

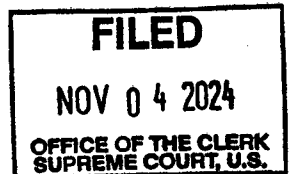
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IN THE SUPREME COURT OF THE
UNITED STATES

ORIGINAL

Johnny Hamilton, *Petitioner, Pro se*

v.

Case No. _____



State of Georgia, *Respondent*

ON PETITION FOR WRIT OF CERTIORARI TO GEORGIA COURT OF
APPEALS

PETITION FOR WRIT OF CERTIORARI

Johnny Hamilton

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QUESTIONS PRESENTED

1. Does Georgia's reckless conduct statute, O.C.G.A. 16-5-60(b), provide adequate notice of prohibited conduct and sufficient guidance to prevent arbitrary enforcement?
2. Is Georgia's reckless conduct statute, O.C.G.A. 16-5-60(b), consistent with constitutional protections as applied to the facts of this case?
3. Should considerations of a judicial emergency and public health concerns during the COVID-19 pandemic inform the application of legal standards in this case?
4. Does the nondisclosure of evidence related to a mandatory Department of Family and Children Services (DFCS) report raise issues under the due process requirements of *Brady v. Maryland*, 373 U.S. 83 (1963)?
5. Is the petitioner's claim of ineffective assistance of counsel barred from consideration for not raising the issue at the earliest opportunity, even though his attorney failed to withdraw from the case despite alleged conflicts of interest?

PARTIES TO THE PROCEEDING

Petitioner,-Johnny Hamilton

Respondent- State of Georgia

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**IN THE SUPREME COURT OF THE
UNITED STATES**

JOHNNY HAMILTON

V.

STATE OF GEORGIA

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- The opinion of the **Georgia Court of Appeals** dated January 26, 2024, is Unpublished. **Appendix C**

- The order of the **Georgia Court of Appeals** denying reconsideration on March 8, 2024, is Unpublished. **Appendix C**

- The order of the **Georgia Supreme Court** denying the petition for writ of certiorari on August 13, 2024, is unpublished. **Appendix C**

JURISDICTIONAL STATEMENT

The judgment of the Georgia Court of Appeals was entered on January 26, 2024. The Georgia Supreme Court denied a petition for review on August 13, 2024. This Court has jurisdiction under 28 U.S.C. § 1257(a) as the decision of the state court involves substantial questions of federal law, including violations of the Fourth, Fifth, Sixth, and Fourteenth Amendments to the United States Constitution.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

1. Fourth Amendment to the United States Constitution

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to

be searched, and the persons or things to be seized.

This provision protects individuals from unlawful searches and seizures, and is central to the claim that the prolonged detention of Mr. Hamilton, without Miranda warnings, amounted to an unreasonable seizure and custodial interrogation in violation of his Fourth Amendment rights.

2. Fifth Amendment to the United States Constitution

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

The Fifth Amendment's protection against self-incrimination is implicated in this case due to the failure of law enforcement to administer Miranda warnings during a custodial interrogation. Mr. Hamilton was compelled to make self-incriminating statements in violation of this constitutional safeguard.

3. Sixth Amendment to the United States Constitution

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence.

This provision is relevant due to Mr. Hamilton's claim of ineffective assistance of counsel. His counsel's failure to properly prepare, obtain exculpatory evidence, and file crucial pretrial motions severely prejudiced his defense, rendering his guilty plea involuntary and in violation of his Sixth Amendment right.

4. Fourteenth Amendment to the United States Constitution

No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

The Due Process Clause of the Fourteenth Amendment is invoked due to the Brady violation, where the prosecution withheld exculpatory evidence—namely, the DFCS report—thereby depriving Mr. Hamilton of a fair opportunity to defend himself.

5. Brady v. Maryland, 373 U.S. 83 (1963)

The suppression by the prosecution of evidence favorable to an accused upon request violates due process where the evidence is material either to guilt or to punishment, irrespective of the good faith or bad faith of the prosecution.

The Brady doctrine is central to the claim that the prosecution failed to disclose exculpatory evidence—specifically, the Department of Family and Children Services (DFCS) mandatory report—which could have affected the outcome of Mr. Hamilton's case.

