

No. 26-10735

**IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT**

CAIR FOUNDATION, ET AL.,
Plaintiffs-Appellees,

v.

RONALD DESANTIS, GOVERNOR, STATE OF FLORIDA,
Defendant-Appellant.

On Appeal from the United States District Court
for the Northern District of Florida
No. 4:25-cv-516-MW-MJF

**AMICI CURIAE BRIEF OF THE NATIONAL JEWISH ADVOCACY
CENTER, THE MIDDLE EAST FORUM, AND THE NETWORK
CONTAGION RESEARCH INSTITUTE IN SUPPORT OF
DEFENDANT-APPELLANT**

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INTEREST OF *AMICI*¹

The National Jewish Advocacy Center (“NJAC”), the Middle East Forum (“MEF”), and the Network Contagion Research Institute (“NCRI”) submit this brief as *amici curiae* in support of Defendant-Appellant, the Governor of the State of Florida, and reversal of the preliminary injunction below.

NJAC is a nonprofit strategic impact litigation firm aimed at protecting the civil rights of Jewish Americans through legal advocacy, public education, and policy engagement. MEF is a nonprofit organization that promotes American interests in the Middle East and protects Western values. NCRI is a research institute that studies the spread of extremist ideologies and the networks that support them, including terror financing and propaganda operations.

Amici have an interest in this case and are well-positioned to assist the Court, as they have studied and published extensively on the organizational history, funding networks, and operational ties of entities connected to Hamas and the Muslim Brotherhood, including Plaintiff-Appellant, the Council

¹ All parties consented to the filing of this brief. Under Federal Rule of Appellate Procedure 29(a)(4)(E), *amici* state that no counsel for any party authored this brief in whole or in part, no party or party’s counsel contributed money intended to fund the preparation or submission of this brief, and no person other than *amici curiae*, their members, or their counsel contributed funding for the preparation or submission of this brief.

on American-Islamic Relations (“CAIR”). Their collective expertise and research on terrorism is relevant to the questions presented.

STATEMENT OF THE ISSUES

1. Whether the district court erred in entering a preliminary injunction against the Governor's Executive Order, when it was a valid exercise of antiterrorism regulatory authority and lawful withholding of state funds to an organization that supports terrorism.
2. Whether the Governor properly exercised his executive power in designating an entity as a terror organization and disqualifying it from accessing state contracts, pursuant to the state police power and without offending the First Amendment.

INTRODUCTION AND SUMMARY OF ARGUMENT

CAIR is not the benevolent civil rights organization that it purports to be or that the district court believed it to be. CAIR was created by the United States-designated terrorist organization Hamas, a chapter of the Muslim Brotherhood, and designed specifically to support that terror network's operations in the United States. CAIR has done that during its 30-year history.

The evidence is well-documented, not only in the record below and the public record, but also in civil and criminal court cases against CAIR's funders, sister organizations, and employees for crimes related to terrorism. This evidence, alone, justifies the Governor's Executive Order 25-244 ("E.O."), which merely prevents state agencies from contracting with or directing funds to CAIR.

In entering a preliminary injunction, the district court ignored the evidence justifying the E.O. and instead impugned the Governor's motives. But the Governor is not the first to recognize CAIR's support for terrorism. Others include the United Arab Emirates, the FBI, and the State of Texas. In December 2023, the President Biden and his administration disavowed CAIR after the group's national executive director, Nihad Awad, made comments supporting October 7 Hamas terrorist attack. CAIR was also identified as an unindicted co-conspirator in the largest terror financing prosecution in

American history, and several of CAIR's officers and employees have been convicted for terrorism-related offenses. In short, the E.O. is supported by substantial evidence.

The E.O. is also a lawful exercise of the Governor's inherent executive power under the Florida Constitution and his statutory mandate to protect citizens from terrorism. The U.S. Constitution leaves the States with broad police powers, and the district court erred by failing to afford that exercise of police power substantial deference, particularly where the Governor's decision was based on extensive evidence. *See Henry v. DeSantis*, 461 F. Supp. 3d 1244, 1257 (S.D. Fla. 2020) ("To govern is not the court's role ... [C]ourts are not here to second-guess or micromanage their already unenviable jobs guiding us through profoundly unprecedented challenges."). Indeed, the E.O. should be afforded additional deference because it involves the State's prerogative to avoid financial dealings with malicious organizations. The Governor has the power and duty to ensure taxpayer dollars do not flow to entities, like CAIR, that support terrorism.

While the Governor had the power to issue the E.O., and his factual findings were entitled deference, the E.O. also does not violate CAIR's First Amendment rights. The Supreme Court and every circuit to address the question have held that material support prohibitions survive First

Amendment scrutiny and that there is no right to support to terrorist organizations—with monetary or non-monetary provisions. *Holder v. Humanitarian Law Project*, 561 U.S. 1 (2010). CAIR therefore does not have a First Amendment right to support terrorism (even if couched as advocacy) and then evade designation by state or federal law enforcement. Nor does it have a constitutional right to access funding from the State. The State’s designation and decision not to fund CAIR are not restrictions on CAIR’s speech but valid exercises of the State’s government speech and police power. The district court’s preliminary injunction should be reversed.

ARGUMENT

I. CAIR Has Deep Ties to Foreign Terrorist Organizations and Has Supported Terrorism Throughout Its History

The district court misconceived of CAIR as a benign organization dedicated to lawful political advocacy. Dkt. 43 (“Order”) at 1, 28. That conclusion is belied by the factual findings in support of the E.O., the record below, other cases, and *amici*’s research and analysis. The Muslim Brotherhood and Hamas—two designated terrorist organizations—created CAIR to carry out their mission within the United States.² Recognizing this would subject them

² Lorenzo Vidino, *The Hamas Network in America: A Short History*, Washington, DC: GW Program on Extremism, 11–12 (2023), <https://extremism.gwu.edu/sites/g/files/zaxdzs5746/files/2023-10/the-hamas-network-in-america.pdf>.

to scrutiny and law enforcement, Hamas operatives designed CAIR as a “civil rights” organization to hide its nefarious intent.

