

12/22/25

No. 25-1279

SUPREME COURT OF THE UNITED STATES

HENRY L. WATSON III,

Petitioner,

v.

BRADLEY MLODZIK,

Respondent.

Petition for a Writ of Certiorari
to the United States Court of Appeals
for the Seventh Circuit

PETITION FOR A WRIT OF CERTIORARI

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QUESTIONS PRESENTED

1. Whether Wisconsin Jury Instruction 820, which instructed the jury to consider perfect self-defense in evaluating Count 1, violated *Boyde* and *Mullaney* when the jury failed to consider self-defense, and the State was unconstitutionally

relieved of its burden to disprove it; and violated *Lockett* when the State's statutory interpretation barred consideration of constitutionally relevant evidence.

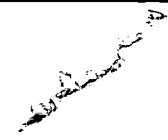
2. Whether a conflict between a criminal statute and its corresponding jury instruction creates statutory vagueness and ambiguity requiring judicial review of legislative history under the Due Process Clause.
3. Whether trial counsel rendered ineffective assistance under *Strickland* by pursuing an improper civil remedy and failing to object to the jury's disregard of the instruction and the State's post-verdict reinterpretation of the statute.
4. Whether, under *Estelle v. McGuire*, a state law violation that categorically barred the jury's consideration of self-defense under Wis. Stat. § 939.48(3) and contradicted Wisconsin Jury Instruction 820 rises to a federal constitutional violation requiring review by this Court.

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The opinion of the United States Court of Appeals for the Seventh Circuit denying a certificate of appealability is unpublished and appears at Appendix F. *Watson v. Mlodzik*, No. 24-2498 (7th Cir. Sept. 12, 2025).

The order of the United States Court of Appeals for the Seventh Circuit denying rehearing is unpublished and appears at Appendix G. *Watson v. Mlodzik*, No. 24-2498 (7th Cir. Sept. 26, 2025).

The opinion of the United States District Court for the Eastern District of Wisconsin denying habeas relief is unpublished and appears at Appendix E. *Watson v. Mlodzik*, No. 24-CV-400 (E.D. Wis. Aug. 19, 2024).

The opinion of the Wisconsin Court of Appeals affirming the conviction is unpublished and appears at Appendix A. *State v. Watson*, No. 2022AP1449-CR (Wis. Ct. App. Oct. 3, 2023).

The order of the Wisconsin Supreme Court denying the petition for review is unpublished and appears at Appendix B. *State v. Watson*, No. 2022AP1449-CR (Wis. Feb. 22, 2024).

The order of the Wisconsin Supreme Court denying reconsideration is unpublished and appears at Appendix C. *State v. Watson*, No. 2022AP1449-CR (Wis. Feb. 22, 2024).

The decision of the Milwaukee County Circuit Court denying postconviction relief is unpublished and appears at Appendix D. *State v. Watson*, Case No. 2020CF001459 (Wis. Cir. Ct. June 22, 20

JURISDICTION

Petitioner Henry L. Watson respectfully invokes the jurisdiction of this Court under 28 U.S.C. § 1257(a) and 28 U.S.C. § 2254(d).

The Milwaukee County Circuit Court denied petitioner's postconviction motion on June 22, 2022.

The Wisconsin Court of Appeals affirmed the conviction in an unpublished per curiam decision on October 3, 2023, in *State v. Watson*, Appeal No. 2022AP1449-CR.

The Wisconsin Supreme Court denied discretionary review and reconsideration on February 22, 2024.

Petitioner subsequently filed a federal habeas petition in the United States District Court for the Eastern District of Wisconsin, *Watson v. Mlodzik*, Case No. 24-CV-400, which was denied on August 19, 2024.

The United States Court of Appeals for the Seventh Circuit denied petitioner's application for a certificate of appealability on September 12, 2025, and denied rehearing on September 26, 2025, in *Watson v. Mlodzik*, Appeal No. 24-2498.

This petition is timely filed within 90 days of the final judgment entered by the Seventh Circuit. Petitioner respectfully requests that this Court grant certiorari to review the constitutional issues presented.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

U.S. Const. amend. VI "In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury... and to have the Assistance of Counsel for his defense."

U.S. Const. amend. VIII "Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted."

U.S. Const. amend. XIV, § 1 "...nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

U.S. Const. art. I, § 10 "No State shall... pass any... ex post facto Law..."

