# WILLIAM & MARY LAW SCHOOL

**WILLIAM B. SPONG, JR. MOOT COURT TOURNAMENT**

**SPRING 2026 PROBLEM**

No. 26-1779

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# In the Supreme Court of the United States

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Scott Bessent, In His Official Capacity as Acting Commissioner of the Internal Revenue Service, ET AL.,

*Petitioners*,

v.

Covenant Truth Church,

*Respondent*.

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RECORD ON APPEAL[1]

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[1] **Limitation on Research: Competitors may not access any briefs filed in federal court. The problem is frozen in time and competitors may not access or use cases, filings, opinions, statutes, or other materials dated after November 11, 2025**.

# United States Court of Appeals for the Fourteenth Circuit

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No. 25-30453

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Scott Bessent, In His Official Capacity as Acting Commissioner of the Internal Revenue Service; The Internal Revenue Service,

*Defendants-Appellants*,

*versus*

Covenant Truth Church,

*Plaintiff-Appellee*.

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Appeal from the United States
District Court for the District of
Wythe
USDC No. 5:23-cv-7997

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Before BARBOUR, MARSHALL, and WASHINGTON, *Circuit Judges*.

BUSHROD WASHINGTON, *Circuit Judge*:

This case arises from the federal government's requirements for non-profit organizations to receive preferential tax treatment under the Internal Revenue Code. Known as the Johnson Amendment, a provision of 26 U.S.C. § 501(c)(3) prohibits non-profit organizations from intervening or participating in political campaigns. By complying with this provision, and other requirements of the Internal Revenue Code, non-profit organizations, such as churches, may be

exempt from having to pay federal income tax. Appellee, a church, sought to enjoin enforcement of the Johnson Amendment. Appellee alleged one violation of the Constitution: that the Johnson Amendment violates the Establishment Clause of the First Amendment by prohibiting religious organizations and their leaders from adhering to their deeply held religious beliefs, which require them to actively support political candidates whose values align with their faith.

The District Court granted Appellee's motion for summary judgment and its request for a permanent injunction. In so doing, the District Court found Appellee has standing to challenge the Johnson Amendment and determined that the Johnson Amendment violates the Establishment Clause. For the reasons discussed below, we AFFIRM.

## I. BACKGROUND

### A. Factual History

#### 1. The Johnson Amendment

In 1954, Congress enacted legislation amending the Internal Revenue Code, which included an amendment from then-Senator Lyndon B. Johnson. Senator Johnson's amendment proposed language to 26 U.S.C. § 501(c)(3) mandating that non-profit organizations "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." The Johnson Amendment passed without debate and became a part of the Internal Revenue Code of 1954. The provision remained a part of the Code when it was revised and renamed the Internal Revenue Code of 1986. In the past fifteen years, the Johnson Amendment has become the source of increasing controversy, with a variety of special interest groups, religious organizations, and politicians advocating to repeal the provision. Additionally, they argue that the Johnson Amendment violates the First Amendment. Congress had many opportunities to eliminate the Johnson Amendment, or to create

an exception that would allow religious organizations to actively participate in political campaigns. Since 2017, legislation has been introduced each year to do so. Despite this, Congress declined to eliminate the Johnson Amendment or create an exception for religious organizations.

**2. The Everlight Dominion, Covenant Truth Church, and Pastor Gideon Vale**

The Everlight Dominion is a centuries-old religion with a devout and dedicated following. The Everlight Dominion embraces a wide array of progressive social values. As part of its teachings, The Everlight Dominion requires its leaders and churches to participate in political campaigns and support candidates that align with The Everlight Dominion's progressive stances. This includes endorsing candidates and encouraging citizens to donate to and volunteer for campaigns. Any church or religious leader who fails to adhere to this requirement is banished from the church and The Everlight Dominion.

From its inception, The Everlight Dominion traditionally maintained a smaller number of adherents. In recent years, the religion has experienced a massive surge in followers. This is largely due to Pastor Gideon Vale, a young, charismatic, and devout leader of The Everlight Dominion. Pastor Vale is the head pastor at Covenant Truth Church, which has become the largest church practicing The Everlight Dominion. Like every other church and non-profit organization in the United States, Covenant Truth Church is classified under the Internal Revenue Code as a Section 501(c)(3) organization for tax purposes. Pastor Vale joined Covenant Truth Church in 2018, when the church had only a few hundred members. After becoming Pastor at Covenant Truth Church, Pastor Vale noticed the church's membership numbers remained low, as the church struggled to attract and retain younger members.

