THIS IS A CAPITAL CASE-EXECUTION SET FOR October 14, 2025 @ 6:00 PM CENTRAL

No. 25A_____

IN THE SUPREME COURT OF THE UNITED STATES

LANCE SHOCKLEY, Petitioner,

v.

RICHARD ADAMS, ET AL., Respondents.

On Petition for Writ of Certiorari to the Eighth Circuit Court of Appeals

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EMERGENCY APPLICATION FOR STAY OF EXECUTION

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INTRODUCTION

This matter is before this Court because the State of Missouri has failed to follow its own policies – policies that specifically allow family members to serve as spiritual advisors (R. Doc. 2, Ex. A) – and refused to adhere to the Supreme Court's unambiguous holding in *Ramirez v. Collier*, 595 U.S. 411 (2022), that rejects the Missouri Department of Corrections ("MODOC") speculative concerns regarding the potential safety risks.

Critically, the District Court acknowledged that "ministers are not fungible" Doc. 26, p. 14 The District Court also recognized that "[n]o evidence in the record suggests that Shockley's daughters would be disruptive if permitted in the execution room." *Id*. p. 4. Despite these findings, Shockley's request was denied solely on the basis of unfounded speculation that Shockley's daughters would be disruptive if permitted in the execution room. R. Doc. 26, at 4. The Eighth Circuit similarly erred and raises host of theoretical problems that are either inapplicable to Shockley's daughters or might arise with any spiritual advisor present in the execution chamber.

Mr. Shockey has not sought a stay for the purpose of staying the execution. Instead, he sought injunctive relief seeking the court to order MODOC abide by its own policies and respect his free expression of religion as he is executed by the State of Missouri.

I. Shockley is entitled to a stay of his execution, scheduled for October 14, 2025, because he is likely to prevail on appeal.

To succeed on appeal, Mr. Shockley must show that MODOC's denial of his choice of spiritual advisors and their ability to administer rites and pray over and touch him during the execution substantially burdens his religious exercise. He must also show that MODOC's compelling interest in safety, security, and solemnity around the execution process does not survive strict scrutiny and the compelling interest test. He can do both and is therefore likely to succeed on appeal.

A. The record and the law firmly support Mr. Shockley's request for relief and a stay

This civil rights action for violation of state and federal civil rights under 42 U.S.C. § 1983 arises out of the Missouri Department of Corrections ("MODOC") denying Mr. Shockley his spiritual advisors, Summer Shockley-Anagnostopolous and Morgan Shockley, who are his family members, during his execution in contravention of MODOC's express policy allowing immediate family members to serve as spiritual advisors to inmates. This denial violates the Free Exercise Clause of the First Amendment and substantially burdens the practice of religion in violation of the Religious Land Use and Institutional Persons Act of 2000 ("RLUIPA"), 42 U.S.C. § 2000cc et seq.

The Free Exercise Clause of the First Amendment prohibits Congress from making a law prohibiting the free exercise of religion. U.S. Const. amend 1; *see, e.g., Cantwell v. Connecticut*, 310 U.S. 296, 303 (1940) (holding that the Free Exercise Clause of the First Amendment is incorporated against the States by the Fourteenth

Amendment); *Tarsney v. O'Keefe*, 225 F.3d 929, 935 (8th Cir. 2000). RLUIPA grants "expansive protection for religious liberty," affording an inmate with "greater protection" than the relevant First Amendment precedents. *Holt v. Hobb*s, 574 U.S. 352, 358, 361 (2015).

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. 2-1, Ex. A. at 2. MODOC policy therefore does not prohibit immediate family from serving as spiritual advisors, but in fact contemplates this exact possibility, without noting any circumstances where a family member could not serve as a spiritual advisor.

"Immediate family" is defined as "the offender's . . . children/stepchildren . . . ." R. 2-1, Ex. A at 2. MODOC policies provide a spiritual advisor must apply by submitting a spiritual advisor approval form. R. 2-1, 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. 2-1, Ex. A at 2-3.

Both Morgan and Summer followed the steps to be designated Mr. Shockley's spiritual advisors as required. R. 2-2, Ex. B; R. 2-3, Ex. C; R. 2-7, Ex. G; R. 2-8, 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.

In this civil rights violation complaint filed pursuant to 42 U.S.C. § 1983, Mr. Shockley asserts the MODOC's refusal to allow Morgan Shockley to be present in the chamber to touch and pray over him as he passes into the afterlife violates his rights under the Free Exercise Clauses of the First Amendment and substantially burdens the practice of his religion under RLUIPA.

II. The Eighth Circuit denied relief on Shockley's suit in clear contravention of this Court's unambiguous holding in *Ramirez v. Collier*, 595 U.S. 411 (2022).

The Eighth Circuit's decision fundamentally misapplies this Court's precedent regarding substantial burden analysis under the Religious Land Use and Institutionalized Persons Act of 2000 (RLUIPA). The court's artificial distinction between the "what" and "who" of religious exercise directly contradicts established Supreme Court authority and creates a dangerous precedent that undermines religious liberty protections for institutionalized persons.

