

NO. 20-1105

**UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT**

MARK JANNY,

Plaintiff – Appellant,

v.

JOHN GAMEZ, *et al.*,

Defendants - Appellees

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

**BRIEF OF *AMICI CURIAE* FAITH-BASED ORGANIZATIONS IN
SUPPORT OF PLAINTIFF-APPELLANT AND FOR REVERSAL OF THE
DISTRICT COURT**

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CORPORATE DISCLOSURE STATEMENT

Amici are:

- Muslim Advocates
- Central Conference of American Rabbis
- Disciples of Christ
- Global Justice Institute
- Hindu American Foundation
- Interfaith Alliance Foundation
- Men of Reform Judaism
- National Council of Churches
- Reconstructing Judaism
- Reconstructionist Rabbinical Association
- Samuel DeWitt Proctor Conference
- Sikh American Legal Defense Fund
- Union of Reform Judaism
- Unitarian Universalist Association
- Women of Reform Judaism
- Wyoming Interfaith Network

All *amici* are 501(c)(3) non-profit entities with no parent company.

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IDENTITY AND INTERESTS OF *AMICI CURIAE*

Amicus curiae **Muslim Advocates**, a national legal advocacy and educational organization formed in 2005, works on the frontlines of civil rights to guarantee freedom and justice for Americans of all faiths. The issues at stake in this case relate directly to Muslim Advocates' work fighting religious discrimination against vulnerable communities.

Amicus curiae **Central Conference of American Rabbis (CCAR)** is the Reform Rabbinic leadership organization. The CCAR enriches and strengthens the Jewish community by fostering excellence in the Reform Rabbis who lead it, in whatever setting they serve, and through the resources and publications we provide the Jewish community. CCAR members lead the Reform Movement on important spiritual, social, cultural and human rights issues, at the same time the CCAR creates and sustains the Judaism of tomorrow.

Amicus curiae **Disciples of Christ** have, since their origins in 19th century America, been strong advocates of freedom of thought, freedom of conscience, and freedom of religion. It is only natural, then, that a Disciples organization like DJAN (Disciples Justice Action Network) would support the rights of all people to believe religiously whatever their thinking and conscience lead them to believe, even if it leads them to believe nothing at all in the area of religion. To us, this is not only a matter of God-given freedom, but also a matter of human justice.

Amicus curiae **Global Justice Institute** is a separately incorporated 501(c)(3) that is housed in the offices of Metropolitan Community Church in New York City. The Global Justice Institute is dedicated to supporting the work of LGBT and human rights activists around the globe. Together with The Fellowship of Affirming Ministries, the Institute offers support for programs fostering theological reconciliation, economic development and the creation of positive media.

Amicus curiae the **Hindu American Foundation** (HAF) is an educational and advocacy organization established in 2003. HAF focuses on educating the public about Hindus and Hinduism and advocating for policies and practices that ensure the well-being of all people and the planet. HAF works directly with educators and journalists to ensure accurate understanding of Hindus and Hinduism. HAF also work with policymakers and key stakeholders to champion issues of concern to Hindu Americans, including defending civil and human rights and protecting all living beings. Since its inception, the Hindu American Foundation has made church-state advocacy one of its main areas of focus. From issues of religious accommodation and religious discrimination to defending the fundamental constitutional rights of free exercise and the separation of church and state, HAF has educated Americans at large and the courts about the impact of such issues on Hindu Americans as well as various aspects of Hindu belief and practice in the context of religious liberty.

Amicus curiae **Interfaith Alliance Foundation** is a national non-profit organization committed to promoting true religious freedom and strengthening the separation between religion and government. With members from over 75 faith traditions and of no faith, Interfaith Alliance promotes policies that protect personal belief, combat extremism, and ensure that all Americans receive equal treatment under law.

