No. 25-51

In the Supreme Court of the United States

CHRISTOPHER KLEIN, SUPERINTENDENT, ET AL.,
PETITIONERS

v.

CHARLES BRANDON MARTIN

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

BRIEF IN OPPOSITION

Shay Dvoretzky
Parker Rider-Longmaid
Counsel of Record
Sylvia O. Tsakos
SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP
1440 New York Ave. NW
Washington, DC 20005
202-371-7000
priderlo@skadden.com

Sarah Leitner
SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP
One Manhattan West
New York, NY 10001

Counsel for Respondent Charles Brandon Martin

QUESTION PRESENTED

Under *Brady v. Maryland*, 373 U.S. 83 (1963), prosecutors must disclose favorable evidence to the defense to safeguard the defendant's "right to a fair trial." *Cone v. Bell*, 556 U.S. 449, 451 (2009). The state violates *Brady* when it suppresses evidence that is material to guilt or punishment—meaning "there is a reasonable probability that, had the evidence been disclosed to the defense, the result of the proceeding would have been different." *Kyles v. Whitley*, 514 U.S. 419, 433-34 (1995). Materiality "is not a sufficiency of evidence test." *Id.* at 434. Courts must consider how the evidence would have affected the defense *and* the prosecution, and ask whether the "suppression 'undermines confidence'" in the verdict. *Id.*

Here, the state conceded that it suppressed a computer report that was favorable to the defense. The report would have discredited a crucial, unimpeached witness for the prosecution by undermining her testimony that Respondent Charles Brandon Martin used a computer to research how to make a silencer. The state emphasized the witness's testimony and credibility at closing argument, and the testimony was the basis for a special instruction allowing the jury to infer Martin's guilt. With the report, the defense could have discredited the witness and raised serious questions about the state's investigation. But the state appellate court concluded that the report was immaterial just because it thought there was sufficient evidence to convict, in clear violation of *Brady* and *Kyles*.

The question presented is whether Mr. Martin is entitled to habeas relief because the state appellate court's decision was contrary to or involved an unreasonable application of this Court's *Brady* precedents.

PARTIES TO THE PROCEEDING AND RELATED PROCEEDINGS

Petitioners' lists of the parties to the proceeding and directly related proceedings are complete and correct.

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INTRODUCTION

The Court should reject the state's extreme request for summary reversal, because the state seeks splitless, factbound error correction of an unpublished opinion with no error. The court of appeals correctly applied this Court's precedents interpreting the Antiterrorism and Effective Death Penalty Act of 1996 (AEDPA), *see* 28 U.S.C. § 2254(d)(1), and its decisions in *Brady v. Maryland*, 373 U.S. 83 (1963), *Kyles v. Whitley*, 514 U.S. 419 (1995), and other cases. The court correctly held that the state appellate court unreasonably applied *Brady* and *Kyles* by conducting a sufficiency-of-the-evidence analysis for materiality rather than the required reasonable-probability test, despite this Court's clear guidance in *Kyles* that materiality "is not a sufficiency of evidence test," 514 U.S. at 434. And the court of appeals correctly held that the state court unreasonably ruled that a forensic computer report the state suppressed before trial wasn't material, because it would have discredited the prosecution's key witness and bolstered Respondent Charles Brandon Martin's defense. Put simply, the state wants this Court to grant extraordinary relief based on the state's mistaken view of AEDPA, *Brady* and *Kyles*, and the facts of this case, but the court of appeals got it right—and even if it didn't, its good-faith application of this Court's AEDPA and *Brady* precedents foreclose such extreme intervention. The Court should deny the petition.

1. *Brady* requires prosecutors to disclose favorable evidence to the defense to protect the defendant's due-process "right to a fair trial." *Cone v. Bell*, 556 U.S. 449, 451 (2009). The state violates *Brady* when it suppresses favorable evidence that was material to

the trial—meaning "there is a reasonable probability that, had the evidence been disclosed," "the result of the proceeding would have been different." *Kyles*, 514 U.S. at 433-34. Here, the state violated *Brady* by withholding exculpatory and impeaching evidence when trying Mr. Martin for attempted first-degree murder and solicitation of murder. Pet. App. 103a. That evidence would have impeached a key witness, bolstered the defense's theory of the case, and eliminated the basis for a prejudicial jury instruction.

The state's theory was that Mr. Martin fashioned a Gatorade bottle into a silencer and solicited someone to use it to shoot Jodi Torok, a woman he had been dating. The prosecution thus needed to show that Mr. Martin made a bottle into a silencer. Enter Sheri Carter, the jilted lover: another woman Mr. Martin had been dating. Carter testified that Mr. Martin used a computer he kept at her house to research how to make homemade silencers, and then "got rid of" the computer. Pet. App. 102a. That testimony was the *only* evidence connecting Mr. Martin to silencers. So the prosecution emphasized the testimony, and Carter's credibility, at closing argument. Based on her testimony, the trial court instructed the jury that if Mr. Martin had concealed evidence, it could infer guilt. *Id.*

Even with Carter's testimony, the case was close. The jury acquitted Mr. Martin of solicitation, but found him guilty of attempted murder.

Years later, Mr. Martin learned that the state had suppressed a forensic computer report showing that Carter's testimony wasn't true. The bombshell report showed that the computer Carter said Mr. Martin had discarded had been in police custody and that it had

not been used to research silencers. That meant Mr. Martin had neither destroyed the computer nor used it to research silencers.

The state concedes that the report was favorable to Mr. Martin. Pet. App. 109a. It nonetheless resists a new trial because, it says, the report was immaterial.

That argument makes no sense, as both the district court and court of appeals correctly concluded. Had the report been disclosed, it would have destroyed the prosecution's made-for-TV-movie theory. The report would have discredited Carter's testimony and thus eliminated the only evidence connecting Mr. Martin to silencers. Without Carter's linchpin testimony, the state couldn't have shown that Mr. Martin intended a supposed bottle-turned-silencer to be used to shoot Torok. And the jury wouldn't have received a damning concealment-of-evidence instruction.

What's more, with Carter's testimony discredited, the jury would have been more likely to believe the defense's theory—that the bottle was a smoking device, or that Maggie McFadden, another woman Mr. Martin had been dating and who was known to be volatile, was responsible for the shooting. The report also would have undermined the reliability and good faith of the police investigation, especially since other important evidence had gone missing, too. And as the trial court instructed the jury, it could find reasonable doubt if the state failed to explain why it had lost evidence. Pet. App. 151a n.6.

When Mr. Martin sought postconviction relief, the Maryland trial court granted a new trial. But the state appellate court reversed, concluding that the report wasn't material because "substantial" other evidence supported the conviction. Pet. App. 112a.

