RECENT CASES

FEDERAL COURTS — IMMUNITIES AND § 1983 — FEDERAL DISTRICT COURT BLOCKS DECLARATORY CLAIM AGAINST STATE COURT JUDGE ON SOVEREIGN IMMUNITY GROUNDS. — *Hunt v. Richmond Police Department*, No. 25-cv-00041 (E.D. Va. Oct. 6, 2025).

Justice Gorsuch, writing for the majority in *Whole Woman's Health v. Jackson*,[1] made two bold immunity claims: that state court judges possess sovereign immunity[2] and that the "traditional exception"[3] to sovereign immunity recognized in *Ex parte Young*[4] does not apply to the "machinery" of state courts.[5] While the Court described these claims as though they were nothing new,[6] they sit poorly with decades of federal precedent recognizing the permissibility of suing state judges.[7] Historically, federal courts handled these suits under separate immunity doctrines without any mention of sovereign immunity.[8] Lower federal courts have thus been left to puzzle out whether, and how, *Whole Woman's Health* perturbs these other immunity doctrines. Recently, in *Hunt v. Richmond Police Department*,[9] the Eastern District of Virginia held that sovereign immunity barred a suit for retrospective declaratory relief against a state judge.[10] *Hunt*'s focus on retrospective relief implies that *prospective* declaratory relief could bypass sovereign immunity, preserving a narrow path for suits against state judges that *Whole Woman's Health* left ambiguous.

In June 2020, Frank Hunt was protesting at the Robert E. Lee Monument in Richmond, Virginia, when an unknown officer's rubber bullet struck him in the face, causing "physical and psychological injuries" that required treatment at a nearby hospital.[11] Four years later, Hunt filed requests under Virginia's Freedom of Information Act[12] relating to the

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1 142 S. Ct. 522 (2021).

2 *Id.* at 532.

3 *Id.*

4 209 U.S. 123 (1908).

5 *Whole Woman's Health*, 142 S. Ct. at 532 (quoting *Young*, 209 U.S. at 163).

6 *See id.* ("Almost immediately, however, the petitioners' theory confronts a difficulty. Generally, States are immune from suit under the terms of the Eleventh Amendment and the doctrine of sovereign immunity.").

7 *E.g.*, Pulliam v. Allen, 466 U.S. 522, 524–25 (1984); Mitchum v. Foster, 407 U.S. 225, 243 (1972); *cf.* Younger v. Harris, 401 U.S. 37, 41 (1971) (holding that "national policy," not sovereign immunity, generally "forbid[s] federal courts to stay or enjoin pending state court proceedings").

8 *Pulliam*, 466 U.S. at 541–42 (judicial immunity); *Younger*, 401 U.S. at 44–45 (general principles of comity, equity, and federalism); O'Shea v. Littleton, 414 U.S. 488, 493–95 (1974) (Article III limits).

9 No. 25-cv-00041 (E.D. Va. Oct. 6, 2025).

10 *Id.* slip op. at 9.

11 *Id.* slip op. at 1–2.

12 VA. CODE ANN. §§ 2.2-3700 to -3715 (2025).

Lee Monument protest incident.[13] And at some point before filing suit, he received an adverse ruling in an unspecified criminal case by a Virginia state court judge, whom he alleged to have a history of racially biased rulings.[14]

Hunt pooled these grievances and filed suit in federal court in the Eastern District of Virginia.[15] Proceeding pro se, Hunt brought four claims: a 42 U.S.C. § 1983 excessive force claim against a John Doe officer and the Richmond Police Department (Count I), a § 1983 *Monell*[16] failure to train and supervise claim against the Chief of Police and the city of Richmond (Count II), a § 1983 *Caperton*[17] due process claim against the state judge for failing to recuse (Count III), and a state Freedom of Information Act claim against the Richmond Police Department and Richmond (Count IV).[18] The complaint also listed the Commonwealth of Virginia as a defendant on a vicarious liability theory.[19] Hunt requested a declaratory judgment that his rights were violated, compensatory damages, punitive damages against the John Doe officer, an injunction that the police department amend its use-of-force policy, and an award of "attorney's fees and court costs under 42 U.S.C. § 1988."[20]

