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# Reports

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*Charles J. Russo*

SCOTUS rules that Catholic Charities  
is a religious organization

**2025/13**

International Institute  
for Religious Freedom



International Institute  
for Religious Freedom

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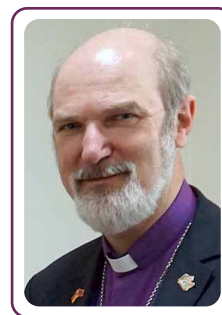
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IIRF Reports Vol. 14 – 2025/13

This report is a reprint from: Charles J. Russo. (2025). SCOTUS rules that Catholic Charities is a religious organization. *The Catholic World Report*. <https://catholicworldreport.com/?p=367785>

*Charles J. Russo*

## **SCOTUS rules that Catholic Charities is a religious organization**

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## Introduction

On June 5, 2025, the Supreme Court rendered a major victory for religious freedom in *Catholic Charities Bureau v. Wisconsin Labor & Industry Review Commission*.<sup>1</sup>

In a unanimous judgment authored by Justice Sotomayor, with concurrences by Justices Thomas and Jackson, the Court reversed an earlier order in favor of Wisconsin.<sup>2</sup> The Justices reasoned that Wisconsin violated Catholic Charities' First Amendment<sup>3</sup> rights in denying it a tax exemption on the basis that the services it provided were not primarily religious because their employees “do not proselytize or serve only Catholics’ in the course of performing charitable work.”<sup>4</sup>

## History and context

Controversy began in 1972,<sup>5</sup> when Wisconsin exempted religious organizations from paying unemployment taxes if, as Catholic Charities did, they provided coverage through their own funds. In the same year, though, Wisconsin denied Catholic Charities’ requested exemption from paying unemployment taxes because officials regarded “its operations as ‘charitable,’ ‘educational,’ and ‘rehabilitative,’ not ‘religious.’”<sup>6</sup>

<sup>1</sup> Supreme Court of the United States. (2025). *Catholic Charities Bureau, inc., et al. v. Wisconsin Labor and Industry Review Commission et al.* [https://supremecourt.gov/opinions/24pdf/24-154\\_2b82.pdf](https://supremecourt.gov/opinions/24pdf/24-154_2b82.pdf)

<sup>2</sup> Supreme Court of Wisconsin. (2024, March 14). *Catholic Charities Bureau, Inc., Barron County Developmental Services, Inc., Diversified Services, Inc., Black River Industries, Inc. and Headwaters, Inc., Petitioners-Respondents-Petitioners, FILED v. State of Wisconsin Labor and Industry Review Commission, Respondent-Co-Appellant, State of Wisconsin Department of Workforce Development, Respondent-Appellant.* <https://becketnewsite.s3.amazonaws.com/20240314141108/Opinion-in-CCB-v-State-of-Wisconsin-Labor-and-Industry-Review-Commission.pdf>

<sup>3</sup> United States. (n.d.). Constitution of the United States: First Amendment. *Library of Congress*. <https://constitution.congress.gov/constitution/amendment-1/>

<sup>4</sup> Supreme Court of the United States. (2025). *Catholic Charities Bureau, inc., et al. v. Wisconsin Labor and Industry Review Commission et al.* [https://supremecourt.gov/opinions/24pdf/24-154\\_2b82.pdf](https://supremecourt.gov/opinions/24pdf/24-154_2b82.pdf)

<sup>5</sup> Michael Warsaw. (2024, April 25). Catholic Charities Isn’t Religious? So Sayeth the Wisconsin Supreme Court. *National Catholic Register*. <https://ncregister.com/commentaries/catholic-charities-isn-t-religious-so-sayeth-the-wisconsin-supreme-court>

