No. E2024-00100-SC-R11-CV

IN THE SUPREME COURT OF TENNESSEE
AT KNOXVILLE

Preston Garner, et al.,

Plaintiffs and Appellees,

v.

Southern Baptist Convention, et al.,

Defendants and Appellants.

BRIEF OF AMICI CURIAE PROFESSORS DOUGLAS LAYCOCK, MICHAEL MCCONNELL, AND RICHARD GARNETT IN SUPPORT OF DEFENDANTS-APPELLANTS

On Appeal from the Judgment of the
Court of Appeals, No. E2024-00100-COA-R3-CV

Blount County Circuit Court, No. L-21220
The Honorable David R. Duggan

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INTEREST OF *AMICI CURIAE*[*]

Amici are professors Douglas Laycock, Michael McConnell, and Richard Garnett, prominent legal scholars whose research and scholarly interests focus on religious liberty and have shaped the legal doctrines relevant here.

Douglas Laycock is the Robert E. Scott Distinguished Professor of Law Emeritus at the University of Virginia and the Alice McKean Young Regents Chair in Law Emeritus at the University of Texas. He is one of the nation's leading authorities on the law of religious liberty, having taught and written about the subject for four decades at Texas, Virginia, the University of Chicago, and the University of Michigan. He has testified many times before Congress and the Texas legislature and has argued many religious freedom cases in the courts, including the U.S. Supreme Court. He was lead counsel for petitioner in *Hosanna-Tabor Evangelical Lutheran Church and School v. EEOC*, 565 U.S. 171 (2012), a decision that controls this case.

Michael McConnell is the Richard & Frances Mallery Professor and Director of the Constitutional Law Center at Stanford Law School, and a Senior Fellow at the Hoover Institution. He previously served as a judge on the U.S. Court of Appeals for the Tenth Circuit, and his extensive scholarship on the Religion Clauses has played a significant role in

[*] No counsel for a party authored this brief in whole or in part, and no counsel for a party made a monetary contribution intended to fund the preparation or submission of this brief. No person other than *amici curiae* made a monetary contribution to this brief's preparation or submission.

informing the nation's judiciary on the meaning and application of those Clauses. Professor McConnell filed an *amicus* brief in *Hosanna-Tabor*, and Chief Justice Roberts cited Professor McConnell's scholarship in the *Hosanna-Tabor* majority opinion, 565 U.S. at 183.

Richard Garnett is the Paul J. Schierl Professor of Law and the founding Director of the Program on Church, State & Society at the University of Notre Dame. He has published dozens of articles, essays, and book chapters on the Religion Clauses over the course of his career, and he regularly provides commentary on religious liberty issues for legal publications and news outlets. His scholarship on religious liberty was recently cited by Justice Thomas in a concurring opinion. *See Mahmoud v. Taylor*, 145 S. Ct. 2332, 2378–79 (2025) (Thomas, J., concurring).

INTRODUCTION AND SUMMARY OF ARGUMENT

In this case, a tort plaintiff seeks to enlist the courts to impose liability on the Southern Baptist Convention and affiliated defendants (collectively, the "SBC") for statements made in the course of investigating a church's standing with the SBC in light of sexual-abuse allegations pertaining to a minister. *Amici* take no position regarding the soundness of the process used in this investigation or the truth or falsity of the underlying allegations. Rather, *amici* submit this brief because allowing this suit to proceed would clearly violate the church-autonomy doctrine, which protects the authority of religious institutions to govern themselves, including by selecting, investigating, disciplining, and terminating key religious personnel and deciding which churches and members are in good standing.

