No. 25-849

In the Supreme Court of the United States

UNITED STATES CONFERENCE OF CATHOLIC BISHOPS,

Petitioner,

v.

DAVID O'CONNELL,

Respondent.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

BRIEF OF BELMONT ABBEY COLLEGE AS AMICUS CURIAE IN SUPPORT OF PETITIONER

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INTEREST OF AMICUS CURIAE

Founded in 1876, Belmont Abbey College is a private Catholic liberal arts college in North Carolina. Its first bricks were laid by Benedictine monks seeking to advance their 1,500-year-old monastic tradition of prayer and learning. The College strives to adhere to the Catholic Church's teachings in all aspects of its pedagogy and governance. Since its founding, the church autonomy doctrine has protected the College's religious decisions from intrusion by secular courts.

Belmont Abbey College submits this brief both to explain how the Constitution, longstanding legal tradition, and modern case law alike instruct that church autonomy functions as an immunity from suit that should be determined at a case's outset, and why the collection and disposition of offerings to the Catholic Church are matters of spiritual discernment that the immunity must protect. Waiting to consider church autonomy at any later point risks subjecting amicus and other religious institutions to invasive legal process that would hinder their religious educational mission—even though church autonomy may ultimately bar the suit.[1]

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[1] No party's counsel authored this brief in whole or in part, no party or party's counsel contributed money intended to fund preparing or submitting this brief, and no person other than amicus curiae or its counsel contributed money intended to fund preparing or submitting this brief.

INTRODUCTION AND SUMMARY

From classical antiquity to the Founding, governments have long recognized that matters of faith, doctrine, and church governance lie beyond the reach of civil authority. The First Amendment enshrines this fundamental safeguard, setting the sphere of religious autonomy beyond the government's reach. But this constitutional protection means little if it cannot go into effect until long after state intrusion has worked its harm.

The principle at stake here has ancient roots. Long before the United States Constitution was adopted, the Magna Carta confirmed that a church's right to decide matters of faith and internal governance was inviolable. And the Catholic Church's even older tradition makes clear that how the Church solicits and allocates those offerings is a wholly ecclesiastical decision inseparably intertwined with Catholic belief and practice.

The D.C. Circuit departed from this longstanding protection when it allowed this religious dispute to proceed in district court. Without interlocutory review, religious institutions cannot vindicate their rights until it is too late. A "chorus" of appellate judges and legal scholars agrees that ordering merits discovery and trial threatens "irreparable" harm. *O'Connell* v. *U.S. Conf. of Cath. Bishops*, No. 23-7173, 2025 WL 3082728, at *2 & n.5 (D.C. Cir. Nov. 4, 2025) (Walker, J., concurring). And two members of this Court recognize that the "mere adjudication" by civil courts of religious matters "pose[s] grave problems for religious autonomy." *Hosanna-Tabor Evangelical Lutheran Church & Sch.* v. *EEOC*, 565 U.S. 171, 205–206 (2012) (Alito, J., concurring). But lower courts have divided

on this issue, threatening forum-dependent outcomes that make little sense. For example, a religious organization litigating in North Carolina courts, where *Amicus* is located, would be entitled to threshold resolution and interlocutory appeal of church autonomy questions. See *Harris* v. *Matthews*, 643 S.E.2d 566, 570 (N.C. 2007). But if the same organization faced suit in District of Columbia federal court, under the decision below it would be entitled to neither. *O'Connell* v. *U.S. Conf. of Cath. Bishops*, 134 F.4th 1243, 1248 (D.C. Cir. 2025). This split is especially problematic for religious institutions, which often have missions that require them to operate across jurisdictional lines.

Limiting access to judicial relief dilutes the First Amendment's church autonomy protection. Because church autonomy operates as a structural "immunity from suit," it "must be resolved at the threshold of litigation" to protect against judicial intrusion into ecclesiastical affairs. *McRaney* v. *N. Am. Mission Bd.*, 157 F.4th 627, 641 (5th Cir. 2025). Left uncorrected, the D.C. Circuit's decision will "chill[]" institutional religious exercise, "cheapen[]" religious authority over religious matters, and collapse the structurally separate spheres of church and state that the First Amendment was designed to preserve. *Corp. of the Presiding Bishop of the Church of Jesus Christ of Latter-Day Saints* v. *Amos*, 483 U.S. 327, 343 (1987) (Brennan, J., concurring in the judgment); *Palmer* v. *Liberty Univ., Inc.*, 72 F.4th 52, 78 (4th Cir. 2023) (Richardson, J., concurring). *Amicus* urges this Court to grant certiorari to ensure interlocutory relief for religious institutions seeking to vindicate their constitutional rights and religious freedom.

