No. 25-31

IN THE
Supreme Court of the United States

BENJAMIN ADAMS,
Petitioner,
v.

LLOYD ARNOLD, *et al.*,
Respondents.

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

BRIEF IN OPPOSITION

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QUESTION PRESENTED

Whether the Fourteenth Amendment's Due Process Clause requires prison officials to provide a prisoner with more than notice and an opportunity to present his views before placing him in restrictive housing.

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INTRODUCTION

When a prison places inmates in administrative segregation, it need only provide informal, non-adversarial process. *See Wilkinson v. Austin*, 545 U.S. 209, 229 (2005); *Hewitt v. Helms*, 459 U.S. 460, 475 (1983). Only if an inmate loses good credit time or his eligibility for parole does the Due Process Clause require the more trial-like procedures laid out in *Wolff v. McDonnell*, 418 U.S. 539 (1974). Never has this Court held that *Wolff*'s procedures govern decisions about segregating inmates from the general population. This Court's decisions resolve this case.

Benjamin Adams was administratively placed in restrictive housing for two years because he had "poor adjustment" and "recent negative adjustment," represented a "threat to facility security," and had committed eight different conduct violations in one year. Pet. App. 4a–5a. Adams does not dispute that he received sufficient process in connection with the prison's decision to segregate him administratively. Yet he still challenges the administrative segregation, arguing that he should have received *Wolff*'s procedures in connection with one of the underlying conduct violations punishable by disciplinary segregation.

The case does not warrant certiorari. Under this Court's decisions in *Hewitt* and *Wilkinson*, Adams received all the process due before being segregated in restrictive housing. That conclusion does not change depending on the label attached to the segregation. Any disagreement among the circuits on whether different process is due for prisoners facing disciplinary or administrative segregation is out-of-date or undeveloped at best.

Regardless, this case is a poor vehicle to address any lingering questions about disciplinary segregation. Adams was not subject to disciplinary segregation—rather, he was administratively placed in department-wide restrictive housing. And the fact that he faced the possibility of disciplinary segregation for a conduct violation did not affect the prison's decision to segregate him administratively. What mattered was the existence of multiple conduct violations. Lastly, the sparse record in this case could make it difficult to assess issues that Adams argues should impact the process due.

The petition should be denied.

STATEMENT OF THE CASE

I. Restrictive Housing in Indiana Prisons

To preserve prison order, discipline, and security, prisons sometimes place inmates in more secure units. *See Hewitt v. Helms*, 459 U.S. 460, 473 (1983). The policies governing these restrictive placements and conditions inmates face in more restrictive placements vary from State to State and facility to facility. *Compare Hewitt*, 459 U.S. at 462–65, *with Wilkinson v. Austin*, 545 U.S. 209, 213–17 (2005); *see also* Pet. App. 5a–6a.

In Indiana, prison administrators can place an inmate in restrictive housing for both administrative and disciplinary reasons. In determining whether to segregate an inmate administratively, the Indiana Department of Correction considers "threat to self, others, property, [] security[,] and/or orderly operation of the facility." Ind. Dep't of Corr., *Administrative Restrictive Status Housing*, No. 02-01-111, § V.A (eff. Oct. 1, 2021), https://www.in.gov/idoc/files/policy-and-

procedure/policies/02-01-111-ARSH-10-1-2021.pdf (*ARSH*). Reasons to place an inmate in restrictive housing include a history of "assaultive behavior," gang affiliations, or pending charges. *Id.* §§ V.A, V.B. An inmate may be placed in restrictive housing at facility level or on a Department-wide basis. *Id.* Any classification must be periodically reviewed. *Id.* §§ VII.A, VII.B. Indiana also authorizes prison administrators to place offenders in restrictive housing for a fixed period of time as a disciplinary measure for violating a prison rule. Ind. Dep't of Corr., *Disciplinary Restrictive Status Housing*, No. 02-04-102, § IV (eff. Feb. 1, 2023), https://www.in.gov/idoc/files/policy-and-procedure/policies/02-04-102-DRSH-2-1-2023.pdf (*DRSH*).

