No.

In the Supreme Court of the United States

JONATHAN PEOPLES, PETITIONER,

v.

COOK COUNTY AND THOMAS J. DART

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

PETITION FOR A WRIT OF CERTIORARI

JOHN MARRESE
HART MCLAUGHLIN & ELDRIDGE
One South Dearborn
Suite 1400
Chicago, Illinois 60603
(312) 971-9074
jmarrese@hmelegal.com

ANDREW T. TUTT
Counsel of Record
WINSTON KIRBY MAYO
ZACHARY A. WOODWARD
ARNOLD & PORTER KAYE SCHOLER LLP
601 Massachusetts Ave., NW
Washington, DC 20001
(202) 942-5000
andrew.tutt@arnoldporter.com

QUESTION PRESENTED

This case concerns the constitutional rights of those subject to "overdetention,"—*i.e.*, incarceration beyond the end of one's prison sentence for non-punitive reasons. Circuits are divided over the source and resulting scope of any constitutional rights against overdetention.

The Fourteenth Amendment provides that no State may "deprive any person of life, liberty, or property, without due process of law." U.S. Const. amend. XIV, Sec. 1. The Eighth Amendment provides that "cruel and unusual punishment" shall not be inflicted. U.S. Const. amend. VIII. Notwithstanding these independent precepts, the court below "decline[d]" even to consider petitioner's Fourteenth Amendment claim because it held that for persons subject to overdetention, the Eighth Amendment provides an "explicit textual source of constitutional protection against a particular sort of government behavior." Pet. App. 12a. (quoting *County of Sacramento v. Lewis*, 523 U.S. 833, 842 (1998) (alteration in panel opinion)). In so holding, the Seventh Circuit reaffirmed its own rule that is both (1) flagrantly contradicted by the Eighth Amendment's text, and (2) in open and acknowledged conflict with its sister circuits.

The question presented is:

Whether the Eighth Amendment provides the sort of explicit textual source of constitutional protection for "overdetention" such that the Eighth Amendment, not substantive due process, must be the exclusive guide for analyzing claims of unconstitutional "overdetention."

RELATED PROCEEDINGS

United States District Court (N.D. Ill.):

Peoples v. Cook County et al, No. 1:19-cv-07712 (Feb. 9, 2023)

United States Court of Appeals (7th Cir.):

Peoples v. Cook County et al, No. 23-1454 (Feb. 18, 2025)

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OPINIONS BELOW

The opinion of the United States Court of Appeals for the Seventh Circuit (Pet. App. 1a-17a) is published at 128 F.4th 901. The opinion of the United States District Court for the Northern District of Illinois (Pet. App. 18a-39a) is unpublished but available at 2023 WL 12032469.

JURISDICTION

The judgment of the court of appeals was entered on February 18, 2025. Pet. App. 17a. The jurisdiction of this Court is invoked under 28 U.S.C. § 1254(1).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The relevant constitutional and statutory provisions are reproduced in the petition appendix at Pet. App. 40a-44a.

STATEMENT OF THE CASE

This case concerns the constitutional rights of those subject to "overdetention"—*i.e.*, incarceration beyond the end of one's prison sentence for non-punitive reasons. The question presented is one that circuit courts are squarely divided over, and it raises important matters of constitutional liberty.

In the proceedings below, the Seventh Circuit and the district court declared that they could not analyze an overdetention case under the Due Process Clause of the Fourteenth Amendment because, in the Seventh Circuit's view, the Eighth Amendment provides "explicit textual" protection—and thus exclusive protection—against overdetention, thereby foreclosing any substantive due process claim. The Seventh Circuit's "textual" reading of the Eighth Amendment—that it extends beyond "punishment" to non-punitive detentions associated with

deleterious administrative process—is plainly wrong. Doubly wrong is the Seventh Circuit's holding that due process claims in this context are thus foreclosed. Indeed, this Court and several circuit courts have recognized—some explicitly and some implicitly—that overdetention is a deprivation of liberty properly analyzed under the Due Process Clause. Rather than address the Eighth Amendment's text or this Court's precedent, or explain why sister circuits are wrong to analyze overdetention claims under the Due Process Clause, the Seventh Circuit and district court proceeded solely with an Eighth Amendment analysis without ever considering petitioner's due process claims. Petitioner was thus denied any judicial review of a fundamental liberty claim that would have been available had he been overdetained in several other circuits.

