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 CONSTITUTIONAL ACCOUNTABILITY CENTER AS *AMICUS CURIAE* IN SUPPORT OF PETITIONERS

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INTEREST OF *AMICUS CURIAE*[1]

Constitutional Accountability Center (CAC) is a think tank and public interest law firm dedicated to fulfilling the progressive promise of the Constitution's text and history. CAC works in our courts, through our government, and with legal scholars to improve understanding of the Constitution and to preserve the rights and freedoms it guarantees. CAC has a strong interest in ensuring meaningful access to the courts, in accordance with constitutional text and history and with a proper understanding of 42 U.S.C. § 1983. It therefore has an interest in this case.

INTRODUCTION AND SUMMARY OF ARGUMENT

Section 1983, a landmark statute from the Reconstruction era, provides a right to sue "[e]very person" who under color of state law or custom deprives another person of "any rights" secured by the Constitution or federal law. 42 U.S.C. § 1983. Petitioners here allege that the Alabama Department of Labor failed to timely act on their unemployment claims or provide notices and hearings to which they were entitled, and they sued in state court under Section 1983 to vindicate their rights under the Due Process Clause and the Social Security Act. The Alabama Supreme Court's conclusion that they may not go to court until they exhaust their administrative remedies—seeking recourse from the same officials who allegedly deprived them of their rights in the first place—is at odds with

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[1] No counsel for a party authored this brief in whole or in part, and no counsel or party made a monetary contribution intended to fund its preparation or submission. No person other than *amicus* or its counsel made a monetary contribution to its preparation or submission.

the text and history of Section 1983, as well as firmly settled precedent. This Court should reverse.

Section 1983 was enacted to "alter[] the relationship between the States and the Nation with respect to the protection of federally created rights." *Mitchum v. Foster*, 407 U.S. 225, 242 (1972). Its text and history reveal three key points that are relevant here.

First, Section 1983's "central purpose" is "to provide compensatory relief to those deprived of their federal rights by state actors," *Felder v. Casey*, 487 U.S. 131, 141 (1988), "notwithstanding any provision of state law to the contrary," *Patsy v. Bd. of Regents,* 457 U.S. 496, 504 (1982). Section 1983 was enacted because many states were not adequately protecting individual rights and were enforcing their own laws selectively and discriminatorily. The new remedy it supplied was therefore designed to vindicate "federally secured rights," *Smith v. Wade*, 461 U.S. 30, 34 (1983), and be "supplementary to any remedy any State might have," *Health & Hosp. Corp. of Marion Cnty. v. Talevski*, 599 U.S. 166, 177 (2023) (quoting *Owens v. Okure*, 488 U.S. 235, 248 (1989)).

Second, Congress understood that plaintiffs would have the option of bringing Section 1983 claims in state court. Although a crucial innovation of Section 1983 was providing access to the federal courts when states violated their own citizens' rights, Congress also knew that "state courts as well as federal courts [would be] entrusted with providing a forum for the vindication of federal rights." *Haywood v. Drown*, 556 U.S. 729, 735 (2009). And while Congress was acutely aware that Southern judicial systems in 1871 were plagued with discrimination and malfeasance, making access to the federal courts necessary, Congress did not block victims from resorting to state courts in the

future if reform efforts succeeded in making those courts hospitable forums for accountability.

Third, Section 1983 does not allow state policies or judicial practices to frustrate the remedy it provides. Congress recognized that this new federal remedy would sometimes require states to change how they administered their own court systems. Indeed, that was the point. By 1871, in response to the refusal of state officials to enforce the law impartially, Congress already had enacted legislation that contemplated substantial intrusion into state criminal justice systems—disregarding objections that these measures unduly intruded into the management of state courts. Recognizing the need for yet more reforms, Congress passed Section 1983 to afford prompt relief when state officials "violate the provisions of the Constitution or the law of the United States." Cong. Globe, 42d Cong., 1st Sess. 501 (1871) (Sen. Frelinghuysen). In light of that aim, Congress did not expect "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 133.

