No. 24-993

In The
# Supreme Court of the United States

GABRIEL OLIVIER,

*Petitioner*,

v.

CITY OF BRANDON, MISSISSIPPI, ET AL.,

*Respondents*.

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

## BRIEF OF ERMA WILSON AS AMICUS CURIAE IN SUPPORT OF PETITIONER

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## Table of Contents

## Table of Authorities

### Cases

**Statutes**



**Rules**

## Interest of Amicus Curiae[1]

Like petitioner Olivier, amicus Erma Wilson has so far been deprived of any federal cause of action for her federal constitutional claim by the Fifth Circuit's expansive reading of *Heck* v. *Humphrey*, 512 U.S. 477 (1994). Her cert petition is currently pending before this Court (24-672). That case and this one both ask the Court to clarify the mode of analysis for § 1983 claims by noncustodial plaintiffs with state-court convictions, and both submit that the analysis should simply track statutory text.

The facts of Wilson's case are stark. In a "DEFCON 1 legal scandal," Wilson was convicted with one of the prosecutors simultaneously on the payroll of her presiding judge, including payment for work he did on her case. *Wilson* v. *Midland County*, 116 F.4th 384, 406 (CA5 2024) (en banc) (Willett, J., dissenting). That dual-hat prosecutor had a "covert side hustle" as the judge's law clerk, "seeking favorable rulings" by day and "surreptitiously drafting those rulings" by night. *Id.* The county concealed that "utterly bonkers" due process violation until long after Wilson's sentence expired, foreclosing any possibility of a habeas claim for it. *Wilson* v. *Midland County*, 89 F.4th 446, 459 (CA5 2023), *opinion vacated*. So Wilson pursued the only federal route available for the violation of her federal constitutional right to due process: a § 1983 damages claim for the "brazen prosecutorial misconduct that laid waste to her fundamental fair-trial right."

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

*Wilson*, 116 F.4th at 406 (Willett, J., dissenting). And yet, even though a habeas claim was categorically unavailable for that violation given Wilson's noncustodial status, the Fifth Circuit held that § 1983 was off the table too—leaving Wilson with no federal cause of action for what all agreed was an "egregious" violation of her federal due process rights. *Id.* at 387 (plurality opinion).

In short, amicus Wilson and petitioner Olivier are in the same car: deprived of any federal avenue to vindicate their federal constitutional rights, simply because they're not incarcerated. But via § 1983, Congress paved precisely that avenue. The decisions below closed it. Because no statutory roadblock exists, this Court should reopen it.

## Summary of Argument

This Court can grant Olivier complete relief and send his case back for adjudication on the merits via either of his two questions presented. They both rise or fall on the same threshold question: the mode of analysis for § 1983 claims by noncustodial plaintiffs with state-court convictions.

That mode-of-analysis question is whether the *Heck* bar is (1) a statutory claim-conciliation rule meant to avoid conflicts between § 1983 and the federal habeas statutes (28 U.S.C. 2241, 2254) or (2) an atextual, judge-made comity principle requiring federal courts to scrupulously avoid implying that a prior state-court judgment was unconstitutional, regardless of the plaintiff's noncustodial status, regardless of the nature or scope of relief sought, and regardless of statutory preclusion rules (as embodied in 28 U.S.C. 1738).

If it's option one—meaning the *Heck* bar is about avoiding statutory conflict—then it can't apply where no statutes conflict. Here, everyone agrees that § 2254 is categorically inapplicable to Olivier's claim, meaning § 1983's presumptive availability is not displaced by any other statute. On the other hand, if it's option two—meaning the *Heck* bar is a free-floating prohibition against ever implying the unconstitutionality of a state-court judgment, unmoored from the federal statutory scheme—then it bars a host of otherwise viable claims, including Olivier's.

Option one is right. The statutory conciliation view of the *Heck* bar accurately describes this Court's approach to the doctrine, and it's the approach faithful to the statutes Congress passed. The free-floating judicial comity approach, meanwhile, not only conflicts with statutory commands but also leads to absurd results.

