No. _____

IN THE
Supreme Court of the United States

JARIUS BROWN,

Petitioner,

v.

JAVARREA POUNCY, 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

David D. Cole
AMERICAN CIVIL LIBERTIES UNION FOUNDATION
915 15th Street, NW
Washington, DC 20005

Nora Ahmed
ACLU FOUNDATION OF LOUISIANA
1340 Poydras Street
Suite 2160
New Orleans, LA 70112

Lauren Willard Zehmer
Counsel of Record
Michael X. Imbroscio
Sameer Aggarwal
COVINGTON & BURLING LLP
850 Tenth Street, NW
Washington, DC 20001
(202) 662-6000
lzehmer@cov.com

Caleb M. W. Ellis
COVINGTON & BURLING LLP
620 Eighth Avenue
New York, NY 10018

Counsel for Petitioner

QUESTIONS PRESENTED

Because 42 U.S.C. § 1983 does not itself provide a statute of limitations, federal courts have borrowed from state law to determine the timeliness of Section 1983 claims, so long as those state limitations periods are consistent with federal law and policy. In *Owens v. Okure*, 488 U.S. 235 (1989), this Court expressly reserved the question of whether a one-year state limitations period would be inconsistent with the federal interests underlying Section 1983. This petition squarely presents that question. It also provides this Court the chance to revisit the fifty-state borrowing framework that allows states to frustrate plaintiffs' access to *federal* courts to litigate their *federal* civil rights claims.

Petitioner Jarius Brown was attacked by DeSoto Parish Sheriff's officers—suffering such severe injuries that he was hospitalized—and the two officers responsible have since pleaded guilty to federal criminal charges. The courts below, however, held his federal civil rights claim was time barred under Louisiana's one-year residual limitations period.

The questions presented are:

1. Is the application of a one-year residual personal injury statute of limitations to Section 1983 claims too short to be consistent with the federal interests underpinning the statute?

2. In looking for a "suitable" statute of limitations analogy for Section 1983 claims, does 28 U.S.C. § 1658's uniform federal limitations period more faithfully serve the federal interests underpinning Section 1983 than the current patchwork of fifty state laws?

PARTIES TO THE PROCEEDINGS

Petitioner (plaintiff-appellant below) is Jarius Brown.

Respondents (defendants-appellees below) are Javarrea Pouncy, and John Does #1 and #2.

STATEMENT OF RELATED PROCEEDINGS

This case arises from the following proceedings:

- *Brown v. Pouncy, et al.*, No. 22-30691 (5th Cir. Feb. 19, 2024) (affirming grant of motion to dismiss)
- *Brown v. Pouncy, et al.*, No. 21-cv-3415 (W.D. La. Sept. 29, 2022) (granting motion to dismiss)

There are no other proceedings in state or federal trial or appellate courts, or in this Court, directly related to this case within the meaning of this Court's Rule 14.1(b)(iii).

TABLE OF CONTENTS

Page

TABLE OF AUTHORITIES

Page(s)

Cases

Statutes

Other Authorities

PETITION FOR A WRIT OF CERTIORARI

Section 1983 "provides 'a uniquely federal remedy against incursions under the claimed authority of state law upon rights secured by the Constitution and laws of the Nation.'" *Wilson v. Garcia*, 471 U.S. 261, 271–72 (1985) (quoting *Mitchum v. Foster*, 407 U.S. 225 (1972)). Because Section 1983 does not itself include an express statute of limitations, this Court has directed courts to borrow from state law "so long as the chosen limitations period was consistent with federal law and policy." *Owens v. Okure*, 488 U.S. 235, 239 (1989).

This case presents the question this Court explicitly left open in *Owens*: whether a state's one-year statute of limitations is too short to be consistent with the federal law and policy animating Section 1983. This case also provides the Court with an opportunity to revisit the wisdom of the current disparate fifty-state borrowing framework now that Congress' enactment of Section 1658 provides a more predictable and uniform alternative for setting the limitations period for the Nation's central federal civil rights statute.

In September 2019, Jarius Brown was severely beaten by DeSoto Parish Sheriff's deputies after being taken into custody for nonviolent traffic offenses. The attack necessitated Mr. Brown's hospitalization and resulted in significant physical and mental trauma. Within two years of the attack, Mr. Brown sought redress under 42 U.S.C. § 1983—the principal federal remedy for holding state actors to account for the violation of his civil rights. Had Mr. Brown brought this action in almost any state other than Louisiana, his federal civil rights claims would have been timely. But

because Mr. Brown was attacked in Louisiana, he had only a single year to bring suit. Only two other states impose such a short statute of limitations.

Under this Court's decision in *Wilson*, because Section 1983 does not include its own statute of limitations, courts have been directed to borrow the state statute of limitations for personal injury actions. In *Owens*, the Court further clarified that, where a state has more than one potentially applicable statute of limitations for personal injury actions, the court should borrow the state's general, or "residual," personal injury statute of limitations. Louisiana is currently joined by only Kentucky, Tennessee, and Puerto Rico in limiting federal civil rights plaintiffs to a single year to bring claims under their personal injury or residual limitations period—the shortest such period in the Nation. For this reason, based solely on the fact that Mr. Brown was attacked in Louisiana, the Fifth Circuit affirmed the dismissal of his claim as time barred.

This Court has recognized, however, that there must be some limits on states' authority to constrain Section 1983 claims. Indeed, in *Owens*, the Court reserved the precise question this petition now presents: whether a one-year statute of limitations is too short to vindicate Section 1983's federal interests. *Owens*, 488 U.S. at 251 n.13.

Owens recognized there is some minimum amount of time that states must provide for victims of civil rights offenses to bring Section 1983 claims. As the Court has explained, Section 1983 actions, as a matter of course, require plaintiffs to marshal the resources necessary to prepare what are often complex federal

civil rights claims. *Burnett v. Grattan*, 468 U.S. 42, 50–51 (1984). In addition, plaintiffs who have been victimized by law enforcement—as is the case in many Section 1983 actions—face additional hurdles, including the need to process physical and mental trauma, navigate parallel criminal proceedings and incarceration, and overcome the fear of retaliation from the officers that abused them.

Because of these barriers, Louisiana's one-year residual personal injury statute of limitations has the practical effect of obstructing plaintiffs' ability to bring otherwise meritorious federal civil rights claims in a manner that Congress never countenanced. As a result, the one-year residual statute of limitations applied to Mr. Brown's civil rights claim is inconsistent with the federal interests underpinning Section 1983.

While the courts below were "sympathetic to the dilemma [Mr. Brown] and similarly situated plaintiffs face in Louisiana," App 24a, they determined that they were bound by *Owens*' general framework, concluding that "[o]nly the Supreme Court . . . can clarify how lower courts should evaluate practical frustration without undermining [*Owens'*] solution." App. 15a.

But that conclusion does not account for a significant change in federal law that bears on the appropriate statute of limitations for Section 1983 claims. Two years after *Owens* was decided, Congress passed 28 U.S.C. § 1658, which provides a prospective four-year catchall limitations period for federal civil actions that lack their own express statute of limitations. Before Section 1658, the three-part test outlined in 42 U.S.C. § 1988 forced the Court to adopt the state-law borrowing scheme that exists today. *See Burnett*,

468 U.S. 42; *Wilson,* 471 U.S. at 267–68; *Owens*, 488 U. S. at 239. Lacking an alternative federal standard at the time, the Court directed courts to borrow from state law despite the many apparent flaws with this system, including that it permits states to restrict federal remedies under a statute designed to shield citizens from state officers' misconduct. But because Congress has now enacted a general catchall statute of limitations in Section 1658, this Court can eliminate the fifty-state patchwork approach and replace it with a suitable federal solution that is uniform across the country *and* faithful to the federal interests underpinning Section 1983.

Because the application of Louisiana's one-year residual personal injury statute of limitations impermissibly curtailed Mr. Brown's civil rights, this Court should take this opportunity to answer the question left open in *Owens*—and to avail itself of the federal solution now available through Section 1658. In doing so, this Court can ensure that victims across all states have a fair opportunity to vindicate their federal civil rights.

OPINION BELOW

The February 19, 2024, decision of the United States Court of Appeals for the Fifth Circuit (App. 1a–15a) is reported at 93 F.4th 331. The district court's September 29, 2022, memorandum ruling granting defendant's motion to dismiss (App. 16a–28a) is reported at 631 F. Supp. 3d 397.

JURISDICTION

The Fifth Circuit entered judgment on February 19, 2024. App. 1a. This Court's jurisdiction is invoked under 28 U.S.C. § 1254(1).

RELEVANT PROVISIONS

The relevant U.S. statutory provisions, 28 U.S.C. § 1658, 42 U.S.C. § 1983, and 42 U.S.C. § 1988, are reproduced at App. 29a–32a. Louisiana's residual personal injury prescriptive statute that was applied to Mr. Brown's claim, La. Civ. Code Ann. art. 3492, is reproduced at App. 33a.

STATEMENT

A. Statutory Background

The provision now codified as Section 1983 was adopted as the central enforcement mechanism of the Ku Klux Klan Act in the wake of the Civil War. *See Owens*, 488 U.S. at 249 n.11. Section 1983 provides a cause of action for "the deprivation of any rights, privileges, or immunities secured by the Constitution and laws" by any person acting "under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory." 42 U.S.C. § 1983. Indeed, Section 1983 "provides 'a uniquely federal remedy against incursions under the claimed authority of state law upon rights secured by the Constitution and laws of the Nation.'" *Wilson*, 471 U.S. at 261 (citation omitted).

Since its enactment, Section 1983 has been the primary vehicle through which individuals hold state actors who have violated their civil rights accountable. But federal courts have often struggled with

Section 1983's lack of an express limitations period. This Court provided guidance on this issue in a trilogy of cases decided in the 1980s.

The first case was *Burnett v. Grattan*, 468 U.S. 42 (1984), where the Court underscored that the "central objective of § 1983" is "ensur[ing] that individuals whose federal constitutional or statutory rights are abridged may recover damages or secure injunctive relief." *Id.* at 55. While the Court did not supply a concrete rule addressing Section 1983's limitations period in all circumstances, it interpreted Section 1988 to prescribe a "three-step process." *Id.* at 47. Under that approach, federal courts first "look to the laws of the United States 'so far as such laws are suitable to carry [the civil and criminal civil rights statutes] into effect.'" *Id.* at 48. Second, "[i]f no suitable federal rule exists," courts consider "application of state 'common law, as modified and changed by the constitution and statutes' of the forum State." *Id.* Third, to ensure "the predominance of the federal interest: courts are to apply state law only if it is not 'inconsistent with the Constitution and laws of the United States.'" *Id.*

But *Burnett* did not resolve the lower courts' confusion, prompting this Court to return to the issue in *Wilson v. Garcia*, 471 U.S. 261 (1985). There, the Court held that Section 1983's statute of limitations was a federal question, and that all Section 1983 actions should be categorized as personal injury actions for the purpose of determining the appropriate limitations period. *See id.* at 268–69, 276. In doing so, *Wilson* sought to "minimize[] the risk that the choice of a state statute of limitations would not fairly serve the federal interests vindicated by § 1983." *Id.* at 279.

Nonetheless, lower courts continued to struggle with the fact that many states had multiple statutes of limitations for personal injury actions, any number of which could apply depending upon the nature of the federal claim. Confusion about which statute of limitations should govern Section 1983 claims persisted.

The Court therefore returned to this question in *Owens v. Okure*, 488 U.S. 235 (1989). There, the Court considered whether a Section 1983 claim brought in New York and arguably subject to a one-year statute of limitations for assault should instead be measured against New York's residual catchall personal injury statute of limitations of three years. The Second Circuit applied the residual limitations period, recognizing that a three-year limitations period "more faithfully represents the federal interest in providing an effective remedy for violations of civil rights than does the restrictive one year limit." *Okure v. Owens*, 816 F.2d 45, 49 (2d Cir. 1987). The court observed that "[i]njuries to personal rights" are not "necessarily apparent to the victim at the time they are inflicted" because "[e]ven where the injury itself is obvious, the constitutional dimensions of the tort may not be." *Id.* at 48.

