

No. 26-120

IN THE
SUPREME COURT OF THE UNITED STATES

GAYS AGAINST GROOMERS, *et al.*,

Petitioners,

v.

LORENA GARCIA, INDIVIDUALLY AND AS A
COLORADO STATE REPRESENTATIVE, *et al.*,

Respondents.

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

**BRIEF OF *AMICUS CURIAE*
FOUNDATION FOR MORAL LAW
IN SUPPORT OF PETITIONERS**

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INTEREST OF THE AMICUS CURIAE¹

Amicus Curiae Foundation for Moral Law (“the Foundation”) (www.morallaw.org) is a national public interest, nonprofit organization based in Montgomery, Alabama, dedicated to the strict interpretation of the Constitution as written and intended by its Framers and to the right to acknowledge God in the public arena.

The Foundation believes the First Amendment of the U.S. Constitution firmly protects free speech and freedom of religion in public arenas where government has invited citizens to provide public comment on pending legislation. Furthermore, the Foundation maintains the biological reality that only two genders exist, male and female. This is not just a religious belief, but a scientific fact that is undisputed. While those who hold an ideological contradiction have the right to express their ideology, they cannot prevent others from disagreeing simply because it is offensive to their senses. The Foundation believes Respondents violated not only the First Amendment’s Free Speech Clause, but also the Free Exercise Clause because the Colorado Legislative Committee’s rules and practices of

¹ Pursuant to Fed. R. App. P. 29(a)(4)(E), the Foundation confirms that no party or party’s counsel authored this brief in whole or in part or contributed money that was intended to fund its preparation or submission; and no person other than the amicus curiae, their members, or their counsel, contributed money that was intended to fund the preparation or submission of this brief. The Foundation has provided 10-days’ written notification of this amicus to all parties.

“discretion” violated sincerely held beliefs and prevented speech in a public forum.

SUMMARY OF THE ARGUMENT

When legislators invite public opinion, they cannot discriminate against viewpoints by establishing or interpreting rules in such a way that shields criticism from opposing views. While legislative committees may establish rules of procedure for public hearings, they cannot use those rules to violate free speech or freedom of religion. Petitioners’ appeal concerns the unlawfulness of the procedural rules and imposed “chair discretion” which specifically catered to an alleged transgender right. To understand why Respondents’ proceedings were unlawful, one must address the substance of the debate regarding gender-identity rights. Gender-identity is not an unalienable right protected by the Constitution and “misgendering” is not a civil injustice. Furthermore, “misgendering” is a misconception that cannot hold up under the Laws of Nature and Nature’s God. Hence, government entities have no authority to assert gender-identity rights or create rules to protect them. In the words of Justice Robert H. Jackson, “If there is any fixed star in our constitutional constellation, it is that no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion or force citizens to confess by word or act their faith therein.”²

² *West Virginia Board of Education v. Barnette*, 319 U.S. 624, 642 (1943) (ruling that Jehovah’s Witnesses’ children could not

ARGUMENT

1. Rules of Procedure are created to maintain order not to violate First Amendment Rights

Respondents have argued that they created the rules of procedure in question for the purpose of maintaining decorum and dignity and that Petitioners violated those rules. In fact, Respondents disrupted the decorum and dignity of the hearing when they continuously interrupted and chastised the Petitioners' speech. The Respondents did not just violate the Free Speech Clause, but they also violated the Free Exercise Clause because any person in the shoes of the Petitioners who holds religious beliefs directly contrary to the Respondents' interpretation of procedural rules would be silenced. This Court need not look far to understand not just the grievous violation of the First Amendment, but also the violation of the very "dignity" and "decorum" the legislative committee wishes to defend.

2. Dignity and decorum are moral concepts derived from the laws of Nature and Nature's God.

Proper discretion and interpretation of procedural rules concerning "dignity" and "decorum" require proper understanding of what those words mean. It also requires an understanding of where these moral concepts originate and why they are imperative to the success of U. S. government and ideology.

be compelled to salute the flag and recite the pledge of allegiance).

