No. 21-2683

United States Court of Appeals for the Seventh Circuit

JANAY E. GARRICK,
Plaintiff-Appellee.
v.
MOODY BIBLE INSTITUTE,
Defendant-Appellant.

On Appeal from the United States District Court
for the Northern District of Illinois, Eastern Division
No. 1:18-cv-00573
Hon. John Z. Lee

BRIEF OF BELMONT ABBEY COLLEGE AS AMICUS CURIAE IN SUPPORT OF DEFENDANT-APPELLANT

JOSHUA C. MCDANIEL
Counsel of Record
KELSEY BAER FLORES
PARKER W. KNIGHT III
MATTHEW E. MYATT
HARVARD LAW SCHOOL
RELIGIOUS FREEDOM CLINIC
6 Everett Street, Suite 5110
Cambridge, MA 02138
(617) 496-4383
jmcdaniel@law.harvard.edu

Counsel for Amicus Curiae

RULE 26.1 DISCLOSURE STATEMENT

There is no new or revised information in this statement.

1. **The full name of every party represented by us in this case.**

   Belmont Abbey College

2. **The names of all law firms whose partners or associates appeared for the party in this case:**

   Harvard Law School Religious Freedom Clinic

3. **If the party is a corporation:**

   a. **Parent Corporations, if any:** N/A

   b. **Publicly held companies that own more than 10% of the party's stock, if any:** N/A

4. **Information required by FRAP 26.1(b) — Organizational Victims in Criminal Cases**

   N/A

5. **Debtor information required by FRAP 26.1(c)(1) and (2):**

   N/A

/s/ *Joshua C. McDaniel*
JOSHUA C. MCDANIEL
Counsel of Record
KELSEY BAER FLORES
PARKER W. KNIGHT III
MATTHEW E. MYATT
HARVARD LAW SCHOOL
RELIGIOUS FREEDOM CLINIC
6 Everett Street, Suite 5110
Cambridge, MA 02138
(617) 496-4383
jmcdaniel@law.harvard.edu

Counsel for Amicus Curiae

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INTRODUCTION

The First Amendment's church autonomy doctrine "means what it says: churches must have independence in matters of faith and doctrine and in closely linked matters of internal government." *Starkey v. Roman Cath. Archdiocese of Indianapolis*, 41 F.4th 931, 942 (7th Cir. 2022) (quoting *Demkovich v. St. Andrew the Apostle Par.*, 3 F.4th 968, 975 (7th Cir. 2021) (en banc) (internal quotations omitted)). Given that the doctrine's purpose is to prevent judicial second-guessing and probing into internal religious dealings in violation of both Religion Clauses, this protection has all the hallmarks of an immunity from suit that courts must decide at a case's outset. Yet the district court here treated the doctrine as a mere defense against liability that can be punted to a later time—potentially forcing a religious group to endure years of discovery, trial, and appeals delving into ecclesiastical questions the courts have no business deciding.

Amicus submits this brief to highlight that this issue is far from new. Long before "church autonomy" had a name, our Founders, their colonial forebears, and early American state courts all recognized that state authorities—including courts—must avoid taking even the first

step "into [the] religious thicket." *Serbian E. Orthodox Diocese for U.S. & Can. v. Milivojevich*, 426 U.S. 696, 719 (1976).

Deeply rooted in the American legal tradition, church autonomy not only is enshrined in the Constitution but long predates it. English settlers came to America to escape the Crown's religious meddling. And as soon as they arrived, they insisted on separate spheres for church and state. As noted colonial founder Roger Williams put it, civil magistrates in the New World were to have "no power" to dictate church government or elect church officers. Roger Williams, *The Bloudy Tenent of Persecution* 213–14 (Edward B. Underhill ed., Hanserd Knollys Society 1848) (1644). The Founders shared this view and preserved the principle of religious autonomy. So did early American courts, which consistently refused to decide cases involving ecclesiastical matters because doing so would impermissibly subject religious institutions to intrusive legal process and enmesh the courts in religious affairs. Whether a defrocked minister was suing for backpay or an excommunicated member was challenging church discipline, courts denied merits discovery or dismissed such suits to avoid the "mischiefs" that would follow from permitting "public investigations [of church affairs] in civil courts."