Amicus curiae **Men of Reform Judaism** is a mission-driven organization of individual men or groupings of men who wish to be part of the Reform Jewish movement. It seeks to stimulate men's fellowship, interest in Jewish worship, Jewish studies, *Tikkun Olam*, and service to the Jewish Community and the Community at large.

Amicus curiae the **National Council of Churches** is a community of 38 Protestant, Anglican, Orthodox, historic African American, and Living Peace Church traditions comprised of some 30 million members in some 100,000 local congregations across the United States. The Council seeks to promote God's justice, peace and the healing of the world.

Amicus curiae **Reconstructing Judaism (RJ)** is the central organization of the Reconstructionist movement, which includes over 100 communities in the United States committed to Jewish learning, ethics, and social justice. RJ trains the next generation of rabbis, uplifts congregations and *havurot*, and fosters emerging

expressions of Jewish life—helping to shape what it means to be Jewish today and to imagine the Jewish future. Based on Jewish teachings that every human being is created in the divine image and a commitment to the dignity of every human being, RJ has long advocated for public policies supporting the individual’s right to freedom of religious practice.

Amicus curiae the **Reconstructionist Rabbinical Association** (RRA), established in 1974, is the professional association of the nearly 350 Reconstructionist rabbis who serve in a variety of leadership roles in North America, Israel, and around the world. As Jews, who have historically suffered from the results of intolerance and discrimination, and consistent with its resolutions, the RRA affirms the basic rights of freedom of religion, the ideals of a pluralistic society, and understands that that threats to religious freedom are unconscionable. Consistent with its members’ values, the RRA joins this brief.

Amicus curiae the **Samuel DeWitt Proctor Conference** is a national network that serves thousands of pastors, lay leaders and the next generation of those working for social justice. Its mission is to nurture, sustain, and mobilize the African American faith community in collaboration with civic, corporate, and philanthropic leaders to address critical needs of human rights and social justice within local, national, and global communities. SDPC works to change the socio-political

landscape for those in need as we continue our fervent quest and biblical directive to do justice.

Amicus curiae the **Sikh American Legal Defense Fund (SALDEF)** seeks to empower Sikh Americans by building dialogue, deepening understanding, promoting civic and political participation, and upholding social justice and religious freedoms for all Americans. SALDEF has a strong and direct interest in this case because it implicates the rights of Sikh Americans and other adherents of non-Abrahamic religions - a minority in America - whose beliefs and practices are not always understood by Americans.

Amicus curiae the **Union for Reform Judaism** leads the largest Jewish movement in North America. It provides vision and voice to build strong communities that, together, transforms the way people connect to Judaism and change the world.

Amicus curiae the **Unitarian Universalist Association** represents 200,000 members of more than 1,000 Unitarian Universalist congregations nationwide and is dedicated to the principles of religious freedom and separation of church and state.

Amicus curiae **Women of Reform Judaism** strengthens the voice of women worldwide and empowers them to create caring communities, nurture congregations, cultivate personal and spiritual growth, and advocate for and promote progressive Jewish values.

Amicus curiae **Wyoming Interfaith Network** is made up of people of faith who empower Wyoming's faith communities to promote social and environmental justice through prayer, discernment, respectful dialogue, leadership, advocacy, service, and study. Its mission is to offer an inclusive voice for faith communities in Wyoming as they share understanding about faith, as they work for a healthy environment, justice, and peace. As part of this mission, the Wyoming Interfaith Network supports religious liberty and the ability to exercise one's rights based on the individual's conscience, moral codes, and beliefs. Consistent with those values, the Wyoming Interfaith Network joins this brief.

Amici file this brief with the consent of all parties.

RULE 29(a)(4)(E) STATEMENT

No party's counsel authored this brief in whole or in part. No party or party's counsel contributed money that was intended to fund preparing or submitting this brief. No person—other than the *amici curiae*, their members, or their counsel—contributed money that was intended to fund preparing or submitting the brief.

