(ORDER LIST: 610 U.S.)

MONDAY, NOVEMBER 16, 2026

CERTIORARI -- SUMMARY DISPOSITIONS

25-1421 CASAREZ, CHRISTINA V. IRIGOYEN FARMS, INC., ET AL.

The petition for a writ of certiorari is granted. The judgment is vacated, and the case is remanded to the Court of Appeal of California, Fifth Appellate District for further consideration in light of *Montgomery* v. *Caribe Transport II, LLC*, 608 U. S. 219 (2026).

26-5528 HUFFMAN, MICHAEL V. UNITED STATES

The motion of petitioner for leave to proceed *in forma pauperis* and the petition for a writ of certiorari are granted. The judgment is vacated, and the case is remanded to the United States Court of Appeals for the Fifth Circuit for further consideration in light of *Hunter* v. *United States*, 608 U. S. 713 (2026).

ORDERS IN PENDING CASES

26A422 RANDOLPH, DEVIN V. BATH & BODY WORKS, INC., ET AL.

The application for stay addressed to Justice Jackson and referred to the Court is denied.

26A449 HOLLOWAY, ELISHA V. POLK, BRYAN

The application for stay addressed to Justice Sotomayor and referred to the Court is denied.

25-965 GRAND, DANIEL V. UNIVERSITY HEIGHTS, OH, ET AL.

The motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument is

granted. The motion of American Planning Association for leave to participate in oral argument as *amicus curiae,* for divided argument, and for enlargement of time for oral argument is denied.

26-292) HAVLISH, FIONA, ET AL. V. THE TALIBAN, ET AL.
)
26-293) ASHTON, KATHLEEN, ET AL. V. THE TALIBAN, ET AL.

The motion of petitioners for leave to file a supplemental brief in No. 26-292 is granted. The Solicitor General is invited to file a brief in these cases expressing the views of the United States. Justice Kagan took no part in the consideration or decision of this motion or the consideration of these petitions. See 28 U. S. C. §455(b)(3) and Code of Conduct for Justices of the Supreme Court of the United States, Canon 3B(2)(e) (prior government employment).

26-294 JAMES OWENS, ET AL. V. THE TALIBAN, ET AL.

The Solicitor General is invited to file a brief in this case expressing the views of the United States.

26-5596 JACKSON, PENNY A. V. UNIV. OF TX SW MEDICAL CENTER

The motion of petitioner for leave to proceed *in forma pauperis* is denied. Petitioner is allowed until December 7, 2026, within which to pay the docketing fee required by Rule 38(a) and to submit a petition in compliance with Rule 33.1 of the Rules of this Court.

CERTIORARI DENIED

25-1238 MIZRAHI, MARTIN V. UNITED STATES

25-7485 FARLEY, BYRON C. V. MSPB

25-7562 KERN, JAMES C. V. CALIFORNIA

25-7667 LOTCHES, ERNEST N. V. FHUERE, SUPT., OR

26-4	SAMSUNG ELECTRONICS AM., INC. V. BREWER, JORDAN
26-62	CUSTODIA BANK, INC. V. FED. RESERVE BD., ET AL.
26-100	CROSS, SHANNON V. CENT. CONTRA COSTA TRANSIT AUTH.
26-120	GAYS AGAINST GROOMERS, ET AL. V. GARCIA, LORENA, ET AL.
26-127	SAFRON CAPITAL CORP., ET AL. V. ELANCO ANIMAL HEALTH, ET AL.
26-210	TRUMP, PRESIDENT OF U.S., ET AL. V. THAKUR, NEETA, ET AL.
26-311	SMITH, MICHELET M. V. REYNOLDS, JESSICA, ET AL.
26-321	COLIE, ALAN W. V. VIRGINIA
26-322	INNOVAPORT LLC V. TARGET CORP.
26-333	P. L. V. R. S.
26-334	RUED, JOSEPH V. CONNOLLY, COMM'R, MN DHS
26-345	RADIAN, DINU V. MACOVESCU, ALEXANDRU, ET AL.
26-369	LOOP, JOHN T. V. WASHINGTON, ET AL.
26-372	PLO, ET AL. V. SOKOLOW, MARK I., ET AL.
26-375	SECOND CHILD, ET AL. V. EDGE AUTO, INC., ET AL.
26-383	SCROGGINS, FELICIA V. SHREVEPORT, LA
26-415	MICHIGAN V. FENDERSON, DARREN D.
26-417	WIMSETT, JOHN V. KENTUCKY
26-427	COLEMAN, RICHARD W. V. MSPB
26-433	BROOKINS, KAREN V. PHILADELPHIA, PA, ET AL.
26-435	NEXSTAR MEDIA INC. V. NLRB
26-440	JABATEH, MOHAMMED V. UNITED STATES
26-504	OASIS TOOLING, INC. V. SIEMENS INDUS. SOFTWARE, ET AL.
26-508	BOUCHARD, MICHAEL G. V. UNITED STATES
26-511	LITTLE, MICHAEL V. UNITED STATES
26-516	CHOLLET, CATHERINE E., ET AL. V. UNITED STATES
26-526	MITCHELL, LANE D. V. MISSISSIPPI
26-5063	DAVIDSON, VICTORIA V. UNITED STATES

