CASE NO. 26-1779

IN THE

Supreme Court of the United States

FEBRUARY 2026

Scott Bessent, In His Official Capacity as
Acting Commissioner of the Internal
Revenue Service, et al.,
Petitioners,

-versus-

Covenant Truth Church,
Respondents.

ON WRIT OF CERTIORARI

TO THE UNITED STATES COURT OF APPEALS

FOR THE FOURTEENTH CIRCUIT

BRIEF FOR RESPONDENTS

ORAL ARGUMENT REQUESTED

Team No. 38
Counsel for Respondents

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QUESTIONS PRESENTED

I. Whether Covenant Truth Church has standing under the Tax Anti-Injunction Act and Article III to challenge the Johnson Amendment.

II. Whether the Johnson Amendment violates the Establishment Clause of the First Amendment.

LIST OF PARTIES

Party Name	Appellate Party Designation	Trial Court/ Agency Party Role	Trial Court/Agency Party Status
Scott Bessent	Appellant	Defendant	Participated Below
The Internal Revenue Service	Appellant	Defendant	Participated Below
Covenant Truth Church	Appellee	Plaintiff	Participated Below

OPINIONS BELOW

The opinion of the United States District Court for the District of Wythe is unreported. The opinion for the panel of the United States Court of Appeals for the Fourteenth Circuit affirming the the District Court's decision granting the permanent injunction and summary judgment is reported at *Scott Bessent, In His Official Capacity as Acting Commissioner of the Internal Revenue Service, et al. v. Covenant Truth Church*, 345 F.4th 1 (14th Cir. 2025).

STATEMENT OF JURISDICTION

The plaintiff-appellee-respondent, Covenant Truth Church, filed this instant suit with the District Court, which had subject matter jurisdiction pursuant to 28 U.S.C. §1331. The Fourteenth Circuit had original appellate jurisdiction over the appeal from the District Court under 28 U.S.C. §1291. This Honorable Court has appellate jurisdiction over the instant appeal under U.S. Constitution. Art. III, § 2, cl 2 and 28 U.S.C. §1254.

CONSTITUTIONAL PROVISIONS AND STATUTES INVOLVED

This case raises issues under Article III, Section 2 concerning the constitutional requirements to have standing to bring suit. U.S. CONST art. III §2. Further, this case also raises issues under the Establishment Clause of the First Amendment. U.S. CONST amend. 1.

The statutory authority relevant to this case is 26 U.S.C. §501(c)(3), as known as the Johnson Amendment which allows for non-profit organizations to receive preferential tax treatment under the Internal Revenue Code. Another relevant statute is 26 U.S.C. § 7421, also known as the Tax Anti-Injunction Act, designed to bar suits initiated for the purpose of restraining the assessment or collection of any tax.

STATEMENT OF THE CASE

Congress enacted the Johnson Amendment making non-profit organizations exempt from paying federal income taxes so long as they do not participate or intervene in political campaigns.

The Johnson Amendment was passed in 1954, amending the Internal Revenue Code to allow non-profit organizations to remain exempt from federal income taxes on the condition that they "not participate in, or intervene in . . . any political campaign on behalf of . . . any candidate for public office." R. at 2. The Johnson Amendment was not debated before its passage in Congress and has faced growing outcry in recent years among non-profit organizations that wish to make their voices heard in the political process. R. at 2. Efforts to eliminate or amend the Johnson Amendment to loosen its suppression of First Amendment speech have been raised yearly since 2017 but have sputtered out each time, so the Johnson Amendment remained in force at the time of the case at bar. R. at 3.

Pastor Gideon Vale of Covenant Truth Church pledged his support for a candidate for public office as obligated by his religion, the Everlight Dominion

Pastor Vale's religion, the Everlight Dominion, embraces a wide variety of progressive social values. R. at 3. The Everlight Dominion requires its leaders and churches to participate in political campaigns and support candidates that align with its progressive stances. R. at 3. Pastor Vale endorsed Congressman Samuel Davis, as Davis embraces the same progressive values as the Covenant Truth Church. R. at 4. Pastor Vale used his weekly podcast to deliver sermons, provide spiritual guidance, educate listeners about the Everlight Dominion, and deliver political messages that align with the Church's values. R. at 4. On his podcast, Pastor Vale also endorsed Congressman Davis and discussed how Congressman Davis's political stances align with the teaching of the Everlight Dominion. R. at 5.

Covenant Truth Church filed suit in the district court alleging that the Johnson Amendment violates the Establishment Clause of the First Amendment.

The Church sued on May 15, 2024, seeking a permanent injunction of the Johnson Amendment that would prevent its enforcement against the Church. R. at 5. Their complaint alleged that the Johnson Amendment violated the Establishment Clause of the First Amendment. R. at 5. The government answered the complaint with a blanket denial of all of the Church's claims, leading the Church to file for summary judgment.

The district court held that the Church had standing to challenge the Johnson Amendment, and that the Johnson Amendment violates the Establishment Clause of the First Amendment. R. at 5. At summary judgment, the United States District Court for the District of Wythe granted the Church's request for a permanent injunction of the Johnson Amendment before it was enforced,

allowing the Church to maintain its tax-exempt classification. R. at 5. Both the Acting Commissioner of the Internal Revenue Service Scott Bessent and the Internal Revenue Service itself appealed the district court's ruling to the United States Court of Appeals for the Fourteenth Circuit. R. at 6.

The IRS and its acting commissioner appealed the district court's decision by alleging that 1) Covenant Truth Church lacks standing to challenge the Johnson Amendment and 2) that the Johnson Amendment does not violate the Establishment Clause.

On appeal, Fourteenth Circuit Court of Appeals affirmed the decision from the United States District Court for the District of Wythe that the AIA does not bar Covenant Truth Church's. R. at 7.

First, The Fourteenth Circuit found that the Church satisfied the requirements of Article III standing. R. at 7. The Fourteenth Circuit wrote that the Church sufficiently established that it suffered an injury in fact that is "concrete and particularized", and a harm that is "actual or imminent." R. at 7. The Fourteenth Circuit found that the Church would suffer a concrete and particularized injury if its tax-exempt status was revoked. R. at 7. The Fourteenth Circuit reasoned that the Church adequately demonstrated a "substantial risk" that its tax-exempt status would be revoked since the IRS notified the Church that it would be audited. R. at 7. The Church participated and intervened in a political campaign out of religious obligation, and because such participation expressly violates the Johnson Amendment, the Church faced a "substantial risk" that its tax-exempt status would be revoked. R. at 7. The Fourteenth Circuit found that the Johnson Amendment's history of non-enforcement was not relevant, asserting that the IRS consent decree applied only in narrow circumstances, that the Church's explicit endorsement and use of its following to campaign for Davis falls outside the scope of the consent decree, and that the dissent's

assertion to the contrary interpreted the consent decree too broadly. R. at 5, 7. Therefore, the majority found insufficient evidence that the Johnson Amendment would not be enforced in this case. R. at 7. Additionally, the majority held that the Tax Anti-Injunction Act does not bar the suit because Covenant Truth has no alternative means to redress the constitutional harm it suffered. R. at 6.

The Fourteenth Circuit also found no issue of ripeness. R. at 8. The majority found that although the Church's tax-exempt status had not yet been changed, the Church could nonetheless issue a pre-enforcement challenge to the Johnson Amendment the Church demonstrates that it 1) "[intends] to engage in a course of conduct affected with a constitutional interest", 2) that the conduct is "arguably regulated by" the Johnson Amendment, and 3) that there is substantial threat of enforcement. R. at 8. As stated above, the Fourteenth Circuit found that there was substantial threat of enforcement. R. at 7. As for the constitutional interest, the Fourteenth Circuit held that the Establishment Clause of the First Amendment establishes a Constitutional mandate of neutrality "between [religions] and between religion and nonreligion." R. at 9. The Fourteenth Circuit held that the Johnson Amendment regulates that constitutional interest by "discriminat[ing] invidiously" against the Church by weaponizing the tax code against organizations that are obligated to participate in the political process. R. at 8. Because the Church's beliefs impose a duty to support and promote candidates that align with the Everlight Dominion, the Fourteenth Circuit found that the IRS's "selective enforcement" of the Johnson Amendment gave the Church adequate grounds to bring a suit here. R. at 8.

