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 HINDU AMERICAN FOUNDATION IN SUPPORT OF PETITIONER

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INTEREST OF AMICUS CURIAE[1]

The **Hindu American Foundation** ("the Foundation") is a nonprofit organization that advances the understanding of Hinduism and Hindu Dharma traditions to secure the rights and dignity of Hindu Americans for present and future generations. The Foundation provides accurate and engaging educational resources, impactful advocacy to protect and promote religious liberty, and programming that empowers Hindu Americans to sustain their culture and identity. The Foundation is committed to religious liberty for Hindus and members of all faiths throughout the United States.

As relevant here, the Foundation's work occasionally involves consulting with prison officials to help them understand Hindu practices and otherwise working to secure appropriate accommodations for Hindus who are in prison. When officials lack an appreciation for the complexities of certain Hindu practices, they are more likely to violate prisoners' statutory and constitutional rights to exercise their religion, including the rights afforded by the Religious Land Use and Institutionalized Persons Act (RLUIPA). The availability of damages under RLUIPA will incentivize prison officials to respect more carefully the rights of Hindus and adherents to other minority religious practices.

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[1] Pursuant to Rule 37.6, no counsel for any party in this case wrote any part of this amici brief, and no person except amici contributed to the costs of its preparation.

SUMMARY OF ARGUMENT

Congress passed the Religious Land Use and Institutionalized Persons Act (RLUIPA), 42 U.S.C. § 2000cc, *et seq.*, by unanimous consent after considering an array of evidence showing that religious communities—especially those of minority faiths and traditions—often face improper burdens in the land-use and institutionalized-persons contexts. *Cutter v. Wilkinson*, 544 U.S. 709, 716 (2005) (describing Congressional "hearings spanning three years" showing how state and local governments erect "frivolous or arbitrary" barriers to the free exercise of religion). Specifically, Congress aimed to "protect[] institutionalized persons who are unable freely to attend to their religious needs and are therefore dependent on the government's permission and accommodation for exercise of their religion." *Id.* at 721.

All too often, though, religious prisoners do not receive RLUIPA's full protections. As Amicus' own experiences demonstrate, prison officials often lack familiarity with the practices and customs of minority faiths. Amicus must draw on its expertise to counsel prison officials on the rich and varied practices that constitute Hinduism to ensure that Hindus receive appropriate accommodations while incarcerated. *See infra* § I.B.1-2.

Not every prison, however, is so conscientious as to engage with Amicus on these issues. As the sheer number of RLUIPA cases filed in federal courts demonstrates, prisoners regularly face barriers to exercising their religious beliefs.

RLUIPA exists to ensure that religious exercise remains protected in prisons, and it provides a remedy for violations of that freedom. This approach provides corollary benefits, as well. For instance, research shows that prisoners who participate in religious practices are less likely to become recidivists. And rich religious practice in prisons supports the rehabilitative aims of our penal system. *See infra* § I.C. Cultivating sincere religious practice in prisons is good for prisoners, good for prisons, and good for society.

When a prisoner's right to exercise his religion is violated, RLUIPA permits him to seek "appropriate relief." 42 U.S.C. § 2000cc-2(a). To be sure, this relief includes equitable remedies, which are necessary to stop prison officials' unlawful or harassing behavior. But as shown in cases like this—where prison officials forcibly pinned down a Rastafarian prisoner and shaved 20 years' worth of hair from his head—equitable remedies are often not enough. *See* Pet. Br. 8-9. Many meritorious RLUIPA claims are ultimately dismissed as moot when a prisoner is transferred to another facility or completes his sentence. *See infra* § I.D. Thus, equitable relief alone is sometimes insufficient when prison officials restrict religious exercise.

That's why Congress unambiguously provided for compensatory relief in the form of monetary damages in RLUIPA. RLUIPA and its "sister statute," the Religious Freedom Restoration Act (RFRA), operate in parallel. *Holt v. Hobbs*, 574 U.S. 352, 356 (2015). Both statutes permit the plaintiff to seek "appropriate relief." 42 U.S.C. § 2000bb-1(c); *id.* § 2000cc-2(a). As

this Court held, RFRA's use of the phrase "appropriate relief" includes monetary damages. *See Tanzin v. Tanvir*, 592 U.S. 43, 51 (2020). *Tanzin*'s logic applies with equal force here. The text, structure, and purpose of RLUIPA all support awarding monetary damages when prison officials violate prisoners' rights to exercise their religion.

Barring incarcerated individuals from being awarded monetary damages for the violation of their religious rights fails to respect RLUIPA's purpose and full breadth. First, the statute directs courts to interpret it to provide the maximum benefit for religious freedom, yet disallowing monetary damages leaves many prisoners without any meaningful remedy (and often, no remedy at all). Second, the statute's text indicates unequivocally that "appropriate relief" must mean more than declaratory and injunctive relief. Section 2000cc-2(f) provides that in an enforcement action under RLUIPA, the Attorney General may only obtain "injunctive or declaratory relief," whereas private plaintiffs may obtain "appropriate relief" under § 2000cc-2(c). Congress's use of different terms indicates its clear intent to include monetary damages in RLUIPA's private cause of action. This latter point—coupled with *Tanzin*'s analysis of the same remedy provision in RFRA—provides all the clarity this Court should need to find that monetary damages for RLUIPA violations are permissible under the Spending Clause.