Reformed Protestant Albany Dutch Church of Albany v. Bradford, 8 Cow. 457, 504–05 (N.Y. 1826) (opinion of Jones, Chancellor).

That rich historical tradition is instructive in cases like this one. Ms. Garrick's gender discrimination and retaliatory discharge claims turn on ecclesiastical issues—Moody Bible Institute's internal governance and doctrine. As a long string of historical precedents bears out, church autonomy requires courts to defer to Moody's decisions about its doctrinal policies and those employees subject to them.

In short, history confirms that church autonomy protects against not only liability but "the very process of inquiry" into matters of church government, doctrine, and faith. *NLRB v. Cath. Bishop*, 440 U.S. 490, 502 (1979). Church autonomy is a form of legal immunity that can be immediately appealed when denied. To hold otherwise would allow the court to second-guess Moody's internal religious policies and doctrine, contrary to bedrock First Amendment protections.

INTEREST OF AMICUS CURIAE[1]

Founded in 1876, Belmont Abbey College is a private Catholic liberal arts college in Belmont, North Carolina. Its first bricks were laid by Benedictine monks seeking to advance their 1,500-year-old monastic tradition of prayer and learning. Today, Belmont Abbey College builds on that tradition by educating students "in the liberal arts and sciences so that in all things God may be glorified." Because the College is foundationally Catholic in its mission, it strives to adhere to the Catholic Church's teachings in all aspects of its pedagogy and governance. Since the time of Belmont Abbey College's founding, the church autonomy doctrine has protected its religious decisions from intrusion by secular courts.

Belmont Abbey College submits this brief to explain how the Constitution, longstanding legal tradition, and modern case law alike instruct that church autonomy functions as a legal immunity that should be determined at a case's outset. Waiting to consider the issue at any later

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[1] No party's counsel authored this brief in whole or in part; no party or party's counsel contributed money intended to fund preparing or submitting this brief; and no person other than amicus curiae or its counsel contributed money intended to fund preparing or submitting this brief. All parties consent to this brief's filing.

point risks subjecting amicus and other religious institutions to lengthy and invasive legal process that would divert their time, attention, and resources away from their religious educational mission to the detriment of students—only for that process to prove fruitless if church autonomy is later found to bar suit.

ARGUMENT

I. The principle of religious autonomy from government or court interference in ecclesiastical matters has deep historical roots.

The church autonomy doctrine has a long and rich history. *See generally Hosanna-Tabor Evangelical Lutheran Church & Sch. v. EEOC*, 565 U.S. 171, 182–83 (2012) (discussing church autonomy's ascendance in the Magna Carta before it was curtailed with the Act of Supremacy); *McRaney v. N. Am. Mission Bd. of S. Baptist Convention, Inc.*, 980 F.3d 1066, 1075–80 (5th Cir. 2020) (Oldham, J., dissenting) (tracing church autonomy back to the Middle Ages). Early colonists, Founders, and American courts in later centuries have all recognized the need to keep government—including civil courts—entirely out of ecclesiastical matters.

A. Early colonists and the American Founders shared a commitment to protecting churches from state interference.

The principle of church autonomy took root in America well before the Constitutional Convention. In fact, the Crown's interference in church affairs—on everything from appointing church leaders and archbishops to determining doctrinal tenets—was a key reason many fled England for the colonies. *See Our Lady of Guadalupe Sch. v. Morrissey-Berru*, 140 S. Ct. 2049, 2061–62 (2020) (recounting 16th-, 17th-, and 18th-century British statutes that exerted control over ministers and religious practice); *Hosanna-Tabor*, 565 U.S. at 182–83 (describing how the Crown's involvement in church affairs spurred religiously motivated immigration to America).

From the start, colonists insisted on separating civil and ecclesiastical authority—even in colonies with established religions. In Puritan Massachusetts, for example, colonists declared in 1641 that "[e]very Church hath free libertie of Election and ordination of all their officers" as well as "free libertie of Admission, Recommendation, Dismission, and Expulsion, or desposall of their officers, and members." Massachusetts Body of Liberties (1641), reprinted in Church and State: Documents Decoded 20 (David K. Ryden & Jeffrey J. Polet eds., 2018). Even more

pointedly, they ensured that civil authorities could put "[n]o Injunctions . . . upon any Church, Church officers or member in point of Doctrine, worship or Discipline." *Id.*

Likewise, in Rhode Island, colonial founder and minister Roger Williams explained that secular "magistrates . . . [would] have no power of setting up the form of church government, electing church officers, [or] punishing with church censures." Roger Williams, The Bloudy Tenent of Persecution 213–14 (Edward B. Underhill ed., Hanserd Knollys Society 1848) (1644). Those powers belonged to the church.

