No. 25-

IN THE

Supreme Court of the United States

DETECTIVE ANGELO PESAVENTO; POLICE OFFICER JAMES OLIVER; THE ESTATES OF DETECTIVES GEORGE KARL AND EDWARD SIWEK; AND THE CITY OF CHICAGO,

Petitioners,

v.

EDDIE L. BOLDEN,

Respondent.

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

PETITION FOR WRIT OF CERTIORARI

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QUESTION PRESENTED

Whether prejudgment interest should be unavailable as a matter of law on awards of noneconomic damages, such as pain and suffering and loss of a normal life.

PARTIES TO THE PROCEEDING

Petitioners are former Detective Angelo Pesavento, former Police Officer James Oliver, the Estates of Detectives George Karl and Edward Siwek, and the City of Chicago. Respondent is Eddie L. Bolden.

RELATED PROCEEDINGS

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

Bolden v. Pesavento, et al.,
No. 24-1674 (Nov. 6, 2025)

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

Bolden v. Pesavento, et al.,
No. 17-cv-00417 (Apr. 2, 2024)

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PETITION FOR WRIT OF CERTIORARI

Detective Angelo Pesavento, Police Officer James Oliver, the Estates of Detectives George Karl and Edward Siwek, and the City of Chicago respectfully petition for a writ of certiorari to review the judgment of the United States Court of Appeals for the Seventh Circuit.

INTRODUCTION

This case presents an important question of federal law on which the courts of appeals are divided and this Court's guidance is needed: whether prejudgment interest should be unavailable when a damages award is based on purely noneconomic loss.

The purpose of prejudgment interest is to fully compensate the plaintiff for a loss of money caused by the defendant's actions. For example, a plaintiff may be owed money under a contract, have lost pay from his job, or have incurred out-of-pocket expenses. Between the time of that economic injury and the final judgment, the plaintiff's money, had he invested it, would have earned interest. On the theory that a plaintiff could have done so, and to adjust for the time-value of money, prejudgment interest is needed to provide complete compensation.

The rationale for prejudgment interest, however, falls apart when a plaintiff has experienced intangible harms, such as pain and suffering or loss of a normal life. There is widespread agreement that intangible harms are impossible to quantify and that, as applied to intangible loss, money is a mere proxy for the harm suffered. In other words, intangible harms are not reversible by money. These qualities make noneconomic loss incompatible with prejudgment interest. A plaintiff with only noneconomic loss did not lose the use of his money, which is the only loss that prejudgment interest was designed to compensate. Further, juries are typically instructed to award full compensation for noneconomic damages, so a jury's damages award (which is awarded in current dollars as of the time of the verdict) should already include compensation for the time a plaintiff waited for the award. Indeed, it is a mathematical fiction to subject intangible harms to a rate of return. Rather than furthering the goal of full compensation, prejudgment interest for noneconomic damages provides a windfall to a plaintiff and penalizes a defendant who chooses

to defend against claims at trial rather than settle a case at its earliest stages.

Three circuits – the Third, Fourth, and Tenth – recognize the incompatibility of prejudgment interest and noneconomic loss and endorse the view that prejudgment interest should not be available for noneconomic loss. The Fifth, Seventh, and Ninth Circuits have gone the other way, allowing prejudgment interest even on noneconomic loss, as have the Second, Sixth, and Eighth Circuit, at least in admiralty cases. And while the First Circuit has allowed prejudgment interest awards to stand, it has expressed doubt about this position. The law on this issue, therefore, is in disarray. Depending on the locale, some defendants are subject to prejudgment interest for noneconomic damages and others are not. The inequity is untenable. Indeed, no court or defendant in any circuit should be required to expend resources litigating prejudgment interest on noneconomic damages, because such interest does not advance the intended purpose of prejudgment interest.

The question presented has particularly severe consequences for local governmental entities. While awarding prejudgment interest for noneconomic loss makes no sense in any context, the stakes are especially high in litigation under section 1983, like the present case, which can give rise to massive verdicts that are almost exclusively comprised of noneconomic damages. Verdicts in section 1983 cases often reach into the tens of millions of dollars. Indeed, in this case, the verdict was $25 million. The risk of

adding millions more in prejudgment interest when it serves no compensatory purpose injects financial uncertainty into government operations and diverts taxpayer dollars from other important government services and programs.

This case presents an excellent vehicle to resolve the different approaches of the courts of appeals. It presents the issue as a pure question of law that does not depend on any factual inquiries. The petition should be granted.

OPINIONS BELOW

The Seventh Circuit's opinion (App. 1a – 18a) is reported at 158 F.4th 879. The order denying rehearing and rehearing en banc, App. 19a – 20a, is not reported. The district court's decision that awarded prejudgment interest, App. 21a – 28a, is unreported, and is available at 2024 WL 1496199 (N.D. Ill. Apr. 2, 2024).

JURISDICTION

The United States District Court for the Northern District of Illinois, which had jurisdiction pursuant to 28 U.S.C. §§ 1331, 1343, and 1367, entered a final judgment on April 12, 2024. Petitioners filed a timely notice of appeal on April 22, 2024.

The Seventh Circuit entered judgment on November 6, 2025. Petitioners filed a timely petition for rehearing and rehearing en banc on December 11, 2025, which was denied on December 30, 2025. App. 19a – 20a. The jurisdiction of this Court is invoked under 28 U.S.C. § 1254(1).

STATEMENT

Eddie Bolden was arrested on February 26, 1994, for the murders of two men and the attempted murder of a third man. R. 391 at 1, 16.[1] After a jury convicted Bolden in October 1996, Bolden was sentenced to natural life in prison for the murders, with the sentence to run consecutively with a 30-year sentence for the attempted murder. R. 391 at 21. The Illinois Appellate Court and Illinois Supreme Court affirmed Bolden's convictions and sentences. *People v. Bolden*, 746 N.E.2d 335 (Ill. App. Ct. 1999); *People v. Bolden*, 756 N.E.2d 812 (Ill. 2001).

After postconviction proceedings, the Circuit Court of Cook County reversed Bolden's convictions and ordered a new trial on the ground of ineffective assistance of counsel. R. 655 at 49, 54-55. The State entered a *nolle prosequi* on April 16, 2016, R. 536-5, and Bolden was released from custody that same day, R. 646 at 39.

On January 19, 2017, Bolden filed this lawsuit against petitioners, alleging constitutional violations under section 1983 and state-law claims. R. 1; R. 391 at 24-33. The trial took place in October 2021. R. 730 at 3.

At trial, the jury was instructed that, if it found petitioners liable, it was to determine the amount of money "that will fairly compensate [Bolden] for any injury that you find he sustained and is reasonably

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[1] We cite the district court record as "R. __," and the Seventh Circuit record as "7th Cir. Dkt. __."

certain to sustain in the future as a direct result of the actions of [petitioners]." R. 599 at 43. The jury was further instructed to consider damages only for "[t]he physical and mental and emotional pain and suffering" and "[t]he loss of normal life that [Bolden] has experienced and is reasonably certain to experience in the future." R. 599 at 43. The verdict form included one line for compensatory damages, and did not delineate between past and future injuries. R. 566 at 4.

The jury returned a verdict in favor of Bolden and against all petitioners on all counts. R. 615. The jury awarded Bolden $25 million in compensatory damages and $100,000 in punitive damages against each of the officers. R. 615.