26-5065 FLETCHER, RANDALL E. V. WHITTEN, WARDEN, ET AL.

26-5086 BECKER, MACKENZIE V. UNITED STATES

26-5271 PARROTT, TONYA V. PELICAN PORT-A-BUILDINGS, ET AL.

26-5311 CELESTINE, MICHAEL V. UNITED STATES

26-5319 AMERSON, GENAY L. V. NV ED. CORP., ET AL.

26-5510 CARICO, COLTON V. BRISTOW, DEREK

26-5513 MYERS, ANTHONY J. V. GARNICA, WARDEN

26-5515 HOLCOM, BRADLEY V. CANBY BUILDERS SUPPLY, ET AL.

26-5518 GRIGALANZ, PHILLIP V. COPAS, ELIZABETH

26-5522 BOYD, ANDRE D. V. TEXAS

26-5532 CZEKALSKI, JASON A. V. HART, COMM'R, NH DOC, ET AL.

26-5534 WOOD, BRUCE V. DELAWARE

26-5536 ORTIZ, JACQUELINE L. V. VIRGINIA

26-5537 ELKHARWILY, ALAA V. EL-KHARWELY, MOHAMED E., ET AL.

26-5539 ELKHARWILY, ALAA V. EL-KHARWELY, MOHAMED E., ET AL.

26-5540 PHILLIPS, STEPHEN D. V. CORRECTIONAL OFFICERS, ET AL.

26-5542 SOUARE, ELHADJ A. M. V. AKRON, OH, ET AL.

26-5543 PELLOW, JESSE D. V. PENNSYLVANIA

26-5547 WANG, LISHAN V. DREISBACH, VICTORIA, ET AL.

26-5554 TAYLOR, RASHAD V. FLORIDA

26-5563 GLAZE, DOYLE E. V. LOUISIANA

26-5572 REED, MYCHAL A. V. CALIFORNIA

26-5575 JENSEN, THERESA K. V. SD DEPT. OF LABOR, ET AL.

26-5576 OLIVER, SHARI L. V. OLIVER, MATTHEW W.

26-5577 STALLWORTH, BRYAN V. TEXAS

26-5578 SANTINI, JEANNETTE S. V. USDC ED VA

26-5580 WILLIAMS, FREDERICK V. TOLL BROTHERS BUILDERS, ET AL.

26-5581 FRERICHS, JARED A. V. SPOKANE POLICE DEPT.

26-5587 DELANEY, ANDREW V. HC2, INC., ET AL.

26-5589 WOODHAM, GRACE V. NH DEPT. OF HEALTH AND HUMAN

26-5595 STEDMAN, WILLIAM W. V. TEXAS

26-5597 SERPIK, ROMAN V. V. OKLAHOMA

26-5601 FLORER, DENNIS S. V. FORD MOTOR CO., ET AL.

26-5607 BYRUM, MICHAEL D. V. TEXAS

26-5610 SOUARE, ELHADJ A. M. V. HILL, JUDGE, ET AL.

26-5611 CARDWELL, KEVIN M. V. OFFICE, IN ATT'Y GEN., ET AL.

26-5614 BURRELL, JOEL A. V. VIRGINIA

26-5620 DELANEY, ANDREW V. HC2, INC.

26-5624 BAILLARGEON, DENNIS D. V. CARROLL, BRENDAN T., ET AL.

26-5644 COLLETT, JOSHUA D. V. WEYERHAEUSER CO., ET AL.