For the colonists, "giving the Spiritual Power . . . into the hand of the Civil Magistrate" was unthinkable. John Cotton, A Discourse about Civil Government (1637–39), reprinted in The Sacred Rights of Conscience 135 (Daniel L. Dreisbach & Mark David Hall eds., 2009). As preeminent minister John Cotton put it, that was an "extreme" that "must be avoided." *Id.* (cleaned up).

Informed by the colonial experience, the drafters of the Constitution recognized the need to keep the spheres of church and state separate for the sake of both. *See* Michael W. McConnell, *The Origins and Historical Understanding of Free Exercise of Religion*, 103 Harv. L. Rev. 1409,

1496–97 (1990); *Korte v. Sebelius*, 735 F.3d 654, 677 (7th Cir. 2013) (church autonomy "mark[s] a boundary between two separate polities, the secular and the religious, and acknowledg[es] the prerogatives of each in its own sphere"). If those separate spheres were to collapse, the Founders feared a return to what Americans had long been trying to escape: a government that interfered in religious bodies' affairs. They thus adopted the First Amendment's Religion Clauses with the Crown's religious entanglements in mind. *See* Thomas C. Berg et al., *Religious Freedom, Church-State Separation, and the Ministerial Exception*, 106 Nw. U. L. Rev. Colloquy 175, 180–82 (2011).

In James Madison's view, it was "settled opinion" that "religion is essentially distinct from Civil Govt. and exempt from its cognizance." Ellis Sandoz, Religious Liberty and Religion in the American Founding Revisited 274, in Religious Liberty in Western Thought (Noel B. Reynolds & W. Cole Durham, Jr. eds., William B. Eerdmans Publishing Co. 2003). So, when asked in 1806 by Bishop John Carroll to provide his thoughts on whom the Catholic Church should appoint to govern its affairs in the new Louisiana territory, Madison demurred. He couldn't offer an opinion, he explained, because "the selection of ecclesiastical

individuals" is an "entirely ecclesiastical" matter over which the civil authorities have no power. Letter from James Madison to Bishop Carroll (1806), in 20 Records of the American Catholic Historical Society 63–64 (1909); *see Hosanna-Tabor*, 565 U.S. at 184 (recounting the incident).

Other Founders took the same tack. When the French papal nuncio asked Benjamin Franklin (as minister to France) in 1783 whether the Confederation Congress would approve the pope's appointing a French bishop to oversee American Catholicism, Franklin told the nuncio it would be "absolutely useless" to ask Congress to weigh in, since "according to its powers and its constitutions, [Congress] can not, and should not . . . intervene in the ecclesiastical affairs of any sect." Derek H. Davis, Religion and the Continental Congress, 1774–1789: Contributions to Original Intent 122 (2000). For its part, the Confederation Congress in turn resolved that the pope's choice of a leader for American Catholics was "without the jurisdiction and powers of Congress, who have no authority to permit or refuse it." *Id.* at 124.

President Washington held a similar view. In a 1789 letter to the General Committee of the United Baptist Churches, he wrote that if he

"could have entertained the slightest apprehension that the Constitution framed in the Convention . . . might possibly endanger the religious rights of any ecclesiastical society, certainly [he] would never have placed [his] signature to it." Letter from George Washington to the United Baptist Churches in Virginia (1789), in Timothy L. Hall, Religion in America 369 (2007).

Similarly, when the Ursuline Sisters of New Orleans (a Catholic order running a school for orphans) asked President Jefferson in 1804 whether their legal rights would remain unchanged after the Louisiana Purchase, he reassured them that the "principles of the Constitution and government of the United States are a sure guarantee to you that . . . your institution will be permitted to govern itself according to its own voluntary rules, without interference from the civil authority." Letter from Thomas Jefferson to the Nuns of the Order of St. Ursula at New Orleans (1804), in Documents of American Catholic History 184–85 (John Tracy Ellis ed. 1962) (emphasis added). For Jefferson, church autonomy was a solid guarantee that extended to religious schools.