Bolden moved to amend the judgment to add prejudgment interest in the amount of $7,629,466.51. R. 680.[2] Bolden argued that prejudgment interest was warranted based on substantial delays outside of his control and "the nature of [petitioners'] violations of the law." R. 680 at 3. Petitioners asserted, in response, that prejudgment interest should be denied because Bolden's losses were entirely noneconomic. R. 694 at 3-5. The district court granted Bolden's motion and awarded the full amount of prejudgment interest Bolden had requested. R. 730 at 4; App. 28a. The court saw no reason to treat noneconomic loss differently

[2] The parties executed an agreement in April 2024, R. 769, that resolved all aspects of the case except for the prejudgment interest award. As part of that agreement, Bolden agreed to accept a reduced amount of prejudgment interest, should petitioners ultimately be liable for paying such interest.

from economic loss. R. 730 at 2; App. 24a. The court found that the jury awarded Bolden damages for the 22 years he spent in prison but did not compensate him for the time value of money after his release. R. 730 at 3; App. 26a.

Petitioners appealed to the Seventh Circuit, arguing, among other things, that the district court's award of prejudgment interest for noneconomic loss was erroneous as a matter of law. 7th Cir. Dkt. 29 at 12-20. Petitioners explained that noneconomic injuries are incompatible with prejudgment interest and that awarding prejudgment interest for noneconomic damages is not necessary to provide full compensation. 7th Cir. Dkt. 29 at 13-14. Petitioners also asserted that *Hillier v. Southern Towing Co.*, 740 F.2d 583 (7th Cir. 1984), an admiralty decision holding that prejudgment interest may be awarded for noneconomic loss, was wrongly decided and should be overruled, 7th Cir. Dkt. 29 at 15-17. Petitioners explained that the courts of appeals were divided on the question of whether prejudgment interest should be available for noneconomic damages and urged the court to join the circuits that do not award prejudgment interest for noneconomic loss. 7th Cir. Dkt. 29 at 17-20.

The Seventh Circuit rejected petitioners' argument and adhered to *Hillier*, 740 F.2d 583, holding that prejudgment interest may be awarded for noneconomic loss. App. 6a – 8a. The court stated that there "is nothing special" about noneconomic damages that justified a denial of prejudgment interest. App. 7a. The court noted that it had consistently

affirmed awards of prejudgment interest for economic loss due to violations of federal law. App. 8a. The court also stated that if there were a circuit split on this issue, it is "'rarely prudent to move from one side of a conflict to the other.'" App. 10a (citation omitted). The court held that prejudgment interest is not allowed for future damages, however, and remanded to the district court to determine what portion of the award compensated for past damages and to calculate prejudgment interest on that portion. App. 12a – 16a.

REASONS FOR GRANTING THE PETITION

I. The Circuits Are Divided on the Question Presented.

The courts of appeals are divided on whether prejudgment interest is available on noneconomic damages awards.

Three circuits – the Third, Fourth, and Tenth – recognize the incompatibility between prejudgment interest and noneconomic loss.

The Third Circuit, in a decision addressing whether the Federal Employers' Liability Act, 45 U.S.C. § 51 *et seq*. permits prejudgment interest, stated that because noneconomic damages "do not compensate for market-induced harms," they "do not require the adjustment for the time the successful plaintiff's money was out of the market which prejudgment interest provides." *Poleto v. Consolidated Rail Corp.*, 826 F.2d 1270, 1278 n.14 (3d Cir. 1987); *see Nance v. City of Newark*, 501 F. Appx. 123, 131 (3d Cir. 2012) (remanding for determination

of whether "award includes some identifiable component of *past economic damages* on which prejudgment interest should be awarded") (emphasis added).[3]

The Fourth Circuit, in a section 1983 case, held that adding prejudgment interest to noneconomic damages was an abuse of discretion. *Gilliam v. Allen*, 62 F.4th 829 (4th Cir. 2023). There, the plaintiffs alleged that law enforcement officers fabricated their confessions, causing them to be incarcerated for 31 years. *Id*. at 834. The compensatory damages verdict was for noneconomic losses only. *Id*. at 845. In reversing the prejudgment interest award, the court focused on the noneconomic nature of the plaintiffs' injuries. *Id*. at 849. The court noted that the plaintiffs had claimed "the deprivation of constitutional rights, not the loss of use of money where prejudgment interest would most naturally be appropriate as an element of compensation." *Id*. at 848. Because the

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[3] The Seventh Circuit stated that *Poleto* reached this conclusion only in dicta. App. 9a. However, district courts in the Third Circuit understand *Poleto* to be the law of the Third Circuit on this issue. *Dennis v. City of Philadelphia*, No. 18-2689, 2024 WL 4008747, at *1-2 (E.D. Pa. Aug. 30, 2024) (stating in section 1983 case that "the Third Circuit has emphasized prejudgment interest cannot be awarded for noneconomic harm"); *Robinson v. Fetterman*, 387 F. Supp. 2d 483, 485 (E.D. Pa. 2005) ("[W]e read the precedents in this circuit to give a district court discretion to add prejudgment interest in a [section] 1983 action on the economic portion of any verdict or finding but to prohibit it from doing so with respect to that portion of the verdict or finding which compensates for pain and suffering or other non-economic loss.").

plaintiffs' damages "amorphously aggregated" over time and there was no claim for the loss of use of money, prejudgment interest was a "product of speculation" and "functionally a double recovery or punitive or both." *Id*. at 849-50.

Similarly, the Tenth Circuit held that it was not an abuse of discretion for the district court to deny prejudgment interest on noneconomic damages. In *White v. Chafin*, 862 F.3d 1065 (10th Cir. 2017), a section 1983 case, the court affirmed the district court's conclusion that prejudgment interest was "unnecessary to compensate" the plaintiff. *Id*. at 1068. There, the court of appeals explained that although the plaintiff assumed "that noneconomic damages are incurred instantly at a discrete point in time and that any delay in payment is compensable," the district court could reasonably view noneconomic damages as continuing over an undefined period. *Id*. at 1069.

Seven circuits, in addition to the Seventh Circuit in the present case, go the other way. To start, the Fifth Circuit held, in a case under Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e – 2000e-17, that prejudgment interest "should apply to all past injuries, including past emotional injuries." *Thomas v. Texas Department of Criminal Justice*, 297 F.3d 361, 372 (5th Cir. 2002). The court stated that prejudgment interest is warranted "whenever a certain sum is involved," and that "[r]efusing to award prejudgment interest ignores the time value of money and fails to make the plaintiff whole." *Id*.

Similarly, the Ninth Circuit, in a section 1983 case, held that prejudgment interest may be awarded

for noneconomic damages on the ground that noneconomic damages are "just as much an 'actual loss' . . . as purely economic damages." *Barnard v. Theobald*, 721 F.3d 1069, 1078 (9th Cir. 2013).

The Second, Sixth, Eighth, and Eleventh Circuits have likewise allowed prejudgment interest to be awarded for noneconomic loss; all are admiralty cases. *See Petition of City of New York*, 332 F.2d 1006, 1008 (2d Cir. 1964); *Anderson v. Whittaker Corp.*, 894 F.2d 804, 807-10 (6th Cir. 1990); *Valley Line Co. v. Ryan*, 771 F.2d 366, 377 (8th Cir. 1985); *Deakle v. John E. Graham & Sons*, 756 F.2d 821, 833-34 (11th Cir. 1985).[4]

And while the First Circuit has also allowed prejudgment interest to be added to noneconomic damages, *see*, *e.g.*, *Nevor v. Moneypenny Holdings, LLC*, 842 F.3d 113, 125 (1st Cir. 2016) (admiralty), it has, at the same time, expressed doubt about that view. In *Furtado v. Bishop*, 604 F.2d 80 (1st Cir. 1979), a section 1983 case, the court debated whether prejudgment interest for noneconomic loss should be discretionary or "barr[ed] . . . altogether." *Id*. at 98. The court stated that prejudgment interest "will not always be necessary to compensate" plaintiffs with

[4] The Sixth Circuit and the District of Columbia Circuit have affirmed awards of prejudgment interest for noneconomic damages outside of admiralty, but the propriety of doing so was not at issue on appeal. *See Moorer v. Baptist Memorial Health Care System*, 398 F.3d 469, 478 (6th Cir. 2005) (claim under Americans with Disabilities Act); *Forman v. Korean Air Lines Co.*, 84 F.3d 446, 450-51 (D.C. Cir. 1996) (claims related to airplane crash).

intangible injuries. *Id*. at 97; *see Blackburn v. Snow*, 771 F.2d 556, 573 (1st Cir. 1985) (remanding prejudgment interest award for further findings because, among other things, the award of compensatory damages "was based upon an intangible loss – the type of loss more usually reflected in the (pre-interest) lump sum").

