No. 23-1332

In the Supreme Court of the United States

JARIUS BROWN,

Petitioner,

v.

JAVARREA POUNCY, ET AL.,

Respondents.

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

BRIEF IN OPPOSITION

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QUESTIONS PRESENTED

Federal law does not provide a statute of limitations for claims under 42 U.S.C. § 1983. In *Wilson v. Garcia*, 471 U.S. 261 (1985) and *Owens v. Okure*, 488 U.S. 235 (1989), this Court held that, under 42 U.S.C. § 1988, the forum state's general or residual statute of limitations for personal injury tort claims applies to all Section 1983 claims. In Louisiana, for claims arising between 1825 and July 1, 2024, that period was one year.

Shortly after *Owens*, Congress passed 28 U.S.C. § 1658, creating a four-year limitations period for civil actions that "arise under an Act of Congress enacted" after December 1, 1990. This statute "alleviat[ed] the uncertainty inherent in the practice of borrowing state statutes of limitations" for "new claims" while "at the same time protecting settled interests" by "leav[ing] in place the 'borrowed' limitations periods for pre-existing causes of action, with respect to which the difficult work already has been done." *Jones v. R.R. Donnelley & Sons Co.*, 541 U.S. 369, 382 (2004). Raising questions he did not raise below, Petitioner Jarius Brown seeks to upset these "settled interests" despite Congress' intent to leave *Wilson* and *Owens* in place, presenting the following questions:

1. Does Section 1658's four-year statute of limitations apply to all Section 1983 claims, contrary to Section 1658's plain text?
2. Is a one-year limitations period too short for Section 1983 claims, despite substantial statutory, precedential, and historical support for applying one-year periods to Section 1983 claims?

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INTRODUCTION

Under the Court's longstanding precedents interpreting Section 1988, the statute of limitations for Section 1983 claims is borrowed from the forum state's general or residual limitations period for personal injury tort actions.

Brown's Petition first asks the Court to change the statute of limitations for all Section 1983 claims in the entire country to a uniform four-year statute of limitations by applying the four-year limitations period from Section 1658 to all Section 1983 claims. Alternatively, Brown asks the Court to hold that the one-year general limitations period for personal injury tort actions under Louisiana law is too short to be applied to Section 1983 claims.

Both of Brown's arguments are contrary to the intent of Congress as expressed in Sections 1988 and 1658. In *Jones*, this Court recognized that Congress' intent in enacting Section 1658 in 1990 was to "alleviat[e] the uncertainty inherent in the practice of borrowing state statutes of limitations while at the same time protecting settled interests." 541 U.S. at 381.

Congress did so by enacting a uniform four-year statute of limitations for "new claims" but "leav[ing] in place the 'borrowed' limitations periods for pre-existing causes of action, with respect to which the difficult work already has been done." *Id.* Section 1983 claims are among those "pre-existing causes of action." *Id.* Thus, Congress clearly intends for "borrowed" state limitations periods like Louisiana's one-year limitations period to continue to apply to Section 1983

claims, as they have for well over a century under this Court's precedents. Furthermore, as this Court has held, it is "most unlikely that the period of limitations applicable to [general personal injury actions sounding in tort under state law] ever was, or ever would . . . be inconsistent with federal law in any respect." *Wilson*, 471 U.S. at 279.

Finally, the doctrine of *stare decisis* strongly weighs against Brown's arguments. Accepting Brown's arguments would require overturning multiple precedents of this Court interpreting statutes, as to which *stare decisis* is strongest. Further, statutes of limitations create settled expectations for plaintiffs and defendants alike. Accepting Brown's position would require upsetting these concrete reliance interests, in violation of one of the core purposes of *stare decisis*.

Brown's Petition should be denied.

STATEMENT

I. Factual Background

Brown was arrested on September 27, 2019, in DeSoto Parish, Louisiana. During the jail booking process, Pouncy and another deputy took Brown to the laundry room to change into a jail jumpsuit. Brown alleges that while in the laundry room, Pouncy and the other deputy used excessive force on Brown, causing him injuries. Pet App. 39a-43a.

II. Procedural History

1. Brown filed a Section 1983 claim on September 24, 2021, in the United States District Court for the Western District of Louisiana – nearly

two years after the September 27, 2019, incident. He asserted that during the September 27, 2019, incident, Pouncy and another deputy used excessive force on him in violation of the Fourth Amendment. He also asserted a claim for battery under Louisiana law.

2. Pouncy moved to dismiss Brown's claims as time barred. Pouncy asserted that under Section 1988, as interpreted by *Wilson* and *Owens*, Louisiana's one-year general limitations period for personal injury tort actions that was in force for all claims that arose before July 1, 2024, La. Civ. Code Art. 3492, applied to all Section 1983 claims in Louisiana, including Brown's claim.[1]

In his Opposition, Brown asked that a special exception to *Wilson* and *Owens* be made for the subset of Section 1983 claims based on alleged "police brutality." 2022 WL 22864046 at *21. Brown argued that applying Louisiana's one-year limitations period to the subset of Section 1983 claims based on alleged police brutality is inconsistent with Section 1983, such that under Section 1988, that period cannot be applied to this subset of Section 1983 claims. *See id.*

The district court followed *Wilson* and *Owens*. It dismissed Brown's Section 1983 claim with prejudice as time barred. Pet. App. 16a-28a.[2]

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[1] The Louisiana equivalent of a statute of limitations is a "liberative prescriptive period;" the Louisiana equivalent of a tort is a "delict." For the sake of simplicity, this brief does not use the Louisiana-specific terms.

[2] The district court dismissed Brown's state law claim without prejudice under 28 U.S.C. § 1367(c). Brown then filed his state

3. Brown appealed. At the Fifth Circuit, Brown again asserted that a special exception should be made to *Wilson* and *Owens* for the subset of Section 1983 claims based on alleged police brutality. Like the district court, the Fifth Circuit followed *Wilson* and *Owens* and affirmed dismissal of Brown's Section 1983 claim with prejudice as time barred. Pet. App. 1a-15a.

4. Brown now petitions this Court for a writ of certiorari.

REASONS FOR DENYING THE PETITION

I. BROWN'S PETITION HAS VEHICLE PROBLEMS.

A. Brown waived the arguments he now raises for the first time in this Court.

Brown's Petition raises two questions. Neither question was raised or addressed below. This Court does "not decide questions neither raised nor resolved below." *Glover v. United States*, 531 U.S. 198, 205 (2001).

