

IN THE
SUPREME COURT OF THE UNITED STATES

No. 25-_____

LANCE SHOCKLEY,

Petitioner,

vs.

RICHARD ADAMS, et al.,

Respondents.

On Petition For A Writ Of Certiorari To The
United States Court of Appeals for the Eighth Circuit

PETITION FOR A WRIT OF CERTIORARI

JEREMY S. WEIS,
MO Bar #51514
Federal Public Defender
Western District of Missouri
1000 Walnut St., Ste. 600
Kansas City, MO 64106
(816) 675-0923
E: Jeremy_Weis@fd.org

JUSTIN THOMPSON
OH Bar # 0078817
Federal Public Defender,
Southern District of Ohio
10 W. Broad Street, Ste 1020
Columbus, Ohio 43215
(614) 469-2999
Justin_Thompson@fd.org

CAPITAL CASE

QUESTIONS PRESENTED

1. Does the State of Missouri's decision to deny a condemned his choice of spiritual advisor solely on the basis of the individual's familial relationship violate this Court's holding in *Ramirez v. Collier* and impose a substantial burden on the inmate's free exercise of religion.

PARTIES TO THE PROCEEDINGS BELOW

Petitioner is an inmate on Missouri's death row who is scheduled to be executed on October 14, 2025. Petitioner was the sole appellant below.

Respondents are Richard Adams, Warden of the Eastern Reception and Diagnostic & Correctional Center (ERDCC); Heather Cofer, Warden of the Potosi Correctional Center (PCC); Trevor Foley, Director of the Missouri Department of Corrections; and Myles Strid, Director of the Division of Adult Institutions at the Missouri Department of Corrections.

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PETITION FOR A WRIT OF CERTIORARI

Petitioner, Lance Shockley, respectfully prays that a writ of certiorari issue to review the opinion of the United States Court of Appeals for the Eighth Circuit issued in these proceedings on October 13, 2025.

OPINIONS BELOW

The order of the United States District Court for the Eastern District of Missouri, dated October 12, 2025, which dismissed the Complaint is included in the Appendix at 70a. A panel of the Eighth Circuit denied Petitioner's Motion to Stay Execution on October 13, 2025. The Eighth Circuit opinion is included in the Appendix at 167a.

JURISDICTIONAL STATEMENT

The United States Court of Appeals for the Eighth Circuit issued its judgment on October 13, 2025. App. at 167a. The jurisdiction of this Court is invoked under 28 U.S.C. § 1254(1).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The First Amendment to the U.S. Constitution provides in relevant part: "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof."

The Fourteenth Amendment provides in relevant part: "[N]or shall any State deprive any person of life, liberty, or property, without due process of law."

42 U.S.C § 1983, Civil Action for Deprivation of Rights states:

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress, except that in any action brought against a judicial officer for an act or omission taken in such officer's judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable. For the purposes of this section, any Act of Congress applicable exclusively to the District of Columbia shall be considered to be a statute of the District of Columbia.

42 U.S.C. § 2000cc-1, Protection of Land Use and Institutionalized Persons Act (RLUIPA), states in relevant part:

(a) General rule

No government shall impose a substantial burden on the religious exercise of a person residing in or confined to an institution, as defined in section 1997 of this title, even if the burden results from a rule of general applicability, unless the government demonstrates that imposition of the burden on that person—

- (1) is in furtherance of a compelling governmental interest; and
- (2) is the least restrictive means of furthering that compelling governmental interest.

STATEMENT OF THE CASE

Mr. Shockley's Christian faith is central to who he is as a man and how he conducts his life in prison. Lance Shockley has dedicated his life over the last twenty years to the service of others and to living out Christ's example every day. It is well known within the prison that Lance is seldom without his Bible and will mentor and pray with every inmate that allows him to. Lance is incredibly involved in religious services within the institution and does his best to supplement them as well. See Laura Kosta, A Shoe Repairman with a 'Servant's Heart,' St. Louis Review (Sept. 25, 2025) <https://www.stlouisreview.com/story/a-shoe-repairman-with-a-servants-heart> (last visited Oct. 9, 2025); Krisanne Vaillancourt Murphy, No Life is Beyond Redemption: Renewed Efforts to End Death Penalty in Respect Life Month, Vatican News (Oct. 9, 2025), <https://www.vaticannews.va/en/church/news/2025-10/respect-life-month-catholic-mobilizing-network-death-penalty.html> (last visited Oct. 9, 2025) (quoting Archbishop Mark Rivotuso as saying that Mr. Shockley is "very devout to his faith."); Laura Kosta, Archdiocese Launches New Program to End the Death Penalty, St. Louis Review (Oct. 9, 2025), <https://www.stlouisreview.com/story/archdiocese-launches-new-program-to-end-the-death-penalty/> ("[Lance's] ability to articulate and express himself in his depth of faith . . . there is such a conviction there.").

