No. 24-781

IN THE
Supreme Court of the United States

FIRST CHOICE WOMEN'S RESOURCE CENTERS, INC.,
Petitioner,

v.

MATTHEW PLATKIN, in his official capacity as Attorney General of New Jersey.
Respondent.

On Writ of Certiorari to the United States Court of Appeals for the Third Circuit

AMICUS BRIEF OF THE ROBERTSON CENTER FOR CONSTITUTIONAL LAW IN SUPPORT OF PETITIONER

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INTEREST OF AMICUS[1]

The Robertson Center for Constitutional Law is an academic center within the Regent University School of Law. Established in 2020, the Center pairs scholarship and advocacy to advance first principles in constitutional law, including limited government, separation of powers, religious liberty, and the rule of law. The Center regularly represents organizations of various faith traditions that support religious freedom, conscience rights, and the sanctity of human life.

The Center offers this brief 1) to identify the multiple missteps in both lower court opinions, resulting in their confusion of prudential ripeness and ripeness under Article III; and 2) to argue that this case presents a suitable vehicle for jettisoning the prudential ripeness doctrine.

SUMMARY OF THE ARGUMENT

The lower court opinions in this case are remarkable for the disconnect between their conclusions and their reasoning. Although both decisions purport (or at least can be interpreted) to hold that First Choice's claims are not ripe under Article III, their analyses suggest that prudential ripeness was really at play. The Third Circuit

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[1] No counsel for any party in this case authored this brief in whole or in part. No person or entity aside from Amicus, its members, or its counsel made a monetary contribution to the preparation or submission of this brief.

appeared to read this Court's precedents as suggesting that First Choice's claims must be both constitutionally and prudentially ripe. While that may once have been true, over the past decade, this Court's precedents have drawn clear distinctions between the two kinds of ripeness, and the prudential ripeness doctrine has fallen into disfavor. More importantly, the Court has held that prudential ripeness cannot override Congressionally conferred federal jurisdiction.

The only other reason the Third Circuit gave for its decision was its confidence that the New Jersey state courts would adequately decide First Choice's claims. In punting to the New Jersey courts, the Third Circuit imported prudential ripeness principles. Deference to state courts is never appropriate in evaluating the constitutional ripeness of § 1983 claims.

Similarly, the District Court, although purporting to reject the Attorney General's prudential ripeness argument invoked prudential ripeness principles to support its conclusion that First Choice's § 1983 claims were not constitutionally ripe. Stating that "Article III ripeness hides within [prudential considerations]," the District Court held that First Choice's claims are not ripe because a contrary ruling would "subvert" federalism.

The lower courts' reliance on federalism manifests their confusion of prudential ripeness and constitutional ripeness. When courts defer or dismiss § 1983 claims under the guise of prudential ripeness, they risk reestablishing the very state supremacy that § 1983 was designed to overcome.

Section 1983 was Congress's response to the post-

Civil War reality that state actors, especially state courts, had systematically failed to protect federal rights. State courts routinely excluded Black Americans as witnesses, barred Black Americans from jury service, and denied them access to basic civil remedies. The problem was not just private violence, but state complicity—both through active resistance and systemic inaction. As this Court's precedents confirm, one of Congress's primary goals in enacting § 1983 was to ensure the primacy of federal court adjudication of federal rights. Section 1983 was never intended as a procedural backstop or secondary remedy. The lower courts' elevation of New Jersey legislative and judicial interests turns § 1983's guarantee on its head.

Equally important, the lower courts' importation of prudential ripeness considerations triggers three constitutional problems. First, the lower courts' deference to state court review abdicates federal judicial responsibility. Second, the use of prudential ripeness conditions federal court access on discretionary judicial assessments. It therefore conflicts with Congress's judgment and erodes the jurisdiction Congress conferred on federal courts.

Third, the prudential ripeness doctrine creates procedural traps that extinguish federal rights. By conditioning § 1983 jurisdiction on the progress of state proceedings, the lower courts risked relegating First Choice's constitutional claims to state court entirely, because res judicata may later foreclose federal review.

