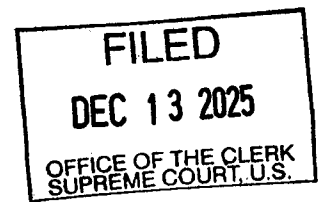


No. 25-7082



IN THE  
SUPREME COURT OF THE UNITED STATES

DEVON JMAHL TUCKER,  
Petitioner,

v.

UNITED STATES OF AMERICA,  
Respondent.

On Petition for a Writ of Certiorari  
to the District of Columbia Court of Appeals

**PETITION FOR WRIT OF CERTIORARI**

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## **PETITION FOR WRIT OF CERTIORARI**

### **QUESTIONS PRESENTED**

1. Whether the Due Process Clause is violated when a criminal defendant is impeached with selected portions of a body-worn-camera recording that he has never personally viewed, and whether the Rule of Completeness and the right to present a complete defense require that he be allowed to review or introduce the full recording where credibility is the sole determinant of guilt or innocence.
2. Whether the District of Columbia Court of Appeals violated the Fourteenth Amendment's guarantee of due process when it affirmed petitioner's conviction based on a factual assumption directly contradicted by the record—namely, that petitioner viewed the body-worn-camera video before trial.

### **PARTIES TO THE PROCEEDING**

Petitioner is DeVon Jmahl Tucker, who was the defendant in the Superior Court for the District of Columbia and the appellant in the District of Columbia Court of Appeals.

Respondent is the United States of America, which prosecuted the case in the District of Columbia and appeared as appellee in the court below.

No corporate disclosure statement is required under Supreme Court Rule 29.6.

### **RELATED CASES**

Superior Court of the District of Columbia  
*United States v. Tucker*, No. 2022 CF2 005158.  
Judgment of conviction entered July 1, 2022.

District of Columbia Court of Appeals  
*United States v. Tucker*, No. 22-CM-0482.  
Judgment affirmed July 8, 2025.  
Order denying rehearing entered September 15, 2025.  
Mandate issued September 24, 2025.

## TABLE OF CONTENTS (FOOTER PAGE NUMBERS)

Opinions Below .....	1
Jurisdiction .....	1
Constitutional and Statutory Provisions Involved .....	1
Statement of the Case .....	2
A. Background .....	2
B. Use of Body-Worn Camera Footage to Impeach .....	3
C. Trial Court Conviction .....	4
D. Direct Appeal .....	5
E. Petition for Rehearing .....	5
F. Post-Conviction Proceedings Under D.C. Code § 23-110 .....	5
G. Continued Collateral Consequences .....	6
Reasons for Granting the Writ .....	6
A. Introductory Summary .....	6
B. The Decision Conflicts With Supreme Court Precedent on Due Process ....	7
C. The Decision Conflicts With the Right to Present a Complete Defense ....	8
D. The Trial Court Violated the Rule of Completeness .....	10
E. Appellate Reliance on False Facts Violates Due Process .....	11
F. Structural Error: Impeaching a Defendant With Evidence He Never Saw ....	13
G. National Importance: Body-Worn Camera Evidence Requires Constitutional Guidance ....	15
H. Conflict With Other Jurisdictions on a Defendant's Right to Personally Review Impeachment Evidence ....	16
I. Ineffective Assistance of Counsel (Supporting Constitutional Issue) ....	17
J. This Case Is an Ideal Vehicle .....	18
Conclusion .....	20
Proof of Service .....	21
Certificate of Compliance (Rule 33.2) .....	22

## INDEX TO APPENDICES

- Appendix A — Memorandum Opinion and Judgment of the District of Columbia Court of Appeals (July 8, 2025) ..... A1–A6
- Appendix B — Order of the District of Columbia Court of Appeals Denying Rehearing (September 15, 2025) ..... A7–A8
- Appendix C — Docket Entry Reflecting Issuance of Mandate (September 24, 2025) ..... A9–A10
- Appendix D — Relevant Transcript Excerpts ..... A11–A16
- Appendix E — Relevant Constitutional Provisions ..... A17
- Appendix F — Relevant Statutory and Evidentiary Provisions ..... A18–A19
- Appendix G** — Motion for Post-Conviction Relief Under D.C. Code § 23-110 (Superior Court) ..... A20–A33

