

No. 25-634

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**In the Supreme Court of the United States**

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FAMILY FEDERATION FOR WORLD PEACE AND  
UNIFICATION INTERNATIONAL; THE UNIVERSAL PEACE  
FEDERATION; AND THE HOLY SPIRIT ASSOCIATION FOR  
THE UNIFICATION OF WORLD CHRISTIANITY (JAPAN),

*Petitioners,*

*v.*

HYUN JIN MOON; UNIFICATION CHURCH  
INTERNATIONAL; MICHAEL SOMMER; JINMAN KWAK;  
YOUNGJUN KIM; AND RICHARD J. PEREA

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On Petition for a Writ of Certiorari to  
the Court of Appeals of the District of Columbia

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**PETITIONERS' REPLY BRIEF**

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## INTRODUCTION

Respondents' opposition overwhelmingly *confirms* the need for this Court's review. Respondents concede Petitioners' showing (at 27) that the decision below flouts the rule of law by denying Petitioners "a civil forum" to challenge the fraudulent seizure of church property worth billions of dollars so that the "ownership of church property can be determined conclusively." *Jones v. Wolf*, 443 U.S. 595, 602 (1979). And Respondents have no answer to Petitioners' showing (at 34) that if the Establishment Clause's entanglement doctrine precluded review of historical, non-doctrinal facts to identify a church's polity and leader, it would threaten the First Amendment rights of religious bodies generally: Breakaway dissidents could seize control of church-affiliated assets, proclaim a competing church vision, and invoke the First Amendment to evade accountability.

Nor do Respondents meaningfully dispute that this is what happened here: They do not dispute that they took property worth billions of dollars; that the Family Federation was the direct successor to the Church entity that set up Unification Church International (UCI) at Reverend Moon's direction; or that—for decades—Reverend Moon and the Church (acting on his behalf) set the course for UCI. Indeed, Respondents (at 7) concede that UCI was established to support the Church's mission.

Respondents' invocation of other factual disputes is immaterial to this Court's review. This case was decided against Petitioners on reversal of their summary-judgment win (*Moon III*) and on the

pleadings (*Moon IV*). So in this Court the facts must be viewed in the light most favorable to Petitioners or accepted as alleged in the complaint. See *Tolan v. Cotton*, 572 U.S. 650, 656-657 (2014). Respondents’ detour through the disputed evidentiary record is thus no reason to avoid deciding the *legal* question of what standard governs when a court concludes neutral principles cannot resolve a dispute: (a) pure abstention or (b) limited factual review to identify and defer to authoritative leadership. And here, the only court that made factual findings found the Church *was* hierarchical and led by Reverend Moon. Pet. 14.

Respondents (at 21) disregard all this, claiming that Petitioners seek to impose the “rule of compulsory deference” rejected in *Jones*. Not so. As Petitioners (at 1-2) explained, the lower court overread the Establishment Clause at the expense of other First Amendment rights. And *Jones*—despite rejecting *universal* deference—preserved deference as a path to resolving property disputes if neutral principles fail.

As Petitioners showed, that path should have been open to them here. This is a textbook church-property dispute in which Petitioners claimed hierarchical authority over their assets, and Respondents answered by claiming their own authority over those assets, leading the lower court (incorrectly) to abstain from resolving the dispute. This Court should reject Respondents’ insistence that courts cannot resolve such disputes. Instead, the Court should grant the petition and reaffirm that, when no other means of adjudicating such disputes is available, courts must identify and defer to the church’s authoritative leader.

## I. Respondents Confirm The Split.

Most critically, Respondents have no serious answer to Petitioners' showing (at 19-26) that the lower courts are split at least 6-2 on whether the First Amendment allows courts to identify a church's governing authority in circumstances like these. Indeed, Respondents (at 24-25) observe that the highest courts in New York and the District of Columbia refuse to consider church-related facts to decide who leads a church if the court perceives ambiguity—however contrived—on that question.

And Respondents cannot avoid that other state courts *will* look to such facts when necessary to resolve a property dispute. Respondents (at 23) concede that the Indiana Supreme Court in *Brazauskas v. Fort Wayne-S. Bend Diocese, Inc.*, 796 N.E.2d 286, 292 (Ind. 2003), confirmed that in “some cases” it can look to church-related facts to determine “the nature of the church organization.” This gives the game away.

Nor can Respondents (at 23-24) dismiss the split because some cases were “pre-*Jones*.” Rather than narrowing the paths for resolving church-property disputes, *Jones* expanded them. For example, as Petitioners (at 20) explained, the Ohio Supreme Court in *State ex rel. Morrow v. Hill*, 364 N.E.2d 1156 (Ohio 1977), faced the same situation as here. Since there was “no church judicatory recognized by both parties,” the court resolved the hierarchy question by looking to “purely factual matters.” *Id.* at 1160. That review included examining church documents and “a variety of [other] indicia” of church leadership, *id.* at 1157-

1160 & n.2, whereas the D.C. Court of Appeals *refused* to consider such indicia.

