

**United States District Court
District Of Connecticut**

Bryant Ebron,
Plaintiff

No. 3:25-CV-00363 (SRU)

October 14, 2026

v.

**Jennifer Medina Zaccagnini,
Rufaro Berry, Joy Chance,
Michael Pohl, Nancy Turner,
Deborah Smith-Palmieri, Sergio
Rodriguez, Robert Cizauskas,
Aileen Keays, and Alex Tsarkov,**
Defendants

**Plaintiff Bryant Ebron's
Opposition to Defendants' Motion to Dismiss**

Oral Argument Requested

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RELEVANT BACKGROUND

At forty-three years old, Plaintiff Bryant Ebron remains confined in the Connecticut Department of Correction (“DOC”) for a crime he committed on November 18, 2003, when he was twenty years old. Sec. Am. Compl., Doc. 22 ¶¶ 9–10, 48–49. Mr. Ebron is unrecognizable from the person who committed manslaughter over two decades ago. He is now married, has a strong support network, and is eager to apply for parole. *Id.* ¶¶ 5, 56. Under Public Act 23-169 (“P.A. 23-169”), Mr. Ebron meets all the criteria to be considered for youth-based parole except that he was not sentenced until March 2007. *Id.* ¶¶ 5, 57. The result is that he is left to watch as others return home because they had the good fortune of being sentenced on the right day.

1. The legislature passed Public Act 15-84 to give people who committed a crime as a child an opportunity for early parole.

In a series of decisions from 2010 onward, the United States and Connecticut Supreme Courts recognized that sentencing must account for a young person’s individualized circumstances, including their age-related characteristics and incomplete brain development. *Id.* ¶¶ 14–18. The Connecticut legislature followed suit. In 2015, it passed Public Act 15-84 (“P.A. 15-84”). *Id.* ¶ 20. The bill granted earlier parole eligibility to any person “convicted of one or more crimes committed while such person was under eighteen years of age, who is incarcerated on or after October 1, 2015, and who received a definite sentence or total effective sentence of more than ten years for such crime” *Id.* ¶ 20; Ex. 1, Doc. 22-1 at 5–6.

P.A. 15-84 was a success. Its parole scheme was straightforward: anyone who committed a crime as a child could be considered for parole after completing the requisite amount of their sentence, as specified in the statute. And its impact was meaningful. Since 2015, at least 123 people have returned home due to P.A. 15-84’s early release mechanism.

Id. ¶ 21. Of those 123 individuals, only 11 percent have recidivated—a figure that is significantly lower than recidivism rates for the general prison population. *Id.*

2. The legislature attempted to expand youth-based parole, but P.A. 23-169 arbitrarily limited eligibility based on a person’s sentencing date.

In 2023, the legislature set out to expand the parole eligibility scheme set forth in P.A. 15-84 and make the law consistent with modern neuroscience establishing that the human brain continues to develop until a person’s mid-twenties. *Id.* ¶ 22; Ex. 2, Doc. 22-2 at 2. At first, the proposed bill mirrored P.A. 15-84. Sec. Am. Compl., Doc. 22 ¶ 23. It would have expanded parole eligibility to any person “convicted of one or more crimes committed while such person was under twenty-five years of age, who is incarcerated on or after October 1, 2015, and who received a definite sentence or total effective sentence of more than ten years for such crime.” *Id.*; Ex. 3, Doc. 22-3 at 2–4. But the bill was amended. Sec. Am. Compl., Doc. 22 ¶ 24; Ex. 4, Doc. 22-4.

The version that passed—as P.A. 23-169—provided for a very different scheme. Sec. Am. Compl., Doc. 22 ¶ 26. Under the law, “[a] person convicted of one or more crimes committed while such person was [between eighteen and] twenty-one years of age,” could be eligible to be considered for parole only if they were “sentenced on or before October 1, 2005, and [] received a definite sentence or total effective sentence of more than ten years’ incarceration for such crime or crimes committed on or before October 1, 2005.” *Id.* ¶ 25; Ex. 4, Doc. 22-4 at 7.¹

While P.A. 15-84 governs where an individual committed a crime under eighteen and contains no sentencing date restriction, P.A. 23-169, on the other hand, subjects anyone who committed a crime between the ages of eighteen and twenty-one to irrational line drawing: those who committed crimes on or before October 1, 2005, and were sentenced on or before

¹ Later, P.A. 23-169 would be codified as Conn. Gen. Stat. § 54-125a(g)(1). *Id.* ¶ 27.

October 1, 2005, are eligible for youth-based parole but those sentenced after are not. *Id.* ¶ 28. Put differently, under P.A. 23-169, some people who committed crimes in their youth have an opportunity to tell their story and potentially return home to be with loved ones, while others are denied that opportunity based on nothing more than an arbitrary date. *Id.* ¶ 39.

3. Over 100 people, including Mr. Ebron, are arbitrarily denied access to youth-based parole due to their sentencing date.