After establishing the Church had standing, the Fourteenth Circuit addressed the constitutionality of the Johnson Amendment. The Fourteenth Circuit found that the Johnson Amendment violates the Establishment Clause by permitting the IRS to determine what topics

religious leaders and organizations may discuss as part of their doctrine. R. at 8. The Establishment Clause mandates the government to take a neutral stance in regard to religious denominations and sects. R. at 8-9. The Fourteenth Circuit held that the Johnson Amendment favors some religions over others by "denying tax exemptions to organizations whose religious beliefs compel them to speak on political issues." R. at 9. Religious organizations that do not have an obligation to speak on political issues may continue to enjoy tax exemption status. R. at 9. By regulating religious leaders and their organizations' teachings, the Johnson Amendment "entangles government with religion" thus violating the First Amendment's mandate for governmental neutrality. R. at 9.

The Fourteenth Circuit interpreted the Establishment Clause in reference to historical practices and understandings. R. at 9. Under this interpretation, the Fourteenth Circuit found that America's history and tradition provide a demonstration of religious leaders routinely stating their religion obligated their involvement in the American political process. R. at 9. Despite this history, the Johnson Amendment penalizes religions who require them to speak on political issues while other religious organizations and non-profits do not feel the same burden. R. at 10. The government cannot use tax exemptions as a "tool to prevent religious organizations from weighing in on political issues." R. at 10.

The Fourteenth Circuit affirmed the district court's ruling that the Church possessed standing to challenge the Johnson Amendment and that the Johnson Amendment violates the Establishment Clause of the First Amendment. R. at 2. The Fourteenth Circuit found the Johnson Amendment unconstitutionally allows the IRS to monitor religious leaders and their organization's teachings, only allowing non-profits who stay silent on political issues to receive tax exemptions. The Johnson Amendment's prohibition on religious organizations participating in the political process directly contradicts with American historical practices which demonstrate religious leaders

being obligated to participate in politics. Accordingly, the Fourteenth Circuit upheld the district court's injunction of the Johnson Amendment. R. at 2. Petitioners followed with this appeal.

SUMMARY OF THE ARGUMENTS

I.

Covenant Truth Church has standing to bring this suit because it satisfies the requirements for standing laid out by Article III of the Constitution, and because the Tax Anti-Injunction Act does not apply to this case. Covenant Truth Church suffered a concrete injury when its constitutional rights under the Establishment Clause were violated by the imminent enforcement of the Johnson Amendment. Although the Johnson Amendment had not yet been enforced, Covenant Truth still satisfies the injury in fact element of standing because enforcement of the Amendment was imminent. The IRS consent decree should not lead this Court to assume the Johnson Amendment would not be enforced, because the facts indicate that Pastor Vale's conduct surpassed that permitted under the Johnson Amendment. Next, the IRS and/or Scott Bessent inflicted the constitutional injury to Covenant Truth because they are responsible for enforcing the Johnson Amendment. Finally, Covenant Truth's constitutional injury would be redressed by the requested injunctive relief, because it would discontinue the structural bias against Covenant Truth Church present in the current language of the Johnson Amendment. Therefore, Covenant Truth Church satisfies the Article III standing requirements.

Next, the Tax Anti-Injunction Act does not bar this case. First, the Act is only designed to bar cases intended to restrain the assessment or collection of taxes, which is not the goal of this case. Covenant Truth's tax classification was unchanged when this case was initiated, and the relief sought in this case was designed to remedy a breach of Covenant Truth's rights under the

Establishment Clause. Although the requested injunction may have the incidental effect of preventing the assessment of Covenant Truth's tax classification under the Johnson Amendment, its intended effect is to rectify the unconstitutional discrimination advanced by the Johnson Amendment, not to recover or challenge an adverse tax classification. Additionally, this Court has held that Congress did not intend for the Tax Anti-Injunction Act to apply when there is no alternative means to adjudicate a plaintiff's claim. Because the alleged injury arises out of the Constitution rather than a change in Covenant Truth Church's tax classification, the federal courts are the only means for Covenant Truth to vindicate its constitutional rights under the Establishment Clause.

Therefore, this Court should find that Covenant Truth Church satisfies both the constitutional and statutory requirements to have standing to bring this suit and should permit Covenant Truth's constitutional claim to proceed.

II.

The Johnson Amendment violates the First Amendment's Establishment Clause because it allows for preferential treatment of certain religious denominations and allows impermissible government pressure over religious doctrine. Non-neutral treatment towards all denominations and governmental pressure over religious doctrine are hallmarks of established religion, which are prohibited under the Establishment Clause. The Johnson Amendment allows the government to show preferential treatment to religious denominations that do not obligate their members to be involved in the political process. Under the Johnson Amendment, the Covenant Truth Church faces the burden of choosing between the doctrine of the Everlight Dominion or its tax-exempt status. This choice is unconstitutional as it allows the government to impermissibly pressure religions into reforming their beliefs in order to retain their tax-exempt status.

American history supports a religious leader's ability to participate in the American political process without fearing their religious organization will lose its tax-exempt status. The historical record demonstrates that the Johnson Amendment is the exception rather than the rule regarding conditions on religious organizations receiving tax-exempt status. Accordingly, historical practices do not support the language of the Johnson Amendment, which requires religious organizations to abstain from the political process.

Therefore, because the Johnson Amendment allows for preferential treatment of religions and allows governmental control over religious doctrine, this Court should affirm the decision of the lower court that the Johnson Amendment is unconstitutional.

ARGUMENT

I. COVENANT TRUTH CHURCH HAS STANDING TO SUE BECAUSE IT SATISFIES THE REQUIREMENTS FOR ARTICLE III STANDING AND THE TAX ANTI-INJUNCTION ACT DOES NOT APPLY.

Article III, Section II of the Constitution frames the jurisdiction of the courts of the United States, stating that the power of the judiciary only extends to certain "cases" or "controversies." U.S. CONST. art III, § 2. The Constitution left terms like "case" and "controversy" undefined, and it was up to later Supreme Courts to articulate what exactly a suit must contain to be heard by federal courts under Article III. *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 559 (1992). Currently, this court utilizes a three-factor inquiry to determine if a party has standing to sue: a plaintiff must 1) suffer a concrete and particularized injury, 2) caused by the defendant's conduct, and 3) that can be redressed through the relief requested. *Id.* at 560. The elements of the *Lujan* test operate as a reliable set of guideposts for whether a party has standing to sue, but whether each element is satisfied turns heavily on the facts a given case to prevent the standing inquiry from becoming "mechanical exercise." *Allen v. Wright*, 468 U.S. 737, 751 (1984).

Beyond the standing requirements demanded by Article III, this appeal also considers whether the Tax Anti-Injunction Act bars Covenant Truth Church from challenging the Johnson Amendment. While this Court outlined the inquiry about when the Tax Anti-Injunction Act applies in *Enochs v. Williams Packing & Navigation Co.*, this Court's decision in *South Carolina v. Regan* carved out an exception to the *Williams Packing* rule. *See Enochs v. Williams Packing & Navigation Co.*, 370 U.S. 1, 6-7 (1962) (holding that the Tax Anti-Injunction Act does not apply to cases that 1) demonstrate irreparable injury absent the grant of an injunction and 2) are certain to succeed on the merits); *see also South Carolina v. Regan*, 465 U.S. 367, 373 (1984)

(interpreting the *Williams Packing* rule and finding that Congress did not intend the Tax Anti-Injunction Act to bar suits that lack an alternative means of redress).

