

GINSBURG, J., concurring

SUPREME COURT OF THE UNITED STATES

No. 96–7171

RANDY G. SPENCER, PETITIONER v. MIKE KEMNA,
SUPERINTENDENT, WESTERN MISSOURI
CORRECTIONAL CENTER, ET AL.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF
APPEALS FOR THE EIGHTH CIRCUIT

[March 3, 1998]

JUSTICE GINSBURG, concurring.

The Court held in *Heck v. Humphrey*, 512 U. S. 477 (1994), that a state prisoner may not maintain an action under 42 U. S. C. §1983 if the direct or indirect effect of granting relief would be to invalidate the state sentence he is serving. I joined the Court’s opinion in *Heck*. Mindful of “real-life example[s],” among them this case, cf. *id.*, at 490, n. 10, I have come to agree with JUSTICE SOUTER’s reasoning: Individuals without recourse to the habeas statute because they are not “in custody” (people merely fined or whose sentences have been fully served, for example) fit within §1983’s “broad reach.” See *id.*, at 503 (SOUTER, J., concurring in judgment); cf. *Henslee v. Union Planters Nat. Bank & Trust Co.*, 335 U. S. 595, 600 (1949) (Frankfurter, J., dissenting) (“Wisdom too often never comes, and so one ought not to reject it merely because it comes late.”). On that understanding of the state of the law, I join both the Court’s opinion and JUSTICE SOUTER’s concurring opinion in this case.