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 OF RELIGIOUS AND CIVIL-RIGHTS ORGANIZATIONS AS *AMICI CURIAE* IN SUPPORT OF PETITIONER

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BRIEF OF RELIGIOUS AND CIVIL-RIGHTS ORGANIZATIONS AS *AMICI CURIAE* IN SUPPORT OF RESPONDENTS

INTERESTS OF THE *AMICI CURIAE*

Amici are religious and civil-rights organizations that share a commitment to safeguarding religious freedom by ensuring that the Religion Clauses of the U.S. Constitution and related statutory provisions are faithfully applied. *Amici* believe that a damages remedy in individual-capacity suits is a critical tool for doing so. And *Amici* believe that this tool is particularly important in the context of the Religious Land Use and Institutionalized Persons Act (RLUIPA), 42 U.S.C. 2000cc *et seq.*, where damages are often the only recourse available to individuals who suffer harms that cannot adequately be redressed through equitable relief.[1]

The *amici* are:

- Americans United for Separation of Church and State;
- Evangelical Lutheran Church in America
- Global Justice Institute: Metropolitan Community Churches
- Interfaith Alliance
- People for the American Way
- Sadhana: Coalition of Progressive Hindus

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

INTRODUCTION AND SUMMARY OF ARGUMENT

Petitioner Damon Landor is a Rastafarian whose hair was forcibly shaved by prison officials, in violation of his religious beliefs and in blatant disregard of the Religious Land Use and Institutionalized Persons Act, 42 U.S.C. 2000cc *et seq.* Prison officials were indisputably aware that their actions violated RLUIPA. Indeed, Mr. Landor presented the intake guard with a physical copy of a Fifth Circuit decision stating that a prison lacked a "compelling interest" in forcing a Rastafarian inmate to cut his hair. The guard responded to Mr. Landor's request for a religious accommodation by throwing the Fifth Circuit's opinion in the trash. Officers then proceeded to hold Mr. Landor down and shave his head.

After he was released, Mr. Landor filed suit under RLUIPA. By this point, prospective relief was no longer available or meaningful: Only damages could remedy the harm he had suffered. But the Fifth Circuit concluded that RLUIPA does not permit individual-capacity suits for damages, notwithstanding this Court's holding, in *Tanzin* v. *Tanvir*, 592 U.S. 43 (2020), that plaintiffs can sue government officials in their individual capacities for money damages under the closely related Religious Freedom Restoration Act (RFRA), 42 U.S.C. 2000bb *et seq.* Although the Fifth Circuit "*emphatically* condemn[ed] the treatment that [Mr.] Landor endured," its decision left Mr. Landor without any remedy. Pet. App. 13a.

This result cannot be squared with the history and legislative purpose of RLUIPA, or with this Court's precedents. RLUIPA was enacted to alleviate the substantial burdens prisoners face in exercising their

religion, including violations that are unlikely to be repeated. In *Sossamon* v. *Texas*, 563 U.S. 277 (2011), this Court held that RLUIPA does not allow claims for damages against a *State*, including officers acting in their official capacity, because the States did not unambiguously waive their sovereign immunity as to private suits for damages. But suits against officers in their *individual* capacities do not raise sovereign immunity concerns. Such suits are appropriate—and, indeed, necessary—when government officials unjustifiably burden religious exercise, whether under RFRA or RLUIPA.

Contrary to Respondents' suggestion, see Br. in Opp. 22–24, allowing individual-capacity lawsuits for damages under RLUIPA would have minimal impact on prison operations or on broader Spending Clause legislation. First, RLUIPA itself includes limits and safeguards that will prevent abuse of individual-capacity suits. As a result, prisoners will only be able to secure damages against individual officers in clear-cut circumstances—like those underlying the present case—where a prisoner's sincere religious belief is substantially and unjustifiably burdened. Second, a narrow decision grounded in the history and text of RLUIPA will not impact the availability of damages under other statutes enacted pursuant to the Spending Clause.

ARGUMENT

I. Congress Intended for RLUIPA to Protect Prisoners' Religious Exercise.

RLUIPA represents "Congress' second attempt to accord heightened statutory protection to religious exercise." *Sossamon* v. *Texas*, 563 U.S. 277, 281 (2011). In response to this Court's decision in *Employment*

Division v. *Smith*, 494 U.S. 872 (1990), Congress enacted RFRA with the express intent of "restor[ing] the compelling interest test * * * in all cases where free exercise of religion is substantially burdened" and "to provide a claim * * * to persons whose religious exercise is substantially burdened by government." 42 U.S.C. 2000bb. When this Court invalidated RFRA as applied to state and local governments, see *City of Boerne* v. *Flores*, 521 U.S. 507, 536 (1997), Congress responded by enacting RLUIPA. *Sossamon*, 563 U.S. at 281. "RLUIPA borrows important elements from RFRA," including its cause of action, but targets only "two areas of state and local action: land-use regulation and restrictions on the religious exercise of institutionalized persons." *Id.* at 281–282 (citation modified).

