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P R O C E E D I N G S

(11:16 a.m.)

CHIEF JUSTICE ROBERTS: We'll hear argument next in Case 25-197, T.M. versus the University of Maryland Medical System Corporation.

Ms. Prelogar.

ORAL ARGUMENT OF ELIZABETH B. PRELOGAR
ON BEHALF OF THE PETITIONER

MS. PRELOGAR: Mr. Chief Justice, and may it please the Court:

Over the past century, this Court has found a lack of jurisdiction under the Rooker-Feldman doctrine in exactly two cases, Rooker and Feldman. In both, the plaintiff sought to challenge a final decision from a state high court, and both cases held that Section 1257 gives only this Court jurisdiction over that kind of judgment.

Most recently, the Court said the Rooker-Feldman doctrine should be confined to cases of the kind from which the doctrine acquired its name. Yet lower courts haven't heeded that message. Some continue to apply a jurisdictional bar far beyond Rooker and

1 Feldman.

2 But the correct rule is this:
3 Rooker-Feldman applies only to cases that seek
4 review and rejection of final judgments of
5 state high courts. That rule follows from
6 text, history, and structure.

7 On text, Section 1257 is the statutory
8 hook for the doctrine. That statute gives this
9 Court jurisdiction over final judgments of
10 state high courts and so, by negative
11 inference, denies the same jurisdiction to
12 district courts. But Section 1257 says nothing
13 at all about district court jurisdiction when
14 there's no final judgment of a state high
15 court.

16 On history, district courts have long
17 heard collateral attacks on state lower court
18 judgments in narrow circumstances. Neither
19 Rooker nor Feldman silently overturned that
20 historical practice.

21 And on federal court structure, our
22 rule respects doctrines like preclusion,
23 abstention, and the Anti-Injunction Act. Those
24 doctrines already weed out duplicative cases.
25 There's no good reason for Rooker-Feldman to

1 broadly supplant them.

2 Respondents' rule finds no support in
3 text, history, or precedent. It would untether
4 Rooker-Feldman from Section 1257. It would
5 override historical practice and state
6 preclusion rules. It would transform a narrow
7 doctrine into a sweeping jurisdictional bar.
8 And it would amplify confusion and complexity
9 when jurisdictional limits should be clear and
10 grounded in statutory text.

11 The Court should reject that vast
12 expansion of Rooker-Feldman.

13 I welcome the Court's questions.

14 JUSTICE THOMAS: If we could just take
15 a step back. Does a district court have
16 appellate jurisdiction?

17 MS. PRELOGAR: No. District courts
18 can only exercise original jurisdiction.

19 JUSTICE THOMAS: Now what -- is there
20 any difference between a district court
21 reviewing a final decision, say, of an agency
22 or a private organization, as opposed to
23 reviewing the final judgment of a court?

24 MS. PRELOGAR: Yes. There are
25 critical differences because, if a district

1 court is reviewing a final decision of a court
2 in a collateral challenge, it can't actually
3 take any action with respect to that state
4 court judgment. So, for example, it can't
5 vacate it. It can't revise the terms of it.

6 That's a substantial difference from
7 the type of remedy that would be available when
8 a district court is, for example, reviewing an
9 agency action. And I --

10 JUSTICE THOMAS: So is -- I -- I think
11 the -- isn't the argument here or the
12 petition -- the action here to undo a previous
13 action of the -- of a district court and void
14 as -- from ab initio? I think that's the
15 language that's used in the complaint.

16 MS. PRELOGAR: So it's -- it's an
17 effort to collaterally attack that judgment,
18 Justice Thomas. And we don't dispute that
19 point, but that is fundamentally different than
20 an exercise of appellate jurisdiction.

21 JUSTICE THOMAS: So how different --
22 how would it be different from an appeal?

23 MS. PRELOGAR: Sure. So there are
24 numerous ways. When you have a case on appeal,
25 it's a continuation of the prior case. You're

1 limited to the record that was developed below.
2 You can take action with respect to the
3 judgment that was rendered, so you can actually
4 vacate it or set it aside with respect to the
5 world at large so it binds no one. And,
6 critically, you can relitigate issues. There's
7 no potential preclusion bar on appeal.

8 And in all of those respects, a
9 collateral attack is different. It's a new
10 case. It's not a continuation of the prior
11 case. The record isn't formally transferred
12 over. You can take new evidence and adjudicate
13 the issue. You cannot actually take any action
14 to vacate that judgment or do anything other
15 than declare the rights of the parties before
16 you.

17 So the most we could get in a
18 collateral challenge is a declaration or an
19 injunction that prevents enforcement by the
20 parties named in the federal case, but it
21 wouldn't wipe the decision off the books. And,
22 critically, doctrine likes -- doctrines like
23 preclusion could come into play in a collateral
24 attack and do a lot of the work to prevent
25 relitigation when that shouldn't occur.

1 JUSTICE SOTOMAYOR: I'm sorry. Tell
2 me what the value is to having a federal
3 district court and a state appellate court
4 simultaneously reviewing a state court
5 judgment. What's the value in that? The value
6 is that the federal district court is not
7 limited by the record below, is required to
8 take new evidence to determine what Maryland
9 state law is?

10 Because, as I look at your -- at the
11 complaint here, you brought a federal due
12 process claim, but you rely primarily on
13 Maryland state law. You're -- you're asking us
14 in an action to decide whether there was duress
15 as defined by Maryland state law, whether the
16 Maryland Declaration of Rights gives any rights
17 to the plaintiff that were violated, and you
18 are asking for the consent order to be declared
19 void and unenforceable.

20 So how is -- I don't understand why
21 that's more valuable to separation-of-powers
22 questions as -- as -- in terms of how we -- how
23 we respect state law judgments.

24 MS. PRELOGAR: So I think there are
25 two principal values here, Justice Sotomayor.

1 One is the fact that we have a dual system of
2 state and federal courts, and so, as Chief
3 Judge Sutton said in the VanderKodde case, it's
4 a national litigation reality that frequently
5 there will be parallel litigation considering
6 precisely the same issue.

7 JUSTICE SOTOMAYOR: But -- yes, that's
8 when there hasn't been an attack on a state
9 court judgment, because you're not relitigating
10 the rights, the federal and state rights that
11 issued. You're asking us just to exercise
12 appellate jurisdiction.

13 You dropped all of the cases that were
14 parallel to the state case, correct?

15 MS. PRELOGAR: So there are still some
16 pending cases, but it's true that many of the
17 state --

18 JUSTICE SOTOMAYOR: I thought they
19 were all dropped and the only one was the
20 habeas case that remained.

21 MS. PRELOGAR: The case that --

22 JUSTICE SOTOMAYOR: And in that case,
23 you're asking us only to review the state law
24 question. You're not asking us to relitigate
25 or have parallel litigation on the original

1 issue. There, I could see the value because
2 you want two courts to be looking at this and
3 giving us their views on it.

4 But that's not what you're doing here.
5 You dropped all the other litigations.

6 MS. PRELOGAR: So there is a
7 significant value in ensuring that federal
8 courts are available to vindicate federal
9 rights, including when state court judgments
10 themselves give rise to that kind of
11 constitutional violation. And, here, we are
12 asserting a federal due process claim.

13 JUSTICE SOTOMAYOR: Oh, but you do
14 have a federal right to go to the Supreme
15 Court.

16 MS. PRELOGAR: And what Congress
17 recognized in creating jurisdiction under 1331
18 and 1343 -- this was part of the 1871 Civil
19 Rights Act, the civil rights jurisdiction was
20 vested in the district courts' original
21 jurisdiction -- is that all too often those
22 federal rights were being denied, including in
23 state court.

24 So Congress went in with its eyes open
25 to the idea that these grants of federal

1 jurisdiction would provide an opportunity for
2 litigants who were not able to achieve justice
3 in state courts, including through state court
4 judgments themselves that violated
5 constitutional rights --

6 JUSTICE SOTOMAYOR: Now --

7 MS. PRELOGAR: -- to come to a federal
8 forum.

9 JUSTICE SOTOMAYOR: -- the states who
10 have agreed with you that it's only final
11 judgments that Rooker-Feldman apply to, they're
12 not really limiting themselves to 1257. They
13 are saying if -- they're defining "final
14 judgment" in very different ways.

15 If a final judgment has been rendered
16 by the state appellate courts, if the state
17 action has reached the point where neither
18 party seeks further action, for instance, the
19 losing party allows the time for appeal to
20 expire, and if the state court proceedings have
21 finally resolved all the federal questions in
22 the litigation, but state law or purely factual
23 limits remain.

