

COMMENT

LOSING THE TEXT: *CATHOLIC CHARITIES BUREAU, INC.* AND THE FUTURE OF STATUTORY INTERPRETATION IN WISCONSIN

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Few state court decisions attract the attention of the United States Supreme Court; fewer still are reversed unanimously. *Catholic Charities Bureau, Inc. v. Wisconsin Labor & Industry Review Commission* is one of those cases. This Comment argues that the root cause of the reversal of *Catholic Charities* was interpretive. By recasting a straightforward statutory phrase into a judicially constructed test focused on an organization's activities, the Wisconsin Supreme Court majority departed from the text-first framework established in *State ex rel. Kalal v. Circuit Court for Dane County*, producing a constitutional infirmity that required federal correction.

Kalal requires Wisconsin courts to give statutory language its common and ordinary meaning, read in context and as a coherent whole. The *Catholic Charities* majority abandoned that textual discipline. Wisconsin's Unemployment Compensation Act exempts certain church-affiliated organizations "operated primarily for religious purposes." Rather than asking what that statutory phrase means, the Court asked whether the organization's day-to-day activities were overtly religious—a requirement that appears nowhere in the statute. That interpretive move privileged denominations that evangelize over those that express faith through charitable service, crossing into the theological line-drawing the Establishment Clause forbids.

This Comment situates *Catholic Charities* within a broader pattern of interpretive drift from the Wisconsin Supreme Court, arguing that consistent adherence to the Court's own interpretive commitments is necessary to prevent future decisions from generating the same doctrinal instability.

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INTRODUCTION

In recent years, debates over religious exemptions have moved from the margins of legal discourse to the center of public life. Employers have sought faith-based carve-outs from contraceptive mandates.¹ Adoption agencies have asserted the right to decline placements with same-sex couples,² and religious schools have invoked exemptions from antidiscrimination laws.³ Each controversy generates familiar arguments. Supporters of religious exemptions contend that they safeguard the autonomy of religious institutions.⁴ Critics counter that exemptions permit religious organizations to participate in public life—often with tax advantages, government contracts, or access to public programs—while avoiding obligations imposed on secular groups.⁵ Legislatures mediate

1. See, e.g., CYNTHIA BROUGHER, CONG. RSCH. SERV., R42370, PREVENTIVE HEALTH SERVICES REGULATIONS: RELIGIOUS INSTITUTIONS' OBJECTIONS TO CONTRACEPTIVE COVERAGE 1 (2012).

2. See, e.g., *Fulton v. City of Philadelphia*, 141 S. Ct. 1868, 1874–76 (2021) (involving a Catholic foster-care agency that contended the Free Exercise Clause entitled it to decline, on religious grounds, to certify same-sex couples as foster parents).

3. See, e.g., *Our Lady of Guadalupe Sch. v. Morrissey-Berru*, 140 S. Ct. 2049, 2055 (2020) (involving religious schools that argued the previously recognized ministerial exception under the First Amendment barred the application of federal employment-discrimination statutes to teachers performing important religious functions).

4. See Lael Weinberger, *The Limits of Church Autonomy*, 98 NOTRE DAME L. REV. 1253, 1269 (2023).

5. See Lloyd H. Mayer, *Is Tax Law Different? Unconstitutional Conditions, Religious Organizations, and Taxation*, 98 NOTRE DAME L. REV. REFLECTION S1, S1–S3 (2023); *Fulton*, 141 S. Ct. at 1875–76; Adrienne M. Spoto, *Fostering Discrimination: Religious Exemption Laws in Child Welfare and the LGBTQ Community*, 96 N.Y.U. L. REV. 296, 299 (2021).

these competing concerns through statutory drafting, calibrating the scope of exemptions to balance religious liberty with the interests of employees, beneficiaries, and the broader public.⁶ When disputes arise, courts are tasked with applying the legislature's chosen compromise as expressed in the statutory text.

Wisconsin's Unemployment Compensation Act exempts certain church-affiliated organizations "operated primarily for religious purposes" from participating in the state unemployment insurance system.⁷ *Catholic Charities Bureau, Inc. v. Wisconsin Labor & Industry Review Commission*⁸ started when Catholic Charities Bureau and four of its sub-entities sought that exemption, arguing that their charitable work carried out the Catholic Church's religious mission.⁹ The Wisconsin Labor and Industry Review Commission (LIRC) denied the exemption, and the Wisconsin Supreme Court affirmed.¹⁰ The Court reasoned that whether an organization is "operated primarily for religious purposes" depends on both its motivations and its activities.¹¹ It further explained that while the entities' missions were religiously motivated, their activities—providing social services to individuals with disabilities and those in need—were secular in nature.¹² The United States Supreme Court unanimously reversed the 4–3 Wisconsin decision, concluding that the state's interpretation violated the Establishment Clause by favoring denominations that evangelize over those that express faith through charitable service.¹³ The sharp contrast between a divided state court and a unanimous federal court is telling: Despite the Supreme Court's

6. See *Religious Exemptions*, 22 GEO. J. GENDER & L. 335, 336 (2021) (quoting 42 U.S.C. § 2000bb(a)(5)) ("RFRA explicitly seeks to restore the compelling interest test 'as set forth in prior Federal court rulings' as 'a workable test for striking sensible balances between religious liberty and competing prior governmental interests.'"); Adam Sonfield, *Learning from Experience: Where Religious Liberty Meets Reproductive Rights*, 19 GUTTMACHER POL'Y REV. 1, 1, 4 (2016), <https://www.guttmacher.org/gpr/2016/learning-experience-where-religious-liberty-meets-reproductive-rights> [<https://perma.cc/7LMG-M3B2>] (noting that religious exemption laws often have "well-defined limits and explicit protections for those who might otherwise be harmed.").

7. WIS. STAT. § 108.02(15)(h)(2) (2023–24).

8. 2024 WI 13, 3 N.W.3d 666.

9. *Id.* ¶¶ 1–3, 3 N.W.3d at 671–72.

10. *Id.* ¶¶ 4–6, 3 N.W.3d at 672.

11. *Id.* ¶ 5, 3 N.W.3d at 672.

12. *Id.* ¶¶ 62, 67, 3 N.W.3d at 683–84.

13. *Cath. Charities Bureau, Inc. v. Wis. Lab. & Indus. Rev. Comm'n*, 145 S. Ct. 1583, 1591–92, 1594–95 (2025).

ideological divisions,¹⁴ all nine Justices agreed that Wisconsin's approach strayed too far from constitutional and interpretive neutrality.¹⁵

The dispute in *Catholic Charities* turned on how the Wisconsin Supreme Court construed a single statutory phrase: "operated primarily for religious purposes."¹⁶ By reading that phrase to require overtly religious *activities* rather than religious *purpose*, the Court was forced to draw distinctions between denominations based on how they express their faith—precisely the kind of theological line-drawing the Establishment Clause forbids.¹⁷ That constitutional error, however, could have been avoided had Wisconsin followed its long-established, text-first approach to statutory interpretation. That approach, anchored by the Wisconsin Supreme Court's decision in *State ex rel. Kalal v. Circuit Court for Dane County (Kalal)*,¹⁸ requires courts to interpret statutes by giving the words chosen by the legislature their common, ordinary, and accepted meaning, read in context and as part of a coherent statutory structure.¹⁹ The written text is the law.²⁰ It is what legislators voted on, and that is what binds the courts.²¹

This Comment highlights *Catholic Charities Bureau, Inc. v. Wisconsin Labor & Industry Review Commission* as a prime example of how the Wisconsin Supreme Court's drift from *Kalal*'s text-based interpretive approach invites judicial overreach, undermines legislative intent, and risks constitutional error²²—an outcome the United States Supreme Court's unanimous reversal makes clear. Wisconsin's majority opinion in *Catholic Charities* redefined statutory terms beyond their text,

14. See Jake S. Truscott & Adam Feldman, *Final Stat Pack for the 2024–25 Term*, SCOTUSBLOG at 14–16 (July 2, 2025), <https://cdn.sanity.io/files/pito4za5/production/d8301fc26d152ddf9a09a8ac8845be5d5785ada.pdf> [<https://perma.cc/375M-N267>] (showing a lower rate of unanimous decisions in the 2024 Term than across the preceding two decades); Adam Feldman, *Who Is the Supreme Court's Most "Ideological" Justice? And Does That Question Even Make Sense?*, SCOTUSBLOG (July 9, 2025) [hereinafter *Most Ideological Justice*], <https://www.scotusblog.com/2026/07/who-is-the-supreme-courts-most-ideological-justice-and-does-that-question-even-make-sense/> [<https://perma.cc/SCT7-LRER>] (finding pronounced ideological poles on both sides of the Court, with its most ideologically distant Justices occupying nearly opposite positions).

15. See generally *Cath. Charities Bureau*, 145 S. Ct. 1583 (unanimously holding that Wisconsin's application of the exemption granted a denominational preference).

16. *Cath. Charities Bureau*, 2024 WI 13, ¶ 5, 3 N.W.3d at 672 (quoting Wis. STAT. § 108.02(15)(h)(2) (2023–24)).

17. See *id.* ¶¶ 57, 60, 3 N.W.3d at 682; U.S. CONST. amend. I.; *Cath. Charities Bureau*, 145 S. Ct. at 1591.

18. 2004 WI 58, 681 N.W.2d 110.

19. *Id.* ¶¶ 45–46, 681 N.W.2d at 124.

20. *Id.* ¶ 44, 681 N.W.2d at 123–24.

21. *Id.*

22. See *id.* ¶¶ 44, 52, 681 N.W.2d at 123–24, 126.

turning religious purpose into a judicially crafted activities test that departed from *Kalal*'s disciplined focus on statutory language and context.²³ In doing so, the court blurred the line between interpretation and policymaking, transforming what should have been a question of legislative meaning into one of judicial value judgment.

This Comment proceeds in two parts. Part I provides background on *Catholic Charities*, outlining its procedural history, the Wisconsin and United States Supreme Court opinions, the broader constitutional backdrop of Religion-Clause jurisprudence, and Wisconsin's statutory interpretation framework under *Kalal*. Part II analyzes the interpretive errors in the Wisconsin majority's reasoning and argues that they reflect a broader trend of purpose-driven interpretation emerging in recent state cases. The analysis also considers how adherence to *Kalal*'s text-centered methodology could prevent similar errors and preserve both interpretive consistency and judicial legitimacy. Together, these discussions argue that *Catholic Charities* is not an isolated misreading of a statute but a cautionary example of interpretive drift that erodes the separation of powers—and that the Wisconsin Supreme Court must recommit to *Kalal*'s text-first framework before that drift becomes doctrine.

I. THE CASE, THE CONSTITUTION, AND THE TEXT

This Part provides the legal and factual background necessary to evaluate the Wisconsin Supreme Court's approach in *Catholic Charities*. It first traces the litigation from the underlying administrative proceedings through the United States Supreme Court's decision, then outlines the Religion-Clause principles implicated by the case. It concludes by examining Wisconsin's framework for statutory interpretation under *Kalal*, which provides the methodological baseline for the analysis that follows.

A. Overview of *Catholic Charities Bureau, Inc. v. Wisconsin Labor & Industry Review Commission*

The dispute in *Catholic Charities* developed from an administrative determination concerning whether Catholic Charities Bureau, Inc. and its affiliated entities qualified for Wisconsin's unemployment compensation exemption for organizations "operated primarily for religious purposes." The litigation ultimately required both the Wisconsin Supreme Court and the United States Supreme Court to address the meaning and constitutional implications of that exemption.

23. See *Cath. Charities Bureau, Inc. v. Lab. & Indus. Rev. Comm'n*, 2024 WI 13, ¶ 84, 3 N.W.3d 666, 687.

This Section traces the dispute from its administrative origins through the decisions of both courts.

1. Facts and Early Proceedings

Catholic Charities Bureau, Inc. (CCB) is the social ministry arm of the Diocese of Superior (the “Diocese”), overseeing several sub-entities that provide charitable services across Northern Wisconsin.²⁴ In 1972, the Department of Industry, Labor, and Human Relations determined that CCB was subject to Wisconsin’s Unemployment Compensation Act after CCB self-reported its operations as “‘charitable,’ ‘educational,’ and ‘rehabilitative,’” rather than religious.²⁵ CCB accordingly began contributing to the state unemployment system and continued to do so for decades.²⁶

In 2015, the Douglas County Circuit Court found that a different CCB-affiliated entity (not part of this case) was “operated primarily for religious purposes” and therefore exempt from paying unemployment taxes.²⁷ Building on that outcome, CCB and four of its sub-entities sought the same exemption.²⁸

In 2016, CCB and its sub-entities filed petitions with the Wisconsin Department of Workforce Development (DWD) seeking to withdraw from the unemployment system under Wisconsin Statutes section 108.02(15)(h)(2), which exempts organizations “operated primarily for religious purposes” and affiliated with a church.²⁹ Additionally, CCB argued that compelled participation in the unemployment system would violate the Free Exercise and Establishment Clauses of the First Amendment.³⁰ DWD acknowledged that CCB was “supervised and controlled by the Roman Catholic Church,” satisfying the statute’s second requirement.³¹ However, DWD denied the exemption, concluding that CCB and its affiliates were not operated primarily for religious purposes because their activities were secular in nature (providing services to disabled and low-income individuals rather than religious instruction or worship).³²

24. *Cath. Charities Bureau*, 2024 WI 13, ¶¶ 7–10, 3 N.W.3d at 672.