## TABLE OF AUTHORITIES

### Cases

Arizona v. Fulminante, 499 U.S. 279 (1991) .....	13
Bagley, United States v., 473 U.S. 667 (1985) .....	7
Bailey, United States v., 327 F.3d 1131 (10th Cir. 2003) .....	16, 17
Chambers v. Mississippi, 410 U.S. 284 (1973) .....	7
Chapman v. California, 386 U.S. 18 (1967) .....	14
Crane v. Kentucky, 476 U.S. 683 (1986) .....	8, 9
Giglio v. United States, 405 U.S. 150 (1972) .....	7
Holmes v. South Carolina, 547 U.S. 319 (2006) .....	9
Kyles v. Whitley, 514 U.S. 419 (1995) .....	14
Miller v. Pate, 386 U.S. 1 (1967) .....	10
Old Chief v. United States, 519 U.S. 172 (1997) .....	10
Rock v. Arkansas, 483 U.S. 44 (1987) .....	8, 9
Smith v. Cain, 565 U.S. 73 (2012) .....	8, 14
Soto-Beniquez, United States v., 356 F.3d 1 (1st Cir. 2004) .....	16
Strickland v. Washington, 466 U.S. 668 (1984) .....	5, 18
Strickler v. Greene, 527 U.S. 263 (1999) .....	7
Townsend v. Sain, 372 U.S. 293 (1963) .....	11
Washington v. Texas, 388 U.S. 14 (1967) .....	9
Weaver v. Massachusetts, 582 U.S. 286 (2017) .....	13
Yates v. Aiken, 484 U.S. 211 (1988) .....	11, 12

## CONSTITUTIONAL PROVISIONS AND STATUTES

U.S. Const. amend. V .....	2
U.S. Const. amend. VI .....	2
U.S. Const. amend. XIV .....	2
28 U.S.C. § 1257(a) .....	1
28 U.S.C. § 2101(c) .....	1
D.C. Code § 23-110 .....	2, 5, 6,

## RULES

Supreme Court Rule 10 .....	7
Supreme Court Rule 13 .....	1
Supreme Court Rule 29 .....	21
Supreme Court Rule 33.2 .....	22
Federal Rule of Evidence 106 .....	10

**IN THE  
SUPREME COURT OF THE UNITED STATES  
PETITION FOR WRIT OF CERTIORARI**

**Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.**

**OPINIONS BELOW**

The opinion of the District of Columbia Court of Appeals affirming petitioner's conviction was issued on July 8, 2025, and is reproduced in Appendix A. The order of the District of Columbia Court of Appeals denying rehearing was issued on September 15, 2025, and is reproduced in Appendix B. The mandate issued on September 24, 2025, and is reproduced in Appendix C.

**JURISDICTION**

The judgment of the District of Columbia Court of Appeals was entered on July 8, 2025. The court denied petitioner's timely request for panel rehearing and rehearing en banc on September 15, 2025. This petition is therefore filed within the ninety-day period prescribed by 28 U.S.C. § 2101(c) and Supreme Court Rule 13.1.

This Court has jurisdiction under 28 U.S.C. § 1257(a), which authorizes review of "[f]inal judgments or decrees rendered by the highest court of a State or of the District of Columbia" where a federal right is specially set up or claimed. The District of Columbia Court of Appeals is the functional equivalent of a state court of last resort for purposes of § 1257.

Jurisdiction is therefore proper.

**CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED**

The following constitutional and statutory provisions are involved in this case and are reproduced in full in the Appendix:

1. U.S. Const. amend. V — Due Process Clause
2. U.S. Const. amend. VI — Right to counsel; right to compulsory process; right to present a defense; right to testify
3. U.S. Const. amend. XIV, § 1 — Due Process Clause
4. Federal Rule of Evidence 106 (Rule of Completeness) and its common-law analogue as applied in the District of Columbia
5. D.C. Code § 23-110 — Post-conviction remedy for ineffective assistance of counsel

## **STATEMENT OF THE CASE**

### **A. Background**

Petitioner DeVon Jmahl Tucker was charged in the Superior Court of the District of Columbia with one count of simple assault arising from a domestic dispute. Petitioner was the individual who called the police during the incident, seeking assistance and reporting his account to law enforcement.