This Court unanimously affirmed that decision and explained that, where a state law provides multiple statutes of limitation for personal injury actions, courts generally should borrow the general or residual personal injury statute of limitations. *Id.* at 250.

While the Court endorsed the Second Circuit's decision to use the three-year residual limitations period, it expressly noted that it "need not address [respondent's] argument that applying a 1-year

limitations period to § 1983 actions would be inconsistent with federal interests." *Id.* at 251 n.13. The Court thus signaled that there could be circumstances in which a state's statute of limitations is too short to be consistent with the federal interests underlying Section 1983, and it explicitly reserved the question of whether a one-year limitations period is too short.

In 1990, after *Owens* was decided, Congress enacted 28 U.S.C. § 1658, which adopted for the first time a *federal* catchall statute of limitations. Although Section 1658's four-year statute of limitations applies prospectively by its own force, nothing in the statute prevents courts from looking to Section 1658 as a "suitable" federal *analogue* under the three-step test in Section 1988 and *Burnett*. *See Burnett*, 468 U.S. at 47–48.

B. Factual Background

On September 27, 2019, Mr. Brown was arrested by Louisiana State Police for nonviolent traffic offenses, after which he was transported to the DeSoto Parish Sheriff's office for booking. App. 39a. As a part of that process, Officers Javarrea Pouncy and DeMarkes Grant—one of the John Does in this case—(together, the "Officers") ordered Mr. Brown to disrobe and squat for a strip search. App. 40a. After complying with this order and undressing, Mr. Brown was violently attacked by the Officers, who, using excessive force, repeatedly punched Mr. Brown in the head, face, and stomach. App. 40a. Mr. Brown did not provoke the attack, nor did he pose a threat to the Officers. App. 41a.

Mr. Brown suffered severe injuries from the attack, including an orbital fracture on the left side of

his face, a fracture to his nose, and abrasions on his left eyelid. App. 42a. In the immediate aftermath, the Officers left Mr. Brown unattended in an unoccupied cell for several minutes. App. 40a–41a. Thereafter, Mr. Brown was transported to Ochsner LSU Health Shreveport-LA to receive medical care. App. 42a. The Officers remained present with Mr. Brown throughout his hospitalization. App. 42a. As a result of this attack, Mr. Brown suffered both physical and emotional trauma, and he has struggled to readjust to society ever since. App. 35a.

Subsequently, the Civil Rights Department of the U.S. Department of Justice investigated the attack against Mr. Brown. Following its investigation, the Government brought federal criminal charges against both Mr. Pouncy and Mr. Grant. Indictment, *United States v. Pouncy*, No. 5:23-cr-00210-SMH-MLH (W.D. La. Sept. 6, 2023), ECF 1; Bill of Information, *United States v. Grant*, No. 5:23-cr-00207-SMH-MLH (W.D. La. Aug. 28, 2023), ECF 1.

While Mr. Brown's appeal was pending, Mr. Grant pleaded guilty to one count of obstruction of justice in connection with the attack. Plea Agreement at 1–2, *United States v. Grant*, No. 5:23-cr-00207-SMH-MLH (W.D. La. Sept. 5, 2023), ECF 9. As a part of his plea agreement, Mr. Grant corroborated the factual account in Mr. Brown's complaint—acknowledging that the Officers repeatedly punched Mr. Brown using "lethal" force. Factual Basis for Plea at 3, *United States v. Grant*, No. 5:23-cr-00207-SMH-MLH (W.D. La. Sept. 5, 2023), ECF 9-2.

Most recently, on April 10, 2024, Mr. Pouncy also pleaded guilty to one count of deprivation of rights under color of law, in violation of 18 U.S.C. § 242. Plea Agreement at 1–2, *United States v. Pouncy*, No. 5:23-cr-00210-SMH-MLH (W.D. La. Apr. 10, 2024), ECF 27. In the accompanying factual basis for his plea—which also corroborated the facts alleged by Mr. Brown—Mr. Pouncy confirmed that the Officers used "lethal" force during the attack, and that this use of force was "unjustified." Factual Basis for Plea at 2–3, *United States v. Pouncy*, No. 5:23-cr-00210-SMH-MLH (W.D. La. April 10, 2024), ECF 27-2.

C. Procedural Background

On September 24, 2021, less than two years after the attack, Mr. Brown brought a civil suit against the Officers in the U.S. District Court for the Western District of Louisiana under Section 1983 and La. Rev. Stat. 14:35. App. 18a.

On January 31, 2022, Mr. Pouncy moved to dismiss Mr. Brown's Section 1983 claim as time barred under Louisiana's one-year residual personal injury statute of limitations period for personal injury actions. App. 18a. *See* La. Civ. Code Ann. art. 3492. Invoking *Owens*, Mr. Pouncy asserted that Mr. Brown's Section 1983 claim should be governed by Louisiana's one-year statute of limitations, which had already run. App. 19a. In response, Mr. Brown noted that *Owens* expressly declined to determine whether a state's one-year residual statute of limitations is so short that it contravenes the federal interest underlying Section 1983. App. 23a. Additionally, Mr. Brown asserted that, under the three-part framework provided by Section 1988 and *Burnett*, Section 1658's

four-year catchall statute of limitations serves as a "suitable" rule for Section 1983 claims and should therefore provide the controlling limitations period. App. 23a–24a.

On September 29, 2022, the district court granted Mr. Pouncy's motion to dismiss, largely because it believed it was bound by *Owens*. App. 25a–26a. Even though *Owens* ostensibly controlled, the court explained that Louisiana's one-year prescriptive period is "a relative outlier" and that it was "sympathetic to the dilemma Brown and similarly situated plaintiffs face in Louisiana." App. 24a. Under this system, the victim of a state-defined "crime of violence" has two years to bring a state claim, but only one year to bring a federal claim for the same conduct, even though both claims rely on Louisiana's statutes of limitations. App. 21a–22a.

Mr. Brown timely appealed to the Fifth Circuit, raising the question left open in *Owens*: whether Louisiana's one-year residual personal injury statute of limitations impermissibly contravened federal interests. Brief for Plaintiff-Appellant at 23–31, *Brown v. Pouncy*, No. 22-30691 (5th Cir. Jan. 27, 2023), ECF 24-1. Mr. Brown maintained that Louisiana's one-year residual statute of limitations is inconsistent with the federal interests underpinning Section 1983 because it does not properly account for the practicalities of bringing a federal civil rights claim, especially police misconduct claims, which are at the heart of what Section 1983 was enacted to address. *Id.*

Mr. Brown also argued that Section 1988 and this Court's decision in *Burnett* instruct federal courts to first look to federal analogues or when state law does

not supply an adequate rule of decision. *Id.* at 31–35. Accordingly, Section 1658's four-year federal residual limitations period—which had not yet been enacted when *Owens* was decided—would properly accommodate Mr. Brown's and other Louisianans' civil rights claims, promoting the uniformity and predictability interests the Supreme Court has long prioritized. *Id.*

At oral argument before the Fifth Circuit, Judge Ho asked whether employing Section 1658's four-year catchall statute of limitations to Section 1983 claims would constitute a "more textual" approach. Specifically, he noted that "replacing the state by state strangeness with a uniform four year [limitations period]" would "seem[] to be more textual" than the patchwork approach supplied by *Owens*. Oral Argument at 15:30–16:58, *Brown v. Pouncy*, No. 22-30691 (5th Cir. Oct. 4, 2023).[1] He acknowledged that this case is a vehicle for "the Supreme Court to get back to the text" of Sections 1988 and 1658. *Id.* at 12:56–13:00.

On February 19, 2024, in a published opinion, the Fifth Circuit held that "precedent requires [it] to affirm" the district court's decision. App. 2a. While the court "read Supreme Court precedent, and our cases applying that precedent, to foreclose Brown's position," it acknowledged 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* without undermining that solution." App. 15a (emphases added).

[1] https://www.ca5.uscourts.gov/OralArgRecordings/22/22-30691_10-4-2023.mp3.

Consistent with the Fifth Circuit's opinion, Mr. Brown's petition seeks the clarity that "[o]nly the Supreme Court" can supply.

On June 3, 2024, Louisiana enacted Act No. 423 ("Act 423"), which will replace the state's one-year residual statute of limitations with a two-year period. *See* 2024 La. Sess. Law Serv. Act 423 (H.B. 315) (West). Importantly though, Act 423 will only apply prospectively to injuries suffered after its effective date of July 1, 2024. That means that the Section 1983 claims brought by Mr. Brown—and those brought by similarly-situated civil rights plaintiffs in Louisiana as well as plaintiffs in Kentucky, Tennessee, and Puerto Rico—are still subject to a one-year limitations period. Louisiana's belated legislative amendment also does not address the fundamental problem that plaintiffs across the country remain beholden to state legislatures to determine their ability to bring *federal* civil rights claims.

REASONS FOR GRANTING THE PETITION

I. This Court Should Grant Certiorari to Decide Whether a One-Year State Limitations Period Is Inconsistent with the Federal Interests of Section 1983.

In the trio of cases ending with *Owens*, this Court addressed the issues raised by Section 1983's lack of an express limitations period by borrowing from state law. But the Court cautioned that a state limitations period could be so short as to be "inconsistent with [the] federal interests" that underpin Section 1983, and it noted that it was reserving the question of

whether a one-year period fit within that category. *Owens*, 488 U.S. at 251 n.13.

Louisiana's one-year period that applied to Mr. Brown's Section 1983 claim is indeed an outlier. Presently, only Louisiana, Kentucky, Tennessee, and Puerto Rico require Section 1983 plaintiffs to file their claims within a single year. By granting review here, this Court can address a substantial and important question of federal law: whether a one-year state statute of limitations impermissibly undermines Section 1983 by practically frustrating federal civil rights claims. Absent resolution, plaintiffs will remain subject to differential and disadvantaged access to the country's core federal civil rights remedy. Not to mention those who remain at the whim of state legislatures that have the ability to substantively affect federal constitutional rights if they decide to shorten the residual personal injury statute of limitations.

1. Mr. Brown's case gives this Court an opportunity to resolve the question it expressly reserved in *Owens*: whether a one-year limitations period is inconsistent with federal interests, as it does not properly account for the practicalities of preparing and filing a federal civil rights claim—a reality illustrated by Mr. Brown's own experience.

Section 1983 "provides a uniquely federal remedy against incursions upon rights secured by the Constitution and laws of the Nation, and is to be accorded a sweep as broad as its language." *Hardin v. Straub*, 490 U.S. 536, 539 n.5 (1998) (cleaned up). In *Owens* itself, the Court explained that the statute "was the product of congressional concern about the Ku Klux

Klan-sponsored campaign of violence and deception in the South . . . . [and, even more so,] the state officials who tolerated and condoned them." *Owens*, 488 U.S. at 249 n.11.

This Court has made clear that state procedural rules—such as statutes of limitations—cannot operate in a way that contravenes Section 1983's primary legislative purpose. *See id.*; *Burnett*, 468 U.S. at 53 ("To the extent that particular state concerns are inconsistent with, or of marginal relevance to, the policies informing the Civil Rights Act, the resulting state statute of limitations may be inappropriate for civil rights claims."). While certain state statutes of limitations may adequately safeguard the federal interests at stake, courts will not apply a state's limitations period if doing so "defeat[s] either § 1983's chief goals of compensation and deterrence or its subsidiary goals of uniformity and federalism." *Hardin*, 490 U.S. at 539; *see also Johnson v. Garrison*, 805 F. App'x 589, 593 (10th Cir. 2020) (holding that Oklahoma's lack of a tolling provision for Section 1983 cases was contrary to Section 1983's goals and the practicalities involved in litigating federal civil rights claims).

Against this backdrop, the Supreme Court decided *Owens* and determined that the operative limitations period for Section 1983 claims is the forum state's residual personal injury statute of limitations. While the Court stressed that the patchwork solution it fashioned would "promote predictability in all 50 states," it did so only in the absence of a viable federal solution. *Owens*, 488 U.S. at 243. To ensure that states could not use this borrowing scheme to undercut federal interests, the Court reserved its ability to assess

whether a state limitations period might be *too short* to accommodate federal interests. *Id.* at 251 n.13.

