ORAL ARGUMENT SCHEDULED FOR NOVEMBER 29, 2022
No. 22-5234

United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

JASKIRAT SINGH, AEKASH SINGH, MILAAP SINGH CHAHAL,
Plaintiffs–Appellants,

v.

DAVID H. BERGER, ET AL.,
Defendants–Appellees.

Appeal from the United States District Court
for the District of Columbia
Honorable Richard J. Leon
(1:22-cv-01004-RJL)

AMICI CURIAE BRIEF ON BEHALF OF JEWISH COALITION FOR RELIGIOUS LIBERTY, ANTI-DEFAMATION LEAGUE, AND INTERFAITH ALLIANCE IN SUPPORT OF PLAINTIFFS–APPELLANTS

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CERTIFICATE AS TO PARTIES, RULINGS, AND RELATED CASES

Pursuant to D.C. Circuit Rules 26.1 and 28(a)(1), *Amici Curiae* certify as follows:

(A) Parties and *Amici*

All parties, intervenors, and *amici* appearing in this Court to date are listed in the brief of Plaintiff-Appellee.

Amici Jewish Coalition for Religious Liberty (JCRL), Anti-Defamation League (ADL), and Interfaith Alliance state that each of them does not have a parent corporation and does not issue stock. *See* Federal Rules of Appellate Procedure 26.1; D.C. Cir. R. 26.1.

(B) Rulings under review

The ruling of the court below (Leon, Richard J.) under review is its August 24, 2022 Memorandum Opinion and Order, No. 22-1004(RJL), 2022 WL 3646565 (D.D.C. Aug. 24, 2022) [District Court Docket Entry 45].

(C) Related cases

As far as *Amici Curiae* are aware, the case under review has not previously been before this or any other court, and there are no related currently pending cases in this or any other court.

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GLOSSARY

JCRL	Jewish Coalition for Religious Liberty
RFRA	Religious Freedom Restoration Act
NDAA	National Defense Authorization Act

STATEMENT PURSUANT TO RULE 29

Pursuant to Fed. R. App. P. 29(a)(2), counsel for *Amici* states that both parties have articulated their consent to the filing of this brief. Pursuant to Fed. R. App. P. 29(a)(4)(E), no party nor their counsel authored this brief in whole or in part and neither made a monetary contribution toward its preparation.

STATEMENT OF INTEREST OF THE *AMICI CURIAE*

The Jewish Coalition for Religious Liberty (JCRL) is a non-denominational organization of Jewish communal and lay leaders seeking to protect the ability of all Americans to freely practice their faith. The Anti-Defamation League is committed to ending the defamation of the Jewish people and securing just and inclusive treatment for all religious groups. The Interfaith Alliance's mission is to protect religious freedom for all Americans regardless of their faith or belief.

Amici question the Marine Corps' policy justifications for the restrictions on religious apparel at issue and are especially concerned with the essentially unfettered discretion the District Court afforded to the Government. *Amici* are concerned that extending such broad

deference in reviewing a policy that unquestionably infringes on core religious liberties imperils the free exercise of religious adherents of all faiths across the U.S. armed forces. Protecting religious liberty for all faiths is an essential part of the mission of each *amici* organization.

SUMMARY OF THE ARGUMENT

The Marine Corps' arguments in this case are contrary to federal statutes and have been disproven by recent history. When the Supreme Court held in *Goldman v. Weinberger*, 475 U.S. 503 (1986), that the military could prohibit the wearing of yarmulkes, Congress acted quickly to overturn that decision and permit religious attire in the military. *See* 10 U.S.C. § 774 (1987). Congress's enactment demonstrated that in addition to Jewish yarmulkes, Congress recognized a need to protect other articles of faith in the military, including Sikh turbans and Catholic crucifixes. Accordingly, § 774 set the federal policy in favor of religious accommodation. Despite the unanimous opposition to § 774 by military leaders—who contended that visible religious attire would destroy military effectiveness, "unit cohesion," and "good order and discipline"—Congress concluded otherwise and passed the law. As devout Sikhs, Jewish Americans, and others have proceeded to serve with distinction

across the branches of the U.S. armed forces, they have disproven those unfounded predictions of the military—predictions highly similar to the Marine Corps' arguments in this case.