6. Georgia's Reckless Conduct Statute - O.C.G.A. § 16-5-60(b)

A person who causes bodily harm to or endangers the bodily safety of another person by consciously disregarding a substantial and unjustifiable risk that his act or omission will cause

harm or endanger the safety of the other person and the disregard constitutes a gross deviation from the standard of care which a reasonable person would exercise in the situation, commits the offense of reckless conduct.

The constitutionality of this statute is at issue in this case, as it is alleged to be unconstitutionally vague as applied. Mr. Hamilton contends that the statute, as interpreted in his case, failed to provide adequate notice of what conduct was prohibited, allowing for arbitrary enforcement and leaving citizens uncertain about the law's requirements. The statute's vague language and broad interpretation permitted his prosecution under circumstances where his conduct did not meet a clear legal standard for reckless behavior.

7. *Miranda v. Arizona*, 384 U.S. 436 (1966)

Prior to any questioning, the person must be warned that he has a right to remain silent, that any statement he does make may be used as evidence against him, and that he has a right to the presence of an attorney, either retained or appointed.

This precedent underpins Mr. Hamilton's claim that he was subjected to a custodial interrogation without being informed of his rights under *Miranda*, thereby violating his Fifth Amendment protections against self-incrimination.

8. O.C.G.A. § 19-7-5 (Georgia's Mandatory Reporting of Child Abuse Statute)

Any person or official required by subsection (c) of this Code section to report a suspected case of child abuse who knowingly and willfully fails to do so shall be guilty of a misdemeanor.

This statute requires certain professionals, including law enforcement officers and other designated officials, report suspected child abuse to the Department of Family and Children Services (DFCS). It is relevant here due to the prosecution's alleged failure to disclose the DFCS

mandatory report. This report could have provided exculpatory evidence showing that the situation involving Mr. Hamilton did not meet the threshold for child neglect or endangerment, as defined by Georgia Law.

INTRODUCTION

This case presents an alarming confluence of weaponized 911 calls, retroactive application of vague criminal statutes, and procedural abuses during a time of national crisis. At the height of the COVID-19 pandemic, Johnny Hamilton acted as a concerned parent, leaving his two young children in a safe, air-conditioned vehicle for a brief moment to purchase essential items. A 911 call, placed after the situation had already resolved itself, weaponized law enforcement against Mr. Hamilton, who was not engaged in any unlawful conduct when officers arrived.

Police officers responding to the 911 call used a dashcam device not only to record video but also to covertly capture audio, creating an environment of intimidation. The subsequent custodial interrogation of Mr. Hamilton, conducted without providing Miranda warnings, compounded the injustice. Adding to this, Georgia's reckless conduct statute, O.C.G.A. 16-5-60(b), was retroactively and unconstitutionally applied to Mr. Hamilton, despite his adherence to public health protocols and the uncertainty of judicial standards during the pandemic.

At every stage, Mr. Hamilton was subjected to procedural irregularities and abuses. Evidence critical to his defense, including the Department of Family and Children Services (DFCS) report, was withheld. Moreover, Mr. Hamilton's council failed to withdraw despite significant conflicts of interest, depriving him of the effective assistance of counsel guaranteed under the Sixth Amendment. This combination of factors left Mr. Hamilton coerced into a guilty plea, all while no evidence of unlawful conduct existed when the police arrived.

The constitutional implications of these issues demand this Court's intervention. The retroactive application of vague statutes, weaponization of public safety resources, and procedural deficiencies during a time of national uncertainty set a dangerous precedent that warrants review.

STATEMENT OF THE CASE (WEAPONIZED 911 CALL)

During the peak of the COVID-19 Delta variant, Hamilton briefly left his three-year-old twins in his running vehicle with air conditioning while he quickly entered a grocery store to purchase milk. Given the pandemic's health risks, Hamilton had taken measures to ensure the children's safety, as they could not reliably keep their masks on. He returned to the vehicle around 9:01 p.m., according to the timestamp on his grocery receipt, and noticed a store employee standing by his car. Unbeknownst to Hamilton, she had already contacted 911, mistakenly assuming the children were unsupervised.