The language of the Tax Anti-Injunction Act states that it only applies to bar suits initiated "for the purpose of restraining the assessment or collection of" taxes. 26 U.S.C. § 7421(a). This Court adopted a narrow reading of the word "purpose" within 26 U.S.C. § 7421 in *CIC Servs., LLC v. IRS*, wherein the purpose of a suit is determined not by its incidental effect on the assessment of taxes, but by the relief requested by the plaintiff. *CIC Servs., LLC v. IRS*, 593 U.S. 209, 227 (2021). If this Court finds that the *Regan* exception does not apply to this suit, we ask that this court adhere to *CIC Services* and find that the purpose of this suit is to remedy the structural inequity posed by the Johnson Amendment rather than to obstruct the assessment of taxes.

A. The Lower Court's Finding that Covenant Truth Church had Standing to Sue is Reviewed De Novo.

Because a party's standing to sue is a question of law, this Court reviews an appeal of a district court's judgment of Article III standing using a *de novo* standard of review. *Pierce v. Underwood*, 487 U.S. 552 (1988). When applying *de novo* review for matters of standing, this Court must give no deference to the lower court's ruling, and must decide using its own judgement (1) whether the plaintiff suffered an injury-in-fact that is concrete and particularized, as well as actual or imminent; (2) if there is a connection between the defendant's conduct and the injury complained of; and (3) whether there is a likelihood that the injury will be redressed by a favorable decision. *See Lujan v. Defenders of Wildlife*, 504 U.S. 555, 559 (1992). Because this case involves a pre-enforcement action, ripeness is also implicated, and ripeness is also reviewed with a *de novo* standard as a question of law. *See Urb. Dev., LLC v. City of Jackson, Miss.*, 468 F.3d 281, 292 (5th Cir. 2006).

B. Covenant Truth Church Satisfies the Elements of Article III Standing and the IRS Consent Decree Does Not Apply to This Case.

Standing to sue is a baseline component of the "case or controversy" requirement under Article III of the Constitution. *Northeastern Fla. Chapter of Associated Gen. Contractors of Am. v. City of Jacksonville*, 508 U.S. 656, 663 (1993). The question of standing empowers courts to determine whether the cases presented before them are "disputes which are appropriately resolved through the judicial process" before they are adjudicated on their merits. *Whitmore v. Arkansas*, 495 U.S. 149, 155 (1990). There are three constituent elements that a case must meet to qualify as an Article III case or controversy. *See Lujan*, 504 U.S. at 559. First, the plaintiff must have suffered an injury in fact that is concrete and particularized. *Id.* The injury must be an "invasion of a legally protected interest" which is "actual or imminent, not 'conjectural' or 'hypothetical'." *Id.* at 560; *Whitmore*, 495 U.S. at 155. Courts can find that an injury is imminent in suits initiated before enforcement has occurred so long as the facts indicate a "reasonable probability" of enforcement. *Clapper v. Amnesty Int'l USA*, 568 U.S. 398, 432 (2013). Second, the injury complained of must be fairly traceable to the defendant's conduct. *Simon v. E. Ky. Welfare Rights Org.*, 426 U.S. 26, 41 (1976). There must be a clear causal connection between the defendant's allegedly unlawful conduct and the complained-of injury rather than an attenuated connection or one reliant on the actions of some other third party. *Allen v. Wright*, 468 U.S. 737, 774 (1984). Third, the injury must be "likely" to be "redressed by a favorable decision", as opposed to the mere possibility or speculation of redress. *Simon*, 426 U.S. at 38. Although Covenant Truth Church is not an "individual" per-se, the same standing requirements apply to organizations like churches seeking to file suit on their own behalf. *Warth v. Seldin*, 422 U.S. 490, 511 (1975).

1. *Covenant Truth Church suffered an injury in fact when it faced invidious discrimination in violation of the Establishment Clause of the First Amendment.*

An injury in fact need not be physical or monetary but can be intangible, such as a violation of constitutional rights. *Penegar v. Liberty Mut. Ins. Co.*, 115 F.4th 294 (4th Cir. 2024). For an injury to qualify as concrete for the purposes of standing, it must bear "a close relationship to harms traditionally recognized as providing a basis for lawsuits in American courts." *TransUnion LLC v. Ramirez*, 594 U.S. 413, 425 (2021). One of the most vital functions of the judiciary is to safeguard Americans' constitutional rights, and the suppression of a person's First Amendment rights has been recognized as a concrete harm for the purposes of standing even absent "tangible" harms like economic loss or physical injury. *See Uzuegbunam v. Preczewski*, 592 U.S. 279 (2021). Specifically, this case concerns the Establishment Clause of the First Amendment, which states that the federal government "shall make no law respecting [the] establishment of religion." U.S. CONST. amend. I. The modern interpretation of the Establishment Clause is that the federal government is compelled to maintain neutrality in its treatment of religious groups and forbidden from assigning benefits or burdens based on religious beliefs. *See Larson v. Valente*, 456 U.S. 228 (1982); *Bd. of Educ. v. Grumet*, 512 U.S. 687 (1994). So long as a religious belief or practice is sincerely held as a part of an established religion, the government has no place in restraining how followers observe their religion, no matter how "how [un]acceptable, [il]logical, [in]consistent, or [in]comprehensible to others" those beliefs might seem. *Thomas v. Review Bd. of Ind. Emp't Sec. Div.*, 450 U.S. 707, 714 (1981).

Within the ambit of the Establishment Clause, government entities are forbidden from implementing policies that disproportionately benefit or accommodate certain religions over others. *See Bd. of Educ. v. Grumet*, 512 U.S. 687 (1994). This trespass most commonly arises

when government policies are tailored to serve a specific religious group or would only benefit one religious community to the exclusion of others. *Id.*; *see Tex. Monthly, Inc. v. Bullock*, 489 U.S. 1 (1989). However, this Court has ruled that policies which cut too far in the opposite direction also violate the Establishment Clause if they suppress religious expression or undermine the expression of one religion relative to other faiths or denominations. *See, e.g. Larson v. Valente*, 456 U.S. at 246 (holding that the Establishment Clause "absolute[ly]" forbids government policies that "[benefit] one religion over another" or "deter" the practice of minority faiths); *see also Engel v. Vitale*, 370 U.S. 421 (1962) (holding that religiously neutral policies that, in practice, display preference for a particular line of faith or belief over others violate the Establishment Clause); *see also Texas Monthly v. Bullock*, 489 U.S. at 15 (overturning tax policies that favor one set of religious beliefs over others and holding that such policies cannot be viewed as "anything but state sponsorship of [certain religious beliefs]").

The Establishment Clause, often in tandem with the Free Exercise Clause, stands for the proposition that the government cannot "[forbid] something that religion requires or [require] something that religion forbids." *Church of Lukumi Babalu Aye v. City of Hialeah*, 508 U.S. 520, 561 (1993). The Johnson Amendment runs afoul of exactly this prohibition. Just as was the case in *Engel*, the Johnson Amendment tacitly supports mainline religions that do not compel political involvement while suppressing the sincerely harbored belief in political participation held by minority faiths like the Everlight Dominion. *See Engel v. Vitale*, 370 U.S. at 431; R. at 3. The Johnson Amendment runs afoul of the principal of *Larson* by making obtaining tax exemptions minimally burdensome to other religious or secular groups but functionally subduing a core part of Everlight belief for those same tax benefits. *See Larson*, 456 U.S. at 245; R. at 2, 5. By conditioning federal tax benefits on political non-involvement, the Johnson Amendment favors

groups that share a certain belief (that religious organizations have no obligation to be involved in elections) to the detriment of Everlight organizations like Covenant Truth Church, thus running afoul of both *Bullock* and *Larson*. *See Tex. Monthly, Inc. v. Bullock*, 489 U.S. 1 (1989); *see also Larson*, 456 U.S. at 245 ("Madison's vision [for freedom of religion] . . . naturally assumed that every denomination would be equally at liberty to exercise and propagate its beliefs. But such equality would be impossible in an atmosphere of official denominational preference."). Therefore, Covenant Truth Church suffered a violation of its rights under the Establishment Clause, constituting an injury in fact for standing purposes.

