No. _____

IN THE

Supreme Court of the United States

JAMES SKINNER,

Petitioner,

v.

LOUISIANA,

Respondent.

On Petition for a Writ of Certiorari
to Louisiana's 21st Judicial District Court

PETITION FOR A WRIT OF CERTIORARI

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QUESTION PRESENTED

In *Wearry v. Cain*, 577 U.S. 385 (2016) (per curiam), this Court summarily reversed a Louisiana postconviction court and vacated Michael Wearry's murder conviction. This Court determined that the State withheld evidence that would have seriously impeached the State's star witnesses. "Beyond doubt," this Court held, withholding that evidence violated *Brady v. Maryland*, 373 U.S. 83 (1963). *Wearry*, 577 U.S. at 392.

Petitioner James Skinner was convicted of the same crime as Mr. Wearry on the basis of the same star witnesses' testimony. The State withheld the same evidence as in *Wearry*; indeed, Mr. Skinner has since uncovered still more evidence that the State did not turn over. Mr. Skinner thus petitioned Louisiana courts for the same relief as Mr. Wearry: vacatur of his conviction. In response, the Louisiana postconviction trial court wrote only: "[T]he *Weary* [sic] case is distinguishable enough from the instant case that its decision does not compel this Court to follow suit."

This petition presents the following question:

Did Louisiana courts err in refusing to apply *Wearry* to Mr. Skinner's *Brady* claims?

RELATED PROCEEDINGS

State v. Skinner, 2023-15992 (La. 21 Dist. 6/23/23) (application for postconviction relief denied);

State v. Skinner, 2023-0710 (La. App. 1 Cir. 12/27/23) (petition for supervisory writ denied);

State v. Skinner, 2024-00142 (La. 2/25/25), 401 So.3d 665 (petition for supervisory writ denied);

In re Skinner, No. 25-30151 (5th Cir. June 17, 2025) (motion for authorization to file successive habeas petition granted).

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PETITION FOR A WRIT OF CERTIORARI

Petitioner James Skinner respectfully petitions for a writ of certiorari to review the judgment of the Louisiana 21st Judicial District Court.

OPINIONS BELOW

The opinion of the Louisiana 21st Judicial District is unpublished. Pet.App. 1a–4a.

JURISDICTION

The judgment of the Louisiana 21st Judicial District Court was entered on June 23, 2023. Pet.App. 1a. The Louisiana Supreme Court issued its denial of petitioner's writ of review on February 25, 2025, and that ruling became final on that date. Pet.App. 7a. On May 13, 2025, Justice Alito extended the time within which to file a petition for a writ of certiorari to and including June 25, 2025. This Court has jurisdiction under 28 U.S.C. § 1257(a).

RELEVANT CONSTITUTIONAL PROVISIONS

The Fourteenth Amendment provides in relevant part: "No State shall . . . deprive any person of life, liberty, or property, without due process of law; nor deny any person within its jurisdiction the equal protection of the laws." U.S. Const. amend. XIV, § 1.

INTRODUCTION

Michael Wearry and petitioner James Skinner were convicted of the same murder more than twenty years ago. The State presented no physical evidence of guilt at either man's trial. Instead, the State's case against both men revolved around the testimony of the same two key witnesses. Years after Mr. Skinner and

Mr. Wearry were convicted, extensive evidence impeaching those witnesses—evidence withheld by the State—came to light.

Here, the two men's paths diverged. In 2016, this Court vacated Mr. Wearry's conviction, finding that the State's case was a "house of cards" that collapsed under the weight of the State's many *Brady* violations. *Wearry v. Cain*, 577 U.S. 385, 392 (2016) (per curiam). The evidence withheld in Mr. Wearry's case rendered his trial so fundamentally unfair that summary reversal was warranted. Today, Mr. Wearry is a free man.

But Mr. Skinner remains in prison. For nine years, Louisiana courts have refused to apply *Wearry* to Mr. Skinner's case—even though, as a dissenting justice of the Louisiana Supreme Court put it, "There is no legitimate basis to treat the two codefendants differently." Pet.App. 8a (Griffin, J., dissenting from denial of supervisory writ).

This Court's intervention is necessary. There are no plausible grounds on which to distinguish Mr. Skinner's case from *Wearry*. In fact, investigative work by Mr. Skinner's postconviction team has brought to light even *more* withheld evidence than this Court had before it in *Wearry*. Because Louisiana courts have nonetheless flouted this Court's directive from *Wearry*, this Court should summarily reverse or grant certiorari.

STATEMENT OF THE CASE

Petitioner James Skinner has maintained his innocence since his arrest more than a quarter century ago. In the decades since, thousands of pages of evidence fatally undermining the prosecution's case

have emerged—evidence that the State had but withheld from Mr. Skinner before his trial.

A. James Skinner and Michael Wearry are both charged with murder.

1. Eric Walber was killed in the spring of 1998. Pet.App. 12a, 14a. Within three months, the principal detective gave up pursuing leads, declared the case cold, and enlisted a psychic. (The psychic's readings turned up nothing.) *See id.* 86a–87a.

Around the second anniversary of Mr. Walber's death, the State faced renewed pressure to charge a suspect. The media continued to highlight the unsolved murder: *America's Most Wanted*, for instance, dedicated an episode to it. Supp.App.G.1.[1] Meanwhile, the prosecutor overseeing the investigation began representing Mr. Walber's grieving mother in her divorce proceedings. Supp.App.G.3.

Finally, almost two years after the murder, a man named Sam Scott—then incarcerated—came forward. Pet.App. 17a. Though Scott presented himself as an "eyewitness," his first statement to the police erred in the most basic details: the year of the crime, how Mr. Walber was killed, and where his body was found. *See id.* 19a, 21a. Mr. Skinner's name appeared nowhere in that first statement—or, for that matter, in Scott's

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[1] For the Court's convenience, exhibits relevant to this case—including complete versions of records excerpted in the Petition Appendix and the transcripts from Mr. Skinner's two trials—are available in an online supplemental appendix at: https://ip-no.org/skinner-v-louisiana. Citations to the online appendix are denoted "Supp.App." and include the section (A-G), document number, and, where necessary, page number.

second statement. *See id.* 17a–24a; Supp.App.F.4. 75–82.

