

No. 23-1197

IN THE
Supreme Court of the United States

DAMON LANDOR,

Petitioner,

v.

LOUISIANA DEPT. OF CORRECTIONS AND PUBLIC
SAFETY, ET AL.,

Respondents.

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

**BRIEF OF PROFESSOR
BYRON R. JOHNSON AS *AMICUS CURIAE*
IN SUPPORT OF PETITIONER**

ERIC C. RASSBACH
THE HUGH AND HAZEL
DARLING FOUNDATION
RELIGIOUS LIBERTY
CLINIC, PEPPERDINE
UNIVERSITY
CARUSO SCHOOL OF LAW
24255 Pacific Coast Hwy
Malibu, CA 90263

NOEL J. FRANCISCO
Counsel of Record
DAVID M. MORRELL
RYAN M. PROCTOR
JACOB J. THACKSTON
JONES DAY
51 Louisiana Ave., NW
Washington, DC 20001
(202) 879-3939
njfrancisco@jonesday.com

Counsel for Amicus Curiae

QUESTION PRESENTED

Whether an individual may sue a government official in his individual capacity for damages for violations of the Religious Land Use and Institutionalized Persons Act of 2000 (“RLUIPA”).

TABLE OF CONTENTS

	Page
TABLE OF AUTHORITIES.....	iii
INTEREST OF <i>AMICUS CURIAE</i>	1
INTRODUCTION AND SUMMARY OF ARGUMENT.....	2
ARGUMENT	4
I. PRISONERS’ INDIVIDUAL FREE EXERCISE RIGHTS ARE INADEQUATELY PROTECTED UNDER LOWER COURT DECISIONS.....	4
II. FREE EXERCISE OF RELIGION IN PRISON BENE- FITS BOTH INMATES AND SOCIETY AT LARGE.....	8
A. Religious Practice Promotes Prisoners’ Well-Being	8
B. Religious Practice Improves Prison Safety and Operations	10
C. Religious Practice Reduces Recidivism and Aids Reentry into Society.....	12
III. RELIGIOUS PRACTICE, NOT MERE RELIGIOUS BE- LIEF, IS NECESSARY TO SECURE THESE BENEFITS	15
CONCLUSION	16

TABLE OF AUTHORITIES

CASES	Page
<i>Barnett v. Short</i> , 2022 WL 17338086 (E.D. Mo. Nov. 30, 2022)	7
<i>Tanzin v. Tanvir</i> , 592 U.S. 43	3, 4, 5
<i>Walker v. Baldwin</i> , 74 F.4th 878 (7th Cir. 2023)	6
<i>Ware v. La. Dep’t of Corrs.</i> , 866 F.3d 263 (5th Cir. 2017)	6
STATUTES	
42 U.S.C. § 2000cc-1	5
42 U.S.C. § 2000cc-2	4, 5
OTHER AUTHORITIES	
Leonardo Antenangeli & Matthew Durose, <i>Recidivism of Prisoners Released in 24 States in 2008: A 10-Year Follow-Up Period (2008–2018)</i> , U.S. Bureau of Just. Stat. (2021)	13
Roy L. Bergeron Jr., <i>Faith on the Farm: An Analysis of Angola Prison’s Moral Rehabilitation Program Under the Establishment Clause</i> , 71 La. L. Rev. 1221 (2011)	14
Nazish Dholakia, <i>The Difference Between Jail and Prison</i> , VERA (Feb. 21, 2023)	5

