SUPREME COURT OF ARKANSAS

No. CV-23-328

H.C., L.S., R.T., AND T.K. APPELLANTS V. JAMES DARRELL NESMITH APPELLEE	Opinion Delivered: November 5, 2026 APPEAL FROM THE PULASKI COUNTY CIRCUIT COURT [NO. 60CV-22-4435] HONORABLE TIMOTHY DAVIS FOX, JUDGE REVERSED AND REMANDED; COURT OF APPEALS OPINION VACATED.

NICHOLAS J. BRONNI, Associate Justice

This case presents a particularly important question: Can the General Assembly extend the statute of limitations in cases where it has already run and afford child-sex-abuse victims an opportunity to hold their abusers accountable? Citing this court's vested-rights precedent, Defendant James Nesmith argues that it cannot. That precedent categorically bars "expand[ing] a limitation period so as to revive a claim already barred." *Hall v. Summit Contractors, Inc.*, 356 Ark. 609, 613–14, 158 S.W.3d 185, 188 (2004). Recognizing that, Plaintiffs—four individuals who allege Nesmith sexually abused them as children and failed to bring those claims within the generally applicable limitations period—urge us to reexamine that precedent and uphold the Justice for Vulnerable Victims of Sex Abuse Act. *See* Ark. Code Ann. § 16-118-118(b) (Supp. 2025). That act revived and extended the

statute of limitations for claims brought by minors for sexual abuse, and if valid, that act would revive Plaintiffs' claims.

The circuit court sided with Nesmith and dismissed the complaint. The court of appeals affirmed. We granted Plaintiffs' petition for review and now reverse the circuit court's order. Revisiting our vested-rights precedent, we conclude that it lacks any constitutional basis and, as such, cannot stand. We therefore overrule our prior cases prohibiting the legislature from expanding a limitations period and thereby reviving time-barred claims; uphold the Vulnerable Victims of Sex Abuse Act against Nesmith's constitutional challenge; reverse the circuit court's decision dismissing this case on statute of limitations grounds; and remand this matter for further proceedings.

Facts and Procedural Background

Plaintiffs are four individuals who allege that Defendant James Nesmith sexually abused them while they were children. They claim that Nesmith abused them multiple times between 1995 and 2007. Three plaintiffs allege that Nesmith, then a pediatric doctor, abused them during medical visits. The fourth plaintiff alleges that Nesmith molested him multiple times at his home and at a church camp, where Nesmith served as a counselor. Plaintiffs' complaint seeks to recover damages for sexual assault, sexual battery, and the infliction of extreme emotional distress. Plaintiffs argue they are entitled to those damages under tort law and Ark. Code Ann. § 16-118-107 (Repl. 2016), which affords crime victims a cause of action.

The parties agree that Plaintiffs did not bring those claims within the generally applicable limitations periods. *See* Ark. Code Ann. §§ 16-56-105 (Repl. 2005) (establishing

a three-year limitations period for tort actions); 16-56-116 (Repl. 2005) (permitting minors to bring actions within three years after turning twenty-one).[1] Plaintiffs, however, argue the Justice for Vulnerable Victims of Sex Abuse Act revived those claims. As relevant here, that Act allows child sex-abuse victims to bring otherwise time-barred "civil action[s]" against their abusers within a narrow time window. Ark. Code Ann. § 16-118-118(b)(2). Plaintiffs undisputedly filed their complaint within that window.[2]

Nesmith moved for summary judgment. He argued that under this court's vested-rights precedent, the General Assembly lacked the authority to revive already time-barred claims and that, as a result, the Justice for Vulnerable Victims of Sex Abuse Act was invalid. And absent that act, he argued, Plaintiffs' claims are undisputedly time-barred, entitling him to judgment as a matter of law. The circuit court agreed, granted Nesmith's summary-judgment motion, and dismissed Plaintiffs' complaint on statute-of-limitations grounds.

