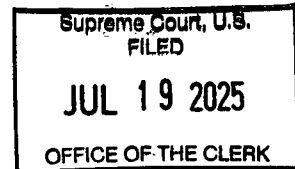


No. 25-142



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**SUPREME COURT OF THE UNITED STATES**

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WILLIAM GERARD SANGERVASI II,

*Petitioner,*

v.

CITY OF SAN JOSE, CALIFORNIA;

EDGARDO GARCIA,

as an individual, and in his official capacity as the former  
Chief of Police for the San Jose Police Department;

ANTHONY MATA,

as an individual, and in his official capacity as the former  
Chief of Police for the San Jose Police Department,

*Respondents.*

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

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**PETITION FOR WRIT OF CERTIORARI**

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WILLIAM GERARD SANGERVASI II

*Pro Se Petitioner*

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## QUESTIONS PRESENTED

Our American Flag and *The Uniform* of America's Police Officers are neutral and impartial visual symbols of blind-justice and equal protection under the law for all people in The United States of America. Never in American History has *The Uniform* of America's Police Officers ever been officially desecrated with visible bias, and the last time that uniformed executive officers in America raised a flag against our American Flag, it resulted in the American Civil War.

### 1.

In consideration of the Respondents' recent and unprecedented desecration of *The Uniform* of America's Police Officers with visible "Lesbian, Gay, Bi-sexual, Transgender, and Queer pride" speech and visible bias, preference, favoritism, prejudice, and segregationist intent; and the related implementation of segregated policing in America; specifically and only for and in favor of those who identify as "Lesbian, Gay, Bi-sexual, Transgender, and Queer" with the explicit exclusion of at least "hetero-sexuals" in particular; can the government deny the plain-text right to "the equal protection of the laws", *as is carried out and executed by the police at all times*, seemingly in direct violation of the Fourteenth Amendment of The Constitution of The United States of America?

### 2.

Can *The Uniform* of America's Police Officers be misappropriated and used as a personal billboard and interactive "forum" for biased ideological and

intimately personal sexual speech, and in favor of certain individuals, in direct violation of the history and traditions of the neutral and impartial visual appearance of *The American Uniform*, and seemingly in direct violation of the Fourteenth Amendment's plain-text right to "the equal protection of the laws", *as is carried out and executed by the police at all times?*

3.

Can the intimately personal sexual speech of an individual be misappropriated as "government speech" so that the government can then deny the personal free speech rights of others under the guise of "government speech", seemingly in direct violation of the First Amendment of The Constitution of The United States of America?

4.

Can the government allow certain individuals to actively engage in intimately personal sexual speech and freedom of association with others in a "forum" on the topic of "Lesbian, Gay, Bi-sexual, Transgender, and Queer pride" and sexual-orientation, but then deny that same free speech and freedom of association to others in an interactive "forum" based on the "hetero-sexual" content and viewpoint of the speech, seemingly in direct violation of both the First and Fourteenth Amendments of The Constitution of The United States of America?

5.

Can the government allow certain individuals to actively engage in intimately personal sexual

speech in a "forum" thereby allowing secular speech on the topic of sexual-orientation, but then deny and censor religious speech on the topic of sexual-orientation, thereby infringing on the free exercise of religion within that interactive "forum", seemingly in direct violation of both the First and Fourteenth Amendments of The Constitution of The United States of America?

**RELATED PROCEEDINGS**

United States Court of Appeals, Ninth Circuit  
No. 23-15923

WILLIAM GERARD SANGERVASI II, *Plaintiff – Appellant*, v. CITY OF SAN JOSE; EDGARDO GARCIA, as an individual, and in his official capacity as the former Chief of Police for the San Jose Police Department; ANTHONY MATA, as an individual, and in his official capacity as the Chief of Police for the San Jose Police Department; and DOES 1 through 10, inclusive, *Defendants – Appellees*.

(Judgment entered January 14, 2025)

United States District Court  
Northern District of California, San Jose Division  
No. 5:22-cv-07761-VKD

WILLIAM GERARD SANGERVASI II, an individual; Plaintiff, v. CITY OF SAN JOSE, a public government entity; EDGARDO GARCIA, as an individual, and in his official capacity as the former Chief of Police for the San Jose Police Department; ANTHONY MATA, as an individual, and in his official capacity as the Chief of Police for the San Jose Police Department; and DOES 1 through 10, inclusive, Defendants.

(Judgment entered May 22, 2023)

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## PETITION FOR WRIT OF CERTIORARI

William Gerard Sangervasi II, who was a Police Officer with the City of San Jose, California, respectfully petitions for a writ of certiorari to review the judgment of the United States Court of Appeals for the Ninth Circuit, in this urgent case on Constitutional matters of national public interest and public concern. At stake in this case is the neutral and impartial visual appearance of *The Uniform* of America's Police Officers, and the continued existence of blind-justice and equal protection under the law for all people in America.

The color pictures at the end of the appendix provide this Court with a glimpse of what is at stake.

## OPINIONS BELOW

The memorandum opinion of the Ninth Circuit (23-15923) is designated as unpublished and not precedent. The memorandum opinion is reproduced in the appendix to this petition at pages 3a – 5a.

The District Court's Order, which granted the Respondents' motion to dismiss and denied Sangervasi's motion for preliminary injunction, is published at *Sangervasi v. City of San Jose*, 22-cv-07761-VKD, (N.D. Cal. May 22, 2023). The Order is reproduced in the appendix to this petition at pages 7a – 26a.

## JURISDICTIONAL STATEMENT

On January 14, 2025, the Ninth Circuit issued

its memorandum opinion in this case. (23-15923). [Appendix ("App.") 3a].

On February 20, 2025, the Ninth Circuit denied Sangervasi's petition for rehearing and petition for rehearing en banc. (App. 28a).

On April 17, 2025, Justice Kagan granted Sangervasi's application (24A995) for an extension of time to file a petition for a writ of certiorari, extending the time to file through July 20, 2025.

Pursuant to 28 U.S.C. § 1254(1), this Court has jurisdiction to review this case from the Court of Appeals.

### **CONSTITUTIONAL PROVISIONS INVOLVED**

The Constitution of The United States of America

- Article VI
- Amendment I
- Amendment XIV

See appendix pages 30a – 33a for the text of these Constitutional provisions.

### **STATUTORY AUTHORITIES INVOLVED**

Federal Statute:

- 42 U.S.C. § 1983

See appendix page 35a for the text of this statute.

## INTRODUCTION

Police Officers are uniformed executive officers who can shoot and kill you under color of law. Police Officers are ordained with the Constitutional and legal authority to carry out and execute the laws, and to make you obey their legal authority under the potential threat of deadly force.

