No. 17-652

IN THE
SUPREME COURT OF THE UNITED STATES

MARIE HENRY, as guardian, parent, next of kin, and for and on behalf of M.E. Henry-Robinson, a minor,

Petitioner,

v.

CITY OF MT. DORA, et al.

Respondents.

On Petition for a Writ of Certiorari to the United States Court of Appeals for the Eleventh Circuit

---

MOTION FOR LEAVE TO FILE BRIEF OF AMICUS CURIAE NATIONAL JUVENILE DEFENDER CENTER AND BRIEF OF AMICUS CURIAE IN SUPPORT OF PETITIONER

Nadia Natasha Seeratan
National Juvenile
Defender Center
1350 Connecticut Avenue
NW, Suite 304
Washington, DC 20036

Sandra J. Wunderlich
Counsel of Record
Amanda N. Johnson
Kelly A. Meredith
TUCKER ELLIS LLP
100 S. 4th Street
Suite 600
St. Louis, MO 63102
(314) 256-2544
sandra.wunderlich
@tuckerellis.com

Counsel for Amicus Curiae

MOTION FOR LEAVE TO FILE BRIEF OF AMICUS CURIAE NATIONAL JUVENILE DEFENDER CENTER

This case presents an issue of considerable practical and constitutional importance. Furthermore, the circuits are divided on whether this Court's decision in *Heck v. Humphrey*, 512 U.S. 477 (1994) bars actions under 42 U.S.C. § 1983 when a federal writ of *habeas corpus* is not available. While this issue has broad implications for all citizens, this particular case places significant limitations on a juvenile's ability to redress constitutional violations through a § 1983 action. Amicus curiae National Juvenile Defender Center is particularly well-suited to provide additional insight into the broad implications of the decision below for juveniles across the country. The National Juvenile Defender Center timely notified counsel of record for both parties that it intended to submit the attached brief more than 10 days prior to filing. Counsel for petitioner consented to the filing of this brief. Counsel for respondent declined to grant such consent. Therefore, pursuant to Supreme Court Rule 37.2(b), the National Juvenile Defender Center respectfully moves this Court for leave to file the accompanying brief of amicus curiae in support of petitioner.

The petitioner in this case is a juvenile, and her 42 U.S.C. § 1983 civil claims were dismissed below. The National Juvenile Defender Center is dedicated to promoting justice for all children by ensuring excellence in juvenile defense. The National Juvenile Defender Center works to improve access to counsel

and quality of representation for children in the justice system and actively engages in the national discussion on juvenile justice.

The National Juvenile Defender Center's purpose and experience with the juvenile justice system demonstrate that the National Juvenile Defender Center is exceptionally well-positioned to elaborate on the implications of the decision below for the Court's benefit. The National Juvenile Defender Center therefore seeks leave to file the attached brief of amicus curiae urging the Court to grant the petition.

Respectfully submitted,

Nadia Natasha Seeratan
National Juvenile
Defender Center
1350 Connecticut
Avenue NW, Suite 304
Washington, DC 20036

Sandra J. Wunderlich
Counsel of Record
Amanda N. Johnson
Kelly A. Meredith
TUCKER ELLIS LLP
100 S. 4th Street
Suite 600
St. Louis, MO 63102
(314) 256-2544
sandra.wunderlich
@tuckerellis.com

Counsel for Amicus Curiae

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Page(s)

Cases

Statutes

Rules

INTEREST OF AMICUS CURIAE[1]

Amicus Curiae is the National Juvenile Defender Center. The National Juvenile Defender Center was created to promote justice for all children by ensuring excellence in juvenile defense. The National Juvenile Defender Center responds to the critical need to build the capacity of the juvenile defense bar and improve access to counsel and quality of representation for children in the justice system. The National Juvenile Defender Center gives juvenile defense attorneys a more permanent capacity to address important practice and policy issues, improve advocacy skills, build partnerships, exchange information, and participate in the national debate over juvenile justice. The National Juvenile Defender Center provides support to public defenders, appointed counsel, child advocates, law school clinical programs and non-profit law centers to ensure quality representation and justice for youth in urban, suburban, rural and tribal areas. The National Juvenile Defender Center also offers a wide range of integrated services to juvenile defenders and advocates, including training,

---

[1] Pursuant to this Court's Rule 37, the National Juvenile Defender Center states that no counsel for any party authored this brief in whole or in part, and no person or entity other than National Juvenile Defender Center made a monetary contribution to the preparation or submission of the brief. Counsel of record for all parties were timely notified more than 10 days prior to filing, and while Petitioner consented to the filing of this brief, Respondent declined to grant such consent. Accordingly, National Juvenile Defender Center is also submitting a motion for leave to file this brief.

technical assistance, advocacy, networking, collaboration, capacity building and coordination.

