

No. \_\_\_\_\_

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**In the Supreme Court of the United States**

\_\_\_\_\_  
TROY MANSFIELD,  
*Applicant,*

*v.*

WILLIAMSON COUNTY,  
*Respondent.*

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APPLICATION FOR AN EXTENSION OF TIME  
TO FILE A PETITION FOR A WRIT OF CERTIORARI TO THE  
UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

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**APPLICATION TO THE HONORABLE  
JUSTICE SAMUEL A. ALITO, JR.  
AS CIRCUIT JUSTICE**

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**To the Honorable Samuel A. Alito, Jr., Justice of the Supreme Court of the United States and Circuit Justice for the Fifth Circuit:**

Pursuant to Rule 13.5 of the Rules of this Court, Applicant Troy Mansfield requests an extension of time within which to file his petition for a writ of certiorari, up to and including Friday, August 26, 2022 (58 days). Respondent Williamson County does not oppose this application.

**JUDGMENT FOR WHICH REVIEW IS SOUGHT**

Mansfield seeks review of the March 31, 2022 decision and judgment of the U.S. Court of Appeals for the Fifth Circuit in *Mansfield v. Williamson County*, No. 20-50331 (attached as Exhibits 1–2).

**JURISDICTION**

The Court will have jurisdiction over any timely filed petition for certiorari in this case pursuant to 28 U.S.C. § 1254(1). Under Rules 13.1 and 13.3 of the Rules of this Court, a petition for a writ of certiorari is due to be filed on or before June 29, 2022—90 days after the Fifth Circuit’s decision and judgment on March 31, 2022. In accordance with Rule 13.5, this application is being filed more than 10 days in advance of the June 29, 2022 deadline.

**REASONS JUSTIFYING AN EXTENSION OF TIME**

“For good cause, a Justice may extend the time to file a petition for a writ of certiorari for a period not exceeding 60 days.” S. Ct. R. 13.5. A 60-day extension of the June 29, 2022, deadline would last until August 28, 2022, a Sunday. *See* S. Ct. R. 30.1. Because the 150-day time limit for filing a petition in this Court is

jurisdictional, Mansfield would file on the preceding Friday, August 26. *See* 28 U.S.C. § 2101(c). There is good cause for the requested extension of time in this case for the following reasons.

1. This case presents the question whether the constitutional right to exculpatory evidence recognized in *Brady v. Maryland*, 373 U.S. 83 (1963), applies at the plea-bargaining stage.

2. There is an entrenched split among the federal circuits and state high courts on the question. The Sixth, Seventh, Eighth, Ninth, and Tenth Circuits as well as the courts of last resort of Texas, Utah, South Carolina, Nevada, and West Virginia have all held that *Brady* applies at the plea-bargaining stage. *See Smith v. Baldwin*, 510 F.3d 1127, 1148 (9th Cir. 2007); *United States v. Ohiri*, 133 F. App'x 555, 562 (10th Cir. 2005); *McCann v. Mangialardi*, 337 F.3d 782, 788 (7th Cir. 2003); *White v. United States*, 858 F.2d 416, 423 (8th Cir. 1988); *Campbell v. Marshall*, 769 F.2d 314, 324 (6th Cir. 1985); *Buffey v. Ballard*, 782 S.E.2d 204, 218 (W. Va. 2015); *State v. Huebler*, 275 P.3d 91, 96–97 (Nev. 2012); *Hyman v. State*, 723 S.E.2d 375, 380 (S.C. 2012); *Medel v. State*, 184 P.3d 1226, 1235 (Utah 2008); *Ex parte Lewis*, 587 S.W. 2d 697, 701 (Tex. Crim. App. 1979).

3. The First, Second, and Fourth Circuits, by contrast, have expressed doubts about defendants' constitutional entitlement to *Brady* material before pleading guilty. *See United States v. Mathur*, 624 F.3d 498, 506–07 (1st Cir. 2010); *Friedman v. Rehal*, 618 F.3d 142, 154 (2d Cir. 2010); *United States v. Moussaoui*, 591 F.3d 263, 285 (4th Cir. 2010).

4. But the Fifth Circuit has staked out the most extreme position: under its precedent, there is no right to *Brady* material at the plea-bargaining stage—even when prosecutors affirmatively lie in order to conceal the exculpatory evidence. See *Alvarez v. City of Brownsville*, 904 F.3d 382, 392 (5th Cir. 2018) (en banc).