District Court Judge Novak[21] dismissed the John Doe officer and Chief William Blackwell from the case after Hunt failed to timely serve them.[22] Both Virginia and the state judge filed motions to dismiss for lack of jurisdiction and motions to dismiss for failure to state a claim.[23] Richmond, for both itself and its police department, filed a motion to dismiss for failure to state a claim.[24]

Judge Novak granted Virginia's motion to dismiss.[25] Virginia argued that it possessed sovereign immunity, that § 1983 claims could not be brought against a state, and that its courts had exclusive jurisdiction over Virginia Freedom of Information Act claims.[26] The court granted the motion on the grounds that states are not "persons" under § 1983.[27]

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13 *Hunt*, slip op. at 2.

14 *Id.*

15 *Id.* slip op. at 3.

16 Monell v. Dep't of Soc. Servs., 436 U.S. 658 (1978). *Monell* allows for § 1983 suits against municipalities. *Id.* at 663 (overruling Monroe v. Pape, 365 U.S. 167 (1961), "insofar as it holds that local governments are wholly immune from suit under § 1983").

17 Caperton v. A.T. Massey Coal Co., 556 U.S. 868 (2009). *Caperton* held that, in extraordinary circumstances, a judge's failure to recuse could constitute a due process violation if a risk of actual bias is too likely. *Id.* at 883–84, 887.

18 *Hunt*, slip op. at 3.

19 *Id.*

20 *Id.*

21 *Id.* slip op. at 11.

22 *Id.* slip op. at 3.

23 *Id.* slip op. at 4.

24 *Id.*

25 *Id.* slip op. at 1.

26 *Id.* slip op. at 6–7.

27 *Id.* slip op. at 7.

The court then turned to Count III.[28] The state judge defendant made three arguments: As a state official sued in his official capacity, he was entitled to sovereign immunity; he had absolute judicial immunity; and, alternatively, the *Rooker-Feldman*[29] doctrine applied.[30]

The court granted the state judge's motion to dismiss on sovereign immunity grounds.[31] Applying *Whole Woman's Health*, Judge Novak concluded that Eleventh Amendment immunity applies to state judges acting in their official capacities.[32] The court further noted *Whole Woman's Health*'s directive that "the *Ex parte Young* exception 'does not normally permit federal courts to issue injunctions against state-court judges or clerks.'"[33] It then found that none of the Fourth Circuit's three exceptions[34] to state sovereign immunity applied: There was no congressional abrogation because § 1983 does not abrogate state sovereign immunity,[35] there was no evidence that Virginia had waived sovereign immunity,[36] and the *Ex parte Young* exception was unavailable because Hunt sought "only retrospective declaratory" and monetary relief against the state judge.[37]

Finally, Judge Novak granted Richmond's motion to dismiss.[38] The court held that the two-year state statute of limitations for the § 1983 excessive force and failure to train and supervise claims had long since passed.[39] Lacking any federal claim to adjudicate, the court dismissed the remaining Virginia Freedom of Information Act claim without prejudice.[40]

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[28] *Id.*

[29] Rooker v. Fid. Tr. Co., 263 U.S. 413 (1923); D.C. Ct. of Appeals v. Feldman, 460 U.S. 462 (1983). The *Rooker-Feldman* doctrine bars "cases brought by state-court losers complaining of injuries caused by state-court judgments rendered before the district court proceedings commenced and inviting district court review and rejection of those judgments." Exxon Mobil Corp. v. Saudi Basic Indus. Corp., 544 U.S. 280, 284 (2005).

[30] *Hunt*, slip op. at 7.

[31] *Id.* slip op. at 7–9.

[32] *Id.* slip op. at 8 (citing Whole Woman's Health v. Jackson, 142 S. Ct. 522, 532 (2021)).

[33] *Id.* (quoting *Whole Woman's Health*, 142 S. Ct. at 532).

[34] *See* Lee-Thomas v. Prince George's Cnty. Pub. Schs., 666 F.3d 244, 249 (4th Cir. 2012).

[35] *Hunt*, slip op. at 8 (citing Quern v. Jordan, 440 U.S. 332, 342 (1979)).