In short, the circuits are divided on the answer to the question presented, warranting certiorari.

II. The Decision Below Is Wrong.

In the early twentieth century, the prevailing view was that prejudgment interest was allowed in tort actions "where the loss is *pecuniary*." *Monessen Southwestern Railway v. Morgan*, 486 U.S. 330, 347 (1988) (Blackmun, J., concurring in part and dissenting in part) (emphasis added). "That limitation stemmed from the notion that, for nonpecuniary losses, such as pain and suffering, 'juries and courts will make the sum given in gross a fair and just compensation.'" Michael F. Sturley & David C. Frederick, *Prejudgment Interest in Seamen's Personal Injury Cases: Supreme Court Precedent Lost in a Sea of Procedural Confusion*, 33 J. Mar. L. & Com. 423, 428 (2002).

In the second half of the twentieth century, courts in admiralty cases began to award prejudgment interest for maritime personal injuries, including for noneconomic loss. *See, e.g.*, *Petition of City of New York*, 332 F.2d at 1007-08 (collecting cases); *Drachenberg v. Canal Barge Co.*, 621 F.2d 760, 762-63 (5th Cir. 1980); *Petition of Marina Mercante*

Nicaraguense, S.A., 248 F. Supp. 15, 36 (S.D.N.Y. 1965). One justification was that "a wage-earner needed to be restored to his prior financial status just as much as a vessel owner." Sturley & Frederick, *Prejudgment Interest in Seamen's Personal Injury Cases*, 33 J. Mar. L. & Com. at 429. In addition, courts suggested that "admiralty stands on a different footing than the common law in this respect, on the theory that the loss occurs all at once and that the claimant is entitled to recovery as of the moment of loss." *Valley Line Co.*, 771 F.2d at 377; *see also Petition of City of New York*, 332 F.2d at 1008 (prejudgment interest warranted based on immediate loss to the plaintiff and delay in payment of compensation). And as noted, many circuits have now expanded the application of prejudgment interest to noneconomic damages outside the context of admiralty.

This reflects a flawed understanding of the intangible harms upon which noneconomic damages are based. "The essential rationale for awarding prejudgment interest is to ensure that an injured party is fully compensated for its loss." *City of Milwaukee v. Cement Division, National Gypsum Co.*, 515 U.S. 189, 195 (1995). In particular, prejudgment interest compensates "for the loss of use of money due as damages from the time the claim accrues until judgment is entered." *West Virginia v. United States*, 479 U.S. 305, 310 n.2 (1987); *accord Mutual Service Casualty Insurance Co. v. Elizabeth State Bank*, 265 F.3d 601, 630 (7th Cir. 2001) (prejudgment interest compensates party for money of which he was wrongfully deprived); *Hunter v. Allis-Chalmers Corp.*, 797 F.2d 1417, 1426 (7th Cir. 1986) (prejudgment

interest aims to place a plaintiff "in the monetary position he would have occupied" if the defendant had not violated his rights). Prejudgment interest makes perfect sense when applied to economic losses, which is why it "classically applies when there is a delayed payment of a contractual obligation." *Gilliam*, 62 F.4th at 848. Other concrete economic damages may include pay from a job or out-of-pocket expenses. Whatever the context, that lost money could have earned interest, had the breach or injury not occurred. *See Garcia v. Burlington Northern Railroad Co.*, 818 F.2d 713, 721 (10th Cir. 1987) (award of interest plaintiff could not earn on lost income or on money spent for out-of-pocket expenses makes injured party whole). Prejudgment interest fills that gap and thus compensates a party "for the true costs of money damages incurred." *Stroh Container Co. v. Delphi Industries, Inc.*, 783 F.2d 743, 752 (8th Cir. 1986).

When applied to noneconomic losses, however, prejudgment interest does not advance its goal of full compensation at all. Noneconomic losses, such as pain and suffering, "are not reversible by money." Joseph H. King, Jr., *Pain & Suffering, Noneconomic Damages & The Goals of Tort Law*, 57 SMU L. Rev. 163, 179 (2004). In other words, a plaintiff who experienced intangible loss cannot be returned to his pre-injury status with money. *Id*. And because a monetary award cannot reverse intangible harm, noneconomic damages are "not truly compensatory." *Monessen Southwestern Railway*, 486 U.S. at 348 n.5 (Blackmun, J., concurring in part and dissenting in part). At best, noneconomic damages are a "rough and awkward proxy" for the harm suffered. *Limone v.*

United States, 579 F.3d 79, 105 (1st Cir. 2009). And while a plaintiff who suffered noneconomic loss, such as pain and suffering, is awarded money for lost well-being, an award for noneconomic loss "is merely the reduction of . . . sentimental value to dollars at the time of judgment and does not in any real or analytical sense represent the return of the loss of the use of money." *Wilson v. Burlington Northern Railroad Co.*, 803 F.2d 563, 567 (10th Cir. 1986) (McKay, J., concurring). Because emotional injuries cannot be reversed with money and noneconomic damages do not return lost money to the plaintiff, adding prejudgment interest to an award of noneconomic damages does not compensate for any financial loss.

A further reason that prejudgment interest does not further the goal of full compensation is that an award of noneconomic damages already includes compensation for time the plaintiff had to wait for the award. Juries are not, of course, asked to compensate for intangible harms based on the value of money at the time of the injury; rather, they make awards based on current values. And, in fact, juries already account for the passage of time when fashioning awards, increasing awards "at a rate of 3.7 percent per year for the time between injury and trial." *Gilliam*, 62 F.4th at 848-49 (citing Stephen J. Carroll, Rand Corporation, *Jury Awards & Prejudgment Interest in Tort Cases*, at v (1983)); *see also Moore-McCormack Lines, Inc. v. Richardson*, 295 F.2d 583, 594 (2d Cir. 1961) ("no one would be so naïve as to suppose that juries do not throw into the scales the years that a plaintiff may have had to wait before his case can be heard by a jury"); Betty Campbell, *Prejudgment*

Interest in Tennessee: It's a Fine Mess We're In! Proposed Statutory Solutions to the Inequitable Application of an Equitable Remedy, 34 U. Mem. L. Rev. 789, 840 (2004) (juries "arguably [take] into account the time delay in determining the award").

In this case, in October 2021, the jury awarded Bolden damages, in October 2021 dollars, for "any injury . . . he sustained and is reasonably certain to sustain in the future." R. 599 at 43. Thus, the award here, like other awards of its kind, already took into account the time Bolden waited for judgment. Adding prejudgment interest merely results in a windfall, which is improper. *See Wickham Contracting Co. v. Local Union No. 3*, *International Brotherhood of Electrical Workers*, 955 F.2d 831, 834 (2d Cir. 1992) (prejudgment interest must not overcompensate the plaintiff).

