

26-5532

ORIGINAL

No. _____

FILED

AUG 17 2026

OFFICE OF THE CLERK
SUPREME COURT, U.S.

IN THE

SUPREME COURT OF THE UNITED STATES

Jason A. Czekalski — PETITIONER
(Your Name)

vs.

Helen Hanks, et al. — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

United States Court of Appeals for the First Circuit
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Jason A. Czekalski
(Your Name)

281 North State Street, P.O. Box 14
(Address)

Concord, NH 03302
(City, State, Zip Code)

N/A
(Phone Number)

QUESTION(S) PRESENTED

1. Whether, under RLUIPA, the defendants may claim a compelling penalogical interest and least restrictive means in their restrictions on religious activities where they allow greater leeway and opportunity for secular activities they chose to support.
2. Whether plaintiff is entitled to receive compensatory sanctions under Rule 11(b) where defendants made substantive changes to policy that could have benefitted plaintiff and shortened litigation by years but failed to amend filings to disclose the policy change.
3. Whether plaintiff's award of costs should have reflected the actual monetary benefit he received from the final judgment in his favor rather than having been based only on the number of claims he prevailed on.
4. Whether summary judgment may be granted for defendants based on failure of plaintiff to show deliberate indifference where deliberate indifference is a state-of-mind question that can only be demonstrated through in-court testimony and crossexamination.
5. Whether exhaustion of administrative remedies is a question of fact that must be submitted to the trier of fact.
6. Whether, in light of the Court's recent decision in Landor, inmates may, under RLUIPA, recover actual out-of-pocket expenses incurred due to defendants' violations of religious rights.

LIST OF PARTIES

[] All parties appear in the caption of the case on the cover page.

~~XX~~ All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

Jason A. Czekalski, plaintiff

v.

Helen Hanks, in her official and individual capacities

and

James Daly, in his individual capacity

RELATED CASES

Jason A. Czekalski v. Helen Hanks, et al., 18-cv-592-PB(U.S.D.C. D.N.H.)

TABLE OF AUTHORITIES CITED

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<u>Farrah v. Hobby</u> , 506 U.S. 103(1992).	10
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<u>N.Y. State Rifle & Pistol Assn. v. Bruen</u> , 597 U.S. 1(2022).	6
<u>Mars Steel Corp. v. Continental Bank, N.A.</u> , 880 F.2d 428(7th Cir. 1989).	9
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APPENDIX F

IN THE
SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

~~XXX~~ For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix A to the petition and is

☐ reported at _____; or,

☐ has been designated for publication but is not yet reported; or,

~~XXX~~ is unpublished.

The opinion of the United States district court appears at Appendix B to the petition and is

~~XXX~~ reported at 2022 Dist.LEXIS 34870; or,

☐ has been designated for publication but is not yet reported; or,

☐ is unpublished.

☐ For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix _____ to the petition and is

☐ reported at _____; or,

☐ has been designated for publication but is not yet reported; or,

☐ is unpublished.

The opinion of the _____ court appears at Appendix _____ to the petition and is

☐ reported at _____; or,

☐ has been designated for publication but is not yet reported; or,

☐ is unpublished.

JURISDICTION

☒ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was October 27, 2025.

☐ No petition for rehearing was timely filed in my case.

☒ A timely petition for rehearing was denied by the United States Court of Appeals on the following date: March 24, 2026, and a copy of the order denying rehearing appears at Appendix C.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. A.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

☐ For cases from **state courts**:

The date on which the highest state court decided my case was _____.
A copy of that decision appears at Appendix _____.

☐ A timely petition for rehearing was thereafter denied on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. A.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

TITLE 42 U.S.C. §1983. Civil Action for Deprivation of Rights

Every person who, under the color of any statute, ordinance, regulation, custom, or usage of any State or Territory or the District of Columbia, subjects or causes to be subjected, any citizen of the United States or other persons within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress, except that in any action brought against a judicial officer for an act or omission taken in such officer's official judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable.

