No. 24-154

IN THE

Supreme Court of the United States

CATHOLIC CHARITIES BUREAU, INC., ET AL.,

Petitioners,

v.

WISCONSIN LABOR & INDUSTRY REVIEW COMMISSION, ET AL.,

Respondents.

On Writ of Certiorari to the Supreme Court of Wisconsin

BRIEF OF PROFESSOR NATHAN S. CHAPMAN AS *AMICUS CURIAE* IN SUPPORT OF PETITIONERS

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INTEREST OF THE AMICUS CURIAE[1]

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INTRODUCTION AND SUMMARY OF ARGUMENT

In the decision below, the Wisconsin Supreme Court held that *Catholic* Charities Bureau, Inc.—under the control of the *Catholic Diocese of Superior*—was not eligible for a tax exemption because it is not "operated primarily for religious purposes." Wis. Stat. § 108.02(15)(h)(2); *see* Pet. App. 32a–33a.

How could the court have reached such a counterintuitive conclusion? By losing sight of the Religion Clauses' core command: "that government should not prefer one religion to another." *Bd. of Educ. of Kiryas Joel Vill. Sch. Dist. v. Grumet*, 512 U.S. 687, 703 (1994). Time and again, this Court has made clear that "one religious denomination cannot be officially preferred over another." *Larson v. Valente*, 456 U.S. 228, 244 (1982). Rather, "[t]he

[1] Pursuant to this Court's Rule 37.6, counsel for *amicus curiae* certifies that no party or counsel for a party authored this brief in whole or in part, and no entity, aside from *amicus* and its counsel, made any monetary contribution toward the preparation or submission of this brief.

fullest realization of true religious liberty requires that government … effect no favoritism among sects." *Sch. Dist. of Abington Twp., Pa. v. Schempp*, 374 U.S. 203, 305 (1963) (Goldberg, J., concurring).

The court ran roughshod over this core precept. It decided that Catholic Charities' religiously motivated activities were not "objective[ly]" "religious in nature" because they "neither attempt to imbue program participants with the Catholic faith nor supply any religious materials to program participants or employees." Pet. App. 29a, 40a. Such a narrow definition of religion plainly favors evangelical Christian organizations, which often believe that works of charity must come packaged with proselytization. *See* Pet. App. 54a n.24 (Grassl Bradley, J., dissenting) (citing Laycock & Berg brief). And that substantive preference for evangelical religion, just as much as a formal one, discriminates against other views of religious belief and practice. *See, e.g.,* Douglas Laycock, *Formal, Substantive, and Disaggregated Neutrality Toward Religion*, 39 DePaul L. Rev. 993 (1990). "[D]istributing benefits and burdens on the basis of religious doctrine" nudges parties to adopt the government's preferred religion and violates the First Amendment. Nathan S. Chapman, *Adjudicating Religious Sincerity*, 92 Wash. L. Rev. 1185, 1198 (2017); *see also* Laycock, 39 DePaul L. Rev. at 1001–02.

It did not have to be this way. Under the Wisconsin statute, Catholic Charities had to show that its beliefs were sincere, that they were religious, and that it was "operated primarily for religious purposes." Wis. Stat. § 108.02(15)(h)(2). But the Wisconsin Supreme Court badly muddled that straightforward analysis. First,

it merged the distinct questions of whether Catholic Charities' beliefs were sincere and whether they were religious. Then it downplayed the significance of those issues, ignoring how each, properly analyzed, meaningfully limits religious exemptions. Topping it off, the court applied its own understanding of "religion" to determine whether Catholic Charities was "operated primarily for religious purposes," an understanding that (as explained) unconstitutionally favors some religious groups over others.

At times, the reasons for the court's clear errors seem to peek through: perhaps it suspected that Catholic Charities was not really sincere but was reluctant to say so, *see* Pet. App. 30a, 42a, 49a, or perhaps it worried that upholding Catholic Charities' claim would extend the tax exemption too far, *see* Pet. App. 23a n.12.

Neither concern is an appropriate basis for decision. The court had already determined that Catholic Charities was sincere, and the proper scope of a religious exemption is a question for legislators, not judges. In any event, the court's concerns were misplaced. Courts need not rely on a claimant's say-so about sincerity or religious motivation. Whether the claimant's belief is *sincere* is an issue of fact subject to meaningful judicial scrutiny, and whether the claimant's motivation is *religious* is a question of law for the court. Thus, nothing prevents a court from determining whether Catholic Charities was genuinely "operated primarily for religious purposes." *See* Wis. Stat. § 108.02(15)(h)(2).

