No. 22-30686

In the United States Court of Appeals
for the Fifth Circuit

DAMON LANDOR,

Plaintiff-Appellant,

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,

Defendants-Appellees.

Appeal from the United States District Court for the
Middle District of Louisiana, No. 3:21-cv-733
The Honorable Shelly D. Dick, Chief Judge

BRIEF *AMICUS CURIAE* OF THE BRUDERHOF, CLEAR, THE JEWISH COALITION FOR RELIGIOUS LIBERTY, AND THE SIKH COALITION IN SUPPORT OF APPELLANT

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CERTIFICATE OF INTERESTED PERSONS AND CORPORATE DISCLOSURE STATEMENT

The undersigned counsel of record certifies that the following listed persons and entities as described in the fourth sentence of Rule 28.2.1 have an interest in the outcome of this case. These representations are made in order that the judges of this court may evaluate potential disqualification or recusal.

1) Plaintiff-Appellant:

   Damon Landor

2) Defendants-Appellees:

   Louisiana Department of Public Safety and Corrections

   James M. LeBlanc

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The Jewish Coalition for Religious Liberty

The Sikh Coalition

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Pursuant to Federal Rule of Appellate Procedure 26.1, proposed *amici* state that they have no parent corporation and no stock.

/s/ Francesca Matozzo

Attorney of record for the Bruderhof, CLEAR, the Jewish Coalition for Religious Liberty, and the Sikh Coalition

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INTERESTS OF THE *AMICI*

The Bruderhof is a Christian community stemming from the Anabaptist tradition. The Bruderhof was founded in 1920 in Germany in the aftermath of World War I. During Hitler's reign, the community was targeted for its conscientious refusal to support Hitler's militaristic and genocidal policies. Eventually, the Bruderhof left their homes in Germany and fled to England before immigrating to Paraguay and later to the United States, attracted by this nation's founding principles of tolerance and liberty. The Bruderhof's interest in this case arises from its belief that freedom from government coercion is essential for people of all faiths in matters of sincere religious practice. From its own experience, the Bruderhof knows the value of court-enforced standards for religious freedom that offer protection from the vagaries of political majorities.

Creating Law Enforcement Accountability & Responsibility (CLEAR) is a project at City University of New York School of Law. CLEAR's mandate is to support Muslim and all other communities and movements in the New York City area and beyond that are targeted by local, state, or federal government agencies under the guise of national security and counterterrorism. CLEAR was founded in 2009 and is housed at the City University of New York School of Law, within Main Street Legal Services, Inc., the clinical arm of the law school. CLEAR

represented the plaintiffs in *Tanzin v. Tanvir*, 141 S. Ct. 486 (2020), at the heart of this litigation.

The Jewish Coalition for Religious Liberty is a nondenominational organization of Jewish communal and lay leaders who seek to protect the ability of all Americans to freely practice their faith and to foster cooperation between Jewish and other faith communities in the public square.

The Sikh Coalition is a nonprofit and nonpartisan organization dedicated to ensuring that members of the Sikh community in America can practice their faith. The Sikh Coalition defends the civil rights and civil liberties of Sikhs by providing direct legal services and advocating for legislative change, educating the public about Sikhs and diversity, promoting local community empowerment, and fostering civic engagement amongst Sikh Americans. The organization also educates community members about their legally recognized free exercise rights and works with public agencies and officials to implement policies that accommodate their deeply held beliefs. The Sikh Coalition owes its existence in large part to the effort to combat uninformed discrimination against Sikh Americans after September 11, 2001.

These organizations have an interest in ensuring that religious minorities' free exercise of religion in prison is protected.[1]

SUMMARY OF THE ARGUMENT

The Fifth Circuit should re-examine its precedent to allow for monetary damages for individual-capacity suits under the Religious Land Use and Institutionalized Persons Act (RLUIPA) for three reasons. First, RLUIPA's text follows the same approach as 42 U.S.C. § 1983 and should be interpreted to afford the same types of broad remedies. Before *Employment Division of Oregon v. Smith*, 494 U.S. 872 (1990), reduced the availability of free exercise claims, free exercise claims for monetary damages were frequently brought under § 1983. RLUIPA simply restored this way of vindicating rights violations to incarcerated religious claimants.

