

No. 24-993

In the Supreme Court of the United States

GABRIEL OLIVIER,

Petitioner,

v.

CITY OF BRANDON, MISSISSIPPI, ET AL.

Respondents.

On Petition for a Writ of Certiorari to the
United States Court of Appeals
for the Fifth Circuit

**BRIEF OF STEPHEN NYLEN, JEREMY BROWN,
CALVIN VANKOEVERING, AND JORDAN
SWEETZER AS AMICI CURIAE SUPPORTING
PETITIONER**

JOSHUA C. MCDANIEL
Counsel of Record
PARKER W. KNIGHT III
KATHRYN F. MAHONEY
STEVEN W. BURNETT
HARVARD LAW SCHOOL
RELIGIOUS FREEDOM CLINIC
6 Everett St., Suite 5110
Cambridge, MA 02138
(617) 496-4383
jmcDaniel@law.harvard.edu

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Counsel for Amici Curiae

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INTERESTS OF AMICI CURIAE

Amici curiae are Stephen Nylan, Jeremy Brown, Calvin VanKoevering, and Jordan Sweezer, four Christian street preachers who regularly engage in open-air evangelism throughout the Midwest. As ministers of the Gospel of Jesus Christ, amici collectively preach on street corners and at fairs, festivals, and other public events. They distribute Bible tracts, pray with passersby, and share the good news of the Gospel. And in doing so, amici have encountered local opposition. Localities have threatened to silence their evangelizing by imposing discretionary permit requirements and ordinances that restrict public noisemaking or forbid disruption of peace and good order. The legal challenge brought by one of amici to a Grand Rapids noise ordinance prompted the city to clarify its policy on public noisemaking to better accommodate open-air preaching activities. See *Nylan v. City of Grand Rapids*, 475 F. Supp. 3d 744 (W.D. Mich. 2019). Amici submit this brief to preserve their right to preach the Gospel in public forums without undue government restriction—and to vindicate that right in court—and they believe this Court’s resolution of the questions presented will directly affect that right.¹

¹ Counsel of record for the parties received timely notice of amici’s intent to file this brief. S. Ct. R. 37.2(a). No party or counsel for any party authored this brief in whole or in part. No monetary contributions were made to fund the brief’s preparation or submission.

INTRODUCTION AND SUMMARY

A right is meaningless without a remedy. See *Marbury v. Madison*, 5 U.S. 137, 163–64 (1803). The Fifth Circuit undermined this basic principle when it applied *Heck v. Humphrey* to reject a § 1983 claim seeking to block enforcement of an ordinance that restricts public preaching and prayer. 512 U.S. 477 (1994). If left uncorrected, this overbroad application of *Heck* will shield blatant First Amendment violations from judicial review. Even more acutely, for street preachers like amici, it will limit the ability of religious individuals to engage in open-air preaching, a longstanding form of religious activity that lives at the core of the First Amendment’s protections.

From Jesus’s apostles to American revivalists, religious adherents have long viewed open-air evangelism as a core component of religious expression. Borrowing from Old World traditions of public prayer, preachers in colonial America relied on public spaces to challenge restrictions on religious expression and ultimately spark the First Great Awakening. The Founding generation recognized the importance of open-air preaching, embedding protections for public religious expression in state constitutions and the First Amendment.

The First Amendment’s protection of public preaching safeguarded street preaching’s role as a tool of protest and reform. Unable to preach in mainstream churches, the Second Great Awakening’s street preachers spoke directly to the people by evangelizing in public streets, open fields, and national parkland. Following their example, Jehovah’s Witnesses and civil rights leaders used public spaces to challenge religious and cultural orthodoxy. The legal battles fought by itinerant preachers established landmark

First Amendment precedents, creating a legal infrastructure that has benefited countless civil rights leaders, activists, and modern believers.

But all those hard-won legal protections would be for naught without a remedy for violations of constitutional wrongs. Section 1983—as interpreted by this Court in *Monroe v. Pape*—provided the crucial legal mechanism that opened the courthouse doors to evangelists seeking First Amendment shelter. 365 U.S. 167 (1961). Today, § 1983 serves as the primary vehicle for evangelists to challenge state and local actions that violate their First Amendment freedoms.