INTRODUCTION AND SUMMARY OF ARGUMENT

Mr. Janny was jailed for refusing to attend religious services of a faith he did not believe in. Even more shocking than this event is that, when he went to court to challenge this violation of his rights, the district court held that no violation had occurred.

These events—and the lower court opinion that upheld them—cannot be squared with this country’s long tradition of protecting religious practice from government-backed coercion. By creating a false separation between forced *attendance at* a religious service and forced *participation in* a religious service, the district court has disregarded the deep religious significance that attendance at a religious service has for many religious traditions. Forcing Mr. Janny to a religious service was forcing him to practice a religious exercise against his will, which is the exact evil that the Religion Clauses of the U.S. Constitution were intended to prevent.

If this opinion is allowed to stand, it opens the door to visit further harm on parolees, particularly religious minorities. Religious minorities are overrepresented in the criminal justice system and, in their disenfranchised state, are particularly vulnerable to religious discrimination. A long record of discrimination bears witness to this. To protect against further abuses of the type in this case, this Court should

reverse the district court’s decision and reinstate the claims against the defendant Gamez.¹

ARGUMENT

I. Federal Law Has Long Recognized the Vitaly Important Role Religion Plays in the Lives of Many Americans, Including Prisoners.

“[T]he promise of the free exercise of religion enshrined in our Constitution . . . lies at the heart of our pluralistic society.” *Bostock v. Clayton Cty.*, No. 17-1618, 2020 WL 3146686, slip op. at 32 (U.S. June 15, 2020). The freedom to practice one’s religion is among “the cherished rights of mind and spirit” protected by the Constitution. *Malloy v. Hogan*, 378 U.S. 1, 5 (1964). As Justice Murphy noted, “nothing enjoys a higher estate in our society than the right given by the First and Fourteenth Amendments freely to practice and proclaim one’s religious convictions.” *Martin v. City of Struthers*, 319 U.S. 141, 149 (1943) (Murphy, J., concurring). For many Americans, “free exercise [of their religious beliefs] is essential in preserving their own dignity and in striving for a self-definition shaped by their religious precepts.” *Burwell v. Hobby Lobby Stores, Inc.*, 134 S. Ct. 2751, 2785 (2014) (Kennedy, J., concurring). By including protection for the free exercise of religion in the First Amendment to the Constitution, “the people of this nation have ordained in the light of history, that, in spite of the probability of excesses and

¹ *Amici* take no position on whether defendants Carmack and Konstanty should be held liable as state actors.

abuses, these liberties are, in the long view, essential to enlightened opinion and right conduct on the part of the citizens of a democracy.” *Cantwell v. Connecticut*, 310 U.S. 296, 310 (1940). The experience of religious discrimination was still fresh in the minds of the framers of the Bill of Rights at the time of their drafting, and accordingly “it was ‘historical instances of religious persecution and intolerance that gave concern to those who drafted the Free Exercise Clause.’” *Church of the Lukumi Babalu Aye, Inc. v. City of Hialeah*, 508 U.S. 520, 532–33 (1993) (quoting *Bowen v. Roy*, 476 U.S. 693, 703 (1986)).

The Establishment Clause, no less than the Free Exercise Clause, was intended to protect religion from the interference of government. The Establishment Clause “was written to quiet well-justified fears . . . arising out of an awareness that governments of the past had shackled men's tongues to make them speak only the religious thoughts that government wanted them to speak and to pray only to the God that government wanted them to pray to.” *Engel v. Vitale*, 370 U.S. 421, 435 (1962). James Madison, one of the drafters of the First Amendment, wrote that “[t]he Religion of every man must be left to the conviction and conscience of every man; and it is the right of every man to exercise it as these may dictate” J. Madison, *Memorial and Remonstrance Against Religious Assessments*, in 2 *The Writings of James Madison* 183, 188 (G. Hunt ed. 1901). The Supreme Court has noted in construing the Establishment Clause that “[o]ne timeless lesson is that if citizens are

subjected to state-sponsored religious exercises, the State disavows its own duty to guard and respect that sphere of inviolable conscience and belief which is the mark of a free people.” *Lee v. Weisman*, 505 U.S. 577, 592 (1992).