Second, monetary damages are important to protect against a prison's strategic mooting of a case and to ensure that prisons receive court guidance on the legality of their actions. Without damages, RLUIPA cases are often mooted before a plaintiff can receive relief.

[1] *Amici* state that no party's counsel authored the brief in whole or in part; no party's counsel contributed money that was intended to fund preparing or submitting the brief; and no person contributed money that was intended to fund preparing or submitting the brief.

Third, individual-capacity damages under RLUIPA are vital to protect religious minorities in prisons. When religious minorities are not able to bring claims for damages, prison officials often lack incentives to sufficiently protect these religious rights. In the prison context, religious minorities are therefore disproportionately at risk of having their religious freedoms infringed upon absent a damages remedy to safeguard those rights.

ARGUMENT

I. RLUIPA mirrors Section 1983's language, which routinely provided for damages remedies pre-*Smith*.

Congress enacted RLUIPA to establish broad protections for religious claimants, including prison inmates. Before *Employment Division v. Smith*, 494 U.S. 872 (1990), courts routinely permitted religious claimants to vindicate their free-exercise rights under 42 U.S.C. § 1983. *Employment Division v. Smith* stripped § 1983 of its protective force by holding that neutral laws of general applicability do not violate one's free exercise rights. In response, Congress enacted RLUIPA, adopting language that tracks § 1983's remedies language and restores the pre-*Smith* protections provided under the previous § 1983 constitutional regime. This regime of damages remedies under § 1983 provided an important safeguard against governments strategically mooting religious claimants' cases.

Under RLUIPA a court may award appropriate relief against "any other person acting under color of State law." 42 U.S.C. § 2000cc-5(4)(A)(iii). This language mirrors § 1983's language, which provides a cause of action against "every person who [acts] under color of any statute . . . of any State." 42 U.S.C. § 1983. As the Supreme Court recently held, "under color of law" "draws on one of the most well-known civil rights statutes: 42 U.S.C. § 1983." *Tanzin v. Tanvir*, 141 S. Ct. 486, 490 (2020).[2] Because it "uses the same terminology as § 1983 in the very same field of civil rights law, it is reasonable to believe that the terminology bears a consistent meaning." *Id.* at 490–91 (internal quotation marks and citation omitted).

"This availability of damages under § 1983 is particularly salient" given RLUIPA's origins. *Id.* at 492. RLUIPA, like RFRA, "made clear that it was

[2] To be sure, *Tanzin* involves the Religious Freedom Restoration Act (RFRA), rather than RLUIPA. But, as Appellant argues, the statutes should be interpreted the same. *See, e.g.*, Appellant's Br. 15–42; *Smith v. City of Jackson*, 544 U.S. 228, 233 (2005). The Supreme Court has described RLUIPA and RFRA as "sister statute[s]" and routinely used RFRA and RLUIPA's case law interchangeably in interpreting the two statutes. *Burwell v. Hobby Lobby Stores, Inc.*, 573 U.S. 682, 730 (2014); *see also, e.g.*, *Ramirez v. Collier*, 142 S. Ct. 1264, 1278 (2022) (citing RFRA case in interpreting RLUIPA); *Holt v. Hobbs*, 574 U.S. 352, 362 (2015) (same). This Circuit's own precedents have held that "RLUIPA is largely a reprisal of the provisions of the RFRA," *Adkins v. Kaspar*, 393 F.3d 559, 567 (5th Cir. 2004), and recognized that the "test under the RLUIPA is sufficiently the same as that previously imposed under RFRA." *Longoria v. Dretke*, 507 F.3d 898, 901 (5th Cir. 2007); *see also Garner v. Kennedy*, 713 F.3d 237, 242 (5th Cir. 2013) (noting that RFRA and RLUIPA are "identical" for cases involving prisoner grooming policies).

reinstating both the pre-*Smith* substantive protections of the First Amendment *and* the right to vindicate those protections by a claim." *Id.* at 492 (emphasis in original). In discussing the text that ultimately became RLUIPA, the House Judiciary Committee stated that the language intended to "creat[e] a private cause of action for damages, injunction, and declaratory judgment, and creat[e] a defense to liability, and provid[e] for attorneys' fees." House Report No. 106-219, Religious Liberty Protection Act of 1999, at 29 (July 1, 1999). The Committee also clarified that "[i]n the case of violation by a state, the Act must be enforced by suits against state officials and employees." *Id.*

