No. 25-___

IN THE

Supreme Court of the United States

BENJAMIN ADAMS,

Petitioner,

v.

CHRISTINA REAGLE*, et al.,*

Respondents,

On Petition For A Writ Of Certiorari To The United States Court Of Appeals For The Seventh Circuit

PETITION FOR A WRIT OF CERTIORARI

Patrick L. Wright
Neil M. Grismore
JONES DAY
250 Vesey St.
New York, NY 10281

Amanda K. Rice
Counsel of Record
JONES DAY
150 W. Jefferson Ave.
Suite 2100
Detroit, MI 48226
(313) 733-3939
arice@jonesday.com

Counsel for Petitioner

QUESTION PRESENTED

The Question Presented is whether incarcerated individuals facing disciplinary segregation that amounts to a deprivation of liberty are entitled the adversarial due process protections described in *Wolff v. McDonnell*, 418 U.S. 539 (1974), or merely the non-adversarial due process protections described in *Wilkinson v. Austin*, 545 U.S. 209 (2005).

PARTIES TO THE PROCEEDING

Petitioner Benjamin Adams was the plaintiff in the District Court and the appellant in the Court of Appeals.

Respondents Joshua M. Peltier, Charles A. Penfold, Clinton Feldkamp, and Haywood Andrews are Indiana prison officials who were defendants in the District Court, and were appellees in the Court of Appeals. Robert Carter, former Commissioner of the Indiana Department of Correction, was a defendant in the District Court and an appellee in the Court of Appeals until he was replaced by Respondent and current Commissioner Christina Reagle.*

RULE 29.6 STATEMENT

No publicly held corporations are involved in this proceeding.

* Paul Prulhiere was a defendant in the District Court but was not named as an appellee in the Court of Appeals and is not a respondent here.

RELATED PROCEEDINGS

This case arises out of the following proceedings:

- *Adams v. Reagle*, No. 21-1730, U.S. Court of Appeals for the Seventh Circuit (judgment entered February 7, 2025).
- *Adams v. Feldkamp*, No. 2:17-cv-00483, U.S. District Court for the Southern District of Indiana (judgment entered March 19, 2021).

TABLE OF CONTENTS

TABLE OF CONTENTS
(continued)

Page

TABLE OF AUTHORITIES

Page(s)

CASES

TABLE OF AUTHORITIES
(continued)

Page(s)

TABLE OF AUTHORITIES
(continued)

Page(s)

TABLE OF AUTHORITIES
(continued)

Page(s)

OPINIONS BELOW

The District Court's opinion granting defendants' motion for summary judgment and denying plaintiff's is unpublished but available at 2021 WL 1061223 and reproduced at Pet.App.1a–19a. The Seventh Circuit's opinion affirming the District Court's judgment is published at 91 F.4th 880 and reproduced at Pet.App.20a–49a. The Seventh Circuit's order denying plaintiff's petition for rehearing and rehearing en banc is unpublished but available at 2025 WL 437900 and reproduced at Pet.App.50a–51a.

JURISDICTION

The Seventh Circuit entered judgment on January 30, 2024. Pet.App.1a–2a. It denied a timely petition for rehearing and rehearing en banc on February 7, 2025. Pet.App.50a–51a. On March 31, 2025, Justice Barrett granted an extension of time in which to file a petition for a writ of certiorari until July 7, 2025. This Court has jurisdiction under 28 U.S.C. § 1254(1).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The Due Process Clause of the Fourteenth Amendment to the U.S. Constitution provides that "No State shall . . . deprive any person of life, liberty, or property, without due process of law." U.S. Const. amend. XIV § 1.

42 U.S.C. § 1983 provides, in relevant part:

> Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State . . . , subjects, or causes to be subjected, any citizen of the United States . . . to the deprivation of any rights, privileges, or

immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress.

INTRODUCTION

Individuals have a constitutionally protected liberty interest in avoiding prison conditions that "impose[] atypical and significant hardship . . . in relation to the ordinary incidents of prison life." *Sandin v. Conner*, 515 U.S. 472, 484 (1995). Before they can be subjected to such conditions as punishment for alleged misconduct, incarcerated people are entitled to due process protections that include—to the extent practicable—the rights to call witnesses and to present documentary evidence. *Wolff v. McDonnell*, 418 U.S. 539, 566 (1974). A different standard applies to segregation for "nonpunitive reasons," such as "to protect the prisoner's safety [or] to break up potentially disruptive groups of inmates." *Hewitt v. Helms*, 459 U.S. 460, 468 (1983), *abrogated on other grounds by Sandin*, 515 U.S. 472. In that context, incarcerated people are entitled only to "informal, nonadversary evidentiary review." *Id.* at 476.

Both disciplinary segregation and administrative segregation can result in an individual being placed in solitary confinement or other severely restrictive prison conditions. But the applicable due process standard differs because those two forms of segregation serve fundamentally different purposes. Disciplinary segregation is punishment for alleged misconduct, and the attendant due process protections are designed to ensure that an individual accused of misconduct may "propound[] his own cause" and "defend[] himself." *Wolff*, 418 U.S. at 565. Administrative segregation, by contrast, is imposed not on the basis of alleged wrongdoing, but rather to ensure the safety of both prisoners and prison personnel. *See Wilkinson v. Austin*, 545 U.S. 209, 228–

29 (2005). As a result, it does not carry "the stigma of wrongdoing." *Hewitt*, 459 U.S. at 473. And its propriety does not turn on whether a particular individual committed a particular act of misconduct, but rather "on the experience of prison administrators" in assessing relevant safety considerations. *Wilkinson*, 545 U.S. at 228–29.

