No. 23-1197

In the Supreme Court of the United States

DAMON LANDOR,

Petitioner,

v.

LOUISIANA DEPARTMENT OF CORRECTIONS AND PUBLIC SAFETY, ET AL.

Respondents.

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

BRIEF *AMICUS CURIAE* OF THE BECKET FUND FOR RELIGIOUS LIBERTY IN SUPPORT OF PETITIONER

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INTEREST OF *AMICUS CURIAE*[1]

The Becket Fund for Religious Liberty is a nonprofit, nonpartisan law firm dedicated to protecting the free expression of all religious traditions. It has represented agnostics, Buddhists, Christians, Hindus, Jews, Muslims, Native Americans, Santeros, Sikhs, and Zoroastrians, among others, in lawsuits across the country and around the world.

Becket has litigated numerous cases under the Religious Land Use and Institutionalized Persons Act (RLUIPA), including in this Court. See, *e.g.*, *Holt* v. *Hobbs*, 574 U.S. 352 (2015) (beard for Muslim prisoner); *Ramirez* v. *Collier*, 595 U.S. 411 (2022) (amicus brief) (pastoral prayer and touch during execution); *Rich* v. *Sec'y, Fla. Dep't of Corr.*, 716 F.3d 525 (11th Cir. 2013) (kosher diet for Jewish prisoner); *Moussazadeh* v. *TDCJ*, 703 F.3d 781 (5th Cir. 2012) (same); *Benning* v. *Georgia*, 391 F.3d 1299 (11th Cir. 2004) (same). Becket has also litigated numerous cases under RLUIPA's companion statute, the Religious Freedom Restoration Act (RFRA). *Burwell* v. *Hobby Lobby Stores, Inc.,* 573 U.S. 682 (2014); *Zubik* v. *Burwell*, 578 U.S. 403 (2016); *Little Sisters of the Poor Saints Peter & Paul Home* v. *Pennsylvania*, 591 U.S. 657 (2020). And Becket has frequently appeared as *amicus curiae* on matters involving both RFRA and RLUIPA, including *Sossamon* v. *Texas*, 563 U.S. 277 (2011), and *Tanzin* v. *Tanvir*, 592 U.S. 43 (2020).

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[1] No counsel for a party authored this brief in whole or in part and no person other than *Amicus*, its members, or its counsel made a monetary contribution intended to fund the preparation or submission of this brief.

Becket offers this brief because it is concerned that the decision below and others like it will thwart RLUIPA's goal of protecting and enabling prisoner religious exercise. Individual-capacity damages are critical to achieving the statute's goals, but the decision below would eliminate them. Like RFRA, RLUIPA grants government actors the ability and the obligation to remove burdens on religious exercise. But the government sometimes fails in that responsibility, and damages—or at least the possibility of damages—protect claimants from being left to bureaucratic whims and prison official gamesmanship. Those officials can (and do) intentionally moot out meritorious claims through various mechanisms. And just as importantly, the potential for damages incentivizes prison officials to carefully consider requests for religious accommodation. The availability of individual-capacity damages under RLUIPA is thus crucial to safeguarding the fundamental rights that RLUIPA was designed to protect.

INTRODUCTION AND SUMMARY OF ARGUMENT

Courts don't like prisoner lawsuits. Prisoner cases crowd lower court dockets. Prison can be a bleak place, and prisoner lawsuits can provide a form of entertainment. It is no accident that many prisoner plaintiffs end up being classed as vexatious litigants.

Prisoners also typically don't have anyone to represent them, leading to obscure, paranoid, or incomprehensible *pro se* filings that courts nevertheless have to charitably interpret. And prisoners are also among the least sympathetic members of society, sometimes asking for their own civil rights after having committed heinous crimes against others.