The Metropolitan Police Department created body-worn-camera (BWC) footage documenting petitioner's interaction with officers. The case proceeded to a bench trial before Judge Anderson nearly a year after the incident. Because of the passage of time, petitioner asked trial counsel on multiple occasions to review the BWC recording to refresh his recollection and prepare his testimony. Trial counsel never provided him access to the video.

As a result, petitioner took the stand without ever having personally viewed the recording of his own statements to law enforcement.

## **B. Use of Body-Worn Camera Footage to Impeach**

During cross-examination, the prosecution questioned petitioner about whether he had made specific statements to police on the night of the incident, including statements petitioner did not initially recall making. When petitioner expressed uncertainty about whether he had made those statements, the prosecution introduced selected excerpts of a body-worn camera (“BWC”) recording to impeach his testimony. Petitioner had not viewed the recording prior to that moment. (Tr. 134.) (see App. D at A11)

As reflected in the transcript, petitioner explained that he had not previously seen the BWC footage and therefore could not accurately assess whether the government’s characterizations of his prior statements were complete or accurate without viewing the recording. Petitioner did not personally request that the entire video be played; rather, trial counsel invoked the Rule of Completeness and requested that additional portions of the recording be shown to provide context for the excerpts used for impeachment.

(Tr. 145–148.) (see App. D at A12–A15)

The trial court denied that request and permitted the government to proceed using only selected fragments of the recording. The prosecution maintained that it had no obligation to present the full recording or earlier portions of the interaction. As a result, petitioner was impeached with isolated excerpts of a video he had never seen prior to cross-examination and was not permitted to view in full during trial.

On redirect examination, petitioner testified under oath that the trial proceedings marked the first time he had ever seen the BWC footage, a statement that was not disputed by counsel.

(Tr. 188.) (see App. D at A16)

### **C. Trial Court Conviction**

During redirect, petitioner testified: "This is the first time I have ever seen the video." Counsel did not dispute that fact.

Although the court later allowed the defense to play a limited additional segment of the recording, the court refused to allow the entire video to be shown in a single, continuous presentation. The factfinder therefore never received the full context of petitioner's statements.

The government introduced a series of photographs depicting the complainant, but those images did not establish any fact independent of her testimony. Their significance depended entirely on whether the court credited her version of events. The case remained a pure credibility contest.

The judge convicted petitioner, repeatedly citing inconsistencies highlighted through the government's selective presentation of the BWC footage. There was no physical, forensic, or independent corroborating evidence. The outcome turned exclusively on whose account the court believed. Petitioner was sentenced to probation.

In subsequent post-conviction proceedings in a separate but closely related matter, the Superior Court itself expressly recognized that petitioner was impeached using "selective portions" of body-worn-camera footage, that he had "not viewed the recording before trial," and that the impeachment inconsistencies arose from petitioner's lack of access to the full recording. These judicial findings confirm the accuracy of the trial record in this case: petitioner was impeached with video he had never seen, and the inconsistencies the trial court relied upon were a direct product of that deprivation.

#### **D. Direct Appeal**

On direct appeal, petitioner argued that he had been impeached with evidence he had never personally viewed and that the trial court violated the Rule of Completeness by refusing to permit him to introduce the full BWC recording.

The District of Columbia Court of Appeals rejected petitioner's due process claim, stating that petitioner "received a copy of the BWC video before trial." That factual assertion is contradicted by the trial record. Petitioner testified under oath that trial was the first time he had ever seen the body-worn camera footage, and the record contains no finding or evidence that petitioner personally reviewed or had access to the recording prior to impeachment. Despite this unrebutted testimony, the court affirmed the conviction.

#### **E. Petition for Rehearing**

Petitioner filed a timely petition for panel rehearing and rehearing en banc, alerting the court to the factual error in its opinion. On September 15, 2025, the court denied rehearing in a one-sentence order without explanation.

#### **F. Post-Conviction Proceedings Under D.C. Code § 23-110**

Petitioner sought post-conviction relief, arguing that trial counsel rendered ineffective assistance by failing to show him the BWC recording before trial and failing to prepare him for impeachment based on statements captured in that recording (App. G at A21-A22).

