No. 23-1197

IN THE

Supreme Court of the United States

DAMON LANDOR,

Petitioner,

v.

LOUISIANA DEPARTMENT OF CORRECTIONS AND PUBLIC SAFETY, *et al.*,

Respondents.

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

BRIEF OF *AMICI CURIAE* 44 RELIGIOUS ORGANIZATIONS IN SUPPORT OF PETITIONER

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INTEREST OF *AMICI CURIAE*[1]

Amici are American religious or religiously affiliated organizations representing a wide array of faiths and denominations. Led by the Muslim Bar Association of New York, *amici* include congregations and houses of worship, as well as professional groups that work with or represent faith communities ("Religious Organizations"). As such, *amici* have an interest in ensuring that the Religious Land Use and Institutionalized Persons Act of 2000 (RLUIPA) is properly interpreted to allow anyone whose religious freedom has been unlawfully burdened to seek the full panoply of remedies authorized by the statute, including money damages against individual officers. As explained further, absent such damages, RLUIPA violations against religious minorities in state institutions have gone entirely unremedied. *Amici* have a clear interest in ensuring that robust enforcement mechanisms are in place to prevent RLUIPA from becoming an empty promise.

Amici are: American Association of Jewish Lawyers and Jurists; American Baptist Churches of Metropolitan New York; American Jewish Committee; Association of Muslim American Lawyers; Cabrini Immigrant Services of NYC; Central Conference of American Rabbis; Congregation of Our Lady of Charity of the Good Shepherd, U.S. Provinces; Congregation Shaarei Shamayim; Council on American Islamic Relations-Michigan (CAIR-MI); Council on American-Islamic

1. No counsel for any party authored this brief in whole or in part, and no person or entity, other than *amici curiae*, their members, or their counsel, contributed money intended to fund the preparation or submission of this brief.

Relations; Council on American-Islamic Relations—New York Chapter (CAIR-NY); Council on American-Islamic Relations—Philadelphia Chapter (CAIR-Philadelphia); East End Temple; El Paso Monthly Meeting of the Religious Society of Friends; Episcopal Diocese of Long Island; Faith in New Jersey; First Congregational United Church of Christ; Franciscan Friars of California, Inc.; Hope Border Institute; Interfaith Center of New York; Islamic Society of Central Jersey; Metropolitan Community Churches; Muslim Advocates; Muslim Bar Association of New York; Muslims for Progressive Values; Muslim Legal Fund of America; Muslim Public Affairs Council (MPAC); National Advocacy Center of the Sisters of the Good Shepherd; National Association of Muslim Lawyers; National Council of Jewish Women; National Disaster Interfaith Network; New Jersey Muslim Lawyers Association; New Sanctuary Coalition; New York Disaster Interfaith Services; New York State Council of Churches; New York Yearly Meeting of the Religious Society of Friends; Santa Fe Monthly Meeting of Friends (Quakers); The Queens Federation Of Churches; Town and Village Synagogue New York, NY; Union for Reform Judaism; Unitarian Universalist Faith Action New Jersey; Unitarian Universalist Massachusetts Action Network; Unitarian Universalist Service Committee (UUSC); and Women of Reform Judaism.

SUMMARY OF ARGUMENT

The decision below forecloses crucial relief from government overreach and impermissibly burdens the fundamental liberties of the most vulnerable members of this country's religious communities. The court of appeals' misguided approach runs afoul of the plain text

of RLUIPA, prior Supreme Court precedent, and over two hundred years of Constitutional tradition. This Court should reverse.

Amici, religious and religiously affiliated organizations of numerous faiths and denominations, have a unique appreciation of the potential dangers posed to disfavored religious groups by state officials. This danger has been ever-present throughout American history, even as the identities of the disfavored religious groups have changed over time.

