No. 25-197

IN THE

Supreme Court of the United States

T.M.,

Petitioner,

v.

UNIVERSITY OF MARYLAND MEDICAL SYSTEM CORPORATION, ET AL.,

Respondents.

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

BRIEF OF CONSTITUTIONAL ACCOUNTABILITY CENTER AS *AMICUS CURIAE* IN SUPPORT OF PETITIONER

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INTEREST OF *AMICUS CURIAE*[1]

Constitutional Accountability Center (CAC) is a think tank and public interest law firm dedicated to fulfilling the progressive promise of the Constitution's text and history. CAC works in our courts, through our government, and with legal scholars to improve understanding of the Constitution and preserve the rights and freedoms it guarantees. CAC has a strong interest in ensuring meaningful access to the courts, in accordance with constitutional text and history, and therefore has an interest in this case.

INTRODUCTION AND SUMMARY OF ARGUMENT

Dating back to the Founding, Congress has long empowered the lower federal courts to hear cases implicating federal interests, often with the express purposes of ensuring the vindication of federal rights and providing a forum for collateral challenges to unconstitutional state-court orders. That history provides essential context for this case.

Here, the district court's jurisdiction under 28 U.S.C. § 1331 and § 1343 to adjudicate a request for relief from an allegedly unconstitutional state-court order is rooted in Congress's decision to open up the federal courts to those whose rights had not been adequately protected—or worse, had been actively violated—by state court systems. By dismissing this case for lack of subject matter jurisdiction and thus expanding the *Rooker-Feldman* doctrine beyond the "narrow

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

ground" it has historically "occupied" under this Court's precedents, *Exxon Mobil Corp. v. Saudi Basic Indus. Corp.*, 544 U.S. 280, 284 (2005), the court below undermined that deliberate congressional design.

To correct that error and bring the lower courts into alignment with Congress's plan and this Court's doctrine, this Court should make clear that *Rooker-Feldman* applies only in those limited circumstances in which state court proceedings have concluded and this Court would have appellate jurisdiction pursuant to 28 U.S.C. § 1257—like the two cases from which the doctrine acquired its name. Where, as here, there is no overlap with this Court's jurisdiction pursuant to § 1257, the *Rooker-Feldman* doctrine simply has no role to play.

I. Lower federal court jurisdiction has long served as both a counterweight to state-court authority and a vehicle for ensuring the proper interpretation of federal law. Early Federalists—among them James Madison, Alexander Hamilton, and John Marshall—believed a system of lower federal courts with jurisdiction to hear cases arising under federal law would be necessary to maintain the supremacy of federal law. Through the Judiciary Acts of 1789 and 1801, Congress experimented with jurisdictional grants that would allow litigants to secure federal interests outside of the existing state court systems.

The need to expand lower federal court jurisdiction became apparent to Congress after the Civil War, when state courts across the South failed to protect the rights of formerly enslaved people—or worse, actively infringed them. In response, Congress enacted, among other legislation, the Freedman's Bureau Act, the Civil Rights Act of 1866, and the Civil Rights Act of 1871. With these statutes, Congress provided both a federal cause of action to protect civil rights conferred by

federal law *and* the access to federal forums necessary to vindicate those rights. Of particular note, § 1 of the Civil Rights Act of 1871 contained language that is the precursor to the modern provisions codified at 42 U.S.C. § 1983 *and* its corresponding jurisdictional provision, 28 U.S.C. § 1343(a)(3). The debates over these statutes are replete with explicit recognition that their enactment would interpose the lower federal courts between the people and state judiciaries, including through the authorization of concurrent jurisdiction and, critically, by providing people an opportunity to seek relief from state-court judgments that ran afoul of federal law. Congress, of course, did not characterize § 1343 as authorizing appellate review, but it made clear that the provision could be used to seek injunctive relief from federal courts to prevent the enforcement of unconstitutional state-court orders.

Congress's grant of federal-question jurisdiction in 1875 was a continuation of that trajectory. This enactment, the precursor to 28 U.S.C. § 1331, is best understood as a structural decision to reinforce Republicans' Reconstruction agenda—an agenda that consciously shifted judicial power from the states to the federal government.

II. Expansion of the *Rooker-Feldman* doctrine to bar the exercise of lower federal court jurisdiction when the challenged state-court order remains subject to further appellate review in the state-court system is incompatible with this history and contrary to this Court's precedents.