"There is no doubt that damages claims have always been available under § 1983 for clearly established violations of the First Amendment." *Tanzin*, 141 S. Ct. at 492 (citing *Sause v. Bauer*, 138 S. Ct. 2561 (2018) (per curiam) and *Murphy v. Mo. Dep't of Corr.*, 814 F.2d 1252, 1259 (8th Cir. 1987)); *see DeMarco v. Davis*, 914 F.3d 383, 389–90 (5th Cir. 2019) (recognizing that damages may be available under § 1983 for a prison's destruction of an inmate's Bible). Before *Smith*, courts often entertained damages suits under § 1983 for claims similar to those vindicated by RLUIPA. This Court allowed for the possibility of damages for the forceable cutting of a religious beard. *McFadden v. Lucas*, 713 F.2d 143, 148 (5th Cir. 1983). The Ninth Circuit did the same. *Swift v. Lewis*, 901 F.2d 730, 733 (9th Cir. 1990). Similarly, the Fourth Circuit recognized that § 1983 permitted

damages if a Muslim prisoner was denied permission to distribute Arabic dictionaries to assist in the study of the Qur'an, *Brown v. Peyton*, 437 F.2d 1228, 1233 (4th Cir. 1971), while the Seventh Circuit recognized damages for a Christian prisoner denied access to the Bible and the right to visit the prison chapel. *Crowder v. Lash*, 687 F.2d 996, 1001 (7th Cir. 1982). Suits for damages on religious claims were also ubiquitous in the district courts.[3] RLUIPA intended to restore this state of affairs after *Smith*'s weakening of free-exercise protections.

II. The possibility of damages is an important safeguard against mooting of meritorious religious claims.

Under § 1983, the possibility for at least nominal damages provided an important mechanism for free exercise claims to proceed even if claims for injunctive relief were rendered moot. This Circuit permitted a group of prisoners to pursue damages for being denied access to religious services in prison after their request for injunctive relief was mooted by their transfers and releases. *Beck v. Lynaugh*, 842 F.2d 759, 762 (5th Cir. 1988); *see also Kauffman v. Johnston*, 454 F.2d 264, 266 (3d Cir. 1972) (similar); *United States ex rel. Jones v. Rundle*, 453

[3] *See*, *e.g.*, *Harris v. Lyons*, No. 89-cv-3131, 1989 WL 52521 (E.D. Pa. 1989) (permitting damages claims for denial of religious counseling and services); *Ross v. Coughlin*, 669 F. Supp. 1235, 1243 (S.D.N.Y. 1987) (allowing damages for Jewish prisoners who were denied a kosher diet and aspects of their religious garb); *Battle v. Anderson*, 376 F. Supp. 402, 420 (E.D. Okla. 1978) (acknowledging a right for Muslim inmates denied communal prayer to sue for damages despite finding contributing fault in that instance).

F.2d 147, 150 (3d Cir. 1971) (similar). Similarly, a religious inmate who had been denied access to prayer services was able to seek damages after his claim for injunctive relief was mooted by his release. *Young v. Coughlin*, 866 F.2d 567, 568 n.1, 568–70 (2d Cir. 1989); *see also Patrick v. LeFevre*, 745 F.2d 153, 156 n.2 (2d Cir. 1984) (damages claim for prison's refusal to recognize Nation of Islam as a valid religion not mooted by prisoner's transfer). And a prisoner who adhered to the Nation of Islam could continue to pursue his claim for damages for a prison's failure to accommodate his December Ramadan observance even once he was transferred to another prison. *Diaab v. Green*, 794 F.2d 685 (11th Cir. 1986) (unpublished) (*appended to Saleem v. Evans*, 866 F.2d 1313, 1315 (11th Cir. 1989)).

