No. 23-1197

# In the Supreme Court of the United States

DAMON LANDOR, PETITIONER

*v.*

LOUISIANA DEPARTMENT OF CORRECTIONS AND PUBLIC SAFETY, ET AL.

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

**BRIEF FOR THE UNITED STATES**
**AS AMICUS CURIAE SUPPORTING PETITIONER**

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## QUESTION PRESENTED

Whether the express remedies provision of the Religious Land Use and Institutionalized Persons Act of 2000, 42 U.S.C. 2000cc-2(a), permits litigants, when appropriate, to obtain money damages against government officials in their individual capacities.

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## INTEREST OF THE UNITED STATES

This case concerns whether the express remedies provision of the Religious Land Use and Institutionalized Persons Act of 2000 (RLUIPA), Pub. L. No. 106-274, 114 Stat. 803 (42 U.S.C. 2000cc *et seq.*), permits litigants, when appropriate, to obtain money damages against government officials in their individual capacities. The United States has a significant interest in the resolution of that question. The Attorney General may bring actions under RLUIPA for injunctive or declaratory relief, 42 U.S.C. 2000cc-2(f), but Congress determined that full enforcement of RLUIPA's requirements depends on an effective private cause of action. If damages are unavailable in actions against government officials in their individual capacities, RLUIPA's enforcement will be significantly undermined. At the Court's

invitation, the United States filed an amicus brief in this case at the petition stage.

## INTRODUCTION

Congress sought to broadly protect individual religious exercise when it enacted the Religious Freedom Restoration Act of 1993 (RFRA), Pub. L. No. 103-141, 107 Stat. 1488 (42 U.S.C. 2000bb *et seq.*), and RLUIPA. Although relying on different sources of constitutional authority, those twin statutes use nearly identical language to impose nearly identical requirements for nearly identical purposes. Unsurprisingly, this Court has repeatedly recognized that RFRA and RLUIPA should be interpreted in harmony.

In their respective domains, each of those sister statutes prohibits a government—generally the federal government under RFRA, and state and local governments under RLUIPA—from imposing a substantial burden on religious exercise unless the imposition is the least restrictive means of furthering a compelling governmental interest. And each statute provides a private right of action against a government, including governmental officials, for "appropriate relief." 42 U.S.C. 2000bb-1(c), 2000cc-2(a).

The question here is whether "appropriate relief" under RLUIPA may include money damages in suits against governmental officials in their individual capacities. In *Tanzin* v. *Tanvir*, 592 U.S. 43 (2020), this Court held that "appropriate relief" under RFRA may include money damages in suits against governmental officials in their individual capacities. No sound basis exists to reach a different conclusion with respect to RLUIPA. Although *Sossamon* v. *Texas*, 563 U.S. 277 (2011), held that "appropriate relief" under RLUIPA does *not* include money damages in suits against a sovereign State,

that holding was based on considerations of sovereign immunity inapplicable to suits against individual officials. Indeed, *Tanzin* found *Sossamon* inapposite precisely because of that "obvious difference." *Tanzin*, 592 U.S. at 52. At the same time, *Sossamon* approvingly cited lower-court cases holding that "appropriate relief" under RFRA likewise did not include money damages in suits against sovereigns. *Sossamon* and *Tanzin* together are thus best understood to hold that money damages are not "appropriate relief" in suits against sovereigns but may constitute appropriate relief in suits against individual governmental officials—under RFRA and RLUIPA alike.

The court of appeals avoided that straightforward conclusion because Congress enacted RLUIPA pursuant to its spending power. See Pet. App. 3a-13a. But Congress has broad authority to set conditions on federal funding. See *South Dakota* v. *Dole*, 483 U.S. 203 (1987). RLUIPA easily satisfies what this Court's cases require. And while the court of appeals held otherwise, Congress can use its spending power to create a cause of action against governmental officials in their individual capacities, even if they are not parties to the hypothetical funding contract with the federal government. This Court should reverse the decision below.

## STATEMENT

### A. Statutory Background

1. In *Employment Division* v. *Smith*, 494 U.S. 872 (1990), this Court held that the First Amendment does not require religious exemptions from neutral laws of general applicability, even if those laws have the effect of burdening religious exercise. *Id.* at 876-882; see *Fulton* v. *City of Philadelphia*, 593 U.S. 522, 533 (2021). At the same time, *Smith* recognized that the Constitution

does not forbid "nondiscriminatory religious-practice exemption[s]" from such laws. 494 U.S. at 890; see *Cutter* v. *Wilkinson*, 544 U.S. 709, 719-726 (2005).

Congress enacted such an exemption in RFRA, which provides that a "[g]overnment shall not substantially burden a person's exercise of religion even if the burden results from a rule of general applicability," unless it is the "least restrictive means of furthering" a "compelling governmental interest." 42 U.S.C. 2000bb-1(a) and (b). RFRA was enacted in response to *Smith* "in order to provide greater protection for religious exercise." *Holt* v. *Hobbs*, 574 U.S. 352, 357 (2015). RFRA originally defined "'government'" to include "a State, or a subdivision of a State." 42 U.S.C. 2000bb-2(1) (Supp. V 1993). But this Court held in *City of Boerne* v. *Flores*, 521 U.S. 507 (1997), that applying RFRA to state and local governments exceeds Congress's power under Section 5 of the Fourteenth Amendment because RFRA "cannot be considered remedial, preventive legislation" to enforce the Fourteenth Amendment, but "appears, instead, to attempt a substantive change in constitutional protections." *Id.* at 532.

Congress responded by enacting RLUIPA, which—like RFRA—prohibits any "government," including a state or local government, from imposing a "substantial burden" on religious exercise unless it is the "least restrictive means of furthering" a "compelling governmental interest." 42 U.S.C. 2000cc(a), 2000cc-1(a); see 42 U.S.C. 2000cc-5(4). To comply with *City of Boerne*, however, Congress relied not on its authority under the Fourteenth Amendment, but on its authority to "provide for the * * * general Welfare" and to "regulate Commerce," U.S. Const. Art. I, § 8, Cls. 1, 3. Specifically, Congress made RLUIPA's prohibitions applica-

ble only to land-use regulations and restrictions on persons residing in or confined to an institution—and even then only under certain conditions. 42 U.S.C. 2000cc(a), 2000cc-1(a). For institutionalized persons, those conditions include that the religious burden be "imposed in a program or activity that receives Federal financial assistance" or affect "commerce with foreign nations, among the several States, or with Indian tribes." 42 U.S.C. 2000cc-1(b).[1]

Both RFRA and RLUIPA provide private rights of action, and both permit plaintiffs to "obtain appropriate relief against a government" for violations of the applicable statutory prohibitions. 42 U.S.C. 2000bb-1(c) (RFRA); 42 U.S.C. 2000cc-2(a) (RLUIPA). Both statutes also define "'government'" to include any "official" of a governmental entity or any "other person acting under color" of law. 42 U.S.C. 2000bb-2(1) (RFRA); 42 U.S.C. 2000cc-5(4) (RLUIPA). In addition, RLUIPA authorizes the United States to bring enforcement actions seeking "injunctive or declaratory relief." 42 U.S.C. 2000cc-2(f).