ARGUMENT

I. Prisoners—particularly members of minority religious faiths and traditions—routinely face hurdles to exercising their religious beliefs while incarcerated.

Although RLUIPA protects all religious and faith traditions, it is of particular importance to minority religious groups, including the Hindu American community whose interests Amicus represents. Spiritual formation is not only a protected right for all people, but is also a powerful aid for individual prisoners and prisons' rehabilitative aims more broadly. Yet, far too often, prison officials impede religious exercise. Whether through "indifference, ignorance, or bigotry," the barriers officials erect against religious practice are frequently unlawful. *Cutter*, 544 U.S. at 716 (quoting 146 Cong. Rec. 16698, 16699 (2000) (joint statement of Sen. Hatch and Sen. Kennedy on RLUIPA)).

Most importantly, the unlawful acts that impede prisoners' religious exercise frequently go unremedied. The length of the litigation process often means that prisoners have moved to a new facility or completed their sentences by the time a remedy can be obtained. This effectively moots many prisoners' cases, offering them no remedy at all. Declaratory relief is simply insufficient to right egregious harms suffered by prisoners. Only compensatory damages can ensure the full vindication of prisoners' rights under RLUIPA, particularly when they are no longer in the offending facility or under the charge of a particular official. Moreover, the threat of monetary

damages would provide a concrete incentive for prisons and their officials to respect RLUIPA's command to accommodate inmates' religious practices, subject to exception only in the most stringent of circumstances.

A. RLUIPA protects prisoners who wish to practice their faith.

Under RLUIPA, "[n]o government shall impose a substantial burden on the religious exercise of a person residing in or confined to an institution." 42 U.S.C. § 2000cc-1(a). If the government does impose such a burden, it must "demonstrate[] that imposition … is in furtherance of a compelling governmental interest" and "is the least restrictive means of furthering that compelling governmental interest." *Id.* § 2000cc-1(a)(1)-(2).

Congress enacted RLUIPA, in part, to prevent "'frivolous or arbitrary' barriers [to] institutionalized persons' religious exercise." *Cutter*, 544 U.S. at 716 (quoting 146 Cong. Rec. at 16699). RLUIPA "provide[s] greater protection for religious exercise than is available under the First Amendment" to groups and situations in which religious individuals are especially vulnerable. *Holt*, 574 U.S. at 357.

This promise is of particular importance to incarcerated members of religious minority groups and traditions. Among "Congress' principal concerns" when enacting RLUIPA "was that, as a practical matter, unpopular and minority faiths would receive a less sympathetic hearing" when challenging burdens on their religious exercise. *Protecting*

Religious Freedom After Boerne v. Flores: Hearing Before the Subcomm. on the Const. of the H. Comm. on the Judiciary, 105th Cong. 10 (Jul. 14, 1997) (statement of Rep. Jerrold Nadler).

As the Department of Justice has reported, "RLUIPA claims in institutional settings are most often raised by people who practice minority faiths." U.S. Dep't of Justice, *Report on the Twentieth Anniversary of the Religious Land Use and Institutionalized Persons Act* 25-26 (Sept. 22, 2020), https://perma.cc/57DD-QSBT. And data show that "[o]ver half of all prisoner decisions" under RLUIPA and RFRA "involve[] non-Christian religious minorities." *See* Luke W. Goodrich & Rachel N. Busick, *Sex, Drugs, and Eagle Feathers: An Empirical Study of Federal Religious Freedom Cases*, 48 Seton Hall L. Rev. 353, 376 (2018). The data therefore bear out Congress's concerns in enacting these statutes: although the majority (62%) of U.S. adults are Christian, the majority of RLUIPA and RFRA claims are raised by non-Christians. *See Christians*, Pew Research Center, 2023-2024 U.S. Religious Landscape Study Interactive Database, https://perma.cc/P4K5-9X3Z.

B. RLUIPA protects individuals of all faiths and traditions, including the Hindu community supported by Amicus.

Amicus represents the interests of Hindu Americans, who comprise around 1% of the population in the United States. *See Hindus*, Pew Research Center, 2023-24 U.S. Religious Landscape Study Interactive Database, https://perma.cc/TRN9-

56PY. Hinduism "is the world's oldest living religion." Suhag A. Shukla & Samir Kalra, *Hindu American Foundation Formal Comments on Proposed Inmate Religious Property Regulations*, Submitted to Cal. Dep't of Corr. & Rehab. (May 7, 2013), https://perma.cc/69M8-77UH. Although it "has no single founder or commonly held set of practices or beliefs," "most Hindus" generally believe in a "Supreme [Being] represented by a multitude of deities," engage in ceremonial veneration (known as *puja*), "believe in karmic reincarnation," and "draw on [] common [principles] of virtuous behavior known as *dharma*." *Introduction to Hinduism*, 1 Religious Organizations and the Law, § 1:22 (2d ed. 2023).