The Fifth Circuit’s decision upends the historical protections afforded to public preachers. The application of the *Heck* bar to claims for prospective relief by individuals who were never incarcerated hollows out the protections of the Constitution by stripping plaintiffs of their ability to seek legal remedies for repeat First Amendment violations. If allowed to stand, the Fifth Circuit’s ruling would leave many street preachers without a federal remedy for ongoing violations of their constitutional rights, effectively returning to the pre-*Monroe* era when religious plaintiffs had limited options for redress.

Limiting access to judicial relief threatens to dilute the First Amendment’s protection of America’s most storied form of public religious expression. Amici thus urge this Court to grant this petition for certiorari to reaffirm the availability of prospective injunctive relief for religious plaintiffs seeking to vindicate their constitutional right to preach in public.

ARGUMENT

I. The right to preach in public has deep historical roots.

A. Street preaching is an ancient tradition.

Street preaching is as old as preaching itself. See Charles H. Spurgeon, *Open Air Preaching—A Sketch of its History, in Lectures to my Students* 54 (1877). The Bible itself records a consistent pattern of outdoor, public religious speech spanning thousands of years. See Ryan Denton & Scott Smith, *A Certain Sound: A Primer on Open Air Preaching* 8 (2019).

The Old Testament narrates numerous examples of prophets who preached on public streets. The Bible recounts how Jonah wandered the streets prophesying the fall of Ninevah, see *Jonah* 3:4, and Jeremiah begged the people to reject false gods from the streets outside temples and city gates. See *Jeremiah* 7:1–3. It chronicles Moses and Joshua delivering legal and spiritual commands under open skies, see *Deuteronomy* 29:1–2; *Joshua* 8:30–35, Samuel moving the people to repentance on a rainswept field, see *1 Samuel* 12:16–18, and Ezra and Nehemiah assembling the people “as one man into the square” to transmit divine law. *Nehemiah* 8:1–3. These prophets were “hate[d,]” but still they “sp[o]ke the truth” and “reprove[d]” nonbelievers “in the gate” rather than inside places of worship. *Amos* 5:10.

Jesus and his apostles followed the prophets’ examples and established street preaching as an enduring Christian tradition. John the Baptist—“the voice ... crying in the wilderness,” *Matthew* 3:1–3—ushered in the New Testament by preaching repentance in outdoor spaces. Jesus delivered his most significant teachings outdoors, including the Sermon on the

Mount and the Sermon on the Plain. See *Matthew* 5–7; *Luke* 6:17–49. As he moved from town to town to spread the Word, he began preaching to “very large crowd[s],” who flocked to open fields and beaches to hear his message. *Mark* 4:1; see also, *Mark* 3:9; *Luke* 4:42, 5:1. And Jesus directed his disciples to follow his example, encouraging them to “[g]o out into the highways and hedges, and compel people to come in, that my house may be filled.” *Luke* 14:23; accord *Jeremiah* 11:6 (“Proclaim all these words ... in the streets of Jerusalem.”).

Sure enough, his followers “went about, proclaiming the word,” *Acts* 8:4, until “[w]isdom cries aloud in the street[,] in the markets ... on top of the walls,” and “at the entrance of the city gates.” *Proverbs* 1:20–21. Peter preached to awestruck crowds outside Solomon’s Colonnade after healing a lame beggar, see *Acts* 3:1–26, and converted a crowd of 3,000 after the Pentecost. See *Acts* 2:14–41. Philip proclaimed the gospel on the streets of Samaria, see *Acts* 8:5–8, while Paul addressed “almost the whole city” of Antioch on the Sabbath despite fierce opposition from hecklers. *Acts* 13:44–45.

