No. 24-996

In the

Supreme Court of the United States

Tammy M. Harvey, Shariti A. Lane, Janelle B. Caruano, Donna L. Maher, Sean McCarthy, Cheryl L. Hand, Andrea L. Maloney, and Beth A. McDowell,
Petitioners,

v.

Bayhealth Medical Center, Inc.,
Respondent.

On Petition for a Writ of Certiorari to
The United States Court of Appeals
for the Third Circuit

REPLY BRIEF FOR PETITIONERS

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Table of Contents

Table of Authorities

Cases

INTRODUCTION

Respondent's Brief in Opposition fails to adequately address the critical issues raised in the Petition. Specifically, Respondent inaccurately claims that Petitioners did not challenge the use of the term "blanket privilege" in either the District Court or the Third Circuit. This assertion mischaracterizes Petitioners' position, as the term was contested in both courts, with Petitioners raising broader concerns that extend beyond the terminology itself.

Respondent further argues that this case is not an appropriate vehicle for addressing the "blanket privilege" issue or other significant religious matters, asserting that the Third Circuit's decision constitutes a "non-precedential, fact-specific ruling" grounded in established legal principles. However, this characterization overlooks the fact that these so-called "settled legal principles" are confined to the Third Circuit and conflict with the interpretations adopted by other circuits in analogous cases.

Respondent also contends that this case lacks the requisite significance to merit review by this Court, suggesting that the term "blanket privilege" merely encapsulates a principle articulated in *Wisconsin v. Yoder*, 406 U.S. 205 (1972), and that the Third Circuit's interpretation is consistent with *Yoder*. This argument is flawed, as the Third Circuit's approach diverges from *Yoder*. Notably, its opinion in *Africa v. the Commonwealth of Pennsylvania*, 662 F.2d 1025 (3d Cir. 1981), misinterprets this Court's rationale and improperly extends *Yoder* beyond its intended scope.

Finally, Respondent argues that this Court need not address the circuit split, citing the routine application of *Yoder* by other appellate courts. This assertion fails to account for the significant divergence in the Third Circuit's application of *Yoder* compared to other circuits. While Petitioners' claims were dismissed in the Third Circuit, similar claims have survived motions to dismiss in other circuits, underscoring the need for this Court's intervention to resolve the inconsistency.

Respondent's arguments fail to provide adequate grounds for denying certification. Permitting the Third Circuit's decision to stand would empower judges to make factual determinations regarding an individual's religious beliefs, a practice that contravenes this Court's precedents. Specifically, this Court has held that courts should not second-guess the reasonableness of an individual's religious beliefs (*Burwell v. Hobby Lobby Stores, Inc.*, 573 U.S. 682, 725 (2014)), question the centrality or validity of particular beliefs (*Hernandez v. Commissioner*, 490 U.S. 680, 699 (1989)), or dissect religious beliefs due to a lack of clarity or precision (*Thomas v. Review Board of the Indiana Employment Security Division*, 450 U.S. 707, 715 (1981)).

ARGUMENT

A. The Question Presented was Preserved for Review and Adequately Addressed Below.

Of the two questions presented in the Petition for Writ of Certiorari, Respondent disputes only the first. Respondent incorrectly claims that the term "blanket privilege" was not contested in either the District Court or the Third Circuit. However,

Petitioners challenged not only the terminology but also the broader implications of "blanket privilege" and its relationship to "ordered liberty" as interpreted by the lower courts.

Respondent's assertion is demonstrably inaccurate, as evidenced by the appendix documents. In the District Court, the term "blanket privilege" appears forty-six times across eight opinions, many of which underscore Petitioners' argument that the sincerity of such beliefs should be evaluated by a jury. App. 45a, 62a, 79a, 112a, 130a, 148a, 162a n.4. Although Respondent acknowledges these references in its Brief in Opposition, it mischaracterizes Petitioners' argument as a mere objection to the terminology rather than the broader concept.

Respondent's claim that the term was not contested in the Third Circuit is equally unfounded. The term "blanket privilege" appears eighteen times in Appellants' Opening Brief to the Third Circuit. Notably, Appellants argued that "[t]he 'cloaked in religious significance argument' and the 'blanket privilege' argument are dangerous arguments for the courts. Allowing courts to dismiss cases based on either of these arguments, at least without more guidance, will lead to a situation where the courts are issuing blanket denials." Appellant's Opening Brief on Appeal, at 58 (3d Cir. 24-1157 at D.I. 24). Appellants further contended that "[t]he 'blanket privilege' and 'cloaked in religious significance' arguments veer from the requirement that Title VII be liberally interpreted."

