No. 24-16

In the Supreme Court of the United States

ANTHONY MONROE,
Petitioner,

v.

TERRY CONNER, ET AL.,
Respondents.

On Petition for Writ of Certiorari to the United States Court of Appeals for the Fifth Circuit

BRIEF IN OPPOSITION

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September 27, 2024

QUESTION PRESENTED

This Court has long held that "the length of the statute of limitations" for a claim under 42 U.S.C. § 1983 depends on "the law of the State in which the cause of action arose." *Wallace v. Kato*, 549 U.S. 384, 387 (2007) (citing *Owens v. Okure*, 488 U.S. 235 (1989); *Wilson v. Garcia*, 471 U.S. 261 (1985)). Specifically, the limitations period for a § 1983 claim is the same limitations period "the State provides for personal-injury torts." *Id.*

For over a century, Louisiana provided a one-year limitations period for such actions, which courts faithfully applied to § 1983 claims arising in Louisiana. In 2024, the Louisiana Legislature replaced that one-year limitations period with a two-year limitations period for claims arising after July 1, 2024. The question presented in this case is:

> Whether Louisiana's now defunct one-year limitations period for personal-injury actions was compatible with 42 U.S.C. § 1983.

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BRIEF IN OPPOSITION

Late one night in 2019, Petitioner finished his shift as a card dealer at the El Dorado Casino in Shreveport, Louisiana. As he drove home, a Louisiana State Police officer stopped him for speeding. During that stop—and as documented by video[1]—Petitioner repeatedly refused to comply with lawful commands and physically assaulted multiple police officers.

After a bench trial, Petitioner was convicted of battery of a police officer and resisting a police officer. The Louisiana court of appeal affirmed those convictions, "conclud[ing] that the evidence presented was sufficient to support both convictions":

> [Petitioner] repeatedly refused direct and lawful instructions to exit his vehicle and once [Petitioner] exited his vehicle, his resistance became both verbal and physical. [Petitioner] pushed, shoved, and grabbed the officers when they attempted to put [Petitioner] in handcuffs.

BIO App.2a. The testimony at trial "was corroborated by the body camera and dash camera videos." *Id.* In his writ application now pending in the Louisiana Supreme Court, Petitioner has dropped his sufficiency

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[1] According to media reports, Petitioner's counsel shared the body camera and dash camera videos—which were later introduced at Petitioner's criminal trial—with the media, which published them. *See, e.g.*, *Excessive Force Alleged in Lawsuit over 2019 Traffic Stop*, THE ADVOCATE (Nov. 30, 2021), https://tinyurl.com/mu4fscyk; *State Police Targeted in New Excessive-Force Suit by Shreveport Card Dealer; See Video*, THE TIMES-PICAYUNE (Nov. 29, 2021), https://tinyurl.com/p4uw79xw.

challenge, choosing to raise only the (forfeited) question whether he was entitled to a jury trial.

This 42 U.S.C. § 1983 case in *federal* court represents Petitioner's collateral attack on his state-court convictions. He alleges that Louisiana State Police officers used excessive force in arresting him, and he seeks damages under § 1983. It is undisputed, however, that his § 1983 claim is untimely because he filed suit almost a year after Louisiana's former one-year limitations period for personal-injury torts expired. *See Wallace v. Kato*, 549 U.S. 384, 387 (2007) (forum State's limitations period for personal-injury torts applies to § 1983 claims arising out of that State). The issue he presents is thus whether Louisiana's former one-year limitations period was "inconsistent with [§ 1983] and the interests that it is designed to uphold." Pet. i.

This is an exceedingly poor vehicle to address that issue. For one thing, Petitioner cannot obtain meaningful relief in this case because, even if his lawsuit were timely, it is barred under *Heck v. Humphrey*, 512 U.S. 477 (1994). Indeed, his attack on the legality of his arrest is an attack on "the legality of [his] conviction[s]," which is foreclosed by *Heck*. *Id.* at 490. For another thing, by Petitioner's own telling (Pet. 12), the Fifth Circuit "largely sidestep[ped]" the issue he now presents, both in this case and in its decision in *Brown v. Pouncy*, 93 F.4th 331, 332 (5th Cir. 2024), *petition for cert. filed*, No. 23-1332 (U.S.). It would thus make no sense to grant review on an issue that the court below did not fully address (and that no court appears to have fully addressed).

For similar reasons, Petitioner's issue presented is not cert-worthy. He rightly does not claim a circuit split. And although he proclaims that the issue is "critically important," *e.g.*, Pet. 1, his petition does not substantiate that claim. He acknowledges that this issue is irrelevant to Louisiana on a going-forward basis in light of Louisiana's new two-year limitations period. And he does not identify a single case in Kentucky, Tennessee, or Puerto Rico—the only other jurisdictions with a one-year limitations period—where it was "virtually impossible" (*id.* at 4) for a plaintiff to timely file suit. If the sky were in fact falling throughout the decades-long existence of these limitations periods, the petition would be overflowing with examples rather than generalities.

In all events, Petitioner has no serious argument that the Fifth Circuit erred in applying Louisiana's former one-year limitations period, just as this Court has applied Tennessee's and Puerto Rico's one-year limitations periods. *See Chardon v. Fernandez*, 454 U.S. 6 (1981) (per curiam) (§ 1983); *Johnson v. Railway Express Agency, Inc.*, 421 U.S. 454 (1975) (§ 1981). He claims that the "practicalities" (Pet. 20) of litigating § 1983 claims render a one-year limitations period unworkable and contrary to § 1983's purposes. But this Court has long explained, in the § 1983 context, that "[i]t is most unlikely" that a personal-injury limitations period "ever would be[] fixed in a way that would … be inconsistent with federal law in any respect." *Wilson v. Garcia*, 471 U.S. 261, 279 (1985). Moreover, as then-Justice Rehnquist (joined by Chief Justice Burger and Justice O'Connor) explained, this line of reasoning makes no sense because the "practicalities" "are hardly unique to [§ 1983 plaintiffs']

claims or any other garden-variety federal civil rights claim"—they are a feature of ordinary litigation. *Burnett v. Grattan*, 468 U.S. 42, 57 (1984) (Rehnquist, J., concurring in the judgment). And that says nothing of the arbitrariness inherent in Petitioner's position: Why is one year intolerable but not, say, 18 months or two years? He has no principled answer.

