No. 24-2103

IN THE UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT

THE NATIONAL ASSOCIATION FOR RATIONAL SEXUAL OFFENSE LAWS and JASON RIDLEY,

Plaintiffs-Appellants,

v.

LATOYA HUGHES, in her official capacity as Director of the Illinois Department of Corrections,

Defendant-Appellee.

Appeal from the United States District Court for the Northern District of Illinois, Western Division

District Court No. 3:24-cv-50025

Hon. Iain Johnston

BRIEF AND SHORT APPENDIX OF PLAINTIFFS-APPELLANTS THE NATIONAL ASSOCIATION FOR RATIONAL SEXUAL OFFENSE LAWS AND JASON RIDLEY

Law Office of Mark G. Weinberg
3612 N. Tripp Avenue
Chicago, Illinois 60641
(773) 283-3913
mweinberg@sbcglobal.net

Law Office of Adele D. Nicholas
5707 W. Goodman Street
Chicago, Illinois 60630
(847) 361-3869
adele@civilrightschicago.com

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Appellate Court No: 24-2103

Short Caption: The National Association for Rational Sexual Offense Laws et. al. v. Hughes

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The National Association for Rational Sexual Offense Laws and Jason Ridley

(2) The names of all law firms whose partners or associates have appeared for the party in the case (including proceedings in the district court or before an administrative agency) or are expected to appear for the party in this court:
Law Offices of Adele D. Nicholas

Law Offices of Mark G. Weinberg

(3) If the party, amicus or intervenor is a corporation:

i) Identify all its parent corporations, if any; and

none

ii) list any publicly held company that owns 10% or more of the party's, amicus' or intervenor's stock:

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(5) Provide Debtor information required by FRAP 26.1 (c) 1 & 2:

N/A

Attorney's Signature: /s/Mark Weinberg Date: 10/1/24

Attorney's Printed Name: Mark Weinberg

Please indicate if you are *Counsel of Record* for the above listed parties pursuant to Circuit Rule 3(d). **Yes** ☑ **No** ☐

Address: 3612 N. Tripp Ave.
Chicago, Ill. 60641

Phone Number: 773-283-3913 Fax Number:

E-Mail Address: mweinberg@sbcglobal.net

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(1) The full name of every party that the attorney represents in the case (if the party is a corporation, you must provide the corporate disclosure information required by Fed. R. App. P. 26.1 by completing item #3):

Jason Ridley

National Association for Rational Sex Offense Laws

(2) The names of all law firms whose partners or associates have appeared for the party in the case (including proceedings in the district court or before an administrative agency) or are expected to appear for the party in this court:

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(5) Provide Debtor information required by FRAP 26.1 (c) 1 & 2:

Attorney's Signature: /s/ Adele D. Nicholas Date: 10-1-24

Attorney's Printed Name: Adele D Nicholas

Please indicate if you are *Counsel of Record* for the above listed parties pursuant to Circuit Rule 3(d). **Yes** ☑ **No** ☐

Address: Law Office of Adele D. Nicholas, 5707 W. Goodman St., Chicago IL 60630

Phone Number: 847-361-3869 Fax Number: 312-528-7670

E-Mail Address: adele@civilrightschicago.com

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JURISDICTIONAL STATEMENT

Plaintiffs originally filed this case in the United States District Court for the Northern District of Illinois, Western Division. Plaintiffs' complaint is an action under 42 U.S.C. § 1983 alleging violations of the United States Constitution. The district court had federal question jurisdiction under 28 U.S.C. § 1331.

The U.S. Court of Appeals for the Seventh Circuit has jurisdiction pursuant to 28 U.S.C. § 1291. This is an appeal from a final judgment on the merits resolving all claims as to all parties. The district court dismissed the case with prejudice under Fed. R. Civ. P. 12(b)(6) for failure to state a claim.

Plaintiffs seek review of the district court's June 6, 2024, Memorandum Opinion and Order granting Defendant's motion to dismiss under Rule 12(b)(6) for failure to state a claim (ECF 25, A.1-A.2); and the district court's June 6, 2024, Order entering judgment for Defendant and against Plaintiffs (ECF 26, A.3). Plaintiffs filed a timely notice of appeal on June 27, 2024 (ECF 27).[1]

ISSUE PRESENTED FOR REVIEW

Whether this Court's decision in *Williams v. Wisconsin*, 336 F.3d 576 (7th Cir. 2003), which prohibits persons on parole from challenging the constitutionality of statutory parole restrictions under 42 U.S.C. § 1983, should be overturned.[2]

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[1] References in this brief to "ECF" refer to district court docket entries; "A." refers to pages of the Short Appendix filed with this brief.

[2] Pursuant to Seventh Circuit Rule 40(e), a panel of this Court may "overrule a prior decision of this court" if the proposed decision is "first circulated among the active members of this court and a majority of them do not vote to rehear *en banc* the issue of whether the position should be adopted." Plaintiffs request this procedure be employed here.

STATEMENT OF THE CASE

I. The Challenged MSR Condition

Illinois law prohibits persons who are on Mandatory Supervised Release ("MSR") for a sexual offense from possessing and using erectile dysfunction medication (*e.g.*, Viagra or Cialis). In particular, 730 ILCS 5/3-3-7(a)(7.10) reads as follows:

> [I]f convicted for an offense that would qualify the accused as a sex offender or sexual predator under the Sex Offender Registration Act on or after June 1, 2008 (the effective date of Public Act 95-640), not possess prescription drugs for erectile dysfunction.

II. The Plaintiffs

A. Jason Ridley, Sr.

Plaintiff Jason Ridley, Sr., 65, is currently serving three-year term of MSR due to his convictions in 2014 for Aggravated Criminal Sex Abuse and Predatory Criminal Sexual Assault for offenses he committed in 2002. He is to be released from his term of MSR on April 29, 2025. ECF 1, Complaint, at ¶12.

In 2018, when he was in prison at Taylorville Correctional Center, he was diagnosed with prostate cancer and received a prostatectomy, a surgery that removes part or all of the prostate gland. As a result of this surgery, Plaintiff has suffered impotence and incontinence, a typical consequence of this surgery. *Id.* at ¶13.

While on MSR, Plaintiff Ridley entered into a committed romantic relationship and is engaged to be married. He seeks to do everything he can to regain his potency. Plaintiff has tried the use of a so-called "vacuum," and the use of a pump to alleviate his impotence, but neither was successful. The next option is

reconstructive surgery. But in order to get approval for this surgery, the insurance company requires a protocol that demands the patient first try erectile dysfunction medication to see if these medications can alleviate the impotence without incurring the expense and dangers of the surgery. *Id.* at ¶14. Plaintiff Ridley seeks to use erectile dysfunction medication, but he is prohibited from doing so because of the challenged law. *Id.* at ¶15.

