

SUMMARY OF ARGUMENT

In *Heck v. Humphrey*, 114 S. Ct. 2364 (1994), this Court held that a state prisoner cannot bring a damages action under 42 U.S.C. 1983 for constitutional violations leading to his conviction, if success in that action would necessarily imply the invalidity of his outstanding criminal conviction. The Court in *Heck* also reaffirmed its holding in *Wolff v. McDonnell*, 418 U.S. 539 (1974), that a prisoner may bring a damages action for use of unconstitutional prison disciplinary procedures in depriving him of good time credits, if the unconstitutionality of those procedures does not necessarily vitiate the denial of good time, and the action therefore does not call into question the lawfulness of the prisoner's continuing confinement.

The courts of appeals have uniformly followed *Heck* and held that a prisoner may not bring a section 1983 damages action for wrongful disciplinary procedures if success in that action would necessarily result in restoration of the prisoner's good time. Conversely, if the claim is simply for using the wrong procedures, and does not necessarily implicate the loss of good time, the action may proceed under Section 1983. This was the rule applied by the court of appeals below.

Petitioners propose a radically new rule that would require this Court to abandon both *Heck* and *Wolff*. Petitioners' proposed rule is unintelligible and would defy easy or consistent application in the lower courts. It is unsupported by either the language or the legislative history of Section 1983 or 28 U.S.C. Section 2254. Petitioners' arguments in support of their proposed rule are policy arguments about the optimal scope of section 1983, and are properly addressed to Congress rather than this Court.

The Court should decline petitioners' invitation to abandon *Heck* and *Wolff*. It should hold, consistent with those cases, that a state prisoner may bring an action under § 1983 for a deprivation of procedural due process in a prison disciplinary proceeding, as long as success in that action would not necessarily result in restoration of good time credits taken in that proceeding. It should then affirm the judgment of the court of appeals, because respondent's success in his § 1983 action would not necessarily result in restoration of his good time.

A fortiori, a former state prisoner who has completed his sentence, like amicus Gotcher, may directly seek damages under § 1983 for wrongful deprivation of good time credits, since the restoration of good time cannot possibly result from the § 1983 action. Because such a person is not in custody, and therefore cannot invoke federal habeas corpus jurisdiction to seek restoration of his credits, damages under § 1983 are the only federal remedy for the violation of his federal constitutional rights. Absent the possibility of proceeding under the more specific habeas corpus statute, the plain language of § 1983 grants the former prisoner a cause of action for damages for wrongful deprivation of good time credits.

Finally, *Heck* left undisturbed *Wolff*'s holding that a state prisoner may seek prospective injunctive relief from unconstitutional prison disciplinary procedures. A claim for such relief does not call into question the lawfulness of the plaintiff's continuing confinement.