Rooker-Feldman is a narrow doctrine that this Court has repeatedly characterized as based on a construction of 28 U.S.C. § 1257, which gives the Supreme Court exclusive jurisdiction to review final judgments of a state's highest court. The doctrine does not preclude a district court from exercising original

jurisdiction Congress has conferred under § 1331 and § 1343 when no such final judgment of a state's highest court exists. Expanding the doctrine in such a manner would unmoor the *Rooker-Feldman* doctrine from its only arguable textual underpinnings in § 1257. Indeed, it would require this Court to read the *Rooker-Feldman* doctrine as resting solely on an atextual implication from the very statutes that *conferred* original jurisdiction on the district court in this case, *see* 28 U.S.C. § 1331 and § 1343—permissive statutes that explicitly open up the federal district courts rather than restrict their jurisdiction.

This Court has never understood the *Rooker-Feldman* doctrine in that way. Indeed, in the only two cases in which this Court has ever dismissed an action for want of jurisdiction under the doctrine—the cases from which the doctrine acquired its name—this Court reasoned that "[u]nder the legislation of Congress, no court of the United States other than this court" could review the decision of the state's highest court. *Rooker v. Fid. Tr. Co.*, 263 U.S. 413, 416 (1923) (citing the predecessor to 28 U.S.C. § 1257); *see D.C. Ct. of Appeals v. Feldman*, 460 U.S. 462, 476 (1983) ("Review of [final determinations of the highest state court] can be obtained only in this Court." (citing 28 U.S.C. § 1257)). Put simply, both *Rooker* and *Feldman* directly implicated § 1257 because the federal-court plaintiff was challenging a final judgment from the state court of last resort. Here, in contrast, the state proceedings are ongoing, so § 1257 is not in play.

In short, the *Rooker-Feldman* doctrine should not be needlessly expanded to close the courthouse doors that Congress opened through sweeping grants of original jurisdiction in § 1331 and § 1343. Those statutes reflect Congress's decision to funnel vindication of federal rights away from the state courts, including by

authorizing federal courts to issue relief from unconstitutional state-court judgments. This Court should respect that congressional design and reverse.

ARGUMENT

I. Congress Created Federal Question Jurisdiction Through a Series of Permissive Statutes Designed to Empower Federal Courts to Secure Federal Rights.

The history of Congress's steady expansion of lower federal court jurisdiction sheds light on the meaning of the statutes that conferred original jurisdiction on the district court in this case, namely 28 U.S.C. § 1331 and § 1343. Congress's plan for these laws was clear: to open up the federal courts for the vindication of federal rights and ensure the proper interpretation of federal law. To the extent concurrent jurisdiction today results in any overlap or interference with state-court litigation, this is not a defect; it is by design.

A. The Founders Conceived of Federal Courts as a Critical Counterweight to State Judicial Power.

Although Article III of the Constitution does not create the lower federal courts, it lays the groundwork for them. The Constitution vests the judicial power in "one Supreme Court" and "in such inferior courts as the Congress may from time to time ordain and establish." U.S. Const. art. III, § 1. The judicial power "extend[s] to all cases, in law and equity, arising under [the] Constitution, the laws of the United States, and treaties made, or which shall be made, under their authority." *Id.* § 2. In the canonical case of *Osborn v. Bank of the United States*, 22 U.S. (9 Wheat.) 738 (1824), Chief Justice John Marshall read these provisions broadly to empower Congress to "confer on the

federal courts jurisdiction over any case or controversy that might call for the application of federal law." *Verlinden B.V. v. Cent. Bank of Nigeria*, 461 U.S. 480, 492 (1983) (describing *Osborn*, 22 U.S. (9 Wheat.) at 738).

Many of those who ratified this language recognized that the new federal government would need a way to secure federal interests—and that the existing state court systems would not always be sufficient. During the Constitutional Convention in Philadelphia, James Madison remarked that "[c]onfidence can [not] be put in the State Tribunals as guardians of the National authority and interests." 2 Max Farrand, *The Records of the Federal Convention of 1787*, at 27 (1911) (second alteration in original). Likewise, Alexander Hamilton warned that even "the most discerning cannot foresee how far the prevalency of a local spirit may be found to disqualify the local tribunals for the jurisdiction of national causes." *The Federalist No. 81*, at 486 (Clinton Rossiter ed., 1961) (Hamilton). Hamilton, like many of his fellow Federalists, believed federal court jurisdiction should extend as far as the limits of Article III. *See The Federalist No. 80*, *supra*, at 476 (Hamilton) (endorsing "the propriety of the judicial power of a government being coextensive" with its legislative power); Alison LaCroix, *Federalists, Federalism, and Federal Jurisdiction*, 30 L. & Hist. Rev. 205, 206 (2012) (noting that most Federalists, including Chief Justice Marshall and Justice Joseph Story, "shared a substantive commitment to . . . a judiciary-centric federalism" staked in the "inferior federal courts").

