No. 23-191

IN THE
Supreme Court of the United States

NANCY WILLIAMS, ET AL.,
Petitioners,

v.

FITZGERALD WASHINGTON,
ALABAMA SECRETARY OF LABOR,
Respondent.

On Writ of Certiorari to the Supreme Court of Alabama

BRIEF OF PETITIONERS

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QUESTION PRESENTED

Whether exhaustion of state administrative remedies is required to bring claims under 42 U.S.C. § 1983 in state court.

PARTIES TO THE PROCEEDING

Petitioners are Nancy Williams, Aaron Johnson, Derek Bateman, Dashonda Bennett, Latisha Kali, Quinton Lee, Esta Glass, Joyce Jones, Deja Bush, Jarvis Dean, Taja Penn, Lisa Cormier, Tammy Cowart, John Young, Latara Jackson, Senata Waters, Raymond Williams, Crystal Harris, Rashunda Williams, Mark Johnson, and Mia Brand, who were Plaintiffs-Appellants in the Supreme Court of Alabama.

Respondent is Fitzgerald Washington, Alabama Secretary of Labor, who was Defendant-Appellee in the Supreme Court of Alabama.

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The decision of the Supreme Court of Alabama (Pet. App. 1a-26a) is reported at --- So. 3d ---, 2023 WL 4281620 (Ala. June 30, 2023). The Montgomery County Circuit Court's dismissal of the suit (Pet. App. 27a-28a) and denial of reconsideration (Pet. App. 29a) are unreported.

JURISDICTION

The judgment of the Supreme Court of Alabama was entered on June 30, 2023. The jurisdiction of this Court is invoked under 28 U.S.C. § 1257(a).

RELEVANT CONSTITUTIONAL AND STATUTORY PROVISIONS

The Supremacy Clause of the United States Constitution, art. VI, cl. 2, provides:

> The Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.

42 U.S.C. § 1983 provides, in relevant part:

> Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, 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 in an action at law, suit in equity, or other proper proceeding for redress . . . .

INTRODUCTION

Over four decades ago, this Court established in *Patsy v. Board of Regents* that "exhaustion of state administrative remedies should not be required as a prerequisite to bringing an action pursuant to [42 U.S.C.] § 1983." 457 U.S. 496, 516 (1982). In the decision below, the Supreme Court of Alabama defied *Patsy* and dismissed petitioners' § 1983 claims for failure to exhaust state administrative remedies. The Supreme Court of Alabama reasoned that *Patsy* does not apply to § 1983 suits brought in state court, and that § 1983's preemptive effect "would at most allow . . . plaintiffs to bring their unexhausted claims in *federal* court." Pet. App. 11a. That conclusion followed from the Supreme Court of Alabama's view that the "national government has no 'power to press a State's own courts into federal service' by compelling them to exercise jurisdiction in contravention of their own State's laws." Pet. App. 11a-12a (quoting *Alden v. Maine*, 527 U.S. 706, 749 (1999)).

The decision below defies this Court's clear precedent. It cannot be squared with *Patsy*, which authoritatively interpreted § 1983 to foreclose the application of state administrative exhaustion requirements. Like other state courts, the Supreme Court of Alabama must heed this Court's interpretation

of § 1983. *See, e.g.*, *James v. City of Boise*, 577 U.S. 306, 307 (2016) (per curiam).

Subsequent cases, most notably *Felder v. Casey*, 487 U.S. 131 (1988), confirm what is clear on *Patsy*'s face: *Patsy*'s no-exhaustion rule applies equally to § 1983 claims filed in state court. As the Court explained in *Felder*, "there is simply no reason to suppose that Congress meant 'to provide . . . individuals immediate access to the federal courts notwithstanding any provision of state law to the contrary,' yet contemplated that those who sought to vindicate their federal rights in state courts could be required to seek redress in the first instance from the very state officials whose hostility to those rights precipitated their injuries." *Id.* at 147 (quoting *Patsy*, 457 U.S. at 504). Whether in federal or state court, administrative exhaustion requirements impermissibly interfere with § 1983's "central purpose" of "provid[ing] compensatory relief to those deprived of their federal rights by state actors." *Id.* at 141. This Court should reaffirm that principle to ensure that state courts remain a viable path for § 1983 plaintiffs to vindicate their federal rights.

STATEMENT OF THE CASE

I. Statutory Background

1. Originally enacted as § 1 of the Civil Rights Act of 1871 and reenacted in 1874, § 1983 provides plaintiffs with a cause of action against "[e]very person" who, under color of state law, deprives them of "any rights, privileges, or immunities secured by the Constitution and laws." 42 U.S.C. § 1983; *see generally Monroe v.*

Pape, 365 U.S. 167 (1961). Civil-rights plaintiffs have relied on § 1983 to vindicate a variety of federal constitutional and statutory rights. "State courts as well as federal courts have jurisdiction over § 1983 cases." *Howlett ex rel. Howlett v. Rose*, 496 U.S. 357, 358 (1990).

2. The State of Alabama, by statute, has created an unemployment compensation benefits scheme for Alabama residents. *See* Ala. Code § 25-4-90 *et seq.* According to that statutory scheme, any person seeking unemployment compensation benefits must file an application in accordance with rules prescribed by the Alabama Secretary of Labor. *See id.* § 25-4-90. In most cases, the statute then requires an examiner designated by the Secretary of Labor to "promptly" make a "determination" with respect to the applicant's claim. *Id.* § 25-4-91(a). That determination must either specify how much the claimant is entitled to receive or provide an explanation as to why the claim has been denied. *Id.*

If the claimant objects to the examiner's determination, the statutory scheme requires the claimant to seek a hearing with one of the Department's "appeals tribunals," which consist of individual officers or employees of the Department of Labor empowered to adjudicate "disputed claims and other due process cases." *Id.* § 25-4-92(a). In addition, the Department has a board of appeals that "may remove to itself or transfer to another appeals tribunal the proceedings on any claim pending before an appeals tribunal." *Id.* § 25-4-94(a). In either scenario, the appellate body reviewing the claim "shall . . . promptly notif[y]" the parties in writing of its findings and decision, together with the reasons for its decision. *Id.* § 25-4-93 (appeals tribunal); *id.* § 25-4-94(a)

(board of appeals).

As relevant here, the statutory scheme includes an administrative exhaustion requirement that governs when a party aggrieved by the Department's determination may seek state-court review. *See id.* § 25-4-95. This requirement provides that "[n]o circuit court shall permit an appeal from a decision allowing or disallowing a claim for benefits unless the decision sought to be reviewed is that of an appeals tribunal or of the board of appeals and unless the person filing such appeal has exhausted his administrative remedies as provided by this chapter." *Id.* The scheme further states that the "procedure provided . . . for the making of determinations with respect to claims for unemployment compensation benefits and for appealing from such determinations shall be exclusive." *Id.* § 25-4-96. Alabama courts understand this exhaustion requirement to impose a jurisdictional limitation on challenges to any unemployment compensation determination. *See, e.g.*, *Quick v. Utotem of Ala., Inc.*, 365 So. 2d 1245, 1247 (Ala. Civ. App. 1979).