B. The National Association for Rational Sexual Offense Laws ('NARSOL')

Plaintiff NARSOL is a non-profit corporation organized under the laws of North Carolina, which is devoted to reform of state and national sexual offense laws and to ending the dehumanization of individuals with past convictions for sexual offenses. *Id*. at ¶6. NARSOL advocates for ending draconian, unconstitutional laws imposed on people who have been convicted of sex offenses. *Id*. To fulfill its mission, NARSOL pursues litigation to challenge unconstitutional laws and educates legislators and the public regarding evidence-based policies; the negative effects of laws such as the registry on individuals and their families; and the availability of effective, constitutional alternatives to current laws and practices. *Id*.

NARSOL is a voluntary membership organization, which has hundreds of members nationally, including more than 50 members in Illinois, including Plaintiff Ridley. *Id*. at ¶7. NARSOL has affiliate organizations in the vast majority of states, including Illinois Voices for Reform, based in Illinois. *Id*. at ¶8.

III. Mandatory Supervised Release

Every person sentenced to a period of imprisonment in the IDOC is also sentenced to a separate term of post-incarceration community supervision called "mandatory supervised release." 730 ILCS 5/5-8-1 (d). MSR is similar to parole in some respects—*e.g.*, it is meant to serve as a period of post-incarceration supervised reintegration to the community. But the two schemes differ in one key respect: whereas parole is early release from prison on an incomplete prison sentence and the decision whether to release someone on parole is entirely discretionary, MSR is, as its name implies, "mandatory," and it starts automatically upon completion of a prison sentence. *See People v. Hunter,* 2011 IL App (1st) 093023, ¶ 23, 354 Ill. Dec. 207, 215, 957 N.E.2d 523, 531 (Ill. App. 2011) ("the MSR term is not a negotiated release or a privilege but, rather, a mandatory part of defendant's sentence.") (citations omitted); *Samson v. California*, 547 U.S. 843, 850 (2006) ("The essence of parole is release from prison, before the completion of sentence. ... Federal supervised release, in contrast ... is meted out in addition to, not in lieu of, incarceration.") (internal citations omitted)).

Illinois law vests responsibility for setting the conditions of MSR with the Prisoner Review Board ("PRB"). *See* 730 ILCS 5/3-3-7(a). Under the Illinois Code of Corrections, the PRB is obligated to impose certain conditions. For example, all persons on MSR must "report to an agent of the Department of Corrections"; "obtain permission of an agent of the Department of Corrections before leaving the State of Illinois"; "obtain permission of an agent of the Department of Corrections before changing his or her residence or employment"; "consent to a search of his or her

person, property, or residence under his or her control"; and "refrain from the use or possession of narcotics." 730 ILCS 5/3-3-7(a)(1)-(21). Certain conditions of MSR, including the one at issue here prohibiting the possession of erectile dysfunction medications, are mandatory for all persons with sex offense convictions. 730 ILCS 5/3-3-7(a)(7.5)-(7.13). The PRB has discretion to impose other conditions of MSR based on an "individualized assessment" of the parolee's risk and needs. 730 ILCS 5/3-3-7(b), (b-1); 730 ILCS 5/3-14-2. These discretionary conditions may include, among other things, that the parolee must "work or pursue a course of study or vocational training"; "undergo medical or psychiatric treatment"; "not access or use a computer or any other device with Internet capability without the prior written approval of the Department"; or "refrain from entering into a designated geographic area." 730 ILCS 5/3-3-7(b), (b-1).

The IDOC "retain[s] custody of all persons placed on parole or mandatory supervised release" and has the responsibility to "supervise such persons during their parole or release period in accord with the conditions set by the [PRB]." 730 ILCS 5/3-14-2 (a).

The PRB has the authority to "modify or enlarge the conditions" of MSR. 730 ILCS 5/3-3-7(d). And parole agents have the authority to give parolees "instructions … that are consistent with furthering … the goals and objectives of his or her parole or mandatory supervised release or to protect the public" and may modify such instructions "at any time, as the agent deems appropriate." 730 ILCS 5/3-3-7(a)(15).

However, neither the PRB nor the IDOC has the discretion to relieve individuals of the categorical conditions that are mandated under 730 ILCS 5/3-3-7(a).

IV. Procedural History and the District Court's Decision

On January 19, 2024, Plaintiffs sued the Director of the IDOC seeking injunctive relief from the prohibition on possessing erectile dysfunction medication. ECF 1, Complaint, at ¶2. The gravamen of Plaintiffs' complaint was that the condition interferes with rights protected by the Fourteenth Amendment's substantive due process component and the Eighth Amendment. *Id.* at ¶¶26-30.

On March 19, 2024, Defendant filed a motion to dismiss pursuant to Fed. R. Civ. P. 12(b)(6). ECF 9. In support, Defendant argued, first, that this Court's decision in *Williams v. Wisconsin*, 336 F.3d 576 (7th Cir. 2003), forecloses constitutional challenges to conditions of MSR under § 1983 and requires that such challenges may only be brought via a *habeas corpus* petition. *Id.* at 3-5. Second, Defendant argued that Plaintiff NARSOL lacked standing to sue on behalf of its members. *Id.* at 5-9. Third, Defendant argued that Plaintiffs' Fourteenth Amendment substantive due process and Eighth Amendment claims fail on their legal merits. *Id.* at 9-20.

On June 6, 2024, the district court granted Defendant's motion to dismiss. ECF 25, A.1-A.2. The district court found that both Plaintiffs Ridley and NARSOL had standing to sue, but that their claims under § 1983 were foreclosed by *Williams*. The district court did not address the merits of Plaintiff's constitutional claims. *Id.* The court entered judgment in favor of Defendant and against Plaintiffs on June 6, 2024. A.3.

SUMMARY OF THE ARGUMENT

In *Williams v. Wisconsin*, 336 F.3d 576 (7th Cir. 2003), this Court held that a challenge to a parole condition amounts to a challenge to the validity of the parolees' custody that can only be pursued through a *habeas corpus* petition based on the idea that for persons on parole, "the 'conditions' of parole are the [person's] confinement." *Id.* at 579. There are at least five reasons for this Court to overturn *Williams* and permit Plaintiffs to proceed on their constitutional challenge to a parole condition categorically prohibiting individuals with convictions for sexual offenses from possessing erectile dysfunction medications under 42 U.S.C. 1983.