Respondents (at 24) then argue that *St. John Chrysostom Greek Catholic Church v. Elko*, 259 A.2d 419 (Pa. 1969), is inapposite because the record there contained no “meaningful ambiguity” about church structure. But, under the Court of Appeals’ ruling, if a court perceives *any* factual dispute about leadership, “meaningful” or not, courts cannot resolve it. And Respondents are also wrong on the facts: The *Elko* chancellor found the local church’s charter documents “inconclusive” and considered “ritual and practices” (but not doctrine) to determine whether the local church was in communion with Rome. *Id.* at 420. Yet, after *Moon III*, the District of Columbia forbids that inquiry—the definition of a split.

Respondents’ analysis (at 24) of cases involving the Episcopal Church similarly misstates the inquiry those courts conducted. As Petitioners showed (at 21-23), to conclude that the Episcopal Church is hierarchical, each court considered church-related facts—an inquiry the Court of Appeals forbade here. Respondents also ignore that the evidence of Episcopal Church hierarchy was “ambiguous” enough to draw a dissent. *Protestant Episcopal Church in Diocese of S.C. v. Episcopal Church*, 806 S.E.2d 82, 116 n.61 (S.C. 2017) (Toal, J., dissenting). Yet the majorities in those cases resolved the hierarchy question.

Nor do Petitioners suggest that every review of historical, non-doctrinal, church-related facts will reveal a hierarchy. But a review of such facts is *permissible*—wherever it leads. The only option not

available, under the First Amendment, is to avoid the question altogether.

In short, Respondents' attempts to undermine the 6-2 split only confirm it.

## **II. The Importance Of The Question Presented Extends Well Beyond This Case.**

Respondents also have no answer to Petitioners' showing that the question presented is exceptionally important to religious organizations nationwide. Instead, Respondents (at 37) wrongly hypothesize that it is "inconceivable that similar facts would" ever recur. But as the petition shows, cases asking civil courts to resolve church property disputes are already legion.

Moreover, if incentivized by the possibility of avoiding any judicial review—the effect of the decision below and similar decisions elsewhere—other opportunists would seek to exploit that loophole, leading to even more such actions. As Petitioners (at 33) explained, without this Court's intervention, churches of all stripes thus face a real risk that disaffected church members will steal church assets, then allege theological disputes to invoke abstention and avoid accountability.

Respondents (at 37) next erroneously interpret *Jones* as warning hierarchical churches to organize their polity through sophisticated legal documentation to unambiguously preserve their hierarchy's

entitlement to deference.<sup>1</sup> While many churches might do that, many might not, for doctrinal or other reasons. The petition presents the question of how to preserve the rights of those religious groups that—for whatever reason—decide not to restructure their polity after *Jones*.

And, as Petitioners (at 32-36) showed, that question is enormously important. Closing courts to religious organizations because they lack a certain polity—Respondents’ apparent position—would violate churches’ “independence in matters of faith and doctrine and in closely linked matters of internal government.” *Our Lady of Guadalupe Sch. v. Morrissey-Berru*, 591 U.S. 732, 747 (2020). Indeed, that constitutional freedom will mean little if churches feel pressured—by judicial misinterpretation of the Establishment Clause and the resulting incentive for dissidents to divert assets—to align their polity with the neutral-principles approach. Such a regime would also create the very kind of “religious gerrymander” this Court’s First Amendment precedents prohibit. *E.g., Catholic Charities Bureau, Inc. v. Wisconsin Lab. & Indus. Rev. Comm’n*, 605 U.S. 238, 247-248 (2025).

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<sup>1</sup> The suggestion that *courts* should influence church organization is hard to square with Respondents’ view that abstention is the only possible path in cases like this.

### III. The Decisions Below Were Wrong.

On the merits, Respondents offer no serious defense of the Court of Appeals' conclusion that the Establishment Clause forbids courts from deciding religious organizations' claims if one party asserts a religious disagreement over leadership.

1. Respondents (at 21) first wrongly suggest that Petitioners are seeking a rule of compulsory deference. But Petitioners (at 2, 7) acknowledged that *Jones* rejected *universal* compulsory deference. Yet they also showed (at 7) that *Jones* preserved deference as the alternative when the “neutral-principles approach is [not] wholly free” of its own First Amendment problems in a given case. *Jones*, 443 U.S. at 604.<sup>2</sup> By ignoring that critical portion of *Jones*, Respondents set the First Amendment at war with itself.

