

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF FLORIDA
TALLAHASSEE DIVISION**

FRANK A. WALLS

Plaintiff,

Case No. 4:25-cv-504

v.

CAPITAL CASE

RICKY D. DIXON, Secretary,
Department of Corrections,
in his official capacity;

**EXECUTION SCHEDULED:
DECEMBER 18, 2025, 6:00 P.M.**

and

RANDALL POLK, Warden,
Florida State Prison,
in his official capacity,

Defendants.

_____ /

42 U.S.C. § 1983 COMPLAINT
FOR DECLARATORY AND INJUNCTIVE RELIEF

I. NATURE OF ACTION

1. Plaintiff Frank A. Walls is a death-sentenced Florida prisoner with an execution date of December 18, 2025, at 6:00 p.m.

2. This is a civil action brought under 42 U.S.C. § 1983 seeking declaratory judgment and injunctive relief for violations of Mr. Walls's federal constitutional rights under the First and Fourteenth Amendments and the Religious

Land Use and Institutionalized Persons Act of 2000 (“RLUIPA”). 42 U.S.C. § 2000cc *et seq.* A motion for a stay of execution accompanies this complaint.

3. For the past 26 years of his incarceration, Mr. Walls has been a devout Catholic. He became an Oblate in 2025, a formal monastic title given to members of the Benedictine Order who dedicate their lives to religious service. *See* App. C (Declaration of Dr. Craig Cummins).¹ The Oblation formation process comprised a year of fervent reflection and learning about what it meant to live in communion with the Rule of St. Benedict (“The Rule”), a document describing how to live a good Catholic life with a high likelihood of salvation. *Id.* at 24. Mr. Walls lived by the Rule for a year as a Novitiate, before he formally committed and completed the Oblation process. *Id.* at 26. Mr. Walls is now considered part of the Benedictine monastic community.

4. Shortly after his execution warrant was signed, Mr. Walls made a timely request, in compliance with the Florida Department of Corrections’ (“FDOC”) procedural requirements, to have Father Dustin Feddon, a Catholic Priest, present in the execution chamber at the time of dying to administer Mr. Walls’s Last Rites.

¹ As Dr. Craig Cummins, Co-Director of the Prison Oblate Ministry explains, “[t]he Rule is written simply for anyone to understand. It is particularly simple for people who are familiar with the Bible. We do not want intellect to be a barrier to this faith commitment.” App. C. at 2. The Prison Oblate Ministry does not erect intellectual barriers to the formation process but welcomes people of all capabilities to commit to their faith in a more meaningful way.

Father Dustin Feddon is a Roman Catholic priest of the Diocese of Pensacola-Tallahassee and has been a volunteer minister of Catholicism at Florida state prisons for 12 years. App. A at 2 (Declaration of Father Dustin Feddon). Father Feddon has years of experience ministering to men in solitary confinement and on death row, including previously acting as spiritual advisor on death watch to Darryl Barwick, who was executed by Florida on May 3, 2023. *Id.* at 5.

5. Last Rites are a combination of audible prayer, holy religious ceremonies, and physical touch that, as understood in centuries-old Catholic tradition and scripture, prepare the spirit for transition to the afterlife. *Id.* at 3. The Last Rites can be performed with no threat to anyone’s safety, minimal—if any—intrusion on the State’s execution protocols, and appropriate respect for the decorum and gravity of the execution process. *Id.* at 5.

6. But when Mr. Walls requested to be afforded that final act of religious exercise, his Last Rites, Florida constructively denied his request, refusing to respond to Mr. Walls or his counsel directly, but instead telling Father Feddon that he would not be permitted to fully administer them. *Id.* at 3-6. While Father Feddon was approved as Mr. Walls’s spiritual advisor, he would not be permitted to touch Mr. Walls during the execution and would only be allowed to whisper prayers from a designated spot, away from Mr. Walls in the chamber. FDOC’s constructive denial cannot be squared with unambiguous legal precedent that both RLUIPA and the First

Amendment guarantee Mr. Walls the right to exercise his religious beliefs without substantial burden. *Ramirez v. Collier*, 595 U.S. 2011 (2022).

7. At no time in Mr. Walls's life will the exercise of his religious beliefs be more important than at the very end of it. The Last Rites must be administered immediately preceding death. To execute a practicing Catholic without permitting the full administration of the Last Rites is a clear violation of his constitutional rights.

8. Mr. Walls now seeks relief from this Court to ensure that he is not executed in a manner that substantially burdens the exercise of his religious beliefs.

II. PARTIES TO THE COMPLAINT

A. Plaintiff

9. Mr. Walls is a prisoner on Florida's death row pursuant to a 1992 death sentence originating from Okaloosa County. *Walls v. State*, 641 So. 2d 381 (Fla. 1994). He is a citizen of the United States and a resident of the State of Florida.

10. Mr. Walls is currently incarcerated on death watch at Florida State Prison in Raiford, Florida. Mr. Walls has been sentenced to death by means of lethal injection, set to occur on December 18, 2025, under the direction of Defendants.

B. Defendants

11. Defendant Ricky D. Dixon is the Secretary of the Florida Department of Corrections and is responsible for overseeing Florida's state correctional system. Dixon oversees and ensures proper implementation of the Department's statutory

duties under Chapter 922, Florida Statutes. As such, he is responsible for reviewing and certifying the Execution by Lethal Injection Procedures issued by the Department of Corrections. He is sued in his official capacity.

12. Defendant Randall Polk is the Warden of Florida State Prison and is responsible for overseeing and carrying out the execution of Mr. Walls's death sentence. He is sued in his official capacity.

III. JURISDICTION AND VENUE

A. Jurisdiction

13. This action arises under federal statute and presents a federal question within this Court's jurisdiction under Article III of the Constitution and 28 U.S.C. §§ 1331 and 1343(a)(3). This action is brought pursuant to 42 U.S.C. § 1983. This Court has authority to grant declaratory and injunctive relief pursuant to 28 U.S.C. § 2201(a), § 2202, and Federal Rule of Civil Procedure 65.