Alabama also receives funds from the federal government to support its unemployment compensation program. In administering those funds, States must develop policies and procedures that are "reasonably calculated to insure full payment of unemployment compensation when due." 42 U.S.C. § 503(a)(1). This "when due" provision requires States to pay benefits at the "earliest stage of unemployment that such payments were administratively feasible after giving both the worker and the employer an opportunity to be heard," because "any other construction would fail to meet the

objective of early substitute compensation during unemployment." *Cal. Dep't of Hum. Res. Dev. v. Java*, 402 U.S. 121, 131, 133 (1971).

II. Proceedings Below

1. Petitioners Nancy Williams, Aaron Johnson, Derek Bateman, Dashonda Bennett, Latisha Kali, Quinton Lee, Esta Glass, Joyce Jones, Deja Bush, Jarvis Dean, Taja Penn, Lisa Cormier, Tammy Cowart, John Young, Latara Jackson, Senata Waters, Raymond Williams, Crystal Harris, Rashunda Williams, Mark Johnson, and Mia Brand are unemployment compensation benefits claimants in Alabama who have experienced extreme delays and other irregularities in the processing of their claims. As alleged in petitioners' amended complaint, the Alabama Department of Labor took months to make initial determinations on petitioners' claims for unemployment compensation benefits, and some petitioners never received these determinations; the Department stopped or denied benefits for some claimed weeks without notice or with deficient notice; and the Department failed to schedule requested hearings to appeal adverse determinations. *See generally* JA14-40; Pet. App. 2a-3a, 23a (summarizing petitioners' allegations).

Several petitioners have experienced interminable delays in obtaining benefits determinations and hearings. For example, petitioner Nancy Williams received unemployment insurance until July 18, 2020, when the Department of Labor cut off her benefits without any notice. JA21. After making several phone calls, Ms. Williams finally spoke to a Department representative in February 2021. The Department then

issued a decision stating that all the benefits Ms. Williams had received had been overpaid in error, and that Ms. Williams owed the Department $4,975. *Id.* Ms. Williams filed an appeal for a hearing, which, as of the filing of the amended complaint in April 2022, was still pending. *Id.*[1]

Petitioner Crystal Harris was left unemployed after a company that was considering her for a role eliminated the position due to the COVID-19 pandemic. JA39. The Department of Labor's Director of Unemployment Compensation told her to apply for the Pandemic Unemployment Assistance (PUA) program, giving her specific instructions to fill out her application. *Id.* Despite following all instructions, she never received a written determination from the Department. *Id.* Ms. Harris eventually learned over the phone that her application had been denied. *Id.* Ms. Harris requested a hearing to contest the PUA denial, and she is awaiting a response. *Id.* In the significant time that passed between filing her application and finding out about the denial, Harris' family experienced financial distress, requiring her eldest son to withdraw from college to help support the household. *Id.*

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[1] On January 22, 2024, Ms. Williams received a favorable decision from the Department holding that she had not been overpaid and was entitled to benefits. While Ms. Williams has received some money from the Department, Ms. Williams has been unable to discern from the notices she received whether she has been paid the full amount she is due. Even if Ms. Williams has been fully paid, her case is not moot given the possibility that she may seek unemployment insurance and experience delays again in the future. *Cf. FBI v. Fikre*, 144 S. Ct. 771 (2024).

Petitioner Mark Johnson worked at a cemetery at the beginning of the pandemic and had to bury many COVID patients. JA34. Mr. Johnson contracted COVID and had to quarantine, during which time his brother died. *Id.* After Mr. Johnson returned to work, he inquired about unpaid hazard pay and was fired. JA34. He applied for unemployment compensation benefits, but the Department of Labor told him he had been fired for insubordination. JA34-35. He attempted to appeal but did not hear anything from the Department of Labor. JA35. As a result of not receiving his unemployment benefits, or even the opportunity to dispute the initial determination, Mr. Johnson almost lost his house and car. *Id.*[2]

In June 2020, petitioner Rashunda Williams, who was pregnant and had high-risk medical conditions, went on medical leave and applied for unemployment benefits. JA39-40. In June 2021, she received a notice of overpayment. JA40. She appealed that decision and, as of the time of the amended complaint, had not received a hearing. *Id.*[3]

Other petitioners have been arbitrarily denied benefits without explanation, again resulting in hardship. For example, petitioner Derek Bateman is an independent shrimper who lost the ability to sell shrimp

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[2] In 2022, after the amended complaint was filed, Mr. Johnson participated in a telephonic hearing and received an unfavorable decision. Mr. Johnson appealed that decision within the Department. To Mr. Johnson's knowledge, that appeal is still pending.

[3] In January 2024, Ms. Williams received a hearing, but she is still awaiting a final determination.

during COVID. JA22. He called "what he believes must have been at least a thousand times before he was ever able to talk with a worker or schedule an appointment," during which time he "lost everything and did not even have a place to stay and was struggling to keep from going hungry." JA22-23. Mr. Bateman eventually received payments for certain weeks, but never received an explanation for why he was not paid for other weeks. JA23.

Petitioner Jarvis Dean applied for unemployment compensation in early 2021. JA28. He returned to work but then left work again when he became ill with COVID. *Id.* When Mr. Dean was finally able to get through to the Department of Labor to check the status of his claim, he learned that he was being charged with an overpayment, but he does not know why and has never received any notice. JA28-29.

After petitioner Joyce Jones lost her job due to COVID, the Department of Labor approved her application and paid her, but then stopped paying her without sending a notice explaining why. JA27. After at least six weeks of attempting to find out why she stopped receiving benefits, those benefits were reinstated. *Id.* Ms. Jones never found out why the benefits stopped and was unable to get through at the claims inquiry number. *Id.*

In other cases, the Department of Labor's notices were inadequate. After petitioner Latara Jackson was laid off due to COVID, she applied for and received unemployment benefits. JA35. However, the Department of Labor then assessed her an overpayment amount in excess of $20,000, purportedly for fraud,

which she appealed. *Id.* She did not hear back about the appeal, and then confusingly received another notice saying she committed fraud and needed to appeal. *Id.* She filed a second appeal but did not hear back on that appeal, either. *Id.*[4] Ms. Jackson received a handbook regarding unemployment compensation, but she found it confusing and could never reach anyone at the Department to help her. JA35-36.