As such, this case involves unprecedented and recent violations of The Constitution, and the related desecration of the neutral and impartial visual appearance of *The Uniform* of America's Police Officers, which are urgent matters of national public interest and public concern.

This case involves the gravest anti-American attack on the Constitutional authority and legitimacy of the police to ever be officially perpetrated against the police in American History.

Our American Flag and *The Uniform* of America's Police Officers are neutral and impartial visual symbols of blind-justice and equal protection under the law for all people in The United States of America. Accordingly, *The Uniform* standards and traditions of the San Jose Police Department have essentially been unchanged since the department's founding in 1849. (App. 39a, 43a).

Never in American History has *The Uniform* of America's Police Officers ever been officially desecrated with visible bias, and the last time that uniformed executive officers in America raised a flag against our American Flag, it resulted in the American Civil War.

This is the history and traditions of America that control this case along with the plain text of

The Constitution of The United States of America.

The Fourteenth Amendment decrees that the government shall not "deny to any person within its jurisdiction the equal protection of the laws." (U.S. Const., Am. XIV). This plain-text decree is clear and un mistakeable, but the Respondents and the lower courts do not believe that this decree actually means the literal "equal protection of the laws", *as is carried out and executed by the police at all times*.

This matter arose when the Respondents recently desecrated the history and traditions of *The Uniform* of the San Jose Police Department. The Respondents desecrated the neutral and impartial visual appearance of *The Uniform* of the San Jose Police Department with visible "Lesbian, Gay, Bi-sexual, Transgender, and Queer pride" speech and symbolism, as part of the Respondents' official implementation of biased and segregated policing, and the literal denial of equal protection under the law, in The United States of America. (App. 44a).

The Respondents have implemented segregated policing in America through biased and segregationist "Lesbian, Gay, Bi-sexual, Transgender, and Queer" advisory boards, liaison officers, flags, and uniforms. The Respondents have created a separate and segregated police force in America that only represents, advocates for, and effectuates, the police protection of the laws, for persons who identify as "Lesbian, Gay, Bi-sexual, Transgender, and Queer". (App. 8a – 9a).

This does not represent or effectuate the equal protection of "hetero-sexuals", and all other groups of

Americans, who are now being segregated by the police and are being denied the neutral, impartial, and identical equal protection of the laws, as is carried out and executed at all times by the police who can shoot and kill you under color of law.

As such, the Respondents are directly violating the Fourteenth Amendment's plain-text right to the "equal protection of the laws" as is carried out and executed by the armed, uniformed executive officers of the San Jose Police Department.

At all times, Petitioner Sangervasi is subject to the jurisdiction of the San Jose Police Department which shall not "deny to any person within its jurisdiction the equal protection of the laws." (U.S. Const., Am. XIV). (App. 41a). Sangervasi is being directly and continuously harmed by the still-ongoing actions of the Respondents.

Sangervasi was a Police Officer with the San Jose Police Department. In response to the Respondents' anti-American and unconstitutional actions, Sangervasi spoke as both an unconsenting American Citizen and as an affected American Police Officer, forever standing in both capacities as an American Patriot, ready to defend against the desecration of The American Flag and desecration of *The American Uniform*. (App. 10a, 39a).

In response to Sangervasi's speech in defense of our American Flag and *The American Uniform*, the Respondents retaliated against Sangervasi and ultimately terminated his employment as a Police Officer with the Respondent, City of San Jose.

The Respondents have infringed on Sangervasi's constitutionally-protected rights to free



speech, free exercise of religion, and equal protection under the law.

Sangervasi brings this case for himself, but also for the obvious and necessary benefit of all people in America, and for the benefit of all future generations of Americans yet to come.

The circumstances of Sangervasi's case have now been copied and have metastasized far beyond the San Jose Police Department. (App. 41a). Biased and segregated policing is being implemented, and visible "Lesbian, Gay, Bi-sexual, Transgender, and Queer pride" bias, preference, favoritism, prejudice, and segregationist intent is being attached to *The Uniform* of America's Police Officers, at police departments across the country, based on the apparent political and ideological biases of the individuals who are now erasing blind-justice and equal protection under the law, as it is carried out and executed at all times by the police in America.

Sangervasi's case is urgently presented to this Court which must restore and protect blind-justice and equal protection under the law for all Americans, beginning with protecting and defending the neutral and impartial visual appearance of *The American Uniform* which stands guard for both The American Flag and The United States of America.

## **STATEMENT OF THE CASE**

### **1 – Constitutional and Historical Framework**

This case is controlled by the plain text of The Constitution, and the history and traditions of the neutral and impartial visual appearance of

*The American Uniform* that directly informs the plain-text rights under The Constitution in this case.

Article VI of The Constitution of The United States of America decrees that "This Constitution" .... "shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby"; .... "and all executive and judicial Officers, both of the United States and of the several States, shall be bound by Oath or Affirmation, to support this Constitution". (App. 30a).

The First Amendment of The Constitution decrees that the government shall not engage in the "establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech". (App. 31a).

The Fourteenth Amendment of The Constitution decrees that the government shall not "deny to any person within its jurisdiction the equal protection of the laws." (App. 32a).

## **2 – Factual Background Summary**

On March 4, 2013, Petitioner Sangervasi was sworn-in as a Police Officer with the Respondent, City of San Jose. (App. 8a).

Beginning around August 2017, and publicly culminating around July 28, 2020, the Respondents began to deny Sangervasi and all Americans the equal protection of the laws, *as is carried out and executed by the police at all times*, when the Respondents implemented biased and segregated policing at the San Jose Police Department based on the personal and sexual characteristics of all Americans.

The Respondents created a separate and segregated police force in America that only represents, advocates for, and effectuates, the police protection of the laws, for persons who identify as "Lesbian, Gay, Bi-sexual, Transgender, and Queer". (App. 8a – 9a).

The Respondents created and implemented the following at the San Jose Police Department:

- a biased and segregationist "LGBTQ Advisory Board";
- a biased and segregationist "LGBTQ Liaison Officer";
- the raising of a biased and segregationist "LGBTQ pride" flag against our American Flag;
- the creation of a biased and segregationist "LGBTQ pride" patch that has desecrated the neutral and impartial visual appearance of *The Uniform* of America's Police Officers.

The Respondents have created a separate and segregated police force in America, with biased and segregationist "Lesbian, Gay, Bi-sexual, Transgender, and Queer" advisory boards, liaison officers, flags, and uniforms. (App. 8a – 9a).

This implementation of biased and segregated policing in America does not effectuate the "equal protection of the laws" for "hetero-sexuals", and for all other Americans, who are now being continuously disenfranchised and denied neutral, impartial, and identical equal protection under the law by the San Jose Police Department which shall not "deny to any

person within its jurisdiction the equal protection of the laws." (U. S. Const., Am. XIV).

