

No. 25-1284
CAPITAL CASE

In the Supreme Court of the United States

MARIO DION WOODWARD,
Petitioner,

v.

STATE OF ALABAMA,
Respondent.

On Petition for a Writ of Certiorari to the
Alabama Court of Criminal Appeals

BRIEF IN OPPOSITION

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CAPITAL CASE
QUESTION PRESENTED

Mario Dion Woodward was convicted of capital murder and sentenced to death in Alabama for murdering Montgomery Police Officer Keith Houts. Woodward sought state postconviction relief, alleging that the State violated *Brady v. Maryland*, 373 U.S. 83 (1963), by “fail[ing] to disclose that, on the day of the shooting of Officer Houts, it was investigators’ sworn understanding that someone other than Mr. Woodward was driving the 2006 Impala at the time of the shooting.” Pet. App. 55a. Woodward brought his *Brady* claim as both a claim of newly discovered evidence under Rule 32.1(e) of the Alabama Rules of Criminal Procedure and a constitutional claim under Rule 32.1(a). *Id.* at 48a-61a. The circuit court dismissed his petition, and the Alabama Court of Criminal Appeals (ACCA) affirmed, holding that his *Brady* claim, whether raised under Rule 32.1(a) or (e), was time-barred and insufficiently pleaded.

The questions presented are:

Does this Court have jurisdiction to review Woodward’s claim that the ACCA misapplied *Brady*’s materiality standard where his *Brady* claim is barred by independent and adequate state-law grounds, and if it does, should the Court expend time on a fact-bound claim that he failed to present to the state courts?

Should the Court grant certiorari to review Woodward’s claim that the ACCA arbitrarily applied state-law procedural grounds to bar consideration of his *Brady* claim where he failed to present that claim to the state courts?

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STATEMENT

A. Statement of the Facts

Mario Woodward was convicted on two counts of capital murder and sentenced to death for intentionally killing Montgomery Police Officer Keith Houts. *Woodward v. State*, 123 So. 3d 989, 999 (Ala. Crim. App. 2011), *as modified on denial of reh'g* (Aug. 24, 2012). Because the questions presented are fact intensive, the State quotes the ACCA's summary of the facts of Woodward's crime at some length:

Montgomery police officer Keith Houts was on patrol in a neighborhood in north Montgomery on September 28, 2006, and he conducted a traffic stop at approximately 12:30 p.m. Shonda Lattimore testified that she was sitting on her porch when she saw a police officer begin to execute a stop on a gray Impala automobile being driven by a black man wearing a red hat. Lattimore testified that she saw the driver of the Impala reach down for something as the Impala and the police car, with its emergency lights on, passed by the end of her street, before they went out of sight. Soon after the cars passed out of her sight, she heard four or five gunshots fired.

During the traffic stop Officer Houts entered the license tag of the Impala into the mobile data terminal in his patrol car; the vehicle was registered to Morrie Surles. Officer Houts's patrol car was equipped with a video camera that recorded the events that occurred during the stop. The video recording was played for the

jury. The video showed that Houts got out of his patrol car and approached the driver's side door of the Impala. Just as Officer Houts reached the door, the driver of the Impala fired a gun and shot Officer Houts in the jaw. Medical testimony established that the bullet entered Officer Houts's neck and severed his spine, causing him to collapse instantly. The driver then reached his arm out of the vehicle and shot Officer Houts four more times. The driver fled the scene in the Impala. Although the dashboard camera captured the shooting on videotape, it did not reveal the identity of the assailant because Officer Houts's patrol car was positioned behind the Impala and because the assailant did not get out of the vehicle.

Although Officer Houts survived the shooting, he never regained consciousness, and he died two days later.

The police determined that the Impala was registered to Morrie Surles ("Morrie"). Morrie testified that she had purchased the Impala for her daughter, Tiffany Surles ("Surles").

At around 9:30 on the morning of the shooting, Woodward visited a family friend, Shirley Porterfield. According to Porterfield, Woodward was driving a light-colored Impala, and he was wearing blue jeans, a white t-shirt, and a red fleece jacket. At approximately the same time the shooting occurred, Sharon Shephard, a Montgomery Animal Control officer driving in the area, saw an Impala being driven by a dark-

skinned male pass by her at a high rate of speed.

During the evening on the date the shooting occurred Surles's Impala was found burned in a Montgomery neighborhood. Thalessa Shipman testified that she was a captain of the 'Neighborhood Watch' for her street. She said that she heard a loud car driving around the neighborhood on the night of September 28, 2006. The car stopped at her driveway in the cul-de-sac, then backed up to an empty lot located next to her lot. She identified the car as a dark-colored Dodge Neon. Shipman looked over the fence into the empty lot and saw a light-colored car there, and someone standing beside that car. Seconds later, the light-colored car went up in flames, and the person who had been standing next to the burning car jumped into the Neon, and the Neon sped away. Shipman contacted law-enforcement authorities, and they later identified the Impala as being registered to Morrie Surles based on the vehicle-identification number. Additional evidence established that a friend of Woodward's, Joseph Pringle, owned a black Dodge Neon that had a loose muffler and was loud. The State played a video recording of Pringle's Neon for Shipman, and she identified the sound of the car as the one she had heard on the night the car was burned in her neighborhood. A detective involved in the murder investigation received information about a black Dodge Neon, and on the day of the murder he and his partner lo-

cated the car. Joseph Pringle was in the driver's seat, and another man was in the passenger seat; the trunk of the vehicle was open. A third man was standing next to the car, speaking to Pringle; that man was holding a gas can.