B. Venue

14. Pursuant to 28 U.S.C. § 1391(b), venue is appropriate in the Northern District of Florida because "a substantial part of the events or omissions giving rise to the claim" occurred here. Defendant Dixon is headquartered and resides in this District and enforces Florida's execution rules and regulations from this District.

IV. FACTUAL BACKGROUND AND PROCEDURAL HISTORY

A. Mr. Walls's Catholic Faith

15. Mr. Walls is a devout Catholic man whose religion has grown in extraordinary ways during his time in prison.² Under RLUIPA and the Constitution, Mr. Walls's sincerely held religious beliefs require an exception to Florida's execution rules and regulations allowing his spiritual advisor to lay hands on him in the chamber during his execution. *See, e.g., Ramirez*, 595 U.S. at 433.

16. Mr. Walls was baptized in the Lutheran Church as a child, while his father was stationed with the United States Air Force in Germany. Since then, Mr. Walls's faith became his own as an adult and has grown throughout his nearly 40 years of incarceration.

17. He was rebaptized as an adult on June 1, 1999, into the Catholic faith, after his formal conversion to Catholicism. *See App. D (Certificate of Baptism and Confirmation)*.

18. On Florida's death row at Union Correctional Institution, Mr. Walls's faith practice is the cornerstone of his everyday life. He studies and listens to the Bible daily, as well as other religious materials and programming.

² Father Feddon attests: "Even before I met [Mr. Walls], I had heard from other members in the Catholic community of his reputation as an active and practicing Catholic." App. A at 2.

19. Mr. Walls spends a significant part of his day in prayer, praying the Liturgy of the Hours, the Rosary, and personal prayers. “[Mr. Walls] consistently receives Communion and goes to Confession.” App. A at 2. He also practices his faith in community, praying with others and winning converts to his Catholic faith.

20. Mr. Walls’s spiritual impact on the row is palpable—from sharing small gifts of food with others to identifying men on the row who have needs both large and small. He has helped those in positions of greater disadvantage to him gain access to Bibles, spiritual advisors, and charitable assistance organizations.

21. Mr. Walls does his best each day to be a light for others, which he explains is because he wants to share the love God has shown him with those around him. Father Feddon described: “I witnessed [Mr. Walls’s] religious piety firsthand. In the time that I have known him, he has always been active in his ministry to others on Death Row.” App. A at 2.

22. Aside from his daily faith practices, Mr. Walls has also engaged in formal faith disciplines. He began a program over a year ago to become an Oblate, a member of the Benedictine monastic family who specifically dedicates their life to God and service. *See* App. C at 24-25.

23. The Oblation formation process involves practicing and living by the Rule of Saint Benedict and immersing oneself in monastic life—a process Mr. Walls

participated in remotely.³ Mr. Walls recently completed his Oblation formation on October 12, 2025. See App. C at 26. Mr. Walls’s oblation shows his sincere commitment to his faith and living according to Benedictine and Catholic principles. *Id.* As Father Feddon explained, “‘Oblate’ is a designation reserved for those who have made a formal commitment to live daily life in accordance with the principles of Catholicism and Saint Benedict’s Rule.” App. A at 2.

B. Florida’s Execution and Spiritual-Advisor Procedures

24. Defendant Dixon issued Florida’s *Execution by Lethal Injection Procedures* (the “Procedures”) on February 18, 2025. App. B. The Procedures were first applied to Edward Thomas James’s execution on March 20, 2025.

25. As stated by Defendant Dixon, “the foremost objective of the lethal injection process is a humane and dignified death,” and additional guiding principles of the Procedures include consideration of the “concerns and emotions of all those involved.” *See id.* at 9.

³ Dr. Cummins, an Oblate who supported Mr. Walls through his Novitiation, says that the process “does not require a rigorous academic understanding of The Rule,” and instead “require[s] sincere belief and commitment to live by its principles. [Mr. Walls] has shown sincerity of faith and strong commitment to living in communion with The Rule as an Oblate.” App. C. at 26.

26. The Procedures include a section devoted to the selection of a Minister of Religion.⁴ That section sets a five-day deadline from the issuance of the Governor’s Warrant of Execution for Mr. Walls to submit his request to the institutional warden. The Procedures also require Mr. Walls to submit FDOC Form DC6-236 with his chosen Minister’s name.

27. The institutional warden must then “conduct a review process of the individual as described in [FDOC] rules and policies applicable to visitor approvals and to spiritual advisor visits.” *See* App B. at 9.

28. “Prior to final approval, the institutional warden may also conduct interviews of the requested minister of religion or their associates. The institutional warden may undertake any investigation necessary to verify that the minister of religion is recognized by their organized religious body as qualified to perform religious functions as a representative of the religious organization or group.” *Id.* at 10. If the Minister is not employed by FDOC, the Procedures require them to sign a Spiritual Advisor Execution Agreement.

29. Moreover, on the day of the execution, (9)(e) states “[t]he only staff authorized to be in the execution chamber area are members of the execution team

⁴ The terms “Minister of Religion” and “Spiritual Advisor,” as used in this Complaint and by Defendants in the Procedures and Spiritual Advisor Agreement, have the same definition and are used interchangeably.

and others as approved by the team warden, including two monitors from FDLE.”
Id. at 14.

30. Further, (11)(e) states “the execution chamber will be secured. Only the team warden, one (1) additional execution team member, and one (1) FDLE monitor shall be allowed in the chamber during the administration of the execution. Any exceptions or contingencies must be approved by the team warden.” *Id.* at 18.

31. Thus, absent approval from the team warden, an inmate’s chosen spiritual advisor is not permitted to be present in the execution chamber under Florida’s current Procedures. This is true even of ministers who have been vetted by the institutional warden.

C. The Denial of Mr. Walls’s Rights

32. On November 18, 2025, Governor Ron Desantis signed Mr. Walls’s death warrant, setting his execution for December 18, 2025.