TITLE 42 U.S.C. §1997e. Suits by Prisoners

(a) **Applicability of administrative remedies.** No action shall be brought with respect to prison conditions under section 1979 of the Revised Statutes of the United States (42 U.S.C. 1983), or any other Federal law, by a prisoner confined to any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted.

TITLE 42 U.S.C. 2000cc-1. Protection of Religious Exercise of Institutionalized Persons

(a) **General rule.** No government shall impose a substantial burden on the religious exercise of a person residing in or confined to an institution, as defined in section 2 of the Civil Rights of Institutionalized Persons Act (42 U.S.C. 1997), even if the burden results from a rule of general applicability, unless the government demonstrates that imposition of the burden on that person -

- (1) is in furtherance of a compelling government interest; and
- (2) is the least restrictive means of furthering that compelling government interest.

New Hampshire Constitution, Part 1, Article 6. Morality and Piety.

As morality and piety, rightly grounded on high principles, will give the

best and greatest security to government, . . . But no person shall be compelled to pay towards the support of the schools of any sect or denomination. And every person, denomination or sect shall be equally under the protection of the law; and no subordination of any one sect, denomination or persuasion to another shall be established.

STATEMENT OF THE CASE

Petitioner is challenging decisions by the District Court and the Court of Appeals that allow the defendants to significantly restrict petitioner's right to practice his religion. Petitioner is also challenging procedural decisions by the District Court that were unduly prejudicial to petitioner.

Petitioner was arrested on January 21, 2013 and after conviction at trial, has been held in the custody of the New Hampshire Department of Corrections (NHDOC) since that time. Petitioner has identified as Jewish since soon after his arrest and during his entire time with the NHDOC.

During the period from September, 2015, through April, 2018, petitioner filed numerous grievances concerning religious issues. These include the second-class treatment of Jewish clergy; limit on number of personal religious books; religious cellfeeds; definitions of a kippah; and inmate access to catalogs for books and religious property. On June 25, 2018, having received no relief through NHDOC grievance process, petitioner filed an eight-count complaint in the Federal District Court under 42 U.S.C. 1983 and RLUIPA.

On December 8, 2020, the trial court granted partial summary judgment to defendants on all but one count, the RLUIPA claim for religious cell feeds. On May 15, 2023, after a bench trial, petitioner was awarded his religious cell feeds. Plaintiff was awarded part of his costs as the prevailing party.

At some point during the pendency of this case, defendants changed their Policy and Procedure Directive (PPD) that addressed call feeds to allow Chaplains to approve cell feeds for religious purposes. This change was only brought to plaintiff's and the court's attention during the final pretrial stage. Plaintiff filed a motion for sanctions under Rule 11(b), but that motion was denied.

After the remained of petitioner's motions for reconsideration was denied, petitioner filed his Notice of Appeal on July 7, 2023. The Court of Appeal issued a summary affirmance on October 27, 2025. Petitioner's timely-filed petition for panel rehearing and en banc review was denied on March 24, 2026.

Petitioner filed a motion requesting an extension of time to file his petition and was granted an extension until August 21, 2026.

REASONS FOR GRANTING THE PETITION

In 2015, the Court made clear what the standards are for the Religious Land Uses and Institutionalized Persons Act, 42 U.S.C. 2000cc (RLUIPA). Holt v. Hobbs, 574 U.S. 352(2015). In that decision, the Court found unequivocally that, once an inmate demonstrated sincerity and substantial burden, the ENTIRE burden shifted to correctional officials. However, despite the clear guidance given in that decision, lower courts, both at the district and appellate levels, have continued to be wishy-washy in enforcing inmate religious rights. This attitude bears an unfortunate resemblance to these same courts' attitudes toward the Second Amendment post-Heller and post-Bruen. In addition, these courts are misusing or allowing the misuse of court procedure to block enforcement of inmates' religious rights.