ARGUMENT

I. The First Amendment's grant of religious autonomy has deep historical roots.

The First Amendment bars "government intrusion" into matters of faith and doctrine, including any interference that would subvert churches' "power to decide for themselves" in "matters of church government." *Our Lady of Guadalupe Sch.* v. *Morrissey-Berru*, 591 U.S. 732, 746 (2020).

The "'background' against which 'the First Amendment was adopted'" defines the scope of that protection. *Id.* at 748 (quoting *Hosanna-Tabor*, 565 U.S. at 183); see also Carl H. Esbeck, *Church Autonomy, Textualism, and Originalism: SCOTUS's Use of History to Give Definition to Church Autonomy Doctrine*, 108 Marquette L. Rev. 705 (2025). That background reveals a longstanding settlement: questions of faith, doctrine, and internal church governance are not the business of civil authorities.

The "spirit of freedom for religious organization[s]" that "radiates" through constitutional law is not even an American innovation. *Hosanna-Tabor*, 565 U.S. at 186. It reflects a deep historical consensus, salient at the American Founding and in Western religious thought for more than a millennium before. See *McRaney* v. *N. Am. Mission Bd.*, 980 F.3d 1066, 1075–80 (5th Cir. 2020) (Oldham, J., dissenting from the denial of rehearing en banc) (tracing church autonomy back to the Middle Ages). Early colonists, Founders, and American courts in later centuries have all recognized that religious matters lie beyond the reach of civil power, and secular courts lack authority to

second-guess churches on matters of faith, doctrine, or self-governance. They thus refused not only to decide ecclesiastical questions but declined to apply civil process to probe them. That deeply-embedded understanding confirms that church autonomy protects against not only liability, but the burdens of litigation itself.

A. Religious autonomy reflects a longstanding historical tradition of respecting the separate spheres of civil and religious jurisdiction.

For centuries, the Western tradition has "presume[d] a dual-authority pattern"—the "understanding that church and state are 'two rightful authorities,' each supreme in its own sphere." *Cath. Charities Bureau, Inc.* v. *Wis. Lab. & Indus. Rev. Comm'n*, 605 U.S. 238, 257 (2025) (Thomas, J., concurring) (quoting Michael McConnell, *The Origins and Historical Understanding of Free Exercise of Religion*, 103 Harv. L. Rev. 1409, 1496–1497 (1990)); Carl H. Esbeck, *Dissent and Disestablishment: The Church-State Settlement in the Early American Republic*, 2004 BYU L. Rev. 1385, 1589 (2004). Under this two-kingdoms model, the state exercised "sovereign power" over certain subjects, while the church exercised "exclusive authority" over others. Esbeck, *Dissent and Disestablishment*, *supra* at 1589. Leading thinkers of the founding era—like James Madison and Thomas Jefferson—understood and embraced this framework. Robert Joseph Renaud & Lael Daniel Weinberger, *Spheres of Sovereignty: Church Autonomy Doctrine and the Theological Heritage of the Separation of Church and State*, 35 N. Ky. L. Rev. 67, 68 n.2, 83 (2008). But its roots lie far earlier.

The history of religious autonomy is as old as faith itself. John Witte Jr., *God's Joust, God's Justice: Law and Religion in the Western Tradition* 210–11 (2006). The Hebrew Scriptures instructed the people of Israel to wall off the temple—to "make a separation between the holy and the common." See *Ezekiel* 42:20. The New Testament likewise directs Christians to render "to God the things that are God's," *Matthew* 22:21, and resolve religious and moral wrongs within the Church. See *Matthew* 18:15–17; *1 Corinthians* 6:1–6.

