restrict these activities, they block the Order’s membership from practicing their faith.

Donation boxes also help the Order live out and further the Catholic concept of stewardship. Catholics have a duty to be “responsible steward[s]” of the gifts and physical blessings they have been given. *Laudato Si*’, Encyclical Letter of the Holy Father Pope Francis ¶ 116 (2015).

Donation boxes help Knights encourage responsible stewardship in their communities. Their presence prompts the public to consider the value of their possessions by reminding them that they have what others do not. It encourages them to consider giving old items new life through donation. See *The Benefits of Using a Local Clothing Donation Box*, Big Brothers of Vancouver, <https://bit.ly/4gFjfcH> (last visited Feb. 12, 2025) (“Donation boxes are a crucial link in a chain of environmental consciousness and social welfare.”). And it facilitates that responsible donation.

Arlington’s law blocks this messaging. If a donation box cannot be put up, it cannot be seen at all. See Arlington Ordinance § 3.01(A). If a donation box is relegated to a few fringe, nonresidential districts—and, even then, set off from the street—it cannot be seen by many. See *Nat'l Fed'n of the Blind of Texas*, 109 F.4th at 742 (Graves, J., dissenting in part); Arlington Ordinance § 3.01(I). Banning or otherwise restricting the use of donation boxes thus not only stops member Knights from living their faith, it stops them from sharing that message with others.

The Order’s use of donation boxes to spread a message of responsible stewardship is all the more important considering the alternative. Would-be donors are more likely to simply throw out goods if they cannot easily donate them. If donation boxes are allowed next to trash cans, the cost of donation is low, and the goods may be put to good use. More importantly, Knights can spread the message that people should share their spare goods

with those less fortunate rather than carelessly throwing them away. But under laws that force donation boxes outside of the public eye while allowing ubiquitous garbage cans, those same goods will be discarded into the trash, rendering them useless to “generations to come.” See *Catechism of the Catholic Church* n. 2415.

2. The Knights of Columbus practices charity as a religious obligation under Catholic doctrine; but faiths of all shapes and sizes emphasize the central importance of charity—and indeed, recognize it as a religious obligation.

The charitable roots of Judaism are ancient. Moses commanded that “[i]f anyone is poor among your fellow Israelites * * * do not be hardhearted or tightfisted towards them. Rather, be openhanded.” *Deuteronomy* 15:7–8. A priest in the First Temple in Jerusalem even placed a wooden box at the altar to collect donations. *II Kings* 12:9–12.

Those roots carry through to today. “Jewish law makes the giving of charity a mitzvah,” or a “commandment.” Jon D. Levenson, *Why Give? Religious Roots of Charity*, Harv. Divinity News (Nov. 26, 2018). Many Jewish people practice “tzedakah,” or “justice,” “righteousness,” or “doing right.” See Tzvi Freeman, *The Tzedakah (Charity) Box: Pushka Power*, Tzedakah Handbook, <https://bit.ly/3WUNPrF> (last visited Feb. 6, 2025). Giving Tzedakah is not simply an act of kindness to aid others, it is an obligation. *Ibid.* One that the Jewish faithful frequently carry out using donative boxes. See, e.g., *ibid.*; *Capital Kosher Food Collection Locations*, Yad Yehuda of Greater Washington, <https://bit.ly/40ZZOpb> (last visited Feb. 7, 2025). It is a common practice to make some donation boxes in the shape of famous synagogues, underscoring the religious message and purpose.

Islam has similar traditions. One of Islam’s five pillars is the “zakat,” an obligation to give to charity. See Levenson, *supra*. Many Muslims also practice a form of

charity known as “sadaqah.” See *ibid.* To do so, they often use donative boxes. See, *e.g.*, *Clothing & Footwear Donation Bins*, Children of Adam, <https://bit.ly/42UDz6A> (last visited Feb. 7, 2025).

For people and organizations of these faiths, and others, restricting their ability to use donative boxes restricts the way in which they practice their religion.

3. Laws like Arlington’s have a similar impact on secular organizations too. Many organizations exist just to perform charitable giving. And the way that they accomplish that is often mainly, and in some cases solely, through donation boxes. See, *e.g.*, *Mission*, Planet Aid, bit.ly/42PLXUG (last visited Feb. 6, 2025); *Organize a Coat Drive in 3 Steps*, One Warm Coat, bit.ly/41b5PAr (last visited Feb. 6, 2025). And while organizations like Scouting America certainly engage in other activities, every Scout takes an oath “to help other people at all times,” *What are the Scout Oath and Scout Law?*, Scouting America, <https://bit.ly/41dG0jt> (last visited Feb. 7, 2025), and their signature charitable program is Scouting for Food, see *Frequently Asked Questions About Scouting for Food*, Del-Mar-VA Council, <https://bit.ly/4aZziR5> (last visited Feb. 7, 2025). Arlington’s law thus cuts at the core of these organizations.