The court of appeals affirmed. *H.C. v. Nesmith*, 2025 Ark. App. 59, at 4–10, 705 S.W.3d 880, 884–86. In so doing, that court acknowledged the abhorrent nature of Nesmith's alleged conduct but found that it was powerless to reach a different result, considering "supreme court precedent prohibiting legislative attempts to revive expired

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[1] Nesmith argued below that Plaintiffs' claims were also barred by the Arkansas Medical Malpractice Act, which sets a different limitations period for injuries related to the provision of "professional services." *McQuay v. Guntharp*, 336 Ark. 534, 540, 986 S.W.2d 850, 852–53 (1999); Ark. Code Ann. § 16-114-201(3). Plaintiffs' sexual-assault claims are not that, and that provision does not apply.

[2] The General Assembly has modified the period for bringing those claims, but those amendments are not material here because everyone agrees Plaintiffs filed their complaint within the window established by the version of the statute in effect at the time. *See* Act 117 of 2023.

statutes of limitation[s]." *Id.* at 10, 705 S.W.3d at 886. We granted Plaintiffs' petition for review and now revisit that precedent.

Discussion

Plaintiffs ask us to reverse the circuit court's order granting summary judgment. They argue that the Justice for Vulnerable Victims of Sex Abuse Act is a lawful exercise of the General Assembly's power and that it revived their otherwise time-barred claims. "We review circuit court orders granting summary judgment de novo, viewing the evidence in the light most favorable to the [nonmoving party]." *Gates v. Hudson*, 2025 Ark. 48, at 6, 711 S.W.3d 142, 146 (internal quotation marks omitted).

Having conducted that review, we reverse the circuit court's order granting Nesmith's motion for summary judgment and dismissing the complaint on statute-of-limitations grounds. Accepting Plaintiffs' invitation to reexamine our vested-rights precedent, we find no constitutional basis for that precedent.[3] Far from it, that precedent rests entirely on ungrounded judicial assertions and a deeply flawed understanding of the role of statutes of limitations. As such, we decline to reaffirm our vested-rights precedent, and we overrule the categorical prohibition against reviving barred claims.

A. Start with first principles. Our constitution divides power between the legislative, executive, and judicial departments, and it gives each a distinct role. Ark. Const. art. 4, § 1. Most importantly here, it vests the legislative department—in the form of the General Assembly—with the power to resolve public policy questions and ultimately "proclaim the

[3] Plaintiffs did not timely respond to the motion for summary judgment. But they were nevertheless permitted to file a response, and thus, the response was considered by the circuit court. Those arguments are part of the record on appeal.

law through statutory enactments." *McCarty v. Ark. State Plant Bd.*, 2021 Ark. 105, at 3, 622 S.W.3d 162, 164; *see also* Ark. Const. art. 5, § 1 (The legislative power of the people of this State shall be vested in a General Assembly."). That power is broad, "subject only to the limitations and restrictions" contained in the federal Constitution and other state constitutional provisions. *Gipson v. Ingram*, 215 Ark. 812, 817 n.5, 223 S.W.2d 595, 598 n.5 (1949). And our constitution vests the Governor with "supreme executive power" and responsibility for ensuring the General Assembly's enactments are faithfully executed. Ark. Const. art. 6, § 2.

By contrast, the judiciary's role is narrow. We do not legislate, resolve public policy disputes, execute the laws, or pass on the wisdom of legislation; we "interpret legislative enactments" and enforce the federal and state constitutions. *McCarty*, 2021 Ark. 105, at 3, 622 S.W.3d at 164. Even then, our power to strike down legislation is highly circumscribed, limited strictly to cases in which "there is a clear incompatibility between the act and the constitution" and there is no possible constitutional interpretation of an act. *City of Cave Springs v. City of Rogers*, 343 Ark. 652, 659, 37 S.W.3d 607, 611 (2001); *accord Jeffery v. Trevathan*, 215 Ark. 311, 320, 220 S.W.2d 412, 417 (1949). Thus, when faced with a constitutional challenge to duly enacted legislation, as in this case, we "strong[ly] presum[e]" the legislature has acted within its constitutional authority, and absent clear evidence to the contrary, we must uphold the act. *Ark. Dep't of Corr. v. Bailey*, 368 Ark. 518, 523, 247 S.W.3d 851, 855 (2007).