A. The Muslim Brotherhood and Hamas Created CAIR to Support Their Mission from the United States and Used the “Civil Rights” Label to Deceive the Public

The Muslim Brotherhood is a global Islamist movement, dedicated to establishing a pan-Islamic state ruled by *sharia* law under a caliphate.³ For decades, it has carried out its mission by funding, supporting, planning, and engaging in terrorism.⁴ Several countries have designated it a terrorist organization, including the United States.⁵ In the late 1980s, Muslim Brotherhood networks in Gaza founded Hamas, the Palestinian terrorist organization that has brutalized its own civilians, committed hundreds of heinous attacks against Israel and its citizens, and carried out the October 7, 2023

³ Alexandria Paolozzi and Tyler Stapleton, *Policy Alert: New Report Sheds Light on Muslim Brotherhood Terror Ties*, FDD Action (Nov. 11, 2025), <https://www.fddaction.org/policy-alerts/2025/11/11/muslim-brotherhood-terrorist-designation/>.

⁴ *Id.*

⁵ Specifically, the United States designated the Jordanian, Lebanese, and Egyptian branches of the Muslim Brotherhood as terrorist organizations. *Terrorist Designations of Muslim Brotherhood Chapters*, U.S. DEP’T OF STATE (Jan. 12, 2026), <https://www.state.gov/releases/office-of-the-spokesperson/2026/01/terrorist-designations-of-muslim-brotherhood-chapters>.

massacre.⁶ Hamas is designated a terrorist organization by the U.S. and many other countries.⁷

In the 1980s into the 1990s, the international Muslim Brotherhood directed its chapters to form a Palestine Committee to support Hamas after the Gaza chapter reconstituted as Hamas to take control of the First Intifada.⁸ Mousa Abu Marzook, a U.S. resident at the time, was a Palestinian leader of the Muslim Brotherhood who brought the movement to our shores.⁹

In 1988, Marzook formed a U.S.-based “Palestine Committee,” the goal of which was to increase financial, political, and popular support for Hamas by spreading propaganda and incorporating Hamas’s beliefs into American education.¹⁰ Marzook oversaw the creation and operation of three organizations under the Palestine Committee umbrella: (1) the Holy Land Foundation

⁶ *Counter Terrorism Guide, HAMAS*, OFF. OF DIR.OF NAT’L INTEL. (updated Jan. 2014), <https://www.dni.gov/nctc/groups/hamas.html>; *Two-Year Anniversary of October 7th Attack*, U.S. DEP’T OF STATE (Oct. 7, 2025), <https://www.state.gov/releases/office-of-the-spokesperson/2025/10/two-year-anniversary-of-october-7th-attack>.

⁷ *Foreign Terrorist Organizations*, U.S. DEP’T OF STATE <https://www.state.gov/foreign-terrorist-organizations/> (last visited Apr. 27, 2026).

⁸ *See generally* Islamic Action for Palestine, *An Internal Memo* (1992), <https://www.investigativeproject.org/documents/23/internal-memo-of-the-iap.pdf>.

⁹ *Mousa Abu Marzook*, Jewish Virtual Library, <https://jewishvirtuallibrary.org/mousa-abu-marzook> (last visited Apr. 27, 2026).

¹⁰ Vidino, *supra* note 2, at 6.

(“HLF”) for financial support; (2) the Islamic Association for Palestine (“IAP”) to spread propaganda; (3) the United Association for Studies and Research (“UASR”) to serve as a Hamas think tank.¹¹ As described below, HLF and five of its officers were criminally convicted of material support for terrorism and IAP was found civilly liable for providing material support to Hamas.

In 1993, the U.S. brokered the Oslo Accords between Israel and the Palestinian Authority. Hamas’s U.S.-based operatives vowed to derail the peace talks and undermine Palestinian self-rule that would weaken Hamas. Shukri Abu Bakr, the head of HLF, and Omar Ahmad, a senior leader of IAP, coordinated the U.S.-based response. They convened a meeting in Philadelphia to undermine the Accords. The FBI wiretapped that meeting, which it described as including senior leaders of Hamas, the HLF, and the IAP.¹²

The participants, including CAIR’s co-founders Nihad Awad and Omar Ahmad, discussed the need to create a new organization that would not appear to have ties to Hamas, as they presciently recognized the U.S. might

¹¹ Vidino, *supra* note 2, at 6.

¹² See Testimony of Lara Burns, *United States v. Holy Land Found. for Relief & Dev.*, No. 3:04-CR-240-G (N.D. Tex. Sep. 29, 2008); see also *United States v. El-Mezain*, 664 F.3d 467, 527–31 (5th Cir. 2011), as revised (Dec. 27, 2011).

soon designate Hamas as a Foreign Terrorist Organization (“FTO”).¹³ “War is deception,” Bakr explained.¹⁴ Ahmad proposed creating a seemingly innocuous lobbying organization that could “bolster [Hamas’s] position in America with the U.S. administration and other media and political organizations.”¹⁵ He added: “This can be achieved by infiltrating the American media outlets, universities and research centers.”¹⁶ To disguise connections with Hamas, participants referred to Hamas as “Samah,” *i.e.*, “Hamas” backward. Ahmad explained that “[w]e can’t, as an American organization, say we represent Samah.”¹⁷ Thus, CAIR was born.

As the evidence shows, CAIR was conceived not as an independent “civil rights” organization, as the district court incorrectly referred to it (Order at 1), but instead as an instrument to support Hamas’s political, financial, and ideological campaign in the U.S. while avoiding detection.

