No. 24-71

IN THE

Supreme Court of the United States

AVRAHAM GOLDSTEIN, MICHAEL GOLDSTEIN; FRIMETTE KASS-SHRAIBMAN; MITCHELL LANGBERT; JEFFREY LAX; MARIA PAGANO,

Petitioners,

v.

PROFESSIONAL STAFF CONGRESS/CUNY; CITY UNIVERSITY OF NEW YORK; JOHN WIRENIUS, in his official capacity as Chairperson of the New York Public Employee Relations Board; ROSEMARY A. TOWNLEY, in her official capacity as Member of the New York Public Employee Relations Board; ANTHONY ZUMBOLO, in his official capacity as Member of the New York Public Employee Relations Board; CITY OF NEW YORK; THOMAS DINAPOLI, in his official capacity as New York State Comptroller,

Respondents.

On Petition for Writ of Certiorari to the United States Court of Appeals for the Second Circuit

BRIEF OF FREEDOM FOUNDATION AS *AMICUS CURIAE* IN SUPPORT OF PETITIONERS

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QUESTION PRESENTED

The State of New York is prohibiting several professors, all but one of whom are Jews, from dissociating themselves from a union's representation to protest its anti-Semitic and anti-Israel conduct and other expressive activities. The question presented is: Whether it violates the First Amendment for a state to prohibit individuals from dissociating from a union's representation to protest that union's expressive activities?

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INTERESTS OF *AMICUS CURIAE*[1]

Freedom Foundation (the Foundation) is a nonprofit, nonpartisan organization working to protect the First Amendment rights of public employees regarding union membership and payroll dues deductions. Pursuant to this mission, the Foundation regularly files amicus curiae briefs with this Court. *See, e.g.*, *Bennett v. Am. Fed'n of State, Cty., & Mun. Emps., Council 31*, 142 S. Ct. 424 (2021); *Janus v. Am. Fed'n of State, Cty., & Mun. Emps., Council 31*, 585 U.S. 878 (2018); *Friedrichs v. California Teachers Ass'n*, 576 U.S. 1082 (2015).

The Foundation works to protect the rights of public sector employees by assisting public employees in understanding and exercising those rights. The Foundation is active in Washington, Oregon, California, among other states. As such, the Foundation has an interest in the Court accepting review of the instant case to settle the question of whether prohibiting public employees from disassociating themselves from a union's representation, when that representation is anathema to their beliefs and matters of conscience, violates the First Amendment.

INTRODUCTION AND SUMMARY OF REASONS TO GRANT PETITION

It is indisputable that public sector unions' activism is now significantly, if not primarily, focused on political goals unrelated to wages, hours and working

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[1] Pursuant to Rule 37.2, all parties received notice of the filing of this brief and appellant granted consent to file. Pursuant to Rule 37.6, Amicus affirms that no party's counsel authored this brief in whole or in part, and no person or entity, other than Amicus and its counsel, made a monetary contribution intended to fund the preparation or submission of this brief.

conditions. During the COVID-19 school shutdowns, public school unions repeatedly threatened to keep schools closed unless governments capitulated to their non-school-related policy preferences of defunding the police and passing universal healthcare.[2] Similarly, public sector unions have also made their anti-Israel positions very clear and have worked actively to disseminate their ideas.[3] Being associated with a public sector union unambiguously requires being associated with a list of policy prescriptions.

For the last forty years, the district and circuit courts have misapplied and expanded this Court's decision in *Minnesota State Bd. for Cmty. Colleges v. Knight,* 465 U.S. 271 (1984), to foreclose legal challenges to forced association with public sector unions. That means that in many states like California, Oregon, Washington, and, of course, New York, public employees *must* associate with unions and their extreme political positions, even when they are no

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[2] *Eliminate school police, L.A. teachers union leaders say*, Los Angeles Times (June 8, 2020 7:17 PM PT), https://www.latimes.com/california/story/2020-06-08/defund-school-police-utla-blm (last visited August 20, 2024).

Lee Ohanian, *Teacher Union Demands Far-Left Economic Policies Before Reopening Classrooms*, Hoover Institue (July 22, 2020), https://www.hoover.org/research/teachers-union-demands-far-left-policies-returning-classrooms (last visited August 20, 2024).

