

No. 25-1389

In the
Supreme Court of the United States

RICHARD HERSHEY,

Petitioner,

v.

CITY OF BOSSIER CITY, LOUISIANA, ET AL.,

Respondents.

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

**BRIEF OF THE CHRISTIAN VEGETARIAN
ASSOCIATION AS *AMICUS CURIAE* IN
SUPPORT OF PETITIONER**

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INTEREST OF *AMICUS CURIAE*¹

The Christian Vegetarian Association (“CVA”) is an international, nondenominational Christian ministry dedicated to promoting faithful stewardship of God’s creation through plant-based eating. It is a project of the Justice for Animals Fund, a 501(c)(3) nonprofit private foundation. For decades, the CVA has supported Christian vegetarians around the world and educated the public about the spiritual advantages of a plant-based diet. The CVA’s primary outreach activity is distributing educational literature at Christian concerts, revivals, and other public events. This case involves an infringement of those religious efforts. Local officers prevented Petitioner from distributing CVA pamphlets on public property in violation of his First Amendment rights. And the Fifth Circuit denied relief. The CVA submits this brief to explain how that decision impedes its core First-Amendment-protected right to speak and share its faith.

SUMMARY OF THE ARGUMENT

This case turns on whether clearly established law prevents officers from barring evangelism in a public space. It obviously does: A century’s worth of precedent protects speech on public sidewalks—and specifically, the right to evangelize. Yet, the U.S. Court of Appeals for the Fifth Circuit held that

¹ No counsel for any party authored this brief in whole or in part, and no person or entity other than *amicus* or its counsel made any monetary contribution to the preparation or submission of this brief. Pursuant to Supreme Court Rule 37.2, counsel of record for all parties received notice of *amicus*’s intention to file this brief at least ten days prior to the due date.

qualified immunity shields even “obvious” violations of First Amendment rights, limiting *Hope v. Pelzer*’s obviousness qualified-immunity carve out to the Eighth Amendment context. That misguided approach relegates the First Amendment to second-class status behind the Eighth.

And it minimizes the importance of safeguarding religious evangelism—a core component of the CVA’s faith and speech. The CVA and its thousands of members advocate for plant-based eating as a means of living out the Bible’s teachings. To promote its message, the CVA publishes educational materials and encourages its members to share its understanding of Christian teachings throughout the world. These evangelism efforts form a critical part of the CVA’s faith and its mission to spread awareness of the spiritual advantages of plant-based eating.

Petitioner regularly shares the religious materials of the CVA. He was doing just that, while standing on a public sidewalk, when officers dangled handcuffs and threatened to arrest him if he did not abandon his leafleting.

The Fifth Circuit’s failure to protect that textbook First Amendment activity embeds a constitutional hierarchy into qualified immunity—one that threatens to erode protections for religious groups like the CVA. This Court should grant certiorari (or summarily reverse, even) to ensure that citizens facing First Amendment infringements receive the same protection as those alleging Eighth Amendment abuses.

ARGUMENT

I. Evangelism Is a Central Part of the Christian Vegetarian Association’s Faith and First Amendment Activity.

A. The CVA’s commitment to evangelism.

In 1999, Nathan Braun, then a student at Augustana University College, founded the CVA by organizing “respected professors, theologians, and activists representing a broad range of backgrounds and perspectives” on Christian vegetarianism.² The CVA sought to help connect the dots between Christian teachings and plant-based diets. Its mission is to demonstrate that a plant-based diet is consistent with faithful Christian stewardship because it protects God’s creation, reduces food insecurity, and promotes the health of the human body. Over the past two decades, the CVA has grown to thousands of members worldwide, including through a sister organization in the United Kingdom, Christian Vegetarians & Vegans UK.³ Its email list reaches nearly 6,000 people.

The CVA advocates plant-based eating from a biblical perspective. For CVA members, plant-based eating is a powerful way to bear witness to Christ’s ministry of love, peace, and compassion. In this way,

² Yale School of the Environment, Forum on Religion and Ecology, *Christian Vegetarian Association (CVA)*, <https://fore.yale.edu/project/Christian-Vegetarian-Association-CVA> (last visited July 13, 2026).