25. *Id.* ¶ 17, 3 N.W.3d at 673 (noting that CCB and its sub-entities were exempt from federal income tax under I.R.C. § 501(c)(3)).

26. *Id.*

27. *Id.* ¶ 18, 3 N.W.3d at 674 (quoting Hearing Memorandum at 9, *Challenge Ctr., Inc. v. Lab. & Indus. Rev. Comm’n*, No. 14CV384 (Wis. Cir. Ct. 2016)).

28. *Id.*

29. *Id.* ¶¶ 117–18, 121, 3 N.W.3d at 694–96 (Grassl Bradley, J., dissenting) (quoting WIS. STAT. § 108.02(15)(h)(2) (2023–24)).

30. *Id.* ¶ 68, 3 N.W.3d at 684.

31. *Id.* ¶ 19, 3 N.W.3d at 674.

32. *See id.* ¶¶ 10, 19, 60, 3 N.W.3d at 672, 674, 682.

CCB appealed DWD's determination, initiating a procedural journey that would span nearly a decade and produce a series of alternating holdings at every level of review.³³ CCB appealed to an Administrative Law Judge (ALJ), who reversed DWD's decision, holding that the entities were operated for religious purposes.³⁴ DWD then petitioned LIRC for review.³⁵ LIRC reversed the ALJ's decision, agreeing with DWD that although CCB's work may be religiously motivated, the activities themselves were secular.³⁶ It reasoned that secular charitable services, even if rooted in faith, fall outside the statutory exemption.³⁷

CCB sought judicial review in the circuit court, which reversed LIRC's holding, ruling in favor of CCB and the sub-entities.³⁸ DWD and LIRC appealed, and the Wisconsin Court of Appeals reversed the circuit court, reinstating LIRC's decision.³⁹ The appellate court held that to qualify for the exemption, an organization must not only be religiously motivated, but it must also engage in activities that are primarily religious in nature.⁴⁰ Charitable or social services, the court concluded, were not inherently religious acts and thus did not satisfy the exemption.⁴¹

2. Wisconsin Supreme Court Opinion

Following the Court of Appeals decision, CCB and its sub-entities sought review by the Wisconsin Supreme Court, leading to the 2024 decision.⁴² The Court framed the main question as whether CCB and its four affiliated entities were "operated primarily for religious purposes" under Wisconsin Statutes section 108.02(15)(h)(2), which exempts certain church-affiliated organizations from unemployment tax obligations.⁴³ Ultimately, the Court held that CCB did not meet the statutory standard and remained subject to Wisconsin's unemployment compensation system.⁴⁴

33. *Id.* ¶¶ 19–20, 3 N.W.3d at 674.

34. *Id.* ¶ 19, 3 N.W.3d at 674.

35. *Id.*

36. *Id.*

37. *Id.*

38. *Id.* ¶ 20, 3 N.W.3d at 674.

39. *Id.* (citing *Cath. Charities Bureau, Inc. v. Lab. & Indus. Rev. Comm'n*, 2023 WI App 12, ¶ 3, 987 N.W.2d 778).

40. *Id.* ¶ 20, 3 N.W.3d at 674 (quoting *Cath. Charities Bureau*, 2023 WI App 12, ¶ 33, 987 N.W.2d 778, 791).

41. *Id.* ¶ 119, 3 N.W.3d at 695 (Grassl Bradley, J., dissenting) (quoting *Cath. Charities Bureau*, 2023 WI App 12, ¶ 58, 987 N.W.2d at 799).

42. *Id.* ¶ 2, 3 N.W.3d at 671.

43. *Id.* (quoting Wis. STAT. § 108.02(15)(h)(2) (2023–24)).

44. *Id.* ¶¶ 5–6, 3 N.W.3d at 672.

The 4–3 majority began its analysis with the statutory text. Wisconsin’s unemployment statute broadly defines “employment” but exempts entities that are both (1) controlled by a church and (2) “operated primarily for religious purposes.”⁴⁵ Because the parties agreed that CCB satisfied the first prong (church control), the Court focused entirely on the second prong.⁴⁶ Interpreting the phrase “operated primarily for religious purposes,” the Court relied on ordinary dictionary definitions and statutory context, concluding that “operated” directs attention to what an organization does, while “purposes” directs attention to why it does it.⁴⁷ Thus, the Court distinguished between why an organization performs its work and the nature of the work itself, and both must inform the inquiry.⁴⁸ Accordingly, the Court held that the inquiry must focus, not only on the underlying religious inspiration or doctrinal rationale, but also on what the organization does—its operations, programs, and services.⁴⁹ To hold otherwise, the Court said, would collapse the statutory distinction between “charitable” and “religious” purposes and extend the exemption too broadly.⁵⁰

Applying that interpretation, the Court found that CCB’s activities—providing secular social services open to all—were not primarily religious in nature.⁵¹ It acknowledged that CCB’s mission was rooted in Catholic teaching and that the Diocese exercised meaningful oversight.⁵² However, the Court emphasized that CCB’s services contained no religious instruction, worship, or evangelization and were delivered by lay staff to clients of all faiths.⁵³ Public funding and professional licensing further demonstrated that CCB functioned as a social-service provider rather than a religious ministry.⁵⁴ The Court distinguished religious motivation from religious purpose, reasoning that the statute exempts only entities engaged in activities that manifest or inculcate faith—such as parochial education, ministry, or worship.⁵⁵ Because CCB’s operations were primarily charitable and secular, the Court concluded that they did not satisfy the statutory exemption.⁵⁶

45. § 108.02(15)(h)(2).

46. *Cath. Charities Bureau*, 2024 WI 13, ¶¶ 2 n.3, 5, 3 N.W.3d at 671–72.

47. *Id.* ¶¶ 41–46, 3 N.W.3d at 678–79 (quoting § 108.02(15)(h)(2)).

48. *Id.* ¶¶ 44–46, 3 N.W.3d at 678–79.

49. *Id.* ¶¶ 45–46, 3 N.W.3d at 679.

50. *See id.* ¶¶ 47–49, 3 N.W.3d at 679–80.

51. *Id.* ¶ 67, 3 N.W.3d at 684.

52. *Id.* ¶¶ 9, 59, 3 N.W.3d at 672, 682.

53. *Id.* ¶¶ 60–61, 3 N.W.3d at 682–83.

54. *Cath. Charities Bureau v. Lab. & Indus. Rev. Comm’n*, 2023 WI App 12, ¶ 58, 978 N.W.2d 778, 799.

55. *Cath. Charities Bureau*, 2024 WI 13, ¶¶ 62–67, 3 N.W.3d at 683–84.

56. *Id.* ¶ 67, 3 N.W.3d at 684.

Next, the majority addressed CCB's constitutional claims, rejecting the argument that the state's application of the statute violated the Free Exercise or Establishment Clauses.⁵⁷ The Court concluded that CCB had not shown the unemployment tax imposed a constitutionally significant burden on its religious practice.⁵⁸ Because CCB failed to make that threshold showing, the Court did not reach CCB's argument that the statute violated principles of neutrality.⁵⁹ The statute did not single out any religion or religious practice for adverse treatment; rather, it applied uniformly to all employers.⁶⁰ The Court also rejected CCB's contention that the inquiry created "excessive entanglement" with religion, emphasizing that the statute relied on objective, secular criteria—examining activities and operations, not beliefs or doctrines.⁶¹ Nor did the Court find any denominational preference because Wisconsin's exemption applied equally to all faiths.⁶² In the Court's view, the administrative and judicial inquiry respected constitutional limits by focusing on secular evidence and avoiding theological judgments.⁶³ Overall, the Court concluded that because CCB's activities were not "inherently religious," the statutory exemption did not apply. And because the unemployment statute was neutral and generally applicable, its enforcement against CCB raised no constitutional concern.

Justice Rebecca Grassl Bradley dissented, arguing that the majority's interpretation of Wisconsin Statutes section 108.02(15)(h)(2) distorted the statute and violated the First Amendment's Religion Clauses.⁶⁴ She contended that "operated primarily for religious purposes" refers to an organization's motivation or aim, not the outward form of its activities.⁶⁵ By redefining "purpose" to mean "activity," the majority rewrote the statute and ignored the deeply religious nature of the CCB's mission—to serve others as an expression of Catholic faith.⁶⁶ Justice Bradley warned that the majority's approach discriminated among religions by privileging faiths that evangelize, and penalizing those like Catholicism, that express devotion through service rather than proselytization.⁶⁷ She asserted that such theological line-drawing entangles the state in religious judgment and creates a denominational

57. *Id.* ¶¶ 78, 94, 100, 107, 3 N.W.3d at 686, 689–90, 692.

58. *Id.* ¶ 100, 3 N.W.3d at 690.

59. *Id.*

60. *Id.* ¶¶ 95–100, 3 N.W.3d at 689–90.

61. *Id.* ¶ 94, 3 N.W.3d at 689.

62. *Id.* ¶¶ 74–75, 3 N.W.3d at 685.

63. *Id.* ¶¶ 84–86, 3 N.W.3d at 687.

64. *Id.* ¶¶ 111–15, 3 N.W.3d at 693–94 (Grassl Bradley, J., dissenting).

65. *Id.* ¶ 130, 3 N.W.3d at 699 (Grassl Bradley, J., dissenting).

66. *Id.* ¶¶ 150–51, 3 N.W.3d at 706–07 (Grassl Bradley, J., dissenting).

67. *See id.* ¶ 177, 3 N.W.3d at 717–18 (Grassl Bradley, J., dissenting).

preference barred by *Larson v. Valente*.⁶⁸ In her view, CCB and its affiliates were plainly operated for religious purposes, and denying them exemption punished faith-based compassion under the guise of neutrality.⁶⁹

3. United States Supreme Court Opinion

Justice Sonia Sotomayor, writing for a unanimous Court, held that Wisconsin's denial of a religious exemption to CCB and its affiliates violated the Establishment Clause of the First Amendment.⁷⁰

The Court grounded the analysis in *Larson*, which established that laws preferring one denomination over another are presumptively unconstitutional and must satisfy strict scrutiny.⁷¹ The First Amendment, the Court emphasized, requires government neutrality between religions, barring both favoritism and hostility among sects.⁷² Citing *Epperson v. Arkansas*⁷³ and *Zorach v. Clauson*,⁷⁴ the opinion explained that denominational discrimination undermines both Establishment and Free Exercise values, making citizens of disfavored faiths feel like “outsiders.”⁷⁵ A law that draws distinctions based on theological differences—such as requiring worship, evangelization, or denominational exclusivity—is therefore “textbook denominational discrimination.”⁷⁶

The Court held that Wisconsin's application of section 108.02(15)(h)(2) “explicitly differentiat[ed] between religions based on theological practices.”⁷⁷ The Wisconsin Supreme Court had recognized that CCB's work was religiously motivated but denied exemption because it lacked proselytization or religious instruction—criteria that depend on religious doctrine.⁷⁸ Since Catholic teaching forbids using charity for conversion, CCB was penalized for following its own theology.⁷⁹ The same reasoning, the Court noted, would favor faiths that evangelize over

68. *Id.* ¶ 173, 3 N.W.3d at 716–17 (Grassl Bradley, J., dissenting) (citing *Larson v. Valente*, 456 U.S. 228, 244 (1982)).

69. *Id.* ¶¶ 173–74, 3 N.W.3d at 716–17 (Grassl Bradley, J., dissenting).

70. *See Cath. Charities Bureau, Inc. v. Wis. Lab. & Indus. Rev. Comm'n*, 145 S. Ct. 1583, 1587 (2025).

71. *See id.* at 1591.

72. *Id.*

73. 393 U.S. 97 (1968).

74. 343 U.S. 306 (1952).

75. *Cath. Charities Bureau*, 145 S. Ct. at 1591 (quoting *Santa Fe Indep. Sch. Dist. v. Doe*, 530 U.S. 290, 309–10 (2000)).

76. *Id.* at 1591.