Early Christians followed these biblical traditions, elevating public preaching into a sacred act of faith. Eusebius, a fourth-century church historian, recounts the early work of Jesus’s disciples to “spread the preaching and scatter[] the saving seeds of the kingdom of Heaven, sowing them ... through the whole world.” Eusebius, *The Ecclesiastical History* 287 (Kirsopp Lake trans., 1926). Likewise, St. Francis of Assisi preached “out of doors, in the marketplaces, from church steps, [and] from the walls of castle courtyards.” *St. Francis of Assisi*, in 6 *The Catholic Encyclopedia* 224 (Charles G. Herbermann et al. eds.,

1909). Later orders followed his example, sending itinerant believers to preach in highways and byways across the Old World.

Street preaching often expressed nonconforming views. Christian reformers transformed “every stump and stone into a pulpit, every house, every street, and market-place into a church.” Philip Schaff, 8 *History of the Christian Church* 242 (3d ed. 1958). And when Scottish Protestants faced exclusion from their pulpits, they embraced the ancient biblical model, with “field preachers” like Richard Cameron and Donald Cargill proclaiming their message under open skies. *Cameron, Richard*, in 8 *Dictionary of National Biography* 301–02 (Leslie Stephen ed., 1886); *Cargill, Donald*, in 9 *Dictionary of National Biography* 79–80 (Leslie Stephen ed., 1886).

B. Open-air preachers breathed life into America’s religious traditions.

The Old World tradition of public preaching shaped America’s distinctive religious landscape and became an important means of protesting American religious orthodoxy.

In Boston, Quakers and Baptists were excluded from churches, so they used outdoor spaces like street corners and fields to spread religious dissent. Baptist preacher Obadiah Holmes, for instance, walked “from house to house” to spread his message on the Sabbath. See James Taylor Holmes, *The American Family of Rev. Obadiah Holmes* 17 (1915).

When religious dissenters fled intolerance in New England, they founded a new set of colonies that viewed public expression of faith as a fundamental right. See Michael W. McConnell, *The Origins and Historical Understanding of Free Exercise of Religion*,

103 Harv. L. Rev. 1409, 1424–26 (1989). Capitalizing on the protections offered by these colonies, street preachers began to challenge religious orthodoxy in public spaces. Between 1740 and 1760, First Great Awakening preachers—including George Whitefield, Jonathan Edwards, Gilbert Tennent, and James Davenport—addressed thousands of believers across the Eastern seaboard in outdoor marketplaces, fields, and public parks. They preached both loudly and often, making the public nature of prayer a hallmark of American religion by the end of the century. See *Letter from Abigail Adams to Isaac Smith Jr.* (April 20, 1771), in 1 *The Adams Papers, Adams Family Correspondence* 76–78 (Lyman H. Butterfield ed., 1963) (noting that the fervency of mass public prayer led Americans, unlike Brits, to show “the real appear[ance] of Religion”). For them, the protection of open prayer in the budding country was not only desirable but necessary.

In addition to reaching a wider audience, the act of preaching outdoors allowed preachers to connect with their own faith. As George Whitefield remarked, “[he] was never more acceptable to [his] Master than when [he] was standing to teach those hearers in the open fields.” Arnold Dallimore, *George Whitefield: God’s Anointed Servant in the Great Revival of the Eighteenth Century* 46 (Crossway Books 2010). Echoing this sentiment, John Wesley responded to comments mocking the “indecentcy of field-preaching” by describing the format as one in which he and his congregation “behave[d] and look[ed] as if they saw the Judge of all and heard Him speaking from heaven.” John Wesley, *The Journal of John Wesley* 168 (Percy Livingston Parker ed., 1951). So moved was Wesley by the experience that he came to “see no other way of ‘preaching the

gospel to every creature” than “field preaching,” describing the discomforts of open-air preaching as both his “cross” and “commission” from God. *Id.* at 359.

Preaching on public land—whether in the wilderness or in public streets, parks, or commons—formed a foundation of American religiosity from the time of George Whitefield through the 1800s. The prevalence and centrality of public prayer in colonial America influenced the Founding generation’s treatment of religious expression. They brought that appreciation to bear, crafting their states’ early constitutions and the First Amendment with broad protections for religious expression.