Section 774 forecloses the very arguments advanced by the Marine Corps. That law protects religious attire in the military (subject to only two limited exceptions not applicable here) and makes clear that the mere "nonuniform" nature of religious attire cannot be the sole basis of restricting such attire. Yet here the Government argues precisely that: beards and turbans cannot be allowed in recruit training solely because they are too different.

The Marine Corps asks this Court to afford "great deference" to its justifications for denying religious accommodations to the Sikh plaintiffs during recruit training, but Congress has directed that strict scrutiny—the opposite of great deference—be applied to such determinations. The Marine Corps' vague rationale for restricting Sikh turbans and beards and its demand for deference to its "professional military judgment" falls far short of meeting the demanding showing required by the Religious Freedom Restoration Act (RFRA) to justify an infringement on core First Amendment freedoms. The Government has made no attempt to

demonstrate how turbans or beards hinder military activities during basic training. Whatever deference is owed the military respecting the infringement of fundamental rights, it cannot mean unchecked deference to such unsubstantiated views. The *carte blanche* demanded by the Corps tramples the rights of Sikh recruits—who are in fact permitted to wear their articles of faith once they become Marines following recruit training—and would render RFRA ineffectual.

The harm from an adverse ruling in this case would not be limited to the Sikh plaintiffs. It would be to the detriment of many other religious believers throughout the military who want to serve their country while also honoring the dictates of their faiths. The Marines already permit Sikhs to wear turbans and beards after recruit training, and they generally accommodate kosher and halal meals during recruit training. These accommodations show respect to different faith traditions without damaging national security—just as would allowing Sikhs to have neatly tied beards and turbans during recruit training. RFRA and § 774 demand that much from the Marines.

ARGUMENT

I. Congress specifically intended for Sikh turbans, Jewish yarmulkes, and other religious apparel to be permitted in the military when passing 10 U.S.C. § 774, over military objections that doing so would damage "unit cohesion" and discipline.

After the Supreme Court decided *Goldman v. Weinberger*, 475 U.S. 503 (1986), Congress promptly overturned it by statute and enshrined into law the right of servicemembers to wear visible religious apparel while in military uniform. 10 U.S.C. § 774 (1987). Section 774 was intended to protect not only the wearing of yarmulkes but also a wide array of religious indicia, including Sikh turbans.

In *Goldman*, the Court upheld an Air Force regulation that prohibited a Jewish member from wearing his yarmulke while on duty. The House and Senate then drafted identical amendments to the 1988 National Defense Authorization Act (NDAA), providing that "a member of the armed forces may wear an item of religious apparel while wearing the uniform of the member's armed force." *Id.* § 774(a).[1] The only

[1] H.R. Rep. No. 100-446, at 638 (1987) (Conf. Rep.). The Amendment was informally known as the "Lautenberg Amendment" owing to its sponsor, Senator Frank Lautenberg.

exceptions to this mandate are that the item (1) cannot interfere with the performance of military duties and (2) must be "neat and conservative." *Id.* § 774(b). In the House Conference Report, which recorded the debate about this provision, the legislators noted that "[t]he law does not list eligible items of apparel, but the conferees note that the Army in the past has permitted the wearing of Sikh turbans."[2]

The conferees cited several examples of Jewish yarmulkes worn by members of the armed forces and emphasized that "a [military] regulation that would exclude virtually all religious apparel would be contrary to precedent and the purposes of this statute."[3] In drafting the section, the conferees were clear that Congress "has been extremely sensitive to the needs of the armed forces for uniformity, safety, good order, and discipline, and has carefully balanced those needs in light of the right of service members to freedom of religion."[4]

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[2] *Id.*

[3] *Id.*

[4] *Id.*

The provision passed both houses and was signed into law by President Reagan as part of the 1988 NDAA, overturning *Goldman*.[5] Supporters of § 774 were unequivocal in their intent for the law to apply to Sikh turbans and Jewish yarmulkes, and the unambiguous text of the statute is in lockstep with this legislative intent. The House Report of the Committee for Armed Services provides that, "[t]he provision would accommodate, for example, neat and conservative Jewish yarmulkes and Sikh turbans."[6] The Report goes on to explain why yarmulkes and Sikh turbans would not hinder the military's goals:

> [T]he primary philosophical objection raised by the services to legislation of this type centers on the importance of uniformity in building unit cohesion. The committee readily acknowledges the values of cohesion and *esprit*. The committee does not find, however, that the wearing of—for

[5] Sen. D'Amato: "This amendment corrects an injustice affirmed last year by the Supreme Court. . . . "The only reason we are considering this amendment today is a few years ago the Supreme Court in a 5-4 decision upheld the right of the Air Force to deny a captain the right to wear a yarmulke." 133 Cong. Rec. S12794 (1987).