Although not specific or limited to death-sentenced people, The Missouri Department of Corrections ("MODOC") has an established policy concerning spiritual advisors for people in MODOC custody. Ex. A. The policy addresses, among other matters, who may serve as a spiritual advisor and the "qualifications" a person must

possess to be able to serve as a spiritual advisor. R. Doc. 2, Ex. A at 2 (D5-3.3(III)(B))2(d)).

MODOC policy explicitly contemplates a situation in which immediate family members, such as the offender's children, serve as spiritual advisors. R. Doc. 2, Ex. A at 2 (D5-3.3(II)(E)(g)). The policy's definition of a "spiritual advisor" is a "[c]ommunity spiritual leader of any religious group formally authorized and empowered by a religious body to administer ordinances or sacraments, to perform mandatory rites, counsel, and to conduct religious or spiritual services and studies subject to institutional verification of his credentials." R. Doc. 2, Ex. A at 2.

Under Section III.B.2.a. of the MODOC policy, "In the event the clergy or spiritual advisor is an immediate family of the offender, visiting privileges may be provided either as a clergy or spiritual advisor or in accordance with the institutional services procedure regarding offender visitation, but not both." R. Doc. 2, Ex. A 2. MODOC policy therefore does not prohibit immediate family from serving as spiritual advisors.

"Immediate family" is defined as "the offender's . . . children/stepchildren" R. Doc. 2, Ex. A at 2. MODOC policies provide a spiritual advisor must apply by submitting a spiritual advisor approval form. R. Doc. 2, Ex. A at 2. The approval form must be accompanied by at least two of the following documents: ordination certificate; listing as clergy or spiritual advisor in a religious organization publication or website; letter of endorsement (on official letterhead) from the respective religious organization; federal income tax filing status as "clergy or minister"; and designation

on approved visiting application as clergy or spiritual advisor. R. Doc. 2, Ex. A at 2-3.

Both Morgan and Summer followed the steps to be designated Mr. Shockley's spiritual advisors as required. R. Doc. 2, Ex. B; R. Doc. 2, Ex. C; R. Doc. 2, Ex. G; R. Doc. 2, Ex. H. Pursuant to Section III.B.2.a. of the MODOC policy, Morgan and Summer have requested privileges as spiritual advisors, rather than as family members.

Morgan was notified on August 21, 2025, by the acting chaplain at Potosi Correctional Center that her application to be a spiritual advisor for her father was denied. R. Doc. 2, Ex. F at 3. The reason provided by Mr. Forbes was that she was a family member and would not be allowed to perform the functions of a spiritual adviser for that reason alone. R. Doc. 2, Ex. F at 3. Morgan Shockley appealed the decision citing the DOC's policy as set forth in Exhibit A. R. Doc. 2, Ex. D at 1.

Morgan's appeal was sent to Aaron B. Davis, Religious and Spiritual Programming Coordinator for the Missouri Department of Corrections. Mr. Davis requested additional documentation from Morgan Shockley and after receiving the paperwork he notified her that she "appears to be qualified to serve as a spiritual advisor." R. Doc. 2, Ex. G at 3. Mr. Davis then informed Morgan that he would "contact the administration of PCC to let them know that you are qualified as an advisor" and that "the facility would need to accommodate you as a spiritual advisor." R. Doc. 2, Ex. G at 3. Mr. Davis emailed a day later at 7:30 AM and clarified his prior approval email saying, "My review is only based on the qualifications. If they have

other concerns, they will consult the division director, so you may want to contact PCC to find out if they are changing the denial or not.” R. Doc. 2, Ex. G at 1.

