25A1003

EMERGENCY APPLICATION FOR STAY PENDING CERTIORARI

No. _____

IN THE SUPREME COURT OF THE UNITED STATES

SUZANNE M. BROWN,

Applicant

v.

UNITED STATES OF AMERICA,

Respondent

On Application for a Stay to the Honorable Ketanji Brown Jackson, Circuit Justice for the First Circuit, from the United States District Court for the District of New Hampshire, Case No. 1:16-cr-00021-JL, and from the United States Court of Appeals for the First Circuit, Case No. 26-8010

EMERGENCY APPLICATION TO THE HONORABLE KETANJI BROWN JACKSON, ASSOCIATE JUSTICE OF THE SUPREME COURT AND CIRCUIT JUSTICE FOR THE FIRST CIRCUIT, FOR A STAY OF DISTRICT COURT PROCEEDINGS PENDING DISPOSITION OF PETITION FOR WRIT OF CERTIORARI OR, IN THE ALTERNATIVE, PENDING DISPOSITION OF PETITION FOR WRIT OF MANDAMUS

[FILED IN FORMA PAUPERIS PURSUANT TO SUPREME COURT RULE 39]

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Dated: March 9, 2026

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I. EMERGENCY NATURE OF APPLICATION

This Court's immediate action is respectfully requested to prevent further fundamental miscarriage of justice beyond that which has occurred over more than a decade.

On March 13, 2026 — four days from today — the United States District Court for the District of New Hampshire has scheduled oral argument on Applicant's petition for writ of error coram nobis before the same district judge whose conduct is the central subject of that petition.

The constitutional emergency is simple and stark: Applicant is being compelled to submit her actual innocence claims to a judge who (1) placed third-person pronouns inside double quotation marks in a published order to fabricate a verbatim confession of perjury; (2) falsely attributed to Applicant another inflammatory statement that does not exist on the record; (3) refused to correct the fabrications after receiving documented proof; (4) retaliated against her objection by publicly branding her as having "few, if any, limits" on honesty precisely because she is fighting for her "reputation, honor, and her life"; and (5) is adjudicating alleged Brady violations committed by a trial prosecutor who is now a judge on the reviewing court of appeals, and who has recused from all of Applicant's proceedings, confirming the structural conflict exists.

Once the March 13 hearing occurs, the harm cannot be cured:

- Credibility findings will be made by a judge who has prejudged Applicant's honesty on the permanent docket
- Those findings will receive *Anderson v. City of Bessemer City*, 470 U.S. 564, 573–74 (1985), deference on appeal
- The structural taint will be permanently embedded in the record

- No post-judgment appeal can undo factual findings made in proceedings infected by structural bias

Williams v. Pennsylvania, 579 U.S. 1, 8 (2016), requires immediate disqualification when structural bias exists — not deferred appellate review after the biased proceeding has occurred and its tainted findings have been locked in.

II. PARTIES, JURISDICTION, AND TIMELINESS

Parties

Applicant: Suzanne M. Brown, pro se petitioner pursuing a petition for writ of error coram nobis in the United States District Court for the District of New Hampshire.

Respondent: United States of America.

District Court: The Honorable Joseph N. Laplante, United States District Judge, District of New Hampshire. Case No. 1:16-cr-00021-JL.

Structural Conflict: Trial prosecutor Seth R. Aframe is now a judge of the United States Court of Appeals for the First Circuit. Judge Aframe has recused himself from all votes in Applicant's matters, confirming the structural conflict. It is Judge Aframe's alleged Brady violations that District Judge Laplante is adjudicating in the March 13 hearing — while Judge Aframe sits on the court that would review Judge Laplante's findings.

Jurisdiction

This Court has jurisdiction under:

- 28 U.S.C. § 1651(a) (All Writs Act), authorizing this Court to issue all writs necessary or appropriate in aid of its jurisdiction;
- 28 U.S.C. § 2101(f), authorizing a Justice to stay proceedings pending application for certiorari;
- Supreme Court Rules 20, 22, and 23, governing applications to individual Justices for emergency and extraordinary relief; and
- This Court's inherent supervisory authority over lower federal courts to prevent a fundamental miscarriage of justice. *Cheney v. United States Dist. Court*, 542 U.S. 367, 380 (2004).

Timeliness

- March 6, 2026: First Circuit denied all relief in Case No. 26-8010, explicitly noting "The district court still has not ruled on Petitioner's request for a writ of coram nobis." *See* Appendix A.
- March 9, 2026: This Application transmitted to Justice Jackson by overnight delivery.
- March 13, 2026: Irreversible harm — the district court hearing — is scheduled. The First Circuit mandate in Case No. 26-8010 is scheduled to issue on or about March 27, 2026, under FRAP 41(b), calculated as fourteen days for rehearing petition plus seven days to issue following the March 6, 2026 judgment.

This Application is filed within three calendar days of the last available lower court ruling, and four days before the irreversible harm occurs. It is timely. Applicant intends to file a petition for writ of certiorari within 90 days of the First Circuit's March 6, 2026 judgment. *See* 28 U.S.C. § 2101(c); Supreme Court Rule 13.

III. EXHAUSTION OF LOWER COURT REMEDIES

Applicant has steadfastly maintained her actual innocence for more than a decade, pursuing four separate proceedings in the First Circuit over fifteen months, and has been denied at every level. No available First Circuit remedy can operate before March 13.

Case No.	Vehicle	Filed	Outcome
25-1289	Direct interlocutory appeal	March 21, 2025	Dismissed, lack of jurisdiction
25-2166	Mandamus petition	Dec. 4, 2025	Denied Dec. 8, 2025; rehearing en banc denied Feb. 2, 2026
26-8010	Emergency coram nobis / stay	Feb. 10, 2026	Denied March 6, 2026 — explicitly denied stay of March 13 hearing
26-1173	Direct appeal, recusal orders	Feb. 19, 2026	Pending, no briefing schedule, cannot operate before March 13

The March 6, 2026 denial in Case No. 26-8010 is the operative exhaustion event. That petition explicitly sought — and was explicitly denied — a stay of the March 13 hearing. The First Circuit has now spoken on the emergency stay question through the appropriate emergency vehicle. Three successive First Circuit denials of substantially identical arguments

establish that further resort to the First Circuit would be futile. *Ex parte Peru*, 318 U.S. 578, 585 (1943).

The Government's Silence in Case No. 26-8010

The First Circuit Clerk of Court issued a formal Case Opening Notice on February 10, 2026, explicitly notifying Respondent: "Any answer in opposition or cross-petition must be filed within the time set by Fed. R. App. P. 5(b)(2)" (citing the mandatory deadline as reflected in the Clerk's Case Opening Notice, Appendix B). Despite this explicit notice, the United States Attorney's Office never filed an opposition. The First Circuit denied Applicant's petition after twenty-four days with no government response on the docket. Notably, the government offered no defense of the district court's use of quotation marks despite receiving explicit notice and an opportunity to respond — a silence that speaks to whether the fabricated quotations can be justified on the merits, given counsel's affirmative duty of candor under ABA Model Rule 3.3(a)(3).

IV. STATEMENT OF THE CASE

A. The Wrongful Conviction

Applicant Suzanne M. Brown — a Naval Academy graduate, former Marine Corps Captain, and founder of the New Hampshire Institute of Agriculture and Forestry serving rural farmers — was convicted by jury verdict on 12 counts of making false statements to the USDA in violation of 18 U.S.C. § 1001(a)(2) on January 26, 2017. The presiding judge was the Honorable Joseph N. Laplante. The lead prosecutor was AUSA Seth R. Aframe (now Judge Aframe of the First Circuit).

The alleged crime: reporting federal grant expenditures using accrual accounting — exactly as federal regulations (2 C.F.R. § 200.302(b)(2) and 7 C.F.R. § 3560.302) required.

USDA grant administrator Anne Getchell, by her own admission, did not understand the difference between accrual and cash-basis accounting. When Applicant reported accrued expenses before making final cash payments — precisely as federal regulations mandated — Getchell wrongly concluded the forms were false. The Government charged Applicant with 12 felony counts for complying with federal law.

Sentence: 12 months imprisonment, 2 years supervised release, $81,195 restitution. Applicant served 7 months at FDC Philadelphia, 5 months home confinement, and nearly 2 years supervised release — as a then-56-year-old woman and honorably discharged Marine Corps Captain.

Direct appeal: Affirmed. *United States v. Brown*, 945 F.3d 597 (1st Cir. 2019).

§ 2255 habeas: Denied by Judge Laplante (Feb. 16, 2021); appeal dismissed.

B. The Unrebutted Expert Testimony

During § 2255 habeas proceedings in 2020–2021, Applicant's forensic accounting expert Anne Layne testified that Applicant's accounting fully complied with federal regulations. The Government presented no rebuttal expert. Judge Laplante rejected Layne's unrebutted testimony and credited USDA administrator Getchell — who admitted she did not understand accrual accounting.

When unrebutted expert testimony establishes that an element of the crime was not proven, the conviction cannot stand as a matter of law. *Jackson v. Virginia*, 443 U.S. 307, 319 (1979). No false statement. No crime.

C. The USDA Discrimination Finding

On July 29, 2024, seven years after trial, the USDA issued a formal determination through its Discrimination Financial Assistance Program (DFAP) (Exhibit G): the USDA discriminated against Suzanne Brown during the time period concerning all grants and loans at issue, awarding her $41,960 in compensation. The alleged victim in this criminal case admitted it victimized the defendant.

Because the USDA was discriminating against Applicant during 2011–2014, it had concrete motive to mischaracterize her grant accounting. Anne Getchell's characterization of Applicant's forms as "false" may well have been motivated by discriminatory animus. No reasonable jury would convict knowing the purported victim agency formally admitted discriminating against the defendant.

D. The Brady Violations

During trial, the Government suppressed a critical packet of correspondence that documented (1) Senator Jeanne Shaheen's active investigation of USDA's discriminatory treatment of Applicant; (2) USDA officials' awareness of discrimination complaints; and (3) the USDA OIG's investigation of Applicant before administrative appeal (mandatory yet omitted) and criminal referral.

This packet included three sequential documents with consecutive Bates numbering, authenticated by the Government at a hearing on December 9, 2025: a letter from Suzanne Brown to USDA New Hampshire State Director David Robinson; correspondence from Senator Jeanne Shaheen to the USDA; and a letter from nonprofit attorney Peter Malia to one of the complaining witnesses.

At trial, the Government stripped these documents of their context. It introduced only the Robinson letter and the Malia letter separately, deliberately concealing Senator Shaheen's inquiry from the jury. AUSA Aframe — now Judge Aframe — knew or should have known the complete correspondence showed that USDA was simultaneously discriminating against Applicant and reporting her to law enforcement. If the jury had known this, reasonable doubt was inevitable. *Brady v. Maryland*, 373 U.S. 83 (1963); *Smith v. Cain*, 565 U.S. 73 (2012).

E. The Coram Nobis Petition

On December 15, 2024, immediately upon the statutorily scheduled completion date of her supervised release, Applicant filed a Petition for Writ of Error Coram Nobis presenting: (1) new evidence — the USDA discrimination finding; (2) change in law — *Loper Bright Enters. v. Raimondo*, 603 U.S. 369 (2024), eliminating Chevron deference; augmented later by (3) Brady violations — the suppressed Shaheen correspondence; and (4) ineffective assistance of counsel. Doc. 150, 151 (D.N.H. Dec. 15, 2024).

Judge Laplante denied appointment of counsel, denied expert witness funds, and scheduled oral argument for March 13, 2026.

F. The Fabricated Quotations — A Grammatical Impossibility

On January 23, 2026, Judge Laplante issued a 23-page order denying recusal (Exhibit C). At page 14, the order states, using double quotation marks:

"Brown represented to the court that she misled the court with her answer and untruthfully told the court that she appreciated its transparency..."

Doc. 202 at 14 (D.N.H. Jan. 23, 2026).

Those words do not exist anywhere in Applicant's 112-paragraph sworn affidavit.

Applicant's actual sworn statement, paragraph 66:

"I told the Court I appreciated its transparency, by which I meant I knew exactly what the Court's agenda was, not that it was being fair or honest."

Doc. 38-1 at 7, 66 (D.N.H. Dec. 16, 2021).

The critical exculpatory language — "by which I meant I knew exactly what the Court's agenda was" — does not appear in the district court's characterization. The words "misled the court" and "untruthfully told the court" appear nowhere in Applicant's affidavit. The district court transformed an explanation of strategic advocacy, as pre-planned with defense counsel, into a fabricated confession of perjury.

When Applicant documented this discrepancy with a side-by-side comparison, Judge Laplante responded in Doc. 204 by claiming the double quotation marks were merely "paraphrasing." The district court argued that because the quote used the syntax "that she" instead of "I," it was "obviously not Brown speaking." Doc. 204 at 2.

This defense is a grammatical incongruity and self-refuting. Just one sentence prior in the very same order, the district court correctly quoted Applicant in the first person using double outer quotes and inner single quotes reflecting verbatim attribution:

"'I have no reservations [about proceeding before this court], and I appreciate that you've been transparent about the whole thing, your Honor.'"

Doc. 202 at 14 (D.N.H. Jan. 23, 2026).

The district court clearly knows how to execute a proper verbatim quotation: outer double quotes to signal a quote from a prior order, inner single quotes around the party's actual words. Placing third-person pronouns inside double quotation marks and attributing them to a party by name is not a paraphrase; it is the fabrication of a confession.

The Second Fabricated Quotation — "Chastised Her Lawyer"

The very same sentence in Doc. 202 at page 14 contains a second fabricated attribution, equally unsupported by the record. The district court states that Applicant "also added that 'the court chastised her lawyer during oral argument by asking her more questions than it asked the prosecution.'" Doc. 202 at 14.

Three things are false in this single quoted clause.

First, the word "chastised" does not appear anywhere in Applicant's affidavit in connection with the oral argument. The word appears only in paragraph 34 of the affidavit — in a wholly different context — where Applicant recounts what her trial counsel, Attorney Brown, reported to her about a private pre-hearing chambers conference: that the court had severely chastised *counsel* for wanting to put Applicant on the stand to impeach the prosecutor. Doc. 38-1 at 34. The district court lifted a charged word from a paragraph about a private chambers conference and transplanted it — between double quotation marks — into Applicant's description of open courtroom proceedings. These are two different events, two different paragraphs, and one manufactured misattribution.

Second, Applicant never characterized the court's conduct toward her attorney as "chastising." That characterization was Attorney Brown's own account, relayed to Applicant. Applicant's affidavit faithfully distinguished between what she personally observed and what counsel told her. The district court's paraphrase collapses that distinction and attributes counsel's characterization to Applicant as her own sworn statement — within quotation marks.

Third, Applicant's actual affidavit language concerning questioning patterns at the hearings was measured and qualified: that the court *seemed to ask at least as many questions* as the prosecutor did of the defense expert, Attorney Brown, and Applicant. Doc. 38-1 at 43. The district court's version — "asking her more questions than it asked the prosecution" — strips the qualification "seemed to," converts "at least as many" into "more than," and transforms a careful observational statement into a definitive accusation. Each of these alterations, individually, is a misquotation. Together, placed inside double quotation marks attributed to Applicant by name, they constitute fabricated testimony on the permanent docket.

Taken together, both fabricated quotations appear within the same sentence of Doc. 202 at page 14, under a single footnote number, as though they reflect a coherent and verified record of what Applicant actually stated. Neither does.

As the First Circuit observed in *O'Connor v. Oakhurst Dairy*, 851 F.3d 69, 72 (1st Cir. 2017) (Barron, C.), "For want of a comma, we have this case." Precision in punctuation is not pedantry in federal court; it can be the difference between a quotation and a fabrication.

When Applicant raised this documented discrepancy, Judge Laplante retaliated in Footnote 6 of Doc. 204. Acknowledging that Applicant believes she is fighting for her "reputation, honor, and her life," the court responded:

"As a result, Brown appears to recognize few, if any, limits on the number, nature, and scope of her arguments and representations to the court..."

Doc. 204 at 3 n.6 (D.N.H. Feb. 3, 2026).

Accusing a Naval Academy graduate and Marine Corps veteran of having "few, if any, limits" on honesty — in a published federal order, explicitly triggered by her fight for her honor — is textbook judicial retaliation and personal bias under 28 U.S.C. § 455(b)(1).

V. REASONS FOR GRANTING THE STAY

The standard for a Circuit Justice stay requires: (1) a reasonable probability that certiorari will be granted; (2) a fair prospect that the Court will find the decision below erroneous; (3) a likelihood of irreparable harm absent a stay; and (4) the stay will not substantially injure other parties. *Hollingsworth v. Perry*, 558 U.S. 183, 190 (2010).

All four factors are met.

A. Likelihood of Success on the Merits

1. Williams and Murchison Structural Bias

Question for Certiorari: Whether a district judge must recuse under 28 U.S.C. § 455(a) and *Williams v. Pennsylvania*, 579 U.S. 1 (2016), when he is adjudicating alleged Brady violations by the trial prosecutor who is now a judge on the reviewing court of appeals, and that appellate judge has recused from all proceedings in the petitioner's cases, confirming the structural conflict.

Williams v. Pennsylvania held that when a judge has "significant, personal involvement" in a critical prosecutorial decision, automatic reversal is required — not case-by-case bias analysis. 579 U.S. at 8. The Court emphasized that "the Due Process Clause may sometimes demand recusal even when a judge has no actual bias." *Id.* (quoting *Aetna Life Ins. Co. v. Lavoie*, 475 U.S. 813, 825 (1986)).

The Court is aware that *Williams* involved a judge who, as District Attorney, had personally authorized seeking the death penalty in the very case before him. The structural conflict here is factually distinct: it is not the district judge who prosecuted Applicant, but rather the trial prosecutor who now sits on the reviewing appellate court. This distinction does not weaken the Williams principle — it compounds it. The structural conflict here operates at two simultaneous institutional levels that *Williams* did not reach and that this Court has not yet addressed.

Williams's core holding is that structural bias — defined as a judicial conflict so fundamental that it defies case-by-case analysis — requires automatic disqualification. 579 U.S. at 8. The underlying rationale of *Williams* is that certain institutional relationships create an irrebuttable risk of unfairness that due process cannot tolerate regardless of subjective intent. *Id.* That rationale applies with equal, if not greater, force here:

Level 1 — District Court: Judge Laplante adjudicates Brady violations allegedly committed by his former prosecutorial colleague AUSA Aframe. The structural incentive is to protect a sitting circuit judge from judicial findings of prosecutorial misconduct.

Level 2 — Appellate Court: The First Circuit reviews Judge Laplante's findings deferentially. Judge Aframe's colleagues on the First Circuit review findings about Judge Aframe's own alleged misconduct. The structural incentive is to protect an institutional colleague.

Whether the *Williams* principle necessarily extends to this double-layered structure — where the bias infects both the tribunal making findings and the tribunal reviewing them — is a question of first impression warranting this Court's review. Judge Aframe's own recusal from all of Applicant's proceedings confirms the conflict is real, not theoretical.

In re Murchison, 349 U.S. 133, 136 (1955), recognized the bedrock principle that "our system of law has always endeavored to prevent even the probability of unfairness." The probability of unfairness that *Murchison* prohibits is not merely present here — it is institutional.

2. The Fabricated Quotations — Due Process Violation of First Impression

Question for Certiorari: Whether due process is violated when a federal district judge places words in double quotation marks to fabricate a confession, refuses to correct the fabrication after receiving documented proof, and brands the party as having "few, if any, limits" on honesty when she objects — and then proceeds to preside over a credibility hearing involving that same party.

This case presents an issue of first impression in this Court. The district court's "paraphrase" defense is an admission that the double quotation marks did not reflect Applicant's actual words. But a fabricated paraphrase placed in quotation marks and attributed to a party by name, creating false evidence of a perjury confession, is no less a due process violation for being characterized by its author as a paraphrase.

Cf. Napue v. Illinois, 360 U.S. 264, 269 (1959) (due process is violated when the government allows false testimony to stand uncorrected, even if not directly elicited); *Mooney v. Holohan*, 294 U.S. 103, 112 (1935) (due process prohibits the deliberate use of false evidence).

These cases concern prosecutorial misconduct, yet they apply *a fortiori* here: if the law forbids an advocate from polluting the record with false evidence, it must by definition forbid a federal judge from fabricating testimony in a published order.

3. The Government's Failure to Oppose

The United States Attorney's Office never filed an opposition to Applicant's Emergency Petition in First Circuit Case No. 26-8010, despite receiving the First Circuit Clerk's Case Opening Notice on February 10, 2026, explicitly identifying the response deadline under Fed. R. App. P. 5(b)(2) as reflected in that notice (Exhibit B). The First Circuit issued its denial with no government response on the docket after twenty-four days.

That the government offered no response — despite receiving formal notice and possessing a full opportunity to defend the district court's use of quotation marks — is a circumstance this Court may properly weigh in assessing whether the fabrications are defensible on the merits. Under ABA Model Rule 3.3(a)(3), government counsel bears an affirmative duty to correct known false statements of material fact made to a tribunal. The twenty-four-day silence in the face of documented fabrications, when counsel had both notice and opportunity to respond, is probative of whether those fabrications can withstand scrutiny.

4. Actual Innocence and Disparate Treatment

Five independent grounds establish actual innocence, each sufficient alone:

Ground 1: USDA Discrimination Finding: The alleged victim agency formally admitted it discriminated against Applicant. No reasonable jury would convict knowing the victim agency discriminated against the defendant it simultaneously prosecuted. *United States v. Denedo*, 556 U.S. 904, 911–13 (2009).

Ground 2: Brady Violations: The government suppressed the complete correspondence sequence involving Senator Shaheen, David Robinson, and Peter Malia, hiding the fact that USDA was under active investigation for discrimination while reporting Applicant to law

enforcement. AUSA Aframe — now Judge Aframe — knew or should have known. The suppression was material: disclosure would have destroyed USDA's credibility as a neutral purported victim.

Ground 3: Unrebutted Expert Testimony: Applicant's forensic accounting expert Anne Layne testified during habeas corpus proceedings that Applicant's accounting fully complied with federal regulations. The Government presented no rebuttal expert. No false statement was proven. No crime occurred. *Jackson v. Virginia*, 443 U.S. 307, 319 (1979).

Ground 4: Loper Bright: *Loper Bright Enters. v. Raimondo*, 603 U.S. 369 (2024), eliminated Chevron deference. The conviction rested on deference to USDA administrator Getchell's cash-basis interpretation of regulations that mandated accrual accounting. Under *Loper Bright*, a court must independently interpret the regulations. Independent interpretation compels one conclusion: the regulations require accrual accounting. The legal basis for conviction never existed.

