

No. 25-1389

In the Supreme Court of the United States

RICHARD HERSHEY,

Petitioner,

v.

CITY OF BOSSIER CITY, LOUISIANA, ET AL.,

Respondents.

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

**BRIEF OF THE COALITION FOR JEWISH
VALUES AS *AMICUS CURIAE* SUPPORTING
PETITIONER**

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INTEREST OF *AMICUS CURIAE*¹

The Coalition for Jewish Values (“CJV”) is the largest rabbinic public policy organization in the United States, representing over 2,500 traditional, Orthodox rabbis. CJV promotes religious liberty, human rights, and traditional Jewish values in public policy through education, mobilization, and advocacy, including by filing *amicus curiae* briefs in defense of equality and freedom for religious institutions and individuals.

Orthodox Jewish observance is not confined to abstract belief. Practice depends on one’s ability to live out and publicly practice religion in every aspect of daily life, including through worship, religious expression, education, assembly, and the fulfillment of religious obligations—all without fear of retaliation, discrimination, or persecution. *See* Micah 4:4. The First Amendment’s protections for free speech and the free exercise of religion therefore have immediate and practical significance for CJV’s rabbinic members and the communities they serve.

The questions presented in this case—whether government officials may invoke qualified immunity for obvious violations of the First Amendment, and whether this Court’s holding in *Hope v. Pelzer*, 536 U.S. 730 (2002), applies beyond the Eighth Amendment—are of substantial importance to CJV. As members of a minority religious group, CJV’s 2,500

¹ All parties were timely notified of the filing of this brief. No counsel for a party authored this brief in whole or in part, and no person or entity other than *amici curiae* or their counsel made a monetary contribution to this brief’s preparation.

rabbinic members are less likely to find factually similar precedent to defeat qualified immunity than are adherents to more prevalent religions. *Hope* solves that problem by removing the requirement of factual similarity and asking instead whether the law is obvious. That rule protects individuals exercising rights that might not have been litigated in the past but that any person of good will and common sense would recognize as protected.

SUMMARY OF ARGUMENT

This case turns on the second prong of the familiar test for qualified immunity, namely whether a defendant has engaged in conduct that he knows, or should know, is unconstitutional. *Procunier v. Navarette*, 434 U.S. 555, 562–63 (1978). A defendant can fail under that prong in the face of factually similar precedent, but officials can also “be on notice that their conduct violates established law even in novel factual circumstances.” *Hope v. Pelzer*, 536 U.S. 730, 741 (2002). *Hope* recognized that “general statements of the law are not inherently incapable of giving fair and clear warning, and in other instances a general constitutional rule already identified in the decisional law may apply with obvious clarity to the specific conduct in question,” even without precedent directly on point. *Id.* (internal quotation marks and brackets omitted); *see also id.* at 738; *United States v. Lanier*, 520 U.S. 259, 271 (1997) (“[G]eneral statements of the law are not inherently incapable of giving fair and clear warning . . .”). In such “obvious” scenarios, qualified immunity provides no protection.

The principle articulated in *Hope* has come to be known as the “obviousness principle,” or “obviousness

exception” to qualified immunity. *See, e.g., Taylor v. Riojas*, 592 U.S. 7, 8–9 & n.2 (2020) (per curiam) (discussing “obviousness”); *Rivera v. Redfern*, 98 F.4th 419, 424–25 (3d Cir. 2024) (discussing “obviousness exception”); *O’Doan v. Sanford*, 991 F.3d 1027, 1044 (9th Cir. 2021) (same); *see generally* Bailey D. Barnes, *The Obvious Violation Exception to Qualified Immunity: An Empirical Study*, 99 Wash. L. Rev. 728 (2024) (same).

The circuits are presently divided over whether *Hope*’s obviousness exception applies in the context of the First Amendment. The Fifth Circuit stands alone in holding that *Hope*’s obviousness principle is confined to Eighth Amendment claims, *see infra* Argument I.C—the context in which *Hope* was decided, *see Hope*, 536 U.S. at 737–38. That creates the shocking possibility that, in the Fifth Circuit, a government official who obviously violates the First Amendment may nevertheless receive qualified immunity simply because no prior case involved materially similar facts. Every other circuit to have considered the question has recognized that *Hope* articulates a general exception to qualified immunity that can apply to other obvious violations of the Constitution. *See infra* Argument I.A.