When the founding fathers declared independence, they declared the source of this nation's moral standard: the Laws of Nature and Nature's God. Less than a hundred years later, when the nation had experienced devastating division, Abraham Lincoln forever solidified the moral foundation of this great nation when he said, "that this nation, *under God*, shall have a new birth of freedom—that government of the people, by the people, for the people, shall not perish from the earth."³ (emphasis added) The fathers of this great nation understood that the United States could not survive without God's protection over the inalienable rights He provided. To repeat John Adams famous words, "Our constitution was made only for a moral and religious people."⁴ Moral and religious people understand that God created all men equal. All have dignity because God created them in His own image.

Webster's Dictionary of 1828 defines dignity as follows:

1. True honor; nobleness or elevation of mind, consisting in a high sense of propriety, truth, and justice, with an abhorrence of mean and sinful actions;

³ Abraham Lincoln. Gettysburg Address, November 19, 1863. Historic Document. National Constitution Center.org, 2026. Retrieved July 30, 2026, from <https://constitutioncenter.org/the-constitution/historic-document-library/detail/abraham-lincoln-the-gettysburg-address-1863>.

⁴ John Adams. To the Officers of the First Brigade of the Third Division of the Militia of Massachusetts, 1798. John Adams Center, 20026. Retrieved July 30, 2026, from <https://johnadamscenter.com/why-john-adams/>.

opposed to meanness. In this sense, we speak of the dignity of mind, and dignity of sentiments. This dignity is based on moral rectitude; all vice is incompatible with true dignity of mind. The man who deliberately injures another, whether male or female, has no true dignity of soul. . . .4. Elevation of deportment; as dignity of manners or behavior. . . .7. In oratory, one of the three parts of elocution, consisting in the right use of tropes and figures.⁵

Decorum means:

Propriety of speech or behavior; suitableness of speech and behavior, to one's own character, and to the characters present, or to the place and occasion; seemliness; decency, opposed to rudeness, licentiousness, or levity.⁶

Dignity requires humility, truth, and the right use of speech. Decorum requires decency and being mindful of the people and place in which one is speaking. It is opposed to rude, dismissive, indulgent behavior which is contempt of just restraints of law and

⁵ Webster's Dictionary, 1828. Dignity. In *Webster's Dictionary 1828.com*. Retrieved July 30, 2026, from <https://webstersdictionary1828.com/Dictionary/dignity>.

⁶ Webster's Dictionary, 1828. Decorum. In *Webster's Dictionary 1828.com*. Retrieved August 8, 2026, from <https://webstersdictionary1828.com/Dictionary/decorum>.

morality.⁷ Respondents would likely agree with this understanding of decorum and dignity, however, they have decided that not using a person's requested name or pronoun is undignified and mean. But this is far from reality.

Petitioners rightly, humbly, and respectfully spoke truth in the presentment of their dissent to legislation, correctly using terms and names in their natural, original form without rudeness or contempt. On the other hand, members of the legislative committee dishonorably and rudely lorded their authority over Petitioners, silencing their dissent. One could argue that the members of the legislative committee portrayed "meanness" in that they showed contempt toward Petitioners by incessantly interrupting them, disrupting the decorum of the hearing, and then refusing to enter into the record the testimony of one Petitioner.

If moral or religious people can no longer freely speak from the convictions of virtue, how will this nation survive? To speak freely from convictions of virtue does not destroy the dignity of others, rather it speaks truthfully, upholding the dignity of humanity, a humanity that forever can only be whole and complete as male and female.

⁷ Webster's Dictionary, 1828. Licentiousness. In *Webster's Dictionary 1828.com*. Retrieved August 15, 2026, from <https://webstersdictionary1828.com/Dictionary/licentiousness>.

3. “Misgendering” is a misconception.