In reserving this question, the Court recognized that, so long as Section 1983 depends upon state procedural rules, federal courts—and, in particular, this Court—must act as a check on impermissible state legal regimes. Otherwise, states would be free to undermine the scope and efficacy of Section 1983, limiting federal civil rights plaintiffs' ability to seek redress from the very state actors that statute is designed to hold accountable. *Owens*, 488 U.S. at 249 n.11. Put differently, the "predictability" promoted by *Owens* was never meant to vitiate the requirement that a state statute of limitations "afford a reasonable time to the federal claimant." *Id.* at 251 n.13 (quoting *Burnett*, 468 U.S. at 61).

The one-year limitations period applied to Mr. Brown presents these exact concerns. In *Burnett*, this Court explained that "[a] state law is not 'appropriate' if it fails to take into account practicalities that are involved in litigating federal civil rights claims and policies that are analogous to the goals of the Civil Rights Acts." 468 U.S. at 50; *see also McDonald v. Salazar*, 831 F. Supp. 2d 313, 319 (D.D.C. 2011) ("A proper limitations provision must account for the characteristics of litigation under the analogous federal statute, including the policies underlying and the practicalities involved in litigating the federal cause of action."). Under that standard, a one-year residual personal injury statute of limitations, like the one Mr. Brown faces, simply does not provide claimants enough time to marshal the resources necessary to prepare a federal civil rights suit. Indeed, when the

Second Circuit decided between a three-year limitations period and a one-year period, it held that the three-year timeframe "more faithfully represents the federal interest in providing an effective remedy for violations of civil rights than does the restrictive one year limit." *Okure*, 816 F.2d at 49.

Federal civil rights plaintiffs face myriad practical hurdles to bringing a Section 1983 action. As this Court has recognized, "[l]itigating a civil rights claim requires considerable preparation." *Burnett*, 468 U.S. at 50. At the outset, a plaintiff must "recognize the constitutional dimensions of his injury," "obtain counsel, or prepare to proceed pro se," "conduct enough investigation to draft pleadings that meet the requirements of federal rules," "establish the amount of his damages, prepare legal documents, pay a substantial filing fee or prepare additional papers to support a request to proceed in forma pauperis, and file and serve his complaint." *Id.* at 50–51. And these steps all take time because injuries to civil rights are not "necessarily apparent to the victim at the time they are inflicted," and "even where the injury itself is obvious, the constitutional dimensions of the tort may not be." *Okure*, 816 F.2d at 48.

As further evidenced here, many Section 1983 plaintiffs, including those in police misconduct cases, face additional hurdles—such as recovering from physical and mental trauma, navigating parallel criminal proceedings while incarcerated, and fear of

retaliation from their abusers.[2] Where a state law limitations period is too short for police misconduct claims brought under Section 1983—perhaps the paradigmatic such claim—it can hardly be seen as sufficient for Section 1983 claims more generally.

2. The application of Louisiana law to Mr. Brown's federal action also underscores the challenges associated with allowing myriad, ever-changing state statutes of limitations to govern Section 1983 claims. Because state legislatures can change their personal injury limitations period at any time, civil rights plaintiffs are subject to the whims of their state legislatures' views of the proper sweep of their federal civil rights. Absent meaningful guidance from this Court, states are free to choose whichever limitations period they see fit without any limiting principles on their discretion.

Recent changes in Louisiana law highlight the shortcomings of the current system in which each state has complete autonomy to decide the operative limitations period that will apply to federal civil rights claims. While Louisiana extended the residual limitations period for future plaintiffs, the extension does not apply to Mr. Brown or any similarly situated

---

[2] *See* Martin S. Greenberg & R. Barry Ruback, *After the Crime: Victim Decision Making*, 1–15, *in* 9 *Perspectives in Law & Psychology* (1992) (noting that victims of abuse struggle to report subsequent to victimization); Dani Kritter, *The Overlooked Barrier to Section 1983 Claims: State Catch-All Statutes of Limitations*, Cal. L. Rev. Online (Mar. 2021), https://perma.cc/T645-PYPW (explaining that these symptoms are heightened for victims of police brutality).

plaintiffs who were injured prior to July 1, 2024. *See* 2024 La. Sess. Law Serv. Act 423, § 4.

By deciding to not apply Act 423 retroactively, Louisiana is refusing to provide relief for many civil rights plaintiffs, like Mr. Brown, who have already been injured and now seek to vindicate their federal rights. In fact, Louisiana's belated recognition that its limitations period was too short underscores that applying a one-year limitations period to Mr. Brown's Section 1983 claim was inconsistent with federal interests from the outset.

Mr. Brown and his fellow Louisianans are not the only citizens whose federal civil rights are unduly restricted. All civil rights plaintiffs in Kentucky, Tennessee, and Puerto Rico face the same fate as they too are constrained by a one-year limitations period. *See* Ky. Rev. Stat. Ann. § 413.140 (2021); Tenn. Code. Ann. § 28-3-104 (2021);[3] P.R. Laws Ann. tit. 31, § 5298(2). Absent guidance from this Court, federal

[3] Tennessee's one-year statute of limitations expressly carves out a separate limitations period for civil actions "brought under the federal civil rights statutes." Tenn. Code. Ann. § 28-3-104(a)(1)(B) (2021). Courts of appeals have struck down similar statutes from other states, recognizing that "[w]hile Congress permits federal courts to borrow state limitations periods, neither Congress nor the Supreme Court has authorized states to create limitations periods and exclusively applicable to section 1983 actions." *Arnold v. Duchesne Cnty.*, 26 F.3d 982, 989 (10th Cir. 1994). The Sixth Circuit has upheld the application of this specialized statute to Section 1983 claims because Tennessee's residual period is also one year. *See Dibrell v. City of Knoxville*, 984 F.3d 1156, 1161 (6th Cir. 2021) ("Because this statute also sets a one-year period, we need not consider which statute would apply if the two limitations periods differed.").

courts will continue to defer to these state limitations periods that fail to adequately serve Section 1983's federal interests. *See, e.g.*, *Stucker v. Louisville Metro Gov't*, No. 23-5214, 2024 WL 2135407, at *2 (6th Cir. May 13, 2024) (applying Kentucky's one-year statute of limitations to Section 1983 claim); *Bannister v. Knox Cnty. Bd. of Educ.*, 49 F.4th 1000, 1008 (6th Cir. 2022) (applying Tennessee's one-year statute of limitations to Section 1983 claim); *Alamo-Hornedo v. Puig*, 745 F.3d 578, 581 (1st Cir. 2014) (applying Puerto Rico's one-year statute of limitations to Section 1983 claim). This Court's review will therefore be important not just to Mr. Brown but also to millions of others whose federal civil rights are subject to an inadequate state-law limitations period.

Even when borrowing state statutes of limitations, this Court has explained that the controlling standard "is ultimately a question of federal law." *Wilson*, 471 U.S. at 269. While *Owens* sought to simplify the approach to Section 1983's statute of limitations question by designating a particular state-law provision, there are still fifty different legislatures and fifty different statutes that determine the amount of time plaintiffs have to bring their federal claims. Despite this patchwork system applying federal rights inconsistently, this Court has yet to provide guidance about the minimum limitations period for a Section 1983 claim. *See Owens*, 488 U.S. at 251 n.13. As such, there is nothing stopping the outlier states from continuing to apply a one-year limitations period; nor is there anything to prevent other states from *reducing* the amount of time Section 1983 claimants have to file their lawsuits. Federal civil rights plaintiffs therefore

face the perpetual risk that their home state can manipulate state procedural law to restrict their access to the federal courts for claims against state officials.

Current Section 1983 plaintiffs in Louisiana, like Mr. Brown, and all Section 1983 plaintiffs in Kentucky, Tennessee, and Puerto Rico, are bearing the brunt of their states' unfettered discretion. By granting certiorari, the Court can clarify that there are federal limitations on the states' ability to block access to federal courts for meritorious Section 1983 claims.

II. The Four-Year Catchall Statute of Limitations Provided Under Section 1658 Gives This Court the Federal Solution It Lacked When *Owens* Was Decided.

This case also provides an opportunity to adopt a uniform *federal* statute of limitations for the federal remedy supplied by Section 1983. When *Burnett*, *Wilson*, and *Owens* were decided, federal law provided no adequate procedural rule that could have supplied a limitations period for Section 1983 claims. But in 1990, the year after *Owens* was decided, Congress enacted 28 U.S.C. § 1658, which provides a four-year catchall statute of limitations period for all newly enacted federal causes of action that lack their own specific limitations period.

This case presents the Court with the opportunity to recognize that this change in law should also change the controlling limitations period for Section 1983 claims. When the Court previously evaluated Section 1983's limitations period, it explained that Section 1988 "direct[s] federal courts to follow a three-step process" to supply the appropriate rule of decision. *Burnett*, 468 U.S. at 47 (citing 42 U.S.C. § 1988).

Under Section 1988, courts first "look to the laws of the United States 'so far as such laws are suitable to carry [the civil and criminal civil rights statutes] into effect.'" *Id.* at 48 (quoting 42 U.S.C. § 1988) (alteration in original).

If federal law is "suitable," then federal law controls and the court's job is done. *See id.*; *see also Wilson*, 471 U.S. at 268 (explaining steps two and three of Section 1988's framework "should not be undertaken before principles of federal law are exhausted"). Only if "no suitable federal rule exists" do courts proceed to the next steps: considering the application of the forum state's common law and determining whether state law "is not 'inconsistent with the Constitution and laws of the United States.'" *Burnett*, 468 U.S. at 48 (quoting 42 U.S.C. § 1988).

At the time of the Court's decision in *Burnett*, there was no "suitable" federal law to provide a limitations period for Section 1983 claims. 468 U.S. at 48–49. For instance, the Court held that twentieth century civil-rights laws cannot supply the limitations period for Section 1983 claims because those laws have "independen[t]" "remedial scheme[s]." *Id.* at 49 (discussing *O'Sullivan v. Felix*, 233 U.S. 318, 324–25 (1914), *Johnson v. Railway Express Agency*, 421 U.S. 454, 459–61 (1975), and *Jones v. Alfred H. Mayer Co.*, 392 U.S. 409, 416–17 & n.20 (1968)). Because no federal law could supply the appropriate limitations period, *Burnett*, *Wilson*, and *Owens* interpreted Section 1988 to require that courts borrow from state law limitations periods to decide what is otherwise clearly a federal question. *See id.*; *Wilson*, 471 U.S. at 270.

Section 1658 now provides a federal solution to this problem. The enactment of this provision calls for a reevaluation of the central analysis under Section 1988, and conducting that analysis demonstrates that Section 1658 provides the limitations period for all Section 1983 claims across the Nation. It is far more consistent with the federal interests of Section 1983 to fill its missing gap with a uniform *federal* catchall statute of limitations than to borrow from a patchwork of fifty different states' residual personal injury limitations periods providing wildly divergent time periods for bringing suit. As the Court has explained, "[s]tate legislatures do not devise their limitations periods with national interests in mind. . . ." *Occidental Life Ins. Co. v. EEOC*, 432 U.S. 355, 367 (1977). As a result, "state statutes of limitations can be unsatisfactory vehicles for the enforcement of federal law." *DelCostello v. Int'l Bhd. of Teamsters*, 462 U.S. 151, 161 (1983).

While Section 1658 does not apply to Section 1983 claims by its own force, Section 1988 does not require that a federal statute be directly applicable. Indeed, the premise of the inquiry under Section 1988 is that there is no such directly applicable federal statute. Rather, Section 1988 directs courts to survey federal law more broadly to determine whether a "suitable" limitations period exists. And Section 1658 qualifies as a "suitable" federal provision because it represents Congress' determination of the appropriate balance between providing federal plaintiffs sufficient time to bring their claims and ensuring that all claims are brought in a timely manner. *See* Joseph E. Worcester, *A Dictionary of the English Language* 1444 (1860) (defining "suitable" as "[f]itting; fit; meet; conformable;

proper; appropriate; becoming; agreeable; answerable; convenient").[4]

As Judge Ho suggested at oral argument in the court below, relying on Section 1658 would be the "more textual" approach to determining the appropriate statute of limitations for Section 1983 claims. Judge Ho observed that "replacing the state by state strangeness with a uniform four year [limitations period]" would "seem[] to be more textual" than the current regime. Oral Argument, *supra*, at 15:30–16:58. As such, he recognized this case provides a vehicle for "the Supreme Court to get back to the text" of Sections 1988 and 1658. *Id.* at 12:56–13:00.