The Respondents wrote that a reason for desecrating *The Uniform* of America's Police Officers with visible "Lesbian, Gay, Bi-sexual, Transgender, and Queer pride" bias and the intimately personal sexual speech of individuals was to "allow department members to show individual support for issues important to them." (App. 18a). The Respondents also wrote that they intended for the "LGBTQ pride" patch to distinguish and visibly separate "LGBTQ police personnel and their allies", presumably from the 'enemies' in the police department and in the community who opposed the desecration of *The American Uniform* with sexual speech and visible bias that has never occurred in American History. (App. 37a, #113 – 114).

On November 11, 2020, in response to the Respondents' anti-American and unconstitutional actions, Sangervasi spoke out and criticized the Respondents. Among other things, Sangervasi criticized the implementation of segregated policing in America, which included visible bias and intimately personal sexual speech now desecrating *The Uniform* of America's Police Officers. This had never occurred in the history of the San Jose Police Department. (App. 10a, 39a, 43a – 49a).

Sangervasi also demanded the same rights to free speech on the personalized billboard and in the "forum" that the Respondents had opened to others on *The Uniform* to communicate intimately personal sexual speech that never has been, is not, and never will be, "government speech".

However, Sangervasi declared his intent to forever protect our American Flag and *The American Uniform*, which are neutral and impartial visual symbols of blind-justice and equal protection under the law for all Americans.

Sangervasi's speech included flags and patches that were part of a visual tool to criticize the Respondents, and to forcibly restore the honor of *The American Uniform* which never has been, is not, and never will be, an illegitimate "forum" for biased and intimately personal sexual speech that desecrates the visible neutrality and impartiality of America's Police Officers. (App. 10a, 43a – 49a).

On November 13, 2020, in response to Sangervasi's speech and criticisms, the Respondents removed Sangervasi from active duty and placed him on indefinite administrative leave. (App. 10a).

On December 11, 2020, Sangervasi received a formal department letter that officially rejected his speech and criticisms of the Respondents. (App. 10a).

On June 7, 2021, after being on leave for over half a year, an internal affairs investigation was initiated against Sangervasi. The internal affairs actions coincided on consecutive days with the Respondents' "LGBTQ pride" emails to the department about the raising of an "LGBTQ pride" flag over police headquarters. (App. 11a). The timing of these actions demonstrated a targeted retaliation against Sangervasi based on his actual or perceived sexual-orientation and religious creed, at a minimum. The timing of this retaliation against Sangervasi appeared to be a symbolic favor to appease and avenge those who identify as "Lesbian,

Gay, Bi-sexual, Transgender, and Queer”.

On February 12, 2022, the Respondents terminated Sangervasi's employment as a Police Officer with the City of San Jose. (App. 11a).

In May 2022, the City of San Jose's own Civil Service Commission upheld Sangervasi's termination as a Police Officer. The retaliatory termination is being appealed in state court. (App. 11a, footnote 3).

### 3 – Proceedings Below

On December 8, 2022, Sangervasi filed a Complaint in the United States District Court, in the Northern District of California, San Jose Division. (5:22-cv-07761-VKD). (App. 7a).

The Complaint involved federal questions and included claims under the First and Fourteenth Amendments of The United States Constitution. (App. 12a). The federal questions were part of the basis for original jurisdiction in the District Court, pursuant to 28 U.S.C. § 1331.

Sangervasi sought relief from the Respondents' violations of his constitutionally-protected rights to free speech, free exercise of religion, and equal protection under the law. (App. 14a). Sangervasi sought relief pursuant to 42 U.S.C. § 1983. (App. 12a, 35a).

Sangervasi's Complaint outlined and described the Respondents' actions that, in practice, created an illegitimate personal billboard and interactive “forum” for personal speech on *The Uniform* of America's Police Officers. The Respondents solicited and allowed individual officers to use *The Uniform* for personal speech and enabled them to

communicate intimately personal sexual speech about "Lesbian, Gay, Bi-sexual, Transgender, and Queer pride" and sexual-orientation, and to then engage in the freedom of association with other people in both the department and the community based on sexual identity. (App. 15a, 18a).

This resulted in the desecration of *The Uniform* with the biased and intimately personal sexual speech of individuals. The Respondents claimed that this was intended to "allow department members to show individual support for issues important to them." (App. 18a).

However, Sangervasi was expressly denied the same rights to free speech and freedom of association. When Sangervasi criticized the Respondents' anti-American and unconstitutional actions, and when Sangervasi attempted to speak in the interactive and interpersonal "forum" of *The Uniform*, the Respondents denied Sangervasi access to the "forum", and ultimately terminated Sangervasi's employment as a Police Officer. This infringed on Sangervasi's free speech, free exercise of religion, and freedom of association with others in the department and the community. (App. 15a, 20a).

But most importantly, Sangervasi's Complaint outlined the denial of his plain-text right to the equal protection of the laws, as is carried out and executed at all times by the San Jose Police Department. (App. 21a).

The Respondents created "Lesbian, Gay, Bi-sexual, Transgender, and Queer" advisory boards, liaison officers, flags, and uniforms, and in doing this the Respondents created a separate and segregated

police force in America that only represents, advocates for, and effectuates, the police protection of the laws, for persons who identify as "Lesbian, Gay, Bi-sexual, Transgender, and Queer". (App. 8a – 9a).

This does not effectuate the equal protection of "hetero-sexuals", and all other groups of Americans. This segregation, in and of itself, has disenfranchised Sangervasi, and all other Americans, from receiving the exact same, identical equal protection under the law from the San Jose Police Department. (App. 21a).

At all times, Sangervasi is subject to the jurisdiction of the San Jose Police Department which shall not "deny to any person within its jurisdiction the equal protection of the laws." (U.S. Const., Am. XIV). (App. 41a).

As such, on February 8, 2023, Sangervasi filed a Motion for Preliminary Injunction to stop and further prohibit the Respondents from infringing on Sangervasi's rights (App. 7a), and to thereby restore the original "status quo" to how it was before the Respondents began to deny equal protection under the law through the implementation of biased and segregated policing in America. Sangervasi also sought to restore the sacrosanct neutral and impartial visual appearance of *The Uniform* of America's Police Officers who carry out and execute the equal protection of the laws at all times in America.

On April 25, 2023, the District Court conducted a hearing on Sangervasi's Motion for Preliminary Injunction, and the Respondents' Motion to Dismiss. (App. 7a).

On May 22, 2023, the District Court issued an



Order granting the Respondents' Motion to Dismiss, and denying Sangervasi's Motion for Preliminary Injunction. (App. 7a). The District Court decided that this case involved "government speech", thereby disposing of Sangervasi's free speech and free exercise claims. (App. 15a, 20a). However, this avoided the actual contested issues of the case, including that the intimately personal sexual speech of an individual could not be misappropriated as "government speech" to then censor the speech of others. (App. 39a).