³ Christian Vegetarian Association, *Contact The CVA*, <https://christianveg.org/contactcva.htm> (last visited July 13, 2026).

the CVA seeks to participate in the reconciliation of all Creation so that, as Jesus prayed, God's will can be done "on earth as it is in heaven," *Matthew* 6:10.

To that end, the CVA supports Christian vegetarians around the world and educates others about the spiritual advantages of plant-based eating. The CVA's main educational publication, *Joyful, Compassionate Eating*, currently distributes approximately 30,000 copies per year, and versions of this booklet are available in eleven languages. The CVA also distributes books published by Vegetarian Advocates Press, a project of the Justice for Animals Fund, including *Every Creature a Word of God: Compassion for Animals as Christian Spirituality, Guided by the Faith of Christ: Seeking to Stop Violence and Scapegoating*, and *Good News for All Creation: Vegetarianism as Christian Stewardship*.⁴ And the CVA partners with organizations such as All-Creatures.org to promote veganism "according to Judeo-Christian ethics."⁵

Members of the CVA believe plant-based eating is a way to promote the Bible's teachings.⁶ They believe that our bodies "are God's temple and . . . God's Spirit dwells in" us. 1 *Corinthians* 3:16. By eating only healthy, plant-based foods, members of the CVA follow the Bible's instruction to "honor God with your

⁴ See Christian Vegetarian Association, *Books and Booklets*, <https://christianveg.org/books.htm> (last visited July 13, 2026).

⁵ All-Creatures.Org, <https://www.all-creatures.org/> (last visited July 13, 2026).

⁶ See Christian Vegetarian Association, *Our Mission*, <https://christianveg.org/mission.htm> (last visited July 13, 2026).

bodies.” 1 *Corinthians* 6:19–20. And they care for the poor by reducing global food waste and cost, consistent with the Bible’s instruction that “[t]he generous will themselves be blessed, for they share their food with the poor.” *Proverbs* 22:9.⁷

The CVA anchors its belief in the biblical ideal of plant-based eating to *Genesis* 1:29, where God instructs Adam, Eve, and all creatures to eat only plants: “God said, Behold, I have given you every herb bearing seed, which is upon the face of all the earth, and every tree, in the which is the fruit of a tree yielding seed; to you it shall be for meat.” Similarly, *Isaiah* 11:6–9 foretells that in the end of times all creatures live in peace and harmony. In accordance with these teachings, the CVA believes caring for Earth is a sacred task, in accord with God’s instruction to Adam “to work it and take care of” the Garden of Eden. *Genesis* 2:15. The CVA recognizes that “[t]he Lord is good to all; he has compassion on all he has made,” *Psalms* 145:9, and seeks to spread that compassion throughout the world. CVA members thus advocate for plant-based eating as a means of treating God’s creations—humans, animals, and Earth alike—with compassion, reverence, and respect.⁸

Evangelism forms a critical part of the CVA’s mission to show the world that plant-based diets represent responsible Christian stewardship.⁹ The

⁷ See Christian Vegetarian Association, *Christianity and Vegetarianism*, <https://christianveg.org/honoring.htm> (last visited July 13, 2026).

⁸ See *id.*

⁹ See *Our Mission*, *supra* note 6.

CVA follows biblical teachings on evangelism and believes that, by educating people about the positive impact of plant-based eating on humans, animals, and the environment, Christian vegetarians live out Jesus's command to "go and make disciples of all nations." *Matthew* 28:19. As Paul implored Philemon to "be active in sharing [his] faith," *Philemon* 1:6, so too does the CVA encourage its members around the world to publicly advocate for a plant-based diet as a powerful and faith-strengthening witness to Christ's love, compassion, and peace. In the CVA's view, "encouraging people to try vegetarianism is offering a gift, for them as well as for the rest of Creation."¹⁰ Evangelism is so important to the CVA that it donates up to \$25 per hour to the vegetarian or animal protection group of choice for any member who volunteers to participate in CVA activities such as tabling, lecturing, hosting Bible studies and discussion groups, and putting up temporary displays in community libraries.¹¹

In addition to encouraging Christians to reflect on how a plant-based diet aligns with Christian teachings and Scripture, the CVA's ministry also serves an important evangelical purpose by encouraging people who care deeply about animals,

¹⁰ Christian Vegetarian Association, *How to Help*, <https://christianveg.org/howtohelp.htm> (last visited July 13, 2026).

