No. 26-196

In the Supreme Court of the United States

SHERRY DETWILER,

PETITIONER,

v.

MID-COLUMBIA MEDICAL CENTER, ET AL.,

RESPONDENTS.

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

REPLY IN SUPPORT OF PETITION FOR A WRIT OF CERTIORARI

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INTRODUCTION

Respondents' Brief (RB) to Detwiler's Petition for a Writ of Certiorari was filed on October 16, 2026.[1]

Respondents acquiesce in certiorari. RB at 1. They contend that the Ninth Circuit, in joining the minority of an acknowledged Circuit split, reached the correct result for the wrong reason. RB at 1. The parties thus agree in key respects that certiorari should be granted, the Circuit split resolved, and the Title VII analysis at the FRCP 12(b)(6) stage clarified. The parties further agree that this case is an important and even "ideal" vehicle for addressing these recurring issues. RB at 16.

The parties disagree as to the proper analytical framework and the appropriate outcome. In this Reply, Detwiler will address new decisions identified by MCMC and the new "real-world" test it proposes for Title VII religious claims. In short, MCMC's "real-world" test differs little from the "truly religious" test of the Ninth Circuit that both sides regard as untenable. While MCMC's alternative might offer more protection to its own and similar adherents, it would leave large swaths of religious employees unprotected. Such disparity cannot be harmonized with Title VII or this Court's jurisprudence and should be resolved sooner rather than later.

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[1] Consistent with prior briefing, Petitioner will here continue referring to Respondents collectively by the hospital's legal name, Mid-Columbia Medical Center (MCMC), notwithstanding its change in ownership while on appeal.

ARGUMENT

I. The parties agree the Petition should be granted.

To its credit, MCMC acquiesces in the Petition for Certiorari, RB at 1, recognizing the serious flaws in the Ninth Circuit's approach. As the RB explains and Detwiler agrees, that approach could ultimately harm Adventists, and MCMC is now an Adventist-owned institution. RB at 1.

The common ground on which the parties begin focuses the issues for clean resolution of the nationwide Circuit split. RB at 16.

II. Post-*Detwiler* decisions in the Ninth Circuit demonstrate its expanding reach.

The conflict is deepening, as illustrated by new decisions MCMC identifies in its brief. RB at 7–8.

For instance, in early October the Ninth Circuit decided *Morae v. Nike, Inc.*, No. 25-2423, 2026 U.S. App. LEXIS 30036 (9th Cir. Oct. 1, 2026). The Court expanded *Detwiler* to affirm summary judgment against an employee with similar Title VII claims. Morae had asserted that she prayed; God's wisdom told her not to take the vaccine; to disobey would be sin; and her body was a temple. She also felt uncertainty because the vaccine was new and experimental, with unknown effects. *Id.* at *3. Expanding *Detwiler*, the Ninth Circuit held that it did not matter that Morae cited more Scriptures, or that Morae had not conducted any secular research as had

Detwiler. *Id.* at *4. Summary judgment for the employer was therefore affirmed. *Id.*

The following week, the Ninth Circuit applied *Detwiler* in *Bird v. Alanson M. Randol, P.C.*, No. 25-1714, 2026 U.S. App. LEXIS 30827 (9th Cir. Oct. 8, 2026). The Court again upheld dismissal of, and summary judgment on, two plaintiffs' COVID-19 mandate-related Title VII claims. The first plaintiff had asserted that God said, "Fear not," and that through prayer she was choosing not to live in fear, believing God would protect her from sickness. *Id.* at *3. Under *Detwiler*, this was deemed insufficient to meet the minimal pleading burden for a Title VII claim. *Id.* The second plaintiff had stated beliefs the Court found indistinguishable from those in *Detwiler*, and also stated in her deposition that she did not think the vaccine was safe and effective, and that she disagreed with government and employer-mandated vaccination. To the Ninth Circuit, *Detwiler* doomed her claims as well at summary judgment. *Id.*

The reasoning of *Detwiler* was also applied to interpret the California Fair Employment and Housing Act, Cal. Govt. Code § 12900 et seq., in *Ledezma v. Optum Health Servs.*, No. 25-684, 2026 U.S. App. LEXIS 24676 (9th Cir. Aug. 13, 2026). Like Morae, the plaintiff in *Ledezma* argued in vain that she had cited more specific Scriptures than Detwiler for her vaccine objection. The panel majority was unmoved. It also applied *Detwiler* to California's statutory corollary of Title VII. Judge Bumatay dissented.