[36] *Id.*

[37] *Id.* slip op. at 9. The Fourth Circuit characterizes this exception as allowing "prospective injunctive relief against state officials acting in violation of federal law." *Lee-Thomas*, 666 F.3d at 249 (quoting Frew *ex rel.* Frew v. Hawkins, 540 U.S. 431, 437 (2004)).

[38] *Hunt*, slip op. at 9.

[39] *Id.* slip op. at 9–10. For § 1983 claims, federal courts apply "state-law statute[s] of limitations for personal injury torts." *Id.* slip op. at 9 (citing Wallace v. Kato, 549 U.S. 384, 387 (2007)). The Virginia Supreme Court tolled the statute of limitations during the COVID-19 pandemic, such that the statute of limitations on Hunt's claim did not start to run until July 20, 2020. *Id.* slip op. at 10 (citing English v. Quinn, 880 S.E.2d 35, 36–37 (Va. Ct. App. 2022)).

[40] *Id.* slip op. at 10–11. Counts I and II were dismissed with prejudice as time-barred, and Counts III and IV were dismissed without prejudice since the court held that it lacked jurisdiction over Count III and declined to exercise supplemental jurisdiction over Count IV. *Id.*

Hunt's immunity reasoning implies a narrow method for suing state judges despite the doctrinal uncertainties raised by *Whole Woman's Health*. *Whole Woman's Health*'s twin effects of extending sovereign immunity to state judges and simultaneously doubting the applicability of the *Ex parte Young* exception to those judges provide a strong, new barrier to suing state judges. This new barrier is particularly daunting because it bars injunctive relief against judges[41] and threatens to bar declaratory relief, both of which otherwise could bypass judicial immunity.[42] In *Hunt*, the court barred retrospective declaratory relief.[43] But *Hunt* may imply that a *prospective* declaratory relief claim could proceed.[44] Such an action would avoid both judicial and sovereign immunity, notwithstanding the court "machinery" limitation on the *Ex parte Young* exception.[45] *Hunt* thus provides the key both to avoiding the new hurdles raised by *Whole Woman's Health* and to preserving some consistency with the Court's repeated allowance of suits against judges.

Whole Woman's Health's twin immunity holdings tease out two particularly thorny doctrinal questions on the relationship between sovereign immunity and declaratory relief: first, whether the *Ex parte Young* exception to sovereign immunity includes declaratory relief in general; and second, whether *Whole Woman's Health*'s reaffirmation of the court machinery limitation on the *Ex parte Young* exception applies to declaratory relief against state judges.

Declaratory relief and the *Ex parte Young* exception to sovereign immunity[46] have a complicated relationship. The Court has not been uniform in articulating the outer boundaries of the exception: Some articulations include only injunctive relief,[47] others, "declaratory and injunctive relief,"[48] and others still apply it to prospective relief generally.[49] Often figuring in the *Ex parte Young* calculus is whether, or to

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41 Whole Woman's Health v. Jackson, 142 S. Ct. 522, 532 (2021).

42 Pulliam v. Allen, 466 U.S. 522, 541–42 (1984).

43 *Hunt*, slip op. at 8–9.

44 *See id.* at 9 ("Plaintiff does not request prospective relief, only retrospective declaratory relief that his rights *were* violated.").

45 *See Ex parte* Young, 209 U.S. 123, 163 (1908).

46 The story of *Ex parte Young* has been told countless times. *See, e.g.*, John Harrison, *Ex Parte* Young, 60 STAN. L. REV. 989, 991–94 (2008); Andrew S. Oldham, Adam I. Steene & John W. Tienken, *The Ex parte* Young *Cause of Action: A Riddle, Wrapped in a Mystery, Inside an Enigma*, 120 NW. L. REV. (forthcoming 2026) (manuscript at 1–3) (on file with the Harvard Law School Library); James E. Pfander & Jacob P. Wentzel, *The Common Law Origins of Ex parte* Young, 72 STAN. L. REV. 1269, 1283–87 (2020).