Courts are of course open to all and tasked with dispensing equal justice under law. But human nature applies to human judges, too, and the real difficulties presented by prisoner litigation can manifest themselves elsewhere, and in ways that affect meritorious claims. Sometimes this takes the form of docket-management-by-doctrine, where courts interpret legal doctrines in ways that are sure to reduce the number or success of prisoner claims. Sometimes it results in courts blessing strategic mooting or other forms of gamesmanship by prison officials. And sometimes it results in courts licensing prison officials like the ones in this case to act with impunity and in complete disregard of established civil rights protections.

That lurking concern about opening the courthouse door too widely to prisoner plaintiffs may also be one reason why the lower courts have paid so little heed to this Court's unanimous instruction in *Tanzin* v. *Tanvir* that damages are "appropriate relief" with respect to RLUIPA's sister statute RFRA. 592 U.S. 43, 45 (2020). Indeed, lower courts have continued to interpret RLUIPA's parallel language narrowly, rejecting a money damages remedy for RLUIPA violations despite identical language in RFRA.

Petitioner has ably explained why money damages are required by RLUIPA's text and this Court's precedent. Pet.Br.16-30. This brief addresses a different point: allowing lower courts to neuter RLUIPA by eliminating damages claims is both a threat to religious liberty and unnecessary to protect prison officials acting in good faith.

First, actual on-the-ground experience shows that money damages are necessary to realize RLUIPA's goal of protecting religious liberty. Without money

damages, prison officials can engage in strategic gamesmanship to moot meritorious cases. They can deprive individuals of any remedy, even in the face of the most egregious violations. And even absent bad faith, the routine incidents of incarceration—transfers, releases, and time-limited stays—make it very difficult to vindicate religious liberty without individual damages.

Second, Louisiana's sky-is-falling arguments that prison officials will be hamstrung by the availability of damages are simply wrong. Existing protections, including qualified immunity and strict limitations in the prison context, will protect government officials and render liable only those who knowingly and blatantly violate RLUIPA, like the prison officials in this case. Unsurprisingly, those arguments were also raised by the federal government in *Tanzin*. But they were rejected there, 592 U.S. at 52, and the sky has not fallen. They should be rejected here as well.

At bottom, RLUIPA—like its sister statute RFRA—was enacted "in order to provide very broad protection for religious liberty." *Holt* v. *Hobbs*, 574 U.S. 352, 356 (2015) (quoting *Burwell* v. *Hobby Lobby Stores, Inc.*, 573 U.S. 682, 693 (2014)). And like RFRA, RLUIPA's purpose will be thwarted without the availability of money damages because "a damages remedy is not just 'appropriate' relief as viewed through the lens of suits against Government employees. It is also the *only* form of relief that can remedy some * * * violations." *Tanzin*, 592 U.S. at 51. Without individual damages, RLUIPA will too often prove little more than a parchment promise. This Court should therefore interpret RLUIPA consistently with its broad remedial purposes and reverse the decision of the court below.

ARGUMENT

A. Damages allow RLUIPA claimants to hold prison officials accountable by limiting mootness gamesmanship.

1. "[M]oney damages are often necessary to vindicate rights under RLUIPA." *Landor* v. *Louisiana Dep't of Corr. & Pub. Safety*, 93 F.4th 259, 266 n.3 (5th Cir. 2024) (Oldham, J., dissenting from the denial of rehearing en banc). For, when injunctive relief is the only remedy available to a prisoner whose religious rights have been violated, prison officials can often evade a merits determination by strategically—or even incidentally—mooting a prisoner's claims. In such a case, the officials effectively eliminate any entitlement to "appropriate relief against a government." 42 U.S.C. 2000cc-2(a).

On its own, "a defendant's voluntary cessation of a challenged practice does not deprive a federal court of its power to determine the legality of the practice." *City of Mesquite* v. *Aladdin's Castle, Inc.*, 455 U.S. 283, 289 (1982). Rather, to render a challenge moot, a defendant must make it "absolutely clear" that his conduct "could not reasonably be expected to recur." *West Virginia* v. *EPA*, 597 U.S. 697, 720 (2022); accord *United States* v. *W. T. Grant Co.*, 345 U.S. 629, 632 (1953) (if "[t]he defendant is free to return to his old ways," that "militates against a mootness conclusion").