Start with precedent. Every time this Court has applied *Heck* to bar a § 1983 claim, it's been because the plaintiff raised a claim for which the federal habeas statutes provided the federal avenue for relief. To be sure, that's meant needing to apply the doctrine to damages claims that would end-run the habeas process and needing to apply its logic in both pre- and post-conviction circumstances. But the Court's approach has been consistent: Every claim that would require a federal court to hold that a plaintiff is currently unlawfully in state or local custody sounds in habeas and therefore cannot be brought via § 1983. But that's all. *Heck* hasn't barred § 1983 claims about future prison-disciplinary hearings (even if those claims might in some sense cast doubt on the

propriety of past hearings), nor has it barred claims that might (but would not certainly) lead to a shorter prison term. In practice, the statutory-conciliation approach explains all of this Court's *Heck* decisions. If your claim has the legal or practical effect of requiring an end to your state or local custody, § 2254 (or perhaps § 2241) governs. Otherwise, § 1983 governs.

The problem arises in dicta from some of those cases. Sometimes dicta has characterized the doctrine more broadly than necessary to decide the case at hand. Sometimes it's conflated custodial plaintiffs' "favorable termination" requirement for avoiding a conflict between § 1983 and § 2254 with the general common-law "favorable termination" requirement relevant only to the tort of malicious prosecution. Those instances have unfortunately caused some confusion in the lower courts.

This case is an opportunity to tidy the analytic clutter. The way to do so is by stating clearly that the *Heck* bar is a statutory conciliation doctrine, and that it can only bar a § 1983 claim if the particular claim at hand conflicts with the federal habeas statutes or if it must be precluded pursuant to § 1738.

That's so for at least three reasons. First, Congress has already said how much respect federal courts must accord state-court judgments. The preclusive effect of a state-court judgment is determined by reference to state law, and federal courts can give them no more (or less) credit than they would receive at home. See 28 U.S.C. 1738. Reading *Heck* as a broader doctrine about judge-made comity subverts that congressional scheme. It creates a kind of super-preclusion by adding a categorical state-conviction

exception to § 1983 that finds no support in any statute (as opposed to the tailored exceptions required where the federal habeas statutes govern).

Second, the atextual view of *Heck* creates that super-preclusion even where state rules (which § 1738 says govern the preclusion analysis) explicitly command otherwise. Many states—including Mississippi, where Olivier's case arose—don't apply their preclusion rules to criminal convictions in all circumstances. They recognize that, in practice, defendants who face small fines for violating unconstitutional laws should sometimes be allowed to pay them without foreclosing their opportunity to challenge those laws in the future. The Fifth Circuit's expansive reading of *Heck* sweeps aside those rules in favor of a broad, judge-made rule that says state-court convictions must *always* foreclose federal litigation. It's a strange rule that requires federal courts to ignore state courts' own rules about the preclusive scope of their judgments in the name of respecting those very courts.

Third, by departing from the statutory-conciliation mode of analysis, the Fifth Circuit's prohibition against forward-looking pre-enforcement challenges by noncustodial plaintiffs who've previously been convicted under the law they wish to challenge leads to absurd results. The same exact claim brought by someone else would have the same exact effect on Olivier's past conviction and judgment as Olivier's claim does: formally none, but an implication of unconstitutionality. Barring Olivier's suit seeking the same relief and carrying the same implication would lead to the perverse result that a federal court can enjoin enforcement of a law against

a whole host of as-yet unharmed individuals, with only the person(s) *already* harmed by the restrictions having the federal courthouse doors slammed shut.

Nothing in federal law requires that strange result. To the contrary, the statutes on point command the opposite. This Court should therefore reverse the ruling below by clarifying that *Heck*'s mode of analysis concerns statutory conciliation (under § 1983 and the federal habeas statutes) and a statutory dictate about the preclusive effects of state-court judgments (§ 1738)—not free-floating judicial policymaking based on an atextually imagined sacrosanctity of state-court judgments against constitutional attack.

## Argument

### The *Heck* bar is a statutory conciliation rule, not an atextual, judge-made policy choice.

This case presents two questions: (1) whether *Heck* bars a noncustodial plaintiff's pre-enforcement § 1983 claim for injunctive relief against an ordinance under which he's previously been convicted because his claim would imply the unconstitutionality of that conviction; and (2) whether *Heck* bars noncustodial plaintiffs' conviction-impugning claims as a general matter. Answering the narrower first question in Olivier's favor is all he needs, and it's likely work enough for this Court in this case. But, ultimately, both questions rise or fall on the same mode-of-analysis inquiry: whether the *Heck* bar is about statutory analysis and conciliation, or whether it's an atextual, judge-made policy of unyielding respect for certain state-court judgments.