Under the Department's policies, some differences exist between disciplinary and administrative segregation. For example, inmates in disciplinary segregation have greater limits on the clothing and personal items they may retain, *compare* Ind. Dep't of Corr., *DRSH*, § VIII.B, C, *with* Ind. Dep't of Corr., *ARSH*, § IX.C, D. Those in disciplinary segregation may access a more limited commissary than those in administrative segregation. *Compare* Ind. Dep't of Corr., *DRSH*, § VIII.O, *with* Ind. Dep't of Corr., *ARSH*, § IX.M. But inmates in both types of segregation still receive many of the same privileges. For example, "[i]ncarcerated individual[s] held on disciplinary restrictive status housing . . . [to be] provided the same program services and privileges as inmates in administrative restrictive status housing." Ind. Dep't of Corr., *DRSH*, § VIII.Q. Both groups are "given the same opportunity to make telephone calls." *Id.* § VIII.J. Both "receive the same meal provided the

general population." *Id.* § VIII.G. They are "provided the same program services and privileges," including "educational services, commissary services, independent studies, library services, self-help, social services, behavioral health services, religious guidance, and recreational programs." *Id.* § VIII.Q. And in either instance, prisoners may be segregated for up to 23 hours per day. Ind. Code § 11-11-5-4.[1]

Under these policies, when an inmate is placed in restrictive housing for disciplinary reasons, there is no automatic change to his earned good time credits or transfer to another credit class. Rather, after a disciplinary hearing, the prison may impose sanctions that could include disciplinary segregation or "extra work," "restitution," or "deprivation" of "good time credit under IC 35-50-6-5." Ind. Code § 11-11-5-3.

II. Adams's Disciplinary History and Administrative Placement in Restrictive Housing

In 2004, an Indiana trial court sentenced Benjamin Adams to 30 years' imprisonment for attempted

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[1] Adams claimed that "[o]n disciplinary [segregation] offenders are not allowed commissary items and some basic hygiene items," and that the food and drink portions are smaller "compared to general population." D. Ct. Dkt. 189 ¶ 53. The district court accepted these descriptions as true, Pet. App. 41a, as did the Court of Appeals, Pet. App. 9a–10a. However, the policy in place at the time Adams was placed in restrictive housing mirrored current Department policy, which allows "limited access to the restrictive status housing gender neutral commissary list to order personal hygiene items," Ind. Dep't of Corr., *DRSH*, § VIII.O, and requires that all incarcerated persons "receive the same meal provided the general population," *id.* § VIII.G.

murder and another four years' imprisonment for involuntary manslaughter. Pet. App. 2a. During Adams's incarceration, prison officials administratively assigned him to restrictive housing for 730 days due to "multiple violations" of prison rules. *Id.* at 4a–5a, 9a. This petition arises from Adams's claim that he received insufficient process in proceedings concerning one of the multiple violations supporting his administrative placement in restrictive housing.

In February 2017, an inmate in Adams's prison assaulted another inmate and fractured the victim's arm. Pet. App. 3a; *Adams v. Sup't*, No. 2:17-cv-00546-JMS-MD, 2018 WL 4077022, at *1 (S.D. Ind. Aug. 27, 2018). A prison investigator determined the assault was linked to gang activity. Pet. App. 3a; *see Adams*, 2018 WL 4077022, at *1 ("the injured offender" was "victimized . . . and extorted over the course of several months"). He concluded that Adams, a member of a gang known to coordinate with the attacker's gang, had "ordered the assault because the victim had stopped paying protection money." Pet. App. 3a.

The prison investigator charged Adams with offense A-100 for engaging in criminal gang activity, which the Court of Appeals denoted the "assault charge" or "assault conviction." Pet. App. 4a. A prison hearing officer found Adams guilty, resolving the charge based on the written statements submitted, including statements from both the investigator and Adams. *Id.* The hearing officer denied Adams's requests to call witnesses and for video surveillance. *Id.* As a sanction, the hearing officer ordered Adams "to spend one year in disciplinary segregation," revoked

"365 days of his earned good time credits," and demoted Adams from "credit-earning class 1 to class 3." *Id.* Adams administratively appealed. *Id.* at 6a.

In March 2017, while Adams's appeal was pending, a prison counselor reclassified Adams to department-wide restrictive housing for two years. Pet. App. 4a–5a. The counselor's "decision was not attributable to any single incident but rather to the aggregation of multiple violations"—eight over a single year. *Id.* Although the eight violations included the assault conviction, the violations also included "multiple offenses involving the possession of a cell phone, wireless device, or electrical device; staff/offender provocation; and attempting to engage in drug trafficking." *Id.* at 5a. In reclassifying Adams, the counselor cited "poor adjustment," "disciplinary," "threat to facility security," "recent negative adjustment," and "departmental needs." *Id.*

