

**IN THE DISTRICT COURT OF APPEAL
SECOND DISTRICT, STATE OF FLORIDA**

NATHAN SHIRL HART,
Defendant/Appellant,

Case No. 2D23-0493
L.T. Case No. 22-CF-011041

v.

STATE OF FLORIDA,
Plaintiff/Appellee.

**ON APPEAL FROM A FINAL CRIMINAL JUDGMENT AND
SENTENCE OF THE CIRCUIT COURT FOR THE
THIRTEENTH JUDICIAL CIRCUIT IN AND FOR
HILLSBOROUGH COUNTY, FLORIDA**

**BRIEF OF AMICI CURIAE FAITH-BASED ORGANIZATIONS AND
RELIGIOUS LEADERS IN SUPPORT OF APPELLANT**

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STATEMENT OF INTEREST

Amici are faith-based organizations and religious leaders from various faith traditions who all believe that religion is meant to bring us together, rather than to divide.¹ Guided by faith, *amici* strive to make Florida a better place for all people.

In 2018, *amici*, along with many other faith-based organizations and religious leaders, supported Amendment 4 to the Florida Constitution, which was expected to restore voting rights to more than one million Floridians with prior felony convictions. *Amici's* support for Amendment 4 was not just theoretical. Our faiths teach us that those who falter are deserving of forgiveness and redemption. The second chance afforded by Amendment 4 is meaningless if people are at risk of being prosecuted for making honest mistakes. *Amici* urge the Court to overturn Mr. Hart's wrongful conviction.

¹ A full list of *amici* is included in the Appendix.

SUMMARY OF ARGUMENT

Religious texts and teachings from the diverse religions that *amici* represent consistently emphasize that moral culpability depends upon the intent of the actor and that those who make honest mistakes deserve compassion and mercy. Such religious teachings influenced the development of the common-law doctrine of *mens rea*, or “guilty mind,” in England and the United States. Under the traditional common-law doctrine of *mens rea*, individuals could be criminally punished only if they intended to commit a crime. Consistent with religious teachings, innocent mistakes did not constitute crimes.

Florida has subsequently created a limited number of crimes for which a “guilty mind” is not required for conviction. But Mr. Hart was not convicted of one of those crimes. Florida lawmakers expressly defined the crime of “false affirmation in connection with an election,” of which Mr. Hart was convicted, to require that the defendant have committed the crime “willfully.” And, consistent with religious and common-law principles, Florida courts have required the State to clear a high bar in proving that a defendant

violated a voting-related criminal statute with a heightened *mens rea* requirement like the statute at issue.

The State did not prove that Mr. Hart willfully made a false statement on his voter registration form. In good-faith reliance on the advice of a canvasser, Mr. Hart submitted his voter-registration form under the mistaken belief that either Amendment 4 had restored his right to vote or, if it had not, his application would simply be denied by the state. He did not know that his previous conviction rendered him ineligible to register unless his voting rights had been restored by the Clemency Board.

Punishing Mr. Hart for such an honest mistake runs contrary to core religious teachings about intent, mercy, and compassion, and the common-law principles that these teachings inspired. Mr. Hart's conviction also undermines Amendment 4's promise of forgiveness and redemption by dissuading eligible voters from registering for fear of prosecution. *Amici* thus respectfully request that this Court overturn Mr. Hart's wrongful conviction.

ARGUMENT

I. Religious teachings, and the legal principles inspired by them, emphasize that intent is central to culpability.

Foundational religious texts across faiths consistently emphasize that moral culpability depends significantly on the actor's intent. See, e.g., AUGUSTINE, ON THE FREE CHOICE OF THE WILL, ON GRACE AND FREE CHOICE, AND OTHER WRITINGS 3 (Peter King ed., 2010) (noting that it would “not be just” for God to redress wrongdoings “unless they come about through the will”); *Exodus* 21:12–14 (“Anyone who strikes a person with a fatal blow is to be put to death. However, if it is not done intentionally, but God lets it happen, they are to flee to a place I will designate. But if anyone schemes and kills someone deliberately, that person is to be taken from my altar and put to death.”); *Numbers* 35:11 (“Then ye shall appoint you cities to be cities of refuge for you; that the slayer may flee thither, which killeth any person at unawares.”); *Bhagavad Gita* 4:21 (“Free from expectations and the sense of ownership, with the mind and intellect fully controlled, they incur no sin even though performing actions by their body.”); Prophet Muhammad, *Hadith Nawawi*, 1 (“Actions are according to intentions, and everyone will