In keeping with Section 1983's text and history, it is "the settled rule" that "exhaustion of state remedies is *not* a prerequisite to an action under 42 U.S.C. § 1983." *Pakdel v. City & Cnty. of San Francisco*, 594 U.S. 474, 475 (2021) (quoting *Knick v. Township of Scott*, 588 U.S. 180, 185 (2019)). For more than six decades, *see McNeese v. Bd. of Educ.*, 373 U.S. 668 (1963), this Court has consistently held 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. That settled rule applies in state as well as federal court, because states'

authority to "prescribe the rules and procedures governing suits in their courts . . . . does not extend so far as to permit States to place conditions on the vindication of a federal right." *Felder*, 487 U.S. at 147.

Under this longstanding precedent, it is clear that Petitioners, who have already waited months (if not years) for the Alabama Department of Labor to act on their claims for unemployment benefits, need not await further action by the state before they can bring their Section 1983 claims to vindicate their federal rights. As this Court has previously explained, Section 1983 could not serve its purpose if "those injured by governmental wrongdoers could be required, as a condition of recovery, to submit their claims to the government responsible for those injuries." *Id.* at 142.

The fact that a state's exhaustion requirement takes the form of a jurisdictional rule does not change things, as this Court has repeatedly held. "The force of the Supremacy Clause is not so weak that it can be evaded by mere mention of the word 'jurisdiction,'" and even a state's "neutral procedural rules" can be preempted when they clash with the vindication of federal claims under Section 1983. *Howlett v. Rose*, 496 U.S. 356, 382-83, 372 (1990). A state like Alabama that has "made the decision to create courts of general jurisdiction" that entertain other Section 1983 suits may not selectively block "a particular species of suits—those seeking damages relief against [specific] officers—that the State deems inappropriate for its trial courts." *Haywood*, 556 U.S. at 739-40. Contrary to the view of the Alabama Supreme Court, states do not have "unfettered authority to determine whether their local courts may entertain a federal cause of action." *Id.* at 740 n.7 (quotation marks omitted). Indeed, "this theory of the Supremacy Clause" has been

"raised and squarely rejected" on multiple occasions. *Id.*

If this Court were to buck precedent now and hold otherwise, it would relegate Section 1983 plaintiffs who choose to bring their claims in state court to second-class status, subjecting them to burdensome requirements that would "produce different outcomes in § 1983 litigation based solely on whether the claim is asserted in state or federal court." *Felder*, 487 U.S. at 138. But "States may not apply such an outcome-determinative law when entertaining substantive federal rights in their courts." *Id.* at 141.

Consistent with precedent, and the text and history of Section 1983, this Court should ensure that those whose federal rights have been violated by state officials can have their day in court—and have it without delay. This Court should reverse.

ARGUMENT

I. Section 1983 Was Passed to Allow the Vindication of Federal Rights in Court Notwithstanding Contrary State Policies.

Section 1983, which derives from the Civil Rights Act of 1871, provides a right of action to redress violations of "any rights" secured by federal law, 42 U.S.C. § 1983, regardless of a state's policies or practices. Indeed, the statute was enacted "to protect the people from unconstitutional action under color of state law." *Patsy*, 457 U.S. at 503 (quoting *Mitchum*, 407 U.S. at 242). Its text and history reveal three critical points that bear on Alabama's effort to make Petitioners exhaust their administrative remedies before asserting their federal rights in court.

First, the "central purpose" of Section 1983 was "to provide compensatory relief to those deprived of

their federal rights by state actors," *Felder*, 487 U.S. at 141, including the right to due process at the hands of state officials, "notwithstanding any provision of state law to the contrary," *Patsy,* 457 U.S. at 504. The Act's initial function, after all, was "to Enforce the Provisions of the Fourteenth Amendment," ch. 22, 17 Stat. 13, 13 (Apr. 20, 1871), which imposed due process obligations on the states along with other constitutional protections for individual liberty. Section 1983's passage embodied "one of the fundamental . . . revolutions effected in our Government" by that Amendment, which "gives Congress affirmative power . . . to save the citizen from the violation of any of his rights by State Legislatures." Cong. Globe, 42d Cong., 1st Sess. 577 (1871) (Sen. Carpenter). In short, Section 1983 and "the Fourteenth Amendment it was enacted to enforce" were both "crucial ingredients in the basic alteration of our federal system," *Patsy,* 457 U.S. at 503, providing new guarantees of "basic federal rights against state power," *Mitchum*, 407 U.S. at 239.