If the first view is right, the answer to both questions presented cashes out in Olivier's favor—because there's no conflict between § 1983 and § 2254 for pre-enforcement claims specifically (answering QP1) or for noncustodial plaintiffs' claims generally (answering QP2). But if the second view is right, then both questions presented cash out against Olivier—because regardless of his noncustodial circumstances and regardless of the nature of relief he seeks, even his forward-looking claim necessarily implies the unconstitutionality of his state criminal conviction, which the second view treats as a categorical no-no.

As discussed below, the second view is wrong. The *Heck* bar is a claims-processing rule that harmonizes the more specific cause of action in § 2254 with the more general cause of action in § 1983. The alternative view—that *Heck* is an atextual, judge-made policy of treating state-court criminal judgments as sacrosanct—leads to unsupportable, absurd results, often according more respect to state-court judgments than state courts themselves say those judgments deserve. However many questions this Court answers in this case, it should make clear that where Congress creates a federal-court cause of action, it can't be written away by judge-made rules. Basically, all the Court needs to do is clarify that this case is governed by a statutory mode of analysis—under which Olivier wins with respect to either question presented.

### A. The *Heck* bar harmonizes Congress's statutes.

As this Court explained in *Heck* itself, that case "lies at the intersection" of § 2254 and § 1983. 512

U.S. at 480. Both statutes "provide access to a federal forum for claims of unconstitutional treatment at the hands of state officials, but they differ in their scope and operation." *Id.* As a general matter, § 1983 provides a "broadly construed" remedy "against all forms of official violation of federally protected rights." *Dennis* v. *Higgins*, 498 U.S. 439, 443, 445 (1991). But sometimes it yields to the narrower § 2254—where the relief provided by the two statutes overlaps, even if implicitly, because the plaintiff's claim has the technical or practical effect of seeking to cut short his extant custody.

Congress wrote § 1983 to provide a broad and "presumptively" available cause of action for all persons to vindicate constitutional rights against state and local officials. *Health & Hosp. Corp. of Marion County* v. *Talevski*, 599 U.S. 166, 172 (2023). The relief available under § 1983 spans from nominal, compensatory, and punitive damages to equitable remedies like forward-looking injunctions and declaratory relief. The statute's breadth reflects a congressional judgment that individuals are entitled to a federal avenue to vindicate their constitutional rights. *Monell* v. *Dep't of Soc. Servs.*, 436 U.S. 658, 685 (1978). That breadth also ensures those claims proceed without state interference. *Felder* v. *Casey*, 487 U.S. 131, 147 (1988). In fact, the "very purpose of" § 1983 is "to interpose the federal courts between the States and the people, as guardians of the people's federal rights." *Mitchum* v. *Foster*, 407 U.S. 225, 242 (1972).

The federal habeas statutes serve a similar function for individuals aggrieved by state or local government action—but in narrower circumstances,

for a narrower set of plaintiffs, for a narrower form of relief, and with more procedural hurdles. Those statutes only reach individuals "in custody" of state or local officials, who are seeking to invalidate that very custody. 28 U.S.C. 2241(c)(3), 2254(a); *Preiser* v. *Rodriguez*, 411 U.S. 475, 489–490 (1973). Habeas is the exclusive federal vehicle for cutting short state or local custody, and unlike § 1983, it requires the exhaustion of state remedies before proceeding in federal court. *Heck*, 512 U.S. at 480–481.

Because, by its plain text, § 1983 could serve those same functions, *Preiser* and *Heck* require it to give way for custodial plaintiffs, lest it serve as an end-run around the habeas procedures. *Heck*, 512 U.S. at 487. On the other hand, where the federal habeas statutes categorically have no role to play (because the plaintiff is not in custody), § 1983's "presumptive" availability governs. *Talevski*, 599 U.S. at 172. As four Justices put it in *Heck* and five did in *Spencer* v. *Kemna*, 523 U.S. 1, 18–25 (1998), *Heck* cannot extend to "needlessly place at risk the rights of those outside the intersection of § 1983 and the habeas statute," such as "individuals not 'in custody' for habeas purposes." *Heck*, 512 U.S. at 500 (Souter, J., concurring in the judgment). In other words, *Heck* is meant to bar claims in the "core of habeas," not more. *Wilkinson* v. *Dotson*, 544 U.S. 74, 79–82 (2005).

That framing explains what this Court actually does in *Heck* cases: ask whether a claim will necessarily require cutting short the plaintiff's custody. If it will, § 1983 takes a backseat to habeas. If it won't, § 1983 retains the driver's seat. See *Edwards* v. *Balisok*, 520 U.S. 641, 648–649 (1997) (distinguishing between both types of claims brought

by a state prisoner and explaining that the latter "may properly be brought under § 1983").