[6] H.R. Rep. No. 99-718, at 200 (1986) (Conf. Rep.). This Report dealt with the amendment when it was being debated in 1986 for inclusion in the 1987 NDAA. However, the amendment failed by a narrow vote in the Senate in 1986. The following year, the identical provision (§ 774) passed both houses and was signed into law as part of the 1988 NDAA.

> example—yarmulkes or turbans would necessarily threaten good order, discipline, or morale in the armed forces.[7]

Senator Lautenberg, the primary sponsor of the provision in the Senate and a World War II Army veteran, echoed the belief that such religious articles would not implicate the important principles of the military:

> While I appreciate and agree with the importance of unit cohesion and *esprit de corps* in the Armed Forces, I do not believe that wearing neat, conservative and unobtrusive religious apparel threatens this principle. To the contrary, it would strengthen morale by affirming that the military is a . . . tolerant institution . . . [that upholds] the religious and ethnic diversity that have made America strong, not weak.[8]

Sen. Lautenberg confirmed that his amendment, which became 10 U.S.C. § 774, would permit the Orthodox Jewish plaintiff from *Goldman v. Weinberger* to "serve his country while at the same time allowing him to remain true to his religion. And it would permit others like him, *of whatever faith*, to do the same."[9]

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[7] *Id.*

[8] 133 Cong. Rec. S12792 (1987).

[9] 132 Cong. Rec. S10697–98 (1986) (emphasis added).

The House Report expounded on the issue of Sikh turbans, explaining why history supported turbans as being appropriate attire in the military:

> [T]he committee notes that the Army accepted Sikhs with their turbans for decades—and still reenlists them. The Army only stopped enlisting Sikhs when its lawyers voiced concern that, if the Army tolerated Sikh turbans, then it would have to allow saffron robes as well. In changing its enlistment policy toward recruits who wear turbans as a matter of religious practice, then, the Army was objecting not to turbans but to saffron robes.[10]

Senator Lautenberg added: "Would an Army that believed that the wearing of turbans impaired morale permit these Sikhs to enlist year after year? I think not."[11]

The drafters of § 774 included the two exceptions—that the apparel be "neat and conservative" and that it not interfere with a member's military duties—to ensure the law struck the right balance. At the same time, the drafters made clear that the apparel they intended the law to allow would not interfere with core military concerns and national security:

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[10] H.R. Rep. No. 99-718, at 200 (1986) (Conf. Rep.).

[11] 133 Cong. Rec. S12792 (1987).

> [I]f there were some harm, if there were some loss, if there were some kind of ineffectiveness that might be caused to the American military forces by reason of recognizing the right of an individual to wear that piece of apparel that he or she wants to wear for religious purposes, then I would say this legislation should not pass. But that is not the case.[12]

As the provision was being debated in Congress, the nation's top military leaders warned that accommodating religious apparel would lead to grave consequences. Unsurprisingly, their arguments mirrored the Marine Corps' arguments here against granting accommodations to Sikhs. Caspar Weinberger, the Secretary of Defense at the time, predicted that permitting religious apparel to be worn "would undoubtedly have an adverse effect on military discipline. . . . Authorizing individual members to modify the uniform [by wearing religious apparel] would clearly operate to the detriment of order and discipline by fostering resentment and divisiveness among the members."[13] The Chairman of the Joint Chiefs of Staff agreed, predicting "certain[] negative effects on unit cohesion":

> We are concerned with . . . the adverse effect on unit cohesion. Anything that degrades unit cohesion damages combat effectiveness. Allowing the wearing of visible religious

[12] *Id.* at S12795 (Remarks of Sen. Metzenbaum).

[13] *Id.* at S12797.

> apparel undermines the concept of uniformity which is so crucial to maintaining unit identity in all the Services. . . . Tampering with the integrity of the service uniforms, which are themselves symbols of individual Service traditions, could only have a detrimental impact on the order, discipline, and general welfare of the separate services.[14]

The Commandant of the Marine Corps went so far as to invoke the military's troubled history with racial integration in urging Congress not to extend religious accommodations: "[a]nything that degrades unit cohesion damages our combat effectiveness. We can all remember the devastating effects that racial problems had on the *esprit* of our units. We cannot permit this type of division to again exist."[15]

Despite the military services' unified opposition to § 774, none of their predictions bore out. Section 774 paved the way for servicemembers of all religions to serve with distinction while wearing religious attire like turbans, beards, yarmulkes, and crucifixes.

