



VIA ACMS

April 13, 2026

Molly Dwyer
Clerk of Court Office of the Clerk
U.S. Court of Appeals for the Ninth Circuit
P.O. Box 193939
San Francisco, CA 94119-3939

Re: *Royce v. Bonta*, No. 25-2504
Argument Scheduled April 17, 2026
Response to Citation of Supplemental Authority filed
August 10, 2026

Dear Ms. Dwyer,

Does strict scrutiny apply to a law that prohibits Appellants' children from attending school because of their sincerely held religious beliefs? Recent Supreme Court's holdings steer this outcome. *Mahmoud v. Taylor*, 606 U.S. 522 (2025); *Miller v. McDonald*, 146 S. Ct. 879 (2025); *Mirabelli v. Bonta*, 146 S. Ct. 797 (2026). However, *Perry v. Marteney*, 2026 WL 946152 (4th Cir. Apr. 8, 2026) undermines these precedents.

The Supreme Court remanded *Miller* considering *Mahmoud*—because the Second Circuit neglected to apply strict scrutiny to a similar burden on parental religious rights. 606 U.S. at 530 (citing *Wisconsin v. Yoder*, 406 U.S. 205, 218 (1972)). *Mirabelli* protected parental free-exercise rights against a policy forcing families to subordinate their convictions to state-imposed medical and psychological decisions on gender transitioning.

Perry errs by confining these holdings to cases of “ideological indoctrination” rather than recognizing the broader parental rights at stake.¹ “[G]overnment cannot condition the benefit of free public education on parents’ acceptance” of policies that conflict with their faith. *Mahmoud*, 606 U.S. at 530. *Miller* and *Mirabelli* illustrate when the State forces parents to violate their religious beliefs regarding the upbringing, education, and medical decisions affecting their children, strict scrutiny applies.²

¹ Closing the school-doors on Appellants’ children sends a message: that Appellants’ religious beliefs disqualify them from society.

² S.B. 277 is less “generally applicable” than West Virginia’s law, given California’s secular exemptions (*e.g.*, independent study programs, home-based private schools, conditional admissions) that pose the same harm. *Tandon v. Newsom*, 593 U.S. 61, 62 (2021); *see also Doster v. Kendall*, 54

Finally, *Perry* overlooked *Smith*'s exclusion for “hybrid situation[s]”, like here, where parental rights and free exercise conflate. *Emp. Div. v. Smith*, 494 U.S. 872, 882 (1990) (applying rational basis to “a free exercise claim unconnected with any . . . parental right.”).

Reliance on *Perry* should be rejected.

Respectfully submitted,

ADVOCATES FOR FAITH AND FREEDOM

/s/ Erin Elizabeth Mersino
Erin Elizabeth Mersino

cc: All Counsel of Record (via ACMS)

F.4th 398 (6th Cir. 2022) (holding that blanket rejection of religious exemptions violates the Free Exercise Clause), *vacated on mootness*; *U.S. Navy SEALs 1-26 v. Biden*, 578 F. Supp. 3d 822, 826, 837–40 (N.D. Tex. 2022) (same).