

IN THE SUPREME COURT OF THE UNITED STATES

No. 24-993

GABRIEL OLIVIER, PETITIONER

v.

CITY OF BRANDON, MISSISSIPPI, ET AL.

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

MOTION OF THE UNITED STATES
FOR LEAVE TO PARTICIPATE IN ORAL ARGUMENT AS AMICUS CURIAE
AND FOR DIVIDED ARGUMENT

Pursuant to Rules 21, 28.4, and 28.7 of the Rules of this Court, the Solicitor General, on behalf of the United States, respectfully moves for leave to participate in the oral argument in this case as amicus curiae and requests that the time be divided as follows: 25 minutes for petitioner, 10 minutes for the United States, and 25 minutes for respondents. Counsel for petitioner and counsel for respondents have consented to this motion.

This case concerns the availability of relief under 42 U.S.C. 1983 for a plaintiff who brings a First Amendment challenge to a law under which he has previously been convicted. The court of

appeals held that petitioner's Section 1983 claim is not cognizable under Heck v. Humphrey, 512 U.S. 477 (1994), which requires a plaintiff to show favorable termination of prior state criminal proceedings "to recover damages" under Section 1983 "for allegedly unconstitutional conviction or imprisonment." Id. at 486. The questions presented are (1) whether Heck bars claims under Section 1983 seeking to preclude prospective enforcement of a law where the plaintiff has previously been convicted under the law challenged as unconstitutional; and (2) whether Heck bars Section 1983 claims where the plaintiff never had access to federal habeas.

The United States has filed a brief as amicus curiae supporting vacatur of the judgment of the court of appeals. The brief argues that a plaintiff may bring suit under Section 1983 to enjoin future enforcement of an allegedly unconstitutional law, notwithstanding a prior conviction under that law. Because the court of appeals improperly held that it was bound by Heck to dismiss petitioner's suit, the brief argues that the Court should vacate the decision below. If the Court reaches the second question presented, however, the brief argues that the application of Heck's favorable-termination requirement does not depend on whether the plaintiff had access to federal habeas.

The United States has a substantial interest in the resolution of the questions presented. First, the United States has a substantial interest in ensuring that the constitutional rights at

issue here are carefully safeguarded. The United States is committed to the preservation of federal constitutional rights, including the right to free expression. The government also prosecutes state and local officials who willfully violate individuals' constitutional rights. 18 U.S.C. 241 and 242.

Second, although this case involves a civil suit against local officials under Section 1983, this Court's resolution of the questions presented could affect suits against federal officials or agencies. The United States has a substantial interest in the circumstances in which federal officials and agencies can be sued for violating constitutional rights.

Third, the United States has a substantial interest in promoting the finality of state convictions and consistency as to state-court judgments, including because it often brings federal criminal charges or seeks criminal sentences that are predicated on prior convictions under state law.

The United States has previously participated in oral argument as amicus curiae in cases concerning the contours of constitutional tort claims and related questions as to the availability of relief under Section 1983. See, e.g., Chiaverini v. City of Napoleon, 602 U.S. 556 (2024) (No. 23-50); Nance v. Ward, 597 U.S. 159 (2022) (No. 21-439); Thompson v. Clark, 596 U.S. 36 (2022) (No. 20-659); McDonough v. Smith, 588 U.S. 109 (2019) (No. 18-485); Manuel v. City of Joliet, 580 U.S. 357 (2017)

(No. 14-9496). The United States' participation in oral argument could materially assist the Court in its consideration of this case.

Respectfully submitted.

D. JOHN SAUER
Solicitor General
Counsel of Record

OCTOBER 2025