No. 21-15295

United States Court of Appeals for the Ninth Circuit

APACHE STRONGHOLD,
Plaintiff-Appellant,
v.
UNITED STATES OF AMERICA, ET AL.,
Defendants-Appellees.

On Appeal from the United States District Court
for the District of Arizona
No. 2:21-cv-00050-PHX-SPL
Hon. Steven P. Logan

BRIEF OF THE SIKH COALITION, THE CHRISTIAN LEGAL SOCIETY, AND THE ISLAM AND RELIGIOUS FREEDOM ACTION TEAM OF THE RELIGIOUS FREEDOM INSTITUTE AS AMICI CURIAE IN SUPPORT OF THE PETITION FOR REHEARING EN BANC BEFORE THE FULL COURT

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INTEREST OF AMICI CURIAE[1]

The Sikh Coalition defends the civil rights and liberties of all people, promotes community empowerment and civic engagement within the Sikh community, creates an environment where Sikhs can lead a dignified life unhindered by bias and discrimination, and educates the broader community about Sikhism to promote cultural understanding and build bridges between communities. Ensuring religious liberty for all people is a cornerstone of the Sikh Coalition's work.

Christian Legal Society (CLS) is an association of Christian attorneys, law students, and law professors, with student chapters located on the campuses of around 160 public and private law schools. CLS believes that pluralism, essential to a free society, prospers only when the courts protect the First Amendment rights of all Americans. Accordingly, CLS works to protect the free exercise of religion for Americans of every faith.

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[1] All parties have consented to the filing of this brief. *See* 9th Cir. R. 29-2(a). No party's counsel authored this brief in whole or in part, and no person or entity other than amici curiae or their counsel contributed money intended to fund preparing or submitting this brief.

The Islam and Religious Freedom Action Team for the Religious Freedom Institute amplifies Muslim voices on religious freedom, seeks a deeper understanding of the support for religious freedom inside the teachings of Islam, and protects the religious freedom of Muslims. To this end, the team engages in research, education, and advocacy on core issues including freedom from coercion in religious and equal citizenship for people of diverse faiths. The IRF explores and supports religious freedom by translating resources by Muslims about religious freedom, fostering inclusion of Muslims in religious freedom work both where Muslims are a majority and where they are a minority, and by partnering with the Institute's other teams in advocacy.

Amici submit this brief to urge this Court to harmonize how this circuit interprets the "substantial burden" language in RFRA and its sister statute, RLUIPA. By reading the language in both statutes according to its plain meaning, this Court will carry out Congress's intent to ensure the Apaches and other minority religious groups are not left out of RFRA's broad religious freedom protection.

INTRODUCTION

In its en banc decision, this Court exchanged one mistaken reading of RFRA for another. It correctly overruled *Navajo Nation*'s narrow interpretation of "substantial burden" in RFRA. *Apache Stronghold v. United States*, 95 F.4th 608, 614 (9th Cir. 2024) (en banc). But rather than return to RFRA's text and purpose, the Court swapped in another specialized interpretation, becoming the first circuit to hold that the term "substantial burden" in RFRA took on the contours of *Lyng v. Northwest Indian Cemetery Protective Association*—a pre-RFRA Free Exercise case that neither used the term "substantial burden" nor involved the destruction of a sacred site. *Id.* The en banc decision muddles this Circuit's RFRA case law and, what's more, sanctions the utter destruction of a sacred site where the Apache people have worshiped for centuries.

The en banc court's reliance on *Lyng* as a proxy for RFRA's meaning misreads the Act's text and misunderstands its purpose. To begin with, *Lyng* does not provide a useful framework for analyzing what "substantial burden" means in RFRA. And perversely, the en banc decision

repeats *Navajo Nation*'s error by imposing on the words of RFRA a different meaning than the very same words in its twin statute, RLUIPA.

Apache Stronghold's request is not radical: "substantial burden" ought to be interpreted according to its plain meaning, the meaning Congress undoubtedly intended when it passed RFRA. This Court already takes a plain-meaning approach when it interprets RLUIPA. And other circuits do not hesitate to adopt the same approach in enforcing RFRA's straightforward text.

