No. 25-1599

IN THE UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT

CALVIN WILLIAMS,
Plaintiff-Appellant,

v.

MOBERLY CORRECTIONAL CENTER, ET AL.,
Defendants-Appellees.

On Appeal from the United States District Court for the Eastern District of Missouri, Hon. Audrey G. Fleissig
No. 2:25-cv-00005

PLAINTIFF-APPELLANT'S OPENING BRIEF

Amit Jain*
Warrington Sebree
RODERICK & SOLANGE
MACARTHUR JUSTICE CENTER
501 H Street NE, Suite 275
Washington, DC 20002
(202) 869-3434
amit.jain@macarthurjustice.org

* Admitted to the New York Bar. Not admitted to the DC Bar. Practice from DC limited to federal court representation.

Counsel for Plaintiff-Appellant

RULE 28A(i)(1) SUMMARY AND REQUEST FOR ARGUMENT

Appellant Calvin Williams argues that he was erroneously assessed a "strike" under the Prison Litigation Reform Act (PLRA) for a dismissal of a prior case as barred by *Heck v. Humphrey*, 512 U.S. 477 (1994).

Mr. Williams respectfully requests 15 minutes of argument because this case raises an important issue of first impression regarding the three-strikes provision, which is often dispositive of a prisoner's ability to litigate in federal court (as it was below). *See Lomax v. Ortiz-Marquez*, 590 U.S. ___, 598 n.2 (2020) (acknowledging circuit split on this issue). This case also presents a unique opportunity to provide district courts with guidance on this recurring issue in the form of a published opinion. Most prisoners facing a three-strikes bar proceed *pro se*, as Mr. Williams did below—but unlike most prisoners, he is now represented by pro bono counsel. Although Defendants have not appeared, both the Supreme Court and this Court have invited defendants to participate in appeals from pre-service dismissals that presented questions of first impression.[1]

[1] *See* Request for Response, *Lomax*, 590 U.S. ___ (No. 18-8369); 8/7/23 Letter, *Barnett v. Short*, 129 F.4th 534 (8th Cir. 2025) (en banc) (No. 23-1066); 1/16/14 Order, *Story v. Foote*, 782 F.3d 968, 969 (8th Cir. 2015) (No. 13-2834); 6/24/10 Letter, *Reynolds v. Dormire*, 636 F.3d 976 (8th Cir. 2011) (No. 10-1473).

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Cases **Page(s)**

Statutes

JURISDICTIONAL STATEMENT

Appellant Calvin Williams filed this action pursuant to 42 U.S.C. § 1983 in the United States District Court for the Eastern District of Missouri. The district court had jurisdiction under 28 U.S.C. § 1331. The district court dismissed the action on February 26, 2025. *See* App. 20; R. Doc. 10, at 1. Mr. Williams timely appealed on March 20, 2025. *See* App. 21-22; R. Doc. 12, at 1-2. This Court has appellate jurisdiction under 28 U.S.C. § 1291.

INTRODUCTION

The three-strikes provision of the Prison Litigation Reform Act ("PLRA"), 28 U.S.C. § 1915(g), generally requires that prisoners who have accumulated three strikes pay the full civil filing fee—in the Eastern District of Missouri, $405—at the outset of a new case, rather than in installments. Because most people in prison simply do not have those funds, those with three strikes are often functionally barred from court.

The text of the PLRA directs that a prisoner should be assessed a strike only if they have "brought an action or appeal" in federal court "that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted." § 1915(g). Prior

dismissals that "are not among the types of dismissals listed as strikes in section 1915(g)" are not strikes—period. *Castillo-Alvarez v. Krukow*, 768 F.3d 1219, 1220 (8th Cir. 2014) (per curiam). And because a district court's dismissal of a prior case as barred by *Heck v. Humphrey*, 512 U.S. 477 (1994), is not "based on one of the grounds enumerated in section 1915(g)," *Castillo-Alvarez*, 768 F.3d at 1220, such a dismissal does not count as a strike under the statute's plain language. Rather, as controlling precedent makes clear, dismissal of a case as *Heck*-barred has nothing to do with the elements of a prisoner's claim, which could well be complete (and properly pleaded) before any *Heck* bar even arises. The *Heck* bar at most indicates that a § 1983 action is mistimed, or that it is effectively a habeas petition, without regard to its elements or merits.

Nonetheless, the district court in this case—relying on a prior dismissal of a case as *Heck*-barred—held that Appellant Calvin Williams had three strikes. In doing so, it effectively locked Mr. Williams out of court, contrary to the text of the PLRA. This Court should reverse.

STATEMENT OF THE ISSUE

Whether dismissal of an action as *Heck*-barred counts as a strike, even though such a dismissal indicates that an action is premature or

that it should have been filed as a habeas petition, not that it fails to state a claim. *See* 28 U.S.C. § 1915(g).

- *Owens v. Isaac*, 487 F.3d 561 (8th Cir. 2007) (per curiam)
- *Cotton v. Noeth*, 96 F.4th 249 (2d Cir. 2024)
- *Washington v. L.A. Cnty. Sheriff's Dept.*, 833 F.3d 1048 (9th Cir. 2016)
- *Malave v. Hedrick*, 271 F.3d 1139 (8th Cir. 2001) (per curiam)

STATEMENT OF THE CASE

I. Legal Background

A. The PLRA's three-strikes rule

A party who brings or appeals a civil action, but is unable to pay the applicable filing fee, may request permission to proceed *in forma pauperis* ("IFP"). *See* 28 U.S.C. §§ 1914(a), 1915.

Ordinarily, if the court grants a plaintiff IFP status, the filing fee is waived. *See* § 1915(a). Under the Prison Litigation Reform Act of 1996 ("PLRA"), a different rule applies to incarcerated plaintiffs. Even if a prisoner is granted IFP status, they must pay the full filing fee; IFP status merely authorizes collection of the filing fee in installments, instead of in a lump sum upfront. *See* § 1915(b).

In addition, the "three-strikes" provision of the PLRA, *Higgins v. Carpenter*, 258 F.3d 797, 798 (8th Cir. 2001) (per curiam), prohibits prisoners from proceeding IFP if they have,

> on 3 or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury.