Constitutional injuries can qualify as a concrete injury for the purposes of standing if the injured party is the party that brings the suit. *See e.g. Spokeo, Inc. v. Robins*, 578 U.S. 330 (2016) (the implied Constitutional right to privacy); *Schlesinger v. Reservists Comm. to Stop the War*, 418 U.S. 208, 240 (1974) (First Amendment free speech). A harm need not be tangible to be concrete, and although bare violations of statutes made by Congress may require proof of a "close relationship" to a harm traditionally recognized at common law, violations of established constitutional protections are considered cognizable injuries. *TransUnion LLC v. Ramirez*, 594 U.S. 413, 424 (2021). In *Spokeo*, this Court wrote that a plaintiffs must show an "invasion of a legally protected interest", and *Transunion* expressly states that this includes "harms specified by the Constitution itself." *Spokeo*, 578 U.S. at 339; *see also TransUnion*, 594 U.S. at 425. This Court's decision in *Uzeugbugnam v. Prezewski* confirmed that First Amendment violations constitute a sufficiently concrete injury for the purposes of standing, and multiple cases since have continued to follow that line of reasoning. *Uzuegbunam v. Preczewski*, 592 U.S. 279 (2021); *see e.g. Denning v. Bond Pharmacy, Inc.*, 50 F.4th 445 (5th Cir. 2022*)*; *Keister v. Bell, 29 F.4th 1239* (11th Cir. 2022).

Uzuegbunam and its progeny demonstrate that the Johnson Amendment's frustration of Pastor Vale's faith-based obligations is sufficient on its own to constitute a concrete injury in fact. *See Uzuegbunam*, 592 U.S.. However, if the Johnson Amendment was enforced in this case, Covenant Truth Church and Pastor Vale would face more tangible injuries than the violation of their constitutional rights. Like all leaders within the Everlight Dominion, is religiously obligated to support like-minded political candidates and participate in their campaigns, and would face serious ramifications including banishment from the faith if he failed to do so. R. at 3. Pastor Vale has been instrumental in elevating the popularity of Covenant Truth Church to the largest in the Everlight Dominion, and it would be a massive blow to the organization and the faith as a whole if one of its most prominent leaders was excommunicated. R. at 3, 4. The personal, reputational, and economic harm that Pastor Vale and Covenant Truth Church would experience if Pastor Vale shirked his obligation of political participation would certainly qualify as an injury concrete enough to merit standing.

Finally, the fact that the IRS had not yet enforced the Johnson Amendment against Covenant Truth Church carries no weight here. Article III standing does not demand the plaintiff have suffered actual injury before suing, so long as the plaintiff faces an imminent risk of injury. An illustrative case on this point is *Steffel v. Thompson*, which involved two individuals distributing anti-Vietnam War handbills outside a shopping center. *See Steffel v. Thompson*, 415 U.S. 452 (1974). After his companion was arrested, the plaintiff alleged that he wanted to return to the shopping center and distribute handbills but had refrained due to threats of also being arrested, leading to his filing a complaint under 42 U.S.C. § 1983 alleging suppression of his First Amendment speech. *Id.* Even though the plaintiff had not yet been arrested, the fact that his companion had been arrested and he had been threatened with a similar fate if he returned

demonstrated a "genuine threat of enforcement." *Id.* at 475. *Steffel* has been consistently followed by this Court in instances where enforcement of a contested law or policy has not yet commenced, but the facts indicate that enforcement is likely. *See e.g. Susan B. Anthony List v. Driehaus*, 573 U.S. 149 (2014); *Ohio Civil Rights Comm'n v. Dayton Christian Sch., Inc.*, 477 U.S. 619 (1986); *Carey v. Population Servs. Int'l*, 431 U.S. 678, 719 n. 3 (1977).

Although the IRS had not yet conducted its audit or voiced its intention to enforce the Johnson Amendment against Covenant Truth Church, the threat of enforcement is sufficiently imminent for the purposes of standing. R. at 5. Just as the plaintiff in *Steffel* was commanded to cease demonstrating at the shopping center, the Johnson Amendment commanded that Covenant Truth Church refrain from participating or intervening in political campaigns. *Steffel*, 415 U.S. at 455; R. at 2. Like *Ohio Civil Rights Comm'n*, Covenant Truth Church had not yet faced enforcement action from the government when it filed the present case but had been given a "reasonable threat" of enforcement when it received the IRS audit notice. *Ohio Civil Rights Comm'n*, 477 U.S. 619 n. 1; R. at 5. Arguably, Covenant Truth Church had done more to guarantee enforcement than the plaintiff in *Steffel*, as it had already violated the Johnson Amendment when the suit was filed, yet the plaintiff in *Steffel* had not actually violated the police order by resuming handbilling at the shopping center. *Steffel*, 415 U.S. at 456; R. at 4, 5. If the facts in *Steffel* were changed to resemble the case here, the plaintiff would have traveled to the shopping center and resumed demonstrating, only filing his suit as he heard the sirens of the police approaching. With this change, the plaintiff in *Steffel* would know he was actively violating the order not to demonstrate and that enforcement was soon to follow, just as Pastor Vale was aware of the Johnson Amendment when he was notified of the impending IRS audit. R. at 5. There was no "speculative chain of possibilities" that the Johnson Amendment would be

enforced— the notice of the audit was the lighting preceding the thunder of enforcement. *Clapper v. Amnesty Int'l USA*, 568 U.S. 398, 414 (2013).

The fact that the Johnson Amendment is infrequently enforced does not undermine the genuine threat of enforcement here. R. at 7. The government justified this exception to the Johnson Amendment's enforcement scheme as a "narrow, clearly defined category of speech", and claims the consent decree only applies to "intimate communications" between a church and its congregation. U.S. Opp. to Mot. to Intervene, *Nat'l Religious Broad. v. Long*, No. 6:24-cv-00311, 2025 WL 2555876 (E.D. Tex., 2025). Reading the consent decree according to its plain meaning, the speech that Pastor Vale engaged in falls outside that excepted from Johnson Amendment enforcement. Pastor Vale's political activism for Congressman Davis was confined not just to the congregation of Covenant Truth Church, but broadcast indiscriminately to the public at large. R. at 4. Pastor Vale engages with listeners through two distinct modes. The first is Covenant Truth's regular worship services and the concurrent livestream for at-home viewers. R. at 4. The second is a weekly podcast, during which Pastor Vale "educates the public" about the Everlight Dominion and its beliefs. R. at 4. It was on the podcast, whose viewership of millions far exceeds the roughly 15,000 members of Covenant Truth Church, that Pastor Vale expressly endorsed Congressman Davis, urging listeners to donate their money and time to his campaign. R. at 4. Pastor Vale's message was an overt call to support a specific candidate that stretched beyond mere general commentary on the Everlight Dominion's views on politics, and using his platform as a church leader to broadcast to millions of listeners outside the state of Wythe could hardly be considered "intimate communications" to only the church's congregation. *Nat'l Religious Broad. v. Long*, No. 6:24-cv-00311, 2025 WL 2555876 (E.D. Tex., 2025). Therefore, Pastor Vale's actions fall outside the speech excepted by the IRS consent decree, and this Court

should follow the majority in the 14th Circuit by holding that the consent decree does not represent a "presumption against enforcement." R. at 7.