In the ensuing weeks, though, Scott revised his story. Pet.App. 25a; Supp.App.F.4. 73–82, 111–45. He settled on a list of six participants: himself, Mr. Skinner, Mr. Wearry, a man named Randy Hutchinson, and two other accomplices. Supp.App.F.4. 134, 137. In Scott's final version of events, Hutchinson flagged down Mr. Walber as he drove by and yanked Mr. Walber out of his car. *Id.* 134. Scott, Hutchinson, Mr. Wearry, and two other men stuffed Mr. Walber back into the rear of his two-door hatchback. *Id.* 73, 134. All five men squeezed themselves into the car and drove off. *Id.* The group then happened upon Mr. Skinner, who joined them as they made their way to a street called Crisp Road. *Id.* 137–38. Again, Hutchinson dragged Mr. Walber out of the car. *Id.* This time, according to Scott, Mr. Skinner ran Mr. Walber over. *Id.*

Around this time, police spoke with a second supposed eyewitness, Eric Brown. Supp.App.D.1. 536. As with Scott's statements, early versions of Brown's story did not feature Mr. Skinner at all. Pet.App. 43a–49a. In later tellings, though, Brown claimed to have joined the group with Mr. Skinner after Mr. Walber was kidnapped. Supp.App.B.2. 542–52. Brown claimed he left the group "a minute" before Mr. Walber was killed. *Id.* 395.

2. Within ten days of Scott's first interview with police, and within hours of Brown's revised statement, prosecutors filed charges regarding the killing of Mr. Walber. Pet.App. 12a; Supp.App.D.1. 536. Mr. Skinner was among the men charged. Pet.App. 12a. The State sought the death penalty for Mr. Skinner and Mr.

Wearry. *Id.* 14a–16a; *see also* Supp.App.B.1. 857. No physical evidence tied Mr. Skinner—or any of these men—to the crime.

Instead of filing these charges in Tangipahoa Parish—where the crime allegedly occurred, the body was found, the codefendants (all Black) lived, and the investigation was spearheaded—the State filed in neighboring Livingston Parish, where it claimed Mr. Walber had been initially kidnapped. Pet.App.14a; Supp.App.G.2. In 2000, Tangipahoa Parish was approximately 30 percent Black, while Livingston was over 95 percent white. U.S. Census Bureau, *Census 2000 of Population and Housing: Summary Population and Housing Characteristics, PHC-1-20, Louisiana*, tbl. 5 (Sept. 2002), https://perma.cc/4TZ4-EAZZ.

B. Mr. Skinner and Mr. Wearry are both convicted of murder.

1. The State tried James Skinner initially for first-degree capital murder. Pet.App. 14a; Supp.App.C.2; *see also* Supp.App.B.1. 857. That first trial ended when the jury could not reach unanimity. Supp.App.G.5.

At the time, Louisiana law did not require jury unanimity to convict in non-capital cases. (This Court later declared that practice unconstitutional. *See Ramos v. Louisiana*, 590 U.S. 83 (2020).) When the State failed to secure a unanimous verdict in Mr. Skinner's first case, it took the death penalty off the table and tried Mr. Skinner a second time. Supp.App.C.3.

Because the State had no physical evidence, it built its case around the testimony of Scott and Brown. The State conceded that Scott hadn't always been

truthful in his statements about the case. Supp.App.B.2. 410. Nonetheless, the State sang his praises to the jury: Scott was a "hero" whose fit of conscience had broken open a cold case. *Id.* 1021. So, too, with Brown, who emphasized that he had never been charged by the district attorney in this case. Pet.App. 52a. The State, in turn, assured the jury that Brown was getting "nothing" in exchange for his testimony. Supp.App.B.2. 1024.

As relevant here, the State called two additional witnesses. Raz Rogers testified that Mr. Skinner had confessed to him at some point while they were hanging out—although he couldn't remember much besides that. Supp.App.B.2. 699–700.

Ryan Stinson told the jury that, although the two men had never met before, Mr. Skinner confessed to him in a jail cell immediately after being arrested. Pet.App. 66a, 69a. Stinson claimed also to have surreptitiously taken notes during the confession. *Id.* 68a. Although the two shared a small, single-person jail cell, Stinson testified that Mr. Skinner hadn't noticed his notetaking because Stinson used a "little bitty old pencil" and because Mr. Skinner "was looking out the tray hatch." *Id.* Aside from placing Mr. Skinner at the scene of the crime, Stinson's testimony bore no resemblance to the stories that Scott and Brown told. *See id.* 69a–70a.

This time, the jury—which included only one Black juror—convicted Mr. Skinner. Transcript of Proceedings at 1637, *State v. Skinner*, 2005-15992 (La. 21 Dist. 5/14/05); Supp.App.B.2. 1114. The verdict was not unanimous. Supp.App.B.2. 1114. Mr. Skinner was sentenced to life in prison without the possibility of parole. *Id.* 1110.

2. Around the same time as Mr. Skinner's first trial, Mr. Wearry was convicted and sentenced to death by an all-white jury. *Wearry v. Cain*, 577 U.S. 385, 386 (2016) (per curiam); Petition for Writ of Certiorari Reply at 7, *Wearry*, 577 U.S. 385 (No. 14-10008). His trial proceeded along similar lines to Mr. Skinner's. The State offered no physical evidence of his guilt. Scott was the "star witness." *Wearry*, 577 U.S. at 387. Brown corroborated Scott's story. The State told the jury, again, that Brown had "no deal on the table" and was getting nothing in return. *Id.* In place of Stinson and Rogers, the State called other witnesses, who testified that they had seen Mr. Wearry driving around in the victim's blood-spattered car, that he had sold the victim's possessions, and that he had admitted to being at the crime scene. *See Wearry*, 577 U.S. at 400 (Alito, J., dissenting).

C. This Court vacates Mr. Wearry's conviction on the basis of the State's *Brady* violations.

1. Because Mr. Wearry was sentenced to death, he was represented by counsel in the state postconviction process. *See* Supp.App.G.4. 1. Counsel uncovered three categories of evidence that the State had wrongfully withheld from Mr. Wearry's lawyers at trial.

First, the State concealed police records that called into question Scott's motive for involving himself in this case. One of Scott's fellow prisoners told police that Scott was testifying to settle a personal score—specifically, to make sure Mr. Wearry "gets the needle." *Wearry*, 577 U.S. at 389–90. Another inmate reported that Scott had coached him to lie about the Walber murder, as it would help him to reduce his own sentence. *Id.* The State also withheld the details of

Scott's plea to manslaughter: a sweetheart deal that even gave him credit for time served *prior* to Mr. Walber's murder. Petition for Writ of Certiorari at 6, *Wearry*, 577 U.S. 385 (No. 14-10008). In effect, the deal let Scott out of prison as soon as he was done testifying. *Id.*

Second, the State failed to turn over medical records showing that Scott's testimony about Randy Hutchinson was physically impossible. Scott gave the jury an account of Mr. Walber's death in which Hutchinson was running down the street, lifting Mr. Walber, and crawling in and out of a hatchback. *Wearry*, 577 U.S. at 390. But medical records documented that, just nine days prior to the crime, Hutchinson had "undergone knee surgery to repair a ruptured patellar tendon." *Id.* Post-surgery, Hutchinson was so incapacitated that his father had to carry him around. Petition for Writ of Certiorari at 11, *Wearry*, 577 U.S. 385 (No. 14-10008). Had Hutchinson bent his knee to sit in the back of a small car—let alone dragged the 190-pound Mr. Walber in and out of that car as Scott alleged—the device securing his kneecap would have failed. *Wearry*, 577 U.S. at 390. But Hutchinson's medical records showed that, after the murder, his knee was healing nicely. Petition for Writ of Certiorari at 11, *Wearry*, 577 U.S. 385 (No. 14-10008).