Meanwhile, proceedings over the assault charge continued. Initially, Adams's administrative appeal was unsuccessful. Pet. App. 6a. After Adams filed a habeas petition in federal court, however, the final prison review officer "vacated all sanctions imposed" and "designated the matter for rehearing." *Id.* On rehearing, the prison investigator charged Adams with conspiracy to commit assault. *Id.* A new disciplinary hearing officer considered the amended charge. *Id.* Although the hearing officer denied Adams's request to call multiple witnesses, the hearing officer considered written materials, including statements from Adams and another inmate involved in the assault. *Id.* Once again, the hearing officer found Adams

guilty and imposed nearly the same sanctions as before. *Id.* at 6a–7a. Adams again appealed and filed a habeas petition in federal court, arguing that "his requests for his live witness testimony and other evidence had been denied in violation of his right to due process." *Id.* at 7a.

In February 2018, while Adams's petition was pending, he resolved an ongoing dispute with prison officials over a 2016 drug-trafficking charge—one of the eight charges supporting the prison counselor's March 2017 decision to place Adams in department-wide restrictive housing for two years. Pet. App. 7a. Adams agreed to plead guilty to a lesser offense in exchange for facing "no additional time in disciplinary segregation on that charge." *Id.* Still, Adams had seven other violations on his record, including for the assault. *Id.* So Adams was again placed in department-wide administrative restrictive housing. *Id.*

In August 2018, a federal court granted Adams's petition for a writ of habeas corpus. Pet. App. 8a. The court concluded that, because Adams had lost good time credit, "certain procedural protections, including the opportunity to present evidence to an impartial decisionmaker and the right to call witnesses," were required. *Id.* The court ordered vacatur of two of the three sanctions imposed on Adams—loss of 360 days of good time credit and the demotion of credit-earning class—but did not disturb the sanction of one year in disciplinary segregation. *Id.* at 8a–9a.

The prison took another look at the assault charge and charged Adams for a third time. Pet. App. 9a. This time, the disciplinary hearing officer allowed Ad-

ams to call witnesses (though not every witness he requested). *Id.* After considering their testimony, the hearing officer again found Adams guilty. *Id.* Adams again pursued an administrative appeal, and ultimately, the warden "dismissed the conduct report and expunged the sanctions on the ground that the allegations against Adams were too vague." *Id.* That determination brought "the matter to a close." *Id.*

III. Proceedings Below

While Adams was still pursuing internal appeals over the third assault conviction, Adams filed this suit in federal court. Pet. App. 10a. He raised a variety of claims for prospective relief and damages. *Id.* Most relevant here, Adams challenged his 730-day administrative segregation on the ground that prison officials violated his "Fourteenth Amendment due process rights by not allowing him to present live witnesses and other evidence at the first two disciplinary hearings on the assault charge." *Id.*; *see id.* at 22a (Rovner, J., dissenting in part) ("His claim, as I understand it, is focused on the assault finding as a predicate for the reclassification decision.").

The district court granted summary judgment to the defendant prison officials. Pet. App. 35a. On the due-process claim, the district court presumed that Adams's administrative placement in segregated housing triggered the Due Process Clause's protections. *Id.* at 52a. A "reasonable jury," the court stated, "might conclude that [Adams] was deprived of a protected liberty interest." *Id.* But the court determined there was no due-process violation because "Adams was provided a hearing before his placement in segregation" and the "opportunity to present his views"—

the very type of "informal due process" required for placing an inmate in segregated housing. *Id.*

A divided panel of the Seventh Circuit affirmed. Pet. App. 30a. The majority agreed with the district court that inmates "facing transfer to disciplinary segregation" are "entitled only to 'informal, nonadversarial due process,'" leaving "substantial discretion and flexibility in the hands of the prison administrators." *Id.* at 31a (quoting *Westefer v. Neal*, 682 F.3d 679, 684–85 (7th Cir. 2012)). All that due process ordinarily requires is an opportunity for the inmate to present his views, which Adams received. *Id.* at 31a–32a. The majority rejected the argument that Adams was entitled to call live witnesses at the disciplinary hearings because he faced the "potential loss of good time credit." Pet. App. 32a. Even if that was a potential disciplinary sanction, the majority explained, "Adams's good time credits were restored." *Id.* "The only issue, therefore, is whether he should have received more process for his transfer to a more restrictive prison setting." *Id.* "He should not have." *Id.*