While Respondent challenges only one of the two questions presented, both questions were

preserved and addressed by the lower courts. Although the Third Circuit may not have examined the issue with the depth Respondent might have preferred, the record clearly demonstrates that the issue was presented for review.

B. The Decision of the Third Circuit is the Proper Vehicle for this Court's Review.

Respondent's assertion that the case is non-precedential is misplaced. The Third Circuit's reliance on its prior precedential decisions to reach decisions that fail to follow this Court's directives indicates a need for review. Furthermore, the non-precedential designation does not preclude citation by other courts, as demonstrated by its application in cases such as *Ashcroft v. Southern California Permanente Medical Group*, 2025 U.S. Dist. LEXIS 75703, at *16 (S.D. Cal. Apr. 21, 2025), and *Peters v. Legacy Health*, 2024 U.S. Dist. LEXIS 228691, at *10 (D. Or. Dec. 18, 2024). In the cases on appeal, the lower courts rejected the religious nature of beliefs asserted by Petitioners, despite acknowledging their status as Christians and the scriptural basis of their beliefs. Without intervention by this Court, lower courts will remain free to impose subjective interpretations on employees' religious beliefs, undermining established legal protections.

Respondent references eleven cases cited by the Third Circuit in which other Bayhealth employees were permitted to proceed with their claims. These employees objected to the use of aborted fetal stem cells in the development, testing, or production of the COVID-19 vaccine. Respondent noted that "[i]n those cases, the employees' claims were deemed more

substantial, including [sic] because they were rooted in religious objections to abortion." Brief in Opposition at 4. However, this argument underscores the lower courts' failure to adhere to this Court's directives regarding the evaluation of religious beliefs.

The District Court, with the Third Circuit's concurrence, determined that a religious belief supported by scripture and opposing immunization with a vaccine produced, developed, or tested using aborted fetal stem cells constituted a valid religious belief. App. 9a n.7. However, beliefs similarly supported by scripture—such as opposition to immunization due to concerns about bodily harm, the sanctity of being created in God's image, the preservation of a God-given immune system, or the alteration of DNA as part of God's design—were deemed invalid. This inconsistent application of religious belief standards warrants further scrutiny.

The Third Circuit classified these latter religious beliefs as "blanket privilege" claims, asserting that they conflicted with the principle of ordered liberty. App. 8a-9a. This approach effectively involved the Third Circuit in parsing and evaluating the validity of individual religious beliefs, contrary to this Court's established directives. See *Burwell v. Hobby Lobby Stores, Inc.*, 573 U.S. 682, 725 (2014); *Hernandez v. Commissioner*, 490 U.S. 680, 699 (1989); *Thomas v. Review Board of the Indiana Employment Security Division*, 450 U.S. 707, 715 (1981).

C. Review of the Third Circuit's Opinion Would Reinforce Prior Rulings by This Court That Were Overlooked by the Lower Courts and Prevent Future Violations.

In its third argument, Respondent seeks to redirect the focus of the appeal from the broader concept of "blanket privilege" to the term itself. The Third Circuit's opinion states, "we must decide whether Plaintiffs' objections to the vaccine are best classified as either (1) personal, secular, or medical, or (2) religious." App. 6a. The court further concludes that "Plaintiffs state a claim by broadly invoking an overarching religious belief without directly connecting that religious belief to the objected-to employment term would impermissibly 'cloak[] with religious significance' a fundamentally secular objection to an employment term, and thereby create a 'blanket privilege' whenever an employee invokes scripture." App. 8a-9a. This concept is broader than the term itself.

In analyzing *Africa v. Commonwealth of Pennsylvania*, 662 F.2d 1025 (3d Cir. 1981), Respondent accurately noted that "[t]he Third Circuit thus had to decide, based on 'the particular facts,' if the inmate's beliefs constituted a religion under the First Amendment." Brief in Opposition at 5. In *Africa*, the Third Circuit determined that MOVE, as described by Africa, did not qualify as a "religion" under the First Amendment. 662 F.2d at 1032. Notably, the *Africa* Court was not evaluating individual beliefs within an established religion but was instead assessing whether a religion existed.