Accepting Petitioner's position in this case, moreover, would destroy settled expectations. For decades, courts within the First (Puerto Rico) and Sixth (Kentucky and Tennessee) Circuits have faithfully applied one-year limitations periods pursuant to this Court's instructions. The bench, bar, and litigants in those jurisdictions would thus face a sea change in § 1983 litigation. Worse, Petitioner here and the petitioner in *Brown* have suggested installing a "uniform" federal statute of limitations across the country—which would "eliminate" (*i.e.*, overrule) this Court's careful precedents establishing the existing framework. *Brown* Pet. 4. There is no good reason to do so.

Finally, although Respondents urge the Court to deny the petition, if the Court is inclined to grant the petition, it should grant this case over *Brown* or at least alongside *Brown*. As the Court is aware, the petitioner in *Brown* has a serious switching-horses problem that threatens a dismissal as improvidently granted. Moreover, Petitioner here appears to have tried to temper the more sweeping positions espoused by the petitioner in *Brown*. Accordingly, if the Court wishes to take the issue presented, this vehicle, while still poor, is comparatively better than *Brown*.

The Court should deny the petition.

STATEMENT OF THE CASE

A. Legal Background

1. "Section 1983 provides a federal cause of action, but in several respects … [it] looks to the law of the State in which the cause of action arose." *Wallace*, 549 U.S. at 387. "This is so for the length of the statute of limitations: It is that which the State provides for personal-injury torts." *Id.* (citing *Owens v. Okure*, 488 U.S. 235 (1989); *Wilson*, 471 U.S. 261).

This well-settled rule is the product of multiple decisions from this Court carefully designed to eliminate any "confusion over what statute of limitations to apply to § 1983." *Owens*, 488 U.S. at 251. In *Wilson*, the Court "[r]ecognized the problems inherent in [a] case-by-case approach" where courts would rely on random state-law analogies, such that "plaintiffs and defendants often had no idea whether a federal civil rights claim was barred until a court ruled on their case." *Id.* at 240. The *Wilson* Court "sought to end" that uncertainty by "determin[ing] that 42 U.S.C. § 1988 requires courts to borrow and apply to all § 1983 claims the one most analogous state statute of limitations." *Id.* (citing *Wilson*, 471 U.S. at 275). And that most analogous statute of limitations, the *Wilson* Court held, is "a State's personal injury statute of limitations." *Id.* at 240–41.

Following *Wilson*, "confusion" persisted with respect to "§ 1983 claims in States with *multiple* statutes of limitations for personal injury actions." *Id.* at 241 (emphasis added). Thus, the Court's "task" in *Owens* was "to provide courts with a rule for determining the appropriate personal injury limitations statute

that can be applied with ease and predictability in all 50 States." *Id.* The *Owens* Court did so: "We [] hold that where state law provides multiple statutes of limitations for personal injury actions, courts considering § 1983 claims should borrow the general or residual statute for personal injury actions." *Id.* at 249–50. That rule makes sense because "every State has one general or residual statute of limitations governing personal injury actions." *Id.* at 246. Moreover, "plaintiffs and defendants [] can readily ascertain, with little risk of confusion or unpredictability, the applicable limitations period in advance of filing a § 1983 action." *Id.* at 248.

2. For some 40 years following *Wilson* and *Owens*, federal courts—including the Fifth Circuit in this case and *Brown*—consistently applied Louisiana's general one-year limitations period for personal-injury actions to § 1983 actions arising in Louisiana. *See* La. Civ. Code art. 3492 (2024) ("Delictual actions are subject to a liberative prescription of one year."); Pet. App.2a; *see also Brown*, 93 F.4th at 332; *Washington v. Breaux*, 782 F.2d 553, 554 n.1 (5th Cir. 1986).

During the summer of 2024, however, the Louisiana Legislature repealed that one-year limitations period. *See* 2024 La. Sess. Law Serv. Act 423 (H.B. 315). Specifically, Act 423 repeals Article 3492 itself and creates a *two*-year limitations period. Act 423 took effect on July 1, 2024, and the new limitations period governs all causes of action arising after July 1, 2024. *See id.*

B. Procedural Background

1. Petitioner filed this § 1983 lawsuit on November 24, 2021—"one year and eleven months" after the events giving rise to his suit. Pet.App.2a & n.2. His lawsuit alleges that Respondents Terry Conner and Richard Matthews, in their former capacities as Louisiana State Police officers, violated his constitutional rights while arresting him during "a routine traffic stop" in 2019. Pet.App.2a. The district court dismissed his lawsuit because "[b]inding Supreme Court authority directs that federal courts apply the residual state limitations period to Section 1983 actions," which, under former Civil Code Article 3492, "is one year." Pet.App.6a–7a. Thus, "[b]ecause Monroe brought this Section 1983 action nearly two years after the incident giving rise to his lawsuit, Monroe's federal law claims have prescribed[.]" Pet.App.7a.

The Fifth Circuit affirmed in a brief order repeating its decision in *Brown*. "[O]ur 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." Pet.App.4a. Accordingly, the Fifth Circuit rejected Petitioner's challenge to the application of former Article 3492's one-year limitations period to bar his claim.

2. Two years after he filed this lawsuit—and 11 days after he filed his opening brief in the Fifth Circuit—Petitioner was tried and convicted in Louisiana state court for both "battery of a police officer, in violation of La. R.S. 14:34.2, and resisting an officer, in violation of La. R.S. 14:108." BIO App.10a. The state

trial court explained to Petitioner that Officer Matthews "asked you multiple times to step out [of your vehicle] and you refused to step out." *Id.* at 2a. "[T]his all started with the resisting, refusing to get out of the vehicle as well as, I mean, this resisting continued throughout the entire stop even when Sergeant Conner arrived at the scene." *Id.* at 3a. "It took both of them pulling at you and eventually they couldn't even pull you out of the vehicle. Eventually you got out on your own and then there was more resistance …. [Y[ou resisted that to the extent that they eventually had to take you to the ground to handcuff you." *Id.* The state trial court acknowledged Petitioner's claim that "they were beating me," but the court rejected it: "I just don't see it that way, Mr. Monroe. I – I see that you were not compliant and so they had to try to get you in handcuffs and it ultimately led to them taking you to the ground." *Id.* "[T]he continual resistance it's just clear." *Id.*