26-5673 HUNTER, KELSEY D. V. UNITED STATES

26-5682 PEGUERO, JASON V. NEW YORK

26-5685 U.S. AND TX, EX REL. TORRES V. ABBOTT, GOV. OF TX, ET AL.

26-5690 NOLAN, MICHAEL A. V. UNITED STATES

26-5698 ALSTON, WILLIAM J. V. LAWSON, ELIZABETH, ET AL.

26-5722 AKINS, SAMAR V. SYSCO LINCOLN INC.

26-5746 NELSON, D-RAYLE M. V. UNITED STATES

26-5764 ROBINSON, KATRINA V. NATIONSTAR MORTGAGE, LLC

26-5788 HAMEEN, JAMAAL A. V. UNITED STATES

26-5795 McBRATNIE, CAROL A. V. AMAZON.COM, INC.

26-5796 PONSATI, MARK E. V. ARIZONA

26-5797 SMITH, MAURICE V. UNITED STATES

26-5800 AKPORUGO, DARLINGTON V. UNITED STATES

26-5801 JOHNSON, REGGIE V. UNITED STATES

26-5812 IN, CHAMNAP V. UNITED STATES

26-5813 NATHANIEL, KYLE V. UNITED STATES

26-5814 GARY, HERBERT V. UNITED STATES

26-5815 TAYLOR, NACORIAN L. V. UNITED STATES

26-5818 JUAREZ-VELASQUEZ, ISRAEL N. V. UNITED STATES

26-5819 EAGLEELK, LITTLEHAWK V. UNITED STATES

26-5832 PEARSON, TERRANCE V. UNITED STATES

26-5834 LONDON, DAVANTAE V. UNITED STATES

26-5835 COOPER, TAWANA J. V. OPTUMRX, INC., ET AL.

26-5845 MANSUETO, ROBERT F. V. BROWN, SUSAN J.

26-5855 WABLE, CHARLES R. V. UNITED STATES

26-5860 MENDOZA-GARCIA, NESTOR J. V. UNITED STATES

26-5875 COHEN, GLENN S. V. DEPT. OF VA

26-5879 DOUGLAS, JOHN C. V. GOVERNOR, WARDEN

26-5895 BREGU, ARBEN V. FLORIDA

The petitions for writs of certiorari are denied.

25-1303 STRICKLAND, CARYN D. V. MORITZ, NANCY L., ET AL.

The motion of Georgia Association for Women Lawyers, et al. for leave to file a brief as *amici curiae* is granted. The petition for a writ of certiorari is denied.

26-352 WRAY, JARIN M. V. RTX CORP.

26-420 JACK RABBIT, LLC V. VISA INC., ET AL.

The petitions for writs of certiorari are denied. Justice Alito took no part in the consideration or decision of these petitions.

26-5403 GHOSH, SHYAMAL V. NYC HOUSING AUTH.

The motion of petitioner for reconsideration of order denying leave to proceed *in forma pauperis* is granted. The order entered October 5, 2026, is vacated. The petition for a writ of certiorari is denied.

26-5516 OHIO, EX REL. WELLS, JOHN V. HANLIN, JANE M., ET AL.

26-5602 TATE, LIONEL V. CHAVEZ, L., ET AL.

The motions of petitioners for leave to proceed *in forma pauperis* are denied, and the petitions for writs of certiorari are dismissed. See Rule 39.8.

26-5692 WU, REBECCA V. CARREON, GINA, ET AL.

The motion of petitioner for leave to proceed *in forma pauperis* is denied, and the petition for a writ of certiorari is dismissed. See Rule 39.8. As the petitioner has repeatedly abused this Court's process, the Clerk is directed not to accept any further petitions in noncriminal matters from petitioner unless the docketing fee required by Rule 38(a) is paid and the petition is submitted in compliance with Rule 33.1. See *Martin* v. *District of Columbia Court of Appeals*, 506 U. S. 1 (1992) (*per curiam*).

HABEAS CORPUS DENIED

26-5932 IN RE NICKOLAS WOLFFORD

26-5963 IN RE DONALD W. HEROD

The petitions for writs of habeas corpus are denied.

MANDAMUS DENIED

26-325 IN RE GENE N. CHAVEZ

The petition for a writ of mandamus and/or prohibition is denied.

REHEARINGS DENIED

25-7364 KARNA, JOHN V. ROSS, SEAN, ET AL.

25-7374 COLEMAN, STEVEN D. V. GRAND, MARIA K.