In the cases before the Court, the lower courts acknowledged that each Petitioner identified as Christian. However, the error lies in the courts' parsing of the Petitioners' stated Christian beliefs and dismissing those that, in the courts' view, were more appropriately classified as secular beliefs cloaked in religious significance rather than sincerely held religious convictions. This error could have been avoided if the lower courts had followed this Court's directives in *Burwell*, *Hernandez*, and *Thomas.*

The issue extends beyond the term "blanket privilege." It concerns the broader principle that courts may reject religious beliefs supported by scripture and classify them as "blanket privilege" if deemed overly secular or broadly applicable to various employment scenarios. Without intervention, courts will continue to impose subjective judgments on the validity of religious beliefs, undermining the rights of individuals who sincerely hold them.

D. There Exists a Circuit Split in Which Claims Denied by the Third Circuit Would Survive in All Other Circuits to Have Considered the Issue.

To argue against the necessity of this Court's review, Respondent asserts that "other-circuit cases the employees cite are consistent with the Third Circuit's." Brief in Opposition at 9. Respondent further contends that the appellate courts in these cases relied on the same precedents cited by the Third Circuit, including *Yoder*, *Welsh v. United States*, 398 U.S. 333 (1970), and *United States v. Seeger*, 380 U.S. 163 (1965). However, Respondent neglects to acknowledge that the other-circuit cases did not rely

on *Africa* or *Fallon v. Mercy Catholic Medical Center*, 877 F.3d 487 (3d Cir. 2017), nor did they adopt the Third Circuit's "blanket privilege" framework. More critically, Respondent overlooks the fact that the other-circuit cases cited reached outcomes that were fundamentally at odds with the Third Circuit's decision, despite the striking similarities between the beliefs asserted in those cases and those advanced by the Petitioners.

In the First Circuit case of *Thornton v. Ipsen Biopharmaceuticals, Inc.*, the plaintiff informed her employer that she could not receive the COVID-19 vaccine because "her religion prohibited her from defiling her perfectly created body, and that her prayers and guidance from the Holy Spirit informed her beliefs that receiving the COVID-19 vaccine would violate that tenet of her faith." 126 F.4th 76, 83 (1st Cir. 2025). This belief closely mirrors the belief expressed by Petitioner Janelle Caruano. App. 208a-209a. The First Circuit concluded that the plaintiff had "plausibly alleged that her belief that the vaccine would defile her body is not an 'isolated moral teaching,' but rather is part of a 'comprehensive system of beliefs about fundamental or ultimate matters.'" *Thornton*, 126 F.4th at 73. In contrast, the Third Circuit dismissed Caruano's belief and upheld the District Court's decision. App. 8a n.5.

In the Fourth Circuit case of *Barnett v. Inova Health Care Services*, the plaintiff asserted that accepting the vaccine would be sinful after having been instructed by God to abstain. 125 F.4th 465, 471 (4th Cir. 2025). She further explained that her religious objections were rooted in her understanding of the Bible and that receiving the vaccine would

constitute sinning against her body, which she regarded as a temple of God. *Id.* This belief—that the body is a temple of God—was shared by all eight Petitioners. App. 181a, 193a, 207a-208a, 228a, 242a, 265a, 276a-277a, and 292a. The Fourth Circuit determined that "[a]t this stage, these allegations are sufficient to show that Barnett's 'belief is an essential part of a religious faith' that 'must be given great weight,' *Patrick v. LeFevre*, 745 F.2d 153, 157-58 (2d Cir. 1984), and are plausibly connected with her refusal to receive the COVID-19 vaccine." *Id.* In contrast, the Third Circuit dismissed this belief when presented by the eight Petitioners and upheld the District Court's decision. App. 7a-9a.