The methods of the First Great Awakening appeared again in the Second. In the mid-1800s, a new generation of itinerant preachers—first Methodists, then many others—began to share unorthodox views on public land. Because they were outside the mainstream, “houses of worship, halls and school buildings were closed against them” leaving only “the street corner, the public parks, or gardens, the fields, or woods.” A.B. Kendig, *Early Out-Door Preaching, in Memorial of Jesse Lee and the Old Elm* 30–31 (J.W. Hamilton ed., 1875). Undaunted, ministers “preach[ed] and labour[ed] in season and out of season, in churches, barns, school-houses, streets, or highways.” Horatius Bonar, *True Revivals and the Men God Uses* 9 (Chapel Library ed., 2000).

A defining feature of the Second Great Awakening was the proliferation of “camp meetings”—large-scale, multi-day religious gatherings in the wilderness, often on public land. See Matt McCook, *The Second Great Awakening, in 1 American Religious History: Belief and Society Through Time* 252 (Gary Scott Smith ed., 2021). As the gatherings grew in attendance, so did

their formality. An early Baptist congregation recounted meeting in a wooded grove outside a farm, sitting on pews “made of rails, logs, and puncheons” to listen to the Bible read from a pulpit fashioned from notched trees. James Taylor Holmes, *The American Family of Rev. Obadiah Holmes* 205 (1915). Later congregations purchased campgrounds and operated them year-round. See, e.g., Balls Creek Campground, *History of the Arbor*, <https://perma.cc/D5QJ-68H9> (prominent Methodist campground operated since the 19th century).

Street preaching continued to be a fixture of American religious life well after the Civil War. Reverend Stephen A. Leven was a prominent example. During a summer he spent studying in London, he received training on how to preach publicly from street corners. Douglas J. Slawson, *Thirty Years of Street Preaching: Vincentian Motor Missions, 1934–1965*, 62 *Church Hist.* 60, 63 (1993). Catholics in England were well acquainted with anti-Catholic bigotry and used open-air preaching to dispel prejudice. To that end, they started the Catholic Evidence Guild as “an organization of lay street speakers, who explained the tenets of the Roman faith to any and all who would listen.” *Ibid.* Leven brought this movement to the American southwest to combat reemerging fears of Catholics gaining political power and undermining the public school system. See *id.* at 61–62.

Leven trained up many new street preachers and urged his fellow Catholics to join his mission, often posing the difficult question to them publicly: “If Catholics really believe Jesus meant the Catholic Church when He said, ‘Preach the Gospel to every creature,’ why hasn’t any Catholic priest ever come out here before?” and “Why didn’t Catholics ever preach on the

streets before?” Stephen A. Leven, *If Catholics Really Believe*, 55 Am. No. 7, at 154 (1936). For Leven, street preaching was required by his faith because his “command was to go, not to let them come and get it if they want it.” *Id.* at 155.

Leven also saw a strategic benefit to street preaching. Contrary to other Catholics’ fears and despite the hostile communities Leven would enter, he maintained that “[t]he greatest respect is shown the Catholic speakers. Heckling is not permitted by the audience. Indeed, few priests who have had some experience in preaching to non-Catholics out-of-doors fail to observe the instinctive reverence and the attention of the average crowd.” *Ibid.* Most importantly, Leven thought street preaching essential to dispel anti-Catholic sentiment. “All who attend the meetings, whether they be Catholics or not,” he wrote, “bear witness to the fact that outdoor preaching is one of the most effective methods of combating bigotry and prejudice.” *Ibid.* Leven worked throughout his life to enter hostile areas and clarify misconceptions about his Catholic faith, winning over converts and sowing seeds of tolerance. See Slawson, 62 *Church Hist.* at 64–67, 81.