Third, the State withheld evidence that Brown twice attempted to secure a deal with the State in exchange for his testimony. The State concealed an interview in which police promised to "talk to the D.A." about the fifteen-year sentence Brown was currently serving and the five additional felony charges he faced. *Wearry*, 577 U.S. at 390. The State also concealed a

letter in which one of Brown's lawyers sought a deal from the district attorney in exchange for testimony. Petition for Writ of Certiorari at 19–20, *Wearry*, 577 U.S. 385 (No. 14-10008).

2. In state postconviction review, Mr. Wearry asserted that the withheld evidence violated his due process rights. Under *Brady v. Maryland*, 373 U.S. 83 (1963), the prosecution violates a defendant's right to due process if it fails to disclose evidence that is (i) "favorable" to the defendant's case and (ii) sufficiently "material" to undermine confidence in the verdict. *Id.* at 87.

Mr. Wearry argued that the evidence was both "favorable" and "material." "Favorable" evidence includes impeachment evidence regarding government witnesses and, in particular, evidence that the State offered a witness a deal. *See, e.g.*, *United States v. Bagley*, 473 U.S. 667, 676–77 (1985). As Mr. Wearry explained, evidence of Scott's statements to other prisoners, of Hutchinson's physical impairments, and of Brown's potential deal qualified as "favorable." *See* Petition for Writ of Certiorari at 8–13, 19–20, *Wearry*, 577 U.S. 385 (No. 14-10008).

Evidence is "material" if there is "any reasonable likelihood" that it could have "affected the judgment of the jury." *Giglio v. United States*, 405 U.S. 150, 154 (1972). Materiality turns on the cumulative effect of all the evidence, not on any single piece of evidence. *Kyles v. Whitley*, 514 U.S. 419, 440–41 (1995). Since evidence need only "undermine[] confidence in the outcome of the trial," the materiality standard is met by less than a preponderance. *Id.* at 434. Mr. Wearry argued that the withheld evidence went to the core of

the State's case—the two star witnesses' testimony—and was thus "material." *Wearry*, 577 U.S. at 392–93.

The Louisiana courts acknowledged that this evidence was favorable and "probably" should have been disclosed. But they ultimately concluded that it was not "material." *Wearry*, 577 U.S. at 391.

3. In 2016, this Court summarily reversed the Louisiana courts, concluding that their "denial of Wearry's *Brady* claim runs up against settled constitutional principles." *Wearry*, 577 U.S. at 392. Evidence withheld by the State undermined confidence in Mr. Wearry's conviction "beyond doubt." *Id.*

In particular, the Court held that "Scott's credibility, already impugned by his many inconsistent stories, would have been further diminished" by Hutchinson's medical records and by Scott's statements to other prisoners about his true motives. *Wearry*, 577 U.S. at 393. "Moreover," the Court continued, "any juror who found Scott more credible in light of Brown's testimony might have thought differently" given Brown's deal with the prosecution. *Id.* at 393–94.

This Court also faulted the state postconviction courts for "evaluat[ing] the materiality of each piece of evidence in isolation rather than cumulatively" and for "emphasiz[ing] reasons a juror might disregard new evidence while ignoring reasons she might not." *Id.* at 394.

Justices Alito and Thomas dissented, arguing that summary reversal was inappropriate. Although the dissenting justices thought the majority "ably ma[de] the case for reversal," they did not believe the materiality question to be so "open-and-shut." *Wearry*,

577 U.S. at 397, 402 (Alito, J., dissenting). For instance, they noted that Wearry had not produced any evidence that "Brown (unlike Scott) actually received any deal" for his testimony. *Id.* at 399 (Alito, J., dissenting). The two would have either granted certiorari (and requested briefing and argument) or waited for federal habeas review. *Id.* at 402–03 (Alito, J., dissenting). The majority countered that summary reversal was preferable to any alternative that forced "Wearry to endure yet more time on Louisiana's death row in service of a conviction that is constitutionally flawed." *Id.* at 396.

4. After this Court vacated his conviction, the State did not retry Mr. Wearry. Instead, it agreed to a plea deal that took Mr. Wearry off of death row. Supp.App.F.6 21. Today, Mr. Wearry is a free man.

D. Mr. Skinner obtains counsel and discovers even more withheld evidence.

1. Unlike Mr. Wearry, Mr. Skinner was not convicted of a capital offense and did not receive counsel for postconviction proceedings. Supp.App.G.4. 2. With Mr. Skinner proceeding pro se, the Louisiana courts upheld his conviction on state postconviction review. *State* ex rel. *Skinner v. State*, 2009-2043 (La. 8/18/10), 42 So. 3d 394. Mr. Skinner also filed a federal habeas petition under 28 U.S.C. § 2254, but it was denied on procedural grounds and without discussion of the merits. Supp.App.G.4. 2; *Skinner v. Cain*, 2011 WL 2802859 (M.D. La. July 15, 2011).

2. After this Court decided *Wearry*, Mr. Skinner learned for the first time about the evidence withheld in Mr. Wearry's case—evidence also withheld in his own case. *See* Supp.App.G.4. 3. Armed with that new

evidence, Mr. Skinner was able to secure Innocence Project New Orleans as counsel. *Id.* Mr. Skinner's new lawyers discovered that not only had the State withheld the evidence discussed in *Wearry*, but it had also withheld additional troves of evidence that further eroded any case against him.

a. Some of this newly uncovered evidence casts even more doubt on Scott's and Brown's credibility.

Mr. Skinner's lawyers unearthed two statements from Scott showing that police had fed him key information about the crime. In one statement, Scott told detectives that Mr. Walber had been killed on Blahut Road. Pet.App. 19a. A detective then asked him if he meant, instead, to say Crisp Road, where Mr. Walber's body had been found. Scott then changed his statement. *Id.* 25a. In another interview that was withheld from Mr. Skinner's defense, police—having learned of Randy Hutchinson's knee surgery—asked Scott if Hutchinson had an injury at the time of the crime. Scott dutifully added Hutchinson's injury to his story. Supp.App.G.6. 22.

Mr. Skinner's team also discovered additional statements from Brown. It turned out that not only had Brown added Mr. Skinner to later statements, he'd also subtracted a character from his story. *Compare* Pet.App. 43a–45a, *with* Supp.App.B.2. 553–54. Mr. Skinner's team learned that Brown had initially identified that other man as Mr. Wearry's companion in a police photo array. Pet.App. 36a. That man had committed a very similar carjacking and robbery several weeks after the Walber murder. *Id.* 79a–81a. He'd even tried to intimidate the victim in that robbery by saying he had killed "the Walber boy." *Id.* 80a. The State then relied on this other suspect's

confession to the Walber murder to convict him of the robbery. *Id.* 83a. None of this material was disclosed to Mr. Skinner's trial counsel.