The facts relevant to the church-autonomy analysis are summarized in the opinion of the court of appeals ("COA Op.") and Plaintiff's operative complaint. Although each local church in the SBC is autonomous, the SBC maintains standards that local churches must meet to remain in "friendly cooperation" or "good standing" with the SBC. COA Op. at 2 & n.1. One of these standards requires that churches conduct themselves consistently with the SBC's beliefs regarding sexual abuse. *Id.* The SBC accordingly has established a reporting mechanism for sexual-abuse allegations implicating individuals involved in Baptist ministry. *Id.* at 2. The SBC's Credentials Committee is "tasked with making inquiries of local churches to consider whether those churches are in friendly cooperation with the SBC," and Executive Committee staff may assist other committees in fulfilling their duties. *Id.*

In 2022, Plaintiff was a worship pastor at Everett Hills Baptist Church ("Everett Hills") and was the music director at The King's Academy, a Baptist-affiliated school. COA Op. at 2. Plaintiff alleges that in January 2023, the Credentials Committee, acting through an Executive Committee staff member, emailed a letter to Everett Hills "expressing concerns regarding [its] relationship with the SBC because of [Plaintiff]." [T.R. Vol. I, 20-21 ¶¶ 18-19]; *see* COA Op. at 2, 4. The letter stated that Everett Hills "may employ an individual with an alleged history of abuse" and asked a series of questions regarding Everett Hills' relationship with Plaintiff, such as whether Plaintiff was "currently serving in a leadership position" at Everett Hills, whether Everett Hills had "received any allegations of sexual misconduct involving" Plaintiff, and whether Everett Hills was "aware of an allegation of sexual assault of a minor involving [Plaintiff] during the time he served at" a different Baptist church. *Id.* at 4. The letter was also sent to the president of the Tennessee Baptist Mission Board, who in turn forwarded it to the King's Academy. *Id.* The school terminated Plaintiff's employment, and a different Baptist church at which Plaintiff had accepted a position withdrew its offer of employment upon learning of the "inquiry by the Credentials Committee." *Id.*

Plaintiff sued the SBC for defamation, defamation by implication, and false light—all predicated primarily on the letter the Credentials Committee sent to Everett Hills. COA Op. at 2–4. The SBC moved to dismiss under the church-autonomy doctrine, but the trial court denied the motion and the court of appeals affirmed, reasoning that the SBC had spoken publicly about issues without directly raising any religious canon

and that the courts could resolve Garner's claims under neutral principles of law. *Id.* at 13–14.

The decisions below misapply settled First Amendment law. The church-autonomy doctrine preserves "the right of religious institutions to decide for themselves, free from state interference, matters of church government as well as those of faith and doctrine." *Our Lady of Guadalupe Sch. v. Morrissey-Berru*, 591 U.S. 732, 737 (2020) (internal quotations and citation omitted); *Hosanna-Tabor Evangelical Lutheran Church & Sch. v. EEOC*, 565 U.S. 171, 181 (2012) (same). Courts "cannot penetrate the veil of the church" by attempting to adjudicate matters that involve "church discipline, ecclesiastical government, or the conformity of the members of the church to the standard of morals required of them." *Watson v. Jones*, 80 U.S. (13 Wall.) 679, 731, 733 (1872). If courts were to resolve such issues, they would run afoul of religious organizations' fundamental Free Exercise and Free Association rights, ensnare themselves in the reasons why a religious organization appoints or terminates ministers or decides which churches or church members to affiliate with, and often impose a minister on a congregation or a congregation on a denomination against their convictions and beliefs—results that would violate the Establishment Clause.

Plaintiff's claims here target the SBC's efforts to investigate a member church's adherence to SBC beliefs pertaining to sexual abuse, as well as the SBC's statements advising potentially affected SBC-affiliated persons of that investigation. The SBC's inquiry into the beliefs of a member church and its leadership—no less than a local church's inquiry into the beliefs of its own leadership—implicates the church-autonomy

doctrine. If allowed to proceed, Plaintiff's claim would entangle courts in questions of "church discipline, ecclesiastical governance, [and] the conformity of the members of the [SBC] to the standard of morals required of them." *Watson*, 80 U.S. at 731, 733. That is precisely what the church-autonomy doctrine forbids. This Court should reverse the decision below.