33. When prisoners are moved from Union Correctional Institution to Florida State Prison for death watch, their tablets are taken away in accordance with FDOC policy. Mr. Walls’s tablet contained a catalog of religious material—including an audio version of the Bible that Mr. Walls used every day, audiobooks about his faith, and religious worship songs. As such, Mr. Walls experienced an immediate denial of access to his religious materials that are integral to his daily life.

34. On November 21, 2025, Mr. Walls submitted FDOC Form DC6-236 requesting that FDOC permit Father Feddon, a Catholic priest of the Pensacola-Tallahassee Diocese with whom Mr. Walls has a religious relationship, to be Mr. Walls's spiritual advisor.⁵ In the amended Form DC6-236, Mr. Walls also asked that Father Feddon be permitted to perform the Last Rites, specifying that Father Feddon be allowed to take confession, give communion, audibly pray, and lay hands on Mr. Walls. Counsel also submitted a letter requesting the same.

35. One of the oldest religious freedom rights known to history and the Christian tradition is the right of prisoners, including those about to be executed, to the comfort of clergy: "I was . . . in prison and you came to me." (Matthew 25:35-36); *see also* Joseph Delany, "*Preparation for Death*" The Catholic Encyclopedia, Vol. 4 New York: Robert Appleton Company.

36. The administration of the Last Rites before death—a collection of prayers and sacraments administered to a person who is in danger of imminent death—is critical to the Catholic faith. Catholic tradition and scripture require administration of the Last Rites to the dying in order to prepare that person's soul for the spiritual journey to the afterlife.

⁵ Due to Mr. Walls's intellectual disability, he originally requested only the appointment of spiritual advisor Father Feddon. He did not understand, until after speaking with counsel, that he also had to specify what role he wanted Father Feddon to play during the execution. He submitted an amended form based on this new understanding, and with the assistance of counsel.

37. Administration of the Last Rites to the condemned at the time of dying has roots in Christianity's beginnings, when priests were present to hear confessions, offer the Eucharist, and administer Last Rites. *See, e.g.*, Catechism of the Catholic Church §§ 1524-25 (concerning *viaticum* administered to those “at th[e] moment of ‘passing over’ to the Father.”).

38. As part of the Last Rites, Father Feddon must take Mr. Walls's final confession, which will be Mr. Walls's final opportunity to confess his sins in compliance with the obligations of his Catholic faith. Such confession is necessary to receive spiritual ablution for sin in Catholicism.

39. As part of the Last Rites, Father Feddon must also give Mr. Walls Communion. Communion is a crucial Catholic sacrament, done in remembrance of the sacrifice of Jesus Christ who gave his life and was executed on a cross to pay for the sins of mankind. During Catholic communion, a Priest prays the prayer of the Eucharist, repeating Christ's own words from the Last Supper, when he communed with his Disciples before his own execution. Just as Christ asked his disciples to eat of his body, because it would be given for them, and drink of his blood, because it would be poured out for them, so, too, Catholics partake in this long-standing sacrament. “Water, bread, and oil—used by Christians for millennia—manifest the grace of God and effect a supernatural reality within the believer.” *See App. F* (Letter from the Director of Liturgy at the Pensacola-Tallahassee Diocese). During the

liturgy of the Eucharist, Catholic teachings indicate that the Host (bread and wine) transubstantiates and becomes the literal embodiment of the Body and Blood of Christ. Following the sacrament carefully, when partaking of the Eucharist, is crucial to the Catholic practice of faith. The proper confection of the Eucharist is central to this practice.

40. It is prescribed by the Catholic faith, as a part of Last Rites, for Mr. Walls to commune with God in his final moments, just as Jesus Christ communed with his Disciples. To partake in Communion, Mr. Walls is required to physically consume the Body and Blood (bread and wine) after it has been consecrated by Father Feddon.

41. As part of the Last Rites, Father Feddon must also pray audibly over Mr. Walls. In addition to being an important everyday religious practice, and particularly important to Mr. Walls's faith commitment as an Oblate of the Benedictine Order,⁶ audible prayer is necessary during the Last Rites; it is the final opportunity Mr. Walls will ever have to practice his Catholic faith.

42. Audible clergy prayer at the time of execution is a historical religious practice dating back to England and her colonies. *See* Brief for Becket Fund for Religious Liberty as Amicus Curiae Supporting Petitioner at 3-15, *Ramirez v.*

⁶ As Dr. Cummins explains, "prayer life . . . is a primary emphasis of Saint Benedict Oblates." App. C at 3.

Collier, No. 21-5592. In fact, for over a millennium, Catholic practices that have accompanied death have been well-known to involve speech and action. The priest audibly prays “the liturgy of Viaticum” that “the Lord Jesus Christ protect you and lead you to eternal life.” Fr. John C. Kasza, *Understanding Sacramental Healing (Anointing and Viaticum)* 223 (2007); see Catechism of the Catholic Church §§ 1501-1502, 1524-1525 (discussing viaticum and the effect of expected death on discernment).

43. As part of the Last Rites, The Catholic traditions expect Father Feddon to lay hands on Mr. Walls while Mr. Walls is dying. This touch may be performed on *any* part of Mr. Walls’ body, but is a crucial aspect of the Last Rites, in keeping with Catholic tradition’s emphasis on the holy significance of laying on hands during prayer and Catholic sacraments. The Director of Liturgy and Sacramental Practice at The Catholic Diocese of Pensacola-Tallahassee explains, “the Catholic Church has incorporated the laying of hands into nearly every Sacrament and many liturgical prayers. At Baptism, infants are prayed over through the touch of the minister, parents, and godparents. Bishops lay hands upon candidates for Holy Orders. In the care of the sick, priests, deacons, and the faithful place their hands upon the afflicted as a sign of comfort and intercession.” *See App. F.*

44. The spiritual tradition of laying on of hands dates to the first century, when Roman educator Marcus Fabius Quintilinaus described this practice: “The

Hand of God is divine power; transmission of spirit; protection; justice. The Great Hand depicts supreme power, the Deity. The hand pushes away evil and trouble.” J.C. Cooper, *An Illustrated Encyclopedia of Traditional Symbols* 78 (1988). The belief that the hands of religious leaders confer beneficial power “existed from ancient times; hence the laying on of hands.” Jack Tressidder, *Symbols and their Meanings* 22 (2000).

