No. 25-696

IN THE

Supreme Court of the United States

JENNIE V. WRIGHT AND SAUL WRIGHT,

Petitioner,

vs.

LOUISVILLE METRO GOVERNMENT, ET AL.,

Respondents.

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

BRIEF OF PROFESSORS ROBERT M. JARVIS AND JUDITH A. JARVIS AS *AMICI CURIAE* IN SUPPORT OF PETITION FOR WRIT OF CERTIORARI

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INTEREST OF *AMICI CURIAE*

Professors Robert M. Jarvis and Judith A. Jarvis are a full-time law professor and an adjunct law professor, respectively, at the Nova Southeastern University College of Law in Fort Lauderdale, Florida. Both Professors Jarvis have worked as practicing admiralty attorneys; have written scholarly articles about maritime law; and have a special interest in the field.

The Professors Jarvis's publications include *The Continuing Problem of Statutes of Limitations in Section 1983 Cases: Is the Answer Out at Sea?*, 22 J. Marshall L. Rev. 285 (1988), in which they point out the rationale for and benefits of applying the doctrine of laches in lieu of a statute of limitations for 42 U.S.C. § 1983 claims. They submit this brief as *amici curiae* to provide the Court with additional insights based on their academic research on the subject.

Federal maritime law has a long history of applying laches to address issues of fairness to both sides in a wide variety of analogous cases. Professors Jarvis accordingly offer this brief to draw the Court's attention to the doctrine of laches as an alternative to statutes of limitations that

will both ensure fairness to litigants and protect federal interests in Section 1983 litigation.[1, 2]

[1] *Amici* certify that no counsel for any party authored this brief in whole or in part, no party or its counsel made any monetary contribution intended to fund the preparation or submission of this brief, and that no person or entity other than *amici* or their counsel made such a contribution.

[2] *Amici* certify that counsel for the parties were provided with 10-day notice as required by the rules of this Court.

SUMMARY OF ARGUMENT

42 U.S.C. § 1983 provides a federal remedy for violations of individuals' constitutional rights. But Section 1983 does not include an express statute of limitations, which has triggered decades of contentious litigation with widely inconsistent results.

This *amicus* brief focuses on two key issues, either of which independently warrants certiorari. First, this case gives the Court an opportunity to answer the question it left open 35 years ago: whether "applying a 1-year limitations period to § 1983 actions would be inconsistent with federal interests." *Owens v. Okure*, 488 U.S. 235, 251 n.13 (1989). Second, this case provides the Court with an opportunity to prescribe a new standard for assessing the timeliness of Section 1983 actions that better protects federal interests. Applying an alternative doctrine, laches, in lieu of a statute of limitation would both ensure needed fairness to litigants and protect federal interests in Section 1983 litigation.

These issues are important not only to preserve the rights of Petitioner Jennie and Saul Wright (the "**Petitioners**"), but also to provide a remedy for all individuals, protecting their constitutional rights under Section 1983. *Amici* urge the Court to address these critical issues and ensure that Section 1983 serves its intended purpose: to offer a meaningful remedy to, and a neutral federal forum for, individuals whose constitutional rights have been violated.

This Court should grant Petitioners' request for certiorari, find the one-year limitations period is too short for Section 1983 actions, and consider adopting maritime laches as a flexible, well-documented alternative that allows the parties' federal interests to be taken into account in each case.

ARGUMENT

I. Legal and Statutory Background

42 U.S.C. § 1983 protects individuals' constitutional rights and freedoms from government officials acting "under color" of state law. Section 1983 safeguards all constitutional protections, including free speech,[3] free exercise of religion,[4] and freedom from unreasonable search and seizure.[5] Given the constitutional nature and breadth of Section 1983, one would be surprised to learn that courts must apply *state personal injury* statutes of limitations to Section 1983. Such an unexpected rule stems from Congress' failure to specify a statute of limitations for Section 1983 claims, which left courts to construct a patchwork framework case by case—and ultimately to graft state personal injury limitations periods onto suits vindicating federal constitutional rights.

