

No. _____

In the
Supreme Court of the United States

ANTHONY MONROE,

Applicant,

v.

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

Respondent.

APPLICATION DIRECTED TO THE HONORABLE SAMUEL A. ALITO
FOR AN EXTENSION OF TIME WITHIN WHICH TO FILE A PETITION
FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT
OF APPEALS FOR THE FIFTH CIRCUIT

ROMAN MARTINEZ

Counsel of Record

LATHAM & WATKINS LLP

555 Eleventh Street, NW

Suite 1000

Washington, DC 20004

(202) 637-3377

roman.martinez@lw.com

Counsel for Applicant

Anthony Monroe

May 23, 2024

TO THE HONORABLE SAMUEL A. ALITO, ASSOCIATE JUSTICE OF THE SUPREME COURT OF THE UNITED STATES AND CIRCUIT JUSTICE FOR THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT:

Pursuant to 28 U.S.C. § 2101(c) and Supreme Court Rules 13.5, 22, and 30.3, Applicant Anthony Monroe respectfully requests a 30-day extension of time, to and including July 3, 2024, within which to file a petition for a writ of certiorari to review the judgment of the United States Court of Appeals for the Fifth Circuit in this case. The Fifth Circuit issued its decision on March 5, 2024. *See* App. A (“Op.”). Currently, a petition for a writ of certiorari would be due on June 3, 2024. This application is filed at least 10 days before the date a petition would be due. *See* Sup. Ct. R. 13.5. The Court has jurisdiction under 28 U.S.C. § 1254(1) to review the decision in this case.

1. This case raises an important question of federal law regarding the appropriate statute of limitations for claims under 42 U.S.C. § 1983: whether a forum state’s limitations period for personal injury claims could be so short that applying it to federal civil rights claims undermines the federal interests underlying Section 1983. During the Reconstruction Era, Congress enacted the Civil Rights Act of 1871, including Section 1983, to hold state actors accountable for violations of federal constitutional and statutory rights. Because the statute did not contain every rule required to adjudicate claims filed thereunder, Congress directed courts to borrow pertinent rules from state law or common law. Under the framework articulated by this Court in *Burnett v. Grattan*, 468 U.S. 42 (1984), a court borrowing a forum state’s statute of limitations to apply to claims under Section 1983 may do so only after ensuring that the state’s limitations period is not “inconsistent with the Constitution

and laws of the United States.” *Id.* at 48 (quoting 42 U.S.C. § 1988). In conducting this analysis, courts must account for the interests underlying Section 1983, including “compensation of persons whose civil rights have been violated[] and prevention of the abuse of state power.” *Id.* at 53.

More than 30 years ago, in *Owens v. Okure*, 488 U.S. 235 (1989), this Court reaffirmed *Burnett’s* analytical framework and held that, where state law furnishes multiple limitations periods for personal injury actions, a court considering a Section 1983 claim should borrow the forum state’s residual, or general, personal injury statute of limitations. *Id.* at 249-50. Because the Court concluded that New York’s general three-year limitations period applied to the claim at issue, it expressly declined to address the question of whether applying a one-year limitations period would be “inconsistent with federal interests.” *Id.* at 251 n.13 (citing *Burnett*, 468 U.S. at 61 (Rehnquist, C.J., concurring in the judgment)).

The forthcoming petition for certiorari in this case presents the Court with an opportunity to conclusively resolve this question of utmost importance to civil rights claimants and the legitimacy of the country’s federal system. In the decision below, the Fifth Circuit affirmed the application of Louisiana’s one-year residual statute of limitations to Section 1983 claims. Op. 4. Today, more than 18 million people reside in jurisdictions in which Section 1983 claims are subject to one-year statutes of limitations.¹ Given that Section 1983 secures a broad range of constitutional