All of these are meaningful and judicially cognizable limits on the exemption's scope; nothing in the Constitution prohibits a court from checking

whether a claimant sincerely holds his supposed religious beliefs or from assessing whether those beliefs are even religious in the first instance. What the First Amendment forbids is analyzing these issues by reference to a conception of religion that favors one religious view over another. That, however, is precisely what the Wisconsin Supreme Court did, and it is precisely why this Court should reverse.

ARGUMENT

I. THE GOVERNMENT MAY NOT FAVOR SOME RELIGIOUS DENOMINATIONS OVER OTHERS

The Constitution forbids the government from favoring some religious denominations over others. This fundamental principle arises from overlapping constitutional provisions. The Religious Test Clause, for example, ensures religious liberty and equality for federal office-holders, U.S. Const. art. VI, cl. 3, while the First Amendment's Religion Clauses together ensure that the government will neither prescribe its preferred religious beliefs or practices nor proscribe those it disfavors, U.S. Const. amend. I; *see Carson v. Makin*, 596 U.S. 767, 787 (2022). The First Amendment as a whole likewise protects against compelled agreement with the government's "orthodox[y] in politics, nationalism, religion, or other matters of opinion." *W. Va. State Bd. of Educ. v. Barnette*, 319 U.S. 624, 642 (1943).

The first clear articulation of the principle of denominational neutrality by this Court came in *Watson v. Jones*: "In this country the full and free right to entertain any religious belief, to practice any religious principle, and to teach any religious doctrine … is conceded to all. The law knows no heresy, and is

committed to the support of no dogma, the establishment of no sect." 80 U.S. 679, 728 (1871). Since then, this Court has reaffirmed the Constitution's prohibition on government-imposed orthodoxy in a wide range of contexts and to all government action. The government may not mandate Bible reading at school because doing so would demonstrate "governmental preference of one religion over another." *Sch. Dist. of Abington*, 374 U.S. at 216–17. Nor may it coerce religious speech, *W. Va. State Bd. of Educ.*, 319 U.S. at 642, require notary publics to swear that they believe in God, *Torcaso v. Watkins*, 367 U.S. 488 (1961), or do anything else that would "classify different religious beliefs," broadly understood, "exempting some and excluding others," *United States v. Seeger*, 380 U.S. 163, 176 (1965). Put simply, "the government may not distribute benefits and burdens on its own evaluation of religious truth." Chapman, 92 Wash. L. Rev. at 1191, 1193–96.

Courts are no exception; the case law is filled with examples of religious neutrality's constraint on judicial power. Courts may not pass judgment on the accuracy of a religious claimant's beliefs, *see United States v. Ballard*, 322 U.S. 78, 86–88 (1944); resolve "controversies over religious doctrine and practice," *Presbyterian Church in U.S. v. Mary Elizabeth Blue Hull Mem'l Presbyterian Church*, 393 U.S. 440, 449 (1969); evaluate the "centrality" of a religious belief to a religion, *Emp't Div. v. Smith*, 494 U.S. 872, 887 (1990); or do anything else to give "preferred treatment" to any religion or sect, *Ballard*, 322 U.S. at 87; *see* Chapman, 92 Wash. L. Rev. at 1197–99.

Importantly, this prohibition on "select[ing] any one group or any one type of religion for preferred

treatment," *Ballard*, 322 U.S. at 87, applies whether the government's religious preference is expressed *formally* or merely *substantively*, *see* Laycock, 39 DePaul L. Rev. at 1001–02; Chapman, 92 Wash. L. Rev. at 1201. If a State enacted a statute that exempted only organizations "operated for a primarily *evangelical* purpose," the neutrality violation would be plain. But interpreting "religious purpose" to favor one conception of religion over another has the same effect, and it violates the constitutional neutrality principle for the same reason: playing religious favorites interferes with religious liberty by effectively rewarding, and thus incentivizing, the government's preferred conception of religion. *See, e.g., id.*; Michael W. McConnell & Richard A. Posner, *An Economic Approach to Issues of Religious Freedom*, 56 U. Chi. L. Rev. 1, 11 (1989); Nathan S. Chapman & Michael W. McConnell, Agreeing to Disagree: How the Establishment Clause Protects Religious Diversity and Freedom of Conscience 6 (2023).

The denominational neutrality principle is central to the First Amendment's protection of religious liberty and must be safeguarded, even from well-meaning but misguided attempts to implement religious exemptions. As explained below, by properly assessing religious sincerity and religiosity, courts can give teeth to a religious exemption's limits without running afoul of the First Amendment.