At the same time Mr. Davis was emailing Morgan regarding her approval, he was also informing the acting chaplain, Mr. Forbes, and Potosi Correctional Center Warden Heather Cofer that he had approved Morgan’s request. R. Doc. 2, Ex. F at 1-3. Mr. Davis informed them of his approval at 3:58 PM on September 25, 2025. R. Doc. 2, Ex. F. at 3. Warden Cofer emailed Mr. Davis back at 5:07 PM on September 25, 2025, that Director of Adult Institutions Myles Strid denied her request and that “the decision to deny her as a spiritual advisor will stand.” R. Doc. 2, Ex. F at 2. Mr. Davis responded the following morning to Warden Cofer at 7:26 AM and informed her that he “meant to include in my earlier email that if there are safety/security concerns (and there are) then they should be taken to director Strid. I apologize for any confusion.” Two minutes later at 7:28 PM Warden Cofer emailed back and asked whether “[Morgan] has been contacted.” R. Doc. 2, Ex. F at 2. Mr. Davis then responds stating, “When I contacted her, I advised her that I only review it based on the qualifications, so she would need to contact the facility regarding the status of her application.” R. Doc. 2, Ex. F at 2.

The email timeline shows that Mr. Davis told Warden Cofer that he informed Morgan Shockley that there were concerns with her application and that she should take her concerns to Director Strid. R. Doc. 2, Ex. F at 2. At the time he wrote this he had not informed Morgan of any concerns about her application, nor had he suggested she contact Director Strid. When he finally emailed Morgan the following morning,

he did not inform her that her appeal was denied, that there were any concerns, nor that she should contact Director Strid as he had told Warden Cofer. R. Doc. 2, Ex. G at 1. Mr. Davis only said to Morgan Shockley, “if they have other concerns” but he did not express that any such concerns existed. R. Doc. 2, Ex. G at 1. (emphasis added).

A formal denial for Summer and Morgan’s applications to serve as spiritual advisors was communicated via voicemail to Mr. Shockley’s counsel on September 26, 2025, from Assistant Missouri Attorney General Michael Spillane.

MODOC communicated its proposed accommodations to Mr. Shockley on October 6, 2025. R. Doc. 2, Ex. M. MODOC declined to designate either Morgan or Summer as spiritual advisors. *Id.* In addition, MODOC denied Mr. Shockley’s request for in-person visits with his spiritual advisors for purposes of exercising his religion. *Id.* This included contact visits for purposes of receiving communion and for use of anointing oils in their religious practices. Finally, MODOC declined to allow Morgan to be present in the execution chamber to touch and pray over Mr. Shockley if the execution proceeds on October 14, 2025. *Id.*

Counsel for Mr. Shockley requested clarification as to several aspects of MODOC’s proposed accommodations and MODOC provided additional accommodations and some additional clarification. R. Doc. 2, Ex. M. MODOC continued to deny Mr. Shockley’s request for contact visits with his spiritual advisors and for Morgan to be present with him in the execution chamber. *Id.*

Mr. Shockley utilized the prison grievance process to request Morgan’s presence in the execution chamber and in person communion from Summer Shockley.

This grievance was filed on October 8, 2025, one day following the Missouri Department of Corrections formal notification to his counsel. MODOC issued its IRR denial on October 8, 2025. R. Doc. 5, Ex. Q.

The IRR denial from MODOC indicates that Morgan was denied her request to serve as a spiritual advisor stating, “does not meet the requirements to be your spiritual advisor while you are on pre-execution status due to institutional safety and security concerns, which causes a failure to satisfy the background check provision of D 5-3.3III(B) (2) (c) (2).” R. Doc. 5, Ex. Q at 3. MODOC has not provided any information regarding what, if any, concerns arose during Morgan’s background check.