While federal courts currently employ a state-law borrowing regime based on steps two and three of Section 1988, the Court has always recognized that borrowing state law is an imperfect, second-best solution. As the Court has noted, "Congress surely did not intend to assign to state courts and legislatures a conclusive role in the formative function of defining and characterizing the essential elements of a federal cause of action." *Wilson*, 471 U.S. at 269. The state-

---

[4] Under the current system, state limitations periods do not apply to Section 1983 claims by their own terms either. *Wilson*, 471 U.S. at 269 ("Even when principles of state law are borrowed to assist in the enforcement of this federal remedy, the state rule is adopted as a federal rule responsive to the need whenever a federal right is impaired." (cleaned up)). Instead, they only apply because, before the enactment of Section 1658, they provided what this Court determined to be one "suitable," albeit imperfect, limitations period under Section 1988's and *Burnett*'s framework. But now, Section 1658 provides a far more "suitable" period.

borrowing scheme is a particularly odd fit for Section 1983 actions given that Section 1983 provides "'a uniquely federal remedy against incursions under the claimed authority of state law upon rights secured by the Constitution and laws of the Nation," and operates to "override certain kinds of state laws.'" *Id.* at 271–72 (citations omitted); *see also* Kimberly Norwood, *28 U.S.C. § 1658: A Limitation Period with Real Limitations*, 69 Ind. L.J. 477, 513–14 (1994) ("If . . . the ineffectiveness of state law was the reason for § 1983's enactment, there is little logic in allowing state law to govern how long the federal claim should survive."). In other words, the state-borrowing scheme empowers states to unduly restrict the sweep of Section 1983—the federal cause of action that itself serves as a check on state officials' exercise of their authority.

The years since *Burnett*, *Wilson*, and *Owens* have demonstrated that the state-borrowing scheme is a poor fit for Section 1983 claims. Federal courts initially struggled to determine the proper state-law analogue for Section 1983 claims. *See Owens*, 488 U.S. at 241–42. While *Owens* curbed some of the chaos by instructing that a state's residual statute of limitations periods governing personal injury actions controls, *see id.* at 245–48, it maintained a system in which access to Section 1983 varies from state to state.

This Court has previously stressed the virtue of the uniform application of federal law—including in the Section 1983 context—stating that "the federal interest in uniformity and the interest in having 'firmly defined, easily applied rules,' support the conclusion that Congress intended the characterization of § 1983

to be measured by federal rather than state standards." *Wilson*, 471 U.S. at 270; *see also Davies Warehouse Co. v. Bowles*, 321 U.S. 144, 155 (1944) ("It is, of course, true that uniform operation of a federal law is a desirable end, and other things being equal, we often have interpreted statutes to achieve it.") (collecting cases).

Applying Section 1658 as the appropriate reference point would ensure federal uniformity. And in light of Section 1658, courts are no longer forced to perpetuate an imperfect regime in which citizens in Maine and North Dakota have six years to vindicate their federal rights under Section 1983 while citizens in Louisiana, Kentucky, Tennessee, and Puerto Rico have only one year. Similarly, Plaintiffs (and defendants) would no longer be forced to navigate the differences and complexity of state law to determine what statute of limitations applies to their federal claims, including determining whether their state has a single or multiple personal injury limitations periods. The four-year residual limitations period that Congress provided in Section 1658 enhances predictability—"a primary goal of statutes of limitations," *Owens*, 488 U.S. at 240—while maintaining the national interest in the uniform application of federal law.

Despite Section 1658's status as a "suitable" federal solution under Section 1988, the Fifth Circuit concluded that it could not apply Section 1658 to Section 1983 claims without further direction from this Court. The Fifth Circuit concluded that, under *Burnett* and *Owens*, it was bound to continue applying the state-law borrowing framework because *Burnett* (decided before the enactment of Section 1658) "held that,

at Step One, federal law does not provide a statute of limitations for Section 1983 claims." App. 5a. Until this Court clarifies that Section 1658 now provides a "suitable" federal rule of decision for Section 1983 claims, the outdated interpretation of Section 1988 will continue to control across the Nation.

At a minimum, Section 1658 provides an alternative that courts can apply where a state's residual period fails the third step of Section 1988 because it is "'inconsistent with the Constitution and laws of the United States.'" *Burnett*, 468 U.S. at 48 (quoting 42 U.S.C. § 1988). Where, as here, a state's residual personal injury limitations period is either practically too short or discriminatory, courts need to find a more suitable alternative. Rather than search for yet another state limitations period, the answer is clear: Section 1658.

As explained above, one year does not provide federal plaintiffs with sufficient time to vindicate their federal rights—especially for a claim at the core of Section 1983 like Mr. Brown's. As a result, after analyzing Section 1988 under *Burnett* and *Owens*, a court would still be left without a limitations period to apply to these plaintiffs' Section 1983 claims. In these circumstances, Section 1658 represents Congress' determination of the appropriate limitations period where federal law has not otherwise provided a statute of limitations. Section 1658 thus serves as the correct limitations period and failsafe for plaintiffs, who have been stymied by a restrictive state law provision, to vindicate their important federal civil rights.

III. The Application of Fifty Different State Statutes of Limitations Creates a Lack of Uniformity and Inequal Access to Federal Civil Rights Claims.

The Court should grant review because all fifty states (and federal territories) are effectively split about the appropriate statute of limitations for federal civil rights claims. Louisiana's current one-year residual personal injury statute of limitations exposes the reality that, under *Owens*, federal civil rights plaintiffs are afforded different access to a *federal* remedy for *federal rights violations* based solely on where they live. The current one-year period in Louisiana is tied for the shortest in the Nation. *See also* Ky. Rev. Stat. Ann. § 413.140 (2021); Tenn. Code. Ann. § 28-3-104 (2021); P.R. Laws Ann. tit. 31, § 5298(2). These limitations periods are a stark outlier from the nationwide median of three years, and mode of two years. *See* App. 44a–48a. If Mr. Brown had been attacked in almost any other state, he would have been given the opportunity to litigate his federal civil rights claim.

This lack of uniformity in the application of a federal remedy for the infringement of federal rights can only be corrected by this Court. For no reason other than geography, federal civil rights plaintiffs in the outlier states face an unreasonably short limitations period that effectively thwarts their ability to bring meritorious Section 1983 claims. That is true even though these plaintiffs face the same practical hurdles to bring their claims as their counterparts in nearly every other state.

There is no good reason that plaintiffs' access to a foundational federal cause of action should turn on

the benevolence of their state legislatures. *See Occidental Life Ins. Co.*, 432 U.S. at 367 ("State legislatures do not devise their limitations periods with national interests in mind."). As the Court has explained, "[t]he high purposes of [Section 1983] make it appropriate to accord the statute 'a sweep as broad as its language.'" *Wilson*, 471 U.S. at 272 (quoting *United States v. Price*, 383 U.S. 787, 801 (1966)). Indeed, it was designed to "override certain kinds of state laws"—not be constrained by them. *Id.* Instead of continuing to perpetuate the unjust and unnecessary split, the Court can use this case as a vehicle to recognize that federal law now provides a more "suitable" uniform statute of limitations for Section 1983 claims under Section 1658.

At minimum, all federal civil rights plaintiffs—regardless of geography—are entitled to a reasonably sufficient time to bring their claims. As almost all states have recognized, two years is the bare minimum necessary for such claims. While states can choose to provide longer limitations period, they must at least provide a limitations period that satisfies the threshold federal interests underlying Section 1983. Louisiana cannot escape this requirement by extending the statute of limitations for some classes of citizens while leaving others, like Mr. Brown, without any recourse to vindicate their federal civil rights claims. By granting review here, the Court can ensure the availability of Section 1983 to all Americans by recognizing a two-year floor beneath which outlier states may not curtail their residents' federal civil rights.

IV. This Case Provides an Excellent Vehicle to Resolve Important Questions That This Court Will Have Limited Opportunities to Hear.

Mr. Brown's petition is an ideal vehicle to address the questions presented. The applicability of the one-year statute of limitations was the only issue raised in Mr. Brown's case and presented on appeal. There were no separate grounds to dismiss his claim. Moreover, there is not even a dispute as to the underlying facts now that both Defendants have since pleaded guilty to federal criminal charges arising from this attack. Plea Agreement, *United States v. Grant*, No. 5:23-cr-00207-SMH-MLH (W.D. La. Sept. 5, 2023), ECF 9; Plea Agreement, *United States v. Pouncy*, No. 5:23-cr-00210-SMH-MLH (W.D. La. April 10, 2024), ECF 27. Mr. Brown has been unable to pursue his claim for damages solely because his claim is subject to Louisiana's outlier statute of limitations. This case therefore leaves no doubt that meritorious Section 1983 claims are squeezed out under a one-year limitations period.

This case is also a clean vehicle to review the applicability of Section 1658. The question of Section 1658's reach was clearly presented to and considered by the district court and Fifth Circuit. *See* Brief for Plaintiff-Appellant at 31-35, *Brown v. Pouncy*, No. 22-30691 (5th Cir. Jan. 27, 2023), ECF 24–1. As Judge Ho observed at oral argument, Section 1658 is the "more textual" answer to Section 1988's framework. Oral Argument, *supra*, at 15:30–16:58. But only the Supreme Court can provide that solution. App. 15a.

Critically, the Court is unlikely to have many additional opportunities to address these questions. Because state law currently controls, only plaintiffs hailing from Kentucky, Tennessee, and Puerto Rico can bring challenges to the viability of a one-year residual personal injury statute of limitations as applied to their Section 1983 claims. As such, only the First and Sixth Circuits could even have a future opportunity to consider whether a one-year period is consistent with the federal interests underpinning Section 1983.

Even if the other Circuits confront *Owens*' open question, they may very well encounter the same challenge the Fifth Circuit faced where it recognized that the state law in question creates practical challenges for federal plaintiffs but concluded that "[o]nly the Supreme Court . . . can clarify how lower courts should evaluate practical frustration without undermining [*Owens*'] solution." App. 15a. As a result, it is exceedingly unlikely that the courts of appeals will ever disagree about *Owens*' open question—even though this Court has expressed skepticism that a one-year limitations period can satisfactorily promote the federal interests underpinning Section 1983. *See Owens*, 488 U.S. at 251 n.13.

To be clear, the fact that the issue raised by Mr. Brown is unlikely to present itself in another cert-worthy vehicle does not diminish the importance of the issue at stake. Currently, more than 16 million citizens in Louisiana, Kentucky, Tennessee, and Puerto Rico are uniquely disadvantaged in their ability to litigate their meritorious federal civil rights claims. With the opinion below serving as binding precedent in the Fifth Circuit and persuasive authority in the

First and Sixth Circuits, it is unlikely that future plaintiffs will be able to mount successful challenges to the outlier statutes of limitations absent this Court's intervention.

For these reasons, Mr. Brown's case presents a rare opportunity to resolve the question left open in *Owens* and to address whether Section 1658 supplies a more appropriate limitations period for Section 1983 claims. This Court can ensure that all federal civil rights victims, regardless of state, are guaranteed access to Section 1983's "uniquely federal remedy."

CONCLUSION

The petition should be granted.

Respectfully submitted,

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

Lauren Willard Zehmer
Counsel of Record
Michael X. Imbroscio
Sameer Aggarwal
COVINGTON & BURLING LLP
850 Tenth Street, NW
Washington, DC 20001
(202) 662-6000
lzehmer@cov.com

Caleb M. W. Ellis
COVINGTON & BURLING LLP
620 Eighth Avenue
New York, NY 10018

Counsel for Petitioner

June 18, 2024

APPENDIX

APPENDIX TABLE OF CONTENTS

APPENDIX A

UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

[Filed February 19, 2024]

No. 22-30691

JARIUS BROWN,

Plaintiff-Appellant,

versus

JAVARREA POUNCY; JOHN DOE #1; JOHN DOE #2,

Defendants-Appellees.

