No. 23-1197

In the Supreme Court of the United States

DAMON LANDOR, PETITIONER

v.

LOUISIANA DEPARTMENT OF CORRECTIONS AND PUBLIC SAFETY, ET AL.

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

BRIEF FOR THE PETITIONER

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QUESTION PRESENTED

Congress has enacted two "sister" statutes to protect religious exercise: the Religious Freedom Restoration Act of 1993 (RFRA), 42 U.S.C. 2000bb *et seq.*, and the Religious Land Use and Institutionalized Persons Act of 2000 (RLUIPA), 42 U.S.C. 2000cc *et seq*. In *Tanzin* v. *Tanvir*, 592 U.S. 43 (2020), this Court held that an individual may sue a government official in his individual capacity for damages for violations of RFRA. RLUIPA's relevant language is identical.

The question presented is whether an individual may sue a government official in his individual capacity for damages for violations of RLUIPA.

PARTIES TO THE PROCEEDING

Petitioner (plaintiff-appellant below) is Damon Landor.

Respondents (defendants-appellees below) are the Louisiana Department of Corrections and Public Safety; James M. LeBlanc, in his official capacity as Secretary thereof, and individually; Raymond Laborde Correctional Center; Marcus Myers, in his official capacity as Warden thereof, and individually; John Does 1-10; and ABC Entities 1-10.

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BRIEF FOR THE PETITIONER

INTRODUCTION

Damages have been available against individual government officials since "the early Republic." *Tanzin* v. *Tanvir*, 592 U.S. 43, 49-50 (2020). In particular, before *Employment Division* v. *Smith*, 494 U.S. 872 (1990), damages were available under 42 U.S.C. 1983 against individual state officers for substantially burdening religious liberty unless doing so was necessary to further a compelling governmental interest. After *Smith* stripped away that protection, Congress responded by enacting two laws—the Religious Freedom Restoration Act of 1993 (RFRA), 42 U.S.C. 2000bb *et seq.*, and the Religious Land Use and Institutionalized Persons Act of 2000 (RLUIPA), 42 U.S.C. 2000cc *et seq.*—to restore "both the pre-*Smith* substantive protections of the First

Amendment *and* the right to vindicate those protections by a claim." *Tanzin*, 592 U.S. at 50. In *Tanzin*, this Court held that RFRA's cause of action for "appropriate relief" against a federal officer "must" allow for individual-capacity damages. *Id.* at 51.

This Court now should hold that RLUIPA's cause of action for "appropriate relief" against a state officer allows for individual-capacity damages as well. RLUIPA's operative text is identical to RFRA's, so it clearly provides the same remedies. Damages have always been "appropriate relief" in such suits and were available against state officers before *Smith*, so RLUIPA "made clear" that damages "must" be available. *Id.* at 49-51. And there is "no serious doubt about the constitutionality" of imposing personal liability on the officers of a state or local prison that accepts federal funds. *Salinas* v. *United States*, 522 U.S. 52, 60-61 (1997).

The "stark and egregious" facts here, Pet. App. 23a (Clement, J., concurring in the denial of rehearing en banc), viscerally show that damages are essential to RLUIPA's protection of religious liberty. Petitioner Damon Landor is a devout Rastafarian who, for decades, "'let the locks of the hair of his head grow,' a promise known as the Nazarite Vow." *Id.* at 2a (citing *Numbers* 6:5). When he was transferred to the Raymond Laborde Correctional Center, he had a copy of a Fifth Circuit decision holding that RLUIPA required Louisiana prisons to accommodate his dreadlocks. Prison officials threw the decision into the trash, strapped Landor down, and shaved him bald. *Id.* at 2a-3a. In an instant, they stripped him of decades of religious practice at the heart of his identity.

Yet without damages, Landor could obtain no relief whatsoever. There would be no remedy, no accountability, and RLUIPA's soaring promise would ring hollow. That is clearly wrong. Congress did not enact RLUIPA so that state officers could freely ignore it.

The court of appeals nonetheless denied a damages remedy, stating that, "although RLUIPA's text suggests a damages remedy, recognizing as much would run afoul of the Spending Clause." Pet. App. 11a. The court reasoned that "only the grant recipient—the state—may be liable" for violating Spending Clause legislation. *Id.* at 6a (citation omitted). This Court should reverse.

First, RLUIPA's meaning is clear and leaves no room for constitutional avoidance: Like RFRA and Section 1983, RLUIPA allows individual-capacity damages. This Court interprets RFRA and RLUIPA together—and RLUIPA's remedies are copied verbatim from RFRA—so RLUIPA must provide the same remedies. *Tanzin*'s analysis of the identical text also shows that RLUIPA "clear[ly]" authorizes individual-capacity suits, Congress "made [it] clear" that damages "must" be available, they are often the "*only*" relief, and the sovereign context is "obvious[ly]" distinct. 592 U.S. at 47-52. That answer is not just clear, but also aligns with the traditional rule that damages are ordinarily available against non-sovereign defendants, including in Spending Clause legislation. See *Franklin* v. *Gwinnett Cnty. Pub. Schs.*, 503 U.S. 60, 66-68, 70-71 (1992). Respondents are individuals, not sovereigns, so damages are available—just like they were before *Smith*.

Second, Congress has ample power to condition the acceptance of federal funds for prisons upon a State's agreement that its officers will provide pre-*Smith* accommodations for religious liberty or will face pre-*Smith*

remedies, including personal liability. Respondents are not detached third parties—they are voluntarily employed as state officers for a federally-funded program. The "consequence of their decision to accept employment in [such] a project" is that they must "perform their duties in accordance with the [funding's] restrictions." *Rust* v. *Sullivan*, 500 U.S. 173, 198-99 (1991). RLUIPA's restrictions require restoring pre-*Smith* rights *and* remedies.

Individual liability for state officers who voluntarily accept such employment is fully consistent with this Court's precedent. Damages are a traditional remedy against individual state officers, from the Founding to today. *Salinas* squarely upholds liability for an official in a local jail that accepted federal funds. And multiple other decisions of this Court confirm that RLUIPA's remedies are well within Congress's power. *E.g.*, *Sabri* v. *United States*, 541 U.S. 600 (2004).

This Court accordingly should reverse. Within RLUIPA's scope, Congress has succeeded in restoring "both the pre-*Smith* substantive protections of the First Amendment *and* the right to vindicate those protections by a claim." *Tanzin*, 592 U.S. at 50.

OPINIONS BELOW

The opinion of the court of appeals (Pet. App. 1a-13a) is published at 82 F.4th 337. The order of the court of appeals denying rehearing en banc (Pet. App. 21a-36a) is published at 93 F.4th 259. The opinion of the district court (Pet. App. 14a-20a) is not published but available at 2022 WL 4593085.

JURISDICTION

The court of appeals entered judgment on September 14, 2023, Pet. App. 1a, and denied a timely petition for rehearing on February 5, 2024, *id.* at 21a. On May 3,

2024, the petition for a writ of certiorari was filed. The petition was granted on June 23, 2025. The Court has jurisdiction under 28 U.S.C. 1254(1).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

42 U.S.C. 2000cc-2(a) provides in relevant part:

> A person may assert a violation of this chapter as a claim or defense in a judicial proceeding and obtain appropriate relief against a government.

42 U.S.C. 2000cc-5(4)(A) defines "government" to mean:

> (i) a State, county, municipality, or other governmental entity created under the authority of a State;
>
> (ii) any branch, department, agency, instrumentality, or official of an entity listed in clause (i); and
>
> (iii) any other person acting under color of State law.

Other pertinent statutory and constitutional provisions are reproduced at Pet. App. 37a-55a.

STATEMENT

A. RFRA And RLUIPA

Congress enacted RFRA and RLUIPA in response to *Smith*. See *Holt* v. *Hobbs*, 574 U.S. 352, 356-57 (2015). Before *Smith*, this Court had long held that the First Amendment prevents a government from "substantially burden[ing]" religious exercise, unless that burden is "necessary to further a compelling state interest." *Ibid.* And before *Smith*, if a state officer violated that standard, the victim could sue the officer in his individual capacity under Section 1983 and obtain damages. *Tanzin*, 592 U.S. at 50.

Smith marked a sea change. *Smith* held that "neutral, generally applicable laws that incidentally burden

the exercise of religion usually do not violate the Free Exercise Clause." *Holt*, 574 U.S. at 356-57.

Congress responded by enacting RFRA, "reinstating both the pre-*Smith* substantive protections of the First Amendment *and* the right to vindicate those protections by a claim." *Tanzin*, 592 U.S. at 50. As enacted, RFRA applied to federal and state governments and their officials. Pub. L. No. 103-141, § 5, 107 Stat. 1489 (1993). In *City of Boerne* v. *Flores*, 521 U.S. 507 (1997), this Court held that RFRA's application to state governments was beyond Congress's power under Section 5 of the Fourteenth Amendment.

Congress again responded to restore pre-*Smith* rights and remedies, this time enacting RLUIPA. RLUIPA protects institutionalized persons and land use, "applies to the States and their subdivisions," and "invokes congressional authority under the Spending and Commerce Clauses." *Holt*, 574 U.S. at 357. RLUIPA applies to any "program or activity that receives Federal financial assistance." 42 U.S.C. 2000cc-1(a), (b)(1).[1] Louisiana, like all 50 States, accepts federal funds for its prisons. See *Cutter* v. *Wilkinson*, 544 U.S. 709, 716 n.4 (2005).

RLUIPA's text "mirrors" RFRA's. *Holt*, 574 U.S. at 357. Both statutes adopt the pre-*Smith* compelling interest test. See 42 U.S.C. 2000bb-1 (RFRA); 42 U.S.C. 2000cc-1(a) (RLUIPA). Both provide an express private right of action for aggrieved individuals to "obtain appropriate relief against a government." 42 U.S.C. 2000bb-1(c) (RFRA); 42 U.S.C. 2000cc-2(a) (RLUIPA).