Given the Court's and the Nation's renewed interest in and support of religious rights (especially in the post COVID era), as well as Congress' twice-stated intent that inmate religious rights are to be a national policy priority (RFRA and RLUIPA), the Court needs once again to make clear that it means what it says regarding these rights, and to set some more definitive standards for the lower courts to follow.

Question #1: Whether, under RLUIPA, the defendants may claim compelling penalogical interest and least restrictive means in their restrictions on religious activities where they allow greater leeway and opportunity for the secular activities they support.

On two specific questions (four claims total), the defendants have been allowed to trample inmate religious rights. In one instance, defendants place clergy of one religion (Catholicism) above all others, and allow for fewer security restrictions on staff and contractors (despite these people being the greatest security risk) than on religious volunteers.

CLERGY

Defendants' Policy and Procedure Directives (PPDs) regarding religious volunteers are based entirely on the functions of a Latin or Orthodox Catholic priest (and to some extent Anglican priests). It disregards the nature and function of most of the rest of the World's clergy, to include Protestant Christians.

Additionally, defendants place severe security restrictions on religious vol-

unteers that are far in excess of what they place on their own staff. This is done in spite of the fact that it is defendants' own staff and former staff that are the security risks. One situation raised in petitioner's filings was civilian cook Charles Hanson who was arrested attempting to introduce \$60,000 worth of Suboxone into a NHDOC facility. A more recent incident involved Sergeant Inman (FNU) who was distributing controlled substances on NHDOC property. Yet the worst offenses that any religious volunteer has ever been accused of is introducing religious calendars, catalogs, newsletters, and the like. So, while defendants have placed ever-more severe restrictions on outside religious volunteers, they have made no changes regarding NHDOC staff.

The trial court refused to fully address this issue based primarily of petitioner's failure to exhaust administrative remedies. As such, the Court could pass on this part of Question #1 by finding in petitioner's favor on Question #5 below and remanding this question to the trial court for trial.

BOOK LIMITS

On this question, defendants have admitted that they allow inmates to possess more than 12 books in their cells (the limit for personal books). These include books from: the prison recreation library (6); NHDOC education (6+); the prison Chapel library (4); and approved outside education programs (unlimited). On this last item alone, the Blackstone Institute Paralegal Program (approved, endorsed, and very popular with all elements of NHDOC) can consist of 30+ books in an inmate's possession in his/her cell for well over two years while they are taking the course.

Given that defendants' primary argument supporting their position is fire load, this is self-contradictory. This flies in the face of the RLUIPA standards of COMPELLING penological interest and LEAST restrictive means.

Defendants do offer two alternatives for inmates with too many personal books. First, they can ship them out to an outsider to hold. This may work for inmates with short sentences, but has three fatal flaws for everyone else. The first is that many religious books need to be accessed repeatedly, so sending them out denies the inmate this necessary access. Secondly, this requires the inmate to repeatedly repurchase these books as defendants will not allow them back into the facility once they have been in the possession of an outside civilian. Finally, in petitioner's case in particular, this is a waste because petitioner is serving an effective life sentence (a 30-to-60 years sentence given at age 52), so his books are placed forever beyond his reach.

The second alternative is for petitioner to donate his excess books to the recreation or Chaple libraries. This, in turn, has two fatal flaws. The first is that petitioner will now have to compete with every other inmate in the facility for access to his books, which means that he may not be able to access them when he actually needs them. Issue number two is even more problematic: it constitutes a tax on the practice of religion and religious learning. This is an issue that both the defendants and the lower court have outrightly ignored: they refuse to even acknowledge it despite the fact that petitioner has raised it in almost every filing he has made with the courts. It becomes even more problematic in light of the New Hampshire Constitution's ban on spending tax money on sectarian education. Part 1, Article 6, N.H. Constitution. This means that every book in the NHDOC Chaple libraries has to be a donation.