When Congress created the lower federal courts, it did not go quite so far, but it did confer federal question jurisdiction in some cases implicating federal interests. An Act to Establish the Judicial Courts of the United States, ch. 20, § 9, 1 Stat. 73, 77 (conferring

jurisdiction on lower federal courts to hear, among other things, tort suits by noncitizens alleging the violation of U.S. treaties, suits against consuls, and certain suits by the United States). At least some lawmakers fully expected even this relatively modest grant of jurisdiction to eventually alter the balance of power between the states and the federal government. *See Journal of William Maclay, United States Senator from Pennsylvania, 1789-1791*, at 117 (Edgar S. Maclay ed., 1890) (predicting that the federal judicial system would "swallow, by degrees, all the State judiciaries").

Congress then passed the Judiciary Act of 1801, the legislation best known as the Midnight Judges Act that precipitated the suit at issue in *Marbury v. Madison*, 5 U.S. (1 Cranch) 137 (1803). The 1801 Act realized Hamilton's vision for the federal judiciary, conferring on the lower courts federal question jurisdiction that reached the outer limits of Article III. *See* An Act to Provide for the More Convenient Organization of the Courts of the United States, § 11, 2 Stat. 89, 92 (1801) (conferring jurisdiction over "all cases in law or equity, arising under the constitution and laws of the United States, and treaties made, or which shall be made, under their authority"). Congress conceived of the 1801 Act as an instrument of its substantive, national agenda. *See, e.g.*, Letter from John Marshall to William Paterson (Feb. 2, 1801), *in* 6 *The Papers of John Marshall* 65 (Charles Hobson ed., 2015) (explaining that Congress had established "a system capable of an extension commensurate with the necessities of the nation"); LaCroix, *supra*, at 207 (quoting Massachusetts Congressman Theodore Sedgwick). And the 1801 Act served to repudiate the idea that the state courts, alone, were adequate to secure federal interests. *Harper to His Constituents*, in *Papers of James*

A. Bayard, 1796-1815, at 140 (Elizabeth Donnan ed., 1915) (South Carolina Congressman recognizing that the 1801 Act, which he supported, gave "the federal government a well organized set[] of courts, where its laws may be duly enforced," so that the federal government need not "depend[] . . . on the state courts for the execution of its laws").

Ultimately, although the Judiciary Act of 1801 was repealed when Republicans took control of Congress the following year, *see* An Act to Repeal Certain Acts Respecting the Organization of the Courts of the United States; and for Other Purposes, § 1, 2 Stat. 132 (1802), its rationales, as expressed by its supporters, had staying power.

In subsequent decades, for example, Congress expanded federal court jurisdiction through the enactment of several federal officer removal statutes, which authorized federal officials named as defendants in state court suits to remove their cases to federal court. *See* Richard H. Fallon, Jr., et al., *Hart & Wechsler's The Federal Courts and the Federal System* 781-82 (7th ed. 2015) (chronicling the history of federal officer removal statutes, beginning in 1815). Recognizing that the federal government "can act only through its officers and agents, and they must act within the States," *Tennessee v. Davis*, 100 U.S. 257, 263 (1879), these statutes reflected Congress's effort to "protect federal officers from interference by hostile state courts," *Willingham v. Morgan*, 395 U.S. 402, 405 (1969) (discussing the federal officer removal provision of an 1815 customs statute). Indeed, as the nineteenth century progressed, new federal officer removal statutes reflected Congress's increasing frustration with brazen and unlawful conduct in the state court systems. *See* Act of May 11, 1866, § 4, 14 Stat. 46 (voiding proceedings illegitimately conducted in state courts

after federal officer removal). In this way, the removal statutes foreshadowed the drastic expansion in lower federal court jurisdiction that was soon to come.

B. In the Lead Up to the Passage of the Civil Rights Act of 1871, Congress Began Its Significant Project of Expanding the Lower Federal Courts' Jurisdiction over Issues Involving Federal Rights and Federal Interests.

During Reconstruction, constitutional and legislative momentum resulted in a "transformation [in] the concepts of federalism." *Mitchum v. Foster*, 407 U.S. 225, 242 (1972). In this period, Congress enacted a series of laws that interwove jurisdictional grants to federal forums with provisions intended to grant and secure federal rights.

