

No. _____

In the Supreme Court of the United States

CROSSPOINT CHURCH,

Applicant,

v.

A. PENDER MAKIN, IN HER OFFICIAL CAPACITY AS COMMISSIONER OF THE MAINE DEPARTMENT OF EDUCATION; MEGAN SANDERS, EDWARD DAVID, JULIE ANN O'BRIEN, MARK WALKER, AND THOMAS L. DOUGLAS, IN THEIR OFFICIAL CAPACITY AS COMMISSIONERS OF THE MAINE HUMAN RIGHTS COMMISSION,

Respondents.

**APPLICATION FOR AN EXTENSION OF TIME TO FILE
A PETITION FOR A WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS FOR THE FIRST CIRCUIT**

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Corporate Disclosure Statement

In accordance with Supreme Court Rule 29.6, Applicant Crosspoint Church states that it has no parent corporations and that no publicly held corporation owns 10% or more of its stocks.

**TO THE HONORABLE KETANJI BROWN JACKSON, CIRCUIT JUSTICE FOR THE U.S.
COURT OF APPEALS FOR THE FIRST CIRCUIT:**

In accordance with Supreme Court Rule 13(5), Applicant Crosspoint Church respectfully requests a 60-day extension of time to file a petition for a writ of certiorari, to and including November 30, 2026. The U.S. Court of Appeals for the First Circuit issued its judgment affirming in part and reversing in part the district court's final judgment on July 2, 2026. *See* Ex. 1. Unless an extension is granted, the deadline for filing the petition certiorari will be September 30, 2026. Crosspoint has not previously sought or received an extension of that deadline. This Court has jurisdiction to review the judgment below under 28 U.S.C. §1254(1).

In support of this request, Crosspoint states as follows:

1. This case implicates critical issues under the Free Exercise Clause. Crosspoint Church operates Bangor Christian School, one of the schools at issue in *Carson v. Makin*, 596 U.S. 767 (2022). BCS educates children in an intentionally Christian environment. Crosspoint believes that marriage is a union ordained by God to be between one man and one woman and that God has created two sexes. Crosspoint operates BCS according to its faith. At BCS, students are required to attend the weekly chapel service. The student code of conduct requires students to wear clothing consistent with their biological sex and prohibit students from identifying as a gender other than their biological sex. The code of conduct also prohibits students from engaging in sexual activity outside of marriage, as defined in the statement of faith. A student who persistently advocates beliefs contrary to BCS's statement of

faith is considered not to agree and cooperate with BCS's mission and is subject to removal from the school. In *Carson*, the Court held that Maine's ban on religious schools that the State deemed to be "sectarian" from participating in the State's generally applicable tuition program was unconstitutional. *Id.* at 789.

2. In 2021, while *Carson* was pending before this Court, Maine amended its Human Rights Act, which applies to private schools that accept Maine's tuition funds, in various ways. *See* Ex. 1, at 3-5. First, Maine drastically narrowed the pre-existing exemption for religious schools from gender-identity and sexual-orientation discrimination claims to be available only for religious schools that "do[] not receive public funding." Me. Stat. tit. 5, §4602(5)(C). Second, Maine added religious discrimination claims as cognizable claims even against religious schools. Me. Stat. tit. 5, §4602(1). Third, the Human Rights Act added religious-expression discrimination claims, stating that religious schools "cannot discriminate between religions" if they permit religious expression. Me. Stat. tit. 5, §4602(5)(D).

3. After this Court issued its decision in *Carson*, Maine's Speaker of the House Ryan Fecteau issued a tweet approving the statement that "Maine just changed the [Human Rights Act's] guidelines to exclude schools that discriminate against LGBTQ+ students" and separately stating "Sure did. Anticipated the ludicrous decision from the far-right SCOTUS." CA1.JA.280; *see* Ex. 1, at 15.

4. The upshot of these amendments was that, despite *Carson*, BCS did not apply to be approved for Maine's tuition program because BCS fears enforcement

action by the Maine Human Rights Commission and private plaintiffs if it were to continue operating according to its faith.