Ground 5 — Disparate Treatment: Three months before the January 23 order, Senior Judge McAuliffe of the same district granted coram nobis relief in *United States v. Morillo*, No. 1:15-cr-174 (D.N.H. Oct. 15, 2025), appointing counsel, authorizing expert funds, holding an evidentiary hearing, and vacating a 2016 conviction. Both *Morillo* and this case involve 2024 coram nobis petitions filed after sentences were completed. Applicant's evidence — a formal agency discrimination finding, unrebutted expert testimony, suppressed Brady evidence, a superseding change in law, and judicially mischaracterized affidavit testimony — is stronger on every ground. Identical standards applied disparately to Applicant corroborates the structural bias.

B. Irreparable Harm Absent a Stay

1. The One-Way Ratchet

The March 13 hearing is not an opportunity for relief — it is the consummation of structural error. Once Judge Laplante makes credibility findings about Applicant's testimony at the March 13 hearing, those findings receive *Anderson* deference on appeal — even if infected by structural bias. *Williams*, 579 U.S. at 8. The tainted transcript becomes the permanent record. Appellate courts defer to district court credibility determinations. The structural taint cannot be undone.

2. The Permanent "No Limits" Cloud on Credibility

The January 23, 2026 order places words in quotation marks that Applicant never spoke or wrote — mischaracterizing her sworn explanation of strategic advocacy as a confession of perjury. When Applicant documented this with a side-by-side comparison, the court responded not with correction, but with a published finding that she "appears to recognize few, if any, limits" on her representations to the court. Doc. 204 at 3 n.6.

This is not speculative prejudice — it is prejudgment of credibility documented on the permanent docket *before* the hearing has occurred. When Applicant testifies at the March 13 hearing, Judge Laplante will evaluate her credibility through the published prism of that finding. Under *Goodwin*, 457 U.S. 368 (1982), a judicial response that penalizes a party for exercising her constitutional right to seek review constitutes impermissible retaliation. The combination of fabricated attribution and a published "no limits" finding — issued precisely because Applicant documented the fabrication — satisfies *Goodwin*'s standard. No post-judgment appeal can retroactively purge this prejudgment from the credibility determination that will be made at the March 13 hearing.

3. The Anderson Lock-In Is Irreversible

Once factual findings are made at the March 13 hearing, those findings are presumed correct on appeal under *Anderson*, 470 U.S. at 573–74, regardless of the structural infection that produced them. *Williams* requires disqualification *before* the biased proceeding occurs precisely because deference to tainted findings is built into the appellate standard of review. 579 U.S. at 8. A stay now is the only remedy that preserves the possibility of untainted findings.

C. Balance of Equities and Public Interest

Applicant's harm without a stay: Forced to proceed before a judge who has mischaracterized her sworn testimony, refused to correct it, branded her as dishonest in a published order, and carries a structural conflict involving a sitting circuit judge, with all resulting credibility findings locked in by *Anderson* deference on appeal.

Government's harm with a stay: None. Applicant has already served her full undeserved sentence. The only effect of a stay is to preserve the status quo pending orderly review.

Public interest: The integrity of the federal judiciary depends on the principle that "our system of law has always endeavored to prevent even the probability of unfairness." *Murchison*, 349 U.S. at 136. A federal judge who mischaracterizes a party's sworn testimony under quotation marks, refuses to correct it, and then publicly accuses that party of having no limits on honesty when she documents the discrepancy, threatens public confidence in the entire federal judicial mechanism. A brief stay to allow this Court to assess the structural bias questions presented costs the government nothing and preserves everything.

VI. CONCLUSION

On March 6, 2026, the First Circuit denied Applicant's emergency petition without addressing a single substantive argument — citing only that "The district court still has not ruled on Petitioner's request for a writ of coram nobis" and declining to "again spell out why there is no basis for interlocutory or mandamus review." *See* Exhibit A. The First Circuit's invocation of procedure to avoid reviewing a structural bias claim illustrates precisely why the double-layered institutional conflict in this case cannot be policed from within the circuit itself.

The structural reality is that this Court is the only tribunal without an institutional stake in the outcome. Judge Aframe sits on the First Circuit. His recusal from Applicant's cases confirms the conflict. His former trial-court colleague is adjudicating Brady violations against him. The First Circuit cannot neutrally police its own structural conflict. Only this Court can.

Applicant respectfully requests that this Court:

1. **GRANT** an emergency stay of all proceedings in the United States District Court for the District of New Hampshire, Case No. 1:16-cr-00021-JL, pending disposition of a petition for writ of certiorari or, in the alternative, pending disposition of a petition for writ of mandamus directing the First Circuit to reassign this matter to a neutral district judge;
2. **STAY** specifically the March 13, 2026 oral argument in Applicant's coram nobis proceeding; and
3. **GRANT** such other and further relief as this Court deems just and proper.

Respectfully submitted this 9th day of March, 2026.

s/ Suzanne M. Brown

SUZANNE M. BROWN

Pro Se Applicant

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CERTIFICATE OF COMPLIANCE — WORD COUNT

Pursuant to Supreme Court Rule 22.4 and Rule 33.2(b), I certify that this Emergency Application is as brief as possible consistent with the issues presented; contains 4,691 words, as generated by the word-count function of the operative software; and excludes the parts exempted under the Rules.

s/ Suzanne M. Brown

SUZANNE M. BROWN

Pro Se Applicant

CERTIFICATE OF SERVICE

Pursuant to Supreme Court Rule 29, I hereby certify that on March 9, 2026, I served a true and correct copy of the foregoing Emergency Application upon each party by depositing an envelope containing the documents in the United States mail properly addressed to each of the following with Express Mail postage prepaid, by overnight United States Postal Service carrier delivery:

Solicitor General of the United States

Room 5616, Department of Justice

950 Pennsylvania Avenue, N.W.

Washington, DC 20530-0001

(Courtesy copy via email: supremectbriefs@usdoj.gov)

Acting United States Attorney Erin Creegan

United States Attorney's Office

District of New Hampshire

53 Pleasant Street, 4th Floor

Concord, NH 03301

(Service via ECF only, as allowed)

I declare under penalty of perjury that the foregoing is true and correct.

Executed on March 9, 2026.

s/ Suzanne M. Brown

SUZANNE M. BROWN

Pro Se Applicant

APPENDIX INDEX

Appendix A: First Circuit Court of Appeals Judgment Denying Relief, Case No. 26-8010 (March 6, 2026)

Appendix B: First Circuit Case Opening Notice Reflecting Mandatory Response Deadline, Case No. 26-8010 (February 10, 2026)

Appendix C: District Court Order Denying Recusal, Case No. 1:16-cr-00021-JL, Doc. 202 (January 23, 2026)

Appendix D: District Court Order Denying Stay — "Paraphrase" Admission and "No Limits" Finding, Case No. 1:16-cr-00021-JL, Doc. 204 (February 3, 2026)

Appendix E: Applicant's Sworn Affidavit, Case No. 1:20-cv-00170-JL, Doc. 38-1 (December 16, 2021)

Appendix F: First Circuit Order Denying Rehearing En Banc, Case No. 25-2166 (February 2, 2026)

Appendix G: USDA Discrimination Financial Assistance Program Determination (July 29, 2024) Full 47-page application available upon request.

Appendix H: Suppressed Shaheen-Robinson-Malia Correspondence; Consecutive Authenticated Sequence Bates Numbers 13R172_USDA-00555 to 00559 (2013–2014)

Appendix I: Expert Report and Testimony of Applicant's Forensic Accounting Expert Anne Layne (selected excerpts, 2020–2021 habeas proceedings, Case No. 1:20-cv-00170-JL) Complete report, deposition, and testimony on the record.

Appendix J: Applicant's Petition for Writ of Error Coram Nobis, Case No. 1:16-cr-00021-JL, Doc. 150–151 (December 15, 2024)

Appendix K: Applicant's Emergency Petition to First Circuit, Case No. 26-8010 (February 10, 2026)

United States Court of Appeals
For the First Circuit

No. 26-8010

IN RE: SUZANNE M. BROWN,

Petitioner.

Before

Gelpí, Montecalvo, and Rikelman,
Circuit Judges.

JUDGMENT

Entered: March 6, 2026

Petitioner Suzanne Brown seeks interlocutory review of proceedings in the District Court for the District of New Hampshire where she seeks a writ of coram nobis in relation to her past federal criminal convictions. Petitioner also moves for or seeks (including in the alternative) a grant of the writ of coram nobis, reassignment to a different district court judge, appointment of counsel, approval of funds for the hiring of an expert, a stay of proceedings (including in relation to a forthcoming district court hearing), and various other relief.

Petitioner earlier attempted an interlocutory appeal from this same proceeding, which we dismissed. See Appeal No. 25-1289. Petitioner also more recently sought a writ of mandamus from this court, raising very similar arguments, a request we also denied. See Appeal No. 25-2166. We also in both proceedings denied various motions and other requests for relief.

The district court still has not ruled on Petitioner's request for a writ of coram nobis, and Petitioner again makes no showing of her entitlement to interlocutory review or any other relief from this court. Further, as set forth previously, even if we were to construe Petitioner to seek mandamus relief, the standard for mandamus relief is high, see In re Cargill, 66 F.3d 1256, 1260 (1st Cir. 1995) (setting out mandamus standard), and Petitioner's arguments for review also would fail under that standard. We decline to again spell out why there is no basis for interlocutory or mandamus review or why Petitioner's other requests for relief from this court lack merit.

The petition is hereby **DENIED**. To the extent not mooted by the foregoing, all pending motions or other requests for relief also are **DENIED**.

By the Court:

Anastasia Dubrovsky, Clerk

cc: Suzanne M. Brown, David M. Lieberman, Charles L. Rombeau, Georgiana MacDonald

EXHIBIT B

United States Court of Appeals
For the First Circuit

No. 26-8010

IN RE: SUZANNE M. BROWN,

Petitioner.

CASE OPENING NOTICE

Issued: February 10, 2026

Suzanne M. Brown has filed a Petition for Writ of Error Coram Nobis (VOBIS); in the alternative, Petition for Permission to Appeal Interlocutory Order Denying Recusal Pursuant to 28 U.S.C. § 1292(b) and Collateral Order Doctrine.

Any answer in opposition or cross-petition must be filed within the time set by Fed. R. App. P. 5(b)(2).

An appearance form should be completed and returned immediately by any attorney who wishes to file pleadings in this court. 1st Cir. R. 12.0(a) and 46.0(a)(2). Any attorney who has not been admitted to practice before the First Circuit Court of Appeals must submit an application and fee for admission using the court's Case Management/Electronic Case Files ("CM/ECF") system prior to filing an appearance form. 1st Cir. R. 46.0(a). *Pro se* parties are not required to file an appearance form.

Dockets, opinions, rules, forms, attorney admission applications, the court calendar and general notices can be obtained from the court's website at www.ca1.uscourts.gov. Your attention is called specifically to the notice(s) listed below:

- Notice to Counsel and Pro Se Litigants

If you wish to inquire about your case by telephone, please contact the case manager at the direct extension listed below.

Anastasia Dubrovsky, Clerk

UNITED STATES COURT OF APPEALS
FOR THE FIRST CIRCUIT
John Joseph Moakley
United States Courthouse
1 Courthouse Way, Suite 2500
Boston, MA 02210
Case Manager: Gloria - (617) 748-4214

EXHIBIT C

UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE

United States of America

v. Civil No. 16-cr-21-JL

Suzanne Brown

ORDER

Before the court is defendant-petitioner Suzanne Brown's motion that the undersigned judge recuse himself from the proceedings regarding the petition for coram nobis relief.

In January 2017, Suzanne Brown was convicted by jury verdict on 12 counts of making materially false statements to the United States Department of Agriculture ("USDA") in violation of 18 U.S.C. § 1001(a)(2). After an unsuccessful appeal, *United States v. Brown*, 945 F.3d 597 (1st Cir. 2019); an unsuccessful petition under 28 U.S.C. § 2255, ***Brown v. United States***, 20-cv-170-JL (D.N.H. judgment entered Feb. 17, 2021) (appeal dismissed); and an unsuccessful petition under 28 U.S.C. § 2241, affirmed on appeal, *Brown v. Penders*, 101 F.4th 944 (1st Cir. 2024), Brown, representing herself, filed a petition for a writ of error coram nobis.[1] The court has subject matter jurisdiction to decide Brown's petition under the All Writs Act, 28 U.S.C. § 1951, as an extension of the subject matter jurisdiction in this criminal case. *United States v. Denedo*, 556 U.S. 904, 911-13 (2009); *United States v. George*, 676 F.3d 249, 253 (1st Cir. 2012).

At oral argument on Brown's coram nobis petition held on December 9, 2025, Brown orally moved for recusal of the undersigned judge, and she then moved to amend her recusal

[1] *Brown*, 16-cr-21, doc. nos. 150 & 151.

motion, seeking recusal pursuant to 28 U.S.C. § 455.[2] The government objects to recusal.[3] Brown's prior recusal motion in a related proceeding was denied.[4] For the reasons that follow, the court again denies Brown's motion to recuse.

I. Preliminary procedural matters

The court grants Brown's motion to amend her oral motion for recusal.[5] The court now considers Brown's oral motion made in court on December 9, 2025, and her amended motion in support of her request for recusal.

In her motion to amend, Brown requested an evidentiary hearing to address matters related to the recusal motion she filed in 2021 in her habeas corpus proceeding under § 2255. That motion was denied. As discussed below, Brown provides no grounds to reconsider that decision. As a result, she offers no reason for an evidentiary hearing on the motion for recusal.

Brown filed a reply to the government's objection to her motion for recusal and attached two exhibits to the reply that are titled as motions.[6] For the court to consider a request for relief, a party must file a motion, which she has done many times, but did not do so here. LR 7.1(a)(1). She provides no explanation for attaching the "motion" exhibits to her reply.

Even if the motion exhibits had been properly filed rather than appended to Brown's reply, the court would deny the relief sought. In her reply, Brown asks for an evidentiary hearing on her recusal motion, relying on a statement in the government's objection and her discussion with the court during the December 9, 2025 oral argument. Brown appears to misunderstand

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[2] *Id.*, doc. no. 198.
[3] *Id.*, doc. no. 200.
[4] *Brown*, 20-cv-170, doc. no. 45. Brown also sought disqualification of the undersigned judge through a writ of mandamus to the First Circuit Court of Appeals, which was denied. *Brown*, 16-cr-21, doc. no. 197.
[5] *Brown*, 16-cr-21, doc. no. 198.
[6] *Id.*, at doc. no. 201.

both. While Brown was free to submit evidence in support of her motion, she chose not to do so. That choice does not now require an evidentiary hearing. At the end of its objection, the government requested an evidentiary hearing "[i]n the event the Court concludes any of defendant's factual allegations [in her motion] are not otherwise foreclosed."[7] An evidentiary hearing is unnecessary to resolve the issues raised in Brown's recusal motion, which the court denies for the following reasons.

II. Standard of review

Under 28 U.S.C. § 455(a), "[a]ny justice, judge, or magistrate judge of the United States shall disqualify [her]self in any proceeding in which [her] impartiality might reasonably be questioned." 28 U.S.C. § 455(a). Section 455(b)(1) requires a judge to disqualify himself if he has a "personal bias or prejudice concerning a party, or personal knowledge of disputed evidentiary facts concerning the proceeding." 28 U.S.C. § 455(b)(1). "The showing that [Brown] must make to prevail on this argument is formidable." *United States v. Medoff*, 159 F.4th 107, 122 (1st Cir. 2025).

"[A] judge considering a motion to recuse must ask whether 'the facts asserted provide what an objective, knowledgeable member of the public would find to be a reasonable basis for doubting the judge's impartiality.'"[8] *Id.* (quoting *In re Boston's Children First*, 244 F.3d 164,

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[7] *Id.*, doc. no. 200, at 9.

[8] As a clarification, this case does not raise the recusal issues addressed in *Halliday v. United States*, 380 F.2d 270 (1st Cir. 1967), where a petitioner in a habeas corpus proceeding under 28 U.S.C. § 2255 challenged the sentencing judge's findings pertaining to his guilty plea during a Federal Rule of Criminal Procedure 11 hearing. *See Panzardi-Alvarez v. United States*, 879 F.2d 975, 985 (1st Cir. 1989). The recommendation that the judge recuse in *Halliday* is limited to the specific circumstances presented in that case. *Id.*; *see also McCormack v. Grondolsky*, No. 14-cv-10, 2015 WL 717958, at *4 (D. Mass. Feb. 19, 2015). This is a coram nobis proceeding; Brown did not plead guilty; and the grounds Brown raises for coram nobis relief do not challenge the undersigned judge's prior factual findings. *See* doc. nos. 150, 151, 174, 175, 176, & 179. The *Halliday* recommendation does not apply here.

167 (1st Cir. 2001)) (further internal quotation marks omitted). "[A]s the Supreme Court explained in *Liteky*, 'judicial rulings alone almost never constitute a valid basis for a bias or partiality motion,' and instead '[a]lmost invariably, [such rulings] are proper grounds for appeal, not for recusal.'" *Medoff*, 159 F.4th at 123 (quoting *Liteky v. United States*, 510 U.S. 540, 555 (1994)). "[A] judge's opinions that are . . . premised on 'facts introduced or events occurring in the course of the current proceedings, or of prior proceedings,' and not on a source outside of judicial proceedings (known as an 'extrajudicial source'), 'do not constitute a basis for a bias or partiality motion unless they display a deep-seated favoritism or antagonism that would make fair judgment impossible.'" *Id.* (quoting *Liteky,* 510 U.S. at 555). In addition, "judicial remarks 'that are critical or disapproving of, or even hostile to, counsel, the parties, or their cases, ordinarily do not support a [section 455(a)] bias or partiality challenge.'" *Id.* (quoting *Liteky*, 510 U.S. at 555); *see also id.* n.8.

In summary, the recusal "decision must reflect *not only* the need to secure public confidence through proceedings that appear impartial, *but also* the need to prevent parties from too easily obtaining the disqualification of a judge, thereby potentially manipulating the system for strategic reasons, perhaps to obtain a judge more to their liking." *In re Bulger*, 710 F.3d 42, 47 (1st Cir. 2013) (internal quotation marks omitted); *see also Philips Med. Sys. (Cleveland), Inc. v. Quinn*, Nos. 87-cv-2828 & 89-cv-2508, 2025 WL 2306582, at *2 (D. Mass. Aug. 11, 2025); *United States v. Medoff*, 766 F. Supp. 3d 153, 163 (D. Mass. 2025); *Gladu v. Magnusson*, No. 22-cv-134, 2024 WL 3283170, at *1 (D. Me. June 7, 2024); *Barnard v. United States*, No. 23-cv-257, 2024 WL 474541, at *3 (D. Me. Feb. 7, 2024).

III. Background

A. Criminal proceedings

Brown operated a nonprofit organization, the New Hampshire Institute of Agriculture and Forestry, in northern New Hampshire, and she received Rural Business Enterprise grants from the USDA to pay contractors who worked for her organization. *Brown*, 945 F.3d at 599. Although Brown represented that she made payments to the contractors, Brown did not pay them. *Id.* Based on those circumstances, she was indicted on February 10, 2016, on 12 counts of making a false statement to a federal agency, the USDA. *Id.* at 600. Counsel was appointed to represent her.[9] She was convicted by a jury on January 26, 2017. *Id.*

"After the verdict [but before sentencing], Brown brought multiple challenges to her convictions, including that she had received ineffective assistance of counsel at trial." *Id.* The undersigned judge held hearings on Brown's motion for a new trial, appointed new counsel to represent her during the post trial proceedings, and also allowed Brown to file a memorandum pro se.[10] When Brown's appointed counsel withdrew, the court appointed new counsel, and then Brown again desired new counsel due to a disagreement with counsel, which was resolved so that appointed counsel remained.[11] During the final hearing on Brown's challenges, the court denied Brown's presentencing motions without prejudice to filing a habeas corpus petition under 28 U.S.C. § 2255.[12]

The court sentenced Brown on June 15, 2018, to 12 months of imprisonment to be followed by two years of supervised release and ordered her to pay $81,195.00 in restitution to

[9] *Brown*, 16-cr-21, doc. no. 5.
[10] *Brown*, 20-cv-170, doc. no. 13, at 2.
[11] *Brown*, 16-cr-21, doc. no. 78 (withdrawn on March 9, 2018).
[12] *Id.*. doc. no. 104, at 22.

the USDA.[13] She appealed her convictions, primarily arguing that her convictions were not supported by sufficient evidence. *See Brown*, 945 F.3d at 600-602. This court granted Brown bail pending appeal. The First Circuit Court of Appeals affirmed her convictions. *Id.* at 606.

B. Habeas corpus proceedings

Representing herself, Brown filed a petition for a writ of habeas corpus under 28 U.S.C. § 2255 on January 28, 2020.[14] The court appointed counsel to represent her, and counsel filed an amended petition.[15] The amended petition challenged the convictions based on claims of ineffective assistance of counsel, and in particular, that defense counsel failed to realize and present argument and evidence, including an accounting expert witness, on USDA regulatory materials and the difference between cash-based and accrual-based accounting.[16] The court approved funds to hire an accounting expert to address the accounting and USDA regulatory issues raised in the amended petition.[17] The court held an evidentiary hearing, which extended over two days in September 2020 and an additional day in February 2021, and heard testimony from an accounting expert witness on Brown's behalf.[18] At the conclusion of the third day of the hearing, the court denied the petition in an oral order and also declined to issue a certificate of appealability.[19]

Through counsel, Brown moved to amend the judgment, arguing that the court erred in concluding that she had not shown ineffective assistance of counsel due to defense counsel's

[13] *Id.*, doc. no. 95.
[14] *Brown*, 20-cv-170-JL, doc. no. 1.
[15] *Id.*, doc. no. 10.
[16] *Id.* The court set forth Brown's habeas claims in the procedural order. Doc. no. 13.
[17] *Id.*, doc. no. 45, at 11.
[18] *Id.*, doc. nos. 17, 18, & 19.
[19] *Id.*, doc. no. 19, at 94; end. or. Feb. 16, 2021.

failure to consult an accounting expert, which the court denied.[20] Brown filed a notice of appeal, and the court continued her release pending appeal in lieu of executing her prison sentence. The Court of Appeals denied her request for a certificate of appealability and then dismissed the appeal when Brown failed to respond to that court's show cause order.[21] Only after her unsuccessful appeal and unsuccessful § 2255 habeas challenge did the court order that she serve her sentence.