get what was intended.”); *Qur’an* 2:225 (“Allah [God] will not call you to account for thoughtlessness in your oaths, but for the intention in your hearts; and He is Oft-forgiving, Most Forbearing.”); *Rashi on Deuteronomy* 26:5:2 (“Because he intended to do it the Omnipresent [God] accounted it unto him as though he had actually done it . . . , for as far as the nations of the world are concerned the Holy One, blessed be He, accounts unto them intention as an actual deed”); Bahá’u’lláh, *Gleanings from the Writings of Bahá’u’lláh*, ch. LXXVII (“Every act ye meditate is as clear to Him [God] as is that act when already accomplished.”).

Religious traditions across the globe also emphasize the importance of compassion and mercy. For example, Christians are taught that “[Jesus] saved us, not because of righteous things we had done, but because of his mercy.” *Titus* 3:5; see also *Luke* 6:36-37 (“Be merciful, just as your Father is merciful. Do not judge, and you will not be judged; do not condemn, and you will not be condemned.”). Similarly, the Jewish faith emphasizes that God is “merciful and gracious, long-suffering, and abundant in goodness and truth.” *Exodus* 34:6. And in Islam, God’s “mercy encompasses all things.” *Qur’an* 7:156.

These core religious teachings influenced the development of American criminal law. The United States inherited from English common law the notion that “wrongdoing must be conscious to be criminal.” *Morissette v. United States*, 342 U.S. 246, 252 (1952); *see also Chicone v. State*, 684 So. 2d 736, 741 (Fla. 1996) (“At common law, all crimes consisted of an act or omission coupled with a requisite mental intent or *mens rea*.”). Indeed, the United States Supreme Court has described the “contention that an injury can amount to a crime only when inflicted by intention” as being “universal and persistent in mature systems of law.” *Morissette*, 342 U.S. at 250; *see also Rehaif v. United States*, 139 S. Ct. 2191, 2196 (2019) (noting that the requirement to show a “vicious will” is “a basic principle that underlies the criminal law” (quoting 4 WILLIAM BLACKSTONE, COMMENTARIES ON THE LAWS OF ENGLAND 21 (1769) (“An unwarrantable act without a vicious will is no crime at all.”))).

This common-law concept of *mens rea*, or “guilty mind,” stems from religious principles. *See* David McIlroy, *Christianity, Mens Rea and the Boundaries of Criminal Liability*, in CHRISTIANITY AND CRIMINAL LAW 116, 121 (Mark Hill et al. eds., 2020) (“[I]t was from Christian

theologians that [common law] systems derived their concept of criminal responsibility as requiring a personal, voluntary, culpable act.”); ELIZABETH PAPP KAMALI, FELONY AND THE GUILTY MIND IN MEDIEVAL ENGLAND 7 (2019) (explaining that the “church’s insistence on the essentially mental aspect of culpability” was central to the development of English criminal law); Francis Bowes Sayre, *Mens Rea*, 45 HARV. L. REV. 974, 975 (1932) (noting that *mens rea* “reflect[ed] the view of the church, which made blameworthiness dependent upon the evil intent of the actor”). The notion that culpability requires a “guilty mind” derives from the Christian concept of “sin,” and the idea that one should only be punished for sins that “come about through the will.” McIlroy, *supra*, at 125; see also Paul H. Robinson, *Mens Rea*, in ENCYCLOPEDIA OF CRIME & JUSTICE 995, 996 (2nd ed., 2002) (“Physical misconduct was significant only because it manifested spiritual failure; it was the inner weakness that was the essence of moral wrong.”); Sayre, *supra*, at 983 (“In the determination of sin the mental element must be scrutinized quite as closely as the physical act.”). Religious principles of compassion and mercy also played a role in the development of the *mens rea* doctrine, encouraging leniency in

cases in which there were “doubts as to a person’s state of mind.” KAMALI, *supra*, at 10 (“Related to this emphasis on mind was a commitment to the principle of mercy.”). Thus, those who merely committed an honest mistake were not considered culpable, but rather were entitled to mercy.

