

No.

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

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**JEFFREY WEINHAUS,**

*Petitioner,*

vs.

**RICHARD ADAMS, Warden, Eastern Reception Diagnostic and Correctional  
Center,**

*Respondent.*

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**ON PETITION FOR A WRIT OF CERTIORARI TO THE MISSOURI SUPREME COURT**

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**PETITION FOR WRIT OF CERTIORARI**

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## QUESTION PRESENTED FOR REVIEW

A Missouri State Trooper shot Petitioner in the head, chest and neck, claiming that he saw Petitioner reach for a holstered legally carried gun. Although the trooper had been diagnosed with Post Traumatic Stress Disorder years before the shooting, he concealed his condition when asked relevant questions in a pretrial deposition. In fact, he was suspended and eventually terminated after failing multiple fitness-for-duty evaluations before Mr. Weinhaus' trial. This remained concealed from Petitioner until, after Mr. Weinhaus' appeal and postconviction motions were denied, the Missouri Court of Appeals published an opinion affirming the denial of the former trooper's lawsuit against the Missouri State Highway for failing to accommodate his PTSD-related disability that prevented him from accurately perceiving threats. This petition presents the following question:

1. Where State law entitles a prisoner to habeas corpus review of a Constitutional claim upon a showing of cause and prejudice, does the summary denial of a facially valid petition violate due process of law?

## PARTIES TO THE PROCEEDING

The Petitioner is Jeffrey Weinhaus, #1261778, a prisoner incarcerated in the Eastern Reception Diagnostic and Correctional Center, 2727 Highway K, Bonne Terre, MO 63628.

The Respondent is Richard Adams, Warden, Eastern Reception Diagnostic and Correctional Center, represented by Missouri Attorney General Andrew Bailey, Assistant Attorney General Michael Spillane, P.O. Box 899. Jefferson City, MO 65102.

## STATEMENT OF RELATED PROCEEDINGS

*State v. Weinhaus*, No. 12AB-CR02409-01, (Franklin Cnty. Cir. Ct. 2013).

Judgment entered November 25, 2013.

*State v. Weinhaus*, No. ED100807, 459 S.W.3d 916 (Mo. Ct. App. E.D. 2015).

Judgment entered January 27, 2015.

*Weinhaus v. Missouri*, No. 14-10256, 577 U.S. 855 (2015). Judgment entered October 5, 2015.

*Weinhaus v. Missouri*, No. 15AB-CC00117, (Franklin Cty. Cir. Ct. 2015).

Judgment entered November 12, 2015.

*Weinhaus v. State*, No. ED103834, 501 S.W.3d 523 (Mo. Ct. App. E.D. 2016).

Judgment entered October 18, 2016.

*Weinhaus v. Steele*, 2019 U.S. Dist. LEXIS 136251, 2019 WL 3803477 (E.D. Mo. 2019). Judgment entered August 13, 2019).

*Weinhaus v. Payne*, No. ED109329, (Mo. Ct. App. E.D. 2020). Judgment entered December 17, 2020.

*Weinhaus v. Adams*, No. SC100827, (Mo. 2024). Judgment entered December 23, 2024.

*Henry James Folsom v. The Missouri State Highway Patrol*, 580 S.W.3d 645 (Mo. App. August 20, 2019).

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## PETITION FOR WRIT OF CERTIORARI

Petitioner Jeffrey Weinhaus respectfully petitions for a Writ of Certiorari to review the judgment of the Missouri Supreme Court entered in this case.

### OPINION BELOW

The December 23, 2024, opinion of the Missouri Supreme Court is an unpublished summary denial. *See State ex. rel. Weinhaus v. Adams*, No. SC100827, 2024 Mo. LEXIS 405: Appendix, hereafter “App \_\_”, p. 1.

### JURISDICTION

The Missouri Supreme Court entered judgment summarily denying Mr. Weinhaus’ Petition for Writ of Habeas Corpus on December 23, 2024. App. 1. This Court has jurisdiction under 28 U.S.C. § 1257(a).

### CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

This case concerns the Fourteenth Amendment to the United States Constitution which provides, in relevant part:

“No state shall make or enforce any law which shall abridge the privileges or immunities of the citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law.”