Petitioner Raymond Williams contracted COVID over the summer of 2020 and was in the ICU on a ventilator for over a month. JA36. Mr. Williams still has trouble breathing and doing basic everyday tasks. JA37. He was denied unemployment benefits and requested a hearing, but received notice of the hearing while he was in the hospital. JA36-37. Mr. Williams did not submit a timely appeal of the denial of benefits because he was in the ICU when he received that denial. JA37. He submitted a new hearing request explaining this situation, but his request was denied on the ground that his stay in the ICU did not justify the late filing. *Id.* As a result of this experience, Mr. Williams is unable to afford his rent, is behind on car payments, and has had to sell personal possessions, including those of great personal significance to him. *Id.*

2. To seek redress for the Department's delay in complying with its statutory obligations and its deficient notices, petitioners—the individuals described in the preceding paragraphs, as well as several other individuals who had similar experiences—filed suit in

[4] In March 2024, Ms. Jackson received notice that she would obtain a hearing in April 2024.

the Circuit Court of Montgomery County, Alabama. Their amended complaint brought claims under § 1983, alleging that respondent's administration of Alabama's unemployment compensation scheme violated their constitutional due-process rights and federal statutory rights under the "when due" provision, 42 U.S.C. § 503(a)(1). *See* JA42. Petitioners sought injunctive relief, including an injunction directing respondent to "promptly make decisions on all applications" for unemployment compensation, and an injunction requiring respondent to provide confirmation to any claimant who requested a hearing and to schedule such hearing "not more than 90 days later than the request for the hearing." JA42-43; *see also* Pet. App. 4a. Petitioners also sought, among other things, an injunction directing the Department "to provide all information about the unemployment compensation program and all notices to claimants using language and format making them easily read and understood by people with an eighth grade education." JA43; *see also* Pet. App. 4a.

3. Respondent moved to dismiss the amended complaint. As relevant here, respondent argued that the Circuit Court lacked jurisdiction to hear petitioners' suit because petitioners had not exhausted the administrative remedies provided for in state law. The Circuit Court granted the motion to dismiss without issuing a written opinion or specifying the grounds for the dismissal. Pet. App. 27a-28a. The Circuit Court also denied without explanation petitioners' motion to alter, amend, or vacate the Circuit Court's judgment of dismissal. *Id.* at 29a.

4. The Supreme Court of Alabama affirmed the Circuit Court's dismissal based solely on petitioners' failure to exhaust their state administrative remedies before bringing suit. *Id.* at 6a. The majority opinion explained that it resolved the case on exhaustion grounds because failure to exhaust was the "only jurisdictional question that applies to all the claims brought by all the plaintiffs." *Id.* The majority opinion further acknowledged that "all" of the claims in the amended complaint were "federal claims brought under the Civil Rights Act of 1871, 42 U.S.C. § 1983." *Id.* at 3a. Nonetheless, the majority opinion held that those claims must be exhausted in accordance with the "exclusive" state administrative scheme provided for in state law. *Id.* at 10a (citing § Ala. Code § 25-4-96).

In ruling on administrative exhaustion grounds, the Supreme Court of Alabama specifically considered and rejected petitioners' argument, quoting *Patsy*, 457 U.S. at 516, that "exhaustion of state administrative remedies should not be required as a prerequisite to bringing an action pursuant to § 1983." Pet. App. at 11a. The majority opinion explained that "*Patsy* does not sweep nearly as broadly as the plaintiffs suggest," and that *Patsy* "held only that the text of 42 U.S.C. § 1983, a federal statute, lacks an exhaustion requirement." *Id.* Moreover, the Supreme Court of Alabama continued, even if § 1983 did "preempt[] any and all independent exhaustion requirements found in State law, that preemption would at most allow the plaintiffs to bring their unexhausted claims in *federal* court," and would not allow them to "compel *State* courts to adjudicate federal claims that lie outside the State courts'

jurisdiction." *Id.* The Supreme Court of Alabama concluded that the "national government has no 'power to press a State's own courts into federal service' by compelling them to exercise jurisdiction in contravention of their own State's laws,'" and that "any '[s]uch plenary federal control of state governmental processes' would unconstitutionally 'denigrate[] the separate sovereignty of the States.'" *Id.* at 11a-12a (quoting *Alden*, 527 U.S. at 749).

Justice Sellers concurred specially. He agreed that dismissal was proper under the state statute's "express" administrative exhaustion requirement, but explained that, in his view, administrative exhaustion is "generally mandatory as a 'judicially imposed prudential limitation'" even without the State's express exhaustion provision. *Id.* at 13a (citations omitted).

Justice Cook dissented. He explained that he would "reverse the judgment insofar as it dismisses all claims related to providing (1) timely claims processing, (2) timely appeals, and (3) actual notices of decisions." *Id.* at 26a n.9. He observed that the "unemployment-compensation system is designed to provide expeditious and prompt relief to persons who are without any income," and that "[y]ears of delay can mean, in large part, that the point of the benefit is lost." *Id.* at 25a n.8. As relevant here, Justice Cook disagreed with the majority opinion that the state administrative exhaustion scheme required dismissal of petitioners' suit, observing that "neither [respondent] nor the main opinion point to any authority indicating that the appeals tribunals have jurisdiction to determine claims arising under 42 U.S.C. § 1983." *Id.* at 19a.

To the contrary, Justice Cook reasoned that *Patsy*'s language setting forth a no-exhaustion rule "is very broad and, on its face, includes no exceptions," and that the majority opinion "provides no explanation for why *Patsy*'s direct and broad holding should be overridden without, at least, express statutory language stripping jurisdiction from Alabama courts." *Id.* at 20a. And he observed that "[e]ven if § 25-4-95 had attempted to strip jurisdiction from Alabama's circuit courts for § 1983 claims (or any other federal claims), I am not convinced that it could do so." *Id.* In support of that position, Justice Cook further noted that this Court had "recently upheld the principle from *Patsy* that exhaustion of state administrative remedies is not a prerequisite to an action under § 1983." *Id.* at 21a (citing *Pakdel v. City & Cnty. of San Francisco*, 594 U.S. 474, 479 (2021)). And he noted that the majority opinion could not be squared with federal appellate and state high court decisions from across the country that have held that a "plaintiff who brings a § 1983 action in state court need not first initiate or exhaust state administrative remedies." *Id.* at 22a-23a (citing eight additional cases contrary to the majority's holding).

SUMMARY OF ARGUMENT

Patsy v. Board of Regents resolves this case. The *Patsy* Court authoritatively interpreted § 1983 to foreclose the imposition of state administrative exhaustion requirements. That conclusion applies whether a § 1983 suit is brought in federal or state court, as this Court confirmed in holding that § 1983 preempted a state exhaustion requirement in *Felder v. Casey*. The contrary decision of the Supreme Court of Alabama

cannot be squared with this Court's clear precedent and must be reversed.

I.A. *Patsy* authoritatively interpreted § 1983 and categorically held that "exhaustion of state administrative remedies should not be required as a prerequisite to bringing an action pursuant to § 1983." 457 U.S. at 516. *Patsy* reached that categorical conclusion based on decades of this Court's past decisions and Congress' shared understanding that exhaustion in § 1983 suits could only be required where Congress affirmatively so provided. Although *Patsy* arose in the context of a federal-court suit, the same considerations compel an identical result in state-court suits. Indeed, *Patsy* itself explicitly recognized that § 1983 "provide[s] dual or concurrent forums in the state and federal system, enabling the plaintiff to choose the forum in which to seek relief." *Id.* at 506.