24 That's not anything covered by 1257.
25 It's broader than 1257.

1 MS. PRELOGAR: So the seven circuits
2 on our side of the split have all required at a
3 minimum that the state litigation be
4 conclusively --

5 JUSTICE SOTOMAYOR: At a minimum, but
6 they add other definitions of final.

7 MS. PRELOGAR: Some of them have a
8 broader conception of finality, and we think
9 that the best source to look for a
10 jurisdictional rule comes from the text of the
11 statute that the Court has pointed to.

12 JUSTICE SOTOMAYOR: So why aren't we
13 looking to what state law says? State law
14 treats a trial court's judgment as final, just
15 like a district court's final judgment is final
16 even when it is on appeal. So why isn't that
17 final for our purposes?

18 MS. PRELOGAR: Well, for purposes of
19 identifying jurisdictional rules, this Court
20 has already -- has always looked to acts of
21 Congress. Under modern precedent, the Court
22 has said there's no free-floating ability of
23 the courts to simply pluck a jurisdictional
24 rule out of thin air.

25 District courts instead have a

1 virtually unflagging obligation to exercise the
2 jurisdiction Congress has given them, and so
3 the right source to look for the rule is
4 Section 1257, which is where this Court has
5 always --

6 JUSTICE SOTOMAYOR: But, as Justice
7 Thomas started our conversation, this is
8 appellate review, this is not deciding a cause
9 of action under federal or state law.

10 MS. PRELOGAR: So let me try to be
11 directly responsive to that because I think
12 it's not remotely possible to characterize the
13 Rooker-Feldman doctrine as suggesting that all
14 collateral attacks are automatically an
15 exercise of impermissible appellate review.

16 For one thing, that would make Section
17 1257 entirely irrelevant to the analysis
18 because, as I said to Justice Thomas, we, of
19 course, concede that district courts can only
20 exercise original jurisdiction. If, in fact, a
21 collateral attack was an impermissible appeal,
22 you don't have to consult 1257 at all.

23 But that runs counter to this Court's
24 repeated recognition, including in Exxon, that
25 Section 1257 is the doctrinal foundation for

1 where the Rooker-Feldman rule comes from.

2 JUSTICE KAVANAUGH: You mentioned
3 Exxon, and, of course, Judge Heytens put
4 emphasis on the sentence in Exxon, the "we
5 hold" sentence that did not articulate the rule
6 in the way you do it today.

7 So I guess my question, to pick up on
8 Justice Sotomayor's questions, is why not stick
9 with what we said in the "we hold" sentence in
10 Exxon given that it would be problematic to
11 have federal and state court parallel
12 litigation to increase it?

13 As you rightly said, there is federal
14 and state court parallel litigation, but why
15 add to it unnecessarily? Why not just stick to
16 the "we hold" sentence and be -- be done with
17 it?

18 Again, if we were starting anew, maybe
19 your position would have more force, but given
20 what we said in Exxon and given what Justice
21 Sotomayor raised, it's just a question.

22 MS. PRELOGAR: This issue wasn't
23 directly presented in Exxon, of course,
24 because, as you noted, Justice Kavanaugh, it
25 was just parallel litigation. And so I don't

1 think it would be appropriate to read that
2 sentence as explicitly thinking about the
3 situation of what kind of state court judgments
4 could qualify and resolving that issue against
5 us.

6 And, in fact, if you look at the rest
7 of the Exxon opinion, its analysis powerfully
8 supports the argument we're making here
9 because, first, Exxon said that 1257 is the
10 doctrinal underpinning of Rooker-Feldman, and
11 our rule coheres with the text of that
12 statutory provision: Final judgments of state
13 high courts.

14 The second thing the Court did in
15 Exxon is recognize that lower courts had
16 interpreted Rooker-Feldman far too broadly.
17 The Court said this is a jurisdictional rule.
18 It's a narrow limitation. And henceforth, the
19 Rooker-Feldman bar should only apply to cases
20 that are like Rooker and Feldman, and then it
21 described those cases.

22 And this Court recognized in Exxon
23 that in each of them, it was a situation where
24 the losing party in state court sought to
25 challenge a final judgment of a state high

1 court --

2 JUSTICE ALITO: Is there any

3 rational --

4 MS. PRELOGAR: -- squarely within

5 1257.

6 JUSTICE ALITO: Is there any rational

7 basis for that distinction?

8 MS. PRELOGAR: Yes, I think the

9 rational basis comes from the text of Section

10 1257 itself.

11 JUSTICE ALITO: From 1257. But

12 suppose I don't think that Rooker-Feldman is

13 based exclusively on 1257 but is based in part

14 and perhaps primarily on the fact that district

15 courts are not appellate courts. Then what?

16 MS. PRELOGAR: So I think that at that

17 point, it would be necessary to look not only

18 at Section 1257 but also to consult history.

19 One of the reasons why I think it's not

20 appropriate to understand Rooker-Feldman to say

21 that all collateral attacks are inevitably

22 impermissible appeals is because we have a long

23 history and tradition in this nation of federal

24 courts exercising their original jurisdiction

25 to consider that kind of attack when it's on a

1 lower court judgment.

2 We cite at page 11 of our reply brief
3 Smith versus Apple, Simon versus Southern
4 Railway, Wells Fargo versus Taylor. In Smith
5 versus Apple, this Court specifically
6 recognized that the district court had
7 jurisdiction to consider the collateral attack
8 on the state court judgment. It's just that
9 there were other doctrines, there, the
10 Anti-Injunction Act, that barred a remedy.

11 JUSTICE ALITO: Reading between the
12 lines, I take your -- your real position to be
13 that Rooker-Feldman ought to be overruled, and
14 maybe there are members of the Court who would
15 like to do that, but that's not before us here,
16 right?

17 MS. PRELOGAR: Our primary argument is
18 that it's not necessary to overrule it. It
19 just shouldn't be vastly expanded --

20 JUSTICE ALITO: But, if we're going to
21 limit it, it has to be limited on some rational
22 basis. And I don't really see a rational basis
23 for drawing a distinction between a case where
24 the -- the state court proceeding has concluded
25 and a case where the state court proceeding

1 is -- is ongoing.

2 I mean, in Rooker, the individual's
3 name began with an R. And in Feldman, the
4 individual's name began with an F. So, here,
5 the individual's name begins with a T. I mean,
6 can we say, well, we're not going to go any
7 further than Rooker and Feldman, so this case
8 doesn't qualify?

9 MS. PRELOGAR: I don't think that
10 Exxon quite went that far, but it did try to
11 make clear that it was a narrow doctrine that
12 should not extend beyond the facts of those
13 cases. And the reason why we think there is a
14 relevant difference in and a logical one,
15 Justice Alito, is that Congress in 1257, we
16 understand it to have been channeling claims.

17 If you have a state high court
18 judgment, then only this Court can review that
19 kind of judgment, and so, by negative
20 implication, the district courts can't.

21 Section 1257 doesn't say anything
22 about these lower state court judgments, and so
23 it leaves undisturbed the civil rights --

24 JUSTICE JACKSON: But -- but then
25 it --

1 JUSTICE GORSUCH: On that -- on
2 that --

3 JUSTICE JACKSON: But you don't have
4 the channeling if you're right. I mean, what
5 concerns me about your argument is that it
6 seems to undermine what Congress was trying to
7 do in 1257, which, as you just said, was, I
8 think, to have the state courts be the primary
9 original arbiters of these kinds of things and
10 to channel them all up through the state
11 appellate system until we get to the point of a
12 state high court judgment that is then
13 reviewable by the Supreme Court.

14 The problem, I think, with suggesting
15 that collateral attacks can occur by the
16 federal district courts along the way is that
17 it seems to undermine the channeling that was
18 the whole point of 1257.

19 MS. PRELOGAR: So I disagree strongly
20 with the idea that there was a desire by
21 Congress to say that federal courts writ large
22 can't exercise jurisdiction to adjudicate
23 federal rights. Those grants come from 1331
24 and, here, for civil rights, 1343.

25 JUSTICE JACKSON: That's not what I

1 was saying. What I was saying is that Congress
2 was establishing an order of operations. To
3 the extent that we have the Supreme Court of
4 the United States waiting until the state
5 courts have exercised their jurisdiction and
6 made their determinations, then, fine, the
7 Supreme Court will come along at the end of the
8 day, says Congress, and make those kinds of
9 determinations.

10 What you're suggesting is that
11 collateral attacks on the basis of the federal
12 issues can be occurring all along the way as
13 the state court is adjudicating this. And I
14 just don't understand how that's consistent
15 with the system that 1257 seems to envision.