Hindu practices vary across geographic regions and communities and have been influenced by a rich history of spiritual teachings and writings. *See* Shukla & Kalra, *supra*, at 2-3. Accordingly, the term "Hinduism" covers a vast array of unique religious practices. The breadth and complexity of Hinduism, coupled with the sizable number of Hindus in the United States, can make it difficult to ensure this minority religious community receives full and fair accommodations in a timely manner.

In the following sections, Amicus explains two aspects of Hinduism—(1) ceremonies associated with festivals and other celebrations and (2) truthfulness as integral to righteousness—and provides current examples of how prisons' varied approaches to providing accommodations can either permit or impede each of these practices. It then demonstrates more broadly how the failure of prison officials to

accommodate these and other religious practices can be detrimental to incarcerated Hindus.

1. The varied and complex practices associated with Hindu festivals and ceremonies often require precise timing.

Observing festivals and ceremonies is an important part of Hindu practice. Hindus celebrate many more festivals and observances than prevalent Western religions do. The holidays commemorate particular deities, seasons or natural cycles, historical events, and events in the lives of significant spiritual teachers. *See 2025 Dharmic Days & Hindu Holidays Calendar*, Hindu Am. Found., myhaf.org/25holidays-4402. For many of these festivals, "practicing Hindus may request specific accommodations or time off to complete sacred rites of passage, or may be observing a specific diet or fast." *Id.*

Consider the Hindu festival of Diwali, also known as the "Festival of Lights." Diwali is one of the most celebrated and significant holidays for many Hindus. The festival can span five days and involves unique *pujas* performed at different times and on different days. Notably, the degree of importance given to any celebration or *puja* varies widely by the specific Hindu tradition followed. *See All About Diwali*, Hindu Am. Found., https://perma.cc/JZ7F-H349. The timing of each *puja* is specific to that custom, and is critical to performing it properly.

Although the timing of each *puja* is critical, it is not always common knowledge. In fact, most Hindus

must consult a calendar developed each year to identify the auspicious time, or *muhurta*—which can vary based on the individual's location—to perform the *puja*. *See 2025 Diwali Puja Calendar*, Drik Panchang, https://perma.cc/L54B-9JEF.

To provide one example: the third day of Diwali, the day of *Lakshmi puja*, celebrates Goddess Lakshmi and is considered by some to be the most important day of the festival. In 2025, *Lakshmi puja* will occur on October 20, and the appropriate window of time (often spanning only one or two hours) for most Hindus to conduct this *puja* will vary based on their individual location. *2025 Lakshmi Puja*, Drik Panchang, https://perma.cc/M753-E8CP.

For incarcerated Hindus, being able to pray at the proper times in accordance with their sincere religious beliefs is imperative not only during Diwali, but also during other festivals and holy days relevant to that person's religious practice. These observances also often require more than prayers recited at certain times. For example, Navaratri "is a significant Hindu festival" dedicated to Goddess Durga, "which is observed for 9 nights and 10 days," though some regions and traditions might celebrate different goddesses. *Navratri | Navaratri*, Drik Panchang, https://perma.cc/LQ67-78ET. Many observe this festival with a nine-day fast from certain foods, or all foods, as part of their religious practice. *See id.*

Likewise, an important festival in Jainism—another Dharmic tradition with roots in India, making up less than 1% of the U.S. population—is *Paryushana*. While there are some variations in the

ways that Jains practice *Paryushana*, many will observe a complete food fast—and sometimes even limited water intake—for eight days. Others might observe a vegetarian fast that excludes leafy greens and root vegetables. *See Paryushana*, Hindu Am. Found., https://perma.cc/LP74-WR28.

Prison officials are frequently unfamiliar with Hindu practices. While a fasting period like Navaratri might seem somewhat similar to Islam's month-long fast during Ramadan, the Hindu festival is much shorter and has a highly variable schedule for breaking the fast. As a result, it can be more difficult to implement an appropriate religious accommodation in a timely and accurate way for the Hindu observance. Similarly, Jains are an even smaller portion of the U.S. population, so prison officials are even less likely to be familiar with or willing to accommodate practices like those observed during *Paryushana*.

For this reason, Amicus must educate prison officials about Hindu practices, often in conjunction with religious accommodation requests made by prisoners. In one recent exchange, a prison official consulted Amicus seeking to validate the religious basis for an accommodation requested by a Hindu inmate. As part of this inmate's religious tradition, he practiced *Sandhya Vandanam*, which required him to pray three times each day during specific timeframes that vary based on sunrise, solar noon, and sunset. These times of prayer, however, conflicted with the inmate's mandatory drug-counseling class. Amicus was able to verify and explain the nature of this Hindu observance, and consequently, the prison

official ensured she would accommodate these observances. Without Amicus' involvement, it is unlikely that a prison official would have understood and accommodated this inmate's religious practice.

2. The Hindu principle of righteousness demands truthfulness in all aspects of life.

As noted above, a core principle in Hinduism is *dharma* (righteousness), which is "a mode of conduct and being that helps spiritual advancement" and is "both the guide and foundation for all aspects of life." Hindu Am. Found., *What is Dharma?* 1 (2014), https://perma.cc/TU2L-7LYB.

