No. 25-683

IN THE
Supreme Court of the United States

PEYMAN ROSHAN, *Petitioner*,

v.

DOUGLAS R. MCCAULEY.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

SECOND SUPPLEMENT TO PETITION FOR A WRIT OF CERTIORARI

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TABLE OF CONTENTS

TABLE OF AUTHORITIES

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INTRODUCTION

This supplemental brief is submitted pursuant to S. Ct. Rule 15.8. It consists of additional analysis based case law and legal developments that had not occurred at the time of the filing of the petition. The case law is the Supreme Judicial Court of Maine just rendered its opinion on January 29, 2026 in *XinXiu Tina Hogan v. Kennebec Valley Community College*, Case No. 2026 ME 5 ("*Hogan*").

THE MAINE SUPREME JUDICIAL COURT REFUSES TO FOLLOW THIS COURT'S BINDING PRECEDENT

This petition presents, inter alia, the following questions:

1. Does California's doctrine of judicial exhaustion violate the Supremacy Clause under *Williams v. Reed*, 145 S.Ct. 465 (2025)?

2. If so, does this Supremacy Clause violation invalidate the California Department of Real Estate reciprocal disciplinary proceeding based on the Supremacy Clause violating California State Bar proceedings?

Maine's rules of civil procedure are set forth in the Maine Rules of Civil Procedure, which are, in part, the functional equivalent to the Federal Rules. *McKeeman v. Duchaine,* 2022 ME 23, ¶ 8 n. 2. The

Maine Rules are written by Maine's highest Court, the Supreme Judicial Court ("SJC"). 4 M.R.S. § 8.

The SJC has created the equivalent of California's judicial exhaustion doctrine by creating the "exclusivity rule" as part of M.R. Civ. P. 80(B). See, generally, *Hogan*. This rule provides that the exclusive procedure for reviewing administrative proceedings is a special proceding under Rule 80(B)(b); and the time for seeking review of the decision is 30 days after notice of the final governmental action unless a statute states otherwise. M.R. Civ. P. 80(B)(b). By compairon, the limitations period in Maine for filing a 42 U.S.C. §1983 claim is six years. *Small v. Inhabitants of City of Belfast*, 796 F.2d 544, 546 (1st Cir. 1986).

On January 29, 2026, the SJC published the *Hogan* decision, which addressed whether case law holding that 42 U.S.C. §1983 claims could not be heard in Maine's state courts to challenge an administrative proceeding under Maine's exclusivity rule prohibiting such challanges after *Williams v. Reed* 604 U.S. 168, 145 S. Ct. 465, 471 (2025). The SJC held that "[b]ecause the Supreme Court has not clearly and definitively foreclosed the application of a state's exclusivity rule in state court when the gravamen of the § 1983 claim can be addressed in the administrative appeal and meaningful redress can be provided in that appeal, we will adhere to our precedent that the rule may apply, " *Hogan* slip. op. at 30. Accordingly, the Maine Supreme Judicial Court rejected the argument that the state's dismissal of a 42 U.S.C. § 1983 challenge of an administrative disciplinary hearing based on the state's exclusivity rule violates the Supremacy

Clause under *Williams v. Reed* 604 U.S. 168, 145 S. Ct. 465, 471 (2025) on grounds foreclosed by earlier precedent of this Court.

A trainee in the state's Respiratory Therapy Program was dismissed from the program after a disciplinary hearing. *Hogan* at ¶ 15. She challenged the discipline by, inter alia, brining a 42 U.S.C. § 1983 claim in the superior court. *Id.* at ¶ 1. The superior court dismissed her 42 U.S.C. §1983 claim as duplicative, holding, inter alia, "[t]he Rule 80B appeal provides an adequate avenue for judicial review and relief." *Id.* at ¶ 23. The Maine Supreme Judicial Court agreed. *Id.* at ¶ 23. But the Court when further, it held "absent clarification from the Supreme Court, we will continue to apply our exclusivity rule to § 1983 claims." *Id.,* slip. op. at 28 at

On February 6, 2026, petitioner Roshan became aware of *Hogan* and emailed Hogan's counsel of record, Timothy E. Zerillo ("Zerillo") and Seth T. Rusell ("Rusell"), informing that on a separate petition, *Roshan v. McCauley*, U.S. Sup. Ct. Dkt. No. 25-683, petitioner has raised whether California's judicial exhaustion rules violate the Supremacy Clause under *Williams v. Reed,* 145 S.Ct. 465 (2025); and inquired whether Hogan intended to further appeal..

On February 9, 2026, Zerillo responded they are no longer representing Hogan whom is now believed to be pro se. He further declined to provide Roshan with contact information so that Rosha might assist in finding counsel.

On February 10, 2026, petitioner Roshan emailed Zerillo and Rusell informing that the decision "is in

direct conflict with U.S. Supreme Court authority which holds "Congress therefore intended that the remedy provided in § 1983 be independently enforceable *whether or not it duplicates a parallel state remedy*." *Wilson v. Garcia,* 471 U.S. 261, 279." Roshan suggested that this merited a motion for reconsideration to the SJC, which would be due on February 12, 2026.

To date, Roshan has not received a response.

ARGUMENT

In *Williams,* this Court held that any administrative adjudication regime which bars the assertion of a 42 U.S.C. §1983 claim violates the Supremacy Clause. U.S. Const. art. VI, cl.2. However, enforcing this ruling against the states is nearly impossible in professional regulation cases, as demonsrated in Roshan and Hogan's case.

If one proceeds in federal court, *Younger* abstention is imposed. If one proceeds in state court, doctrines such as judicial exhaustion in California or exclusivity in Maine grant effective immunity to the state and its *Ex Parte Young* defendants. In *Hogan*, the Maine Supreme Court asserted that it believed *Williams* did not apply as states were not required to adjudicate 42 U.S.C. §1983 claims if an allegedly adequate parallel state claim existed. This reasoning was explicitly rejected decades ago. "Congress therefore intended that the remedy provided in § 1983 be independently enforceable whether or not it duplicates a parallel state remedy." *Wilson, supr*a at 279, citing *Monroe v. Pape,* 365 U. S. 167, 173 (1965).

CONCLUSION

The Petitoin for Certiorari should be granted, and the Court should rule that *Younger* abstention does not apply to administrative proceedings which cannot be attacked in state court under 42 U.S.C. §1983 due to doctrines such as California's judicial exhaustion rule and Maine's exclusivity rule, and that administrative proceeding regimes that incorporate such rules are void under the Supremacy Clause.

Dated this February 12, 2026.

Respectfully submitted,

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