II. COURTS MAY ADJUDICATE RELIGIOUS SINCERITY AND RELIGIOSITY WITHOUT VIOLATING DENOMINATIONAL NEUTRALITY

The law sometimes calls on courts to decide matters touching on religion. The Religion Clauses

themselves would be non-justiciable—and indeed meaningless—if they paradoxically disabled the government from determining whether it was in compliance with them. Likewise, religious accommodation and exemption statutes like the one at issue here require courts to weigh a claimant's sincerity, and to decide whether the claim is religious in the first place.

Courts can answer these questions *without* violating the Constitution's guarantee of denominational neutrality. This judicial enforcement of sincerity and religiosity upholds the terms of exemption provisions, discourages phony claims, and ultimately promotes religious liberty.

A. Courts may adjudicate religious sincerity without favoring claims they consider plausible.

If a claimant requests a benefit, accommodation, exception, or other protection based on religious belief, then "of course [the claim] must be *sincerely* based on a religious belief and not some other motivation." *Holt v. Hobbs*, 574 U.S. 352, 360–61 (2015) (emphasis added); *see also* Chapman, 92 Wash. L. Rev. at 1217 ("Without sincerity, there is no 'religious exercise.'"). As a result, courts may—and sometimes must—adjudicate a religious exemption claimant's sincerity. Put differently, laws that turn on religion inherently demonstrate "confiden[ce] [in] the ability of … courts to weed out insincere claims." *Burwell v. Hobby Lobby Stores, Inc.*, 573 U.S. 682, 718 (2014).

No wonder courts, led by this one, have routinely emphasized the sincerity requirement when deciding

cases involving religious claimants. Religious accommodations under RFRA and RLUIPA are available only to those whose "*sincere* exercise of religion is being substantially burdened," *Hobby Lobby*, 573 U.S. at 726 (emphasis added); *see id.* at 718; *see Hobbs*, 574 U.S. at 360–61. Conscientious objectors asserting conflict with religious beliefs must assert a religious belief that is "*sincere* and meaningful." *Seeger*, 380 U.S. 176 (emphasis added). An employee claiming discrimination on the basis of religion must demonstrate that he has "a *sincere* religious belief that conflicts with an employment requirement." *DeVore v. Univ. of Ky. Bd. of Trs*, 118 F.4th 839, 845 (6th Cir. 2024) (emphasis added). And so on.

Despite such longstanding acknowledgment of the need to adjudicate religious sincerity, some courts have nevertheless expressed discomfort with doing so. Indeed, many self-consciously approach the sincerity inquiry "with a light touch, or 'judicial shyness,'" *Moussazadeh v. Texas Dep't of Crim. Just.*, 703 F.3d 781, 792 (5th Cir. 2012), as corrected (Feb. 20, 2013), and "hesitate to make judgments about whether a religious belief is sincere or not," *Murphy v. Mo. Dep't of Corr.*, 372 F.3d 979, 988 (8th Cir. 2004). Members of this Court have also queried whether courts may "test the sincerity of religion." Tr. of Oral Argument at 16, *Burwell*, 573 U.S. 682 (No. 13-354, 356) (comments of Kagan, J.).

This discomfort appears to arise from well-meaning respect for denominational neutrality. *See* Chapman, 92 Wash. L. Rev. at 1206–07. As explained above, that principle prohibits courts from favoring one religious belief over another in general, and from concluding

that one religion is more plausible than another in particular. But of course, it can be difficult to separate a statement's plausibility from the speaker's sincerity. As Justice Jackson put it: "The most convincing proof that one believes his statements is to show that they have been true in his experience…. If we try religious sincerity severed from religious verity, we isolate the dispute from the very considerations which in common experience provide its most reliable answer." *Ballard*, 322 U.S. at 92–93 (R. Jackson, J., dissenting); *see id.* at 92 ("I do not see how we can separate an issue as to what is believed from considerations as to what is believable."). Courts therefore sometimes fear that adjudicating religious sincerity "risks unconsciously discounting the likelihood of sincerity based on [a court's] own appraisal of the belief's plausibility, something the [neutrality] principle forbids." Chapman, 92 Wash. L. Rev. at 1210.

While courts are right to be mindful of denominational neutrality's limit on their power, they can adjudicate religious sincerity without violating it. They can do so by treating religious sincerity as what it is—"a question of fact" subject to ordinary rules of evidence and procedure, *Seeger*, 380 U.S. at 185—except that evidence of truth or plausibility may not be considered, *see* Chapman, 92 Wash. L. Rev. at 1223–40.