Five circuits hold that line, recognizing that, when feasible, individuals must be provided an opportunity to present witnesses and evidence before they can be sent to disciplinary segregation that is so restrictive that it amounts to a deprivation of liberty. In those circuits, the lower due process standard articulated in *Hewitt* and *Wilkinson* is limited to the administrative segregation context. The Seventh and Eighth Circuits, however, take a different tack. Those courts extend the *Hewitt* and *Wilkinson* standard to disciplinary proceedings and, as a result, do not require prison officials to consider witness testimony or evidence before imposing a deprivation of liberty as punishment for alleged misconduct.

Petitioner Benjamin Adams was unlucky enough to find himself in the Seventh Circuit, and he paid the price for that court's erroneous rule. Respondents repeatedly refused to consider witness testimony or documentary evidence that would have absolved Adams of the misconduct with which he was charged—and of which he was ultimately exonerated. As a result, he spent two years in the harshest of living conditions, where he was confined to his cell for 23 hours a day.

This case checks all of the certworthiness boxes. The circuits are squarely divided about the due

process standard applicable in prison disciplinary proceedings. That question—which arises only when an individual has been deprived of a constitutionally protected liberty interest—is both important and frequently recurring. The Seventh and Eighth Circuits' minority position, which has only become further entrenched since the decision below issued, is wrong. And this case is an excellent vehicle. The Court should grant certiorari, reverse the decision below, and hold that individuals facing disciplinary segregation are entitled to the procedural due process protections outlined in *Wolff*.

STATEMENT OF THE CASE

A. Legal Framework

1. "Procedural due process imposes constraints on governmental decisions which deprive individuals of 'liberty' or 'property' interests within the meaning of the Due Process Clause of the Fifth or Fourteenth Amendment" *Mathews v. Eldridge*, 424 U.S. 319, 332 (1976). Section 1983, Title 42, United States Code provides "a remedy to parties deprived of constitutional rights," including procedural due process rights. *Monroe v. Pape*, 365 U.S. 167, 172 (1961), *overruled on other grounds by Monell v. Dep't of Soc. Servs.*, 436 U.S. 658, 690 (1978); *see also Zinermon v. Burch*, 494 U.S. 113, 125 (1990) ("A § 1983 action may be brought for a violation of procedural due process . . . ."). To prevail on a § 1983 claim based on a state's failure to provide procedural due process, a plaintiff must show "(i) deprivation by state action of a protected interest in life, liberty, or property, and (ii) inadequate state process." *Reed v. Goertz*, 598 U.S. 230, 236 (2023).

In assessing an alleged deprivation, the key question is "whether the nature of the [individual's] interest is one within the contemplation of the 'liberty or property' language of the Fourteenth Amendment." *Morrissey v. Brewer*, 408 U.S. 471, 481 (1972). This Court has recognized that individuals have a protected liberty interest in avoiding prison conditions that "impose[] atypical and significant hardship . . . in relation to the ordinary incidents of prison life." *Sandin*, 515 U.S. at 484; *see also Wilkinson*, 545 U.S. at 224 (holding that transfer to more restrictive conditions, such as those found in "most solitary confinement facilities," can implicate a protected liberty interest).

Once a plaintiff has established a deprivation, "the question remains what process is due." *Morrissey*, 408 U.S. at 481. The requirements of due process are "flexible and call[] for such procedural protections as the particular situation demands." *Id*. Three factors control that analysis:

> *First*, the private interest that will be affected by the official action; *second*, the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards; and *finally*, the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail.

Mathews, 424 U.S. at 335 (emphases added).

2. Where the interest at stake is avoiding confinement in prison conditions that "impose[]

atypical and significant hardship," *Sandin*, 515 U.S. at 484, this Court's precedents make clear that the amount of process due turns on the purpose of that confinement.

Start with *Wolff*. *Wolff* arose from a class action alleging that the state's procedures for punishing "flagrant or serious" cases of prison "misconduct"—the potential sanctions for which included forfeiture of "good time" credits and confinement in a disciplinary cell—violated the Due Process Clause of the Fourteenth Amendment. 418 U.S. at 547, 553. At step one, the Court held that incarcerated people have a protected liberty interest in avoiding both deprivations of good time credits and disciplinary confinement. *See id.* at 547, 556–58, 571 n.19. At step two, the Court considered individual interests, the risk of erroneous deprivation, and "institutional needs and objectives." *Id.* at 556. It ultimately held that "[an] inmate facing disciplinary proceedings" must be provided procedural protections, including the ability "to call witnesses and present documentary evidence in his defense when permitting him to do so will not be unduly hazardous to institutional safety or correctional goals." *Id.* at 563–66. The Court recognized that these procedural safeguards serve "as a hedge against arbitrary determination of the factual predicate for imposition of the sanction." *Id.* at 571 n.19.

The Court again considered the scope of due process rights for incarcerated individuals in *Hewitt*. There, an individual suspected of involvement in a prison riot was held in administrative segregation during the pendency of an investigation. 459 U.S. at 463. The prison had placed him in administrative

segregation because it believed that he would be "a danger to staff and to other inmates if released back into [the] general population." *Id.* at 465. The Court noted that "*Wolff* require[s] that inmates *facing disciplinary charges for misconduct* be accorded" certain procedural rights—including "a right to call witnesses and present documentary evidence in [his or her] defense, unless doing so would jeopardize institutional safety or correctional goals." *Id.* at 466 n.3 (emphasis added). It reasoned, however, that the administrative "transfer of an inmate to less amenable and more restrictive quarters *for nonpunitive reasons* is well within the terms of confinement ordinarily contemplated by a prison sentence." *Id.* at 468 (emphasis added). The Court therefore held that individuals facing administrative transfer—*i.e.*, "transfer . . . for nonpunitive reasons"—are entitled only to "informal, nonadversary evidentiary review." *Id.* at 468, 476.