¹¹ See Christian Vegetarian Association, *Weekly Newsletter - July 5, 2017*, <https://christianveg.org/up-20170705.htm>; Christian Vegetarian Association, *Weekly Newsletter - December 20, 2019*, <https://christianveg.org/up-20191220.htm>; Christian Vegetarian Association, *Weekly Newsletter - January 10, 2022*, <https://www.christianveg.org/newsletter/up-20220110.htm>.

the environment, and related concerns to remain within, or return to, the Christian faith. Through this focus, the CVA has been able to reach individuals who appreciate the CVA's ministry because they felt their churches' indifference towards animal welfare had weakened their faith.

As relevant here, the CVA, like other Christian ministries, has long encouraged leafleting and tabling as an "effective, enjoyable way" to spread Christian vegetarianism.¹² See *Martin v. City of Struthers*, 319 U.S. 141, 145–46 (1943) (noting that "[m]any of our most widely established religious organizations have used this method of disseminating their doctrines"). The CVA eagerly seeks volunteers to leaflet at Christian concerts and events, Christian colleges, and outside churches. The CVA instructs volunteers to be respectful, approaching people "in a pleasant manner," and, at churches, to stay off private property.¹³ These events provide "an ideal opportunity" for members of the CVA to share their beliefs. Pet. at 5; see also Pet.App.85 (Ho, J., concurring in denial of rehearing en banc).

B. Petitioner shares religious materials for the CVA.

Petitioner Richard Hershey has assisted the CVA for more than two decades. He has worked with the Justice for Animals Fund, of which the CVA is an arm, for approximately 20 years. A senior citizen from Missouri, Petitioner's ethical beliefs in vegetarianism compel him to share the religious materials of the CVA

¹² *Weekly Newsletter - January 10, 2022*, *supra* note 11.

¹³ *How to Help*, *supra* note 10.

with others. Pet.App.107. On several occasions, he has distributed more than 2,000 CVA booklets at a single event.

In February 2020, Petitioner began handing out CVA leaflets on Christian vegetarianism at the Winter Jam concert in Bossier City. See Pet.App.153–58. Winter Jam is a touring Christian concert featuring contemporary Christian artists. For years, volunteers have distributed leaflets at Winter Jam and other Christian events held by prominent Christian pastors and speakers like Franklin Graham and Joyce Meyer.¹⁴ Indeed, just this April, Petitioner successfully handed out leaflets at Winter Jam on the Missouri State University campus.¹⁵

At the 2020 concert in Bossier City, however, officers and security guards stopped Petitioner from leafleting and threatened him with arrest if he continued. Petitioner remained on the public sidewalk and peacefully interacted with passersby. Pet.App.124. Despite failing to create any disturbance, two city officers and three security guards approached Petitioner waving handcuffs and told him he had to leave or he would be arrested. *Id.* Petitioner tried to explain he had a legal right to hand out his pamphlets, but officers cut him off and repeated their demands for him to leave. Pet.App.125. Petitioner obeyed, and officers told him he would be arrested if he returned. *Id.* As he was leaving,

¹⁴ See Christian Vegetarian Association, *Weekly Newsletter - December 1, 2016*, <https://christianveg.org/up-20161201.htm>.

¹⁵ See Christian Vegetarian Association, *Weekly Newsletter - April 8, 2026*, <https://christianveg.org/newsletter/up-20260408.htm>.

Petitioner pointed out that someone else was leafleting for a radio station without interference. *Id.* One of the security guards responded that Petitioner’s materials were not approved—although he admitted he did not know if the radio station’s materials were approved either. *Id.* Petitioner then left the grounds and has not returned to the arena since. *Id.*

The takeaway: Officers prevented Petitioner from exercising his First Amendment rights to share the CVA’s message by prohibiting the distribution of the CVA’s religious flyers on a public sidewalk.

