

No. _____

**IN THE SUPREME COURT
OF THE UNITED STATES**

STEPHEN LYNCH MURRAY, Petitioner

v.

**GOVERNOR, STATE OF FLORIDA,
CHIEF JUSTICE, SUPREME COURT OF FLORIDA
, Respondents**

*On Petition for a Writ of Certiorari
to the 11th Circuit*

PETITION FOR A WRIT OF CERTIORARI

APPENDIX

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APPENDIX A

**In the United States Court of Appeals
For the Eleventh Circuit**

No. 25-11762

STEPHEN LYNCH MURRAY,
Plaintiff-Appellant,

versus

**GOVERNOR, STATE OF FLORIDA,
CHIEF JUSTICE, SUPREME COURT OF FLORIDA**
Defendants-Appellees.

Appeal from the United States District Court
for the Middle District of Florida
D.C. Docket No. 6:24-cv-01993-CEM-DCI

Before Luck, Lagoa, and Marcus, Circuit Judges.

PER CURIAM:

2 Order of the Court 25-11762

The Petition for Panel Rehearing filed by Stephen
Lynch Murray is DENIED.

APPENDIX B

NOT FOR PUBLICATION
In the United States Court of Appeals
For the Eleventh Circuit

No. 25-11762

STEPHEN LYNCH MURRAY,
Plaintiff-Appellant,

versus

GOVERNOR, STATE OF FLORIDA,
CHIEF JUSTICE, SUPREME COURT OF FLORIDA
Defendants-Appellees.

Appeal from the United States District Court
for the Middle District of Florida
D.C. Docket No. 6:24-cv-01993-CEM-DCI

2 **Opinion of the Court** **25-11762**

Before Luck, Lagoa, and Marcus, Circuit Judges.
PER CURIAM:

Stephen Murray appeals the district court's order dismissing his pro se 42 U.S.C. § 1983 complaint alleging violations of his rights by the Governor of Florida and the Chief Justice of the Supreme Court of Florida ("Defendants"). In his wide-ranging and

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conclusory 120-page complaint, Murray claims that Florida's judicial and executive branches of government have permitted perjury throughout the state's criminal justice system, and he seeks declaratory and injunctive relief to "enjoin all present and future agents of the State of Florida from holding criminal hearings or spending taxpayer funds enforcing criminal-law orders, which are designed and created by Florida law without such process as is due to deter and mitigate perjury, in violation of enumerated and traditional rights and national contracts and subverting the jurisdiction of this Court, until such illegal processes are cured[.]" The district court dismissed the complaint for, among other things, lack of standing.

On appeal, Murray argues that the district court erred in dismissing his complaint for lack of standing because he had adequately demonstrated how Florida officials are engaged in an ongoing state witness perjury scheme that threatens to cause him future injury. After careful review, we affirm.

We review district court standing determinations de novo. *Tanner Adver. Grp., L.L.C. v. Fayette Cnty.*, 451 F.3d 777, 784 (11th Cir. 2006) (en banc).

Federal courts have a "special obligation" to satisfy that they have jurisdiction before proceeding to the

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merits. *Steel Co. v. Citizens for a Better Env't*, 523 U.S. 83, 95 (1998). Pursuant to Article III of the United States Constitution, a federal court's jurisdiction is limited to active "cases" and "controversies." *Christian Coal. of Fla., Inc. v. United States*, 662 F.3d 1182, 1189 (11th Cir. 2011). The case-or-controversy requirement implicates several justiciability doctrines, including standing. *Id.* When plaintiffs lack Article III standing, we "lack jurisdiction to consider the merits of their claims." *Gardner v. Mutz*, 962 F.3d 1329, 1344 (11th Cir. 2020).

A plaintiff who invokes the jurisdiction of a federal court bears the burden to show the elements of standing: (1) an injury in fact, (2) a causal connection between the injury and the defendant's conduct, and (3) a likelihood that the injury will be redressed by a favorable decision. *Tanner*, 451 F.3d at 791.

"An injury in fact consists of an invasion of a legally protected interest that is both concrete and particularized and actual or imminent, not conjectural or hypothetical." *Trichell v. Midland Credit Mgmt., Inc.*, 964 F.3d 990, 996 (11th Cir. 2020) (citation modified). A "particularized" injury must affect the plaintiff in a personal and individual way, although "[t]he fact that an injury may be suffered by a large number of people does not of itself make that injury a nonjusticiable generalized grievance." *Id.* at 996; *Spokeo, Inc. v. Robins*, 578

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U.S. 330, 339 n.7 (2016).