This case presents an issue of considerable practical and constitutional importance. Furthermore, the circuits are divided on whether this Court's decision in *Heck v. Humphrey* bars actions under 42 U.S.C. § 1983 when a federal writ of *habeas corpus* is not available. While this issue has broad implications for all citizens, this particular case places significant limitations on a juvenile's ability to redress constitutional violations through a § 1983 action. Amicus curiae National Juvenile Defender Center is particularly well-suited to provide additional insight into the broad implications of the decision below for juveniles across the country.

SUMMARY OF ARGUMENT

The *Heck* doctrine as espoused in *Heck v. Humphrey*, 512 U.S. 477 (1994), has served as a bar to 42 U.S.C. § 1983 civil rights claims challenging the constitutionality of a criminal conviction. In the underlying case, U.S. District Court for the Middle District of Florida dismissed M.E. Henry-Robinson's claims alleging false arrest under § 1983. The district court adopted the Defendants' argument that M.E.'s false arrest claim was a prohibited collateral attack on her withheld juvenile adjudication, which the district court equated to a criminal conviction and applied the *Heck* doctrine. M.E. appealed the district court's dismissal of the unconstitutional arrest claims. In an unpublished *per curiam* disposition, the U.S. Court of Appeals for the

Eleventh Circuit, without any explanation, found "no reversible error in the district court's order."

A threshold issue in determining the applicability of the *Heck* doctrine is the existence of an underlying conviction or sentence. In the case below, the district court concluded that a juvenile adjudication is a criminal conviction for purposes of *Heck*. This conclusion is incorrect as a matter of law. Equating a juvenile adjudication to a criminal conviction is contrary to Florida law as well as the national consensus that a juvenile adjudication is not the same as an adult criminal conviction. Application of the *Heck* doctrine to juvenile adjudications denies juveniles any federal forum for redressing deprivation of federal rights. Furthermore, the policy underlying the holding in *Heck* is not served when applied to juvenile adjudications.

BACKGROUND

M.E.'s case illustrates the serious implication of allowing the holding of *Heck* to bar § 1983 claims for juveniles. For M.E. and other juveniles like her, relief for violations of their federal constitutional rights is limited to a direct appeal in state court while adult defendants are afforded more avenues of relief through state post-conviction procedures.

This case began in 2009 on Halloween night, when M.E. was stopped by Officer Livingston. The officer demanded M.E. give her name and address. When M.E. refused, Officer Livingston arrested M.E. for obstructing an officer without violence pursuant to Fla. Stat. Ann. § 843.02 (2017). Thereafter, the Florida juvenile court disposed of this charge by

issuing an order withholding adjudication of delinquency.[2]

To find a child has committed a delinquent act or violation of law, the juvenile court must find all of the charged elements were supported with evidence beyond a reasonable doubt. § 985.35(2)(a). An essential element of resisting an officer without violence is that "the officer was engaged in the lawful execution of a legal duty." *T.P. v. Florida*, 224 So.3d 792, 794 (Fla. Dist. Ct. App. 2017). An officer is engaged in the lawful execution of a legal duty if there is reasonable suspicion to support the stop or probable cause to make a warrantless arrest. *Ibid.* "Absent either …, 'the individual has a right to ignore the police and go about his business.'" *Ibid.* (quoting *J.W. v. Florida*, 95 So.3d 372, 378 (Fla. Dist. Ct. App. 2012).

In M.E.'s case, the Florida juvenile court was required to find, at a minimum, that Officer Livingston had a reasonable suspicion to stop M.E. *See Brown v. Texas*, 443 U.S. 47, 53 (1979) (holding a *Terry* stop must be based on a reasonable suspicion of involvement in criminal activity in order to comply with the Fourth Amendment). M.E. defended the case on the basis that neither the Fourth Amendment nor Fla. Stat. Ann. § 843.02 required M.E. to provide her name to Officer Livingston, and that M.E. was illegally arrested because there was no reasonable suspicion to detain her and no probable cause to arrest her. On direct appeal, M.E.

---

[2] Pursuant to Fla. Stat. Ann. § 985.35(3) (2017), the disposition in M.E.'s case shows that the juvenile court found M.E. committed a delinquent act or violation of law.

asserted there was no reasonable suspicion to detain her, and no probable cause to arrest her. The Florida District Court of Appeals issued a *per curiam* opinion affirming the lower court's decision. *See M.H-R. v. Florida*, 61 So.3d 483 (Fla. Dist. Ct. App. 2011).

