

(ORDER LIST: 586 U.S.)

MONDAY, MARCH 4, 2019

**CERTIORARI -- SUMMARY DISPOSITION**

17-9044 FABIAN-BALTAZAR, ABEL H. V. UNITED STATES

The motion of petitioner for leave to proceed *in forma pauperis* and the petition for a writ of certiorari are granted. The judgment is vacated, and the case is remanded to the United States Court of Appeals for the Ninth Circuit for further consideration in light of *Garza v. Idaho*, 586 U. S. \_\_\_\_ (2019).

**ORDERS IN PENDING CASES**

18M105 CALDWELL, NATHANIEL V. ROBERTS, WARDEN

The motion to direct the Clerk to file a petition for a writ of certiorari out of time is denied.

18M106 SHAMPINE, LATEFAH V. LEE, CLAIRE, ET AL.

The motion to direct the Clerk to file a petition for a writ of certiorari out of time under Rule 14.5 is denied.

18M107 COX, WALLACE D., ET UX. V. UNITED STATES, ET AL.

18M108 DYSON, DAVID R. V. BRENNAN, POSTMASTER GEN.

18M109 KATZ, RICHARD V. BD. OF MEDICAL EXAMINERS, ET AL.

18M110 JENNIFER A. V. GREGORY M., ET AL.

18M111 LEBRON, JOHN W. V. UNITED STATES

The motions to direct the Clerk to file petitions for writs of certiorari out of time are denied.

17-1705 PDR NETWORK, LLC, ET AL. V. CARLTON & HARRIS CHIROPRACTIC

The motion of the Solicitor General for leave to participate

in oral argument as *amicus curiae* and for divided argument is granted.

**CERTIORARI GRANTED**

18-801 IANCU, ANDRE V. NANTKWEST, INC.

The petition for a writ of certiorari is granted.

**CERTIORARI DENIED**

18-384 PAPIERFABRIK AUGUST KOEHLER SE V. UNITED STATES, ET AL.  
18-450 UTAH REPUBLICAN PARTY V. COX, SPENCER J., ET AL.  
18-534 WELL LUCK COMPANY, INC. V. UNITED STATES  
18-555 MARQUETTE COUNTY ROAD COMM'N V. EPA  
18-648 SEARCEY, BURDETTE, ET AL. V. DEAN, JAMES L., ET AL.  
18-746 LOS ANGELES COUNTY, CA, ET AL. V. MENDEZ, ANGEL, ET AL.  
18-815 T. B. V. PRINCE GEORGE'S CTY. BD., ET AL.  
18-819 VASCONCELLOS, VICTORIA V. HAMLIN, DEBRA  
18-840 BANKS, STEVEN L. V. GORE, VINCENT M., ET AL.  
18-862 DAUGHERTY, MICHAEL J., ET AL. V. SHEER, ALAIN H., ET AL.  
18-883 LEDESMA-CONCHAS, JOAQUIN V. BARR, ATT'Y GEN.  
18-885 KENNEDY, BENNIE, ET AL. V. SCHNEIDER ELECTRIC  
18-920 VELTRE, MARGARET A. V. FIFTH THIRD BANK  
18-927 MEKOWULU, EMMANUEL I. V. UNITED STATES  
18-967 MICHEO-ACEVEDO, MARISOL V. STERICYCLE OF PUERTO RICO, INC.  
18-977 ANDERSON, JOHN A. V. WALRATH, WARDEN  
18-1005 ZELL, EILEEN L. V. KLINGELHAFFER, KATHERINE, ET AL.  
18-1009 UNITED STATES, EX REL. CODY V. MANTECH INTERNATIONAL CORP.  
18-1011 RODRIGUEZ LOPEZ, IVETH V. READYONE INDUSTRIES, INC.  
18-1018 BENNETT, ANDREW, ET AL. V. JEFFERSON COUNTY, AL  
18-1021 HAWKINS, TRAVIS V. INCH, SEC., FL DOC  
18-6207 GUEVARA, MANUEL V. UNITED STATES