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[1] Congress also invoked the Commerce Clause to reach any case in which the "substantial burden affects, or removal of that substantial burden would affect, commerce with foreign nations, among the several States, or with Indian tribes." 42 U.S.C. 2000cc-1(b)(2).

And both define "government" to include an "official" or "other person acting under color of" law. 42 U.S.C. 2000bb-2(1) (RFRA); 42 U.S.C. 2000cc-5(4)(A) (RLUIPA).

In RLUIPA, Congress also provided a public right of action for the United States. Unlike the private right of action, the public action is limited to "injunctive or declaratory relief." 42 U.S.C. 2000cc-2(f). Congress further included a rule of construction: RLUIPA "shall be construed in favor of a broad protection of religious exercise, to the maximum extent permitted by the terms of this chapter and the Constitution." 42 U.S.C. 2000cc-3(g).

B. This Court's Decision In *Tanzin*

In *Tanzin*, this Court held that RFRA allows individual-capacity damages. The Court began by finding that "RFRA's text provides a clear answer" to whether "injured parties can sue Government officials in their personal capacities": "They can." 592 U.S. at 47-48.

Next, the Court held that damages are "appropriate relief" in such a suit. *Id.* at 48-49. "In the context of suits against Government officials," the Court explained, "damages have long been awarded as appropriate relief." *Id.* at 49. The Court emphasized that, before *Smith*, damages were "no doubt" available in an individual-capacity suit under Section 1983. *Id.* at 50. Section 1983 was "particularly salient" because Congress "made clear that it was reinstating both the pre-*Smith* substantive protections of the First Amendment *and* the right to vindicate those protections by a claim." *Ibid.* Accordingly, RFRA plaintiffs "must have at least the same avenues for relief against officials that they would have had before *Smith*," including individual damages. *Id.* at 51. This Court further stressed that individual damages

are "not just 'appropriate,'" but "the *only* form of relief that can remedy some RFRA violations." *Ibid.*

The Court found *Sossamon* v. *Texas*, 563 U.S. 277 (2011), to be "obvious[ly] differen[t]." *Tanzin*, 592 U.S. at 51-52. In *Sossamon*, the Court held that RLUIPA does not clearly abrogate state sovereign immunity. 563 U.S. at 285-86. *Tanzin* explained that *Sossamon* was a suit against a sovereign, while *Tanzin* was a "suit against individuals, who do not enjoy sovereign immunity." 592 U.S. at 51-52.

C. Factual Background

Damon Landor is a devout Rastafarian. Pet. App. 2a.[2] Consistent with his religious beliefs, Landor follows "the Nazarite Vow," *ibid.*, which "prohibits … the cutting of one's hair." J.A. 6. The vow refers to a "biblical oath" described in the Book of Numbers, Pet. App. 25a-26a (Oldham, J., dissenting from the denial of rehearing en banc), that commands a follower to "let the locks of the hair of his head grow," *id.* at 2a; *Numbers* 6:5.

In August 2020, Landor began a five-month sentence in Louisiana state prison. Pet. App. 26a (Oldham, J., dissenting). At that point, Landor had kept his vow for "almost two decades" and maintained locks that fell "nearly to his knees." *Ibid.*; J.A. 39 (photograph before). By that time, the Fifth Circuit had already held that Louisiana's policy of cutting the hair of Rastafarians violated RLUIPA. *Ware* v. *La. Dep't of Corr.*, 866 F.3d 263, 266 (5th Cir. 2017); see *id.* at 273 (noting that the U.S. Bureau of Prisons and 38 other jurisdictions accommodate inmates with dreadlocks).

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[2] This case arises from a motion to dismiss, so "the facts in the complaint" must be taken "as true." Pet. App. 2a n.1.

The first four months of Landor's sentence were uneventful. He was incarcerated at two facilities where administrators respected Landor's vow without incident. Pet. App. 2a. That all changed with "only three weeks left in his sentence," when Landor was transferred to the Raymond Laborde Correctional Center. *Ibid.*

When he arrived, Landor "informed the intake guard that he was a practicing Rastafarian and presented the guard with various legal materials regarding his religious accommodations." *Id.* at 26a (Oldham, J., dissenting). He gave the guard a copy of *Ware*, which Landor kept with him to protect his rights. *Ibid.*

The guard was "[u]nmoved." *Id.* at 2a. He threw the materials away and summoned the warden. *Ibid.* The warden demanded "documentation from his sentencing judge that corroborated his religious beliefs." *Ibid.* Landor explained he could obtain these documents if he "contact[ed] his lawyer." *Id.* at 26a (Oldham, J., dissenting). The warden responded, "Too late for that." *Ibid.* The officials brought Landor to another room, "handcuffed [him] to a chair[,]" "held [him] down," and "shaved his head to the scalp." *Ibid.*

Landor's prison identification, taken that same day, shows him shaved bald. J.A. 38.[3] The officials then punished Landor for having the temerity to invoke his religious rights: For the remainder of his sentence, the prison kept Landor in lockdown. J.A. 10.

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[3] News articles have reproduced a clearer version. *E.g.*, Maureen Groppe, *Rastafarian Asks Supreme Court to Let Him Sue Prison Guards for Shaving Off His Dreadlocks*, USA Today (Sept. 5, 2024), https://www.usatoday.com/story/news/politics/2024/09/05/rastafarian-supreme-court-shaved-dreadlocks-prison-louisiana/75014561007/ (last visited Aug. 27, 2025); see Dr. Autrey Cert. Br. 3.

D. Procedural History

After his release, Landor filed suit in the United States District Court for the Middle District of Louisiana. Pet. App. 14a. As relevant, he brought individual-capacity damages claims under RLUIPA against Warden Myers and James LeBlanc, the Secretary of Louisiana's Department of Corrections and Public Safety, as well as the John Doe guards who abused him. *Id.* at 3a.

The district court granted respondents' motion to dismiss. *Id.* at 14a-20a. The court disposed of the RLUIPA claim in a single paragraph. *Id.* at 16a. First, it explained that because Landor had been released, his claims for declaratory and injunctive relief were moot. *Ibid.* Second, the court dismissed his claims for money damages by relying on Fifth Circuit precedent holding that RLUIPA does not allow individual-capacity damages. *Ibid.* The district court dismissed all of the remaining counts. *Id.* at 20a.[4]

The court of appeals affirmed. *Id.* at 1a-13a. The panel "*emphatically* condemn[ed] the treatment that Landor endured," but followed circuit precedent holding that, "under RLUIPA, [a plaintiff] cannot seek money damages from officials in their individual capacities." *Id.* at 13a. The panel found that "although RLUIPA's text suggests a damages remedy, recognizing as much would run afoul of the Spending Clause." *Id.* at 11a. The

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[4] The court's opinion states that the dismissal is "with prejudice," whereas the accompanying order describes the dismissal as "without prejudice." D. Ct. Doc. 44, at 1 (Sept. 29, 2022). That appears to be a clerical error. Regardless, this Court has jurisdiction because the district court's order "ended this suit so far as the District Court was concerned." *United States* v. *Wallace & Tiernan Co.*, 336 U.S. 793, 795 n.1 (1949); see CVSG Br. 22-23.

panel stated that "Spending Clause legislation" "operates like a contract," so "only the grant recipient—the state—may be liable for its violation." *Id.* at 6a (citation omitted).

A divided court of appeals denied rehearing en banc. *Id.* at 21a-36a. Judge Clement concurred in the denial of rehearing, joined by eight other judges. *Id.* at 23a-24a. Judge Clement condemned the assault as "stark and egregious," and called on this Court to resolve whether RLUIPA allows individual-capacity damages. *Ibid.*

Judge Oldham dissented, joined by five judges. *Id.* at 25a-34a. Judge Oldham found *Tanzin* "dispositive of [the] interpretation of RLUIPA" because RFRA and RLUIPA are "sister" and "twin" statutes with operative language that is "*in haec verba*." *Id.* at 25a, 28a.

Judge Oldham explained that "it is not true that the Spending Clause prohibits regulating anyone beyond the recipient." *Id.* at 30a. He observed that *Sabri* shows that "Congress *can* regulate 'individuals who aren't party to the contract.'" *Ibid.* (citation omitted). If per *South Dakota* v. *Dole*, 483 U.S. 203 (1987), "South Dakota can agree to criminalize the behavior of its 19-year-old bourbon enthusiasts, it's unclear why Louisiana cannot agree to make its prison officials liable for forcibly shaving Damon Landor's head." *Ibid.*

Judge Ho also dissented, joined by Judge Elrod. *Id.* at 35a-36a. Judge Ho found *Sossamon* "obvious[ly]" different because States enjoy sovereign immunity but individuals do not. *Id.* at 36a (citation omitted).

SUMMARY OF ARGUMENT

I. RLUIPA unambiguously authorizes individual-capacity damages. *Tanzin*'s holding that RFRA provides for individual-capacity damages all but answers the statutory question because *Tanzin* already analyzed the

very same text. This Court reads RLUIPA and RFRA together as "sisters," RLUIPA copied RFRA's operative text verbatim, and the statutes have a shared context, history, and purpose. Because RFRA allows individual-capacity damages, RLUIPA must as well.

Tanzin confirms that RLUIPA is clear. Like RFRA, RLUIPA "clear[ly]" authorizes individual-capacity suits. *Tanzin*, 592 U.S. at 47. Damages have been available in such suits from "the early Republic" to today. *Id.* at 49-50. Like RFRA, RLUIPA "made clear that it was reinstating both the pre-*Smith* substantive protections of the First Amendment *and* the right to vindicate those protections by a claim." *Id.* at 50. Section 1983 authorized damages before *Smith*, so RLUIPA "must" authorize damages. *Id.* at 50-51. Indeed, damages are often the "*only*" relief, and the difference from the sovereign context is "obvious." *Id.* at 51-52. Meaning that is "clear," "must" be true, and is "obvious" is unambiguous.