The evidence and state trial court's decision also revealed inaccuracies in Petitioner's story in this federal litigation. His petition suggests (Pet. 8) that Officer Matthews deliberately turned his body camera off so that it would not depict Officer Matthews "dr[awing] his gun and point[ing] it at Mr. Monroe"—and that "Officer Matthews turned his body camera [back] on" later. This is not true. Officer Matthews testified, and the state trial court credited (and the video actually shows), that Petitioner *himself* temporarily "deactivate[d]" the body camera by shoving Officer Matthews in the chest. BIO App.2a. In fact, the state trial court cited that "push" to find "beyond a reasonable doubt that that was a battery of a police officer." *Id.* Petitioner's insinuation that *Officer Matthews*

"turned off" the camera is thus misleading and wrong. Pet. 8. Moreover, Petitioner notably did not testify at trial that Officer Matthews drew and aimed a gun at Petitioner. In fact, Officer Matthews testified, and the video actually shows, that Officer Matthews drew his *Taser*, not a gun, due to Petitioner's physical resistance.

Following his convictions, Petitioner challenged the sufficiency of the evidence on appeal. The Louisiana court of appeal rejected that challenge:

> At trial, Monroe testified that he was aware that Trooper Matthews was a Louisiana State Police Officer and that he was being stopped for speeding. Monroe repeatedly refused direct and lawful instructions to exit his vehicle and once Monroe exited his vehicle, his resistance became both verbal and physical. Monroe pushed, shoved, and grabbed the officers when they attempted to put Monroe in handcuffs. The testimony of Trooper Matthews and Sergeant Conner[] was corroborated by the body camera and dash camera videos.

BIO App.10a. The court of appeal thus "conclude[d] that the evidence presented was sufficient to support both convictions." *Id.* (Petitioner now has a writ pending in the Louisiana Supreme Court, but he has abandoned any sufficiency argument, choosing to ask only the (forfeited) question whether he was entitled to a jury trial. The Louisiana Supreme Court has not acted on the writ as of this filing.)

Following Petitioner's state-court convictions, Respondents sought an indicative ruling from the district

court that Petitioner's already-dismissed lawsuit is also barred by *Heck*. Dist. Ct. ECF No. 87-1. The parties thereafter agreed to stay briefing on this issue. Dist. Ct. ECF No. 91. The district court denied the motion for an indicative ruling without prejudice to Respondents' "right to re-urge" the motion once Petitioner has exhausted his state-court appellate rights. Dist. Ct. ECF No. 92.

REASONS FOR DENYING THE PETITION

The Court should deny the petition for any number of reasons. *First*, and foremost, this is an exceedingly poor vehicle to decide the appropriateness of a one-year limitation period for § 1983 claims, both because Petitioner's lawsuit (timely or not) is *Heck*-barred and because (as Petitioner complains) even the Fifth Circuit did not squarely answer that question. *Second*, even aside from vehicle problems, the issue is not cert-worthy. And *third*, the Fifth Circuit faithfully followed this Court's own precedents, while Petitioner's contrary position would upset settled law. Given all this, the Court should deny the petition. If it is inclined to address the issue presented, however, there are good reasons to prefer this vehicle over *Brown*, or at least alongside *Brown*. Still, the most appropriate disposition here and in *Brown* is to deny.

I. THIS IS A POOR VEHICLE TO DECIDE THE ISSUE PRESENTED.

A. Plaintiff's Lawsuit Is *Heck*-Barred.

The principal problem for Petitioner is that, even if his § 1983 claim were timely, he will not obtain any relief in this case because his lawsuit is *Heck*-barred.

This Court has long held that, "in order to recover damages for allegedly unconstitutional conviction or imprisonment, or for other harm caused by actions whose unlawfulness would render a conviction or sentence invalid, a § 1983 plaintiff must prove that the conviction or sentence has been reversed on direct appeal, expunged by executive order, declared invalid by a state tribunal authorized to make such determination, or called into question by a federal court's issuance of a writ of habeas corpus." *Heck*, 512 U.S. at 486–87 (footnote omitted). Indeed, "[a] claim for damages bearing that relationship to a conviction or sentence that has *not* been so invalidated is not cognizable under § 1983." *Id.* at 487 (emphasis in original). As the Court later put it, "[i]f the plaintiff is ultimately convicted, and if the [§ 1983] suit would impugn the conviction, *Heck* will require dismissal." *Wallace*, 549 U.S. at 394.

Here, there can be no serious dispute that Petitioner's § 1983 lawsuit seeks to impugn his state-court convictions. Specifically, his claims of "excessive force" attack the Louisiana state courts' precise findings undergirding his convictions for battery of a police officer and resisting a police officer. In fact, Petitioner himself candidly told the Fifth Circuit that his "civil claims necessarily amount to a challenge against the validity of the criminal proceedings against him." C.A. Appellant's Br. 39 n.5.[2] So, again, there can be no dispute that Petitioner's lawsuit—timely or not—is now

[2] In the same footnote, Petitioner argued that, "[s]hould the Court decline to reject Louisiana's one-year limitations period, the Court should find that Mr. Monroe's Section 1983 and 1985 claims do not accrue until resolution of the criminal proceedings

Heck-barred because he was "ultimately convicted" and his suit "would impugn [his] conviction[s]." *Wallace*, 549 U.S. at 394.

To be sure, the district court in this case has deferred consideration of the *Heck* problem, *see supra* p. 10—and it will not need to consider the problem at all if and when this Court denies the petition, which would affirm the dismissal of Petitioner's lawsuit on timeliness grounds. But, because the clear *Heck* bar illustrates that Petitioner will not obtain relief in this lawsuit *regardless* of the Court's disposition of his question presented, this is a poor vehicle to take his question.

B. The Fifth Circuit's Decisions in *Monroe* and *Brown* Did Not Fully Answer the Issue Presented.

More fatal still is the fact that there is no fully reasoned decision—either in the Fifth Circuit below or apparently anywhere else—addressing Petitioner's issue presented.