25-7539 DJESSOUHO, SEBASTIEN V. IHMS (BOSTON), LLC

25-7549 RAY, JAMES S. V. HANAK, J. H., ET AL.

25-7626 IN RE DEVIN RANDOLPH

25-7627 IN RE DEVIN RANDOLPH

26-129 PETIT JACKSON, MOCIENNE E. V. STAAT DER NEDERLANDEN, ET AL.

26-5032 LLOYD, SUSAN V. EXTON VET CLINIC, ET AL.

26-5109 SOUARE, ELHADJ A. M. V. TILTSCHER, ELIZABETH

26-5239 CALDWELL, KENNETH L. V. UNITED STATES

26-5263 SEXTON, DIANA R. V. SEXTON, GILBERT

The petitions for rehearing are denied.

ATTORNEY DISCIPLINE

D-3172 IN THE MATTER OF DISCIPLINE OF PADRAIC B. DEIGHAN

Padraic B. Deighan, of Las Vegas, Nevada, is suspended from the practice of law in this Court, and a rule will issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

D-3173 IN THE MATTER OF DISCIPLINE OF RAYMOND ROY FROELICH, JR.

Raymond Roy Froelich, Jr., of Seven Hills, Ohio, is suspended from the practice of law in this Court, and a rule will issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

SUPREME COURT OF THE UNITED STATES

AZADEH KHATIBI, ET AL. *v.* FELIX C. YIP, PRESIDENT OF THE MEDICAL BOARD OF CALIFORNIA, ET AL.

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

No. 25–1240. Decided November 16, 2026

The petition for a writ of certiorari is denied. JUSTICE GORSUCH would grant the petition for a writ of certiorari.

JUSTICE THOMAS, with whom JUSTICE ALITO joins, dissenting from the denial of certiorari.

In 2022, California began requiring private instructors in privately run and privately accredited continuing medical education (CME) courses to discuss how so-called implicit bias affects healthcare outcomes. The Ninth Circuit held that First Amendment scrutiny did not apply to this compelled-speech requirement because the breadth of California's CME regulation renders the content of any CME course government speech, not private speech. That logic fundamentally misunderstands this Court's precedents and the Constitution. First Amendment protections do not give way simply because a State heavily regulates speech.

I would have granted certiorari to clarify the government-speech doctrine. At a minimum, the Ninth Circuit misapplied *Shurtleff* v. *Boston*, 596 U. S. 243 (2022), which instructs courts to identify government speech by considering (1) "the history of the expression at issue," (2) "the public's likely perception as to who (the government or a private person) is speaking," and (3) "the extent to which the government has actively shaped or controlled the expression." *Id.*, at 252. The Ninth Circuit collapsed those distinct inquiries, focusing on the breadth of the government's regulatory scheme at each step. More fundamentally, however, *Shurtleff* is leading courts astray. I joined JUSTICE ALITO's

concurrence in *Shurtleff*, which warned that the majority's three-factor test could cause courts to conclude that extensive government regulation transforms a private message into government speech exempt from First Amendment scrutiny. *Id.*, at 263–266 (opinion concurring in judgment). As the Ninth Circuit's decision shows, those concerns were prescient. This Court should reconsider whether the *Shurtleff* test is the proper mode of analysis for identifying government speech.

I

California-licensed physicians are required to complete 50 hours of approved CME every two years. Cal. Code Regs., tit. 16, §1336(a) (2026). Credit-eligible CME courses are often organized by private entities, certified by private accreditors, and taught by private instructors. See §§1337(a), 1337.5(a)(1); Cal. Bus. & Prof. Code Ann. §2190.1(d)(3) (West Cum. Supp. 2026). The State does not preapprove course content but reserves the right to audit courses for compliance with its CME standards. Cal. Code Regs., tit. 16, §1337.5(b).

The Medical Board of California "adopt[s] and administer[s] [CME] standards," few of which relate to course content. Cal. Bus. & Prof. Code Ann. §2190 (West 2019); see Cal. Code Regs., tit. 16, §§1336–1339.5. In addition, the State requires that CME courses broadly relate to the medical profession. They must "serve to maintain, develop, or increase the knowledge, skills, and professional performance that a physician and surgeon uses to provide care, or to improve the quality of care provided to patients." Cal. Bus. & Prof. Code Ann. §2190.1(a) (West Cum. Supp. 2026). In 2019, however, the California Legislature added a requirement that after January 1, 2022, all CME courses must "contain curriculum that includes the understanding of implicit bias." §2190.1(d)(1). To satisfy that requirement, CME courses must contain "[e]xamples of how

implicit bias affects perceptions and treatment decisions of physicians and surgeons, leading to disparities in health outcomes" or "[s]trategies to address how unintended biases in decisionmaking may contribute to health care disparities." §§2190.1(e)(1), (2).