45. Today, Christianity recognizes the laying on of hands to serve many functions—including healing the sick, conveying blessings, conferring authority, and giving the gift of the Holy Spirit. Everett Ferguson, *Laying on of Hands*, in 2 *Encyclopedia of Early Christianity* 669, 669-671 (2nd ed., Everett Ferguson ed., 1997).

46. The Christian belief system recognizes that “[t]ouch is spiritually important . . . [because] Jesus healed by touching.” See Daniel Silliman, *Can This Texas Pastor Lay Hands on an Inmate During Execution?*, CHRISTIANITY TODAY (Aug. 23, 2021), <https://www.christianitytoday.com/2021/08/ramirez-execution-death-row-dana-moore-prayer-hands-touch/>. And the Bible teaches that physical touch facilitates spiritual healing. See Luke 4:40 (“[T]he people brought to Jesus all who had various kinds of sickness, and laying his hands on each one, he healed them.”); Acts 19:6 (“When Paul placed his hands on them, the Holy Spirit came on

them[.]”); Daniel 10:18-19 (“[T]he one who looked like a man touched me and gave me strength. ‘Do not be afraid . . . ,’ he said. ‘Peace! Be strong now; be strong.’”).

47. And, “[i]n the prayers for the dying and the dead, the [Catholic] Church instructs ministers to lay hands upon the person and to trace the Sign of the Cross on the forehead, offering consolation and hope to those who grieve.” *See App. F.*

48. Mr. Walls’s sincerely and long held Catholic beliefs require that Defendants permit Father Feddon to perform the Last Rites before Mr. Walls’s execution in order to ensure his spirit is appropriately prepared to make the journey to heaven. This tradition is supported by the theological idea that “d[ying] in the proper frame of mind” could determine “one’s eternal fate.” Stuart Banner, *The Death Penalty: An American History* 16 (2009). The Last Rites can be performed with minimal, if any, intrusions on the Procedures.

49. On November 25, 2025, four days after Mr. Walls’s formal request, an FDOC staff member informed Mr. Walls’s counsel, upon inquiry, that FDOC had approved Father Feddon to be Mr. Walls’s Minister of Religion. Neither Mr. Walls nor Father Feddon had been notified.

50. Counsel relayed this information to Father Feddon and informed him that he would be permitted to schedule a visit with Mr. Walls, as FDOC staff

instructed. Father Feddon contacted FDOC immediately to schedule a visit, but was not permitted to see Mr. Walls until the following week.⁷ See App. A at 2-3.

51. On December 1, 2025, prior to his visit with Mr. Walls, Defendants met with Father Feddon, in person, at Florida State Prison. The purpose of that meeting was to discuss Mr. Walls's Form DC6-236 request. At the meeting, the wardens told Father Feddon that they had approved him to be Mr. Walls's spiritual advisor. By that point, ten days had passed since Mr. Walls's initial request, and, as such, Mr. Walls was denied access to his Spiritual Advisor for nearly half of his warrant period. *Id.* at 3. During this meeting, Defendants notified Father Feddon that Mr. Walls's request for him to lay hands on Mr. Walls during his execution was denied. *Id.*

52. Having heard no information directly from FDOC and received no response from FDOC regarding Defendants' decision on Mr. Walls's request for an accommodation to the Procedures, undersigned counsel sent a follow-up email to FDOC on December 2, 2025. In that e-mail, counsel requested a written decision on the matter. To date, FDOC has not responded.

53. On the morning of December 3, 2025, Father Feddon again met with FDOC. At this meeting, the assistant warden of FSP asked him to sign a form

⁷ FDOC employees informed Father Feddon that Spiritual Advisor visits were only permitted on Mondays and Wednesday. However, because of the Thanksgiving holiday, no visits were available that week. The first availability was the following week, on December 1, 2025.

detailing a preset list of actions he would take or refrain from while fulfilling the position of Mr. Walls's spiritual advisor. *Id.* at 4. The form specified that Father Feddon had no intention of laying hands on Mr. Walls during the execution. *Id.* Father Feddon informed the warden that he could not sign the form without consulting his Bishop because it conflicted with Mr. Walls's religious requests and the priestly services he was entitled to. *Id.*

54. The assistant warden told Father Feddon that he needed to consult with the legal department and asked him to return to the office after his visit with Mr. Walls. *Id.* There, the assistant warden presented Father Feddon with another form to sign, this time with no mention of touch in the execution chamber. *Id.* at 3. Father Feddon asked if this revised form indeed meant that he would be allowed to touch Mr. Walls during the execution. But the assistant warden informed him that it did not—Father Feddon would only be permitted to lay hands on Mr. Walls in the execution chamber before the execution begins and would have to step away to a designated area when the curtain to the witness room was lifted. *Id.* Father Feddon refused to sign the form again, reiterating his commitment to serve Mr. Walls's requests for ministry. *Id.*

55. On December 10, 2025, Father Feddon met with Assistant Warden McClellan again, to discuss Mr. Walls's request. In the interim, Father Feddon had spoken with liturgical scholars and his Bishop, and was assured that Mr. Walls would

“benefit more fully from the Last Rites being celebrated as fully and completely as possible under the law; fully and completely would include audible prayer and the laying on of hands as he is dying.” *Id.* at 5.

