

No. 25-808

In the Supreme Court of the United States

JAMES E. MCNAIR, PETITIONER,

v.

K. JOHNSON.

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

REPLY BRIEF FOR PETITIONER

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Respondent attempts to reframe this case as a dispute about sanctions in the “unique context” of *pro se* prisoner litigation. Opp. 2. It is not. The decision below squarely holds that federal courts may impose sanctions under their inherent authority—including dismissal of an entire federal action—without any finding of bad faith and even for “unintentional or merely negligent conduct.” Opp. 14. That rule governs *all* federal litigation in the Eleventh Circuit, not just prisoner litigation. And it deepens a conceded (Opp. 11, 18), entrenched circuit conflict over a fundamental question of federal law: whether courts wield inherent sanctioning power untethered from a finding of bad faith. The Eleventh Circuit’s answer—no bad faith required, unintentional conduct suffices (Pet. App. 12a n.4)—directly conflicts with the rule applied in multiple other circuits, where comparable sanctions are impermissible absent bad faith.

Respondent’s effort to minimize the stakes fares no better. Dismissal without prejudice in the PLRA context is not a trivial consequence. A prisoner must still pay the full filing fee and, if he refiles, must typically pay again,

making the sanction here tantamount to a multi-hundred-dollar penalty imposed for an inadvertent error. More fundamentally, the decision below adopts a rule with no limiting principle: if unintentional conduct alone suffices, then every missed deadline, clerical mistake, or misunderstanding of a court form can justify sanctions under a court's inherent authority—even if it is a *reasonable* mistake. That result cannot be reconciled with this Court's repeated instruction that inherent powers are the exception, not the rule and must be exercised with restraint. *See Dietz v. Bouldin*, 579 U.S. 40, 48 (2016). This case cleanly presents the question, and after decades of an acknowledged division, it warrants this Court's review.

ARGUMENT

I. THE CIRCUIT SPLIT IS CONCEDED

Respondent concedes that the circuits are divided over whether a finding of bad faith is required before courts may impose inherent authority sanctions, explaining, “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.” Opp. 11, 17-18. There is: had this case arisen in one of the circuits that requires a finding of bad faith before the imposition of inherent authority sanctions, it would not have been dismissed.

Respondent nonetheless argues that the split is not implicated by this case 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.” Opp. 10. That argument fails for at least three reasons.¹

¹ Respondent asserts (at 4) that, before the PLRA, federal courts used their inherent authority to sanction *pro se* prisoner litigants even absent bad faith. She cites no authority for that proposition.

First, the rule the Eleventh Circuit announced has nothing to do with prisoner suits. The Eleventh Circuit announced a rule applicable to all civil litigation. The court held “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* Pet. App. 7a-8a (“A dismissal *without* prejudice . . . doesn’t require a finding of willfulness or bad faith.”). The Court nowhere mentioned petitioner’s status as a prisoner in reaching that holding; the supposedly “unique prisoner context” of this case was wholly irrelevant to the Eleventh Circuit’s holding about the power of federal courts to impose inherent authority sanctions.

Second, respondent does not identify any cases involving sanctions rules that apply only to *pro se* prisoners (or only to prisoner litigation). Respondent points to six court of appeals cases as proof that courts do not require a finding of bad faith to sanction prisoner litigants. Opp. 14-17. But every case respondent cites involved either bad faith or worse. All six involved litigants who flooded the courts with frivolous lawsuits.²

² *See In re McDonald*, 489 U.S. 180, 183-85 (1989) (per curiam) (sanction for “repetitious” “frivolous” filings amounting to “serious abuse[.]”); *Butler v. Dep’t of Just.*, 492 F.3d 440, 446-47 (D.C. Cir. 2007) (sanction for “prolific filer” who “abused the privilege to proceed IFP”); *Alexander v. United States*, 121 F.3d 312, 315-16 (7th Cir. 1997) (sanction for “vexatious” litigation conduct); *Gelabert v. Lynaugh*, 894 F.2d 746, 747-48 (5th Cir. 1990) (sanction for “frivolous litigant,” “vexatious and harassing”); *Abdullah v. Gatto*, 773 F.2d 487, 487-88 (2d Cir. 1985) (per curiam) (sanction for “abusing [the court’s] processes” through “multiplicity of . . . actions and their utter lack of merit”); *Urb. v. United Nations*, 768 F.2d 1497, 1499 (D.C. Cir. 1985) (sanction for “pro se litigant flooding the court with meritless, fanciful claims”). In at least some of these cases, the authority exercised appears to have been primarily rooted in statutes, like 28 U.S.C. § 1915. *See In re McDonald*, 489 U.S. at 183-85 (grounding its restriction on abusive filings in 28 U.S.C. § 1915).

