

In the Supreme Court of the United States

SAMUEL STRULOVITCH, MS ACQUISITION I, LLC, AND 10 CLAREMONT AVENUE, LLC,
Applicants,

v.

MOSHE BAIN,
Respondent,

and

PARKVIEW OPERATING CO., LLC, WESTCHESTER GARDENS REALTY LLC,
JONATHAN BLEIER, AND ROBERT BLEIER,
Nominal Respondents.

On Emergency Application for a Stay Pending Appellate Review

**BRIEF *AMICUS CURIAE* OF
THE BECKET FUND FOR RELIGIOUS LIBERTY
IN SUPPORT OF APPLICANTS**

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INTEREST OF THE *AMICUS CURIAE*¹

The Becket Fund for Religious Liberty is a non-profit, nonpartisan law firm dedicated to protecting the free expression of all religious traditions. Becket has represented agnostics, Buddhists, Christians, Hindus, Jews, Muslims, Santeros, Sikhs, and Zoroastrians, among others, in lawsuits across the country. Becket has also represented numerous prevailing parties in this Court, including in several cases concerning the authority of religious organizations to govern their internal affairs and processes without improper government interference. See, *e.g.*, *Hosanna-Tabor Evangelical Lutheran Church & Sch. v. EEOC*, 565 U.S. 171 (2012); *Our Lady of Guadalupe Sch. v. Morrissey-Berru*, 591 U.S. 732 (2020); *Catholic Charities Bureau, Inc. v. Wisconsin Lab. & Indus. Rev. Comm’n*, 605 U.S. 238 (2025).

Becket submits this brief to clarify how the state court order below undermines the church autonomy protections this Court has previously recognized. In particular, the state court inserted itself into internal religious proceedings by ordering Strulovitch to “take all steps necessary” to have the beis din withdraw its determination made under Jewish law that Bain has refused to submit to its religious authority. Because the harms of the order will be immediate and irreparable, this case illustrates why immediate relief can be necessary where church autonomy concerns are present.

¹ No counsel for a party authored this brief in whole or in part, and no one other than *amicus*, its members, or its counsel made a monetary contribution to fund the brief’s preparation or submission.

INTRODUCTION AND SUMMARY OF ARGUMENT

Applicants rightly focus on the First Amendment harms to Strulovitch. But there is a deeper problem: Absent a stay from this Court, a civil court will cause distinct, irreparable, and immediate harm to “a religious body’s right to self-governance.” *Hosanna-Tabor*, 565 U.S. at 201 (Alito, J., joined by Kagan, J., concurring).

“It belongs not to the civil power to enter into or review the proceedings of a spiritual court.” *Watson v. Jones*, 13 Wall. 679, 730 (1872). And yet, a New York trial court purports to require Strulovitch—under threat of contempt—to keep “disputes among the parties * * * in front of this Court, and this Court only.” App.009. Strulovitch is further ordered to “take all steps necessary to have the Beis Din withdraw” the *seruv*, *ibid.*—a “letter of recalcitrance under Jewish law” issued by a religious tribunal to express “religious disapproval,” App.019-020—to “rectify” the “damage” to Respondent’s “reputation in the religious community,” App.009. Thus, the state court order seeks to reverse a *religious* determination by a *religious* tribunal to control its *religious* impact. That is a gross violation of the church autonomy doctrine, which bars “civil courts” from “disturb[ing] the decisions” of “ecclesiastical tribunal[s].” *Serbian E. Orthodox Diocese for U.S. of Am. & Canada v. Milivojevich*, 426 U.S. 696, 709 (1976).

This conclusion follows a long legal tradition recognizing religious institutions as “a parallel authority to the state, not a creature of state law.” *Catholic Charities*, 605 U.S. at 260 (Thomas, J., concurring). Violating that “ancient” principle, *McRaney v. North Am. Mission Bd.*, 157 F.4th 627, 634 (5th Cir. 2025), “for even

minimal periods of time, unquestionably constitutes irreparable injury,” *Mahmoud v. Taylor*, 606 U.S 522, 569 (2025). This Court should grant the stay to preserve the autonomy of religious tribunals in New York.