The Superior Court denied relief. It declined to analyze *Strickland's* first prong (deficient performance), applied an incorrect legal standard to the prejudice inquiry, and denied an evidentiary hearing despite the fact that petitioner's claim rested on matters outside the trial record

(App. G at A21-A22). The court also minimized the impact of the impeachment inconsistencies, though the trial judge had expressly relied on them.

### **G. Continued Collateral Consequences**

Petitioner has completed his sentence but continues to face significant collateral consequences. The conviction affects ongoing parental-rights proceedings and is being used by the government in a separate pending criminal matter. Under District of Columbia law, petitioner remains “in custody” for purposes of § 23-110.

## **REASONS FOR GRANTING THE WRIT**

### **A. Introductory Summary**

This petition arises at the intersection of two things this Court has repeatedly emphasized: the centrality of credibility in criminal trials and the explosive growth of digital police video. In a pure credibility case, the government impeached petitioner with selectively edited body-worn-camera clips he had never personally seen, while the courts below treated counsel’s constructive access as “good enough” and then affirmed on a factual premise directly contradicted by the record. The constitutional injury was compounded on appeal, where the conviction was affirmed on a factual premise the record affirmatively disproves.

This case presents a recurring and unresolved constitutional question in the modern era of body-worn-camera evidence, exposes a direct conflict with this Court’s due-process and Sixth Amendment precedents, creates an interjurisdictional split concerning the defendant’s right to personally review impeachment evidence, and offers an exceptionally clean vehicle for resolving these issues.

In denying post-conviction relief, the Superior Court of the District of Columbia accepted that petitioner had not personally reviewed the body-worn-camera recording before trial and analyzed the impeachment issues on that premise, without disputing petitioner's lack of prior access to the video. This acknowledgment by the trial court underscores the due-process violation: the State impeached petitioner with evidence he could not meaningfully confront, and the factfinder relied on the resulting inconsistencies to determine guilt in a credibility-only proceeding.

This petition satisfies Supreme Court Rule 10. First, the decision below conflicts with this Court's precedents governing due process, impeachment fairness, the right to present a complete defense, and ineffective assistance of counsel. See Rule 10(c). Second, the decision conflicts with the approaches of other courts that require a defendant to personally review impeachment evidence before trial. See Rule 10(a). Third, the case raises an important and recurring constitutional question arising from the widespread use of digital video evidence—whether a defendant may be impeached with body-worn-camera footage he has never personally viewed—which this Court has not yet addressed. See Rule 10(c).

#### **B. The Decision Conflicts With Supreme Court Precedent on Due Process**

Due process requires that a criminal defendant be given a meaningful opportunity to defend against the State's accusations. *Chambers v. Mississippi*, 410 U.S. 284, 294 (1973). Impeaching a defendant with evidence he has never personally viewed—and denying him the opportunity to introduce the full context of that evidence—violates that fundamental guarantee.

This Court has repeatedly held that defendants must have meaningful access to evidence necessary to confront and respond to the prosecution's case. *Strickler v. Greene*, 527 U.S. 263, 280–81 (1999); *United States v. Bagley*, 473 U.S. 667 (1985); *Giglio v. United States*, 405 U.S. 150 (1972).

Here, petitioner repeatedly requested to review the body-worn-camera recording before trial; trial counsel never showed it to him; and petitioner was impeached with selective clips of that recording during cross-examination.

This Court has also recognized that where guilt turns on credibility alone, impeachment evidence takes on heightened constitutional significance. *Smith v. Cain*, 565 U.S. 73, 76–77 (2012). The trial here was a pure credibility contest, yet petitioner was deprived of the ability to review, explain, or contextualize the statements attributed to him. The trial court’s refusal to permit petitioner to introduce the full BWC recording compounded the due-process violation.

Counsel’s possession of the recording is not a constitutional substitute for the defendant’s own meaningful access to the evidence used to convict him. See *Rock v. Arkansas*, 483 U.S. 44, 52 (1987) (the right to testify includes the right to testify “meaningfully”). A defendant cannot meaningfully testify—or defend himself—against evidence he has never personally seen. If due process permits impeachment by unseen video in a credibility-only bench trial, then the constitutional promise of “a fair opportunity to defend against the State’s accusations” becomes illusory for detained, indigent, and court-appointed defendants across the country.

The decision below conflicts sharply with this Court’s longstanding due-process jurisprudence and warrants this Court’s review.

