No. 24-993

IN THE

Supreme Court of the United States

GABRIEL OLIVIER

Petitioner,

v.

CITY OF BRANDON, ET AL.,

Respondents.

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

BRIEF OF *AMICI CURIAE* CHRISTIAN LEGAL SOCIETY, COALITION OF VIRTUE, JEWISH COALITION FOR RELIGIOUS LIBERTY, AND AMERICAN HINDU JEWISH CONGRESS IN SUPPORT OF PETITIONER

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INTERESTS OF *AMICI CURIAE*[1]

Christian Legal Society (CLS) is a nonprofit, interdenominational association of Christian attorneys, law students, judges, and law professors with members in every state and chapters on over 115 law school campuses. CLS's legal advocacy division, the Center for Law & Religious Freedom, works to protect the free-exercise rights of all citizens.

Coalition of Virtue (COV) is a nonprofit association of Muslim individuals whose mission is to promote virtue in society, grounded in divine guidance as embodied in the Islamic tradition, in cooperation with those who share its moral vision. COV strives to encourage citizens to become civically engaged, pushing for legislative changes that represent the highest values of faith and reason.

The Jewish Coalition for Religious Liberty (JCRL) is a non-denominational organization of Jewish communal and lay leaders seeking to protect the ability of Americans freely to practice their faith. Since its founding, JCRL has recruited a volunteer network of accomplished attorneys, submitted legal briefs, and written op-eds in Jewish and general-media outlets in defense of religious liberty. While Judaism does not encourage evangelizing, JCRL understands the importance of such practices to its neighbors and friends. It also understands the importance of this case to protecting religious expression generally.

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[1] Pursuant to this Court's Rule 37.6, counsel for *amici curiae* certifies that this brief was not authored in whole or in part by counsel for any party and that no person or entity other that *amici curiae* or its counsel has made a monetary contribution to the preparation or submission of this brief.

The American Hindu Jewish Congress (AHJC) is a national, non-partisan coalition representing the shared interests and concerns of Hindu Americans and Jewish Americans. Founded in 2025, AHJC unites two vibrant, millennia-old faith communities to advocate for religious liberty, mutual respect, and interfaith solidarity. The AHJC membership encompasses community leaders, houses of worship, cultural associations, student fellowships, and civil-rights advocates across all fifty States.

Amici and their members hold sincere religious convictions regarding the expression of their faiths publicly. The decision below jeopardizes their ability—and that of others similarly compelled—to challenge laws and ordinances that unconstitutionally limit their ability to profess their faith publicly.

INTRODUCTION AND SUMMARY OF ARGUMENT

In many religions, the faithful are called to evangelize—that is, to publicly profess the tenets of their faith. The United States Constitution protects their right to do so. As this Court has long recognized, evangelizing "occupies the same high estate under the First Amendment as do worship in the churches and preaching from the pulpits." *Murdock v. Pennsylvania*, 319 U.S. 105, 109 (1943). It therefore "has the same claim to protection as th[ose] more orthodox and conventional exercises of religion," and the "same claim" to "the guarantees of freedom of speech and freedom of the press." *Ibid.*

In the decision below, however, the Fifth Circuit held that it could not even consider whether a local ordinance infringes on petitioner's constitutional right to publicly proclaim his faith because petitioner had previously pleaded *nolo contendre* to a charge of violating the ordinance. In the Fifth Circuit's view, *Heck v. Humphrey*, 512 U.S. 477 (1994), requires that result because it prohibits a prisoner from using a Section 1983 suit to challenge the validity of his conviction. But petitioner was not and is not a prisoner, never had access to habeas relief, and does not seek to invalidate his prior conviction. He seeks an injunction preventing respondent from interfering with his First Amendment right to evangelize by applying its ordinance against him in the future. For the reasons explained in petitioner's brief, *Heck* does not apply in these circumstances, and there is no basis for denying petitioner the opportunity to press his fundamental constitutional challenge before the federal courts.

If the decision below is allowed to stand, it will imperil the First Amendment rights of people like petitioner who are criminally prosecuted for professing their faith and reasonably elect to resolve the charges through a plea rather than facing jail time. Such individuals will be unable to use Section 1983 to obtain an injunction against future prosecutions under the same law, leaving them with a Hobson's choice: Forgo further evangelizing or risk additional charges under the same potentially unconstitutional law. Amici abhor that result—and so does the First Amendment.