Here, the land transfer contemplated by the government is not merely burdensome; it is fatal to many of the Apache's religious practices. But the en banc decision redefines "substantial burden" in terms that ignore this glaring hardship. Put simply, it is difficult to imagine any more substantial burden than one that robs a plaintiff of his ability to practice his faith and literally pulls the ground from beneath worshipers who have no other place to practice crucial parts of their religion. This Court should grant full en banc review to correct the limited en banc court's error.

ARGUMENT

I. RFRA should be interpreted according to its plain meaning.

RFRA's text and purpose are clear: Congress sought to expressly enshrine religious freedom in statute and require strict scrutiny whenever the government substantially burdens the practices of religious believers. The en banc court's atextual reading of RFRA undermines that purpose and ignores the Act's text and intended scope.

A. RFRA's plain text broadened religious protections beyond the limitations imposed by prior judicial decisions.

Congress passed RFRA following a string of Supreme Court decisions that had whittled down the protection afforded to religious claimants under the Free Exercise Clause. *See Lyng v. Nw. Indian Cemetery Protective Ass'n*, 485 U.S. 439 (1988); *O'Lone v. Est. of Shabazz*, 482 U.S. 342 (1987) (rejecting prisoner's free exercise claim); *Goldman v. Weinberger*, 475 U.S. 503 (1986) (rejecting military service member's free exercise claim). That line of cases culminated in *Employment Division, Department of Human Resources v. Smith*, 494 U.S. 872 (1990), which held that neutral and generally applicable laws that impose on religious practice aren't subject to strict scrutiny, no matter how severe the imposition. Denying meaningful scrutiny to even egregious burdens

on religious exercise gutted widely relied-upon constitutional protections. *See* Steven D. Smith, *The Rise and Fall of Religious Freedom in Constitutional Discourse*, 140 U. Pa. L. Rev. 149, 232 (1991) ("*Smith* reaches a low point in modern constitutional protection under the Free Exercise Clause."); Whitney Travis, *The Religious Freedom Restoration Act and* Smith*: Dueling Levels of Constitutional Scrutiny*, 64 Wash. & Lee L. Rev. 1701, 1706–07 (2007); Douglas Laycock, *The Supreme Court's Assault on Free Exercise and the Amicus Brief That Was Never Filed*, 8 J. L. & Religion 99, 99 (1990) ("[*Smith*] removes many of the issues [facing religious communities] from the scope of positive constitutional law.").

Congress responded swiftly. It passed RFRA to restore—and expand—the protections religious worshippers had enjoyed before *Smith*. Accordingly, Congress broadly protected those who otherwise would have been left "largely . . . without recourse" under the weakened Free Exercise regime and acted to ensure "maximum religious freedom" for all. 139 Cong. Rec. H2356-03 (1993) (statement of Rep. Hamilton Fish); *id.* (statement of Rep. Charles Schumer); *see Burwell v. Hobby Lobby Stores, Inc.*, 573 U.S. 682, 695 n.3 (2014) (explaining that RFRA

"provide[s] even broader protection for religious liberty than was available" before *Smith*).

In place of *Smith*'s minimal protections, RFRA restored the strict scrutiny test that the Supreme Court had applied in foundational pre-*Smith* religious liberty cases and extended that test to all government intrusions on religious practice. *See Sherbert v. Verner*, 374 U.S. 398, 403 (1963); *Wisconsin v. Yoder*, 406 U.S. 205, 214–15 (1972); 42 U.S.C. § 2000bb(a)(4) (explaining that RFRA sought to correct *Smith*'s virtual "eliminat[ion of] the requirement that the government justify burdens on religious exercise imposed by laws neutral towards religion").

Under RFRA's straightforward text, the federal government is subject to strict scrutiny whenever it "substantially burdens" religious belief or practice. 42 U.S.C. § 2000bb-1. That means *any* substantial burden. Other than to say they must be "substantial," Congress did not categorize or limit the kinds of burdens that would trigger strict scrutiny. Thus, as this Court has recognized in the RLUIPA context, the term's plain meaning refers to any government action "that imposes a significantly great restriction or onus on any exercise of religion." *San Jose*

Christian Coll. v. City of Morgan Hill, 360 F.3d 1024, 1034–35 (9th Cir. 2004) (internal quotation marks omitted).