¹ Kentucky, Tennessee, and Puerto Rico, like Louisiana, also have one-year residual periods. See La. Civ. Code Ann. art. 3492; Ky. Rev. Stat. Ann. § 413.140; Tenn. Code Ann. § 28-3-104; P.R. Laws Ann. tit. 31, § 5298(2); see also *Total*

protections, the issue of whether a one-year limitations period contravenes the federal interests underlying Section 1983 has ramifications for hundreds of potential claimants per year. The Court’s intervention on this question is warranted, as lower courts will otherwise continue to apply one-year (or shorter) limitations periods in the absence of this Court’s guidance. This petition will provide an excellent vehicle for this Court to clarify this critical aspect of litigation under Section 1983—a “most important, and ubiquitous, civil rights statute.” *Wilson v. Garcia*, 471 U.S. 261, 266 (1985) (“conflict, confusion, and uncertainty concerning the appropriate statute of limitations to apply” to Section 1983 “provided compelling reasons for granting certiorari”).

2. This case squarely presents the question whether a one-year limitations period contravenes the federal interests underlying Section 1983. On November 29, 2019, Applicant Anthony Monroe was pulled over by the Louisiana State Police for no justifiable reason and brutally beaten by multiple officers to the point of suffering a heart attack and incurring permanent injuries to his upper body. Within two years of the beating, and while still under significant physical and emotional duress, Mr. Monroe filed suit in the Western District of Louisiana, bringing claims under Sections 1983 and 1985 and Louisiana state law. The district court, however, dismissed Mr.

Population: Population by State, U.S. Census Bureau, <https://data.census.gov/table/DECENNIALCD1182020.P1?q=population%20by%20state> (last visited May 21, 2024) (choose “columns”; then select states) (tabulating population in Kentucky, Louisiana, Tennessee, and Puerto Rico).

Monroe's federal claims as time-barred under Louisiana's one-year residual limitations period for personal injury claims, *see* La. Civ. Code Ann. art. 3492.

A panel of the Fifth Circuit affirmed. *See* Op. 4. Noting that it was "sympathetic to Monroe's plight," the panel held that it was nonetheless "bound" to follow the Fifth Circuit's published decision issued a couple of weeks earlier in *Brown v. Pouncy*, 93 F.4th 331 (5th Cir. 2024). Op. 4. There, the Fifth Circuit ruled that *Owens* mandated the application of Louisiana's one-year limitations period to claims under Section 1983. *Brown*, 93 F.4th at 337-38. The court acknowledged that this Court "has not addressed" whether and when a limitations period could be so short that it infringed on federal interests underlying Section 1983, but nevertheless upheld the application of Louisiana's one-year period based on this Court's precedent involving state tolling provisions and out-of-circuit precedent involving now-repealed limitations periods. *See id.*

Constrained by *Brown*, the panel in this case dismissed Mr. Monroe's claims as untimely under Louisiana's one-year residual period. Op. 4. In doing so, the Fifth Circuit reiterated that "[o]nly the Supreme Court, having already solved the problem of uncertainty in the absence of a federal limitations period for Section 1983 claims, can clarify how lower courts should evaluate practical frustration [in the ability to litigate such claims] without undermining that solution." *Id.* (alteration in original) (citation omitted).

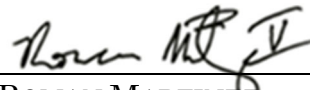
3. Mr. Monroe respectfully requests a 30-day extension of time within which to file a petition for a writ of certiorari in this case. Undersigned counsel only

recently joined the team working on the case, and will be heavily engaged with other matters over the coming weeks, including a petition for certiorari due May 24, a reply brief in support of a petition for certiorari due June 4, a Ninth Circuit oral argument on June 14, and jury duty in Montgomery County, Maryland. A modest 30-day extension of time is warranted to permit counsel to research and, as appropriate, refine the issues for this Court's review and prepare a petition that addresses the important questions raised by this case in the most direct and efficient manner for the Court's consideration. The additional time will also permit potential amici curiae to evaluate this case and consider how they might best assist the Court's review.

Accordingly, Mr. Monroe respectfully requests a 30-day extension of time, to and including July 3, 2024, within which to file a petition for a writ of certiorari.