Officers were called at 9:05 p.m. and arrived promptly by 9:09 p.m., detaining Hamilton in a manner that set a coercive tone. His driver's license was taken immediately, restricting his ability to leave, and officers began questioning him without Miranda warnings. This interrogation occurred during a tense period in which Black men often feared escalated police encounters, particularly given the national attention on police violence and the death of George Floyd. Despite having returned to his vehicle before officers arrived, Hamilton, concerned about the possible escalation, felt compelled to comply fully with their questioning.

The coercive environment was compounded by the "weaponized" nature of the 911 call. The employee's call did not arise from witnessing actual danger to the children but from a misinterpretation of the situation. Upon their arrival, the officers were also unsure about the appropriate legal charge, consulting with a supervisor and ultimately applying a statute whose

vagueness led to an arbitrary decision, further demonstrating its issues as applied in this case. Hamilton's guilty plea was fundamentally prejudiced by both the prosecutor's and judge's misinterpretation of Georgia's reckless conduct statute, O.C.G.A. 16-5-60(b), which they applied without adequately examining the critical element of *mens rea*—the guilty mind necessary to substantiate a criminal offense. Compounding this misapplication, Hamilton's attorney failed to conduct a diligent review of the statute's requirements or consider that Hamilton's brief absence from his children during the COVID-19 pandemic did not indicate the requisite recklessness. The attorney's neglect to pursue critical discovery, interview witnesses, secure the Department of Family and Children Services (DFCS) report, and examine video evidence left Hamilton uninformed about his options and coerced into a plea due to an incomplete understanding of the law's requirements. These combined failures by his attorney, prosecutor, and judge significantly prejudiced Hamilton's decision to plead guilty.

REASONS FOR GRANTING THE PETITION

The issues presented in this case meet the criteria under Supreme Court Rule 10, which governs the considerations for granting a writ of certiorari. This case raises compelling reasons for the Court's review, including:

1. **Important Federal Questions Needing Resolution:** The constitutionality of Georgia's reckless conduct statute as applied in this case presents an important federal question that has not been definitively settled by this Court. The statute's vagueness raises concerns about due process and the clarity required for criminal laws under the Fourteenth Amendment. The lack of a clearly defined *mens rea* requirement further exacerbates these concerns, potentially criminalizing non-culpable behavior. Review is necessary to

establish a uniform standard for the constitutionality of vague criminal statutes and clarify the required elements for criminal liability.

2. **Departure from Accepted Judicial Standards:** The Georgia Court of Appeals has departed from accepted judicial standards by upholding a conviction where significant procedural irregularities occurred, including the failure to apply the cumulative error doctrine and violations of the petitioner's Fourth, Fifth, and Sixth Amendment rights. The procedural errors in this case, such as the failure to disclose exculpatory evidence and the ineffective assistance of counsel, warrant this Court's supervisory intervention to ensure fair judicial proceedings.
3. **Inconsistent Application of Constitutional Standards:** The handling of the constitutional claims in this case is inconsistent with this Court's precedents, including *Miranda v. Arizona*, *Brady v. Maryland*, and *Strickland v. Washington*. The lower court's decision has created an inconsistency in the application of federal constitutional protections, particularly concerning custodial interrogations, the right to effective assistance of counsel, and the requirement for the disclosure of exculpatory evidence. This case presents an opportunity for the Court to address these inconsistencies and reinforce the protections guaranteed by the Constitution.

4. **Exceptional Public Interest**

The broader public concern revolves around whether individuals acting in good faith to balance public health guidance with personal responsibilities can be criminalized. The case

sheds light on the boundaries between public health priorities and overreach by law enforcement.

In sum, this case aligns with Rule 10(a) and 10(c), as it involves an important federal question that has not been settled by this Court, and the lower courts have departed from accepted judicial procedures in a way that necessitates the Court's supervisory review. The issues raised herein are of significant public interest and involve substantial constitutional rights, justifying the grant of certiorari to resolve these critical matters.

ARGUMENTS

I. Georgia's Reckless Conduct Statute is Unconstitutionally Vague as Applied in This Case

The reckless conduct statute, O.C.G.A. § 16-5-60(b), provides that a person commits the offense of reckless conduct when they cause bodily harm or endanger the bodily safety of another person by consciously disregarding a substantial and unjustifiable risk that their act or omission will cause harm. However, the statute fails to clearly define what conduct meets the threshold of "Substantial and unjustifiable risk," thereby making it unconstitutionally vague as applied in the petitioner's case.