77. *Id.* at 1592.

78. *Id.* at 1592–93.

79. *Id.* at 1592.

those that express belief through service, creating precisely the type of denominational preference the Constitution forbids.⁸⁰ The opinion analogized this to a hypothetical law exempting only churches that “perform baptisms or worship on Sundays,” which would impermissibly privilege some sects over others.⁸¹

Wisconsin stated that strict scrutiny should apply only when the state acts with “invidious discrimination.”⁸² The Court rejected that analogy, explaining that *Gillette* involved an exemption equally available to all faiths, while Wisconsin’s rule facially discriminated among religions based on theology.⁸³ The State’s attempt to reframe the rule as excluding only organizations lacking “distinctively religious activity” failed for the same reason: Determining what counts as “expressing and inculcating doctrine” is itself a theological judgment.⁸⁴ Because these distinctions depend on internal religious choices, the Court held, they are inherently denominational and trigger strict scrutiny.⁸⁵

Applying strict scrutiny, the Court found that Wisconsin failed to prove its interpretation was narrowly tailored to serve a compelling interest.⁸⁶ The State’s two asserted interests—(1) ensuring unemployment coverage and (2) avoiding entanglement in religious employment disputes—were unsupported and poorly fitted to the exemption’s application.⁸⁷ CCB maintained its own unemployment system with comparable benefits, undermining the coverage rationale.⁸⁸ The exemption was also underinclusive, as Wisconsin already exempted dozens of employment types and church-operated charities performing similar work.⁸⁹ Likewise, the entanglement rationale was overinclusive, since the law exempted all church employees, even those with no religious duties.⁹⁰ The mismatch between the statute’s scope and these justifications rendered it unconstitutional as applied.⁹¹

Justice Sotomayor reaffirmed that the Constitution requires “neutrality between religion and religion,” where the government cannot prefer one denomination over another based on theological differences.⁹² By distinguishing among faiths based on how they express belief in

80. *Id.*

81. *Id.*

82. *Id.*

83. *See id.* at 1592–93.

84. *Id.* at 1593.

85. *Id.*

86. *Id.*

87. *Id.* at 1593–94.

88. *Id.*

89. *Id.* at 1594.

90. *Id.*

91. *Id.*

92. *Id.* (quoting *Epperson v. Arkansas*, 393 U.S. 97, 104 (1968)).

charitable work, Wisconsin's application of its exemption violated the Establishment Clause.⁹³ Because the State's approach failed strict scrutiny, the Court reversed the Wisconsin Supreme Court and remanded the case.⁹⁴

Justice Clarence Thomas joined the Court's opinion in full but wrote separately to emphasize an additional constitutional flaw.⁹⁵ He argued that the Wisconsin Supreme Court's first holding—treating CCB and its sub-entities as separate organizations from the Diocese—was also unconstitutional.⁹⁶ In his view, the First Amendment's church autonomy doctrine protects a religious institution's right to define its internal structure without state interference.⁹⁷ A diocese may create separate corporations for administrative convenience, but that does not alter its ecclesiastical identity.⁹⁸ Justice Thomas stressed that under church law, CCB is simply an arm of the Diocese of Superior, not an independent entity.⁹⁹ He warned that by treating CCB as separate, Wisconsin intruded into matters of religious governance and internal organization, violating the constitutional guarantee that churches “decide for themselves, free from state interference, matters of church government as well as those of faith and doctrine.”¹⁰⁰ His concurrence stressed that both the statutory and constitutional errors stemmed from the state's failure to respect the autonomy of religious institutions.¹⁰¹

Justice Ketanji Brown Jackson also joined the Court's opinion but wrote separately to clarify her understanding of the constitutional basis for the decision.¹⁰² She agreed that Wisconsin's interpretation imposed a denominational preference and violated the Establishment Clause but stressed that this case should not be read to expand the Court's broader religion clause jurisprudence.¹⁰³ In her view, the Court's holding rested narrowly on the State's explicit theological line-drawing—not on any categorical rule against examining religious purposes in general.¹⁰⁴ She emphasized that states remain free to apply neutral administrative

93. *Id.* at 1593–94.

94. *Id.* at 1593–95.

95. *Id.* at 1595 (Thomas, J., concurring).

96. *Id.* (Thomas, J., concurring).

97. *Id.* (Thomas, J., concurring).

98. *Id.* (Thomas, J., concurring).

99. *Id.* at 1600 (Thomas, J., concurring).

100. *Id.* at 1595, 1600 (Thomas, J., concurring) (quoting *Kedroff v. Saint Nicholas Cathedral of the Russian Orthodox Church in N. Am.*, 344 U.S. 94, 116 (1952)).

101. *See id.* at 1603 (Thomas, J., concurring).

102. *See id.* at 1603–04 (Jackson, J., concurring).

103. *See id.* at 1603, 1605, 1608 (Jackson, J., concurring).

104. *See id.* at 1603, 1608 (Jackson, J., concurring).

definitions of “religious organization,” provided they do not favor or disfavor particular theological practices.¹⁰⁵

B. Religion-Clause Jurisprudence

Although *Catholic Charities* arose under Wisconsin’s unemployment statute, its resolution rested on principles long developed under the First Amendment’s Religion Clauses.¹⁰⁶ These clauses—prohibiting laws “respecting an establishment of religion, or prohibiting the free exercise thereof”—have guided courts for decades in defining the boundaries between religious freedom and governmental authority.¹⁰⁷ Together, they require that civil law remain neutral toward faith, avoiding both favoritism and interference.¹⁰⁸ The Supreme Court has repeatedly emphasized that neutrality does not mean indifference but a careful separation: The government may accommodate religious exercise but may not decide what counts as religion or rank certain expressions of faith above others.¹⁰⁹

The Free Exercise Clause protects the right of individuals and religious institutions to act according to their faith without undue governmental burden.¹¹⁰ The Establishment Clause, in turn, prevents the state from advancing, inhibiting, or excessively entangling itself with religion.¹¹¹ Over time, the Court has treated these provisions as complementary—each serving to preserve both religious liberty and the independence of civil law.¹¹² The guiding thread across the Court’s Religion-Clause cases is the avoidance of theological judgment: The state

105. *Id.* at 1608 (Jackson, J., concurring).

106. U.S. CONST. amend. I. While this Comment focuses on statutory interpretation, this Religion Clause background provides an important baseline for evaluating the consequences of interpretive drift. As discussed in Part II, the Wisconsin Supreme Court’s approach to interpreting “operated primarily for religious purposes” led it to draw distinctions among forms of religious exercise that longstanding Religion-Clause principles caution courts against making. *See infra* Part II.

107. *See Cath. Charities Bureau*, 145 S. Ct. at 1595, 1597–98 (Thomas, J., concurring).

108. U.S. CONST. amend. I; *see Cath. Charities Bureau*, 145 S. Ct. at 1591.

109. *See Cath. Charities Bureau*, 145 S. Ct. at 1592–93; John R. Vile & Jeremy Leaming, *Religion Neutrality*, FREE SPEECH CTR. MIDDLE TENN. ST. U. (June 9, 2025), <https://firstamendment.mtsu.edu/article/neutrality-religion/> [https://perma.cc/7CKZ-C6HS].

110. *See Free Exercise Clause*, LEGAL INFO. INST. (June 2024), https://www.law.cornell.edu/wex/free_exercise_clause [https://perma.cc/4LJ3-3U6L] (“The Free Exercise Clause reserves the right of individuals to practice any religious belief and engage in religious rituals they choose.”).

111. *See Overview of the Religion Clauses (Establishment and Free Exercise Clauses)*, CONSTITUTION ANNOTATED, https://constitution.congress.gov/browse/essay/amdt1-2-1/ALDE_00013267/ (last visited Sep. 4, 2026).

112. *Id.*

must not define religious orthodoxy, privilege certain forms of worship, or penalize belief expressed through alternative means.¹¹³

Several landmark decisions define the boundaries of this principle. In *Larson v. Valente*, the Court struck down a Minnesota statute that imposed additional reporting requirements on certain denominations, holding that the Establishment Clause prohibits any denominational preference.¹¹⁴ The decision established that when a law distinguishes among faiths, it triggers strict scrutiny and must be narrowly tailored to a compelling governmental interest.¹¹⁵ *Epperson v. Arkansas* reinforced that the government may not tailor laws to accommodate or suppress particular religious views, while *Employment Division v. Smith*¹¹⁶ clarified that neutral, generally applicable laws that incidentally burden religion ordinarily withstand constitutional scrutiny.¹¹⁷ More recently, *Hosanna-Tabor Evangelical Lutheran Church v. EEOC*¹¹⁸ reaffirmed the “church autonomy” doctrine, recognizing that courts may not interfere in internal religious governance or doctrine under either Religion Clause.¹¹⁹ Together, these cases form the modern constitutional baseline of neutrality, equality, and non-entanglement in matters of faith.

C. Statutory Interpretation in Wisconsin

The Wisconsin Supreme Court established its modern framework for statutory interpretation in *State ex rel. Kalal v. Circuit Court for Dane County*.¹²⁰ *Kalal* fundamentally reshaped how Wisconsin courts interpret statutes by emphasizing textualism—a focus on the statute’s language rather than on legislative intent or policy considerations.

The *Kalal* court held that the purpose of statutory interpretation is to determine the objective meaning of the text, not to uncover the subjective intent of legislators.¹²¹ The starting point—and usually the ending point—is the statutory language, interpreted according to its common, ordinary, and accepted meaning, unless the statute provides a specialized definition.¹²² Courts must assume that the legislature’s intent

113. See Alexander Tsesis, *Government Speech and the Establishment Clause*, 2022 U. ILL. L. REV. 1761, 1764–69.

114. See *Larson v. Valente*, 456 U.S. 228, 244–46, 255 (1982).

115. *Id.* at 246, 255.

116. 494 U.S. 872 (1990).

117. See *Epperson v. Arkansas*, 393 U.S. 97, 104 (1968); *Emp. Div.*, 494 U.S. at 879.

118. 565 U.S. 171 (2012).

119. *Id.* at 188–89.

120. See *State ex rel. Kalal v. Cir. Ct. for Dane Cnty.*, 2004 WI 58, ¶ 44, 681 N.W.2d 110, 123–24.

121. See *id.*

122. See *id.* ¶ 45, 681 N.W.2d at 124.

is expressed in what it enacted, not in what it meant to say.¹²³ As the Court stated, “[i]t is the enacted law, not the unenacted intent, that is binding on the public.”¹²⁴

Under *Kalal*, statutory interpretation is a contextual inquiry. Courts must read statutory language in context, not in isolation, and must consider the structure of the statute as a whole.¹²⁵ Related provisions, the statute’s placement within the broader statutory scheme, and canons of grammar and usage all inform the statute’s “plain meaning.”¹²⁶ The Court rejected the older “plain meaning first, context later” approach, explaining that context is integral to understanding language.¹²⁷ Dictionaries and canons of construction may serve as “helpful, neutral guides,” but the focus remains on meaning as derived from the statutory text itself.¹²⁸

Kalal also narrowed the use of extrinsic sources—such as legislative history or drafting records. Courts may consult these only if the statutory language is ambiguous, meaning that the language is reasonably susceptible to more than one meaning when viewed in context.¹²⁹ Even then, legislative history cannot override clear statutory text.¹³⁰ This marked a significant shift away from Wisconsin’s pre-*Kalal* practice, where ambiguity was often declared merely to justify reference to legislative materials.¹³¹

Additionally, *Kalal* grounded its methodology in the rule of law: Judges are bound by what the legislature enacted, not by judges’ perception of policy outcomes.¹³² Judicial deference to legislative policy choices requires fidelity to the statute’s text, not speculation about

123. *See id.* ¶ 44, 681 N.W.2d at 123–24.

124. *Id.*

125. *See id.* ¶ 46, 681 N.W.2d at 124.

126. *Id.* ¶¶ 46–47, 681 N.W.2d at 124.

127. *Id.* ¶¶ 46–48, 681 N.W.2d at 124–25.

128. *See id.* ¶¶ 49–50, 681 N.W.2d at 125.

129. *Id.* ¶¶ 47, 50, 681 N.W.2d at 124–25.

130. *Id.* ¶ 51, 681 N.W.2d at 125–26.

131. *Id.* ¶¶ 50–52, 681 N.W.2d at 125–26.

