

In the
Supreme Court of the United States

Ammon Ra Sumrall,
Petitioner,

v.

Georgia Department of Corrections, et al.,
Respondents.

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

BRIEF IN OPPOSITION

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QUESTION PRESENTED

Petitioner Ammon Ra Sumrall asks this Court to hold his petition pending a decision in *Landor v. Louisiana Department of Corrections and Public Safety*, No. 23-1197. Sumrall asserts that “[t]he question presented in [his] case is identical.” Pet.i. However, the Eleventh Circuit dismissed Sumrall’s relevant Religious Land Use and Institutionalized Persons Act of 2000 (RLUIPA) claim as moot because the Georgia Department of Corrections restored his access to vegan meals. *See* Pet.App.19a–21a. The Court of Appeals further held that Sumrall “forfeited” reliance on any individual-capacity damages claim under RLUIPA by failing to press that claim before the district court. Pet.App.20a n.4. Accordingly, the Eleventh Circuit declined to “stay the issuance of [its] opinion” for this Court’s forthcoming decision *Landor*. *Id.* Sumrall acknowledges—but does not contest—the Eleventh Circuit’s forfeiture holding. *See* Pet.7–8.

The only question presented is therefore whether the Eleventh Circuit erred in holding that Sumrall has abandoned any individual-capacity damages claim under RLUIPA.

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INTRODUCTION

Perennial litigant and Georgia inmate Ammon Ra Sumrall brought several claims against the Department of Corrections and prison officials under 42 U.S.C. § 1983 and the Religious Land Use and Institutionalized Persons Act, 42 U.S.C. §§ 2000cc, *et seq.* Sumrall alleged that Respondents violated his rights under the First, Eighth, and Fourteenth Amendments by denying him access to vegan meals. *See* Pet.App.5a. Sumrall asserts that his religion—the worship of the ancient Egyptian sun god Ammon Ra—forbids him from consuming animal products. *See* Pet.App.2a–3a. But the district court held that Sumrall’s RLUIPA claim concerning access to vegan meals was moot, and the Eleventh Circuit agreed. Pet.App.6a, 19a–21a.

Sumrall now asks this Court to hold his petition for the disposition of *Landor*, in which this Court has been asked to determine whether RLUIPA authorizes individual-capacity damages claims. Sumrall hopes that if the petitioner in *Landor* prevails, this Court will grant his petition, vacate the Eleventh Circuit’s decision, and remand for further proceedings. Pet.8. That course of action might have been appropriate had Sumrall preserved an individual-capacity damages claim under RLUIPA, only for the Eleventh Circuit to reject it under Circuit precedent. But that didn’t happen.

Assuming Sumrall brought such a claim at all, he abandoned it long ago. Not one of Sumrall’s district court filings so much as *mentions* an individual-capacity damages claim: not his objections to the magistrate’s recommendations, not his summary-judgment brief, not his response to the court’s suggestion of mootness. The district court, relying on Sumrall’s failure to pursue anything other than injunctive and declaratory relief under RLUIPA, dismissed the claim as moot. *See* Pet.App.24a, 27a–28a.

Sumrall referenced an individual-capacity RLUIPA damages claim *for the first time* before the Eleventh Circuit, where he argued that a purported request for retrospective relief kept his RLUIPA allegations alive and urged the Court of Appeals to stay its ruling for *Landor*. *See* Pet.App.20a n.4. But the Eleventh Circuit correctly held that Sumrall “did not raise this issue before the district court, which means it was forfeited.” *Id.* Accordingly, the Court of Appeals expressly “denied” Sumrall’s request to stay the appeal pending this Court’s disposition of *Landor*. *Id.* In short, Sumrall’s own litigation decisions precluded him from benefitting from *Landor*’s (potential) abrogation of Eleventh Circuit precedent.