And the same statutory analysis governs if a plaintiff tries to end-run habeas *before* his conviction. In *McDonough* v. *Smith*, for example, this Court held that a plaintiff who'd been indicted and tried using allegedly fabricated testimony could not have brought a claim until resolution of the underlying charges. 588 U.S. 109, 112 (2019). That made sense under the very same statutory-conciliation rationale underlying this Court's other *Heck* cases. Had McDonough sued sooner, he would have been raising claims that sounded in habeas—i.e., that he was unlawfully in state custody—because "*Congress has determined* that" habeas governs claims seeking to cut short either postconviction confinement or "confinement pending trial before any conviction has occurred." *Id.* at 118 n.6 (citations omitted; emphasis added).[2] In other words, that pre-resolution claim would "lie within the core of habeas corpus," *Wilkinson*, 544 U.S. at 79 (quotation marks omitted), and therefore could not be brought until McDonough exhausted his state-court remedies (including first "defend[ing] himself at trial"), per Congress. *McDonough*, 588 U.S. at 121.[3]

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[2] After being arraigned, McDonough was granted pre-trial release "with restrictions on his travel." 588 U.S. at 113. This Court "accepted [the] undisputed conclusion that there was a sufficient liberty deprivation here." *Id.* at 123 n.9. Those restrictions meant he was in custody for purposes of federal habeas relief. *Cf. Jones* v. *Cunningham*, 371 U.S. 236, 240 (1963) (explaining that restraints on liberty short of confinement still qualify for habeas relief).

[3] Viewed alternatively: Because McDonough's claim sounded in malicious prosecution and carried that tort's favorable-

By contrast, where a plaintiff "raise[s] no claim on which habeas relief could [be] granted on any recognized theory, * * * *Heck*'s favorable termination requirement [is] inapplicable." *Muhammad* v. *Close*, 540 U.S. 749, 755 (2004). That's why even a prisoner can bring a § 1983 action for forward-looking relief against prospective enforcement of prison regulations, even though he could not seek a restoration of good-time credits on the same legal theory. *Wolff* v. *McDonnell*, 418 U.S. 539, 554 (1974). And it's why this Court permits even current prisoners to bring challenges to parole procedures that *might* but "*would not necessarily* spell immediate or speedier release for the prisoner." *Wilkinson*, 544 U.S. at 81.

Viewed through the lens of those past cases, *Heck* poses no barrier to Olivier's pre-enforcement § 1983 claim here. Simply put, that claim doesn't seek to cut short state or local custody (because Olivier is not in custody), meaning the federal habeas statutes have nothing to say about it. Unless state preclusion law would bar the claim pursuant to § 1738 (which it wouldn't, as explained below), there's no federal statute displacing § 1983's presumptive availability, so § 1983 governs. *Talevski*, 599 U.S. at 172; see *Livadas* v. *Bradshaw*, 512 U.S. 107, 133 (1994) (§ 1983 creates "a generally and presumptively available remedy for claimed violations of federal law.").[4]

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termination *element* on the merits, the claim could not accrue during his "ongoing prosecution." 588 U.S. at 123.

[4] Aside from § 2254 and § 1738, there's a third potential barrier to § 1983 that doesn't need to be analyzed here because

### B. The *Heck* bar can't be a judge-made preclusion policy divorced from—and in conflict with—statutory text.

Confusion—and the circuit split underpinning this case—arises not because of what this Court actually does in applying *Heck* but because of how this Court has talked about *Heck*. The test for applying the *Heck* bar is often shorthanded as asking whether a plaintiff's claim would "necessarily imply the invalidity of his conviction or sentence[.]" *Nance* v. *Ward*, 597 U.S. 159, 167 (2022).[5] Language like that has led some courts to frame the *Heck* question as not about a conflict between federal statutes but as a broader rule grounded in "notions of federal-state comity." See *Savory* v. *Lyons*, 469 F.3d 667, 670 (CA7 2006). And, to be sure, a § 1983 judgment holding that a statute is invalid would certainly imply the invalidity of earlier convictions under that statute. But that's only a problem if a federal statute requires

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Olivier doesn't seek damages related to his prior prosecution or conviction. Where a noncustodial plaintiff does bring such a damages claim, its cognizability *may* turn on whether her conviction has been set aside—*if* the claim sounds in malicious prosecution. That question, in the appropriate case, must also be answered by statutory construction—i.e., by determining the extent to which § 1983 does or does not import certain common-law tort elements for a given constitutional claim—rather than by judicial policymaking. Amicus Wilson's pending cert petition raises that issue as its QP2 (*Wilson* v. *Midland County*, 24-672).