[3] Andrew Bernard, *House subcommittee hears testimony about Jew-hatred in labor unions*, jns (July 9, 2024), https://www.jns.org/house-subcommittee-hears-testimony-about-jew-hatred-in-labor-unions (last visited August 20, 2024).

longer union members, since those unions still represent them in collective bargaining.[4]

In almost all of the cases that raise a challenge to exclusive representation on the basis of freedom of association, courts simply repeat *Knight's* mantra – that "[t]he state has in no way restrained appellees' freedom to speak on any education-related issue *or their freedom to associate or not to associate with whom they please*, including the exclusive representative" without addressing the limiting context in which these words were written. *Knight,* 465 U.S. at 288 (emphasis added).

The context, however, is crucially important. It renders the above language in *Knight* inapplicable to challenges to exclusive representation on the basis of freedom of association. In *Knight*, this Court held that it did not violate an individual's freedom of association to be *excluded* from "meet and confer" sessions between a union and a public employer when they discussed policy matters relating to employment but outside of collective bargaining. *Id*. at 273 ("The question presented in this case is whether this *restriction on participation* in the nonmandatory-subject exchange process violates the constitutional rights of professional employees within the bargaining unit who are not members of the exclusive representative and who may disagree with its views.") (emphasis added). *Knight* established that a statute *excluding* a public

[4] The Merriam-Webster dictionary defines "represent" as "to serve as a sign or symbol of." Merriam-Webster Online Dictionary, "represent" https://www.merriam-webster.com/dictionary/represent (last visited Aug. 20, 2024). Even if the employee resigns, the union continues to "serve as a sign or symbol of" the employee and that resignation does not do enough to ameliorate the employee's association with a union's non-work-related political advocacy.

employee from *participation* in a "meet and confer" session did not violate his First Amendment right to freedom of association because that employee had no "right to be heard" by his employer, he only had a right to speak to his employer. *Id*. at 283. As such, he could always speak to his employer at a different time than the "meet and confer," even if that meant that his employer would not listen. *Id*. at 286.

Despite its limited nature, *Knight* has been taken out of context to apply to challenges relating to *disassociation* from a union, rather than only to association with the union for purposes of participation in a "meet and confer" session. Here, the Petitioners do not care if they attend a "meet and confer" session – they are not interested in joining any meetings or negotiations (nor are they interested speaking at these meetings). Pet. App. 75a. Rather, to put it bluntly, they are interested in *keeping the union and its views as far away from them as possible*.

Further, district and circuit court's ruling on this issue have failed to take into account the pervasiveness of unions' political activism in recent years – both in the unions' conduct and in their funding of political causes. When a union's image stood for the betterment of the worker, through improvements in wages, hours and working conditions, an employee could easily disassociate himself from the union if he did not agree with these goals by simply not being a union member. But when a public sector union now stands for the proposition that "[t]he Israeli government created an apartheid state and the Israeli government leaders have espoused genocidal rhetoric and policies against

the people of Palestine,"[5] merely resigning from union membership does not diminish enough the stain of association that an employee now bears.

This Court alone has the power to correct the mistaken understanding of *Knight* and reaffirm that "[d]isassociation with a public-sector union and the expression of disagreement with its positions and objectives" lie at "the core of those activities protected by the First Amendment." *Abood v. Detroit Bd. of Ed.*, 431 U.S. 209, 258 (1977), *overruled by Janus v. Am. Fed'n of State, Cnty., & Mun. Emps., Council 31*, 585 U.S. 878 (2018).

REASONS TO GRANT THE PETITION

I. The Court Should Affirmatively Recognize the Right to Disassociate Because the Injury to Expressive Association Rights Cannot Be Remedied by Merely Resigning Union Membership in Light of the Unions' Non-Work-Related Political Activism

The Second Circuit, and many other courts misapplying *Knight* propose a single, insufficient remedy to employees who do not wish to associate with their government-assigned union: resign your membership. Pet. App. 8a-9a ("Plaintiffs are free to resign their membership from the union or to engage in public dissent against PSC's views."). The implicit logic of the argument is that what unions do outside of collective bargaining has nothing to do with the union's purpose, which is,

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[5] Lisa Fernandez, *Oakland teachers union creates massive rift over statement regarding Israel and Palestine*, Fox2 KTVU (October 31, 2023 7:27pm PDT), https://www.ktvu.com/news/oakland-teachers-union-create-massive-rift-over-statement-regarding-israel-and-palestine (last visit-ed August 19, 2024).

supposedly, collective bargaining. As such, resigning union membership enables an employee to avoid the ancillary annoyance of the union's political positions while still remaining bound to the supposedly politically neutral, pro-worker advocacy.[6]

But even unions themselves would never claim to have "dual" identities: one that advocates for workers' rights and one that separately advocates against Zionism, such that an employee can resign from the union's anti-Zionism identity while still remaining part of the union's worker's rights identity. Rather, unions themselves see their labor advocacy and political advocacy as part and parcel of the same thing. For example, Respondent PSC/CUNY's June 10, 2021, resolution starts out as follows:

> Whereas, as an academic labor union committed to anti-racism, academic freedom, and international solidarity among workers, the PSC-CUNY cannot be silent about the continued subjection of Palestinians to the state-supported displacement, occupation, and use of lethal force by Israel; and…

Pet. App. 74a, 93a.