A federal district court granted Mr. Martin habeas relief. The court of appeals affirmed. It correctly held that the state court's decision involved an unreasonable application of *Brady* and thus wasn't entitled to AEDPA deference, *see* 28 U.S.C. § 2254(d)(1). As the court explained, the computer report was material because there was a reasonable probability that its disclosure would have caused a juror to have reasonable doubt about Mr. Martin's guilt. *See Kyles*, 514 U.S. at 434-35. That's because the report undercut Carter's testimony, which "formed the entire basis for a devastating jury instruction, bolstered the State's weaker witnesses, and undermined the Defense's theories." Pet. App. 33a. In concluding otherwise, the state appellate court contravened this Court's precedent. Rather than evaluating whether there was a reasonable probability that, had the prosecution disclosed the report, one juror would have had reasonable doubt, as *Kyles* requires, the state court conducted a sufficiency-of-the-evidence analysis.

2. The court of appeals' decision was correct. But even if it weren't, summary reversal isn't warranted. The court of appeals correctly applied both this Court's *Brady* precedents and its AEDPA precedents. Disagreement with both the district court's and court of appeals' factbound conclusion warrants application of the two-court rule, not the extraordinary step of summary reversal.

The Court should deny the petition.

STATEMENT

A. Legal background

Under AEDPA, a petitioner is entitled to habeas relief if he is "in custody pursuant to" a state court judgment "in violation of the Constitution or laws" of

the United States, 28 U.S.C. § 2254(a), and the state court decision denying him relief is "contrary to, or involve[s] an unreasonable application of, [this Court's] clearly established" precedent, *id.* § 2254(d)(1).

A decision is "contrary to" this Court's precedent if it "applies a rule that contradicts the governing law set forth in [the Court's] cases." *Williams v. Taylor*, 529 U.S. 362, 405 (2000). A decision that is "substantially different from the relevant precedent" is "contrary to" that precedent. *Id.* And a decision involves "an unreasonable application" of clearly established precedent when it "correctly identifies the governing legal rule but applies it unreasonably to the facts" of the case. *Id.* at 407-08.

AEDPA bars relief if "fairminded jurists could disagree" about whether the "arguments or theories" supporting a state court's decision are "inconsistent with the holding in a prior" Supreme Court decision. *Harrington v. Richter*, 562 U.S. 86, 102 (2011). That standard is "demanding but not insatiable." *Miller-El v. Dretke*, 545 U.S. 231, 240 (2005). Indeed, this Court has ruled for habeas petitioners where the state court unreasonably applied its precedents under AEDPA. *E.g.*, *Porter v. McCollum*, 558 U.S. 30, 40-44 (2009) (per curiam); *Rompilla v. Beard*, 545 U.S. 374, 389 (2005); *Wiggins v. Smith*, 539 U.S. 510, 527-29 (2003).

B. Factual and procedural background

1. In October 2008, police found Torok, two months pregnant, lying in the doorway of her home with a nonfatal gunshot wound to her head. Pet. App. 95a-96a. Police found a .380-caliber projectile and shell casing on the floor near the door. Pet. App. 97a, 99a, 290a. "[O]n the other side of the couch from where [Torok] was found," police found a

Gatorade bottle. Pet. App. 3a. The mouth of the bottle was wrapped in duct tape and white medical tape in a rectangular shape, and there was a hole in the bottom of the bottle surrounded on the inside by black soot. Pet. App. 97a.

The state began investigating Mr. Martin, whom Torok had been dating. Pet. App. 3a. Torok also had been dating another man, Emmanuel Quartey. Pet. App. 4a. Either man could have been the father of Torok's unborn child. Pet. App. 25a. Martin also was married to and had children with another woman, and was dating two others—Sheri Carter and Maggie McFadden. Pet. App. 95a, 101a-102a, 113a. Mr. Martin's wife knew he was dating other women and that he had children outside of their marriage. CA4 App. 2190, 2210.

The state's theory was that Mr. Martin made the bottle into a gun silencer and solicited an acquaintance, Jerry Burks, to murder Torok because she refused to have an abortion. Pet. App. 97a-100a. The state separately charged Burks with attempted first- and second-degree murder and conspiracy to commit murder, and Mr. Martin with, among other counts, solicitation to commit murder and attempted first-degree murder as an accessory before the fact. Pet. App. 5a, 100a.

The state tried Burks first. Pet. App. 100a. A jury acquitted him. *Id.*

2. The state then tried Mr. Martin. The jury acquitted him of solicitation to commit murder, but convicted him of attempted murder as an accessory before the fact.

a. The state claimed Mr. Martin wanted Torok shot so he wouldn't have to pay child support and so

his wife wouldn't learn about Torok's pregnancy. Pet. App. 4a. The state relied on Carter's testimony that Mr. Martin had used one of his computers while at her home to research silencers and later took the computer away, saying he was getting rid of it. The state relied on DNA and other evidence to connect Mr. Martin to the bottle, but Carter's testimony was the only evidence connecting him to the bottle *as a silencer*.

The state offered two types of DNA evidence to connect Mr. Martin to the bottle. First, saliva on the bottle "contained 'a mixture of [nuclear] DNA from at least three individuals.'" Pet. App. 98a. The state's expert testified that about 240,000 white and 40,000 black individuals in Maryland could have contributed the DNA. CA4 App. 2005. Neither Mr. Martin nor Torok could be excluded. Pet. App. 98a. Second, a hair "of Negroid origin" found on the tape around the bottle contained a mitochondrial DNA profile that could not exclude Mr. Martin. Pet. App. 97a-98a, 139a. The state's expert witness admitted that around 30,000 Marylanders could share that DNA profile, and investigators didn't order testing to determine whether anyone else involved in the case was a match. Pet. App. 6a, 12a.

The state also introduced evidence that Torok didn't drink Gatorade, but that Mr. Martin drank Gatorade "a lot." Pet. App. 98a-100a. But to connect Mr. Martin to the Gatorade bottle *as a silencer*, the state called Carter. Pet. App. 374a. She testified that Mr. Martin kept a computer (the CSM laptop) from his former employer, the College of Southern Maryland, at her home. Pet. App. 102a. Carter claimed she saw Mr. Martin "look[] up gun silencers" on the computer in September or October 2008. Pet. App. 102a. Carter testified that Mr. Martin later removed the computer

because "they 'had looked up so many crazy things on the internet,' and he did not want it found if her apartment 'got searched.'" *Id.* According to Carter, Mr. Martin "said he got rid of it." *Id.*

The state also pointed to testimony from Detective Alban, who said that the bottle "reminded" him of a silencer that he saw in a Stevan Seagal movie, and that he had "watched YouTube videos" about making silencers from "plastic bottles." Pet. App. 7a.