The voluntary cessation burden is "formidable"—but it doesn't deter some defendants from trying. *FBI* v. *Fikre*, 601 U.S. 234, 241-242 (2024) (quoting *Friends of the Earth, Inc.* v. *Laidlaw Env't Servs. (TOC), Inc.*, 528 U.S. 167, 190 (2000)). That's because defendants

remain perversely "incentiv[ized] * * * to strategically alter [their] conduct in order to prevent or undo a ruling adverse to [their] interest." *E.I. Dupont de Nemours & Co.* v. *Invista B.V.*, 473 F.3d 44, 47 (2d Cir. 2006). If after "engag[ing] in unlawful conduct" and "stop[ping] when sued," a defendant convinces a court to dismiss the case, he can then "pick up where he left off, repeating this cycle until he achieves all his unlawful ends." *Already, LLC* v. *Nike, Inc.*, 568 U.S. 85, 91 (2013).

Both the incentives and the opportunities are even greater for government defendants. Joseph C. Davis & Nicholas R. Reaves, *The Point* Isn't *Moot: How Lower Courts Have Blessed Government Abuse of the Voluntary-Cessation Doctrine*, 129 Yale L.J. Forum 325, 335-341 (2019) ("Davis & Reaves"); cf. *Mitchum* v. *Foster*, 407 U.S. 225, 242 (1972) (Congress enacted 42 U.S.C. 1983 based on the "realiz[ation] that state officers might, in fact, be antipathetic to the vindication of [constitutional] rights"). Government defendants, more than private defendants, are repeat litigants who have "a strong incentive to be strategic about which cases they litigate to judgment—to litigate fully only those cases that they think they will win and to moot the rest, preventing unfavorable precedent." Davis & Reaves at 337.

In the prison context, government defendants can exploit an additional unique vulnerability: many prisoners are self-represented. Preferring their odds against *pro se* prisoners, prison officials often strategically moot claims brought by prisoners with counsel and litigate claims brought by *pro se* prisoners instead. Davis & Reaves at 329. Compare *Rich* v. *Secretary, Fla. Dep't of Corr.*, 716 F.3d 525, 532 (11th Cir. 2013)

(Florida prison system attempting, on the eve of oral argument, to moot represented prisoner's claims by adopting new kosher dietary policy to be implemented in a single prison unit), with *Gardner* v. *Riska*, 444 F. App'x 353 (11th Cir. 2011) (Florida prison system litigating to final judgment claims brought by *pro se* prisoner denied a kosher diet), and *Moussazadeh* v. *TDCJ*, 703 F.3d 781, 786 (5th Cir. 2012), as corrected (Feb. 20, 2013) (Texas prison system attempting to moot represented prisoner's claims by implementing new kosher policy), with *Baranowski* v. *Hart*, 486 F.3d 112 (5th Cir. 2007) (Texas prison system litigating to final judgment claims brought by *pro se* prisoner denied a kosher diet). The resulting precedent not only harms the specific *pro se* litigants but is more likely to slant future cases in the government's favor.

Indeed, in one *pro se* case, Florida even succeeded in establishing that it had a "compelling state interest[]" in avoiding the "excessive cost, as well as administrative and logistic difficulties, of implementing a kosher meal plan." *Rich* v. *Buss*, No. 1:10-cv-157, 2012 WL 694839, at *5 (N.D. Fla. Jan. 12, 2012), report and recommendation adopted, No. 1:10-cv-157, 2012 WL 695023 (N.D. Fla. Mar. 5, 2012). It achieved that result even though it contradicts RLUIPA's plain text. See 42 U.S.C. 2000cc-3(c) ("[T]his chapter may require a government to incur expenses in its own operations to avoid imposing a substantial burden on religious exercise.").

