IN THE DISTRICT COURT OF APPEAL
SIXTH DISTRICT OF FLORIDA

Case No. 6D2024-1080
FCHR Case No. 2023-38313

CHRISTIAN MARIN,

Appellant,

v.

NEMOURS CHILDREN'S HOSPITAL
a/k/a THE NEMOURS
FOUNDATION,

Appellee.
_____/

MOTION FOR LEAVE TO FILE AMICUS BRIEF

Pursuant to Florida Rule of Appellate Procedure 9.370, THE KING'S ACADEMY ("TKA") moves this Court for leave to file the attached *Amicus Curiae* Brief in this case, and in support states:

1. **Movant's Interest**: TKA is a private, non-profit, college preparatory, non-denominational Christian grade school offering prekindergarten through twelfth grade education located in West Palm Beach, Florida. TKA's express mission is "to share salvation through Jesus Christ and to graduate Christian leaders who seek to impact their world for the King of kings through academic excellence

and spiritual vitality." This appeal concerns whether an employer violated the Florida Civil Rights Act ("FCRA") by terminating an employee who refused a COVID-19 vaccine mandate based on religious objections involving Christian beliefs. TKA seeks leave to file an amicus brief because the issues presented in this appeal directly affect the scope of religious accommodations in the workplace—specifically what protections employees are afforded under the FCRA.

TKA's interest in this appeal arises directly from its experience during the COVID-19 pandemic. During the pandemic, TKA opposed rules issued by the Occupational Safety and Health Administration ("OSHA") that would have required TKA employees to get vaccinated or undergo weekly testing. While some employees chose to be vaccinated, roughly sixty percent of faculty and staff expressed religious objections to receiving the vaccine. Many employees' religious objections were based on the use of abortion-derived fetal tissue in the development or testing of the vaccines. While not requiring vaccines, TKA took many precautions during the pandemic to ensure safety, including but not limited to masking employees, daily temperature checks, enhanced cleaning, ozone-infrared-HEPA filter ACs, and plexiglass dividers.

2. **Particular Issues Movant Will Address & How Movant Can Assist This Court**: TKA seeks leave to file an amicus brief to assist the Court in clarifying the scope of religious accommodations employers must provide under the FCRA. The decision in this case could have direct and significant implications for TKA and its employees, as well as similarly situated religious employers. TKA's experience managing religious accommodation requests during the pandemic, while maintaining a safe educational environment for students, provides this Court with a real-world context for evaluating this issue. As both a religious institution with its own First Amendment interests and an employer subject to FCRA requirements, TKA offers a unique perspective on balancing these competing considerations.

3. **Certificate of Consultation:** The undersigned certify conferral with counsel for Appellant and counsel for Appellee, and is authorized to represent that the parties do not oppose the relief requested in this motion.

WHEREFORE, TKA respectfully moves this Court for an order granting it leave to file the attached *Amicus Curiae* Brief and accepting it as timely filed.

Respectfully submitted,

/s/ Amber S. Nunnally

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CERTIFICATE OF SERVICE

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CHRISTIAN MARIN,

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Appellee.

BRIEF OF *AMICUS CURIAE* THE KING'S ACADEMY IN SUPPORT OF NEITHER PARTY

ON APPEAL FROM A FINAL ORDER OF THE
FLORIDA COMMISSION ON HUMAN RELATIONS

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IDENTITY AND INTEREST OF AMICUS CURIAE

The King's Academy, Inc. (TKA) is a non-profit, non-denominational private Christian school in West Palm Beach, Florida, serving students from preschool through twelfth grade. TKA offers its 2,000 students a distinctively Christian, world-class education through a staff of 350 employees committed to its religious mission. TKA operates independently of any church and employs staff and enrolls students from differing Christian beliefs.

TKA's interest in this appeal arises directly from its experience during the COVID-19 pandemic. During the pandemic, TKA opposed the Occupational Safety and Health Administration (OSHA)'s Emergency Temporary Standard that would have required TKA staff to receive a vaccination or submit to testing weekly. Although many of TKA's staff chose to receive the vaccine, several employees objected on religious grounds because of the use of abortion-derived fetal tissue in the development and testing of the vaccine.

To protect its employees and students whose parents held similar religious objections to vaccine mandates, TKA participated in lawsuits challenging OSHA's Emergency Temporary Standard before the United States Courts of Appeals for the Eleventh and Sixth

Circuits. *See In re: MCP No. 165 OSHA Rule on COVID-19 Vaccination & Testing, 86 Fed. Reg. 61402*, No. 21-7000 (6th Cir. 2021); *Florida v. OSHA*, No. 21-13866 (11th Cir. 2021). TKA's experience in the OSHA litigation and in managing religious accommodation requests, while maintaining a safe educational environment for students and staff, will provide this Court with a real-world context for evaluating the important constitutional issue raised in this appeal. Accordingly, TKA files this amicus brief to clarify the protections the Florida Civil Rights Act affords employees who seek religious accommodations from health-related mandates.[1]

[1] TKA is represented in this matter by the First Amendment Clinics at Florida State University College of Law and Duke University Law School. Law students from FSU and Duke contributed to the research and drafting of the arguments in this amicus brief.

INTRODUCTION

"Freedom of thought, which includes freedom of religious belief, is basic in a society of free men." *United States v. Ballard*, 322 U.S. 78, 86 (1944). The Free Exercise Clause of the First Amendment protects the cherished right of citizens to believe in and to practice their religions. *See Cantwell v. Connecticut*, 310 U.S. 296, 303 (1940). Congress and the Florida Legislature have extended the protection of the Free Exercise Clause to employees in private workplaces. Employees do not shed their religious beliefs at the office door. Rather, the law protects their rights to honor their deeply held beliefs at work, so that they can live and work consistent with their faith, without fear of discrimination or retaliation.