In *Hall v. State*, the Georgia Supreme Court found that the reckless conduct statute was unconstitutionally vague because it did not specify what actions or omissions would constitute a criminal offense under the law. The Court noted that criminal statutes must provide sufficient clarity to give ordinary people a reasonable opportunity to understand what conduct is prohibited and to prevent arbitrary and discriminatory enforcement by the authorities. The failure to specify what constitutes "reckless" behavior makes it difficult for individuals to know when their conduct might cross the line into criminality.

The ambiguity in the statute is evident in the petitioner's case. Mr. Hamilton was prosecuted for leaving his children in a climate-controlled car for a few minutes while purchasing milk at a

grocery store. The circumstances surrounding the alleged offense were not clearly defined as posing a substantial and unjustifiable risk. There was no evidence that the children were in immediate danger given that the car was running, air-conditioned, and in a safe location. The statute, as applied in this case, provided no objective standard for determining whether the petitioner's brief absence from the vehicle constituted criminal conduct, thereby inviting arbitrary and discriminatory enforcement based on subjective interpretations by law enforcement officers.

The Lack of a Clear Legal Standard Permitted Arbitrary Enforcement

The ambiguity of the statute permitted law enforcement to interpret what constituted "reckless" conduct in an arbitrary manner. In this instance, Mr. Hamilton's act of briefly leaving his children in a car that was running and air-conditioned was criminalized based on the subjective judgment of officers and not on any established legal standard. The statute's failure to provide an objective measure of "substantial and unjustifiable risk" resulted in an arbitrary application of the law, which is inconsistent with constitutional principles of due process.

As applied in this case, the statute failed to provide Mr. Hamilton with adequate notice that his conduct could be criminally prosecuted. This vagueness mirrors the issues identified in *Hall v. State*, where the Court emphasized that criminal statutes must be precise enough to give ordinary people fair warning of what the law demands. Without a clear standard, the petitioner could not reasonably foresee that his conduct—leaving his children in a running, air-conditioned car for a few minutes during covid—would be deemed illegal.

In Mr. Hamilton's case, the lack of clear evidence demonstrating that he consciously disregarded

a substantial risk to his children undermines the *mens rea* requirement. When he left his children in a running, air-conditioned vehicle for a brief period, he took measures to ensure their safety, suggesting that he did not act with a reckless state of mind. There is no evidence to show that he knew or should have known that this temporary arrangement would create a significant danger to his children.

Moreover, the fact that the situation had already been resolved by the time the police were contacted (with Mr. Hamilton returning to his car by 9:01 p.m. and the call placed at 9:05 p.m.) further weakens the argument that he consciously disregarded a substantial risk. The delay in reporting indicates that there was no immediate or obvious danger perceived by witnesses, and thus it cannot be reasonably inferred that Mr. Hamilton had a *guilty mind* when he briefly left the children unattended.

The prosecution's failure to establish that Mr. Hamilton possessed the required *mens rea* to commit reckless conduct violates a core principle of criminal law. Without a demonstration of the requisite guilty mind, his actions cannot legally constitute a crime under the statute. This lack of evidence regarding *mens rea* serves as an additional ground for challenging the constitutionality and application of the reckless conduct statute in this case.

The *mens rea* defense also aligns with principles articulated in *Hall v. State*, where the Georgia Supreme Court recognized that for the reckless conduct statute to be constitutionally applied, there must be a clear and ascertainable standard for assessing whether the defendant's conduct amounted to a substantial risk knowingly disregarded. In Mr. Hamilton's case, this standard was not met, further demonstrating the vagueness and arbitrary enforcement of the statute as applied.

II. Georgia's Reckless Conduct Statute is Unconstitutionally Duplicious as Applied in This Case

The statute's vagueness is further compounded by its overlap with child endangerment laws. The same conduct could be prosecuted under different statutes with varying standards, leading to confusion about which actions are criminally punishable and under which law. In *State v. Boyer*, 270 Ga. 701, 512 S.E.2d 605 (1999), the Georgia Supreme Court highlighted the problematic nature of statutes that overlap without clear distinctions. In this case, the vagueness of the reckless conduct statute effectively duplicated the criteria found in other statutes, allowing the prosecution to selectively charge Mr. Hamilton under whichever provision they deemed more advantageous.

