

No. 24-539

IN THE
Supreme Court of the United States

KALEY CHILES,

Petitioner,

v.

PATTY SALAZAR, IN HER OFFICIAL CAPACITY AS
EXECUTIVE DIRECTOR OF THE COLORADO DEPARTMENT
OF REGULATORY AGENCIES, ET AL.,

Respondents.

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

**BRIEF OF AMICUS CURIAE CHANGED
MOVEMENT IN SUPPORT OF PETITIONER**

SAMUEL J. SALARIO, JR.

Counsel of Record

LAWSON HUCK GONZALEZ, PLLC

1700 South MacDill Avenue

Suite 240

Tampa, FL 33629

(813) 765-5113

samuel@lawsonhuckgonzalez.com

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INTEREST OF *AMICUS CURIAE*¹

CHANGED Movement is a community of friends who once identified as LGBTQ+ and exchanged that identity for a Christian worldview. It was formed in response to California legislation based on the idea that no one who experiences same-sex attraction or confusion about gender can change, even if they sincerely desire it. To raise awareness, the founders of CHANGED Movement published a book of personal stories by people who wanted and achieved that change. That advocacy gave rise to an international network of people who had done the same.

CHANGED Movement believes that while many who question their sexual orientation or gender identity embrace an LGBTQ+ identity, many don't, and, after a period of self-reflection, embrace sexual identities aligned with the Christian faith. CHANGED Movement advocates for the freedom of speech, religion, and conscience of those who confront these issues: the right to question one's sexuality or gender without government intrusion. It does so primarily in the same way it does in this brief—namely, by sharing personal stories and witness accounts that give hope to those questioning their LGBTQ+ identity and compassionate input to officials

¹ Counsel of record received timely notice of CHANGED Movement's intent to file this brief under Supreme Court Rule 37.2. No counsel for any party authored this brief in whole or in part, nor did any such counsel or party make any monetary contribution intended to fund the preparation or submission of this brief.

who address issues at the intersection of LGBTQ+ identity and Christian belief.

CHANGED Movement files this brief because it has a strong interest in advocating for those who seek to question their identity authentically and without restriction and defending freedom of speech, religion, and conscience for all people.

SUMMARY OF THE ARGUMENT

Last term, this Court reaffirmed that “the whole project of the First Amendment” is “a well-functioning sphere of expression, in which citizens have access to information from many sources.” *Moody v. NetChoice, LLC*, 603 U.S. 707, 732-33 (2024). Thus, “if there is any fixed star in our constitutional constellation, it is the principle that government may not interfere with an uninhibited marketplace of ideas.” *303 Creative LLC v. Elenis*, 600 U.S. 570, 584-85 (2023) (internal citation and quotation omitted).

Colorado’s naked censorship of what it denigrates as “conversion therapy” doesn’t merely interfere with the uninhibited marketplace of ideas about sexual-orientation and gender-identity counseling. It seeks to own it lock, stock, and barrel. Where sexual orientation and gender identity are concerned, no speech besides unquestioning affirmation is allowed. Colorado’s pretense that when it suppresses ideas that conflict with its self-declared orthodoxy, it is just regulating professional conduct harms the marketplace of ideas every bit as much as Colorado censoring unorthodox speech on the same

topics by the man on the street. See *Nat'l Inst. of Fam. & Life Advocs. v. Becerra*, 585 U.S. 755, 772 (2018) (“[W]hen the government polices the content of professional speech, it can fail to preserve an uninhibited marketplace of ideas in which truth will ultimately prevail.”).

The Colorado government’s plan to displace any idea about counseling people with same-sex attraction and gender incongruence that doesn’t conform to its own narrow vision is gravely harmful, for reasons linked to the values the marketplace of ideas protects. As the personal stories of members of the CHANGED Movement that follow illustrate, people who sincerely desire help defying their feelings of same-sex attraction or aligning their gender with their biological sex are cut off from good and helpful ideas that improve their lives. People who want to get off the one-way train from gender-affirming counseling, to hormone therapy, to surgery lose access to good ideas that avoid real harms. And people who are satisfied with their sexual orientation and gender identity lose access to qualified, compassionate counselors who don’t want to assume the risk of fines and sanctions at the hands of government officials prepared to enforce the state’s mandatory viewpoint on those subjects because they may come up in therapy.