Pastor Vale undertook a variety of efforts to make The Everlight Dominion and Covenant Truth Church more appealing to younger generations. One of Pastor Vale's most popular efforts

was the creation of a weekly podcast to deliver sermons, provide spiritual guidance, and educate the public about The Everlight Dominion. Pastor Vale also leads Covenant Truth Church's regular weekly worship services. Since Pastor Vale joined Covenant Truth Church in 2018, the church has seen its membership increase from a few hundred to nearly 15,000 members in 2024. The church's regular weekly services include in-person attendance and a livestream option for those unable to attend in person. Along with the church's increased worship service attendance, Pastor Vale's weekly podcast is now the fourth-most listened to podcast in the State of Wythe and the nineteenth-most listened to podcast nationwide. The podcast draws millions of downloads from across the country.

Adhering to The Everlight Dominion's requirement for religious leaders and churches to be actively involved in political campaigns, Pastor Vale began using his weekly podcast as a forum to deliver political messages. Although not every podcast discusses political issues, Pastor Vale uses the podcast to voice support for candidates that align with The Everlight Dominion. On behalf of Covenant Truth Church, Pastor Vale endorses candidates and encourages listeners to vote for candidates, donate to campaigns, and volunteer for campaigns. In January 2024, Wythe's 90-year-old Senator, Matthew Russett, passed away. Under Wythe law, this triggered a special election to fill the remaining four years of Senator Russett's six-year term. The special election was expected to be particularly contentious. Prior to Senator Russett's death, the Senate's membership was evenly divided between the two major political parties. A young, charismatic Congressman Samuel Davis announced he would run in the special election. Congressman Davis, like The Everlight Dominion, embraces progressive social values.

During one of his sermons on his weekly podcast, Pastor Vale endorsed Congressman Davis on behalf of Covenant Truth Church. During that sermon, Pastor Vale discussed in detail how

Congressman Davis's political stances aligned with the teachings of The Everlight Dominion. Pastor Vale encouraged his listeners to vote for Congressman Davis and volunteer with, and donate to, his campaign. Pastor Vale then announced his intention to give a series of sermons on his podcast and at Covenant Truth Church in October and November 2024, explaining why Congressman Davis's political stances aligned with the teachings of The Everlight Dominion.

The Internal Revenue Service ("IRS") conducts random audits of Section 501(c)(3) organizations to ensure compliance with the Internal Revenue Code. On May 1, 2024, the IRS sent a letter to Covenant Truth Church, informing the church it had been selected for a random audit. Pastor Vale, aware of the Johnson Amendment, became concerned that the IRS would discover his and Covenant Truth Church's political involvement and revoke the church's Section 501(c)(3) tax classification. As a result, Covenant Truth Church filed a lawsuit in the United States District Court for the Eastern District of Wythe seeking a permanent injunction prohibiting enforcement of the Johnson Amendment on the ground that it violates the Establishment Clause of the First Amendment. Covenant Truth Church filed this lawsuit prior to the IRS beginning its audit, and the church's tax classification as a Section 501(c)(3) organization remains unchanged.

**B. Procedural History**

On May 15, 2024, the plaintiff filed this suit seeking a permanent injunction prohibiting enforcement of the Johnson Amendment on the ground that the Johnson Amendment violates the Establishment Clause of the First Amendment. After the defendants answered the complaint with a blanket denial of the plaintiff's claims, the plaintiff moved for summary judgment. Following full briefing and argument, the District Court held that (1) Covenant Truth Church has standing to challenge the Johnson Amendment, and (2) the Johnson Amendment violates the Establishment Clause. The District Court granted the plaintiff's motion for summary judgment and entered the

permanent injunction. Acting Commissioner of the Internal Revenue Service Scott Bessent and the Internal Revenue Service, the Appellants, appealed the District Court's decision to this Court.

## II. STANDARD OF REVIEW

We review decisions of standing *de novo*. "Ripeness is a question of law that implicates this court's subject matter jurisdiction, which we review *de novo*." *Urb. Dev., LLC v. City of Jackson, Miss.*, 468 F.3d 281, 292 (5th Cir. 2006). A district court's decision to grant a motion for summary judgment is also reviewed *de novo*. *Viamedia, Inc. v. Comcast Corp.*, 951 F.3d 429, 466–67 (7th Cir. 2020).