2. a. In *Sossamon* v. *Texas*, 563 U.S. 277 (2011), this Court held that money damages are unavailable under RLUIPA in a private suit against a sovereign State premised on a religious burden "imposed in a program or activity that receives Federal financial assistance." *Id.* at 281-282 (quoting 42 U.S.C. 2000cc-1(b)(1)); see *id.* at 285-291. The Court observed that when Congress acts pursuant to its constitutional spending power, the relevant "question" is "whether the States, by accepting federal funds," have "consent[ed] to waive their sovereign immunity to suits for money damages under

[1] This case does not implicate Congress's authority under the Commerce Clause.

[RLUIPA]." *Id.* at 280; see *id.* at 283. The Court acknowledged that a State "may choose to waive its immunity in federal court at its pleasure," but explained that a State's "consent to suit must be 'unequivocally expressed' in the text of the relevant statute" and the waiver "'must extend unambiguously to * * * monetary claims'" for money damages to be available in such suits. *Id.* at 284-285 (citations omitted).

*Sossamon* held that RLUIPA does not contain such clear and unequivocal language. The Court explained that the phrase "'[a]ppropriate relief'" "is open-ended and ambiguous about what types of relief it includes" and that "the word 'appropriate' is inherently context dependent." *Sossamon*, 563 U.S. at 286 (citations omitted); see *ibid.* (explaining that "'appropriate remedies' ha[s] a flexible meaning"); *id.* at 285-289. The Court further explained that the "context here—where the defendant is a sovereign—suggests, if anything, that monetary damages are not 'suitable' or 'proper.'" *Id.* at 286. The Court distinguished cases like *Franklin* v. *Gwinnett County Public Schools*, 503 U.S. 60 (1992), and *Barnes* v. *Gorman*, 536 U.S. 181 (2002), which had found monetary damages to be appropriate relief in private suits to enforce certain antidiscrimination statutes, in part on the ground that "[t]hose cases did not involve sovereign defendants." *Sossamon*, 563 U.S. at 289 n.6; see *id.* at 288-289.

The Court in *Sossamon* rejected the argument that "the States were necessarily on notice that they would be liable for damages" under RLUIPA on the theory that "Spending Clause legislation operates as a contract and damages are always available relief for a breach of contract." 563 U.S. at 289. The Court explained that the "contract analogy" cannot "expand liability beyond

what would exist under nonspending statutes," and that accepting the argument would effectively mean "that every Spending Clause enactment, no matter what its text, satisfies" the requisite clarity for waivers of sovereign immunity. *Id.* at 290. The Court further observed that the States would not have been "on notice" that "the phrase 'appropriate relief'" would render them liable for damages under RLUIPA in part because "the same phrase in RFRA had been interpreted [by lower courts] not to include damages relief against the Federal Government or the States." *Id.* at 289 n.6.

b. In *Tanzin* v. *Tanvir*, 592 U.S. 43 (2020), this Court held that RFRA permits suits for money damages against governmental officials sued in their individual capacities. See *id.* at 47-52. The Court first found it "clear" from "RFRA's text" that "injured parties can sue Government officials in their personal capacities" because RFRA defines "'government'" to include "'official,'" and "the term 'official' does not refer solely to an office, but rather to the actual person 'who is invested with an office.'" *Id.* at 47 (citations omitted).

The Court then held that money damages were available in suits against governmental officials in their individual capacities because, in that context, "damages have long been awarded as appropriate relief" and "remain an appropriate form of relief today." *Tanzin*, 592 U.S. at 49. The Court observed that damages are "commonly available against state and local government officials" in suits under 42 U.S.C. 1983, a fact the Court found "particularly salient" given that RFRA originally applied to state and local government officials. *Tanzin*, 592 U.S. at 50. The Court further observed that damages may be "the *only* form of relief that can remedy some RFRA violations." *Id.* at 51.

Finally, the Court in *Tanzin* explained that its "opinion in *Sossamon* does not change this analysis" because of an "obvious difference" between the two cases: "this case features a suit against individuals, who do not enjoy sovereign immunity." 592 U.S. at 51-52.

**B. Proceedings Below**

1. According to the complaint, petitioner is a devout Rastafarian who has taken a religious vow not to cut his dreadlocks. Pet. App. 2a. Petitioner alleges that he did not cut his hair "for almost two decades," *ibid.*, and that "[a]t its longest," petitioner's hair "fell nearly to his knees," *id.* at 26a (Oldham, J., dissenting from the denial of rehearing en banc); J.A. 10. Petitioner alleges that in 2020 he was incarcerated in three Louisiana institutions. Pet. App. 2a. Petitioner alleges that the first two accommodated his dreadlocks, for example by permitting him to keep his hair "under a 'rastacap.'" *Ibid.* But petitioner alleges that, with just three weeks left in his sentence, he was transferred to a third facility that did not. *Ibid.*

Petitioner alleges that he informed an intake guard at the third facility of his religious beliefs, "provided proof of past religious accommodations," and even "handed the guard a copy" of the Fifth Circuit's decision in *Ware* v. *Louisiana Department of Corrections*, 866 F.3d 263 (2017), cert. denied, 583 U.S. 1156 (2018), which held that cutting the dreadlocks of a Rastafari prisoner would violate RLUIPA. Pet. App. 2a. Petitioner alleges that prison officials threw those materials in the garbage and summoned the warden, who demanded that petitioner provide "documentation from his sentencing judge that corroborated his religious beliefs." *Ibid.* Petitioner alleges that, when he could not immediately provide that information, guards took him

to another room, "handcuffed him to a chair, held him down, and shaved his head." *Id.* at 2a-3a.

After his release, petitioner brought this suit alleging violations of RLUIPA, various federal constitutional provisions, and state law. See Pet. App. 3a. As relevant here, petitioner sued respondents in their individual capacities under RLUIPA and sought compensatory and punitive damages. See *ibid.*; J.A. 11-19, 35. The district court dismissed the RLUIPA claims, explaining that petitioner's "claims for declaratory and injunctive relief became moot" upon his release and that under binding circuit precedent, RLUIPA "'does not authorize a private cause of action for compensatory or punitive damages.'" Pet. App. 16a (citation omitted); see *id.* at 14a-20a.