This case also concerns Article I, § 12 of the Missouri Constitution which states:

“The privilege of the writ of habeas corpus shall never be suspended.”

This case also concerns Missouri Supreme Court Rule 91.01 which states:

**Habeas Corpus--General--Who May Petition for--Form of Action.**

(a) Proceedings in habeas corpus in a circuit court shall be as prescribed in this Rule 91 and in this Court or the court of appeals shall be as prescribed in Rule 84.22 to 84.26, inclusive, and this Rule 91. In all particulars not provided for by the foregoing provisions, proceedings in habeas corpus shall be governed by and conform to the rules of civil procedure and the existing rules of general law upon the subject. The court may, by order, direct the form of such further details of procedure as may be necessary to the orderly course of the action to give effect to the remedy.

(b) Any person restrained of liberty within this state may petition for a writ of habeas corpus to inquire into the cause of such restraint. Custody of a child may be the subject of a proceeding in habeas corpus.

(c) A habeas corpus proceeding shall be a civil action in which the person seeking relief is petitioner and the person against whom such relief is sought is respondent. If appropriate, there may be multiple petitioners or multiple respondents.

This case also involves Missouri Supreme Court Rule 91.05, which provides:

**Writ or Show Cause Order to be Granted Without Delay.**

A court to which a petition for a writ of habeas corpus is presented shall forthwith grant the writ or issue an order directing the respondent to show cause why the writ should not be granted, unless it appears from the petition that the person restrained is not entitled thereto.



## **STATEMENT OF THE CASE**

### **A. Summary of Trial Evidence**

On September 11, 2012, former Missouri State Highway Patrol (“MSHP”) Sergeant Henry J. Folsom lured Jeffrey Weinhaus to the parking lot of the MFA gas station on Highway K near St. Clair, Missouri. Folsom had promised to return Mr. Weinhaus’ computer equipment which he previously seized pursuant to a warrant. In truth, he intended to execute an arrest warrant for Mr. Weinhaus for possession of marijuana and pills also found in that search.

Twelve seconds after Weinhaus stepped out of his car to speak with Folsom, Folsom shot him multiple times in the head, neck, and chest. A. 50. Folsom claimed he acted in self-defense after allegedly seeing Mr. Weinhaus attempt to draw a pistol secured in a holster. A. 4-5. Mr. Weinhaus denied this, and no lay witnesses corroborated Folsom’s account. Miraculously, Mr. Weinhaus survived, and after his release from the hospital, he was later arrested, charged, and convicted of first degree assault of a law enforcement officer and armed criminal action based on Folsom’s accusation that Weinhaus had attempted to draw his weapon. Weinhaus was sentenced to thirty years in prison. A. 4.

Unknown to Folsom, Mr. Weinhaus was wearing a video-recorder watch at the time of the incident. The footage recovered from the watch contradicted Folsom’s initial account that Mr. Weinhaus sped into the gravel parking lot and jumped out of his car tactically, similar to how law enforcement officers are trained. Instead, the video

contradicted Folsom's account by showing Mr. Weinhaus singing religious hymns enroute highlighting his happy disposition because he was told he would recover his computer equipment. A.36.

Folsom was the State's primary witness. His partner, Corporal Mertens, attempted to support his partner's allegation, but he contradicted Folsom's claim that Weinhaus' gun had cleared his holster. Trial Transcript, hereafter "T. \_\_," p. 421. The clerk on duty at the gas station, Heather Clark, was standing in the window when she saw the shooting; she said that Weinhaus' hands were raised and empty as he fell forward, T. 599, and that Folsom continued firing at least six more times as Weinhaus lay on the ground. T. 599. A photo of the scene shows a bullet pancaked into the gravel parking lot. However, the prosecutor used Ms. Clark's display of emotion at seeing the shooting to attack her credibility. A. 35-36.