Public expressions of religion—such as evangelizing and preaching—have deep historical roots. Both the Bible and the Quran model and command public proclamation of their messages as the very word of God; for millennia, public expressions of faith have been an important part of the Christian, Muslim, and Hindu faiths that amici practice. And while Judaism does not encourage evangelizing, it does encourage other public acts of faith, such as publicizing the miracle of Chanukah by lighting Menorahs in a public-facing manner.

Evangelizing is also important to the followers of many other religions that are practiced in the United States, including Buddhists and to the adherents of many minority religions like Jehovah's Witnesses, Latter-day Saints, and Seventh-day Adventists. Moreover, because the Constitution protects religious freedom, public expressions of faith have played a central role in our Nation's history, as epitomized by events like the major evangelistic efforts that occurred throughout the country during the Great Awakening. And when government actors have overstepped by impermissibly impeding the right to religious

expression that the First Amendment protects, this Court has repeatedly stepped in. This case calls for another such intervention.

The Fifth Circuit's decision threatens this unbroken commitment to the public exchange of faith. Extending *Heck* to bar claims for injunctive relief against future prosecution—even by those who never could seek habeas relief—will make it harder for courts to intervene when public religious expression is impermissibly criminalized. Without Section 1983 available prospectively to challenge the constitutionality of restrictions on public speech, people like petitioner who have been prosecuted before for their religious expression have no meaningful way to enlist the judiciary's assistance in avoiding future, unconstitutional prosecutions. Yet those are the very people who need the courts most. And without an avenue for relief, many may simply fall silent. Nothing in *Heck* requires that untenable result, and nothing in the First Amendment countenances it.

For these reasons and those raised by petitioner, the Court should reverse the decision below and reopen the federal courts to those most threatened in their religious exercise.

ARGUMENT

I. Public Expression Of Religion Is A Core Tenet Of Many Faiths

Religious people have shared their faith publicly from time immemorial. The foundational texts of many religions feature prophets and other similar figures who disseminate religious teachings to the public, and many religions encourage believers to share their faith publicly. The United States has a rich tradition of such public religious expression, which is at the core of the First Amendment's protections.

A. Sharing Religious Convictions Is Imperative For Adherents Of Many Faiths

Publicly sharing religious beliefs is an important aspect of each of the four faith traditions that *amici* represent—Judaism, Christianity, Islam, and Hinduism. Evangelizing features prominently in the New and Old Testaments of the Bible and the Quran, and many Hindus believe it is essential to disseminate religious teachings, such as non-violence. Other faiths, too, emphasize public religious expression, including Buddhism, Jehovah's Witnesses, and Mormonism.

1. In the Judeo-Christian tradition, it is a divine command to go forth and share God's word (as petitioner sought to do). The Old Testament of the Bible contains numerous accounts of prophets who were commanded to preach in the public square. See, *e.g.*, *Isaiah* 6:8–13. In many instances, these public callings to repentance are met with unwelcoming, or even hostile, audiences. The Bible describes how Jeremiah was arrested for sharing his faith because political leaders did not want his message to proliferate among the public. *Jeremiah* 43. The prophetic message throughout the Old Testament—that Israel and Judah would be invaded and their people exiled, but that a loving God would enable a remnant to return, *Hosea* chs. 6–9, 14—was an unpopular one at the time and constitutes a foundational example of both religious exercise and dissent. And while Jewish adherents do not understand these passages to require evangelizing, other public expressions of faith—such as lighting a Menorah for all to see—remain important to many Jews.

The New Testament, too, contains many passages that command or encourage evangelizing.

Jesus commissioned his followers with an unambiguous directive to proclaim their faith: "Go therefore and make disciples of all nations * * * teaching them to observe all that I have commanded you." *Matthew* 28:19–20. Luke quotes Jesus' very last words to His disciples: "[Y]ou will be my witnesses in Jerusalem and in all Judea and Samaria, and to the end of the earth." *Acts* 1:8. The Apostle Paul enjoins a disciple to "preach the word; be ready in season and out of season; reprove, rebuke, and exhort, with complete patience and teaching" and "always be sober-minded, endure suffering, do the work of an evangelist, fulfill your ministry." 2 *Timothy* 4:2, 5. Christians understand these passages as a call to publicly share their faith.