First, *Williams* is based on a legal fiction that does not withstand logical scrutiny, namely, that a parole restriction is equivalent to a person's custody. The idea that "parole restrictions = custody" is misleading and overly simplistic. Realistically speaking, a challenge to the constitutionality of an individual parole condition is not a challenge to the validity or duration of a person's custody where, as here, if successful on his claim, Plaintiff Ridley would remain subject to a panoply of other parole conditions regulating every aspect of his life and the duration of his supervision would not be shortened.

Second, since *Williams* was decided in 2003, numerous other courts have come to the conclusion that parole conditions may be challenged in proceedings under § 1983. *See, e.g., Thornton v. Brown*, 757 F.3d 834, 843-46 (9th Cir. 2013) (where plaintiff challenged parole conditions including GPS monitoring, *Heck* did not bar him from proceeding under § 1983).

Third, *Williams* runs contrary to the underlying remedial purpose of § 1983 and has the effect of stymieing the development of the law in matters related to criminal justice in at least three ways: (1) the requirement to first exhaust remedies in state court presents substantial practical barriers to parolees' ability to seek review of constitutional questions in federal court; (2) the unavailability of appointed counsel and/or fee shifting for private counsel in *habeas* cases forces many individuals to proceed *pro se*; and (3) substantively speaking, federal review under *habeas* is strictly limited by the Anti-Terrorism and Effective Death Penalty Act of 1996.

Fourth, changed circumstances make it more necessary than ever to afford individuals on supervised release the opportunity to challenge the constitutionality of their parole restrictions via § 1983. This is so for at least two reasons: (1) increasingly harsh and intrusive parole conditions are being imposed on parolees (including, as here, categorical restrictions that interfere directly with people's fundamental rights), which means more and more individuals are victimized by unconstitutional parole conditions that go unchallenged due to the structural difficulties of bringing a *habeas* challenge; and (2) our society's evolving commitment to rehabilitation argues for undoing *Williams* in order to better facilitate reintegration, which unconstitutional parole restrictions, including the one at issue here, severely inhibit.

Fifth, *Williams* and the decision on which it was principally based, *Drollinger v. Milligan*, 552 F.2d 1220 (7th Cir. 1977), arose in circumstances very different than those faced by the Plaintiffs in this case. Namely, the plaintiff in *Williams* sought

relief from one of the most basic and standard conditions of parole—a prohibition on international travel—which is a far cry from the unusual and severely burdensome condition at issue here. And the plaintiff in *Drollinger* was serving a sentence of probation as an alternative to incarceration and thus was not similarly situated to Plaintiff Ridley, who is serving a term of Mandatory Supervised Release, a form of community supervision that serves rehabilitative purposes distinct from the punitive purpose of prison. Accordingly, if this Court is not inclined to completely overturn *Williams*, it should limit its scope to the circumstances in which it originally arose.

For all of these reasons, this Court should reverse the decision granting Defendant's motion to dismiss and permit Plaintiffs to proceed on their § 1983 challenge to the categorical prohibition on access to erectile dysfunction medications.

ARGUMENT

I. Standard of Review

This Court reviews the district court's dismissal under Fed. R. Civ. P. 12(b)(6) *de novo*. *Toulon v. Cont'l Cas. Co.*, 877 F.3d 725, 734 (7th Cir. 2017).

II. *Williams v. Wisconsin*, 336 F.3d 576 (7th Cir. 2003)

The general rule is that a plaintiff may not proceed on claims under 42 U.S.C. § 1983 that challenge the fact, duration, or validity of his custody unless his conviction or sentence has been reversed, expunged or invalidated in state court. In *Heck v. Humphrey*, 512 U.S. 477 (1994), the Supreme Court drew a line between claims that must proceed under *habeas* and claims that are cognizable under § 1983. Specifically, the Court stated:

> [I]n order to recover damages for [an] 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.

Id. at 486-87.

In *Williams v. Wisconsin*, 336 F.3d 576, 579-80 (7th Cir. 2003), this Court extended the prohibition on challenging the fact, duration, or validity of one's custody to parolees' ability to challenge the conditions of their parole, based on the idea that for persons on parole, "the 'conditions' of parole are the [person's] confinement." *Id*. at 579.

In particular, in *Williams*, an individual on parole in Wisconsin filed a civil rights action challenging a condition that restricted him from international travel.

Id. at 579. Citing *Drollinger v. Milligan*, 552 F.2d 1220 (7th Cir. 1977), this Court found Williams was challenging a term of his custody and therefore should have brought a habeas petition rather than a civil rights case. *Id*. at 580. This Court explained the nature of a claim by a parolee challenging his parole conditions as follows:

> For parolees, the [question of whether one is in custody] is more metaphysical [than for prisoners], because the 'conditions' of parole are the confinement. Requirements that parolees stay in touch with their parole officer, hold down a job, steer clear of criminals, or (as in Williams's case) obtain permission for any proposed travel outside the jurisdiction, are what distinguish parole from freedom. It is because of these restrictions that parolees remain 'in custody' on their unexpired sentences and thus may initiate a collateral attack while on parole.

Id. at 579.

III. This Court Should Overrule *Williams*

This Court overrules circuit law only when there is "a serious justification" to do so, such as when (1) this "circuit is an outlier," (2) the overruling "might supply a new line of argument that would lead other circuits to change their positions in turn," or (3) "prevailing doctrine works a substantial injury." *United States v. Ramirez*, 52 F.4th 705, 712 (7th Cir. 2022) (citations omitted). Here, there is "serious justification" for this Court to reconsider its decision in *Williams* because it imposes a substantial injury on parolees by subverting their ability to effectively challenge parole conditions, causing them to be subject to unconstitutional conditions for long periods of time, and because the decision is contrary to the values embodied in § 1983 and stymies the development of the law.

A. *Williams* Is Based on a Legal Fiction That Does Not Withstand Scrutiny

1. Removing a Condition Does Not Equate to Release from Custody

This Court found in *Williams* that "the 'conditions' of parole are the confinement." *Williams,* at 579. Based on this, the Court found that parolees who seek to challenge the constitutionality of one of their parole conditions are in effect challenging their custody. Because one can only challenge the fact of one's custody through *habeas*, this Court concluded that parolees may challenge parole conditions only through habeas rather than § 1983. *Id*. at 580.