2. *The IRS and/or Acting Chairman Scott Bessent are the cause of the harm alleged because they are responsible for enforcing the Johnson Amendment.*

The second requirement to have standing is that the injury suffered must be "fairly traceable" to the defendant's allegedly unlawful conduct. *Spokeo, Inc. v. Robins*, 578 U.S. 330, 338 (2016). To satisfy this requirement, a plaintiff must establish a "causal connection" between the complained-of conduct or regulation and the actions of the defendant, as opposed to "some third party not before the court." *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560 (1992). The ease of establishing this element "depends considerably" on whether the plaintiff herself is directly impacted by the challenged conduct or whether the plaintiff alleges that it is injured by a third party. *Id.* at 561. This Court recently held that policies which "require or forbid some action by the plaintiff **almost invariably satisfy** both the injury in fact and causation requirements." *FDA v. All. for Hippocratic Med.*, 602 U.S. 367, 382 (2024) (emphasis added).

The case at bar fits neatly within this categorization, wherein there is "ordinarily little question that the [defendant's] action or inaction caused [the plaintiff's] injury." *Lujan*, 504 U.S. at 561-62. Here, the causal chain is not "speculative or too attenuated": the IRS and Scott Bessent, named defendants, are directly responsible for administering and enforcing the Johnson Amendment, the policy challenged by Covenant Truth Church. *Clapper v. Amnesty Int'l USA*, 568 U.S. 398, 410-11 (2013); R. at 1, 2. The political un-involvement demanded by the Johnson Amendment to maintain tax-exempt status discriminates invidiously against Covenant Truth Church and the Everlight Dominion by creating a structural preference for organizations that are not compelled to participate in the political process. The IRS chose to audit Covenant Truth Church to assess its compliance with the Johnson Amendment, which occasioned Pastor Vale to

file this suit. R. at 5. Therefore, there are sufficient facts demonstrating that the defendants' conduct is fairly traceable to the constitutional injury alleged.

3. *The injury alleged can be redressed by granting the injunction requested.*

The third element of standing is that the relief requested must redress the alleged injury suffered. *FDA v. All. for Hippocratic Med.*, 602 U.S. 367, 381 (2024). The remedy sought must "redress the injuries sustained by a particular plaintiff in a particular lawsuit" and is designed to bar suits raised by third parties not directly affected by the challenged conduct. *Id.* at 401. The redressability requirement is often considered a "[flip side] of the same coin", meaning that "[i]f a defendant's action causes an injury [to the party bringing suit], enjoining the action or awarding damages for the action will typically redress that injury." *Id.* at 380-81.

The facts in the case at bar demonstrate that the permanent injunction requested would prevent the continued constitutional injury suffered by Covenant Truth Church to at least "some extent." *Massachusetts v. EPA*, 549 U.S. 497, 526 (2007). The Johnson Amendment violates the Establishment Clause by creating structural favoritism for certain religious beliefs and practices over others, and the requested permanent injunction of the Amendment would discontinue this policy of preferentialism and allow Everlight believers to practice their religious obligations unimpeded. The requested injunction would "deter future violations" and "redress the injuries that prompted" this suit by eliminating the religious preferentialism advanced by the Johnson Amendment. *Friends of the Earth, Inc. v. Laidlaw Envtl. Servs. (TOC), Inc.*, 528 U.S. 167, 174 (2000).

C. The Tax Anti-Injunction Act Does not bar this suit because Covenant Truth Church Has No Alternative Means of Redressing the Violation of its Constitutional Rights and the Primary Purpose of This Suit is Not to Restrain the Assessment or Collection of Taxes.

One of the oldest and most deeply held concepts in the American legal system is that a primary responsibility of the courts of the United States is to protect and uphold Americans' Constitutional rights. *See Marbury v. Madison*, 5 U.S. (1 Cranch) 137, 177 (1803) ("[i]t is emphatically the province and duty of the judicial department to say what the law is"); *see also Planned Parenthood v. Casey*, 505 U.S. 833, 865 (1992) ("the [Supreme Court's] power lies. . . in its legitimacy. . . that shows itself in the people's acceptance of the Judiciary as fit to determine what the Nation's law means"). This case pertains to an alleged violation of perhaps the most essential protection guaranteed by the Constitution: the First Amendment right to free expression. *See W. Va. State Bd. of Educ. v. Barnette*, 319 U.S. 624, 642 (1943) ("If there is any fixed star in our constitutional constellation, it is that no official. . . can prescribe what shall be orthodox in. . . religion [or] other matters of opinion."). While the Tax Anti-Injunction Act might deter frivolous suits meant to obstruct the collection of taxes, it cannot foreclose the only avenue for plaintiffs to vindicate their Constitutional rights. *See South Carolina v. Regan*, 465 U.S. 367 (1984). Here, because the courts are the only means of redressing Covenant Truth Church's constitutional claim, the Tax Anti-Injunction Act cannot bar this suit.

1. The Act does not apply here because the courts are the only means for Covenant Truth Church to redress its Constitutional injury.

Just as in Article III standing, statutes like the Tax Anti-Injunction Act that determine a court's subject matter jurisdiction are reviewed *de novo*. *Behr v. Campbell*, 8 F.4th 1206 (11th Cir. 2021). The primary purpose of this suit is to challenge the Johnson Amendment's violation of the Establishment Clause, not to review or dispute a decision changing Covenant Truth's tax

classification. Such a suit regarding an "actual controversy. . . with respect to the initial or continuing qualification of an organization as an organization described in section 501(c)(3)" must be adjudicated through an internal IRS appeals process instead of being heard in district court. 26 U.S.C. § 7428. Neither the IRS Independent Office of Appeals nor a United States Tax Court possess jurisdiction to adjudicate Covenant Truth Church's constitutional claim. 26 U.S.C. § 7123; 26 U.S.C. § 7442. This Court investigated the legislative history of the Tax Anti-Injunction Act and determined that "the circumstances of its enactment **strongly suggest** that Congress intended the Act to bar a suit **only in situations** in which Congress had provided the aggrieved party with" an alternative means of redress. *South Carolina v. Regan*, 465 U.S. 367, 373 (1984) (emphasis added). The *Regan* exception instructs the Court to review the substance of the plaintiff's suit and identify which alternative venues or remedies, if any, exist to resolve the suit. *Id.* at 374. If there is no alternative means of redress, or if such an alternative would be unreasonable, then the suit must proceed despite the Tax Anti-Injunction Act. *Id.* Just as in *Regan*, the plaintiff here was not spurred to file suit because of the imposition of a new tax burden, but to challenge the constitutionality of a federal tax policy that *could* introduce such a burden. *Id.* at 401, R. at 5. This Court has consistently held that in cases implicating the Tax Anti-Injunction Act, the *Williams Packing* rule only applies where "the plaintiff had the option of paying the tax and bringing a suit for a refund." *Regan*, 465 U.S. at 374. The goal of this case was not to challenge or reverse an adverse tax classification— Covenant Truth Church's tax status remained unchanged at the time this suit was filed. R. at 12. Furthermore, whether Covenant Truth Church was made to pay taxes or not, the nature of its injury would not change; the Church is not challenging whether the Johnson Amendment was properly applied or not, but instead argues that the Amendment's current language offends the Establishment Clause. R. at 5.

Therefore, since Covenant Truth possesses no alternative means of redress if this case cannot be heard in federal court, the *Regan* exception should apply, and the Tax Anti-Injunction Act should not prohibit this suit.