This Court significantly curbed government mootness gamesmanship in *FBI* v. *Fikre* by expressly confirming that the stringent voluntary cessation standard "holds for governmental defendants no less than for private ones." 601 U.S. at 241 (2024) (collecting

cases). Applying the longstanding voluntary cessation standard to Fikre's constitutional claims, the Court held that the government "f[ell] short of demonstrating that it cannot reasonably be expected to do again in the future what it is alleged to have done in the past." *Id.* at 242. For while the government promised it would not relist Fikre on the nation's Do Not Fly list "based on 'currently available information,'" it would not forswear its ability to relist him "if he does the same or similar things in the future—say, attend a particular mosque or refuse renewed overtures to serve as an informant." *Ibid.*

2. Even after *Fikre*, prison officials' misuse of mootness doctrine remains a significant problem, as many examples illustrate.

First, consider the example of Gregory Holt, or Abdul Maalik Muhammad, one of Becket's former clients and the prevailing party in *Holt* v. *Hobbs*.

In *Holt*, this Court unanimously held that the Arkansas Department of Corrections' "grooming policy violates RLUIPA insofar as it prevents petitioner from growing a ½-inch beard in accordance with his religious beliefs." 574 U.S. at 369. On remand, Muhammad obtained a permanent injunction allowing him to maintain his beard while incarcerated. *Holt* v. *Hobbs*, No. 5:11-cv-164 (E.D. Ark. June 4, 2015), ECF No. 165.

In the decade since that decision, the Arkansas prison system has repeatedly put burdens on Muhammad's religious exercise, and courts have continued to vindicate his religious liberty rights. In one case, Muhammad was compelled to attend Islamic prayer ses-

sions alongside other religious groups that he considered to be non-Muslims. According to his religious beliefs, this invalidated his prayers and forced him to choose between either congregating and praying with non-Muslims or abstaining from group prayer altogether. He was also prohibited from wearing his kufi. *Holt* v. *Payne*, 85 F.4th 873 (8th Cir. 2023). After the district court ruled against Muhammad, the Eighth Circuit found that the district court erred in its sincerity, substantial burden, and strict scrutiny analyses. *Id.* at 879-881. On remand, the district court held that Arkansas satisfied strict scrutiny as to Muhammad's kufi claim but granted him an accommodation on his jumu'ah prayer claim. *Holt* v. *Payne*, No. 5:19-cv-81, (E.D. Ark. Apr. 16, 2024), ECF No. 179; *id.* (E.D. Ark. Aug. 8, 2025), ECF No. 214.

In another case, Muhammad proceeded *pro se* and secured a preliminary injunction allowing him to wear modest clothing during unit shakedowns. *Holt* v. *Payne*, No. 4:22-cv-553 (E.D. Ark. Aug. 31, 2022), ECF No. 13. Muhammad then obtained counsel, and on May 12, 2025, the parties reached a settlement in principle during a court-ordered mediation. *Id.* (E.D. Ark. May 12, 2025), ECF No. 87.

Other cases were awaiting rulings on dispositive motions, progressing through discovery, or in court-ordered settlement discussions. See *Holt* v. *Payne*, No. 4:25-cv-699 (E.D. Ark. July 10, 2025), ECF No. 1 ¶14 (describing cases).

In June 2025, however, the Arkansas Department of Corrections transferred Muhammad to a federal prison in West Virginia. *Holt* v. *Payne*, No. 4:25-cv-699 (E.D. Ark. July 10, 2025), ECF No. 1 ¶¶5-7. As Muhammad alleged in his complaint, during the transfer,

an Arkansas prison employee commented, "Holt, you know these people are tired of you. You've had them over a barrel for a long time." *Id.* ¶27.

Following the transfer, Arkansas officials moved to dismiss at least two of Muhammad's cases, claiming that "[h]is claims have been mooted in their entirety" because the Arkansas officials "no longer have any custody, control, or involvement in [Muhammad's] incarceration." *Holt* v. *Payne*, No. 4:22-cv-1132 (E.D. Ark. July 14, 2025), ECF No. 163 at 1-2; *Holt* v. *Higgins*, No. 4:21-cv-1226 (E.D. Ark. July 3, 2025), ECF No. 51 at 1, 3. And in the case that settled during court-ordered mediation in May 2025, Arkansas revised the settlement terms to state that because Muhammad had been transferred to a federal penitentiary in West Virginia, "Defendants have no obligation toward Plaintiff Gregory Holt under this order or the settlement agreement in this case[.]" *Holt* v. *Payne*, No. 4:22-cv-553 (E.D. Ark. June 27, 2025), ECF No. 90 at n.1; see also ECF No. 91 at n.1 (similar).