Meanwhile, the Ninth Circuit has now carved out a limited exception to *Detwiler* for religious

objections to vaccines based on fetal cell development. In *Ridings v. PeaceHealth*, --- F.4th ---, No. 24-7282, 2026 U.S. App. LEXIS 29271 (9th Cir. Sept. 24, 2026), the Court determined that health and safety concerns expressed by a pregnant employee did not cancel out her religious beliefs in the sanctity of life, allowing her vaccine accommodation case to go forward.

Thus, over the past few months, the Ninth Circuit has expanded Detwiler's reach to state law, to summary judgment, to beliefs with more Scriptural citations, and to beliefs where the adherent did not rely on secular research. Abortion-related objections have been the lone exception. More such cases have recently been argued and are being scheduled for argument in the Ninth Circuit. The Ninth Circuit has resisted requests for rehearing en banc, and the broader Circuit split is not subsiding.

III. Detwiler cannot concur with MCMC's reformulation of the Question Presented.

The Petition's Question Presented asks whether the Ninth Circuit's new "truly religious" test and joining of the minority position in a Circuit split is consistent with Title VII, this Court's precedents, and FRCP 12(b)(6). Pet. at i.

MCMC presents an alternative question which asks whether a Title VII religious accommodation claimant must plead facts making it plausible her religious belief conflicts with an employment requirement. RB at i. MCMC's attempted reframing of the issue misses the mark. Emphasizing whether religious conflicts are scientifically provable creates more problems than it solves, as will be detailed next.

IV. MCMC's proposed "real-world" test is no better than the Ninth Circuit's "truly religious" test.

A. The Ninth Circuit's new test negatively affects religious claimants seeking Divine guidance for health decisions.

MCMC correctly perceives that even well-recognized religious practices such as seeking and receiving direction from God through prayer are at risk from the Ninth Circuit's reasoning. RB at 18; *see also,* Pet. App. at 93a (Forrest, J., dissenting) (tracing importance of prayer from Abraham to Desmond Tutu). So, too, are dietary and health practices long recognized to be part of many faiths. Pet. App. at 35a (VanDyke, J., dissenting) (noting concerns for Christian Scientists and Buddhists).

MCMC therefore expresses concern that the Ninth Circuit's "truly religious" test "could be construed" to insufficiently protect believers. RB at 9. Detwiler agrees, albeit with less equivocation. In Petitioner's view, the test unmistakably scrutinizes and shrinks the scope of employees' protected beliefs. After all, it is hard to read charitably the Ninth Circuit's dismissiveness of Scriptural citations as mere "magic words." Pet. App. at 13a.

Since the Petition and three dissents below explain at some length the remaining pitfalls of the Ninth Circuit's approach, those will not be repeated here. Pet. App. at 26a–41a, 80a–115a.

Through its alternate proposal, MCMC seeks to protect Adventists from the "truly religious"

inquiry. Detwiler's concerns certainly encompass Adventists but extend to all religious claimants likely to be affected. Here, the parties' paths diverge.

B. MCMC's "real-world" test would benefit some religious claimants at the expense of others.

MCMC now offers for the first time an alternative "real-world" test. To this end, MCMC distinguishes conflicts of belief that it considers obvious, like Sabbath accommodation and Muslim head scarves, from the present. RB at 20–22. For less recognizable practices like Detwiler's, MCMC insists that "a conflict with a religious belief depends on the existence of real-world objective facts that are contestable and contested." *Id.*

MCMC then urges that religious objectors like Detwiler be required to show, at the pleading stage, "the existence of the factual predicates in order to establish that the employment practice actually does conflict with the plaintiff's asserted religious beliefs." RB at 22. In other words, a plaintiff's asserted conflict of conscience would be subjected to judicial second-guessing of underlying facts at the outset. This sounds less like pleading than proving one's claims. For the reasons that follow, this test is not an improvement on what it seeks to replace.

