No. 23-1197

IN THE

# Supreme Court of the United States

DAMON LANDOR,

*Petitioner*,

—v.—

LOUISIANA DEPARTMENT OF CORRECTIONS AND PUBLIC SAFETY; JAMES M. LEBLANC, in his official capacity as Secretary thereof, and individually; RAYMOND LABORDE CORRECTIONAL CENTER; MARCUS MYERS, in his official capacity as Warden thereof, and individually; JOHN DOES 1-10; ABC ENTITIES 1-10,

*Respondents*.

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

## BRIEF FOR *AMICI CURIAE* 33 RELIGIOUS ORGANIZATIONS IN SUPPORT OF PETITIONER

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## INTEREST OF *AMICI CURIAE*[1]

*Amici* are 33 American religious or religiously affiliated organizations representing a wide array of faiths and denominations. Led by the Muslim Bar Association of New York, *amici* include congregations and houses of worship, as well as professional groups that work with or represent faith communities ("Religious Organizations"). *Amici* are: Albuquerque Mennonite Church; American Association of Jewish Lawyers and Jurists; American Jewish Committee; Central Conference of American Rabbis; Council on American-Islamic Relations; East End Temple; El Paso Monthly Meeting of the Religious Society of Friends; Episcopal Diocese of Long Island; Faith Action Network of Washington State; Faith in New Jersey; Global Justice Institute; Hyattsville Mennonite Church; Interfaith Center of New York; Justice and Witness Missional Team of the Hawaii Conference; Men of Reform Judaism; Muslim Advocates; Muslim Bar Association of New York; Muslim Public Affairs Council; Muslim Urban Professionals; Muslims for Progressive Values; National Association of Muslim Lawyers; National Council of Jewish Women; New Jersey Muslim Lawyers Association; Santa Fe Monthly Meeting of Friends (Quakers); Social Action Committee of the First Unitarian Universalist Church of Austin (TX); St John's United Church of Christ; T'ruah: The

[1] Consistent with Supreme Court Rule 37.6, undersigned counsel states that no counsel for a party authored this brief in whole or in part, and that no person or entity other than *amici* or their counsel has made a monetary contribution to fund the preparation or submission of this brief. Undersigned counsel further states that, consistent with Supreme Court Rule 37.2, all counsel of record received timely notice of *amici*'s intention to file this brief more than 10 days before the due date.

Rabbinic Call for Human Rights; Union for Reform Judaism; Union Theological Seminary; Unitarian Universalist Mass Action Network; Unitarian Universalist Service Committee; United Women of Faith; and Women of Reform Judaism.

*Amici* have a unique appreciation of the potential dangers posed to disfavored religious groups by government officials. This danger has been ever-present throughout American history, even as the identities of the disfavored religious groups have changed over time. *Amici*, accordingly, have an interest in ensuring that the Religious Land Use and Institutionalized Persons Act of 2000 (RLUIPA) is properly interpreted to allow anyone whose religious freedom has been unlawfully burdened in state institutions to seek the full range of remedies authorized by the statute, including money damages against individual officers. As explained further below, absent such a remedy, RLUIPA violations in state and local institutions have gone entirely unremedied. *Amici* have a clear interest in ensuring that robust enforcement mechanisms are in place to prevent RLUIPA from becoming an empty promise.

## SUMMARY OF ARGUMENT

Congress has enshrined broad protections of religious liberty in two related statutes: the Religious Freedom Restoration Act of 1993 (RFRA) and RLUIPA. RFRA, which was enacted in response to the Supreme Court's decision in *Employment Division, Department of Human Resources of Oregon v. Smith*, 494 U.S. 872 (1990), prohibits the federal government from imposing any substantial burden on the free exercise of religion unless such burden furthers "a compelling governmental interest" and is "the least restrictive means" of doing so. RFRA

further establishes a federal cause of action to obtain "appropriate relief" for any violation of the statute. In *Tanzin v. Tanvir*, 592 U.S. 43 (2020), this Court made clear that such "appropriate relief" includes damages against federal officials in their individual capacities. RLUIPA, RFRA's "sister" statute that contains the exact same "appropriate relief" language and provides the same broad protections for institutionalized persons, must be interpreted identically.