In the end, this "alternative" creates two serious legal problems. First, it imposes a charge on petitioner for a right granted by the federal constitution. Murdock v. Pennsylvania, 319 U.S. 105, 113(1943). Second, this "tax" acts to suppress petitioner's enjoyment of his right to learn and practice his religion. Id. at 112.

As demonstrated above, defendants' arguments regarding compelling penalogical interest are self-contradictory, self-serving, self-deluding lies. There is no such interest on this issue.

As for the least restrictive means standard, petitioner has offered several alternative which are used in other prisons, as well as NHDOC, which defendants have rejected. The first is on-site storage of books in excess of 12. Defendants have done this in the past with inmate legal documents. See also Washington v. Klem, 497 F.3d 272(3d Cir. 2007). Another alternative is an Apple iPad sold by Artscroll Publications (the major Jewish book publisher) that would come pre-loaded with the vast majority of the books petitioner would need. This would allow him to keep within the 12-book limit for those books not part of that digital library. Defendants already issue digital tablets to inmates for OFFICIAL and recreational uses. Lastly, petitioner also offered to use a page-count system so that an 80-page book does not get counted the same way as a 2200-page TANACH.

Finally, in its summary affirmance of the trial court's decision, the Court of Appeals did not even follow its own precedent, Spratt v. R.I. Dept. of Corr., 482 F.3d 33(1st Cir. 2004). The practices and property allowed to Spratt in that decision are not as important as those denied to petitioner in this case. In particular, full access to a Rabbi and access to adequate number of books are para-

mount to the practice of Judaism. While the Spratt defendant's behaviors did create a substantial burden, defendants' conduct in this case falls just short of a ban on petitioner's practice of his religion.

Certiorari needs to be granted on this question to compel defendants to explain their policies and for the Court to make it clear that under RLUIPA secular activities do not get more preferential treatment than religious activities.

Question #2: Whether plaintiff is entitled to receive compensatory sanctions under Rule 11(b) where defendants made substantive changes to policy that could have benefitted plaintiff and shortened litigation by years but failed to amend filings to disclose the policy change.

As any law school graduate knows, Rule 11(b) is one of the most important rules an attorney has to deal with. It is intended to prevent frivolous actions and unnecessary prolongation of litigation and waste of judicial resources. Mars Steel Corp. v. Continental Bank, NA, 880 F.2d 928, 932(7th Cir. 1989).

Throughout most of the trial court stage of this case, defendants' argument against petitioner receiving religious cellfeeds was that they were not allowed under policy. At some point during the litigation, in either 2021 or 2019 (the latter date being before summary judgment was granted), defendants amended the policy to allow Chaplains to approve religious cellfeeds. This fact was never disclosed to petitioner or the court until the final pretrial proceedings.

Part of the trial court's logic in denying petitioner's motion for sanctions was that petitioner could have discovered the change using the law library. This is erroneous for two reasons. First, this was the COVID era, the the prisons' law libraries were closed. The second problem (which still exists at this very moment) is that there is a long-standing problem with NHDOC law libraries failing to have current PPDs available. Even at the time of petitioner's motion for sanctions, the version of the PPD available in the prison law library was pre-2019 and did not contain the amendment.

The second part of the trial court's argument was that Rule 26(a)(1)(B)(iv) exempts pro se inmate actions from the ongoing disclosure requirement. The trial court erred on this point as that rule deals only with the initial disclosures, not ongoing disclosures. However, even if the trial court's position is accepted as correct, this would create a clear conflict between Rule 26 and the stated purpose of Rule 11(b): to prevent unnecessary waste of judicial resources.

The trial court's final argument that petitioner's assertion that earlier disclosure of the change would have led to earlier disposition of the case is purely speculative. This is an error. Earlier disclosure would have taken away defendants' sole argument for denying the religious cellfeeds: they are not allowed under the policy. At that point, there is no compelling penological interest and denial is not the least restrictive means. As such, the trial court would have been compelled to grant petitioner relief, either as part of summary judgment or soon thereafter.

