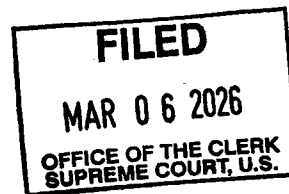


No. 25-7186

ORIGINAL

IN THE
SUPREME COURT OF THE UNITED STATES



David Lopez Gonzales — PETITIONER
(Your Name)

vs.

KRISTIN MAYES et al. — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

NINTH CIRCUIT COURT OF APPEALS
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

David Lopez Gonzales
(Your Name)

Eyman South Unit P.O. Box 3500
(Address)

Florence Arizona 85132
(City, State, Zip Code)

NA
(Phone Number)

QUESTIONS PRESENTED

1. Does an individual have a Fifth/Fourteenth Amendment Due Process Right to post-conviction disclosure of exculpatory evidence known to be in the states possession during trial?

2. Does the rule in Heck v. Humphrey bar a 42 U.S.C § 1983 action seeking access to exculpatory evidence when the alleged violation is the states failure to disclose, in a post-conviction proceeding, rather than a direct challenge to the convictions validity?

3. Does the mere request for disclosure of exculpatory evidence in a § 1983 suit necessarily imply the invalidity of the conviction, as required to trigger the Heck bar?

4. Does the state benefit from its own misconduct when it admits evidence is exculpatory, yet uses the Heck bar to prevent disclosure because that evidence would prove the conviction is wrongful?

5. Did the District Court err in holding that a § 1983 claim for disclosure of evidence is premature under Heck until the conviction is already overturned, effectively trapping a plaintiff in a catch-22?

LIST OF PARTIES

1
2 All parties do not appear in the caption of the case on
3 the cover page. A list of all parties to the proceeding
4 in the court whose judgment is the subject of this petition
5 is as follows:

6
7 1. Kristin Mayes

8
9 2. Rachel Mitchell

10
11 3. Amanda Parker

12
13 4. Eric Knobloch

14

15

16

17

18

19

20

21

22

23

24

25

TABLE OF CONTENTS

1		
2	QUESTIONS PRESENTED	ii
3	LIST OF PARTIES	iii
4	TABLE OF AUTHORITY	vi
5	OPINIONS BELOW	i
6	STATEMENT OF THE BASIS FOR JURISDICTION	2
7	STATEMENT OF THE CASE	3
8	REASONS FOR GRANTING THE WRIT	6
9	1. Does an individual have a Fifth/Fourteenth Amendment Due Process	
10	Right to post-conviction disclosure of exculpatory evidence known	
11	to be in the state's possession during trial?	8
12	2. Does the Heck v Humphrey bar a 42 USC §1983 action seeking	
13	access to exculpatory evidence, when the alleged violation is	
14	the state's failure to disclose, in post-conviction proceeding,	
15	rather than a direct challenge to the convictions validity?	10
16	3. Does the mere request for disclosure of exculpatory evidence	
17	in a §1983 action necessarily imply the invalidity of the	
18	conviction as required to trigger the Heck bar?	13
19	4. Does the state benefit from its own misconduct when it	
20	admits evidence is exculpatory, yet uses the Heck bar to	
21	prevent disclosure because that evidence would prove the	
22	conviction is wrongful?	14
23	5. Did the District Court err in holding that a §1983 claim for	
24	disclosure of evidence is premature under Heck until the	
25	conviction is overturned effectively trapping a plaintiff in a catch-22?	15

1	CONCLUSION	16
2	RELIEF REQUESTED	17
3	DECLARATION	18
4	CERTIFICATE OF COMPLIANCE	18
5	CERTIFICATE OF SERVICE	19

6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

INDEX OF APPENDICES

8	APPENDIX A	Ninth Circuit's decisions Petition for Rehearing	1
9		Ninth Circuit's decision Petition for Review	1
11	APPENDIX B	District Court's decision & 1983 complaint	1
13	APPENDIX C	District Court's decision Federal Habeas	3
15	APPENDIX D	State criminal court case information case history for disclosure request	3

