No. 25-1

In the Supreme Court of the United States

JAMES SKINNER.,

Petitioner,

v.

LOUISIANA.,

Respondent.

On Petition for a Writ Certiorari To Louisiana's 21st Judicial District

BRIEF OF FEDERAL COURTS PROFESSORS Z. PAYVAND AHDOUT AND LEE KOVARSKY AS *AMICI CURIAE* IN SUPPORT OF PETITIONER

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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*. 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."

Should this Court summarily reverse the Louisiana court's error in refusing to follow this Court's holding in *Wearry* for Mr. Skinner's nearly identical *Brady* claim?

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INTEREST OF *AMICI CURIAE*[1]

Amici are law professors who teach and write about the federal courts, *habeas corpus*, and the relationship between federal and state law. *Amici* sign this brief in their individual capacities and not on behalf of their institutions; institutional affiliations are provided solely for identification purposes.

Z. Payvand Ahdout is an associate professor of law at the University of Virginia School of Law. Professor Ahdout has published works concerning federal courts and modern uses of judicial power, including the Supreme Court's exercise of its jurisdiction. One such work, *Direct Collateral Review*, 121 COLUM. L. REV. 159 (2021), pertains directly to the issues raised in this Petition. Prior to joining the University of Virginia School of Law, Professor Ahdout had academic appointments at Columbia Law School and New York University School of Law and worked in private practice.

Lee Kovarsky is the Bryant Smith Chair in Law at the University of Texas at Austin School of Law. He has published works in criminal procedure, criminal justice, and federal courts. One such work, *Structural Change in State Postconviction Review*,

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[1] Pursuant to Supreme Court Rule 37.6, *amici* certify that no counsel for a party has authored this brief in whole or in part and that no one other than *amici* and their counsel have made any monetary contribution to the preparation and submission of this brief. *Amici* certify that notice of their intent to file this brief was given counsel for Mr. Skinner more than 10 days prior to the filing deadline and to the State of Louisiana on July 28, 2025, the day before Professor Kovarsky confirmed participation in the brief.

93 NOTRE DAME L. REV. 443 (2017), pertains directly to issues raised in this Petition. Professor Kovarsky is a member of the American Law Institute, has been in academia for seventeen years, remains an active *habeas corpus* and capital litigator, and has worked on dozens of postconviction cases.

REASONS FOR GRANTING THE PETITION

The Petition asks this Court to correct the Louisiana Supreme Court's direct contravention of federal law as established by this Court. In *Wearry v. Cain*, 577 U.S. 385 (2016) (per curiam), this Court held Louisiana's suppression of material evidence warranted vacatur of the defendant's conviction and a new trial, pursuant to *Brady v. Maryland*, 373 U.S. 83 (1963). Rather than adhering to that decision as it pertained to the same criminal prosecution and the suppression of the very same evidence, Louisiana subverted this Court's *Wearry* decision by denying Mr. Skinner's nearly identical request for relief from that required in *Wearry*. Along the way, the Louisiana Supreme Court provided no reasoning for its subversion of federal law, let alone reasons that would require deference by this Court.

This Court's decisions concerning federal law, however, are supreme and binding. Where, as here, those decisions are subverted, this Court has the authority—which it has regularly exercised—to intervene and summarily reverse the errant decision. A state supreme court decision that "conflicts with relevant decisions of this Court" is a compelling reason that warrants this Court's review. S. CT. R. 10(c). Where a state court directly subverts a binding and controlling Supreme Court decision, immediate intervention through summary disposition, rather than awaiting further proceedings or even granting certiorari for fulsome proceedings before this Court, is the "appropriate" course of action. S. CT. R. 16. Beyond the obvious interests in uniformity and ensuring that this Court's decisions remain supreme, the interests of

comity and deference to state criminal proceedings are best served by immediate intervention and summary reversal. *See Kansas v. Carr*, 577 U.S. 108, 118 (2016) (correcting a state's misapplication of federal law vindicates state autonomy).

Accordingly, *amici* respectfully request that this Court summarily reverse the decision below, vacate Mr. Skinner's conviction, and remand so fair state-court proceedings can begin.