16 MS. PRELOGAR: So I think that that
17 inference that Section 1257 is meant to occupy
18 the field is more weight than it can bear.
19 Jurisdictional rules are supposed to be clearly
20 expressed, and all that 1257 says is that this
21 Court may exercise jurisdiction over state high
22 court judgments.

23 But the statute doesn't say anything
24 about lower court judgments. And I want to be
25 responsive to this --

1 JUSTICE GORSUCH: Well, on -- on
2 that -- on that, I just want to follow up on
3 that before you leave that point.

4 I guess I expect Ms. Blatt to come up
5 and say, well, okay, you want to talk about
6 12 -- let's talk about 1257.

7 And you're right, it only authorizes
8 us to hear appeals from high courts. And --
9 and -- and so that's the negative implication.
10 But maybe another negative implication of it is
11 we can't hear anything from lower courts, state
12 courts. And so isn't that negative implication
13 worthy of respect too?

14 MS. PRELOGAR: So I think that that is
15 a far broader negative implication --

16 JUSTICE GORSUCH: Sure.

17 MS. PRELOGAR: -- because it doesn't
18 actually hang on any text in Section 1257. And
19 Rooker-Feldman's already --

20 JUSTICE GORSUCH: Oh.

21 MS. PRELOGAR: -- at the outer bounds
22 of how this Court thinks about jurisdictional
23 rules.

24 JUSTICE GORSUCH: I -- I hear you on
25 that, okay? And -- and -- and let me explore

1 that for a second.

2 So I -- I -- I -- I know your client
3 doesn't want to probably admit that all the
4 claims here are precluded by issue and claim
5 preclusion, but your friend on the other side
6 is going to argue, oh, we have to have
7 Rooker-Feldman to protect federalism and -- and
8 state courts.

9 But would you concede that artful
10 pleading can't get around issue and claim
11 preclusion principles?

12 MS. PRELOGAR: Yes, exactly. And it's
13 an important point, Justice Gorsuch, because a
14 lot of the concerns that have been raised about
15 collateral attacks or having federal courts
16 come in and regularly superintend state courts
17 are directly addressed by preclusion doctrine
18 and by the Anti-Injunction Act in many cases,
19 and there's always abstention doctrines as well
20 as a backdrop.

21 JUSTICE GORSUCH: And -- and the
22 weird --

23 JUSTICE KAGAN: Why are those -- I'm
24 sorry.

25 JUSTICE GORSUCH: Sorry. Just a few

1 more. I'm almost done.

2 And then the weird thing about
3 Rooker-Feldman is it strips us of jurisdiction
4 to even consider those kinds of questions.

5 MS. PRELOGAR: That's right. And it
6 actually runs counter to federalism values
7 insofar as it does so because, under the Full
8 Faith and Credit Act, federal courts have to
9 apply state law rules of preclusion. So
10 those -- that's a gauntlet you have to run, but
11 imagine --

12 JUSTICE GORSUCH: And some of those
13 are going to be lower -- apply to lower courts;
14 some are going to have to wait until -- they're
15 all different.

16 MS. PRELOGAR: Exactly. And it's only
17 a very narrow circumstance where you can raise
18 this kind of collateral attack to a state law
19 judgment. There's a preclusion principle
20 called the collateral attack rule, Maryland
21 recognizes it, and it generally bars collateral
22 attacks like this one with only very limited
23 exceptions that are reflected in the
24 Restatement Second of Judgment --

25 JUSTICE GORSUCH: All right.

1 MS. PRELOGAR: -- 69 and 70.

2 JUSTICE GORSUCH: The last one and
3 then I'm done.

4 Give me your best shot for overruling
5 Rooker-Feldman. I know it's in your brief. I
6 know you don't want to talk about it primarily,
7 but I want to hear --

8 MS. PRELOGAR: Sure. So --

9 JUSTICE GORSUCH: -- sing -- sing --
10 sing a few bars for me.

11 MS. PRELOGAR: -- we think that
12 Rooker-Feldman is egregiously wrong. It's out
13 of sync with modern precedent about how the
14 Court articulates jurisdictional rules.
15 District courts are supposed to exercise the
16 jurisdiction that Congress gives them, and the
17 Court doesn't have a free-floating judge-made
18 power to take away jurisdiction where it
19 exists.

20 So the relevant place to look is in
21 statutory text. And if you look at Section
22 1257, all it does is say that this Court may
23 exercise jurisdiction. It doesn't say that
24 district courts are forbidden from doing so.
25 That's even with respect to the category of

1 judgments this Court can review.

2 JUSTICE GORSUCH: All right. I'm
3 sorry, Justice Kagan.

4 JUSTICE KAGAN: No, no, no.

5 JUSTICE GORSUCH: Please.

6 JUSTICE KAGAN: If you look at -- you
7 said preclusion principles, abstention
8 principles, Anti-Injunction Act. Why do those
9 create a more sensible system? You know, if
10 you figure that they will operate a good deal
11 of the time, why should we look to those
12 various mechanisms rather than this kind of
13 flat rule of Rooker-Feldman?

14 MS. PRELOGAR: There are two reasons
15 to prefer those doctrines. The first is that
16 they're directly tailored to this kind of
17 situation, so they're intended to mediate
18 between overlapping jurisdiction and make sure
19 that there's a sensible order of operations.
20 The collateral attack rule is specifically
21 designed to deal with collateral attacks on
22 prior state court judgments. And so they're
23 specifically designed for this task.

24 And under the Full Faith and Credit
25 Act, it advances principles of federalism to

1 give effect to state law rules of preclusion in
2 the first instance rather than to have this
3 heavy-handed jurisdictional rule that's going
4 to come in and supplant all of those state law
5 judgments about when claims should and
6 shouldn't be precluded.

7 And that's actually the second reason.
8 The Court has said that jurisdictional rules
9 are strong medicine because they carry all the
10 consequences of not being hinged to party
11 presentation, the court has to consider them
12 sua sponte, so there's no waiver or forfeiture,
13 they can be inefficient because you might
14 realize it at the end of the case and then have
15 to undo everything that came before, and,
16 critically, you have to resolve them first.

17 So you can imagine a situation where
18 there might be a very easy basis to conclude
19 that this particular suit is precluded under
20 state law, you're not going to be able to make
21 out your claim at the end of the day, but the
22 Rooker-Feldman issue is quite complicated and
23 it has confounded the lower courts in thinking
24 about exactly what it means to review and
25 reject a state court judgment and when it

1 qualifies. And in every case --

2 JUSTICE KAGAN: There are a lot of
3 things that have confounded the lower courts on
4 Rooker-Feldman, but I'm not sure that this
5 question necessarily is one of them. And I can
6 understand a point of view that says, like,
7 look, what we said in Exxon was this far and no
8 further and we're tired of this.

9 But -- but Justice Alito also has a
10 point, that to sort of, you know, draw the line
11 here is -- is -- you know, it's not what's
12 created the confusion, really, is this line.

13 MS. PRELOGAR: So I agree that our
14 rule is not going to totally clear up all the
15 confusion in the lower courts, but I think it's
16 going to go a long way toward solving part of
17 the problem. It creates an easy gatekeeping
18 measure at the outset. You say, is this the
19 kind of state court judgment that falls within
20 1257? Is it a final judgment from a state high
21 court? If the answer is no, as it clearly is
22 here, you don't have to think about
23 Rooker-Feldman again.

24 And so it's going to, at the front
25 end, I think, weed out a lot of cases and mean

1 that you don't have to go on to some of those
2 more complex questions in other cases.

3 JUSTICE BARRETT: Ms. Prelogar,
4 there's a distinction between saying subject to
5 further review or -- or a high court. Have the
6 lower courts who are, you know, more on your
7 side of the split tied it to that state, you
8 know, highest court, the apex court, from which
9 we would have jurisdiction under 1257, or have
10 they said kind of this line, subject to further
11 review like appellate proceedings are ongoing?
12 Which is your situation here?

13 MS. PRELOGAR: So they have, many of
14 them, adopted a view that if the state
15 proceedings have ended conclusively, for
16 example, you failed to seek review from the
17 state high court, then it's possible that
18 Rooker-Feldman can apply.

19 Our view is that to be faithful to
20 Section 1257, it really should be limited to
21 decisions from state high courts and that
22 doctrines like preclusion or the
23 Anti-Injunction Act are largely going to stand
24 in the way if you don't seek your reviews all
25 the way up through the state court system.

1 JUSTICE BARRETT: How many lower
2 courts have gone as far as you in drawing the
3 line there at the apex courts?

4 MS. PRELOGAR: So we have -- we
5 ultimately have seven courts on our side on the
6 question of whether you can have Rooker-Feldman
7 when there are state court proceedings ongoing.