This case easily satisfies all traditional criteria for granting review. The conflict—recognized by multiple courts and at least one commentator[1]—is clear and entrenched. The breakpoint is whether the right against overdetention lies in the Due Process Clause, the Eighth Amendment, or both. *See, e.g.*, *Hicks v. LeBlanc*, 81 F.4th 497, 504 (5th Cir. 2023) ("Clear as day, the government cannot hold an inmate without the legal authority to do so, for that would 'deprive' a person of his 'liberty . . . without due process of law. Applying this foundational concept to carceral sentences and releases, it is clearly established that inmates have the right to timely release from prison consistent with the terms of their sentences, a holding we have long-held and repeatedly reaffirmed.'"); *Hicks v. LeBlanc*, 832 F. App'x 836, 840 (5th Cir. 2020) ("The

[1] *See* Sarya Baladi, *Note: Liberty on Hold: The Constitutional Test and Source for Overdetention Claims*, 93 Fordham L. Rev. 657, 662 (2024) ("[E]xamin[ing] the present circuit split over the scope of a constitutional right against overdetention and its source in the Constitution").

Fourteenth Amendment Due Process Clause is violated where a prisoner remains incarcerated after the legal authority to hold him has expired."); *Shorts v. Bartholomew*, 255 F. App'x 46, 51 (6th Cir. 2007) ("This liberty interest [that, when a prisoner's sentence has expired, he is entitled to release] is most often attributed to the Due Process Clause of the Fourteenth Amendment."); *Akande v. United States Marshals Serv.*, 659 F. App'x 681, 683 (2d Cir. 2016) ("[C]ourts have recognized [under the Due Process Clause] that, at the expiration of a sentenced prisoner's term, the legal authority to detain him under that sentence ends, and he is presumptively entitled to be released from prison. . . . Courts have also addressed claims of unwarranted extensions of detention under the rubric of the Eighth Amendment.").

Moreover, contrary to the Seventh Circuit's assertions in the opinion below, at least one other circuit has repeatedly held that any implied right against overdetention in the Eighth Amendment would not supplant a substantive due process claim under the Fourteenth Amendment. *Davis v. Hall*, 375 F.3d 703, 714 (8th Cir. 2004) ("Incarceration beyond the termination of one's sentence may state a claim under the due process clause and the eighth amendment." (citation and internal quotation marks omitted)); *Scott v. Baldwin*, 720 F.3d 1034, 1036 (8th Cir. 2013) ("Under the Eighth and Fourteenth Amendments, the plaintiffs had a clearly established right to be 'free from wrongful, prolonged incarceration.'" (quoting *Davis*, 375 F.3d at 714)).

This conflict between the circuits reflects root-level confusion about when, under this Court's precedent, the protections of one constitutional provision foreclose the availability of a substantive due process claim. *See, e.g.*, Salil Dudani, *Unconstitutional Incarceration: Applying Strict Scrutiny to Criminal Sentences,* 129 Yale L.J. 2112,

2172-74 (2020) ("One might wonder whether the Eighth Amendment preempts substantive due process in the area of criminal punishment. . . . [T]he Court has been less than clear on [that issue].").

It is fundamentally wrong and untenable that persons in the Seventh Circuit are denied the opportunity to bring substantive due process claims that are available to persons in the Second, Fifth, Sixth, and Eighth Circuits. The Seventh Circuit has held that the Eighth Amendment supplants any and all availability of a substantive due process claim from overdetention. In so holding, the Seventh Circuit misconstrues this Court's precedent and breaks from multiple other circuits. Indeed, the Eighth Amendment, which largely concerns whether punishment infringes upon dignity interests, is a poor fit for overdetention cases, which largely concern whether short-term non-penological confinement infringes upon basic liberty interests. And it surely ought not supplant important and applicable substantive due process protections.

The question presented raises legal and practical issues of surpassing importance, and its correct resolution is critical to the interpretation of key constitutional provisions safeguarding individual rights. This case presents an optimal vehicle for resolving these important questions of federal law. The petition should be granted.