- Grant Duwe et al., *Bible College Participation and Prison Misconduct: A Preliminary Analysis*, 54 J. Offender Rehab. 371 (2015) 11
- Doris J. James & Lauren E. Glaze, *Mental Health Problems of Prison and Jail Inmates*, U.S. Bureau of Just. Stat. (Dec. 14, 2006).....9
- Byron R. Johnson, *How Religion Contributes to the Common Good, Positive Criminology, and Justice Reform*, 12 Religions 402 (2021) 10, 11
- Byron R. Johnson, *More God, Less Crime: Why Faith Matters and How It Could Matter More* (2011) ..13
- Sung Joon Jang et al., *Assessing a Faith-Based Program for Trauma Healing Among Jail Inmates: A Quasi-Experimental Study*, 10 Int'l. J. Offender Therapy & Compar. Criminology 1 (2022).....9
- Sung Joon Jang et al., *The Effect of Religion on Emotional Well-Being Among Offenders in Correctional Centers of South Africa: Explanations and Gender Differences*, 38 Just. Q. 1154 (2021) 8, 9, 15
- Sung Joon Jang et al., *Existential and Virtuous Effects of Religiosity on Mental Health and Aggressiveness Among Offenders*, 9 Religions 182 (2018) 9, 10
- Sung Joon Jang et al., *Religion and Misconduct in “Angola” Prison: Conversion, Congregational Participation, Religiosity, and Self-Identities*, 35 Just. Q. 412(2018) 11

- Jean Kjellstrand et. al, *The Importance of Positive Social Support During Reentry From Prison: Examining the Role of Volunteer Mentoring*, 67 Int'l J. Offender Therapy Compar. Criminology 567 (2023) 14
- Joanna R. Lampe, Cong. Res. Serv., *Lawsuits Against the Federal Government: Basic Federal Court Procedure and Timelines* (2020).....6
- Shadd Maruna et al., *Why God Is Often Found Behind Bars: Prison Conversions and the Crisis of Self-Narrative*, 3 Rsch. In Hum. Dev. 161 (2006)..... 15
- Zhen Zeng, *Jail Inmates in 2018*, U.S. DOJ (2020) ...5

INTEREST OF *AMICUS CURIAE*¹

Byron R. Johnson is Distinguished Professor of the Social Sciences, founding director of the Institute for Studies of Religion, and director of the Program on Prosocial Behavior at Baylor University. He is a faculty affiliate of the Human Flourishing Program at Harvard University and a Distinguished Visiting Professor of Religious Studies and the Common Good at Pepperdine University's School of Public Policy. He is also a leading authority on the scientific study of religion and criminal justice. His recent publications have examined the impact of faith-based programs on recidivism reduction and prisoner reentry. Professor Johnson has been the principal investigator on grants from private foundations as well as the Department of Justice, Department of Labor, Department of Defense, National Institutes of Health, and the United States Institute for Peace. He is the author of more than 250 articles and several books including *More God, Less Crime: Why Faith Matters and How It Could Matter More* (2011), *The Angola Prison Seminary: Effects of Faith-Based Ministry on Identity Transformation, Desistance, and Rehabilitation* (2016), and *The Restorative Prison* (2021).

Amicus offers this brief in support of Petitioner's request for certiorari. As Professor Johnson's social science research demonstrates, prisoners who practice religion while incarcerated exhibit increased prosocial behaviors, which reduces recidivism, improves prison

¹ No counsel for any party authored any portion of this brief or made any monetary contribution intended to fund its preparation or submission. All parties received timely notice of the filing of this brief.

operations, and provides concrete financial benefits to society. Interpreting RLUIPA in a manner best calculated to promote and protect free exercise therefore results in significant benefits to both the incarcerated and the public at large.

Amicus has filed briefs on the topic in the Fifth, Seventh, Eighth, and Ninth Circuits. See Br. Amicus Curiae of Byron Johnson, *Landor v. La. Dep't of Corr. & Pub. Safety*, 82 F.4th 337 (5th Cir. 2023) (No. 22-30686) (panel stage); Br. Amicus Curiae of Byron Johnson, *Landor v. La. Dep't of Corr. & Pub. Safety*, 93 F.4th 259 (5th Cir. 2024) (No. 22-30686) (*en banc* stage); Br. Amicus Curiae of Byron Johnson, *Walker v. Baldwin*, 74 F.4th 878 (7th Cir. 2023) (No. 22-2342); Br. Amicus Curiae of Byron Johnson, *Barnett v. Short*, No. 23-1066 (8th Cir.) (*amicus* brief filed Nov. 20, 2023); Br. Amicus Curiae of Byron Johnson, *Fuqua v. Raak*, No. 21-15492 (9th Cir.) (*amicus* brief filed May 25, 2023).

