

*Civil Rights Act of 1871 — Federal Courts —
Due Process Clause — Williams v. Reed*

Being poor in America is taxing. For decades, claimants seeking assistance from social support programs have navigated bureaucratic processes and endured significant delays.¹ In the heyday of the “due process revolution,”² the Supreme Court took on a robust role in superintending welfare administration to safeguard beneficiaries’ access to social services.³ But today, the Court has increasingly absented itself from contests over social welfare.⁴ The Court’s retreat has occurred against the backdrop of the adoption of procedural barriers at the federal and state levels that can place benefits out of reach for lower-income Americans.⁵ In an extreme formulation, a state may refuse to facilitate the welfare claims process entirely, while foreclosing action-forcing litigation through Kafkaesque jurisdictional roadblocks.⁶ In *Williams v. Reed*,⁷ the Supreme Court struck down that very system, holding that Alabama’s administrative exhaustion requirement could not bar claimants from filing lawsuits under § 1983⁸ challenging delays in the State’s unemployment compensation system.⁹ In so doing, the Court implicitly nodded to due process values but declined to involve due process doctrine directly, instead resting its holding on jurisdictional grounds.¹⁰ By adopting the mood but not the language of due process, the Court missed an opportunity to reaffirm the jurisprudence of procedural due process in the welfare state at a time of continued need.¹¹

Under Alabama’s unemployment compensation regime, an individual who files a benefits claim is entitled to a “prompt[.]” determination accompanied by a reasoned explanation.¹² The claimant can seek review

¹ See Andrew Lloyd Merritt, Note, *Judicial Resolution of Systemic Delays in Social Security Hearings*, 79 COLUM. L. REV. 959, 959 (1979); Susannah Howe, *New Technologies, Old Rights: Litigating Public-Benefits Modernization*, 134 YALE L.J.F. 627, 629–30 (2025).

² Richard J. Pierce, Jr., Essay, *The Due Process Counterrevolution of the 1990s?*, 96 COLUM. L. REV. 1973, 1974 (1996).

³ See *id.* at 1977–78.

⁴ See Karen M. Tani, *The Supreme Court, 2023 Term — Foreword: Curation, Narration, Erasure: Power and Possibility at the U.S. Supreme Court*, 138 HARV. L. REV. 1, 90–91 (2024).

⁵ See Sara Sternberg Greene, *The Bootstrap Trap*, 67 DUKE L.J. 233, 244 (2017); see also, e.g., *Rose v. Becerra*, No. 19-2848, 2024 WL 3202342, at *3–4 (D.D.C. June 27, 2024) (collecting cases rejecting states’ efforts to impose work requirements and other conditions on Medicaid recipients).

⁶ See Petition for a Writ of Certiorari at 5–6, *Williams v. Reed*, 145 S. Ct. 465 (2025) (No. 23-191).

⁷ 145 S. Ct. 465 (2025).

⁸ 42 U.S.C. § 1983.

⁹ *Williams*, 145 S. Ct. at 470.

¹⁰ *Id.* at 470, 471 n.4.

¹¹ See, e.g., 7 *Key Trends in Poverty in the United States*, PETER G. PETERSON FOUND. (Nov. 26, 2024), <https://www.pgpf.org/article/7-key-trends-in-poverty-in-the-united-states> [<https://perma.cc/LL7Z-9DHZ>].

¹² ALA. CODE § 25-4-91(a) (2025).

of an initial determination in an appeals tribunal¹³ or before the Alabama Department of Labor's board of appeals.¹⁴ Regardless of the forum chosen, the claimant will "promptly" receive notice of the outcome of their appeal and an explanation of the adjudicator's decision.¹⁵ Federal law independently requires Alabama to establish systems to resolve unemployment benefits claims in a timely manner.¹⁶ The Alabama Code contains an administrative exhaustion requirement that precludes claimants from challenging a "decision allowing or disallowing a claim for benefits" until their claim has wound its way through the Department's internal procedures.¹⁷

In 2022, twenty-six Alabamians filed a lawsuit against Alabama Secretary of Labor Fitzgerald Washington and the State's Department of Labor in the Circuit Court of Montgomery County,¹⁸ alleging that the Secretary had failed to process their unemployment benefits claims in a timely manner — or, in some cases, to facilitate the process at all.¹⁹ According to the plaintiffs, the State had ignored claimants' requests;²⁰ effected "interminable delays" when making benefits determinations;²¹ allowed appeals to languish for years;²² denied claims without justification;²³ and provided claimants with insufficient notice.²⁴ The plaintiffs sued under § 1983,²⁵ alleging that the Secretary's refusal to facilitate the benefits administration process violated the Social Security Act²⁶ and the Fourteenth Amendment's Due Process Clause.²⁷

The circuit court granted Secretary Washington's motion to dismiss without stating the legal grounds for its dismissal.²⁸ The plaintiffs appealed.²⁹

¹³ *Id.* § 25-4-91(b)(2).