Calculating prejudgment interest on noneconomic loss, moreover, is a mathematical fiction. When economic losses are at issue, prejudgment interest can be accurately calculated. Losses or expenses are incurred on certain dates and for specific durations. *See, e.g.*, *Wickham Contracting Co.*, 955 F.2d at 837 (prejudgment interest on economic damages awarded to cover time between when plaintiff was to receive payment per contract schedule and judgment); *Deakle*, 756 F.2d at 834 (prejudgment interest on lost wages calculated by adjusting separately each year's installment).

But noneconomic loss does not lend itself to these kinds of calculations. Intangible harm does not accrue evenly. Mental and emotional injuries are "of a

continuing nature," *Greater Westchester Homeowners Association v. City of Los Angeles*, 603 P.2d 1329, 1338 (Cal. 1979), and "amorphously aggregate[] over the course of time," *Gilliam*, 62 F.4th at 849. This makes it "particularly difficult to determine when any particular increment of intangible loss arose." *Greater Westchester Homeowners Association*, 603 P.2d at 1338. Noneconomic loss is "very difficult to quantify," *Hendrickson v. Cooper*, 589 F.3d 887, 892 (7th Cir. 2009), and "[i]t is impossible to determine the exact value" of intangible harms, *Bickel v. Korean Air Lines Co.*, 96 F.3d 151, 156 (6th Cir. 1996). Pretending that a noneconomic damages award can be neatly divided into regularly-accruing segments – as the prejudgment interest formula demands – is an exercise in futility, and "adds uncertain conjecture to speculation." *Greater Westchester Homeowners Association*, 603 P.2d at 1338.

Because prejudgment interest on noneconomic loss does not serve its intended purposes, it becomes nothing more than an extra payment for defendants – a penalty for declining to settle a case and taking it to trial, and even for delays in litigation that may not be the defendants' fault, such as when the plaintiff refuses a reasonable settlement offer early in the case, or delays due the COVID-19 pandemic (as happened here). Moreover, in section 1983 cases, there is already an incentive for defendants to litigate efficiently: the plaintiff will be entitled to attorney's fees if he prevails. Adding prejudgment interest to a noneconomic damages award is purely punitive, yet, this Court has very clearly held that prejudgment interest is not supposed to be a penalty. *City of*

Milwaukee, 515 U.S. at 197.

This discussion demonstrates the Seventh Circuit's error here. The court failed to address the tension between prejudgment interest and noneconomic damages. Relying on a prior decision in an admiralty case, the court incorrectly treated economic and noneconomic damages as identical, finding that "[t]here is nothing special about noneconomic damages" that would exempt them from prejudgment interest. App. 7a. The court also concluded that the underlying reason for prejudgment interest – "to make the injured party whole – applies with equal force" to intangible harm. App. 8a. The court ignored that plaintiffs who experience noneconomic loss do not lose the use of their money, and that adding prejudgment interest to noneconomic damages does not serve a compensatory purpose. That decision was wrong.

III. The Question Presented Is Important and This Case Is the Appropriate Vehicle for Resolving It.

The stakes are rising for plaintiffs and defendants. With respect to section 1983 in particular, verdicts nationwide are routinely in the multi-millions of dollars. *See, e.g.*, *Richards v. County of San Bernardino*, No. 5:17-cv-00497-HDV-SP, 2025 WL 3254074, at *1 (C.D. Cal. Nov. 7, 2025) (verdict of more than $25 million); *Brown v. City of Chicago*, No. 19-cv-4082, 2025 WL 2785426, at *3 (N.D. Ill. Sept. 30, 2025 (verdict of $50 million); *Gillispie v. City of Miami Township*, No. 3:13-cv-416, 2023 WL 4868486,

at *42 (S.D. Ohio July 31, 2023) (verdict of $45 million); *White v. McKinley*, No. 05-203, 2009 WL 813001, at *4 (W.D. Mo. Mar. 26, 2009) (verdict of $14 million). The prospect of adding prejudgment interest for millions of dollars more has devastating financial implications for local governments, which operate within planned, tight budgets. The unprincipled addition of prejudgment interest is an unjustified burden on taxpayers. In addition, it is a waste of resources for the courts and the parties in any circuit to litigate the issue of prejudgment interest, when the only logical answer, in every case where only noneconomic damages are awarded, is that it is unwarranted.

This case cleanly presents the issue of whether prejudgment interest may be added to awards of noneconomic damages. No questions of fact are presented; the issue is purely a question of law. This case therefore presents an excellent vehicle for deciding this pressing question.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

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March 30, 2026

APPENDIX

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APPENDIX A

UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT

No. 24-1674

EDDIE L. BOLDEN,

Plaintiff-Appellee,

v.

ANGELO PESAVENTO, *et al.*,

Defendants-Appellants.

Appeal from the United States District Court for the Northern District of Illinois, Eastern Division.
No. 1:17-cv-00417, Steven C. Seeger, *Judge*.

Argued: September 4, 2025
Decided: November 6, 2025

Before BRENNAN, *Chief Judge*, and KOLAR and MALDONADO, *Circuit Judges*.

KOLAR, *Circuit Judge*. Eddie Bolden brought a wrongful conviction lawsuit under 42 U.S.C. § 1983

against the City of Chicago after his sentence for murder was vacated in April 2016. He prevailed at trial, and the jury awarded him $25 million in damages for pain, suffering, and the loss of a normal life. Then the district court awarded him another $7.6 million in prejudgment interest for the six years and five months it took him to obtain a judgment against the City.

Defendants now appeal the award of prejudgment interest. They contend that prejudgment interest is unavailable as a matter of law for noneconomic damages like Bolden's, and in the alternative that the district court abused its discretion in awarding interest. We affirm in almost all respects, but remand for the district court to recalculate the interest award after apportioning the jury's verdict between past (interest-eligible) and future (interest-ineligible) damages.

I. Background

Bolden was arrested in February 1994 for the murders of Irving Clayton and Derrick Frazier and the attempted murder of Clifford Frazier. A jury found him guilty in October 1996, and he was sentenced to life in prison. After Bolden filed a petition for postconviction relief, the Illinois courts vacated his conviction based on ineffective assistance of counsel and ordered a new trial. The State voluntarily dismissed the charges against him on April 19, 2016; Bolden was released the same day. In total, Bolden spent over 22 years in prison.

Bolden sued the City and several police officers in January 2017, alleging that his arrest and wrongful

conviction violated the Constitution and state law. His trial was originally slated for November 2019 but ran into several delays. First, his case was reassigned to Judge Seeger in September 2019, who rescheduled the trial date for July 2020. Then this date fell through when the COVID-19 pandemic forced a shutdown of all civil trials in 2020. Bolden's trial ultimately took place in October 2021.

At trial, Bolden testified about the harms he had suffered while incarcerated and his difficulties in readjusting to life outside prison. He stated that he had been robbed of experiences with family members, had trouble sleeping, and continued to suffer from depression and suicidal thoughts. Bolden offered corroborating testimony from his sister and aunt, who recounted their experiences meeting with Bolden in prison and helping him readjust to the outside world.

In his closing argument, Bolden's counsel urged the jury to award $44 million in compensatory damages—quantified as "a million dollars for what they took and a million dollars for what they made him endure," adding up to "$2 million for each of those 22 years" Bolden had spent incarcerated. He stressed that this amount was only a starting point that "doesn't even count how his life going forward has been forever changed" by the Defendants' conduct. The court instructed the jury that, upon a finding of liability, it should assess compensatory damages as "the physical and mental and emotional pain and suffering" and "loss of normal life" that Bolden "has experienced and is reasonably certain to experience in the future."

The jury found in Bolden's favor on all claims and awarded him $25 million in compensatory damages plus $100,000 in punitive damages against each of the two living individual Defendants. After resolving the parties' post-trial motions, the district court entered a final judgment on September 30, 2022.