A. RLUIPA was enacted in response to abuses in the prison system, including one-time abuses by prison officials.

Congress enacted RLUIPA to protect "institutionalized persons," whom Congress recognized as "a class of people particularly vulnerable to government regulation." 146 Cong. Rec. 16622 (2000) (statement of Rep. Canady). In nine hearings over the course of three years, Congress documented all manner of "frivolous or arbitrary" burdens on religious exercise that were "frequently occurring" in prisons around the country. 146 Cong. Rec. 16698–16699 (2000) (joint statement of Sen. Hatch and Sen. Kennedy). These hearings revealed that "some institutions restrict[ed] religious liberty in egregious and unnecessary ways," whether as a result of "indifference, ignorance, bigotry, or lack of resources." *Id.* at 16699.

Some of the most shocking and egregious examples that inspired Congressional action came in the form of one-time burdens on religious exercise. For example, in one horrifying case, a Jewish inmate in Texas who requested religious accommodations was deliberately transferred to a prison housing a number of neo-Nazi inmates. Within fifteen minutes of arriving at the new facility, the Jewish inmate was set upon and killed by a gang of neo-Nazis, who were apparently anticipating his arrival. *Protecting Religious Freedom After* Boerne v. Flores *(Part III)*: *Hearing Before the Subcomm. on the Constitution of the Comm. on the Judiciary House of Representatives*, 105th Cong., 2d Sess. 42 (1999) (*Jaroslawicz Testimony*); 146 Cong. Rec. at 16699 (joint statement of Sen. Hatch and Sen. Kennedy). Disturbingly, the official who ordered this transfer was "subsequently found responsible for retaliatory transfers in other instances"—underscoring the need for stronger protections and mechanisms for deterring bad actors. See *Jaroslawicz Testimony* 42. In another case, officials at an Oregon prison deliberately recorded the sacrament of confession between a prisoner and a Roman Catholic Chaplain. See 146 Cong. Rec. at 16699 (joint statement of Sen. Hatch and Sen. Kennedy) (citing *Mockaitis* v. *Harcleroad*, 104 F.3d 1522 (9th Cir. 1997)).

Congress intended for RLUIPA to "provide a remedy" in cases like these, where prospective relief would be plainly insufficient. See 146 Cong. Rec. at 16699 (joint statement of Sen. Hatch and Sen. Kennedy). When Congress authorized the courts to grant "appropriate relief" under RLUIPA, 42 U.S.C. 2000cc-2(a), it must therefore have contemplated damages against individual-capacity defendants—a remedy that had long been available for other types of civil

rights violations, including constitutional free exercise violations. As this Court observed in *Tanzin* v. *Tanvir*, the ability to sue state officers, including prison officials, for damages under 42 U.S.C. 1983 predates *Smith*. 592 U.S. 43, 50 (2020). Because Congress intended for RLUIPA, like RFRA, to "provide greater protection for religious exercise than is available under the First Amendment," see *Holt* v. *Hobbs*, 574 U.S. 352, 357 (2015), it stands to reason that "parties suing under [RLUIPA] must have at least the same avenues for relief against officials that they would have had before *Smith*," including "a right to seek damages against government employees," see *Tanzin*, 592 U.S. at 51.

In fact, individual-capacity lawsuits are especially warranted in the prison context. As Senators Hatch and Kennedy observed, institutionalized persons, "[f]ar more than any other Americans, * * * are subject to the authority of one or a few local officials." 146 Cong. Rec. at 16699. A prisoner's "right to practice their faith is at the mercy of" prison officials. *Ibid.* If those officials do not make good-faith efforts to comply with RLUIPA—or if they cannot be held accountable for their failure to do so—RLUIPA's force and deterrent effect are significantly compromised. As the account of the murdered Jewish inmate illustrates, stopping individual officers from abusing their power is just as important (if not more so) as ensuring that prison policies protect inmates' religious exercise. Congress was well aware of this fact when it enacted RLUIPA.

B. If individual-capacity suits for damages were not allowed, RLUIPA would provide little or no relief in many cases where prisoners' rights are violated.

Because RLUIPA does not waive the government's traditional immunity from liability for money damages, *Sossamon*, 563 U.S. at 293, damages assessed against individual-capacity defendants are the only meaningful remedy available apart from prospective injunctive relief. When inmates suffer a one-time injury that is unlikely to be repeated, prospective relief provides cold comfort. And when claims for injunctive relief are mooted through transfer or release, prospective relief is "no remedy at all." See *Franklin* v. *Gwinnett Cnty. Pub. Schs.*, 503 U.S. 60, 76 (1992).

One-time injuries to the religious exercise of institutionalized persons are, sadly, all too common. For example, in *Rendelman* v. *Rouse*, Maryland prison officials refused to provide an Orthodox Jewish inmate with a kosher diet. 569 F.3d 182, 183–184 (4th Cir. 2009). The inmate subsequently lost twenty-six pounds and sued under RLUIPA. *Id.* at 185. After the lawsuit was filed, the inmate was transferred to a different facility, mooting his claim for equitable relief and leaving him without a remedy. *Id.* at 186–187.