¹⁴ *Id.*; see also *id.* § 25-4-94(a).

¹⁵ *Id.* §§ 25-4-93 (appeals tribunal), 25-4-94(a) (board of appeals).

¹⁶ See 42 U.S.C. § 503(a)(1); see also *Cal. Dep't of Hum. Res. Dev. v. Java*, 402 U.S. 121, 133 (1971).

¹⁷ ALA. CODE §§ 25-4-95 (2025), 25-4-96 (2025).

¹⁸ *Johnson v. Washington*, 387 So. 3d 138, 140 (Ala. 2023). The plaintiffs later disposed of their claims against the Department in an amended complaint. See *id.*

¹⁹ Brief of Petitioners at 6, *Williams*, 145 S. Ct. 465 (No. 23-191) [hereinafter *Petitioners' Brief*].

²⁰ *Id.* at 8.

²¹ *Id.* at 6.

²² *Id.* at 6–7, 8.

²³ *Id.* at 8–9.

²⁴ *Id.* at 10 (describing how plaintiff Raymond Williams received a benefits denial and notice of hearing while hospitalized, failed to timely appeal because he was in the Intensive Care Unit, and was told by the State that "his stay in the ICU did not justify the late filing").

²⁵ Section 1983 furnishes a cause of action to redress "the deprivation of any rights, privileges, or immunities secured by the Constitution and laws" undertaken by a state actor operating under color of law. 42 U.S.C. § 1983.

²⁶ Ch. 531, 49 Stat. 620 (1935) (codified as amended at 42 U.S.C. §§ 301–1397mm).

²⁷ *Johnson v. Washington*, 387 So. 3d 138, 140 (Ala. 2023). The plaintiffs brought several other claims, which were removed in their amended complaint. See *id.*

²⁸ *Johnson v. Washington*, No. CV-2022-900134.00, slip op. at 2 (Ala. Cir. Ct. May 23, 2022) (mem.); see *Johnson*, 387 So. 3d at 141.

²⁹ *Johnson*, 387 So. 3d at 141.

The Supreme Court of Alabama affirmed.³⁰ Writing for the majority, Justice Mitchell's opinion³¹ held that Alabama's exhaustion requirement deprived the State's courts of subject matter jurisdiction to hear the plaintiffs' claims.³² The court reasoned that the State had furnished its administrative tribunals with "the exclusive authority" to address both "procedural challenges" and substantive claims regarding the administration of unemployment benefits.³³ Justice Mitchell then rejected the plaintiffs' argument that the U.S. Supreme Court's precedents had restricted states' ability to require exhaustion as a prerequisite to bringing § 1983 lawsuits.³⁴ The majority reasoned that any federal preemption under § 1983 would apply only in federal courts, leaving state courts' jurisdiction unaffected.³⁵

Justice Sellers concurred specially³⁶ to contend that even where a statute has not "expressly conditioned [state court] jurisdiction upon the exhaustion of administrative remedies,"³⁷ courts should give effect to administrative exhaustion requirements "as a 'judicially imposed prudential limitation.'"³⁸ Such requirements, he asserted, serve the interests of judicial economy and deference to the subject matter expertise of administrative agencies.³⁹

Justice Cook dissented.⁴⁰ He began by noting that the text of the exhaustion requirement covers "decision[s] allowing or disallowing a claim for benefits."⁴¹ And because the plaintiffs' claims had been ignored outright, there was no "decision" to which the administrative exhaustion regime could attach.⁴² On preemption, Justice Cook contended that U.S. Supreme Court precedent forbids a state court from applying an exhaustion requirement to preclude an action under § 1983, especially absent a clear statement stripping the state courts of jurisdiction.⁴³ Finding no such clear statement, Justice Cook questioned the statute's ability to "overrid[e]" the Supreme Court's word.⁴⁴ Justice Cook further concluded that "the basic principles of due process warrant relief" in light of the plaintiffs' "troubling" allegations of procedural impropriety.⁴⁵

³⁰ *Id.* at 140.