This amicus brief addresses a narrow but recurring error in religious-accommodation cases under the Florida Civil Rights Act (FCRA): the conflation of a permissible inquiry into whether an employee's stated religious belief *conflicts* with an employment requirement, and an impermissible inquiry into whether the belief's underlying factual premise is *true, reasonable, or theologically sound*.

Florida law, like federal law, permits employers and courts to assess whether a claimed religious belief is sincerely held and

whether it conflicts with a workplace policy. What it does not permit—under the First Amendment, Title VII of the Civil Rights Act of 1964 (Title VII), or the FCRA—is adjudicating the correctness of the belief or conditioning statutory protection on whether the employer agrees with the believer's understanding of the world.

The decision below crossed that line. Rather than asking whether Appellant Marin sincerely held a religious belief that, as he understood it, conflicted with the employer's vaccination policy, the Florida Commission on Human Relations (FCHR) evaluated whether Marin's religious objection rested on a factually accurate premise regarding vaccine development and testing. That approach is incompatible with settled constitutional principles and with the interpretive framework Florida courts apply when construing the FCRA.

Because the FCRA was patterned on Title VII, and because Florida courts routinely look to federal law for guidance in applying it, this Court should reaffirm a clear rule: religious-accommodation analysis turns on sincerity and conflict—not on judicial or employer assessment of the "truth of religious belief."

SUMMARY OF ARGUMENT

Because the FCRA mirrors Title VII in relevant respects, Florida courts have long and properly looked to federal Title VII for guidance, particularly with respect to claims involving religious discrimination. Under the governing federal standards, employers and courts are permitted to assess whether an employee's asserted belief is sincerely held and whether it conflicts with an employment requirement. That inquiry, however, is limited. Neither employers nor courts may evaluate the truth, correctness, or reasonableness of a religious belief. The law protects sincerely held beliefs even when they are unconventional or mistaken.

In adjudicating claims alleging the wrongful denial of a religious accommodation, courts must focus on sincerity and conflict, not accuracy. Courts may not weigh the soundness of a belief, inquire into its reasonableness, or resolve disputed factual issues by testing religious truth.

In line with the First Amendment, TKA requests that this Court reaffirm that presumptions favor free exercise and that disagreement with an employee's factual understanding cannot justify denying a religious accommodation.

ARGUMENT

I. FLORIDA COURTS PROPERLY LOOK TO TITLE VII WHEN INTERPRETING FCRA'S PROTECTION FOR RELIGIOUS BELIEFS.

A. Florida courts apply the Title VII framework for FCRA claims.

Federal and state law provide specific safeguards for workplace religious freedom. The FCRA is modeled after Title VII. Both statutes prohibit discrimination based on religion, but at least one distinction between the two is relevant here: Title VII expressly defines "religion" to include "all aspects of religious observance and practice, as well as belief," 42 U.S.C. § 2000e(j), whereas the FCRA contains no definition of religion. This omission in the FCRA raises important questions about the scope and interpretation of religious protections under Florida law.

When Florida statutes are patterned after federal law, Florida courts construe such statutes consistently with federal interpretation. *See State v. Jackson*, 650 So. 2d 24, 27 (Fla. 1995). "Florida courts have held that decisions construing Title VII are applicable when considering claims under the [FCRA] because the Florida act was patterned after Title VII." *Harper v. Blockbuster Ent. Corp.*, 139 F.3d 1385, 1387 (11th Cir. 1998) (citations omitted).

Florida's appellate courts have uniformly applied Title VII precedent across diverse FCRA claims, including racial discrimination and retaliation. *See generally Roberson v. City of Pompano Beach*, 406 So. 3d 250, 255-56 (Fla. 4th DCA 2025); *Washington v. Fla. Dep't of Revenue*, 337 So. 3d 502, 511 (Fla. 1st DCA 2022); *Carter v. Health Mgmt. Assocs.*, 989 So. 2d 1258 (Fla. 2d DCA 2008); *Hinton v. Supervision Int'l, Inc.*, 942 So. 2d 986, 990 (Fla. 5th DCA 2006); *Russell v. KSL Hotel Corp.*, 887 So. 2d 372, 379 (Fla. 3d DCA 2004).

B. In the absence of binding precedent, case law interpreting an analogous Florida statute is instructive.

Florida appellate courts have considered religious-discrimination claims under Title VII or the FCRA in only a handful of cases, and have never addressed a claim under either of those statutes for an employee's religious *accommodation* denied by an employer. Two cases involving employment-religious-discrimination claims brought under the FCRA—*Richardson v. Recreational Vehicle Park Management, LLC*, 330 So. 3d 104 (Fla. 1st DCA 2021) and *Hines v. Whataburger Restaurants, LLC*, 301 So. 3d 473 (Fla. 1st DCA 2020)—consider only the timeliness of the claims. Neither touches on

the merits of the employment-discrimination FCRA claims involved. *See Richardson*, 330 So. 3d at 105-107; *Hines*, 301 So. 3d at 474-76.

A third case—*Florida Department of Children and Families v. Shapiro*, 68 So. 3d 298 (Fla. 4th DCA 2011)—does involve a substantive examination of a claim of religious discrimination under FCRA but does not involve a religious-accommodation claim. *Shapiro*, *Hines*, and *Richardson* are the only three Florida appellate cases addressing a Title VII or FCRA claim for religious discrimination in employment. Because none of these three cases consider a claim like Appellant's, this Court may look to analogous authority.