Appeal from the United States District Court
for the Western District of Louisiana
USDC No. 5:21-CV-3415

Before GRAVES, HIGGINSON, and HO, *Circuit Judges*.

STEPHEN A. HIGGINSON, *Circuit Judge*:

Congress did not provide a statute of limitations for claims brought under 42 U.S.C. § 1983. The Supreme Court held in *Owens v. Okure* that a forum state's general or residual statute of limitations for personal injury claims applies to Section 1983 claims. 488 U.S. 235, 249–50 (1989). In Louisiana, that period

is one year. LA. CIV. CODE art. 3492.[1] Appellant Jarius Brown argues that this one-year period should not apply to police brutality claims brought under Section 1983 and seeks reversal of the district court's dismissal of his claims as untimely. He contends that the one-year period both impermissibly discriminates against Section 1983 police brutality claims and practically frustrates litigants' ability to bring such claims. Our review is de novo. *See United States v. Irby*, 703 F.3d 280, 282–83 (5th Cir. 2012).

We conclude that precedent requires us to AFFIRM.

I.

Brown alleges that officers from the DeSoto Parish Sheriff's Office attacked him without provocation, leaving him to languish in a jail cell with a broken nose and eye socket. Nearly two years later, Brown sued appellee Javarrea Pouncy and two unidentified officers in the U.S. District Court for the Western District of Louisiana, seeking relief under 42 U.S.C. § 1983 for unreasonable force applied in violation of the Fourth and Fourteenth Amendments and under Louisiana state law for battery, LA. CIV. CODE art. 3493.1. Pouncy moved to dismiss the Section 1983 claim as prescribed (time-barred) under Louisiana's one-year, residual prescriptive period for personal injury claims. The district court dismissed with prejudice the Section 1983 claim and dismissed without prejudice the state

[1] And, in Louisiana, the state legislature sets "prescriptive periods" rather than "statutes of limitations."

law claim over which it had exercised supplemental jurisdiction. Brown appealed.

Two subsequent developments, noticed to our court by the parties, provide additional context.

First, Brown refiled his state law claim in state court, which dismissed the suit as untimely. *Brown v. Pouncy*, 2023 WL 3859923 (La. Dist. Ct. May 23, 2023). That court rejected Brown's contention that the claim should be governed by the two-year period for "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," LA. CIV. CODE art. 3493.10, and instead applied the state's one-year residual period for personal injury claims. *Brown v. Pouncy*, 2023 WL 3859922, *1-2 (La. Dist. Ct. May 10, 2023).

Second, federal charges stemming from the incident were brought against at least some of the officers. On September 5, 2023, Defendant John Doe #1, now identified as DeMarkes Grant, pled guilty to obstruction of justice in violation of 18 U.S.C. § 1519. Plea Agreement, *United States v. Grant*, No. 5:23-cr-00207, ECF 9 (W.D. La. Sept. 5, 2023); Factual Basis for Plea, *United States v. Grant*, No. 5:23-cr-00207, ECF 9-2 (W.D. La. Sept. 5, 2023). On September 6, 2023, Pouncy was indicted on two counts of deprivation of rights under color of law in violation of 18 U.S.C. § 242 and one count of obstruction of justice in violation of 18 U.S.C. § 1519. Indictment, *United States v. Pouncy*, No. 5:23-cr-00210, ECF 1 (W.D. La. Sept. 6, 2023).

II.

"[T]he failure of certain States to enforce the laws with an equal hand . . . furnished the powerful momentum behind" the Ku Klux Klan Act in the midst of a campaign of racial terror following the Civil War. *Monroe v. Pape*, 365 U.S. 167, 174–75 (1961). Central to addressing this failure was the Act's key enforcement mechanism, Section 1983, which provides a cause of action to "any citizen of the United States or other person within the jurisdiction thereof" for "the deprivation of any rights, privileges, or immunities secured by the Constitution and laws" by any person acting "under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory." 42 U.S.C. § 1983.

Still, "[t]he century-old Civil Rights Acts do not contain every rule of decision required to adjudicate claims asserted under them." *Burnett v. Grattan*, 468 U.S. 42, 47 (1984). Those consequential gaps are filled by 42 U.S.C. § 1988(a), which the Supreme Court distilled in *Burnett* into a "three-step process" for "federal courts to follow," "[i]n the absence of specific guidance," "to borrow an appropriate rule." *Id.* At Step One, "look to the laws of the United States 'so far as such laws are suitable to carry [the civil and criminal civil rights statutes] into effect.'" *Id.* at 48 (quoting 42 U.S.C. § 1988(a)). "If no suitable federal rule exists," consider, at Step Two, the "application of state 'common law, as modified and changed by the constitution and statutes' of the forum State." *Id.* (quoting 42 U.S.C. § 1988(a)). But, at Step Three, "apply state law only if it is not 'inconsistent with the Constitution and laws of the United States.'" *Id.* (quoting 42 U.S.C. § 1988(a)).

The Supreme Court in *Burnett* held that, at Step One, federal law does not provide a statute of limitations for Section 1983 claims, *id.* at 48–49, and so courts must, at Step Two, "turn to state law for statutes of limitations," *id.* at 49. One year after *Burnett*, the Supreme Court in *Wilson P. Garcia* held that *which* state statute of limitations applies is a question of federal law. 471 U.S. 261, 268–69 (1985). It explained that "[o]nly the length of the limitations period, and closely related questions of tolling and application, are to be governed by state law" because "Congress surely did not intend to assign to state courts and legislatures a conclusive role in the formative function of defining and characterizing the essential elements of a federal cause of action." *Id.* at 269. And characterization of the claim as a question of federal law was consistent with "the federal interest in uniformity and the interest in having firmly defined, easily applied rules." *Id.* at 270 (internal quotation marks and citation omitted). The Court then answered that question of federal law, holding that a state's statute of limitations for "the tort action for recovery of damages for personal injuries" supplies the appropriate limitations period. *Id.* at 276.

Uncertainty persisted after Wilson's clarification. Some states had multiple statutes of limitations for personal injury actions. The Supreme Court, in *Owens P. Okure*, resolved that uncertainty several years later, holding that the statute of limitations for a Section 1983 action is a state's general or residual personal injury statute of limitations. 488 U.S. at 236. For the *Owens* plaintiff, this meant New York's three-year general statute of limitations for personal injury claims applied rather than its one-year statute of

limitations for intentional torts, and so the Court observed that it "need not address [plaintiff's] argument that applying a 1-year limitations period to § 1983 actions would be inconsistent with federal interests." *Id.* at 251 n.13.

This appeal asks our court to pick up where *Owens* left off.

III.

Brown contends that application of Louisiana's one-year prescriptive period to Section 1983 police brutality claims discriminates against those claims and practically frustrates litigants' ability to bring them, both of which contravene the federal interests behind Section 1983. He argues that each is an independent basis for concluding that the one-year prescriptive period cannot apply to his Section 1983 police brutality claim. We first address the level of generality at which to consider these two contentions and then address them in turn.

A.

Brown maintains that we ask whether Section 1983 police brutality claims—and not Section 1983 claims generally, as Pouncy contends—are discriminated against or practically frustrated by Louisiana's prescriptive period. Tellingly, Section 1983 police brutality claims were at issue in both *Wilson* and *Owens*, yet neither analyzed the statute of limitations question based on the nature of police brutality claims specifically and instead considered Section 1983 claims generally. 471 U.S. at 263; 488 U.S. at 237. That approach makes sense: The doctrinal developments outlined above reflect an "interest in

having firmly defined, easily applied rules." *Wilson*, 471 U.S. at 270 (internal quotation marks and citation omitted). That interest was stymied when courts had to parse which limitations period applied based on the particular facts of a Section 1983 action, *see id.* at 275, and so *Wilson*, then *Owens*, announced a straightforward rule that obviated the need to do so. The claim-specific approach assumed by Brown in his opening brief— and then urged by him in reply— would upend this.

Though our court has not addressed this issue before, we embraced *Wilson*'s "broad and inclusive language" to reject the argument that Section 1983 suits seeking equitable relief are not bound by statutes of limitations. *Walker P. Epps*, 550 F.3d 407, 411 (5th Cir. 2008). In that context, we reasoned that "[t]he Supreme Court was fully aware when it decided *Wilson* that actions seeking equitable relief only could be brought under § 1983" but did not make an exception for those actions and emphasized the need for uniformity. *Id.* at 412. We concluded that "*Wilson*'s strongly expressed interests in judicial economy suggest" no exception for equitable relief exists. *Id.* These same concerns also counsel against a claim-specific inquiry.

B.

Brown contends that Louisiana's one-year prescriptive period discriminates against Section 1983 police brutality claims because Brown would have longer to bring an analogous state law claim. Brown relies on then-Justice Rehnquist's concurrence in *Burnett*, which observed that "if the state statute of limitations discriminates against federal claims, such

that a federal claim would be time-barred, while an equivalent state claim would not, then the state law is inconsistent with federal law." 468 U.S. at 60–61 (Rehnquist, J., concurring in judgment). Brown contends that he would have two years to bring an analogous state law claim under Louisiana's prescriptive period for crimes of violence, LA. CIV. CODE art. 3493.10, and so application of the one-year prescriptive period to bar his Section 1983 claim discriminates against federal claims.

It appears to be an open question of Louisiana law whether Brown would have two years to bring his analogous state law claim.[2] We need not resolve that question because, even assuming a two-year prescriptive period for a state law analogue, Brown misconceives what constitutes impermissible discrimination in contravention of the federal interests behind Section 1983.

---

[2] As noted, a state trial court rejected Brown's contention that his claim should be governed by the two-year period under Louisiana Civil Code article 3493.10 for "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," and instead applied the one-year residual period. *Brown*, 2023 WL 3859922 at *1–2. It reasoned that "the mere fact that plaintiff contends the actions of defendant were crimes of violence do not make it so," after noting that "[l]aw enforcement is permitted to use[] 'reasonable force to effect the arrest and detention.'" *Id.* at *1 (citation omitted). The trial court found another case "instructive" in which the one-year period applied where "the defendant law enforcement officer was not arrested or otherwise charged with a crime relative to his interaction with [the] plaintiff." *Id.* at *2. We do not weigh in on how the federal criminal charges might implicate that court's reasoning.

Owens, in holding that the residual limitations period for personal injury actions applies to Section 1983 claims, contemplated that often "state law provides multiple statutes of limitations for personal injury actions." 488 U.S. at 249–50. Of course, some of those might have afforded longer periods in which to bring claims. But our case law reflects the bargain that courts have struck in the gap that Congress left: Accept that *some* plaintiffs may miss out on longer limitations periods afforded to analogous state law claims but give *all* plaintiffs the baseline protection of the limitations period used for "[g]eneral personal injury actions . . . [that] constitute a major part of the total volume of civil litigation in the state courts," so that it is "most unlikely that the period of limitations applicable to such claims ever was, or ever would be, fixed in a way that would discriminate against federal claims." *Wilson*, 471 U.S. at 279.

Indeed, Brown's discrimination standard might have perverse effects. Take a state legislature that decides that, to address police brutality, it will set a ten-year statute of limitations for plaintiffs bringing police brutality claims under state law. And assume the state has a three-year residual statute of limitations for personal injury claims. A Section 1983 police brutality claim would be time-barred after three years, shorter, of course, than the ten-year period to bring the same claim under state law. Under Brown's theory, the state—in making itself a more hospitable forum for civil rights claims—may have discriminated against federal claims.[3]

---

[3] Of course, the rejoinder might be that this hypothetical regime discriminates against Section 1983 claims but does not

Our court's precedent confirms our approach. We have consistently applied shorter, general limitations periods instead of longer ones governing analogous state law claims. For example, in *King-White v. Humble Independent School District*, we declined to apply Texas's five-year limitations period for sexual assault—the most closely analogous state law claim to the Section 1983 claim brought there—and instead applied the two-year residual limitations period for personal injury actions. 803 F.3d 754, 759–61 (5th Cir. 2015). To do otherwise, we explained, would be "precisely the practice that the Supreme Court rejected in *Wilson* and *Owens*." *Id.* at 761.

