No. 26-438

In the Supreme Court of the United States

JOSEPH MILLER, et al.,
Petitioners,
v.
JAMES V. MCDONALD, Commissioner, New York State Department of Health, et al.,
Respondents.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

BRIEF OF AMICUS CURIAE OLD ORDER AMISH BISHOP ELMER STOLTZFUS IN SUPPORT OF PETITIONERS

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INTEREST OF AMICUS CURIAE[1]

Amicus curiae Bishop Elmer Stoltzfus has served for decades in Old Order Amish communities in Pennsylvania and later in Missouri. As a steward of Amish traditions and beliefs, he guides present-day communities of the Old Order Amish seeking to preserve a way of life practiced peacefully in this nation for over 300 years.

Drawing on his personal pastoral experience, amicus seeks to explain the core convictions by which the Amish order their communal life. References to cited sources serve as accessible references to guide the Court on the subject of Amish faith and traditions in historical and contemporary contexts.

Amicus understands the convictions of the Old Order Amish, and the burden that New York's vaccine mandate places on the Amish community. The removal of religious exemption demands that parents make a choice between raising their children according to their faith or facing severe civil penalties and de facto exile. This threatens the Amish way of life in the same manner as in *Wisconsin* v. *Yoder*, 406 U.S. 205 (1972).

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[1] No counsel for a party authored this brief in whole or in part, and no party, party's counsel, or any person other than amicus curiae or its counsel contributed money intended to fund preparation or submission of this brief. Counsel for all parties received timely notice of the intent to file this brief.

SUMMARY OF THE ARGUMENT

For centuries, the Amish have patiently forged and peacefully fought for a way of life embodying their deepest beliefs. The Amish believe that obedience to God requires a mode of communal life separate from the world. Amish communities reflect and protect their commitment to separation through distinctive traditions, lifestyles, and rules, which preserve and perpetuate Amish identity in each generation.

New York openly assaults the core premise of Amish beliefs, undermining the self-determination and separation central to obedience to God in this religious tradition. It requires them to choose between following their beliefs about child-rearing and oppressive penalties. Given the history of the Amish, the most likely outcome is the forced exile of entire Amish communities—an ugly specter of persecution all too familiar from a bygone age.

New York's law reflects not merely a senseless and insensitive action; it is a regression of protections for religious liberty. By removing religious exemptions, the state seeks not merely to coerce the Amish to violate their beliefs, but disrupts education by forcing Amish children to stay home from their community schools. This Court has long recognized the importance of Amish religious traditions in their choices about childrearing and education. As this Court again made clear in 2025, it is not the Amish

alone who have this protection—all parents have these rights under the First Amendment.

ARGUMENT

I. Amish Beliefs Mandate Separation from the World as Obedience to God.

The Amish have built a way of life over centuries, resisting conformity to and reliance on the world and civil society. Their faith is communal rather than creedal and, unlike other Protestants, the Amish maintain a free church tradition emphasizing communal independence and obedience to God. The historical development of these communities explains why the Amish view matters of vaccination through a religious lens of upholding a way of life seeking holiness and obedience to God. The traditions of the Old Order Amish make clear that these commitments continue to define the faith of these communities.

A. Separation From Civil Society is a Historical Hallmark of Anabaptist Faith.

The Amish are part of the free church tradition, which began concurrently with the Protestant Reformation in the early sixteenth century. Labeled "anabaptists" ("re-baptizers") by their opponents, the core commitments of these groups included living in total obedience to the commands of God in scripture. See generally Steven M. Nolt, *A History of the Amish* 9–11 (3d ed. 2015) (Nolt). Like other Protestants, they

adhered to a principle of *sola scriptura*—"scripture alone" as the sole authoritative rule of faith in the church—and drew their own conclusions about the requirements of obedience to God. *Id.* at 7.