Here, the district court did not err in dismissing Murray's case for lack of Article III standing because Murray failed to show

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that he suffered an injury in fact, that Defendants' conduct caused his injury, or that the injury could be redressed by a favorable decision. *Tanner*, 451 F.3d at 791. Murray's allegation that Florida state officials are engaged in an ongoing perjury scheme, which he has witnessed over 50 times, is not an injury in fact because witnessing alleged perjury is not an invasion of a legally protected interest. *Trichell*, 964 F.3d at 996. Furthermore, Murray did not sufficiently demonstrate how the perjury scheme has personally harmed him, only stating in his brief that it threatens to cause him future injury. *Id.* Even if Murray did show an injury in fact, he did not demonstrate how Defendants' conduct caused it or request a plausible means for the court to grant him relief. *Tanner*, 451 F.3d at 791. Because Murray failed to show he suffered an injury in fact, that Defendants caused the injury, or that it could be redressed with a favorable decision, the district court correctly found that he lacked Article III standing. *Id.* Accordingly, we affirm and are without jurisdiction to consider the merits of his claims. *Gardner*, 962 F.3d at 1344.1

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AFFIRMED.

1 Moreover, because we affirm the district court's determination that Murray lacked standing to raise his claims, we need not address the district court's alternative ground for dismissal, Eleventh Amendment immunity.

APPENDIX C

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION**

Case No. 6:24-cv-1993-CEM-DCI

STEPHEN LYNCH MURRAY,
Plaintiff,

v.

**GOVERNOR, STATE OF FLORIDA,
CHIEF JUSTICE, SUPREME COURT OF FLORIDA**
Defendants.

ORDER

THIS CAUSE is before the Court on Defendants' Motion to Dismiss ("Motion to Dismiss," Doc. 29), to which Plaintiff submitted a Response (Doc. 30). The United States Magistrate Judge issued a Report and Recommendation ("R&R," Doc. 37), recommending that the Motion be granted in part to the extent that the Complaint (Doc. 1) be dismissed for lack of standing and Eleventh Amendment immunity, (Doc. 37 at 12). Plaintiff filed Objections (Doc. 38). Also pending is Plaintiff's Motion for Summary Judgment (Doc. 32), to which Defendants filed a Response (Doc. 35), and Defendants' Motion for Protective Order (Doc. 33), to which Plaintiff filed a Response (Doc. 34). As set forth below, Plaintiff's Objections

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will be overruled, the Motion to Dismiss will be granted in part and denied in part, the remaining Motions will be denied as moot, and the Complaint will be dismissed.

Pursuant to 28 U.S.C. § 636(b)(1), when a party makes a timely objection, the Court shall review de novo any portions of a magistrate judge's R&R concerning specific proposed findings or recommendations to which an objection is made. See also Fed. R. Civ. P. 72(b)(3). De novo review "require[s] independent consideration of factual issues based on the record." *Jeffrey S. v. State Bd. of Educ. of Ga.*, 896 F.2d 507, 513 (11th Cir. 1990) (per curiam). The district court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1).

Plaintiff's Objections prove as inscrutable as his Complaint. Rather than objecting to specific portions of the Magistrate Judge's reasoning in the R&R, the Court is instead treated primarily to Plaintiff's stream of consciousness on the ills of the justice system in this country. Apart from generally disagreeing with the outcome of the R&R, Plaintiff makes no argument supported by legal authority that the Magistrate Judge actually erred. See *U.S. Steel Corp. v. Astrue*, 495 F.3d 1272, 1287 n.13 (11th Cir. 2007) (refusing to address a "perfunctory and underdeveloped argument" with no citation to legal

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authority and collecting cases).

After review in accordance with 28 U.S.C. § 636(b)(1) and Federal Rule of Civil Procedure 72, and considering the Objections, the Magistrate Judge's
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recommended disposition is accepted. Accordingly, it is ORDERED and ADJUDGED as follows:

1. The Report and Recommendation (Doc. 37) is ADOPTED and made a part of this Order.
 - a. Defendants' Motion to Dismiss (Doc. 29) is GRANTED in part and DENIED in part.
 - b. The Complaint (Doc. 1) is DISMISSED for lack of standing and due to Eleventh Amendment immunity.
 - c. The remainder of the Motion to Dismiss is DENIED.
2. Plaintiff's Motion for Summary Judgment (Doc. 32) is DENIED as moot.
3. Defendants' Motion for Protective Order (Doc. 33) is DENIED as moot.
4. The Clerk is directed to close this case.