In disposing of Sangervasi's equal protection claim, the District Court decided that Sangervasi's injury was only psychological (App. 23a), and that the Respondent's could implement an outreach policy or program. (App. 24a). But the District Court evidently misunderstood and fully misrepresented Sangervasi's equal protection claim as it pertains to the police.

Implementing biased and segregated policing in America, in favor of those who identify as "Lesbian, Gay, Bi-sexual, Transgender, and Queer", and desecrating *The Uniform* of America's Police Officers with the intimately personal sexual speech of individuals, is not a 'policy' or 'program'. (See pg. 25).

It is a direct and blatant public denial of the shared plain-text right to the equal protection of the laws of all Americans, as is carried out and executed at all times by the police who can shoot and kill you under color of law. The plain-text right, as informed by the history and traditions of *The Uniform*, were ignored and avoided by the District Court which did not even address these unprecedented issues.

On June 20, 2023, Sangervasi filed a notice of appeal. The Ninth Circuit had jurisdiction pursuant to 28 U.S.C. § 1291. By December 13, 2023, the case was fully briefed. There was no action by the Ninth Circuit for over a year.

On January 14, 2025, the Ninth Circuit issued its memorandum opinion (23-15923) and disposed of Sangervasi's free speech and free exercise claims with the repeated findings of the District Court that "government speech" was involved. (App. 4a). But this avoided the unprecedented circumstances of this case and the intimately personal sexual speech at issue.

The Ninth Circuit disposed of Sangervasi's equal protection claim by stating that there was no evidence of discriminatory intent. (App. 5a). But this avoided, and did not address, the facially unconstitutional issue of segregated policing in America, and did not address Sangervasi's plain-text right to the literal equal protection of the laws, as is carried out and executed at all times by the police who can shoot and kill you under color of law.

Despite the detailed briefs and the unprecedented circumstances of this case, the Ninth Circuit memorandum opinion disregarded and avoided the actual Constitutional merits of this case. The opinion was only a few paragraphs long, and was designated as "not for publication" and "not precedent". (App. 3a).

On February 20, 2025, the Ninth Circuit denied Sangervasi's petition for rehearing and petition for rehearing en banc. (App. 28a).

### REASONS FOR GRANTING THE PETITION

Police Officers are uniformed executive officers who can shoot and kill you under color of law. The unprecedented and recent desecration of *The Uniform* of America's Police Officers with visible bias and the intimately personal sexual speech of individuals, has now compromised the Constitutional authority and legitimacy of the police in America. This is visible for all Americans to see with their own eyes. (App. 43a – 49a).

As this Court is aware, Police Officers directly affect essentially all constitutionally-protected rights of Americans.

At this very moment in time, visibly observable *reasonable doubt* now taints the Constitutional authority and legitimacy of the San Jose Police Department and its actions, and every Police Officer and every police department in America that has copied the Respondents, who have implemented biased and segregated policing in America, in direct violation of the history and traditions of the neutral and impartial visual appearance of *The American Uniform*, and in direct violation of the shared plain-text right to "the equal protection of the laws", as is carried out and executed by the police at all times. (U.S. Const., Am. XIV).

Sangervasi presents his claims within the circumstances of his case, but this Court must admit that the merits of Sangervasi's case go far beyond this particular case and affect every single aspect of blind-justice and equal protection under the law in America that will come before this Court in the future, as a product of the police bias in this case.

The dire urgency of Sangervasi's case is not exaggerated. This Court now has a once-in-a-lifetime opportunity to proactively use Sangervasi's case to immediately restore and protect the foundational principles of blind-justice and equal protection under the law in America, and to forever prevent any further and irreparable damage from being inflicted against America from any similar future threats that will fall under the precedents of this invaluable case.

Sangervasi's case is a lifeline for this Court to use now to protect American Institutions, like the police and the soon-to-be-affected courts, from the current Constitutional crisis and practical legal disaster that is now unfolding in plain view of this Court.

At stake in this case is the neutral and impartial visual appearance of *The Uniform* of America's Police Officers, and the continued existence of blind-justice and equal protection under the law for all people in America. Sangervasi, and all Americans, are now depending on this Court to uphold the shared plain-text right to "the equal protection of the laws", as is carried out and executed by the police at all times. (U.S. Const., Am. XIV).

## **I. Equal Protection Claim**

The Equal Protection claim in this case is the main focus and urgent issue for this Court to remedy. The Equal Protection claim will also nullify any future free speech and free exercise claims that are discussed later in this case. This will simplify the final outcome of this case for the Court and make this Court's necessary and precedent-setting decisions for

our Nation focused on the Court's likely unanimous decision to restore the plain-text right to "the equal protection of the laws", as is carried out and executed by the police at all times. This simplifying factor is a compelling reason for the Court to grant the petition.

**1. Text, History, and Tradition have been defied**

**A.**

**The Ninth Circuit has defied the plain text of The Constitution, as it is informed by American history and tradition.**

**i. The Plain Text of The Constitution**

Article VI of The United States Constitution decrees that "all executive and judicial Officers, both of the United States and of the several States, shall be bound by Oath or Affirmation, to support this Constitution". (App. 30a).

The Fourteenth Amendment of The United States Constitution decrees that the government shall not "deny to any person within its jurisdiction the equal protection of the laws." (App. 32a).

Under the plain text of The Constitution, Police Officers are uniformed executive officers within America, who are duty-bound by the *Oath of Office* to act in accordance with The Constitution.

As bound by The Constitution, at no moment in time shall a Police Officer or an American police department "deny to any person within its jurisdiction the equal protection of the laws." (U.S. Const., Am. XIV). (App. 38a).

**ii. The History and Traditions of America and  
The American Uniform**

*The Uniform* of America's Police Officers is a neutral and impartial visible symbol of blind-justice and equal protection under the law for all people in America. Never in American History has *The Uniform* of America's Police Officers ever been officially desecrated with visible bias.

*The Uniform* standards and traditions of the San Jose Police Department have essentially been unchanged since the department's founding in 1849. (App. 39a). *The Uniform* standards and traditions of the San Jose Police Department predate the Fourteenth Amendment itself, which was ratified on July 9, 1868, and decreed that the government shall not "deny to any person within its jurisdiction the equal protection of the laws." (U.S. Const., Am. XIV).