But the logic that a single restriction imposed on an individual on MSR constitutes a person's "custody" does not withstand scrutiny. It is overly simplistic and amounts to a judge-made legal fiction. A single condition imposed on an individual on MSR is not the same as that person's custody or sentence. Mandatory Supervised Release is a whole program. It consists of many different elements, including its length; reporting requirements; parole officers' oversight and instructions; treatment and therapy; access to transitional housing; the imposition of individualized parole conditions such as prohibitions on presence in certain places or contact with certain individuals (*see* 730 ILCS 5/3-3-7 (b-1)); and the imposition of non-individualized categorical conditions such as restrictions on travel outside of the jurisdiction and searches of one's property (*see* 730 ILCS 5/3-3-7(a)). One's custody consists of the sum of these parts.

Take away any particular condition, and the individual is still on MSR and in IDOC custody. Indeed, discretionary parole conditions such as curfews, restrictions

on internet access, or supervision of contact with children, may be modified or lifted by the parole agent while the person is on MSR without altering the fact of the person's custody. *Williams'* equation (*e.g.*, condition = custody) has the effect through mere descriptive sleight-of-hand of turning a thing into something it is not.[3]

2. Removing One Condition of MSR Does Not Constitute a 'Quantum Change' in One's Level of Custody

In determining whether a prisoner subject to sentence which has not been invalidated is challenging the fact of their confinement—requiring a remedy in *habeas*—or merely conditions of their confinement—opening the door to a claim under § 1983—courts ask if the prisoner is seeking "a quantum change in the level of custody," in which case *habeas* is the proper remedy. *Graham v. Broglin*, 922 F.2d 379, 381 (7th Cir. 1991). This Court explained as follows:

> If the prisoner is seeking what can fairly be described as a quantum change in the level of custody—whether outright freedom, or freedom subject to the limited reporting and financial constraints of bond or parole or probation… then habeas corpus is his remedy. But if he is seeking a different program or location or environment, then he is challenging the conditions rather than the fact of his confinement and his remedy is under civil rights law, even if, as will usually be the case, the program or location or environment that he is challenging is more restrictive than the alternative that he seeks.

Graham, 922 F.2d at 381.

[3] It calls to mind Abraham Lincoln's famous query, "How many legs does a dog have if you call his tail a leg? Four. Saying that a tail is a leg doesn't make it a leg." Lincoln's quote serves as a reminder that labels and words do not change the essence of something and that reality should not be manipulated or distorted to fit one's preferences.

This Court's decision in *Williams* sits awkwardly with the requirement that only individuals who seek "a quantum change in the level of custody" must proceed via *habeas*.

Here, it is far-fetched to say that Plaintiff Ridley, in seeking relief from the prohibition on access to erectile dysfunction medication, seeks "a quantum change in the level of custody." Whether this one condition is lifted or not, he will still remain in the custody of the IDOC for the same duration of time, subject to restrictions that impact every aspect of his life—*inter alia,* GPS monitoring of his movements (730 ILCS 5/3-3-7 (a)(7.7); (17)); restrictions on accepting employment, enrolling in school, or changing his residence without the prior approval of a parole agent (730 ILCS 5/3-3-7 (a)(9); (b-1)(4)); mandatory attendance at sex offender therapy (730 ILCS 5/3-3-7 (a)(7.5)); a requirement that he consent to suspicionless searches of his person, property, and residence (730 ILCS 5/3-3-7 (a)(10)); a prohibition on leaving the state without advance permission (730 ILCS 5/3-3-7 (a)(9)); and the threat of reimprisonment if he violates any of these conditions.

Williams is out of step with this Court's decisions about what constitutes a suit seeking a "quantum change" in the level of custody that would have to be brought under *habeas*. *Compare Graham v. Broglin,* 922 F.2d 379, 381 (7th Cir. 1991) (suit seeking release from prison to work release program should have been brought under § 1983 because it did not seek a "quantum change" in the level of custody); *Bunn v. Conley*, 309 F.3d 1002, 1008 (7th Cir. 2002) (suit seeking to enjoin Bureau of Prisons from notifying local law enforcement that parolee was "convicted of a

crime of violence" pursuant to statute did not seek a quantum change in custody and should have been brought under § 1983); with *Jones v. Cunningham*, 371 U.S. 236 (1963) (suit seeking release from parole to outright freedom was properly brought under *habeas*).

3. Success on Plaintiffs' Claim Would Not Imply the Invalidity of Ridley's Conviction or Sentence

In *Heck v. Humphrey*, 512 U.S. 477 (1994), the Supreme Court held that a prisoner is barred from bringing a § 1983 action if "judgment in favor of the plaintiff would necessarily imply the invalidity of his conviction or sentence." *Heck*, 512 U.S. at 486. By contrast, an action that "even if successful, will not demonstrate the invalidity of any outstanding criminal judgment" falls within § 1983's scope. *Id*. at 487; *see also, Muhammad v. Close*, 540 U.S. 749, 751 (2004) ("*Heck*'s requirement to resort to state litigation and federal habeas before § 1983 is not, however, implicated by a prisoner's challenge that threatens no consequence for his conviction or the duration of his sentence."). This Court's decision in *Williams* that challenges to parole conditions must be brought under *habeas* is in tension with these principles.

Here, Plaintiff Ridley is not seeking to invalidate his conviction, his sentence, or the duration of his MSR term. To the contrary, success on Ridley's constitutional challenge to the prohibition on access to ED medications would "in no way affect[] the duration, much less the fact, of [his] confinement. His supervised release will still be in place, and it will last just as long." *Bunn*, 309 F.3d at 1008; *see also Adams v. Bledsoe*, 173 F. App'x 483 (7th Cir. 2006) (challenge to placement in

restrictive housing "does not affect either the fact or duration of his confinement, so habeas corpus relief is unavailable. … A §2241 petition is proper only when the prisoner seeks to 'get out' of custody in a meaningful sense...") (citations omitted).

For all of these reasons, the Court's conclusion in *Williams* that a parolee who challenges a condition of his parole is actually challenging his custody was incorrect and should be overturned.