2. Sharing and spreading one's faith is also a fundamental tenet for followers of Islam. This command, likewise, comes from sacred texts: The concept of *da'wah*—rooted in passages of the Quran—directs Muslims to share their beliefs outwardly and to spread the word of Allah. The Quran emphasizes the importance of *da'wah* to Islam, entreating adherents to "[c]all to the way of your Lord with wisdom and good preaching." Quran 16:125. And it admonishes, "Who is better in speech than one who calls to Allah, does righteous deeds and says indeed I am among the Muslims." Quran 41:33. Accordingly, many Muslims hold the sincere religious belief that sharing their faith publicly is a vital component of Islam.

3. Many Hindus recognize the importance of sharing one's faith with others. Foundational texts emphasize the importance of sharing tenets of Hinduism publicly, as the sage Vasistha preached "whoever recites or causes it to be recited either with

or without any desire of reward, shall have his ample reward." VI *Yoga Vasishtha* 215:12. While "Hinduism is [] known for its spectrum of religious practices," some Hindus believe that key teachings, such as nonviolence, must be spread to others and that failing to share this belief can itself constitute violence. Brief of Amicus Curiae Hindu American Foundation in No. 24-20485 (CA5), pp. 4, 7.

4. Public preaching is also central to the Buddhist faith. The Buddha sent his disciples to preach the *dharmadāna*—the gift of the Dharma—charging his followers to "[p]reach * * * the Dhamma, excellent in the beginning, excellent in the middle, excellent in the end, both in the spirit and in the letter. Proclaim the holy life, altogether perfect and pure." Mahāthera, *The Buddha and His Teachings* 108 (3d ed. 2010) (footnote omitted). Thus, Buddhists believe that publicly preaching and spreading the Buddhist faith is a divine command in keeping with the Buddha's directive: "Preach the Sublime Dhamma. Work for the good of others, you who have done your duties." *Ibid.*

5. Evangelizing is also a central feature of many other faiths. For Jehovah's Witnesses, for example, evangelizing is a fundamental religious obligation. *Murdock*, 319 U.S. at 108 ("Petitioners spread their interpretations of the Bible and their religious beliefs largely through the hand distribution of literature by full or part time workers. * * * In doing so they believe that they are obeying a commandment of God."). Latter-day Saints, too, are obligated to share their message and believe everyone is "responsible to teach the gospel by word and deed to all of our Heavenly Father's children." The Church of Jesus

Christ of Latter-day Saints, *Gospel Principles* ch. 33 (2011), https://www.churchofjesuschrist.org/study/manual/gospel-principles/chapter-33-missionary-work?lang=eng. And Seventh-day Adventists likewise consider evangelizing a religious obligation, believing that "the dissemination of religion is not only a right, but a joyful responsibility based on a divine mandate to witness." General Conference of Seventh-day Adventist Church, *Religious Liberty, Evangelism, and Proselytism* (June 29, 2000), https://gc.adventist.org/official-statements/religious-liberty-evangelism-and-proselytism/.

B. There Is A Rich Tradition Of Public Preaching In America, Both Before And After The Founding

Given the array of religions in the United States, it is no surprise that adherents of many faiths have chosen to express their messages publicly. Indeed, public preaching and evangelizing historically served as one of the primary means of church growth, as well as of voicing dissent and criticizing religious orthodoxy. And such religious expression has a deep historical pedigree in America.

Even before the American Revolution and the ratification of the Bill of Rights, public preaching and evangelizing was a meaningful part of American colonial life. Much public discourse was attributable to vigorous religious dissent, itself a deeply rooted characteristic of faith in America and a key reason that many Colonists fled Europe. Prominent religious figures like Jonathan Edwards, John Wesley, and George Whitfield challenged religious orthodoxy in the colonies through public sermons and "revivalist preaching" during the First Great Awakening.

McConnell, *Religion and Republicanism in the American Revolution*, in Religion and the American Revolution 18 (Y. Levin et al., eds. 2025). When the Framers ratified the Constitution, they enshrined protections for exactly this kind of public religious speech in the First Amendment of the Bill of Rights. *Murdock*, 319 U.S. at 109 ("This form of religious activity occupies the same high estate under the First Amendment as do worship in the churches and preaching from the pulpits. * * * It also has the same claim as the others to the guarantees of freedom of speech and freedom of the press."). The public expression of religious convictions is therefore a common feature of life in the United States, "where the spirit of religion and the spirit of freedom are productively united, reigning together but in separate spheres on the same soil." *Van Orden v. Perry*, 545 U.S. 677, 698 (2005) (Breyer, J., concurring in the judgment) (cleaned up).