Judge Rovner dissented. She conceded that a prisoner is not "necessarily . . . entitled to witness testimony" before being placed in restrictive housing, either for disciplinary or administrative reasons. Pet. App. 22a–23a. In her view, however, Adams should have been afforded the opportunity "to present witness testimony" in his first two disciplinary hearings because he was "exposed to the loss of good time credits." *Id.* at 23a. Judge Rovner would have held that, "where a prisoner has been reclassified to department-wide restrictive housing based in part on a prior disciplinary finding rendered at a hearing where the

prisoner was in fact exposed to the loss of good time credits, he may assert a due process challenge . . . on the ground that he was not permitted to present witness testimony . . . against the disciplinary charge." *Id.*

ARGUMENT

I. The Decision Below Accords with This Court's Decisions in *Hewitt* and *Wilkinson*

This Court has "repeatedly said both that prison officials have broad administrative and discretionary authority over the institutions they manage and that lawfully incarcerated persons retain only a narrow range of protected liberty interests." *Hewitt v. Helms*, 459 U.S. 460, 467 (1983). Consequently, due process for them will look different than for "free citizens in an open society." *Id.* at 472 (quoting *Wolff v. McDonnell*, 418 U.S. 539, 560 (1974)). "Prisoners held in lawful confinement have their liberty curtailed by definition, so the procedural protections to which they are entitled are more limited than in cases where the right at stake is the right to be free from confinement at all." *Wilkinson v. Austin*, 545 U.S. 209, 225 (2005).

A. In determining the level of process due prisoners, this Court has distinguished between actions that affect the length of incarceration and those that affect only the conditions of confinement. In *Wolff v. McDonnell*, 418 U.S. 539 (1974), this Court held that prisoners facing the revocation of good-time credits as a disciplinary sanction are entitled to prior written notice of the charges, an opportunity to call witnesses and present documentary evidence (absent an adequate justification for denying the request), and a written explanation of the decision. *See id.* at 563–66. But this

Court has since clarified that *Wolff*'s "more formal, adversary-type procedures" were designed for situations in which a State revokes an inmate's parole or good-time credits for specific misbehavior. *Wilkinson*, 545 U.S. at 228. Less formal, less adversarial procedures govern decisions to place inmates in restrictive housing. *Hewitt*, 459 U.S. at 474.

In *Hewitt*, this Court held the decision to put a prisoner in "administrative segregation" pending an investigation for misconduct did not require a "*Wolff* hearing." 459 U.S. at 476. The Court explained that prisoners, who are already in an "extremely restrictive environment," do not have a weighty liberty interest in avoiding transfer "to an even more confined situation." *Id.* at 473. "[A]dministrative segregation is the sort of confinement that inmates should reasonably anticipate receiving at some point in their incarceration." *Id.* at 468. The Court also observed that prison officials must have the ability to separate an inmate from the general population for security and safety reasons even if the inmate has "committed no misconduct." *Id.* at 474. That balancing of interests led the Court to hold that prison officials need not provide trial-type procedures before "confin[ing] an inmate feared to be a threat to institutional security." *Id.*

In *Wilkinson*, this Court held that *Hewitt*'s logic applied equally to the decision to confine inmates to a Supermax prison "more restrictive than any other form of incarceration in Ohio," including "in its administrative control units." 545 U.S. at 214. Prisoners assigned to Supermax facilities were "deprived of al-

most any environmental or sensory stimuli and of almost all human contact" and lost parole eligibility. *Id.* at 214–15. Yet applying *Mathews v. Eldridge*, 424 U.S. 319 (1976), the Court explained that prisoners have only a "limited" interest in avoiding these conditions of confinement. *Wilkinson*, 545 U.S. at 225. The Court further explained that there would be little value in requiring more than notice and an opportunity to be heard. *Id.* at 226. Those procedural protections have always been the "most important." *Id.*

Finally, the Court stressed that important state interests militated against requiring more process. "In the context of prison management," the Court explained, the "dominant consideration" must be the State's need to provide safety and security. *Wilkinson*, 545 U.S. at 227. In a prison setting, "the State's first obligation must be to ensure the safety of guards and prison personnel, the public, and the prisoners themselves." *Id.* (citing *Hewitt*, 459 U.S. at 473). And given the "brutal reality of prison gangs," prisons must be able to combat the threat by separating inmates from others. *Id.* Requiring prison officials to let inmates "call witnesses or provide other attributes of an adversary hearing" could easily defeat efforts to control individual prisoners and prisons themselves. *Id.* at 228. The Court thus held that giving an inmate "notice of the factual basis leading to consideration for [supermax] placement and a fair opportunity for rebuttal" was sufficient process. *Id.* at 225–26.