The lower courts' confusion is a particularly egregious example of the kind of jurisprudential

mischief the prudential ripeness doctrine has caused. In *Knick v. Township of Scott*, a few nails were driven into its coffin. This case presents this Court with an excellent opportunity to inter the prudential ripeness doctrine for good.

ARGUMENT

As First Choice and other amici explain, Pet'r Br. at 20–23, the lower court decisions in this case conflict with this Court's precedents on multiple fronts. That conflict was inevitable given how badly both the District Court and the Court of Appeals stumbled out of the gate. Both decisions are bereft of any analysis of Article III ripeness in the context of a pre-enforcement First Amendment challenge. After stating earlier that "it is now undisputed that [First Choice's] claims are ripe,"[2] the Third Circuit abruptly reversed course. It offered little explanation for its reversal, other than to express confidence that the state court would adequately adjudicate First Choice's § 1983 claims. *See* Pet. App. at 5a.

Though more exhaustive, the District Court's justification for its decision was no better. The court combined conflation of jurisdictional concepts with reliance on Third Circuit decisions having nothing to do with either constitutional ripeness or the First Amendment right to association. Ultimately, it rested its reasoning on a concern for federalism, stating that holding First Choice's claims ripe would "subvert" the state legislature's design for the Attorney General's

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[2] *First Choice Women's Res. Ctrs., Inc. v. Att'y Gen. of New Jersey*, No. 24-1111, 2024 WL 3493288, at *1 (3d Cir. July 9, 2024).

subpoena power. *Id.* at 56a.

Although both courts held that First Choice's claims were not ripe under Article III, parsing through their sketchy and muddled explanations reveals that the prudential ripeness doctrine was really—and wrongly—at play.

I. The Lower Courts' Misapplication of Federalism Principles Confuses the Distinction Between Prudential Ripeness and Constitutional Ripeness.

The doctrine of prudential ripeness allows courts to decline to exercise jurisdiction over a case, even if it is otherwise justiciable, based on considerations of judicial prudence. *See Nat'l Park Hospitality Ass'n v. Dept. of Interior*, 538 U.S. 803, 808 (2003) (explaining that courts may decline to exercise jurisdiction solely based on prudential concerns). It is distinct from constitutional ripeness, which is rooted in Article III of the U.S. Constitution and focuses on whether a case presents an actual case or controversy. *See Susan B. Anthony List v. Driehaus*, 573 U.S. 149, 167 (2014) (distinguishing between prudential and constitutional reasons for deeming a case nonjusticiable); *Suitum v. Tahoe Reg'l. Planning Agency*, 520 U.S. 725, 733 n.7 (1997) (differentiating between Article III's "case or controversy" and the Court's "prudential requirements.").

Prudential ripeness is concerned with whether it is wise or appropriate for a court to decide a case at a particular time. *See Horne v. Dep't of Agric.*, 569 U.S. 513, 526 (2013) (recognizing that prudential ripeness is "not, strictly speaking, jurisdictional."); *see also*

Stolt-Nielsen S.A. v. AnimalFeeds Int'l. Corp., 559 U.S. 662, 670 (2010) (dismissing the argument that a case was prudentially unripe and explaining that it was "fit for . . . review *at this time*.") (emphasis added).

The lower courts' failure to appreciate this distinction—and their misapplication of prudential ripeness principles to control the assessment of constitutional ripeness—led them to the erroneous conclusion that federal jurisdiction over First Choice's § 1983 claims must yield to the state's resolution of those claims.

A. The Third Circuit's Misguided, Conclusory Decision

The Third Circuit's short *per curiam* opinion consists primarily of conclusory assertions: "Claims must also be ripe, both to be encompassed within Article III and as a matter of prudence. *Susan B. Anthony List v. Driehaus*, 573 U.S. 149, 157 n.5, 167 (2014). Having considered the parties' arguments, we do not think First Choice's claims are ripe." Pet. App. at 4a. Which is it—constitutional or prudential ripeness? The Third Circuit offers no answer.