Mr. Ebron watched this all unfold. On the day P.A. 23-169 was filed with the Legislative Commissioners' Office, he would have been eligible for parole under its terms. *Id.* ¶ 53. He was incarcerated for a crime committed on November 18, 2003, when he was twenty years old, and was serving a sentence of more than ten years. *Id.* ¶¶ 48–51. But when the bill was amended weeks later, Mr. Ebron was excluded from parole eligibility for the sole reason that he was not sentenced until 2007. *Id.* ¶ 57. He cannot present his parole application to the Board of Pardons and Paroles (“BOPP”) because he was sentenced after October 1, 2005. *Id.* ¶ 40.²

Mr. Ebron is not alone. Due to the sentencing date restriction, the number of people eligible for relief under P.A. 23-169 is few and far between. *Id.* ¶ 29. As of October 1, 2023—the statute’s effective date—at least 153 people were incarcerated in Connecticut for a crime committed while under the age of twenty-one, but, of those people, only thirty-five were sentenced prior to October 1, 2005. *Id.* And, as time passes, the number of people eligible for youth-based parole under P.A. 23-169 will only continue to dwindle. For those, like Mr. Ebron, who watched their hopes for youth-based parole eligibility slip away, the sentencing date

² Defendant Jennifer Medina Zaccagnini is the chairperson of the BOPP. *Id.* ¶ 11. Defendants Rufaro Berry, Joy Chance, Michael Pohl, Nancy Turner, Deborah Smith-Palmieri, Sergio Rodriguez, Robert Cizauskas, Aileen Keays, and Alex Tsarkov are members of the BOPP. *Id.* ¶ 12. Together, they have the authority to grant or deny parole. *Id.* ¶ 11.

restriction represents an arbitrary exercise of government authority that violates their right to equal protection under the law. *Id.* ¶ 62.

LEGAL STANDARD

“A motion to dismiss . . . is designed merely to assess the legal feasibility of a complaint, not to assay the weight of evidence which might be offered in support thereof.” *Agag v. Cigna Health & Life Ins. Co.*, No. 3:25-CV-00498 (SRU), 2026 WL 1021213, at *7 (D. Conn. Apr. 15, 2026) (quotations omitted). “[A] district court must limit itself to facts stated in the complaint or in documents attached to the complaint as exhibits or incorporated in the complaint by reference.” *Grune v. Hernandez*, No. 24-1803, 2025 WL 1416891, at *1 (2d Cir. May 16, 2025) (quotations omitted). The court must “accept the material facts alleged in the complaint as true, draw all reasonable inferences in favor of the plaintiff, and decide whether it is plausible that the plaintiff has a valid claim for relief.” *Agag*, 2026 WL 1021213, at *7 (synthesizing *Ashcroft v. Iqbal*, 556 U.S. 662, 678–79 (2009), *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555–56 (2007), and *Leeds v. Meltz*, 85 F.3d 51, 53 (2d Cir. 1996)).

At this stage, Mr. Ebron need only “raise a right to relief above the speculative level” and “state a claim to relief that is plausible on its face.” *Twombly*, 550 U.S. at 545, 570. It is enough that the allegations “raise a reasonable expectation that discovery will reveal evidence” that P.A. 23-169’s date cut-off is so arbitrary that it offends the Constitution. *Id.* at 545.

ARGUMENT

The legislature’s decision to condition access to parole eligibility on whether a person was sentenced on or before October 1, 2005, is unconstitutional. The Equal Protection Clause forbids arbitrary line drawing. When a legislature grants relief to some but not others, its

decision to discriminate must bear a rational relationship to a legitimate legislative goal. P.A. 23-169’s sentencing date restriction does no such thing: it undermines the purpose of the statute; it discriminates based on the conduct of a third party; and it renders Connecticut’s parole scheme inconsistent. Such arbitrary line drawing fails rational basis review.

Defendants respond by characterizing equal protection jurisprudence as toothless, dodging material facts in the complaint, and relying on abstraction to avoid gaps in their reasoning. Their arguments are unpersuasive, and the instant motion is due to be denied.

1. The Fourteenth Amendment forbids arbitrary line drawing.

“The Equal Protection Clause of the Fourteenth Amendment commands that no State shall ‘deny to any person within its jurisdiction the equal protection of the laws,’ which is essentially a direction that all persons similarly situated should be treated alike.” *City of Cleburne v. Cleburne Living Ctr.*, 473 U.S. 432, 439 (1985) (quoting *Plyler v. Doe*, 457 U.S. 202, 216 (1982)). In “ordinary equal protection case[s]” that neither implicate a fundamental right nor proceed along suspect lines, courts “insist on knowing the relation between the classification adopted and the object to be attained.” *Romer v. Evans*, 517 U.S. 620, 632, (1996); see *Muller v. Costello*, 187 F.3d 298, 309 (2d Cir. 1999). The “search for the link between classification and objective” balances constitutional interests: it “gives substance to the Equal Protection Clause[,] it provides guidance and discipline for the legislature . . . [,] and it marks the limits of [the judiciary’s] authority.” *Romer*, 517 U.S. at 632.