132. *Id.* ¶ 44, 681 N.W.2d at 123–24.

purpose.¹³³ The Court explicitly rejected “result-oriented” interpretation.¹³⁴

Since *Kalal*, Wisconsin courts consistently describe their interpretive task as ascertaining statutory meaning, not determining legislative intent. As reaffirmed in later cases such as *Friends of Black River Forest v. Kohler Co.*¹³⁵ and *Brey v. State Farm Mutual Automobile Insurance Co.*,¹³⁶ the *Kalal* framework directs courts to derive the “fair meaning of the text itself.”¹³⁷ Only when ambiguity remains after examining the statutory text, context, and structure may extrinsic sources play a role.¹³⁸

II. INTERPRETIVE DRIFT AND THE PATH BACK TO *KALAL*

This Part examines the Wisconsin Supreme Court’s departure from *Kalal* and the consequences of that interpretive drift. It first considers the errors in *Catholic Charities* and related Wisconsin decisions before addressing whether *Kalal* requires refinement and why reaffirming its methodological constraints remains important.

A. Missteps in Wisconsin’s Statutory Interpretation

The *Catholic Charities* decision reflects a broader interpretive drift away from Wisconsin’s established statutory interpretation framework set forth in *Kalal*. The Wisconsin Supreme Court’s majority opinion not only misapplied *Kalal*’s textualist methodology, but it also revealed a growing willingness to read meaning into statutes that the legislature did not expressly include. This Section first examines the specific interpretive errors in *Catholic Charities* before situating them within a wider pattern of interpretive inconsistency across recent Wisconsin cases.

133. *Id.* ¶ 44, 681 N.W.2d at 124 (“It is the enacted law, not the unenacted intent, that is binding on the public.”); see Daniel R. Suhr, *Interpreting Wisconsin Statutes*, 100 MARQ. L. REV. 969, 974 (2017) (“Judicial deference to the policy choices enacted into law by the legislature requires that statutory interpretation focus primarily on the language of the statute It is the enacted law, not the unenacted intent, that is binding on the public.”); see also *State ex rel. Davis v. Cir. Ct. for Dane Cnty.*, 2024 WI 14, ¶ 51, 4 N.W.3d 273 (Grassl Bradley, J., concurring) (explaining that textualism requires courts to focus on statutory language rather than second-guess the legislature’s policy choices).

134. *Kalal*, 2004 WI 58, ¶ 52, 681 N.W.2d at 126.

135. 2022 WI 52, 977 N.W.2d 342.

136. 2022 WI 7, 970 N.W.2d 1.

137. See *Friends of Black River Forest*, 2022 WI 52, ¶¶ 24–26, 977 N.W.2d at 352–53; *Brey*, 2022 WI 7, ¶¶ 10–12, 970 N.W.2d at 4–5.

138. See *Kalal*, 2004 WI 58, ¶¶ 46, 50, 681 N.W.2d at 124–25.

1. Wisconsin's Error in *Catholic Charities Bureau*

In *Catholic Charities*, the Wisconsin Supreme Court misapplied its own interpretive framework by departing from *Kalal*'s text-centered inquiry and replacing it with a results-oriented analysis that infused policy and theological considerations into what should have been a straightforward statutory question. As discussed in Section I.C, *Kalal* requires courts to derive statutory meaning from the enacted language itself, giving that language its ordinary meaning and reading it in context and as part of the statutory structure.¹³⁹ The Court's role is to ascertain meaning, not to locate ambiguity or reshape statutory language to achieve what it considers the best policy result.¹⁴⁰

In *Catholic Charities*, the statute at issue exempted unemployment compensation contributions from those employed by an organization "operated primarily for religious purposes" and operated or controlled by a church.¹⁴¹ Only the first clause was contested, as the parties agreed the organizations were controlled by the Diocese.¹⁴² Yet the Court never defined "religious purposes" by its ordinary meaning, nor did it examine the phrase "operated primarily for" as a whole by reference to nearby statutory language or related provisions in Chapter 108.¹⁴³ Instead, the majority reframed the inquiry around whether the organizations' day-to-day activities were religious, concluding that Catholic Charities' sub-entities were not operated primarily for religious purposes because their services—job training, daily living support, disability-related programming—were "secular" in nature.¹⁴⁴ The majority acknowledged that the Diocese's motivations were religious, but dismissed that as insufficient, stating that "activities, not motivations," must be primarily religious for the exemption to apply.¹⁴⁵

That formulation appears nowhere in the statutory text.¹⁴⁶ The legislature did not require an organization to engage in worship, proselytization, doctrinal instruction, or other manifestations of overtly religious activity.¹⁴⁷ Nor did it specify that serving co-religionists—or

139. See *supra* Section I.C.

140. See *Kalal*, 2004 WI 58, ¶ 47, 681 N.W.2d at 124.

141. See *Cath. Charities Bureau, Inc. v. Lab. & Indus. Rev. Comm'n*, 2024 WI 13, ¶¶ 2–4, 3 N.W.3d 666, 671–72; Wis. STAT. § 108.02(15)(h)(2) (2023–24).

142. See *Cath. Charities Bureau*, 2024 WI 13, ¶ 2–3, 3 N.W.3d at 671.

143. See *Cath. Charities Bureau*, 2024 WI 13, ¶¶ 41–46, 3 N.W.3d at 678–79 (defining "operate" and "purpose" separately, but not "religious purposes," and instead deriving a motivations-and-activities test from those definitions).

144. See *id.* ¶¶ 62–63, 3 N.W.3d at 683.

145. *Id.* ¶¶ 3–5, 3 N.W.3d at 671–72.

146. See Wis. STAT. § 108.02(15)(h).

147. *Cath. Charities Bureau*, 2024 WI 13, ¶¶ 34–35, 3 N.W.3d at 676–77.

limiting services to members of the faith—was necessary to qualify.¹⁴⁸ Indeed, the statute contains no activity-based limitation at all.¹⁴⁹ A faithful application of *Kalal* would have asked what it means for an organization to be “operated primarily for religious purposes,” considering both the ordinary meaning of “religious” and the contextual meaning of “operated primarily for,” which refers to the organization’s objective purpose, not the nature of each service it offers.¹⁵⁰ Rather than conducting this textual analysis, the majority narrowed “religious purpose” into “religious activity,” and then further defined “religious activity” to require the explicit inculcation of doctrine.¹⁵¹ That interpretation effectively rewrote the statute.

The majority justified this narrowing in part by invoking the longstanding canon that unemployment compensation statutes are “liberally construed to effect coverage,” and that exceptions must therefore be construed narrowly.¹⁵² But under *Kalal*, canons of construction cannot override the statutory text—especially where, as here, the text is not ambiguous.¹⁵³ *Kalal* cautions that extrinsic considerations such as broad statutory purpose come into play only if the text is unclear, and even then, they may not replace the legislature’s chosen words.¹⁵⁴ In *Catholic Charities*, the canon was treated as a substantive policy directive that allowed the Court to superimpose its own narrow construction of “religious purposes,” shrinking the exemption so dramatically that only religious organizations engaging in proselytization or internal ministry functions could qualify.¹⁵⁵ This was not interpretation; it was judicial modification in the service of a policy objective—expanding the scope of unemployment coverage—at the expense of the statutory language.

The majority further justified its test by emphasizing that Catholic Charities Bureau’s services were indistinguishable from those offered by secular nonprofits.¹⁵⁶ But this reasoning itself reveals the departure from a textual method. The statute asks whether the organization is operated

148. *See id.*

149. *See* § 108.02(15)(h).

150. *See* WIS. STAT. § 108.02(15)(h)(2); *Cath. Charities Bureau*, 2024 WI 13, ¶¶ 145–47, 3 N.W.3d at 704–05 (Grassl Bradley, J., dissenting).

151. *See Cath. Charities Bureau*, 2024 WI 13, ¶¶ 147–48, 3 N.W.3d at 705–06 (Grassl Bradley, J., dissenting).

152. *See id.* ¶ 47, 3 N.W.3d at 679 (invoking the canon that unemployment statutes are to be liberally construed in favor of coverage and that exceptions must be narrowly construed).

153. *See State ex rel. Kalal v. Cir. Ct. for Dane Cnty.*, 2004 WI 58, ¶¶ 44–47, 681 N.W.2d 110, 123–24.

154. *See id.* ¶¶ 47–48, 681 N.W.2d at 124–25.

155. *See Cath. Charities Bureau*, 2024 WI 13, ¶¶ 34–35, 3 N.W.3d at 676–77.

156. *Id.* ¶¶ 14, 19, 38–39, 3 N.W.3d at 673–74, 677–78.

primarily for religious purposes—not whether its services resemble those of secular organizations.¹⁵⁷ Under *Kalal*, the similarity of services would matter only if the statute explicitly required it, which it does not.¹⁵⁸ By relying on the character of the services rather than the purposes for which the organization operates, the Court effectively imposed a requirement that religious organizations differentiate their outputs from secular ones to qualify for the exemption. This requirement exists nowhere in section 108.02(15)(h)(2).¹⁵⁹

These interpretive errors also forced the Court into theological territory that *Kalal*'s text-based guardrails are designed to avoid. The Court distinguished between religiously motivated, but outward-facing, charitable work and activities involving religious teaching, evangelism, or worship.¹⁶⁰ The majority's distinction required it to determine which modes of religious service are "religious enough" to qualify as the organization's primary purpose.¹⁶¹ The United States Supreme Court unanimously rejected this line of reasoning, concluding that Wisconsin impermissibly favored denominations that proselytize or serve only coreligionists over those that express their faith through charitable service.¹⁶² Because eligibility for the exemption thus turned on theological choices about how a denomination carries out its faith, the United States Supreme Court held that Wisconsin's interpretation triggered strict scrutiny and could not be sustained.¹⁶³

A proper *Kalal* analysis would have avoided this constitutional problem. A text-centered inquiry would have confined the Court to the ordinary meaning and statutory context of "operated primarily for religious purposes," rather than inviting judicial evaluation of modes of ministry or theological commitments to determine whether the activities through which an organization pursued its religious purpose were themselves sufficiently religious.¹⁶⁴ Instead, the Wisconsin Supreme Court's emphasis on activities over purposes, its reliance on policy-based canons to reshape the text, and its willingness to impose judicially crafted

157. See WIS. STAT. § 108.02(15)(h)(2) (2023–24).

158. See *Kalal*, 2004 WI 58, ¶¶ 44–48, 681 N.W.2d at 123–25.

159. § 108.02(15)(h)(2).

160. See *Cath. Charities Bureau*, 2024 WI 13, ¶¶ 60–61, 3 N.W.3d at 682; see also *id.* ¶¶ 147–48, 3 N.W.3d at 705–06 (Grassl Bradley, J., dissenting) (describing the majority's analysis as distinguishing activities such as proselytizing and teaching religious doctrine from other religiously motivated activities).

161. *Id.* ¶¶ 34–35, 60, 3 N.W.3d at 676–77, 682 (distinguishing between religious doctrine and outward-facing charity); *id.* ¶¶ 147–48, 3 N.W.3d at 705–06 (Grassl Bradley, J., dissenting).

162. See *Cath. Charities Bureau, Inc. v. Wis. Lab. & Indus. Rev. Comm'n*, 145 S. Ct. 1583, 1590–92 (2025).

163. *Id.* at 1593–95.

164. See *State ex rel. Kalal v. Cir. Ct. for Dane Cnty.*, 2004 WI 58, ¶¶ 44–48, 681 N.W.2d 110, 678–80.

requirements not found in the statute all reflect a significant departure from *Kalal*'s interpretive discipline. This departure not only distorted the statute but also produced the very constitutional infirmity that led the United States Supreme Court to unanimously reverse the decision. In this sense, *Catholic Charities* illustrates the stakes of interpretive drift: By abandoning *Kalal*'s textual methodology, the Court not only misconstrued the statute itself, but compounded that initial error by expanding the judicial inquiry beyond what a proper interpretation would require. Here, the majority's interpretive departure led it into theological line-drawing that ultimately produced a constitutional violation and unanimous reversal by the United States Supreme Court.

2. The Broader Pattern of Interpretive Drift in Recent Wisconsin Decisions

The *Catholic Charities* decision is not an isolated incident—it exemplifies a growing trend within the Wisconsin Supreme Court of straying from *Kalal*'s disciplined textual approach toward interpretive methods that rely more heavily on policy, context manipulation, or perceived legislative intent. Under *Kalal*, constitutional interpretation follows the same basic principles as statutory construction.¹⁶⁵ Analysis begins with the constitutional text, given its ordinary and historical meaning, and proceeds within the instrument's structural context.¹⁶⁶ Courts may not impose tests, standards, or policy judgments unsupported by the text itself.¹⁶⁷

In *Clarke v. Wisconsin Elections Commission*,¹⁶⁸ however, the majority reinterpreted the constitutional requirement that districts “consist of contiguous territory” in a manner that cannot be reconciled with *Kalal*'s directive to begin with—and remain tethered to—the ordinary public meaning of words.¹⁶⁹ *Clarke* arose from a challenge to Wisconsin's legislative district maps, in which the court was called upon to determine whether the drawn districts satisfied that constitutional requirement.¹⁷⁰ Rather than asking what “contiguous” meant when adopted, or how Wisconsin courts have historically applied that term, the majority layered modern policy criteria onto the constitutional text.¹⁷¹ Because constitutional interpretation seeks the text's original public

165. See *Wis. Just. Initiative, Inc. v. Wis. Elections Comm'n*, 2023 WI 38, ¶¶ 19–22, 990 N.W.2d 122, 131–33.

166. See *id.* ¶¶ 30–32, 990 N.W.2d at 135–36.

167. See *Kalal*, 2004 WI 58, ¶¶ 44–45, 681 N.W.2d at 123–24.

168. 2023 WI 79, 998 N.W.2d 370.