By contrast, when injunctive relief is the only relief available to a plaintiff, prisons can evade a merits determination by strategically mooting the case. For example, in this Circuit, the Texas prison system litigated a pro se kosher diet case to judgment during the same time that it tried to settle a kosher diet case by a represented prisoner. *See Moussazadeh v. Tex. Dep't of Crim. Just.*, 703 F.3d 781, 786 (5th Cir. 2012); *Baranowski v. Hart*, 486 F.3d 112, 116 (5th Cir. 2007). The Florida prison system did the same, refusing for years to provide kosher diets to pro se litigants but then strategically attempting to moot the case when a prisoner was represented by counsel. *See Rich v. Sec'y, Fla. Dep't of Corr.*, 716 F.3d 525,

532 (11th Cir. 2013); *Gardner v. Riska*, 444 F. App'x 353, 354 (11th Cir. 2011); *Linehan v. Crosby*, No. 4:06-cv-225, 2008 WL 3889604, at *12–13 (N.D. Fla. Aug. 20, 2008).

And even if a prison does not intentionally moot a case, it can often escape liability for RLUIPA violations because the prisoner is released or transferred before a final merits determination is made. *See, e.g.*, *Chesser v. Director, Fed. Bureau of Prisons*, No. 15-cv-1939, 2016 WL 1170448, at *2–4 (D. Colo. Mar. 25, 2016) (deeming a case moot when a Muslim inmate had been transferred before he sued the prison for denying him the right to communal prayer). Prisoners may spend years under offending policies yet still be unable to receive redress. Take, for example, the case of a Sikh prisoner who litigated a case for four years before he was released from prison. *Singh v. Goord*, No. 05-cv-9680, 2010 WL 1875653, at *1, *5 (S.D.N.Y. Mar. 9, 2010), *report and recommendation adopted*, No. 05-cv-9680, 2010 WL 1903997 (S.D.N.Y. May 10, 2010). The court earlier in the litigation had agreed that the prison possibly violated RLUIPA. *Singh v. Goord*, 520 F. Supp. 2d 487, 508 (S.D.N.Y. 2007). But the final judgment came a year after his release, at which time the court held his claims were moot. *Singh*, 2010 WL 1875653, at *3. Or consider the case of a Native American prisoner who litigated a RLUIPA case for three years before he was released. *Alvarez v. Hill*, 667 F.3d 1061, 1064 (9th Cir. 2012). It took the courts an additional five years to

issue a final judgment, only to hold that his RLUIPA claims were moot upon that release. *Id.* And earlier this year, an inmate who was refused a kosher diet was released from prison during litigation and so barred from making a RLUIPA claim without the possibility of damages. *Quarles v. Thole*, No. 20-cv-697, 2022 WL 425362, at *3 (S.D. Ill. Feb. 11, 2022); *see Mitchell v. Denton Cnty. Sheriff's Office*, No. 4:18-cv-343, 2021 WL 4025800, at *8–9 (E.D. Tex. Aug. 6, 2021) (similar). These cases would have remained live if damages claims were permitted.

On the other hand, the specter of liability for unlawful conduct incentivizes prison officials to "err on the side of protecting" rights. *See Owen v. City of Independence*, 445 U.S. 622, 651–52 (1980). Even nominal damages would provide redress for "not easily quantifiable, nonpecuniary rights," like hair-cutting, by altering the relationship between the plaintiff and the defendant. *Uzuegbunam v. Preczewski*, 141 S. Ct. 792, 800, 801 (2021). And damages suits allow for more merits determinations and development of case law, providing clear guidance both to the violating prison itself and to other prisons in the same jurisdiction.

III. Individual-capacity damages under RLUIPA are vital to protect religious minorities in prisons.

Individual-capacity damages under RLUIPA are vital to protecting incarcerated religious claimants, particularly religious minorities. Landor's case is but one vivid example of how injunctive relief is insufficient to achieve RLUIPA's goal of providing broad protections for incarcerated religious claimants.

A. Religious minorities face particular challenges to their religious practice in prisons.

Religious minorities are particularly susceptible to infringements of their religious practice in prisons. Prison officials are less likely to be aware of the needs of religious minority groups, may be less motivated to dedicate resources to accommodate religious requests that come up less often, and may even be hostile to or skeptical of these beliefs and religious groups.