This balancing act is at the heart of rational basis review. When the legislature employs a statutory classification, the Constitution “imposes a requirement of some rationality in the nature of the class singled out.” *Barletta v. Rilling*, 973 F. Supp. 2d 132, 136 (D. Conn. 2013) (quoting *Rinaldi v. Yeager*, 384 U.S. 305, 308–09 (1966)). Of course, “rational basis review is indulgent,” but “it is not meant to be ‘toothless.’” *Windsor v. United States*, 699 F.3d 169, 180

(2d Cir. 2012) (quoting *Schweiker v. Wilson*, 450 U.S. 221, 234 (1981)); see *Myers v. Cnty. of Orange*, 157 F.3d 66, 75 (2d Cir. 1998) (“Despite the wide latitude afforded to the States, [] distinctions that do not have a rational basis will not be sustained.”). Indeed, “if it is a test with meaning—if it has ‘teeth’—rational basis review must mean something beyond absolute deference to the legislature; otherwise it is not review at all.” *Barletta*, 973 F. Supp. 2d at 136.

Under the rational basis standard, a statutory classification must: (1) “bear a rational relationship” to (2) a legislative goal that is both “independent” and “legitimate.” *Romer*, 517 U.S. at 633. And so, “even where a state can identify a legitimate purpose in support of a statute, the state ‘may not rely on a classification whose relationship to an asserted goal is so attenuated as to render the distinction arbitrary and irrational,’” *Barletta*, 973 F. Supp. 2d at 136 (quoting *Cleburne*, 473 U.S. at 446), especially where the classification burdens an already disadvantaged group, see *Romer*, 517 U.S. 620 (striking down law discriminating on the basis of sexual orientation); *Cleburne*, 473 U.S. 432 (same for intellectual disabilities); *Reynolds v. Quiros*, 990 F.3d 286, 300 (2d Cir. 2021) (criminal offense); *Barletta*, 973 F. Supp. 2d at 136 (felony conviction); cf. *Armour v. City of Indianapolis*, 566 U.S. 673, 680 (2012) (affording “especially broad latitude” to tax-based classifications that harm no disadvantaged group).

On a motion to dismiss, the allegations in the complaint, taken as true, need only overcome a classification’s presumed rationality. *Progressive Credit Union v. City of New York*, 889 F.3d 40, 49–50 (2d Cir. 2018). Either the complaint or opposition may negate the “reasonably conceivable state of facts that could provide a rational basis for the challenged classification.” *Martinez v. Malloy*, 350 F. Supp. 3d 74, 93 (D. Conn. 2018) (quoting *Vizio Inc. v. Klee*, No. 3:15-cv-00929 (VAB), 2016 WL 1305116, at *22 (D. Conn. Mar. 31, 2016)).

2. P.A. 23-169’s sentencing date restriction results in irrational legislative line drawing and violates the Equal Protection Clause.

Connecticut’s parole statute runs headlong into the Fourteenth Amendment’s equal protection mandate. It creates two classes amongst those incarcerated people who *committed* crimes on or before October 1, 2005: those *sentenced* on or before that date are eligible to apply for parole under P.A. 23-169, provided they meet the statute’s other requirements, while those sentenced afterward are not. The result: over 100 people are barred from parole eligibility based on the date the superior court scheduled their sentencing hearing. *See* Sec. Am. Compl., Doc. 22 ¶ 29.

This sentencing date restriction is irrational in at least three ways: (1) it undermines the purpose of the statute; (2) it discriminates based on the conduct of a third party; and (3) it adopts a statutory scheme that is both unusual and inconsistent. Thus, the legislature’s decision to condition access to parole eligibility on a person’s sentencing date is not entitled to the “presumption of rationality,” *Progressive Credit Union*, 889 F.3d at 49–50, and it cannot withstand rational basis review, *see Barletta*, 973 F. Supp. 2d at 136 (requiring at least “some rationality in the nature of the class singled out”) (quoting *Rinaldi*, 384 U.S. at 308–09); *see also Graziano v. Pataki*, 689 F.3d 110, 120 n.3 (2d Cir. 2012) (Underhill, J., dissenting) (describing the loss of parole as “dramatic”).

2.1 The sentencing date cut-off undermines P.A. 23-169’s purpose.

Begin with the statute’s purpose. In passing P.A. 23-169, the Connecticut legislature intended to provide people who committed crimes between the ages of eighteen and twenty-one an opportunity to seek parole, recognizing that their brains were still developing until their mid-twenties. Sec. Am. Compl., Doc. 22 ¶¶ 22, 31. As Representative Fishbein stated on the record: “You know, the underlying intent [of the legislation] was and is to try and help those

kids that had been convicted of serious crimes to give them an opportunity to show that they have been rehabilitated.” *Id.* ¶ 32. The sentencing date cut-off contravenes that purpose.

Mr. Ebron’s experience illustrates the point. After a tumultuous childhood, he committed a crime when he was twenty years old. *Id.* ¶¶ 42–49. To be sure, the crime was serious, but his brain was still developing, and, after almost two decades, Mr. Ebron is now in his forties. He is eager to apply for parole and is ready to return home to his mother, wife, and children. *Id.* ¶¶ 54–56. In other words, Mr. Ebron simply wants “an opportunity to show that [he has] been rehabilitated.” *See id.* ¶ 32. But he cannot because he was sentenced too late.