The IRR denial from MODOC also states that Morgan’s initial application was denied on August 21, 2025, and that the basis for the denial was “D5-3.3III(B)(2)(c)(2), which relates to the safety and security of the institution.” R. Doc. 5, Ex. Q at 2. But the August 21, 2025, letter from MODOC only stated that “no immediate family member is eligible to be a clergy/spiritual advisor.” R. Doc. 2, Ex. F at 3. The letter did not reference any part of MODOC Policy D5-3.3. Morgan appealed the MODOC decision, R. Doc. 2, Ex. D, and was told she met the qualifications. R. Doc. 2, Ex. G. At no time did MODOC communicate to Morgan that she was denied for any reason other than because she is Mr. Shockley’s immediate family. But the denial of Mr. Shockley’s IRR indicated for the first time Morgan’s appeal “was improper because the basis for the denial was under D5-3.3III(B)(2)(c)(2).” R. Doc. 5, Ex. Q at 2. The IRR denial argues, however, that concerns about “institutional safety and security . .

. was communicated to Morgan Shockley by email on Friday, September 26, 2025, at 7:30 A.M.” R. Doc. 5, Ex. Q at 2. The referenced email did not indicate MODOC had made the decision to uphold the denial nor did the email explain that the denial was based on any factor beyond her status as a family member. R. Doc. 2, Ex. G at 3; Ex. F at 3.

The IRR denial notes for a second time that Morgan and Summer’s requests to serve as spiritual advisors was denied based on “[t]he background check provision” referenced in “D5-3.3III(B)(2)(c)(2).” R. Doc. 5, Ex. Q at 3. MODOC has not provided any information with respect to the type of background check conducted and, what, if any, concerns resulted from MODOC’s investigation.

The IRR denial rejected the proposed alternative requiring Morgan to sign an agreement not to disclose sensitive institutional information resulting from their presence in the chamber and for members of the execution team wear face coverings to obscure their identities. R. Doc. 5, Ex. Q at 3. The IRR denial suggests previous spiritual advisors violated similar agreements but does not provide the language of these agreements nor does the denial outline what, if any, sensitive information was shared by these prior spiritual advisors that would invalidate future use of similar agreements. R. Doc. 5, Ex. Q at 3.1 Further, neither Summer nor Morgan has ever

¹ None of the articles cited in the IRR feature spiritual advisors disclosing secret information about the executions they witnessed. One spiritual advisor did say that the warden at Bonne Terre had him “sign documents swearing [he] would never divulge the names of any staff whom [he] saw or who assisted [him] during these visits.” Gerry Kleba, *On Death Row with Johnny Johnson*, Association of U.S. Catholic Priests (Oct. 25, 2024) <https://tinyurl.com/9ywmbwvh> (last visited Oct. 11, 2025). To be sure, none of the articles the divulge names, physical characteristics, or

caused any problems in the nearly two decades of visiting Mr. Shockley in prison, and there is no evidence that either would violate policy now that they are taking part in MODOC process.

REASONS FOR GRANTING THE WRIT

- 1. Mr. Shockley’s right to religious liberty is “substantially burdened” when he is not permitted to select his spiritual advisor.**

RLUIPA “provides that “[n]o government shall impose a substantial burden on the religious exercise of a person residing in or confined to an institution” unless the government demonstrates that the burden imposed on that person is the least restrictive means of furthering a compelling governmental interest.” *Ramirez v. Collier*, 595 U.S. 411, 412-13 (citing 42 U. S. C. §2000cc-1(a)). The requested accommodation “must be sincerely based on a religious belief and not some other motivation.” *Ramirez*, U.S. at 413. “Congress defined “religious exercise” capaciously to include “any exercise of religion, whether or not compelled by, or central to, a system of religious belief.” *Holt v. Hobbs*, 574 U.S. 352, 258 (2015).

a. Substantial burden is not explicitly defined.

This Court has determined that a State action or policy is a “substantial burden” on a petitioner’s right to exercise their religious beliefs when it forces the petitioner to “engage in conduct that seriously violates his religious beliefs.” *Holt v. Hobbs*, 574 U.S. at 361 (quoting *Burwell v. Hobby Lobby Stores*, 573 U.S. 682, 720

any other identifying features of anyone at Bonne Terre. The articles focus on the relationship between the condemned and their spiritual advisors. Based on the limited information shared about the signed agreements, there is no evidence to suggest any have ever been violated.