The additional statements from Brown also revealed that he continued to change his story for over a year after he first came forward. In one statement, Mr. Skinner had a gun. *See, e.g.*, Supp.App.D.1. 518. In another, the group confronted Mr. Walber in the woods instead of on Crisp Road. *See, e.g.*, *id.* 531. By the time of trial, neither the gun nor the woods made an appearance in Brown's story.

Mr. Skinner's postconviction counsel also found out what had become of police officers' promise to Brown to "talk to the DA" about his case. At the time he came forward, Brown was serving a fifteen-year sentence on one set of charges and had several other pending charges. Records withheld from the defense reveal that on the first day of Mr. Skinner's first trial, Brown moved for a reconsideration of his fifteen-year sentence. Supp.App.F.3. 117. Shortly after Mr. Skinner was convicted—and years after Brown's lawyers had moved for resentencing—Brown's fifteen-year sentence was replaced with probation. Pet.App. 57a. By way of explanation, the judge said only that "there are some mitigating circumstances that I'm willing to address." *Id.* 56a.

The pending charges, too, disappeared. Around the time Brown's statement implicated Mr. Skinner, prosecutors signed off on a continuance motion regarding those charges on the basis that Brown "may well be a witness" in a Livingston Parish matter. Supp.App.F.3. 406. Those charges were then continued indefinitely, meaning that Brown was never tried or sentenced for them.

Finally, Mr. Skinner's new lawyers learned that the State also did not turn over several statements that Brown had made to other prisoners. To one, Brown had advertised that anyone could "get out of jail" if they provided information on the murder. Pet.App. 27a. To another, Brown had admitted that he had been involved in the crime but wanted to "pin this crime" on Mr. Wearry. *Id.* 50a.

b. Withheld documents also undercut the credibility of Ryan Stinson and Raz Rogers, the two witnesses who claimed Mr. Skinner confessed to them.

During Mr. Skinner's second trial, Stinson initially refused to testify, telling the judge that he didn't remember anything about the case. Pet.App. 60a–64a. After prosecutors agreed to meet with Stinson—and promised him a transfer to a different prison—Stinson's memory returned, and he took the stand. *Id.* 64a, 71a–73a. Mr. Skinner was never told about either Stinson's negotiation or his eventual deal.

As to Rogers, the State failed to disclose evidence that Rogers *himself* had confessed to the Walber murder. Pet.App. 76a. The State also failed to turn over police records showing that Rogers, too, changed his story. Across months of questioning, including during two lie detector tests, Rogers told a story of the crime that did not involve Mr. Skinner at all. Supp.App.D.2. 673–75; Supp.App.D.3. 913; Supp.App.E.1 199. The State also did not disclose records that would have made clear that Rogers was lying about even small details in his testimony. For instance, he told the jury that he had not smoked marijuana in many years. Pet.App. 74a–75a. But it turned out he had been arrested for marijuana possession the night before that testimony—giving

him all the more reason to curry favor with the prosecution. Supp.App.F.5. 10.

c. Finally, the State withheld records that strongly inculpated other suspects—none of whom were ever seriously investigated. There was the suspect whom Brown identified in a photo array, as well as Raz Rogers, both of whom allegedly confessed. Pet.App. 36a, 76a. In addition, there were numerous other credible leads that went unexplored. For instance, a school guidance counselor, Boy Scout troop leader, and probation officer all contacted police to report that one suspect had confessed. *Id.* 91a–95a. Another man confessed to his sister. *Id.* 96a–99a. A third man—who had been seen covered in blood on the night of the murder and who had previously robbed another man under similar circumstances—called police himself to ask if he was a "prime suspect." Pet.App. 84a–85a, 87a. None of this information was turned over to Mr. Skinner's defense team.

E. Louisiana courts hold they are not bound by *Wearry* and reject Mr. Skinner's *Brady* claims.

1. Armed with not only the withheld evidence before this Court in *Wearry*, but also masses of additional withheld evidence, Mr. Skinner filed a second petition for postconviction relief. The Louisiana courts found that no procedural obstacles barred Mr. Skinner's *Brady* claims and that he was entitled to review of those claims on the merits. *See* Supp.App.A.1.

Mr. Skinner returned to the state postconviction trial court to litigate his claim on the merits. During oral argument on Mr. Skinner's motion, the state postconviction trial court twice repeated, without

elaboration, that it "does not feel it's bound by the *Wearry* decision." *Id.* 6–7.

Just nine days after Mr. Skinner submitted his brief to the state postconviction court, the court issued a written decision denying him relief. Pet.App. 1a–4a. It rejected his *Brady* claims in less than a paragraph. *See id.* 2a–3a. As to this Court's decision in *Wearry*, it offered only the following: "[T]he *Weary* [sic] case is distinguishable enough from the instant case that its decision does not compel this Court to follow suit." *Id.* 3a. The court also rejected Mr. Skinner's *Brady* claims on their own terms, holding that Mr. Skinner was required to offer "further evidence" regarding the "credibility" of the withheld statements. *Id.*

2. The Louisiana First Circuit Court of Appeal denied review. One of the three judges noted his dissent in light of *Wearry*. Pet.App. 5a.

3. Four of the seven justices on the Supreme Court of Louisiana voted to deny review. Pet.App. 7a. A fifth recused himself, as he had been on the court of appeals panel that denied review (he had dissented from the denial of review at that stage). *Id.* 5a, 7a. The sixth and seventh would have granted review, with one explaining that "[t]here is no legitimate basis to treat the two co-defendants differently." *Id.* 8a.

4. Having exhausted his state remedies, Mr. Skinner returned to federal district court to again seek federal habeas relief. Because he had previously filed a pro se Section 2254 petition, he filed a motion for authorization to file a second or successive habeas petition in the United States Court of Appeals for the Fifth Circuit. *See* 28 U.S.C. § 2244(b)(3). The Fifth Circuit (Southwick, Willett, Oldham, JJ.) granted his

motion, holding that Mr. Skinner had made a "prima facie showing" that "but for constitutional error, no reasonable factfinder would have found the applicant guilty." Pet.App. 9a–11a. Its grant was "tentative": The Fifth Circuit found only that Mr. Skinner had made "a sufficient showing of possible merit to warrant a fuller exploration by the district court." *Id.* It added that "the district court must conduct its own 'thorough review' of Skinner's motion and must dismiss the motion, without reaching the merits, if it determines that Skinner has not satisfied the § 2244(b)(2)(B) requirements." *Id.*

REASONS FOR GRANTING THE WRIT

Nine years ago, this Court decided *Wearry v. Cain*, 577 U.S. 385 (2016) (per curiam), and granted relief to Mr. Skinner's codefendant, Michael Wearry. Mr. Wearry's conviction rested on the testimony of two star witnesses—witnesses whose testimony was fatally undermined, in this Court's determination, by evidence withheld in violation of *Brady v. Maryland*, 373 U.S. 83 (1963).

