No. 25-808

In The Supreme Court of the United States

JAMES E. MCNAIR,
Petitioner,

v.

K. JOHNSON,
Respondent.

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

BRIEF IN OPPOSITION

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QUESTION PRESENTED

A unanimous panel of the Eleventh Circuit affirmed the dismissal without prejudice of a *pro se* inmate's Section 1983 complaint because the inmate violated the district court's local rule requiring him to disclose his litigation history, a rule that facilitates the court's screening of inmate complaints under the Prison Litigation Reform Act ("PLRA"), 28 U.S.C. §§ 1915(e)(2)(B), 1915A.

The question presented is:

Whether a federal district court performing its obligation to screen *pro se* prisoner complaints under the PLRA may invoke its inherent power to dismiss a complaint *without prejudice* for violations of court rules without first making a finding of "bad faith" by the prisoner.

PARTIES TO THE PROCEEDING

Petitioner James K. McNair (plaintiff-appellant below) is an inmate presently serving a life sentence in the custody of the Florida Department of Corrections.

Respondent K. Johnson (defendant-appellee below) is a healthcare provider at the prison at which Petitioner McNair is incarcerated.

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INTRODUCTION

Each year, federal district courts field tens of thousands of civil rights lawsuits filed by *pro se* prisoners. "Most of these cases have no merit; many are frivolous." *Jones v. Bock*, 549 U.S. 199, 203 (2007). Under the PLRA, district courts must screen prisoner suits that are (i) frivolous, meritless, fail to state a claim, or seek monetary relief against an immune defendant, or (ii) violate the "three strikes" rule. *See* 28 U.S.C. § 1915(e)(2)(B), (g); 28 U.S.C. § 1915A.

To facilitate efficient screening, district courts rely on local rules requiring prisoners to disclose prior lawsuits. Petitioner, a Florida inmate, violated one such court rule by failing to disclose two prior lawsuits when he sued a nurse practitioner for deliberate indifference to his alleged medical needs. A magistrate judge recommended dismissal of the complaint without prejudice, citing both the PLRA's screening provisions and the court's inherent power to sanction litigants for abusing the judicial process. A district judge adopted the recommendation, citing only the PLRA. The Eleventh Circuit affirmed, relying only on the district court's "inherent authority to manage its docket and enforce local rules." Pet. App. 12a. No court applied a "bad faith" analysis to the dismissal *without prejudice* sanction.

Petitioner invites this Court to take his case to resolve a broader debate over the use of inherent power to sanction counsel and litigants in ordinary civil ligation. But Petitioner's case arises in a vastly different context—minor sanctions for *pro se* prisoners—than the cases on which he stakes his circuit split. That context is key to assessing both the

existence of a split and the correct application of the inherent power to sanction abusive litigants. "While this Court decides questions of public importance, it decides them in the context of meaningful litigation." *The Monrosa v. Carbon Black Exp., Inc.*, 359 U.S. 180, 184 (1959). In this unique context, well-known for its volume of frivolous and abusive litigation, federal courts exercising inherent power—including this Court—have employed minor sanctions to curb abusive litigation and penalize rule violations without a "bad faith" finding.

The Eleventh Circuit's decision is consistent with that historic use of inherent power, a power that "extends to a full range of litigation abuses" and gives federal courts "the ability to fashion an appropriate sanction for conduct which abuses the judicial process." *Chambers v. NASCO, Inc.*, 501 U.S. 32, 44–46 (1991). There is no reason to overturn the decision or upset that historic practice. The petition should be denied.

STATEMENT OF THE CASE

Petitioner premises his circuit split on ordinary civil litigation, most of which involves either represented cases or significant sanctions. *E.g.*, *Nat'l Oilwell Varco, L.P. v. Auto-Dril, Inc.*, 68 F.4th 206, 219–20 (5th Cir. 2023) (patent litigation; dismissal with prejudice of breach-of-contract claim for $246,931.50 plus attorneys' fees for "fraud on the court");[1] *Fuery v. City of Chicago*, 900 F.3d 450, 454

[1] The value of the claim was noted in the district court opinion. *Nat'l Oilwell Varco, L.P. v. Auto-Dril, Inc.*, No.

(7th Cir. 2018) (affirming sanction of "overturning a jury verdict and entering judgment in favor of the non-prevailing party"). Abuse of the judicial process is rare in ordinary civil cases because the financial stakes are high.

Petitioner's case arises in a different category of litigation—*pro se* prisoner suits—that this Court, Congress, and every court of appeals has identified as a primary source of abuse and frivolity in the federal court system. It is also a category in which modest sanctions, typically for violations of court rules, are most common because indigent prisoners are not dissuaded by monetary penalties. That context is important when deciding whether or how to limit a district court's "ability to fashion an appropriation sanction for conduct which abuses the judicial process." *Chambers*, 501 U.S. at 44–45.