INTRODUCTION AND SUMMARY OF ARGUMENT

Damon Landor suffered an injustice for which the Fifth Circuit has held there is no remedy. Landor, a practicing Rastafarian, maintains a religious vow according to which he does not cut his hair. Despite presenting to prison officials Fifth Circuit caselaw which held that, under RLUIPA, he could maintain this vow in prison, Landor was restrained and his hair, which ran down nearly to his knees, was shaved bare a mere three weeks before he was to be released.

Landor sued prison officials under RLUIPA, seeking money damages for this callous infringement of his free exercise rights. Despite this Court's recent

holding that litigants may obtain money damages against individual government officials under RLUIPA's sister-statute, the Religious Freedom Restoration Act ("RFRA"), *see Tanzin v. Tanvir*, 592 U.S. 43, 49-52 (2020), the district court dismissed his suit, holding that such damages are not available under RLUIPA. The Fifth Circuit affirmed that decision. Prison officials were thus able to violate Landor's free exercise rights without consequence, as is true in countless other cases where prisoners' release or transfer moots the only claims that are left under RLUIPA—claims for injunctive relief. While Congress passed RLUIPA to remedy such abuses, lower courts have effectively neutered the statute by prohibiting claims for money damages.

This line of lower court decisions not only conflicts with the plain text of the statute, but also weakens religious exercise in prisons, with regrettable consequences that extend far beyond the individual prisoner involved. When prisons violate free exercise rights, they deprive both the inmates and society more generally of the manifold benefits of religious practice. As *Amicus*' research underscores, free exercise of religion in jail and prison improves inmate wellbeing, increases prison safety, reduces recidivism rates, and provides prisoners with invaluable community support as they reenter society. *Amicus* offers this brief to familiarize the Court with this research and to emphasize the importance of granting individuals like Landor the opportunity to seek money damages for violations of RLUIPA.

Amicus therefore urges the Court to grant certiorari and authorize money damages against

government officials in their individual capacity for RLUIPA violations.

ARGUMENT

RLUIPA protects religious liberty in prison by allowing inmates to seek “appropriate relief” against government officials in their individual capacity for RLUIPA violations. 42 U.S.C. § 2000cc-2(a). The term “appropriate relief” naturally encompasses money damages, as this Court has already held in interpreting identical language in RFRA. *See Tanzin*, 592 U.S. at 49. Nevertheless, lower courts have refused to extend that holding to RLUIPA. These decisions not only depart from the plain text of the statute, but substantially weaken Congress’ intended protections for religious exercise in prison. Without claims for money damages, suits seeking to vindicate inmates’ free exercise rights through injunctive relief are often mooted due to the transient nature of jail and prison populations. This dynamic insulates unconstitutional conduct in prisons from judicial review, depriving both inmates and society of the benefits of religious practice among the incarcerated.

Amicus’ research shows that those benefits are immense and emanate far beyond prison walls. To foster those benefits, as Congress intended, this Court should grant certiorari, reverse the Fifth Circuit’s decision, and interpret RLUIPA in accordance with its text.

I. Prisoners’ Individual Free Exercise Rights are Inadequately Protected Under Lower Court Decisions.

RLUIPA prohibits government officials from imposing a “substantial burden on the religious

exercise of a person residing in or confined to an institution,” 42 U.S.C. § 2000cc-1(a), and allows inmates whose rights are violated to seek “appropriate relief” through a private right of action, 42 U.S.C. § 2000cc-2(a). In *Tanzin*, this Court interpreted identical language in RFRA to authorize claims for money damages against government officials in their individual capacity. 592 U.S. at 49. Despite the clarity of the text and this Court’s decision in *Tanzin*, lower courts like the Fifth Circuit have interpreted the same phrase in RLUIPA not to authorize such claims. As a result, the only remedy available is injunctive relief. But for many inmates in the United States, such a remedy is no remedy at all.

In most instances, jail and prison stays are time limited. While prison stays by definition exceed one year, the average stay in jail is only 25 days. *See* Zhen Zeng, *Jail Inmates in 2018*, U.S. DOJ 1, 1–18 (2020) <https://bjs.ojp.gov/library/publications/jail-inmates-2018>. And it is jails that account for the overwhelming majority of instances of incarceration, with nearly nine times more annual jail admissions than the number of individuals in prison. *See* Nazish Dholakia, *The Difference Between Jail and Prison*, VERA (Feb. 21, 2023), <https://www.vera.org/news/u-s-jails-and-prisons-explained> (in 2019, there were over 10.3 million reports of jail admissions, and in 2023, there were about 1.2 million individuals incarcerated in prisons).