2. The court of appeals affirmed. Pet. App. 1a-13a.

The court of appeals explained that it had previously "held that RLUIPA does not permit suits against officers in their individual capacities" at all, which necessarily means that "claimants cannot recover monetary damages." Pet. App. 4a. The court observed that its precedent had reasoned that "RLUIPA was 'enacted pursuant to Congress's Spending Clause power,'" and that because "Spending Clause legislation 'operates like a contract,'" "'only the grant recipient—the state—may be liable for its violation.'" *Id.* at 6a (citation omitted); see *id.* at 11a (describing its precedent as holding "that although RLUIPA's text suggests a damages remedy, recognizing as much would run afoul of the Spending Clause"). The court acknowledged *Tanzin*'s holding that "RFRA authorizes money damages against officials sued in their individual capacities," but explained that *Tanzin* did not abrogate its circuit precedent about RLUIPA because the two statutes "rely on different

Congressional powers": RFRA on "the Fourteenth Amendment" and RLUIPA on "the Spending and Commerce Clauses." *Id.* at 6a, 8a; see *id.* at 8a-11a.

The court of appeals rejected petitioner's reliance on *Sabri* v. *United States*, 541 U.S. 600 (2004), for the proposition that Congress may regulate nonrecipients of federal funds under its spending power. Pet. App. 11a-13a. *Sabri* held that Congress could constitutionally criminalize bribery in relation to programs receiving federal funds without requiring proof of some connection between the bribe and the federal funds. 541 U.S. at 604-608. The court viewed *Sabri* as "inapposite" because Congress enacted the criminal statute at issue there "to protect its expenditures against local bribery and corruption," whereas "Congress did not enact RLUIPA to protect its own expenditures, but rather it enacted RLUIPA to protect the religious rights of institutionalized persons." Pet. App. 12a-13a (citation omitted).

3. The court of appeals denied rehearing en banc by an 11-6 vote. Pet. App. 21a-36a.

a. Judge Clement, joined by eight judges, concurred in the denial of rehearing en banc. Pet. App. 23a-24a. She observed that *Sossamon* held that "RLUIPA did *not* clearly allow for monetary damages" against "state employees sued in their *official* capacities," whereas *Tanzin* held that RFRA does authorize suits for "monetary damages against federal officials in their individual capacities." *Id.* at 24a.

b. Judge Oldham, joined by four judges in full and by Judge Ho in part, dissented from the denial of rehearing en banc. Pet. App. 25a-34a. He explained that this Court's "interpretation of RFRA in *Tanzin* should be dispositive" because "not only is the relevant text in

RLUIPA identical to that in RFRA, but [this Court's] precedent also commands us to interpret the two statutes in tandem." *Id.* at 28a-29a. Judge Oldham also rejected reliance on RLUIPA's having been enacted pursuant to Congress's spending power, explaining that "Congress *can* regulate 'individuals who aren't party to the contract'"—as shown in part by *Sabri*—and that "RLUIPA's provision for individual official liability complies with" the limits on "Congress's spending power" set forth in *South Dakota* v. *Dole*, 483 U.S. 203 (1987). Pet. App. 30a-31a (Oldham, J., dissenting from the denial of rehearing en banc) (citation omitted).

c. Judge Ho, joined by Judge Elrod, also dissented from the denial of rehearing en banc. Pet. App. 35a-36a. He explained that because officials sued in their individual capacities "do not enjoy sovereign immunity," "*Sossamon* should have no bearing" on the question presented here. *Id.* at 36a.

## SUMMARY OF ARGUMENT

RLUIPA's private cause of action permits money damages in suits against government officials in their individual capacities. *Tanzin* v. *Tanvir*, 592 U.S. 43 (2020), which interpreted virtually identical language in RFRA, all but compels that conclusion. And contrary to the court of appeals and respondents, that RLUIPA was enacted pursuant to Congress's spending power does not require a different result.

A. In providing a cause of action for "appropriate relief against a government," 42 U.S.C. 2000cc-2(a), RLUIPA unambiguously authorizes suits for money damages against governmental officials in their individual capacities. In *Tanzin*, this Court held that virtually identical language in RFRA "clear[ly]" authorized individual-capacity suits and that damages constitute

"appropriate relief." 592 U.S. at 47, 49. This Court's cases instruct that RLUIPA and RFRA should be interpreted in harmony. See, *e.g.*, *Holt* v. *Hobbs*, 574 U.S. 352, 356, 362-365 (2015). Accordingly, RLUIPA's materially identical text requires the same result.

Respondents emphasize *Sossamon* v. *Texas*, 563 U.S. 277 (2011), which held that RLUIPA does not authorize damages in suits against sovereign States because the text is insufficiently clear to abrogate sovereign immunity. But *Sossamon* and *Tanzin* are easily reconcilable: the phrase "appropriate relief against a government" does not include money damages in suits against sovereigns but may include money damages in suits against governmental officials *in their individual capacities*. Respondents object to the practical consequences of more RLUIPA suits, but the Prison Litigation Reform Act of 1995 (PLRA) and qualified immunity protect government officials from vexatious litigation by weeding out meritless suits.

B. That RLUIPA was enacted under Congress's spending power provides no basis to depart from the straightforward conclusion that RLUIPA authorizes individual-capacity damages suits against governmental officials. RLUIPA imposes a substantive condition that entities receiving federal funds cannot substantially burden an inmate's free exercise absent a compelling interest, and a remedial condition allowing inmates to sue those who violate the substantive protection. 42 U.S.C. 2000cc-1(a), 2000cc-2(a). Those express conditions easily satisfy the requirements for spending legislation. See *South Dakota* v. *Dole*, 483 U.S. 203 (1987). While the court of appeals reasoned that Congress cannot impose liability on parties other than the funding recipient, see Pet. App. 6a, nothing in the Constitution

or this Court's cases establishes such a rule. Congress's use of the spending power here is especially clear-cut because governmental officials are agents of a party to the spending contract, who may be held accountable for compliance with that contract.

The Necessary and Proper Clause removes any doubt that RLUIPA's damages action is within constitutional bounds. Congress may disperse federal funds with conditions pursuant to its spending power, and it has a "corresponding authority under the Necessary and Proper Clause to see to it that taxpayer dollars appropriated under that power" are used according to Congress's conditions. *Sabri* v. *United States*, 541 U.S. 600, 605 (2004) (citation omitted). Holding governmental officials accountable for burdening free exercise and thus violating conditions on federal funds is a plainly adapted means of ensuring that federal funds are appropriately used.

This Court should reverse the court of appeals' decision.

## ARGUMENT

### LITIGANTS MAY SUE GOVERNMENTAL OFFICIALS IN THEIR INDIVIDUAL CAPACITIES FOR DAMAGES UNDER RLUIPA

As this Court has repeatedly instructed, RLUIPA and RFRA should be interpreted in harmony. Together, the Court's decisions in *Sossamon* v. *Texas*, 563 U.S. 277 (2011), and *Tanzin* v. *Tanvir*, 592 U.S. 43 (2020), make clear that the phrase "appropriate relief against a government" in both statutes excludes money damages in suits against sovereigns, but may include money damages in suits against governmental officials in their individual capacities. The court of appeals erred in foreclosing individual-capacity damages suits under

RLUIPA because RLUIPA, but not RFRA, was enacted pursuant to Congress's spending power. RLUIPA meets the requirements for spending legislation, including by providing funding recipients and governmental officials clear notice. And the Necessary and Proper Clause resolves any remaining doubt that Congress may impose liability on governmental officials in their individual capacities for violating conditions on federal funds.