[5] The actual holding of *Heck*, of course, is that "**when a state prisoner** seeks damages in a § 1983 suit, the district court must consider whether a judgment in favor of the plaintiff would necessarily imply the invalidity of his conviction or sentence[.]" 512 U.S. at 487 (emphasis added). Omitting the first four words leads to mischief.

treating those convictions as sacrosanct. No such statute is on the books. Indeed, § 1983, § 2254, and § 1738 together show that no such categorical rule exists (though narrower ones do). Therefore, such a rule could only be judge-made. But not only would such judicial policymaking violate the commands of Congress, it would also lead to absurd, incongruous results.

1. This Court has repeatedly emphasized the importance of respecting Congress's legislative choices, emphasizing that federal courts should not "engraft [their] own exceptions onto the statutory text." *Henry Schein, Inc.* v. *Archer & White Sales, Inc.* 586 U.S. 63, 70 (2019). So the Court has "consistently refused to read § 1983's plain language to mean anything other than what it says." *Talevski*, 599 U.S. at 177 (quotation marks and citation omitted).

To graft an exception onto § 1983 in the name of respect for state-court judgments without any statutory basis would run directly afoul of those textual principles—especially because Congress has already decided exactly how much respect those judgments must receive. While the res-judicata effect of *federal*-court judgments may be determined by "look[ing] to the common law or to the policies supporting res judicata * * * , Congress has specifically required all federal courts to give preclusive effect to state-court judgments whenever the courts of the State from which the judgments emerged would do so." *Allen* v. *McCurry*, 449 U.S. 90, 96 (1980) (citing 28 U.S.C. 1738). That is: § 1738 commands courts to accord state-court judgments

only the same weight they would receive in their home jurisdiction.[6]

Despite that, the Fifth Circuit's interpretation of *Heck* rewrites both statutes. It transforms *Heck* into a broad, judge-made jurisdictional bar that strips § 1983 of its force and magnifies the preclusive effect of state convictions beyond what § 1738 permits—inventing, in essence, a sort of super-preclusion that operates to frustrate Congress's intended remedies for constitutional violations.

2. As Judge Ho observed in his dissent from denial of rehearing en banc below, that approach creates immediately obvious problems, starting with the fact that it accords preclusive effect to state-court judgments even when state courts themselves would not. Pet. App. 46a n.1 (Ho, J., dissenting). Had Olivier brought his free-speech claims in state court, his previous conviction would have been no bar. Mississippi law specifically holds that nolo contendere pleas like Olivier's have "no effect beyond the particular case." *Williams* v. *State*, 94 So. 882 (Miss. 1923) (citation omitted). Under Mississippi law, evidence of a nolo contendere plea is not even admissible in a civil case. Miss. R. Evid. 410(a)(2).

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[6] 28 U.S.C. 1257 and its accompanying *Rooker–Feldman* doctrine don't change the analysis or require looking beyond § 2254 and § 1738 in the typical case (such as Olivier's and Wilson's). Outside the precise context of state-court losers seeking direct review of state-court judgments in federal district court (rather than through the appellate process), that exceedingly narrow doctrine "does not otherwise override or supplant preclusion doctrine or augment the circumscribed doctrines that allow federal courts to stay or dismiss proceedings in deference to state-court actions." *Exxon Mobil Corp.* v. *Saudi Basic Indus. Corp.*, 544 U.S. 280, 284 (2005).

Indeed, the Mississippi Supreme Court holds that a final judgment based on a nolo contendere plea does not even constitute a "conviction." *Keyes* v. *State*, 312 So. 2d 7 (Miss. 1975).