Instead of adopting a parole scheme based on modern neuroscience that might consider age, development, or cognition, the legislature conditioned access to parole on an arbitrary date. *Id.* ¶ 38. For that reason alone, P.A. 23-169’s date restriction has no meaningful “relation to the object of the legislation.” *Reed v. Reed*, 404 U.S. 71, 76 (1971) (quotations omitted).

2.2 The sentencing date cut-off conditions parole eligibility on the conduct of a third party.

By conditioning parole eligibility on a court’s calendar, P.A. 23-169’s sentencing date restriction deprives incarcerated people of a chance to return home due to circumstances beyond their control. The legislature’s decision to afford benefits to some but not others—based on the conduct of a third party—is a hallmark of an arbitrary policy. *See Plyler*, 457 U.S. at 220 (decrying as irrational a policy punishing children for actions of their parents).

On this score, *Winston v. City of Syracuse*, 887 F.3d 553 (2d Cir. 2018) is instructive. There, the Second Circuit found a policy that charged tenants for their landlord’s unpaid water bills unconstitutional. *Id.* Taking a cue from the Fifth and Sixth Circuits, the court explained that “shutting off water to collect debts divorces itself entirely from the reality of legal accountability . . . and penalizes not the debtor but an innocent third party . . .” *Id.* at 563–64

(citation modified). So too here. By tying parole eligibility to a court’s calendar, the classification severs parole from the individual circumstances it is designed to assess—for instance, a person’s potential to contribute to society and readiness to return home. *See* Conn. Gen. Stat. § 54-125a(g)(4). The date cut-off—like the third-party water lien—penalizes a person for factors beyond their control and is impermissible under the Fourteenth Amendment.

2.3 The sentencing date cut-off is internally inconsistent and out of place among the general statutes.

Due to the sentencing date restriction, P.A. 23-169’s parole scheme is internally inconsistent and out of place among the general statutes. As to its internal inconsistency, under P.A. 23-169, anyone who meets its criteria is “eligible for parole after serving sixty per cent of the sentence *or twelve years*, whichever is greater.” (emphasis added). But, as of 2023, when the statute passed, anyone sentenced before October 1, 2005, had been incarcerated for at least seventeen years. The statute’s twelve-year eligibility floor was moot upon passage.

And yet, “the irrationality of the enactment becomes most pronounced when it is compared with another Connecticut statute.” *Smith v. Fussenich*, 440 F. Supp. 1077, 1080 (D. Conn. 1977). Whereas P.A. 15-84 granted early eligibility to any person “convicted of one or more crimes committed while such person was under eighteen years of age, who is *incarcerated on or after October 1, 2015*,” Sec. Am. Compl., Doc. 22 ¶ 23 (emphasis added), P.A. 23-169 instead allowed “[a] person convicted of one or more crimes committed while such person was [between eighteen and] twenty-one years of age,” to be eligible for parole only if they were “*sentenced on or before October 1, 2005*.” *Id.* ¶ 25 (emphasis added).

By substituting a few words (“sentenced” for “incarcerated” and “after” for “before”), P.A. 23-169 diverges dramatically from P.A. 15-84. Where P.A. 15-84 is prospective and provided relief upon its effective date, P.A. 23-169 is retroactive and linked to an inexplicable

date. This arbitrary date restriction is found nowhere else in Connecticut’s parole scheme, *see* Conn. Gen. Stat. § 54-125a, and is out of place among the general statutes. Its unusual character is further evidence that the sentencing date cut-off is unconstitutional. *See Romer*, 517 U.S. at 633 (explaining that “unusual” classifications warrant “careful consideration”).

2.4 The sentencing date cut-off is unconstitutionally arbitrary.

Taking stock, the date cut-off fails rational basis review several times over. First, because it squarely undermines the purpose of the statute, the date restriction cannot have a meaningful “relation to the object of the legislation.” *See Reed*, 404 U.S. at 76. Second, the date cut-off is a textbook example of an impermissible classification because it discriminates based on conduct beyond an incarcerated person’s control. *See Plyler*, 457 U.S. at 220. And third, the date cut-off renders P.A. 23-169 internally inconsistent and out of place among the general statutes, which further suggests it is irrational. *See Romer*, 517 U.S. at 633.

The conclusion that a classification of this sort is unconstitutional finds support in *U.S. ex rel. Schuster v. Herold*, 410 F.2d 1071 (2d Cir. 1969). In *Schuster*, the court struck down a statute that provided for a “disparity [in] the procedural protections afforded civilians [and prisoners] facing involuntary commitment.” *Id.* at 1081. The impact of commitment was significant. In fact, it eliminated the petitioner’s ability to apply for parole. *Id.* at 1078. The failure to provide precommitment hearings, the court explained, “violates the fundamental requirements of equal protection” because “[w]hether a man should be committed . . . has no relevance to the place where he happens to be at the time he becomes ill.” *Id.* at 1083–84.