In Florida, there is no procedure for collateral review of juvenile delinquency proceedings similar to that afforded to adults convicted of crimes. *J.M.J. v. Florida*, 742 So.2d 261, 263 (Fla. Dist. Ct. App. 1997). Furthermore, relief under the federal *habeas corpus* statute, 28 U.S.C. § 2254, is not available to M.E. because she is not confined by the state. Thus, the only procedural mechanism to seek relief in federal court for the state's violation of her constitutional rights is a civil claim under 42 U.S.C. § 1983.

M.E. filed a claim alleging false arrest under § 1983 in the U.S. District Court for the Middle District of Florida. The district court dismissed her claims, and the Eleventh Circuit affirmed the dismissal.

The problems arising in M.E.'s case are not individual to her.

ARGUMENT

I. *HECK* DOES NOT APPLY TO JUVENILE ADJUDICATIONS BECAUSE A JUVENILE ADJUDICATION IS NOT A CONVICTION.

As the district court noted below, the *Heck* doctrine involves three inquiries: (1) whether there is an underlying conviction or sentence; (2) whether

a judgment in favor of the plaintiff would necessarily imply the invalidity of the conviction or sentence; and (3) whether the underlying conviction or sentence has been invalidated or otherwise favorably terminated. *See* Petitioner's App. 9a. The existence of an "underlying conviction or sentence" is a threshold requirement to application of the *Heck* doctrine.

In M.E.'s case, the district court erroneously found the juvenile court's order of adjudication withholding an adjudication of delinquency constituted a "conviction" such that the *Heck* doctrine should apply. This conclusion is incorrect as a matter of law.

In its analysis, the district court noted:

> Although an issue of first impression, in this circuit, a majority of courts that have directly considered whether the *Heck* doctrine applies to juvenile delinquency adjudications have concluded that *Heck* applies, such that it could bar a juvenile's claims under § 1983 if the remaining elements of the *Heck* doctrine are met. *See Morris v. City of Detroit*, 211 Fed. App'x. 409, 411 (6th Cir. 2006); *Grande v. Keansburg Borough*, No. 12-1968(JAP), 2013 WL 2933794, at *6 (D. N.J. June 13, 2013); *Dominguez v. Shaw*, No. CV 10-00173-PHX-FJM, 2011 WL 4543901, at *2-3 [(D. Ariz. Sept. 30, 2011)] ; *but see Johnson v. Bd. of Sch. Comm'rs of the City of Ind.*, No. 1:09-cv-574-WTL-TAB, 2010 WL 3927753, at *3 (S.D. Ind. Oct. 1, 2010) (finding that *Heck* did not apply to a juvenile adjudication of delinquency

> because under Indiana law a juvenile adjudication did not amount to a conviction).

Petitioner's App. 10a-11a. But, this holding flies in the face of the applicable Florida statute governing the effect of a juvenile order of adjudication, and is contrary to case law in the state of Florida. The district court offers no explanation as to its reason for ignoring the express statutory authority to the contrary or the myriad of Florida cases holding just the opposite of the Court's conclusion.

A. Florida Law Is Clear That a Juvenile Adjudication "Shall Not Be Deemed a Conviction."

Chapter 985 of Florida Annotated Statues governs juvenile proceedings in the State of Florida. Section 985.35(6) specifically provides that other than two limited scenarios not at issue here, a juvenile court adjudication is ***not*** a conviction:

> Except as the term "conviction" is used in chapter 322, and except for use in a subsequent proceeding under this chapter, **an adjudication of delinquency by a court with respect to any child who has committed a delinquent act or violation of law shall not be deemed a conviction**; nor shall the child be deemed to have been found guilty or to be a criminal by reason of that adjudication ….

Fla. Stat. Ann. § 985.35(6) (2017) (emphasis added).[3] The district court did not even address this statutory language in its analysis.

The district court considered the holding of *Florida v. Menuto*, 912 So.2d 603 (Fla. Dist. Ct. App. 2005), in evaluating the impact of a juvenile adjudication. Petitioner's App. 9a. Relying upon *Menuto,* the district court determined that an adjudication of delinquency is to be treated the same as a withholding of adjudication of delinquency because both required a finding that the juvenile committed a delinquent act. *Ibid.* (citing *Menuto*, 912 So.2d at 607). From this, the district court erroneously concluded that the adjudication constituted a "conviction." But, *Menuto* clearly states: "[The defendant] assumes that a 'conviction' is equivalent to an 'adjudication of delinquency.' ***It is not***." 912 So.2d at 607 (emphasis added).

In fact, there are a litany of cases in Florida holding that a juvenile adjudication is not a conviction. *See W.J.H. v. Florida*, 922 So.2d 458 (Fla. Dist. Ct. App. 2006); *Florida v. N.P.*, 913 So.2d 1 (Fla. Dist. Ct. App. 2005); *E.J. v. Florida*, 912 So.2d 382 (Fla. Dist. Ct. App. 2005); *Florida v. T.T.*, 773 So.2d 586 (Fla. Dist. Ct. App. 2000).