As a question of fact, in many cases the parties' litigating positions will establish sincerity. "If the opponent never contests sincerity, then the claimant, having put some evidence of sincerity into the record, has established it as a matter of law (regardless the stage of litigation)." Chapman, 92 Wash. L. Rev. at

1224. Courts must honor that record-based conclusion and not let any of their own misgivings about the claimant's beliefs creep into the rest of the analysis. *See id.* at 1215–20 (discussing the costs of "suspicion creep").

But even where sincerity of religious belief or exercise is contested, the neutrality principle leaves ample room for courts to adjudicate it. After all, "[w]hether a religious belief is accurate is different from whether it is sincerely held." *Id.* at 1225; *see Seeger*, 380 U.S. at 185 ("[W]hile the 'truth' of a belief is not open to question, there remains the significant question whether it is 'truly held.'"). And the distinction has proven justiciable in a wide array of contexts—from assessing credibility of testimony, to distinguishing "between negligent misrepresentation (inaccuracy) and knowing fraud (inaccuracy *and* insincerity)." Chapman, 92 Wash. L. Rev. at 1228–29. Indeed, the "rules of evidence allow courts to admit evidence to show one thing but not another." *Id.* at 1229. Those same tools leave courts well-equipped to evaluate religious sincerity, so long as they "avoid inferring insincerity from implausibility." *Id.* at 1223.

Even excluding evidence of truth or plausibility, many categories of evidence remain to help weed out insincere claims. *Id.* at 1231–39. For one, "smoking gun" evidence like a "recorded statement by the claimant that he plans to manufacture a religious belief for purposes of litigation is, of course, pure gold." *Id.* at 1234. Short of that, "narrative fit evidence"—"evidence that claimants have stated or acted inconsistently with their alleged religious beliefs"—can powerfully rebut the alleged sincerity of a claimant's religious belief or help confirm it. *Id.* at

1234–37; *see, e.g.*¸ *Witmer v. United States*, 348 U.S. 375, 378–83 (1955) (upholding rejection of conscientious objector status when claimant originally disclaimed any ministerial exemption and only later claimed to be a minister). In this case, for instance, Catholic Charities has said from the beginning that its religious belief sometimes requires it to provide services *without proselytization*. Far from showing that it was not "operated primarily for a religious purpose," then, Catholic Charities' non-evangelical activities actually reinforce its sincerity. *Cf.* Matthew 25:37–40 (NRSV-CE) ("'Lord, when was it that we saw you hungry and gave you food, or thirsty and gave you something to drink? And when was it that we saw you a stranger and welcomed you, or naked and gave you clothing?... And the king will answer them, 'Truly I tell you, just as you did it to one of the least of these who are members of my family, you did it to me.'")

Those examples are neither exhaustive nor free from difficulty. For example, courts should be careful to allow for the possibility of changing or developing beliefs, as well as concepts like "backsliding," before determining that claimed beliefs are inconsistent and therefore insincere. Chapman, 92 Wash. L. Rev. at 1234–35; *see Moussazadeh*, 703 F.3d at 791–92 (citing *Grayson v. Schuler*, 666 F.3d 450, 454 (7th Cir. 2012)). But the availability of such evidence highlights the ready and useful tools courts have to adjudicate sincerity in a meaningful and constitutional way.

B. Courts may adjudicate religiosity without applying a preferred definition of religion.

American law is rife with provisions and doctrines that require the government to distinguish between religion and non-religion. Beginning with the Religion Clauses themselves, the Establishment Clause prohibits Congress from making a "law respecting an establishment of *religion*," and the Free Exercise Clause protects "the free exercise [*of religion*]." U.S. Const. amend. I (emphasis added). If the government and courts could not permissibly distinguish religion from non-religion, these provisions would be meaningless. The government could either establish nothing—or everything. It could either prohibit the free exercise of nothing—or everything.

Hundreds of provisions (like the one here) likewise convey benefits or excuse burdens on the basis of religious conduct. If courts could not distinguish religious from, say, merely aesthetic or personally enriching conduct, these provisions would likewise apply to everything—or nothing. Or to put a finer point on it, if courts could not distinguish between organizations "operated primarily for religious purposes" and those "operated primarily for any purpose," then a statute exempting the former would likewise exempt every organization—or none of them. And there is nothing constitutionally suspect about basing legal privileges on religious beliefs and conduct; the Court has repeatedly held that "[r]eligious accommodations …. need not 'come packaged with benefits to secular entities.'" *Cutter v. Wilkinson*, 544 U.S. 709, 724 (2005) (quoting *Corp. of*

the Presiding Bishop v. Amos, 483 U.S. 327, 338 (1987)).

