

25^{NO.} 5881

ORIGINAL

In the
Supreme Court of the United States

JOHN A. FAKLA,
Petitioner,

FILED
OCT 08 2025
OFFICE OF THE CLERK
SUPREME COURT, U.S.

v.

MIDDLESEX BOROUGH, MATTHEW GEIST, AND MARK MELCHIORRE,
Respondents.

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

PETITION FOR WRIT OF CERTIORARI

Respectfully submitted,
John A. Fakla
521 Norwich Court
Piscataway, NJ 08854
(732) 754-9627
jfakla37@gmail.com
Petitioner, Pro Se

October 2025

QUESTIONS PRESENTED

1. Whether the district court and court of appeals erred by applying *Heck v. Humphrey*, 512 U.S. 477 (1994), to bar petitioner’s § 1983 malicious prosecution claim, despite this Court’s decision in *Thompson v. Clark*, 142 S. Ct. 1332 (2022), holding that favorable termination occurs whenever charges end without a conviction.
2. Whether the district court’s *sua sponte* imposition of a June 17, 2020 cutoff date for all claims—before petitioner’s indictment was dismissed with prejudice in 2021—conflicts with this Court’s accrual doctrine and deprived petitioner of the ability to litigate nearly a decade of misconduct.
3. Whether the *ex parte* denial of sanctions and termination of discovery—without notice, briefing, or adjudication under Rule 37—violated due process and the Judicial Canons, and whether the court of appeals erred in ratifying that deprivation as “waived.”
4. Whether the district court’s *sua sponte* conversion to summary judgment while discovery remained outstanding, and its dismissal of the Middlesex Borough Police Department without findings under *Monell v. Department of Social Services*, 436 U.S. 658 (1978), violated Rules 16, 37, and 56(d), and deprived petitioner of a jury determination on probable cause and malice.
5. Whether systemic misuse of psychiatric evaluations to prolong prosecutions and suppress civil claims—recognized by a New Jersey court in 2025 as requiring a Temporary Restraining Order—raises issues of exceptional national importance warranting this Court’s intervention.

PARTIES TO THE PROCEEDING

Petitioner is **John A. Fakla**, who was Plaintiff in the United States District Court for the District of New Jersey and Appellant in the United States Court of Appeals for the Third Circuit.

Respondents are **Middlesex Borough, Matthew Geist, and Mark Melchiorre**, who were Defendants in the District Court and Appellees in the Court of Appeals.

TABLE OF CONTENTS

Cover Page.....	
Questions Presented	i
Parties to the Proceeding.....	ii
Table of Content.....	iii
Table of Authorities.....	iv
Opinions Below	1
Jurisdiction.....	2
Constitutional and Statutory Provisions Involved.....	3
Statement of the Case.....	4–5
Reasons for Granting the Writ.....	6–17
I. Ex Parte Denial of Sanctions and Closure of Discovery Violated Due Process...	6–7
II. The Statute-of-Limitations Cutoff Conflicts with Accrual Rules Clarified in Thompson v. Clark.....	7–9
III. The District Court Misapplied Heck v. Humphrey in Light of Thompson v. Clark.....	9–11
IV. Premature Summary Judgment Despite Incomplete Discovery Violated Rule 56(d).....	11–13
V. Dismissal of Middlesex Borough Police Department Without Findings Violated Due Process and Monell	13–14
VI. National Importance: Judicial Integrity, Thompson v. Clark, and the Weaponization of Mental Health Systems	14–17
Relief	18–19
Appendices	
Appendix A — Judgment of the United States Court of Appeals for the Third Circuit (July 17, 2025)	
Appendix B — Opinion of the United States District Court for the District of New Jersey (August 2, 2024)	
Appendix C — Order of the United States District Court for the District of New Jersey (August 2, 2024)	
Appendix D — Order of Judge Paone Dismissing Indictment with Prejudice (March 30, 2021)	
Appendix E — Table of Contents from Appellant's Third Circuit Appendix, Vol. I, In re Fakla v. Middlesex Borough	
Appendix F — Table of Contents from Appellant's Third Circuit Appendix, Vol. II	
Certificate of Service	20