Below, Brown sought a special exception to the *Wilson* and *Owens* framework for the subset of Section 1983 claims based on alleged police brutality, including his claim. At the district court, Brown sought application of the two-year limitations period in La. Civ. Code Art. 3493.10 to his Section 1983 claim, rather than the one-year period under La. Civ. Code Art. 3492. The two-year limitations period in La. Civ. Code Art. 3493.10 applies only to state law claims for

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law claim in state court. Brown's state law claim remains pending in state court. *See Brown v. Pouncy*, 55,626 (La. App. 2 Cir. 5/22/2024), 2024 WL 2307514.

"crimes of violence" as defined under Louisiana law. *See* Pet. App. 16a, 23a, and 36a-37a.

In his Opposition to Pouncy's Motion to Dismiss at the district court, Brown argued that "the rote application of Louisiana's one-year prescription period **in police brutality cases** rests in irreconcilable tension with the objectives of Section 1983." 2022 WL 22864046 at *21 (emphasis added).

As the Fifth Circuit stated in the opening paragraph of its unanimous opinion, Brown's argument at the Fifth Circuit was as follows:

> Brown argues that this one-year period [La. Civ. Code Art. 3492] should not apply **to police brutality claims brought under Section 1983** and seeks reversal of the district court's dismissal of his claims as untimely. He contends that the one-year period both impermissibly discriminates **against Section 1983 police brutality claims** and practically frustrates litigants' ability to bring **such claims**.

Pet. App. 2a (emphasis added).

Further, in Brown's Reply Brief at the Fifth Circuit, he asserted that:

> Whether Louisiana's one-year residual statute of limitations undermines the federal interests underpinning Section 1983 claims as a "general" matter, as Appellee appears to require, is **a question decidedly not before this Court. Mr. Brown has not brought this challenge to address every manner of Section 1983 claims**.

2023 WL 3569947 at *12 (emphasis added).

By contrast, in his Petition in this Court, Brown substantially broadens his arguments beyond those he advanced below. Brown has no circuit split on which to base his Petition. Thus, Brown broadens his arguments to bolster his assertion that this case presents an issue of national importance. *See* Sup. Ct. R. 10.

Rather than limit his arguments to the context of Section 1983 claims based on alleged police brutality, like he did below, Brown now asks this Court to apply Section 1658's four-year statute of limitations **to all Section 1983 claims in the entire country**. Pet. 23. As the Fifth Circuit's opinion makes clear, Brown did not brief this sweeping argument below. Indeed, the Fifth Circuit's opinion does not even mention Section 1658 – much less address Brown's argument in his second question presented that Section 1658 provides a "suitable" federal statute of limitations to apply to all Section 1983 claims under Section 1988. Pet. App. 1a-15a.

Brown's first question presented similarly broadens the scope of the arguments he made below. Rather than limit his assertion that Louisiana's one-year statute of limitations is too short to the context of Section 1983 claims based on alleged police brutality, Brown now asserts that Louisiana's one-year statute of limitations is too short for **all** Section 1983 claims. Pet. 13-18.

Brown is bound by his choice below to ask for a special exception for the subset of Section 1983 claims based on alleged police brutality to the *Wilson* and

Owens framework rather than raise the arguments he now raises for the first time in this Court. Because Brown did not brief the arguments he asserts in this Court to the courts below, Brown has waived those arguments – an insurmountable vehicle problem. *See Cutter v. Wilkinson*, 544 U.S. 709, 718 n.7 (2005) (the Court is "a court of review, not of first view").

B. Louisiana's recent adoption of a two-year general statute of limitations for personal injury actions presents a vehicle problem as to Brown's first question presented.

Louisiana recently adopted a two-year general statute of limitations for tort claims that arise on or after July 1, 2024. *See* 2024 La. Sess. Law Serv. Act 423 (H.B. 315); *see* La. Civ. Code Art. 3493.11.

After the enactment of La. Civ. Code Art. 3493.11, a case arising out of Louisiana is a poor vehicle to address Brown's first question presented, in which he asks the Court to hold that a one-year statute of limitations is too short for Section 1983 claims. As noted above and explained in more detail below, both Congress and this Court have already addressed that question. *See Wilson*, 471 U.S. at 279; *see Jones*, 541 U.S. at 382. But even if this obstacle could be overcome, Brown's first question presented will only apply to a finite number of Section 1983 claimants in Louisiana going forward. If the Court ever chooses to address this issue again, a case arising from a jurisdiction that still has a one-year general or residual statute of limitations for personal injury tort actions would be a more appropriate vehicle to address this question.

II. THE QUESTIONS BROWN RAISES DO NOT WARRANT THE COURT'S REVIEW.

The two questions Brown's Petition presents do not warrant the Court's review. Below, Pouncy traces the historical development of relevant law and jurisprudence in this area. This historical development shows that the Fifth Circuit correctly decided this case under the Court's longstanding precedents – precedents that correctly interpreted the statutes at issue, Sections 1988, 1983, and 1658. Finally, *stare decisis* strongly favors leaving the Court's longstanding precedents in place and denying Brown's Petition.

A. The historical development of relevant law and jurisprudence supports the holding below.

In 1825, the Louisiana legislature enacted the Civil Code of 1825. Article 3501 of the Civil Code of 1825 provided that "The actions . . . for damages . . . resulting from offences or quasi-offences . . . are prescribed by one year."[3] Article 3501 established a one-year limitations period applicable to all Louisiana tort actions.

In 1866, Congress enacted what is now Section 1988 in the Civil Rights Act of 1866 (14 Stat. 27, § 3). That Act included the same language that is contained in Section 1988(a) today requiring federal courts to

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[3] Compiled Edition of the Civil Codes of Louisiana (1940), https://digitalcommons.law.lsu.edu/cgi/viewcontent.cgi?article=1023&context=la_civilcode_book_iii#page=65 (last accessed Aug. 7, 2024).

borrow and apply "state-law limitations periods where doing so is consistent with federal law" for federal civil rights claims that do not have their own statutes of limitations. *Owens*, 488 U.S. at 239; *see* 42 U.S.C. § 1988(a).

In 1870, the Louisiana legislature enacted the Civil Code of 1870. Like the Civil Code of 1825, the Civil Code of 1870 included a general one-year limitations period for tort actions. Article 3536 of the Civil Code of 1870 provided that "The following actions are also prescribed by one year: That . . . for damages . . . resulting from offenses or quasi offenses."[4]

When Louisiana's Civil Code of 1870 was revised in 1983, this same one-year limitations period was continued in Article 3492 of the Louisiana Civil Code. *See* La. C.C. Art. 3492, cmt. (a). Louisiana's one-year limitations period for personal injury tort claims did not change until July 1, 2024, with the repeal of La. C.C. Art. 3492 and the enactment of La. Civ. Code Art. 3493.11 for claims accruing on or after that date.