The state tried to connect Mr. Martin to the gun used in the shooting. Carter testified that she saw Mr. Martin with a handgun in the months before the shooting. Pet. App. 99a-100a. While the state introduced evidence that Mr. Martin owned a .380-caliber handgun, it didn't introduce evidence that Mr. Martin's handgun was used to shoot Torok. *Id.* And at least sixteen manufacturers made handguns that would have matched the recovered .380-caliber projectile. Pet. App. 99a.

The state called Michael Bradley, one of McFadden's brothers, who testified about seeing a Gatorade bottle, tape, Mr. Martin, and others at McFadden's house the day of the shooting. Michael testified that on the day of the shooting, Mr. Martin, Burks, Michael, and Michael's brother, Frank, were at McFadden's house, smoking marijuana. Pet. App. 8a. Frank brought white tape to the kitchen and went to McFadden's room, where Mr. Martin joined him. *Id.* Frank took a Gatorade bottle from the kitchen and returned to McFadden's room. *Id.* Michael also testified that Mr. Martin and Burks left McFadden's house, Pet. App. 99a, and that when they returned, he did not "see [Mr. Martin] and Frank have any conversation." Pet. App. 8a. But after the prosecutor pressed him,

Michael testified that Mr. Martin handed "a brown paper bag" to Frank and said to "get rid of this." Pet. App. 8a, 353a. Michael testified that at some point, he saw Mr. Martin in McFadden's room with a handgun. *Id.* But the state didn't present evidence about what was in the bag.

The jury heard evidence that Michael's trial testimony conflicted with statements he gave to a detective shortly after the shooting. For example, Michael told the detective that he was with Mr. Martin and Frank at McFadden's house all afternoon on the day of the shooting, and he never mentioned Burks. CA4 App. 2169-2170, 2175-2176, 2178.

Cross-examination revealed that Michael had self-serving reasons to testify. He talked to the police because, after Burks' trial, McFadden asked him to do so. Pet. App. 356a. McFadden said that "she was involved" and the prosecutor was threatening her. Pet. App. 357a. And in return for his testimony, Michael received immunity for Torok's shooting. Pet. App. 8a. Michael also denied receiving any benefit relating to charges pending against him in New Jersey, Pet. App. 360a, 365a-366a, but evidence showed that Michael received a more lenient sentence because of his cooperation, CA4 App. 2296-2297.

The state also offered evidence that the white tape on the Gatorade bottle resembled tape found at McFadden's home—although the state's expert couldn't say that the tape from the bottle came from the roll in McFadden's home. CA4 App. 1499-1504.

During closing argument, the prosecution argued that Mr. Martin had made the silencer used to shoot Torok. Pet. App. 406a-408a. The prosecution asked the jury to find Mr. Martin guilty of attempted murder

because he "aided, counseled, commanded, or encouraged the commission of the crime with the intent that it succeed." Pet. App. 418-419a.

The prosecutor emphasized that the jury needed to find that the bottle was a silencer, and it underscored that Carter's testimony was critical to that finding. The prosecution argued that "[i]f you decide that [Mr. Martin] made the silencer and that silencer was intended to be used upon the victim then he is guilty." Pet. App. 12a. The prosecutor asked whether anyone was "surprised that Sheri Carter saw the Defendant researching silencers on the internet," or that Mr. Martin "got rid of that computer after the police talked to him." *Id.* The prosecution also emphasized Carter's credibility, explaining that "the things that [Carter] says are very powerful and she is someone who is very sane and very normal." *Id.* According to the prosecution, Mr. Martin's "planning it" "show[ed] the intent to kill." Pet. App. 419a.

b. The defense's theory was that Mr. Martin was innocent and McFadden likely was responsible for the shooting. Pet. App. 10a-11a.

The defense argued that the DNA evidence didn't show that Mr. Martin had anything to do with a silencer. The saliva on the mouth of the bottle, Pet. App. 97a-98a, could show at most (and unremarkably) that Mr. Martin and Torok drank from the bottle or used it to smoke marijuana. *See* CA4 App. 2299. The state's expert witness testified that the most likely way that DNA would have gotten on the mouth of the bottle was by putting one's mouth on it, and the expert agreed that it could have come from "us[ing] the bottle as a smoking device." CA4 App. 2004.

As to the mitochondrial DNA from the hair, the state didn't test any other Black man connected to the case—including Quartey, whom Torok was also dating. Pet. App. 11a-12a. Evidence showed that people shed many hairs every day, and the hair could have been shed a week before it was found. CA4 App. 1514-1515. And just because there was hair on the tape, that didn't mean the person it came from had ever touched the bottle. Indeed, investigators found a cat hair on the tape, Pet. App. 5a, but that didn't mean a cat touched the bottle or the tape, CA4 App. 2300.

The defense also argued that the evidence didn't show that the bottle was a silencer, rather than a smoking device. CA4 App. 2299. The bottle "was 'on the other side of the couch from where [Torok] was found'" and was near an ashtray. Pet. App. 3a. The bottle wasn't tested for gunshot residue or marijuana. Pet. App. 7a. And although the bottle "reminded" Detective Alban of a silencer from a movie—rather than any expert opinion or even his own experience—he recognized that plastic bottles could be used to smoke marijuana. *Id.* The state's theory also couldn't explain why Torok's saliva was "on the mouth" of the supposed silencer. CA4 App. 2299-2300.

The defense argued that the evidence pointed to McFadden, who was "volatile." Pet. App. 10a. Carter testified that, in February 2009, McFadden called her and they met in person. *Id.* McFadden was "extremely upset" and claimed that she'd had someone shot in the head. Pet. App. 397a-398a. McFadden said she "had a gun on her" and that "if people got in her way" she "knew how to take care of it." Pet. App. 10a. McFadden also threatened Carter via social media and sent emails disparaging Carter to Carter's coworkers. *Id.* And McFadden's friend, Steve Burnette, lied to the

police about being at work on the day of the shooting. Pet. App. 10a-11a.