Mr. Weinhaus' defense at trial that Mr. Weinhaus was a non-violent man who never intended to harm Folsom, A. 63, was supported by both Folsom and Corporal Mertens. They testified at trial during cross-examination that he did not put on a bulletproof vest because he "did not believe Jeff to be a violent person," T. 293, and according to Corporal Mertens, he viewed Weinhaus as "harmless," which is why he did not wear a bulletproof vest either. T. 403. Further, Folsom admitted during cross-examination that Mr. Weinhaus was legally carrying a firearm, A. 10, that he was not threatened by the gun in the holster, and specifically he felt that his life was not in danger. T. 310. Moreover, Folsom testified inconsistently about events that occurred at

the MFA gas station. While during direct examination he testified that he could hear Weinhaus accelerating quickly into the parking lot and thought Mr. Weinhaus would hit Folsom's car, after watching the video from Mr. Weinhaus' watch, he admitted during cross-examination that he could not in fact hear Mr. Weinhaus accelerating nor revving his engine into the MFA gas station. A. 14.

Testimony between Folsom and Corporal Mertens was also inconsistent. While Folsom testified that Mr. Weinhaus' gun nearly cleared the holster, A. 38, Corporal Mertens testified that he saw Weinhaus' hand on the gun, but it did not come clear of the holster. T. 421. Folsom also could not accurately depict where himself, Mr. Weinhaus, or the other officers were standing when the shooting occurred. When Corporal Mertens was asked during cross examination to confirm Folsom's markings, he admitted that the entire depiction was incorrect because the lines of fire were untrue. T.423.

In spite of defense counsel's challenges to Folsom's credibility, the jury found Mr. Weinhaus guilty and the trial court sentenced him to thirty years in prison. A. 4-6. Because it was hidden from Mr. Weinhaus' defense counsel, and because Folsom lied to defense counsel in his deposition, the jury never learned that Mr. Folsom was under investigation by his supervising officer at the Missouri State Highway Patrol for misconduct and behavior symptomatic of PTSD, A. 13, 16, 20, and that his compromised mental health condition—diagnosed years before he shot Mr. Weinhaus—impaired his ability to perceive threats accurately. A. 16, 64, 69. The jury never knew that Folsom failed more than one fitness for duty examination before Mr. Weinhaus' trial. A. 33-35.

Folsom himself expressed the concern in one evaluation conducted after Mr. Weinhaus' trial that he could mistakenly shoot someone who was reaching for a wallet. A. 23, 32.

Mr. Weinhaus was convicted of assaulting Folsom, and of a related count of armed criminal action, and sentenced to thirty years on November 25, 2013. A. 4-5. He was also convicted and sentenced to two years and one year, concurrent, for Possession of Controlled Substance and Possession of up to 35 grams of marijuana, respectively. *Id.* He does not challenge either drug conviction.

### **B. State Habeas proceeding**

Following Mr. Weinhaus's conviction in 2013, Assistant Public Defender Amy Bartholow was appointed as counsel for Mr. Weinhaus's direct appeal to the Missouri Court of Appeals Eastern District. A. 41. On January 27, 2015, the Missouri Court of Appeals Eastern District affirmed the trial court's judgment. A. 41. Ms. Bartholow did not know until after Mr. Weinhaus's direct appeal and postconviction proceedings became final that the Missouri Court of Appeals Western District issued an opinion in *Folsom v. Missouri State Highway Patrol* (WD82081) on August 20, 2019 denying Folsom's allegation of discrimination against the MSHP. A. 42. Through the opinion issued in Folsom's appeal, Ms. Bartholow discovered evidence from records publicly filed in the appeal of Folsom's lawsuit against the MSHP establishing that Folsom was suffering from and being medicated for PTSD for years before he shot Mr. Weinhaus, and that he had hidden his condition from his employer until after the shooting. A. 42. Many of Folsom's medical records and Missouri State Highway Patrol investigation into

his misconduct and impaired mental condition remain under seal, as the courts below summarily dismissed Mr. Weinhaus' habeas petition despite his requests for discovery and fact development. A. 1-3, 44-47.