Congress has recognized the vulnerability of religious adherents to government hostility, coercion, or disinterest, and enshrined broad protections of religious liberty in two related statutes: the Religious Freedom Restoration Act of 1993 (RFRA) and RLUIPA. RFRA, which was enacted in response to the Court's decision in *Employment Division, Department of Human Resources v. Smith*, 494 U.S. 872 (1990), prohibits the federal government from imposing any substantial burden on the free exercise of religion unless such burden furthers "a compelling governmental interest" and is "the least restrictive means" of doing so. RFRA further establishes a federal cause of action to obtain "appropriate relief" for any violation of the statute. Less than five years ago, this Court made clear that such "appropriate relief" includes damages against federal officials in their individual capacities.

RLUIPA, the statute at issue here, was enacted in 2000 after the Court invalidated RFRA in part, and provides the same protections to the religious exercise of institutionalized persons, as well as protecting individuals, houses of worship, and other religious institutions from discrimination in zoning and landmarking laws. For the

same reasons that the Court recently found dispositive as to RFRA, RLUIPA should be interpreted to authorize suits for money damages against state officials in their individual capacities.

Providing a damages remedy pursuant to RLUIPA is essential to achieving the statute's explicit textual aims and protecting religious rights in the United States. Injunctive relief alone is not sufficient. Many inmates suing under RLUIPA are released or transferred by the time their claims are adjudicated and therefore have no claim for injunctive relief. Or the government may stop its violative conduct when facing legal challenge and thereby evade judicial scrutiny by mooting the injunctive claim. These concerns are not idle fears. As detailed throughout the caselaw recounted later in this brief, many inmates of a variety of faiths, including Rastafarians, Muslims, Jews, and Christians, have had their religious liberty egregiously violated in state institutions but, without money damages available, have received no "appropriate relief." Money damages are necessary to ensure compensation for the deprivation of legally guaranteed rights, deter officials from engaging in unconstitutional behavior, and vindicate fundamental rights that have played a central role in the history of the United States.

For the reasons set forth herein and in Petitioner's and other *amici*'s briefs, *amici* urge the Court to reverse the decision of the Fifth Circuit to ensure that the most vulnerable members of our nation's religious communities can obtain "appropriate relief" from government infringement on their most precious liberties.

ARGUMENT

I. CONGRESS ENACTED RLUIPA TO PROVIDE EXPANSIVE PROTECTIONS FOR THE EXERCISE OF RELIGIOUS FREEDOMS

RLUIPA, like "its sister statute," RFRA, was enacted "to provide very broad protection for religious liberty." *Holt v. Hobbs*, 574 U.S. 352, 356 (2015) (quoting *Burwell v. Hobby Lobby Stores, Inc.*, 573 U.S. 682, 693 (2014)). RLUIPA's expansive protection of the free exercise of religion is deeply rooted in American history, which shows why money damages must be available to vindicate its promises. *See Tanzin v. Tanvir*, 592 U.S. 43, 51-2 (2020).

The right to freely practice one's faith—and to generally be free of governmental burdens on that right—can be traced to well before the founding of the country. In the "[c]enturies immediately before and contemporaneous with the colonization of America," government-supported persecution of religious minorities was rampant: "Catholics had persecuted Protestants, Protestants had persecuted Catholics, Protestant sects had persecuted other Protestant sects, Catholics of one shade of belief had persecuted Catholics of another shade of belief, and all of these had from time to time persecuted Jews." *Everson v. Bd. of Ed. of Ewing Twp.*, 330 U.S. 1, 8-9 (1947). Even in the new world, "many of the old world practices and persecutions" continued. *Id.* at 10. Practitioners of minority faiths "were persecuted because they steadfastly persisted in worshipping God only as their own consciences dictated." *Id.* Indeed, Rhode Island's founder, the Protestant dissenter Roger Williams, had been banished from the Massachusetts Bay Colony

for his religious views. *See* Michael W. McConnell, *The Origins and Historical Understanding of Free Exercise of Religion*, 103 Harv. L. Rev. 1409, 1424-25 (1990).