One prior Florida appellate case considers religious accommodation in the employment context, albeit under a different statute. In *Kenny v. Ambulatory Centre of Miami, Florida, Inc.*, 400 So. 2d 1262, 1263 (Fla. 3d DCA 1981), the Third District addressed a nurse's request for a religious accommodation from assisting in abortion procedures at the medical facility where she worked.[2] In

[2] The nurse's request was made pursuant to a statute granting employees a right to refuse to participate in an abortion procedure on moral or religious grounds and prohibiting employers from taking action against an employee for the refusal. *Kenny*, 400 So. 2d at 1263 (construing § 458.22(5), Fla. Stat. (1977)). That statute is now found at section 390.0111(8), Florida Statutes.

determining whether the employer would face an undue hardship in accommodating the employee nurse, the Third District considered the standard used for claims under Title VII. *Id.* at 1264. After comparing the Title VII standard with alternatives from other states, the Third District determined that the federal standard was the correct metric for evaluating undue hardship for religious accommodations under the statute at issue. *Id.* at 1266 ("We therefore adopt the requirement that an employer must reasonably accommodate an employee's religious practices unless he establishes that he would suffer undue hardship.").

The Third District's decision in *Kenny* bears weight here for two reasons. First, the employee's situation in *Kenny* is comparable to that of Appellant; both cases involve (i) hospital employees seeking relief from an employer command based on religious opposition to abortion and (ii) disputes over claims for religious accommodation that the employers believed would pose undue hardship.

Second, the connection *Kenny* draws between the Florida statute and Title VII is instructive in this case. The Third District in *Kenny* applied a component of the federal Title VII standard for religious accommodation despite the Florida statute sharing no

language with Title VII and only concerning a prohibition on employers disciplining medical personnel for objecting to participating in abortion on religious grounds. The Third District based its decision to use the Title VII standard after "evaluation of the [undisclosed] alternatives," believing it to be more workable than a "stringent standard of disallowing discrimination regardless of the cost." *Kenny*, 400 So. 2d at 1266. While the Third District does not discuss it, part of its decision to apply Title VII standards likely related to the overlap in protection between the two statutes, where the appellant in *Kenny* may have had a religious accommodation claim under Title VII in addition to her claim under Florida law. *Id.* at 1264. The willingness of the Third District to apply Title VII standards based upon the thematic overlap in the statutory goals of protecting against religious discrimination in the workplace demonstrates the ease of doing the same for the FCRA. Of course, the overlap between Title VII and the FCRA is much broader than with the statute in *Kenny*, given that the FCRA was originally patterned expressly after Title VII. Additionally, because both the statute in *Kenny* and the FCRA seek to protect employees from religious

discrimination in the workplace—yet neither defines religion—this may suggest that Title VII can properly fill the void.

C. Even where the FCRA's text differs, Title VII principles properly fill-in any statutory gaps.

The text of the FCRA diverges from Title VII in one relevant aspect: the statutory definition of religion. Title VII provides an explicit definition of religion, stating "the term 'religion' includes all aspects of religious observance and practice, as well as belief, unless an employer demonstrates that he is unable to reasonably accommodate an employee's or prospective employee's religious observance or practice without undue hardship on the conduct of the employer's business." 42 U.S.C. § 2000e(j). By contrast, the FCRA includes no definition of religion in its definitional provisions. *See* § 760.02, Fla. Stat. (2021). This textual omission creates an interpretive question that no Florida court has yet addressed.

The significance of this omission must be evaluated through the lens of statutory-interpretation principles, particularly the negative-implication canon. The negative-implication canon, or *expressio unius est exclusio alterius*, provides that "the expression of one thing implies the exclusion of others." Antonin Scalia & Bryan A. Garner,

Reading Law: The Interpretation of Legal Texts 107 (2012). Florida courts emphasize that this canon "must be applied with great caution, since its application depends so much on context." *Alachua County v. Watson*, 333 So. 3d 162, 172 (Fla. 2022); s*ee also S. Marion Real Est. Holdings, LLC v. Fla. Gaming Control Comm'n*, 387 So. 3d 1246, 1251 (Fla. 5th DCA 2024) ("'Context establishes the conditions for applying' the negative-implication canon." (quoting Scalia & Garner, *Reading Law*, at 107)). In examining context, courts look to whether the Legislature used specific terms in some statutory provisions but omitted them from others, as such omissions may indicate intentional exclusion. *See Paese v. State*, 381 So. 3d 4, 18 (Fla. 4th DCA 2024) (The court "will not imply [the term] where it has been excluded." (quoting *Leisure Roberts, Inc. v. Frank J. Rooney, Inc.*, 654 So. 2d 911, 914 (Fla. 1995))).

Courts apply the canon when the text of the statute appears to enumerate an exhaustive list. *See, e.g.*, *Gabriji, LLC v. Hollywood E., LLC*, 304 So. 3d 346, 351 (Fla. 4th DCA 2020) (holding that the Legislature's enumeration of specific undefined categories implies exclusion of other equitable lien claims); *State v. Sanchez*, 133 So. 3d 1038, 1040-41 (Fla. 4th DCA 2014) (holding that the defendant, a

licensed medical assistant and nurse practitioner, did not fall within the enumerated categories of the statute, even though the categories were undefined). But courts reject the canon when applying it would undermine the entirety of statutory provisions taken as a whole or when a list appears to be illustrative. *See Watson*, 333 So. 3d at 171-72 ("[The negative-implication canon] does not supply the meaning of that provision in the context of the whole text at issue."); *S. Marion Real Est. Holdings*, 387 So. 3d at 1250-51 (rejecting the canon where enumerated provisions appeared illustrative of specific concerns, not exhaustive limit on general regulatory authority).

When Florida statutes are patterned after federal law, the application of the negative-implication canon becomes more complex. Florida courts have established that such statutes should be construed consistently with federal interpretation. *See Harper*, 139 F.3d at 1387; s*ee Carsillo v. City of Lake Worth*, 995 So. 2d 1118, 1119 (Fla. 4th DCA 2008) ("[I]f a Florida statute is patterned after a federal law, the Florida statute will be given the same construction as the federal courts give the federal act."). This principle of parallel construction generally limits the force of the negative-implication canon in the FCRA context.