One of *dharma*'s guiding principles is truthfulness (*satya*). *See id.* at 2. Hinduism teaches that *satya* is essential for a righteous life. For example, as set forth in the *Taittiriya Upanisad*, a central source of knowledge in Hinduism: "Speak the true. Follow *Dharma*." *Krsna Yajurveda*, *Taittiriya Upanisad* § 1.11, in *The Taittiriya Upanisad With the Commentaries of Sankaracharya, Suresvaracharya, and Sayana (Vidyaranya)* 155 (A. Mahadeva Sastri trans., 1903). As further explained by a prominent Hindu philosopher and founder of the *Smarta Dharma* tradition, this teaching requires "giving utterance to a thing as it is perceived, without hypocrisy or a motive to do injury." *See id.* This commentary explains that truthfulness in Hinduism requires expression without deception.

The *Brhadaranyaka Upanisad*, another important text for Hindus, reinforces this teaching by declaring

that "righteousness is verily truth," explaining that "both these are but righteousness." *Sukla Yajurveda, Brhadaranyaka Upanisad* § 1.4.14, in *The Brhadarankyaka Upanisad With the Commentary of Sankaracarya* 178 (S. Madhavananda trans., 3d ed. 1950). Truthfulness is thus encapsulated within righteousness. Modern Hindu teachers continue to emphasize this point: Swami Prabhavananda taught that "true spirituality consists in 'making the heart and the lips the same,'" requiring perfect alignment between inner conviction and outward expression. *The Yoga Aphorisms of Patanjali* 89 (Swami Prabhavananda trans., 1953) (quoting teacher Sri Ramakrishna).

The obligation of truthfulness is broad. The *Yoga-Sutras* [or *Aphorisms*] *of Patanjali*—a foundational source for this Hindu practice—lists abstention from falsehood among five universal restraints that become "basic rules of conduct" that "must be practiced without any reservations as to time, place," or purpose. *See id.* § 2.30-31, pp. 89-90. The obligation of truthfulness thus cannot be overridden by temporal circumstances. *See id.* Although Hindu teaching recognizes some exceptions, they are quite narrow. For example, the *Manava Dharmasastra* permits falsehood only "[w]henever the death of [a person] would be caused by a declaration of the truth." *Manava Dharmasastra* § 8.104, in *The Laws of Manu*, XXV *The Sacred Books of the East* 272 (Georg Bühler trans., 1969).

Like the observation of *pujas* or prayers at appropriate times, the requirement that Hindus be truthful has clashed with prison policies. Amicus has

monitored the case of Sanjay Tripathy, a Hindu man who proclaimed his innocence despite being convicted of a sexual offense. *See Tripathy v. McCoy*, 103 F.4th 106, 111-12 (2d Cir. 2024), *petition for cert. filed* (No. 24-229) (Aug. 27, 2024) (raising the same question presented as the one in this case). Tripathy alleges that as part of his sentence, he was ordered to participate in a rehabilitation program that required him to accept responsibility for the offense of which he was convicted. *See id.* He claimed that to do so would have required him to "make a false statement" in violation of his Hindu beliefs. *Id.* at 112. Although Tripathy has a viable RLUIPA claim, he cannot seek injunctive relief because he has been released from prison. But, as here, the Second Circuit rejected his RLUIPA claim on the ground that he could not seek damages against prison officials. *See id.*

When prison officials fail to accommodate practices like a Hindu's obligation of truthfulness, Tripathy and other Hindus in his position can be compelled to violate a core tenet of Hindu *dharma* and their religious beliefs. While prison officials might readily understand why a Muslim prisoner needs access to halal food or why a Jewish prisoner requires Sabbath observance, those administering correctional programs are frequently unfamiliar with Hindu religious obligations that are set forth in Sanskrit texts and ancient commentaries and practiced by only 1% of the U.S. population. Meaningful accommodation requires recognizing that for devout Hindu prisoners, being forced to falsely admit guilt violates a fundamental religious practice that their tradition teaches as essential to spiritual development.

3. Prison officials who fail to respect and accommodate different religious traditions routinely violate RULIPA.

Hindus, like many other religious prisoners, often request accommodations that are never provided—effectively barring these prisoners from exercising their religion. As a result, they must resort to RLUIPA to remedy past wrongs and ensure they can practice their religious traditions without hindrance in the future. For example, Shree Agrawal was a Hindu prisoner in Illinois who asserted that prison officials would not provide "a diet free of meat and eggs, even though a vegetarian diet conforming to [his] religious restrictions was available" to other inmates of different faiths. *See Agrawal v. Briley*, No. 02-C-6807, 2006 WL 3523750, at *1 (N.D. Ill. Dec. 6, 2006); *see also Blake v. Thomas*, No. 23-15151, 2024 WL 5205741, at *1 (9th Cir. Dec. 24, 2024) (addressing claim by Hindu prisoner whose faith required that he observe *ahisma* (non-harm) through "a 'vegan way of life,'" that was not accommodated by Nevada officials).

Beyond religious dietary restrictions, prison officials have also failed to accommodate Hindu prisoners' specific prayer practices. For example, in *Bargo v. Kelley*, a prisoner asserted that he was "a practitioner and adherent of Kriya/Raja Yoga of the Hindu religion," and that prison officials denied his use of a barracks room to practice yoga and an appropriate prayer rug, despite allegedly allowing Islamic inmates to use the room for prayer and allowing prayer rugs. No. 5:14CV00078, 2015 WL 5118132, at *1-2 (E.D. Ark. Aug. 5, 2015), *report and*

recommendation adopted, 2015 WL 5096479 (E.D. Ark. Aug. 28, 2015) (denying, in part, officials' motion for summary judgment on RLUIPA claim).