47 *E.g.*, Frew *ex rel.* Frew v. Hawkins, 540 U.S. 431, 437 (2004); Edelman v. Jordan, 415 U.S. 651, 677 (1974). *Hawkins* included a qualifying statement that "measures ancillary to appropriate prospective relief" also fall within the exception's bounds. 540 U.S. at 437 (citing Green v. Mansour, 474 U.S. 64, 71–73 (1985)).

48 *E.g.*, Idaho v. Coeur d'Alene Tribe of Idaho, 521 U.S. 261, 269 (1997).

49 *See* Verizon Md. Inc. v. Pub. Serv. Comm'n of Md., 535 U.S. 635, 645 (2002) (quoting *Coeur d'Alene Tribe*, 521 U.S. at 296). The *Ex parte Young* exception does not apply to all forms of equitable relief. For example, the Eleventh Amendment bars suits against state officers for specific performance. *See Edelman*, 415 U.S. at 666–67; Hagood v. Southern, 117 U.S. 52, 67–68 (1886).

what extent, the order will have a direct effect on the state's treasury.[50] Declaratory relief, as having no direct effect on the state's treasury, does not implicate this concern.[51] This fact might suggest that *all* declaratory relief, as adding no burden to the state's treasury, passes the sovereign immunity hurdle, but this position is hard to square with the Court's insistence in *Verizon Maryland Inc. v. Public Service Commission of Maryland*[52] that prospectivity is the criterion.[53] Bolstering *Verizon Maryland*'s prospectivity approach, the Court in *Green v. Mansour*[54] blocked a claim for a purely retrospective declaratory judgment,[55] reasoning that such relief would constitute an "'end run' around [its] decision in *Edelman v. Jordan*."[56] And as a practical matter, in many of the cases before the Supreme Court, including *Verizon Maryland*, plaintiffs sought (and received under the *Ex parte Young* exception) both injunctive and declaratory relief, suggesting that the exception includes declaratory relief so long as it is prospective.[57]

Even if all prospective declaratory relief falls within the *Ex parte Young* exception, *Whole Woman's Health*'s treatment of the court machinery limitation complicates the picture.[58] *Ex parte Young* upheld the contempt of the Minnesota Attorney General by a federal court, which had enjoined him from instituting any criminal prosecutions under a newly passed but constitutionally suspect state statute.[59] Explaining why this order did not violate the maxim that "a court of equity has no jurisdiction to enjoin criminal proceedings,"[60] the Court reasoned that "the right to enjoin . . . a state official, from commencing suits under

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[50] *See, e.g.*, *Edelman*, 415 U.S. at 666–68, 677.

[51] *See Verizon Md.*, 535 U.S. at 646 ("[Declaratory relief], to be sure, seeks a declaration of the *past*, as well as the *future*, ineffectiveness of the Commission's action . . . . But no past liability of the State, or of any of its commissioners, is at issue. . . . Insofar as the exposure of the State is concerned, the prayer for declaratory relief adds nothing to the prayer for injunction.").

[52] 535 U.S. 635 (2002).

[53] *See id.* at 645; *accord Edelman*, 415 U.S. at 677; Milliken v. Bradley, 433 U.S. 267, 289 (1977).

[54] 474 U.S. 64 (1985).

[55] *Id.* at 65–66.

[56] *Id.* at 73 (citing Edelman v. Jordan, 415 U.S. 651 (1974)). *Mansour* confusingly did not handle this question under the Eleventh Amendment, but by a separate line of declaratory judgment cases. *See id.* at 72–73 (citing Great Lakes Dredge & Dock Co. v. Huffman, 319 U.S. 293, 299 (1943); Samuels v. Mackell, 401 U.S. 66, 73 (1971); Pub. Serv. Comm'n v. Wycoff Co., 344 U.S. 237, 241 (1952)).

[57] *See, e.g.*, *Verizon Md.*, 535 U.S. at 640; Va. Off. for Prot. & Advoc. v. Stewart, 563 U.S. 247, 252, 261 (2011).

[58] *See* Whole Woman's Health v. Jackson, 142 S. Ct. 522, 532 (2021); *Ex parte* Young, 209 U.S. 123, 163 (1908).

[59] *Young*, 209 U.S. at 131–32.