Bolden moved to amend the judgment and add $7,629,466.51 in prejudgment interest. He calculated this amount as the total interest incurred from the date his sentence was vacated (April 19, 2016) through the entry of final judgment, compounded monthly at the average prime rate over this period of 4.13%. The district court granted his motion, awarding Bolden the full amount requested. Defendants now appeal.

II. Discussion

We pause at the outset to recount a few basic principles relevant to this appeal. Prejudgment interest "serves dual purposes: to fully compensate the plaintiff and to minimize a defendant's incentive to delay." *Thorncreek Apartments III, LLC v. Mick*, 886 F.3d 626, 637 (7th Cir. 2018). It is grounded in the recognition that "[c]ompensation deferred is compensation reduced by the time value of money." *Matter of Milwaukee Cheese Wis., Inc.*, 112 F.3d 845, 849 (7th Cir. 1997). By accounting for this lost value, "[p]rejudgment interest restores a plaintiff to the position she would have been in but for the violation." *Frey v. Coleman*, 903 F.3d 671, 682 (7th Cir. 2018). And by eliminating what would be, in effect, an interest-free loan to the defendant, prejudgment interest avoids unjust enrichment and disincentivizes

foot-dragging in litigation. *Milwaukee Cheese*, 112 F.3d at 849. Otherwise, "the longer the case lasts, the more of the stakes the defendant keeps even if it loses (and the less the victorious plaintiff receives)[.]" *Id.*

We have long held that prejudgment interest is "presumptively available to victims of federal law violations." *Thorncreek Apartments*, 886 F.3d at 637 (quoting *Gorenstein Enters. v. Quality Care-USA, Inc.*, 874 F.2d 431, 436 (7th Cir. 1989)). But it is compensatory, not punitive: "prejudgment interest is not meant to penalize the party who caused the injury." *Id.*

Finally, prejudgment interest is measured "from the time the claim accrues until judgment is entered," using the plaintiff's damages at the time of accrual as the principal. *City of Milwaukee v. Cement Div., Nat. Gypsum Co.*, 515 U.S. 189, 196 (1995) (citing *West Virginia v. United States*, 479 U.S. 305, 310 n.2 (1987)). Prejudgment interest is not assessed on future damages arising after the claim has already accrued. *Williamson v. Handy Button Mach. Co.*, 817 F.2d 1290, 1298 (7th Cir. 1987).

We generally review a district court's decision of whether to award prejudgment interest for abuse of discretion. *Frey*, 903 F.3d at 675. But Defendants' first issue presented on appeal—whether prejudgment interest is available as a matter of law for noneconomic damages—presents a purely legal question that we review *de novo*. *FDIC v. Chi. Tit. Ins.*, 12 F.4th 676, 682 (7th Cir. 2021). We turn to this question first.

A. Availability of Prejudgment Interest on Noneconomic Damages

Defendants argue that the district court's award of prejudgment interest must be reversed because Bolden's damages for pain, suffering, and the loss of a normal life are noneconomic. They contend that in calculating Bolden's damages, the jury made a rough approximation of the intangible harms Bolden suffered, unlike cases involving contractual or wage-related disputes over specific and ascertainable sums. And since this intangible and undefined emotional harm could not have been "invested," it makes no sense to compensate him for its lost time value.

We held otherwise four decades ago. In *Hillier v. Southern Towing Co.*, an admiralty case, the plaintiff sued a towing company for the accidental death of her husband. 740 F.2d 583, 584 (7th Cir. 1984). After she prevailed at trial, the district court awarded her prejudgment interest only on her damages for past loss of support and services, but not her damages for future loss of support and services, or her intangible damages for pain, suffering, and loss of society. *Id*. On appeal, we held that while the decision to exclude future harm was appropriate, the lower court had erred in finding noneconomic harms ineligible for prejudgment interest. *Id*. at 586.

This makes sense: the mere fact that noneconomic damages are inherently subjective does not warrant denying prejudgment interest on them. Defendants argue that since they could not have known the precise amount of Bolden's damages until the moment the verdict was rendered, they could not have

"invest[ed] the funds while the litigation proceed[ed], then use[d] the interest they receive[d] to satisfy the obligation." *Milwaukee Cheese*, 112 F.3d at 849. But this argument would apply with equal force to many economic damages as well, which may also be uncertain and subject to dispute until later in the litigation. And in any event, this only goes to one of the traditional justifications for prejudgment interest (avoiding unjust enrichment that might encourage the defendant to delay) and not the other (fully compensating the plaintiff's losses). *Id.*

There is nothing special about noneconomic damages exempting them from the principle that money today is worth more to the plaintiff than money tomorrow. The law presumes that Defendants' liability to Bolden under Section 1983 accrued the moment the State's charges against him were dismissed in April 2016. *McDonough v. Smith*, 588 U.S. 109, 120 (2019); *see also Matter of Oil Spill by Amoco Cadiz*, 954 F.2d 1279, 1331 (7th Cir. 1992) ("By committing a tort, the wrongdoer creates an involuntary creditor. It may take time for the victim to obtain an enforceable judgment, but once there is a judgment the obligation is dated as of the time of the injury."). Had Defendants immediately satisfied their obligation by handing Bolden a check as he stepped out of prison, he would have benefitted from this compensation sooner. The opportunity cost of interest is only one component of the time value of money; Bolden could have used these funds for "additional current consumption—perhaps by eating better, or driving a fancier car"—even if he could not prove he otherwise would have invested them. *Partington v.*

Broyhill Furniture Indus., Inc., 999 F.2d 269, 274 (7th Cir. 1993).

Defendants insist that if *Hillier*'s holding cannot be limited to the admiralty context, it must be reconsidered as inconsistent with the fundamental principles underlying prejudgment interest. We disagree. As an initial matter, nothing about *Hillier*'s holding as to damages depended on unique principles of admiralty law. The *Hillier* court cited the admiralty doctrine of *restitutio in integrum*, which "provides that a plaintiff is to be placed in the position previously enjoyed prior to the time he or she sustained damages[.]" 740 F.2d at 585. But this is merely an expression of the fundamental theory underlying all compensatory damages.

Since *Hillier*, we have consistently applied this remedial principle in awarding prejudgment interest across the spectrum of federal-law violations. *See, e.g., Thorncreek Apartments*, 886 F.3d at 637–38 (Section 1983 equal-protection claim); *Partington*, 999 F.2d at 274 (age discrimination claim); *Gorenstein Enters.*, 874 F.2d at 436 (trademark claim). While these cases did not involve purely noneconomic damages like Bolden's, the underlying principle—to make the injured party whole—applies with equal force to damages for pain and suffering.

Other circuits have reached this same conclusion in awarding prejudgment interest on noneconomic damages outside admiralty. The Ninth Circuit in *Barnard v. Theobald* found a Section 1983 plaintiff's damages for "past pain and suffering and medical expenses" to be "just as much an 'actual loss' (for

which prejudgment interest is in order) as purely economic damages." 721 F.3d 1069, 1078 (9th Cir. 2013) (citation omitted). And the Fifth Circuit held in *Thomas v. Texas Department of Criminal Justice* that "[p]rejudgment interest should apply to all past injuries, including past emotional injuries" such as the plaintiff's Title VII damages, since "[r]efusing to [do so] ignores the time value of money and fails to make the plaintiff whole." 297 F.3d 361, 372 (5th Cir. 2002). These cases are consistent with *Hillier*, and we see no reason to cabin *Hillier* to the admiralty context.