In the Fifth Circuit case of *Sibley v. Touro LCMC Health*, the plaintiff asserted her right to decline any attempts to access, influence, or alter her God-given biological material, which she described as unique, flawless, and original in design and craftsmanship. 2024 U.S. App. LEXIS 31829, at *10 (5th Cir. Dec. 16, 2024). This argument closely parallels the beliefs expressed by Petitioners Caruano and Maloney, who stated that they were created in the image of God. App. 208a, 276a. The Fifth Circuit determined that the District Court had erred in dismissing the plaintiff's Title VII religious discrimination claim at the pleadings stage. *Sibley*, 2024 U.S. App. LEXIS 31829, at *11. In contrast, the Third Circuit rejected the beliefs advanced by Caruano and Maloney and upheld the District Court's dismissal. App. 8a n.5.

In the Sixth Circuit, two cases addressed employees who refused the COVID-19 vaccine based on their belief that their bodies are temples of the

Holy Spirit. In *Lucky v. Landmark Medical of Michigan, P.C.*, the employee asserted that her body is a temple and that she makes all decisions, particularly medical ones, through prayer. 103 F.4th 1241, 1243-44 (6th Cir. 2024). Similarly, in *Sturgill v. American Red Cross*, the plaintiff informed her employer that she is required to care for her body to honor God and the temple He gave her, and that she believed the vaccine's ingredients could cause harm. 114 F.4th 803, 806 (6th Cir. 2024). In both cases, the Sixth Circuit reversed the District Court's dismissal and allowed the claims to proceed. *Lucky*, 103 F.4th at 1243; *Sturgill*, 114 F.4th at 810. In contrast, the Third Circuit rejected similar beliefs presented by the eight Petitioners and upheld the District Court's dismissal. App. 7a-9a.

Similar scenarios arose in the Seventh Circuit case of *Passarella v. Aspirus, Inc.*, 108 F.4th 1005 (7th Cir. 2024), and the Eighth Circuit case of *Ringhofer v. Mayo Clinic, Ambulance*, 102 F.4th 894 (8th Cir. 2024). In *Passarella*, the plaintiffs asserted their belief that their bodies are temples of the Holy Spirit and that prayer guided their decision to refuse the COVID-19 vaccine. 108 F.4th at 1007-08. Likewise, in *Ringhofer*, Plaintiff Rubin claimed that her belief in her body as a temple of the Holy Spirit prevented her from receiving the vaccine or participating in weekly testing. *Ringhofer*, 102 F.4th at 902. Both appellate courts reversed the District Court's dismissal and allowed the plaintiffs' cases to proceed. *Passarella*, 108 F.4th at 1009; *Ringhofer*, 102 F.4th at 902. Again, in contrast, the Third Circuit rejected similar beliefs presented by the eight Petitioners and upheld the District Court's dismissal. App. 7a-9a.

None of the other-circuit cases cited above addressed the Third Circuit's "blanket privilege" theory as articulated in *Africa* or *Fallon*. Moreover, none of the other circuit decisions imposed restrictions on religious freedom to the extent seen in the Third Circuit. It is highly probable that the eight Petitioners would have had their dismissals overturned in the First, Fourth, Fifth, Sixth, Seventh, or Eighth Circuits. Conversely, it is equally likely that appellants from those circuits would have had their dismissals upheld if reviewed under the Third Circuit's framework.

The circuit split is both significant and substantial, raising critical legal and social issues. The divergence between the Third Circuit's approach and that of other circuits is not minor. Despite its claim of insignificance, Respondent has failed to provide a thorough analysis demonstrating how the eight cases on appeal would have been treated in other circuits or how appellants from those circuits would have been evaluated in the Third Circuit. This lack of analysis underscores the inadequacy of Respondent's argument against granting review of this petition.

CONCLUSION

Respondent's Brief in Opposition fails to address a critical issue: why only cases involving religious objections to abortion were permitted to survive a motion to dismiss in the Third Circuit. Petitioners presented a range of beliefs, including that their bodies were created in the image of God, that they possess God-given immune systems, that healing power resides with God, that their bodies are

temples of the Holy Spirit, and that the mRNA component of the vaccine would alter the DNA in their bodies, which they believe was created by God. Despite being rooted in religious convictions and supported by scripture, none of these beliefs were upheld in the Third Circuit, whereas similar claims were allowed to proceed in other circuits.

The determination of which religious beliefs are deemed legitimate under Title VII should not vary based on geographic location. The existing circuit split has resulted in unequal rights across different regions of the country, underscoring the need for this Court's intervention to ensure consistent application of legal standards.

For these reasons, the Petition for Writ of Certiorari should be granted.

Respectfully submitted,
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