169. See *id.*, ¶¶ 15–20, 998 N.W.2d at 381–83.

170. See *id.*, ¶¶ 1–2, 998 N.W.2d at 377–78.

171. See *id.*, ¶¶ 16–20, 998 N.W.2d at 382–83.

meaning, the relevant inquiry was what “contiguous” meant when adopted.¹⁷² The majority defined the term to require physical contact, relying primarily on modern dictionaries, without accounting for historical definitions that also encompassed close proximity without physical contact.¹⁷³ The dissent’s observation that the court “starts with the goal and works backwards” captures precisely what *Kalal* sought to prohibit: an interpretive approach in which the desired outcome drives the meaning assigned to the words, rather than the other way around.¹⁷⁴ By departing from both ordinary meaning and historical practice, the Court effectively created a new contiguity requirement—one that justified discarding recently adopted maps and overturning recent precedent without identifying textual ambiguity that would trigger such a shift.

In *Clarke*, similar to *Catholic Charities*, the majority’s analysis illustrates the same underlying defect. When the text does not naturally yield the desired result, the Court supplements it with judicially crafted criteria, thereby replacing *Kalal*’s textual discipline with a dynamic, outcome-oriented approach.¹⁷⁵ In both cases, the Court constricted the operative text (whether “contiguous” or “primarily for religious purposes”) by narrowing its scope beyond its ordinary meaning and disregarding contextual practice.¹⁷⁶

The same pattern reappears in *Evers v. Marklein*,¹⁷⁷ where the majority invalidated long-standing statutory mechanisms permitting legislative oversight of administrative rulemaking.¹⁷⁸ Separation-of-powers cases necessarily require courts to determine how the Constitution allocates authority among the branches, but that allocation must be derived first and foremost from the constitutional text.¹⁷⁹ The majority adopted the federal *Chadha* standard, holding that Wisconsin’s bicameralism and presentment requirements apply whenever legislative action alters the legal rights and duties of persons outside the legislative

172. *Wis. Just. Initiative, Inc. v. Wis. Elections Comm’n*, 2023 WI 38, ¶ 21, 990 N.W.2d 122, 132.

173. *See Clarke*, 2023 WI 79, ¶¶ 16–17, 998 N.W.2d at 382; *id.* ¶ 199, 998 N.W.2d at 444–45 (Grassl Bradley, J., dissenting).

174. *Id.* ¶ 302, 998 N.W.2d at 483 (Hagedorn, J., dissenting).

175. *See id.* ¶¶ 15–20, 998 N.W.2d at 381–83; *State ex rel. Kalal v. Cir. Ct. for Dane Cnty.*, 2004 WI 58, ¶¶ 44–48, 681 N.W.2d 110, 123–25.

176. *See Clarke*, 2023 WI 79, ¶¶ 16–20, 998 N.W.2d at 382–83; *Cath. Charities Bureau, Inc. v. Labor & Indus. Rev. Comm’n*, 2024 WI 13, ¶¶ 34–35, 60–61, 3 N.W.3d 666, 676, 682–83; *id.* ¶¶ 147–48, 3 N.W.3d at 705–06 (Grassl Bradley, J., dissenting); *Cath. Charities Bureau, Inc. v. Wis. Lab. & Indus. Rev. Comm’n*, 145 S. Ct. 1583, 1590–95 (2025).

177. 2025 WI 36, 22 N.W.3d 789.

178. *See id.* ¶¶ 19–32, 22 N.W.3d at 796–99.

179. *See Wis. Just. Initiative, Inc. v. Wis. Elections Comm’n*, 2023 WI 38, ¶ 21, 990 N.W.2d 122, 132.

branch.¹⁸⁰ In doing so, the majority reasoned that the principles underlying *Chadha* applied equally to Wisconsin's Constitution, despite proceeding "with absolutely no analysis of the Wisconsin Constitution's text."¹⁸¹ This methodological failure mirrors the error in *Catholic Charities*: When text does not compel the desired outcome, the majority elevates broad structural concerns—here, broader separation-of-powers principles—over the enacted language.¹⁸² Rather than grounding its analysis in Articles IV and V—which define the scope of legislative and executive authority—the majority invoked abstract functional considerations about administrative efficiency and "balance."¹⁸³ *Kalal* expressly warns against this kind of reasoning: Purpose and policy cannot displace unambiguous text.¹⁸⁴ Yet the majority used purpose to reshape the separation of powers, effectively reallocating authority away from the legislature and toward the executive branch.¹⁸⁵ This restructuring occurred, not by constitutional amendment, but by judicial interpretation that bypassed textual grounding.

Again, the parallel to *Catholic Charities* is striking. There, the Court treated the exemption for organizations "operated primarily for religious purposes" as an opportunity to redesign the line between religious and secular functions using its own criteria; here, the Court reconceived the separation of powers using structural considerations only tenuously connected to the Constitution's text.¹⁸⁶ In both cases, the interpretive analysis functions as a vehicle for institutional redesign rather than a faithful application of *Kalal*'s methodology.

The United States Supreme Court's per curiam reversal in *Wisconsin Legislature v. Wisconsin Elections Commission (WEC)*¹⁸⁷ provides a related example involving the Voting Rights Act and an external checkpoint on the Wisconsin Supreme Court's interpretive methodology.¹⁸⁸ Section 2 expressly disclaims any right to proportional representation, yet the Wisconsin Supreme Court approved a seventh majority-Black district largely on the basis of demographic changes and

180. See *Evers*, 2025 WI 36, ¶ 32–35, 22 N.W.3d at 799–800.

181. *Id.* ¶ 35, 22 N.W.3d at 800; *id.* ¶ 65, 22 N.W.3d at 808–09 (Ziegler, J., dissenting).

182. *Id.* ¶¶ 33–35, 22 N.W.3d at 799–800.

183. *Id.* ¶¶ 40–44, 22 N.W.3d at 801–03.

184. See *Kalal*, 2004 WI 58, ¶¶ 44–48, 681 N.W.2d at 123–25.

185. See *Evers*, 2025 WI 36, ¶¶ 26–32, 22 N.W.3d at 798–99.

186. See *Cath. Charities Bureau, Inc. v. Labor & Indus. Rev. Comm'n*, 2024 WI 13, ¶¶ 34–35, 60–61, 3 N.W.3d 666, 676–77, 682–83; *Evers*, 2025 WI 36, ¶¶ 22–32, 22 N.W.3d at 797–99.

187. 142 S. Ct. 1245 (2022).

188. See generally *id.* (concluding the Wisconsin Supreme Court failed to satisfy its strict scrutiny burden when it did not abide by the demands of the underlying statute at issue).

the feasibility of drawing such a district without establishing that the statutory conditions requiring that additional district were satisfied.¹⁸⁹ In reversing the Wisconsin Supreme Court’s application of strict scrutiny to race-based districting, the United States Supreme Court held that Wisconsin had diluted the well-settled “strong basis in evidence” standard for concluding that section 2 required the race-conscious action—not merely that an additional majority–minority district could be drawn or might be required.¹⁹⁰ What is notable is not the redistricting outcome but the reasoning. Although the governing standard was supplied in part by federal precedent rather than statutory text alone, the episode reflects a related methodological concern: The court permitted considerations beyond the statute’s established requirements to do work that the governing statutory framework did not authorize.¹⁹¹ This parallels the methodological defect identified in *Catholic Charities*: The Wisconsin Supreme Court altered a governing legal test to make it fit the outcome the majority preferred.¹⁹² That a divided United States Supreme Court in two separate situations—first in 2022, then unanimously in 2025—found Wisconsin’s reasoning sufficiently unmoored from baseline legal standards to warrant reversal highlights that these interpretive departures are neither subtle nor isolated.

Other recent Wisconsin decisions further show that the Court’s interpretive methodology is fractured. In *State ex rel. Davis v. Circuit Court*,¹⁹³ the Court explicitly acknowledged that one of its prior statutory interpretations was “erroneous” because it departed from *Kalal*.¹⁹⁴ The opinion reiterates that *Kalal* demands fidelity to ordinary meaning and warns that deviations invite the incursion of policy judgment—precisely the concerns raised by the dissenters in *Catholic Charities*, *Clarke*, and

189. 52 U.S.C. § 10301(b) (“nothing in this section establishes a right to have members of a protected class elected in numbers equal to their proportion in the population”); see *Johnson v. Wis. Elections Comm’n*, 2022 WI 14, ¶¶ 38–50, 971 N.W.2d 402, 415–19.

190. See *Wis. Legislature v. Wis. Elections Comm’n*, 142 S. Ct. at 1249–50.

191. *Id.* at 1249–51 (concluding that the Wisconsin Supreme Court misunderstood whether section 2 required the additional district, relied on generalizations rather than district-specific evidence, and improperly reduced the *Gingles*, 478 U.S. 30 (1986), totality-of-the-circumstances analysis to proportionality).

192. See *Cath. Charities Bureau, Inc. v. Wis. Lab. & Indus. Rev. Comm’n*, 145 S. Ct. 1583, 1587–89 (2025).

193. 2024 WI 14, 4 N.W.3d 273.

194. See *id.* ¶¶ 13, 46–50, 4 N.W.3d at 282–83 (Grassl Bradley, J., concurring).

Evers.¹⁹⁵ *Sanders v. State of Wisconsin Claims Board*¹⁹⁶ likewise reaffirms that if statutory text is unambiguous, interpretation ends; this only heightens the contrast with decisions where the Court invents extra-textual tests or constricted meanings to achieve a desired result.¹⁹⁷ Similarly, in *Service Employees International Union v. Wisconsin Employment Relations Commission*,¹⁹⁸ the Court's need to "clarify" the proper methodology for statutory interpretation reflects instability in what had been a settled framework.¹⁹⁹ The existence of concurrences openly urging the Court to move beyond *Kalal* emphasizes that the interpretive drift is not accidental, but an ongoing shift in judicial philosophy—one that has concrete implications for cases like *Catholic Charities* where unfavorable outcomes for individual rights follow from narrowed readings of statutory protections and compound into further constitutional error.²⁰⁰

Together, these decisions reveal a consistent interpretive pattern. In cases involving statutory or constitutional text, the majority allows considerations beyond the enacted language to alter, supplement, or reshape the governing textual requirements. Where the governing inquiry also incorporates judicially developed doctrine, as in *WEC*, the Court exhibits a related willingness to loosen the constraints imposed by the established legal framework. In each scenario, the Court affords itself greater interpretive flexibility at the expense of established textual or doctrinal constraints, an approach fundamentally at odds with *Kalal*'s insistence on a disciplined, text-centered analysis that constrains judicial discretion.

B. Pathways to Restoration

To restore interpretive consistency and reinforce judicial restraint, the Wisconsin Supreme Court must recommit to *Kalal*'s principles as the interpretive anchor. Reaffirming fidelity to text would not only align Wisconsin with its own precedent but also restore public confidence in the neutrality and predictability of judicial reasoning.

195. *Id.* ¶¶ 13–16, 4 N.W.3d at 276; *id.* ¶¶ 50–72, 4 N.W.3d at 282–90 (Grassl Bradley, J., concurring); *Cath. Charities Bureau, Inc. v. Lab. & Indus. Rev. Comm'n*, 2024 WI 13, ¶¶ 121–122, 153, 3 N.W.3d 666, 695–96 (Grassl Bradley, J., dissenting); *Clarke v. Wis. Elections Comm'n*, 2023 WI 79, ¶ 219, 998 N.W.2d 370, 450 (Grassl Bradley, J., dissenting); *Evers v. Marklein*, 2025 WI 36, ¶¶ 94, 101, 22 N.W.3d 789, 818, 821 (Grassl Bradley, J., dissenting).

196. 2023 WI 60, 992 N.W.2d 126.

197. *See id.* ¶¶ 13–14, 992 N.W.2d at 130.

198. 2025 WI 29, 22 N.W.3d 876.