Next came *Sandin*. The question in *Sandin* was whether an individual subjected to 30 days in disciplinary segregation had incurred a deprivation of liberty at step one. The Court acknowledged that prior cases had focused on "the language of a particular regulation" in assessing the existence of a protected interest. 515 U.S. at 481. It held, however, that courts should focus instead on "the nature of the deprivation." *Id.* at 481, 483–84. Applying that standard, the Court concluded that the plaintiff was not "entitle[d] . . . to the procedural protections set forth in *Wolff*" because the conditions to which he was subjected—just 30 days in conditions similar to those "imposed upon inmates in administrative segregation and protective custody"—were not "the type of

atypical, significant deprivation" that implicates a protected liberty interest. *Id.* at 485–86.

Finally, in *Wilkinson*, individuals incarcerated in Ohio's prison system brought a class action alleging that the state's policy governing placement in "supermax" facilities—*i.e.*, "maximum-security prisons with highly restrictive conditions"—violated the Due Process Clause of the Fourteenth Amendment. 545 U.S. at 213. Unlike in *Sandin*, the restrictive conditions at issue—which were imposed for an "indefinite" duration and implicated eligibility for parole—amounted to "an atypical and significant hardship." *Id.* at 223–24. Accordingly, just like in *Wolff*, the Court held that the plaintiffs had established a deprivation of a constitutionally protected liberty interest. *Id.* at 224.

Wilkinson diverged from *Wolff*, however, as to the amount of process due. Unlike in *Wolff*, placement in segregation was administrative, not disciplinary. *See id.* at 215–16. Individuals, in other words, were assigned to the supermax facility not as punishment for alleged misconduct but rather as a consequence of individual characteristics, including their offense of conviction. *See id.* That distinction mattered: Whereas disciplinary confinement turns on allegations of "specific, serious misbehavior . . . where more formal, adversary-type procedures might be useful," administrative confinement "draws more on the experience of prison administrators." *Id.* at 228. Accordingly, the Court followed *Hewitt* in holding that the plaintiffs were entitled only to "informal, nonadversary procedures." *Id.* at 229 (citing *Hewitt*, 459 U.S. at 473–76).

B. Factual Background

1. In February 2017, Petitioner Benjamin Adams was serving time in Indiana's Plainfield Correctional Facility when prison officials charged him with ordering a violent attack on another prisoner. Pet.App.3a. Respondent Clinton Feldkamp, Plainfield's Director of Intelligence and Investigations, investigated the incident. *Id.* In the course of that investigation, Feldkamp questioned Adams, as well other suspected offenders, Kenneth Garretson and Raymond Barnett. *Id.* Based on his investigation, Feldkamp concluded that Adams had ordered the attack. *Id.*

Adams denied Feldkamp's charges. *Id.* And Garretson corroborated his account of the incident. *Id.* Indeed, two weeks after the incident occurred, "Garretson sent an email to the ombudsperson averring that Adams had no knowledge of and did not participate in the assault." *Id*.

A disciplinary hearing was held, but the hearing officer—Respondent Joshua Peltier—"did not allow live testimony at the hearing (and therefore denied Adams' witness requests)." *Id.* at 3a–4a. He also "denied Adams' request for video surveillance evidence." *Id.* at 4a. Instead, Peltier "resolved the matter based on the written statements submitted, crediting Feldkamp's statement over Adams' own statement." *Id.* And he "found Adams guilty of [the assault] offense." *Id.* at 3a. As a result, the prison "ordered [Adams] to spend one year in disciplinary segregation . . . [and revoked] 365 days of his earned good time credits." *Id.* Shortly thereafter, Adams was reclassified "to department-wide restrictive housing"

in light of his assault charge and several non-violent conduct violations. *Id.* at 4a. "Pursuant to the reclassification, Adams was to remain in department-wide restrictive housing for a period of two years." *Id.* at 5a. Adams served most of that time in "the restricted housing unit at the Wabash Valley Correctional Facility," which "is considered a 'supermax' section of the prison." *Id.* at 5a.

2. "Adams appealed the assault conviction up through the prison hierarchy unsuccessfully . . . ." *Id.* "[B]ut after he filed a habeas petition in federal court . . . , the final prison review officer reconsidered his internal appeal, designated the matter for rehearing, and vacated all sanctions imposed, thereby mooting his habeas petition." *Id.*

Adams was then recharged and a second disciplinary hearing was held. *Id.* at 6a. "Adams again requested live witness testimony, including testimony from Garretson, Barnett, the injured inmate, and multiple prison officers." *Id.* The disciplinary hearing officer again refused to permit Adams to present live witness testimony or video surveillance evidence. *Id.* Adams was again found guilty of the assault. *Id.* And he was again subjected to the same penalties. *Id.*

Adams filed another habeas petition, again "arguing that his requests for live witness testimony and other evidence had been denied in violation of his right to due process." *Id.*; *see also Adams v. Superintendent*, No. 2:17-cv-00547, 2018 WL 4077022 (S.D. Ind. Aug. 27, 2018). While that petition was pending, one of the other offenses that had served as the basis for Adams' reclassification to department-wide restrictive

housing had been vacated. Pet.App.6a. Nevertheless, "Adams was again reclassified" to restrictive housing"—and again, his "involvement in [the] assault was cited as a reason for the reclassification." *Id*.

In August 2018, the district court granted Adams' habeas petition and vacated the assault conviction. *Id.* at 26a–27a; *see also Adams*, 2018 WL 4077022, at *3. The court concluded that "[a]t least one of Adams' witness requests was improperly denied" during the second disciplinary proceedings. *Adams*, 2018 WL 4077022, at *3. In particular, Adams should have been permitted to call Barnett, who "would [have] testif[ied] that he and Adams had nothing to do with [the assault]." *Id.* The prison had "provided no justification" for denying Adams' witness requests." *Id*. So "Adams's due process rights [had been] violated." *Id.* (citing *Ponte v. Real*, 471 U.S. 491, 498–99 (1985)).