In sum, the founding generation enacted and supported a constitution that ensured religious bodies would have the freedom to conduct their affairs without government interference or inquiry.

B. In line with founding principles, American courts have long refrained from adjudicating or permitting discovery in ecclesiastical matters.

After the Founding, early American courts continued to treat ecclesiastical and civil powers as having been "wisely separated." *Commonwealth v. Green*, 4 Whart. 531, 561 (Pa. 1839). Foreseeing that taking up cases to "explore the whole range of the doctrine and discipline of [a] given church" would be "utter impolicy," *State v. Farris*, 45 Mo. 183, 197–98 (1869), many courts recognized the need to shield churches from intrusive discovery into their internal affairs and to dismiss such suits at the outset.

Take the 1826 case, *Reformed Protestant Albany Dutch Church of Albany v. Bradford*, 8 Cow. 457 (N.Y. 1826). Bradford was a minister convicted of drunkenness in his church's court. *Id.* at 459. He first appealed within his church, but when the church upheld his conviction, he sued in New York state court, claiming the church owed him his salary for the period between his suspension and dissolution. *Id.* at 463–64,

472. After the New York trial court sided with Bradford, the Court for the Correction of Errors—New York's highest court at the time—reversed. *Id.* at 542.

As Senator Crary observed in his seriatim opinion in the church's favor, "toleration" of "every religious denomination" implies "the protection of that denomination in the government of its church." *Id.* at 533 (opinion of Crary, Senator). Even members of the court who would have affirmed the trial court emphatically agreed that the courts lack power to disturb church decisions on ecclesiastical matters. As Chancellor Jones noted, "public investigations in the civil courts" inquiring into "the infidelity and immorality of a minister of the gospel, on a public trial before a court and jury" or questioning "the soundness of his faith and religious opinions before a court of justice" would unavoidably lead to "mischiefs." *Id.* at 505 (opinion of Jones, Chancellor). At bottom, such questions must be resolved by "ecclesiastical assemblies, and not . . . made the subjects of judicial inquiry in the courts of justice." *Id.* at 507.

The Massachusetts Supreme Judicial Court echoed similar concerns in *Proprietors of Hollis Street Meetinghouse v. Proprietors of Pierpont*, 48 Mass. (7 Met.) 495 (1844). There, an ecclesiastical council reinstated

a parish minister after his parish had voted to dismiss him for alleged dishonesty. After resuming his duties, the minister sued in court to recover backpay. *Id.* at 496. The parishioners filed a bill of discovery (essentially, interrogatories) against the minister, claiming they needed discovery into his alleged immorality to mount their defense. *Id.* at 495. The Supreme Judicial Court of Massachusetts rejected their request, explaining that the parishioners were "not entitled to the discovery sought" because the minister's "answers to the interrogatories . . . could not be given in evidence in the action at law" because both sides were bound by the church council's decision. *Id.* at 499.

Early Pennsylvania courts held the same. In *German Reformed Church v. Commonwealth*, 3 Pa. 282 (1846), the Pennsylvania Supreme Court held that an excommunicated church member was "without remedy" in civil court. *Id.* at 291. The German Reformed Church had expelled one of its members, Jacob Seibert, after he "disregarded [church] admonitions." *Id.* at 288. But when Seibert challenged his excommunication in a court of law, the state supreme court was clear: his only remedy was to "appeal to a higher ecclesiastical court." *Id.* at 291. Because reviewing a church member's excommunication would mean delving

into "matters of faith, discipline and doctrine," the court stayed out of the dispute. *Id.*

Similarly, in *Chase v. Cheney*, 58 Ill. 509 (1871), the Illinois Supreme Court declined to decide whether an episcopal minister had deviated from the Book of Common Prayer when performing church rituals. *Id.* at 511, 541. Noting that it had no wish "to become [the] de facto head[ ] of the church," the court explained that secular judges have "no right . . . to dictate ecclesiastical law." *Id.* at 535. And without the authority or competence to interpret church doctrine, civil courts must allow ecclesiastical courts to "enforce [their] own discipline." *Id.* To hold otherwise, the court explained, would threaten basic religious freedom by allowing "civil courts [to] trench upon the domain of the church, construe its canons and rules, [and] dictate its discipline." *Id.* at 537.

