

Beyond the Heck Bar: What *Olivier v. City of Brandon* Means for Enforcement of Protest and Buffer-Zone Ordinances

Description

The Supreme Court recently decided *Olivier v. City of Brandon*, holding that a plaintiff with a prior conviction under a law may still bring a Section 1983 suit seeking purely prospective relief against that law, and that such a suit is not barred if the plaintiff lacked access to federal habeas relief.

Summary of Facts

Gabriel Olivier, an evangelical Christian street preacher and anti-abortion activist, regularly shared his views as a way to exercise his faith. This often led him to near a city amphitheater in Brandon, Mississippi.

In 2019, the City adopted a public demonstration ordinance that required all “protests” or “demonstrations” near the amphitheater around the time of events to be confined to a designated protest area. This area was located away from main pedestrian traffic.

In 2021, Olivier preached outside the designated protest area using a bullhorn and graphic anti-abortion signs directed at amphitheater attendees. He was arrested, cited, and prosecuted for violating the ordinance. Olivier ultimately pleaded no contest. He was fined \$304, placed on probation for a year, and faced a suspended 10-day jail term if he violated the ordinance again during his probation. Olivier paid the fine, did not appeal his conviction, and served no jail time.

Procedural History

Upon completing his sentence, Olivier wanted to resume preaching near the amphitheater outside of the designated protest area. He ultimately filed a federal civil rights action under 42 U.S.C. §1983 against the City of Brandon, alleging that the city ordinance violated the Free Speech Clause of the First Amendment by relegating him and other speakers to an “out-of-the-way” protest zone. Olivier sought declaratory judgment and an injunction preventing future enforcement of the ordinance.

At district court, the City moved to dismiss, arguing that under *Heck v. Humphrey*, 512 U.S. 477 (1994), a person previously convicted of violating a statute cannot use a §1983 to challenge the constitutionality of that statute since success would necessarily imply the invalidity of the conviction. The district court agreed and dismissed the complaint.

The Court of Appeals for the Fifth Circuit affirmed, holding that the success on Olivier’s First Amendment claim would necessarily call his prior conviction into question and was thus barred by *Heck*. This led to a Circuit split as the Court of Appeals for the Ninth Circuit held that a suit for “prospective injunctive relief” was not barred by *Heck* since it did “neither invalidate[d] nor impose[d] tort liability for a prior conviction.” Thus, the Supreme Court of the United States granted a writ of certiorari to resolve the Circuit split.

The Supreme Court of the United States

On March 20, 2026, the Supreme Court unanimously reversed the Fifth Circuit's decision and held that Olivier's suit could proceed because his claim only sought prospective relief and therefore was not barred by *Heck*.

Justice Kagan, writing for the Court, explained that bars §1983 suits that necessarily imply the invalidity of an outstanding criminal judgment where the plaintiff seeks damages or other relief, but it does not prohibit suits that are "wholly forward-looking" and challenge only future enforcement of the law.

The Court relied on and correlated past rulings from *Heck v. Humphrey*, 512 U.S. 477 (1994), *Edwards v. Balisok*, 520 U.S. 641 (1997), and *Wilkinson v. Dotson*, 544 U.S. 74 (2005) to establish the legal principle in this case. The Court first explained that in *Heck*, a man had been convicted of manslaughter in state court and was serving a 15-year prison sentence. He filed a §1983 suit against two prosecutors and a police investigator in federal court while his appeal was pending. Heck alleged that they committed misconduct by destroying exculpatory evidence to secure his conviction. He sought monetary damages that would be "attributable to [his] unconstitutional conviction" as a remedy. *Heck*, 512 U.S., at 489-490.

In *Heck*, the Court ultimately ruled that §1983 did not allow the suit and that a defendant cannot claim damages for an alleged unconstitutional conviction without showing that it had already been overturned in some way. Thus, a claim as such "must be brought in habeas corpus proceedings." *Id.* at 481. Therefore, *Heck* bars "§1983 damages actions that necessarily require the plaintiff to prove the unlawfulness of his conviction or confinement." *Id.* at 468.

The ruling in *Heck* was later expanded in *Edwards v. Balisok* where a prisoner alleged that disciplinary hearing procedures violated his Fourteenth Amendment due process rights. He sought monetary damages for the alleged past violation and an injunction that required prison officials to adopt new procedures in order to "prevent future violations." *Edwards*, 520 U.S. at 648.

The Court ruled that the prisoner could not obtain damages without demonstrating "the invalidity of the punishment imposed" on him, and it was barred by *Heck*. 520 U. S., at 648. However, the Court found that his claim for "prospective injunctive relief" was different. The Court ruled that a claim for prospective injunctive relief could be brought under §1983 since it did not depend on showing the "invalidity of a previous" sentencing decision. *Id.*

In *Wilkinson v. Dotson*, 544 U.S. 74 (2004), the Court ruled allowed prisoners to bring a §1983 suit alleging that existing parole procedures violated the Due Process Clause. The Court also allowed the prisoners to request an injunction that would require compliance in the future because it was "distant" from "the core of habeas." *Wilkinson*, 544 U. S. at 82. Therefore, it was not barred by *Heck*.

Applying this framework, the Court emphasized that Olivier did not seek to overturn his prior conviction, recover damages tied to it, or otherwise obtain relief that would undermine the validity of that conviction. Since he only sought a declaration that the ordinance violates the First Amendment and an injunction preventing future enforcement, the Court found that success on his claim would not render his past conviction invalid or imply its invalidity under *Heck*. Thus, the Court remanded the case so that Olivier's First Amendment challenge to the ordinance could be evaluated on its merits.

Takeaway

Olivier v. City of Brandon reinforces that enforcing protest and designated protest area ordinances will be scrutinized under the First Amendment. Moreover, *Olivier* also emphasizes that a prior conviction under such an ordinance does not prevent the speaker from filing a §1983 claim to stop future enforcement. Therefore, officers should enforce protest-related rules in a clear, content-neutral manner. Further, officers should be prepared to articulate specific safety, noise-control, or obstruction reasons for moving or arresting speakers with those reasons thoroughly documented throughout reports.

Olivier v. City of Brandon, 607 US _ (2026)

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