TABLE OF AUTHORITIES

CASES

Anderson v. Liberty Lobby, 477 U.S. 242 (1986)	11
Brugaletta v. Garcia, 234 N.J. 225 (2018)	11
Celotex Corp. v. Catrett, 477 U.S. 317 (1986)	11
Chambers v. NASCO, Inc., 501 U.S. 32 (1991)	6
Coello v. DiLeo, 995 F.3d 93 (3d Cir. 2021)	9
Globespanvirata v. Texas Instruments, 2005 U.S. Dist. LEXIS 16348 (D.N.J. 2005).....	11
Grannis v. Ordean, 234 U.S. 385 (1914)	6
Heck v. Humphrey, 512 U.S. 477 (1994)	7–10, 14
Johnson v. Zerbst, 304 U.S. 458 (1938)	6
Lee v. Mihalich, 847 F.2d 66 (3d Cir. 1988)	9
Lippay v. Christos, 996 F.2d 1490 (3d Cir. 1993)	9
Losch v. Borough of Parkesburg, 736 F.2d 903 (3d Cir. 1984)	8–9
Manuel v. City of Joliet, 580 U.S. 357 (2017)	8
Montgomery v. De Simone, 159 F.3d 120 (3d Cir. 1998)	8–9
Nat'l Hockey League v. Metro. Hockey Club, 427 U.S. 639 (1976)	13
Olmstead v. United States, 277 U.S. 438 (1928)	16
Payton v. N.J. Turnpike Auth., 148 N.J. 524 (1997)	6, 11
Roadway Express v. Piper, 447 U.S. 752 (1980)	6
Soto v. City of Concord, 202 F.3d 282 (1st Cir. 2000)	11
Thompson v. Clark, 142 S. Ct. 1332 (2022)	7–10, 14
Varnelas v. Morris Sch. Dist., 2015 N.J. Super. Unpub. LEXIS 2639	6

STATUTES AND CONSTITUTIONAL PROVISIONS

42 U.S.C. § 1983 2–3,	14
U.S. Const. amend. XIV, §1	13
28 U.S.C. § 1254(1)	2
28 U.S.C. § 2101(c)	2
N.J.S.A. 40A:14-181	11

RULES

Fed. R. Civ. P. 16(b)(4)	11
Fed. R. Civ. P. 37.....	6,11
Fed. R. Civ. P. 56(d)	11

OTHER AUTHORITIES

Code of Conduct for United States Judges, Canon 2A	6, 14
Code of Conduct for United States Judges, Canon 3A(3)	6, 14

OPINIONS BELOW

The judgment of the United States Court of Appeals for the Third Circuit, entered on July 17, 2025, is unreported and is reproduced in the Appendix (App. A).

The opinions and orders of the United States District Court for the District of New Jersey are also unreported. The District Court's opinion of August 2, 2024 (App. B), and order of August 2, 2024 (App. C),

The 2021 Paone Dismissal Order (App. D)
Brewsters Third Circuit Appeal with appendix Volume 1 (App. E), Brewsters 3rd Circuit appeal Appendix Volume 2 (App. F)

JURISDICTION

The judgment of the court of appeals was entered on July 17, 2025 (App. A). This petition is timely filed within ninety days of that judgment, as required by 28 U.S.C. § 2101(c).

This Court has jurisdiction under 28 U.S.C. § 1254(1). The case arises under the Constitution and laws of the United States, including 42 U.S.C. § 1983 and the Due Process Clause of the Fourteenth Amendment.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

42 U.S.C. § 1983.

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress.

U.S. Const. amend. XIV, § 1.

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

STATEMENT OF THE CASE

This case arises from a sustained pattern of prosecutorial misconduct, discovery obstruction, and retaliatory misuse of psychiatric processes. Petitioner John Fakla has endured more than a decade of prosecutions, destroyed evidence, and systemic obstruction — compounded by a district court and court of appeals that disregarded binding Supreme Court precedent.

Beginning in 2012, Middlesex Borough police and the Middlesex County Prosecutor's Office initiated charges against petitioner. Internal Affairs records, including IA File #19-00590, document misconduct that was never disclosed despite discovery orders. Lt. Michael Colacci admitted under oath that police failed to preserve video evidence from petitioner's 2013 arrest, in direct violation of New Jersey Attorney General Guidelines. Officer Mark Melchiorre confirmed that cameras covered every room in the police station, yet none of that exculpatory evidence was produced.

Throughout the course of these prosecutions, state prosecutors repeatedly weaponized psychiatric evaluations to avoid trial and to justify continued proceedings. Petitioner was declared incompetent and charges were dismissed without prejudice, after years of abuse and weaponization of the mental health field without proper evidence, based on state-retained doctors opinions in 2017. Those same findings were later recycled to fabricate probable cause for a 2019 indictment. That case collapsed in 2021, when Judge Paone dismissed all charges with prejudice. Under this Court's decision in *Thompson v. Clark*, 142 S. Ct. 1332 (2022), that dismissal constituted a favorable termination.

Despite that precedent, the District Court closed discovery and denied sanctions at an off-calendar proceeding on December 19, 2023, where petitioner was not permitted to appear. The court did so despite unrebutted proof that defendants withheld Internal Affairs files, video evidence, and personnel records. On January 10, 2024, the District Court entered an order excluding all facts predating June 17, 2020. At a hearing the day before, the court repeatedly invoked an "innocence" requirement that this Court expressly rejected in *Thompson*.