¹³ Vidino, *supra* note 2, at 7–8.

¹⁴ *Government Exhibit Philly Meeting-7E, United States v. Holy Land Found. for Relief & Dev.*, No. 3:04-CR-240-G, (N.D. Tex.), https://extremism.gwu.edu/sites/g/files/zaxdzs5746/files/2025-02/Philly_Meeting_7E.pdf.

¹⁵ *Testimony in Support of House Bill 763– Commission on Hate Crime Response*, 20901, MD. JUD. COMM. (Feb. 20, 2004), https://mgaleg.maryland.gov/cmte_testimony/2024/jud/20901_02192024_95922-964.pdf.

¹⁶ *Id.*

¹⁷ Vidino, *supra* note 2, at 10.

Awad and Ahmad founded CAIR shortly after the Philadelphia meeting, with the Palestine Committee overseeing the “work of the following organizations: IAP, HLF, UASR, Coordination and CAIR.”¹⁸ The coalition was to work “in a clear manner with the Muslim Brothers ... a complete coordination ... This is not a separate movement from the mother group.”¹⁹

Amongst the Palestine Committee’s members are not only Nihad Awad and Marzook, but several members of Hamas.²⁰ Marzook rose through the ranks to lead Hamas globally, as the first Hamas Political Bureau Chairman, governing its highest-ranking leadership body, and he was designated by the U.S. Treasury Department as a Specially Designated Global Terrorist (“SDGT”) in 1995 and remains designated today. Since then, Marzook has held varying titles within Hamas. Awad remains the Executive Director of CAIR.

¹⁸ *Meeting Agenda for the Palestine Committee, July 30, 1994*, Government Exhibit Elbarasse Search-19 at 6, *United States v. Holy Land Found. for Relief & Dev.*, No. 3:04-CR-240-G (N.D. Tex.), https://extremism.gwu.edu/sites/g/files/zaxdzs5746/files/2025-02/Elbarasse_Search_19.pdf.

¹⁹ *Id.* at 8.

²⁰ Government Exhibit Ashqar Search-1, *United States v. Holy Land Found. for Relief & Dev.*, No. 3:04-CR-240-G (N.D. Tex.), <https://extremism.gwu.edu/sites/g/files/zaxdzs5746/files/2025-02/701.pdf>.

B. HLF, IAP, and Individual Criminal and Deportation Cases Show CAIR’s Ongoing Support of Terrorism

The HLF prosecution in the early 2000s was the largest terrorism-financing prosecution in American history, and it confirmed CAIR’s role in the U.S.-based Hamas network. In *United States v. Holy Land Foundation, et al.*, No. 3:04-CR-240, 2009 WL 10680203, at *7 (N.D. Tex. July 1, 2009), *aff’d in relevant part*, 624 F.3d 685 (5th Cir. 2010), the court found HLF provided money to Hamas through a network of front groups, including charitable organizations. CAIR, in turn, received funding from HLF and was designated as an unindicted co-conspirator. *Id.*; *see also Holy Land Found. for Relief & Dev. v. Ashcroft*, 333 F.3d 156, 165 (D.C. Cir. 2003) (“The ample record evidence (particularly taking into account the classified information presented to the court *in camera*) establishing HLF’s role in the funding of Hamas and of its terrorist activities is incontrovertible.”). While CAIR challenged its designation as an unindicted co-conspirator, the trial court found that “[t]he Government has produced ample evidence to establish the associations of CAIR, ISNA and NAIT with HLF, the Islamic Association for Palestine (“IAP”), and Hamas.” *Holy Land Found. for Relief & Dev.*, 2009 WL 10680203, at *7.²¹

²¹ During closing arguments, defense counsel acknowledged that the Palestine Committee members—which included CAIR’s founders and its current

Even before the convictions and lawsuits, Senator Chuck Schumer called for the government to shut down HLF, as it had “clear links to the terrorist organization Hamas.”²² But CAIR continued to solicit donations for HLF. At an October 2000 rally, a representative from CAIR’s southern California branch encouraged a crowd of protestors to “make sure [] to send donations to HLF.”²³ While CAIR’s leadership has tried to deny the funding from HLF, the evidence and bank records show otherwise.²⁴

Other cases provide additional evidence of this connection. IAP was held civilly liable for the murder of David Boim, a 17-year-old American citizen killed by Hamas in Israel. In *Boim v. Holy Land Foundation for Relief & Development*, 549 F.3d 685 (7th Cir. 2008) (en banc), the Seventh Circuit

executive director—were Muslim Brotherhood members. See Trial Transcript, *United States v. Holy Land Found. for Relief & Dev.*, No. 3:04-CR-00240 (N.D. Tex. June 29, 2009), DE 1345, at 141 (“The evidence shows only that they were Muslim Brotherhood members, and the Muslim Brotherhood has never been a banned organization in this country, so there was no reason for them to hide that affiliation.”).

²² Press Release, Senator Charles E. Schumer, Schumer Calls for State and Justice Department Crackdowns on Charity Organizations with Terrorist Ties, (Sept. 6, 2000), https://web.archive.org/web/20080829012532/http://schumer.senate.gov/Schumer-Website/pressroom/press_releases/PR00275.html.

²³ *CAIR’s Funding*, THE INVESTIGATIVE PROJECT ON TERRORISM, <https://www.investigativeproject.org/documents/110-cair-exposed-part-2-cair-funding.pdf> (last visited April 27, 2026).