I.B. This Court's decision in *Felder v. Casey* confirms that *Patsy*'s no-exhaustion rule applies to § 1983 suits brought in state court. In *Felder*, the Court held that state-law exhaustion requirements are preempted by § 1983. Relying on *Patsy*, the Court explained that "there is simply no reason to suppose that Congress meant 'to provide . . . individuals immediate access to the federal courts notwithstanding any provision of state law to the contrary,' yet contemplated that those who sought to vindicate their federal rights in state courts could be required to seek redress in the first instance from the very state officials whose hostility to those rights precipitated their injuries." *Felder*, 487 U.S. at 147 (quoting *Patsy*, 457 U.S. at 504). Because

state administrative exhaustion requirements are "inconsistent in both design and effect" with § 1983, and their application would "produce different outcomes in federal civil rights litigation based solely on whether that litigation takes place in state or federal court," they are preempted by § 1983. *Id.* at 141. Section 1983 plaintiffs may proceed directly to state court without exhausting state administrative remedies.

I.C. Applying *Patsy* and its progeny, the exhaustion requirement in Alabama's unemployment benefits scheme is preempted by § 1983. Alabama's exhaustion requirement impermissibly forces petitioners to seek redress from "offending state officials before they [can] assert a federal action in state court," *Felder*, 487 U.S. at 149, and it results in different outcomes if the identical suit were filed in federal versus state court. Such non-uniformity in the application of federal law violates the Supremacy Clause and conflicts with this Court's cases.

II.A. The reasoning of the decision below is incorrect, and respondent barely defends it. The Supreme Court of Alabama distinguished between § 1983 claims brought in federal versus state court, but *Patsy* and *Felder* authoritatively interpreted § 1983, and that interpretation of federal law applies in both forums. The Supreme Court of Alabama found it significant that Alabama's exhaustion requirement is considered "jurisdictional," but this Court has already explained, in this exact context, that the "force of the Supremacy Clause is not so weak that it can be evaded by mere mention of the word 'jurisdiction.'" *Howlett*, 496 U.S. at 382-83. Finally, the Supreme Court of Alabama relied

on *Alden v. Maine*, but that case deals with the unrelated question of the federal government's ability to abrogate a State's immunity from suit in state court.

II.B. The brief in opposition proposes alternative bases for affirmance based on other case law that is either inapplicable or grounded in policy justifications this Court has already rejected. In particular, respondent suggests that the State's exhaustion requirement falls into the narrow category of "neutral state rule[s] regarding the administration of the courts" that this Court has recognized on a handful of occasions permits a state court to decline to follow federal law. *Howlett*, 496 U.S. at 372. But that line of cases is inapplicable here, where the Court has already squarely held that the precise kind of state law at issue (namely, an exhaustion requirement) is preempted by § 1983. In any case, Alabama's rule is not "neutral." Even if this narrow exception were available to respondent, Alabama's rule would not fall within it.

III.A. This Court should therefore adhere to a categorical rule that administrative exhaustion is not a prerequisite to bringing § 1983 claims in state court unless Congress has explicitly imposed an exhaustion requirement. A categorical rule is most consistent with *Patsy* and this Court's subsequent precedent.

III.B. Even if the Court were to adopt a case-by-case analysis, as respondent invites, petitioners would still prevail. The Supreme Court of Alabama held that state law barred petitioners from bringing a § 1983 suit challenging respondent's failure to timely resolve their

unemployment compensation claims—until that very same untimely process had been completed. It is difficult to imagine a clearer case of a state-law exhaustion rule being used to obliterate federal rights.

ARGUMENT

I. SECTION 1983 PLAINTIFFS NEED NOT EXHAUST STATE ADMINISTRATIVE REMEDIES BEFORE BRINGING SUIT IN STATE COURT.

A. *Patsy* Compels the Conclusion that Exhaustion of State Administrative Remedies Is Not Required in State Court.

In *Patsy v. Board of Regents*, this Court held that "exhaustion of state administrative remedies should not be required as a prerequisite to bringing an action pursuant to [42 U.S.C.] § 1983." 457 U.S. at 516. The Supreme Court of Alabama concluded that *Patsy*'s rule applies only to cases arising in federal court. That conclusion was wrong. *Patsy* was a case about the substantive meaning of § 1983, not a case about federal-court procedure. As such, *Patsy*'s interpretation of § 1983 binds both state and federal courts.

To begin, *Patsy* repeatedly stated the question presented and its holding in general terms, without suggesting any limitation only to § 1983 claims brought in federal court. *See, e.g.*, *id.* at 498 ("This case presents the question whether exhaustion of state administrative remedies is a prerequisite to an action under 42 U.S.C. § 1983."); *id.* at 500 ("The question whether exhaustion of administrative remedies should *ever* be required in a

§ 1983 action has prompted vigorous debate and disagreement.").

Moreover, although the *Patsy* Court acknowledged that ensuring a federal-court backstop in the face of state lawlessness was a primary purpose of § 1983, *id.* at 500, it also recognized that state courts have concurrent jurisdiction to hear § 1983 claims, *id.* at 506. Thus, the *Patsy* Court explained that a "feature of the debates relevant to the exhaustion question is the fact that many legislators [in 1871] interpreted the bill to provide dual or concurrent forums in the state and federal system, enabling the plaintiff to choose the forum in which to seek relief." *Id.*; *see also Felder*, 487 U.S. at 147 (citing *Patsy* for the proposition that Congress "did not leave the protection of [federal] rights exclusively in the hands of the federal judiciary, and instead conferred concurrent jurisdiction on state courts as well"). It stands to reason, therefore, that *Patsy*'s holding applies in state courts as well.

A closer look at *Patsy*'s reasoning confirms that it applies in state court. *Patsy* concluded that administrative exhaustion was inconsistent with Congress' intent in adopting § 1983. As the Court explained, "Of primary importance to the exhaustion question was the mistrust that the 1871 Congress held for the factfinding processes of state institutions." 457 U.S. at 506. The Court viewed "[t]his perceived defect in the States' factfinding processes" as "particularly relevant to the question of exhaustion of administrative remedies" because "exhaustion rules are often applied in deference to the superior factfinding ability of the

relevant administrative agency." *Id.*

This reasoning applies to § 1983 claims filed in state court, too. The fact-finding processes of state agencies do not become more trustworthy when § 1983 claims are filed in state court rather than federal court. Indeed, one would think that state courts are more likely to defer to state agencies than federal courts, creating an even greater need for a no-exhaustion rule in state court.