Religious minorities disproportionately suffer restrictions on their religious exercise. An analysis published in 2018 revealed that over half of all prisoner decisions involved religious minorities that were not Christian. Luke W. Goodrich & Rachel N. Busick, *Sex, Drugs, and Eagle Feathers: An Empirical Study of Federal Religious Freedom Cases*, 48 Seton Hall L. Rev. 353, 376 (2018). Moreover, a survey of federal cases from 2017–2019 showed that, for Muslim prisoners, issues concerning dietary restrictions, prayer, and Ramadan observance particularly predominate. *See* Muslim Advocates, *Fulfilling the Promise of Free Exercise for All: Muslim Prisoner Accommodation in State Prisons* 47–48 (July 2019), https://perma.cc/M8RX-BV97.

Prisons often fail to accommodate the religious practice of religious minorities because they are simply unfamiliar with minority faith requirements. Take, for example, the case of an Orthodox Jewish prisoner who was improperly denied kosher meals with rabbinical supervision, as mandated by his faith, because

the prison official believed (mistakenly) that supervision was unnecessary to render the food kosher. *Estes v. Clarke*, No. 7:15-cv-155, 2018 WL 2709327, at *5–6 (W.D. Va. June 5, 2018). Another prison denied a Jewish prisoner a three-person self-guided Torah study group because it asserted that Jewish law required a minimum of ten people. *Ben-Levi v. Brown*, 136 S. Ct. 930, 934 (2016) (Alito, J., dissenting from denial of cert.). It did so even though he told the prison that studying in a smaller group was better than not studying in a group at all. *Id.* at 935. Or consider *Walker v. Baldwin*, where a prison forcibly cut a Rastafarian's dreadlocks, claiming (implausibly) that they had "never heard of Rastafarianism, and they were unfamiliar with Rastafarian beliefs and practices." No. 3:19-cv-50233, 2022 WL 2356430, at *2 (N.D. Ill. June 30, 2022), *appeal pending*, No. 22-2342 (7th Cir.).

Prisons also have less incentive to adjust non-accommodating policies or update trainings to address minority faiths because they may rarely detain a prisoner of that faith. The failure to do so causes religious minorities to be subject to infringements that majority religions do not face. For example, while Muslim practices generally forbid autopsies and cremation, many states automatically conduct autopsies on prisoners and have policies that default to cremation without a provision for religious beliefs. *See* Muslim Advocates, *supra*, at 23–24. In this Circuit, the Texas Department of Criminal Justice's *Offender Orientation*

Handbook makes no specific mention of halal or vegan dietary options for religious prisoners, and it makes no provision in its policy limiting prisoners to one sacred text for religions like Hinduism that have more than one.[4] *See* Tex. Dep't of Crim. Just., *Offender Orientation Handbook* 15–16, 19 (2017). And many other state prison systems have explicit policies for more common religious diets and practices while failing to delineate policies for other minority faiths. *See* Brenda S. Riley, *Religious Accommodations in Prison: The States' Policies v. the Circuit Courts*, Appendix A (Aug. 2019) (Ph.D. dissertation, Sam Houston State University) (detailing state policies on religious property, religious assembly, religious diet, religious grooming, and religious accommodation for pat and strip searches).

The failure of many prison guidelines to incorporate religious minorities' practices can lead to violations of their religious rights. For instance, because a prison only admitted a "Rastafarian exception" to dreadlocks, not other faiths, a member of the African Hebrew Israelites of Jerusalem was forced to cut his religiously worn dreadlocks. *See Grayson v. Schuler*, 666 F.3d 450, 452 (7th Cir. 2012). In this same vein, a prison policy did not list prayer oil as an approved item for Muslim inmates, so the prison wrongfully denied a Muslim prisoner's request

[4] *See* Hinduism: Sacred Tests, Mich. State U. Research Guides (last visited Nov. 14, 2022), https://perma.cc/R2BV-SQLD.

for it. *Charles v. Verhagen*, 348 F.3d 601, 605 (7th Cir. 2003). And when state guidance did "not address the Sikh faith given the relatively low number of Sikhs incarcerated to date," a prison denied the Sikh prisoner a number of accommodations to which he was entitled. *Singh*, 520 F. Supp. 2d at 508. Prison officials are less likely to respect religious practices when policies do not account for them.