Mr. Skinner's conviction rests on the same tainted testimony. Because there are no plausible grounds on which to distinguish *Wearry* from the instant case—and because Louisiana courts' insistence that they are "not bound by the *Wearry* decision," Supp.App.A.1 6–7, subverts the hierarchy of our judicial system—this Court should grant review and vacate Mr. Skinner's conviction.

I. *Wearry* dictates the outcome in this case.

A. The withheld evidence at issue in this case is at least as material as the withheld evidence at issue in *Wearry*.

As in *Wearry*, this case is about whether evidence withheld by the State was material under *Brady*. In *Wearry*, this Court considered the elements of Mr. Wearry's trial, the evidence withheld, and the legal mistakes made by the Louisiana courts. Every step of the Court's analysis in *Wearry* applies to Mr. Skinner's case—if anything, with more force.

1. The key elements of the case against Mr. Wearry and the case against Mr. Skinner were identical. The State "presented no physical evidence" at either trial. *Wearry*, 577 U.S. at 387. The only "eyewitnesses" to testify against Mr. Skinner and Mr. Wearry were Sam Scott and Eric Brown. *Id.*; *see* Supp.App.B.2. 1021–25. And the State touted the trustworthiness of those star witnesses at both trials, claiming that Scott was a "hero" and that Brown's motives for coming forward were pure. *Wearry*, 577 U.S. at 387; Supp.App.B.2. 1021–25.

2. In Mr. Skinner's case, the State withheld the same three key sets of evidence as in *Wearry*. But here, Mr. Skinner has uncovered *even more* evidence withheld by the prosecution than was presented to the courts in Mr. Wearry's case.

a. First, as in *Wearry*, the prosecution in Mr. Skinner's case withheld evidence that "two of Scott's fellow inmates had made statements that cast doubt on Scott's credibility." *Wearry*, 577 U.S. at 389–90. Scott told one inmate he was testifying against Mr. Skinner and Mr. Wearry to settle a personal score by

getting Mr. Wearry executed. *Wearry*, 577 U.S. at 389. And Scott told the other that lying to the police about the Walber murder would "help him get out of jail." *Id.* at 390.

After *Wearry* was handed down, Mr. Skinner unearthed still more withheld evidence casting doubt on Scott's credibility. Recall that Scott's early statements to the police didn't even get the location of the crime right. *Wearry*, 577 U.S. at 386–87; *see* Pet.App. 19a. But on the stand, he testified to a version of events that better fit with what the police knew about the crime. *See* Supp.App.B.2. 374–97. The evidence Mr. Skinner uncovered sheds light on how Scott filled in these gaps. To take just one example: Police officers specifically asked Scott if he had been on *Crisp* Road, where the victim's body was found, rather than Blahut Road, as Scott had initially maintained. Pet.App. 19a, 25a. Immediately thereafter, Scott revised his statement to include the correct location. *Id.* 25a.

b. Second, as in *Wearry*, the prosecution in Mr. Skinner's case withheld medical records that indicated Randy Hutchinson was "physically incapable of performing the role Scott ascribed to him." *Wearry*, 577 U.S. at 393. Scott's account at both the Skinner and Wearry trials had Hutchinson dragging the 190-pound Walber in and out of the two-door hatchback before squeezing into the back seat of the car with a half-dozen other people. Supp.App.B.2. 377–79.

The problem? Undisclosed medical records in the State's possession showed that Hutchinson had major reconstructive knee surgery nine days prior to the murder. Supp.App.E.1. 190. Other medical records held by the State showed that Hutchinson's knee was

healing nicely in the days after the murder. Supp.App.E.1. 2455, 2462. But there is no plausible way Hutchinson could have sat down in the car—let alone dragged Walber around in the manner Scott alleged—without reaggravating his injury. *See Wearry*, 577 U.S. at 390.

Again, the materiality analysis here is even more clear cut than in *Wearry*. The dissent in *Wearry* was concerned that Hutchinson's medical records might not have been material in Mr. Wearry's case because the jury was aware of the "most salient fact revealed by the medical records": In Mr. Wearry's trial, testimony had at least mentioned Hutchinson's knee injury. *Wearry*, 577 U.S. at 399–400 (Alito, J., dissenting). But the same was not true in Mr. Skinner's trial. Although the State called the same witnesses to testify, they did not mention the injury (nor could Mr. Skinner have known to ask about it on cross-examination). *See generally* Supp.App.B.2.

c. Third, as in *Wearry*, the prosecution in Mr. Skinner's case withheld evidence that, "contrary to the prosecution's assertions at trial, Brown had twice sought a deal to reduce his existing sentence in exchange for testifying." *Wearry*, 577 U.S. at 390. In its closing arguments in both Mr. Wearry's and Mr. Skinner's trials, the State insisted that Brown was getting "nothing" in return for his testimony. Supp.App.B.2. 1024; *see also Wearry*, 577 U.S. at 387 (Brown "has no deal on the table"). Instead, the State insisted that Brown was a good Samaritan, *see* Supp.App.B.2. 1023–24, and "was testifying because the victim's 'family deserves to know.'" *Wearry*, 577 U.S. at 387. But withheld evidence revealed that police promised to "talk to the D.A." if Brown testified and

that Brown later sent a letter requesting a reduced sentence. *Wearry*, 577 U.S. at 390; Supp.App.D.1. 797; *see also* Pet.App. 54a–56a.

The dissent in *Wearry* worried that the withheld evidence might not have had "real potential to affect the trial's outcome" as "there is no evidence that Brown (unlike Scott) actually received a deal." *Wearry*, 577 U.S. at 399 (Alito, J., dissenting). But Mr. Skinner has since unearthed exactly that evidence: Brown benefited from a special arrangement in which five felony charges were effectively dropped before trial and a fifteen-year sentence was replaced with probation shortly after Mr. Skinner was convicted. *See supra* at 13.

What's more, since *Wearry*, Mr. Skinner has uncovered additional withheld evidence impeaching Brown. It turns out that Brown had all but told a fellow inmate that he planned to lie on the stand. Pet.App. 50a. It also turns out that Brown kept changing basic details about the who, what, and where of the crime with each statement to police. *Supra* at 4. Furthermore, Mr. Skinner has learned that the State never disclosed that Brown identified a different suspect in a photo array the first time he spoke with police. Pet.App. 36a. The State seemingly never pursued that lead, and the detail was absent from Brown's testimony at trial. *Id.*; Supp.App.B.2. 553–54. This despite the fact that the suspect had confessed to the Walber murder while committing a remarkably similar crime several weeks later. *Id.* 80a. Indeed, the same prosecutor who tried Mr. Skinner relied on that other suspect's confession to the Walber murder when she tried the other suspect's case. *Id.* 82a–83a.