I. SUMMARY REVERSAL IS WARRANTED TO PROTECT AGAINST STATE SUBVERSION OF THIS COURT'S DECISIONS.

1. Under Article VI, the Constitution "shall be the supreme Law of the Land," and "Judges in every State shall be bound thereby." U.S. CONST. ART. VI. Courts play a "significant role" in "assuring the supremacy of federal law." *Armstrong v. Exceptional Child Ctr., Inc.*, 575 U.S. 320, 326 (2015). Once a "case or controversy properly comes before a court, judges are bound by federal law." *Id.*

This Court has repeatedly recognized "there is an important need for uniformity in federal law." *Michigan v. Long*, 463 U.S. 1032, 1040 (1983); *see, e.g.*, *Kansas v. Marsh*, 548 U.S. 163, 183 (2006) (Scalia, J., concurring) ("Our principal responsibility under current practice, however, and a primary basis for the Constitution's allowing us to be accorded jurisdiction to review state-court decisions is to ensure the integrity and uniformity of federal law.") (internal citations omitted); *McKesson Corp. v. Div. of Alcoholic Bevs. & Tobacco*, 496 U.S. 18, 28–29 (1990) ("To secure state-court compliance with,

and national uniformity of, federal law, the exercise of jurisdiction by state courts over cases encompassing issues of federal law is subject to two conditions: state courts must interpret and enforce faithfully the supreme Law of the Land, and their decisions are subject to review by this Court.") (internal quotations omitted).

Applying these rules, this Court has repeatedly intervened to prevent misapplication of federal law—both in reinstating convictions erroneously vacated and vacating those where new trials are warranted—where state courts have erred. *See, e.g.*, *McElrath v. Georgia*, 601 U.S. 87, 89–90 (2024) (reversing the Georgia Supreme Court's vacatur and order for a new trial as a violation of the Fifth Amendment's prohibition of double jeopardy); *Smith v. Arizona*, 602 U.S. 779, 793 (2024) (reversing the Arizona Court of Appeals' decision that the Arizona Department of Public Safety's statements about drug testing were not testimonial hearsay under the Sixth Amendment); *Cruz v. Arizona*, 598 U.S. 17, 20–21 (2023) (reversing an Arizona Supreme Court decision that misapplied due process precedent); *Moore v. Texas*, 586 U.S. 133, 142 (2019) (per curiam) (reversing the Texas Court of Criminal Appeals' finding that petitioner had not demonstrated intellectual disability and was therefore eligible for the death penalty under the Eighth Amendment); *Lynch v. Arizona*, 578 U.S. 613, 614 (2016) (per curiam) (reversing the Arizona Supreme Court's decision that petitioner had no right to inform the jury of his parole ineligibility under the Due Process Clause); *James v. City of Boise*, 577 U.S. 306, 307 (2016) (per curiam)

(reversing the Idaho Supreme Court's award of attorneys' fees to defendant under 42 U.S. § 1983 without finding the plaintiff's action was frivolous, unreasonable, or without foundation); *Kansas v.* Carr, 577 U.S. 108, 119–20 (2016) (reversing the Kansas Supreme Court's conclusion that conflicted with the Eighth Amendment); *Maryland v. Kulbicki*, 577 U.S. 1, 2 (2015) (per curiam) (reversing the Maryland Court of Appeals' decision that a defendant's attorneys were ineffective under the Sixth Amendment).

Likewise, this Court has intervened to prevent misapplication of federal law in lower federal courts. *See, e.g.*, *Gutierrez v. Saenz*, 145 S. Ct. 2258, 2262 (2025) (reversing a lower federal court's decision as to the petitioner's standing that contravened this Court's precedent decided on "analogous facts"); *Goldey v. Fields*, 606 U.S. 942, 945 (2025) (per curiam) (reversing a lower court's decision allowing a novel *Bivens* action); *City of Tahlequah v. Bond*, 595 U.S. 9, 12 (2021) (per curiam) (reversing a lower court's qualified immunity decision); *City of Escondido v. Emmons*, 586 U.S. 38, 41 (2019) (per curiam) (same); *Johnson v. Lee*, 578 U.S. 605, 612 (2016) (per curiam) (reversing a lower court's determination that failure to exhaust state remedies did not bar federal *habeas* relief).

This Court has likewise summarized the hierarchy of the federal judiciary, and the need to prevent inconsistent rulings, as imposing the "duty of other courts to respect" this Court's "understanding of the governing rule of law." *James*, 577 U.S. at 307 (internal quotes and citation omitted). There is "good reason" for this rule. *Id.* "As

Justice Story explained 200 years ago, if state courts were permitted to disregard this Court's rulings on federal law, 'the laws, the treaties, and the constitution of the United States would be different in different states, and might, perhaps, never have precisely the same construction, obligation, or efficacy, in any two states. The public mischiefs that would attend such a state of things would be truly deplorable.'" *Id.* (quoting *Martin v. Hunter's Lessee*, 1 Wheat. 304, 348 (1816)).