As a result, *Heck* should not apply here because its application is dependent upon the existence of a

---

[3] The term as used in chapter 322 refers to "a conviction of an offense relating to the operation of motor vehicles." Fla. Stat. Ann. § 322.01(11) (2017), and thus is inapplicable to this matter.

conviction. There is no conviction here. The district court erred in finding otherwise.

B. *Heck* Does Not Apply to Bar a § 1983 Action Because M.E. Was Not Convicted.

Another court addressed whether *Heck* applies to bar § 1983 claims following a juvenile adjudication, and found just the opposite of the district court here.[4] In *Johnson v. Bd of School Comm'rs of the City of Ind.*, No. 1:09-cv-574-WTL-TAB, 2010 WL 3927753 (S.D. Ind. Oct. 1, 2010), the court first noted that juvenile adjudications are not convictions based upon statutory language in Indiana similar to Fla. Stat. Ann. § 985.35(6), providing that a juvenile adjudication shall not be considered a conviction of a crime. *Ibid.* The court in *Johnson* went on to conclude that *Heck* could not bar § 1983 claims because the plaintiff "was never criminally convicted of an offense." *Id.* at *3.

Discussing *Heck*, the court in *Johnson* noted:

> Clearly, in order for *Heck* to apply, [the plaintiff] must have been convicted of a criminal offense. Despite the Defendants' argument that [the juvenile plaintiff] was convicted of criminal mischief, there is nothing in the record to support this assertion. At most, [the plaintiff] was adjudicated delinquent in juvenile court. The Indiana Code states: "A child may not be considered a

---

[4] Inexplicably, the district court cited *Johnson v. Bd of School Comm'rs of the City of Ind.*, No. 1:09-cv-574-WTL-TAB, 2010 WL 3927753 (S.D. Ind. Oct. 1, 2010), without explaining why its holding was not the right result for this case.

> criminal as the result of an adjudication in a juvenile court, *nor may an adjudication in juvenile court be considered a conviction of a crime.*" Ind.Code § 31–32–2–6 (emphasis added). Given this clear statement, as well as Indiana case law which discusses the fact that juvenile court proceedings are unlike criminal court proceedings*, see In re K.G.*, 808 N.E.2d 631, 635–37 (Ind. 2004), the Court concludes that the *Heck* rule does not apply because [the plaintiff] was never criminally convicted of an offense.

Johnson, 2010 WL 3927753 at *3.

The Eleventh Circuit discussed this issue within the context of Florida's pretrial intervention program for adult offenders in *McClish v. Nugent*, 483 F.3d 1231,1250 (11th Cir. 2007). In *McClish*, the § 1983 plaintiff was an adult charged for "resisting arrest without violence" under Fla. Stat. Ann. § 843.02 – the same charge against M.E. The plaintiff in *McClish* participated in Florida's pretrial intervention program (PTI), which resulted in a dismissal of the charge against him. *See* Fla. Stat. Ann. § 948.08 (2017). The PTI program is a rehabilitative alternative to criminal prosecution. At the end of the PTI program, the program administrator can either recommend continued prosecution or dismiss the charges without prejudice. *See* § 948.08(5).

When the plaintiff brought his § 1983 claim, the district court found that the claim was barred under *Heck* because his participation in the PTI program was not a termination in his favor. *McClish*, 483

F.3d at 1250. On appeal, the Eleventh Circuit disagreed:

> *Heck* is inapposite. The issue is not … whether [the plaintiff's] participation in PTI amounted to a favorable termination on the merits. Instead, the question is an antecedent one—***whether Heck applies at all since [the plaintiff] was never convicted of any crime.***

Id. at 1251 (emphasis added). The plaintiff "would not have to 'negate an element of the offense of which he has been convicted,' because he was never convicted of *any* offense." *Ibid.*

The reasoning in *Johnson* and *McClish* applies in this case because M.E. has no underlying conviction. Florida law makes it clear that a juvenile adjudication shall not be deemed a conviction. Fla. Stat. Ann. § 985.35(6). Furthermore, the absence of a conviction, like in *McClish*, shows that the threshold inquiry of *Heck* is not met, so it cannot be a bar to a § 1983 claim.

C. The District Court's Reasoning for Application of *Heck* is Questionable at Best.

In spite of this clear precedent that juvenile adjudications are *not* convictions under Florida law, the district court relied on three decisions from courts outside of Florida that equate juvenile adjudications to convictions. Not only are these cases of no precedential value in resolving the question of whether a juvenile adjudication is a conviction under Florida law, but the validity of their reasoning is questionable at best.