The defense emphasized that Detective Regan conducted a sloppy investigation, myopically "focus[ing] on [Mr. Martin] from the very beginning." CA4 App. 2292-2293. The police never took DNA samples from McFadden or Michael. Pet. App. 11a-12a. And Detective Regan lost evidence that could have supported Mr. Martin's alibi. The first was a twenty-minute-long recorded interview with Frank, in which he said he had been at McFadden's house with Mr. Martin at the time of the shooting. CA4 App. 1633, 2169-2170, 2294. During the interview, the detective also spoke with Michael, who agreed that Mr. Martin had been at McFadden's house. CA4 App. 2173-2176. Detective Regan also lost video surveillance footage that would have shown who drove—and who didn't—to Torok's home around the time of the shooting. Pet. App. 11a. Detective Regan claimed he hadn't destroyed or hidden the tapes. CA4 App. 1634-1635.

c. The prosecution attempted to discredit Mr. Martin's theories. It contended that the bottle couldn't have been a smoking device because Detective Regan didn't smell marijuana on the bottle. Pet. App. 407a. The state asserted that McFadden couldn't have been responsible because she was *too* volatile. It was "[n]ot logical," the state argued, for McFadden to "threaten people and e-mail people and send nasty pictures to people," if she was "trying to kill off the competition." Pet. App. 413a.

d. The state dismissed all but the attempted first-degree murder and solicitation charges, which went to the jury. Pet. App 12a. Based on Carter's testimony, the court instructed the jury that it had

"heard evidence that [Mr. Martin had] removed a computer from [Carter's] house," and that it could consider such concealment to be "evidence of guilt." Pet. App. 102a. The court also instructed the jury that if it found that the state had lost important evidence and that the state's explanation for the loss was "inadequate," then it could "draw an inference" against the state, which could itself "create a reasonable doubt." Pet. App. 151a.

The jury acquitted Mr. Martin of solicitation and convicted him of attempted first-degree murder as an accessory before the fact. Pet. App. 103a. Although the court denied Martin's motion for a new trial, it remarked that "motive was the weakest part of the State's case," CA4 App. 2440, and that "McFadden had just as much of a motive, if not more, to get rid of [Ms.] Torok." Pet. App. 15a. The court sentenced Mr. Martin to life in prison. Pet. App. 103a.

3. Mr. Martin appealed, and the Maryland Court of Special Appeals affirmed. Pet. App. 188a-242a. The Maryland Court of Appeals and this Court both denied review. Pet. App. 103a.

4. a. Mr. Martin sought state postconviction relief. He argued that the state violated his due process rights under *Brady* by failing to disclose a forensic computer report showing that he had not researched silencers on the CSM laptop and that the laptop had been in police custody, contrary to Carter's testimony. Pet. App. 103a-105a.

Mr. Martin obtained the report through a Maryland Public Information Act request. Pet. App. 103a. The report provided the results of keyword searches, conducted at Detective Regan's request, of a "CSM" laptop and four other computers seized pursuant to an

October 2008 search warrant. Pet. App. 103a-104a; CA4 App. 2879-2886. Investigators conducted keyword searches for "Handgun," "Gatorade," "silencer," "hitman," and "Homemade silencer," among other terms, but the "searches produced 'no data of investigative value.'" Pet. App. 103a-104a.

The trial court held that the state had violated Mr. Martin's *Brady* rights by failing to disclose the report, and ordered a new trial. Pet. App. 105a-106a.

b. The Maryland Court of Special Appeals reversed. Pet. App. 95a. The state conceded that it had failed to disclose the report and that the report was favorable to the defense. Pet. App. 107a, 109a. But the state argued that the report wasn't material. Pet. App. 111a-112a. The court agreed, reasoning that "the evidence connecting [Mr. Martin] to the silencer/Gatorade bottle was a key component of the State's case." *Id.* It recognized that the trial court may not have instructed the jury on "concealment of evidence" had the report been disclosed. Pet. App. 115a n.14. But the court concluded that the report was immaterial given the "substantial" other evidence supporting the conviction. Pet. App. 112a-115a.

5. Mr. Martin sought federal habeas relief, which the district court granted. Pet. App. 81a-82a. The court of appeals affirmed in an unpublished decision over a brief dissent by Judge Niemeyer. Pet. App. 1a-44a.

a. The court of appeals held that the state appellate court's decision involved an unreasonable application of this Court's clearly established precedent. Pet. App. 22a-26a. It was undisputed that the report was "impeaching and exculpatory" and that the

state suppressed it. Pet. App. 21a. The only question was whether the report was material. *Id.*

The report was material, the court concluded, because it would have "fundamentally altered the character of this case." Pet. App. 33a. It "undermin[ed] Carter's damaging testimony," which was the "strongest" evidence linking Mr. Martin to the alleged silencer. Pet. App 27a. Her testimony was also "crucial" in bolstering Michael's testimony, and the prosecution emphasized Carter's testimony in closing argument. Pet. App. 28a-29a. And without Carter's testimony, the trial court wouldn't have given the jury an instruction about concealment of evidence. Pet. App. 29a. The report would have "painted the Prosecution's case in an entirely different light," and "likely pushed the jury toward" the defense's "alternative explanations of the evidence." Pet. App. 30a-32a.

The court of appeals explained that the state court's contrary conclusion involved an unreasonable application of *Kyles* and this Court's other precedents. Those precedents require courts to "analyz[e] the impact of the undisclosed evidence on the entire case," rather than apply a "sufficiency of the evidence standard." Pet. App. 23a. Although the state court "correctly summariz[ed] the relevant Supreme Court precedent" on *Brady* materiality, it "applie[d] a different rule entirely" by conducting a "sufficiency of the evidence" analysis—an approach that *Kyles* forbids. Pet. App. 21a-22a. The state court focused only on "the evidence it considered supportive of the verdict," rather than on how "removal of Carter's testimony might have impacted the character of the entire case." Pet. App. 23a. For example, the state court "focused on the 'substantial' evidence 'connecting' Martin to the attempted murder and focused on how a jury 'could

infer' a nefarious nature to Martin's text messages." Pet. App. 24a.

The court of appeals concluded that "all fair-minded jurists would agree" that the report was material, because it would have "fundamentally altered the character of this case." Pet. App. 27a, 33a. It would have undermined Carter's testimony, which "formed the entire basis for a devastating jury instruction, bolstered the State's weaker witnesses, and undermined the Defense's theories." Pet. App. 33a.

b. Judge Niemeyer dissented. He thought the majority should have deferred to the state court's conclusion that disclosure wouldn't have changed the outcome of the trial. Pet. App. 40a-43a. He also opined that the jury might not have concluded that the report showed "that Carter was lying." Pet. App. 44a. Instead, Judge Niemeyer opined, the jury could have thought that Mr. Martin had "two different computers from the College of Southern Maryland," or that the computer in the report was the one that Carter testified about, but that "recent data had been lost." *Id.*

c. The court of appeals denied the state's petition for rehearing en banc without a vote. Pet. App. 243a.

REASONS FOR DENYING THE PETITION

The Court should deny the petition. The court of appeals' factbound, unpublished decision is correct, but even if it weren't, this case wouldn't warrant the extraordinary intervention of summary reversal.