²⁴ Vidino, *supra* note 2, at 14 n.43.

held that IAP and other defendants were liable under the Antiterrorism Act for providing material support to Hamas. *Id.* at 705. Not only was CAIR founded by IAP officials, as noted above, but it also operated out of IAP’s offices, and shared IAP’s organizational mission of advancing Hamas’s agenda in the United States. Contrary to the district court’s conclusion, this is not mere “guilt-by-association,” Order at 22, n.14, but substantial evidence of CAIR’s longstanding intertwinement with terrorist networks.

If receiving funding from and being a co-conspirator with organizations that support terrorism were not enough, several of CAIR’s own officials, employees, and affiliates have been convicted of or deported for terrorism-related offenses, including providing weapons, financing, and logistical support to FTOs. Among the convictions and deportations are:

- Rabih Haddad, CAIR-Ann Arbor fundraiser, was deported in 2002; his organization, the Global Relief Foundation, was designated an al-Qaeda front by the U.S. Treasury.²⁵
- Bassem Khafagi, CAIR’s Community Affairs Director, pleaded guilty in 2003 to bank and visa fraud for funneling money to a group that supported suicide attacks.²⁶
- Randall “Ismail” Royer, CAIR’s Communications Specialist, pleaded guilty in 2004 to weapons and explosives charges involving assistance to the Taliban.²⁷

²⁵ H.R. 1209, Fla. Legis, Reg. Sess. (Fla. 2024).

²⁶ *Id.*

²⁷ Danielle Pletka, *Can CAIR Be Shut Down?*, AM. ENTERPRISE INST. (Jan. 17,

- Abdurahman Alamoudi, a CAIR affiliate, was sentenced in 2004 for participating in a Libyan-funded plot to assassinate the Saudi crown prince.²⁸
- Ghassan Elashi, founder of CAIR-Texas, was convicted in 2005 of providing material support to Hamas via the HLF.²⁹ He was previously convicted in 2002 and 2003 for other terror-related crimes.³⁰
- Mohammad El-Mezain, CAIR’s Endowments Chairman, was convicted in 2008 of conspiracy to provide material support to Hamas.³¹
- Muthanna al-Hanooti, Executive Director of CAIR-Michigan, was sentenced in 2011 for violating U.S. sanctions against Iraq by coordinating with the Saddam Hussein regime.³²

2026), <https://www.aei.org/articles/can-cair-be-shut-down//>.

²⁸ H.R. 1209, Fla. Legis, Reg. Sess. (Fla. 2024).

²⁹ Press Release, U.S. Dep’t of Just., Federal Judge Hands Down Sentences in Holy Land Foundation Case, (April 14, 2005), <https://www.justice.gov/archives/opa/pr/federal-judge-hands-downs-sentences-holy-land-foundation-case>.

³⁰ See Press Release, U.S. Dep’t of Just., More Federal Convictions for Elashi Brothers and Infocom Corporation at Second Trial (Apr. 14, 2005), https://www.justice.gov/archive/usao/txn/PressRel06/elashi_bayan_ghassan_basman_infocom_sent_pr.html. He was also convicted for illegal financial transactions to Marzook. *Brothers Found Guilty of Supporting Terrorism*, NBC NEWS (Apr. 14, 2005), <https://www.nbcnews.com/id/wbna7496068>.

³¹ *El-Mezain*, 664 F.3d at 485.

³² *U.S. v. Al-Hanooti, Muthanna*, THE INVESTIGATIVE PROJECT ON TERRORISM, <https://www.investigativeproject.org/case/260/us-v-al-hanooti-muthanna> (last visited Apr. 27, 2026).

- Nabil Sadoun, former Board Member of CAIR who co-founded the UASR with Mousa Abu Marzook³³ and was deported in 2010 for lying about his ties to terror organizations.³⁴

This terror-related activity by CAIR’s officials, employees, funders, and affiliates is not a coincidence. It occurred because CAIR was created by Hamas operatives, embedded in a U.S.-based Hamas support network, and maintained its connections to terrorists and terrorist organizations throughout its existence.

C. CAIR Never Stopped Supporting Terrorism

CAIR’s connections to terrorism are not old history. The evidence indicates that CAIR is continuing to support Hamas and the Muslim Brotherhood, particularly by trying to “deceive” and “camouflage” its terror support, as planned in the 1993 meeting, and defending its co-conspirators from scrutiny. CAIR’s current leadership has continued to make statements that demonstrate its ongoing involvement in and commitment to the terrorist

³³ *Council on American-Islamic Relations (CAIR)*, ANTI-DEFAMATION LEAGUE, (July 15, 2010), <https://web.archive.org/web/20140417054051/https://archive.adl.org/israel/cair/links3.html#.U09peezP1qY>.

³⁴ Scott Gordon, *Dallas Islamic Leader Deported*, NBC DALLAS-FT WORTH, (Feb. 19, 2010), <https://www.nbcdfw.com/news/local/dallas-islamic-leader-deported/1885892/>; Redacted Declaration of Special Agent: *In the Matter of Nabil Sadoun*, U.S. Dep’t of Just. Exec. Off. for Immigration Review, in Removal Proceedings, https://www.investigativeproject.org/case_docs/us-v-sadoun-removal-proceedings/3242/fbi-declaration.pdf.

network by repackaging terror narratives and defending terrorist organizations and their objectives, showing that CAIR has never repudiated its founding agenda.

In a speech given six weeks after Hamas’s October 7 massacre in Israel, the deadliest day for Jews since the Holocaust, Nihad Awad said he was “happy” about the massacre, falsely claiming the attack, murder, kidnap, and rape of civilians was self-defense.³⁵ In April 2024, Awad praised Sheikh Abdul-Majid al-Zindani for “dedicat[ing] his life to the service of the Qur’an”—years after Zindani’s SDGT designation for his extensive involvement with Osama bin Laden.³⁶

CAIR’s local chapters have maintained direct relationships with individuals and organizations working for designated FTOs. For example, on October 22, 2025, Khalid Turaani, Executive Director of CAIR’s Ohio chapter, chaired a session at a virtual event for the Al-Zaytouna Centre for Studies and Consultations, a Beirut-based research institute with documented

³⁵ Ari Blaff, *CAIR Director Stands by Celebration of October 7 Attack, Claims He Was Praising ‘Everyday’ Palestinians*, NAT’L REVIEW (Dec. 7, 2023), <https://www.nationalreview.com/news/cair-director-stands-by-celebration-of-october-7-attack-claims-he-was-praising-everyday-palestinians/>.