(2014)) (cleaned up). Beyond that, however, and especially in the context of spiritual advisors' presence in the execution chamber with the condemned, the Court has said little on the exact definition or parameters of a substantial burden. For example, in *Ramirez*, the Respondents never even disputed that the policy at issue substantially burdened Mr. Ramirez's religious exercise. *Ramirez*, 595 U.S. at 426. In *Holt*, where the respondent failed to dispute that their policy substantially burdened the petitioner's religious exercise, the Court came slightly closer to defining the parameters, stating that because the petitioner would be subjected to serious disciplinary action should he grow his beard, it forced him into a "choice," which functioned as a substantial burden on his religious practice. *Holt*, 574 U.S. at 361. But it is unclear when a "choice" becomes a substantial burden, and indeed, it is unclear what a substantial burden looks like when perhaps there is not a "choice" like in *Holt*.

What has emerged from not this Court, but from the Eighth Circuit Court of Appeals (which also has not issued a clear definition), is an amorphous spectrum varying from State policies that do not pose a substantial burden to policies that do—each end of the spectrum, however, bears little definition. For example, the Eighth Circuit in *Van Wyhe v. Reisch*, 581 F.3d 639, 656-57 (8th Cir. 2009), said, "Depriving Sisney of a tape player in his cell does not significantly inhibit his religious expression, meaningfully curtail his ability to adhere to his faith, or deprive him of a reasonable opportunity to engage in that religious activity" because Sisney had access to the tape player during group meeting times and was allowed religious-related

books in his cell. The court found no substantial burden, but did not explain further *why* the lack of tape player did not inhibit religious expression, meaningfully curtail adherence to Sisney’s faith, or deprive him opportunity to engage in religious activity. Similarly, in *Gladson v. Iowa Dep’t of Corr.*, 551 F.3d 825, 834 (8th Cir. 2009), the court determined, “the inmates have failed to offer any evidence that the ISP’s grant of three hours for them to celebrate Samhain significantly inhibits or constrains their conduct or expression; meaningfully curtails their ability to express adherence to their faith; or denies them reasonable opportunities to engage in those activities that are fundamental to their religion. As a result, the inmates, as in *Patel*, have not offered sufficient evidence to create a genuine issue of material fact sufficient for a jury to find that their ability to practice Wicca has been substantially burdened.”

On the other end of the spectrum, the Eighth Circuit has found a substantial burden when the petitioner was deprived a Bible for a month, *Barnett v. Short*, 129 F.4th 534, 545 (8th Cir. 2025); when the prison prohibited tobacco for religious purposes, *Native American Council of Tribes v. Weber*, 750 F.3d 742 (8th Cir. 2014); when the prison refused to allow a succah during the Festival of Sukkot, *Van Wyhe v. Reisch*, 581 F.3d at 656; and when the prison denied a petitioner’s Sabbath meal request, *Love v. Reed*, 216 F.3d 682, 689-90 (8th Cir. 2000).

In short, what is considered a substantial burden on religious exercise is “defined,” in the Eighth Circuit at least, by an ill-defined sliding scale, with markers throughout the scale that involve highly specific religious practices and circumstances, none of which are applicable to Mr. Shockley’s case. The lower court

has found no substantial burden, but it is unclear what substantial burden even means—why there is no substantial burden when Mr. Shockley has been denied his (qualified and vetted) spiritual advisors to minister over him as he dies.

b. The lower courts created an additional requirement for “substantial burden” when the District Court required Mr. Shockley to show why his daughter Morgan was the only spiritual advisor that could be with him in the chamber and the Court of Appeals echoed that requirement.

The District Court denied Mr. Shockley relief because it asserted that he could not show that his religious liberty was substantially burdened by MODOC’s refusal to allow him to choose his daughter as a spiritual advisor to be by his side in the execution chamber. ECF Doc. 26, pp. 12-13. “Nowhere in the record before this Court does Shockley indicate that Morgan and Summer are the only acceptable spiritual advisors to him. Nor does he indicate that Morgan and Summer are the only members of his faith capable of administering communion to him or anointing him with oil consistent with his religious beliefs. Indeed, he nowhere asserts any particular religious or spiritual-advisor connection to them.” *Id.*; *id.* at 15-16 (“Shockley does not assert that his daughters are his only spiritual advisors; Shockley does not assert that his daughters are the only ministers able or qualified to provide the religious sacraments and rituals he seeks[.]). The Eighth Circuit echoed this: “Although there is no question that Shockley prefers his daughters ‘to provide the religious sacraments and rituals he seeks,’ he never claims that they are his only spiritual advisors or the only ones able to do it in a way that is consistent with his religious beliefs.” App. at 170a.