This circuit split means that victims of obvious First Amendment violations may recover damages from the government officials who violated their rights in some circuits, but not others. For religious believers whose faith requires public worship, religious expression, evangelism, assembly, or other outward manifestations of faith, the availability of a

remedy for obvious First Amendment violations should not depend on geography.

This Court's review is therefore warranted to clarify the scope of *Hope*'s obviousness exception and to restore uniformity to the qualified immunity doctrine.

ARGUMENT

I. THE FIFTH CIRCUIT, UNLIKE ITS SISTER CIRCUITS, CONFINES *HOPE*'S OBVIOUSNESS PRINCIPLE TO THE EIGHTH AMENDMENT.

A. Every Other Circuit Has Recognized That *Hope*'s Obviousness Exception to Qualified Immunity Extends Beyond the Eighth Amendment.

With remarkable consistency, the courts of appeals have embraced this Court's holding in *Hope* that constitutional rules beyond the Eighth Amendment can apply with obvious clarity, even without factually indistinguishable precedent. At least ten circuits have denied qualified immunity under *Hope*'s obviousness exception in cases arising under other constitutional provisions.²

² See, e.g., *Pike v. Budd*, 133 F.4th 74 (1st Cir. 2025) (denying qualified immunity under *Hope* in context of Fourteenth Amendment); *Jones v. Treubig*, 963 F.3d 214 (2d Cir. 2020) (citing *Hope* and denying qualified immunity in context of Fourth and Fourteenth Amendments); *Thomas v. City of Harrisburg*, 88 F.4th 275 (3d Cir. 2023) (denying qualified immunity under *Hope* in context of Fourteenth Amendment); *Ridpath v. Bd. of Governors Marshall Univ.*, 447 F.3d 292 (4th Cir. 2006) (denying

For example, in *Pike v. Budd*, 133 F.4th 74 (1st Cir. 2025), the First Circuit applied *Hope*'s obviousness exception to a Fourteenth Amendment equal protection claim brought by a privately employed counselor who worked at a state court against the court's presiding judge, whom she alleged sexually harassed her. Relying on *Hope*'s holding that "officials can still be on notice that their conduct violates established law even in novel factual circumstances," *id.* at 94 (quoting *Hope*, 536 U.S. at 741), the First Circuit vacated the district court's dismissal on qualified immunity grounds, finding that the absence of a prior case squarely on point did not shield the judge from liability. As the court explained, "the fact that no case involves a judge sexually harassing a subordinate who reports to a separate, private employer does not excuse a reasonable official in [the judge]'s place from realizing that his conduct would not pass muster under the Constitution." *Pike*, 133 F.4th at 94. The principle is straightforward:

qualified immunity under *Hope* in context of Fourteenth Amendment); *Guertin v. Michigan*, 912 F.3d 907 (6th Cir. 2019) (denying qualified immunity under *Hope* in context of Fourteenth Amendment); *Narducci v. Moore*, 572 F.3d 313 (7th Cir. 2009) (denying qualified immunity under *Hope* in context of Fourth Amendment); *Cheeks v. Belmar*, 80 F.4th 872 (8th Cir. 2023) (denying qualified immunity under *Hope* in context of Fourteenth Amendment); *Hardwick v. County of Orange*, 844 F.3d 1112 (9th Cir. 2017) (denying qualified immunity under *Hope* in context of Fourth and Fourteenth Amendments); *Colbruno v. Kessler*, 928 F.3d 1155 (10th Cir. 2019) (denying qualified immunity under principles established in *Hope* in context of Fourth Amendment); *Vinyard v. Wilson*, 311 F.3d 1340 (11th Cir. 2002) (denying qualified immunity under *Hope* in context of Fourth Amendment).

the obviousness of the constitutional violation rendered the lack of a factually identical precedent beside the point.

The Ninth Circuit in *Hardwick v. County of Orange*, 844 F.3d 1112 (9th Cir. 2017) similarly relied on *Hope*'s obviousness exception in affirming the denial of qualified immunity to social workers who were sued under the Fourth and Fourteenth Amendments. There, a child alleged the social workers used perjured testimony and fabricated evidence in juvenile dependency proceedings, causing her mother to lose custody of her. *Id.* at 1114. Acknowledging the absence of squarely analogous precedent, the Ninth Circuit affirmed the unavailability of qualified immunity to the social workers, explaining, "We believe this is the kind of case the Supreme Court had in mind in *Hope* when it talked about conduct so clearly and obviously wrong that the conduct itself unmistakably 'should have provided [defendants] with some notice' that their alleged conduct violated their targets' constitutional rights. . . . Try as we might, we cannot conceive of circumstances in which social workers would not know and understand that they could not use criminal behavior in *any* court setting to interfere with a person's fundamental constitutional liberty interest." *Id.* at 1120 (quoting *Hope*, 536 U.S. at 745).