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[3] *See*, *e.g.*, *Mt. Healthy City Sch. Dist. Bd. Of Educ. v. Doyle*, 429 U.S. 274 (1977).

[4] *See*, *e.g.*, *Cruz v. Beto*, 405 U.S. 319 (1972); *Church of Lukumi Babalu Aye, Inc. v. City of Hialeah*, 508 U.S. 520 (1993).

[5] *See*, *e.g.*, *Monroe v. Pape*, 365 U.S. 167 (1961).

Under combined precedent, the current analytical framework that looks to state personal injury laws in cases involving constitutional rights, is as follows:

> (1) apply the express federal statute of limitations (there is no such limitations period for Section 1983);
>
> (2) if there is no federal statute of limitations, then apply the closest available state statute of limitations (here, it is the state's personal injury statute,[6] but if there are multiple such limitation periods, then apply the residual personal injury statute of limitations[7]); but
>
> (3) if the state statute of limitations is counter to federal interests, then a court must reject such state statute, and can instead borrow the "express limitations periods from related federal statutes, *or such alternatives as laches*"[8] (here, the Court has been silent).

42 U.S.C. § 1658 supplies a residual federal four-year statute of limitations for actions arising under an Act of Congress enacted *after* December 1, 1990. Section 1983 was adopted *before* 1990. As such, this brief does not address whether or how Section 1658 might impact pre-1990 statutes.

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[6] *Wilson v. Garcia,* 71 U.S. 261 (1985).

[7] *Owens v. Okure,* 488 U.S. 235 (1989).

[8] *DelCostello v. Int'l Bhd. of Teamsters*, 462 U.S. 151, 152 (1983) (emphasis added).

This *amicus* argument is as follows: because Kentucky's one-year limitations period is contrary to federal interests, the Court should recognize the doctrine of laches as an appropriate alternative, thereby preserving individuals' constitutional rights.

II. Kentucky's one-year limitations period is inconsistent with federal interests.

As this Court has instructed (and as further explained in the petition for certiorari), if no suitable federal rule exists, courts borrow the statute of limitations of the applicable state or territory. However, because of "the predominance of the federal interest," courts apply state law "only if it is *not inconsistent* with the Constitution and laws of the United States." *Burnett v. Grattan*, 468 U.S. 42, 48 (1984) (internal quotations marks omitted) (emphasis added).

The "central objective of § 1983" is "ensur[ing] that individuals whose federal constitutional or statutory rights are abridged may recover damages or secure injunctive relief." *Id.* at 55. Short limitations periods, such as the one-year period at issue here, frustrate that primary objective. Accordingly, the predominance of the federal interests at the heart of Section 1983 precludes the application of such harshly brief limitations periods.

A. Short limitations periods are particularly onerous when litigating Section 1983 claims.

This Court has cautioned that supplementing Section 1983 with state law is inappropriate "if it fails to take into account practicalities that are involved in litigating" the federal claim. *Id.* at 50. Kentucky's law does just that.

Such practicalities, relevant to *federal* law, are not considered by *state* legislatures when "devis[ing] their [own] limitations periods." *Occidental Life Ins. Co. v. EEOC*, 432 U. S. 355, 367 (1977). The Court has therefore concluded that "it is the duty of the federal courts to assure that the importation of state law will not frustrate or interfere with the implementation of national policies." *Id.* In bringing substance to the "dominant" national policy underpinning Section 1983—that civil rights actions "belong in court"—the Court in *Burnett* recognized the unique difficulties of litigating these claims. 468 U.S. at 50. Injured persons must:

(1) recognize the constitutional nature of their injury;

(2) find and retain specialized counsel; and

(3) conduct investigations, determine damages, and execute legal documents and filings.

See id. at 50–51. A residual one-year limitations period fails to consider such complexities at each step of developing a potential Section 1983 claim.