Each court was thus well within its authority to determine that the litigant's persistent misconduct reflected bad faith or equivalently abusive litigation. These cases do not establish that courts apply special sanctions rules to *pro se* prisoner litigants.³

Third, even if respondent were correct that courts typically do not require “specific findings of ‘bad faith’ in *pro se* prisoner cases,” Opp. 17, that only makes the case *more* cert-worthy. As the petition extensively documented, and respondent does not dispute, several circuits have announced unqualified rules that inherent authority sanctions cannot be issued without a finding of bad faith. If circuits are nonetheless applying a different, unannounced rule to prisoners, or to *pro se* litigants, that only makes this Court's review that much more urgent.

II. THIS CASE IS AN IDEAL VEHICLE

This case is an ideal vehicle to resolve the question presented. The Eleventh Circuit expressly held that a district court may impose inherent-authority sanctions—including dismissal—without any finding of bad faith and even for “unintentional or merely negligent conduct.” Pet. App. 12a n.4. Respondent does not dispute that the challenged holding was the basis for affirmance and is fully dispositive, nor does she dispute that petitioner fully preserved his argument that a “bad faith” finding was required here. There are no factual disputes about petitioner's conduct, and the Eleventh Circuit did not find bad faith.

³ Respondent argues that the courts in these cases applied a standard lower than “bad faith” because the courts did not use the magic words “bad faith.” Opp. 15-16. But as *Chambers v. NASCO, Inc.*, 501 U.S. 32 (1991), makes clear, “bad faith” is a capacious concept that encompasses conduct undertaken “vexatiously, wantonly, or for oppressive reasons.” *Id.* at 45-46. Courts need not recite the precise words “bad faith” to find it.

A. The claim that this case is a “first” requiring further “percolation” (Opp. 18-19) rests on the mistaken premise that the case arises in a “unique context” unlike other civil sanctions cases. *See* p.3, *supra*. If anything, the Eleventh Circuit’s decision further entrenching this split is proof that this Court’s intervention is more necessary now than ever.

B. Nor does the case’s “PLRA context” make it a poor vehicle. *Contra* Opp. 19. The Eleventh Circuit dismissed this case based on a general rule governing the authority of federal courts to impose inherent authority sanctions. This case is as good as any to determine whether federal courts in fact lack that authority. Whether courts could instead opt to use the PLRA’s screening mechanisms rather than a vague recourse to “inherent authority” to impose the same sanctions (as Respondent suggests (at 19-20)) is beside the point. The Eleventh Circuit affirmed the sanction in *this* case squarely and unambiguously on the basis of the district court’s “inherent authority.” Pet. App. 12a. No other authority supports the judgment. To the extent courts might be tempted to “dilute” the bad-faith requirement, as Respondent suggests (at 20), that is an issue for a future case.

C. Respondent argues that the “modest sanction” here makes this case unrepresentative or inconsequential and thus a poor vehicle to decide “a broader circuit split on a bigger question.” Opp. 19-20. Respondent has it backwards. *Every* case where a court dispenses with the bad faith safeguard will have some case-specific justification that makes it supposedly unique. The court would say the consequences of the mistake were too significant to go unpunished; that the conduct falls into a seeming gap in the existing statutes and rules; or, as here, that the sanction is so modest and inconsequential as to excuse the requirement. But the bad faith requirement does not turn on the nature of the sanction—it is, rather,

a limit on the *court's power*. In this case, just like every other case where a court dispenses with bad faith requirement, the court overstepped its authority.

D. Respondent's implicit claim (at 20) that petitioner's case does not deserve review because petitioner should have refiled rather than appealed is also misguided. The sanction here is not trivial: dismissal imposes real costs, including hundreds of dollars in filing fees and significant, potentially case-jeopardizing delay. This Court should not require petitioner—an indigent, *pro se* prisoner—to handwrite an entirely new multipage complaint, try again to piece together his entire litigation history from imperfect prison records and limited resources, and incur hundreds of dollars in *new* filing fees (not to mention paying off the fee for filing the now-dismissed case) before this Court will resolve a fundamental question about the limits of judicial power.

A litigant is not required to accept an unlawful sanction rather than seek appellate review. The court of appeals entered a final judgment affirming dismissal based on an erroneous legal rule. That judgment is properly before this Court. The possibility of refiled does not eliminate the need to resolve the legal question that controlled the decision below and that is now controlling precedent in the Eleventh Circuit for all civil litigation in that circuit.

III. THE DECISION BELOW IS WRONG

A. The decision below cannot be reconciled with this Court's precedent governing the limited scope of inherent judicial power. As this Court has repeatedly explained, inherent authority is not a freestanding license to impose sanctions whenever a court deems it convenient. It is instead a narrow, carefully circumscribed power justified only by necessity and bounded by longstanding limits, including the requirement of bad faith. *See* Pet. 21-22.

Respondent's contrary position rests on a fundamental misunderstanding of those precedents. This Court has recognized that inherent authority may be used to sanction litigants who act "in bad faith, vexatiously, wantonly, or for oppressive reasons"—conduct that directly threatens the court's ability to function. *Chambers v. NASCO, Inc.*, 501 U.S. 32, 45-46 (1991). That limitation is not incidental; it is the mechanism that ensures that the exercise of a court's inherent authority remains tethered to its justification—protecting the integrity of the judicial process in exceptional cases.