Money damages are not only clearly authorized by RLUIPA's plain text but also are crucial to the statute's enforcement. Money damages compensate the plaintiff, deter future wrongdoing, and vindicate the plaintiff's rights. And in the RLUIPA context specifically, money damages are often the *only* form of relief available. Many inmates suing under RLUIPA are released or transferred by the time their claims are adjudicated and therefore have no injunctive claims. Or the government may stop its challenged conduct when facing legal challenge and thereby evade judicial scrutiny by mooting the injunctive claim. If money damages are unavailable, RLUIPA plaintiffs in such cases will have no recourse.

These concerns are not idle fears. In many cases throughout the country, prison officials have egregiously infringed on the religious exercise of numerous inmates of a variety of faiths, including Rastafarians, Muslims, Jews, and Christians. But when injunctive relief becomes moot, courts, including the Fifth Circuit below, deny plaintiffs all relief under RLUIPA, erroneously reading RLUIPA as not allowing for money damages. This pervasive misreading of RLUIPA, which allows for all "appropriate relief," has allowed prison officials to trample on the religious freedom of inmates without consequence, and it cannot be squared with RLUIPA's

plain text, the statute's mandate to broadly protect the free exercise of religion in state prisons, and this Court's on-point decision in *Tanzin*.

This hobbling of RLUIPA has gone on for far too long. And that it continues even after *Tanzin* is all the more problematic. This Court should intervene and grant *certiorari* to make clear that, under RLUIPA, an individual may sue a government official in his individual capacity for damages.

## ARGUMENT

### I. THE FIFTH CIRCUIT'S HOLDING UNDERMINES RLUIPA'S EXPANSIVE PROTECTIONS FOR THE EXERCISE OF RELIGIOUS FREEDOMS.

This Court has repeatedly emphasized that RLUIPA, like "its sister statute," RFRA, was enacted "to provide very broad protection for religious liberty." *Holt v. Hobbs*, 574 U.S. 352, 356 (2015) (quoting *Burwell v. Hobby Lobby Stores, Inc.*, 573 U.S. 682, 693 (2014)). Both RLUIPA and RFRA were enacted in response to this Court's decision in *Smith*, which drastically limited the scope of the First Amendment's Free Exercise Clause by holding that "the First Amendment tolerates neutral, generally applicable laws that burden or prohibit religious acts even when the laws are unsupported by a narrowly tailored, compelling governmental interest." *Tanzin*, 592 U.S. at 45 (citing *Smith*, 494 U.S. at 885-90).

Through RFRA and RLUIPA, Congress rejected the *Smith* standard as incompatible with our nation's long history of safeguarding religious freedom. As Congress found in passing RFRA, the Framers "recogniz[ed] free exercise of religion as an unalienable right" and therefore "secured its

protection in the First Amendment to the Constitution." 42 U.S.C. § 2000bb(a)(1) (Congressional findings and declaration of purposes for RFRA). Indeed, in the leadup to the adoption of the First Amendment, twelve of the original thirteen states had enacted constitutional provisions protecting religious liberty. *See* Michael W. McConnell, *The Origins and Historical Understanding of Free Exercise of Religion*, 103 Harv. L. Rev. 1409, 1455-56 (1990) (explaining that, by 1789, "[f]reedom of religion was universally said to be an unalienable right"). *Smith*, however, limited the First Amendment's protections because, as Congress further found in passing RFRA, "laws 'neutral' toward religion may burden religious exercise as surely as laws intended to interfere with religious exercise." 42 U.S.C. § 2000bb(a)(2). Therefore, "Congress enacted RFRA in order to provide greater protection for religious exercise than is available under the First Amendment." *Holt*, 574 U.S. at 357.