[60] *Id.* at 161. For the equitable maxim, see 2 JOSEPH STORY, COMMENTARIES ON EQUITY JURISPRUDENCE § 893, at 177 (Boston, Charles C. Little & James Brown 1839); 3 JOHN NORTON POMEROY, A TREATISE ON EQUITY JURISPRUDENCE § 1361, at 394–95 (San Francisco, A.L. Bancroft & Co. 1881). On the novelty of *Young*, compare Harrison, *supra* note 46, at 997–1000 (collecting sources justifying anti-suit injunctions), with Oldham, Steene & Tienken, *supra* note 46 (manuscript at 14–15, 15 n.101) (collecting sources illustrating that, while civil suits could be enjoined, criminal prosecutions could not).

circumstances already stated, does not include the power to restrain . . . the machinery of a criminal court, and an injunction against a state court would be a violation of the whole scheme of our Government."[61] The majority in *Whole Woman's Health* seized on this language to explain why the *Ex parte Young* exception applied only to "state *executive* officials."[62] The exception to sovereign immunity, the Court reasoned, did not reach to state court machinery at all, so judges and clerks presumably enjoyed this immunity.[63]

This court machinery doctrine can be read two ways. On the first, the doctrine excludes state judges from the *Ex parte Young* exception entirely, precluding all forms of relief against state judges, including prospective declaratory relief. On the second, the doctrine bars injunctions but not declaratory relief, since *Ex parte Young* identifies only injunctions against state courts as "a violation of the whole scheme of our Government."[64] Both readings are plausible. But only the latter approach leaves any room for suing state judges, as otherwise, sovereign immunity is practically insuperable.

Hunt, by indicating that the *retrospective* character of the declaratory relief barred the claim,[65] implicitly took this second path. Judge Novak had multiple ways of handling Hunt's claim: He could have latched on to the Fourth Circuit's narrow definition of the *Ex parte Young* exception,[66] or he could have used the court machinery doctrine to bar the suit entirely. Yet, following *Verizon Maryland*, he ruled on retrospectivity grounds.[67] By preserving the possibility that prospective declaratory relief remains available in suits against state judges, this latter reading has the benefit of harmonizing *Whole Woman's Health* with the Court's cases allowing such suits without mention of sovereign immunity.[68] It also allows some way to sue state judges in accordance with the plain text of § 1983.[69]

Supreme Court doctrine predating *Whole Woman's Health* expressly permitted certain suits against state court judges under the doctrine of judicial immunity.[70] Yet judicial immunity is notably absent from the

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61 *Young*, 209 U.S. at 163.

62 *Whole Woman's Health*, 142 S. Ct. at 532 (emphasis added). This vision of the exception as allowing only negative injunctions follows Harrison, *supra* note 46, at 1008. *See also Whole Woman's Health*, 142 S. Ct. at 540 (Thomas, J., concurring in part and dissenting in part) (citing the Harrison article with approval).

63 *Whole Woman's Health*, 142 S. Ct. at 532.

64 *Young*, 209 U.S. at 163.

65 *Hunt*, slip op. at 9.

66 *See* Lee-Thomas v. Prince George's Cnty. Pub. Schs., 666 F.3d 244, 249 (4th Cir. 2012).

67 *Hunt*, slip op. at 9.

68 *See, e.g.*, Pulliam v. Allen, 466 U.S. 522, 524–25 (1984); Mitchum v. Foster, 407 U.S. 225, 243 (1972); *cf.* Younger v. Harris, 401 U.S. 37, 41 (1971) (making no mention of sovereign immunity).

69 *See* Federal Courts Improvement Act of 1996, Pub. L. No. 104-317, § 309(c), 110 Stat. 3847, 3853 (codified at 42 U.S.C. § 1983).