These decisions are representative of a broad and consistent consensus across the circuit courts that *Hope*'s obviousness exception to qualified immunity applies to all kinds of constitutional violations, not just violations of the Eighth Amendment. *See supra* n.2. In addition to the Fifth Circuit, the sole partial

exception is the D.C. Circuit—but even that circuit has not categorically rejected *Hope*’s application to other constitutional contexts. For instance, in *Atherton v. District of Columbia Office of Mayor*, 706 F.3d 512 (D.C. Cir. 2013), a case in which a grand juror alleged he was unlawfully removed from grand jury service without process, the D.C. Circuit engaged with *Hope* in analyzing a due process claim, noting that even “[i]f the facts are truly novel and there are no relevant cases, ‘officials can still be on notice that their conduct violates established law.’” *Id.* at 515 (quoting *Hope*, 536 U.S. at 741–42). The court ultimately granted qualified immunity, not because *Hope*’s obviousness principle was categorically inapplicable, but because the procedural right at issue was genuinely unsettled on the facts presented. *Atherton*, 706 F.3d at 516–17.

Taken together, these decisions show that the courts of appeals have generally understood *Hope* to announce a qualified-immunity exception that is not limited to Eighth Amendment claims.

**B. The First Amendment Encompasses
Plenty of Clear Rules to Which
Hope’s Obviousness Principle
Applies.**

The First Amendment’s Speech and Religion Clauses are no strangers to litigation. To be sure, some of the cases that this Court and others decide each year are novel applications to a technologically evolving public square. *E.g.*, *Packingham v. North Carolina*, 582 U.S. 98 (2017). But the deep reservoir of First Amendment precedent provides clear guidance in many situations. For example, after this

Court held unconstitutional a municipal ban on “ideological” signs in *Reed v. Town of Gilbert*, 576 U.S. 155 (2015), no official could believe that the same vague classification is constitutional as to billboards, leaflets, or other methods of communication. Likewise, after the Court held that other students’ complaints about religious speech making them uncomfortable on campus in *Uzuegbunam v. Preczewski*, 592 U.S. 279 (2021), no one could believe that complaints of discomfort in other public settings suffice to suppress religious speech. In other words, even if the facts are not precisely the same, the large body of First Amendment law makes some violations obvious to a reasonable person. Where doubt exists, the lower courts can continue to afford qualified immunity, but insisting on factually similar precedent is needlessly restrictive in an area where the Court has made many doctrines abundantly clear.

For that reason, at least eight circuits have applied *Hope* in the First Amendment context.³

For instance, in *Berge v. Sch. Comm. of Gloucester*, 107 F.4th 33 (1st Cir. 2024), a citizen-journalist openly filmed public school officials in a publicly accessible area of a school administration building while asking questions about the school district’s COVID-19 attendance policies, then posted the video to Facebook. Within hours, a district official sent the

³ See, e.g., *Berge v. Sch. Comm. of Gloucester*, 107 F.4th 33 (1st Cir. 2024); *Nagle v. Marron*, 663 F.3d 100 (2d Cir. 2011); *McGreevy v. Stroup*, 413 F.3d 359 (3d Cir. 2005); *Tobey v. Jones*, 706 F.3d 379 (4th Cir. 2013); *MacIntosh v. Clous*, 69 F.4th 309 (6th Cir. 2023); *Brandy v. City of St. Louis*, 75 F.4th 908 (8th Cir. 2023); *Hum. Rts. Def. Ctr., Inc. v. Uttecht*, 161 F.4th 1141 (9th Cir. 2025); *Bailey v. Wheeler*, 843 F.3d 473 (11th Cir. 2016).

man a letter threatening legal action and demanding the video be taken down, though the man had violated no state law in filming and publishing the video. The man sued school district officials, and the First Circuit held that the officials were not entitled to qualified immunity, even in the absence of factually similar precedent, because the “general constitutional” principles at stake were “so clear” that the “unlawfulness of what occurred” was “apparent.” *Id.* at 44. Citing *Hope*, the court reasoned that where a First Amendment violation is so obvious, a plaintiff should not be “fault[ed] . . . for not citing a case” involving similar facts. *Id.*; *see id.* at 39 (citing *Hope*).