<sup>6</sup> Supreme Court of Wisconsin. (2024, March 14). *Catholic Charities Bureau, Inc., Barron County Developmental Services, Inc., Diversified Services, Inc., Black River Industries, Inc. and Headwaters, Inc., Petitioners-Respondents-Petitioners, FILED v. State of Wisconsin Labor and Industry Review Commission, Respondent-Co-Appellant, State of Wisconsin Department of Workforce Development, Respondent-Appellant.* <https://becketnewsite.s3.amazonaws.com/20240314141108/Opinion-in-CCB-v-State-of-Wisconsin-Labor-and-Industry-Review-Commission.pdf>

After state officials again refused to exempt Catholic Charities in the Diocese of Superior from unemployment taxes in 2016,<sup>7</sup> it unsuccessfully filed suit.<sup>8</sup> The Supreme Court of Wisconsin affirmed that the assistance Diocesan employees offered the needy through four sub-entities failed to qualify as religious activities at the heart of the Church's mission because staff members made no efforts to convert the individuals they served to Catholicism.

Because Catholic Charities had to pay unemployment taxes, the Supreme Court agreed to hear its appeal, reversing in its favor.<sup>9</sup>

## Supreme Court's holding

At the outset, Justice Sotomayor acknowledged that “[t]he clearest command of the Establishment Clause”<sup>10</sup> is that the government may not ‘officially prefe[r]’ one religious denomination over another. This principle of denominational neutrality bars States from passing laws that ‘aid or oppose’ particular religions or interfere in the ‘competition between sects.’” Sotomayor decided that “Wisconsin’s exemption, as interpreted by its Supreme Court, thus grants a[n impermissible] denominational preference by explicitly differentiating between religions based on theological practices.”<sup>11</sup>

Reviewing Wisconsin’s action, Justice Sotomayor applied strict scrutiny,<sup>12</sup> the highest level of review under which state actions limiting fundamental rights must be justified by compelling governmental interests and narrowly tailored to achieve their goals. Finding that Wisconsin failed to meet this standard, she concluded with a powerful statement worth quoting at some length:

[i]t is fundamental to our constitutional order that the government maintain ‘neutrality between religion and religion.’ There may be hard calls to make

<sup>7</sup> Michael Gryboski. (2024, December 13). Supreme Court to decide if Catholic Charities can claim tax exemption. *The Christian Post*. <https://christianpost.com/news/catholic-charities-cant-claim-tax-exemption-wis-supreme-court.html>

<sup>8</sup> Supreme Court of Wisconsin. (2024, March 14). Catholic Charities Bureau, Inc., Barron County Developmental Services, Inc., Diversified Services, Inc., Black River Industries, Inc. and Headwaters, Inc., Petitioners-Respondents-Petitioners, FILED v. State of Wisconsin Labor and Industry Review Commission, Respondent-Co-Appellant, State of Wisconsin Department of Workforce Development, Respondent-Appellant. <https://becketnewsite.s3.amazonaws.com/20240314141108/Opinion-in-CCB-v-State-of-Wisconsin-Labor-and-Industry-Review-Commission.pdf>

<sup>9</sup> Charles J. Russo. (2025, January 13). SCOTUS to review whether Catholic Charities provides religion-based assistance in WI. *The Catholic World Report*. <https://catholicworldreport.com/?p=332388>

<sup>10</sup> Supreme Court of the United States. (2025). Catholic Charities Bureau, inc., et al.v. Wisconsin Labor and Industry Review Commission et al. [https://supremecourt.gov/opinions/24pdf/24-154\\_2b82.pdf](https://supremecourt.gov/opinions/24pdf/24-154_2b82.pdf)

<sup>11</sup> Supreme Court of the United States. (2025). Catholic Charities Bureau, inc., et al. v. Wisconsin Labor and Industry Review Commission et al. [https://supremecourt.gov/opinions/24pdf/24-154\\_2b82.pdf](https://supremecourt.gov/opinions/24pdf/24-154_2b82.pdf)