Unions seamlessly integrate their pro-worker stances ("as an academic labor union committed to… international solidarity among workers") and political stances ("anti-racism…subjugation of Palestinians") into everything they do, spending hours advocating for both causes, often in the same breath, and as part of the same world view. Therefore, it is impossible for

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[6] In fact, as this Court made clear in *Janus,* everything public sector unions do is "inherently political," including collective bargaining. 585 U.S. at 920.

an employee to extricate himself from association with the political advocacy of a union and still remain untainted by that advocacy in his relationship with the union's collective bargaining. The employee *remains associated* with the unions' identity and speech even if he resigns his membership because he is still associated with the union's integrated identity as a, for example, anti-Zionist organization.

By continuing to be represented by the union in collective bargaining negotiations with his own employer, the employee's injury is not just the injury alleged in *Knight,* that he is not able to be heard by his employer. The employee is also injured because he is forever known to the outside world (and to his own employer) as associated with the union's anti-Israel speech. In this way, he is not injured because he is *excluded* from negotiations, he is injured because he is *associated* with them through the union's forced representation of his interests.

The forced inclusion takes two forms: public and personal. When public sector unions' main political activities centered on advocating on behalf of workers' wages, hours and working conditions, disassociating from the union made a clear statement that the employee does not agree with the union's advocacy as it relates to his work. However, the more unions have shifted into other aspects of the political sphere unrelated to the collective bargaining, the more they have come to symbolize the political left, rather than a politically neutral pro-worker advocacy group. Unions are public in their advocacy of causes like defunding

the police[7] and anti-Israel advocacy,[8] all issues very much unrelated to working conditions, hours and pay.[9]

Anti-Israel advocacy is particularly pertinent here. Nearly every single state's teachers' unions, and the national teachers' unions, have expressed their views regarding the October 7, 2023, Hamas massacre in Israel and the subsequent war that has followed that incident.[10] These opinions are made highly public, and teachers' unions have never come out to say that this is their own separate advocacy, unrelated to the collective bargaining activism. Because of exclusive representation, unions that have come out publicly against tenets of Judaism now exercise the authority to exclusively represent Jewish teachers and professors in negotiations and those Jewish teachers and professors remain publicly affiliated with and subject to the very

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[7] Carla Javier, *LA Teachers' Union Endorses Calls To Defund School Police*, LAist (June 26, 2020 2:45 PM), https://laist.com/news/utla-teachers-union-lausd-school-police-defund-vote (last visited August 20, 2024).

[8] https://inthesetimes.com/article/palestine-israel-labor-unions-afl-cio-aft-bds-gaza (last visited August 20, 2024).

[9] Eric Boehm, *Teachers Unions Want Wealth Taxes, Charter School Bans, and Medicare for All Before Schools Can Reopen*, reason. com (July 28, 2020, 5:00 PM), https://reason.com/2020/07/28/teachers-unions-want-wealth-taxes-charter-school-bans-and-medicaid-for-all-before-schools-can-reopen/ (last visited August 20, 2024).

Ben Rothove, *National Education Association cares more about politics than students, Washington Examiner* (July 8, 2024 2:09 pm), https://www.washingtonexaminer.com/opinion/3072990/national-education-association-cares-more-about-politics-than-students/ (last visited August 20, 2024).

[10] Rebecca Friedrichs and Roger Ruvolo, Unions for Palestine, City Journal (Nov. 14, 2023), https://www.city-journal.org/article/teachers-unions-for-palestine (last visited August 20, 2024).

bargaining process the unions control. The stain of association with an organization that hates their personal and religious beliefs remains on the employees long after they have *privately* informed the union they no longer wish to be members.

Further, each employee must suffer the knowledge that a politicized organization, one that touts non-work-related policies in public that are anathema to the employee's conscience, is negotiating his livelihood without consent. Public employees should not be forced to be subject to the authority of an organization that loathes their religious and most deeply-held beliefs.