If the panel meant both, it misunderstood the distinction between constitutional and prudential ripeness. *SBA List* never suggested that claims must be both constitutionally and prudentially ripe. To the contrary, this Court acknowledged the "tension between" the doctrine of prudential ripeness and "our recent reaffirmation of the principle that 'a federal court's obligation to hear and decide' cases within its jurisdiction 'is virtually unflagging.'" *SBA List*, 573 U.S. at 167 (citations omitted). The Court held that it

was unnecessary to resolve the "continuing vitality" of prudential ripeness. *Id*. at 168.

If, instead, the Third Circuit intended to rest its conclusion on Article III ripeness, it is equally mistaken. As already noted, the same court expressly acknowledged that "it is now undisputed that [First Choice's] claims are ripe," *See First Choice Women's Res. Ctrs., Inc. v. Att'y Gen. of New Jersey*, No. 24-1111, 2024 WL 3493288, at *1 (3d Cir. July 9, 2024). Moreover, a holding that First Choice's claims are not ripe under Article III would disregard this Court's consistent recognition that the risk of a chilling effect is sufficient to establish ripeness in pre-enforcement challenges alleging violations of associational freedoms under the First Amendment. *See Americans for Prosperity Foundation v. Bonta*, 594 U.S. 595, 618–19 (2021) (The risk of a chilling effect on association is enough, "[b]ecause First Amendment freedoms need breathing space to survive.") (citation omitted); *NAACP v. Alabama ex rel. Patterson*, 357 U.S. 449, 463 (1958) (holding that a substantial First Amendment injury occurs through the "*initial exertion of state power*" in seeking disclosure of members' identities) (emphasis added); *see also* 13A Wright, Miller & Cooper, *Federal Practice and Procedure* § 3532.3 at 159 ("First Amendment rights of free expression and association are particularly apt to be found ripe for immediate protection, because of the fear of irretrievable loss. In a wide variety of settings, courts have found First Amendment claims ripe, often commenting directly on the special need to protect against any inhibiting chill.").

Despite acknowledging the dissent's contention that *Bonta*, 594 U.S. at 618–19, compelled the conclusion that First Choice's claims were ripe, the court invoked *Bonta* without explaining how it supported the opposite result. Pet. App. at 3a, 5a.[3]

The only other justification the Third Circuit offered was no more persuasive: "We believe that the state court will adequately adjudicate First Choice's constitutional claims, and we expect that any future federal litigation between these parties would likewise adequately adjudicate them." *Id.* at 4a–5a. That is not an Article III analysis at all, but a prudential judgment about forum choice.

Taken together, the opinion's ambiguity and the undisputed fact that the case is ripe under Article III compel only one conclusion: the Third Circuit decided the case on prudential grounds.

B. The District Court's Muddled Decision

Although the District Court purported to reject the Attorney General's prudential ripeness argument, *id.* at 29a, it likewise muddled jurisdictional concepts throughout the opinion. The court equated abstention with prudential ripeness, holding that abstention was not warranted and therefore (implicitly) prudential

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[3] The only other case the Third Circuit cited had nothing to do with constitutional ripeness or the First Amendment right to association: *Tafflin v. Levitt*, 493 U.S. 455 (1990) (holding that state courts have concurrent jurisdiction over civil actions brought under the Racketeer Influenced and Corrupt Organizations Act (RICO)).

ripeness was not at issue. *Id.* at 26a, 29a.[4] It then further conflated prudential rules of justiciability with ripeness under Article III: "The Article III ripeness concern *hides* in the cross-section between parallel proceedings and other prudential concerns like comity, abstention, and full faith and credit. In this amorphous, seldom clearly defined landscape, if the Article III concern is not introduced, it can easily be left unconsidered." *Id.* at 35a (emphasis added).