That meaning should govern. As a starting point, statutory terms should be understood according to their ordinary meaning unless there's a reason to adopt a specialized meaning. Antonin Scalia & Bryan A. Garner, *Reading Law: The Interpretation of Legal Texts* 69 (2012). Here, there isn't. To the contrary, all indicia of intent confirm that Congress simply meant what it said.

First, the term "substantial burden" wasn't "used [as a term of art] at the time of the statute's adoption." *Yellen v. Confederated Tribes of Chehalis Rsrv.*, 141 S. Ct. 2434, 2445 (2021); *accord Apache Stronghold*, 95 F.4th at 676 n.5, 678–79 (Nelson, J., concurring) ("'[S]ubstantial burden' is not a term of art with a specific definition[.]"). The Supreme Court cannot have supplied a term-of-art meaning because "the phrase 'substantial burden' rarely appeared in pre-*Smith* Supreme Court decisions—and when it did, with very little elaboration." Michael A. Helfand, *Substantial Burdens as Civil Penalties*, 108 Iowa L. Rev. 2189, 2192 (2023). The Court discussed the phrase "substantial burden" only once in its pre-RFRA jurisprudence. *See Hernandez v. Comm'r*, 490 U.S.

680, 699–700 (1989). And other Supreme Court decisions employed myriad terms to describe the kind of imposition that would warrant First Amendment scrutiny. *See, e.g.*, *Sherbert*, 374 U.S. at 403–06 (using the terms "incidental burden," "burden," and "substantial infringement" interchangeably); *Yoder*, 406 U.S. at 214, 218 ("impinges," "impact[s]," "substantially interfer[es]"); *Thomas v. Review Bd.*, 450 U.S. 707, 718 (1981) ("substantial pressure").[2] It makes little sense to suppose—without any indication in the statute's text—that Congress deployed a term almost never used in the case law as a term of art encoded with the holdings of those differing cases.

Second, an ordinary meaning is precisely the meaning that Congress had in mind when it included the same "substantial burden" language in RFRA's sister statute, RLUIPA, just seven years later. *See* 42 U.S.C. § 2000cc et seq. RLUIPA applied the same protections as RFRA

[2] For other variations, see *Hobbie v. Unemployment Appeals Comm'n*, 480 U.S. 136, 141 (1987) ("pressure") (quoting *Thomas*, 450 U.S. at 717); *Lyng*, 485 U.S. at 465–66 (Brennan, J., dissenting) ("governmental burdens," "religious burdens"); *Bowen v. Roy*, 476 U.S. 693, 706 (1986) ("governmental burden"); *Bob Jones Univ. v. United States*, 461 U.S. 574, 604 (1983) ("burden"); *Johnson v. Robison*, 415 U.S. 361, 387 (1974) (Douglas, J., dissenting) ("impermissible burden"); *Cantwell v. Connecticut*, 310 U.S. 296, 307 (1940) ("forbidden burden").

against state action in the land use and prison contexts. Because "Congress use[d] the same language in two statutes having similar purposes," this Court should begin with the basic "presum[ption] that Congress intended that text to have the same meaning in both statutes." *United States v. Nishiie*, 996 F.3d 1013, 1026 (9th Cir. 2021) (quoting *Smith v. City of Jackson*, 544 U.S. 228, 233 (2005)); *see also* Scalia & Garner, *supra*, at 252 ("[L]aws dealing with the same subject . . . should if possible be interpreted harmoniously.").

Legislators at the time RLUIPA was passed and courts in years since have recognized that RFRA and RLUIPA's shared language carries a shared meaning. *See* 146 Cong. Rec. E1563-01 (2000) (extension of remarks by Rep. Charles Canady) ("Section 3(a) [of RLUIPA] applies the RFRA standard . . . ."); *Hobby Lobby*, 573 U.S. at 695 ("[RLUIPA] imposes the same general test as RFRA . . . ."); *Gonzales v. O Centro Espirita Beneficente Uniao do Vegetal*, 546 U.S. 418, 436 (2006) (noting that RLUIPA uses "the same standard as set forth in RFRA"); *Holt v. Hobbs*, 574 U.S. 352, 357 (2015) (same). And it is the consensus of courts across the country, including the Ninth Circuit, that RLUIPA uses the term "substantial burden" in its ordinary sense. *Holt*, 574 U.S.

at 361–62 (using RLUIPA's text alone to interpret "substantial burden"); *San Jose Christian Coll.*, 360 F.3d at 1034; *Yellowbear v. Lampert*, 741 F.3d 48, 56 (10th Cir. 2014) (Gorsuch, J.) (denying "any access" to a religious activity under RLUIPA "easily" constitutes a substantial burden); *Civ. Liberties for Urban Believers v. City of Chicago*, 342 F.3d 752, 761 (7th Cir. 2003) (holding that, in the context of RLUIPA, a "substantial burden on religious exercise is one that necessarily bears direct, primary, and fundamental responsibility for rendering religious exercise . . . effectively impracticable."). RFRA's identical text should be interpreted identically.