DONE and ORDERED in Orlando, Florida on April 25, 2025.

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APPENDIX D

No. 25-11762

**IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT**

STEPHEN LYNCH MURRAY
Plaintiff-Appellant

v.

**GOVERNOR, STATE OF FLORIDA,
CHIEF JUSTICE ON BEHALF OF THE
SUPREME COURT OF FLORIDA**
Defendants-Appellees

Appeal from the United States District Court
for the Middle District of Florida
No. 6:24-cv-1993-CEM-DCI

**APPELLANT'S PETITION FOR
PANEL REHEARING**

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CONCLUSION: Plaintiff asks for hearing which both considers the alleged rights, and allows the relevant facts 1

Citations

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STATEMENT OF CONFLICTS

The *Opinion* (18-1) conflicts with:

I. This Court's previous ruling that personal details showing patterns of harm to Plaintiff are "immaterial" to any possible claim.

II. The principle that courts marshal case-specific witnesses rather than reach conclusions unsupported by witnessed fact, when this Court used religion versus an uncontroverted local witness, in a denovo fact analysis judging likely harm.

III. Federalist 51, and the principle that courts use witnessed fact not dogma, when this Court judged whether deterrence and mitigation of perjury are systemic behaviors shaped by state law;

IV. Plaintiff's traditional/In-re-Winship right to separation of powers, rather than direct democracy;

V. Plaintiff's right to public trials where people representative of Plaintiff are summoned as jurors.

VI. Florida and federal law, saying the Florida Supreme Court can superintend criminal process, the Governor can stop local officials violating law, and federal courts' job is to order state behavior on the occasion of individual petitions, as blunt instrument to influence that state criminal process

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doesn't practice systemic constitutional violations.

1

Making up for the District not performing factual or legal analysis on Plaintiff's actual allegations, isn't so simple as correctly restating one of the allegations, then affirming the District dismissing something else. Without a chain of factual-legal reasoning on any allegations, but inserting religion. After this Court previously barred lengthy personal details.

In *24-10583*, Plaintiff asked to instruct the District to not reject facts as shotgun until the cause of action was clear. This Court instead went further the other direction, removing the context of a cause of action being necessary to make facts immaterial.

If Plaintiff had included the kind of lengthy personal detail this Court now demands, the District would've said shotgun. From not accepting the premise, of future injuries resulting from perjury not being deterred. This Court had to accept the right as legally comprehensible like it did now, before Plaintiff could get relevant facts through the door in the District.

Which is exactly what Plaintiff previously came to this Court to fix. And instead got the ruling that facts are immaterial. This Complaint was then originally filed as amendment to the previous one,

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clarifying the cause of action, and reducing

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personal details as demanded.

If Plaintiff put lengthy personalized details in his Complaint relevant to analyzing future harm, the District would've said "immaterial" again. For not reading their purpose as prediction of perjury. Because districts foretaste retrospective injuries. It was only by focusing the Complaint on what Plaintiff focused it on -- systemic issues, minimizing person-specific distractions -- that Plaintiff was able to get a legal ruling at all. The District judge seemingly thinks Plaintiff is complaining about injuries to Plaintiff's friend from past perjury, which the judge wrongly doubts based on gossip.

It's head-I-win-tails-you-lose. No matter what Plaintiff says, no real addressing issues takes place, ending as cops can lie without being prosecuted.

CONCLUSION: Plaintiff asks for hearing which both considers the alleged rights, and allows the relevant facts.

**I. Denovo Fact Analysis Demands Facts
Previously Barred**

This Court previously ruled that details of patterns of harm/interaction which Plaintiff used to predict

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likely future harm are immaterial -- unnecessary --
to any

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possible claim:

"immaterial facts" (CA11 24-10583 27-1)

The Court now complains facts it barred, are
missing:

***"Murray did not sufficiently
demonstrate how the perjury scheme
has personally harmed him"
(CA11 25-11762 18-1/4)***

24-10583 removed the requirement from *Weiland*,
that facts could only be "immaterial" in the context of
a "particular cause of action", to say personal-
experience facts were immaterial to any claim. No
paragraphs or sections were specified, making that
apply to the general class of facts personally-unique
to Plaintiff. Plaintiff said this could only be
construed as barring lengthy details (24-10583
29/10).