But eventually, by 1791, "[f]reedom of religion was universally said to be an unalienable right" among the states. *See* McConnell, *supra*, at 1456. With the ratification of the First Amendment's Free Exercise Clause, the government committed "itself to religious tolerance," such that "upon even slight suspicion that proposals for state intervention stem[med] from animosity to religion or distrust of its practices, all officials [would] pause to remember their own high duty to the Constitution and to the rights it secures." *Church of the Lukumi Babalu Aye, Inc. v. City of Hialeah*, 508 U.S. 520, 547 (1993). While the government did not always live up to this promise—consider its treatment of the religious rights of enslaved peoples and indigenous communities—the Court frequently intervened to protect religious liberties, ultimately enforcing the Free Exercise Clause through the "compelling interest" test. From 1963 until 1990, this Court held that government may not "substantially burden the exercise of religion" unless "necessary to further a compelling state interest." *Holt*, 574 U.S. at 357.

However, in *Employment Division, Department of Human Resources v. Smith*, 494 U.S. 872 (1990), the Court deviated from this test, holding that, under the First Amendment, "neutral, generally applicable laws may be applied to religious practices even when not supported by a compelling governmental interest." *See City of Boerne v. Flores*, 521 U.S. 507, 514 (1997) (citing *Smith*, 494 U.S. at 885).

In response, "Congress enacted RFRA in order to provide greater protection for religious exercise than is available under the First Amendment." *Holt*, 574 U.S. at 357. In doing so, Congress restored, by statute, the longstanding "compelling interest test" that *Smith* largely overturned—*i.e.* that "[g]overnment shall not substantially burden a person's exercise of religion even if the burden results from a rule of general applicability," unless the burden furthers "a compelling governmental interest" and "is the least restrictive means of" doing so. 42 U.S.C. § 2000bb-1(a),(b). To fully protect a person's right to free exercise of religion, RFRA provided a right of action for any "person whose religious exercise has been burdened" to "obtain appropriate relief against a government." *Id.* § 2000bb-1(c). As the Court made clear in *Tanzin*, such relief includes money damages against officers in their individual capacities. *See* 592 U.S. at 52.

RFRA was subject to legal challenges and the Court ultimately held that RFRA is unconstitutional as applied to the States and its subdivisions, though it remained in force as to the federal government. *City of Boerne*, 521 U.S. at 532-36. Congress responded by enacting RLUIPA under the Spending and Commerce Clauses to restore and expand the pre-*Smith* protections for religious freedoms in two areas: (i) land-use regulation; and (ii) the religious exercise of institutionalized persons. *See Holt*, 574 U.S at 357; *see also* 42 U.S.C. §§ 2000cc, 2000cc-1. RLUIPA, like RFRA, provides "expansive protection for religious liberty," and, for institutionalized persons, it "mirrors RFRA" by prohibiting the government from imposing a substantial burden on a prisoner's religious exercise unless the burden furthers "a compelling governmental interest" and "is the least restrictive means of" doing

so. *Holt*, 574 U.S. at 357-58; 42 U.S.C. § 2000cc-1(a). And like RFRA, RLUIPA expressly creates a federal cause of action that allows "[a] person [t]o assert a violation of [RLUIPA] as a claim or defense in a judicial proceeding and obtain appropriate relief against a government." *Id.* § 2000cc-2(a).

Thus, like RFRA, RLUIPA "made clear that it was reinstating both the pre-*Smith* substantive protections of the First Amendment *and* the right to vindicate those protections by a claim." *Tanzin*, 592 U.S. at 50 (emphasis in original). Accordingly, claims under RLUIPA "must have at least the same avenues for relief against officials that they would have had before *Smith*," and "one [such] avenue for relief" includes "a right to seek damage against Government employees." *Id.* at 51.

II. MONEY DAMAGES UNDER RLUIPA ARE VITAL TO PROTECTING DISFAVORED RELIGIOUS GROUPS FROM DISCRIMINATION

It is not by accident that money damages are available under RLUIPA—such remedies are essential to vindicating rights, particularly when injunctive relief is unavailable.