The typically short duration of incarceration complicates inmates’ ability to litigate claims for injunctive relief. “[C]ivil cases in the U.S. district courts have a median length of 27 months from filing to trial, and close to 10% of cases have been pending

for over three years[.]” See Joanna R. Lampe, Cong. Res. Serv., *Lawsuits Against the Federal Government: Basic Federal Court Procedure and Timelines* (2020), <https://sgp.fas.org/crs/misc/IF11349.pdf>. As this Court knows, even efficient judges are unlikely to reach a judgment much before then. As a result, inmates deprived of their free exercise rights face the tall task of litigating their claims to judgment before their claims are mooted by release or transfer. Even if a lucky few overcome this hurdle and obtain injunctive relief, such relief may have little meaningful impact if it comes only shortly before their departure. And for those like Landor, whose rights are violated just days or weeks before their release, there is no chance for relief at all.

The results of these dynamics are as predictable as they are disturbing, as this case illustrates. Louisiana prison officials violated RLUIPA blatantly and with impunity when they forcibly cut Landor’s dreadlocks. Pet. App. 2a. Respondents knew that the Fifth Circuit had previously held that Louisiana’s policy of cutting Rastafarians’ hair, a core religious practice, violates RLUIPA. See *Ware v. La. Dep’t of Corrs.*, 866 F.3d 263, 274 (5th Cir. 2017). Indeed, Landor handed the prison officials a copy of the *Ware* opinion, which officials literally “threw ... in the trash” before pinning him down and shaving his head. Pet. App. 2a. But because Landor is no longer in prison, the only possible form of relief is money damages, which lower courts have foreclosed.

Landor is not alone in this dilemma. In *Walker v. Baldwin*, a Rastafarian prisoner in Illinois, held a religious belief according to which he refrained from cutting his hair. *Walker v. Baldwin*, 74 F.4th 878, 879

(7th Cir. 2023). Despite his clearly expressed religious objections, prison officials forced Walker to shave his dreadlocks. *Id.* at 880. The prison officials “brought a tactical team and mace to Walker’s cell and told Walker that if he did not acquiesce, the tactical unit would forcibly remove his dreadlocks.” *Id.* Walker was given no advance opportunity to seek judicial relief. And when he later filed suit under RLUIPA, his claim for injunctive relief was moot due to his release, and the district court dismissed his claim for money damages based on that court’s interpretation of RLUIPA. *See id.* The Seventh Circuit did not reach the merits of the district court’s RLUIPA holding due to a finding of waiver, but the district court’s decision, as in other cases, left an inmate with no recourse for a patent violation of his free exercise rights.

Such injustices are not confined to Rastafarians and dreadlocks. In *Barnett v. Short*, No. 23-1066 (8th Cir., argument not yet set), officials at a Missouri jail prevented Barnett, a jail inmate, from reading the Bible on a daily basis, as his Christian faith required. When Barnett requested a Bible and pastoral visits before going into administrative segregation, jail officials told him his “constitutional right was nothing more than a privilege,” adding that he was “free to quote the [C]onstitution all [he] want[s] to,” but would “not receive anything more.” *Barnett v. Short*, No. 4:22-CV-00708-SEP, 2022 WL 17338086 (E.D. Mo. Nov. 30, 2022) at *1–2. When Barnett later brought claims under RLUIPA, the district court dismissed as moot his request for injunctive relief (as Barnett had been transferred) and his claim for money damages based on the same flawed reading of RLUIPA. *Barnett*, 2022 WL 17338086, at *3.

As these examples illustrate, injunctive relief has proven inadequate to remedy and prevent violations of RLUIPA. Without the possibility of money damages, inmates' free exercise rights will be routinely and irretrievably violated in jails and prisons throughout the country.