1. Petitioner Jonathan Peoples is a graduate of the University of Notre Dame, where he served as team captain of the Fighting Irish men's basketball team. *See* Dist. Ct. Dkt. 1-1, at ¶ 19. Upon graduating, he moved to Chicago, volunteered his time at Boys & Girls Club, and helped coach an Amateur Athletic Union basketball team. *Id.*

2. On the morning of February 15, 2019—the Friday before Presidents' Day weekend—petitioner woke up at home, not in jail. Pet. App. 4a; App. Ct. Dkt. 12, at 3. He

faced a charge of felony possession of a controlled substance in Illinois state court and was subject to electronic monitoring. Pet. App. 4a; App. Ct. Dkt. 12, at 3. That day, after bringing himself from his home to court, he pleaded guilty to that charge at around 1:00 p.m. Pet. App. 4a; App. Ct. Dkt. 12, at 3-4. The state court, in the words of the opinion below, "effectively sentenced Peoples to time-served plus mandatory supervised release."[2] Pet. App. 4a.

Despite walking into court an undetained man and receiving a sentence of "effectively … time-served plus mandatory supervised release," petitioner did not return home that day. Instead, shortly after petitioner's 1:00 p.m. plea hearing and sentencing, the Sheriff's Office detained him and took him to the Cook County Jail, where he was not released until Tuesday, February 19, 2019—four days after he received his "effectively … time-served" sentence. Pet. App. 4a-5a. The ostensible rationale for re-arresting a man who had already served his prison sentence was bureaucratic: The Illinois Department of Corrections (IDOC) was responsible for "processing" inmates transitioning from incarceration to supervised release. Pet. App. 2a-5a. The ostensible rationale for forcing that re-arrested man to spend an additional four days in jail was even more bureaucratic: IDOC's Reception Center did not accept transfers for "processing" after 1:30 p.m. on Fridays, did not accept transfers on the weekends, and did not accept transfers

[2] The court had sentenced petitioner to 365 days of imprisonment and credited him with 217 days he spent in state custody—45 in Cook County Jail and 172 under the electronic monitoring program. Pet. App. 4a. Under 730 ILCS 5/3-6-3(a)(2.1), this credit reduced his sentence to 148 days. Pet. App. 4a. Because his 217 total days in custody exceeded his 148 days sentence, Illinois law deemed petitioner to have already served the carceral portion of his sentence. Pet. App. 4a.

on holidays like Presidents' Day. Pet. App. 3a, 5a. The Sheriff's Office accepted these scheduling rules, not attempting a transfer to IDOC until Tuesday, when IDOC processed and released petitioner on the same day. Pet. App. 5a.

3. On behalf of himself and others similarly situated, petitioner filed in state court a putative class action pursuant to 42 U.S.C. § 1983. Pet. App. 5a. Defendants were Cook County, Illinois and Thomas J. Dart, the Sheriff of Cook County. Based on his re-arrest and four-day incarceration after receiving an effective sentence of time served, petitioner alleged violations of the U.S. Constitution (specifically, the Fourth Amendment, Eighth Amendment, and substantive due process guarantees of the Fourteenth Amendment), the Illinois Constitution, and Illinois state law. Pet. App. 5a, 18a, 29a, 32a. Defendants removed the suit to the U.S. District Court for the Northern District of Illinois. Pet. App. 5a. After close of discovery, defendants moved for summary judgment. Pet. App. 5a.

4. The district court granted defendants' motion. Pet. App. 5a. With respect to the Fourth Amendment claim, the district court ruled that petitioner's "guilty plea forecloses any Fourth Amendment challenge to his overdetention" because the Supreme Court has explained that "[o]nce a trial has occurred, the Fourth Amendment drops out: [a] person challenging the sufficiency of the evidence to support both a conviction and any ensuing incarceration does so under the Due Process Clause of the Fourteenth Amendment." Pet. App. 29a-30a (quoting *Manuel v. City of Joliet ("Manuel I")*, 137 S. Ct. 911, 920 n.8 (2017) (alterations in district court opinion)).

With respect to the Eighth and Fourteenth Amendment claims, the District Court initially observed, "To be sure, authorities differ as to the source of the constitutional right at issue in 'overdetention' cases such

as this: some find it in the Due Process Clause of the Fourteenth Amendment, while others locate it in the cruel and unusual punishments clause of the Eighth Amendment." Pet. App. 32a. It nonetheless found the Eighth Amendment the sole source of relief for an overdetention claim by a person incarcerated post-conviction, thereby granting defendants summary judgment on the Fourteenth Amendment claim. Pet. App. 32a-33a. The district court then granted defendants summary judgment on the Eighth Amendment claim because the four-day "administrative delay" was adequate "penological justification" for the incarceration and petitioner had not shown the requisite "deliberate indifference" on defendants' part to sustain an Eighth Amendment claim. Pet. App. 33a-34a. With the defendants victorious on all three federal claims, the District Court declined to exercise supplemental jurisdiction over petitioner's remaining state law claims. Pet. App. 5a-6a.