Section 1983 was necessary because state governments across the South were not adequately protecting individual rights. Formerly enslaved persons and their Union-supporting allies were being targeted for violence with the consent, and sometimes the involvement, of local authorities. Worse, these "outrages committed upon loyal people" went unpunished, although "[v]igorously enough [we]re the laws enforced against Union people." Cong. Globe, 42d Cong., 1st Sess. 505 (1871) (Sen. Pratt); *see Adickes v. S.H. Kress & Co.*, 398 U.S. 144, 167 (1970) (noting "the persistent and widespread discriminatory practices of state officials"). Congressional debates chronicled not only "the alarming insecurity of life, liberty, and property in the Southern States," but also "the refuge that local authorities extended to the authors of these outrageous

incidents." *Wilson v. Garcia*, 471 U.S. 261, 276 (1985). Members of Congress concluded that "the local administrations have been found inadequate or unwilling to apply the proper corrective. . . . Immunity is given to crime, and the records of the public tribunals are searched in vain for any evidence of effective redress." Cong. Globe, 42d Cong., 1st Sess. 374 (1871) (Rep. Lowe).

In response, Section 1983 created "a private right of action to vindicate violations of rights, privileges, or immunities secured by the Constitution." *Rehberg v. Paulk*, 566 U.S. 356, 361 (2012) (quotation marks omitted). Although Congress could not "compel proper legislation and its enforcement," it could "deal with the offenders who violate the privileges and immunities of citizens of the United States" by giving "the injured party . . . an original action." Cong. Globe, 42d Cong., 1st Sess. 501 (1871) (Sen. Frelinghuysen).

Because Section 1983's central function was "to provide a remedy where state law was inadequate," this remedy was understood to be "supplementary to any remedy any State might have." *McNeese*, 373 U.S. at 672; *see* Cong. Globe, 42d Cong., 1st Sess. 370 (1871) (Rep. Monroe) ("life, liberty, and property require *new guarantees* for their security" (emphasis added)). Regardless of what relief a state might choose to afford, "Congress entitled those deprived of their civil rights to recover full compensation from the governmental officials responsible for those deprivations." *Felder*, 487 U.S. at 153.

Second, Congress understood that plaintiffs would have the option of utilizing Section 1983 to vindicate their rights in state court. Although a key innovation of Section 1983 was "to interpose the federal courts between the States and the people, as guardians of the people's federal rights," Congress also knew that

"state courts as well as federal courts [would be] entrusted with providing a forum for the vindication of federal rights." *Haywood*, 556 U.S. at 735.

As this Court has explained, "many legislators 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." *Patsy*, 457 U.S. at 506; *see, e.g.*, Cong. Globe, 42d Cong., 1st Sess. 578 (1871) (Sen. Edmunds) (comparing the bill with an earlier law permitting "redress through the judiciary, either of the State in the first instance or of the United States in the first instance"); *id.* (Sen. Trumbull) (confirming that "we provide in the bill before us for redress through the judiciary in the same way"); *id.* at App. 216 (Sen. Thurman) ("It leaves it, I presume, in the option of the person who imagines himself to be injured to sue in the State court or in the Federal court . . . .").

That interpretation followed naturally from the Supremacy Clause, under which "federal law is as much the law of the several States as are the laws passed by their legislatures," *Haywood*, 556 U.S. at 734, and "[t]he two together form one system of jurisprudence, which constitute the law of the land for the State," *Claflin v. Houseman*, 93 U.S. 130, 137 (1876); *see* Cong. Globe, 42d Cong., 1st Sess. App. 85 (Rep. Bingham) (acknowledging that "the States have concurrent power to enforce the Constitution of the United States within their respective limits").

Thus, Section 1983 "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." *Felder*, 487 U.S. at 147. While federal courts are the "chief" venue "for enforcement of federal rights," they are not the "exclusive" one. *McNeese*, 373 U.S. at 672.

To be sure, Congress knew that Southern judicial systems in 1871 were plagued with discrimination and malfeasance. Indeed, this was the principal reason for Section 1983's passage. But the statute did not block victims from resorting to state courts in the future if reform efforts succeeded in transforming them into hospitable forums for accountability. Instead, Section 1983 aimed "to secure to the individual, in spite of the State, *or with its aid, as the case might be*, precisely the rights that the Constitution gave him." Cong. Globe, 42d Cong., 1st Sess. 692 (1871) (Sen. Edmunds) (emphasis added).