The lower courts thus required Mr. Shockley to show something that no other inmate in Missouri has had to show—*why* he chose the spiritual advisors that he did. All MODOC policy requires to qualify is as a spiritual advisor is, among other things, a letter from a church endorsing the applicant as a spiritual advisor and an ordination from a religious organization. Morgan Shockley did. MODOC policy also explicitly allows family members to be an inmate’s spiritual advisor. Through this policy MODOC explicitly understands that family members can be spiritual advisors and implicitly endorses that they approve of the practice, in theory. MODOC does not require an explanation of an inmate’s religious practices or why they chose their specific spiritual advisor.

But now, the courts have required this *why* to show that the burden is substantial. RLUIPA only requires that the request in question is a “sincerely held religious belief,” and the District Court did not question that sincerity. R. Doc. 26, at 18. (“The Court does not here question the sincerity of Shockley’s religious beliefs. . .”). This question adds a layer to substantial burden that does not exist in this Court’s jurisprudence. In *Murphy v. Collier*, 587 U.S. 901 (2019), this Court began to recognize what Mr. Shockley has asserted from the beginning, that spiritual advisors are not fungible. There, the Court required the prison allow Murphy a spiritual advisor from his own religion. And in *Ramirez*, this Court extended that understanding to include the prison allow Ramirez *his* spiritual advisor. *See* 595 U.S. at 419. Ramirez’s initial complaint and subsequent grievance included that he be able to have the spiritual advisor of his choice. *Id.* at 418-19. *Ramirez* did not need to opine

on that proposition because Texas amended its policy to include that a prisoner could have their own spiritual advisor in the chamber before this Court took up the case. But it did recognize that it was at issue and that Texas found a less restrictive way respect Ramirez’s religious rights without a categorical ban. *Id.* at 419.

The State and the lower courts have used this added requirement as a means to deny Mr. Shockley his last wish.

c. The question of who Mr. Shockley’s spiritual advisor is really a question that should be addressed at the compelling interest/least restrictive means stage of inquiry.

Both the State and the District Court put the cart before the horse in the inquiry of who Mr. Shockley’s spiritual advisor is. Substantial burden is a threshold question that must be answered first before the court can weigh the State’s compelling interest with the least restrictive means. But the District Court combined the compelling interest examination with Mr. Shockley’s substantial burden showing. “The Court also recognizes, as Shockley posits, that ministers are not fungible. But the First Amendment and RLUIPA do not mandate the elimination of any and all burdens to the free exercise of religion, only those that are substantial. And context is important. This isn’t the mine run of accommodations in the prison setting; the specific context here is the state’s compelling interest in maintaining the “safety, security, and solemnity” of the execution room.” R. Doc. 26 at 14 (citations omitted) (cleaned up).

The Eighth Circuit posits an example that conflates the two separate questions as well: “It is true that ministers are not fungible, but there must be some limits. For

example, what about an inmate who claims that the only acceptable spiritual advisor—one who must pray and lay hands on him in the execution chamber—is a fellow inmate who has offered spiritual guidance throughout his time in prison? In this hypothetical scenario, surely the prison could make the inmate choose someone else without running afoul of RLUIPA.” App. at 169a.

But this example highlights why there is a threshold step and then a compelling interest/restrictive means test after. Mr. Shockley asserts that a prison denying a person their choice of another inmate as their spiritual advisor *is* substantial burden on their religious freedom. This person would satisfy the threshold matter of substantial burden question under *Ramirez* because a person is entitled to their choice of spiritual advisor.

But the person in this example would fail to overcome the compelling state interest in safety and security. The safety concerns regarding another inmate in the chamber would not be speculative – the courts have already adjudicated the inmate-spiritual advisor has needing to be confined for illegal behavior. This person would have a criminal history that the State could rely on to show they could not be trusted not break the law and interfere with the execution. But the spiritual relationship between the condemned and his choice of spiritual advisor-inmate would be valid and denying him that choice would violate his religious freedom.