TABLE OF AUTHORITIES

1		
2		
3	Bittaker v Woodford, 331 F.3d 715, 728 (9th Cir 2003)	3
4	Brady v Maryland 373 U.S. 83 (1963)	11, 13, 15
5	Cullen v Pinholster 563 U.S. 170, 181 (2011)	3, 4, 6
6	District of Columbia v Carter, 409 U.S. 418, 93 S.Ct. 602, 34 L.Ed	
7	2d, 613 (1973)	10
8	Heck v Humphrey 512 U.S. 477, 129 L.Ed. 2d, 383 (1994) ii, iv	10, 11, 12, 16
9	Kemp v Ryan 638 F.3d 1245, 1260 (9th Cir. 2011)	4
10	Kyles v Whitley, 514 U.S. 419, 435 (1995)	13
11	Mitchum v Foster, 407 U.S. 225, 92 S.Ct. 2151, 32 L.Ed. 2d 705 (1972)	10
12	Moore v LaSalle Carr., Inc., 2020 U.S. Dist. Lexis 203240 (W.D. La. Oct	
13	30, 2019)	10
14	Nance v Ward, 597 U.S. 159, 167 (2022)	6
15	Osborn v. Dist. Atty's office 521 P.3d 1118, 1132 (4th Cir. 2008)	15
16	Richard v. McKnight, 521 U.S. 399, 117 S.Ct. 2100, 138 L.Ed. 2d	
17	540, 11 Fla Lexis 3966 (1997)	10
18	Runnigeagle v Ryan, 686 F.3d 758, 769-71 (9th Cir. 2012)	4
19	United States ex rel. Montgomery v Ragan 87 F.Supp. 382 (ND. Ill (1949)	14
20	United States v Bagley 437 U.S. 667, 678-82 (1978)	13
21		
22	Fifth Amendment	ii, iv, 6, 15, 16
23	Fourteenth Amendment	ii, iv, 6, 11, 15, 16
24	48 U.S.C. § 1483	ii, 6, 7, 10, 11, 12, 13, 15, 17
25	28 U.S.C. § 2254	4, 6

1	Fed. R. Civ. P. 26(a)(1)(B)	3
2		
3	Model Rule of Prof'l conduct R. 3.8(d) (2009)	8, 9, 11, 12
4	ABA standard on minimum standards, for criminal justice § 2.1(e), 2.2(d)	8
5		
6	Hans P. Sinha, Prosecutorial Ethics. The Duty To Disclose	
7	Exculpatory Material, prosecutor, Jan-Mar. 2008, at 20, 21	8
8	Bennett L. Gershman, The New Prosecutor, 53 U Pitt, L. Rev.	
9	393, 438 (1992)	13
10		
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

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

For cases from federal courts:

The opinion of the United States court of appeals appears at Appendix A to the petition and is

reported at _____; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

The opinion of the United States district court appears at Appendix B to the petition and is

reported at _____; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

For cases from state courts:

The opinion of the highest state court to review the merits appears at Appendix _____ to the petition and is

reported at _____; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

The opinion of the _____ court appears at Appendix _____ to the petition and is

reported at _____; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

JURISDICTION

For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was Nov 17, 2015.

No petition for rehearing was timely filed in my case.

A timely petition for rehearing was denied by the United States Court of Appeals on the following date: Feb 19, 2016, and a copy of the order denying rehearing appears at Appendix A.

An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. A.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

For cases from **state courts**:

The date on which the highest state court decided my case was _____.
A copy of that decision appears at Appendix _____.

A timely petition for rehearing was thereafter denied on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. A.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

STATEMENT OF THE CASE

1
2 I want to trial to prove my innocence. During trial my witnesses and
3 I provided two defenses. The first was that Antoinette brought
4 these charges against me because we were going through a child
5 custody/divorce proceeding. The second was an alibi defense.

6 To rebut my defense the prosecutor offered false testimony.

7 During my state appeal process I submitted numerous request for
8 disclosure. (See Exhibit (D)). However, in each stage of the appeal
9 process the state refused to disclose, and the courts held that there
10 wasn't any provision put in place that would allow me to obtain
11 disclosure in that proceeding.