RLUIPA's broader text confirms the point. Barring damages would make nonsense of Congress's choice to limit the United States to seeking "injunctive or declaratory relief," 42 U.S.C. 2000cc-2(f), but to allow private litigants any "appropriate relief"—without qualification. 42 U.S.C. 2000cc-2(a). Without damages, RLUIPA's individual-capacity action would also be largely meaningless because officers are already bound by injunctive or declaratory relief in their official capacities. Without damages, the individual-capacity suit would add nothing.

Tradition confirms that damages are available. The traditional rule is that damages are appropriate against non-sovereign defendants, including in Spending Clause legislation. See *Franklin*, 503 U.S. at 66-68, 70-

71. This Court reinforced that rule in *Sossamon*, repeatedly distinguishing the sovereign context and calling it "unique." 563 U.S. at 290. Respondents are individuals, not sovereigns, so damages are available.

RLUIPA thus can only be reasonably interpreted to allow individual-capacity damages. It therefore provides the requisite notice under the Spending Clause and leaves no room for constitutional avoidance.

II. RLUIPA's individual-capacity damages remedy is also constitutional. Multiple decisions of this Court foreclose the court of appeals' "direct recipient" rule and uphold liability for the officers or agents of a grantee.

At the outset, the court of appeals overlooked that respondents are the officers of a federally-funded state program. It is undisputed that they are bound in their official capacity to comply with RLUIPA. They are also bound to face individual liability. The "consequence of their decision to accept employment" in a federally-funded program is that they must "perform their duties in accordance with the [funding's] restrictions." *Rust*, 500 U.S. at 198-99. RLUIPA includes a substantive *and* a remedial condition. Respondents accepted employment as state officers subject to both.

Imposing liability on such officers is readily constitutional. First, it satisfies *Dole*. In particular, RLUIPA unambiguously allows individual-capacity damages. Congress's offer is not coercive or commandeering, because no State is forced to accept federal funds for prisons. And a State can equally agree to make RLUIPA's rights *and* remedies a condition of working as an officer in a federally-funded program.

Second, even if additional authority were needed, the Necessary and Proper Clause empowers Congress to adopt an individual damages remedy to enforce

RLUIPA's substantive condition. A damages remedy is plainly adapted to ensuring compliance: Damages are an obvious deterrent against abuse and essential as the "*only*" means for remedying many deprivations of religious liberty. *Tanzin*, 592 U.S. at 51. Individual-capacity damages are also a traditional remedy from "the early Republic" through today. *Id.* at 49-50. That remedy has long been in place under Section 1983 and is used under RFRA. *Ibid.* It is thus Necessary and Proper for Congress to use that same remedy here.

This Court's precedents confirm that RLUIPA is constitutional. This Court has consistently endorsed liability imposed beyond the direct recipient—and in particular on a grantee's officers, agents, or subcontractors. For example, *Salinas* found "no serious doubt about the constitutionality" of imposing personal liability on the officers of a local jail that accepted federal funds. 522 U.S. at 60-61. Respondents are in the same position and even have the same kind of job. Quite simply, requiring a "direct contractual bond between the defendant and the United States" would "artificially narrow the scope" of federal jurisdiction. *Dixson* v. *United States*, 465 U.S. 482, 494, 496 (1984).

This Court has gone considerably farther, upholding liability imposed on a member of the general public who bribed the official of a state grantee, without additional proof of a nexus to federal funds. See *Sabri*, 541 U.S. at 602. RLUIPA's remedies are narrower and more closely linked to vindicating Congress's goal of ensuring protection for free exercise, so they are also readily constitutional under *Sabri*. In any event, this Court could uphold RLUIPA without even citing *Sabri*.

RLUIPA is also supported by a long tradition of individual liability for officers, agents, or subcontractors of

a grantee. For example, in 1789, Congress adopted a scheme for individual liability of officers in state prisons that accepted federal funds. During the Civil War, Congress adopted the False Claims Act, which reached fraud by subcontractors who lack direct privity with the United States. See *United States ex rel. Marcus* v. *Hess*, 317 U.S. 537, 545 (1943). During the New Deal, Congress reached subcontractor kickbacks on public work programs. See *United States* v. *Laudani*, 320 U.S. 543, 544 (1944). And Congress has adopted multiple statutes with a similar reach today, across a wide variety of contexts. There is no basis for a categorical "direct recipient" rule that would cast doubt on all of those statutes.

Not only do this Court's precedents confirm that RLUIPA is constitutional and foreclose a strict contract analogy as a constitutional limit, but also RLUIPA would be constitutional *even if* Congress were limited to what it could achieve via contract. Because a State's acceptance of federal funds for prisons is voluntary—and employment as a state officer in a federally-funded program is voluntary as well—Congress could have used contracts to create a scheme that is materially identical to RLUIPA. Congress could have required States to agree that, to accept federal funds, the State will secure the agreement of each of its officers and employees that they acknowledge and agree to RLUIPA's rights *and* remedies. Indeed, because RLUIPA is an applicable federal law, a person's agreement to work as a state officer in a federally-funded prison is already properly understood to include agreement to RLUIPA's terms. Accordingly, even without any added authority to create remedies under the Necessary and Proper Clause, RLUIPA is still well within the scope of federal power. This Court accordingly should reverse.

ARGUMENT

I. RLUIPA Clearly Authorizes Damages Suits Against Officials In Their Individual Capacities

This Court interprets statutes by examining their "text, structure, context, history, and purpose." *Truck Ins. Exch.* v. *Kaiser Gypsum Co.*, 602 U.S. 268, 279 n.4 (2024); *e.g.*, *Bondi* v. *VanDerStok*, 145 S. Ct. 857, 876 (2025). RLUIPA applies to state prison programs that receive federal funds. 42 U.S.C. 2000cc-1(b)(1). Drawing on an analogy between the Spending Clause and knowing acceptance of contract terms, this Court requires Congress to convey conditions on federal spending "unambiguously." *Pennhurst State Sch. & Hosp.* v. *Halderman*, 451 U.S. 1, 17 (1981). Like statutory interpretation in general, "[t]he plainness or ambiguity of statutory language is determined by" considering "the language itself, the specific context in which that language is used, and the broader context of the statute as a whole." *Robinson* v. *Shell Oil Co.*, 519 U.S. 337, 341 (1997); *e.g.*, *Jackson* v. *Birmingham Bd. of Educ.*, 544 U.S. 167, 181-83 (2005) (finding clarity from context).

There is only one plausible interpretation of RLUIPA's text in light of its context, history, and purpose: RLUIPA allows individual-capacity damages.

A. RLUIPA Clearly Provides The Same Remedies As RFRA

If the assault in this case had occurred in a federal prison in Louisiana, Landor could have brought an individual-capacity suit under RFRA for damages, as *Tanzin* holds. RLUIPA makes clear that the same remedies apply in state prisons that accept federal funds.

RLUIPA's operative text is drawn "*in haec verba*" from RFRA. Pet. App. 25a (Oldham, J., dissenting); see

H.R. Rep. No. 106-219, at 29 (1999) (remedies that RLUIPA enacted "track RFRA, creating a private cause of action for damages, injunction, and declaratory judgment"). Both statutes restore the pre-*Smith* compelling interest test, provide a cause of action for "appropriate relief against a government," and define "government" to include an "official" as well as any "other person acting under color of … law[.]" 42 U.S.C. 2000cc-5(4)(A) (RLUIPA); 42 U.S.C. 2000bb-2(1) (RFRA).

This Court has consistently recognized that the statutes' shared text, context, history, and purpose makes them "sister[s]." *Holt*, 574 U.S. at 356-57; see *Ramirez* v. *Collier*, 595 U.S. 411, 424 (2022); *Burwell* v. *Hobby Lobby Stores*, *Inc.*, 573 U.S. 682, 730 (2014); see also *Little Sisters of the Poor* v. *Pennsylvania*, 591 U.S. 657, 703 n.13 (2020) (Alito, J., concurring) ("twin[s]"). Congress enacted both in response to *Smith* "to provide very broad protection for religious liberty." *Holt*, 574 U.S. at 356-57 (citation omitted). And Congress modeled RLUIPA on RFRA. See *id.* at 356-58.

This Court accordingly interprets "one statute by looking to its precedent interpreting the other." Pet. App. 28a (Oldham, J., dissenting). For example, *Holt* relied on RFRA precedents to interpret RLUIPA. See 574 U.S. at 362-64. And *Hobby Lobby* relied on text that appears *only* in RLUIPA to interpret RFRA. See 573 U.S. at 730.

RLUIPA's remedies are thus clearly the same as RFRA's. "[W]hen Congress uses the same language in two statutes having similar purposes, particularly when one is enacted shortly after the other, it is appropriate to presume that Congress intended that text to have the

same meaning in both statutes." *Smith* v. *City of Jackson*, 544 U.S. 228, 233 (2005). Because RFRA allows individual-capacity damages, RLUIPA must as well.

B. *Tanzin* Shows That RLUIPA Clearly Authorizes Individual-Capacity Damages

Tanzin's analysis of RFRA applies with full force to RLUIPA's identical text and confirms that RLUIPA clearly authorizes individual-capacity damages. That message is "clear," "must" be true, and is "obvious," so it is unambiguous. *Tanzin*, 592 U.S. at 47, 51-52.

1. Congress clearly authorized individual-capacity suits

In *Tanzin*, the Court "first ha[d] to determine if injured parties can sue Government officials in their personal capacities." 592 U.S. at 47. "RFRA's text provides a clear answer: They can." *Ibid.*

RLUIPA's same text provides the same "clear answer." *Ibid.* Like RFRA, RLUIPA provides for "appropriate relief against a government," defined to include an "official" as well as any "other person acting under color of … law[.]" 42 U.S.C. 2000cc-2(a), 2000cc-5(4)(A). Like RFRA, that echoes Section 1983's famous language that has long authorized individual-capacity actions. *Tanzin*, 592 U.S. at 48. RLUIPA thus plainly authorizes individual-capacity suits.

