No. 25-6206

IN THE

SUPREME COURT OF THE UNITED STATES

Brett Talmadge- PETITIONER

VS.

STATE OF ALASKA- RESPONDENT

ON PETITION FOR WRIT OF CERTIORARI TO

ALASKA SUPREME COURT

PETITION FOR WRIT OF CERTIORARI

Brett Talmadge

GOOSE CREEK CORRECTIONAL CENTER

22301 WEST ALSOP RD

WASILLA, ALASKA 99623

QUESETION(S) PRESENTED

I. DID THE ALASKA SUPREME COURT MISAPPLY HECK V. HUMPHREY.

II. DOES THE ALASKA SUPREME COURT'S ERROR UNDERMINE THE BILL OF ATTAINDER PROHIBITION

III. IS THIS ISSUE OF NATIONAL IMPORTANCE

IV. DOES THIS DECISION BY THE ALASKA SUPREME COURT AVOID FEDERAL QUESTIONS?

LIST OF PARTIES

All parties appear in the caption of the case on the cover page.

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A.S. 12.55.125(i)

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IN THE

SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

The opinion of the highest state court to review the merits appears at Appendix A to the petition and is unpublished.

The opinion of the superior court appears at Appendix B to the petition and is reported and available to the public under Case No. 3PA-22-01549 CI

JURISDICTION

The date on which the highest state court decided my case was on March 19th, 2025.

A copy of that decision appears at Appendix A.

The jurisdiction of this Court is invoked under 28 U.S.C. 1257(a)

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

U.S. Constitution, Article I, Section 10, Clause 1: No state shall...pass any Bill of Attainder, Ex-Post Facto Law, or Law impairing the Obligation of Contracts...

U.S. Constitution, Article VI, Clause 2 (Supremacy Clause): This Constitution, and the Laws of the United States...shall be the supreme Law of the land; and the judges in every state shall be bound thereby...

U.S. Constitution, Fourteenth Amendment, Section 1: ... nor shall any state deprive any person of life, liberty, or property, without due process of law...

Alaska Statute 12.55.125(i) (sentencing provisions for sex offense, challenged as a bill of attainder, in Appendix C based on Senate Journal of Senate Bill-218.

42 U.S.C. 1983: Every person who, under the color of any statute... subjects...any citizen...to the deprivation of any rights, privileges, or immunities secured by the Constitution...shall be liable to the party injured...

STATEMENT OF CASE

Petitioner Brett Talmadge, Proceeding in propria persona challenging the Alaska Supreme Court's affirmance of the dismissal of his civil complaint alleging that Alaska Statute 12.55.125(i) as amended by SB-218 in 2006, is an unconstitutional Bill of Attainder under the Article I, Section 10, Clause 1 of the Constitution.

The complaint, filed in May 2022 under AS 09.50.250, sought a declaration that the statute is unconstitutional and an injunction against its future enforcement. Talmadge was convicted in 2010 of three counts of second-degree sexual abuse of a minor and one count of attempted second-degree sexual abuse, receiving a 23-year sentence with 12 years suspended under AS 12.55.125(i). In 2019, he was indicted on new charges of first-degree sexual abuse of a minor, second-degree sexual abuse and incest, which remain pending and would be sentenced under the same statute if he is convicted.

Talmadge argued that AS 12.55.125(i), amended via Senate Bill 218 (2006), constitutes a bill of attainder by targeting sex offenders as a group, imposing punitive sentencing ranges, and bypassing judicial process through legislative alleged findings of prior criminal acts and of irredeemability (e.g., "110 victims and 318 offenses before being caught"; Senate Journal, Feb 16, 2006 pp. 2207-09). This would appear to be not only a bill of attainder, but be at odds with this Court's APPRENDI decision and the line of cases that followed. He also raised due process, ex-post facto, and other constitutional claims, none being answered

The superior court dismissed the complaint under Alaska Civil Rule 12(b) (6), finding it failed to state a viable tort claim under AS 09.50.250 and constituted an improper collateral attack on his 2010 conviction. Even though as the Alaska Supreme Court noted the petitioner never requested relief of any sort in his 2010 case, and that the declaratory and injunctive relief are all prospective relief. The court denied leave to amend, deeming the proposed amendment futile.