Despite this *second* vacatur, the prison persisted. Adams was charged "for a third . . . time in connection with the assault." Pet.App.8a. But this time the warden dismissed the charges during the administrative review process "on the ground that the allegations against Adams were too vague." *Id*.

"By this time, however, Adams had already served *730 days (two years)* in restrictive housing pursuant to his reclassification . . . to department-wide restrictive housing, which reclassification decision was based in part on his disciplinary conviction for the assault." *Id.* (emphasis added). The conditions of his confinement were extremely harsh. "Inmates placed in restrictive housing are confined to their cells for 23 hours a day, are not granted access to commissary or hygiene

items, may not participate in religious services, have limited telephone rights, limited showering rights, limited human contact, and are given smaller portions of food (they are served an afternoon meal at 3 p.m. and are not fed again until breakfast the following day)." *Id*. at 8a–9a.

C. Procedural History

1. Adams filed a § 1983 suit "seeking declaratory, injunctive, and monetary relief." Pet.App.9a. The operative complaint alleges that Respondents violated Adams' Fourteenth Amendment right to due process by depriving him of procedural protections during the disciplinary hearings, and that he spent a total of two years in harsh disciplinary segregation that amounted to a deprivation of liberty as a result of these violations. *Id*.

The District Court denied Adams' motion for summary judgement and granted Respondents'. *Id*. at 48a. At step one, the court correctly found that "[a] reasonable jury might conclude that [Adams] was deprived of a protected liberty interest" because he "spent a significant time in segregation and . . . testified as to the harsh conditions he experienced there." *Id*. at 47a. The court also noted "at least a dispute of fact regarding whether, without [the assault] charge, [Adams] would have been reclassified" to restrictive housing anyway. *Id*. at 39a. But at step two, the court concluded that Adams had received all the process he was due. *Id*. at 47a. The court acknowledged that the disciplinary hearing "did not satisfy the requirements of due process [applicable to revocations of] good time credits." *Id*. But it held that it satisfied "the requirements of informal due

process for placement in segregation." *Id.* (citing *Westefer v. Neal*, 682 F.3d 679 (7th Cir. 2012)).

2. Adams appealed. Among other things, he argued that he had not been afforded the level of due process required under *Wolff*—including the opportunity to present witness testimony and documentary evidence. *Id.* at 14a

A divided panel of the Seventh Circuit affirmed. *Id.* at 27a, 30a. Neither the majority nor the dissent challenged the District Court's assumption that Adams had been deprived of a protected library interest when he was confined in harsh, disciplinary segregation for two years. The panel also recognized "a question of fact as to whether Adams' disciplinary conviction in the assault case contributed to the reclassification decision that placed him in department-wide restrictive housing." *Id.* at 10a; *see also id.* at 21a (Rovner, J., dissenting in relevant part). But the panel fractured with respect to the amount of process Adams was due.

The majority opinion applied the nonadversarial due process standard first set forth in *Hewitt* and reaffirmed *Wilkinson*, which it concluded had been satisfied. Pet.App.28a (citing *Hewitt* and holding that, "[s]o long as" an individual is given the opportunity to present his views through a written statement "and the decisionmaker reviews the charges and then-available evidence against the prisoner, the Due Process Clause is satisfied"). [1] In so doing, the

[1] Judge Rovner's opinion "represents the opinion of the court except as to" the due process claim. Pet.App.2a n.1. As to that claim, Judge Rovner's opinion is a dissent and "Judge St. Eve's

majority relied on the Seventh Circuit's prior ruling in *Westefer*, which had applied *Wilkinson* in assessing a challenge to a prison's procedures for administrative transfers to a supermax facility. *See id.*; *Westefer*, 682 F.3d at 683. Judge Rovner would have applied the more demanding due process standard articulated in *Wolff*, which had not been satisfied. Pet.App.18a–20a (citing *Wolff* and opining that Adams was "entitled to live witness testimony absent some justification for why such testimony was not appropriate or feasible").

3. Adams filed a petition for rehearing or rehearing *en banc* on February 12, 2024. Ct. App. Dkt., ECF No. 58. In that petition, Adams argued that the Seventh Circuit had split with other Courts of Appeals and badly erred in holding that *Wilkinson*, rather than *Wolff*, governs prison disciplinary proceedings with a protected liberty interest at stake. Ct. App. Dkt., ECF No. 58, at 2. At the court's request, Respondents filed a response on March 12, 2024. Ct. App. Dkt., ECF No. 62. Respondents defended the Seventh Circuit's minority position that the informal *Wilkinson* standard applies even in the disciplinary context. Ct. App. Dkt., ECF No. 62, at 4. The Seventh Circuit did not rule on Adams' petition for nearly a year but ultimately denied the petition on February 7, 2025. Pet.App.50a–51a.

REASONS FOR GRANTING THE WRIT

The Courts of Appeals are divided about how much process is due to individuals facing deprivations of liberty in prison disciplinary proceedings. Most courts

---

separate concurrence, joined by Judge Kirsch, represents the majority opinion." *Id.*

apply *Wolff* and hold that such individuals must be afforded the opportunity to present witness testimony and documentary evidence to the extent practicable. But the Seventh and Eighth Circuits apply *Wilkinson* and hold that no opportunity to present witness testimony or documentary evidence is required. This question recurs frequently, and nothing less than individual liberty turns on the answer. The minority view is wrong. And this case is an excellent vehicle. Certiorari should be granted.