2. Damages are clearly appropriate relief in individual-capacity suits

Next, the Court determined "what 'appropriate relief' entails" in such a suit. *Tanzin*, 592 U.S. at 48. The ordinary meaning of "appropriate" is "[s]pecially fitted or suitable, proper." *Id.* at 48-49 (citation omitted). In isolation, that language is "open-ended" and ambiguous,

with "inherently context dependent" meaning. *Id.* at 49 (quoting *Sossamon*, 563 U.S. at 286). So the Court examined the context and found the meaning clear.

Tanzin identified "the context" as "suits against Government officials." *Ibid.* In that context, "damages have long been awarded as appropriate relief." *Ibid.* In "the early Republic," an "'array of writs … allowed individuals to test the legality of government conduct by filing suit against government officials' for money damages 'payable by the officer.'" *Ibid.* (quoting James E. Pfander & Jonathan L. Hunt, *Public Wrongs and Private Bills: Indemnification and Government Accountability in the Early Republic*, 85 N.Y.U. L. Rev. 1862, 1871-75 (2010)). And today, damages are "commonly available against state and local government officials." *Id.* at 50.

This Court found Section 1983 "particularly salient." *Ibid.* In RFRA, Congress "made clear that it was reinstating both the pre-*Smith* substantive protections of the First Amendment *and* the right to vindicate those protections by a claim." *Ibid.* There is "no doubt" damages were available under Section 1983 before *Smith*. *Ibid.* And "parties suing under RFRA must have at least the same avenues for relief against officials that they would have had before *Smith*." *Id.* at 51. "That means RFRA provides … a right to seek damages against Government employees." *Ibid.*

That straightforward logic applies even more strongly to RLUIPA. Again, the text is the same: Like RFRA, RLUIPA provides for "appropriate relief" in an individual-capacity suit. 42 U.S.C. 2000cc-2(a).

The context is also the same. Like *Tanzin*, this case arises "[i]n the context of [a] suit[] against Government officials," in which damages have always been appropriate. 592 U.S. at 49-50.

Section 1983 is also "particularly salient": Congress "made clear" that RLUIPA "reinstat[es] both the pre-*Smith* substantive protections of the First Amendment *and* the right to vindicate those protections by a claim." *Id.* at 50. Therefore, "parties suing under [RLUIPA] must have at least the same avenues for relief against officials that they would have had before *Smith*"—including damages. *Id.* at 50-51.

Notably, RLUIPA's parallel to Section 1983 is even stronger. *Tanzin* relied on Section 1983 by analogy because RFRA (as amended) applies only to federal officials. See 592 U.S. at 50. By contrast, Section 1983 and RLUIPA both apply to *state* officers and others acting under color of *state* law. 42 U.S.C. 2000cc-5(4). So the link to Section 1983 is unmistakable.

3. Damages are often the only effective relief

Tanzin next emphasized that damages are more than "appropriate"; they are the "*only* form of relief that can remedy some … violations." 592 U.S. at 51. That is equally true for RLUIPA, which covers exactly the same conduct.

The assault in this case vividly illustrates that damages are essential to RLUIPA's purpose of "secur[ing] redress for inmates who encountered undue barriers to their religious observances." *Cutter*, 544 U.S. at 716-17. When Landor was transferred to the Laborde Correctional Center, he had a copy of *Ware*—binding circuit precedent holding that RLUIPA requires Louisiana to accommodate Rastafarian inmates with dreadlocks. Pet. App. 26a (Oldham, J., dissenting). The officers nonetheless threw the decision away, handcuffed him to a chair, and shaved him bald. *Ibid.* In an instant, they stripped Landor of decades of consistent religious practice and a defining feature of his identity.

That is shocking, offensive, and lawless. Congress enacted RLUIPA to restore pre-*Smith* rights and remedies. Yet under the court of appeals' rule, Landor would obtain no relief for such a brazenly illegal assault. No relief is clearly not "appropriate relief" in this context. 42 U.S.C. 2000cc-2(a). Congress did not enact RLUIPA—and its express right of action—so that individual law enforcement officers working in a federally-funded program could flagrantly violate RLUIPA with impunity.

Damages are particularly critical under RLUIPA. Not only do many cases involve one-time incidents that can be remedied only via damages, but also claims for prospective relief become moot when an incarcerated person is released or transferred. *E.g.*, Pet. App. 16a (dismissing Landor's claims for prospective relief as moot). Individuals held in state jails and prisons typically serve relatively short sentences, often a few months (for jails) or years (for prisons). See U.S. Dep't of Just., Off. of Just. Programs, Bureau of Just. Stat., Jail Inmates 2023 – Statistical Tables 1 (Apr. 2025);[5] U.S. Dep't of Just., Off. of Just. Programs, Bureau of Just. Stat., Time Served in State Prison, 2018 2 tbl. 1 (Mar. 2021).[6] And individuals are frequently transferred. See Religious Liberty Scholars Cert. Br. 11-12. That increases the risk of incidents at intake and increases the risk of mootness, because transfer will moot claims for prospective relief. See *id.* at 12-13.

Again, this case provides a stark example. Landor had a short sentence (five months), he was transferred twice, and the assault occurred with only a few weeks

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[5] https://bjs.ojp.gov/document/ji23st.pdf

[6] https://bjs.ojp.gov/document/tssp18.pdf

remaining on his sentence. Pet. App. 26a (Oldham, J., dissenting). After assaulting him, respondents held Landor in lockdown for the remainder of his term and denied him a grievance form, effectively preventing him from suing until after he was released—at which point any prospective relief was moot. J.A. 10. Under the court of appeals' approach, state officials thus could violate RLUIPA's clear command *and* unilaterally prevent the victim from obtaining any relief.

Worse, without damages, RLUIPA would provide no deterrent. Officers could do the same thing tomorrow and their new victims would obtain no relief.[7] State officers could throw *Holt* v. *Hobbs* into the trash and shave an inmate's beard. They could deny Kosher meals to Jewish inmates for failing to be Orthodox,[8] force Muslim inmates to choose between observing a halal diet or suffering malnutrition,[9] or entirely block access to Christian communion and church services.[10] Or they could just throw RLUIPA in the trash. Officers could largely ignore RLUIPA because it would have no teeth.

That cannot be the law. This Court has long disfavored constructions that would "render[] the law in a great measure nugatory, and enable offenders to elude

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[7] At least six other suits have been filed since *Ware* alleging that Louisiana officials violated Rastafarians' rights. See Pet. 27 n.4 (collecting cases); see also *Domino* v. *Goodwin*, No. 23-492, 2024 WL 4575368, at *3 (W.D. La. July 2, 2024), *report and recommendation adopted*, 2024 WL 4573601 (W.D. La. Oct. 24, 2024) (relying on the decision below to deny any relief).

[8] *E.g.*, *Parkell* v. *Senato*, 704 F. App'x 122, 124-25 (3d Cir. Jul 11, 2017).

[9] *E.g.*, *Robbins* v. *Robertson*, No. 15-00124, 2022 WL 80476, at *3-5, *11 (M.D. Ga. Jan. 6, 2022).

[10] *E.g.*, *Buckelew* v. *Gore*, No. 21-0810, 2023 WL 4056043, at *2, *4 (S.D. Cal. June 16, 2023).

its provisions in the most easy manner." Antonin Scalia & Bryan A. Garner, *Reading Law: The Interpretation of Legal Texts* 64 (2012) (quoting *The Emily & the Caroline*, 22 U.S. 381, 389 (1824)). Congress did not enact RLUIPA to make it a dead letter.

4. Suits against sovereigns are obviously different

Tanzin next found that *Sossamon* was clearly different: "The obvious difference is that this case features a suit against individuals, who do not enjoy sovereign immunity." *Tanzin*, 592 U.S. at 51-52. That distinction is equally "obvious" here because this case equally "features a suit against individuals, who do not enjoy sovereign immunity." *Ibid.*

Congress's intent to restore pre-*Smith* remedies reinforces this "obvious" distinction. Under Section 1983, damages are available against individual state officers—but *not* against the State itself or in an official-capacity suit. See *Arizonans for Off. Eng.* v. *Arizona*, 520 U.S. 43, 69 & n.24 (1997). Similarly, under RFRA, damages are available against individual officers, but *not* against the federal government or in an official-capacity suit. See *Tanzin*, 592 U.S. at 51-52.

Accordingly, when Congress "made clear" that RLUIPA restores pre-*Smith* remedies, Congress "must" have meant that RLUIPA—like RFRA and Section 1983—authorizes damages against individual officers but not against governments. *Id.* at 50-51.

Tanzin and *Sossamon* thus together reinforce a traditional rule of remedies that runs from "the early Republic" to today. *Tanzin*, 592 U.S. at 49. Holding the officer personally liable provides a powerful deterrent against abuse, preserves the rule of law, and ensures a remedy for victims. See *id.* at 50. At the same time, individual-capacity claims preserve sovereign immunity

because they are brought against the individual. See *id.* at 50-52. The sovereign then has a voluntary choice whether to indemnify the officer, thereby preserving sovereign immunity. See Pfander & Hunt at 1868, *supra*. Allowing damages here is on all fours with *Tanzin*, *Sossamon*, and that long remedial tradition.

C. RLUIPA's Broader Text Confirms That Damages Are Clearly Available

RLUIPA's broader text confirms that damages must be available in individual-capacity suits.

First, RLUIPA provides that a private victim can obtain "appropriate relief," without limitation or qualification. 42 U.S.C. 2000cc-2(a). By contrast, the United States can obtain only "injunctive or declaratory relief." 42 U.S.C. 2000cc-2(f).

Congress's choice to limit the United States to "injunctive or declaratory relief"—without similarly limiting private suits—is a clear sign that private suits have no such limitation and therefore that damages are available. "'[W]hen Congress includes particular language in one section of a statute but omits it in another section of the same Act,' we generally take the choice to be deliberate." *Bartenwerfer* v. *Buckley*, 598 U.S. 69, 78 (2023) (citation omitted). Otherwise, the textual difference between RLUIPA's private and public causes of action would be superfluous. *NLRB* v. *SW Gen., Inc.*, 580 U.S. 288, 304 (2017) ("It is ... a cardinal principle of statutory construction that we must give effect, if possible, to every clause and word of a statute.") (citation omitted). "Had Congress wished to limit" private remedies, "it knew how to do so." *Tanzin*, 592 U.S. at 51.