5. Petitioner appealed to the Seventh Circuit, arguing (1) the district court erred in finding that the Fourth Amendment was inapplicable to his overdetention claim, (2) the district court erred in finding that the Fourteenth Amendment's Due Process Clause was inapplicable to his overdetention claim, and (3) even if the Eighth Amendment was the applicable standard, the district court erred in finding that he failed to present a triable Eighth Amendment Claim. Pet. App. 6a.

6. The panel of the Seventh Circuit rejected petitioner's arguments on all three claims.

On the Fourth Amendment claim, the panel critiqued the district court's citation to *Manuel I* to say that Fourth Amendment protections "drop out" upon conviction. Pet. App. 8a-9a. Fourth Amendment protections persist post-conviction, the panel stressed, but petitioner's re-arrest was not "a seizure implicating the Fourth Amendment"

because "the Cook County Sheriff's 'legal authority' to detain Peoples did not cease until transfer to IDOC." Pet. App. 8a-9a.

On the Fourteenth Amendment due process claim, the panel noted "several other courts that have identified a protected liberty interest and substantive due process right against overdetention in the Fourteenth Amendment." Pet. App. 11a. It added, though, that "the Supreme Court has advised that '[w]here a particular amendment provides an explicit textual source of constitutional protection against a particular sort of government behavior, that Amendment, not the more generalized notion of substantive due process, must be the guide for analyzing these claims.'" Pet. App. 12a. (quoting *County of Sacramento v. Lewis*, 523 U.S. 833, 842 (1998) (alteration in panel opinion)). Citing three in-circuit cases—*Figgs v. Dawson*, 829 F.3d 895, 902 (7th Cir. 2016); *Armato v. Grounds*, 766 F.3d 713, 721 (7th Cir. 2014); *Burke v. Johnston*, 452 F.3d 665, 669 (7th Cir. 2006)—none of which provide any serious analysis of the issue, the panel concluded: "Because our case law recognizes an Eighth Amendment right against overdetention, we decline in this instance to identify a duplicative right in the Fourteenth Amendment." Pet. App. 12a. This brief discussion again contained no explanation as to why the Eighth Amendment gives a right against overdetention nor any analysis as to why its words provide an "explicit textual source of constitutional protection" such that it foreclosed a due process claim under *Lewis*. *See* Pet. App. 11a-12a.

On the Eighth Amendment, the panel cited only one additional in-circuit case recognizing an Eighth Amendment right against overdetention, which also contained no analysis: *Whitfield v. Spiller*, 76 F.4th 698 (7th Cir. 2023). *See* Pet. App. 13a-17a. It then recited that the proper measure for success on such a claim is

"deliberate indifference toward a known risk that a prisoner is being held beyond his term of incarceration without penological justification." Pet. App. 13a (quoting *Whitfield*, 76 F.4th at 714). The panel found that "logistical issues" sufficed as penological justifications for re-arresting petitioner for "processing" and holding him for four additional days in response to IDOC's schedule. Pet. App. 14a-17a. The panel also concluded that petitioner had not shown he could demonstrate that defendants were deliberately indifferent toward the risk of overdetention, as would be required to sustain an Eighth Amendment claim. Pet. App. 17a.

With all three constitutional claims denied, the Seventh Circuit panel affirmed the judgment of the district court in full. Pet. App. 17a.

REASONS FOR GRANTING THE PETITION

I. THE DECISION BELOW IS WRONG

The Seventh Circuit misconstrued the Constitution and this Court's precedent. The Fourteenth Amendment is an available avenue for challenging overdetention for two reasons. *First*, the Eighth Amendment is squarely inapplicable to overdetention. *Second*, even if the Eighth Amendment could apply, it certainly does not comprise an "explicit textual source" of constitutional protection such that it crowds out any opportunity to bring a Fourteenth Amendment claim.

