No. _____

In the Supreme Court of the United States

ANTHONY MONROE,
Petitioner,
v.
TERRY CONNER, ET AL.,
Respondents.

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

PETITION FOR A WRIT OF CERTIORARI

JASON M. OHTA
ERIC A. RIVAS
ADAM A. HERRERA
LATHAM & WATKINS LLP
12670 High Bluff Drive
San Diego, CA 92130

EMILY R. ORMAN
LATHAM & WATKINS LLP
355 South Grand Avenue
Suite 100
Los Angeles, CA 90071

NIKITA KANSRA
LATHAM & WATKINS LLP
1271 Avenue of the Americas
New York, NY 10020

ROMAN MARTINEZ
Counsel of Record
BLAKE E. STAFFORD
LATHAM & WATKINS LLP
555 Eleventh Street, NW
Suite 1000
Washington, DC 20004
(202) 637-3377
roman.martinez@lw.com

DAVID D. COLE
AMERICAN CIVIL LIBERTIES
UNION FOUNDATION
915 Fifteenth Street, NW
Washington, DC 20005

NORA AHMED
ACLU FOUNDATION OF
LOUISIANA
1340 Poydras Street
Suite 2160
New Orleans, LA 70112

Counsel for Petitioner

QUESTION PRESENTED

Congress enacted 42 U.S.C. § 1983 as a means to hold state actors accountable for violating federal constitutional and statutory rights. Congress did not, however, specify every rule governing claims filed under Section 1983, instead instructing courts to fill in the gaps by borrowing "suitable" federal law or, where no such federal law exists, pertinent state law that is "not inconsistent with the Constitution and laws of the United States." 42 U.S.C. § 1988(a). Because Congress did not specify a statute of limitations for Section 1983 claims, the Court has held that courts may borrow state statutes of limitations as long as the borrowed statute does not frustrate the "federal interest[s]" underpinning Section 1983. *Burnett v. Grattan*, 468 U.S. 42, 47-49 (1984).

Applying that standard, this Court has held that courts adjudicating Section 1983 claims should ordinarily borrow the forum state's statute of limitations governing personal injury actions, *see Owens v. Okure*, 488 U.S. 235, 249-50 (1989), which in most states is at least two years. The Court expressly left open the question whether applying a state's one-year limitations period to Section 1983 claims would be "inconsistent with federal interests." *Id.* at 251 n.13. This case presents the question that the Court expressly left unanswered in *Owens*:

Whether applying a state's one-year statute of limitations to Section 1983 claims is inconsistent with the federal statutory scheme and the interests that it is designed to uphold (and if so, how courts should determine the appropriate limitations period).

PARTIES TO THE PROCEEDING

Petitioner (plaintiff-appellant below) is Anthony Monroe.

Respondents (defendants-appellees below) are Terry Conner, in his individual capacity as a law enforcement officer with the Louisiana State Police; Richard Matthews, in his individual capacity as a law enforcement officer with the Louisiana State Police; Lamar Davis, in his official capacity as the Superintendent of the Louisiana State Police; and Chavez Cammon, in his official capacity as records custodian.

RELATED PROCEEDINGS

United States Court of Appeals (5th Cir.):

Monroe v. Conner, No. 23-30230, judgment entered March 5, 2024.

United States District Court (W.D. La.):

Monroe v. Conner, No. 21-cv-4063 judgment entered March 9, 2023.

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PETITION FOR A WRIT OF CERTIORARI

Petitioner Anthony Monroe respectfully petitions this Court for a writ of certiorari to review the judgment of the United States Court of Appeals for the Fifth Circuit in this case.

OPINIONS BELOW

The opinion of the court of appeals (App. 1a-5a) is available at 2024 WL 939735. The opinion of the district court (App. 6a-15a) is available at 2023 WL 2434696.

JURISDICTION

The court of appeals entered its judgment on March 5, 2024. On May 31, 2024, Justice Alito extended the time to file a petition for a writ of certiorari through July 3, 2024. This Court has jurisdiction under 28 U.S.C. § 1254(1).

STATUTORY PROVISIONS INVOLVED

The relevant statutory provisions are reproduced in the appendix to this petition. App. 16a-22a.

INTRODUCTION

This petition presents a critically important question concerning the limitations period for civil rights claims under 42 U.S.C. § 1983. In three States and Puerto Rico—unlike everywhere else in the country—Section 1983 claims are subject to a one-year statute of limitations that makes it exceedingly difficult for victims of constitutional violations to bring timely claims. This Court has previously reserved the question of whether a one-year limitations period comports with federal law. *Owens v. Okure*, 488 U.S. 235, 251 n.13 (1989). The Court should grant certiorari in this case to hold it does not.

Enacted as part of the Civil Rights Act of 1871, Section 1983 provides a cause of action against state actors who violate federal constitutional and statutory rights. Rather than delineate every rule required to adjudicate Section 1983 claims, Congress directed courts to borrow pertinent rules from "suitable" federal law or, where such federal law does not exist, state law—but only insofar as the borrowed state law is "not inconsistent with the Constitution and laws of the United States." 42 U.S.C. § 1988(a). This condition "emphasizes 'the predominance of the federal interest' in the borrowing process," *Wilson v. Garcia*, 471 U.S. 261, 269 (1985) (citation omitted), by requiring federal courts to ensure that the borrowed state law does not frustrate "the goals of the federal civil rights statutes," *Burnett v. Grattan*, 468 U.S. 42, 53 (1984).

One such borrowed rule is the applicable limitations period. Congress did not specify a statute of limitations for Section 1983 claims, and, in light of the absence of otherwise suitable federal law, this Court filled in the gap by establishing a default rule that courts adjudicating Section 1983 claims should borrow the forum state's general or residual statute of limitations for personal injury actions. *Owens*, 488 U.S. at 249-50; *Wilson*, 471 U.S. at 280. In so holding, however, the Court has never wavered from Section 1988's command that a borrowed state law must comport with the federal interests underlying Section 1983. To the contrary, the Court in *Owens* expressly flagged, but declined to resolve, the question whether a one-year limitations period is so short that applying it to Section 1983 claims "would be inconsistent with [those] federal interests." 488 U.S. at 251 n.13.

That question is squarely presented in this case. Petitioner Anthony Monroe was pulled over by the Louisiana State Police for no justifiable reason and beaten by multiple officers to the point of suffering a heart attack and incurring permanent injuries to his upper body. Less than two years after the beating, Mr. Monroe filed suit, bringing federal civil rights claims and state-law claims. In most states, his suit would be timely under the state's personal injury limitations period. The district court, however, dismissed Mr. Monroe's federal claims as time-barred under Louisiana's outlier one-year prescriptive period (*i.e.*, statute of limitations) for personal injury claims. La. Civ. Code Ann. art. 3492.[1] That limitations period is the shortest in the nation, and is matched by only three other jurisdictions.

The Fifth Circuit affirmed. "[A]lthough" the court was "sympathetic to Monroe's plight," it was "bound" by a prior panel's resolution of this issue in *Brown v. Pouncy*, 93 F.4th 331 (5th Cir. 2024), *petition for cert. filed*, No. 23-1332 (June 18, 2024), to apply Louisiana's one-year limitations period to Mr. Monroe's claims. *See* App. 5a. The court emphasized that "[o]nly the Supreme Court, having already solved the problem of uncertainty in the absence of a federal limitations period for Section 1983 claims, can clarify how lower courts should evaluate practical frustration [in the ability to litigate such claims]

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[1] Louisiana recently lengthened this prescriptive period to two years—but only for injuries suffered after July 1, 2024. *See* 2024 La. Sess. Law Serv. Act 423 (H.B. 315) (approved June 3, 2024), https://legiscan.com/LA/bill/HB315/2024. The amendment thus does not affect Mr. Monroe's claims.

without undermining that solution." App. 4a-5a (alteration in original) (citation omitted).

This Court should take up that invitation and resolve that question. Applying a one-year period to Section 1983 claims frustrates the ability of claimants to enforce their federal rights, especially for victims of police brutality who often experience trauma, physical injuries, and legal obstacles that render filing a claim within a year virtually impossible. The Fifth Circuit's contrary conclusion rests on inapt analogies that largely sidestep the framework articulated by the Court in *Burnett*.

This question is indisputably important. Section 1983 is one of the "most important, and ubiquitous, civil rights statute[s]" enacted by Congress. *Wilson*, 471 U.S. at 266. It enables individuals to vindicate their federal rights and prevents state actors from denying relief for civil rights violations. Yet nearly 15 *million* people live in jurisdictions where the default limitations period for asserting Section 1983 claims is (as a matter of state law) one year. The question presented thus has ramifications for several hundreds of civil rights claimants every year. And unless this Court intervenes, lower courts will continue to apply unduly short limitations periods to Section 1983 claims without properly considering the federal interests at stake. The petition should be granted.

STATEMENT OF THE CASE

A. Legal Background

1. Congress enacted Section 1983 as part of the Civil Rights Act of 1871 in order to curb "pervasive state-sanctioned lawlessness and violence against the freedmen and their White Republican allies" during

the Reconstruction Era. *Health & Hosp. Corp. of Marion Cnty. v. Talevski*, 599 U.S. 166, 176 (2023); *see* Pub. L. No. 42-22, § 1, 17 Stat. 13, 13 (1871) (codified as amended at 42 U.S.C. § 1983). Recognizing that "'state instrumentalities' could not, or would not, fully protect federal rights," Congress provided individuals with a private cause of action for their injuries and entrusted federal courts with protecting individuals' constitutional rights from violations by state actors. *Talevski*, 588 U.S. at 177 (citation omitted); *see Mitchum v. Foster*, 407 U.S. 225, 238-43 (1972).