These laws were in large part a response to the "Black Codes" passed by Southern states after the Civil War "to subjugate newly freed slaves and maintain the prewar racial hierarchy." *Timbs v. Indiana*, 586 U.S. 146, 153 (2019). While many of the Black Codes "embodied express racial classifications," "others, such as those penalizing vagrancy, were facially neutral" and relied upon selective enforcement by state prosecutors and biased state judiciaries to "resurrect[] the incidents of slavery." *Gen. Bldg. Contractors Ass'n, Inc. v. Pennsylvania*, 458 U.S. 375, 387 (1982). Accordingly, to target discriminatory state laws and unfair enforcement by state officials, federal civil rights statutes provided both substantive guarantees and federal forums to vindicate those guarantees.

Among the laws that Congress passed during this period was the Freedmen's Bureau Act, which Congress first considered in 1866. *Timbs*, 586 U.S. at 168 (Thomas, J., concurring in the judgment). The bill—

which contained a sweeping prohibition on disparate treatment in state criminal justice systems and imposed criminal penalties for violating that prohibition—established a Freedmen's Bureau under the authority of the federal government with jurisdiction to "hear and determine all offenses" committed against "persons who are discriminated against in any of the particulars" covered by the bill. Cong. Globe, 39th Cong., 1st Sess. 210 (1866). As one Senator explained, the bill was designed to "give the freedman a practical remedy by taking his case at once before the authorities of the United States." *Id.* at 340 (Sen. Wilson).

Around the same time, Congress also passed the Civil Rights Act of 1866. The 1866 Act guaranteed "such citizens, of every race and color . . . full and equal benefit of all laws and proceedings for the security of person and property," while permitting them to be subject to "like punishment, pains, and penalties, and to none other." An Act to Protect All Persons in the United States in Their Civil Rights and Liberties, and Furnish the Means of Their Vindication, ch. 31, § 1, 14 Stat. 27 (1866). The 1866 Act provided for criminal penalties if its provisions were violated. *See id.* § 2. It also designated federal courts as the *exclusive* forum for "all crimes and offences committed against the provisions of this act," establishing the primacy of the federal judiciary for guarding against constitutional violations. *Id.* § 3.

Opponents of the 1866 Act repeatedly objected that it would allow federal courts to interfere with state judicial systems. One opponent remarked, for instance, that the bill "not only proposes to enter the States to regulate their police and municipal affairs, but it attempts to destroy the independence of the State judiciary." Cong. Globe, 39th Cong., 1st Sess. 1154 (Rep. Eldridge); *see also, e.g.*, *id.* at 478 (Sen.

Saulsbury) (expressing concern that the bill would "regulat[e] the internal affairs of the States" by "invad[ing] and defraud[ing] [them] of the right of determining . . . who shall sue and be sued, and who shall give evidence in [their] courts"). Yet the majority in Congress was unmoved—in the end, the Civil Rights Act of 1866 passed overwhelmingly over President Johnson's veto. *Id.* at 1809, 1861.

C. In 1871, Congress Enacted the Predecessor to 28 U.S.C. § 1343, Empowering Lower Federal Courts to Protect Federal Rights at a Time When State Courts Could Not Be Trusted to Do So.

In 1871, following reports of continued violence against Black Americans and the refusal of Southern states to take this breakdown of justice seriously, the Forty-Second Congress debated, and ultimately passed, an additional civil rights statute. *See* An Act to Enforce the Provisions of the Fourteenth Amendment to the Constitution of the United States, and for Other Purposes, 17 Stat. 13 (1871). The 1871 Act provided a powerful new remedy in the form of a cause of action for civil rights violations by state officials. *Id.* § 1, cl. 1 (codified at 42 U.S.C. § 1983). And critically, any "such proceeding [was] to be prosecuted in the several district or circuit courts of the United States," notwithstanding the amount in controversy. *Id.* cl. 2 (codified at 28 U.S.C. § 1343(a)(3)). The 1871 Act's new cause of action was thus intertwined with its conferral of jurisdiction over civil rights claims in the lower federal courts.

As it debated this legislation, Congress heard about problems infecting almost every aspect of state court systems. *See Monroe v. Pape*, 365 U.S. 167, 174 (1961) ("The debates are replete with references to the

lawless conditions existing in the South in 1871."); *Pierson v. Ray*, 386 U.S. 547, 559 (1967) (Douglas, J., dissenting) (Congressional "members were not unaware that certain members of the judiciary were implicated in the state of affairs which [the 1871 Act] was intended to rectify."). As one representative put it, "[s]heriffs, having eyes to see, see not; judges, having ears to hear, hear not; witnesses conceal the truth or falsify it; grand and petit juries act as if they might be accomplices." Cong. Globe, 42d Cong., 1st Sess. app. 78 (1871) (Rep. Perry).