Petitioners Dr. Azadeh Khatibi and Do No Harm do not want to speak California's preferred message on implicit bias, and they challenged §2190.1(d) as compelling speech in violation of the First Amendment. Dr. Khatibi, a California-licensed ophthalmologist, creates and teaches CME courses. First Amended Complaint in No. 2:23–cv–06195 (CD Cal.), ECF Doc. 26, ¶5 (First Amended Complaint). She "disagrees that implicit bias is the primary factor driving disparities in healthcare" and does not want to devote time to the subject during her courses. *Id.*, ¶43. Do No Harm is a nonprofit corporation. *Id.*, ¶7. At least one of its members teaches CME courses and believes that implicit bias trainings "have not been shown to successfully reduce barriers to healthcare, and instead risk infecting healthcare decisions with divisive and discriminatory ideas." *Id.*, ¶61. Yet, California's implicit-bias-training requirement leaves petitioners no choice but to discuss the topic in a way that affirms the State's view that implicit bias causes "disparities in health outcomes." Cal. Bus. & Prof. Code Ann. §2190.1(e)(1) (West Cum. Supp. 2026).

The District Court dismissed the complaint on the theory that the implicit-bias-training requirement "constitutes government speech," *Khatibi* v. *Hawkins*, No. 2:23–cv–06195 (CD Cal., May 2, 2024), p. 14, and the Ninth Circuit affirmed. The Ninth Circuit held that all three *Shurtleff* factors indicate that "CMEs eligible for Board credit constitute government speech." *Khatibi* v. *Hawkins*, 145 F. 4th 1139, 1146 (2025). At every step of the analysis, the Ninth Circuit emphasized the breadth of the State's regulation. Considering history, the court noted that California "has long regulated the practice of medicine as an exercise of the

police power" and has "adopted, updated, and enforced CME standards." *Id.*, at 1147–1148 (internal quotation marks omitted). Considering the public's likely perception of the speaker in a CME course, the court reasoned that "licensees could attribute approved CMEs' content to California" because "their profession is heavily regulated." *Id.*, at 1151. Considering the extent to which the government has shaped the expression, the court cited "California's extraordinary control over accredited CMEs." *Id.*, at 1152. As Judge VanDyke explained in his dissent from the denial of rehearing en banc, the panel's "approach boil[ed] down to a single-factor analysis: does the government 'heavily' or 'actively' regulate CMEs?" *Khatibi* v. *Hawkins*, 164 F. 4th 1105, 1109 (CA9 2025).

II

A

In its blinkered application of the *Shurtleff* factors, the Ninth Circuit lost sight of the core government-speech inquiry: whether the government is "speak[ing] for itself or . . . regulat[ing] private expression." *Shurtleff*, 596 U. S., at 252.

The government-speech doctrine occupies a narrow corner of our First Amendment jurisprudence. The First Amendment protects the people's right of free speech against government interference; it does not prevent the government from speaking for itself. *Pleasant Grove City* v. *Summum*, 555 U. S. 460, 467 (2009). "But courts must be very careful when a government claims that speech by one or more private speakers is actually government speech." *Shurtleff*, 596 U. S., at 262 (ALITO, J., concurring in judgment). "If private speech could be passed off as government speech by simply affixing a government seal of approval, government could . . . muffle the expression of disfavored viewpoints," *Matal* v. *Tam*, 582 U. S. 218, 235 (2017), or, as

here, require private speakers to convey government messages without facing any constitutional scrutiny.

This Court has thus exercised "great caution" before characterizing a message as government speech. *Ibid.* In *Johanns* v. *Livestock Marketing Assn.*, 544 U. S. 550 (2005), we held that government-sponsored beef ads constituted government speech because the government determined "the overarching message" of the ads, helped develop proposals for the ads, reviewed every ad "for substance and for wording," and the Secretary of Agriculture "exercise[d] final approval authority over every word used in every" ad. *Id.*, at 561. In *Summum*, we held that the permanent display of monuments in a public park was government speech because the City "effectively controlled the messages sent by the monuments in the Park by exercising final approval authority over their selection." 555 U. S., at 473 (internal quotation marks omitted). And, in *Walker* v. *Texas Div., Sons of Confederate Veterans, Inc.*, 576 U. S. 200 (2015), we held that the messages on government-issued license plates, over which the State "maintain[ed] direct control," were government speech. *Id.*, at 208, 213.