As these examples illustrate, RLUIPA's promise to protect all prisoners' religious exercise often falls short, with many Hindu prisoners' requests for religious accommodation being ignored or, worse, met with hostility. The problem arises from the lack of familiarity with Hindu religious beliefs and the corresponding skepticism shown toward them. This is true beyond Hinduism as well. To provide but a couple of examples from across the federal judiciary:

- In *Chernetsky v. Nevada*, a Wiccan prisoner requested natural scented oils for prayer. No. 21-16540, 2024 WL 1253783, at *2 (9th Cir. Mar. 25, 2024). Without evidence, the prison deemed the oils a security risk and informed Chernetsky that synthetic oils would suffice, despite acknowledging his disagreement that the synthetic oils were a suitable alternative. *Id.*

- In *Haight v. Thompson*, a group of Native American inmates sought to build a sweat lodge to practice their traditions, but were refused. 763 F.3d 554, 560 (6th Cir. 2014). The Sixth Circuit held, however, that the prison had offered insufficient evidence that the sweat lodge would pose a risk to prisoners' safety. *See id.* at 561-63.

The list could go on. These examples demonstrate that prisons often refuse to accommodate practices of

minority religious faiths under the guise of public safety rather than seeking to understand and accommodate the beliefs of religious minorities.

In some egregious instances, prisons do not simply fail to accommodate religious practice—they show outright hostility toward or harass those seeking to practice their faith. Petitioner's allegations here demonstrate the point: as a Rastafarian, Petitioner had long kept a Nazarite Vow never to cut his hair. Pet. App. 2a. For most of his sentence, two prisons respected this practice. *See id.* But "with only three weeks left in his sentence," officials moved him to a new facility that refused to honor this accommodation, even though Landor "provided proof of past religious accommodations" and "handed the guard a copy of" a Fifth Circuit decision holding that cutting a Rastafarian's hair violated RLUIPA. *Id.* "Unmoved," prison officials threw the decision in the trash, restrained Landor, and shaved twenty years' growth of hair from his head. *Id.*

In a similarly disturbing case from California, Souhair Khatib, a Muslim woman, covered her hair with a hijab according to her religion. *Khatib v. Cnty. of Orange*, 639 F.3d 898, 901 (9th Cir. 2011) (en banc). When she arrived at a holding facility for a probation violation, male officers told her that she must remove her headscarf in front of the men in the facility. If she did not remove it herself, the officers said they would forcibly do so. *See id.* In her lawsuit, she explained that this was "a serious breach of [her] faith" that was both "deeply humiliating and defiling." *Id.*

Prisoners necessarily have their freedom limited in dramatic fashion, yet they remain subject to the greatest extent of the government's coercive power. Their "right to practice their faith is at the mercy of those running the institution." 146 Cong. Rec. S7775 (daily ed. July 27, 2000) (statement of Sen. Hatch). "RLUIPA thus protects institutionalized persons who are unable freely to attend to their religious needs and are therefore dependent on the government's permission and accommodation for exercise of their religion." *Cutter*, 544 U.S. at 721. RLUIPA must protect the religious exercise of all prisoners—even those whose practices may lie outside traditions with which mainstream American society is most familiar.

C. Religious practice benefits prisoners and aids in rehabilitative efforts.

The exercise of religion or spiritual traditions is more than simply a balm for the individual prisoner's conscience. Exercising religion is often "the one thing that will turn the lives of … prisoners around." *Protecting Religious Liberty After* Boerne, *supra*, 105th Cong. 5 (Statement of Charles W. Colson). Indeed, "[a]ccording to over 40 years of empirical research summarizing the relationship between religion and crime, findings indicate that religion decreases propensities for criminal behavior." Anthony J. Papageorgiou, *For-Profit Incarceration: An Evaluation of the Religious Land Use and Institutionalized Persons Act in the Era of Private Prison Business Models*, 18 Rutgers Bus. L. Rev. 66, 66 (No. 2, Spring 2023).

Creating space for prisoners to exercise religion thus aligns with the rehabilitative needs that are one component of modern sentencing practice. *Cf. Tapia v. United States*, 564 U.S. 319, 325 (2011). Indeed, as the Sixth Circuit explained when upholding RLUIPA against a Spending Clause challenge on remand from this Court's decision in *Cutter*, RLUIPA is "reasonably calculated to address the federal government's interest in the rehabilitation of state prisoners." *Cutter v. Wilkinson*, 423 F.3d 579, 586 (6th Cir. 2005). "[O]ne of the statute's main purposes," in fact, "is to allow inmates greater freedom of religion in order to promote their rehabilitation." *Id.* at 587 (citing 146 Cong. Rec. S6678, S6689 (daily ed. July 13, 2000) (statement of Sen. Kennedy)). As Senator Kennedy stated: "Sincere faith and worship can be an indispensable part of rehabilitation, and these protections should be an important part of that process." 146 Cong. Rec. at S6689.