Trial counsel for Mr. Weinhaus, Mr. Hugh Eastwood, had no access to Folsom's medical records detailing his long-prevailing PTSD condition. Mr. Eastwood filed a written request for discovery of "witnesses, witness statements, and any "material information within the possession or control of the State, which tends to negate the guilt of the defendant as to the offense charged, mitigate the degree of the defense charged, or reduce the punishment."" A. 46. Mr. Eastwood highlighted that the medical records could have been used to diminish both Folsom's and Corporal Mertens' claim at trial that Mr. Weinhaus reached for his gun. A. 50. Further, Folsom's lawsuit cites medical records that existed at the time of trial establishing that two different doctors, Dr. Paul Detrick and Dr. Steven T. Akeson, had found Folsom unfit for duty in evaluations conducted November 28, 2012, and January, 2013, well before Mr. Weinhaus' trial. A. 55, 58. Folsom was also deposed by Mr. Eastwood on June 6, 2013 prior to trial, and he lied about his condition during his deposition; when Mr. Eastwood asked Folsom about his hand tremors and if he was on medication for that condition, Folsom told Mr. Eastwood that he "hadn't taken any in years," and that he had "determined to have a partial paralysis" due to the tremors. A. 58, 61.

## **1. Folsom's Lawsuit Disclosing His Mental Impairments and Conduct Issues**

Early in his career, on October 28, 2000, Folsom fought with a man who was the subject of a domestic violence call. A. 19. The suspect fought for Folsom's gun, and in the struggle Folsom shot and killed him. A. 19. Folsom ruptured a testicle during the fight. A. 19. Following this incident, Folsom was diagnosed with and medicated for Post-Traumatic Stress Disorder ("PTSD"). A. 28, 52. Folsom also disclosed that his diagnosis may even have been before the 2000 shooting; he described himself to Missouri Highway Patrol Captain Sarah Eberhard as "a disabled veteran with PTSD." A. 52. He never reported his condition to the MSHP because he feared losing his job. A. 19.

When he shot Mr. Weinhaus, Folsom was already being investigated by Captain Eberhard because of misconduct as the supervisor of the Division of Drug and Crime Control Unit. Captain Eberhard's inquiry related that subordinates working in the unit under Folsom "suffered low morale due to Sergeant Folsom's quickly changing emotional patterns," that Folsom "departs from the truth," and that "the subordinates of Sergeant Folsom [were] intimidated." A. 11. Captain Eberhard's memo of October 14, 2012, detailing her findings about the volatile climate in Folsom's unit, still has not been disclosed. A. 54.

Mr. Weinhaus's state postconviction proceedings concluded on October 28, 2016. *Weinhaus v. State*, 501 S.W.3d 523 (Mo. App. 2016). Following the final conclusion of Mr. Weinhaus' state postconviction proceedings, counsel for Mr. Weinhaus discovered Folsom's PTSD when the Missouri Court of Appeals on August 20, 2019 filed its opinion

affirming the dismissal of Folsom's lawsuit claiming that the Missouri State Highway Patrol discriminated against him by refusing to accommodate his disability. A. 12; *Folsom v. Missouri State Highway Patrol*, 580 S.W.3d 645 (Mo. App. 2019). Although many documents in that matter were filed under seal, publicly accessible documents and the court's opinion itself reflected that Folsom admitted in his Charge of Discrimination that after shooting Mr. Weinhaus, he was required to submit to a drug test, which showed that he had Ambien and Prozac in his system. A. 28. Folsom was then ordered to show his prescription, and he confessed that he had been hiding his PTSD. A. 28. He was relieved of duty and given a counseling statement. A. 29. On November 14, 2014, Folsom submitted to, and thereafter failed, a fitness for duty evaluation. A. 29. Following the first failed fitness evaluation, Folsom was placed on extended medical leave, while his fitness was repeatedly evaluated. A. 29. Because he failed every succeeding fitness for duty evaluation, A. 19, Folsom was involuntarily terminated from the MSHP as unfit for duty. A 55.