Under Section 1983, individuals may seek recourse against state actors who deprive them of "any rights, privileges, or immunities secured by the Constitution and laws." 42 U.S.C. § 1983. The Court has given this core private remedy "a sweep as broad as its language." *Wilson*, 471 U.S. at 272 (quoting *United States v. Price*, 383 U.S. 787, 801 (1966)).

Congress did not delineate "every rule of decision required to adjudicate claims asserted under" the civil rights laws. *Burnett*, 468 U.S. at 47. Instead, Congress instructed courts to fill in the gaps by borrowing "the laws of the United States, so far as such laws are suitable to carry [the civil rights laws] into effect," as well as "the common law, as modified and changed by the constitution and statutes of the State, . . . so far as the same is not inconsistent with the Constitution and laws of the United States." 42 U.S.C. § 1988(a).

Section 1988 accordingly prescribes a "three-step process" for "borrow[ing] an appropriate rule." *Burnett*, 468 U.S. at 47. Courts first "look to the laws of the United States" to determine whether an analogous federal law that is "'suitable to carry [the civil rights statutes] into effect'" exists. *Id.* at 47-48

(alteration in original) (quoting 42 U.S.C. § 1988(a)). If "no suitable federal rule exists, courts undertake the second step by considering application of state 'common law, as modified and changed by the constitution and statutes' of the forum State." *Id.* at 48 (quoting 42 U.S.C. § 1988(a)). Before borrowing state law, the "third step" requires courts to ensure that the state law "is not 'inconsistent with the Constitution and laws of the United States.'" *Id.* (quoting 42 U.S.C. § 1988(a)). The third step "asserts the predominance of the federal interest," *id.*, ensuring that any borrowed state law is "consistent with federal law and policy," *Owens*, 488 U.S. at 239.

2. Congress did not set out an express statute of limitations for Section 1983 claims. As a result, this Court has applied the framework set forth above and held that Section 1988 generally "requires courts to borrow and apply to all [Section] 1983 claims" the forum State's "personal injury statute of limitations." *Owens*, 488 U.S. at 240-41 (citing *Wilson*, 471 U.S. at 275, 280). The Court reasoned that attaching the limitations period for personal injury claims to Section 1983 claims "is supported by the nature of the § 1983 remedy, and by the federal interest in ensuring that the borrowed period of limitations not discriminate against the federal civil rights remedy." *Wilson*, 471 U.S at 276. And when state law provides multiple statutes of limitations for personal injury actions, courts should "borrow the general or residual statute." *Owens*, 488 U.S. at 249-50.

Notwithstanding these default rules, the Court has noted that, "before borrowing a state statute of limitations and applying it to § 1983 claims, a court must ensure that it 'afford[s] a reasonable time to the federal claimant.'" *Id.* at 251 n.13 (alteration in

original) (quoting *Burnett*, 468 U.S. at 61 (Rehnquist, J., concurring in the judgment)). The Court has accordingly left open the question whether a one-year limitations period would be so short that it is "inconsistent with federal interests" and thus should not be borrowed for purposes of Section 1983 claims. *Id.*

B. Factual and Procedural Background

1. Petitioner Anthony Monroe is a 61-year-old Black resident of Shreveport, Louisiana. On November 29, 2019, just before dawn, Mr. Monroe was driving home after finishing a shift at the casino where he worked. CA5 Record on Appeal (CA5 ROA) 108. He was pulled over by a Louisiana State Police ("LSP") officer, Richard Matthews. *Id.* at 108-09. Without justifying the stop, Officer Matthews, with his hand placed on his gun, demanded that Mr. Monroe exit his vehicle. *Id.* at 109. Well aware of the recent history of police violence against other Black victims in his area, Mr. Monroe immediately feared for his life. *Id.* at 110. He remained in his truck and called his mother on his cell phone, who stayed on the line throughout the ensuing encounter. *Id.*

Through his rolled-down window, Mr. Monroe repeatedly asked why he had been pulled over. *Id.* Officer Matthews claimed that Mr. Monroe was driving 45 miles per hour in a 25-miles-per-hour speed zone—an allegation that was later dismissed by the district attorney—and continued to demand that Mr. Monroe get out of his vehicle. *Id.* at 110 & n.8. Mr. Monroe informed Officer Matthews that he did not want to be handcuffed due to medical issues, including a heart condition. *Id.* at 110. Officer Matthews said that he did not plan to handcuff Mr.

Monroe, and Mr. Monroe's mother told her son to get out of the vehicle so as not to give Officer Matthews a reason to shoot him. *Id.* at 110-11.

Once Mr. Monroe stepped out of the truck, Officer Matthews said that Mr. Monroe's arrest had to be done "the hard way." *Id.* at 111. With his body camera turned off, Officer Matthews drew his gun and pointed it at Mr. Monroe, who cowered back into his truck out of fear that Officer Matthews would shoot and kill him. *Id.*

Two other LSP officers arrived at the scene, at which point Officer Matthews turned his body camera on. *Id.* at 111-12. The officers demanded that Mr. Monroe get out of his truck, and his mother—still on the phone—once again told him to comply so he would not be shot. *Id.* Upon exiting his truck, Mr. Monroe was violently slammed to the concrete by all three officers. *Id.* at 112. Together, the officers kneeled on his back and legs, placing their entire collective weight on him, and continued to beat and suffocate him despite his cries for help. *Id.* One officer kneed Mr. Monroe in the kidney so violently that it caused him to involuntarily urinate. *Id.* at 113. Mr. Monroe experienced extreme chest pain and tightness, and later learned he had suffered a heart attack during the beating. *Id.* The chest pain persisted throughout the 45-minute ride to a local jail, during which Mr. Monroe went in and out of consciousness. *Id.* Once at the jail, the officers denied Mr. Monroe proper medical treatment and refused to take him to the hospital. *Id.* at 114.

Several hours later, after he was released from jail, Mr. Monroe went to the emergency room, where he remained for two nights before being admitted to a hospital because the doctor feared he might die from

bodily-fluid buildup caused by the beating. *Id.* Mr. Monroe learned that he had suffered fractures in both wrists and significant injuries to his shoulders and arms. *Id.* He was later declared disabled and diagnosed with post-traumatic stress disorder stemming from the incident. *Id.* at 114-15.

In September 2020, the district attorney formally dismissed the speeding charge against Mr. Monroe, after Officer Matthews failed to provide additional footage or information. *Id.* at 110 n.8. Mr. Monroe remains, however, the subject of criminal charges for allegedly "resisting … arrest." *Id.* at 324, 328. After the officers lodged criminal charges against him, Mr. Monroe lost his job of twenty years. *Id.* at 115. Mr. Monroe's mother suffered a major stroke and thirteen minor strokes due to the stress caused by her son's arrest, and she passed away. *Id.*

In July 2021, Mr. Monroe's counsel served on LSP a public records request, pursuant to his rights under the Louisiana Constitution, seeking seventeen categories of documents relating to the incident, including internal reports as well as records related to LSP's policies and practices. *Id.* at 116-18, 396. To date, Mr. Monroe has not received any documents, aside from one outlining LSP's standard use of force policy and another setting out LSP's cadet training schedule. *Id.* at 119-20, 396-97.

2. On November 24, 2021, less than two years after the beating, Mr. Monroe filed suit in the United States District Court for the Western District of Louisiana, seeking relief for excessive force in violation of Section 1983; conspiracy in violation of Sections 1983 and 1985; failure to supervise, investigate, and decertify officers in violation of Section 1983; and aggravated assault, aggravated

battery, and failure to comply with his records request in violation of state law. *Id.* at 34-43.

On March 9, 2023, the district court dismissed Mr. Monroe's federal law claims with prejudice. App. 6a-15a. The court held that Louisiana's one-year prescriptive period governed Mr. Monroe's federal claims. *Id.* at 12a-13a. That period is the residual statute of limitations that applies to personal injury actions for which a statute of limitations is not otherwise specified. *See* La. Civ. Code Ann. art. 3492.

The court acknowledged that Louisiana's one-year limitations period was "atypical and relatively brief" but believed it was bound by existing precedent and the court's own "prior rulings." App. 12a-13a. The court thus rejected Mr. Monroe's argument that a longer limitations period—such as Louisiana's two-year period for torts that amount to crimes of violence, *see* La. Civ. Code Ann. art. 3493.10, or the federal four-year "catch-all" limitations period, *see* 28 U.S.C. § 1658—should apply. App. 12a-13a.[2]

3. On March 5, 2024, the Fifth Circuit affirmed the dismissal of Mr. Monroe's federal claims. App. 1a-5a. While noting that it was "sympathetic to Monroe's plight," the panel held that it was "bound" by the Fifth Circuit's decision in *Brown*, issued two weeks earlier. *Id.* at 5a (citing *Brown*, 93 F.4th at 338).