In 1871, Congress passed the Ku Klux Klan Act of 1871 (17 Stat. 13, § 1), which included the operative language of what is now Section 1983. Congress did not include in that Act a specific limitations period for Section 1983 claims, nor has Congress enacted such a specific limitations period since 1871. *See Owens*, 488 U.S. at 239; *Jones*, 541 U.S. at 378-382.

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[4]https://digitalcommons.law.lsu.edu/cgi/viewcontent.cgi?article=1023&context=la_civilcode_book_iii#page=65 (last accessed Aug. 12, 2024).

Thus, when both Section 1988 and Section 1983 were enacted in 1866 and 1871, respectively, Louisiana had a general one-year limitations period for personal injury tort claims. Alabama, Maryland, Tennessee, and Texas also had general or residual one-year limitations periods for personal injury tort claims when Sections 1988 and 1983 were enacted.[5]

This Court has long applied Louisiana's one-year limitations period for tort claims to federal civil rights claims that do not have their own limitations periods – including Section 1983 claims. *See O'Sullivan v. Felix*, 233 U.S. 318, 319-325 (1914) (Louisiana's one-year limitations period applied to bar a claim under what is now Section 1983 that was filed more than one year after the incident at issue, even though the defendants had already been convicted of

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[5] **Alabama** – *See* Ala. Code 1852, § 2481(6) (1852); https://archive.org/details/codeofalabamapre00alab/page/456/mode/2up (last accessed Aug. 10, 2024); *Fidelity National Title Insurance Company v. Western Surety Company*, 277 So.3d 40, 43-44 (Ala. Civ. App. 2018).

Maryland – *See* Md. Code, art. 57, § 1 (1860); https://msa.maryland.gov/megafile/msa/speccol/sc2900/sc2908/000001/000145/html/am145--395.html (last accessed Aug. 7, 2024).

Tennessee – *See* Tenn. Code § 2772 (1858); https://books.google.com/books?id=3bgwAQAAMAAJ&pg=PA534#v=onepage&q&f=false (last accessed Aug. 7, 2024); *Girdner v. Stephens*, 48 Tenn. 280, 282 (1870).

Texas - *See* Act of Feb. 5, 1841, 1841 Tex. Laws 163, https://texashistory.unt.edu/ark:/67531/metapth6726/m1/631/ (last accessed Aug. 7, 2024); *Tobin v. Houston & T.C. Ry. Co.*, 56 Tex. 641, 642 (1882).

federal criminal civil rights violations against the plaintiff for their conduct during that incident).

Under Section 1988, the Court has also applied other state laws to Section 1983 claims even though they result in the complete extinguishment of a timely-filed Section 1983 claim. In *Robertson v. Wegmann*, 436 U.S. 584, 591 (1978), this Court applied a Louisiana state law providing that tort actions other than those for damage to property survived only in favor of a spouse, children, parents, or siblings to a Section 1983 claim – even though it automatically extinguished the Section 1983 claim at issue.

The Court found that "Section 1988 quite clearly instructs us to refer to state statutes" in the absence of a federal law addressing a particular issue in Section 1983 claims. *Id.* at 593. The Court rejected the plaintiff's contention that application of this state law rule to Section 1983 claims was inconsistent with federal law. *See id.* ("A state statute cannot be considered 'inconsistent' with federal law merely because the statute causes the plaintiff to lose the litigation.").

In *Burnett v. Grattan*, 468 U.S. 42, 45 (1984), the district court applied a six-month state statute of limitations for filing an employment discrimination complaint with a state administrative body to an employment discrimination claim brought under 42 U.S.C. §§ 1981 and 1983. The Fourth Circuit reversed. *See id.* at 45-46.

This Court granted certiorari and affirmed. *See id.* at 46. First, it stated that under Section 1988, there is a "three-step process" to determine the appropriate

limitations period for claims under Section 1981, Section 1983, or other similar federal civil rights statutes that do not have specific limitations periods. *Id.* at 48.

At the first step, courts "look to the laws of the United States." But **"[i]t is now settled** that federal courts will turn to state law for statutes of limitations in actions brought under [Sections 1981 and 1983]," since no specific federal limitations period exists. *Id.* at 49 (emphasis added). Second, courts apply the law of the forum state by selecting the "most appropriate" state statute of limitations, which is "the state law of limitations governing an analogous cause of action." *Id.* Third, courts only apply the forum state's rule if it is not "inconsistent with the Constitution and laws of the United States." *Id.* at 48.

The Court agreed with the Fourth Circuit at the second step of this test and affirmed. "The functional differences between the federal causes of action and the state administrative law make [the 6-month state administrative statute of limitations] an inappropriate analog from which to borrow to effectuate Congress' purpose in enacting the Civil Rights Acts." *Id.* at 50. Because the 6-month limitations period was the inappropriate state statute of limitations to apply to Section 1981 or 1983 claims, "[t]he step three inquiry – whether a state rule of decision is inconsistent with the Constitution or federal law – [was] not necessary to resolve [that] case." *Id.* at 53 n.15.

Notably, in a concurring opinion in *Burnett*, then-Justice Rehnquist addressed the third step from

the *Burnett* framework of what makes a state law "inconsistent with the Constitution and laws of the United States" under Section 1988. Justice Rehnquist stated that, "if the state statute of limitations [to be applied to a federal civil rights claim] fails to afford a reasonable time to the federal claimant, then state legislative intent can also be disregarded." 468 U.S. at 61. Brown relies heavily on this statement in support of his second question presented. But Justice Rehnquist also stated that "The willingness of Congress to impose a 1–year limitations period in 42 U.S.C. § 1986 [another post-Civil War federal civil rights statute creating a cause of action for damages] demonstrates that at least a 1–year period is reasonable" – a conclusion that Brown simply ignores. *Id.*

In *Wilson v. Garcia*, 471 U.S. 261 (1985), this Court addressed the second step from *Burnett* described above to resolve the "conflict, confusion, and uncertainty" that resulted from the then-existing rule for determining which state statute of limitations should apply to claims under Section 1983 at that second step. *Id.* at 266. This required the Court to decide "whether all § 1983 claims should be characterized in the same way, or whether they should be evaluated differently depending upon the varying factual circumstances and legal theories presented in each individual case." *Id.* at 268.