5. Relying on that precedent in this case, the Fifth Circuit affirmed a summary judgment dismissing Mansfield’s 42 U.S.C. § 1983 claims against Williamson County, Texas, based on county prosecutors’ affirmative concealment of exculpatory evidence during plea negotiations. See *Mansfield v. Williamson County*, 30 F.4th 276, 281 (5th Cir. 2022). Judges Higginbotham and Costa wrote separately to stress the need for this Court’s intervention to resolve the split of authority on this important issue. *Id.* at 281–82 (Higginbotham, J., concurring); *id.* at 282–83 (Costa, J., specially concurring).

6. Mansfield recently retained Winston & Strawn LLP to file a petition for a writ of certiorari on his behalf in this Court. His new counsel require more time to familiarize themselves with the extensive record in this case and the proceedings from which it arose, which span three decades, from a plea agreement reached in 1993 to the vacatur of his conviction by a state habeas court in 2016 to the Fifth Circuit’s decision precluding relief in March 2022.

7. Between now and the current deadline, Mansfield’s additional counsel, Brandon Duke, has substantial obligations in a variety of matters, including a brief for amicus curiae in *Edmiston v. Borrego*, No. 22-50102 (5th Cir.); a response brief in *Castro v. Schlumberger Technology Corp.*, No. 04-21-00420-CV (Tex. App. 4th COA),

a reply brief in *Family One v. Isaacks*, No. 9:22-CV-0028 (E.D. Tex.), and multiple pre-trial deadlines in *Rotary Drillrigs International v. Reese*, No. 2017-76133 (215 Dist. Ct., Harris County, Tex.).

8. Mansfield's co-counsel, Jeff Edwards, also has substantial obligations in several matters, including a brief in *Reed v. Nacogdoches County*, No. 22-40126 (5th Cir); summary judgment briefing in *Bisetti v. City of Austin*, No. 1:19-cv-00616 (W.D. Tex.); summary judgment briefing in *Kelley v. City of Cedar Park*, No. 1:20-cv-00481 (W.D. Tex.); and multiple pre-trial deadlines and hearings in *Cuellar v. Hernandez*, No. 5:17-cv-00076 (S.D. Tex.).

9. Mansfield requests this extension of time to give counsel the opportunity to thoroughly research the legal issues and to prepare a petition that fully addresses the important questions raised by the proceedings below.

10. Counsel for Respondent, Williamson County, does not oppose Mansfield's requested 60-day extension of time in this case.

### **CONCLUSION**

For these reasons, Mansfield respectfully requests that the Court grant an extension of 60 days, up to and including August 28, 2022, to file his petition for a writ of certiorari in this case.

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Respectfully submitted.

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## **LIST OF EXHIBITS**

1. Fifth Circuit Opinion
2. Fifth Circuit Judgment

# Exhibit 1



Case: 20-50331

**United States Court of Appeals  
for the Fifth Circuit**

United States Court of Appeals  
Fifth Circuit

**FILED**

March 31, 2022

Lyle W. Cayce  
Clerk

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No. 20-50331

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TROY MANSFIELD,

*Plaintiff—Appellant,*

*versus*

WILLIAMSON COUNTY,

*Defendant—Appellee.*

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Appeal from the United States District Court  
for the Western District of Texas  
USDC 1:18-CV-49

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Before HIGGINBOTHAM, COSTA, and OLDHAM, *Circuit Judges.*

PATRICK E. HIGGINBOTHAM, *Circuit Judge:*

Troy Mansfield brings this suit under 42 U.S.C. § 1983 against Williamson County, Texas, alleging that county prosecutors denied him due process secured by the Fourteenth Amendment by lying to his counsel during plea negotiations, misconduct assertedly caused by the County’s “closed-

No. 20-50331

file” policy. The magistrate judge granted summary judgment to the County, and Mansfield appealed to this Court.<sup>1</sup> We affirm.

I.

On August 13, 1992, a state grand jury in Williamson County indicted Mansfield on three counts of sexual misconduct with a child. On October 26, 1992, Mansfield’s defense counsel filed a motion asking the state trial court to order the disclosure of all exculpatory evidence prior to trial, consistent with *Brady v. Maryland*.<sup>2</sup> On May 17, 1993, the state court granted the *Brady* motion, and the next day prosecutors interviewed the victim and her mother. On June 23, 1993, a prosecutor noted in the case file that during the May 18 interview the victim made statements contradicting her prior identification of Mansfield. Specifically, prosecutors noted that the victim would “be difficult to sponsor in Court. She told me she does not remember what happened! . . . Spent 2 hours [with] this witness — will be nigh impossible to sponsor her in court. At one point, told me nothing happened, then says little boy might have done it ([Mansfield]’s son).”