Early Christians took these teachings seriously, distinguishing the ways of man from the "*very different*, or rather entirely separate" ways of God. *The Seventh Book of the Apostolical Constitutions* (a fourth-century adaptation of the *Didache* likely authored by Christians in Syria), *reprinted in* Philip Schaff, *The Teaching of the Twelve Apostles* 259, 259–60 (1886).

In the fifth century, Pope Gelasius described "royal power" and "sacred authority" (supreme over the "mysteries of religion") as two independent authorities. Letter from Pope Gelasius to Emperor Anastasius (494), *reprinted in* James Harvey Robinson, *Readings in European History* 72, 72–73 (1905).

Medieval thought likewise sharply distinguished between the spiritual "jurisdiction of religiously organized Christendom" and "the jurisdiction of the temporal sovereign." *Huntsman* v. *Corp. of the Pres. of the Church of Jesus Christ of Latter-Day Saints*, 127 F.4th 784, 804 (9th Cir. 2025) (en banc) (Bumatay, J., concurring) (quoting Roscoe Pound, *A Comparison of Ideals of Law*, 47 Harv. L. Rev. 1, 6 (1933)). Even Charlemagne "acknowledged that he was subject to episcopal counsel in doctrinal matters." Karl F. Morrison, *The Two Kingdoms* 31 (1964).

That two-kingdoms framework carried forward into English law. In 1072, William the Conqueror decreed that cases under the "episcopal laws"—those "which pertain[] to the rule of souls"—could be heard only by bishops, not by secular judges. Ordinance of William I Separating the Spiritual and Temporal Courts, *reprinted by* Yale Law School Avalon Project, https://perma.cc/T9Y5-9NHL; see also Alison Reppy, *The Ordinance of William the Conqueror (1072)—Its Implications in the Modern Law of Succession*, 42 Ky. L.J. 523, 526–27 (1954) (discussing the Ordinance's origins and background). The Magna Carta reaffirmed this distinction, pronouncing that "the English church shall be free," and confirming that the church had authority to govern ecclesiastical affairs "without intervention from the civil rulers." Magna Carta cl. 1 (1215), *reprinted by* Yale Law School Avalon Project, https://perma.cc/XVB7-VLUB; Renaud & Weinberger, *Spheres of Sovereignty*, *supra* at 72–73.

The power of this idea in the American tradition would be hard to overstate. It was the breach of this principle in England that drove the Puritans to the New World. And even in their new Jerusalem—where church and state were intertwined in ways the First Amendment would never countenance—the settlers took pains to enshrine church autonomy into law. See Michael McConnell, *Establishment and Disestablishment at the Founding, Part I: Establishment of Religion*, 44 Wm. & Mary L. Rev. 2105 (2003). This strict conception of church autonomy was shared by the clergy, which affirmed its secular commitments to "our government" but reserved the Church's "spiritual supremacy." John G. Shea, *Life And Times Of The Most Rev. John Carroll, Bishop And First Archbishop Of*

Baltimore 211 (1888). Others, for example, conceived of the "two kingdoms" framework as a "hedge or wall of Separation between the Garden of the Church and the Wildernes[s] of the world." *O'Connell*, 2025 WL 3082728, at *11 (Rao, J., dissenting) (quoting Roger Williams, *Mr. Cotton's Letter, Examined and Answered* (1644), *reprinted in* 1 *The Complete Writings of Roger Williams* 392 (1963)).

This widespread understanding informed the Founders' view of the First Amendment. James Madison emphasized that "the Civil Magistrate" was not "a competent Judge of Religious Truth." James Madison, Memorial and Remonstrance Against Religious Assessments ¶ 5 (1785), *reprinted by* Nat'l Archives: Founders Online, https://perma.cc/7QKJ-78N2. Thomas Jefferson famously described the First Amendment as a "wall of separation between Church & State." Thomas Jefferson, Letter to the Danbury Baptist Association (Jan. 1, 1802), *reprinted by* Nat'l Archives: Founders Online, https://perma.cc/N9QZ-YK5S. And the Continental Congress recognized that "purely spiritual matters" fell outside its "jurisdiction and powers." 27 Journals Of The Continental Congress 1774–1789, at 368 (1784).

Against this background there can be little doubt that the First Amendment's Religion Clauses were enacted not just to protect individual religious exercise but to ensure that the new government would have no control over churches' internal affairs. *Hosanna-Tabor*, 565 U.S. at 183–84.