Perhaps the most celebrated preacher in the modern era was the Baptist minister Dr. Martin Luther King Jr. Many of King’s iconic speeches were delivered through open-air preaching. One example was “Our God is Marching On!”—a speech motivated by the “Bloody Sunday” attack in which Alabama state troopers and local authorities brutally assaulted protesters who were marching from Selma to the state capital in Montgomery. Speaking from the Alabama State Capitol steps, King began with a “scripted” speech but then went “off script and [gave] a sermon.” Scott Neuman, *5 MLK speeches you should know*, NPR (quoting King

biographer Jonathan Eig), <https://perma.cc/A4WU-F8WS>.

In King's famous speech, he cited the Biblical story of Joshua and the battle of Jericho. Likening Joshua's methods to those of the civil rights movement, King argued: "There is nothing wrong with marching in this sense. The Bible tells us that the mighty men of Joshua merely walked about the walled city of Jericho and the barriers to freedom came tumbling down." Dr. Martin Luther King, Jr., *Our God is Marching On!*, (Mar. 25, 1965), The Martin Luther King, Jr. Research and Educ. Inst., <https://perma.cc/FV6U-L8PF>. King ended his speech quoting the Battle Hymn of the Republic: "Our God is marching on. Glory, hallelujah! Glory, hallelujah! Glory, hallelujah! Glory, hallelujah! His truth is marching on." *Id.* While many street preachers might only hope to achieve some effect on the public, King used street preaching to advance the struggle for civil rights and elevate the public consciousness of that struggle across the nation.

Open-air preaching is how many great preachers started their career. In the mid-nineteenth century, Dwight L. Moody started to make a name for himself by preaching on the streets. Moody would go on to be the namesake for both President Dwight D. Eisenhower and the Moody Bible Institute. Yet he began humbly by drawing in "eighteen ragged urchins from the streets" and bringing them to Sunday school classes. Dwight L. Moody, *Moody's Child Stories as Related by Dwight Lyman Moody in His Revival Work in Europe and America* 244 (Rhodes & McClure Publ'g Co. 1900). As Moody sought out the roughest areas of his town to draw people in, he was initially "hissed, derided and threatened." *Id.* at 245. But in a short few

months, he would “[have] the biggest congregation on the north side [of Chicago].” *Ibid.*

Moody had a communication style that was focused on intimate connection with people despite their class or nationality. Lyle W. Dorsett, *A Passion for Souls: The Life of D.L. Moody* 19 (Moody Press 1997). To Moody, preaching to people where they were at was crucial—he doubted “God [was] going to reach the masses in a cold and formal church.” Dwight L. Moody, *Prevailing Prayer: What Hinders It?* 26 (Fleming H. Revell Co. 1884). At the time of his death in 1899, the secretary of the International Committee of the Young Men’s Christian Association declared that “Mr. Moody delivered the gospel message in a larger number of places, to a larger number of persons, a larger number of times than any man who ever lived.” Dorsett at 21.

C. Many of our First Amendment rights were secured by outdoor preachers.

For many religious groups that grew out of the Second Great Awakening, public preaching remained a core form of religious expression. Notably, the Jehovah’s Witnesses, who opposed using political means to achieve their ends, went door to door, stood on public streets, and distributed literature to spread their religious message. Although the Jehovah’s Witnesses themselves were a small group, their effect on First Amendment jurisprudence was monumental. See Joshua C. McDaniel, *Religious Minorities and Secular Rights*, 82 Wash. & Lee L. Rev. (forthcoming) (manuscript at 13–31), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=5185065 (McDaniel).

In 1943, a Jehovah’s Witness man was arrested for distributing religious books without a business license. The Supreme Court ruled in his favor, holding

that First Amendment rights are not limited to those “with a long purse” but are available to any “evangelist or preacher,” whether itinerant or preaching in his hometown. *Follett v. Town of McCormick*, 321 U.S. 573 (1944), 577 (1944).

That same year, in *Murdock v. Pennsylvania*, the Court recognized that distributing religious tracts “occupies the same high estate under the First Amendment as ... worship in the churches and preaching from the pulpits” and enjoys the “guarantees of freedom of speech and freedom of the press.” 319 U.S. 105, 109 (1943). That recognition paved the way for later rulings confirming that “the right to the free exercise of religion unquestionably encompasses the right to preach, proselyte, and perform other similar religious functions.” *McDaniel v. Paty*, 435 U.S. 618 (1978).