18-6306 HEBERT, AMY V. ROGERS, WARDEN  
18-6482 ANCHUNDIA-ESPINOZA, ROGER A. V. UNITED STATES  
18-6569 MURRAY, MARK L. V. UNITED STATES  
18-6780 FARR, JOAN E. V. DAVIS, DARYL, ET AL.  
18-6807 SLUSSER, LARRY M. V. UNITED STATES  
18-6845 MITCHELL, EDWARD V. MAHALLY, SUPT., DALLAS, ET AL.  
18-6869 McNEILL, MARIO A. V. NORTH CAROLINA  
18-6916 POWELL, TROY L. V. CALIFORNIA  
18-7190 WICKS, ZACHARY Q. V. RADNOTHY, JON H., ET AL.  
18-7211 MONTE, FRANK M. V. KESSLING, JOE, ET AL.  
18-7213 DIXIT, AKASH V. BRASHER, JUDGE, ETC.  
18-7218 BERHE, SAMUEL V. OLESEHA, JOHNSON  
18-7220 FAROOQI, PASHTOON V. CALIFORNIA  
18-7221 GILBERT, KEVIN A. V. WA DOC., ET AL.  
18-7223 HALL, JESSE L. V. PARAMO, WARDEN  
18-7295 BARNES, EARNEST V. FLORIDA  
18-7316 HOWELL, ALICE A. V. NuCAR CONNECTION, INC., ET AL.  
18-7319 GREENE, CHARLES J. V. AL DEPT. OF REVENUE, ET AL.  
18-7339 REYES, EARL V. DUGGAN, MICHAEL, ET AL.  
18-7347 FREER, ARTHUR J. V. BERRYHILL, NANCY A., ET AL.  
18-7362 DANIELS, ROY O. V. FLORIDA  
18-7402 SHAPIRO, ROBERT V. UNITED STATES  
18-7405 BEASON, GARY L. V. INDIANA  
18-7415 SCOTT, ANTHONY J. V. CALIFORNIA  
18-7479 HAYCRAFT, FARRELL V. INDIANA  
18-7505 PINA, DEMIAN V. UNITED STATES  
18-7511 ORTIZ-FAGOT, EDWIN J. V. UNITED STATES  
18-7541 RANGEL, ADRIAN G. V. TIPPECANOE COUNTY IN, ET AL.

18-7557 HYPOLITE, TERVEUS V. UNITED STATES  
18-7560 FREEMAN, MARCUS L. V. UNITED STATES  
18-7561 GUZMAN, JUAN V. UNITED STATES  
18-7563 FOSTER, LYNCE P. V. UNITED STATES  
18-7566 GORIS, PEDRO V. UNITED STATES  
18-7567 COLLINS, RON V. UNITED STATES  
18-7611 EVERETT, TERRANCE E. V. DELAWARE  
18-7612 BOWENS, NATHANIEL V. UNITED STATES  
18-7621 BURNS, JACOBY V. UNITED STATES  
18-7627 HOUBE, TAVIS L. V. UNITED STATES  
18-7632 GRANT, ABRAHAM V. KELLY, DIR., AR DOC  
18-7642 LASSEND, KIRK V. UNITED STATES  
18-7645 SANCHEZ, ALHAN V. UNITED STATES  
18-7646 SAWYER, JESSE V. UNITED STATES  
18-7649 BAZAR, SERGEYI V. UNITED STATES  
18-7660 HARRIS, LaBARRION V. DEAL, WARDEN  
18-7663 FORD, RANDY J. V. UNITED STATES  
18-7668 PALADIN, PATRICIO V. UNITED STATES  
18-7669 MORENO-ALVAREZ, BERTULIO V. UNITED STATES  
18-7675 HAYES, ERIC V. UNITED STATES  
18-7678 HERNANDEZ, ALFONSO V. UNITED STATES  
18-7679 CURRY, JERITON L. V. UNITED STATES  
18-7682 DEMERS, STACIE V. UNITED STATES  
18-7692 HORN, BYRON A. V. UNITED STATES  
18-7699 RUIZ-RUIZ, FACUNDO V. UNITED STATES  
18-7700 RAY, LUTHER G. V. UNITED STATES  
18-7707 ANGUIANO, ANTONIO V. UNITED STATES  
18-7711 FITZGERALD, CHRISTOPHER V. UNITED STATES