The Sixth Circuit has reached the same conclusion. *See MacIntosh v. Clous*, 69 F.4th 309 (6th Cir. 2023). Invoking *Hope*’s rule that officials “can still be on notice that their conduct violates established law even in novel factual circumstances,” *id.* at 319 (quoting *Hope*, 536 U.S. at 741), it held that “[n]o reasonable official could believe that it was permissible to brandish a deadly weapon in response to [a citizen’s] public comment,” *id.* at 321, and denied qualified immunity on the plaintiff’s First Amendment retaliation claim, *see id.*

At least two other circuits have acknowledged the applicability of *Hope*’s obviousness exception to qualified immunity in First Amendment cases, even though they ultimately declined to apply it on the particular facts before them. *See Chaklos v. Stevens*, 560 F.3d 705 (7th Cir. 2009); *Frasier v. Evans*, 992 F.3d 1003 (10th Cir. 2021). Their holdings demonstrate that applying *Hope* to the First Amendment will not result in unexpected liability for

officials who make difficult judgments in areas where the law is less than clear. There are, however, plenty of doctrinal rules that do not require factually similar precedent for a reasonable person to avoid violating the Constitution.

C. The Fifth Circuit Alone Takes a Different Approach to *Hope*.

In contrast to the aforementioned circuits, the Fifth Circuit has categorically refused to extend *Hope*’s obviousness principle to the First Amendment. *See Hershey v. City of Bossier City*, 156 F.4th 555, 559–60 (5th Cir. 2025) (per curiam), *reh’g denied*, 163 F.4th 976 (5th Cir. 2026) (per curiam) (Ho, J., concurring) (“In our circuit, *Hope* . . . appl[ies] only to the Eighth Amendment claims of incarcerated criminals. [It] do[es] not apply to the First Amendment claims of law-abiding citizens.”). That is because the Fifth Circuit operates upon the premise that *Hope* and its progeny are merely “Eighth Amendment cases,” *see Villarreal v. City of Laredo, Texas*, 94 F.4th 374, 395 (5th Cir. 2024) (en banc), *cert. granted, judgment vacated sub nom. Villarreal v. Alaniz*, 145 S. Ct. 368 (2024)⁴—a position at complete odds with every other circuit court of appeals. *See supra* Argument I.A–B.

How the Fifth Circuit came to stand athwart every other circuit is surprisingly easy to trace. Its

⁴ Though *Villarreal* was vacated by this Court, *see* 145 S. Ct. 368, the Fifth Circuit later reinstated the opinion’s characterization of *Hope*, *see Villarreal v. City of Laredo, Texas*, 134 F.4th 273, 276 (5th Cir. 2025), *cert. denied sub nom. Villarreal v. Alaniz*, 146 S. Ct. 939 (2026) (finding the previous majority opinion to be

approach to *Hope*'s obviousness exception grows out of a single passing observation the court made while sitting en banc fifteen years ago in *Morgan v. Swanson*. See 659 F.3d 359 (5th Cir. 2011) (en banc). *Morgan* was a First Amendment case involving student dissemination of religious materials at school. There, the Fifth Circuit characterized this Court's "suggestion" in *Hope* that "generalizations can sometimes clearly establish the law" as mere "dicta." *Id.* at 373. The court did not decide in *Morgan* whether or not *Hope*'s obviousness principle applied outside the Eighth Amendment; instead, it expressly reserved the question for a later day. *Id.* ("We leave for another day the question of *whether* and when a constitutional violation may be so 'obvious' that its illegality is clear from only a generalized statement of law." (emphasis added)). The Fifth Circuit's later decision in *Villarreal*—holding *Hope*'s obviousness exception to qualified immunity to be extraordinarily narrow and exclusive to Eighth Amendment claims—thus merely continued the course charted by *Morgan* fifteen years earlier. See *Villarreal*, 94 F.4th at 395 ("In [*Morgan*] . . . this court noted that *Hope* does not stand for the broad proposition that plaintiffs need not offer any similar cases to prove that an officer should have been on notice that his conduct violated the Constitution.").

Since *Villarreal*, most Fifth Circuit decisions discussing qualified immunity do not even mention

superseded "only to th[e] extent" necessary to respond to the Supreme Court's vacatur regarding the substantive requirements of a First Amendment retaliation claim, thereby leaving the previous decision's interpretation of *Hope* intact).