II. Free Exercise of Religion in Prison Benefits Both Inmates and Society at Large.

The degradation of free exercise rights in prisons and jails is wholly inconsistent with the text of RLUIPA, which was designed to secure religious liberty among incarcerated populations. While it is inmates who suffer the violations directly, the consequences are far-reaching. Failing to secure free exercise rights deprives both inmates and society more generally of the significant benefits of religious practice. As *Amicus*' research demonstrates, to uphold and protect religious practice in institutions of incarceration is to promote better outcomes for inmates both during and after incarceration.

A. Religious Practice Promotes Prisoners' Well-Being.

Inmates face a sudden loss of previous liberties, including basic privacy and autonomy. This is very often dehumanizing and destructive to prisoners' sense of self. The "hitting rock bottom" strain of imprisonment often causes prisoners to "face the reality that their lives lack meaning." Sung Joon Jang et al., *The Effect of Religion on Emotional Well-Being Among Offenders in Correctional Centers of South Africa: Explanations and Gender Differences*, 38 *Just. Q.* 1154, 1158 (2021).

As a result, inmates are far more likely than non-inmates to suffer from mental health issues. Inmates face “a series of degradations of self . . . along with a sense of guilt, shame, and hopelessness,” often leading to depression and anxiety. Sung Joon Jang et al., *Existential and Virtuous Effects of Religiosity on Mental Health and Aggressiveness Among Offenders*, 9 Religions 182, at 1 (2018). In fact, a 2006 Department of Justice report found that more than 56% of state prisoners, 44% of federal prisoners, and 64% of jail inmates suffered from mental health problems. Doris J. James & Lauren E. Glaze, *Mental Health Problems of Prison and Jail Inmates*, U.S. Bureau of Just. Stat. (Dec. 14, 2006), <https://bjs.ojp.gov/content/pub/pdf/mhppji.pdf>.

Religious practice offers a potent antidote. A 2022 study of 349 jail inmates in Virginia found that participation in a faith-based trauma healing program corresponded to “a significant reduction” in symptoms of PTSD, depression, anger, suicidal thoughts, and aggression” among prisoners, even with as little as ten hours of religious intervention. Sung Joon Jang et al., *Assessing a Faith-Based Program for Trauma Healing Among Jail Inmates: A Quasi-Experimental Study*, 10 Int’l. J. Offender Therapy & Compar. Criminology 1, 14 (2022). Other of *amicus*’ research suggests that “religiosity is inversely related to depression and suicidality,” and “positively associated with emotional well-being” among inmates. See Sung Joon Jang, *The Effect of Religion*, *supra*, 38 Just. Q. at 1157.

Likewise, a 2018 study of three maximum-security prisons showed that religiosity was positively related to “virtuous characteristics,” such as increased

compassion and forgiveness, and “inversely associated with the offenders’ negative emotional states and intended aggression.” Sung Joon Jang et al., *Existential and Virtuous Effects of Religiosity on Mental Health and Aggressiveness Among Offenders*, 9 Religions 182, at 12 (2018).

These results are not surprising. Across faith traditions, religious involvement lessens distress, provides a system of social support, and helps believers cope and process emotions, thereby improving inmates’ mental well-being. By helping prisoners “find new meaning and purpose in life and become virtuous through spiritual transformation,” religiosity mediates the feelings of anxiety and depression that humans in extreme adversity, including imprisonment, are prone to suffer. Jang et al., *Existential and Virtuous Effects of Religiosity*, *supra*, at 12–13. Supporting inmates’ ability to practice religion is therefore a highly effective means of increasing prisoner well-being.

B. Religious Practice Improves Prison Safety and Operations.

The benefits of religious practice redound not just to practicing inmates but also to non-practicing inmates and the prison system as a whole. Studies show that religious practice in prison encourages “prosocial” behaviors, which are behaviors “generally intended to help others.” Byron R. Johnson, *How Religion Contributes to the Common Good, Positive Criminology, and Justice Reform*, 12 Religions 402, at 3 (2021). Indeed, religiosity is one of the chief factors causing “offenders who previously exhibited antisocial patterns of behavior” to “undergo transformations

that result in consistent patterns of positive behavior, accountability, and other-mindedness.” *Id.*

Religiosity not only promotes the development of prosocial behaviors in prisoners but also deters misconduct. Inmates who practiced religion in prison “more frequently and for longer periods of time” exhibited less “criminological risk factors, aggressiveness, and higher levels of virtues, human agency, religiosity, and spirituality.” *Id.* Such prisoners are less likely to engage in fights, theft, and antagonism, thereby benefiting both their fellow inmates and prison officials.