18-7712 MIMS, ANDRE V. UNITED STATES  
18-7715 FLORES, JOSE V. UNITED STATES  
18-7716 INGRAM, JESSE V. UNITED STATES  
18-7717 FERGUSON, BYRION D. V. UNITED STATES  
18-7737 SIMMONS, TYSHAWN V. UNITED STATES  
18-7740 RODRIGUEZ, ESEQUIEL J. V. UNITED STATES  
18-7742 SERNA, LUIS A. V. COUNTY OF HENNEPIN, MN  
18-7745 EVANS, ALRICK A. V. CONNECTICUT  
18-7750 MORROBEL, RONALD V. UNITED STATES  
18-7759 BUCKNER, TRAVIS V. UNITED STATES  
18-7766 REEDER, RISHAWN L. V. REYNOLDS, WARDEN  
18-7773 ESPINOZA-MENDOZA, JOSE J. V. UNITED STATES  
18-7794 KROTT, JOHN M. V. MAY, WARDEN

The petitions for writs of certiorari are denied.

18-684 STEVENS-RUCKER, PATTI V. FRENZ, JOHN, ET AL.

The motion of The Rutherford Institute for leave to file a brief as *amicus curiae* is granted. The petition for a writ of certiorari is denied.

18-704 ABBOTT, ROSS, ET AL. V. PASTIDES, HARRIS, ET AL.

The motion of First Amendment Clinics at Duke Law, et al. for leave to file a brief as *amici curiae* is granted. The motion of the South Carolina ACLU, et al. for leave to file a brief as *amici curiae* is granted. The petition for a writ of certiorari is denied.

18-7225 GILLESPIE, NEIL V. REVERSE MORTGAGE SOLUTIONS, INC.

The motion of petitioner for leave to proceed *in forma pauperis* is denied, and the petition for a writ of certiorari is dismissed. See Rule 39.8. As the petitioner has repeatedly

abused this Court's process, the Clerk is directed not to accept any further petitions in noncriminal matters from petitioner unless the docketing fee required by Rule 38(a) is paid and the petition is submitted in compliance with Rule 33.1. See *Martin v. District of Columbia Court of Appeals*, 506 U. S. 1 (1992) (*per curiam*).

18-7538 RUSSO, JEFFREY V. UNITED STATES

The petition for a writ of certiorari is denied. Justice Sotomayor, with whom Justice Ginsburg joins, dissenting from the denial of certiorari: I dissent for the reasons set out in *Brown v. United States*, 586 U. S. \_\_\_\_ (2018) (Sotomayor, J., dissenting).

18-7544 WILLIAMS, BRIAND V. CALIFORNIA

18-7545 WILLIAMS, BRIAND V. CALIFORNIA

The motions of petitioner for leave to proceed *in forma pauperis* are denied, and the petitions for writs of certiorari are dismissed. See Rule 39.8.

18-7616 PUPO, RODRIGO T. V. UNITED STATES

The petition for a writ of certiorari is denied. Justice Kavanaugh took no part in the consideration or decision of this petition.

18-7674 GORBHEY, MICHAEL S. V. McCALL, WARDEN

The petition for a writ of certiorari is denied. The Chief Justice and Justice Kagan took no part in the consideration or decision of this petition.

**HABEAS CORPUS DENIED**

18-7856 IN RE JOHN P. ALEXANDER

18-7890 IN RE JOSE J. RAMIREZ

The petitions for writs of habeas corpus are denied.

**REHEARINGS DENIED**

17-8059 BEAVERS, MAURICE J. V. UNITED STATES

17-8685 BELL, YOLANDA V. INOVA HEALTH CARE

18-5057 BAGBY, JAMES T. V. HYATTE, WARDEN

18-5120 NELSON, KENNETH P. V. BERRYHILL, NANCY A.

18-5355 SANDERS, DEL D. V. DAVIS, DIR., TX DCJ

18-5896 BAKER, BEVERLY A. V. UNITED STATES

18-5989 BILBO, GARY D. V. DAVIS, DIR., TX DCJ

18-6038 VILLAVICENCIO, CARLOS D. V. JONES, SEC., FL DOC

18-6239 REILLY, SEAN P. V. HERRERA, GUELSY M., ET AL.

18-6365 BARTLETT, ANGEL V. MICHIGAN, ET AL.

18-6509 TEDESCO, JOHN V. MONROE COUNTY, PA, ET AL.

18-6517 BROWN, ARETHA D. V. ELITE MODELING AGENCY

18-6575 STOKES, FINESS E. V. DAVIS, DIR., TX DCJ

18-6661 SAMUEL, BRYAN C. V. UNITED STATES

18-6676 WILMORE, HERVE V. UNITED STATES

18-6841 STEWART, ROBERT K. V. NORTH CAROLINA

18-6941 CHAPMAN, JOHN L. V. LAMPERT, DIR., WY DOC, ET AL.