Plaintiff went into detail about cops and others lying
about Plaintiff in events like traffic stops (6:23-cv-
1351). This Court said that stuff -- patterns of
government behavior direct to Plaintiff -- was
impermissible. This Court said statistical details of
interactions with police, the nitty-gritty going on in

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Plaintiff's life, were immaterial to any possible complaint.

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Plaintiff had to construe personal details were deemphasized litigating systemic due process issues, taking 24-10583 together with *Hudson v. Michigan* and *Herring v. United States*. Plaintiff's case is more similar to the broad systemic standing burden in *Herring* and *Hudson*, than to the policy-violating practice and one-time personal circumstances in *Los Angeles v. Lyons*.

Lyons wasn't systemic if police enforced policy against it, and the event was unique. Case law seems to say the imminent-harm standard applies to personal circumstances where probability of unique past events recurring must be analyzed with event-specific details. Not to broad due process issues.

To the extent *Hudson* was on probation, he couldn't allege he possessed contraband police were imminent to find without announcing ("Hudson contends, that without suppression there will be no deterrence of knock-and-announce violations" *Hudson v. Michigan*, 547 US 586 (2006)).

Herring being in prison without search rights, and not in Dale County, meant he couldn't allege he was about to be illegally searched due to "systemic error" ("the potential of exclusion to deter wrongful police

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conduct" *Herring v. United States*, 555 U.S. 135 (2009)).

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Government violating the Constitution in a unique one-time injury event, versus government violating the Constitution systemically in broad areas of process, have different standing burdens. If the government was taking someone else's land, or took specific land from Plaintiff for one project, it would be hard to argue a future problem for Plaintiff. But courts are aggressive when systemic criminal-process issues, and practices impeding their jurisdiction, come before them.

Herring and *Hudson* both came saying the state harming them had to be enjoined, to protect strangers in the future. They had standing to prompt courts to consider whether action on their cases would force the state to cure systemic problems. Having a government that doesn't lie about you, is an interest that creates a doorway into court.

This may all be just situational blather, which no guidance on pleading burden can be read from. That doesn't save Plaintiff being forced to use it, or entitled to notice what the law is. And opportunity to amend/refile his complaint and have the District consider facts, once given notice that unique personal details for analyzing future harm are required, not barred.

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**II. The Only Witness Was Right: Harms
Were Imminent**

No Defendant witness presented any facts to dispute that Plaintiff risks imminent harm. There was no factual dispute of the idea that Plaintiff, as firsthand witness of his own life, knew of harms he risked. You can't just say it's conclusory, whatever the unknown or unstated process is, that it might result in harm to Plaintiff. There's no alternate fact-set, or measure of risk upon facts, except provided by Plaintiff.

It would require some factual conclusion and analysis about the process in place for regulating state-witness perjury in Florida, to analyze its future effect versus what effect Plaintiff has a right to. Unless the Court states facts about what that process is, the Court has no basis to call allegations of the only and firsthand witness implausible.

This Court said "conclusory" without any court citing a specific thing Plaintiff witnessed, or analysis disputing Plaintiff's analysis how those facts lead to harms. The District chose to not dispute, bring out, or rely on facts. And invoked a religious assumption (unreasoned, unexplained, unarticulated) that government won't harm Plaintiff by lying. Which Plaintiff was denied opportunity to confront as witness, with reasoning upon actual facts.

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The District didn't analyze whether "ills of the justice system" were imminent. This Court substituted a quote of Plaintiff's allegation without actual analysis, for that misstatement without actual analysis. This Court isn't affirming any factual analysis of harms. Denovo analysis of facts saying they're lacking, conflicts with *24-10583*'s "immaterial" ruling.

When Plaintiff filed his first complaint (*6:23-cv-1351*), saying state witnesses being allowed to lie and accepted as true threatened Plaintiff, at that exact moment Plaintiff was being investigated using a warrant for his accounts, or a search was hidden, which was supported using false statements.

After filing, Plaintiff found out there was still a court order letting government search Plaintiff's account that was hidden from Plaintiff. Police said they were still investigating Plaintiff ("*Younger*" USFLSD *2:21-cv-14355* ECF 9), piercing Fourth Amendment rights supported by false statements.