For instance, Congress received reports that Southern juries often refused to indict or convict individuals accused of violence against Black people and their allies, and that judges themselves refused to administer justice impartially. *See, e.g.*, Cong. Globe, 42nd Cong., 1st Sess. 157-58 (Rep. Sherman) (describing horrific crimes and noting that "no man has ever been convicted or punished for any of these offenses, not one"); *id.* at 201 (Sen. Nye) (declaring that the state courts have become "a mockery . . . where men perjured in advance are to fill your jury-box and perjured witnesses in advance are to swear the rights of the poor away"); *id.* at 394 (Rep. Rainey) ("[T]he courts are in many instances under the control of those who are wholly inimical to the impartial administration of law and equity."); *id.* at 429 (Rep. Beatty) (referencing "prejudiced juries" and "bribed judges"); *id.* at 481 (Rep. Wilson) (noting the "corruption of courts, or juries, or witnesses"); *id.* at 487 (Rep. Lansing) ("The courts are closed, juries intimidated or in complicity with the enemies of the Government, the laws are silent, officers of justice overawed, and the very genius of lawlessness and misrule triumphant."); *id.* at app. 108 (Sen. Pool) (observing that Klan members would "hang about the court and get upon the petit jury and

upon the grand jury and prevent the conviction of their members"); *id.* at app. 193 (Rep. Buckley) (explaining that it was "impossible, first, to get a grand jury to find a true bill, and if once found, it [was] still more impossible to convict before a petit or trial jury, however strong the proof").

As one Senator put it, "the State courts in the several States have been unable to enforce the . . . laws of their respective States," no less the laws of the federal government. *Id.* at 653 (Sen. Osborn). It was thus imperative that Congress create a new means "for the protection of citizens of the United States." *Id.* In particular, a federal forum was necessary to "act with more independence" and "rise above prejudices or bad passions or terror." *Id.* at 460 (Rep. Coburn).

Congress heeded this call, "assign[ing] to the federal courts a paramount role in protecting constitutional rights." *Patsy v. Bd. of Regents*, 457 U.S. 496, 503 (1982). Expansion of lower federal court jurisdiction was a cornerstone of the legislation. "[T]his bill," one Congressman explained, "throws open the doors of the United States courts to those whose rights under the Constitution are denied or impaired." Cong. Globe, 42nd Cong., 1st Sess. 376 (Rep. Lowe); *see also id.* at 459 (Rep. Coburn) ("[w]henever . . . there is a denial of equal protection by the State, the courts of justice of the nation stand with open doors, ready to receive and hear with impartial attention"); *id.* at 476 (Rep. Dawes) ("there is no tribunal so fitted, where equal and exact justice would be more likely to be meted out in temper, in moderation, in severity, if need be," than the federal courts); *id.* at 449 (Rep. Butler) ("every citizen . . . should have a remedy against the locality whose duty it was to protect him and which had failed on its part"); *id.* at 653 (Sen. Osborn) ("We are driven by existing facts to provide for the several States in the

South what they have been unable fully to provide for themselves, i.e., the full and complete administration of justice in the courts.").

Congress fully understood that under the jurisdictional provision now codified at 28 U.S.C. § 1343, the federal courts would review and, when necessary, issue relief from the decisions of state courts. Of course, the federal courts could not reverse a state court decision or wipe it off the books. But the Forty-Second Congress made clear that pursuant to § 1343, the federal courts could issue injunctions to prevent state officials from executing state-court judgments that violated the Constitution. As one proponent explained, "when the courts of a State violate the provisions of the Constitution or the law of the United States there is now relief afforded by a review in the Federal courts." *Id.* at 501 (Sen. Frelinghuysen).

Indeed, the bill faced widespread opposition on the ground that it empowered federal courts to oversee state-court systems. One opponent complained that the bill would "give to the Federal Judiciary . . . a jurisdiction that . . . has never been conferred upon it," empowering federal courts to either "vindicate [a state-court] opinion," or deem it "erroneous," resulting in the "disparagement of the State courts." *Id.* at app. 216-17 (Sen. Thurman). Others echoed this objection. *See id.* at app. 258 (Rep. Holman) (the bill would "invade the provinces of the State courts with new laws and systems of administration"); *id.* at 361 (Rep. Swann) ("[t]he first section of this law ignores the State tribunals as unworthy to be trusted"); *id.* at 385 (Rep. Lewis) ("the judge of a State court, though acting under oath of office, is made liable to a suit in the Federal court and subject to damages for his decision against a suitor"); *id.* at app. 50 (Rep. Kerr) ("It is a covert attempt to transfer another large portion of

jurisdiction from the State tribunals . . . to those of the United States.").