The Eighth Amendment is inapplicable to overdetention claims. "The primary purpose of [the Cruel and Unusual Punishment] clause has always been considered, and properly so, to be directed at the method or kind of *punishment imposed* for the violation of criminal statutes." *Powell v. Texas*, 392 U.S. 514, 531-32 (1968) (emphasis added). This Court has never held that the Eighth Amendment extends to non-punitive government actions. Though the Eighth Amendment

"serves as the primary source of substantive protection" "[a]fter conviction," that is true only where the challenged government action was *punitive*, such as "where the deliberate use of force is challenged as excessive and unjustified." *Graham v. Connor*, 490 U.S. 386, 395 n.10 (1989) (quoting *Whitley v. Albers*, 475 U.S. 312, 327 (1986)); *see also Bell v. Wolfish*, 441 U.S. 520, 535 n.16 (1979) ("Due process requires that a pretrial detainee not be punished. A sentenced inmate, on the other hand, may be punished, although that punishment may not be 'cruel and unusual' under the Eighth Amendment."). This Court has never held that the Eighth Amendment is applicable to non-punitive government actions, let alone that it comprises an "explicit textual source" of relief for such actions.

Overdetention—including the type suffered by petitioner—is almost never punitive. Rather, it is often associated with administrative error or, as in this case, administrative indifference. The Eighth Amendment's inapplicability in this context should be outcome determinative.

At the very least, the Seventh Circuit's blanket rule—that the Eighth Amendment *always* supplants the Due Process Clause in cases of "overdetention," is overly broad as it does not consider the nature of the "overdetention" at issue and its relation to the protections of the Eighth Amendment. To be sure, this Court has held that "where a particular Amendment provides an explicit textual source of constitutional protection against a particular sort of government behavior, that Amendment, not the more generalized notion of substantive due process, must be the guide for analyzing these claims." *County of Sacramento v. Lewis*, 523 U.S. 833, 842 (1998) (cleaned up). But in that very same case, this Court stressed a crucial caveat: "Substantive due process analysis is therefore inappropriate in [a] case *only* if

respondents' claim is 'covered by' [another constitutional provision]." *Id.* at 843 (emphasis added) (quoting *United States v. Lanier*, 520 U.S. 259, 272 n.7 (1997)); *see also Lanier*, 520 U.S. at 272 n.7 ("*Graham v. Connor*, 490 U.S. 386, 394 (1989), does not hold that all constitutional claims relating to physically abusive government conduct must arise under either the Fourth or Eighth Amendments; rather, *Graham* simply requires that if a constitutional claim is covered by a specific constitutional provision, such as the Fourth or Eighth Amendment, the claim must be analyzed under the standard appropriate to that specific provision, not under the rubric of substantive due process.").

Accordingly, this Court applies the more-specific-provision rule carefully. In considering whether the more-specific-provision rule applies in Fourth Amendment cases, this Court undertakes a fact-intensive analysis to determine whether the conduct at issue was a search or seizure and, if it was, whether the Fourth Amendment "covers" all the claims stemming from that search or seizure. For example, the Fourth Amendment provides an explicit textual source of constitutional protection in complaints about excessive police force during an arrest because such complaints allege that a "seizure" was "unreasonable." *Graham*, 490 U.S. at 394-95. On the other hand, the Fourth Amendment does *not* provide an explicit textual source of protection for persons who are run over by a police car during a high-speed chase because a police chase is neither a search nor seizure. *Lewis*, 523 U.S. at 843 (holding that a substantive due process claim is appropriate).

Most circuit courts have followed this Court's lead, applying the more-specific-provision rule in Fourth Amendment cases only after careful consideration of whether that amendment "covers" the specific allegations

such that it forecloses a due process claim. See for example:

- *Flores v. Sch. Bd. of DeSoto Par.*, 116 F. App'x 504, 509-10 (5th Cir. 2004) (holding Fourth Amendment does not foreclose student's due process claim about alleged "seizure" by teacher because of students' special status under Fourth Amendment);
- *Doe v. Aberdeen Sch. Dist.*, 42 F.4th 883, 894 (8th Cir. 2022) (recognizing similar distinction under which circuit "analyz[es] unreasonable seizure claims under the Fourth Amendment" but "analyze[s] claims alleging excessive force by public school officials under the rubric of substantive due process … and not the Fourth Amendment");
- *Romero v. Brown*, 937 F.3d 514, 522-23 (5th Cir. 2019) (holding availability of Fourth Amendment claim for children seized by state social services did not foreclose parents' due process claim because "there is no overlap" between children's freedom from unreasonable seizure and parents' parental rights);
- *Tenenbaum v. Williams*, 193 F.3d 581, 599-601 (2d Cir. 1999) (holding availability of Fourth Amendment claim for children seized by state social services did not foreclose parents' claim of substantive due process violation of "right to family integrity");
- *Dubbs v. Head Start, Inc.*, 336 F.3d 1194, 1203-04 (10th Cir. 2003) (holding parents' "substantive due process claim, based on alleged violation of their parental rights, is independent of their children's claim based on unlawful search" and could therefore be maintained in case concerning

unauthorized genital examinations and blood tests of schoolchildren);