C.

Brown also argues that Louisiana's one-year prescriptive period practically frustrates the ability to bring claims in contravention of the federal interests underlying Section 1983. Brown and amici argue that a short limitations period is particularly harmful to victims of police brutality, who as victims of violence experience trauma that is often exacerbated by remaining in custody. *See, e.g.*, Dani Kritter, *The Overlooked Barrier to Section 1983 Claims: State Catch-All Statutes of Limitations*, CAL. L. REV. ONLINE (Mar. 2021), https:// www.californialawreview.org/online/the-overlooked-barrier-to-section-1983-claims-state-catch-all-statutes-of-limitations.

---

practically frustrate them. Indeed, at oral argument, counsel explained that the convergence of the discrimination and frustration arguments would provide a narrow basis for a ruling in Brown's favor. Because we conclude that Brown misconceives the standard for discrimination, we do not consider the convergence argument.

The Supreme Court has repeatedly admonished that Section 1983 be interpreted consistent with its broad, remedial purpose. In *Wilson*, the Court explained that the "high purposes of this unique remedy make it appropriate to accord the statute a sweep as broad as its language." 471 U.S. at 272 (internal quotation marks and citation omitted). A statute of limitations must therefore account for "practicalities that are involved in litigating federal civil rights claims." *Burnett*, 468 U.S. at 50. Otherwise, it would inhibit Section 1983's "central objective" of "ensur[ing] that individuals whose federal constitutional or statutory rights are abridged may recover damages or secure injunctive relief." *Id.* at 55.

Brown argues that *Owens*, in a footnote, expressly left open the question of whether one year is so short that it denies those individuals relief. The footnote reads:

> Because we hold that the Court of Appeals correctly borrowed New York's 3-year general personal injury statute of limitations, we need not address [plaintiff's] argument that applying a 1-year limitations period to § 1983 actions would be inconsistent with federal interests. *See Burnett v. Grattan*, 468 U.S. 42, 61, 104 S.Ct. 2924, 2935, 82 F.Ed.2d 36 (1984) (Rehnquist, J., concurring) (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").

Owens, 488 U.S. at 251 n.13.

Taking this footnote as our starting point, we turn to then-Justice Rehnquist's concurrence in *Burnett*. While it does state that a limitations period could be so unreasonably short that it frustrates the federal interests behind Section 1983, it concludes that "[t]he willingness of Congress to impose a 1–year limitations period in 42 U.S.C. § 1986 demonstrates that at least a 1–year period is reasonable." 468 U.S. at 61 (Rehnquist, J., concurring in judgment). Section 1986 creates a cause of action against those who have knowledge of a conspiracy to deprive individuals of their civil rights, as defined in 42 U.S.C. § 1985, and have the power to help stop such a deprivation but do not do so. Section 1983 and Section 1986 claims are, of course, distinct, and so it is possible that what is too short to vindicate one might be sufficient to vindicate the other.

While the Supreme Court has not addressed, post-*Owens*, whether the length of a statute of limitations constitutes practical frustration in contravention of federal interests, we find its treatment of the application of state tolling provisions to Section 1983 claims instructive. The Court explained in *Hardin P. Straub* that, to determine whether federal interests would be contravened by the application of state tolling provisions, courts must ask whether "the State's rules . . . defeat either § 1983's chief goals of compensation and deterrence or its subsidiary goals of uniformity and federalism." 490 U.S. 536, 539-40 (1989). This reflects "a congressional decision to defer to 'the State's judgment on the proper balance between the policies of repose and the substantive policies of enforcement embodied in the state cause of action.'" *Id.* at 538 (quoting *Wilson*, 471 U.S. at 271). Discussing the policy choice

that state legislatures face in deciding whether to toll limitations periods for claims brought by prisoners, the Court explained that "a State reasonably could decide that there is no need to enact a tolling statute applicable to" suits brought by prisoners *or* could "reasonably" conclude that a tolling statute is necessary because "some inmates may be loath[] to bring suit against adversaries . . . whose daily supervision and control they remain subject" to and that those "who do file may not have a fair opportunity to establish the validity of their allegations while they are confined." *Id.* at 544. That a state legislature could decide, consistent with the federal interests behind Section 1983, not to toll prisoners' claims suggests there is also no frustration of federal interests here where barriers facing police brutality victims overlap with those facing prisoners, as described in *Hardin*.

Our court has repeatedly applied Louisiana's one-year prescriptive period, *see, e.g.*, *Stringer P. Town of Jonesboro*, 986 F.3d 502 (5th Cir. 2021), but we agree with Brown that it has not been challenged on these grounds. Puerto Rico, Kentucky, and Tennessee are tied with Louisiana as having the shortest limitations periods applicable to Section 1983 actions,[4] and it does not appear that either the First Circuit or Sixth Circuit has addressed these arguments.

But the Ninth Circuit and Eleventh Circuit each addressed challenges to one-year limitations periods after *Owens*. As out-of-circuit cases, they are merely persuasive, *see Ferraro P. Liberty Mut. Fire Ins. Co.*,

---

[4] *See* P.R. LAWS tit. 31, § 5298(2); KY. REV. STAT. § 413.140; TENN. CODE. § 28-3-104.

796 F.3d 529, 533 (5th Cir. 2015), and offer limited analysis. In *McDougal P. County of Imperial*, the Ninth Circuit rejected the argument that "a one-year period of limitations is too restrictive to accommodate the important federal interests at stake in a civil rights action." 942 F.2d 668, 672 (9th Cir. 1991). It observed that "Congress . . . demonstrated its belief that a one-year period is reasonable in the civil rights context, providing for such a period in 42 U.S.C. § 1986." *Id.* at 673. In *Jones & Preuit v. Mauldin*, the Eleventh Circuit rejected, on remand from the Supreme Court after *Owens*, the argument that a one-year period contravenes federal interests because "[n]o case . . . has held that a one-year limitations period conflicts with the policies behind section 1983 by providing an insufficient period in which to file suit." 876 F.2d 1480, 1484 (11th Cir. 1989).

Finally, we turn to Brown's argument that other circuits "have declined to apply" state limitations periods "in contexts where they were incompatible with other federal statutes or rights." Brown misreads these cases. In *Mason v. Owens-Illinois, Inc.*, the Sixth Circuit declined to apply a limitations period that otherwise applied only to actions brought by the state civil rights commission because it was a poor fit for actions brought by private litigants under Section 1983. 517 F.2d 520 (6th Cir. 1975). In *Johnson v. Davis*, the Fourth Circuit declined to apply a one-year limitations period to Section 1983 claims because that statute of limitations applied *only* to Section 1983 claims while the general personal injury statute of limitations was two years. 582 F.2d 1316 (4th Cir. 1978). Both cases predate the holding in *Owens* that the residual limitations period for personal injury

claims applies to Section 1983 claims. 488 U.S. at 249–50. And, in *Tearpock-Martini v. Borough of Shickshinny*, decided after *Owens*, the Third Circuit did not apply the state's two-year residual limitations period for personal injury claims, not because that period practically frustrated federal interests, but because it concluded that the Establishment Clause claim could not be time-barred as it was "predicated on a still-existing display or practice." 756 F.3d 232, 239 (3d Cir. 2014).

IV.

We read Supreme Court precedent, and our cases applying that precedent, to foreclose Brown's position. Only 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 without undermining that solution. And states, like Louisiana, are free to act so that they are no longer outliers.

For the foregoing reasons, we AFFIRM.

APPENDIX B

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
SHREVEPORT DIVISION

Civil Action No. 21-3415

JARIUS BROWN

versus

JAVARREA POUNCY, *et al.*

JUDGE ELIZABETH E. FOOTE
MAGISTRATE JUDGE HORNSBY

MEMORANDUM RULING

Before the Court is a motion to dismiss filed by Defendant Javarrea Pouncy ("Pouncy").[1] Plaintiff Jarius Brown ("Brown") filed an opposition,[2] and Public Justice, a nonprofit legal advocacy organization, filed an amicus curiae brief.[3] The primary question in this case is whether Louisiana's two-year prescriptive period for injuries resulting from a "crime of violence" applies to Section 1983 suits arising from excessive force. The answer to this legal question is no: Supreme Court authority directs federal courts in Louisiana to apply

---

[1] Record Document 13.

[2] Record Document 21.

[3] Record Document 32.

Louisiana's one-year residual prescriptive period to Section 1983 actions. Brown's secondary arguments that Louisiana's one-year prescriptive period is unfair and discriminatory also fail. For these reasons, Pouncy's motion to dismiss is **GRANTED**.

BACKGROUND

Early in the morning of September 27, 2019, a Louisiana State Police Trooper stopped Brown for an alleged traffic violation and discovered a bag of marijuana.[4] That discovery led to Brown's arrest and subsequent transport to the Sherriff's Office in Desoto Parish, Louisiana.[5] Once Brown arrived at the facility, the State Police Trooper transferred him to the custody of Deputy Pouncy and another unidentified DeSoto Parish Sherriff's Deputy.[6]

At the Sherriff's Office, the two deputies led Brown into the facility's laundry room, where he was told to change into a prison uniform.[7] Before he did so, and without provocation, Brown claims the deputies began striking his face and torso with repetitive blows.[8] Following the alleged attack, Brown recounts that the duo brought him to a cell where he sat until a deputy uninvolved in the incident noticed his injuries.[9] Soon

---

[4] Record Document 1 at 5 ¶¶ 18–19.

[5] *Id.* ¶¶ 20–22.

[6] *Id.* ¶ 22. Brown notes that it was unclear whether the State Police Trooper communicated anything to the two deputies upon the transfer of custody. *Id.*

[7] *Id.* ¶ 23.

[8] *Id.* at 6 ¶¶ 24–26.

[9] *Id.* ¶ 27.

after, Brown says he was taken to a hospital where medical staff treated several facial fractures and abrasions.[10]

Nearly two years following the incident—on September 24, 2021—Brown brought this action in federal court to seek damages from Deputy Pouncy and two "John Doe Officers" (collectively "Defendant Officers") under 42 U.S.C. § 1983. Brown bases his claims on the Defendant Officers' use of excessive force and their violations of his Fourth and Fourteenth Amendment rights.[11] Brown also brings claims under Louisiana Revised Statute § 14:35 for battery due to the alleged incident.[12] In response, Pouncy moves to dismiss Brown's Section 1983 action and urges the Court to decline exercising jurisdiction over his state law claims.[13]

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

---

[10] *Id.* at 7 ¶ 31.

[11] *Id.* at 14–16 ¶¶ 54–69.

[12] *Id.* at 17–18 ¶¶ 70–80.

[13] Record Document 13-1 at 3–5.

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 "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

Regarding Brown's federal claims, the crux of the parties' disagreement concerns the statute of limitations period governing Section 1983 actions arising in Louisiana. According to Pouncy, Section 1983 suits are subject to a one-year limitations period.[14] Because Brown brought this action over a year after the alleged incident, Pouncy argues that the Court must dismiss Brown's claims.[15] Brown, by contrast, believes his claims are viable because he brought them within

[14] Record Document 13.

[15] Record Document 13-1 at 3–4.

a two-year limitations period for injuries resulting from a "crime of violence" under Louisiana law. Additionally, he argues that Louisiana's one-year personal injury limitation period discriminates against Section 1983 claimants and should not apply to his claims. The Court first reviews the relevant legal background to address the parties' dispute.

To begin with, the parties do not disagree that Section 1983 is the proper means for Brown to challenge the alleged constitutional violations committed by the Defendant Officers. That is because 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).

But while Congress provided private plaintiffs a means to challenge state actors in federal court, it never adopted a limitations period governing Section 1983 actions. Recognizing that omission, the Supreme Court has addressed the issue several times. In *Wilson v. Garcia*, for example, the Court held that Section 1983 suits should be characterized as "personal injury actions;" thus, in the absence of Congressional guidance, the Court directed lower courts to borrow and apply the most analogous state personal injury statute of limitations. 471 U.S. 261,

279–80 (1985). That holding, however, generated some confusion. Specifically, *Wilson* offered lower courts little insight on which statute of limitations applied if a state had several provisions that governed personal injury actions.