Counsel withdrew from representation, and Brown moved to proceed by representing herself.[22] On her own behalf, Brown filed a motion for the undersigned judge to recuse retroactively in the § 2255 case, seeking an order that the judgment and all orders would be vacated and she would have a new evidentiary hearing before a different judge on her petition.[23] In support, Brown argued that the following circumstances demonstrated actual bias or the appearance of bias: purported communications with the Federal Public Defender's Office, "behavior that was harassing, abusive, prejudiced, or biased toward [Brown's] counsel," failure to discipline prosecutorial misconduct and "failure to hold or discipline government prosecutors to an acceptable standard of candor to the tribunal," purported "suppression of [her] testimony at the September 25, 2021, hearing," "refusal to accept [her] unrebutted testimony regarding lack of pre-trial consultation with expert and claims of ineffective assistance of counsel," and "rescinding [her] bail and setting surrender date in retaliation for [her] opposition to the government's motion to incarcerate [her] while [her] appeal is still pending."[24] The court addressed each issue Brown raised, including her allegations that her counsel thought the

[20] Doc. nos. 15 & 20.
[21] Doc. nos. 28 & 42.
[22] *Brown*, 16-cr-21, doc. nos. 126 & 127.
[23] *Brown*, 20-cv-170, doc. no. 37.
[24] *Id.*, doc. no. 37, at 5.

undersigned judge was prejudiced against Brown, preferred male counsel, improperly used off-the-record conferences, and identified with prosectors because of a prior position as an Assistant United States Attorney.[25] The court denied the motion for recusal, particularly addressing the issues pertaining to Brown's counsel in the § 2255 proceeding.[26] As a result, the § 2255 petition was denied, and that case remained closed.

C. Petition for immediate release proceedings

After serving her term of imprisonment and while Brown was serving her term of supervised release under supervision in the District of Maine in August 2022, she filed a petition for immediate release under § 2241, arguing that First Step Act credits reduced the time of supervised release.[27] Brown then filed three motions for immediate release. The court appointed counsel to represent Brown in that proceeding. The Magistrate Judge issued a report and recommendation that the district judge deny the motions for immediate release and deny the petition.[28] The district judge adopted the report and recommendation.[29] Counsel filed an appeal on Brown's behalf, but counsel then moved to withdraw, and the court appointed new counsel to represent Brown on appeal.[30] The Court of Appeals affirmed the decision denying Brown's § 2241 petition challenging the calculation of First Step Act credits for supervised release. *Brown v. Penders*, 101 F.4th 944, 9946 (1st Cir. 2024).

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[25] *Id.*, doc. no. 37.
[26] *Id.*, doc. no. 45, at 15-17.
[27] *Brown v. Rieger*, 22-cv-259 (D. Me. filed Aug. 24, 2022), doc. no. 1.
[28] *Id.*, doc. no. 13.
[29] *Brown v. Rieger*, No. 22-cv-259, 2022 WL 17184294 (D. Me. Nov. 23, 2022).
[30] *Brown v. Pender*, No. 22-1945, order (1st Cir. Mar. 27, 2023).

D. Early termination proceedings

On May 10, 2024, Brown, representing herself, moved for early termination of her two-year term of supervised release in this court under 18 U.S.C. § 3583(e)(1).[31] The court held a hearing by video conference on July 22, 2024. At the beginning of the hearing, the court asked Brown about any concerns she might have about the undersigned judge deciding her early termination motion, given her motion for recusal in the § 2255 proceeding. Partly because of the recusal issue, the court appointed counsel to represent Brown for purposes of her early termination motion.[32] Counsel, however, withdrew from representation due to a conflict of interest, and the court appointed new counsel to represent Brown.[33] Counsel did not move for recusal. The court held a hearing and orally granted the motion for early termination.[34]

E. Coram nobis proceedings

In January 2024, Brown applied to the USDA's Discrimination Financial Assistance Program ("DFAP"), asserting discrimination against her by the USDA in managing a "microloan" from the USDA's Farm Service Agency.[35] Brown received notice in early August 2024 that DFAP approved an award to her of $41,960.00. Brown then filed her petition for a writ of error coram nobis in this case, raising claims based on the DFAP award and the Supreme Court's decision in *Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 385–86 (2024), and claims asserting prosecutorial misconduct and ineffective assistance of counsel.[36] When the court denied her motion for appointment of counsel to represent her for purposes of the coram nobis

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[31] *Brown*, 16-cr-21, doc. no. 142.
[32] *Id.*, end. or. July 25, 2024.
[33] *Id.*, doc. no. 148; end. ors. Oct. 11, 2024.
[34] *Id.*, oral order, Nov. 22, 2024.
[35] The microloan was different and separate from the USDA Rural Business Enterprise grant that was the subject of the criminal charges against Brown.
[36] *Brown*, 16-cr-21, doc. nos. 150 & 151.

proceeding, Brown appealed. On August 8, 2025, the Court of Appeals granted the government's motion to dismiss Brown's appeal.[37]

Brown moved to supplement her petition with additional argument and exhibits and an additional claim that her convictions should be overturned to facilitate Brown's new business venture, and the motions to supplement were granted.[38] As supplemented, Brown claims that (1) new evidence (the DFAP award), (2) a change in the law (*Loper Bright*), (3) prosecutorial misconduct (the government allegedly tampered with evidence at trial by removing Senator Shaheen's letter from an exhibit that included Brown's letter to the USDA), and (4) ineffective assistance of counsel (because her counsel failed to introduce USDA regulations on grant rules, failed to consult an accounting expert, and would not present her theories of retaliatory and discriminatory prosecution) demonstrate her actual innocence. In her final motion to supplement, she argues that her convictions should be overturned to reinstate her security clearance for purposes of a new business venture.[39] The court scheduled oral argument on Brown's coram nobis petition for December 9, 2025.

Anticipating oral argument, Brown moved for reconsideration of the denial of her motion for appointment of counsel, seeking counsel to handle evidentiary matters and to represent her for oral argument, which the court denied.[40] Brown moved for approval of funds to hire an accountant expert and for authentication of certain evidence.[41] The court denied the motion for funds to hire an expert and had not yet decided the authentication issue when Brown moved to

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[37] *Id.*, doc. no. 173.
[38] *Id.*, doc. nos. 175, 176, & 179; *see also* doc. no. 174 (summarizing claims).
[39] *Id.*, doc. no. 170.
[40] *Id.*, doc. no. 185.
[41] *Id.*, doc. nos. 186 & 187.

continue oral argument.[42] In support, Brown asserted that the court's orders created "a procedural impossibility" because she was "prohibited from presenting evidence" at the oral argument.[43]

The court took under advisement Brown's motion to continue, explaining that she misunderstood the purpose of oral argument and that scheduling oral argument did not, contrary to her interpretation, mean that the court had recognized merit or complexity in the issues she raised in her petition.[44] The court noted that the United States Attorney's Office was likely to not to object to consideration of the letter that Brown sought to authenticate, and directed the government to respond to that issue. The government responded, and the court denied Brown's motion for authentication as moot, and reset oral argument as originally scheduled for December 9, 2025.[45]

Brown filed an emergency petition in the First Circuit Court of Appeals for a writ of mandamus, asking that court to grant her coram nobis petition, to reassign the case to another judge, or to direct the undersigned judge to appoint counsel for her, to authorize funds for an expert, and to require authentication of correspondence that was evidence at her criminal trial.[46] Three days later, the Court of Appeals entered judgment denying the petition for a writ of mandamus because "Petitioner offers no compelling argument for grant of the writ of coram nobis by this court or for reassignment of the district court."[47] The Court of Appeals also stated that it had "no basis on this record, prior to a final order, to intrude on the district court's

[42] *Id.*, doc. no. 189.
[43] *Id.*
[44] *Id.*, end. or. Nov. 24, 2025.
[45] *Id.*, doc. no. 193.
[46] *Id.*, doc. no. 195.
[47] *Id.*, doc. no. 197.

discretion to manage its schedule or resolve appointment or discovery matters."[48] The Court further noted that Brown "specifically requested oral argument before this district court judge on this relief," and reminded her that she had no right to counsel for purposes of oral argument.[49]

This court held oral argument on Brown's coram nobis petition on December 9, 2025, as scheduled. Brown appeared on her own behalf, and an Assistant United States Attorney appeared for the government. At the beginning of the argument, the government noted that Brown raised recusal issues in the petition for a writ of mandamus and asked whether she was pursuing a recusal argument for purposes of the coram nobis proceeding.[50] In response, Brown stated that she still seeks the court's recusal for purposes of the coram nobis proceeding.[51] She further stated that she believed that the ruling on her § 2255 petition was the result of friction between this court and her counsel and relied on the same allegations she included in her motion for recusal and affidavit in the § 2255 proceeding. She then added that she believed the rulings pertaining to her coram nobis proceeding also required recusal. The court gave the government 14 days to respond.

Brown filed a motion to amend her oral motion for recusal with an attached affidavit. The government filed an objection. Brown filed a reply.

IV. Analysis

In her amended motion for recusal, Brown refers back to her motion for the court's recusal filed in the § 2255 proceeding and argues, under *In re Bulger*, 710 F.3d 42 (1st Cir. 2013), that because she previously raised concerns about the undersigned judge's impartiality,

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[48] *Id.*
[49] *Id.*
[50] *Id.*, doc. no. 199, at 4.
[51] *Id.*, at 5.

"reassignment becomes appropriate, particularly when the judge's own prior rulings are central to the case."[52] Brown also argues that certain statements and actions taken in the coram nobis proceeding were wrong and demonstrate bias against her. Brown also argues the merits of her coram nobis petition, which is inapposite to the recusal issue and not considered here.

A. Prior recusal motion, concerns, and decisions

At oral argument on December 9, Brown reiterated her concerns about the court's interaction with her former appointed counsel during the evidentiary hearing on her § 2255 petition. As stated in the background section, Brown, representing herself, moved for recusal during the § 2255 proceeding based in part on perceived friction between the court and her appointed counsel and the court's perceived bias against her, as allegedly related to Brown by her counsel. The court addressed the issues Brown raised in detail in the order denying the recusal motion.[53]

Addressing Brown's allegations about "the court's conduct toward her former counsel," the court summarized the § 2255 proceedings and the efforts taken to give counsel every opportunity to litigate the petition.[54] The court then recounted the circumstances of the interaction with Brown's counsel:

> When, prior to the second day of the evidentiary hearing, the court questioned the petitioner's counsel about her desire to have the petitioner testify (when she had previously told the deputy clerk that her only witness would be the expert), counsel accused the court of "attacking" her. Counsel became upset and the court suspended the start of the hearing. It then gave counsel the opportunity to postpone the hearing entirely. Counsel regained her composure and told the court that she (and the petitioner) wished to go forward with the hearing that day. The court's exchange with counsel was contentious, but in no way did it become harassing, abusive, coercive or intimidating, and the petitioner does not explain otherwise.[55]

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[52] *Id.*, doc. no. 198, at 5.
[53] *Brown*, 20-cv-170, doc. no. 45, at 10-17.
[54] *Id.*, at 11.
[55] *Id.*

The court reminded Brown that "at the start of the February 2021 oral argument, the court informed [Brown] of the details of its exchange with her counsel, explained that it had spoken with counsel after the exchange to be sure that counsel was comfortable proceeding before the court, and explained that counsel told the court that here was no problem going forward."[56] After that explanation, Brown stated: "'I have no reservations [about proceeding before this court], and I appreciate that you've been transparent about the whole thing, your Honor.'"[57] In support of her later recusal motion, however, Brown represented to the court "that she misled the court with her answer and untruthfully told the court that she appreciated its transparency" and also added that "the court 'chastised her lawyer during oral argument by asking her more questions than it asked the prosecution."[58]

The court concluded as follows:

> The court's alleged unfavorable treatment of petitioner's counsel during this proceeding was based strictly on facts or events occurring in the underlying proceeding, not extrajudicial sources. More importantly, the court's treatment of counsel does not reveal a deep-seated favoritism for the government or antagonism toward the petitioner. It instead reflects critical, but respectful, lines of questioning of both the petitioner and her counsel in a highly contested § 2255 litigation in which she held the burden of proof. Such routine judicial inquiry into, and even disagreement with, one party's position in a case does not reflect – in the eyes of an objective observer – a personal bias against that party or provide a valid basis for recusal or disqualification.[59]

In addition, before Brown filed the recusal motion, counsel represented to the court that she was withdrawing from representing Brown because Brown wanted to represent herself, not because of any conduct by the court toward counsel.[60] Brown also raised other issues in her recusal

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[56] *Id.*
[57] *Id.*
[58] *Id.*
[59] *Id.*, at 12.
[60] *Id.*, at 16.

motion in the § 2255 proceeding, some of which she raises again here, including preferential treatment of the prosecutors. The court found no merit in those allegations.[61]

While Brown may disagree with that decision, her remedy was to appeal.[62] She cannot relitigate that decision in this case. *See, e.g., Thomas v. Bank of Am., N.A.*, No. 21-cv-03369-WMR, 2022 WL 1572392, at *7 (N.D. Ga. May 11, 2022), aff'd, No. 22-11661, 2023 WL 21386 (11th Cir. Jan. 3, 2023); *United States v. Hinkson*, No. 04-cr-00127-RCT, 2021 WL 4317620, at *6 (D. Idaho Sept. 22. 2021). In addition, Brown is not represented by counsel in the coram nobis proceeding so the issue, even if there were ever any perceived issue with her former appointed counsel, is not a factor in this proceeding.

The court previously raised the recusal issue in this case in the context of Brown's motion for early termination of supervised relief and appointed counsel to represent her in that proceeding, in part to address the recusal issue. Brown, with the advice of counsel, did not pursue recusal. Brown mistakenly states now that the undersigned judge refused to recuse when asked to do so.[63] The record shows that Brown did not move for recusal, and the court did not refuse to recuse.

Brown did not raise the recusal issue in her petition for a writ of error coram nobis, filed over a year ago, or in any motion in the coram nobis proceeding. Instead, Brown raised her complaints about the undersigned judge in a petition for a writ of mandamus to the Court of Appeals just before oral argument on her coram nobis petition.[64] In the petition for a writ of

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[61] *Id.*, at 14-17.

[62] Brown filed an appeal from the denial of her § 2255 petition before she moved for the undersigned judge's recusal. The appeal was dismissed. *Brown*, 20-cv-170, doc. no. 42.

[63] *Brown*, 16-cr-21, doc. no. 198, at 4.

[64] *Id.*, doc. no. 194-1. The government understandably contends that Brown's recusal motion is untimely. The court addresses the recusal issues she raises, however, despite the procedural posture of the motion, to clarify that bias has not influenced any of the court's decisions.

mandamus, Brown asked the Court of Appeals to "remand to the Chief Judge of the District of New Hampshire for reassignment of the pending coram nobis petition to a new judicial officer."[65] In support, Brown provided the following reasons for reassignment:

> (a) the district court's express statement that its offer of oral argument was "not as any sort of recognition of the complexity or potential merit" of Petitioner's claims; (b) the fact that those claims involve alleged Brady violations by a prosecutor who is now a judge of this Court, government-admitted discrimination by the victim agency, and unrebutted expert evidence of actual innocence. Dkt. 188 [Brown's "Notice of Objection to Denial of Counsel and Preservation of Rights for Appeal]; and (c) previous allegations of bias and motions/requests for judicial recusal during habeas corpus proceedings (20-cv-00170 Dkt. 37, 38) [motion for recusal in § 2255 proceeding] and probation (Dkt. 147) [transcript of hearing on motion for early termination of supervised release].[66]

Brown argued that the court had prejudged her coram nobis claims and should have granted her requests for appointed counsel and funds to hire an expert witness. She further argued that the court did not properly consider her authentication concerns for the letter she hoped to address during oral argument (which she mistakenly characterized as "Brady issues"), that reassignment was supported because of her concern that the Assistant United States Attorney who prosecuted her criminal case was now a judge on the First Circuit Court of Appeals, that the court did not recuse in the proceeding on her motion for early termination of supervised release, and that the court directed that United States Probation Office and United States Marshal Service receive copies of the order denying her motion for authentication as moot and reinstating the scheduled oral argument. In response, the Court of Appeals denied Brown's petition, holding that Brown did not show she was entitled to a writ of mandamus, that she did not offer a compelling argument for reassignment of the coram nobis proceeding, and that there was no basis on the record "to intrude on the district court's discretion to manage its schedule or

[65] *Id.*, at 1.
[66] *Id.*, at 1-2.

resolve appointment or discovery matters."[67] As such, the Court of Appeals rejected Brown's reasons for reassigning the coram nobis proceeding to another judge.

The court will not reconsider the issues Brown raises to support recusal that were previously presented to and decided by this court in the § 2255 proceeding and/or by the Court of Appeals in denying the petition for a writ of mandamus.

B. In re Bulger

Brown argues that, under *In re Bulger,* 710 F.3d 42 (1st Cir. 2013), the court must recuse in this case because she is asserting bias based on the court's decisions and rulings, which will require the court to examine its own actions in this case for purposes of recusal. To clarify, Brown contends that the court's decisions and rulings in the coram nobis proceeding demonstrate bias against her. To the extent she also argues that recusal is required because, for purposes of coram nobis relief, she is challenging the court's decisions and rulings during the criminal case or at trial, that argument misstates her claims.[68]

In *Bulger*, the court granted the defendant's petition for a writ of mandamus to reassign his case because the presiding judge had served in a supervisory position in the United States Attorney's Office in Massachusetts during the time the defendant claimed that office offered him immunity. *Bulger*, 710 F.3d at 48. The court found that the record included "enough to justify a

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[67] 16-cr-21, doc. no. 197.

[68] As stated in the background section, Brown's claims in support of her petition for a writ of error coram nobis are: (1) new evidence (the DFAP award), (2) a change in the law (*Loper Bright*), (3) prosecutorial misconduct (the government allegedly tampered with evidence at trial by removing Senator Shaheen's letter from an exhibit that included Brown's letter to the USDA), and (4) ineffective assistance of counsel (her counsel failed to introduce USDA regulations on grant rules, failed to consult an accounting expert, and would not present her theories of retaliatory and discriminatory prosecution). In her final motion to supplement, she argues that coram nobis relief is necessary to reinstate her security clearance for purposes of a new business venture. Contrary to her representations in her motion for recusal, she brings no claim that the court's findings, decisions, or rulings in the criminal case are grounds for coram nobis relief.

reasonable belief that the defense's claim probably portends an enquiry into just those dealings." *Id.* More specifically, "[g]iven the institutional ties described here, the reasonable person might well question whether a judge who bore supervisory responsibility for prosecutorial activities during some of the time at issue could suppress his inevitable feelings and remain impartial when asked to determine how far to delve into the relationship between defendant and Government, and to preside over whatever enquiry may ultimately be conducted." *Id.*, at 48-49.

As such, the activities at issue in *Bulger* were extrajudicial, the judge's relationships that existed prior to and outside of the judicial proceedings. *See Medoff,* 159 F.4th at 123. Brown, however, argues here that the court is biased against her because the court denied her motion for appointment of counsel, denied her motion for authentication of evidence (it did not, *see supra* at 11), denied her motion for authorization of funds for an expert witness, and denied her motion for reconsideration of the decision not to appoint counsel. "[A]s the Supreme Court explained in *Liteky*, 'judicial rulings alone almost never constitute a valid basis for a bias or partiality motion,' and instead '[a]lmost invariably, [such rulings] are proper grounds for appeal, not for recusal.'" *Medoff*, 159 F.4th at 123 (quoting *Liteky*, 510 U.S. at 555). Nothing resembling the circumstances in *Bulger* is presented here.

C. Additional grounds

Brown argues that the court has demonstrated bias against her during the coram nobis proceeding, has prejudged her claims, is burdened by a structural conflict, and should follow the coram nobis holding in a recent order by Senior Judge McAuliffe.

1. Bias

Brown argues the court's decision not to appoint counsel for purposes of her coram nobis petition was due to bias against her.[69] In support, she asserts that the court stated during oral argument on December 9 that the court "cannot appoint CJA counsel in a coram nobis proceeding and offered the following reasoning: 'You already had counsel in your habeas corpus proceeding. I appointed counsel to you then.'"[70] Contrary to Brown's summary of the discussion, Brown argued that she needed counsel to present evidence at oral argument in support of her recusal motion. In response, the court stated that it would give Brown an opportunity to present evidence on the recusal issue if she wanted to do that. By way of further explanation, the court stated:

> But I can't grant you counsel for this case. This is not the type of case where you have a right to counsel. Even in your 2255 petition you didn't have a right to counsel, but I thought, look, we were coming fresh off the criminal trial, you were what I thought close enough to that proceeding where it would be best to give you some advice to narrow your claims to the ones that have the best likelihood of success, somebody who would examine that expert effectively, which happened.[71]

The Court of Appeals also stated that Brown had no right to counsel in the coram nobis proceeding. Brown has litigated the issue of counsel through a motion in this proceeding, in a

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[69] The court notes that it is perhaps understandable that Brown would believe, mistakenly, that appointed counsel is the norm rather than an exception in civil matters. She had appointed counsel for the § 2255 proceeding in this court, the § 2241 proceeding in the District of Maine, on appeal of the § 2241 decision in the Court of Appeals, and in the proceeding on her motion for early termination of supervised release under 18 U.S.C. § 3583(e)(1) in this court. Further, in several instances when appointed counsel withdrew, the court appointed replacement counsel, possibly making appear to Brown that she was entitled to counsel. As the court has stated repeatedly and the Court of Appeals held, Brown is not entitled to appointed counsel in the coram nobis proceeding.

[70] *Id.* at 5.

[71] *Id.*, doc. no. 199, at 16.

motion for reconsideration, and in her petition for a writ of mandamus to the Court of Appeals, which was also denied.[72] That issue is decided.

As the court explained in the order denying Brown's motion for appointed counsel, Brown did not at that time demonstrate indigency for purposes of requesting counsel under 28 U.S.C. § 1915(e)(1).[73] Further, the court cannot exercise discretion under § 1915(e)(1) absent "exceptional circumstances so that 'denial of counsel will result in a fundamental unfairness impinging on [the indigent party's] due process rights.'"[74] "'To determine whether there are exceptional circumstances sufficient to warrant the appointment of counsel, a court must examine the total situation, focusing, inter alia, on the merits of the case, the complexity of the legal issues, and the litigant's ability to represent [her]self.'"[75] Based on that standard, the court determined that it was not necessary to recruit counsel to represent Brown in the coram nobis proceeding. Brown later demonstrated indigency for purposes of appealing that decision, but the court, on her motion for reconsideration, concluded that it was not necessary to appoint counsel to represent her for purposes of oral argument.[76] Brown's refusal to accept the court's decisions, along with the reasoning and legal bases for the decisions, does not provide grounds for recusal.

2. Prejudgment and "preemptive minimization"

Brown contends that the court has prejudged her claims and that the court's decisions show "a pattern of preemptive minimization" of her claims.[77] She further argues that the court's failure to appoint counsel demonstrates prejudgment of her claims. She is incorrect. Although the

[72] Brown's appeal of the appointment of counsel issue was dismissed for lack of jurisdiction because the appointment decision was an interlocutory order.
[73] *Brown*, 16-cr-21, doc. no. 159, at 2.
[74] *Id.* (quoting *DesRosiers v. Moran*, 949 F.2d 15, 23 (1st Cir. 1991)).
[75] *Id.* at 3.
[76] *Id.*, doc. no. 195.
[77] *Id.*, doc. no. 198, at 5-9.

discretionary standard for appointing counsel under § 1915(e)(1) includes consideration of the merit of the claims, that consideration is but one factor in the standard and does not result in prejudgment of the claims, which have yet to be resolved in this case.