12 During my Federal Writ of Habeas Corpus proceeding I filed request
13 for admissions, request for production, and request for the Court
14 to compel disclosure. However, I discovered all my effort was in
15 vain because there is no right to discovery in habeas cases.

16 For example if, as here, an individual does not present the
17 exculpatory evidence in state court, even if the failure to present
18 the evidence was caused by the prosecutor's failure to disclose,
19 Pinholster would bar the District Court from considering the new
20 evidence. (See exhibit (C) page 16 line 7 through 15 Judges order in
21 my Writ of Habeas Corpus)

22 Nor is there a right to discovery in habeas cases. Fed.
23 R. Civ. P. 26 (a) (1) (B); *Bittaker v. Woodford*, 331 F.3d 715,
24 728 (9th Cir. 2003). The Court declines to grant leave for
25 discovery. Finally, the discovery motions are futile

1 because *Cullen v. Pinholster* bars consideration of new
2 evidence. 563 U.S. 170, 181 (2011) ("Evidence introduced in
3 federal court has no bearing on § 2254 (d)(1) review. If
4 a claim has been adjudicated on the merit by a state
5 court, a federal habeas petitioner must overcome the
6 limitation of § 2254 (d)(1) on the record that was before
7 that state court."); see *Runnigeagle*, 686 F.3d at 773-74;
8 *Kemp v. Ryan*, 638 F.3d 1245, 1260 (9th Cir. 2011). *Gonzales'*
9 *discovery motions will be denied.*

10
11 To add insult to injury the state argued and the Court agreed that I
12 could not speculate what the undisclosed evidence produced. So the Court
13 denied my federal habeas and a certificate of appealability. I petitioned
14 the Ninth Circuit court of Appeals for a Certificate of Appealability
15 which was denied. And this court denied my writ of Certiorari.

16 The only option I had left to obtain the exculpatory evidence the state
17 refused to disclose was through a § 1983 complaint. While I was in the
18 District Court the state admitted the evidence I am requesting is
19 exculpatory, and it was in the prosecutor's possession at the time of
20 my trial. Nevertheless, the state argued I could not obtain the evidence
21 in a § 1983 complaint because the undisclosed evidence would overturn my
22 conviction. The state relied upon this court's decision in *Heck* to benefit
23 from its erroneous misconduct.

24 The District Court dismissed my complaint, without prejudice,
25 because under *Heck* I could not obtain the exculpatory evidence

1 until I had my conviction overturned. This ultimately placed me in
2 a catch 22.

3 The District Court was disturbed by this situation so she granted
4 me a certificate of appealability and leave to proceed in forma pauperis.

5 I put in a petition for review in the Ninth circuit Court of Appeals.

6 The Ninth circuit denied my petition because according to Heck I

7 could not obtain the exculpatory evidence I requested until I had

8 my conviction or sentence overturned. I put in a petition for

9 reconsideration which was denied. Thereby, the questions I presented

10 for adjudication, are exhausted and are squarely before this court

11 today.

12

13

14

15

16

17

18

19

20

21

22

23

24

25

THE REASON FOR GRANTING THE WRIT

We as individuals need this Court to protect our Fifth and Fourteenth Amendment constitutional Right to Due Process of Law and allow us to obtain exculpatory evidence in a § 1983 action when, as here, the only thing we would obtain, if successful, is access to information.

Both the federal writ of habeas corpus and a § 1983 complaint have an explicit bar that prevents an individual from obtaining undisclosed exculpatory evidence from the state when state officials refuse to disclose.

Cullen v Pinholster places an express bar on the District Court from reviewing evidence that was not presented to the state court, even when an individual's failure to present the evidence was caused by a state official violating his/her Due Process constitutional duty to disclose.

Heck v Humphrey places an explicit bar on an individual to obtain exculpatory evidence, when a state official violates its constitutional duty to disclose, if that evidence would necessarily overturn his/her conviction or sentence.

The Heck bar arose from the Court reading an "implicit exception" into § 1983 to avoid "swamping the habeas statute's coverage of claims that the prisoner is "in custody in violation of the constitution."