The Court should grant the petition for a writ of certiorari to resolve the important First Amendment question this case presents.

ARGUMENT

**As the personal stories of CHANGED
Movement members show,
Colorado’s censorship of therapists
and counselors causes public
harms linked to government control of the
marketplace of ideas.**

Colorado claims a monopoly on truth for those who question their gender identity or sexual orientation and seek the help of a professional: An individual’s feelings of identity at variance with their sex or attraction to members of the same sex must be affirmed categorically, without regard to the individual’s circumstances, wishes, or interests. The unavoidable result is that those who struggle with matters of gender identity and sexual orientation are barred from accessing help from a mental health professional that can yield concrete benefits and avoid concrete harms. Coerced affirmation of the state’s view of gender identity and sexual orientation, even when it will produce harms or avoid benefits, is all that Colorado allows.

That result is baked into the text of the Colorado law. In terms both sweeping and vague, it prohibits practices and treatments that “purport” to “change” gender identity or sexual orientation and even bans “efforts to change behaviors” that align with Colorado’s viewpoint on gender identity or sexual orientation. See Colo. Rev. Stat. § 12-245-202(3.5)(a). People who may want those “efforts” from a licensed counselor—or people who, in the counselor’s best judgment, will benefit from them—

are cut off from access. All they may lawfully receive is “[a]cceptance, support, and understanding for the facilitation of” the gender identity or sexual orientation the Colorado government thinks best. See *id.* § 12-254-202(3.5)(b).

The important First Amendment problems with Colorado’s effort to censor “good-faith disagreements ... with the government” about how mental health professionals should care for those who question their sexual orientation or gender identity—smearing opposing views as “conversion therapy” and then censoring them—are thoroughly presented by others. *NIFLA*, 585 U.S. at 772. But this case vividly illustrates the profound public harms that result when the government makes itself the arbiter of a perceived truth that ought to be discussed and debated by the people. See *Murthy v. Missouri*, 603 U.S. 43, 77 (2024) (Alito, J., dissenting) (discussing suppression of information regarding COVID-19 pandemic and explaining “[b]ut we know now that valuable speech was also suppressed. That is what inevitably happens when entry to the marketplace of ideas is restricted.”). By squelching “an uninhibited marketplace of ideas” about counseling over matters of sexual orientation and gender identity, *Red Lion Broadcasting Co. v. Federal Comm’s Comm’n.*, 395 U.S. 367, 390 (1969), Colorado has also squelched the rights of American citizens to decide how they want to live their lives.

Fundamentally, the Colorado law denies individuals the right of self-determination when it comes to their own sexual orientation and gender identity by forcing people who want therapeutic help

questioning their feelings about those subjects to instead accept the government's preferred answer. In violation of bedrock First Amendment principles, the Colorado law wrongly pretends that it's simply impossible for a free person—out of religious conviction or otherwise—to choose something other than his or her own feelings of sexual orientation or gender identity at any given moment and thus strips individuals of the agency to hold their own views and make their own choices. See *Cohen v. California*, 403 U.S. 15, 24 (1971) (explaining that the First Amendment “[p]uts the decision as to what views shall be voiced largely into the hands of each of us” because “no other approach would comport with the premise of individual dignity and choice upon which our political system rests”).

The story of one member of the CHANGED Movement—a man named Daniel—puts the point in stark relief. Daniel struggled with “same-sex attraction” and “sexual addiction” that “produced feelings of depression, suicidal thoughts, and anxiety” for him. He sought counseling. As he explains it, the decision was “entirely my own, driven by a deep desire to reconcile my sexuality with my Christian faith.” But finding help was complicated: Some counselors took the view that Colorado demands of all licensed counselors—affirm Daniel's same-sex attraction. But that approach would have never worked for Daniel because it “conflicted with my personal values and biblical understanding of sexuality.”