Sumrall acknowledges the Eleventh Circuit’s forfeiture holding but conspicuously fails to dispute it. *See* Pet.7–8. That is fatal to his petition. Because the Eleventh Circuit’s RLUIPA judgment rests on an independent, unchallenged, and plainly un-cert-worthy ground—*i.e.*, Sumrall’s forfeiture of any individual-capacity damages claim—the result in *Landor* has no bearing on the disposition of Sumrall’s suit. His request for a hold—and, he hopes, an eventual GVR—is just a transparent attempt to secure a second bite at the RLUIPA damages apple. To benefit from a pending Supreme Court decision, a litigant must preserve the relevant claim barred by Circuit precedent. He cannot abandon that claim before the district court, lose on that basis before the Court of Appeals, and then seek a re-do in the form of a hold request to this Court. The *only* basis Sumrall asserts to justify a grant of certiorari is the outcome in *Landor*—he does not argue that the Eleventh Circuit erred in its *actual* disposition of his RLUIPA claim. And because Sumrall’s case no longer presents the question under review in *Landor* (if it ever did) this Court must deny his petition.

STATEMENT

A. Factual Background

The Georgia Department of Corrections implemented its Alternative Entrée Program to provide inmates vegan meal options. Pet.App.3a. Inmates may be removed from the Program for missing seven or more meals in a week, missing fifteen meals in a 30-day period, or picking up a non-vegan food tray. Supp.App.2a. And since October 2020, inmates may also be removed for purchasing or consuming non-vegan food. Pet.App.4a.

In 2007, while serving a life sentence at Wilcox State Prison for convictions including felony murder and armed robbery, Sumrall opted into the Program based on his religious beliefs. Pet.App.2a–3a. Although Sumrall is a prolific litigant before state and federal courts, Pet.App.46a–47a, he did not raise any complaints about the Program until 2019, when he claimed he was no longer receiving vegan food, Pet.App.3a. While investigating Sumrall’s allegations, prison officials discovered that Sumrall purchased non-vegan items from the prison’s commissary. *Id.* Prison officials initially removed Sumrall from the Program but reinstated him days later because purchasing non-vegan items was not a formal ground for removal at the time. *Id.*

Prison officials again removed Sumrall and several other prisoners from the Program in July 2020. *Id.* Commissary records from the preceding two months revealed that Sumrall had again purchased non-vegan items—including chicken soup, cheesy Spanish rice, potato chips, chili, Cheetos, cheese crackers, cinnamon rolls, iced honey buns, and chocolate-covered candy bars—all of which are forbidden under Sumrall’s professed religious beliefs. Pet.App.3a–4a; Supp.App.6a–17a. Although Sumrall claims that he

bought these items to sell to other inmates, Pet.App.4a, Sumrall purchased *hundreds* of non-vegan items, Supp.App.6a–17a. This extensive purchase history resulted in a temporary 90-day suspension from the Program. Pet.App.5a. In the interim, Sumrall made a “Special Religious Request” for vegan meals, vegan athletic shoes, the sale of vegan food at the commissary, and an ankh pendant, all of which were denied. *Id.* Since his subsequent reinstatement and the initiation of the Program’s new policy prohibiting the consumption or purchase of non-vegan food, Sumrall has remained compliant with the Program. *Id.*

B. Procedural Background

Sumrall filed suit against the Department of Corrections and the Warden and Deputy Warden of Wilcox State Prison on June 7, 2021. Pet.App.45a. He alleged that his removal from the Program and the denial of his “Special Religious Request” violated his First, Eighth, and Fourteenth Amendment rights and the RLUIPA. Supp.App.18a–22a. Sumrall sought damages generally, without linking that request to specific claims. Pet.App.51a.

A magistrate judge screened Sumrall’s complaint and determined that Sumrall’s “RLUIPA claims cannot proceed against any of the individual Defendants” because Eleventh Circuit precedent bars individual-capacity damages claims against prison officials under RLUIPA. Pet.App.38a n.2. Although Sumrall objected to other aspects of the magistrate judge’s order, he did not mention RLUIPA or any request for damages. Supp.App.23a–24a. The district court adopted the magistrate judge’s recommendation. Supp.App.25a–26a. Sumrall later filed an amended complaint; like the first, it contained an unspecified, omnibus request for damages. Supp.App.32a.