Countless other cases illustrate a similar pattern. Plaintiffs' claims for injunctive relief are frequently mooted because the plaintiff is released or transferred to a different prison, see, *e.g.*, *Booker* v. *Graham*, 974 F.3d 101, 107 (2d Cir. 2020), or because the prison changes its policy to explicitly prohibit the challenged conduct, see, *e.g.*, *Williams* v. *Beltran*, 569 F. Supp. 2d. 1057, 1059 (C.D. Cal. 2008). And plaintiffs are left

with no remedy and no means of holding individual officers accountable.

Even where a prisoner's claim is not formally mooted, prospective relief is often insufficient to remedy past violations. For example, a California mental hospital denied an involuntarily committed patient access to kosher meals for Passover, despite promising to provide kosher food. *Sokolsky* v. *Voss*, No. 1:07 CV-00594 SMM, 2009 WL 2230871, at *1 (E.D. Cal. July 24, 2009). "[F]orced to choose between compliance with his sincerely-held religious beliefs and starvation," the plaintiff went unfed for eight days and subsequently sued for damages under RLUIPA. *Id.* at *1, 3. Although the plaintiff remained institutionalized, he did not request injunctive relief. *Id.* at *7. Indeed, injunctive relief would have accomplished little: There was no indication that the plaintiff would suffer the same harm again and an injunction could not address the starvation he had endured. If the plaintiff could not obtain damages against the officers responsible for his plight, he would have had no remedy.[2] Inmates' inability to access kosher food—at issue in both *Rendelman* and *Sokolsky*—featured prominently in the congressional hearings leading up to RLUIPA's enactment, underscoring that Congress intended for RLUIPA to remedy precisely this type of harm. See *Cutter* v. *Wilkinson*, 544 U.S. 709, 716 & n.5 (2005).

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[2] The Eastern District of California permitted the case to move forward as an individual-capacity damages suit, *Sokolsky*, 2009 WL 2230871, at *8, although the Ninth Circuit has since held that RLUIPA does not permit individual-capacity suits for damages, *Wood* v. *Yordy*, 753 F.3d 899, 904 (9th Cir. 2014).

The case at bar further illustrates why prison officials must be liable for money damages in their individual capacities for RLUIPA to be effective. For decades leading up to and following RLUIPA's enactment, cases involving Rastafarian inmates who object to having their hair cut have been "routinely litigated throughout the country." *Walker* v. *Baldwin*, No. 3:19-cv-50233, 2022 WL 2356430, at *3 (N.D. Ill. June 30, 2022). Multiple circuits have affirmed that cutting a Rastafarian's hair in violation of his sincere religious beliefs "substantially burdens" religious exercise under RLUIPA and is therefore prohibited unless it is the most restrictive means of achieving a compelling government interest. See, *e.g.*, *Ware* v. *Louisiana Dep't of Corr.*, 866 F.3d 263, 268–270 (5th Cir. 2017); *Burke* v. *Clarke*, 842 Fed. Appx. 828, 830 (4th Cir. 2021); *Koger* v. *Mohr*, 964 F.3d 532, 539–540 (6th Cir. 2020). Still, these rulings have not resolved the regular disputes that arise over Rastafarian compliance with prison grooming policies, at least some of which involve seemingly bad-faith actions on the part of individual officers.

In a case that echoes Mr. Landor's, a Rastafarian inmate in Illinois was forced to cut off his dreadlocks by prison officials who claimed ignorance of the tenets and even the existence of Rastafarianism. *Walker*, 2022 WL 2356430, at *3. The district court judge was skeptical of the officers' purported ignorance and "troubled by" their justifications for denying the plaintiff a religious accommodation. *Ibid.* Like Mr. Landor, however, the plaintiff had already been released and could not obtain equitable relief under RLUIPA. The judge, relying on Seventh Circuit precedent, reiterated that individual-capacity damages were not available under RLUIPA, and the plaintiff was left without

a remedy. *Id.* at *4 (citing *Nelson* v. *Miller*, 570 F.3d 868, 884, 888 (7th Cir. 2009)).

Similarly, in *Stewart* v. *Beach*, a Rastafarian inmate sought and received permission to transfer to a different facility to be closer to his dying mother—only to be told that if he did not cut or comb his dreadlocks, in violation of his religious beliefs, he would not be allowed to transfer. 701 F.3d 1322, 1326 (10th Cir. 2012). Forced "to choose between adhering to his religious beliefs and * * * his ailing mother," the plaintiff cut off his dreadlocks. *Id.* at 1326. He was then allowed to transfer, thereby mooting a claim for prospective relief. *Id.* at 1326–1327 & n.4. Although he subsequently sued the individual officers for damages under the Free Exercise Clause and RLUIPA, he too was left without a remedy. The court held that his Free Exercise claims were barred by qualified immunity and that individual-capacity damages were not available to him under RLUIPA. *Id.* at 1333–1335.[3]

For plaintiffs like Mr. Landor, RLUIPA affords little protection in the absence of a damages remedy against individual officers. Without the possibility of individual liability, officers (and institutions) can blatantly and/or repeatedly violate RLUIPA with few to no consequences. When inmates can obtain proactive

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[3] *Stewart* and similar cases illustrate why 42 U.S.C. 1983 is not an adequate substitute for individual-capacity damages claims under RLUIPA. RLUIPA intentionally created a broader cause of action than the First Amendment, see *Holt*, 574 U.S. at 357, and it is easier to demonstrate that an official's conduct violated clearly established law under RLUIPA than under the Free Exercise Clause. By interpreting RLUIPA as precluding individual-capacity damages, courts have "render[ed] inutile [a] cause[] of action authorized by Congress." *Franklin*, 503 U.S. at 74.

but not retroactive relief, officers—even well-meaning officers—are perversely incentivized to act first and ask questions later. And if the courts are closed to or ineffective at addressing certain harms, those harms are more likely to go undetected and unresolved. This creates an environment where bad actors can thrive and abuses of power go unchecked, contrary to Congress's intent in enacting RLUIPA.