The United States’ tradition of protecting religious liberty extends to those incarcerated or otherwise involved in America’s justice system as well. “[P]risoners do not shed all constitutional rights at the prison gate,” *Sandin v. Conner*, 515 U.S. 472, 485 (1995), and the protection of the Free Exercise Clause, “including its directive that no law shall prohibit the free exercise of religion, extends to the prison environment.” *Morrison v. Garraghty*, 239 F.3d 648, 656 (4th Cir. 2001) (citing *O’Lone v. Estate of Shabazz*, 482 U.S. 342, 348 (1987)).² Because of the strong protections of the First Amendment, prison officials may not “demand from inmates the same obeisance in the religious sphere that more rightfully they may require in other aspects of prison life.” *Barnett v. Rodgers*, 410 F.2d 995, 1002 (D.C. Cir. 1969). Parolees like the plaintiff-appellant in this case have even greater rights than prisoners; a parolee has “conditional liberty and possessed of a right which can be forfeited only by reason of a breach of the conditions of the grant.” *Morrissey v.*

² See also *Turner v. Safley*, 482 U.S. 78, 84 (1987) (“[F]ederal courts must take cognizance of the valid constitutional claims of prison inmates.”); *Cruz v. Beto*, 405 U.S. 319, 322 n.2 (1972) (“[R]easonable opportunities must be afforded to all prisoners to exercise the religious freedom guaranteed by the First and Fourteenth Amendment without fear of penalty.”).

Brewer, 408 U.S. 471, 484 n.20 (1972) (quoting *Chase v. Page*, 456 P.2d 590, 594 (Okla. Crim. App. 1969)).

II. The District Court’s Opinion Cannot Be Squared with This Tradition of Religious Liberty.

The district court’s opinion below betrayed this long tradition of religious liberty when it held that Mr. Janny could be arrested for refusing to participate in religious services at Denver Rescue Mission. The Supreme Court has held that the Establishment Clause requires that “[n]o person can be punished for entertaining or professing religious beliefs or disbeliefs, for church attendance or nonattendance.” *Illinois ex rel. McCollum v. Bd. of Ed. of Sch. Dist. No. 71*, 333 U.S. 203, 210–11 (1948).

There is no question that Mr. Janny was coerced, by the conditions of his parole, into attending religious services as part of his residency at the Denver Rescue Mission. Mr. Janny was required to attend these services to be permitted to stay there. Defendant Gamez rejected Mr. Janny’s proposals for locations to establish a residence and required him to stay at Denver Rescue Mission, without identifying either its religious nature or identifying any non-religious alternatives. When Mr. Janny was kicked out of Denver Rescue Mission for refusing to go to religious services, he was immediately rearrested without being provided time to find an alternative residence. When a government official offers religious options for compliance with a supervised release plan without offering any secular alternatives,

the official is effectively coercing the prisoner into the religious option. *See Warner v. Orange Cty. Dep't of Prob.*, 115 F.3d 1068, 1075 (2d Cir. 1996) (holding that the government violated probationer's rights by presenting him with only a religious addiction treatment program for compliance with his sentence). Because Mr. Janny faced exactly this choice, he was effectively coerced into participating in it. Nor did the district court find otherwise, since no part of its opinion suggested that Mr. Janny had made a free and unencumbered choice to attend a religious facility.