### A. RLUIPA Authorizes Damages Suits Against Governmental Officials In Their Individual Capacities

This Court's decision in *Tanzin* dictates the conclusion that RLUIPA—which has the same operative text as RFRA—authorizes suits against governmental officials in their individual capacities. And *Tanzin* makes equally clear that money damages constitute "appropriate relief" in such suits. RLUIPA's purpose to broadly protect religious exercise bolsters those conclusions.

1. This Court has long referred to RFRA and RLUIPA as "sister" statutes and interpreted the two harmoniously. *Ramirez* v. *Collier*, 595 U.S. 411, 424 (2022); see, *e.g.*, *Burwell* v. *Hobby Lobby Stores, Inc.*, 573 U.S. 682, 730 (2014). In RLUIPA cases, the Court has looked to RFRA. See, *e.g.*, *Ramirez*, 595 U.S. at 425, 427; *Holt* v. *Hobbs*, 574 U.S. 352, 362-365 (2015). And vice versa. See, *e.g.*, *Hobby Lobby*, 573 U.S. at 718, 730. That makes sense; the two statutes "attack the same wrong, in the same way, in the same words." Pet. Br. at 37, *Tanzin*, *supra* (No. 19-71) (citation omitted).

a. Given the close connection between the two statutes, this Court's decision in *Tanzin* compels the conclusion that RLUIPA authorizes suits against governmental officials in their individual capacities. *Tanzin* considered RFRA's cause of action, which allows a per-

son to "obtain appropriate relief against a government," 42 U.S.C. 2000bb-1(c), and defines "'government'" to include "a branch, department, agency, instrumentality, and official (or other person acting under color of law) of the United States, or of a covered entity," 42 U.S.C. 2000bb-2(1). This Court held that that language "clear[ly]" authorizes individual-capacity suits. *Tanzin*, 592 U.S. at 47. The Court explained that "the term 'official' does not refer solely to an office, but rather to the actual person 'who is invested with an office.'" *Ibid.* (citation omitted). The Court further explained that "[t]he right to obtain relief against 'a person' cannot be squared with" a limitation to official-capacity suits and emphasized that "the use of the phrase 'official (*or other* person)' underscores that 'officials' are treated like 'persons.'" *Id.* at 48 (brackets, citation, and ellipsis omitted). Finally, the Court drew on "[t]he legal 'backdrop against which Congress enacted' RFRA"—namely, 42 U.S.C. 1983, which applies to "'person[s] . . . under color of any statute'" and permits individual-capacity suits. *Tanzin*, 592 U.S. at 48 (quoting 42 U.S.C. 1983). Because "RFRA uses the same terminology as [Section] 1983 in the very same field of civil rights law, 'it is reasonable to believe that the terminology bears a consistent meaning.'" *Ibid.* (citation omitted).

RLUIPA shares RFRA's key textual features. RLUIPA provides a private cause of action "against a government," 42 U.S.C. 2000cc-2(a), and expressly defines "'government'" to include a governmental "official," 42 U.S.C. 2000cc-5(4)(A)(ii), as well as any "other person acting under color of State law," 42 U.S.C. 2000cc-5(4)(A)(iii). The only difference is immaterial: RFRA places the "other person" language in a parenthetical, 42 U.S.C. 2000bb-2(1), while RLUIPA places it

in a separately numbered subparagraph, 42 U.S.C. 2000cc-5(4)(A)(iii). And the parallel between Section 1983 and RLUIPA is even clearer; RLUIPA, like Section 1983, is primarily aimed at state and local officials. See 42 U.S.C. 2000cc-5(4)(A); cf. 42 U.S.C. 2000cc-5(4)(B). Thus, if RFRA permits individual-capacity suits against government officials, RLUIPA does too.

b. *Tanzin* likewise all but compels the conclusion that RLUIPA permits money damages as "appropriate relief" in such suits. *Tanzin* acknowledged (as had *Sossamon* before it) that the term "appropriate relief" is "'open-ended' on its face" and that whether a particular type of relief is "'appropriate'" is "'inherently context dependent.'" 592 U.S. at 49 (quoting *Sossamon*, 563 U.S. at 286). But, relying on a history of common-law causes of action, *Tanzin* explained that "[i]n the context of suits against Government officials, damages have long been awarded as appropriate relief." *Ibid.* The Court emphasized that "[d]amages are * * * commonly available against state and local government officials" under Section 1983 and that RFRA, as originally enacted, provided for suits against state officials. *Id.* at 50; see *id.* at 50-52.

Finally, *Tanzin* reasoned from those "textual cues" that "it would be odd to construe RFRA in a manner that prevents courts from awarding" damages, because damages are "the *only* form of relief that can remedy some RFRA violations." 592 U.S. at 51. And, "[h]ad Congress wished to limit" RFRA's remedies to equitable relief, "it knew how to do so," *ibid.*, since Congress had elsewhere in the United States Code used language such as "appropriate equitable relief," 29 U.S.C. 1132(a)(3); see 42 U.S.C. 2000e-5(g)(1) ("equitable relief as the

court deems appropriate"); 15 U.S.C. 78u(d)(5) ("any equitable relief that may be appropriate or necessary").

For similar reasons, RLUIPA authorizes money damages in individual-capacity suits against government officials. If anything, RLUIPA is even clearer on this point. RLUIPA was enacted against the same history of individual-capacity damages suits, and that history is even more relevant here because RLUIPA principally governs state and local officials. See p. 16, *supra*. And as *Tanzin* noted, "[t]here is no doubt that damages claims have always been available under [Section] 1983 for clearly established violations of the First Amendment." 592 U.S. at 50.

Further, RLUIPA (like RFRA) "reinstat[ed] both the pre-*Smith* substantive protections of the First Amendment *and* the right to vindicate those protections by a claim." *Tanzin*, 592 U.S. at 50; see *Ramirez*, 595 U.S. at 424. It would be anomalous to interpret RLUIPA's text as foreclosing the very suits that Congress intended to reinstate. And it would be "odd" to construe RLUIPA as disallowing individual-capacity damages claims when damages might be the only remedy available, as the facts of this case illustrate. *Tanzin*, 592 U.S. at 51; see p. 18, *infra*.