The reasoning in *Schuster* applies here with equal force. The date cut-off deprives an incarcerated person of an ability to petition for their freedom. And whether someone was sentenced on or before October 1, 2005, has no bearing on whether they should be eligible for

parole. It follows that the decision to condition access to parole eligibility on a person's sentencing date "violates the fundamental requirements of equal protection." *Id.* 1083.

3. Defendants' justifications are unavailing.

Defendants contend that the government has a blank check to discriminate so long as the subject matter is sentencing. They then point to an interest in reducing harsh sentences before ending with several wandering observations. Each argument is negated in turn.³

3.1 The legislature cannot discriminate merely because the subject is sentencing.

Defendants claim that sentencing-based classifications are *per se* rational under the Equal Protection Clause. Defs' Mtn. to Dismiss, Doc. 28-1 at 6–8. That is contrary to settled law. When a legislature imposes a classification that privileges some while penalizing others, courts "insist on knowing the relation between the classification adopted and the object to be attained." *Romer*, 517 U.S. at 632. To pass muster, the discrimination must have a "nexus with a legitimate governmental policy." *Progressive Credit Union*, 889 F.3d at 49–50 (quoting *Neilson v. D'Angelis*, 409 F.3d 100, 105 (2d Cir. 2005)); see *Connecticut Dep't of Pub. Safety v. Doe*, 538 U.S. 1, 10 (2003) (Souter, J., concurring) ("The line drawn by the legislature between offenders who are sensibly considered eligible to seek discretionary relief . . . and those who are not is, like all legislative choices affecting individual rights, open to challenge under the Equal Protection Clause."). That much is bedrock constitutional law, and Defendants' authority underscores this point. When the reasoning in each case is surfaced, it is abundantly clear that

³ Defendants devote several pages to a class of one theory that Mr. Ebron does not advance. See Defs' Mot. to Dismiss, Doc. 28-1 at 11–14. The sentencing date cut-off is "a governmental classification [that] discriminates between entire classes or groups of people." *Bazemore v. Otero*, No. 3:19-CV-00496 (JAM), 2020 WL 1027778, at *5 (D. Conn. Mar. 2, 2020). So, it is unnecessary to ascertain whether "the government single[d] out [Mr. Ebron] as a 'class of one' for disparate treatment." *Id.*; see *Vill. of Willowbrook v. Olech*, 528 U.S. 562, 564 (2000) (applying a class of one theory where "the plaintiff did not allege membership in a class").

no *per se* rule governs rational basis review and that P.A. 23-169’s sentencing date restriction lacks a nexus to a legitimate government purpose.

Start with *Frazier v. Manson*, 703 F.2d 30 (2d Cir. 1983). The Second Circuit was faced with a legislative decision to create a “dual system for calculating good time.” *Id.* at 34. The court did not simply bless legislative line drawing in the abstract. It considered and found unpersuasive that the retroactive application of good time credits would pose an “excessive administrative burden,” notwithstanding an affidavit to the contrary from a research analyst. *Id.* at 35. Then, it turned to other justifications, eventually finding that the method of good time calculation could be sustained on separation of powers grounds. It was that “search for the link between classification and objective” that fulfilled the court’s obligation to ensure the system for calculating good time was not an arbitrary exercise of legislative power. *Romer*, 517 U.S. at 632.

The *Frazier* Court’s faithful application of the rational basis standard clarifies why separation of powers concerns are inapplicable here. As the court explained, the legislature might have “relied upon the fact that in imposing [a] sentence a judge frequently takes into account existing systems of computing good time” and, thus, declined to retroactively adopt a more liberal good time system. *Frazier*, 703 F.2d at 35. Here, the date cut-off cannot be sustained on separation of powers grounds. By conditioning parole eligibility on a sentencing date, P.A. 23-169 invades the judiciary’s sentencing authority by converting its ministerial choice of when to schedule a sentencing hearing into a substantive decision on a person’s suitability to apply for early release.

As for *Doe v. Michigan Department of State Police*, the Sixth Circuit addressed “the legislative classification created by the effective date” of amendments to the state’s Sex Offender Registry Act that prospectively exempted young people diverted from the criminal

legal system from having to register. 490 F.3d 491, 496, 505 (6th Cir. 2007). This exemption, the court reasoned, could allow the legislature to “assess” the policy’s impact on recidivism to ascertain whether it would “pose a danger” before expanding it retroactively. *Id.* at 505.

That reasoning is inapposite here. For one, P.A. 23-169’s expansion of parole eligibility involves continuous assessment and monitoring, whereas a limitation on the use of a sex offender registry strips the public of post-release monitoring authority. In Connecticut, the conditions of parole are quite severe: typically, a person must, *inter alia*, regularly report to a parole officer, agree to participate in programming, live in an approved residence, maintain continuous employment, and remain only in the State of Connecticut. Moreover, the decision to grant parole turns on one’s individual circumstances, myriad statutory factors, and, ultimately, Defendants’ discretion. *See* Conn. Gen. Stat. § 54-125a(g)(4). Because parole comes after a rigorous, individualized assessment and because it results in ongoing, individualized monitoring, parole eligibility does not carry the same risks present in *Doe*.