³¹ Justice Mitchell was joined by Justices Shaw, Bryan, Stewart, and Mendheim. Chief Justice Parker concurred in the result without authoring a separate opinion.

³² *Id.* at 142.

³³ *Id.* at 143.

³⁴ *Id.* at 144.

³⁵ *Id.*

³⁶ *Id.* (Sellers, J., concurring specially).

³⁷ *Id.*

³⁸ *Id.* (quoting *Patterson v. Gladwin Corp.*, 835 So. 2d 137, 142 (Ala. 2002)).

³⁹ *Id.* at 145.

⁴⁰ *Id.* (Cook, J., dissenting).

⁴¹ *Id.* (emphasis omitted) (quoting ALA. CODE § 25-4-95 (2025)).

⁴² *Id.* (quoting ALA. CODE § 25-4-95 (2025)).

⁴³ *Id.* at 147–48 (quoting, inter alia, *Patsy v. Bd. of Regents*, 457 U.S. 496, 516 (1982)).

⁴⁴ *Id.* at 147.

⁴⁵ *Id.* at 148.

The Supreme Court reversed.⁴⁶ Writing for the Court,⁴⁷ Justice Kavanaugh held that where application of an exhaustion requirement effectively bars § 1983 suits challenging administrative delays, state courts may not reject a claim on the basis of a failure to exhaust the administrative process.⁴⁸ Justice Kavanaugh pointed to precedent holding that states cannot “immuniz[e] state officials” from federal civil rights lawsuits, even when such suits are brought in state courts.⁴⁹ Applying that principle, the majority reasoned that Alabama sought to do just that.⁵⁰ By barring litigants from challenging administrative delays in its unemployment compensation scheme until after the administrative process had run its course, Alabama had made it so claimants “can *never* challenge delays in the administrative process,” functionally immunizing its agents from § 1983 liability.⁵¹

Justice Kavanaugh then responded to claims raised by the State and the dissent. The majority rebuffed Alabama’s argument that the jurisdictional character of its exhaustion requirement rendered the preemption inquiry distinct,⁵² responding that the Court “ha[d] not treated the jurisdictional label of state rules as dispositive” when statutes “functionally immunize defendants from a class of § 1983 claims in state court.”⁵³ And Justice Kavanaugh reasoned that the plaintiffs need not have sought mandamus relief before suing under § 1983, given that mandamus may not have been available and that imposing such an obligation could raise mootness concerns.⁵⁴ In closing, the Court noted that it “resolve[d] this dispute but [wa]s careful not to go beyond this Court’s existing precedents,”⁵⁵ and reserved the question of whether its prior holdings imposed a *per se* bar on state and federal courts’ ability to reject § 1983 suits on failure-to-exhaust grounds.⁵⁶ The Court also declined to offer a position as to whether the delays in Alabama’s “administrative process violated [the plaintiffs’] due process and statutory rights.”⁵⁷

Justice Thomas dissented.⁵⁸ Writing only for himself in Part I, Justice Thomas asserted that states can generally deprive their courts of

⁴⁶ *Williams*, 145 S. Ct. at 473.

⁴⁷ The majority opinion was joined by Chief Justice Roberts and Justices Sotomayor, Kagan, and Jackson.

⁴⁸ *Id.* at 470.

⁴⁹ *Id.* (citing *Felder v. Casey*, 487 U.S. 131, 139, 143 (1988); *Haywood v. Drown*, 556 U.S. 729, 739, 742 (2009)).

⁵⁰ *Id.* at 471.

⁵¹ *Id.*

⁵² *Id.*

⁵³ *Id.* at 472.

⁵⁴ *Id.*

⁵⁵ *Id.* at 473.

⁵⁶ *Id.* at 470 n.2 (citing *Patsy v. Bd. of Regents*, 457 U.S. 496 (1982); *Felder v. Casey*, 487 U.S. 131 (1988)).

⁵⁷ *Id.* at 471 n.4.