They saw any resort to state power in regulating or coercing religion as contrary to true obedience to God. "For them the church was a community of Christians voluntarily committed to imitating Christ and to supporting one another. * * * Moreover, the state should have no part in controlling or directing the activities and doctrines of the church." Nolt, *supra*, at 9. The free churches viewed both Catholic and typical Protestant churches—which cooperated with state authorities to regulate religion—as fundamentally misguided and at odds with scripture. *Id.* at 7–10. The only way for the faithful to follow Christ, in their view, was to separate from worldly power and surrounding society in pure and free fellowship. *Ibid.*

The core tenet of these free churches was self-determination and separation from the world—meaning the state, wider society, and even the established Christian churches of Europe. In the beginning of the sixteenth century, virtually all polities of Christendom had acknowledged the spiritual authority of Rome, and even after the Reformation, states continued to regulate religious and secular affairs together. Throughout Europe from the late Middle Ages into the early modern period,

"[t]he church and the imperial state were linked in a common, unified, and Christian civilization. Dissent against the One Church also became a crime against state and society." Nolt, *supra*, at 6.

Adult baptism represented the most decisive break with the ecclesial and political systems of medieval Europe. Catholics and most Protestant state churches practiced baptism of infants, which marked citizenship in Christian lands. Nolt, *supra*, at 8. For the free churches, this was not only an unscriptural practice of baptism—a command for adult believers only—but further entangled the church with state and worldly power. In their view, "[b]aptism—the sign of church membership and commitment—was only for those old enough to choose the path of discipleship." *Id.* at 9. When in 1525 a group of Swiss believers concluded that Jesus commanded that baptism follow from a confession of conscious faith, they re-baptized their adult members—in essence repudiating the state-controlled religious practices. *Ibid.*

Though their communities varied across time and space, the commitment to separation from the world came with a great cost, and the Anabaptists deepened in their distrust of the world and its ways. See Nolt, *supra*, at 12. The free churches were held in great suspicion and open contempt as dangerous radicals, not just by state authorities but also by Catholic and Protestant factions alike. *Id.* at 11–12. Not only did

the free churches reject the claims and views of the European states, but they refused to participate in many state functions including swearing oaths and participating in war. For the free churches, "[s]ince Christ taught peaceful nonresistance to worldly enemies, radical Christian obedience rejected participation in either the military or the judicial arms of the state." *Id.* at 9.

From the outset, the free churches were considered a danger to civil society because of their beliefs and actions. As the seismic aftershocks of the Reformation continued, the free church struggled for independence while remaining vulnerable to political and religious persecution. One group of Anabaptists seized control of the city of Münster, killed its local rulers, and engaged in orgiastic violence leading to the eventual destruction of the city. Nolt, *supra*, at 15–16. Despite the extreme and non-representative character of this debacle, the event blackened the reputation of the free churches, which became easy targets of persecution, torture, and exile. The free churches became dispossessed long before they became truly independent. *Id.* at 12–16.

Given the decentralized organization of free churches and their lack of strong confessional standards of theology to rally around, the Anabaptists struggled to distinguish themselves from violent and lawless groups like those in Münster and the Swabian Peasants' Revolt. Commitment to non-resistance—an

early form of pacifistic non-violence—came to define one branch of the Anabaptists as a movement in search of a leader. Eventually, Anabaptists rallied around ex-Catholic priest Menno Simons, who became their de facto leader. Simons articulated principles of self-government for churches, including the practice of shunning those who defected. Nolt, *supra*, at 16–17.

For over a century many disparate free churches rallied around the tenets of Simons and became known as Mennonites. As independent congregations, local church practices varied along with interactions with surrounding society. Some found toleration and prosperity while others continued to endure persecution and martyrdom. Nolt, *supra*, at 22, 26–30. Separation continued to define the Anabaptist communities—a trend which could turn inward among themselves as it applied outwardly to the world.

