No. 24-993

IN THE

Supreme Court of the United States

GABRIEL OLIVIER,

PETITIONER,

V.

CITY OF BRANDON, et al.,

RESPONDENTS.

On Writ of Certiorari
to the United States Court of Appeals
for the Fifth Circuit

AMICUS CURIAE BRIEF OF THE LIBERTY JUSTICE CENTER IN SUPPORT OF PETITIONER

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Questions Presented

Whether, as the Fifth Circuit holds in conflict with the Ninth and Tenth Circuits, this Court's decision in *Heck v. Humphrey* bars § 1983 claims seeking purely prospective relief where the plaintiff has been punished before under the law challenged as unconstitutional.

Whether, as the Fifth Circuit and at least four others hold in conflict with five other circuits, *Heck v. Humphrey* bars § 1983 claims by plaintiffs even where they never had access to federal habeas relief.

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Interest of Amicus Curiae[1]

The Liberty Justice Center is a nonprofit, nonpartisan public-interest litigation firm that pursues strategic, precedent-setting litigation aimed at revitalizing constitutional restraints on government power and protecting individual rights. The Liberty Justice Center is interested in this case because further limiting cognizable claims under 42 U.S.C. § 1983 impairs citizens' ability to protect their constitutional rights through the judicial system.

Summary of Argument

The Fifth Circuit's decision erects an insurmountable barrier to the vindication of constitutional rights under 42 U.S.C. § 1983 by misapplying this Court's decision in *Heck v. Humphrey*, 512 U.S. 477 (1994). This approach enables government officials to evade judicial review of unconstitutional laws by exploiting procedural technicalities, thereby undermining the core purpose of § 1983 and the Constitution's guarantee of a federal forum for the protection of individual rights. *See Monroe v. Pape*, 365 U.S. 167, 180 (1961).

This Court's precedents make clear that plaintiffs who have already been prosecuted under a challenged law are ideal candidates for prospective relief. Past enforcement is compelling evidence that the threat of future enforcement is real and imminent. *See Susan B. Anthony List v. Driehaus*, 573 U.S. 149, 164 (2014);

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[1] Rule 37 statement: No counsel for any party authored any part of this brief, and no person or entity other than Amicus funded its preparation or submission.

Kolender v. Lawson, 461 U.S. 352, 355 n.3 (1983). The Fifth Circuit's incorrect extension of *Heck* to bar prospective relief for these plaintiffs is unsupported by this Court's decisions and fundamentally misconstrues the scope of *Heck*, which applies only to claims that would necessarily imply the invalidity of a conviction *See Wilkinson v. Dotson*, 544 U.S. 74, 81–82 (2005). *Heck* does not proscribe forward-looking challenges seeking to prevent future constitutional violations. *Id*.

If allowed to stand, the Fifth Circuit's rule will insulate unconstitutional laws from review, force citizens to risk prosecution to challenge such laws, and then bar their claims once prosecuted. This regime is irreconcilable with the text and purpose of § 1983, the Constitution's separation of powers, and this Court's precedents. The Court should reaffirm that *Heck* cannot be manipulated to shield government overreach from judicial scrutiny, and that individuals like Gabriel Olivier—who have already suffered enforcement and face a credible threat of future prosecution—must have access to the federal courts to protect their constitutional rights.

Argument

I. Section 1983 claims for prospective relief are permissible ender the "favorable termination" rule established in *Heck*

Claims for prospective protection against future prosecution do not implicate the "favorable termination" rule established in *Heck v. Humphrey*, 512 U.S. 477 (1994). Nonetheless, the Fifth Circuit barred Plaintiff's claims for prospective relief. In

Heck, this Court held that § 1983 claims of criminally convicted plaintiffs are barred when those claims would necessarily render that conviction or sentence invalid. *Id.* This rule is grounded in the principle that civil suits should not be used to collaterally attack criminal convictions. Thus, "to recover damages for allegedly unconstitutional conviction or imprisonment . . . a § 1983 plaintiff must prove that the conviction or sentence has been reversed on direct appeal, expunged by executive order, declared invalid by a state tribunal authorized to make such determination, or called into question by a federal court's issuance of a writ of *habeas corpus*." *Id.* at 486–87. Plaintiff here does not seek damages or challenge his previous conviction under the City of Brandon Ordinance. Plaintiff merely seeks to exercise his First Amendment rights in the future while free from the unconstitutional grasp of that ordinance.