The Alaska Supreme Court affirmed, relying on Heck v. Humphrey, 512 U.S> 477 (1994), and Patterson v. Walker, 429 P.3d 829 (Alaska 2018), holding that the complaint was barred because it "would necessarily imply the invalidity" of Talmadge's 2010 conviction or sentence, which had not been invalidated. The court directed Talmadge to pursue his claims through post-conviction relief or his pending criminal proceedings.

REASONS FOR GRANTING THE PETITION

The Alaska Supreme Court's misapplication of Heck v. Humphrey raises a substantial federal question, which was avoided by the State's highest court, warranting this Court's review. The decision conflicts with controlling Ninth Circuit precedent, creates a state supreme court split paralleling federal circuit splits, and violates the Supremacy Clause by denying uniform access to federal constitutional remedies. Certiorari is justified under Supreme Court Rule 10(a) (important federal question) and Rule 10(c) (conflict with relevant decisions).

I. The Alaska Supreme Court Misapplied Heck v. Humphrey

A. Heck's Limited Scope and Talmadge's Sentencing Challenge

In Heck v. Humphrey, this court held that a 1983 action seeking damages for an unconstitutional conviction or sentence is barred unless the conviction has been invalidated, to prevent collateral attacks on criminal judgments, 512 U.S. at 486-87. The Heck bar applies only when a civil judgment "would necessarily imply the invalidity of an outstanding conviction, and or it would necessarily imply the invalidity of confinement or its duration, Id. at 487. However Heck does not preclude civil challenges to sentencing statutes, particularly facial challenges seeking prospective relief that do not contest the fact or prior convictions or a fact or duration of a sentence still pending.

Talmadge's complaint challenged AS 12.55.125(i) (amended by SB-218) as a bill of attainder, alleging it unconstitutionally targets sex offenders with punitive presumptive sentencing ranges based on legislative findings alleging claims of other criminal acts before being caught (Senate Journal, pp. 2207-09). His requested prospective relief –a declaration of unconstitutionality and an injunction— would not invalidate his 2010 conviction but would prevent the statute's application to his future sentencing in his pending 2019 case, should he be found guilty.

Talmadge's challenge focuses on the sentencing statute's prospective application, not his guilt or sentence already served in the 2010 case. But to prevent the application to his still pending 2019 criminal case. The Alaska Supreme Court erred by framing it as a collateral attack on his 2010 conviction, ignoring that a bill of attainder challenge targets legislative action, not judicial findings of guilt or proper sentencing. This misapplication conflicts with Wilkinson and Skinner, which permit civil claims that do not directly undermine convictions or the invalidity of confinement or shorten its duration.

It should be noted that Talmadge is currently not incarcerated serving time under a judgment of a state court. He is incarcerated for the sole purpose of awaiting adjudication in the 2010 case for the

petition to revoke probation and trial in his 2019 case. (See Appendix D for Black's Law Dictionary Definitions of Judgment and adjudication)

B. Talmadge's Standing and Prospective Relief

Talmadge has standing to challenge AS 12.55.125(i) based on his pending 2019 charges, which expose him to the future sentencing under the same statute. The standing distinguishes his case from typical Heck scenarios, where plaintiffs challenge only past convictions. In Spencer v. Kemna, 523 U.S. 1 (1998), this Court noted that Heck's bar may not apply to plaintiff's facing ongoing harm, suggesting flexibility for prospective claims. Talmadge, incarcerated and awaiting trial, faces imminent harm from AS 12.55.125(i)'s application, conferring standing for injunctive relief.