Nance v Ward, 597 U.S. 159, 167 (2022) (quoting 28 U.S.C. § 2254 (a)). However, there is no provision in a federal writ of habeas corpus that allows an individual to obtain disclosure of exculpatory evidence when, as here, state officials acting in their official capacity as administrators of justice refuse to disclose. This is because Cullen v Pinholster would bar the District court from reviewing the new evidence the discovery

1 request would produce.

2 Because of the explicit bar in a writ of habeas corpus and a
3 § 1983 complaint an innocent individual may spend the rest of his
4 life in prison for a crime he did not commit, because the state
5 official, acting as administrators of justice, are withholding the
6 very evidence the individual needs to prove his/her innocence.
7 This causes a manifest injustice that must be corrected.

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 2. Does an individual have a Fifth/Fourteenth Amendment Due Process
2 Right to post-conviction disclosure of exculpatory evidence known to
3 be in the state's possession during the trial?
4

5 The Supreme Court in *Brady v. Maryland* held that a criminal
6 defendant has a due process right to the prosecutor's disclosure of favorable
7 material. This right is so vital to ensuring that criminal defendants receive
8 a fair trial that a prosecutor's suppression of evidence favorable to
9 the accused as to either guilt or sentencing violates due process
10 irrespective of the good faith or bad faith of the prosecution.

11 The duty to disclose exists even when the defendant failed to
12 request the favorable material. These principles reflect the fact
13 that the purpose of the due process right to exculpatory material
14 is not punishment of society for misdeeds of a prosecutor but
15 avoidance of an unfair trial to the accused.

16 The state's duty to disclose exculpatory evidence is not isolated
17 to the *Brady* line of cases. ABA standard on minimum standards
18 for criminal justice § 2.1(c), 2.2(a) and Model Rules of Prof'l
19 Conduct R. 3.8(d) (2009) also places an affirmative duty on state
20 officials acting in their official capacity as Administrators of
21 Justice to disclose exculpatory evidence.

22 Rule 3.8(d) enjoys the endorsement of most states. In fact,
23 although some states tweak its language, no state has completely
24 abandoned the concepts. Hans P. Sinha, *Prosecutorial Ethics: The*
25 *Duty To Disclose Exculpatory Material*, prosecutor, Jan-Mar. 2008,

1 at 20, 21. Thirty-six states adopted the ABA's language verbatim; twelve
2 jurisdictions made minor edits; two jurisdictions include an intent
3 element; and only California has elected to go it alone.

4 In the state of Arizona's Rules of Professional Conduct 3.8 (g) (1)
5 places a continuous duty on a state official to disclose exculpatory
6 evidence. Rule 3.8 (g) (1) provides:

7 (g) When a prosecutor knows of new, credible, and material
8 evidence creating a reasonable likelihood that a convicted
9 defendant did not commit an offense of which the
10 defendant was convicted, the prosecutor shall:

11
12 (1) promptly disclose that evidence to the court in which
13 the defendant was convicted and to the corresponding
14 prosecutorial authority, and to defendant's counsel or,
15 if defendant is not represented, the defendant and the
16 indigent defense appointing authority in the jurisdiction,
17 and . . .

18
19 Given the importance of the states continuous duty to disclose
20 exculpatory evidence under Brady, its progeny, and ABA minimum
21 standards of criminal justice it is clear that an individual has
22 a Fifth/Fourteenth Amendment Right to post-conviction disclosure
23 of exculpatory evidence known to be in the state's possession during
24 trial. (see also 3.8 Commentary [7])

25

1 2. Does the rule in Heck v. Humphrey bar a 42 U.S.C. §1983 action
2 seeking access to exculpatory evidence, when the alleged violation
3 is the states failure to disclose, in a post-conviction proceeding,
4 rather than a direct challenge to the convictions validity?
5