C. Any test for Title VII claims that skips Title VII's text should be a non-starter.

The first problem with MCMC's proposed test is that it finds no support in Title VII's broad statutory definition of religion, 42 U.S.C. § 2000e(j),

or its implementing regulations, 29 C.F.R. § 1605.1. Rather, MCMC's new test appears to have been invented from thin air, which may explain why it further appears not to have been adopted by any other court.

Missing in MCMC's new invention are the cogs and wheels of the governing text, which protects "all aspects" of religious observance and practice, as well as belief, unless the employer demonstrates undue hardship. MCMC would add the equivalent of a second clause: "or unless the employee's belief, observance, or practice is not self-evident, in which case the employee must demonstrate real-world objective facts supporting the conflict."

This approach, though stated differently than that of the Ninth Circuit, commits the same foundational error. It is similarly susceptible to the criticisms of the dissents leveled at the "truly religious" test. *See*, *e.g.*, Pet. App. at 103a–104a (Tung, J., dissenting) (discussing 42 U.S.C. § 2000e(j)).

MCMC's creation is not entirely new; it is the latest in a string of attempts by employers to add restrictions and carve-outs to Title VII. Pet. at 22 (discussing and quoting *EEOC v. Abercrombie & Fitch Stores, Inc.*, 575 U.S. 768, 774 (2015); *Muldrow v. City of St. Louis*, 601 U.S. 346, 357–58 (2023); *Ames v. Ohio Dept. of Youth Servs.*, 605 U.S. 303 (2025)). This Court's admonitions have gone unheeded and should be reiterated here.

D. MCMC's proposed two-tiered system favoring "self-evident" conflicts of belief is unworkable and untenable.

The first step in MCMC's proposed test is for the Court to distinguish between "readily apparent" or "self-evident" conflicts and those which are not. RB at 20–21. Setting aside for a moment the extra-statutory and likely unconstitutional nature of such a division, the Circuits already disagree as to what is self-evident in this context. Assessing beliefs much like Detwiler's, the Sixth Circuit used similar terminology in nearly the opposite fashion. It held that receiving guidance through prayer on a COVID-19 vaccine-related decision, and acting upon it, were allegations "almost self-evidently enough to establish, at the pleadings stage, that her refusal to receive the vaccine was an aspect of her religious observance or belief." *Lucky v. Landmark Med. of Mich., P.C.*, 103 F.4th 1241, 1243 (6th Cir. 2024).

More fundamentally, any two-tiered system where well-recognized objectors proceed directly to "Go" while everyone else must meet additional requirements is reminiscent of the background circumstances test this Court considered and rejected last year in *Ames v. Ohio Dept. of Youth Servs*. There, as here, an additional hurdle had been erected for claimants whose discrimination was less obvious to the lower courts. Fortunately, those barriers were removed by this Court. The latest obstacles installed by the Ninth Circuit, and the alternate hurdles proposed by MCMC, should likewise be leveled.

MCMC's pitch that its "real-world" test is "no risk that courts will trench on theological commands,"

RB at 22, is wishful thinking. It might present lower risk for Sabbatarians, but it still runs headlong into Judge Forrest's criticism of the Ninth Circuit's test: such an approach "risks reducing the freedom of belief to the freedom of accepted belief, which is not freedom at all." Pet. App. at 82a (Forrest, J., dissenting).

Even for Adventists and more traditional religious groups, MCMC's alternative path, like that charted by the Ninth Circuit, leads to intractable questions. Take, for instance, the Adventist warnings against the dangers of alcohol, tobacco, and illegal drugs. RB at 15. Should the protectability of such beliefs be made to depend on shifting scientific consensus on whether such substances are truly beneficial or harmful? And does a religious prohibition against use of "illegal" drugs depend on current political or social consensus in the same way that Detwiler's beliefs are supposed by MCMC to depend on prevailing medical judgment? Spiritual beliefs cannot easily be cordoned off from the "real world." Many other implications of both the Ninth Circuit's test and MCMC's alternative should be explored in merits briefing, amicus participation, and oral argument. The stakes are high for many more religious claimants than just Detwiler.