“Deadnaming” and “misgendering” are terms used politically and socially to oppose allegedly offensive speech. Unlike the ancient understanding that humans can only be male and female, these terms are brand new ideas.

“A deadname is a former name that a trans person has rejected due to their gender transition. Deadnaming is the act of calling a trans person by that name.”⁸ The Oxford English Dictionary online states that the earliest known use of “deadnaming” is in 2010, but Oxford’s earliest evidence for the word is from 2013. The Oxford dictionary first published the word in June 2021 and last modified it in June 2023. According to Oxford, the occurrence of the word is 0.01 per million words in modern written English.⁹

“Misgendering” is a term that appeared in the 1970s, with Oxford’s earliest evidence of the word found in 1978. Oxford first published the word online in June 2018 and last modified it in December 2023.¹⁰

⁸ Elek Lane. Deadnaming, Taboo, and Linguistic Authority. *Mind*, Volume 134, Issue 536, October 2025, pg. 1015-1039, Retrieved August 6, 2026, from <https://doi.org/10.1093/mind/fzaf045>

⁹ Oxford University Press. (n.d.). Deadnaming, n. In *Oxford English dictionary*. Retrieved August 6, 2026, from <https://doi.org/10.1093/OED/8830789553>

¹⁰ Oxford University Press. (n.d.). Misgendering, n. In *Oxford English dictionary*. Retrieved August 6, 2026, from <https://doi.org/10.1093/OED/9126700728>.

Webster's Dictionary, 1828 does not even have these words, but the more recent Merriam-Webster publication defines misgender as follows: "to identify the gender of (a person, such as a nonbinary or transgender person) incorrectly (as by using an incorrect label or pronoun)."¹¹ Merriam-Webster states the first known use of the meaning as defined was in 1989.¹²

"Misgendering" and "deadnaming" are new ideas, more precisely, they are a new ideology. Proponents of this ideology would have the nation believe that these new terms are morally reprehensible behaviors. They are not.

Scientifically and morally, only two genders are possible: male and female. Even if one could argue to the contrary, the fact remains that the forefathers founded this country on the Laws of Nature and Nature's God, so any regulation or newly found right must be in line with God and the Laws of Nature. The moral code upon which the founders established this nation's Constitution is forever preserved in the Holy Bible. The Bible states that in the beginning God created them male and female. Genesis 5:2. He commanded them to be fruitful and multiply and steward the earth. Genesis 1:28. The only way to multiply is through combining a female egg and a male sperm. While humanity has found ways to make

¹¹ Merriam-Webster. (n.d.). Misgender. In *Merriam-Webster.com dictionary*. Retrieved August 6, 2026, from <https://www.merriam-webster.com/dictionary/misgender>.

¹² *Id.*

that happen outside of the beautiful biological reality God created, the fact remains that humanity can only naturally be whole and complete as male and female.

Medical scientists have found a way to chemically block and change hormone growth in bodies so that a male can have more female hormones, which produce feminine-like qualities. Likewise, women can have more male hormones to produce male-like qualities. Medical professionals call this process MTF HRT (feminizing hormone therapy) or FTM HRT (masculinizing hormone therapy).¹³ Additionally, surgical procedures can remove or add body parts to make one look more like one gender versus another. But when the hormone blockers are stopped, the body naturally produces the originally intended hormones, which resumes originally intended development (i.e., breast development and voice changes progress naturally).¹⁴ When the extensive surgeries are over, the body is a shell of its original beauty, and the mind of the one who endured the mutilation is forever scarred. Which is more reprehensible? Using originally intended names and pronouns when referring to a sadly confused individual, or allowing a mind and body to endure the trauma and pain of suspending reality to be something a person was never meant to be?

¹³ GenderGP. Are Hormone Blockers Reversible? What Young People and Families in the US Should Know. GenderGP, March 26, 2026. Retrieved August 8, 2026, from <https://www.gendergp.com/en-us/blog/are-hormone-blockers-reversible/#h-understanding-what-reversible-means-in-practice>.