Two cases illustrate this principle. In *Delva v. Continental Group*, 137 So. 3d 371 (Fla. 2014), the Florida Supreme Court addressed whether Florida's failure to amend the FCRA after the federal Pregnancy Discrimination Act of 1978 (PDA) indicated legislative intent to exclude pregnancy discrimination. *Id.* at 373-75. Although Florida had enacted language identical to Title VII prohibiting sex discrimination, it did not amend the FCRA when Congress passed the PDA to explicitly cover pregnancy discrimination under Title VII. *Id.* The defendant argued that Florida's failure to amend the FCRA after the PDA expressed legislative intent to not protect pregnancy discrimination—essentially invoking the negative-implication canon to argue that Florida's silence implied exclusion. *Id.* at 373; *see also Carsillo,* 995 So. 2d at 1120-21 (defendant made similar arguments in parallel case). The Supreme Court disagreed, holding that FCRA's prohibition on sex discrimination includes pregnancy discrimination, despite lacking an explicit amendment. *Delva*, 137 So. 3d at 374-75.

Similarly, in *State v. Jackson*, both Florida and federal wiretap statutes explicitly excluded "tone-only pag[ing] devices" from protection but were silent on digital display pagers. 650 So. 2d at 27-

28. The State argued that because digital display pagers were not explicitly mentioned, they fell outside wiretap protection. *Id.* at 26. Again, the Supreme Court disagreed, holding that digital display pagers require full wiretap procedures despite not being explicitly mentioned in the statute. *Id.* at 28-29. The Court reiterated that "the Florida law will be accorded the same construction as given to the federal act in the federal courts." *Id.* at 27.

These cases suggest that the principle of uniform construction generally prevails over the negative-implication canon when interpreting the FCRA. Florida courts construe state statutes consistently with federal laws they are patterned after, even when Florida has not explicitly adopted subsequent federal amendments (as in *Delva*) or when both statutes maintain parallel silence (as in *Jackson*). The same approach here would weigh against arguments that the statutory omissions of a definition of "religion" warrants interpreting the FCRA's scope differently than Title VII's.

To be sure, the interpretative significance of this textual deviation remains an open question. While the general principle that Florida courts construe the FCRA consistently with Title VII suggests courts might read Title VII's definition of religion into the FCRA

despite its absence, *see Harper*, 139 F.3d at 1387, the negative-implication canon recognizes that legislative omissions can be meaningful. For example, this case presents a materially different statutory posture than those addressed in *Delva* or *Jackson*. In *Delva*, Florida simply failed to amend its statute after federal changes. 137 So. 3d at 375-76. In *Jackson*, both statutes were equally silent. 659 So. 2d at 27. Here, by contrast, Florida enacted its own definitional provisions in the FCRA, but excluded a definition for religion that Title VII's definitional section explicitly includes. That structural choice may indicate intent to provide broader protections than the federal floor.

Whether the negative-implication canon applies to the textual divergence in the FCRA's definitional provisions relating to religion is a question no Florida court has yet confronted. How this Court resolves this interpretive gap will determine the scope of religious protections available under the FCRA. The United States Supreme Court has made clear that federal antidiscrimination statutes establish baseline protections, not a ceiling. *Cal. Fed. Sav. & Loan Ass'n v. Guerra*, 479 U.S. 272, 285-86 (1987) (explaining that Congress intended the PDA to operate as a minimum guarantee and

holding that state laws providing greater protections are not preempted by Title VII). States remain free to supplement federal protections with greater safeguards through their own laws. *Id.* What states may not do, however, is fall below the federal floor. *Id.*

In short, neither the FCRA's text nor Florida's rules of statutory construction require narrowing religious-accommodation protections below the federal baseline established by Title VII. Because the FCRA is patterned after Title VII and Florida courts apply parallel construction, the absence of a statutory definition of "religion" in the FCRA does not justify a more restrictive interpretation. At minimum, Title VII supplies the governing framework and federal floor; at most, the FCRA affords broader protection. Any interpretive gap is appropriately filled by applying Title VII's settled principles in favor promoting religious liberty and the administrability of FCRA claims.

II. EMPLOYERS AND COURTS MAY ASSESS SINCERITY AND CONFLICT, BUT MUST NOT ADJUDICATE THE TRUTH OR REASONABLENESS OF RELIGIOUS BELIEF.

To succeed on a Title VII failure-to-accommodate claim, employees must establish that they (1) hold a bona fide religious belief that conflicts with an employment requirement; (2) informed their employer of that belief; and (3) were discharged for failing to

comply with the conflicting employment requirement. *Dixon v. Hallmark Cos.*, 627 F.3d 849, 855 (11th Cir. 2010). Once an employee has successfully established a prima facie case of a sincere religious belief that conflicts with the employer's requirement, the burden shifts to the employer to show either (1) that it provided a reasonable accommodation, or (2) that it could not do so without undue hardship. *See id.* at 856 (first citing 42 U.S.C. § 2000e(j); and then citing *Morrissette–Brown*, 506 F.3d at 1321)). If the employer fails to make such a showing, it must provide reasonable accommodations to the employee. *Scafidi v. B. Braun Med., Inc.*, 713 F. Supp. 3d 1231, 1243 (M.D. Fla. 2024).

The First Amendment requires employers and courts to exercise a limited role in evaluating whether an employee is entitled to a religious accommodation. *See Thomas v. Rev. Bd. of Ind. Emp. Sec. Div.*, 450 U.S. 707, 716 (1981) ("Particularly in this sensitive area, it is not within the judicial function and judicial competence to inquire whether the petitioner or his fellow worker more correctly perceived the commands of their common faith. Courts are not arbiters of scriptural interpretation."). At each step of the inquiry, they must walk a fine line to avoid straying into an evaluation of whether an

employee's religious view is valid or reasonable. *See, e.g., United States v. Seeger*, 380 U.S. 163, 184-85 (1965) (explaining courts cannot examine if a religious view is "valid" but can examine if it is "sincere"); *EEOC v. Consol Energy, Inc.*, 860 F.3d 131, 142 (4th Cir. 2017) (affirming refusal to grant employer's motion for judgment as a matter of law where employer's failure to recognize the existence of a conflict was the result of its "conviction that [the employee's] religious beliefs, though sincere, are mistaken"). These principles establish a clear constitutional boundary in evaluating FCRA claims: factual inquiries must be narrow to protect the employee's free exercise while preventing undue hardship on the employer.