In *Brown*, the Fifth Circuit had affirmed the dismissal of similar police brutality claims filed under Section 1983 as untimely under Louisiana's one-year prescriptive period. 93 F.4th at 337-38. The court recognized that this Court "has not addressed"

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[2] The court declined to exercise supplemental jurisdiction over Mr. Monroe's state law claims and dismissed those claims without prejudice. App. 14a.

whether and when the length of a limitations period can contravene federal interests underlying Section 1983. *Id.* Nonetheless, the court believed that this Court's decision in *Owens* requires courts to apply a forum state's general limitations period to Section 1983 claims, regardless of its length. *Id.*

Constrained by that precedent, the Fifth Circuit in this case followed suit and dismissed Mr. Monroe's claims as time-barred under Louisiana's one-year limitations period. App. 4a-5a. The panel reiterated that "[o]nly the Supreme Court, having already solved the problem of uncertainty in the absence of a federal limitations period for Section 1983 claims, can clarify how lower courts should evaluate practical frustration [in the ability to litigate such claims] without undermining that solution." *Id*. (alteration in original) (quoting *Brown*, 93 F.4th at 338).

REASONS FOR GRANTING THE PETITION

This case is a straightforward candidate for certiorari. In a series of decisions, this Court has articulated and refined a framework for borrowing statutes of limitations for federal civil rights claims, stressing that under 42 U.S.C. § 1988, borrowing is permissible only "where doing so is consistent with federal law." *Owens v. Okure*, 488 U.S. 235, 239 (1989); *see Wilson v. Garcia*, 471 U.S. 261, 266-67 (1985); *Burnett v. Grattan*, 468 U.S. 42, 47-48 (1984). As the Fifth Circuit recognized, the question presented in this case—which considers the propriety of borrowing a one-year limitations period from state law—"pick[s] up where *Owens* left off." *Brown v. Pouncy*, 93 F.4th 331, 334 (5th Cir. 2024), *petition for cert. filed*, No. 23-1332 (June 18, 2024); *see* App. 4a-5a (applying *Brown*).

The Court should grant review to answer that question. Under this Court's jurisprudence, applying a one-year state statute of limitations is insufficient to vindicate Section 1983's federal interests. The Fifth Circuit's decision largely sidesteps the analysis commanded by this Court's decisions on the theory that "[o]nly [this] Court" can decide "how lower courts should evaluate" the question in light of existing precedent. App. 4a-5a (first alteration in original) (citation omitted). The question presented is critically important to the hundreds of individuals who file federal civil rights claims each year in jurisdictions currently subject to one-year limitations periods. Because this question is cleanly presented in this case, the Court should take this opportunity to resolve it once and for all.

I. The Fifth Circuit's Resolution Of The Question Left Open In *Owens* Is Plainly Wrong

The Fifth Circuit's half-hearted resolution of the question left open in *Owens* bypasses the framework articulated in this Court's cases, discounts the federal interests protected by Section 1983 claims, and warrants this Court's review.

1. Given the absence of a federal statute of limitations for Section 1983 claims, courts must borrow a limitations period pursuant to the "three-step process" prescribed in Section 1988. *Wilson*, 471 U.S. at 267 (quoting *Burnett*, 468 U.S. at 47-48). Under that process, courts shall (1) consider "the laws of the United States" to determine whether a "suitable federal rule exists"; (2) if not, "consider[] application of state 'common law, as modified and changed by the constitution and statutes' of the forum

State"; and (3) ensure that any borrowed state law "is not 'inconsistent with the Constitution and laws of the United States.'" *Burnett*, 468 U.S. at 47-48 (quoting 42 U.S.C. § 1988(a)).

In a trio of decisions in the 1980s, the Court declared that at step one no suitable federal rule existed, *id.* at 48-49, and that, at "the second step in the process," courts should borrow the forum state's general or residual statute of limitations governing personal injury actions, *Wilson*, 471 U.S. at 268, 276; *Owens*, 488 U.S. at 249-50. Although the Court assumed that, in most states, the limitations period for "[g]eneral personal injury actions" would not be "fixed in a way that would discriminate against federal claims, or be inconsistent with federal law," *Wilson*, 471 U.S. at 279, the Court in *Owens* expressly identified and left open the question presented here: Whether "applying a 1-year limitations period to § 1983 actions" would flunk the third step of Section 1988's borrowing analysis for being "inconsistent with [the] federal interests" underlying the federal civil rights laws, 488 U.S. at 251 n.13.

Applying a state's one-year limitations period is inconsistent with the federal interests underlying the civil rights laws. Section 1988's third step "emphasizes 'the predominance of the federal interest' in the borrowing process," commanding "'federal courts to assure that the importation of state law will not frustrate or interfere with the implementation of national policies.'" *Wilson*, 471 U.S. at 269 & n.18 (first quoting *Burnett*, 468 U.S. at 48; then quoting *Occidental Life Ins. Co. v. EEOC*, 432 U.S. 355, 367 (1977)). Courts must consider the "practicalities that are involved in litigating federal civil rights claims and policies that are analogous to the goals of the

Civil Rights Acts," including whether the state limitations period is "responsive" to the "broadly inclusive language" of Section 1983. *Burnett*, 468 U.S. at 50. Where a state limitations period does not faithfully effectuate the "goals of the federal statutes"—including the "compensation of persons whose civil rights have been violated[] and prevention of the abuse of state power"—a court cannot apply the period to a Section 1983 claim. *Id.* at 53.

A one-year limitations period fails the third step of Section 1988's framework, as it is incompatible with the "practicalities that are involved in litigating federal civil rights claims" under Section 1983. *Id.* at 50. The Court has "disapproved the adoption of state statutes of limitation that provide only a truncated period of time within which to file suit, because such statutes inadequately accommodate the complexities of federal civil rights litigation and are thus inconsistent with Congress' compensatory aims." *Felder v. Casey*, 487 U.S. 131, 139-40 (1988).

These complexities are no mystery: "Injuries to personal rights are not 'necessarily apparent to the victim at the time they are inflicted,'" and "'[e]ven where the injury itself is obvious, the constitutional dimensions of the tort may not be.'" *Owens*, 488 U.S. at 238 (alteration in original) (citation omitted). Moreover, "[l]itigating a civil rights claim requires considerable [pre-suit] preparation." *Burnett*, 468 U.S. at 50. This preparation includes securing counsel with expertise in a given area of law or preparing to proceed *pro se*, drafting pleadings compliant with federal rules, conducting pre-filing investigation, identifying "Doe" defendants, assessing damages, paying a substantial filing fee or preparing additional supporting papers for a request to proceed

in forma pauperis, and filing and serving a complaint. *See id.* at 50-51.

As several amici explained to the district court in this case and to the Fifth Circuit in the related *Brown* case, Section 1983 plaintiffs often face significant "practical and trauma-related challenges" when attempting to bring a Section 1983 action, particularly in cases like Mr. Monroe's, where the police have withheld critical evidence. Nat'l Police Accountability Project, Inc. Amicus Br. 1-9 (Mar. 9, 2023), D. Ct. Doc. 84 (NPAP Amicus Br.); *see* Law Enf't Action P'ship Amicus Br. 1-5 (Mar. 9, 2023), D. Ct. Doc. 83 (LEAP Amicus Br.) (similar); *see also* Orleans Public Defenders Amicus Br. 2-9, *Brown*, *supra* (No. 22-30691), 2023 WL 2019613 (detailing the "practical impediments . . . in bringing a civil-rights claim within [a] restrictive one-year period"). These cases are particularly complex because plaintiffs must assess whether their claims can withstand immunity defenses and whether to assert claims of municipal liability, which often will turn on facts that require substantial investigation. *See* NPAP Amicus Br. 4-5.

Indeed, similar concerns animated the Second Circuit's decision, affirmed by this Court in *Owens*, to apply New York's three-year limitations period rather than a one-year limitations period to Section 1983 claims. *Okure v. Owens*, 816 F.2d 45, 48 (2d Cir. 1987), *aff'd*, 488 U.S. 235 (1989). Highlighting the injurious nature and "constitutional dimensions" of certain civil rights violations, which are not always "immediately obvious," the court stressed that "there must be time for plaintiffs to reflect and to probe" on their claims. *Id.* at 48-49. Pursuant to the "[p]roper consideration of the federal interest," only the three-

year limitations period was "long enough to effectuate the policies embedded in section 1983." *Id.* at 48; *see also Hobson v. Brennan*, 625 F. Supp. 459, 466-67 (D.D.C. 1985) (holding that application of one-year limitations period was "inconsistent with the purposes of § 1985(3)" given that such cases often require "considerable reflection and investigation by plaintiffs and their counsel" and involve "obstacles which some defendants effectively place[] . . . in the way of plaintiffs' efforts to identify, serve and depose them").[3]

Congress itself has recognized that, as a general matter, far more than one year is necessary to prepare and file federal claims. In 1990, Congress enacted a default *four*-year statute of limitations governing any "civil action" under subsequently enacted federal law for which a limitations period is not otherwise specified. 28 U.S.C. § 1658(a). Congress enacted this "fallback," or "catch-all," statute of limitations after commissioning an independent, 15-month study, which revealed that a period of four years appropriately accounts for the complexities of federal litigation across a diverse array of claims under various federal laws. H.R. 5381 (101st Cong.), 136 Cong. Rec. H8256, H8262 (daily ed. Sept. 27, 1990); *see also* H.R. Rep. No. 101-734, at 24 (1990). Although this catch-all federal four-year limitations period

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[3] Since *Owens*, two other circuit courts have applied one-year limitations periods to Section 1983 claims. But as the Fifth Circuit recognized, these decisions contain only "limited analysis" and do not meaningfully grapple with the federal interests underlying Section 1983. *Brown*, 93 F.4th at 338; *see McDougal v. County of Imperial*, 942 F.2d 668, 673 (9th Cir. 1991); *Jones v. Preuit & Mauldin*, 876 F.2d 1480, 1484 (11th Cir. 1989).

applies by its terms to federal statutes enacted after 1990, it underscores that applying an outlier one-year limitations period to Section 1983—a federal statute that similarly spans a "wide [spectrum] of claims" encompassing "numerous and diverse topics and subtopics," *Wilson*, 471 U.S. at 273-75—is "inconsistent with federal interests." *Owens*, 488 U.S. at 251 n.13.