First, harmed individuals often may not recognize the constitutional nature of their injury absent the

assistance of specialized counsel. In many instances, they may not be able to obtain representation, whether civil or criminal, until well after the limitations period has run. Thus, short limitations periods, such as the one-year limitations period under Kentucky law, are exceedingly impractical.

Second, it is impractical to require Section 1983 claimants to find and retain counsel for their civil claims while also simultaneously confronting their own criminal charges. Not only do Section 1983 claims operate in a highly specialized area of law, but they can often arise in the context of parallel criminal charges, which exacerbate the practical and legal limitations on an injured party's time and resources to obtain competent counsel. Many victims of civil rights abuses also must determine whether their Section 1983 claim calls into question the validity of a conviction or criminal proceeding. *See* 3 Nahmod, *Civil Rights & Civil Liberties Litigation: The Law of § 1983*, § 9:59. As a result, the practical effect of the one-year period is that every Section 1983 litigant charged with a crime must pursue parallel civil litigation during her prosecution or else risk a court barring the claim based on the expired prescriptive period. *See Wallace v. Kato,* 549 U.S. 384, 394 (2007). A one-year statute of limitations is thus impractical and unfair because it requires many Section 1983 claimants to face concurrent criminal charges (and the accompanying risks of retribution in the form of added charges, thwarted plea negotiations, or increased sentence recommendations) thereby exhausting the time and resources they need to seek and retain specialized counsel for their civil claim.

Third, conducting investigations, determining damages, and executing legal documents and filings within one year is exceedingly difficult due to the abuse of power that often underlies Section 1983 claims and the complexity of such claims. Indeed, the Court has acknowledged that Section 1983 injuries to personal rights are not immediately apparent because the "'constitutional dimensions of the tort may not be'" readily understood. *Owens*, 488 U.S. at 238 (quoting *Okure v. Owens*, 816 F.2d 45, 48 (2d Cir. 1987)). Exploring such constitutional dimensions requires intensive initial investigations. In addition to standard pretrial practices, such as determining damages and executing various filings, Section 1983 claimants must conduct complex constitutional analyses and navigate issues such as qualified immunity.

For all these reasons, short limitations periods, such as the one-year period here, present difficult, practical challenges for litigants with otherwise valid Section 1983 claims. Accordingly, such a short limitations period is clearly counter to the federal interests underpinning Section 1983 and should be addressed by this Court.

B. Application of short limitations periods to Section 1983 claims undermines Congress' purpose in enacting the statute.

To determine if a state law is inconsistent with federal law, "courts must look not only at particular federal statutes and constitutional provisions, but also at 'the policies expressed in [them].'" *Robertson v. Wegmann*, 436 U.S. 584, 590 (1978) (quoting *Sullivan v. Little Hunting*

Park, Inc., 396 U.S. 229, 240 (1969)). The goal of Section 1983 is to "give a remedy to parties deprived of constitutional rights, privileges and immunities by an official's abuse of his position." *Monroe v. Pape*, 365 U.S. 167, 172 (1961). That policy is accomplished by providing a remedy for persons whose civil rights have been violated, and by deterring the abuse of state power. *See Burnett*, 468 U.S. at 53.

Achieving these important goals depends, of course, on having a realistic opportunity to seek redress through the courts. Individuals vindicating their constitutional rights against abuses of government, as discussed in the previous section—demonstrate that bringing suit within a short period of time can be a hurdle so high that it is "manifestly inconsistent with [Section 1983's] central objective" of providing compensation to injured parties. *Id.* at 55; *see also Hardin v. Straub*, 490 U.S. 536, 543 (1989) (tolling a statute of limitations serves "§ 1983's compensation goal" because it enhances the "ability to bring suit and recover damages for injuries").