I. The court of appeals correctly concluded that Mr. Martin is entitled to habeas relief because the state violated Mr. Martin's *Brady* rights. There is no "fairminded disagreement," *White v. Woodall*, 572 U.S. 415, 419-20 (2014), that the state appellate

court's opposite conclusion was "contrary to" and "involved an unreasonable application of, [this Court's] clearly established" precedent, 28 U.S.C. § 2254(d)(1).

A. The state violated Mr. Martin's *Brady* rights because it suppressed evidence that would have created a reasonable probability of reasonable doubt about Mr. Martin's guilt. *Cone*, 556 U.S. at 452. The report would have discredited Carter's testimony—the only evidence connecting Mr. Martin to the Gatorade bottle as a silencer—and strengthened the defense's case and alternate theory about who was responsible for the crime. And without Carter's testimony, the jury likely would not have been instructed that it could infer that Mr. Martin was guilty if he had concealed evidence. All told, the computer report's suppression "undermines confidence in the outcome" of Mr. Martin's trial, and it was thus material. *Kyles*, 514 U.S. at 434.

B. The state appellate court's decision was contrary to, and an unreasonable application of, this Court's precedent. The state court's conclusion that the computer report was immaterial rested on a sufficiency-of-the-evidence analysis, not the correct *Brady* materiality analysis, because it focused only on whether there was "substantial evidence" connecting Mr. Martin to the "silencer/Gatorade bottle," and whether "there was strong evidence of [Mr. Martin's] guilt even without the report." Pet. App. 112a. The state court's decision thus contravened *Kyles*, which makes clear that materiality "is not a sufficiency of evidence test," and instead requires assessing what impact disclosure would have on the case as a whole. 514 U.S. at 434, 441.

C. The court of appeals correctly held that the state court erred "beyond any possibility for fair-minded disagreement," *White*, 572 U.S. at 419-20, when it concluded that the computer report was immaterial. The court of appeals analyzed the state court's opinion and considered all reasons the court gave and the evidence it cited. *See Wilson v. Sellers*, 584 U.S. 122, 132 (2018) (court focuses "on the actual reasons given by the … state court"). Upon that careful review, the court of appeals correctly found that, despite stating the materiality standard, the state court applied a sufficiency-of-the-evidence standard. Applying that standard resulted in a decision contrary to and involving an unreasonable application of *Brady* and *Kyles*. The state's and the dissent's counterarguments—that the state court articulated the materiality standard; that the majority was too critical of the state court; and that the majority improperly reviewed the evidence de novo—are unpersuasive. Those critiques overlook how the state court failed to consider how disclosure would have affected the prosecution *and* the defense. The majority reviewed the evidence underlying the state court's decision precisely because AEDPA *requires* that careful review. *See Mays v. Hines*, 592 U.S. 385, 391-92 (2021).

II. The court of appeals' correct, factbound, and unpublished decision doesn't warrant the extraordinary step of summary reversal. Summary reversal is an "unusual" remedy, *Office of Personnel Management v. Richmond*, 496 U.S. 414, 422 (1990), reserved for lower-court decisions "clearly in error," *Schweiker v. Hansen*, 450 U.S. 785, 791 (1981). This case doesn't come close to meeting that high bar. The court of appeals didn't err in applying AEDPA. And even if it had, any error simply involves good-faith application

of this Court's AEDPA and *Brady* precedents, and isn't clear enough to warrant summary reversal.

I. The court of appeals correctly concluded that the state violated Mr. Martin's *Brady* rights, and the state appellate court's opposite conclusion was contrary to, and involved an unreasonable application of, this Court's precedent.

The court of appeals correctly concluded that the state violated Mr. Martin's *Brady* rights and that the state appellate court's contrary conclusion was not entitled to AEDPA deference. The prosecution violates a defendant's due process rights under *Brady* if it suppresses exculpatory or impeaching evidence that is "material either to guilt or to punishment, irrespective of" the prosecution's "good faith or bad faith." *Kyles*, 514 U.S. at 432; *Strickler v. Greene*, 527 U.S. 263, 280 (1999). The state has conceded that the computer report is favorable and that the state suppressed it. Pet. App. 108a-109a; *see* Pet. 17. This case is about whether the report was material. It is and the state appellate court's opposite conclusion was contrary to, and involved an unreasonable application of, this Court's precedent.

A. The computer report was material because there is a reasonable probability that it would have created reasonable doubt about Mr. Martin's guilt.

This Court's decisions establish that undisclosed evidence is material if there is a reasonable probability that disclosure would have resulted in a different verdict. *See Kyles*, 514 U.S. at 434. The computer report was material because it would have "fundamentally altered" the course of trial. Pet.

App. 27a, 33a. Disclosing the report would have undermined Carter's testimony, which "formed the entire basis for a devastating jury instruction, bolstered the State's weaker witnesses, and undermined the Defense's theories." Pet. App. 33a. The state's counterargument—that the remaining evidence "connected Martin to the Gatorade-bottle silencer," Pet. 24-25—fails. It reflects the same sufficiency-of-the-evidence analysis that *Kyles* rejected, and fails on its own terms, anyway.

1. This Court's precedents clearly establish that evidence is material if there is a reasonable probability that disclosure would have created a reasonable doubt about the defendant's guilt.

The "touchstone of materiality" is whether "there is a reasonable probability that, had the evidence been disclosed to the defense, the result of the proceeding would have been different." *Kyles*, 514 U.S. at 433-34. Put differently, there must be "a reasonable probability that the withheld evidence would have altered at least one juror's assessment" of the defendant's guilt. *Cone*, 556 U.S. at 452. The question "is not whether the defendant would more likely than not have received a different verdict with the evidence, but whether in its absence he received a fair trial" that "result[ed] in a verdict worthy of confidence." *Kyles*, 514 U.S. at 434.

Materiality, this Court has stressed, "is not a sufficiency of evidence test." *Id.* That's because "the possibility of an acquittal on a criminal charge" doesn't necessarily turn on whether there is "an insufficient evidentiary basis to convict." *Id.* at 435. A court

thus errs if it rejects a *Brady* claim because it thinks "the remaining evidence" could "support the jury's conclusions." *Strickler*, 527 U.S. at 290.

In assessing materiality, courts must consider how the undisclosed evidence would have affected both the defense and the prosecution. *Kyles*, 514 U.S. at 441. This Court's precedent makes clear that evidence is material when it undermines the "centerpiece" of the prosecution's case; when it impeaches a key witness or testimony a prosecutor relies on in closing argument; or when the defense could have used it to question the thoroughness and good faith of the police investigation. *Id.* at 444-445; *see Banks v. Dretke*, 540 U.S. 668, 700-03 (2004).

2. The computer report was material because there is a reasonable probability that its disclosure would have produced a different outcome in Mr. Martin's trial.