³⁶ John Rossomando, *CAIR Leader Eulogizes Bin Laden’s ‘Spiritual Leader,’* FOCUS ON WESTERN ISLAM, (May 28, 2024), <https://islamism.news/news/cair-leader-eulogizes-bin-ladens-spiritual-leader>.

operational ties to Hamas.³⁷ The event was entitled “Palestinians Abroad and Regional and International Strategic Transformations in Light of Operation al-Aqsa Flood.”³⁸ Operation al-Aqsa Flood is Hamas’s name for the October 7 terrorist attack. The event’s participants included Majed al-Zeer, designated by the Office of Foreign Asset Control on October 7, 2024, and Sami al-Arian, a convicted financier of designated FTO Palestinian Islamic Jihad who was deported from the U.S. in 2015.³⁹

Moreover, as *amicus* NCRI has determined from its investigative work, “CAIR-FL has repeatedly platformed, promoted, and fundraised with Sami

³⁷ Al-Zaytouna is a platform for Hamas propaganda, consultation, and institutional legitimacy. It has published content by at least three individuals designated by the U.S. Treasury as SDGTs at the time of publication. See *The Islamic Resistance Movement (Hamas): Studies of Thoughts & Experience*, AL-ZAYTOUNA CENTRE FOR STUDIES & CONSULTATIONS, <https://eng.al-zaytouna.net/product/the-islamic-resistance-movement-hamas-studies-of-thoughts-experience/> (last visited Apr. 27, 2026); Press Release, U.S. Dep’t of Treasury, U.S. Designates Five Charities Funding Hamas and Six Senior Hamas Leaders as Terrorist Entities, (Aug. 22, 2003), <https://home.treasury.gov/news/press-releases/js672>; Office of Foreign Assets Control, *Specifically Designated Nationals and Blocked Persons List*, at 348, 1626 (2026), <https://www.treasury.gov/ofac/downloads/sdnlist.pdf>.

³⁸ *Meeting Agenda for the Palestine Committee, July 30, 1994*, Government Exhibit Elbarasse Search-19 at 6, *United States v. Holy Land Foundation for Relief & Dev. et al.*, No. 3:04-CR-240-G (N.D. Tex.), https://extremism.gwu.edu/sites/g/files/zaxdzs5746/files/2025-02/Elbarasse_Search_19.pdf.

³⁹ Network Contagion Research Institute, *From Tehran to Tampa: Iranian Proxy Networks Operating Through Florida’s 501(c)(3) Sector 6–7* (2026), <https://tinyurl.com/yj9m2hkk>.

Al-Arian and Hatem Fariz,” who were convicted in Palestinian Islamic Jihad-related cases.⁴⁰ For example, Fariz “appeared in gala videos recounting how CAIR ‘provided relief’ during his criminal proceedings, while Al-Arian was featured in webinars and paid events framed as civil-rights advocacy.”⁴¹ In 2020, CAIR-FL featured Fariz in a webinar about his material support prosecution and nominated him for its Annual Protect Award.⁴² The next year, CAIR-FL made Fariz the face of its annual fundraising gala.

As noted, U.S.-based Hamas operatives established CAIR for the *specific purpose* of masquerading a civil rights organization to fool Americans while they “infiltrated” American institutions and promoted Hamas’s agenda. But, to *amici*’s knowledge, CAIR has never denounced the statements of its founders (and current leaders) that laid bare its true agenda. Instead, CAIR’s activities since its founding establish it has continued to stand for and with convicted and known terrorists through its conduct, its resources, its communications channels, and its public statements.

The E.O. was well-supported with evidence that CAIR is *not* an ordinary civil rights organization. Other governments and law enforcement

⁴⁰ *Id.* at 24.

⁴¹ *Id.*

⁴² *Id.* at 26.

agencies, not only the Governor, have long recognized that CAIR is an outgrowth and instrument of the Muslim Brotherhood and Hamas. The United Arab Emirates designated CAIR as a terrorist organization in 2014.⁴³ In 2008, the FBI ended all non-investigative outreach activities with CAIR to avoid supporting individuals who support extremist or terrorist ideologies.⁴⁴ In 2023, President Biden disavowed CAIR for its positions in support of October 7.⁴⁵ Last year, Texas designated CAIR a terrorist organization as well.⁴⁶ And several U.S. congressmen have called for CAIR to be investigated and for its tax-exempt status to be revoked.⁴⁷ CAIR's original and ongoing

⁴³ *UAE Designates CAIR, MAS as Terrorist Groups*, IPT NEWS (Nov. 17, 2014), <https://www.investigativeproject.org/4655/uae-designates-cair-mas-as-terrorist-groups>.

⁴⁴ Joseph Abrams, *FBI Cuts Ties with CAIR Following Terror Financing Trial*, MIDDLE EAST FORUM (Jan. 30, 2009), <https://www.meforum.org/islamist-watch/fbi-cuts-ties-with-cair-following-terror-financing-trial>.

⁴⁵ Peter Baker, *White House Disavows U.S. Islamic Group After Leader's Oct. 7 Remarks*, NY TIMES (Dec. 8, 2023), <https://tinyurl.com/m5t5zb42>.