Often prisons will fail to dedicate resources to accommodate religious minorities based on cost and other administrative concerns that more prevalent religious groups would not face. For example, a prison in this Circuit wrongfully denied a Muslim prisoner the ability to wear a kufi at all times arguing, without evidence in support, that "every Muslim inmate will wear a kufi" if this prisoner were allowed one. *Ali v. Stephens*, 822 F.3d 776, 796 (5th Cir. 2016). Similarly, an Orthodox Jewish prisoner was improperly denied kosher meals with rabbinical supervision because the prison argued that it would be cost-prohibitive. *Estes*, 2018 WL 2709327, at *6–7; *see United States v. Sec'y, Fla. Dep't of Corr.*, 828 F.3d 1341, 1349 (11th Cir. 2016) (denial of kosher meals for cost-containment); *see also Cotton v. Cate*, 578 F. App'x 712, 713 (9th Cir. 2014) (denial of Kemetic diet to Shetaut Neter practitioner to maintain "simple food service").

At worst, religious minorities may face hostility, skepticism, or discrimination because their practices are less well-known than other religions. For

example, in this Circuit, a prison denied a Native American prisoner's ability to possess locks of his deceased parents' hair for religious reasons out of fear that the "privilege of receiving something other inmates are not allowed" could "breed animosity" with other prisoners. *Chance v. Tex. Dep't of Crim. Just.*, 730 F.3d 404, 418 (5th Cir. 2013). Another denied an Odinist prisoner the ability to personally study runestones because they "could be used to gamble, pass secret messages, and identify gang members." *Mayfield v. Tex. Dep't of Crim. Just.*, 529 F.3d 599, 616 (5th Cir. 2008). In both cases, this Court called into doubt prisons' purported security justifications. *See Chance*, 730 F.3d at 418; *Mayfield*, 529 F.3d at 616. Likewise, the Seventh Circuit has rejected similar arguments that minority religious symbols could be mistaken for gang signs. *See Knowles v. Pfister*, 829 F.3d 516, 518 (7th Cir. 2016) (Wiccan pentacle); *Schlemm v. Wall*, 784 F.3d 362, 366 (7th Cir. 2015) (Native American headband). In one particularly shocking example of prison skepticism or outright hostility, prison officials imposed limitations on a Sikh inmate wearing a kara, a steel bracelet he believed his faith required him to wear, for fear it could be used as a weapon—even though the prison's own captain of security testified that it posed "no more of a security risk than a metal crucifix, which is allowed by the prison." *Singh*, 520 F. Supp. 2d at 500. That same prison also denied the Sikh inmate a proper-sized cloth for his

religiously mandated turban even though prisoners were permitted other, larger sheets and religious materials. *Id*. at 502.

Prisons are often unaware of minority religious practices, lack guidance that explicitly incorporates them, and may be hostile to religions with which they are less familiar. Hence, religious minorities are often uniquely subject to undue restrictions on their religious practice in prisons. To be sure, prisons are not expected to have comprehensive knowledge of every minority religious practice. But they must take seriously requests for religious accommodation rather than relying on ignorance to deny minorities their ability to practice.

B. Injunctive relief is insufficient to protect religious minorities' religious exercise.

Injunctive relief is insufficient to remedy the distinctive issues that religious minorities face because they are less able to rely on class actions to avoid mootness and may suffer profound harms that happen too quickly to permit injunctive relief. Thus, courts are rarely able to provide binding guidance on what RLUIPA requires.

Religious minorities are particularly susceptible to mooting gamesmanship because few coreligionists may be incarcerated in the prison at the same time. This lack of numerosity renders infeasible class actions, which normally can keep prison litigation live even when all the named plaintiffs' claims have become moot. *See, e.g.*, *Bell v. Wolfish*, 441 U.S. 520, 523, 526 n.5 (1979) (holding that a

conditions-of-confinement class action remained live notwithstanding that all the named plaintiffs were transferred or released). Because class actions are permitted only "when the class is so numerous that joinder of all members is impracticable," Fed. R. Civ. P. 23(a)(1), the more in the minority a religion is, the less likely that its adherents will be able to avail themselves of class actions to vindicate their legal rights. *See, e.g.*, *Alvarez*, 667 F.3d at 1064 (holding RLUIPA claim moot because an inmate's release from prison generally moots injunctive and declaratory relief claims "unless the suit has been certified as a class action") (internal quotation marks and citation omitted).