The Alaska Supreme Court's application of Heck to bar Talmadge's claim disregards his ongoing exposure, conflating a sentencing challenge with a conviction attack. A ruling that AS 12.55.125(i) is a bill of attainder would not negate the jury's 2010 guilty verdict but would invalidate the sentencing framework for future applications. This aligns with Edwards v. Balisok, 520 U.S. 641 (1997), where Heck barred a challenge to a disciplinary procedure's outcome but permitted broader procedural claims not implicating convictions validity.

C. Conflict with Federal Precedent

The Alaska Supreme Court's expansive Heck interpretation conflicts with controlling Ninth Circuit precedent and other federal decisions. In Martin v. City of Boise, 920 F.3d 584 (9th Cir 2019), the Ninth Circuit, which include Alaska, narrowly applied Heck, holding that it bars only 1983 claims, where civil judgment would imply the invalidity of a conviction or necessarily demonstrate the invalidity of confinement or its duration. The Ninth went on to state: "The logical extension of the district court's interpretation is that an individual who does not successfully invalidate a first conviction under an unconstitutional statute will have no opportunity to challenge that same statute in the future.

Neither Wilkinson nor any other case in the Heck line supports such a result. Rather Wolff, Edwards and Wilkinson compel the opposite conclusion.

The Heck doctrine, in other words, serves to ensure the finality and validity of previous convictions, not to insulate future prosecutions from challenge.

In context, it is clear that Wilkinson's holding that the Heck doctrine bars a 1983 action "no matter the relief sought (damages or equitable relief)... If success in that action would necessarily demonstrate the invalidity of confinement or its duration", applies to equitable relief concerning an existing confinement, not to suits seeking to preclude an unconstitutional confinement, in the future, arising from incidents occurring after any prior convictions and stemming from a possible later

prosecution and conviction. Id. at 81-82. As Wilkinson held "claims for future relief (which, if successful, will not necessarily imply the invalidity of confinement or shorten its duration)" are distant from the "core" of habeas corpus which the Heck line of cases concerned, and not precluded by the Heck doctrine. Id at 82.

The Alaska Supreme Court's failure to follow Martin creates an intra-circuit conflict, denying Petitioner the benefit of controlling federal precedent.

Additional federal decisions reinforce this conflict. In Doe v. Bredesen, 507 F.3d 998 (6th Circuit. 2007), a bill of attainder challenge to a sex offender registry law was addressed on the merits, as it targeted a collateral consequence, not the underlying conviction. Similarly, in Arnett v. Wilson, 318 F.Supp. 2d 432 (W.D.Ky. 2004), a 1983 challenge to a sentencing statute was not barred by Heck because it sought prospective relief without undermining the conviction. In Gbalazeh v. City of Dallas, 394 F.Supp. 3d 666 (Fifth Circuit 2019), they adopted the Ninths Circuit's narrow application of Heck.

By contrast, the Alaska Supreme Court's ruling insulates AS 12.55.125(i) from civil scrutiny before it becomes a violation of law and an individual's rights, forcing petitioners into criminal proceedings, where it is not likely that a state paid lawyer will challenge the constitutionality of any state law.

This broad application conflicts with the Ninth Circuit's narrow Heck standard and risks inconsistent federal law application across jurisdictions. Further it dodges their duty to answer a federal constitutional question.

D. State Supreme Court Splits and Supremacy Clause Violation

The Alaska Supreme Court's broad Heck application creates a state Supreme Court split, analogous to federal circuit splits that violate the Supremacy Clause's mandate for uniform federal law application. State supreme courts diverge on Heck's scope in 1983 claims, With Alaska's restrictive approach barring constitutional challenges that Colorado and Virginia permit, undermining equal access to federal remedies.

In Havens v. Johnson, 783 N.W 2d 469 (Colo. 2010), Colorado supreme court narrowly applied Heck, allowing a 1983 due process challenge to parole procedures seeking injunctive relief, as it did not imply conviction invalidity, per Wilkinson v. Dotson, 544 U.S> 74(2005).