Third, Congress made clear that state policies and judicial practices cannot be allowed to frustrate the remedy that Section 1983 provides. In the event of a clash, state policy must yield to the national interest in safeguarding federal rights.

Congress recognized that its new federal remedy would sometimes require changes in the way states administered their own court systems. Indeed, that was the point. By 1871, Congress already had enacted legislation that contemplated substantial intrusion into state criminal justice systems in response to Southern states' refusal to treat their citizens equally. Recognizing the need for additional reforms, *see Talevski*, 599 U.S. at 176, Congress passed Section 1983 to further elevate federal rights over obstructionist local policies and practices.

At the core of Reconstruction-era civil rights legislation was an attempt to cure the widespread malfeasance that was corrupting state judicial systems. After the Civil War, Southern prosecutors, judges, and juries routinely refused to hold accountable those who committed violence against African Americans and Union sympathizers. Those two groups were also targeted for

"civil and criminal prosecutions to punish and intimidate." David Achtenberg, *With Malice Toward Some:* United States v. Kirby*, Malicious Prosecution, and the Fourteenth Amendment*, 26 Rutgers L.J. 273, 275 (1995). Meanwhile, "Southern States enacted Black Codes to subjugate newly freed slaves and maintain the prewar racial hierarchy," *Timbs v. Indiana,* 139 S. Ct. 682, 688 (2019), and these new laws "envisioned that the southern criminal justice system would be the primary enforcement mechanism," Donald H. Zeigler, *A Reassessment of the* Younger *Doctrine in Light of the Legislative History of Reconstruction*, 1983 Duke L.J. 987, 994 (1983). Many of the Black Codes "expressly excluded blacks from . . . securing access to the courts." Paul R. Dimond, *Strict Construction and Judicial Review of Racial Discrimination Under the Equal Protection Clause: Meeting Raoul Berger on Interpretivist Grounds*, 80 Mich. L. Rev. 462, 474 (1982).

"The 39th Congress focused on these abuses during its debates over the Fourteenth Amendment, the Civil Rights Act of 1866, and the Freedmen's Bureau Act." *Timbs*, 139 S. Ct. at 697 (Thomas, J., concurring in the judgment). Congress first considered the Freedmen's Bureau bill in 1866. Designed to address the maladministration of justice in the South, the bill prohibited disparate treatment in state court systems and "contemplated extensive federal intervention in the administration of justice," Zeigler, *supra*, at 997, by giving the Freedmen's Bureau jurisdiction over violations of its provisions, *see* Cong. Globe, 39th Cong., 1st Sess. 209-10 (1866).

Soon after, Congress passed the Civil Rights Act of 1866, which guaranteed "full and equal benefit of all laws and proceedings for the security of person and property." An Act to Protect All Persons in the United States in Their Civil Rights and Liberties, and Furnish

the Means of Their Vindication, ch. 31, § 1, 14 Stat. 27, 27 (Apr. 9, 1866). In addition to authorizing criminal penalties for violating its provisions, *id.* § 2, the Act permitted civil actions by people who were denied their statutory rights or who could not enforce those rights "in the courts or judicial tribunals of the State," *id.* § 3.

Opponents of these measures objected that they would interfere with state court systems. Representative Bingham, for instance, remarked that they would affect "the whole civil and criminal code of every State government," Cong. Globe, 39th Cong., 1st Sess. 1293 (1866), which he viewed as beyond Congress's pre–Fourteenth Amendment authority. Another opponent argued that the bill would "regulat[e] the internal affairs of the States" by "defraud[ing] [them] of the right of determining . . . who shall sue and be sued, and who shall give evidence in [their] courts." *Id.* at 478 (Sen. Saulsbury). Still others opined that the bill would "destroy the independence of the State judiciary." *Id.* at 1154 (Rep. Eldridge). The majority of Congress was unmoved by these objections, however, and the Act passed overwhelmingly. Zeigler, *supra*, at 1001.[2]

The next month, Congress expanded an 1863 habeas corpus statute that permitted removal to federal court of proceedings against individuals for acts done under color of federal authority. *See* An Act Relating to Habeas Corpus, and Regulating Judicial Proceedings in Certain Cases, ch. 81, § 5, 12 Stat. 755, 756 (Mar. 3, 1863). The impetus for the 1866 expansion was "the hostility and anti-Union prejudice of the

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[2] The broad grant of jurisdiction given to the federal courts in the 1866 Civil Rights Act supplanted the similar grant of jurisdiction that was initially contemplated for the Freedmen's Bureau.