In another excommunication case, the Iowa Supreme Court recognized that it couldn't resolve ecclesiastical matters related to church discipline. *Sale v. First Regular Baptist Church*, 17 N.W. 143, 145 (Iowa 1883). The court held that it "could not and would not" determine whether a Baptist church was wrong to excommunicate a member for her "'insufferable offenses' against the church." *Id.* at 144–45. That

issue was a "purely ecclesiastical question, into which [the court] cannot inquire." *Id.* at 145. The court thus held that the lower court should have dismissed the plaintiff's petition seeking reinstatement. *Id.*

In Missouri, the state supreme court held that a church was immune from a defamation claim challenging its membership decisions. *Landis v. Campbell*, 79 Mo. 433, 439–40 (1883). The plaintiff had sued the Presbyterian church for libel after the church published a statement that the plaintiff was "by [unanimous] vote excommunicated." *Id.* at 434–35. Because the trial court failed to dismiss the case at the outset, "a mass of evidence [was] read to the jury, consisting of extracts from the constitution of the church and digests of its laws, . . . which the court left it to the jury to expound for themselves." *Id.* at 436. The Missouri Supreme Court reversed, explaining that members of churches voluntarily submit themselves "to the tribunals established by [their churches] to pass upon such questions," and that if they are "aggrieved by a decision against them," they "must seek their redress within the [church]." *Id.* at 439. Because courts "cannot decide whether the excommunicated have been justly or unjustly, regularly or irregularly, cut off from the body of the church," the court explained, such questions are

"not subject to be reviewed by the civil courts" and the courts thus "will not examine" them. *Id.* at 438–39 (citation omitted).

Consider also *Travers v. Abbey*, 58 S.W. 247 (Tenn. 1900). There, a pastor of an African Methodist Episcopal Church brought a claim in state court against the presiding elder of his church who had deposed and transferred him, allegedly without the congregation's consent. *Id.* at 247. The Supreme Court of Tennessee held that while the pastor's disciplinary proceedings may well have been "arbitrary" or "irregularly conducted," he needed to bring those questions to "the members of the church" and "the ecclesiastical or church revising authority," not civil courts. *Id.* at 248. Because the controversy was "purely disciplinary, and relate[d] to the ecclesiastical constitution and government of the church, and the exercise of its internal affairs, and the administration of discipline," there was nothing for the court to review. *Id.* at 247. The court affirmed the dismissal of the case. *Id.* at 248.

State courts continued to enforce the separation between ecclesiastical and civil powers well into the twentieth century. In one case, the Iowa Supreme Court dismissed a claim involving two Baptist ministers. *Brown v. Mt. Olive Baptist Church*, 124 N.W.2d 445 (Iowa 1963).

Although the case turned on clear ecclesiastical issues—the congregation's decision to remove the ministers from office—the lower court waded into internal church governance, declaring the church's decision "null and void" because its internal procedures were like "mob rule" and "contrary to fundamental principles of just[ice] and equity." *Id.* at 446. On review, the state supreme court reversed, explaining that civil courts "have no jurisdiction over, and no concern with, purely ecclesiastical questions and controversies, including membership in a church organization." *Id.* In fact, the court was reluctant to even recite "the facts and circumstances surrounding the expulsion" because it had "considerable doubt as to the materiality" of those issues in a court of law. *Id.* at 445. To the state supreme court, because church discipline decisions are ecclesiastical, state courts have no business "subver[ting] . . . religious bodies" by second-guessing those decisions. *Id.* at 447 (citation omitted).

All told, early American courts understood that they lacked the authority and the competence to question ecclesiastical decisions. Time and again, they declined to review church decisions on matters of church governance, discipline, membership, doctrine, and leadership. And when stray state trial courts waded into these ecclesiastical

questions, higher courts admonished them for failing to dismiss such controversies in the first instance.

II. The historical record confirms that Moody Bible Institute's religious autonomy defense to Ms. Garrick's discrimination and retaliation claims should be determined at the outset.