The first case the district court cited, *Morris v. City of Detroit*, 211 Fed. Appx. 409 (6th Cir. 2006), a Michigan state court held that "while a juvenile adjudication is not a criminal proceeding under Michigan statute . . ., it is certainly the functional equivalent." *Id.* at 411 (citing *In re Whittaker*, 607 N.W.2d 387, 389 (Mich. App. 1999)). Rather than support this conclusion, however, *Whittaker* highlights the functional differences between juvenile proceedings and criminal proceedings: "The difference between the adult and the juvenile systems is nowhere more apparent than in the disposition of the instant case." *Whittaker*, 607 N.W.2d at 389 n.1. The Sixth Circuit in *Morris* focused on the similarities rather than the differences that were highlighted in the *Whittaker* case. For example, the Sixth Circuit ignored the features that make juvenile proceedings different from adult proceedings – e.g., juvenile justice procedures have an emphasis on rehabilitation rather than retribution.[5]

Next, the district court cited *Dominguez v. Shaw*, No. CV 10-01173-PHX-FJM, 2011 WL 4543901 (D. Ariz. Sept. 30, 2011). The *Dominguez* court acknowledged that "Arizona treats minors who have committed a crime differently than adults who have committed the same crime," nonetheless the court

---

[5] Subsequent to *Morris*, the Sixth Circuit held *Heck* is not a bar to § 1983 actions when plaintiffs lack a *habeas* option for the vindication of their federal rights. *Powers v. Hamilton Cnty. Pub. Defender Comm'n,* 501 F.3d 592, 603 (6th Cir. 2007). Accordingly, the Sixth Circuit's holding in *Powers* seems to recognize that a juvenile with no standing to bring a *habeas* writ would not be barred from bringing a § 1983 action.

determined that "[w]hether the juvenile court's finding is labeled a conviction or an adjudication is, for *Heck* purposes, irrelevant." *Id.* at *3. Again, this conclusion lacks any analysis that would justify this finding. Even where Arizona law states that a juvenile adjudication is not a conviction just like Florida, the court in *Dominguez* does not explain why this can be ignored. *See* Ariz. Rev. Stat. Ann. § 8-207 (2017) ("an order of the juvenile court in proceedings under this chapter shall not be deemed a conviction of crime"). Moreover, the court in *Dominguez* ignored the features that make juvenile proceedings different from adult proceedings, and failed to recognize that its holding deprived juveniles of any remedy in federal court for violations of their constitutional rights. *Ibid.* ("A juvenile judged delinquent in Arizona has the opportunity to immediately appeal his adjudication, and can apply to have it set aside once he turns eighteen").

The district court also cited *Grande v. Keansburg Borough*, No. 12-1968 (JAP), 2013 WL 2933794 (D. N.J. June 13, 2013). In *Grande*, without analysis, the court relied upon *Dominguez* and *Morris* to support the proposition that the *Heck* doctrine applies to juvenile adjudications. To justify its holding, the court noted that *Heck* should apply to a juvenile:

> One purpose of the *Heck* doctrine is to prevent Plaintiff "from succeeding in a tort action ***after having been convicted*** in the underlying criminal prosecution, which would run counter to the judicial policy against two conflicting resolutions arising from the same transaction.

Id. at *6 (quoting *Gilles v. Davis*, 427 F.3d 197, 209 (3d Cir. 2005)) (emphasis added). The *Grande* court simply ignored the lack of a "conviction" when making its decision.

Reliance upon these cases to bar M.E.'s claims is questionable at best. These cases ignore the statutes that prevent a juvenile adjudication from being considered a conviction, and ignore the important differences between juvenile proceedings and adult criminal proceedings.

II. HECK SHOULD NOT APPLY TO JUVENILES BECAUSE IT WOULD CONTRADICT THE PURPOSE OF THE JUVENILE COURT SYSTEM.

This Court has long-recognized that children are vulnerable and in need of greater protection of their constitutional rights. "Children have a very special place in life which law should reflect." *May v. Anderson*, 345 U.S. 528, 536 (1953) (Frankfurter, J., concurring). "Our history is replete with laws and judicial recognition that minors … are less mature and responsible than adults." *Eddings v. Oklahoma*, 455 U.S. 104, 115-16 (1982). "Indeed, it is the odd legal rule that does not have some form of exception for children." *Miller v. Alabama,* 567 U.S. 460, 481 (2012). Thus, this Court wholly accepts the idea "that children cannot be viewed simply as miniature adults." *J.D.B. v. North Carolina*, 564 U.S. 261, 274 (2011).

This is particularly true in the context of criminal charges and the adjudication of those charges. "[C]hildren are constitutionally different from adults

… [b]ecause juveniles have diminished culpability and greater prospects for reform." *Miller v. Alabama*, 567 U.S. at 471. In recent years, this Court has given special consideration to the status of juveniles, acknowledging that their vulnerability must be recognized, and that in light of this vulnerability, they must be given greater protections under the law.