This reasoning collapses doctrines that this Court has kept distinct. Its precedents make clear the difference between Article III jurisdictional requirements and prudential doctrines. *See SBA List*, 573 U.S. at 167; *Lexmark Int'l, Inc. v. Static Control Components, Inc.*, 572 U.S. 118, 126 (2014). Ultimately, the District Court's approach amounted to labeling the case as deficient under Article III while, in substance, reasoning on prudential grounds. Yet the case was plainly ripe under Article III given the evident risk of a chilling effect. *See supra* p. 7.

Compounding these errors, the District Court leaned heavily on the Third Circuit's *Smith & Wesson* decisions,[5] even while conceding that neither case involved Article III ripeness nor the First Amendment right to association. Pet. App. at 18a, 43a. Misapplying those inapposite precedents, it concluded

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[4] ("The State's primary contention in opposing Plaintiff's motion is that abstention, a prudential ripeness doctrine, is appropriate here.").

[5] *See Smith & Wesson Brands, Inc. v. Att'y Gen. of New Jersey*, 27 F.4th 886, 896 (3d Cir. 2022) (holding that abstention was not appropriate); *Smith & Wesson Brands, Inc. v. Att'y Gen. of New Jersey*, 105 F.4th 67, 84 (3d Cir. 2024) (holding that res judicata barred appellant's claims).

that First Choice's claims would not be ripe until a "state court has fulfilled the role it was delegated by the state legislature," through enforcement of the Attorney General's subpoena. Pet. App. at 54a. That reasoning would bar facial challenges altogether, even though this Court has long recognized that such challenges may proceed precisely because a law's "very existence may cause others not before the court to refrain from constitutionally protected expression or association." *Broadrick v. Oklahoma*, 413 U.S. 601, 612 (1973).

Finally, the District Court wrongly asserted that holding First Choice's claims ripe would "be a subversion of the federalist structure of our government." Pet. App. at 54a.

> [T]o the extent that Plaintiff seeks to frustrate action by a state agency and subvert the New Jersey state legislature's intent to have a state court first consider whether a subpoena is enforceable before it takes on the power of law, such is not tolerable to our Nation's federalism. . . . [This court] should not sit in judgment on a matter the state legislature has set aside for initial consideration by a state tribunal.

Id. at 56a. This presumed supremacy of state jurisdictional authority flies in the face of this Court's clear reaffirmation that "a federal court's obligation to hear and decide cases within its jurisdiction is virtually unflagging." *SBA List*, 573 U.S. at 167 (quotations omitted).

The lower courts' invocation of federalism is

perhaps the most significant clue that they dressed prudential ripeness in constitutional ripeness clothing. Federalism concerns are irrelevant to constitutional ripeness, especially when the case involves claims brought under 42 U.S.C. § 1983. When courts defer or dismiss § 1983 claims under the guise of prudential ripeness, they risk reestablishing the very state supremacy that § 1983 was designed to overcome.

II. This Court Should Repudiate the Prudential Ripeness Doctrine.[6]

Although this case can be resolved by proper application of constitutional ripeness standards, the Court should take the opportunity to eliminate the jurisprudential mischief wrought by the misguided prudential ripeness doctrine. For more than a decade, this Court has cast doubt on the continued vitality of prudential justiciability doctrines. In *Lexmark Int'l, Inc. v. Static Control Components, Inc.*, the Court noted "tension" between prudential standing and the judiciary's obligation to decide cases within its jurisdiction, narrowing the "zone of interests" test to a matter of statutory interpretation rather than judicial discretion. 572 U.S. 118, 126 (2014). It even called the term "prudential standing" a "misnomer." *Id*. at 127.