Wis. Stat. § 939.48(3)

"The privilege of self-defense extends not only to the intentional infliction of harm upon a real or apparent wrongdoer, but also to the unintended infliction of harm upon a 3rd person, except that if the unintended infliction of harm amounts to the crime of first-degree or second-degree reckless homicide, homicide by negligent handling of dangerous weapon, explosives or fire, first-degree or second-degree reckless injury or injury by negligent handling of dangerous weapon, explosives or fire, the actor is liable for whichever one of those crimes is committed."

HOMICIDE BY NEGLIGENT HANDLING OF A DANGEROUS WEAPON — § 940.08

Elements of the Crime That the State Must Prove

- The defendant operated or handled a dangerous weapon.

- The defendant operated or handled a dangerous weapon in a manner constituting criminal negligence.

- The defendant's operation or handling of a dangerous weapon in a manner constituting criminal negligence caused the death of (name of victim) .

CRIMINAL NEGLIGENCE — § 939.25 "Criminal negligence" means:

- the conduct created a risk of death or great bodily harm; and

- the risk of death or great bodily harm was unreasonable and substantial; and

the defendant should have been aware that (his) (her) conduct created the unreasonable and substantial risk of death or great bodily harm.

Wisconsin Jury Instruction – Criminal 820 (2018 Revision)

“You should consider the evidence relating to self-defense along with all the other evidence in the case in deciding whether the defendant’s conduct created an unreasonable risk of death or great bodily harm to [name victim]. If the defendant was acting lawfully in self-defense, [his/her] conduct did not create an unreasonable risk to another. The burden is on the state to prove beyond a reasonable doubt that the defendant did not act lawfully in self-defense

STATEMENT OF THE CASE

Petitioner Henry L. Watson was charged in Milwaukee County Circuit Court with first-degree reckless homicide and first-degree reckless injury, both while armed, arising from a shooting incident on April 6, 2020. The charges stemmed from an altercation in a public parking lot during which petitioner fired multiple shots at Tyrese Barnes, who became angry with petitioner, and said to petitioner “f that I’m about to F your ass up”, pulled out a gun, and pointed the gun at the petitioner. The petitioner then drew his weapon and fired at Tyrese Barnes in self-defense. One of the bullets inadvertently struck and killed Javon Lattimore, an uninvolved third party who was working beneath a nearby vehicle.

At trial in January 2021, petitioner asserted perfect self-defense as to Barnes. Barnes did not testify, and the jury was instructed under Wisconsin Jury Instruction 820 (2018 revision) to consider self-defense in evaluating both charges. The instruction explicitly directed the jury to assess whether petitioner’s conduct created an unreasonable risk of death or great bodily harm for count 1, Javon Lattimore, and clarified that if petitioner acted lawfully in self-defense, his conduct did not create an unreasonable risk to another. The State bore the burden to disprove self-defense beyond a reasonable doubt.

The jury acquitted petitioner on Count 2 (reckless injury of Barnes) on the ground of perfect self-defense but convicted him on Count 1 of the lesser-included offense of homicide by

negligent handling of a dangerous weapon for the death of Javon Lattimore. Defense counsel moved for judgment notwithstanding the verdict, which the trial court denied. Petitioner was sentenced to five years of initial confinement and five years of extended supervision.

Petitioner filed a postconviction motion under Wis. Stat. § 809.30, alleging ineffective assistance of counsel and challenging the constitutionality of Wis. Stat. § 939.48(3). The circuit court denied the motion without a hearing, concluding that self-defense was categorically barred under § 939.48(3) in cases involving negligent homicide.

On appeal, the Wisconsin Court of Appeals affirmed, holding that “Watson could not claim that he acted in self-defense as to Lattimore” and that the statute “clearly limits the privilege of self-defense where a defendant’s conduct results in injury to an unintended third person.”

The Wisconsin Supreme Court denied review and subsequently denied reconsideration.

Petitioner sought federal habeas relief under 28 U.S.C. § 2254, arguing that the post-verdict interpretation of § 939.48(3) violated his constitutional rights under *Boyde v. California* and *Lockett v. Ohio*. The U.S. District Court denied relief, and the Seventh Circuit denied a certificate of appealability and rehearing.