3. Finally, the Louisiana state postconviction courts made similar legal mistakes as in *Wearry*, botching the *Brady* standard in both cases. In Mr. Wearry's case, the state postconviction court "improperly evaluated the materiality of each piece of evidence in isolation rather than cumulatively" and "failed even to mention" some of that evidence. *Wearry*, 577 U.S. at 394 (citing *Kyles v. Whitley*, 514 U.S. 419, 441 (1995)). In this case, it is not clear that the state postconviction court evaluated the materiality of each piece of evidence *at all*, let alone cumulatively. *See* Pet.App. 2a–4a. And it "failed even to mention" not just some, but all, of the *Brady* evidence. *Wearry*, 577 U.S. at 394; *see* Pet.App. 2a–4a.

Mr. Wearry's state postconviction court also "emphasized reasons a juror might disregard new evidence while ignoring reasons she might not." *Wearry*, 577 U.S. at 394. Here, the state postconviction court went far beyond "emphasiz[ing] reasons a juror might disregard new evidence." *Id.* It demanded that Mr. Skinner offer "further evidence" to convince it of the "credibility" of the withheld statements. Pet.App. 3a.

That evidentiary burden appears nowhere in *Wearry*, nor for that matter in over fifty years of precedent applying *Brady.* It confuses the *Brady* materiality standard—which asks only whether the withheld evidence would "undermine confidence" in a jury's verdict, *Wearry*, 577 U.S. at 392—with a standard requiring petitioners to prove their actual innocence. And this Court has squarely rejected even the argument that *Brady* claimants must "satisfy the severe burden of demonstrating that newly discovered

evidence probably would have resulted in acquittal." *United States v. Agurs*, 427 U.S. 97, 111 (1976).

Moreover, the state postconviction court was confused as to the relevance of the *Brady* material in question. Mr. Skinner's claim for relief turns on the State's witnesses' *lack* of credibility. Thus, the relevance of Scott's prior withheld statements isn't that they're credible, in and of themselves; it's that they make Scott's testimony less so. For example, the fact that Scott initially stated that Mr. Walber had been killed on Blahut Road is relevant not because that's where the murder occurred, but because it shows how Scott changed his tune to fit the facts. "Further evidence" of the "credibility" of the Blahut Road statement, as the state trial court demanded, would be beside the point.

4. After considering the course of the trial, the withheld evidence, and the legal errors by the Louisiana courts, this Court vacated Mr. Wearry's conviction. It should do the same for Mr. Skinner. As in *Wearry*, the State's evidence at trial in Mr. Skinner's case "resembles a house of cards." 577 U.S. at 392. As in *Wearry*, "[b]eyond doubt, the newly revealed evidence suffices to undermine confidence" in the conviction. *Id.* And as in *Wearry*, "[e]ven if the jury—armed with all of this new evidence—*could* have voted to convict," this Court can have "no confidence that it *would* have done so." *Id.* at 394 (quoting *Smith v. Cain*, 565 U.S. 73, 76 (2012)).

B. This case is "distinguishable" from *Wearry* only in that Mr. Skinner raises stronger *Brady* claims against a weaker conviction.

1. Despite the benefit of binding Supreme Court precedent addressing the same claims on the same facts, the state postconviction trial court has repeatedly refused to apply *Wearry*. By way of justification, it said only: "[T]he *Weary* [sic] case is distinguishable enough from the instant case that its decision does not compel this Court to follow suit." Pet.App. 3a.

"[D]istinguishable" how? The court doesn't tell us. It can't be that the case against Mr. Skinner is more damning—if anything, the prosecution had a harder time convicting Mr. Skinner. His first jury hung, Supp.App.G.5., and his second jury convicted him only because of Louisiana's pre-*Ramos* rule allowing nonunanimous convictions for second-degree murder. *Ramos v. Louisiana*, 590 U.S. 83, 87 (2020); Supp.App.B.2. 1114. It can't be the specific evidence withheld—Mr. Skinner seeks relief based on all the same improperly withheld evidence this Court held material in *Wearry*. *See supra* Part I.A. And it can't be the materiality of the withheld evidence—several of the *Brady* violations in Mr. Skinner's case were *more likely* to affect the jury's verdict. *Id.*

2. In its briefing below, the State hints at its theory of how this case might be "distinguish[ed]" from *Wearry* (a theory, to be clear, that the state courts did not adopt). At Mr. Skinner's trial, the State presented the testimony of Raz Rogers and Ryan Stinson, two witnesses who claim that Mr. Skinner confessed to them. *See id.*; Supp.App.B.2. 609–10, 699–700. Because Stinson and Rogers did not testify in Mr.

Wearry's case, the State suggests that their testimony renders the case against Mr. Skinner stronger. *See* Brief in Opposition to Petitioner's Writ Application at 3, *State v. Skinner*, 2024-00142 (La. 2/25/25), 401 So.3d 665.

That argument is brazen, to say the least. To argue that its *Brady* violations as to Scott and Brown are not material, the State relies on the testimony of Rogers and Stinson—as to whom the State *also* committed *Brady* violations by withholding important impeaching evidence.

Start with Raz Rogers. The State relies on Rogers' testimony that Mr. Skinner confessed to him. But some key details never made it to defense counsel. For instance, the State never turned over evidence showing that Rogers spent months giving statements to the police about Mr. Walber's death—including across two separate lie detector tests—without ever indicating that Mr. Skinner was involved. *See* Supp.App.D.2. 673–75; Supp.App.D.3. 913; Supp.App.E.1 199. The State also withheld evidence revealing that prosecutors lied to the jury about Rogers' own involvement in the crime. In its closing argument at Mr. Skinner's second trial, the State insisted that there was not "even one shred of evidence" that Rogers was involved. Supp.App.B.2. 1025. But that's wrong. The State had in its possession, at that time, a statement from another witness claiming that Rogers *himself* had confessed to the murder. Pet.App. 76a.

Next consider Ryan Stinson. Remember, Stinson claimed that Mr. Skinner gave him (a total stranger) a confession that conflicted with Scott and Brown's accounts. *See* Pet.App. 65a–70a. What the State

neglected to share with defense counsel is that, despite the prosecutor's insinuation to the contrary, *id.* 70a, Stinson was getting something in return for his testimony. At first, Stinson refused to testify at Mr. Skinner's trial. *Id.* 60a–64a. He agreed to take the stand only after the State promised him, in an undisclosed meeting, a transfer to a different prison. *Id.* 71a–73a.

3. To be sure, there are ways in which Mr. Skinner's case is "distinguishable" from *Wearry*—but those distinctions only make the postconviction court's decision *less* defensible.

As explained *supra*, Part I.A., in each of the three categories of withheld evidence regarding Scott and Brown, Mr. Skinner's arguments for materiality are even stronger than those advanced in *Wearry*. As to two of the categories, Mr. Skinner unearthed more withheld evidence than was before this Court in *Wearry*; as to the third, the course of Mr. Skinner's trial meant that the withheld evidence would have made a bigger difference.

