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 AMICUS CURIAE NATIONAL SHERIFFS' ASSOCIATION IN SUPPORT OF RESPONDENTS

Gregory C. Champagne
Counsel of Record
Maurice E. Bostick
ST. CHARLES PARISH SHERIFF'S OFFICE
260 Judge Edward Dufresne Parkway
Luling, LA 70070
(985) 783-2883
sheriffgc@stcharlessheriff.org

October 1, 2025 *Counsel for Amicus Curiae*

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TABLE OF CONTENTS

TABLE OF AUTHORITIES

Page

CASES

TABLE OF AUTHORITIES – Continued

Page

CONSTITUTIONAL PROVISIONS

STATUTES

TABLE OF AUTHORITIES – Continued

Page

JUDICIAL RULES

OTHER AUTHORITIES

The National Sheriffs' Association respectfully submits this amicus curiae brief.[1]

IDENTITY AND INTEREST OF THE AMICUS CURIAE

THE NATIONAL SHERIFFS' ASSOCIATION (the "NSA") is a non-profit association formed under § 501(c)(4). Formed in 1940, the NSA seeks to promote the fair and efficient administration of criminal justice throughout the United States, and, in particular, to advance and protect the Office of Sheriff throughout the United States. The NSA has over 20,000 members, and is the advocate for 3,083 sheriffs throughout the United States.

The NSA also works to promote the public interest goals and policies of law enforcement throughout the nation. It participates in judicial processes where the vital interests of law enforcement and its members are affected.

Amicus represents the nation's sheriffs, who operate more than 3,000 local detention facilities throughout the country. The vast majority of these facilities house both convicted felons waiting to be transferred to other facilities as well as pretrial detainees awaiting court appearances. In addition, the majority of these facilities also handle individuals arrested on minor offenses being held only temporarily

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[1] This brief was not authored in whole or in part by counsel for any party. No person or entity other than amicus curiae made a monetary contribution to this brief's preparation or submission. Pursuant to Supreme Court Rule 37.2(a), counsel of record for all parties have received timely notice of the intent to file this brief.

while they arrange to post bail or otherwise arrange their release.

SUMMARY OF ARGUMENT

The Religious Land Use and Institutionalized Persons Act of 2000 ("RLUIPA"), 42 U.S.C. §§ 2000cc *et seq*., was enacted to prevent government officials from prospectively restricting religious exercise over the long term. The law was meant for inmates in federal and state prisons who are facing long-term incarceration and needed freedom to practice their religions indefinitely. RLUIPA was not meant to punish Sheriffs by allowing money damages against individuals for isolated acts infringing on religious rights. Duration of infringement on religious freedoms matter. Sheriffs oversee jails which hold pre-trial inmates for short periods of time. Any alleged disruption in religious exercise would be fleeting at best. Allowing money damages against Sheriffs and their personnel for momentary disruptions in religious practice was not the intent of Congress in enacting RLUIPA. Further, pre-trial inmates who have such isolated interruptions can pursue claims under Section 1983 for violation of their religious freedoms.

Although the judicial relief provision in RLUIPA mirrors that in the Religious Freedom Restoration Act of 1993 ("RFRA"), 42 U.S.C. §§ 2000bb *et seq*., RLUIPA was enacted pursuant to Congress's powers under the Spending Clause, thereby allowing Congress to impose certain conditions, such as civil liability, on the recipients of federal funds, such as state prison institutions.

Because state and local officials are not direct recipients of the federal funds, and thus would have no notice of the conditions imposed on them, they cannot be held individually liable under RLUIPA. RFRA, by contrast, was enacted pursuant to Congress's powers under the Fourteenth Amendment and thus does not implicate the same concerns. Accordingly, Sheriffs and local jail officials should not be subject to individual monetary damages because they are not direct recipients of the federal funds.

ARGUMENT

I. Congressional Intent Behind RLUIPA

When Congress enacted RLUIPA in 2000 pursuant to the Spending Clause, Section 1983 actions against officials in their individual capacities for money damages were already available to inmates for violation of their First Amendment rights of freedom of religion. Congress' purpose in enacting RLUIPA was not to create another statute for inmates to proceed against officials in their individual capacities for money damages. Instead, RLUIPA was a means to halt policies and practices which impinged on inmates' religious freedoms unless (1) they are in furtherance of a compelling governmental interest; and (2) are the least restrictive means of furthering that compelling governmental interest.

The statute was a means for prospective relief to allow inmates to be free to practice their religions without government interference. Such purpose was reflected in its provision at 2(e) which provides:

> Governmental discretion in alleviating burdens on religious exercise. A government may avoid the preemptive force of any provision of this Act by changing the policy or practice that results in a substantial burden on religious exercise, by retaining the policy or practice and exempting the substantially burdened religious exercise, by providing exemptions from the policy or practice for applications that substantially burden religious exercise, or by any other means that eliminates the substantial burden.

RLUIPA, pursuant to § 2000cc-4, provides:

> Nothing in this Act shall be construed to affect, interpret, or in any way address that portion of the First Amendment to the Constitution prohibiting laws respecting an establishment of religion (referred to in this section as the "Establishment Clause").