It is particularly clear that "appropriate relief" in RLUIPA's private cause of action includes damages when that provision is compared with the United States' cause of action, which is limited to obtaining "injunctive or declaratory relief." 42 U.S.C. 2000cc-2(f). Because Congress used distinct language in the private cause of action, it must include something other than "injunctive or declaratory relief." *Ibid.*; see *Pulsifer* v. *United States*, 601 U.S. 124, 149 (2024); accord *Tanzin*, 592 U.S. at 51.

c. RLUIPA's explicit statement of purpose also supports interpreting the cause of action to authorize individual-capacity damages suits. Congress directed that RLUIPA should be broadly interpreted to protect religious exercise "to the maximum extent" allowed by law. 42 U.S.C. 2000cc-3(g). Even if declaratory and injunctive relief remain available under the court of appeals' view, see Br. in Opp. 12, denying a damages remedy would undermine Congress's intent to provide "expansive protection for religious liberty." *Holt*, 574 U.S. at 358. This case is illustrative: Petitioner does not contend that he has any viable claim for prospective relief, he has been released from incarceration, and Louisiana represents that it has changed its policies to avoid similar conduct in the future. See Pet. 9, 25-26; Br. in Opp. 13. Money damages are the only potential relief available.

The circumstances precluding prospective relief here are not unique to cases in which the plaintiff has been released from confinement. Courts have also held that "an inmate's transfer from a prison facility generally moots claims for declaratory and injunctive relief against officials of that facility." *Booker* v. *Graham*, 974 F.3d 101, 107 (2d Cir. 2020) (citation omitted). And while the United States may enforce RLUIPA through actions for injunctive or declaratory relief, see 42 U.S.C. 2000cc-2(f), Congress determined that private suits are an important supplement to the government's enforcement efforts.

2. This Court's decision in *Sossamon* does not require interpreting RLUIPA's cause of action to preclude damages in individual-capacity suits. See Br. in Opp. 16. *Sossamon* held that RLUIPA does not authorize a damages remedy in suits against a sovereign State

—not because RLUIPA's text precludes such a remedy, but because the text is insufficiently clear to abrogate sovereign immunity with respect to such relief. See 563 U.S. at 286-288. The Court emphasized that "the word 'appropriate' is inherently context dependent," and "[t]he context" in that case, "where the defendant is a sovereign," suggested that "monetary damages are not 'suitable' or 'proper.'" *Id.* at 286. The Court also favorably cited lower-court rulings interpreting "the same phrase in RFRA * * * not to include damages relief against the Federal Government or the States." *Id.* at 289 n.6.

Concerns about sovereign immunity are inapplicable to suits against governmental officials in their individual capacities. *Tanzin* thus distinguished *Sossamon* in a single sentence: "The obvious difference is that this case features a suit against individuals, who do not enjoy sovereign immunity." *Tanzin*, 592 U.S. at 52. That is equally true in RLUIPA cases. *Sossamon* itself distinguished cases like *Franklin* v. *Gwinnett County Public Schools*, 503 U.S. 60 (1992), and *Barnes* v. *Gorman*, 536 U.S. 181 (2002), in which this Court used the phrase "appropriate relief" to describe money damages, because they "did not involve sovereign defendants," but instead were suits "against municipal entities." 563 U.S. at 288, 289 n.6. The Court acknowledged that in such suits, there may be a presumption in favor of compensatory damages absent a "clear direction that [Congress] intends to *exclude* a damages remedy." *Id.* at 289. That same presumption would apply to individual-capacity suits against governmental officials, as *Tanzin* confirms.

Nor is it incongruous for the same statutory phrase ("appropriate relief") to apply differently to sovereign

and non-sovereign defendants. Contra Br. in Opp. 16-17. What is "appropriate" for one class of defendants might not be "appropriate" for another. "The essence of sovereign immunity * * * is that remedies against the government differ from 'general remedies principles' applicable to private litigants." *Sossamon*, 563 U.S. at 291 n.8. Congress might well have chosen a term like "'appropriate'" precisely because of its "context dependent" and "flexible meaning." *Id.* at 286.

3. Respondents have stressed (Br. in Opp. 22-23) the "practical consequences" of allowing individual-capacity damages suits under RLUIPA, suggesting that it would "overwhelmingly exacerbate a crushing workforce problem" in state prisons, presumably because it would allow for more RLUIPA suits. But existing safeguards mitigate that concern.

To start, Congress was not careless about subjecting state prison systems to excessive monetary liability. See *Cutter* v. *Wilkinson*, 544 U.S. 709, 725-726 (2005). RLUIPA explicitly declares that it shall not "be construed to amend or repeal" the PLRA. 42 U.S.C. 2000cc-2(e). The PLRA "discourage[s] prisoners from filing claims that are unlikely to succeed," *Crawford-El* v. *Britton*, 523 U.S. 574, 596 (1998), and "contains a variety of provisions designed to bring" prisoner litigation "under control," *Woodford* v. *Ngo*, 548 U.S. 81, 84 (2006). As just one example, the PLRA's "three-strikes rule" prevents a prisoner from bringing a suit without paying the filing fee "if he has had three or more prior suits 'dismissed on the grounds that they were frivolous, malicious, or failed to state a claim upon which relief may be granted.'" *Lomax* v. *Ortiz-Marquez*, 140 S. Ct. 1721, 1723 (2020) (quoting 28 U.S.C. 1915(g)) (brackets omitted).

Qualified immunity would also protect officers from liability unless the alleged constitutional violation was clearly established. See *Tanzin*, 592 U.S. at 51 n.* (parties agreed that qualified-immunity defense was available); *Tanvir* v. *Tanzin*, 120 F.4th 1049, 1058 (2d Cir. 2024) (concluding after remand that defendants were entitled to qualified immunity). "Qualified immunity gives government officials breathing room," and "[w]hen properly applied, it protects 'all but the plainly incompetent or those who knowingly violate the law.'" *Ashcroft* v. *al-Kidd*, 563 U.S. 731, 743 (2011) (citation omitted). If there are more RLUIPA suits, and they proceed past those threshold barriers, that is simply a feature of the scheme Congress enacted.

### B. RLUIPA's Individual-Capacity Damages Remedy Is A Valid Exercise Of Congress's Spending Power

The court of appeals differentiated RLUIPA from RFRA on the ground that RLUIPA is Spending Clause legislation and RFRA is not. The court considered it problematic that individual officers are not the funding recipients and thus would not be parties to spending contracts, and held that Congress lacks authority to "impose *direct* liability on a non-party" to the spending contract. Pet. App. 6a (citation omitted). But RLUIPA easily clears the bar this Court has set for spending legislation, including by regulating beyond the direct recipient of federal funds. And the Necessary and Proper Clause resolves any doubt that RLUIPA's damages remedy is within constitutional bounds.

1. RLUIPA easily satisfies this Court's well-established test for spending legislation.

a. "Congress has broad power to set the terms on which it disburses federal money to the States." *Arlington Cent. Sch. Dist. Bd. of Educ.* v. *Murphy*, 548 U.S.