Then, in *Susan B. Anthony List v. Driehaus*, this Court further distanced itself from prudential

[6] The following sections are derived from the forthcoming law review article: Christian Edmonds, *Prudential Ripeness and the Federal Forum Guarantee,* 2025 U. Ill. L. Rev. Online (forthcoming Oct. 2025).

ripeness. 573 U.S. 149 (2014). After confirming that the plaintiff had suffered an Article III injury, the Court rejected the notion that prudential considerations could bar adjudication: "To the extent [a defendant] would have us deem [a plaintiff's] claims nonjusticiable 'on grounds that are "prudential," rather than constitutional,' that request is in some tension with our recent reaffirmation of the principle that 'a federal court's obligation to hear and decide' cases within its jurisdiction 'is virtually unflagging.'" *Id*. at 167 (quoting *Lexmark*, 572 U.S. at 126).

Most decisively, in *Knick v. Township of Scott*, the Court overruled the *Williamson County* state-litigation requirement—a prudential ripeness rule. 588 U.S. 180, 204 (2019). *See Williamson County Reg'l Planning Comm'n v. Hamilton Bank of Johnson City,* 473 U.S. 172 (1985); *see also Horne v. Dep't of Agric.*, 569 U.S. 513, 525–526 (2013) (*Williamson's* holding was based on prudential ripeness). That rule required takings plaintiffs to first seek compensation through state remedies before their claim would be considered ripe for federal court. *Knick*, 588 U.S. at 184. The Court held that this prudential ripeness barrier "imposes an unjustifiable burden on takings plaintiffs" and "conflicts with the rest of our takings jurisprudence." *Id.* at 185. This barrier was based on "a mistaken view of the Fifth Amendment," *id*. at 185, and had effectively relegated the Takings Clause "to the status of a poor relation among the provisions of the Bill of Rights" *id*. at 189 (quoting *Dolan v. City of Tigard*, 512 U.S. 374, 392 (1994)).

After *SBA List*, *Lexmark*, *and Knick*, there is no longer any justification for the prudential ripeness

doctrine to override clear statutory grants of federal jurisdiction. This is especially true for § 1983 claims, as the statute's history makes plain.

A. The Federal Forum Guarantee in § 1983.

Section 1983 was designed to ensure the primacy of federal court adjudication of federal rights. It was never intended as a procedural backstop or secondary remedy. The lower courts' elevation of New Jersey legislative and judicial interests turns § 1983's guarantee on its head.

Section 1983 was Congress's response to the post–Civil War reality that state actors, especially state courts, had systematically failed to protect federal rights. In the years following the Civil War, Southern states not only resisted federal civil rights enforcement but did so with open hostility. *See* Richard Briffault, *Section 1983 and Federalism*, 90 Harv. L. Rev. 1133, 1151 (1977). State courts routinely excluded Black Americans as witnesses, barred Black Americans from jury service, and denied them access to basic civil remedies. *Id*. Meanwhile, federal officials attempting to enforce national laws on conscription, taxes, and loyalty were sued in state courts under hostile laws designed to obstruct federal authority. *Id*. at 1150. Political violence ran rampant. *Id*. at 1153. Klansmen disrupted Republican meetings, attacked Black citizens, and used terror to suppress voter participation. *Id*.

Congress understood the problem was not just private violence, but state complicity—both through active resistance and systemic inaction. *Id*. at 1154. During debates over what became the Civil Rights Act

of 1871, lawmakers expressed deep alarm over the inability—or frequent outright refusal—of state institutions to provide redress. *Id.* at 1154-55. Representative David Perley Lowe described a dire situation: "While murder is stalking abroad in disguise, while whippings and lynchings and banishments have been visited on unoffending American citizens, the local administrations have been found inadequate or unwilling to apply the proper corrective." Cong. Globe, 42d Cong., 1st Sess. 374 (1871).

Others emphasized the collapse of judicial neutrality. Representative John Beatty cited "prejudiced judges and juries," *id.* at 429; Representative Joseph Hayne Rainey warned that "the courts are in many instances under the control of those who are wholly inimical to the impartial administration of law and equity," *id.* at 394; and Representative James Henry Platt observed that judges were exercising "almost despotic powers . . . against Republicans without regard to law or justice." *Id.* at 429.