Ultimately, Daniel found the right fit by, among other things, working with a Christian therapist whose “biblical understanding of sexuality

aligns perfectly with my values.” Through counseling, Daniel says that “God began to work in my heart in unexpected ways” and “I found myself increasingly aligned with what I believe to be God’s design for sexuality and marriage.” As a result, he is now happily married to “my wonderful wife” and has found marriage “more of a blessing than I could have imagined.” Like many other members of the CHANGED Movement community who have had similar experiences, Daniel believes that “change is possible when approached with the right support system and therapeutic interventions that honor both the individual’s struggles and their faith convictions.”

Obviously, not everyone seeking counseling about sexual orientation or gender identity is like Daniel, and not everyone would benefit from the counseling that was life-changing for him. But under the Colorado law, a licensed counselor couldn’t even have tried to help Daniel, at least not without risking fines and a license suspension or revocation. See Colo. Rev. Stat. § 12-245-225. Precisely because Daniel wanted and needed therapy rooted in a “biblical understanding of sexuality,” any effort to counsel him would unavoidably have run headlong into the Colorado government’s ban on licensed counselors speaking with him about his desire to alter his sexual orientation and behaviors. In a free society committed to the pursuit of truth through the open exchange of ideas and the right to live in accord with one’s religious convictions, that shouldn’t be possible. Cf. *Kennedy v. Bremerton School Dist.*, 597 U.S. 507, 524 (2022) (explaining that the Free Exercise Clause “does its most important work by protecting the ability of those who hold religious beliefs of all kinds

to live out their faiths in daily life through the performance of (or abstention from) physical acts”) (quotation omitted).

Equally troubling, Colorado’s censorship of nonconforming views on therapy herds every person seeking counseling about gender identity and sexual orientation towards the same therapeutic holding pen: affirmance. However, those who experience same-sex attraction or gender incongruity—the people to whom the Colorado law is plainly directed—are diverse and complex, like any other population, with different personalities, experiences, traumas, problems, and thoughts about sexuality. See, e.g., Leslie W. Suen et al., *What Sexual and Gender Minority People Want Researchers to Know About Sexual Orientation and Gender Identity Questions: A Qualitative Study*, 49 *Arch. of Sexual Behavior* 2301 (2020). Predictably, then, what one person wants out of counseling is—by virtue of natural variability—going to differ from what others want. Yet, Colorado’s suppression of therapeutic messages that deviate from the state-imposed message of affirmation denies counselors the ability to provide the counseling that fits their clients’ needs best.

Worse still, Colorado’s one-size-fits-all approach to sexual orientation and gender identity risks real patient harm, as recent experience with affirming care for gender-incongruent youth puts in stark relief. If the change of heart among European governments toward gender-affirming care for young people hadn’t yet established it, the recent publication of the Cass Review in the United Kingdom should dispel any doubt. See The Cass Review, *Independent*

Review of Gender Identity Services for Children and Young People at 27 (Apr. 2024) (“Too often, this cohort are considered a homogenous group for whom there is a single driving cause and an optimum treatment approach, but this is an over-simplification of the situation.”); *The Evidence to support medicalized gender transitions in adolescents is worryingly weak*, *The Economist* (Apr. 5, 2023). But Colorado’s insistence that counselors must not speak contrary to the state’s preferred message of affirmation shunts gender-incongruent young people who would desist and resume an identity aligned with their sex in the ordinary course toward “affirming” counseling. For those people, Colorado’s censorship of counselors’ speech leaves their real issues untreated (at best) and leads to unnecessary and irreversible interventions they may later regret. *See, e.g.*, Lisa Littman, *Individuals Treated for Gender Dysphoria with Medical and/or Surgical Transition who Subsequently Detransitioned: A Survey of 100 Detransitioners*, 50 *Archives of Sexual Behavior* 3353 (2021).