70 *See Pulliam*, 466 U.S. at 524–25.

analysis in the *Hunt* opinion,[71] which would have squarely applied to the damages claims against the state judge.[72] Less clear, however, is whether judicial immunity bars declaratory relief. The answer is probably no, for a few reasons. First, a declaratory judgment is not a suit for damages and thus outside the Court's most recent articulations of the scope of judicial immunity.[73] Second, the best Fourth Circuit precedent indicates that judicial immunity does not extend to declaratory judgments.[74] In *Pulliam v. Allen*,[75] the Supreme Court established that judicial immunity did not extend to suits for "prospective injunctive relief against a judicial officer acting in her judicial capacity."[76] And while the suit in *Pulliam* was for both declaratory and injunctive relief, the Court did not explicitly rule on the declaratory relief aspect of the suit.[77] Pre-*Pulliam*, the Fourth Circuit had held that judicial immunity extended to neither injunctive nor declaratory relief.[78] Since *Pulliam* affirmed the Fourth Circuit's result on injunctive relief and was silent on declaratory relief, the Circuit's declaratory relief holding remains good law.

Whole Woman's Health did not formally abrogate *Pulliam*'s limits on judicial immunity. When presented with the apparent conflict, the *Whole Woman's Health* Court distinguished *Pulliam* in two ways: first by arguing *Pulliam* dealt with "the distinct doctrine of judicial immunity," and second by pointing out that the state judge was not enjoined from enforcing a statute, but from enforcing "a rule of her own creation."[79] The first argument fails, as no party raised sovereign immunity in *Pulliam*, likely because no one thought it applied. And the second argument makes a distinction with no difference under the Court's reading of the court machinery limitation, since the problem is enjoining state courts at all, whether with regard to self-made bail rules or statutes.

Further, the Federal Courts Improvement Act of 1996[80] expressly allows declaratory suits against judges.[81] This Act amended § 1983 to

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[71] It appeared once in *Hunt*, when the court listed the state judge's arguments. *Hunt*, slip op. at 7.

[72] Judicial immunity bars civil claims for damages against judges for actions in their judicial capacity. Mireles v. Waco, 502 U.S. 9, 9 (1991) (per curiam); Forrester v. White, 484 U.S. 219, 226–27 (1988).

[73] *See Mireles*, 502 U.S. at 9.

[74] *See* Lee-Thomas v. Prince George's Cnty. Pub. Schs., 666 F.3d 244, 249 (4th Cir. 2012).

[75] 466 U.S. 522 (1984).

[76] *Id.* at 541–42.

[77] *Compare id.* at 524 ("This case raises issues concerning the scope of judicial immunity from a civil suit that seeks injunctive and declaratory relief . . . and from fee awards . . . ."), *with id.* at 541–42 ("We conclude that judicial immunity is not a bar to prospective injunctive relief against a judicial officer acting in her judicial capacity.").

[78] Timmerman v. Brown, 528 F.2d 811, 814 (4th Cir. 1975), *rev'd on other grounds sub nom.*, Leeke v. Timmerman, 454 U.S. 83 (1981).

[79] Whole Woman's Health v. Jackson, 142 S. Ct. 522, 533 (2021).

[80] Pub. L. No. 104-317, 110 Stat. 3847 (1996) (codified in scattered sections of the U.S. Code).

[81] *Id.* § 309(c), 110 Stat. at 3853 (codified at 42 U.S.C. § 1983).

clarify that "in any action brought against a judicial officer for an act or omission taken in such officer's judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable."[82] While the Act's legislative history indicates a legislative intent to "restore[] the full scope of judicial immunity lost in *Pulliam*,"[83] the amended text merely requires sequencing the relief sought. The text's conditional restriction on injunctive relief expressly contemplates declaratory suits against judges, indicating that judicial immunity does not categorically bar them. Both *Pulliam* and the current text of § 1983 thus suggest that at least some suits against state judges should proceed — a suggestion that is consistent with *Hunt*'s implication that sovereign immunity may not bar prospective declaratory relief against state judges.

Hunt illustrates how the doctrinal changes in *Whole Woman's Health* potentially close the courthouse doors to suits against state judges. But by at least implying that a declaratory suit could meet the *Ex parte Young* exception to sovereign immunity, it preserves a method for these suits that *Whole Woman's Health* left ambiguous.

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[82] 42 U.S.C. § 1983; *see* Alexandra Nickerson & Kellen Funk, *When Judges Were Enjoined: Text and Tradition in the Federal Review of State Judicial Action*, 111 CALIF. L. REV. 1763, 1808 (2023).

[83] S. REP. NO. 104-366, at 37 (1996).