291, 296 (2006). In *South Dakota* v. *Dole*, 483 U.S. 203 (1987), this Court reiterated four "general restrictions" on Congress's power to attain "objectives not thought to be within Article I's 'enumerated legislative fields'" "through the use of the spending power and the conditional grant of federal funds." *Id.* at 207 (citation omitted). Specifically, conditions on the grant of funds must be (1) "in pursuit of 'the general welfare'"; (2) "'unambiguously'" expressed; (3) related "'to the federal interest in particular national projects or programs'"; and (4) not in violation of "other constitutional provisions." *Id.* at 207-208 (citations omitted).

The second factor often is the focal point. Because "legislation enacted pursuant to the spending power is much in the nature of a contract," "Congress must express clearly its intent to impose conditions on the grant of federal funds so that the States can knowingly decide whether or not to accept those funds." *Pennhurst State Sch. and Hosp.* v. *Halderman*, 451 U.S. 1, 17, 24 (1981). Accordingly, Congress may authorize private rights of action, including for money damages, to enforce the conditions it has imposed on the receipt of federal funds, as long as the "funding recipient is *on notice* that, by accepting federal funding, it exposes itself to liability of that nature." *Cummings* v. *Premier Rehab Keller, P.L.L.C.*, 596 U.S. 212, 220 (2022) (citation omitted). Notice of a condition on the receipt of federal funds may be provided not just by the statutory text, but also by its context, relevant regulatory provisions, and background common-law rules. See, *e.g.*, *Biden* v. *Missouri*, 595 U.S. 87, 94 (2022) (per curiam); *Davis* v. *Monroe County Bd. of Educ.*, 526 U.S. 629, 643-644 (1999); *Bennett* v. *Kentucky Dep't of Educ.*, 470 U.S. 656, 670 (1985); *Pennhurst*, 451 U.S. at 25.

b. RLUIPA imposes two conditions on the receipt of federal funds: (1) a substantive condition prohibiting "a substantial burden" on an inmate's religious exercise without satisfying the compelling interest test, 42 U.S.C. 2000cc-1(a); and (2) a remedial condition allowing inmates to seek "appropriate relief" against those who violate the substantive condition, 42 U.S.C. 2000cc-2(a). Both conditions fall well within Congress's spending power.

The first, third, and fourth *Dole* factors are easily met. As to the first factor, "courts should defer substantially to the judgment of Congress." *Dole*, 483 U.S. at 207. Here, nobody has questioned Congress's judgment that the "general Welfare," U.S. Const. Art. I, § 8, Cl. 1, benefits from the protection of religious liberty. Cf. *Cutter*, 544 U.S. at 720-723.

As to the third factor, there is plainly a federal interest in ensuring that prisons or other institutions receiving federal funds do not substantially burden religious exercise. Damages liability is closely connected to that interest because "monetary liability for state officials should deter government misconduct and protect religious exercise." Pet. App. 31a-32a (Oldham, J., dissenting from the denial of rehearing en banc). The United States may enforce RLUIPA through "action[s] for injunctive or declaratory relief," 42 U.S.C. 2000cc-2(f), but the statute relies on private enforcement to supplement the government's monitoring for compliance. And private enforcement is effective; respondents admit that "the mere threat of RLUIPA liability resulted in an accommodation for Petitioner" at a privately owned prison and that, in response to petitioner's suit, "the Louisiana Department of Corrections has amended its grooming policy." Br. in Opp. 13.

As to the fourth factor—whether Congress's exercise of the spending power to create a damages remedy in individual-capacity suits violates some other constitutional provision—this Court already has held that RLUIPA's substantive prohibitions do not violate the Establishment Clause. *Cutter*, 544 U.S. at 719-726. A damages remedy "is not unduly coercive, nor is it the kind of 'economic dragooning that leaves the States with no real option but to acquiesce.'" Pet. App. 32a (Oldham, J., dissenting from the denial of rehearing en banc) (citation omitted). There is no "independent bar to the conditional grant of federal funds" here. *Dole*, 483 U.S. at 208.

The second factor, which considers whether RLUIPA's language unambiguously provides for money damages liability in individual-capacity suits, is satisfied as well. As Judge Oldham recognized, "this is not a case where the 'statutes at issue are silent [as] to available remedies.'" Pet. App. 31a (Oldham, J., dissenting from the denial of rehearing en banc) (quoting *Cummings*, 596 U.S. at 220). RLUIPA's substantive protection for religious exercise is enforced through an express cause of action, with an express provision for remedies—specifically, "appropriate relief against a government." 42 U.S.C. 2000cc-2(a).

The clarity of the statutory language in both the substantive and remedial conditions provides the necessary notice to funding recipients that accepting federal funds constitutes agreement to both. Interpreting materially identical language in RFRA, *Tanzin* found it "clear" that RFRA authorizes individual-capacity suits and explained that money damages have been appropriate relief in such suits "since the dawn of the Republic." 592 U.S. at 47, 52. The same logic applies to RLUIPA. Fur-

ther, given RLUIPA's enactment history and borrowing of language from RFRA, States were on notice that the two statutes should and would be interpreted harmoniously. Cf. *Sossamon*, 563 U.S. at 289 n.6; *Opulent Life Church* v. *City of Holly Springs*, 697 F.3d 279, 290 (5th Cir. 2012) (recognizing that "municipalities and counties may be held liable for money damages under RLUIPA"). Notice is equally clear to "official[s]" and "any other person acting under color of State law" in state prison systems, to whom the cause of action expressly applies. 42 U.S.C. 2000cc-5(4)(A)(ii) and (iii); 42 U.S.C. 2000cc-2(a). Such officials regularly face individual-capacity suits under Section 1983 and are held accountable under the law that applies in the administration of prisons.

c. Respondents argue that "'appropriate relief'" does not "'unambiguously' provide for money damages" in individual-capacity suits. Br. in Opp. 16 (citation omitted). If RLUIPA's language is not clear enough to have constituted a waiver or abrogation of sovereign immunity in *Sossamon*, they say, it cannot be clear enough to satisfy the requirements for imposing liability under the spending power. See *id.* at 16-18. But respondents overread *Sossamon*, and the language here is sufficiently clear to impose liability.

Although the phrase "'[a]ppropriate relief'" *in isolation* is "open-ended and ambiguous about what types of relief it includes," *Sossamon*, 563 U.S. at 286 (citation omitted), statutory context and background legal principles can resolve ambiguities as to certain forms of relief. The context in *Sossamon*—"where the defendant is a sovereign"—supported resolving that ambiguity by interpreting "appropriate relief" to exclude damages against the State. *Ibid.* But as this Court has already

recognized, context cuts the other way here: "In the context of suits against Government officials, damages have long been awarded as appropriate relief." *Tanzin*, 592 U.S. at 49; see p. 16, *supra*.