Southern state courts and of the use of state court proceedings to harass those whom the Union had an obligation to protect." Anthony G. Amsterdam, *Criminal Prosecutions Affecting Federally Guaranteed Civil Rights: Federal Removal and Habeas Corpus Jurisdiction to Abort State Court Trial*, 113 U. Pa. L. Rev. 793, 825 (1965) (footnote omitted). Accordingly, the 1866 amendments permitted damages suits against judges and other state officers who refused to properly consider motions to remove cases to federal court. *See* An Act to Amend an Act Entitled "An Act Relating to Habeas Corpus, and Regulating Judicial Proceedings in Certain Cases," ch. 80, § 4, 14 Stat. 46, 46 (May 11, 1866).

In 1871, following reports of continued violence against African Americans and the refusal of Southern states to take this breakdown of justice seriously, the 42nd Congress considered a second Civil Rights Act. As it debated this legislation, which ultimately created Section 1983, Congress heard about problems infecting almost every aspect of the state court systems in the South.

Most notably, Congress learned that juries refused to indict or convict individuals who committed violence against Black people and their allies, and that judges themselves refused to administer justice impartially. *See* Cong. Globe, 42d Cong., 1st Sess. 157-58 (1871) (Sen. Sherman) ("no man has ever been convicted or punished for any of these offenses"); *id.* at 201 (Sen. Nye) (declaring that rampant perjury by witnesses and jurors had made state courts "a mockery"); *id.* at 334 (Rep. Hoar) ("the jurors of South Carolina constantly and as a rule refuse to do justice between man and man where the rights of a particular class of its citizens are concerned"); *id.* at 394 (Rep. Rainey) ("the courts are in many instances under the control of those

who are wholly inimical to the impartial administration of law"); *id.* at 429 (Rep. Beatty) (referencing "prejudiced juries" and "bribed judges"); *id.* at 481 (Rep. Wilson) (noting the "corruption of courts, or juries, or witnesses"); *id.* at 487 (Rep. Lansing) (observing that "[t]he courts are closed" and juries are "intimidated or in complicity with the enemies of the Government"); *id.* at App. 193 (Rep. Buckley) (explaining that it was "impossible, first, to get a grand jury to find a true bill, and if once found, it [was] still more impossible to convict before a petit or trial jury, however strong the proof").

As one Senator put it, "the State courts . . . have been unable to enforce the criminal laws of their respective States," making it imperative that Congress "enact the laws necessary for the protection of citizens of the United States." *Id.* at 653 (Sen. Osborn). President Grant agreed that "the power to correct these evils is beyond the control of State authorities," and he recommended legislation to "effectually secure life, liberty, and property, and the enforcement of law in all parts of the United States." *Id.* at 173.

That is exactly what Congress did, creating a broad remedy that provided a cause of action in law or equity against "any person" who, "under color of any law, statute, ordinance, regulation, custom, or usage of any State," deprived another person of "any rights, privileges, or immunities secured by the Constitution . . . any such law, statute, ordinance, regulation, custom, or usage of the State to the contrary notwithstanding." An Act to Enforce the Provisions of the Fourteenth Amendment to the Constitution of the United States, and for Other Purposes, ch. 22, § 1, 17 Stat. at 13. As one member of Congress remarked, "every citizen . . . should have a remedy against the locality whose duty it was to protect him and which had

failed on its part." Cong. Globe, 42d Cong., 1st Sess. 449 (1871) (Rep. Butler). Congress was "driven by existing facts to provide for the several States in the South what they have been unable fully to provide for themselves, i.e., the full and complete administration of justice in the courts." *Id.* at 653 (Sen. Osborn).

Congress thus fully understood that Section 1983's remedy would require state courts to abandon obstruction, discrimination, and inaction in cases involving federal rights. The statute would afford relief "when the courts of a State violate the provisions of the Constitution or the law of the United States." *Id.* at 501 (Sen. Frelinghuysen). The bill's opponents shared that understanding, complaining that it would "invade the provinces of the State courts with new laws and systems of administration." *Id.* at App. 258 (Rep. Holman).