In *Roper v. Simmons*, 543 U.S. 551, 567 (2005), this Court abolished the option of the death penalty for minors, stating "our society views juveniles … as 'categorically less culpable than the average criminal.'" Similarly, this Court held in *Graham v. Florida* that it is unconstitutional to impose the penalty of life without parole on juveniles for non-homicide offenses, noting that a juvenile's irresponsible conduct "is not as morally reprehensible as that of an adult," and the juvenile is more receptive to rehabilitation than an adult. 560 U.S. 48, 63, 74 (2010).

Relying upon common sense, science, and social science, the Court held in *Miller v. Alabama* that it is unconstitutional to impose a mandatory sentence of life in prison without parole upon a juvenile, even for a homicide. 567 U.S. 460 (2012). In *Miller*, the Court said, "[b]ecause juveniles have diminished culpability and greater prospects for reform, 'they are less deserving of the most severe punishments.'" *Id.* at 471 (quoting *Graham*, 560 U.S. at 68). The Court further noted, "children are more vulnerable … to negative influences and outside pressures …; they have limited control over their own environment and lack the ability to extricate

themselves from horrific, crime-producing settings." *Id.* (quoting *Roper*, 543 U.S. at 569) (internal quotation marks omitted).

These decisions reflect this Court's view, and that of society as a whole, that juveniles are not to be treated as adults in the criminal justice system, but instead are to be afforded greater protection under the law. The Florida Supreme Court has recognized "the two penal systems for handling adults and juveniles are so different and guided by such different philosophies and goals," that courts must follow the legislative direction that the two systems are different and that adult consequences cannot be imposed on juveniles without the express authorization of the legislature. *See V.K.E. v. Florida*, 934 So.2d 1276, 1282 (Fla. 2006) (finding that it was improper for the lower court to impose fines authorized by the adult criminal statutes upon a juvenile where such fines were not authorized by the juvenile statutory procedures). The juvenile justice system was created to address the vulnerability of the minor population.

"[B]y design, the juvenile delinquency system is different from the adult criminal system" because the juvenile system serves a completely different purpose. *See J.M.J. v. Florida*, 742 So.2d 261, 262 (Fla. Dist. Ct. App. 1997). The "rigidities, technicalities, and harshness" observed in both the substantive and procedural law of the adult criminal system have been discarded when it comes to the treatment of children. *See In re Gault*, 387 U.S. 1, 15 (1967). This is because "[t]he child … was to be made to feel that he is the object of (the state's) care

and solicitude, not that he was under arrest or on trial." *Ibid.* (internal quotation marks omitted) (footnote omitted). To further this purpose, juvenile courts avoid classifying a juvenile as a "criminal," and many jurisdictions have enacted statutes to prevent the adjudication of a child in the juvenile court system to operate as a conviction or as a civil disability.[6] *See id.* at 23-24.

Although the general purpose of the juvenile justice system is different from the adult criminal justice system in that the juvenile system focuses upon reform and protection of the child, the two systems share the important commonality that both have the ability to deprive individuals of their liberty. *See Gault*, 387 U.S. at 27. In light of this, the Court has noted that our Constitution requires "the procedural regularity and the exercise of care implied in the phrase 'due process' in juvenile court proceedings." *Id.* at 27-28. Further, the Court has noted, "[u]nder our Constitution, the condition of being a boy does not justify a kangaroo court." *Id.* at 28.

The outcome of a juvenile proceeding necessarily involves the constitutional rights of a citizen, albeit a minor citizen. Many states have acknowledged this

---

[6] *See, e.g.*, Ala. Code § 12-15-220(a) (2017); Ariz. Rev. Stat. Ann. § 8-207 (2017); Colo. Rev. Stat. Ann. § 19-2-111 (2017); Del. Code Ann. tit. 10, § 1009 (2017); Fla. Stat. Ann. § 985.35(6) (2017); Ga. Code Ann. § 15-11-606 (2017); Iowa Code Ann. § 232.55 (2017); Me. Rev. Stat. tit. 15, § 3310(6) (2017); Mo. Ann. Stat. § 211.271 (2017); N.Y. Fam. Ct. Act § 380.1 (2017); Okla. Stat. tit. 10A, § 2-2-402 (2017); 42 Pa. Cons. Stat. Ann. § 6354 (2017); Tex. Fam. Code Ann. § 51.13 (2017); Va. Code Ann. § 16.1-308 (2017).