ARGUMENT

I. The church-autonomy doctrine provides a defense to civil liability for a religious organization's actions governing itself, including by selecting, controlling, disciplining, and removing or disassociating with those who minister on its behalf.

In *Hosanna-Tabor*, 565 U.S. 171, the U.S. Supreme Court explicitly and unanimously affirmed 40 years of unanimous lower court precedent establishing that the First Amendment to the U.S. Constitution protects the right of religious organizations to autonomously select and remove those who perform significant religious functions, including ordained members of the clergy such as Plaintiff. *Id.* at 186–90. As the Court explained, "the authority to select and control who will minister to the faithful—a matter strictly ecclesiastical—is the church's alone" and is immune from interference by the courts. *Id.* at 194–95 (internal quotations and citation omitted). This principle, known as the ministerial exception, falls within the broader constitutional doctrine of church autonomy. *Our Lady of Guadalupe Sch.*, 591 U.S. at 746 (ministerial exception is a "component of this autonomy" of religious institutions). It provides a broad legal defense that protects churches

from civil liability for their decisions concerning the hiring, removal, or supervision of "individuals who play . . . key roles." *Id.*

The ministerial exception specifically and the church-autonomy doctrine more broadly are crucial safeguards of core religious rights. They preserve religious autonomy "with respect to internal management decisions that are essential to the institution's central mission." *Our Lady of Guadalupe Sch.*, 591 U.S. at 746. Church autonomy "protects the freedom of religious groups to engage in certain key religious activities . . . as well as the critical process of communicating the faith . . . in its own voice, both to its own members and to the outside world." *Hosanna-Tabor*, 565 U.S. at 199, 201 (Alito, J., concurring). A religious organization "cannot depend on someone to be an effective advocate for its religious vision if that person's conduct fails to live up to the religious precepts that he or she espouses." *Id.* at 201. Thus, "a religious body's right to self-governance must include the ability to select, and to be selective about, those who will serve as the very 'embodiment of [the] message' and 'its voice to the faithful.'" *Id.* (quoting *Petruska v. Gannon Univ.*, 462 F.3d 294, 306 (3d Cir. 2006)); *see also Our Lady of Guadalupe Sch.*, 591 U.S. at 747 (same). These principles apply not just to individual employment or decisions by a church, but also to broader "matters of church government" by "religious institutions," *Our Lady of Guadalupe Sch.*, 591 U.S. at 746 (citation and internal quotations omitted), such as church-membership decisions and the SBC's decisions about which local churches it will affiliate with based on "the standard of morals required of them," *Watson*, 80 U.S. at 733.

The principle that government has no authority to interfere with a religious organization's internal affairs "has long meant, among other things, that religious communities and institutions enjoy meaningful autonomy and independence with respect to their governance, teachings, and doctrines." Thomas C. Berg, et al., *Religious Freedom, Church-State Separation, and the Ministerial Exception*, 106 NW. U. L. REV. COLLOQUY 175 (2011). A religious organization's freedom over matters of government, faith, and doctrine includes the right to "control . . . the selection of those who will personify its beliefs." *Hosanna-Tabor*, 565 U.S. at 188; *Our Lady of Guadalupe Sch.*, 591 U.S. at 747 ("authority to select, supervise, and if necessary, remove a minister"). Ensuring the religious institution's autonomy over selecting, overseeing, and removing those with significant religious responsibilities, and especially of its leaders or member churches, is an essential component of the religious freedoms enshrined in the First Amendment—and the "ministerial exception," as part of the church-autonomy doctrine, "was recognized to preserve a church's independent authority in such matters." *Our Lady of Guadalupe Sch.*, 591 U.S. at 747.