§ 1915(g). This Court refers to a dismissal of a prior action "on the grounds that it [was] frivolous, malicious, or fail[ed] to state a claim upon which relief may be granted," *id.*, as a "strike," *e.g.*, *Castillo-Alvarez*, 768 F.3d at 1219.

An incarcerated litigant who has accumulated three strikes, and is therefore barred from proceeding IFP, must pay the entire civil filing fee at the outset of their case. *See* § 1914(a). In the Eastern District of Missouri, that fee is $405. *See* R. Doc. 2, at 2. If a prisoner with three strikes lacks the resources to pay this fee up front, then (unless the imminent-danger exception applies) they cannot pursue a § 1983 claim.

B. The *Heck* bar

In *Heck v. Humphrey*, 512 U.S. 477 (1994), two years before Congress enacted the PLRA, the Supreme Court held that where the claims in a § 1983 civil action would impugn either (1) the validity of a criminal conviction or (2) the validity or length of a criminal sentence, the suit is barred, without regard to its merits, "unless and until the conviction or sentence is reversed, expunged, invalidated, or impugned by the grant of a writ of habeas corpus." *Heck*, 512 U.S. at 489. Until such time, the § 1983 action is merely a habeas petition by another name. *See id.* at 480-81; *Preiser v. Rodriguez*, 411 U.S. 475, 500 (1973).

Importantly, the *Heck* bar does not apply to an inmate's challenge to prison disciplinary proceedings if those proceedings do not "bear[] on the award of revocation or good-time credits." *Muhammad v. Close*, 540 U.S. 749, 754 (2004) (per curiam). That's because, under such circumstances, the inmate's challenge does not "necessarily" "affect the duration of time to be served" on a judgment of conviction. *Id.*

II. Procedural History

A. The *Manthey* case

Appellant Calvin Williams, who is incarcerated at Moberly Correctional Center ("MCC") in Missouri, brought a § 1983 suit in 2005

that bears no substantive relationship to his claims in this case. In that prior case, captioned *Williams v. Manthey*, Mr. Williams challenged a prison conduct violation report alleging that he failed to "stand[] in plain sight" within his cell during count, resulting in Mr. Williams being subjected to 10 days of disciplinary segregation. *See Williams v. Manthey*, No. 6:05-cv-03083 (W.D. Mo.), Document 1, at 4, 14-15; *Manthey*, No. 6:05-cv-03083 (W.D. Mo.), Document 4, at 1. Mr. Williams sought damages and injunctive relief. *See Manthey*, No. 6:05-cv-03083 (W.D. Mo.), Document 1, at 10-11.

Mr. Williams's complaint in *Manthey* made no mention of good-time credits, nor did it otherwise suggest that the prison disciplinary finding at issue would necessarily affect the duration of time to be served on his criminal sentence. *See Manthey*, No. 6:05-cv-03083 (W.D. Mo.), Document 1. However, the district court in *Manthey* held Mr. Williams's complaint *Heck*-barred. *Manthey*, No. 6:05-cv-03083 (W.D. Mo.), Document 4, at 2. So, the court dismissed the complaint without prejudice. *See id.*[2]

[2] Although the complaint and dismissal order in *Manthey* were not part of the record before the court below, this Court "may . . . take judicial notice of proceedings in other courts if they relate directly to the matters at issue, . . . including, for the first time on appeal, specific filings in

B. This case

Two decades later, in the instant action, Mr. Williams sued MCC and two individual defendants (in their individual and official capacities) for searching, seizing, and destroying his personal property without justification. *See* App. 6-9; R. Doc. 5, at 2-5. Mr. Williams also sought appointment of counsel and moved to proceed IFP, explaining that he made $0 in monthly wages and received just $27.50 in monthly external deposits to his inmate account. *See* R. Doc. 3; R. Doc. 4, at 1-2.

The district court denied Mr. Williams's motion to proceed IFP on the view that he had accumulated three strikes. *See* Add. 4; R. Doc. 9, at 4. In particular, the district court identified three prior cases that it believed qualified as strikes:

- *Williams v. Hartley*, No. 6:03-cv-03024 (W.D. Mo.) ("dismissed Mar. 18, 2003 for failure to state a claim");
- *Williams v. Watson*, No. 6:05-cv-03165 (W.D. Mo.) ("dismissed June 17, 2005 for failure to state a claim"); and

---

related cases." *Zerger & Mauer LLP v. City of Greenwood*, 751 F.3d 928, 935 n.7 (8th Cir. 2014) (internal quotation marks omitted).

- *Williams v. Manthey*, No. 6:05-cv-03083 (W.D. Mo.), the action discussed *supra* ("dismissed Mar. 30, 2005 under *Heck v. Humphrey*, 512 U.S. 477 (1994)").

Add. 4 n.2; R. Doc. 9, at 4 n.2.[3] The district court also erroneously stated that Mr. Williams "acknowledge[d] his status as a three-striker on his amended complaint." Add. 4; R. Doc. 9, at 4. Mr. Williams did not concede that he was a three-striker; he simply answered, truthfully, that a court had previously deemed him one. *See* App. 13; R. Doc. 5, at 9.[4]

Based on its three-strikes determination, the district court denied Mr. Williams's motion to proceed IFP, dismissed the action without prejudice, and denied his motion for appointment of counsel as moot. *See* Add. 5; R. Doc. 9, at 5; R. Doc. 10. Mr. Williams timely appealed. *See* App. 21-22; R. Doc. 12, at 1-2.

---

[3] For purposes of this appeal, Mr. Williams does not dispute that *Hartley* and *Watson* were properly designated as strikes.

[4] Specifically, as the district court noted (at Add. 4; R. Doc. 9, at 4), the courts in *Williams v. Tretham*, No. 6:07-cv-03014 (W.D. Mo.), and *Williams v. Morrisons*, No. 2:23-cv-00060 (E.D. Mo.), had designated Mr. Williams a three-striker. In each case, the court made its three-striker determination *sua sponte*; did so before any defendant was served; and declined to provide Mr. Williams (an incarcerated, *pro se* litigant) any opportunity to contest the determination. *See Tretham*, No. 6:07-cv-03014 (W.D. Mo.), Document 4, at 2; *Morrisons*, No. 2:23-cv-00060 (E.D. Mo.), Document 8, at 1-2, 4.