B. With that backdrop in mind, we turn to our vested-rights precedent. Under that precedent, "the legislature cannot expand a statute of limitation so as to revive a cause of

action already barred." *Johnson v. Lilly*, 308 Ark. 201, 203, 823 S.W.2d 883, 885 (1992); *accord Chunn v. D'Agostino*, 312 Ark. 141, 145, 847 S.W.2d 699, 701 (1993); *Wasson v. State ex rel. Jackson*, 187 Ark. 537, 538, 60 S.W.2d 1020, 1021 (1933). That doctrine rests on the assumption that when a civil statute of limitations runs, a tortfeasor has a vested right to the property that could have been the subject of a potential claim. *See id.* at 1020–21; *see also Johnson*, 308 Ark. at 203, 823 S.W.2d at 885. In fact, our case law suggests that interest is so powerful that not even a change in the constitution—affirmatively giving the legislature the power to revive stale claims—could override it. *See Wasson*, 187 Ark. 537, 60 S.W.2d at 1020–21 ("[A]fter a cause of action has become barred by the statute of limitations, the defendant has a vested right to rely on that statute as a defense, and neither a constitutional convention nor the Legislature has power to divest that right and revive the cause of action." (internal quotation marks omitted)); *Johnson*, 308 Ark. at 203, 823 S.W.2d at 885 (same).

Predictably, given that atextual framing, our cases do not cite any constitutional basis for that doctrine. Far from it, when we first employed that principle to strike down legislation in 1933, we instead relied on a single legal encyclopedia published in 1915 assuring us that—at that sole moment in time—most jurisdictions held that legislatures could not revive a claim after a statute-of-limitations defense had run. *Wasson*, 187 Ark. at 538, 60 S.W.2d at 1020–21. Or, perhaps more generously, we relied on that legal encyclopedia plus an unreasoned extension of this court's prior case law suggesting that to retroactively alter an applicable statute of limitations, the legislature needed to speak clearly and show it had considered the consequences. *See id.* at 1021 (declaring the 1915 encyclopedia's

framing was consistent with "[t]he rule announced . . . by this court in *Rhodes v. Cannon*, 112 Ark. 6, 164 S. W. 752"); *see also Trapnall v. Burton*, 24 Ark. 371, 385 (1866) ("[W]hen a new statute of limitations is enacted, it will be taken to be prospective in its operation, and to apply, not to causes of action which had accrued at its passage, but to those accruing thereafter, in the absence of language in the statute compelling a contrary construction."); *Rhodes v. Cannon*, 112 Ark. 6, 14, 164 S.W. 752, 754 (1914) ("[W]e assume that the Legislature had in mind this rule of construction.").

That approach, unbound by actual text or constitutional history, is not consistent with our constitutional role. On the contrary, as discussed above, our constitutional role is limited to interpreting enactments and enforcing constitutional provisions. *See Taylor v. Ferguson*, 2025 Ark. 180, at 10, 722 S.W.3d 498, 504. It does not include constructing atextual limitations on the legislature's power—let alone ones so robust that not even a "constitutional convention" can override it. *See Wasson*, 187 Ark. at 538, 60 S.W.2d at 1021. As such, our prior conviction that something should be the law is not a basis for striking down legislation, and it was not a basis for the circuit court to do so here.

To be sure, some later cases—perhaps recognizing that our earlier cases do not cite any constitutional language supporting our vested-rights precedent—suggest that precedent rests on due-process principles. *See Dep't of Hum. Servs. Div. of Econ. & Med. Servs. v. Walters*, 315 Ark. 204, 210, 866 S.W.2d 823, 825 (1993) ("We have indicated that it would violate due process to disturb vested rights or contractual rights."); *Forrest City Machine Works, Inc. v. Aderhold*, 273 Ark. 33, 40, 616 S.W.2d 720, 724 (1981). Our dissenting colleague employs the same approach. *See* post at __ (Womack, J., dissenting). But slapping

a constitutional label on a century-old doctrine does not replace principled constitutional analysis. *Cf. Johnson*, 308 Ark. at 203, 823 S.W.2d at 885 (still relying on the 1915 publication and an unreasoned citation to *Rhodes* to support vested-rights doctrine). Still, even if it did, that label does not work because the expiration of a statute-of-limitations period does not confer a property right—or any other right for that matter.