2. *Even if the Regan exception does not apply, the primary purpose of Covenant Truth Church's suit is to address the violation of its constitutional rights, not to avoid taxation.*

According to the language of 26 U.S. Code § 7421, the Tax Anti-Injunction Act only bars suits designed "for the purpose of restraining the assessment or collection of" taxes. 26 U.S.C. § 7421(a). Following this language, this Court must investigate the underlying facts of the claims presented in this case and ascertain whether its "purpose" is to obstruct the levying of taxes on Covenant Truth Church. *See Alexander v. "Ams. United"*, 416 U.S. 752, 760 (1974). The proposition that the Tax Anti-Injunction Act bars any suit that has the incidental effect of obstructing or delaying an assessment of taxes should find no solace in this Court. In cases since *Bob Jones University* and *Alexander*, this Court has declined to follow an overly broad reading of "purpose" within the meaning of 26 U.S. Code § 7421. *See South Carolina v. Regan*, 465 U.S. 367, 384 (1984) ("[if] the challenged governmental action is one to 'accomplish a broad-based policy objective' rather than to produce revenue. . . the suit is not one 'for the purpose of restraining the assessment or collection of any tax.'") (Blackmun, J., concurring); *see also CIC Servs., LLC v. IRS*, 593 U.S. 209, 220 (2021) ("[the incidental relief of a tax burden or assessment] is the suit's after-effect, not its substance").

The case at bar fundamentally differs from *Alexander* and *Bob Jones University* because it does not involve any "disputed sums", and the injury alleged does not hinge on the incurrence of additional taxation by having its tax exemption revoked (although this result could nonetheless occur if the audit were to proceed). *Bob Jones Univ. v. Simon*, 416 U.S. 725, 736

(1974); *see Enochs v. Williams Packing & Navigation Co.*, 370 U.S. 1, 6 (1962). Instead, the injury alleged here is a structural and institutional prejudice against the Everlight Dominion and its religious obligation political participation, as well as the personal and reputational harm to Pastor Vale if not allowed to perform his religious obligations. R. at 4, 5. Unlike *Alexander* and *Bob Jones*, the case at bar concerns a pre-enforcement action, and Covenant Truth Church had no knowledge of any change in its tax classification, nor any knowledge that such a change was imminent at the time of filing this suit. *See Alexander v. "Ams. United"*, 416 U.S. 752,755 (1974); *see Bob Jones Univ. v. Simon*, 416 U.S. 725, 725 (1974); R. at 5. Therefore, this Court should adhere to the interpretation of the Tax Anti-Injunction Act that it outlined in *CIC Services* and find that this case's purpose is not to prevent or restrain the assessment of taxes.

II. THE JOHNSON AMENDMENT IS UNCONSTITUTIONAL AS IT VIOLATES THE ESTABLISHMENT CLAUSE.

The Establishment Clause provides that "Congress shall make no law respecting an establishment of religion." U.S. CONST. amend 1. "Any attempt by government to dictate or even influence matters [concerning the free exercise of religion] would constitute one of the central attributes of an establishment of religion," which is barred under the First Amendment's Establishment Clause. *Our Lady of Guadalupe Sch. v. Morrissey-Berru*, 591 U.S. 732, 746 (2020). Violations to the Establishment Clause must be interpreted with reference to "historical practices and understandings." *Kennedy v. Bremerton Sch. Dist.*, 597 U.S. 507, 535 (2022). Under the historical practices test, violations to the Establishment Clause must be examined in light of the hallmarks of established religion such as denominational preference, coercion, or governmental control over religious doctrine. *Hilsenrath v. Sch. Dist. of the Chathams*, 136 F.4th 484, 491 (3rd Cir. 2025). *See also Shurtleff v. City of Boston*, 596 U.S. 243, 286 (2022) (Gorsuch, J., concurring in judgment).

This Court has recognized that the Establishment Clause of the First Amendment requires a neutral stance from the government regarding religious preferences and prohibits government intervention into the internal governance and doctrine of religious organizations. *See Larson v. Valente*, 456 U.S. 228, 244 (1982); *Hosanna-Tabor Evangelical Lutheran Church and Sch. v. EEOC.*, 565 U.S. 171 (2012). The Johnson Amendment violates the Establishment Clause as it shows preferential treatment to certain religious denominations and allows undue governmental regulation of religious doctrine. Therefore, this Court should affirm the Fourteenth Circuit's decision and hold that the Johnson Amendment violates the Establishment Clause of the First Amendment. A court's decision to grant summary judgment is reviewed *de novo*. *O'Rourke v. Palisades Acquisition XVI, LLC*, 635F.3d 938, 941 (7th Cir. 2011).

A. History and Tradition are Essential to Analyzing Establishment Clause Violations and Historical Practices Do Not Support the Constitutionality of the Johnson Amendment.

This Court held in *Kennedy v. Bremerton School District*, held that the Establishment Clause must be interpreted with "reference to historical practices and understandings." 597 U.S. at 535. A court's interpretation of the Establishment Clause must "'accord with history and faithfully reflect the understanding of the Founding Fathers.'" *Town of Greece v. Galloway*, 572 U.S. 565, 577 (2014) (quoting *School Dist. of Abington Township v. Schempp*, 374 U.S. 203 (1963)). An analysis focused on "original meaning and history" represents the rule within Establishment Clause jurisprudence. *Kennedy*, 597 U.S. at 510.

1. History and tradition demonstrate that churches have enjoyed a long history of unconditioned tax-exempt status.

Historically, churches have enjoyed unconditioned tax exemption from state and federal governments. This Court in *Walz v Tax Commission of New York* found more than a century of history consistent with the "uninterrupted, accepted" practice of granting tax exemptions to

churches. 397 U.S. 664, 680 (1970). Further, tax exemptions for churches were widespread during the American colonial era. *Id*. at 677. As Justice Brennan opined in *Walz*, "[r]arely if ever has this Court considered the constitutionality of a practice for which the historical support is so overwhelming." *Id*. at 681. This Court has also recognized that the practice of tax exemptions for churches is "deeply rooted in our history, as in that of England." *Bob Jones Univ. v. United States*, 461 U.S. 574, 587-88 (1983).

From the earliest days of the United States, religious organizations have received tax exemptions. For example, in 1802 the 7th Congress enacted a taxing statute for the County of Alexandria which provided tax exemptions for churches. *Walz*, 397 U.S. 677. In 1813, the 12th Congress refunded import duties paid by religious organizations on the importation of religious matters. *Id*. In 1870, Congress specifically exempted all churches in the District of Columbia from "any and all taxes or assessments national, municipal, or county. *Id*. at 677-8. Prior to the passage of the Johnson Amendment in 1954, the Tariff Act of 1894 formally codified tax-exempt status for religious organizations, noticeably without a condition on political involvement. *Id*.

These historic tax exemptions were not conditioned upon if the church participated in political speech. The enactment of the Johnson Amendment directly conflicts with the United States' history of providing tax exemptions to religious organizations, as it provides a condition that is inconsistent with historical practices. In order to retain their tax-exempt status, religious organizations must refrain from participating in or intervening in political campaigns. 26 U.S.C. 501(c)(3). Historically, in order to receive tax-exempt status, the condition was religious purpose rather than political motive. The Johnson Amendment directly conflicts with American history. Prior to the Johnson Amendment's enactment in 1954, prior laws relating to the tax exemption of religious organizations did not condition a religious organization's tax-exempt status on the

organization's involvement in the political process. *See Walz*, 397 U.S. at 677-8. Thus, history does not support the condition of silence regarding politics from religious organizations as required by the Johnson Amendment.