As Petitioner describes it, "the question presented here" is "[w]hether 'applying a 1-year limitations period to § 1983 actions' would flunk the third step of Section 1988's borrowing analysis for being 'inconsistent with [the] federal interests' underlying the federal civil rights laws." Pet. 13 (quoting *Owens*, 488 U.S. at 251 n.13). But the Fifth Circuit did not squarely answer that question—in either this case or *Brown*. As Petitioner tells it, the Fifth Circuit "largely

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against him." C.A. Appellant's Br. 39 n.5 (citing *McDonough v. Smith*, 588 U.S. 109 (2019)). The Fifth Circuit did not address that argument, and Petitioner does not raise it in his petition.

sidestep[ped]" the question altogether "on the theory that only this Court can decide how lower courts should evaluate the question in light of existing precedent." *Id.* at 12 (cleaned up); *see also id.* ("The Fifth Circuit's half-hearted resolution"); *id.* at 18 ("The Fifth Circuit failed to grapple with this analysis."); *id.* at 19 ("The Fifth Circuit claimed that it could not 'evaluate' the frustration of those federal interests absent further guidance from '[this] Court.'"); *id.* ("the court shirked its 'duty'"); *id.* at 22 ("the Fifth Circuit insisted that only this Court is capable of answering that question" (cleaned up)).

Worse for Petitioner, there does not appear to be a reasoned decision on the issue presented—much less one espousing his view—*anywhere* in the country. *Compare* Pet. 16 n.3 (noting that the Ninth and Eleventh Circuits "have applied one-year limitations periods to Section 1983 claims" with "only 'limited analysis'"). And that includes Petitioner's (and the *Brown* petitioner's) musings about uprooting this Court's longstanding precedents and replacing them with a uniform rule like the default four-year limitations period in 28 U.S.C. § 1658. Pet. 20; *Brown* Pet. i. The Fifth Circuit said nothing about this argument either below or in *Brown*, and (it appears) in fact no court has addressed the issue.

The upshot is that there is no thoroughly reasoned decision, below or otherwise, taking either side on Petitioner's question presented. Given that reality, it would make little sense for the Court to take this issue now. This is a quintessential example of the need for further percolation and judicial decisions that could

aid this Court's own decision-making process. Neither this case nor *Brown* are appropriate vehicles.

II. THE ISSUE PRESENTED IS NOT CERT-WORTHY.

Petitioner's vehicle problems lead, in turn, to the unavoidable fact that his question presented is not cert-worthy. Petitioner notably does not—and cannot—argue that there is a circuit split. This is unsurprising. By his telling, Pet. 1, only Louisiana, Kentucky, Tennessee, and Puerto Rico have (or had) a one-year limitations period—and Petitioner does not cite a single decision from any court, let alone the First, Fifth, or Sixth Circuits, fully addressing the issue. *Cf. supra* Section I.B (citing Petitioner's view that even the Fifth Circuit itself did not squarely address the issue below and in *Brown*).

This explains why Petitioner hangs his hat (Pet. 1, 12, 23) on the "critical[] importan[ce]" of the issue. But the petition itself undercuts even that suggestion.

First, Petitioner concedes that a decision invalidating the use of Louisiana's former one-year limitations period would have no impact on Louisiana for cases arising after July 1, 2024. Pet. 3 n.1, 25. That is because Act 423 repealed the limitations period and replaced it with a two-year limitations period. *See supra* p. 6.

Second, recognizing the vanishing relevance of the issue presented for Louisiana, Petitioner focuses his attention on its supposed importance for "Kentucky, Tennessee, and Puerto Rico." Pet. 25–26. But his use of words like "million" and "hundreds" distracts from his failure to concretely identify any person or group of persons affected by the issue presented.

For example, he proclaims that Kentucky, Tennessee, and Puerto Rico "are home to more than 14 million people." *Id.* at 25. Respondents have no reason to question that number—but it has zero bearing on the question here, which is how many, if any, § 1983 plaintiffs "experience emotional trauma, physical injuries, and legal obstacles" that render "a one-year filing deadline [] virtually impossible to meet." *E.g.*, *id.* at 17. Similarly, Petitioner says that "hundreds of plaintiffs fil[e] Section 1983 claims in federal courts in these jurisdictions every year." *Id.* at 25. Again, Respondents have no reason to question that number—but it, too, says nothing about how many, if any, of these § 1983 plaintiffs faced some sort of obstacle that purportedly prevented them from timely filing a § 1983 lawsuit.

The most Petitioner offers is a footnoted string-citation of cases in which "plaintiffs [found] their claims time-barred by the one-year limitations period." *Id.* at 25–26 & n.7. But each of those cases reflects the unremarkable fact that a plaintiff simply failed to file her suit on time—not that some obstacle made a one-year filing deadline "virtually impossible to meet." *Id.* at 17. In fact, it appears that this lawsuit is one such case. Although his petition is premised on purported difficulties that make a one-year limitations period "virtually impossible to meet," Petitioner notably never argues that some obstacle prevented him from filing suit on time or that it was impossible for him to sue on time. He simply failed to do so.

Petitioner's apparent inability to identify any § 1983 cases substantiating his generalities is fatal for cert-worthiness purposes, but it is also understandable. That is because equitable tolling—or, in Louisiana

parlance, the doctrine of *contra non valentem*—generally tolls or suspends a limitations period where some obstacle prevents a plaintiff from timely filing suit. In *Hardin v. Straub*, 490 U.S. 536 (1989), this Court held that state-law tolling rules generally apply alongside state-law limitations periods in § 1983 actions. And pursuant to *Hardin* and its progeny, "Louisiana's federal courts have, on numerous occasions, applied *contra non valentem* in Section 1983 cases." *Dugas v. City of Ville Platte*, 2017 WL 6521660, at *6 & n.35 (W.D. La. Nov. 17, 2017) (collecting cases). The result is that the doctrines of equitable tolling and *contra non valentem* are a safety valve that protects any § 1983 plaintiff who (as Petitioner surmises) confronts some obstacle that prevents the timely filing of a lawsuit. And that only underscores that the suitability of one-year limitations periods for § 1983 claims is not exceptionally important: If the hypothetical examples of § 1983 plaintiffs who face an "impossible" one-year filing deadline actually exist, doctrines like equitable tolling also exist to toll or suspend the limitations period in extraordinary circumstances.