## III. COVENANT TRUTH CHURCH HAS STANDING TO BRING THIS SUIT

The Tax Anti-Injunction Act does not bar Appellee's lawsuit and Appellee satisfies the standard for Article III standing.

### A. The Tax Anti-Injunction Act Does Not Bar Appellee's Suit

Appellants argue that this Court lacks jurisdiction because the Tax Anti-Injunction Act ("AIA") states that "no suit for the purpose of restraining the assessment or collection of any tax shall be maintained in any court by any person." 26 U.S.C. § 7421(a). But the Supreme Court held that "the Anti-Injunction Act's purpose and the circumstances of its enactment indicate that Congress did not intend the Act to apply to actions brought by aggrieved parties for whom it has not provided an alternative remedy." *South Carolina v. Regan*, 465 U.S. 367, 378 (1984).

Here, Appellee does not have an alternative remedy to challenge the Johnson Amendment. The Internal Revenue Code only allows an organization to challenge an actual controversy respecting an organization's tax classification. 26 U.S.C. § 7428. When the IRS proposes an adverse tax classification, either as an initial review of an organization or following an audit, a party's recourse is to file an appeal with the IRS. If that appeal is unsuccessful, then a party may

use Section 7428 to seek declaratory relief in federal court. *See* 26 U.S.C. § 7428. Here, the IRS has not yet conducted its audit and Appellee's tax classification remains unchanged. Because Appellee's classification as a Section 501(c)(3) organization is intact, IRS procedures and Section 7428 provide no avenue for relief. Since no alternative remedy exists, the AIA does not bar this suit.

**B. Appellee Satisfies the Standard for Article III Standing**

Appellee also satisfies the standard for Article III standing. To establish standing, all plaintiffs must answer the threshold question: "What's it to you." Antonin Scalia, *The Doctrine of Standing as an Essential Element of the Separation of Powers*, 17 SUFFOLK U. L. REV. 881, 882 (1983). To do so, plaintiffs must demonstrate injury in fact, that is, a "concrete and particularized" harm that is "actual or imminent." *Susan B. Anthony List v. Driehaus*, 573 U.S. 149, 158 (2014). Appellee has met that bar.

First, Appellee must demonstrate there is a "substantial risk" that its tax classification will be revoked by the IRS. *Id.* Given that the IRS notified Appellee of its intention to audit its organization, there is a "substantial risk" of enforcement. *See id.* The mere fact that the Johnson Amendment is rarely enforced is of no moment.[2] Here, Appellee participated and intervened in a political campaign because doing so is required by its religion. The IRS informed Appellee that it intended to conduct an audit of its organization, which will review Appellee's compliance with

[2] The dissent reasons—albeit unpersuasively—that the IRS consent decree that announces its intention not to enforce the Johnson Amendment in certain religious circumstances creates a presumption against imminent enforcement. The dissent reads this consent decree too broadly. The decree plainly states the IRS agrees not to enforce in the narrow situations when "a house of worship in good faith speaks to its congregation, through its customary channels of communication on matters of faith in connection with religious services." Based on the facts of this case, Appellants cannot be certain that there is a presumption against enforcement.

Section 501(c)(3), including the Johnson Amendment. Based on the IRS's impending audit of Covenant Truth Church, the threat of future enforcement is substantial.

Additionally, there is no ripeness issue here. Appellee can challenge the Johnson Amendment prior to its enforcement when Appellee demonstrates: "(1) that they intend to engage in a course of conduct arguably affected with a constitutional interest; (2) that their conduct is arguably regulated by the challenged policy; and (3) that the threat of future enforcement is substantial." *Burnett Specialists v. Cowen*, 140 F.4th 686, 694–95 (5th Cir. 2025) (cleaned up). Appellee met that standard because the activities they engaged in are barred by the Johnson Amendment. Further, the IRS notified Appellee of its intent to audit its church and review its compliance with Section 501(c)(3).

As the District of Columbia Circuit Court of Appeals stated, "[t]he tax code may not 'discriminate invidiously . . . in such a way as to aim at the suppression of dangerous ideas.'" *True the Vote, Inc. v. IRS*, 831 F.3d 551, 561 (D.C. Cir. 2016) (quoting *Regan v. Tax'n with Representation of Wash.*, 461 U.S. 540, 548 (1983)). It is well-known that the IRS generally does not enforce the Johnson Amendment. In fact, many Section 501(c)(3) organizations, such as newspapers, endorse political candidates but never face tax consequences. Despite this, the IRS's selective enforcement of the Johnson Amendment has unfairly targeted Appellee's religious practices. As a result, we find that Appellee has standing to bring this action.