RLUIPA contemplated a scenario like this, where a burden could be substantial, but also not one the State need accommodate because of the compelling interest test. But the State and the lower courts are not viewing Mr. Shockley’s

request in the manner RLUIPA demands. Denying Mr. Shockley's request for his daughter to be his spiritual advisor in the execution chamber *is* a substantial burden because he is entitled to the spiritual advisor of his choosing and RLUIPA does not require him to plead *why* he chose her, so long as his choice is based a sincerely held religious belief. It is, and therefore he satisfies the substantial burden question.

2. The State of Missouri has adopted a blanket prohibition on family members serving as spiritual advisors imposing a substantial burden on Mr. Shockley's free exercise of religion in violation of his First Amendment Rights and RLUIPA.

The Missouri Department of Corrections have taken the position in this litigation that no family member may serve as spiritual advisor for a condemned man without regard to considerations of the inmate's free exercise of religion, whether the proposed spiritual advisor qualifies under their internal operating procedures, and without regard to the individual risks they may or may not pose to institutional security. This blanket policy places an undue burden on the inmate's constitutional rights on its face and, in this case, in practice.

MODOC alleges their restrictions are narrowly tailored to protect important governmental interests, but their current position is at odd with their own policies that specifically contemplate family members serving in the role of spiritual advisor. R. Doc. 2, Ex. A. The Missouri Department of Corrections ("MODOC") has an established policy concerning spiritual advisors for people in MODOC custody. Ex. A. The policy addresses, among other matters, who may serve as a spiritual advisor and the "qualifications" a person must possess to be able to serve as a spiritual advisor. R. Doc. 2, Ex. A at 2 (D5-3.3(III)(B))2)(d)).

MODOC policy explicitly contemplates a situation in which immediate family members, such as the offender’s children, serve as spiritual advisors. R. Doc. 2, Ex. A. at 2 (D5-3.3(II)(E)(g)). The policy’s definition of a “spiritual advisor” is a “[c]ommunity spiritual leader of any religious group formally authorized and empowered by a religious body to administer ordinances or sacraments, to perform mandatory rites, counsel, and to conduct religious or spiritual services and studies subject to institutional verification of his credentials.” R. Doc. 2, Ex. A at 2.

MODOC specifically provides that family members may serve as spiritual advisors as long as they meet specific requirements, R. Doc. 2, Ex. A. There is no dispute that both Morgan and Summer Shockley meet the MODOC requirements, but their applications have been denied solely on the basis that were family members. This is inconsistent with their own policy. *Id.* While MODOC has steadfastly avoided referencing this policy in their arguments below, this policy is used to verify the qualifications of all potential spiritual advisors, including those that are family members of the inmate. R. Doc. 2, Ex. A. The policy applies to family members by its plain terms and MODOC officials have referred to this policy in their correspondence with Mr. Shockley and his chosen spiritual advisors. R. Doc. 2, Ex. Q.

The MODOC policy was adopted in 2016 and has not changed even though this Court’s decision in *Ramirez* specifically encouraged States to adopt policies and procedures intended to address issues related to spiritual advisors in the execution chambers. *Ramirez*, 595 U.S. at 436 (“If States adopt clear rules in advance, it should be the rare case that requires last-minute resort to the federal courts.”). Mr. Shockley

relied on this long-standing policy in making his requests and the MODOC has refused to abide by the letter of its own policies and instead adopted a blanket rule that no family member may serve in that role.

CONCLUSION

For the foregoing reasons, the petition for a writ of certiorari should be granted in this case.

Respectfully submitted,

/s/ Jeremy S. Weis

Jeremy S. Weis, MO Bar No. 51514*
Capital Habeas Unit
Federal Public Defender
Western District of Missouri
1000 Walnut St., Ste. 600
Kansas City, MO 64106
(816) 675-0923
E: Jeremy_Weis@fd.org

/s/ Justin Thompson

Justin Thompson, OH Bar No. 0078817
Federal Public Defender,
Southern District of Ohio
10W. Broad Street, Ste 1020
Columbus, Ohio 43215
(614) 469-2999
Justin_Thompson@fd.org

Attorneys for Petitioner Shockley

*Counsel of Record