The Court held that Section 1988 is "a directive to select, in each State, the one most appropriate statute of limitations for all § 1983 claims," which is the statute of limitations governing "the tort action for the recovery of damages for personal injuries." *Id.* at

275. This holding was largely based on "practical considerations," particularly the fact that picking a state statute of limitations to apply to a Section 1983 claim based on "an analysis of the particular facts of each claim . . . inevitably breeds uncertainty and time-consuming litigation that is foreign to the central purposes of § 1983." *Id.* at 272.

Finally, the Court then addressed the third step from the *Burnett* framework derived from Section 1988's text. The Court found that it was "**most unlikely that the period of limitations applicable to [general personal injury actions sounding in tort under state law] ever was, or ever would** be, fixed in a way that would discriminate against federal claims, or **be inconsistent with federal law in any respect**." *Id.* at 279. (emphasis added). At the time the Court reached this conclusion in *Wilson* in 1985, Louisiana, Tennessee, Kentucky, California, and Puerto Rico had one-year statutes of limitations for personal injury tort actions.[6]

In *Owens*, the district court and Second Circuit applied *Wilson* to find that New York's three-year

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[6] **California** – *See* Cal. C.C.P. § 340(3) (version effective through December 31, 2002).

Kentucky – *See* Ky. Rev. Stat. § 413.140(1)(a) (version effective from June 21, 1974, through July 14, 2000).

Louisiana – *See* La. C.C. Art. 3492 (in effect until July 1, 2024).

Puerto Rico – *See* 31 L.P.R.A. § 5298.

Tennessee – *See* T.C.A. § 28-3-104(a)(1)(A) (version effective from 1972 to 1990, which was previously identified as § 28-304).

general statute of limitations for personal injury actions, rather than New York's one-year statute of limitations for assault and battery, applied to a Section 1983 claim based on the alleged use of excessive force by police officers. 488 U.S. at 237-238.

The Second Circuit so held because it found that (1) *Wilson* required the selection of a "general" limitations period rather than one taken from a "precisely drawn analogy" to a particular type of state law tort claim; and (2) the one-year limitations period was not "long enough to effectuate the policies embedded in section 1983." *Okure v. Owens*, 816 F.2d 45, 48 (2nd Cir. 1987). As to the second ground, a dissenting judge found that a one-year limitations period is not too short, especially since Congress itself established a one-year statute of limitations for federal civil rights claims under Section 1986. *See id.* at 52 (Van Graafeiland, J., dissenting).

The Supreme Court granted certiorari to address "what limitations period should apply to a § 1983 action where a State has one or more statutes of limitations for certain enumerated intentional torts, and a residual statute for all other personal injury actions," an issue that had divided federal courts of appeals since its decision in *Wilson*. *Owens*, 488 U.S. at 236. The Court sought to "provide courts with a rule for determining the appropriate personal injury limitations statute that can be applied with ease and predictability in all 50 States." *Id.* at 243. The Court held that "where state law provides multiple statutes of limitations for personal injury actions, courts considering § 1983 claims should borrow the general

or residual statute for personal injury actions." *Id.* at 249-250.

In a footnote, the Court found that it "need not address [the] argument that applying a 1-year limitations period to § 1983 actions would be inconsistent with federal interests," since the Court had already held that the three-year statute of limitations applied for a different reason. *Id.* at 251 n.13. In other words, because the Court had agreed with one of the rationales for the Second Circuit's holding, it did not need to address the Second Circuit's other rationale.

In the same footnote, the Court cited Justice Rehnquist's concurring opinion in *Burnett*. As stated above, in that concurring opinion, Justice Rehnquist stated that "The willingness of Congress to impose a 1–year limitations period in 42 U.S.C. § 1986 demonstrates that at least a 1–year period is reasonable." *Burnett*, 468 U.S. at 61. Thus, contrary to Brown's arguments, this footnote cannot be read as an "express[ion] [of] skepticism" as to whether a one-year statute of limitations is sufficient for Section 1983 claims. Pet. 31.

After *Owens*, the Federal Courts Study Committee ("FCSC"), a body created by Congress to study and recommend changes to federal statutes, "recommended the enactment of a retroactive, uniform federal statute of limitations" for federal claims that did not already have statutes of limitations. *Jones*, 541 U.S. at 380.

But Congress only partially accepted this proposal. Instead, Congress enacted Section 1658. Section 1658 states, in pertinent part, as follows:

> Except as otherwise provided by law, a civil action arising under an Act of Congress **enacted after the date of the enactment of this section** [*i.e.*, December 1, 1990] may not be commenced later than 4 years after the cause of action accrues. 28 U.S.C. § 1658(a) (emphasis added).

In 2004, the Court addressed Section 1658 in depth in *Jones*. That case presented the question of what the phrase "arising under" means in Section 1658. The Court found that this phrase was ambiguous, and thus the Court had to "look beyond the bare text of § 1658 to the context in which it was enacted and the purposes it was designed to accomplish" to interpret this phrase, including review of the legislative history of the statute. *Jones*, 541 U.S. at 377.

As the Court stated in *Jones*, the House Committee on the Judiciary's report regarding what became Section 1658 states that, in partially rejecting the recommendation of the FCSC, Congress was concerned that "retroactively imposing a four year statute of limitations on legislation that the courts have previously ruled is subject to [other limitations periods] would threaten to disrupt the settled expectations of a great many parties." H.R. Rep. 101-734, at 24 (1990); *see id.* at 378-382. Since "settling the expectations of prospective parties is an essential purpose of statutes of limitations," Congress decided

not to change the statute of limitations for existing federal claims. *Id.*

As this Court unanimously held in *Jones*, Congress' intent in enacting Section 1658 was to "alleviat[e] the uncertainty inherent in the practice of borrowing state statutes of limitations **while at the same time protecting settled interests**." 541 U.S. at 381 (emphasis added). Congress did so by enacting a uniform four-year statute of limitations for "new claims" but "**leav[ing] in place the 'borrowed' limitations periods for pre-existing causes of action, with respect to which the difficult work already has been done.**" *Id.* (emphasis added). Given these purposes, in *Jones* the Court held that Section 1658's four-year statute of limitations applies prospectively to new federal claims that are "made possible" by federal statutes enacted after December 1, 1990, but it does not apply to federal claims that existed before that date (like Section 1983 claims). *Jones*, 541 U.S. at 382.