56. At the meeting, the assistant warden asked Father Feddon to sign an updated form discussing what practices he would be allowed to perform during Mr. Walls’s execution. *Id.* The form conveyed that he would be able to pray with Mr. Walls inside the execution chamber until the curtain to the witness room is raised. *Id.* At that point, the form specified that Father Feddon would step back to a designated location and pray in a whisper or low volume. *Id.* While reading the form, Father Feddon noticed that it specified for the first time that he would not be able to perform the Last Rites in the execution chamber. *Id.*

57. While the form does not explicitly prohibit Father Feddon from laying hands on Mr. Walls during his execution, the warden told Father Feddon that “there would be no laying hands on [Mr. Walls] as he is dying.” *Id.*

58. Though counsel has asked FDOC for a formal denial of Mr. Walls’s request, FDOC has not provided one to date. Thus, Mr. Walls has initiated this complaint based on the wardens’ denial of Mr. Walls’s request, as conveyed to Father Feddon.

EXHAUSTION

59. Ordinarily, an inmate must exhaust all administrative remedies under the Prison Litigation Reform Act of 1995 (“PLRA”) before filing a § 1983 claim, even in the execution context. *See Ramirez*, 595 U.S. at 422; 42 U.S.C. § 1997e(a). However, if administrative remedies are not “available,” exhaustion is not required. *Ross v. Blake*, 578 U.S. 632, 642 (2016) (an inmate is required to exhaust those, but only those, grievance procedures that are “available”); *Booth v. Churner*, 532 U.S. 731, 737-38 (2001).

60. An administrative procedure is unavailable when it is simply a dead end—that is, when the administrative procedure would leave officers unable to provide any relief to the aggrieved inmate. *Id.* at 643 (citing *Booth*, 532 U.S. at 736, 738).

61. Here, Mr. Walls has been constructively denied his request for a religious exception to the Execution Procedures. But FDOC has refused to put that denial in writing. Because of this, he did not formally go through the grievance process. In his case, the grievance process would not have been productive, not only because of the extremely compressed timeline of his warrant period, but also because he had no written denial to grieve.

62. Under the compressed warrant timeline, it would have been impossible for Mr. Walls to exhaust administrative remedies before his execution date came and

went. Governor DeSantis, within his sole discretion, set Mr. Walls's warrant period for 30 days, from November 18 to December 18, 2025. During that time, he had five days to seek an exception to the Execution Procedures—which he promptly did. FDOC never responded to Mr. Walls's request for an exception.

63. Now, with only 7 days remaining until his execution, Mr. Walls is forced to initiate this action relying on FDOC's denial of his request to Father Feddon. Because there has not been a formal denial of Mr. Walls's request, Mr. Walls cannot file a grievance. Thus, any failure to exhaust administrative remedies is not Mr. Walls's fault; it is the consequence of FDOC's failure to communicate its denial.

64. Having determined that he can wait no longer to seek vindication of his rights, Mr. Walls promptly filed suit. During the three weeks that have passed since Mr. Walls's execution warrant was signed, Mr. Walls has made every effort to seek an exception to the Procedures allowing Father Feddon to lay hands on him and audibly pray with him in the execution chamber. This is not a case where Mr. Walls "slept upon his rights." *Gildersleeve v. New Mexico Mining Co.*, 161 U.S. 573, 578 (1986) (quoting *Speidel v. Henrici*, 120 U.S. 377, 387 (1887)). Much like in *Ramirez*, where the initiation of a lawsuit was postponed only because of the defendants' failure to respond to Mr. Ramirez's grievance appeal, FDOC "can hardly complain about the inequities of delay when their own actions were a significant contributing factor." *Ramirez*, 595 U.S. at 435.

V. CAUSES OF ACTION

I. Defendants' Refusal to Accommodate Mr. Walls's Religious Request Violates Mr. Walls's Rights Under RLUIPA

65. Mr. Walls's religious freedoms are protected by RLUIPA, a federal law which creates a private right of action for injunctive and declaratory relief. 42 U.S.C. § 2000cc-2(a); *see also Sossamon v. Lone Star State of Texas*, 560 F. 3d 316, 326 (5th Cir. 2009). RLUIPA provides broader protections than the First Amendment and dictates that “[n]o government shall impose a substantial burden on the religious exercise of a person residing in or confined to an institution,” including state prisoners. *Ramirez*, 595 U.S. at 424-25.

66. Prisoners stating a claim under RLUIPA “must show: (1) he engaged in a religious exercise; and (2) that religious exercise was substantially burdened.” *Smith v. Comm’r, Ala. Dep’t of Corr.*, 844 F. App’x 286, 289-90 (2021) (citing *Smith v. Allen*, 502 F.3d 1255, 1276 (11th Cir. 2007)).

67. Religious exercise includes “any exercise of religion, whether or not compelled by, or central to, a system of religious belief.” 42 U.S.C. § 2000cc-5(7); *Adkins v. Kaspar*, 393 F.3d 559, 567 (5th Cir. 2004).

68. A substantial burden on an inmate's religious exercise occurs when a prison attaches some meaningful negative consequence to an inmate's religious exercise, thereby forcing him to choose between violating his religion and incurring that negative consequence. *West v. Radtke*, 48 F.4th 836, 845 (7th Cir. 2022) (relying

on *Holt v. Hobbs*, 574 U.S. 352 (2015) and *Burwell v. Hobby Lobby Stores, Inc.*, 573 U.S. 682 (2014)). Prisons can burden religious exercise even when not coercing behavior by prisoners. See Brief of Religious-Liberty Scholars Douglas Laycock, et al. at 2-3, *Ramirez v. Collier*, No. 21-5592 (explaining that any position to the contrary is incorrect and referencing Supreme Court precedent acknowledging a substantial burden exists even when the prison is not coercing behavior).

69. Upon the plaintiff making a prima facie case that he was engaging in a religious exercise that was substantially burdened, the burden shifts to the defendants to show that the enacted policy burdening that exercise is supported by a compelling government interest and that it is narrowly tailored to further that interest. *Id.* at 292.

70. For a policy to be narrowly tailored, it must be the *least* restrictive manner of achieving the government's interest. *Holt*, 574 U.S. at 364. This is an “exceptionally demanding” standard, which requires the government to use a less restrictive policy if one exists. *Id.* at 365.