C. The Fifth Circuit’s Holding Allows Governments to Target Charitable and Donative Speech

Nearly five decades ago, this Court recognized that “clearly * * * charitable appeals * * * involve a variety of speech interests—communication of information, the dissemination and propagation of views and ideas, and the advocacy of causes—that are within the protection of the First Amendment” *Vill. of Schaumburg v. Citizens for a Better Env’t*, 444 U.S. 620, 632 (1980).

More recently, both the Fifth and Sixth Circuits followed the natural logic of that holding and determined that donation boxes are charitable appeals and thus, “[a] charitable donation bin can—and does—‘speak.’” *Planet Aid v. City of St. Johns*, 782 F.3d 318, 325 (6th Cir. 2015); see also *Nat'l Fed'n of the Blind of Texas, Inc. v. Abbott*, 647 F.3d 202, 212–13 (5th Cir. 2011).

When the Knights of Columbus’ donation bins “speak,” they inherently convey a religious message. That message is threefold. First, it is a signal to others to follow Jesus’s example and care for each other. Second, it is a reminder to be responsible stewards of the earth and not to be wasteful with physical blessings. Third, it is a call to all of those who see the boxes, encouraging them to investigate the Knights of Columbus’ deeply held and Catholic faith. All of these flow from the boxes’ charitable nature. The content of the Order’s message is integral to its medium. See *The Importance of Charity Collection Boxes: How They Make a Difference in Fundraising Efforts*, Direct Fundraising (Aug. 23, 2023), <https://bit.ly/4hyUH6m> (“In today’s competitive landscape, increasing visibility and raising awareness for charitable causes has become more crucial than ever. One effective way to achieve this is through strategically placing and designing charity collection boxes.”).

Other organizations are much the same. While the exact contours of their messages may fluctuate, they align with that of the Knights of Columbus: use your resources wisely, give what you can to others, and consider the organization facilitating the donations. Every donation box carries some version of this message, and laws that target donation boxes target this message.

The Fifth Circuit saw things differently. It held that Arlington was not targeting charitable solicitations because charity “typically relates to those in need,” and presumably a donation box could also collect items for

those who are not “in need.” *Nat'l Fed'n of the Blind*, 109 F.4th at 735.

The Fifth Circuit is not the arbiter of what counts as charity. No federal court is. Every donation box covered by Arlington’s law is “intended for use” by its owner “as a collection point for accepting *donated* *** salvageable items of personal property.” Arlington Ordinance § 2.01 (emphasis added). So each covered box expresses an “appeal[]” to passersby to deposit their salvageable items for distribution to others. *Vill. of Schaumburg*, 444 U.S. at 632; see *Planet Aid*, 782 F.3d at 325. That appeal is the only thing that differentiates a prohibited/regulated box from a permitted/unregulated box. That the Fifth Circuit believes some potential recipients of those donations already have enough does not change that fact that the law picks its targets based on the speaker’s message. See *Planet Aid*, 782 F.3d at 325.

Not only does Arlington’s law target this charitable, or donative, message, it targets *only* that charitable or donative message. Left untouched by the law are any receptacles not appealing to passersby for donations. Trash cans, dumpsters, and recycling bins are unaffected by this law. They too are “receptacle[s]” that serve as “collection point[s]” for various items. Arlington Ordinance § 2.01. They too must be well maintained in order to “protect the aesthetic well-being of the community and promote the tidy and ordered appearance of developed property.” *Id.* § 1.02. Yet the ordinance leaves them completely untouched, solely because they do not carry a charitable or donative message. Arlington values them more, and so tolerates their negative externalities. It values charitable or donative speech less, and so is willing to stamp it out for the sake of aesthetics.

The Fifth Circuit has thus allowed the City of Arlington to single out charitable or donative speech.

CONCLUSION

The petition for a writ of certiorari should be granted.
Respectfully submitted.

JOHN P. ELWOOD
Counsel of Record
MICHAEL A.F. JOHNSON
CASEY CORCORAN
ARNOLD & PORTER
KAYE SCHOLER LLP
601 Massachusetts Ave., NW
Washington, DC 20001
(202) 942-5992
John.Elwood@arnoldporter.com

FEBRUARY 2025