199. *See id.* ¶¶ 6–13, 22 N.W.3d at 878–80.

200. *See id.* ¶¶ 60–62, 22 N.W.3d at 891–92 (Dallet, J., concurring) (urging reconsideration of aspects of *Kalal* and advocating a more flexible approach).

1. Does *Kalal* Require Refinement?

Disagreement exists over *Kalal*'s methodology (textualism-based methodologies) and whether Wisconsin should refine or replace aspects of it.²⁰¹ Critiques generally proceed in two different directions. One line of criticism argues that *Kalal* is overly rigid, placing undue emphasis on statutory text at the expense of statutory purpose, legislative objectives, and the practical realities of modern regulatory schemes.²⁰² Another contends that *Kalal* provides judges with too much interpretive discretion by permitting competing textual canons to be invoked with insufficient guidance or by failing to account adequately for the background legal principles that inevitably influence statutory interpretation.²⁰³

The first criticism—that *Kalal* is too rigid—rests largely on a mistaken understanding of what *Kalal* requires. Properly understood, *Kalal* does not reject context, statutory purpose, or the practical operation of legislation. To the contrary, *Kalal* expressly directs courts to read statutory language in context, as part of a coherent statutory scheme, and consider the statute's structure and textually evident purpose.²⁰⁴ What this critique ultimately seeks is not greater attention to context in the *Kalal* sense, but greater freedom for courts to allow context or perceived legislative objectives to override otherwise clear statutory language.²⁰⁵

201. See, e.g., Anuj C. Desai, *Modified Textualism in Wisconsin: A Case Study*, 2022 WIS. L. REV. 1087, 1089–90, 1107–08; Benjamin S. Willstein, Comment, “Eyes-Open” Textualism: Wisconsin’s Latest Interpretive Paradigm, 2025 WIS. L. REV. 1687, 1689–90, 1720–27; *Serv. Emps.*, 2025 WI 29, ¶¶ 48–66, 22 N.W.3d at 888–93 (Dallet, J., concurring); Abbe R. Gluck, *The States as Laboratories of Statutory Interpretation: Methodological Consensus and the New Modified Textualism*, 119 YALE L.J. 1750, 1798–1803 (2010).

202. See, e.g., *Serv. Emps.*, 2025 WI 29, ¶¶ 48–66, 22 N.W.3d at 888–93 (Dallet, J., concurring) (criticizing *Kalal* as “overly rigid and formalistic” and arguing that its two-step framework excludes relevant extrinsic information and may obscure the considerations underlying statutory interpretation); Desai, *supra* note 201, at 1089–90, 1107–08 (arguing that *Kalal* inadequately accounts for legal principles and other forms of legal reasoning that may inform difficult statutory cases).

203. See, e.g., Willstein, *supra* note 201, at 1689–91, 1697–719 (arguing that *Kalal* provides insufficient guidance regarding when malleable textual canons should be invoked or overcome, allowing judges to selectively employ canons that support preferred outcomes).

204. See *State ex rel. Kalal v. Cir. Ct. for Dane Cnty.*, 2004 WI 58, ¶¶ 46–49, 681 N.W.2d 110, 124–25.

205. See John F. Manning, *Textualism and the Equity of the Statute*, 101 COLUM. L. REV. 1, 3–5, 15–16 (2001) (distinguishing “strong purposivism,” under which statutory purpose may justify departure from otherwise clear text, from textualism, which treats clear statutory meaning as controlling even when it appears inconsistent with a statute’s broader policy, and explaining that disregarding clear enacted terms in favor of background purpose substitutes a less reliable account of legislative intent for the statutory text); VALERIE C. BRANNON, CONG. RSCH. SERV., R45153, STATUTORY INTERPRETATION: THEORIES, TOOLS, AND TRENDS 13, 20–21, 34–35 (2023) (explaining that purposivists

Nor does *Kalal* purport to eliminate judicial judgment from difficult cases.

Professor Anuj C. Desai, for example, argues that *Wisconsin Carry, Inc. v. City of Madison*²⁰⁶ exposed a gap in *Kalal*. The case concerned whether a Madison Transit and Parking Commission rule prohibiting weapons on city buses was preempted by a state statute restricting a political subdivision's authority to regulate firearms through an "ordinance" or "resolution."²⁰⁷ Although the challenged policy was denominated a "rule" and was adopted by a municipal commission, the majority concluded that the statute nevertheless constrained the Commission's authority.²⁰⁸ Desai argues that resolving this question ultimately required the Justices to weigh background legal principles that the framework does not recognize.²⁰⁹ But that conclusion assumes that disagreement over how text operates in context *must* be resolved by considerations external to the text. *Kalal* requires no such leap. Its contextual inquiry permits courts to determine statutory meaning from the relationship among the enacted terms, the statutory structure in which they appear, and the reasonable operation of those terms as a coherent whole.²¹⁰ *Wisconsin Carry* therefore demonstrates that *Kalal* may leave room for disagreement over how those considerations apply; it does not establish that the framework lacks the tools necessary to resolve the question.

Other commentators take this criticism a step further and contend that *Kalal*'s text-first methodology often leaves statutory ambiguities unresolved and that the methodology itself provides insufficient guidance for resolving them.²¹¹ In their view, *Kalal* gives judges too much discretion by allowing textual canons to be deployed without sufficient methodological guidance or by failing to identify the legal principles that should govern difficult interpretive questions.²¹² That criticism correctly recognizes that *Kalal* does not prescribe exhaustive trigger rules for every

look beyond semantic context to the statute's "policy context" and noting the criticism that purposivism is "too easily manipulable," permitting an interpreter to ignore statutory text in favor of what the interpreter believes to be the provision's purpose).

206. 2017 WI 19, 892 N.W.2d 233.

207. *Id.* ¶¶ 2–3, 892 N.W.2d at 236 (quoting WIS. STAT. § 66.0409(2)); *id.* ¶¶ 15–16, 892 N.W.2d at 239.

208. *Id.* ¶¶ 19–20, 27–28, 892 N.W.2d at 240, 242.

209. See Desai, *supra* note 201, at 1104–06.

210. See *Kalal*, 2004 WI 58, ¶¶ 46, 48–49, 681 N.W.2d at 124–25.

211. See Willstein, *supra* note 201, at 1689, 1725–26.

212. See *id.* at 1689, 1696, 1701–02 (arguing that *Kalal* supplies insufficient guidance concerning the selection and application of competing textual canons, allowing judges substantial discretion in determining which canon governs); Desai, *supra* note 201, at 1104–05 (arguing that *Kalal* cannot resolve some difficult interpretive questions because its framework does not account for the legal principles or values necessary to decide them).

interpretive canon or dictate the outcome of every difficult case.²¹³ But *Kalal* was never designed to do so. Even without regulating every interpretive inference through exhaustive methodological rules, *Kalal* disciplines judicial reasoning by requiring courts to justify interpretive choices through enacted text, statutory structure, and legally cognizable context rather than policy preferences or judicial assessments of legislative wisdom.²¹⁴

The concern, then, is not merely that *Kalal* leaves judges with too many interpretive tools, but that insufficient constraints on those tools permit judges to selectively employ canons in ways that decontextualize statutory language and support competing interpretations.²¹⁵ Yet, the cases cited as examples of these shortcomings reveal something different. They do not generally illustrate courts abandoning context in favor of isolated textual analysis. Instead, they reflect disagreements over what constitutes the most relevant statutory context, how competing contextual indicators should be weighed, or how the statutory question itself should be characterized.²¹⁶ In some cases, one opinion places greater emphasis on statutory definitions and parallel provisions, while another gives

213. See Willstein, *supra* note 201, at 1689, 1701–02 (discussing *Kalal*’s limited guidance concerning when textualist tools should be employed and the absence of clearly defined triggers and stoppers for *expressio unius*); *Kalal*, 2004 WI 58, ¶¶ 44–53, 681 N.W.2d at 123–26.

214. See *Kalal*, 2004 WI 58, ¶¶ 44–46, 48–49, 681 N.W.2d at 123–25; *Manitowoc Co. v. Lanning*, 2018 WI 6, ¶ 66, 906 N.W.2d 130, 145–46 (Grassl Bradley, J., concurring) (demonstrating that *Kalal* constrains the grounds on which courts may justify interpretive choices by distinguishing textually discernible purpose from judicial perceptions of unexpressed legislative policy); Tara Leigh Grove, *Which Textualism?*, 134 HARV. L. REV. 265, 269–70, 272–74, 293 (2020).

215. See Willstein, *supra* note 201, at 1697–99, 1709–10.

216. Compare *James v. Heinrich*, 2021 WI 58, ¶¶ 19–23, 960 N.W.2d 350, 360–62 (reading WIS. STAT. §§ 252.02 and 252.03 together and treating the legislature’s express grant of school-closing authority to DHS as evidence that the same authority was withheld from local health officers), with *id.* ¶¶ 68–74, 960 N.W.2d at 377–79 (Dallet, J., dissenting) (giving greater weight to § 252.03’s broader language and to other statutes expressly contemplating school closures by local health officers). Compare *Becker v. Dane Cnty.*, 2022 WI 63, ¶¶ 12–15, 22, 977 N.W.2d 390, 435–38, 441 (characterizing the issue as whether powers conferred by § 252.03 may be exercised through orders and rejecting the argument that the absence of the words “issue orders” itself withholds that mechanism), with *id.* ¶¶ 142–45, 977 N.W.2d at 435–36 (Grassl Bradley, J., dissenting) (treating the issuance of orders as a distinct governmental power that must be specifically conferred and arguing that the majority’s approach cannot be reconciled with *James*). Compare *Sojenhomer LLC v. Village of Egg Harbor*, 2024 WI 25, ¶¶ 15–24, 7 N.W.3d 455, 459–63 (relying on the text of WIS. STAT. § 346.02(8) as a whole, separate statutory definitions, related provisions, and statutory history to conclude that “pedestrian way” excludes sidewalks), with *id.* ¶¶ 52–58, nn.10–12, 7 N.W.3d at 470–72 & nn.10–12 (Ziegler, C.J., dissenting) (giving greater weight to the breadth of the statutory definition of “pedestrian way” and concluding that sidewalks may be a subset of pedestrian ways without rendering the statutory terms superfluous).

greater weight to neighboring language or statutory history.²¹⁷ In others, the disagreement concerns whether broadly worded grants of authority should be understood in light of more specific statutory allocations of power or whether a challenged governmental action is best characterized as an exercise of one type of legal authority or another.²¹⁸ These are not disagreements over whether context matters, but over which contextual considerations are most persuasive.²¹⁹ The fact that judges may disagree about those questions does not establish that *Kalal* lacks meaningful constraints.²²⁰ Rather, it reflects the reality that statutory interpretation requires judgment even when courts employ the same methodology.²²¹ The relevant inquiry is therefore not whether *Kalal* eliminates discretion, but whether it disciplines that discretion by requiring interpretive choices to be justified through enacted law.

These cases also do not demonstrate that additional methodological guidance would meaningfully constrain judicial discretion. Every interpretive methodology requires courts to determine which legal principles apply and how competing considerations should be reconciled.²²² A rule specifying when a particular canon applies merely shifts that judgment to an earlier stage of the analysis by requiring courts to decide whether the canon's triggering conditions have been satisfied.²²³ Likewise, supplementing *Kalal* with an additional inquiry into legal principles or values would simply relocate, not eliminate, the exercise of judicial judgment.

Kalal does not, and should not, eliminate judicial discretion. Difficult statutory cases inevitably require courts to evaluate competing contextual indicators, characterize the statutory question, and explain why one interpretation is more persuasive than another.²²⁴ But the

217. See Desai, *supra* note 201, at 1104–06.

218. See *id.*

219. See *id.*

220. See Grove, *supra* note 214, at 269–70, 303–04 (recognizing that no interpretive methodology can fully eliminate judicial discretion while arguing that textualist constraints can nevertheless meaningfully limit the considerations influencing judicial decision-making).

221. See *id.*; Gluck, *supra* note 201, at 1757.

222. See Jonathan R. Macey & Geoffrey P. Miller, *The Canons of Statutory Construction and Judicial Preferences*, 45 VAND. L. REV. 647, 648, 650–51 (1992) (observing that courts necessarily make antecedent judgments about whether to invoke interpretive canons and which canons to employ, and recognizing that judges may select among canons “in a sensible and coherent fashion” even without a formal meta-rule governing that selection).

223. See BRANNON, *supra* note 205, at 33–34 (explaining that substantive canons themselves entail “difficult judgments” in determining whether their “triggering threshold conditions have been met”).