The very same sentiment that enshrines free association in the Constitution is the same sentiment that enshrines the freedom *not* to associate. This Court must grant the writ because the injury to the Petitioners' association rights is not remedied by resigning union membership in light of unions' non-work-related political activism.

II. Lower Courts Have Misread *Knight* to Exempt State-Compelled Union Representation from Constitutional Scrutiny

The lower courts misread and misapply *Knight* to preclude *dis*associational injuries when *Knight* does not address *disassociation* from a union. *Knight* held only that *excluding* employees from non-public meetings with union officials did not infringe on employees' ostensible right to participate in those meetings. 465 U.S. at 273. The sole "question presented" in *Knight* was whether a "restriction on participation in the nonmandatory-subject exchange process violates the constitutional rights of professional employees." *Id*. The "appellees' principal claim [was] that they have a

right to force officers of the state acting in an official policymaking capacity to listen to them in a particular formal setting." *Id*. at 282. This Court disagreed, reasoning that "[t]he Constitution does not grant to members of the public generally a right to be heard by public bodies making decisions of policy." *Id*. at 283. Consequently, the Court concluded that "[t]he District Court erred in holding that appellees had been unconstitutionally denied an opportunity to participate in their public employer's making of policy." *Id*. at 292.

Knight stands only for the proposition that government officials are constitutionally free to choose whom they listen to in nonpublic forums. That holding has no bearing here. Petitioners do not allege that New York wrongfully *excludes* them from its meetings with PSC/CUNY. Pet.App. 62a. Nor do they assert a "constitutional right to force the government to listen to their views," *Knight,* 465 U.S. at 283.

Rather, Petitioners assert their constitutional right not to be compelled to associate with PSC/CUNY and its speech. Pet.App. 63a-64a.

Courts, including the Second Circuit here, have expanded the holding of *Knight* by reading its language out of context. For example, in *Knight*, the Court explained that *excluding* non-union members from "meet and confer" sessions to discuss policy questions separate from collective bargaining "in no way restrained [the employees'] freedom to speak on any education-related issue or their freedom to associate or not to associate with whom they please, including the exclusive representative." *Id*. at 288. The employees' "associational freedom ha[d] not been impaired" because they remained "free to form whatever advocacy groups they like[d]" and were "not

required to become members" of the union. *Id*. at 289; Pet. App. 8a.

Circuit courts have repeated this same language from *Knight* as a refrain to hold that exclusive representation does not infringe on an employees' right to *disassociate* from the union when that language only referred to the right *to associate* with the union or other advocacy groups. *D'Agostino v. Baker*, 812 F.3d 240, 243 (1st Cir. 2016) (Despite the fact that the plaintiffs alleged that they wanted to *disassociate* from the union, *D'Agostino v. Baker,* 98 F. Supp. 3d 109, 110 (Mass. D. 2015), the First Circuit used the language from *Knight* regarding the right to *associate,* to preclude an injury to their right to *disassociate*. "The Court [in *Knight*] held that neither a right to speak nor a right to associate was infringed, *id*. at 289; like the appellants here, the academic employees in *Knight* could speak out publicly on any subject and were free to associate themselves together outside the union however they might desire."); *Reisman v. Associated Faculties of the Univ. of Maine*., 939 F.3d 409, 414 (1st Cir. 2019) (citing to the portion of *D'Agostino*, *supra*, that incorrectly conflates the *Knight* language regarding the right to associate with the right to *disassociate*.); *Jarvis v. Cuomo*, 660 F. App'x 72, 74 (2d Cir. 2016) (Plaintiffs alleged they wanted to *disassociate* from the union, but the Second Circuit used the same *Knight* language holding there was no associational injury when the employees couldn't *associate* with the "meet and confer" to conclude there was no injury to the right to *disassociate* from the union. "In so holding [the meet and confer provision does not infringe on First Amendment rights], the *Knight* Court emphasized that unit members were 'not required to become members of [the union]' …and not 'an unconstitutional