⁵⁸ *Id.* at 473 (Thomas, J., dissenting).

jurisdiction over cases arising under federal law, with the possible exception of instances implicating federal preemption.⁵⁹ Justice Thomas contended that § 1983 could not preempt Alabama’s exhaustion requirement because the plaintiffs could have litigated their claims in federal court.⁶⁰ After recommending that the Court set aside “demonstrably erroneous” preemption precedents,⁶¹ Justice Thomas suggested that the “[p]etitioners’ suit implicates other precedents that may not withstand scrutiny,” pointing specifically to the Court’s landmark procedural due process case and questioning whether § 1983 provides a cause of action.⁶² Continuing in Part II for a four-justice minority,⁶³ Justice Thomas contended that Alabama’s exhaustion requirement did not fall within any of the established categories limiting states’ authority to restrict their courts’ jurisdiction over federal causes of action.⁶⁴ Thus, the Supreme Court “ha[d] no authority to interfere with Alabama’s choice” to limit state court jurisdiction over unemployment benefits claims through its exhaustion requirement.⁶⁵

By adopting the mood but not the language of due process, the *Williams* majority gave voice to due process intuitions but missed an opportunity to reaffirm the doctrine itself. In a past age, the Court recognized that the economic precarity of welfare recipients and foundational constitutional principles demanded robust protection from arbitrary deprivation.⁶⁶ Today, the Court steps back. Granted, Justice Kavanaugh’s majority opinion invoked the rhetoric of due process,⁶⁷ and eight Justices refused to join Justice Thomas’s invitation to overturn the Court’s foundational welfare rights case.⁶⁸ But the *Williams* Court’s rhetorical invocation, rather than outright expression, of due process left much to be desired. The Court cast due process as relevant only to the merits of the plaintiffs’ suit,⁶⁹ while failing to consider how the Due Process Clause’s obligations might apply to the State’s administrative

⁵⁹ *Id.*

⁶⁰ *Id.* at 473–74.

⁶¹ *Id.* at 474 (quoting *Gamble v. United States*, 139 S. Ct. 1960, 1984 (2019) (Thomas, J., concurring)).

⁶² *Id.* at 474 n.* (citing, inter alia, *Goldberg v. Kelly*, 397 U.S. 254, 262 & n.8 (1970); Tyler B. Lindley, *Anachronistic Readings of Section 1983*, 75 ALA. L. REV. 897, 900–01 (2014)). Justice Thomas contended that *Goldberg v. Kelly*, the Court’s seminal case applying the Due Process Clause’s protections to welfare, “may not withstand scrutiny” because the case lacked “meaningful legal analysis.” *Id.*

⁶³ Justice Thomas was joined in Part II by Justices Alito, Gorsuch, and Barrett.

⁶⁴ *Id.* at 475.

⁶⁵ *Id.* at 476.

⁶⁶ See Tani, *supra* note 4, at 82, 84–85.

⁶⁷ See *Williams*, 145 S. Ct. at 468, 471.

⁶⁸ *Id.* at 474 n.* (Thomas, J., dissenting) (quoting, inter alia, *Goldberg v. Kelly*, 397 U.S. 254, 262 & n.8 (1970)).

⁶⁹ *Id.* at 471 n.4 (majority opinion).

exhaustion requirement itself.⁷⁰ And the majority met Justice Thomas's broadside with silence, missing an opportunity to reaffirm the continued validity of the doctrine.⁷¹ By hanging its hat on a jurisdictional holding about the impropriety of an "immunity rule"⁷² and offering nothing more,⁷³ the Court adopted due process intuitions but failed to reinforce its doctrinal relevance, with consequences for the Court's ability to ensure that its due process jurisprudence meets the moment.

In the heyday of the "due process revolution,"⁷⁴ the Court constructed an expansive view of the procedural protections that a welfare beneficiary is owed when the state curtails access to social support.⁷⁵ In *Goldberg v. Kelly*,⁷⁶ the Court constitutionalized Professor Charles Reich's articulation of the due process values at stake when the state deprives an individual of their means of survival⁷⁷ by requiring that administrators provide meaningful process before revoking welfare entitlements.⁷⁸ Six years later, in *Mathews v. Eldridge*,⁷⁹ the Court granted jurisdictions more leeway in structuring their welfare administration regimes.⁸⁰ The *Mathews* Court adopted a balancing test that evaluates the constitutionality of an administrative procedure by weighing the beneficiaries' needs alongside the government's interests.⁸¹ *Mathews* is considered the Court's "leading procedural due process case,"⁸² and courts have consistently relied on *Goldberg* for the principle that beneficiaries have a property interest in welfare protected by the Due Process Clause.⁸³ These

⁷⁰ See Carlos M. Vázquez & Stephen I. Vladeck, *The Constitutional Right to Collateral Post-Conviction Review*, 103 VA. L. REV. 905, 952 (2017) (noting that although "states may impose neutral procedural limitations on the enforcement of federal rights in state court," those jurisdictional rules are only "valid if they satisfy the requirements of the Due Process Clause").