Certiorari needs to be granted on this question so that Court can make clear that the trial court's interpretation of Rule 26(a)(1)(B)(iv) is erroneous and conflicts with the clear purposes of Rule 26 generally and Rule 11(b) specifically. More importantly, the Court must make clear that state defendants and their attorneys cannot use their superior position and resources to the unfair prejudice of pro se inmate litigants, and that state defendants and their attorneys are required to comply fully with both the letter and spirit of Rule 11(b).

In light of the Court's recent decision in Landor, rules need to be set down that discourage state actors from prolonging litigation for pro se inmate litigants. The ability to recover sanctions and costs is often the only thing that allows an inmate to enter prolonged litigation.

Question #3. Whether plaintiff's award of costs should have reflected the actual monetary benefit he received from the final judgment in his favor rather than having been based solely on the number of claims he prevailed on.

Pursuing the enforcement of their rights is an extremely expensive proposition for an inmate. This has only been made more so by PLRA. As such, an inmate must consolidate all related claims into a single filing. By their nature, some claims have greater financial importance to an inmate than others.

The standard for a prevailing party's recovery of costs is that the costs must bear a relation to the benefit gained. Farrah v. Hobby, 506 U.S. 103(1992).

In this case, petitioner filed eight claims, two of which addressed religious cellfeeds (one each RLUIPA and 1983). Of the issues raised, this was the only one costing petitioner money out of his pocket. As such, success on either of claims would result in a cessation of petitioner's financial losses. However, the trial court decided to award costs based solely on the number of claims won as compared to the total number of claims. Given that six of petitioner's claims cost him nothing in out-of-pocket expenses, the award of costs had no relation to the

actual benefit gained. Even an award of 100% of his costs would still not have made up for the expenses petitioner had incurred during the years this suit was pending.

Certiorari needs to be granted on this question so that the Court can clarify how the award of costs are to be related to the prevailing party's benefit gained by the judgment. The idea of successful claims as a percentage of all claims must be replaced by an evaluation of any actual financial benefit.

And again, in light of the Court's recent decision in Landor, rules need to be set down that discourage state actors from prolonging litigation for pro se inmate litigants. The ability to recover costs is often the only thing that allows an inmate to enter prolonged litigation.

Question #4: Whether summary judgment may be granted for defendants based on failure of plaintiff to show deliberate indifference where deliberate indifference is a state-of-mind question that can only be demonstrated through in-court testimony and cross-examination.

Deliberate indifference is a state of mind. Farmer v. Brennan, 511 U.S. 825, 834(1994). As such, the presence or absence of deliberate indifference can rarely if ever be demonstrated by paper pleadings. It requires in-court testimony and cross-examination. Anderson v. Liberty Lobby, Inc., 477 U.S. 242(1986).

And yet, this is petitioner's second case in which the trial court found that petitioner had not demonstrated that defendants had the requisite state of mind. Czekalski v. Wrenn, 2026 U.S.LEXIS 2637(#25-7236). And in both cases, the Court of Appeals summarily affirmed the trial court's finding. These findings by the trial court and the Court of Appeals are becoming routine in inmate cases.

Certiorari needs to be granted on this question so that the Court can clarify that no state-of-mind question can be answered in paper filings. If an inmate plaintiff meets all other elements of deliberate indifference, and malicious intent is the only question remaining, then summary judgment must be denied.

Question #5: Whether exhaustion of administrative remedies is a question of fact that must be submitted to the trier of fact.

Failure to exhaust administrative remedies is an affirmative defense. Jones v. Bock, 549 U.S. 199(2007). Affirmative defenses are an issue of fact for the jury when exhaustion is intertwined with the merits. Richard v. Perttu, 96 F.4th 911(6th Cir. 2024).