STANDARD OF REVIEW

This Court reviews *de novo* a district court's interpretation and application of § 1915(g). *See, e.g.*, *Castillo-Alvarez*, 768 F.3d at 1219; *Owens*, 487 F.3d at 563. In addition, because Mr. Williams proceeded without counsel in the district court, this Court "tak[es] care to construe [his] filings liberally, 'however inartfully pleaded.'" *Smith v. Andrews*, 75 F.4th 805, 808 (8th Cir. 2023) (quoting *Erickson v. Pardus*, 551 U.S. 89, 94 (2007) (per curiam)).

SUMMARY OF ARGUMENT

I. The district court erred in holding that Mr. Williams has three strikes. Per the plain text of the PLRA, the dismissal in *Manthey* was not a strike for two independent reasons: (A) Dismissal of a case as *Heck*-barred is for prematurity rather than for "fail[ure] to state a claim," 28 U.S.C. § 1915(g); and (B) a *Heck*-barred complaint is fundamentally a habeas petition mislabeled as a § 1983 action, and dismissal of a habeas petition (as opposed to a "civil action," 28 U.S.C. § 1915(g)) is not a strike.

A. The procedural rule applied in *Heck*, *Preiser*, and other cases does not bear on whether or not a plaintiff has stated a plausible claim for relief. Instead, a *Heck*-barred action is "dormant" or "unripe" for

adjudication, *McDonough v. Smith*, 588 U.S. 109, 121 (2019), "unless and until" the conviction is invalidated, *Heck*, 512 U.S. at 489, regardless of its substantive merits. Thus, the applicability of the *Heck* bar is "simply a matter of sequencing or timing," not a "judgment on the merits" of the kind that would trigger a strike under § 1915(g). *Cotton*, 96 F.4th at 257. This Court has declined to assess strikes for prematurity under analogous circumstances. *See Owens*, 487 F.3d at 563 (citing *Snider v. Melindez*, 199 F.3d 108, 111-12 (2d Cir. 1999)).

Indeed, the closest procedural analogs to the *Heck* bar are abstention or ripeness doctrines, which (like *Heck*) direct federal courts not to adjudicate disputes that risk undue interference with state-court proceedings and prerogatives, or that are simply premature. Dismissals under these doctrines are not for failure to state a claim; dismissals under the *Heck* bar are not either. And even if this Court were inclined to disagree, the next best analogy to *Heck* is an affirmative defense. Where (as here) the face of a prisoner's complaint does not conclusively establish the applicability of an affirmative defense, a dismissal based on that defense cannot be a dismissal for failure to state a claim.

Any contrary view treats the absence of a *Heck* bar as a substantive element of a prisoner's § 1983 claim—but this notion of a "no-*Heck*" element is untenable for several reasons, including because the *Heck* bar can arise (and disappear, and arise again, and disappear again) over the life of a case; can be forfeited or waived; and has nothing to do with a claim's merits.

B. The dismissal in *Manthey* was not a strike for a second, independent reason: It reflected that court's judgment that Mr. Williams's complaint sounded in habeas, *i.e.*, that his § 1983 complaint was a mislabeled habeas petition. The courts of appeals are unanimous that because habeas petitions are not "civil actions" within the meaning of § 1915, dismissals of habeas petitions are not strikes. *See, e.g.*, *Malave*, 271 F.3d at 1140. There is no reason for a different result just because a *pro se* prisoner erroneously frames a claim that lies exclusively in habeas as a § 1983 action.

For either or both reasons, this Court should reverse the district court's denial of IFP status and remand for further proceedings.

ARGUMENT

I. Mr. Williams Does Not Have Three Strikes Because the Dismissal in *Manthey* Was Not a Strike

In the *Manthey* case, a district court in 2005 dismissed Mr. Williams's prior action as *Heck*-barred. *See Manthey*, No. 6:05-cv-03083 (W.D. Mo.), Document 4, at 2. In turn, the district court in this case treated the *Manthey* dismissal as Mr. Williams's dispositive third strike. *See* Add. 4 n.2; R. Doc. 9, at 4 n.2.

But a dismissal of a case as *Heck*-barred is not among the grounds Congress enumerated in § 1915(g). *See Castillo-Alvarez*, 768 F.3d at 1220. Nor does it fall within the enumerated ground of "fail[ure] to state a claim upon which relief may be granted." 28 U.S.C. § 1915(g). That's for at least two reasons. *First*, a dismissal of an action as *Heck*-barred constitutes a dismissal for prematurity (most analogous to a dismissal on abstention or ripeness grounds) that does not consider whether a plaintiff has stated a claim, so it does not constitute a strike. *Second*, and independently, a *Heck*-barred § 1983 case is really just a mislabeled habeas petition, and a dismissal of a habeas petition is not a strike.

A. Dismissals of cases as *Heck*-barred are based on prematurity, not failure to state a claim.

When a court dismisses a prisoner's action as *Heck*-barred, the fundamental defect is not that the prisoner has failed to state a claim—it is that he has sued too soon. That is, until the *Heck* bar is cleared, a court must refrain from deciding the merits of the claim. As with dismissals due to other defects concerning prematurity or mistiming, like abstention and ripeness doctrines (or, alternatively, an affirmative defense like failure to exhaust), such a dismissal does not constitute a strike under the PLRA for failure to state a claim.

1. Recall that in *Heck*, the Supreme Court held that if a prisoner's success in a § 1983 case "would necessarily imply the invalidity" of his conviction or the duration of his sentence, the prisoner could not proceed "unless and until the conviction or sentence is reversed, expunged, invalidated, or impugned by the grant of a writ of habeas corpus." 512 U.S. at 487, 489. In other words, a *Heck*-barred action is "dormant" or "unripe" for adjudication, *McDonough*, 588 U.S. at 121, "unless and until" the conviction is invalidated, *Heck*, 512 U.S. at 489.

Importantly, the habeas-channeling rule applied in *Heck* does not implicate the merits of a claim. When assessing whether the *Heck* bar

applies to a given § 1983 action, a court looks to the action's merits *only* to evaluate whether a favorable ruling in the action would undermine an extant conviction or sentence. *See Heck*, 512 U.S. at 487 (explaining that "the district court must consider whether a judgment in favor of the plaintiff would necessarily imply the invalidity of his conviction or sentence; if it would, the complaint must be dismissed" without further merits inquiry).