Moreover, as Mr. Monroe's own case shows, the impracticability of a restrictive one-year limitations period is especially strong in the context of police brutality claims. In such cases—where victims often experience emotional trauma, physical injuries, and legal obstacles—a one-year filing deadline is virtually impossible to meet. Victims of abuse often struggle to report misconduct. *See* 9 Martin S. Greenberg & R. Barry Ruback, *After the Crime: Victim Decision Making* 1-15, *in* Perspectives in Law & Psychology (1992) (explaining that after suffering trauma, victims often struggle in deciding whether they should report the crime). Trauma is heightened in cases of police brutality against people of color. *See* Jordan E. DeVylder et al., *Elevated Prevalence of Suicide Attempts among Victims of Police Violence in the USA*, 94 J. Urban Health 629, 631 (2017) (finding that "[p]olice victimization was broadly more common among racial/ethnic minorities" and strongly associated with suicide attempts).

Like Mr. Monroe, victims of police brutality may also face (spurious) criminal charges arising from the incident, which raise further hurdles to timely filing a Section 1983 suit, including the requirement to fulfill bond conditions and other monetary obligations, any collateral consequences of the criminal charges on their employment, housing, and

parental rights, the need to focus on defending against the criminal charges, and the risk of retaliation by the state institutions bringing the charges. The possibility that a litigant facing criminal charges would be forced to prematurely bring his civil suit increases the likelihood of the risks this Court has cautioned against: forcing a defendant to "tip[] his hand as to his defense strategy" and "undermining his privilege against self-incrimination." *McDonough v. Smith*, 588 U.S. 109, 120 (2019).

2. The Fifth Circuit failed to grapple with this analysis. Instead, the court affirmed the application of a one-year limitations period by pointing to the one-year limitations period for claims filed under 42 U.S.C. § 1986, and this Court's discussion in *Hardin v. Straub*, 490 U.S. 536 (1989), regarding the application of state tolling provisions in Section 1983 cases filed by prisoners. *See Brown*, 93 F.4th at 336-37; App. 5a (applying *Brown*).

These inapt analogies merely highlight the need for this Court's intervention. Section 1986 imposes secondary liability on those who have knowledge of, and the power to prevent, a conspiracy to violate civil rights in violation of Section 1985. 42 U.S.C. § 1986. Section 1983, by contrast, covers a far broader set of claims seeking to impose liability for direct civil rights violations, rather than the mere failure to prevent a conspiracy. Section 1986's limitations period is "no[t] . . . helpful" in this context. *Burnett*, 468 U.S. at 48-49. Indeed, even the Fifth Circuit did not seem convinced by this comparison, acknowledging that Section 1983 and Section 1986 are "distinct" statutes and that "what is too short to vindicate one [statute]

might be sufficient to vindicate the other." *Brown*, 93 F.4th at 337.

And *Hardin* simply stands for the proposition that state legislatures have some latitude in devising state tolling provisions without running afoul of Section 1983's interests. 490 U.S. at 544. Nothing in *Hardin* remotely supports the Fifth Circuit's evident belief that "the length of a statute of limitations"—no matter how short—will not create an impermissible "frustration of federal interests." *Brown*, 93 F.4th at 337. In fact, *Hardin* reaffirmed that courts borrowing state rules must consider whether the rules "defeat the goals of the federal statute at issue." 490 U.S. at 539.

Neither of these analogies satisfactorily addresses the question whether a one-year period "practical[ly] frustrat[es]" the federal interests underlying Section 1983. App. 4a-5a (citation omitted). The Fifth Circuit claimed that it could not "evaluate" the frustration of those federal interests absent further guidance from "[this] Court." *Id.* By affirming the application of a one-year limitations period in this case, the court shirked its "duty" under Section 1988 to "assure that the importation of state law will not frustrate or interfere with the implementation of national policies." *Wilson*, 471 U.S. at 269 n.18 (citation omitted).

3. Once the Court makes clear that "applying a [one]-year limitations period to § 1983 actions [is] inconsistent with federal interests," *Owens*, 488 U.S. at 251 n.13, the Court would have the option of providing additional guidance to lower courts on the proper statute of limitations to apply in these circumstances.

The best approach would be to apply 28 U.S.C. § 1658—the federal "catch-all" four-year limitations period enacted by Congress in 1990. Although this provision by its terms directly governs "action[s] arising under [federal laws] enacted after [December 1, 1990]," 28 U.S.C. § 1658(a), it would be appropriate to *borrow* that four-year period as a "suitable federal rule" for purposes of Section 1988's borrowing analysis, *Burnett*, 468 U.S. at 48, at least in circumstances where the state-law analogue would be an impermissibly short one-year limitations period. *See, e.g.*, Abner J. Mikva & James E. Pfander, *On the Meaning of Congressional Silence: Using Federal Common Law to Fill the Gap in Congress's Residual Statute of Limitations*, 107 Yale L.J. 393, 396, 416-25 (1997) (explaining that courts can "borrow[] the § 1658 four-year limitations period for most claims arising under [pre-1990] federal statutes as to which no clear rule of federal law has emerged").

That conclusion squares with this Court's prior decisions in this area. Section 1658 did not exist when this Court decided its trilogy of cases applying Section 1988's three-step borrowing process to Section 1983 claims. But as the Court put it in those cases, "when a rule from elsewhere in federal law clearly provides a closer analogy than available state statutes, and when the federal policies at stake and the practicalities of litigation make that rule a significantly more appropriate vehicle for interstitial lawmaking, we have not hesitated to turn away from state law." *Wilson*, 471 U.S. at 270 n.21 (quoting *DelCostello v. Int'l Bhd. of Teamsters*, 462 U.S. 151, 171-72 (1983)); *see also DelCostello*, 462 U.S. at 161-62 (where state rules are "unsatisfactory vehicles for the enforcement of federal law," the Court has

"instead used timeliness rules drawn from federal law").

Section 1658 was designed for precisely this purpose: to serve as a "fallback" statute for federal claims. H.R. Rep. No. 101-734, at 24 (noting intent to reduce "practical problems" caused by borrowing state statutes, including "uncertainty on litigants," "undesirable variance among federal courts," and "disrupt[ion] [of] the development of federal doctrine on the suspension of the limitation periods"). Given that Section 1983 "provides 'a uniquely *federal* remedy'" for a "diverse" array of claims, *Wilson*, 471 U.S. at 271-72, 273 (emphasis added) (citation omitted), it makes sense to borrow the period from a *federal* statute of limitations with a reach just as broad. At a minimum, this is true when, as here, the borrowing process would otherwise yield a "truncated [limitations] period" from state law that is "inconsistent with [Section 1983's] compensatory aims." *Felder*, 487 U.S. at 139-40.

Another option in the event that the borrowing analysis points to an impermissible one-year statute of limitations might be to borrow the state-law limitations period governing the next-most analogous tort claim, provided that period is consistent with Section 1983's aims and not an outlier among the states. Indeed, in *Wilson* and *Owens*, this Court surveyed state statutes of limitations across the country to determine the "best alternative available" in light of the Section 1983 remedy. *Wilson*, 471 U.S. at 276; *see Owens*, 488 U.S. at 242-48. Most states have a limitations period for personal injury actions that is at least two years. *See* ACLU Louisiana, *Justice Lab Manual* 18 (Mar. 2022), https://perma.cc/98J9-6ZTU. Accordingly, it would be

appropriate to borrow a period from state law of at least that length.[4]

To be sure, the Court need not decide which limitations period is appropriate once Louisiana's one-year requirement is deemed inapplicable. Under any conceivable alternative, Mr. Monroe's claim—which was filed within two years—is timely. The Court can thus simply answer the question left open in *Owens*: Whether applying a one-year limitations period frustrates the federal interests underlying Section 1983. Because the Fifth Circuit insisted that "[o]nly [this] Court" is capable of answering that question in a way that harmonizes existing precedent, and because a one-year period impedes the federal interests underpinning the Civil Rights Act, it is imperative for the Court to do so. App. 4a-5a (first alteration in original) (quoting *Brown*, 93 F.4th at 338).

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[4] In Mr. Monroe's case, Louisiana's two-year limitations period for personal injury torts that amount to crimes of violence is a potential candidate. *See* La. Civ. Code Ann. art. 3493.10. This statute encompasses any offense "that has, as an element, the use, attempted use, or threatened use of physical force against the person or property of another." *Green v. Dauphinet*, 380 So. 3d 169, 174 (La. Ct. App. 2024) (quoting La. Rev. Stat. § 14:2(B), the state legislature's definition of crime of violence); *see also Brown v. Pouncy*, — So. 3d —, 2024 WL 2307514, at *3 (La. Ct. App. May 22, 2024). The state legislature's enumeration of offenses that constitute crimes of violence includes, among other offenses, aggravated assault, aggravated battery, second degree battery, and false imprisonment—each of which fit the conduct at issue here. And the length of the limitations period better reflects the federal goals of enabling individuals to vindicate their federal constitutional and statutory rights.