3. Muhammad's situation is illustrative in another way: it shows that a strategic prison-wide change in policy isn't necessary to moot a prisoner's RLUIPA claims. Even absent bad-faith gamesmanship, meritorious RLUIPA claims often become moot through everyday occurrences in incarceration, like transfers and releases. And without money damages, many institutionalized persons will be left without any possible relief.

Claims mooted by transfer are common. In Michigan, a Muslim inmate recently filed a complaint alleging he was barred from performing daily prayer. Prison officials allegedly told him he was "not allowed to pray" and warned they would "continuously shut

that shit down." *Hemphill* v. *Trefil*, No. 1:24-cv-773, 2024 WL 3835581, at *3 (W.D. Mich. Aug. 14, 2024). And the intimidation didn't stop there: the prison officials allegedly threatened that if he attempted to pray, he'd risk being thrown in solitary confinement. *Ibid.* When the inmate questioned why other religious groups were still permitted to pray, an officer allegedly shrugged it off—"there should be some level of fairness," he allegedly conceded, but "unfortunately there isn't." *Ibid.* After exhausting the prison's grievance process, the inmate filed a RLUIPA claim. But it was too late. He had already been transferred, mooting his claim and leaving the violations unanswered. *Id.* at *10; see also *Ware* v. *Bishop*, No. 1:23-cv-220, 2025 WL 1914916, at *1 n.1 (N.D. Tex. Jan. 23, 2025) (holding that transfer mooted Muslim inmate's RLUIPA claim regarding denial of religious texts and garb).

In another case, a Buddhist inmate alleged he was targeted by prison officials who "made it their business to teach [him] a lesson." *Jones* v. *Campbell*, No. 2:24-cv-10683, 2024 WL 3262606, at *2 (E.D. Mich. July 1, 2024). According to the inmate's complaint, the officials tried to force him to eat at a table that was ritually unclean for Buddhists. When the inmate objected, identifying the conduct as "religion discrimination," one officer allegedly retorted, "[C]all it what you want." *Ibid.* An alleged campaign of harassment followed: arbitrary detentions, repeated verbal and physical abuse, and eventually hospitalization from low blood sugar brought on by prison officials' refusal to let him eat elsewhere. *Id.* at *2-3. Despite the strength of his RLUIPA claim, his transfer to a new facility rendered the claim moot. *Id.* at *8; see also *Bell* v. *Tjeerdsma*, No. 4:24-cv-4068, 2025 WL 1696772, at *1 (D.S.D. June 16, 2025) (holding transfer mooted claim

by Buddhist inmate allegedly mocked as a "Buddha Rat" and denied religious materials).

Other examples abound. In California, a Jewish inmate was allegedly denied a kosher diet, later fainting from low blood pressure. Officials transferred the inmate soon after, mooting his RLUIPA claims. *Harper* v. *California,* No. 2:24-cv-10461, 2025 WL 1029255 (C.D. Cal. Apr. 7, 2025); see also *Ward* v. *United States Marshals*, No. 5:23-cv-5061, 2025 WL 949242 (D.S.D. Mar. 28, 2025) (similar). Elsewhere, two Muslim prisoners brought RLUIPA claims after officials allegedly refused to provide halal meat for Ramadan—claims later mooted by mid-litigation transfers. *Molina* v. *Little*, No. 1:23-cv-257, 2024 WL 3548453 (W.D. Pa. July 26, 2024); see also *El Bey* v. *Kehr*, No. 23-3505, 2024 WL 2977543 (6th Cir. Jan. 29, 2024) (holding transfer mooted claim regarding alleged denial of religious services).