I. Legal Background

Every year, prisoners file over 30,000 federal suits challenging prison conditions or claiming civil rights violations. Administrative Office of the United States Courts, Data & News, Table C-2 (Dec. 31, 2025). These prisoner suits make up roughly 10% of the federal civil docket. *See id.*; *see also Jones*, 549 U.S. at 203 (noting similar data in 2005). "Most of these cases have no merit; many are frivolous." *Jones*, 549 U.S. at 203. Even so, federal courts must ensure that prisoner suits are fairly handled. "The challenge lies in ensuring that the flood of nonmeritorious

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5:15-CV-00027-RWS, 2021 WL 4219280, *3 (E.D. Tex. Aug. 24, 2021), *rev'd and remanded*, 68 F.4th 206 (5th Cir. 2023).

claims does not submerge and effectively preclude consideration of the allegations with merit." *Id.*

In 1996, responding to a "sharp rise in prisoner litigation," Congress enacted the PLRA "to bring this litigation under control." *Woodford v. Ngo*, 548 U.S. 81, 84 (2006). The PLRA requires district courts to screen prisoner complaints "'before docketing, if feasible, or, . . . as soon as practicable after docketing,' and dismiss the complaint if it is 'frivolous, malicious, . . . fails to state a claim upon which relief may be granted[,] or . . . seeks monetary relief from a defendant who is immune from such relief.' " *Jones*, 549 U.S. at 213 (quoting 28 U.S.C. §§ 1915A(a), (b)). In addition, district courts must deny *in forma pauperis* status to any prisoner who has accumulated "three strikes" for filing previous suits or appeals that were dismissed as "frivolous, malicious, or fail[ing] to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury." 28 U.S.C. § 1915(g).

Before Congress provided statutory authority for controlling abusive prisoner litigation, federal courts relied on their inherent powers to curb frivolous filings and sanction abusive litigants. As the Second Circuit noted when enjoining further filings by an abusive prisoner litigant, "[f]ederal courts have both the inherent power and the constitutional obligation to protect their jurisdiction from conduct which impairs their ability to carry out Article III functions." *In re Martin-Trigona*, 737 F.2d 1254, 1261 (2d Cir. 1984).

The inherent-authority sanctions imposed by federal courts were typically modest—a small fine or

a prohibition on future filings without first obtaining court permission. *E.g.*, *Alexander v. United States*, 121 F.3d 312, 316 (7th Cir. 1997); *Gelabert v. Lynaugh*, 894 F.2d 746, 748 (5th Cir. 1990); *Abdullah v. Gatto*, 773 F.2d 487, 488 (2d Cir. 1985). As the Fifth Circuit explained when affirming a $10 sanction and filing ban, "such sanctions as this are imposed for the very purpose of causing the would-be *pro se* prisoner litigant, with time on his hands and a disposition to retaliate against the system, to think twice before cluttering our dockets with frivolous or philosophical litigation." *Gelabert*, 894 F.2d at 748.

This Court, too, has employed the relatively minor sanction of forbidding *pro se* litigants who file repetitious or frivolous writs that drain court resources from proceeding *in forma pauperis* in future cases. *E.g.*, *In re McDonald*, 489 U.S. 180, 184-85 (1989). In doing so, this Court cited orders from several circuit courts employing similar sanctions against abusive *pro se* prisoner litigants. *Id.* at 184 n.8. None of these cases suggested that a finding of "bad faith" was required before a court could exercise its inherent power to curb abusive prisoner litigation. *See id.* at 184–85; *Gelabert*, 894 F.2d at 748; *Abdullah*, 773 F.2d at 488.

Since the PLRA's enactment in 1996, federal courts have relied on its statutory controls to dismiss frivolous or malicious prisoner litigation without express findings of "bad faith." *E.g.*, *Shakouri v. Davis*, 923 F.3d 407, 410–11 (5th Cir. 2019) (affirming dismissal of "malicious" suit without analysis of bad faith); *Morrell v. Georgia*, No. 22-12622-A, 2023 WL 5051186, at *1 (11th Cir. Feb. 27, 2023) (affirming dismissal of suit as "malicious" where plaintiff

misrepresented litigation history on form complaint and signed it under penalty of perjury).

There is no tradition of requiring a bad faith finding before imposing modest sanctions to deter abusive suits or conduct by *pro se* prisoners, whether acting under the PLRA or a court's inherent powers.

II. Factual and Procedural Background

James McNair is a convicted felon serving a life sentence in the custody of the Florida Department of Corrections ("FDOC"). Pet. 3. According to McNair, he suffers from certain ailments, including a coughing condition called sarcoidosis. Pet. App. 39a.

In November 2023, McNair sued Respondent Johnson—a nurse practitioner at the facility where he was held—in the United States District Court for the Northern District of Florida. Pet. App. 36a–52a. He alleged violations of his Eighth Amendment rights arising out of Johnson's alleged failure to prescribe prednisone for his coughing condition. Pet. App. 45a.