The church-autonomy doctrine is rooted in three First Amendment protections: the Free Exercise Clause, the Establishment Clause, and the freedom of association. *Hosanna-Tabor*, 565 U.S. at 188–89; *Catholic Charities Bureau, Inc. v. Wisconsin Lab. & Indus. Rev. Comm'n*, 605 U.S. 238, 256–57 (2025) (Thomas, J., concurring). The Free Exercise Clause protects the right of churches to select and control the individuals who perform important religious functions on their behalf, because those

activities are central to the church's ability to "shape its own faith and mission." *Hosanna-Tabor*, 565 U.S. at 188. The Establishment Clause, meanwhile, prevents courts from appointing ministers, reinstating ministers whom a religious organization has disciplined or terminated, or evaluating the reasons a church disciplined or terminated a minister. *Id.* at 188–89. "[G]overnment involvement in such ecclesiastical decisions" is "prohibit[ed]." *Id.* at 189. Thus, these two clauses form a "two-way street, protecting the autonomy of organized religion and not just prohibiting governmental 'advancement' of religion." Michael W. McConnell, *Reflections on Hosanna-Tabor*, 35 HARV. J. L. & PUB. POL'Y 821, 834 (2012).

Finally, freedom of association demands the ministerial exception because the "very existence [of a religious group] is dedicated to the collective expression and propagation of shared religious ideals." *Hosanna-Tabor*, 565 U.S. at 200 (Alito, J., concurring); *see also Catholic Charities*, 605 U.S. at 256–57 (Thomas, J., concurring). Freedom of association thus protects the right of churches to control their membership, their leadership, and those authorized to speak for them.

II. The church-autonomy doctrine extends not just to a religious institution's governance decisions, but also to speech that is intertwined with those decisions.

To fulfill its function of preserving autonomy over religious organizations' ecclesiastical functions, the church-autonomy doctrine extends not just to church-government decisions themselves—such as who to affiliate with, hire, or fire—but also to speech intertwined with these decisions. The church-autonomy doctrine would be meaningless if

it protected a religious organization's decision to remove a minister or disassociate with a local church, but exposed it to liability for investigating, announcing, or explaining that decision. *See Travers v. Abbey*, 58 S.W. 247, 247–48 (Tenn. 1900) (courts lack jurisdiction to address cases involving not just church matters that "are purely disciplinary," but also matters related to "the administration of discipline").

The purpose of the ministerial exception is to protect "the internal governance of the church." *Hosanna-Tabor*, 565 U.S. at 188; *see also Watson*, 80 U.S. at 727 (recognizing church-governance decisions as "binding on" legal tribunals). Religious self-governance, by definition, includes communications relating to governance decisions; such communications are an important part of the religious institution's "message." *Our Lady of Guadalupe Sch.*, 591 U.S. at 752 (citation and internal quotations omitted). The U.S. Supreme Court held more than 150 years ago that "[t]he right to organize voluntary religious associations to assist in the expression and dissemination of any religious doctrine" is "unquestioned." *Watson*, 80 U.S. at 728–29.

Justice Alito, joined by Justice Kagan, echoed this fundamental idea in *Hosanna-Tabor*, explaining that the ministerial exception plays a central role in protecting the ability of religious organizations to express their religious messages: "[B]oth the content and credibility of a religion's message depend vitally on the character and conduct of its teachers. . . . For this reason, a religious body's right to self-governance must include the ability to select, and to be selective about, those who

will serve as the very 'embodiment of its message' and 'its voice to the faithful.'" *Hosanna-Tabor*, 565 U.S. at 201 (Alito, J., concurring) (citation omitted). If the "character and conduct" of a religious organization's affiliated leaders or churches is central to its religious message, the ministerial exception must cover the religious organization's statements regarding the hiring, investigation, discipline, removal, or disassociation of those leaders or local churches.