B. Other Courts Recognize that § 1983 Is the Proper Vehicle for Challenges to Parole Conditions

The logic of *Williams* has been rejected by other circuits, as well as numerous district courts. In *Thornton v. Brown*, 757 F.3d 834, 843-46 (9th Cir. 2013), the Ninth Circuit allowed a civil rights action by a parolee challenging a residency restriction and the imposition of a GPS monitoring device. The Court distinguished between the plaintiff's status as a parolee and the conditions of his parole, and because he challenged only the latter, which did not call into question the validity of his conviction or the length of his confinement, his suit was deemed cognizable in a civil rights action. *Thornton*, 757 F.3d at 842-43; *see also Hamlet v. Irvin*, No. 21-7477, 2023 U.S. App. LEXIS 11959, at *1-2 (4th Cir., May 16, 2023) (citing *Thornton* for the conclusion that the district court erred in dismissing plaintiff's complaint challenging the constitutionality of a probation condition requiring him to submit to electronic monitoring by wearing a GPS device.); *Johnson v. Mondrosch*, 586 F. App'x 871, 874 (3d Cir. 2014) (non-precedential opinion) (recognizing that federal courts are divided as to whether a state parolee may challenge a condition of parole via a § 1983 action and declining to resolve the

question); *Brown v. Cooper*, No. 22-2953, 2023 U.S. Dist. LEXIS 117599 (E.D. Pa. July 10, 2023) (holding that "*Heck* is inapplicable under the present circumstances—*i.e.,* where challenges, if successful, would relieve the plaintiff from compliance with conditions rather than result in an earlier release from custody.") (quotations and citations omitted)); *Sledge v. Thaler*, No. 3:10-CV-0456-P (BH), 2010 U.S. Dist. LEXIS 71765, at *15-16 (N.D. Tex. June 28, 2010) (concluding that a § 1983 suit was the appropriate vehicle by petitioner to challenge certain conditions of his confinement on mandatory supervision, including electronic monitoring, because it would not result in an earlier release from custody but would only result in relief from compliance with the challenged conditions); *Gonser v. Shipman*, No. 21-11425, 2022 U.S. Dist. LEXIS 13783, at *8-9 (E.D. Mich. Jan. 25, 2022) (finding the logic in *Thornton* "persuasive" and holding that a plaintiff could challenge parole conditions in a § 1983 action).

C. *Williams* Undercuts the Values Underlying § 1983

1. There Are Practical Barriers to Seeking *Habeas* Relief

Congress designed § 1983 to provide a vehicle by which individuals could vindicate their constitutional rights in federal court relatively quickly and with ease. But a requirement to proceed under *habeas* rather than § 1983 makes it much harder for individuals to obtain relief from conditions that violate their constitutional rights.[4]

[4] Unlike § 2254, § 1983 provides a broad cause of action to "[e]very person" who is subject to a "deprivation of any rights, privileges, or immunities secured by the Constitution and laws." 42 U.S.C. § 1983; *see Preiser v. Rodriguez*, 411 U.S. 475, 488-89 (1973) (noting that the federal habeas corpus statute's procedural requirements exclude prisoners who are

Before a person in state custody can seek federal *habeas* relief, he must first exhaust state court remedies. *See Farrell v. Lane*, 939 F.2d 409, 410 (7th Cir. 1991) (prohibiting district courts from addressing claims raised in a *habeas* petition "unless the state courts have had a full and fair opportunity to review them").[5] That means that if a parole condition can only be challenged under *habeas*, the parolee must present his constitutional claims to the Illinois Supreme Court before seeking federal court review. *O'Sullivan v. Boerckel*, 526 U.S. 838 (1999).

A person on parole faces a number of practical barriers to exhausting state remedies. One route for an individual to exhaust state remedies is through direct appeal of his conviction. However, such an avenue for a constitutional challenge to a parole condition is often unavailable because the parolee will not know about the effect the condition will have on him until long after the 30-day window for direct appeal has expired. *See* Ill. S. Ct. R. 606(b) ("the notice of appeal must be filed … within 30 days after the entry of the final judgment appealed from.") For example, at the time of his conviction and sentencing, Plaintiff Ridley had no way of knowing that he would later be diagnosed with prostate cancer and have surgery that would

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challenging the fact or duration of their imprisonment "from the broad remedial protection provided by [§ 1983]"); *see also Wilson v. Midland Cty.*, No. 22-50998, 2024 U.S. App. LEXIS 23339, at *52 (5th Cir. Sep. 13, 2024) (en banc) (Willett, J., dissent) ("Written in sweeping terms against a backdrop of horrific violence, terror, and subjugation, this statute of constitutional accountability was meant to open courthouse doors, not bolt them shut. Unlike § 2254, § 1983 is worded quite open-endedly, providing a broad cause of action to '[e]very person' who is subject to a 'deprivation of [their] rights, privileges, or immunities secured by the Constitution and laws.' Its language is unsubtle and categorical, seemingly erasing any need for unwritten, gap-filling implications, importations, or incorporations.") (citations omitted).

[5] In addition, monetary damages are not an available remedy in a *habeas corpus* petition. *See Glaus v. Anderson*, 408 F.3d 382, 387 (7th Cir. 2005).

lead to his needing ED medication.

Another potential route for exhausting state remedies is a state *habeas corpus* petition. This route also presents substantial barriers. Persons in custody are not entitled to appointed counsel in state *habeas* proceedings. *See Alexander v. Pearson*, 354 Ill. App. 3d 643, 645, 290 Ill. Dec. 416, 419, 821 N.E.2d 728, 731 (2004) ("There is no provision in the Habeas Corpus Act for the appointment of counsel, and it is a long-established principle that there is no right to appointed counsel in a habeas corpus proceeding due to its civil nature.") (citation omitted). Likewise, there is no mechanism for fee shifting to a plaintiff represented by private counsel in *habeas* proceedings (in state or federal court). Therefore, an individual who cannot afford private counsel cannot realistically pursue such a challenge.

Section 2-1401 of the Illinois Code of Civil Procedure (735 ILCS 5/2-1401) provides another avenue for an individual in state custody to seek relief from a state court judgment. However, relief is only available under this section where the individual in custody raises factual matters that were unknown and unavailable at the time of trial and which would likely have prevented the judgment from being entered. *People v. Berland*, 74 Ill.2d 286, 385 N.E.2d 649 (1979). Section 2-1401 relief cannot be based on events which occur after the conviction. *People v. Howard*, 363 Ill.App.3d 741, 844 N.E.2d 980 (1st Dist. 2006). Therefore, it is doubtful that this would provide a realistic route for Plaintiff Ridley to seek relief from the prohibition on access to ED medications.