The panel below explained that, under the RLUIPA, the threshold showing is a "substantial burden on [Shockley's] religious exercise." ECF Doc. 26 at 3. The panel framed the question as what (religious sacraments and a spiritual advisor from his own religion willing to touch and pray with him) versus who (the spiritual advisors of Shockley's choosing). The decision of those courts to disregard the central tenant of who overlooks the religious significance of the relationship that Shockley has with his daughters—that identity is not incidental, it is critical for Shockley. And

preventing Morgan and Summer Shockley undercuts the jurisprudence that defers to an individual's sincerely held belief and does substantially burden Shockley from exercising his religious beliefs. The categorical prohibition on who in this case is an arbitrary one and indeed is a total prohibition because Shockley cannot substitute someone without compromising his beliefs and there is no other means by which to exercise his religion, and the spiritual bond he has developed with his qualified daughters at the last moments.

Under RLUIPA, no 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 imposition of the burden furthers a compelling governmental interest and does so by the least restrictive means. *Ramirez v. Collier*, 595 U.S. 411, 424-425 (2022); *Cutter v. Wilkinson*, 544 U.S. 709, 712 (2005). This Court has emphasized that the strict scrutiny standard under RLUIPA is "exceptionally demanding." *Dunn v. Smith*, 141 S. Ct. 725, 725 (2021). The statute defines "religious exercise" broadly to include "any exercise of religion, whether or not compelled by, or central to, a system of religious belief." 42 USCS § 2000cc-5; See also Cutter, 544 U.S. at 715. Further, under the RLUIPA, there is greater protection. *See Holt v. Hobbs*, 547 U.S. 352, 361-62 (2015). "RLUIPA's 'substantial burden' inquiry asks whether the government has substantially burdened religious exercise . . . not whether the RLUIPA claimant is able to engage in other forms of religious exercise." Id. The panel's hypothetical about a fellow inmate is additionally meaningless,

because the RLUIPA requires a case-by-case analysis. *Ramirez v. Collier*, 595 U.S. 411, 430 (2022) (citing *Holt*, 574 U.S. at 363).

A plaintiff bears the initial burden of proving that a prison policy implicates his religious exercise, and the requested accommodation must be sincerely based on a religious belief. *Ramirez*, 595 U.S. at 425. However, once a plaintiff makes such a showing of substantial. burden, the burden shifts to the government to demonstrate that the restriction is the least restrictive means of furthering a compelling governmental interest. *Id.*

When considering the probability of success on the merits, the Eighth Circuit erroneously narrowed the substantial burden analysis. This decision creates an impermissible categorical rule that effectively eviscerates RLUIPA protections. The Eighth circuit in effect holds that it only creates a substantial burden if the government interferes with the actions of a religious sacrament, and not if the government interferes with the person who is allowed to perform this sacrament. App at 169a. By distinguishing between the "what" and "who" of religious practice, the court ignored the holistic nature of religious exercise protected under federal law. The court acknowledged that Shockley could receive the religious sacraments but dismissed as legally irrelevant his sincere religious belief that his daughters, as his chosen spiritual advisors, must perform these rites.

This artificial parsing of religious practice contradicts RLUIPA's expansive definition of religious exercise. The statute protects "any exercise of religion," not merely the mechanical performance of religious acts divorced from their spiritual

context 42 U.S.C. § 2000cc-5. The Eighth Circuit's approach would allow prison officials to substantially burden religious exercise simply by offering alternative means of religious practice that strip away the spiritual significance of the original request. The Eighth Circuit poses a hypothetical about a condemned inmate requesting a fellow inmate to serve as spiritual advisor and concluding forbidding this would not run afoul of RULIPA. App. at 169a. This hypothetical demonstrates a fundamental misunderstanding of the substantial burden analysis. Each case must be evaluated based on the specific religious beliefs and practices at issue, not through categorical exclusions based on the identity of religious practitioners. The situation here is much different than seeking to have a fellow inmate in the chamber. Shockley seeks to have spiritual advisors who have cleared background checks and have visited him in prison for years without causing any disruption. Although these spiritual advisors are his daughters, the state has provided no evidence, aside from pure speculation, that they will be disruptive or interfere.

Finally, the Eighth Circuit failed to properly apply the least restrictive means test. The court noted that neither side suggested a less restrictive alternative but failed to consider whether the prison's blanket prohibition on family members serving as spiritual advisors was narrowly tailored to address the stated security concerns. Here it is not. Other, less restrictive means could include, having a security guard present in the room during the rituals, conducting extra searches prior to the contact visit, having the spiritual advisors sign non-disclosure agreements, or adding security in other ways. Additionally, if a disruption did occur, the spiritual advisor could

immediately be removed from the chamber. The State may also reasonably accommodate the request, like with supervision. The State has not made any claims that a security individual, like a Correctional Officer, could not be present in the chamber to supervise the daughter in the execution chamber contrary to what Missouri prison officials claimed about the parade of horrors that might occur allowing Shockley's daughter into the chamber. App. at 169a.

In this case, the record is clear: Shockley's daughters met Missouri Department of Corrections policy requirements to be spiritual advisors, Missouri dragged its feet and caused the delay itself of the filing of these suits, and the only harms that Missouri can claim are purely speculative while disregarding a substantial history of the daughters visiting their father over the time of his incarceration without incident, while Missouri can also provide supervision for all of Shockley's requests to maintain security and decorum in these procedures.

CONCLUSION AND PRAYER FOR RELIEF

WHEREFORE, Plaintiff Lance Shockley prays that the Court provide relief as follows: 1) Issue a preliminary and permanent injunction prohibiting Defendants from executing Mr. Shockley until they can do so in a way that does not violate his religious rights; and 2) Issue a stay of Mr. Shockley's execution, currently scheduled for October 14, 2025.

Respectfully submitted,

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