Religious-based rehabilitation programs in prisons have long shown a positive effect in reducing recidivism. Grant Duwe & Byron R. Johnson, *Estimating the Benefits of a Faith-Based Correctional Program*, 2 Int'l J. of Crim. & Socio. 227, 227-28 (2013). Studies show that religious people are less likely to commit additional crimes after being released from prison. *See id.* at 230; *see also* Papageorgiou, *supra* at 79 ("Data suggests that religious exposure (both during and after incarceration) is an evidence-based method in combatting future crime."). Studies also show those in religious-based programs are at a significant advantage to be employed upon release and are less likely to re-offend. *See* Duwe & Johnson, *supra*, at

235; *see also* Byron R. Johnson & Sung Joon Jang, *Offender-led religious movements: Why we should have faith in prisoner-led reform*, Open Access Gov't (Jan. 29, 2024), https://perma.cc/2Z47-HD8Z.

RLUIPA necessarily protects individual prisoners' rights to exercise their religions. And it also has a salutary effect on prisoners and society writ large. Violations of prisoners' free exercise hurt the individual prisoner and undermine a prison's penological goals. Both individuals and society suffer as a result of that infringement on religious liberty.

D. Declaratory and injunctive relief alone fail to fulfill RLUIPA's promises.

When a prison or its officers violate RLUIPA, the statute allows the prisoner to seek relief in court. *See* 42 U.S.C. § 2000cc-2(a). In many cases, the prisoner will seek equitable relief, such as an injunction requiring prison officials to accommodate the religious practice. But an equitable remedy is often insufficient to stop ongoing, targeted, or deeply harassing behavior. *See Tanzin v. Tanvir*, 592 U.S. at 51. Indeed, as *Tanzin* recognized in the context of RFRA, "damages … [are] not just 'appropriate' relief … [but are sometimes] the *only* form of relief that can remedy some RFRA violations." *Id.*

This conclusion is so for at least two reasons.

First, consider the cases detailed above. When an observance or object of religious significance is taken, disrespected, or destroyed, equitable remedies can only go so far. *Cf. DeMarco v. Davis*, 914 F.3d 383, 389-90 (5th Cir. 2019) (noting that damages would be

the "only recourse" for a prisoner whose religious "books were allegedly destroyed"). Injunctive relief cannot remedy Mr. Landor's being shorn of hair he had been growing for twenty years as part of his Rastafarian beliefs. *See* Pet. App. 25a (Oldham, J., dissenting from denial of rehearing en banc). Injunctive relief cannot remedy Ms. Khatib's being forced to remove her hijab in front of male officers in contravention of her Muslim faith. *See Khatib*, 639 F.3d at 901.

Second, consider the jailhouse context. "[P]risons can moot claims for injunctive or declaratory relief through release or transfer." *See* Pet. App. 32a (Oldham, J., dissenting). For instance, in *Heyward v. Cooper*, the Sixth Circuit held that a Muslim prisoner's RLUIPA claim based on failure to accommodate his Ramadan fast was moot because the denial had occurred five years prior, and he had been transferred to a new facility. *See* 88 F.4th 648, 656-57 (6th Cir. 2023) (noting that monetary damages were not otherwise available).

At bottom, equitable remedies can only do so much to protect religious prisoners when state or local prison officials fail to accommodate their religious beliefs. And, as noted above, this rings particularly true for traditions like Hinduism, where prison officials are unlikely to be educated about those beliefs: *pujas* may be missed when the window to perform a certain ceremony is quite short and potentially difficult to calculate, and *dharma* may be impossible to follow when a prisoner's dietary requirements are ignored or he is compelled to falsely admit guilt by a prison program.

II. RLUIPA provides for monetary damages against officials who violate prisoners' rights to exercise their religion.

The insufficiency of equitable remedies in the prison context underscores why monetary damages are so critical. RLUIPA enables a prisoner to seek any "appropriate relief" from prison officials who unlawfully place a substantial burden on a prisoner's exercise of religion. *See* 42 U.S.C. § 2000cc-2(a). The Court should clarify that "appropriate relief" includes monetary damages, as the plain text of RLUIPA and this Court's decision in *Tanzin* make clear.

A. RLUIPA's plain text demonstrates Congress's intent to authorize monetary damages.

1. *Tanzin v. Tanvir* confirms that "appropriate relief" includes monetary damages.

RLUIPA permits a prisoner whose religious-exercise rights have been violated to obtain "appropriate relief." 42 U.S.C. § 2000cc-2(a). This includes monetary damages against prison officials.

"[S]tart with the statutory text." *Tanzin*, 592 U.S. at 46. RLUIPA authorizes "[a] person" to "assert a violation" of the statute "as a claim or defense in a judicial proceeding" and to "obtain appropriate relief against a government." 42 U.S.C. § 2000cc-2(a). Congress used an identical phrase when it provided for "appropriate relief" for violations of RFRA. *See* 42 U.S.C. § 2000bb-1(c).