Second, Congress provided that RLUIPA should be interpreted "in favor of a broad protection of religious exercise, to the maximum extent permitted by the terms

of this chapter and the Constitution." 42 U.S.C. 2000cc-3(g). Denying individual-capacity damages would often provide *no* relief—eliminating vital relief that is available under RFRA and Section 1983—thus providing far less than the "maximum."

Third, without damages, RLUIPA's clear individual-capacity action would be largely meaningless.[11] "Personal-capacity suits … seek to impose *individual* liability upon a government officer for actions taken under color of state law." *Lewis* v. *Clarke*, 581 U.S. 155, 162 (2017) (citation omitted). Yet without individual liability, the individual-capacity suit would add nothing: Officers are already bound by any prospective relief in their official capacities. See *Ex parte Young*, 209 U.S. 123, 159-61 (1908). And granting prospective relief against individuals outside the scope of their official capacity would add nothing because RLUIPA applies only during a person's work for a federally-funded state program. So without damages, the individual-capacity claim would provide no meaningful relief at all.

D. Damages Are Presumptively Available

The clear availability of damages is also supported by the "general rule" that, when Congress provides a cause of action, "absent clear direction to the contrary by Congress, the federal courts have the power to award any appropriate relief," including damages. *Franklin*, 503 U.S. at 66-68, 70-71. "[W]here legal rights have been invaded, and a federal statute provides for a general right to sue for such invasion," federal courts ordinarily may use "any available remedy to make good the wrong done." *Bell* v. *Hood*, 327 U.S. 678, 684 (1946).

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[11] This is equally true for RFRA but was not discussed in *Tanzin*.

Franklin confirms that damages are clearly available here. Not only is that the norm for a cause of action against a non-sovereign, but also *Franklin* applied that presumption in a civil suit under Title IX, which is Spending Clause legislation. See 503 U.S. at 74-75.

Notably, *Franklin* found damages clearly available even though Title IX contained only an "implied right of action" and is "silent on the question of remedies." *Id.* at 62, 69. "Congress surely did not intend for federal moneys to be expended to support the intentional actions it sought by statute to proscribe." *Id.* at 75. Equitable relief would be "clearly inadequate" because the plaintiff had left the institution where the discrimination occurred, so prospective relief would "accord[] [plaintiff] no remedy at all." *Id.* at 76; see *Cummings* v. *Premier Rehab Keller, P.L.L.C.*, 596 U.S. 212, 221 (2022) ("presum[ing] that a funding recipient is aware that, for breaching its Spending Clause 'contract' with the Federal Government, it will be subject to the *usual* contract remedies in private suits"); *Barnes* v. *Gorman*, 536 U.S. 181, 187 (2002) (similar).

Franklin confirms damages must be available. RLUIPA's express right of action—including an individual-capacity claim for "appropriate relief"—is far clearer than a statute that contains only an *implied* right of action. And equitable relief is "clearly inadequate" because Landor has been released, so he would obtain "no remedy at all." *Franklin*, 503 U.S. at 76.

This Court decided *Franklin* in 1992, only one year before Congress enacted RFRA and eight years before RLUIPA. And *Franklin* used the phrase "appropriate relief" eleven times. See 503 U.S. at 62-76. When language "is obviously transplanted from another legal source … it brings the old soil with it." *Hall* v. *Hall*, 584

U.S. 59, 73 (2018) (citation omitted); see *Williams* v. *Taylor*, 529 U.S. 420, 433-34 (2000). RLUIPA's reuse of that same phrase is thus naturally understood to include damages.

E. *Sossamon* Confirms That Individual-Capacity Damages Are Available

Sossamon confirms the traditional rule that damages are appropriate relief against individuals but not sovereigns. In *Sossamon*, the Court started with RLUIPA's text, stating that "appropriate relief" is "open-ended and ambiguous" in isolation and "inherently context dependent." 563 U.S. at 286. The Court then turned to context to see if the meaning was clear.

The Court identified the "context" as suits against sovereigns: "The context [t]here—*where the defendant is a sovereign*—suggests … monetary damages are not 'suitable' or 'proper.'" *Ibid.* (emphasis added). This Court declined to apply the *Franklin* presumption because *Franklin* "did not involve sovereign defendants." *Id.* at 289 n.6. The Court observed that "[t]he essence of sovereign immunity … is that remedies against the government differ from 'general remedies principles' applicable to private litigants." *Id.* at 291 n.8 (citation omitted). And the Court explained that, even under an analogy to contracts, "contracts with a sovereign are unique. They do not traditionally confer a right of action for damages to enforce compliance." *Id.* at 290.

Sossamon thus confirms that suits "where the defendant is a sovereign" are "unique." *Id.* at 286, 290. As *Tanzin* recognized, the "context" here is instead "suits against Government officials," who are not sovereign. 592 U.S. at 49. The outcome is thus different because the context is different.

Sossamon also suggests that the "stringent" standard for waiving sovereign immunity, 563 U.S. at 284 (citation omitted), is more demanding than the standard for ensuring knowing and voluntary acceptance of spending conditions. In *Franklin*, the Court allowed for damages based on an implied right of action where the statute was "silent" on remedies. 503 U.S. at 69. By contrast, in *Sossamon*, the Court found RLUIPA insufficiently clear to waive sovereign immunity even though RLUIPA contains an *express* cause of action for "appropriate relief" against "a State." 42 U.S.C. 2000cc-2(a), 2000cc-5(4)(A)(i). Those decisions thus suggest that the two "demand[s] for clarity … are not identical," reflecting their different origins and purpose. *Barnett* v. *Short*, 129 F.4th 534, 542 (8th Cir. 2025).

In any event, RLUIPA's text, context, history, and purpose all point to a single answer under any existing standard: RLUIPA can only be reasonably understood to restore pre-*Smith* rights and remedies, including individual-capacity damages. There is no room for any other reasonable construction.

F. Respondents' Counterarguments Lack Merit

1. Respondents argue that "appropriate relief" is insufficiently clear. They assert that because that phrase is "open-ended and ambiguous" and "inherently context dependent," *Sossamon*, 563 U.S. at 286, it is "fatally ambiguous" in the Spending Clause context and so can *never* provide enough clarity. Br. in Opp. 16.

But this Court does not read statutory language in isolation. "It is a fundamental canon of statutory construction that the words of a statute must be read in their context and with a view to their place in the overall statutory scheme." *West Virginia* v. *EPA*, 597 U.S. 697, 721 (2022) (citation omitted). Even for the stringent

standard for waiving sovereign immunity, "Congress need not state its intent in any particular way" or use "magic words." *Dep't of Agric. Rural Dev. Rural Hous. Serv.* v. *Kirtz*, 601 U.S. 42, 48 (2024) (citation omitted). This Court instead looks to the "sum total" of Congress's work to determine whether the meaning is clear in context. *Id.* at 54-55; *e.g.*, Scalia & Garner, *Reading Law*, at 56 ("words are given meaning by their context").

Notably, this Court has repeatedly found that *context alone* provided clear notice in Spending Clause statutes with only an implied cause of action. *Franklin*, 503 U.S. at 71, 76 (damages clearly available); *Jackson*, 544 U.S. at 181-82 (retaliation claim clearly available).

Sossamon confirms that context is key. If "appropriate relief" could *never* be clear, the Court's analysis could have stopped with the observation that it is "open-ended and ambiguous" and "inherently context dependent." 563 U.S. at 286. But that was the start, not the end, of the Court's analysis. *Sossamon* went on for another five pages to address RLUIPA's context, repeatedly distinguishing suits against sovereigns versus non-sovereigns. See *id.* at 286-91. Context therefore can make all the difference.

As shown above, there is only one reasonable interpretation of RLUIPA's text in light of its context, history, and purpose: RLUIPA provides the same remedies as RFRA, including damages. RLUIPA "clear[ly]" provides an individual-capacity action and "ma[kes] clear" that it "must" provide damages in such a suit. *Tanzin*, 592 U.S. at 47, 50-51. RLUIPA limits the United States to prospective relief—without similarly limiting remedies in private suits. RLUIPA's individual-capacity claim would be pointless without damages. And *Tanzin*,

Franklin, and *Sossamon* all show that damages are presumptively available because the defendants are individuals, not sovereigns. Damages therefore are unambiguously available.

2. The court of appeals' opinion can be read to rely on constitutional avoidance, agreeing that "RLUIPA's text suggests a damages remedy" but still denying that remedy. Pet. App. 11a. Respondents have rightly abandoned avoidance. See Br. in Opp. 15-22. Constitutional avoidance has no role to play when there is only one plausible reading, as here. See *Jennings* v. *Rodriguez*, 583 U.S. 281, 296 (2018); *id.* at 306 ("[T]he meaning of the relevant statutory provisions is clear—and clearly contrary to the decision of the Court of Appeals.").

RLUIPA's text also forecloses avoidance. The statute must be interpreted "to the maximum extent permitted by the terms of [the Act] and the Constitution." 42 U.S.C. 2000cc-3(g). Congress has tried not once but twice to restore pre-*Smith* rights and remedies. Avoidance provides no warrant for disregarding Congress's clear meaning and requiring Congress to enact a third statute. Twice is enough.

II. RLUIPA's Individual-Capacity Damages Remedy Is Constitutional

RLUIPA is also constitutional. The court of appeals reasoned that RLUIPA's damages remedy is unconstitutional because "Spending Clause legislation" "operates like a contract," so "only the grant recipient—the state—may be liable" for violating a condition in such legislation. Pet. App. 6a (citation omitted). But "it is not true that the Spending Clause prohibits regulating anyone beyond the recipient." *Id.* at 30a (Oldham, J., dissenting). This Court's precedents squarely reject that

rule, leaving "no serious doubt" that Congress can impose personal liability on the officer or agent of a federally-funded state or local prison. *Salinas*, 522 U.S. at 60-61. RLUIPA is accordingly constitutional.