To sum up, under Petitioner's view, the sky has been falling in Louisiana, Kentucky, Tennessee, and Puerto Rico for decades now because of the one-year limitations period. If that were true, the petition would overflow with examples of § 1983 plaintiffs on whom "the federal courthouse doors [have been] wrongly slammed shut." Pet. 27. Petitioner's silence thus reinforces that this issue is not cert-worthy.

III. THE DECISION BELOW IS CORRECT.

In all events, the petition does not seriously argue that the Fifth Circuit erred in applying a one-year limitations period to § 1983 claims as it has done for decades. And a ruling for Petitioner would uproot deeply settled law.

1. As just explained, Petitioner's only real argument (shared by his *amici*) is that a "one-year period disregards practicalities of litigating" § 1983 claims. Pet.App.11a. For example, he recites this Court's observation that litigating civil rights claims requires preparatory steps such as "drafting pleadings compliant with federal rules" and "conducting pre-filing investigation." Pet. 14–15 (citing *Burnett*, 468 U.S. at 50–51).

It bears noting (again), however, that Petitioner never specifies how, if at all, any of these preparatory steps was the reason why he failed to timely file his lawsuit. But more fundamentally, the Court in *Burnett* made its "practicalities of litigation" point only to illustrate the potential mismatch of adopting for § 1983 *litigation* a short limitations period intended for *administrative* proceedings where the "practicalities" present comparatively minimal burdens. *See Burnett*, 468 U.S. at 50–51. Indeed, Petitioner does not acknowledge the Court's statement—*after Burnett*—that "[i]t is most unlikely that the period of limitations applicable to [personal injury] claims ever was, or ever would be, fixed in a way that would discriminate against federal claims, or be inconsistent with federal law in any respect." *Wilson*, 471 U.S. at 279. In other words, applying personal-injury statutes of limitation *for litigation* in § 1983 *litigation* invariably resolves

any potential problem with the limitations periods not accounting for the practicalities of litigation.

Petitioner also says nothing about then-Justice Rehnquist's view—joined by Chief Justice Burger and Justice O'Connor—that this "practicalities" reasoning makes little sense. *See Burnett*, 468 U.S. at 57 (Rehnquist, J., concurring in the judgment). "These seeming difficulties are hardly unique to respondents' claims or any other garden-variety federal civil rights claim." *Id.* Indeed, "there is nothing inherent in a claim asserted under § 1981, § 1983, or § 1985, in light of modern pleading rules, that makes such a claim invariably more difficult to investigate than a claim asserted under state law." *Id.* Justice Rehnquist recognized—as Petitioner emphasizes—"that a longer statute of limitations will give a person more time to reflect and to recognize that he may have some means of relief." *Id.* "But that common-sense truism hardly qualifies as a 'practicality' that should ordinarily affect a court's analysis whether to borrow a particular state statute of limitations. Were it otherwise, a federal court should always prefer a longer statute of limitations over an alternative, but shorter period, a type of approach we have rejected before." *Id.* at 57–58.

The generalized nature of Petitioner's "practicalities" argument likewise points up the arbitrariness of his position: Why is one year too short but not two years? Petitioner's only answer appears to be that "[m]ost states have a limitations period for personal injury actions that is at least two years." Pet. 21. But that is not a defense of a two-year limitations period as sufficient to overcome the "practicalities" of litigating § 1983 claims; that is just an argument that other

States made different policy choices for their respective tort-law systems and thus (here's Petitioner's own policy argument) Louisiana, Kentucky, Tennessee, and Puerto Rico should be required to follow suit. Petitioner offers no principled basis for drawing his one-year line.

This Court itself has never drawn that line, although Petitioner makes much of footnote 13 in *Owens*, where the Court stated: "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 Okure's argument that applying a 1-year limitations period to § 1983 actions would be inconsistent with federal interests." *Owens*, 488 U.S. at 251 n.13 (citing Justice Rehnquist's *Burnett* concurrence); *see also* Pet. i (footnote 13 "expressly left open the question"), 1 ("previously reserved the question"), 2 ("expressly flagged, but declined to resolve, the question"). Petitioner's emphasis on footnote 13 suggests that the Court has called into question the validity of a one-year limitations period.

Petitioner overreads that footnote for at least two reasons. *First*, footnote 13 in *Owens* reflects the Court's common practice of noting that it has no occasion to resolve alternative arguments given the outcome-determinative argument(s) adopted by the Court. *See, e.g.*, *Corner Post, Inc. v. Bd. of Governors of Fed. Rsrv. Sys.*, 144 S. Ct. 2440, 2459 n.8 (2024) ("We need not resolve that issue here ...."). By definition, such notations are not intended to reflect a view one way or the other on the merits. And *second*, Petitioner must take the bitter with any sweet: In the paragraph of Justice Rehnquist's *Burnett* concurrence

cited by footnote 13 in *Owens*, Justice Rehnquist (again, joined by Chief Justice Burger and Justice O'Connor) expressly argued that "at least a 1-year period is reasonable" (because Congress imposed a one-year period in 42 U.S.C. § 1986) and, in fact, "a 6-month limitations period" and "[e]ven shorter periods of limitation might be permissible." *Burnett*, 468 U.S. at 61 (Rehnquist, J., concurring in the judgment). Thus, although the unanimous *Owens* Court did not express a view on that question, we know that at least three Members of the *Owens* Court would reject Petitioner's argument outright.

Finally, Petitioner does not acknowledge that this Court itself has applied a one-year limitations period to claims under § 1983 and its sister statute, 42 U.S.C. § 1981, arising out of Puerto Rico and Tennessee—though, to be sure, without squarely addressing the question presented in this case. In *Chardon*, 454 U.S. 6, the Court held that § 1983 actions filed by terminated employees were time-barred under Puerto Rico's one-year limitations period. And in *Johnson*, 421 U.S. 454, the Court held that a terminated employee's § 1981 claim was time-barred under Tennessee's one-year limitations period. Considering this history, as well as Congress's express imposition of a one-year limitations period for claims arising under 42 U.S.C. § 1986—as the Fifth Circuit and then-Justice Rehnquist have noted, *Brown*, 93 F.4th at 337; *Burnett*, 468 U.S. at 61 (Rehnquist, J., concurring)—the Fifth Circuit did not err in this case by following suit.