inhibition on associational freedom'" citing to *Knight*, 465 U.S. 289-90); *Hill v. Serv. Emps. Int'l Union*, 850 F.3d 861, 864 (7th Cir. 2017) (Plaintiffs alleged they wanted to *disassociate* from the union, *id.* at 863, but the Seventh Circuit used the same *Knight* language holding there was no associational injury when the employees couldn't *associate* with the "meet and confer" to conclude there was no injury to the right to *disassociate* from the union); *Bennett v. Am. Fed'n of State, Cnty. & Mun. Emps., AFL-CIO, Council 31*, 991 F.3d 724, 733 (7th Cir. 2021) (Plaintiffs allege they wanted to *disassociate* from the union, *id*. at 726, but the Seventh Circuit used the same *Knight* language holding there was no associational injury because the employees were "free to form whatever advocacy groups they like" to conclude there was no injury to the right to *disassociate* from the union.); *Bierman v. Dayton*, 900 F.3d 570, 574 (8th Cir. 2018) (Despite alleging they wanted to *disassociate* from the union, the Eighth Circuit used the language in *Knight* about the freedom "*not to associate*," when that language from *Knight* implied the right to not be a union member, not the right not to have to associate with the union at all); *Uradnik v. Inter Faculty Org*., 2 F.4th 722, 726 (8th Cir. 2021) (Plaintiffs allege they wanted to *disassociate* from the union, *id.* at 724-25, but the Eighth Circuit used the same *Knight* language holding there was no associational injury because the plaintiffs could associate with whomever they wanted and form advocacy groups. Again this has no relation to the plaintiffs' allegations of an injury to their right *not* to associate); *Mentele v. Inslee*, 916 F.3d 783, 786 (9th Cir. 2019) (Plaintiffs alleged that their right to expressive association was violated when the union forced them to associate with the union's speech and negotiate on their behalf. *Id*. at 785. Nonetheless, the Ninth Circuit

repeated the same *Knight* language regarding the plaintiffs' right to associate with whom they so desire to hold that *Knight* precluded a right to *disassociate* from the union); *Hendrickson v. Am. Fed'n of State, Cnty. & Mun. Emps., Council 18*, 992 F.3d 950, 968-69 (10th Cir. 2021) (Plaintiffs alleged they wanted to *disassociate* from the union, *id*. at 956, but the Tenth Circuit used the same *Knight* language holding there was no associational injury in reference to the employees' exclusion from the "meet and confer" to conclude there was no injury to the right to *disassociate* from the union).

Citing to *Knight*, the courts listed above conclude that employees' associational freedoms have not been impaired because they remained free to "associate or not associate with whom they please." *Knight*, 465 U.S. at 288; Pet.App. 8a-9a. Reading into the words "not associate with whom they please," the courts interpret *Knight* to mean that the employee can always *disassociate* from the union by resigning his membership. But it is evident from the context of the language in *Knight* that free to "not associate" did not mean the right to not be associated with the union. Rather, it meant the right to attend or not attend the "meet and confer."

This is evident from the very first sentence which immediately precedes the "associate or not associate" language. "Although there is no constitutional right to *participate* in academic governance, the First Amendment guarantees the right both to speak and to associate." *Id*. at 288 (emphasis added). This aligns with the "question presented in this case" as to whether a "restriction on participation in the nonmandatory-subject exchange process violates the constitutional rights of professional employees." *Id*. at 273. As such,

the employee's ability to "associate or not associate with whom they please" does not refer to not associating with the union, it refers to not associating with the "meet and confer."

Moreover, the district court's opinion in *Knight* makes clear that the case involved no compelled association claim. *Knight v. Minn. Cmty. Coll. Faculty Ass'n,* 571 F. Supp. 1 (D. Minn. 1982). There were three claims before that court: (1) exclusive representation violates the non-delegation doctrine, *id*. at 3-5; (2) agency fees compel employees to subsidize political activities, *id*. at 5-7; and (3) it is unconstitutional to bar employees from participating in union meet-and-negotiate and meet-and-confer sessions, *id*. at 7-12. Conspicuously absent is any claim that exclusive representation associates unconsenting employees with a union and its speech.

The issue in *Knight* is not the right to *not* associate with the union, it is the right to be able to associate *with others* in the bargaining unit. *Association with* is inapposite to *disassociation from*.

Using this faulty reasoning, the Second Circuit holds that the fact that the Petitioners "were 'not required to become members' of the union," meant that their freedom of association had not been impaired. Pet. App. 8a, citing *Knight* at 465 U.S. at 289. Once again, this argument exists nowhere in *Knight* and is a misstatement of *Knight*'s holding. The sentence preceding the above language is clear in its reference to the freedom of *association*, not the freedom to *disassociate*. "Appellees are free to form whatever advocacy. They are not required to become members…" *Id.* Therefore, employees' association rights were not violated because they may form another advocacy group, *not*

because they are unable to escape from the advocacy group with which they no longer want to associate.