Thus, a *Heck*-barred action is not inherently "meritless." *Lomax*, 590 U.S. at 603. To the contrary, *Heck* (at least temporarily) bars even the most meritorious § 1983 case if that case impugns an existing conviction or sentence.[5] On the other side of the coin, if a § 1983 case does not call into question a conviction or sentence, *Heck* poses no bar—no matter how insufficient the allegations may be.

It is therefore unsurprising that in case after case, this Court has recognized the distinction between whether an action states a claim, on the one hand, and whether it is barred by *Heck*, on the other. For

[5] *See, e.g.*, *Roberts v. City of Fairbanks*, No. 4:17-cv-00034 (D. Alaska), Document 202, at 2 (section 1983 claims that district court had previously held *Heck*-barred ultimately settled); *Jones v. Kirchner*, No. 1:12-cv-01334 (D.D.C.), Document 45, at 5-6; *id.*, Document 73, at 1-2 (previously *Heck*-barred § 1983 claims settled after plaintiff's conviction overturned).

instance, in *Colbert v. City of Monticello, Arkansas*, this Court reversed a dismissal of a claim as *Heck*-barred, but "decline[d] to rule on" the appellee's "different" argument "that [the appellant] failed to state a claim." 775 F.3d 1006, 1008 (8th Cir. 2014) (per curiam). In *Mitchell v. Kirchmeier*, too, this Court distinguished between whether "*Heck* . . . bar[red] [a] claim" (it did not) and whether that claim was "subject to dismissal under Rule 12(b)(6) on the merits" (it was). 28 F.4th 888, 895 (8th Cir. 2022). And in *Gonzalez-Perez v. Harper*, this Court yet again differentiated between claims dismissed as "*Heck*-barred" and those dismissed "on the merits." 241 F.3d 633, 636 (8th Cir. 2001).[6]

2. Far from touching the merits of § 1983 claims, *Heck* dismissals are rooted in a procedural concern over "'parallel litigation' leading to 'two conflicting resolutions arising out of the same or identical

[6] These are but a few illustrative, non-exhaustive examples. *See also, e.g.*, *Anderson v. Kelley*, 859 F. App'x 13, 15 (8th Cir. 2021) (explaining that "[t]he district court never reached the merits of [the appellant's] due process claim" because it deemed the claim *Heck*-barred); *Sanchez v. Earls*, 534 F. App'x 577, 578 (8th Cir. 2013) (holding that a claim was not *Heck*-barred, but "affirm[ing] . . . on the alternative ground that [the appellant] failed to state a claim"). Even the district court in this case implicitly acknowledged the distinction between a *Heck* dismissal and a dismissal for failure to state a claim. *See* Add. 4 n.2; R. Doc. 9, at 4 n.2 (describing *Hartley* and *Watson* as being "dismissed . . . for failure to state a claim," while describing *Manthey* as being "dismissed . . . under *Heck*").

transaction,' which would undermine both 'finality and consistency.'" *Thomas v. Eschen*, 928 F.3d 709, 711 (8th Cir. 2019) (quoting *Heck*, 512 U.S. at 484-85). Simply put, the *Heck* bar "reflect[s] a matter of 'judicial traffic control.'" *Washington*, 833 F.3d at 1056.

Properly understood, then, dismissals under *Heck* are "simply a matter of sequencing or timing," not a "judgment on the merits." *Cotton*, 96 F.4th at 257. In other words, they hinge on "timing rather than the merits of litigation" and "do not concern the adequacy of the underlying claim for relief." *Mejia v. Harrington*, 541 F. App'x 709, 710 (7th Cir. 2013). That's why the Supreme Court, too, has described *Heck*-barred cases as "dormant" and "unripe," *McDonough*, 588 U.S. at 121, not as lacking "sufficient factual matter . . . to 'state a claim to relief,'" *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007)). Therefore, a dismissal of a claim as *Heck*-barred is not a "dismiss[al] on the grounds that" the action "fails to state a claim upon which relief may be granted," 28 U.S.C. § 1915(g), and it does not constitute a strike.

Indeed, this Court has previously recognized that timing-based dismissals of this sort do not constitute strikes. In *Owens*, this Court held

that a dismissal "without prejudice for failure to exhaust administrative remedies" was "not a strike under section 1915(g)." 487 F.3d at 563. The Court explicitly relied on *Snider v. Melindez*, in which the Second Circuit explained that "[f]ailure to exhaust administrative remedies is often a temporary, curable, procedural flaw"—*i.e.*, indicative of "the prematurity of [a prisoner's] suit"—and therefore was not a basis for a strike. 199 F.3d 108, 111-12 (2d Cir. 1999). The same is true here. Just as a prematurity-based dismissal in the exhaustion context does not generate a strike, nor does a prematurity-based dismissal in the context of the *Heck* bar.

3. Comparing *Heck* with other analogous doctrines underscores the point. Although *Heck* is in some ways unique, it operates most like abstention or ripeness doctrines that constrain a federal court's authority to "adjudicate a controversy properly before it" until certain conditions are satisfied, *County of Allegheny v. Frank Mashuda Co.*, 360 U.S. 185, 188-89 (1959)—and that do not lead to strikes under the PLRA. In the alternative, the next best analogy to *Heck* would be an affirmative defense like failure to exhaust, and a prior dismissal on the basis of an affirmative defense is not a strike where, as here, the defense was not apparent from the face of the complaint.

Start with abstention and ripeness, which (like *Heck*) involve threshold determinations that certain actions are unfit for resolution by a federal court at a particular time, even if they may otherwise fall within the court's jurisdiction. For example, *Younger* abstention requires courts to abstain from adjudicating federal constitutional claims that implicate "pending state court proceedings" until the proceedings have concluded. *Younger v. Harris*, 401 U.S. 37, 41 (1971). *Pullman* abstention requires federal courts to "postpone[]" exercising jurisdiction pending resolution of related state-law claims. *Harris v. NAACP*, 360 U.S. 167, 177 (1959). *Thibodaux* abstention similarly demands that federal courts "postpone[] decision" in certain cases involving "special and peculiar" state prerogatives. *Louisiana Power & Light Co. v. Thibodaux*, 360 U.S. 25, 28-29 (1959). And a dismissal on "quasi-jurisdictional" ripeness grounds "does not preclude a second action on the same claim" once the claim becomes ripe. *McCarney v. Ford Motor Co.*, 657 F.2d 230, 233 (8th Cir. 1981).