⁴⁶ Press Release, Off. of Tex. Governor, *Governor Abbott Designates Muslim Brotherhood, CAIR As Foreign Terrorist Organizations* (Nov. 18, 2025), <https://gov.texas.gov/news/post/governor-abbott-designates-muslim-brotherhood-cair-as-foreign-terrorist-organizations>.

⁴⁷ Press Release, Senator Tom Cotton, *Cotton to Long: Investigate CAIR for Ties to Terrorists* (Aug. 5, 2025), <https://www.cotton.senate.gov/news/press-releases/cotton-to-long-investigate-cair-for-ties-to-terrorists>; Press Release, Senator Rick Scott, *Sen. Rick Scott Introduces No Tax-Exemptions for Terror Act to Strip Tax-Exempt Status From CAIR* (Dec. 18, 2025), <https://www.rickscott.senate.gov/2025/12/sen-rick-scott-introduces-no-tax-exemptions-for-terror-act-to-strip-tax-exempt-status-from-cair>; *Designate CAIR as a Terrorist*

mission is to support terrorist organizations. The designation was not retaliatory, as CAIR claims, but a well-justified decision based on facts.

II. Governor DeSantis Properly Exercised His State Executive Authority in Signing the E.O. into Law

While the State could punish CAIR's unlawful activities and initiate law enforcement action against it, based on the above facts (and others), the E.O. does neither. It does not punish, fine, or inhibit CAIR's activities or speech in any way. *See Fla. Exec. Order No. 25-244*. It is a narrow action that merely announces the Governor's position and prevents state agencies from directing *their* funds to CAIR. *Id.* § 2. The Governor has the executive prerogative, statutory mandate, and constitutional authority to ensure that taxpayer dollars do not go to organizations that support terrorism, like CAIR.

By contrast, CAIR has no First Amendment right to force the government to contract with it, and it cannot claim that the Governor's well-supported exercise of his police power is constitutionally infirm. If such a designation causes stigma, that is a consequence of CAIR's own actions.

Organization Act, H.R. 4097, Sec. 2(15) (introduced June 24, 2025) (sponsored by Rep. Randy Fine).

A. The Governor’s Designation of and Refusal to Fund CAIR Falls Within the State’s Police Power

Contrary to the district court’s suggestion that the Governor cannot make designations of terrorist organizations or would not be entitled to deference in making those determinations (*see* Order at 20–21), the E.O. falls comfortably within the Governor’s state executive power and within the State’s police power.

It is well-established that, unlike the federal government, state governments enjoy plenary police powers. The U.S. Constitution reserves for the states the broad police power to protect their citizens from threats to public health, safety, and welfare. *See* U.S. CONST. amend. 10. To that end, the Florida Constitution vests in the Governor “supreme executive power,” and it empowers him to “call out the militia to preserve the public peace, execute the laws of the state, suppress insurrection, or repel invasion.” FLA. CONST. art. IV, §§ 1(a), (d); *DeSantis v. Fla. Educ. Ass’n*, 306 So. 3d 1202, 1218 (Fla. Dist. Ct. App. 2020). The Governor is the State’s commander-in-chief, responsible for state-level security. *See State v. Drew*, 17 Fla. 67, 84 (1879).

Florida reserves expansive enforcement power for the Governor, long recognizing that “[i]mplied [executive] power when not forbidden is as potent as power expressly conferred.” *In re Advisory Opinion to the Governor*, 9 So. 2d 172, 176 (Fla. 1942). The pressing need to prevent terrorist

organizations from taking root in the state, including by cutting off access to public money, is a valid exercise of that inherent power. *See* State Emergency Management Act, Fla. Stat. § 252.36(1)(b) (empowering the Governor to issue executive orders that “have the force and effect of law”); *Timoney v. City of Miami Civilian Investigative Panel*, 917 So. 2d 885 n.4 (Fla. Dist. Ct. App. 2005) (noting the broad definition of “emergency” under Florida law); *City of Miami Beach v. Forte Towers, Inc.*, 305 So. 2d 764, 771 (Fla. 1974) (Roberts, J., concurring in part) (describing the police power as a response to a “social emergency ... so [g]rave that it constituted a serious menace to the health, morality, comfort, and even to the peace of a large part of the people of the state”) (quoting *Levy Leasing Co. v. Siegel*, 258 U.S. 242, 245 (1922)).

Thus, the Governor has inherent executive power to issue executive orders on issues within the State’s police power, exactly like the E.O., and those types of state executive determinations are entitled to substantial judicial deference. *See League of Indep. Fitness Facilities & Trainers, Inc. v. Whitmer*, 814 F. App’x 125, 126–29 (6th Cir. 2020) (describing deferential review of state executive order during COVID-19 pandemic).

Beyond inherent power, the Governor’s E.O. follows his statutory mandate, as the Florida Legislature has given the state executive branch the power and duty to “detect, prevent, prepare for, respond to, and recover

from, acts of terrorism within or affecting this state.” Fla. Stat. § 943.0311(a); *see also* Fla. Stat. § 775.33(1)(c), (2) (criminalizing material support for terrorism). The E.O. is a straightforward exercise of that mandate.

When the Governor is acting under his inherent executive power, statutory mandate, and state police power, courts are highly deferential. *See, e.g., Friends of Danny DeVito v. Wolf*, 227 A.3d 872, 895–96 (Pa. 2020) (deferring to the state political branches to “protect the lives, health, morals, comfort, and general welfare of the people.” (quoting *Manigault v. Springs*, 199 U.S. 473, 480 (1905))). Federal courts likewise afford substantial deference to state executive judgments in the domain of public safety and security. *See League of Indep. Fitness Facilities & Trainers*, 814 F. App’x at 126–29; *Big Tyme Invs., L.L.C. v. Edwards*, 985 F.3d 456, 471 (5th Cir. 2021).