II. The Question Presented Is Exceptionally Important And Warrants This Court's Review

The question presented is not only unresolved but also critically important. Section 1983 reflects one of the "most important, and ubiquitous, civil rights statute[s]" enacted by Congress, and the Court has taken pains to cement an analytical framework for determining "the appropriate statute of limitations to apply." *Wilson*, 471 U.S. at 266. This case provides the Court an opportunity to resolve an unsettled aspect of that framework that is vitally important to the millions of people living in jurisdictions where the residual limitations period for personal injury actions is one year. The lingering uncertainty over a fundamentally important aspect of Section 1983 litigation provides a "compelling reason[] for granting certiorari." *Id.*

1. Section 1983's importance is indisputable. Enacted in direct response to southern states' violent hostility to federally guaranteed civil rights during the Reconstruction Era, the Section 1983 cause of action is an essential mechanism for protecting civil liberties in our democratic society. *Id.* at 276-77. Indeed, Section 1983 often serves as the only recourse for individuals to seek redress for violations of their civil rights in a neutral forum. And it is indispensable to maintaining the legitimacy of state administrative and law enforcement functions, frequently surfacing deep-rooted problems in state administrative and law enforcement processes while deterring state actors from violating federal constitutional and statutory protections. When police brutality claims brought by individuals like Mr. Monroe are unaddressed, community trust in the police drops, leading to lower

rates of reactive use of police services, less cooperation with investigations, and less deference to the police. *See* LEAP Amicus Br. 5-11.

Statutes of limitations perform a critically important role in implementing Congress's directive. They tell individuals by when they must sue, and they clarify for potential defendants when potential claims expire. Given their importance, this Court has repeatedly granted review to resolve unsettled limitations questions in the Section 1983 context. *See, e.g.*, *Reed v. Goertz*, 598 U.S. 230, 236-37 (2023); *McDonough*, 588 U.S. at 113-14; *Wallace v. Kato*, 549 U.S. 384, 387 (2007).

The limitations question at issue in this case is just as important. Indeed, because it involves borrowing state law, the question presented here strikes at the heart of Section 1983's core aim—securing federal relief for individuals suffering civil rights violations at the hands of state actors. *Wilson*, 471 U.S. at 271-72. Determining whether a state has enacted a limitations period so short that it thwarts the availability of federal relief is critical to maintaining Section 1983's role as a check on state power. And "having solved the problem of uncertainty in the absence of a federal limitations period for Section 1983 claims" in *Owens* and *Wilson*, it is incumbent on "[this] Court" to "clarify how lower courts" should apply that solution in the context of a one-year limitations period. App. 4a-5a (citation omitted).

2. The breadth of Section 1983 and the volume of such claims in jurisdictions with one-year limitations periods—including Kentucky, Tennessee, and Puerto Rico—reinforce the importance of this Court's review.

As this Court has noted, Section 1983 extends far beyond police brutality claims like Mr. Monroe's. Rather, individuals rely on Section 1983 to challenge, for example, "discrimination in public employment on the basis of race or the exercise of First Amendment rights, discharge or demotion without procedural due process, mistreatment of schoolchildren, deliberate indifference to the medical needs of prison inmates, [and] the seizure of chattels without advance notice or sufficient opportunity to be heard." *Wilson*, 471 U.S. at 273 (footnotes omitted); *see also id.* at 273 n.31 (collecting examples).

Yet in Kentucky, Tennessee, and Puerto Rico, plaintiffs seeking to raise such claims will have to contend with a one-year limitations periods for personal injury claims. *See* Ky. Rev. Stat. Ann. § 413.140(1)(a); Tenn. Code Ann. § 28-3-104(a)(1)(A); P.R. Laws tit. 31, § 5298(2). And any plaintiff in Louisiana who suffered a federal civil rights violation before July 1 of this year is likewise subject to a one-year period. *See* La. Civ. Code Ann. art. 3492 (effective until July 1, 2024); *supra* at 3 n.1. But even the remaining three jurisdictions are home to more than 14 million people,[5] with hundreds of plaintiffs filing Section 1983 claims in federal courts in these jurisdictions every year.[6] Many of those plaintiffs find their claims time-barred by the one-year limitations

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[5] *See* U.S. Census Bureau, *State Population Totals and Components of Change: 2020-2023*, https://www.census.gov/data/tables/time-series/demo/popest/2020s-state-total.html (last revised Dec. 18, 2023).

[6] This average is based on a Lex Machina search of complaints that included Section 1983 across federal courts in Kentucky, Tennessee, and Puerto Rico between January 1, 2019 to June 14, 2024.

period,[7] and countless others are deterred from even filing their claims at all due to the restrictive one-year period.

The application of a one-year limitations period to Section 1983 claims thus has serious ramifications for

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[7] *See, e.g.*, *Robinson v. Butler County*, No. 21-5536, 2022 WL 19977828, at *2 (6th Cir. Dec. 16, 2022) (claim for denial of medical care time-barred under Kentucky's one-year limitations period); *Smith v. Kentucky*, 36 F.4th 671, 675-76 (6th Cir.) (same, as to Thirteenth Amendment claim), *cert. denied*, 143 S. Ct. 213 (2022); *Bonner v. Perry*, 564 F.3d 424, 430-31 (6th Cir. 2009) (same, as to sexual abuse claim); *Vandiver v. Hardin Cnty. Bd. of Educ.*, 925 F.2d 927, 930 (6th Cir. 1991) (same, as to due process claim related to student's school placement); *Collard v. Ky. Bd. of Nursing*, 896 F.2d 179, 181-82 (6th Cir. 1990) (same, as to First Amendment and due process claims); *Accord v. Anderson County*, No. 22-5206, 2022 WL 16825411, at *2 (6th Cir. Nov. 8, 2022) (invalid arrest and prosecution claims time-barred under Tennessee's one-year limitations period); *Merriweather v. City of Memphis*, 107 F.3d 396, 400 (6th Cir. 1997) (same, as to claims related to police shooting); *Hall v. Tennessee*, 60 F.3d 828, 1995 WL 385112, at *1-2 (6th Cir. June 27, 1995) (same, as to wrongful termination claim); *Butts v. Dutton*, 878 F.2d 1436, 1989 WL 73653, at *2-3 (6th Cir. July 6, 1989) (same, as to improper administrative segregation claims); *Martínez-Rivera v. Puerto Rico*, 812 F.3d 69, 74-75 (1st Cir. 2016) (employment discrimination claim time-barred under Puerto Rico's one-year limitations period); *Asociación de Suscripción Conjunta del Seguro de Responsabilidad Obligatorio v. Juarbe-Jiménez*, 659 F.3d 42, 50-51 (1st Cir. 2011) (same, as to Takings Clause claim); *Perez-Sanchez v. Pub. Bldg. Auth.*, 531 F.3d 104, 107 (1st Cir. 2008) (same, as to freedom of association claim); *Centro Medico del Turabo, Inc. v. Feliciano de Melecio*, 406 F.3d 1, 6 (1st Cir. 2005) (same, as to First, Fifth, and Fourteenth Amendment claims); *Arroyo-Santiago v. Garcia-Vicario*, 187 F.3d 621, 1999 WL 551294, at *2 (1st Cir. July 28, 1999) (same, as to claim related to judicial misconduct); *Muniz-Cabrero v. Ruiz*, 23 F.3d 607, 610 (1st Cir. 1994) (same, as to demotion claim).

numerous civil rights claimants. If a one-year period is indeed improper under this Court's jurisprudence, and if the Court does not resolve this issue, the federal courthouse doors will be wrongly slammed shut for a significant number of plaintiffs suffering civil rights violations. And that is unlikely to change if, as the Fifth Circuit insisted, lower courts cannot even "evaluate [the] practical frustration" of civil rights claims inflicted by a one-year limitations period without guidance that "[o]nly [this] Court" can provide. App. 4a-5a (first alteration in original) (citation omitted).

Unless this Court grants review, lower courts will continue to apply one-year (or shorter) limitations periods simply because they feel "bound" to do so by precedent, and even when they have doubts as to the legitimacy of borrowing such restrictive periods. App. 5a (noting that panel was "sympathetic to Monroe's plight," but was "bound" by precedent); *see also, e.g.*, *Lawrence v. Jefferson Par. Pub. Defs.*, No. 20-cv-1615, 2022 WL 16739519, at *2 n.14 (E.D. La. Nov. 7, 2022) ("District courts in the Fifth Circuit have recognized the challenges imposed by the one-year statute of limitations for Section 1983 plaintiffs in Louisiana."), *appeal dismissed sub nom. Lawrence v. Lopinto*, No. 22-30776, 2023 WL 8641369 (5th Cir. June 26, 2023). This Court's intervention is warranted.