I. THE COURTS OF APPEALS ARE DIVIDED.

Five Courts of Appeals recognize that incarcerated individuals facing disciplinary segregation that amounts to a deprivation of liberty are entitled to the due process protections set forth in *Wolff*. Two Courts of Appeals apply the nonadversarial standard from *Wilkinson* in the same circumstances. This split is both well developed and deeply entrenched.

A. Five Circuits Apply the Adversarial Due Process Standard Articulated in *Wolff*.

The Second, Third, Sixth, Ninth, and Eleventh Circuits apply *Wolff* in assessing due process claims based on disciplinary segregation. In those jurisdictions, individuals facing deprivations of liberty as punishment for alleged misconduct must be provided the ability "to call witnesses and present documentary evidence . . . when permitting [them] to do so will not be unduly hazardous to institutional safety or correctional goals." *Wolff*, 418 U.S. at 566.

The Second Circuit so held in *Kalwasinski v. Morse*, 201 F.3d 103 (2d Cir. 1999) (per curiam). Like Adams, the plaintiff in *Kalwasinski* was sent to disciplinary segregation as punishment for alleged misconduct.

Applying *Wolff*, the court held that "in a disciplinary hearing resulting in . . . solitary confinement, an inmate must be afforded" procedural protections—including, "[s]ubject to legitimate safety and correctional goals of the institution," an opportunity "to call witnesses and present documentary evidence." *Kalwasinski*, 201 F.3d at 108 (citing *Wolff*, 418 U.S. at 563–64, 566). The court ultimately found that the prison had afforded the plaintiff all of the process he was due under the *Wolff* standard by permitting him to take testimony of two witnesses telephonically and play a recording of a third witness's testimony. *Id.* at 108–09.

The Third Circuit applied the same standard in *Stevenson v. Carroll*, 495 F.3d 62 (3d Cir. 2007). That case involved a challenge by pre-trial detainees to their placement in restrictive housing, which they claimed was punishment for alleged misconduct. *Id.* at 66. Relying on *Wolff*, the Third Circuit explained that "greater process [is] accorded to prisoners who are confined for disciplinary infractions than those moved for purely administrative reasons." *Id.* at 70. "[T]he procedures required by *Wolff*," the court recognized, "apply if the restraint on liberty is imposed for disciplinary reasons," whereas "if the restraint is for 'administrative' purposes, the minimal procedures outlined in *Hewitt* are all that is required." *Id.* at 70–71. The Third Circuit thus reversed the district court's dismissal of the detainees' complaint because one detainee had alleged that his transfer was the result of alleged misconduct and the others had alleged that they were transferred without explanation. *See id.* at 71. On remand, it directed the district court to "examine the asserted purposes for the [detainees']

detentions" and apply the appropriate due process standard. *Id.*

The Sixth Circuit has repeatedly held that *Wolff* applies to disciplinary segregation proceedings. *See Bills v. Henderson*, 631 F.2d 1287, 1295 (6th Cir. 1980); *Woodson v. Lack*, 865 F.2d 107, 109–10 (6th Cir. 1989); *Finley v. Huss*, 102 F.4th 789, 816 (6th Cir. 2024). In so doing, it has distinguished between disciplinary segregation (*i.e.*, segregation as punishment for alleged misconduct) and administrative segregation (*i.e.*, segregation as a result of non-punitive classification decisions). In *Bills*, for example, the court explained that punitive segregation is "imposed only for a serious infraction of specific prison rules, while administrative segregation may be based on the inmate's entire past record." 631 F.2d at 1295. And where segregation "is based on a specific rule infraction, rather than general behavior," the court reasoned, "there appears to be no reason why the procedural safeguards set forth in *Wolff* . . . should not apply to the specific rule infraction which triggered the decision." *Id.*; *see also Woodson*, 865 F.2d at 109–10 (holding that *Bills* and *Wolff* remain good law and that a plaintiff's punitive placement in solitary confinement due to his alleged involvement in a prison riot required *Wolff* protections). Accordingly, prisons in the Sixth Circuit must, if practicable, provide "an opportunity for the inmate to call witnesses and present exculpatory evidence" before he can be subjected to a deprivation of liberty "for serious alleged misconduct." *Finley*, 102 F.4th at 816.

The Ninth Circuit also adheres to the *Wolff* standard. In *Walker v. Sumner*, 14 F.3d 1415 (9th Cir. 1994), *overruled on other grounds by Sandin*, 515 U.S.

at 483–84, the court considered what process was due to an individual sentenced to 180 days in disciplinary segregation after officers found him guilty of having a knife in his cell. *See id.* at 1417–18. Finding that the plaintiff had "a liberty interest . . . [in] remain[ing] free from arbitrary placement into disciplinary segregation," the court applied *Wolff* and reversed the decision granting summary judgment to prison officials. *Id.* at 1419, 1421. Because "prison officials [had] provide[d] no explanation for the denial of [a witness] request," the court found "a genuine issue of material fact" as to whether the plaintiff had been "denied the right to produce witnesses in his defense as required by *Wolff*." *Id.*

Finally, the Eleventh Circuit applied *Wolff* to disciplinary segregation proceedings in *Jacoby v. Baldwin County*, 835 F.3d 1338 (11th Cir. 2016). There, a pretrial detainee claimed that he had not been afforded constitutionally adequate process before being sentenced to 45 days of segregated confinement as a result of alleged cocaine use. *Id.* at 1343. After determining that the detainee had been deprived of a protected liberty interest, the Court considered "whether it was clearly established that the [disciplinary] hearing violated *Wolff*." *Id.* at 1350. Applying *Wolff*, the court ultimately found that the hearing board had acted within its discretion in refusing to call the detainee's preferred witness. *Id.* (explaining that the witness's testimony would not have helped the detainee's case).