In sum, nothing in RFRA suggests that Congress intended to adopt a meaning of "substantial burden" that departed from its ordinary meaning, and prior and subsequent history confirm that the ordinary meaning should control. This Court's task, then, is simple: its "sole function . . . is to enforce [the statute] according to its terms." *San Jose Christian Coll.*, 360 F.3d at 1034 (quoting *Kaplan v. City of North Las Vegas*, 323 F.3d 1226, 1231–32 (9th Cir. 2003)).

B. Supreme Court precedents reaffirm that RFRA should be applied as written.

Time and again, the Supreme Court has clarified that RFRA (and RLUIPA) should be interpreted and applied as written. In the years since RFRA's passage, the Court has consistently rejected atextual interpretations of the Act's terms in favor of readings that maximize the statute's protection for religious exercise. *See, e.g.*, *Tanzin v. Tanvir*, 592 U.S. 43, 46–47 (2020) (interpreting RFRA by "start[ing] with the statutory text" and concluding that "RFRA's text provides a clear answer"); *Holt*, 574 U.S. at 361 (ruling that the lower court "improperly import[ed] a strand of reasoning from cases involving prisoners' First Amendment rights," because "RLUIPA's 'substantial burden' inquiry" "provides greater protection"); *O Centro*, 546 U.S. at 418 (applying RFRA's "to the person" language to require that courts fashion individualized exemptions from burdensome laws). Not only is RFRA not bound by prior cases, the reverse is true: it is a "super statute" that limits "the normal operation of other federal laws." *Bostock v. Clayton County*, 590 U.S. 644, 682 (2020).

As the Supreme Court explained in *Hobby Lobby*, "nothing in the text of RFRA as originally enacted suggested" that the statute's text

"was meant to be tied to th[e] Court's pre-*Smith* interpretation of th[e First] Amendment." 573 U.S. at 714. Indeed, when Congress later passed RLUIPA, it "deleted the prior reference to the First Amendment," suggesting it didn't want "to tie RFRA coverage tightly to the specific holdings of our pre-*Smith* free-exercise cases." *Id.* In short, it "would be absurd if RFRA merely restored . . . pre-*Smith* decisions in ossified form." *Id.* at 715. Yet that is precisely what the en banc decision does here.

C. *Lyng* provides an inferior framework for understanding the meaning of "substantial burden."

Despite the strong evidence that RFRA's "substantial burden" language ought to be interpreted plainly, the en banc court imposed a term-of-art reading that artificially constricts religious protections. Though one majority rightly rejected the term-of-art approach this Court had previously adopted in *Navajo Nation*, another majority erroneously put a new term-of-art reading in its place. This time, the Court looked to *Lyng*, a Free Exercise Clause precedent that was part of the pre-RFRA line of cases limiting religious protections. That new reading is equally mistaken.

First, *Lyng* is unhelpful on its own terms. The case considered whether the Free Exercise Clause prevented the government from building a road in the region of a site of worship. The Court said no, because the proposed road wouldn't "prohibit" religious exercise by coercing or penalizing religious adherents. *Lyng*, 485 U.S. at 448, 451. But in so holding, the *Lyng* Court provided no definition of the term "substantial burden"—the opinion does not even contain those words. The case's only discussion of "burden" comes from the dissent, which criticizes the majority's "untenable" and "surreal" determination that "governmental action that will virtually destroy a religion is nevertheless deemed not to 'burden' that religion." *Id.* at 472 (Brennan, J., dissenting). Thus, even were it appropriate to borrow reasoning from First Amendment cases when interpreting RFRA, *Lyng* is a poor fit.