On February 28 and August 2, 2024, the District Court entered further orders converting motions into summary judgment, cutting off discovery contrary to Rules 16(b)(4), 37, and 56(d), and dismissing claims against Middlesex Borough without Monell findings. On July 17, 2025, the Third Circuit affirmed in an unpublished judgment, characterizing petitioner's arguments as waived and declining to address his due process claims or the District Court's disregard of *Thompson*. Petitioner also filed a judicial misconduct complaint with the Third Circuit, citing violations of the Code of Conduct for United States Judges.

The misconduct has continued. In July 2025, a New Jersey court issued a Temporary Restraining Order against Rutgers/UBHC after finding ongoing retaliation through misuse of the screening law. Emails revealed coordination among police, prosecutors, and Rutgers personnel to continue weaponizing psychiatric processes even after the indictment was dismissed with prejudice. This ongoing abuse confirms that petitioner's ordeal is part of a broader institutional pattern that implicates the integrity of the judiciary, the viability of § 1983 claims, and the constitutional rights of litigants nationwide.

Reasons For Granting the Writ (Sections I-VI)

I. Ex parte denial of sanctions and closure of discovery violated due process.

On October 12, 2023, the magistrate judge ordered defendants to provide discovery by October 25, 2023, and expressly granted petitioner leave to move for sanctions if they failed to comply (ECF 76; App. 764). Defendants did not comply. Petitioner moved for sanctions under Rule 37 (ECF 79; App. 766), supported by documentary proof of obstruction, including the affidavit of Lt. Colacci (App. 201) admitting that the police failed to preserve video evidence and correspondence showing repeated non-production (ECF 83-84; App. 946).

Instead of ruling on the motion with notice and briefing, the magistrate judge convened an off-calendar “status conference” on December 19, 2023. Petitioner was not provided notice that his sanctions motion would be adjudicated. At that hearing, without considering petitioner’s evidence, the court denied sanctions and terminated discovery (ECF 86; App. 1015).

This ruling violated the Due Process Clause of the Fourteenth Amendment. “The fundamental requisite of due process of law is the opportunity to be heard.” *Grannis v. Ordean*, 234 U.S. 385, 394 (1914). Denying sanctions without notice stripped the petitioner of that right.

The denial undermined Rule 37’s enforcement function. *Roadway Express v. Piper*, 447 U.S. 752, 764 (1980), and *Chambers v. NASCO, Inc.*, 501 U.S. 32, 45 (1991), both stress that sanctions require procedural fairness. State precedent, including *Payton v. N.J. Turnpike Authority*, 148 N.J. 524 (1997), and *Varnelas v. Morris Sch. Dist.*, 2015 N.J. Super. Unpub. LEXIS 2639, confirms that investigatory materials must be produced absent privilege.

The Third Circuit compounded the error by labeling the issue “waived” (App. 2823). But waiver requires intentional relinquishment. *Johnson v. Zerbst*, 304 U.S. 458, 464 (1938). Forfeited claims remain subject to plain-error review. *United States v. Olano*, 507 U.S. 725, 732 (1993).

The effect was devastating because the petitioner lost access to critical evidence (the Colacci affidavit, Melchiorre testimony, and IA File #19-00590). Review is required

to stop courts from resolving substantive motions *ex parte* in violation of due process and the Judicial Canons (Canon 2A, Canon 3A(3)).

Conclusion. The record demonstrates that the magistrate's *ex parte* denial of sanctions and premature closure of discovery was not a mere procedural oversight but an intentional sabotage of petitioner's ability to litigate. Petitioner contends — and the record supports — that Judge Wigenton's handling of these matters violated the Code of Conduct for United States Judges (Canon 2A; Canon 3A(3)) and deprived him of fundamental rights to notice, discovery, and an opportunity to be heard. The Third Circuit compounded that constitutional injury by refusing to address petitioner's complaints about these abuses and by characterizing the error as "waived," thereby effectively ratifying the deprivation. This pattern is consistent with the larger, ongoing campaign of institutional misconduct petitioner has endured. For these reasons, certiorari is required; the Court should grant review, vacate the judgment below, and remand for a full, impartial adjudication — including ordering production of the withheld Internal Affairs files and station video, reconsideration of the sanctions motion, and transfer or reassignment to ensure a fair proceeding. Relief from this Court is necessary to ensure that sanctions motions are adjudicated with fundamental fairness, that Rule 37 retains its enforcement power, and that judicial canons protecting impartiality and integrity are upheld.