II. Under *Tanzin*, RLUIPA Permits Individual-Capacity Suits for Damages.

Both RFRA and RLUIPA allow individuals to "obtain appropriate relief against a government" that "substantially burden[s]" their religious exercise without sufficient justification. 42 U.S.C. 2000bb-1, 2000cc-1, 2000cc-2(a). Importantly, both statutes define "government" to include an "official" or "other person acting under color of law." 42 U.S.C. 2000bb-2(1), 2000cc-5(4)(A).

In *Tanzin*, this Court unanimously held that, in the context of RFRA, the term "appropriate relief" encompasses "claims for money damages against Government officials in their individual capacities." 592 U.S. at 45. Explaining that "what relief is '"appropriate' is 'inherently context dependent,'" the Court looked to both the text and history of RFRA. *Id.* at 49–51 (quoting *Sossamon*, 563 U.S. at 286). On a textual level, the Court observed that RFRA's definition of government included *both* "officials" and "other person[s] acting under color of law," a distinction that would be unnecessary if RFRA only allowed official-capacity suits. *Id.* at 47–48. Moreover, RFRA's use of the phrase "under color of law" mirrored the language of 42 U.S.C. 1983, which has long authorized suits against officers in their individual capacity. *Id.* at 48.

The Court also emphasized that RFRA was designed to "reinstat[e] pre-*Smith* protections and rights," which included the ability to sue officers for violations of the Free Exercise Clause in their individual capacities. *Tanzin*, 592 U.S. at 50. Because damages are "the *only* form of relief that can remedy some RFRA violations," the Court reasoned, "it would be odd to construe RFRA in a manner that prevents courts from awarding such relief." *Id.* at 51.

A. The term "appropriate relief," as used in RLUIPA, includes individual-capacity suits for money damages.

Given the textual and historical overlap between RFRA and RLUIPA, nearly every sentence in *Tanzin* applies with equal force in the context of RLUIPA. As this Court has repeatedly expressed, RFRA and RLUIPA are "sister" statutes and are generally interpreted in tandem. See, *e.g.*, *Burwell* v. *Hobby Lobby Stores, Inc.*, 573 U.S. 682, 730 (2014); see also Pet. App. 28a (collecting cases).

According to the Fifth Circuit, *Tanzin* does not authorize individual-capacity suits under RLUIPA because "RLUIPA and RFRA rely on different Congressional powers." Pet. App. 8a; see also *Fuqua* v. *Raak*, 120 F.4th 1346, 1359–1360 (9th Cir. 2024); *Tripathy* v. *McKoy*, 103 F.4th 106, 114 (2d Cir. 2024); *Ali* v. *Adamson*, 132 F.4th 924, 931 (6th Cir. 2025). Congress enacted RFRA pursuant to its authority under the Fourteenth Amendment and the Necessary and Proper Clause. See S. Rep. No. 111, 103d Cong., 1st Sess. 13–14 (1993); H.R. Rep. No. 88, 103d Cong.,

1st Sess. (1993).[4] RLUIPA, in contrast, was enacted pursuant to the Spending and Commerce Clauses. *Sossamon*, 563 U.S. at 281.

But *Tanzin* does not so much as mention the source of Congress's authority in discussing the "legal backdrop against which Congress enacted RFRA." See *Tanzin*, 592 U.S. at 48 (citation modified); see also *Fuqua*, 120 F.4th at 1360 ("*Tanzin* says nothing about" Congress's authority to authorize individual-capacity damages in the exercise of different powers). Nothing in *Tanzin* suggests that the source of Congress's authority to enact RFRA affected the Court's conclusion that "RFRA's text * * * clear[ly]" authorized individual-capacity damages. *Tanzin*, 592 U.S. at 47.

Tanzin did, however, clarify that this Court's earlier opinion in *Sossamon* v. *Texas*—which held that RLUIPA did not permit damage suits against officers in their *official* capacity—had no bearing on whether plaintiffs could sue officers in their *individual* capacity under RFRA. *Tanzin*, 592 U.S. at 51–52. In *Sossamon*, the Court explained that the phrase "appropriate relief" in 42 U.S.C. 2000cc-2(a) did not "clearly and unambiguously waive sovereign immunity to private suits for damages." *Sossamon*, 563 U.S. at 285–286.

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[4] Although this Court held that RFRA exceeded Congress's powers under the Fourteenth Amendment as applied to state and local governments, *City of Boerne*, 521 U.S. at 536, some lower courts considering whether RLUIPA permits individual-capacity damages have continued to describe RFRA as enacted pursuant to the Fourteenth Amendment. See, *e.g.*, Pet. App. 8a; *Ali*, 132 F.4th at 931.