Hope. See, e.g., *Bakutis v. Dean*, 129 F.4th 299, 312 (5th Cir. 2025). Consider, for example, *McMurry v. Weaver*, 142 F.4th 292 (5th Cir. 2025). There, an officer entered a homeschooled fourteen-year-old’s home during a welfare check, searched the family’s refrigerator without a warrant, and removed the child without a court order, parental consent, or exigent circumstances. The child and her parents sued for violations of their Fourth and Fourteenth Amendment rights, and the district court denied the officer qualified immunity. The Fifth Circuit affirmed—but it did so by marching through similar precedent to find the search to be a violation “of clearly established law,” without once mentioning *Hope* or invoking its obviousness exception, *see id.* at 301, even though the unconstitutionality of the officer’s conduct was patent.

The majority’s silence in *McMurry* prompted Judge Ho to pen a notable concurrence. *See id.* at 302–07 (Ho, J., concurring). Put simply, Judge Ho agreed with the majority that the officer should not have received immunity, *id.* at 304, but he wrote separately to make plain what the majority left unspoken: the case was a textbook candidate for the obviousness exception, *see id.* at 302–07. As Judge Ho emphatically put it, he would “not make things worse by extending [a] mistaken body of precedent [i.e. *Villarreal*] and refusing to protect citizens from obvious violations of the Fourth Amendment as well as the First.” *Id.* at 307.

Judge Ho’s concern regarding the Fifth Circuit’s obviousness jurisprudence remains. *Supra* n.4. And the Fifth Circuit’s recent decision in *Hershey v. City of Bossier City* reflects the same approach the circuit has

followed since *Morgan*. See generally *Hershey*, 156 F.4th 555.

In a splintered panel decision, the *Hershey* court affirmed qualified immunity for officers who allegedly threatened Petitioner with arrest for distributing religious leaflets on a public sidewalk. See *id.* at 556. That threat was an obvious violation of Petitioner’s First Amendment rights.⁵ Indeed, the district court below found “[t]he facts allow[ed] a reasonable inference that the police officer on the scene engaged in viewpoint discrimination.” *Hershey v. City of Bossier City*, No. 21-CV-460, 2021 WL 4395056, at *5 (W.D. La. Aug. 23, 2021), *report and recommendation adopted*, No. 5:21-CV-00460, 2021 WL 4395043 (W.D. La. Sept. 24, 2021); see also *Hershey*, 156 F.4th at 565 (Dennis, J., concurring in part and dissenting in part) (explaining the “complaint plausibly alleged that the officers engaged in viewpoint discrimination in violation of the First Amendment”). Yet the panel majority affirmed the grant of qualified immunity anyway because no prior case had addressed a similar factual scenario. See *id.* at 559–60 (Ho, J., concurring).

Hershey’s outcome followed directly, and perhaps inevitably, from the Fifth Circuit’s longstanding general refusal to permit a plaintiff to establish clearly established law through the obviousness of the

⁵ Cf. *McDaniel v. Paty*, 435 U.S. 618 (1978); *Schenck v. Pro-Choice Network of W. N.Y.*, 519 U.S. 357 (1997); *United States v. Grace*, 461 U.S. 171 (1983); *Int’l Soc’y for Krishna Consciousness, Inc. v. Lee*, 505 U.S. 672 (1992); *Pleasant Grove City v. Summum*, 555 U.S. 460 (2009); *Snyder v. Phelps*, 562 U.S. 443, 456 (2011); *Minn. Voters All. v. Mansky*, 585 U.S. 1 (2018).

violation itself (except in the context of the Eighth Amendment).

II. CLEAR FIRST AMENDMENT ENFORCEMENT IS ESSENTIAL FOR MEMBERS OF MINORITY RELIGIOUS GROUPS.

The requirement of factually similar precedent is especially harmful to the rights of Americans who belong to minority religious groups, including Orthodox Judaism. Less than 2% of Americans identify as Jewish, and of those, about one-in-ten identify with Orthodox Judaism. *See* Pew Research Center, *Findings from the 2023–24 U.S. Religious Landscape Study*, at 10 (Feb. 26, 2025); Pew Research Center, *Jewish Americans in 2020*, at 14 (May 11, 2021). The odds that an Orthodox Jew has litigated the First Amendment’s protections for an aspect of the Jewish faith are much lower than they are for more common religions. The odds that a Jewish plaintiff can find factually similar precedent are correspondingly lower. *Hope* remedies this problem by asking whether, in light of the precedent that exists for other religious practices and other types of speech, the First Amendment’s protection is obvious. For adherents to less-known religions, that modest extension is essential.