REASONS FOR GRANTING THE WRIT

I. THE JURY WAS INSTRUCTED TO CONSIDER SELF-DEFENSE FOR COUNT 1, THEN BARRED FROM APPLYING IT—VIOLATING *BOYDE*, *LOCKETT*, DUE PROCESS, AND THE EIGHTH AMENDMENT

At petitioner's trial in January 2021, the jury was instructed under Wisconsin Jury Instruction – Criminal 820, 2018 revision, which was the operative version at the time. This instruction governed both Count 1 (Javon Lattimore) and Count 2 (Tyrese Barnes). The instruction stated:

“You should consider the evidence relating to self-defense along with all the other evidence in the case in deciding whether the defendant's conduct created an unreasonable risk of death or great bodily harm to Javon Lattimore. If the defendant was acting lawfully in self-defense, his conduct did not create an unreasonable risk to another. The burden is on the state to prove beyond a reasonable doubt that the defendant did not act lawfully in self-defense.” (see app. #A-97 lines 21-25, pg#A-97 - 98 lines 1-6)

This directive governed both counts. The jury acquitted petitioner on Count 2, finding that he acted in perfect self-defense. The same instruction applied to Count 1¹, yet the jury failed to consider self-defense for Count 1, Javon Lattimore, and the courts later held that Wis. Stat. § 939.48(3) barred the jury from applying self-defense to Count 1 as well. This contradiction between the instruction and the post-verdict statutory interpretation created a constitutional defect.

The instruction did not merely permit the jury to consider self-defense for count 1—it required it.

¹ the jury was instructed to consider self-defense for Javon Lattimore and clearly stated that if Watson acted in perfect self-defense, his conduct negates the “unreasonable risk” element of criminal negligence for Lattimore. See app # A-97 lines 1 - 2

It placed the burden on the State to disprove justification beyond a reasonable doubt. The jury's failure to apply the instruction to Count 1, despite its identical language, reveals a breakdown in the trial's structural integrity.

This contradiction created a structural defect in the trial process. Under *Boyde v. California*, 494 U.S. 370 (1990), the relevant inquiry is whether there is a "reasonable likelihood" that the jury applied the instruction in a way that prevented consideration of constitutionally relevant evidence. Here, the jury was instructed to consider self-defense in evaluating whether petitioner's conduct created an unreasonable risk to Javon Lattimore yet failed to do so.

The courts then barred the defense entirely. This conflicting guidance created a reasonable likelihood that the jury disregarded justification altogether—violating *Boyde* and undermining the reliability of the verdict.

This post hoc override of the jury's constitutional duty also violates the Due Process Clause of the Fourteenth Amendment and the Sixth Amendment right to a fair trial. It implicates the Equal Protection Clause, as petitioner was denied consistent application of the law across counts governed by the same instruction.

Moreover, the contradiction implicates the Eighth Amendment. In *Lockett v. Ohio*, 438 U.S. 586 (1978), the Court held that a sentencer may not be precluded—by statute or otherwise—from considering any aspect of a defendant's character, background, or circumstances that might mitigate culpability. *Lockett* explicitly prohibits statutory schemes that categorically exclude constitutionally relevant mitigating evidence.

Eddings v. Oklahoma, 455 U.S. 104 (1982), reaffirmed that the sentencer must be allowed to consider all such evidence.

Wis. Stat. § 939.48(3), as interpreted post-verdict, operated as a statutory bar to self-defense for Count 1. This was not a discretionary evidentiary ruling—it was a categorical exclusion imposed by judicial interpretation of a statute. That exclusion directly violated *Lockett*, which prohibits legislatures and courts from foreclosing consideration of justification when it bears on culpability and punishment.

The jury was instructed to consider self-defense in evaluating whether petitioner's conduct created an unreasonable risk of death or great bodily harm. Yet the courts retroactively barred that consideration by statute, stripping the jury of its constitutional duty to assess justification and contradicting statute 939.48(3) very own jury instruction 820.

This statutory override deprived petitioner of an individualized assessment of culpability and punishment, violating the Eighth Amendment's protections against disproportionate and arbitrary sentencing.

The contradiction between the instruction and the courts' interpretation of § 939.48(3) deprived the jury of a coherent framework for evaluating justification.

The verdict was rendered under conditions that violate *Boyde*, *Lockett*, and *Eddings*, and cannot be deemed constitutionally reliable.

A. LEGISLATIVE HISTORY OF WIS. STAT. § 939.48(3) AND ITS CONSTITUTIONAL IMPLICATIONS UNDER *BOYDE* AND *LOCKETT*.

Wis. Stat. § 939.48(3) provides:

“The privilege of self-defense extends not only to the intentional infliction of harm upon a real or apparent wrongdoer, but also to the unintended infliction of harm upon a 3rd person, except that if the unintended infliction of harm amounts to the crime of first-degree or 2nd-degree reckless homicide, homicide by negligent handling of dangerous weapon, explosives or fire, first-degree or 2nd-degree reckless injury or injury by negligent handling of dangerous weapon, explosives or fire, the actor is liable for whichever one of those crimes is committed.”