The petitions for rehearing are denied.

18-5578 AKEL, ANTONIO U. V. UNITED STATES

The petition for rehearing is denied. Justice Kagan took no part in the consideration or decision of this petition.

18-5704 AUSTIN, ROBERT V. DIST. ATT'Y OF PHILADELPHIA CTY.

The petition for rehearing is denied. Justice Alito took no part in the consideration or decision of this petition.

18-6376 ALBRA, ADEM V. BD. OF TRUSTEES, ET AL.

The petition for rehearing is denied. Justice Kavanaugh took no part in the consideration or decision of this petition.

18-6291 COOK, STEVEN H. V. JONES, SEC., FL DOC, ET AL.

The motion for leave to file a petition for rehearing is denied.

#### **ATTORNEY DISCIPLINE**

D-3030 IN THE MATTER OF DISBARMENT OF MARTIN BARNETT REINER

Martin Barnett Reiner, of Beverly Hills, California, having been suspended from the practice of law in this Court by order of October 29, 2018; and a rule having been issued and served upon him requiring him to show cause why he should not be disbarred; and a response having been filed;

It is ordered that Martin Barnett Reiner is disbarred from the practice of law in this Court.



Statement of KAVANAUGH, J.

**SUPREME COURT OF THE UNITED STATES**

MORRIS COUNTY BOARD OF CHOSEN  
FREEHOLDERS, ET AL.

18–364

*v.*

FREEDOM FROM RELIGION  
FOUNDATION, ET AL.

THE PRESBYTERIAN CHURCH IN  
MORRISTOWN, ET AL.

18–365

*v.*

FREEDOM FROM RELIGION  
FOUNDATION, ET AL.

ON PETITIONS FOR WRITS OF CERTIORARI TO THE SUPREME  
COURT OF NEW JERSEY

Nos. 18–364 and 18–365. Decided March 4, 2019

The petitions for writs of certiorari are denied.

Statement of JUSTICE KAVANAUGH, with whom JUSTICE ALITO and JUSTICE GORSUCH join, respecting the denial of certiorari.

Morris County, New Jersey, distributes historic preservation funds to help preserve local buildings such as libraries, schoolhouses, performing arts centers, and museums. As part of that program, Morris County also distributes funds to help preserve *religious* buildings such as synagogues, temples, churches, and mosques. But it turns out that New Jersey law, as recently interpreted by the New Jersey Supreme Court, prohibits Morris County from awarding grants to preserve religious buildings.

The petitioners here argue that the State’s exclusion of religious buildings—because they are religious—from Morris County’s historic preservation program constitutes unconstitutional discrimination against religion in violation of the First and Fourteenth Amendments to the United

States Constitution. The New Jersey Supreme Court concluded that the State's discrimination did not violate the First and Fourteenth Amendments.

In my view, the decision of the New Jersey Supreme Court is in serious tension with this Court's religious equality precedents.

As this Court has repeatedly held, governmental discrimination against religion—in particular, discrimination against religious persons, religious organizations, and religious speech—violates the Free Exercise Clause and the Equal Protection Clause. In the words of Justice Brennan, the “government may not use religion as a basis of classification for the imposition of duties, penalties, privileges or benefits.” *McDaniel v. Paty*, 435 U. S. 618, 639 (1978) (opinion concurring in judgment). Under the Constitution, the government may not discriminate against religion generally or against particular religious denominations. See *Larson v. Valente*, 456 U. S. 228, 244 (1982).

The principle of religious equality eloquently articulated by Justice Brennan in *McDaniel* is now firmly rooted in this Court's jurisprudence. As Justice Kennedy later wrote for the Court, a law may not discriminate against “some or all religious beliefs,” and “a law targeting religious beliefs as such is never permissible.” *Church of Lukumi Babalu Aye, Inc. v. Hialeah*, 508 U. S. 520, 532, 533 (1993). Put another way, the government may not “impose special disabilities on the basis of . . . religious status.” *Employment Div., Dept. of Human Resources of Ore. v. Smith*, 494 U. S. 872, 877 (1990).