A. The sincerity of an employee's religious belief is properly subject to fact-finding.

"To qualify as a 'bona fide' religious belief, the belief must be 'sincerely held' and, 'in the [believer's] own scheme of things, religious.'" *Scafidi v. B. Braun Med., Inc.*, 713 F. Supp. 3d 1231, 1241 (M.D. Fla. 2024) (quoting *Telfair v. Fed. Exp. Corp.*, 934 F. Supp. 2d 1368, 1382 (S.D. Fla. 2013)); *see also Seeger*, 380 U.S. at 185. While "some inquiry into the sincerity of an employee's belief as well as into the religious nature of the belief is appropriate," *EEOC v. Papin*

Enters., Inc., No. 6:07CV1548ORL28GJK, 2009 WL 2256023, at *4 (M.D. Fla. July 28, 2009), the inquiry is "delicate." *Wisconsin v. Yoder*, 406 U.S. 205, 215–16 (1972).

An employer must evaluate an employee's statement of religious beliefs with the understanding that employees may struggle to express their beliefs and should not be discounted if they "are not articulated with the clarity and precision that a more sophisticated person might employ." *Thomas*, 450 U.S. at 715 (explaining that courts and agencies must defer to an employee's sincerely held religious beliefs as the employee understands them, and forbids the government from reinterpreting, minimizing, or second-guessing those beliefs); *Adeyeye v. Heartland Sweeteners, LLC*, 721 F.3d 444, 450 (7th Cir. 2013) (noting that the employer must be "alert enough to grasp that the request is religious in nature" and, if uncertain, ask the employee to clarify).

An employer may not act as an arbiter of religious meaning. The employer may not deny accommodation on the ground that the employee misunderstands, misapplies, or overstates the factual predicates that inform his religious conviction. *See Ballard*, 322 U.S. at 86 ("Men may believe what they cannot prove. They may not be

put to the proof of their religious doctrines or beliefs. Religious experiences which are as real as life to some may be incomprehensible to others."); *see also Seeger*, 380 U.S. at 184-85 (explaining that "[l]ocal boards and courts . . . are not free to reject beliefs because they consider them 'incomprehensible'" and "the 'truth' of a belief is not open to question"). Any analysis as to the correctness or reasonableness of an employee's sincerely held religious belief is beyond the scope of what is permitted under Title VII and the First Amendment. *See Bolden-Hardge v. Off. of Cal. State Controller*, 63 F.4th 1215, 1223 (9th Cir. 2023); *Church of Scientology Flag Serv. Org., Inc. v. City of Clearwater*, 2 F.3d 1514, 1545 (11th Cir. 1993) ("The First Amendment precludes civil authorities from evaluating the truth or falsity of religious beliefs." (citing *Ballard*, 322 U.S. at 85-88)).

With these principles in mind, the employer may engage in limited fact-finding to assess the sincerity of an employee's professed religious belief.

1. An employer may inquire if the belief is merely personal, scientific, or medical rather than religious.

Title VII protects "all aspects of religious observance and practice, as well as belief," but the statute does not transform every strongly held conviction into a protected religious belief. *See* 42 U.S.C. § 2000e(j). Accordingly, employers may, and sometimes must, distinguish between religious objections and secular preferences.

Courts have struggled to articulate a definition of religious beliefs, as opposed to personal or secular beliefs, that permits them to identify and protect religious beliefs without violating the structure that no court should inquire into the validity or plausibility of a belief. *Seeger*, 380 U.S. at 185. The Third Circuit uses the following definition:

> First, a religion addresses fundamental and ultimate questions having to do with deep and imponderable matters. Second, a religion is comprehensive in nature; it consists of a belief-system as opposed to an isolated teaching. Third, a religion often can be recognized by the presence of certain formal and external signs.

Africa v. Pennsylvania, 662 F.2d 1025, 1032 (3d Cir. 1981) (citation omitted).

Applying this test to a vaccine-mandate case, the Third Circuit determined that the employee's objection to a flu vaccine was

personal in nature, not religious, and therefore not protected by Title VII. *Fallon v. Mercy Cath. Med. Ctr. of Se. Pa.,* 877 F.3d 487, 490-92 (3d Cir. 2017). There, the employee opposed a flu vaccine because he believed it might "do more harm than good." *Id.* at 488. Employers may deny Title VII religious accommodations when the employee's objection is a medical or scientific judgment or a generalized personal philosophy, rather than a religious belief. *Id.* at 491 (quoting *Africa*, 662 F.2d at 1032). However, a religious belief does not lose its protected status merely because it is articulated alongside, or intertwined with, personal, medical, or other secular considerations; an objection may be religious even if it is "based at least in part" on nonreligious reasons. *See Passarella v. Aspirus, Inc.*, 108 F.4th 1005, 1007 (7th Cir. 2004).