In the years since the favorable termination rule was promulgated in *Heck*, this Court has on several occasions recognized that certain claims for relief do not necessarily invalidate criminal convictions of plaintiffs. *See e.g. Muhammad v. Close*, 540 U.S. 749 (2004) (holding that a claim seeking expungement of a prison disciplinary record does not necessarily implicate the underlying conviction). In fact, this Court has directly addressed the question of whether injunctive relief for future events necessarily implies invalidity of conviction or sentence. *Wilkinson v. Dotson*, 544 U.S. 74 (2005). In *Wilkinson,* two prisoners sought declaratory and injunctive relief in a § 1983 challenge to state parole procedures. This Court held that the "prisoners' claims for *future* relief (which, if successful, will not necessarily imply the invalidity of confinement or shorten its duration) are

yet more distant from that core" of *Heck*. *Id.* at 82 (emphasis in original). Like those prisoners in *Wilkinson*, plaintiff here seeks future relief from a statutory scheme—he does not challenge his underlying conviction nor his sentence. The Fifth Circuit's misapplication of *Heck* to preclude future injunctive relief is contrary to the principles set forth by this Court in *Wilkinson.*

II. The Fifth Circuit's expansion of Heck is out of line with the text and history of § 1983.

This Court has repeatedly recognized that Reconstruction civil-rights statutes are best understood through the lens of their text and history. See *Monroe v. Pape*, 365 U.S. 167, 171–72 (1961); *Mitchum v. Foster*, 407 U.S. 225, 238–39 (1972). Section 1983 provides that "every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured." 42 U.S.C. § 1983.

Congress chose words of extraordinary breadth: *every person* who, under state authority, deprives another of a constitutional right *shall be liable*. The statute contains no exceptions, qualifications, or immunities. By its terms, liability attaches whenever state officials violate federal rights. Where Congress intended limits, it expressed them.

Section 1983 originated in the Civil Rights Act of 1871, also known as the Ku Klux Klan Act.

Congress enacted this statute during Reconstruction to confront a pervasive crisis: rampant violence against freedmen and Unionists, often orchestrated or condoned by state officials, and the persistent refusal of state courts to enforce federal constitutional rights. See *Monroe*, 365 U.S. at 174–80.

Members of the 42nd Congress explained with precision that the new remedy was necessary because state authorities were in league with the lawless and could not be trusted to enforce the Fourteenth Amendment. *Id.* at 176 (discussing legislative history). Section 1983 gave citizens a federal cause of action against state actors who violated their constitutional rights, ensuring that federal law would not depend on state enforcement. See *Mitchum*, 407 U.S. at 242 (explaining that § 1983 was designed to interpose the federal courts between the States and the people, as guardians of the people's federal rights).

Congress deliberately empowered federal courts to step in where states failed, ensuring that the promises of the Reconstruction Amendments would have practical force. The statute thus reflects one of the strongest legislative statements ever made to safeguard individual liberty against state abuse.

This Court's early applications further confirm the statute's broad remedial goal. In *Monroe v. Pape*, the Court rejected arguments that § 1983 was only meant to address conspiracies or the most extraordinary abuses. Instead, the Court held that the statute reaches misuse of power, possessed by virtue of state law and made possible only because the wrongdoer is clothed with the authority of state law. 365 U.S. at 184. That expansive reading was not judicial generosity, rather, it was a straightforward

application of the text and recognition of the statute's Reconstruction mission.

The text and history of § 1983 establish beyond dispute that Congress intended a robust federal remedy for constitutional wrongs committed under color of state law. To narrow this law through judicially created doctrines runs directly contrary to both the statute's mandate and its historical purpose. Section 1983 was enacted precisely to provide individuals like petitioner with a meaningful avenue to enforce their rights when state institutions fail them.

A faithful interpretation requires that this Court approach its precedents with the statute's text and Reconstruction history in mind: § 1983 was meant to provide a remedy for violations of federal rights, and no more unqualified language could be conceived. *Mitchum*, 407 U.S. at 239. That foundation dictates that the statute must be interpreted broadly to effectuate its original remedial purpose, not narrowly to shield officials from accountability.

III. The Fifth Circuit's expansion of *Heck* is out of line with other Circuit Courts.

Beyond the text and history of § 1983, The Fifth Circuit's decision is an outlier in its expansive interpretation of *Heck v. Humphrey*. Other federal appellate courts have made clear that *Heck* bars a § 1983 claim only when success on the claim would necessarily imply the invalidity of an existing conviction or sentence. By reading *Heck* broadly, the Fifth Circuit has effectively shielded wide swaths of unconstitutional conduct from judicial review. The

Second, Seventh, Ninth, and other circuits have rightly rejected such an extension, grounding their decisions in the actual reasoning of this Court.

In *Heck*, this Court held that a state prisoner may not bring a § 1983 damages action if success "would necessarily imply the invalidity of his conviction or sentence." 512 U.S. at 487. But the Court stressed the limitation: "if the district court determines that the plaintiff's action, even if successful, will not demonstrate the invalidity of any outstanding criminal judgment against the plaintiff, the action should be allowed to proceed." *Id.* at 487.

Later cases reinforced this narrow construction. In *Spencer v. Kemna*, five Justices separately emphasized that denying a damages action where habeas relief is unavailable would leave civil rights victims without a remedy, a result inconsistent with § 1983's core purpose. 523 U.S. 1, 19–21 (1998) (Souter, J., concurring, joined by O'Connor, Ginsburg, and Breyer, JJ.); *id.* at 25 n.8 (Stevens, J., dissenting). And in *Wilkinson v. Dotson*, the Court made plain that *Heck* does not bar § 1983 claims unless success would necessarily spell speedier release, cautioning against expansive applications that swallow ordinary civil rights litigation. 544 U.S. 74, 81–82 (2005).