Another landmark legal victory achieved by the Jehovah’s Witnesses is *Cantwell v. Connecticut*, 310 U.S. 296 (1940). *Cantwell* involved three Jehovah’s Witnesses who entered Catholic neighborhoods to distribute their religious materials and play recordings. *Id.* at 301. They were convicted of breaching the peace and unlawful solicitation of money. The Court acknowledged that the Witnesses had offended the town’s Catholic residents by playing phonographs with anti-Catholic messages, *id.* at 310, but the Court held that protecting such preaching was, “in the long view, essential to enlightened opinion and right conduct” of the citizenry. *Ibid.* This marked the first time the Court would incorporate the Free Exercise Clause against states and thus “usher[] in a new era of personal liberty protections for all Americans.” Lillian Cunningham, Episode 16 of the Constitutional podcast: ‘The First Amendment,’ Jan. 29, 2018, <https://perma.cc/A6JF-FR6K>.

Likewise, three similar cases of open-air preachers (two Jehovah's Witness and one Baptist) who wanted to hold religious meetings and Bible discussions in parks without a permit would further expand First Amendment rights. In all three cases, the Court ruled in favor of the religious plaintiffs seeking to hold these open-air meetings. See *Kunz v. New York*, 340 U.S. 290 (1951); *Niemotko v. Maryland*, 340 U.S. 268 (1951); *Fowler v. Rhode Island*, 345 U.S. 67 (1953). The Baptist preacher Carl Jacob Kunz felt it was his duty to "go out on the highways and byways and preach the word of God." *Kunz*, 340 U.S. at 292. He was permitted by the city for many years to conduct his open-air preaching, but after he denounced other religious beliefs during one of his meetings, the city revoked the permit. *Ibid.* Likewise, the two Jehovah's Witnesses were denied use of a park for Sunday Bible discussions. *Niemotko*, 340 U.S. at 269; *Fowler*, 345 U.S. at 67–68. In upholding the Witnesses' challenges, the Court handed down a big victory not only for outdoor preachers but for the First Amendment more broadly. McDaniel at 13–31.

These legal battles fought by Jehovah's Witnesses and other religious minorities were not "a struggle for their rights alone." *Watchtower Bible & Tract Soc'y of N.Y., Inc. v. Village of Stratton*, 536 U.S. 150 (2002). Through their legal efforts, Witnesses persuaded the Court to interpret the First Amendment expansively to ensure strong protections for speech and religious exercise. Such constitutional advancements, as the Court has recognized, have proved "essential to the poorly financed causes of little people" everywhere, *Martin v. City of Struthers*, 319 U.S. 141, 146 (1943), and reverberated through the civil rights era. See McDaniel at 31–44 (tracing the effect of the Jehovah's

Witnesses’ legal campaign on the Black civil rights movement); Samantha Barbas, *Actual Malice: Civil Rights and Freedom of the Press in New York Times v. Sullivan* 4 (2023). (“[T]he struggle for racial justice in the South depended on robust enforcement of First Amendment guarantees.”).

II. Without resort to § 1983, constitutional protections for public preaching would ring hollow.

On top of the rich history of public preaching and proselytizing that inspired and secured many of our First Amendment freedoms, § 1983 has deep roots of its own.

Section 1983 is the culmination of Congress’s efforts since the Reconstruction Era to open the courthouse doors to plaintiffs seeking protection for their constitutional rights against infringement at the hands of state and local governments. Congress first adopted its predecessor, the Civil Rights Act of 1871, to give the federal government tools to protect newly emancipated slaves from racially discriminatory state practices in the post–Civil War era. By establishing a federal cause of action against state actors who violated constitutional rights—particularly those guaranteed by the 13th, 14th, and 15th Amendments—the act expanded federal judicial power and enabled plaintiffs to bypass potentially biased state courts. Richard Briffault, *Section 1983 and Federalism*, 90 Harv. L. Rev. 1133, 1135 (1977).