In fact, *Lyng* is particularly inapt as a source of the meaning of "substantial burden" because it rejected the idea that the Free Exercise Clause should be interpreted by reference to the burden placed on the religious claimant, however severe (or substantial) that burden might be. *See id.* at 451 (reasoning that the "line cannot depend on measuring the effects of a governmental action," even if the threat to religious

practice is "extremely grave"); *see also Trinity Lutheran Church of Columbia v. Comer*, 582 U.S. 449, 460 (2017) (characterizing *Lyng* as a case turning on the nature of the government action). The Court refused to read the First Amendment as being directed against "government action that frustrates or inhibits religious practice"—stressing that the First Amendment "says no such thing," but instead "states: Congress shall make no law . . . *prohibiting* the free exercise [of religion]." *Lyng*, 485 U.S. at 456 (alterations in original); *see also id.* at 451 (stating that the "crucial word in the constitutional text is 'prohibit'"); *see also Apache Stronghold*, 95 F.4th at 632 (holding that RFRA "must ultimately be bounded by what counts as within the domain of the phrase '*prohibiting* the free exercise thereof'"). Here, however, the crucial language in RFRA is not "prohibit" (which is never used), but "substantially burden."

Second, RFRA implicitly rejected *Lyng*'s reasoning. As described previously, RFRA's very purpose was to correct the series of Supreme Court decisions, including *Lyng* and culminating in *Smith*, that narrowed the protections of the Free Exercise Clause. It is difficult to

imagine that Congress rejected the cramped protections of *Smith* but enshrined similarly restrictive pre-*Smith* cases in RFRA.

Finally, RFRA's operative text explicitly applies its protections even when a "burden results from a rule of general applicability." 42 U.S.C. § 2000bb-1(a). That language is hard to square with the en banc majority's claim that RFRA silently inherits a discrimination rubric from *Lyng*—that government action disposing its own land can burden religious practice only if it coerces, penalizes, or discriminates.

The decision of the en banc court, then, is premised on the idea that "substantial burden" should be understood according to a received meaning that did not exist and must accord with the limits of *Lyng*, a case that did not use those words.

II. An ordinary-meaning approach to RFRA would create a more workable regime than the en banc court's reading of "substantial burden."

Lyng should not have been used to settle the question in this case, as the strained conclusion the en banc court reached demonstrates. As a majority of the en banc court rightly observed, the utter destruction of the Apache's only place for central worship is a "substantial burden" under any plain meaning of those words. *See Apache Stronghold*, 95 F.4th

at 707–08 (Murguia, J., dissenting); *id.* at 663 (Nelson, J., concurring). The results of the en banc court's holding conflict with this common-sense understanding and will continue to do so in future cases. An ordinary-meaning approach, by contrast, would not only be more faithful to the statute's text but also lead to more reasonable results in practice.

A. Reading *Lyng* into RFRA contravenes RFRA's purpose and leads to absurd results.

The en banc decision rests on a distinction that makes no meaningful difference to the communities RFRA protects. The decision cites *Lyng* to say that in the federal land use context, the "prevent[ion]" of believers exercising their faith should be read narrowly, covering only situations of targeted "prohibit[ion]" of a religious practice. *Apache Stronghold*, 95 F.4th at 623 (citing *Lyng*, 485 U.S. at 456). Under this interpretation, a federal action may have profoundly negative impacts on a religious group's ability to practice, but as long as the government doesn't target a religious practice to stop it, RFRA doesn't apply.

But RFRA's "substantial burden" language looks to the impact on religious exercise, not the government's intent or the type of government action. And for good reason. The destruction of Oak Flat will be total, rendering many religious practices utterly impossible. Yet to the

en banc court, laying waste to a tribe's sacred property does not rise to the level of "prohibition" or "coercion"; the government's action was not of the right type. Presumably, the same impact would amount to a "substantial burden" if Congress, in authorizing the same land transfer, did so with the intent to stop tribal worship or limited access to Oak Flat for worship more than for other purposes. Because Congress didn't target the Apaches and required that "any post-transfer prohibitions . . . impose[d] on public access would be nondiscriminatory," its action is categorically permissible under RFRA, no matter the effect. *Id.* at 625.