**iii. Constitutional and Historical Implications  
were defied by the Ninth Circuit**

Sangervasi's case is unprecedented. However, this Court has held that when conduct implicates the plain text of a right, then the plain text, as informed by history and tradition, is what controls the Court's review of protecting rights and halting presumptively unconstitutional infringements on constitutionally-protected rights. When the "plain text covers an individual's conduct, the Constitution presumptively protects that conduct". (*New York State Rifle & Pistol Assn., Inc. v. Bruen*, 597 U.S., 8, (2022)). And this Court said that the "Second Amendment standard" in *Bruen* "accords with how we protect other constitutional rights", like the freedom of

speech in the First Amendment, for example. *Id.* 15.

The plain text of the First Amendment covers various conduct of both the right-possessor who has a right to free speech and free exercise of religion, etc., and the prohibited conduct of the governmental right-transgressor whose conduct is implicated in the plain-text decree of forbidding governmental infringements like "prohibiting" or "abridging" the freedom of speech and free exercise of religion.

In a continuation of this Court's plain-text standard and reasoning, Sangervasi's unprecedented case involves conduct that implicates the plain-text rights and prohibitions of the Fourteenth Amendment, as informed by the foundational history and traditions of the neutral and impartial visual appearance of *The American Uniform*. (App. 38a).

Sangervasi's conduct, as the right-possessor, is to have and to live out the plain-text right to the literal "equal protection of the laws", as carried out and executed by the police at all times. The implicated plain-text conduct of the right-transgressor is the conduct of the Respondent, City of San Jose, which shall not "deny to any person within its jurisdiction the equal protection of the laws", as is carried out and executed at all times by the San Jose Police Department. (U.S. Const., Am. XIV).

Both the protected conduct of Sangervasi as the right-possessor, and the prohibited conduct of the Respondents as the right-transgressors, are conduct that is implicated by the plain text in this case.

The plain text of The Constitution presumptively protects Sangervasi's conduct which is

to have and to live out the plain-text right and Constitutional guarantee to the literal “**equal protection of the laws**” at all times in America. This is innately affected and determined by the police at all times. (U.S. Const., Am. XIV, bold emphasis added).

The plain text of The Constitution prohibits the Respondents' infringement on this right, and thereby the San Jose Police Department shall not “deny to any person within its jurisdiction the equal protection of the laws.” *Ibid.*

At all times, Sangervasi is a “person within” and subject to the “jurisdiction” of the San Jose Police Department. As such, the Respondents shall not “deny to” Sangervasi “the equal protection of the laws”, as carried out and executed at all times by the San Jose Police Department. *Ibid.* (App. 41a).

The conduct in this case falls within the Fourteenth Amendment's guarantees, and protects Sangervasi from the Respondents violating this right as described in this case. And the history and traditions of *The Uniform* of America's Police Officers predates the Fourteenth Amendment itself, and thereby this history and tradition, together with the plain text of The Constitution, control this case.

The Ninth Circuit's disregard for the plain-text rights in this case, as informed by the history and traditions of *The American Uniform*, conflicts with this Court's standards and directives regarding conduct where constitutionally-protected rights are infringed. The Ninth Circuit's failure and disregard for analyzing and then properly deciding this case under text, history, and tradition, is a primary and compelling reason to immediately grant the petition.



**iv. Conduct under Text, History, and Tradition**

Any official governmental act that desecrates *The Uniform* of America's Police Officers with visible bias in favor of certain individuals, (like "Lesbian, Gay, Bi-sexual, Transgender, and Queer pride"), and thereby erases *The American Uniform* as a neutral and impartial visible symbol of blind-justice and equal protection under the law for all people in America, is presumptively unconstitutional on its face. Police Officers are *uniformed* executive officers within America, who carry out and execute the shared plain-text right to the equal protection of the laws for all people at all times. As such, an American police department shall not "deny to any person within its jurisdiction the equal protection of the laws." (U.S. Const., Am. XIV). This decree starts with the publicly visible presentation of the police in *The American Uniform*, as visibly neutral and impartial arbiters of blind-justice and equal protection under the law for all people, at all times.

**B.**

**The Ninth Circuit's opinion defied, and conflicts with, parallel precedents of this Court and other circuit courts, which have upheld the neutral and impartial visual appearance of *The American Uniform*.**

This Court, and other circuit courts under the guide of this Court, have upheld the neutral and impartial visual appearance of *The American Uniform* for both the police and the military. The courts recognized that visibly observable neutrality

and impartiality is integral to the public's trust in the executive officers in America. The Ninth Circuit's decision directly conflicts with these parallel precedents that lend direct support to the real issues in Sangervasi's case.

In *Webb v. City of Philadelphia*, 562 F. 3rd, 256 (2009), the Third Circuit discussed the decisions of this Court, and decisions of the Fifth and Seventh Circuits. (App. 38a).

The court observed that historical standards and traditions of the neutral and impartial visual appearance of *The Uniform* of America's Police Officers is valid regarding "the need for uniformity, but also" to "enhance cohesiveness, cooperation, and the esprit de corps of the police force". *Id.* 5.

The "traditional outfitting of personnel in standardized uniforms encourages the subordination of personal preferences and identities in favor of the overall group mission." *Id.* 9, referencing *Goldman v. Weinberger*, 475 U.S. 508 (1986).

The Fifth Circuit noted that the "Supreme Court has upheld" the neutrality of "both military and police uniform standards," *Webb*, 10, referencing *Daniels v. City of Arlington*, 246 F.3d 500, 506 (5th Cir. 2001).

And other courts have similarly recognized and affirmed the invaluable and continued importance of maintaining the public appearance of the absolute visible neutrality of the police. *Webb*, 11, referencing *Paulos v. Breier*, 507 F.2d 1383, 1386 (7th Cir. 1974), ("recognizing and protecting" and "preserving nonpartisan police force and appearance thereof").

In regard to personal identities being wrongly

attached to *The Uniform* of America's Police Officers, the Third Circuit agreed that "at stake is the police department's impartiality, or more precisely, the perception of its impartiality by" all "citizens ... whom the police are charged to serve and protect." If the neutral and impartial visual appearance of *The Uniform* is not maintained, "the essential values of impartiality, .... neutrality, uniformity, and the subordination of personal preference would be severely damaged to the detriment of the proper functioning of the police department." *Webb*, 12.

The cases in *Webb* involved denying various personal accommodations that would have affected the publicly visible neutrality of *The American Uniform*, for both the police and military.

Sangervasi's case is unprecedented, but the parallel precedents in *Webb* affirm the history and tradition that is directly implicated in Sangervasi's case, and then directly implicates the plain text of the Fourteenth Amendment as informed by the history and traditions of the neutral and impartial visual appearance of *The American Uniform*.

The Ninth Circuit has defied the plain text of The Constitution and the history and traditions of *The American Uniform*, as affirmed by this Court and other circuit courts.