But the evidence does not stop there. Key advocates of the First Amendment articulated a broad notion of religious autonomy: "religious opinions [were] not the objects of civil government, nor any way under its

jurisdiction." *McRaney*, 980 F.3d at 1078 (Oldham, J., dissenting) (citing John Leland, *The Yankee Spy* (1794), *reprinted in The Writings of the Late Elder John Leland* 213, 228 (1845)). And after ratification, the Founders put their words into practice. In 1804, President Jefferson assured an Ursuline convent that American constitutional principles were a "sure guaranty" of the convent's right "to govern itself . . . without interference from the civil authority." Carl H. Esbeck, *An Extended Essay on Church Autonomy*, 22 Federalist Soc. Rev. 244, 272 (2021) (citing Kevin Pybas, *Disestablishment in the Louisiana and Missouri Territories*, *in Disestablishment and Religious Dissent: Church-State Relations in the New American States, 1776–1833*, at 281 (Carl H. Esbeck & Jonathan J. Den Hartog eds., 2019)). Likewise, during a religious dispute in New Orleans, Jefferson advised then-Secretary of State Madison that "the priests must settle their differences in their own way," reaffirming that "church-discipline is voluntary; and never to be enforced by the public authority." *Id.* at 271 (citing Pybas, *Disestablishment in the Louisiana*, *supra* at 282). And Madison himself reiterated, in an 1806 letter to Bishop Carroll, the Constitution's "scrupulous policy . . . against a political interference with religious affairs," particularly in "entirely ecclesiastical" controversies. Letter from James Madison to Bishop Carroll (Nov. 20, 1806), *reprinted by* Nat'l Archives: Founders Online, https://perma.cc/T82A-59AW.

In short, robust traditions of church autonomy—grounded over millennia—informed the Founders' ratification of the Religion Clauses. These safeguards ensured that religious institutions would have the freedom to conduct their religious affairs without the undue intrusion or inquiry of the state.

B. Recognizing this protection, nineteenth-century courts refused to review ecclesiastical matters.

"[T]he autonomy of religious organizations is not a recent invention but was one of the earliest lessons judges identified about the meaning of religious liberty." Lael Weinberger, *The Origins of Church Autonomy: Religious Liberty after Disestablishment*, Virginia L. Rev. (forthcoming) (manuscript at 41) https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4933864.

After the Founding, early American courts reaffirmed the view that ecclesiastical and civil powers were "wisely separated." *Commonwealth* v. *Green*, 4 Whart. 531, 561 (Pa. 1839). Foreseeing that taking up cases to "explore the whole range of the doctrine and discipline of [a] given church" would be "utter impolicy," *State ex rel. Watson* v. *Farris*, 45 Mo. 183, 197 (1869), many courts recognized the need to shield churches from intrusive discovery into their internal affairs and to dismiss such suits at the outset.

Civil courts afforded religious institutions due deference on questions of internal ecclesiastical matters. Take *Dieffendorf* v. *Reformed Calvinist Church*, 20 Johns. 12 (N.Y. Sup. Ct. 1822). There, a parishioner committed funds "for the support of the ministry" but tried to renege when he disagreed with the church's choice of minister. *Id.* at 12. The court held that the church's decision was "conclusive" and that disputes within the church did not undermine its choice. *Id.* at 20. And in *Walker* v. *Wainwright*, the same court held that it could not "consent to review" a bishop's "exercise of any discretion." 16 Barb. 486, 487 (N.Y. Sup. Ct. 1853).

Civil court deference to religious tribunals extended to a refusal to engage in civil discovery. In *Proprietors of Hollis Street Meetinghouse* v. *Proprietors of Pierpont*, an ecclesiastical council reinstated a parish minister after his parish had voted to dismiss him for alleged dishonesty. 48 Mass. (7 Met.) 495 (1844). Responding to the minister's suit for back pay, the parishioners filed a bill of discovery—akin to interrogatories—against the minister, claiming they needed discovery into his alleged immorality to mount their defense. *Id.* at 495–96. The Supreme Judicial Court denied this discovery request, explaining that the parties were "bound by the decision" of the ecclesiastical council, so the parish was "not entitled to the discovery sought, as the [minister's] answers to the interrogatories in the [discovery] bill could not be given in evidence in the action at law." *Id.* at 499.