By criminalizing Mr. Hamilton's conduct without providing a clear, objective standard for what constitutes "recklessness," the statute violated the principles set forth in both *Hall v. State* and *Kolender v. Lawson*, 461 U.S. 352 (1983), where the U.S. Supreme Court held that vague laws may invite arbitrary enforcement and fail to give fair notice of what is prohibited. The statute's application here did precisely that, criminalizing an act without sufficient legal guidance, and thus failed to meet constitutional requirements for definiteness and clarity.

This elaboration strengthens the argument that Georgia's reckless conduct statute, as applied in Mr. Hamilton's case, is unconstitutionally vague because it lacked a clear standard and permitted arbitrary and discriminatory enforcement, depriving the petitioner of fair notice of what conduct is prohibited.

To further support the argument that Georgia's reckless conduct statute is unconstitutionally vague as applied in this case, the timing of the police response is significant. The facts indicate that the police were called after the situation had already been resolved. According to the record,

Mr. Hamilton exited the grocery store at 9:01 p.m., while the call to the police was made at 9:05 p.m. This means that by the time the call was placed, Mr. Hamilton was already back at his vehicle, and any perceived risk to his children had been mitigated.

The statute's vagueness becomes even more apparent when considering these facts. If the alleged "reckless" conduct had already ended by the time law enforcement was notified, it calls into question what actual risk existed that could constitute a criminal offense under the statute. The delay in the reporting suggests that the situation was not considered immediately dangerous, which contradicts the assertion that Mr. Hamilton's conduct amounted to a "substantial and unjustifiable risk" as required under O.C.G.A. § 16-5-60(b).

Moreover, this sequence of events illustrates the arbitrary nature of the statute's application. Prosecuting Mr. Hamilton for reckless conduct based on a situation that had already been resolved when the authorities were contacted demonstrates how the statute fails to provide a clear standard for what constitutes illegal conduct. The decision to pursue charges was based not on any immediate, identifiable harm but rather on a retroactive judgment of his actions, further reinforcing the argument that the statute invites arbitrary enforcement.

This aspect, coupled with the existing lack of clarity in defining "substantial and unjustifiable risk," underscores why the reckless conduct statute is unconstitutionally vague as applied in this case. It not only deprived Mr. Hamilton of fair notice that his actions could be deemed criminal but also subjected him to prosecution based on an interpretation that was not grounded in an objectively dangerous situation at the time it occurred.

statutes with varying legal standards.

III. Fourth and Fifth Amendment Violations

The petitioner's **Fourth** and **Fifth Amendment** rights were violated during the custodial interrogation conducted without Miranda warnings, which led to the admission of self-incriminating statements. The situation became custodial when officers took Mr. Hamilton's driver's license and effectively restricted his freedom to leave. Despite this, officers failed to advise him of his rights under *Miranda v. Arizona*, and the evidence obtained during the unlawful questioning was subsequently used against him.

Adding to this violation, the officers covertly recorded the interrogation through an audio device connected to a dashcam, which further infringed on Mr. Hamilton's Fifth Amendment right against self-incrimination. The concealed nature of the recording, combined with the coercive environment of the stop, exacerbated the violation. Not only was Mr. Hamilton unaware that his statements were being recorded, but he was also placed in an intimidating environment where his rights were disregarded.

Impact of the Judge's Ruling on the Motion to Suppress:

A critical aspect of this case is the trial judge's decision to only partially grant Mr. Hamilton's motion to suppress the audio evidence captured during this unlawful interrogation. The judge compared the situation to a routine traffic stop in her ruling, thus applying a lesser standard of scrutiny. However, this comparison was improper given the nature of the accusations—child abuse, a much more serious allegation than a traffic violation. The judge's decision to equate the incident with a traffic stop overlooked the fact that accusations of child neglect require stricter scrutiny due to the severe consequences and the stigma associated with such allegations.