2. Any ruling to the contrary, moreover, would uproot long-settled precedent. As just explained, this Court has at least assumed the validity of a one-year

limitations period for § 1983 actions. And in Kentucky, Tennessee, and Puerto Rico—the only jurisdictions that would be affected on a going-forward basis by a decision in this case—that has been the settled rule *for decades*. *See, e.g.*, *Brown v. Wigginton*, 981 F.2d 913, 914 (6th Cir. 1992) (per curiam) ("There is also no dispute that in Kentucky there is a one-year statute of limitations on section 1983 actions."); *Hughes v. Vanderbilt Univ.*, 215 F.3d 543, 547 (6th Cir. 2000) ("[T]he applicable limitations period in Tennessee is one year."); *Carreras-Rosa v. Alves-Cruz*, 127 F.3d 172, 174 (1st Cir. 1997) ("In Puerto Rico the applicable limitation period for tort actions is one year."). Changing the limitations period for § 1983 actions would thus be a seismic shift for the bench, bar, and litigants that have come to rely on that settled precedent.

Petitioner suggests that this change is warranted because Congress created a "catch-all" four-year limitations period in 1990. Pet. 20 (citing 28 U.S.C. § 1658(a)). As Petitioner acknowledges, however, by its own terms § 1658 applies only to actions arising under federal laws enacted after 1990. *Id.* Not to worry, Petitioner says, because "it would be appropriate to *borrow* that four-year period." *Id.* That would be inappropriate. This Court recognized in *Jones v. R.R. Donnelley & Sons Co.*, 541 U.S. 369 (2004), that Congress "refused to make § 1658 retroactive" to avoid upsetting "settled expectations" that had come about through prior judicial decisions like *Wilson* and *Owens*. *Id.* at 381–82. To stubbornly "borrow" § 1658's four-year limitations period for § 1983 actions none-

theless, therefore, would be to override Congress's refusal to make § 1658 retroactive.[3] Petitioner's suggestions (and the *Brown* petitioner's suggestions) that § 1658 marks a material development for purposes of § 1983 are thus incorrect.

Finally, it is important to appreciate the implications of invoking § 1658. Applying its four-year limitations period to § 1983 actions would be tantamount to overruling *Wilson*, *Owens*, and every other case where this Court carefully crafted the existing framework that "end[ed] [] the confusion over what statute of limitations to apply to § 1983 actions." *Owens*, 488 U.S. at 251; *compare Ramos v. Louisiana*, 590 U.S. 83, 118 (2020) (Kavanaugh, J., concurring) ("In statutory cases, *stare decisis* is comparatively strict, as history shows and the Court has often stated."). The petitioner in *Brown* embraces this proposed sea change. *See Brown* Pet. 4 ("[T]his 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." (emphasis omitted)). And he willfully acknowledges that those prior decisions "would no longer control"—no matter, he says, because "those decisions became outdated as soon as Congress enacted

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[3] This answers Petitioner's citation (Pet. 20) of an article by Judge Mikva suggesting that courts could borrow § 1658's four-year limitations period for claims arising under pre-1990 federal laws where "no clear rule of federal law has emerged." As of § 1658's enactment, this Court's decisions in *Wilson* and *Owens* had intentionally and clearly created the existing framework for statutes of limitations in the § 1983 context—and by now, that clear rule has been in effect for decades.

Section 1658 in 1990." *Brown* Cert. Reply 12. As explained above, that flips § 1658 on its head and would destroy this Court's precedents.

Petitioner apparently recognizes as much, and so he proposes instead that the Court could apply § 1658's four-year limitations period "at least" in jurisdictions with one-year limitations periods. Pet. 20. But there is no principled basis for importing *only as to some jurisdictions* a statute that was not intended to apply *at all* on the subject of § 1983 actions. Petitioner must own up to his distortion of § 1658 and the sweeping consequences of his position, if adopted.

For these reasons, there was no error below, much less an error that would compel this Court to grant review and overhaul § 1983's existing framework.

IV. IF THE COURT BELIEVES FURTHER REVIEW IS NECESSARY, IT SHOULD GRANT *MONROE* INSTEAD OF *BROWN*, OR BOTH *MONROE* AND *BROWN*.

Although the Court should deny the petition, in the alternative the Court should—*if* it is otherwise inclined to address the issue presented—grant *Monroe* rather than *Brown*, or at least grant and hear both cases in tandem.

The principal reason is that there is a serious risk that the Court would have to dismiss *Brown* as improvidently granted. In the Fifth Circuit, the petitioner in *Brown* framed his case as a challenge to a one-year limitations period for so-called "police brutality" claims under § 1983—a term he used 47 times in his opening Fifth Circuit brief, 32 times in his Fifth Circuit reply brief, and only once (in a parenthetical in a footnote) in his cert petition, *see Brown* Pet. 18 n.2.

Indeed, his statement of the issue presented in the Fifth Circuit was "[w]hether the district court erred in holding that Louisiana's one-year, residual prescriptive period should apply to Section 1983 suits *for injuries resulting from police brutality*[.]" *Brown* C.A. Appellant's Br. 3 (emphasis added). Most striking is that, in the Fifth Circuit, he expressly disavowed the exact broadside attack on one-year limitations periods (as applied to all § 1983 claims) that he now presses in this Court: That "is a question decidedly not before this Court. Mr. Brown has not brought this challenge to address every manner of Section 1983 claims." *Brown* C.A. Reply Br. at 12.

Unsurprisingly, the Fifth Circuit understood the petitioner in *Brown* to be arguing for a "police brutality"-specific rule: "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*." 93 F.4th at 332 (emphases added). His statement now (*Brown* Cert. Reply 10) that he is simply "further refin[ing]" his arguments is thus belied by the reality that his petition does not match the briefing he presented to the Fifth Circuit. As a result, granting the *Brown* petition would be perilous.

In addition, Petitioner here claims (Pet. 28 n.8) that his position in this case is "not identical" to the position held by the petitioner in *Brown*. One example noted above is the *Brown* petitioner's urging this Court to "eliminate" the state-by-state approach under *Wilson*, *Owens*, and their progeny and "replace it with" § 1658's four-year limitations period. *Brown* Pet. 4. By contrast here, Petitioner offers that suggestion as

"[t]he best approach … *at least* in circumstances where the state-law analogue would be an impermissibly short one-year limitations period"—a rule for just Kentucky, Tennessee, and Puerto Rico. Pet. 20 (emphasis added). In other words, Petitioner here, unlike the petitioner in *Brown*, appears to appreciate the extraordinary nature of asking this Court to overrule entire lines of precedent affecting the whole country.