These are not abstract benefits. “Quantitative studies tend to show that an inmate’s religion is inversely related to misconduct in prison.” Sung Joon Jang et al., *Religion and Misconduct in “Angola” Prison: Conversion, Congregational Participation, Religiosity, and Self-Identities*, 35 *Just. Q.* 412, 418 (2018). For example, a 2015 quantitative study found participation in a prison Bible college program “significantly improved offender behavior within the institution” by reducing the risk of misconduct by up to 80% and lowering the amount of discipline convictions by more than one per inmate. Grant Duwe et al., *Bible College Participation and Prison Misconduct: A Preliminary Analysis*, 54 *J. Offender Rehab.* 371, 386 (2015).

Qualitative studies also show *how* religious practice offers these benefits. A 2018 study based on a survey of 2,249 inmates at the largest maximum-security prison in America found that religious conversion and religiosity “positively related to existential and cognitive transformations as well as a

‘crystallization of discontent,’” which is the cognitive process by which prisoners begin to link their criminal identities with harm, failure, and dissatisfaction. See Sung Joon Jang et al., *Religion and Misconduct in “Angola” Prison*, *supra*, at 413. Religious practice “weakens their attachment to the criminal identity and provides offenders with the initial motivation to break from crime and engage in a deliberate act of intentional self-change.” *Id.* at 416. Thus, religious conversion and religiosity may “lead prisoners to rehabilitate themselves” rather than continue to engage in criminal activity. *Id.* at 432.

In short, religious practice promotes prosocial behavior among prisoners by giving them healthy means of coping with the difficult emotions resulting from imprisonment. This not only benefits prisoners who engage in religious practice but also benefits other inmates and prison officials by reducing misconduct, violence, and theft throughout the prison system. Religious practice results in safer, more peaceful jails and prisons.

Not only that: religious practice also provides a concrete financial benefit to society as prisoners may earn credit for their good behavior. To the extent that their good behavior leads to less time incarcerated, such prisoners minimize the public financial burden associated with their incarceration.

C. Religious Practice Reduces Recidivism and Aids Reentry into Society.

Immediately following release from prison, individuals face a critical transition period known as reentry. Unfortunately, most released prisoners will relapse into criminal behavior during this period.

According to a Bureau of Justice Statistics report, 43% of state prisoners are arrested within one year of release, 66% within three years, and 82% within ten years.²

Prisoners who practice religion in prison, however, are more likely to become productive members of society upon reentry because religious exercise improves prisoners' mental health, aids in their rehabilitation, and provides prisoners with a community to support them financially and emotionally upon reentering society. These benefits directly contribute to a healthy sense of identity in reentering individuals, which is the cornerstone of rehabilitation—that is, the idea that the life of even the worst offender can be transformed. See Byron R. Johnson, *More God, Less Crime: Why Faith Matters and How It Could Matter More* 99 (2011).

The quantitative data backs up this qualitative judgment: prisoners who engage in religious exercise are significantly less likely than average to re-engage in criminal behaviors during the reentry period. For example, participation in volunteer-led Bible study groups in prison significantly lowered the rates of recidivism even three years post-release. Byron R. Johnson, *Religious Programs and Recidivism Among Former Inmates in Prison Fellow Programs: A Long-term Follow-up Study*, 21 *Just. Q.* 329, 329 (2004). The difference can be dramatic—one study showed that

² Leonardo Antenangeli & Matthew Durose, *Recidivism of Prisoners Released in 24 States in 2008: A 10-Year Follow-Up Period* (2008–2018), U.S. Bureau of Just. Stat. at 1 (2021), <https://bjs.ojp.gov/library/publications/recidivism-prisoners-released-24-states-2008-10-year-follow-period-2008-2018>.

only 14% of active Bible study participants were arrested during the one-year follow-up period, compared to 41% of those who did not participate in a Bible study. *Id.* at 334. Further, in a five-year Louisiana study, only 30% of inmates who received faith-based education before their release returned to prison, a rate far below the 46.6% statewide and 65% national recidivism rates. Roy L. Bergeron Jr., *Faith on the Farm: An Analysis of Angola Prison's Moral Rehabilitation Program Under the Establishment Clause*, 71 La. L. Rev. 1221, 1222 n.6 (2011).