In South Carolina, courts exercised similar restraint, refusing to wade into a Jewish congregation's internal dispute over whether the congregation had properly followed its doctrines. *State* v. *Ancker*, 31 S.C.L. (2 Rich.) 245, 273–74 (1846). Settling such disputes through civil courts would impermissibly "require parties to conform" to "a judicial standard for theological orthodoxy!" *Id.* at 274.

Other examples abound. In *Chase* v. *Cheney*, the Illinois Supreme Court declined to decide whether an episcopal minister had deviated from the Book of Common Prayer when performing church rituals. 58 Ill. 509, 512, 541 (1871). Noting that it had no wish "to become [the] *de facto* head[] of the church," the court explained that secular judges have "no right," and therefore, no power "to dictate ecclesiastical law." *Id.* at 535. And without the authority or competence to

interpret church doctrine, civil courts must allow churches to "enact and construe [their] own laws." *Id.* To hold otherwise, the court explained, would threaten basic religious freedom by allowing "civil courts [to] trench upon the domain of the church, construe its canons and rules, [and] dictate its discipline." *Id.* at 537.

Nor could courts review religious matters "relate[d] to" the "ecclesiastical government of [a] church." *Travers* v. *Abbey*, 58 S.W. 247, 247 (Tenn. 1900). The fact that a church's internal proceedings may have been "arbitrary" or "irregularly conducted" according to its own rules could not justify the intervention of civil courts. *Id.* at 248. Those were questions "the members of the church must judge." *Id.* And churches were granted immunity from suit on various civil claims, including defamation resulting from religious membership decisions. *Landis* v. *Campbell*, 79 Mo. 433, 439–40 (1883). [D]ecisions of the proper church judicatory" were "conclusive" and civil courts could "neither inquire into their correctness, nor question their accuracy." *Id.* at 438.

These cases are not outliers. Treatises confirm that "human tribunals are not to take cognizance of" religious questions and that by "associating" with a religious organization one accepts its "jurisdiction . . . in ecclesiastical matters." Thomas M. Cooley, *A Treatise on the Constitutional Limitations Which Rest Upon the Legislative Power of the States of the American Union* 467 (1868).

All told, early American courts understood that they lacked the authority and the competence to question ecclesiastical decisions. Time and again, they declined to review church decisions on matters of church governance, discipline, membership, doctrine, and

leadership. And when stray state trial courts waded into these ecclesiastical questions, higher courts admonished them for failing to dismiss such controversies in the first instance.

II. Catholic religious offerings are an ecclesiastical matter, and their allocation is an ecclesiastical decision.

Catholic teaching makes clear that religious offerings have fundamentally theological justifications and that decisions regarding their collection and distribution are inherently ecclesiastical matters.

A. Catholic religious offerings and their allocation have always been ecclesiastical matters reserved to the Church.

The practice of giving offerings is deeply rooted in Christian history. Religious offerings first appear in Scripture when Abel offered "the firstlings of his flock" to the Lord. *Genesis* 4:3–4. Under Mosaic Law, God commanded the Hebrews to "tithe" one-tenth of their produce and livestock. *Leviticus* 27:30; *Deuteronomy* 14:22–29. In New Testament times, the Apostle Paul exhorted believers to give generously to the Church, *2 Corinthians* 9:5–8, and the book of Acts exalted Christians who sold their possessions and took "the proceeds of what was sold and laid it at the apostles' feet." *Acts* 4:32–35.

Today, the Catholic Church maintains that its faithful have an obligation to support the Church. *Catechism of the Catholic Church* ¶ 2043 (2nd ed. 2022); 1983 Code c.222, § 1. This obligation is a matter "of divine law, since tithes were instituted not by man but by the Lord Himself." William Fanning, *Tithes*, *New Advent Catholic Encyclopedia* (March 5, 2025), https://perma.cc/WTR5-KSNX.