In light of Section 1983's goals and the abuses it sought to rectify, Congress did not anticipate that state executive officials accused of violating federal rights could be made the gatekeepers over their victims' ability to contest those violations in court. True, legislators may not have specifically discussed exhaustion of remedies or have been "aware of the potential role of state administrative agencies." *Patsy*, 457 U.S. at 507. But Congress would not have provided immediate access to the federal courts in spite of obstructionist state laws, "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.

II. This Court Has Consistently Held that Section 1983 Plaintiffs Cannot Be Required to Exhaust Administrative Remedies Before Turning to the Courts.

In keeping with Section 1983's text and history, this Court has consistently recognized that requiring Section 1983 plaintiffs to comply with state exhaustion requirements would undermine their ability to vindicate their "federally secured rights." *Smith,* 461 U.S. at 34. It has long been "the settled rule," therefore, "that exhaustion of state remedies is *not* a prerequisite to an action under 42 U.S.C. § 1983." *Pakdel*, 594 U.S. at 475 (quoting *Knick*, 588 U.S. at 185).

In *Monroe v. Pape*, 365 U.S. 167 (1961), this Court held that Section 1983 plaintiffs need not seek relief in state court before bringing claims in federal court. Rejecting the argument that exhaustion of state judicial remedies was required because state courts could provide "full redress," *Monroe* explained that Section 1983 was enacted "because, by reason of prejudice, passion, neglect, intolerance or otherwise, state laws might not be enforced" and federally guaranteed rights "might be denied by the state agencies." *Id.* at 172, 180. Because "[t]he federal remedy is supplementary to the state remedy, . . . the latter need not be first sought and refused before the federal one is invoked." *Id.* at 183.

This Court extended that reasoning to exhaustion of *administrative* remedies in *McNeese v. Board of Education*, rejecting a requirement that the plaintiffs, before bringing their Section 1983 claims, first pursue administrative steps that would enable the state attorney general to act on their behalf. This Court held that the plaintiffs could not be forced to exhaust that remedy, which would have been an exercise in futility. 373 U.S. at 674-75. As *McNeese* noted, Section 1983's purpose was in part "to provide a remedy where state law

was inadequate, 'to provide a federal remedy where the state remedy, though adequate in theory, was not available in practice,' and to provide a remedy in the federal courts supplementary to any remedy any State might have." *Id.* at 672 (quoting *Monroe*, 365 U.S. at 180-83) (citation omitted).

In *Patsy v. Board of Regents*, this Court squarely reaffirmed "that exhaustion is not a prerequisite to an action under § 1983." 457 U.S. at 501. Even if *Patsy* could be construed as holding only that Section 1983 does not itself require exhaustion, *see infra* Part III, the reasons this Court gave for that conclusion foreclose *any* effort to burden Section 1983 plaintiffs with exhaustion requirements.

Among other things, this Court emphasized that Section 1983's passage was motivated by a recognition that "state authorities had been unable or unwilling to protect the constitutional rights of individuals or to punish those who had violated these rights." *Patsy*, 457 U.S. at 505. Thus, Congress aimed to supply a remedy to those whose constitutional rights were violated, "and to provide these individuals *immediate* access to the federal courts notwithstanding any provision of state law to the contrary." *Id.* at 504 (emphasis added). *Patsy* also discussed the "mistrust that the 1871 Congress held for the factfinding processes of state institutions," describing this "perceived defect [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.* at 506.

While *Patsy* arose in the context of a federal court case, *Felder v. Casey* recognized that its reasoning applies just as readily to cases brought in state courts. *Felder* held that a Wisconsin law requiring plaintiffs

to notify state or local entities months before bringing legal action against them in state court was inconsistent with both *Patsy* and Section 1983. That was largely because "the notice provision impose[d] an exhaustion requirement on persons who choose to assert their federal right in state courts." *Felder*, 487 U.S. at 146. Although states may "prescribe the rules and procedures governing suits in their courts," that authority "does not extend so far as to permit States to place conditions on the vindication of a federal right." *Id.* at 147. The notice requirement had to yield, this Court explained, because it "conflicts . . . with the remedial objectives of § 1983," and because its enforcement would "produce different outcomes in § 1983 litigation based solely on whether the claim is asserted in state or federal court." *Id.* at 138.