In the late seventeenth century, disputes over the degree of separation from the world required by their faith and the treatment of those who left their communities would result in a schism between the Mennonites and a stricter faction on matters of communal separation and discipline. Nolt, *supra.* at 17, 30–46. This latter faction followed the teachings of Jakob Amman, from whom the name Amish is derived. *Id.* at 30–35. This rift was consequential in several ways: it marked a divergence in views of

accommodation with the world and strictness of separation. It also led to entrenched changes caused by migration patterns of European Anabaptists. See generally *id.* at 42–48.

In the seventeenth century, the Amish made significant use of emigration to the New World, settling in the English colonies, especially Pennsylvania. Nolt, *supra*, at 72–77. Even in the most tolerant American colony, the Amish were minorities and outliers in their communities. They retained their distinctive language and dress patterns, and came to be known, with the Mennonites, colloquially as the Pennsylvania Dutch (a misnomer for "Deutsch," or German). *Id.* at 72.

The Amish communities in America continue to develop along a trajectory set by their European forebears. Nolt, *supra*, at 81–84. As early as 1773, observers noted that the Amish "hold very fast to outward and ancient institutions," of dress and lifestyle which largely continue to define them today. *Id.* at 80. Above all, the Amish retain their approach to communal order as the vessel for holy and obedient living—the essence of their faith.

B. Amish Traditions and Communal Life Reflect a Commitment to Holy Living.

Unlike other Christians, the Amish express their beliefs not in a creed but in a way of life. As one scholarly assessment observes, "What is distinct

about the Amish religious imagination is that it includes all of life, everyday." Donald B. Kraybill et al., *The Amish Way* 54 (2010) (Kraybill et al.). Rather than church services or cathedrals, formal confessions or doctrinal stances, the Amish live their faith in their homes, their work, and their submission to God in their communal order.

The infusion of religious significance into all activities of life is not surprising for a people whose calling is to obedience to God in all things. As one observer of the Lancaster Amish observed, "Religious life affects activities throughout the week and governs the total lifestyle to a large extent." A. Martha Denlinger, *Real People: Amish and Mennonites in Lancaster County, Pennsylvania* 41 (1993 ed.) (Denlinger). Their beliefs find expression in their daily activities:

> [T]he spirituality of Amish people is not something that stands on its own, apart from their daily lives * * * Rather, their spirituality gives them a framework for making decisions about marriage, family, work, and play—indeed, a framework that helps them face all the pleasures and uncertainties that human life entails.

Kraybill et al., *supra*, at xiii. This approach to faith shapes the lifestyle of the Amish, which in turn shapes their commitments to the rules of communal order by which they live. Indeed, for the Amish,

"faith" is not individualistic beliefs but submission to the community's standards as an expression of faith. See Donald B. Kraybill, *The Amish of Lancaster County* 14–15 (2d ed. 2019) (Kraybill, *Lancaster County*).

Amish social order is built on scripture and the traditions of past generations. The Amish understand scripture as giving general principles that are ultimately authoritative and to be lived out in the community. The most common expression among the Old Order Amish is the ordnung of each community—its "order" or rules of acceptable Amish practice. See generally Kraybill et al., *supra*, at 53–57, 125–27. The ordnung reflects the reality of Amish communal life and aspirations, and varies modestly across time and space. Under this framework, the Amish hold individual preferences as less significant than upholding their ways of life. *Id.* at 34. This comports with their understanding of "uffgeva" (giving up) and "gelassenheit" (letting be), which represents humility and non-resistance. *Id.* at 34–37, 133–35.

The activities of life by which the Amish express their obedience to God have a secondary function of helping to define the boundaries of their communities. The order is a reflection of the commitment to holiness manifested in rules that they abide by. Individual Amish submit themselves to the community and its rules to become part of it, expressing their faith by upholding the ways which

define them. This communal mode of ordered life sustains the Amish in their faith across generations continuing the traditions that have marked them for centuries, even to the present day.