Here, Plaintiff alleges that the SBC defamed him by disclosing his name in an SBC letter inquiring into Everett Hills' adherence to SBC beliefs about sexual abuse. [T.R. Vol. I, 21 ¶ 19]; COA Op. at 2, 4. The letter was sent by the SBC committee tasked with inquiring into local churches' standing with the SBC, and was focused on matters directly relevant to the committee's inquiry, including Everett Hills's current relationship with the person accused of misconduct, its hiring practices, its procedures for handling reports of abuse, and the extent of the church's awareness of the allegations. [T.R. Vol. I, 20-21 ¶¶ 18-19].

The SBC inquiry here thus falls within the core of the church-autonomy doctrine, which this Court has "strongly embraced." *Redwing v. Catholic Bishop of Diocese of Memphis*, 363 S.W.3d 436, 448 (Tenn. 2012); *see Nance v. Busby*, 18 S.W. 874, 880–82 (Tenn. 1892) (recognizing the doctrine). For a court to decide Plaintiff's claim would be for a court to intrude on the SBC's investigation and decision as to which local churches it will affiliate with to represent its message—a core matter of "church government." *Our Lady of Guadalupe Sch.*, 591 U.S. at 746 (citation and internal quotations omitted). Yet courts lack authority to address cases, like this one, that "relate to the ecclesiastical constitution

and government of [a] church," including the religious body's "administration of [justice]." *Travers*, 58 S.W. at 247–48.

This Court's decision in *Travers* is illustrative. There, a presiding elder removed the plaintiff pastor from his position at a particular church, transferred him to a different church "against the consent of the congregation," and—"after consultation with and approval by the bishop, in letters and telegrams"—replaced him with a different pastor. 58 S.W. at 247. The defendants claimed that the plaintiff was "removed by proper disciplinary proceedings" and that this "controversy [was] purely an ecclesiastical one." *Id.* This Court agreed and affirmed the dismissal of the case, explaining that "the removal of [plaintiff] having been made under authority of the church discipline, the courts will not inquire into its regularity or validity." *Id.* at 248.

Plaintiff's claims here are cut from the same cloth as *Travers*. The alleged wrong derives from an SBC inquiry into an SBC-affiliated church's alignment with SBC beliefs, stemming from allegations of misconduct pertaining to an SBC minister. COA Op. at 2–4. The SBC's decision to pursue this investigation through a letter referencing the underlying allegations, and to advise potentially affected SBC-affiliated entities of the investigation, is "purely an ecclesiastical one," no less than the ultimate decision regarding Everett Hills' standing with the SBC. *Travers*, 58 S.W. at 247. The courts "will not review" such decisions. *Id.*

III. The church-autonomy doctrine bars civil tort claims that—like the defamation claims here—interfere with a religious organization's assessment or evaluation of those who minister on its behalf.

The church-autonomy doctrine is not confined to statutory employment claims like the antidiscrimination claim at issue in *Hosanna-Tabor*. The doctrine also applies to any claim that seeks monetary or other relief for alleged harm caused by a religious organization's communications in the process of making governance decisions—including the defamation claim at issue here.

An award of relief for defamation would "operate as a penalty on the Church for terminating an unwanted minister" no less than an award of relief for employment discrimination, producing "precisely" the type of liability "that is barred by the ministerial exception." *Hosanna-Tabor*, 565 U.S. at 194; *see also Corp. of Presiding Bishop of Church of Jesus Christ of Latter-day Saints v. Amos*, 483 U.S. 327, 335–36 (1987) (explaining that "[f]ear of potential liability might affect the way an organization carried out what it understood to be its religious mission"). The church-autonomy doctrine does not depend on whether the plaintiff's cause of action is styled as a tort claim (like defamation), a contract claim, or a statutory claim under employment or civil-rights laws. If the law were otherwise, then a plaintiff could easily avoid the doctrine through artful pleading.

No matter how a claim is pleaded, it is barred by the church-autonomy doctrine if it involves a court in a religious organization's church-governance decisions, processes, and communications—including matters relating to hiring, firing, disciplining, or disassociating with

particular ministers, members, or churches. Some claims will clear this hurdle and others will not. For example, a slip-and-fall case or a contract claim disconnected from religious beliefs could proceed; a defamation claim based on a religious body's explanation of its concerns with an affiliated church or minister cannot.