## IV. THE JOHNSON AMENDMENT IS UNCONSTITUTIONAL

The Johnson Amendment violates the Establishment Clause by permitting the IRS to determine what topics religious leaders and organizations may discuss as a part of their teachings. "The clearest command of the Establishment Clause is that one religious denomination cannot be officially preferred over another." *Larson v. Valente*, 456 U.S. 228, 244 (1982). "The government

must be neutral when it comes to competition between sects." *Zorach v. Clauson*, 343 U.S. 306, 314 (1952). Here, the Johnson Amendment favors some religions over others by denying tax exemptions to organizations whose religious beliefs compel them to speak on political issues. Meanwhile, religious organizations that do not have that obligation may be classified as non-profit organizations under Section 501(c)(3). By requiring the IRS to monitor religious leaders and their churches, the Johnson Amendment entangles government with religion, violating the First Amendment's neutrality mandate. *Epperson v. Arkansas*, 393 U.S. 97, 104 (1968) ("The First Amendment mandates government neutrality between religion and religion, and between religion and nonreligion."). The Establishment Clause becomes completely meaningless if the IRS has the power to grant tax exemptions only when a religious organization agrees to remain silent on certain issues.

Courts should interpret the Establishment Clause with "reference to historical practices and understandings." *Kennedy v. Bremerton Sch. Dist.*, 597 U.S. 507, 535 (2022) (internal quotation marks omitted) (quoting *Town of Greece v. Galloway*, 572 U.S. 565, 576 (2014)). "An analysis focused on original meaning and history, this Court has stressed, has long represented the rule rather than some 'exception' within the 'Court's Establishment Clause jurisprudence.'" *Id.* at 536 (internal quotation marks omitted) (quoting *Town of Greece*, 572 U.S. at 575). America's history and tradition demonstrates that religious leaders routinely state that their religions obligate them to be involved in the political process. Charles Finney stated, "all men are under a perpetual and unalterable moral obligation to . . . exert their influence to secure a legislation that is in accordance with the law of God." Charles Finney, *Systematic Theology*, Lecture XX: Human Government (1878).[3] Dr. Martin Luther King argued, "every Christian is confronted with the basic

[3] Available at: https://perma.cc/B5TC-4GTU

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." Martin Luther King, Jr., *Message for the National Council of Churches* (1957).[4] And the Supreme Court has acknowledged this, noting, "'adherents of particular faiths and individual churches frequently take strong positions on public issues.' We could not expect otherwise, for religious values pervade the fabric of our national life." *Lemon v. Kurtzman*, 403 U.S. 602, 623 (1971) (quoting *Walz v. Tax Comm'n of New York*, 397 U.S. 664, 670 (1970)).

The First Amendment directs that "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof." The First Amendment, through the Establishment and Free Exercise Clauses, requires a separation between the government and religion. *See Reynolds v. United States*, 98 U.S. 145, 163–64 (1879). The Supreme Court has routinely held that the separation between government and religion must be maintained. For example, in *Employment Division v. Smith*, the Court stated that the government may not "regulate religious beliefs [or] the communication of religious beliefs." 494 U.S. 872, 882 (1990). Furthermore, the "establishment of religion clause of the First Amendment means at least this: Neither a state nor the Federal Government can . . . pass laws which . . . prefer one religion over another." *Everson v. Bd. of Educ.*, 330 U.S. 1, 15 (1947). Here, the Johnson Amendment penalizes those whose religion requires them to speak on political issues. Meanwhile, other religious and non-profit organizations do not feel the same burden.

The First Amendment does not prohibit Congress from granting tax exemptions to religious organizations. *Walz*, 397 U.S. at 679–80. But tax exemptions cannot be used as a tool to prevent religious organizations from weighing in on political issues. "Few concepts are more deeply

[4] Available at: https://perma.cc/F7JC-754L

embedded in the fabric of our national life . . . than for the government to exercise at the very least this kind of benevolent neutrality toward churches and religious exercise generally, so long as none was favored over others and none suffered interference." *Id.* at 676–77. The Johnson Amendment ignores "benevolent neutrality" and authorizes government regulation of religious activity. *See id.* As a result, the Johnson Amendment stands in clear violation of the Establishment Clause.

For these reasons, we AFFIRM the decision of the District Court.