Tiffany Surles, Woodward's girlfriend at the time of the shooting, testified that in September 2006 she was living with Woodward in an apartment they had rented together. During the evening of September 27, 2006, Surles and Woodward argued, and Woodward left the apartment in her Impala, and he returned later that night. Surles testified that the following morning, on the day Officer Houts was shot, she was taking a shower when Woodward left the apartment again. Woodward had the keys to her Impala the night before, and the Impala was gone. Surles had decided the night before that she was going to move out of the apartment. After Woodward left the apartment on the morning of the shooting Surles telephoned a friend, Wendy Walker, and asked her to help Surles move out of the apartment. Walker and Surles moved Surles's personal belongings to Walker's apartment, and the two women decided to drive to Birmingham to go shopping. Woodward telephoned Surles before she and Walker left for Birmingham, and he wanted Surles to meet him. Surles testified that Woodward met them at Walker's apartment complex and that he got out of a small, dark car. Walker testified that the car Woodward got out of was

a black Neon. Neither woman saw Surles's Impala.

Woodward joined Surles and Walker in Walker's vehicle, and they drove to Birmingham. Surles and Walker testified that during the trip to Birmingham Woodward said that he had "messed up" and that he had shot a police officer who pulled him over. Walker testified that Woodward spoke on his cellular telephone during the trip and that she had heard him tell someone to "get rid his girl[s] car." (R. 963.) Surles stated that Woodward told her that he had taken care of her car. Surles said she did not get her car back. Walker and Surles testified that Woodward threw something out of Walker's vehicle while they were en route to Birmingham. Walker testified that the object Woodward threw was a gun.

Walker and Surles testified that in Birmingham they went to the Century Plaza shopping mall. Woodward bought a change of clothing and then asked the women to drop him off at a building near the Valleydale exit of the interstate. Vernon Cunningham testified that he is acquainted with Woodward, and that Woodward telephoned him on September 28, 2006, and wanted to meet with him. Cunningham arranged to meet with Woodward and said two girls dropped Woodward off at the arranged meeting place on Valleydale Road in Birmingham later that day. Cunningham drove Woodward to Cunningham's house. On the way to Cunningham's house, they stopped at a grocery

store; a videotape from the store's security camera showed that Woodward was wearing blue-jean shorts, a red sweatshirt, and a red baseball cap with a white emblem on the front. After they arrived at Cunningham's house, Woodward gave Cunningham the sweatshirt and red baseball cap he had been wearing, and he told Cunningham to burn them. Cunningham testified that he burned the items in his outdoor grill, and the police found remnants of clothing in that grill. Cunningham also testified that Woodward told him that he had shot a police officer during a traffic stop.

Cunningham testified that Woodward asked for a ride and Cunningham agreed to take him to a local restaurant. Roderick Jeter picked Woodward up at the restaurant and drove Woodward to Atlanta, where he dropped Woodward off at a gas station.

Montgomery police detectives interviewed numerous witnesses, and, from the information they received, they determined that Woodward had confessed to shooting Officer Houts and that he was then in Atlanta.

Deputy United States Marshal Joe Parker testified that a be-on-the-lookout, or "BOLO," had been issued for Woodward in the Atlanta area and that on the day after the shooting he recognized Woodward while he was at a gas station in Atlanta. Parker arrested Woodward. He further testified that, at the time of the arrest, Woodward spontaneously exclaimed, "What's going on? I didn't shoot anybody." (R. 1114.)

Records custodians for two cellular telephone companies testified about calls placed from Woodward's cellular telephones and as to which towers in Montgomery and Birmingham that the calls were routed through. That testimony established that Woodward was in the area where Officer Houts was shot at the same time the shooting took place.

Finally, Agent Al Mattox from the Alabama Bureau of Investigation testified that he had reviewed and attempted to enhance the videotape from Officer Houts's dashboard camera. He testified that it appeared from the videotape that the person who killed Officer Houts was a black male.

Id. at 999-1001. "The crux of the State's case was the overwhelming circumstantial evidence tying Woodward to the murder, Woodward's actions after the crime such as his flight to Georgia and the statement he made when he was arrested, and Woodward's confession to three witnesses that he had shot a police officer." *Woodward v. State*, 276 So. 3d 713, 764 (Ala. Crim. App. 2018).

B. The Proceedings Below

1. Trial and direct appeal

The Montgomery County Grand Jury indicted Woodward on two counts of capital murder for the intentional killing of Keith Houts, a police officer with the City of Montgomery. C. 10-11.¹ The offenses were

¹ References to the clerk's record and reporter's transcript will appear as "C__." and "R__."

made capital because Woodward murdered Officer Houts while Officer Houts was on duty, in violation of Section 13A-5-40(a)(5) of the Code of Alabama, and because Woodward murdered Officer Houts by firing a weapon from inside a vehicle, in violation of Section 13A-5-40(a)(18). *Id.* A Montgomery County jury found Woodward guilty of capital murder under both counts of the indictment, and Woodward was sentenced to death. R. 1352, 1791-92.

Woodward's convictions and death sentence were affirmed on direct appeal. *Woodward*, 123 So. 3d at 1059, *cert. denied*, No. 1111524 (Ala. Apr. 19, 2013), *cert. denied*, 571 U.S. 1045 (2013) (mem.).

2. First state postconviction petition and federal habeas proceeding

Woodward filed a Rule 32 petition for postconviction relief in April 2014, and an amended Rule 32 petition that December. *Woodward*, 276 So. 3d at 727. The State answered and moved to dismiss. *Id.* at 727-28. In October 2015, the circuit court summarily dismissed all claims except his claim that his trial counsel were ineffective for failing to raise an objection pursuant to *Batson v. Kentucky*, 476 U.S. 79 (1986). *Id.* at 728. Following an evidentiary hearing, the court denied that claim. *Id.*

The circuit court's judgment was affirmed. *Woodward*, 276 So. 3d at 789, *cert. denied*, No. 1171004 (Ala. Nov. 16, 2018), *cert. denied*, 589 U.S. 917 (2019) (mem.).