The violence also had clear political dimensions. Representative Clinton Levering Cobb of North Carolina spoke of the "social and political disability" imposed on Black citizens and White Republicans alike. Briffault, 90 Harv. L. Rev. at 1154. Representative John Coburn of Indiana explained that the concern was not "isolated outrages," but "crimes perpetrated by concert and agreement, by men in large numbers acting with a common purpose" to target people based on their political beliefs. *Id.* Representative Ellis Roberts went further: "One rule

never fails: the victims whose property is destroyed, whose persons are mutilated, whose lives are sacrificed, are always Republicans. . . . Such uniformity of result can come only from design." Cong. Globe, 42d Cong., 1st Sess. 412–13 (1871).

Importantly, Congress did not view the states' failure as incidental or correctable through existing channels. Briffault, 90 Harv. L. Rev. at 1153. President Ulysses S. Grant, unsure whether his administration could constitutionally respond alone, requested emergency legislation. He reported to Congress:

> A condition of affairs now exists in some of the states of the Union rendering life and property insecure, and the carrying of the mails and collection of the revenue dangerous. . . . That the power to correct these evils is beyond the control of state authorities I do not doubt; that the power of the Executive of the United States, acting within the limits of the existing laws is sufficient for present emergencies is not clear.

Cong. Globe, 42d Cong., 1st Sess. 236 (1871).

Congress responded by passing the Civil Rights Act of 1871—the most sweeping expansion of federal jurisdiction since the Judiciary Act of 1789. Briffault, 90 Harv. L. Rev. at 1147. Through what is now § 1983, Congress created a direct federal cause of action for constitutional violations committed under color of state law. Crucially, it did so to provide a federal forum that did not require plaintiffs to exhaust state remedies or rely on state courts. As Representative

David Perley Lowe stated: "It is said that the states are not doing the objectionable acts. This argument is more specious than real. . . . What practical security would this provision give if it could do no more than to abrogate and nullify the overt acts and legislation of a State?" Cong. Globe, 42d Cong., 1st Sess. 375 (1871).

Section 1983 was designed to ensure access to a federal forum, as this Court has repeatedly recognized. In *Monroe v. Pape*, 365 U.S. 167, 183 (1961), this Court stressed that § 1983's unambiguous text was "cast in general language" and that "it is no answer that the State has a law which if enforced would give relief." *Id.* The Court insisted further that a state remedy "need not be first sought and refused before the federal one is invoked." *Id*. It is "abundantly clear," that § 1983 guarantees "a federal right in federal courts." *Id.* at 180; *see also Mitchum v. Foster*, 407 U.S. 225, 239 (1972) (stating that § 1983 is meant to "open[] the federal courts to private citizens, offering a uniquely federal remedy against incursions under the claimed authority of state law"). Thus, when modern courts invoke prudential ripeness to delay adjudication of § 1983 claims—as the lower courts did here—they do more than defy the statute's historical meaning; they disregard this Court's interpretation of § 1983 and nullify Congress's mandate that federal rights require federal remedies.

B. The Constitutional Costs of Prudential Ripeness

When courts invoke prudential ripeness to dismiss otherwise justiciable constitutional claims, they trigger three constitutional problems: 1) judicial responsibility is abdicated; 2) Congress's judgment is

overridden; and 3) plaintiffs may be denied their statutorily conferred federal remedy.

All three problems are present here. First, the lower courts' deference to state court review abdicates federal judicial responsibility. As Chief Justice Marshall warned, a federal court has "no more right to decline the exercise of jurisdiction which is given, than to usurp that which is not given. The one or the other would be treason to the Constitution." *Cohens v. Virginia,* 19 U.S. (6 Wheat.) 264, 404 (1821); *see also Wilcox v. Consol. Gas Co.*, 212 U.S. 19, 40 (1909) ("When a Federal court is properly appealed to in a case over which it has by law jurisdiction, it is its duty to take such jurisdiction."). The mere possibility that a state court might ultimately reach the correct result does not relieve federal courts of this constitutionally mandated jurisdictional obligation.