A. Respondents Are Officers And Agents Of A Federally-Funded State Program

At the outset, the court of appeals overlooked the tight connection between respondents and the state grantee: Respondents are officers and agents of a federally-funded state program. They voluntarily work as officers for the grantee and their conduct is inextricably intertwined with the State's fulfillment of its promise to accommodate religious exercise.

The State can comply with RLUIPA's condition only if its officers and employees do so. "[T]he government is an abstract entity, which has no hand to write or mouth to speak, and has no signature which can be recognized, as in the case of an individual. It speaks and acts only through agents, or more properly, officers." *The Floyd Acceptances*, 74 U.S. 666, 676 (1869). And state "officers are bound by obligations imposed by the Constitution and by federal statutes that comport with the constitutional design." *Alden* v. *Maine*, 527 U.S. 706, 755 (1999).

As the State's officers and agents, respondents are already bound by the State's promise to comply with RLUIPA. See Restatement (Second) of Agency § 385 (1958); *e.g.*, *Schimmelpennich* v. *Bayard*, 26 U.S. 264, 286 (1828) ("As an agent, he was bound to act 'in conformity to the authority and instructions' of his principals."). Conversely, if a State's officers or agents violate RLUIPA in their work, then the State violates RLUIPA. "Whatever the agent does, within the scope of his authority, binds his principal, and is deemed his act." *United States* v. *Gooding*, 25 U.S. 460, 469 (1827); see

Restatement (Second) of Agency § 140 (liability for contracts); *id.* § 219 (liability for torts).

Respondents do not dispute that they could be enjoined to comply with RLUIPA in their official capacities. See *Ex parte Young*, 209 U.S. at 159-61. Such an injunction can itself trigger personal liability: A person who violates a clear command in an injunction can face criminal contempt. See *United States* v. *United Mine Workers of Am.*, 330 U.S. 258, 293 (1947). Criminal contempt sanctions can include fines and imprisonment, personally, on the contemnor. *E.g.*, *Walker* v. *City of Birmingham*, 388 U.S. 307, 312 (1967). Respondents thus already face potential personal liability for injunctive relief issued pursuant to RLUIPA, which no party or court has questioned is lawful.

The officers' responsibility to comply with RLUIPA is the result of their choice to work for a federally-funded state program. When a person is "voluntarily employed for a [federally-funded] project" subject to conditions, they "must perform their duties in accordance with the regulation's restrictions." *Rust*, 500 U.S. at 198. That "limitation is a consequence of their decision to accept employment in a project, the scope of which is permissibly restricted by the funding authority." *Id.* at 199. Here, in working as officers for a federally-funded state prison, respondents became bound by RLUIPA's substantive protections *and* its remedies—which are equally binding conditions of federal law the State accepted by accepting federal funds.

Indeed, because "[m]oney is fungible," *Sabri*, 541 U.S. at 606, a portion of the federal funds the State receives flow indirectly to respondents through their wages. And this Court has found "no support" for a "perceived distinction between direct and indirect aid."

Grove City Coll. v. *Bell*, 465 U.S. 555, 564 (1984). *Grove City* squarely rejected a statutory argument that "only institutions that themselves apply for federal aid or receive checks directly from the federal government are subject to regulation." *Ibid.*

The court of appeals provided no sound basis to conclude that such individuals—who voluntarily work as officers for a federally-funded state program and are bound to comply with RLUIPA but violated its clear protections—are categorically immune from being held personally liable for that violation. None exists.

B. RLUIPA's Remedy Is Constitutional Under *Dole* And The Necessary And Proper Clause

1. RLUIPA's damages remedy is valid under *Dole*

The Constitution empowers Congress to spend for the general welfare. U.S. Const. art. I, § 8, cl. 1; *United States* v. *Butler*, 297 U.S. 1, 65-66 (1936). This power allows Congress to "attach conditions on the receipt of federal funds" to "further broad policy objectives." *Dole*, 483 U.S. at 206 (citation omitted). Under *Dole*, conditions on the grant of funds must be (1) "in pursuit of 'the general welfare'"; (2) "unambiguously" expressed; (3) related "to the federal interest in particular national projects or programs"; and (4) not in violation of "other constitutional provisions." *Id.* at 207-08 (citations omitted).

Respondents have never disputed that RLUIPA's substantive provisions satisfy *Dole* and are therefore constitutional. RLUIPA's remedies similarly satisfy *Dole*. See Pet. App. 31a (Oldham, J., dissenting). First, RLUIPA and its remedies advance the general welfare: "RLUIPA was broadly intended to protect prisoners' religious exercise rights," *ibid.*; see *Cutter*, 544 U.S. at

716-17, and "it cannot be seriously disputed that making individual officials liable for violating religious exercise rights serves the same general public purpose," Pet. App. 31a (Oldham, J., dissenting); see *Dole*, 483 U.S. at 207 (this Court "defer[s] substantially to the judgment of Congress" as to whether a regulation advances the general welfare).

Second, as set forth above, RLUIPA unambiguously allows individual-capacity damages. See pp. 16-30, *supra*.

Third, that remedy is strongly "related to" Congress's purpose of accommodating free exercise. *Dole*, 483 U.S. at 208. "Congress surely did not intend for federal moneys to be expended to support the intentional actions it sought by statute to proscribe." *Franklin*, 503 U.S. at 75. RLUIPA's remedial provisions also advance Congress's underlying interests in "prisoner rehabilitation"—which is part and parcel to Congress's decision to fund state prisons in the first place. *Madison* v. *Virginia*, 474 F.3d 118, 126 (4th Cir. 2006). Congress built a record that included extensive evidence of a link between free exercise and rehabilitation. See, *e.g.*, 146 Cong. Rec. S6678-02, S6689 (daily ed. July 13, 2000) (statement of Sen. Kennedy) ("Sincere faith and worship can be an indispensable part of rehabilitation."); *Religious Liberty Protection Act of 1998: Hearing on S. 2148 Before the S. Comm. on the Judiciary*, 105th Cong. 180 (1998) (responses of Prof. Douglas Laycock) (similar); see also Prof. Johnson Cert. Br. 4-16; Dr. Autrey Cert. Br. 13-15.

RLUIPA's remedies do not violate any other constitutional provision. The only constitutional limitation even conceivably implicated is the Tenth Amendment, which prevents Congress from "directly command[ing] a State to regulate or indirectly coerc[ing] a State to

adopt a federal regulatory system as its own." *Nat'l Fed'n of Indep. Bus.* v. *Sebelius*, 567 U.S. 519, 577-78 (2012).

There is no commandeering or coercion. If a State does not want its officers to face individual liability for violating RLUIPA's substantive protections, the State has multiple choices. For example, a State can provide higher wages, insurance, or indemnify its officers—as Louisiana ordinarily does. La. Stat. Ann. § 13:5108.1(A) (2024). Or it can just say no. Nothing requires a State to accept federal funds for its prisons.

A State's agreement that its officers will face personal liability by virtue of working in a federally-funded program also does not violate the Tenth Amendment. Concerns about coercion are inapplicable when Congress brings "federal power to bear directly on individuals," rather than "bringing federal economic might to bear on a State's own choices of public policy." *Sabri*, 541 U.S. at 608. Regardless, RLUIPA does not coerce any individual officer. Nobody is forced to work as an officer in a federally-funded state prison. If a person is concerned about any marginal additional risk of individual liability, they can demand higher wages, insurance, or indemnity (or all three). Or they can work elsewhere in the prison where these issues do not arise, elsewhere in the state government, or for a private employer.

Officers who work in a federally-funded prison also face no surprise. State officers have notice of RLUIPA and its conditions. Individual liability is also the norm for such officials: Individuals who choose to work as state officers are already on notice that they face personal liability for violating federally-protected "rights, privileges, or immunities." 42 U.S.C. 1983. RLUIPA simply puts pre-*Smith* protections for religious exercise

on equal footing with every other federally-protected civil right.

Qualified immunity ensures still more notice by limiting personal liability to violations of clearly established law. See *Tanzin*, 592 U.S. at 51 n.*. And of course, respondents had *actual notice* that RLUIPA required them to accommodate Landor's religious practice because Landor handed them a copy of the controlling decision. They could have avoided liability simply by following the law and not forcibly shaving Landor bald. They are liable only because of their intentional conduct in their voluntary work in a state program that accepted federal funds subject to clear conditions. Under *Dole*, RLUIPA's remedies are therefore constitutional.

2. The Necessary and Proper Clause confirms the constitutionality of RLUIPA's damages remedy

To the extent additional authority is needed, the Necessary and Proper Clause provides it. That clause empowers Congress to "make all Laws which shall be necessary and proper for carrying into Execution" its powers, including the spending power. U.S. Const. art. I, § 8, cl. 18; *e.g.*, *Sabri*, 541 U.S. at 605; *New York* v. *United States*, 505 U.S. 144, 158-59 (1992). The Necessary and Proper Clause provides "broad power to enact laws that are 'convenient, or useful' or 'conducive' to the [principal] authority's 'beneficial exercise.'" *United States* v. *Comstock*, 560 U.S. 126, 133-34 (2010) (quoting *McCulloch* v. *Maryland*, 17 U.S. 316, 413, 418 (1819)). So long as the objective is "within the scope of the constitution," then "all means which are appropriate, which are plainly adapted to that end, which are not prohibited, but consist with the letter and spirit of the constitution, are constitutional." *McCulloch*, 17 U.S. at 421. This

Court requires only "means-end rationality." *Comstock*, 560 U.S. at 143 (citation omitted).

Congress has particularly broad power to select remedies. "Congress must possess the choice of means, and must be empowered to use any means which are in fact conducive to the exercise of a power granted by the constitution." *The Legal-Tender Cases*, 110 U.S. 421, 441 (1884) (citation omitted). "[T]hose who contend that" Congress "may not select any appropriate means" for advancing a valid end, "that one particular mode of effecting the object is excepted, *take upon themselves the burden* of establishing that exception." *McCulloch*, 17 U.S. at 409-10 (emphasis added).