3. This case is an excellent vehicle for resolving the question presented. The question whether a one-year limitations period is too short to effectuate the federal interests underlying Section 1983 was squarely raised and fully briefed in the courts below, and it is outcome-determinative. Indeed, that was the *only* question addressed by the Fifth Circuit. *See* App. 3a. There are no jurisdictional or threshold issues

that would complicate the Court's adjudication of that question. And while Louisiana has amended its prescriptive period, that amendment does not apply to Mr. Monroe's claims. *See supra* at 3 n.1. This Court should resolve the statute-of-limitations question in this case.[8]

[8] The plaintiff in *Brown* has likewise filed a petition for certiorari (No. 23-1332) raising many of the same issues presented here. Mr. Monroe respectfully suggests that if this Court deems either case worthy of review, it should grant certiorari in both cases. Although the petitioners here and in *Brown* make similar and compatible arguments on the merits, their positions are not identical, and the Court would benefit from having the full range of arguments before it when considering the questions presented by the cases. At a minimum, if the Court grants review in either case alone, it should hold the other case for resolution of the granted case.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

JASON M. OHTA
ERIC A. RIVAS
ADAM A. HERRERA
LATHAM & WATKINS LLP
12670 High Bluff Drive
San Diego, CA 92130

EMILY R. ORMAN
LATHAM & WATKINS LLP
355 South Grand Avenue
Suite 100
Los Angeles, CA 90071

NIKITA KANSRA
LATHAM & WATKINS LLP
1271 Avenue of the Americas
New York, NY 10020

ROMAN MARTINEZ
Counsel of Record
BLAKE E. STAFFORD
LATHAM & WATKINS LLP
555 Eleventh Street, NW
Suite 1000
Washington, DC 20004
(202) 637-3377
roman.martinez@lw.com

DAVID D. COLE
AMERICAN CIVIL LIBERTIES UNION FOUNDATION
915 Fifteenth Street, NW
Washington, DC 20005

NORA AHMED
ACLU FOUNDATION OF LOUISIANA
1340 Poydras Street
Suite 2160
New Orleans, LA 70112

Counsel for Petitioner

July 3, 2024

APPENDIX

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[2024 WL 939735]

UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

United States
Court of Appeals
Fifth Circuit
FILED
March 5, 2024
Lyle W. Cayce
Clerk

No. 23-30230

ANTHONY MONROE,

Plaintiff—Appellant,

versus

TERRY CONNER, *in his individual capacity as a law enforcement officer with Louisiana State Police;* RICHARD MATTHEWS, *in his individual capacity as a law enforcement officer with the Louisiana State Police*; LAMAR DAVIS, *in his official capacity as the Superintendent of the Louisiana State Police*; CHAVEZ CAMMON*, in his official capacity as records custodian*,

Defendants—Appellees.

Appeal from the United States District Court
for the Western District of Louisiana
USDC No. 5:21-CV-4063

Before JONES, DENNIS, and DOUGLAS, *Circuit Judges*.

PER CURIAM:*

In *Owens v. Okure*, the Supreme Court held that a forum state's general or residual statute of limitations for personal injury claims applies to claims brought under § 1983. 488 U.S. 235, 249-50 (1989). Appellant Anthony Monroe challenges the application of Louisiana's one-year residual prescriptive period to his police brutality claims found in Article 3492 of the Louisiana Civil Code.[1] The district court concluded that Monroe's claims, filed one year and eleven months after the conduct giving rise to his federal claims, was time-barred. Because we are bound by precedent, we AFFIRM.

I

This case involves a routine traffic stop that allegedly ended in violence after three Louisiana State Police Troopers (collectively "Defendants") physically attacked Monroe in Bossier Parish, Louisiana. According to Monroe's amended complaint, this brutality caused Monroe to suffer a heart attack and other severe life-threatening injuries.

Monroe filed suit one year and eleven months[2] after the incident, bringing claims under 42 U.S.C. §§ 1983 and 1985. He asserted violations of his

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* This opinion is not designated for publication. *See* 5TH CIR. R. 47.5.

1 In Louisiana, the state legislature sets "prescriptive periods" rather than "statutes of limitations." LA. CIV. CODE art. 3492 (2024) ("Delictual actions are subject to a liberative prescription of one year.").

2 The attack occurred on November 29, 2019. Monroe filed his complaint November 24, 2021.

Fourth and Fourteenth Amendment rights, for excessive force and conspiracy. He also brought *Monell*[3] claims for failure to supervise, investigate, and decertify officers under 42 U.S.C. § 1983; aggravated assault in violation of La. Rev. Stat. § 14:37; aggravated battery in violation of La. Rev. Stat. § 14:34; and violations of the Louisiana Constitution and the Records Law, La. Rev. Stat. Ann. § 44.31, for refusal to comply with document requests.

Defendants separately moved to dismiss Monroe's federal claims as time barred under Louisiana's one-year prescriptive period. In March 2023, the district court granted the motions to dismiss, dismissing his federal claims with prejudice and declining to exercise supplemental jurisdiction over Monroe's state law claims, dismissing them without prejudice. Monroe timely filed a notice of appeal on April 10, 2023. We review the district court's dismissal de novo. *United States v. Irby*, 703 F.3d 280, 283-84 (5th Cir. 2012) (citation omitted).

II

On appeal, Monroe argues that Louisiana's one-year prescriptive period is inapplicable under *Burnett v. Grattan*, 468 U.S. 42, 48 (1984), because it undermines § 1983's federal interests. Specifically, he argues that (1) Louisiana law discriminates against § 1983 claimants because it time-bars federal claims one year earlier than equivalent state claims involving crimes of violence; (2) the Louisiana legislature consciously seeks to prevent plaintiffs from bringing police brutality claims; and (3) Louisiana's residual limitations period does not

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[3] *Monell v. Dep't of Soc. Servs.*, 436 U.S. 658 (1978).

account for the practicalities of litigating police brutality claims. Additionally, Monroe argues that Louisiana Civil Code Article 3493.10,[4] a prescriptive period that applies to crimes of violence, provides an appropriate analogue to apply to police brutality claims. Finally, he argues that the four-year statute of limitations supplied by 28 U.S.C. § 1658 could also apply.

Recently, a panel of our court considered identical arguments in *Brown v. Pouncy*, -- F.4th --, 2024 WL 667692 (5th Cir. 2024). In that case, Brown argued that Louisiana's one-year prescriptive period should not apply to police brutality claims brought under § 1983 because the period "impermissibly discriminates against Section 1983 police brutality claims and practically frustrates litigants' ability to bring such claims," both of which contravene the federal interests behind § 1983. *Id.* at *1, *3. There, the panel held that "Supreme Court precedent, and our cases applying that precedent, [ ] forcelose[d] Brown's position." *Id.* at *3. The panel noted that our precedent "consistently applied shorter, general limitations periods instead of longer ones governing analogous state law claims," and has "repeatedly applied Louisiana's one-year prescriptive period" to claims brought under § 1983. *Id.* at *4, *6. It explicitly stated that "[o]nly the Supreme Court, having already solved the problem of uncertainty in the absence of a federal limitations period for Section 1983 claims, can clarify how lower courts should

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[4] LA. CIV. CODE art. 3493.10 (2024) ("Delictual actions which arise due to damages sustained as a result of an act defined as a crime of violence . . . are subject to a liberative prescription of two years.").

evaluate practical frustration without undermining that solution." *Id.* at *7. Although we are sympathetic to Monroe's plight, we are bound by *Brown* under our rule of orderliness. *Edmiston v. Borrego*, 75 F.4th 551, 559 (5th Cir. 2023) (citing *Def. Distrib. v. Platkin*, 55 F.4th 486, 495 n.10 (5th Cir. 2022)) ("The rule of orderliness means that one panel of our court may not overturn another panel's decision, absent an intervening change in law, such as by statutory amendment, or the Supreme Court, or our *en banc* court.").

III

Accordingly, the decision of the district court is AFFIRMED.

[2023 WL 2434696]

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
SHREVEPORT DIVISION

ANTHONY MONROE,	CIVIL ACTION NO. 21-4063
VERSUS	JUDGE ELIZABETH E. FOOTE
TERRY CONNER, ET AL.	MAGISTRATE JUDGE HORNSBY

MEMORANDUM RULING

In this Section 1983 action, three Defendants seek to dismiss Plaintiff Anthony Monroe's ("Monroe") complaint under Federal Rule of Civil Procedure 12(b)(6).[1] Whether Monroe's federal claims survive dismissal turns on whether his complaint, filed nearly two years after the alleged offense, is timely. A short time ago, this Court was tasked with determining if Section 1983 suits brought in Louisiana and arising from a "crime of violence" had a one-year limitations period. *Brown v. Pouncy*, ____ F.Supp.3d ____, 2022 WL 4594557 (W.D. La. Sept. 29, 2022). Once again, this Court must answer that same question in the affirmative: Binding Supreme Court authority directs that federal courts apply the residual state

[1] Record Documents 28, 31 & 40. These Defendants include Colonel Lamar Davis [Record Document 28], whom Monroe sued in his official capacity, and Officers Richard Matthews [Record Document 31] and Terry Conner [Record Document 40], whom Monroe sued in their individual capacities.

limitations period to Section 1983 actions. In Louisiana, this period is one year. Because Monroe brought this Section 1983 action nearly two years after the incident giving rise to his lawsuit, Monroe's federal law claims have prescribed, and Defendants' motions to dismiss are **GRANTED**.

BACKGROUND

A routine traffic stop allegedly ended in violence after three[2] Louisiana State Police ("LSP") Troopers ("Defendant Officers") physically attacked Monroe in Bossier Parish, Louisiana.[3] According to the Amended Complaint, this unprovoked brutality caused Monroe to suffer a heart attack and other severe life-threatening injuries.[4] As a result of the altercation, Monroe says the Defendant Officers and their supervisors[5] violated his constitutional rights.