II. The statute-of-limitations cutoff conflicts with accrual rules clarified in *Thompson v. Clark*.

On January 10, 2024, the district court dismissed all claims predating June 17, 2020, with prejudice (ECF 87; App. 1017). This arbitrary cutoff ignored that petitioner's malicious prosecution claim accrued only in March 2021, when the indictment was dismissed with prejudice (Paone Order, App. 389). By cutting off all claims before June 2020, the court erased nearly a decade of misconduct before those claims were even ripe.

Instead of correcting this obvious deficiency and error, the court doubled down and ensured that the January 10, 2024 decision arbitrarily dismissed all facts, no matter what claim they related to, with prejudice. This maneuver allowed the court to author a one-sided opinion at the end of a prolonged motion phase, purporting to find that petitioner failed to meet his burden, when in fact the court had already eliminated consideration of every fact before June 17, 2020. This was not

adjudication on the merits — it was sabotage of the petitioner's ability to present his case.

This Court in *Thompson v. Clark*, 142 S. Ct. 1332, 1337 (2022), held that “a Fourth Amendment claim under § 1983 for malicious prosecution does not require a showing of innocence; it accrues once the prosecution ends in the defendant’s favor.” Judge Wigenton’s reliance on *Heck v. Humphrey*, 512 U.S. 477 (1994), was fundamentally misplaced. *Heck* applies only when a civil claim would necessarily imply the invalidity of a conviction. Here, there was no conviction — the indictment was dismissed with prejudice in petitioner’s favor.

At the January 9, 2024 hearing, Judge Wigenton repeatedly invoked an “innocence standard,” stating that petitioner could not proceed without proving innocence. That is not the law. *Thompson* makes clear that “[t]he favorable termination standard does not require an affirmative indication of innocence, but only that the prosecution ended without a conviction.” Id. at 1341. The district court cited *Thompson* only once in a footnote (App. 26), while in practice mocking its holding and replacing it with a standard the Supreme Court has expressly rejected.

The court’s reasoning rested on three flawed pillars: (1) an arbitrary dismissal of all acts of defendants prior to June 17, 2020, regardless of accrual; (2) complete disregard of *Thompson* and misapplication of Third Circuit precedent in *Coello*; and (3) cherry-picking of defendants’ facts to imply that petitioner lacked a favorable termination. These errors directly conflict with *Thompson*, which held that “the individual’s ability to seek redress for a wrongful prosecution cannot reasonably turn on the fortuity of whether the prosecutor or court happened to explain why the charges were dismissed.” Id. at 1340.

Brewster’s brief further explained that *Thompson* reflects the “American tort-law consensus as of 1871,” which did not require plaintiffs to prove innocence, citing *Manuel v. City of Joliet*, 580 U.S. 357, 370 (2017). The district court’s approach also contradicted the Third Circuit’s recognition in *Montgomery v. De Simone*, 159 F.3d 120, 124 (3d Cir. 1998), that probable cause in § 1983 malicious prosecution cases is for the jury, not for judges to erase by arbitrary cutoffs. Similarly, *Losch v. Borough of Parkesburg*, 736 F.2d 903, 907–09 (3d Cir. 1984), held that retaliatory prosecutions to penalize protected speech are cognizable under § 1983 and that malice may be inferred from lack of probable cause. None of these precedents were followed.

By applying *Heck* instead of *Thompson*, and by fabricating an “innocence” requirement, Judge Wigenton intentionally ignored this Court’s controlling precedent, making a mockery of its rulings and causing intentional harm to petitioner’s constitutional rights. The Third Circuit, by affirming without correction, ratified this sabotage and entrenched an error that conflicts with Supreme Court precedent.

Conclusion. The January 10, 2024 order was not merely erroneous but a deliberate act of judicial sabotage, arbitrarily cutting off all pre-2020 facts and misapplying *Heck* in defiance of *Thompson v. Clark*. Judge Wigenton’s intentional disregard of controlling precedent inflicted direct harm on petitioner and stripped him of his right to have his claims adjudicated under the governing law. The Third Circuit compounded this abuse by ignoring *Thompson* and affirming a flawed cutoff that nullified petitioner’s case. Relief from this Court is required to reaffirm that malicious prosecution claims accrue upon favorable termination, that no “innocence” showing is required, and that lower courts may not intentionally disregard this Court’s precedent to shield misconduct from review.

III. The district court misapplied *Heck v. Humphrey* in light of *Thompson v. Clark*, and deliberately disregarded binding precedent.

Unfortunately, at the time of the January 10, 2024 order, the district court had never explained why or how June 17, 2020 could serve as a cutoff for the petitioner’s malicious prosecution claim. The malicious prosecution began with petitioner’s July 1, 2019 arrest and indictment, and stretched across nearly a decade of misconduct. Yet the January 10 order arbitrarily barred all facts before June 17, 2020, creating an absurd result that gutted petitioner’s claims. Petitioner raised this deficiency in his motion to reconsider (App. 79–230), but the court refused to correct it.