E. MCMC cannot reasonably describe beliefs as "contested" and then declare the contest over before it begins.

MCMC asserts the need to prove facts to a jury, RB at 18–19, and it dissects Detwiler's mention of carcinogens, RB at 9–10, as though it were preparing for trial. But its new test seeks to ensure that plaintiffs like Detwiler never make it to discovery, let

alone to a jury, with their allegations. Instead, MCMC seeks the Court's interposition to declare Detwiler's "contestable and contested" facts invalid at the pleading stage. And so far, this strategy has worked.

Detwiler's problem, as MCMC frames it, is that she pled too much about her beliefs, not too little. In the topsy-turvy world of the Ninth Circuit's current jurisprudence, she would have been better off describing her beliefs with little elaboration. This turned out to be the winning strategy for another plaintiff with similar beliefs who refused to answer her employer's follow-up questions about her beliefs and was fired, but ultimately succeeded in getting her claims past the pleading stage. *Weiss v. Permanente Medical Grp., Inc.*, 182 F.4th 1139 (9th Cir. 2026) (emphasizing employer's awareness of the employee's religious conflict due to her vaccine exemption request, distinguishing *Detwiler* because this plaintiff stopped short of offering scientific support).

The ironies run deep. All reasonable inferences have been drawn against, not in favor of, this non-moving Title VII plaintiff. And were Detwiler's claims to reach a jury, or even summary judgment, the trier of fact would learn that her beliefs were not actually contested at the time of her firing. Rather, the employer accepted her beliefs and conflict first as to the vaccine, Pet. at 4, then as to the nasal swabs before terminating her instead based on alleged impracticality and hardship, Pet. at 6. The supposed deficiency with Detwiler's beliefs first appeared in litigation, where a background fact became the primary basis on which the courts rejected her Title VII claims and have now built a new doctrine.

Either the employer should be required to defend the actual reasons given at the time for its termination decision, or the employee should be permitted to defend her beliefs to the trier of fact. A system in which the employer may change the reasons for its decision post hoc, contest the employee's religious conflict for the first time in litigation, and then prevent the employee from even supporting her beliefs is surely not the weaponization of FRCP 12(b)(6) that this Court intended.

F. Plausibility cannot become a paring knife to dissect religious beliefs, as MCMC proposes.

Lastly, MCMC would have courts dissect religious beliefs to ascertain whether they "depend" on "real-world" facts. RB at 21. This is not materially different from the Ninth Circuit's "truly religious" test. Both are irreconcilable with the longstanding guidance that "[c]ourts should not undertake to dissect religious beliefs." *Thomas v. Rev. Bd. of Ind. Emp. Sec. Div.*, 450 U.S. 707, 714-15 (1981).

The Circuits are now divided on the basic question of whether plausibility means examining every supporting fact of a Title VII claim for verifiability. *See*, *e.g.*, *Ringhofer v. Mayo Clinic Amb.*, 102 F.4th 894, 901 (8th Cir. 2024) (noting that at pleading stage, complaint should be read as a whole, not parsed piece by piece to determine whether each allegation in isolation is plausible).

Relatedly, MCMC would further invert the traditional Title VII approach which asks whether the religious objector's beliefs are "purely secular," and if

so, they are unprotected. Pet. App. at 103a (Tung, J., dissenting). The new test operates conversely, protecting only beliefs deemed purely religious.

There is reason to question whether plausibility and pleading the prima facie elements of Title VII claims are strictly necessary under this Court's precedents in the manner assumed by the Ninth Circuit and MCMC.[2] At a minimum, this Court should clarify that plausibility does not mean parsing either probity or purity of beliefs.

CONCLUSION

The parties agree on the importance of the issues presented in this case, the deep conflict among the Circuits, and the unworkability of the Ninth Circuit's "truly religious" test. For the additional reasons stated above, the Petition should be granted as to Detwiler's Question Presented or a substantially similar question designed to resolve the Circuit split currently harming Title VII religious claimants.

Respectfully submitted this 2nd day of November 2026,

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[2] As the Petition explains, Detwiler believes the lower courts have mistakenly minimized the import of *Swierkiewicz v. Sorema N.A.*, 534 U.S. 506 (2002), for both plausibility and pleading prima facie elements of Title VII claims. Pet. at 29–31. But the present Circuit split could be resolved without reaching those issues.

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