Beyond that, existing data and criminological principles discredit *Doe*’s “wait and see” approach in the instant matter. Of the 123 people who benefited from youth-based parole under P.A. 15-84—the law that opened a path to parole eligibility for crimes committed while under eighteen—only 11 percent have recidivated. Sec. Am. Compl., Doc. 22 ¶ 21. This figure is significantly lower than recidivism rates for the general prison population. *Id.*

And recidivism rates will be better for those subject to P.A. 23-169, who committed crimes between eighteen and twenty-one. “The propensity to engage in criminal activity declines with age.” *United States v. Pacheco-Martinez*, 791 F.3d 171, 180 (1st Cir. 2015) (quoting *United States v. Johnson*, 685 F.3d 660, 661 (7th Cir. 2012)). Those individuals—who committed crimes a few years later, and are now, on average, older—are even less likely to recidivate. In contrast to *Doe*, there is no need to wait and see because the data clarifies that

youth parole eligibility is safe. *See Leeds*, 85 F.3d at 53 (requiring that all reasonable inferences be drawn in the plaintiff's favor at the pleadings stage).

If that were not enough, the date cut-off undermines the legislature's ability to assess the public safety impacts of P.A. 23-169 because the sample size left after the date cut-off is miniscule. On P.A. 23-169's effective date, at least 153 people were incarcerated in Connecticut for a crime committed while under the age of twenty-one, but of those people, only thirty-five were sentenced prior to October 1, 2005. *See* Sec. Am. Compl., Doc. 22 ¶ 29. With only a few data points, it is nearly impossible to assess the law's impact on public safety. *See Leeds*, 85 F.3d at 53; *cf.* Sec. Am. Compl., Doc. 22 ¶ 21. Thus, the date cut-off forecloses the kinds of studies that would make it possible to assess the public safety impact of laws like P.A. 23-169.⁴

Nor are *Armour v. Lamont*, No. 3:23-CV-1606 (MPS), 2024 WL 4227010 (D. Conn. Sept. 18, 2024) or *Cinicola v. Lamont*, No. 3:25-CV-493 (VDO), 2026 WL 20794, at *4 (D. Conn. Jan. 5, 2026) of any moment. Although they involved challenges to P.A. 23-169, both cases were decided on jurisdictional grounds and, for that reason, neither meaningfully engaged with the dispositive inquiry. As illustrated by *Frazier* and *Doe*, there is no *per se* rule that governs rational basis review. Defendants must explain how P.A. 23-169's sentencing date restriction could be justified by a legitimate government purpose. And they do no such thing.

⁴ The *Doe* Court self-consciously emphasized that its analysis applied to prospective laws. *See* 490 F.3d at 504–05. And for good reason: when it comes to sentencing, prospective changes are the norm. *See Dorsey v. United States*, 567 U.S. 260, 280 (2012) (In “sentencing[,] the ordinary practice is to apply new [changes] to defendants not yet sentenced.”). But here the legislature took a different tack. It retroactively granted relief to those who committed crimes between eighteen and twenty-one and then conditioned that relief on one's sentencing date. Faced with a law that deviates from the norm, *Doe*'s light touch is out of place. *See Romer*, 517 U.S. at 632, (noting a law's “peculiar” and “exceptional” property before striking it down under rational basis review).

3.2 The sentencing date restriction bears no relationship to the severity of Connecticut’s sentencing regime.

Eventually, Defendants turn to the merits. They speculate that the sentencing date cut-off might be justified because it targets relief to those sentenced to “lengthy terms of incarceration” under an allegedly harsher regime in force prior to October 1, 2005. Defs’ Mtn. to Dismiss, Doc. 28-1 at 8–9. That rationale does not hold water.

First, Defendants’ argument is based on a categorically false premise because the legislature adopted even harsher sentencing laws *after* October 1, 2005. Sec. Am. Compl., Doc. 22 ¶ 35; *e.g.*, 2008 Conn. Pub. Acts 1 (creating and increasing penalties for certain felonies); 2008 Conn. Pub. Acts 51 (increasing mandatory minimum for “persistent dangerous felony offenders”). And even if this history was unknown to legislators when voting on P.A. 23-169, they were aware that October 1, 2005, was not an inflection point in the severity of Connecticut’s sentencing regime. *See* Sec. Am. Compl., Doc. 22 ¶¶ 35–36 (alleging that a legislator stated, on the record, that sentencing reform would not begin until 2010).⁵ Given that the date cut-off is unmoored from the history of sentencing reform, those sentenced under the harshest laws after October 1, 2005, are left without recourse. They were sentenced under the harshest regime; promised an opportunity for parole; and denied that same opportunity.