The Governor is not only the State’s commander-in-chief; he is also designated the State’s “chief administrative officer [] responsible for the [state’s] planning and budgeting.” FLA. CONST. art. 4 § 1; *see also* Fla. Stat. § 216.023(1) (describing governor as chief budget officer of the state). The State’s political branches have plenary authority over the public fisc and broad latitude to condition the expenditure of public funds. Declining to direct taxpayer dollars to an organization with documented ties to FTOs is a responsible exercise of executive power. Accordingly, the Governor receives

even stronger deference because state political branches have the prerogative to determine with whom the state contracts and to disqualify entities from the benefits of accessing such contracts. *See, e.g., Ark. Times LP v. Waldrip as Tr. of Univ. of Ark. Bd. of Trs.*, 37 F.4th 1386, 1394 (8th Cir. 2022) (8th Cir. 2022) (upholding state law that prohibits public entities from contracting with companies unless they certify that they will not boycott Israel).

B. The State’s Exercise of its Own Speech is Not an Infringement on CAIR’S Speech

As shown, the Governor has the affirmative power to designate CAIR and prevent state agencies from funding or contracting with it. That decision also does not violate CAIR’s First Amendment rights in any way.

This E.O. does not impose any fines or punishments, nor does it restrict CAIR’s speech. The E.O. merely designates CAIR and prevents state agencies from funding it. To the extent that CAIR complains about the “stigma” of that designation and the inability to receive state funding, the E.O. is still permissible exercise of government speech based on its evaluation of the substantial evidence against CAIR: “When the government speaks, it is not barred by the Free Speech Clause from determining the content of what it says.” *Walker v. Texas Div., Sons of Confederate Veterans, Inc.*, 576 U.S. 200, 207 (2015) (citing *Pleasant Grove City v. Summum*, 555 U.S. 460, 467–68 (2009)). This Court reiterated this reasoning just last year. *See Nussbaumer v. Sec’y, Fla.*

Dep't of Child. & Fams., 150 F.4th 1371, 1380 (11th Cir. 2025) (“[O]f course, a government is ‘entitled to say what it wishes, and to select the views that it wants to express.’”) (quoting *Summum*, 555 U.S. at 468)); see also *Cambridge Christian Sch., Inc. v. Fla. High Sch. Athletic Ass’n, Inc.*, 115 F.4th 1266, 1295 (11th Cir. 2024), *pet. for cert. filed* (U.S. June 6, 2025) (No. 24-1261) (holding state athletic association could deny a religious school the opportunity to lead a pregame prayer over the public address system because pregame use of the system was government speech).

Florida is under no obligation to contract with or fund and, therefore, endorse speech that it does not agree with. See *Walker*, 576 U.S. at 209 (citing *Summum*, 55 U.S. at 470); *Leake v. Drinkard*, 14 F.4th 1242, 1247 (11th Cir. 2021) (“When the government speaks, it may refuse to endorse or freely remove speech of which it disapproves.”). In *Summum*, the Supreme Court reviewed a city’s refusal to accept a religious organization’s request to erect a park monument with religious tenets. *Summum*, 55 U.S. at 464. The organization argued that the First Amendment required the city to display the proposed monument because the city had previously accepted a range of permanent exhibitions at the park, creating a public forum. *Id.* at 467. The Court rejected this argument, finding that the city, by “accepting a privately donated monument” would still be “engag[ing] in expressive conduct.” *Id.* at

476. The Court held that the involvement of private parties in designing the monuments did not prevent the installation of such monuments from being the government’s *own speech* because it “exercis[ed] ‘final approval authority’ over their selection” for placement in the park. *Id.* at 470–472; *see also Walker*, 576 U.S. at 207.

So too here. The State of Florida can speak for itself when it chooses not to contract with an organization that has well-documented ties to terrorism. Under this E.O., CAIR remains free to speak, organize, advocate, and litigate. What it cannot do is require the State to engage and contract with it by claiming constitutional injury. Any reputational consequence that flows from the E.O. is not the State silencing CAIR—it is the State speaking for itself, about an organization whose own conduct invited scrutiny. The First Amendment was never meant to immunize an organization from government speech about what it has done.

C. Designations of Terror Organizations Do Not Violate the First Amendment

Federal courts have consistently upheld terrorism-related designations and related material support restrictions against First Amendment challenges. The same holds true at the state level. There is no First Amendment right to support terrorist organizations, and when the evidence demonstrates terrorism support, the “designation or blocking” of funds does not “violate

any constitutional right.” *Holy Land Found. for Relief & Dev.*, 333 F.3d at 166.

At the outset, the designation is a result of CAIR’s own *actions* supporting terrorism and not retaliation based on speech. As the Supreme Court explained in *Rumsfeld v. Forum for Academic & Institutional Rights, Inc.*, 547 U.S. 47 (2006), the First Amendment does not protect non-expressive conduct, even if that conduct is intended by the actor to convey a political message. *Id.* at 66. There, the Court upheld a Department of Defense policy to deny federal funding to universities that prohibited military recruitment officials from accessing campus. *Id.* at 55, 70. Regardless of the purported expressive reasons underlying that denial—*i.e.*, protesting certain military policies—the regulation strictly targeted conduct, not speech. *Id.* at 70. Here, too, the E.O. does not inhibit CAIR’s speech. It is based not on CAIR’s speech, but on its *conduct* collaborating with, aiding and abetting, and materially supporting terrorists and their acts of terror. *See infra* Part I.