Rather, the district court's decision rests on a false distinction between being required to "attend chapel and Bible study" and being required to "pray or study the Bible." II App. 204. The former, according to the district court, is acceptable for the government to compel in compliance with the First Amendment. *Id.* The district court's ruling misunderstands the nature of attendance at religious services. For many adherents, attending a religious service is not merely religious if one says prayers aloud; rather, attendance at a religious service *is itself* a deeply meaningful form of religious exercise. As the Sixth Circuit has recognized, "[m]ost religious faiths give a central role to congregate religious services. It is an important aspect of religious socialization, and it imparts a sense of religious fellowship which deepens religious conviction." *Walker v. Mintzes*, 771 F.2d 920, 930 (6th Cir. 1985). Joining together as a congregation on a weekly basis is a critical part of many long-established religious traditions. For these traditions, being physically present during

a religious service holds deep spiritual significance. For example, attendance in-person at a weekly religious services is mandatory in many forms of Islam,³ Catholicism,⁴ Wicca,⁵ Protestant Christian faiths,⁶ and many others. In the mainstream Orthodox Jewish understanding, it is forbidden for a Jew to enter a church even to admire the architecture, much less to attend a worship service.⁷ Because physical presence in the congregation has a religious dimension for these traditions, attending such services is the equivalent of participating in them—just as much as if the attendant were required to speak the words of the prayer.

³ See Br. of *Amici Curiae* Imam Abdullah Al-Amin, et al., Supporting Respondents, *O’Lone v. Shabazz*, No. 85-1722, 1987 WL 880917, at *18-38 (U.S. Jan. 30, 1987) (discussing the history and doctrinal basis for the requirement of attendance at Jum’ah); *id.* at *35 (noting that failure to attend Jum’ah in person “violates a core commandment of the Qur’an”).

⁴ See Pope Pius XII, *Concerning the Discipline to be Observed with Respect to the Eucharistic Fast* (1953), <https://www.papalencyclicals.net/pius12/p12chdom.htm> (last visited June 15, 2020) (describing limited circumstances that excuse attendance at mass, including serious illness).

⁵ See *Cavin v. Mich. Dep’t of Corr.*, 927 F.3d 455, 458 (6th Cir. 2019) (noting Wiccan plaintiff’s sincere belief that group worship services contained greater spiritual “energy”).

⁶ See *Berean Baptist Church v. Cooper*, No. 4:20-cv-81, 2020 WL 2514313, at *2 (E.D.N.C. May 16, 2020) (noting that the plaintiff Baptist church’s congregation “believe that a physical assembly in one place on Sunday, for mid-week services, in revivals, and for other special meetings is a God-commanded part of their worship”), *cast into doubt on other grounds sub silentio* by *S. Bay United Pentecostal Church v. Newsom*, ___ S. Ct. ___, No. 19A1044, 2020 WL 2813056 (May 29, 2020).

⁷ See “Is It Forbidden for Jews to Enter a Church,” *[London] Jewish Chronicle*, Aug. 22, 2008, <https://www.thejc.com/judaism/rabbi-i-have-a-problem/is-it-forbidden-for-jews-to-enter-a-church-1.4626> (last visited June 15, 2020).

Indeed, the Supreme Court already held as much when faced with similar circumstances in *Lee v. Weisman*, 505 U.S. 577 (1992). *Lee* involved a challenge by a student to a public middle school's decision to include a prayer by a rabbi as part of its graduation ceremony. *Id.* at 581. The Court found that the option to merely stay silent during the prayer was insufficient to rob it of coercive effect. *Id.* at 593. Rather, "[t]here can be no doubt that for many, if not most, of the students at the graduation, the act of standing or remaining silent was an expression of participation in the rabbi's prayer" and therefore "[i]t is of little comfort to a dissenter . . . to be told that for her the act of standing or remaining in silence signifies mere respect, rather than participation." *Id.* at 593. Because attendance and participation in this religious practice could not be untangled, the school's inclusion of the prayer violated the student's constitutional rights. *Id.* at 599. Mr. Janny similarly had no way to follow the procedures of Denver Rescue Mission except to participate in the religious service at issue. Because "[i]t is beyond dispute that, at a minimum, the Constitution guarantees that government may not coerce anyone to support *or participate* in religion or its exercise," *id.* at 577 (emphasis added), the district court's opinion holding otherwise must be reversed.