Brown also points to the court's endorsed order denying her emergency motion to stay oral argument as proof of prejudgment. In her emergency motion, Brown argued that by scheduling oral argument on her coram nobis petition the court signaled "recognition of the complexity and potential merit of the claims," but then by denying her motions for appointed counsel and for expert funds, the court created "an impossible situation" that required continuation of oral argument.[78] The court took her motion under advisement but noted that Brown misunderstood the purpose of oral argument, which was offered to ensure that she, as a self-represented litigant, had every opportunity to be heard, but was not "any sort of recognition of the complexity or potential merit of her claims."[79] Brown contends that the endorsed order means that the court has decided her claims lack merit. Once again, she misunderstands. The endorsed order merely corrected Brown's mistaken understanding of the purpose for oral argument.

She also argues that the court did not allow her to argue the merits of her prosecutorial misconduct claim for purposes of the authentication issue. Once again, she misunderstands the purpose of the inquiry. To the contrary, the court affirmatively facilitated the authentication and admission of the letter. The authentication inquiry was merely to determine whether the government would require Brown to authenticate the Shaheen letter before relying on that evidence for purposes of oral argument. The court asked whether the government would object,

[78] *Id.*, doc. no. 189.
[79] *Id.*, end. or. Nov. 24, 2025.

and the AUSA represented that the government would not object to the authenticity of the Shaheen letter, although the government reserved the right to challenge Brown's substantive arguments based on that and related documents. The discussion of authenticity did not improperly exclude Brown's arguments on the merits of her prosecutorial misconduct claim. As previously stated, the court has not heard oral argument on the merits of the claims and has not decided the claims.

3. Structural conflict

Brown asserts that her coram nobis petition "directly challenges Judge Laplante's own prior handling of Brady and innocence issues and implicates a prosecutor who is now a judge on the United States Court of Appeals for the First Circuit."[80] As is discussed above, that is incorrect. Brown raises no claim that challenges the court's "handling of Brady and innocence issues" during the criminal case against Brown. Further, while Judge Aframe was the prosecutor in the criminal case against Brown, he is an appellate judge and is no longer involved in this case in any manner. Brown raises no ground for recusal based on the court's decisions in the criminal case or Judge Aframe's prior role as prosecutor.

And of course, the argument makes no sense. While Brown believes this court would be unlikely to negatively evaluate Judge Aframe's conduct because he now sits on an appellate court that reviews the work of this court,[81] the same would be true for any judge sitting on this court or in this circuit.

[80] *Id.*, doc. no. 198, at 9.
[81] *Id.*, doc. no. 201, at 6-7.

4. United States v. Morillo

Brown discusses a case before a different judge in this district, *United States v. Morillo*, No. 15-cr-174, 2025 WL 2930871 (D.N.H Oct. 15, 2025), apparently arguing that she would be entitled to coram nobis relief except that the undersigned judge is biased against her. She states, "Morillo thus illustrates how this District applies the 'extraordinary' [coram nobis] standard when it approaches a coram nobis petition with an open mind and faithfully follows First Circuit and Supreme Court guidance on ineffective assistance and fundamental error."[82] The court reminds Brown once again that her coram nobis petition remains pending, and the court has not yet addressed its merits, which are not at issue for purposes of the recusal motion.

Conclusion

For these reasons, the court grants Brown's motion to amend her motion for recusal but denies the motion to recuse (oral motion Dec. 9, 2025 and amended motion doc. no. 198).

SO ORDERED.

Joseph N. Laplante
United States District Judge

Dated: January 23, 2026

cc: Suzanne Brown, pro se.
Counsel of record.

[82] *Id.*, doc. no. 198, at 11.

EXHIBIT D

UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE

United States of America

v. Civil No. 16-cr-21-JL

Suzanne Brown

ORDER

Before the court is defendant-petitioner Suzanne Brown's "EMERGENY MOTION FOR STAY OF PROCEEDINGS PENDING FIRST CIRCUIT RESOLUTION AND RENEWED MOTION FOR RECUSAL."[1] She asks that the court immediately stay all proceedings in her coram nobis proceeding, pending resolution of her motion in the First Circuit Court of Appeals for rehearing and rehearing en banc of the denial of her petition for a writ of mandamus previously filed in that court.[2] Alternatively, she asks this court to reconsider denial of her recusal motion "based on fabricated quotations."[3] For the reasons that follow, the court denies both requests.

I. Stay pending proceedings in the First Circuit Court of Appeals

The Court of Appeals denied Brown's request for rehearing and rehearing en banc. *In re Suzanne Brown*, No. 25-2166 (1st Cir. Feb. 2, 2026). For that reason, Brown provides no reason to stay proceedings in this court on her petition for a writ of error coram nobis.

II. Reconsideration

Brown also asks the court to reconsider its denial of her motion to recuse. In support, she focuses on a statement in the court's recent order, denying her motion for recusal, that quotes

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[1] Doc. no. 203.
[2] *Id.*, at 1.
[3] *Id.*

from the court's previous recusal order, issued in her habeas corpus case, *Brown v. United States*, 20-cv-170.[4] Brown asserts that the court fabricated the quotation and that she never said what is attributed to her.

In the challenged part of the order, the court referred to a previous claim of bias Brown raised against the undersigned judge, which arose during the third day of hearings in Brown's § 2255 habeas corpus case. The court stated the following, quoting its previous order (*Brown*, 20-cv-170, document no. 45, at 11):

> The court reminded Brown that "at the start of the February 2021 oral argument, the court informed [Brown] of the details of its exchange with her counsel, explained that it had spoken with counsel after the exchange to be sure that counsel was comfortable proceeding before the court, and explained that counsel told the court that there was no problem going forward." After that explanation, Brown stated: "'I have no reservations [about proceeding before this court], and I appreciate that you've been transparent about the whole thing, your Honor.'" In support of her later recusal motion, however, Brown represented to the court "that she misled the court with her answer and untruthfully told the court that she appreciated its transparency" and also added that "the court 'chastised her lawyer during oral argument by asking her more questions than it asked the prosecution."[5]

The quotation marks in that section with cites to the previous order demonstrate that the court is quoting its previous order, not a statement by Brown. Further, even without the quotation marks and cites to the previous order, the syntax of the quote pertaining to untruths is obviously not Brown speaking, that is, Brown would not say, "that she misled the court with her answer," but instead would say, "I misled the court with my answer." As such, the court paraphrased Brown's statements in the previous order in the § 2255 case (which is quoted in the recusal order in this case) but did not quote Brown. In addition, Brown's stated concerns about admissions of perjury

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[4] Doc. no. 203, at 2-4.

[5] Doc. no. 202, at 14 (internal footnotes omitted) (quoting *Brown*, 20-cv-120, doc. no. 45, at 11).

are unfounded because the court did not understand Brown's statements as perjury.[6] To the extent that Brown wished to contest the part of the court's order that paraphrased her statements in her affidavit in support of her recusal motion in the § 2255 case, that issue should have been raised on appeal in that case not in this subsequent and unrelated proceeding.[7]

There are no fabricated quotes in the court's order denying Brown's motion for recusal.[8] Brown presents no cognizable ground to reconsider the denial of her recusal motion.[9]

Conclusion

For these reasons, the court denies Suzanne Brown's emergency motion for a stay and her renewed motion for recusal (doc. no. 203).

SO ORDERED.

Joseph N. Laplante
United States District Judge

Dated: February 3, 2026

cc: Suzanne Brown, pro se.
Counsel of record.

[6] Instead, as was discussed during the December 9, 2025, oral argument in this proceeding, the court understands that in her current litigation Brown believes she is fighting for her reputation, honor, and her life as she wants to live it. *See* doc. no. 199, at 8, 12-13, & 16. As a result, Brown appears to recognize few, if any, limits on the number, nature, and scope of her arguments and representations to the court in pursuit of those ends.

[7] Brown's argument in her current emergency motion that she was unable to appeal from the recusal order in the § 2255 case due to her incarceration is unpersuasive.

[8] The court takes no offense at Brown's suggestion of a "fabrication" by this court, which appears to be based on a misunderstanding on her part.

[9] Although Brown rehashes the arguments raised in her recusal motion, the court addressed and resolved those issues in the prior order and need not consider them again here. *Biltcliffe v. CitiMortgage, Inc.*, 772 F.3d 925, 930 (1st Cir. 2014).

EXHIBIT E

UNITED STATES DISTRICT COURT

DISTRICT OF NEW HAMPSHIRE

UNITED STATES OF AMERICA	)	
	)	
v.	)	**Case No. 20-CV-00170-JL**
	)	
SUZANNE BROWN,	)	
	)	
Defendant	)	

AFFIDAVIT OF SUZANNE BROWN

STATING FACTS AND REASONS FOR BELIEF THAT JUDICIAL BIAS AND PREJUDICE EXIST

Now comes Suzanne Brown, and takes oath and deposes, and says:

IDENTIFICATION AND BACKGROUND

1. My name is Suzanne Brown, Age 56, and I live at 114 Lake Umbagog, Errol, NH 03579.

2. I am the defendant in this case, related habeas corpus proceeding 20-CV-00170-JL, and First Circuit appellate case 21-1265.

3. I am a homestead-scale organic farmer and boatbuilder.

4. I am an honorably discharged former Captain of Marines and a Naval Academy graduate.

5. I have no prior convictions, and I am innocent of the present charges.

STATUS OF COUNSEL

6. Attorney Donna Brown was appointed to represent me as CJA counsel in this case and 20-CV-00170-JL from February 10, 2020, until November 15, 2021. Her representation was terminated by First Circuit ruling, "motion for appointment of counsel is denied".

7. I am not related to Attorney Brown and had not met her before she was appointed counsel on my behalf.

8. Although Attorney Brown was technically withdrawn by the First Circuit ruling, she moved to confirm her withdrawal December 1, 2021. However, she has not been given leave of the Court to withdraw, nor has the Court ruled her motion moot.

9. Attorney Brown has not provided legal services to me since November 16, 2021.

10. Attorney Brown has informed me I do not have the right to counsel during this phase of the proceedings. I have petitioned the Court to appoint me as pro se replacement counsel of record, effective immediately.

11. Having searched exhaustively, I am unable to afford or find successor counsel. Pro bono federal representation is nonexistent.

HISTORY

12. On or about September 2, 2020, Attorney Brown contacted me telephonically to discuss a matter of potential conflict that she stated could affect my case. She disclosed that over the previous months of research and work with another client (18-cr-00192-JL) she had discovered prosecutorial misconduct in the form of withheld exculpatory evidence ("Brady violations").

13. I had no prior knowledge of case18-cr-00192-JL, and I do not know the defendant. I have since read all the case files, and I monitor the docket. I am waiting for the defendant to have a new attorney appointed by the Court before I initiate any contact for further investigation.

14. Attorney Brown noted that during an off-the-record chambers conference on or about September 2, 2020, the Court had rebuffed her allegations and sympathized with the assistant US Attorneys in 18-cr-00192-JL, who had characterized her requests for the

missing documents as a "fishing expedition". This term for her now-proven legitimate complaints is contained in the case record.

15. Attorney Brown reported to me that what concerned her most was that the Court commented that the because of her allegations, the lead government attorney could lose his job, with seemingly no concern that his misconduct could result in a potentially innocent person going to prison.

16. I was aware at that time that the judge in both my case and 18-cr-00192-JL was an assistant United States attorney before he ascended the bench, coming from the same office as the prosecutors. My conclusion was that the judge was biased against the defense because of his existing relationships and identification with the prosecutors.

17. Attorney Brown informed me that she had begun documenting this misconduct and related judicial and extrajudicial events, as well as her treatment from the prosecutors and judge. I do not know the exact date Attorney Brown commenced her documentation. I have not read her documentation or asked to read it.

18. During the months of September to November 2020, as she worked on my case, Attorney Brown kept me apprised of her challenges proving misconduct to the Court in 18-cr-00192-JL. She indicated that the other parties were growing increasingly hostile and resistant the more she uncovered.

19. The first hearing date of my habeas corpus petition was held via video conference on September 21, 2020. Anne Layne, a grant accounting expert hired by Attorney Brown had written an extensive report and been deposed by the government. Her findings corroborated my stated defense and the trial testimony I have stood by since I was indicted in 2016.

20. Ms. Layne backed up my claims of ineffective assistance of trial counsel due to their complete unfamiliarity with accounting concepts and the governing regulations. She further testified that I had been misinformed by the grant administrator on how to complete the SF-270 form. She established fundamental ambiguity, which is a bar to conviction on false statement charges.

21. The government provided no expert witness during any phase of the proceedings. The prosecutor cross-examined Ms. Layne but could not impeach her. Ms. Layne remains an unrebutted expert in my case.

22. From the beginning of the case until now, even with a defense expert, the government has not conceded the requirement that the grant accounting (and by logical extension the completion of the questions on the forms), was required to be conducted on an accrual basis or that USDA was mistaken in any other way.

23. The prosecutor at that same hearing claimed that I had not argued that the grant required an accrual accounting method until after direct appeal, which is not supported by the record and was therefore a false statement.

24. After the hearing, I provided Attorney Brown email evidence I had sent pre-trial (2016) to trial counsel for her to add to the existing record to conclusively disprove the prosecution's false argument, which the judge had reflexibly believed.

25. The next hearing date was September 25, 2021. Attorney Brown and I spoke that morning before the hearing and she familiarized me with the questions she intended to ask. She let me know that she had provided notice to the Court in advance that I would be testifying, as well as providing all the exhibits to the clerk.

26. Attorney Brown also shared with me serious doubt that my habeas petition would be granted due to bias and prejudice. She commented on her escalating conflict with the prosecutors and the judge in 18-cr-00192-JL, as well as the unlikelihood of a Catholic judge ruling in favor of a homosexual defendant.

27. Attorney Brown also mentioned the Court's propensity to listen and give more weight to male arguments than female arguments as a barrier to judicial impartiality.

28. At no time have I ever seen Attorney Brown behave unprofessionally or rudely toward anyone. She is a consummate and compassionate professional who stated to me that she does well because she loves what she does and is willing to work harder than anyone.

29. Attorney Brown informed me that the Court had a habit of holding off-the-record chambers conferences to preview her arguments before going on the record to "shoot them down". Attorney Brown sounded frustrated when she was relaying this information.

30. Upon hearing that previous chambers conferences had been off the record, I specifically asked that all such conferences be recorded. Attorney Brown replied that her client in 18-cr-00192-JL had requested the same.

31. Before the video hearing that afternoon of September 25, 2021, the Court called a chambers conference. I waited on the video application via my computer at home for the judge and attorneys to return to the hearing.

32. But the rest of the parties did not return. The clerk placed me in a private video call with Attorney Brown.

33. I witnessed Attorney Brown physically shaking and wiping tears from her eyes. I thought she was ill. Then she told me she would not be able to go on with the hearing.

34. She reported that the judge had severely chastised her for wanting to take time in the hearing to impeach the prosecutor by putting me on the witness stand with the emails that had already been prepped as evidence, proving my statement of defense has been consistent from the beginning of the case.

35. Attorney Brown stated that the judge had tacitly believed the prosecutor's false statements about my defense and previous testimony and complained that she was taking up unnecessary Court time.

36. Attorney Brown stated her belief that the judge was really just trying to suppress my testimony, intended to prove the prosecutor (who had been involved in the case since 2016) had been dishonest and not simply mistaken.

37. She also reported that the judge told her that my case was like the 18-cr-00192-JL case.

38. My conclusion from Attorney Brown's physical aspect and her comments was that Attorney Brown had been personally and professionally intimidated and harassed by the Court.

39. As Attorney Brown briefed me about the chambers conference, she recovered her composure and then asked me if I would like to continue the hearing. She said it was up to me. Many times I had mentioned to her that the nearly decade of state and federal litigation and the 2017 wrongful conviction had had a devastating emotional and financial effect on my family and me.

40. I am innocent, and I need this case over in my favor. Attorney Brown was doing her best to help me.

41. I told Attorney Brown that if she felt up to it, I would appreciate it if we could proceed, which we did. I presented my evidence as a witness and defeated the prosecutor's claim that I had just come up with a novel defense post-appeal.

42. The Court did not acknowledge the prosecutor's impeachment.

43. During both hearings, the Court seemed to ask at least as many questions as the prosecutor did of the defense expert, Attorney Brown, and me. By the nature of the judge's questioning and his agitated and impatient state, he appeared to have joined the prosecution.

44. I have appeared in Court for more than four years, and the judge's behavior after September 2, 2020, was a sharp departure from a tough-but-fair jurist I had seen before.

45. I have been ruled against on my motion for a new trial for the past four years, but never before had I considered or asked counsel to file a motion for recusal or disqualification.

46. That said, the Court has never reprimanded the government for intentional misstatements of law and facts or refusal to acknowledge the regulations in my case.

47. After the hearing, I asked Attorney Brown if there was any way could have another judge appointed in my case. I was angered and frustrated by what I had witnessed before and during the hearing.

48. Attorney Brown told me that if we complained, I ran the risk of further upsetting the judge, who would almost certainly refuse to recuse himself. I understood that to mean I would suffer retaliation in the form of an adverse ruling and/or revocation of my bail.

49. Attorney Brown's specific wording was, "The way this Court sees it, there are only guilty people and whiners." I understood that comment to mean that this was a Court that would never find a defendant worthy of a new trial or not guilty.

50. Several days after the hearing (I do not remember the exact date), Attorney Brown informed me that the judge called her to smooth things over, and make sure she understood his reasons for why he had been angry with her the day of the hearing. Attorney Brown said that the judge stated that he wanted a collegial environment, or words to that effect. Attorney Brown informed me that she documented that call and has more accurate first-hand information than I do.

51. During that same time frame, Attorney Brown informed me that 18-cr-00192-JL defendant's spouse's attorney had called her to check in with her to be sure she didn't think that the judge was behaving in a sexist manner. I cannot remember if that call was at the judge's request or of the attorney's own initiative. That information may be in Attorney Brown's documentation and may also be remembered by 18-cr-00192-JL defendant's spouse's attorney.

52. On January 25, 2021, I emailed Attorney Brown, "I know I mentioned this in our last conversation, but I want you to have in writing that I am respectfully requesting that any further chambers or any other offline conferences with judge and/or govt be recorded."

53. I also requested that case 18-cr-00192-JL not be referenced in my case proceedings or vice-versa.

54. The last hearing date for my habeas corpus petition was set for February 12, 2021, via procedural order on February 3, 2021.

55. The Court issued as part of its procedural order on February 3, 2021, that I should be prepared to inform the Court on "petitioner's satisfaction with the performance of current counsel"

56. Prior to that hearing, I spoke with Attorney Brown again about filing a motion of judicial recusal or disqualification based on bias and prejudice towards both of us.

57. Attorney Brown advised me that the judge had a set a trap for me. If I stated I was unhappy with counsel he would almost certainly remove her from the case. She reminded me again I had no right to counsel and would most likely be denied counsel if I requested another attorney. If I said I was satisfied with counsel, the case would proceed with Attorney Brown, against whom the Court had demonstrated bias and prejudice and harassment. It was a no-win situation.

58. Attorney Brown also had still had not received a ruling on her motion to dismiss for misconduct in 18-cr-00192-JL, so we were also without strong evidence to request recusal on the way she had been her treated during her litigation in that case.

59. Attorney Brown told me, "There was no way he was ever going to grant you a new trial". I understood her to mean I had been fighting a losing battle for the past four years.

60. We had no choice but to go forward with the hearing and count on the Court making inevitable misstatements of law and fact that we could present on appeal to the First Circuit. She stated that based on the expert's unrebutted testimony and case law precedent, we had a strong case for appeal.

61. Attorney Brown was also cautiously optimistic the judge would continue my bail into the appeal.

62. On February 12, 2021, the hearing opened with the Court referencing its account of the September 25, 2020, conflict with Attorney Brown. There was no mention of my testimony, only that the Court noted the pre-hearing chambers conference was "contentious".

63. According to the Court, Attorney Brown had told the judge that she felt as if she were under attack and said his perspective was administrative and Court efficiency concerns.

64. The Court inquired about my satisfaction with Attorney Brown, and I answered that she had done a splendid job.

65. The Court asked had reservations about proceeding, and I did not understand that question to mean that I really had a choice without risking loss of counsel. All I want is for this case to end, not proceed. In keeping with Attorney Brown's advice, I answered that I was willing to proceed.

66. I told the Court I appreciated its transparency, by which I meant I knew exactly what the Court's agenda was, not that it was being fair or honest.

67. The Court then spent considerable time chastising Attorney Brown for not having asked trial counsel the direct question of had they consulted with an expert. Attorney Brown stated that trial counsel had no recollection of the January 2017 proceedings and that she had discussed this previously with the prosecutor.

68. Attorney Brown made the point that it was obvious by their complete lack of knowledge of the regulations and accounting methods that trial counsel had not consulted an expert.

69. The Court persisted with its examination of Attorney Brown, and then I thought I heard him say he had inquired about the existence of a pre-trial expert consultation.

70. I understood that statement to mean that the Court had consulted with trial counsel on his own initiative.

71. I was shocked, but not surprised, given preceding events that the Court would engage in unilateral, extra-judicial communications with the trial attorneys I had alleged were ineffective.

72. I have never given trial counsel permission to speak with the judge. I am certain Attorney Brown has never given trial counsel permission to speak with the judge.

73. I could immediately see that the judge was working to defeat our case on the first prong of the Strickland ineffective assistance of counsel test, whereas in previous hearings he had seemed fairly convinced of ineffective assistance, but holding out on the prejudice prong, previously asking prior counsel for arguments on only that part of the IAC analysis.

74. The Court continued in its ruling against me, making the statement that the USDA office could decide on its own what accounting method they wanted to use and how they wanted the form filled out without obeying the regulations.

75. The Supreme Court has made it clear with Accardi doctrine that government agencies are compelled by law follow their own regulations. [Accardi v Shaughnessey, 347 US 260(1954)]

76. Further the Court disregarded the fact that the government had called no expert witnesses of their own and gave no credit to our eminently-qualified forensic account and grant expert unchallenged on a Daubert test.

77. This is in direct contravention with First Circuit's previous rulings that juries cannot just reject an unchallenged qualified expert. [Quintana-Ruiz v. Hyundai Motor Corp., 303 F. 3d(1st Cir. 2002)], [Cruz-Vargas v. RJ Reynolds Tobacco Co., 348 F.3d 271(1st Cir.)]