Soon after petitioner's suit was initiated, a slight change was made allowing petitioner slightly altered access to his Rabbi. This change did not, on petitioner's estimation, change the essential nature of the underlying questions. A Jewish inmate's access to a Rabbi was and still is different from a Catholic inmate's access to a priest. Because petitioner did not grieve the specifics of the new rule, which he did not see as substantially different from the old rule, the trial court granted summary judgment for defendants on the failure to exhaust issue.

In this case, whether administrative remedies had been properly exhausted was a factula issue that was intertwined with the very nature of the claim: are Jewish inmates' access to a Rabbi prejudicially different than a Catholic inmate's access to a priest. As such, it should have been reserved for trial.

Certiorari needs to be granted on this issue so that the Court can clarify that PLRA exhaustion requirement is not only an affirmative defense but a fact that must be reserved for the jury. In the alternative, the Court needs to better define what it means for exhaustion to be intertwined with the merits of a claim.

Question #6: Whether, in light of the Court's recent decision in Landor, inmates may, under RLUIPA, recover actual out-of-pocket expenses due to defendants' violations of religious rights.

It has long been held that RLUIPA does not allow for the recovery of damages. The Court recently upheld that position. Landor v. La. Dept. of Corr., 146 S.Ct. 1931(2026). However, in that case, the inmate was seeking compensatory damages for a past harm, the illegal (and malicious) cutting of his dreadlocks. While there was an actual harm, there was no actual expense incurred by plaintiff.

What petitioner wishes to address, and an issue closely connected to Question #2 above, are the actual out-of-pocket expenses an inmate incurs during the many years a RLUIPA case can get drug out. This is particularly an issue with religious diets, where the law is now well-established, but where proving deliberate indifference for a §1983 suit may be difficult to impossible. This delay is often exacerbated by delaying tactics and other questionable legal practices (like withholding relevant amended prison rules) by defendants and their state-provided attorneys (see Question #2 above).

In this case, petitioner went from September, 2015 (the filing of petitioner's first complaint), to May, 2023 (the trial court's final order, a period of approximately seven years. This was approximately 2,795 days of petitioner having

to pay for his own breakfast. As this delay cost defendants nothing, they had no incentive to expedite the process. They had no incentive to make sure issues like Question #2 above did not happen.

Plainly stated, the present system incentivizes defendants NOT to solve simple RLUIPA issues, particularly religious diets issues, where defendants can sit and wait for the plaintiff to cave and violate his religious dietary requirements, at which point defendants will attempt to use the violation they caused as proof against the plaintiff.

As such, certiorari needs to be granted on this issue, even more so that any of the five above, because a rule that allowed inmates to recover their out-of-pocket costs from the day of their first written complaint would incentivize corrections officials to resolve RLUIPA claims rather than allowing protracted litigation. This creates two big wins. The first is inmates with legitimate RLUIPA claims, who are more likely to be dealt with fairly at the beginning of the process. The second big winner is America's courts, as a significant number of RLUIPA cases would never see court.

Conclusion

When Congress passed specific religious protections for inmates, first with RFRA then with RLUIPA, it was making a clear policy declaration: Inmate religious rights are a national policy priority. And yet, 30 years after the passage of RFRA, and over 20 years after the passage of RLUIPA, corrections officials still do not appear to take these statutes seriously. If they did, there would not be so many cases in court. Now the Court has made its position clear: these are statutory rights that are binding on the government. However, there are still lower courts that do not seem to be getting the Court's message. These lower courts still create unnecessary and unsupportable obstacle to inmates pursuit of legitimate religious rights claims. And the Court's recent decision in Landor, though legally correct with respect to the exact wording of the statute, will be conflated by corrections officials to mean much more than it said. They will glom onto it as a sign that the Court is going soft on inmate religious rights. This petition contains questions that will assist the Court in preventing that image.

Respectfully submitted

Date AUGUST 12 / 2026