<sup>12</sup> Cornell Law School. (2024, September). strict scrutiny. *Legal Information Institute*. [https://law.cornell.edu/wex/strict\\_scrutiny](https://law.cornell.edu/wex/strict_scrutiny)

in policing that rule, but this is not one. When the government distinguishes among religions based on theological differences in their provision of services, it imposes a denominational preference that must satisfy the highest level of judicial scrutiny when officials seek to limit a fundamental constitutional right such as religious freedom. Because Wisconsin has transgressed that principle without the tailoring necessary to survive such scrutiny, the judgment of the Wisconsin Supreme Court is reversed ...<sup>13</sup>

Justice Thomas “join[ed] the Court’s opinion in full”<sup>14</sup> but wrote separately, remarking that Wisconsin erred in treating Catholic Charities “as an entity entirely distinct and separate” from the Diocese of Superior because, under canon law, it and its sub-entities are “an arm” of the diocese. Thomas criticized Wisconsin because it “relied on Catholic Charities’ separate corporate charter to treat it as an entity entirely distinct and separate from the Diocese. He wrote “[t]hat holding contravened the church autonomy doctrine,”<sup>15</sup> which grants religious leaders the sole authority to define their missions and governance structures without state interference.

Justice Jackson cited **The Federal Unemployment Tax Act’s**<sup>16</sup> allowing States to exempt “any ‘organization which is operated primarily for religious purposes and which is operated, supervised, controlled, or principally supported by a church or convention or association of churches’”<sup>17</sup> from their unemployment-coverage laws. Observing that Wisconsin “treat[ed] church-affiliated charities that proselytize and serve co-religionists exclusively differently from those that do not,” she agreed that it “violated the neutrality principle of the Constitution’s Religion Clauses...[and so] join[ed] the Court’s opinion in full.”

## Reflections and observations

What is especially noteworthy in Catholic Charities is that members of the Supreme Court (exemplified by Justice Sotomayor’s having written its unanimous order, in light of her not always being supportive of religious freedom claims, at least in education) put aside their ideological differences of opinion

<sup>13</sup> Supreme Court of the United States. (2025). Catholic Charities Bureau, inc., et al. v. Wisconsin Labor and Industry Review Commission et al. [https://supremecourt.gov/opinions/24pdf/24-154\\_2b82.pdf](https://supremecourt.gov/opinions/24pdf/24-154_2b82.pdf)

<sup>14</sup> Supreme Court of the United States. (2025). Catholic Charities Bureau, inc., et al. v. Wisconsin Labor and Industry Review Commission et al. [https://supremecourt.gov/opinions/24pdf/24-154\\_2b82.pdf](https://supremecourt.gov/opinions/24pdf/24-154_2b82.pdf)

<sup>15</sup> Carl H. Esbeck. (n.d.). Church Autonomy Doctrine. <https://christianlegalsociety.org/wp-content/uploads/2024/09/Church-Autonomy-Doctrine-Summary-Esbeck-GCF.pdf>

<sup>16</sup>

<https://uscode.house.gov/view.xhtml?path=/prelim@title26/subtitleC/chapter23&edition=prelim>

<sup>17</sup> Supreme Court of the United States. (2025). Catholic Charities Bureau, inc., et al. v. Wisconsin Labor and Industry Review Commission et al. [https://supremecourt.gov/opinions/24pdf/24-154\\_2b82.pdf](https://supremecourt.gov/opinions/24pdf/24-154_2b82.pdf)

to rectify Wisconsin's having run roughshod over Catholic Charities' First Amendment rights.

The Justices recognized the significance of safeguarding religious freedom in light of Wisconsin's having overstepped its boundaries in not deferring to leaders of Catholic Charities who explained that serving the needy involves freely providing aid not premised on their converting to Catholicism. In so doing, the Court articulated a newly defined landscape of religious freedom favoring deference to institutional officials.