78. The Court misunderstood the specifics and legal implications of fundamental ambiguity and protections it offers people in the United States against convictions for allegedly false statements.[US v Boskic 545 F.3d69 (1st Cir. 2008)]

79. The Court overlooked the fact that it had charged the trial jury with only the indictments common to counts 1 through 12, not the additional charges in counts 4-12.

80. The Court also denied a certificate of appeal.

81. The Court continued my bail until the end of the appellate process. The government did not object.

82. Immediately after the February 12, 2021, hearing I called Attorney Brown and again asked that the judge be disqualified or recuse himself. I told her I was certain the judge had consulted with trial counsel before the hearing based on what he said during the hearing, his tone, and his previous pattern of prejudicial actions.

83. I told Attorney Brown there was no legal way the grant administrator had the authority to just change the regulations on how the forms were to be filled out and interpreted or the accounting method to suit her own needs.

84. Attorney Brown replied that again a motion for recusal/disqualification would be futile because it would just look as if we didn't agree with the Court's ruling. She commented that in her experience successor judges of those who had recused

themselves or been disqualified tended to be protective of the former judge. She told me the best we could hope for was to win on appeal. And then she had another idea.

85. Attorney Brown stated she was going to contact the lead public defender and ask him to double-check their records on whether a qualified expert was consulted.

86. Attorney Brown contacted the lead trial counsel, who is now retired, and asked him to work with the federal defender's office to see if the files would reflect any record of consulting with an expert. There was nothing in the record, and Attorney Brown filed a motion to alter or amend the habeas decision February 23, 2021.

87. Attorney Brown saved her other findings for filing until the transcript arrived later.

88. I was cognizant that during the entire time of my habeas corpus proceedings, Attorney Brown was also representing the defendant in 18-cr-00192-JL, still working to prove misconduct to a recalcitrant and hostile Court.

89. When the February 12, 2021, transcript arrived on March 15, 2021, after the hearing, pages 51-52 stated:

"And we know they didn't present an expert, but I don't take that as proof that they didn't consult with an expert or didn't consult and then reject the idea based on what they learned. I just don't know that, and that's not my burden, and, frankly, I inquired about it, and the record is what it is at this point. Anyway -"

90. I searched the entire record and found nowhere is there mention of a judicial inquiry into whether trial counsel properly consulted with or hired an expert. I concluded that the Court had conducted its own investigation and had unilaterally contacted the federal public defender's office, deciding during the hearing not to put that information on the record.

91. The February 12, 2021, transcript contains 7 pages of criticism of Attorney Brown regarding her claim that no expert had been properly consulted pre-trial.

92. The government objected to Attorney Brown's motion to amend or alter judgment February 23, 2021. The Court refused to consider the evidence.

93. Attorney Brown filed our motion to First Circuit for certificate of appeal May 7, 2021

94. On June 11, 2021 there was a motion to dismiss the case granted on Day 5 of trial in 19-cr-00142-LM.

95. Attorney Brown told me it was because of misconduct with the same lead prosecutor as 18-cr-00192-JL. She has since intervened in the case to have it unsealed, ostensibly to add evidence to her complaints to state and federal oversight investigators.

96. July 23, 2021 there was a new trial granted in 18-cr-00192-JL due to Brady violations. No reprimand from the bench.

97. November 15, 2021, First Circuit without elaboration, denied my petition for a certificate of appeal.

98. November 16, 2021, the government filed a motion to rescind my bail and for surrender.

99. On November 26, 2021, I objected to the government's motion but was denied December 2, 2021.

100. The Court ruling to surrender is the retaliation Attorney Brown warned would occur if I complained.

101. On December 2, 2021 Attorney Brown was given permission to withdraw from 18-cr-00192-JL.

102. On December 3, 2021, attempting to retain new counsel, I received an email from an attorney familiar with this situation that "there have been discussions amongst lawyers about the situation between Judge Laplante and Donna."

103. On December 8, 2021, I emailed the federal public defender's office to inquire if there had been ex parte communication in my case, and the lead attorney "declined to respond"

UNDERSTANDING OF THE LEGAL STANDARD FOR RECUSAL/DISQUALIFICATION

104. I understand the difference between evidence and hearsay, and I am prepared to examine witnesses to substantiate the truth of my statements in this affidavit.

105. I understand that adverse rulings alone are not grounds for judicial recusal or disqualification.

106. I understand that mere irritation and anger toward attorneys or parties is not grounds for recusal or disqualification.

107. I understand that ex parte or extra-judicial communication is grounds for recusal or disqualification.

108. Extreme personal bias or prejudice, harassment, and intimidation are grounds for recusal or disqualification; in this case toward both Attorney Brown and myself.

ASSURANCES

109. I am at all times available to continue my defense and assist in any investigations or hearings.

110. Although she is no longer counsel of record, I have asked Attorney Brown to review this affidavit for accuracy. I will note any errors if and when that review has occurred .

111. Although by statute I am allowed only one affidavit, I will certainly correct any errors in this document and/or add to the content of this affidavit at an evidentiary hearing through testimony.

I declare under penalty of perjury the foregoing is true and correct to the best of my knowledge, belief, and information.

Date: December 16, 2021

Respectfully submitted,

/s/ Suzanne M. Brown

P.O. Box 253

114 Lake Umbagog

Errol, NH 03579

Tel: (603) 237-1012

greatnorthwoodsfarm@gmail.com

Certificate of Service

I hereby certify that a copy of the above motion was electronically served on the Acting United States Attorney John Farley for the Government, via ECF.

/s/ Suzanne M Brown

Pro Se

NOTARY ACKNOWLEDGEMENT

State of Texas | County of Harris

On 16 December, 2021, before me, David Lee Flores, personally appeared Suzanne Brown who proved to me on the basis of satisfactory evidence whose name is subscribed to the within instrument and acknowledged to me that they executed the same in their authorized capacity, and that by their signature on the instrument, the person, or the entity on behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the state of Texas that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Affiant's Signature: Suzanne Brown

NOTARY PUBLIC STATE OF TEXAS
DAVID LEE FLORES
ELECTRONIC NOTARY PUBLIC
STATE OF TEXAS
NOTARY ID: 132861072
COMISSION EXP: JAN 11, 2025

David Lee Flores, a Texas State Notary Public
Document Notarized using a Live Audio-Video Connection

UNITED STATES DISTRICT COURT

DISTRICT OF NEW HAMPSHIRE

UNITED STATES OF AMERICA	)	
	)	
v.	)	**Case No. 20-CV-00170-JL**
	)	
SUZANNE BROWN,	)	
	)	
Defendant	)	

CERTIFICATION OF GOOD FAITH AFFIDAVIT FILING

I, Suzanne Brown, of 114 Lake Umbagog, Errol, NH 03860 [Tel. (603) 828-4860], counsel of record in this case, hereby certify that the companion notarized affidavit submitted by me this date is filed in good faith to the best of my knowledge, information, and belief after reasonable inquiry.

I wrote the affidavit without assistance or coercion from my best recollection and investigation of events, and I have reviewed the document multiple times for accuracy. I understand under 28 U.S.C. § 144 I am allowed only one such affidavit.

In the interest of timely submission, I have not appended to the affidavit a full body of exhibits and citations, which I will accomplish to the best of my ability if ordered by the Court. My understanding is that adding attachments to the affidavit in the interest of providing the Court

more accurate information does not have the effect of generating an additional affidavit that would violate the "one-affidavit rule".

The affidavit is not made for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the time and cost of this litigation.

I also defer to previous counsel's recollection and documentation of events pertaining to her in the affidavit in the interest of accuracy and avoidance of hearsay.

Date: December 16, 2021

Respectfully submitted,

/s/ Suzanne M. Brown

Counsel of Record

P.O. Box 253

114 Lake Umbagog

Errol, NH 03579

Tel: (603) 237-1012

greatnorthwoodsfarm@gmail.com

Certificate of Service

I hereby certify that a copy of the above motion was electronically served on the Acting United States Attorney John Farley for the Government, via ECF.

/s/ Suzanne M Brown

Pro Se

EXHIBIT F

United States Court of Appeals
For the First Circuit

No. 25-2166

IN RE: SUZANNE BROWN,

Petitioner.

Before

Barron, Chief Judge,
Gelpí, Montecalvo, Rikelman,
and Dunlap, Circuit Judges.

CORRECTED ORDER OF COURT*

Entered: February 2, 2026

This court previously entered a judgment in this matter dismissing a petition for a writ of mandamus and denying all other relief. Petitioner Suzanne Brown now has made several post-judgment pro se filings. We have carefully considered all post-judgment filings, and we read them liberally and collectively to seek panel rehearing and rehearing en banc. Brown also moves for or requests other relief, including again seeking appointment of counsel.

The petition for rehearing having been denied by the panel of judges who decided the case, and the petition for rehearing en banc having been submitted to the non-recused active judges of this court and a majority of the non-recused judges not having voted that the case be heard en banc, it is ordered that the petition for rehearing and petition for rehearing en banc be denied. Any other requests for relief also are denied.

By the Court:

Anastasia Dubrovsky, Clerk

cc: Suzanne M. Brown, David M. Lieberman, Charles L. Rombeau, Georgiana MacDonald

* Corrected order issued to amend text.

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000723

Department of the Treasury
Bureau of the Fiscal Service
Philadelphia Financial Center
PO Box 51320
Philadelphia, PA 19115-6320

USDA

Discrimination Financial Assistance Program

EXHIBIT G

July 29, 2024

Confirmation ID(s):
Ref #331995942534

SUZANNE BROWN
P.O. BOX 253
ERROL NH 03579

Dear SUZANNE BROWN,

Thank you for your application(s) to the United States Department of Agriculture (USDA) Discrimination Financial Assistance Program (DFAP). After careful review, the program administrators have found your application eligible for financial assistance. The check that accompanies this letter constitutes your financial assistance award. Your application was evaluated in accordance with the requirements set by Congress in the Inflation Reduction Act Section 22007 and program guidelines established and enforced by USDA. **This determination is final.**

000723 1 3

Your check is in the amount of $41,960.00.

00004237

To access these funds, simply take the accompanying check and present it to a bank of your choice to deposit or cash. We encourage you to speedily cash or deposit the check, and recommend that you use an FDIC-insured or NCUA-insured institution.

Financial assistance received through this program is part of a recipient's 2024 gross income, for tax purposes, regardless of when the check is cashed or deposited. **You are responsible for compliance with all applicable federal, state, and local tax requirements, and with any federal benefit reporting obligations that arise as a result of this award. For more information, see https://22007apply.gov/taxes-benefits.html.**

USDA views this program as one of many steps in the Department's broader efforts to improve equity, accessibility and inclusiveness in our programs so that everyone who wants to participate in agriculture has the opportunity to do so. This is part of building a USDA that truly becomes the "People's Department." More information about DFAP and other USDA resources is attached. Additional program information, including how this award was calculated, is available on the DFAP website at https://22007apply.gov. You can also call the DFAP Call Center at the number below.

Sincerely,

Program Administrators for the Discrimination Financial Assistance Program
DFAP Call Center: 1-800-721-0970, M-F, 8 am to 8 pm Eastern, info@22007apply.gov

USDA Discrimination Financial Assistance Program

Important Information About the Discrimination Financial Assistance Program

1. **Each application was reviewed with care and diligence.** With respect to eligibility, to ensure thoroughness and fairness, each application was reviewed separately by two independent teams, and results were reconciled when they varied. Agricultural experts were consulted on complex questions, and the process's standards, which are available on the program website, were set and enforced by USDA. As one of several measures to prevent fraud within the program, each application was also carefully reviewed to ensure that program administrators could verify the identity of each person who applied.

2. **USDA Farm Service Agency staff did not review DFAP applications.** In accordance with the requirements of the Inflation Reduction Act, USDA contracted with nongovernmental entities to administer DFAP subject to standards set and enforced by USDA. The Farm Service Agency (FSA), which is the agency within USDA responsible for making farm loans, and many other parts of USDA were consulted by program administrators with questions on FSA's farm loan program requirements where relevant. USDA agencies, including FSA, also supplied data, where available, in order to provide corroboration for applications. You can learn more about how the program was administered here: https://22007apply.gov/program-overview.html.

3. **This is an application-based program providing financial assistance to individuals, not a claims resolution process.** For that reason, it is different than previous class and group actions filed against USDA. DFAP is not intended to compensate applicants for consequences of discrimination; it is intended to provide financial assistance.

4. **This program is an important step of many in USDA's efforts to truly be the People's Department**. In accordance with federal civil rights laws and USDA civil rights regulations and policies, it is USDA's policy not to discriminate against anyone on the basis of race, color, national origin, sex (including gender identity and sexual orientation), disability, age, or reprisal or retaliation for prior civil rights activity. USDA has taken many important, impactful steps to make our programs and processes, including farm lending, more accessible, equitable and inclusive. Information provided in DFAP applications will help to create a roadmap as we further refine those efforts. As such, USDA is grateful to the tens of thousands of applicants who took time to recount their stories, some of which are decades old and some of which are more recent. Building on the recent recommendations of the USDA Equity Commission, the Department continues to work hard to improve equity and inclusion to ensure that every farmer feels welcome in USDA farm lending and other farm programs. You can read more about recent and ongoing work at https://usda.gov/equity.

5. **We encourage you to speedily deposit or cash your award check, at a bank of your choosing**. You are strongly recommended to use an FDIC-insured or NCUA-insured institution to deposit or cash your check. Institutions that meet these criteria can be located through government approved websites: https://banks.data.fdic.gov/bankfind-suite/bankfind, or https://mapping.ncua.gov/.

000723-2-3

00004239

For more information see the DFAP program website at https://22007apply.gov

6. **Your award is taxable as 2024 gross income.** Financial assistance received through this program is part of a recipient's 2024 gross income, for tax purposes, regardless of whether or when the check is cashed or deposited. For some individuals, there may be a requirement to pay self-employment taxes as well. Individuals who get an award will also get an IRS Form-1099 by early 2025 showing the amount of money they have received. See https://22007apply.gov/taxes-benefits.html.

7. **The awards may have implications for other public benefits.** Everyone's situation is different. You should talk to an attorney or advocate knowledgeable in these matters for any specific advice related to other public benefits you receive. USDA DFAP awards should not affect eligibility for public benefits that have no income or asset tests—for example, most types of Medicare and Social Security. For other public benefits—for example, Supplemental Security Income (SSI), Medicaid, Supplemental Nutrition Assistance Program (SNAP), Veterans Affairs pension benefits, housing subsidies (e.g., Section 8 or rental assistance)—a DFAP award *may* affect eligibility. How much will depend on several factors, including other benefits a DFAP awardee gets, their other income and assets, the amount of the DFAP award, and where the awardee lives. See 22007apply.gov/taxes-benefits.html for more, including how to get more information relevant to your individual circumstances.

8. **For discrimination that occurred after January 1, 2021, you may contact the Office of Assistant Secretary for Civil Rights.** DFAP was limited to discrimination experienced prior to January 1, 2021. If you believe you have experienced discrimination that was not covered by this program, or retaliation or reprisal related to DFAP or any other USDA program, you may contact the Office of Assistant Secretary for Civil Rights (OASCR) at (866) 632-9992 (toll free) or by emailing CRINFO@usda.gov. Si prefiere que lo atienden en español, llame al (800) 845-6136. Individuals who use sign language to communicate may contact OASCR through the Federal Relay Service, which can be reached by dialing 711. Your written complaint must be filed within 180 calendar days from the date you knew or reasonably should have known of the alleged discrimination, unless the time is extended for good cause by the Assistant Secretary for Civil Rights or designee.

9. **Fraud is illegal.** If you are aware of someone who may have falsely represented the requirements of the program, or who received a DFAP award but should not have, please report this to the USDA Office of the Inspector General at 1-800-424-9121 or the DFAP call center at 1-800-721-0970.

10. **USDA farm lending is available to you now, and many program improvements have been made.** USDA has made many improvements to its farm lending programs. For example, farmers can now apply for loans and make loan payments online; FSA has streamlined its loan application, saving applicants time and making the process far more straightforward than it was in the past; and USDA has instituted better guardrails to make the process objective and to mitigate personal discretion. USDA is working hard to make sure that all eligible farmers and ranchers can access credit. Please visit www.Farmers.gov to find out how we can assist you in starting or growing your farm today. A fact sheet about USDA programs is attached.

11. **All DFAP decisions are final.** All decisions related to DFAP eligibility and award amounts are final. Because Congress structured the program with limited funding, additional funding is not available for applicants seeking a larger award or a different determination. The determination that your application satisfies DFAP eligibility criteria for issuance of financial assistance does not constitute an admission of liability under the Equal Credit Opportunity Act or any other federal or state statute. Terms such as "evidence" or "validation" in DFAP materials are not intended to be legal terms of art but instead to be understood using their common meanings. The final DFAP determination and the financial assistance provided do not constitute, and may not be construed as, a determination or an admission of a violation of any law, rule, regulation, policy, or contract by the Secretary and/or the United States, the truth of any allegation made in the application, or the legal validity of any claim asserted in the application. Neither the determination to pay money nor the payment of money to an applicant in the DFAP shall be deemed to be a finding of fact, conclusion of law, or an admission of liability or damages by the Executive branch, the Secretary, or any agency designee in their official capacity.

EXHIBIT H

The New Hampshire Institute of Agriculture and Forestry
1857 White Mountain Highway
North Conway, NH 03860
(603) 969-9896
www.nhiaf.org

January 22, 2012

David Robinson
Business and Cooperative Programs Director
NH/VT USDA Rural Development
City Center, Third Floor, 89 Main St
Montpelier, VT 05602

RE: 2012 NHIAF Rural Business Enterprise Grant

Dear David:

Thank you for meeting with me today. In advance of our meeting, I would like to issue this statement and my authorization for NHIAF's payroll account to be automatically reinvested in accordance with the demands of our mission.

As you know, NHIAF exists to promote the prosperity of farmers, farms, and markets/distribution for local food products. NHIAF is also a working commercial and educational certified organic farm.

In early 2012 it became clear that NHIAF would receive no assistance from FEMA or Farm Service Agency for our crops losses from Tropical Storm Irene on August 28, 2011. Our non-profit also submitted a complete/comprehensive $750,000 application for the Beginning Farmer and Rancher Development Program Grant. We experienced Grants.gov technical difficulties during submission, and the entire application was subsequently rejected by the National Institute of Food and Agriculture. I have attached the April 19, 2012 letter submitted to NIFA by Sen. Jeanne Shaheen on our behalf.

When we were awarded $18,000 to carry out the training scope of work for the New Hampshire Fresh e-commerce software and distribution, by the time of our first disbursement, it became clear that without other funding we would not be able to both deliver the training and then also support the execution of the delivery service (which in fact was to be seed-funded by the BFRDP). As the entire disbursement of both federal funds and matching dollars was to compensate myself and Julie Moran for our work, we both volunteered to accept the funds into NHIAF's payroll account but then to immediately/automatically return them to NHIAF to support our mission. The funds were to be re-released back to us at such time as NHIAF improved its cash position though continuous fund-raising and/or NHIAF farm profits. Meanwhile, the accounting of the payroll (myself) and invoices (Julie Moran) continued as normal to reflect our work during the actual timeframe completed.

Most importantly, I could not in good conscience train farmers for a project unless I also knew we would be able to carry it out. From my earliest professional experiences at the Naval Academy and as a Marine officer, I was always taught that the mission comes first. As a result of our having returned/deferred our payroll funding, NHIAF was able to carry out a successful three-month trial of the NH Farm Fresh

- NOT Approved in Scope of work (JR)

delivery service using online ordering and online back-office functionality. The farmers learned to use the system, *and* they made money from their product sales.

During this summer timeframe, in addition to the growing/delivery season, we were also moving the entire NHIAF farm operation out of the flood plain and to a new farm location 40 minutes away. I apologize for the interruption of communication with USDA, as we were also experiencing difficulties establishing phone and Internet service during the months of June-September.

As far as Julie Moran is concerned, she willingly delayed her compensation, as I did, until such time in early September that a retired USDA employee informed her that she was within her rights to immediately demand her compensation. NHIAF maintains that her manner of attempting to gain that compensation was extremely damaging to our organization. I have attached a copy of the letter sent from NHIAF's attorney stating our organization's position in this matter. NHIAF will issue her a closing statement for 2012 that will show that the compensation she is owed for her work on the 2012 RBEG is more than offset by the financial and reputational damages incurred by NHIAF.

To date, Julie Moran has declined our request to retract her defamatory statements. NHIAF will issue a final report for the 2012 RBEG after we receive documents she submitted to USDA that I believe can only be released through a Freedom of Information Act Request, which will be forthcoming. Ms. Moran faces legal action from NHIAF and also from the White Mountain Organic Growers Association in the event they are not awarded the Value-Added Producer Grant.

I also anticipate providing a follow-up report to our Congressional delegation regarding NHIAF's experiences surrounding the federal grant application and administrative process.

I would appreciate your guidance on the administrative settlement of this matter, and I want to make it very clear that my actions were forthright and made with the intention of satisfying the requirements of both the mission and the USDA reporting process.

Sincerely yours,

Suzanne Brown
Executive Director

JEANNE SHAHEEN
NEW HAMPSHIRE

SUITE SH-520
HART BUILDING
WASHINGTON, DC 20510
(202) 224-2841

United States Senate

WASHINGTON, DC 20510

April 19, 2012

Ms. Chavonda Jacobs-Young
Acting Director
National Institute of Food and Agriculture
1400 Independence Ave SW
Washington, DC 20250-2201

Dear Ms. Jacobs-Young:

I write to request your assistance with certain necessary changes that must be made to the Grants.gov web portal application submission process.

In November of last year, the New Hampshire Institute of Agriculture and Forestry (NHIAF) submitted an application for funding under NIFA's Beginning Farmer and Rancher Development Program. Unfortunately, NHIAF's Director, Suzanne Brown, experienced technical difficulties with the application transmission related to the stability of the required format.

Both Grants.gov and NIFA e-mailed Ms. Brown to verify that NHIAF's application was received, but she later learned that certain required materials were not actually transmitted before the agency deadline. Ms. Brown believed she had submitted all materials in full and on time, but did not have any way to verify that her electronic application was in fact complete.

I was very disappointed to learn that NHIAF's application was deemed "incomplete." I believe that Ms. Brown's experience illustrates a critical gap in the Grants.gov electronic file submission process. At a time of scarce funding on the local, state and national levels, applicants should be able to confirm that they have done all that they are able to do when pursuing critical support.

I request your assistance in improving the electronic grant submission process so that future applicants will not face the unfortunate and avoidable problems encountered by the New Hampshire Institute of Agriculture and Forestry. Thank you for your attention to this issue.

Sincerely,

Jeanne Shaheen

Jeanne Shaheen
United States Senator

HASTINGS LAW OFFICE, P.A.