The principle of religious neutrality, however, appears to create an interpretive paradox. How can the government give meaning to "the exercise [of religion]" or "for a religious purpose" without favoring one conception of religion over another?

The paradox is more apparent than real. The Court has given a wide berth to religion-based legal criteria to account for the breadth of American religious pluralism and to avoid favoring one religious belief, practice, or group over others. The signal decisions are the Vietnam-era conscientious objector cases. By its terms, that statutory exemption extended only to "belief[s] in relation to a Supreme Being involving duties superior to those arising from any human relation, but [not including] essentially political, sociological, or philosophical views or a merely personal moral code." *Seeger*, 380 U.S. at 164–65. In *Seeger*, the Court held that a claim based on "'religious' belief" in a "cosmic order" that "does, perhaps, suggest a creative intelligence" satisfied the statute, which the Court interpreted to extend to all those with "[a] sincere and meaningful belief which occupies in the life of its possessor a place parallel to that filled by the God of those admittedly qualifying for the exemption." *Welsh v. United States*, 398 U.S. 333, 339 (1970) (quoting *Seeger*, 380 U.S. at 176).

The Court went even further in *Welsh v. United States*. A plurality interpreted the exemption to extend to a claimant who initially disavowed a "conventional" religious faith, but maintained a view that he asserted was "certainly religious in the ethical sense of the word." *Id.* at 341–42. Yet the plurality

explained that this interpretation of the statute did not render it meaningless: excluded were "those whose beliefs are not deeply held and those whose objection to war does not rest *at all* upon moral, ethical, or religious principle but instead rests solely upon considerations of policy, pragmatism, or expediency." *Id.* at 342–43 (emphasis added). Justice Harlan concurred in the result. In his view, the statute, properly read, exempted only those with theistic beliefs. Such a narrow statutory exemption, however, would amount to an impermissible "religious gerrymander[]" in violation of the Establishment Clause, and so he joined with the Court in recognizing an exemption. *Id.* at 357 (Harlan, J., concurring) (quoting *Walz v. Tax Comm'n*, 397 U.S. 664, 696 (1970) (Harlan, J., concurring)).

What is clear from these decisions is that courts may enforce the outer-bounds of religious exemptions by ensuring that claimants' beliefs are not only sincere, but also religious. That said, they should interpret religious exemptions broadly so as to avoid a preference for religious beliefs or conduct the court considers to be conventional.

* * *

Rightly analyzing sincerity and religiosity in religious exemption claims is well worth it. Ensuring a claimant's beliefs are sincere without weighing in on their plausibility discourages phony claims, Chapman, 92 Wash. L. Rev. at 1220, and, accordingly, promotes social trust in the religious liberty regime, *id.* at 1222. Likewise, interpreting religiosity requirements broadly gives meaning to the legislature's policy judgment without creating perverse incentives for religious minorities to comply

with the government's preferred view of religion. All of these public goods flow naturally from a judicial analysis that complies with the First Amendment's guarantee of denominational neutrality.

III. THE WISCONSIN SUPREME COURT VIOLATED DENOMINATIONAL NEUTRALITY BECAUSE IT MISUNDERSTOOD THESE BASIC PRINCIPLES.

Under the principles set forth above, this should have been an easy case. Catholic Charities asserted that its charitable works stemmed from its religious mission. The "religious" nature of that mission falls well within the generous bounds set forth in cases like *Seeger* and *Welsh*, and the sincerity of Catholic Charities' belief in that mission was undisputed. The Court therefore should have quickly concluded that Catholic Charities is "operated primarily for religious purposes," Wis. Stat. § 108.02(15)(h)(2), and granted Catholic Charities its requested exemption.

Unfortunately, that is not what happened. Instead, the Wisconsin Supreme Court committed a series of analytical errors that led it to plainly violate denominational neutrality.

First, the court failed to distinguish between sincerity and religious belief and instead treated the sincerity of religious motivation as a single question of fact. A claimant may say she believes a tenet that is undoubtedly religious, even when she doesn't. That is insincerity. Or a claimant may sincerely believe she has an ethical duty that is not based on religion. Neither would qualify for an exemption like the one here. *See* Chapman, 92 Wash. L. Rev. at 1241–45. The Wisconsin Supreme Court, however, merged these two elements, *see* Pet. App. 28a–29a, thereby failing to

recognize that each meaningfully cabins claims for religious exemptions.