224. See Frank H. Easterbrook, *The Absence of Method in Statutory Interpretation*, 84 U. CHI. L. REV. 81, 82–84 (2017) (explaining that even textualism does not supply an interpretive “algorithm” and that contextual interpretation requires

inevitability of judgment does not mean that every exercise of judgment is equally faithful to *Kalal*, nor that *Kalal* lacks meaningful methodological discipline simply because it does not prescribe exhaustive trigger rules or a mechanical hierarchy for every canon.²²⁵ Rather, *Kalal* disciplines judicial reasoning by limiting the sources from which interpretive judgments may legitimately be drawn.²²⁶ Courts may disagree about how statutory context is best understood, but they must justify those disagreements through enacted text, statutory structure, and legally cognizable context—not through policy preferences, untethered limiting principles, or judicial assessments of how a statute ought to operate.²²⁷ A court departs from *Kalal*, not because it reaches a different conclusion, but because it abandons those methodological constraints.

Those conversations are distinct from the problem presented here. If Wisconsin ultimately chooses to depart from *Kalal*, that departure should occur transparently through the adoption of a coherent alternative rather than through the gradual erosion of *Kalal*'s methodology while continuing to invoke it as governing law. So long as *Kalal* remains Wisconsin's controlling framework for statutory interpretation, courts should faithfully apply its methodology.²²⁸ Unless and until Wisconsin

courts to determine which among multiple potentially relevant contexts should inform statutory meaning); BRANNON, *supra* note 205, at 20–27 (explaining that interpretive tools overlap and may receive different weight and describing statutory context as including surrounding language, statutory structure, and related statutory usage).

225. See *State ex rel. Kalal v. Cir. Ct. for Dane Cnty.*, 2004 WI 58, ¶¶ 44–50, 52, 681 N.W.2d 110, 123–25; see also Easterbrook, *supra* note 224, at 82–84 (explaining that textualism does not supply an interpretive algorithm and that the application of individual canons depends on context); Anita S. Krishnakumar, *Dueling Canons*, 65 DUKE L.J. 909, 925–26 (2016) (distinguishing judicial discretion over a canon's applicability from indeterminacy in the canon itself and explaining that the absence of a settled hierarchy among interpretive tools does not render the interpretive enterprise meaningless).

226. See *Kalal*, 2004 WI 58, ¶¶ 43–44, 46, 48–49, 681 N.W.2d at 123–25 (describing Wisconsin's methodology as relying primarily on “intrinsic sources of statutory meaning,” confining resort to extrinsic sources, and explaining that this limitation prevents extrinsic materials from varying or contradicting a statute's plain meaning).

227. See *id.* ¶¶ 44, 46, 48–52, 681 N.W.2d at 123–26; Manning, *supra* note 205, at 106–09 (explaining that textualism permits consideration of linguistic and legal context insofar as those considerations serve to “faithfully decod[e] the text”); Ward Farnsworth, Dustin F. Guzier & Anup Malani, *Policy Preferences and Legal Interpretation*, 1 J.L. & CTS. 115, 116, 125–27, 137 (2013) (finding that policy preferences can influence judgments about statutory meaning and that framing interpretation through an objective textual inquiry can reduce that influence).

228. See Gluck, *supra* note 201, at 1800–01, 1822–24 (observing that, in states employing methodological stare decisis, judges treat controlling interpretive frameworks as binding methodological constraints and lower-court decisions may be reversed for employing the wrong methodology). This is not to suggest that an interpretive methodology must remain fixed indefinitely. See Evan J. Criddle & Glen Staszewski, *Against Methodological Stare Decisis*, 102 GEO. L.J. 1573, 1575, 1577–78 (2014)

openly adopts a different interpretive framework, faithfully applying *Kalal* remains the approach most likely to promote consistency, predictability, and disciplined statutory interpretation while reducing the risk of interpretive departures like the one illustrated in *Catholic Charities*.²²⁹

2. Reaffirming *Kalal* as the Interpretive Anchor

Reaffirming *Kalal* does not require treating textualism as a mechanical methodology that eliminates judicial judgment. Its value lies instead in constraining that judgment by anchoring statutory interpretation to enacted text. As *Catholic Charities* illustrates, those constraints help prevent interpretive departures from compounding into further legal error while promoting the allocation of authority, stability, and institutional legitimacy discussed below.

a. Allocation of Authority

A return to *Kalal* would provide the legislature with a known framework against which to draft statutes, allow lower courts and litigants to understand how those statutes will be interpreted, and reinforce the judiciary's obligation to apply enacted law rather than reshape it through evolving interpretive preferences. Rather than a simple misreading of a religious exemption, *Catholic Charities* demonstrates what happens when the Court abandons the disciplined, text-centered methodology that has long safeguarded the separation of powers and ensured that statutory meaning remains anchored to democratically enacted law. A reaffirmation of *Kalal* is therefore necessary, not because the case is familiar to Wisconsin, but because its methodological commitments are essential to the constitutional and institutional structure of Wisconsin's government.

At its core, *Kalal* is grounded in a structural premise: The text enacted by the legislature is the law.²³⁰ This principle is not a matter of stylistic preference; rather, it reflects the constitutional allocation of lawmaking authority.²³¹ Only the legislature has the power to enact binding policy judgments, and courts are obligated to apply those

(arguing against binding methodological stare decisis and emphasizing the value of allowing interpretive methodology to remain capable of development).

229. See *infra* Section II.B.2.

230. See *Kalal*, 2004 WI 58, ¶ 44, 681 N.W.2d at 123–24; Suhr, *supra* note 133, at 971–72.

231. See *Kalal*, 2004 WI 58, ¶¶ 44–45, 681 N.W.2d at 123–24; Desai, *supra* note 201, at 1088–91.

judgments as written.²³² That does not mean *Kalal* eliminates judgment or makes statutory interpretation mechanical. Difficult statutes will continue to require courts to evaluate competing textual indicators and explain why one interpretation is more persuasive than another.²³³ But *Kalal* requires that those judgments remain rooted in the enacted statute rather than in judicial views about how the statute should operate or what policy it ought to advance.²³⁴ When courts stray from statutory text—substituting judicially perceived purposes, structural intuitions, or policy preferences—they risk altering the substance of enacted law rather than interpreting it.²³⁵

Catholic Charities illustrates that risk. The Wisconsin Supreme Court did not merely select one plausible reading of the religious exemption over another. It narrowed the exemption through criteria derived from its own assessment of diocesan structure and the relationship between religious purpose and charitable activity.²³⁶ Those criteria appeared nowhere in the statutory language.²³⁷ By making the exemption turn on institutional characteristics the legislature did not identify, the Court altered the scope of the legislative policy choice rather than simply resolving uncertainty within it.²³⁸

Reaffirming *Kalal* would therefore restore the principle that judicial authority over statutory meaning remains bound by the law the legislature

232. See *Kalal*, 2004 WI 58, ¶ 45, 681 N.W.2d at 123–24; Suhr, *supra* note 133, at 972–74.

233. See Brett M. Kavanaugh, *Fixing Statutory Interpretation*, 129 HARV. L. REV. 2118, 2121, 2144–45 (2016) (reviewing ROBERT A. KATZMANN, *JUDGING STATUTES* (2014)) (recognizing that “disputed calls will always arise in statutory interpretation” and explaining that courts should “determine the best reading of the text of the statute by interpreting the words of the statute, taking account of the context of the whole statute, and applying any other appropriate semantic canons of construction” and should “communicate [that determination] to the parties and public in [their] opinions”); BRANNON, *supra* note 205, at 20–21, 34–36 (explaining that judges may consider the same evidence of statutory meaning differently, discussing the use of the same interpretive tools to support competing statutory constructions, and observing that such criticisms have led judges to “more diligently justify their use of the canons”).

234. See *Kalal*, 2004 WI 58, ¶ 44, 681 N.W.2d at 123–24.

235. See discussion *supra* Section II.A.2.

236. See *Cath. Charities Bureau, Inc. v. Labor & Indus. Rev. Comm’n*, 2024 WI 13, ¶¶ 34–35, 60–61, 3 N.W.3d 666, 676–77, 682–83.

237. Contrast *id.* (examining the religious character of the organization’s activities, including whether they proselytized, provided religious materials, or primarily served co-religionists), with WIS. STAT. § 108.02(15)(h)(2) (2023–24) (requiring only that an organization be “operated primarily for religious purposes and operated, supervised, controlled, or principally supported by a church.”).

238. See *Cath. Charities Bureau*, 2024 WI 13, ¶¶ 151–54, 3 N.W.3d at 706–09 (Grassl Bradley, J., dissenting); Suhr, *supra* note 133, at 992 (discussing Justice Sykes’s criticism that considering the consequences of competing interpretations constitutes a “judicial policy judgment” and risks substituting “the judiciary’s subjective policy choices for those of the legislature”).

enacted. Legislators can be held politically accountable for the classifications, exemptions, and limitations contained in a statute; they cannot be held accountable for restrictions later supplied by a court.²³⁹ Fidelity to *Kalal* preserves that chain of democratic responsibility by ensuring that changes in statutory policy come from the branch constitutionally authorized to make them.²⁴⁰

b. Stability and Predictability

Reaffirming *Kalal* would also restore the stability that statutory interpretation requires. Statutory meaning governs the conduct of agencies, regulated entities, attorneys, and members of the public.²⁴¹ Those actors must be able to rely not only on the statutory text, but also on a reasonably stable method for determining what that text means.²⁴² When courts consistently apply an announced interpretive methodology, legal consequences are easier to anticipate.²⁴³ When the methodology shifts from case to case, even seemingly clear statutory language becomes a less reliable guide.²⁴⁴

Kalal promotes predictability by tying interpretation to relatively stable sources: ordinary meaning, statutory context, structure, and the legislature's enacted words.²⁴⁵ Again, that does not guarantee unanimity

239. See JEREMY WALDRON, *THE DIGNITY OF LEGISLATION* 71–73 (1999).

240. See Manning, *supra* note 205, at 70–71 (explaining that the separation of legislative and judicial power is difficult to reconcile with allowing judges to “reshape” enacted laws or exercise “broad independent authority to alter the results outside” the constitutionally prescribed legislative process).

241. See Elena Kagan, *Presidential Administration*, 114 HARV. L. REV. 2245, 2255–56 (2001); Suhr, *supra* note 133, at 972 n. 11, 973–75; Michael A. Blasie, *Regulating Plain Language*, 2023 WIS. L. REV. 687, 743.

242. See Kavanaugh, *supra* note 233, at 2121 (arguing that courts should settle interpretive “rules of the road . . . in advance” because doing so makes those rules “more predictable in application”).

243. See Sydney Foster, *Should Courts Give Stare Decisis Effect to Statutory Interpretation Methodology?*, 96 GEO. L.J. 1863, 1893–94 (2008) (explaining that more predictable statutory-interpretation doctrine makes the substantive law governing private conduct more predictable).

244. See *id.* at 1886–87 (describing an “interpretive regime” as “a system of background norms and conventions” that inform “judges, agencies, and citizens how strings of words in statutes will be read” and explaining that clarifying the interpretive regime increases the likelihood that statutory words will “convey the same meaning to legislators, judges, and citizens”) (first quoting William N. Eskridge & Philip P. Frickey, *The Supreme Court, 1993 Term—Foreword: Law as Equilibrium*, 108 HARV. L. REV. 26, 66 (1994); then quoting Nicholas Quinn Rosenkranz, *Federal Rules of Statutory Interpretation*, 115 HARV. L. REV. 2085, 2142 (2002)).

245. See Kavanaugh, *supra* note 233, at 2121, 2144–45; see also Suhr, *supra* note 133, at 970, 974 (describing *Kalal* as establishing a “uniform method” of statutory interpretation centered on enacted language, ordinary meaning, statutory context, and structure).

in every difficult case. It does, however, constrain the range of legitimate interpretive arguments and provide a common framework through which courts must explain their conclusions.²⁴⁶ Lawyers can advise clients within that framework, agencies can administer statutes with greater confidence, and regulated parties can structure their conduct without having to predict which policy concerns or institutional intuitions a future court may find persuasive.²⁴⁷

The departure in *Catholic Charities* illustrates the practical costs of methodological instability. The Court's multi-factor approach introduced considerations that could not readily be derived from the statutory language and were difficult to anticipate in advance.²⁴⁸ That uncertainty extended beyond the parties to the case. Religious organizations, nonprofit entities, agencies, and attorneys were left to determine how the newly created factors might apply in future disputes.²⁴⁹ Reaffirming *Kalal* would therefore restore not only confidence in individual statutory decisions, but also the broader expectation that Wisconsin law will be interpreted through a framework that remains recognizable across cases and over time.²⁵⁰

c. Promotion of Institutional Legitimacy

The constitutional and practical benefits previously discussed ultimately converge in a broader institutional value: the legitimacy of

246. See Suhr, *supra* note 133, at 970, 974.

247. See Foster, *supra* note 243, at 1893–94; Manning, *supra* note 205, at 61, 69–71, 125–26 (connecting text-centered interpretation with “legal determinacy” and constraints on judicial discretion).