¹⁴ *Id.*

4. Gender Identity is not an unalienable right or even a civil rights matter.

Unalienable means “not alienable; that cannot be alienated; that may not be transferred.”¹⁵ The modern Merriam-Webster’s dictionary defines unalienable as “impossible to take away or give up.”¹⁶ A new gender identity is something that a person can give up or have taken away. No matter how people may try to alter their identity, being male or female is impossible to give up or take away. Therefore, since changing gender is alienable, it cannot be a right that the Constitution protects. Since the Constitution is entirely founded on the Laws of Nature and Nature’s God, it is not morally wrong to identify someone by their natural gender. Hence, a civil rights matter does not arise.

Civil relates to the community, to a person as a member of the community, and the power or rights that person may enjoy as a citizen.¹⁷ A right is something that is morally or religiously just or in accordance with the standard of truth and justice or

¹⁵ Webster’s Dictionary, 1828. Unalienable. In *Webster’s Dictionary 1828.com*. Retrieved August 16, 2026, from <https://webstersdictionary1828.com/>.

¹⁶ Merriam-Webster. (n.d.). Unalienable. In *Merriam-Webster.com dictionary*. Retrieved August 16, 2026, from <https://www.merriam-webster.com/dictionary/unalienable>.

¹⁷ Webster’s Dictionary, 1828. Civil. In *Webster’s Dictionary 1828.com*. Retrieved August 16, 2026, from <https://webstersdictionary1828.com/Dictionary/civil>.

the will of God.¹⁸ A person may have the prerogative, even legal ability, to change his/her name. However, rightly speaking, changing one's gender or even pronoun to fit the desired gender is not morally or religiously just or in accordance with truth or the will of God. Therefore, while someone may decide on their own accord to be other than the gender God created him/her to be, that decision is not in accordance with right. Therefore, civilly speaking, the person does not have a right or power within the community to enjoy being a different gender.

People who choose to live by a different moral code than what Nature's Law provides and hence, choose to refer to themselves by a different gender than what they were born as, are asking the government and the American people to defy Nature's Law and Nature's God and accept a reality that is based on false, immoral presuppositions. No one is denying these people equal access to the things required for self-government. They have the same opportunities to Life, Liberty, and the Pursuit of Happiness. What they are demanding is an opportunity to live a false reality and for the government to protect that false reality, something the U.S. Constitution does not provide. In order to obtain the opportunity and protection to live this false reality, these people have pressured both state and federal governments to adopt a new right. They have used the judicial system and civil rights conflicts to purport that people who decide to live contrary to Nature's Law should have

¹⁸ Webster's Dictionary, 1828. Right. In *Webster's Dictionary 1828.com*. Retrieved August 16, 2026, from <https://webstersdictionary1828.com/Dictionary/right>.

the same justice that the constitutional amendments provided blacks and women.

5. “Misgendering” is not equivalent to Civil Rights Era injustices.

Proponents of the ideology that the act of “misgendering” and “deadnaming” are morally wrong use the Civil Rights era as their basis for justification. They believe that misgendering is equivalent to calling black persons only by their first names, intentionally omitting women’s professional titles, and deliberately butchering ethnically marked names of minorities, concluding that all these acts are verbal slander used to symbolize the subordination of societally disfavored groups.¹⁹ Proponents of this ideology use experiential injuries and offenses to prove this alleged moral failing. They argue that “anti-misgendering regulations” are a compelling government interest in protecting gender minorities, and these regulations do not compel speech because they neither force a speaker to express an ideological message, nor do they alter or interfere with a speaker’s primary message.²⁰

This particular case refutes the last argument as Respondents compelled Petitioners to express an ideological viewpoint by using assigned names and pronouns against their own ideological convictions. Respondents interfered with Petitioners’ primary

¹⁹ McNamarah, Chan Tov. “Misgendering.” *California Law Review*, vol. 109, no. 6, 2021, pp. 2227–322. *JSTOR*. Retrieved August 7, 2026, from <https://www.jstor.org/stable/27168594>.