Like most other district courts, the district court for the Northern District of Florida has implemented local rules requiring that *pro se* inmates like McNair truthfully disclose their prior litigation history on a form complaint. N.D. Fla. R. 5.7(A).[2] This

[2] Both before and after the PLRA was enacted, federal district courts relied on local rules and form complaints to help facilitate meaningful review of prisoner lawsuits. *See* Richard H. Frankel and Alistair E. Newbern, *Prisoners and Pleading*, 94 Wash. U. L. Rev. 899 (2017). The first form complaint was developed in the early 1970s by a committee of federal judges. *Id.* at 907–08. "By 1993, more than half the federal district courts had adopted a version

mandated disclosure enables the district court to "screen" the complaint for compliance with the PLRA. The form utilized by McNair specifically required him to "disclose all prior state and federal cases—including but not limited to civil cases, habeas cases, and appeals" or risk "dismissal of this case." Pet. App. 26a (emphasis removed). And if that admonition was not clear enough, the form went on to ask him whether he had "filed any other lawsuit in ***state or federal court*** either challenging your conviction or relating to the conditions of your confinement." *Id.* (emphasis in original).

McNair did not do that. In reviewing McNair's petition, the magistrate judge determined that McNair had omitted at least two prior cases that should have been listed. Pet. App. 27a. The magistrate judge, cognizant of the potential for "widespread abuse from its many prisoner litigants" were they to avoid the form complaint's requirements in such fashion, determined that McNair's omissions merited the sanction of dismissal without prejudice. Pet. App. 27a–28a. He recommended that sanction to the district court, grounding the court's authority to issue it in both the text of the PLRA and the court's inherent power to manage its docket. Pet. App. 23a–24a, 28a (citing, *inter alia*, *Link v. Wabash R. Co.*, 370 U.S. 626, 631 (1962)).

McNair objected to that recommendation but conceded he had neglected to identify at least one of the two matters. Pet. App. 20a. Relying in part on that

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of it." *Id.* at 912. By 2017, nearly 98% of all federal districts (92 of the 94 districts) used form complaints for pro se prisoner suits. *Id.*

concession, the district court adopted the magistrate judge's recommendation to dismiss the case without prejudice. Like the magistrate judge, the district court emphasized that "[r]eliable disclosures" of past litigation history were "essential for an efficient and effective screening of the large number of *pro se* prisoner complaints received by the [c]ourt" and that district courts must employ *some* sanction to combat noncompliance with the form complaint's disclosure requirements or risk *pro se* bedlam. Pet. App. 20a–21a. Without discussion of its inherent powers, the district court then dismissed the lawsuit under 28 U.S.C. § 1915(e)(2)(B)(i) as "malicious." Pet. App. 21a.

The Eleventh Circuit affirmed the dismissal. Pet. App. 1a–18a. Rather than locate the district court's authority to do so in the PLRA, though, the appellate court focused its analysis on the trial court's authority to adopt and enforce local rules governing the administration of its affairs. Pet App. 9a. It further explained that even *pro se* inmates must comply with duly-enacted local rules. Pet. App. 9a–10a. Because the district court's local rules clearly warned McNair of the consequences of an inadequate disclosure of his prior litigation history, the Eleventh Circuit concluded that the district court's dismissal was proper. Pet App. 11a–12a. The district court had reasonably exercised its inherent powers by imposing the modest sanction of a nonprejudicial dismissal, which differed in kind from the "more draconian sanction" of a dismissal with prejudice, and was an appropriate sanction to ensure compliance with its rules. Pet. App. 12a & n.4.

Two judges wrote separately to explain the interplay of the majority opinion with the certain

features of the PLRA. Judge Newsom highlighted the importance of a district court's inherent "tools" to "address prisoners' litigation misconduct, whether the result of bad faith or otherwise" but offered his view that McNair's complaint itself—not his failure to accurately disclose prior litigation history—must be malicious to merit dismissal under the PLRA. Pet. App. 13a–14a. Judge Brasher, too, underscored that the district court's dismissal was a proper exercise of its inherent powers, but focused his attention on McNair's concerns about receiving a "strike" under the PLRA. Pet. App. 15a–18a. As Judge Brasher explained, the nonprejudicial dismissal of McNair's complaint could not be declared a "strike" in this proceeding; that determination must be left for another court in a subsequent suit by McNair. *Id.*

McNair could have refiled his civil rights suit, complied with the district court's rules, and obtained a decision on the merits of his claims.[3] Instead, he unsuccessfully sought rehearing and rehearing en banc. Pet. App. 30a. This petition followed, and the Court subsequently solicited Respondent Johnson's response to the petition.

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[3] Judge Brasher's separate opinion explains that the dismissal without prejudice was not necessarily a "strike" under the PLRA, did not affect McNair's *in forma pauperis* status, and may never have any adverse impact on him at all. App. 15a–18a (Brasher, J., concurring).

REASONS FOR DENYING THE PETITION

The Court should deny the petition because, in this prisoner-litigation context, there is not a clear, well-developed circuit split over the use of inherent power to sanction *pro se* litigants. While Petitioner has identified an abstract dispute over the use of inherent power to impose sanctions in ordinary civil litigation, the courts of appeals appear to agree that *pro se* prisoners can be subject to minor sanctions for abusive lawsuits and violations of court rules without a finding of bad faith.

The Eleventh Circuit's decision to affirm dismissal of Petitioner's case without prejudice for violating a rule applicable only to *pro se* prisoners is hyper-contextual and bound up in the practical realities of screening prisoner suits that flood federal courts. Petitioner's concerns about the exercise of inherent authority in ordinary civil cases, vastly different from his, can be resolved "when the issue is posed less abstractly." *The Monrosa*, 359 U.S. at 184 (dismissing writ of certiorari as improvidently granted).