Nor is this cycle of violation, transfer, and loss of relief new. More than a decade ago, Michigan held a Christian inmate in solitary confinement for 23 hours a day for nearly thirteen years, denying him access to essential worship services. *Selby* v. *Caruso*, 734 F.3d 554, 556-557 (6th Cir. 2013). Only after he filed a *pro se* complaint did prison officials change course, moving him back to the general prison population without explanation. The inmate claimed the move was a direct response to his lawsuit. *Selby* v. *Caruso*, No. 2:09-cv-152, 2012 WL 7160402, at *1 (W.D. Mich. Aug. 16, 2012). But whatever the motive, the transfer's timing meant injunctive relief was no longer feasible, mooting his claim. *Selby*, 734 F.3d at 561. Other courts have reached similar outcomes over the years—leaving egregious harms unremedied. See, *e.g.*, *Rendelman* v.

Rouse, 569 F.3d 182, 184-185 (4th Cir. 2009) (mooting claim where transferred Jewish inmate lost 30 pounds due to denial of non-kosher food); *Colvin* v. *Caruso*, 605 F.3d 282, 287-289 (6th Cir. 2010) (similar); *Robbins* v. *Robertson*, 782 F. App'x 794, 797-799 (11th Cir. 2019) (mooting claim where Muslim inmate was allegedly forced to make a "Hobson's choice" between his religious diet and malnutrition); *Heyward* v. *Cooper*, 88 F.4th 648, 652-653, 656-657 (6th Cir. 2023) (similar).

Transfers are also only part of the problem. RLUIPA claims frequently become moot upon a prisoner's release, as injunctive relief against the prison or prison officials is no longer possible.

In one case from Indiana, a Muslim inmate arrived at a new facility carrying his personal Qur'an—which inventory records confirmed was his. *Marshall* v. *Stennis*, No. 1:23-cv-442, 2025 WL 1457010, at *2 (S.D. Ind. May 21, 2025). Nonetheless, prison officials disputed his ownership, confiscated the Qur'an, and ultimately destroyed it. *Ibid.* And although the inmate soon after sued under RLUIPA, he was released before the court could rule, mooting his claim for injunctive relief. *Id.* at *4.

Walker v. *Baldwin* is similar. No. 3:19-cv-50233, 2022 WL 2356430 (N.D. Ill. June 30, 2022), aff'd, 74 F.4th 878 (7th Cir. 2023). In a case much like Landor's, prison officials deployed a tactical team wielding mace to a Rastafarian inmate's cell, threatening force if he did not cut his dreadlocks. *Walker*, 74 F.4th at 880. Under intense pressure, he relented—breaking a religious oath to grow his hair. *Ibid.* The inmate filed suit the following year. But because he was later released

mid-litigation, the court found his claim moot, concluding that "the only relief available under RLUIPA [was] injunctive," and that it was foreclosed upon his release from state custody. *Walker*, 2022 WL 2356430, at *4.

This result is all too common in RLUIPA litigation, given that federal litigation can take on a life of its own, consuming years of time and resources. See, *e.g.*, *Pugh* v. *Goord*, 571 F. Supp. 2d 477, 484, 487 (S.D.N.Y. 2008) (RLUIPA claims mooted by release after eight years of litigation); *Evans* v. *Cisneros*, No. 1:22-cv-1238, 2025 WL 1695958, at *1-2, *4 (E.D. Cal. June 17, 2025) (RLUIPA claim mooted by release after three years of litigation); *Singh* v. *Goord*, No. 05-cv-9680, 2010 WL 1875653, at *1, *4-5 (S.D.N.Y. Mar. 9, 2010), report and recommendation adopted, No. 05-cv-9680, 2010 WL 1903997 (S.D.N.Y. May 10, 2010) (RLUIPA claim mooted by release after four years of litigation). Because courts "generally have been unwilling to assume that the party seeking relief will repeat the type of misconduct that would once again place him or her at risk of that injury," *Honig* v. *Doe*, 484 U.S. 305, 320 (1988), meritorious RLUIPA claims often become unreviewable the moment a sentence ends. The result is a system in which prison officials have every incentive to delay—knowing that once the clock runs out, so does any potential liability.