⁷¹ *Williams*, 145 S. Ct. at 472.

⁷² *Id.* at 471.

⁷³ *Id.* at 471 n.4.

⁷⁴ See Fred O. Smith, Jr., *Due Process, Republicanism, and Direct Democracy*, 89 N.Y.U. L. REV. 582, 599 n.66 (2014).

⁷⁵ See Pierce, *supra* note 2, at 1977–78.

⁷⁶ 397 U.S. 254 (1970).

⁷⁷ See *id.* at 262 n.8 (quoting Charles A. Reich, *Individual Rights and Social Welfare: The Emerging Legal Issues*, 74 YALE L.J. 1245, 1255 (1965)) (citing Charles A. Reich, *The New Property*, 73 YALE L.J. 733 (1964)).

⁷⁸ See *id.* at 264.

⁷⁹ 424 U.S. 319 (1976).

⁸⁰ See *id.* at 334; see also Tani, *supra* note 4, at 87 (describing *Mathews* as "a retreat from the more welcoming posture of *Goldberg v. Kelly*").

⁸¹ *Mathews*, 424 U.S. at 334–35. Under *Mathews*'s tripartite framework, a court reviews the constitutionality of an administrative procedure by considering (1) "the private interest that will be affected by the official action," (2) the likelihood of "erroneous deprivation" caused by the procedure at issue and the potential benefit that an additional or different procedural requirement could provide, and (3) the government's interests, including any burden imposed on the state by a more onerous procedural requirement. *Id.* at 335.

⁸² Andrew Hammond, *Litigating Welfare Rights: Medicaid, SNAP, and the Legacy of The New Property*, 115 NW. U. L. REV. 361, 365 (2020); see also Jason Parkin, *Dialogic Due Process*, 167 U. PA. L. REV. 1115, 1119 (2019).

⁸³ See Hammond, *supra* note 82, at 389–90 & nn.133–39 (collecting cases).

cases, and their progeny, form the heartland of the procedural due process doctrine.⁸⁴

Alabama’s administrative exhaustion requirement posed a direct challenge to *Goldberg* and *Mathews*. By creating a “catch-22” wherein claimants could be denied access to benefits and barred from suing to challenge the State’s inaction,⁸⁵ Alabama’s scheme may have blocked eligible beneficiaries from receiving entitlements to which they have a property interest under *Goldberg* and *Mathews*.⁸⁶ By denying the plaintiffs any “opportunity to be heard”⁸⁷ through either administrative hearings⁸⁸ or litigation, Alabama’s system replicated practices that the Justices had condemned in *Goldberg*⁸⁹ and struck at the fundamental “right of access to the courts” found in the Due Process Clause.⁹⁰ The *Mathews* Court indicated that courts should consider a claimant’s interests even at the jurisdictional stage when it allowed Mr. Eldridge to mount a constitutional challenge despite his admitted failure to exhaust.⁹¹ And *Goldberg*’s concern — that “termination of aid pending resolution of a controversy over eligibility may deprive an eligible recipient of the very means by which to live while he waits”⁹² — was at its zenith in *Williams*, where the plaintiffs experienced pronounced financial hardship while awaiting relief.⁹³ Thus, while the Court was correct in holding that Alabama’s exhaustion requirement was “an immunity statute cloaked in jurisdictional garb,”⁹⁴ the State’s regime also ran afoul of due process.⁹⁵

Perhaps the Court could be praised for going no further than necessary. The parties did not frame the exhaustion requirement as a due

⁸⁴ See Andrew Hammond, *Pleading Poverty in Federal Court*, 128 YALE L.J. 1478, 1532 & nn.212–16 (2019) (collecting cases). The Court has applied *Mathews*’s framework beyond the context of social welfare, see *id.*, but at times has placed some limits on its reach, see, e.g., *Culley v. Marshall*, 144 S. Ct. 1142, 1150 (2024); *Medina v. California*, 505 U.S. 437, 445 (1992).

⁸⁵ *Williams*, 145 S. Ct. at 468.

⁸⁶ See *Goldberg v. Kelly*, 397 U.S. 254, 262 (1970); *Mathews*, 424 U.S. at 332–33.

⁸⁷ *Goldberg*, 397 U.S. at 267 (quoting *Grannis v. Ordean*, 234 U.S. 385, 394 (1914)).

