

No. _____

In The
Supreme Court of the United States

JEFFREY NINES, WARDEN;
ANTHONY G. BROWN, ATTORNEY GENERAL OF MARYLAND,
Applicants,

v.

CHARLES BRANDON MARTIN,
Respondent.

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

ANTHONY G. BROWN
Attorney General of Maryland

JER WELTER
Principal Deputy Solicitor General

ANDREW J. DIMICELI*
Assistant Attorney General

Office of the Attorney General
Office of the Solicitor General
Criminal Appeals Division
200 Saint Paul Place
Baltimore, Maryland 21202
adimiceli@oag.state.md.us
(410) 576-6422

Attorneys for Applicants

** Counsel of Record*

TO THE HONORABLE JOHN G. ROBERTS, JR., Chief Justice of the Supreme Court of the United States and Circuit Justice for the United States Court of Appeals for the Fourth Circuit:

Pursuant to 28 U.S.C. § 2101(c) and Rules 13.5, 22, and 30 of the Rules of this Court, Applicants Jeffrey Nines, Warden, and Anthony G. Brown, Attorney General of Maryland, through counsel, respectfully request a 60-day extension of time, to and including July 11, 2025, within which to file a petition for a writ of certiorari to the United States Court of Appeals for the Fourth Circuit to review *Martin v. Nines*, No. 24-6086.

The court of appeals entered its judgment on January 16, 2025. (App., *infra*, 1a-40a). Applicants timely filed a petition for rehearing en banc, which the court of appeals denied on February 11, 2025. (*Id.* at 41a). Unless extended, the time within which to file a petition for a writ of certiorari will expire on May 12, 2025. This application is timely because it has been filed more than ten days before the date on which Applicant's petition currently is due. U.S. Sup. Ct. R. 13. The jurisdiction of this Court would be invoked under 28 U.S.C. § 1254(1).

1. In 2010, Charles Brandon Martin was convicted by a jury in a Maryland court of attempted first-degree murder and was sentenced to life imprisonment. (App., *infra*, 2a, 10a). He later sought postconviction relief from the state courts on the ground that the State committed a violation of *Brady v. Maryland*, 373 U.S. 83 (1963), by failing to disclose evidence before trial. (App., *infra*, 12a). Ultimately,

Maryland's intermediate appellate court rejected the claim on the ground that the evidence was not material, *i.e.*, there was no reasonable probability that it would have changed the outcome of the trial. (*Id.* at 14a).

2. In 2020, Martin filed in the United States District Court for the District of Maryland a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254, again alleging the *Brady* violation (among other things). (App., *infra*, 14a). In 2024, the district court granted his petition, in part, concluding that the state Appellate Court's *Brady* analysis was flawed. (*Id.* at 15a). The court issued a conditional writ of habeas corpus. (*Id.*).

3. The state respondents appealed, and a divided panel of the Fourth Circuit affirmed. Judge Gregory, writing for the panel majority, held that the state court's decision was "an unreasonable application of clearly established Supreme Court precedent" because it failed to "exhaustively examine[]" the impact of the suppressed evidence, which, according to the panel majority, contravened this Court's decision in *Kyles v. Whitley*, 514 U.S. 419 (1995). (App., *infra*, 20a-21a) (quoting *Boss v. Pierce*, 263 F.3d 734, 745 (7th Cir. 2001)). The panel majority concluded that the state court's *Brady* materiality analysis was insufficiently "nuanced" (*id.* at 23a), because although the state court acknowledged that the suppressed evidence would have impeached a key witness's testimony (*id.* at 36a) (Niemeyer, J., dissenting), its opinion had not *expressly* discussed *all* of the ways that, in the panel majority's view, the suppressed evidence could have "impacted the State's case as a whole" (*id.* at 21a-

22a) (majority opinion). Then, after reweighing the evidence and conducting its own *Brady* materiality analysis, the majority decided that “no reasonable jurist could conclude that the suppression of the [challenged evidence] was immaterial.” (*Id.* at 29a).

Judge Niemeyer dissented. (*Id.* at 32a-40a). He highlighted the stringent standards for federal habeas review established by the Antiterrorism and Effective Death Penalty Act (“AEDPA”), as codified in 28 U.S.C. § 2254(d), and determined that the state court’s “comprehensive” decision, “analyzing the evidence in detail” and finding the suppressed evidence immaterial, represented “a reasoned conclusion” that passed muster under AEDPA. (App., *infra*, 20a-21a, 37a-39a). But the panel majority, he found, “fail[ed] to heed the limitations imposed on it by 28 U.S.C. § 2254” and instead “conducted a reanalysis of some of the facts, ignored others, and never deferred to those reasonably considered by the state court.” (*Id.* at 37a-39a). That is, the majority “has simply not honored [AEDPA’s] restrictions” (*id.* at 38a), failing to afford the state court proper deference under AEDPA and instead “conducting a de novo review of the evidence.” (*Id.* at 36a).

4. Applicants respectfully submit that this case represents a strong candidate for certiorari review and that good cause exists for the Court to extend the deadline for filing the petition for writ of certiorari. First, the decision whether to seek this Court’s review in this factually complex case has required careful review and consultation within the Maryland Office of the Attorney General and with the

local state's attorney's office that is the prosecuting authority, and the ultimate determination to seek review was only recently made.

Second, in March of this year (*i.e.*, approximately one month after the court of appeals denied rehearing in this case), the Fourth Circuit issued another split decision granting federal habeas relief to another Maryland prisoner. *See Sweeney v. Graham*, No. 22-6513, 2025 WL 800452 (4th Cir. Mar. 13, 2025). The majority opinion in *Sweeney* was authored by the same judge who authored the majority opinion in this case and involves a similarly egregious failure to abide by the AEDPA review standard and this Court's precedent. Applicants see a pattern of untenable federal habeas decisions emerging from the lower courts in this circuit that imperils the finality of Maryland judgments of conviction. The more recent misuse of the federal habeas writ in *Sweeney* (and the Fourth Circuit's apparent disinterest in correcting such misuses when confronted with petitions for rehearing en banc) has impelled Applicants to seek review in this case (and in the *Sweeney* case as well).

Finally, undersigned counsel's other professional obligations—including the litigation of multiple other federal habeas and state appellate matters—will prevent counsel from finalizing the petition in the time allotted.

WHEREFORE, Applicants Jeffrey Nines, Warden, and Anthony G. Brown, Attorney General of Maryland, respectfully request that the Chief Justice extend their deadline for the filing of a petition for a writ of certiorari to July 11, 2025.

Dated: April 25, 2025

Respectfully submitted,

ANTHONY G. BROWN
Attorney General of Maryland

/s/ Andrew J. DiMiceli

ANDREW J. DIMICELI
Assistant Attorney General
Counsel of Record

Office of the Attorney General
Office of the Solicitor General
Criminal Appeals Division
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Counsel for Applicants