RFRA does so in several ways. It not only "restore[s] the [pre-*Smith*] compelling interest test … in all cases where free exercise of religion is substantially burdened" but also "provide[s] a claim or defense to persons whose religious exercise is substantially burdened by government." 42 U.S.C. § 2000bb(b). Specifically, RFRA provides a right of action for any "person whose religious exercise has been burdened" to "obtain appropriate relief against a government." *Id.* § 2000bb-1(c). RFRA thus "made clear that it was reinstating both the pre-*Smith* substantive protections of the First Amendment *and* the right to vindicate those protections by a claim." *Tanzin*, 592 U.S. at 50. Accordingly, this Court unanimously held in *Tanzin* that "parties suing under RFRA must have at least the same avenues for relief

against officials that they would have had before *Smith*[,]" including "a right to seek damages against Government employees." *Id.* at 51.

RLUIPA, which was enacted "*[t]o secure redress* for inmates who encountered undue barriers to their religious observances," *Cutter v. Wilkinson*, 544 U.S. 709, 716-17 (2005) (emphasis added), should be interpreted identically. RLUIPA, like RFRA, provides "expansive protection for religious liberty," and, for institutionalized persons, it "mirrors RFRA" by prohibiting the government from imposing a substantial burden on a prisoner's religious exercise unless the burden furthers "a compelling governmental interest" and "is the least restrictive means of" doing so. *Holt*, 574 U.S. at 357-58; 42 U.S.C. § 2000cc-1(a). And crucially, RLUIPA uses the same relevant language as RFRA does to expressly create a federal cause of action that allows "[a] person [to] assert a violation of [RLUIPA] as a claim or defense in a judicial proceeding and obtain appropriate relief against a government." 42 U.S.C. § 2000cc-2(a) (RLUIPA); *id.* § 2000bb-1(c) (RFRA). Indeed, RLUIPA explicitly mandates that it "shall be construed in favor of a broad protection of religious exercise, to the maximum extent permitted by the terms of this chapter and the Constitution." *Id.* § 2000cc-3(g).

Claims under RLUIPA, which contains the same "appropriate relief" language as RFRA, therefore "must have at least the same avenues for relief against officials that they would have had before *Smith*," which again includes "a right to seek damages against Government employees." *Tanzin*, 592 U.S. at 51. The Fifth Circuit's contrary holding cannot stand.

## II. MONEY DAMAGES UNDER RLUIPA ARE VITAL TO PROTECTING THE RIGHTS GUARANTEED BY RLUIPA.

It is not by accident that money damages are available under RLUIPA—such remedies are essential to protecting the rights guaranteed by the statute, particularly when injunctive relief is unavailable.

### A. Money Damages Are an Essential Mechanism of Protecting Critical Rights

Money damages are "the traditional form of relief offered in the courts of law." *Curtis v. Loether,* 415 U.S. 189, 196 (1974). They are "commonly available against state and local government officials," *Tanzin*, 592 U.S. at 50, and they serve at least three central purposes.

First, "damages [are] an instrument of corrective justice, an effort to put plaintiff in his or her rightful position." Dan B. Dobbs & Caprice L. Roberts, *Law of Remedies: Damages—Equity—Restitution* § 3.1 at 215 (3d ed. 2017) (hereinafter, "Law of Remedies"). Where a person violates the legal rights of another and causes injury, a factfinder awards damages to right the wrong done to the plaintiff by the defendant. *See* 1 Dan B. Dobbs, Paul T. Hayden & Ellen M. Bublick, *The Law of Torts* § 11 at 19-20 (2d ed. 2011); *see also* 4 Fowler Harper, Fleming James, Jr., & Oscar S. Gray, *Harper, James and Gray on Torts* § 25.1 at 574 (3d ed. 2007) ("The cardinal principle of damages in Anglo-American law is that of *compensation* for the injury caused to the plaintiff by defendant's breach of duty." (emphasis in original)).

Second, damages deter future violations. *See Law of Remedies* § 3.1 at 216 (a "damages judgment can provide an appropriate incentive to meet the appropriate standard of behavior"). Damages, a cost to the liable defendant, raise the price of unlawful conduct and make it less attractive to potential wrongdoers. *See Owen v. City of Indep.*, 445 U.S. 622, 651-52 (1980) ("The knowledge that a municipality will be liable for all of its injurious conduct, whether committed in good faith or not, should create an incentive for officials who may harbor doubts about the lawfulness of their intended actions to err on the side of protecting citizens' constitutional rights."); *cf.* Guido Calabresi, *The Costs of Accidents: A Legal and Economic Analysis* 26 (1970).