Having exhausted his state-court remedies, Woodward filed a 28 U.S.C. § 2254 petition in the Middle District of Alabama. *Woodward v. Hamm*, 2:19-cv-

00425 (M.D. Ala. June 17, 2019), ECF Doc. 1. Respondent filed the state-court record and habeas checklist, Docs. 11, 12, and answered on February 6, 2020, Doc. 27. Woodward replied on August 3, 2020, Doc. 45. Nearly six years later, his habeas petition remains pending in the district court.²

3. Second state postconviction petition

On October 18, 2023, Woodward filed a second Rule 32 petition raising two grounds for relief. Pet. App. 34a-62a. Woodward alleged “(1) that newly discovered material evidence entitles him to a new trial and (2) that the State failed to disclose exculpatory evidence in violation of *Brady v. Maryland*, 373 U.S. 83 (1963).” *Id.* at 3a. He brought his *Brady* claim as a claim of newly discovered evidence under Rule 32.1(e) of the Alabama Rules of Criminal Procedure and a constitutional claim under Rule 32.1(a). *Id.* at 48a-61a.

Woodward predicated his claims on purportedly new “facts”:

Newly discovered evidence ... shows that the State failed to disclose investigators’ sworn understanding that someone other than Mr. Woodward was driving the 2006 Impala at the time of the shooting, This new evidence is revealed in recently produced pen register and trap and trace (“pen-trap”) applications sub-

² On April 20, 2026, Woodward moved the district court for leave to amend his petition to include the instant *Brady* claim, Doc. 46, and filed a proposed amended petition, Doc. 47. Respondent opposed his motion, Doc. 60, and Woodward replied, Doc. 63. The district court has not ruled on his motion.

mitted by the United States Marshals Service (“USMS”) around the time of the shooting, when authorities were searching for potential suspects.

Pen-Trap Application No. 1109 shows, around the time of the crime, it was investigators’ understanding—as represented to a federal court in a sworn affidavit—that someone other than Mr. Woodward was driving the 2006 Impala at the time Officer Houts was shot.

Id. at 38a, 51a.

The USMS produced the pen-trap applications and orders to Woodward with all references to his name unredacted on March 17, 2023. *Id.* at 41a, 48a. Although he then had the information needed to present his claims to the state courts, Woodward did not file his second Rule 32 petition. *Id.* at 16a-17a. He asked the USMS to “confirm” that his name had been unredacted, which the USMS did by letter dated May 26, 2023. *Id.* at 41a. He filed his petition on October 13, 2023. *Id.* at 18a.

Woodward attached the pen-trap application and supporting affidavit to his petition as Exhibit 13. *Id.* at 132a-37a. An unidentified Assistant United States Attorney filed the application in the Middle District of Alabama on September 28, 2006, the day of Officer Houts’s shooting; the supporting affidavit was executed by an unidentified Deputy United States Marshal and filed with the application. *Id.*

The application provides, in pertinent part:

In support of this application, Assistant U.S. Attorney [REDACTED] states the following:

1. Applicant is an “attorney for the government” as defined in Rule 54(c) of the Federal Rules of Criminal Procedure and, therefore, pursuant to Title 18, United States Code, Sections 2703(d), 3123(a), 3123(b)(2) and 3124(a), may apply for disclosure of telecommunications records and the installation of a pen register and trap and trace.

2. Applicant certifies that the information sought is relevant and material to a[n] ongoing criminal investigation, to wit: that the United States Marshals Service is conducting an investigation to locate [REDACTED] fugitive from justice, and under investigation by the United States Marshals Service for Assault I, in violation of the Code of Alabama Section 13A-6-20; and that it is believed that the requested telecommunications records will assist the United States Marshals Service in the apprehension of said suspected fugitive because cellular phone number (334) 312-4477 and (334) 312-5758 are cellular phones belonging to [REDACTED]. Investigators have developed information that [REDACTED] is the regular driver of a vehicle that was used in the shooting of a Montgomery Police [O]fficer on September 28, 2006. Investigators have reason to believe that [REDACTED] was driving the car at the time of the shooting. For that reason, it is believed that these records will assist in locating [REDACTED].

Pet. App. 132a-35a.

The unidentified Deputy United States Marshal attested:

I, the undersigned affiant, state that the following information is true and correct to the best of my knowledge. I am a Deputy United States Marshal assigned to the Montgomery, Alabama office. I have been a criminal investigator with the United States Marshals Service for nineteen years. During that time I have conducted numerous fugitive investigations involving the tracking of cellular phones.

On September 28, 2006, a Montgomery Police Officer was conducting a routine traffic stop in the area of North Decatur Street in Montgomery, Alabama. As the officer approached the car, an unknown person shot the police officer approximately five times and then drove off. Video from inside the patrol car show[s] that the car was a 2006 Chevrolet Impala with Alabama tag # [REDACTED]. Investigators later determined that Alabama tag # [REDACTED] belongs to [REDACTED] of Lowndesboro, Alabama. Investigators located [REDACTED] at *her* work and [REDACTED] told investigators that [REDACTED] is the operator of the vehicle. [REDACTED] also gave investigators *her* [REDACTED] cellular phone number, (334) 312-4477. [REDACTED] also told investigators that *her* [REDACTED] named Mario Woodward.

Investigators with the Montgomery Police Department checked their intelligence databases and found that Woodward had given cellular number, (334) 312-5758, during a previous investigation.