As the Supreme Court has explained in rejecting similar arguments under the federal due process clause, a statute-of-limitations period merely governs the time within which a claim must be brought, *see Chase Sec. Corp. v. Donaldson*, 325 U.S. 304, 314 (1945); it does not reflect a legislative judgment "that [a] defendant should 'be free from liability after the legislatively determined period of time.'" *CTS Corp. v. Waldburger*, 573 U.S. 1, 9 (2014) (citing C.J.S. § 7, at 24 and comparing statutes of limitations and statutes of repose). Instead, these limitations "are by definition arbitrary" and rest entirely on legislative judgments about how best to encourage plaintiffs to diligently pursue claims and avoid litigation "after memories have faded, witnesses have died or disappeared, and evidence has been lost." *Chase*, 325 U.S. at 314; *accord CTS Corp.*, 573 U.S. at 8. As such, they "represent a public policy [choice] about" how to balance those interests and exist only by "legislative grace." *Chase*, 325 U.S. at 314, 316. Altering that period and establishing a different, equally "arbitrary" date does not—contrary to our prior case law's unfounded assertion—deprive a defendant of any vested property right. *Id.* Rather, balancing competing interests and "resolv[ing] the debate" about when a claim should be time-barred is precisely the kind of thing that our constitution leaves "to the legislature." *Standridge v. Fort Smith Pub. Schs.*, 2025 Ark. 42, at 11, 708 S.W.3d 773, 781.

We therefore hold that the court's vested-rights precedent has no basis in law, and we overrule our prior cases categorically barring the legislature from expanding the limitations period and thereby reviving claims. Indeed, as we recently reaffirmed, "we are bound by constitutional text," not precedent that "treats our constitution not as a written document but as a set of civic values and norms determined by judges." *State v. Minor Child*, 2026 Ark. 66, at 7 (internal quotation marks omitted); *accord Gamble v. State*, 2026 Ark. 44, at 11, 729 S.W.3d 661, 667; *State v. Good Day Farm Ark., LLC*, 2025 Ark. 207, at 12, 725 S.W.3d 1, 8. And we now restore to the General Assembly its constitutional power to decide how long is too long to bring a claim.

C. Absent our vested-rights precedent, this is an easy case. The General Assembly has the authority to set statutes of limitations, and it did so here when it passed the Justice for Vulnerable Victims of Sex Abuse Act and established a new window for bringing child-sex-abuse claims. No one disputes that Plaintiffs brought their claims within the window set by the General Assembly, and as such, the circuit court erred as a matter of law in dismissing those claims on statute-of-limitations grounds. We reverse the circuit court's order dismissing Plaintiffs' complaint on statute-of-limitations grounds.

Conclusion

Nothing in our constitution supports the court's prior cases finding a vested right in a statute of limitations defense. Those cases rest entirely on ungrounded judicial pronouncements and a fundamental misunderstanding of the role of statutes of limitations. We decline to reaffirm that precedent. Instead, revisiting that precedent and returning to constitutional text, we overrule it and restore to the people's elected representatives a power

this court should never have taken from them. Having done so, we reject Nesmith's challenge to the Justice for Vulnerable Victims of Sex Abuse Act, reverse the circuit court's decision dismissing Plaintiffs' complaint on statute-of-limitations grounds, and remand for further proceedings.

Reversed and remanded; court of appeals opinion vacated.

Special Justice CORY COX joins.

HUDSON, J., concurs.

BAKER, C.J., and WOMACK, J., dissent.

WEBB, J., not participating.