In language that was later quoted in *Tanzin*, the Court noted that the word "appropriate" is "inherently context dependent," see *Tanzin*, 592 U.S. at 49, and stressed that "[t]he context here—where the defendant is a sovereign—suggests * * * that monetary damages are not [appropriate]." *Sossamon*, 563 U.S. at 286.

As the Court explained, "[t]he obvious difference" between *Tanzin* and *Sossamon* is that *Tanzin* "feature[d] a suit against individuals, who do not enjoy sovereign immunity." *Tanzin*, 592 U.S. at 51–52. A suit against a government official in their official capacity is a suit against the government. *Kentucky* v. *Graham*, 473 U.S. 159, 165–166 (1985). Before an officer can be sued for damages in their official capacity, the relevant government entity—whether state or federal—must clearly waive its sovereign immunity. See *Davila* v. *Gladden*, 777 F.3d 1198, 1209–10 (11th Cir. 2015) (construing *Sossamon* as applicable to RFRA and holding that "RFRA does not therefore authorize suits for money damages against officers in their official capacities"). By contrast, "damages have long been awarded as appropriate relief" in suits against both federal and state officials in their individual capacities. *Tanzin*, 592 U.S. at 49–50.

In short, *Tanzin*'s analysis hinges entirely on the text, purpose, and historical context of RFRA. And in each of these respects, RFRA and RLUIPA are functionally indistinguishable. *Tanzin* forecloses interpreting RLUIPA "in a manner that prevents" it from remedying clear statutory violations like the one experienced by Mr. Landor. *Tanzin*, 592 U.S. at 51.

B. RLUIPA provides sufficient notice of damages against individual officers.

A number of circuit court decisions holding that RLUIPA does not permit individual-capacity damages rely, at least in part, on the notion that RLUIPA does not provide officers with adequate notice of liability. See, *e.g.*, *Wood* v. *Yordy*, 753 F.3d 899, 904 (9th Cir. 2014) ("[T]here is nothing in the language or structure of RLUIPA to suggest that Congress contemplated liability of government employees in an individual capacity."); *Mack* v. *Warden Loretto FCI*, 839 F.3d 286, 303 (3d Cir. 2016) ("Because state officials * * * would have no notice of the conditions imposed on them, they cannot be held individually liable under RLUIPA."); *Rendelman*, 569 F.3d at 189 ("[I]n simply defining 'government' * * * to include 'a person acting under color of State law,' Congress did not signal with sufficient clarity an intent to subject such a person to an individual capacity damages claim under RLUIPA."); *Haight* v. *Thompson*, 763 F.3d 554, 569 (6th Cir. 2014) ("Because the imperative of clarity applies * * * and because *Sossamon* establishes that the phrase 'appropriate relief' does not clearly entitle a claimant to money damages, the claimants' request for [individual-capacity] money damages must fail.").

Tanzin dispelled this reasoning and clarified that "appropriate relief" for government-imposed burdens on religious exercise includes individual-capacity damages. See *Tanzin*, 592 U.S. at 51–52. At least since *Tanzin*, prison officials have been on notice that they may be personally liable for damages under RLUIPA.

Indeed, prison officials should have been on notice before *Tanzin*. When inmates sue under RLUIPA,

they frequently seek individual-capacity damages under 42 U.S.C. 1983 for the same underlying conduct. See, *e.g.*, *Stewart*, 701 F.3d at 1328, 1333. Officers who know they may be liable for damages if they violate the First Amendment can hardly claim unfair surprise upon learning that they may incur the same penalty for the same conduct under RLUIPA. Surely, prison officials do not calibrate their conduct so as to violate RLUIPA while steering just clear of the First Amendment. It is thus unclear why subjecting officers to individual liability under RLUIPA, specifically, would deter applicants from seeking jobs as prison officials. Contra Br. in Opp. 23 (individual-capacity damages under RLUIPA would "overwhelmingly exacerbate a crushing workforce problem for States around the country" that are struggling to recruit and maintain prison staff).

Far from being "nonsensical," see Br. in Opp. 17, it is perfectly consistent with broader civil-rights law to hold that officers are liable for individual-capacity damages, even and especially in circumstances where the government has not waived its sovereign immunity to be sued for damages. See *Graham*, 473 U.S. at 165–166.

III. Individual-Capacity Suits for Damages Under RLUIPA Will Neither Result in Overdeterrence nor Upend Spending Clause Legislation.

Allowing individual-capacity suits for damages under RLUIPA will neither significantly change the legal landscape nor dramatically increase lawsuits and liability for prison officials.. To establish a *prima facie* violation of RLUIPA, the plaintiff must demonstrate that the challenged action imposed a

substantial burden on a sincere exercise of religion. *Ramirez* v. *Collier*, 595 U.S. 411, 424–425 (2022). The burden then shifts to the defendants to show that the policy or action was narrowly tailored to serve a "compelling" government or penological interest. *Id.* at 426–427.