As the Seventh Circuit perceived, *Hewitt* and *Wilkinson* resolve this case. Pet. App. 31a (citing *Westefer v. Neal*, 682 F.3d 679, 684–85 (7th Cir. 2012)). Before being placed in restrictive housing, Adams received

notice and an opportunity to be heard. Pet. App. 31a–32a. That is "exactly the process" that the inmate in *Hewitt* received before being placed in restricted housing and that the inmates in *Wilkinson* received before Ohio placed them in a Supermax facility with even more restrictive conditions of confinement. *Jackson v. Anastasio*, --- F.4th ---, 2025 WL 2437947, at *21 (7th Cir. Aug. 25, 2025) (Scudder, J., concurring). As "*Hewitt* and *Wilkinson*" together establish, the more trial-like procedures required for disciplinary proceedings that "affect[] the length of confinement" are not constitutionally required "in the transfer-placement context." *Westefer*, 682 F.3d at 685 n.2.

B. Adams concedes that prisoners facing "administrative segregation" are entitled to no more than notice and an opportunity to be heard. Pet. 26–27. He instead argues that *Wolff*'s "more rigorous standard governs disciplinary segregation." *Id.* But Adams "seeks to draw from the Due Process Clause more than it can provide." *Hewitt*, 459 U.S. at 466–67. *Wolff* governs decisions "to revoke good-time credits for specific, serious misbehavior." *Wilkinson*, 545 U.S. at 228. It does not govern decisions about segregating prisoners for administrative or disciplinary reasons. Even the dissent below did not adopt Adams's proposed rule. *See* Pet. App. 22a (Rovner, J., dissenting in part) ("To be clear, I am not proposing to hold that when the sole penalty that a prisoner faces in a disciplinary hearing is assignment to segregation . . . he necessarily is entitled to witness testimony.").

Adams contends that "administrative segregation" and "disciplinary segregation" have "different purposes and different consequences." Pet. 28. That is not

universally true. *See Sandin v. Conner*, 515 U.S. 472, 486 (1995) ("disciplinary segregation, with insignificant exceptions, mirrored those conditions imposed upon inmates in administrative segregation and protective custody"); *Wagner v. Hanks*, 128 F.3d 1173, 1175 (7th Cir. 1997) (noting that, at the time of the decision, the "facilities and conditions" for certain Indiana prisoners subject to administrative and disciplinary segregation were "the same").

Nor are the purposes of each type as different as Adams supposes. Adams himself was in administrative segregation because he accrued "multiple violations" of prison rules. Pet. App. 5a. That placement certainly served to help preserve prison order and security. But as this Court has recognized, administratively segregating an inmate can provides the inmate with an incentive to improve "future behavior" as well. *Wilkinson*, 545 U.S. at 226. Indiana, for example, permits administrative segregation for "[r]egulation of an offender's behavior which was not within acceptable limits." Ind. Dep't of Corr., *ARSH*, § II.

Strict delineations between putative purposes make little sense in the prison context because "[t]he punishment of incarcerated prisoners . . . serves different aims" than punishments for non-prisoners. *Hewitt*, 459 U.S. at 485. For example, if a prisoner regularly causes disruptions with other inmates and the prison decides to place him in restrictive housing, is that a punishment for his disruptions or a simple acknowledgment that prisons are often short staffed and must separate offenders that require additional attention? If prisons are motivated in part by administrative concerns and in part by hope that the inmate

will correct his poor behavior, why does it make any sense for the governing standard to depend on whether the prison's action is administrative enough? Confining *Wolff* to revocations of good-time credits avoids entangling federal courts in the "day-to-day management of prisons." *Sandin*, 515 U.S. at 482.

Nor does the label attached to the segregation matter as much as Adams supposes. Adams claims that administrative segregation does not carry a "stigma" or affect "parole opportunities." Pet. 28 (quoting *Hewitt*, 549 U.S. at 473). Again, the truth of that assertion varies from prison to prison. In Indiana, when an inmate is placed in restrictive housing for disciplinary reasons, there is no automatic change to his earned good-time credits or transfer to another credit class. Rather, the loss of good time credits or changes to an inmate's credit-earning class are separate sanctions that can be imposed as discipline. *See* Ind. Code § 11-11-5-3(10). Adams cites no evidence that the label affixed to the possible consequences he faced on the assault charge carried any collateral consequences. In deciding to place Adams in administrative segregation, prison officials did not cite the sanctions imposed for the assault but the fact of the violation itself. *See* Pet. App. 5a, 7a. And now that the assault conviction and all sanctions have been vacated, there are no longer any continuing consequences.