Proponents, however, were unconcerned about empowering the federal courts in this fashion. They were adamant that matters involving federal rights not be "left with the States," where "large classes of people" were "without legal remedy in the courts." *Id.* at app. 252 (Sen. Morton); *see id.* at app. 262 (Rep. Dunnell) (calling "repugnant" the notion that "our protection must come from the State in which we chance to reside" and that "the Federal Government has nothing to do [on] behalf of the citizen"). Thus, as this Court has put it, "[t]he very purpose of [the 1871 Act] was 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.

D. When Reconstruction-Era Progress Faced New Threats in 1875, Congress Again Expanded Lower Federal Court Jurisdiction, Enacting the Predecessor to 28 U.S.C. § 1331.

The next major development in the statutory jurisdiction of the lower federal courts was Congress's grant of federal question jurisdiction in 1875. Jurisdiction and Removal Act of 1875, § 1, 18 Stat. 470. Limited only by a $500 amount-in-controversy requirement, this provision gave the lower federal courts jurisdiction concurrent with the state courts in "all suits of a civil nature at common law or in equity, . . . arising under the Constitution or laws of the United States, or treaties made, or which shall be made, under their authority." *Id.* The modern version of this provision is codified at 28 U.S.C. § 1331. "Apart from deletion of the amount-in-controversy requirement, the general federal-question provision has remained essentially

unchanged since 1875." *Mims v. Arrow Fin. Servs., LLC*, 565 U.S. 368, 377 (2012).

The federal question provision passed without recorded controversy or significant debate. *See* Hart & Wechsler, *supra*, at 782. But its timing is significant. The legislation was enacted on March 3, 1875, by a Republican-controlled Congress—the day before "Democrats were poised to take over the House of Representatives . . . ending fourteen years of Republican Party rule." Gil Seinfeld, *The Federal Courts as Franchise: Rethinking the Justifications for Federal Question Jurisdiction*, 71 Cal. L. Rev. 95, 105 n.24 (2009). This consequential Republican defeat signaled a turning point in Reconstruction, with Democrats vowing to obstruct any new efforts to stamp out racial violence and foster multiracial democracy in the South. *See* 3 Cong. Rec. 977 (1875) (Rep. Blount). Thus, as in 1801, the establishment of general federal question jurisdiction may have served as a bid to "deploy the judiciary to expand national authority"—this time "in the interest of furthering Reconstruction-era policies" on the eve of Congress losing the ability to do so. Seinfeld, *supra*, at 105 n.24. Indeed, contemporary commentators saw the legislation precisely in this light. *See, e.g.*, A.I., *Our Federal Judiciary*, Cent. L.J. 551, 553 (1875) (remarking that enactment of general federal question jurisdiction in 1875 was part of the Republican Congress's "attempts to strengthen the [federal] government" after the Civil War, by "conferr[ing] upon the federal courts all the jurisdiction authorized by the constitution").

Consistent with this interpretation, when Congress eliminated the amount-in-controversy requirement in federal question cases over a century later, *see* Federal Question Jurisdiction Amendments Act of 1980, Pub. L. 96-486, § 2, 94 Stat. 2369, legislators

recognized that federal question jurisdiction is, ultimately, about creating a federal forum for litigants to vindicate their federal rights. Eliminating the amount-in-controversy requirement "represent[ed] sound principles of federalism by mandating that the Federal courts should bear the responsibility of deciding all questions of Federal law," regardless of the size of the plaintiff's economic injury. H.R. Rep. No. 96-1461, at 1 (1980); *see* S. Rep. No. 96-827, at 1 (1980) (similar). No one—not even the law's opponents who feared overburdening the federal courts—expressed concerns about infringement on state court prerogatives when federal interests were at stake. *See* S. Rep. No. 96-827, at 10-12 (dissenting views of Senators Thurmond, Laxalt, and Dole).

* * *

In sum, during the nineteenth century, Congress expanded the jurisdiction of the lower federal courts with successive, affirmative grants of permission to resolve cases involving federal interests. These grants of jurisdiction—including in the precursors to 28 U.S.C. § 1331 and § 1343—were inextricably linked with sweeping congressional projects to safeguard federal rights during a time of extreme state-court recalcitrance and hostility.

II. Extension of the *Rooker-Feldman* Doctrine to Judgments Subject to Further Review in State Court Is at Odds with the History of Congress's Effort to Open Up the Lower Federal Courts for the Vindication of Federal Rights.