At the same time, employers must not collapse the "religious nature" inquiry into an impermissible assessment of religious plausibility. The cautionary counterexample is the funeral rites dispute in *Adeyeye*, in which the employee requested unpaid time off to go to Nigeria for his father's funeral, stating "that if he failed to lead the burial rites, he and his family members would suffer at least spiritual death." 721 F.3d at 447. While the employer was unfamiliar

with the month-long burial ritual, which included animal sacrifice and the employee cutting off his mother's hair, it was not entitled to decide that it was not a religious ceremony. *Id.*

Title VII protects sincerely held religious beliefs even if the employer finds them unusual, culturally unfamiliar, or not aligned with the employer's understanding of what a major religion "permits." *See id.* at 448 (invoking *Seeger*'s prohibition on questioning "validity"). Put differently, employers may treat objections that rest on medical, scientific, or secular judgements, as nonreligious, but they may not deem a belief "not religious" merely because it is unfamiliar, culturally atypical, or not grounded in orthodox doctrine. *Compare Fallon,* 877 F.3d at 492 (holding that an employee's opposition to vaccination based on concerns that the flu shot "may do more harm than good" was a medical belief, not a religious one) with *Adeyeye*, 721 F.3d at 449-50 (explaining that Title VII protects sincerely held religious beliefs even when an employer finds the practices unusual and reiterating that courts may not question the "validity" of an employee's religious beliefs).

Finally, the pleading-stage cases show that where an employee plausibly alleges the belief is religious, *e.g.*, grounded in prayer,

divine command, or a religious prohibition, courts frequently treat that as sufficient at the outset, leaving sincerity disputes to a developed record. *See Mumin v. City of New York*, No. 1:23-cv-03932 (JLR), 2025 WL 2733229, at *6 (S.D.N.Y. Sep. 25, 2025) (explaining that at the motion-to-dismiss stage, the court asks simply whether plaintiff's alleged beliefs "stem from religious convictions," and finding the allegations sufficient). The key takeaway from this discussion is this: if the employee's objection contains religious markers and an articulated conflict, the employer may not issue a categorical denial based on its own assessment of what the employee's religion "permits" or "forbids."

2. *An employer may use objective factors to test an employee's sincerity, but may not act as an arbiter of religious beliefs.*

Sincerity review by the decisionmaker is deferential by design; it asks whether the employee is speaking in good faith and consistently, not whether the employee has produced an exhaustive account of what the faith requires. Still, neither courts nor employers are required to accept a purely conclusory invocation of religion untethered to any explained conflict or belief system. *See Dronov v. Kaiser Found. Hosps.*, No. 3:23-CV-1496-SI, 2025 WL 2501101, at *5

(D. Or. Aug. 29, 2025) (dismissing claims based on conclusory allegations that failed to identify an actual conflict between a religious belief and a vaccination mandate). An employer may evaluate sincerity as a credibility question using neutral indicators.

First, employers may consider the consistency of an employee's behavior and whether the employee's behavior and explanation are stable over time or instead appear opportunistic. Vaccine-mandate cases show that courts have credited sincerity allegations where the employee describes concrete practices, for example, prayer-based decisionmaking or a long-standing avoidance of vaccination. *See Dickhudt v. COBX Co.*, No. 2:22-CV-12838-TGB-DRG, 2024 WL 4235470, at *3 (E.D. Mich. Sep. 19, 2024) (summarizing allegations that Plaintiff "seeks to make all decisions . . . through prayer," that "God answered her prayers by instructing her to refuse," and that she acted accordingly); *Escamilla v. Blue Cross Blue Shield of Mich.*, No. 23-cv-10279, 2024 WL 2724158, at *3 (E.D. Mich. May 28, 2024) (finding plausibility where plaintiff alleged a sustained practice of making medical decisions through prayer and articulated how that practice informed her refusal).

Second, employers may also ask for a non-doctrinal explanation of the conflict, enough to understand what the belief requires and how it conflicts with the job requirement, without demanding clergy corroboration or a formal tenet.[3] But employees need not identify a specific denominational rule guiding their practice; it can be sufficient to allege "she prayed, she received an answer, she acted accordingly[.]" *Dickhudt*, 2024 WL 4235470, at *3 (citation omitted). Likewise, an objection to vaccines can be grounded in religious prohibitions relating to fetal cell lines, prayer, or the body-as-a-temple concept when pleaded with some factual detail. *See Mumin*, 2025 WL 2733229, at *5 (finding allegations, though "thinly pleaded," sufficient where plaintiff plausibly alleged her beliefs stemmed from religious convictions, including objection to vaccines tested, developed, or produced with fetal cell lines).

Third, employers may consider the timing and context of the request as part of sincerity, again without judging the belief's validity.

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[3] *See Bilyeu v. UT-Battelle, LLC*, 154 F.4th 396, 407 (6th Cir. 2025) (explaining that under Title VII, an employer may not interrogate employee to defend their religious belief or subject them to re-education efforts aimed at pressuring employee to abandon or alter those beliefs).

Thomas, 450 U.S. at 715. Title VII does not immunize purely strategic invocations of religion, but the employer's evidentiary basis must be grounded in conduct and context rather than theological disagreement. *See Adeyeye*, 721 F.3d at 448-49. For example, an employee seeking a religious accommodation for working on the Sabbath may be met with higher scrutiny when the employer has worked previously on the Sabbath without complaint and did not explain a change in his religious beliefs. *Dockery v. Maryville Acad.*, 379 F. Supp. 3d 704, 715-16 (N.D. Ill. 2019).

Finally, employers are not required to accept an employee's submission if it is purely conclusory and fails to identify an actual conflict based on a religious tenet. An employee must at least identify a religious belief and show how the belief conflicts with the employment requirement. *See DeVito v. Legacy Health*, No. 3:22-cv-01983-YY, 2024 WL 687943, at *5 (D. Or. Feb. 19, 2024) (finding that the question of whether a stated belief is truly religious or merely secular is a question for discovery).