2. To preserve federal uniformity, this Court regularly uses summary reversal to vacate lower court decisions that contravene or misapply its rulings. In a variety of contexts, this Court has recognized that summary reversal, rather than full adjudication on a petition for certiorari, is appropriate for correcting misapplication of federal law by lower courts. *See, e.g.*, *City of Tahlequah*, 595 U.S. at 12–14 (summarily reversing Tenth Circuit for contravening this Court's repeated instructions "not to define clearly established law at too high a level of generality" in the qualified immunity context); *Sexton v. Beaudreaux*, 585 U.S. 961, 967–68 (2018) (per curiam) (summarily reversing where "[t]he Ninth Circuit's opinion was not just wrong," but "also committed fundamental errors that this Court has repeatedly admonished courts to avoid" in consideration of ineffective assistance of counsel claims); *Dunn v. Madison*, 583 U.S. 10, 13–14 (2017) (per curiam) (summarily reversing Eleventh Circuit's conclusion that a death-sentenced defendant was incompetent to be executed because of misapplication of *Panetti v. Quarterman*, 551 U.S. 930 (2007)); *White v. Wheeler*, 577 U.S. 73, 79–81

(2015) (per curiam) (summarily reversing Sixth Circuit's grant of *habeas corpus* relief based on, among other things, a misapplication of *Uttecht v. Brown*, 551 U.S. 1 (2007)); *Christeson v. Roper*, 574 U.S. 373, 374, 378–81 (2015) (per curiam) (summarily reversing Eighth Circuit for failure to appropriately follow *Martel v. Clair*, 565 U.S. 648 (2012), a rule of criminal adjudication).

This Court likewise routinely uses summary reversal to correct state court decisions that countermand this Court's precedents. *See, e.g.*, *Lynch*, 578 U.S. at 614–17 (summarily reversing the Arizona Supreme Court for reaching a decision directly in conflict with *Simmons v. South Carolina*, 512 U.S. 154 (1994)); *James*, 577 U.S. at 307 (summarily reversing the Idaho Supreme Court because that court, "like any other state or federal court, is bound by this Court's interpretation of federal law. The state court erred in concluding otherwise.").

More particularly—as in *Wearry* itself, 577 U.S. at 392–93, and as *amici* urge here—this Court regularly uses summary reversal to correct state court misapplication of its precedents when reviewing state court collateral challenges to criminal convictions. *See, e.g.*, *Andrus v. Texas*, 590 U.S. 806, 808 (2020) (per curiam) (summarily reversing Texas Court of Criminal Appeals for misapplying *Strickland*); *Moore*, 586 U.S. at 134, 139–43 (summarily reversing the Texas Court of Criminal Appeals because that "court's opinion, when taken as a whole and when read in the light both of our prior opinion and the trial court record, rests upon analysis too much of which too closely

resembles what we previously found improper"); *Rippo v. Baker*, 580 U.S. 285, 287 (2017) (per curiam) (summarily reversing because "[t]he Nevada Supreme Court did not ask the question our precedents require"); *Kulbicki*, 577 U.S. at 4–6 (summarily reversing the Court of Appeals of Maryland for failing to properly apply *Strickland v. Washington*, 466 U.S. 668 (1984)).

Moore demonstrates the need for immediate intervention. There, the Chief Justice specifically emphasized the problems that happened where, as here, following this Court's decision the Texas Court of Criminal Appeals misapplied federal law and "repeated the same errors that this Court previously condemned—if not quite *in haec verba,* certainly in substance." 586 U.S. at 143 (Roberts, C.J., concurring). "That did not pass muster under this Court's analysis last time. It still doesn't." *Id.*

3. By denying Mr. Skinner's request for postconviction relief, the Louisiana Supreme Court repeated the same errors this Court already corrected in *Wearry*.

As the Petition sets forth, Mr. Skinner and Mr. Wearry were both charged and tried for the murder of Eric Walber. Pet. at 3–4. No physical evidence tied either man to the crime. *Id.* at 5. Instead, Louisiana relied in both trials on the testimony of the same two key witnesses, Sam Scott and Eric Brown. *Id.* at 3–4, 6–7. In both trials, Scott was played up as the "hero" or "star." *Id.* Brown was called to corroborate Scott's testimony, and the jury was told that Brown was not getting anything in exchange for his testimony. *Id.* at 6–7. Largely on the basis of Scott and Brown's testimony, Mr. Skinner was sentenced

to life in prison without possibility of parole and Mr. Wearry was sentenced to death. *Id.* Thereafter, Mr. Wearry's postconviction counsel discovered three categories of evidence that Louisiana had withheld from Mr. Wearry at trial: (1) police records that called Scott's motives for testifying into question; (2) medical records showing that an important aspect of Scott's testimony was physically impossible; and (3) evidence that Brown had twice tried to secure a deal in exchange for testimony. *Id.* at 7–9.