Respondents cannot carry that burden. The Necessary and Proper Clause readily authorizes creation of an individual-damages remedy to enforce RLUIPA. The link between damages and compliance with RLUIPA's substantive condition is plain as day. Damages are clearly tailored to protecting substantive rights. See 1 William Blackstone, *Commentaries on the Laws of England* 55-56 (1st ed. 1769) (without a method for "recovering and asserting" rights, "in vain would rights be declared, in vain directed to be observed"). "It is almost *axiomatic* that the threat of damages has a deterrent effect, … particularly so when the individual official faces personal financial liability." *Carlson* v. *Green*, 446 U.S. 14, 21 (1980) (emphasis added). And damages are more than merely "related to" Congress's goals—they are essential as often the "*only*" means for ensuring compliance and providing redress. *Tanzin*, 592 U.S. at 51.

Tanzin's analysis of "appropriate" relief shows that damages are a "Proper" remedy as well. "Appropriate" and "proper" are synonyms. See *Tanzin*, 592 U.S. at 48-49 ("'[a]ppropriate' means '[s]pecially fitted or suitable,

proper'") (citation omitted); *McCulloch*, 17 U.S. at 421 (upholding "all means which are appropriate" to advancing a legitimate end). As *Tanzin* explains, damages have been recognized as proper relief against individual officers from "the early Republic" to today. 592 U.S. at 49-50; see *Curtis* v. *Loether*, 415 U.S. 189, 196 (1974) (damages are "the traditional form of relief offered in the courts of law"). For more than 150 years, Section 1983 has provided damages against individual state officers. *Tanzin*, 592 U.S. at 49-50. And RFRA provides a damages remedy against federal officers to enforce the same protections for religious liberty. Individual damages therefore are a "Necessary and Proper" means of enforcing RLUIPA's substantive condition.

C. This Court's Precedents Foreclose A "Direct Recipient" Rule And Confirm That Congress Can Reach A Grantee's Officers And Agents

This Court has never held that Congress cannot reach beyond a direct recipient of federal funds. Quite the opposite. This Court's precedents foreclose a "direct recipient" rule and establish that there is "no serious doubt about the constitutionality" of Congress imposing personal liability on a grantee's officers, agents, or employees. *Salinas*, 522 U.S. at 60. The Court need only adhere to its own precedent to reverse.

1. In *Salinas* v. *United States*, this Court upheld the conviction under 18 U.S.C. 666(a)(1)(B) of a sheriff's deputy who accepted bribes while working for a county jail that received federal funds. 522 U.S. at 54-56. As here, the deputy was the officer of a federally-funded carceral facility. This Court held that there was "no serious doubt about the constitutionality" of holding him personally liable for criminal penalties for engaging in conduct that was "a threat to the integrity and proper

operation of the federal program." *Id.* at 60-61. The statute's "application … to Salinas did not extend federal power beyond its proper bounds." *Id.* at 61.

In *Sabri*, this Court went farther, upholding imposition of criminal liability on a member of the general public (not an officer, agent, or employee of the State). The defendant was indicted under 18 U.S.C. 666(a)(2) for bribing an officer of a municipal agency that received more than $10,000 annually in federal funds. 541 U.S. at 602-07. This Court explained that the Spending Clause empowers Congress to spend for the general welfare, and that the Necessary and Proper Clause further empowers Congress to adopt remedies to ensure "that taxpayer dollars appropriated under that power are in fact spent for the general welfare, and not frittered away in graft or on projects undermined when funds are siphoned off or corrupt public officers are derelict about demanding value for dollars." *Id.* at 605.

Dole itself is contrary to the court of appeals' bright-line rule. *Dole* held that Congress could validly require a State, as a condition of receiving federal highway dollars, to raise its drinking age from 19 to 21. 483 U.S. at 205. The young adults who wanted to buy alcohol were neither grant recipients nor the State's employees or agents. Yet they were validly subject to personal liability through the State's voluntary exercise of its own sovereign authority.

This Court has also consistently rejected a direct recipient rule in statutory cases, while endorsing Congress's broader power. For example, in *Dixson*, this Court upheld the conviction of the "officers of a private, nonprofit corporation administering and expending federal community development block grants." 465 U.S. at 484. This Court rejected the contention that a "direct

contractual bond between the defendant and the United States" was needed. *Id.* at 496. The Court emphasized that such a rule would "artificially narrow the scope of federal criminal jurisdiction." *Id.* at 494; see also *Grove City*, 465 U.S. at 564 (finding "no support" for a "perceived distinction between direct and indirect aid").

Likewise, in *Hess*, this Court upheld imposition of civil liability on government subcontractors under the False Claims Act. 317 U.S. at 545 (applying language materially identical to the original False Claims Act, Act of Mar. 2, 1863, ch. 67, 12 Stat. 696). The "contracts were made with local governmental units rather than with the United States government, but a substantial portion of their pay came from the United States." *Id.* at 539. This Court found that "Congress has power to choose this method to protect the government from burdens fraudulently imposed upon it," and upheld liability "without regard to whether [the] person had direct contractual relations with the government." *Id.* at 542, 545; see also *Laudani*, 320 U.S. at 544 (interpreting anti-kickback statute to reach foreman on a federally-funded construction project who demanded kickbacks from employees); *United States* v. *Hall*, 98 U.S. 343 (1879) (upholding conviction of a guardian who embezzled a soldier's pension owed to a child in the guardian's care).

This Court has also warned against overextending the contract analogy. See Pet. App. 6a. This Court has used that analogy when interpreting statutes, "with an eye toward" ensuring recipients have notice. *Cummings*, 596 U.S. at 219. But so long as Congress's meaning is unambiguous, this Court has never used a bilateral contract as an outer limit on Congress's authority. Instead, this Court has "been clear 'not to imply that

suits under Spending Clause legislation are suits in contract, or that contract-law principles apply to all issues that they raise.'" *Sossamon*, 563 U.S. at 290 (citation and alterations omitted). Spending legislation "cannot be viewed in the same manner as a bilateral contract governing a discrete transaction." *Bennett* v. *Kentucky Dep't of Educ.*, 470 U.S. 656, 669 (1985). And that is particularly true of federal-state agreements, which in some respects are "really more like treaties 'between two sovereignties.'" *Medina* v. *Planned Parenthood S. Atl.*, 145 S. Ct. 2219, 2231 (2025) (citation omitted).

2. These precedents foreclose the "direct recipient" rule and confirm RLUIPA's remedy is constitutional. *Salinas*, *Sabri*, *Dole*, *Dixson*, and *Hess* all endorse liability beyond the direct grantee. None suggests (much less holds) that Congress's legislative powers under the Spending Clause and Necessary and Proper Clause—particularly when coupled with a State's own powers—can reach only as far as a simple bilateral contract.

As *Salinas*, *Dixson*, and *Hess* show, Congress can create remedies that impose personal liability on an officer, agent, employee, or subcontractor of a grantee. Indeed, this case is strikingly similar to *Salinas*, where the defendant was an officer in a federally-funded local jail. State officers who violate pre-*Smith* protections for religious exercise surely "threat[en] … the integrity and proper operation" of Congress's program to provide federal funding only to prison systems that provide pre-*Smith* accommodations. *Salinas*, 522 U.S. at 60-61. Respondents made the threat an ugly reality by engaging in *the precise conduct* Congress sought to prevent. *Salinas* alone therefore is sufficient to reverse.

Sabri shows that Congress has additional authority under the Necessary and Proper Clause to adopt remedies that reach beyond the grantee, so long as the remedy is sufficiently linked to ensuring compliance with Congress's valid spending prerogatives. RLUIPA's damages remedy easily satisfies that test. RLUIPA's remedy is much narrower because it reaches only state officers and agents, not the general public. RLUIPA's remedy also has a tighter nexus to Congress's valid conditions. Whereas the remedy in *Sabri* was designed to reduce a risk that officers who accept any bribe in a federally-funded program might fail to perform as promised, RLUIPA's remedy arises only when an official has actually violated RLUIPA—in direct contravention of Congress's clear requirement that officers in federally-funded prisons must provide pre-*Smith* accommodations. So RLUIPA's remedies are more narrowly tailored and thus readily constitutional under *Sabri*.

Dole then shows that Congress can make voluntary acceptance of federal funds conditional upon a State exercising its own sovereign powers. "If South Dakota can agree to criminalize the behavior of its 19-year-old bourbon enthusiasts, it's unclear why Louisiana cannot agree to make its prison officials liable for forcibly shaving Damon Landor's head." Pet. App. 30a (Oldham, J. dissenting). In particular, it is unclear why the State's acceptance of federal funds subject to RLUIPA would be insufficient to bind the State's officers to RLUIPA's remedies when it is sufficient to bind them to RLUIPA's substantive condition. To the extent assent by the officers is needed, they provided it by agreeing to work as state officers for a federally-funded program subject to RLUIPA's rights and remedies. See p. 32, *supra*.

3. The court of appeals attempted to distinguish *Sabri*, stating that it "involved criminal liability for a person who directly threatened the 'object' of a spending agreement, namely federal dollars, while Landor is a civil case that's based on conduct unrelated to the federal purse." Pet. App. 12a. That fails at every level.

First, even if *Sabri* were factually distinct, *Sabri* still rejects the court of appeals' bright-line rule that "only the grant recipient … may be liable." *Id.* at 6a (citation omitted).

Second, the fact that this case involves civil liability makes it *easier* than *Sabri* (and *Salinas*, *Dole*, and *Dixson*). Criminal liability is never available in contract and is a far greater intrusion into liberty. Regardless, there is no apparent distinction between civil liability and criminal fines, which the provisions in *Salinas* and *Sabri* authorized. See 18 U.S.C. 666(a)(1)-(2). And *Hess* involved civil liability. See 317 U.S. at 539.