Congress enacted RFRA in the wake of this Court's holding that challenges to neutral laws of general applicability would no longer warrant strict scrutiny under the Free Exercise Clause. *Emp. Div., Dep't of Hum. Res. of Oregon v. Smith*, 494 U.S. 872, 879 (1990). Like RLUIPA, RFRA prohibits "government[s] [from] substantially burden[ing]" religious exercise without a compelling justification. 42 U.S.C. § 2000bb-1(a). After this Court held RFRA unconstitutional as applied to the states, *City of Boerne v. Flores*, 521 U.S. 507 (1997), Congress responded by enacting RLUIPA to restore the same strict scrutiny test to two areas where religious discrimination was particularly acute: in prisons and in state and local land-use determinations. *See Cutter*, 544 U.S. at 716; *see also* 146 Cong. Rec. at 16699 ("[W]hether from indifference, ignorance, bigotry, or lack of resources, some institutions restrict religious liberty in egregious and unnecessary ways.").

RFRA and RLUIPA are "sister statute[s]" that use parallel text and "mirror[]" one another. *Holt*, 574 U.S. at 356-57. As relevant here, both statutes provide a private cause of action allowing those whose religious-exercise rights have been violated to "obtain appropriate relief against a government." 42 U.S.C. § 2000bb-1(c); *id.* § 2000cc-2(a). Accordingly, the Court's decision in *Tanzin* is highly relevant to this case. In *Tanzin*, the Court noted that Congress sought to revive the standards controlling Free Exercise cases before *Smith* through RFRA and held that RFRA permits monetary damages. 592 U.S. at 50-51.

Tanzin decided several key issues that apply directly to the question presented here.

First, *Tanzin* explained that "RFRA's text provides a clear answer" to the question of whether "injured parties can sue Government officials in their personal capacities." 592 U.S. at 47. "They can," because RFRA provides for "relief 'against a government,' which is defined to include 'a branch, department, agency, instrumentality, and *official (or other person acting under color of law)* of the United States.'" *Id.* (citation omitted) (quoting 42 U.S.C. §§ 2000bb-1(c), 2000bb-2(1)). Congress's inclusion of officials and persons acting under color of law in the definition of "a government" indicates that individual-capacity suits for monetary damages are necessarily within RFRA's scope.

So too here. RLUIPA 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*." 42 U.S.C. § 2000cc-5(4)(A)(i)-(iii) (emphasis added). As in RFRA, Congress defined "government" to include officials and persons acting under color of law, so a lawsuit against an individual defendant in his personal capacity remains a case against a government. *Cf. Tanzin*, 592 U.S. at 48.

Second, this Court examined "[t]he legal 'backdrop against which Congress enacted' RFRA," and concluded that this background supports individual-capacity suits. *See id.* (quoting *Stewart v. Dutra*

Constr. Co., 543 U.S. 481, 487 (2005)). The Court noted that RFRA's "phrase 'persons acting under color of law' draws on one of the most well-known civil rights statutes: 42 U.S.C. § 1983." *Id.* That statute has long permitted "suits against officials in their individual capacities." *Id.* Because Congress used "the same terminology … in the very same field of civil rights law," the phrase carried a consistent meaning in both contexts. *Id.* So too here: when Congress elected to use the same phrase in RLUIPA, it chose to extend the availability of individual-capacity suits to that context as well.

Third, turning to the question of what constitutes "appropriate relief" under RFRA, the Court reasoned that monetary damages are "commonly available against state and local government officials" in other civil-rights contexts. *Id.* at 50. "[D]amages have long been awarded as appropriate relief" in cases against individual officers and, "[t]hough more limited" in some ways now, they "remain an appropriate form of relief today." *Id.* at 48-49; *see also Curtis v. Loether*, 415 U.S. 189, 196 (1974) (describing monetary damages as "the traditional form of relief offered in the courts of law"). Drawing another parallel with § 1983, this Court explained that "damages claims have always been available" under that statute "for clearly established violations of the First Amendment." *Tanzin*, 592 U.S. at 50. The Court further observed that "RFRA 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.* Therefore, because "RFRA reinstated pre-*Smith* protections and rights, … RFRA must have at least the same avenues

for relief against officials …. [as] before *Smith*." *Id.* at 51.

Again, what was true for RFRA in *Tanzin* is true for RLUIPA here. RLUPIA, like RFRA, is meant to "reinstate[] pre-*Smith* protections and rights" in the prison and land-use contexts. *Id.* Before *Smith*, those seeking to vindicate a violation of their religious freedoms would have been able to seek monetary damages from government officials and those acting under color of law. Thus, RLUIPA must permit damages against those same individuals.

2. Other aspects of RLUIPA confirm that appropriate relief includes monetary damages.

Although the Court could begin and end with *Tanzin*, RLUIPA contains additional features that authorize monetary damages.

First, RLUIPA's text instructs that the law "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). As this Court has noted, this provision demonstrates that RLUIPA is designed to "provide very broad protection for religious liberty." *Holt*, 574 U.S. at 356, 358 (quoting *Burwell v. Hobby Lobby Stores, Inc.*, 573 U.S. 682, 693 (2014)).