Religious autonomy is an immunity from suit that should be decided as a threshold issue before the case's merits. As recounted above, courts have long understood that they must avoid the "mischiefs" of entertaining "public investigations" and "public trial before a court and jury" on issues involving a church's determination of "the infidelity and immorality of a minister of the gospel." *Bradford*, 8 Cow. at 504–05 (opinion of Jones, Chancellor); *see German Reformed Church*, 3 Pa. at 291 (recognizing that passing on "matters of faith, discipline, and doctrine" would embroil courts in "a sea of uncertainty and doubt"). To avoid judicial entangling in "matter[s] 'strictly ecclesiastical,'" *Hosanna-Tabor*, 565 U.S. at 195 (citing *Kedroff v. St. Nicholas Cathedral of Russian Orthodox Church in N. Am.*, 344 U.S. 94, 119 (1952)), history teaches that such cases should be dismissed at the outset due to the legal immunity that church autonomy affords. *See, e.g.*, *Sale*, 17 N.W. at 145; *Brown*, 124 N.W.2d at 446. And when a trial court denies religious groups such

protection, history likewise teaches that church autonomy is so fundamental that it should be immediately appealable as a collateral order.

To begin with, church autonomy protects religious institutions like Moody from "the very process of inquiry" into matters of church government, faith, and doctrine. *NLRB*, 440 U.S. at 502; *see Our Lady*, 140 S. Ct. at 2055; *see also Kreshik v. St. Nicholas Cathedral*, 363 U.S. 190, 191 (1960) (per curiam) (church autonomy applies whether the interference comes from a legislature or the courts). So when, as here, a dispute turns on those issues, courts should refuse to allow intrusive merits discovery and should dismiss the case outright. *See, e.g.*, *Proprietors of Hollis Street Meetinghouse*, 48 Mass. at 499 (rejecting discovery request aimed at undermining a church council's ministerial decision); *Brown*, 124 N.W.2d at 446 (instructing lower court to dismiss plaintiff's claim because civil courts "have no jurisdiction over, and no concern with, purely ecclesiastical questions and controversies"). To hold otherwise would make secular judges the "de facto heads of the church," *Chase*, 58 Ill. at 535, deciding church matters that the government has no business deciding.

This longstanding commitment to church autonomy is engrained in the First Amendment's Religion Clauses. *See, e.g.*, *Kedroff*, 344 U.S. at 116, 121. In the first place, "[s]tate interference" in "matters of 'faith and doctrine'" and "'matters of church government'" "would obviously violate the free exercise of religion." *Our Lady*, 140 S. Ct. at 2060. That guarantee would be meaningless if religious institutions lacked the power to select their own religious leaders, resolve membership disputes, and decide other matters of faith, doctrine, and governance. At the same time, "any attempt by government to dictate or even to influence such matters would [also] constitute one of the central attributes of an establishment of religion." *Id.* By preventing the government from entangling itself in internal religious affairs, the Establishment Clause "preserve[s] the autonomy and freedom of religious bodies." *Walz v. Tax Comm'n*, 397 U.S. 664, 672 (1970).

Even more than that, church autonomy is a foundational principle of American law that long predates the First Amendment. As the historical record shows, the principle was embedded in colonial charters, applied by the Confederation Congress, and espoused by our Founders both before and after the Bill of Rights' adoption. *See supra* part I.A.

And long before the incorporation of the Religion Clauses, the Supreme Court recognized that courts must stay out of internal church decisions on "questions of discipline, or of faith, or ecclesiastical rule, custom, or law, . . . accept[ing] such decisions as final, and as binding on them." *Watson v. Jones*, 80 U.S. 679, 727 (1871); *see also Gonzalez v. Roman Cath. Archbishop*, 280 U.S. 1, 16 (1929).

Denying review here would allow a drawn-out legal inquiry into church affairs before determining—perhaps after years more litigation—whether church autonomy protects Moody Bible Institute. In allowing Ms. Garrick to replead her claims in a way that gerrymandered out her doctrinal disagreements with Moody, the district court relied on the Supreme Court's language in a footnote that the ministerial exception isn't jurisdictional. *Garrick v. Moody Bible Inst.*, 412 F. Supp. 3d 859, 869, 872 (N.D. Ill. 2019) (citing *Hosanna-Tabor*, 565 U.S. at 195 n.4). Yet in the same footnote, the Supreme Court explained that courts should decide "whether the claim can proceed or is instead barred by the ministerial exception." *Hosanna-Tabor*, 565 U.S. at 195 n.4 (emphasis added). *Hosanna-Tabor* itself thus suggests that the church autonomy question should be resolved at an early stage, after which a case

may either "proceed" if church autonomy does not apply or be "barred" if it does. *Id.* That common-sense approach aligns with centuries of case law recognizing that civil courts have no authority to rule on purely ecclesiastical questions. *See supra* at 11–18 (discussing cases).[2]