Moreover, an individual on MSR who challenges a parole condition in state court through direct appeal or a 2-1401 petition will be stuck with the limited record developed during the criminal proceedings. The parolee will not be able to conduct discovery on facts that may bear on the constitutionality of the parole condition, which makes the possibility of obtaining relief from the condition all the more remote. *See People v. Bingham,* 2018 IL 122008, ¶ 23, 425 Ill. Dec. 611, 617, 115 N.E.3d 166, 172 (2018) ("Defendant has the heavy burden of overcoming the strong judicial presumption in favor of the constitutionality of the statute he seeks to challenge. Neither the trial nor the sentencing hearings in this case allowed for the development of the record with a view to litigating a challenge to defendant's sex offender registration obligation. Indeed, that obligation was not even mentioned in the trial court proceedings."). Discovery is almost certainly necessary when challenging the constitutionality of a parole restriction.[6]

Finally, any of these methods for seeking state court relief from a parole condition alleged to be unconstitutional can take years to resolve. For people with one, two or three-year MSR terms, their cases will often be moot before a final

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[6] This is so because the test for determining the constitutionality of a parole condition is the four-part test set forth in *Turner v. Safley*, 482 U.S. 78, 89-90 (1987). *See Montoya v. Jeffreys*, 99 F.4th 394, 403 (7th Cir. 2024). A determination of whether an MSR condition satisfies the *Turner* test typically requires factual development. Here, for example, Plaintiffs' challenge to the categorical prohibition on access to ED medication would involve, among other things, discovery into factual issues regarding the reasons for the prohibition; whether access to ED medications presents a threat to public safety; and whether there was a ready available alternative to the categorical prohibition. *See Lashbrook v. Hyatte*, 758 F. App'x 539, 542 (7th Cir. 2019) ("we note that the application of the *Turner* factors may require defendants to produce evidence that justifies the policies…. But at this prediscovery stage, there is no evidentiary record from which the judge could evaluate the prison's resource concerns, the impact on prison staff…, or the viability of other means of [the plaintiff exercising his rights].")

decision is made, which will deprive them of the opportunity to seek relief in federal court.[7]

2. Limiting Challenges to Parole Conditions to *Habeas* Stymies Development of the Law

Perhaps even more critically, limiting parolees who seek to challenge the constitutionality of parole conditions to seeking *habeas* relief stymies the development of the law. This is so for two primary reasons. One, as noted, there is no provision for fee shifting in a case where a plaintiff prevails on a constitutional claim brought via a *habeas* petition, and there is therefore no financial incentive for lawyers to pursue these cases. Yes, an individual can proceed *pro se*, but they are seriously behind the eight ball without an attorney in this context, thereby forestalling the law's development. Two, the Anti-Terrorism and Effective Death Penalty Act of 1996 ("AEDPA") "considerably weakens the ability of the federal court to perform any oversight function *vis-a-vis* state court criminal decisions." *See* Marshall J. Hartman and Jeanette Nyden, *Habeas Corpus and the New Federalism*

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[7] This is a point made by Judge Easterbrook in his dissent in *Savory v. Cannon*, 947 F.3d 409 (7th Cir. 2020) (en banc):

> Some sentences are too short to allow collateral relief. We routinely see cases in which it has taken a decade to pursue a direct appeal, collateral review in state court, and collateral review in federal court. If confinement ends before collateral review begins, the custody requirement prevents all further review. If the sentence is fully served while state collateral review is ongoing, federal collateral review cannot begin. (Only state prisoners "in custody" can seek review under §2254(a).) So a rule under which a § 1983 claim does not accrue as long as the criminal judgment stands means that thousands of defendants sentenced to less than five or ten years in prison can never present a § 1983 claim, no matter how egregious the constitutional violations that led to wrongful conviction and custody.

Id. at 433-434.

After the Anti-Terrorism and Effective Death Penalty Act of 1996, 30 J. Marshall L. Rev. 337, 352-386 (1997) (explaining the changes made by AEDPA). According to the authors, two particular aspects of the AEDPA have severely diminished the ability of federal courts to pass on the constitutionality of laws in the context of a *habeas* challenge. The first is that decisions of a state court which are only inconsistent with decisions of the federal courts, must be allowed to stand. Only if the federal court can point to a decision of the United States Supreme Court that is contrary to the state court decision, may it grant relief. And second, federal courts may no longer grant relief unless the state court's application of federal law to the facts of the case was "unreasonable." *Id*. In the words of Judge Adelman of the U.S. District Court for the Eastern District of Wisconsin, the deference accorded to state courts under the AEDPA is such that *habeas* "no longer provides a meaningful avenue for protecting the constitutional rights of criminal defendants." Lynn Adelman, *Who Killed Habeas Corpus?* Dissent, Winter 2018.[8]

Given that the practical effect of *Williams* is to prevent individuals on MSR from having access to the federal courts, one can't help wonder if the judge-made legal fiction set forth in *Williams* is best viewed as part of a larger battle to limit federal court jurisdiction. But ideological battles to the side, restrictions on federal court jurisdiction based on contestable, judge-made legal fictions should not be embraced, especially given the Supreme Court's direction that federal courts have a "strict duty to exercise the jurisdiction that is conferred upon them by Congress,"

[8] Available at: https://perma.cc/77QL-VV8H

Quackenbush v. Allstate Ins. Co., 517 U.S. 706, 716 (1996), one that is "virtually unflagging," *Deakins v. Monaghan*, 484 U.S. 193, 203 (1988). When a party properly files a case in federal court, "we must decide it," as "[w]e have no more right to decline the exercise of jurisdiction which is given, than to usurp that which is not given." *Cohens v. Virginia*, 19 U.S. 264, 404 (1821).

D. Changed Circumstances Call for Reconsideration of *Williams*

Recent developments make it more necessary than ever to give individuals the opportunity to challenge the constitutionality of their parole restrictions via § 1983. This is so for two reasons.

First, increasingly intrusive parole conditions are now imposed on parolees, especially individuals convicted of sex offenses. Many of these conditions are categorically imposed by statute, without any individualized consideration, and intrude upon individual's most basic constitutional rights. Absent the ability to effectively challenge such restrictions via § 1983, individuals are forced to endure constitutionally suspect conditions for years while on parole. In Illinois, categorically imposed, statutory conditions include the following:

- 730 ILCS 5/3-3-7 (a) (7.7) (parolees with sex offense convictions must "wear an approved electronic monitoring device … for the duration of the person's parole, mandatory supervised release term, or extended mandatory supervised release.");
- 730 ILCS 5/3-3-7 (a) (7.9) (parolees with sex offense convictions must "consent to search of computers, PDAs, cellular phones, and other devices under his or her control that are capable of accessing the Internet or storing electronic files, in order to confirm Internet protocol addresses reported in accordance with the Sex Offender Registration Act and compliance with conditions in this Act.");

- 730 ILCS 5/3-3-7 (a) (7.10) (parolees with sex offense convictions must "not possess prescription drugs for erectile dysfunction.")[9];

- 730 ILCS 5/3-3-7 (a) (7.11) (ii) (parolees with sex offense convictions must "submit to periodic unannounced examinations of the offender's computer or any other device with Internet capability by the offender's supervising agent, a law enforcement officer, or assigned computer or information technology specialist, including the retrieval and copying of all data from the computer or device and any internal or external peripherals and removal of such information, equipment, or device to conduct a more thorough inspection."); and

- 730 ILCS 5/3-3-7 (b-1) (10) (parolees with sex offense convictions must not "possess or have under his or her control any material that is sexually oriented, sexually stimulating, or that shows male or female sex organs or any pictures depicting children under 18 years of age nude or any written or audio material describing sexual intercourse or that depicts or alludes to sexual activity, including but not limited to visual, auditory, telephonic, or electronic media, or any matter obtained through access to any computer or material linked to computer access use.")