⁵ The trajectory of Connecticut’s prison population lends further support. In Connecticut, the prison population ballooned after 2005 and would not return to below the 2005 level until 2011. *Id.* ¶ 37. Granted, prison population and sentence length are not the same, but the two are correlated. That the prison population remained high after October 1, 2005, suggests that sentencing data will also undermine Defendants’ argument. At this stage, Mr. Ebron need only set forth facts sufficient to “raise a reasonable expectation that discovery will reveal evidence” of a constitutional violation. *Twombly*, 550 U.S. at 545. And with respect to the instant justification, discovery will be fruitful. *See, e.g.*, The Connecticut Statistical Analysis Center, *Criminal Justice Policy & Planning Division Monthly Indicators Report* (Feb. 2019), <https://perma.cc/3LF4-K8FE> (noting “that ‘93% of the entire contraction in the sentenced population between 2000 and 2018 occurred after 2010’”); *see also* Fed. R. Evid. 201(b)(2).

Second, even assuming, *arguendo*, that the harshest sentencing laws were only in force prior to October 1, 2005, P.A. 23-169’s sentencing date cut-off would not remedy the effects of those laws. At least in theory, the opportunity for parole provides a remedy for an unduly harsh sentence. The sentencing date cut-off, however, conditions that remedy on an arbitrary date. To justify the date restriction, Defendants must point to an “independent” interest in limiting relief to *only* the harshest sentences. *Romer*, 517 U.S. at 633; *see Rinaldi*, 384 U.S. 305, 309 (1966) (requiring the legislative distinction itself bear a relationship to the asserted purpose). Defendants have not carried this burden.

Third, a legislative grant of parole eligibility is not a rational method of addressing disproportionately harsh sentencing. Parole’s primary “purpose is to help individuals reintegrate into society as constructive individuals as soon as they are able.” *Morrissey v. Brewer*, 408 U.S. 471, 477 (1972). A parole hearing offers hope but is far from a guarantee of freedom. For those subjected to harsh sentences and then denied parole, their sentences remain intact. And then comes the psychological toll of the denial. “[E]ach parole hearing is an exceptional episode” in an incarcerated person’s life and each parole denial has a profound effect, potentially “invalidating the individual’s sense of self.” Richard Rivera, *Traumatized to Death: The Cumulative Effects of Serial Parole Denials*, 23 CUNY L. REV. 25, 26 (2020). So, even though ameliorating the effects of harsh sentences is a legitimate purpose, the intervention here—parole eligibility—is so far afield that the two bear no rational relationship.⁶

⁶ If, however, the goal of a statute was—as the legislative record reflects—to modernize Connecticut’s sentencing practices to be in line with neuroscience and take account of youthfulness at sentencing, Sec. Am. Compl., Doc. 22 ¶ 22, then parole eligibility fits the bill. *See State v. McCleese*, 215 A.3d 1154, 1159 (Conn. 2019) (explaining that P.A. 15-84’s grant of parole eligibility sufficiently addresses the requirement that age and “the hallmarks of adolescence” be considered as mitigating factors in sentencing).

3.3 The remaining justifications are convoluted and without merit.

Defendants’ remaining justifications may be dealt with in short order. To start, Defendants argue that P.A. 23-169 “serves the purpose of advancing public safety goals by providing” incarcerated people “an opportunity to be released earlier.” Defs’ Mtn. to Dismiss, Doc. 28-1 at 9. The problem for Defendants is that the legitimate government purpose to which they point—decarceration—flows from the statute writ large, not the sentencing date cut-off. *See Marcello v. Currey*, 364 F. Supp. 3d 155, 161 (D. Conn. 2019) (“Rational basis analysis focuses not on whether the law *en toto* achieves some rational benefit but whether a rational basis exists for the law to achieve its benefit by drawing the distinction that it does.”). Not only that, the sentencing date cut-off runs counter to Defendants’ interest in decarceration. Limiting eligibility to those who happened to be sentenced on or before October 1, 2005, bars at least 118 people from applying for parole due to the vicissitudes of the superior court’s calendar. *See* Sec. Am. Compl., Doc. 22 ¶ 29.

Defendants also rely on incrementalism to suggest that a gradual approach to lawmaking is always constitutionally permissible. Defs’ Mtn. to Dismiss, Doc. 28-1 at 9–10. Not so. While the legislature might act gradually for a legitimate purpose, acting slowly for its own sake is not enough. Were incrementalism alone sufficient “to justify any discriminatory policy, then plainly arbitrary policies”—like restricting parole eligibility to “anyone whose last name starts with the letter P—would pass rational basis review with flying colors.” *Marcello*, 364 F. Supp. 3d at 161 (citation modified). As the name implies, the task is for the defendant to identify a justification “that could provide a rational basis for the challenged classification.” *Martinez*, 350 F. Supp. 3d at 93 (quotations omitted). Defendants here fail to explain how sorting the pile of parole applications based on sentencing date, instead of any substantive indicator of parole suitability, furthers a legitimate interest. And a free-standing principle of

incrementalism is not a rational basis to depart from the constitutional norm that “all persons similarly circumstanced shall be treated alike.” *Reed*, 404 U.S. at 76 (quotations omitted).