Legislative History Confirms That § 939.48(3) Was Never Intended to Bar Consideration of Self-Defense for Count 1. The statute was revised in 2006² to clarify its application in cases involving criminal recklessness or criminal negligence. The Wisconsin Jury Instructions Committee responded by modifying Wis. JI–Criminal 820 to reflect that self-defense must be evaluated in relation to the elements of the charged offense, specifically the “unreasonable risk” element (see app #pg. A-130).

The instruction at petitioner’s trial explicitly states for count 1, Javon Lattimore, that if a defendant was acting lawfully in self-defense, his conduct did not create an unreasonable risk to another, and the burden remains on the State to prove beyond a reasonable doubt that the defendant did not act lawfully in self-defense. (App. Pg. A-97 lines 21-25, pg. #A-97 - 98 lines 1-6).

² The legislative committee modified jury instruction 820 in 2006 to relate the privilege of self-defense to the elements of the recklessness or negligence-based crime, specifically the “unreasonable risk” element. See app # Pg. A-130. This consideration requirement of Self-defense for both counts one and two is required by Wisconsin law and not at the discretion of the jury.

At trial, petitioner was charged with first-degree reckless homicide and convicted of the lesser-included offense of homicide by negligent handling of a dangerous weapon. The jury was instructed under Wis. JI–Criminal 820 (2018) to consider perfect self-defense in evaluating both counts. The jury acquitted petitioner on Count 2 based on that defense.

Post-verdict, the Wisconsin Court of Appeals interpreted § 939.48(3) to categorically bar self-defense in cases involving negligent homicide, stating that “Watson could not claim that he acted in self-defense as to Lattimore.” This interpretation directly contradicted the instruction given at trial, the 2006 statutory revision, and the 2018 reaffirmation of the instruction.

This post hoc reinterpretation violated petitioner’s constitutional rights under *Boyd v. California*, 494 U.S. 370 (1990), which held that a jury instruction violates due process if there is a reasonable likelihood the jury applied it in a way that prevented consideration of constitutionally relevant evidence. It also violated *Lockett v. Ohio*, 438 U.S. 586 (1978), which held that a state may not cut off consideration of constitutionally relevant mitigating evidence by statute.

Here, the jury was instructed to consider perfect self-defense for count 1, and acquitted petitioner on Count 2 based on that defense. Yet the State’s post-verdict interpretation of § 939.48(3) retroactively barred the jury’s consideration of that same defense for Count 1,

effectively nullifying the instruction and relieving the State of its burden to disprove justification. This created a constitutional defect under *Boyde* and *Lockett*, warranting review.

**B. THE STATE WAS UNCONSTITUTIONALLY RELIEVED OF ITS BURDEN TO
DISPROVE PERFECT SELF-DEFENSE—VIOLATING *MULLANEY*, *WINSHIP*, AND
THE FOURTEENTH AMENDMENT**

At petitioner's trial, the jury was instructed under Wisconsin Jury Instruction – Criminal 820 (2018 revision) that if the defendant acted lawfully in self-defense, his conduct did not create an unreasonable risk of death or great bodily harm, and this applied to count 1, Javon Lattimore.(app. pg.#A-97 lines 21-25 and pg.A-97 - 98 lines 1-6).

The instruction placed the burden squarely on the State to “prove beyond a reasonable doubt that petitioner did not act lawfully in self-defense”(App. pg.# A-97 - 98 lines 1-6). This burden applied to both Count 1 (Javon Lattimore) and Count 2 (Tyrese Barnes) (App #, pg.A-120 lines 2-11, pg. A-122 lines 22-25).

The jury acquitted petitioner on Count 2, finding that he acted in perfect self-defense. Yet for Count 1, Javon Lattimore, the courts later interpreted Wis. Stat. § 939.48(3) to categorically exclude self-defense, effectively relieving the State of its burden to disprove perfect self-defense for count 1 and nullifying the jury's constitutional role.

This violates the core principles articulated in *Mullaney v. Wilbur*, 421 U.S. 684 (1975), which held that the prosecution must prove the absence of justification when self-defense is properly raised and negates an element of a crime that the state must prove. It also contravenes *In re*

Winship, 397 U.S. 358 (1970), which requires proof beyond a reasonable doubt for every element of the offense. Wisconsin precedent confirms this constitutional floor.