Heck shares important features with each of these doctrines. To begin, *Heck*'s roots are inextricable from *Younger*: A decade before *Heck*, the Supreme Court (citing *Preiser* and *Younger*) reserved the issue of

whether courts should "abstain from deciding a § 1983 suit for damages pending the collateral exhaustion of state-court attacks on the conviction itself." *Tower v. Glover*, 467 U.S. 914, 923 (1984). The Court ultimately decided against framing the *Heck* bar as an exhaustion requirement. *See Heck*, 512 U.S. at 489. But it grounded the *Heck* bar in concerns about "expand[ing] opportunities for collateral attack" in federal courts against state-court judgments, *id.* at 485; *accord Newmy v. Johnson*, 758 F.3d 1008, 1012 (8th Cir. 2014)—echoing *Younger*'s emphasis on "Our Federalism" and "th[e] longstanding public policy against federal court interference with state court proceedings," 401 U.S. at 43-44, and abstention doctrine's broader role in "according appropriate deference to the 'respective competence of the state and federal court systems,'" *England v. La. State Bd. of Med. Exam'rs*, 375 U.S. 411, 415 (1964). In sum, *Heck* and *Younger* (along with *Pullman* and *Thibodaux*) stand for the overarching principle that federal courts should stay their hand in adjudicating certain claims that implicate state prerogatives.

Heck also operates like abstention and ripeness doctrines in practice. *Younger* abstention again offers the strongest parallel: Under both *Younger* and *Heck*, once a federal court makes the threshold

determination that a civil action before it would interfere with a pending state criminal prosecution (*Younger*) or impugn an extant criminal judgment (*Heck*), the action is generally barred without regard to its merits, and the plaintiff must enforce her rights by other means or at another time. Ripeness doctrine, too, requires federal courts to avoid deciding actions that are premature, just as *Heck* does. Properly understood, dismissals on any of these bases do not "require[] the district court to assess the merits of the allegations," and they are not dismissals for failure to state a claim (*i.e.*, strikes). *Burrell v. Shirley*, __ F. 4th __, 2025 WL 1802386, at *5 (4th Cir. July 1, 2025) (abstention under *Younger* doctrine not a strike); *accord Washington*, 833 F.3d at 1057-58 (same); *Carbajal v. McCann*, 808 F. App'x 620, 629-30 (10th Cir. 2020) (same); *cf. Cotton*, 96 F.4th at 258 ("[D]ismissals for prematurity do not count as PLRA strikes.").

Even if the Court were to disagree, the next best analogy for the *Heck* bar is an affirmative defense, *see Oglesby v. Lesan*, 929 F.3d 526, 535 (8th Cir. 2019) (describing *Heck* bar as a "defense"), as the Seventh and Ninth Circuits have held, *see, e.g.*, *Holmes v. Marion Cnty. Sheriff's Office*, __ F. 4th __, 2025 WL 1720523, at *1 (7th Cir. June 20, 2025);

Hebrard v. Nofziger, 90 F.4th 1000, 1006 (9th Cir. 2024). And a dismissal on the basis of an affirmative defense is ordinarily *not* a dismissal for failure to state a claim.

In particular, a dismissal pursuant to a *Heck* defense is in many ways akin to the affirmative defense of failure to exhaust. In both contexts, a § 1983 action is premature until the plaintiff takes certain mandated steps that respect federal-state comity and restrict collateral attacks, independent of any claim's merits. *See Washington*, 833 F.3d at 1056 ("[C]ompliance with *Heck* most closely resembles the mandatory administrative exhaustion of PLRA claims, which constitutes an affirmative defense and not a pleading requirement."); *Cotton*, 96 F.4th at 258 ("*Heck* dismissals are analogous to dismissals for failure to exhaust administrative remedies . . . ."). And as this Court has already held, a dismissal for failure to exhaust does not constitute a strike. *See Owens*, 487 F.3d at 563.

That's not to say that the *Heck* bar is the *same* as the exhaustion requirement—the two doctrines differ in some ways. *See Heck*, 512 U.S. at 489. But they are animated by related concerns: As this Court has explained, "[t]he rule in *Heck* is grounded in the federal policy that state

inmates must exhaust state remedies before seeking federal habeas relief." *Portley-El v. Brill*, 288 F.3d 1063, 1066 (8th Cir. 2002). That is, a crucial "reason why only habeas corpus can be used to challenge a state prisoner's underlying conviction"—the basis for the habeas-channeling rule applied in *Preiser* and *Heck* alike—"is the strong policy requiring exhaustion of state remedies in that situation—to avoid the unnecessary friction between the federal and state court systems that would result" from a contrary rule. *Preiser*, 411 U.S. at 490. And, relevant here, *Heck* and exhaustion operate similarly as a procedural matter; for example, this Court has long held that the *Heck* "defense," *Oglesby*, 929 F.3d at 535, much like a failure-to-exhaust defense, can be forfeited, *see Goff v. Burton*, 91 F.3d 1188, 1192 (8th Cir. 1996); *see also Muhammad*, 540 U.S. at 755 (holding "eleventh-hour [*Heck*] contention . . . waived").

To be sure, if the *Heck* bar is viewed as an affirmative defense, then some dismissals of cases as *Heck*-barred may constitute strikes. Ordinarily, an affirmative defense cannot be a basis for dismissal for failure to state a claim. In *Jones v. Bock*, the Supreme Court articulated a narrow exception to this rule: A court *can* dismiss an action for failure to state a claim when the face of the complaint conclusively establishes

an affirmative defense, even if it adequately pleads all the elements of the claim. *See* 549 U.S. 199, 215 (2007); *Holmes*, 2025 WL 1720523, at *1-2. But this limited exception does not render *Manthey* a strike.