We have applied that bedrock principle of religious equality in numerous cases. See, e.g., *Trinity Lutheran Church of Columbia, Inc. v. Comer*, 582 U. S. \_\_\_ (2017); *Good News Club v. Milford Central School*, 533 U. S. 98 (2001); *Rosenberger v. Rector and Visitors of Univ. of Va.*, 515 U. S. 819 (1995); *Lamb's Chapel v. Center*

Statement of KAVANAUGH, J.

*Moriches Union Free School Dist.*, 508 U. S. 384 (1993); *McDaniel*, 435 U. S. 618.

For example, in *McDaniel*, a Tennessee statute disqualified ministers from serving as delegates to Tennessee’s constitutional convention. The Court ruled the statute unconstitutional, explaining that the Constitution does not allow the government to discriminate against religious persons by prohibiting their service in a public office. See 435 U. S., at 629.

In *Good News*, a school district in New York allowed residents to use the local public high school for social, civic, and recreational events. But the school district prohibited a religious organization from using the school, simply because the organization was religious. This Court held that the school district’s exclusion of the religious organization was unconstitutional discrimination against religion. See 533 U. S., at 109.

That same principle of religious equality applies to governmental benefits or grants programs in which religious organizations or people seek benefits or grants on the same terms as secular organizations or people—at least, our precedents say, so long as the government does not fund the training of clergy, for example. See *Trinity Lutheran*, 582 U. S., at \_\_\_\_ (slip op., at 13); *Locke v. Davey*, 540 U. S. 712, 721, 725 (2004).

In *Trinity Lutheran*, Missouri barred a religious school from obtaining a state funding grant for the school’s playground. By contrast, Missouri allowed secular private schools to obtain state funding grants for their schools’ playgrounds. This Court held that Missouri’s law was unconstitutional. The Court stated that the Constitution “protects religious observers against unequal treatment.” 582 U. S., at \_\_\_\_ (slip op., at 6) (alterations omitted). In the Court’s description, Missouri’s law reflected an unconstitutional policy of “No churches need apply.” *Id.*, at \_\_\_\_—\_\_\_\_ (slip op., at 13–14). The Court minced no words: Dis-

criminating against religious schools because the schools are religious “is odious to our Constitution.” *Id.*, at \_\_\_ (slip op., at 15).

In this case, New Jersey’s “No religious organizations need apply” for historic preservation grants appears similar to, for example, Missouri’s “No religious schools need apply” for school playground grants and New York’s “No religious clubs need apply” for use of school facilities and Tennessee’s “No ministers need apply” for state office.

To be clear, this is not a case like *Lee v. Weisman*, 505 U. S. 577 (1992); *Marsh v. Chambers*, 463 U. S. 783 (1983); or *County of Allegheny v. American Civil Liberties Union, Greater Pittsburgh Chapter*, 492 U. S. 573 (1989), where the government itself is engaging in religious speech, such as a government-sponsored prayer or a government-sponsored religious display. Nor is this a case like *Burwell v. Hobby Lobby Stores, Inc.*, 573 U. S. 682 (2014), or *Smith*, 494 U. S. 872, where a religious group or person is asking for an accommodation or exemption from a generally applicable law. Under the Court’s precedents, both of those categories of cases can pose difficult questions. This kind of case, by contrast, should not be as difficult: Barring religious organizations because they are religious from a general historic preservation grants program is pure discrimination against religion.

\* \* \*

At some point, this Court will need to decide whether governments that distribute historic preservation funds may deny funds to religious organizations simply because the organizations are religious. But at this point and in this case, it is appropriate to deny certiorari, for two main reasons. First, the factual details of the Morris County program are not entirely clear. In particular, it is not evident precisely what kinds of buildings can be funded under the Morris County program. That factual uncer-

## Statement of KAVANAUGH, J.

tainty about the scope of the program could hamper our analysis of petitioners' religious discrimination claim. Second, this Court decided *Trinity Lutheran* only recently, and there is not yet a robust post-*Trinity Lutheran* body of case law in the lower courts on the question whether governments may exclude religious organizations from general historic preservation grants programs.

For those reasons, denial of certiorari is appropriate. As always, a denial of certiorari does not imply agreement or disagreement with the decision of the relevant federal court of appeals or state supreme court. In my view, prohibiting historic preservation grants to religious organizations simply because the organizations are religious would raise serious questions under this Court's precedents and the Constitution's fundamental guarantee of equality.