Investigators determined that the phone carrier for both phones is Alltel cellular. Investigators contacted Alltel concerning subscriber information for both phones and *found that both phones are on the same account in the name of Mario Woodward.*

Based on my experience, phone records for (334) 312-4477 and (334) 312-5758 will aid in the location of [REDACTED] and Woodward.

Id. at 136a-37a (emphasis added); *see also id.* at 4a-6a.

The State answered and moved to dismiss his petition. *Id.* at 6a. Woodward filed an amended petition, which the State answered and moved to dismiss. *Id.* The circuit court dismissed his amended petition on July 18, 2024. *Id.* The ACCA affirmed, *id.* at 1a-27a, and the Alabama Supreme Court denied certiorari, *Id.* at 28a.

REASONS FOR DENYING THE PETITION

This Court does “not review judgments of state courts that rest on adequate and independent state grounds,” and the “reason is ... obvious.” *Herb v. Pitcairn*, 324 U.S. 117, 125 (1945). The Court’s “only power over state judgments is to correct them to the extent that they incorrectly adjudge federal rights,” and this power “to correct wrong judgments” is not a power “to revise opinions.” *Id.* at 125-26. No matter

this Court’s views of the first question presented, “the same judgment would be rendered by the state court” on at least two state-law grounds. *Id.* at 126. The Court thus lacks jurisdiction to consider that question. *Id.*

Even if the Court has jurisdiction, Woodward failed to present either question below, so the record is entirely undeveloped. This is also a heavily fact-bound case that presents no important federal question for the Court to answer and no conflict among the lower courts requiring resolution. Sup. Ct. R. 10. Woodward seeks only to attack the state court’s application of *Brady*’s materiality standard to his claim, so the purported errors he assails can consist only of “erroneous factual findings or the misapplication of a properly stated rule of law.” *Id.*

This Court “rarely grant[s] review where the thrust of the claim is that a lower court simply erred in applying a settled rule of law to the facts of a particular case.” *Salazar-Limon v. Houston*, 137 S. Ct. 1277, 1278 (2017) (mem.) (Alito, J., concurring in denial of certiorari). “Error correction is outside the mainstream of the Court’s function.” *Cavazos v. Smith*, 565 U.S. 1, 11 (2011) (Ginsburg, J., dissenting) (cleaned up). And “because the present case is so unique, it is hard to see how it meets [this Court’s] stated criteria for granting review.” *McCoy v. Louisiana*, 584 U.S. 414, 434-35 (2018) (Alito, J., dissenting).

This Court should deny Woodward’s petition.

I. This Court Should Deny Certiorari On The first Question Presented.

Woodward says the ACCA “applied a standard for determining whether withheld evidence is material under *Brady* that plainly is at odds with this Court’s precedents and exacerbates a conflict among the lower courts.” Pet. 19. But this Court lacks jurisdiction to consider the question because the decision below rests on independent and adequate state-law grounds. And even if the Court had jurisdiction, Woodward did not raise his claim below, and in any event the decision below is correct. Woodward’s petition should be denied.

A. This Court lacks jurisdiction because the decision below rests on adequate and independent state-law grounds.

Alabama postconviction petitioners may raise a *Brady* claim “as either a claim of newly discovered evidence under Rule 32.1(e), Ala. R. Crim. P., or a constitutional claim under Rule 32.1(a), Ala. R. Crim. P.” *Stallworth v. State*, 171 So. 3d 53, 75 (Ala. Crim. App. 2013). “A *Brady* claim is subject to the procedural default grounds contained in Rule 32.2(b), Ala. R. Crim. P,” but “this does not prevent a petitioner from raising a *Brady* claim as part of a newly discovered evidence claim under Rule 32.1(e), Ala. R. Crim. P.” *Barbour v. State*, 903 So. 2d 858, 868 (Ala. Crim. App. 2004).

Woodward did both. Pet. App. 48a-61a. However, the ACCA found that, either way, his *Brady* claim was time-barred under Rule 32.2(c), Ala. R. Crim. P., and failed to comply with Rule 32’s specificity and full factual pleading requirements. Pet. App. 15a-25a. The

ACCA affirmed the circuit court’s dismissal of his claim on those independent and adequate state-law grounds, *id.*, thereby depriving this Court of jurisdiction and making reversal on the ground that the ACCA misapplied *Brady*’s materiality standard entirely futile.

“This Court lacks jurisdiction to entertain a federal claim on review of a state court judgment if that judgment rests on a state law ground that is both independent of the merits of the federal claim and an adequate basis for the court’s decision.” *Foster v. Chatman*, 578 U.S. 488, 497 (2016) (cleaned up). The reason for the rule is simple and fundamental: “Since the state-law determination is sufficient to sustain the decree, any opinion of this Court on the federal question would be purely advisory.” *Lambrix v. Singletary*, 520 U.S. 518, 523 (1997) (citing *Herb*, 324 U.S. at 125-26).

This rule “applies whether the state law ground is substantive or procedural.” *Coleman v. Thompson*, 501 U.S. 722, 729 (1991). “Moreover, a state court need not fear reaching the merits of a federal claim in an *alternative* holding. By its very definition, the adequate and independent state ground doctrine requires the federal court to honor a state holding that is a sufficient basis for the state court’s judgment, even when the state court also relies on federal law.” *Harris v. Reed*, 489 U.S. 255, 264 n.10 (1989).

First, the ACCA found that Woodward’s *Brady* claim was time-barred under Rule 32.2(c) because he failed to raise it in a petition filed “within six (6) months after the discovery of the newly discovered material facts.” Pet. App. 16a (quoting Rule 32.2(c),

Ala. R. Crim. P.); *see id.* at 23a-24a. The ACCA reasoned:

Initially, this Court holds that Woodward’s claim is barred by Rule 32.2(c), Ala. R. Crim. P. Under the facts of this case, the alternate limitations period in Rule 32.2(c) required Woodward to file his petition “within six (6) months after the discovery of the newly discovered material facts.” This Court’s review of the record indicates he failed to do so.