This Court, moreover, has never overruled deference as an *available* means of adjudicating church-property disputes, as it has been since *Watson v. Jones*, 80 U.S. (13 Wall.) 679, 727 (1871). Nor did *Jones* suggest that the Establishment Clause might prevent courts from applying deference where neutral principles fail—thereby leaving the church without any judicial remedy.

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<sup>2</sup> Respondents (at 21-22) accuse Petitioners of ignoring Justice Brennan's concurrence in *Maryland and Virginia Eldership of Churches v. Church of God at Sharpsburg, Inc.*, 396 U.S. 367 (1970). But that concurrence recognized that *some* inquiry into religious polity may be permissible to identify the party entitled to deference. *Id.* at 370 (Brennan, J., concurring) (courts can determine “the appropriate church governing body” “without *extensive* inquiry” (emphasis added)).

2. As Petitioners (at 28-29) showed, such a rule would lead to anarchy in church-property disputes which, like *Jones*, commonly involve two groups claiming rights to the same property, 443 U.S. at 597. If a putative leadership dispute is enough to invoke abstention under the Establishment Clause, as the court below held, nothing remains of the deference approach that has generally governed church-property disputes since *Watson*. This Court's review is necessary to correct that constitutional error.

3. Moreover, Respondents (at 29-30) are forced to concede that the lower court's decisions here turned on the court's refusal to answer whether the Church had a "hierarchical" leader and that leader's identity. Respondents' contention (at 22, 31) that Petitioners seek "factbound error correction" is therefore wrong: There can be no "factbound error correction" when the lower court *refused* to decide the pertinent facts.

Had the lower court done so, it could have concluded, without wading into religious doctrine, that at most Preston Moon was only ever the Church's "vice president."<sup>3</sup> It also could have found his 2008 Report

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<sup>3</sup> One month after appointing Preston vice president, Reverend Moon publicly stated—and in response, Preston publicly agreed—that, as *vice* president, Preston "must always report to [his] Parents" and could not "do anything on [his] own." See 295 *The Sermons of Reverend Sun Myung Moon* 146 (2000) ("*The Sermons*"). Respondents introduced *The Sermons* into the record, which contain many other statements showing Reverend Moon always considered Preston subordinate to him. MoonIII.JA.4087-4134; see also App.217a (acknowledging the Eight Great Texts, which include *The Sermons*, make up the Church's canon). As for

to Parents was *not* “warmly received”—as Respondents (at 10) suggest—because, thereafter, Reverend Moon scoldingly told Preston to resign from all his positions and promoted another son. MoonIV.JA.1749, 2362, 2367. The lower court also could have concluded from Preston’s own admissions that Reverend Moon and his followers—not Preston—controlled the Church at the time Preston purloined the Church’s assets. MoonIV.JA.2363, 2367.<sup>4</sup>

Ironically, under the aegis of the First Amendment, the court below forbade such modest inquiry, resulting in a courthouse closed to Petitioners. This Court’s review is necessary to ensure, for all religious organizations, a judicial remedy that protects *their* First Amendment freedoms.

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Preston’s claim that Reverend Moon’s reference to “fourth Adam” meant he led the Church, no such designation is found in the extended discussion of the era of the Fourth Adam in the Eight Great Texts, Preston did not assert this until 2016, and his 2011 writings defy his current position. See Pet. 16-17; see also Petitioners’ *Moon IV* Reply Br. 32 n.11 (defining “Fourth Adam” not as one person, but all “*those* who are to inherit and complete the role of Adam” (collecting sources)).

<sup>4</sup> Had the lower court so found, then, consistent with *Moon IV*’s statement that the KIF transfer would be fraudulent if Preston was “not the true leader” of the Church “*and he knows it,*” Preston would surely be liable. App.48a. Furthermore, Respondents fail to even acknowledge Petitioners’ showing (at 12) that KIF transferred most of UCI’s most valuable assets to unknown entities in opaque offshore jurisdictions with ties to neither UCI nor—if one were to believe his testimony—to Preston.

#### **IV. Respondents' Vehicle Arguments Are Meritless.**

Respondents largely ignore Petitioners' showing (at 36-37) that this is an ideal vehicle because resolving the question presented in their favor would revive the case and thus allow a judicial decision on Petitioners' entitlement to relief. Instead, Respondents misstate Petitioners' arguments, manufacture estoppel problems, and resort to inflammatory and irrelevant extra-record issues.

1. Respondents (at 32-33) first argue that Petitioners waived their legal point in *Moon III*. This is wrong twice over. Legally, parties forfeit "claim[s]," not "argument[s]." *Hemphill v. New York*, 595 U.S. 140, 149 (2022). To preserve their *claims*, Petitioners needed only to argue at "every level of [the state] proceedings," *id.* at 148-149, that the civil courts *can*, and should, provide the relief they sought without violating the First Amendment.