Similarly, in Powers v. Commonwealth, 73 Va. App. 519, 862 S.E. 2d 468 (Va. Ct. App. 2021), affirmed by the Virginia supreme court, a 1983 challenge to a disenfranchisement statute was permitted, as it targeted a collateral consequence, not a conviction, aligning with Skinner v. Switzer, 562 U.S. 521 (2011). In contrast, the Alaska supreme court in this case broadly applied Heck to bar Petitioner's facial challenge to AS 12.55.125(i) as a bill of attainder, mischaracterizing it as a collateral

attack on his 2010 sentence, despite his request for prospective relief and ongoing exposure to the statute via pending charges. This restrictive stance mirrors the Alabama supreme court's pre-reversal error in Williams v. Reed, 141 S. Ct. 2738(2021), where a 1983 Fourth Amendment claim was dismissed under an expansive heck reading, later corrected by this Court for imposing improper barriers.

This state Supreme Court split parallels federal circuit splits on Heck's scope. The Ninth's Circuit decision in Martin v. City of Boise, 920 F.3d 584(9th Cir 2019); Lemos v. County of Sonoma, 40 F.4th 1002 (9th Cir 2022) (en banc), the Fifth Circuit's in Gbalazeh v. City of Dallas, 394 F.Supp. 3d 666 (2019), and the Sixth Circuit's in Doe v. Bredesen, 507 F.3d 998 (6th Cir 2007), narrowly applying Heck, permitting claims that do not factually conflict with convictions or target collateral consequences, supporting Colorado and Virginia's approaches. The Seventh and the Eleventh Circuit's historically broad reading in Heck influenced Alaska and Alabama's restrictive stances, though moderated post- Wilkinson. This state-level divergence creates disparate access to 1983 remedies, allowing plaintiffs in Colorado and Virginia to challenge state actions civilly while denying Alaskans the same right.

Under the Supremacy Clause, U.S. Const. art. VI, cl. 2, such inconsistences are unacceptable, as they undermine the uniform application of federal constitutional protections mandated by Howlett v. Rose, 496 U.S. 356, 367 (1990). The Alaska supreme court's misapplication of Heck, contrary to the Ninth Circuit's controlling Martin precedent, and this Court's review of the Ninth Circuit's case Martin v. City of Boise, 920 F.3d 584 (9th Cir 2019) in City of Grants Pass v. Johnson, 603 U.S. 520, where there was no comment by this Court on the Ninth Circuit's interpretation of the Heck doctrine and line of cases and their narrow application of the bar. This chills meritorious challenges to state statutes, like Petitioner's bill of attainder claim, violating his right to seek redress for legislative overreach. This Court's review is essential to resolve the state split, clarify Heck's scope, and ensure equal access to federal remedies nationwide.

II. The Alaska Supreme Court's Error Undermines the Bill of Attainder Prohibition

A. AS 12.55.125(i) as a Bill of Attainder

A bill of attainder is a legislative act that inflicts punishment on a specific group without judicial trial. United States v. Lovett, 328 U.S. 303, 315 (1946); Cummings v. Missouri, 71 U.S. 277, 323 (1867). Article I, Section 10, Clause 1 prohibits states from enacting such laws. AS 12.55.125 (i) targets sex offenders with severe presumptive sentencing ranges, justified by legislative findings of alleged prior criminal acts and the claim all se offenders average 110 victims and 318 offences and are irredeemable (Senate Journal. pp. 2207-09). These findings usurp judicial discretion, imposing punishment based on group or class characteristics, not individualized findings. Unites States v. Brown, 381 U.S. 437, 447 (1965). Unlike the finding by this Court in DeVeau v. Braisted, 363 U.S. at 160, the act (SB-218) embodies "further implications of the appellant's guilt than were contained in his judicial

conviction...." (See also Leary v. United States, 395 U.S. 6 Hn 15; Pierce v. Carskadon, 83 U.S> 234 (1873)).