In other words, in enacting Section 1658, Congress left in place *Wilson*, *Owens*, and other "borrowing" precedents addressing the applicable statutes of limitations for existing federal claims that do not have their own specific limitations periods. As the courts held below, under *Wilson* and *Owens*, Louisiana's "borrowed" one-year general limitations period for tort claims applies to Section 1983 claims like Brown's that arose before July 1, 2024 – as it has for over a century since the Court's decision in *O'Sullivan*.

Since *Owens* in 1989, the Fifth Circuit has uniformly and repeatedly applied the general or residual limitations period for personal injury actions in the relevant state, including Louisiana's one-year period, to Section 1983 claims. *See* Pet. App. 13a. This uniform application of Louisiana's one-year limitations period to Section 1983 claims under *Wilson* and *Owens* shows that the Court's holdings in those cases has accomplished precisely what the Court sought – "uniformity, certainty, and the minimization of unnecessary litigation." *Wilson*, 471 U.S. at 275; *Owens*, 488 U.S. at 240.

Since this Court decided *Wilson* and *Owens*, at least four federal circuits have addressed and rejected arguments like the arguments Brown asserts in his Petition. In *Jones & Preuit v. Mauldin*, 876 F.2d 1480, 1484 (11th Cir. 1989) and *McDougal v. County of Imperial*, 942 F.2d 668, 672-673 (9th Cir. 1991), the Eleventh and Ninth Circuits rejected arguments that one-year general or residual statutes of limitations for personal injury actions under state law were too short for Section 1983 claims. Notably, in *McDougal*, the Ninth Circuit found Justice Rehnquist's concurring opinion in *Burnett* persuasive, holding that "Congress has also demonstrated its belief that a one-year period is reasonable in the civil rights context, providing for such a period in 42 U.S.C. § 1986." 942 F.2d at 673.

Further, in *Blake v. Dickason*, 997 F.2d 749, 751 (10th Cir. 1993) and *Woods v. Illinois Dept. of Children and Fam. Servs.*, 710 F.3d 762, 766-769 (7th Cir. 2013) the Tenth and Seventh Circuits rejected arguments that two-year state statutes of limitations were too short to be applied to Section 1983 claims. Both

circuits agreed with and relied upon Justice Rehnquist's conclusion that "[t]he willingness of Congress to impose a 1–year limitations period in 42 U.S.C. § 1986 demonstrates that at least a 1–year period is reasonable." *Burnett*, 468 U.S. at 61.

B. The Fifth Circuit's holding is correct.

The Fifth Circuit correctly decided this case. The arguments Brown makes in support of both of his questions presented are wrong.

i. Section 1658's four-year statute of limitations does not apply to Section 1983 claims.

In his second question presented, Brown asks the Court to apply Section 1658(a)'s four-year statute of limitations to his Section 1983 claim and to all Section 1983 claims in the entire country. Brown asserts that, at the first step of the *Burnett* framework, Section 1658's four-year statute of limitations provides a federal law that is "suitable to carry [Section 1983] into effect" – one that was not available when *Burnett*, *Wilson*, and *Owens* were decided. Pet 22.

According to Brown, the enactment of Section 1658 "calls for a reevaluation of the central analysis under Section 1988, and conducting that analysis demonstrates that Section 1658 provides the limitations period for all Section 1983 claims across the Nation." Pet. 23. According to Brown, "[i]t is far more consistent with the federal interests of Section 1983 to fill its missing gap with a uniform *federal* catchall statute of limitations than to borrow from a patch-work of fifty different states' residual personal

injury limitations periods providing wildly divergent time periods for bringing suit." *Id.*

This argument is contrary to common sense and the way statutes must be interpreted under this Court's precedent. "The starting point in discerning congressional intent is the existing statutory text." *Lamie v. U.S. Trustee*, 540 U.S. 526, 534 (2004). "It is well established that when the statute's language is plain, the sole function of the courts—at least where the disposition required by the text is not absurd—is to enforce it according to its terms." *Id.* (internal quotations omitted). Further, a "specific provision controls over one of more general application." *Gozlon-Peretz v. United States*, 498 U.S. 395, 407 (1991).

Section 1658 clearly states that its four-year statute of limitations only applies to "civil action[s] arising under an Act of Congress enacted after the date of the enactment of this section [*i.e.*, December 1, 1990]." (emphasis added).

Section 1983 claims existed before December 1, 1990. Section 1983 claims were not made possible by a federal statute enacted after December 1, 1990. *See Jones*, 541 U.S. at 382; *Smith v. Reg. Trans. Auth.*, 827 F.3d 412, 421 n.2 (5th Cir. 2016). Section 1658's text contains Congress's specific intent as to the application of the four-year statute of limitations it created. By contrast, Section 1988, the statute on which Brown bases his argument, is generally applicable to multiple federal civil rights claims and to issues beyond statutes of limitations alone. *See*, *e.g.*, *Robertson*, 436 U.S. at 591-593.

Thus, under the plain text of Section 1658, which specifically addresses the claims to which its four-year statute of limitations applies, the four-year statute of limitations in that section does not apply to Section 1983 claims and cannot be applied to Section 1983 claims. Applying Section 1658(a)'s four-year limitations period to a Section 1983 claim would violate Congress' intent, as expressed in the plain text of Section 1658. As this Court held in *Jones*, Congress's intent in enacting Section 1658 was for its four-year statute of limitations to only apply to "new claims" while "leav[ing] in place the 'borrowed' limitations periods for pre-existing causes of action" like Brown's Section 1983 claim. 541 U.S. at 382. Since the Court's decisions in *Wilson* and *Owens*, followed by the enactment of Section 1658 in 1990, Congress has not reversed course. Instead, Congress has left Section 1658 in place for new claims and the borrowed statute of limitations under *Wilson* and *Owens* in place for Section 1983 claims.

Congress gets to decide which statute of limitations is "suitable" for Section 1983 claims. Congress has expressly chosen to (1) reject a uniform four-year national statute of limitations for Section 1983 claims and (2) leave in place the "borrowed" state limitations periods that apply to Section 1983 claims under *Wilson* and *Owens*, like the one-year limitations period at issue here.

ii. A one-year statute of limitations is not inconsistent with Section 1983.

In his first question presented, Brown asserts that application of Louisiana's one-year limitations

period for personal injury tort actions to Section 1983 claims is so short that it is "inconsistent with the Constitution and laws of the United States" at the third step of the *Burnett* framework interpreting Section 1988. Pet. 13-21. This argument is wrong.