⁸⁸ See Petitioners’ Brief, *supra* note 19, at 6–9.

⁸⁹ See *Goldberg*, 397 U.S. at 264, 267–68. Indeed, Alabama’s challenged scheme went even further than the New York regime that the Court struck down in *Goldberg*. New Yorkers were informed of the reason for the revocation of their benefits and afforded post-termination hearings, while some of the *Williams* plaintiffs were denied access to such information and were not granted hearings. Compare *id.* at 258–60, with Petitioners’ Brief, *supra* note 19, at 6–9.

⁹⁰ *Tennessee v. Lane*, 541 U.S. 509, 523 (2004).

⁹¹ See *Mathews*, 424 U.S. at 330, 332 (1976); see also *id.* at 330 (remarking that “cases may arise where a claimant’s interest in having a particular issue resolved promptly is so great that deference to” an administrator’s judgment on whether to waive an exhaustion requirement “is inappropriate”).

⁹² *Goldberg*, 397 U.S. at 264 (emphasis omitted).

⁹³ See Petitioners’ Brief, *supra* note 19, at 7–10; see also *id.* at 9 (describing how a plaintiff “lost everything and did not even have a place to stay and was struggling to keep from going hungry” while awaiting a response from the State).

⁹⁴ *Williams*, 145 S. Ct. at 472 (quoting *Haywood v. Drown*, 556 U.S. 729, 742 (2009)).

⁹⁵ Cf. *Vázquez & Vladeck*, *supra* note 70, at 952 (noting that state limitations on the enforcement of federal rights in state court must satisfy due process).

process issue in their briefing⁹⁶ — although, to be sure, Justice Thomas put due process on the majority’s radar.⁹⁷ And the majority’s refusal to invoke the Due Process Clause in settling a question that could be resolved on purely jurisdictional grounds aligns with principles of constitutional avoidance⁹⁸ and the demand for judicial minimalism⁹⁹ that several Justices have recently reemphasized.¹⁰⁰ But the *Williams* Court’s oversight, in a case falling in the heartland of due process, represents a missed opportunity to reaffirm the doctrine for two key reasons.

First, mounting threats to procedural due process warranted an unflinching modern statement reaffirming its legitimacy, but the majority responded with subtler undertones. Justice Thomas put *Goldberg* in his crosshairs, using his dissent as an opportunity to lay the groundwork for the case’s reversal.¹⁰¹ And in multiple cases decided later in the 2024 Term, Justice Thomas cited his *Williams* dissent in casting *Goldberg* as a “radical redefinition of ‘property’”¹⁰² and an “abandonment of the Due Process Clause’s original meaning.”¹⁰³ The majority’s apparent hesitancy to assert the continued validity of procedural due process in the face of direct opposition leaves open the prospect that lower courts may interpret silence as doctrinal uncertainty.¹⁰⁴ As Professors Curtis Bradley and Tara Leigh Grove describe, the Court signals that a prior decision is “disfavored” when the Justices “make disparaging statements about a precedent”¹⁰⁵ or “simply ignore a precedent — by failing to rely

⁹⁶ See Brief for Respondent at 21, *Williams*, 145 S. Ct. 465 (No. 23-191). Of course, the fact that the litigants did not affirmatively raise due process poses no barrier to the Court’s reaching the issue. See Amanda Frost, *The Limits of Advocacy*, 59 DUKE L.J. 447, 450 (2009) (noting that it is “not uncommon” for the Court to decide cases “on grounds that were never raised by the parties”).

⁹⁷ See *Williams*, 145 S. Ct. at 474 n.* (Thomas, J., dissenting).

⁹⁸ See Frederick Schauer, *Ashwander Revisited*, 1995 SUP. CT. REV. 71, 72 (1996) (describing canon of constitutional avoidance).

⁹⁹ See generally Cass R. Sunstein, *The Supreme Court, 1995 Term — Foreword: Leaving Things Undecided*, 110 HARV. L. REV. 4 (1996) (explaining concept of judicial minimalism).

¹⁰⁰ See, e.g., *Dobbs v. Jackson Women’s Health Org.*, 142 S. Ct. 2228, 2311 (2022) (Roberts, C.J., concurring in the judgment); *Biden v. Nebraska*, 143 S. Ct. 2355, 2400 (2023) (Kagan, J., dissenting); *Trump v. Anderson*, 144 S. Ct. 662, 671 (2024) (Barrett, J., concurring in part and concurring in the judgment).