2. *Historically, exempting religious organizations from taxes and assessments allowed the government to avoid direct entanglement in religion; however, the Johnson Amendment unnecessarily requires government supervision of religious doctrine allowing for entanglement in religious affairs.*

Historically, unconditioned tax exemption for religious organizations has promoted less government entanglement in religious affairs. In *Walz*, this Court stated that the United States' two centuries of tax exemption for churches minimized government entanglement and guaranteed "free exercise of all forms of religious belief." 397 U.S. at 678. Grants of tax exemption involve less entanglement than taxation of religious organizations. *Id*. at 674-5. Taxation of religious organizations would require supervision of churches leading to governmental entanglement, whereas universal tax exemptions create "benevolent neutrality." *Id*. at 676. Just as taxation of religious organizations would open the door for direct supervision of churches and their leaders, conditioning tax exemption on refraining from political speech leads to the exact governmental supervision of religion that the Establishment Clause seeks to avoid. Therefore, unconditioned tax exemption for religious organizations is a historical practice that allows all churches to receive a public benefit without the government unconstitutionally entangling itself with religion or unconstitutionally supervising churches and their religious doctrines.

3. *History and tradition support that religious leaders frequently stated that their religions required them to be involved in the political process.*

History and tradition support religious leaders being able to make political statements supporting candidates and issues because religion and politics are intertwined throughout American history. Early American history supports the right of religious organizations to be politically active since the pulpit in early American politics shaped most early American political

discourse. Early American preachers like Johnathan Mayhew advocated in his sermons for resistance to tyrannical government. Mayhew preached against Britain's monarchy saying that those who "Use all their power to hurt and injury the public [were] not God's ministers." Johnathan Mayhew, "Unlimited Submission and Non-Resistance to the Higher Powers," (1750) Political sermons, like Mayhew's, worked to shape political thought surrounding the Revolutionary War. *Id*. Likewise, prior to the Civil War, Pastor Charles Spurgeon used his pulpit to encourage political sentiment in his congregation including boycotting products produced by plantations. Charles Spurgeon, "Plenteous Redemption," (Exeter Hall, Strand, 1860). Similarly, Martin Luther King Jr's speech heavily influenced the civil rights movement. Dr. King even argued that "every Chirstian is confronted with the basic responsibility of working courageously for a non-segregated society...[t]he churches are called upon to recognize the urgent necessity of taking a forthright stand on this crucial issue." R. at 10; Martin Luther King, Jr., *Message for the National Council of Churches* (1957).

History reflects that religious leaders often advocated for social issues that were inherently tied to their religious beliefs. Just as preachers like Mayhew and Spurgeon drove political sentiment from the pulpit about the Revolution and the Civil War, Pastor Gideon Vale, in the name of Covenant Truth Church, is using his platform to deliver political messages that align with the progressive social values of the Everlight Dominion. R. at 4. Pastor Vale is calling upon his listeners to support Congressman Davis whose political stances align with the Everlight Dominion's progressive social values. R. at 4. Pastor Vale's call to support Davis arises from his religious convictions which parallels Dr. King's call for churches to take a stand against segregation. R. at 4; 9-10. Pastor Vale uses his sermons and podcast to preach progressive social values that are core to the Everlight Dominion's doctrine. Therefore, history and tradition support

Pastor Vale and Covenant Truth Church's ability to spread the Everlight Dominion's progressive social values and to endorse candidates that align with the Church's beliefs.

B. The Johnson Amendment Violates the Establishment Clause as it Clearly Shows Non-neutral, Preferential Treatment Towards Religious Organizations Whose Leaders Do Not Feel Obligated to Speak About Political Issues or Participate in Political Campaigns for Candidates That Align with Their Religious Beliefs.

The Johnson Amendment is unconstitutional as it does not take a neutral stance towards religions whose doctrine involves political activism. The Establishment Clause of the First Amendment requires neutrality from the government, meaning that the government may not "officially prefer one religious denomination over another." *Larson v. Valente*, 456 U.S. 228, 244 (1982). The government must remain neutral between religion and religion as well as religion and non-religion. *Epperson v. Arkansas*, 393 U.S. 97, 103-4. (1968). Laws that discriminate against religion are "odious to our Constitution" *Trinity Lutheran Church of Columbia, Inc., v. Comer*, 582 U.S. 449, 467 (2017). The Establishment Clause "forbids alike the preference of religious doctrine or the prohibition of theory which is deemed antagonistic to a particular dogma." *Edwards v. Aguillard*, 482 U.S. 578, 593 (1987). As Justice Douglas opined in *Zorach v. Clauson*, this Court "sponsor[s] an attitude on the part of government that shows no partiality to any one group and that lets each flourish according to the zeal of its adherents and the appeals of its dogma." 343 U.S. 306, 313 (1952).

For example, in *Larson v. Valente*, this Court examined a Minnesota statute that required religious organizations who received more than fifty percent of their contributions from non-religious members to register and report their charitable contributions. 456 U.S. at 231. The Holy Spirit Association for the Unification of the World alleged that the statute violated the Establishment Clause as the fifty percent rule was discriminatory against religious organizations

who collect greater than fifty percent of their charitable contributions from non-members. *Id*. at 233-4. The Establishment Clause prohibits denominational preferences which would have been effectuated by the statute. *Id*. at 246. The statute created a governmental preference towards religious organizations who receive more than fifty percent of their charitable contributions from its own members. *Id*. This Court held the Minnesota statute violated the Establishment Clause as the statute showed denominational preference. *Id*. at 255.

For example, in *Carson v. Makin*, Maine enacted a tuition assistance program for families that lived in areas without access to public schools. 596 U.S. 767,773-4 (2022). In order for a private school to qualify under the program, the school must be "nonsectarian" which disqualified religious schools. *Id*. at 773. This Court held that Maine could not disqualify religious organizations from public benefits solely due to their religious nature. *Id*. at 780. Further, this Court found that if the government scrutinizes how a religious school pursues its educational mission, that action raises "serious concerns about state entanglement with religion and denominational favoritism." *Id*. at 788.

In this case, Pastor Vale's involvement in the political process and his endorsement of Congressman Davis are an inherent part of the Everlight Dominion's religion. R. at 3-5. Similar to the Maine law that disqualified religious schools because of their religious nature, the Johnson Amendment seeks to strip Covenant Truth Church of its tax-exempt status because of its involvement in the political process which is inherent to the nature of the Everlight Dominion religion. *Carson*, 596 U.S. at 780; R. at 3. Everlight Dominion leaders and churches are required to participate in political campaigns and support candidates that align with the religion's progressive social stances, thus making it an inherent part of the Covenant Truth Church's religious character. R. at 3.

The Establishment Clause prevents the government from scrutinizing a religious schools' educational mission as it raises concerns about "entanglement" and "denominational favoritism." Similarly, the government scrutinizing and penalizing the Everlight Dominion's religious teachings exemplifies non-neutral, denominational favoritism. *See Carson*, 596 U.S. at 788. The Johnson Amendment entangles religion and government when it scrutinizes the teachings of the Everlight Dominion through monitoring the speech of Pastor Vale and Covenant Truth Church. R. at 2-3. It is preferential governmental treatment when the government chooses to discontinue tax exemptions for religions whose teachings and doctrine involve political messages, whereas religions whose doctrines do not obligate members and leaders to be involved in the political process do not face the same burden.

Here, the Johnson Amendment allows the United States government to effectuate a denominational preference towards religions that do not incorporate political activism into their doctrine. Under the Johnson Amendment, religious organizations, such as the Everlight Dominion, are at risk of losing their tax-exempt status because of their religious doctrine. 26 U.S.C. §501(c)(3). Similar to the statute showing denominational preference in *Larson*, the Johnson Amendment creates preferential treatment for religions that do not involve political activism. 456 U.S. at 246. The government's incorporation of language that religious organizations may not "participate in or intervene in (including the publishing, or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office" is in direct confliction with one of the principle tenets of the Everlight Dominion's religion, which is the requirement that its leaders and churches participate in the political process. 26 U.S.C. §501(c)(3); R. at 2-3. Religions that do not compel their members to participate in campaigns and support candidates that align with its stances are preferred under the Johnson Amendment. This is an illustration of

non-neutral treatment towards the Everlight Dominion, as their religious doctrine is not preferred to that of religions with apolitical doctrines.