First, as stated above, Louisiana had a one-year general limitations period for personal injury tort actions from 1825 to July 1, 2024. Thus, when (1) Congress enacted what is now Section 1988 in 1866 and (2) Congress enacted what is now Section 1983 in 1871, Louisiana had a general one-year limitations period for personal injury tort actions. Congress is presumed to be "aware of existing law when it passes legislation." *Hall v. United States*, 566 U.S. 506, 516 (2012). Accordingly, applying a one-year limitations period to Section 1983 claims in Louisiana is not inconsistent with Congress' intent in enacting Section 1988 and Section 1983, because that is the same general limitations period for personal injury tort actions that existed under Louisiana law at the time Congress enacted those statutes.

Further, as stated above, Alabama, Maryland, Tennessee, and Texas also had one-year statutes of limitations for personal injury tort actions in 1866 and 1871. It could not have escaped Congress's attention (and Congress is presumed to have known) that five of the states had one-year statutes of limitations for personal injury tort actions that, under Section 1988, would apply to the federal civil rights claims it had created that did not have their own statutes of limitations.

Notably, all five of the states with one-year limitations period for personal injury tort actions in 1866 and 1871 were former slave states, four of the five had just rebelled against the Union, and Tennessee was the birthplace of the Ku Klux Klan. Those states and government officers in them were among the original primary targets of Section 1983 – making it even clearer that it could not have escaped Congress's attention that under Section 1988, these one-year statutes of limitations would apply to Section 1983 claims.

Second, as set forth above, this Court has applied Louisiana's one-year general limitations period for personal injury tort claims to Section 1983 claims arising from Louisiana since at least 1914. *See O'Sullivan*, 233 U.S. at 321-325. The Court has also applied borrowed one-year limitations periods to federal civil rights claims in multiple other cases without ever suggesting that doing so was "inconsistent with the Constitution and laws of the United States" under Section 1988. *See Johnson v. Railway Express Agency, Inc.*, 421 U.S. 454, 462-467 (1975); *Chardon v. Fernandez*, 454 U.S. 6, 6-8 (1981); *Chardon v. Fumero Soto*, 462 U.S. 650, 654-662 (1983).

In *Wilson*, this Court stated that it is "**most unlikely that the period of limitations applicable to [general personal injury actions sounding in tort under state law] ever was, or ever would** be, fixed in a way that would discriminate against federal claims, or **be inconsistent with federal law in any respect**." *Id.* at 279. (emphasis added).

As set forth above, at the time *Wilson* was decided in 1985, Louisiana, Tennessee, Kentucky, California, and Puerto Rico all had one-year statutes of limitations for personal injury tort actions. Thus, in so holding in *Wilson*, it could not have escaped the Court's attention that this holding applied to one-year statutes of limitations in five jurisdictions that, at the time, encompassed a population of over 39 million people.[7]

Further, since the Court's decisions in *Wilson* and *Owens* in 1985 and 1989, it has become even clearer that the one-year limitations period applies to Section 1983 claims in Louisiana. Congress could have changed this result at any time if the Court had interpreted Sections 1988 and 1983 incorrectly. *See Kimble v. Marvel Entertainment, LLC*, 576 U.S. 446, 456 (2015).

But Congress did not do so. In fact, as stated above, Congress rejected a uniform, retroactive four-year federal statute of limitations for Section 1983 claims. Instead, Congress enacted Section 1658, "leav[ing] in place the 'borrowed' limitations periods for pre-existing causes of action" like Section 1983 claims. *Jones*, 541 U.S. at 382.

Congress is presumed to be aware that this meant the continued application of one-year limitations periods to Section 1983 claims in the jurisdictions that have such limitations periods. *See*

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[7] U.S. Census Bureau, https://www2.census.gov/prod2/statcomp/documents/1991-02.pdf (Table No. 26, "Resident Population" by state) (last accessed Aug. 10, 2024).

Hall, 566 U.S. at 516. As such, "the unmistakable implication" of Congress's enactment of Section 1658 after *Wilson* and *Owens* "is that Congress embraced [*Wilson* and *Owens*'s] holding[s]," approving the application of borrowed state limitations periods to Section 1983 claims, including one-year periods in jurisdictions with one-year limitations periods for personal injury tort actions. *Bartenwerfer v. Buckley*, 598 U.S. 69, 81 (2023); *see Jones*, 541 U.S. at 382.

Third, applying a one-year limitations period to Section 1983 claims does not eliminate the ability to assert such claims. Instead, it merely imposes a deadline by which a plaintiff must assert such claims.

This Court has recognized both (1) the importance of state statutes of limitations and the substantive policies served by them; and that (2) Congress deems such policies important by deferring to state law for statutes of limitations for federal civil rights claims in Section 1988. *See Bd. of Regents of Univ. of State of N.Y. v. Tomanio*, 446 U.S. 478, 487-488 (1980) ("Statutes of limitations . . . have long been respected as fundamental to a well-ordered judicial system"); *Wilson*, 471 U.S. at 271 ("A federal cause of action brought at any distance of time would be utterly repugnant to the genius of our laws.") (internal quotations and citations omitted); *Felder v. Casey*, 487 U.S. 131, 139-140 (1988) ("Because statutes of limitation are among the universally familiar aspects of litigation considered indispensable to any scheme of justice, it is entirely reasonable to assume that Congress did not intend to create a right enforceable in perpetuity," so the Court has long applied state statutes of limitations to federal civil rights claims

that do not have their own limitations periods under Section 1988).

If completely extinguishing a timely-filed Section 1983 claim pursuant to a state law governing survival of actions is not inconsistent with Section 1983, then merely imposing a one-year statute of limitations to file a Section 1983 action cannot be inconsistent with Section 1983. *See Robertson*, 436 U.S. at 591-593; *see also Hardin v. Straub*, 490 U.S. 536, 544 (1989) (though state tolling provisions for statutes of limitations also apply to Section 1983 claims, if a state does not have a tolling provision applicable to toll the statute of limitations for claims by prisoners while incarcerated, that is not inconsistent with Section 1983); Pet App. 12a-13a.

Fourth, Congress has itself enacted a one-year statute of limitations for certain federal civil rights claims in Section 1986. Section 1986 claims are complex, because they require (1) a violation of a federal civil right, (2) a conspiracy of persons to engage in the violation, and (3) an individual who has the power to stop or help stop the conspiracy and knows of the conspiracy but fails to stop or help stop it. *See Galloway v. State of La.*, 817 F.2d 1154, 1159 n.2 (5th Cir. 1987). Thus, Section 1986 claims are much more complex than any Section 1983 claim, because they require proof of both a violation of a federal civil right (as any Section 1983 claim requires) and two additional, complex elements over and above the violation of the right itself.