Perhaps recognizing the same, Defendants ask us instead to overrule *Hillier* entirely on the grounds that its reasoning does not withstand scrutiny. Even if we agreed—which we do not—we see no "compelling reasons," such as a substantial shift in authority or supervening statutory development, that would warrant such a departure from our settled precedent.[1]

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[1] While our "outlier" status in a circuit split *may* sometimes justify revisiting past decisions, *Buchmeier v. United States*, 581 F.3d 561, 566 (7th Cir. 2009), we are not convinced that any such split exists here. Defendants contend that the Third, Fourth, and Tenth Circuits have found prejudgment interest unavailable as a matter of law for noneconomic damages. But the Third Circuit noted this only in dicta, *Poleto v. Consol. Rail Corp.*, 826 F.2d 1270, 1278 n.14 (3d Cir. 1987); the Fourth reached this conclusion interest only in holding that the plaintiffs' *future* noneconomic damages could not be disaggregated from their past damages, *Gilliam v. Allen*, 62 F.4th 829, 848–50 (4th Cir. 2023); and the Tenth merely held that the district court did not abuse its discretion in denying prejudgment interest, *White v. Chafin*, 862 F.3d 1065, 1069 (10th Cir. 2017). Meanwhile, the First, Second, Sixth, and Eleventh Circuits have all held in the admiralty context that prejudgment interest *should* be available

United States v. Betts, 99 F.4th 1048, 1055 (7th Cir. 2024).

The district court did not err in holding that Bolden could, as a matter of law, recoup prejudgment interest on his noneconomic damages. We turn next to the question of whether choosing to award him this interest was an abuse of discretion.

B. Award of Prejudgment Interest

Our review of the district court's prejudgment interest award for abuse of discretion is deferential, and we start from the baseline that "there is a presumption in favor of granting [prejudgment] interest" in cases alleging violations of federal law. *Frey*, 903 F.3d at 682. Nevertheless, we have observed that awarding prejudgment interest "might be inappropriate" in some circumstances—for example, if the plaintiff shifts risk to the defendant by waiting to file suit, if the jury's award already accounts for interest, or if the amount of interest-eligible damages

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for noneconomic harms, and (as noted) the Fifth and Ninth have extended this holding beyond admiralty. *See Nevor v. Moneypenny Holdings, LLC*, 842 F.3d 113, 125 (1st Cir. 2016); *Petition of City of New York*, 332 F.2d 1006, 1008 (2d Cir. 1964); *Anderson v. Whittaker Corp.*, 894 F.2d 804, 807–10 (6th Cir. 1990); *Deakle v. John E. Graham & Sons*, 756 F.2d 821, 834 (11th Cir. 1985); *Thomas*, 297 F.3d at 372; *Barnard*, 721 F.3d at 1078. Even if there *were* an "established conflict among the circuits" on this issue, "it is rarely prudent to move from one side of a conflict to the other." *SEC v. EquityBuild, Inc.*, 101 F.4th 526, 535 (7th Cir. 2024) (Easterbrook, J., concurring). We are in good company in maintaining *Hillier*'s rule.

is "not readily determinable." *Williamson*, 817 F.2d at 1297–98.

Defendants advance three grounds for why the district court abused its discretion in granting prejudgment interest: (1) the jury's verdict fully compensated Bolden; (2) the court lacked any basis to determine the portion of the verdict for which interest could be awarded; and (3) the interest was an improper penalty for delays outside their control. We address each in turn.

1. Full Compensation

Defendants first argue that the jury's $25 million award accounted for the lost time value of Bolden's compensation—in essence, that prejudgment interest was already "baked in" to the verdict. In *Thorncreek Apartments*, we observed that "[w]hen a plaintiff provides evidence of damages that includes interest, the presumption [in favor of awarding interest] flips and the judge will presume that the jury included the interest in its award." 886 F.3d at 637. To hold otherwise would impermissibly penalize defendants by allowing plaintiffs to recover twice over. *Id.*

But "the concept of prejudgment interest was at no point mentioned to the jury" in this case. *See Gierlinger v. Gleason*, 160 F.3d 858, 874 (2d Cir. 1998). Neither side's counsel raised it, and the court never instructed the jury on the concept of prejudgment interest or how it should be calculated. Lacking such evidence, Defendants point instead to language in the jury instructions that Bolden should be compensated for "any injury that you find he

sustained *and is reasonably certain to sustain in the future*" (emphasis added), as well as statements by Bolden's counsel encouraging the jury to consider Bolden's losses "to this day." While one could infer from these general instructions and statements that the jury adjusted for interest in deriving Bolden's $25 million award, the district court did not abuse its discretion in concluding otherwise.

Nor is the jury's verdict so large that "only the supposition that the jury has compensated plaintiff for the time value of money can explain the result." *Williamson*, 817 F.2d at 1298. Plaintiff's counsel asked the jury to award Bolden $44 million in compensatory damages; the jury awarded $25 million. The district court reasonably exercised its discretion in concluding, based on this outcome and the trial record, that the jury's award did not account for prejudgment interest.

2. Ascertainability of Past and Future Damages

The disaggregation of past from future damages in the jury's verdict presents a more challenging issue. Recall that prejudgment interest cannot be awarded on damages for future harms—those not yet suffered at the time the plaintiff's claim accrues—since "the time value of money is taken into account when these [damages] are discounted to present value." *Id.*; *Hillier*, 740 F.2d at 586. The parties agree that only Bolden's past damages (those he suffered while in prison) and not his future damages (those he suffered after release) could serve as a basis for an interest award.

The best practice to avoid issues with *post hoc* apportionment of past and future damages entirely, of course, is to allow the jury itself to separate these categories on a special verdict form. *See, e.g.*, *Poleto v. Consol. Rail Corp.*, 826 F.2d 1270, 1277 (3d Cir. 1987). But neither party raised this for the district court's attention in their jointly submitted verdict form at trial.

Instead, the verdict in this case was a single $25 million lump sum awarded on a general verdict form. The district court determined that interest on this entire amount was proper after determining "from the transcript at closing arguments" that "Bolden's counsel asked for compensation from the incarceration" alone, and not "for the wait after incarceration ended." It is not clear whether this statement is meant to indicate that the jury's entire award was for past damages, or simply that the jury did not account for prejudgment interest in its award (as already discussed). And based on the damages testimony at trial, as well as the language of the jury instructions, it seems possible that the jury intended at least some portion of its award to compensate Bolden not only for the 22 years he spent in prison, but also his ongoing harms after his release in April 2016.

The district judge can hardly be faulted for failing to address the issue of past versus future damages more directly where Defendants focused so much of their efforts post-trial on attempting to distinguish *Hillier* and render all of Bolden's noneconomic damages categorically ineligible for prejudgment interest. Still, Defendants also argued below—and

again on appeal—that without any basis to determine the portion of the award consisting of past damages, the decision to grant interest on the whole sum was improper.

We addressed a similar situation in *Williamson v. Handy Button Machine Co.*, an employment case in which the plaintiff sought damages for backpay and future earnings. In that case, too, "the jury returned a verdict that d[id] not distinguish past and future sources of loss." 817 F.2d at 1298. The lower court had declined to award any prejudgment interest at all on separate grounds; we reversed, but observed that the issue of apportionment would arise on remand. *Id.* at 1299. We rejected the notion that "unless the amount of [past damages] is *exactly* determinable no interest should be awarded." *Id.* Indeed, "[n]o purpose would be served by allowing the wrongdoer to keep the entire time value of the money, just because the exact amount is subject to fair dispute." *Id.* Rather, we held that the district court should do its best to ascertain the portion of the verdict attributable to past damages unless doing so would be "impossible or hopelessly speculative." *Id*. at 1298. We offered several potential methods that the district court could use on remand to apportion the award, based on the plaintiff's backpay estimates and other evidence from the trial record. *Id.*; *see also Hutchison v. Amateur Elec. Supply, Inc.*, 42 F.3d 1037, 1047 (7th Cir. 1994) (holding in another backpay case that district courts may not deny prejudgment interest solely because of "calculational ambiguities" as to the precise amount owed).