Although Christianity was the primary religious influence on development of English and American common law, other religions informed the development of similar *mens rea* concepts in other legal systems. See Intisar A. Rabb, *The Islamic Rule of Lenity: Judicial Discretion and Legal Canons*, 44 VAND. J. TRANSNAT’L L. 1299, 1339 (2011) (explaining that a religious maxim prohibited Islamic jurists from punishing defendants unless “it could be proven that a defendant had *intentionally* violated a *clear law*”).

II. Section 104.011(1) and other voting-related criminal statutes with similar intent requirements are consistent with these religious principles.

Although a few strict-liability crimes exist, the Florida Supreme Court has emphasized that “[t]he group of offenses punishable without proof of any criminal intent must be sharply limited.” *Chicone*, 684 So. 2d at 743 (quoting Francis Bowes Sayre, *Public Welfare Offenses*, 33 COLUM. L. REV. 55, 70 (1933)).

Accordingly, Florida lawmakers explicitly chose *not* to make the crime of “false affirmation in connection with an election,” of which Mr. Hart was convicted, one of those strict-liability crimes. Rather, the Florida Legislature specified that the defendant must do the wrongful act “willfully” for it to be a crime. Section 104.011(1), Fla. Stat. (2019) (“A person who *willfully* swears or affirms falsely to any oath or affirmation . . . in connection with or arising out of voting or elections commits a felony of the third degree. . . .” (emphasis added)).

Consistent with religious and common-law principles, the Florida Supreme Court has set a high bar for determining that a defendant *willfully* violated election-related offenses with a “willful” element. For example, in *County Canvassing Board of Primary Elections of Hillsborough County v. Lester*, 118 So. 201 (Fla. 1928), a case in which the defendant was charged with willfully submitting a false statement regarding his campaign workers, the Court recognized “a clear distinction” between “a mere ‘failure’ and a ‘willful failure.’” *Id.* at 202. The Court continued, “[a] ‘willful failure’ denotes a conscious purpose to disobey, a culpable omission, and not merely innocent neglect.” *Id.* The Court also

noted that the Legislature appeared to understand the importance of the “willful” requirement, pointing to other election-related statutes in which the legislature did not include the “willful” element. *See id.* at 202–03 (“A failure without any element of intention, design, or purpose, and resulting merely from innocent neglect, is not a ‘willful’ failure. . . . The distinction between a mere ‘failure’ to act and a ‘refusal or willful failure’ to act or obey seems to have been clearly recognized by the Legislature in passing the primary laws.”); *cf. Corrales v. State*, 84 So. 3d 406, 408 (Fla. 1st DCA 2012) (explaining that a “willfulness requirement assures that ‘no one will be convicted of a crime because of a mistake or because he does something innocently, not realizing what he was doing’” (quoting *United States v. Hall*, 346 F.2d 875, 879 (2d Cir. 1965))).

Additionally, as the Florida Supreme Court has recognized, criminal statutes should not discourage eligible citizens from exercising the fundamental right to vote. *See Boardman v. Esteva*, 323 So. 2d 259, 263 (Fla. 1975) (“The right to vote is the right to participate; it is also the right to speak, but more importantly the right to be heard. We must tread carefully on that right or we risk the unnecessary and unjustified muting of the public voice.”); *see*

also State v. Parsons, 302 So. 2d 766, 767 (Fla. 4th DCA 1974) (“Citizens should not be discouraged from registering to vote by being required to take oaths broader than provided by law and thereby subjected to the chance or threat of charges of having sworn falsely as to matters concerning which they should never have been required to swear at all.”).

III. Prosecuting people who, like Mr. Hart, make honest mistakes is inconsistent with these religious and legal principles.

Upholding Mr. Hart’s conviction for what the evidence shows was an honest mistake would be contrary to religious principles of intent, compassion, and mercy, and the common-law principles that they inspired. During the trial, Mr. Hart testified that he registered to vote on the advice of a canvasser who was registering people to vote outside the Department of Motor Vehicles. TR-475–76, 520, 523. The canvasser asked Mr. Hart if he was a registered voter, and Mr. Hart told him he was not because he had previously been convicted of a felony. TR-475. The canvasser told Mr. Hart that a law had recently been passed that allowed people with felony convictions to get their voting rights restored once their sentences were complete. TR-475–76. The canvasser told Mr. Hart that he

should go ahead and submit a voter registration form, instructed him on how to fill out the form, and explained “worst case scenario, if it turns out you’re not qualified, you just simply won’t get a voter ID card. But if you do get one, that means you’re qualified; you can go ahead and vote.” TR-476.