6
7 The purpose of federal civil rights statute (42 USC § 1983)
8 authorizing action at law, suit in equity, or other proper proceedings
9 for redress of deprivation, under the color of state law, of rights
10 secured by Federal Constitution and federal laws, is to interpose
11 federal courts between states and people, as guardians of people's
12 federal rights, and thus to protect people from unconstitutional
13 action under color of state law, whether that action be executive,
14 legislative, or judicial; in carrying out this purpose, Congress, by
15 expressly authorizing suit in equity as one means of redress, has
16 plainly authorized federal courts to issue injunctions in § 1983
17 actions. *Mitchum v. Foster*, 407 U.S. 225, 92 S.Ct. 2151, 32 L.Ed.
18 2d 705 (1972); *District of Columbia v. Carter*, 409 U.S. 418, 93 S.Ct. 602,
19 34 L.Ed.2d 613 (1973)
20 Section 1983 basically seeks to (1) deter state actors from using
21 badge of their authority to deprive individuals of their federally
22 guaranteed rights, and (2) provide related relief. *Richardson v.*
23 *McKnight*, 521 U.S. 399, 117 S.Ct. 2100, 138 L.Ed. 2d 540, 11 Fla.
24 *L. Weekly Fed. S. 64*, 97 Cal. Daily Op. Service 4813, 97 D.A.R. 7889,
25 70 Empl. Prac. Dec. (CCH) ¶ 44784, 1997 U.S. LEXIS 3866 (1997);
Moore v. La Salle Corp., Inc., 2020 U.S. Dist. Lexis 203240 (W.D. La Oct 30, 2015)

1 Under Heck v Humphrey, a § 1983 damage claim that challenges
2 the validity of a conviction or sentence is not cognizable unless the
3 conviction or sentence has already been invalidated or overturned.

4 The action I brought in my 1983 complaint was not a direct
5 challenge to the validity of my conviction or sentence during trial.
6 Nor was it a challenge against the prosecutor at my trial for
7 non-disclosure. The prosecutor was not part of my 1983 complaint.

8 Although I used Brady to establish that the Respondents had
9 a continuous constitutional duty to disclose exculpatory evidence,
10 the violation of the constitutional right I asserted in my 1983
11 complaint was, at the time of my appeal both Eric and Amanda
12 had a constitutional duty to disclose exculpatory evidence, and
13 by failing to meet their affirmative duty to disclose they deprived
14 me of my Fifth/Fourteenth Amendment Constitutional Right to
15 Due Process of Law and a fair hearing during my appeal proceedings.

16 In addition, both Kristin Mayes (Arizona Attorney General) and
17 Rachael Mitchel (Maricopa County Attorney) being in a position of
18 authority and trust, holding the highest offices in the state of
19 Arizona as administrators of justice, had an affirmative duty to
20 disclose. Moreover, they had a duty to educate the members of their
21 offices on their affirmative duty to disclose exculpatory and
22 impeachment evidence. By failing to meet their affirmative duties
23 they deprived me of my constitutional right to Due Process of Law.
24 Rule 3.8(g)(1) is clear on this issue. If a prosecutor learns of new
25 material evidence he/she must disclose it to the defendant.

1 Under Rule 3.8 commentary (7) Evidence is considered new when it is
2 unknown to the prosecutor at the time of trial or, if known was not
3 disclosed either deliberately or inadvertently. The respondents did
4 not dispute these claims.

5 Although Brady, its progeny, and the Rules of Professional conduct
6 places an affirmative duty on state officials, acting under the color
7 of state law as administrators of justice, to disclose exculpatory
8 evidence even after the trial has ended. A claim that the appeal counsels
9 violated my constitutional right to disclosure of exculpatory evidence
10 during my appeal proceedings does not fall within the constructs of
11 Brady. It is a claim that falls under a violation of my constitutional
12 right to Due Process of Law and a fundamentally fair appeal process,
13 in both state and Federal courts.

14 If I am successful on this action it would not necessarily invalidate
15 my conviction or sentence, the only thing I will obtain is access to
16 information that I could use to have my claims fairly adjudicated in
17 a post-conviction proceeding. The Heck bar only applies if the claim
18 necessarily implies the conviction is invalid, and if successful an
19 individual will obtain his/her immediate release.