The ruling on the motion to suppress failed to recognize that child abuse allegations inherently

involve greater potential for harm to the accused's reputation, family relationships, and legal standing. Given this, the custodial interrogation of Mr. Hamilton should have been scrutinized more closely, as it directly implicated his liberty interests and parental rights. Unlike a typical traffic stop, which is brief and non-threatening, the interrogation surrounding accusations of child neglect can create a highly coercive environment. This context warrants heightened constitutional protections, especially concerning Miranda warnings and the admissibility of any self-incriminating statements.

Moreover, the judge's decision to permit the audio evidence—despite the Miranda violations—had a significant prejudicial impact on Mr. Hamilton's case. The recording captured incriminating statements made by Mr. Hamilton during the interrogation, which were later used against him in court. These statements were obtained without the necessary constitutional safeguards, and their admission further underscores the improper handling of Mr. Hamilton's rights by both law enforcement and the court.

In addition to the Miranda violation, this partial suppression ruling reflects a troubling departure from established constitutional protections in more serious criminal matters. The lack of proper scrutiny in a case involving child abuse allegations demonstrates a departure from the standards required for ensuring due process under the law. **Berkemer v. McCarty**, which allows limited questioning during routine traffic stops, does not extend to situations involving serious accusations like child neglect. The judge's application of a lesser standard deprived Mr. Hamilton of his right to a full suppression of evidence that was unlawfully obtained.

This failure to suppress all audio evidence undermines the integrity of the trial process and substantially contributed to Mr. Hamilton's decision to enter a guilty plea. The cumulative

impact of the improper interrogation, the unlawful recording, and the court's flawed ruling rendered the trial fundamentally unfair and in violation of Mr. Hamilton's constitutional rights under the Fourth and Fifth Amendments.

IV. Ineffective Assistance of Counsel and Sixth Amendment Violation

Mr. Hamilton's Sixth Amendment right to effective assistance of counsel was violated due to his attorney's deficient performance, which directly impacted the voluntariness of his guilty plea.

Under *Strickland v. Washington*, 466 U.S. 668 (1984), it is established that a defendant is entitled to competent legal representation. The standard requires showing that counsel's performance fell below an objective standard of reasonableness and that the deficient performance prejudiced the defense.

In Mr. Hamilton's case, his attorney failed in several critical areas:

1. **Failure to Obtain Discovery:** Despite Mr. Hamilton's requests, his counsel did not secure crucial evidence, including the Department of Family and Children Services (DFCS) mandatory report, which could have substantiated that there was no substantiated risk to Mr. Hamilton's children.
2. **Failure to Appear on Time for Court Hearings:** The attorney's repeated tardiness demonstrated a lack of diligence and commitment to adequately defending Mr. Hamilton, creating a perception that the case was not being taken seriously.
3. **Failure to Prepare for Trial at the Request of Mr. Hamilton:** Despite the petitioner's explicit desire to proceed to trial, his counsel did not prepare the necessary defense strategy, including failing to interview key witnesses and to secure exculpatory video evidence from the store where the incident occurred.

4. **Failure to Interview Witnesses:** The attorney did not interview any witnesses who could have provided testimony to refute the allegations, thus depriving Mr. Hamilton of a crucial component of his defense.
5. **Failure to Request Video Evidence from the Store:** The lack of efforts to obtain video footage from the store further undermined the defense's ability to present an accurate depiction of the incident.

These deficiencies significantly prejudiced Mr. Hamilton's case, leaving him without a proper defense. The cumulative effect of these failures created a situation where Mr. Hamilton had no reasonable choice but to plead guilty despite maintaining his innocence. His decision was not a reflection of guilt, but rather a response to the imminent threat of being torn away from his four-year-old twins and potentially facing prison for a crime he did not commit.

The reality that many innocent Black men are wrongfully convicted and spend years in prison before being exonerated weighed heavily on Mr. Hamilton's decision. Faced with an attorney who was not effectively advocating on his behalf, and the prospect of losing precious time with his children, Mr. Hamilton, was coerced into accepting a plea deal as the least harmful option. This circumstance highlights the critical need for competent legal representation, especially when the stakes involve not only the loss of liberty but also the disruption of family life.

The attorney's failure to perform essential duties deprived Mr. Hamilton of his Sixth Amendment right to a fair and competent legal defense, rendering the plea involuntary and void, as established in *Hill v. Lockhart*, 474 U.S. 52 (1985). The cumulative errors and the attorney's deficient performance warrant relief from this Court.