MARSHALL, *Circuit Judge*, dissenting:

The Tax Anti-Injunction Act bars Appellee's lawsuit and Appellee does not have Article III standing. Accordingly, I would dismiss this suit for lack of jurisdiction. But, because the majority reached the merits of the Establishment Clause issue, I also write to explain why I would resolve that issue in favor of Appellants.

## I. The Tax Anti-Injunction Act Bars Appellee's Lawsuit

This Court has a "constitutional duty . . . to decline subject matter jurisdiction where it does not exist." *Abraugh v. Altimus*, 26 F.4th 298, 304 (5th Cir. 2022). This lawsuit is barred by the Tax Anti-Injunction Act. 26 U.S.C. § 7421. Even if it were not, Appellee lacks standing under Article III to pursue its claims.

The Tax Anti-Injunction Act ("AIA") states that "no suit for the purpose of restraining the assessment or collection of any tax shall be maintained in any court by any person, whether or not such person is the person against whom the tax was assessed." 26 U.S.C. § 7421(a). Courts examine whether the primary purpose of the suit is to prevent tax collection or assessment. *Bob Jones Univ. v. Simon*, 416 U.S. 725, 738 (1974). Here, the purpose of Appellee's lawsuit is to challenge the potential revocation of its Section 501(c)(3) tax classification. Although Appellee claims the Johnson Amendment violates the Establishment Clause, that argument is directly tied to Appellee's concerns over its Section 501(c)(3) status. Thus, this suit is governed by the AIA's exclusion in Section 7421(a).

Because Appellee brought a pre-enforcement challenge to the Johnson Amendment, the AIA bars the suit unless Appellee demonstrates: (1) it is guaranteed to succeed on the merits; and (2) it will suffer irreparable harm in the absence of an injunction. *Alexander v. Ams. United, Inc.*, 416 U.S. 752, 758 (1974). It is far from certain that Appellee will succeed on its Establishment Clause

claim. The District of Columbia Circuit Court of Appeals previously held that the Johnson Amendment does not violate the First Amendment. *Branch Ministries v. Rossotti*, 211 F.3d 137, 144 (D.C. Cir. 2000). In that case, a church placed advertisements in newspapers encouraging voters to not support President Bill Clinton's re-election campaign. *Id.* at 139. The IRS determined that the church violated the Johnson Amendment and revoked the church's Section 501(c)(3) tax classification. *Id.* The D.C. Circuit rejected the church's claim that the Johnson Amendment violates the First Amendment. *Id.* at 144. That court noted that the Johnson Amendment's requirements are viewpoint neutral. *Id.* Considering that case, and the discussion provided below, it is difficult to imagine how Appellee could demonstrate its suit is *certain* to succeed on the merits.

Further, the AIA permits a lawsuit only when a plaintiff has no other remedies. But here, it is evident that Appellee does have at least one alternative remedy. First, IRS administrative procedures permit a party to submit an appeal to the IRS following an adverse tax classification. If that appeal is unsuccessful, Section 7428 of the Internal Revenue Code allows an organization to challenge its Section 501(c)(3) status determination in federal court. *See* 26 U.S.C. § 7428(a). But these procedures are only available once the IRS has made an adverse determination of the organization's tax classification. *See id.* And Section 7428 requires the organization to first exhaust administrative remedies, such as the IRS's appeals process. *See* 26 U.S.C. § 7428(b). The IRS has not made an adverse determination on Appellee's tax status. The AIA thus requires that Appellee wait until the IRS makes a determination on its tax classification, and then pursue relief through the appropriate channels. Only after those administrative procedures are exhausted may Appellee resort to federal court.

## II. Appellee Lacks Article III Standing

Even if the AIA does not bar this lawsuit, Appellee failed to demonstrate Article III standing. Appellee must show (1) an injury in fact, (2) that was caused by or is fairly traceable to the actions of the defendant, and (3) that is capable of resolution by judicial decision. *Lujan v. Defs. of Wildlife*, 504 U.S. 555, 560–61 (1992). "An injury sufficient to satisfy Article III must be 'concrete and particularized' and 'actual or imminent,' not 'conjectural or hypothetical.'" *Susan B. Anthony List v. Driehaus*, 573 U.S. 149, 158 (2014) (quoting *Lujan*, 504 U.S. at 560).