### **C. The Decision Conflicts With the Right to Present a Complete Defense**

The Constitution guarantees a criminal defendant “a meaningful opportunity to present a complete defense.” *Crane v. Kentucky*, 476 U.S. 683, 690 (1986). That right includes not only the ability to testify, but the ability to testify in an informed and coherent manner—with knowledge of the evidence the State will use to challenge credibility.

This Court has held that a defendant must be permitted to explain the circumstances and context of his own statements. *Crane*, 476 U.S. at 690–91. And the right to testify is not satisfied by mere physical presence on the stand; it guarantees the ability to provide meaningful, accurate, and contextually grounded testimony. *Rock v. Arkansas*, 483 U.S. 44, 52 (1987).

The Superior Court later confirmed that petitioner’s inability to view the recording prevented him from contextualizing his statements and that the impeachment inconsistencies resulted from selective use of the footage. This accepted premise aligns squarely with the constitutional problem identified here: a defendant cannot present a complete defense when he is denied personal access to the very evidence used to impeach him.

Petitioner could not exercise those rights. Nearly a year after the incident, petitioner testified from memory alone, without ever having seen the recording used to impeach him. When the prosecution introduced selective excerpts of the body-worn-camera footage, petitioner was unable to explain or contextualize the statements captured on the recording because he had never been allowed to personally review it. The trial court then refused his request to introduce the full recording, denying him the opportunity to present the complete context the selective excerpts distorted.

This Court has repeatedly disapproved of evidentiary limitations that prevent a defendant from offering “competent, reliable evidence bearing on his credibility.” *Holmes v. South Carolina*, 547 U.S. 319, 324 (2006); see also *Washington v. Texas*, 388 U.S. 14, 19 (1967) (“The right to offer the testimony of witnesses...is in plain terms the right to present a defense.”).

The ruling below sharply departs from these principles. By allowing the prosecution to impeach petitioner with video he had never personally viewed, and by prohibiting him from introducing the full recording to rebut that impeachment, the lower courts effectively stripped petitioner of the

ability to present a constitutionally adequate defense. Where, as here, a conviction turned entirely on credibility, that deprivation is particularly acute.

This direct conflict with controlling decisions of this Court warrants review.

#### **D. The Trial Court Violated the Rule of Completeness**

The prosecution's use of selective excerpts from the body-worn-camera recording, combined with the trial court's refusal to admit the full recording, violated fundamental principles of completeness that this Court has long recognized as essential to a fair trial.

For more than a century, this Court has held that evidence may not be presented in a manner that creates a misleading or distorted impression of the facts. See *Miller v. Pate*, 386 U.S. 1, 6–7 (1967) (due process violated where the State presented evidence in a manner calculated to create a false impression). The common-law Rule of Completeness, later codified in Federal Rule of Evidence 106, is grounded in the same principle: when a party introduces a portion of a statement or recording, the opposing party must be permitted to introduce the remainder if necessary to correct a misleading impression.

This Court reaffirmed this principle in *Old Chief v. United States*, 519 U.S. 172 (1997), recognizing that selective presentation of evidence may distort the factfinder's understanding and therefore undermine fairness. The completeness doctrine exists to prevent "piecemeal, fragmented, or truncated" representations of evidence that mislead the court. *Id.* at 189.

That is precisely what occurred here. The prosecution introduced only those portions of the body-worn-camera recording that it believed undermined petitioner's credibility, while the trial court barred petitioner from introducing the remainder of the recording to explain the full context of his statements (see App. D). Petitioner had never seen the recording before trial and therefore could

not respond effectively to the excerpts presented. The selective use of video evidence created an incomplete and inaccurate portrayal of his prior statements, which the trial court then relied upon in convicting him.

In a case that turned entirely on credibility, the refusal to admit the full recording fundamentally distorted the evidentiary record. That ruling conflicts with the longstanding completeness principles recognized by this Court and warrants review.

#### **E. Appellate Reliance on False Facts Violates Due Process**

The Due Process Clause forbids affirmance of a criminal conviction that rests on a materially false factual premise. This Court has long held that a criminal judgment cannot stand when sustained on a materially false factual premise, whether the error originates at trial or is adopted on appeal. *Townsend v. Sain*, 372 U.S. 293, 312–13 (1963); *Yates v. Aiken*, 484 U.S. 211, 216–17 (1988). When a reviewing court upholds a conviction based on an assumption contradicted by the record, the resulting judgment cannot stand, regardless of whether the error originated at trial or emerged on appeal.