The stories of three members of the CHANGED Movement’s network show how stark the difference in outcomes can be when the state and medical establishment dictate a message of affirming care. One of them, Camille, had ADHD and emotional difficulties as a child. In adolescence, her father offensively remarked on her “feminine clothing choices,” warning her that men were “making sexual comments about girls my age.” Around the same time that started, Camille’s best friend was raped by her own brother. Traumatized, Camille “started dressing more masculinely—wearing baggy clothes to hide my body, particularly my breasts, and identifying more

with male characters in video games.” In college, she was depressed and took classes she felt explained her “discomfort with traditional femininity.”

That led Camile to therapy, which “began a pipeline of gender affirming care” that never “correlated my past history of trauma—including my friend’s assault and my father’s warnings about sexual objectification—with the emergence of my nonbinary identity.” As the Colorado law requires, Camille’s therapists viewed gender-affirming care as the only valid approach. A path that began with affirming talk therapy ended in “a non-binary mastectomy, a procedure I now regret.” Camile feels compelled to explain her surgery to anyone she dates, faces social ostracism in both LGBT and conservative circles, and is poorly treated by medical professionals.

Since abandoning gender-affirming care, Camille has discovered that her mental health problems were closely connected to her physical health. Through dietary improvements and other techniques, both her physical and mental health improved. She explains that “I’ve finally begun to make peace with my body and my identity as a woman.” Unfortunately, however, “the effects of receiving solely gender-affirming care have been significant and lasting.”

Another member of the CHANGED Movement network—called “Jane” for anonymity—illustrates how difficult it can be to escape the prevailing orthodoxy of gender-affirming care. When she was 12, Jane’s daughter began, as Jane describes it, “going down a rabbit hole of transgender exploration” that

manifested in self-harm and suicidal ideation. Jane took her daughter to her regular healthcare providers. Following the Colorado playbook, they sent her to “gender specialists” who “focused exclusively on transgenderism,” talked to Jane’s daughter about “surgeries and hormones without any parental consultation,” and encouraged her to “participate in parades and various activities to represent the trans community.”

Things got more difficult when Jane’s daughter started in high school. Taking Colorado’s view that affirmation is the only legitimate approach, Jane was “completely shut out of” any in-school discussions about her daughter’s mental health by school officials. When Jane’s daughter told a counselor that she was thinking she might not be transgender after all, the counselor called Child Protective Services and the family was forced to hire a lawyer to protect themselves.

Although she had to look in another state, Jane found a therapist with “an objective, thorough approach to treating the whole person.” The experience was “transformative” for Jane’s daughter and Jane alike. Jane’s daughter’s mental health improved, her suicidal thoughts stopped, and she resumed identification with her female sex. Today, she is in college, succeeding academically, holding down a job, and enjoys a strong relationship with Jane. Jane’s daughter “found her way to authenticity, not through ideology or external pressure, but through careful, patient exploration of her true identity.”

A third member of the community—called Lynn, to keep her real name undisclosed—was never routed toward gender-affirming care. Lynn privately struggled with same-sex attraction and gender dysphoria for a long time. She started counseling—which was entirely her decision—solely for anxiety and trauma. After a couple of years, Lynn “finally found the courage” to share her same-sex attraction with her counselor; she had heard “horror stories” about counseling for same-sex attraction, but she “was at a breaking point, struggling with suicidal thoughts” because she “just didn’t know what to do with these feelings anymore.”

The “actual counseling experience,” however, “proved to be transformative.” Her counselor “made clear that his goal wasn’t to ‘make me straight’ but rather to help me understand myself better and work through my underlying trauma. The counselor “allowed connections to emerge naturally,” and “there were no aversive techniques, nothing that made me feel shame or fear.” Lynn and her counselor worked through her gender dysphoria as well. “While those feelings haven’t completely disappeared,” she’s “developed a greater sense of contentment with being a woman, not just intellectually but in a deeper more profound way.” Lynn says she believes that her experience with counseling “saved my life.”