Moreover, the Eleventh Circuit's recognition of an inherent power to impose minor sanctions on *pro se* prisoners without a bad-faith finding is undoubtedly right. If the PLRA's plain text does not address the misconduct at issue, as the Eleventh Circuit implied here, then surely a district court may invoke its inherent power to sanction the misconduct in furtherance of "the orderly and expeditious disposition of cases." Pet. App. 7a. (quoting *Equity Lifestyle Props., Inc. v. Fla. Mowing and Landscape Serv., Inc.*, 556 F.3d 1232, 1240 (11th Cir. 2009)).

Nothing about the Eleventh Circuit's decision or the district court's dismissal suggests a rash or unrestrained use of inherent power. Imposing a "bad faith" requirement in this context would prevent effective screening and deprive district courts of an important inherent power to reprimand *pro se* prisoner litigants for plain violations of court rules, unless district courts first expend even more judicial resources to determine whether the prisoner was acting in good or bad faith.

I. There is not a clear circuit split on the use of inherent powers in the context of *pro se* prisoner litigation.

Petitioner proposes using this *pro se* prisoner case to resolve an abstract question that was not meaningfully addressed below: Whether federal courts have the inherent authority to sanction civil litigants and their attorneys without first finding "bad faith" conduct. Petitioner identifies what appears to be a divergence of opinion amongst the courts of appeals on that broad issue in ordinary civil lawsuits—especially when courts impose serious monetary sanctions or case-dispositive sanctions like prejudicial dismissals or judgments. *See* Pet. at 10–19.

Pertinent here, Petitioner asserts that the Fifth, Seventh, D.C., and Second Circuits require a bad faith finding before a court employs its inherent powers in civil actions, while other Circuits either do not require such a finding or are less consistent in requiring it. *See* Pet. at 11–14. But the district court's nonprejudicial dismissal in *this* case did not arise in a vacuum. It arose in the specific context of a *pro se*

prisoner's Section 1983 lawsuit for failure to follow a basic court rule. And it is far less clear that the Circuits are split on a district court's authority to fashion an appropriate sanction to ensure its rules are followed in *pro se* cases like this one.

Some background is important, though long-acknowledged in the caselaw and academic literature. Federal courts have been flooded with frivolous *pro se* inmate litigation for decades, *Jones*, 549 U.S. at 203, which is often a form of recreation for prisoners. "[P]ro se civil rights litigation has become a recreational activity for state prisoners, and prisoners have abused the judicial system in a manner that non-prisoners simply have not." *Carson v. Johnson*, 112 F.3d 818, 822 (5th Cir. 1997) (citation omitted); *accord Johnson v. Daley*, 339 F.3d 582, 592 (7th Cir. 2003) (en banc) ("For some prisoners, litigation is recreation. Although most free persons shun litigation, because they have many better ways to amuse themselves, prisoners may see a trip to court as a vacation."). As Justice Kennedy observed nearly thirty years ago, "many of these suits invoke our basic charter in support of claims which fall somewhere between the frivolous and the farcical and so foster disrespect for our laws." *Crawford-El v. Britton*, 523 U.S. 574, 601 (1998) (Kennedy, J., concurring).

Congress thought so, too. "To help staunch a 'flood of nonmeritorious' prisoner litigation, the [PLRA] established what has become known as the three-strikes rule." *Lomax v. Ortiz-Marquez*, 140 S. Ct. 1721, 1723 (2020) (quoting *Bock*, 549 U.S. at 203). "The 'three strikes' provision was 'designed to filter out the bad claims and facilitate consideration of the good.' " *Coleman v. Tollefson*, 575 U.S. 532, 539 (2015)

(quoting *Jones*, 549 U.S. at 204). Under that rule, district courts are statutorily obligated "to screen certain prisoner complaints 'as soon as practicable' and to dismiss any portion of the complaint that 'is frivolous, malicious, or fails to state a claim upon which relief may be granted.' " *Id.* (quoting 28 U.S.C. § 1915A). If a prisoner accumulates three or more dismissals on these grounds, the prisoner is barred from proceeding under the *in forma pauperis* statute. *See* 28 U.S.C. § 1915(g).

Despite these hurdles, "[p]risoner litigation continue[d] to 'account for an outsized share of filings' in federal district courts" in the mid-2000s. *Jones*, 549 U.S. at 203 (quoting *Woodford v. Ngo*, 548 U.S. 81, 95 n.4 (2006)). That reality persists today, with over 30,000 civil rights or "prison conditions" lawsuits filed by inmates in the year preceding March 31, 2025. *See supra*, at 3 (citing authority).

Both before and after the adoption of the PLRA, this persistently staggering volume of *pro se* inmate cases has required district courts to levy a variety of sanctions to tame their burgeoning dockets. These sanctions—which range from the nonprejudicial dismissal imposed in this case to minimal monetary sanctions to *in forma pauperis* filing bans—have been endorsed by numerous courts with little discussion of the source of the authority to impose them, and often without explicit findings of bad faith on behalf of the *pro se* litigant. These measures are plainly necessary "to achieve the orderly and expeditious disposition of cases" and thus are properly traced to a court's inherent powers. *Link.*, 370 U.S. at 630–31.