20 Thereby, the Heck rule does not apply to my § 1983 complaint.

21

22

23

24

25

1 3. Does the mere request for disclosure of exculpatory evidence in a
2 § 1983 action necessarily imply the invalidity of the conviction, as
3 required to trigger the Heck bar?
4

5 Over time, a body of Brady jurisprudence developed that defined the
6 doctrine's reach. Significantly, the Court devised a "materiality" standard
7 in *United States v. Bagley*, 437 U.S. 667, 678-82 (1985). Under the materiality
8 standard, suppression of putatively favorable information will not give rise
9 to a constitutional violation unless that piece of information or evidence
10 "could reasonably be taken to put the whole case in such a different light
11 as to undermine confidence in the verdict." *Kyles v. Whitley*, 514 U.S. 419, 435 (1995)
12 This means that individual suppressions are not considered piecemeal; rather
13 the withheld evidence is considered in context, against all the other evidence
14 adduced in the case. *Id.* at 436-47. While the materiality touchstone might
15 provide a good metric for assessing due process violations, as an ethical
16 standard, it sets a low bar. To this effect critics have pointed out that
17 "under the Supreme Court's current disclosure rules, the prosecutor's decision
18 to suppress favorable evidence would be a perfectly rational, albeit unethical,
19 act." Bennett L. Gershman, *The New Prosecutor*, 53 U. PITT. L. REV. 393, 438 (1997)
20 A successful request for exculpatory evidence does not necessarily
21 invalidate a conviction, but rather establishes that the evidence was material,
22 its impact depends on whether it undermines confidence in the verdict.
23 Thereby, the mere request for disclosure of exculpatory evidence in a §
24 1983 suit does not necessarily imply the invalidity of the conviction as
25 required to trigger the Heck bar.

1 4. Does the state benefit from its own misconduct when it admits evidence
2 is exculpatory, yet uses the Heck bar to prevent disclosure
3 because that evidence would prove the conviction is wrongful?
4

5 When the state officials argue that the undisclosed evidence is so strong
6 it would overturn the conviction, they are essentially arguing that the claim
7 is barred by Heck because the conviction is still standing. This creates a circular
8 catch 22 situation where the state uses the very magnitude of its constitutional
9 violation (withholding crucial evidence) as a defense to prevent the plaintiff from
10 obtaining that evidence in a civil suit. A catch 22 allows the suppression of evidence
11 to go unpunished if the plaintiff cannot first prove the violation in court.

12 As a society, we have entrusted our prosecutors with discretion. Prosecutorial
13 discretion often surround charging decisions, plea bargaining, and the general
14 ability to control the terms of a defendant's confinement. However, a
15 prosecutor also exercises discretion in determining what information to share
16 with his adversary.

17 In the disclosure context, this court must not allow the state officials
18 to abuse their discretion by withholding material evidence. To do so would be
19 detrimental to the very fabric of Justice. See United States ex rel. Montgomery
20 v. Bagen 87 F. Supp. 322 (N.D. Ill. 1949) The Supreme Court concluded a society
21 cannot suppress lawlessness by an accused through the means of lawlessness of
22 a prosecutor. A society cannot inspire respect for the law by withholding
23 its protection from those accused of a crime.

24

25

1 5. Did the District Court err in holding that a § 1983 claim for disclosure
2 of evidence is premature under Heck until the conviction is overturned
3 effectively trapping a plaintiff in a catch-22?
4

5 The District Court's decision was an abuse of discretion because her
6 decision placed me in a catch 22. It also went against the purpose of
7 the judiciary, the reason the legislature adopted the § 1983 complaint,
8 and the very concept of justice.

9 In addition, the District Court did not take into consideration
10 the fact that I was not challenging the misconduct of the state
11 during my trial, my complaint was against the state's appellate
12 counsels, post-conviction, for not meeting their affirmative duty to
13 disclose exculpatory evidence upon request. See Osborne v Dist Atty's
14 office 521 P.3d 1118, 1132 (9th Cir 2008) (The prosecutor is required to
15 provide post-conviction access to exculpatory evidence).