The computer report was material because there is a reasonable probability that disclosing it would have created reasonable doubt about Mr. Martin's guilt. Carter's testimony was the only link between Mr. Martin and silencers, and the state relied on her testimony to show Mr. Martin's intent, to shape its closing argument, and to justify an instruction that the jury could infer that Mr. Martin was guilty because he concealed evidence. But the report would have showed that Carter's testimony was false, thus undermining the state's otherwise thin case and strengthening the defense's case and alternate theory.

a. Start with the state's case.

Carter was a key witness whose unimpeached testimony was a centerpiece of the state's case. Her

testimony that Mr. Martin researched silencers on the CSM computer was the linchpin of the state's narrative that the Gatorade bottle was a silencer and the *only* evidence connecting Mr. Martin to the bottle as a silencer. Pet. App. 102a. The state also used her testimony to make sense of Michael's already unreliable testimony about seeing Mr. Martin, a Gatorade bottle, and tape at McFadden's house on the day of the shooting. Pet. App. 27a-28a. And the state used her testimony to argue that Mr. Martin had been "planning" the crime, thus "show[ing] the intent to kill." CA4 App. 2276. The state relied heavily on Carter's testimony in closing, emphasizing her credibility, Pet. App. 12a, and arguing that the jury should use her testimony as proof "that [Mr. Martin] made that silencer and that [the] silencer was intended to be used upon the victim," *Id.* And Carter's testimony that Mr. Martin removed the laptop from her apartment was the basis for the jury instruction that Mr. Martin's concealment of evidence "may be considered as evidence of guilt." Pet. App. 102a-103a.

Disclosing the computer report would have left the state with a flimsy case at best, because it shows that Carter's testimony was false. Pet. App. 103a-104a. The report would have impeached and "severely undermined" the state's key witness, *Kyles*, 514 U.S. at 444, thus destroying the essential link between Mr. Martin and the bottle as a silencer, and the supposed proof of Mr. Martin's intent to murder Torok. *See id.*; *Banks*, 540 U.S. at 701. Besides Carter, no witness corroborated Michael's testimony. And the jury already was likely to view Michael's testimony as "untrustworthy and unreliable," *Banks*, 540 U.S. at 702, because it contradicted earlier statements and he testified in exchange for immunity in Torok's case and

a more lenient sentence in another, Pet. App. 8a. The report also would have removed the basis for instructing the jury that it could infer guilt based on Mr. Martin's concealing the laptop, because the report establishes that the laptop was *in police custody*, making clear that Mr. Martin did not "g[e]t rid of it," Pet. App. 102a-104a.

b. Disclosing the computer report also would have bolstered the defense's theory of the case.

First, the defense would have been able to impeach Carter's previously unimpeached testimony, thus discrediting the Steven Seagal bottle-as-silencer theory and making the jury more likely to believe the defense's simpler theory that the bottle was a marijuana smoking device. Indeed, significant evidence supported that theory. For example, investigators found the bottle near an ashtray on the other side of the couch from where Torok was found, Pet. App. 3a; CA4 App. 2955. There also was saliva on the bottle from at least three individuals—including someone with a DNA profile matching Torok's, consistent with the assumption that Torok's mouth had been on the bottle. Pet. App. 98a.

Second, even if the jury believed the bottle-as-silencer theory, impeaching Carter would have enabled Mr. Martin to mount a more effective "other suspect" defense inculpating McFadden. As the trial court recognized, "motive was the weakest part of the State's case," CA4 App. 2440, and "McFadden had just as much of a motive, if not more," to shoot Torok. Pet. App. 15a. Discrediting Carter would have increased the likelihood that at least one juror would have had reasonable doubt about Mr. Martin's guilt because McFadden or someone else was instead responsible.

Third, Carter's impeachment would have increased the likelihood that the jury would have questioned the "thoroughness" and "good faith" of the police investigation. *Kyles*, 514 U.S. at 445. Knowing the police had suppressed the computer report, the jury would have had more reason to question the officers' handling of other evidence, like the two tapes that Detective Regan claimed were lost. CA4 App. 1633-34, 2294-96. That means the jury would have been more likely to discredit Detective Regan's explanation and to follow the instruction that it could "draw an inference unfavorable to the State, which in itself" could have "create[d] a reasonable doubt as to the [Mr. Martin's] guilt." Pet. App. 151a; *supra* pp. 12-13.

3. The state's counterarguments fail.

In arguing that the computer report wasn't material, the state repeats the state appellate court's conclusion that other evidence "connected Martin to the Gatorade-bottle silencer." Pet. 24-25. But the state merely pursues the same sufficiency-of-the-evidence analysis that *Kyles* forbids and that the state court erroneously applied here. *See supra* pp. 20-21; *infra* pp. 26-29.

The state's argument fails on its own terms, too. The evidence the state cites doesn't link Martin to the Gatorade bottle *as a silencer*. For example:

- The state points to "DNA evidence linking [Mr. Martin] to the Gatorade bottle." Pet. 25. But whether Mr. Martin's DNA could be excluded from the bottle says nothing about whether he was involved in using the bottle as a silencer. His DNA could have been there because he drank or smoked from the bottle. Pet. App. 27a. And Torok's DNA couldn't be excluded either,

which is inconsistent with the state's theory that the bottle was used to shoot Torok. *Supra* pp. 10-11.

- The state highlights (Pet. 25) Michael's testimony that Mr. Martin and Frank Bradley constructed the Gatorade-bottle device in McFadden's home. But Michael didn't say they constructed a silencer, and his testimony is equally consistent with the smoking-device theory. *Supra* pp. 8-9.
- The state notes that Mr. Martin owned a handgun "of the same type that could have fired the bullet" that hit Torok. Pet. 25. But the state didn't introduce evidence that Mr. Martin's handgun was used to shoot Torok, and at least sixteen manufacturers made handguns that would have matched the weapon used in the shooting. *Supra* p. 8.
- Michael testified that, on the day of the shooting, Mr. Martin handed Frank a brown paper bag and told him to "get rid of it." Pet. 25. But the state didn't introduce any evidence about what was in the bag, *supra* pp. 8-9, nor how the testimony supposedly ties Mr. Martin to the Gatorade bottle as a silencer.
- The state says Mr. Martin had "motive to kill" Torok. Pet. 25. But Mr. Martin's wife knew he was dating, and had children with, women outside their marriage, *supra* p. 6, and "McFadden had just as much of a motive, if not more," to kill Torok, Pet. App. 15a. Plus, Mr. Martin's supposed motive doesn't connect him to the bottle as a silencer anyway.