Patsy also pointed to 42 U.S.C. § 1997e, where Congress "created a specific, limited exhaustion requirement for adult prisoners bringing actions pursuant to § 1983." 457 U.S. at 508. This provision confirmed that "Congress understood that exhaustion is not generally required in § 1983 actions, and that it decided to carve out only a narrow exception to this rule." *Id.* The Court explained that a "judicially imposed exhaustion requirement would be inconsistent with Congress' decision to adopt § 1997e and would usurp policy judgments that Congress has reserved for itself." *Id.*

Again, this reasoning applies to cases filed in state court. Based on its comparison of § 1983's text to § 1997e's text, the Court held that exhaustion is not an element of § 1983's cause of action. As that reasoning underscores, *Patsy*'s no-exhaustion rule is not a federal procedural rule but is instead a substantive rule about what § 1983 means.

The meaning of a federal statute does not depend on the court in which a case is filed. "It is this Court's responsibility to say what a [federal] statute means, and

once the Court has spoken, it is the duty of other courts to respect that understanding of the governing rule of law." *Rivers v. Roadway Express, Inc.*, 511 U.S. 298, 312 (1994). This principle is fundamental to the operation of federal and state courts in the federal system: "As Justice Story explained 200 years ago, if state courts were permitted to disregard this Court's rulings on federal law, 'the laws, the treaties, and the constitution of the United States would be different in different states, and might, perhaps, never have precisely the same construction, obligation, or efficacy, in any two states. The public mischiefs that would attend to such a state of things would be truly deplorable.'" *James*, 577 U.S. at 307 (quoting *Martin v. Hunter's Lessee*, 14 U.S. (1 Wheat.) 304, 348 (1816)). State courts, therefore, are bound by *Patsy*'s no-exhaustion rule.

B. *Felder* Confirms that State Administrative Exhaustion Requirements Are Preempted by § 1983.

Felder v. Casey, 487 U.S. 131 (1988) confirms that *Patsy*'s no-exhaustion rule applies to § 1983 claims brought in state court. There, this Court held, in a case arising in the Wisconsin state courts, that a state administrative exhaustion requirement was preempted by § 1983. The same result should govern here.

In *Felder*, the Court considered a state notice-of-claim statute that required plaintiffs to notify governmental defendants of the circumstances giving rise to their claims, the amount of the claim, and their intent to hold the named defendant(s) liable, and then to refrain from filing suit for 120 days. The Court framed

the question as "one of pre-emption: is the application of the State's notice-of-claim provision to § 1983 actions brought in state courts consistent with the goals of the federal civil rights laws, or does the enforcement of such a requirement instead stan[d] as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress?" 487 U.S. at 138 (internal quotation marks omitted) (alteration in original). The Court concluded that the notice-of-claim statute was "inconsistent with federal law" as applied to "federal civil rights actions brought in state court under 42 U.S.C. § 1983." *Id.* at 134.

As the Court explained, the application of the notice-of-claim statute "burdens the exercise of the federal right by forcing civil rights victims who seek redress in state courts to comply with a requirement that is entirely absent from civil rights litigation in federal courts." *Id.* at 141. "This burden," the Court elaborated, "is inconsistent in both design and effect with the compensatory aims of the federal civil rights laws." *Id.* The Court emphasized that the state law "will frequently and predictably produce different outcomes in federal civil rights litigation based solely on whether that litigation takes place in state or federal court." *Id.* In light of this concern, the Court stated the general rule that "States may not apply such an outcome-determinative law when entertaining substantive federal rights in their courts." *Id.*

Central to the Court's reasoning was its conclusion that Wisconsin's statute operated as an exhaustion requirement. In particular, the Court explained that

"the notice provision imposes an exhaustion requirement on persons who choose to assert their federal right in state courts." *Id.* at 146. The Court then relied extensively on *Patsy*'s no-exhaustion rule to conclude that Wisconsin's statute was preempted. The Court first recounted how the Wisconsin Supreme Court had "deemed [*Patsy*] inapplicable to this state-court suit on the theory that States retain the authority to prescribe the rules and procedures governing suits in their courts." *Id.* at 147. This Court rejected the Wisconsin Supreme Court's reasoning: "[T]hat authority does not extend so far as to permit States to place conditions on the vindication of a federal right." *Id.*

This Court explained in detail how *Patsy* compelled that conclusion. "[A]s we noted in *Patsy*, Congress enacted § 1983 in response to the widespread deprivations of civil rights in the Southern States and the inability or the unwillingness of authorities in those States to protect those rights or punish wrongdoers." *Id.* The Court acknowledged that the "principal remedy Congress chose to provide injured persons was immediate access to federal courts," but it stressed that Congress "did not leave the protection of such rights exclusively in the hands of the federal judiciary, and instead conferred concurrent jurisdiction on state courts as well." *Id.* (citing *Patsy*, 457 U.S. at 503-05, 506-07). Indeed, the Court suggested that applying this rule was especially appropriate in state court: "Given the evil at which the federal civil rights legislation was aimed, there is simply no reason to suppose that Congress meant 'to provide . . . individuals immediate access to the federal courts notwithstanding any provision of state

law to the contrary,' yet contemplated that those who sought to vindicate their federal rights in state court could be required to seek redress in the first instance from the very state officials whose hostility to those rights precipitated their injuries." *Id.* (quoting *Patsy*, 457 U.S. at 504).

The Court rejected the defendants' argument that the notice-of-claim exhaustion requirement was "essentially *de minimis*," emphasizing that the "dominant characteristic of civil rights actions" is that "*they belong in court*" and are "judicially enforceable *in the first instance*." *Id.* at 148 (quotation marks omitted). As the Court explained: "The dominant characteristic of a § 1983 action, of course, does not vary depending upon whether it is litigated in state or federal court, and States therefore may not adulterate or dilute the predominant feature of the federal right by imposing mandatory settlement periods, no matter how reasonable the administrative waiting period or the interests it is designed to serve may appear." *Id.*

The Court further explained that *Patsy* rested in part on the fact that in § 1997e, "Congress established an exhaustion requirement for a specific class of § 1983 actions—those brought by adult prisoners challenging the conditions of their confinement—and that, in so doing, Congress expressly recognized that it was working a change in the law." *Id.* at 148-49. The *Patsy* Court "refused to engraft an exhaustion requirement onto another type of § 1983 action where Congress had not provided for one, not only because the judicial imposition of such a requirement would be inconsistent

with Congress' recognition that § 1983 plaintiffs normally need not exhaust administrative remedies but also because decisions concerning both the desirability and the scope and design of any exhaustion requirement turn on a host of policy considerations which 'do not invariably point in one direction,' and which, for that very reason, are best left to 'Congress' superior institutional competence.'" *Id.* at 149 (quoting *Patsy*, 457 U.S. at 513). The *Felder* Court explained that this reasoning carried over to state-court § 1983 claims: "[W]e think it plain that the Congress which enacted § 1983 over 100 years ago would have rejected as utterly inconsistent with the remedial purposes of its broad statute the notion that a State could require civil rights victims to seek compensation from offending state officials before they could assert a federal action in state court." *Id.*

C. Alabama's Administrative Exhaustion Requirement Is Preempted by § 1983.

Applying *Patsy* and *Felder*, Alabama's administrative exhaustion requirement is preempted. The Alabama provision states that "[n]o circuit court shall permit an appeal from a decision allowing or disallowing a claim for benefits unless the decision sought to be reviewed is that of an appeals tribunal or of the board of appeals and unless the person filing such appeal has exhausted his administrative remedies as provided by this chapter." Ala. Code § 25-4-95; *see also id.* § 25-4-96 (describing the state administrative process as "exclusive"). It is undisputed that this provision requires the exhaustion of state administrative

remedies. It therefore cannot be applied to petitioners' § 1983 claims because this Court has authoritatively interpreted § 1983 to mean that "exhaustion of state administrative remedies should not be required as a prerequisite to bringing an action pursuant to § 1983." *Patsy*, 457 U.S. at 516.