Chief among these cases is *In re McDonald*, in which this Court barred a former inmate from proceeding *in forma pauperis* as he continued to challenge a conviction he believed was wrongful. *See* 489 U.S. 180, 184-85 (1989). The Court emphasized that "paupers filing pro se petitions are not subject to the financial considerations—filing fees and attorney's fees—that deter other litigants from filing frivolous petitions." *Id.* at 185. And "[a] part of the Court's responsibility is to see that these resources are allocated in a way that promotes the interests of justice," *id.*, a responsibility that exists irrespective of the subjective intent of the sanctioned litigant. To be sure, the *pro se* litigant in *McDonald* had filed a staggering number of lawsuits, but nowhere did the Court make a finding of "bad faith" before it imposed its sanction. *See id.*

In the same vein as *McDonald*, the Eleventh Circuit has affirmed nonprejudicial dismissals of *pro se* cases for rules violations—inmate or otherwise—and concluded that "a dismissal without prejudice doesn't depend on a finding of bad faith, and can follow from unintentional or merely negligent conduct." Pet. App. 12a. n.4; *see also Snyder v. Formerly B 3 Grp., Inc.*, 2026 WL 613053, at *2 (11th Cir. Mar. 4, 2026) ("Based on its 'inherent authority' to manage its docket for the orderly and expeditious disposition of cases, the district court did not err when it denied Snyder leave to amend.") (citation omitted). As the court recognized below in this case, such a sanction is an appropriate method by which a district court can ensure compliance with its local rules, which "generally reflect the courts' traditional 'authority to manage their own affairs so as to achieve

the orderly and expeditious disposition of cases.' " Pet. App. 9a. (citation omitted).

While the Eleventh Circuit appears to be the first court to endorse the particular sanction of a nonprejudicial dismissal for violations of local rules meant to ensure an orderly and efficient screening process, even the Circuits identified by Petitioner as those *requiring* a bad-faith finding regularly approve sanctions on *pro se* litigants without discussion of bad faith. The Fifth Circuit, for instance, endorsed a $10 sanction and a filing ban on a *pro se* inmate without mentioning "bad faith." *See Gelabert*, 894 F.2d at 748. As that court explained, "such sanctions as this are imposed for the very purpose of causing the would-be pro se prisoner litigant, with time on his hands and a disposition to retaliate against the system, to think twice before cluttering our dockets with frivolous or philosophical litigation." *See id.* The minor sanction was, in part, a prospective resource-allocation measure meant to deter future frivolous filings and aid in efficient management of the court's docket; no bad faith was required for such a sanction. *See id.*

The Seventh Circuit has been even more emphatic that malintent need not be found before a court imposes a modest sanction against a *pro se* inmate. *See Alexander v. United States*, 121 F.3d 312, 316 (7th Cir. 1997) (Easterbrook, J.). This is because "[c]ourts have inherent powers to protect themselves from vexatious litigation," and "[a]lthough 'vexatiously' implies that sanctions usually depend on bad intent . . . an award also is appropriate when objectively unreasonable" conduct persists. *Id.* (citing

Chambers, 501 U.S. at 32).[4] As with the Fifth Circuit, the Seventh Circuit requires something less than bad faith if a court sanctions a party in furtherance of its interest in protecting its limited judicial resources. *See id.* [5]

The D.C. Circuit, while faced with fewer *pro se* inmate cases than its sister Circuits, has nonetheless barred a *pro se* inmate from proceeding *in forma pauperis* based only on the number of lawsuits filed by the litigant, with no finding of bad faith required. *See Butler v. Dep't of Just.*, 492 F.3d 440, 446 (D.C. Cir. 2007), *holding modified by Mitchell v. Fed.*

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[4] The Seventh Circuit has also suggested that the appropriateness of "a civil order requiring counsel to reimburse one's adversary, and the judicial system, for the expenses to which that delict lead" for a "[n]egligent failure to be present when the jury returns." *United States v. Mottweiler*, 82 F.3d 769, 772 (7th Cir. 1996) (Easterbrook, J.); *see also Marrocco v. Gen. Motors Corp.*, 966 F.2d 220, 224 (7th Cir. 1992) ("There is no legal basis for Goodyear's claim that sanctions should be limited solely to situations where the non-compliance is willful or deliberate."). As Judge Easterbrook explained, "[c]osts should fall on those whose carelessness creates them, the better to induce people to take care." *Mottweiler*, 82 F.3d at 772. This non-*pro se* holding further refutes the existence of a well-developed circuit split.

[5] Petitioner's own cases also cast some doubt as to whether the Seventh Circuit *always* requires a finding of bad faith before imposing sanctions. *Fuery v. City of Chicago*, 900 F.3d 450, 463 (7th Cir. 2018) (quoting *Tucker v. Williams*, 682 F.3d 654, 662 (7th Cir. 2012) ("The court must first make a finding of 'bad faith, designed to obstruct the judicial process, *or a violation of a court order*.' ") (emphasis added).