May 23, 2024

Respectfully submitted,



ROMAN MARTINEZ

Counsel of Record

LATHAM & WATKINS LLP
555 Eleventh Street, NW
Suite 1000
Washington, DC 20004
(202) 637-3377
roman.martinez@lw.com

Counsel for Applicant
Anthony Monroe

ATTACHMENT A

United States Court of Appeals
for the Fifth Circuit

United States Court of Appeals
Fifth Circuit

FILED

March 5, 2024

Lyle W. Cayce
Clerk

No. 23-30230

ANTHONY MONROE,

Plaintiff—Appellant,

versus

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

Defendants—Appellees.

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

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

PER CURIAM:*

In *Owens v. Okure*, the Supreme Court held that a forum state's general or residual statute of limitations for personal injury claims applies to claims brought under § 1983. 488 U.S. 235, 249-50 (1989). Appellant

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

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Anthony Monroe challenges the application of Louisiana’s one-year residual prescriptive period to his police brutality claims found in Article 3492 of the Louisiana Civil Code.¹ The district court concluded that Monroe’s claims, filed one year and eleven months after the conduct giving rise to his federal claims, was time-barred. Because we are bound by precedent, we AFFIRM.

I

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

Monroe filed suit one year and eleven months² after the incident, bringing claims under 42 U.S.C. §§ 1983 and 1985. He asserted violations of his Fourth and Fourteenth Amendment rights, for excessive force and conspiracy. He also brought *Monell*³ claims for failure to supervise, investigate, and decertify officers under 42 U.S.C. § 1983; aggravated assault in violation of La. Rev. Stat. § 14:37; aggravated battery in violation of La. Rev. Stat. § 14:34; and violations of the Louisiana Constitution and the Records Law, La. Rev. Stat. Ann. § 44.31, for refusal to comply with document requests.

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

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

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

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

II

On appeal, Monroe argues that Louisiana's one-year prescriptive period is inapplicable under *Burnett v. Grattan*, 468 U.S. 42, 48 (1984), because it undermines § 1983's federal interests. Specifically, he argues that (1) Louisiana law discriminates against § 1983 claimants because it time-bars federal claims one year earlier than equivalent state claims involving crimes of violence; (2) the Louisiana legislature consciously seeks to prevent plaintiffs from bringing police brutality claims; and (3) Louisiana's residual limitations period does not account for the practicalities of litigating police brutality claims. Additionally, Monroe argues that Louisiana Civil Code Article 3493.10,⁴ a prescriptive period that applies to crimes of violence, provides an appropriate analogue to apply to police brutality claims. Finally, he argues that the four-year statute of limitations supplied by 28 U.S.C. § 1658 could also apply.

Recently, a panel of our court considered identical arguments in *Brown v. Pouncy*, -- F.4th --, 2024 WL 667692 (5th Cir. 2024). In that case,

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

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Brown argued that Louisiana’s one-year prescriptive period should not apply to police brutality claims brought under § 1983 because the period “impermissibly discriminates against Section 1983 police brutality claims and practically frustrates litigants’ ability to bring such claims,” both of which contravene the federal interests behind § 1983. *Id.* at *1, *3. There, the panel held that “Supreme Court precedent, and our cases applying that precedent, [] force[d] Brown’s position.” *Id.* at *3. The panel noted that our precedent “consistently applied shorter, general limitations periods instead of longer ones governing analogous state law claims,” and has “repeatedly applied Louisiana’s one-year prescriptive period” to claims brought under § 1983. *Id.* at *4, *6. It explicitly stated that “[o]nly the Supreme Court, having already solved the problem of uncertainty in the absence of a federal limitations period for Section 1983 claims, can clarify how lower courts should evaluate practical frustration without undermining that solution.” *Id.* at *7. Although we are sympathetic to Monroe’s plight, we are bound by *Brown* under our rule of orderliness. *Edmiston v. Borrego*, 75 F.4th 551, 559 (5th Cir. 2023) (citing *Def. Distrib. v. Platkin*, 55 F.4th 486, 495 n.10 (5th Cir. 2022) (“The rule of orderliness means that one panel of our court may not overturn another panel’s decision, absent an intervening change in law, such as by statutory amendment, or the Supreme Court, or our *en banc* court.”)).

III

Accordingly, the decision of the district court is AFFIRMED.