Given the severity of these mandatory conditions, individuals should have the opportunity to challenge them in a forum that gives them a chance to succeed.[10]

Second, our society's evolving commitment to rehabilitation argues for undoing the burdens imposed by *Williams* in order to better facilitate reintegration, which unconstitutional parole restrictions, including the one at issue here, severely

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[9] The severity of this prohibition, which applies categorically without regard to the parolee's medical need for erectile dysfunction medication and/or whether ED medications were used in connection with the individual's offense, is striking when contrasted with 730 ILCS 5/3-3-7 (a) (19), which permits individuals convicted of methamphetamine-related offenses to possess pseudoephedrine if "prescribed by a physician."

[10] By way of comparison, in *Morrissey v. Brewer*, 408 U.S. 471 (1972), the Court described standard parole restrictions as including "[seeking] permission from [one's] parole officers before engaging in specified activities, such as changing employment or living quarters, marrying, acquiring or operating a motor vehicle, traveling outside the community, and incurring substantial indebtedness. Additionally, parolees must regularly report to the parole officer to whom they are assigned and sometimes they must make periodic written reports of their activities." *Id*. at 478.

inhibit. *See Bleeke v. Server*, No. 1:09-CV-228 PPS APR, 2010 U.S. Dist. LEXIS 4058, at *25 (N.D. Ind. Jan. 19, 2010) (noting in context of challenge to condition prohibiting contact between a father on parole and his minor children that "[t]he re-establishment of the familial relationship is one of the prime examples of substantive freedom that a parolee enjoys upon achieving his new status. … [T]his is very much the whole point of parole. Without the ability to foster or even participate in this relationship, the 'liberty' provided by parole may be considered a mostly hollow shell."). Without the ability to effectively challenge parole conditions that impede a parolees' ability to pursue the attachments of normal life, including sexual intimacy with one's partner, the rehabilitative goals of MSR will be frustrated.

IV. If the Court Declines to Overrule *Williams* Completely, the Court Should Limit Its Applicability

The Supreme Court has "often admonished that general language in judicial opinions should be read as referring in context to circumstances similar to the circumstances then before the Court and not referring to quite different circumstances that the Court was not then considering." *Turkiye Halk Bankasi A.S. v. United States*, 598 U.S. 264 (2023) (internal quotation marks omitted).

Here, the circumstances under which *Williams* arose suggest that this court should limit its applicability. In particular, the plaintiff in *Williams* sought relief from one of the most basic and standard conditions of parole—a prohibition leaving the country. This Court noted that such basic conditions are "what distinguish parole from freedom." *Williams*, 336 F.3d at 579; *see also Johnson v. Mondrosch*,

586 Fed. Appx. at 874 ("Restrictions to a particular community, job, or home, as well as restrictions on travel or movement, are standard conditions of parole."). Thus, if the plaintiff in *Williams* was successful in his challenge to this condition and was permitted to go to a foreign country where "the state has no inherent right to enforce its criminal laws or restrictions," in a very real way, he would have achieved release from custody. *Id*. at 581.

Here, in contrast, if Plaintiff Ridley were successful in his constitutional challenge to the prohibition on access to ED medication, very little about his day-to-day life on MSR would change. He would still be subject to GPS monitoring, random searches, reporting requirements, and a host of other conditions imposed by the PRB and his parole agent. In short, he would unquestionably still be in Department custody.

In addition, it is worth looking more closely at the decision on which *Williams* was principally based, *Drollinger v. Milligan*, 552 F.2d 1220 (7th Cir. 1977). The plaintiff in *Drollinger* was serving a sentence of probation as an alternative to incarceration. This Court explained as follows:

> The granting of probation is a discretionary act, and in effect is an alternative to imprisonment. In placing a defendant on probation the trial court is required to impose conditions concerning the manner in which the defendant must conduct himself. The court may revoke the defendant's probation if any of these conditions are violated, thereby ordering the execution of the previous judgment and causing the confinement of the defendant according to the original sentence. No appeal is permitted from the order revoking probation. … Drollinger's challenge to the conditions of her probation is, therefore, an attack on the sentence of the trial court. She is seeking release from at least part of that sentence, an attempt to enlarge the scope of her "conditional liberty."

Drollinger, 552 F.2d at 1225 (citations omitted).

Here, in contrast, Plaintiff Ridley, has not received discretionary early release from prison. Rather, he is serving a term of Mandatory Supervised Release, a form of post-imprisonment community supervision that serves rehabilitative purposes distinct from the purposes served by imprisonment.

Illinois law makes clear that MSR is not a substitute for additional time in prison because the purpose of MSR is "to facilitate reintegration back into society, a purpose distinct from serving time in prison." *Round v. Lamb*, 2017 IL 122271, ¶ 21, 418 Ill. Dec. 274, 280 (Ill. 2017) (citations omitted). The distinct rehabilitative purpose served by supervised release has also been recognized by the U.S. Supreme Court. *See, e.g., United States v. Haymond,* 588 U.S. 634, 652 (2019) ("unlike parole, supervised release wasn't introduced to replace a portion of the defendant's prison term, only to encourage rehabilitation after the completion of his prison term.") (citing U.S. Sentencing Commission, Guidelines Manual ch. 7, pt. A(2)(b) (Nov. 2012)); *Johnson v. United States*, 529 U.S. 694, 708-709 (2000) ("The congressional policy in providing for a term of supervised release after incarceration is to improve the odds of a successful transition from the prison to liberty.")