Section 1983 actions also provide important deterrents to abuses of power by state actors. Indeed, the risk of an award of compensatory damages against state actors is intended not only to compensate victims, but also to serve as a formidable deterrent to unconstitutional conduct. As this Court has recognized, if a person has a realistic ability to file suit, then "[a] state official contemplating illegal activity must always be prepared to face the prospect of a § 1983 action being filed against him." *Robertson*, 436 U.S. at 592. Conversely, where a limitations

period is too short, bad actors have "knowledge that he or she might escape a challenge to [bad] conduct within a brief period of time." *Hardin*, 490 U.S. at 543.

In light of these concerns, this Court has left open the question of whether a statute of limitations as short as one year may be too short to permit pursuit of Section 1983 claims. *See Owens*, 488 U.S. at 251 n.13. As discussed above, short limitations periods create numerous obstacles for all individuals protecting their constitutional rights, from free speech and religion to freedom from unreasonable search and seizure. For all these reasons, Kentucky's one-year limitations period is inconsistent with Section 1983.

III. The doctrine of laches provides a better alternative for determining the timeliness of a Section 1983 claim.

When a state statute of limitations is counter to federal interests, a court may look to the "express limitations periods from related federal statutes, *or such alternatives as laches*." *DelCostello*, 462 U.S. at 152 (emphasis added).

Despite the unjust obstacles for plaintiffs navigating unreasonably short state limitations periods, it also is true that limiting the time following an injury during which a plaintiff may bring a Section 1983 action serves several important purposes, including to protect defendants. Both an adjudicator's truth-finding capabilities and a defendant's ability to defend herself are compromised when

a claim "is allowed to slumber until evidence has been lost, memories have faded, and witnesses have disappeared." *Burnett v. New York Cent. R. Co.*, 380 U.S. 424, 428 (1965). This Court has recognized moreover that "even wrongdoers are entitled to assume that their sins may be forgotten" eventually. *Wilson,* 471 U.S. at 271.

The question thus remains, if applying unconstitutional state law personal injury statutes of limitation to Section 1983 claims is inconsistent with the federal interests, how should courts instead guard against stale Section 1983 claims? The Petitioners argue they should look to Section 1658, the four-year federal catch-all statute of limitations that Congress enacted in 1990 to prospectively govern new federal causes of actions that, like Section 1983, do not prescribe an express limitation period. This approach could resolve many of the problems discussed above, but *amici* respectfully submit that statutes of limitation are not the best or only option. In light of the unique federal interests involved in Section 1983 claims, along with uncertain statutes of limitations, the Court may look to solutions adopted by other areas of law. Indeed, federal courts have taken a different tack in an area of federal law that, since the earliest days of American history, has required them to assess repeatedly the timeliness of federal claims without specified limitations periods: maritime law.

Article III, Section 2 of the Constitution provides that the federal "judicial Power shall extend . . . to all Cases of admiralty and maritime Jurisdiction"; moreover, "the Judiciary Act of 1789, which established the District

Courts, declare[d] that they shall have 'exclusive original cognizance of all civil causes of admiralty and maritime jurisdiction." *New England Mut. Marine Ins. Co. v. Dunham*, 78 U.S. 1, 3, 20 L. Ed. 90 (1870). In addition, "[t]he equitable doctrine of laches has immemorially been applied to admiralty claims to determine whether they have been timely filed." *DeSilvio v. Prudential Lines, Inc.*, 701 F.2d 13, 15 (2d Cir. 1983). This includes statutory maritime claims in which Congress has not specified a statute of limitations. *See, e.g.*, *Gamma-10 Plastics, Inc. v. Am. President Lines, Ltd.*, 32 F.3d 1244, 1249 (8th Cir. 1994) (noting claims for damage to cargo under the Harter Act are subject to laches because the Act contains no statute of limitations).