ARGUMENT

I. The Religion Clauses bar civil interference with religious adjudicatory systems, including the batei din of New York.

The Religion Clauses guarantee religious groups the “power to decide for themselves, free from state interference, matters of church government as well as those of faith and doctrine.” *Kedroff v. St. Nicholas Cathedral of Russian Orthodox Church in N. Am.*, 344 U.S. 94, 116 (1952). “State interference in that sphere would obviously violate the free exercise of religion, and any attempt by government to dictate or even to influence such matters would constitute one of the central attributes of an establishment of religion.” *Our Lady*, 591 U.S. at 746. This “general principle of church autonomy,” *ibid.*, is part of “[t]he structure of our government,” *Watson*, 13 Wall. at 730, and reflects the “special solicitude” that the Religion Clauses have for “the rights of religious organizations,” *Hosanna-Tabor*, 565 U.S. at 189.

In *Hosanna-Tabor*, this Court unanimously recognized church autonomy as a structural protection that stops civil courts from adjudicating whether a minister’s “threat to sue the Church violated the Synod’s belief that Christians should resolve their disputes internally.” 565 U.S. at 180. The Court held that such cases “concern[] government interference with an internal church decision that affects the faith and mission of the church itself,” *id.* at 190, thereby constituting state interference into

“a religious body’s right to self-governance,” *id.* at 201 (Alito, J., joined by Kagan, J., concurring).

Indeed, this Court has repeatedly upheld the principle that “civil courts shall not disturb the decisions of the highest ecclesiastical tribunal” in a religious body. *Serbian*, 426 U.S. at 709. That has been true since at least 1872, when “*Watson* [] left civil courts no role to play in reviewing ecclesiastical decisions” made resolving religious disputes. *Id.* at 712 (discussing *Watson*, 13 Wall. at 727-729). The same principle was reiterated in *Kedroff* and *Kreshik*, where this Court prohibited first the New York legislature and then the New York courts from transferring authority over a New York city cathedral, as doing so contravened “strictly a matter of ecclesiastical government.” *Kreshik v. St. Nicholas Cathedral*, 363 U.S. 190, 190-191 (1960) (discussing *Kedroff*, 344 U.S. at 116-117). And in *Presbyterian Church in U.S. v. Mary Elizabeth Blue Hull Memorial Presbyterian Church*, the Court similarly prohibited civil courts from “employing religious organizations as an arm of the civil judiciary to perform the function of interpreting and applying state standards.” 393 U.S. 440, 451 (1969). For that same reason, the Court later told the Illinois courts in *Serbian* that they cannot direct the Serbian Orthodox Church to install a different person as bishop. 426 U.S. at 698.

This drumbeat of case law is why lower courts today have no trouble concluding that they cannot tell a Lutheran denomination how to organize its polity, *Lutheran Church—Missouri Synod v. Christian*, 178 F.4th 193, 197 (5th Cir. 2026), or punish the Russian Orthodox Church Outside of Russia for how it communicated about

refusing to elect a bishop, *Belya v. Kapral*, — F.4th —, 2026 WL 2408741, at *1 (2d Cir. Aug. 18, 2026), or second-guess how The Church of Jesus Christ of Latter-day Saints explains tithing to the faithful, *Gaddy v. Corp. of the President*, 148 F.4th 1202, 1207-1208 (10th Cir. 2025); see also *Huntsman v. Corp. of the President*, 127 F.4th 784, 792 (9th Cir. 2025) (Bress, J., concurring) (same); *id.* at 800 (Bumatay, J., concurring). These conclusions are the logical result of the principle underlying church autonomy: “secular and religious authorities” operate in “distinct spheres.” *Catholic Charities*, 605 U.S. at 258 (Thomas, J., concurring).