8 JUSTICE BARRETT: Ongoing.

9 MR. PRELOGAR: With respect to those
10 that have limited explicitly to state high
11 court decisions, I -- I don't know that we have
12 a court that's gone that far. There was a very
13 influential First Circuit decision that had a
14 slightly broader conception of finality. But,
15 regardless, we win under the rule of those
16 seven circuits because, here, there is clear
17 state court proceedings ongoing.

18 JUSTICE BARRETT: Why pick your rule
19 instead of the proceedings ongoing?

20 MS. PRELOGAR: So I think that our
21 rule is more consistent with the text of
22 Section 1257. Now I acknowledge there is a lot
23 of language in Exxon that talks about -- in
24 describing Rooker and Feldman themselves, that
25 the state court proceedings there had ended,

1 but also talked about how what was being
2 reviewed was a final judgment of a state high
3 court.

4 So I think there's kind of language
5 potentially in Exxon to support both of these
6 positions but that our rule is most consistent
7 with the statutory grounding for the rule.

8 JUSTICE JACKSON: And as just -- as
9 Justice Alito said, the high court point of it
10 really wasn't the key because, if it was, I
11 think they would have just said that in Exxon.
12 I mean --

13 MS. PRELOGAR: No one briefed it,
14 Justice Jackson. It just wasn't relevant in
15 Exxon because there wasn't any state court
16 judgment at all. So I think, you know, to put
17 myself in the shoes of the Court at that
18 moment, they might not have been thinking about
19 this follow-on question. But the clear import
20 of Exxon is this doctrine has been wildly
21 expanded in the lower courts, and that
22 shouldn't happen anymore.

23 And we're seeing a repetition of that
24 now with the lower courts consistently bringing
25 up Rooker-Feldman in cases that we think are

1 far afield from the facts of those cases.

2 JUSTICE JACKSON: Why -- why is it
3 fair to assume from 1257, which, as you've
4 said, says that no federal court can review
5 judgments from the highest court other than the
6 Supreme Court, why does that necessarily mean
7 that federal district courts can review state
8 court judgments from lower courts? I just see
9 this as an enormous leap -- I'm sorry.
10 Mr. Chief Justice, can I keep going?

11 CHIEF JUSTICE ROBERTS: Sure.

12 JUSTICE JACKSON: I see that as an
13 enormous leap, and I'm just trying to
14 understand your assuming that.

15 MS. PRELOGAR: Of course. So our
16 argument is not that the district court
17 jurisdiction comes from 1257. It's that it
18 comes from 1331 and 1343. Those are broad
19 grants of federal question jurisdiction and
20 civil rights jurisdiction. And, here, we're
21 raising a federal question in a 1983 claim.

22 Then the question becomes, does
23 Section 1257 do anything to withdraw part of
24 that jurisdiction? That's how the Court put it
25 in Exxon. It said what Rooker-Feldman does is

1 it operates by negative inference from 1257 to
2 take away from district courts claims that they
3 are otherwise empowered to adjudicate.

4 So I think that's how you get to our
5 rule. The text of Section 1257 withdraws only
6 jurisdiction over final judgments from state
7 high courts based on this inference that those
8 judgments are given to this Court alone to
9 review.

10 CHIEF JUSTICE ROBERTS: Thank you,
11 counsel.

12 Justice Thomas?

13 Justice Alito?

14 JUSTICE SOTOMAYOR: You didn't mention
15 to Justice Barrett Feldman Footnote 16, which
16 you call dicta. But, whether it's dicta or
17 not, it does say that your limitation to final
18 decisions on the legal issues is not necessary.

19 MS. PRELOGAR: No, I think that
20 footnote is consistent with our position. It's
21 hypothesizing a situation where you do have a
22 final judgment from a state high court. That's
23 our rule. And that footnote was directed to a
24 situation where the federal question hadn't
25 been raised.

1 And what the footnote said is, in that
2 situation, Rooker-Feldman can still operate as
3 a bar. But that's consistent with our rule
4 because --

5 JUSTICE SOTOMAYOR: But they could
6 have relied on issue preclusion or claim
7 preclusion principles, but they didn't. They
8 said that Rooker-Feldman could still apply.

9 MS. PRELOGAR: Because I think that
10 they were drawing the inference from Section
11 1257, that even if there might be other reasons
12 this Court doesn't grant cert, you know, maybe
13 there's no Article III standing from the
14 Petitioner if it came up in state court, or
15 maybe there's an adequate and independent state
16 ground, that's not enough to conclude that
17 there's no Rooker-Feldman bar. But the
18 absolute indispensable requirement, which was
19 present in Footnote 16, is final judgment of a
20 state high court.

21 And I -- I want to touch on this idea
22 of preclusion, Justice Sotomayor, because you
23 have asked about why it would make sense to
24 have collateral review. Again, we think that
25 there is going to be a real narrowing of the

1 opportunities for collateral attack under those
2 preclusion principles, but it's important in
3 situations to have access to a federal court
4 where it can apply those state laws of
5 decision. And having a jurisdictional bar come
6 in at the outset is going to displace all of
7 that analysis.

8 CHIEF JUSTICE ROBERTS: Justice Kagan?

9 JUSTICE KAGAN: And what do you make,
10 Ms. Prelogar, of the references to 1331? 1257
11 is obviously the predominant rationale, but
12 going back to Rooker and then in Verizon
13 Medicaid, there's a sentence that's then quoted
14 in Exxon itself which suggests that there's
15 this sort of second rationale for it, which is
16 based more on 1331 and the difference between
17 original and appellate jurisdiction.

18 Now, if you thought that that was the
19 rationale, presumably you wouldn't need 1257,
20 so why bother talking about that? But -- but
21 it is a little bit odd, right, that in addition
22 to the 1257 language, there's this second
23 strain, if you will, which focuses more on
24 1331.

25 MS. PRELOGAR: So I have been

1 rereading and reading those sentences about
2 appellate jurisdiction, and I think maybe what
3 the court was aiming at in that language is the
4 idea that you do need to have a litigant
5 seeking review and rejection of a state court
6 judgment.

7 So something that's kind of akin to
8 appellate-like review where the Court has said
9 in substance, you know, something that -- that
10 looks similar to what you might get on
11 appellate review, and maybe that language was
12 meant to codify this separate requirement for
13 Rooker-Feldman to apply that you be seeking to
14 actually have that review and rejection.

15 But I think it's not tenable to read
16 those stray sentences as instead suggesting
17 that a collateral attack is automatically
18 appealed because that would be inconsistent
19 with the Section 1257 rationale, as you just
20 articulated.

21 It would also be flatly inconsistent
22 with history. There are any number of
23 occasions when federal district courts have
24 entertained collateral attacks on state court
25 judgments. That's never been thought of as an

1 impermissible appeal.

2 The same can be true with federal
3 judgments. Sometimes federal courts are asked
4 to review collateral attacks on preexisting
5 federal court judgments. No one says that
6 Rooker-Feldman could come into operation there
7 or a that that's an appeal.

8 And it's also just inconsistent with
9 the actual reality because there are so many
10 differences between appeals and between
11 collateral attacks, both with respect to the
12 remedy you can get and with respect to the
13 application of preclusion doctrine.

14 JUSTICE KAGAN: Thank you.

15 CHIEF JUSTICE ROBERTS: Justice
16 Gorsuch?

17 JUSTICE GORSUCH: Yeah, I never really
18 understood that rationale, the -- the appeal
19 rationale because litigants are sometimes
20 vexatious. Now, I'm not accusing your client
21 of that, but they -- they -- they repeat suits
22 all the time. Sometimes in the same state
23 court. Sometimes in a different state court.
24 Sometimes in a federal district court,
25 sometimes between two federal district courts,

1 sometimes between two federal district courts
2 and two different states.

3 And all of those we handle under
4 preclusion and we don't accuse the court, the
5 second court of exercising any kind of
6 appellate review over the first court. Help
7 me.

8 MS. PRELOGAR: That's exactly right.
9 And it just demonstrates that there's no need
10 to have a dramatically expanded domain for
11 Rooker-Feldman to deal with concerns about
12 managing competing or overlapping litigation or
13 parallel disputes like that.

14 Claim preclusion is going to knock out
15 a lot of those cases because if you could have
16 raised the claim in the prior suit, then you
17 can't raise it here. Issue preclusion, if it's
18 actually litigated, is likewise going to
19 operate to prevent relitigation of some of the
20 issues that were actually decided.

21 And then critically this collateral
22 attack rule is directly relevant here because
23 it comes into play when you have a preexisting
24 judgment and there are only very narrow
25 circumstances like fraud, duress, or -- or a

1 lack of jurisdiction in the underlying court
2 where you might be able to get that kind of
3 judgment set aside.