Moreover, minority religious prisoners may suffer a violation that is profoundly harmful to them but happens so quickly it cannot be halted by an injunction. For example, prison officials forcibly restrained a Sikh prisoner and shaved his beard over his objection. *See* Sikh Coalition, Complaint to the U.S. Department of Justice, Civil Rights Division re: Surjit Singh (May 24, 2021), https://perma.cc/KNR9-9KLK. He never before had cut his beard in any way, and the forced shaving "caused him deep shame and mental trauma, including severe depression." *Id.* at 2. Sikh prisoners routinely face these harms.[5] Similarly, a prison

[5] *See*, *e.g.*, Sikh Coalition, *Urgent Action Requested: Save Satnam Singh's Hair from Being Forcibly Cut* (Apr. 1, 2006), https://perma.cc/W3AP-GDNS (Sikh prisoner with no disciplinary record forced to cut beard); Sikh Coalition, *Legal Victory: Sikh Prisoners Can Maintain Kesh* (June 10, 2011),

warden refused to accommodate an Orthodox Jewish prisoner who needed to leave the prison premises to go to surgery. *See Boles v. Neet*, 486 F.3d 1177, 1179 (10th Cir. 2007). The inmate requested that he be allowed to bring his yarmulke and tallit katan, without which the inmate believed he could not walk more than four cubits. *Id.* at 1179 n.2. The official denied the request, and the inmate delayed surgery rather than violate his beliefs. *Id.* at 1179. Without damages, there is often no redress at all for these abrupt and serious injuries.

Landor's case here provides a clear example of why damages are needed to remedy violations of minorities' religious rights. In *Ware v. Louisiana Department of Corrections*, this Court already held that the Louisiana Department of Corrections' policy prohibiting dreadlocks violates RLUIPA. 866 F.3d 263, 272–74 (5th Cir. 2017). Nonetheless, Landor alleges that officials in the Louisiana Department of Corrections egregiously ignored this binding ruling, threw out the copy of the *Ware* decision that he gave them, and forcibly shaved his religious dreadlocks, which he had worn for twenty years. Appellant's Br. 6–7, 25. A complaint could hardly allege a clearer RLUIPA violation. However, the district court dismissed Landor's case because he was no longer in custody by the time of

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https://perma.cc/F89B-E2HA (Sikh inmate received multiple sanctions for keeping beard); Sarah Netter, *Sikh Activists Upset over Inmate's Haircut*, ABC News (Oct. 6, 2008), https://perma.cc/3QE7-A938 (Sikh prisoner repeatedly forced to cut beard).

the court's ruling. ROA.219–24. The only difference between Landor and Ware is that Ware had enough time to seek an injunction to protect himself. *See Ware*, 866 F.3d at 267. That option was unavailable to Landor, who suffered a profound religious harm but could receive no relief for it. This perverse result cannot be what Congress meant when it passed RLUIPA.

Damages remedies would protect religious minorities like Landor, who lack the numbers of adherents to avoid mootness issues through class actions and who may suffer deeply violative harms that an injunction cannot remedy.

CONCLUSION

This Court should recognize that RLUIPA restores § 1983's prior protections to provide robust relief for vulnerable religious minorities in prison.

Dated: November 21, 2022

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

I hereby certify that this amicus brief complies with Federal Rule of Appellate Procedure 29(a)(5) and Fifth Circuit Rule 29 as it contains 4,441 words, excluding the portions exempted by Federal Rule of Appellate Procedure 32(f). The brief's typesize and typeface comply with Federal Rule of Appellate Procedure 32(a)(5) and (6) because it was prepared in 14-point Times New Roman, a proportionally spaced font.

Dated: November 21, 2022

/s/ Francesca Matozzo
Francesca Matozzo

Counsel for Amici Curiae

CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing brief with the Clerk of Court for the United States Court of Appeals for the Fifth Circuit by using the Court's CM/ECF system. I further certify that service was accomplished on all parties via the Court's CM/ECF system.

Dated: November 21, 2022

/s/ Francesca Matozzo
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