Here, the District of Columbia Court of Appeals affirmed petitioner’s conviction on the express premise that petitioner “received a copy of the BWC video before trial” (App. A at A3). That assumption was central to the appellate court’s rejection of petitioner’s due-process challenge to impeachment with selective video excerpts. Yet the premise is directly contradicted by the trial record. Under oath, petitioner testified that he had never seen the body-worn-camera footage before being impeached with excerpts at trial (App. D at A16). Trial counsel did not dispute that testimony, and the court permitted impeachment to proceed without requiring that petitioner

review the recording in full. The record contains no evidence that petitioner personally viewed the video prior to testifying.

This Court has made clear that due process is violated when a conviction is upheld on the basis of a factual assumption that the record does not support. In *Townsend*, the Court held that where a material factual dispute was not resolved in a manner consistent with due process, a conviction resting on that unresolved or erroneous premise cannot be sustained. 372 U.S. at 312–13. And in *Yates*, the Court reaffirmed that a conviction must be set aside where it may rest on an invalid factual or legal premise, even when the error becomes apparent only on review. 484 U.S. at 216–17. The constitutional defect lies not merely in the initial error, but in the continued reliance on a false premise to sustain a criminal judgment.

The appellate court's reliance on constructive or theoretical access to the video misapprehends the constitutional harm. The right at issue is not whether counsel possessed discovery materials, but whether a defendant may be impeached with video evidence he has never personally seen, in a credibility-only case where the factfinder's assessment of truthfulness is dispositive. By affirming on the assumption that petitioner had access to the video, the appellate court insulated from review the very due-process violation presented.

That the appellate premise was false is further corroborated by subsequent proceedings. In denying post-conviction relief, the Superior Court of the District of Columbia accepted that petitioner had not personally reviewed the body-worn-camera recording before trial and analyzed the impeachment issues on that premise, without disputing petitioner's lack of prior access to the video. (App. G at A21-A22). Although the court ultimately denied relief on other grounds, it did not reject petitioner's factual assertion that he had never seen the video prior to impeachment.

Affirmance based on a record-contradicted factual premise is incompatible with due process. Where, as here, a conviction turns on credibility and impeachment is accomplished through unseen video excerpts, appellate reliance on assumed access distorts the constitutional analysis and perpetuates the underlying violation. This case therefore squarely presents the question whether due process permits a conviction to be sustained on appeal based on factual assumptions the record does not support—a question this Court’s precedents answer in the negative.

**F. Structural Error: Impeaching a Defendant With Evidence He Never Saw**

A criminal defendant cannot meaningfully exercise his constitutional rights when he is impeached with evidence he has never personally reviewed. Impeachment with unseen video evidence deprives the defendant of the ability to confront the State’s proof, respond coherently to prior statements, or testify in an informed manner—all core components of the adversarial process. It is the very kind of error that distorts every strategic decision at trial—from whether to testify at all, to how to answer basic questions on cross—rendering the entire proceeding unreliable in a way that cannot be measured transcript-by-transcript after the fact.

This Court has held that certain errors so undermine the framework of the trial that they require automatic reversal. *Arizona v. Fulminante*, 499 U.S. 279, 309–10 (1991). Structural errors are those that “infect the entire trial process” and render it fundamentally unreliable. *Weaver v. Massachusetts*, 582 U.S. 286, 294 (2017). The error here—allowing impeachment with evidence the defendant never saw while denying him access to the full context—falls squarely within that category.

Petitioner was impeached with selective excerpts of a body-worn-camera recording he had never had the opportunity to review, nearly a year after the incident. Because petitioner had not seen the

recording, he was unable to reconcile or explain any differences between his testimony and the statements captured on video. The trial judge then relied on those differences to find him not credible in a case that turned entirely on credibility. In these circumstances, the deprivation “pervades the entire proceeding,” *Fulminante*, 499 U.S. at 310, because the defendant’s ability to defend himself—and the factfinder’s ability to reach a reliable verdict—was compromised at the foundation.