II. The First Amendment Prevents Government Interference With Public Expressions Of Religion

Despite the rich tradition of public religious speech, from time to time, government actors have sought impermissibly to impede the ability of citizens to share their faith in public. When that has occurred, this Court has stepped in to vindicate the First Amendment's protections. Time and again, this Court has made clear that the First Amendment safeguards an individual's freedom to exercise her faith through public forms of evangelism such as canvassing and preaching in community spaces.

1. A series of cases regarding Jehovah's Witnesses well illustrate the Court's fundamental role in protecting the right to evangelize publicly. In

Schneider v. New Jersey, 308 U.S. 147 (1939), and *Cantwell v. Connecticut*, 310 U.S. 296 (1940), this Court invalidated laws requiring Jehovah's Witnesses to obtain permits to canvass and solicit donations from officials who could withhold permits with unfettered discretion. *Schneider*, 308 U.S. at 164 (canvassing); *Cantwell*, 310 U.S. at 305 (soliciting). These cases held that the First Amendment does not permit the government to condition the dissemination of ideas on the "consideration and approval" of "police authorities." *Schneider*, 308 U.S. at 164. The discretion to withhold approval would permit government "censorship of religion." *Cantwell*, 310 U.S. at 305. In separately invalidating the petitioner's conviction for breaching the peace, *Cantwell* explained that though petitioner's message "aroused animosity," *id.* at 311, he could not be held liable for merely exhorting others "to buy a book or to contribute money in the interest of what Cantwell, however misguided others may think him, conceived to be true religion," *id.* at 310.

These principles were articulated more fully in *Murdock v. Pennsylvania*. There, several Jehovah's Witnesses challenged their criminal convictions for violating an ordinance prohibiting the unlicensed sale of goods. 319 U.S. at 106–07. *Murdock* explained that for the petitioners, door-to-door evangelizing was "obeying a commandment of God," *id.* at 108, and that "[t]his form of religious activity occupies the same high estate under the First Amendment as do worship in the churches and preaching from the pulpits," *id.* at 109. Because this "age-old type of evangelism" had "as high a claim to constitutional protection as the more orthodox types," *id.* at 110, the municipality could not require the petitioners to pay a fee for a license to

solicit donations and sell religious pamphlets, *id.* at 112. This was particularly so because some considered the Jehovah's Witnesses' message offensive. Imposing a "tax" on "the dissemination of views because they are unpopular, annoying or distasteful" would be "a complete repudiation of the philosophy of the Bill of Rights." *Id.* at 116. As the Court explained in another decision the same year, "[t]he authors of the First Amendment knew that novel and unconventional ideas might disturb the complacent, but they chose to encourage a freedom which they believed essential if vigorous enlightenment was ever to triumph over slothful ignorance." *Martin v. City of Struthers*, 319 U.S. 141, 143 (1943) (invalidating complete prohibition on door-to-door canvassing).

Several years later, the Court again vindicated the right of Jehovah's Witnesses publicly to profess their faith. In *Niemotko v. Maryland*, a pair of Jehovah's Witnesses were convicted for failing to obtain a permit to hold Bible talks in a park. 340 U.S. 268, 270 (1951). Concluding from the trial record that "the use of the park was denied because of the City Council's dislike for or disagreement with the Witnesses or their views" the Court reiterated that "the right to equal protection of the laws, in the exercise of those freedoms of speech and religion protected by the First and Fourteenth Amendments, has a firmer foundation than the whims or personal opinions of a local governing body." *Id.* at 272; see also, *e.g.*, *Fowler v. Rhode Island*, 345 U.S. 67, 69–70 (1953) ("Appellant's sect has conventions that are different from the practices of other religious groups. * * * But apart from narrow exceptions not relevant here, it is no business of courts to say that what is a religious practice or activity for one group is

not religion under the protection of the First Amendment." (citations omitted)).