Since *Walker*—which we have described as the "outer boun[d] of the government-speech doctrine," *Matal*, 582 U. S., at 238—we have been careful to distinguish between government control over messages and government control over the broader scheme through which the messages are communicated. We held, for example, that trademarks are private speech, notwithstanding the government's substantial involvement in the registration process. *Id.*, at 239. And, this Court held that flags flown outside of Boston's City Hall did not constitute government speech in part because the city regularly permitted private groups to freely fly their own colors. *Shurtleff*, 596 U. S., at 255–259. In all these cases, the controlling question was whether "the government intends to speak for itself or to regulate private expression." *Id.*, at 252.

Put in those simple terms, and in light of our precedents, California's attempt to require private individuals in privately accredited CME courses to run implicit-bias training is an evident attempt "to regulate private expression." *Ibid.* The Ninth Circuit resisted that conclusion. It mechanically analyzed the *Shurtleff* factors in isolation, without stepping back to consider "the identity of the speaker," which is "[t]he ultimate question" in the government-speech inquiry. *Id.*, at 263 (ALITO, J., concurring in judgment).

Even under the *Shurtleff* test, I doubt that California's implicit-bias-training requirement is government speech. First, California has not historically used CME to communicate government messages. While the State requires that CME courses generally relate to the practice of medicine and occasionally requires that courses cover certain subjects, California has not otherwise dictated the content of courses. See Cal. Bus. & Prof. Code Ann. §2190.1 (West Cum. Supp. 2026). Second, because California "relie[s] on the participation of private parties in executing the CME scheme," *Khatibi*, 145 F. 4th, at 1151, the public is unlikely to perceive a private instructor's CME course as government speech. As the Ninth Circuit acknowledged, Dr. Khatibi "plausibly alleged facts suggesting that attendees treat her as the person responsible for CME content." *Id.*, at 1150–1151. Third, while California extensively regulates the medical field, licenses physicians, and sets the requirements for credit-eligible CME, there is little evidence that California "shape[s] the *messages*" communicated in CME courses. Cf. *Shurtleff*, 596 U. S., at 256 (emphasis added). Despite its long recitation of California regulations, the Ninth Circuit did not identify any state law that requires private speakers in a CME course to express a particular *viewpoint*—even on contestable medical issues. See *Khatibi*, 145 F. 4th, at 1152–1157. The implicit-bias-training requirement is a notable departure from that practice. It should have been easy, then, for the courts below to

conclude that California's implicit-bias-training requirement regulates private speech.

More troubling than the Ninth Circuit's misapplication of the *Shurtleff* factors are the implications of the court's decision. On the Ninth Circuit's view of government speech, could California require a CME instructor to communicate the State's preferred message on the availability of abortion? Cf. *National Institute of Family and Life Advocates* v. *Becerra*, 585 U. S. 755, 766 (2018). Could the State require a CME instructor to inform participants that for certain patients, gender-transition surgery is ethically required? Cf. *Chiles* v. *Salazar*, 607 U. S. 627, 636, 639–640 (2026). What of other professions whose members California licenses and regulates? At the next statewide legal conference at which lectures are offered for continuing legal education, could California require a keynote speaker to oppose racial preferences in law firm hiring? Applying the Ninth Circuit's logic, enough government regulation of the field would convert the private speaker's message in each of these hypotheticals into government speech unprotected by the First Amendment. That result does not follow from this Court's precedents, and it certainly does not follow from the Constitution.

B

If the Ninth Circuit's decision is truly the kind of result that *Shurtleff*'s three-factor test countenances, we should reconsider *Shurtleff*. Before *Shurtleff*, this Court had identified history, public perception, and government control as "relevant" but not mandatory "considerations" for identifying government speech. See *Walker*, 576 U. S., at 210. When *Shurtleff* described those considerations as a three-factor test, several Members of the Court—myself included—warned that the test would be unworkable and obscure the central inquiry in government-speech cases: whether the government is speaking or regulating private

speech. "[L]ike any factorized analysis," the *Shurtleff* majority's approach does not "provide a principled way of deciding cases." 596 U. S., at 266 (ALITO, J., concurring in judgment). Worse, myopic focus on the history and scope of government control over speech may give courts the false impression that state regulation can convert private speech into government speech. *Id.*, at 264–265.