Mr. Skinner also brings to this Court evidence withheld from the defense that does more than impeach Scott and Brown. Consider just the newly uncovered records detailing alternative suspects, none of which were before this Court in *Wearry*. One potential suspect—the man whom Brown initially picked out of a photo array—confessed to the Walber murder during the commission of a very similar carjacking and robbery several weeks later. Pet.App. 36a–41a; 79a–83a. Another potential suspect was found covered in blood on the night of the murder. *Id.* 87a–89a. He later called the police to ask if he was a suspect. *Id.* 85a. Police heard from a guidance

counselor, a Boy Scout troop leader, and a probation officer that a third suspect had committed this murder. *Id.* 91a–95a. And a fourth suspect's sister reported that he had confessed. *Id.* 96a–100a.

4. Lastly, Mr. Skinner should have a lower burden under *Brady*'s materiality standard than the one Mr. Wearry overcame.

When a verdict is of "questionable validity," even "evidence of relatively minor importance might be sufficient to create a reasonable doubt." *Agurs*, 427 U.S. at 113. The verdict in Mr. Skinner's case is far more "questionable" than the verdict in Mr. Wearry's. *Id.* While Mr. Wearry was convicted by a unanimous jury during his first trial, Mr. Skinner has never been convicted by a unanimous jury—his first jury hung, and the second convicted him non-unanimously. As Justice Kavanaugh has explained, the risk of an erroneous verdict is higher where a jury is allowed to convict without unanimity. *See Ramos*, 590 U.S. at 126–27 (Kavanaugh, J., concurring in part). And nonunanimous juries make a difference "especially in cases involving black defendants," like this one. *Id.* at 127.

If Mr. Wearry's *Brady* claim succeeded "beyond doubt," the same is necessarily true here. *Wearry*, 577 U.S. at 392. Mr. Skinner marshals more withheld *Brady* evidence against a more "questionable" verdict. *Agurs*, 427 U.S. at 113.

II. This Court's intervention is warranted.

A. Louisiana courts flouted this Court's precedent.

1. "[V]ertical *stare decisis* is absolute, as it must be in a hierarchical system with 'one supreme Court.'" *Ramos*, 590 U.S. at 124 n.5 (Kavanaugh, J., concurring in part) (quoting U.S. Const., Art. III, § 1). When lower courts disregard Supreme Court authority, they undermine the legitimacy of the whole judicial enterprise. Thus, "unless we wish anarchy to prevail in the federal judicial system," lower courts must follow Supreme Court precedent, "no matter how misguided the judges of those courts may think it to be." *Hutto v. Davis*, 454 U.S. 370, 375 (1982) (per curiam). As Justice Story explained 200 years ago, if state courts were permitted to disregard this Court's rulings on federal law, the "public mischiefs that would attend such a state of things would be truly deplorable." *Martin v. Hunter's Lessee*, 14 U.S. (1 Wheat.) 304, 348 (1816).

The Louisiana postconviction court's handling of this case challenges those bedrock principles. In 2016, this Court granted Mr. Wearry a new trial because Louisiana courts had "egregiously misapplied settled law" in his postconviction proceedings. *Wearry*, 577 U.S. at 395. Mr. Skinner's case presented the *same* courts with a claim involving the *same* characters, the *same* withheld evidence, the *same* crime, and a virtually identical trial. And as discussed *supra*, Part I.A, the impact of the suppressed evidence on Mr. Skinner's trial was at least as substantial as its impact on Mr. Wearry's.

But instead of heeding *Wearry*, the state postconviction court in Mr. Skinner's case doubled down. At the postconviction hearing, the judge told Mr. Skinner's counsel—without explanation—that "the Court does not feel it's bound by the *Wearry* decision." Supp.App.A.1. 6. The state court's subsequent opinion shrugged off this Court's precedent in one sentence: "[T]he *Weary* [sic] case is distinguishable enough from the instant case that its decision does not compel this Court to follow suit." Pet.App. 3a. And neither the state court of appeal nor the Louisiana Supreme Court intervened, despite dissents protesting that the trial court had defied this Court's precedent. *Id.* 5a–8a.

2. On the rare occasion where a lower court flouts this Court's precise directions, this Court has not hesitated to intervene. Take *Moore v. Texas*, 581 U.S. 1 (2017) (*Moore I*). In *Moore I*, this Court held that the lower court had improperly analyzed a capital defendant's claim to intellectual disability. But on remand, the Texas Court of Criminal Appeals merely "repeat[ed] the analysis" that this Court "previously found wanting." *Moore v. Texas*, 586 U.S. 133, 139 (2019) (per curiam) (*Moore II*). This Court summarily reversed in *Moore II*, stepping in because Texas courts ignored this Court's directives. *Id.* And though he dissented on the merits in *Moore I*, the Chief Justice took the Texas court to task in a concurrence in *Moore II* for "repeat[ing] the same errors that this Court previously condemned." *Moore II*, 586 U.S. at 143 (Roberts, C.J., concurring).

The *Moore* saga is not an outlier. It is but the most recent instance of this Court summarily reversing lower courts that flout this Court's holdings. *See, e.g.*,

Bosse v. Oklahoma, 580 U.S. 1, 3 (2016) (per curiam) (summarily reversing where lower court refused to follow Supreme Court precedent and claimed it had been "implicitly overruled"); *James v. City of Boise*, 577 U.S. 306, 307 (2016) (per curiam) (summarily reversing because "once the Court has spoken, it is the duty of other courts to respect that understanding of the governing rule of law"); *Mullenix v. Luna*, 577 U.S. 7, 12 (2015) (per curiam) (summarily reversing where Court had "previously considered—and rejected—almost th[e] exact formulation" of a rule); *Lopez v. Smith*, 574 U.S. 1, 6 (2014) (per curiam) (summarily reversing where Court had "before cautioned the lower courts" against a specific legal mistake); *Parker v. Matthews*, 567 U.S. 37, 48 (2012) (per curiam) (summarily reversing where Court had rebuked "identical error" two terms earlier); *Marmet Health Ctr., Inc. v. Brown*, 565 U.S. 530, 531 (2012) (per curiam) (summarily reversing because "[w]hen this Court has fulfilled its duty to interpret federal law, a state court may not contradict or fail to implement the rule so established"); *Cavazos v. Smith*, 565 U.S. 1, 9 (2011) (per curiam) (summarily reversing where Court had vacated and remanded the judgment before, but the panel "persisted in its course"); *Sears v. Upton*, 561 U.S. 945, 955 (2010) (per curiam) (citation omitted) (summarily reversing where lower court repeated an error this Court "categorically rejected").