At summary judgment, Sumrall sought only declaratory and injunctive relief for his RLUIPA claim—he never mentioned damages. Supp.App.44a, 56a–57a, 60a. Nor did he discuss the possibility of RLUIPA damages in opposition to the defendants’ cross-motion for summary judgment. Supp.App.78a–79a. The magistrate judge concluded that Sumrall’s remaining RLUIPA claims failed because the Department could “legitimately and objectively adjudge” that Sumrall’s non-vegan purchases were “irreconcilable with [his] professed vegan lifestyle.” Supp.App.94a (citations omitted). Sumrall objected to the magistrate judge’s recommendation and again declined to mention the possibility of damages under RLUIPA. Supp.App.112a, 118a–119a.

The district court adopted the magistrate judge’s recommendation in part but ordered briefing on whether Sumrall’s RLUIPA claims were moot. Supp.App.129a. The reason for potential mootness was that “Sumrall received the relief he requested”—access to vegan meals—when he “was reenrolled” in the Program. *Id.* In two supplemental briefs, Sumrall asserted ongoing injuries and raised the voluntary cessation doctrine but did not mention retrospective relief. *See* Supp.App.145a–149a, 152a. The district court dismissed Sumrall’s RLUIPA claim as moot because Sumrall had been reenrolled in the Program and his “RLUIPA claim sought only injunctive and declaratory relief, specifically, ‘to be put back on the vegan ... meals.’” Pet.App.24a (citations omitted). And although the district court did not discuss damages, it observed that “a district court commits reversible error when it fashions a remedy the plaintiff did not seek” and that “courts must confine their RLUIPA analysis to the remedies the plaintiff proposes”—in Sumrall’s case, “reenrollment in the [Program].” Pet.App.28a.

On appeal, Sumrall asserted for the first time that his RLUIPA claim was not moot because of “[d]amages claims against [prison] officials in their individual capacities.” Supp.App.188a. Sumrall asked the Eleventh Circuit to “clarify its jurisprudence” on RLUIPA damages, noting that the court had previously “held that government employees cannot be sued for damages in their individual capacities under RLUIPA.” Supp.App.188a, 190a.

The Eleventh Circuit affirmed across the board. In relevant part, it held that Sumrall’s RLUIPA claim predicated on access to vegan meals “was moot because the only relief Sumrall sought in connection with his request for vegan meals was to be placed back on the [Program]—which happened nearly five years ago.” Pet.App.19a. The Court of Appeals expressly rejected Sumrall’s reliance on any request for RLUIPA damages because Sumrall “did not raise this issue before the district court, which means it was forfeited,” and there was no “‘exceptional’ reason to address” damages “for the first time on appeal.” Pet.App.20a n.4. For the same reason, the Eleventh Circuit denied Sumrall’s request “to stay the issuance of [its] opinion” pending this Court’s resolution of *Landor*. *Id.*

REASONS FOR DENYING THE PETITION

This Court should deny the petition because this litigation does not involve a request for damages under RLUIPA. Assuming Sumrall ever brought such a claim, he “forfeited” it before the district court. Pet.App.20a n.4. The Eleventh Circuit affirmed the dismissal of Sumrall’s RLUIPA claim on that basis, *id.*, and Sumrall does not contest that holding, Pet.7–8. Thus, the outcome in *Landor* has no bearing on the validity of the judgment below, and there is no reason for this Court to hold Sumrall’s petition.

Because Sumrall forfeited any request for individual-capacity damages under RLUIPA before the district court, *Landor* is irrelevant to the disposition of this case.

The premise of Sumrall’s petition—an unadorned request for vacatur should the petitioner prevail in *Landor*—is that “[t]he question presented in this case is identical.” Pet.i. But this case does not present the question “whether an individual may sue a government official in his individual capacity for damages for violations of RLUIPA,” *id.*, because the Eleventh Circuit held that Sumrall “forfeited” that exact issue, Pet.App.20a n.4. As such, the judgment Sumrall hopes to challenge—the dismissal of this RLUIPA claim—depends not on *Landor*’s outcome, but on a routine question of party presentation. And remarkably, Sumrall never even asserts that the Eleventh Circuit got *that* question *wrong*—much less that it could possibly merit certiorari review. *See* Pet.7–8.