Nonetheless, Congress set a one-year limitations period for such claims. If Congress set a

one-year limitations period for filing much more complex federal civil rights claims than Section 1983 claims, Louisiana's one-year limitations period is not so short that it is "inconsistent with the Constitution and laws of the United States" under Section 1988 such that it cannot be applied to Section 1983 claims. As discussed above, multiple Supreme Court justices and federal circuit courts have agreed. *See Burnett*, 468 U.S. 61 (Rehnquist, J., concurring); *McDougal*, 942 F.2d at 673; *Blake*, 997 F.2d at 751; *Woods*, 710 F.3d at 767; *Okure*, 816 F.2d at 52-53 (Van Graafeiland, J., dissenting); *see also Jones & Preuit*, 876 F.2d at 1484.

Brown may argue that Section 1986's one-year statute of limitations does not have any bearing on whether a one-year limitations period is "inconsistent with the Constitution and laws of the United States" under Section 1988 such that it cannot be applied to Section 1983 claims. Brown may so argue because what is now Section 1986 was the ultimate result of debate and compromise over the proposed Sherman Amendment to the Ku Klux Klan Act of 1871.[8]

But this argument does not make sense. A one-year limitations period apparently was the shortest period that competing factions in Congress found acceptable for Section 1986 claims after extensive debate and compromise. Thus, the fact that the one-year limitations period in Section 1986 was a product of extensive debate and compromise actually supports

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[8] Cong. Globe, 42nd Cong., 1st Sess. 819-820 (1871), https://www.congress.gov/congressional-globe/congress-42-session-1-part-2.pdf (last accessed Aug. 10, 2024).

the conclusion that "at least a 1-year period is reasonable" for federal civil rights claims, including Section 1983 claims that are substantially less complex than Section 1986 claims. *Burnett*, 468 U.S. at 61 (Rehnquist, J., concurring).

Fifth, the reality of Section 1983 litigation in federal courts in Louisiana also disproves Brown's argument. The dockets of all three federal district courts in Louisiana and the Fifth Circuit are filled with Section 1983 actions that, unlike the instant action, were filed within the applicable limitations period. Many of those cases involve allegations of excessive force by law enforcement officers. Section 1983 actions by incarcerated prisoners are so plentiful in Louisiana's three federal district courts that they have adopted multiple specific rules, forms, and procedures to address the volume of such cases in an efficient manner.[9] Congress itself recognized this fact by enacting the Prison Litigation Reform Act ("PLRA")

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[9] *See* W.D. La. Local Rules 3.2 and 73.2.1 at https://www.lawd.uscourts.gov/local-rules (last accessed Aug. 10, 2024); *see* https://www.lawd.uscourts.gov/local-forms (last accessed Aug. 10, 2024).

See E.D. La. Local Rules 16.1 and 73.2(a) at https://www.laed.uscourts.gov/sites/default/files/local_rules/2022%20CIVIL%20RULES%20LAED%20w%20Amendments%203.1.22.pdf (last accessed Aug. 10, 2024); s*ee* https://www.laed.uscourts.gov/sites/default/files/forms/1983.pdf (last accessed Aug. 10, 2024).

See M.D. La. Local Rules 5(d) and 16(a) at https://www.lamd.uscourts.gov/sites/default/files/pdf/2019LocalRules.pdf (last accessed Aug. 10, 2024); *see* https://www.lamd.uscourts.gov/sites/default/files/1983COMPLAINTFORM-REVISED2014.pdf (last accessed Aug. 10, 2024).

in 1996, which was expressly intended to curtail the volume of Section 1983 litigation by prisoners across the country. *See Woodford v. Ngo*, 548 U.S. 81, 84 (2006).

Thus, the fact that there is a high volume of Section 1983 claims in federal courts in Louisiana despite the application of Louisiana's one-year limitations period rebuts any notion that a one-year limitations period is inadequate for Section 1983 claims. Congress's adoption of a statute that imposes additional procedural burdens upon incarcerated individuals who wish to file Section 1983 claims also disproves Brown's assertion that procedural burdens, even onerous ones like those imposed under the PLRA, are inconsistent with Congress's intent for Section 1983 claims.

Brown and his amici's arguments about how purportedly difficult it is to prepare and file civil rights lawsuits and to obtain counsel willing to do so are exaggerated. These arguments ignore numerous facts that undermine their claims.

Brown and his amici ignore the provision in Section 1988 allowing for the recovery of attorneys' fees for prevailing parties in Section 1983 litigation. This provision allows successful plaintiffs to almost always receive an award of attorneys' fees, while successful defendants can only receive attorneys' fees awards for defending against frivolous claims. Thus, Congress has provided plaintiffs a strong incentive to file Section 1983 claims, with little risk of being held liable for the defendant's attorney's fees. *See Fox v. Vice*, 563 U.S. 826, 832-841 (2011).

Louisiana's tolling provision, the jurisprudential doctrine of *contra non valentem*, applies to Section 1983 claims. *See Hardin*, 490 U.S. at 527-544; *Burge v. Parish of St. Tammany*, 996 F.2d 786, 788-789 (5th Cir. 1993). Though this doctrine does not apply to Brown's claim and Brown has not attempted to argue that it does, it can provide Section 1983 plaintiffs with an extension of the limitations period for their claims.

State public records laws provide plaintiffs with access to numerous state and local government records that can be used by plaintiffs in preparation for filing a Section 1983 suit – both for obtaining facts relevant to their claims and for obtaining the identities of potential defendants. In Louisiana, for example, the Louisiana Public Records Law (LPRL) provides access to numerous records, with short response deadlines for public entities to respond to public records requests, summary proceedings for resolving suits based on the LPRL, and available awards of attorneys' fees, costs, and damages for requesting parties who prevail in recovering improperly withheld materials in such suits. *See* La. R.S. §§ 44:1(A)(2)(a), 44:32, 44:33, and 44:35.

Federal Rule of Civil Procedure 15(a)(1) guarantees plaintiffs at least two chances to plead their case against a defendant. FRCP 15(a)(2) also provides for a liberal policy of permitting additional amendments thereafter. *See Foman v. Davis*, 371 U.S. 178, 182 (1962). Brown and his amici's arguments regarding the purported difficulty of pleading Section 1983 claims ignore the fact that this liberal amendment policy often provides plaintiffs numerous

opportunities to attempt to plead their case before a court will make a final ruling on a defendant's motion testing the sufficiency of the complaint.