through the enactment of statutes specifically providing that children in juvenile proceedings are entitled to constitutional protections. *See, e.g.*, the applicable statute in the underlying case of M.E. Henry-Robinson: Fla. Stat. Ann. § 985.01(1)(b) (2017), which states that the purpose of the Florida juvenile code is to provide procedures "to assure due process through which children … are assured … the recognition, protection, and enforcement of their constitutional and other legal rights." *See also* 705 Ill. Comp. Stat. Ann. 405/5-101(1)(d) (the purpose of the state's juvenile code is "[t]o provide due process, as required by the Constitutions of the United States and the State of Illinois, through which each juvenile offender … [is] assured fair hearings at which legal rights are recognized and enforced"); Me. Rev. Stat. tit. 15, § 3002(1)(E) (2017) (one purpose of the juvenile system is to provide procedures that ensure the parties' "rights as citizens are recognized and protected"); N.H. Rev. Stat. Ann. § 169-B:1(IV) (2017) (requiring judicial procedures in juvenile courts "which recognize and enforce the constitutional and other rights of the parties"); N.J. Stat. Ann. § 2A:4A-40 (2017) (juveniles guaranteed all constitutional rights guaranteed to adult criminals, except the right to indictment, the right to jury trial, and the right to bail); N.Y. Fam. Ct. Act § 301.1 (2017) (establishing procedures in juvenile courts in accordance with due process of law); and Tex. Fam. Code Ann. § 51.01 (2017) (recognizing juveniles are entitled to judicial procedures that assure their constitutional and other legal rights are recognized and enforced").

Where a child can be seized by the state, charged, and adjudicated for violations of criminal law, which may result in confinement, states must afford children with the requisite level of constitutional protections necessary to protect this vulnerable population. It is when the state does not provide the requisite level of constitutional protections, that a § 1983 action places the federal courts between the state and the citizen to protect the federal rights of all citizens.

A. Application of *Heck* to Juveniles Denies Any Federal Forum for Claiming a Deprivation of Federal Rights.

The application of *Heck* to M.E.'s § 1983 claims required the district court to equate her juvenile adjudication with an adult conviction. This eliminated any relief M.E. would have in a federal forum for action taken by the state against her. Further, this imposed a greater consequence on a juvenile because adults convicted in state court proceedings at least have access to post-conviction procedures that are simply unavailable to juveniles.

As discussed in Justice Souter's concurrence in *Heck*, individuals not "in custody" for *habeas* purposes are "den[ied] any federal forum for claiming deprivation of federal rights to those who cannot first obtain a favorable state ruling." *Heck*, 512 U.S. at 500 (Souter, J., concurring). "The reason, of course, is that individuals not 'in custody' cannot invoke federal *habeas* jurisdiction, the only statutory mechanism besides § 1983 by which individuals may sue state officials in federal court for violating federal rights. ***That would be an***

untoward result." *Ibid.* (emphasis added). "[T]he very purpose of §1983 [is] to interpose the federal courts between the States and the people, as guardians of the people's federal rights." *Id.* at 501 (Souter, J., concurring). While the same may be true for adults, this shows how equating a juvenile adjudication to a criminal conviction imposes adult consequences on a juvenile. Thus, this creates an effect outside the spirit and purpose of the juvenile court system. Of greater concern, though, is that juveniles have fewer state remedies than adult criminals.

B. Because a Juvenile Adjudication Is Not a Conviction, Juveniles Do Not Have Access to State Post Conviction Procedures.

While a direct appeal is available after a juvenile adjudication, collateral relief after a direct appeal is often unavailable to juveniles. Collateral relief via post-conviction petitions provides criminal defendants with an opportunity to raise additional claims. Unfortunately, this opportunity is often unavailable to juveniles, and it is clear that it was not available to M.E. in this case. *See J.M.J v. Florida*, 742 So.2d 261, 263 (Fla. Dist. Ct. App. 1997) ("there is no procedure applicable to juvenile delinquency proceedings … for collateral review … which is similar to that afforded to adults convicted of crimes").

In other jurisdictions, it is uncertain whether the post-conviction relief available to adults is also available to juveniles. For example, Arizona Rule of Criminal Procedure 32.1 provides one method of post-conviction relief, but this provision is only

available to those who have been "convicted" of a criminal offense. Because a juvenile adjudication "shall not be deemed a conviction of crime," it is unlikely that this provision is applicable to adjudicated juveniles. *See* Ariz. Rev. Stat. Ann. § 8-207. North Dakota, Oregon, Pennsylvania, and Rhode Island have statutes limiting post-conviction relief to persons convicted of a crime. N.D. Cent. Code Ann. § 29-32.1-01 (2017); Or. Rev. Stat. Ann. § 419C.400 (2017); 42 Pa. Cons. Stat. Ann. § 9543 (2017); R.I. Gen. Laws Ann. § 10-9.1-1 (2017). In other states, it is clear that adjudicated juveniles are prohibited from seeking collateral relief. For example, neither Arkansas nor Texas – both states in Circuits applying *Heck* to juvenile adjudications – provide juveniles with access to state *habeas corpus* relief. *See Robinson v. Shock*, 667 S.W.2d 956, 958-59 (Ark. 1984); *Ex parte Valle*, 104 S.W.3d 888, 889 (Tex. Crim. App. 2003).