²⁰ *Id.*

message, requiring them to alter their message or stop speaking.

While experiential evidence may serve to strengthen an argument, it does not suffice as definitive proof on its own. Offensive and hurtful experiences, when isolated, do not substantiate the moral wrongfulness of an act. For instance, a child could profoundly offend another child by revealing Santa Claus is not real. Although one might perceive the dissemination of such truth to be insensitive, the act of revealing the truth itself is not morally culpable. It may be hurtful, but it is not morally wrong.

Finally, misgendering is not equivalent to the injustices black people or women experienced in the past. Many viewed black people as inferior humans and for that reason they denied black people equal access as equals in a self-governed system. Similarly, the government denied women a vote even though they equally participated in the success of the nation. In certain settings, employers denied both blacks and women equal pay for equal levels of labor. As defined above, these issues are civil issues because they involved people in a community and the power or right that they were unable to enjoy. The right or power of being equal in terms of humanity is the will of God because God created mankind in His own image. Genesis 1:27. All are one in Christ Jesus, whether male or female, Jew or Greek, slave or free. Galatians 3:28-29. Additionally, in the will of God, a workman is worth his wages. I Timothy 5:18, Leviticus 19:13, Deuteronomy 24:15, Luke 10:7, Matthew 10:10.

Gender-identity proponents misuse and misinterpret judicial rulings to equate true injustices with their own. One of the most prominent cases they use to support their argument is *Mary Hamilton v. Alabama*, 376 U.S. 650 (1964) in which the Court reversed the lower court's judgment of contempt against Ms. Hamilton who insisted in court that an attorney refer to her as Ms. Hamilton. Public opinion of that year and of today have concluded that "the decision established that people of color are entitled to the same courtesies and honorifics as whites."²¹ The New York Times, March 31, 1964, stated that addressing "Negroes familiarly by their first names was a key element in the South's 'racial caste system', and that "different treatment of Negroes in the matter of address was another form of racial discrimination."²² Proponents of the right to not be "misgendered" would have the public believe that giving blacks the same honorifics and courtesies as whites was a new right and that it is equivalent to creating a right to not be "misgendered." However, the Court's opinion did not establish a new right or standard; instead, it simply upheld the existing right to due process of law. In fact, the Court's opinion does not elaborate on the reasons for its decision; rather, it granted writ of certiorari and reversed the judgment, citing *Johnson v. Virginia*, 373 U.S. 61 (1963). Justice Black's concurring opinion simply stated, "reversal of the judgment of contempt for

²¹ Thursgood Marshall Institute. *Mary Hamilton*. Thursgood Marshall Institute Online, 2026. Retrieved August 7, 2026, from <https://tminstituteldf.org/tmi-explains/thurgood-marshall-institute-briefs/tmi-briefs-active-voice/mary-hamilton/>.

²² *Id.*

reasons discussed in *In re Murchison*, 349 U.S. 133 (1955), *In re Oliver*, 333 U.S. 257 (1948), and *Thompson v. City of Louisville*, 362 U.S. 199.” A careful review of these cases affirms the right to due process of the law.

Understandably, the conclusion of public opinion in 1964 was that the Court was saying blacks are afforded the same courtesies as whites, which is true, but not what the Court concluded. The conclusion of public opinion seems to be based on only one of the cited cases. In *Johnson v. Virginia*, the trial court placed the petitioner in contempt of court for sitting in a place reserved for whites. The Court held that “state-compelled segregation in a court of justice was a manifest violation of the state’s duty to deny no one the equal protection of its laws.” *Johnson v. Virginia*, 373 U.S. at 62. This case relates to Ms. Hamilton’s case in that the conviction of contempt was unjustified.