5. Crosspoint sued to challenge the 2021 amendments in federal court, raising free-exercise and free-speech claims. As relevant here, Crosspoint alleged that the 2021 amendments were neither neutral nor generally applicable and violated the Free Exercise Clause. The district court denied Crosspoint's motion for a preliminary injunction, finding no constitutional violations. 719 F. Supp. 3d 99 (D. Me. 2024). Following the denial of preliminary-injunction motion, the parties jointly moved to convert the district court's ruling on the preliminary-injunction motion into a ruling on the motion for a permanent injunction and final judgment. *See* Fed. R. Civ. P. 65(a)(2). The district court granted the motion and entered final judgment against Crosspoint. 2024 WL 2830931 (D. Me. June 4, 2024).

6. When Crosspoint appealed, the First Circuit affirmed in part and reversed in part. The First Circuit agreed with Crosspoint that the religious-expression discrimination provision "violates Crosspoint's free-exercise rights." Ex. 1, at 10 (citing Op.30-43, *St. Dominic Acad. v. Makin*, No. 24-1739 (1st Cir. July 2, 2026)). In the court's view, the religious-expression provision is "facially nonneutral" toward religion "because it singles out 'religious expression'" and fails under strict scrutiny. *St.Dominic.Op.40-43*. The First Circuit reversed the district court on this provision.

7. But the First Circuit affirmed the district court on other provisions, finding them neutral and generally applicable and applying rational basis. Ex. 1, at 10-11 (citing *St.Dominic.Op.45-107*). As for the gender-identity, sexual-orientation, and

religious discrimination provisions, the court found the 2021 amendments generally applicable even though Maine exempts out-of-state private schools that accept Maine’s tuition funds from the Human Rights Act. Ex. 1, at 10-11; *St.Dominic*.Op.70-74; *contra Tandon v. Newsom*, 593 U.S. 61, 62 (2021) (a law is not “generally applicable” if it “treat[s] *any* comparable secular activity more favorably than religious exercise”). The First Circuit also categorically discounted evidence of religious non-neutrality and concluded that Maine’s amendments were neutral. *See* Ex. 1, at 12-17; *contra Church of Lukumi Babalu Aye v. City of Hialeah*, 508 U.S. 520, 535 (1993) (examining “the effect of a law in its real operation” as “strong evidence” of non-neutrality); *Masterpiece Cakeshop v. Colo. Civ. Rts. Comm’n*, 584 U.S. 617, 639 (2018) (relevant factors also include “the historical background of the decision under challenge, the specific series of events leading to the enactment or official policy in question, and the legislative or administrative history, including contemporaneous statements made by the members of the decisionmaking body”).

8. This case implicates critical issues under the Free Exercise Clause currently under this Court’s review in *St. Mary Catholic Parish v. Roy*, No. 25-281, scheduled for oral argument on November 3, 2026. Like in *St. Mary*, this case concerns the important question of how courts should assess general applicability. *See St.Mary.Cert.Pet.i*. And this Court in *St. Mary* will also decide whether *Carson* has displaced *Smith* only when the government explicitly excludes religious people and institutions from a public benefit. *St.Mary.Cert.Pet.ii*. These questions, which the Court already found cert-worthy, are also implicated in this case. Indeed, many amici

in *St. Mary* have pointed Maine’s post-*Carson* maneuvers as a prime example of States contradicting this Court’s Free Exercise Clause decisions. *See, e.g.,* 22-States.*St.Mary.Cert.Br.*16-21; USCCB.*St.Mary.Cert.Br.*13-14. Separately, this case implicates an additional issue regarding how courts should analyze religious neutrality under *Lukumi* and *Masterpiece Cakeshop*.

9. Between now and the current due date of the petition, counsel has substantial obligations in other pending cases: preparing for and participating in depositions in *Weinberg v. National Students for Justice in Palestine*, No. 2:25-cv-3714-MCS-AJR (C.D. Cal.), which are currently scheduled for September 24 and 25, 2026; drafting a reply brief in *Isaac A v. Commissioner*, No. 25-11114 (11th Cir), a complex case involving a challenge to the State’s Medicaid program, which is currently due on October 3, 2026; overseeing an investigation of a State university; and overseeing ongoing fact and expert discovery in various litigation matters, including *Do No Harm v. Regents of the University of California*, No. 2:25-cv-4131-JWH-JDE (C.D. Cal).

10. Crosspoint requests an extension to prepare a petition that fully addresses the important and far-reaching issues raised by the decision below.

WHEREFORE, for the foregoing reasons, Crosspoint respectfully requests that their time to file a petition for a writ of certiorari be extended to and including November 30, 2026.

Respectfully submitted,

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September 15, 2026