More to the point, it is impossible for any court to resolve Ms. Garrick's claims without becoming entangled in religious questions: Any inquiry would devolve into a collateral attack on Moody's process and rationale for removing her for her theological disputes with Moody—all "purely ecclesiastical question[s], into which [a court] cannot inquire." *Sale*, 17 N.W. at 145. Given the Supreme Court's instruction that lower courts should look to substance and function over form when deciding church autonomy issues, *see, e.g.*, *Our Lady*, 140 S. Ct. at 2060, it

[2] When the Supreme Court ruled in *Hosanna-Tabor* that the ministerial exception isn't jurisdictional, it used the word "jurisdiction" in its narrow, procedural sense—the "'power to hear [the] case.'" *Hosanna-Tabor*, 565 U.S. at 195 n.4 (quoting *Morrison v. Nat'l Austl. Bank Ltd.*, 561 U.S. 247, 254 (2010)). That sense of jurisdiction shouldn't be conflated with jurisdiction's broader sense— "the right to speak authoritatively" on an issue. Lael Weinberger, *Is Church Autonomy Jurisdictional?*, 54 Loy. U. Chi. L.J. 471, 487 (2023). The broader sense of "jurisdiction" characterizes the Supreme Court's approach in certain areas of the law, such as state sovereign immunity. *See, e.g., Idaho v. Coeur d'Alene Tribe of Idaho*, 521 U.S. 261, 267 (1997) (describing the Eleventh Amendment as "a sovereign immunity from suit, rather than a nonwaivable limit on the Federal Judiciary's subject-matter jurisdiction").

shouldn't matter how a claim is styled. If, at bottom, a claim concerns a religious body's determination of core ecclesiastical matters—as Ms. Garrick's discrimination and retaliation claims do— the church autonomy doctrine applies. *See Natal v. Christian & Missionary All.*, 878 F.2d 1575, 1577–78 (1st Cir. 1989); *cf. Demkovich*, 3 F.4th at 973, 977–78 (applying the ministerial exception to a minister's hostile work environment claim because resolving the "allegations of minister-on-minister harassment would . . . undercut a religious organization's constitutionally protected relationship with its ministers").

To allow such litigation to proceed is to allow the government to hinder Moody's free exercise of religion and to violate the Establishment Clause by entangling secular courts in a religious dispute. The basic principle that religious institutions' inherent autonomy protects them from invasive discovery and litigation has been understood since before the country's founding, *supra* at 5–7, and courts have long recognized that religious bodies have the right to choose who will represent the faith. These longstanding principles apply whether or not a religious dispute is clothed in secular language.

CONCLUSION

This Court has jurisdiction and should reverse the district court's denial of dismissal.[3]

Respectfully submitted,

/s/ *Joshua C. McDaniel*
JOSHUA C. MCDANIEL
Counsel of Record
KELSEY BAER FLORES
PARKER W. KNIGHT III
MATTHEW E. MYATT
HARVARD LAW SCHOOL
RELIGIOUS FREEDOM CLINIC
6 Everett Street, Suite 5110
Cambridge, MA 02138
(617) 496-4383
jmcdaniel@law.harvard.edu

Counsel for Amicus Curiae

[3] *Amicus* thanks Margaret Cross, David Tye, Nicolas Wilson, and Eric Bush, students in the Harvard Law School Religious Freedom Clinic, for helping to prepare this brief.

CERTIFICATE OF COMPLIANCE

This brief complies with 7th Cir. R. 29 because it contains 4,609 words.

This brief complies with the typeface and type-style requirements of Fed. R. App. P. 32(a) and 7th Cir. R. 32 because it has been prepared in a proportionally spaced, 14-point Century Schoolbook font.

Dated: August 7, 2023

/s/ *Joshua C. McDaniel*
Joshua C. McDaniel

CERTIFICATE OF SERVICE

I certify that on August 7, 2023, I served this document on all parties or their counsel of record via CM/ECF.

Dated: August 7, 2023

/s/ *Joshua C. McDaniel*
Joshua C. McDaniel