This "functional approach" is a hallmark of the ministerial exception. *Hosanna-Tabor*, 565 U.S. at 204 (Alito, J., concurring). Just as courts look beyond the "title" of a person's position and consider "what an employee does," *Our Lady of Guadalupe Sch.*, 591 U.S. at 752–53, so too the substance of the plaintiff's claim—and not its label—governs.

Courts have accordingly dismissed many types of civil claims that questioned a church's official treatment of clergy or others in positions of religious leadership. For example, the Sixth Circuit affirmed the dismissal of a minister's claims for defamation, breach of implied contract, tortious interference with business relationships, conspiracy, and invasion of privacy, all of which were based on an internal church complaint alleging that the minister had engaged in inappropriate sexual behavior. *Ogle v. Church of God*, 153 F. App'x 371, 374–76 (6th Cir. 2005). Dismissal was required because adjudicating the minister's claims would "implicate the Church of God's internal disciplinary proceedings." *Id.* at 376. Similarly, the Third Circuit held that the ministerial exception barred a minister's claim for alleged breach of his employment contract after the church removed him for "failing to provide adequate spiritual leadership." *Lee v. Sixth Mount Zion Baptist Church of Pittsburgh*, 903 F.3d 113, 121 (3d Cir. 2018). The court explained that to adjudicate the claim would "intrude on internal church governance,

require consideration of church doctrine, constitute entanglement prohibited under the ministerial exception, and violate the Establishment Clause." *Id.* at 122.

Defamation claims, in particular, are routinely dismissed under the ministerial exception. For example, the Texas Supreme Court dismissed defamation claims brought by a Catholic deacon against his diocese. *In re Diocese of Lubbock*, 624 S.W.3d 506, 510 (Tex. 2021). The plaintiff alleged that the diocese had wrongfully included his name on a list of "clergy against whom credible allegations of sexual abuse of a minor" were made. *Id.* Yet the Texas Supreme Court held that the claims were barred by the church-autonomy doctrine because the claims "ultimately challenge[d] the result of a church's internal investigation into its own clergy." *Id.* at 517–18.

In reaching that result, the Texas court followed a long line of cases that have dismissed similar claims against church leadership. *See, e.g.*, *Ogle*, 153 F. App'x at 374; *Cha v. Korean Presbyterian Church of Washington*, 553 S.E.2d 511, 516 (Va. 2001) ("most courts" have held that "the Free Exercise Clause divests a civil court of subject matter jurisdiction to consider a pastor's defamation claims against a church"); *Pfeil v. St. Matthews Evangelical Lutheran Church*, 877 N.W.2d 528, 541 (Minn. 2016) (a defamation claim "based on statements made during the course of a church disciplinary proceeding" would "necessarily foster[] an excessive entanglement with religion"). So too, Tennessee courts have repeatedly dismissed defamation claims concerning "religious disciplinary proceeding[s]." *Maize v. Friendship Cmty. Church, Inc.*,

2020 WL 6130918, at *5 (Tenn. Ct. App. Oct. 19, 2020); *see also*, *e.g.*, *Johnson v. Carnes*, 2009 WL 3518184, at *5 (Tenn. Ct. App. Oct. 29, 2009); *Anderson v. Watchtower Bible & Tract Soc. of New York, Inc.*, 2007 WL 161035, at *26 (Tenn. Ct. App. Jan. 19, 2007). This Court should reach the same result here.

IV. A religious organization does not lose the protections of the church-autonomy doctrine merely because it speaks about church-governance matters or was motivated in part by secular concerns.