Even if the error were considered under harmless-error principles, the court below did not apply the standard required by this Court. Under *Chapman v. California*, 386 U.S. 18, 24 (1967), the prosecution must prove beyond a reasonable doubt that the error did not contribute to the verdict. See *Smith v. Cain*, 565 U.S. 73, 76–77 (2012). The lower courts did not apply *Chapman* and instead engaged in a form of speculation inconsistent with due process and with *Kyles v. Whitley*, 514 U.S. 419 (1995), which prohibits courts from minimizing impeachment evidence in credibility-driven cases.

The impeachment of petitioner with video he had never personally seen, combined with the trial court’s refusal to allow admission of the full recording, rendered the trial fundamentally unfair. The resulting conviction cannot stand under either the structural-error doctrine or under *Chapman*’s harmless-error standard.

The structural nature of the error is further demonstrated by the trial court’s own later observation, in a separate post-conviction proceeding, that petitioner had never reviewed the recording before trial and that the impeachment inconsistencies stemmed directly from this lack of access. When a court acknowledges that the impeachment at trial rested on evidence the defendant had never seen, the unreliability of the proceeding is inherent and cannot be cured by appellate speculation.

## **G. National Importance: Body-Worn Camera Evidence Requires Constitutional Guidance**

Body-worn-camera (BWC) recordings have become a standard and often mandatory feature of modern policing in jurisdictions across the country. Prosecutors routinely introduce these recordings in criminal trials, and they are frequently used—just as in this case—to impeach defendants on the stand. Yet there is no consistent constitutional standard governing a defendant's right to personally review such recordings before deciding whether and how to testify.

Detained defendants, indigent defendants, and those who rely on court-appointed counsel often lack realistic access to BWC footage. Some jurisdictions permit only counsel's access; others require formal motions; still others provide no mechanism at all. As a result, defendants across the nation are routinely impeached with video recordings that they have never had the opportunity to view—creating serious and recurring constitutional concerns regarding due process, confrontation, testimonial preparation, and the right to present a defense.

This Court has never addressed whether due process permits impeachment with video evidence a defendant has never personally reviewed, or whether the Rule of Completeness and the Sixth Amendment require that the defendant be given meaningful access to such recordings. The lower courts are divided on the issue, with no uniform national standard and with defendants' constitutional rights turning on geographic happenstance.

The modern criminal process depends heavily on digital evidence. BWC footage is now ubiquitous, and the number of cases involving impeachment with selective digital recordings grows each year. Absent guidance from this Court, defendants will continue to face the risk of

conviction based on video evidence they have never had the chance to examine, explain, or contextualize.

This case provides an ideal opportunity to establish a clear constitutional rule governing the use of body-worn-camera recordings in criminal trials and to ensure that the rapidly evolving landscape of digital evidence is administered consistently with the demands of due process.

#### **H. Conflict With Other Jurisdictions on a Defendant's Right to Personally Review**

##### **Impeachment Evidence**

The decision below conflicts with the reasoning of other federal courts of appeals and state high courts that recognize a defendant's right to personally review the evidence the State intends to use for impeachment—particularly when prior statements or recordings are involved.

In *United States v. Bailey*, 327 F.3d 1131 (10th Cir. 2003), the Tenth Circuit emphasized that a defendant must have a personal understanding of the statements attributed to him in order to make an informed decision about testifying and to respond meaningfully to impeachment. Likewise, the First Circuit in *United States v. Soto-Beniquez*, 356 F.3d 1 (1st Cir. 2004), recognized the defendant's personal access to prior statements as fundamental to preparing testimony and confronting the government's evidence. Courts applying similar principles have held that counsel's constructive access to recordings or statements is insufficient where the defendant himself must explain or reconcile those statements at trial.

These courts acknowledge a foundational premise of the adversarial system: impeachment cannot be fair when the defendant has not personally reviewed the materials used against him. Where the State impeaches a defendant on the basis of prior statements, "fairness requires that the defendant

understand the content and context of those statements” before taking the stand. *Bailey*, 327 F.3d at 1140.

The District of Columbia courts applied the opposite rule. They held that it was constitutionally permissible to impeach petitioner with body-worn-camera footage he had never seen, reasoning that trial counsel’s access to the video was sufficient. They further denied petitioner the ability to introduce the full recording to correct the misleading impression created by selective excerpts.