In this Section 1983 action, Petitioner invoked both the district court's federal question jurisdiction and its civil rights jurisdiction to challenge a state-court consent order still subject to further review in the state-court system. *See* Redacted Compl. at 8, *T.M., et al. v. Univ. Md. Med. Sys. Corp., et al.*, No. 1:23-cv-1684 (D. Md. June 26, 2023) (citing 28 U.S.C. §§ 1331, 1343(a)(3)). The dismissal of Petitioner's case pursuant to the *Rooker-Feldman* doctrine—without a decision of the state's court of last resort—necessarily limits the reach of those jurisdiction-conferring statutes, "overriding Congress'[s] conferral of federal-court jurisdiction concurrent with jurisdiction exercised by state courts." *Exxon Mobil*, 544 U.S. at 283. That holding is thus in tension with the history of Congress's affirmative grants of permission to resolve cases involving federal legal rights, even "at the expense of the states." William M. Wiecek, *The Reconstruction of Federal Judicial Power*, 1863-1875, 13 Am. J. Legal Hist. 333, 358 (1969); *see generally* Part I.

This Court has acknowledged the importance of this history before. Start with the 1871 Act. This Court has noted that the "very purpose" of that precursor to § 1983 and § 1343(a)(3) "was 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, because Congress believed "that the state authorities had been unable or unwilling to protect" those rights, *Patsy*, 457 U.S. at 505. Likewise, as to the 1875 Act, this Court has credited that precursor to

§ 1331 as "the principal measure of the broadening federal domain in the area of individual rights." *Zwickler v. Koota*, 389 U.S. 241, 246-47 (1967) (internal quotation marks and citation omitted); *see Steffel v. Thompson*, 415 U.S. 452, 464 (1974). Through enactment of § 1331, lower federal courts "became the primary and powerful reliances for vindicating every right given by the Constitution, the laws, and treaties of the United States." *Zwickler*, 389 U.S. at 247 (quoting Felix Frankfurter & James M. Landis, *The Business of the Supreme Court: A Study in the Federal Judicial System* 65 (1928)).

Giving effect to those historical principles reflected in Congress's plan for the lower federal courts, the Court has cautioned that § 1331, specifically, is not easily "swept away." *Mims*, 565 U.S. at 378; *cf. Colo. River Water Conservation Dist. v. United States*, 424 U.S. 800, 817 (1976) ("[F]ederal courts" have a "virtually unflagging obligation . . . to exercise the jurisdiction given them."). Rather, whenever a "claim arises under federal law, [the] district courts possess federal-question jurisdiction under § 1331." *Mims*, 565 U.S. at 378-79. This state of affairs is disturbed only if Congress "divests federal courts of their § 1331 adjudicatory authority" through another statute, *id.* at 379—such as (at least arguably) via a grant of exclusive jurisdiction to this Court, *see* 28 U.S.C. § 1257.

Indeed, this Court has always been careful to justify the *Rooker-Feldman* doctrine as grounded in a negative implication from Congress's *exclusive* grant of jurisdiction to this Court to hear appeals from "[f]inal judgments or decrees rendered by the *highest court* of a State in which a decision could be had." 28 U.S.C. § 1257(a) (emphasis added). Though at times this Court has mentioned § 1331 in its discussion of the *Rooker-Feldman* doctrine, it has done so only to make

clear that § 1331 "does not authorize district courts to exercise appellate jurisdiction over state-court judgments, which Congress has reserved to this Court" pursuant to § 1257. *Verizon Md., Inc. v. Pub. Serv. Comm'n of Md.*, 535 U.S. 635, 644 n.3 (2002). This Court made this explicit in *Exxon Mobil*, when it explained that the *Rooker-Feldman* doctrine—derived from the exclusive grant of Supreme Court jurisdiction in § 1257—applies in circumstances when a district court would "*otherwise* be empowered to adjudicate [the action] under a congressional grant of authority, *e.g.*, . . . § 1331." 544 U.S. at 291 (emphasis added).

That statement makes perfect sense in the context of the history of § 1331 and its civil-rights counterpart in § 1343. Those statutes expressly contemplate district courts exercising original jurisdiction over collateral challenges to the enforcement of unconstitutional state-court orders. They were enacted for precisely that purpose. Thus, only a *different* statute—like § 1257—may divest them of jurisdiction that they would otherwise have. These original-jurisdiction-*conferring* statutes may not be read on their own to *divest* district courts of jurisdiction.

This Court's precedents also make clear that because the *Rooker-Feldman* doctrine hinges on a construction of 28 U.S.C. § 1257, it is not triggered unless the state-court judgment is within the ambit of § 1257—the statute which grants this Court "appellate jurisdiction with respect to state litigation only after the *highest state court* in which judgment could be had has rendered a '[f]inal judgment or decree,'" *Cox Broadcasting Corp. v. Cohn*, 420 U.S. 469, 476-77 (1975) (quoting 28 U.S.C. § 1257) (emphasis added). Indeed, in the only two cases in which this Court has applied the *Rooker-Feldman* doctrine to dismiss an

action—*Rooker* and *Feldman*—the plaintiff sought appellate review of a decision of the highest state court.