On January 26, 2023, Woodward received a redacted copy of the application and supporting affidavit from the USMS. Woodward subsequently requested that any references to himself be disclosed, and, on March 17, 2023, he received a copy of the documents with references to himself unredacted. Woodward then “requested that the USMS confirm that Mr. Woodward’s name was entirely unredacted from the March 17, 2023, reproduction.” On May 26, 2023, the USMS replied that Woodward’s name had been fully unredacted in the March 17, 2023, response. In other words, Woodward received on March 17, 2023, the version of the alleged newly discovered evidence on which his claims rely. Woodward then filed his postconviction petition on October 18, 2023, more than six months after receiving this evidence.

Woodward asserts that May 26, 2023, the date on which he received *confirmation* from the USMS that his name had been redacted, should be considered the date of the discovery of the newly discovered material facts, and

that, to hold otherwise would force petitioners to “rush to court with incomplete and ambiguous information to ensure they are not time barred.” However, nothing in Rule 32.2(c) required Woodward to file his petition immediately or to otherwise “rush” upon learning of the information contained in the application and supporting affidavit from the USMS. Rather, Rule 32.2(c) required Woodward to file his petition “within six (6) months after the discovery of the newly discovered material facts.” [FN3] This he failed to do.

[FN3] Allowing a petitioner to restart the time for filing a petition by ‘confirming’ evidence already known would allow a petitioner to extend the time indefinitely. This would defeat the purpose of Rule 32.2(c), Ala. R. Crim. P.

The response of the USMS Woodward received on May 26, 2023, contained no new information. Woodward learned of what he alleges are newly discovered material facts on March 17, 2023. Because he filed his petition on October 18, 2023, more than six months after receiving this evidence, his petition was untimely. *See* Rule 32.2(c). Consequently, the circuit court did not err in dismissing this claim.

Pet. App. 16a-17a (internal citations omitted).

The ACCA clearly and expressly held that Woodward’s *Brady* claim, whether raised as a constitutional claim under Rule 32.1(a) or as a claim of newly discovered evidence under Rule 32.1(e), was procedur-

ally barred by Rule 32.2(c). *Id.* at 24a. That procedural rule is firmly established and regularly followed by Alabama courts and constitutes an independent and adequate state ground to sustain the judgment. *See, e.g., Kuenzel v. Comm’r, Ala. Dep’t of Corr.*, 690 F.3d 1311, 1314 (11th Cir. 2012) (“Alabama Rule of Criminal Procedure 32.2(c) is just such an independent and adequate state procedural rule.”). For that reason, the ACCA’s decision deprives this Court of jurisdiction and makes reversal on the ground that the ACCA misapplied *Brady*’s materiality standard entirely futile.

Second, the ACCA found that Woodward’s *Brady* claim, to the extent that he brought it as a constitutional claim under Rule 32.1(a), was insufficiently pleaded because he failed to plead facts showing why there is a reasonable probability that the outcome of his trial would have been different had the withheld evidence been disclosed. Pet. App. 24a-25a. The ACCA’s holding on that front likewise is independent of the federal question and adequate to support the judgment and thus deprives the Court of jurisdiction and makes reversal on the ground that the court misapplied the materiality standard futile.

Because resolution of the federal claim presented in Woodward’s certiorari petition concerning the proper standard for analyzing *Brady* materiality would not alter the judgment below, the Court lacks jurisdiction to entertain that question. His petition should be denied.

B. Woodward did not raise this claim below.

This Court “adhere[s] to the rule in reviewing state court judgments under 28 U.S.C. § 1257 that [it] will

not consider a petitioner’s federal claim unless it was either addressed by, or properly presented to, the state court that rendered the decision” on which review is sought. *Adams v. Robertson*, 520 U.S. 83, 86 (1997) (per curiam); *see also Howell v. Mississippi*, 543 U.S. 440, 443 (2005) (per curiam) (“[T]his Court has almost unfailingly refused to consider any federal-law challenge to a state-court decision unless the federal claim was either addressed by or properly presented to the state court that rendered the decision we have been asked to review.” (cleaned up)); *Cardinale v. Louisiana*, 394 U.S. 437, 438 (1969) (“It was very early established that the Court will not decide federal constitutional issues raised here for the first time on review of state court decisions.”).

Requiring that state courts be afforded the first opportunity to consider federal issues respects “principles of comity in our federal system.” *Webb v. Webb*, 451 U.S. 493, 499 (1981); *see also Adams*, 520 U.S. at 90 (“It would be unseemly in our dual system of government to disturb the finality of state judgments on a federal ground that the state court did not have occasion to consider.” (cleaned up)). This rule also ensures that federal constitutional questions will be addressed only in cases that arrive at the Court with a fully developed record. *See Cardinale*, 394 U.S. at 439 (“Questions not raised below are those on which the record is very likely to be inadequate, since it certainly was not compiled with those questions in mind.”).

Here, Woodward could and should have raised the claim he presses now—that the ACCA misapplied *Brady*’s materiality standard—in his application for rehearing, which he filed in that very court on August

4, 2025. But he did not. Nor did he present that claim to the Alabama Supreme Court in his petition for writ of certiorari, filed on September 19, 2025. Because he did not raise that claim below and because the ACCA did not pass on it, his petition should be denied.

C. The decision below is correct.

Woodward contends that the ACCA erroneously applied a sufficiency-of-the-evidence test in determining whether the undisclosed evidence was material, and he says the decision below “widens a substantial and growing division in lower federal and state courts on the proper application” of *Brady*’s materiality standard. Pet. 22-23, 28-29. He is wrong on both counts.