71. In fact, the United States Supreme Court has instructed that Courts should consider other prisons' ability to accommodate religious practices “while ensuring prison safety and security.” *Id.* at 368-69. Consideration of other prisons' policies will show “that the [DOC] could satisfy its security concerns through a means less restrictive than denying petitioner the exemption he seeks.” *Id.*

72. The Eleventh Circuit has agreed, finding that the practices of other prison systems “[are] highly probative of whether less restrictive measures can be pursued without compromising a compelling interest.” *Smith*, 844 F. App’x at 292.

73. As an initial matter, Mr. Walls has clearly demonstrated that his ability to engage in his sincerely held religious beliefs is burdened by Defendants’ refusal to allow his spiritual advisor to lay hands on him at the time of dying. As discussed above, the laying of hands on a sick or dying person during prayer is a fundamental practice in the Catholic faith: “[t]he sacramental logic of touch dictates that within the Catholic tradition, grace is ordinarily mediated through physical signs: God becomes flesh in the Incarnation. The Church’s sacraments use water, oil, bread, wine, and touch as instruments of grace. In Hebrews 6:2, the ‘laying on of hands’ is named among the basic elements of Christian life. There is no time in a person’s life where they are more in need of grace that comes from touch and audible prayer than at the time of death.” *See App. A at 3.*

74. As Father Feddon attests, “To forbid touch is not a minor inconvenience; it substantially burdens the free exercise of our faith by preventing the minister from performing the very form of ministry the tradition prescribes when someone is dying: the laying on of hands while praying the Commendation of the Dying.” *Id.*

75. Thus, “[f]or a condemned man approaching death, remote prayer from across the room is not the same religious act as the laying on of hands and audible prayers that the dying can hear that conveys the closeness and the reassurance of the Church’s presence with the dying. The physical contact is not incidental—it is constitutive of the ritual as understood in historic Christian practice.” *Id.* at 3-4.

76. FDOC cannot show that a total ban on religious touch by Father Feddon during the execution is the least restrictive means of furthering its purported compelling interest. This Court need only look to the Texas Department of Criminal Justice’s (“TDCJ”) accommodations to religious touch to see that it is possible to accommodate religious touch during the execution—despite TDCJ’s stated security and secrecy concerns. *See* Joint Order of Dismissal, *Ramirez v. Collier*, No. 4:21-cv-02609, No. 38 (S.D. Tex. May 4, 2022).

77. In 2021, after John Ramirez’s execution was scheduled in Texas, his counsel contacted General Counsel of the TDCJ and requested the presence of Mr. Ramirez’s spiritual advisor in the execution chamber to audibly pray over him and lay hands on him during his execution. Petitioner’s Complaint Pursuant to 42 U.S.C. § 1983 at 5, *Ramirez v. Collier*, No. 2:20-cv-205, No. 1 (S.D. Tex. Aug. 7, 2020).

78. After TDCJ counsel failed to respond to Petitioner’s attorney for over two weeks, he followed up again and informed TDCJ counsel that Mr. Ramirez’s

spiritual advisor had previously been allowed in the execution chamber for another condemned prisoner. *Id.* at 6.

79. TDCJ counsel still did not respond, so Mr. Ramirez filed a grievance pursuant to TDCJ's grievance procedures. TDCJ denied Mr. Ramirez's initial grievance, citing three governmental interests: 1) security in the execution chamber; 2) preventing unnecessary suffering; and 3) avoiding further emotional trauma to the victim's family members. *Ramirez*, 595 U.S. at 430.

80. Mr. Ramirez appealed the denial of his grievance by filing a Step 2 grievance, which TDCJ did not respond to. Mr. Ramirez then filed a 42 U.S.C. § 1983 Complaint, alleging that TDCJ's refusal to accommodate Mr. Ramirez's requests was in violation of the First Amendment and RLUIPA. Petitioner's Complaint at 6-7.

81. Both the District Court and the Fifth Circuit denied the request for a stay of execution. *Ramirez*, 595 U.S. 420. Mr. Ramirez sought certiorari from the U.S. Supreme Court the day before his scheduled execution, and the Supreme Court granted a stay of execution and scheduled argument. *Id.*

82. The Supreme Court found that TDCJ "fail[ed] to show that a categorical ban on touch is the least restrictive means of accomplishing" its stated interest. *Id.* at 431. While the Court agreed that the State has an interest in preventing accidental interference with the IV line, it said that TDCJ could prevent this by allowing "touch

on a part of the body away from IV lines, such as a prisoner's lower leg." *Id.* at 431-32. Or, the Court said Texas could require the spiritual advisor to participate in training that underscores the importance of staying away from IV lines. *Id.* at 432.

83. Finding that "Texas [did] nothing to rebut these obvious alternatives," the Court concluded that Mr. Ramirez was "likely to prevail on his claim that Texas's categorical ban on religious touch in the execution chamber is inconsistent with his rights under RLUIPA." *Id.* at 433.

84. Turning to Mr. Ramirez's likeliness to prevail on the merits of his RLUIPA claim, the Court found that the factors favored an injunction because Mr. Ramirez was "likely to suffer irreparable harm in the absence of injunctive relief because he [would] be unable to engage in protected religious exercise in the final moments of his life." *Id.* Finding it "possible to accommodate [Mr.] Ramirez's sincere religious beliefs," the Court reversed the judgment of the Fifth Circuit and remanded for further proceedings. *Id.* at 434-36.

85. On remand, the parties filed a Joint Motion to Dismiss, where TDCJ agreed to allow the inmate's chosen spiritual advisor to touch the inmate's foot during the execution. Joint Motion to Dismiss, *Ramirez v. Collier*, No. 4:21-cv-2609, ECF No. 38 (S.D. Tex. May 4, 2022).

86. The core circumstances in Mr. Walls's case are the same as those in *Ramirez*. Like Mr. Ramirez, Mr. Walls requested an accommodation procedure

through the proper channels and was forced to follow up multiple times when FDOC did not respond.