Moreover, Alabama's exhaustion requirement is preempted under the rationale set forth in *Felder*. First, Alabama's requirement undoubtedly "conflicts in both its purpose and effects with the remedial objectives of § 1983" because it forces petitioners to seek redress from "offending state officials before they [can] assert a federal action in state court." 487 U.S. at 138, 149. By imposing a procedural hurdle before § 1983 plaintiffs can proceed in state court, the exhaustion requirement "conditions the right of recovery that Congress has authorized" and acts as a "substantive burden" for those seeking to challenge the Department of Labor's unemployment benefits determinations. *Id.* at 141.

Second, enforcing Alabama's exhaustion requirement would "frequently and predictably produce different outcomes in § 1983 litigation based solely on whether the claim is asserted in state or federal court." *Id.* at 138. Here, respondent does not dispute that petitioners' suit could be heard immediately in federal court without exhausting state administrative remedies. *See, e.g.*, BIO 20 (conceding that § 1983 provides for "'immediate access to *federal* courts'" (quoting *Felder*, 487 U.S. at 147)). Yet respondent asserts that the decision below properly dismissed petitioners' § 1983 suit for failure to exhaust. Thus, Alabama's law is

"outcome-determinative" in the sense that *Felder* prohibits: it "predictably alters the outcome of § 1983 claims depending solely on whether they are brought in state or federal court." 487 U.S. at 153. Under *Felder*'s logic, Alabama's provision is plainly preempted.

II. THE ARGUMENTS TO THE CONTRARY LACK MERIT.

The Supreme Court of Alabama's reasoning defies this Court's clear precedent, and respondent does not appear to defend it. Yet respondent's alternative arguments fare no better.

A. The Reasoning of the Decision Below Is Indefensible.

The Supreme Court of Alabama concluded that *Patsy*'s holding does not apply to § 1983 suits brought in state court. According to that court, "*Patsy* does not sweep as broadly as the plaintiffs suggest," because "*Patsy* held only that the text of 42 U.S.C. § 1983, a federal statute, lacks an exhaustion requirement." Pet. App. 11a. *Patsy* "did not interpret the text of any State law, and certainly did not hold that State laws requiring administrative exhaustion as a prerequisite to State-court jurisdiction are unconstitutional." *Id.* The court explained that "[e]ven if it were true, as the plaintiffs seem to believe, that § 1983 preempts any and all independent exhaustion requirements found in State law, that preemption would at most allow the plaintiffs to bring their unexhausted claims in *federal* court." *Id.* According to the Supreme Court of Alabama, that conclusion followed because preemption "would not

allow [plaintiffs] to compel *State* courts to adjudicate federal claims that lie outside the State courts' jurisdiction." *Id.*

This reasoning fails to appreciate that state courts must apply this Court's interpretations of federal law when a federal claim is brought in state court. A direct consequence of this Court's holding that § 1983, "a federal statute, lacks an exhaustion requirement," Pet. App. 11a, is that § 1983 claims brought in state court need not be exhausted. While it is true that *Patsy* itself did not arise in state court, that fact is irrelevant to *Patsy*'s holding, which authoritatively interpreted § 1983 and applies equally to § 1983 suits brought in state court. Moreover, *Felder* squarely held that a state law imposing an exhaustion requirement on § 1983 claims brought in state court is unconstitutional under the Supremacy Clause.

It makes no difference that the Supreme Court of Alabama denominated the exhaustion requirement as "jurisdictional." This Court has already held in *Patsy* and *Felder* that state courts may not apply state administrative exhaustion requirements to § 1983 claims brought in state court. A state court cannot avoid that conclusion simply by labeling its state-law exhaustion requirement as a jurisdictional one. The "force of the Supremacy Clause is not so weak that it can be evaded by mere mention of the word 'jurisdiction.'" *Howlett*, 496 U.S. at 382-83.

Indeed, this Court has already twice considered and rejected the argument "that a federal court has no power

to compel a state court to entertain a claim over which the state court has no jurisdiction as a matter of state law." *Howlett*, 496 U.S. at 381. As the Court explained in *Haywood v. Drown*, a "contrary conclusion would permit a State to withhold a forum for the adjudication of any federal cause of action with which it disagreed as long as the policy took the form of a jurisdictional rule"—an "outcome" that "would provide a roadmap for States wishing to circumvent" this Court's "prior decisions." 556 U.S. 729, 742 n.9 (2009). And earlier, in *Howlett*, the Court rejected the same argument based in the "jurisdictional" label, and it did so with specific reference to *Felder*. The *Howlett* Court explained that accepting a position like the one the Supreme Court of Alabama took below would allow the "State of Wisconsin [to] overrule [this Court's] decision in *Felder* . . . by simply amending its notice-of-claim statute to provide that no state court would have jurisdiction of an action in which the plaintiff failed to give the required notice. The Supremacy Clause requires more than that." *Howlett*, 496 U.S. at 383. This Court should again reject the notion that a state court can avoid its obligation to follow federal law by hiding behind purportedly "jurisdictional" state-law rules.

The Supreme Court of Alabama also cited *Alden v. Maine* for the proposition that the "national government has no 'power to press a State's own courts into federal service,'" and that "any '[s]uch plenary federal control of state governmental processes' would unconstitutionally 'denigrate[] the separate sovereignty of the States.'" Pet. App. at 11a-12a (quoting *Alden*, 527 U.S. at 749). But *Alden* deals with the unrelated question of the

federal government's ability to require States to waive state sovereign immunity in their own courts. *Cf.* Pet. App. 20a-21a (Cook, J., dissenting) (noting *Alden* "involved the question whether the federal government could force a state to waive sovereign immunity in its own courts and is thus inapplicable here"). *Patsy* and *Felder* are the relevant precedents, not *Alden*.

B. Respondent's Arguments in the Brief in Opposition Also Fail.

In the brief in opposition, respondent did not defend the Supreme Court of Alabama's reasoning. Instead, respondent took the position that the State's administrative exhaustion requirement is a "neutral state rule regarding the administration of the courts" that provides a "valid excuse" to decline to exercise jurisdiction over a federal claim. *Howlett*, 496 U.S. at 371-72. This argument is also wrong.