Those non-preclusion principles would be doubly true for claims like Olivier's, because Mississippi law further recognizes that preclusion must yield where constitutional rights are at stake. The Mississippi Supreme Court holds that "claims based in constitutional principle" fall outside the ordinary bounds of res judicata. *Smith* v. *State*, 149 So. 3d 1027, 1032 (Miss. 2014), *overruled on other grounds*, *Pitchford* v. *State*, 240 So. 3d 1061, 1069 (Miss. 2017). In Mississippi, the res judicata "doctrine is not inflexible and incapable of yielding to a superior policy." *Bragg* v. *Carter*, 367 So. 2d 165, 167 (Miss. 1978). It "must yield to the constitution." *Id.*

Mississippi's not alone in ascribing minimal preclusive weight to criminal convictions in certain circumstances. Take Ohio, where the state supreme court has long recognized that the significant qualitative differences between criminal and civil proceedings (such as differences in burdens of proof, discovery tools, evidentiary standards, and the like) mean that criminal convictions should not automatically preclude subsequent civil suits. *State ex rel. Ferguson* v. *Ct. of Claims*, 786 N.E.2d 43, 48 (Ohio 2003). Ohio law thus denies criminal convictions uniform preclusive force, and the Sixth Circuit has faithfully applied § 1738 to honor that choice, including in § 1983 cases. See, e.g., *Ohio ex rel. Boggs* v. *City of Cleveland*, 655 F.3d 516, 519 (CA6 2011).

Ohio's approach to preclusion causes no problems in the Sixth Circuit because that court correctly holds that *Heck* does not apply to noncustodial plaintiffs. *Powers* v. *Hamilton County Pub. Def. Comm'n*, 501 F.3d 592, 601, 603 (CA6 2007). But adopting the rule articulated by the Fifth Circuit in this case would upend that federal–state system, sweeping aside carefully articulated state-court choices about when and how a criminal conviction should bar a later constitutional claim and replacing it with one word: Always. That rule would deprive the plaintiffs of access to a federal forum for their federal claims, despite § 1983's clear command that they're entitled to one. And it would eliminate that statutory cause of action in the name of a perverse kind of respect: commanding federal courts to respect state courts enough to defy the statutory text of § 1983 *and* § 1738, but not enough to defer to those courts' own rules concerning when their decisions should bar further litigation.

3. Beyond its perverse understanding of respect for state-court judgments, the rule articulated below also makes no sense. As Judge Oldham noted in his dissent from denial of rehearing en banc below, Pet. App. 51a, nothing in the Fifth Circuit's (or this Court's) caselaw would prevent other individuals who *haven't* been subjected to the City of Brandon's speech ordinance from filing a pre-enforcement § 1983 claim identical to Olivier's. And nothing would prevent a district court from holding those restrictions invalid—even invalid on their face. After all, "a statute which chills speech can and must be invalidated where its facial invalidity has been demonstrated." *Citizens United* v. *FEC*, 558 U.S. 310, 336 (2010). That ruling

would have the same formal legal effect on Olivier's outstanding conviction as would a ruling in this case (which is none), but it would just as surely *imply* that his conviction under that facially unconstitutional ordinance was invalid. No one has explained why that identical implication about the unconstitutionality of Olivier's state-court judgment raises no comity problems in a hypothetical third-party lawsuit but is nonetheless fatal to Olivier's.

The hypothetical third-party lawsuit also illustrates still another way the rule adopted below leads to absurd results. In the wake of last term's decision in *Trump* v. *CASA, Inc.*, 145 S. Ct. 2540 (2025), the district court hearing that hypothetical case would retain the obligation to *declare* the protest restrictions facially unconstitutional (if in fact they are), but it would lack the power to *enjoin* them on their face. The upshot would be that the federal courts in Mississippi could enjoin the City of Brandon from enforcing its ordinance against that unprosecuted plaintiff. And then again against the next one. But one person—Olivier—would be unable to access the protections of the federal courts. Indeed, if state courts declined to intercede, Olivier could find himself repeatedly harassed, threatened, or even cited by local officials enforcing a law that the federal courts all deemed unconstitutional for everyone else.

Preventing that scenario is the "very purpose of" § 1983, written "to interpose the federal courts between the States and the people, as guardians of the people's federal rights." *Mitchum*, 407 U.S. at 242. The rule adopted below thwarts that purpose. It empowers state and local officials to cut off access to the federal courts by coercing pleas to low-level

offenses or else by subjecting individuals to the "double horror" of concealing government wrongdoing until after federal habeas relief is unavailable. *Wilson*, 116 F.4th at 420 (Willett, J., dissenting).

This Court should reject the Fifth Circuit's approach because Congress has spoken conclusively to the questions presented. By making clear that the *Heck* bar is a statutory conciliation doctrine and nothing more, this Court will bring a great measure of clarity to the lower courts, a great measure of respect for congressional policy choices, and a great measure of justice to individuals subjected to unconstitutional state proceedings.

## Conclusion

The Court should reverse and remand.

Respectfully submitted,

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