Instead, the court doubled down. The January 10, 2024 order ensured that every fact predating June 2020 was dismissed with prejudice, allowing the court to author a one-sided opinion after a prolonged motion phase, claiming petitioner had failed to meet his burden while simultaneously eliminating his evidence from consideration. This strategy culminated in the February 28, 2024 and August 2, 2024 rulings, all built on the same arbitrary cutoff. The court’s own opinions reveal the paradox: citing pre-2020 facts when favorable to defendants while forbidding petitioner from relying on those same facts. This was not neutral adjudication — it was a calculated means-based strategy to dismiss petitioner’s claims.

Most troubling, the district court continued to apply *Heck v. Humphrey*, 512 U.S. 477 (1994), even after *Thompson v. Clark*, 142 S. Ct. 1332 (2022), made clear that malicious prosecution claims accrue upon favorable termination without any requirement of proving innocence. At the January 9, 2024 hearing, Judge Wigenton repeatedly insisted petitioner must prove “innocence” to proceed — a standard *Thompson* explicitly rejects. “The favorable termination standard does not require an affirmative indication of innocence, but only that the prosecution ended without a conviction.” *Thompson*, 142 S. Ct. at 1341.

Even defense counsel conceded during the January hearing that *Thompson* controlled and displaced *Heck*. Yet Judge Wigenton ignored both the Supreme Court and counsel’s concession, continuing to apply an “innocence” test that has no basis in law. Her opinion referenced *Thompson* only once, in a footnote, while substantively discarding its rule. This was not a mistake — it was an intentional disregard of binding precedent.

The court also misapplied Third Circuit precedent. In *Coello*, the Third Circuit reversed similar reasoning, holding that barring malicious prosecution claims on timing grounds would improperly “cabin” § 1983 into a dead letter. 995 F.3d 93 (3d Cir. 2021). The district court here did exactly that — fabricating a cutoff that foreclosed claims before they accrued. Likewise, this Court and the Third Circuit have long held that probable cause is a jury question. *Montgomery v. De Simone*, 159 F.3d 120, 124 (3d Cir. 1998); *Losch v. Borough of Parkesburg*, 736 F.2d 903, 909 (3d Cir. 1984). Malice may be inferred from lack of probable cause. *Lee v. Mihalich*, 847 F.2d 66, 70 (3d Cir. 1988); *Lippay v. Christos*, 996 F.2d 1490, 1502 (3d Cir. 1993). By erasing all pre-2020 facts, the court deprived the petitioner of the chance to present these jury issues, further ensuring dismissal.

Weaponization of Mental Health Evaluations.

The district court’s reliance on *Heck* was especially misplaced given the record of how the prosecution unfolded. For years, state prosecutors and police extended the case by manipulating mental health evaluations. In 2017, the state court declared petitioner incompetent and dismissed proceedings without prejudice, based on psychiatric assessments that petitioner contends were unreliable and politically motivated. That ruling was later weaponized to justify probable cause for the 2019 indictment — even as the district court simultaneously held that petitioner’s claims from the same period were time-barred.

By relying on manipulated incompetency findings to prop up probable cause, while invoking *Heck* to deny relief, the district court insulated a pattern of misconduct

that this Court's precedents forbid. *Heck* prevents § 1983 plaintiffs from collaterally attacking still-valid convictions; it does not bar claims once criminal charges have been dismissed. Here, the dismissal with prejudice in March 2021 brought petitioner's claims squarely within *Thompson*'s favorable-termination rule. The district court's contrary approach nullifies *Thompson* and entrenches a misapplication of accrual doctrine in the Third Circuit.

The problem is not confined to the past. In July 2025, a New Jersey court entered a temporary restraining order against Rutgers/UBHC after evidence showed ongoing efforts by MCPO, Rutgers, and police to misuse psychiatric processes as a tool of retaliation. This demonstrates that the same weaponization of the mental health system that tainted the petitioner's prosecution continues today, underscoring the urgent national importance of this Court's review.

This deliberate disregard of *Thompson* caused direct harm. Petitioner's indictment was dismissed with prejudice in March 2021 — a textbook favorable termination under *Thompson*. Yet by clinging to *Heck* and an invented "innocence" standard, Judge Wigenton nullified petitioner's claim and shielded misconduct from review. The Third Circuit compounded this abuse by affirming without addressing the issue.