16 Although Brady and its progeny establish that the prosecutor has
17 a continuous duty to disclose, a claim that the state's appellate
18 counsel violated his/her affirmative duty to disclose exculpatory
19 evidence does not constitute a Brady violation. Thereby, Heck does
20 not apply, the controlling authority is the Due Process clause of the
21 Fifth/Fourteenth Amendments and the fundamental fairness doctrine.

22 The major reason I emphasized Brady and its progeny was to show
23 cause why my 1983 complaint was not barred by the statute of limitation,
24 and to prove the respondents had a continuous duty to disclose exculpatory
25 evidence.

CONCLUSION

1
2 The Constitution is the Supreme Law of the land. It is the entity that
3 sets up the structure of our government and protects individuals freedom.
4 Every elected official whether it be from the judicial, executive, or
5 legislative branch of the government; every citizen who joins the
6 military whether it be Army, Navy, Airforce, or Marine swear an oath to
7 uphold and protect the constitution. Fathers, Mothers, Aunts, Uncles, Sons,
8 and Daughters have fought and died to protect the very fabric of Justice,
9 Freedom, and Protection the Constitution guarantees.

10 This Court cannot allow individuals in a position of authority and
11 trust, acting in their official capacity as administrators of justice, to
12 violate the Rule of Law or commit violence against the very fabric of
13 the Constitution they swore to uphold. The Due Process clause of the
14 Fifth and Fourteenth Amendments does not only protect an individual's
15 right to a Fair Trial, it also protects individual's rights to a fair
16 hearing, whether it be a probation hearing, parole hearing, divorce
17 child custody hearing, and even a commutation of sentence hearing.
18 But most importantly it protects an individual's Due Process Right
19 to fundamental fairness during the Appeal process.

20 Heck v Humphrey's bar is specific to a person who is challenging
21 his/her conviction or sentence and if successful their conviction or
22 sentence would necessarily be invalid. In this case I am not challenging
23 my conviction or sentence. I am challenging the violation of my Due Process
24 Constitutional Right to a fair Appeal proceeding. The exculpatory
25 evidence I am requesting will not get me immediately released from

1 prison, it will only give me the means on which I will have a fair
2 opportunity to obtain my freedom through the appeal process. And even
3 then, because of the materiality standard of Brady and its progeny, there
4 is no guarantee the undisclosed evidence would necessarily invalidate
5 my conviction.

6 I must emphasize this point, the only thing I will obtain if I am
7 successful in my § 1983 complaint is access to information. The information
8 may or may not help me gain my freedom. What the undisclosed evidence
9 will do is give me a fair opportunity to present my claims in a post-
10 conviction proceeding. This was a Due Process Right that was denied
11 to me by Amanda and Eric's failure to meet their Affirmative Duty to
12 disclose exculpatory evidence.

13

14

RELIEF REQUESTED

15 I am respectfully requesting, in the interest of justice, for this Court to
16 order Kristin, Rachel, Amanda, and Eric to disclose a summary report of
17 Carmen's CPS (New DCJ) records, specifically to prove when she was put in
18 and taken out of Antoinette's custody. And a summary report of Antoinette's
19 section 8 records, specifically to prove when she moved into and out
20 of the Cambridge, Fairmount, and Lawrence residence. The report must
21 be signed by at least one of the respondents.

22 In addition, order Kristin and Rachel to educate the members of
23 their office on their affirmative duty to disclose exculpatory and
24 impeachment evidence.

25 And any other relief this Court may deem appropriate.

1 The petition for a writ of certiorari should be granted.

2

3 Respectfully submitted this 26 day of March 2026

4

David Lopez Gonzales

5

David Lopez Gonzales

6

7

Declaration

8

I David Lopez Gonzales swear/Declare under oath and

9

penalty of perjury everything written in this petition is true

10

to the best of my knowledge or belief.

11

David Lopez Gonzales

12

David Lopez Gonzales

13

14

CERTIFICATE OF COMPLIANCE

15

This petition was handwritten and contains no more than

16

27 pages not including attachments/exhibits

17

David Lopez Gonzales

18

David Lopez Gonzales

19

20

21

22

23

24

25