Just as the statute in *Larson* required religious organizations to register according to the fifty percent rule, allowing for government supervision into the churches' internal affairs, the Johnson Amendment allows the IRS to monitor churches and religious leaders for potential political activism. 456 U.S. at 233-4. Allowing the IRS to intrude and supervise the religious doctrine of churches effectively entangles the government with religion, violating the First Amendment's neutrality mandate. *Epperson*, 393 U.S. at 103-4. This entanglement allows the government to effectively use tax exemptions as a tool for controlling the religious doctrines and teachings of churches in the United States. Under the Johnson Amendment, the government has the ability to given preferential treatment to religions whose members and leaders are not obligated to participate in the political process. The government favors religions whose religious beliefs do not compel them to speak on political issues by rewarding these religions with tax exemptions. Thus, the Johnson Amendment violates the Establishment Clause as it shows denominational preference, a historical hallmark of established religion, to apolitical religions.

C. The Johnson Amendment Functions as a Regulatory Tool Which Allows the Government to Condition Tax-Exempt Status on the Suppression of Religious Doctrine Which Forces Religious Organizations to Choose Between Their Beliefs or the Ability to Retain a Crucial Public Benefit.

Conditioning tax exemption for religious organizations on refraining from political advocacy forces religions, like the Everlight Dominion, to alter their teachings in order to receive a financial public benefit that is crucial for the church's functionality. As stated by this Court in *Walz*, the First Amendment prohibits "governmentally established religion or governmental interference with religion." 397 U.S. at 669. The government "interfering with the internal governance of the church" is a violation of the Establishment Clause. *Hosanna-Tabor Evangelical*

Lutheran Church and Sch., 565 U.S. at 173. The Court has held that the Establishment Clause prohibits government action that inhibits religion. *McDaniel v. Paty*, 435 U.S. 618 (1978) Statutes that create a religious classification which punishes individuals for their religious practices is prohibited by the Establishment Clause. *Id*. Historically, coercion and control over the doctrine in the church were among the hallmarks of religious establishments that the Framers sought to prohibit when adopting the Establishment Clause. *Hilsenrath v. Sch. Dist. of the Chathams*, 136 F.4th 484, 491 (3rd Cir. 2025). *See also Shurtleff v. City of Boston*, 596 U.S. 243, 286 (2022) (Gorsuch, J., concurring in judgment).

For example, in *Hosanna-Tabor Evangelical Lutheran Church and School v. EEOC*, the Hosanna-Tabor Evangelical Lutheran Church and School operated a school taught by Cheryl Perich. 565 U.S. at 177. Perich began at Hosanna-Tabor as a teacher but later received the title of "Minister of Religion, Commissioned." *Id*. In 2004, Perich took disability leave. *Id*. at 178. Upon attempting to return to work in February 2005, she was terminated. *Id*. at 179. Hosanna-Tabor invoked the ministerial exception which prohibits government interference in religious organizations' hiring and firing of ministers. *Id*. at 180. The Establishment Clause prevents the government from choosing a religious organization's ministers. *Id*. at 188. The Establishment Clause prevents government interference with the internal affairs of churches. *Id*.

Another example, the Court held in *Trinity Lutheran Church of Colombia, Inc.* that excluding churches from a public benefit program solely based on their religious character was unconstitutional. 582 U.S. at 462. In *Trinity Lutheran*, the government denied a public benefit to the church because of their status as a religious organization. *Id*. at 462. Trinity Lutheran Church, under a Missouri public benefit grant, sought to have its community playground resurfaced with recycled rubber tires. *Id*. at 453-4. Trinity Lutheran Church met all the eligibility requirements for

the grant, but the state denied the application because of Trinity Lutheran Church's status as a religious organization. *Id*. Trinity Lutheran sought to have the right to participate in a government benefit program without having to disavow its religious character. *Id*. at 451.

Here, the Establishment Clause prevents the government from coercing religious organizations into making decisions about their internal government and doctrine. Similar to *Hosanna-Tabor* where the government was not allowed to use its influence to appoint ministers, the government cannot use its influence, in the form of promising tax exemption status, to influence the religious doctrines of churches. 565 U.S. at 188. The threat of the Covenant Truth Church losing its tax-exempt status is coercive as the financial penalty of non-compliance with the Johnson Amendment works to unconstitutionally influence the Everlight Dominion's doctrine. Under the Johnson Amendment, the Everlight Dominion must choose between its core beliefs **or** retaining a public benefit. The threat of taxing the Everlight Dominion because of their doctrine creates unconstitutional governmental leverage, creating governmental control over religion. *See Walz*, 397 U.S. at 674-6. The government using tax exempt status to persuade religions to change or ignore their religious doctrine in order to receive a public benefit is coercive. The Johnson Amendment applies unconstitutional coercive pressure to churches that deliver political messages to its members, making the religions choose between their financial stability or their beliefs, community, and teachings.

Just as a wide range of non-profit organizations were eligible to receive a playground resurfacing benefit in *Trinity Lutheran* except churches, a wide range of religious organizations are eligible to receive tax-exempt status under the Johnson Amendment except religious organizations that are involved in the political process. 582 U.S. at 462; 26 U.S.C. §501(c)(3); R. at 2-3. In *Trinity Lutheran*, in order to receive a public safety benefit such as playground

resurfacing, churches would have to disavow their religious character in order to receive the public benefit available to all other secular non-profits. 582 U.S. at 451.The exclusion of Trinity Lutheran Church from receiving the playground grant effectively penalized the church because of their religious status. Similarly, Covenant Truth Church is penalized for its political speech which is inherent to the religious character of the Everlight Dominion religion. The government is imposing a burden on Covenant Truth Church, as the government is leveraging access to a public benefit to discourage Covenant Truth Church from sharing their religious beliefs. Government pressure to influence religious doctrinal decisions is unconstitutional under the Establishment Clause as it allows the government to impermissibly control the doctrine and the religious teachings of the Church. Thus, the Johnson Amendment is unconstitutional as in allows the government to unduly influence religious doctrine.

CONCLUSION

For the reasons set forth, this Court should find that Covenant Truth Church has standing to bring this suit. Covenant Truth Church suffered a concrete and particularized injury in fact when it faced an imminent threat of the Johnson Amendment's enforcement. This suit was filed before enforcement of the Johnson Amendment against Covenant Truth, but enforcement is sufficiently imminent because Pastor Vale's communications fell outside the kind of speech excepted by the IRS consent decree. The injury was caused by the IRS and/or Scott Bessent because they are responsible for enforcing the Johnson Amendment, and the requested injunction would redress Covenant Truth's alleged constitutional injury. The Tax Anti- injunction also does not bar this suit because Covenant Truth lacks any alternative means to adjudicate the violation of its constitutional rights, and the purpose of the case at bar was not to obstruct the collection of taxes.

Additionally, this Court should maintain that the Johnson Amendment violates the Establishment Clause of the First Amendment. History and tradition show that two of the hallmarks of established religions are denominational preferences and control over religious doctrine. In this case, the Johnson Amendment allows for the government to favor apolitical religions as well as exert pressure over religions that obligate political speech in order to receive tax exemptions.

Accordingly, Respondents respectfully request that this Honorable Court affirm the decision of the Court of Appeals for the Fourteenth Circuit.