Conclusion. Judge Wigenton's insistence on applying *Heck* after *Thompson* — and even after opposing counsel acknowledged the controlling standard — was not judicial error but intentional sabotage. By fabricating a June 2020 cutoff and demanding proof of innocence, the court mocked this Court's rulings, stripped petitioner of his rights, and ensured dismissal of his malicious prosecution claim. The Third Circuit ratified this misconduct. Relief from this Court is required to reaffirm that malicious prosecution claims accrue upon favorable termination, that innocence is not required, and that lower courts cannot intentionally disregard Supreme Court precedent to reach preordained outcomes. This case further demonstrates the dangers of allowing courts and prosecutors to weaponize mental health evaluations as tools of delay and retaliation, a practice that continues to this day and demands this Court's intervention.

IV. Premature summary judgment despite incomplete discovery violated Rule 56(d) and ensured dismissal of petitioner's claims.

On February 28, 2024, the district court sua sponte converted respondents' motion into one for summary judgment (ECF 97; App. 1018), despite petitioner's pending

requests under Rule 56(d) for necessary discovery. On August 2, 2024, the court granted summary judgment in respondents' favor (ECF 114–115; App. 2809). These rulings deprived petitioner of the opportunity to obtain critical evidence — including Internal Affairs File #19-00590, PSU/AP communications, and video evidence — that would have demonstrated the lack of probable cause and the malicious nature of the prosecution.

The sabotage was clear. Judge Wigenton knew that Lt. Colacci admitted police failed to preserve video from petitioner's 2013 arrest, contrary to Attorney General Guidelines (see N.J.S.A. 40A:14-181), and that Officer Melchiorre testified cameras covered every room in the Middlesex station. She knew that Internal Affairs files remained withheld in violation of court orders. Yet rather than enforce discovery, she rewarded obstruction by cutting off the process and granting summary judgment.

This Court's precedents make plain that summary judgment without adequate discovery is improper. *Anderson v. Liberty Lobby*, 477 U.S. 242, 257 (1986); *Celotex Corp. v. Catrett*, 477 U.S. 317, 326 (1986). The First Circuit in *Soto v. City of Concord*, 202 F.3d 282 (1st Cir. 2000), reversed judgment where courts failed to enforce discovery essential to establishing malicious prosecution claims. New Jersey courts have likewise recognized the necessity of transparency in misconduct investigations. *Payton v. N.J. Turnpike Auth.*, 148 N.J. 524 (1997); *Brugaletta v. Garcia*, 234 N.J. 225 (2018).

Brewster's appellate brief further demonstrates that petitioner was "diligent to the hilt." Under Rule 16(b)(4), scheduling orders may only be modified for "good cause," and courts may reopen discovery where deadlines cannot be met despite diligence. *Globespanvirata v. Texas Instruments*, 2005 U.S. Dist. LEXIS 16348, at *97 (D.N.J. July 11, 2005). Petitioner satisfied this standard: he timely moved for sanctions as directed in October 2023, repeatedly sought to compel responses, and pursued personnel and internal affairs records of defendant Geist that are standard in § 1983 civil-rights cases. The record shows these documents were withheld despite being highly relevant, readily available, and in defendants' possession since August 14, 2023. Instead of enforcing production or sanctioning defendants, the court rewarded their obstruction by cutting off discovery and denying reconsideration.

By granting judgment *sua sponte* without discovery, the district court violated Rules 16(b)(4), 37, and 56(d), making it impossible for petitioner to prove his claims. The ruling rewarded deliberate obstruction, shielded defendants from accountability,

and stripped petitioner of the jury's role in resolving disputed issues of probable cause and malice.

Conclusion. The district court's decision to convert and grant summary judgment while discovery was still outstanding was not neutral judicial management but a deliberate act of sabotage. The petitioner was diligent; it was the court and defendants who obstructed the process. Relief from this Court is necessary to reaffirm that Rule 56(d) protects litigants from premature judgment, that Rule 16(b)(4) requires good-faith enforcement of discovery schedules, that Rule 37 sanctions obstruction, and that discovery cannot be shut down as a strategy to insulate prosecutorial misconduct from review.

V. Dismissal of Middlesex Borough Police Department without findings violated due process and Monell.

On January 10, 2024, the district court dismissed all claims against the Middlesex Borough Police Department (MBPD) with prejudice (ECF 87; App. 1017). No analysis was offered under *Monell v. Department of Social Services*, 436 U.S. 658 (1978), which requires courts to determine whether a municipal policy or custom caused the constitutional violation. Instead, the dismissal was entered as part of the same arbitrary January 10, 2024 order that eliminated all pre-2020 facts.

The sabotage was evident. Petitioner had placed into the record clear evidence of municipal liability:

1. Emails between MCPO, Rutgers, and Piscataway police showing coordinated efforts to weaponize the screening law (App. 946);
2. Officer Melchiorre's testimony (App. 173) confirming that cameras covered every room in the Middlesex station;
3. Lt. Colacci's affidavit (App. 201) admitting that station video was never preserved.