Monroe brought suit one year and eleven months after the incident.[6] Invoking 42 U.S.C. Sections 1983 and 1985, Monroe claims the Defendant Officers violated and conspired to violate his Fourth and Fourteenth Amendment rights.[7] He further contends

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[2] The officers Monroe claims were involved in the beating include Richard Matthews, Terry Conner, and one "John Doe" officer. Record Document 16 at 4.

[3] *Id.* at 6, 8 & 10–11.

[4] *Id.* at 11–13.

[5] The supervisors noted in the Amended Complaint include the Superintendent of the Louisiana State Police, Colonel Lamar Davis, and additional "John Doe" officers. *Id.* at 4–5.

[6] *Id.* at 1–3. The incident in Bossier Parish, Louisiana, occurred on November 29, 2019, and Monroe filed this lawsuit on November 24, 2021. Record Document 1.

[7] Record Document 16 at 18–21.

that their supervisors and the LSP Superintendent are also liable under Section 1983 for failing to supervise, investigate, and decertify the Defendant Officers.[8] Along with these federal law claims, Monroe asserts additional causes of action arising under Louisiana law. Among them, Monroe argues that Defendant Officers committed aggravated assault and battery under Louisiana Revised Statutes Sections 14:37 and 14:34, respectively.[9] Lastly, he contends that an additional Defendant, the Custodian of Records for the LSP[10] ("Custodian"), is liable for failing to supply requested public documents throughout this litigation. Monroe says this violates Louisiana's public records law under Louisiana Revised Statute Section 14:1.

In response, all Defendants against whom Monroe brings federal claims have filed motions to dismiss Monroe's lawsuit, arguing his complaint is untimely.[11] The Custodian, however, brings a

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[8] In connection with this Section 1983 claim, Monroe urges this Court to take judicial notice of a Department of Justice press release announcing an investigation of the Louisiana State Police [Record Document 56-1]. Because Monroe's action will be denied for the reasons below, this motion [Record Document 56] is **DENIED as moot**.

[9] Record Document 16 at 23–24.

[10] This Defendant is Lt. Colonel Chavez Cammon, whom Monroe sued in his official capacity.

[11] The National Police Accountability Project, Inc., and the Law Enforcement Action Partnership have each moved to file amicus briefs into the record [Record Documents 59 & 62]. The Court has reviewed and considered these briefs before issuing this ruling. The motions to file the amicus briefs are therefore **GRANTED**, and the Clerk shall file the movants' filings into the record.

separate motion to dismiss under Federal Rule of Civil Procedure 12(b)(6).[12] His motion exclusively addresses the alleged public records law violation and will be addressed in greater detail below.

LEGAL STANDARD

To survive a motion to dismiss brought under Rule 12(b)(6), a plaintiff must "state a claim to relief that is plausible on its face." *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quoting *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 570 (2007)). "A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged." *Id.* "Threadbare recitals of the elements of a cause of action, supported by mere conclusory statements, do not suffice." *Id.* (quoting *Twombly*, 550 U.S. at 555). A court must accept all of the factual allegations in the complaint as true in determining whether the plaintiff has stated a plausible claim. *See Twombly*, 550 U.S. at 555; *In re Katrina Canal Breaches Litig.*, 495 F.3d 191, 205 (5th Cir. 2007). However, a court is "not bound to accept as true a legal conclusion couched as a factual allegation." *Papasan v. Allain*, 478 U.S. 265, 286 (1986). If a complaint cannot meet this standard, it may be dismissed for failure to state a claim upon which relief can be granted. *Iqbal*, 556 U.S. at 678–79. A court does not evaluate a plaintiff's likelihood of success but determines whether a plaintiff has pleaded a legally cognizable claim. *U.S. ex rel. Riley v. St. Luke's Episcopal Hosp.*, 355 F.3d 370, 376 (5th Cir. 2004). A dismissal under 12(b)(6) ends the case

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[12] Record Document 26.

"at the point of minimum expenditure of time and money by the parties and the court." *Twombly*, 550 U.S. at 558.

LAW AND ANALYSIS

I. Federal Claims Under Section 1983

Section 1983 provides a cause of action against any person acting under the color of state law who "subjects" a person or "causes [a person] to be subjected . . . to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws." 42 U.S.C. § 1983. Since Congress adopted the statute, Section 1983 has become the primary civil remedy for enforcing federal constitutional and statutory rights. Ronald D. Rotunda & John E. Nowak, *Treatise on Constitutional Law-Substance & Procedure* § 19:13 (May 2021). Yet while Congress provided private plaintiffs a means to challenge state actors in federal court, it never adopted a limitations period governing Section 1983 lawsuits.

The United States Supreme Court filled that void in *Owens v. Okure*, 488 U.S. 235 (1989). The *Owens* Court held that "where state law provides multiple statutes of limitations for personal injury actions, courts considering § 1983 claims should borrow the general or residual statute for personal injury actions." *Id.* at 249–50. Like other states, Louisiana has numerous limitations—or "prescriptive"—periods dependent on an actor's alleged misconduct. But Louisiana's "residual" prescriptive period for personal injury actions is one year under article 3492.[13] La.

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[13] Though all of Monroe's federal claims arise under Section 1983, he notes in his Amended Complaint that his conspiracy theory is based in both Sections 1983 and 1985.

Civ. Code art. 3492; *Bradley v. Sheriff's Dep't St. Landry Par.*, 958 F.3d 387, 389–90 (5th Cir. 2020) (observing that Louisiana's "residual" prescriptive period is found in article 3492).

Monroe argues, however, that Louisiana's one-year period disregards the practicalities of litigating federal civil rights claims and discriminates against Section 1983 claimants. For these reasons, he believes that the brief timeframe is inconsistent with the Constitution and law of the United States, so he urges the Court to apply a different limitations period in its place. As a practical alternative, he suggests that the Court adopt the period in 28 U.S.C. § 1658(a), which provides a four-year statute of limitations for all civil actions "arising under an Act of Congress enacted after the date of the enactment of this section." 28 U.S.C. § 1658(a). Compared with a lone year, Monroe argues that Section 1658's four-year statute of limitations is a more suitable alternative to carry Section 1983 into effect.

Be that as it may, Monroe fails to address the fatal flaw in his argument: Congress passed Section 1658 *after* Section 1983. And unfortunately for Monroe, Section 1658's application is not retroactive; its text expressly excludes Section 1983 and all other federal causes of action enacted before December 1, 1990. *Id.* Though Monroe would have this Court adopt the four-year limitations period regardless, the plain text of Section 1658 precludes the Court from applying its

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Record Document 16 at 20. That Monroe invokes Section 1985 does not affect this Court's prescription analysis. This is because "[t]he statutes of limitations for § 1983 and § 1985 claims are the same as the statute of limitations in a personal injury action in the state in which the cause of action arose." *Smith v. Humphrey*, 540 F. App'x 348, 349 (5th Cir. 2013).

provisions to Monroe's claims. *See also Garrett v. Thaler*, 560 F. App'x 375, 383 (5th Cir. 2014) (concluding that the four-year limitations period under 28 U.S.C. § 1658 does not apply to Section 1983 actions).

Perhaps foreseeing this issue, Monroe makes an alternative argument: If this Court is unwilling to adopt the four years in Section 1658, Monroe urges the Court to clarify *Owens*'s holding. Monroe explicitly seeks a ruling limiting *Owens* to states that have a residual statute of limitations longer than their other more applicable and particularized statute of limitations. In other words, Monroe wants this Court to apply a longer prescriptive period under Louisiana law—one that explicitly governs the Defendant Officers' conduct giving rise to this lawsuit. Monroe cites a specific Civil Code article, in particular, that provides a two-year prescriptive period for "[d]elictual actions which arise due to damages sustained as a result of an act defined as a crime of violence." La. Civ. Code art. 3493.10. Because Monroe's federal claims allegedly arose from a criminal act of violence—aggravated assault and battery—he argues that his claims should be subject to this particularized statute of limitations.

But binding precedential authority says otherwise, and this Court must apply the law as written. As noted above, the Supreme Court has issued a clear directive that requires minimal interpretation: When "considering § 1983 claims," courts "should borrow the general or residual statute [of limitations] for personal injury actions." *Owens*, 488 U.S. at 249–50, 109 S.Ct. 573. That period is one year in Louisiana. True enough, as Monroe points out, maintaining a general one-year period for

personal injury actions is rare.[14] The vast majority of other states, in fact, provide a residual statute of limitations of at least two years. But despite the atypical and relatively brief nature of Louisiana's one-year prescriptive period, courts in each of Louisiana's federal districts agree that it applies to Section 1983 actions. *Brown*, 2022 WL 4594557, at * 1; *Diaz v. Guynes*, No. CV 13-4958, 2015 WL 1897630, at *2 (E.D. La. Apr. 27, 2015); *Cook v. Lamotte*, No. CV 14-0428, 2015 WL 269149, at *1 n.2 (M.D. La. Jan. 21, 2015). Here, the Court will neither stray from precedent nor contradict its prior rulings. Because Monroe's federal claims prescribed one year after the incident giving rise to this lawsuit, the Defendant Officers' and the LSP Superintendent's motions are **GRANTED** in this respect. Monroe's federal law claims are thus **DISMISSED with prejudice.**

II. State Law Claims

Having dismissed Monroe's federal claims, the Court must next consider whether exercising jurisdiction over his state law claims is proper. A district court may decline to exercise supplemental jurisdiction if:

(1) the claim raises a novel or complex issue of State law,

(2) the claim substantially predominates over the claim or claims over which the district court has original jurisdiction,

(3) the district court has dismissed all claims over which it has original jurisdiction, or

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[14] Indeed, only two other states and Puerto Rico have a one-year statute of limitations for personal injury actions. *Brown*, 2022 WL 4594557, at *4.