Here, Appellee brought a pre-enforcement challenge to the Johnson Amendment. The likelihood that the Johnson Amendment will be enforced against Appellee relies on a "speculative chain of possibilities" insufficient to create standing. *Clapper v. Amnesty Int'l USA*, 568 U.S. 398, 414 (2013). The government has disclaimed its intent to enforce the Johnson Amendment against houses of worship, and a lack of past enforcement is persuasive evidence that there is no likelihood of enforcement. *Speech First, Inc. v. Fenves*, 979 F.3d 319, 330 (5th Cir. 2020).

Specifically, the IRS has entered into a consent decree, explaining that it will not enforce the Johnson Amendment "[w]hen a house of worship in good faith speaks to its congregation, through its customary channels of communication on matters of faith in connection with religious services." *See* U.S. Opp. to Mot. to Intervene, *Nat'l Religious Broad. v. Long*, No. 6:24-cv-00311, 2025 WL 2555876 (E.D. Tex. July 24, 2025). The consent decree makes clear that the IRS does not intend to enforce the Johnson Amendment against houses of worship. This includes a popular preacher giving a sermon to countless listeners on his weekly podcast. Appellee failed to demonstrate a "concrete and particularized" injury that is "actual or imminent." *Susan B. Anthony*, 573 U.S. at 148. I would find that Appellee's suit is barred by the Tax Anti-Injunction Act and that Appellee did not satisfy the standard for Article III standing.

## III. The Johnson Amendment Is Constitutional

The majority's errant ruling relies on a misapplication of Supreme Court precedent and the Establishment Clause. The Johnson Amendment perfectly accords with constitutional requirements. In *Catholic Charities Bureau, Inc. v. Wisconsin Labor & Industry Review Comm.*, the Supreme Court affirmed that statutes granting secular tax exemptions to religious organizations are permissible. 605 U.S. 238, 250 (2025). There, a Wisconsin statute created tax exemptions for organizations "operated primarily for religious purposes." *Id.* at 242. The law required organizations to engage in activities such as proselytization to receive the tax exemption. *Id.* at 245. The Supreme Court caveated its holding, stating that it does not apply to laws that contain "secular criteria that happen to have a disparate impact upon different religious organizations." *Id.* at 250 (cleaned up). In this case, the majority ignores that the Johnson Amendment is clearly based on secular criteria. All non-profit organizations are prohibited from engaging in political activities, regardless of whether the organization is religious or not. The Johnson Amendment complies with Supreme Court precedent.

Here, the Johnson Amendment applies to religious and non-religious organizations equally. *See Branch Ministries v. Rossotti*, 211 F.3d 137, 143–44 (D.C. Cir. 2000) (finding that the restrictions imposed by Section 501(c)(3) are viewpoint neutral and that non-profit organizations wishing to support political campaigns can do so by organizing under Section 501(c)(4) instead). The Johnson Amendment never requires the IRS to examine an organization's religious practices or beliefs. Unlike the statute in *Catholic Charities*, the Johnson Amendment imposes no requirement for non-profit organizations to engage in or refrain from certain religious activities. *See* 605 U.S. at 250. The only, and clearly non-secular, requirement is that non-profit organizations may not participate in political campaigns or support political candidates. Even if some religions

are impacted more by this law than others, that does not mean the government is unfairly favoring certain religions. *See Employment Division v. Smith*, 494 U.S. 872, 881–83 (1990) (explaining that neutral and generally applicable laws are permissible under the Free Exercise Clause).

In *Larson v. Valente*, the Supreme Court stated that "[t]he clearest command of the Establishment Clause is that one religious denomination cannot be officially preferred over another." 456 U.S. 228, 244 (1982). But the Supreme Court has explained that "regulation of conduct whose reason or effect merely happens to coincide or harmonize with the tenets of some or all religions" does not violate the Establishment Clause. *McGowan v. Maryland*, 366 U.S. 420, 442 (1961). It would be an impossible standard for this Court to require laws, such as the Johnson Amendment, to uniformly affect every individual and organization in the United States. Accordingly, although I would dismiss this lawsuit for lack of jurisdiction, I also believe that the Johnson Amendment does not violate the Establishment Clause.

For these reasons, I respectfully dissent.

# Supreme Court of the United States

No. 26-1779

Scott Bessent, In His Official Capacity as Acting Commissioner of the Internal Revenue Service, ET AL.,

*Petitioners*,

v.

Covenant Truth Church,

*Respondent*.

## O R D E R

The Court GRANTS the petition for certiorari review of *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). The questions before the Court are as follows:

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

2) Whether the Johnson Amendment violates the Establishment Clause of the First Amendment.