In defiance of parallel precedents of this Court and other circuit courts, the Ninth Circuit wrongly allowed the Respondents to desecrate the neutral and impartial visual appearance of *The Uniform* of the San Jose Police Department with visible "Lesbian, Gay, Bi-sexual, Transgender, and Queer pride"

speech and visible bias, preference, favoritism, prejudice, and segregationist intent, as part of the Respondents' related implementation of biased and segregated policing in America.

The Ninth Circuit has sanctioned the Respondents' unconstitutional actions by labeling the actions as an "outreach policy" or program (App. 4a), albeit one that explicitly excludes all other Americans from the visibly neutral, impartial, and identical "equal protection of the laws", as is carried out and executed at all times by the San Jose Police Department. (U.S. Const., Am. XIV).

This case is not about a "policy", such as a free lunch program or a home loan program. This case involves the executive actions, and the neutral and impartial visual appearance, of the police who can shoot and kill you under color of law.

The Respondents' alleged motive of "outreach" does not excuse the facially unconstitutional violations of the plain text of The Constitution, and the violation of the history and traditions of the neutral and impartial visual appearance of *The American Uniform*, that are at stake in this case.

"[I]t is not only important that the Government and its employees in fact avoid practicing political justice, but it is also critical that they appear to the public to be avoiding it, if confidence in the system of representative Government is not to be eroded to a disastrous extent." *Webb*, 11, quoting *United States Civil Serv. Comm'n v. Nat'l Ass'n of Letter Carriers*, 413 U.S. 548, 565 (1973).

Sangervasi and all other Officers are American Police Officers for all Americans. (App. 37a).

The Ninth Circuit's sanctioned violations of the plain text of the Fourteenth Amendment, and violations of the history and traditions of the neutral and impartial visual appearance of *The American Uniform*, are primary and compelling reasons to immediately grant the petition.

**C.**

**The Ninth Circuit misuses irrelevant caselaw that conflicts with, and avoids, the actual Text, History, and Tradition that control this case.**

**i. Irrelevant Schoolbooks Caselaw**

The Ninth Circuit disposed of Sangervasi's equal protection claim by copying the District Court and stating that Sangervasi had not shown evidence of discriminatory intent by the Respondents, citing *Monteiro v. Tempe Union High Sch. Dist.*, 158 F.3d 1022, 1026 (9th Cir. 1998). (App. 5a, 23a).

The Ninth Circuit is wrong. Intent does not pardon and allow continued infringement on a right.

The plain-text rights, and conduct, of Sangervasi and the Respondents, are implicated in this case, and thereby the plain text of The Constitution, as directly informed by history and tradition, controls this case. (See pg. 19, at 1, A, iii).

This is all the more obvious when looking at the subject matter in *Monteiro*, which was not disclosed by the Ninth Circuit that cited to it. *Monteiro* was about books in a school, and the alleged failure to include reading materials that might represent all persons. The books in *Monteiro* do not directly implicate the plain text of The Constitution

like in Sangervasi's case.

Sangervasi's case involves uniformed executive officers (the police), who are sworn by *Oath* under Article VI of The Constitution, and who literally carry out and execute the neutral, impartial, and identical "equal protection of the laws" in accordance with the Fourteenth Amendment. (U.S. Const., Am. XIV). Police Officers are uniformed executive officers who can shoot and kill you under color of law, while carrying out and executing "the equal protection of the laws". *Ibid*.

The schoolbooks in *Monteiro* are inanimate objects that are not sworn by *Oath* to support The Constitution, nor are schoolbooks sworn to provide equal protection under the law. Schoolbooks cannot shoot and kill you under color of authority.

Text, history, and tradition, are implicated in Sangervasi's case because of police involvement. Schoolbooks are not implicated in the plain text of The Constitution or in the history and traditions of *The American Uniform*.

The Ninth Circuit's misuse and abuse of *Monteiro* to undermine the merits of Sangervasi's case, directly conflicts with and violates the plain text of The Constitution that is implicated in Sangervasi's case, as it pertains to executive officers and the equal protection of the laws thereof.

The Ninth Circuit's decision also blatantly violates the history and traditions of *The American Uniform*, as that history and tradition informs the plain-text rights that are at stake in this case. The Ninth Circuit's disregard for text, history, and tradition, as implicated in Sangervasi's case, conflicts

with this Court's precedents and instructions thereof.

The severity of these violations by the Ninth Circuit necessitate this Court's involvement, and are compelling reasons to immediately grant the petition.

## ii. School Segregation Caselaw

In *United States v. Texas Ed. Agency*, 532 F.2d 380 (5th Cir. 1976), it was affirmed that a decision maker must be presumed to have intended the likely, natural, and foreseeable consequences of a policy decision, and therefore a school board decision that results in segregation is intentional in the constitutional sense, regardless of the motivation.

While the circumstances of the school board case later changed, the case shows the distinction in severity between segregation, and the schoolbooks in *Monteiro*. The school board case would supersede the Ninth Circuit's discriminatory intent in *Monteiro*.

However, intent does not pardon and allow continued infringement on a plain-text right. The school board case does not even begin to rise to the plain-text severity of Sangervasi's case. School board personnel cannot shoot and kill you under color of law. The unprecedented circumstances and severity of Sangervasi's case implicate the plain-text conduct and the plain-text rights of The Constitution, as it pertains to executive officers, and carrying out the equal protection of the laws as informed by the history and traditions of *The American Uniform*.

The Ninth Circuit's misuse of irrelevant caselaw like *Monteiro*, to undermine the plain-text rights in Sangervasi's unprecedented case, is a compelling reason to grant the petition.

**D.**

**The Ninth Circuit's opinion avoided the Constitutional claims and merits of this case, requiring urgent action by this Court.**

The Ninth Circuit has "decided" federal questions about The Constitution that are currently affecting all people across America. But the Ninth Circuit has dangerously "decided" these questions indirectly, by avoiding them altogether, yet still making broad, binding decisions without actually addressing the true claims and merits of this case. The Ninth Circuit's "decision" on these federal questions must still be settled by this Court, and this is a compelling reason to grant the petition.

Despite the detailed briefs in the Ninth Circuit that presented the Constitutional claims and merits of this case, the Ninth Circuit's decision avoided the claims and was only a couple paragraphs long, and was "not for publication" and "not precedent". (App. 3a).

The Ninth Circuit failed to actually confront the Constitutional issues of this case that are unprecedented matters of national public interest and public concern regarding the current actions of the police, who can shoot and kill you under color of law.

By leaving the Constitutional questions of this case avoided and unanswered but indirectly "decided", and thereby sanctioning governmental actions by the police that are in direct conflict with the plain text of The Constitution, the Ninth Circuit has abandoned its duty to uphold The Constitution as



the supreme law of the land. The dire issues and ongoing Constitutional violations in this case must now be directly addressed and settled by this Court for the sake of The Constitution, and for the sake of the continued existence of blind-justice and equal protection under the law for all people in America. This alone is a compelling reason to immediately grant the petition.