(4) in exceptional circumstances, there are other compelling reasons for declining jurisdiction.

28 U.S.C. § 1367(c).

In this case, the Court "observes that interpretation and application of Louisiana's various prescriptive periods to plaintiff's state law claims remains an issue within the particular province and expertise of the state courts." *Williams v. Ouachita Par. Sheriff's Dep't*, No. CV 17-0060, 2017 WL 4401891, at *4 (W.D. La. Aug. 28, 2017), *report and recommendation adopted*, No. CV 17-0060, 2017 WL 4399277 (W.D. La. Oct. 3, 2017). As a result, the Court declines to exercise jurisdiction over Monroe's pendant state law claims. *Bradley*, 958 F.3d at 396 ("Since [the plaintiff's] § 1983 claims failed, dismissal of the pendant state-law claims was within the district court's discretion."). The claims are thus **DISMISSED without prejudice**.

Finally, because the Court declines to exercise supplemental jurisdiction over Monroe's claims arising under state law, the Custodian's motion exclusively addressing the alleged violation of Louisiana's public record law is **DENIED as moot**. Monroe's state law claims in that regard are likewise **DISMISSED without prejudice**.

CONCLUSION

For the reasons stated herein, the motions to dismiss[15] filed by Defendants Lamar Davis, Richard Matthews, and Terry Conner are **GRANTED**. Defendant Chavez Cammon's motion to dismiss[16] is **DENIED as moot**. Monroe's federal claims are **DISMISSED with prejudice**. Monroe's state law claims are **DISMISSED without prejudice**. The Court will issue a corresponding Judgment alongside this ruling.

THUS DONE AND SIGNED this 9th day of March, 2023.

/s/ Elizabeth Erny Foote
ELIZABETH ERNY FOOTE
UNITED STATES DISTRICT JUDGE

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[15] Record Documents 28, 31 & 40.

[16] Record Document 26.

28 U.S.C. § 1658

§ 1658. Time limitations on the commencement of civil actions arising under Acts of Congress

(a) Except as otherwise provided by law, a civil action arising under an Act of Congress enacted after the date of the enactment of this section may not be commenced later than 4 years after the cause of action accrues.

(b) Notwithstanding subsection (a), a private right of action that involves a claim of fraud, deceit, manipulation, or contrivance in contravention of a regulatory requirement concerning the securities laws, as defined in section 3(a)(47) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(47)), may be brought not later than the earlier of—

(1) 2 years after the discovery of the facts constituting the violation; or

(2) 5 years after such violation.

42 U.S.C. § 1983

§ 1983. Civil action for deprivation of rights

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress, except that in any action brought against a judicial officer for an act or omission taken in such officer's judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable. For the purposes of this section, any Act of Congress applicable exclusively to the District of Columbia shall be considered to be a statute of the District of Columbia.

42 U.S.C. § 1985

§ 1985. Conspiracy to interfere with civil rights

(1) Preventing officer from performing duties

If two or more persons in any State or Territory conspire to prevent, by force, intimidation, or threat, any person from accepting or holding any office, trust, or place of confidence under the United States, or from discharging any duties thereof; or to induce by like means any officer of the United States to leave any State, district, or place, where his duties as an officer are required to be performed, or to injure him in his person or property on account of his lawful discharge of the duties of his office, or while engaged in the lawful discharge thereof, or to injure his property so as to molest, interrupt, hinder, or impede him in the discharge of his official duties;

(2) Obstructing justice; intimidating party, witness, or juror

If two or more persons in any State or Territory conspire to deter, by force, intimidation, or threat, any party or witness in any court of the United States from attending such court, or from testifying to any matter pending therein, freely, fully, and truthfully, or to injure such party or witness in his person or property on account of his having so attended or testified, or to influence the verdict, presentment, or indictment of any grand or petit juror in any such court, or to injure such juror in his person or property on account of any verdict, presentment, or indictment lawfully assented to by him, or of his being or having been such juror; or if two or more persons conspire for the purpose of impeding, hindering, obstructing, or

defeating, in any manner, the due course of justice in any State or Territory, with intent to deny to any citizen the equal protection of the laws, or to injure him or his property for lawfully enforcing, or attempting to enforce, the right of any person, or class of persons, to the equal protection of the laws;

(3) Depriving persons of rights or privileges

If two or more persons in any State or Territory conspire or go in disguise on the highway or on the premises of another, for the purpose of depriving, either directly or indirectly, any person or class of persons of the equal protection of the laws, or of equal privileges and immunities under the laws; or for the purpose of preventing or hindering the constituted authorities of any State or Territory from giving or securing to all persons within such State or Territory the equal protection of the laws; or if two or more persons conspire to prevent by force, intimidation, or threat, any citizen who is lawfully entitled to vote, from giving his support or advocacy in a legal manner, toward or in favor of the election of any lawfully qualified person as an elector for President or Vice President, or as a Member of Congress of the United States; or to injure any citizen in person or property on account of such support or advocacy; in any case of conspiracy set forth in this section, if one or more persons engaged therein do, or cause to be done, any act in furtherance of the object of such conspiracy, whereby another is injured in his person or property, or deprived of having and exercising any right or privilege of a citizen of the United States, the party so injured or deprived may have an action for the recovery of damages occasioned by such injury or deprivation, against any one or more of the conspirators.

42 U.S.C. § 1988

§ 1988. Proceedings in vindication of civil rights

(a) Applicability of statutory and common law

The jurisdiction in civil and criminal matters conferred on the district courts by the provisions of titles 13, 24, and 70 of the Revised Statutes for the protection of all persons in the United States in their civil rights, and for their vindication, shall be exercised and enforced in conformity with the laws of the United States, so far as such laws are suitable to carry the same into effect; but in all cases where they are not adapted to the object, or are deficient in the provisions necessary to furnish suitable remedies and punish offenses against law, the common law, as modified and changed by the constitution and statutes of the State wherein the court having jurisdiction of such civil or criminal cause is held, so far as the same is not inconsistent with the Constitution and laws of the United States, shall be extended to and govern the said courts in the trial and disposition of the cause, and, if it is of a criminal nature, in the infliction of punishment on the party found guilty.

(b) Attorney's fees

In any action or proceeding to enforce a provision of sections 1981, 1981a, 1982, 1983, 1985, and 1986 of this title, title IX of Public Law 92–318 [20 U.S.C. 1681 et seq.], the Religious Freedom Restoration Act of 1993 [42 U.S.C. 2000bb et seq.], the Religious Land Use and Institutionalized Persons Act of 2000 [42 U.S.C. 2000cc et seq.], title VI of the Civil Rights Act of 1964 [42 U.S.C. 2000d et seq.], or section 12361 of

title 34, the court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee as part of the costs, except that in any action brought against a judicial officer for an act or omission taken in such officer's judicial capacity such officer shall not be held liable for any costs, including attorney's fees, unless such action was clearly in excess of such officer's jurisdiction.

(c) Expert fees

In awarding an attorney's fee under subsection (b) in any action or proceeding to enforce a provision of section 1981 or 1981a of this title, the court, in its discretion, may include expert fees as part of the attorney's fee.

Louisiana Civil Code Article 3492

Art. 3492. Delictual actions

Delictual actions are subject to a liberative prescription of one year. This prescription commences to run from the day injury or damage is sustained. It does not run against minors or interdicts in actions involving permanent disability and brought pursuant to the Louisiana Products Liability Act or state law governing product liability actions in effect at the time of the injury or damage.

Louisiana Civil Code Article 3493.10

Art. 3493.10. Delictual actions; two-year prescription; criminal act

Delictual actions which arise due to damages sustained as a result of an act defined as a crime of violence under Chapter 1 of Title 14 of the Louisiana Revised Statutes of 1950, except as provided in Article 3496.2, are subject to a liberative prescription of two years. This prescription commences to run from the day injury or damage is sustained.

2024 Louisiana Session Law Service Act 423
(H.B. 315) (West)

ACT NO. 423

H.B. No. 315

TORT ACTIONS

AN ACT to enact Civil Code Articles 3493.11 and 3493.12, and to repeal Civil Code Articles 3492 and 3493, relative to tort actions; to provide prescriptive periods for tort actions; to provide for applicability; to provide for an effective date; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Civil Code Articles 3493.11 and 3493.12 are hereby enacted to read as follows:

Art. 3493.11. Delictual actions

Delictual actions are subject to a liberative prescription of two years. This prescription commences to run from the day injury or damage is sustained. It does not run against minors or interdicts in actions involving permanent disability and brought pursuant to the Louisiana Products Liability Act or state law governing product liability actions in effect at the time of the injury or damage.

* * *

Section 2. Civil Code Articles 3492 and 3493 are hereby repealed their entirety.

Section 3. The provisions of this Act shall be given prospective application only and shall apply to delictual actions arising after the effective date of this Act.

Section 4. This Act shall become effective on July 1, 2024.

Approved June 3, 2024.