B. A church's management of offerings is an act of spiritual discernment.

Scripture further teaches that stewardship of offerings is entrusted to spiritual leaders. See *Numbers* 18:21–24 (assigning the distribution of tithes to the Levites); see also 39 Thomas Aquinas, *Summa Theologiae*, pt. II-II, q. 87, art. 3., s.c. (Kevin D. O'Rourke ed., Blackfriars, Cambridge University Press 2006) (Catholic clergy are successors of the Levites). Within the Catholic Church, authority over that stewardship ultimately belongs to the "supreme administrator and steward of all ecclesiastical goods"—the Pope. 1983 Code c.1273.

The Church recognizes two foundational purposes for financial offerings: advancing the work of the Church and caring for the poor. Compare *1 Corinthians* 9:13–14, with *Romans* 15:25–28; 1983 Code c.1254 § 2. Reflecting this dual mandate, Peter's Pence is directed in two ways: "for the work of evangelization" and for "the aid of the poor." Pope Benedict XVI, Address of His Holiness Benedict XVI to the Members of "Circolo San Pietro" 1 (March 8, 2007), https://perma.cc/GG9C-PHC3.

Church doctrine instructs leaders to distribute resources by prayerfully seeking the guidance of the Holy Spirit. See *Acts* 6:1–7 (appointing men "full of the Spirit" to manage community resources). And the Catholic Church emphasizes the continued need for prayerful discernment by its leaders, particularly the Pope, in fulfilling this sacred duty. At its core, the Pope's decision as to how to allocate these offerings is an act of spiritual discernment, a quintessentially ecclesiastical matter—one the Constitution protects from secular interference.

III. The Court should grant the petition to resolve whether a church autonomy defense can be reviewed in an interlocutory appeal.

Lower courts have divided sharply over whether the church autonomy doctrine is an immunity from suit that should be decided as a threshold issue merits discovery and trial. Pet. for Writ of Cert. 19–22; contrast *McRaney*, 157 F.4th at 641, with *Belya* v. *Kapral*, 45 F.4th 621, 633 (2d Cir. 2022). Longstanding precedent from this Court confirms that the affirmative defense confers immunity from the "very process of inquiry." *NLRB* v. *Cath. Bishop*, 440 U.S. 490, 502 (1979); see also *Watson* v. *Jones*, 80 U.S. 679, 728–32 (1872). History reaffirms this straightforward answer. See *supra* Part I.

A. Subjecting religious institutions to intrusive judicial inquiries erodes the First Amendment's structural protections.

The First Amendment guarantees—and the history of Anglo-American law confirms—that religious disputes must remain within faith communities, free from civil interference. That freedom is irreversibly eroded when courts allow discovery to proceed on matters of religious doctrine and church governance. The church autonomy doctrine was designed "to protect against the very process of litigation and judicial review." Lael Weinberger & Branton J. Nestor, *Church Autonomy and Interlocutory Appeals*, Notre Dame L. Rev. (forthcoming) (manuscript at 7), https://ssrn.com/abstract=6073729. Indeed, the nineteenth-century predilection among state courts to treat church autonomy as jurisdictional can be "understood as protecting churches from the burdens of litigation and judicial scrutiny as well as from liability," "akin to modern

immunity doctrines." Weinberger, *The Origins of Church Autonomy*, *supra* at 44. Allowing litigants to intrude on this categorical protection offends the First Amendment's carefully struck "balance." *Hosanna-Tabor*, 565 U.S. at 196.

Courts have long recognized the boundaries of that balance. A religious institution's "internal communications relating to church governance or matters of faith or doctrine" fall squarely outside the ambit of judicial review. *McRaney*, 157 F.4th at 640; see *Bryce* v. *Episcopal Church*, 289 F.3d 648, 657–59 (10th Cir. 2002) (holding that internal communication between church and congregants was protected by church autonomy). To let a secular court substitute its view for that of the Church would "entangle[]" the judiciary in religious affairs, contrary to the Supreme Court's admonition that "it is the essence of religious faith" to make and accept ecclesiastical decisions as "matters of faith." *Serbian E. Orthodox Diocese for U.S. & Can.* v. *Milivojevich*, 426 U.S. 696, 709, 714 (1976); see also *Bell* v. *Presbyterian Church (U.S.A.)*, 126 F.3d 328, 332 (4th Cir. 1997) (courts cannot question whether "granting . . . funds" reflects church's "discernment of the divine will"). Our constitutional tradition thus protects the Religion Clauses' "structural limitation[s]" on the government. *Conlon* v. *InterVarsity Christian Fellowship*, 777 F.3d 829, 836 (6th Cir. 2015). By orienting courts to the proper focus of "church-state relations," the church autonomy doctrine guards against "mudd[ying] sphere authorities" and the "derivative harms" of doing so. Weinberger & Nestor, *Church Autonomy and Interlocutory Appeals*, *supra* at 40.