In sum, the type of custody the plaintiff is under and the type of restriction being challenged matter to the determination of whether *Heck* bars relief under § 1983. In the context of early release from an incomplete prison sentence, it makes some logical sense to conclude that a challenge to a condition of parole or probation amounts to a challenge to the legitimacy of the sentence itself. In the context of

MSR, which is designed to foster reintegration into normal life, the analysis is different. Likewise, a challenge to a standard parole condition (*i.e.*, a prohibition on international travel) is more akin to a challenge to the sentence than a challenge to a narrower, discrete rule of conduct like that at issue here.

Although *Williams* is worded broadly, if this Court is not inclined to invalidate it completely, this Court should limit its scope to those cases where elimination of the challenged parole condition would meaningfully alter the parolee's custody.

CONCLUSION

For the foregoing reasons, Plaintiffs request that this Court reverse the district court's decision granting Defendant's motion to dismiss.

Respectfully submitted,

/s/ Adele D. Nicholas
/s/ Mark G. Weinberg
Counsel for Plaintiffs-Appellants

Law Office of Adele D. Nicholas
5707 W. Goodman Street
Chicago, Illinois 60630
(847) 361-3869
adele@civilrightschicago.com

Law Office of Mark G. Weinberg
3612 N. Tripp Avenue
Chicago, Illinois 60641
(773) 283-3913
mweinberg@sbcglobal.net

CERTIFICATE OF COMPLIANCE WITH
F.R.A.P 32(a)(7), F.R.A.P. 32(g) and C.R. 32(c)

I certify that the foregoing Plaintiffs-Appellants' Brief conforms to the rules contained in Fed. R. App. P. 32(a)(7) for a brief produced with a proportionally spaced font. The length of this brief is 7,730 words.

/s/ Adele D. Nicholas
Counsel for Plaintiffs-Appellants

CERTIFICATE OF SERVICE

I certify that on October 1, 2024, I electronically filed the **Brief and Short Appendix for Plaintiffs-Appellants** with the Clerk of the Court for the United States Court of Appeals for the Seventh Circuit by using the CM/ECF system. I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

/s/ Adele D. Nicholas
Counsel for Plaintiffs-Appellants

CIRCUIT RULE 30(d) STATEMENT

Pursuant to Circuit Rule 30(d), counsel certifies that all material required by Circuit Rule 30(a) and (b) are included in the appendix

/s/ Adele D. Nicholas
Counsel for Plaintiffs-Appellants

APPENDIX

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
WESTERN DIVISION

THE NATIONAL ASSOCIATION FOR RATIONAL SEX OFFENSE LAWS and JASON RIDLEY, individually and on behalf of all those similarly situated, *Plaintiffs*, *v.* LATOYA HUGHES, in her official capacity as Director of the Illinois Department of Corrections, *Defendant*.	NO. 3:24-CV-50025 HON. IAIN D. JOHNSTON

MEMORANDUM OPINION AND ORDER

Seventh Circuit precedent forecloses parolees from attacking the fact of their confinement—namely, the conditions of their parole—under 42 U.S.C. § 1983. *Williams v. Wisconsin*, 336 F.3d 576, 579-580 (7th Cir. 2003). That is nevertheless what the plaintiffs attempt to do here. Cognizant of their suit's futility, they ask the Court to dismiss it to allow the Seventh Circuit an opportunity to reconsider *Williams*. Dkt. 15 at 2. Dismissal on the merits should follow, so long as the Court has jurisdiction.

Hughes contends that Ridley lacks standing because his suit is barred by the *Preiser-Heck* doctrine. Dkt. 9 at 7-9. But that doctrine is no jurisdictional bar—it is rather an affirmative defense, forfeited if not raised, that goes only to the availability of a cause of action. *Bell v. Raoul*, 88 F.4th 1231, 1234 (7th Cir. 2023); *Heck v. Humphrey*, 512 U.S. 477, 483 (1994) (describing how *Preiser* held that a claim for injunctive

relief challenging a conviction was not "cognizable under § 1983"). And the lack of a cause of action does not bear on standing. *See Steel Co. v. Citizens for a Better Env't*, 523 U.S. 83, 96 (1998) ("[T]he nonexistence of a cause of action [is] no proper basis for a jurisdictional dismissal.").

Ridley does have standing under the facts pleaded.[1] He alleges an injury in fact: the violation of his constitutional rights by a condition of his parole. *See TransUnion LLC v. Ramirez*, 594 U.S. 413, 425 (2021). The defendant is, in her official capacity, charged under Illinois law with enforcing the challenged parole condition, Dkt. 1 ¶ 5, so Ridley's alleged injury is traceable to her. *See Lujan v. Defs. of Wildlife*, 504 U.S. 555, 561–62 (1992) (explaining that when the plaintiff is "himself an object" of the government regulation he challenges, there is "ordinarily little question" it has caused his asserted injury). And his requested relief—a declaratory judgment that the challenged condition is unlawful, and an injunction against the defendant forbidding her from enforcing it against him—would redress his asserted injury. *See id.*

On the merits, however, the plaintiffs have not stated a claim upon which relief can be granted, as they have no cause of action under § 1983. The complaint in this suit is therefore dismissed with prejudice. *Williams*, 336 F.3d at 580.

Date: June 6, 2024

HON. IAIN D. JOHNSTON
United States District Judge

[1] As does NARSOL, because Ridley is a member, Dkt. 1 ¶ 9. *See Milwaukee Police Ass'n v. Flynn*, 863 F.3d 636, 639-640 (7th Cir. 2017).

IN THE UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF ILLINOIS

The National Association for Rational Sex Offense Laws and Jason Ridley, Plaintiff(s), v. Latoya Hughes, Defendant(s).	Case No. 3:24-cv-50025 Judge Iain D. Johnston

JUDGMENT IN A CIVIL CASE

Judgment is hereby entered (check appropriate box):

☐ in favor of plaintiff(s)
and against defendant(s)
in the amount of $,

which ☐ includes pre–judgment interest.
☐ does not include pre–judgment interest.

Post-judgment interest accrues on that amount at the rate provided by law from the date of this judgment.

Plaintiff(s) shall recover costs from defendant(s).

☒ in favor of defendant(s) Latoya Hughes
and against plaintiff(s) The National Association for Rational Sex Offense Laws and Jason Ridley
.

Defendant(s) shall recover costs from plaintiff(s).

☐ other:

This action was *(check one)*:

☐ tried by a jury with Judge Iain D. Johnston presiding, and the jury has rendered a verdict.
☐ tried by Judge without a jury and the above decision was reached.
☒ decided by Judge Iain D. Johnston on a motion to dismiss.

Date: 6/6/2024

Thomas G. Bruton, Clerk of Court

\s\Yvonne Pedroza, Deputy Clerk