The Court should similarly intervene here to vindicate its authority. The state postconviction court's disregard of *Wearry* is even more flagrant than the Texas Court of Criminal Appeals' disregard of *Moore I*. The Texas Court of Criminal Appeals at least paid lip service to this Court's holding in *Moore I*, dedicating ten pages (albeit misguided ones) to

distinguishing *Moore I*. *See Moore II*, 586 U.S. at 138. But here, the Louisiana postconviction court didn't even attempt to explain how its holding might be squared with *Wearry*. *See* Pet.App. 1a–4a. Even more than in *Moore II*, then, this Court's intervention is necessary here.

B. This Court should correct the injustice now.

This Court's reasons for summarily reversing in *Wearry* apply with equal force in Mr. Skinner's case. Summary reversal is particularly appropriate here because this Court already waded through a nearly identical record in *Wearry*. The Court need only port that case's analysis over to this one. Alternatively, this Court could grant certiorari, call for full briefing, and set this case for argument, as the dissenters in *Wearry* proposed in that case. *Wearry*, 577 U.S. at 403 (Alito, J., dissenting).

But regardless of how it does so, this Court should intervene now, rather than await federal habeas proceedings.

1. Like Mr. Wearry, Mr. Skinner filed a federal habeas petition shortly after the denial of state postconviction relief from the Louisiana Supreme Court. *See* Supp.App.F.7. The pendency of litigation on that federal petition should not affect this Court's decision here any more than it did in *Wearry*. Indeed, the case for immediate intervention is stronger in Mr. Skinner's case than it was in Mr. Wearry's for at least three reasons.

First, three judges on the Fifth Circuit believe that prosecutors' misconduct in this case may well have had an impact on the outcome—indeed, a more significant impact on the outcome than the *Brady*

materiality standard requires. Pet.App. 9a–11a. A panel of the Fifth Circuit authorized Mr. Skinner to file a "second or successive" federal habeas petition, meaning that it concluded he'd made a prima facie case that (i) he could not have discovered the facts underlying his *Brady* claim earlier "through the exercise of due diligence"; and (ii) "the facts underlying the claim, if proven and viewed in light of the evidence as a whole, would be sufficient to establish by clear and convincing evidence that, but for constitutional error, no reasonable factfinder would have found [him] guilty of the underlying offense." 28 U.S.C. § 2244(b)(2)(B).

That second showing is far more substantial than *Brady* materiality, which requires only a "reasonable likelihood" that the withheld evidence *could* have "affected the judgment of the jury"—not near-certain proof that a jury *would* have acquitted. *See Wearry*, 577 U.S. at 392 (quoting *Giglio v. United States*, 405 U.S. 150, 154 (1972)). The Fifth Circuit's conclusion is, of course, on top of this Court's opinion in *Wearry*. Mr. Skinner's entitlement to relief is thus far clearer than was Mr. Wearry's at this same juncture.

Second, although Mr. Skinner's claims are as strong or stronger than Mr. Wearry's, he has a far longer road to travel than Mr. Wearry would have on federal habeas. Like Mr. Wearry, Mr. Skinner will have to show not only a *Brady* violation but that the state-court decisions were "contrary to, or involved an unreasonable application of, clearly established Federal law" or "an unreasonable determination of the facts." *See* 28 U.S.C. § 2254(d). But Mr. Wearry's federal habeas petition was his first. Because Mr. Skinner is filing his second petition, he would *also*

have to satisfy the requirements for a second or successive petition. Although the Fifth Circuit found Mr. Skinner had made a "prima facie showing" on those elements, its grant was "tentative:" The district court still "must dismiss the motion, without reaching the merits, if it determines that Skinner has not satisfied the § 2244(b)(2)(B) requirements." Pet.App. 10a–11a (citation omitted).

Third, and most importantly, this Court found untenable the prospect that Mr. Wearry would "endure yet more time" in service of a "constitutionally flawed" conviction. *Wearry*, 577 U.S. at 396. Nine years after *Wearry*, Mr. Skinner is still serving time for a conviction that this Court has *already* all-but-held is "constitutionally flawed." *Id.* Were he to await federal habeas review, he'd likely serve another half decade or more before obtaining meaningful relief.[2]

2. Intervention at this juncture also conveys a message only this Court can. This Court does not await federal habeas where a lower court exhibited flagrant disregard for this Court's authority.[3] Nor does this Court await federal habeas where a conviction is

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[2] *See, e.g.*, *United States v. Edmonds*, 2022 WL 2340562 (5th Cir. June 29, 2022) (dismissing a non-capital habeas petition six years after authorizing the successive petition); *Will v. Lumpkin*, 2024 WL 1468700, at *1, *15 (S.D. Tex. Apr. 3, 2024) (criticizing delay in successive federal habeas litigation authorized by the Fifth Circuit in 2020, especially given that "[o]ver two decades have passed since [petitioner's] conviction").

[3] *See generally* Z. Payvand Ahdout, *Direct Collateral Review*, 121 Colum. L. Rev. 159 (2021); *see also Cruz v. Arizona*, 598 U.S. 17 (2023); *Moore v. Texas*, 586 U.S. 133 (2019) (per curiam); *Sears v. Upton*, 561 U.S. 945 (2010) (per curiam).

so obviously tainted that fundamental fairness demands immediate intervention.[4]

Both are true here. As explained *supra*, Part II.A, the Louisiana courts have flouted this Court's express directions in *Wearry* with nary an explanation. And the thousands of pages of withheld documents at issue in this case—pages that inculpate alternative suspects, capture police officers tampering with witnesses, and fatally undermine the testimony of the State's star informants—confirm that Mr. Skinner did not receive a fair trial.

3. Finally, this Court has often decried the "actual inequity that results when the Court chooses which of many similarly situated defendants should be the chance beneficiary" of its intervention. *United States v. Johnson*, 457 U.S. 537, 556 n.16 (1982) (emphasis omitted); *see also Fiore v. White*, 531 U.S. 225, 228–29 (2001) (per curiam).

That "actual inequity" is at its apex here. Had Mr. Skinner come to this Court in tandem with Mr. Wearry, this Court almost certainly would have resolved them in the same way. But because Mr. Skinner did not receive counsel until well after Mr. Wearry, he comes to this Court nearly a decade later. Two codefendants, convicted of the same crime, raising the same constitutional claims, should receive

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[4] *See generally* Ahdout, *Direct Collateral Review*, *supra* n.3; *see also Glossip v. Oklahoma*, 145 S. Ct. 612 (2025); *Andrus v. Texas*, 590 U.S. 806 (2020) (per curiam); *Flowers v. Mississippi*, 588 U.S. 284 (2019); *Foster v. Chatman*, 578 U.S. 488 (2016); *Williams v. Pennsylvania*, 579 U.S. 1 (2016); *Rippo v. Baker*, 580 U.S. 285 (2017) (per curiam); *Sears v. Upton*, 561 U.S. 945 (2010) (per curiam).

this Court's intervention at the same procedural juncture.

For the reasons it granted review in *Wearry*, and for the additional reason that *Wearry* is already in the U.S. Reports, this Court should intervene in Mr. Skinner's case.

CONCLUSION

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

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