Hope’s obviousness principle serves an indispensable function within this Court’s qualified-immunity doctrine. It ensures that qualified immunity does not become a safe harbor for officials who commit obvious constitutional violations merely because they are the first to do so in a novel factual setting. *See* Ricky J. Marc, *Qualified Immunity: Emerging Fault Lines in the Eleventh Circuit*, 16 U.

Miami Race & Soc. Just. L. Rev. 211, 224 (2026) (noting that *Hope*'s obviousness principle "provides plaintiffs" in cases involving emerging technologies a "concrete avenue[] to argue that constitutional protections were sufficiently established" in the absence of factually similar case law). As then-Judge Gorsuch observed, "sometimes the most obviously unlawful things happen so rarely that a case on point is itself an unusual thing." *Browder v. City of Albuquerque*, 787 F.3d 1076, 1082–83 (10th Cir. 2015) (Gorsuch, J.).

One scenario in which *Hope*'s obviousness principle does meaningful work is the truly egregious act. *Colbruno v. Kessler*, 928 F.3d 1155, 1165 (10th Cir. 2019) (noting it "would be remarkable," after all, "if the most obviously unconstitutional conduct" was "the most immune from liability" because it is "so flagrantly unlawful that few dare its attempt" (internal quotation marks omitted)).

Another, relevant here, is the unconstitutional act aimed at a practice that does not often occur. For example, hanging an *eruv* to designate an area in which observant Jews may transport items on the Sabbath is not a regular event. CJV is not aware of any case in which officials have discriminatorily cited individuals responsible for placing it on telephone poles, trees, or other structures. But if a bigoted official did just that, a Jewish plaintiff should be able to pursue damages based on obvious unconstitutionality without waiting for a second, identical violation.

This concern is not strictly academic. Earlier this year, the Fifth Circuit denied qualified immunity to

school district officials who prevented a Christian teacher from engaging in private prayer visible to students because *Kennedy v. Bremerton Sch. Dist.*, 597 U.S. 507 (2022) clearly established the unlawfulness of such restrictions. *See Barber v. Rounds*, 169 F.4th 577 (5th Cir. 2026). In contrast, the Seventh Circuit permitted qualified immunity for prison officials where Jewish inmates alleged that prison officials violated their First Amendment rights by transferring them to a facility that lacked Jewish congregational worship because plaintiffs identified no precedent clearly establishing that prison officials violated the First Amendment by doing so. *See Kemp v. Liebel*, 877 F.3d 346 (7th Cir. 2017). Almost by definition, less-common religions are less likely to have factually similar precedent at their disposal, but their right to free exercise is no less sacrosanct.

The importance of this issue lies in the fact that religious exercise is not confined to private belief. For many faith traditions—including Orthodox Judaism—religion necessarily encompasses outward conduct protected by both the Free Exercise and Free Speech Clauses. This Court has recognized that these constitutional clauses “work[] in tandem” to safeguard religious exercise expressed through outward acts. *See Kennedy v. Bremerton Sch. Dist.*, 597 U.S. 507, 523 (2022); *see also Capitol Square Rev. & Advisory Bd. v. Pinette*, 515 U.S. 753, 760 (1995). The ability of religious individuals to engage in such outward acts free from unconstitutional governmental interference—and to obtain a remedy when unconstitutional interference occurs—is therefore a matter of daily practical importance for religious Americans.

Hope preserves Section 1983's remedial purpose by ensuring that obvious constitutional violations remain actionable even when they arise in unprecedented factual circumstances. And because both religious practice and the Constitution's protections stretch from coast to coast, the availability of a Section 1983 remedy for obvious First Amendment violations cannot depend on geography. A federal constitutional right should have the same protections in Bossier City as it does in Orlando, Asheville, or Phoenix. But because the Fifth Circuit interprets *Hope* differently from ten other circuits, Section 1983 does not protect members of minority faiths equally in every jurisdiction.

CONCLUSION

The Court should grant the petition for writ of certiorari to resolve a circuit split and apply *Hope* to the entire Bill of Rights, including the First Amendment protections that are especially vital for members of minority religions.

Respectfully submitted,

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