Public opinion stops at that case, but Justice Black concurred with the opinion of the court, adding four more cases to substantiate the reason for reversing Ms. Hamilton’s conviction. In *In re Murchison*, the Court ruled that a judge in a “judge-grand jury” who found witnesses at the grand jury in criminal contempt could not turn around to judge and convict those witnesses in a trial. *In re Murchison*, 349 U.S. 133 (1955). The point of that case was that fair trials are too important a part of a free society to let prosecuting judges be trial judges of the charges they preferred. The Court stated that “no man can be a judge in his own case, and no man is permitted to try cases where he has an interest in the outcome.”

In re Murchison, 349 U.S. at 136. In *In re Oliver*, 333 U.S. 257, 272-273 (1948), the Court held that the investigation of an inmate became a trial, the grand jury became a judge, and the witness became the accused, all in secret. The reason for reversing this case was that the procedure violated the Fourteenth Amendment guarantee that the government shall deprive no of his liberty without due process of the law. *Id.* Finally, in *Thompson v. City of Louisville*, 362 U.S. 199 (1960), the Court held that a conviction without evidence of guilt is a violation of due process. In this case, the defendant was convicted for loitering and disorderly conduct because he spent about half an hour at a café where he danced (at the consent of the manager and nothing being vulgar) and then argued with a police officer after being arrested and removed from the café, none of which provided any evidence of loitering or disorderly conduct.

After examining these cases, the logical conclusion is that the Court in *Hamilton* believed that Ms. Hamilton did not receive a fair trial or due process of the law. The attorney in Ms. Hamilton's case was disrespectful and quite likely racist, but the Court ruled in Ms. Hamilton's favor not because it was her right to have people call her Miss Hamilton. Rather, the Court ruled in her favor because she was not in contempt of court for asking the attorney to call her Miss Hamilton and refusing to answer when he refused her request. No evidence existed to uphold the contempt conviction, and the judge in the case was unfair in his proceedings. While one might reasonably conclude that the Court recognized the unfair treatment of the attorney and judge in the

original case, the court did not establish a new right, it merely upheld the right to due process.

The case at hand faces a comparable situation, but not as Respondents might believe. To establish a nonexistent right, Respondents acted upon their own interests, interests that held a clear bias. Additionally, they did not give Petitioners the same courtesies and honorifics as other speakers in that hearing. They chided, interrupted incessantly, and refused to allow Petitioners to speak freely, even having the audacity to remove one Petitioner's comments from the record. Respondents denied the Petitioners' First Amendment rights.

6. The First Amendment protects against ideological tyranny.

Across this nation, an ideology has taken root in every area of public life. Followers of this ideology demand acceptance and adherence to its claims. They seem to think that identifying as something other than their God-given male or female gender is a right that supersedes the First Amendment protections. They seem to think that it is just and fair to force someone to adhere to a falsehood. Unfortunately, the government at all state and federal levels has acquiesced to this false justice.

Thankfully, the First Amendment is quite clear in its protections:

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the

press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

And the U.S. Supreme Court has firmly established the First Amendment's principles, including the understanding that all levels of government, not just Congress, are required to uphold all First Amendment freedoms. *Gitlow v. New York*, 268 U.S. 652, 666 (1925) (holding that the Fourteenth Amendment incorporated the First Amendment's free speech and press protections against the states; but holding the state statute was constitutional). *Cantwell v. Connecticut*, 310 U.S. 296 (1940) (applying the Free Exercise Clause to states, holding that the First Amendment protects peaceful expression of beliefs from infringement by both federal and state governments).