The evidence that came to light from Folsom's lawsuit included the admission that he had been suffering from PTSD "arising out of an on-the-job shooting and injury that occurred in October of 2000," A. 24; that he was taking medication for this PTSD, A. 25; that after said drug test revealed that Folsom was taking medication for his PTSD, he "informed Defendant Eberhard of his PTSD." A. 28. The Attorney General's Brief in *Folsom v. MSHP* quotes a December 2013 medical report of Dr. David J. Lutz that "Mr Folsom is not psychologically capable of returning to his job with the Missouri State

Highway Patrol.” A. 56. Other evaluating doctors, including Dr. Detrick in November 2012 and Dr. Akeson in January 2013, made similar findings before Mr. Weinhaus’ trial. Dr. Lutz, and Dr. Stillings in June 2014 also found him unfit for duty. A. 30. Every doctor found Folsom unfit to return to duty A. 29. Moreover, Dr. Stillings’ report said that Folsom had told him “his PTSD gives him false signals of being under threat, he is fearful of pulling a gun and shooting someone when they are merely reaching in their back pocket for a wallet, etc.” A. 19. None of these medical records or investigative memos were disclosed to Mr. Weinhaus prior to Mr. Weinhaus’s trial, appeal, or state postconviction proceedings, nor was Folsom’s disclosure made available from his lawsuit until after the Missouri Court of Appeals affirmed the summary judgment against Folsom in September of 2019.

## **2. Missouri Courts’ Summary Denial of Habeas Corpus Relief**

Ms. Bartholow filed a Petition for Writ of Habeas Corpus on Mr. Weinhaus’ behalf in the Circuit Court of St. Francois County alleging that “the State of Missouri violated *Brady v. Maryland*[, 373 U.S. 83 (1963)] in failing to disclose that when the State's primary witness, Sgt. Folsom, shot Mr. Weinhaus that Sgt. Folsom was suffering from and medicated for symptomatic PTSD from prior military service and a prior 2000 on-duty shooting incident.” A. 75. That petition was summarily denied without discovery, hearing, or explanation. A. 3. Ms. Bartholow filed a *de novo* Petition for Writ of Habeas Corpus raising the same Due Process claim in the Missouri Court of Appeals,



Eastern District, which also summarily denied it without any fact-finding procedure, and without explanation or opinion. A. 2.

Ms. Bartholow was unable to continue her representation of Mr. Weinhaus; undersigned counsel agreed to represent him pro bono, and subsequently filed a Writ of Habeas Corpus and Suggestions in Support in the Missouri Supreme Court on October 28, 2024, A, 9, which was also denied without hearing or opinion on December 23, 2024. A. 1.

This petition follows.

#### REASONS FOR GRANTING THE PETITION

- I. This Court Should Grant Certiorari Because Missouri’s Summary Denial of a Facially Sufficient Petition Invoking a State-Created Right to Adjudicate Claims Based on Concealed Exculpatory Evidence Violates the Fourteenth Amendment’s Due Process Clause.

Missouri law provides that habeas corpus is an appropriate remedy for the litigation of previously concealed claims that a prisoner’s conviction was obtained in violation of the Constitution. Governed by Missouri Rule 91, habeas corpus review is available where a prisoner can show that his conviction is the product of a “manifest injustice.” A manifest injustice exists where a prisoner can show “cause and prejudice” for not having discovered a claim previously, *State ex rel. Engel v. Dormire*, 304 S.W.3d 120 (Mo. 2010) (en banc), or where the prisoner’s claim is accompanied by a colorable showing of actual innocence. *State ex rel. Clay v. Dormire*, 37 S.W.3d 214 (Mo. 2000)

(en banc).<sup>1</sup> Once a state voluntarily confers such a right, the Fourteenth Amendment demands it be administered with fundamental fairness. *See Ford v. Wainright*, 477 U.S. 399, 428 (1986) (O'Connor, J., concurring).