4. These problems are amplified in jails. "Damages are many times the only relief that a jail inmate can obtain" because "jail inmates are often housed in particular jails for less time than it takes to litigate a case to completion." *Barnett* v. *Short*, 129 F.4th 534, 539-540 (8th Cir. 2025). That is because jails typically house prisoners for misdemeanor violations, meaning

that prisoners are almost by definition in the jail for less than one year. The product of these mismatched timelines is inevitable: without a damages remedy, most jail inmates' RLUIPA claims will be mooted long before judgment. That, in turn, disincentivizes respecting the religious exercise of jail inmates.

The facts of *Barnett* show how jail officials can act with impunity. There, a Christian inmate filed a complaint alleging county jail officials denied his request for access to the Bible. *Barnett* v. *Short*, No. 4:22-cv-708, 2022 WL 17338086 (E.D. Mo. Nov. 30, 2022), aff'd in part, rev'd in part and remanded, 129 F.4th 534 (8th Cir. 2025). The inmate claimed the jail officials acted with callous indifference—allegedly telling Barnett he could "quote the [C]onstitution all [he] want[ed]," but he still wouldn't receive a Bible. *Barnett*, 129 F.4th at 538. Another official allegedly went further, dismissing the inmate's free exercise rights as "nothing more than a privilege." *Barnett*, 2022 WL 17338086, at *5. The district court concluded that damages were unavailable under RLUIPA and held that the claims for injunctive relief were moot because the inmate was transferred from jail shortly after litigation began. *Id.* at *3.[2]

Barnett is hardly an outlier. The transitory nature of jails means that inmates across the country routinely endure serious religious burdens—denial of religious meals, targeted religious retaliation, and more—only to have their claims for injunctive relief

[2] The Eighth Circuit partially reversed, splitting from other circuits and finding that RLUIPA contemplates money damages in certain circumstances. *Barnett*, 129 F.4th at 542. The Eighth Circuit remanded for further proceedings.

mooted once they're transferred or released. And without damages to carry those claims forward, RLUIPA ultimately provides little protection for religious exercise in jails. See, *e.g.*, *Owens* v. *Schuette*, No. 2:24-cv-10787, 2024 WL 4469086 (E.D. Mich. Oct. 10, 2024) (holding jail transfer mooted Muslim inmate's claim over denial of religious meals); *Howes* v. *Bragg*, No. 1:23-cv-23, 2024 WL 2164993 (M.D. Tenn. May 14, 2024), report and recommendation adopted, No. 1:23-cv-23, 2024 WL 3049442 (M.D. Tenn. June 18, 2024) (mooting claim based on religiously motivated placement in solitary confinement).

Nothing in RLUIPA's text or purposes warrants this result. "RLUIPA specifically extends its protection to jail inmates, and so, since opportunities for injunctive relief will frequently be fleeting, damages are even more 'appropriate' than they otherwise would be." *Barnett*, 129 F.4th at 540 (citation omitted).

B. Permitting individual damages will not be unduly burdensome because existing safeguards are already in place.

In opposing certiorari, Louisiana relied on policy concerns, claiming that allowing personal damages would "almost certainly * * * driv[e] down staffing levels and dissuad[e] job applicants." BIO 23. According to Louisiana, that will, in turn, "lead to worse prison conditions" and "lessened protections for religious liberty." *Ibid.*

These concerns are exaggerated. Congress and the courts have long been able to strike a proper balance between protecting governmental functions and holding government officials accountable. So too here,

where multiple, established legal mechanisms already address such concerns.