V. Due Process Violation and Brady Violation

The prosecution's failure to disclose exculpatory evidence in the form of mandatory reports and records from the Department of Family and Children Services (DFCS) constituted a clear violation of the petitioner's due process rights under *Brady v. Maryland*, 373 U.S. 83 (1963). In *Brady*, the U.S. Supreme Court established that the suppression of evidence favorable to the accused violates due process when the evidence is material to guilt or punishment. In Mr. Hamilton's case, the withheld evidence meets this standard, significantly undermining the integrity of the prosecution and the fairness of the proceedings.

The DFCS reports, which were mandatory due to the nature of the alleged incident, would have demonstrated that there was no substantiated risk of harm to Mr. Hamilton's children. This information was not merely tangential but central to his defense. The prosecution's suppression of these records deprived the petitioner of evidence that could have exonerated him or, at the very least, raised substantial doubt about the legitimacy of the charges. The absence of any substantiated finding of child neglect or recklessness would have directly contradicted the narrative presented by the State, thereby impacting the legal strategy and decisions made by the defense, including the decision to plead guilty.

Further, the Brady violation occurred against the backdrop of Hamilton's attorneys failing to investigate or obtain these exculpatory records themselves. The State's obligation to disclose exculpatory evidence remains, even when the defense does not specifically request it. The prosecution had an affirmative duty to turn over all evidence favorable to the accused, particularly evidence that contradicted or weakened its case. The suppression of the DFCS records represents a significant departure from this duty, as these reports would have provided a

complete picture of the incident, one that included information favorable to Mr. Hamilton. Additionally, the withheld evidence is material under the standard articulated in *United States v. Bagley*, 473 U.S. 667 (1985), which requires that the undisclosed evidence must be “material either to guilt or to punishment.” Here, the DFCS records were directly relevant to the core issue of whether Mr. Hamilton's conduct constituted criminal recklessness. The materiality is further underscored by the fact that, had the defense known about these exculpatory records, it is reasonably probable that the outcome of the case would have been different. A thorough review of these records may have provided a basis to challenge the charges, seek dismissal, or negotiate a more favorable plea agreement.

This Brady violation did more than just prejudice the defense; it deprived Mr. Hamilton of the opportunity to make informed legal decisions and mount an effective defense, as well as the right to a fair trial. Without access to the DFCS reports, Mr. Hamilton was coerced into pleading guilty based on incomplete and misleading information. The State's actions violated the core principles of justice and due process that the Brady doctrine seeks to protect.

Moreover, the impact of the Brady violation was exacerbated by the cumulative nature of errors in this case, which included ineffective assistance of counsel, suppression of evidence, and procedural irregularities. When combined with these other deficiencies, the suppression of exculpatory evidence fundamentally undermined the reliability of the judicial process in this case. The Georgia Court of Appeals' failure to recognize the significance of the Brady violation and address its impact on the fairness of the proceedings highlights a need for this Court's intervention to correct this miscarriage of justice.

The intentional or reckless omission of the DFCS records represents a failure of the prosecution

to adhere to its ethical and legal obligations under *Brady* and subsequent cases. The materiality of these records, the defense's inability to access them, and the prejudicial impact of their suppression collectively amount to a violation that requires reversal or, at minimum, remand for further proceedings consistent with the principles of due process.

VI. Cumulative Error Doctrine and Failure to Apply in This Case

The Georgia Court of Appeals failed to recognize and apply the cumulative error doctrine in evaluating the numerous prejudicial errors that occurred in Mr. Hamilton's case. This omission directly contradicts established Georgia precedent, which acknowledges that the cumulative effect of multiple errors can deprive a defendant of a fair trial, even if each individual error, considered in isolation, may not warrant reversal.

The Georgia Supreme Court's decision in *Lane v. State*, 299 Ga. 568, 791 S.E.2d 869 (2016), serves as a pivotal case in shaping the application of the cumulative error doctrine in Georgia. In *Lane*, the court recognized that a series of smaller errors, when viewed collectively, could significantly impair the fairness of the proceedings, thereby justifying a reversal of the conviction. The Court noted that the cumulative impact of errors should be assessed by considering their aggregate effect on the trial's outcome, rather than viewing them as isolated events. This marked a shift from previous decisions that strictly required each error to meet a threshold for reversal independently.