The question here is closer than in *Williamson* and

Hutchison: unlike the backpay damages assessed in those cases, Bolden's damages are noneconomic, and he offered no precise calculations of his past versus future losses to the jury. In *Daniels v. Pipefitters' Association Local Union No. 597*, we held that prejudgment interest was appropriately denied where "the district judge ha[d] no means to parse the elements of the general verdict" whatsoever. 945 F.2d 906, 925 (7th Cir. 1991). Similarly, in *Gilliam v. Allen*, another wrongful conviction case brought under Section 1983, the Fourth Circuit reversed an award of $36 million in prejudgment interest on multiple grounds, including that any interest calculation on the lump-sum jury verdict "could only be the product of speculation" without any concrete breakdown of past versus future damages available from the record.[2] 62 F.4th 829, 849–50 (4th Cir. 2023).

But we do not think that the record in this case is so sparse that apportionment is impossible. The emphasis at trial was clearly on Bolden's damages from his imprisonment rather than his post-release damages. *Cf. Daniels*, 945 F.2d at 925 (affirming denial of interest where the jury "may well have rested the lion's share of its award on [future damages]"). And there is at least some evidence that could support apportionment: at trial, Bolden's counsel had asked the jury to use $44 million as a

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[2] We note, however, that the *Gilliam* court reached this conclusion only after finding that prejudgment interest was already improper since the jury's award fully accounted for the time value of money. 62 F.4th at 848–49. The interest award in that case—$36 million—also vastly exceeded the one at issue here.

starting point for their damages, calculated as $2 million for each of his years of imprisonment. Defense counsel similarly commented that Bolden was seeking "1 to 2 million a year," and that he had "22 million reasons to lie to you. He wants $22 million."

One approach, therefore, could have been to apportion the $25 million award into $22 million for past damages and $3 million for future damages. Bolden concedes on appeal that "[t]his, too, would have been a reasonable exercise of the court's discretion."

We do not decide this question, however, as it is the district judge's prerogative based on his familiarity with the trial record. Rather, we remand for the district court to recalculate the prejudgment interest "on a prorated portion" of the jury's verdict after determining the percentage attributable to past damages. *Barnard*, 721 F.3d at 1078. In doing so, the district court may use any "reasonable method" of calculation based on a review of the record as a whole. *Hutchison*, 42 F.3d at 1048.

3. Improper Penalty

Defendants also argue that the district court's prejudgment interest award functioned as an improper penalty. They point out that the nearly two-year delay in trying the case arose through circumstances outside their control, namely the case's reassignment and the COVID-19 pandemic. But delays "attributable to the judicial branch … [whose] effect is neutral between the parties" do not warrant denying prejudgment interest. *Milwaukee Cheese*, 112

F.3d at 849. A purposeful delay by the party seeking the interest, which "injures the other side by forcing it to act as an uncompensated trustee or investment manager," might—but that is not the situation we are presented with here. *Id.* Bolden filed his claims well within the statute of limitations, and the delays cannot be laid at his feet either.

The district court also noted Defendants' settlement conduct in explaining its award of prejudgment interest, observing that they "could have avoided trial altogether by settling the case" and that "[b]y the look of things, Defendants did not put serious money on the table." It is true that prejudgment interest is not meant to penalize parties for "bad-faith conduct," including refusal to engage in settlement talks. *City of Milwaukee*, 515 U.S. at 197. But the district court expressly recognized this constraint, stating that Defendants "had no obligation to settle" and that it "d[id] not fault Defendants for rolling the dice, and taking their chances." The district court's remark that it would "require Defendants to internalize the costs of their own decision-making" is not a statement of blame, but merely a recognition of reality: any defendant who chooses to litigate out a case rather than settle runs the risk of paying additional prejudgment interest down the line if they ultimately lose. The district court's acknowledgment of this fact was not an abuse of discretion.

Finally, Defendants contend that the decision to award monthly compounding interest was an abuse of discretion. But the method of calculating interest rests within the sound discretion of the district court, *Hutchison*, 42 F.3d at 1047, and Defendants have

pointed to no authority suggesting this choice was unreasonable.

III. Conclusion

We REVERSE IN PART the district court's order to the extent it did not apportion past and future damages in calculating prejudgment interest on the jury's verdict, and REMAND for further proceedings on that issue consistent with this opinion. In all other respects, the judgment of the district court is AFFIRMED.[3]

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[3] We need not reach the question of whether Bolden was not entitled to prejudgment interest on his supplemental state-law claims: the district court held after reviewing the trial record that it was "awarding prejudgment interest under federal law," and we find no abuse of discretion in that result.

APPENDIX B

UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT

December 30, 2025

Before

MICHAEL B. BRENNAN, *Chief Judge*

JOSHUA P. KOLAR, *Circuit Judge*

NANCY L. MALDONADO, *Circuit Judge*

No. 24-1674

EDDIE L. BOLDEN, *Plaintiff-Appellee,*	Appeal from the United States District Court for the Northern District of Illinois, Eastern Division.
v.	
	No. 1:17-cv-00417
ANGELO PESAVENTO, et al. *Defendants-Appellants.*	Steven C. Seeger, *Judge*.

O R D E R

Defendants-appellants filed a petition for rehearing and for rehearing en banc on December 11,

2025. No judge in regular active service has requested a vote on the petition for rehearing en banc, and all members of the original panel have voted to deny panel rehearing. It is therefore ordered that the petition for rehearing and for rehearing en banc is DENIED.

APPENDIX C

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT
OF ILLINOIS
EASTERN DIVISION

EDDIE L. BOLDEN,	)	Case No. 17-cv-417
	)	
Plaintiff,	)	
	)	Hon. Steven C.
	)	Seeger
v.	)	
	)	
ANGELO PESAVENTO, *et al*.,	)	
	)	
Defendants.	)	

ORDER

Plaintiff Eddie Bolden's motion for prejudgment interest (Dckt. No. 680) is hereby granted.

Bolden was incarcerated from 1994 until 2016 for double murder, before the convictions were vacated. He filed suit against four former Chicago Police Department officers for his decades of incarceration. The counts included four constitutional claims under 42 U.S.C. § 1983 and three claims under Illinois law.

After a three-week trial, a jury returned a verdict in favor of Bolden, and against the four officers, on all seven counts. Trial took place in 2021. Bolden spent a lot of time in prison, and then waited a long time for his day in court.

The jury awarded Bolden substantial damages. It awarded Bolden $25 million in compensatory damages, and punitive damages of $100,000 (each) against two of the former officers (Angelo Pesavento and James Oliver).

After the trial, Bolden filed the motion at hand under Rule 59(e). *See* Mtn., at 1 (Dckt. No. 680). He requests an award of prejudgment interest in the amount of $7,629,466.51. *Id.*

A district court enjoys discretion to grant a motion for prejudgment interest under Rule 59(e). *See Miller v. Safeco Ins. Co. of Am.*, 683 F.3d 805, 814–15 (7th Cir. 2012). "[W]hether and how to award prejudgment interest . . . lies in the discretion of the district court, although there is a presumption in favor of granting such interest." *Frey v. Coleman*, 903 F.3d 671, 682 (7th Cir. 2018) (citations omitted).

Prejudgment interest "restores a plaintiff to the position she would have been in but for the violation." *Id.* It "is intended to compensate a plaintiff for delay in receiving money it should have received much earlier or should not have been required to spend in the first place." *BRC Rubber & Plastics, Inc. v. Cont'l Carbon Co.*, 981 F.3d 618, 634 (7th Cir. 2020).