"Establishment Clause" is defined in the statute as that portion of the first amendment to the Constitution that proscribes laws prohibiting the free exercise of religion. § 2000cc-5(3). Based on this clear language, RLUIPA was never meant to "affect, interpret, or in any way address" an inmate's First Amendment rights of freedom of religion and his Section 1983 cause of action for violation of such. Congressional intent behind RLUIPA was not to provide another means for economic damages for past behavior.

II. Allowing Money Damages Against Individual Officials Would Unfairly and Adversely Affect Sheriffs

RLUIPA was enacted to prevent government officials from prospectively restricting religious exercise over the long term. The law was meant for inmates in federal and state prisons who are facing long-term incarceration and needed freedom to practice their religions indefinitely. RLUIPA was not meant to punish Sheriffs by allowing money damages against individuals for isolated acts infringing on religious rights. Duration of infringement on religious freedoms matter. Sheriffs oversee jails which, unlike state facilities, get few if any federal resources and which hold pre-trial inmates for short periods of time. For example, from July 2022 to June 2023, people admitted to local jails spent an average of 32 days in custody before release.[2] Any alleged disruption in religious exercise would be fleeting at best. Allowing money damages against Sheriffs and their personnel for momentary disruptions in religious practice was not the intent of Congress in enacting RLUIPA. Further, pre-trial inmates who have such isolated interruptions can pursue claims under Section 1983 for violation of their religious freedoms.

III. RLUIPA's "Appropriate Relief" Is Prospective Injunction Against Religious Practice Impediments, Not Money Damages

In *Sossamon v. Texas*, this Court thoroughly analyzed the meaning of "appropriate relief" in RLUIPA. There, this Court explained that RLUIPA was Congress' second attempt to accord heightened statutory

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[2] Bureau of Justice Statistics, *Jail Inmates in 2023 – Statistical Tables* by Zhen Zeng, Ph. D, April 2025, NCJ 309965.

protection to religious exercise. *Sossamon*, 563 U.S. at 281. This Court further explained that Congress first enacted the Religious Freedom Restoration Act of 1993 (RFRA), 107 Stat. 1488, 42 U.S.C. § 2000bb *et seq*., with which it intended to "restore the compelling interest test as set forth in *Sherbert v. Verner*, 374 U.S. 398, [83 S. Ct. 1790, 10 L. Ed. 2d 965] (1963) and *Wisconsin v. Yoder*, 406 U.S. 205, [92 S. Ct. 1526, 32 L. Ed. 2d 15] (1972) . . . in all cases where free exercise of religion is substantially burdened." *Sossamon*, 563 U.S. at 281, *citing*, § 2000bb(b)(1) and *Gonzales v. O Centro Espirita Beneficente Uniao do Vegetal*, 546 U.S. 418, 424, 126 S. Ct. 1211, 163 L. Ed. 2d 1017 (2006). This Court held RFRA unconstitutional as applied to state and local governments because it exceeded Congress' power under § 5 of the Fourteenth Amendment. *Sossamon*, 563 U.S. at 281, *citing*, *City of Boerne v. Flores*, 521 U.S. 507, 117 S. Ct. 2157, 138 L. Ed. 2d 624 (1997).

Congress responded by enacting RLUIPA pursuant to its Spending Clause and Commerce Clause authority. *Sossamon*, 563 U.S. at 281. RLUIPA borrows important elements from RFRA—which continues to apply to the Federal Government—but RLUIPA is less sweeping in scope. *Sossamon*, 563 U.S. at 281, *citing*, *Cutter v. Wilkinson*, 544 U.S. 709, 715, 125 S. Ct. 2113, 161 L. Ed. 2d 1020 (2005). This Court explained that, as relevant here, § 3 applies "in any case" in which "the substantial burden is imposed in a program or activity that receives Federal financial assistance." *Sossamon*, 563 U.S. at 281-282, *citing*, § 2000cc-1(b)(1). RLUIPA also includes an express private cause of action that is taken from RFRA: "A person may assert a violation of [RLUIPA] as a claim or defense in a judicial proceed-

ing and obtain appropriate relief against a government." *Sossamon*, 563 U.S. at 282, *citing*, § 2000cc-2(a); *cf.* § 2000bb-1(c).

In *Sossamon* this Court explained that RLUIPA's authorization of "appropriate relief against a government," § 2000cc-2(a), is not the unequivocal expression of state consent that our precedents require. *Sossamon*, 563 U.S. at 285. "Appropriate relief" does not so clearly and unambiguously waive sovereign immunity to private suits for damages that we can be certain that the State in fact consents to such a suit. *Id.* at 285-286. "Appropriate relief" is open-ended and ambiguous about what types of relief it includes, as many lower courts have recognized. *Id.* at 286. Far from clearly identifying money damages, the word "appropriate" is inherently context-dependent. *Id.* The context here—where the defendant is a sovereign—suggests, if anything, that monetary damages are not "suitable" or "proper." *Id.*, *citing*, *Federal Maritime Comm'n*, 535 U.S. at 765, 122 S. Ct. 1864, 152, L. Ed. 2d 962 ("[S]tate sovereign immunity serves the important function of shielding state treasuries . . . ").