II. The Fifth Circuit’s Decision Jeopardizes the Core First Amendment Activity of the CVA.

The Fifth Circuit’s failure to protect Petitioner’s expression threatens to erode protections for religious groups like the CVA.

The First Amendment protects the CVA’s evangelism twice over, as both speech and as a core component of the free exercise right. The right to leaflet has been clearly established for over eighty years. *See Murdock v. Pennsylvania*, 319 U.S. 105, 108 (1943). And “[t]he hand distribution of religious tracts,” as a form of free religious exercise, is “as old as the history of printing presses.” *Id.* Since the founding, Christians have used leafleting to “carry the Gospel to thousands upon thousands of homes and seek through personal visitations to win adherents to their faith.” *Id.* at 108–09. Unsurprisingly, then, a mountain of precedent holds that governmental prohibitions on the distribution of religious materials violate the First Amendment. *See Schneider v. New Jersey*, 308 U.S. 147, 157–64 (1939); *Cantwell v. Connecticut*, 310 U.S. 296, 310 (1940); *Martin*, 319

U.S. at 149; *Murdock*, 319 U.S. at 117; *Heffron v. Int’l Soc’y for Krishna Consciousness, Inc.*, 452 U.S. 640, 647 (1981).

Despite two of the three panel members recognizing the obvious First Amendment violation, the panel nonetheless held that qualified immunity shielded the officers from liability. The reason: Petitioner could not identify a prior case with directly on-point facts. *See* Pet.App.3–4. This Court has recognized for more than two decades that qualified immunity offers no protection for “obvious” constitutional violations. *Hope v. Pelzer*, 536 U.S. 730, 741 (2002). But the Fifth Circuit cabins that exception “only to the Eighth Amendment claims of incarcerated criminals” and not to “the First Amendment claims of law-abiding citizens.” Pet.App.8. Under the Fifth Circuit’s approach, it doesn’t matter how obvious a First Amendment violation might be demonstrated at trial because, “[t]o overcome qualified immunity under [Fifth Circuit case law], the plaintiff must satisfy ‘the requirement that “clearly established law” be founded on materially identical facts.’” Pet.App.9 (citation omitted).

That stunning distinction has sweeping implications. So long as no officer has made the same “obvious” mistake on the same facts, religious adherents are powerless to vindicate their rights. If left standing, the Fifth Circuit’s rule leaves prayer groups, street preachers, and political advocates alike without redress for violations of foundational First Amendment rights.

Take *Siders v. City of Brandon* for example. 130 F.4th 188 (5th Cir. 2025). There, seven members of the

Fifth Circuit acknowledged that it would be “patently unconstitutional” for officers to prohibit someone “from engaging concertgoers in prayer and conversation . . . or handing out tracts expounding Biblical teaching.” *Id.* at 189 (Oldham, J., concurring in denial of rehearing en banc). Yet, the Fifth Circuit immunizes officers for that “patently unconstitutional,” *see id.*, violation merely because such an egregious violation hasn’t happened yet.

That gaping hole in constitutional protection has direct effects on religious groups like the CVA. The CVA regularly dispatches volunteers to leaflet at Christian concerts, on college campuses, and outside churches as part of its mission. The absence of *Hope*’s obviousness carve out in the Fifth Circuit, coupled with the requirement that prior violations arise from materially identical facts, leaves the CVA to choose between continuing to ask its volunteers to publicly evangelize under the risk of arrest or abandoning core speech and religious activity throughout Texas, Mississippi, and Louisiana.

The First Amendment protects against the inevitable chill imposed by that Hobson’s choice. Officers who obviously violate the First Amendment in carrying out their duties should not be cloaked with qualified immunity simply because no one else has suffered the same infringement before. That is not the rule when it comes to the Eighth Amendment, *see Hope*, 536 U.S. at 741, and it should not be the rule when it comes to the First. Indeed, extending qualified immunity to officers who blatantly violate the First Amendment not only deprives law-abiding citizens of a remedy after-the-fact, but also deters

constitutionally protected expression in the first place.
That is not a result our Constitution can tolerate.

CONCLUSION

The Court should grant the petition for a writ of certiorari or summarily reverse the Fifth Circuit's decision.

Respectfully submitted,

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