First, as *Howlett* explains, "States may apply their own neutral procedural rules to federal claims, *unless those rules are pre-empted by federal law*." *Id.* (citing *Felder*) (emphasis added). Put another way, an "excuse that is inconsistent with or violates federal law is not a valid excuse: The Supremacy Clause forbids state courts to dissociate themselves from federal law because of disagreement with its content or a refusal to recognize the superior authority of its source." *Id.* at 371.

As explained above, under *Patsy* and *Felder*, federal law preempts state laws imposing exhaustion requirements in § 1983. Congress has decided that exhaustion is not a prerequisite to filing a § 1983 claim,

and States cannot contravene that determination. Therefore, regardless of whether Alabama's exhaustion requirement is a neutral rule of judicial administration, it is preempted by § 1983.

In any event, Alabama's exhaustion requirement is *not* a "neutral state rule regarding the administration of the courts." *Howlett*, 496 U.S. at 372. It is not a "rule[] uniformly applicable to all suits," such as "rules governing service of process or substitution of parties," which are "examples of procedural requirements that penalize noncompliance through dismissal." *Felder*, 487 U.S. at 144-45. Instead, it applies *only* to unemployment benefits disputes with the Department of Labor.

The brief in opposition states that the statute would technically also apply to claims brought by the Secretary. BIO 15. In other words, according to the brief in opposition, if an unemployed person files an unemployment claim and prevails in the administrative proceedings, and if the Secretary then wants to challenge the Department's decision in court, the Secretary, too, could do so only after the Department reaches a final decision. *Id.* But that exhaustion obligation is essentially meaningless when applied to the Secretary because the Secretary would not have any reason to proceed directly to court. Rather, the Secretary would have a reason to sue only if the claimant prevails in the very administrative process the claimant is required to exhaust. The types of claims being asserted here—claims arising out of the Department's extreme delays and failure to provide notice—could only possibly be brought by claimants, and requiring

exhaustion for that type of claim could only possibly affect claimants. Alabama's exhaustion requirement therefore does not function as a neutral rule of judicial administration, but instead "extends only to governmental defendants and thus conditions the right to bring suit against the very persons and entities Congress intended to subject to liability." *Felder*, 487 U.S. at 144-45.

The brief in opposition also relies on *Johnson v. Fankell*, 520 U.S. 911 (1997), but respondent's position is irreconcilable with *Johnson*'s rationales. In *Johnson*, this Court held that a § 1983 state-court defendant lacks a federal right to file an interlocutory appeal. The Court reasoned that the "postponement of the appeal until after final judgment will not affect the ultimate outcome of the case." 520 U.S. at 921. In this respect, the Court distinguished the case from *Felder*, reasoning that in *Felder*, the application of the state statute was preempted because it "resulted in a judgment dismissing a complaint that would not have been dismissed—at least not without a judicial determination of the merits of the claim—if the case had been filed in a federal court." *Id.* at 920. Here, by contrast, Alabama's rule *did* result in a judgment dismissing a case that would not have been dismissed in federal court. Therefore, *Patsy* and *Felder* govern.

The *Johnson* Court also emphasized that the "source" of the "right to immediate appellate review" in the federal system was not § 1983 but rather 28 U.S.C. § 1291. 520 U.S. at 921. And "the right to interlocutory appeal in § 1291," the Court reasoned, "is a federal

procedural right that simply does not apply in a nonfederal forum." *Id.* Here, the "source" of the no-exhaustion rule is § 1983 itself, as this Court has repeatedly held. Unlike the right to interlocutory appeal in *Johnson*, therefore, § 1983 does preempt Alabama's exhaustion requirement.

III. THE COURT SHOULD ADHERE TO A CATEGORICAL RULE—BUT IF IT DOES NOT, PETITIONERS WOULD STILL PREVAIL.

In the brief in opposition, respondent argued that this Court's cases support conducting a "law-by-law analysis" rather than applying a "categorical rule that all administrative exhaustion requirements have been preempted." BIO 13-14. Contrary to respondent's suggestion, the Court should adhere to a categorical rule that unless Congress has explicitly imposed an exhaustion requirement, administrative exhaustion is not a prerequisite for bringing § 1983 claims in state court.

But if the Court adopts a law-by-law analysis, petitioners would still prevail. It is difficult to imagine a clearer case of state exhaustion requirements being used to extinguish federal rights.

A. Exhaustion Is, Categorically, Never Required Before Bringing a § 1983 Claim.

The Court should adopt a categorical rule that, unless Congress has otherwise provided, exhaustion is never required before bringing a § 1983 claim in state court.

The basis for this rule is straightforward: that is the rule in federal court, so that should be the rule in state court.

Patsy emphasized that its no-exhaustion rule is categorical. As *Patsy* explained, the "Court has stated categorically that exhaustion is not a prerequisite to an action under § 1983, and we have not deviated from that position in the 19 years since *McNeese*." 457 U.S. at 500-01 (citing *McNeese v. Bd. of Educ.*, 373 U.S. 668 (1963); *see also id.* at 517 (White, J., concurring in part) ("For nearly 20 years and on at least 10 occasions, this Court has clearly held that no exhaustion of administrative remedies is required in a § 1983 suit."). For this reason, the Court rejected the lower court's attempt to adopt a "flexible" exhaustion rule calibrated to particular features of the state administrative scheme in question. *Id.* at 499.

Subsequent case law confirms that *Patsy*'s rule is categorical. Over and over again, this Court has stated that exhaustion cannot be required in § 1983 cases. The "availability of state administrative procedures ordinarily does not foreclose resort to § 1983." *Wilder v. Va. Hosp. Ass'n*, 496 U.S. 498, 523 (1990); *see also Wright v. City of Roanoke Redev. & Hous. Auth.*, 479 U.S. 418, 427-28 (1987) (similar). In *Heck v. Humphrey*, the Court repeatedly relied on what it called this Court's "teaching that § 1983 contains no exhaustion requirement beyond what Congress has provided." 512 U.S. 477, 483 (1994) (citing *Patsy*, 457 U.S. at 501, 509); *see also id.* at 481 (referring to the "'no exhaustion' rule of § 1983"); *id.* at 488 n.9 (referring to the "'categorical mandate' of § 1983"). Similarly, *Porter v. Nussle* relied on *Patsy* for

the proposition that "[o]rdinarily, plaintiffs pursuing civil rights claims under 42 U.S.C. § 1983 need not exhaust administrative remedies before filing suit in court." 534 U.S. 516, 523 (2002) (citing *Patsy*, 457 U.S. at 516). And, more recently, the Court has recognized that § 1983 "does not require exhaustion at all," *Jones v. Bock*, 549 U.S. 199, 212 (2007), and that the "settled rule is that exhaustion of state remedies is *not* a prerequisite to an action under § 1983," *Knick v. Township of Scott*, 588 U.S. 180, 185 (2019) (internal quotation marks and alterations omitted); *see also, e.g.*, *Pakdel v. City & Cnty. of San Francisco*, 594 U.S. 474, 479 (2021); *Reed v. Goertz*, 598 U.S. 230, 260 (2023) (Alito, J., dissenting) ("[I]t is well-established that a § 1983 plaintiff need not exhaust state remedies.").