In *Holder*, the Supreme Court held that the federal statute criminalizing material support for FTOs, 18 U.S.C. § 2339B, does not violate the First Amendment, even as applied to individuals who wished to provide support to the lawful, nonviolent activities of designated foreign terrorist organizations. *Holder*, 561 U.S. at 36. The Court held that the “material support”

prohibited by § 2339B does not in most cases take the form of speech at all. *Id.* at 26. The statute applies to only a narrow category of speech—“directed to, coordinated with, or controlled by foreign groups that speaker knows to be terrorist organizations”—that Congress can lawfully restrict to achieve its compelling interest in combating terrorism. *Id.* at 36. And it rejected the argument that the First Amendment requires the government to prove that support in fact advanced specific acts of terrorism, crediting the political branches’ “informed judgment” that it made acts of terrorism “more likely to occur.” *Id.* at 35–36. Instead, the Court held Congress may reasonably conclude all forms of material support to a terrorist organization—including support directed to the organization’s ostensibly lawful activities—strengthen the organization and further its terrorist objectives. *Id.* at 36; *see also Holy Land Found.*, 333 F.3d at 166 (“[T]here is no First Amendment right nor any other constitutional right to support terrorists.”).

Consistent with *Holder*, lower courts uphold material support convictions and related enforcement actions based on monetary and non-monetary provisions—notwithstanding First Amendment challenges. *See United States v. Osadzinski*, 97 F.4th 484, 491–92 (7th Cir. 2024) (even “assuming ... conduct consisted entirely of expressive activity within the meaning of the First Amendment,” such activity is not protected when done “in coordination

with or under the direction of ISIS”); *United States v. Chandia*, 514 F.3d 365, 371 (4th Cir. 2008) (§ 2339B does not violate the First Amendment “because the statute does not prohibit mere association; it prohibits the *conduct* of providing material support to a designated FTO” (cleaned up); *Humanitarian Law Project v. Reno*, 205 F.3d 1130, 1135 (9th Cir. 2000) (“[T]he material support restriction ... does not warrant strict scrutiny because it is not aimed at interfering with the expressive component of their conduct but at stopping aid to terrorist groups”); *United States v. Taleb-Jedi*, 566 F. Supp. 2d 157, 176 (E.D.N.Y. 2008) (“[A] defendant does *not* have the right to act as an employee of ... an [FTO] and engage in work, no matter how apparently benign.”).

Federal courts have rejected First Amendment challenges to regulations aimed at curbing terrorism. At the federal level, the United States Secretary of State is authorized to designate FTOs pursuant to 8 U.S.C. § 1189, upon finding that the organization is foreign, engages in terrorist activity or terrorism, and threatens the security of United States nationals or the national security of the United States. FTO designation triggers a cascade of legal consequences. Financial institutions must freeze the organization’s assets, and members of the organization are inadmissible to and removable from the United States. *People’s Mojahedin Org. of Iran v. Dep’t of State*,

327 F.3d 1238, 1239 (D.C. Cir. 2003) (observing that FTO designation blocks any funds the FTO has on deposit with U.S. financial institutions and excludes its members from the United States (citing 18 U.S.C. § 2339B(a)(2) (assets) and 8 U.S.C. § 1182(a)(3)(B) (immigration))).

Only the D.C. Circuit may review the legitimacy of designations (*see* 8 U.S.C. § 1189(c)(1)), and that court has made clear that it affords great deference to the judgment of the executive and political branches in this arena, including in the face of First Amendment challenges. *See People’s Mojahedin*, 327 F.3d at 1244 (finding no First Amendment rights implicated by OFAC designation); *Islamic Am. Relief Agency v. Gonzales*, 477 F.3d 728, 732 (D.C. Cir. 2007) (applying a “highly deferential standard of review” to SDGT designations as the court “may not substitute our judgment for OFAC’s,” and finding that OFAC blocking of assets do not implicate First Amendment concerns); *cf. United States v. Afshari*, 426 F.3d 1150, 1160–61 (9th Cir. 2005) (finding no First Amendment concerns with the designation and material support scheme); *Reno*, 205 F.3d at 1135 (holding that “material support restriction ... is not aimed at interfering with the expressive component of their conduct but at stopping aid to terrorist groups”); *Osadzinski*, 97 F.4th at 491–92 (even conduct entirely consisting of expressive activity not protected when “done in coordination with or under the direction of [a

designated FTO]”); *Chandia*, 514 F.3d at 371 (Section 2339B “does not prohibit mere association; it prohibits the conduct of providing material support to a designated FTO”); *United States v. Mehanna*, 735 F.3d 32 (1st Cir. 2013) (translating and distributing materials on behalf of al-Qaeda constituted material support, not protected advocacy); *Taleb-Jedi*, 566 F. Supp. 2d at 176 (a defendant “does not have the right to act as an employee of an FTO and engage in work, no matter how apparently benign”).

Federal and state governments occupy distinct areas of power, *Murphy v. Nat’l Collegiate Athletic Ass’n*, 584 U.S. 453, 470 (2018), but the precedent concluding that designations of terror organizations do not violate the First Amendment applies to both state and federal action. The E.O. fits within this unbroken line of authority. If the federal government may designate organizations, freeze their assets, and criminally prosecute those who support them, all without offending the First Amendment, the Governor of Florida may certainly decline to write a check to a terror organization operation within his state. CAIR’s claims to the contrary are unsupported by the law.

CONCLUSION

The preliminary injunction should be vacated because the Governor exercised lawful and constitutional authority in designating CAIR and

denying it access to state funds and contracts, based on CAIR's longstanding and well-documented ties to terrorist organizations.

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Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

I certify that this brief complies with the type-volume limitations of Rule 29 and 32, and the typeface and type-style requirements of Rule 32. The brief has been prepared in a proportionally spaced typeface using Microsoft Word in 14-point Georgia. The brief contains 6,447 words, excluding the parts of the brief exempted.

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CERTIFICATE OF SERVICE

I certify that on April 27, 2026, I electronically filed the foregoing brief with the Clerk through CM/ECF, which will serve an electronic copy to all counsel of record.

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