¹⁰¹ See *Williams*, 145 S. Ct. at 474 n.* (Thomas, J., dissenting). By casting *Goldberg* as poorly reasoned, Justice Thomas signaled that the case might not survive the stare decisis inquiry. Cf. *Dobbs*, 142 S. Ct. at 2265–72 (discussing “quality of the reasoning” in stare decisis analysis, *id.* at 2265).

¹⁰² *Gutierrez v. Saenz*, 145 S. Ct. 2258, 2277 (2025) (Thomas, J., dissenting).

¹⁰³ *Id.* at 2278; see also *Medina v. Planned Parenthood S. Atl.*, 145 S. Ct. 2219, 2245–46 (2025) (Thomas, J., concurring).

¹⁰⁴ See Barry Friedman, *The Wages of Stealth Overruling (with Particular Attention to Miranda v. Arizona)*, 99 GEO. L.J. 1, 41 (2010).

¹⁰⁵ Curtis Bradley & Tara Leigh Grove, *Disfavored Supreme Court Precedent in the Lower Federal Courts*, 111 VA. L. REV. (forthcoming 2025) (manuscript at 13), <https://ssrn.com/abstract=5034761> [<https://perma.cc/H56M-8KAU>]; see also *Loper Bright Enters. v. Raimondo*, 144 S. Ct. 2244, 2308 (2024) (Kagan, J., dissenting) (describing the Court’s “overruling-through-enfeeblement technique”).

on it in cases where it would seem by its terms to apply.”¹⁰⁶ Both conditions appear present in *Williams*.¹⁰⁷ And in a manifestation of another warning sign described by Bradley and Grove,¹⁰⁸ several Justices have authored separate writings advancing narrow constructions of *Mathews* in recent cases involving state conduct likely to impose disproportionate burdens on the poor.¹⁰⁹ Accordingly, lower courts seeking to read the Supreme Court’s tea leaves may wonder whether the Court is still willing to apply *Goldberg* and *Mathews* as expansively as it has in years prior.¹¹⁰

Second, the *Williams* Court’s due process minimalism is part and parcel of the Court’s overarching retreat from safeguarding the rights of the poor at a time when judicial supervision is no less necessary. As Professor Karen Tani has documented, in the decades since the “due process revolution,” the Court has narrowed the substantive and procedural avenues through which welfare beneficiaries may seek relief from the judiciary.¹¹¹ As a result, welfare recipients have been increasingly underrepresented on the Court’s docket,¹¹² and cases implicating poverty law have seen notable recent losses entrenching need and deprivation.¹¹³ *Williams* is a reminder that as states continue to restrict access to social services in novel ways, vigorous enforcement of procedural due process remains a necessary safeguard against arbitrary deprivation. But the Court has failed to keep pace.

What’s more, the need for a robust vision of procedural due process in the welfare state may be even greater in the years to come. The Kafkaesque barriers experienced by the *Williams* plaintiffs are not limited to Alabama and have been exacerbated by recent technological changes.¹¹⁴ With the political branches cutting back core social welfare programs¹¹⁵ and sharply reducing staff levels in agencies that manage

¹⁰⁶ Bradley & Grove, *supra* note 105 (manuscript at 14).

¹⁰⁷ See *Williams*, 145 S. Ct. at 467–73 (not mentioning *Goldberg* or *Mathews*); see also *id.* at 474 n.* (Thomas, J., dissenting) (offering “disparaging statements” in a separate writing).

¹⁰⁸ See Bradley & Grove, *supra* note 105 (manuscript at 14) (“[T]he Court may apply a precedent narrowly.”).

¹⁰⁹ See *Culley v. Marshall*, 144 S. Ct. 1142, 1153 (2024) (Gorsuch, J., concurring) (arguing that *Mathews* does not reach context of civil asset forfeiture); *Nelson v. Colorado*, 137 S. Ct. 1249, 1259 (2017) (Alito, J., concurring in the judgment) (contending that *Mathews* should not apply to cases addressing imposition of court fees and fines).

¹¹⁰ Cf. Sunstein, *supra* note 99, at 28–29 (describing burden placed upon courts and litigants tasked with interpreting minimalist decisions).

¹¹¹ See Tani, *supra* note 4, at 85–91.

¹¹² See *id.* at 82.