This principle should apply with equal force to the batei din of New York. They too have “independence” from “state interference” in their decisions on matters affecting the faith and mission of Jewish polities. *Our Lady*, 591 U.S. at 746. But here, the New York trial court issued an order purporting to keep this case “in front of this Court, and this Court only,” and directing Strulovitch to take “all steps necessary to have the Beis Din withdraw” its *seruv*, “including withdrawing the entire proceeding.” App.009. Such an order turns the beis din into a puppet theater, with a civil court deciding who says what to the religious tribunal and when. That is wildly inconsistent with “the general rule that religious controversies are not the proper subject of civil court inquiry, and that a civil court must accept the ecclesiastical decisions of church tribunals as it finds them.” *Serbian*, 426 U.S. at 713.

Under the trial court’s ruling, Strulovitch is the instrument, but the beis din is the target. The trial court’s stated goal in dictating Strulovitch’s actions in a

religious court is “rectify[ing] the potential damage to Bain’s reputation in the religious community resulting from the issuance of the *seruv* by the Beis Din,” App.009. But a state trial court has no authority to countermand the *religious* impact of a religious court’s adjudication—and certainly no authority to order religious actions to undermine it. See *Hull*, 393 U.S. at 449 (“First Amendment values are plainly jeopardized when church property litigation is made to turn on the resolution by civil courts of controversies over religious doctrine and practice.”).

Indeed, in a similar case, Judge Kovner rejected a request to enjoin “further disseminating” a *seruv*’s claims. *Esses v. Rosen*, No. 24-cv-3605, 2024 WL 4494086, at *2 (E.D.N.Y. Oct. 15, 2024). She did so because “[a]ny implication of impropriety in the order of the beth din is plainly made in the context of the Orthodox Jewish faith,” “invit[ing] the Court to determine whether a rabbinical court properly applied religious principles in disapproving of plaintiff’s conduct.” *Id.* at *4 (cleaned up). Such “judicial intrusion into ecclesiastical doctrine and practice * * * is unquestionably forbidden ground under the First Amendment.” *Ibid.* (cleaned up); see also *Neiman Ginsburg & Mairanz, P.C. v. Goldburd*, 684 N.Y.S.2d 405, 407 (N.Y. Sup. Ct. 1998) (“[t]his court has no power to review the Beth Din’s determination that it was appropriate under Jewish law to issue the *seruv*,” as this is “a purely ecclesiastical question that has been decided by the Beth Din in accordance with what it perceives to be Jewish law”). Yet intrusion is exactly what the trial court ordered below.

II. The “neutral principles” approach does not apply to the matters of internal religious adjudication here.

The New York trial court claimed it could avoid this church autonomy violation by applying “neutral principles of secular law to the issues raised herein.” App.008. Accepting that end-run would eviscerate church autonomy.

The “neutral principles” approach was developed to resolve disputes over formal title to church property where competing factions each argued they were the “true” church entitled to ownership. See *Hull*, 393 U.S. at 449. This Court has “never” applied it outside that context. *McRaney*, 157 F.4th at 648; see also *LCMS*, 178 F.4th at 201 (noting this “property exception to the church autonomy doctrine is narrow”).

To the contrary, this Court has expressly rejected “reli[ance] on purported ‘neutral principles’” to adjudicate matters relating to “internal [church] discipline and government.” *Serbian*, 426 U.S. at 721, 724; see also *id.* at 715. That’s true even where, as here, the lower courts claimed they could avoid “determination of theological or doctrinal matters.” *Id.* at 721. Thus, *Hosanna-Tabor* unanimously rejected an invitation to impose “neutral principles” in matters of religious governance, recognizing that the purpose of the church autonomy doctrine is to *prevent* ostensibly “neutral” laws from “interfer[ing] with an internal church decision that affects the faith and mission of the church itself.” 565 U.S. at 190; cf. Brief for the Federal Respondent at 12, 25-27, *Hosanna-Tabor*, *supra* (No. 10-553) (urging application of “neutral principles” to ministerial selection); Brief for Respondent Cheryl Perich at 42-43, *Hosanna-Tabor*, *supra* (No. 10-553) (same). A “facially ‘neutral’ cause[] of action” still runs afoul of church autonomy when “*application of*