B. Two Circuits Apply the Non-Adversarial Due Process Standard Articulated in *Wilkinson*.

The Seventh and Eighth Circuits apply *Wilkinson*, not *Wolff*, to due process claims based on disciplinary segregation.

1. In the decision below, the Seventh Circuit held that individuals "facing transfer to disciplinary segregation [are] entitled only to 'informal, nonadversarial due process,' which 'leave[s] substantial discretion and flexibility in the hands of the prison administrators.'" Pet.App.28a (quoting *Westefer*, 682 F.3d at 684–85). In so doing, the Seventh Circuit relied on its prior decision in *Westefer*, which involved a challenge to the Illinois prison system's procedures for administratively transferring prisoners to maximum security facilities. 682 F.3d at 681. The *Westefer* court interpreted *Wilkinson* as standing for the proposition that "[i]nmates transferred to a supermax prison are entitled to informal, nonadversarial process." *Id.* at 684. The decision below erroneously extended *Westefer* to disciplinary proceedings—notwithstanding the distinction between disciplinary segregation and administrative segregation drawn in *Wilkinson* and apparent in *Wolff*.

The Seventh Circuit cemented its position in *Ealy v. Watson*, 109 F.4th 958 (7th Cir. 2024). In that case, like this one, the plaintiff claimed "that his Fourteenth Amendment due process rights were violated during [a] disciplinary hearing because he was denied access to . . . video surveillance footage" and "was not given the opportunity to call witnesses[.]" *Id.* at 963. The

Seventh Circuit rejected that claim, noting that its "recent decision in *Adams v. Reagle*"—the decision below—had "crystalized the process owed to inmates facing only disciplinary action like segregation." *Id.* at 965. Applying *Adams*, the court reaffirmed that "an inmate who is facing transfer to disciplinary segregation is entitled only to 'informal, nonadversarial due process.'" *Id.* (quoting Pet.App.28a).

2. The Eighth Circuit has taken the same wrong turn. In *Spann v. Lombardi*, 65 F.4th 987 (8th Cir. 2023), the Eighth Circuit considered a plaintiff's claims that "officials conducted his disciplinary hearing in violation of his rights under the Due Process Clause of the Fourteenth Amendment." *Id.* at 991. The plaintiff had been transferred to segregated confinement after prison officials found him guilty of a "major conduct violation." *Id.* at 990–91. The Eighth Circuit assumed that the plaintiff's conditions of confinement were sufficiently restrictive that he "enjoyed a clearly established liberty interest in avoiding" them. *Id.* at 992. But it held that "*Wolff* procedures do not apply when a prisoner is transferred to administrative segregation." *Id.* (citing *Wilkinson*, 545 U.S. at 225). "Instead," it held that "a transfer to administrative segregation requires only informal, nonadversary due process procedures"—regardless whether the transfer is effected for disciplinary or administration reasons. *Id.* (citing *Wilkinson*, 545 U.S. at 228–29).

* * *

The Courts of Appeals are thus deeply divided about how much process is due to incarcerated individuals facing disciplinary segregation. Had Adams been incarcerated in the Second, Third, Sixth, Ninth, or Eleventh Circuits, he would have been entitled to present witness testimony and documentary evidence under *Wolff*. But because he was incarcerated in the Seventh Circuit, he was subjected to disciplinary segregation without any opportunity to present the evidence that would have exculpated him.

This split is also deeply entrenched. The Seventh Circuit has refused to reconsider its minority position. *See* Pet.App.50a–51a (denying rehearing); *Ealy*, 109 F.4th at 966 (reiterating the holding in the decision below). The Eighth Circuit's decision reaching the same result is recent. *See Spann*, 65 F.4th 987. And courts on the long side of the split have adhered to their view since the decision below issued. *See, e.g.*, *Finley*, 102 F.4th 789. Only this Court can restore uniformity.

II. THE QUESTION PRESENTED IS IMPORTANT.

The Question Presented warrants the Court's attention. It arises frequently. And it is profoundly important to those it affects.

A. More than one million people are incarcerated in the United States. *See, e.g.*, *Prisoners in 2022 – Statistical Tables*, Bureau of Justice Statistics (November 2023), https://bjs.ojp.gov/document/p22st_sum.pdf. And, unfortunately, prison disciplinary actions are all too common. According to one survey, more than half of all individuals incarcerated in state prisons had been written up for

or found guilty of at least one rule violation in the prior year. *See* Brian Nam-Sonenstein & Neil Haney, *Bad Behavior: How prison disciplinary policies manufacture misconduct*, Prison Policy Initiative (January 2025), https://www.prisonpolicy.org/reports/discipline.html (using data from the Bureau of Justice Statistics' 2016 Survey of Prison Inmates). Ninety percent of those people reported being disciplined as a result. *Id.* (using data from the Bureau of Justice Statistics' 2016 Survey of Prison Inmates). More recent data confirms that nothing has changed. For example, an article from 2021 found that "[i]n 2020, correctional officers in the North Carolina state prison system issued over 82,000 disciplinary write-ups to nearly 23,000 incarcerated people." Katherine M. Becker, *Racial Bias and Prison Discipline: A Study of North Carolina State Prisons*, 43 N.C. CENT. L. REV. 1, 3 (2021).