C. Regardless, any differences between administrative and disciplinary segregation do not affect the analysis under *Mathews v. Eldridge*, 424 U.S. 319 (1976). Whatever the reason for their segregation, prisoners still have only a "limited," state-created liberty interest. *Wilkinson*, 545 U.S. at 225. "'[L]awful

incarceration brings about the necessary withdrawal or limitation of many privileges and rights,'" and "[d]iscipline by prison officials in response to a wide range of misconduct falls within the expected perimeters of the sentence imposed by a court of law." *Sandin*, 515 U.S. at 485 (internal citation omitted). That is true even if discipline for misconduct may, but does not "inevitably," affect parole. *Id.* at 487.

It is likewise wrong to suggest that the value of additional procedures is "much higher" because decisions about disciplinary segregation supposedly turn on the "truth or falsity of specific allegations" while decisions about administrative segregation do not. *Contra* Pet. 29. In *Wilkinson*, Ohio made decisions about whether to place inmates in Supermax based on criteria such as "recent violence, escape attempts," and "gang membership"—all of which depend on the truth or falsity of specific allegations. 545 U.S. at 216. Yet this Court rejected arguments that there would be significant value in providing inmates with more than notice and an opportunity to be heard. *Id.* at 225–26. That logic applies with equal force here. And the value of additional process is questionable—particularly for gang members being disciplined for ordering assaults—since fellow prisoners might have competing incentives to testify for or against gang members.

Equally important, powerful state interests in prison security and managing "scarce resources" militate against allowing prisoners to call live witnesses before being assigned to restrictive housing. *Wilkinson*, 545 U.S. at 227–28. Whatever the reason for segregation, there are inherent challenges associated

with ensuring that witnesses to prison misconduct can testify "without fear of reprisal." *Id.* And requiring prison officials to follow "elaborate procedural safeguards" before segregating a "prisoner [who] has engaged in disruptive behavior" could defeat officials' efforts to deter misconduct while segregating inmates who could pose a threat to others. *Id.* Those state interests, which must be the "dominant consideration" in the prison context, undercut any argument that more trial-like procedures are required. *Id.* at 227.

II. Any Conflict Is Underdeveloped and Stale

Notwithstanding this Court's clear guidance in *Hewitt* and *Wilkinson*, Adams argues the circuits are split as to whether *Wolff* procedures are required for inmates facing disciplinary segregation. Pet. 16. But the putative circuit conflict is not as fresh or developed as he asserts. The cases cited have been overtaken by subsequent decisions, addressed the rights of pretrial detainees (who have different due process rights), or offered only nonbinding dicta.

Adams argues that the Second Circuit holds that prisoners facing disciplinary segregation must have the ability to call witnesses. Pet. 16. But any discussion of the degree of process afforded in *Kalwasinski v. Morse*, 201 F.3d 103 (2d Cir. 1999) (per curiam), was dicta because the inmate was provided with all the procedures required by *Wolff*. *See Kalwasinski*, 201 F.3d at 107–10. It is true that, in an earlier case, the Second Circuit held that a prisoner who "may be confined to his quarters" or placed in segregated housing "for at least fourteen days" must be afforded the procedures required by *Wolff*. *McCann v. Coughlin*, 698 F.2d 112, 121 (2d Cir. 1983). But of course, this

Court rejected that position in *Sandin*. *See Scott v. Albury*, 156 F.3d 283, 287 (2d Cir. 1998). And Adams does not cite any Second Circuit case decided after *Wilkinson* that requires *Wolff*'s procedures before an inmate can be segregated for disciplinary reasons.

The situation in the Ninth Circuit is similar. In *Walker v. Sumner*, 14 F.3d 1415 (9th Cir. 1994), the Ninth Circuit concluded that a prisoner "confined in disciplinary segregation" was entitled to *Wolff*'s procedures. *Id.* at 1419. But the Ninth Circuit reached that result by relying on *Wolff*'s footnote 19, *id.*, which noted that Nebraska used the same procedures to revoke good-time credits and to impose disciplinary confinement, 418 U.S. at 571–72 n.19. And in *Sandin*, this Court clarified that *Wolff*'s footnote 19 is "dicta" and that "discipline in segregated confinement" does not automatically "present the type of atypical, significant deprivation in which a State might conceivably create a liberty interest." 515 U.S. at 485–86. Adams cites no Ninth Circuit decision postdating *Sandin* or *Wilkinson* adopting his preferred rule.