A. Money Damages Are an Essential Mechanism of Vindicating Critical Rights

Money damages are "the traditional form of relief offered in the courts of law." *Curtis v. Loether*, 415 U.S. 189, 196 (1974). They are "commonly available against state and local government officials," *Tanzin*, 592 U.S. at 50, and they serve at least three central purposes.

First, "damages [are] an instrument of corrective justice, an effort to put plaintiff in his or her rightful position." Dan B. Dobbs & Caprice L. Roberts, *Law of Remedies: Damages—Equity—Restitution* § 3.1 at 215 (3d ed. 2017) (hereinafter, "Law of Remedies"). Where a person violates the legal rights of another and causes injury, a factfinder awards damages in order to right the wrong done to the plaintiff by the defendant. *See* Dan B. Dobbs, Paul T. Hayden & Ellen M. Bublick, *The Law of Torts* § 11 at 19-20 (2d ed. 2011); *see also* 4 Fowler Harper, Fleming James, Jr., & Oscar S. Gray, *Harper, James and Gray on Torts* § 25.1 at 1299 (2007) ("The cardinal principle of damages in Anglo-American law is that of *compensation* for the injury caused to the plaintiff by defendant's breach of duty." (emphasis in original)).

Second, damages deter future violations. *See Law of Remedies* § 3.1 at 216 (a "damages judgment can provide an appropriate incentive to meet the appropriate standard of behavior"). Damages, a cost to the liable defendant, raise the price of unlawful conduct and make it less attractive to potential wrongdoers. *See Owen v. City of Indep., Mo.*, 445 U.S. 622, 651-52 (1980) ("The knowledge that a municipality will be liable for all of its injurious conduct [in a Section 1983 suit], whether committed in good faith or not, should create an incentive for officials who may harbor doubts about the lawfulness of their intended actions to err on the side of protecting citizens' constitutional rights."); *see also* Guido Calabresi, *The Costs of Accidents: A Legal and Economic Analysis* at 26 (1970).

Third, damages vindicate the legal rights of the plaintiff. This rationale has a deep historical basis; many

writs "[i]n the early Republic" enabled "individuals to test the legality of government conduct" through suits against officers for money damages. *Tanzin*, 592 U.S. at 49 (quoting James E. Pfander & Jonathan L. Hunt, *Public Wrongs and Private Bills: Indemnification and Gov't Accountability in the Early Republic*, 85 N.Y.U. L. Rev. 1862, 1871-75 (2010)). In this way, damages are a "vital component of any scheme for vindicating cherished constitutional guarantees." *Owen*, 445 U.S. at 651.

For these reasons, particularly "[i]n the context of suits against Government officials, damages have long been awarded as appropriate relief." *Tanzin*, 592 U.S. at 49. This is true of claims under § 1983, as well as its precursor. *See id.* at 50-51 (citing cases). It is also true of RFRA, which, as this Court made clear in *Tanzin*, provides "at least the same avenues for relief against officials" as available pre-*Smith* under § 1983. *See id.* at 51. As *Tanzin* further explained, RFRA "uses the same terminology as § 1983 in the very same field of civil rights law," and it thus followed that RFRA authorizes the same remedies, including suits against individual officers for money damages. *See* 592 U.S. at 49. Because RLUIPA—RFRA's "sister statute," *Holt*, 574 U.S. at 356—was enacted to "allow prisoners to seek religious accommodations pursuant to the same standard as set forth in RFRA," it should be interpreted no differently. *Holt*, 574 U.S. at 358 (quoting *Gonzales v. O Centro Espírita Beneficente Uniõ do Vegetal*, 546 U.S. 418, 436 (2006)).

B. Injunctive Relief Alone Is Insufficient to Vindicate the Rights of Religious Minorities Under RLUIPA

As with RFRA, damages are sometimes "the *only* form of relief than can remedy" RLUIPA violations, because "[f]or certain injuries . . . effective relief consists of damages, not an injunction." *Tanzin*, 592 U.S. at 51 (emphasis in original).