- *Petta v. Rivera*, 143 F.3d 895, 901-02 (5th Cir. 1998) (holding, like *Lewis*, Fourth Amendment does not foreclose due process claim about injuries from high-speed police chase because chase itself was not a "seizure");
- *Moran v. Clarke*, 296 F.3d 638, 646-47 (8th Cir. 2002) (holding Fourth Amendment did not foreclose substantive due process claim regarding evidence fabrication leading to wrongful arrest because "law enforcement's intentional creation of damaging facts would not fall within [the Fourth Amendment's] ambit");
- *Cole v. Carson*, 802 F.3d 752, 766-74 (5th Cir. 2015), *cert. granted, judgment vacated sub nom. Hunter v. Cole*, 580 U.S. 994 (2016), *and opinion reinstated in relevant part*, 905 F.3d 334 (5th Cir. 2018) (holding Fourth Amendment does not foreclose due process claim about fabrication of evidence leading to wrongful arrest and charge because record reflects probable cause for arrest and evidence fabrications inflict harms Fourth Amendment cannot redress).

Similar fact-intensive analysis occurs when applying the more-specific-provision rule in cases potentially implicating the Eighth Amendment. For example, in a separate case, the Seventh Circuit invoked the more-specific-provision rule to hold that the Fourth Amendment barred a plaintiff's due process challenge to his treatment during an arrest but simultaneously held that the Eighth Amendment did not foreclose his due process challenge to his conditions of pre-trial confinement. *Tesch v. Cnty. of Green Lake*, 157 F.3d 465, 472-73 (7th Cir. 1998). The court explained that the Eighth Amendment did not apply to pre-trial detainment

and that the Due Process Clause was the appropriate source of protection. *Id.* at 473. The Seventh Circuit did not engage in this required factual analysis in petitioner's case.

Compounding the Seventh Circuit's erroneous reading of the Eighth Amendment was its decision to close the door forever and always on a person's ability to bring a due process claim when subject to overdetention. This Court has not directly held that the Due Process Clause may be applicable to claims of overdetention, but decades of precedent indicate that it clearly is. As an initial matter, this Court has long recognized that substantive due process analysis is appropriate in resolving claims of overdetention. *Baker v. McCollan*, 443 U.S. 137 (1979). This Court has also recognized due process protections in analogous circumstances. For instance, the Court held that though there is no "constitutional or inherent right" to parole, *Greenholtz v. Nebraska Penal Inmates*, 442 U.S. 1, 7 (1979), "once a State grants a prisoner the conditional liberty properly dependent on the observance of special parole restrictions, due process protections attach to the decision to revoke parole." *Vitek v. Jones*, 445 U.S. 480, 488 (1980) (citing *Morrissey v. Brewer*, 408 U.S. 471 (1972)). The same is true of the revocation of probation. *Id.* (citing *Gagnon v. Scarpelli*, 411 U.S. 778 (1973)). In other words, "[o]nce a State has granted prisoners a liberty interest, . . . due process protections are necessary" "to insure that the state-created right is not arbitrarily abrogated." *Id.* at 489 (citing *Wolff v. McDonnell*, 418 U.S. 539, 557 (1974)).

As previously stated, here, petitioner was on pre-trial release at the time he pleaded guilty. The trial court "effectively sentenced Peoples to time-served plus mandatory supervised release." Pet. App. 4a. Yet, for ostensibly administrative reasons, petitioner was

imprisoned for the next four days. The State did so without any due process, hearing, or notice, in a manner that necessitates analysis under the Due Process Clause.