C. The Amish Raise Their Children to Understand and Embrace these Beliefs as Members of the Community.

Baptism rather than birth marks formal entry into the Amish community. According to Amish beliefs, no child is "born" into their faith; rather, one is raised to accept the faith through a process of acculturation involving the community but most importantly the family itself. The family above all teaches children the nature of Amish faith and aims to help children accept this way of life as adults. For this reason, "[i]t is impossible to overstate the importance of the family for the socialization of children into Amish culture." Kraybill, *Lancaster County*, *supra*, at 29.

Just as the Amish submit to the rules of their communities, they teach children to submit to their parents and learn the ways of their communities in order to shape their faith and understanding of what it means to be Christian. See generally Kraybill et al., *supra*, at 95–101. Amish families rely on the strong social networks and institutions in their communities to instill the values and beliefs that define them. Kraybill, *Lancaster County*, *supra*, at 29–32. The ultimate aim of childrearing in these communities is

to see adult children accept this faith and receive baptism and membership in their communities. Kraybill et al., *supra*, at 94.

Given the expression of Amish faith in everyday life, children absorb the principles of faith by observing parents and extended family. While Amish children grow up in their communities, learning from parents, relatives, and friends, they do not truly become part of the faith until they receive baptism as adults. Kraybill et al., *supra*, at 105. Amish parents believe that successful transmission of these beliefs requires a holistic and constant effort to instill the values of the community into children. *Id.* at 40–41. This not only helps children to understand the ways of the community but to see the beauty of their communities lived out before them.

The Amish conceive of childrearing broadly as part formal education and part learning by example about the community's values through everyday life. Denlinger, *supra*, at 50–52. As they watch their parents and learn from their teachers, children are formed in an identity and value system that makes them most likely to embrace faith themselves as members of their community. *Ibid.*

The Amish approach to education has also led to the creation of community schools, which reject many of the assumptions of modern public education. See Kraybill, *Lancaster County*, *supra*, at 46–49 (noting the emergence of community schools following the

centralization of public education in the mid-twentieth century); see also Nolt, *supra*, at 309–19 (chronicling educational developments prior to *Wisconsin* v. *Yoder*). These schools are designed both in their instructional content and their overarching structure (ending at eighth grade) to reflect and instill Amish beliefs and lifestyles. See Denlinger, *supra*, at 49–50. Parents retain the primary responsibility to educate their children outside formal instruction. *Id.* at 52.

For generations, Amish communities have been sustained by deliberate practices aimed at inculcating these values and demonstrating distinction from the world. Given that all of life is a domain for obedience to God, and separation from the world through distinct practices is the fundamental mode of that obedience, the Amish develop their views about technology, education, and medicine with reference to these principles. Kraybill et al., *supra*, at 125–127. All of Amish life represents the outworking of their deepest beliefs and principles.

This deliberative, thoughtful approach is designed to resist conformity to the world through uncritical acceptance of practices that would undermine their community values. Maintenance of this form of community life is both a means to the end of holiness, and an end itself—enabling the Amish to continue their separate existence.

II. State Imposition of Vaccine Mandates Would Cause Unique, Catastrophic Harms to Amish Communities.

The Amish of New York are deeply committed to continuing their traditional lifestyles dedicated to holiness. Many of these communities come from the most conservative of Amish traditions in their approach to worldly separation, notably the Schwartzentruber Amish. See Nolt, *supra*, at 267, 270, 334. The evident convictions of so many Amish to refuse vaccination on religious grounds had been respected for decades in the form of an exemption. Although remaining separate from society, the Amish have enjoyed the respect of government and greater protections under American law than anywhere else in the world.

No more. New York law now prohibits all unvaccinated children from attending any school in the state—including Amish community schools. Parents who fail to vaccinate their children will face penalties for not sending their children to school, and schools face penalties for admitting unvaccinated students. This does not merely disrupt but existentially threatens Amish communities. The Amish have historically resorted to non-resistance in the face of such hostility, choosing to move rather than submit to coercion. See Kraybill et al., *supra*, at xiv; Nolt, *supra*, at 309–319.