Consider the facts of this very case. As the District Court recounted, Mr. Landor informed a guard and the warden of Raymond Laborde Correctional Center (RLCC) that he is a practicing Rastafarian and, as such, "maintained long hair in accordance with his religious beliefs." Pet. For Writ of Cert. App. 16a. Mr. Landor alleged that he even presented a RLCC guard with a copy of *Ware v. Louisiana Department of Corrections*, 866 F.3d 263 (2017), in which this Court held that the Louisiana Department of Correction's policy of prohibiting dreadlocks, as applied to a Rastafarian like Mr. Landor, violates RLUIPA. *Id.* at 274; Pet. App. 2a. The guard simply threw it away. Pet. App. 2a. Then, at the warden's direction, officers forced Mr. Landor into a room, handcuffed him, and forcibly shaved him completely bald. Pet. App. 3a. The warden and officers had no compelling reason to cut Mr. Landor's hair; indeed, Mr. Landor alleged that a different facility had found a way to accommodate his Rastafarian beliefs and had never forcibly cut his hair. Pet. App. 2a. Mr. Landor thus alleged a clear and egregious violation of his religious liberty by the RLCC warden and officers.

Congress enacted RLUIPA to vindicate precisely the rights of observant individuals like Mr. Landor. *See Cutter v. Wilkinson*, 544 U.S. 709, 716-17 (2005) ("To secure redress for inmates who encountered undue barriers to their religious observances, Congress carried over from RFRA the 'compelling governmental interest'/'least restrictive means' standard.").But because Mr. Landor has been released from confinement, he can no longer seek injunctive relief. Money damages against the officers therefore are the only "effective relief" for the violation of his religious freedom. *See Tanzin*, 592 U.S. at 51.

This is not a one-off problem—not even as to Rastafarians. Consider, in particular, the case of Alphonse Porter, who was previously confined at the Louisiana State Penitentiary. *See Porter v. Manchester*, 2021 WL 389090, at *1 (M.D. La. Jan. 4), *report and recommendation adopted*, 2021 WL 388831 (M.D. La. Feb. 3, 2021). Mr. Porter, also a Rastafarian, alleged in his verified complaint that prison leadership ordered officers "to use a chemical agent and other malicious and sadistic tactics if [Mr. Porter] did not renounce his religious beliefs." *Id.* at *2. Mr. Porter further alleged that the officers escorted him to a lobby and "threatened to harm [him] if he did not cut his hair and shave his beard and surrounded [him] in a threatening manner." *Id.* After Mr. Porter kneeled and began praying, an officer (Major Voorhies) "hit [Mr. Porter] in his side twice with a chair[,] . . . stood over [Mr. Porter], threatened to kill him, jerked [Mr. Porter] up from the floor, grabbed [Mr. Porter] by the throat and slammed him against a concrete wall." *Id.* A second officer (Damon Turner) "then grabbed [Mr. Porter] and slammed him to the floor causing [Mr. Porter] to hit his head and become dizzy." *Id.* Major Voorhies, straddling Mr. Porter, then

struck Mr. Porter in the mouth with clippers, "causing [Mr. Porter's] mouth to bleed and resulted in two chipped and loose teeth." *Id.* And it only got worse:

> Voorhies then pushed the blades of the clippers into [Mr. Porter's] face causing him to bleed while Voorhies shaved one patch of facial hair on each side of [Mr. Porter's] face. [Mr. Porter] was again hit with the clippers by Voohries on the side of the head, then Voohries forcefully cut a large patch of hair on both sides of [Mr. Porter's] head.
>
> While [Mr. Porter's] hair and beard were being shaved, defendant Turner stood on [Mr. Porter's] wrist and waist chain cuffs causing [Mr. Porter] to scream out in pain. Defendant [Captain Juan] Manchester stood by watching and laughing. Defendant [Col. Trent] Barton looked in from the disciplinary court room and stated, "There is a lot more of that to come" if [Mr. Porter] "didn't believe in the defendants as Gods."