Nor is Defendants’ conflation of a retroactive date cut-off with prospective sentencing reform persuasive. Defs’ Mtn. to Dismiss, Doc. 28-1 at 10–11. Defendants claim that a prospective-only change in sentencing law “does not create an equal protection violation, otherwise legislatures would never be able to change sentencing schemes.” *Id.* But the Equal Protection Clause involves no such *per se* rule. And the letter P is again illuminating: If a prospective sentencing reform provided for lighter sentences but only for individuals whose names started with “P,” the law would be struck down on equal protection grounds. *Marcello*, 364 F. Supp. 3d at 161. The inquiry does not change because the subject is sentencing reform.

Defendants’ analogy to prospective sentencing reform is also ill-conceived. P.A. 23-169 is a backward-looking, selective grant of relief to a handful of people chosen by the lottery of the superior court’s calendar. In the sentencing context, the appropriate analogy is not prospective sentencing reform but a retroactive reduction in sentencing length, provided to a select few sentenced on or before a particular date. That’s an important distinction. “[A] justification sufficient to validate a statute’s prospective application . . . may not suffice to warrant its retroactive application.” *Landgraf v. USI Film Prods.*, 511 U.S. 244, 266 (1994) (quotations omitted). And when it comes to retroactive decision-making, the legislature is more likely to use its “powers . . . to sweep away settled expectations suddenly and without individualized consideration” or “as a means of retribution against unpopular groups.” *Id.*

Finally, in a footnote, Defendants observe that the legislature “has been considering expanding the parole eligibility provisions of Conn. Gen. Stat. § 54-125(a)(g)(1).” Defs’ Mtn. to Dismiss, Doc. 28-1 at 10 n.4. They are referring to Senate Bill 503—proposed legislation from the 2026 session that would have both expanded youth-based parole eligibility *and* eliminated

the date cut-off. *See* S.B. 503, 2026 Gen. Assemb., Reg. Sess. (Conn. 2026). Pointing to the bill, Defendants suggest the sentencing date restriction is beyond the purview of the judiciary.

Just the opposite. The interplay between the judiciary and the legislature has long spurred constitutional dialogue in Connecticut. In *Casiano v. Commissioner of Correction*, 115 A.3d 1031 (Conn. 2015), the Connecticut Supreme Court held *Miller v. Alabama*, 567 U.S. 460 (2012) applies retroactively and required that courts consider a young person’s individualized circumstances before condemning them to the functional equivalent of life without parole. Writing for the majority, Justice McDonald observed that the decision might “prompt [the Connecticut] legislature to renew earlier efforts to address the implications of . . . *Miller*.” *Casiano*, 115 A.3d at 1047. He was correct. Soon thereafter, the legislature passed P.A. 15-84.

This inter-branch dialogue is precisely how our nation’s constitutional structure is designed to work. *See City of Boerne v. Flores*, 521 U.S. 507, 535–36 (1997) (“Our national experience teaches that the Constitution is preserved best when each part of the Government respects both the Constitution and the proper actions and determinations of the other branches.”). If a rational basis challenge to an arbitrary distinction in Connecticut’s parole eligibility regime prompts the legislature to self-correct, that is a sign of a healthy democracy.

4. Defendants offer no legitimate justifications for the sentencing date cut-off, and they cannot assert new ones on reply.

A motion to dismiss a rational basis challenge must be denied where either the complaint or opposition negates those “facts that could provide a rational basis for the challenged classification.” *Martinez*, 350 F. Supp. 3d at 93 (quoting *Vizio*, 2016 WL 1305116, at *22). None of Defendants’ hypotheticals provide that necessary ends-means fit.

To the extent Defendants assert new justifications on reply, their arguments will come too late. *See Castro v. Flowers*, No. 3:26-CV-225 (SRU), 2026 WL 1601850, at *7 n.6 (D.

Conn. June 4, 2026) (“Courts ‘generally do not consider issues raised in a reply brief for the first time’”) (quoting *In re Harris*, 464 F.3d 263, 268 n.3 (2d Cir. 2006)); *Crawford v. Bd. of Educ. of the City of Norwalk*, No. 3:24-CV-2059 (OAW), 2026 WL 923079, at *3 n.6 (D. Conn. Apr. 6, 2026). Those hypotheticals—should they be raised—can be addressed at summary judgment, with the benefit of discovery.

CONCLUSION

For the foregoing reasons, Mr. Ebron respectfully requests that this Court deny Defendants' Motion to Dismiss and allow the case to proceed on the merits.

Respectfully submitted,

/s/ Joseph Gaylin

Joseph Gaylin (ct32089)*
Dan Barrett (ct29816)
ACLU Foundation of Connecticut
P.O. Box 230178
Hartford, CT 06123
(860) 471-8471
jgaylin@acluct.org

Miriam Gohara, Esq. (ct30022)
Hannah Coyle, Law Student Intern
Jonah Landsman, Law Student Intern
Jerome N. Frank
Legal Services Organization
Yale Law School
P.O. Box 209090
New Haven, CT 06511
(203) 436-9167
miriam.gohara@ylsclinics.org

* ACLU Foundation of Connecticut's Legal Fellow Aadam Barclay contributed to the preparation of this brief.