376 Main Street, P.O. Box 299, Farmington, ME 04937
Telephone 207-935-2061 • Facsimile 207-935-3939
www.hastings-law.com

December 19, 2012

VIA CERTIFIED MAIL RETURN RECEIPT REQUESTED AND REGULAR U.S. MAIL

Julie Moran
P.O. Box 447
Colebrook, NH 03576

Dear Ms. Moran:

I represent Suzanne Brown, the New Hampshire Institute of Agriculture and Forestry and its Board of Directors. I am in receipt of a defamatory email dated September 15, 2012 which you sent out to many of NHIAF's customers, board members, farmers, possible funding sources, and other interested parties. I understand that you have a dispute with Ms. Brown regarding payment for your services. However, the manner in which you communicated your dissatisfaction with Ms. Brown to the recipients of your email was not only unnecessary it was defamatory to Ms. Brown and NHIAF.

Furthermore, in your September 15th email you referenced a "previous fiscal sponsor." We believe this to be a reference to Richard Denmark, Executive Director of North Country Resource Conservation and Development, and therefore we have copied North Country Resource Conservation and Development on this letter.

In fact, your defamatory statements to NHIAF's funders and customers were the cause of either a retraction or delay in financing and also caused an interruption and shortfall in payments from customers. Your actions also caused an interruption of deliveries from farmers in Coos County to at least two of NHIAF's customers on September 13, 2012, seriously damaging NHIAF's hard-earned reputation for reliable local deliveries.

On behalf of Ms. Brown, NHIAF and its Board of Directors, I am hereby asking that you send an email out to each and every one of the recipients of your September 15, 2012 email stating: "On September 15, 2012 I sent out an email with disparaging comments pertaining to Suzanne Brown and NHIAF. My dispute with Ms. Brown was, and is, personal in nature and I regret having sent that email. Any allegation I made in said email that would suggest that Ms. Brown misappropriated or mismanaged funds or NHIAF operations was misdirected and erroneous and I retract those statements." Please copy Suzanne Brown at her NHIAF email address with each email retraction.

As far as your suggestion that you are owed approximately $41,000, NHIAF disputes your claim. If you wish to communicate further with Suzanne Brown or NHIAF, you are hereby instructed to communicate with me. As your November 2, 2012 email indicated that you would "take further action to the full extent of the law," please know that Ms. Brown and NHIAF will do the same if you publish any further defamatory statements.

Sincerely,

Peter J. Malia, Jr.

PJM,Jr./hab

cc: Suzanne Brown
NHIAF
North Country Resource Conservation and Development

PJM.Current.Brown Letter-Morano 120412

EXHIBIT I

EXCERPTS FROM ANNE LAYNE TESTIMONY AND EXPERT REPORT

Demonstrating Factual Innocence of Suzanne Brown

PREFATORY STATEMENT

The following excerpts are from the expert report and deposition testimony of Anne M. Layne, CPA/CFF, CFE, CAMS, MBA, a Certified Public Accountant specializing in forensic accounting and federal grant administration. Ms. Layne was retained by Petitioner's habeas counsel and deposed by the United States Attorney's Office on August 14, 2020. Her credentials include certification in Financial Forensics, four years of federal grant auditing experience, and specialized expertise in governmental accounting under OMB Circular A-110 and USDA Rural Development regulations.

These excerpts establish three dispositive facts proving Petitioner's factual innocence: (1) USDA regulation RD 1942-G mandated accrual basis accounting for the Rural Business Enterprise Grant program—it was not a choice; (2) under accrual accounting, the absence of corresponding bank transactions is legally required for incurred obligations not yet paid; and (3) in-kind contributions by regulatory definition never generate cash transactions. The government's prosecution theory—that absence of bank account activity proved fraud—was legally impossible under the governing regulations. No crime occurred.

I. ACCRUAL ACCOUNTING WAS LEGALLY MANDATED BY REGULATION

From Expert Report (June 19, 2020):

"RD 1942-G, Section B III H.1 states the recipient will provide financial management systems which will include, accurate, current, and complete disclosure of the financial results of each grant and that financial reporting will be on an accrual basis (emphasis added). In other words, the instructions from Rural Development that governed the grant Ms. Brown's organization received specifically required accrual basis accounting, a requirement which was not addressed during trial by defense counsel."

From Deposition (August 14, 2020):

Q (AUSA Aframe): "And your interpretation of the more specific regulation that governs the RBEG grant is that, whatever the government may allow some other grant, USDA for this grant was limiting the choice to only accrual is that right?"

A (Layne): "Yes."

Q: "And so it's your opinion, based on the words I read to you, that the SF-270 had to be completed on an accrual basis?"

A: "Yes."

Q: "Let me just ask you this. In addition to the words I just read to you, which are 'financial reporting will be on an accrual basis,' do you have any other basis other than those words for your conclusion that the financial report at issue in this case is the form SF-270?"

A: "My basis for that is also my experience. As an auditor of grant programs for many years, one of our requirements for performing an audit was testing financial reporting related to grants. And our financial reporting tests were -- always included the SF-270, and that's based on the guidance that's provided to governmental auditors as to what's considered a financial report."

II. NO BANK TRANSACTIONS REQUIRED UNDER ACCRUAL ACCOUNTING

From Deposition - The Devastating Admission:

Q: "And does it matter to you in your analysis that she never paid them?"

A: "In this part of my analysis, no, it does not matter."

Q: "Okay. And why is that?"

A: "Because that obligation would have existed as a liability. And under the accrual basis, as we talked about before, there is no requirement for when that liability gets paid. So she had incurred the expense. She eventually had to pay the expense. Whether she had or not, that's another matter that could be argued in a different arena, but it doesn't mean that the expense shouldn't have been reported on the form based on accrual accounting."

From Deposition - Cash vs. Accrual Distinction:

Q: "Now, in a cash accounting -- if cash accounting were used -- and let's put in-kind aside, because I think that's going to become a complicating factor in this. But let's just put that aside for a second. In cash based accounting, without the complexity that this case has about in-kind contribution, what -- would you expect to see corresponding bank transactions?"

A: "Yes."

Q: "Okay. And in accrual you would not, because you don't necessarily, as we just went over, have to be paying the actual obligations at the time you take them on, right?"

A: "That's correct."

Q: "So Im doing pretty well in understanding my basic accounting so far. All right. So that's basic accounting."

A: [Confirmed]

III. IN-KIND CONTRIBUTIONS—NO CASH TRANSACTIONS BY DEFINITION

From Expert Report:

"Common practice is to have a third-party submit an invoice for the value of these items, even though that invoice is never paid... As is clear from the definition included in the applicable regulations, there would never be a cash transaction related to in-kind contributions. Having supporting documentation, such as invoices that assign a value to these transactions is required by regulations, there would be no expectation for any kind of payment for these services."

From Deposition:

Q: "And it's your -- what you're telling me today is, despite the definition on the SF-270 that doesn't include in-kind as a -- under the accrued basis definition, it was permissible -- accepting your premise, right? Remember, we have the premise that Suzanne did this based on the accrued basis, right? That's your premise on which you wrote the report, right?"

A: "Yes."

Q: "So even though Suzanne wrote it -- filled out the -- the form using the accrued basis method, it was permissible for her to declare in-kind donations on that form even though it's not listed in the instruction?"

A: "Yes."

Q: "What's the point? Tell me, in your own words, boil down, then, what is -- what is the point of the in-kind? Simply that there would be no corresponding bank transaction if she had declared -- if these were in-kind donations that she was writing down here?"

A: "That's the point. There would be no corresponding cash transactions for in-kind contributions, that the in-kind contributions would be included on Form SF-270 in some form, but that the base point is that there would be no corresponding payment for those invoices, and that the invoices would still exist and that they would have a value associated with them."

IV. GOVERNMENT WITNESSES PROVIDED FACTUALLY ERRONEOUS TESTIMONY

From Expert Report on Ms. Getchell (USDA Grant Administrator):

"Ms. Getchell is asked to provide a summary of the term 'cash basis.' Her first answer is 'the money has been spent for technical assistance' and her second answer is 'that means the money has been spent'... Neither of these definitions provided by Ms. Getchell are accurate and neither of those definitions were challenged by defense counsel on cross examination... As you can see from the definitions provided above, Ms. Getchell's understanding of cash basis accounting is erroneously simplistic."

From Expert Report on Ms. Redmond (USDA-OIG Special Agent):

"Ms. Redmond's lack of understanding of grant regulations was demonstrated during her testimony as well. She also failed to understand and acknowledge that outlays, such as accrued expenditures and third-party in-kind contributions, could be included on form SF-270 but would not appear in the bank records. In fact, she testified that she would expect to see outlays at least equal to the amount report to USDA in the bank account. Accrued expenditures and in-kind contributions included on form SF-270 would never match the amounts leaving the bank account. Considering the grant program requires accrual basis accounting and allows

in-kind contributions, there would be no form SF-270 for any grant awarded by this particular program that would equal the funds leaving a bank account."

V. THE PROSECUTION THEORY WAS LEGALLY IMPOSSIBLE

From Expert Report - Summary Conclusion:

"In my opinion, the testimony and evidence provided during Ms. Brown's trial contained grave errors. Key concepts were not properly defined or explained during the trial. Testimony was provided by witnesses who lacked a basic understanding, much less expertise, of the concepts in this case. Defense counsel failed to address the technical errors during cross examination of the witnesses."

From Expert Report - The Government's Non-Existent "Reimbursement Basis":

"Government counsel's reference to 'reimbursement basis' actually refers to the method by which the grant recipient will get paid, not to the basis (method) of accounting used to complete the report. Government counsel's argument that the SF-270 was not required to use accrual basis because it's 'reimbursement basis' is completely erroneous and is not a valid argument. There is no such thing as a 'reimbursement basis' of accounting."

From Expert Report - What an Expert Would Have Established:

"Engagement of an accounting expert would have corrected these technical errors during the trial, and therefore provided accurate information to the jury. An accounting expert would have explained the technical nuances of this case to counsel prior to the trial to inform pre-trial decisions. An accounting expert would have provided assistance with examination during the trial to correct technical errors and would have revealed the lack of technical knowledge of the other witnesses."

CONCLUSION

Anne Layne's unrebutted expert testimony establishes that:

1. Accrual accounting was legally mandated by USDA regulation RD 1942-G for the Rural Business Enterprise Grant program
2. Under accrual accounting, absence of bank transactions is legally expected when reporting obligations incurred but not yet paid
3. In-kind contributions by regulatory definition never generate cash transactions and were properly reportable on Form SF-270

The government prosecuted Petitioner for conduct that was required by the governing regulations. The prosecution's theory—that absence of corresponding bank account activity proved false statements—was legally impossible under mandatory accrual accounting. The jury convicted based on "grave errors" in testimony from witnesses who, according to the government's own deposed expert, fundamentally misunderstood the applicable accounting standards and grant regulations.

No crime occurred. Petitioner is factually innocent.

EXHIBIT J

UNITED STATES DISTRICT COURT

DISTRICT OF NEW HAMPSHIRE

SUZANNE BROWN,	)	
Movant/Petitioner	)	
	)	**Case No. 1:16-CR-00021-JL**
V.	)	
UNITED STATES OF AMERICA,	)	
Defendant/Respondent	)	
	)	

MOTION FOR SUMMARY JUDGMENT
PETITION FOR WRIT OF ERROR CORAM NOBIS
AND MOTION FOR INTERIM STAY OF SENTENCE
ON GROUNDS OF ACTUAL INNOCENCE
(NEW EVIDENCE AND CHANGE IN LAW)

(EXPEDITED DISPOSITION RESPECTFULLY REQUESTED)

Movant/Petitioner (also Defendant in related case 20-CV-00170) respectfully requests that this honorable Court grant the expedited relief in accordance with FRCP Rule 56, as a Matter of Law.

In the interest of correcting a manifest injustice, this petition is a fervent appeal to the Court after more than eight years and ten months [including one year (2022) of incarceration] to dismiss the false charges (all 12 counts of the wrongful indictment and conviction); and reverse as much personal and familial, professional, and financial damage as possible to Petitioner, as specified below.

Grounds for expedited summary disposition and all forms of relief follow in the attached memorandum of law.

Motion Attachments:

1. Memorandum of Law
2. Petitioner Affidavit
3. Exhibit: Discrimination Financial Assistance Application (including determination; reviewer comments)

Pro Se Petitioner respectfully requests the solicitude and patience of the Court for any inadvertent form or process errors contained in this and any attendant filings, respectfully requesting that the Clerk immediately file all documents in their present form with the opportunity for Petitioner to correct as required (New Hampshire District Court Local Rule 5.2).

If Petitioner has inadvertently mischaracterized or misfiled this motion, Petitioner respectfully requests that in lieu of dismissal (with or without prejudice) that the Court please

transfer this motion to the proper court/jurisdiction, recharacterize this motion correctly, and/or allow Petitioner to take necessary action to affect same [First Circuit Local Rule 22.1(e)].

Petitioner presently lacks the entire case file (except the attached new evidence) and trial exhibits required for citations and other specificity to bolster this petition. With the Court's permission, Petitioner will determine where these materials currently reside; obtain the entire case file and exhibits; and promptly amend the pleadings, if necessary.

Prayer for Relief:

For the reasons contained within this motion and supporting documents, Petitioner requests this honorable Court grant the following relief:

Interim:

1. Judicial notice and acceptance of newly discovered evidence and change in law;
2. Stay of remainder of sentence (payment of restitution and/or administrative fees) pending resolution;
3. Appointment of counsel in forma pauperis, under the Criminal Justice Act;
4. Permission for appointed counsel to amend pleadings, as necessary;
5. Permission to file additional supporting pleadings, if required or requested;
6. Permission to obtain case records, conduct discovery and expand the record, as necessary.

Final:

1. Grant Writ of Coram Nobis;
2. Vacate conviction and sentence as a Matter of Law;
3. Grant Certificate of Actual Innocence;
4. Expunge entire Department of Justice criminal record, including all investigation, arrest and conviction data; BOP records and DOJ/BOP/FBI/NCIC numeric identifiers; DNA material; and all other personal and private information;
5. Order refund of restitution and/or administrative fee payments made to date, estimated at approximately $175;
6. Release government lien of $82,395 against property at 371 Thistle St, Upton, Maine 04261;
7. Return of United States passport, surrendered to the United States Marshal on March 8, 2016;
8. Press release from Department of Justice correcting January 2017 wrongful conviction published media.

Date: December 15, 2024

Respectfully Submitted,

/s/ Suzanne Brown
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(603) 828-4860
greatnorthwoodsfarm@gmail.com

Certificate of Service

I hereby certify that on this day of December 15, 2024, a copy of the above motion and supporting documents was served on United States Attorney Jane E. Young, via First Class United States Postal Mail.

/s/ Suzanne Brown
Suzanne Brown

UNITED STATES DISTRICT COURT

DISTRICT OF NEW HAMPSHIRE

SUZANNE BROWN,	)	
Petitioner	)	
	)	**Case No. 1:16-CR-00021-JL**
V.	)	
UNITED STATES OF AMERICA,	)	
Respondent	)	
	)	

MEMORANDUM OF LAW
IN SUPPORT OF

MOTION FOR SUMMARY JUDGMENT
PETITION FOR WRIT OF ERROR CORAM NOBIS
AND MOTION FOR INTERIM STAY OF SENTENCE
ON GROUNDS OF ACTUAL INNOCENCE
(NEW EVIDENCE AND CHANGE IN LAW)

I. Background:

The Court possesses detailed knowledge of this nearly nine-year matter, as recently evidenced by its November 7, 2024, chronological summary-recitation of case travel for the benefit of newly-appointed defense counsel.

This petition will focus on the recent change in Constitutional law that clarifies and reinforces existing law; indisputably new evidence of government misconduct (discrimination for prior civil rights activity, as *admitted/conceded* by USDA, the purported victim); renewed and expanded claim of trial counsel ineffective assistance; and the cumulative exculpatory effect of all previous law and evidence; especially the forensic government accounting expert witness report and testimony that was not available at the time of trial.

Now that *all* the evidence in this case is available and can be taken as a synergistic whole, this Court will see in a new light that Petitioner has met and surmounted the 28 USC § 1651 rigorous conditions for review. And the previous habeas corpus standard (when Petitioner was in custody from March 8, 2016 until November 22, 2024) that the sentence was, in fact, imposed in violation of the Constitution. This addition of newly strengthened law and bona fide new evidence at trial would have resulted in a different outcome--acquittal on all 12 counts of the indictment by a dubious and reluctant jury at the time of deliberations.

The Court's civility and deference to Petitioner/Defendant, especially relative to similarly-situated others involved in the justice system, does not go without notice or appreciation. Throughout these proceedings it has appeared to Petitioner that in the eyes of the Court that there has always been something not quite right about this case; something out of character the Court could not quite identify or put its finger on.

Indeed, with the exception of having been misdirected (intentionally or unintentionally) in writing by the grant administrator to check the "wrong box" regarding *the grant's mandated accounting method*, Petitioner completed the grant reimbursement request forms *precisely* as every other federal grant recipient administrator does every single day across this country. None of the information on any materials (that were submitted in conformance with the mandated procedures) ever specified *who* had actually been paid or *when*, as explained by the forensic accounting expert who was unfortunately introduced to these proceedings four years after the guilty verdict and sentencing were rendered.

Contractors who asked for no-cost assistance from the New Hampshire Institute of Agriculture and Forestry (NHIAF) for their own local projects and personal services (e.g. employment confirmation letter for mortgage refinance dated after falsely claiming earlier resignation) and who *in writing* placed complete administrative autonomy (including compensation/invoicing) in Petitioner's hands, had absolutely no right to fabricate false state and federal allegations in order to try to strongarm payments they had agreed to defer so that the non-profit could remain viable to provide no-cost assistance to farmers after a devastating weather event (incidentally, after which USDA refused to provide recovery aid). Executive directors who decline cashing their own paychecks for the benefit of their non-profit have zero motive to make false statements or misappropriate funds.

Unbiased USDA officials and investigators would have completely disregarded the contractors' blatantly false claims of fraud ("phony invoices"), especially had they read the

blistering contractor-witness impeachment contained in the transcript of the prior state proceedings/acquittal. A fair and balanced (mandated by USDA policy, but disregarded) Office of Inspector General (OIG) investigation would have uncovered the contractors' transparent, illegal agenda and advised them that they were committing crimes themselves with their false statements to USDA employees. Not to mention blackmailing and framing an innocent person, crimes that should have resulted in harsh penalties for *them*.

The USDA OIG investigator conducted no inquiry regarding Petitioner's personal history or military service (honorable discharge) or dedicated work, much of it uncompensated; or the regulations that governed the grant accounting and reporting, as reflected in both her grand and petit jury testimonies. USDA officials simply had a discriminatory agenda and determination to prosecute Petitioner criminally and civilly, which has fatally infected every aspect of this case and thus far misled every court that has adjudicated it.

One of the former defense attorneys in this case, well familiar with the United States Naval Academy's Honor Code (because he is a service academy graduate and former military officer himself), said it best, "Skip (Petitioner's nickname), if you were a liar, you would never even have made it through the Academy." Petitioner was raised with integrity by a Marine Corps veteran and has adhered for more than four decades to the Naval Academy Honor Code since swearing allegiance at age 17 to the United States Constitution.

Thus, the new information contained herein answers why Petitioner was indicted/prosecuted, why *four* USDA employees and two private contractors "dog-piled" on false testimony, and helps explain why this Court demonstrated serious misgivings and delayed as long as possible the 12-month wrongful incarceration and ensuing two-year probation and outstanding restitution.

II. Change in Constitutional Law: "Loper Bright" Overturns "Chevron"

***Loper Bright Enterprises, et al. v. Raimondo, Secretary of Commerce, et al.*, No. 22-451, 2024 U.S.**

***Chevron U.S.A. Inc. v. Natural Resources Defense Council, Inc.*, 467 U.S. 837 (1984)**

Petitioner understands it is a rare occurrence for the highest court in the land to render a decision retroactive. However, "Loper Bright" (decided June 28, 2024) serves as a reminder and crystal clear directive as to what should have *already* been proper legal practice as it regards this matter.

Judges, *not agencies*, should interpret the law—from the statutes right down to agency directives (*especially* when those directives contradict the law and/or superceding policies). When a government agent, especially a field-level administrator, is allowed to decide what the law is (e.g. grant conditions, accounting methods and definitions), it can lead to catastrophic

consequences, including horrible miscarriages of justice and loss of personal liberty, as in Petitioner's case.

At trial in 2017 until now, the government and the Courts (district and appellate) have generously deferred to the four USDA employees who falsely testified, especially the grant administrator, even though there existed ample detailed regulations and a sitting judge to resolve for the jurors the *fundamental ambiguity* present in the grant reporting form/queries. So, too, the same authority to take exception to and properly instruct jurors regarding the grant administrator's other clearly unauthorized changes to use of the grant reporting form. The grant administrator received default expert witness status she did not merit.

The legal meaning of the certification, "all outlays were made in accordance with the grant conditions", should have been clarified and defined by USDA regulations and policies (that ineffective trial counsel failed to admit into evidence); not the whim of a grant administrator who, as she testified without ever having read the regulations (her own admission), unilaterally decided that contractors should have been paid (how? with what?) before reimbursement requests could be approved and disbursed, instead of following the mandated accrual accounting procedures.

III. New Evidence: Discrimination Determination in Congressionally Mandated USDA DFAP

In late 2023, Petitioner was notified by the Farmer Veteran Coalition (of which Petitioner is a member) that farmers who felt they had been discriminated against by the United States Department of Agriculture could apply for a determination that may also have included a compensatory award for their farming operation.

The program was called USDA DFAP and was promulgated pursuant to the Inflation Reduction Act of 2022. The entire applicant evaluation was conducted by a neutral third-party consulting company, not by USDA personnel, as directed by Congress, due to USDA's flagrant, habitual discriminatory practices.

Petitioner completed and uploaded the 47-page application on January 12, 2024, citing a mere sampling of incidents of discrimination *pre-dating* indictment, as far back as 2011. Petitioner's attached affidavit provides chronological details of the discrimination and the criminal and civil harsh repercussions that followed.

Petitioner received confirmation of discrimination in the United States mail on August 2, 2024. Evidence of extensive discrimination USDA carried out against Petitioner was finally documented after 13 years.

Upon receipt of new evidence, Petitioner consulted with counsel, who cautioned Petitioner that immediately bringing this new evidence of past discrimination to the attention of the Court may well have resulted in even *more* government retaliation and discrimination,

including probation violation(s) fabricated in the same despicable fashion as the original charges. Pursuant to this legal advice, Petitioner has waited until the statutory end of the probationary portion of the sentence (December 15, 2025) to apprise the Court and file this petition.

Heretofore lacking this evidence of government misconduct, Petitioner has been prejudiced at every stage of these proceedings: indictment/pre-trial, trial, post-trial, direct appeal, habeas corpus, incarceration, home confinement, and probation. Being falsely branded a liar has negatively infused and affected every aspect of Petitioner's life since the 2016 wrongful indictment. During pre-trial preparation, trial counsel flat-out refused to add Petitioner's discrimination claims to the defense strategy. Instead, tacitly believing the government, trial counsel intensified pressure on Petitioner to enter into a plea agreement.