Because many states limit post-conviction relief to adult criminals who have been convicted of a crime, these procedures are simply unavailable to juveniles. Because the outcome in juvenile court does not carry the weight of a criminal conviction, the juvenile is need of fewer procedural safeguards. However, in order to apply *Heck* to a juvenile adjudication, a court is required to equate that adjudication with an adult criminal conviction. The result of this is that a juvenile has no federal claim under § 1983 and is without the post-conviction procedures afforded to adult criminals.

C. The Policy Underlying the Holding in *Heck* Is Not Served When Applied to Juvenile Adjudications.

Heck involved the question of whether a state prisoner could challenge the constitutionality of his criminal conviction in a civil suit for damages through a § 1983 action. *Id.* at 478. This Court addressed the potential conflict between a § 1983 claim for damages challenging the validity of a **conviction** and a *habeas corpus* proceeding, which is the exclusive method for challenging an allegedly unconstitutional state conviction in federal court. *Id.* at 484-86 (citing *Preiser v. Rodriguez*, 411 U.S. 475, 488-90 (1973) (holding a *habeas* petition is the exclusive method for challenging state court conviction in federal court)), and reasoned that the state prisoner could not use a § 1983 action to render "a *conviction or sentence* invalid" but instead must use the exclusive *habeas* method. *Id.* at 486-87 (emphasis added).

Here, there is no risk of conflict between a *habeas* proceeding and a § 1983 claim by M.E. M.E. lacks standing to bring a *habeas* action because she is not in the custody of the state. More importantly, however, she is not challenging a state conviction through her § 1983 action. To prove her claim, M.E. is not required to negate an element of the offense for which she was convicted because she was ***not*** convicted. As such, there is no legitimate reason that *Heck* should apply to bar her claim under § 1983. The fundamental premise underlying the decision in *Heck*—the potential conflict between the

exclusive remedy of *habeas* and a § 1983 action—simply does not exist here.

The strict application of *Heck* in a situation where the claimant has no right to *habeas* relief, and no other post-conviction remedy to challenge the validity of a criminal judgment, is fundamentally unfair. Indeed, following this Court's holding in *Heck,* members of this Court have acknowledged the potential unfairness of applying *Heck* in such situations. In *Spencer v. Kemna,* 523 U.S. 1 (1998), the discussion cast doubt on the universality of *Heck*'s bar to § 1983 actions in the absence of *habeas* relief. Justice Souter indicated *Heck* should be used to avoid collisions at the intersection of *habeas* and § 1983. *Id.* at 20 (Souter, J., concurring). Justice Ginsburg concurred separately to reject the view she had adopted in *Heck* that it barred § 1983 actions for those not in custody. *Id.* at 21. (Ginsburg, J., concurring). Based on the concurring and dissenting opinions in *Spencer*, three circuits have concluded that this Court—if presented with the question—would relax *Heck*'s universal favorable termination requirement for plaintiffs who have no procedural vehicle to challenge their conviction. *See Jenkins v. Haubert,* 179 F.3d 19, 26 (2d. Cir. 1999); *Shamaeizadeh v. Cunigan,* 182 F.3d 391, 396, n.3 (6th Cir. 1999); and *Carr v. O'Leary*, 167 F.3d 1124, 1127 (7th Cir. 1999).

Here, M.E. has no other remedy to challenge the conduct of the officers in this case and seek redress for the constitutional violations she endured. Fundamental fairness dictates that juveniles who by law are treated differently, should

have the right to seek damages in a § 1983 action because this is their only avenue for seeking a federal remedy for state constitutional violations.

CONCLUSION

Justice requires that this Court protect a juvenile's right to bring an action under § 1983 because it is an essential safeguard to ensure that the constitutional rights of juveniles are preserved. For the foregoing reasons, *Amicus Curiae*, National Juvenile Defender Center, respectfully request that this Court address the issues presented in the Petition for a Writ of Certiorari and prohibit the application of *Heck* to juvenile adjudications.

Respectfully submitted,

Nadia Natasha Seeratan
National Juvenile
Defender Center
1350 Connecticut
Avenue NW, Suite 304
Washington, DC 20036

Sandra J. Wunderlich
Counsel of Record
Amanda N. Johnson
Kelly A. Meredith
TUCKER ELLIS LLP
100 S. 4th Street
Suite 600
St. Louis, MO 63102
(314) 256-2544
sandra.wunderlich
@tuckerellis.com

Counsel for Amicus Curiae