Lane established that cumulative error analysis is particularly important where multiple violations, including constitutional infringements, occur. The *Lane* decision emphasized that even seemingly minor or individually harmless errors, when combined, can significantly undermine a defendant's right to a fair trial. By adopting this approach, Georgia courts

acknowledged the reality that procedural errors, ineffective assistance of counsel, and due process violations can have a compounding effect that distorts the judicial process and prejudices the defendant.

In Mr. Hamilton's case, the cumulative error doctrine was crucial to ensure a fair assessment of his claims. The trial was marred by multiple significant errors, including the unconstitutional application of Georgia's reckless conduct statute, violations of the Fourth and Fifth Amendments, ineffective assistance of counsel, and the suppression of exculpatory evidence in violation of *Brady v. Maryland*. These errors, taken together, rendered the proceedings fundamentally unfair and created a reasonable probability that the outcome would have been different had these errors not occurred. The appellate court's failure to analyze the cumulative impact of these errors represents a departure from the principles articulated in *Lane*.

The Court of Appeals' decision overlooked the essential purpose of the cumulative error doctrine: to account for the real-world effect that multiple errors can have on a defendant's right to a fair trial. Mr. Hamilton faced numerous procedural deficiencies, including his attorney's repeated failures to prepare for trial, obtain discovery, interview witnesses, and secure exculpatory evidence. These deficiencies were exacerbated by the unconstitutional custodial interrogation and the covert use of hidden recording devices. Furthermore, the suppression of DFCS reports deprived Mr. Hamilton of crucial exculpatory evidence that could have supported his defense.

The failure to apply the cumulative error doctrine in this case permitted the aggregation of prejudicial errors go unchecked, contrary to *Lane*'s mandate that the judicial process must consider the overall effect of multiple deficiencies. The Court of Appeals' omission thus

perpetuated a miscarriage of justice, where Mr. Hamilton's conviction stood despite a trial marred by compounding errors that, when viewed together, significantly undermined the fairness and integrity of the judicial process.

The *Lane* decision compels the courts to acknowledge the aggregate harm resulting from multiple trial errors, recognizing that the sum effect of numerous violations can be far greater than each individual issue. The Court of Appeals' failure to apply this doctrine constituted an error of law and denied Mr. Hamilton the thorough judicial review that Georgia precedent demands. Properly considered, the cumulative error doctrine necessitates relief for Mr. Hamilton, as the series of violations collectively rendered his trial fundamentally unfair and unjust.

CONCLUSION

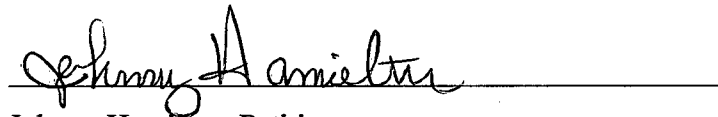
The case of Johnny Hamilton represents a deeply troubling example of how constitutional safeguards can fail under the strain of procedural errors, inadequate legal representation, and systemic flaws. The confluence of constitutional violations in this case—vague laws, unlawful interrogation practices, ineffective counsel, suppression of exculpatory evidence, and the denial of the cumulative error doctrine— all deriving from a **weaponized 911** call at the height of covid 19 renders Mr. Hamilton's conviction fundamentally flawed.

At stake is not merely the fate of one individual, but the integrity of the justice system itself. This Court's intervention is crucial to uphold the principle that every accused deserves a fair trial, adequate representation, and the assurance that justice will not be compromised by legal ambiguities and procedural neglect. Mr. Hamilton, a father who faced the potential of being torn away from his young children, should not have to bear the consequences of a system that failed him at every turn. This petition presents an opportunity to reinforce the constitutional protections

that safeguard all citizens, especially the most vulnerable.

For these reasons, the Court should grant this petition for a writ of certiorari and correct the **manifest injustices** that pervade Mr. Hamilton's case.

Done this 4th Day of January 2025

A handwritten signature in cursive script, appearing to read "Johnny Hamilton", is written over a horizontal line.

Johnny Hamilton, Petitioner

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