In *Rooker*, this Court held that the district court lacked jurisdiction in a lawsuit challenging a state court judgment, affirmed by the state's supreme court, as "null and void" on constitutional grounds. *Rooker*, 263 U.S. at 414-16. *Rooker* plainly "turned on [the] section of the Judicial Code[] now located at 28 U.S.C. § 1257, that permits only the United States Supreme Court to review appeals from *state supreme courts*." *VanderKodde v. Mary Jane M. Elliott, P.C.*, 951 F.3d 397, 405 (2020) (Sutton, J., concurring) (emphasis added); *see Rooker*, 263 U.S. at 416. Indeed, in *Rooker*, the federal plaintiff had lost in the Indiana Supreme Court, sought review in this Court to no avail, and only then filed a lawsuit asking a federal district court to invalidate the Indiana Supreme Court judgment as contrary to the federal Constitution. *Rooker*, 263 U.S. at 414.

Feldman, in relevant part, involved constitutional challenges in federal court to two similar rulings of the highest court of the District of Columbia. *Feldman*, 460 U.S at 472-73. Applying *Rooker* to hold that the district court lacked jurisdiction over certain allegations in the plaintiffs' complaints, this Court explained that review of "final determinations of the District of Columbia Court of Appeals in judicial proceedings . . . can be obtained only in this Court." *Id.* at 476 (citing 28 U.S.C. § 1257).

In many other cases too, this Court has made clear that the *Rooker-Feldman* doctrine should only apply when state-court proceedings have ended and appellate review could be had in this Court, and only this Court, pursuant to § 1257. *See, e.g.*, *Skinner v. Switzer*, 562 U.S. 521, 531-32 (2011) ("[T]he District Courts lack[] subject-matter jurisdiction" under

Rooker-Feldman where "28 U.S.C. § 1257 vests authority to review a state court's judgment solely in this Court." (quotation marks omitted)); *Lance v. Dennis*, 546 U.S. 459, 463 (2006) (describing *Rooker-Feldman* as deriving from § 1257 because "this grant of jurisdiction is exclusive"); *Cox Broadcasting Corp.*, 420 U.S. at 476-77 ("Since 1789, Congress has granted this Court appellate jurisdiction with respect to state litigation only after the highest state court in which judgment could be had has rendered a '[f]inal judgment or decree.'" (quoting 28 U.S.C. § 1257)).

One illustrative example appears in *ASARCO Inc. v. Kadish*, 490 U.S. 605 (1989), where this Court discussed a hypothetical action that "would be an attempt to obtain direct review of [a state supreme court's] decision in the lower federal courts," thus contravening "*Rooker-Feldman*'s construction of 28 U.S.C. § 1257." *Id.* at 622-23. In *Exxon Mobil*, this Court emphasized that the hypothetical case described in *ASARCO* would "share[] the characteristics of the suits in *Rooker* and *Feldman*," 544 U.S. at 287 n.2, while admonishing lower courts that "[t]he *Rooker-Feldman* doctrine . . . is confined to cases of the kind from which the doctrine acquired its name," *id.* at 284.

This Court has thus invariably explained that *Rooker-Feldman* stands for a narrow principle derived by negative implication: the "Court's appellate jurisdiction over state-court judgments, 28 U.S.C. § 1257, precludes a United States district court from exercising subject-matter jurisdiction in an action it would otherwise be empowered to adjudicate under a congressional grant of authority." *Exxon Mobil*, 544 U.S. at 291. In other words, when Congress authorized the Supreme Court to review "[f]inal judgments" from state courts of last resort, it implied that the lower

federal courts cannot review them. 28 U.S.C. § 1257. That is the *Rooker-Feldman* doctrine.

In this case, as Respondents acknowledge, "further state-court review of petitioner's state-court judgment remained possible" at the time Petitioner sued in federal court. BIO 2. There was thus no final judgment of a state court of last resort reviewable in this Court pursuant to 28 U.S.C. § 1257. Under this Court's precedents, then, *Rooker-Feldman* should not bar the district court's exercise of original jurisdiction pursuant to the Reconstruction-era statutes that confer it. With those enactments, Congress expanded federal court jurisdiction because it wanted litigants, especially in civil rights cases, to have the opportunity to sue in federal court even when the result would disrupt the execution of state-court judgments. The *Rooker-Feldman* doctrine cannot be grounded in those statutes alone, and it thus cannot support the decision below.

CONCLUSION

For the foregoing reasons, the judgment of the court below should be reversed.

Respectfully submitted,

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