The Supreme Court dispelled that confusion in *Owens v. Okure*. 488 U.S. 235 (1989). *Owens* involved a New York claim arguably subject to a one-year statute of limitations for assault. *Id.* at 237. Meanwhile, New York had a residual three-year catch-all limitations period for personal injuries. *Id.* at 237–38. The Court reasoned that applying intentional tort provisions to Section 1983 actions would lead to further uncertainty because every state had multiple limitations periods for intentional torts. *Id.* at 244. But "[i]n marked contrast to" that "multiplicity," the Court observed that each state had "one general or residual statute of limitations governing personal injury actions." *Id.* at 245. So, in the interest of predictability, a unanimous Court held: "[W]here 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. Louisiana's "residual" prescriptive period for personal injury actions is one year under article 3492. La. 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). But Louisiana law carves out exceptions

that provide for extended timeframes. One exception, as pertinent here, 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.

In this case, Brown argues that his federal claims are subject to that two-year period because the alleged constitutional violations arose from a criminal act of violence. If the Court accepted Brown's theory, his Section 1983 claims could survive dismissal. As noted above, the incident at issue occurred on September 27, 2019, and Brown did not file suit until September 24, 2021—a year and eleven months after the alleged attack. Brown does not dispute that *Owens* directs lower courts to apply the residual state limitations period for personal injury actions. Nor does he deny that Louisiana's residual prescriptive period lasts one year; instead, he argues that its application to his specific claims would be inconsistent with the spirit of Section 1983.

Brown centers his argument on two grounds. First, he claims that Louisiana's residual prescriptive period is a non-neutral law that has the effect of discriminating against Section 1983 claimants.[16] Brown notes that the state has extended the prescriptive periods for certain offenses regularly challenged in Section 1983 suits while maintaining a one-year catch-all provision under article 3492. According to Brown, this framework yields a discriminatory byproduct: Louisiana plaintiffs cannot seek the same relief in federal court as in state court

[16] Record Document 21 at 17.

despite filing complaints challenging the same misconduct.[17]

Second, Brown maintains that applying Louisiana's residual prescriptive period is inconsistent with federal interests protected by Section 1983.[18] In Brown's view, the lone year fails to account for the "practicalities involved in litigating federal civil rights claims."[19] Brown notes, in particular, that actions premised on police brutality are unique in their complexity and traumatic impact on civil rights victims.[20] Based on that reality, Brown explains that these victims may often delay reporting a crime, and a one-year period restricts a plaintiff's practical ability to enforce their rights.[21] For that reason, he contends that the "rote" application of a one-year prescriptive period rests in irreconcilable tension with the objectives of Section 1983.[22]

---

[17] *Id.* Brown requests that the Court permit discovery on the issue of the Louisiana State Legislature's discriminatory intent in maintaining the one-year residual prescription period. *Id.* at 20. He also requests discovery on whether Louisiana's one-year prescription period accounts for the practicalities of bringing police brutality cases under Section 1983. *Id.* at 25. Because he cannot survive dismissal based on his pleadings—as discussed in more detail below—the Court will deny Brown's request.

[18] *Id.* at 21.

[19] *Id.* (quoting *Burnett v. Grattan*, 468 U.S. 42, 50 (1984)).

[20] *Id.*

[21] *Id.* at 21–22.

[22] *Id.* at 21. As an alternative theory to avoid dismissal, Brown contends that the Court should not look to Louisiana's limitations provisions at all; he argues that the Court should instead adopt the time period in 28 U.S.C. § 1658(a), which states: "Except as otherwise provided by law, a civil action

While the Court is sympathetic to the dilemma Brown and similarly situated plaintiffs face in Louisiana, it must reject Brown's interpretation of the law. True enough, Louisiana's one-year prescriptive period is a relative outlier in the United States. Only Kentucky, Tennessee, and Puerto Rico have one-year limitations provisions that apply to Section 1983 claims. Ky. Rev. Stat. § 413.140(1)(a); Tenn. Code. § 28-3-104(a)(1); P.R. Laws Ann. tit. 31, § 5298(2). Brown is also correct that Louisiana has adopted more extended periods for state tort actions arising from conduct that could constitute offenses subject to Section 1983 actions. *See, e.g.*, La. Civ. Code art. 3493.10 (allowing two years to bring actions against persons who commit crimes of violence); *Id.* art. 3496.2 (allowing three years to bring actions against persons who commit sexual assault).

Yet these and other facts cited by Brown do not show that Louisiana discriminates against Section

---

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." Brown argues that Section 1658's four-year statute of limitations is far more "suitable to carry the same [civil rights laws] into effect" than Louisiana's one-year prescriptive period. Record Document 21 at 25 (quoting *Burnett*, 468 U.S. at 47–48). Be that as it may, Brown acknowledges the fatal flaw in his own argument: Congress passed Section 1658 after Section 1983. And unfortunately for Brown, 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. 28 U.S.C. § 1658(a). Though Brown would have this Court adopt the four-year limitations period regardless, the plain text of Section 1658 precludes the Court from applying its provisions to Brown's claims.

1983 claimants. Louisiana's one-year prescriptive period for personal injuries was established decades before Congress codified Section 1983.[23] And though Louisiana law has evolved in its more than two-century history, a general one-year prescriptive period has remained a static feature of the Louisiana Civil Code.[24] If anything, Section 1983 cases have made—and continue to make—up only a small portion of the total volume of actions governed by article 3492's provisions. *See Wilson*, 471 U.S. at 279 ("It is most unlikely that the period of limitations applicable to [general personal injury actions] ever was, or ever would be, fixed in a way that would discriminate against federal claims . . . . ").

Moreover, the Court cannot stray from binding precedent, however "rote" its application. As explained above, Congress has not acted to establish a limitations period that applies to Section 1983 suits. To fill that void, the Supreme Court directed lower courts to adopt the general state law limitations provision for personal injury actions. In Louisiana, that period is one year, and each federal district in Louisiana agrees it applies to Section 1983 cases. *Byrd v. Nelson*, No. CV 20-1282, 2021 WL 3745011, at *2 (W.D. La. Aug. 24, 2021) (Foote, J.); *Diaz v. Guynes*,

---

[23] Congress adopted what it would later codify as Section 1983 in the Civil Rights Act of 1871. Pub. L. 42-22, 17 Stat. 13, 13 (1871) (codified in part at 42 U.S.C. § 1983). Meanwhile, Louisiana's Civil Code of 1825 contained a one-year prescriptive period for personal injuries. 3 Louisiana State Law Institute, *Compiled Edition of the Civil Codes of Louisiana* 1937–38 (1940).

[24] At least since the Louisiana Civil Code of 1825, where article 3501 stated that actions "resulting from offences or quasi offences" prescribed after one year. *Id.* at 1938.

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). Likewise, federal courts in other jurisdictions that maintain a one-year general limitations provision are in similar accord. *See, e.g.*, *Boatfield v. Parker*, No. CV 19-0027, 2019 WL 1332369, at *4 (E.D. Tenn. Mar. 25, 2019) ("The one-year statute of limitations period contained in Tennessee Code Annotated § 28-3-104(a) applies to civil rights claims arising in Tennessee."); *Burnett v. Transit Auth. of Lexington-Fayette Urb. Cnty. Gov't*, 981 F. Supp. 2d 630, 633 (E.D. Ky. 2013) (determining that Kentucky's one-year general statute of limitations applies to Section 1983 claims); *Burgos v. Fontanez-Torres*, 951 F. Supp. 2d 242, 250 (D.P.R. 2013) ("[T]he one-year limitations term applies for section 1983 actions in Puerto Rico.").

Even if Brown is correct that his state law claims may be brought within two years because they arose from a "crime of violence," Louisiana's general prescriptive period under article 3492 applies to Brown's federal claims. Accordingly, those claims prescribed one year after the incident; thus, Pouncy's motion to dismiss is **GRANTED** in this respect, and Brown's federal law claims are **DISMISSED with prejudice**.

II. State Law Claims

Having dismissed Brown's federal claims, the Court must consider whether exercising jurisdiction over his state law battery 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
>
> (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 Brown'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**.

CONCLUSION

For the reasons stated herein, Pouncy's motion[25] is **GRANTED**. Brown's federal claims are **DISMISSED with prejudice**. Brown's state law claims are **DISMISSED without prejudice**. Pouncy's motion for leave to file a response to Public Justice's amicus curiae brief[26] is **GRANTED**, and the clerk may file the brief into the record. A judgment will issue alongside this ruling.

THUS DONE AND SIGNED this 29th day of September, 2022

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

[25] Record Document 13.

[26] Record Document 35.

APPENDIX C

RELEVANT STATUTORY PROVISIONS

28 U.S.C. § 1658

(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

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. § 1988

(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, the Religious Freedom Restoration Act of 1993, the Religious Land Use and Institutionalized Persons Act of 2000, title VI of the Civil Rights Act of 1964, 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.

La. Civ. Code Ann. art. 3492

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.

APPENDIX D

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
SHREVEPORT DIVISION

Civil Action No. 5:21-cv-3415

JARIUS BROWN,

Plaintiff,

v.

DEPUTY JAVARREA POUNCY, JOHN DOE 1, and JOHN DOE 2,

Defendants.

Judge:

Magistrate Judge:

JURY TRIAL DEMANDED

COMPLAINT

INTRODUCTION

1. On September 27, 2019, while in custody for nonviolent vehicle offenses, multiple employees of the DeSoto Parish Sheriff's Office (the "Sheriff's Office") brutally beat Plaintiff Jarius Brown. Prior to the incident, Mr. Brown had complied with Defendants' requests. He did not resist his arrest or fail to follow any Sheriff's Office procedures. Nor did he make any

attempts to injure or threaten Defendants. Instead, Mr. Brown remained stationary while Defendants—without legal justification, warning, or provocation—struck Mr. Brown in his face and torso several times with their fists, before transferring him to a holding cell.

2. No Sheriff's Office employees present during the attack acted to prevent Defendants' acts of violence or to ensure Mr. Brown's fair handling upon his arrival at the Sheriff's Office. Indeed, it was only after the violent attack concluded that Mr. Brown was able to receive critical medical attention for the severe injuries and physical trauma the beating produced.

3. During his hospital stay, Mr. Brown—who suffered from substantial injuries to the face, nose, and chest—struggled to remain conscious. Mr. Brown also experienced mental and emotional trauma from the beating. He still carries those injuries with him today and remains anxious and uneasy in the presence of law enforcement.

4. The time has come to stop senseless beatings of people placed in detention facilities. Mr. Brown files this Complaint and seeks recovery pursuant to 42 U.S.C. § 1983, the United States Constitution, and Louisiana state law. This lawsuit alleges that Defendant Javarrea Pouncy and other fellow unknown officers—identified herein as John Does 1 through 2—carried out a malicious, violent, and traumatizing attack on Mr. Brown. Following the attack, Deputy Pouncy became subject to a grand jury investigation surrounding the beating of Mr. Brown,

and Deputy Pouncy subsequently resigned from the Sheriff's Office.

5. That Mr. Brown's assailants are current and former deputies of the Sheriff's Office is consistent with evidence uncovered by recent media reporting that details an extensive history of violence and police brutality committed by Louisiana law enforcement officers.[1] That conduct has unfortunately been present for at least a decade and has been implicitly endorsed by Louisiana State Police ("LSP") troopers and officials—the very force that initiated Mr. Brown's arrest in this instance.[2]

6. For the past decade, the State's most esteemed police force has ignored or concealed numerous pieces of evidence related to police brutality and misconduct and, by setting that example, has impeded efforts to discourage and mitigate police misconduct among other forces with which they interact. Specifically, LSP has routinely refused to release all relevant video footage related to violence committed by troopers against the citizens they are sworn to serve and protect, a majority of whom are Black men.[3]

7. Louisiana's one-year liberative prescription period for Section 1983 cases also contributes to the systematic lack of accountability for victims of police

---

[1] *See*, Jim Mustain & Jake Bleiberg, *Beatings, buried videos a pattern at Louisiana State Police*, AP NEWS, Sept. 8, 2021, https://apnews.com/article/police-beatings-louisiana-video-91168 d2848b10df739d73cc35b0c02f8.