[its] neutral rules to religious institutions ‘concern[s] government interference’” in religious affairs. *McRaney*, 157 F.4th at 651 (emphasis in original) (quoting *Hosanna-Tabor*, 565 U.S. at 190)).

The same is true here. Church autonomy simply cannot protect “internal management decisions that are essential to the institution’s central mission” if a civil court can micromanage the withdrawal of a seruv whenever it disagrees with a beis din’s religious decision. *Our Lady*, 591 U.S. at 746. Cf. Lael Weinberger, *The Limits of Church Autonomy*, 98 Notre Dame L. Rev. 1253, 1277 (2023) (“Neutral principles * * * do not provide an outer limit for church autonomy. They eliminate church autonomy.”).

III. Gross state interference with religious adjudicatory systems requires immediate relief.

Right now, Strulovitch “must,” under court order, return to the beis din and “take all steps necessary to have the Beis Din withdraw [its seruv], including withdrawing the entire proceeding.” App.009. That order is in place despite the fact that “the [beis din] issued [the seruv] of its own volition,” and not on behalf of Strulovitch. App.008. No other shoe needs to drop. The state court is already interfering in rabbinical court proceedings by ordering a participant to seek to alter the rabbinical court’s decision on a matter of Jewish law.

In similarly urgent situations, this Court has concluded that interim relief is appropriate to prevent civil courts from interfering in religious matters. See *Mirabelli v. Bonta*, 607 U.S. 492, 497 (2026) (per curiam) (granting relief where plaintiffs would suffer First Amendment injury “during the potentially protracted

appellate process”); *Agudath Israel of Am. v. Cuomo*, 592 U.S. 1119 (2020) (granting relief enjoining COVID occupancy limits on houses of worship); *Wheaton Coll. v. Burwell*, 573 U.S. 958 (2014) (per curiam) (granting interim relief to protect college from being required to violate its religious beliefs while litigation was pending). That is because “the loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury.” *Mahmoud*, 606 U.S. at 569 (cleaned up).

Indeed, in the church autonomy context, the need for immediate relief is particularly acute—because “the very process” of government intrusion can interfere with “rights guaranteed by the Religion Clauses.” *NLRB v. Catholic Bishop*, 440 U.S. 490, 502 (1979); see also *Carson v. Makin*, 596 U.S. 767, 787 (2022) (“scrutinizing whether and how” a religious school pursues its mission “raise[s] serious concerns about state entanglement with religion”); cf. *Yeshiva Univ. v. YU Pride All.*, 143 S. Ct. 1, 2 (2022) (Alito, J., joined by Thomas, Gorsuch, and Barrett, JJ., dissenting) (“A State’s imposition of its own mandatory interpretation of scripture is a shocking development that calls out for review.”). Here, the ensuing harm would be immediate and irreparable, since no later legal judgment could undo the secular court’s intrusion into the religious affairs of the beis din. This injury would unquestionably violate the autonomy of religious organizations in “ordering their internal affairs, so that they may be free to * * * define their own doctrines, resolve their own disputes, and run their own institutions.” *Corporation of Presiding Bishop v. Amos*, 483 U.S. 327, 341 (1987) (Brennan, J., concurring) (cleaned up).

Letting this state interference go unchecked would upend the proper allocation of power between civil and religious authority that is part of “the structure of our government.” *Watson*, 13 Wall. at 730. Here, that structure can only be preserved by staying the manifestly unconstitutional order of the New York trial court.

CONCLUSION

The Court should grant the application.

Respectfully submitted.

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