Here, Mr. Weinhaus discovered by happenstance previously concealed evidence showing the State's key witness concealed a PTSD diagnosis and was under investigation for dishonesty—facts that cast grave doubt on the State's narrative. Despite these genuine factual disputes, the Missouri courts summarily dismissed Mr. Weinhaus's claim without a hearing or fact development. By denying the procedures that Missouri law promises, the State deprived Mr. Weinhaus of his State-created right to litigate his claim that the state's concealment of evidence impeaching its primary witness violated *Brady v. Maryland*. The State's concealment of evidence that Folsom's mental condition impaired his ability to perceive threats, and that pending internal investigations into other performance issues related to his disability gave him an incentive to lie to protect his job, satisfies Missouri's "cause-and-prejudice" threshold for habeas corpus review. *Engel*, 304 S.W.3d at 129. Mr. Weinhaus alleged cause by showing that the State concealed material impeachment evidence that could not have been discovered through reasonable diligence before or during trial. He alleged prejudice by demonstrating that the concealed evidence—critical to the credibility of the State's key witness—undermined confidence in the outcome of the trial. He alleged nondisclosure by asserting that the prosecution

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<sup>1</sup> Although Mr. Weinhaus asserted both grounds for invoking habeas corpus review in State courts, he focuses here on his substantial showing of cause and prejudice.

failed to reveal Sergeant Folsom's PTSD diagnosis, his active misconduct investigations, and the false deposition answers regarding his medication while withholding his fitness for duty. A. 16-20.

Mr. Weinhaus also alleged materiality by explaining that the undisclosed information directly implicated Folsom's reliability, perception of threats, and honesty, which were central to the State's theory of guilt. The State has never claimed that this impeachment evidence was disclosed to the defense at any stage of Mr. Weinhaus's proceedings. Mr. Weinhaus was further denied meaningful discovery into the extent and impact of Folsom's concealed impairments despite the materiality of the information to Mr. Weinhaus's conviction.

The summary denial of Mr. Weinhaus's petition raises the question of whether a prisoner's right to procedural due process is violated where a State fails to abide by its own rule requiring that "A court to which a petition for a writ of habeas corpus is presented shall forthwith grant the writ or issue an order directing the respondent to show cause why the writ should not be granted, unless it appears from the petition that the person restrained is not entitled thereto." This Court has recognized that State courts must comply with certain minimum norms of constitutional adjudication. For example, where Florida statute precluded the execution of insane prisoners, Justice O'Connor found the failure to abide by the standard accoutrements of adversarial fact-finding deprived a prisoner of procedural due process:

I conclude therefore that Florida law has created a protected expectation that no execution will be carried out while the

prisoner lacks the "mental capacity to understand the nature of the death penalty and why it was imposed on him." Fla. Stat. § 922.07(3) (1985). Because Florida's procedures are inadequate to satisfy even the minimal requirements of due process in this context, I would vacate the judgment below with instructions that the case be returned to Florida so that it might assess petitioner's competency in a manner that accords with the command of the Fourteenth Amendment.

*Ford v. Wainwright*, 477 U.S. 399, 430 (1986) (O'Connor, J., concurring in the result part and dissenting in part).

Whether State courts applied reasonable fact-finding procedures to a prisoner's Federal claims "is itself a Federal question, in the decision of which this Court, on writ of error, is not concluded by the view taken by the highest court of the State." *Carter v. Texas*, 177 U.S. 442, 447 (1900), citing *Neal v. Delaware*, 103 U.S. 370 (1881). Thus, where a prisoner asserts a constitutional claim and offers to introduce witnesses to prove that allegation, and where the state court "refused to hear any evidence upon the subject, and overruled the motion, without investigating whether the allegation was true or false," then "[t]he necessary conclusion is that the defendant has been denied a right duly set up and claimed by him under the Constitution and laws of the United States." *Id.*, at 448-49. Adherence to basic norms of fair adjudication is "important to a correct and uniform application of the federal act in the state and federal courts." *Brown v. Western Railway of Alabama*, 338 U.S. 294, 295 (1949).