4 But in no instance is any of that an
5 impermissible exercise of appellate
6 jurisdiction.

7 CHIEF JUSTICE ROBERTS: Justice
8 Kavanaugh?

9 JUSTICE KAVANAUGH: If we think 1257
10 and 1331 don't dictate an answer and we look at
11 Exxon, and it doesn't dictate an answer, and
12 we're just trying to figure out, okay, this is
13 a judge-created doctrine, what makes the most
14 sense here, systemically?

15 Why does your position make more sense
16 if it's going to create lots of duplicative
17 litigation in federal and state court that by
18 your own admission is usually going to fail
19 because these other doctrines are going to toss
20 it all out anyway?

21 Your position seems to be, let's make
22 sure the federal courts are open just so the
23 federal courts can toss it out on other
24 grounds. So do you want to address that
25 systemic question?

1 MS. PRELOGAR: Sure. So I think that
2 systemically it is better to rely on the
3 preexisting doctrines like preclusion,
4 abstention and the Anti-Injunction Act in part
5 because it can advance federalism interests
6 insofar as it gives effect to state law
7 judgments about exactly when preclusion should
8 apply.

9 Our particular suit is not precluded
10 because Maryland has made a judgment if you
11 entered into a consent decree pursuant to
12 duress, you should be able to challenge that.

13 And yet under Respondent's rule, the
14 federal courthouse doors would be entirely
15 closed to that kind of claim and that disserves
16 interests in federalism.

17 It also disserves interests in
18 respecting the lines that Congress has drawn,
19 both through the Full Faith and Credit Act,
20 which is what gives effect to state law
21 judgments, and with the Anti-Injunction Act
22 which is likewise meant to try to address the
23 situation and determine when federal courts can
24 and cannot enter remedies with respect to state
25 court proceedings.

1 And here, again, Respondents' rule
2 would supplant that. If I don't have you
3 convinced with those two arguments let me just
4 add that there is a real problem with doing
5 this through jurisdiction insofar as the
6 Rooker-Feldman question might be very difficult
7 and the preclusion issue might be simple.

8 And this rule would vastly expand the
9 circumstances when district courts are going to
10 have to do that complex analysis and think
11 about whether it's review and reject or whether
12 this is actually a state court lose or where
13 there are any number of circuit splits when it
14 might be very simple to say this is a precluded
15 case and so we can reach the merits and dismiss
16 it on that ground.

17 JUSTICE KAVANAUGH: More specific
18 question, the American Medical Association
19 amicus brief says your -- your position is
20 going to encourage plaintiffs with baseless
21 medical malpractice claims to pursue parallel
22 litigation, run up insurance costs, create
23 diverging costs of healthcare. I just wanted
24 to make sure you've responded to that amicus
25 brief.

1 MS. PRELOGAR: Yes, so that amicus
2 brief ignores entirely the application of
3 preclusion doctrines. And many of the
4 circumstances that the amicus brief touches on
5 are ones where we think there would be obvious
6 bars based on claim preclusion and issue
7 preclusion.

8 So our argument is not that litigants
9 should always be able to get a do-over and be
10 able to succeed on a collateral attack, but at
11 the same time there is a strong constitutional
12 value in giving effects to Congress's judgments
13 about the federal court jurisdiction and in
14 assuring that there is a federal court forum at
15 the end of the day to adjudicate that claim.

16 JUSTICE KAVANAUGH: Thank you.

17 CHIEF JUSTICE ROBERTS: Justice
18 Barrett?

19 JUSTICE BARRETT: Just one question.
20 Under your theory, what would happen if the
21 case was actually on review in this court and
22 then the litigant also filed a collateral
23 attack in a district court?

24 MS. PRELOGAR: So I think that at that
25 point, if it's actually on review in this

1 Court, then it's a final judgment from a state
2 high court and, therefore, the collateral
3 attack couldn't go forward under Rooker-Feldman
4 because that is the kind of -- of state high
5 court judgment that we agree under the
6 reasoning in those cases creates the bar.

7 JUSTICE BARRETT: Sorry. I guess I
8 should have meant like your real view that
9 Rooker-Feldman is wrong.

10 MS. PRELOGAR: So -- so I do think
11 that Rooker-Feldman is wrong. And it means
12 that there wouldn't be a jurisdictional bar to
13 be exercised of district court jurisdiction
14 but, of course, you know, it's not unusual to
15 have district courts sometimes --

16 JUSTICE BARRETT: Stays.

17 MS. PRELOGAR: -- have jurisdiction to
18 consider the same legal issue and the issue
19 stays, exactly. They don't go on to resolve
20 the dispute when it's before this court.

21 And if it were the exact same judgment
22 that was, you know, being challenged, I can't
23 imagine a district court wouldn't rely on these
24 kinds of abstention-like doctrines to -- to
25 mediate that type of conflict.

1 JUSTICE BARRETT: Thanks.

2 CHIEF JUSTICE ROBERTS: Justice
3 Jackson?

4 JUSTICE JACKSON: So I guess I think
5 that the answer in this case may actually rely
6 on what or relate to what we think the real
7 purpose of the Rooker-Feldman doctrine is.

8 And I've heard you float a couple of
9 theories and some of them relate to the use of
10 the appellate jurisdiction principle and, you
11 know, is that really what's going on here, but
12 as I read it, it seems as though the court was
13 really trying to advance a certain kind of
14 federalism principle.

15 The court says, "if the constitutional
16 question stated in the bill actually arose in
17 the cause, it was the province and duty of the
18 state courts to decide them. And their
19 decision, rather right or wrong, was an
20 exercise of jurisdiction."

21 And so it goes on to sort of
22 underscore this idea that I think is consistent
23 with the 1257 design, that what the court
24 thinks or thought in Rooker was that the state
25 courts should really be given an opportunity to

1 weigh in on these issues, even though they may
2 be federal in nature.

3 And what concerns me then about your
4 rule that I'm wondering whether we're not
5 disincentivizing state court losers to actually
6 proceed in the state system. It seemed as
7 though the Court in Rooker was trying to say
8 the state court should have its opportunity,
9 eventually it'll go to the high court, and then
10 it will come to the Supreme Court.

11 And if that's really the thrust of it,
12 why would anybody stay in the state system and
13 get all the way to the state high court under
14 your rule when they could just bring a
15 collateral attack along the way? It just seems
16 to undermine the whole point in my view.

17 MS. PRELOGAR: So I have related
18 answers to both prongs of that question. The
19 reason why litigants are going to stay in state
20 court is because they won't face a preclusion
21 bar. They're allowed to litigate their appeal
22 without facing that heavy hurdle of being very
23 --

24 JUSTICE JACKSON: You're assuming
25 that. There are -- there are many situations

1 in which, and I won't go into them but, you
2 know, we looked at Younger, we looked at
3 Colorado, there are certain -- there -- there
4 are narrow circumstances in which those
5 preclusion bars actually apply.

6 So it isn't automatic that you
7 wouldn't be able to bring a collateral attack.
8 In fact, I think you think you should be able
9 to bring a collateral attack, which is why
10 you're here.

11 MS. PRELOGAR: It's certainly true
12 we're not saying that collateral attacks will
13 never be permissible. I do think in the
14 mine-run case, there would frequently be issue
15 preclusion defenses. But let me try to be
16 responsive to the idea this is all about
17 federalism. Exxon took a look at this as well.
18 And what the Court said there is,
19 Rooker-Feldman should not operate as a
20 supersized rule that is meant to override state
21 law preclusion doctrines.

22 Instead, it has a very limited and
23 cabined focus that's tied to Section 1257 and
24 tied to the facts of Rooker and Feldman
25 themselves, and it's not meant to be this kind

1 of one-size-fits-all solution to potentially
2 duplicative or parallel litigation and the
3 problems that can ensue with that.

4 So -- and as I mentioned before, I
5 think from the federalism standpoint, there
6 really is a value in giving effect to those
7 state law rules of decision. But --

8 JUSTICE JACKSON: Except -- except if
9 you're a state law -- you admit that the state
10 court loser, by the time they get to the high
11 court, Rooker-Feldman applies. So you're
12 saying they're going to continue to litigate, I
13 guess, up until the point that they get to the
14 high court. That's the peculiar thing about
15 your rule, right?

16 It -- it -- it -- I don't understand
17 why you would keep going all the way up to the
18 state court because that's the point that you
19 say that Rooker-Feldman kicks in.

20 MS. PRELOGAR: Because abandoning your
21 state court appeal means abandoning being able
22 to litigate it without claim and issue
23 preclusion, which really are going to knock out
24 of a lot of collateral attacks.