Second, and more importantly, the court seemed to misunderstand its role in scrutinizing sincerity and religiosity. It purported to "accept[] [Catholic Charities'] statements [about its religious motivation] at face value," noting that the defendant did not challenge them as "insincere, fraudulent, or otherwise not credible." Pet. App. 29a. To the extent the court was discussing sincerity, that decision was correct: Catholic Charities alleged its sincerity, and the defendant did not contest it, so the court was right to consider the issue established.[2] But whether the

[2] The court was *not* right, however, to nevertheless imply that Catholic Charities was not actually sincere. For example, the court highlighted that the services offered by one of Catholic Charities' affiliates remained "exactly the same" before and after its affiliation with Catholic Charities. Pet. App. 30a. The court emphasized that some of the employers previously participated in the State's unemployment insurance programming without "contend[ing] that their participation was a significant or substantial burden on their religious practices or beliefs." Pet. App. 49a (quoting LIRC's argument). And it more generally stressed that "courts have long placed import on what a religious organization does, and not just on what it says." Pet. App. 42a. All of those considerations sound in sincerity and may indeed be appropriate where sincerity is challenged. But they have no valid purpose in a case like this, where sincerity was unchallenged and purportedly accepted. If there were questions about whether Catholic Charities' activities were driven by sincere religious beliefs, then LIRC should have raised those concerns, and the court should have addressed them as such. Barring that, suspicions about sincerity have no place—in their own right or as subtle pressure on other inquiries. *See* Chapman, 92 Wash. L. Rev. at 1215–20.

motivations are *religious* is a question of law—in this case, an easy question—for the court to decide.

Third, because the court misunderstood the distinct sincerity and religiosity questions, it fretted that "[s]ole reliance on self-professed motivation would essentially render an organization's mere assertion of a religious motive dispositive." Pet. App. 23a. And to guard against that supposed problem, it then delved into its own purportedly "objective" analysis of Catholic Charities' activities, concluding that they were not "religious in nature" because Catholic Charities "neither attempt[s] to imbue program participants with the Catholic faith nor suppl[ies] any religious materials to the program participants or employees." Pet. App. 29a, 40a.

All of this was error. As explained above, there is no need to worry (as the Wisconsin Supreme Court did) about unchecked religious exemption claims: the sincerity inquiry meaningfully polices whether the claimant actually possesses the belief in question, and the religiosity inquiry meaningfully (but generously) polices the boundary between exempted religious claims and non-religious ones. *See supra* 6–13.

Discounting the value of these limits, however, led the Wisconsin Supreme Court into absurdity and unconstitutionality. Catholic Charities' "services 'are based on gospel values and the principles of the Catholic Social Teachings'" and "part of [Catholic Charities'] mission [is] to 'carry on the redeeming work of our Lord by reflecting gospel values and the moral teaching of the church.'" Pet. App. 28a–29a. But the court's concern about unchecked exemptions led it to divorce Catholic Charities' plainly religious *motives* from the analysis of whether its *activities*

were religious (an analytically dubious enterprise) and then to apply an "objective" definition of religion that excludes most non-evangelical charitable organizations (in violation of denominational neutrality). That misguided analysis prompted the remarkable conclusion that Catholic Charities is not "operated primarily for religious purposes." Pet. App. 32a–33a.

By contrast, a proper analysis would have concluded that (1) Catholic Charities' sincerity was established as a matter of uncontested fact and (2) it is "operated primarily for religious purposes" because its *purpose* for operating was plainly religious. A proper analysis also would have recognized that there was no need to be concerned about a flood of spurious claimants. Applying the existing statutory elements limits the exemption to those the legislature meant to accommodate: organizations operated by a church and "primarily for [sincerely] religious purposes." Giving each of those components their due weight—without applying a preferred conception of religious truth or practice—realizes the statute's purpose, stays safely within constitutional bounds, and promotes religious liberty.

* * *

The appropriate inquiry is not whether a claimant's activities strike a court as religious in nature, but instead whether the activities are tied to a sincere religious belief. Properly understood, that inquiry has force. And properly understood, that inquiry—unlike the Wisconsin Supreme Court's analysis—steers clear of denominational preferentialism.

CONCLUSION

The Court should reverse the decision below.

February 3, 2025

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