Although Justice O'Connor in *Ford* found a procedural due process violation in similar circumstances involving a state created right, Mr. Weinhaus's petition alleged the violation of a firmly established *federal* constitutional right to the prosecution's

disclosure of material exculpatory evidence. At a minimum, the State must provide a prisoner a full and fair opportunity to prove his facially adequate allegations; “where a denial of these constitutional protections is alleged in an appropriate proceeding by factual allegations not patently frivolous or false on a consideration of the whole record, the proceeding should not be summarily dismissed merely because a state prosecuting officer files an answer denying some or all of the allegations.” *Pennsylvania ex rel. Herman v. Claudy*, 350 U.S. 116, 118-19 (1956), citing *Smith v. O’Grady*, 312 U.S. 329 (1941); *Hawk v. Olson*, 326 U.S. 271 (1945); *Palmer v. Ashe*, 342 U.S. 134 (1951); *Chessman v. Teets*, 350 U.S. 3 (1955). A “federal right cannot be defeated by the forms of local practice.” *Id.*, at 297, citing *American Ry. Exp. Co. v. Levee*, 263 U.S. 19, 21(1923). Thus, where a prisoner asserted in the state court facts and circumstances which, if true, established entitlement to relief, “the allegations themselves made it incumbent on the Florida court to grant petitioner a hearing and to determine what the true facts are.” *McNeal v. Culver*, 365 U.S. 109, 117 (1961). *Accord, Palmer v. Ashe*, 342 U.S. 134 (1951).

The constituent elements of a *Brady* violation are amply satisfied by Mr. Weinhaus’ pleading. Evidence of Folsom’s mental impairment and pending investigation into his misconduct were not disclosed. His testimony was the primary evidence against Weinhaus, and corroborating evidence was sparse and contrary evidence was not inconsequential. Since Folsom was a critical witness, and the impeachment evidence uncontroverted, “denial of [Weinhaus]’s *Brady* claim runs up against settled

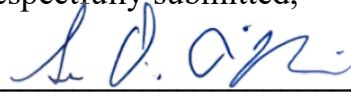
constitutional principles.” *Wearry v. Cain*, 577 U.S. 385, 393 (2016); accord, *Smith v. Cain*, 565 U.S. 73, 76 (2011), finding evidence impeaching the State’s key witness to be material where other evidence is not “strong enough to sustain confidence in the verdict.” There is no evidence in the record below that disclosure was made, nor can it be contested that the undisclosed evidence is exculpatory. Though the State may argue materiality, the record below demonstrates that Mr. Weinhaus was provided no opportunity to join that issue with evidence, nor did he have an opportunity to conduct discovery of other clearly exculpatory evidence that remains undisclosed.

This Court should grant certiorari to reinforce the obligation of States to adjudicate constitutional questions in a meaningful way, i.e., that State postconviction litigation procedures must “compor[t] with fundamental fairness[.]” *Pennsylvania v. Finley*, 481 U.S. 551, 559 (1987). It would confirm that states cannot extend post-conviction rights in name only, then withdraw them with cursory dismissals—even where newly discovered evidence undermines the core of the conviction. Without such guidance, prisoners with substantial claims may never receive the fair opportunity for relief in State proceedings as required by the Fourteenth Amendment. By granting certiorari, the Court can reaffirm that when a state undertakes to provide habeas remedy, it must furnish procedures that truly safeguard due process rights. That core constitutional principle is at stake here and warrants this Court’s intervention.

CONCLUSION

For all these reasons, the petition for a writ of certiorari should be granted.

Respectfully submitted,



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**for**

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**Counsel for Petitioner Jeffrey  
Weinhaus**

## CERTIFICATE OF SERVICE

I hereby certify that I am a member in good standing of the bar of this Court and that two true and correct copies of petitioner's "Petition for a Writ of Certiorari" on petition for a writ of certiorari to the United States Court of Appeals for the Eighth Circuit and one copy of petitioner's "Motion to Proceed In Forma Pauperis" in the case of *Weinhaus v. Adams*, No. \_\_\_\_\_, were forwarded pursuant to Supreme Court Rule 29.5(b), postage prepaid, this 1st day of May, 2025, to:

Andrew Bailey, Missouri Attorney General  
Michael Spillane, Assistant Attorney General  
P O Box 899  
Jefferson City, MO 65102

Ten copies of petitioner's "Petition for a Writ of Certiorari" and two copies of Petitioner's "Motion to Proceed In Forma Pauperis" were forwarded to:

Scott S. Harris, Clerk  
United States Supreme Court  
One First Street N.E.  
Washington, DC 20543

pursuant to Supreme Court Rule 39.5, this 19th day of May, 2025.

  
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Counsel for Petitioner