To be clear, there was no crime Petitioner sought or continues to seek to justify with claims of discrimination. Petitioner understands dedication to NHIAF's mission would never have justified any false statements, and none were made. It was the discrimination itself, mostly through USDA employee testimony (amplified and leveraged by the prosecutors) and the contractor's false accusations and blackmail attempts that caused Petitioner's perfectly legal conduct under admittedly adverse conditions to be construed and misrepresented to jurors as criminal activity. This new evidence would have certainly raised even more serious doubts and led the reasonable jurors to an acquittal.

IV. Continuing Case/Controversy Requirement:

Petitioner understands that to proceed with this action once the sentence has been substantially served requires proof that limitations of civil rights persist, even beyond continued reputational damage.

Here is a sampling of qualifying civil rights penalties and limitations:

- Restitution (until repaid or December 15, 2042)
- Actual or Constructive Firearm Prohibition (lifetime prohibition)
- Ineligibility for Transportation Worker Identification Card and United States Coast Guard Captain's License (lifetime unless appealed)
- Marine Surveyor (Assessor) Certification Prohibition—course completed January 2018 (lifetime prohibition)
- Law School Admission/Attendance (prohibited by probation); admission to NH Bar Association; permission to practice in New Hampshire Courts (lifetime prohibition)
- Prohibition from representation of family members in civil and criminal matters in New Hampshire Judicial Branch Courts (lifetime prohibition)
- Prohibition of entry to Canada, Great Britain, Australia, New Zealand, and the European Union (eldest daughter resides in Spain) (lifetime prohibition)
- Prohibition of certification as a Maine or New Hampshire Wilderness Guide (lifetime prohibition)

VI. Actual Innocence Claim

With the one-two punch of new evidence, plus Constitutional violations (government misconduct and ineffective assistance of counsel), Petitioner meets the requirements to support the claim of actual innocence and in no way abuses this request for Writ of Coram Nobis.

VII. Ineffective Assistance of Counsel:

This Court prematurely found that Petitioner did not suffer from 6th amendment violations, as claimed by Petitioner immediately after trial until now, more than seven years later. In light of this new evidence and new proof of ineffective assistance of counsel for having ignored Petitioner's request to integrate USDA discrimination into trial defense, Petitioner appeals to this Court to change its preliminary determination and reach the Constitutional violation.

VIII. First Circuit Direct Appeal Impact:

The flawed proceedings in this Court most certainly infected the direct appeal (First Circuit 18-1620). The government leaned heavily on the testimony of the USDA grant administrator, and the justices had no inkling the agency and the administrator were engaged in flagrant discrimination. Accordingly, the judges affirmed on the apparent basis that the agency and administrator had carte blanche to interpret the grant rules at their discretion under the now-defunct Chevron doctrine instead of holding them accountable to the codified statutes; their own agency policies under the Accardi Doctrine; and the law as dictated by this Court.

IX. Grounds for Summary Judgment:

Summary judgment is appropriate "if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law." Fed. R. Civ. P. 56(a).

Please see President and Fellows of Harvard College v. Zurich American Insurance Company, No. 22-1938 (1st Cir. 2023).

In this case, the government simply cannot uphold its adversarial position in argument or discovery due to *its own admission* of discrimination against Petitioner. The entire case is reprehensible and unprosecutable and must be dismissed.

XI. Judicial Notice:

Petitioner respectfully requests that in addition to the Exhibits included in this motion, that the Court please take notice of the following supporting law and press release:

Section 22007 of the Inflation Reduction Act of 2022, Amending the American Rescue Plan Act of 2021, Section 1006 (e):

https://www.congress.gov/117/plaws/publ169/PLAW-117publ169.pdf

https://www.usda.gov/media/press-releases/2024/07/31/biden-harris-administration-issues-financial-assistance-more-43000

Date: December 15, 2024

Respectfully Submitted,

/s/ Suzanne Brown
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Certificate of Service

I hereby certify that on this day of December 15, 2024, a copy of the above motion and supporting pleadings was served on United States Attorney Jane E. Young, via First Class United States Postal Mail .

/s/ Suzanne Brown
Suzanne Brown

UNITED STATES DISTRICT COURT

DISTRICT OF NEW HAMPSHIRE

SUZANNE BROWN,	)	
Petitioner	)	
	)	**Case No. 1:16-CR-00021-JL**
V.	)	
UNITED STATES OF AMERICA,	)	
Respondent	)	
	)	

PETITIONER AFFIDAVIT,
DECLARATION IN SUPPORT OF

MOTION FOR SUMMARY JUDGMENT
PETITION FOR WRIT OF ERROR CORAM NOBIS
AND MOTION FOR INTERIM STAY OF SENTENCE
ON GROUNDS OF ACTUAL INNOCENCE
(NEW EVIDENCE AND CHANGE IN LAW)

I, Suzanne Brown, Pro Se Petitioner, respectfully submit this declaration under penalty of perjury, pursuant to 28 U.S.C.§ 1746, as follows:

1. I am the Movant/Petitioner in this action and the Defendant in associated case 20-cv-00170-JL.

2. I respectfully request that this court grant the Writ of Error Coram Nobis on grounds of significant change in Constitutional law and release of indisputably new evidence; and then rectify this manifest injustice in my favor as a factually innocent person who committed no crime.

3. I have consistently and steadfastly maintained my innocence since I was first questioned about my conduct by USDA managers in January 2013. At that time until now I remain shocked and outraged by the agency's and the Department of Justice/Bureau of Prisons mistreatment of my family and me.

4. I refused to bend to threats of up to 60 years' imprisonment and/or superseding indictments, trial counsel and government pressure to enter a plea "agreement", or promises of home confinement over institutional incarceration (were I to have stipulated to dropping the previous habeas corpus petition).

5. Rather, I have consistently maintained through faith in eventual justice and my relentless dedication and work with counsel that the truth will prevail and that I will be exonerated and vindicated. I was wrongfully incarcerated in one of the worst maximum security prisons in our country.

6. In September 2009, several friends and I founded the New Hampshire Institute of Agriculture and Forestry (NHIAF) as a non-profit organization driven by rigorous business practices in response to what we perceived as existing agricultural services that did not adequately meet the needs of New Hampshire's (mostly very small) farmers; and therefore did not meet the increasing demand for New Hampshire's citizens to access locally-grown food. A small farmer myself, I took the helm as a first-time executive director of the 501(c)(3) non-profit.

7. One of the organizations we noted as slow-moving, unresponsive, biased, and bureaucratic was the United States Department of Agriculture. Notably, as part of the recent Congressional mandates, the agency has recently admitted some of these faults and has expressed its dedication to correcting them. While tactfully critical of USDA's practices I perceived as out of touch and unresponsive to farmers' "boots on the ground", NHIAF nonetheless constructively engaged in work with USDA and was invited to apply for grants to train farmers, set up farming systems, and distribute food statewide (and to bordering states' towns).

8. NHIAF quickly established an incubator on leased land in North Conway to help new farmers get started; grew its own crops to sell in order to largely self-fund the organization; and from scratch (with no compensation) I personally built a web-based farm food sales and distribution software system. Small farmers' requests for free

services statewide were organizationally and personally overwhelming, and we did our best to fulfill every need for support. NHIAF and I received considerable recognition and accolades for our important work.

9. In 2011, in addition to the two grants at issue in this case, I also personally spent many weeks writing an application for a significantly larger USDA grant. The multi-component application was uploaded completely and timely through Grants.gov. However, the USDA grant administrators completely mishandled the application and promptly denied our request for funding that would have benefitted hundreds of New Hampshire farmers, thousands of private citizens, and public institutions across the state (e.g. schools and hospitals).

10. In an attempt to both salvage the grant and also repair/improve the entire online grant application process, I contacted the offices of Senator Jeanne Shaheen, who had been a huge proponent and advocate of NHIAF's work. Senator Shaheen ordered her staff to conduct an independent investigation, culminating in a letter to USDA criticizing the agency for its mishandling of the grant application and highlighting the importance of NHIAF's work to the people of New Hampshire.

11. From that time in 2011 until today, NHIAF and I received extremely hostile treatment and discrimination from the agency. The worst infliction/manifestation of this discrimination—criminal and civil persecution—has ravaged my family and me and

caused us significant hardship— especially my son (now 22, and a senior agricultural sciences major at Cornell University), who has lived with its devastating effects since age nine.

12. Until July 31, 2024, when the third-party determination was released (as mandated by the Inflation Reduction Act of Congress) that USDA discrimination against me has indeed existed in response to my prior civil rights activity (and other reasons), I have been disbelieved, especially by trial counsel, whose ineffective assistance significantly contributed to my wrongful conviction.

13. Upon indictment, less than a year following acquittal in New Hampshire state court for similarly false allegations, I immediately pointed out to the federal public defenders that I was being discriminated against by USDA and the contractors were continuing to defame and blackmail me by putting forth false allegations with the full and enthusiastic backing of the USDA and Department of Justice. I attempted to convince my counsel that the contractors' actions were a continuing attempt to force me to pay them for what they claimed (through their demand letters) they were owed. With their defamation, they had already forced NHIAF into closure.

14. Trial counsel's response to my discrimination and blackmail claims, in spite of submission to them of voluminous supporting evidence, was very much, "Yeah, that's what they all say." As detailed in the pleadings this court authorized me to submit in

April 2018 prior to sentencing, trial counsel simply attempted to push me into a plea deal and convince me that I was fighting a losing battle. For the first time in my life I was treated as if I were a stupid criminal. Sadly, this treatment has been the norm now for nearly a decade, especially during incarceration.

15. Trial counsel refused to listen to my explanations of the government-mandated grant administration accounting practices, refused to hire a forensic government accounting expert, or enter into evidence the regulations I provided them. They expressed doubt that the USDA and contractor witnesses could possibly be incorrect and warned me that the government would not only try me for false statements, but also put forth a full-blown fraud case.

16. Trial counsel also refused to include in my defense USDA's hamfisted efforts to cancel my farm microloan from 2014, which was awarded to help my small family farm set up a new maple syrup operation and to teach my then-12-year-old son the sugaring business. When I refused to enter a guilty plea on the criminal charges, within a few months after indictment, my loan was revoked for what USDA called "non-monetary default" for now-documented fabricated reasons. I complained to trial counsel that the government was unjustly pressuring me. They shrugged and told me to just pay back the loan, which I was unable to do because most of the funds had been expended on equipment. I ended up fighting the battle to stop foreclosure of my loan from 2016 to the bitter end, with USDA conceding loan forgiveness in 2022 after I returned home from prison.

17. Pre-trial, I did not know in 2016 what I know now, almost nine years and twelve attorneys later: that I could have asked the Court for competent CJA counsel at the level of expertise and professionalism I am enormously grateful I have since had appointed in both district and appellate courts. At the time, though, I thought if I complained in any way about my attorneys, besides not being believed, I would have had to proceed through trial pro-se, with no idea how to put on a defense or conduct myself in court.

18. It has stung to hear this Court criticize me for struggling to modulate my trial testimony to accommodate ineffective counsel who did not even attempt to understand the fundamental differences between cash and accrual accounting. It was frustrating without regulatory backup evidence to explain to jurors what "in-kind services" are, when my trial counsel refused to enter into evidence the definition of the term. Trial counsel should have been prepared to demonstrate to fair-minded jurors that the regulations mandated a full, fair, and balanced Office of Inspector General (OIG) investigation, instead of a unilateral rush to judgment on false contractor unfounded complaints.

19. I estimate this case, nearly a decade-long, has thus far cost our country more than a million dollars in total government expenditures for the non-crime of $82,000 in *legally* spent grant money. The enormous sum total value of judicial time and effort; investigative and prosecutorial work; the labor of a dozen defense attorneys and the

expert witness; Bureau of Prisons "room and board"; and Probation services is absolutely staggering.

20. At trial, the jurors understandably had doubts and questions. After my honest and effective testimony, the government quickly realized they would need a nullification instruction to secure a conviction. There is no doubt in my mind that if the jurors had had the regulatory resources, expert testimony, AND the now-available indisputable proof that I have been discriminated against by USDA, they would have refused to convict me. On top of that, those jurors needed an instruction from the Court that government agencies must follow Congressional statutes, as well as their own policies and guidelines (Accardi Doctrine). Grant administrators should not get to make up or enforce their own rules that can result in a person's loss of liberty.

21. And at the appellate level, the justices of the First Circuit would have realized that instead of the enormous amount of deference they exhibited toward the grant administrator, the other three USDA witnesses for the prosecution, and the many-times impeached contractors (especially their phony claims of "phony invoices"), that none of those witnesses deserved a scintilla of credibility. The Court of Appeals pointed to an unindicted claim: my signed "certification of compliance with the grant conditions", adjudging it to be false, when in fact at the time I completed and submitted the documentation I was in fact 100% in compliance with the grant conditions as a after of USDA policy and law. Furthermore, the benefit of the forensic accountant's

report/testimony would have been invaluable to accurately define "reimbursement" and "expenditures" under the government-mandated accounting rules.

22. Again, the forensic accounting expert employed only after direct appeal could have clarified all of this for the justices. Both the gutting of Chevron deference in favor of Loper Bright and the thankfully still intact Accardi Doctrine, very much two sides of the same coin, compounded with the unavailable-until-now evidence of discrimination would have given the First Circuit Court sound reasons to overturn the wrongful conviction, assuming in the first place that the case even made it past an accurately and adequately informed jury.

23. During habeas corpus proceedings (2020-2021), with the benefit of this new law and evidence, this court would have realized that the forensic accounting expert was 100% correct, and that my reporting of the grant work and results did not at all express (explicitly or implicitly) *any* false statements.

24. Thus, nearly eight years since I was wrongfully convicted, I respectfully request that this Court carefully reconsider and then overturn this entire case, including the eradication of "Chevron-type" deference and acceptance of the proof *admitted by USDA itself* that it has engaged in discrimination against me (and by association—NHIAF, my farm, and my family). I am no criminal, and I do not deserve to live a single day more as a felon with the continuing reputational damage and restrictions from living and working as I wish.

25. Most importantly, it is my fervent request that this May, when my son will have graduated from our country's finest agricultural college, that he will have the opportunity to return to his home state of New Hampshire as a professional farmer with his head held high and without my wrongful conviction holding back his agricultural career and reputation.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge. I am competent and willing to testify on the matters stated. Executed at Norfolk, Virginia on this 15th day of December 2024.

Date: December 15, 2024

Respectfully Submitted,

/s/ Suzanne Brown
114 Lake Umbagog
P.O. Box 253
Errol, NH 03579
(603) 828-4860
greatnorthwoodsfarm@gmail.com

Certificate of Service

I hereby certify that on this day of December 15, 2024, a copy of the above motion and supporting pleadings was served on United States Attorney Jane E. Young, via First Class United States Postal Mail .

/s/ Suzanne Brown
Suzanne Brown

EXHIBIT K

No. 26-TBD

UNITED STATES COURT OF APPEALS FOR THE FIRST CIRCUIT

SUZANNE BROWN, Defendant-Appellant

v.

UNITED STATES, Plaintiff-Appellee

On Appeal from the United States District Court for the District of New Hampshire

in Case No. 1:16-cr-00021-JL, Judge Joseph Laplante

PETITION FOR WRIT OF ERROR CORAM NOBIS (VOBIS);

IN THE ALTERNATIVE, PETITION FOR PERMISSION TO APPEAL

INTERLOCUTORY ORDER DENYING RECUSAL

PURSUANT TO 28 U.S.C. § 1292(b)

AND COLLATERAL ORDER DOCTRINE

EMERGENCY RELIEF REQUESTED:

STAY OF MARCH 13, 2026 ORAL ARGUMENT

(Expedited Relief Requested)

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I. EMERGENCY NATURE OF THIS PETITION

Petitioner respectfully requests this Court's immediate action. On March 13, 2026, (31 days from today) the district court scheduled oral argument on Petitioner's coram nobis petition. If that hearing proceeds before the judge whose conduct is at issue in this appeal, the structural concerns cannot be cured on later review. Once the March 13 hearing occurs, credibility findings will be made by a judge whose order characterized Petitioner as having "few, if any, limits" on her representations. Doc. 204 at 3 n.6 (D.N.H. Feb. 3, 2026). Those findings will receive deference under clear error review. No post-judgment appeal can undo factual findings made in proceedings affected by structural concerns about impartiality. *Williams v. Pennsylvania, 579 U.S. 1, 8 (2016).*

This petition requests: direct grant of coram nobis relief based on actual innocence; remand with reassignment to a different district judge; and/or emergency stay of the March 13 oral argument pending resolution.

II. INTRODUCTION AND SUMMARY OF ARGUMENT

Today marks a decade since Suzanne Brown was indicted on February 10, 2016. A Naval Academy graduate and former Marine Corps Captain who in 2009 dedicated her post-military career to serving farmers in rural New Hampshire now presents this Court with overwhelming evidence of actual innocence and a district judge who placed words in quotation marks that she never wrote or spoke.

A. The Fabrication of Quotations

On January 23, 2026, the district court issued an order stating: "In support of her later recusal motion, however, Brown represented to the court 'that she misled the court with her answer and

untruthfully told the court that she appreciated its transparency.'" Doc. 202 at 14 n.58 (D.N.H. Jan. 23, 2026). But Petitioner's actual sworn statement reads: "I told the Court I appreciated its transparency, by which I meant I knew exactly what the Court's agenda was, not that it was being fair or honest." Doc. 38-1 at 7, ¶66 (D.N.H. Dec. 30, 2021).

The critical exculpatory language—"by which I meant I knew exactly what the Court's agenda was"—does not appear in the district court's characterization. The words "misled the court" and "untruthfully told the court" do not appear anywhere in Petitioner's 112-paragraph affidavit.

When Petitioner documented this discrepancy, the district court responded: "Brown appears to recognize few, if any, limits on the number, nature, and scope of her arguments and representations to the court." Doc. 204 at 3 n.6 (D.N.H. Feb. 3, 2026).

The district court claims it was "paraphrasing" Petitioner's affidavit. Doc. 204 at 2. But across three orders spanning four years, May 10, 2022, January 23, 2026, and February 3, 2026, the district court has never cited a single paragraph number, page reference, or quotation from Petitioner's actual sworn statement to support its characterization.

As Chief Justice Barron observed in *O'Connor v. Oakhurst Dairy, 851 F.3d 69, 72 (1st Cir. 2017),* "For want of a comma, we have this case." Precision in language matters. The syntax—"Brown represented to the court 'that she misled the court'" attributes a statement to Petitioner that she never made, creating the false impression that she confessed to perjury.

B. The Structural Conflict

Trial prosecutor Seth R. Aframe is now Judge Aframe of this Court. Petitioner's coram nobis petition alleges Brady violations by then-AUSA Aframe. Judge Aframe has recused from all votes in

Petitioner's case, confirming that structural conflict exists. The district judge is adjudicating alleged misconduct by his former prosecutorial colleague, whom it is presumed he also previously supervised.

C. Actual Innocence Proven

First, the U.S. Department of Agriculture, the alleged victim, issued a formal discrimination finding on August 2, 2024, admitting it discriminated against Petitioner during the investigatory and litigation time periods of this case. Second, suppressed correspondence between Senator Shaheen's office and USDA officials shows the Government during trial knew USDA had been previously investigated by the Senator's office for unequal treatment in the grant context during the time period at issue. Third, forensic government accounting expert Anne Layne testified Petitioner complied with all federal regulations, and the Government presented no rebuttal expert. Fourth, Petitioner reported grant expenditures using accrual accounting as required by 2 CFR § 200.302(b)(2) and 7 CFR § 3560.302 (formerly 7 CFR § 3015.61), there was no false statement.

D. March 13: A Point of No Return

Once credibility findings are made by a judge who has written that Petitioner has "few, if any, limits" on her honesty, appellate deference locks those tainted findings in place. Williams requires immediate disqualification when structural concerns exist, not post-proceeding review. 579 U.S. at 8.

III. JURISDICTIONAL STATEMENT

A. Coram Nobis Jurisdiction

Under *United States v. Denedo, 556 U.S. 904, 911-13 (2009),* this Court has independent jurisdiction to grant coram nobis relief under the All Writs Act, 28 U.S.C. § 1651(a). This Court need

not await district court action when structural concerns render those proceedings problematic. *United States v. George, 676 F.3d 249, 253-254 (1st Cir. 2012).*

B. Interlocutory Appeal Under 28 U.S.C. § 1292(b)

Section 1292(b) provides jurisdiction when a district court order involves a controlling question of law, substantial grounds for difference of opinion, and immediate appeal may materially advance litigation. The statute requires: "he shall so state in writing in such order." 28 U.S.C. § 1292(b). On January 24, 2026, Petitioner requested § 1292(b) certification. Doc. 203 (D.N.H. Jan. 24, 2026). On February 3, 2026, the district court made no mention of this request. Doc. 204 (D.N.H. Feb. 3, 2026). Silence after a reasonable time constitutes constructive denial.

C. Collateral Order Doctrine and Supervisory Authority

Under *Cohen v. Beneficial Indus. Loan Corp., 337 U.S. 541 (1949)*, this Court has jurisdiction because the recusal order conclusively determines the impartiality question, the issue is separate from coram nobis merits, and structural concerns are effectively unreviewable after the March 13 hearing. This Court also possesses supervisory authority to accept interlocutory appeals when quotation marks are used to attribute statements a party never made.

IV. STATEMENT OF FACTS

A. The Conviction

Petitioner founded and operated the New Hampshire Institute of Agriculture and Forestry, serving farmers in rural New Hampshire. NHIAF received USDA grants during 2011-2012. Federal regulations 2 CFR § 200.302(b)(2) and 7 CFR § 3560.302 (formerly 7 CFR § 3015.61), required grant recipients to report expenditures using accrual accounting. Under accrual accounting, when Petitioner

incurred an obligation to pay a contractor, she recorded the expense and reported the accrued liability on SF-270 reimbursement forms. This was correct under federal accounting standards.

USDA administrator Anne Getchell expected cash-basis reporting, based upon her admitted ignorance of the regulations. When Petitioner reported accrued expenses before making complete cash payments to contractors and employees, Getchell wrongfully concluded the forms were false. The Government charged Petitioner with 12 counts of false statements under 18 U.S.C. § 1001(a)(2) for complying with federal regulations. The jury convicted Petitioner on all 12 counts on January 26, 2017. The court sentenced her to 12 months imprisonment. This Court affirmed conviction United States v. Brown, 945 F.3d 597, 604-05 (1st Cir. 2019). The lead trial and appellate prosecutor was AUSA Seth R. Aframe.