The beauty of the First Amendment is that it forever intertwines speech, religion, and peaceful assembly together in the fabric of freedom. Historically, this nation's leaders have encouraged religion, public dispute, and contribution to legislative activities. While the debate is ongoing as to when and how the government may interfere, the current standard is that the government must have a compelling interest which must be weighed by historical practices and understandings. *Kennedy v. Bremerton*, 597 US 507, 536 (2022) (holding that a coach had a right to engage in personal religious observances on school grounds, emphasizing religious expression under both Free Exercise and Free Speech Clause). Additionally, the U.S. Supreme

Court has continually protected the free exercise of religion in all public areas, from education to small businesses to political ambitions. See *Sherbert v. Verner*, 374 U.S. 398 (1963) (ruling that South Carolina violated the Free Exercise Clause when it denied unemployment benefits to a person who turned down a job because it required her to work on the Sabbath); *Wisconsin v. Yoder*, 406 U.S. 205 (1972) (ruling that Amish children could be exempt from state law requiring school attendance because their religion required living apart from the world and worldly influence); *McDaniel v. Paty*, 435 U.S. 618 (1978) (holding that a Tennessee law that barred members of clergy from serving in public office violated First and Fourteenth Amendments because it made the ability to exercise civil rights conditional on the surrender of religious rights); *Burwell v. Hobby Lobby Stores*, 573 U.S. 682 (2014) (ruling that for-profit corporations could claim religious exemptions from the Affordable Care Act's contraceptive mandate under RFRA); *Carson v. Makin*, 596 U.S. 767 (2022) (holding that Maine's exclusion of religious schools from a tuition assistance program was unconstitutional, reinforcing that states cannot discriminate against religious institutions in public benefits programs); *Fulton v. Philadelphia*, 593 U.S. 522 (2021) (holding that Philadelphia violated the Free Exercise Clause by refusing to grant Catholic Social Services an exemption from a foster care policy, highlighting that laws allowing individualized exemptions must also accommodate religious hardship).

A religious person entering a public hearing to contribute to legislative activities must be allowed to

freely exercise religious convictions. While decorum and dignity are an interest in any public forum, they are not a compelling interest that justifies the burden on religion. Neither is someone's request to be identified as another gender. To justify a burden on the exercise of religion it must be in furtherance of a compelling governmental interest, and it must be the least restrictive means of furthering that interest. 42 U.S.C.S. § 20000bb1. See also *Gonzales v. O Centro Espirita Beneficente Uniao do Vegetal*, 546 U.S. 418, 439 (2006) (holding that the Government failed to demonstrate that the application of the burden to the church would be justified by the asserted compelling interest); *Nat'l Inst. of Family & Life Advocates v. Becerra*, 585 U.S. 755, 767-768 (2018). (highlighting that the Court's precedent does not permit content-based restrictions on speech without a long tradition to that effect; and holding that speech is not unprotected merely because "professionals" uttered it).

Colorado General Assembly does not have a compelling interest in silencing a religious speaker wishing to dissent what is arguably reprehensible and obscene. A religious speaker who exercises his/her belief that there can only be male and female must be allowed to express those ideas without government interference. An offended person who wishes to be called by a pronoun or name that does not match his God-given gender does not qualify as a compelling government interest.

This leads to the final strand so neatly intertwined in the First Amendment protection. Free Speech encompasses more than just spoken words. See

Stromberg v. California, 283 U.S. 359 (1931) (extending First Amendment protection to nonverbal expressions such as signs, symbols, or emblems); *Tally v. California*, 362 U.S. 60 (1960), (ruling that the First Amendment also protects anonymous speech; allowing a civil rights activist to distribute anonymous pamphlets about discrimination). In *Cohen v. California*, 403 U.S. 15 (1971), the Court ruled that the trial court should not have convicted Mr. Cohen for breach of the peace for wearing to court a jacket with a curse word on it. The court ruled that the government cannot punish speech just because someone might find it offensive. Even speech that many people would consider to be obscene or hateful may be protected. According to *Miller v. California*, 413 U.S. 15, 24 (1973), to find any form of expression obscene and therefore not protected by the First Amendment, it must meet three specific criteria: 1) the average person, applying contemporary community standards, would find that the work, taken as a whole, appeals to a prurient interest; 2) the work depicts or describes sexual conduct in a patently offensive way; and 3) taken as a whole, lacks serious literary, artistic, political or scientific value. In *Brandenburg v. Ohio*, 395 U.S. 444, 447 (1969), the Court held that speech may lose its First Amendment protection if it incites “imminent lawless action.” Speech is not protected if the speaker intended to provoke or directly cause crime or violence, right here and now. In *National Socialist Party of America v. Village of Skokie*, 432 U.S. 43 (1977), the Court held that hateful speech is protected unless it falls within a specifically defined unprotected speech such as true threats. In *Watts v. United States*, 394 U.S. 705, 708 (1969), the Court again set a high bar for when speech