248. Contrast *Cath. Charities Bureau, Inc. v. Labor & Indus. Rev. Comm’n*, 2024 WI 13, ¶¶ 34–35, 60–61, 3 N.W.3d 666, 676–77, 682–83 (examining the religious character of the organization’s activities, including whether they proselytized, provided religious materials, or primarily served co-religionists), with WIS. STAT. § 108.02(15)(h)(2) (2023–24) (requiring only that an organization be “operated primarily for religious purposes” and operated, supervised, controlled, or principally supported by a church); *Cath. Charities Bureau*, 2024 WI 13, ¶ 145, 3 N.W.3d at 704 (Grassl Bradley, J., dissenting) (“Because both LIRC and the majority concede that the reason Catholic Charities are operated is religious, federal precedent supplies no support for the majority’s faulty conclusion.”); see also *id.* ¶ 146, 3 N.W.3d at 704–05 (Grassl Bradley, J., dissenting) (observing that “no other court has adopted the majority’s approach,” illustrating the difficulty of anticipating the considerations on which the majority’s analysis would turn).

249. See Stephen M. Rich, *A Matter of Perspective: Textualism, Stare Decisis, and Federal Employment Discrimination Law*, 87 S. CAL. L. REV. 1197, 1198–99 (2014) (explaining that “abrupt changes in the interpretive practices applied to a statute have the power to disrupt the consistency and predictability of a statute’s enforcement” and that abandoning an established interpretive perspective can “undermine[] the basis for the prediction of future interpretations”).

250. See Gluck, *supra* note 201, at 1854 (“Litigants are entitled to expect that substantially similar cases will be decided using the same governing legal rules . . .”).

Wisconsin's judiciary.²⁵¹ Judicial legitimacy depends upon confidence that courts exercise the judicial power impartially, transparently, and grounded in law.²⁵² A court's authority to bind litigants, lower courts, and the state does not rest on the power to compel compliance the way the executive branch can; it rests on the shared understanding that its decisions apply law rather than impose the preferences of the majority Justices.²⁵³ In the context of statutory interpretation, those principles require more than reaching legally defensible outcomes. They require courts to apply a stable and publicly identifiable methodology for deriving statutory meaning from the law enacted by the legislature rather than from the changing interpretive preferences of individual judges.²⁵⁴ The court's legitimacy is therefore strengthened not because every observer agrees with its decisions, but because it provides assurance that those decisions result from the faithful application of law through a consistent interpretive framework.

A supreme court's interpretive methodology serves an institutional function extending beyond the resolution of individual disputes.²⁵⁵ It tells lower courts how statutory questions should be analyzed, informs practitioners how statutory arguments should be developed, and signals to the legislature how enacted language will be interpreted.²⁵⁶ Those institutional benefits depend upon consistency between the methodology the Court announces and the methodology it actually employs.²⁵⁷ When the Court repeatedly assigns greater weight to interpretive considerations than its governing methodology prescribes, participants in the legal system naturally adjust.²⁵⁸ Lawyers begin litigating to the Court's

251. See discussion *supra* Section II.B.2.a–b.

252. See Gabrielle Appleby & Erin F. Delaney, *Judicial Legitimacy and Federal Judicial Design: Managing Integrity and Autochthony*, 132 YALE L.J. 2419, 2437–39 (2023).

253. See THE FEDERALIST NO. 78 (Alexander Hamilton) (explaining that the judiciary possesses “neither FORCE nor WILL, but merely judgment,” depends upon the executive for the efficacy of its judgments, and “must declare the sense of the law” rather than substitute judicial “WILL” or “pleasure” for that of the legislature).

254. See Gluck, *supra* note 201, at 1854–55; Manning, *supra* note 205, at 57, 70–71.

255. See Gluck, *supra* note 201, at 1757–58.

256. See Foster, *supra* note 243, at 1886–87.

257. See Gluck, *supra* note 201, at 1767–68 (explaining that methodological inconsistency impedes coordination with Congress and can make a court appear “result-oriented [when] . . . the governing principles change from case to case,” while consistent methodology “facilitate[s] systemic coordination”).

258. See Aaron-Andrew P. Bruhl, *Eager to Follow: Methodological Precedent in Statutory Interpretation*, 99 N.C. L. REV. 101, 147–48 (2020) (finding that lower courts' use of interpretive tools has “shift[ed] in parallel” with changes in the Supreme Court's own interpretive practices, consistent with “hierarchical influence”); see also Gluck, *supra* note 201, at 1855, 1858 (explaining that methodology supplies the “process rules” of statutory adjudication and “sets the terms of the debate,” and recognizing that

evolving practice rather than to its announced doctrine.²⁵⁹ Lower courts become less certain whether they should faithfully apply *Kalal* or instead emulate reasoning from more recent decisions.²⁶⁰ Over time, the methodology articulated in precedent ceases to function as the methodology that actually governs Wisconsin statutory interpretation.²⁶¹

The principal concern is not merely that the Wisconsin Supreme Court reached a faulty interpretation of a religious exemption in *Catholic Charities*.²⁶² Rather, the decision contributes to uncertainty over whether *Kalal* continues to provide the governing methodology for statutory interpretation in Wisconsin.²⁶³ That uncertainty affects subsequent statutory disputes. If lower courts cannot confidently determine whether *Kalal* or a different methodology governs, statutory interpretation becomes increasingly dependent upon the interpretive preferences of individual judges rather than upon a stable framework designed to identify and apply the law enacted by the legislature.²⁶⁴ The rule of law is diminished when litigants cannot reasonably predict that statutes will be interpreted according to the methodology the Court itself has identified as controlling.²⁶⁵

“legislators, lower courts, and litigators [must] absorb and implement new [interpretive] regimes.”).

259. See, e.g., Adrian Vermeule, *The Cycles of Statutory Interpretation*, 68 U. CHI. L. REV. 149, 150 (2001) (arguing that “interpretive doctrine displays a regular tendency to oscillate, or cycle, over a defined range of positions on major doctrinal questions,” which is “the product of self-defeating expectations held by legislators, litigants, and judges.”).

260. See Gluck, *supra* note 201, at 1821–22 (explaining that lower courts benefit from clear interpretive rules that “coordinate and harmonize” their work).

261. See, e.g., Andrew Tutt, Comment, *Interpretation Step Zero: A Limit on Methodology as “Law”*, 122 YALE L.J. 2055, 2058 (2013) (arguing interpretive methodology is inherently inconsistent because “if precedent requires the application of a particular statutory interpretation methodology, deciding whether the methodology should be used to interpret a particular statute depends on that judge’s theory of precedent.”).

262. See *Cath. Charities Bureau, Inc. v. Wis. Lab. & Indus. Rev. Comm’n*, 145 S. Ct. 1583, 1593 (2025) (invalidating Wisconsin statute because “theological lines drawn” were not “narrowly tailored” to a compelling state interest).

263. See Bruhl, *supra* note 258, at 104, 147–48.

264. See Ward Farnsworth, Dustin Guzik & Anup Malani, *Policy Preferences and Legal Interpretation*, 1 J.L. & CTS. 115, 115–17, 136–37 (2013) (finding that interpreters’ policy preferences exert greater influence on statutory interpretation when the interpretive inquiry lacks an objective “external reference point,” while specifying an objective interpretive standard reduces the influence of those preferences); Gluck, *supra* note 201, at 1763, 1765, 1811–12.

265. See Foster, *supra* note 243, at 1887 (“Interpretive regimes further rule-of-law values because they make the law more predictable to citizens and help to limit judicial discretion.”); Gluck, *supra* note 201, at 1768 (“Litigants bringing like claims expect to have their cases decided under the same legal standards, and methodological flip-flopping undermines the public perception of the Court as a neutral body.”).

The United States Supreme Court's unanimous reversal further stresses the institutional importance of that concern. The Court did not review *Kalal*, nor did it suggest that Wisconsin must adhere to textualism or any other particular interpretive methodology.²⁶⁶ The significance of the reversal lies elsewhere. It demonstrates that departures from an established interpretive framework can produce consequences extending beyond Wisconsin's internal jurisprudence. Particularly noteworthy is that all nine Justices concluded that the Wisconsin Supreme Court's reasoning could not stand.²⁶⁷ While *Catholic Charities* ultimately received external correction, most Wisconsin statutory cases never will.²⁶⁸ The overwhelming majority of disputes involving statutory interpretation end with the Wisconsin Supreme Court—if they make it that far.²⁶⁹ If methodological departures become commonplace, Wisconsin statutes are unlikely to receive further review or correction.²⁷⁰ Responsibility for maintaining a coherent and disciplined approach to statutory interpretation therefore rests principally with Wisconsin's own judiciary.

Reaffirming *Kalal* would represent that institutional correction. Doing so would not foreclose future refinement of Wisconsin's interpretive methodology, nor would it prevent the Court from openly adopting a different framework if it ultimately concluded another approach were preferable.²⁷¹ It would instead reaffirm the principle that, so long as *Kalal* remains Wisconsin's governing methodology, statutory interpretation should proceed according to the framework *Kalal*

266. See *Cath. Charities Bureau*, 145 S. Ct. at 1587, 1590 (framing the question presented as whether the Wisconsin Supreme Court's application of WIS. STAT. § 108.02(15)(h)(2) violated the First Amendment).

267. *Id.*; see also *Most Ideological Justice*, *supra* note 14 (noting the ideological divide between the Justices on the United States Supreme Court).

268. See *Cath. Charities Bureau*, 145 S. Ct. at 1595; see also Jeffrey S. Sutton & Brittany Jones, *The Certiorari Process and State Court Decisions*, 131 HARV. L. REV. F. 167, 167, 169–72 (2018) (observing that only about one percent of petitions for certiorari reach the Supreme Court's merits docket and finding that state-court decisions are consistently underrepresented among the cases the Court reviews).

269. See WIS. CT. SYS., SUPREME COURT ANNUAL STATISTICAL REPORT: 2024–2025 TERM (2025) (noting that the Wisconsin Supreme Court grants fewer than ten percent of petitions for review and reporting that, during the 2024–25 term, it granted twenty-two of the 522 petitions disposed of).

270. See *id.* When the court departs from its announced framework, those decisions may provide competing guidance for lower courts that the supreme court cannot realistically correct in every subsequent case. Repeated departures thus risk producing a de facto change in governing methodology without the court ever expressly reconsidering *Kalal*. See *supra* notes 243–46 and accompanying text.

271. See, e.g., Sydney Washburn, *An Era of Silent Overruling: Lack of Transparency in the Supreme Court and the Expanding Unworkability Doctrine*, 74 CLEV. ST. L. REV. 1095, 1097–98 (2026) (observing that courts silently overturn the law by invoking the unworkability doctrine as they see fit).

prescribes. That commitment would strengthen the institutional role of the Wisconsin Supreme Court by ensuring that its precedents continue to provide reliable guidance for lower courts, meaningful direction for practitioners, and a stable interpretive backdrop against which the legislature may enact future laws. In that respect, reaffirming *Kalal* would not simply restore a particular methodology—it would reinforce the judiciary’s role as a principled and dependable expositor of Wisconsin law.

CONCLUSION

Catholic Charities is more than a high-profile Religion Clauses or tax case—it is a warning about what happens when a court loosens its grip on the statutory text. By recasting “operated primarily for religious purposes” into a judicially constructed activities test, the Wisconsin Supreme Court stepped beyond interpretation and into policy design. The United States Supreme Court’s unanimous reversal underscores the cost of that move. Interpretive drift does not merely create doctrinal disagreement; it can distort legislative meaning, unsettle reliance interests, and generate constitutional error.

The lesson of *Catholic Charities* is that context or purpose must remain anchored to enacted language. *Kalal* provides the discipline necessary to keep interpretation tethered to text, preserve democratic accountability, and maintain the judiciary’s legitimacy. When courts follow that framework, statutory meaning remains stable, predictable, and neutral. When courts depart from it, interpretation becomes fluid, outcome-oriented, and vulnerable to correction from outside the state system.

Reaffirming *Kalal* is therefore a structural imperative, not a nostalgic gesture toward past methodology. A Wisconsin Supreme Court that consistently grounds its reasoning in statutory text strengthens the rule of law, protects separation of powers, and ensures that policy choices remain where the Constitution places them: with the legislature. *Catholic Charities* shows what is lost when that discipline fades. The future of statutory interpretation in Wisconsin depends on whether the Court chooses to restore it.

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