Under the maritime version of the doctrine,[9] "the existence of laches is a question primarily addressed to the

[9] "Admiralty's application of the doctrine of laches in lieu of statutes of limitations is traceable to proceedings in equity, in which statutes of limitation had no application, and where the judicially created doctrine of laches required the court to weigh the reasons for prejudicial delay." *Puerto Rico Ports Auth. v. Umpierre-Solares*, 456 F.3d 220, 227 (1st Cir. 2006) (alterations omitted) (quoting Alan L. Adlestein, *Conflict of the Criminal Statute of Limitations with Lesser Offenses at Trial,* 37 Wm. & Mary L. Rev. 199, 257 n. 249 (1995)). Admiralty is of course not the only context in which state and federal courts have applied laches, but several aspects of the maritime version of the doctrine make it unique. For example, unlike in other federal contexts, in which laches is a valid defense only to claims for equitable relief, federal courts have traditionally applied laches to determine the timeliness of *all* maritime claims for which there is not a legislatively set statute of limitations, including those seeking monetary damages. *Compare, e.g., Petrella v. Metro-Goldwyn-Mayer, Inc.*, 572 U.S. 663, 678 (2014) ("[T]his Court has cautioned against invoking laches to bar legal relief.") *with Gutierrez v. Waterman S. S. Corp.*, 373 U.S. 206, 207 (1963) (conducting a laches

discretion of the trial court," and it "is not [] determined merely by a reference to and a mechanical application of the statute of limitations." *Gardner v. Panama R. Co.*, 342 U.S. 29, 31 (1951). Rather, the court considers "[t]he equities of the parties," including such factors as whether the plaintiff has slept on his rights and whether the defendant would be prejudiced (such as by the inability to obtain documents or locate witnesses) if the action were allowed to proceed. *Id.*

To be sure, admiralty courts may consider whether an analogous statute of limitations exists when making the determination of whether a plaintiff (or "libeler," in the admiralty parlance) unreasonably delayed in filing her complaint (or "libel"). *Id.* But an analogous statute is just one factor the court considers "as a rule-of-thumb" when weighing the equities. *Larios v. Victory Carriers, Inc.*, 316 F.2d 63, 66 (2nd Cir. 1963) (noting there is no formal evidentiary presumption of prejudice from the running of an analogous statute of limitations). If the plaintiff's claim has been filed after the running of the analogous statute, the plaintiff is given an opportunity to prove that the delay was nonetheless reasonable and imposes no prejudice on the defendant. "Where there has been no inexcusable delay in seeking a remedy and where no prejudice to the defendant has ensued from the mere passage of time, there should be no bar to relief." *Gardner*, 342 U.S. at 31.

Over time, the doctrine of laches in maritime has shown itself to be an invaluable tool in determining the timeliness of claims. Rather than following a hard-and-fast

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analysis to determine timeliness of maritime personal injury suit for monetary relief).

rule, laches commits to the trial court sufficient discretion to decide each case on its own unique facts. In this way, both plaintiffs and defendants have the opportunity to inform the court of any circumstances that they believe justify a deviation from the usual standard. "No other area of federal law seems more in need of this flexible doctrine than that of civil rights." Robert M. Jarvis and Judith Anne Jarvis, *The Continuing Problem of Statutes of Limitations in Section 1983 Cases: Is the Answer Out at Sea?*, 22 J. Marshall L. Rev. 285, 292 (1988).

This Court should grant certiorari to consider applying a similarly flexible timeliness standard to Section 1983 claims. The use of laches provides a federal jurisprudential model for such an approach, and the facts of this case demonstrate the reasons courts should be given leeway to consider the specific facts of a case in this context. Rather than looking to inapposite state statutes of limitations that were never intended by their enactors to apply to federal civil rights claims, federal judges could hear arguments from both sides as to why the claim is or is not stale, why it was not brought sooner, and why the defendant is prejudiced by the delay.

CONCLUSION

Amici curiae Professors Jarvis respectfully recommend that the Court grant the Wrights' Petition for Writ of Certiorari. A one-year state statute of limitations should not apply to an individual's Section 1983 federal claims. Bearing in mind the equity-based goals of the doctrine of laches as shown in maritime law, the Court

should also consider applying laches to determine an appropriate Section 1983 limitations period that is consistent with federal interests.

Respectfully submitted,

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