

# Baptists urge court to protect Texas inmate's religious freedom

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Both the [Baptist Joint Committee for Religious Liberty](#) and the [Southern Baptist Convention's Ethics & Religious Liberty Commission](#) urged the U.S. Supreme Court to protect the religious freedom of a Texas Death Row inmate who wants his pastor to lay hands on him and pray for him at the moment of his execution.

In early September, [the court granted a temporary stay of execution](#) to John Ramirez, who was convicted and sentenced to die for the 2004 murder and robbery of a Corpus Christi convenience store clerk.

Ramirez had asked prison officials to allow Dana Moore, pastor of Second Baptist Church in Corpus Christi, to lay hands on him and pray for him when he is executed by lethal injection. Moore began serving as spiritual adviser to Ramirez four years ago. After Ramirez made a profession of faith in Christ on Texas Death Row, Second Baptist Church allowed him to join its membership.

Moore said he understands why Ramirez would want his pastor not only to pray, but also to lay hands on him at his most difficult moment imaginable.

"We learn from Scripture the power of touch. ... Touch is powerful," Moore said.

The Texas Department of Criminal Justice denied the request by Ramirez, citing security concerns. Lower courts sided with the state agency, saying it has a "compelling interest in maintaining an orderly, safe and effective

process” when carrying out executions.

## **Religious Land Use and Institutionalized Persons Act**

The BJC and ERLC joined the National Association of Evangelicals and several other religious groups in a [friend-of-the-court brief](#) filed by the Christian Legal Society on Sept. 27. The brief points to rights guaranteed by the Religious Land Use and Institutionalized Persons Act and the Religious Freedom Restoration Act.

“In carrying out the execution of John Henry Ramirez, the State of Texas will substantially burden his right of religious exercise if it imposes a blanket ban on his pastor engaging in audible prayer or touching him to give spiritual comfort at his moment of death,” the brief states.

The *amicus* brief asserts the state has “failed to present specific evidence—not merely generalized assertions or speculation—as to why banning these practices is necessary to serve order and security.”

Even if the state could demonstrate the bans on audible prayer and physical touch by a spiritual adviser serve a compelling interest, it also would have to prove the denials of religious free exercise are the “least restrictive means of furthering that interest,” the brief notes.

“The state has multiple less restrictive means of maintaining order and security, and it has not demonstrated that these are inadequate,” the brief asserts.

The brief also points out the state has permitted chaplains in the past to pray audibly and place hands on inmates during an execution.

“Ramirez is entitled to a continued injunction to prevent him from being

executed in a manner inconsistent with his right to exercise his religion in the last minutes of his life,” the brief concludes.

“This court should order that if the state continues to ban these religious practices, the case should be remanded to litigate Ramirez’s demand for a permanent injunction against the state’s ban.”

## **State has failed to ‘make a compelling argument’**

Brent Leatherwood, acting president of the ERLC, said the high court “should overrule Texas’ ban and allow this important and solemn moment of ministry to proceed.”

“Religious freedom doesn’t end as you approach the moment of death, and we have joined a brief saying as much,” Leatherwood said. “The state has yet to make a compelling argument for why Pastor Moore, an SBC pastor, cannot minister to Mr. Ramirez in these final moments.”



Holly Hollman

Security and order are “vital state interests” in the context of a prison, but “those interests do not shut down the application of the Religious Land Use and Institutionalized Persons Act,” said Holly Hollman, BJC general counsel.

“Mr. Ramirez’s request that his pastor be allowed to perform

ministrations—prayer and laying on of hands—at the time of execution deserves proper consideration by the prison officials,” Hollman said.

The state must show its interests justify placing a burden on a prisoner’s religious freedom rights, she said.

The Religious Land Use and Institutionalized Persons Act “is intended to provide religious liberty protection for prisoners and others in state custody by ensuring that the government does not unnecessarily interfere with religious practices. It places a thumb on the scale toward religious accommodations, and that’s an important protection for religious freedom,” she said.

BJC joined the *amicus* brief “to urge the Supreme Court to clarify the proper interpretation and application of RLUIPA,” she explained. “The lower courts misapplied the statute, and we hope the Supreme Court will correct that error and affirm RLUIPA’s protections for all prisoners.”

## **One in a series of similar cases**

The Ramirez case marks the fifth time in two years the Supreme Court has been presented with a question regarding a spiritual adviser being present in the execution chamber, but it is the first time the court agreed to hear oral arguments.

One case involved Texas Death Row inmate Patrick Henry Murphy, who wanted a [Buddhist spiritual adviser](#) in the execution chamber. At the time, TDCJ allowed its employed chaplains in the death chamber, and it only had Christian and Muslim clergy on staff.

For a time, TDCJ responded by prohibiting any spiritual advisers or chaplains from being physically present in the execution chamber, a policy that [drew criticism](#) from across the religious spectrum.

The outcry led TDCJ to [change its policy](#) and permit condemned inmates to be accompanied in the execution chamber by the spiritual adviser, subject to verification and a background check. However, the spiritual adviser is required to stand in the corner and not make physical contact with the condemned during the procedure.

The Supreme Court will hear oral arguments in *Ramirez v. Collier* on Nov. 1.