Plaintiff bought Google ads, and immediately got clicks on them from government. The best explanation isn't they were searching keywords Plaintiff purchased, but that long after the disclosed searches, they were still getting new information from Google. Things like that happened recently,

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suggesting undisclosed warrants. If

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there'd been any kind of factual hearing, this could've been brought out. If Deputy Weill was subsequently prosecuted for perjury, Plaintiff could've used it to vacate 2:21-cv-14355.

Defendants didn't dispute Plaintiff could get a ticket, or his car searched by a lying cop tomorrow. This Court doesn't claim to have driven in Plaintiff's area, much less to know anything about Plaintiff's life, except as provided in a "short and plain" way by Plaintiff, disputed by nobody. The fact that next time Plaintiff gets pulled over or his car searched, they don't need an honest process - because politics won't force them to as the only regulator - is inevitable injury.

Lack of honest process is the injury.

One reason Plaintiff has reduced imminent harm, is Plaintiff had his life ruined to avoid creating events. If you avoid events by staying home, that's a harm.

Plaintiff usually doesn't leave his property for seven days or more. Because as actual witness, Plaintiff calculates risk every time he drives, which he hopes to mitigate. Plaintiff only puts like 6,000 miles a year on his car in Florida, despite living 40 minutes each way from the nearest grocery.

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Plaintiff has avoided social interactions for five years. The neighborhood has a party every winter and summer which Plaintiff used to attend. Plaintiff stopped, because Plaintiff knows police are looking for evidence about Plaintiff. If cops arrest someone for meth, cops look for people they can tell "Your crime goes away, if you can tell us some lie about Plaintiff." Plaintiff hasn't spoken to neighbors, attended social settings, or met new people, in years.

Because Plaintiff's friend, Plaintiff came into contact with girls from jail/prison. Plaintiff meets girls and can't fraternize with them. Because reminding them that Plaintiff and his friend exist, is one step away from them inventing lies about us to get out of prison. Girls facing long sentences spend every day trying to find a way they can lie the state narrative about someone, and get out. They know stories about lifers who invented that another inmate confessed, and got to go home. If Plaintiff or his friend are in their minds, the state will reward them for inventing lies about us.

Plaintiff didn't go into detail about that prior to trial. Because nobody provided any dispute of facts leading to Plaintiff's allegations of personal risk. And details were barred as "immaterial". Which they are, when no witness or factual analysis controverts even Plaintiff's short-and-plain version.

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Yesterday Plaintiff hadn't eaten, and saw cops on his way to buy food. A few hundred feet from the store, there was a license-plate reader. Plaintiff turned around and went 22 miles the other direction, to the nearest store he could reach with lower risk of being victimized by lying cops. Because Plaintiff -- not courts -- has witnessed his actual circumstances and how police are.

Being able to drive places without fearing the prospect of cops lying about Plaintiff, is a liberty interest.

Courts find public-safety justifications in crumbs, to justify cops doing whatever they want. When there are more than crumbs of a safety threat to individuals, courts discount it because it would stop cops doing whatever they want. Courts love saying cops, not courts, have firsthand information of circumstances when they reasonably believe something, so Courts should defer to judgments of cops who were there and witnessed it. Plaintiff is more likely than cops to be prosecuted for any perjury in such testimony. But cops are all-knowing-all-benevolent, the only interests are collective ones, and private individual witnessed facts and interests are worthless.

Nothing in science or tradition says regulation by the

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crowd optimizes public

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benefit. Neither legislation nor poverty stops courts regulating cops. Law and burden are written on-the-spot to codify political expedience.

Plaintiff asked the District to force public jury trials of guilt rather than private negotiations in the executive branch, mentioning Jeffrey Abramowski (6:23-cv-1351 15/17). Abramowski was since let out of prison during the course of this case, based on a decision in the executive branch, rubber-stamped on unopposed motion.

The decision raising reasonable doubt of Abramowski's guilt was made in private, after Plaintiff filed a motion to force a public trial and have jurors consider doubts raised outside court. After Plaintiff's request, likely an innocent person was kept in prison without jurors representative of Plaintiff having any say, or without them having a chance to judge the guilty.