This Court has previously recognized the religious liberty interests at stake for the Amish, given their unique and historic beliefs. In *Wisconsin* v. *Yoder*, 406 U.S. 205 (1972), this Court looked to the beliefs that necessitated the Amish removing their children from public schools—despite the potential risks and burdens to broader society. The Court observed the broader patterns of Amish life and concluded that their way of life, while strange to some, posed no threat to the public order or health. See *id.* at 217, 234.

Notwithstanding the important purpose of the state's education law, the Amish posed no threat to that interest that would have justified compulsory attendance. *Wisconsin* v. *Yoder*, 406 U.S. at 234. Rather, such compulsion amounted to coercion, which "carrie[d] with it a very real threat of undermining the Amish community and religious practice as they exist today; they must either abandon belief and be assimilated into society at large, or be forced to migrate to some other and more tolerant region." *Id.* at 218. This Court held that the First and Fourteenth Amendments prevented the state from compelling the Amish to surrender their beliefs to comply with the state's law. *Id.* at 234.

More recently, this Court has repeated its admonition against substantial interference with the rights of parents to raise their children in a manner consistent with their faith. See *Mahmoud* v. *Taylor*,

606 U.S. 522, 547 (2025). This right applies *a fortiori* to schools controlled by Amish communities, supported by the constitutional foundation of *Yoder*. The Amish have the right within their own separate communities to educate their children according to principles of their faith at all ages. The decision is one within the well-established ambit of parental rights articulated by this Court for over a century.

Here, New York's mandatory vaccination regime imposes the same substantial burden on the ability of the Amish to raise their children in their way of life and beliefs. Many Amish hold sincere religious objections to vaccines, and their refusal is itself an act of educating children in their faith—a faith predicated on obedience to God through peaceful resistance to the world. New York no longer tolerates such dissent. Instead, it purports to dictate the degree of "acceptable" Amishness by which these communities may exist.

This action represents an extreme regression from the robust protections of the Constitution. New York strips Amish schools, parents—indeed the entire community—of the right to self-determination so critical to their faith. It dictates that these communities cannot live separately and must likewise "be guided by the science" rather than by obedience to God. See N.Y. Department of Health, Statement From State Health Commissioner Dr.

James McDonald (Aug. 11, 2026), https://perma.cc/BLM8-XQAY.

The nationwide trend to end religious exemptions to vaccinations is growing, and has already begun in Pennsylvania. See Pennsylvania State Senate, Senate Co-Sponsorship Memo 49207, Pennsylvania Legislature (Sept. 8, 2026), https://perma.cc/V7HJ-MCPJ. Another proposal would require physician approval to retain a religious exemption. See Pennsylvania House of Representatives, House Co-Sponsorship Memo 48912, Pennsylvania Legislature (June 17, 2026), https://perma.cc/MA4D-PH7X. These measures would restrict the ability of the Amish and others with sincere religious beliefs to independently make decisions about medical care and live according to their faith.

The consequence of criminalizing religious practice is dire. Not only must Amish parents violate their beliefs as the price of peace with the state, they also lose the basic ability to teach these beliefs to their children with integrity. These children would grow up with the realization that the state, not their religion, their community, or their parents, dictates their religious practice. The predicate of Amish life is at stake in this case.

CONCLUSION

The Constitution does not permit states to act like petty despots of late medieval Europe, revoking religious rights as if they were privileges of toleration. Religious liberty in American law has always sought to correct these evils.

Under *Yoder* and *Mahmoud*, the Amish have a right to practice their religion free of state compulsion. New York may not condition education on surrender of religious convictions, nor force parents and children to conform to its views. A law which treats religion generally and one of its oldest communities with such contempt must not be allowed to stand. This Court should grant certiorari to prevent states from hounding out religious minorities in the name of public health.

Respectfully submitted,

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