The Eleventh Circuit's rule abandons that limiting principle. Under its approach, a federal court may dismiss an entire action as a sanction based on "unintentional or merely negligent conduct." Pet. App. 12a n.4. That rule transforms inherent authority into a generalized power to police litigation errors. But inadvertence and negligence do not threaten the court's institutional authority in a manner that justifies a resort to inherent power. Congress and the Federal Rules already provide tools to address such conduct.

B. Respondent's reliance on *In re McDonald*, *Link*, and *Chambers* is misplaced. None of these decisions hold that a court may impose sanctions under its inherent authority absent a finding of bad faith.

In re McDonald, 489 U.S. 180 (1989) (per curiam), did not involve inherent-authority sanctions at all. It was instead an exercise of the Court's discretion under 28 U.S.C. § 1915(a) to deny *in forma pauperis* status in light of abusive filings. That decision says nothing about the prerequisites for sanctions under a court's inherent powers, and it provides no barrier to this Court's review.

Link fares no better. Far from endorsing sanctions without bad faith, *Link v. Wabash Railroad Co.*, 370 U.S. 626 (1962), rested on a record that supported precisely such a finding. The Court emphasized that dismissal was justified only "under the circumstances of this case,"

which included a history of delay and the absence of any contrary explanation for counsel’s failure to appear—leaving “nothing in the record . . . to indicate that counsel’s failure . . . was other than deliberate or the product of neglect.” *Id.* at 635-36. The Court expressly declined to decide whether a single unexplained lapse (more akin to petitioner’s error here), standing alone, would suffice to justify dismissal. *Id.* at 634-35. *Link* thus involved conduct tantamount to deliberate bad faith; it does not authorize sanctions for mere negligence.

Finally, *Chambers*, 501 U.S. 32, cuts directly against Respondent. It reaffirms that fee-shifting under a court’s inherent authority is available only when a party has “acted in bad faith, vexatiously, wantonly, or for oppressive reasons.” *Id.* at 45-46. The Court made clear that this limitation is not optional but fundamental: inherent-power sanctions are justified precisely because they target abusive, bad-faith litigation conduct—not ordinary or even negligent behavior.

It does not “handcuff” courts to require them to exercise only those powers that have been lawfully conferred and traditionally recognized. *Contra* Opp. 26. This Court has repeatedly indicated that inherent authority is not a general license to impose sanctions whenever a court deems it useful; it is a narrow, exceptional power justified only by necessity. *See, e.g., Roadway Express, Inc. v. Piper*, 447 U.S. 752, 764 (1980). Limiting that power to cases involving bad faith does not constrain legitimate judicial authority—it merely preserves the boundary between inherent power and the ordinary tools Congress and the Federal Rules have supplied. As *amici* explain, inherent powers were historically “narrowly circumscribed” and invoked only when “indispensably necessary” to the exercise of judicial functions. Br. of Professors Robert J. Pushaw, Jr., et al. as *Amici Curiae* at 2-3.

The consequences of the Eleventh Circuit’s rule confirm its error. If negligence alone suffices to justify the imposition of an inherent-authorities sanction, there is no limiting principle. Every missed deadline, clerical error, or misunderstanding of a court form—regardless of how inconsequential—could justify dismissal under a court’s inherent authority. That result is incompatible with this Court’s repeated insistence that inherent powers are “the exception, not the rule,” *Chambers*, 501 U.S. at 64 (Kennedy, J., dissenting); *see also Dietz*, 579 U.S. at 48, and must be exercised with restraint, *see Dietz*, 579 U.S. at 48; *Young v. U.S. ex rel. Vuitton et Fils S.A.*, 481 U.S. 787, 819-20 (1987) (Scalia, J., concurring) (noting this court has ruled “against the existence of broad inherent powers in the federal courts,” and only those “powers ‘necessary to the exercise of all others,’ that is, necessary to permit the courts to function” should be recognized as inherent) (quoting *United States v. Hudson*, 11 U.S. (7 Cranch) 32, 34 (1812)). Without a bad-faith requirement, inherent authority becomes standardless and unpredictable, inviting arbitrary enforcement and undermining meaningful appellate review.

The better rule—and the one adopted by multiple circuits—is straightforward: inherent-authority sanctions require a finding of bad faith or its equivalent. That requirement provides a clear, administrable boundary that preserves courts’ ability to address genuine abuses while preventing the expansion of inherent power beyond its constitutional and historical limits.

* * * * *

At bottom, respondent’s argument boils down to the claim that the Court should deny review because it would be good policy to permit the federal courts to sanction *pro se* prisoner litigants more freely than other litigants. But this Court has said time and again “that adopting different and more onerous ... rules to deal with

particular categories of cases should be done through established rulemaking procedures, and not on a case-by-case basis by the courts.” *Jones v. Bock*, 549 U.S. 199, 224 (2007).

This case presents an important and recurring question about the limits of federal courts’ inherent authority, cleanly presented on a fully developed record. It warrants this Court’s review.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted.

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