Third, respondents more than "directly threatened the 'object' of" RLUIPA—*they blatantly violated* RLUIPA and its central object of protecting religious exercise. That protection is indeed "[]related to the federal purse." Pet. App. 12a. Congress sought to open the federal purse for state prisons if, but only if, they accommodate religious exercise. Those funds will not be spent in the way Congress directed if a State's officers violate RLUIPA's clear command and deny the very accommodations Congress required in exchange for its money.

This is accordingly "an *a fortiori* case" from *Sabri*. CVSG Br. 19. In any event, this Court does not even need to rely on *Sabri* to uphold RLUIPA. *Salinas*, *Dixson*, and *Hess* are more than sufficient (as is *Dole*).

D. Congress Has Long Imposed Liability On A Grantee's Officers, Agents, Or Subcontractors

The court of appeals' rule is further undermined by a long history of federal programs that impose liability beyond Congress's direct counterparty—and in particular on a grantee's officers, agents, or subcontractors.

In 1789, Congress tied federal funding for state prisons to state officers' individual liability for complying with stated conditions relating to prisoners' safe keeping. The first Congress adopted a joint resolution that Congress would pay a State 50 cents per month to hold federal prisoners if the State passed laws making it "expressly the duty of the keepers of their [jails] to receive and safe keep" the prisoners. Act of Sept. 23, 1789, 1 Stat. 96. A State's acceptance of that offer, with enabling legislation, meant that "[t]he keeper becomes responsible for his own acts, and may expose himself by misconduct to the 'pains and penalties' of the law." *Randolph* v. *Donaldson*, 13 U.S. 76, 86 (1815) (Story, J.). Indeed, *Randolph* involved a $1,000 damages award in a private suit arising from a keeper's misconduct. *Id.* at 78. Individual-capacity damages against state officials in a federally-funded prison thus date back to the Founding.

As federal spending increased, Congress adopted laws reaching individuals who were related to a grantee (but not themselves a direct grantee), without a separate state law. For example, in 1846, Congress imposed liability for "advising or participating" in the embezzlement of public funds, without requiring the defendant to be a recipient. Act of Aug. 6, 1846, ch. 90, § 16, 9 Stat. 63. In 1875, Congress made it unlawful to "embezzle, steal, or purloin" federal funds more broadly, without any directness requirement. See Act of Mar. 3, 1875, ch.

144, § 1, 18 Stat. 479. Congress has also long criminalized aiding or abetting such an offense. See Act of Mar. 4, 1909, ch. 321, § 332, 35 Stat. 1152 (codified as amended at 18 U.S.C. 2(a)).

As noted above, the original False Claims Act (enacted during the Civil War) reached subcontractor fraud. See *Hess*, 317 U.S. at 539. As amended, the current version of the civil False Claims Act reaches anyone who presents a false claim "to a contractor, grantee, or other recipient" of federal funds, if the government will indirectly provide a portion of the money. 31 U.S.C. 3729(b)(2)(A)(ii). Since at least 1934, Congress has imposed liability for demanding kickbacks in a federally-funded program, without requiring the payor or payee to be a direct recipient. See *Laudani*, 320 U.S. at 544 (citing Act of June 13, 1934, ch. 482, § 1, 48 Stat. 948); see also 42 U.S.C. 1320a-7b(b)(1) (imposing liability for soliciting kickbacks in connection with a "Federal health care program," without a directness requirement).

Congress has long imposed liability on any person who fraudulently obtains or attempts to obtain benefits under major federal spending programs, without requiring direct interaction with the United States. See 18 U.S.C. 1347 (for any "health care benefit program"); 42 U.S.C. 1383a(a) (Social Security); 7 U.S.C. 2024(b) (food stamps).

Today, there are yet more statutes that impose liability on the officers, agents, or employees of a grantee. Congress has long imposed criminal liability and fines on any "employee of any … entity, which administers … any program receiving Federal financial assistance," who "coerces or endeavors to coerce any person to un-

dergo an abortion." Family Planning and Population Research Act of 1975, Pub. L. No. 94-63, § 205, 89 Stat. 308, 42 U.S.C. 300a-8. The Emergency Medical Treatment and Active Labor Act, Pub. L. No. 99-272, § 9121, 100 Stat. 164-66 (1986), has long imposed civil penalties against a physician who works for a federally-funded participating hospital—again, an employee of a grantee—for violating provisions related to adequate patient treatment. 42 U.S.C. 1395dd(d)(1)(B). Congress has also created various whistleblower protections for employees of government subcontractors, with a cause of action for damages against the subcontractor—*i.e.*, an indirect recipient. *E.g.*, 10 U.S.C. 4701(c)(3); 41 U.S.C. 4712(c)(2).

Congress thus has long and repeatedly determined that it is appropriate to create remedies that reach beyond the direct grantee, and in particular reach the grantee's agents, officers, employees, or subcontractors. The court of appeals' categorical "direct recipient" rule thus is not only foreclosed by this Court's precedents, but also would break from that tradition and cast doubt on numerous statutes.

E. Even If Congress Could Reach No Farther Than It Could Via Contracts, RLUIPA Would Still Be Constitutional

The court of appeals derived its "direct recipient" rule from an analogy between conditional spending and a bilateral contract. See Pet. App. 6a, 12a. As set forth above, that analogy is just an analogy, not a bright-line cap on what Congress can achieve via Spending Clause legislation—particularly when coupled with the Necessary and Proper Clause and a State's voluntary exercise of its own sovereign authority.

But even if Congress's power were limited to conduct it could reach through contracts, RLUIPA would still be constitutional. Contrary to the court of appeals' simplistic assumption, contractual arrangements are extraordinarily flexible and can be used to bind the agents of a counterparty to provide greater protection to the contracting parties. Congress therefore could have—and in a sense has—reached individual officers via contracts, confirming that RLUIPA's damages remedy is well within the reach of federal power.

At the most basic level, Congress could have told States that, to receive federal funds, the State must agree to ensure that each person it employs for a federally-funded prison must also sign a separate contract directly with the federal government, expressly agreeing that they will comply with RLUIPA's protections for religious liberty or face RLUIPA's remedies. The resulting contracts would be enforceable: It is well-settled that third-party beneficiaries can bring "an action for damages." Restatement (Second) of Contracts § 307 cmt. a (1981); see *Health & Hosp. Corp. of Marion Cnty.* v. *Talevski*, 599 U.S. 166, 178-80 (2023).

Congress also could have told States that, to receive federal funds, the State must agree to include that same promise—to comply with RLUIPA or face its remedies—in each of the State's *own* contracts with its officers or employees.

It is hardly novel to require a counterparty to include specified provisions in its own contracts with others. For example, construction contracts sometimes require general contractors to include specified conditions in their own agreements with employees or subcontractors, known as a "flow down" clause. G. Christian Roux, *Incorporation by Reference and Flow-Down Provisions in*

Construction Contracts, *in* 1 Construction Cont. Deskbook § 20.2 (2025) (explaining that "flow-down" clauses are used in a "wide variety" of circumstances). The federal government itself uses this approach to impose obligations on subcontractors, purely via contracts, without direct privity. *E.g.*, 48 C.F.R. 52.212-5(e)(1) (listing anti-discrimination, whistleblower, and numerous other provisions that a prime contractor must "flow down" to subcontractors); 48 C.F.R. 52.244-6(c)(1) (similar). "Incorporating [conditions] by reference and flowing down prime contract clauses are techniques that give the government control over subcontractors in spite of the lack of privity." Scott W. Singer, *Asserting Government Control Over Subcontractors*, Army Law., Sept. 1994, at 11-12; see *Guerini Stone Co.* v. *P.J. Carlin Constr. Co.*, 240 U.S. 264, 277-78 (1916) (discussing incorporation by reference).

Congress could also achieve the same result with a more broadly worded offer. Congress could have told States that, to receive federal funds, the State must agree to include in each of its employment contracts for prison officers an acknowledgment and agreement that they will comply with the U.S. Constitution and all applicable federal laws or face any applicable remedy. That would incorporate RLUIPA's substantive and remedial provisions and again would be valid.

And Congress could achieve the same result with a similar offer, but allowing each officer's agreement to RLUIPA's rights and remedies to be implied. State officers are ordinarily bound by federal law. See *Alden*, 527 U.S. at 755; La. Stat. Ann. § 42:52(A) (2024) (Louisiana oath that state officers will "support the constitution and laws of the United States"). And as *Rust* recog-

nizes, when a person is "voluntarily employed for a [federally-funded] project" subject to conditions, they must "perform their duties in accordance with the regulation's restrictions." 500 U.S. at 198-99. Likewise, parties to a "contract between the government and a private party" are ordinarily "presumed or deemed to have contracted with reference to existing principles of law." 11 Williston on Contracts § 30:19 (4th ed. updated May 2023) (footnotes omitted). Individuals who accept employment as officers for a federally-funded state program thus agree to comply with "existing principles of law," including RLUIPA. *Ibid.* So agreement to RLUIPA's rights *and* remedies is already incorporated into each state officer's acceptance of employment.

Of course, this case involves a statutory tort, not a suit for breach of contract. But these examples show that, even under a contract analogy, RLUIPA's remedies would still be within the reach of federal power. Through a State's voluntary acceptance of federal funds with clear notice of RLUIPA's conditions, and through a person's voluntary work as an officer for a federally-funded state program subject to those same conditions, agreement to RLUIPA's terms is properly deemed to be incorporated into respondents' employment contracts. They have implicitly consented to RLUIPA's rights and remedies.

RLUIPA thus is constitutional even under a contract analogy. It is constitutional under *Salinas*. It is constitutional under *Sabri*. And it is constitutional under *Dole*. Quite simply, there is "no serious doubt about [RLUIPA's] constitutionality." *Salinas*, 522 U.S. at 60.

* * *

RLUIPA therefore restores pre-*Smith* remedies and those remedies are constitutional. The court of appeals

accordingly erred in affirming the dismissal of Landor's suit for failure to state a claim.

CONCLUSION

For the foregoing reasons, the Court should reverse the court of appeals' decision and remand.

Respectfully submitted.

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