[2] *Id.*

[3] *Id.* (AP reporting explaining that 67% of LSP uses of force in recent years have targeted Black people.)

brutality in Louisiana—a violation of the spirit and intent of governing Supreme Court precedent. Incarcerated victims like Mr. Brown are both traumatized and entirely at the mercy of their abusers. In Mr. Brown's case, it was not until he was transferred to another facility away from the officers that abused him, that he began to recover and could begin pursing a case.

8. Sadly, Mr. Brown is one of countless Black men who have been unjustly brutalized by law enforcement.[4] Without accountability, law enforcement, and specifically those in DeSoto Parish, will continue to violate the rights of people like Mr. Brown, producing disastrous consequences.[5]

PARTIES

9. Plaintiff Jarius Brown is a 29-year-old man domiciled in the State of Louisiana within the Western District of Louisiana.

---

[4] *See* Frank Edwards, et al.*, Risk of being killed by police use of force in the United States by age, race – ethnicity, and sex,* 116 PNAS 16793, 16794 (2019) (finding that Black men are 2.5 more likely than white men to be killed by law enforcement)*;* Mark Hoekstra & Carly Will Sloan, *Does Race Matter for Police Use of Force? Evidence from 911 Calls, NBER,* Feb. 2020, https://www.nber.org/papers/w26774; Oliver Laughland, *US police have a history of violence against black people. Will it ever stop?*, THE GUARDIAN, Jun. 4, 2020, https://www.theguardian.com/usnews/2020/jun/04/american-police-violence-against-black-people.

[5] *See* Jamiles Larty & Abbie VanSickle, *'Don't Kill Me': Others Tell of Abuse by Officer Who Kenlt on George Floyd*, THE NEW YORK TIMES, Feb. 2, 2021, https://www.nytimes.com/2021/02/02/us/derek-chauvin-georgefloyd-past-cases.html.

10. Defendant DeSoto Parish Sheriff's Office Deputy Javarrea Pouncy is sued in his individual capacity. Deputy Pouncy is named for violently beating Mr. Brown.

11. Defendant DeSoto Parish Sheriff's Office Deputy John Doe #1 is sued in his individual capacity. Deputy John Doe #1 is named for violently beating Mr. Brown.

12. Defendant Louisiana State Police Officer John Doe #2 is sued in their individual capacity. Officer John Doe #2 is named for his involvement in Mr. Brown's violent beating.

13. Mr. Brown is not aware of the true names of Does and therefore sues Does by such fictitious names. Mr. Brown will amend this complaint to state the true name and capacity of Does when such have been ascertained.

14. Defendants are persons for purposes of 42 U.S.C. § 1983 and, at all times pertinent and relevant to this action, were employed as commissioned deputies by the DeSoto Parish Sheriff's Office and were acting and/or neglected to act in the course and scope of their employment and under color of law. Plaintiff alleges that Defendants are responsible for his injuries as set forth herein.

15. Defendants are liable jointly, severally, and *in solido* for the intentional, excessive, and/or otherwise unconstitutional and tortious conduct set forth below.

JURISDICTION AND VENUE

16. Jurisdiction is proper in this Court under 28 U.S.C. §§ 1331 and 1343 because the controversy arises under the U.S. Constitution and 42 U.S.C. § 1983. Plaintiff also invokes the supplemental jurisdiction of this Court under 28 U.S.C. § 1367(a) over state law claims.

17. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b)(1) because Defendants are law enforcement officers who work and likely reside in this District, and because the wrongful conduct at issue in this matter occurred wholly within this District. *See* 28 U.S.C. § 1391(b)(2).

FACTUAL ALLEGATIONS

A. Deputies Employed by the DeSoto Parish Sheriff's Office Brutally Attack Plaintiff After His Arrest

18. On September 27, 2019, Plaintiff Jarius Brown was stopped and arrested by an LSP officer for alleged traffic violations and other controlled substance offenses.

19. Upon his arrest by LSP, Mr. Brown was put into handcuffs and searched. At the time of his arrest, he possessed a small bag of marijuana.

20. Shortly after his arrest, Mr. Brown was transported by LSP Officer John Doe #2 to the Sheriff's Office.

21. Upon information and belief, Mr. Brown arrived at the Sheriff's Office early in the morning of September 27.

22. Upon his arrival, Mr. Brown was transferred into the custody of Defendants Pouncy and John Doe #1 ("Officer Defendants"). It is unknown whether LSP Officer John Doe #2 said anything to Officer Defendants upon their arrival. LSP is currently under scrutiny by the Federal Bureau of Investigations and the Department of Justice for unlawful use of force and alleged encouragement thereof.

23. Mr. Brown was then led by Officer Defendants to the Sheriff's Office laundry room to change into a prison jumpsuit.

24. When Mr. Brown arrived in the laundry room, Officer Defendants instructed him to strip naked, bend over, and cough. Mr. Brown complied with these instructions and all other instructions given to him by Officer Defendants.

25. After removing his clothes, Mr. Brown turned to face Officer Defendants, who then without warning or provocation began to beat Mr. Brown. Officer Defendants hit Mr. Brown numerous times in his face and torso causing serious injuries.

26. Mr. Brown collapsed as a result of Officer Defendants' attack, after which Officer Defendants delivered one final blow to Mr. Brown's body before ceasing.

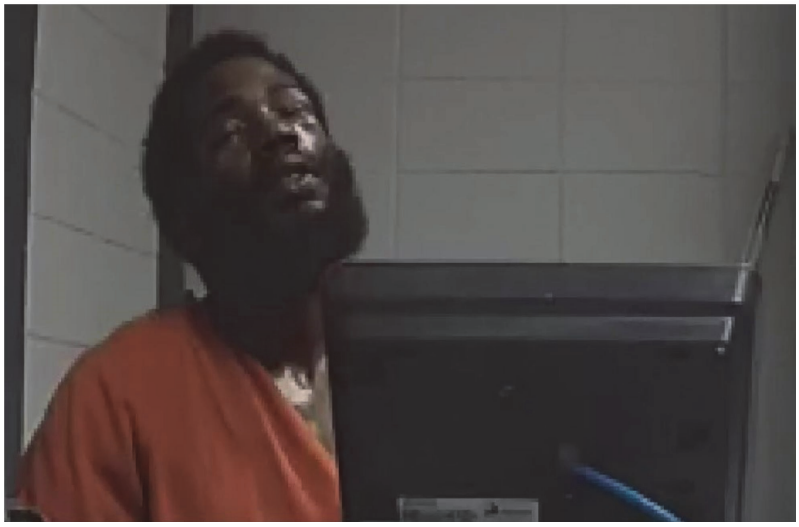
27. After succumbing to the violence, Mr. Brown was provided a prison jumpsuit by Officer Defendants

and led to a holding cell where he remained in isolation—bloody, beaten and struggling to remain conscious, before his injuries were noticed by another officer at the Sheriff's Office.

28. Mr. Brown did not provoke the attack, nor did Defendants explain their actions contemporaneously or after the attack. Mr. Brown sustained injuries to his face and torso as a result of Defendants' punches. He was left bloody and with fractures to his face and eye socket. He also experienced significant pain in his chest.

29. Officer Defendants, by committing overt, hostile acts during the attack on Mr. Brown acted in concert and assisted one another to accomplish the unlawful purpose described above.

30. Although Mr. Brown is not aware whether any detention facility video exists of the brutal attack, officer bodycam video captures the state of Mr. Brown shortly after the beating. The still shot from that video below graphically depicts the physical and emotional effects of that beating.



31. As a result of the injuries sustained, Mr. Brown was transported to Ochsner LSU Health Shreveport - LA where he was evaluated and treated for, among other things, (1) an orbital fracture on the left side of his face; (2) a fracture of his nasal bones; and (3) abrasions on his left eyelid. Officer Defendants were present at Ochsner LSU Health Shreveport - LA during the entirety of Mr. Brown's visit and treatment.

32. Mr. Brown felt threatened and uneasy during his treatment because of the continued presence of Officer Defendants.

B. Mr. Brown's Federal Claims Are Timely Filed as Federal Law Precludes Application of Louisiana's One-Year Liberative Prescription Period

33. Mr. Brown repeats and realleges each and every allegation contained in the previous paragraphs of this Complaint as if fully alleged herein.

34. Defendants beat Mr. Brown on September 27, 2019.

* * *

APPENDIX E

ACLU
Louisiana

---

50 States & D.C. Survey: Applicable Statute of Limitations for Section 1983 Claims

November 2, 2020

State	Governing Personal Injury SOL	Citation
Alabama	2 years	Ala. Code § 6-2-38(l)
Alaska	2 years	Alaska Stat. § 09.10.070(a)
Arizona	2 years	Ariz. Rev. Stat Ann. § 12-542(1)
Arkansas	3 years	Ark. Code Ann § 16-56-104
California	2 years	C.C.P. § 335.1
Colorado	2 years	Colo. Rev. Stat. § 13-80-102(1)(i)
Connecticut	3 years	Conn. Gen. Stat. § 52-577
Delaware	2 years	Del. Code Ann. tit. 10 § 8119

District of Columbia	3 years	D.C. Code § 12-301(3)
Florida	4 years	Fla. Stat. § 95.11(3)
Georgia	2 years	Ga. Code Ann. § 9-3-33
Hawaii	2 years	Haw. Rev. Stat. § 657-7
Idaho	2 years	Idaho Code Ann. § 5-219(4)
Illinois	2 years	735 ILCS 5/13-202
Indiana	2 years	Ind. Code § 34-11-2-4
Iowa	2 years	Iowa Code § 614.1(2)
Kansas	2 years	Kan. Stat. Ann. § 60-513(a)(4)
Kentucky	1 year	Ky. Rev. Stat. Ann. § 413.140(1)(a)
Louisiana	1 year	La. Civ. Code Ann. art. 3492
Maine	6 years	ME ST T. 14 § 752
Maryland	3 years	Md. Code Ann., Cts. & Jud. Proc. § 5-101

Massachusetts	3 years	MA ST 260 § 2A
Michigan	3 years	MCL 600.5805(2)
Minnesota	2 or 6 years	MN ST §§ 541.05, subd.(1)5; 541.07
Mississippi	3 years	Miss. Code Ann. 15-1-49
Missouri	5 years	Mo.Rev.Stat. § 516.120(4)
Montana	3 years	MT ST 27-2-204
Nebraska	4 years	Neb. Rev. Stat. § 25-207
Nevada	2 years	Nev. Rev. Stat § 11.190(4)
New Hampshire	3 years	N.H. Rev. Stat. Ann. § 508:4
New Jersey	2 years	N.J. Stat. Ann. § 2A:14-2
New Mexico	3 years	N.M. Stat. Ann. § 37-1-8
New York	3 years	N.Y. C.P.L.R. § 214(5)
North Carolina	3 years	N.C. Gen. Stat § 1-52(5)

North Dakota	6 years	N.D. Cent. Code § 28-01-16(5)
Ohio	2 years	Ohio Rev. Code Ann. § 2305.10(A)
Oklahoma	2 years	Okla. Stat. Tit. 12 § 95(3)
Oregon	2 years	Or.Rev.Stat. § 12.110(1)
Pennsylvania	2 years	42 Pa. Cons. Stat. § 5524(1)
Rhode Island	3 years	R.I. Gen. Laws § 9-1-14(b)
South Carolina	3 years	S.C. Code Ann. § 15-3-530(5)
South Dakota	3 years	SD ST § 15-2-15.2
Tennessee	1 year	Tenn. Code Ann. § 28-3-104(a)(1)(B)
Texas	2 years	Tex. Civ. Prac. & Rem. Code Ann. 16.003(a)
Utah	4 years	Utah Code Ann. § 78B-2-307
Vermont	3 years	Vt. Stat. Ann. tit. 12, § 512(4)
Virginia	2 years	Va. Code Ann. § 8.01-243(A)

Washington	3 years	Wash. Rev. Code § 4.16.080
West Virginia	2 years	W. Va. Code § 55-2-12
Wisconsin	3 years	WI ST 893.53
Wyoming	4 years	Wyo. Stat. Ann. § 1-3-105(a)(iv)