In other words, prejudgment interest accounts for the time-value of money. *See Matter of Oil Spill by Amoco Cadiz Off Coast of France on Mar. 16, 1978*, 954 F.2d 1279, 1331 (7th Cir. 1992) ("Money today is not a full substitute for the same sum that should have been paid years ago. Prejudgment interest therefore is an ordinary part of any award under federal law.").

Prejudgment interest promotes a number of important interests. It compensates the prevailing party for the wait, and the time value of money. Money tomorrow isn't worth the same as money today. Prejudgment interest also incentivizes parties to settle. And it disincentivizes parties from dragging their feet and delaying litigation. Otherwise, a defendant could string things out, kick the can down the road, and avoid the cost of the delay. It encourages good behavior if everyone knows that the meter is running.

"[P]rejudgment interest is presumptively available to victims of federal law violations." *McRoberts Software, Inc. v. Media 100, Inc.*, 329 F.3d 557, 572 (7th Cir. 2003) (quoting *Gorenstein Enterprises, Inc. v. Quality Care-U.S.A., Inc.*, 874 F.2d 431, 436 (7th Cir. 1989)). Courts have awarded prejudgment interest in section 1983 cases. *See, e.g.*, *Thorncreek Apartments III, LLC v. Mick*, 886 F.3d 626, 637 (7th Cir. 2018) (concluding that the district court did not err in awarding prejudgment interest in a section 1983 action); *Tate v. Troutman*, 683 F. Supp. 2d 897, 913 (E.D. Wis. 2010), *aff'd sub nom. Tate v. Riegert*, 380 F. App'x 550 (7th Cir. 2010) (awarding prejudgment interest on a section 1983 claim); *Cavada v. City of*

Chicago, 2014 WL 4124273, at *6 (N.D. Ill. 2014) (same).

The Seventh Circuit has held that a district court, in its discretion, may award prejudgment interest for noneconomic harms. *See Hillier v. S. Towing Co.*, 740 F.2d 583, 586 (7th Cir. 1984) ("The district court erred its determination that 'the law does not allow for prejudgment interest for intangible damages (pain and suffering and loss of society).'") (cleaned up); *see also White v. Fincantieri Bay Shipbuilding Co. Inc.*, 2022 WL 294209, at *4 (E.D. Wis. 2022) (recognizing that "prejudgment interest may as a matter of law be awarded on all of the past damages the jury awarded, including pain and suffering . . ."). However, courts are not required to award prejudgment interest for noneconomic harms. *See Valencia v. City of Springfield*, 2023 WL 8827687, at *17 (C.D. Ill. 2023); *see also DeMauro v. Loren-Maltese*, 2007 WL 9821268, at *3 (N.D. Ill. 2007).

There is no apparent reason why noneconomic harms should be categorically treated like second-class injuries when it comes to prejudgment interest. If anything, noneconomic harms might be *worse*. They're more personal. Waiting for a recovery for human suffering is a harm unto itself. It is hard to see why some types of waiting are less worthy of compensation.

Imagine a car accident on the streets of Chicago, where a reckless driver smacks into another car, and then nails a pedestrian. Imagine if the other driver got their Tesla all smashed up. And imagine if the pedestrian broke some bones, and needed extensive

physical therapy. And then, imagine if lawsuits followed, and the reckless driver lost.

Why treat the two plaintiffs differently? If the other driver receives compensation for the delay, why shouldn't the pedestrian, too? Both of them suffered an injury. Both of them had to wait for what they were entitled to receive. And both of them deserve compensation for their wait.

This Court sees no reason to depart from the usual practice of awarding prejudgment interest. Bolden regained his freedom in 2016, and promptly filed suit in 2017. Bolden did not string things out, or sit on his hands. He pressed forward. Meanwhile, the delay of litigation imposed a cost.

It took a while for the case to get to trial, but the fault did not rest on Bolden's shoulders.

True, Defendants are not entirely to blame for the delay, either. The case was set for trial in early November 2019, but the case was reassigned to this Court upon taking the bench in mid-September 2019. The case was one of 342 new cases on this Court's overflowing plate. Trial in November 2019 was impracticable, so the Court had little choice but to move it.

And then, the pandemic struck. The reassignment of the case, plus the pandemic, meant that the trial took place in October 2021 instead of November 2019.

Meanwhile, Bolden waited.

Defendants aren't to blame for that delay. Even so, they could have avoided trial altogether by settling the case. By the look of things, Defendants did not put serious money on the table.

To be clear, Defendants had no obligation to settle. This Court does not fault Defendants for rolling the dice, and taking their chances. They had a right to fight the case. But one of the risks of rolling the dice is the possibility of losing, and a loss typically comes with prejudgment interest.

Defendants rolled the dice, and the jury rang them up with a verdict of $25 million. This Court will require Defendants to internalize the costs of their own decision-making. They decided to take their chances, and things went south. And now the bill has come due.

Defendants argue that an award of prejudgment interest would "override the will of the jury," and that "the jury's award fully compensates" Bolden for his loss. *See* Defs.' Resp., at 1 (Dckt. No. 694). Not so. The jury compensated Bolden for his incarceration. The jury did not compensate Bolden for the time value of the money since then.

In effect, the jury awarded damages for the 22 years that Bolden spent in prison, which ended on April 19, 2016. The jury did not compensate Bolden for the time value of the money after April 19, 2016.

Defendants point to the jury instructions. *Id.* at 7. But this Court did not instruct the jury to award compensation for the time value of money since his

release from prison. After all, awarding prejudgment interest (or not) is the Court's job, not the jury's job.

This Court took a look at the transcript from closing arguments. As this Court reads it, Bolden's counsel asked for compensation for the incarceration. Counsel did not request compensation for the wait after incarceration ended.

The Court also agrees with Bolden's calculation, too. The claim accrued when the state dismissed the charges against him on April 19, 2016. This Court took a close look at the calculation, and adopts the proposed number.

The Seventh Circuit "practice has been to use the prime rate as the benchmark for prejudgment interest unless either there is a statutorily defined rate or the district court engages in 'refined rate-setting' directed at determining a more accurate market rate for interest. . . . [T]o set aside this practice and award something other than the prime rate is an abuse of discretion, unless the district court engages in such a refined calculation." *First Nat. Bank of Chicago v. Standard Bank & Tr.*, 172 F.3d 472, 480 (7th Cir. 1999); *see also Frey*, 903 F.3d at 682.

"As a general rule, the decision whether to award compound or simple prejudgment interest is left to the discretion of the trial court." *Am. Nat. Fire Ins. Co. ex rel. Tabacalera Contreras Cigar Co. v. Yellow Freight Sys., Inc.*, 325 F.3d 924, 937 (7th Cir. 2003). However, "compound prejudgment interest is the norm in federal litigation." *Id.* at 937–38 (citations omitted). This Court will go with the norm.

As an alternative to prejudgment interest under federal law, Bolden requests that this Court award prejudgment interest under Illinois law. There is no need to get into that issue, because this Court is awarding prejudgment interest under federal law.

At bottom, the case is largely about time. Bolden lost time as a free man, in the prime years of his life. Bolden spent time in prison – decades of time – for convictions that didn't hold up. Bolden waited a long time to get his liberty. And he spent more time waiting for justice.

At long last, the wait is over. The time has come. The compensation has arrived.

For these reasons, the Court grants Bolden's motion for prejudgment interest. The Court hereby awards prejudgment interest totaling $7,629,466.51. That amount reflects prejudgment interest running through September 30, 2022, when this Court entered final judgment. *See* Final Judgment Order (Dckt. No. 675). At that point, the prejudgment interest meter stopped running.

Date: April 2, 2024

/s/ Steven C. Seeger
Steven C. Seeger
United States District Judge