Because *Patsy* reflects a substantive interpretation of § 1983, its holding applies with equal force in all courts, state and federal. Therefore, *Patsy*'s categorical no-exhaustion rule applies in state court.

Respondent suggests that each case must be individually assessed to determine whether the "state law . . . under the circumstances of the particular case stands as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress." BIO 16-17 (quoting *Geier v. Am. Honda Motor Co.*, 529 U.S. 861, 873 (2000)). Along similar lines, respondent suggests that permitting states to adopt administrative exhaustion requirements would yield various policy benefits, including "more efficient review for claimants by potentially obviating the need for judicial review of simple claims," as well as "ensuring

that judicial review does not occur in a piecemeal fashion." BIO 15-16.

But the Eleventh Circuit in *Patsy* had adopted precisely such a rule, holding that a court could choose to impose an exhaustion requirement if various conditions were met, including whether "an orderly system of review or appeal is provided by statute or agency rule," and whether the "procedures are fair, are not unduly burdensome, and are not used to harass or discourage those with legitimate claims." 457 U.S. at 499. This Court rejected that rule as a matter of precedent, and because adopting it would "usurp policy judgments that Congress has reserved for itself" as to when exhaustion should be required. *See id.* at 508. As the Court explained, the "relevant policy considerations do not invariably point in one direction"; given the "very difficulty of these policy considerations, and Congress' superior institutional competence to pursue this debate," "legislative not judicial solutions are preferable." *Id.* at 513. That reasoning resolves this case.

Felder confirms that exhaustion is never required in state court. *Felder* categorically states that a "law that predictably alters the outcome of § 1983 claims depending solely on whether they are brought in state or federal court within the same State is obviously inconsistent with th[e] federal interest in intrastate uniformity," and that, as a general rule, "States may not apply such an outcome-determinative law when entertaining substantive federal rights in their courts." 487 U.S. at 138, 141. Thus, under *Felder*'s reasoning, the

applicable exhaustion rule should be the same in federal court and state court. And because the no-exhaustion rule is categorical in federal court, it must be categorical in state court.

As noted, *Felder* also rejected the defendant's argument that the exhaustion requirement was essentially *de minimis*, explaining that civil rights actions "*belong in court*," and this "dominant characteristic of a § 1983 action, of course, does not vary depending upon whether it is litigated in state or federal court." *Id.* at 148 (quotation marks omitted). Again, that reasoning forecloses all exhaustion requirements in state court.

The Court should therefore hold that no case-by-case analysis is needed. Exhaustion is, categorically, not required to bring a § 1983 claim in state court.

B. If the Court Elects to Conduct a Case-By-Case Analysis, Petitioners Should Prevail.

Respondent nonetheless invites the Court to take "each case as it comes, assessing whether the 'state law … under the circumstances of the particular case stands as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress.'" BIO 16-17 (quoting *Geier*, 529 U.S. at 873). If the Court were to undertake this analysis, petitioners would still prevail. This is a clear case of a state-law exhaustion rule being used to prevent § 1983 plaintiffs from vindicating their federal rights.

Joseph Heller would be proud of the Supreme Court

of Alabama's decision. The Supreme Court of Alabama held that petitioners' failure to exhaust their state-law remedies barred their federal claims—even though Petitioners' *inability* to exhaust those claims was *the very thing being challenged*.

Several petitioners allege that the Department violated the Due Process Clause and the Social Security Act's "when due" provision by failing to resolve their claims in a timely manner. Crystal Harris, for example, never received a hearing where she could have contested the denial of her unemployment claim. JA39. The resultant financial hardship forced her eldest son to withdraw from college to help support the household. *Id.* Yet the Supreme Court of Alabama held that petitioners could not challenge the Department's failure to decide their claims in a timely fashion because the Department had not decided their claims, thus rendering the claims unexhausted. As a practical matter, that decision left those petitioners incapable of *ever* pursuing a state-court § 1983 claim challenging the Department's lassitude. Respondent cannot claim that Alabama is somehow promoting "efficient review," BIO 15-16, by *inefficiently* reviewing their claims and then relying on that very inefficiency as a basis to foreclose litigation designed to speed up that process.

Other petitioners challenge the adequacy of the Department's notices. Raymond Williams, for example, did not file a timely appeal of the denial of unemployment benefits because he received that denial while he was on a ventilator in the ICU as a result of COVID. JA36. Mr. Williams sent in a new hearing request explaining the

circumstances, but the Department refused the request. JA37. As a result of this experience, Mr. Williams has experienced considerable hardships. *Id.* Mr. Williams' claim is that the Department's refusal to consider his appeal is a violation of his Due Process right as well as his statutory rights under the Social Security Act. Yet, again, the Supreme Court of Alabama's decision completely strips him of the ability to bring that claim in state court. It reasoned that he could not challenge the Department's failure to provide him with a reasonable opportunity to appeal because he did not appeal, and therefore did not exhaust. *See* Pet. App. 12a. If, as Mr. Williams claims, the Department's procedures are inadequate, the Department should not be able to use the very inadequacy of those procedures as a basis for dismissing for failure to exhaust, thus immunizing itself against Mr. Williams' challenges to those procedures.

The practical effect of respondent's position is that petitioners' sole forum to bring their claims is federal court. That outcome is untenable. As the *Felder* Court explained (citing *Patsy*), "[a]lthough it is true that the principal remedy Congress chose to provide injured persons was immediate access to *federal* courts, it did not leave the protection of such rights exclusively in the hands of the federal judiciary, and instead conferred jurisdiction on state courts as well." 487 U.S. at 147 (citing *Patsy*, 457 U.S. at 503-04, 506-07). Similarly, *Haywood* recognized that "state courts as well as federal courts are entrusted with providing a forum for the vindication of federal rights violated by state or local officials acting under color of state law." 556 U.S. at 735 (quoting *Mitchum v. Foster*, 407 U.S. 225, 242 (1972)); *see*

also Maine v. Thiboutot, 448 U.S. 1, 3 n.1 (1980). In fact, "Congress realized that in enacting § 1983 it was altering the balance of judicial power between the state and federal courts," but "in doing so, Congress was adding to the jurisdiction of the federal courts, not subtracting from that of the state courts." *Allen v. McCurry*, 449 U.S. 90, 99 (1980); *see also Monroe*, 365 U.S. at 183 ("The federal remedy is supplementary to the state remedy"). In view of those authorities, the Supreme Court of Alabama should not be permitted to wipe out petitioners' access to a federal remedy via an exhaustion requirement.

CONCLUSION

The judgment of the Supreme Court of Alabama should be reversed.

Respectfully submitted,

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