The Seventh Circuit made no effort to explain its reading of the text of the Eighth Amendment. Nor did it try to square its holding with Supreme Court precedent. Instead, it cited only its own conclusory precedents as justification. Taken together, the cases the Seventh Circuit cited as recognizing an Eighth Amendment right against overdetention devote no more than three and a half conclusory sentences to support the proposition that the Eighth Amendment's proscription against "cruel and unusual punishment" includes a proscription against overdetention. *See Figgs v. Dawson*, 829 F.3d 895, 902 (7th Cir. 2016); *Armato v. Grounds*, 766 F.3d 713, 721 (7th Cir. 2014); *Whitfield v. Spiller*, 76 F.4th 698 (7th Cir. 2023); *Burke v. Johnston*, 452 F.3d 665, 669 (7th Cir. 2006). Those cases support the proposition entirely through citations to each other and citations to a case that itself only supports the proposition through a conclusory half sentence. *See Campbell v. Peters*, 256 F.3d 695 (7th Cir. 2001). Recognition-by-accretion like this can hardly be taken as the kind of strong "explicit textual source of constitutional protection" that *Lewis* refers to.

The Seventh Circuit's rule misconstrues the text of the Eighth Amendment and this Court's precedent. The Court should grant the petition and resolve this important issue.

II. THERE IS A CLEAR AND INTRACTABLE CONFLICT OVER A SIGNIFICANT QUESTION

In a series of cases going back nearly four decades, this Court has held that an amendment that "provides an explicit textual source of constitutional protection," rather than substantive due process, "must be the guide" for analyzing a constitutional violation. *See Graham v. Connor*, 490 U.S. 386 (1989); *Albright v. Oliver*, 510 U.S.

266 (1994); *County. of Sacramento v. Lewis*, 523 U.S. 833 (1998). Yet, in the context of overdetention, conflict has abounded. Lower courts continue to struggle and disagree regarding whether the Eighth Amendment provides an explicit textual source of constitutional protection against overdetention such that it supplants any possibility of bringing a substantive due process claim.

As stated, in this case, the Seventh Circuit "decline[d] to recognize" petitioner's substantive due process claim because, in the Seventh Circuit's view, the Eighth Amendment provides an explicit textual source of protection for persons who are overdetained. The Third Circuit has staked out a similar position. *See Wharton v. Danberg*, 854 F.3d 234, 246-47 (3d Cir. 2017) ("Our Court has always analyzed over-detention claims under the Eighth Amendment, unlike some other courts.").

But, as the Seventh Circuit recognized below, contrary to its holding, "several other courts … have identified a protected liberty interest and substantive due process right against overdetention in the Fourteenth Amendment." Pet. App. 11a (citing cases from the Fifth and Eighth Circuits). And it is true: other circuits continue to recognize that whatever Eighth Amendment rights an overdetained person may have, those rights do not preclude that person from bringing a substantive due process claim. *See Scott v. Baldwin*, 720 F.3d 1034, 1036 (8th Cir. 2013) ("Under the Eighth and Fourteenth Amendments, the plaintiffs had a clearly established right to be 'free from wrongful, prolonged incarceration.'" (quoting and citing *Davis v. Hall*, 375 F.3d 703, 712, 714 (8th Cir. 2004)); *Hicks v. LeBlanc*, 81 F.4th 497, 504 (5th Cir. 2023); *Hicks v. LeBlanc*, 832 F. App'x 836, 840 (5th Cir. 2020) ("The Fourteenth Amendment Due Process Clause is violated where a prisoner remains incarcerated after the legal authority to hold him has expired."); *Shorts*

v. Bartholomew, 255 F. App'x 46, 51 (6th Cir. 2007) (observing that "[t]his liberty interest [that, when a prisoner's sentence has expired, he is entitled to release] is most often attributed to the Due Process Clause of the Fourteenth Amendment" and citing cases rooted in both the Fourteenth Amendment and the Eighth Amendment); *Akande v. United States Marshals Serv.*, 659 F. App'x 681, 684 (2d Cir. 2016) (observing that courts have addressed the right against overdetention under the Due Process Clause, that "[c]ourts have also addressed claims of unwarranted extensions of detention under the rubric of the Eighth Amendment," and that the exact contour of any Eighth Amendment protection "is not a settled issue"); *see also Barnes v. D.C.*, 793 F. Supp. 2d 260, 274-75 (D.D.C. 2011) (Lamberth, J.) ("Overdetentions potentially violate the substantive component of the Due Process Clause by infringing upon an individual's basic liberty interest in being free from incarceration absent a criminal conviction.") (citing *Oviatt By & Through Waugh v. Pearce*, 954 F.2d 1470, 1474 (9th Cir. 1992)).