To begin, qualified immunity "protects 'all but the plainly incompetent or those who knowingly violate the law.'" *Ziglar* v. *Abbasi*, 582 U.S. 120, 152 (2017) (citation omitted). Courts have concluded that qualified immunity can apply in the RFRA context, and the same would likely be true under RLUIPA. See, *e.g.*, *Tanzin* v. *Tanvir*, 592 U.S. 43, 51 n.* (2020); *Tanvir* v. *Tanzin*, 120 F.4th 1049, 1060 (2d Cir. 2024); *Mack* v. *Yost*, 63 F.4th 211, 225-226 (3d Cir. 2023); *Ajaj* v. *FBOP*, 25 F.4th 805, 817 (10th Cir. 2022). Thus, damages under RLUIPA pose no special problems compared to any other suit that implicates government officials. See *Mack*, 63 F.4th at 224 ("[M]any circuits have applied qualified immunity to individual-capacity suits under a variety of statutes, including the Family and Medical Leave Act, the Americans with Disabilities Act, the Rehabilitation Act of 1973, the Racketeer Influenced and Corrupt Organizations Act, the Sherman Antitrust Act, the Fair Housing Act, and Title VI of the Civil Rights Act of 1964.").

Moreover, when qualified immunity is available, its protections are robust. It shields government officials from frivolous pre-trial requirements by avoiding "the costs of trial" and "the burdens of broad-reaching discovery." *Mitchell* v. *Forsyth*, 472 U.S. 511, 526 (1985); see also *Ashcroft* v. *Iqbal*, 556 U.S. 662, 685 (2009) ("The basic thrust of the qualified-immunity doctrine is to free officials from the concerns of litigation, including 'avoidance of disruptive discovery.'" (citation omitted)). It also prevents the "distraction of officials from their governmental duties, inhibition of discretionary action, and deterrence of able people

from public service." *Harlow* v. *Fitzgerald*, 457 U.S. 800, 816 (1982). And in the event a lower court wrongfully denies qualified immunity, the doctrine also permits an immediate appeal to vindicate its purposes. *Mitchell*, 472 U.S. at 526-527.

To be sure, qualified immunity would not protect Respondents here. But that is because this case involves government officials "who knowingly violate[d] the law." *Ziglar*, 582 U.S. at 152. Indeed, "[o]fficials at the Raymond Laborde Correctional Center knowingly violated Damon Landor's rights in a stark and egregious manner, literally throwing in the trash our opinion holding that Louisiana's policy of cutting Rastafarians' hair violated [RLUIPA] before pinning Landor down and shaving his head." *Landor*, 93 F.4th 259, 260 (5th Cir. 2024) (Clement, J., concurring in denial of rehearing en banc).

Next, existing legal mechanisms specific to the prison context can ably handle concerns about frivolous lawsuits. In addition to qualified immunity, the Prison Litigation Reform Act (PLRA) contains multiple safeguards to prevent mass litigation against prison officials. Under the PLRA, inmates may not file a lawsuit challenging prison conditions without first exhausting all available administrative remedies. 42 U.S.C. 1997e(a). Inmates are also barred from bringing a claim for a mental or emotional injury suffered while in custody unless they can demonstrate physical harm. 42 U.S.C. 1997e(e).

Furthermore, once a lawsuit is filed, courts screen inmate lawsuits and dismiss claims that are "frivolous, malicious, or fail[] to state a claim upon which relief may be granted" or "seek[] monetary relief from a defendant who is immune from such relief." 28

U.S.C. 1915A. And if an inmate persists in filing frivolous lawsuits, 28 U.S.C. 1915(g), the *in forma pauperis* statute, enacted what is commonly called a "three strikes rule," where courts can require a prisoner to pay litigation fees up-front if he has filed three or more previous suits that the court has deemed frivolous. See *id.* (not allowing three-strikes plaintiffs to bring suit under Section 1915).

In short, all of these protections ensure that prison officials will be able to perform their job responsibilities free of any fear from mass litigation that could arise under RLUIPA. Thus, various overlapping legal mechanisms adequately balance executing governmental duties and protecting religious liberty.

CONCLUSION

The decision below should be reversed.

Respectfully submitted.

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