By intruding on matters of faith it was unqualified to address, the Supreme Court of Wisconsin, in particular, displayed judicial hubris in upholding the actions of state officials who misunderstood that Catholic social teachings do not condition aid on accepting its teaching. As such, Wisconsin's jurists and officials impermissibly entangled themselves in the Catholic Church's internal affairs, violating both the First Amendment Religion Clauses and the related church, also known as religious autonomy doctrine.

The actions of Wisconsin jurists and officials were ironic at best, hypocritical at worst. Rather than respecting the First Amendment's prohibition against inhibiting the free exercise of religion that became enshrined in the failed Jeffersonian metaphor of "building a wall of separation between Church and state,"<sup>18</sup> they egregiously breached it. As the Supreme Court pointed out, officials and jurists in Wisconsin exceeded their authority in trying to tell leaders of Catholic Charities how they could, or should, carry out the good works they provide at the risk of being denied a tax exemption that was generally available to other religious groups serving those in need.

At the same time, Justice Sotomayor's analysis can be viewed in light of the Supreme Court's evolving aid to faith-based schools jurisprudence, a major movement toward the principle of judicial non-interference in how religious institutions operate. These cases stress that if the government makes benefits generally available, it must treat all recipients equally<sup>19</sup> and cannot interfere by telling religious institutions what they can or must do, adding that to deny aid simply because of an organization's faith "is odious to our Constitution ... and cannot stand."<sup>20</sup>

When dealing with matters of faith, it is unfortunate that the Wisconsin high court either failed to engage in a careful review of, or ignored, such precedent on issues beyond their expertise and with which they apparently disagreed

On a related matter, Justice Sotomayor's rationale was consistent with the Supreme Court's earlier interpretation of the reach of Title VII's ministerial

<sup>18</sup> James Hutson. (1998, June). "A Wall of Separation": FBI Helps Restore Jefferson's Obliterated Draft. *Library of Congress Information Bulletin* 57(6). <https://loc.gov/loc/lcib/9806/danbury.html>

<sup>19</sup> Charles J. Russo. (2022, August 16). *Carson v. Makin and the Blossoming of Religious Freedom in Education*. *Canopy Forum*. <https://canopyforum.org/?p=17760>

<sup>20</sup> Supreme Court of the United States. (2016). *Trinity Lutheran Church of Columbia, Inc. v. Comer, Director, Missouri Department of Natural Resources*. [https://supremecourt.gov/opinions/16pdf/15-577\\_khlp.pdf](https://supremecourt.gov/opinions/16pdf/15-577_khlp.pdf)



exception<sup>21</sup> in *Hosanna-Tabor Evangelical Lutheran Church and School v. EEOC*.<sup>22</sup> In *Hosanna Tabor*, the Court commented that “[r]eligious autonomy means that religious authorities [alone] must be free to determine who is qualified to serve in positions of substantial religious importance.” Extending this principle in *Catholic Charities*, the Supreme Court was of the view that public officials cannot direct how, and to whom, religious organizations can offer their services. Accordingly, the Court specified at the outset of the controversy that Wisconsin officials should have accepted the world of leaders in Catholic Charities in terms of how they carried out their mission to serve the needy.

Justice Sotomayor’s opinion emphasized that Wisconsin jurists and officials unconstitutionally overstepped their boundaries by intruding in defining what constitutes religious activity that Catholic Charities, and by extension other church outreach services, offer the needy. To reiterate, the Court made it clear that because secular jurists lack the authority to interpret what qualifies as being at the heart of the Church’s mission to serve the needy in their many manifestations, they should defer to the judgments of religious leaders.

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<sup>21</sup> Charles J. Russo. (2024, August 3). The ministerial exception, religious freedom, and a tale of two courts. *The Catholic World Report*. <https://catholicworldreport.com/?p=298339>

<sup>22</sup> Cornell Law School. (2012, January 11). *Hosanna-Tabor Evangelical Lutheran Church and School v. EEOC*. *Legal Information Institute*. <https://law.cornell.edu/supremecourt/text/10-553>

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