However, even if the Court could somehow distinguish between forced attendance and forced participation in a group worship service, requiring Mr. Janny to attend religious services would still be unconstitutional because the Religion

Clauses do not permit the government to subject a captive audience to religious indoctrination. For example, the Eighth Circuit has held that a prison cannot subject prisoners to religious instruction by lay practitioners if there is no way for the prisoners to avoid the message, noting that the jail officials “must take steps, subject to the approval of the district court, to ensure that no inmate is subjected to forced religious indoctrination.” *See Campbell v. Cauthron*, 623 F.2d 503, 509 (8th Cir. 1980). The same logic led the Eleventh Circuit to state, when evaluating an “emotional maturity test” that contained religious language, that “a condition of probation which requires the probationer to submit himself to a course advocating the adoption of religion or a particular religion . . . transgresses the First Amendment.” *Owens v. Kelley*, 681 F.2d 1362, 1365 (11th Cir. 1982). There is no question that the chapel services Mr. Janny had to attend included proselytization of Denver Rescue Mission’s religious message. Not only this, Mr. Janny was also required to attend religious counseling sessions aimed specifically at converting him to Christianity. Requiring him to attend these services and sessions under threat of arrest was a violation of his civil rights.

The district court closes its opinion with a qualified immunity analysis that is inconsistent even with its own statement of the issues, as well as the evidence in the case. The district court granted qualified immunity to Defendant Gamez on the absence of a case establishing that “a parole officer violates a parolee’s rights by

requiring him to reside at a facility that provides religious programming.” II App. 205. This formulation fails to acknowledge Mr. Janny’s evidence that he was not only required to *reside* at an institution that offered religious programming, but that he was required to attend the religious programming in question or suffer ejection and imprisonment. As noted above, there are many Supreme Court cases clearly establishing that the government may not compel participation in religious rituals. By refusing to correctly apply these precedents, either in its qualified immunity analysis or in its analysis on the merits, the district court failed in its duty to protect Mr. Janny’s religious liberty.

III. The District Court’s Interpretation of the Law Is Especially Damaging to Religious Minorities.

By blessing the coercion of Mr. Janny in this case, the district court announced a rule that would cause special harm to religious minorities. Such a rule turns the goals of the Religion Clauses on their head; while the First Amendment’s religion clauses were explicitly designed to protect all expressions of religious belief, these clauses were “specially concerned with the plight of minority religions.” *Zelman v. Simmons-Harris*, 536 U.S. 639, 679 n.4 (2002) (Thomas, J., concurring) (quoting Akhil Reed Amar, *The Bill of Rights as a Constitution*, 100 Yale L.J. 1131, 1159 (1991)) (discussing the Free Exercise Clause). Yet the district court’s rule frustrates these goals.

If this Court adopts the district court’s standard permitting parolees to be coerced into religious exercise, religious minorities stand to be harmed the most. The overwhelming majority of faith-based halfway houses are Christian. In some areas, Christian halfway houses are the only kind available. This would create a problem for adherents to minority religions even if the demographics of the prison population were the same as that of the general population, but it is even worse because religious minorities are actually *over*-represented in the criminal justice system. For example, a 2019 report from *amicus* Muslim Advocates estimated based on public records data that 9% of state prison populations were Muslim compared with 1% of the general population.⁸ In 2013, the Federal Bureau of Prisons represented that 8.4% of the federal prison population self-identified their religion as “Muslim” and 3.1% as “Native American,” while U.S. Census data at that time placed the total number of Americans with those faiths at only .6% (for Muslims) and .1% (for Native American). Mona Chalabi, “Are Prisoners Less Likely to Be Atheists?”, *FiveThirtyEight* (Mar. 12, 2015).⁹ Accordingly, religious minorities on parole who

⁸ Muslim Advocates, *Fulfilling the Promise of Free Exercise for All: Muslim Prisoner Accommodation in State Prisons* (July 2019), https://muslimadvocates.org/wp-content/uploads/2019/07/FULFILLING-THE-PROMISE-OF-FREE-EXERCISE-FOR-ALL-Muslim-Prisoner-Accommodation-In-State-Prisons-for-distribution-7_23-1.pdf (last visited June 15, 2020).