It's not clear what the *Manthey* court relied on to deem that case *Heck*-barred, but it could not have been the face of the complaint. As noted *supra* p. 6, nothing in the *Manthey* complaint mentioned good-time credits or suggested that the disciplinary proceedings Mr. Williams sought to challenge would affect the length of his criminal sentence. Thus, under the Supreme Court's decision in *Muhammad v. Close*, 540 U.S. at 751-52, 754-55 (a year before *Manthey*), and this Court's decision in *Sheldon v. Hundley*, 83 F.3d 231, 234 (1996) (almost a decade before *Manthey*), nothing in Mr. Williams's complaint itself indicated that *Heck* posed a barrier. Accordingly, it surely cannot be said that any *Heck* bar was "established on the face of the complaint," *Watkins v. City of St. Louis, Missouri*, 102 F.4th 947, 951 (8th Cir. 2024), such that the *Manthey* dismissal might fall within the *Jones* exception. All the more so because the *Manthey* court itself never "state[d] that the action . . . failed to state a claim." *Castillo-Alvarez*, 768 F.3d at 1220.

4. Nevertheless, the district court assessed a strike based on the *Manthey* dismissal. Of course, neither the *Manthey* court nor the district court below suggested that *Manthey* was "dismissed on the grounds that it [was] frivolous[] [or] malicious." 28 U.S.C. § 1915(g). Accordingly, the district court necessarily treated the absence of a *Heck* bar as an element of Mr. Williams's claim in *Manthey*, such that the dismissal of that case under *Heck* amounted to a dismissal for failure to state a claim. *See id.*

But "no-*Heck*" is *not* an element of a claim. As explained above, *Heck* has nothing to do with the merits of a claim; the presence or absence of the *Heck* bar at any given time has no bearing on whether a claim will ultimately prove meritorious. *See supra* pp. 13-15. Moreover, the *Heck* bar can be waived or forfeited by a defendant's failure to timely raise it, *see supra* p. 22, and "is contingent on a threshold legal determination, made by the court, that the requested relief would undermine the underlying conviction," *Washington*, 833 F.3d at 1056; *see Heck*, 512 U.S. at 487.

"Normally, too, the essential elements of a claim remain constant throughout the life of a lawsuit. What a plaintiff must do to satisfy those elements may increase as a case progresses from complaint to trial, but

the legal elements themselves do not change." *Comcast Corp. v. Nat'l Assoc. of African American-Owned Media*, 589 U.S. 327, 332 (2020). Yet in many instances, any *Heck* bar (unlike an element of a claim) may come and go throughout the course of litigation.

For instance, a § 1983 plaintiff suing for false arrest has "a complete and present cause of action . . . as soon as the allegedly wrongful arrest occur[s]"—generally before there is any criminal conviction, *i.e.*, before *Heck* becomes an issue. *Wallace v. Kato*, 549 U.S. 384, 388 (2007) (internal quotation marks omitted). But if the plaintiff is eventually convicted, a *Heck* bar will suddenly arise, perhaps *after* the plaintiff has already sued and stated a complete claim for relief. Similarly, a plaintiff has a complete "cause of action under § 1983 for a *Brady* violation" when the underlying conviction is vacated (for any reason), without regard to the ongoing "possibility" of a re-trial. *Buckley v. Ray*, 848 F.3d 855, 866-67 (8th Cir. 2017). But if the plaintiff is then re-convicted, and his pending § 1983 claim would impugn the *new* conviction, the *Heck* bar will spontaneously materialize mid-litigation (and if the new conviction is invalidated, the *Heck* bar will vanish again). This is not how an element operates. *See Comcast Corp.*, 589 U.S. at 332.

These aspects of the *Heck* bar debunk the notion of a "no-*Heck*" element. Nonetheless, some courts have reasoned that "no-*Heck*" is an element of a § 1983 claim simply because the *Heck* Court drew an analogy to the favorable-termination element of a malicious prosecution claim. *See, e.g.*, *Brunson v. Stein*, 116 F.4th 301, 308 (4th Cir. 2024).

This mistakes an analogy for an equivalence. The *Heck* Court discussed—but did not conflate—*both* the favorable-termination "element" of "a malicious prosecution action" *and* the favorable-termination "prerequisite[]" for any § 1983 action that would impugn an extant conviction or sentence (and thus collide with habeas). *Heck*, 512 U.S. at 483-84. These two concepts are "distinct." *Roberts v. City of Fairbanks*, 947 F.3d 1191, 1201 (9th Cir. 2020) ("*Heck*'s favorable-termination requirement is distinct from the favorable-termination element of a malicious-prosecution claim."). Each and every § 1983 claim that sounds in malicious prosecution incorporates a substantive favorable-termination *element* as part of the plaintiff's claim, regardless of whether the circumstances would otherwise implicate *Heck*'s habeas-collision *prerequisite*. Many other kinds of § 1983 challenges that relate to criminal proceedings (for instance, false-arrest claims) do not sound in

malicious prosecution, do not incorporate malicious prosecution's favorable-termination element, and may or may not implicate *Heck*'s prerequisite depending on circumstances and timing. *See, e.g.*, *Wallace*, 549 U.S. at 394.

Finally, this Court once remarked in a brief unpublished opinion that a particular *Heck* dismissal counted as a strike. *See Armentrout v. Tyra*, 175 F.3d 1023 (Table), at *1 (8th Cir. 1999) (unpublished). But even if *Armentrout*'s holding were binding on this Court (it is not), its language concerning *Heck* would not be. That language was quintessential dicta, unnecessary to the decision; the *pro se* plaintiff had not accumulated three strikes regardless of whether the *Heck* dismissal counted as one, so the district court's denial of IFP status was erroneous either way. *See Armentrout*, 175 F.3d 1023, at *1; *Sanzone v. Mercy Health*, 954 F.3d 1031, 1039 (8th Cir. 2020). Not only that, but the unpublished *Heck* dicta amounted to just one conclusory sentence without reasoning, perhaps due to party presentation issues in a case involving a *pro se* appellant and a pre-service dismissal.

For all these reasons, *Armentrout* lacks persuasive force and is entitled to no weight. Because the *Heck* bar plainly does not bear on the

merits of a claim, the *Manthey* dismissal was not a dismissal for failure to state a claim and does not constitute a strike.