Bureau of Prisons, 587 F.3d 415 (D.C. Cir. 2009). It has also relied on similar docket-management rationales to stem the tide of meritless *pro se* lawsuits from the un-incarcerated. *See Urban v. United Nations*, 768 F.2d 1497, 1500 (D.C. Cir. 1985). And at least one district court in that circuit, citing its inherent powers, has imposed a *sua sponte*, prejudicial dismissal against a *pro se* litigant for filing lawsuits "absolutely bereft of merit but . . . filed as a result of frivolity, maliciousness *or irrational and unintelligible perceptions*." *Tate v. Burke*, 131 F.R.D. 363, 364 (D.D.C. 1990) (emphasis added).

Finally, the Second Circuit has approved a district court's imposition of a filing ban on a *pro se* prisoner who filed a number of "meritless" lawsuits. *See Abdullah v. Gatto*, 773 F.2d 487, 488 (2d Cir. 1985) (per curiam).[6] The court emphasized that "[a] district court not only may but should protect its ability to carry out its constitutional functions against the threat of onerous, multiplicitous, and baseless litigation." *Id.* Once more, reference to "bad faith" is conspicuously absent from the court's analysis. *Id.*

In sum, the Circuits identified by Petitioner as supporting his position do not appear to require specific findings of "bad faith" in *pro se* prisoner cases. When viewed in the appropriate context, then, Petitioner's claimed circuit split is far less apparent.

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[6] Petitioner asserts that the Second Circuit requires a finding of bad faith prior to imposition of an inherent-power sanction. The caselaw from that Circuit paints a more nuanced picture. *See, e.g.*, *In re Markus*, 78 F.4th 554, 565 (2d Cir. 2023) ("[A] court need not always find bad faith before sanctioning pursuant to its inherent powers.").

While there may indeed be a ten-thousand foot disagreement between the Circuits regarding the necessity of bad faith for inherent-power sanctions in counseled civil litigation, that disagreement fades when the Court zooms in on *pro se* prisoner cases like this one, where flexibility must necessarily be—and is—the rule of the Circuits.

The petition should be denied.

II. This PLRA case is a bad vehicle to resolve general questions about inherent powers.

Even if the Court is sympathetic to Petitioner's identification of a more generalized circuit split, this PLRA case is not the right vehicle to resolve it for a number of reasons.

For one, the Eleventh Circuit's affirmance of the nonprejudicial dismissal sanction for violation of a district court's screening rule under the inherent power, rather than the PLRA's textual basis for dismissal in such circumstances, appears to be a first. As the court recognized, "the parties' briefing here focused on the PLRA," Pet. App. 8a, but the court elected to affirm on another ground supported by the record without addressing the PLRA arguments that were central to the appeal, *id.* at 11a-12a. As least one member of the panel, Judge Newsom, found no textual authority (under the PLRA) for dismissing a suit for McNair's particular violation of a local rule. Pet. App. 13a-14a (Newsom, J., concurring). That authority to impose a nonprejudicial dismissal "to manage its docket and enforce the local rules," however, was among the district court's inherent powers. Pet. App. 12a. (panel opinion).

Given the pervasiveness of such local rules and the flood of prisoner litigation they are adopted to address, decisions agreeing or disagreeing with the Eleventh Circuit's approach are sure to come, clarifying the Eleventh Circuit's otherwise novel approval of a nonprejudicial dismissal for a *pro se* inmate's failure to comply with a district court's local rules. Until "substantial percolation in the courts of appeals" has occurred, this Court should refrain from weighing in simply because Petitioner has identified an abstract circuit split on a much broader inherent powers issue. *See Martin v. United States*, 605 U.S. 395, 417 (2025) (Sotomayor, J., concurring).

The PLRA context also counsels against taking up this case to resolve a broader circuit split on a bigger question. There can be little doubt that the unique screening burdens placed on district courts by that statutory scheme necessitate a fashioning of inherent-powers sanctions that differ from the sanctions used in other civil litigation. *See United States v. Lopez-Matias*, 522 F.3d 150, 154 n.8 (1st Cir. 2008) (noting that "the inherent power, too, must be exercised in the larger context of law as a whole."). Better to await a case involving the use of inherent power to impose a severe sanction in ordinary civil litigation, rather than upset the flexibility necessary to a district court's handling pro se prisoner cases.

And it is not clear that resolution of *this* case would (or should) change the lower courts' approach to sanctions in the PLRA and pro-se prisoner context. Courts, including the Eleventh Circuit, may simply revert to the PLRA's screening provision as a basis for confronting an inmate's failure to comply with the local rules requiring disclosure of litigation history.

See, e.g., *Morrell v. Georgia*, No. 22-12622-A, 2023 WL 5051186, at *1 (11th Cir. Feb. 27, 2023) ("An action is malicious when a prisoner misrepresents his prior litigation history on a complaint form requiring disclosure of such history and signs the complaint under penalty of perjury."); *Allen v. Santiago*, No. 22-11946, 2023 WL 5745494, at *1 (11th Cir. Sept. 6, 2023) (same); *see also Hudson v. Fuller*, 59 F. App'x 855, 856–57 (7th Cir. 2003) (affirming prejudicial dismissal where "court concluded that [inmate] intentionally had misrepresented his litigation history, and so labeled the suit 'malicious.' "). Or district courts might dilute the meaning of "bad faith" when applying the standard to staunch a flood of *pro se* prisoner litigation.