The Third Circuit decision that Adams cites does not address the due-process rights of convicted prisoners at all. Rather, it addressed the rights of "pretrial detainees in restricted housing." *Stevenson v. Carroll*, 495 F.3d 62, 71 (3d Cir. 2007). True, the court commented that the process required for a housing assignment "varies depending on the reason for the transfer, with greater process accorded to prisoners who are confined for disciplinary infractions." *Id.* at 70. But the court remanded to the district court to "determine whether sufficient process has been afforded." *Id.* at 71. The district court then decided that

the pretrial detainee, who had been moved to restrictive housing for participating in a riot, "received the minimal procedural due process protections" required. *Stevenson v. Carroll*, No. 04-139-GMS, 2011 WL 6842955, at *12 (D. Del. Dec. 29, 2011), *aff'd*, 474 F. App'x 845 (3d Cir. 2012).

In the same way, *Jacoby v. Baldwin County*, 835 F.3d 1338 (11th Cir. 2016), is inapplicable. That decision, too, addressed the rights of pretrial detainees. *See id.* at 1345. And the court held that pretrial detainees were entitled "to the due process protections enshrined in *Wolff* before being placed in disciplinary segregation" because disciplinary segregation would amount to "punishment" under *Bell v. Wolfish*, 441 U.S. 520 (1979). *Jacoby*, 835 F.3d at 1344. That ruling regarding pretrial detainees, who are "not under a sentence of confinement," does not resolve the process due inmates, who are under such a conviction. *Rapier v. Harris*, 172 F.3d 999, 1004–05 (7th Cir. 1999).

Consider next the Sixth Circuit. In *Bills v. Henderson*, 631 F.2d 1287 (6th Cir. 1980), the court held that "transfer to administrative segregation entitles inmates to the procedures set forth in *Wolff*" where the "transfer is in response to a determination of guilt of a specific infraction." *Bills*, 631 F.3d at 1296. But the Sixth Circuit later clarified that an inmate whose placement in "administrative segregation is triggered by the outcome of a formal disciplinary proceeding"—as Adams's placement was—need not receive *Wolff*'s protections. *Finley v. Huss*, 102 F.4th 789, 816 (6th Cir. 2024). Notice, an opportunity to be heard, and "periodic review" of the placement suffices. *Id.* at 816–17. That is what Adams received here.

Lastly, the Eighth Circuit did not squarely hold that detainees facing disciplinary segregation need not receive the processes outlined in *Wolff*. Rather, in *Spann v. Lombardi*, 65 F.4th 987 (8th Cir. 2023), the court resolved a due-process claim brought by an inmate transferred to *administrative* segregation on qualified-immunity grounds. The court held that, in "view of *Wilkinson*, *Hewitt*, and *Greenholtz* [*v. Inmates of Nebraska Penal & Correctional Complex*, 442 U.S. 1 (1979)], a reasonable official could have believed" that notice and an opportunity to be heard are sufficient process for an inmate facing "transfer to administrative segregation." *Spann*, 65 F.4th at 992–93.

Although there may not be perfect uniformity in the language that the various circuits have used, it is simply incorrect that there is a "well developed," "deeply entrenched" circuit split regarding the process due prisoners facing segregation. *Contra* Pet. 16.

III. This Case Does Not Warrant Review

This case does not warrant review regardless.

A. First, this case does not cleanly present the question presented. Throughout the petition, Adams states that he was "subjected to disciplinary segregation." Pet. 22; *see id.* at 4, 30. That is incorrect. He was "reclassified into Department-Wide Restrictive Housing (i.e., long-term segregation) due to an aggregation of many conduct violations." D. Ct. Dkt. 202-1 at 1 ¶ 5; *see* Pet. App. 4a–5a, 7a, 9a. Moreover, Adams did not challenge the sanctions imposed for the assault charge, which included one year in disciplinary segregation. Instead, Adams challenged his administrative classification in 2017 and 2019. Pet. App. 9a; *see* Pet. App. 22a (Rovner, J., dissenting in part) ("His claim,

as I understand it, is focused on the assault finding as a predicate for the reclassification decision that assigned him to department-wide restrictive housing."). The Seventh Circuit addressed the process due prisoners facing disciplinary segregation only because Adams argued that "more process" might have affected "one of the eight underlying violations" supporting the administrative reclassification to restrictive housing. Pet. App. 32a (majority opinion).