That result flies in the face of RFRA's core purpose—to protect religious practice against government impositions *regardless* of the motivations or purposes driving those impositions. *See* 42 U.S.C. § 2000bb(a) (finding that "laws 'neutral' toward religion may burden religious exercise as surely as laws intended to interfere with religious exercise" and that strict scrutiny "is a workable test for striking sensible balances between religious liberty and competing prior governmental interests").

What's more, the en banc court's holding claws back religious freedom protections specifically in cases of federal land use, leading to unequal results. Imagine a local government that denied permitting to

religious organizations, delaying the use of a church or temple—a burden significantly less severe than the irreversible destruction of the only site for worship practices. RLUIPA guards against many such "substantial burdens" imposed by state and local governments on religious groups, as the Ninth Circuit itself has recognized. *See, e.g.*, *Guru Nanak Sikh Soc. of Yuba City v. County of Sutter*, 456 F.3d 978, 987–89 (9th Cir. 2006) (finding a substantial burden when a county denied permitting for a Sikh group to construct a temple on their own land); *Cottonwood Christian Ctr. v. Cypress Redevelopment Agency*, 218 F. Supp. 2d 1203, 1227–28 (C.D. Cal. 2002) (finding a substantial burden when a locality seized church property to build a Costco in its place). The destruction of Oak Flat means permanently ending a centuries-old aspect of the Apache religious practice—and, indeed, ending the tribes' traditions and way of life. In any other context, analogous burdens would be protected under either RFRA or RLUIPA. This Court should rehear the case to close the federal-land loophole that the en banc court wrote into religious freedom protections.

B. Recognizing a substantial burden here would not prevent the government from carrying out its internal affairs.

On the other hand, an ordinary-meaning reading of RFRA's text would not impede the government's ability to organize its internal affairs as the en banc majority fears. *See Apache Stronghold*, 95 F.4th at 631; *id.* at 656 (Bea, J., concurring).

This case does not require any sweeping holdings about the nature of a "substantial burden" or invite controversies over the meaningfulness, value, or necessity of a group's religious practices. All petitioners seek is a recognition of what should be evident from the plain terms of RFRA: that the destruction of a religious community's only place for many central worship practices is a "substantial burden." 42 U.S.C. § 2000bb-1; *see also* Michael D. McNally, *Native American Religious Freedom as a Collective Right*, 2019 BYU L. Rev. 205, 276–86 (arguing that *Hobby Lobby* has expanded the understanding of "substantial burden" within RFRA for tribal land and practices cases). Like every other religious group seeking RFRA's protection, those claiming a burden based on the federal government's land use decisions must still defeat the government's claim that its action is the least restrictive means of accomplishing a compelling interest.

Other circuits' experience highlights that the en banc majority's concern is misplaced. Courts that have not adopted a *Lyng* reading of RFRA haven't seen the floodgates open to excessive litigation or improper guesswork about religious practices. *Compare Comanche Nation v. United States*, No.CIV-08-849-D, 2008 WL 4426621, at *17 (W.D. Okla. Sept. 23, 2008) (Army construction on a sacred site "amply demonstrate[d]" a "substantial burden") *with United States v. Grady*, 18 F.4th 1275 (11th Cir. 2021) (government satisfied strict scrutiny under RFRA in restricting access to a military base). There is no reason to believe that recognizing a clear violation of RFRA here would have a different long-term effect in this circuit.

CONCLUSION

Lyng does not govern this case, nor should it. The substantial burden language in RFRA protects against more than just the indirect use of "carrots and sticks." *Apache Stronghold v. United States*, 38 F.4th 742, 780 (9th Cir. 2022) (Berzon, J., dissenting). When read according to its ordinary meaning, it encompasses more, at the very least including

the evisceration of a religious group's worship site. This Court should grant full en banc rehearing to correct the limited en banc court's error.[3]

Respectfully submitted,

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[3] Amici thank Andrew Hayes, a student in the Harvard Law School Religious Freedom Clinic, for helping to prepare this brief.

CERTIFICATE OF COMPLIANCE

This brief complies with 9th Cir. R. 29(c)(2) because it contains 4,097 words, excluding the parts exempted by Fed. R. App. P. 32(f).

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

Dated: April 25, 2024

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

CERTIFICATE OF SERVICE

I certify that on April 25, 2024, I served this document on all parties or their counsel of record via CM/ECF.

Dated: April 25, 2024

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