loses First Amendment protection. The Court ruled that threatening speech can be protected unless the statement constitutes a “true threat.” To determine a true threat depends on factors such as the context of the statement and its reception. *Id.* at 708. In June 2023, the Court clarified that a statement is not necessarily a true threat simply because the person it is about feels afraid. *Counterman v. Colorado*, 600 U.S. 66, 98-104 (2023). The person who makes the statement must have recklessly disregarded a substantial risk that their statement would be perceived as threatening. *Id.* In 2011, the Court upheld the protection of hateful speech by the Westboro Baptist Church against military members’ funerals. *Snyder v. Phelps*, 562 U.S. 443 (2011). Justice Roberts concluded:

Speech is powerful. It can stir people to action, move them to tears of both joy and sorrow, and as it did here, inflict great pain. On the facts before us, we cannot react to that pain by punishing the speaker. As a nation we have chosen a different course—to protect even hurtful speech on public issues to ensure that we do not stifle public debate.”

Snyder v. Phelps, 562 U.S. 443, 460-461 (2011).

On the other hand, people cannot be forced to say words they do not believe. *Virginia Board of Education v. Barnette*, 319 U.S. 624, 642 (1943) (ruling that Jehovah’s Witnesses’ children could not be compelled to salute the flag and recite the pledge

of allegiance). In *303 Creative LLC v. Elenis*, 600 U.S. 570 (2023), the Court further ruled on the protection of the right not to speak when it ruled that a business could not be required to create websites celebrating weddings of same-sex couples.

In the case at hand, Petitioners did not threaten or provoke imminent violence or crime. Respondents punished Petitioners simply because someone might find what Petitioners said offensive or hateful. Respondents stifled public debate when they chose not to protect allegedly hurtful speech. Additionally, Respondents compelled speakers to use words they do not believe.

Furthermore, Respondents failed to consider that the ideology they chose to protect is not just offensive, but obscene. One could argue that the average person, applying contemporary community standards, would find that the work of gender-identity is marked by or arousing an immoderate or unwholesome sexual interest or desire.²³ Additionally, gender-identity ideology, taken as a whole, lacks serious literary, artistic, political, and scientific value.

CONCLUSION

Respondents would say they were protecting the dignity of the hearing and those being “misgendered.” But that is not what they accomplished. Instead, they bullied those with a differing viewpoint into silence.

²³ Merriam-Webster. (n.d.). Prurient. In *Merriam-Webster.com dictionary*, Retrieved August 16, 2026, from <https://www.merriam-webster.com/dictionary/prurient>.

They prescribed “what shall be orthodox in politics, nationalism, religion, or other matters of opinion” and they forced “citizens to confess by word or act their faith therein.”²⁴

Life, Liberty, and the pursuit of Happiness must align with the Laws of Nature and Nature’s God. The Constitution and the government entities it empowers are clearly designed to protect the laws of Nature and Nature’s God. Governmental authority cannot and should not promote an ideology that defies nature. Neither should it prescribe unnatural ideology as orthodox and force citizens to confess their faith in the unnatural. Government can and should encourage dignified dispute and contribution to legislative activities in public assemblies.

For the foregoing reasons, the Foundation respectfully requests the Court to grant certiorari to Petitioners.

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²⁴ See *supra*, *West Virginia Board of Education v. Barnette*, 319 U.S. 624, 642 (1943).