The court of appeals rested its decision in part on the fact that the SBC communicated its investigation to SBC-affiliated religious entities who could be impacted by the investigation. COA Op. at 14. But that unduly narrow view of church autonomy is contrary to the protections afforded by the ministerial exception. *See supra*, at 19–21. A religious organization does not forfeit its religious liberty because it communicates with related entities about adherence to religious beliefs. To the contrary, such communications are part and parcel of the religious institution's "message." *Our Lady of Guadalupe Sch.*, 591 U.S. at 752 (citation and internal quotations omitted).

Indeed, the court of appeals' view would stifle the SBC's mission to evangelize the world and bring others to what the SBC understands to be the saving grace of Jesus Christ, including by ensuring that affiliated churches are "above reproach." *See On the Sexual Integrity of Ministers*, SBC (June 1, 2002), https://perma.cc/Q4E4-GB67; 1 *Timothy* 3:3–13. That mission is shared by substantially all Christian churches, and many other faiths have similar goals. There can be no doubt that allegations of sexual abuse in an SBC-affiliated church are a substantial obstacle to

evangelism—an obstacle that, to be overcome, cannot be hidden or swept under the rug. The church autonomy doctrine accordingly protects the SBC's ability to freely "communicat[e]" messages relating to that evangelism "in its own voice, both to its own members and to the outside world." *Hosanna-Tabor*, 565 U.S. at 199, 201 (Alito, J., concurring).

One other way to think about the church's right to communicate is that if the church simply fired the accused minister, that decision would plainly be protected by the ministerial exception. No one would benefit—not the accused, not the church, not the alleged victim—if the church could not conduct a rational investigation of alleged misconduct before terminating or retaining an accused minister. Candid communication is essential to any such investigation. Liability for such communications would make everyone worse off.

The court of appeals also refused to apply the church-autonomy doctrine in part because it believed that the SBC had not argued that its conduct "resulted from the application or interpretation of any religious canon." COA Op. at 14. This argument is questionable on its own terms. *See*, *e.g.*, Brief of Appellants Executive Committee of the Southern Baptist Convention et al. at 20–21 (explaining the religious basis for the investigation). And regardless of whether the court of appeals' premise was correct, its conclusion does not follow—courts do not inquire into a church's motive for conduct that falls within the scope of the church-autonomy doctrine.

As the U.S. Supreme Court explained in *Hosanna-Tabor*, the ministerial exception (and by extension, the broader church-autonomy doctrine) cannot depend on whether the church articulated "a religious

reason" for its conduct. 565 U.S. at 194. Instead, the U.S. Supreme Court unanimously adopted a bright-line rule that precludes any inquiry into a religious institution's motivations. *Id.* at 194–95. As the Court explained, "[t]he purpose of the exception is not to safeguard a church's decision to fire a minister only when it is made for a religious reason." *Id.* at 194. "The exception instead ensures that the authority to select and control who will minister to the faithful—a matter 'strictly ecclesiastical,' is the church's alone." *Id.* at 164–95 (citation omitted).

Thus, a religious body's motivation for taking an action protected by the First Amendment can be purely ecclesiastical, secular as well as ecclesiastical, or secular instead of ecclesiastical; regardless of how it is characterized, the church's conduct is protected. Put differently, the ministerial exception and the church-autonomy doctrine are absolute when they apply, meaning that the right to assess and evaluate ministers, members, or local churches "is the church's alone," even if the plaintiff argues that a religious organization's decision, process, or speech was motivated entirely by nonreligious concerns. *Hosanna-Tabor*, 565 U.S. at 194–95. Indeed, "the mere adjudication" of the reasons for a religious organization's conduct "would pose grave problems for religious autonomy" by placing "a civil factfinder sitting in ultimate judgment of what the accused church really believes, and how important that belief is to the church's overall mission." *Id.* at 205–06 (Alito, J., concurring).

The court of appeals violated this principle by attempting to identify and evaluate the SBC's motives for its investigation and associated statements. COA Op. at 14. This Court should apply *Hosanna-Tabor*'s bright-line rule here and hold that authority over

determining which churches are in friendly cooperation with the SBC "is the [SBC's] alone." 565 U.S. at 194–95.