Mr. Hart—who had completed his entire sentence, including probation—submitted his application, believing in good faith and relying on the advice of this canvasser that he had become eligible to register after the passage of Amendment 4 or, if not, his application would simply be denied. TR-476, 479. Mr. Hart testified that he was unaware, and the canvasser did not tell him, that his previous conviction was for a particular felony excepted from Amendment 4’s restoration of rights. TR-500. Additionally, the voter-registration form that Mr. Hart signed did not make clear that an applicant with his felony conviction cannot apply to register unless their voting rights have been restored by the Clemency Board. TR-478–79. Although Mr. Hart was ineligible, the state registered him to vote and sent him a voter-registration card in 2020. TR-480. Mr. Hart voted in the 2020 general election. *Id.* at 482.

Religious teachings, and the common-law principles informed by those teachings, focus on the importance of intent in determining blameworthiness and, relatedly, showing compassion and mercy to those who make honest mistakes. Mr. Hart did not intend to make a false statement on his voter registration form; at worst, he was confused. To punish Mr. Hart for his confusion contravenes not only the text of Section 104.011(1) but also the religious teachings and common-law principles underlying the statute and the criminal-justice system more generally.

IV. Punishing people who make honest mistakes undermines Amendment 4’s animating principles of forgiveness and redemption.

Amici supported Amendment 4 based on their steadfast belief in forgiveness and redemption, principles common to the religions *amici* represent. *Faith Leaders, Organizers Celebrate Passage of Amendment 4 in Florida*, FAITH IN ACTION (Nov. 6, 2018), <https://faithinaction.org/news/faith-leaders-organizers-celebrate-passage-of-amendment-4-in-florida/> (“After many years of being denied their humanity, returning citizens now have an opportunity

to have a seat at the table.”).² Inspired by these principles, Floridians overwhelmingly embraced their neighbors’ capacities to change, passing Amendment 4 by wide margins and providing a second chance for individuals with prior felony convictions to rejoin society as full citizens.

Mr. Hart’s conviction for an honest mistake directly undermines the promise of Amendment 4 and offends its motivating principles. Criminally punishing people like Mr. Hart, who had a mistaken but good-faith belief that they regained their voting rights under Amendment 4, discourages many people whose rights were restored from exercising them for fear of ending up incarcerated again. *See, e.g.,* Paul Blest & Trone Dowd, ‘*Complete Setup*’: *Florida Crackdown Has Ex-Felons Afraid to Vote*, VICE (Nov. 3, 2022),

² *See also* Jacob Ogles, *Christian Coalition of America Presents Conservative Argument for Amendment 4*, FLORIDA POLITICS (Oct. 26, 2018), <https://floridapolitics.com/archives/278940-christian-coalition-of-america-presents-conservative-argument-for-amendment-4/> (“Redemption and second chances are really at the heart of the Christian faith.”); *Passing Amendment 4 in Florida*, JEWISH ORGANIZING INSTITUTE & NETWORK, <https://www.joinforjustice.org/passing-amendment-4-in-florida/> (noting that the organization’s support for Amendment 4 was based on “the direct connection between our faith tradition and our obligation to support second chances for everyone”); Jannah Adams, *Muslims Push for Rights Restoration*, THE MIAMI TIMES (Aug. 1, 2018), https://www.miamitimesonline.com/muslims-push-for-rights-restoration/article_a9d63bb2-95a3-11e8-a3bc-bbd1d1b16277.html.

<https://www.vice.com/en/article/k7bkpm/florida-felons-voters-rights-election-police>. *Amici* urge this Court to uphold the promise of Amendment 4 by overturning this wrongful conviction.

CONCLUSION

For the foregoing reasons, *amici* respectfully request that this Court reverse Mr. Hart's conviction.

Respectfully submitted this 18th day of March 2024.

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CERTIFICATE OF COMPLIANCE

I certify, under Florida Rule of Appellate Procedure 9.045(e), that this Brief complies with the applicable font and wordcount requirements. It was prepared in Bookman Old Style 14-Point font, and it contains 2724 words.

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I HEREBY CERTIFY that the foregoing was provided, via the Court's Electronic Filing System, to the email addresses provided therein for the parties below on March 18, 2024.

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12. Sister M. Jeanne Thomas Danahy
13. Sister Rita Juliet Levasseur
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