In any event, this modest sanction—nonprejudicial dismissal of a *pro se* litigant's Section 1983 suit, which indisputably could have been refiled—is not the right vehicle for pronouncement of a rule to govern more serious sanctions or sanctions that contravene longstanding common law rules, such as the "American Rule" that prohibits fee-shifting. *Chambers* illustrates the point. The district court there had levied nearly a million dollars in attorneys' fees and costs as a sanction for a party's litigation conduct leading up to and through trial. *See* 501 U.S. at 38–40. This case, by contrast, was dismissed before it left the starting gate for Petitioner's admitted violation of the district court's local rules. It would not be before this Court had Petitioner simply refiled his lawsuit with a truthful, fulsome disclosure of his litigation history.

III. The Eleventh Circuit's decision is correct and consistent with this Court's inherent-powers precedent.

The Eleventh Circuit's holding that federal courts may exercise their inherent power to impose modest sanctions—*e.g.*, a dismissal *without prejudice*—on a *pro se* prisoner litigant who abuses the judicial process is correct under either line of precedent, *In re McDonald* or *Link* and *Chambers*. Both lines require restraint, and both accord a court the flexibility to craft an appropriate sanction for the particular misconduct at issue. Neither line of authority requires a "bad faith" finding for the type of modest sanction imposed in this case.

A. The decision is consistent with *In re McDonald*'s recognition of an inherent power to sanction a prisoner's abuse of the judicial process.

Begin with *In re McDonald* and the *pro se* prisoner cases. This Court and the lower federal courts have long recognized an inherent power to sanction *pro se* prisoners who abuse the judicial process, violate court rules, and drain court resources with repetitious or frivolous filings. *See supra*, at 5, 14 (discussing *In re McDonald*, 489 U.S. at 184–85 and other authorities). Those sanctions are mostly modest and usually take the form of a small fine, a ban on further filings without court permission, revocation of IFP status, or dismissal without prejudice. A bad-faith finding is not a prerequisite to imposing these sanctions.

The district court's sanction against Petitioner fits comfortably within that inherent power.

Petitioner, a *pro se* prisoner, violated an express court rule requiring disclosure of prior suits, the purpose of which is to facilitate efficient screening of prisoner complaints. That admitted rule violation misled the court, complicated the screening process, diverted resources away from other cases, and—if not sanctioned in some way—could lead other prisoners to evade the court's rules. *See* Pet. App. 20a–21a, 27a–28a. For that abuse of the judicial process, the district court elected to dismiss the complaint *without* prejudice, a modest sanction that is consistent with historic inherent power sanctioning practice in the prisoner-litigation context.

B. The decision is consistent with *Link*, *Chambers*, and this Court's application of the inherent sanctions power in ordinary civil litigation.

Even if analyzed under this Court's inherent-power precedent in ordinary civil litigation, the Eleventh Circuit's decision is correct.

Federal courts possess the inherent power "to manage their own affairs so as to achieve the orderly and expeditious disposition of cases." *Link*, 370 U.S. at 630–31. This inherent power is "necessary to the exercise of all others" possessed by the judiciary. *Chambers*, 501 U.S. at 43. It "extends to a full range of litigation abuses"—from imposing courtroom decorum and disciplining attorneys to investigating fraud and holding parties in contempt for disobeying orders to dismissing cases for failure to prosecute and awarding attorneys' fees. *Id.* at 43–46.

Two overarching principles guide this inherent power: restraint and discretion. *Id.* at 44; *see also*

Roadway Exp., Inc. v. Piper, 447 U.S. 752, 764 (1980). "Because of their very potency, inherent powers must be exercised with restraint and discretion." *Chambers*, 501 U.S. at 44. "A primary aspect of that discretion is the ability to fashion an appropriate sanction for conduct which abuses the judicial process." *Id.* at 44–45. Not all abuses are equal, so not all sanctions need be equal. Under these principles, some inherent-power sanctions—such as fee-shifting in contravention of the "American Rule"—may require "bad-faith conduct or willful disobedience of a court's orders." *Id.* at 46–47. Other sanctions, however, would not require a bad-faith finding. *See Link*, 370 U.S. at 630–31; *Chambers*, 501 U.S. at 58–59 (Scalia, J., dissenting); *In re Charbono*, 790 F.3d 80, 87–88 (1st Cir. 2015); *Mottweiler*, 82 F.3d at 772.