For these reasons, Respondents reiterate that the Court should deny the petition. But, if the Court is inclined to address the issue presented, it should take this case instead of, or at least alongside, *Brown*.

CONCLUSION

The Court should deny the petition.

Respectfully submitted,

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APPENDIX

TABLE OF APPENDICES

APPENDIX A — EXCERPT OF TRIAL TRANSCRIPT FROM THE TWENTY-SIXTH JUDICIAL DISTRICT COURT, PARISH OF BOSSIER, STATE OF LOUISIANA, FILED JULY 31, 2023

IN THE TWENTY-SIXTH JUDICIAL
DISTRICT COURT
IN AND FOR THE PARISH OF BOSSIER
STATE OF LOUISIANA

DOCKET NUMBER: 234,040 CT 1 & 2

STATE OF LOUISIANA

VERSUS

ANTHONY T. MONROE

TRIAL in the above entitled and numbered cause, before Your Honor, Douglas Stinson, Judge, of the Twenty-Sixth Judicial District Court in and for the Parish of Bossier, State of Louisiana, on the 31st of July, 2023, at Benton, Bossier Parish, Louisiana.

* * *

THE COURT: Okay. I listened to all the testimony and both now retired Trooper Matthews and now retired Sergeant Conner. Also listened, Mr. Monroe, to your testimony and Mr. Boyd stated that he believes you were sincere in your testimony and I really have no reason to doubt any of that. I don't doubt that you were scared

at the time. Just I made a note that I have no problem whatsoever with you delaying the stop until you got to the front of Boomtown. And I don't have an issue with that. And watching the video I don't - and hearing Trooper Matthews testify I don't think he really had a problem with that, that being in a well-lit area it makes sense giving your concerns. I think the problem started once the stop was initiated in front of [77]Boomtown. Officers have a right to ask whoever they pull over, that's a lawful detention traffic stop, they have a right to ask the driver to step out of the vehicle for officer safety and I think that's where things kind of unraveled. Technically the law I think, well, he asked you multiple times to step out and you refused to step out. You eventually rolled up your window, then you rolled down your window. I didn't know what you were doing, but you testified that you accidentally called your mom and she told you to step out and that's when you stepped out. So I believe what you testified to. But then at that point, at some point you reach back in the vehicle and an officer has, I would think, the right to be concerned about what you may be reaching for. And at that point for officer safety Trooper Matthews said that he was going to detain you. He asked you to put your hands behind you back and that's when the struggle, the first struggle started. And his, I saw his bodycam deactivate and he testified that you had pushed him at that point. You testified something completely different that he grabbed your hand, one hand and brought to his neck and the other hand he brought to his - to his gun. I didn't see that in the video. And so the push of Mr. Matthews, Mr. Monroe, I think there's beyond a reasonable doubt that that was a battery of a police officer. And so I find you guilty of that

charge. And this all started with the resisting, refusing to get out the vehicle as well as, I mean, this resisting continued throughout the entire stop even when Sergeant Conner arrived at the scene. It took both of them pulling at you and eventually they couldn't even pull you out of the [78]vehicle. Eventually you got out on your own and then there was more resistance once they - once they took you to the front of your vehicle. They asked you to go to the back, you went to the front because you had a camera. Don't necessarily have a problem with that, but then, again after a struggle an officer I think for officer safety has - has concerns and he wished to detain you at that time and you resisted that to the extent that they eventually had to take you to the ground to handcuff you. And even then, they constantly when you were on the ground I heard them say multiple times, put your hands behind your back, put your hands behind your back. And so the only thing with your testimony that I just maybe just in the excitement of the event, but you - you kept saying you've testified at least twice I was - I'm trying to comply but they were beating me. And I just don't see it that way, Mr. Monroe. I - I see that you were not compliant and so they had to try to get you in handcuffs and it ultimately led to them taking you to the ground. Both troopers stated that detaining you was necessary. Trooper - Sergeant Conner stated the same thing. I think he said that it was necessary to detain you. And you mentioned a few things, the one, two, three now. Um, I didn't hear that. Could it have happened? Maybe. But I didn't hear it in the video. But the continual resistance it's just clear. The law is you were stopped for speeding and the officer made the traffic stop. That's a detention.

And you resisted the officer during a lawful detention. And so I know you feel like you didn't break any law to initiate the stop but the officer had reasonable suspicion to believe that you [79]were speeding and he stopped you. That's not the moment for trial on the speeding. And I feel like that's where you took it is you wanted to be put under trial right then and there and prove you were innocent. But the way it should work theoretically and ideally, is you step out of the vehicle, you let the officer give you a citation for speeding and you go on your way. But this stop just did not occur that way. And so I find you guilty of the resisting an officer as well. It's not resisting an arrest, it's resisting an officer. And that includes a lawful detention. So I find you guilty of both charges of Mr. Monroe. It's my duty even with having sympathy for how you felt and how scared you were, I've got to follow the law as it's written. And the way I see it written and what I saw the evidence presented is that you resisted and that you pushed the officer. So that's the reason behind my findings of guilt on both charges. Yes, sir?

MR. MONROE: We never saw complete all of the video, so maybe it's stuff you didn't see because they didn't show it or they only showed what they need to show to prove their case.

THE COURT: Well, Mr. Monroe, the - the way it works is I'm to rule on the facts and evidence that are presented to me and that's what I'm basing my decision off of. I watched every video carefully and if part - part of the video was not presented, the defense, y'all both had chances to present evidence and I just that's the way I see

it, Mr. Monroe. So certainly I'll note your objection. Is he ready for sentencing today?

[80]**(OBJECTION NOTED FOR THE RECORD)**

MR. ROGERS: No, Your Honor. I believe there's a mandatory fifteen days.

THE COURT: Okay.

MR. ROGERS: He might be ready for his sentencing, but we're not ready to be remanded for custody for that fifteen days today.

THE COURT: Okay. Why don't we bring it back. That'll give me some time to - to think about it since it's not less than fifteen days. I see what you're talking about, so. Um, do you have a date in mind for remand?