Also of great concern, the short "decision" by the Ninth Circuit was not for publication and not for precedent, despite the severity of the issues in Sangervasi's case. This secrecy in regard to the most dangerous matter of national public interest and public concern to ever face the Constitutional authority and legitimacy of the police in American History, is a compelling reason to grant the petition.

The sparse and threadbare "decision" of the Ninth Circuit has robbed this Court of the full scope of this case that is under review, and warrants this Court's granting of the petition, and request for the Case Record and briefs on the merits.

#### **E.**

**The Ninth Circuit has now sanctioned actions that directly defy the Text, History, and Tradition that control this case.**

##### **i. Segregated Policing in America**

The Ninth Circuit has sanctioned the Respondents' creation of a separate and segregated police force in America that only represents, advocates for, and effectuates the police protection of the laws for persons who identify as "Lesbian, Gay,

Bi-sexual, Transgender, and Queer". (App. 8a – 9a).

Surely this Court does not need to witness "Hetero-sexual Pride", "White Pride", "Male Pride", "Female Pride" etc., advisory boards, liaison officers, flags, and patches for *The Uniform*, to see and respond to the current crisis and merits of this case. (App. 37a, #66). But the Ninth Circuit has now sanctioned endlessly segregated and unequal policing in America.

This Court does not need to witness segregated courts, with "Lesbian, Gay, Bi-sexual, Transgender, and Queer pride" courtrooms, justices, robes, and flags, juxtaposed to "Hetero-sexual pride" courtrooms, justices, robes, and flags, in order to see the merits of this case from the perspective of the judiciary, in relation to the real crisis that is now actively subverting the police across America.

**ii. A Divisive Nationwide Crisis is before this Court.**

The circumstances of Sangervasi's case have now metastasized and spread far beyond the San Jose Police Department, and are being copied by other police departments across the country. The Respondents disclosed that a nationwide scheme exists to implement segregated policing in America, and that "there's actually a DOJ manual on how to create LGBTQ advisory boards and liaison positions". (App. 41a).

At stake in this case is the neutral and impartial visual appearance of *The Uniform* of America's Police Officers and the continued existence of blind-justice and equal protection under the law for all people in America, as is carried out and executed

at all times by the police who can shoot and kill you under color of law. These are extraordinary and compelling reasons for this Court to immediately grant the petition, and for this Court to dutifully act to protect and defend The United States of America.

## **II. Free Speech and Free Exercise of Religion Claims**

The Free Speech and Free Exercise rights in this case are being infringed by the Respondents' misappropriation of the intimately personal sexual speech of individuals, as "government speech". This unconstitutionally expanded "government speech" to allow censorship of speech on the topic of sexual-orientation, at a minimum.

### **A. The true speech at issue in this case**

#### **i. Intimately Personal Sexual Speech**

The Respondents have misappropriated and desecrated *The Uniform* of America's Police Officers and turned it into a personal billboard and interactive "forum" for the intimately personal sexual speech of individuals to advertise and convey their personal opinions pertaining to sexual-orientation and sexual-identity. The Respondents have allowed individuals to speak about their sex-life, and the implied associated sex-acts thereof, and to engage in the interpersonal freedom of association with others based on "Lesbian, Gay, Bi-sexual, Transgender, and Queer pride" and sexual-orientation.

At issue in this case is the intimately personal sexual speech of individuals, which never has been, is not, and never will be, "government speech".

**ii. The false status and identity of the speakers**

“To prevent the government-speech doctrine from being used as a cover for censorship, courts must focus on the identity of the speaker.” [*Shurtleff v. Boston*, 596 U.S. (2022), (Alito, J., concurring in judgment, at 2)]. “But our precedent has never attempted to specify a general method for deciding that question”. *Id.* 3.

The Ninth Circuit has violated this Court's precedents, and allowed the Respondents to misrepresent the status and identity of the speakers in this case. Individuals were actively engaging in intimately personal sexual speech regarding sexual-identity and sexual-orientation, and were allowed to engage in the freedom of association based on personal and sexual identity. This was facilitated in part by *The American Uniform* being used as an illegitimate personal billboard and interactive “forum” for this interpersonal sexual speech and activity. The Respondents unconstitutionally misappropriated this sexual speech as “government speech” despite the personal sexual nature of the speech that never has been, is not, and never will be, “government speech”.

**iii. The alleged “government speech” was not uniform and universal for all officers.**

The Respondents stated their intent to “allow department members to show individual support for issues important to them.” (App. 18a). This allowed the interpersonal freedom of association based on personal sexual identity. But now the Respondents claim that they alone were engaging in only

government speech. Besides this being inaccurate, this supposed "government speech" was not then uniformly communicated by all government personnel in the same, identical manner at all times.

This fatal flaw in the "government speech" argument was acknowledged by the Respondents who stated at the motions hearing that it "would have been inappropriate for the police department to make all officers wear a patch design to express the city's speech, or it could have been, I guess. I don't know that it would have -- I think maybe we could have, but we didn't choose to do that." (App. 41a).

Besides the subject matter that is personal sexual speech, the Respondents admit that they did not actually make *The Uniform* of government personnel identically and uniformly convey the same exact alleged "government speech" that would already be universally required of all officers, since individual officers cannot wear their pajamas.

The Ninth Circuit's disregard for the circumstances of this case conflicts with The Constitution. The Ninth Circuit opinion misuses, and conflicts with, this Court's speech precedents.

**B. The Ninth Circuit's opinion misuses, and conflicts with, this Court's speech precedents, and has unconstitutionally expanded "government speech".**

**i. *Summum***

The Ninth Circuit cited *Pleasant Grove City v. Summum*, 555 U.S. 460 (2009), to say that the Respondents were engaged in "government speech". (App. 3a). The Ninth Circuit is wrong.

Individuals were actively engaging in intimately personal sexual speech on the topic of sexual-orientation, and actively engaging in the interpersonal freedom of association with others in both the department and the community based on sexual identities.

*Summum* is an improper and conflicting use of this Court's precedents on speech for this case. *Summum* involved inanimate, permanent monuments in a park. *Summum* was also explicitly about government-owned speech.

Sangervasi's case involves interactive speech between people about their own personal sexual identity. That is a person's *active* speech about one's own self. That active sexual speech cannot be captured and then owned by a governmental entity. (App. 39a).

Also, the severity between *Summum* and this case cannot be compared. Police Officers are not inanimate stones in a park. Stationary monuments in a park do not carry out and execute the equal protection of the laws in accordance with The Constitution. Monuments in a park cannot shoot and kill you under color of law.