87. Like Mr. Ramirez, Mr. Walls requested touch in the execution chamber based on his sincerely held religious beliefs, and in accordance with the edicts of his Catholic faith. Like TDCJ, FDOC denied the request. But unlike TDCJ, FDOC provided no explanation or justification whatsoever for its denial of touch and restriction on audible prayer. And, FDOC refused to communicate their denial directly to Mr. Walls or his counsel.

88. Since the Supreme Court's decision in *Ramirez* clarifying that touch is allowed in the execution chamber, no state has executed an inmate without granting their reasonable requests for spiritual accommodation. *See Pizzuto v. Tewalt*, No. 1:21-cv-00267-BLW, 2024 WL 2832598, at *2 (D. Ind. Jun. 4, 2024) (Defendants reversed course after *Ramirez* was decided and approved Plaintiff's request for touch in the execution chamber); Order, *Corcoran v. Reagle et al.*, No. 3:24-cv-00969-JD-JEM, ECF No. 19 (N.D. Ind. Dec. 30, 2024) (dismissing case arising out of warden's refusal to permit death-sentenced inmate's spiritual adviser to touch inmate at time of execution, pursuant to parties' joint stipulation after settlement); Acknowledgment of Dismissal, *Eiler, et al., v. Complex Warden, Federal Correctional Complex, Terre Haute*, No. 2:23-cv-00205-MPB-MKK, ECF No. 24 (S.D. Ind. Sept. 28, 2023) (same); Order, *Smith v. Dunn*, No. 2:20-cv-01026-RAH,

ECF No. 58 (M.D. Ala. June 17, 2021) (same); Preliminary Injunction, *Barbee v. Collier, et al.*, No. 3:21-cv-03077, ECF No. 54 (S.D. Tex. Nov. 16, 2022) (ordering that death-sentenced inmate’s “spiritual adviser will be permitted to hold Barbee’s hand after Barbee is secured to the gurney in the execution chamber and the IV lines are in place” and “permitted to pray aloud at a moderate volume”). FDOC is the outlier in continuing to violate prisoners’ rights.

89. Given the Supreme Court’s resolution of a nearly identical claim in *Ramirez* and informed by other prisons’ ability to accommodate touch in the execution chamber, it is clear that FDOC can accommodate the same.

90. FDOC’s denial of Mr. Walls’s request is undermined by its previous acceptance of the same request in the execution of Anthony Wainwright. There, designated Minister of Religion Jeff Hood attests that he was able to lay his hands on Mr. Wainwright’s leg during the execution and audibly pray with him. Att. B (Jeff Hood Execution Eyewitness Account). Thus, it is clear that FDOC can accommodate Mr. Walls’s requests.

91. FDOC has consistently refused to accommodate Mr. Walls’s request for Father Feddon to provide physical touch at the time of his execution, aside from attempting to strong-arm Father Feddon, and has not communicated its justification for denying his request to either Mr. Walls or his counsel.

92. It is the Defendants' burden to establish that their denial of Mr. Walls's rights is supported by a compelling government interest and that the denial is narrowly tailored to further that interest. The Supreme Court has already established that prohibiting touch during an execution is not the least restrictive means of furthering governmental interests such as security, the prevention of unnecessary suffering, and avoiding further emotional trauma to the victim's family members. *Ramirez*, 595 U.S. at 430. Defendants must demonstrate why FDOC's prohibition is any different from the one struck down in *Ramirez*, but they have not.

II. Defendants' Refusal to Accommodate Mr. Walls's Religious Requests Violates Mr. Walls's First Amendment Rights

93. The First Amendment to the United States Constitution declares that "Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof." U.S. Const. amend I. This command is applied to the states by the Fourteenth Amendment. *Cantwell v. Connecticut*, 310 U.S. 296, 303 (1940). The First Amendment stands to protect both "[f]reedom of conscience and freedom to adhere to such religious organization or form of worship as the individual may choose," from restrictions by law. *Id.*

94. Thus, the State must show "neutrality between religion and religion" and must refrain from adopting programs or practices "which 'aid or oppose' any religion." *Epperson v. Arkansas*, 393 U.S. 97, 104 (1968) (citing *Abington School District v. Schempp*, 374 U.S. 203, 225 (1963)).

95. The Free Exercise Clause protects against laws that “discriminate against some or all religious beliefs or regulates or prohibits conduct because it is undertaken for religious reasons.” *Church of Lukumi Babalu Aye, Inc. v. City of Hialeah*, 508 U.S. 520, 532 (1993). In fact, it was “historical instances of religious persecution and intolerance that gave concern to those who drafted the Free Exercise Clause.” *Bowen v. Roy*, 476 U.S. 693, 703 (1986) (opinion of Burger, C.J.). See J. Story, Commentaries on the Constitution of the United States §§ 991–992 (abridged ed. 1833) (reprint 1987); T. Cooley, Constitutional Limitations 467 (1868) (reprint 1972); *McGowan v. Maryland*, 366 U.S. 420, 464, n.2 (1961) (opinion of Frankfurter, J.); *Douglas v. Jeannette*, 319 U.S. 157, 179 (1943) (Jackson, J., concurring in result); *Davis v. Beason*, 133 U.S. 333, 342 (1890). Statutes that treat some religious denominations more favorably than others similarly violate the Free Exercise clause. See *Niemotko v. Maryland*, 340 U.S. 268, 272-73 (1951)

96. The threshold inquiry to determine the level of scrutiny to be applied, when reviewing policies that hinder an individual’s ability to freely exercise his religion, is whether the law is neutral and generally applicable. “[A] law that is neutral and of general applicability need not be justified by a compelling interest even if the law has the incidental effect of burdening a particular religious practice.” *Hialeah*, 508 U.S. at 531. Any law that is not both neutral and generally applicable “must be justified by a compelling government interest and must be narrowly

tailored to advance that interest.” *Id.*; see also *Masterpiece Cakeshop v. Colo. Civil Rights Comm’n*, 584 U.S. 617, 644 (2018) (Gorsuch, J. concurring) (joined by Alito, J.).