Third, damages vindicate the legal rights of the plaintiff. This rationale has a deep historical basis; many writs "[i]n the early Republic" enabled "individuals to test the legality of government conduct" through suits against officers for money damages. *Tanzin*, 592 U.S. at 49 (quoting James E. Pfander & Jonathan L. Hunt, *Public Wrongs and Private Bills: Indemnification and Gov't Accountability in the Early Republic*, 85 N.Y.U. L. Rev. 1862, 1871-75 (2010)). In this way, damages are a "vital component of any scheme for vindicating cherished constitutional guarantees." *Owen*, 445 U.S. at 651; *see also Uzuegbunam v. Preczewski*, 592 U.S. 279, 290 (2021) ("[A] plaintiff who proved a legal violation could always obtain some form of damages because he 'must of necessity have a means to vindicate and maintain the right.'") (brackets removed) (quoting *Ashby v. White* [1703], 92 Eng. Rep. 126, 136-37).

For these reasons, particularly "[i]n the context of suits against Government officials, damages have

long been awarded as appropriate relief." *Tanzin*, 592 U.S. at 49. This is true of claims under § 1983, as well as its precursor. *See id.* at 50 (citing cases). It is also true of RFRA, which, as this Court made clear in *Tanzin*, provides "at least the same avenues for relief against officials" as available pre-*Smith* under § 1983. *See id.* at 51. As *Tanzin* further explained, RFRA "uses the same terminology as § 1983 in the very same field of civil rights law," so RFRA must authorize the same remedies, including suits against individual officers for money damages. *See id.* at 48, 50-51. Because RLUIPA—RFRA's "sister statute," *Holt*, 574 U.S. at 356—was enacted to "allow prisoners 'to seek religious accommodations pursuant to the same standard as set forth in RFRA,'" it should be interpreted no differently. *Id.* at 358 (quoting *Gonzales v. O Centro Espírita Beneficente Uniaõ do Vegetal*, 546 U.S. 418, 436 (2006)).

### B. Money Damages Are Often Required to Vindicate the Rights Guaranteed by RLUIPA.

As with RFRA, damages are often "the *only* form of relief that can remedy" RLUIPA violations, because "[f]or certain injuries … effective relief consists of damages, not an injunction." *Tanzin*, 592 U.S. at 51 (emphasis in original). Most commonly, inmates will be transferred or released before their RLUIPA claims are adjudicated, mooting any injunctive relief. In such situations, money damages are the only available relief. Yet in case after case, courts, like the Fifth Circuit below, have erroneously interpreted RLUIPA as not allowing for money damages. Such an interpretation of RLUIPA—which simply cannot be squared with the plain text of the statute or this Court's holding in *Tanzin*—has allowed

prison officials throughout the country to trample on the religious freedom of countless religious inmates and evade any consequences for their unlawful conduct.

This case offers a clear example of the problem. Mr. Landor informed a guard and the warden of Raymond Laborde Correctional Center that he is a practicing Rastafarian and, as such, "maintained long hair in accordance with his religious beliefs." Pet. for Writ of Cert. App. 16a, May 3, 2024 ("Pet. App."). Mr. Landor alleged that he even presented a RLCC guard with a copy of *Ware v. Louisiana Department of Corrections*, 866 F.3d 263 (5th Cir. 2017), in which the Fifth Circuit held that the Louisiana Department of Corrections' policy of prohibiting dreadlocks, as applied to a Rastafarian, like Mr. Landor, violates RLUIPA. *Id.* at 274; Pet. App. 2a. The guard simply threw it away. Pet. App. 2a. Then, at the warden's direction, officers forced Mr. Landor into a room, handcuffed him, and forcibly shaved him completely bald. Pet. App. 3a. The warden and officers had no compelling reason to cut Mr. Landor's hair; indeed, Mr. Landor alleged that a different facility had found a way to accommodate his Rastafarian beliefs and had never forcibly cut his hair. Pet. App. at 2a.