B. A mislabeled habeas petition is not a qualifying dismissal under § 1915(g).

Independently, *Manthey* is not a strike because it was, under the *Manthey* court's holding, a habeas petition filed via the wrong vehicle. And habeas petitions do not generate strikes under the PLRA, whether or not they are mislabeled as § 1983 actions.

1. The *Heck* bar lies at the "intersection of the two most fertile sources of federal-court prisoner litigation": § 1983 and federal habeas corpus. *Heck*, 512 U.S. at 480. Although both statutory vehicles "serve to protect basic constitutional rights," "the demarcation line between civil rights actions and habeas petitions is not always clear," and the two differ in scope and operation. *Wolff v. McDonnell*, 418 U.S. 539, 579 (1974).

Relevant here, habeas corpus provides the *exclusive* federal remedy for any prisoner challenging the fact or duration of his physical imprisonment, including the basis for that imprisonment. *See, e.g.*, *Heck*, 512 U.S. at 481; *Preiser*, 411 U.S. at 500; *Portley-El*, 288 F.3d at 1066. *Heck* and *Preiser* are just two points in a long arc of Supreme Court

decisions protecting this exclusive core of habeas.[7] These precedents collectively embrace a straightforward principle: Regardless of how an action is styled, and whatever the technical or procedural mechanism, habeas is the "appropriate remedy" for a prisoner whose success would necessarily imply the invalidity of his conviction or sentence—no matter what relief he seeks. *Heck*, 512 U.S. at 482 (quoting *Preiser*, 411 U.S. at 490). *Preiser* applied this habeas-channeling principle to "a state prisoner who . . . seeks immediate or speedier release" under § 1983, while *Heck* held that it "applies [equally] to § 1983 damages actions." *Heck*, 512 U.S. at 481, 486. Either way, the claim sounds in habeas and "may be pursued only in an action for habeas corpus relief." *Entzi v. Redmann*, 485 F.3d 998, 1003 (8th Cir. 2007).

As a result, when a court concludes that success in a plaintiff's § 1983 action "would necessarily imply the invalidity of his conviction or sentence," *Heck*, 512 U.S. at 487, this does not mean that the plaintiff has failed to state a claim. Rather, the court has determined that the action

[7] *See, e.g.*, *Trump v. J.G.G.*, 145 S. Ct. 1003 (2025) (per curiam); *Nance v. Ward*, 597 U.S. 159 (2022); *McDonough*, 588 U.S. 109; *Wallace*, 549 U.S. 384; *Edwards v. Balisok*, 520 U.S. 641 (1997); *Heck*, 512 U.S. 477; *Wolff*, 418 U.S. 539; *Preiser*, 411 U.S. 475.

sounds in habeas—the "appropriate vehicle" is a writ of habeas corpus. *Heck*, 512 U.S. at 486; *accord Preiser*, 411 U.S. at 490 ("[H]abeas corpus is the appropriate remedy for state prisoners attacking the validity of the fact or the length of their confinement . . . ."). That is what happened in *Manthey*: The court concluded that Mr. Williams's action sounded in habeas, and it dismissed solely on that basis. *See Manthey*, No. 6:05-cv-03083 (W.D. Mo.), Document 4, at 2.

2. Such a dismissal is not a strike. A dismissal of a habeas petition (as opposed to a civil action) does not qualify as a strike under the PLRA—as every court of appeals to have considered the question has held.[8] This Court, too, has held that the "PLRA's filing-fee provisions are inapplicable to habeas corpus actions." *Malave*, 271 F.3d at 1140. After all, the PLRA applies to "civil action[s]," 28 U.S.C. § 1915(g), whereas

[8] *See Martin v. Bissonette*, 118 F.3d 871, 874 (1st Cir. 1997); *Jones v. Smith*, 720 F.3d 142, 147 (2d Cir. 2013); *Garrett v. Murphy*, 17 F.4th 419, 431 (3d Cir. 2021); *Smith v. Angelone*, 111 F.3d 1126, 1129-31 (4th Cir. 1997); *Davis v. Fechtel*, 150 F.3d 486, 488-90 (5th Cir. 1998); *Walker v. O'Brien*, 216 F.3d 626, 633-34 (7th Cir. 2000); *Andrews v. King*, 398 F.3d 1113, 1122-23 (9th Cir. 2005); *Jennings v. Natrona County Det. Ctr. Med. Facility*, 175 F.3d 775, 779 (10th Cir. 1999), *overruled in part on other grounds by Coleman v. Tollefson*, 575 U.S. 532 (2015); *Anderson v. Singletary*, 111 F.3d 801, 805-06 (11th Cir. 1997); *Wood v. Williams*, 725 F. App'x 917, 918 (11th Cir. 2018); *Blair-Bey v. Quick*, 151 F.3d 1036, 1040-42 (D.C. Cir.), *on reh'g*, 159 F.3d 591 (D.C. Cir. 1998).

habeas petitions are "unique creature[s] of the law" that "involve someone's liberty, rather than mere civil liability," *Malave*, 271 F.3d at 1140 (internal quotation marks omitted).

That result does not change just because a *pro se* prisoner's habeas petition is mislabeled as a § 1983 civil action—as one court of appeals has already explained. *See El-Shaddai v. Zamora*, 833 F.3d 1036, 1047-48 (9th Cir. 2016) (holding that a "mislabeled habeas petition" filed as a § 1983 claim "should be considered such for purposes of the PLRA, and . . . should not count as a strike"). For good reason. Where a federal claim attacks the validity of a prisoner's conviction or sentence, the habeas remedy, not § 1983, is the "exclusive" one. *Portley-El*, 288 F.3d at 1066. And in the context of a *pro se* complaint, "the district court should construe the complaint in a way that permits the layperson's claim to be considered within the proper legal framework," *Stone v. Harry*, 364 F.3d 912, 915 (8th Cir. 2004)—that is, in habeas.[9]

[9] Of course, if a court opts to save rather than dismiss a *pro se* prisoner's mislabeled habeas petition by recharacterizing it as precisely that—a habeas petition—the court must afford the prisoner notice, warnings, and an opportunity to withdraw the petition in light of any future "second or successive" restrictions it may trigger. *E.g.*, *Castro v. United States*, 540 U.S. 375, 382-83 (2003); *Smith v. Hobbs*, 490 F. App'x 833, 834 (8th Cir. 2012).