Wisconsin precedent makes clear that once evidence of self-defense is introduced, the burden shifts to the State to disprove it beyond a reasonable doubt.

In *State v. Schulz*, 102 Wis. 2d 423, 307 N.W.2d 151 (Wis. 1981)³, the Wisconsin Supreme Court expressly relied on *Mullaney v. Wilbur*, 421 U.S. 684 (1975), to hold that the prosecution must carry this burden whenever self-defense is properly raised. This principle was reaffirmed in *State v. Austin*, 2013 WI App 96, 349 Wis. 2d 744, 836 N.W.2d 833, where the Court of Appeals emphasized that even in cases involving negligent conduct, the State must prove the absence of lawful self-defense.

The courts below disregarded this binding precedent by retroactively interpreting Wis. Stat. § 939.48(3) to categorically bar self-defense in negligent homicide cases, thereby relieving the State of its constitutional burden. This departure from *Schulz*, *Austin*, and *Mullaney* underscores the need for this Court's intervention.

The courts' post-verdict interpretation of § 939.48(3) retroactively excused the State from meeting its burden for Count 1, Javon Lattimore, despite the jury having been instructed to consider self-defense for count 1, Javon Lattimore.

³ See *State v. Schulz*, 102 Wis. 2d 423, 427–28, 307 N.W.2d 151 (Wis. 1981) (relying on *Mullaney v. Wilbur*, 421 U.S. 684 (1975), to hold that once self-defense is raised, the State must prove its absence beyond a reasonable doubt).

This contradiction between the instruction and the statute created a structural defect in the trial process and violated petitioner's rights under the Fourteenth Amendment's Due Process Clause.

The State cannot relieve itself of its burden to disprove justification after the jury has been instructed to consider it. Doing so nullifies the presumption of innocence and undermines the reliability of the verdict. The contradiction between the instruction and the courts' interpretation of § 939.48(3) deprived petitioner of a fair trial and warrants review under *Mullaney*, *Winship*, and *Schulz*.

This case also presents a broader split of authority among the states regarding the burden of proof once self-defense is raised. In *Mullaney v. Wilbur*, 421 U.S. 684 (1975), this Court made clear that the prosecution must prove the absence of justification beyond a reasonable doubt. Wisconsin followed that rule in *State v. Schulz*, 102 Wis. 2d 423, 307 N.W.2d 151 (Wis. 1981), expressly relying on *Mullaney*, and reaffirmed it in *State v. Austin*, 2013 WI App 96, 349 Wis. 2d 744, 836 N.W.2d 833.

Yet other jurisdictions have adopted contrary approaches, permitting statutory schemes that shift the burden back to the defendant or categorically exclude self-defense in certain homicide contexts. This divergence among the states creates an inconsistent national framework for the application of self-defense, undermining the uniformity of constitutional protections.

Supreme Court review is necessary to resolve this conflict in both Wisconsin and national law and reaffirm that once self-defense is raised, the State must carry the burden of disproving it beyond a reasonable doubt.

II. TRIAL COUNSEL'S FAILURE TO CHALLENGE THE STATUTORY CONTRADICTION—AND IMPROPER RELIANCE ON A CIVIL JNOV MOTION— CONSTITUTED INEFFECTIVE ASSISTANCE

Trial counsel moved for a judgment notwithstanding the verdict (JNOV) following petitioner's conviction on Count 1. This motion is not recognized under Wisconsin criminal procedure and has been explicitly rejected by the Wisconsin Supreme Court as an improper mechanism for post-verdict relief in criminal cases.

In *State v. Escobedo*, 44 Wis. 2d 85, 170 N.W.2d 709 (1969), the Court held:

“A motion non obstante veredicto, as interposed by the defendant, is an inappropriate motion on which to bottom an appeal based on insufficiency of the evidence. We have grave doubts of its use at all in a criminal proceeding.” (*Escobedo*, 44 Wis. 2d at 90–91) see also *Sartin v. State*, 44 Wis. 2d 138 (1969).

In *Milburn v. State*, 50 Wis. 2d 53, 183 N.W.2d 70 (1971), the Court reaffirmed that JNOV is not a proper vehicle for challenging a criminal conviction. The Court emphasized that criminal procedure requires specific postconviction motions under Wisconsin Statutes—not civil remedies borrowed from an incompatible chapter. See also *Maxon v. Gates*, 136 Wis.2d 270 (1908).