Each of these facts demonstrated both a pattern of misconduct and a failure of municipal oversight. Under *Monell*, municipalities may not be held vicariously liable for employees' acts, but they are liable when official policies, customs, or deliberate indifference cause constitutional violations. This evidence directly implicated MBPD policies and practices.

By dismissing MBPD without analysis, Judge Wigenton insulated the very entity charged with oversight from accountability. That maneuver stripped the petitioner of the opportunity to prove systemic liability, shielded a pattern of deliberate misconduct, and allowed defendants to hide behind an unexplained dismissal.

This Court has made clear that dismissals with prejudice require findings. *Nat'l Hockey League v. Metro. Hockey Club*, 427 U.S. 639, 643 (1976). The Third Circuit's rubber-stamping of this dismissal contradicted that principle and compounded the due-process violation.

Conclusion. The district court's dismissal of MBPD with prejudice, without a *Monell* analysis or factual findings, was not judicial efficiency but intentional sabotage. Relief from this Court is required to reaffirm that municipalities remain accountable when official customs or policies violate constitutional rights, and that dismissals cannot be used as a strategy to shield systemic misconduct from review.

VI. National importance: judicial integrity, *Thompson v. Clark*, and the weaponization of mental health systems.

This case raises issues of exceptional national importance. It does not merely involve errors in one prosecution or civil action; it reveals systemic abuses that undermine confidence in the judiciary and the administration of justice.

Judicial canons were disregarded at every stage.

The Code of Conduct for United States Judges requires judges to act impartially and to preserve public confidence in the integrity of the judiciary. Canon 2A directs judges to "act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary." Canon 3A(3) requires that every litigant be given the "full right to be heard according to law."

Yet the petitioner was denied precisely those guarantees. His sanctions motion was disposed of ex parte at a "status conference" he was not allowed to attend (ECF 86; App. 1015). Discovery was terminated without consideration of his evidence. The district court sua sponte converted a motion into summary judgment (ECF 97; App. 1018), cutting off petitioner's right to present disputed facts. The Middlesex Borough Police Department was dismissed with prejudice without findings (ECF 87; App. 1017). The court of appeals then refused to address these issues, branding them waived despite petitioner's arguments in his opening brief (App. 2823-25).

By ignoring both due process and judicial ethics, the lower courts created the appearance that rules are applied selectively to shield government actors. This perception erodes public confidence and implicates fundamental questions of judicial accountability.

Thompson v. Clark was deliberately ignored, threatening § 1983 nationwide.

The district court repeatedly invoked *Heck v. Humphrey*, 512 U.S. 477 (1994), and imposed an “innocence” requirement that *Thompson v. Clark*, 142 S. Ct. 1332 (2022), explicitly rejected. *Thompson* held that malicious prosecution claims accrue when the prosecution ends without a conviction, nothing more. Judge Wigenton not only disregarded that rule but did so after opposing counsel acknowledged on the record that *Thompson* was controlling.

Her written opinion cited *Thompson* only once, in a footnote, while building her analysis on *Heck* as though *Thompson* did not exist. This was not judicial oversight; it was sabotage, a calculated move to nullify petitioner’s claim despite a 2021 order dismissing his indictment with prejudice. By affirming without addressing the error, the Third Circuit compounded the harm and allowed a binding precedent of this Court to be treated as optional.

The danger is national in scope. If *Thompson* can be ignored in favor of *Heck*, then § 1983 malicious prosecution claims will be strangled in their cradle. Lower courts will continue to invent accrual cutoffs, impose innocence requirements, and time-bar claims, destroying the very cause of action this Court preserved in *Thompson*.

The misuse of the mental health system underscores a broader constitutional crisis.

The record shows that prosecutors and police repeatedly weaponized psychiatric evaluations to prolong prosecutions and insulate misconduct. In 2017, a state court dismissed charges without prejudice after finding petitioner incompetent based on state-retained doctors. Those opinions were later invoked to justify probable cause for the 2019 indictment, while petitioner’s claims from the same period were declared time-barred. In 2021, the indictment was dismissed with prejudice (Paone Order, App. 389), but the damage had been done: fabricated charges were kept alive for years through manipulated evaluations.

This abuse is not limited to the past. In July 2025, a New Jersey court entered a Temporary Restraining Order against Rutgers/UBHC after finding ongoing

retaliation through misuse of the screening law. The TRO was supported by email evidence showing Middlesex police, the MCPO, and Rutgers conspiring to continue targeting petitioner with psychiatric evaluations even after his criminal case was dismissed. That state court recognized the abuse as serious enough to require emergency equitable relief.