2. In the years since, the Court has applied the same principles to vindicate the rights of other groups whose beliefs compel them to spread their faith through canvassing, door-to-door solicitation, and other public expressions of religion. In *Lee v. International Society for Krishna Consciousness, Inc.*, the Court invalidated a ban on the distribution of literature in airport terminals. 505 U.S. 830, 831 (1992) (*per curiam*). Justice Kennedy, writing for a plurality in the consolidated cases, explained that the First Amendment stands to protect the rights of unpopular groups to speak and preach freely in public forums. The alternative would "allow[] the government to tilt the dialog heard by the public, to exclude many, more marginal, voices." *Int'l Soc. for Krishna Consciousness, Inc. v. Lee*, 505 U.S. 672, 702 (1992) (Kennedy, J., concurring in the judgment). Likewise, in *Board of Airport Commissioners of City of Los Angeles v. Jews for Jesus, Inc.*, the Court struck down a resolution that prohibited all "First Amendment activities" in the Los Angeles International Airport. 482 U.S. 569, 571 (1987). In doing so, the Court noted the intolerable "chilling effect of the resolution on protected speech" stood in stark contrast to the First Amendment's protection for public expression and discourse, and "no conceivable governmental interest would justify such an absolute prohibition of speech." *Id.* at 575–76. The robust First Amendment protections manifested by these cases enable people of all religions to share their faiths without fear of government reprisal.

III. The Decision Below Threatens Federal Courts' Ability To Vindicate The First Amendment's Protections For Public Religious Expression

The Fifth Circuit's extension of *Heck* to bar Section 1983 claims for prospective relief will weaken the federal judiciary's ability to protect important First Amendment rights by preventing individuals from challenging the constitutionality of laws under which they have been prosecuted before. The invidious effects of applying *Heck* to adherents like petitioner are apparent. In the Fifth Circuit, an individual could be convicted for the public expression of his religious faith under a patently unconstitutional law—like those the Court struck down in *Schneider*, *Cantwell*, and *Murdock*—but have no means to challenge the law's constitutionality or prevent future prosecutions under it. Such a regime risks stifling religious expression, especially by those expressing unpopular religious views. This is not a hypothetical threat. Courts have already applied *Heck* to bar First Amendment claims in a number of cases. See, *e.g.*, *Henagan v. City of Lafayette*, No. 6:21-CV-03946, 2022 WL 4553055, at *3 (W.D. La. Aug. 16, 2022) (dismissing First Amendment claim for injunctive relief against local ordinance as barred by *Heck*), *report and recommendation adopted*, 2022 WL 4546721 (W.D. La. Sep. 27, 2022); *Poor Bear v. Nesbitt*, 300 F. Supp. 2d 904, 911–12 (D. Neb. 2004) (dismissing free exercise claim for injunctive relief under *Heck*); *Yeazizw v. City of Edina*, No. 02–524, 2003 WL 1966285, at * 11 (D. Minn. Apr. 28, 2003) (similar).

This result is particularly unpalatable because of the procedural hurdles litigants must surmount to bring a successful Section 1983 action. Among those

requirements, a plaintiff seeking to enjoin the future enforcement of a state law must have standing, meaning he must face the imminent application of the law to him. *Bailey v. Patterson*, 369 U.S. 31, 32 (1962) (*per curiam*). The Fifth Circuit's application of *Heck* leads to the ironic result that those, like petitioner, who have already been prosecuted and thus have suffered the most concrete injury are prohibited from seeking relief from ongoing or future constitutional violations because it might threaten the earlier conviction.

This very case illustrates the point. Petitioner was arrested for publicly professing his faith under the City's ordinance, pleaded *nolo contendre* and was given a suspended sentence. Because of this past prosecution, petitioner has every reason to believe that he will again be prosecuted if he engages in the same religious expression. Yet the past prosecution that virtually ensures future charges also bars him from testing the constitutionality of the ordinance. His only choices are therefore to stay silent or risk further prosecution.

That rule promises to chill religious expression and instill political orthodoxy—a prospect that "invades the sphere of intellect and spirit which it is the purpose of the First Amendment to our Constitution to reserve from all official control." *West Virginia State Bd. of Educ. v. Barnette*, 319 U.S. 624, 642 (1943). The Court has rejected similar procedural impediments to vindicating constitutional rights through Section 1983 actions seeking prospective relief. See, *e.g.*, *Wooley v. Maynard*, 430 U.S. 705, 711 (1977) (rejecting application of *Younger* abstention to Section 1983 action against "prosecutions for future violations"); *Patsy v. Board of Regents of State of Fla.*, 457 U.S. 496,

501 (1982) ("[E]xhaustion is not a prerequisite to an action under § 1983."). Cf. *Reed v. Goertz*, 598 U.S. 230, 235 (2023) (rejecting application of the *Rooker-Feldman* doctrine to Section 1983 action seeking prospective relief). It should do the same here and reject the Fifth Circuit's novel extension of *Heck*.

CONCLUSION

For the foregoing reasons, as well as those provided by petitioner, the Court should reverse the Fifth Circuit's decision.

Respectfully submitted,

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