That divergence in constitutional treatment creates an interjurisdictional conflict that warrants review under Rule 10(a). Whether a defendant must personally review impeachment evidence before being confronted with it on the stand is a significant and recurring question, with courts taking materially different approaches. Only this Court can provide the uniform constitutional standard needed in the modern era of digital evidence.

#### **I. Ineffective Assistance of Counsel (Supporting Constitutional Issue)**

Trial counsel did not ensure that petitioner personally reviewed the body-worn camera (“BWC”) footage before petitioner testified. As a result, petitioner took the stand without having seen the recording that the prosecution later used to impeach him. This undisputed fact corroborates petitioner’s sworn testimony and confirms that the impeachment at trial proceeded on an incomplete and constitutionally unfair foundation.

Because petitioner had never viewed the BWC footage, he was unable to meaningfully contextualize or explain the statements attributed to him during cross-examination. The prosecution confronted petitioner with selective excerpts of the recording to suggest inconsistencies, while petitioner lacked the ability to recall tone, timing, or surrounding circumstances that could only be assessed by reviewing the recording itself. Counsel’s failure to

ensure petitioner's personal review of the video magnified the due-process violation already described in this petition: impeachment with unseen evidence that distorted the factfinder's assessment of credibility.

This failure was not corrected by any actor in the judicial process. The trial court permitted impeachment to proceed using selective excerpts without requiring that petitioner be shown the full recording. On appeal, the court affirmed the conviction on the factual premise that petitioner "received a copy of the BWC video before trial," despite the absence of any record support establishing that petitioner personally reviewed the footage. The absence of any safeguard requiring a defendant's personal access to impeachment evidence allowed the constitutional error to persist unchecked at every level of review.

Petitioner does not ask this Court to grant review to resolve a Strickland claim or to correct counsel's performance as an end in itself. Rather, counsel's failure to ensure petitioner's personal review of the BWC footage illustrates the systemic due-process breakdown at issue: a criminal justice process that permits impeachment with unseen video evidence and then affirms convictions based on assumed access that the record does not support. The ineffective assistance here thus corroborates, rather than supplants, the constitutional violations presented in the Questions Presented.

#### **J. This Case Is an Ideal Vehicle**

This case presents exactly the kind of clean vehicle this Court looks for. There is no procedural default, no AEDPA deference, no unresolved factual dispute, and no alternative state-law ground for affirmance. The federal questions were raised at trial, in the Court of Appeals, in a timely rehearing petition, and again in a § 23-110 motion.

There are no unresolved evidentiary disputes, no factual ambiguity, and no procedural bar that would prevent this Court from reaching the questions presented. The case turns entirely on uncontested and straightforward propositions: petitioner did not see the recording before trial; he was impeached with selective excerpts from that unseen recording; he was not allowed to introduce the full recording; and the conviction rested entirely on credibility.

The Superior Court's and the Court of Appeals' treatment of the due-process and Sixth Amendment issues reflects a systemic misapplication of this Court's precedents. The interlocking constitutional violations—due process, right to present a complete defense, Rule of Completeness, and ineffective assistance—occurred in a simple factual record that squarely presents the legal questions identified in the petition.

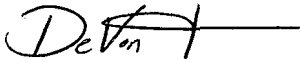
The significance of this issue is heightened by the fact that, in denying post-conviction relief, the Superior Court of the District of Columbia accepted petitioner's account that he had not personally viewed the recording before trial and analyzed the impeachment issues on that premise, without disputing petitioner's lack of prior access to the footage (App. G at A21-22). These uncontested accepted premises eliminate any factual ambiguity and present the constitutional question in its cleanest form. This petition does not seek error correction, but resolution of a recurring constitutional defect perpetuated when appellate courts affirm convictions on factual assumptions the record does not support.

No factual development is needed. No alternative ground shields the judgment. No procedural doctrine impedes review. The case illustrates precisely the type of recurring constitutional problem that warrants the Court's intervention under Rule 10(c). This Court is the only forum capable of resolving the important federal questions presented.

## CONCLUSION

For the foregoing reasons, the petition for a writ of certiorari should be granted. Petitioner respectfully asks this Court to reverse the judgment of the District of Columbia Court of Appeals or to vacate and remand for further proceedings consistent with this Court's guidance.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "DeVon", followed by a horizontal line extending to the right.

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