B. Second and relatedly, the alleged due-process violation was harmless. Adams argues that he was entitled to call witnesses during the disciplinary hearing on the assault charge because he faced disciplinary segregation as a sanction. Pet. 29–30. But there is no evidence that the specific sanctions imposed impacted the decision to segregate Adams administratively. The important consideration for the prison was that Adams had "been found guilty" of multiple violations. Pet. App. 4a–5a, 7a. As the dissent below conceded, "the assault conviction is relevant less for what particular types of discipline were imposed at the assault hearing than for the underlying finding that Adams had participated in the assault on another prisoner." *Id.* at 20a (Rovner, J., dissenting in part).

Adams speculates that he might have been "absolved" of misconduct had he been permitted to call witnesses. Pet. 4. But prisoners do not have an unqualified right to call witnesses in disciplinary proceedings to defend against charges of misconduct. If Adams had been placed in restrictive housing for 30 days, there would be no question that he received all the process due. *See Sandin*, 515 U.S. at 486–47. That is true even if the "misconduct record" were to affect

his ability to obtain early release. *Id.* Any argument that Adams should have received more process during the disciplinary proceeding because higher sanctions were on the table confuses the process due a prisoner before imposition of a particular sanction (*e.g.*, loss of good-credit time) with the process due a prisoner before a finding of misconduct.

Nor is it clear that Adams would avoided administrative segregation in the absence of a misconduct finding on the assault charge. Initially, the prison administratively segregated him for two years because he had eight underlying violations, including one for drug trafficking. Pet. App. 4a–5a. Then, when Adams resolved the drug-trafficking charge by pleading to a lesser violation, the prison determined that administrative segregation was still appropriate because he had committed seven violations. *Id.* at 7a. Despite the dissent's contrary suggestion, *see id.* at 18a (Rovner, J., dissenting in part), it is speculative that a hearing officer would have found Adams not guilty and that the prison would have released a prisoner with six violations (instead of seven) into the general population. This Court should not review a harmless error.

And even if the error was not harmless, review would make no difference to the ultimate outcome of this case. All sanctions imposed in the disciplinary proceeding were vacated, Pet. App. 9a, so the only claim that is not moot is Adams's damages claim. To recover from the defendant prison officials, Adams would have to establish that his alleged due-process rights were clearly established. *See Ashcroft v. al-Kidd*, 563 U.S. 731, 735 (2011). But no decision from this Court establishes "beyond debate" that prisoners

facing disciplinary segregation are entitled to call witnesses. *Id.* at 741–42; *see Spann*, 65 F.4th at 992–93. Nor does any Seventh Circuit decision. Adams concedes that circuit precedent is against him. Pet. 20.

C. Third, Adams overstates the case's importance. He argues that disciplinary confinement is a common tool, citing a study that found many inmates had spent "the previous 15 days in solitary confinement." Pet. 24 (internal citation omitted). But this Court has squarely rejected the argument that due process requires trial-like hearings for shorter periods of confinement. *See Sandin*, 515 U.S. at 486–47. And Adams does not say how many prisoners segregated for disciplinary reasons would have a protected interest.

Adams stresses the nature of solitary confinement. Pet. 22–25. But concerns about "prison conditions" are more the stuff of an "Eighth Amendment claim" than a "Due Process claim." *Prieto v. Clarke*, 780 F.3d 245, 251 (4th Cir. 2015). And the record here "does not make clear" the precise conditions of confinement to which Adams was subject. Pet. App. 5a; *see* pp. 6–8, *supra*. Further, Adams himself concedes that prison policies "vary widely." Pet. 24. So any decision in this case is unlikely to "resolve" the precise degree of process due all inmates facing segregation for disciplinary reasons. *Contra* Pet. 30. Instead, adopting Adams's rule will recreate the problem *Sandin* tried to solve: involving "federal courts in the day-to-day management of prisons, often squandering judicial resources with little offsetting benefit to anyone," 515 U.S. at 482, as judges attempt to determine whether

a given sanction was administrative or disciplinary. There is no need to reopen that Pandora's box.

D. The sparse factual record may make this case a poor vehicle as well. Adams's due-process arguments presuppose that segregation for disciplinary reasons necessarily carries a stigma or affects parole chances in a way that administrative segregation does not. Pet. 28–29. That assumption is incorrect for the reasons stated above. *See* pp. 13–15, *supra*. As the Court of Appeals noted, however, details about how Adams was confined and the applicable policies are lacking. Pet. App. 5a–6a. Thus, to the extent that those details are potentially relevant, this case is far from an ideal one to address the question presented.

CONCLUSION

The petition should be denied.

Respectfully submitted,

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SEPTEMBER 2025