As the judgement notwithstanding verdict is not an adequate remedy at law because it does not challenge the constitutionality of a verdict or support the proper preservation of issues for appeal in a criminal case, this court should find Petitioner's trial counsel ineffective.

Jury instruction 820 required self-defense be considered to determine guilt for count 1. The jury failed to consider perfect self-defense for count 1, relieved the state of its burden of persuasion, and trial counsel failed to properly object to these issues.

This error was not strategic—it was legally ineffective. Under *Strickland v. Washington*, 466 U.S. 668 (1984), and *Harrington v. Richter*, 562 U.S. 86 (2011), counsel's performance fell below an objective standard of reasonableness and prejudiced petitioner's defense.

But for counsel's reliance on an inapplicable remedy, there is a reasonable probability that the outcome would have been different—or at minimum, that petitioner's constitutional claims would have been preserved for review.

Petitioner respectfully submits that this failure meets both prongs of *Strickland* and warrants review under *Richter*. The constitutional breakdown was not merely procedural—it was structural, and it denied petitioner the adversarial testing of the State's case.

III. COA SHOULD ISSUE BASED ON STATUTORY CONTRADICTION AND INSTRUCTIONAL ERROR

Under *Slack v. McDaniel*, 529 U.S. 473 (2000), a certificate of appealability should issue if reasonable jurists could debate whether the petition should have been resolved differently. Petitioner's claims meet this standard.

The retroactive application of Wis. Stat. § 939.48(3), combined with the contradictory jury instructions and ineffective assistance of counsel, raise substantial constitutional questions.

The jury was instructed to consider self-defense for Count 1, and the State bore the burden to disprove it under *Mullaney v. Wilbur*, 421 U.S. 684 (1975).

This contradiction also rendered the trial fundamentally unfair under *Estelle v. McGuire*, 502 U.S. 62 (1991), and deprived petitioner of a reliable verdict under *Boyde v. California*, 494 U.S. 370 (1990). Reasonable jurists could debate whether these constitutional violations warrant relief.

**IV. THIS CASE WARRANTS REVIEW UNDER ESTELLE v. MCGUIRE BECAUSE A
STATE LAW VIOLATION HAS DIRECTLY RESULTED IN A FEDERAL
CONSTITUTIONAL VIOLATION**

In *Estelle v. McGuire*, 502 U.S. 62 (1991), this Court reaffirmed that federal habeas relief does not lie for errors of state law alone. However, where a state law violation “so infected the trial with unfairness as to deny due process of law,” the error rises to the level of a federal constitutional violation. *Id.* at 72.

That principle applies squarely here. The Wisconsin courts’ post-verdict interpretation of Wis. Stat. § 939.48(3) categorically barred the jury from applying self-defense to Count 1, despite the operative Wisconsin Jury Instruction 820 (2018 revision) requiring the jury to consider it.

This contradiction between statute and instruction was not a mere state law error—it directly deprived Petitioner of his constitutional rights under *Boyde v. California*, 494 U.S. 370 (1990), *Lockett v. Ohio*, 438 U.S. 586 (1978), and *Mullaney v. Wilbur*, 421 U.S. 684 (1975).

By relieving the State of its burden to disprove justification and foreclosing the jury's consideration of constitutionally relevant evidence, the state law violation escalated into a federal due process violation under the Fourteenth Amendment. *Estelle* makes clear that such circumstances warrant federal review.

This case therefore presents a textbook example of when a state law defect crosses the constitutional threshold and requires this Court's intervention.

CONCLUSION

For the foregoing reasons, the petition for a writ of certiorari should be granted. This case presents a direct conflict between Wisconsin Jury Instruction 820 and Wis. Stat. § 939.48(3), which deprived the jury of its constitutional duty to consider perfect self-defense and relieved the State of its burden to disprove justification beyond a reasonable doubt. The lower courts' post-verdict reinterpretation of § 939.48(3) contravened this Court's precedents in *Mullaney v. Wilbur*, *In re Winship*, *Boyde v. California*, *Lockett v. Ohio*, and *Estelle v. McGuire*, as well as Wisconsin's own binding precedent in *State v. Schulz* and *State v. Austin*. The resulting contradiction created a structural defect in the trial process, undermining the reliability of the verdict and raising a federal constitutional question of national importance. Supreme Court review is necessary to resolve this conflict and reaffirm that once self-defense is raised, the State must carry the burden of disproving it beyond a reasonable doubt.

Respectfully submitted,

Henry L. Watson III

Petitioner pro se