RLUIPA thus cabins liability in at least three important respects. First, it requires plaintiffs to demonstrate a *sincere* religious belief. *Ramirez*, 595 U.S. at 425. Second, it requires plaintiffs to show that the burden on their religious exercise is "substantial." See 42 U.S.C. 2000cc-1(a). Third, RLUIPA permits regulations and actions that serve a "compelling" government interest, and courts take prison officials' expertise into account in making this determination. See *Cutter*, 544 U.S. at 716. As long as RLUIPA's statutory requirements are faithfully applied, they will adequately protect against overdeterrence of lawful conduct. To the extent that the doctrine of qualified immunity applies to claims under RLUIPA, this adds a further layer of assurance, underscoring that only clear violations (like the violations at issue in the case at bar) will give rise to individual liability for damages.

Because this case narrowly turns on the specific text and history of RLUIPA, a decision authorizing individual-capacity damages under RLUIPA will not alter or disturb existing liability under other, unrelated statutes enacted pursuant to Congress's Spending Power. Respondents' fears of widespread and serious "unintended consequences," see Br. in Opp. 22–24, are thus unfounded.

A. RLUIPA limits the availability of individual-capacity damages to cases involving clear violations of religious freedom.

1. Plaintiffs must demonstrate that their religious beliefs are sincere.

RLUIPA protects only the sincere exercise of religion. See *Burwell*, 573 U.S. at 718. "[B]y the time of RLUIPA's enactment, the propensity of some prisoners to assert claims of dubious sincerity was well documented." *Ibid.* Thus, while RLUIPA explicitly "bars inquiry into whether a particular belief or practice is 'central' to a prisoner's religion, * * * [it] does not preclude inquiry into the sincerity of a prisoner's professed religiosity." *Cutter*, 544 U.S. at 725 n.13 (quoting 42 U.S.C. 2000cc-5(7)(A)). In fact, prisoners must affirmatively demonstrate the sincerity of their belief as part of RLUIPA's burden shifting framework. *Ramirez*, 595 U.S. at 425; see also *id.* at 461 (Thomas, J., dissenting) ("The relevant issue is whether [plaintiff] himself *actually believes*" the practice in question is part of his faith).

In enacting both RFRA and RLUIPA, "Congress was confident of the ability of the federal courts to weed out insincere claims" in the prison context and otherwise. *Burwell*, 573 U.S. at 718. Its judgment was not misplaced. See, *e.g.*, *Davis* v. *Scott*, No. Civ.A. H-95-69, 1997 WL 34522671, at *12–13 (S.D. Tex. Mar. 31, 1997) (dismissing claim of RFRA inmate who had brought RFRA claims just months before premised on adherence to a different religion); see also *Ramirez*, 595 U.S. at 425–426 (considering the evidence that the plaintiff's requested accommodations stemmed from sincere religious beliefs); *Lawson* v. *Secretary, Dep't of Corr.*, 563 Fed. Appx. 678, 681 (11th Cir. 2014)

(same). Because courts can effectively and expeditiously dispose of insincere RLUIPA claims, prison officials have little to fear from sham suits for damages.

2. The burden on plaintiffs' religious exercise must be substantial.

While a religious practice need not be "central" to or "compelled by" a RLUIPA plaintiff's system of religious belief, a burden must be "substantial" in order to give rise to a cognizable claim. *Ramirez*, 595 U.S. at 425 (quoting *Holt*, 574 U.S. at 360–361); see also *Abdulhaseeb* v. *Calbone*, 600 F.3d 1301, 1316 (10th Cir. 2010) (not "every infringement on a religious exercise will constitute a substantial burden"). Concluding that an action "substantially burdens" religious exercise is not just a statutory prerequisite: It is a constitutional imperative. In the absence of a genuine and substantial burden on a religious practice, a religious accommodation risks favoring one particular faith over others and "devolv[ing] into an 'unlawful fostering of religion,'" which would raise serious questions under the Establishment Clause. *Cutter*, 544 U.S. at 714 (quoting *Corporation of Presiding Bishop of the Church of Jesus Christ of Latter-day Saints* v. *Amos*, 483 U.S. 327, 334–335 (1987)).

A policy or action "substantially burden[s]" religious exercise under RLUIPA if it forces a plaintiff to chose between violating their sincerely held religious beliefs and facing serious disciplinary action. *Holt*, 574 U.S. at 361. Classic examples include forcing prisoners to choose between violating their religious beliefs and starving, see, *e.g.*, *Sokolsky*, 2009 WL 2230871, at *3, and—as here—forcing inmates to refrain from growing beards or long hair in violation of

their sincere religious beliefs and without a sufficient justification, see, *e.g.*, *Holt*, 574 U.S. at 355–366; *Ware*, 866 F.3d at 266, 271.

In contrast, lower courts have often concluded that regulations or actions that impose "only a moderate impediment to—and not a constructive prohibition of—[plaintiffs'] religious exercise" do not substantially burden such exercise. See, *e.g.*, *Abdulhaseeb*, 600 F.3d at 1325 (Gorsuch, J., concurring). Courts have thus rejected plaintiffs' claims that their rights were substantially burdened when, for example, a Muslim prisoner was forced, on a single occasion, to accept a tray of food that contained non-halal products, *id.* at 1321 (majority opinion), and when an inmate was sometimes scheduled—but never in fact compelled—to work on his Sabbath, *Annabel* v. *Campbell*, No. 24-1322, 2025 WL 1139564, at *2 (6th Cir. Apr. 2, 2025).