97. Denying Mr. Walls the right to engage in his sincerely held Catholic beliefs and practices, at the time of his dying, is a violation of the Free Exercise clause of the First Amendment, applicable to Florida through the Fourteenth Amendment. *Butts v. Martin*, 877 F.3d 571, 584 (5th Cir. 2017); *Smith v. Comm’r, Ala. Dep’t of Corr.*, 844 F. App’x 286, 291 (11th Cir. 2021).

98. FDOC’s constructive denial of Mr. Walls’s request for his spiritual advisor to administer the sacrament of the transubstantiated Eucharist, pray audibly over him, and to lay hands on him in the execution chamber at the time of dying, a crucial component of Last Rites for a condemned man, is a violation of Mr. Walls’s constitutional rights under the First Amendment.

99. In denying Mr. Walls the right to exercise his religious beliefs at the precise moment when it is most important to do so—when his life is ending and his soul is transitioning to heaven—FDOC demonstrates a hostility towards Mr. Walls’s religious practices.

100. FDOC’s denial of Mr. Walls’s request confirmed that the Procedures exist in defiance of the First Amendment’s prohibition on laws that prohibit the Free Exercise of Religion. Section 11(e) of the Execution Procedures states that “[o]nly

the team warden, one (1) additional execution team member and one (1) FDLE monitor shall be allowed in the chamber during the administration of the execution. Any exceptions or contingencies must be approved by the team warden.” App. B at 18. Warden Polk and Assistant Warden McClellan have made it clear through their actions, during Mr. Walls’s warrant, that they will not provide that exception lightly, and though they may allow spiritual advisors in the chamber, they will not make an exception allowing spiritual advisors to lay hands on prisoners during an execution—no matter how substantial a burden that places on the prisoner’s practice of their religion.

101. By issuing a constructive denial restricting Mr. Walls’s spiritual advisor from laying hands on an inmate during an execution, the DOC has created a policy that is unduly restrictive of inmates’ religious freedoms.

102. Further, FDOC’s restrictions are not justified by a compelling government interest or narrowly tailored to advance that interest. In fact, FDOC provided no justification for its denial of Mr. Walls’s request to Father Feddon. To date, FDOC has not provided a compelling government interest that justifies its denial of Mr. Walls’s religious rights.

103. Though FDOC has not provided a compelling government interest, and thus can clearly not meet its burden, even assuming FDOC did have a compelling reason to deny Mr. Walls’s rights, it cannot show that its denial is narrowly tailored.

104. While FDOC has provided no justification for their denial, allegations that a spiritual advisor in the death chamber might compromise secrecy or security would be a speculative justification that does not pass strict scrutiny. *See Kennedy v. Bremerton School Dist.*, 597 U.S. 507, 543 (2022) (the “mere shadow” of a conflict does not establish that competing interests are at odds); *see also Gutierrez v. Saenz*, No. 1:19-cv-00185, slip op. at 29 (S.D. Tex. Nov. 24, 2020) (holding that the “extensive evidence” submitted by TDCJ does not demonstrate that security concerns would result from allowing inmates the assistance of their chosen spiritual advisor, and speculative hypotheticals without evidentiary support do not create an unmanageable security risk).

105. Operating under the assumption that FDOC can provide a compelling government interest for its denial, it still cannot demonstrate that its directive for Father Feddon to step back before the curtain is raised was narrowly tailored. FDOC could implement other policies and procedures to ensure that the execution is not compromised—such as conducting a background check, training the spiritual advisor on how to be present with Mr. Walls without interfering with the process, and ensuring the spiritual advisor is aware of the consequences of threatening the safety and secrecy of the execution. *See Ramirez*, 595 U.S. at 432 (providing several examples of how a state may narrowly tailor execution protocols to permit a spiritual

advisor to lay hands on a death row inmate during execution while still satisfying the government's stated security interests).

VI. CONCLUSION

106. Defendants' refusal to accommodate Mr. Walls's sincerely held religious beliefs and allow his spiritual advisor to lay hands on him in the chamber, during the execution, as part of his Last Rites, is a violation of Mr. Walls's rights under RLUIPA and the First Amendment to the U.S. Constitution. This policy places a substantial burden on Mr. Walls's religious practice at the time he is dying, a time when religious observance and ministerial guidance are paramount. Defendants' policy is not narrowly tailored to meet any known governmental interest.

VII. REQUEST FOR RELIEF

WHEREFORE, Mr. Walls respectfully requests that this Court grant the following relief:

- a) A declaratory judgment that FDOC's policy violates Mr. Walls's First Amendment rights under the Establishment Clause;
- b) A declaratory judgment that FDOC's policy violates Mr. Walls's First Amendment rights under the Free Exercise Clause;
- c) A declaratory judgment that FDOC's policy violates Mr. Walls's rights under RLUIPA; and
- d) A preliminary and permanent injunction prohibiting Defendants from executing Mr. Walls until they conform to Mr. Walls's requested accommodations for his sincerely held religious beliefs and allow his spiritual advisor to perform the complete Last Rites.

VIII. CERTIFICATION

Sean Gunn, attorney for Mr. Walls, certifies that to the best of his knowledge and belief, the facts set forth in this complaint are true and correct.

Respectfully submitted,

/s/ Linda McDermott
LINDA MCDERMOTT
Chief, Capital Habeas Unit

/s/ Sean Gunn
SEAN GUNN

MICHELLE WARD
RAEGAN BURKE
Federal Public Defender
Northern District of Florida
227 North Bronough St., Suite 4200
Tallahassee, Florida 32301
(850) 942-8818
sean_gunn@fd.org

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing pleading has been immediately furnished by electronic mail to counsel for the Defendants, Jason Rodriguez (jason.rodriguez@myfloridalegal.com); Charmaine Millsaps (charmaine.millsaps@myfloridalegal.com); the Office of the Attorney General (capapp@myfloridalegal.com). Service on the Defendants will be completed as soon as possible upon issuance of the summons.

/s/ Sean Gunn
SEAN GUNN