Individuals engaging in intimately personal sexual speech and freedom of association with others based on sexual-identity is not government-owned speech. The Ninth Circuit's misuse of *Summum* conflicts with this Court's precedent in that case which cannot be forcibly applied to Sangervasi's case.

## ii. *Walker*

While the Ninth Circuit did not mention it,

*Walker v. Texas Div., Sons of Confederate Veterans, Inc.*, 576 U.S. 200 (2015), was mentioned by the District Court (App. 16a). But there are similar fatal flaws in *Walker*, like in *Summum*.

The District Court and the Respondents compared the "LGBTQ pride" uniform patches as being adjacent to the specialty license plates in *Walker*. But this is wrong.

*Walker* involved the placement of license plates on your own personal car. This case involves the desecration of *The American Uniform* with the intimately personal sexual speech of individuals.

The Respondents were allowing active speech and interpersonal freedom of association based on sexual-identity in an *interactive* "forum". This is not the same as an inanimate license plate bolted on a private citizen's own car.

Police Officers are not inanimate license plates on a car. License plates on a car do not carry out and execute the equal protection of the laws in accordance with The Constitution. License plates on a car cannot shoot and kill you under color of law.

*Walker* and *Summum* alike, are incompatible with the Constitutional severity of Sangervasi's case which is unprecedented and implicates more plain-text rights than the free speech and free exercise rights that are being infringed upon now under the guise of "government speech".

Regarding *Summum* and *Walker*, "As the Court now recognizes, those cases did not set forth a test that always and everywhere applies when the government claims that its actions are immune to First Amendment challenge under the government-

speech doctrine.” [*Shurtleff v. Boston*, 596 U.S. (2022), (Alito, J., concurring in judgment, at 1)].

Sangervasi's case is a necessary opportunity for this Court to prevent its precedents from being forcibly misused as a means to unconstitutionally expand “government speech” that misappropriates the intimately personal sexual speech of individuals and the interpersonal freedom of association between people based on sexual identity. This never has been, is not, and never will be, “government speech”.

### iii. *Garcetti v. Ceballos*

The Ninth Circuit's memorandum opinion was only a few paragraphs long, despite the unprecedented matters of national public interest and public concern that are at stake in this case. This dismissive demeanor is in need of scrutiny by this Court for reasons that include the irrelevant citation to *Garcetti v. Ceballos*, 547 U.S. 410 (2006), to conclude that Sangervasi spoke as a government employee.

That assertion is beyond incorrect based on the daily job-tasks criteria in *Garcetti*.

The Ninth Circuit's “government employee” assertion has nothing to do with the Constitutional matters in this case, unless the Ninth Circuit is suggesting that Sangervasi's own personal speech can also be unconstitutionally misappropriated as the “government speech” of the Respondents, who wanted nothing to do with Sangervasi's speech.

Sangervasi's case involves the desecration of *The American Uniform* with intimately personal sexual speech, and the implementation of biased and



segregated policing in America. *Garcetti* pertained to daily job-tasks. *Garcetti* is completely irrelevant to this case, and necessitates this Court's involvement because the misuse of *Garcetti* conflicts with this Court's own speech precedent in *Garcetti*, that misses the entire scope and purpose of this current case.

**iv. *Shurtleff v. Boston***

The Ninth Circuit cited to *Shurtleff v. Boston*, 596 U.S. \_\_ (2022), to further define this case as a matter of government speech. (App. 5a).

But Sangervasi's case is unprecedented, and the speech involved in this case is intimately personal sexual speech that cannot become government speech. *Shurtleff* was very clear to warn that there was no litmus test on "government speech". As this Court stated, "Our review is not mechanical; it is driven by a case's context rather than the rote application of rigid factors." *Id.* 6.

Sangervasi's unprecedented case involves the Respondents' attempt to take intimately personal sexual speech of individuals and misappropriate and re-brand it as "government speech". (App. 39a).

While the circumstances in Sangervasi's case are different, this Court's sentiment in *Matal v. Tam*, 582 U.S. \_\_ (2017), perfectly describes the dangers of expanding "government speech" in this current case.

"If private speech could be passed off as government speech by simply affixing a government seal of approval, government could silence or muffle the expression of disfavored viewpoints. For this reason, we must exercise great caution before extending our government-speech precedents." *Id.* 14.

The Respondents cannot put their stamp of approval on intimately personal and private sexual speech in order to misappropriate that speech, and then unconstitutionally censor other speech under the guise of "government speech". As such, the Ninth Circuit's opinion conflicts with this Court's speech precedents.

At issue in this case is the intimately personal sexual speech of individuals and the interpersonal freedom of association between people based on sexual identity. This never has been, is not, and never will be, "government speech".

### **C. Free Speech and Free Exercise were Infringed**

Sangervasi's rights to free speech and free exercise of religion, and the freedom of association thereof, were already violated and must be vindicated and redressed by this Court.

Based on the unprecedented circumstances of Sangervasi's case, his free speech and freedom of association were infringed by the Respondents who denied free speech. And the free exercise of religion was prohibited when religious speech on the topic of sexual-orientation was denied, and thereby prohibited evangelization on faith and morals regarding sexual-identity and sexual-orientation within an interactive "forum". (App. 20a).

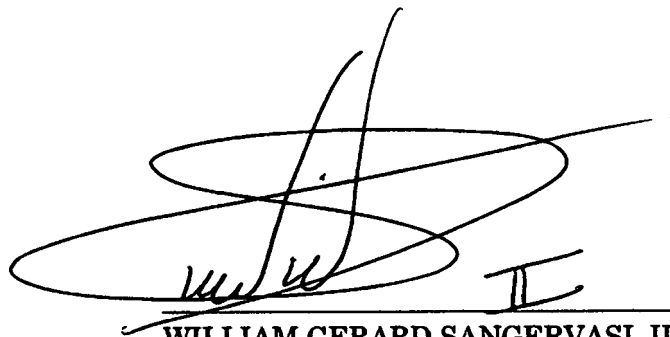
But Sangervasi's Equal Protection claim will nullify any future free speech and free exercise claims in relation to this case. This provides the Court with a unique and necessary opportunity to cleanly reign in rogue abuses of "government speech" without the Court creating a Constitutional crisis

and turning *The Uniform* of America's Police Officers into an illegitimate personal billboard and interactive "forum" for biased and intimately personal sexual speech that will never be "government speech".

### CONCLUSION

At stake in this case is the neutral and impartial visual appearance of *The American Uniform*, and the continued existence of blind-justice and equal protection under the law for all people in America. "EQUAL JUSTICE UNDER LAW" is truly at stake, and this motto is appropriately carved in stone above the entrance of this Court. There is no question that this petition should be granted.

Respectfully submitted,



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