This Court concluded in *Sossamon* that the phrase "appropriate relief" in RLUIPA is not so free from ambiguity that we may conclude that the States, by receiving federal funds, have unequivocally expressed intent to waive their sovereign immunity to suits for damages. *Sossamon*, 563 U.S. at 288. This Court held, "Strictly construing that phrase in favor of the sovereign —as we must, we conclude that it does not include suits for damages against a State." *Id.*

IV. *Tanzin v. Tanvir* Did Not Overrule Sossamon.

In *Tanzin v. Tanvir*, this Court decided whether money damages were available against Federal government officials under the Religious Freedom Restoration Act of 1993 ("RFRA"). This Court explained that RFRA prohibits the Federal Government from imposing substantial burdens on religious exercise, absent a compelling interest pursued through the least restrictive means. 107 Stat. 1488, 42 U.S.C. §§ 2000bb *et seq*. It also gives a person whose religious exercise has been unlawfully burdened the right to seek "appropriate relief." The question here is whether "appropriate relief "includes claims for money damages against Government officials in their individual capacities. This Court held that it does. *Tanzin*, 592 U.S. at 45.

Petitioner in the instant case cites *Tanzin* claiming that it overruled *Sossamon* and allows money damages under RLUIPA. However, this Court in *Tanzin* specifically stated otherwise as follows:

> Our opinion in *Sossamon* does not change this analysis. *Sossamon* held that a State's acceptance of federal funding did not waive sovereign immunity to suits for damages under a related statute—the Religious Land Use and Institutionalized Persons Act of 2000—which also permits "'appropriate relief.'" The obvious difference is that this case features a suit against individuals who do not enjoy sovereign immunity.

Tanzin, 592 U.S. at 51-52.

As the Fifth Circuit below held:

> In sum, we concluded in *Sossamon I* that although RLUIPA's text suggests a damages remedy, recognizing as much would run afoul of the Spending Clause. *Tanzin* doesn't change that—it addresses a different law that was enacted under a separate Congressional power with "concerns not relevant to [RLUIPA]." *Tanvir v. Tanzin*, 894 F.3d 449, 467 n.12 (2d Cir. 2018), aff'd, 141 S. Ct. 486, 208 L. Ed. 2d 295 (2020). Because *Sossamon I* remains the law, Landor cannot recover monetary damages against the defendant-officials in their individual capacities under RLUIPA.

Landor, 82 F.4th at 344.

V. Sheriffs and Local Jail Officials Are Not Direct Recipients of Federal Funding, Therefore Are Not Subject to Damages Under RLUIPA

RLUIPA and RFRA rely on different Congressional powers. *See Holt v. Hobbs*, 574 U.S. 352, 357, 135 S. Ct. 853, 190 L. Ed. 2d 747 (2015) (noting RFRA's basis in the Fourteenth Amendment and RLUIPA's in the Spending and Commerce Clauses).

That distinction was not lost on other circuits. For example, in *Mack v. Warden Loretto FCI*, the Third Circuit grappled with this distinction, too. 839 F.3d 286, 303 (3d Cir. 2016). In recognizing individual damages under RFRA, the court distinguished its prior prohibition on such a remedy under RLUIPA. *Id.* The court, in other words, was "unmoved . . . by the similarities in the text of RFRA and its sister statute, RLUIPA." *Id.*

> Although the judicial relief provision in RLUIPA mirrors that in RFRA, RLUIPA was enacted pursuant to Congress's powers under the Spending Clause, thereby allowing Congress to impose certain conditions, such as civil liability, on the recipients of federal funds, such as state prison institutions. Because state officials are not direct recipients of the federal funds, and thus would have no notice of the conditions imposed on them, they cannot be held individually liable under RLUIPA. RFRA, by contrast, was enacted pursuant to Congress's powers under the [Fourteenth Amendment] and thus does not implicate the same concerns.

Id. at 303-04 (emphasis added).

Accordingly, Sheriffs and local jail officials should not be subject to individual monetary damages because they are not direct recipients of the federal funds.

CONCLUSION

RLUIPA was enacted to prevent government officials from prospectively restricting religious exercise over the long term. The law was meant for inmates in federal and state prisons who are facing long-term incarceration and needed freedom to practice their religions indefinitely. RLUIPA was not meant to punish Sheriffs by allowing money damages against individuals for isolated fleeting acts infringing on religious rights. Because state and local officials like sheriffs are not direct recipients of the federal funds, they cannot be held individually liable under RLUIPA. Accordingly, amicus prays that Petitioner's Petition be dismissed.

Respectfully submitted,

Gregory C. Champagne
Counsel of Record
Maurice E. Bostick
ST. CHARLES PARISH SHERIFF'S OFFICE
260 Judge Edward Dufresne Parkway
Luling, LA 70070
(985) 783-2883
sheriffgc@stcharlessheriff.org

Counsel for Amicus Curiae

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