The sanction imposed in this case comports with *Link* and *Chambers*, neither of which require a bad-faith finding to dismiss a case *without* prejudice for abuse of the judicial process. The emphasis on bad faith in *Chambers* and *Roadway Express* was a product of the unique fee-shifting sanction imposed in those cases, which contravened the foundational "American Rule" applied by federal courts since 1796. *See Chambers*, 501 U.S. at 45–46 (citing *Alyeska Pipeline Serv. Co. v. Wilderness Soc'y*, 421 U.S. 240, 258–59 (1975)); *Roadway Express*, 447 U.S. at 765–66 (same). By contrast, *Link*'s sanction of dismissal with prejudice for failure to prosecute did not require a bad-faith finding, 370 U.S. at 633–35, even though "assessment of counsel fees is a less severe sanction than outright dismissal," *Roadway Express*, 447 U.S. at 765. *Link*'s dismissal sanction did not contravene any venerable rules, but was itself an inherent-power

"of ancient origin, having its roots in judgments of nonsuit and non prosequitur entered at common law and dismissals for want of prosecution of bills in equity." 370 U.S. at 630 (citing William Blackstone, 3 Commentaries *295–96, *451 (1768)).

Dismissing Petitioner's case *without* prejudice for disobeying court rules and abusing the judicial process complies with this Court's precedent.

First, it was a restrained sanction that did not prejudice McNair in any significant way. He could have simply refiled his suit, complied with the court's rules, and litigated his claim on the merits. As Judge Brasher explained, the dismissal without prejudice was not necessarily a "strike" under the PLRA, did not affect McNair's *in forma pauperis* status, and may never have any adverse impact on him at all. App. 15a–18a (Brasher, J., concurring).

Second, it was an "appropriate sanction" for the particular abuse of judicial process presented by McNair's conduct. *Chambers*, 501 U.S. at 44–45. As the district court explained: (i) the rule requiring accurate disclosures was clear and McNair's violation of the rule was undisputed; (ii) reliable disclosures were essential to the court's efficient screening of the large number of *pro se* prisoner suits; and (iii) a sanction was necessary to compel respect for the rule and discourage attempts by McNair and other prisoners to evade it. Pet. App. 27a–28a, 20a–21a. As the magistrate judge noted: "[I]f word spread around the prisons that the questions in the form could be circumvented in such a manner, the court might be faced with widespread abuse from its many prisoner litigants." Pet. App. 28a. Both the district judge and

magistrate judge found that dismissal without prejudice was an appropriate sanction for McNair's rule violation. Pet. App. 28a, 21a.

Under Petitioner's theory, district courts could not employ this modest sanction—or any inherent-power sanction—to ensure compliance with court rules and discourage abuse of the judicial process unless they first delve into the motive for the misconduct. This would require more briefing, further scrutiny of the misconduct, and perhaps even a hearing to examine the person subject to sanctions. Such an in-depth inquiry may not even justify the judicial resources in many civil cases, much less the already resource-draining *pro se* prisoner docket.

Many abuses of the judicial process would go unsanctioned unless the district court can locate a statute or rule of civil procedure that covers the misconduct. This case proves the point. The Eleventh Circuit panel could not agree that the PLRA authorized dismissal of McNair's suit for a rule violation that hampered the screening process and could encourage other inmates to manipulate that process. But the judges were unanimous in finding that abuse of the judicial process sanctionable under a court's inherent power. If sanctioning that conduct under the court's inherent power required a bad-faith finding, the Eleventh Circuit would have been forced to remand the case and the district court would have been put to a choice: tolerate the rule violation or conduct a motive inquiry, which likely would require bringing McNair to court for a hearing and cross-examination. All this to impose a modest sanction on a *pro se* prisoner who had undeniably disobeyed a court rule.

Petitioner urges this Court to extend the bad-faith requirement to all exercises of inherent power because it would provide a "bright line between sanctionable and nonsanctionable conduct that inadvertence and negligence cannot." Pet. 23. But bright lines are difficult to draw (and hold) when applying equitable powers. Even when this Court has demarcated a "bad faith" line, its descriptions of sanctionable conduct leave ample room for discretion. *Roadway Express* approves a fee-shifting sanction when parties have "acted in bad faith, vexatiously, wantonly, or for oppressive reasons," are found in "willful disobedience of a court order," or "willfully abuse the judicial process." 447 U.S. at 766. *Chambers* adds to that cases in which "fraud has been practiced on [the court]," "the very temple of justice has been defiled," or a party "shows bad faith by delaying or disrupting the litigation by hampering enforcement of a court order." 501 U.S. at 45–46. These, like most descriptions of equitable power, leave much discretion to the judges who confront the misconduct and must fashion an appropriate sanction to deter it.

Finally, there is no reason to handcuff federal judges with a "bright" bad-faith line for all exercises of the inherent power to sanction litigants. This Court has required that all inherent-power sanctions reflect "restraint and discretion." *Chambers*, 501 U.S. at 44. That is sufficient guidance for lower courts. As shown in the Petition and this Opposition, judges across *all Circuits* are exercising discretion to fashion sanctions to meet the nature and level of misconduct, whether it is bad faith, negligence, abuse of the judicial process, or something else. And when district court sanctions are rash or disproportionate, the courts of

appeals are reversing those sanctions for abuse of that discretion. Imposing a bad-faith requirement on every undertaking of this inherently discretionary task would encourage parties to evade and undermine the process, rather than show respect for it.

CONCLUSION

This Court should deny the petition.

Respectfully submitted,

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