Mr. Landor thus alleged a clear and egregious violation of his religious liberty. But because Mr. Landor has been released from confinement, he can no longer seek injunctive relief. Money damages against the officers therefore are the only "effective relief" for the violation of his religious freedom. *See Tanzin*, 592 U.S. at 51.

Other Rastafarians bringing RLUIPA claims in other Circuits have suffered the same fate. For instance, in *Stewart v. Beach*, prison officials at a

Kansas prison refused to allow a Rastafarian inmate to transfer to a facility closer to his seriously ill mother unless he violated his religious beliefs and cut his hair. 701 F.3d 1322, 1326 (10th Cir. 2012). Yet the court denied any relief under RLUIPA—an injunction was moot because he had been transferred to a new facility and the court erroneously concluded that the statute does not allow for money damages. *Id.* at 1334-35; *see also Walker v. Baldwin*, 74 F.4th 878, 879-80 (7th Cir. 2023) (denying relief under RLUIPA to a Rastafarian inmate who had been forced to cut his dreadlocks but was subsequently released from the facility).

These patterns are not limited to Rastafarians. Lower courts throughout the country have frequently misinterpreted RLUIPA to deny relief to many different religious inmates whose free exercise of religion has been denied. In many cases, for instance, Jewish and Muslim inmates have been deprived of kosher or halal food—a clear violation of RLUIPA—but were denied any redress after their release or transfer because of the supposed unavailability of money damages under the statute. For example, in *Robbins v. Robertson*, 782 F. App'x 794 (11th Cir. 2019), a Muslim inmate alleged that officials at a Georgia prison forced him to choose between observing a halal diet or suffering malnutrition—conduct that the Eleventh Circuit unsurprisingly considered a substantial burden on his religious exercise. *Id.* at 799, 801-03. Yet the plaintiff's RLUIPA claim was dismissed as moot because he was transferred to a different prison facility, and because the court believed that RLUIPA does not allow for damages. *Id.* at 799-800 & n.4; *see also Al Saud v. Lamb*, 2020 WL 1904619, at *5 (D. Ariz. Apr. 17, 2020) (dismissing claims under RLUIPA brought by a

practicing Muslim who was not provided a halal diet in prison and whose claim for injunctive relief was mooted by his transfer from the facility).

A similar result befell an Orthodox Jew who, while incarcerated in a Maryland prison, lost 30 pounds after prison officials categorically refused to accommodate his request for a kosher diet. *See Rendelman v. Rouse*, 569 F.3d 182, 184-85 (4th Cir. 2009). He, too, was left with no "appropriate relief," because he had been transferred from the Maryland prison system to federal custody—mooting injunctive relief—and the court interpreted RLUIPA as not permitting claims for money damages. *See id.* at 187-88; *see also Mitchell v. Denton Cnty. Sheriff's Off.*, 2021 WL 4025800, at *8 (E.D. Tex. Aug. 6, 2021), *report and recommendation adopted*, 2021 WL 3931116 (E.D. Tex. Sept. 1, 2021) (denying monetary relief under RLUIPA to Jewish inmate deprived of kosher food and no longer in the facility); *Harris v. Schriro*, 652 F. Supp. 2d 1024, 1029 (D. Ariz. 2009) (same); *Yisrayl v. Saint Genevieve Cnty. Jail*, 2017 WL 4150859, at *2 (E.D. Mo. Sept. 19, 2017) (same).

Lower courts' misinterpretation of RLUIPA has also led to no relief for religious inmates who have been prevented from properly participating in religious services or religious observances. In *Banks v. Dougherty*, Larry Banks and Walter Carlos, two practicing Muslims who had been involuntarily committed at Chicagoland's Elgin Mental Health Center in Illinois, were denied "the right to attend Jumu'ah services," and Banks, in particular, was denied "a halal diet and sufficient food to fast during Ramadan." *See* 2010 WL 747870, at *1-2 (N.D. Ill. Feb. 26, 2010). Because they were no longer committed at Elgin, only money damages could have vindicated their rights under RLUIPA. Yet the court