Courts of appeals have adhered to these limits and rejected the Fifth Circuit's sweeping approach: In *Poventud v. City of New York*, the en banc court held that a wrongful-conviction plaintiff could pursue a § 1983 claim despite his later guilty plea because success on his damages action would not necessarily invalidate the plea. 750 F.3d 121, 132–36 (2d Cir. 2014) (*en banc*). The court emphasized that *Heck* is not a talisman barring all claims related to criminal

proceedings but a narrow doctrine ensuring consistency with valid convictions.

In *Burd v. Sessler*, the Seventh Circuit permitted a § 1983 claim alleging retaliatory discipline to proceed because the claim did not undermine the conviction itself. 702 F.3d 429, 434–35 (7th Cir. 2012). The Seventh Circuit explained that only claims whose success would squarely contradict the validity of a conviction fall within *Heck*'s reach.

In *Nonnette v. Small*, the Ninth Circuit declined to extend *Heck* to bar claims by a plaintiff who could no longer pursue habeas relief, noting that an overly broad reading of *Heck* would unjustly immunize officials from accountability. 316 F.3d 872, 876–77 (9th Cir. 2002). Limiting *Heck* ensured that plaintiffs had access to remedies where success would not necessarily nullify a conviction. Other courts have followed the same rule. *See, e.g.*, *Cohen v. Longshore*, 621 F.3d 1311, 1317 (10th Cir. 2010) (recognizing *habeas* unavailability as a factor limiting *Heck*'s scope); *Harden v. Pataki*, 320 F.3d 1289, 1299 (11th Cir. 2003) (clarifying *Heck* permits § 1983 where invalidation of conviction is not a necessary result).

The Fifth Circuit is an outlier in taking *Heck* far beyond its intended reach. It bars actions even where success would not undermine the lawfulness of the conviction, effectively transforming *Heck* into a doctrine of sweeping immunity. That approach cannot be reconciled with this Court's instruction that only those claims which "necessarily imply" the invalidity of a conviction are barred. *Heck*, 512 U.S. at 487. It likewise ignores the teaching of *Dotson* and *Spencer* that § 1983 remains available unless the relief sought would directly and automatically call into question

the conviction or sentence. By refusing to limit *Heck* to its narrow confines, the Fifth Circuit deprives victims of constitutional violations of their only remedy, contrary to the text and history of § 1983.

Heck is a narrow bar, not a sweeping shield for government misconduct. Other appellate courts have faithfully applied that principle, rejecting the Fifth Circuit's overextension. This Court should correct the Fifth Circuit's misapplication of *Heck* and reaffirm that § 1983 liability remains the primary tool for vindicating constitutional rights.

Conclusion

Under the rubric set forth by the Fifth Circuit, when shall Mr. Olivier seek relief from an unconstitutional restriction of his First Amendment rights? If Olivier files suit under § 1983 prior to arriving at the Brandon Amphitheater to preach the Gospel, then he may be turned away for lack of standing because his injury is too remote. *Susan B. Anthony List v. Dreihaus*, 573 U.S. 149 (2014). If Olivier files his lawsuit during the pendency of his prosecution, then he will be turned away because he seeks federal interference with a state court proceeding. *Younger v. Harris* 401 U.S. 37 (1971). If Olivier files his lawsuit after he is convicted and pays his fine, he will be turned away because of the Fifth Circuit's misapplication of *Heck*. And should Olivier seek relief under a writ of habeas corpus his case will be found moot because he has completed his sentence. *See Spencer v. Kemna*, 523 U.S. 1 (1998) (finding a habeas corpus petition moot when plaintiff sought to satisfy the favorable termination rule but had already completed his entire term of imprisonment).

The doors of the federal court are locked for Mr. Olivier, and the Fifth Circuit has rendered § 1983 a dead letter for him and many Americans. As this Court has recognized, enforcing constitutional rights shouldn't be difficult; "[t]he basic guarantees of our Constitution are warrants for the here and now and, unless there is an overwhelmingly compelling reason, they are to be promptly fulfilled." *Watson v. Memphis*, 373 U.S. 526, 533 (1963).

The Fifth Circuit's decision, if left undisturbed, will severely limit the ability of citizens to vindicate their constitutional rights under 42 U.S.C. § 1983. By extending *Heck* to proscribe future injunctive relief that does not challenge a previous criminal conviction, the lower court has created a regime in which unconstitutional laws are more easily protected from judicial review. This approach is fundamentally incompatible with the text and purpose of § 1983, the Constitution's guarantee of a federal forum for the protection of individual rights, and this Court's precedents.

The government must not be permitted to manipulate procedural rules to evade accountability for constitutional violations. Plaintiffs who have already been prosecuted under a challenged law and who face a credible threat of future enforcement are precisely the individuals whom § 1983 was designed to protect. This Court should reverse the decision below and reaffirm that neither standing doctrine nor *Heck* may be used to shield government overreach from constitutional scrutiny.

Respectfully submitted,

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