B. Title VII applies these principles through the distinction between "validity" and "conflict."

A prima facie case of religious employment discrimination requires the employee to show that he had "a bona fide religious belief that *conflicted* with an employment requirement." *See Beadle v. Hillsborough Cnty. Sheriff's Dep't*, 29 F.3d 589, 592 n.5 (11th Cir. 1994) (emphasis added); *Bailey v. Metro Ambulance Servs.*, Inc., 992 F.3d 1265, 1275 (11th Cir. 2021). While the word "conflict" does not appear in Title VII, courts have interpreted the statute to require this objective element in religious accommodation claims. If an employee's religious belief does not actually conflict with an employer's practice, no accommodation is needed. *See, e.g.*, *Prise v. Alderwoods Grp., Inc.*, 657 F. Supp. 2d 564, 603 (W.D. Pa. 2009) ("An employer's duty to accommodate cannot arise until an actual conflict between a religious belief, observance or practice and a job-related requirement is actually presented." (citing *Wilkerson v. New Media Tech. Charter Sch., Inc.,* 522 F.3d 315, 319-20 (3d Cir. 2008))).

A plaintiff's "burden to allege a conflict with religious beliefs is fairly minimal." *Bolden-Hardge*, 63 F.4th at 1223 (citing *Thomas*, 450 U.S. at 715); *see also Heller v. EBB Auto Co.*, 8 F.3d 1433, 1439 (9th

Cir. 1993) ("A sensible approach would require only enough information about an employee's religious needs to permit the employer to understand the existence of a conflict between the employee's religious practices and the employer's job requirements." (citations omitted)). An employee satisfies his initial burden by making a "reasonably clear" request indicating an actual conflict with a sincerely held religious belief and a workplace mandate. *Adeyeye*, 721 F.3d at 450.

Whether an employee's religious belief conflicts with an employer's requirement is an objective inquiry that may present a question of fact. *EEOC v. Unión Independiente de la Autoridad de Acueductos y Alcantarillados de Puerto Rico*, 279 F.3d 49, 56 (1st Cir. 2002); *Adeyeye,* 721 F.3d at 448-49. But a permissible inquiry into the existence of a conflict between a religious belief and a policy is not the same as an impermissible inquiry into the reasonableness or validity of a religious belief.

This distinction was recently reaffirmed in *Gardner-Alfred v. Federal Reserve Bank of New York*, 143 F.4th 51 (2d Cir. 2025). There, the Second Circuit held that an employer erred by rejecting an employee's religious objection to a COVID-19 vaccine based on the

factual premise that the mRNA vaccines do not "contain . . . and are not manufactured with aborted fetal cell lines." *Id.* at 66 (citation omitted). The Second Circuit held that the factual premise was not dispositive; even if the employee's understanding of vaccine development was mistaken—and aborted fetal cell lines were not used in the testing or development of the vaccine—her religious objection remained legitimate, and the employer was required to consider it. *See id.* at 66-67.

The Second Circuit emphasized that "[i]t is axiomatic that 'the guarantee of free exercise is not limited to beliefs which are shared by all members of a religious sect.'" *Id.* at 65 (quoting *Thomas*, 450 U.S. at 715-16). Accordingly, it did not matter that the employee's beliefs departed from the views of church officials or were rooted in her individual conscience and personal interpretation of church teachings. *Id.* at 64-65. "What matters to the law," the court emphasized, "is whether *she* sincerely believed that the use of COVID-19 vaccines was contrary to her religious convictions." *Id.* at 65 (citation modified). The court relied on *Thomas* to reiterate that free-exercise protections do not turn on whether a belief is accurate,

reasonable, or shared by others. *Id.* (quoting *Thomas*, 450 U.S. at 715-16).

Simply put, while employers may objectively assess whether a factual conflict exists between an employee's stated belief and workplace requirements, they may not subject the belief itself to an inquiry into its accuracy, reasonableness, or theological correctness.

C. In adjudicating an employee's claim of wrongful denial of religious accommodation, courts must not weigh the accuracy of the religious belief, inquire into its reasonableness, or reframe it as secular or philosophical.

A trial court or administrative tribunal may assess an employer's determination about the sincerity of religious beliefs because that is a fact question. *See Telfair*, 934 F. Supp. 2d at 1382 ("[T]he sincerity of an employee's religious belief is a 'quintessential fact question [ ]' appropriately reserved 'for the fact finder at trial, not for the court at summary judgment.'" (quoting *Unión Independiente*, 279 F.3d at 56)). But as with an employer's inquiry, the trial court's analysis is limited to the issues of sincerity and credibility. *Papin Enters.*, 2009 WL 2256023, at *4 n.11 (noting that "[t]he relevant question is whether the belief is sincerely held as opposed to merely a personal preference" (citation omitted)); *Thomas*, 450 U.S. at 714

(A court's review of a religious belief may not "turn upon a judicial perception of the particular belief or practice in question; religious beliefs need not be acceptable, logical, consistent, or comprehensible to others in order to merit First Amendment protection."). Under the First Amendment, an individual is entitled to his or her religious beliefs—even if they are mistaken. *See Church of Scientology Flag Serv. Org.*, 2 F.3d at 1545 ("The First Amendment precludes civil authorities from evaluating the truth or falsity of religious beliefs." (citing *Ballard*, 322 U.S. at 85-88)).

A court may not engage in a factual inquiry into the reasonableness of an employee's belief. *Burwell v. Hobby Lobby Stores, Inc.*, 573 U.S. 682, 724 (2014) (explaining that "courts have no business" addressing whether a religious belief is reasonable). Nor may a court evaluate whether a specific belief fits logically into a broader religious tradition. *See Cambridge Christian Sch., Inc. v. Fla. High Sch. Athletic Ass'n, Inc.*, 942 F.3d 1215, 1248 (11th Cir. 2019) ("[C]ourts must not presume to determine the place of a particular belief in a religion or the plausibility of a religious claim." (quoting *Watts v. Fla. Int'l Univ.*, 495 F.3d 1289, 1295 (11th Cir. 2007))).