Confinement in more restrictive conditions is one of the most common forms of punishment for prison misconduct. The numbers are striking. On June 30, 2019, for example, more than 75,000 individuals were held in some form of restrictive housing. *See* Table 5, Census of State and Federal Adult Correctional Facilities, 2019–Statistical Tables, U.S. Dept. of Justice, Office of Justice Programs, Bureau of Justice Statistics (Nov. 2021), https://bjs.ojp.gov/content/pub/pdf/csfacf19st.pdf. Among facilities that reported the "reason for segregation," 15,400 were held in disciplinary segregation, as compared to 21,423 in administrative segregation. *Id.* Another report "found that more than 122,000 incarcerated men, women, and children were held daily in some form of isolated confinement in United States prisons and jails in

2019." *Solitary Confinement in the United States: The Facts*, Solitary Watch, https://solitarywatch.org/facts/faq/ (last accessed July 1, 2025).

Disciplinary segregation often means solitary confinement. One study found that, "[o]n a given day last year, an estimated 55,000 to 62,500 people had spent the previous 15 days in solitary confinement in state and federal prisons, often in cells smaller than a parking space." Tiana Herring, *The research is clear: Solitary confinement causes long-lasting harm*, Prison Policy Initiative (Dec. 8, 2020), https://www.prisonpolicy.org/blog/2020/12/08/solitary_symposium/.

Punishments for alleged prison misconduct are meted out by prison officials pursuant to prison policies that vary widely. *See e.g.*, Disciplinary Restrictive Status Housing at 1, Manual of Policies and Procedures, Indiana Department of Corrections (Jan. 1, 2018), https://perma.cc/84FZ-27XF ("An offender shall only be placed on adult disciplinary restrictive status after the finding of guilt in a disciplinary hearing . . . ."); State & Federal Policies, Seeing Solitary, https://seeingsolitary.limancenter.yale.edu/state-and-federal-policies/ (last visited July 1, 2025) ("All 50 of the states and the Federal Bureau of Prisons have regulations on solitary confinement, and their content varies widely."). Ensuring order and safety within prisons—which may sometimes require the use of disciplinary confinement—is undoubtedly a difficult job. But prison officials are by no means infallible or incapable of bias. *See, e.g.*, Becker, *supra*, 43 N.C. CENT. L. REV. at 1 (2021) (finding that "Black and Indigenous people receive disproportionate

disciplinary write-ups in the North Carolina state prison system").

That is why procedural due process protections are necessary: They ensure that an individual accused of misconduct is at least afforded the opportunity to "propound[] his own cause" and "defend[] himself" before he can be made to suffer a deprivation of liberty on the basis of alleged misconduct. *Wolff*, 418 U.S. at 565. It is why prisoners frequently must resort to federal courts to vindicate their rights. *Cf., e.g.*, *Table C-3—U.S. District Courts–Civil Federal Judicial Caseload Statistics (March 31, 2023)*, United States Courts, https://www.uscourts.gov/data-news/data-tables/2023/03/31/federal-judicial-caseload-statistics/c-3 (noting 344 cases regarding "Prison Condition" filed in 2023); 18 A.L.R. Fed. 7 (1974) ("The largest area of Civil Rights Acts litigation by state prisoners has revolved around the imposition of discipline by means of punitive segregation"). And it is why this Court has (until recently) considered due process claims brought by prisoners challenging restrictive confinement approximately once a decade. *See, e.g.*, *Wolff*, 418 U.S. 539 (1974); *Hewitt*, 459 U.S. 469 (1983); *Sandin*, 515 U.S. 472 (1995); *Wilkinson*, 545 U.S. 209 (2005).

B. Not only does this issue arise frequently, the stakes for those affected could also hardly be higher. Incarcerated individuals already face profound incursions on their liberty interests. *Wolff* 418 U.S. at 555. ("Lawful imprisonment necessarily makes unavailable many rights and privileges of the ordinary citizen . . . ."). But ordinary prison conditions and solitary confinement are like night and day. "Solitary confinement goes by many names, including 'special

housing units,' 'administrative segregation,' 'disciplinary segregation,' and 'restrictive housing,' but the conditions are generally the same: 22 to 24 hours per day spent alone in a small cell." Herring, *supra*. Human beings are not designed to live that way. And "common side-effects of solitary confinement include anxiety, panic, withdrawal, hallucinations, self-mutilation, and suicidal thoughts and behaviors." *Davis v. Ayala*, 576 U.S. 257, 289 (2015) (Kennedy, J., concurring); *id.* (citing Stuart Grassian, *Psychiatric Effects of Solitary Confinement*, 22 Wash. U.J.L. & Pol'y 325 (2006)). "Even though people in solitary confinement comprise only 6% to 8% of the total prison population, they account for approximately half of those who die by suicide." Herring, *supra*.

"[T]he practice of solitary confinement [thus] 'exact[s] a terrible price.'" *Johnson v. Prentice*, 144 S. Ct. 11, 12 (2023) (Jackson, J., dissenting from denial of certiorari) (quoting *Davis*, 576 U.S. at 289). The question this petition presents is whether individuals are entitled to a reasonable opportunity to defend themselves before they must pay it. For incarcerated people, little could be more important.

III. THE SEVENTH CIRCUIT'S MINORITY POSITION IS WRONG.

The majority position is the correct one. The more rigorous standard articulated in *Wolff* governs disciplinary segregation that amounts to a deprivation of liberty. The informal standard articulated in *Wilkinson* is limited to administrative segregation. The different standards reflect fundamental

differences between disciplinary and administrative segregation that alter the due process analysis.

In *Wolff*, this Court held that certain "procedures . . . [are] required in prison disciplinary proceedings." 418 U.S. at 572. "Where a constitutionally protected liberty interest exists, *Wolff* holds that a prison must give an inmate . . . the opportunity to call witnesses and present evidence 'when permitting him to do so will not be unduly hazardous to institutional safety or correctional goals.'" *Jacoby*, 835 F.3d at 1350 (citing *Wolff*, 418 U.S. at 564–66).