This Court held that suppression of this evidence warranted a new trial for Mr. Wearry. *Wearry*, 577 U.S. at 392–93. Louisiana withheld the same evidence from Mr. Skinner at his trial. Pet. at 11, 18–23. However, the Louisiana Supreme Court refused to apply *Wearry* to Mr. Skinner's postconviction claims, contravening federal law.

The State's contravention—if not subversion—of federal law in *Wearry* is more egregious than other cases where this Court has summarily reversed. For example, this Court has summarily reversed where there are reasoned, albeit mistaken or misunderstood, applications of governing federal standards. *See, e.g.*, *Rippo*, 580 U.S. at 287; *Lynch*, 578 U.S. at 614–16. This Court has also summarily reversed in situations where a state court cites, but does not take seriously, controlling precedent while failing to engage with any of the analysis required by that precedent. *See Andrus*, 590 U.S. at 813–24. Here, despite dealing with the same set of facts and the same *Brady* violations found in *Wearry*, Louisiana courts ignored that controlling precedent with no reasoning beyond the unexplained and unsupported assertion that *Wearry* "is

distinguishable enough from the instant case that [the United States Supreme Court's] decision does not compel this Court to follow suit." Pet. App. 3a; *see also* Pet. at 15–16, 18–23.

The state court's *ipse dixit*, declaring that *Wearry* is distinguishable without any reasoning, is not enough to insulate its ruling. *See, e.g., Nitro-Lift Tech., L.L.C. v. Howard*, 568 U.S. 17, 19–20 (2012) (*per curiam*) (rejecting the state court's mere declaration that its decision rested on Oklahoma law and not federal law); *cf. Long*, 463 U.S. at 1040–41 (state law cannot insulate a decision from review "when the adequacy and independence of any possible state law ground is not clear from the face of the opinion").

Allowing the Louisiana Supreme Court's decision below to stand would substantially undermine the uniformity of federal law, because two defendants in functionally identical circumstances—Michael Wearry and James Skinner—would experience drastically different outcomes. In addition to that compelling reason for immediate review, allowing the Louisiana court's decision to stand would permit states to subvert federal law merely by declaring, *ipse dixit*, that it does not apply. That is not how the Supremacy Clause or our federal system operates. This is why this Court "has not shied away from summarily deciding fact-intensive cases where, as here, lower courts have egregiously misapplied settled law." *Wearry*, 577 U.S. at 395 (collecting cases). This is such a case. The Louisiana Supreme Court flouted the clear direction given by this Court in *Wearry* without so much as an explanation. This Court should not shy away from summarily

reversing such a challenge to the uniformity and supremacy of federal law.

II. SUMMARY REVERSAL AND VACATUR OF MR. SKINNER'S CONVICTION IS APPROPRIATE IN THIS POSTURE

In the circumstances here, summary reversal of Louisiana's postconviction order promotes the interests of federal supremacy, comity, and finality more effectively than extended review in additional *habeas corpus* proceedings. In addition, this Court's immediate intervention—rather than awaiting further elaboration or litigation in state court or federal *habeas corpus* proceedings—is necessary and consistent with precedent. Having identified clear and manifest error in the decision below, this Court should correct it in this posture, on direct review of the state collateral conviction, or "direct collateral review." Z. Payvand Ahdout, *Direct Collateral Review*, 121 COLUM. L. REV. 159, 162 (2021). Having this Court correct the error now—rather than waiting for a lower federal court to address the issue on federal habeas—ensures federal supremacy, safeguards federalism interests, better serves justice, and better protects individual rights.

1. Summary reversal on direct collateral review is appropriate and more likely to vindicate federal supremacy than waiting for further proceedings. At this stage, the state system has completed its review; the remaining channels for relief are federal. On direct collateral review, this Court can correct Louisiana's error free from the "restraints imposed by the Antiterrorism and Effective Death Penalty

Act of 1996" (AEDPA). *Dunn v. Madison*, 583 U.S. 10, 14 (2017) (Ginsburg, J., concurring). Even when there are clear errors, AEDPA review can be onerous and lengthy. *See, e.g.*, *Miller-El v. Dretke*, 545 U.S. 231, 237 (2005) (ultimately granting *habeas* relief on the merits but after twice reversing lower courts' application of AEDPA's procedural rules in *Miller–El v. Cockrell,* 537 U.S. 322 (2003), and *Miller–El v. Cockrell,* 534 U.S. 1122 (2002)). Though federal law may involve deference to state court proceedings, when this Court reviews a state collateral proceeding, it does not require deference on federal questions, because review is from a "[f]inal judgment[ ] rendered by the highest court of a State in which a decision could be had[.]" 28 U.S.C. § 1257(a).