The conflict over whether the Due Process Clause applies to overdetention claims is entrenched and intractable. Some circuits, such as the Second, Fifth, Sixth, and Eighth, recognize that overdetention can violate substantive due process rights. Conversely, the Seventh and Third Circuits have held that the Eighth Amendment provides the *exclusive* avenue for such claims, effectively eliminating due process protections against overdetention. This division has persisted for decades. Neither side of the split is likely to reverse course, and any further developments will only deepen the confusion and exacerbate the conflict. Until this Court intervenes, whether individuals subject to overdetention have a protected right to liberty under the Fourteenth

Amendment will vary by circuit. The Court should grant the petition and resolve this clear circuit split.

III. THE QUESTION PRESENTED IS IMPORTANT AND WARRANTS REVIEW

As a result of the circuit courts' divide, persons who are detained beyond the length of their sentence have—quite literally—different constitutional rights depending solely on geographical happenstance. Conflict on such an important question of constitutional law, implicating the fundamental liberty interests of overly-detained individuals, warrants the Court's review.

1. The question presented in this case is undoubtedly important. This issue affects the uniformity of constitutional protections and the ability of individuals to seek redress for violations of their liberty. The distinction between the Eighth Amendment and the Due Process Clause is not merely academic; it determines the standard of review and the protections afforded to individuals. The Eighth Amendment applies to those who have been convicted and focuses on punishment, requiring a showing of "deliberate indifference" by officials. In contrast, the Due Process Clause protects against arbitrary deprivations of liberty, regardless of intent. Grounding overdetention claims in substantive due process ensures that individuals are protected from arbitrary state action that infringes upon their fundamental rights.

Overdetention is also, unfortunately, an all-too-common occurrence. The most high-profile example involves the Louisiana Department of Public Safety and Corrections (DPSC), which, over the past several years, has systematically failed to release incarcerated individuals on time—a crisis known as "systemic overdetention." This issue has led to significant legal challenges and scrutiny from the U.S. Court of Appeals for the Fifth Circuit. *See Hicks v. LeBlanc*, 81 F.4th 497, 504-06 (5th Cir. 2023); *Parker v. LeBlanc*, 73 F.4th 400,

407-08 (5th Cir. 2023); *McNeal v. LeBlanc*, 90 F.4th 425, 433 (5th Cir. 2024), *cert. denied*, 145 S. Ct. 266 (2024).

The overdetention issue in Louisiana was widespread. A 2023 report indicated that nearly 27% of individuals released from DPSC custody between January and April 2022 were held past their release dates, with some detained for over 90 additional days. U.S. Dep't of Justice, *Justice Department Finds Louisiana Department of Public Safety and Corrections Violates the Constitution By Incarcerating People Beyond Their Release Dates*, Press Release No. 23-91 (Jan. 25, 2023), https://bit.ly/42Eg28d. This systemic problem prompted a lawsuit from the U.S. Department of Justice, alleging that Louisiana's practices violated constitutional rights and cost taxpayers millions annually. Kate Payne, *Louisiana Often Holds Inmates Past Their Release Date, DOJ Lawsuit Claims*, AP News (Dec. 22, 2024), https://bit.ly/42FO6km. Notably, the Justice Department concluded that LDOC had denied individuals' due process rights by routinely confining people in its custody past the dates when they were legally entitled to be released "in violation of the Fourteenth Amendment." DOJ Press Release No. 23-91, *supra*.[3]

2. This case is the ideal vehicle to resolve this important constitutional question. The record established that the petitioner, though post-conviction, was not in jail and was sentenced to supervisory release. He was nonetheless detained and imprisoned for four days, not for any punitive reason, but rather, in connection with an administrative process. Overdetention cases—in particular, ones like this—are ill suited for Eighth

[3] Given the Department of Justice's position on the due process question, which appears to be at odds with the positions of the Seventh and Third Circuits, this may be an appropriate case in which to solicit the views of the Solicitor General.

Amendment application, and the Seventh Circuit therefore wrongly "decline[d]" to address petitioner's due process claim. This clean presentation is the ideal backdrop for a definitive resolution of the issue by this Court.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted.

JOHN MARRESE
HART MCLAUGHLIN & ELDRIDGE
One South Dearborn
Suite 1400
Chicago, Illinois 60603
(312) 971-9074
jmarrese@hmelegal.com

ANDREW T. TUTT
Counsel of Record
WINSTON KIRBY MAYO
ZACHARY A. WOODWARD
ARNOLD & PORTER KAYE SCHOLER LLP
601 Massachusetts Ave., NW
Washington, DC 20001
(202) 942-5000
andrew.tutt@arnoldporter.com

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