25 JUSTICE JACKSON: In that way.

1 MS. PRELOGAR: But -- but on the flip
2 side --

3 JUSTICE JACKSON: Yes.

4 MS. PRELOGAR: -- just thinking about
5 the flip side of the federalism interest is the
6 access to federal courts interest. And I know
7 that our society has moved beyond 1871 when
8 Congress enacted this jurisdictional grant in
9 Section 1343, but Congress was keenly aware at
10 that time that sometimes state courts were
11 issuing judgments that deprived individuals of
12 their constitutional rights, and it did not
13 want to force them to wait and litigate up
14 through an unjust state court system. It
15 wanted them to be able to get into federal
16 court.

17 JUSTICE JACKSON: One more question.
18 As I read the question presented here, it does
19 not enable us to look at overruling Rooker --
20 Rooker-Feldman. That was not a question
21 presented here, and what was presented seems to
22 assume that the doctrine exists.

23 So is -- is that really fairly on the
24 table? I just want to make sure.

25 MS. PRELOGAR: So our primary

1 argument, of course, is that the Court should
2 not extend Rooker-Feldman beyond state high
3 court judgments. And the Court could simply
4 say Rooker and Feldman involved final judgments
5 of state high courts. That's what Section
6 1257 refers to and --

7 JUSTICE JACKSON: I understand. I'm
8 talking about the overruling --

9 MS. PRELOGAR: Yes.

10 JUSTICE JACKSON: -- that came up
11 earlier. That's not in the question presented
12 here, correct?

13 MS. PRELOGAR: So there have been
14 occasions, like in Dobbs, where whether to
15 overrule Roe and Casey was not in the question
16 presented. Citizens United is another example
17 of that. So the Court has sometimes, when it's
18 delved into a doctrine, decided that it makes
19 sense to reconsider precedent.

20 We don't think the Court has to go
21 that far here, but we do think that the
22 question presented should clearly be resolved
23 in our favor.

24 JUSTICE JACKSON: Thank you.

25 CHIEF JUSTICE ROBERTS: Thank you,

1 counsel.

2 Ms. Blatt.

3 ORAL ARGUMENT OF LISA S. BLATT

4 ON BEHALF OF THE RESPONDENTS

5 MS. BLATT: Mr. Chief Justice, and may
6 it please the Court:

7 Petitioner agrees that under
8 Rooker-Feldman, district courts cannot review
9 state court judgments if the state appellate
10 process is over. But Petitioner submits that
11 they can review them if the state appellate
12 process is ongoing.

13 Well, that's backwards. The failure
14 to exhaust the state appellate process makes
15 federal intervention worse, not better. Just
16 like in Rooker and Feldman, both 1331 and 1257
17 bar this suit. As Exxon explains, 1331 grants
18 strictly original not appellate jurisdiction.
19 Petitioner gives no reason why suits seeking to
20 review and reject state trial court judgments
21 are any less appellate than identical suits
22 challenging state high court judgments. 1257
23 confirms there's no jurisdiction here. 1257
24 gives this Court appellate jurisdiction over
25 state high court judgments.

1 Petitioner claims that when this Court
2 lacks discretionary appellate jurisdiction
3 under 1257, district courts have mandatory
4 original jurisdiction under 1331.

5 Well, that also makes no sense. 1257
6 stands for two principles. First, Congress
7 channeled our view of state court judgments to
8 this Court. And, second, Congress wanted no
9 federal review of state court judgments until
10 the state's highest court has had the
11 opportunity to correct any errors.

12 Petitioner's rule flouts that scheme
13 and damages the integrity of the state
14 appellate process. Like Petitioner, litigants
15 could jettison state court appeals and invoke
16 the mandatory jurisdiction of 94 district
17 courts to invalidate state court judgments.

18 I welcome questions.

19 JUSTICE THOMAS: But Petitioner's
20 argument is that, fine, you have the appellate
21 process, but you also have a collateral attack
22 process, and they're both legitimate, and they
23 can take place simultaneously.

24 How would you respond to that
25 argument?

1 MS. BLATT: Well, I -- I would respond
2 to it in three ways. I mean, that was exactly
3 the dissent in Feldman, and the Court obviously
4 did not care what Justice Stevens thought or
5 just disagreed with him.

6 Second, in Exxon, footnote 8 says --
7 it went and supported our view that said 2254,
8 which authorized collateral attacks, shows that
9 Congress by statute knows how to authorize
10 collateral review of state court judgments.
11 And even there, it seems beyond obvious to
12 point out that 1254 requires exhaustion. So
13 the one time that Congress authorized
14 collateral attacks, it said you had to exhaust
15 state court appeals.

16 Third, we know of no case, and they
17 don't cite any, that says 1331 allows review
18 and rejection of state court judgments. All
19 the cases they cite, and which my other side
20 just said were all before Rooker, only one was
21 after Rooker that didn't have anything to do
22 with the question presented, all were before
23 Feldman, Exxon, Verizon, Reed, Lance, and
24 Skinner, that all said that district courts
25 lack authority to review state court judgments.

1 So I guess our view is, unless you got
2 a statute, there's no such thing as collateral
3 review of state court judgments. And that's
4 under 1254.

5 JUSTICE SOTOMAYOR: Counsel, would you
6 answer the question some of my colleagues have
7 asked, why not relying on preclusion and those
8 sorts of doctrines is a better course than just
9 relying on Rooker-Feldman?

10 And, number two, this is a case where
11 the plaintiff could have continued with her
12 state court appeal but it put it on stay,
13 correct?

14 MS. BLATT: Correct.

15 JUSTICE SOTOMAYOR: So there is a
16 motive to get out of that state court appeal
17 and come here instead, correct?

18 MS. BLATT: Right. Well, let me just
19 say a couple things about preclusion. I find
20 it highly ironic that Petitioner wants to rely
21 on preclusion in a case where it's conceded
22 preclusion doesn't apply.

23 Preclusion only applies, as my friend
24 said, when the issue has been litigated or
25 could have been litigated. Here there's a

1 direct challenge to the consent decree that
2 could not have been litigated. It's seeking to
3 void and invalidate it.

4 So like then Judge Rushing said -- and
5 we quoted her article both in our brief in
6 opposition and in our red brief on page 40 --
7 she comments that the highest time when you
8 need Rooker-Feldman is this kind of case, where
9 preclusion doesn't apply because you're
10 directly challenging, taking a direct review of
11 the state court judgment. And when you don't
12 have preclusion, Rooker-Feldman is -- is
13 absolutely essential to protect the integrity
14 of the state appellate process.

15 The other thing I would say about --
16 sort of that's related to this is also ironic
17 about this, whatever this is, on federal civil
18 rights. She filed three federal cases here.
19 This is one that was a direct challenge, but
20 she filed two others. One was a due process
21 federal court challenge. That was before the
22 consent decree was ever filed. She also filed
23 a federal civil rights lawsuit, as the Fourth
24 Circuit noticed -- noticed, as saying this
25 violated her federal rights under the ADA and

1 the Rehab Act.

2 And that was -- Rooker-Feldman didn't
3 get raised. It was not, you know, dismissed on
4 jurisdictional grounds. It was dismissed on
5 the merits. So as the Fourth Circuit said, you
6 know, you can bring federal lawsuits; you just
7 can't do what this litigant did, with the very
8 facts of Rooker, seek to declare a state court
9 judgment void, seek to declare it void ab
10 initio, and seek to enjoin the enforcement.

11 So although Rooker-Feldman almost may
12 never apply, it happens to apply and should
13 apply on the -- on the facts of this case.

14 JUSTICE KAGAN: Ms. Blatt, if I look
15 at Exxon, and this was by a unanimous Court and
16 by, you know, I'm just going to say, the
17 Court's leading proceduralist, Exxon clearly
18 said, you know, we're stuck with
19 Rooker-Feldman, but we sure don't have to
20 expand Rooker-Feldman, and this is the end of
21 it.

22 And whatever you might say about this
23 particular rule, if we issue a decision that
24 goes your way, we are basically saying forget
25 Exxon, it wasn't the end of it; Rooker-Feldman

1 is alive and well.

2 And in the context of what's happening
3 in the circuit courts, it seems like a very odd
4 message for this Court to be sending in light
5 of Exxon and in light of what I think -- you
6 know, if you -- if you read Judge Sutton's
7 opinion and say yes, yes, yes, and then we
8 issue a decision that says what you want us to
9 say, like, where would that get us?

10 MS. BLATT: Well, let me start with
11 Judge Sutton, and then we'll go back to Exxon
12 and then we'll talk about the confusion.