Plaintiff tried using public documents to understand why Abramowski was imprisoned. The transcript where a jailhouse-confession witness said a cop told him to lie, was deleted. Plaintiff went to Abramowski's new trial, as Plaintiff's only chance for his role. The prosecutor canceled the trial, giving reasons a journalist and the victim's family consider

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dishonest. Part of the design seems to be to suppress public examination of cops lying.

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There were alternative suspects. Plaintiff as represented by jurors and public viewers of trials, was deprived of the opportunity to sit in judgment of whoever committed the murder. Religiously hidden information allowed them to keep Abramowski in prison, until Plaintiff's opportunity ran out. The day it was determined time had run out and Plaintiff lost his opportunity, happened after Plaintiff asked courts to intervene.

If Plaintiff was granted the remedies requested, Abramowski likely would've been tried publicly. Whatever the aging of witnesses, it was less at that time. DNA evidence used in the closed-door decision, wasn't yet available. If nothing else, the institution Plaintiff demands, would've produced, examined, and published on Plaintiff's behalf, information about what state lying took place to create this mess.

In the Mandi May Jackson case, a prosecutor recently told a judge which witnesses to accept as credible against any honest logic. So that no juror would ever hear from the only actual witness of the crime. Allowing a mountain of documented lies defrauding the jury to stand.

Perjured affidavits supporting investigations, or

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nobody being tried by a public jury for a murder or perjury, are significant harms. Law doesn't support their

devaluation. This belief that public trials in front of representative jurors are purely an interest of defendants, isn't legally supported.

Harms which this Court says were conclusory when Plaintiff sought relief, subsequently happened multiple times. Analysis of actual facts could've anticipated the likelihood of these types of events.

III. Prosecuting Crime Creates Systemic Deterrent

This Court reworded the District's conclusion, without factual support for the pasted-on conclusion, that the encouragement and use versus deterrence and mitigation of perjury, isn't systemic and ongoing. There was no fact or witness-based dispute that Florida never prosecutes state-agenda perjury, or that this ongoing institutional incentive-structure cultivates systemic effects.

This Court stated more clearly that state law disincentivizing prosecution of state-witness perjury, concurrent with rewards for it, and actual records either way never considered by the finder of fact, isn't an ongoing scheme that violates due process.

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This Court concluded that whatever's going on, whether it's Florida never prosecuting state-agenda perjury, or the people who decide to reward not prosecute perjury being virtuous and honorable when they choose outcomes, that it's not

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systemic and ongoing. The Court did this based on religion, not fact in the record.

The only information this Court has obtained about the State of Florida's process for deterring perjury, is Plaintiff's allegation as witness that it's not deterred. Nobody on this panel lives, votes, or has been mentioned by a state witness in Florida. No witness who does live in Florida has disputed Plaintiff's factual allegation about the state's process. Specifically that as standard expectation, state-agenda perjury is never prosecuted. Prisoners Plaintiff has spoken to, universally know they're never prosecuted for lying the state narrative.

The State chose not to say how they intended to dispute any of this with fact or analysis, much less that it will harm Plaintiff in the future. This Court has no witness, to doubt the prospect of harm to Plaintiff by this process, which no other witness, expert or otherwise, provided facts or analysis of.

This Court seems to analyze without saying, that Plaintiff witnessing perjury which isn't prosecuted,

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recorded, or disclosed, and institutional incentives for this -- a citizen witnessing how his government works -- reveals no systemic effect whether perjury is deterred or mitigated in the future. If articulated, that would be implausible. Whereas Plaintiff's analysis is plausible, that witnessing perjury and

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that it's never prosecuted and this isn't recorded or considered, reveals a systemic property of not mitigating perjury, is a product of that effect. Plaintiff's observation is plausible in a way no court tries to rationally dispute.

No logic was explained, for some unarticulated and factually baseless conclusion, that systemic prosecution of perjury and disclosure whether it's prosecuted, have no systemic deterrent or mitigating effect on whether state-agenda perjury occurs or subverts judicial decisions.

Prosecution and publication as systemic deterrence versus encouragement of crime, is recognized by Defendants:

"Mr. Warren's neglect of duty and incompetence... reduced the deterrent effect of the criminal law... invited infractions of Florida's laws" (Florida Supreme Court SC23-247)

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But when deterrence would prevent executive actors doing what they want, deterrence is substituted with some utopian communist theory of political regulation explaining systemic behavior. Theorizing voters have information (or desire) to stop lies being produced. Conflicting with Federalist 51's requirement for "**a will independent of the society itself**".