Just as Congress rejected these inflated warnings, so too should this Court reject the Marine Corps' unsubstantiated arguments that allowing Sikhs beards and turbans would prevent them from serving

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[14] *Id.* at S12798.

[15] *Id.*

their country as true Marines. Suggesting that such a religious accommodation would prevent Sikhs from understanding the meaning of sacrifice within a team, breed resentment from other recruits, or prevent them from assimilating into the Corps is not supported by the experiences of religious members in the military. These claims echo the erroneous predictions in the 1980's that yarmulkes and turbans would spell the end of discipline and cohesion in the military. They do not accord with our nation's values of honoring Americans' core constitutional freedoms and ethnic pluralism—values that the U.S. military has fought to protect and ought to represent.[16]

As Congress recognized over three decades ago: "[A]llowing religious apparel to be worn with a U.S. military uniform is an eloquent reminder that the shared and proud identity of U.S. servicemen embraces and unites religious and ethnic pluralism."[17]

[16] 132 Cong. Rec. S10701 (1986) (Remarks of Sen. Levin).

[17] 133 Cong. Rec. S12792 (1987) (Remarks of Sen. Lautenberg).

II. The Marine Corps has failed to provide concrete evidence showing how its unspecified interests in "unit cohesion" and "discipline" are harmed by Sikh recruits wearing religious apparel during recruit training.

The declaration of Col. Adam L. Jeppe is the sole "evidence" the Marine Corps has provided in attempting to demonstrate how its interest in "unit cohesion" is undermined by Sikh turbans and beards. But this declaration, by itself, fails to meet the high bar required by RFRA. Moreover, the Corps' arguments are foreclosed as a matter of law by statute.

A. The Marine Corps' justifications cannot pass strict scrutiny.

To sustain its restriction on plaintiffs' religious practice, the Government must satisfy strict scrutiny. *See Gonzales v. O' Centro Espirita Beneficente Uniao do Vegetal*, 546 U.S. 418, 429 (2006) (applying strict scrutiny when rights of religious exercise are "substantially burdened"). Yet the only evidence the Government proffers is a single declaration that explains at length government processes that are not in question. The declaration then perfunctorily recites military preferences for uniformity and discipline, while ultimately offering nothing meaningful by way of specifics. In relying on Col. Jeppe's declaration—

and nothing more—to justify its substantial burden on plaintiffs' religious exercise, the Government demands unchecked deference to its bare assertions. Such acquiescence, even to the military, finds no home in federal law.

To prevail, the Marine Corps must demonstrate that the infringement on plaintiff's religious exercise is justified under RFRA by satisfying strict scrutiny. 42 U.S.C. § 2000bb-1(b) (infringement must be (1) in furtherance of a compelling government interest and (2) the least restrictive means of furthering that interest). The Marine Corps cannot simply cite sweeping policy interests or highly general military principles such as "good order and discipline" or the "sacrificial mindset" to explain its denial of a religious accommodation to a particular servicemember. *See Holt v. Hobbs*, 574 U.S. 352, 362 (2015); *Singh v. McHugh*, 185 F. Supp. 3d 201, 223 (D.D.C. 2016). Instead, strict scrutiny requires the government to show that its interest is met by applying the regulation in question specifically "to the person." *Burwell v. Hobby Lobby Stores, Inc.*, 573 U.S. 682, 726 (2014).

Accordingly, the Government must show why its restrictions on grooming and headwear during recruit training are necessary to further

"unit cohesion" specifically with respect to recruits Jaskirat Singh, Aekash Singh, and Milaap Singh Chahal. But all the Marine Corps offers the Court is a self-serving statement that regurgitates these general interests of the military. Whether it is uniformity, discipline, sacrifice, or "stripping the individuality" of each recruit to orient them into the team mentality required of a Marine, Col. Jeppe's statement never ventures from the general to the particular. The Government nowhere offers the Court concrete evidence that can reasonably show why forcing Plaintiffs to shave their beards would *actually* defy these general interests during recruit training.