13 I'm just going to read from Judge
14 Sutton's latest opinion, the HPIL.
15 "Rooker-Feldman stands for the straightforward
16 proposition that lower federal courts may not
17 entertain direct appeals to reverse or modify
18 judgments." At the very end of his -- his
19 opinion, he cites Rooker and notes that
20 "seeking to void a state court judgment is an
21 appeal because it attempts to directly reverse
22 state court judgments."

23 He's talking about -- I mean he never
24 refers to the highest court. He's talking
25 about a direct appeal.

1 I do think that Judge Sutton is --
2 obviously has a serious concern about it. And
3 that's something he can, you know, take up at
4 the judicial conference. I'm happy to be on a
5 panel with him, with Mr. Shanmugam or Ms.
6 Prelogar, but it doesn't have anything to do
7 with this case. I mean, all those issues could
8 rely on the state's highest court judgment.
9 And on Justice Ginsburg --

10 JUSTICE KAGAN: I -- I guess I was
11 asking a broader question, like, even if I
12 accept what you just said, that it doesn't have
13 anything to do with this case, to rule your way
14 in this case sends a -- a -- a much broader
15 message --

16 MS. BLATT: I don't --

17 JUSTICE KAGAN: -- about what
18 Rooker-Feldman is about and how far courts
19 should do what they're doing, which is applying
20 it in a variety of cases in which they
21 shouldn't be applying it.

22 MS. BLATT: Yeah. So I'll continue.
23 First of all, the Fourth Circuit was very
24 careful saying it's been 20 years and they've
25 never seen a Rooker-Feldman case and as just

1 because almost none apply, that doesn't mean,
2 you know, that there can't be one. And so the
3 Fourth Circuit haven't -- hasn't had any
4 problem. But, on Justice Ginsburg --

5 JUSTICE GORSUCH: Well, you -- you
6 indicate, though, that -- that -- that they're
7 rare, but all the briefing before us suggests
8 the number of Rooker-Feldman cases have
9 actually increased since ExxonMobil.

10 MS. BLATT: Right. But that's --
11 that's true under whatever you do. If you
12 leave Rooker-Feldman as it is, Judge Sutton is
13 still having heartburn because there's people
14 bringing cases that involve the final case or
15 judgment.

16 JUSTICE KAGAN: Well, I kind of think
17 not.

18 MS. BLATT: Can I --

19 JUSTICE KAGAN: I mean, I kind of
20 think of this as a case where we can say, no,
21 really what we said in Exxon was what we mean,
22 Rooker and Feldman confined to their particular
23 facts but no further. Then maybe the second
24 time around courts will get the message.

25 MS. BLATT: So no. And, again, let's

1 talk about Exxon and then the three subsequent
2 cases. Justice Ginsburg, before she issues her
3 holding, before she issues a holding, which, as
4 Justice Kavanaugh said, said nothing about
5 state court judgments, she's a very careful
6 writer, 9-0, presumably --

7 JUSTICE KAGAN: It wasn't in the case.
8 There -- there would have been no reason to
9 address this question.

10 MS. BLATT: Yeah, but I'm going to
11 still read what she said if that's okay. She
12 said, federal district courts are empowered to
13 exercise original, not appellate, jurisdiction.
14 Rooker-Feldman's complaint essentially invited
15 federal courts of first instance to review and
16 reject unfavorable state court judgments. And
17 then she ends all the stuff that you just
18 cited, it ends with the paragraph that cited
19 Verizon, which you -- you already quoted.

20 So that's on page 291. And the last
21 sentence is, Rooker-Feldman doctrine recognizes
22 1331 is a grant of original jurisdiction, does
23 not authorize district courts to exercise
24 appellate jurisdiction over state court
25 judgments.

1 And if I can say now three, if we care
2 about precedent, I'm going to give you three
3 post-Exxon precedent. This one was an opinion
4 by Justice Kavanaugh in Reed versus Goertz two
5 terms ago. Rooker-Feldman prevents federal
6 courts from adjudicating cases brought by state
7 court losers challenging state court judgments.

8 And that opinion cites Skinner versus
9 Switzer: State court decisions are not
10 reviewable by lower federal courts.

11 And then we have Switzer itself says
12 you can't have review and rejection of state
13 court judgments. Lance, which is my favorite
14 case, says Rooker-Feldman in effect, the
15 parties there are seeking to take an appeal of
16 an unfavorable state court decision.

17 And I guess I'll go back to my
18 opening, there is no distinction, so all these
19 cases, you might call it sloppy reasoning, but
20 the holding is -- Exxon says we hold today and
21 it's not limited. When you describe
22 Rooker-Feldman, you haven't limited it to state
23 court judgments, and Petitioner gives you no
24 reason why it's any less appellate when it
25 comes -- when you invalidate the judgment

1 issued by a state trial court to a state high
2 court.

3 JUSTICE KAGAN: Well, but the reason
4 is -- the reason is that the primary rationale
5 for the doctrine has always been 1257, which
6 doesn't apply to this case. And there's a few
7 strands of, you know, 1331 language that floats
8 around, but it's basically a 1257 rule, and
9 1257 suggests that we should draw the line in
10 exactly where your friend says to draw it.

11 MS. BLATT: I think it's an
12 upside-down inference to say district courts
13 always have jurisdiction when this Court
14 doesn't. That -- that's --

15 JUSTICE KAGAN: It's only upside-down,
16 like, for a kind of non-statutory argument,
17 like why would you in a world without statutes?

18 MS. BLATT: But that's Rooker-Feldman.

19 JUSTICE KAGAN: But we have a statute,
20 and the statute is 1257, and it's 1257 that has
21 grounded this doctrine from the very beginning.

22 MS. BLATT: Correct. And I think,
23 as -- as -- as Justice Gorsuch said, there are
24 two negative inferences you could take. Both
25 of them are negative inferences. You have the

1 common sense one that we have, which is 1257 is
2 a channeling statute, it protects federalism by
3 making sure you can only review a state court
4 judgment, this Supreme Court, once the state's
5 highest court has a chance to correct any
6 errors.

7 Or you can take Petitioner's
8 non-common sense one, is that Congress
9 anticipated whenever you didn't have
10 jurisdiction, federal district courts did. And
11 that's led to the very confusing doctrine that
12 I think Justice Barrett talked about, if you go
13 that route, courts have tied themselves in
14 knots under Cox Broadcasting thinking, well, is
15 this judgment final such that this Supreme
16 Court could review it under Cox Broadcasting?
17 But, if it didn't follow under Cox
18 Broadcasting, it wouldn't be?

19 And that's the mess that's on the
20 circuit split when our rule is just you can't
21 review and reject a appealable state court
22 judgment. And this one, you know, is on
23 appeal.

24 JUSTICE SOTOMAYOR: When you say
25 review and reject, you mean void it?

1 MS. BLATT: Excuse me, void, yes.

2 JUSTICE SOTOMAYOR: Void it, which is
3 what she's asking.

4 MS. BLATT: Exactly. So, yes, our
5 view is that, and we'll take the definition, I
6 mean, it's -- revises and corrects a judgment
7 of another tribunal and review and reject the
8 two forms of relief in Rooker, one was to void
9 the judgment, and in Feldman, it was to declare
10 the judgment unconstitutional.

11 JUSTICE JACKSON: So does your --

12 MS. BLATT: So you have those exact
13 forms of relief here.

14 JUSTICE JACKSON: So does your rule
15 then turn on the nature of the claim that the
16 party is making or the relief that they're
17 seeking as opposed to something else?

18 MS. BLATT: I think it's the latter.
19 The -- you know, again, the petition -- the
20 petition didn't challenge that this was an
21 appellate review. Remember, the -- the
22 petition says, if we win on this -- this --
23 this thing about final state court judgments,
24 it's dispositive. So courts have to decide if
25 there's a review and rejection.

1 JUSTICE JACKSON: I know, but Ms. --
2 Ms. Prelogar says, look, we have this whole
3 other notion of collateral attacks on a
4 judgment that are allowable and that appellate
5 review is something different.

6 So, if we're trying to characterize
7 what's going on here, how do we know whether
8 she's right that we should call this collateral
9 attack or you're right that this is really an
10 appellate -- a exercise of appellate
11 jurisdiction of the nature that Rooker is
12 concerned about?

13 MS. BLATT: So we disagree with Exxon,
14 the Footnote 8. There's no such thing as
15 collateral review unless Congress authorizes
16 and it did in 2254, and Exxon said that 2254
17 shows that Congress knows how to authorize
18 collateral review of state court judgments.
19 But, if it's review and rejection of a state
20 court judgment, that's an exercise of appellate
21 jurisdiction.