The substantial-burden prerequisite prevents plaintiffs from bringing RLUIPA claims over trivial or nonexistent burdens on religious exercise. As long as RLUIPA claims without a sufficient nexus between the challenged action and sincere religious belief are disposed of expeditiously, as they generally can be, any deterrent effects caused by protracted individual-capacity litigation will be minimal. Whether a burden is substantial is normally a question of law, see *Spirit of Aloha Temple* v. *County of Maui*, 132 F.4th 1148, 1151, 1155–1156 (9th Cir. 2025), and the determination that a substantial burden has not been adequately pleaded is thus an appropriate basis for dismissal at the outset of litigation. Moreover, determining whether a RLUIPA claimant has adequately pleaded that an officer is requiring them to do (or refrain from doing) something that their religion prohibits (or requires) is straightforward. By reiterating

these standards for the lower courts and for the state and local officials who must make accommodation determinations in the first instance, this Court can largely assuage concerns that the availability of individual-capacity damages will deter prison officials from effectively doing their jobs (or from seeking employment in the first place).

3. RLUIPA permits restrictions that are necessary to maintain a compelling government interest.

In enacting RLUIPA, Congress was "mindful of the urgency of discipline, order, safety, and security in penal institutions." *Cutter*, 544 U.S. at 723. Thus, even when a challenged action substantially burdens a prisoner's rights, that person may not be entitled to any equitable or monetary relief under RLUIPA.[5]

Once the plaintiff presents *prima facie* evidence of a violation, the burden shifts to the government to demonstrate that the challenged action constitutes the least restrictive means of achieving a compelling government interest. 42 U.S.C. 2000cc-1(a); *Ramirez*, 595 U.S. at 425. Although RLUIPA's standard is "rigorous," it requires courts to carefully consider the justifications offered by prison officials and to afford appropriate respect to the officials' expertise. See *Holt*, 547 U.S. at 364; see also *Ramirez*, 595 U.S. at 444

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[5] In fact, a recent survey of prison cases litigated under RLUIPA showed that the defendant officers and institutions prevailed in more than two-thirds of cases. U.S. Comm'n on C.R., Enforcing Religious Freedoms in Prison: 2017-2023, at 144 (2025), https://perma.cc/39TA-LBCR.

(Kavanaugh, J., concurring) ("[E]xperience matters in assessing whether less restrictive alternatives could still satisfy the State's compelling interest.").

In applying RLUIPA's compelling-interest test, courts carefully "scrutinize the asserted harm" in the context of the individual claimant. *Holt*, 574 U.S. at 363 (citation modified). While defendants bear the burden of showing that they could not achieve their goals through any less restrictive alternative, they need not actually show that they in fact attempted less restrictive measures, as long as they provide sufficient justification for the challenged practice. See *Whitford* v. *Salmonsen*, No. 24-3177, 2025 WL 2017469, at *3 (9th Cir. July 18, 2025); see also *Ramirez*, 595 U.S. at 444 n.2 (Kavanaugh, J., concurring) ("[A] government need not wait for the flood before building the levee."). In evaluating whether a particular action or policy is overbroad, courts may also look to history and the practices of other institutions for guidance. *Ramirez*, 595 U.S. at 445 (Kavanaugh, J., concurring).

To be sure, RLUIPA's compelling interest test does not require "unquestioning deference" or "unquestioning acceptance" of officers' justifications. *Holt*, 574 U.S. at 864. Nor is this test applied *pro forma*, however. Courts have frequently upheld prison policies or practices that substantially burden certain types of religious exercise if they are narrowly tailored to serve a compelling government interest. For example, the Ninth Circuit recently upheld a policy that required inmates to demonstrate six months of infraction-free conduct before they could participate in certain out-of-cell activities, even though the policy substantially burdened the plaintiff's religious exercise. *Whitford*, 2025 WL 2017469, at *2. The court

concluded that the State had a compelling interest in preventing prisoners from "pass[ing] contraband and unauthorized communications," and it credited the defendants' evidence that the individual plaintiff posed a significant risk in this regard. *Ibid.* Based on the defendants' explanation of their reasons for enacting the challenged policy—including evidence that the policy was adopted after "inmates were assaulted, contraband was trafficked, sexual assaults occurred, and gang members planned and conducted fights and assaults" during out-of-cell activities—the court concluded that the prison could not have achieved its objective in a less restrictive way. *Id.* at *2–3.

On the other hand, courts routinely reject policies and practices that are arbitrary, retaliatory, and/or overbroad. As discussed throughout this brief, policies that prevent inmates from growing long hair, maintaining a beard, or otherwise complying with sincere religious beliefs related to personal grooming have often been deemed unduly restrictive, even where prison officials articulated compelling security interests. See, *e.g.*, *Holt*, 574 U.S. at 365–369; *Ware*, 866 F.3d at 273–274; *Glenn* v. *Ohio Dep't of Rehab. & Corr.*, No. 4:18 CV 438, 2018 WL 2197884, at *3–5 (N.D. Ohio May 18, 2018). As long as the lower courts faithfully and meticulously apply RLUIPA's compelling-interest test, officers have little reason to fear individual liability when they act pursuant to compelling government interests.