When pressed for something more in oral argument at the injunction stage, the government merely fell back on the distinction Col. Jeppe made between the Marines and the other branches of the service that *do allow* Sikhs to wear their beards and turbans: because the Marines are the nation's "chief expeditionary force," that means they are deserving of *more* deference when asserting these military principles.[18] But just as principles themselves are inadequate to show why a burden

[18] Oral Argument for Injunction Pending Appeal [DN 1970262].

on plaintiffs' religion is necessary, so too is the Corps' "expeditionary force" justification. Aside from being irrelevant to plaintiffs' request, this logic amounts to just another vague assertion that cannot pass strict scrutiny. That the Marines are the nation's principal expeditionary force does not begin to explain why a neatly tied beard or turban prevents a Marine from effectively serving in such a force—especially considering that the Marine Corps permits Sikhs to wear their articles of faith once they graduate from recruit training and become Marines.

At bottom, the Marines' failure to come up with anything more than general military principles to justify its burden on plaintiffs' religious exercise amounts to a request that this Court give the Marines *carte blanche* deference that leaves no room for a fact-based showing from the Sikh recruits who have qualified to attend recruit training and want to become Marines. Such deference violates RFRA because Congress required the "narrow tailoring" of any regulation burdening free exercise via the least restrictive means.

The Marine Corps' failure to provide a coherent argument that addresses how Sikhs may and do serve in every other military branch with accommodations for their religious apparel is another reason the

Court should reject the demand for excessive deference. In *Ramirez v. Collier*, a case in which the Supreme Court rejected Texas's argument for deference to a law that prohibited prayer or speech in the execution chamber, the Court noted that the Federal Government and the State of Alabama permitted such speech in the death chamber. 142 S. Ct. 1264, 1279 (2022). Although Texas acknowledged that these other jurisdictions allowed prayer in the death chamber, they merely argued that "under the circumstances in Texas's chamber, allowing speech during the execution is not feasible." *Id.* The Supreme Court appropriately noted that Texas "did not explain why" such speech would be infeasible, observing that Texas was "ask[ing] that we simply defer to their determination." *Id.* But, as in the RFRA context, such blanket deference was "not enough" under the identical least-restrictive-means test of the Religious Land Use and Institutionalized Persons Act. *Id.* The Supreme Court found "no basis" for such deference, especially given that, historically, Texas routinely allowed prison chaplains to audibly pray with the condemned during executions. *Id.* at 1279–1280.

Similar to Texas's bare assertion that a religious accommodation in the death chamber "would be infeasible" despite evidence to the contrary,

the Marine Corps, when faced with ample evidence that observant Sikhs can effectively serve in other branches of the military, simply asks the Court not to "impermissibl[y] second guess[] [its] 'professional military judgments.'"[19] The Marines have not attempted to make a particularized showing of why the accommodations afforded by the Army and the Air Force are impractical in the Marine Corps. Far from showing the Court that its restrictions on religious accommodations are "narrowly tailored" to these particular plaintiffs, the Marine Corps begs for deference for deference's sake. Like the Supreme Court in *Ramirez*, this Court should reject such a request.

B. Congress intended to prevent the types of arguments the Marine Corps advances here regarding religious attire in the military.

As discussed above, Congress has specifically addressed the wearing of religious apparel while serving in the armed forces. § 774(a). This mandate gives way only "(1) in circumstances with respect to which the Secretary determines that the wearing of the item would interfere with the performance of the member's military duties; or (2) if the

[19] Government's Response in Opposition to IPA [DN 1966895] at 14.

Secretary determines . . . that the item of apparel is not neat and conservative." *Id.* §774(b). The Corps has made no showing that either exception has been satisfied in this case. Importantly, Congress did not intend the mere nonuniform nature of religious attire to constitute an interference with a servicemember's duties: "the 'nonuniform' aspect of religious apparel should not be used as the sole basis for involving the interference with duties [exception]."[20] In other words, the fact that religious attire is by its very nature nonuniform cannot be the military's only reason for arguing that such attire interferes with the member's military duties.

Yet that is the sum and substance of the Government's argument in this case. Col. Jeppe's declaration offers no specific military duty with which a Sikh turban or beard would interfere. Rather, he argues merely that such articles are not part of the Marine uniform and that deviation from uniformity would impair other Marine objectives.[21] This explanation provides no concrete reason Sikh attire would interfere with

[20] H.R. Rep. No. 100-446, at 638 (1987) (Conf. Rep.).