C. *Stare decisis* requires rejection of Brown's arguments and weighs against taking this case.

As set forth above, the district court and the Fifth Circuit correctly decided this case under this Court's existing, longstanding precedents that have correctly interpreted Sections 1988, 1983, and 1658. Accepting Brown's arguments would require overturning multiple precedents of this Court, including but not limited to *O'Sullivan*, *Robertson*, *Burnett*, *Wilson*, *Felder*, *Owens*, and *Jones*.

Because accepting Brown's arguments would require overturning the longstanding precedents of this Court under which the lower courts decided this case, *stare decisis* considerations are also relevant to whether the Court should take this case.

i. This case involves statutory *stare decisis*, where the doctrine is strongest.

The precedents that would be abrogated if Brown's arguments were accepted are statutory precedents because they are interpretations of Section 1988, Section 1983, and Section 1658.

Stare decisis is at its strongest in this context. *Stare decisis* "carries enhanced force when a decision . . . interprets a statute [because] critics of [the Court's] ruling can take their objections across the street, and Congress can correct any mistake it sees." *Kimble*, 576

U.S. at 456. Under statutory *stare decisis*, the Court's decisions interpreting statutes "effectively become part of the statutory scheme, subject (just like the rest) to congressional change." *Id.* Unless there is "special justification [to overturn them], they are balls tossed into Congress's court, for acceptance or not as that branch elects." *Id.*

As stated above, the "ball" of the Court's borrowing precedents under Section 1988 was "tossed" to Congress shortly after *Wilson* and *Owens* in the form of the FCSC's recommendation to do away with those precedents. *Id.* But Congress expressly rejected that recommendation and left those precedents in place by enacting Section 1658. *See Jones*, 541 U.S. at 382.

ii. The *stare decisis* factors weigh in favor of denying the Petition and maintaining existing precedent.

Under *stare decisis*, there are multiple factors to consider in deciding whether to overturn precedent. *See Dobbs v. Jackson Women's Health Org.*, 597 U.S. 215, 263-290 (2022).

The most important of these factors is the reliance factor. *See id.* This factor asks whether overturning precedent "would dislodge settled rights and expectations," such as when parties "have been acting on the assumption that they are protected" by existing precedent. *Hilton v. S. Car. Pub. Railways Com'n.*, 502 U.S. 197, 202-203 (1991).

The Court's existing, longstanding "borrowing" precedents under Section 1983 that require application of Louisiana's one-year prescriptive period

to Section 1983 claims in Louisiana have created substantial reliance interests that would be disturbed by overturning those precedents. Statutes of limitations are "fundamental to a well-ordered judicial system," and they create "settled expectations that a substantive claim will be barred without respect to whether it is meritorious." *Tomanio*, 446 U.S. at 487. Congress agreed in rejecting a retroactive, uniform four-year statute of limitations for Section 1983 claims. Again, Congress was concerned that doing so "would threaten to disrupt the settled expectations of a great many parties." H.R. Rep. 101-734, at 24 (1990). That led Congress to enact Section 1658 as a uniform federal statute of limitations only for new claims and leave in place borrowed state statutes of limitations like Louisiana's one-year statute of limitations for Section 1983 claims under *Wilson* and *Owens*. *See Jones*, 541 U.S. at 382.

Accepting Brown's arguments would resurrect old, stale claims that government entities and officers have thought – with good reason – were time-barred. *See Harper v. Virginia Dept. of Taxation*, 509 U.S. 86, 97 (1993) (the Court's decisions must be given "full retroactive effect" as to "all events, regardless of whether such events predate or postdate [the Court's decision]"). This would lead to an influx of new, previously time-barred Section 1983 litigation.

One consequence would be a major negative effect on the ability of state and local governments to accurately budget for the future and on their existing budgets. Government entities often engage in detailed budgeting processes for their projected potential liability resulting from litigation. *See*, *e.g.*, *Newman*

Marchive Partnership v. Hightower, 735 F. Supp. 2d 483, 488-490 (W.D. La. 2009) (describing the City of Shreveport's budgeting process for potential claims and judgments).

Obviously, resurrecting up to three years of Section 1983 claims that government entities previously thought were time-barred would have a negative impact on government budgeting processes and reasonable expectations for potential litigation liability for the hundreds of local government entities in Louisiana and the many thousands of others across the country in other states. Ultimately, taxpayers would be forced to shoulder this unexpected burden, and the sudden influx of new, unliquidated potential liabilities for government entities would impair their ability to perform their governmental functions. Of course, such an influx of additional Section 1983 litigation would also impose a substantial burden on the federal courts.

Another consequence would be the impairment of individual government officers' ability to perform their jobs. Both the prospect of potential litigation liability and the process of litigation itself result in "distraction of officials from their governmental duties [and] inhibition of discretionary action." *Mitchell v. Forsyth*, 472 U.S. 511, 526 (1985). These burdens would be even greater in the context of claims regarding which there were "settled expectations" that such claims were time-barred. *See Tomanio*, 446 U.S. at 487.

Accepting Brown's position would also worsen an existing retention and hiring crisis in the law

enforcement profession – a profession that already faces the major retention and hiring deterrent that it requires risking one's life every day. According to a 2023 survey of law enforcement agencies across the country by the Police Executive Research Forum, law enforcement "agencies are losing officers faster than they can hire new ones," with resignations and retirements of existing officers substantially spiking in recent years.[10] Subjecting officers to the burdens of litigation and trial results in "deterrence of able people from public service." *Mitchell*, 472 U.S. at 526. Accepting Brown's arguments and generating an influx of new Section 1983 litigation would exacerbate this disturbing trend, to the detriment of public safety.

Accepting Brown's argument that Section 1658's four-year statute of limitations applies to all Section 1983 claims would also result in the immediate extinction of Section 1983 claims in the three states (Maine, Missouri, and North Dakota) that have general or residual limitations periods for personal injury tort actions that are longer than four years. Pet. App. 44a-48a; *see Harper*, 509 U.S. at 97. Thus, any Section 1983 claimant in those states who relied upon the Court's longstanding precedents in waiting to file suit until more than four years after their claims accrued would have their claims immediately extinguished.

There is no "special justification" for overturning the statutory precedents of this Court on

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[10] Police Executive Research Forum, 2023 Membership Survey Results (April 1, 2023), https://www.policeforum.org/staffing2023 (last accessed Aug.. 8, 2024).

which many parties (both potential plaintiffs and potential defendants) have relied – particularly when Congress has expressly decided to leave those precedents in place. *Kimble*, 576 U.S. at 456; *see Jones*, 541 U.S. at 382.

CONCLUSION

Brown's Petition should be denied.

Respectfully submitted,

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