Nor would a belated attack on the Eleventh Circuit’s decision succeed. Sumrall alluded to the existence of individual-capacity damages claims for the first time in his opening appellate brief. Supp.App.188a–90a. Assuming Sumrall pleaded a request for RLUIPA damages in his initial or operative complaint—no small assumption—his forfeiture of any such request was undeniable and comprehensive. Again, Sumrall did not refer to the possibility of individual-capacity damages under RLUIPA in (1) his objections to the magistrate judge’s initial screening order; (2) his motion for summary judgment; (3) his opposition to the defendants’ cross-motion; (4) his objections to the magistrate’s report and recommendation; or (5) either of the two briefs he filed in response to the district court’s suggestion that his RLUIPA claim was moot because it sought only prospective relief that prison officials had already provided. *See supra* at 4–5.

As such, the Eleventh Circuit’s conclusion that Sumrall could not rely on the possibility of RLUIPA damages to either stave off mootness or secure a stay for *Landor* is unassailable. Pet.App.20a n.4. “If a party neglects to raise, concedes, or waives an issue, a court generally has no obligation to consider it.” *Riley v. Bondi*, 606 U.S. 259, 273 (2025). Regardless, it is hard to imagine a question less deserving of discretionary review. This Court “is not, and never has been, primarily concerned with the correction of errors,” *Boag v. MacDougall*, 454 U.S. 364, 386 (1982) (Rehnquist, J., dissenting) (citation omitted)—and certainly not on routine questions of forfeiture.

Sumrall does not explain his assertion that his case and *Landor* present the “identical” question of the availability of RLUIPA damages. Again, that was not the basis for the Eleventh Circuit’s judgment. But perhaps Sumrall intends to imply that, because Circuit precedent foreclosed an individual-capacity damages claim under RLUIPA, he was excused from the ordinary obligation to preserve the issue before the district court. Perhaps Sumrall thinks it was enough to use the word “damages” in his initial pleading, receive a screening recommendation that relied on the Eleventh Circuit’s rule barring RLUIPA damages, never object to that recommendation, file a similarly curt amended complaint, and then fail to mention damages until appeal. If so, Sumrall is wrong. “For good reason, appellate courts ordinarily abstain from entertaining issues that have not been raised and preserved in the court of first instance.” *Wood v. Milyard*, 566 U.S. 463, 473 (2012). The same basic principle applies when an argument or claim is “foreclosed by Circuit precedent,” but the party hopes to “preserve the issue pending a possible favorable decision by this Court.” *Cf. McKnight v. Gen. Motors Corp.*, 511 U.S. 659, 660 (1994) (per curiam).

Indeed, parties regularly raise issues foreclosed by circuit precedent for this exact purpose. *See, e.g., United States v. Garcia-Frias*, 239 F. App'x 575, 577 (11th Cir. 2007) (“Garcia-Frias raises the issue ‘purely for purposes of preservation,’ but we are bound by our precedents.”); *United States v. Walker*, 80 F.4th 880, 881 (8th Cir. 2023); *United States v. Castro*, No. 24-10236, 2024 WL 5118481, at *5 (5th Cir. Dec. 16, 2024); *United States v. Gonzalez-Martinez*, 168 F. App'x 569, 570 (5th Cir. 2006). Sumrall did not.

In short, it might have made sense to hold Sumrall’s petition for *Landor* had the Eleventh Circuit rejected his RLUIPA claim by applying circuit cases that *Landor* will either abrogate or reaffirm. But the court below had no occasion to apply those precedents because Sumrall did not present a RLUIPA damages claim to the district court. Whether or not the Eleventh Circuit was right to find forfeiture (it obviously was) the result in *Landor* cannot undermine that distinct holding. Sumrall is not entitled to benefit from a potential ruling for the petitioner in *Landor*, and this Court should deny his petition outright.

CONCLUSION

For the reasons set out above, this Court should deny the petition for certiorari.

Respectfully submitted.

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