Petitioners did so. From the start, Petitioners challenged Respondents' erroneous position that Courts can "*neither* apply neutral principles of law *nor* defer to the highest authority within the Unification Church." MoonIV.JA.0402-0403. Respondents (at 32) wrongly suggest that Petitioners only argued for neutral principles in *Moon III*. But as Petitioners (at 14) explained, they won below solely on neutral

principles.<sup>5</sup> They did not waive deference by defending their neutral-principles win on appeal.

Once the Court of Appeals reversed Petitioners' neutral-principles win in *Moon III*, Petitioners again explained—as they explain here—that if neutral principles failed, to avoid granting Respondents immunity, the courts needed to “undertake marginal review of the facts” to determine who led the church and was entitled to deference. Petitioners' *Moon IV* Opening Br. 38-40.<sup>6</sup> The Court of Appeals again rejected their showing. App.47a-49a. Moreover, since each court below “passed upon” the question presented, this Court clearly may review it. *Citizens United v. Federal Election Comm'n*, 558 U.S. 310, 330 (2010) (citation omitted). In short, Respondents' waiver claim withers under scrutiny.

2. Respondents (at 32-34) then argue that Petitioners cannot seek deference here because the Family Federation invoked abstention in *Moon v. Moon*, 833 F.App'x 876 (2d Cir. 2020). But

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<sup>5</sup> To be sure, at that time the trial court also found no ambiguity that the Family Federation was the “authoritative religious entity at the head of the Unification Church,” App.371a, so there was no need to relitigate that point either.

<sup>6</sup> Respondents (at 32) suggest that Petitioners did not mention deference in trial-court filings after *Moon III*, but *Moon III* (wrongly) foreclosed Petitioners' deference approach—a point the trial court on remand stressed repeatedly. *E.g.*, App.166a-167a. Petitioners raised deference again as soon as they could pursue relief from *Moon III*—in *Moon IV*. Because “[t]here is no reason to force litigants and district courts to undertake” the “empty exercise” of relitigating legal issues that a binding court had decided, no more was required. *Dupree v. Younger*, 598 U.S. 729, 737 (2023).

jurisdictional issues like First Amendment-based abstention are not subject to judicial estoppel. See *Insurance Corp. of Ir., Ltd. v. Compagnie des Bauxites de Guinee*, 456 U.S. 694, 701-702 (1982). In any event, in *Moon v. Moon*, Sean Moon sought to remove his mother as the head of the Church and install himself. 431 F. Supp. 3d 394, 400 (S.D.N.Y. 2019). Here, by contrast, the Church seeks to recover its stolen assets, not to have a court change the Church's leadership.

3. Respondents (at 34) also wrongly argue that Petitioners are unclear about “who or what” is owed deference. Yet Petitioners' point has always been that the Church's leader at the time of the transfers is owed deference, and the historical, non-doctrinal evidence showed unambiguously that Reverend Moon was that leader. App.371a. With that concession, what Respondents (at 35) call “an obvious chicken-and-egg problem” collapses. The Family Federation is the Church, and for purposes of hierarchical deference, the person entitled to deference is the person leading it at the time of the transfers—Reverend Moon.

Nor can Respondents (at 35) object to the historical deference approach because (in their view) the Church “never resembled” the other churches to which this Court's decisions have long deferred. Factually, Preston's 2008 Report to Parents forecloses this argument. See Pet. 9-10. And in any event, adopting Respondents' argument would violate the Establishment Clause's clearest command of denominational neutrality. See, *e.g.*, *Catholic Charities Bureau*, 605 U.S. at 247-248.

4. Finally, Respondents (at 36) point to what they call “existential legal threats abroad.” But the legal proceedings Respondents mention—targeted criminal prosecution of the Church’s leaders and court-ordered dissolution of one church entity—are rooted in hostility against the Church and would be unconstitutional if attempted here. See *Masterpiece Cakeshop v. Colorado C.R. Comm’n*, 584 U.S. 617, 640 (2018). Such legal issues played no role below and should play no role in this Court’s consideration of the petition.<sup>7</sup>

### CONCLUSION

This Court should grant the petition to correct the recurring overreading of the Establishment Clause’s prohibition on judicial entanglement, and thereby affirm that the First Amendment permits courts to identify a church’s leader when necessary to allow a church to protect its property.

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<sup>7</sup> Respondents’ insinuation (at 14) that Mrs. Moon was involved in an assassination attempt is especially outrageous since she was the assassin’s intended *victim*. See Nippon TV, *Abe assassin trial continues; reason for using gun revealed* (Nov. 26, 2025), <https://perma.cc/K274-TRS7>.

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