“A *Brady* violation occurs where: (1) the prosecution suppressed evidence; (2) the evidence was favorable to the defendant, and (3) the evidence was material to the issues at trial.” *Stano v. Dugger*, 901 F.2d 898, 899 (11th Cir. 1990) (en banc). “The mere possibility that an item of undisclosed information might have helped the defense, or might have affected the outcome of the trial, does not establish ‘materiality’ in the constitutional sense.” *United States v. Agurs*, 427 U.S. 97, 109-10 (1976). Instead, evidence is material “only if there is a reasonable probability that, had the evidence been disclosed to the defense, the result of the proceeding would have been different.” *United States v. Bagley*, 473 U.S. 667, 682 (1985).

To meet that standard, petitioners must show that the undisclosed evidence “could reasonably have ‘put the whole case in such a different light as to undermine confidence in the verdict.’” *Klein v. Martin*, 607

U.S. 213, 221-22 (2026) (per curiam) (quoting *Strickler v. Greene*, 527 U.S. 263, 290 (1999)). Where “the evidence could not have reasonably had such an effect, it is not material, and its erroneous nondisclosure does not justify relief.” *Id.* at 222.

Further, undisclosed evidence “must be evaluated in the context of the entire record.” *Agurs*, 427 U.S. at 112; *see also Turner v. United States*, 582 U.S. 313, 324-25 (2017) (“We must examine the trial record, evaluate the withheld evidence in the context of the entire record, and determine in light of that examination whether there is a reasonable probability that, had the evidence been disclosed, the result of the proceeding would have been different.” (cleaned up)).

Here, the ACCA did not apply a sufficiency-of-the-evidence test or otherwise require Woodward to make a heightened materiality showing. That is no surprise because challenges to the sufficiency of the evidence are common in Alabama, and the law governing those claims is long settled.

“In determining the sufficiency of the evidence to sustain a conviction, a reviewing court must accept as true all evidence introduced by the State, accord the State all legitimate inferences therefrom, and consider all evidence in a light most favorable to the prosecution.” *Powe v. State*, 597 So. 2d 721, 724 (Ala. 1991). “The test used in determining the sufficiency of evidence to sustain a conviction is whether, viewing the evidence in the light most favorable to the prosecution, a rational finder of fact could have found the defendant guilty beyond a reasonable doubt.” *White v. State*, 179 So. 3d 170, 218 (Ala. Crim. App. 2013) (quotation omitted).

“It is not the function of [a reviewing court] to decide whether the evidence is believable beyond a reasonable doubt; rather, the function of [that court] is to determine whether there is legal evidence from which a rational finder of fact could have, by fair inference, found the defendant guilty beyond a reasonable doubt.” *Ex parte Woodall*, 730 So. 2d 652, 658 (Ala. 1998). “A verdict of conviction will not be set aside on the ground of insufficiency of the evidence unless, allowing all reasonable presumptions for its correctness, the preponderance of the evidence against the verdict is so decided as to clearly convince the court that it was wrong and unjust.” *Scott v. State*, 163 So. 3d 389, 455 (Ala. Crim. App. 2012) (quotation omitted).

“In reviewing a conviction based on circumstantial evidence,” Alabama courts “must view that evidence in a light most favorable to the prosecution. The test to be applied is whether the jury might reasonably find that the evidence excluded every reasonable hypothesis except that of guilt; not whether such evidence excludes every reasonable hypothesis but guilt, but whether a jury might reasonably so conclude.” *Gobble v. State*, 104 So. 3d 920, 971 (Ala. Crim. App. 2010) (quoting *Cumbo v. State*, 368 So. 2d 871, 874 (Ala. Crim. App. 1978)). “Circumstantial evidence alone is enough to support a guilty verdict of the most heinous crime, provided the jury believes beyond a reasonable doubt that the accused is guilty.” *White v. State*, 314 So. 2d 857, 863-64 (Ala. Crim. App. 1975).

The ACCA reasoned as follows in holding that Woodward failed to sufficiently plead facts showing that the undisclosed evidence was material:

Woodward’s *Brady* claim is insufficiently pleaded. *For instance*, Woodward failed to plead sufficient facts to demonstrate that the evidence was material. “[E]vidence is material only if there is a reasonable probability that had the evidence been disclosed to the defense, the result of the proceeding would have been different. A ‘reasonable probability’ is a probability sufficient to undermine confidence in the outcome.” *Johnson v. State*, 612 So. 2d 1288, 1293 (Ala. Crim. App. 1992). Woodward pleaded that the evidence “would have altered trial counsel’s investigation and development of a defense at the guilt phase of the trial.” (C. 171), yet failed to explain what that investigation would have revealed, what the new evidence would have presented, or how that undefined defense would have countered the State’s significant evidence of guilt.

Pet. App. 24a (emphasis added).

Alabama courts routinely adjudicate sufficiency-of-the-evidence claims, and as shown above, that’s not what the ACCA did here. The state court correctly identified and properly applied *Brady*’s materiality standard. Pet. App. 24a.

Finally, Woodward argues that the decision below “widens a substantial and growing division in lower state and federal courts on the proper application” of the materiality standard. Pet. 29. On one side, he says, are courts that “focus erroneously on the state’s evidence of guilt.” *Id.* On the other are courts that faithfully apply *Brady*. *Id.* But the split he alleges is illusory.