Other research demonstrates that religious exercise aids in both reduction of recidivism and productive reentry by providing former prisoners with religious communities who will come alongside them and aid in their rehabilitation and reintegration into society. Prisoners who are permitted to engage in free religious exercise in prison are more likely to join religious communities following reentry. The social support religious communities provide is “important in improving outcomes for incarcerated individuals during the reentry process not only in terms of general wellbeing but also in gaining employment and avoiding recidivism.” See Jean Kjellstrand et. al, *The Importance of Positive Social Support During Reentry From Prison: Examining the Role of Volunteer Mentoring*, 67 Int'l J. Offender Therapy Compar. Criminology 567, 567 (2023).

Finally, religious practice also prepares prisoners to reintegrate into society with purpose and integrity by transforming their outlook on life. In yet another study which found that offenders who participated in faith-based prison programs were more likely to make successful transitions back to society, researchers

identified five key internal markers associated with religious practice while incarcerated. *See* Shadd Maruna et al., *Why God Is Often Found Behind Bars: Prison Conversions and the Crisis of Self-Narrative*, 3 *Rsch. In Hum. Dev.* 161, 161 (2006). Specifically, religious exercise leads prisoners to develop a self-narrative that: (1) “creates a new social identity to replace the label of prisoner or criminal”; (2) “imbues the experience of imprisonment with purpose and meaning”; (3) “empowers the largely powerless prisoner by turning him into an agent of God”; (4) “provides the prisoner with a language and framework for forgiveness”; and (5) “allows a sense of control over an unknown future.” *Id.* These internal changes, in turn, drive meaningful changes in external behavior, decreasing the odds of re-offending upon release.

III. Religious Practice, Not Mere Religious Belief, is Necessary to Secure These Benefits.

To enjoy the foregoing benefits, inmates need to be able to *practice* religion, not merely believe. In fact, studies show that prisoners who report religious affiliation without reporting religious *involvement* are “unlikely to reap the mental health benefit of religion that religiously involved inmates may experience.” Jang et al., *The Effect of Religion on Emotional Well-Being*, *supra*, at 1172. That outcome is unsurprising, as religion benefits prisoners in large part because it “allows them to exercise their agency in an arena that is fundamental to their identity” while living in a context that otherwise strips prisoners of autonomy. *Id.* Prisoners who are given only the comfort of their beliefs without the opportunity to act on those beliefs are thus denied the well-documented benefits that

would otherwise provide them crucial support both during and after their incarceration.

Barriers to religious practice, such as the atextual ban on money damages against individual defendants that lower courts have read into RLUIPA, are thus barriers to one of the most effective means of increasing prisoner well-being, safer and more efficient prisons, and post-incarceration rehabilitation. With these benefits in mind, the Court should grant certiorari and hold that “appropriate relief” under RLUIPA may include money damages against individual defendants. To do otherwise is to acquiesce in a system that permits prison officials to violate inmates’ free exercise rights with impunity, thereby denying both prisoners and society more broadly of the substantial benefits of religious practice in prison.

CONCLUSION

For the foregoing reasons, the Court should grant certiorari.

JUNE 6, 2024

Respectfully submitted,

ERIC C. RASSBACH
THE HUGH AND HAZEL
DARLING FOUNDATION
RELIGIOUS LIBERTY
CLINIC, PEPPERDINE
UNIVERSITY
CARUSO SCHOOL OF LAW
24255 Pacific Coast Hwy
Malibu, CA 90263

NOEL J. FRANCISCO
Counsel of Record
DAVID M. MORRELL
RYAN M. PROCTOR
JACOB J. THACKSTON
JONES DAY
51 Louisiana Ave., NW
Washington, DC 20001
(202) 879-3939
njfrancisco@jonesday.com

Counsel for Amicus Curiae