Id. And ten days later, after "notic[ing] that [Mr. Porter] still had patches shaven out of his hair and beard," the defendants "sprayed [Mr. Porter] with an excessive amount of chemical agent and [he] was not allowed to decontaminate." *Id.*

Despite this extraordinary record, Mr. Porter was denied all recourse under RLUIPA. The district court found that injunctive relief was moot because Louisiana had subsequently changed its policy to allow religious

exemptions to prison grooming standards. *Id.* at *5. As for money damages, the district court held that RLUIPA does not authorize such damages against officers in either their official or individual capacities. *Id.* at *4. That is a perversion of RLUIPA's guarantee of all "appropriate relief" to those whose religious liberty has been violated. The same injustice should not also befall Mr. Landor—or anyone else whose rights under RLUIPA can only be vindicated through money damages.

Mr. Landor's plight has in fact been shared by many other members of minority faiths throughout the country. In *Banks v. Dougherty*, Larry Banks and Walter Carlos, two practicing Muslims who had been involuntarily committed at Chicagoland's Elgin Mental Health Center in Illinois, were denied "the right to attend Jumu'ah [Friday] services," and Banks, in particular, was denied "a halal diet and sufficient food to fast during Ramadan." *See* 2010 WL 747870, at *1-2 (N.D. Ill. Feb. 26, 2010). Because they were no longer committed at Elgin, only money damages could have vindicated their rights under RLUIPA. Yet the court dismissed their claims for money damages, leaving them with no "appropriate relief" despite RLUIPA's provision to the contrary. *Id.* at *5; *see also Robbins v. Robertson*, 782 F. App'x 794 (11th Cir. 2019) (holding that a Muslim inmate who was forced by officials at a Georgia prison to choose between observing a halal diet or suffering malnutrition could not assert a RLUIPA claim because he was transferred to a different facility and because circuit precedent does not allow for money damages); *Banks v. Sec'y Pennsylvania Dep't of Corr.*, 601 F. App'x 101, 103 (3d Cir. 2015) (holding that Muslim inmate who had been transferred to a new facility within the Pennsylvania prison system could not assert

a RLUIPA claim against prior facility's officials who had restricted his use of prayer oils during services and his participation in the feasts of Eid al-Fitr and Eid al-Adha); *Washington-El v. Collins*, 2015 WL 1035036, at *13, *19 (M.D. Pa. Mar. 10, 2015) (dismissing plaintiff's RLUIPA claims after plaintiff was denied a copy of the Quran and the right to see an Imam).

The same result befell Scott Rendelman, an Orthodox Jew who, while incarcerated in a Maryland prison, lost 30 pounds after prison officials categorically refused to accommodate his request for a kosher diet. *See Rendelman v. Rouse*, 569 F.3d 182, 184-85 (4th Cir. 2009). Mr. Rendelman, too, was left with "no appropriate relief," because he had been transferred from the Maryland prison system to federal custody—mooting injunctive relief—and the court interpreted RLUIPA as not permitting claims for money damages. *See id.* at 187-88; *see also Mitchell v. Denton Cnty. Sheriff's Off.*, 2021 WL 4025800, at *8 (E.D. Tex. Aug. 6) (denying monetary relief under RLUIPA to Jewish inmate deprived of kosher food), *report and recommendation adopted*, 2021 WL 3931116 (E.D. Tex. Sept. 1, 2021); *Harris v. Schriro*, 652 F. Supp. 2d 1024, 1029 (D. Ariz. 2009) (same); *Yisrayl v. Saint Genevieve Cnty. Jail*, 2017 WL 4150859, at *2 (E.D. Mo. Sept. 19, 2017) (same).