V. The Court cannot apply "neutral principles" to impose liability on a religious organization for covered conduct.

The court of appeals also erred by referencing "neutral legal principles" that supposedly could resolve Plaintiff's defamation claims. COA Op. at 13–14. The "neutral principles" methodology has no place here. As explained above, the church-autonomy doctrine is absolute within its scope. Once the Court determines that the SBC's investigation and related statements fall within the scope of the doctrine, "the First Amendment requires dismissal of [Plaintiff's] suit against [the SBC]." *Hosanna-Tabor*, 565 U.S. at 194. Courts may not apply "neutral principles" to determine whether a church followed its own procedures or provided valid justifications for its actions. *See id.* at 187, 194–95. Indeed, it is not for courts to balance secular and religious interests—"the First Amendment has struck the balance for us." *Id.* at 196.

Here, Plaintiff's claim depends on second-guessing the SBC's decision that the allegations at issue warranted investigating Everett Hills' adherence to SBC beliefs and advising other potentially affected SBC-affiliated entities of the investigation. "[I]t is precisely such a ruling that is barred by the ministerial exception." *Hosanna-Tabor*, 565 U.S. at 194. "[T]he authority to select and control who will minister to the faithful" in friendly cooperation with the SBC, and the procedures and explanations used to arrive at those decisions, are "strictly ecclesiastical" and therefore "the [SBC's] alone." *Id.* at 195.

The U.S. Supreme Court has never applied "neutral principles" to a dispute concerning an investigation into a local church's practices and beliefs or a discharge of a clergy member. *See Serbian E. Orthodox Diocese for U.S. & Can. v. Milivojevich*, 426 U.S. 696 (1976); *Kreshik v. Saint Nicholas Cathedral*, 363 U.S. 190 (1960); *Kedroff v. St. Nicholas Cathedral of Russian Orthodox Church in N. Am.*, 344 U.S. 94 (1952); *Gonzalez v. Roman Catholic Archbishop of Manila*, 280 U.S. 1 (1929). The Court has instead held that "it is impermissible for the government to contradict a church's determination of who can act as its ministers." *Hosanna-Tabor*, 565 U.S. at 185. To apply so-called neutral principles to this case is to resolve all issues of religious teaching, government, and authority against the church by simply ignoring those issues, treating the church as though it were a for-profit business corporation.

Tennessee courts have likewise recognized that "[b]ecause of the inherently ecclesiastical nature of membership decisions, disputes over membership are not subject to the 'neutral principles' doctrine." *Anderson*, 2007 WL 161035, at *10. To the contrary, "disputes based on otherwise defamatory statements made in the context of a religious disciplinary proceeding are not resolvable by the courts." *Maize*, 2020 WL 6130918, at *5. Neutral principles may not be applied to claims against churches outside narrow circumstances when the claim targets only the "external affairs" of the church and is based solely upon "questions of property or personal rights." *Redwing*, 363 S.W.3d at 449–50.

The cases in which the U.S. Supreme Court has applied "neutral principles" involved church property disputes—not disputes concerning the selection, supervision, or removal of individuals identified by a church as clergy. *See Jones v. Wolf*, 443 U.S. 595 (1979); *Md. & Va. Eldership of Churches of God v. Church of God at Sharpsburg, Inc.*, 396 U.S. 367 (1970); *Presbyterian Church v. Mary Elizabeth Blue Hull Mem'l Presbyterian Church*, 393 U.S. 440 (1969). The "neutral principles" approach accordingly has no application here.

CONCLUSION

For these reasons, the Court should reverse the decision of the court of appeals.

Dated: August 27, 2025

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CERTIFICATE OF COMPLIANCE

In compliance with Supreme Court Rule 46 § 3.02, I certify that this document uses fourteen-point Century Schoolbook font, and it contains 5,183 words, exclusive of the elements exempted by § 3.02(a)(1).

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