In *Davis v. State*, a prisoner filed a petition for writ of error coram nobis in the Arkansas Supreme Court³ alleging that the prosecutor violated *Brady* by failing to disclose an arrangement with a witness, John Frawley, to recommend that Frawley serve his prison sentence in a regional correctional facility in exchange for his testimony. 574 S.W.3d 666, 668 (Ark. 2019). Davis alleged that this evidence was material because the prosecutor told the jury that Frawley would be required to serve his sentence in the custody of the Arkansas Department of Corrections. *Id.*

The state court considered the undisclosed evidence “in light of the additional evidence presented at trial” and found that Davis failed to “satisfy the prejudice prong of *Brady*; the evidence would not have created a ‘reasonable probability’ of a different outcome.” 574 S.W.3d at 670. Perhaps of note, the court, like the ACCA here, included the petitioner’s remarks to the officer who arrested him in its analysis. *Id.* Davis and an accomplice abducted Sharon Burleson from a mall parking lot. *Davis v. Hobbs*, 5:08-cv-00189, 2010 WL 2306351, at *1 (E.D. Ark. May 18, 2010). “They robbed the victim of her money and belongings (including her cell phone) and left her tied up in the woods, ... driv[ing] off in her green Mercedes.” *Davis*, 574 S.W.3d at 670. Upon arrest, Davis “told the officer, without prompting, ‘I didn’t do any of that stuff, and you can’t prove it.’ When the officer responded, ‘what

³ Arkansas law provides that trial courts may entertain an error coram nobis petition only with the permission of the Arkansas Supreme Court. *Davis*, 574 S.W.3d at 668.

stuff,’ Davis replied, ‘I didn’t do that stuff with that woman.’” *Id.*

In *State v. Wayerski*, the Wisconsin Supreme Court affirmed the denial of postconviction relief on the petitioner’s *Brady* claim. 922 N.W.2d 468, 483 (Wis. 2019). Wayerski was charged with two counts of child enticement, two counts of exposing genitals or pubic area in public view, two counts of exposing a child to harmful material, two counts of causing a child over the age of thirteen to view/listen to sexual activity, and eight counts of sexual assault of a child by a person who works or volunteers with children. *Id.* at 471. At trial, the State called John Clark on rebuttal. *Id.* Clark was incarcerated with Wayerski and testified that Wayerski confessed to him. *Id.* at 473. Wayerski was convicted on all counts. *Id.* at 471.

Wayerski filed a postconviction motion alleging that the State violated *Brady* by failing to disclose impeachment evidence about Clark’s pending criminal charges. *Id.* The trial court denied relief, and the Wisconsin Supreme Court affirmed. *Id.* at 483. In reaching that result, the appellate court properly considered the undisclosed evidence in the context of the entire record, finding that “[t]he jury heard consistent, detailed testimony from the juveniles, the juveniles’ parents, Detective Kuehn, and an analyst who testified that a DNA sample taken from the plate in Wayerski’s apartment showed a one-in-28 quintillion likelihood of belonging to anyone other than” one of the juveniles. *Id.* The court also found that “Clark was impeached with his 20 prior convictions.” *Id.* Having considered all the evidence in its totality, the court concluded that there’s “no reasonable probability that,

had evidence of Clark's pending charges been disclosed, the result of the proceedings would have been different." *Id.*

In *France v. Lucas*, the Sixth Circuit affirmed the district court's summary dismissal of the plaintiff's *Brady* claim. 836 F.3d 612, 630-31 (6th Cir. 2016). Geneva France and Lowestco Ballard "were framed during Operation Turnaround, a corrupt investigation into the Mansfield, Ohio drug trade by the United States Drug Enforcement Agency (DEA) and the Richland County Sheriff's Office (RCO)." *Id.* at 616. France and Ballard subsequently sued multiple defendants "under 42 U.S.C. § 1983 for numerous claims, including malicious prosecution and fabrication of evidence." *Id.* at 617. However, "they settled or dismissed their claims against most defendants," and another defendant died, leaving Richland County and four Richland County police officers as the only defendants at the summary judgment stage. *Id.* at 621.

The district court found that the remaining defendants were entitled to qualified immunity on France's *Brady* claim, reasoning that her claim "is untenable because she has not established the reasonable probability of a different outcome to her trial even if the alleged *Brady* material had been disclosed." *France v. Lucas*, 1:07-cv-03519, 2012 WL 13156791, at *19 (N.D. Ohio Jan. 4, 2012). Considering all the evidence presented at trial, including "the independent eyewitness identification by an experienced DEA Agent," the court found that "it cannot be said with any probability" that disclosure of those materials would have resulted in a different outcome at trial. *Id.* The Sixth Circuit agreed. *France*, 836 F.3d at 630-31.

In *Harshman v. Supt., State Corr. Inst. at Rockview*, the district court held that the state court’s denial of the petitioner’s postconviction *Brady* claim was based on an unreasonable application of *Brady*’s materiality standard, reviewed the claim de novo, and granted relief. 368 F. Supp. 3d 776, 795-99 (M.D. Pa. 2019). Harshman was convicted of first-degree murder. *Id.* at 780. At trial, the State called jailhouse informants who were incarcerated with Harshman, including Keith Granlun. *Id.* at 781. During a hearing on Harshman’s state petition, Granlun “fully recanted his trial testimony, explaining that he had never spoken to Harshman in prison and that the testimony he had given at Harshman’s trial was unequivocally false.” *Id.* at 784.