4. Qualified immunity may offer additional protection against spurious suits.

This Court has not decided whether qualified immunity applies to officers who violate RLUIPA. To the extent that this doctrine applies, however, it would

provide an additional layer of protection against the possibility of damages, even in cases where the plaintiff has alleged a meritorious RLUIPA claim.

Under the doctrine of qualified immunity, officers are not personally liable for damages unless they violate "clearly established statutory or constitutional rights of which a reasonable person would have known." *Harlan* v. *Fitzgerald*, 457 U.S. 800, 818 (1982). Typically, a right is "clearly established" if this Court, the relevant U.S. Court of Appeals, and/or the highest court of the state where the dispute arose has clearly opined on the relevant legal issue. See, *e.g.*, *Edwards* v. *City of Goldsboro*, 178 F.3d 231, 251 (4th Cir. 1999). The practical result, as this Court has observed, is that qualified immunity "provides ample protection to all but the plainly incompetent or those who knowingly violate the law." *Malley* v. *Briggs*, 475 U.S. 335, 341 (1986). In many cases, qualified immunity operates as a significant barrier to justice. See generally James E. Pfander, *Resolving the Qualified Immunity Dilemma: Constitutional Tort Claims for Nominal Damages*, 111 Colum. L. Rev. 1601, 1601 (2011) ("A finding of unsettled law may yield a qualified immunity decision that can deprive individuals of their only effective mode of redress and their only opportunity to test the constitutionality of government action.").

For better or worse, the availability of qualified immunity is one reason that individual-capacity suits do not implicate the same sovereign immunity concerns that arise when officers are sued in their official capacities. While officers may be able to "assert personal-immunity defenses like qualified immunity for suits against [them] in [their] individual capacity, the only immunity defenses [they] can assert in suits

against [them] in an official capacity suit are forms of sovereign immunity." *Davila*, 777 F.3d at 1209. If the doctrine of qualified immunity is held applicable, this would further ensure that government officials will only be held liable for money damages under RLUIPA when they commit a clear violation that any reasonable officer should have been aware of—like the violations at issue in the case at bar.

There can be no dispute that the law was clearly established on the day Mr. Landor's rights were violated. Not only had the Fifth Circuit addressed the legality of forcing Rastafarians to cut their hair, see *Ware*, 866 F.3d at 266, but Mr. Landor in fact presented the Fifth Circuit's opinion to prison officials, obviating any argument that the officials lacked notice that their conduct violated RLUIPA. "[I]t is not unfair to hold liable the official who knows or should know he is acting outside the law." *Butz v. Economou*, 438 U.S. 478, 506 (1978). A person who—upon learning that they could be held personally liable for flagrantly violating inmates' rights—is deterred from seeking employment as a prison official is no great loss to state institutions, staffing shortage or no staffing shortage. Contra Pet. Br. Opp. Cert. Pet. 23.

By the time a RLUIPA claim makes it through each of the safeguards and barriers discussed in the sections above, the outcome should be beyond question. At that point, RLUIPA's compelling-interest test should not merely be strict in theory, but fatal in fact.

B. Allowing individual-capacity damages under RLUIPA will not affect the availability of damages under other statutes enacted under Congress's Spending Power.

Contrary to respondents' claims, *see* Br. Opp. Pet. Cert. 3, permitting individual-capacity damages under RLUIPA will not impact individual liability under unrelated Spending Clause legislation. The question before the Court is a narrow one, and is specifically tied to the text and history of RLUIPA.

"Spending Clause legislation must (1) be in pursuit of the general welfare, (2) impose unambiguous conditions on the grant of federal money, which (3) are related to the federal interest in particular national projects or programs, and (4) do not violate other provisions of the constitution." Pet. App. 31a (citing *South Dakota* v. *Dole*, 483 U.S. 203, 207–08 (1987)); see also *Pennhurst State Sch. & Hosp.* v. *Halderman*, 451 U.S. 1, 17 (1981) ("[I]f Congress intends to impose a condition on the grant of federal moneys, it must do so unambiguously."). Before this Court's decision in *Tanzin*, there was room to debate whether RLUIPA "unambiguously" announced Congress's intent to create a private cause of action for money damages against officers acting in their individual capacity. See *Pennhurst*, 451 U.S. at 17. Following *Sossamon*, it was at least arguably unclear whether the phrase "appropriate relief," as used in RLUIPA, authorized individual-capacity suits for damages. See *Sossamon*, 563 U.S. at 285.

But *Tanzin* left no room for further doubt. If RFRA "clear[ly]" authorizes individual-capacity suits for damages, so too does the "identical" language of

RLUIPA. See *Tanzin*, 592 U.S. at 47, 49. Extending *Tanzin*'s holding to RLUIPA has no bearing on whether a host of unrelated statutes, with wholly different language, structure, and history, permit the same result.

CONCLUSION

Congress intended that RLUIPA's authorization of "appropriate relief" include money damages against individual-capacity defendants. This Court should reverse the Fifth Circuit and rule in favor of Petitioner.

Respectfully submitted.

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