After only a few years, those concerns are materializing. The Ninth Circuit relied on California's regulation of CME to conclude that requiring private speakers to communicate a government message was not compelled speech but *government* speech. That is precisely the paradox predicted by the concurrence in *Shurtleff*: that "government action that regulates private speech would" now "qualify as government speech unregulated by the First Amendment." *Id.*, at 269. But, neither compelled speech nor "[c]ensorship" are "made constitutional by aggressive and direct application." *Id.*, at 264. It cannot be the case that compelled speech becomes government speech because the government has compelled the speech.

I would grant certiorari to correct course. In my view, the relevant inquiry in a government-speech case is straightforward: Is the government "*speaking*," or is it "regulating private expression"? *Id.*, at 262. The challenged government activity must be "government speech in the literal sense—purposeful communication of a governmentally determined message by a person acting within the scope of a power to speak for the government." *Id.*, at 269–270. Moreover, "the government must . . . not rely on a means that abridges the speech of persons acting in a private capacity," *id.*, at 270, because doing so reveals that the government has moved from the role of speaker to that of regulator.

Under this framework, it is easy to see why California's law is subject to First Amendment scrutiny. The State's implicit-bias-training requirement is not speech by any government actor; it is a requirement that private speakers

communicate certain messages. Although the government may "deputiz[e] private persons as its agents" to convey its message, Dr. Khatibi and Do No Harm's members have not "voluntarily assumed" "a public or quasi-public capacity that empowers them to speak on behalf of the government." *Ibid.* They share their own messages through the CME courses they create and deliver, and they do so in their private capacities. See First Amended Complaint, ¶¶35, 60–62. Even "government speech in the literal sense is not exempt from First Amendment attack if it uses a means that restricts private expression," such as "compelled speech." *Shurtleff*, 596 U. S., at 269 (ALITO, J., concurring in judgment). When, as here, the government does not issue its own messages but instead requires private speakers to communicate the government's viewpoint, the First Amendment applies.

III

A State cannot regulate its way out of First Amendment scrutiny. We should not permit the government-speech doctrine to be wielded as "a cover for censorship" or a cloak for compelled speech. *Id.*, at 263. Because this case provided an opportunity to clarify that aspect of our government-speech doctrine, I respectfully dissent from the denial of certiorari.

SUPREME COURT OF THE UNITED STATES

KATHERINE NOVOTNY, ET AL. *v.* WES MOORE, GOVERNOR OF MARYLAND, ET AL.

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

No. 25–1324. Decided November 16, 2026

The petition for a writ of certiorari is denied.

Statement of JUSTICE THOMAS respecting the denial of certiorari.

Maryland is one of several States that prohibit law-abiding gun owners from carrying firearms in a wide variety of public places. Under Maryland law, an individual may not carry a firearm in public demonstrations, mass transit, places of amusement, healthcare facilities, locations that sell alcohol for onsite consumption, and tens of thousands of acres of state park and forest land. Md. Crim. Law Code Ann. §§4–111(a)(2)(iii), (a)(9)(i)–(vi), (c), (e), 4–208(b)(2) (2021 and Supp. 2026); Md. Transp. Code Ann. §7–705(b)(6) (2015); Code of Md. Regs., tit. 8, §§08.07.01.04(B), 08.07.06.04(B) (2025). The Fourth Circuit upheld these restrictions against petitioners' Second Amendment challenge because it concluded that each law banned firearms in a "sensitive place." *Kipke* v. *Moore*, 165 F. 4th 194, 204–205 (2026).

I am skeptical that each of these laws "is consistent with this Nation's historical tradition of firearm regulation" in "sensitive places." *New York State Rifle & Pistol Assn., Inc.* v. *Bruen*, 597 U. S. 1, 17, 30 (2022). Still, I agree with the Court's decision not to grant certiorari. Because each Maryland statute implicates a distinct historical tradition of firearm regulation, the breadth of petitioners' challenge would complicate our review. In an appropriate and more narrowly focused case, however, we should consider the

scope of States' authority to ban firearms in "sensitive places."