As these deeply personal and candid stories of members of the CHANGED Movement community vividly illustrate, everyone experiencing same-sex attraction or gender incongruity who looks for help through counseling comes to it with different objectives, different experiences and traumas, and

different needs. See, e.g., Lisa Littman, et al., *Detransition and Desistance Among Previously Trans-Identified Young Adults*, 53 *Archives of Sexual Behavior* 57, 61-62 (2023) (discussing “experiences, thoughts, or feelings” of study respondents in the three months before becoming gender dysphoric or trans-identified); Lisa M. Diamond & Clifford J. Rosky, *Scrutinizing Immutability: Research on Sexual Orientation and U.S. Legal Advocacy for Sexual Minorities*, 53 *J. of Sex Research* 1-2 (2016). (“[S]cientific research does not indicate that sexual orientation is uniformly biologically determined at birth or that patterns of same-sex and other-sex attraction remain fixed over the life course.”). Talk therapy that meets the patient where they are, deals honestly with what the patient wants out of therapy—even where that is to not have feelings of same-sex attraction or gender incongruity—can produce life-changing and life-saving benefits. Counseling constrained to not speak anything but the government’s preferred message, in contrast, perilously risks producing the exact opposite results.

Finally, the broad sweep and vague language of the Colorado law not only censors speech contrary to the government’s message, but it also risks chilling speech the law does not itself proscribe. Cf. *Counterman v. Colorado*, 600 U.S. 66, 75 (2022) (discussing “self-censorship of speech that could not be proscribed”); *Bantam Books, Inc. v. Sullivan*, 372 U.S. 58, 66 (1963) (explaining that freedoms of expression are “vulnerable to gravely damaging but barely visible encroachments”). On that score, the story of a CHANGED Movement member David—again, to preserve anonymity—is telling. After David

came out as gay, his parents suggested counseling. Reluctantly, David agreed, but made clear to his counselor that he “didn’t want to be straight, and if that was the goal of counseling,” he wouldn’t participate.

The counselor assured David “making someone straight” was not the goal, but that exploring some “areas of sexuality might naturally lead to a diminishment of same-sex attractions.” David engaged with the counselor and, although the counselor “couldn’t help with relationship issues that would go against his counseling approach,” the two “worked on many aspects of my personality and behavior—my tendency to be a people pleaser, my overthinking patterns, and my struggles with obsessive-compulsive disorder.” David found the experience so valuable that he paid for two years of counseling “on my own dime” (his parents paid for the first sessions). David now says, “I know the counseling I received helped me become a more self-aware and emotionally healthy person, regardless of my sexual orientation.”

It's not hard to see how David’s counselor might not have been willing to treat him if the counselor had been practicing in Colorado. Confronted with a law that would punish him for any “efforts to change behaviors” associated with David’s homosexuality, Colo. Rev. Stat. § 12-245-202(3.5)(a), a counselor with this counselor’s views of sexual orientation could easily decide it’s not worth the risk to work with a gay patient with whom matters of same-sex attraction will unavoidably arise in therapy. If that happened, David would have been denied the

valuable benefits of this productive counseling relationship.

CONCLUSION

Because the Colorado law creates a governmental monopoly on truth over what treatments best serve their clients confronting issues of sexual orientation and gender identity, denies clients the life-changing benefits of talk therapy, and subjects them to the clear harms of one-size-fits-all gender-affirmation ideology, the Court should grant the petition for a writ of certiorari to decide whether the law violates the First Amendment.

Respectfully submitted,

SAMUEL J. SALARIO, JR.

Counsel of Record

LAWSON HUCK GONZALEZ, PLLC

1700 South MacDill Avenue

Suite 240

Tampa, FL 33629

(813) 765-5113

Counsel for Amicus Curiae