Further, narrow reversals based on clear federal precedent are "exactly the type of error" that warrant immediate intervention following a final decision from a state court. Ahdout, *supra,* at 200. This posture thus presents the best opportunity for the Court to reestablish federal supremacy—not just in this case, but over federal constitutional criminal procedure rights writ large—and address Louisiana's subversion of federal law.

Federalism interests are also served by having this Court address the state court error now. The Fifth Circuit has granted Mr. Skinner the ability to file a second or successive habeas petition. Pet. App. 9a. This means that a lower federal court will sit in review of Mr. Skinner's state conviction shortly. Although vacatur of that conviction would be justified by meeting statutory requirements, federal collateral challenges of state proceedings present

much more difficult federalism questions than this Court's vacatur of that same state court decision on direct appeal. *Cf. Younger v. Harris*, 401 U.S. 37 (1971); *Rooker v. Fidelity Tr. Co.*, 263 U.S. 413 (1923); *Dist. of Columbia Ct of Apps. v. Feldman*, 460 U.S. 462 (1983).

Summary reversal in this posture also serves the interests of justice and better protects individual rights than awaiting further proceedings. Given Louisiana's suppression of *Brady* material about the star witnesses in its prosecution, everyone—including the crime victims—have an interest in resolving these issues at a fair trial rather than proceeding with additional years of litigation. *Cf. Bucklew v. Precythe,* 587 U.S. 119, 149 (2019) (noting the ongoing interests of victims disserved by excessive litigation).

Moreover, additional proceedings would involve human and system costs. Mr. Skinner must endure the human cost of delay and his interest in securing his liberty are real and personal. Ahdout, *supra* at 174. It could be years before additional proceedings are resolved. *See* Mark D. Falkof, *The Hidden Costs of Habeas Delay*, 83 COLO. L. REV. 339, 381 (2012) ("[A]n increasing number and percentage of [*habeas*] cases remain undecided on the district courts' dockets for years."). Those are years Mr. Skinner would remain incarcerated and that would delay matters for the victims of the crime in obtaining finality. *See Peyton v. Rowe*, 391 U.S. 54, 62–63 (1968) ("It is to the great interest of the [State] and to the prisoner to have these matters determined as soon as possible when there is the greatest likelihood

the truth of the matter may be established.") (citation omitted).

Awaiting federal collateral proceedings, moreover, could take years to resolve. "Federal collateral litigation places a heavy burden on scarce federal judicial resources, and threatens the capacity of the system to resolve primary disputes." *McCleskey v. Zant*, 499 U.S. 467, 491 (1991) (citing *Schneckloth v. Bustamonte,* 412 U.S. 218, 260 (1973) (Powell, J., concurring)). Correcting the Louisiana Supreme Court's error now would preserve federal resources, bolstering the justice system as a whole.

2. The posture presented here is the most appropriate way to resolve a petition that presents a narrow, clear basis for resolution. When state courts express "hostility to federal law . . . through narrowing interpretations of the substantive rule" of law, federal intervention is vital. Lee Kovarsky, *Structural Change in State Postconviction Review*, 93 NOTRE DAME L. REV. 443, 451 (2017). The Louisiana court went far beyond "narrowing" the federal rule of law; it outright rejected this Court's factual and legal analysis. This Court should not allow this obvious hostility to go unchecked by deferring merits review any longer than necessary. *See* Ahdout, *supra*, at 199 (noting that the cases this Court "has taken on direct collateral review often show the urgency of the Court's intervention"). When an identifiable miscarriage of justice has been perpetrated by a state court—like what has happened in Mr. Skinner's case—there is a "powerful incentive to push for a grant or summary reversal at the stage of plenary review." *Id.* at 200.

Summary reversal in a case such as this one can "cure a real problem in the administration of criminal justice in the states" while reaffirming "federal judicial primacy in developing constitutional law." *Id.* at 211. "Direct collateral review is a way for the Court to keep law current, correct course, and do justice." *Id.* at 213. By intervening now, this Court can both ensure "continued doctrinal development"—through consistent application of *Brady* and its progeny—and "vindicate the ends of individual justice." *Id.* at 184.

CONCLUSION

The Petition should be granted via summary reversal that vacates Mr. Skinner's conviction and remands this matter to the State for further proceedings.

Respectfully submitted,

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