The Second Amendment recognizes the people's "inherent" right to keep and bear firearms, a right that admits of only historically grounded exceptions. See *District of Columbia* v. *Heller*, 554 U. S. 570, 628, 634–635 (2008). Before and after the founding, it was well understood that individuals enjoyed a natural right to keep and bear arms, which included the right to carry firearms in public spaces for self-defense. *Id.*, at 593–594, 612; see also *Bruen*, 597 U. S., at 50. The Constitution "codified [that] *pre-existing* right." *Heller*, 554 U. S., at 592; accord, *Wolford* v. *Lopez*, 609 U. S. 185, 193 (2026). The first generations after the founding recognized the breadth of the Second Amendment's "guarante[e]," and "those who sought to carry firearms publicly and peaceably in antebellum America were generally free to do so." *Bruen*, 597 U. S., at 33, 52. Thus, when a State seeks to restrict the right to bear arms—including by limiting the places in which a law-abiding citizen may carry his firearm—the State must root its law in the Second Amendment's "historical understanding" by "demonstrat[ing] that the regulation is consistent with this Nation's historical tradition of firearm regulation." *Id.*, at 17, 26.

This Court has previously acknowledged a limited tradition of States' regulating the right to carry firearms in certain "sensitive places." *Heller*, 554 U. S., at 626. In *Bruen*, we observed that early American legislatures sometimes prohibited weapons in "legislative assemblies, polling places, and courthouses." 597 U. S., at 30. But, we emphasized that this tradition was narrow. "[T]he historical record yields relatively few 18th- and 19th-century 'sensitive places' where weapons were altogether prohibited." *Ibid.* While "courts can use analogies to those historical regulations of 'sensitive places' to determine that modern regulations . . . are constitutionally permissible," "expanding the

category of 'sensitive places' . . . to all places of public congregation . . . would eviscerate the general right to publicly carry arms for self-defense." *Id.*, at 30–31.

Nevertheless, States have seized on the idea of "sensitive places" to prohibit the peaceable carry of firearms in locations that bear little resemblance to legislatures, polling places, or courthouses. New Jersey, for example, prohibits firearms in at least 25 locations, including zoos, public libraries, casinos, and state-owned beaches. N. J. Stat. Ann. §§2C:58–4.6(a)(9), (10), (12), (18) (West 2024). New York has designated 20 locations as "sensitive," ranging from "any place of worship" to "residential settings licensed . . . by the department of health." N. Y. Penal Law Ann. §§265.01–e(2)(c), (*l*) (West 2025). California's 29 gun-free spaces include "athletic facilit[ies]," "financial institution[s]," and any government-permitted "public gathering or special event." Cal. Penal Code Ann. §§26230(a)(10), (12), (23) (West Cum. Supp. 2026).* These restrictions stand on questionable historical ground. And, their cumulative effect is to prohibit firearms wherever people gather for eating, drinking, recreation, amusement, and free speech—an affront to the right of "law-abiding citizens" to "carr[y] arms in public for" their "ordinary self-defense." *Bruen*, 597 U. S., at 60.

The lower courts have largely blessed these ahistorical ventures. The Fourth Circuit below upheld all but one of Maryland's locational restrictions. *Kipke*, 165 F. 4th, at 204–205. A now-vacated decision of the Third Circuit upheld many of New Jersey's "sensitive-place" laws. See *Koons* v. *Attorney Gen. N. J.*, 156 F. 4th 210, 274 (2025), reh'g en banc granted, opinion vacated, 162 F. 4th 100. Courts of Appeals have also rejected challenges to specific

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*Several other States ban firearms in many public places. See, *e.g.*, Ill. Comp. Stat., ch. 430, §66/65 (West 2024); Haw. Rev. Stat. §134–9.1 (2023).

locational restrictions in New York, California, and Hawaii. See, *e.g.*, *Antonyuk* v. *James*, 120 F. 4th 941, 1007–1013, 1015–1032 (CA2 2024) (upholding New York laws prohibiting the possession of firearms in treatment centers, urban parks, zoos, places that serve alcohol, and theatres); *Wolford* v. *Lopez*, 116 F. 4th 959, 982–990 (CA9 2024) (upholding bans on carrying firearms in parks, playgrounds, bars and restaurants that serve alcohol, places of amusement, and parking areas connected to "sensitive places"), rev'd on other grounds, 609 U. S. 185 (2026).

I harbor serious doubts that our Nation's historical tradition of firearm regulation supports many of these sweeping restrictions. In an appropriate case, this Court should consider whether particular sensitive-place laws are consistent with the right to public carry.