MR. BOYD: Your Honor, you don't have to order a PSI for a misdemeanor?

THE COURT: No

MR. BOYD: Correct? Okay.

THE COURT: Correct.

MR. BOYD: Mr. Rogers, is, uh, August 21st a good date?

MR. ROGERS: That date's agreeable.

MR. BOYD: Is that a good date with you, Judge?

THE COURT: If I'm here that's a good date, so yeah.

[81]MR. BOYD: I just as far as time out.

THE COURT: Yeah. No, that's - that's fine. Mr. Monroe, you're now set for remand on August 21st. This is your notice to be in court on that date 9:30 A.M. I'm going to - you bonded out on these charges; is that correct?

MR. MONROE: Yes.

THE COURT: Okay. I'll allow you to remain.

MADAM SHERIFF: Uh, if he is on bond I have to take him downstairs. I have to contact the bondsman on a misdemeanor. The bondsman can give me something in writing saying that he'll stay on it. I don't have to receive anything from whoever the bond was wrote on, but the bondsman does have to approve that he is - that he can remain out on bond.

THE COURT: Okay. Should I do an in lieu of bond in case the bondsman is not okay with that? Is that something I can do?

MADAM SHERIFF: Yeah, that's fine.

THE COURT: Okay. I have no problem with you remaining out on the same bond that you're on so long as your bondsman approves of it. In the case that your

bondsman does not approve of it I'm going to set the bond on each matter at $500 and that'll - you'll have to, if you have to post that you'll have to post that to be - to be [82] released to come back on August 21st, okay. So that'll be $500 per count and this is your notice to be back August 21st. What I'd like you mentioned some health issues. If you have any documentation of that to provide Mr. Rogers before the 21st I'd ask that you do that, okay. Do you understand?

MR. MONROE: So what happens today then?

THE COURT: Today we had your trial. Mr. Rogers asked that sentencing be held off and so I gave you the date for August 21st for sentencing.

MR. MONROE: And then why do I have to go with her then?

THE COURT: Cause you bonded out and the bond only ensures your presence through trial or resolution of your cases so the bondsman has to agree to allow you to remain out on the same bond. If he doesn't I - I gave you new bonds and I gave a pretty, fairly low considering the charges so that you could bond out again so you don't have to stay in jail till August 21st.

MR. ROGERS: If - if you have to bond out. But your bondsman should stay on your regular bond, but in case they don't you have a secondary bond that has been set mighty low to make sure that you'd be able to at least post that to get out.

THE COURT: Okay. I'll see you back August 21st. And he needs to be fingerprinted on the battery of a police officer charge. Just thought about that.

[83]MR. BOYD: And, Your Honor, at this time the State's gonna dismiss - dismiss the case 234,040B and I believe we dismissed 234,040A this morning in court.

THE COURT: Okay. We'll show 040B dismissed by the State. Anything else?

MR. BOYD: I believe that's - that's all for today, Your Honor.

THE COURT: Okay. We'll adjourn court once he's fingerprinted, so.

MR. ROGERS: Thank you, Your Honor. You have a good afternoon.

THE COURT: Thank you, Mr. Rogers. You too.

MR. BOYD: Thank y'all for staying in here all day.

(END OF HEARING)

APPENDIX B — APPLICATION FOR SUPERVISORY WRIT OF THE STATE OF LOUISIANA COURT OF APPEAL, SECOND CIRCUIT, FILED NOVEMBER 22, 2023

STATE OF LOUISIANA
COURT OF APPEAL, SECOND CIRCUIT
430 Fannin Street
Shreveport, LA 71101
(318) 227-3700

No. 55,704-KW

STATE OF LOUISIANA

VERSUS

ANTHONY T. MONROE

FILED: 11/22/23
RECEIVED: PM 11/17/23

On application of Anthony T. Monroe for SUPERVISORY WRIT in No. 234,040 on the docket of the Twenty Sixth Judicial District, Parish of BOSSIER, Judge Douglas M. Stinson.

	Counsel for:
E. Bridget Wheeler Delia Addo-Yobo	Anthony T. Monroe
	Counsel for:
John Schuyler Marvin Cody Allen Boyd	State of Louisiana

Appendix B

Before PITMAN, STEPHENS, and HUNTER, JJ.

WRIT GRANTED; AFFIRMED.

Anthony T. Monroe seeks supervisory review of his misdemeanor convictions for battery of a police officer, in violation of La. R.S. 14:34.2; and resisting an officer, in violation of La. R.S. 14:108. Monroe raises four assignments of error, including claims of insufficiency of the evidence and violation of his right to a jury trial.

Based upon the standard of review for the sufficiency of evidence provided by *Jackson v. Virginia*, 443 U.S. 307, 319, 99 S. Ct. 2781, 2789, 61 L. Ed. 2d 560 (1979), we conclude that the evidence presented was sufficient to support both convictions. At trial, Monroe testified that he was aware that Trooper Matthews was a Louisiana State Police Officer and that he was being stopped for speeding. Monroe repeatedly refused direct and lawful instructions to exit his vehicle and once Monroe exited his vehicle, his resistance became both verbal and physical. Monroe pushed, shoved, and grabbed the officers when they attempted to put Monroe in handcuffs. The testimony of Trooper Matthews and Sergeant Conners was corroborated by the body camera and dash camera videos.

As to Monroe's claims that his constitutional right to due process was violated because he was not provided a jury trial, Monroe did not object when the State amended the bill of information to reduce the felony charge to the misdemeanor charge of resisting an officer, or when the

bench trial started just moments after the State filed the amended bill of information. Monroe never raised the issue of constitutional violation at the trial court level, and accordingly, this Court does not have jurisdiction to review these assignments. U.R.C.A. 1-3. Issues not submitted to the trial court for decision will not be considered by the appellate court on appeal. *First Federal Sav and Loans Ass'n of Rochester v. Mullone*, 612 So. 2d 1016 (La. App. 2 Cir. 1993), *citing, Williams v. Williams*, 586 So. 2d 658 (La. App. 2 Cir. 1991).

Accordingly, the writ is granted and Anthony T. Monroe's convictions and sentences are affirmed.

Shreveport, Louisiana, this 22 day of February, 2024.

/s/_____ /s/_____ /s/_____

FILED: February 22, 2024

/s/_____
DEPUTY CLERK