¹¹³ See, e.g., *City of Grants Pass v. Johnson*, 144 S. Ct. 2202, 2226 (2024); *United States v. Vaello Madero*, 142 S. Ct. 1539, 1541 (2022); *Ala. Ass’n of Realtors v. Dep’t of Health & Hum. Servs.*, 141 S. Ct. 2485, 2487–89 (2021).

¹¹⁴ See Howe, *supra* note 1, at 627–30.

¹¹⁵ See Elizabeth Hinton, Amaya Diana & Robin Rudowitz, *A Closer Look at the Work Requirement Provisions in the 2025 Federal Budget Reconciliation Law*, KFF (July 30, 2025),

benefits administration,¹¹⁶ *Goldberg*'s worry¹¹⁷ could come to fruition, as individuals struggling to make ends meet can hardly be expected to navigate the complex and time-intensive welfare bureaucracy.¹¹⁸ Thus, classwide impact litigation may be the only realistic means by which a poor individual could preserve access to basic means of survival.¹¹⁹ However, such avenues become less appealing if courts are doctrinally constrained in their ability to entertain cases brought by welfare beneficiaries¹²⁰ or enforce a robust vision of procedural due process. A due process holding in *Williams* could have opened the door to innovative litigation challenging these barriers. But if the Court refuses to apply the procedural due process doctrine to modern challenges, the doctrine will stagnate where it could have flourished.

Not long ago, welfare beneficiaries could expect courts to assess their claims under a framework that considers the weighty interests at stake for those who depend on the welfare state.¹²¹ Now, litigants can hope that reviewing courts will at least shade their analysis with due process values, as Justice Kavanaugh's majority opinion did.¹²² But the *Williams* Court's adoption of the tenor of due process while opting for a narrow jurisdictional holding represents a missed opportunity. And the Court's due process minimalism may be especially consequential in an era in which the judiciary may be the only backstop against governmental efforts to restrict the reach of programs that help poor Americans "meet[] the basic demands of subsistence."¹²³ As Justice Brennan reflected in *Goldberg*, "[w]e have come to recognize that forces not within the control of the poor contribute to their poverty"¹²⁴ — a sentiment that

<https://www.kff.org/medicaid/issue-brief/a-closer-look-at-the-work-requirement-provisions-in-the-2025-federal-budget-reconciliation-law> [<https://perma.cc/YJS9-5F8U>]; Poonam Gupta & Elaine Waxman, *Cuts to SNAP in the One Big Beautiful Bill Act Would Widen the Persistent Gap Between Benefits and Food Costs*, URB. INST. (July 16, 2025), <https://www.urban.org/urban-wire/cuts-snap-one-big-beautiful-bill-act-would-widen-persistent-gap-between-benefits-and> [<https://perma.cc/MGN3-SAZS>].

¹¹⁶ See KATHLEEN ROMIG & DEVIN O'CONNOR, CTR. ON BUDGET & POL'Y PRIORITIES, REASSIGNMENT WON'T FIX THE LARGEST-EVER SOCIAL SECURITY STAFFING CUT 1 (2025), <https://www.cbpp.org/sites/default/files/6-23-25socsec.pdf> [<https://perma.cc/BZF4-C673>].

¹¹⁷ See *Goldberg v. Kelly*, 397 U.S. 254, 264 (1970) ("[T]ermination of aid . . . may deprive an eligible recipient of the very means by which to live while he waits. . . . His need to concentrate upon finding the means for daily subsistence, in turn, adversely affects his ability to seek redress from the welfare bureaucracy." (emphasis omitted)).

¹¹⁸ See Annie Lowrey, *Annoying People to Death*, THE ATLANTIC (July 7, 2025), <https://www.theatlantic.com/ideas/archive/2025/07/big-beautiful-bill-medicare-cuts/683439> [<https://perma.cc/Q47L-6D22>]; cf. also Hammond, *supra* note 82, at 429 (describing burdens incident to the imposition of additional procedural requirements on poor individuals and legal aid lawyers).

¹¹⁹ See Hammond, *supra* note 82, at 394–95.

¹²⁰ See Tani, *supra* note 4, at 85–91 (describing the Court's substantive and procedural decisions impeding welfare rights litigation).

¹²¹ See *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976).

¹²² See *Williams*, 145 S. Ct. at 471.

¹²³ *Goldberg v. Kelly*, 397 U.S. 254, 265 (1970).

¹²⁴ *Id.*

rings true in our modern era of instability. The Court can choose to amplify those forces or stem their tide. It remains to be seen which path it will take.