This Court again underscored that exhaustion requirements cannot be imposed on Section 1983 plaintiffs in *Knick v. Township of Scott*. The plaintiffs in *Knick* were stymied by this Court's holding in an earlier case that "a property owner whose property has been taken by a local government has not suffered a violation of his Fifth Amendment rights—and thus cannot bring a federal takings claim in federal court—until a state court has denied his claim for just compensation under state law." 588 U.S. at 184. Overruling that precedent, *Knick* reasoned that it was inconsistent with "the settled rule that 'exhaustion of state remedies is *not* a prerequisite to an action under [Section 1983].'" *Id.* at 185 (quoting *Heck v. Humphrey*, 512 U.S. 477, 480 (1994)); *see Pakdel*, 594 U.S. at 479 (explaining that *Knick* reversed the Court's prior holding because it "effectively established an exhaustion requirement for § 1983 takings claims").

Most recently, this Court vacated a lower court decision requiring Section 1983 plaintiffs to exhaust local

administrative procedures before bringing a takings challenge, once again citing the "settled rule . . . that exhaustion of state remedies is *not* a prerequisite to an action under . . . § 1983." *Pakdel*, 594 U.S. at 475 (quoting *Knick*, 588 U.S. at 185).

In sum, for more than 60 years, this Court has unvaryingly rejected efforts to make Section 1983 plaintiffs exhaust administrative remedies before seeking to vindicate their federal rights in court. This Court should do the same here, as the next Section explains.

III. Alabama Cannot Compel Petitioners to Exhaust Administrative Remedies Before Pursuing Relief Under Section 1983.

According to Petitioners, after they sought unemployment compensation from the Alabama Department of Labor, the Department failed them at every turn. They were forced to wait months or more before receiving initial determinations on their claims, and some never received determinations at all. The Department stopped or denied benefits for some Petitioners without providing adequate notice or, in some cases, any notice. And when some Petitioners sought to appeal the Department's determinations, the Department did not schedule hearings on those determinations. Filing suit under Section 1983, Petitioners alleged that this administration of Alabama's unemployment compensation scheme violated their rights under both the Due Process Clause of the Fourteenth Amendment and the Social Security Act of 1935, 42 U.S.C. § 503(a)(1).

Alabama's courts, however, threw out Petitioners' Section 1983 claims because "none of those claims have made their way through the mandatory administrative-review process." Pet. App. 9a. In other words, the courts held, Petitioners may not vindicate their

federal rights under Section 1983 in state court unless they have "first gone through the requisite administrative procedures," *id.*, even though, as Petitioners argued, "procedural administrative-exhaustion requirements, such as those contained in § 25-4-96, have been 'categorically rejected by the United States Supreme Court,'" *id.* at 10a-11a (quoting the plaintiffs' brief).

The Alabama Supreme Court gave two reasons for dismissing Petitioners' federal claims despite this Court's clear guidance. First, the court asserted, with no supporting analysis, that *Patsy* "held only that the text of 42 U.S.C. § 1983 . . . lacks an exhaustion requirement." *Id.* at 11a. As an initial matter, that interpretation is difficult to reconcile with the opinion. *E.g.*, *Patsy*, 457 U.S. at 500 (asking "whether exhaustion of administrative remedies should ever be required in a § 1983 action"); *id.* at 516 ("we conclude that exhaustion of state administrative remedies should not be required as a prerequisite to bringing an action pursuant to § 1983"). But even if *Patsy*'s holding could be so narrowly construed, the reasons this Court gave for that holding apply just as strongly when states make administrative exhaustion a prerequisite for Section 1983 actions in state court. This Court confirmed that in *Felder* and subsequent cases, *see supra* at 16-17, none of which the Alabama Supreme Court even mentioned.