This broad protection is especially critical to adherents of minority religious traditions. *See supra* § I. Because equitable remedies can go only so far in protecting religious exercise in prisons, *see supra*

§ I.D, monetary damages can help to "maxim[ize]" RLUIPA's broad protections. *Tanzin* demonstrates that the phrase "appropriate relief" is capacious enough to encompass monetary damages—and does so clearly. Granting monetary damages is thus necessary to "construe[]" the term "to the maximum extent permitted," § 2000cc-3(g).

Second, RLUIPA's statutory structure confirms that "appropriate relief" includes monetary damages. RLUIPA authorizes the Attorney General to "bring an action for injunctive or declaratory relief to enforce compliance." 42 U.S.C. § 2000cc-2(f). The limited scope of this enforcement remedy illuminates the remedies available to those who sue under RLUIPA's private right of action, which provides for all "appropriate relief." *Id.* § 2000cc-2(a). Because the Attorney General may seek *only* injunctive and declaratory relief, Congress must necessarily have intended some broader set of relief when it used the correspondingly broader term "appropriate relief" in § 2000cc-2(a). *See Russello v. United States*, 464 U.S. 16, 23 (1983) ("Where Congress includes particular language in one section of a statute but omits it in another section of the same Act, it is generally presumed that Congress acts intentionally and purposely in the disparate inclusion or exclusion." (citation omitted)).

Congress surely recognized the traditional view that damages are "the only form of relief that can remedy some … violations." *Tanzin*, 592 U.S. at 51. If Congress had intended something narrower, it would have used the limited language it used in the Attorney General's enforcement provision.

B. Allowing monetary damages for violations of RLUIPA is valid under the Spending Clause.

The Fifth Circuit declined to allow damages against prison officials in their individual capacities, holding that RLUIPA's roots in the Spending Clause precluded compelling individual actors to pay damages. Pet. App. 11a; *see also Sossamon v. Lone Star State of Texas*, 560 F.3d 316 (5th Cir. 2009). As Judge Oldham demonstrated in his dissent from the denial of rehearing en banc, however, it cannot be the case that the Spending Clause permits only grant recipients—*i.e.*, the state—to be liable for damages. Pet. App. 30a (Oldham, J., dissenting) (noting that the Fifth Circuit panel "recognized that Congress *can* regulate 'individuals who aren't party to the contract'" in at least some circumstances. *Id.* (quoting Pet. App. 12a)).

Indeed, this Court has upheld laws passed under the Spending Clause that regulate non-grant-recipient activities. *See Sabri v. United States*, 541 U.S. 600, 608 (2004); *South Dakota v. Dole*, 483 U.S. 203 (1987).

The Sixth Circuit correctly declined to follow this approach to the Spending Clause in an opinion by Judge Sutton, who wrote that it "proves too much." *Haight*, 763 F.3d at 570. "If accepted," he reasoned, "it would mean that even an eminently clear statute—say, that 'plaintiffs could obtain money damages in actions against state and local prison officials, whether sued in their official or individual capacity'—would not permit money damages." *Id.* This view, he

concluded, "is not consistent" with this Court's precedent. *Id.*[2]

Again, Judge Oldham explained why this is so. "Congress's spending power is subject to four general restrictions." Pet. App. 31a (Oldham, J., dissenting) (citing *Dole*, 483 U.S. at 207-08). "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." *Id.*

None of these restrictions are present in RLUIPA. RLUIPA serves general public purposes by protecting prisoners' right to exercise their religion, "[a]nd it cannot be seriously disputed that making individual officers liable for violating religious exercise rights serves the same general public purpose." *Id.* States and municipalities have had "clear notice" that they could be held liable under RLUIPA, and the statute's

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[2] The Sixth Circuit correctly recognized that the Spending Clause analysis employed by the Fifth Circuit and other circuits was unpersuasive. But its Spending Clause analysis reached an equally unpersuasive conclusion. In its view, the Spending Clause requires a statute to have an unambiguous, clear statement that an individual may be subject to monetary damages. *See Haight*, 763 F.3d at 570. For all the reasons described above, *see supra* § II.A, and in Petitioner's Brief, Pet. Br. 30-50, this conclusion is unwarranted. RLUIPA's plain text permits damages against prison officials and does so with all the clarity needed to allow prison officials to know "what is expected of" them to "exercise their choice knowingly" when operating federally funded prisons. *Pennhurst State Sch. & Hosp. v. Halderman*, 451 U.S. 1, 17 (1981).

remedy of "appropriate relief" has been in the law from the outset. *Id.* ("As applied to suits against individual officials and as understood by an ordinary person at the time of RFRA's enactment, the remedy of 'appropriate relief' plainly encompassed money damages, as the Supreme Court unanimously held.").

Moreover, holding individual officers liable for monetary damages is "reasonably related to the purpose of the expenditure," for the risk of damages "should deter government misconduct and protect religious exercise." *Id.* at 31a-32a. Nor would awarding damages violate any other aspect of the Constitution. *See id.* For these reasons, the award of monetary damages in RLUIPA passes constitutional muster.

In short, RLUIPA's broad goals of protecting prisoners' religious exercise to the maximum extent and aiding in prisoner rehabilitation underscore why—as in RFRA—Congress clearly intended to authorize monetary damages against individual prison officials.

CONCLUSION

For the foregoing reasons, the Court should reverse the decision below.

Respectfully submitted,

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September 2025