- The state claims (Pet. 25) the jury could have inferred that Mr. Martin was attempting to cover his tracks with text messages he sent to Torok on the day of the shooting. But the text messages have no bearing on whether the bottle was a silencer, or, assuming it was, on whether Mr. Martin was involved in making it.

B. The state appellate court's conclusion that the forensic computer report was immaterial was contrary to, and involved an unreasonable application of, this Court's precedent.

The state appellate court's denial of Mr. Martin's *Brady* claim was contrary to, and an unreasonable application of, *Kyles*. The state court's decision rested on a sufficiency-of-the-evidence analysis rather than the assessment that this Court's decisions, including *Kyles*, require: an evaluation of the effect the report would have had on the prosecution *and* the defense.

1. The state appellate court's holding rests on a sufficiency-of-the-evidence analysis and thus is contrary to and involves an unreasonable application of this Court's clearly established precedent.

a. The state appellate court's denial of Mr. Martin's *Brady* claim is contrary to *Kyles* because it rests on a sufficiency-of-the-evidence analysis rather than a proper *Brady* reasonable-probability analysis. Although the court stated the *Brady* materiality standard, Pet. App. 110a, it used a sufficiency-of-the-evidence standard. The court asked only whether "substantial evidence" "connect[ed]" Mr. Martin to the "silencer/Gatorade bottle," and concluded that "there

was strong evidence of [Mr. Martin's] guilt," even without the computer report. Pet. App. 112a.

That analysis followed the dissent's approach in *Kyles*, which involved recounting what evidence remained "untouched" and "consistent" after excluding the *Brady* evidence. 514 U.S. at 435 n.8. But a majority of the Court rejected that approach. *Id.* Instead, *Kyles* made clear that materiality "is not a sufficiency of evidence test," *id.* at 434, and that courts assessing materiality must consider how the suppressed evidence would have affected the case as a whole—including the defense's presentation, *id.* at 441.

Here, rather than considering how the computer report would have undermined the prosecution's theory and bolstered Mr. Martin's defense, the state appellate court's entire analysis consisted of ticking through "all the evidence connecting [Mr. Martin] to the attempted murder" Pet. App. 115a. The court didn't consider, for example, how the defense could have used the report to strengthen its alternate theories. Pet. App. 112a-115a. And the court didn't consider whether the jury would have been less likely to infer guilt without the concealment instruction. The court simply circled back to the sufficiency of the evidence, remarking that whether the instruction would have been given didn't "change [the court's] analysis," because "the State presented strong evidence of [Mr. Martin's] guilt, even excluding Ms. Carter's testimony." Pet. App. 115a n.14.

b. For the same reasons, the state appellate court unreasonably applied this Court's precedent in concluding that the computer report wasn't material, because the report was central to the case in ways that this Court has made clear establish materiality.

Supra pp. 21-24. The only reasonable conclusion is that, had the report been disclosed, there is a reasonable probability that a juror would have harbored reasonable doubt about Mr. Martin's guilt.

First, the report would have impeached Carter, whose testimony was otherwise credible and "was a key component" in proving the offense. Pet. App. 112a. Indeed, Carter's testimony was the only evidence connecting Mr. Martin to the bottle as a silencer, and it was thus the "centerpiece" of the prosecution's case. *Kyles*, 514 U.S. at 444-45; *see Banks*, 540 U.S. at 701.

Second, the prosecution "stress[ed]" Carter's testimony at closing argument, *Banks*, 540 U.S. at 700, thus *advocating* its materiality, *supra* pp. 9-10. *See Kyles*, 514 U.S. at 444.

Third, the report would have allowed the defense to further "attack … the thoroughness and even the good faith of the investigation." *Kyles*, 514 U.S. at 445. Knowing about the state's suppression of the report would have given the jury more reason to doubt Detective Regan's explanations for other "lost" evidence. *Supra* p. 12.

2. The state's counterargument fails.

The state claims that the state appellate court's decision was "sensible, reasoned, and … entitled to [AEDPA] deference." Pet. 26. The state points to the court's articulation of the *Brady* standard and its recounting of the evidence "connecting Mr. Martin to the attempted murder." Pet. 26. That argument fails.

As explained (at 20-21), this Court's *Brady* precedents require courts to do more than consider whether there was enough evidence to convict without the suppressed evidence. *Kyles*, 514 U.S. at 434-35. But that's

all the state appellate court did here. The court failed to consider how disclosure of the report might have harmed the prosecution *and* helped the defense, and thus "would have altered at least one juror's assessment" of Mr. Martin's guilt. *Cone*, 556 U.S. at 452. Fairminded jurists couldn't find that analysis consistent with this Court's clearly established *Brady* precedents.

C. The court of appeals correctly applied AEDPA to conclude that the state violated Mr. Martin's *Brady* rights.

The court of appeals correctly applied AEDPA in concluding that the state appellate court's decision involved an unreasonable application of this Court's precedent. The state's and the dissent's counterarguments—that the state court articulated the correct materiality standard; that the majority was too critical of the state court; and that the majority improperly reviewed the evidence de novo—fail.

1. The court of appeals conducted the proper AEDPA analysis.

The court of appeals conducted the proper AEDPA analysis in determining that the state appellate court unreasonably applied this Court's precedent. The court first recognized that *Kyles* clearly established that *Brady* materiality doesn't turn on sufficiency of the evidence. Pet. App. 22a. The court explained that the *Kyles* majority critiqued the dissent for applying a sufficiency standard, "which appeared to 'assume'" that the *Brady* claim failed "'because there would still have been adequate evidence to convict even if the favorable evidence had been disclosed.'" *Id.* (quoting *Kyles*, 514 U.S. at 435 n.8).

The court of appeals then accurately identified that the state court made "the same error as the dissent in *Kyles*, resulting in an unreasonable application of clearly established Supreme Court precedent." *Id.*; *see* 28 U.S.C. § 2254(d)(1). The state court focused on "the evidence it considered supportive of the verdict," rather than "engag[ing] with how the lack of evidence connecting [Mr. Martin] to silencers would severely weaken the Prosecution's case." Pet. App. 23a-24a. And, the court reasoned, the state court failed to consider "how [Carter's] impeachment might instill greater belief in the Defense's theory," and "entirely discounted the impact of the jury instruction regarding Martin's concealment of evidence, despite agreeing that it may not have been given but for Carter's unimpeached testimony." Pet. App. 24a-25a.

The result, the court of appeals correctly recognized, was that "[b]y failing to consider how Carter's statements impacted the State's case as a whole, the state appellate court did not properly analyze" *Brady* materiality, particularly "'whether the favorable evidence could reasonably be taken to put the whole case in such a different light as to undermine confidence in the verdict.'" Pet. App. 25a (quoting *Kyles*, 514 U.S. at 434). Accordingly, the state court's unreasonable application was "error … beyond any possibility for fair minded disagreement." Pet. App. 26a-27a.