As *Felder* explained, it would undermine Section 1983's ability to provide "compensatory relief to those deprived of their federal rights" if "those injured by governmental wrongdoers could be required, as a condition of recovery, to submit their claims to the government responsible for those injuries." 487 U.S. at 141-42. That problem is especially obvious in cases like this one, where the plaintiffs' injury is that a state

agency afforded them inadequate or nonexistent process, often by failing to render decisions, yet state law bars the plaintiffs from seeking judicial relief until they first obtain those very decisions. *Cf. Barry v. Barchi*, 443 U.S. 55, 63 n.10 (1979) ("exhaustion of administrative remedies is not required when 'the question of the adequacy of the administrative remedy . . . [is] for all practical purposes identical with the merits of [the plaintiff's] lawsuit'" (quoting *Gibson v. Berryhill*, 411 U.S. 564, 575 (1973) (alterations in original))).

The Alabama Supreme Court's other rationale was that the exhaustion requirement here is part of a jurisdictional provision, and Section 1983 cannot "compel State courts to adjudicate federal claims that lie outside the State courts' jurisdiction." Pet. App. 11a. This Court has explicitly and repeatedly rejected that sort of argument.

"States may apply their own neutral procedural rules to federal claims, *unless* those rules are preempted by federal law." *Howlett*, 496 U.S. at 372 (citing *Felder*, 487 U.S. 131) (emphasis added). And "[t]he force of the Supremacy Clause is not so weak that it can be evaded by mere mention of the word 'jurisdiction.'" *Id.* at 382-83. "Indeed, if this argument had merit, the State of Wisconsin could overrule our 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." *Id.*

Although there might be questions about the extent to which the federal government can compel states to provide a judicial forum for federal causes of action, it is unnecessary to resolve such questions here. When a state has "made the decision to create courts of general jurisdiction that regularly sit to entertain analogous suits," as Alabama has, that state "is

not at liberty to shut the courthouse door to federal claims that it considers at odds with its local policy," including by blocking "a particular species of suits—those seeking damages relief against [selected] officers—that the State deems inappropriate for its trial courts." *Haywood*, 556 U.S. at 739-40.

Alabama's policy of shielding its labor department officials from suit by denying jurisdiction over claims that have not been administratively exhausted is no different from New York's unconstitutional attempt, in *Haywood*, to "prohibit[] [its] trial courts that generally exercise jurisdiction over § 1983 suits brought against other state officials from hearing virtually all such suits brought against state correction officers." *Id.* at 731. Such "exceptional treatment of a limited category of § 1983 claims" is inconsistent with the Supremacy Clause, because "[a] jurisdictional rule cannot be used as a device to undermine federal law." *Id.* at 731, 739.

Ultimately, the Alabama Supreme Court's reasoning boils down to the notion "that States have unfettered authority to determine whether their local courts may entertain a federal cause of action." *Id.* at 740 n.7 (quotation marks omitted). "But this theory of the Supremacy Clause was raised and squarely rejected in *Howlett*." *Id.* And this Court could not have been clearer in *Haywood* that "we again reject it." *Id.*

The Court should do the same here. Like *Haywood*, this case involves "a law designed to shield a particular class of defendants," *i.e.*, labor department officials, "from a particular type of liability," *i.e.*, injunctive relief concerning unemployment benefits, "brought by a particular class of plaintiffs," *i.e.*, claimants. *Id.* at 741-42. And like the other cases rejecting exhaustion requirements for Section 1983 plaintiffs, giving force to the state's jurisdictional rule here would "produce different outcomes in § 1983 litigation based

solely on whether the claim is asserted in state or federal court." *Felder*, 487 U.S. at 138. "States may not apply such an outcome-determinative law when entertaining substantive federal rights in their courts." *Id.* at 141.

To be sure, these settled principles sometimes require state courts to hear cases that they otherwise would not. But Congress understood when enacting Section 1983 that this new federal remedy would sometimes interfere with existing state court processes when those processes prevent individuals from vindicating their federal rights. As discussed above, that was the point. Section 1983 was a response to problems with the administration of justice in state courts and was designed to ensure that individuals whose federal rights were violated could obtain prompt redress, whether in federal or state court. *See supra* Part I.

The Alabama Supreme Court's decision would subject Section 1983 plaintiffs who seek to bring their claims in state court to second-class status, forced to overcome obstacles they would not face in federal court. Such a disparity is at odds with the text and history of Section 1983, as well as settled precedent. This Court should reverse.

CONCLUSION

For the foregoing reasons, the judgment of the Supreme Court of Alabama should be reversed.

Respectfully submitted,

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