Although in the aftermath of Reconstruction § 1983 lay dormant for a time, that changed with *Monroe v. Pape*, which ushered in a new era and revived § 1983 as a key avenue for upholding constitutional rights. 365 U.S. at 167. Since *Monroe*, § 1983 has come

to be recognized as a crucial civil rights statute, furnishing victims of constitutional violations with broad access to federal courts and enabling suits against state and local actors. Over time, courts applied § 1983 in an expanding variety of cases, including those involving police misconduct, prisoner rights, and First Amendment freedoms. *Id.* at 1136 n.7. Today, it is “one of the most well-known civil rights statutes.” *Tanzin v. Tanvir*, 592 U.S. 43, 48 (2020).

Section 1983 provides an array of legal remedies that offer critical protections for public preachers. In *Bible Believers v. Wayne County*, for example, the Sixth Circuit concluded that spreading a religious message at a festival to encourage Muslims to convert constituted neither incitement nor fighting words, and thus qualified for First Amendment protection. 805 F.3d 228, 246 (6th Cir. 2015). Likewise, the Sixth Circuit in *McGlone v. Metro. Gov’t of Nashville* imposed municipal liability under § 1983 when a city’s policy requiring a street preacher to relocate where he could preach failed strict scrutiny as an impermissible content-based restriction. 749 F. App’x 402, 410–11 (6th Cir. 2018).

Courts have also regularly imposed injunctions in religious proselytizing cases brought under § 1983. In *Mante v. Slough*, the court ruled in favor of an open-air evangelist who preached outside San Bernardino courthouses, granting an injunction against a speech restriction that prohibited preaching and proselytizing in the area. 2015 WL 13917797, at *15 (C.D. Cal. Mar. 27, 2015). Similarly, in *Borden v. City of Modesto*, the court enjoined a city from excluding a proselytizer in a public plaza without probable cause of a legal violation. 2008 WL 4963216, at *15 (E.D. Cal. Nov. 19, 2008). In *Jankowski v. City of Duluth*, the court

enjoined city officials from preventing Christian evangelists from peacefully engaging in religious speech at a festival. 2011 WL 7656906, at *9 (D. Minn. Dec. 20, 2011), amended, 2012 WL 6044414 (D. Minn. Dec. 5, 2012). And in *Parks v. City of Columbus*, the court invalidated the removal of a speaker disseminating a religious message in a barricaded area during an arts festival, holding that government may not suppress speech simply because organizers disapprove of its content. 395 F.3d 643, 654 (6th Cir. 2005).

In a more recent Jehovah’s Witness case, the First Circuit upheld Witnesses’ right under § 1983 to engage in door-to-door preaching even in gated residential subdivisions in Puerto Rico. *Watchtower Bible & Tract Soc’y of N.Y., Inc. v. Sagardia De Jesus*, 634 F.3d 3, 8 (1st Cir. 2011).

Section 1983 remains the essential vehicle for religious proselytizers to uphold their rights. For that reason, it should remain accessible for similarly situated plaintiffs present and future. Should the Fifth Circuit’s application of the *Heck* bar doctrine stand—thus denying Olivier prospective relief from an ordinance restricting his religious speech outside a public amphitheater—many street preachers like amici may be denied recourse for ongoing denials of their constitutional guarantees.

CONCLUSION

This case presents an important question with grave implications for those of any faith who wish to preach or share their religious message in public places. This Court should grant certiorari.

Respectfully submitted,

JOSHUA C. MCDANIEL
Counsel of Record
PARKER W. KNIGHT III
KATHRYN F. MAHONEY
STEVEN W. BURNETT
HARVARD LAW SCHOOL
RELIGIOUS FREEDOM CLINIC
6 Everett St., Suite 5110
Cambridge, MA 02138
(617) 496-4383
jmcDaniel@law.harvard.edu

Counsel for Amici Curiae

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