2. The state's counterarguments and the dissent's reasoning lack merit.

a. The state doesn't "dispute that *Brady* materiality 'is not a sufficiency of evidence test.'" Pet. 27. Instead, it claims (Pet. 27-29) that the state court didn't unreasonably apply *Brady* because it correctly

articulated the materiality standard. That argument fails AEDPA 101.

It doesn't matter whether the court correctly articulated the *Brady* standard at the outset. That's because "[a]n unreasonable application occurs when a state court identifies the correct governing legal principle from this Court's decisions but unreasonably applies that principle to the facts of petitioner's case." *Rompilla*, 545 U.S. at 380 (quotation marks omitted). As explained (at 26-27), even if the state court stated the *Brady* materiality standard correctly, it *applied* a sufficiency-of-the-evidence standard. That directly contravenes *Kyles* and thus was an unreasonable application of (and was contrary to) that precedent. *See Williams*, 529 U.S. at 407-09.

b. The state next claims that the court of appeals improperly criticized the state court for failing to be "nuanced" and to "expressly address every facet of the case in its written opinion." Pet. 29. That is incorrect. The court of appeals didn't fault the state appellate court for failing to document every detail of the case. Instead, it correctly focused on the state court's reasoning, *supra* p. 18 and observed that the state court failed to consider how disclosure of the suppressed evidence would have undermined the prosecution's case *and* bolstered the defense. Pet. App. 27a-33a. To be sure, the court of appeals explained that the state appellate court didn't conduct a "nuanced analysis of the impact of the suppressed evidence on both sides of the case." Pet. App. 26a. But the problem wasn't just the lack of "nuance"—it was that half of the analysis (which, for what it's worth, should be nuanced) was missing entirely. As the court of appeals explained, the state court's analysis turned on "the evidence it considered supportive of the verdict," and it failed to

"focus[] on how the removal of Carter's testimony impacted the character of the entire case," as *Kyles* clearly requires. Pet. App. 23a.

c. The state and the dissent accuse the majority of reviewing the evidence de novo, contending that, "in assessing whether a state court's decision was 'objectively unreasonable,' a federal habeas court must consider even those factual and legal rationales that the state court did not expressly articulate." Pet. 30-33; *see* Pet. App. 40a-44a. That argument is both wrong on the law and beside the point. When a state court articulates its reasoning, "the actual reasons given by the … state court" are what matter, *Wilson*, 584 U.S. at 132—hypothetical rationality applies only when the state court issued its decision "without articulating its reasoning," *Shinn v. Kayer*, 592 U.S. 111, 120 (2020). Regardless, the majority *did* carefully consider "all the reasons and evidence supporting the state court's decision." *Mays*, 592 U.S. at 391-92. And what it found was that the *only* reasonable conclusion is that the computer report was material.

II. The court of appeals' correct decision does not warrant summary reversal.

Summary reversal is an extreme step, and it isn't warranted here. The state seeks factbound error correction, but there is no error, much less one warranting such extraordinary intervention.

A. "Summary reversals of courts of appeals are unusual under any circumstances." *Office of Personnel Management*, 496 U.S. at 422. Because it is an "extraordinary remedy," *Major League Baseball Ass'n v. Garvey*, 532 U.S. 504, 512-13 (2001) (Stevens, J., dissenting), summary reversal should only be granted in "palpably clear cases of constitutional error." *Eaton v.*

City of Tulsa, 415 U.S. 697, 707 (1974) (Rehnquist, J., dissenting).

In AEDPA cases, summary reversal is unwarranted absent clear error. In *Wetzel v. Lambert*, 565 U.S. 520, 525 (2012), for example, this Court summarily reversed habeas relief on a *Brady* claim because the Third Circuit failed to consider all the state court's reasoning. The petitioner argued that an undisclosed document would have impeached the key witness and inculpated another person. *Id.* at 521-22. The state court denied relief, concluding that the document was immaterial because the witness had already been impeached, and because it was "speculative at best" that the document would inculpate the third party. *Id.* at 522-23. The Third Circuit granted relief, concluding that the document would have "opened an entirely new line of impeachment." *Id.* at 523.

This Court summarily reversed. "[T]he Third Circuit overlooked" the state court's "determination" that the document was "'not exculpatory or impeaching' but instead 'entirely ambiguous.'" *Id.* at 524. The failure to examine "*each* ground supporting the state court decision," was clearly contrary to this Court's AEDPA precedents, warranting summary reversal. *Id.* at 525.

B. The court of appeals' decision here doesn't warrant summary reversal because it doesn't depart from AEDPA standards, much less depart dramatically. As explained (at 29-30), and unlike in *Wetzel*, the court faithfully applied this Court's AEDPA precedents, carefully considering all the state court's reasoning and all the evidence. Only then did the court conclude that the state court had unreasonably applied *Brady* and *Kyles* rather than conducting the

analysis those precedents clearly require. Pet. App. 23a-33a.

Nor does the court of appeals' decision reflect the kind of egregious error the state claims in another of its pending petitions, which it cites here (Pet. 36 n.12), seeking review of *Sweeney v. Graham*, No. 22-6513, 2025 WL 800452 (4th Cir. Mar. 13, 2025). *See* No. 25-52 (U.S.). In *Sweeney*, the state claims the court invented arguments the parties didn't raise to justify granting relief on an ineffective assistance of counsel claim. Pet. 15, No. 25-52 (U.S.). The state argues that *Sweeney* relied on a "special circumstances exception" from cases pre-dating AEDPA and a supposed "multitude of failures" taking the case outside "traditional habeas review." *Id.* at 5 (quoting 2025 WL 800452, at *7-9). Whether or not that's true, the court of appeals here *did* conduct traditional habeas review hewing closely to AEDPA's rigorous standards. Its decision is a far cry from the kind of "palpably clear cases of constitutional error" that may justify the strong medicine of summary reversal. *Eaton*, 415 U.S. at 707. The state doesn't like reaping what it sowed when it suppressed the computer report, but the Constitution entitles Mr. Martin to a new trial.

CONCLUSION

The petition should be denied.

Respectfully submitted.

Shay Dvoretzky
Parker Rider-Longmaid
Counsel of Record
Sylvia O. Tsakos
SKADDEN, ARPS, SLATE,
MEAGHER & FLOM LLP
1440 New York Ave. NW
Washington, DC 20005
202-371-7000
priderlo@skadden.com

Sarah Leitner
SKADDEN, ARPS, SLATE,
MEAGHER & FLOM LLP
One Manhattan West
New York, NY 10001

Counsel for Respondent Charles Brandon Martin

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