2. The court of appeals held that RLUIPA's damages action is not a permissible exercise of Congress's spending power only by applying an additional rule that Congress lacks authority to "impose *direct* liability on a non-party to the contract" for federal funds. Pet. App. 6a (citation omitted); accord Br. in Opp. 19-22.[2] But there is no such rule. In any event, it is especially clear that Congress can create a damages remedy against *agents* of a funding recipient. The court's reasoning depends on a contract analogy that has less force here, where Congress enacted an express cause of action. If there were any remaining doubt, Congress has ample authority under the Necessary and Proper Clause to ensure compliance with funding conditions by authorizing private damages suits.

a. Nothing in the Constitution precludes Congress from imposing liability on parties other than the funding recipient for violating conditions on federal funds. As explained, RLUIPA easily clears the bar that this Court announced in *Dole*, and "unambiguously" expresses

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[2] The decision below and the circuit precedent on which it relied are ambiguous about whether they hold that Congress lacks authority under the spending power to regulate nonparties to the spending contract by authorizing individual-capacity damages suits against them or instead hold that constitutional avoidance requires reading RLUIPA to foreclose such suits. See Pet. App. 6a, 11a. But the constitutional-avoidance argument is no longer available after *Tanzin*, which held that RFRA's materially identical language "clear[ly]" authorizes individual-capacity suits. 592 U.S. at 47; see *Warger* v. *Shauers*, 574 U.S. 40, 50 (2014) ("constitutional avoidance has no role to play" where the statutory language is clear).

federal funding conditions. 483 U.S. at 207 (citation omitted). The court of appeals' ruling is based on the argument that spending legislation "operates like a contract" and so only funding recipients may be held to account for violations on conditions. Pet. App. 6a (citation omitted). But under that contract analogy, Congress provided clear notice to federal funding recipients that if they accepted federal funds, they could not unlawfully burden religious exercise, and their officials could be subject to individual-capacity liability. See pp. 24-25, *supra*. That notice is all that this Court's cases require. Three points bear emphasis.

*First*, the validity of Congress's exercise of the spending power is especially clear here because governmental officials are agents of a party to the spending contract. RLUIPA's damages remedy applies to officials and those acting under color of state law, who as "a consequence of their decision to accept employment in a [federally funded] project" have voluntarily undertaken to execute the State's obligations under the federal spending contract. *Rust* v. *Sullivan*, 500 U.S. 173, 199 (1991) (upholding limitation on free speech rights of employees of a Title X project). Such officials therefore may fairly be held to account for compliance with the terms of that contract. Indeed, this Court has upheld liability for officers of funding recipients where the officer's conduct "was a threat to the integrity and proper operation of the federal program." *Salinas* v. *United States*, 522 U.S. 52, 54-55, 60-61 (1997) (upholding 18 U.S.C. 666(a)(1)(B) liability as to deputy sheriff who managed a federally funded jail); cf. *Sabri* v. *United States*, 541 U.S. 600, 605-606 (2004) (upholding 18 U.S.C. 666(a)(2) liability).

Regulating States indirectly through their officials is not a novel concept. Because States enjoy sovereign immunity, they are often held accountable through restrictions on their officers, cf. *Ex parte Young*, 209 U.S. 123 (1908), including through individual-capacity damages suits and the attendant restrictions (like qualified immunity) that come along with them, see 42 U.S.C. 1983. The States and their officials are cognizant of that longstanding framework, and the States must be deemed to have accepted it as a condition of federal funding in RLUIPA.

*Second*, the court of appeals' reasoning has diminished force here, where both the substantive and remedial conditions are express. The requirement of clarity under the Spending Clause mainly serves to "ensur[e] that the receiving entity of federal funds had notice" of its obligations. *Cummings*, 596 U.S. at 219 (brackets and citation omitted). RLUIPA's cause of action amply satisfies whatever notice concerns animate the contract analogy and makes this an easier case than most.

Contrasting RLUIPA with the statute at issue in *Medina* v. *Planned Parenthood South Atlantic*, 145 S. Ct. 2219 (2025), illustrates the point. For statutes like Medicaid's any-qualified-provider provision, which impose a condition on States but do not contain a cause of action, there is a question whether the statute "'clearly and unambiguously'" confers "individual federal rights" that can be enforceable under the generic Section 1983 cause of action. *Id.* at 2234 (brackets and citation omitted). The Court has recognized that "statutes create individual rights only in 'atypical case[s].'" *Id.* at 2229 (quoting *Health & Hosp. Corp. of Marion County* v. *Talevski*, 599 U.S. 166, 183 (2023)). That is because the ordinary remedy in such an instance, when a State "vi-

olates" funding conditions, "is not a private enforcement suit but rather action by the Federal Government to terminate funds to the State." *Id.* at 2228 (citation and internal quotation marks omitted).

Here, Congress's design is very different. RLUIPA contains both a substantive condition protecting religious exercise, 42 U.S.C. 2000cc-1(a), and an express remedial condition to sue for "violation[s]" of that right, 42 U.S.C. 2000cc-2(a). That obviates any need to ask whether there is clear rights-creating language that allows a plaintiff to resort to Section 1983 and puts regulated parties on clear notice.

*Third*, and relatedly, Congress's choice to protect federal funding through RLUIPA's express cause of action reflects a deliberate policy judgment that should be respected. This Court has recognized that "the decision whether to let private plaintiffs enforce a new statutory right poses delicate questions of public policy" and that "how best to weigh th[e] competing costs and benefits" of "private enforcement actions" is a choice that "belongs to the people's elected representatives." *Medina*, 145 S. Ct. at 2229. In RLUIPA, Congress "balanc[ed] th[e] costs and benefits" at stake and created a damages remedy for prisoners whose religious exercise rights are burdened by state officials. *Id.* at 2239.

That choice to protect federal funding objects by regulating beyond the direct recipient of funds is not unique to RLUIPA. For example, the Federal Nursing Home Reform Act subjects individuals to civil penalties if they falsify certified assessments of residents in nursing homes that receive federal funding. See 42 U.S.C. 1396r(b)(3)(B)(i) and (ii). Similarly, Title X of the Public Health Service Act subjects any "officer or employee of any State" or other entity that administers a program

receiving federal funds to fines and imprisonment up to one year for coercing an abortion or sterilization by threatening the loss of benefits. 42 U.S.C. 300a-8. Likewise, the Emergency Medical Treatment and Labor Act imposes a civil penalty on doctors in hospitals that receive federal funding who violate certain conditions related to patient treatment. See 42 U.S.C. 1395dd(d)(1)(B); see Pet. App. 30a n.2 (Oldham, J., dissenting from the denial of rehearing en banc). None of those examples exceeds constitutional bounds.