Second, the use of prudential ripeness to postpone or deny review of § 1983 claims threatens the jurisdictional framework Congress enacted to protect them. When federal courts systematically defer § 1983 claims, "the jurisdictional statute [§ 1343] is inescapably rendered a nullity." Martin H. Redish, *Abstention, Separation of Powers, and the Limits of the Judicial Function*, 94 Yale L.J. 71, 111 (1984). Section 1343 expressly grants federal courts jurisdiction over actions "to redress the deprivation, under color of any State law, . . . of any right, privilege or immunity secured by the Constitution." 28 U.S.C. § 1343(a)(3). That jurisdiction was never meant to be conditional.

Moreover, in the precursor to § 1343, Congress gave individuals the unqualified right to bring constitutional claims in federal court, without

requiring any judicial evaluation of whether state remedies were available or adequate. Redish, 94 Yale L.J. at 111–12. Access depended solely on the plaintiff's subjective decision to seek federal protection against state-based violations. *Id.*

This design stands in sharp contrast to the Civil Rights Removal Statute, 28 U.S.C. § 1443, which permits removal from state to federal court ***only*** when a defendant is "denied or cannot enforce in the courts of such State a right under any law providing for the equal civil rights of citizens of the United States." 28 U.S.C. § 1443(1). That statute, which traces back to § 3 of the Civil Rights Act of 1866, conditions federal access on an objective judicial finding of state court inadequacy. Clearly, Congress knew how to require judicial gatekeeping when it wanted to; its choice of language in § 1343 was intentional. Redish, 94 Yale L.J. at 111–12. By granting plaintiffs—not judges—the authority to decide when to seek federal jurisdiction, Congress made a structural judgment in favor of immediate and unimpeded access to federal courts. *Id.*

Accordingly, "an argument that construes a jurisdictional statute as somehow vesting a power in the federal courts to adjudicate the relevant claims without a corresponding duty to do so is unacceptable." *Id.* at 112. Though jurisdictional statutes have at times been framed in permissive terms, allowing federal courts to treat jurisdiction as optional would mean "every substantive right created by Congress would effectively be subject to a practical veto by the federal judiciary." *Id.* at 112–13. And "[i]f a jurisdictional grant is merely an invitation to

exercise jurisdiction, there is no logical reason why a federal court could not choose to disregard a particular federal statute—or a particular suit arising under a federal statute—which the Court deemed inadvisable." *Id.* at 113. "Surely, then, a congressional provision of jurisdiction must mean more than simply the option for the federal court to act." *Id.* Any other construction would lead to "absurd results." *Id.* at 112.

Because the prudential ripeness doctrine conditions access on discretionary judicial assessments, it conflicts with Congress's judgment and erodes the jurisdiction Congress constitutionally assigned to the federal judiciary.

Finally, the prudential ripeness doctrine creates procedural traps that extinguish federal rights. A prime example occurred in *Knick v. Township of Scott,* 588 U.S. at 184–85. There, the Court explained that requiring takings plaintiffs to exhaust state remedies before their claims are deemed ripe for federal court creates a constitutional "Catch-22": the plaintiff cannot access federal court without first going to state court, but if the plaintiff goes to state court and loses, the federal claim may be barred altogether. *Id.*

As First Choice explained in its opening brief, Pet'r Br. at 12, it now faces that exact Catch-22. By conditioning § 1983 jurisdiction on the progress of state proceedings, the lower courts risked relegating First Choice's constitutional claims to state court entirely, because res judicata may later foreclose federal review.

Prudential ripeness is not a principled exercise of judicial restraint—it is a discretionary barrier that distorts statutory design and exceeds constitutional

limits. Especially in the context of § 1983, it invites courts to deny a federal forum where Congress required one. This Court should formally repudiate this profoundly misguided—and unconstitutional—doctrine.

CONCLUSION

Amicus respectfully requests this Court to reverse the Third Circuit's judgment.

Respectfully submitted,

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