The dispute here illustrates the dangers of improper judicial inquiry. O'Connell brought a class action suit—purporting to represent millions of

parishioners—seeking civil review of whether the Pope's ecclesiastical discretion in the allocation of sacred funds (the propriety of which O'Connell does not dispute) is consistent with internal representations and centuries-old religious practice. The Catholic Church has longstanding doctrine, rooted in scripture, answering that question. See *supra* Part II. O'Connell's dispute arises from his association with the Catholic Church and challenges how the Church collects and administers religious offerings—an internal matter governed by religious precepts for centuries. Such questions are precisely the kind of religious determinations the First Amendment categorically forbids courts from second-guessing.

A civil court is not an appropriate avenue of redress for disagreements with how a church administers its internal affairs. And American courts have long affirmed the limits of civil review arising out of "structural allocation[s] of authority between church and state." Weinberger & Nestor, *Church Autonomy and Interlocutory Appeals*, *supra* at 28.

B. Allowing intrusive litigation to continue compounds the irreparable harm caused by invading a religious institution's autonomy.

Once the weight of the judicial process is brought to bear by compelling religious authorities to disclose internal deliberations, doctrines, and decision-making, eventual vindication on the merits cannot repair the constitutional harm. This irreparable injury results from procedural aspects of litigation itself; "the very process of civil court inquiry" constitutes impermissible "entanglement." *Alcazar* v. *Corp. of Cath. Archbishop of Seattle*, 598 F.3d 668, 672–73 (9th Cir.

2010), adopted in part 627 F.3d 1288 (9th Cir. 2010) (en banc). The decision below allows precisely that irreversible harm. O'Connell's claims are deeply intertwined with religious doctrine and church governance. He asks a civil court to decide what representations made to a congregation a "reasonable" congregant would consider "importan[t]" when choosing to make religious offerings. See *Universal Health Servs., Inc.* v. *United States*, 579 U.S. 176, 193 (2016). But, as four Ninth Circuit judges recently observed, deciding whether a "reasonable member" would make an offering "based on the Church's representations about its spending decisions" quickly "devolve[s] into questions about religious doctrine," *Huntsman*, 127 F.4th at 799 (Bress, J., concurring in the judgment). So, allowing discovery against the church would be a "governmental intrusion on religion." *Id.* at 793. These harms are severe. The "costs, intrusion, and disruption" of judicial inquiry throttles the "effective governance" of religious institutions. Weinberger & Nestor, *Church Autonomy and Interlocutory Appeals*, *supra* at 38. Even a favorable outcome on remand "cheapens [an institution's] authority over ecclesiastical affairs." *Palmer*, 72 F.4th at 78 (Richardson, J., concurring in the judgment).

Prompt interlocutory review is thus essential to ensure that religious liberty does not hang on the procedural happenstance of the trial process. Only by acting before that harm is done can this Court safeguard the vital autonomy of religious institutions. Any other result would indulge the "arrogant pretension" that "the Civil Magistrate is a competent Judge of Religious Truth." James Madison, Memorial and Remonstrance Against Religious Assessments ¶ 5 (1785), *reprinted by* Nat'l Archives: Founders Online, https://perma.cc/

7QKJ-78N2. Allowing trial to proceed in cases like this one would eviscerate church autonomy. The "very process of inquiry"—not just liability—threatens to chill religious exercise and subvert church-state separation. *Cath. Bishop*, 440 U.S. at 502. Waiting until final judgment would leave the First Amendment at the mercy of unpredictable lower courts and guarantee that constitutional violations inflict irreparable harm long before the possibility of appellate correction.

CONCLUSION

This Court should grant certiorari to correct the D.C. Circuit's decision below and hold that the church autonomy questions this case presents warrant interlocutory appeal.

Respectfully submitted,

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