More broadly, Congress often extends liability to individuals or entities that are not in contractual privity with the federal government to protect federal expenditures. That is a common feature of anti-fraud statutes. For example, the False Claims Act imposes liability on "any person who" "knowingly * * * *causes to be presented[]* a false or fraudulent claim for payment or approval," and defines "'claim'" as including requests for payment "made to a contractor, grantee, or other recipient." 31 U.S.C. 3729(a)(1)(A) and (b)(2)(A)(ii) (emphasis added); see *United States ex rel. Marcus* v. *Hess*, 317 U.S. 537, 544-545 (1943) (interpreting the False Claims Act to "reach any person who knowingly assisted in causing the government to pay" fraudulent claims "without regard to whether that person had direct contractual relations with the government"). Or consider the Anti-Kickback Statute, which imposes criminal liability on those who receive kickbacks in return for a referral for the provision of federally reimbursable care. See 42 U.S.C. 1320a-7b(b)(1); cf. *United States* v. *Laudani*, 320 U.S. 543 (1944) (interpreting an anti-kickback statute to reach a foreman on a public works project that received federal funds). Whistleblower statutes, too, create causes of action for damages against govern-

ment subcontractors, who are not in direct privity with the federal government. See, *e.g.*, 41 U.S.C. 4712(c)(2).

b. If more were needed, the Necessary and Proper Clause removes any doubt that Congress may create a cause of action imposing liability on parties beyond the funding recipient for violating federal funding conditions.

The Necessary and Proper Clause authorizes Congress to "make all Laws which shall be necessary and proper for carrying into Execution" its powers, including the spending power. U.S. Const. Art. I, § 8, Cl. 18. Since *McCulloch* v. *Maryland*, 17 U.S. (4 Wheat.) 316 (1819), it has been settled that Congress has the constitutional authority to enact not only legislation that is "indispensable" to the exercise of its enumerated powers, but also legislation that Congress believes "convenient, or useful" and "plainly adapted" to the execution of federal power, so long as the means chosen are not prohibited by the Constitution. *Id.* at 413, 421. While "Congress has authority under the Spending Clause to appropriate federal moneys to promote the general welfare," it also has "corresponding authority under the Necessary and Proper Clause to see to it that taxpayer dollars appropriated under that power are in fact spent for the general welfare." *Sabri*, 541 U.S. at 605 (citation omitted); accord *Gonzales* v. *Raich*, 545 U.S. 1, 39 (2005) (Scalia, J., concurring in the judgment) (the Necessary and Proper Clause "empowers Congress to enact laws in effectuation of its enumerated powers").

Accordingly, just as Congress may unquestionably "attach conditions on the receipt of federal funds," *Dole*, 483 U.S. at 206, so it is empowered to prevent third parties from interfering with a funding recipient's compliance with those conditions. Indeed, Congress's power

to prevent such interference is "bound up with congressional authority to spend in the first place." *Sabri*, 541 U.S. at 608. Attaching civil liability to an individual official's interference with a State's compliance with RLUIPA is a straightforward and "plainly adapted" means of ensuring that federal funds are not spent violating the funding conditions. *McCulloch*, 17 U.S. (4 Wheat.) at 421.

This Court's decision in *Sabri* demonstrates the point. There, the Court held that Congress acted within its authority under the spending power and the Necessary and Proper Clause in enacting 18 U.S.C. 666(a)(2), which criminalizes bribing a state or local official of an entity receiving at least $10,000 in federal funds. *Sabri*, 541 U.S. at 602-608. The bribery statute directly imposes criminal liability on nonparties to the federal contract, broadly applying to "[w]hoever" gives "anything of value to any person," with intent to bribe. 18 U.S.C. 666(a)(2). This Court affirmed its constitutionality. *Sabri*, 541 U.S. at 604-608; accord *Salinas*, 522 U.S. at 54-55, 60-61 (finding "no serious doubt about the constitutionality of [18 U.S.C.] 666(a)(1)(B)" as applied to a deputy sheriff responsible for managing federally funded county jail). Persons subject to bribery prosecutions are no more parties to the spending contract than respondents here.

The court of appeals and respondents distinguish the statute in *Sabri* on the ground that Congress there was "safeguard[ing] its allocated dollars" by imposing "[c]riminal punishments" on those "who directly threatened the 'object' of a spending agreement," whereas RLUIPA is a "civil" statute regulating "conduct unrelated to the federal purse." Pet. App. 12a; see Br. in Opp. 21-22. But RLUIPA's private cause of action likewise "safeguard[s] [Congress's] allocated dollars" by deterring vi-

olations of RLUIPA in federally funded state prisons. Pet. App. 12a. And the distinction between civil penalties and criminal sanctions lends no support to this argument. It is permissible for Congress to decide that federal funds should not be funneled towards state programs in which officials unlawfully burden religious exercise and that providing a private cause of action deters that conduct, thus protecting the federal funds.

In any event, Congress is not limited to prohibiting the stealing of the actual federal funds given. *Sabri* rejected any such narrow requirement. The criminal defendant in *Sabri* argued that Section 666(a)(2) was unconstitutional "because it fails to require proof of any connection between a bribe or kickback and some federal money." 541 U.S. at 604. The Court acknowledged that "not every bribe or kickback offered or paid * * * will be traceably skimmed from specific federal payments." *Id.* at 605-606. But the Court reasoned that "[m]oney is fungible," and that lack of traceability in no way decreased the "federal interest" in policing such bribes. *Id.* at 606.

The bribery statute in *Sabri* reflects an even more expansive exercise of Congress's spending power than RLUIPA's damages remedy. Criminal punishment—in *Sabri*, a fine and up to ten years imprisonment, see 18 U.S.C. 666(a)—is a far greater intrusion on liberty than civil compensatory damages, especially given qualified-immunity principles. And while the bribery statute regulates the conduct of the entire public (applying to "[w]hoever" takes specified prohibited actions, 18 U.S.C. 666(a)(2)), RLUIPA's damages remedy is targeted at state "official[s]" or those "acting under color of State law," 42 U.S.C. 2000cc-5(4)(A). The validity of Congress's exercise here thus follows *a fortiori* from

*Sabri*, and Congress's authorization of suits against individual officials who violate RLUIPA is permissible under the Spending and Necessary and Proper Clauses.

3. Respondents also appeal to practical and policy concerns, arguing that, if Congress may use its spending power to authorize damages liability in individual-capacity suits under RLUIPA, it would "throw all current and future Spending Clause legislation into chaos and a flurry of litigation." Br. in Opp. 23. Respondents' leading example is Title IX of the Education Amendments of 1972, 20 U.S.C. 1681 *et seq.*, which courts have interpreted not to allow suits against nonparties to the spending contract. See Br. in Opp. 23-24.

But Title IX is critically different for reasons already explained—unlike RLUIPA, it lacks an express cause of action. See pp. 28-29, *supra*; *Cummings*, 596 U.S. at 218. Any concerns about permitting an implied cause of action against third parties are mitigated here, where the cause of action is expressly stated and, for the reasons explained, clearly puts both the funding recipient and third parties on notice. In any event, "even the most formidable policy arguments cannot overcome" clear statutory text. *Helix Energy Solutions Grp., Inc.* v. *Hewitt*, 598 U.S. 39, 59 (2023) (citation omitted).

## CONCLUSION

The judgment of the court of appeals should be reversed.

Respectfully submitted.

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