The government is not free to force individuals to associate with an advocacy organization so long as that compelled association falls short of full-fledged membership. As the Eleventh Circuit reasoned in *Mulhall v. UNITE HERE, Local 335*, "regardless of whether [an individual] can avoid contributing financial support to or becoming a member of the union, its status as his exclusive representative plainly affects his associational rights," because [h]is views. . . may be at variance with 'a wide variety of activities undertaken by the union in its role as exclusive representative.'" 618 F.3d 1279, 1287 (11th Cir. 2010) (citation omitted) (quoting *Abood,* 431 U.S. at 222).

Knight cannot bear the incredible weight placed upon it. The Court should grant certiorari to eliminate the lower courts' erroneous misapplication of *Knight* and establish that *Knight* does not exempt exclusive representation from First Amendment scrutiny.

III. The Court Should Unambiguously Recognize the Right to Disassociate from a Group Because There Is Scant Precedent on the Issue, Yet the Right Is Essential to Millions of Public Sector Employees

Given that *Knight* does not apply to cases of *disassociation*, what, then, is the extent of that right? The case law on this question is sparse. The freedom to disassociate has mostly been applied to cases where groups wanted to *exclude* certain others from associating with them because including those others hindered the group's ability to advocate public or private viewpoints. *See e.g.*, *Roberts v. United States Jaycees*, 468 U.S. 609 (1984) (this Court recognized the

right to expressive association includes the right to *exclude* certain others from membership in private organizations); *Boy Scouts of Am. v. Dale*, 530 U.S. 640, 648 (2000) ("[t]he forced inclusion [or the inability to *exclude*] of an unwanted person in a group infringes the group's freedom of expressive association…"). As this Court has made clear, "[f]reedom of association would prove an empty guarantee if associations could not limit control over their decisions to those who share the interests and persuasions that underlie the association's being." *California Democratic Party v. Jones*, 530 U.S. 567, 574–75 (2000) (cleaned up).

The underlying value in the right to *exclude* is the right of a minority group to be protected from having its expression diluted by a majority that does not agree with that expression. Keeping the uniformity of that group requires barring membership to those who do not agree with the group's beliefs.

Here, however, the situation is reversed. The freedom of association that Petitioners seek is the freedom to be *independent and distinct* from the group, rather than the freedom of the group to exclude them. That case law on the issue of an individual's disassociation from a group is limited is unsurprising because, aside from public sector unions, there are almost no examples in this country where individuals can be forced to associate with a group against their will. No private group or political party, outside of the labor union context, forces individuals to associate with it and be subject to the decisions it makes. Such coercion is antithetical to every other group's implicit reason for existence – the voluntary association of individuals.

Almost no cases address an individual's right to *disassociate* from a group. In *Elrod v. Burns,* this Court held that requiring employees to join a political party

in order to keep their employment, "inhibits belief and association" and thus violates the First Amendment. *Elrod v. Burns*, 427 U.S. 347, 357 (1976).

Similarly, and even more pertinently, in *Abood v. Detroit Bd. of Ed.*, this Court held that "[d]isassociation with a public-sector union and the expression of disagreement with its positions and objectives" lie at "the core of those activities protected by the First Amendment." 431 U.S. at 258.

Lastly, in *Garza v. Starr Cnty., Texas*, the plaintiff, a candidate for office, requested that she not be placed on the ballot with a slate of other candidates with whom she did not want to associate. She was nonetheless put on that slate in violation of her First Amendment right to freedom of association. No. 7:12-CV-274, 2013 WL 4042034, at *4 (S.D. Tex. Aug. 8, 2013) ("the Court finds that this case implicates Plaintiff's constitutionally protected rights to free speech and to 'disassociate' from the political group supported by her supervisor.").

Every single public employee in a state that has a statutory exclusive representation regime must be represented by a union, and only that one union, in collective bargaining. Every single public employee under such a regime has a potential freedom of association injury for being forced to be associated with a union that advocates on the employee's behalf without his consent.

The right to disassociate from a group exists, as the case law above describes, and as *Abood* so aptly holds. Yet, because authority is sparse, lower courts have incorrectly applied the holding in *Knight* to an unconstitutional fault. This Court should grant the

writ in order to firmly establish the First Amendment right disassociate from a group.

CONCLUSION

For the foregoing reasons, the Court should grant the petition for a Writ of Certiorari.

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August 22, 2024