Finally, a court may not reframe a belief as secular or philosophical simply because it rests on disputed facts. *See Yoder*, 406 U.S. at 215 (providing the general rule that "to have . . . [First Amendment] protection . . . , the claims must be rooted in religious belief"). A court must recognize when beliefs are religious in nature and not construe them in another light to ease its inquiry. *See City Walk–Urban Mission Inc. v. Wakulla County*, 471 F. Supp. 3d 1268, 1281 n.13 (N.D. Fla. 2020) (noting that the court "did not substitute its secular understanding with Plaintiff's spiritual one; instead, it examined whether Plaintiff acted consistently with its purported belief").

These limitations on the role of judicial power "separat[e] the verity and sincerity of an employee's belief in order to prevent the verdict from turning on the fact finder's own idea of what a religion should resemble." *See Telfair*, 934 F. Supp. 2d at 1382 (citation and quotation marks omitted). Adhering to an objective inquiry ensures that all individuals receive full First Amendment protections. *See Flynn v. Estevez*, 221 So. 3d 1241, 1249 (Fla. 1st DCA 2017) ("We are convinced that a secular court should not be making the judgment as to which side's religious view of immunization is to be respected."

(citing *Emp. Div., Dep't of Hum. Res. of Or. v. Smith*, 494 U.S. 872, 887 (1990))).

D. An appellate court defers to a lower court's factual findings that are supported by competent, substantial evidence, but reviews legal conclusions de novo.

The appellate court's inquiry is similarly limited in scope. An appellate court defers to a lower court's findings of fact regarding the nature of an employee's belief and its sincerity when those findings are supported by competent substantial evidence. *See Freeman v. Dep't of Highway Safety & Motor Vehicles*, 924 So. 2d 48, 54 (Fla. 5th DCA 2006) (finding that because a trial court concluded that a religious belief was sincere, "no further review [was] required" by the appellate court); *Love v. Young*, 320 So. 3d 259, 260 (Fla. 1st DCA 2021) (explaining that an appellate court was not authorized to reweigh facts supported by competent, substantial evidence in a claim under the FCRA). An appellate court has no authority to reweigh the evidence presented to the lower tribunal. *See Warner v. City of Boca Raton*, 887 So. 2d 1023, 1034 n.10 (Fla. 2004) (explaining that the Florida Religious Freedom Restoration Act "clearly prohibits a reviewing court from conducting a factual inquiry which questions the validity or centrality of a plaintiff's beliefs").

As in all cases like this one, an appellate court reviews legal conclusions de novo. *See* art. V, § 21, Fla. Const. It owes no deference to legal errors, misapplication of the religious accommodation standard, or an improper inquiry into the accuracy of a religious belief. If an employer or administrative tribunal steps outside the bounds of the framework for reviewing a religious accommodation request, the appellate court must take corrective action as a matter of law.

III. THE DECISION BELOW CONVERTED A CONFLICT INQUIRY INTO A TRUTH-TESTING EXERCISE.

Applying the preceding principles to this case, the employer and the administrative tribunal failed to limit their analysis of Appellant Marin's accommodation request to the sincerity of his stated religious belief and whether that belief conflicted with the employer's vaccine mandate. Instead, they engaged in fact-finding to determine whether Marin's religious objection to receiving a COVID-19 vaccine rested on a correct understanding of vaccine development and testing. In doing so, the employer and administrative tribunal crossed the constitutional line that separates permissible inquiry from impermissible judgment.

Once the employer determined that Marin's opposition to abortion was a sincere religious belief and that his objection to the required vaccine flowed from that belief, the inquiry should have ended. Title VII—and therefore the FCRA—does not permit an employer to deny accommodation because it disagrees with the employee's understanding of how a medical product was developed. Nor does it authorize a tribunal to ratify that denial by resolving scientific disputes collateral to the religious belief itself.

Construing Marin's accommodation request in his favor, as the employer was required to do, Marin expressed that he sincerely believed receiving a COVID-19 vaccine would make him complicit in conduct that his religion considers morally impermissible. But the employer concluded that, although sincere, Marin was "mistaken" about the use of fetal cell lines and denied his accommodation on that basis. That approach is irreconcilable with the settled law outlined above.

The decision below effectively substituted the employer's judgment for the employee's conscience, which alters the accommodation inquiry in a way that disfavors religious exercise. If employers may deny accommodation whenever they conclude that an

employee's religious belief rests on a misunderstanding of facts, then protection under Title VII and the FCRA becomes contingent on secular validation of religious belief. This is precisely the type of entangelement the First Amendment forbids. Employers and courts cannot be drawn into adjudicating scientific, theological, or moral disputes to determine which sincere religious beliefs are sufficiently "accurate" to warrant constitutional protection.

CONCLUSION

The absence of a definition for religion in the FCRA is a novel issue that no Florida court has yet decided. This Court has the discretion to apply equal or greater protection under the FCRA than Title VII provides. Amicus curiae The King's Academy respectfully submits this analysis to assist the Court in resolving this question of first impression.

This Court should also make clear that, at every stage of the accommodation process, presumptions run in favor of the individual's free exercise of religion. That presumption is especially strong where, as here, the employer has already determined that the employee's belief is both religious in nature and sincere. To allow denial of a religious accommodation based on an employer's

disagreement with the believer's understanding of facts is contrary to the First Amendment. If left undisturbed, the approach adopted below would authorize employers and tribunals to deny protection to religious believers not because they are insincere, but because the employer or tribunal contends the believer is mistaken. The First Amendment does not tolerate such a regime.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of this brief has been filed with the Florida Courts E-Filing Portal on January 28, 2026, and electronically served to:

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CERTIFICATE OF COMPLIANCE

I certify that this brief complies with the requirements of Florida Rule of Appellate Procedure 9.045(b) and (e) and this Court's en banc order dated October 30, 2025, because it was prepared using Bookman Old Style 14-point font and because the word count is 8,842.

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