The state court “improperly performed a sufficiency-of-the-evidence analysis, finding that, due to other circumstantial evidence presented at trial, the jury ‘could have found’ Harshman guilty even without Granlun’s testimony.” *Id.* at 795. In other words, the state court didn’t consider the withheld evidence in the context of the entire record. *Id.* The court didn’t consider whether there was a reasonable probability of a different outcome had the withheld evidence been disclosed. *Id.* Instead, the court deleted Granlun and the withheld evidence from its analysis and then looked to see if the remaining evidence was sufficient to sustain the verdict. *Id.*

Finally, in *DiLosa v. Cain*, the Fifth Circuit held that the state postconviction court applied a rule contrary to *Brady* in denying relief on the petitioner’s claim, reviewed the claim de novo, and affirmed the district court’s judgment granting habeas relief. 279

F.3d 259, 265 (5th Cir. 2002). DiLosa alleged in state court that the prosecution violated *Brady* by withholding forensic evidence and statements given by witnesses that were consistent with his defense theory that the perpetrators were of a different race. *Id.* at 263-65. The state court did not consider the undisclosed evidence in the context of the entire record and “ask whether the excluded evidence ‘could reasonably be taken to put the whole case in such a different light as to undermine confidence in the verdict.’” *Id.* at 264 (quoting *Kyles v. Whitley*, 514 U.S. 419, 435 (1995)). The court instead improperly “considered the sufficiency of the evidence in light of its potential to exculpate DiLosa instead of through the lens of its confidence in the verdict.” *Id.*

Woodward has not shown that there is substantial division among state and federal courts on the proper materiality standard. Pet. 29. If anything, he’s done the opposite. Courts must consider the entire record in deciding whether there is a reasonable probability that disclosure of the withheld evidence would undermine confidence in the verdict. That’s the consensus. And *Harshman* and *DiLosa* refute his suggestion that such division is growing. His petition should be denied.

II. This Case Is A Uniquely Bad Vehicle For Addressing The Second Question Presented.

Woodward contends that certiorari is warranted because the ACCA arbitrarily applied “state-law statutes of limitations and pleading requirements to bar consideration of his legally viable” *Brady* claim. Pet. 31-41. The problem for Woodward, however, is that he failed to present this claim to the ACCA in his appli-

cation for rehearing or the Alabama Supreme Court in his certiorari petition. Because the state courts did not have the opportunity to pass on this claim, the Court would be writing on a blank slate if it were to grant certiorari. *Cardinale*, 394 U.S. at 439 (“Questions not raised below are those on which the record is very likely to be inadequate, since it certainly was not compiled with those questions in mind.”). For that reason alone, his petition should be denied.

This Court also should deny certiorari because Woodward misunderstands Alabama postconviction law. Two examples will suffice.

First, Woodward says the ACCA’s “strict application of Rule 32.2(c)’s one-year-from-direct-appeal-judgment limitations period for constitutional claims arbitrarily precludes all *Brady* claims ... based on evidence first discovered after the limitations period has expired.” Pet. 37. That is untrue.

Nearly two decades ago, the Alabama Supreme Court made clear that “equitable tolling is available in extraordinary circumstances that are beyond the petitioner’s control and that are unavoidable even with the exercise of diligence.” *Ex parte Ward*, 46 So. 3d 888, 897 (Ala. 2007). Courts must “pay particular attention to whether principles of equity would make the rigid application of a limitations period unfair” in capital cases “and whether the petitioner has exercised reasonable diligence in investigating and bringing the claim.” *Id.* (cleaned up).

“Because equitable tolling is an extraordinary remedy, it is limited to rare and exceptional circumstances and typically applied sparingly.” *Kuenzel v.*

State, 204 So. 3d 910, 916 (Ala. Crim. App. 2015) (cleaned up). “Moreover, because the limitations period is mandatory and applies in all but the most extraordinary of circumstances, when a petition is time-barred on its face, the petitioner bears the burden of demonstrating in his petition that there are such extraordinary circumstances justifying the application of the doctrine of equitable tolling.” *Id.* (cleaned up). “A petition that does not assert equitable tolling, or that asserts it but fails to state any principle of law or any fact that would entitle the petitioner to the equitable tolling of the applicable limitations period may be summarily dismissed without a hearing.” *Id.*

Woodward did not invoke the doctrine of equitable tolling in his successive petition, much less plead that there were any extraordinary circumstances justifying its application. Pet. App. 34a-62a. Nor did he invoke equitable tolling in his amended petition or his initial or reply brief in the ACCA. Instead, he argued for the first time that he was entitled to equitable tolling of Rule 32.2(c)’s limitations period in his application for rehearing. App. for Reh. at 29 (“Even if this Court is correct that Mr. Woodward had the relevant information in hand by March 17, 2023, this Court should apply equitable tolling to prevent [his] claims from being dismissed.”). That was far too late. See *Davenport v. State*, 987 So. 2d 652, 655 (Ala. Crim. App. 2007) (“[T]he petition was time-barred on its face, and the appellant did not assert equitable tolling in the petition. Therefore, the circuit court could have properly summarily dismissed the petition pursuant to Rule 32.2(c), Ala. R. Crim. P., because it was time-barred.”).

Second, Woodward says the ACCA arbitrarily treated his *Brady* claim “as a state-law ‘newly discovered evidence’ claim subject to Rule 32.1(e)’s heightened pleading requirement.” Pet. 37. “A *Brady* claim may be raised in a postconviction petition as either a claim of newly discovered evidence under Rule 32.1(e) or a constitutional claim under Rule 32.1(a).” *Stallworth*, 171 So. 3d at 75. It was Woodward who chose to raise his *Brady* claim as a claim under both Rule 32.1(a) and Rule 32.1(e). Pet. App. 38a (“Mr. Woodward is entitled to relief pursuant to Alabama Rule of Criminal [Procedure] 32.1(a) and (e).”); *id.* at 42a (same); *id.* at 52a-54a. There is nothing arbitrary, let alone cert-worthy, about the state courts applying Rule 32.1(e) to a claim brought pursuant to Rule 32.1(e). His petition should be denied.

CONCLUSION

For the foregoing reasons, the Court should deny the petition.

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