22 And I think I just read you, you know,
23 the five sentences that say when you are --
24 you're outside of 1331 and you're into
25 appellate land when you're seeking to review

1 and reject a state court judgment.

2 And we don't even think you have to
3 get into this because the petition -- the
4 Fourth Circuit on pages 8A, 9A, 12A, and 13A
5 explained that this was review and rejection
6 and appeal of a state court judgment.

7 The petition didn't even challenge.
8 It said not one whit in the entire petition
9 that went -- that went through that and then
10 came up with it on its opening brief that this
11 is a collateral review.

12 But, if you want to decide that, I
13 would say you decided that in Exxon. I mean,
14 there's just -- and then, again, the cases --
15 you know, that long history and tradition, it
16 stopped before Rooker. It just stopped. Three
17 of those cases are dealing with scopes of the
18 anti-injunction. Two are in a defensive
19 posture. That leaves Huntington. So they have
20 one case that admittedly has nice language for
21 them. It was pre-Rooker, pre-Feldman,
22 pre-Exxon, pre-Verizon, pre-Lance,
23 pre-Skinner -- I mean, I could keep going.
24 Pre-Reed. So their long history and tradition
25 is one case from 1900. That's old. I mean,

1 that's really old. Let me just check.

2 JUSTICE JACKSON: Could you speak to
3 Ms. --

4 MS. BLATT: Yeah. Sorry. I think I
5 got everything.

6 JUSTICE JACKSON: Could you speak to
7 Ms. Prelogar's suggestion that we should as a
8 backup consider revisiting Rooker-Feldman?

9 MS. BLATT: This is not Dobbs. This
10 is not Roe versus Wade. The words "egregiously
11 wrong" don't even appear in their brief.
12 Rooker-Feldman is obviously not egregiously
13 wrong. I think, as Justice Thomas said in his
14 dissent, it's just a straightforward reading of
15 two statutes.

16 But, if we're going to talk about
17 overruling precedent, I mean, this case shows
18 why the federal -- federalism interests are
19 important when a -- a petitioner -- or, sorry,
20 a litigant tries to short-circuit the state
21 appellate process. It's a blow to federalism.

22 And in seven states, preclusion
23 doesn't even apply until a judgment is after
24 appeal. So preclusion principles would allow
25 in California -- Justice Barrett, I think your

1 hypo is this one. Petitioner's rule allows you
2 to go all the way to oral argument in the
3 Supreme Court of California. You don't like
4 the way it went, you file suit in federal court
5 because there's no preclusion yet. There's
6 no -- it hasn't -- appeals haven't exhausted.

7 So, in all the states that don't apply
8 preclusion until the appellate process is over,
9 you can really game -- game the system, you
10 know, and it costs money, you know. She keeps
11 saying about, well, you just apply a
12 preclusion. You have to go find a lawyer to
13 go, like, defend in a lot of suits. It's not
14 like people have -- money grows on trees for
15 hospitals.

16 So you've got to go litigate all this
17 when, you know, it's just -- in this particular
18 case, she brought three federal lawsuits. One
19 of them was a direct appeal. The other two,
20 you know, weren't. But, here, there's just --
21 it's voiding a state court judgment. So you
22 can't do that.

23 JUSTICE ALITO: The petition in this
24 case was filed by a very experienced and
25 sophisticated advocate. A second question

1 could have been added, should Rooker-Feldman be
2 overruled? It wasn't overruled. When have we
3 reached out to overrule a decision when we
4 haven't even been asked to do it by counsel at
5 the outset?

6 MS. BLATT: Well, I know the state --
7 the states haven't been -- I mean, it's -- I'm
8 sitting here telling you about how hard it is
9 to get a state amici. You've got to go through
10 a long process and give them sufficient time.

11 So, if we had known that Rooker was on
12 the table, we might have written a different
13 note telling the states to apply because the
14 other side wants to overrule a case that
15 protects the jurisdiction of their state
16 highest court.

17 So you don't even have any state in
18 front of you here to -- so, no, you're not
19 going to overrule Rooker. I mean, sorry, I
20 don't think you're going to do that.

21 (Laughter.)

22 MS. BLATT: Not in an April case. Not
23 happening.

24 (Laughter.)

25 JUSTICE ALITO: Don't -- don't dare my

1 colleagues.

2 (Laughter.)

3 MS. BLATT: Okay. I'm sorry. A
4 little too much.

5 I'm all yours.

6 CHIEF JUSTICE ROBERTS: Anything
7 further on the right here? Anything further
8 down there?

9 JUSTICE THOMAS: No.

10 CHIEF JUSTICE ROBERTS: Anything
11 further? No?

12 Thank you, counsel.

13 MS. BLATT: Thank you.

14 CHIEF JUSTICE ROBERTS: Rebuttal,
15 Ms. Prelogar?

16 REBUTTAL ARGUMENT OF ELIZABETH B. PRELOGAR

17 ON BEHALF OF THE PETITIONER

18 MS. PRELOGAR: Thank you, Mr. Chief
19 Justice.

20 My friend has doubled down on the
21 theory that Rooker-Feldman is justified as an
22 exercise of appellate jurisdiction or that it
23 explains where the doctrine comes from. But
24 that can't be squared with Section 1257 because
25 you don't have to even consult that statute.

1 And, critically, it can't be squared with
2 history. And my friend suggested that the
3 cases we've cited where district courts
4 exercised jurisdiction to issue collateral
5 attacks all predated Rooker.

6 But that's why they're so significant.
7 This Court in Rooker and in Feldman never
8 grappled with that history and suggested that
9 it meant to overrule it and entirely strip the
10 district courts of any ability to consider in
11 the exercise of their original jurisdiction
12 that kind of collateral attack.

13 Smith versus Apple is a directly on
14 point precedent here where the lower court said
15 that it had -- it lacked jurisdiction over that
16 kind of collateral attack. And this Court said
17 no, the district court had jurisdiction to
18 review that state court judgment and consider
19 issuing an injunction that would prevent its
20 enforcement. Jurisdiction was secured. The
21 problem was a merits issue that the
22 Anti-Injunction Act barred that suit.

23 So I think that that is strong
24 evidence that, as a matter of history and
25 tradition, collateral attacks are nothing new

1 and they've always been understood to lie
2 within a district court's original
3 jurisdiction.

4 My friend also read out several
5 sentences from different precedents, kind of
6 plucked them out where the issue wasn't
7 presented, and suggests they support her rule.
8 We have a lot of sentences on our side too.
9 The Court has several times referred to high
10 court judgments. It said in Exxon multiple
11 times that the state court proceedings there
12 had concluded. And so we think that the
13 Court's precedent likewise can be read our way.

14 But I think it's also worth stepping
15 back here and not losing sight of the forest
16 for the trees and thinking about how this rule
17 operates. Rooker-Feldman is a doctrine of
18 jurisdiction, and it's already at the very
19 outer bounds of how this Court thinks about
20 jurisdictional rules. It's not supposed to be
21 a judge-made doctrine. Instead, it's supposed
22 to come directly from Congress and from clear
23 statutory text.

24 And to vastly expand it in this way
25 would run away from the text of Section 1257

1 and would also come with the huge cost of
2 imposing this jurisdictional rule and all of
3 the baggage that comes along with it in terms
4 of no party presentation and inefficiencies
5 that come from having to adjudicate the
6 jurisdiction -- jurisdictional question first.

7 It's also completely unnecessary
8 because doctrines like preclusion and
9 abstention are meant to deal with competing or
10 overlapping jurisdiction, and that's how the
11 courts have long handled these issues in our
12 dual system of state and federal courts.

13 Exxon tried to rein all of this in
14 when, in a prior situation, the lower federal
15 courts were applying Rooker-Feldman too
16 broadly. But they haven't taken the hint. We
17 have seven state court -- seven federal circuit
18 courts on our side. And our rule is clear that
19 you can only invoke Rooker -- Rooker-Feldman in
20 a situation where one of the things being
21 reviewed comes from about 51 state high courts.
22 But on Respondent's rule, courts are going to
23 have to think about Rooker-Feldman for any
24 judgment involving any of the more than 15,000
25 state lower courts.

1 That would be a vast expansion of this
2 doctrine. It would be inconsistent with the
3 text of Section 1257. It would run counter to
4 history. It's a solution in search of a
5 problem because preclusion doctrines already
6 guard against relitigation. And it would be
7 unwarranted.

8 So we would ask the Court to reverse.

9 CHIEF JUSTICE ROBERTS: Thank you,
10 counsel.

11 The case is submitted.

12 (Whereupon, at 12:19 p.m., the case
13 was submitted.)

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