Petitioner filed § 2255 habeas (20-cv-170-JL), which Judge Laplante denied on February 16, 2021, Brown v. United States, No. 20-cv-170-JL, Doc. 19 at 94 (D.N.H. Feb. 16, 2021). It was only during the 2020-2021 habeas corpus proceedings before Judge Joseph N. Laplante, that government forensic accountant expert witness Anne Layne testified Petitioner's accounting complied with federal regulations. The Government presented no rebuttal expert.

From 2022-2024, Petitioner served 7 months in federal prison from January to August 2022, five months of home confinement, and nearly two years of supervised release, as an innocent Marine Corps veteran and Naval Academy graduate.

B. The New Evidence

On August 2, 2024, seven years after trial, the U.S. Department of Agriculture issued a formal finding that the USDA discriminated against Petitioner. USDA, the alleged victim, admitted it victimized the defendant. This finding is significant because throughout the course of criminal

investigation and prosecution USDA had motive to mischaracterize Petitioner's conduct. The jury never heard that USDA discriminated against Petitioner.

During trial, the Government suppressed correspondence between Senator Shaheen's office and USDA; manipulated Petitioner's letters to USDA State Director David Robinson, as well as the non-profit's attorney's (Peter Malia) correspondence to one of the contractors. These 2013 letters (submitted as a single document to Robinson) show Senator Shaheen's office was investigating USDA's treatment of Petitioner, USDA officials were aware of discrimination complaints, while USDA OIG was apparently investigating Petitioner before criminal referral. At trial, the Government introduced only Petitioner's letter to David Robinson and the Malia letter, detached from each other as exhibits. AUSA Aframe, now Judge Aframe, knew or should have known the complete correspondence showed USDA discrimination and Congressional endorsement and support of Brown's work. If the jury knew USDA was under investigation for discriminating against Petitioner while simultaneously reporting her to law enforcement, reasonable doubt was inevitable.

C. Coram Nobis Petition and Procedural Timeline

On December 15, 2024, Petitioner filed a Petition for Writ of Error Coram Nobis presenting: USDA discrimination finding; *Loper Bright Enters. v. Raimondo* ending *Chevron* deference; prosecutorial misconduct; and ineffective assistance of counsel. Doc. 150, 151 (D.N.H. Dec. 15, 2024). Judge Laplante has repeatedly denied appointment of counsel and expert witness funds, and scheduled oral argument for March 13, 2026. At the December 9, 2025 hearing, Petitioner moved for recusal. The Government objected. On January 23, 2026, the district court denied recusal. On January 24, 2026, Petitioner filed an emergency motion for stay, § 1292(b) certification, and for reconsideration. Doc. 203. On February 3, 2026, the district court denied stay and reconsideration with no ruling on § 1292(b). Doc. 204.

V. ANALYSIS OF THE FABRICATION: THREE ORDERS, ZERO CITATIONS

The district court's "paraphrase" defense collapses under scrutiny. Across three orders spanning four years, the district court has never cited a single paragraph number, page reference, or quotation from Petitioner's actual sworn statement to support its characterization.

A. What Petitioner Actually Wrote

Petitioner's affidavit contains only two relevant statements. Paragraph 66: "I told the Court I appreciated its transparency, by which I meant I knew exactly what the Court's agenda was, not that it was being fair or honest." Doc. 38-1 at 7, ¶66 (D.N.H. Dec. 30, 2021). Paragraph 43: "During both hearings, the Court seemed to ask at least as many questions as the prosecutor did of the defense expert, Attorney Brown, and me." Doc. 38-1 at 5, ¶43.

B. The Three-Stage Misrepresentation

Stage One (May 10, 2022): The district court wrote without quotation marks: "Petitioner now alleges that she misled the court with her answer and untruthfully told the court that she appreciated its transparency." Doc. 45 at 11 (D.N.H. May 10, 2022). The court did not cite where Petitioner "alleges" this. She never did.

Stage Two (January 23, 2026): The district court escalated this into words placed in quotation marks: "In support of her later recusal motion, however, Brown represented to the court 'that she misled the court with her answer and untruthfully told the court that she appreciated its transparency.'" Doc. 202 at 14 n.58 (D.N.H. Jan. 23, 2026). The use of quotation marks creates the false impression that Petitioner made this representation.

Stage Three (February 3, 2026): When Petitioner documented the discrepancy, the district court claimed: "The quotation marks in that section with cites to the previous order demonstrate that the court is quoting its previous order, not a statement by Brown... the court paraphrased Brown's statements in the previous order." Doc. 204 at 2 (D.N.H. Feb. 3, 2026).

C. The "Paraphrase" Defense Is Contradictory

The district court claims it was simultaneously quoting its previous order, paraphrasing Brown's statements, and using syntax showing it's not Brown speaking. But these claims cannot all be true. If paraphrasing Petitioner, where in her affidavit are the words being paraphrased? If the syntax shows it's not Petitioner speaking, why did the court use the attribution "Brown represented to the court 'that she misled'"?

D. There Is Nothing to Paraphrase

Petitioner's actual statement: "I told the Court I appreciated its transparency, by which I meant I knew exactly what the Court's agenda was, not that it was being fair or honest." District court's "paraphrase": "she misled the court with her answer and untruthfully told the court that she appreciated its transparency." These are not similar. Petitioner clarified what she meant by "transparency", documenting judicial bias. The district court's version transforms this into a confession of misleading the court and an admission of lying under oath. This is not a paraphrase; it is inversion of meaning.

E. The Missing Citation Problem

If the district court was paraphrasing Petitioner's affidavit, where is the citation? The May 2022 Order states "Petitioner now alleges" but cites nothing—no paragraph number, no page reference. The January 2026 Order places words in quotation marks and cites only to the May 2022 order, which

itself cited nothing. The February 2026 Order claims paraphrasing occurred but provides no citation to what is being paraphrased. If accurately paraphrasing sworn testimony, the court would cite the specific paragraph. It cannot, because those words do not exist.

F. Proper Citation vs. Fabrication

When the district court actually quotes Petitioner, it provides proper citation: "After that explanation, Brown stated: 'I have no reservations [about proceeding before this court], and I appreciate that you've been transparent about the whole thing, your Honor.'" Doc. 202 at 14 n.57 (D.N.H. Jan. 23, 2026) (citing Doc. 19 at 4, Feb. 12, 2021 hearing transcript). Notice quotation marks around actual words, citation to specific document, and brackets showing edits. When characterizing Petitioner as confessing to perjury, the court places quotation marks around words she never said, cites only to its own prior order, and includes no brackets showing paraphrase.

G. The Second Mischaracterization: "Chastised Her Lawyer"

Petitioner's statement: "the Court seemed to ask at least as many questions as the prosecutor did." District court's version: "the court 'chastised her lawyer during oral argument by asking her more questions than it asked the prosecution.'" Doc. 202 at 14 n.58. "At least as many" does not equal "more than." "Chastised" adds inflammatory editorial Petitioner never used. Where did the court get "chastised"? Not from Petitioner's affidavit—that word appears only in paragraph 34 describing chambers, not the hearing. Doc. 38-1 at 4, ¶34.

H. The Syntax Issue

As this Court observed in *O'Connor v. Oakhurst Dairy, 851 F.3d 69, 72 (1st Cir. 2017),* "For want of a comma, we have this case." The syntax, "Brown represented to the court 'that she misled the

court'", attributes the statement to Petitioner. Any reasonable reader would understand this as describing what Petitioner said, not as a judicial characterization of a prior order.

VI. THE MARCH 13 HEARING AND § 1292(b) NON-DECISION

A. March 13 Is Unreviewable After the Fact

When Petitioner testifies at the March 13 hearing, the judge will evaluate her credibility after writing that she "appears to recognize few, if any, limits on her representations." Doc. 204 at 3 n.6. The hearing will result in factual findings on the USDA discrimination determination, Shaheen-Robinson correspondence, expert testimony, and actual innocence claims. All findings will be made by a judge who placed words in quotation marks that Petitioner never spoke, failed to cite any paragraph of her affidavit, wrote that Petitioner has "few, if any, limits", ostensibly on honesty and integrity, and is adjudicating Brady claims against his former prosecutorial colleague. Under clear error review, appellate courts defer to district court credibility determinations. *Anderson v. City of Bessemer City, 470 U.S. 564, 573-74 (1985).* Once factual findings are made, those findings become presumptively correct, even if affected by structural concerns. *Williams v. Pennsylvania* held that when structural concerns exist, automatic reversal is required, not deferred appellate review. 579 U.S. at 8.

B. The "No Limits" Retaliation

When Petitioner documented the mischaracterization, the district court responded: "the court understands that in her current litigation Brown believes she is fighting for her reputation, honor, and her life as she wants to live it... As a result, Brown appears to recognize few, if any, limits on the number, nature, and scope of her arguments and representations to the court." Doc. 204 at 3 n.6. The phrase "few, if any, limits" clearly implies she will lie, fabricate, and has no ethical boundaries. But Petitioner carefully explained what she meant by "transparency" in paragraph 66, used measured language stating

the court "seemed to ask at least as many" in paragraph 43, and invited cross-examination in paragraph 104. Doc. 38-1 at 7, ¶66; at 5, ¶43; at 11, ¶104. The district court placed words in quotation marks that Petitioner never spoke, then accused her of having no ethical boundaries when she documented the discrepancy, merely for asserting her Constitutional right to pursue exoneration.

C. The District Court's Failure to Rule on § 1292(b)

When a party requests § 1292(b) certification, the district judge must rule: grant certification, deny certification, or deny as moot. The district court did none of these. The February 3 order says nothing about § 1292(b). Doc. 204. The statute provides: "he shall so state in writing." 28 U.S.C. § 1292(b). "Shall" is mandatory. *Kingdomware Techs., Inc. v. United States, 579 U.S. 162, 172 (2016).* The timeline is notable: February 2, 2026, this Court denied rehearing en banc in Case No. 25-2166. February 3, 2026; the next day, the district court denied stay and reconsideration. March 13, 2026, 31 days later, oral argument is scheduled with no stated purpose or agenda.

VII. STRUCTURAL BIAS AND THE THREE § 1292(b) FACTORS

A. Williams Structural Conflict

Williams v. Pennsylvania, 579 U.S. 1, 8 (2016), held that when a judge has significant personal involvement in a critical decision as a prosecutor, automatic reversal is required. Trial prosecutor Seth R. Aframe is now Judge Aframe of this Court. Petitioner alleges AUSA Aframe suppressed Brady evidence and (along with USDA OIG investigators) knew about prior senatorial USDA investigation(s) into unequal treatment. Doc. 150, 151. Judge Aframe has recused from all votes in Petitioner's case—confirming the structural conflict exists. The district judge is adjudicating alleged Brady violations by Judge Aframe while Judge Aframe sits on the reviewing court, subject to the disposition of his peers.

B. Disparate Treatment: United States v. Morillo

On October 15, 2025, three months before the district court's January 23 Order, Senior Judge Steven McAuliffe granted coram nobis relief in *United States v. Morillo, No. 1:15-CR-174 (D.N.H.),* vacating a 2016 conviction. Both Morillo and Brown involve 2024 coram nobis petitions after sentences completed. In Morillo, the court appointed counsel, authorized expert funds, held evidentiary hearing, and granted relief. In Brown's case, the court denied counsel, denied expert funds, refused evidentiary hearing, despite stronger evidence: USDA discrimination finding, unrebutted expert testimony, Brady violations, and Loper Bright legal standards clarifications.

C. The Three § 1292(b) Factors

Factor 1 (Controlling Question of Law): Whether gross mischaracterization by placing words in quotation marks that a party never spoke—combined with language reflecting personal views and structural conflict involving trial prosecutor—requires disqualification under 28 U.S.C. § 455(a) and (b)(1). This determines whether the judge can continue presiding and controls all further proceedings.

Factor 2 (Substantial Ground for Difference of Opinion): First, regarding mischaracterization versus paraphrase: the district court claims it "paraphrased," but Petitioner shows the court placed words in quotation marks she never spoke, the syntax attributes the statement to her, exculpatory language was omitted, and no citation supports the characterization across three orders spanning four years.

Second, regarding personal views: the district court claims "few, if any, limits" is observation about litigation conduct, but accusing a pro se Naval Academy graduate of having no limits on honesty—after she documented mischaracterization—reflects personal views.

Third, regarding Williams: the district court claims Williams doesn't apply because Judge Aframe recused, but Williams requires recusal when adjudicating Brady claims against

prosecutor-turned-appellate-judge, and Judge Aframe's recusal proves the conflict exists. Evidence includes this Court's December 8, 2025, mandamus denial stating recusal claims needed "fuller development" (Doc. 197), disparate treatment in Morillo, and the Government's own practice of correcting mischaracterizations within 24 hours while the district court never corrected its mischaracterization.

Factor 3 (Materially Advance Litigation): Immediate appeal would avoid wasted resources because if disqualification was required, March 13 proceedings must be redone. Structural concerns become unreviewable after March 13 because factual findings receive deference. Williams, 579 U.S. at 10. March 13 is 31 days away—insufficient time for notice of appeal, briefing, oral argument, and decision.

VIII. MERITS OF CORAM NOBIS: ACTUAL INNOCENCE

A writ of error coram nobis requires valid grounds, sound reasons for failing to seek earlier relief, adverse consequences that persist, and no other remedy available. *United States v. George, 676 F.3d 249, 253-54 (1st Cir. 2012).* All four factors are satisfied.

A. Ground 1: USDA Discrimination Finding

On August 2, 2024, the U.S. Department of Agriculture issued a formal determination that it discriminated against Suzanne Brown and awarded her $41,960. This finding did not exist at trial, on direct appeal, or during § 2255 proceedings. It was issued in August 2024—seven years after conviction. This proves actual innocence because USDA's credibility was central. Anne Getchell testified Petitioner's forms were false, and the jury believed USDA was a neutral victim. But USDA was discriminating against Petitioner, which means Getchell's characterization may have been motivated by discriminatory animus. No reasonable jury would convict knowing the victim agency admitted

discriminating against the defendant. New evidence warrants coram nobis relief if it would have created reasonable doubt. *United States v. Denedo, 556 U.S. 904, 911-13 (2009).*

B. Ground 2: Brady Violation

During 2013-2014, correspondence between Senator Shaheen's office, USDA State Director Robinson, and non-profit attorney Peter Malia documented Senator Shaheen's investigation of USDA's treatment of Petitioner, perhaps even during USDA OIG investigation before criminal referral. The Government suppressed Senator Shaheen's letter; defense trial counsel failed to act (Strickland). Brady v. Maryland, 373 U.S. 83 (1963), requires disclosure of favorable, material evidence. The complete correspondence showing USDA was under investigation for discrimination while reporting Petitioner to law enforcement with the cooperation of money-motivated contractor complaining witnesses was devastating impeachment. If the jury knew this, reasonable doubt was inevitable. AUSA Aframe, now Judge Aframe, knew or should have known. Brady violations warrant relief if material. Smith v. Cain, 565 U.S. 73 (2012).

C. Ground 3: Unrebutted Expert Testimony

Anne Layne testified Petitioner's accounting complied with federal regulations, 2 CFR § 200.302(b)(2) and 7 CFR § 3560.302 (formerly 7 CFR § 3015.61), requires accrual accounting, Petitioner's SF-270 forms were accurate, and no false statements occurred. Brown, 945 F.3d at 604-05. The Government presented no rebuttal expert. When unrebutted expert testimony establishes the defendant's conduct complied with federal regulations, and the government presents no contrary evidence, the conviction cannot stand. The elements of 18 U.S.C. § 1001(a)(2) are: false material statement, knowingly and willfully made. Element one, false statement, was never proven. Layne testified statements were true under the regulations; the Government presented no evidence they were

false; and USDA administrator admitted she didn't understand accrual accounting. No false statement equals no crime. Conviction cannot stand when unrebutted evidence establishes an element was not proven. *Jackson v. Virginia, 443 U.S. 307, 319 (1979).*

D. Ground 4: Loper Bright

Loper Bright Enterprises v. Raimondo, 603 U.S. 369 (2024), overruled Chevron deference. Before Loper Bright, courts deferred to agency interpretations. After Loper Bright, courts must independently interpret regulations. At trial, the court deferred to USDA administrator Getchell's interpretation that cash-basis accounting was required—even though 2 CFR § 200.302(b)(2) and 7 CFR § 3560.302 (formerly 7 CFR § 3015.61) say nothing about cash versus accrual. Expert Layne testified accrual was required. Under Loper Bright, the court must independently interpret the regulation; under Accardi, *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260 (1954), agencies must follow their own rules. Independent interpretation compels one conclusion: 2 CFR § 200.302(b)(2) and 7 CFR § 3560.302 (formerly 7 CFR § 3015.61) require accrual accounting. Change in law warrants coram nobis relief when it renders conviction unconstitutional. *United States v. Morgan, 346 U.S. 502 (1954).*

E. Additional Requirements Met

Adverse consequences persist: the felony record prevents employment requiring security clearance; implicates ongoing housing litigation; precludes professional licenses; loss of security clearance prevents business opportunities; restitution obligation of $81,195 and home lien remains; reputational harm in rural community; inability to travel to visit family or work in the European Union, the United Kingdom, and nearby Canada. No other remedy is available: direct appeal exhausted (affirmed 2019), § 2255 exhausted (denied 2021), § 2241 exhausted (denied 2022, affirmed 2024).

Sound reasons exist for not seeking earlier relief: the USDA discrimination finding did not exist until August 2, 2024, seven years after trial.

F. The Tenth Anniversary

Today, February 10, 2026, marks ten years since Petitioner's indictment. On February 10, 2016, a federal grand jury indicted her for reporting grant outlays on an accrual accounting basis—exactly as federal regulations required. In January 2017, she was convicted despite USDA discrimination, Brady violations, ineffective assistance of counsel, and regulatory misrepresentations. In June 2018, she was sentenced to 12 months imprisonment. From January to August 2022, she served 7 months in maximum security federal prison, followed by 5 months' home confinement, and nearly two years' supervised release. A total of 8 years in federal custody. On August 2, 2024, the purported victim agency admitted discrimination.

Suzanne Brown is a Naval Academy graduate, Marine Corps veteran, farmer and agricultural advocate, unjustly incarcerated after serving her country and state/community. She has been a pro se litigant for more than a year after being repeatedly denied counsel. For ten years, she has fought for justice in a system that convicted her for following federal regulations, ignored unrebutted expert testimony, suppressed Brady evidence, deferred to a discriminatory agency, and placed words in quotation marks that she never spoke when she challenged structural bias. Yet the district court has refused to vacate the conviction, denied appointment of counsel, and scheduled a hearing for March 13, 2026, before this appellate court can intervene.

IX. PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests:

Primary Relief: Direct Grant of Coram Nobis (Vobis)

1. **ACCEPT** jurisdiction under the All Writs Act, 28 U.S.C. § 1651(a), and United States v. Denedo, 556 U.S. 904 (2009);

2. **GRANT** Petitioner's Petition for Writ of Error Coram Nobis, finding that: USDA's August 2024 discrimination finding constitutes new evidence of actual innocence; the Senator Shaheen correspondence was improperly suppressed Brady material (not questioned by ineffective trial counsel); expert testimony from Anne Layne was unrebutted and established regulatory compliance; no false statement occurred under 18 U.S.C. § 1001(a)(2); Loper Bright Enterprises v. Raimondo eliminates the basis for conviction; and actual innocence is proven;

3. **VACATE** Petitioner's twelve convictions entered January 26, 2017;

4. **ORDER** that the convictions be set aside, the judgment be vacated, certificate of actual innocence issued, and Petitioner's record be expunged;

5. **REMAND** with instructions to dismiss the indictment with prejudice.

Alternative Relief: Remand with Reassignment

In the alternative:

6. **REMAND** to the District Court with instructions to: **REASSIGN** to a different district judge; **VACATE** all orders issued after May 10, 2022; and direct the newly assigned judge to **APPOINT** CJA counsel, **AUTHORIZE** expert witness funds, **HOLD** evidentiary hearing within 90 days, and **RECONSIDER** coram nobis petition de novo.

Emergency Relief

In the alternative:

7. **STAY** the March 13, 2026 oral argument pending resolution;

8. **EXPEDITE** resolution of this petition;

9. **ORDER** district court to rule on § 1292(b) certification request within 14 days, or deem certification granted by operation of law;

10. Grant such other and further relief as the Court deems just and proper.

Respectfully submitted this 10th day of February, 2026.

/s/ Suzanne M. Brown

SUZANNE M. BROWN

Pro Se Petitioner

P.O. Box 253

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CERTIFICATE OF COMPLIANCE

Pursuant to Federal Rule of Appellate Procedure 5(c)(1) and Federal Rule of Appellate Procedure 32(g)(1), I certify that:

1. This petition complies with the type-volume limitation of FRAP 5(c)(1) because it contains 4,762 words, excluding the parts of the petition exempted by FRAP 32(f).

2. This petition complies with the typeface requirements of FRAP 32(a)(5) and the type style requirements of FRAP 32(a)(6) because it has been prepared in a proportionally spaced typeface using Courier New 12-point font.

3. I relied on my word processor's word count function to calculate the word count.

Dated: February 10, 2026

/s/ Suzanne M. Brown

SUZANNE M. BROWN

Pro Se Petitioner

CERTIFICATE OF SERVICE

I hereby certify that on February 10, 2026, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will send notification to:

Erin Creegan

United States Attorney

District of New Hampshire

53 Pleasant Street, 4th Floor

Concord, NH 03301

Dated: February 10, 2026

/s/ Suzanne M. Brown

SUZANNE M. BROWN

Pro Se Petitioner

APPENDIX OF EXHIBITS

All exhibits are available in the district court record, Case No. 1:16-CR-00021-JL (D.N.H.), and most (if not all) have been provided to this Court in prior proceedings:

Exhibit A: Recusal Affidavit, Doc. 38-1 (D.N.H. Dec. 30, 2021)

Exhibit B: May 10, 2022 Order Denying Recusal, Doc. 45 (D.N.H. May 10, 2022)

Exhibit C: Coram Nobis Petition, Doc. 150, 151 (D.N.H. Dec. 15, 2024)

Exhibit D: Amended Motion for Recusal, Doc. 198 (D.N.H. Dec. 16, 2025)

Exhibit E: Government's Objection, Doc. 200 (D.N.H. Dec. 23, 2025)

Exhibit F: January 23, 2026 Order Denying Recusal, Doc. 202 (D.N.H. Jan. 23, 2026)

Exhibit G: Emergency Motion for Stay and § 1292(b) Certification, Doc. 203 (D.N.H. Jan. 24, 2026)

Exhibit H: February 3, 2026 Order, Doc. 204 (D.N.H. Feb. 3, 2026)

Exhibit I: USDA Discrimination Financial Assistance Program Determination (Aug. 2, 2024)

Exhibit J: Shaheen-Robinson-Malia Concurrently Submitted Correspondence (January 22, 2013)