dismissed their claims for money damages, leaving them with no appropriate relief despite RLUIPA's provision to the contrary. *Id.* at *5; *see also Heyward v. Cooper*, 88 F.4th 648, 656 (6th Cir. 2023) (affirming dismissal of RLUIPA claim brought by Muslim inmate after prison officials refused to provide him food prepared in accordance with Ramadan requirements and whose claim was mooted by inmate's subsequent transfer); *Banks v. Sec'y Pa. Dep't of Corr.*, 601 F. App'x 101, 102-03 (3d Cir. 2015) (holding that Muslim inmate who had been transferred to a new facility within the Pennsylvania prison system could not assert a RLUIPA claim against prior-facility's officials who had restricted his use of prayer oils during services and his observance of Eid al-Fitr and Eid al-Adha).

Examples of other unredressed RLUIPA violations abound. In multiple jurisdictions, courts misinterpreting RLUIPA have allowed officials, without consequence, to deprive religious inmates of their sacred texts. *See, e.g.*, *Barnett v. Short*, 2022 WL 17338086, at *1 (E.D. Mo. Nov. 30, 2022), *appeal filed*, No. 23-1066 (8th Cir. Jan. 12, 2023). In *Barnett*, a Christian man alleged that officials deprived him of his Bible and, when he complained, a jail administrator responded: "Feel free to quote the constitution all you want to . . . . You will not receive anything more[.]" *Id.* at *2. But because Barnett was then transferred to a new facility, his request for injunctive relief was moot, and the court held that he could not pursue damages under RLUIPA. *Id.* at *3; *see also Washington-El v. Collins*, 2015 WL 1035036, at *13, *19 (M.D. Pa. Mar. 10, 2015) (dismissing plaintiff's RLUIPA claims after plaintiff was denied a copy of the Quran and the right to see an Imam).

In yet another category of cases, religious inmates have had RLUIPA claims dismissed where officials prohibited them from wearing their religious attire. For example, in *Muhammad v. King*, a Muslim inmate had his kufi confiscated and was disciplined for wearing it. 2024 WL 1340548, at *1 (W.D. Mich. Mar. 29, 2024). But the court, despite acknowledging that this was a substantial burden on the plaintiff's religious exercise, *id.* at *4, dismissed the RLUIPA claim as moot because the plaintiff had been transferred and because the court believed money damages were unavailable, *id.* at *6; *see also Brown El v. Skeen*, 2016 WL 299127, at *1-2 (E.D. Mo. Jan. 25, 2016) (denying all relief under RLUIPA to a Muslim plaintiff who was prohibited from wearing his religious apparel in the facility's chapel and from participating in Ramadan services).

In all the above cases, injunctive relief was mooted by the plaintiff's transfer or release from the facility. But even if the plaintiff is not transferred or released from the relevant facility, there are still other ways for prison officials to moot injunctive relief and make money damages the only avenue for redress. In particular, prison officials have successfully mooted injunctive relief by simply changing their practices. The case of Alphonse Porter, who had been confined at the Louisiana State Penitentiary, provides a chilling example. *See Porter v. Manchester*, 2021 WL 389090, at *1 (M.D. La. Jan. 4, 2021), *report and recommendation adopted*, 2021 WL 388831 (M.D. La. Feb. 3, 2021).

Mr. Porter, a Rastafarian, alleged in his verified complaint that prison leadership ordered officers "to use a chemical agent and other malicious and sadistic tactics if [Mr. Porter] did not renounce his religious beliefs." *Id.* at *2. Mr. Porter further alleged

that the officers escorted him to a lobby and "threatened to harm [him] if he did not cut his hair and shave his beard and surrounded [him] in a threatening manner." *Id.* After Mr. Porter kneeled and began praying, an officer (Major Voorhies) "hit [Mr. Porter] in his side twice with a chair[,] . . . . stood over [Mr. Porter], threatened to kill him, jerked [Mr. Porter] up from the floor, grabbed [Mr. Porter] by the throat and slammed him against a concrete wall." *Id.* A second officer (Damon Turner) "then grabbed [Mr. Porter] and slammed him to the floor causing [Mr. Porter] to hit his head and become dizzy." *Id.* Major Voorhies, straddling Mr. Porter, then struck Mr. Porter in the mouth with clippers, "causing [Mr. Porter's] mouth to bleed and resulted in two chipped and loose teeth." *Id.* And it only got worse:

> Voorhies then pushed the blades of the clippers into [Mr. Porter's] face causing him to bleed while Voorhies shaved one patch of facial hair on each side of [Mr. Porter's] face. [Mr. Porter] was again hit with the clippers by Voohries [sic] on the side of the head, then Voohries [sic] forcefully cut a large patch of hair on both sides of [Mr. Porter's] head.
>
> While [Mr. Porter's] hair and beard were being shaved, defendant Turner stood on [Mr. Porter's] wrist and waist chain cuffs causing [Mr. Porter] to scream out in pain. Defendant [Captain Juan] Manchester stood by watching and laughing. Defendant [Col. Trent] Barton looked in from the disciplinary court room and stated, "There is a lot more of

> that to come" if [Mr. Porter] "didn't believe in the defendants as Gods."

*Id.* And ten days later, after "notic[ing] that [Mr. Porter] still had patches shaven out of his hair and beard," the defendants "sprayed [Mr. Porter] with an excessive amount of chemical agent and was not allowed to decontaminate." *Id.*

Despite this extraordinary record, Mr. Porter was denied all recourse under RLUIPA. The court found that injunctive relief was moot because Louisiana had subsequently changed its policy to allow religious exemptions to prison grooming standards. *Id.* at *5. As for money damages, the court wrongly held that RLUIPA does not authorize such damages against officers in either their official or individual capacities. *Id.* at *4. That is a perversion of RLUIPA's guarantee of all "appropriate relief" to those whose religious liberty has been violated.

Mr. Porter's case is not unique. In *Haight v. Thompson*, a Kentucky prison denied Randy Haight and Gregory Wilson access to visiting clergy members. 763 F.3d 554, 560 (6th Cir. 2014). But, because the court held that money damages were unavailable under RLUIPA, the prison successfully evaded Mr. Haight's and Mr. Wilson's RLUIPA claim just "by altering its policy" with respect to clergy visits. *Id.* at 568; *see also Pilgrim v. N.Y. State Dep't of Corr. Servs.*, 2011 WL 6031929, at *4 (N.D.N.Y. Sept. 1, 2011), *report and recommendation adopted*, 2011 WL 6030121 (N.D.N.Y. Dec. 5, 2011) (RLUIPA claim by Rastafarian who was disciplined for his dreadlocks dismissed as moot because of prison system's later change in policy regarding dreadlocks).

* * *

Such cases are all too common and fly in the face of RLUIPA's "very broad protection for religious liberty," *Holt*, 574 U.S. at 356 (quoting *Burwell*, 573 U.S. at 693), and its express provision of "appropriate relief" for *any* violation of it, 42 U.S.C. § 2000cc-2(a). This misinterpretation of RLUIPA has been going on for years and has become the unanimous, nationwide rule in the Courts of Appeals. *See* Pet. for Writ of Cert. 23-24. And even worse, as described above, several lower courts have continued to deny a damages remedy under RLUIPA even after this Court's 2020 decision in *Tanzin*, which made clear "that RFRA's express remedies provision permits litigants, when appropriate, to obtain money damages against federal officials in their individual capacities," and that, given "RFRA's origins" and the statute's "reinstate[ment] [of] pre-*Smith* protections and rights," "it would be odd to construe RFRA in a manner that prevents courts from awarding [effective] relief" when such relief "consists of damages, not an injunction." 592 U.S. at 50-52. RLUIPA—which "mirrors RFRA," 574 U.S. at 357, and contains the same, broad remedial language, *compare* 42 U.S.C. § 2000bb-1(c) (RFRA), *with id.* § 2000cc-2(a) (RLUIPA)—must be interpreted likewise. *See also id.* § 2000cc-3(g) (RLUIPA "shall be construed in favor of a broad protection of religious exercise"). This Court's intervention is badly needed.

## CONCLUSION

For the foregoing reasons and those stated in the petition, the petition for a writ of *certiorari* should be granted.

Dated: June 6, 2024

Respectfully submitted,

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