3. One court of appeals has partially disagreed. In *Garrett*, 17 F.4th at 431-32, the Third Circuit reasoned as follows: Where a single prior action labeled as a § 1983 proceeding was *both Heck*-barred (insofar as it sought damages) *and Preiser*-barred (insofar as it sought injunctive relief), it was really *two* actions all along—a *Heck*-barred claim for damages and a *Preiser*-barred claim for release. The *Preiser*-barred claim for release would be understood as a mislabeled habeas claim, and dismissal of that habeas claim wouldn't count as a strike. But, the court reasoned, the *Heck*-barred claim for damages would *not* be understood as a habeas claim. Instead, it would be reimagined as its own, freestanding § 1983 action—and once the *Heck*-barred claim was thus severed from the *Preiser*-barred claim, its dismissal *would* constitute a strike. *See Garrett*, 17 F.4th at 432.

That feat of interpretive jiu-jitsu ignores both the nature of the *Heck* bar and the text Congress enacted. For starters, "[t]he gist of *Heck*," no less than *Preiser*, "is that section 1983 is not an appropriate vehicle for attacking the validity of a state conviction." *Wilson v. Lawrence County, Mo.*, 154 F.3d 757, 761 (8th Cir. 1998). Put differently, what triggers the habeas-channeling rule is not a plaintiff's request for

damages—it's the fact that a favorable ruling, irrespective of the remedy sought, would imply the invalidity of the conviction or sentence, thus colliding with the core of habeas corpus. There is therefore no basis for splitting hairs between *Heck*-barred claims and *Preiser*-barred claims; the two are "appli[cations]" of the same habeas-channeling principle. *Heck*, 512 U.S. at 481, 486; *see id.* at 483 ("The issue with respect to monetary damages challenging conviction is . . . the same as the issue was with respect to injunctive relief challenging conviction."); *supra* pp. 28-29. To the extent *Manthey* implicated this habeas-channeling principle, it applied equally to the injunctive relief and the damages Mr. Williams sought, not just one or the other. *See Manthey*, No. 6:05-cv-03083 (W.D. Mo.), Document 1, at 10-11. Under the *Manthey* court's holding, the entire action sounded in habeas, and the court's dismissal of a mislabeled habeas petition was not a strike.

In any event, even if it were proper to construe a *Heck*-barred claim for damages as a § 1983 claim and a *Preiser*-barred claim for release as a habeas claim, *Manthey* would not constitute a strike because it was (at most) a mixed dismissal. Congress directed federal courts to assess a strike specifically where an "*action* . . . was dismissed" on an enumerated

ground. 28 U.S.C. § 1915(g) (emphasis added). "In this context, 'action' 'unambiguously means an entire case or suit' . . . ." *Pinder v. WellPath, LLC*, 112 F.4th 495, 503 (8th Cir. 2024). As a result, "if some claims were dismissed as frivolous or for failure to state a claim, but other claims were dismissed for other reasons, the dismissal was *not* a strike." *Id.* (citing *Orr v. Clements*, 688 F.3d 463, 466 (8th Cir. 2012)). It follows that where "*Heck*-barred damages claims" are brought in one action alongside (and, as here, "intertwined with") requests for injunctive relief, any dismissal is not a strike; at minimum, the requests for injunctive relief sound in habeas, so "the entire action was not dismissed for one of the qualifying reasons [Congress] enumerated." *Washington*, 833 F.3d at 1052, 1056-57.

* * *

In the PLRA, Congress spoke unequivocally: Only dismissal of an entire "civil action" on the grounds that it was "frivolous, malicious, or fail[ed] to state a claim" constitutes a strike. 28 U.S.C. § 1915(g). "The role of this Court is to apply the statute as it is written"—no more and no less. *Sandifer v. U.S. Steel Corp.*, 571 U.S. 220, 231 (2014).

Because dismissals of cases as *Heck*-barred "are not among the types of dismissals listed as strikes in section 1915(g)," *Castillo-Alvarez*,

768 F.3d at 1220, nor subsumed by any of the three grounds Congress enumerated, they are not strikes under the statute. Independently, a dismissal of a case as *Heck*-barred constitutes a determination that the § 1983 action is in fact a mislabeled habeas petition—and a habeas petition is not a civil action subject to the PLRA. *See Malave*, 271 F.3d at 1139-40. By holding otherwise and deeming Mr. Williams a three-striker, the district court contravened the clear text and applicable precedent.

CONCLUSION

For the foregoing reasons, this Court should reverse the district court's denial of Mr. Williams's request to proceed IFP and remand the case for further proceedings.

Dated: July 15, 2025

Respectfully submitted,

/s/ Amit Jain

Amit Jain*
Warrington Sebree
RODERICK & SOLANGE
MACARTHUR JUSTICE CENTER
501 H Street NE, Suite 275
Washington, DC 20002
(202) 869-3434
amit.jain@macarthurjustice.org

* Admitted to the New York Bar. Not admitted to the DC Bar. Practice from DC limited to federal court representation.

Counsel for Plaintiff-Appellant Calvin Williams

CERTIFICATE OF COMPLIANCE

Pursuant to Fed. R. App. P. 32, I certify that this brief complies with the type-volume limitation of Fed. R. App. P. 32(a) because this brief contains 7,450 words, excluding the parts of the brief exempted by Fed. R. App. P. 32(f). In addition, this brief complies with the typeface requirements of Fed. R. App. P. 32(a)(5) and the type style requirements of Fed. R. App. P. 32(a)(6) because this brief has been prepared in a proportionately spaced typeface using Microsoft Word Century Schoolbook 14-point font.

Pursuant to Circuit Rule 28A(h)(2), this brief and the attached addendum have been scanned for viruses and are virus-free.

/s/Amit Jain

CERTIFICATE OF SERVICE

I hereby certify that on July 15, 2025, I caused the foregoing *Plaintiff-Appellant's Opening Brief* to be electronically filed with the Clerk of the Court for the United States Court of Appeals for the Eighth Circuit by using the CM/ECF system. Participants in this case who are registered CM/ECF users will be served by the CM/ECF system.

/s/Amit Jain