Practicing Catholics have fared no better. In 2012, *pro se* plaintiffs Christopher Desmond and Joseph M. Walls, among others, brought suit under RLUIPA after officials at the James T. Vaughn Correctional Center in Smyrna, Delaware, "stopp[ed] full Catholic communion of wine and bread, stopp[ed] the prayer of the faithful, and den[ied] Catholics their feast diet, meals, and observances." *See*

Desmond v. Phelps, No. 12-1120-SLR, 2016 WL 2742384, at *1 (D. Del. May 10, 2016). According to the plaintiffs, "inmates who practice Protestants religions enjoy[ed] full liberty to celebrate, worship, and assemble on their religious holidays and practice the tenants of their religion, while similarly situated Catholics [did] not." *Id.* These *pro se* plaintiffs were denied effective relief when the court found that they "cannot maintain a RLUIPA action for monetary damages against defendants in their individual capacities." *Id.*, at *2 n.6. *See also Wendt v. Bullard*, No. 5:23-CT-3047-FL, 2024 WL 3955458, at *4, *6 (E.D.N.C. Aug. 27, 2024) (dismissing plaintiff's RLUIPA claims where plaintiff alleged that he was "denied Catholic services and the ability to practice other central tenets of his faith for years" because "plaintiff's transfer moots his claims for injunctive or declaratory relief" and "plaintiff cannot obtain damages under RLUIPA in the context presented here"); *Rhoden v. Dep't of State Hosps.*, No. 118CV00101NONESABPC, 2020 WL 5737019, at *13 (E.D. Cal. Mar. 20, 2020), report and recommendation adopted, No. 118CV00101NONESABPC, 2020 WL 4048489 (E.D. Cal. July 20, 2020) (finding plaintiff who was denied "the [Catholic] Sacraments of Penance and Holy Eucharist" failed to state a claim "as a matter of law because he sues Defendants in their individual capacity and seeks only monetary damages").

Without the availability of money damages, state institutions and their officers have also escaped accountability by simply changing their practices and thereby mooting any requested injunctive relief. That was the case in *Porter*, described above. And this problem has also occurred in other jurisdictions. For instance, in *Haight v. Thompson*, a Kentucky prison denied Randy

Haight and Gregory Wilson access to visiting clergy members. 763 F.3d 554, 560 (6th Cir. 2014). But, because the court held that money damages were unavailable under RLUIPA, the prison successfully evaded Mr. Haight's and Mr. Wilson's RLUIPA claim just "by altering its policy" with respect to clergy visits. *Id.* at 568; *see also Pilgrim v. New York State Dep't of Corr. Servs.*, 2011 WL 6031929, at *4 (N.D.N.Y. Sept. 1, 2011) (RLUIPA claim by Rastafarian who was disciplined for his dreadlocks dismissed as moot because of prison system's later change in policy regarding dreadlocks), *report and recommendation adopted*, 2011 WL 6030121 (N.D.N.Y. Dec. 5, 2011).

Such cases are all too common and fly in the face of RLUIPA's "very broad protection for religious liberty," *Holt*, 574 U.S. at 356, and its express provision of "appropriate relief" for *any* violation of it, 42 U.S.C. § 2000cc-2(a). That is why the Court in *Tanzin* held "that RFRA's express remedies provision permits litigants, when appropriate, to obtain money damages against federal officials in their individual capacities." 592 U.S. at 52. Pointing to "RFRA's origins" and the statute's "reinstate[ment] [of] pre-*Smith* protections and rights," *Tanzin* recognized that "it would be odd to construe RFRA in a manner that prevents courts from awarding [effective] relief" when such relief "consists of damages, not an injunction." *Id.* at 51. RLUIPA—which "mirrors RFRA," and contains the same, broad remedial language, *compare* 42 U.S.C. § 2000bb-1(c) (RFRA), *with id.* § 2000cc-2(a) (RLUIPA)—should be interpreted likewise. *See also id.* § 2000cc-3(g) (RLUIPA "shall be construed in favor of a broad protection of religious exercise"). This court should overrule the Fifth Circuit's decision below to prevent RLUIPA from becoming an empty promise.

CONCLUSION

The Court should reverse the judgment of the court of appeals.

Respectfully submitted,

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