[21] Jeppe Declaration, No. 1:22-cv-01004-RJL, DN 35-1.

one's military duty or is otherwise not neat and conservative. In light of § 774, Col. Jeppe and the Marines' "uniformity" arguments cannot be the only basis for restricting plaintiffs' religious exercise. Moreover, allowing accommodations here cannot be contrary to the "public interest" or constitute a "compelling interest" of the Government when Congress has already stated that it is federal policy to allow Sikh turbans. Because Respondents cannot cite anything more specific or relevant than the fact that beards and turbans would detract from the uniform requirements, the Court should reject the Government's position as a matter of law.

III. An adverse decision would lead to harsh consequences for *amici* and other people of faith in the military.

An adverse decision in this case would further limit the opportunities for religious persons to participate freely and equally in the U.S. military. As government's counsel conceded during oral argument at the preliminary injunction phase, yarmulkes are still not permitted to be worn during Marine recruit training,[22] despite the plain intent of § 774 and the fact that yarmulkes are allowed in most other branches of the service.

[22] Oral Argument for Injunction Pending Appeal [DN 1970262].

American Jews have volunteered to enlist in the military at the same rate as other Americans. Thousands have fought in the nearly two-decades-long wars in the wake of the 9/11 attacks. In 2017, "15,000 American Jews serve[d] on active duty, and an additional 5,000 serve[d] in the Guard and the Reserves."[23] Jewish Americans have served their country with honor in uniform while still being widely permitted to wear their yarmulkes, observe *mitzvo* and *Shabbat*, keep kosher, and have time off to celebrate holidays like *Yom Kippur*.[24] A decision by this Court that the religious freedom of Sikh plaintiffs must surrender to inflexible grooming and uniform requirements would jeopardize the hopes of many observant Jews (and others) who want to join the Marine Corps and other branches. And such a ruling would reverse the trend across the military of granting religious accommodations. Even though yarmulkes are not permitted during recruit training, the Marine Corps does generally

[23] Anna Selman, *Truth About American Jewish Military Service*, ATLANTA JEWISH TIMES (December 4, 2017, 3:04 PM), https://www.atlantajewishtimes.com/truth-about-american-jewish-military-service/.

[24] Chanie Brod, *Kosher Combat*, KOSHER CERTIFICATION (May 2, 2016), https://www.ok.org/article/kosher-combat/.

accommodate kosher and halal meals. These accommodations are examples of how the Corps' "common experience" arguments have already yielded to federal law—without a resulting loss in cohesion, discipline, or national security. Additionally, the Corps allows for worship on Sundays and has a chapel on base during recruit training—accommodations which have long been made for majority faiths like Christianity.

Absent judicial correction, the Marine Corps will continue to restrict basic religious practices. Whether it concerns Muslim women wearing the hijab, Sikhs, observant Jews or others, the challenges that these men and women will encounter will compound across all military ranks. To the extent the military believes, based on objective evidence and not speculative assertion, that a particular practice is inconsistent with military activities, the government can attempt to make that showing under the high standard demanded by law. Otherwise, no American should have to confront the unnecessary dilemma of choosing between religion or country when accommodations are available and legally required. *Amici* urge the Court to preserve the right to serve while honoring the tenets of faith.

CONCLUSION

For the reasons set forth above, the Court should find for the Plaintiffs-Appellants on the merits and allow them to participate in Marine Corps bootcamp consistent with the First Amendment and federal statute.

Respectfully submitted,

October 28, 2022

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CERTIFICATE OF COMPLIANCE

I hereby certify that this brief complies with the type-volume limitation of Federal Rule of Appellate Procedure 29(a)(5) and 32(a)(7)(B) because this brief contains 4,147 words, excluding the parts of the brief exempted by Fed. R. App. P. 32(f) and Circuit Rule 32(e)(1).

The brief complies with the typeface requirements of Fed. R. App. P. 32(a)(5) and type-style requirements of Fed. R. App. P. 32(a)(6) because the brief has been prepared in a proportionately spaced typeface using Microsoft Office Word in 14-point Century Schoolbook font.

Respectfully submitted,

/s/David S. Petron
David S. Petron

Dated: October 28, 2022

CERTIFICATE OF SERVICE

I, David S. Petron, hereby certify that on October 28, 2022, I served a true and correct copy of this brief on all parties of record via CM/ECF.

/s/David S. Petron
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