Talmadge's challenge, like that in Cummings (striking down a law targeting e-Confederates) and Lovett (barring named individuals from employment), questions the legislatures authority to prejudge a group's culpability. The Alaska Supreme Court's Heck ruling pretermitted this meritorious claim, mischaracterizing it as a conviction attack when it targets sentencing provisions.

B. Chilling Constitutional Challenges

By applying Heck to bar Talmadge's claim, the Alaska Supreme Court chills challenges to state statutes under Article I, Section 10, Clause 1. The bill of attainder prohibition rooted in separation of powers, protects against "trial by legislature." Brown, 381 U.S. at 442. If civil challenges to sentencing statutes are barred unless convictions are invalidated, states may enact targeted, punitive laws with impunity, knowing judicial review is limited to criminal proceedings. This undermines the Constitution's structural safeguards, as noted in O'Brien, 391 U.S. 367, 383 N.30 (1968) (legislative motive relevant in bill of attainder cases).

III. The Issue Is of National Importance

The misapplication of Heck affects access to federal constitutional protections nationwide. Sentencing statutes targeting specific groups (e.g., sex offenders, drug offenders etc.) often rely on legislative findings, raising bill of attainder and due process concerns. (See Selective Service System v. Minnesota Public Interest Research Group, 468 U.S. 841, 853-54 (1984) (statute must further non-punitive goals)). If Heck bars civil challenges to such laws, individuals face high barriers to relief, particularly when, like Talmadge, they are subject to ongoing prosecution under the challenged statute. This issue is recurring, as seen in Doe v. Bredesen, and warrants this Court's clarification to ensure uniform application of Heck and Article I, Section 10, Cl. 1.

IV. Due Process and Alternative Grounds

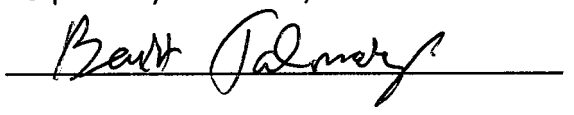
The dismissal also implicates due process under the Fourteenth Amendment. AS 12.55.125(i) irrebuttable presumptions of alleged prior crimes without conviction and irredeemability violate individualized justice. Vlandis v. Kline, 412 U.S> 441, 452 (1973); Heiner v. Donnan, 285 U.S. 312,329 (1932). Talmadge's ex-post facto claim, alleging retroactive penalty increases, was not addressed but merits review. Landgraf v. USI Film Products, 511 U.S. 244,266 (1994). Additionally, the statutes mandatory ranges may violate sentencing due process under Blakely v. Washington, 542 U.S. 296 (2004), by denying jury findings on aggravating factors that are built into the statute. Further each time you are convicted under this statute you get the repeat offender increase, but the statute already has it built in it as to 110 victims and 318 crimes prior to being caught, so if all your prior crimes are built in to the statute charging them again for prior crimes constitutes double jeopardy clause also.

CONCLUSION

The petition should be granted to correct the Alaska Supreme Court's misapplication of Heck v. Humphrey, which conflicts with controlling Ninth Circuit precedent, creates a federal circuit split and a state Supreme Court split violating the Supremacy Clause, and undermines the bill of attainder prohibition in Article I, Section 10, and Cl.1.

Review is essential to clarify Heck's scope, resolve state-level inconsistencies, and protect access to federal constitutional remedies nationwide for all people and not just a select few with power or influence.

Respectfully submitted,



Brett Talmadge, acting propria persona

Date: August 28, 2025

APPENDIX

Appendix A: Alaska State Supreme Court Memorandum Decision

Appendix B: Superior Court Order of Dismissal and Denial of Leave to Amend.

Appendix C: Senate Journal SB-218 (demonstrating legislative intent)

Appendix D: Black's Law Dictionary (Fifth Pocket Edition 2016) definitions of judgment and adjudication.