These procedural protections exist for good reasons. Disciplinary proceedings are "designed to elicit specific facts." *Greenholtz v. Inmates of Nebraska Penal & Corr. Complex*, 442 U.S. 1, 14 (1979). Without the opportunity to call witnesses or present evidence, an "inmate will be at a severe disadvantage in propounding his own cause." *Wolff*, 418 U.S. at 565; *see also id.* at 582 (Marshall, J., dissenting) (explaining that, without these protections, "[t]he [disciplinary] hearing will . . . amount to little more than a swearing contest, with each side telling its version of the facts" and the "inmate will invariably be the loser"). Disciplinary segregation also carries "the stigma of wrongdoing or misconduct" and, as a result, may affect "parole opportunities." *Hewitt*, 459 U.S. at 473.

Administrative segregation is different. As this Court held first in *Hewitt* and then in *Wilkinson*, only "informal, nonadversary procedures"—limited to "some notice of charges and an opportunity to be heard"—are required before an individual can be

segregated for administrative reasons. *Wilkinson*, 454 U.S. at 229 (citing *Hewitt*, 459 U.S. at 473–76).

That bar is lower than the one for disciplinary segregation because the two forms of segregation have different purposes and different consequences. Whereas disciplinary confinement is punishment for "specific, serious misbehavior," *id.* at 228, administrative segregation is imposed "to protect the prisoner's safety, to protect other inmates from a particular prisoner, to break up potentially disruptive groups of inmates, or simply to await later classification or transfer," *Hewitt*, 459 U.S. at 468. The relevant question in imposing administrative segregation, accordingly, is not whether an individual actually committed a particular act of alleged misconduct—a question witness testimony and documentary evidence will often be necessary to answer. It is simply whether segregation is warranted in light of safety and other administrative considerations. *See id.* The answer to that question "draws more on the experience of prison administrators"—which requires neither witness testimony nor documentary evidence—than on any specific finding of fact. *Wilkinson*, 545 U.S. at 228; *see also Hewitt* 459 U.S. at 473–74 ("Neither of these grounds for confining Helms to administrative segregation involved decisions or judgments that would have been materially assisted by a detailed adversary proceeding."). Moreover, administrative segregation, unlike disciplinary segregation, neither carries "the stigma of wrongdoing" nor affects "parole opportunities." *Hewitt*, 459 U.S. at 473.

Those differences change the *Mathews v. Eldridge* calculus. *See supra* at 5. On the first factor, a prisoner

has a stronger interest in avoiding stigmatizing punishment that can affect his parole opportunities than in avoiding a purely administrative classification. *See Hewitt*, 459 U.S. at 473. On the second, "the risk of an erroneous deprivation . . . and the probable value . . . of additional or substitute procedural safeguards" are both much higher in the context of disciplinary segregation, which turns on the truth or falsity of specific allegations. *Mathews*, 424 U.S. at 335; *see Greenholtz*, 442 U.S. at 14 (recognizing that disciplinary proceedings are "designed to elicit specific facts"); *Wilkinson*, 545 U.S. at 228 (recognizing that administrative transfer decisions "draw[ ] more on the experience of prison administrators"); *Hewitt*, 459 U.S. at 473–74 (recognizing that decision to impose administrative segregation would not "have been materially assisted by a detailed adversary proceeding"). And on the third, a prison's interest in punishing for misconduct is less compelling than its interest in ensuring safety and order. *See Hewitt*, 459 U.S. at 468 (explaining that administrative segregation can be imposed "to protect the prisoner's safety, to protect other inmates from a particular prisoner, to break up potentially disruptive groups of inmates, or simply to await later classification or transfer").

IV. THIS CASE IS AN EXCELLENT VEHICLE.

This case is an ideal vehicle for answering the Question Presented. The parties fully briefed the question whether *Wolff* or *Wilkinson* governs due process claims involving disciplinary segregation in the Seventh Circuit. Ct. App. Dkt., ECF No. 20, at 23–27; Ct. App. Dkt., ECF No. 17, at 17–19. That court squarely answered that question, holding that "the

law is clear" that "an inmate who is facing transfer to disciplinary segregation is entitled only to 'informal, nonadversarial due process.'" Pet.App.28a. It then declined to reconsider that ruling en banc—after sitting on the rehearing petition for nearly a year. *Id.* at 50a–51a.. And it subsequently reaffirmed its position in *Ealy*, cementing its position in the split. *See* 109 F.4th at 965 (noting that the "court's recent decision in *Adams v. Reagle* crystalized the process owed to inmates facing only disciplinary action like segregation").

Moreover, this Court need not address any subsidiary issues in order to resolve the discrete question this petition presents. Both the District Court and the Court of Appeals assumed that Adams had been deprived of a protected liberty interest due to the amount of time he spent in disciplinary confinement and the harsh conditions he faced there. Pet.App10a; Pet.App.47a. Both recognized at least a dispute of fact as to whether Adams had been sent to segregation as a result of the assault charge. Pet.App.10a; Pet.App.39a. And Respondents have never argued that providing Adams an opportunity to call witnesses (specifically, Garretson and Barnett) and present documentary evidence (specifically, video footage) would have been "unduly hazardous to institutional safety or correctional goals." *Wolff*, 418 U.S. at 566. This Court thus need not address any of those issues to answer the Question Presented and resolve the split. It can simply hold that the *Wolff* standard applies and remand for the lower courts to apply that standard in the first instance.

CONCLUSION

The petition for a writ of certiorari should be granted.

July 7, 2025

Respectfully submitted,

Patrick L. Wright
Neil M. Grismore
JONES DAY
250 Vesey St.
New York, NY 10281

Amanda K. Rice
Counsel of Record
JONES DAY
150 W. Jefferson Ave.
Suite 2100
Detroit, MI 48226
(313) 733-3939
arice@jonesday.com

Counsel for Petitioner