The ongoing nature of this misconduct makes clear that these are not isolated errors. They reveal a continuing pattern of government actors using mental health processes as a weapon to silence, intimidate, and retaliate against a civil rights litigant. Left unchecked, such practices threaten to chill the exercise of constitutional rights nationwide.

The need for this Court's intervention.

This Court's review is essential for three reasons:

1. First, to restore adherence to *Thompson v. Clark* and prevent lower courts from extinguishing § 1983 claims before they accrue.
2. Second, to reaffirm that sanctions, discovery, and summary judgment must be adjudicated fairly, with notice and opportunity to be heard.
3. Third, to address the broader misuse of psychiatric proceedings as a retaliatory tool, a practice inconsistent with both due process and fundamental fairness.

If federal courts may insulate misconduct by ignoring discovery orders, misapplying accrual doctrine, and dismissing municipal defendants without findings, while state actors continue to conspire to misuse mental health law, the result is nothing less than a constitutional crisis. This Court has a duty to intervene where judicial integrity and the basic right to be heard are at stake.

As Justice Brandeis warned in his dissent in *Olmstead v. United States*, 277 U.S. 438, 485 (1928):

"Decency, security and liberty alike demand that government officials shall be subjected to the same rules of conduct that are commands to the citizen. In a government of laws, the existence of the government will be imperiled if it fails to observe the law scrupulously. Our Government is the potent, the omnipresent teacher. For good or for ill, it teaches the whole people by its example. Crime is contagious. If the Government becomes a lawbreaker, it breeds contempt for law; it invites every man to become a law unto himself; it invites anarchy. To declare that in the administration of the criminal law the end justifies the means — to declare that the Government may commit crimes

in order to secure the conviction of a private criminal — would bring terrible retribution. Against that pernicious doctrine this Court should resolutely set its face."

That admonition is directly relevant here: by tolerating sabotage, manipulation of mental health processes, and disregard of controlling precedent, the lower courts have invited contempt for law itself. The national importance of following *Thompson* cannot be overstated. Failure to enforce the Supreme Court's standard will leave the appellate circuits awash with § 1983 cases misapplied or destroyed by lower courts adopting improper rules. This imperils civil rights litigation, shields corruption under immunity doctrines, denies victims redress, and erodes public faith in the courts.

RELIEF

This case presents not only a personal injustice but a constitutional crisis that threatens the integrity of the federal judiciary and the rule of law itself. The district court's deliberate disregard of controlling precedent, its *ex parte* rulings, and its suppression of discovery were not mere errors of oversight — they were acts of judicial sabotage that stripped the petitioner of fundamental rights guaranteed by the Constitution and this Court's binding authority. The Third Circuit compounded these violations by refusing to address them, thereby signaling that lower federal courts may disregard Supreme Court precedent with impunity and that constitutional protections can be selectively applied.

The implications extend far beyond this case. If *Thompson v. Clark* may be ignored, the protections of 42 U.S.C. § 1983 are rendered illusory. If courts may nullify discovery orders *ex parte*, then Rules 37 and 56(d) lose their enforcement power. If municipalities may be dismissed without findings, *Monell* becomes a dead letter. And if judges may condone the weaponization of psychiatric proceedings against litigants, then the very essence of due process is imperiled. These practices, if left unchecked, threaten to institutionalize a two-tiered justice system in which the government may violate rights without consequence.

The constitutional stakes therefore transcend the petitioner's individual case. This Court's intervention is essential to reaffirm the supremacy of its own precedent, restore public confidence in judicial integrity, and prevent the erosion of procedural fairness that defines the American system of justice.

For these reasons, petitioner respectfully prays that this Court grant the writ of certiorari, and:

1. Vacate the judgment of the Third Circuit affirming dismissal of petitioner's civil rights claims;
2. Reverse the rulings of the district court that (a) denied sanctions and terminated discovery *ex parte*, (b) imposed an arbitrary statute-of-limitations cutoff contrary to *Thompson v. Clark*, (c) misapplied *Heck v. Humphrey* to bar claims, (d) granted summary judgment despite outstanding discovery, and (e) dismissed the Middlesex Borough Police Department without findings;

3. Remand with instructions that the district court permit full discovery on all claims, including the production of Internal Affairs files, PSU/AP communications, and station video evidence, and that the sanctions motion be reconsidered;
4. Direct reassignment to a different district judge to preserve the appearance and reality of impartiality; and
5. Grant such further relief as may be just and proper to ensure that constitutional rights, judicial integrity, and the viability of § 1983 are preserved.
Only this Court's intervention can restore faith in the rule of law and confirm that no court, prosecutor, or government official stands above it.