The prosecutors did not tell Mansfield and his counsel about the victim’s contradictory statements during plea bargaining. Instead, four days before trial, facing the trigger of an extant *Brady* order, the prosecutors stated that the victim would be a strong witness at trial and that they had a doctor’s statement and physical evidence corroborating the victim’s identification of Mansfield. They did not. The prosecutors added that the plea offer was revocable, and that Mansfield faced a sentence ranging from 99 years to life if convicted of all the charges of his indictment. With this Hobson’s choice,

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<sup>1</sup> This case comes to us from the ruling of a magistrate judge as the parties consented to have the case referred to a magistrate judge pursuant to 28 U.S.C. § 636(c).

<sup>2</sup> 373 U.S. 83 (1963).

No. 20-50331

Mansfield accepted the offer, pleading guilty to the lesser charge of indecency with a child four days prior to his scheduled criminal trial in 1993, and spent 120 days in county jail, ten years on probation, and registered as a sex offender.<sup>3</sup>

Mansfield later learned of the prosecutors' false statements. In 2016, a state habeas proceeding vacated his conviction, holding that the prosecutors violated his due process rights by lying to avoid disclosing exculpatory evidence—evidence which they were under court order to produce four days later.<sup>4</sup>

## II.

Mansfield then sued Williamson County in federal court under 42 U.S.C. § 1983, alleging that the closed-file policy implemented by the Williamson County District Attorney, Ken Anderson, led prosecutors to violate his constitutional rights. In his complaint, Mansfield alleged that both his *Brady* and due process claims were enabled by the county's closed-file policy which prevented his attorneys from examining evidence, leading him to involuntarily plead guilty. The County moved for summary judgment, arguing that an intervening decision by this Court barred Mansfield's suit and that no county policy supported a finding of county liability.<sup>5</sup> The magistrate judge granted the County's motion and Mansfield timely appealed.

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<sup>3</sup> One of the prosecutors later characterized the punishment recommendation as “unusually light.”

<sup>4</sup> *Ex parte Mansfield*, No. 92-435-K277A (277th Dist. Ct., Williamson County, Tex. Jan. 19, 2016).

<sup>5</sup> *Alvarez v. City of Brownsville*, 904 F.3d 382 (5th Cir. 2018) (en banc).























No. 20-50331

Mansfield adds another point: One of the cases *Brady* relied on for its landmark ruling was a plea case. See *Wilde v. Wyoming*, 362 U.S. 607 (1960) (per curiam), cited in *Brady v. Maryland*, 373 U.S. 83, 87 (1963). *Wilde* involved the suppression of exculpatory evidence before the defendant pled guilty to murder. See *Wilde*, 362 U.S. at 607. In reviewing the state habeas proceeding, the Supreme Court remanded for a hearing on the claim that prosecutors had withheld “the testimony of two eyewitnesses to the alleged crime which would have exonerated the petitioner.” *Id.* The Court needed a federal issue to make that ruling in a state proceeding, so it necessarily saw a due process right to exculpatory evidence. A few years later, *Brady* confirmed this. It cited *Wilde* immediately before pronouncing that “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.” 373 U.S. at 87. *Brady*’s lineage thus further rejects carving guilty plea cases out of its protections.

To be sure, *Ruiz*’s later holding about impeachment evidence has created uncertainty about whether a pleading defendant has the right to exculpatory evidence. What is not debatable is the importance of this issue in a system of pleas rather than trials. And what is not tenable is affording defendants in many jurisdictions a constitutional right to exculpatory evidence before they are deprived of their liberty while those in this circuit do not enjoy the same protection. The split on this issue begs for resolution.

# Exhibit 2

United States Court of Appeals  
for the Fifth Circuit

United States Court of Appeals  
Fifth Circuit

**FILED**

March 31, 2022

Lyle W. Cayce  
Clerk

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No. 20-50331

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TROY MANSFIELD,

*Plaintiff—Appellant,*

*versus*

WILLIAMSON COUNTY,

*Defendant—Appellee.*

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Appeal from the United States District Court  
for the Western District of Texas  
USDC No. 1:18-CV-49

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Before HIGGINBOTHAM, COSTA, and OLDHAM, *Circuit Judges.*

J U D G M E N T

This cause was considered on the record on appeal and was argued by counsel.

IT IS ORDERED and ADJUDGED that the judgment of the District Court is AFFIRMED.

IT IS FURTHER ORDERED that each party bear its own costs on appeal.



No. 20-50331

PATRICK E. HIGGINBOTHAM, *Circuit Judge*, joined by GREGG COSTA, *Circuit Judge*, concurring.

GREGG COSTA, *Circuit Judge*, specially concurring.