⁹ Available at <https://fivethirtyeight.com/features/are-prisoners-less-likely-to-be-atheists/> (last accessed June 15, 2020).

need to establish a residence are particularly unlikely to end up at a halfway house that shares their faith.

Religious minorities also face a great deal of discrimination against their religion, which is amplified by their vulnerability as part of the criminal justice system. The Supreme Court has referred to prisons as among those state-run institutions “in which the government exerts a degree of control unparalleled in civilian society and severely disabling to private religious exercise.” *Cutter v. Wilkinson*, 544 U.S. 709, 720–21 (2005). Nor is this danger merely theoretical. For example, during its hearings surrounding the passage of the Religious Land Use and Institutionalized Persons Act, Congress identified numerous examples of discrimination against religious minorities in prison. Evidence showed “inadequately formulated prison regulations and policies grounded on mere speculation, exaggerated fears, or post hoc rationalizations”¹⁰ which led to Michigan prisons prohibiting Chanukah candles,¹¹ Oklahoma prisons restricting the Catholic use of sacramental wine for celebration of Mass,¹² and prison policies banning

¹⁰ 146 Cong. Rec. S7774-01, S7775 (statement of Sens. Hatch & Kennedy) (quoting S. Rep. No. 103-111, at 10 (1993)).

¹¹ *Hearing on Protecting Religious Freedom After Boerne v. Flores before the Subcomm. on the Constitution of the H. Committee on the Judiciary*, 105th Cong., 2d Sess., Pt. 3, at 41 (1998) (statement of Isaac M. Jaroslawicz).

¹² *See id.*, Pt. 2, at 58-59 (statement of Donald W. Brooks)

jewelry that prevented prisoners from wearing a cross or Star of David.¹³ And not only do Muslims make up a disproportionate part of the federal prison population relative to the U.S. population, they are significantly over-represented as grievors and litigants even relative to their share of the prison population. *See Enforcing Religious Freedom in Prison*, U.S. Comm'n on Civil Rights Table 3.8 at 70; Table 4.1 at 82 (Sept. 2008) (noting that Muslims filed 42% of administrative remedy requests for accommodation from 1997-2008 and that Muslims litigated 29% of RLUIPA cases from 2001-2006).¹⁴ In 2008, Muslims constituted only 9.3% of federal prisoners, but brought the highest percentage of religious discrimination grievances, accounting for 26.3% of all grievances filed. *See id.* at Table 2.1 & 26.

Given their vulnerability to discrimination, religious minorities rely on the courts to protect their religious rights and protect this country's proud tradition of religious freedom. By permitting Mr. Janny to be coerced into attending religious services in a faith he did not believe in, the district court betrayed this duty. This Court must act by reversing the district court and reinstating Mr. Janny's claims against Defendant Gamez.

¹³ *Hearing before the Subcomm. on the Const. of the H. Comm. on the Judiciary*, 105th Congress, 1st Session 86 (July 14, 1997) (testimony of Prof. Douglas Laycock).

¹⁴ *Available at* <https://www.usccr.gov/pubs/docs/STAT2008ERFIP.pdf> (last visited June 15, 2020).

CONCLUSION

For the foregoing reasons, this Court should reverse the decisions of the district court and reinstate Mr. Janny's claims against Defendant Gamez.

Dated: June 15, 2020

Respectfully submitted,

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UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

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- Central Conference of American Rabbis
- Disciples of Christ
- Global Justice Institute
- Hindu American Foundation
- Interfaith Alliance Foundation
- Men of Reform Judaism
- National Council of Churches
- Reconstructing Judaism
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