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The Court's seeming idea that a group of people can socially decide to not commit crime isn't factual or foundational ("**anarchy**" *Federalist 51*). They socially decide that what they commit isn't crime.

Deterrence is a readily-recognized "interest", when it's convenient to create power for the executive branch. But it's an implausible systemic principle when it's needed to introduce actual information into courts, rather than preferred narratives of the executive. This assumes that not prosecuting perjury versus prosecuting, will mobilize more accurate information into judicial decisions. Rather than introducing politically-convenient narratives overriding fact.

Courts recognize putting handcuffs on political speakers changes their speech to what government wants them to say. Suddenly that's okay with in-custody witnesses, if the lies are politically popular. Despite the Fifth Amendment barring government

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influencing testimony.

In *Imbler*, Justice Powell didn't have any law to cite. To compensate, he used an economic theory unsupported by fact, that prosecutors are regulated by unspecified forces (altruism which the *Federalist Papers* rejected?). To say costs to individuals and society of prosecutors cultivating lies to convict the innocent, would be lower

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than lost public benefits, lost from systemic deterrence to manufacturing witnesses whom any lawyer knows are unreliable while hiding that from juries.

Powell invented competing economic costs, like Brandeis warned against in *New State Ice*. Based on communist religion, that members of the executive branch acting opaquely will somehow be regulated to create public benefits like factory managers in the USSR. Judges imagine systemic effects when it suits their religion. And imagine against fact, that systemic effects don't exist, when it contradicts religion.

When the Court has no facts either way, choosing to say it's not ongoing system versus it is, is religion. Courts pretending state prosecutors don't permit perjury, regardless of witnessed facts (refusing to make government produce facts), is a religious

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custom. This Court did what Plaintiff alleged, by choosing to assume perjury is deterred. Without articulating how or where.

This Court hasn't articulated any common body of facts it's drawing upon, to controvert Plaintiff. And cannot, because there is no such real body of witnessed, disclosed, recorded facts. Just as Defendants could not, when Plaintiff inquired about a discovery schedule.

For Plaintiff's allegation to be implausible, would require contrary witnesses and analysis upon their facts. Not just sharing a religion with government lawyers, that conflicts with *Federalist 51*.

This Court basically says that in the absence of facts supporting that Florida deters perjury - how and how often it happens - this Court is going to invoke contra-traditional religion. Courts can't controvert that perjury will harm Plaintiff, by parroting propaganda. Courts default assuming/saying states don't permit perjury, without factual records, enables states to use perjury and mislead about it.

Plaintiff asked this Court to review whether using religion rather than fact to determine state-witness credibility, violates due process. Instead of examining that, this Court repeated it.

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Can we use religion about state-witness reliability, to cover up empirical reliability of state witnesses, enabling systemic encouragement of state-witness perjury? To move decision-making power to the executive under political regulation by the know-nothing collective?

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IV. "The Most Fundamental Individual Liberty"

The *Opinion* ignores without clarification, Plaintiff's *In-re-Winship* right that laws be enforced. Including against perjury. And because mitigating perjury is prerequisite to execution of every other law.

Plaintiff witnessed Florida not prosecuting state-agenda perjury undermines separation of powers, and no witness disputed.

Justice Black called the traditional right to separation of powers an "individual freedom" on equal standing with any of the "specific" individual freedoms enumerated for criminal defendants:

"Any legislature presumably passes a law because it thinks the end result will help more than hinder, and will thus further the liberty of the society as a whole. The people, through their elected representatives, may, of course,

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be wrong in making those determinations, but the right of self-government that our Constitution preserves is just as important as any of the specific individual freedoms preserved in the Bill of Rights." (In re Winship, 397 U.S. 358, 377 (1970))

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Scalia called the right to separation of powers an individual right:

when courts speak in the name of the Federal Constitution, they disregard none of its guarantees — neither those that assure the rights of criminal defendants, nor those that assure what Justice Black, in his famous dissent in In re Winship, 397 U.S. 358, 385 (1970), called "the most fundamental individual liberty of our people — the right of each man to participate in the self-government of his society." (Kansas v. Marsh, 548 U.S. 163, 185 (2006))

Harms which are acknowledged when they harm collective interests such as "justice" must be harms to individual members of the collective ("powerful and legitimate interest in punishing the guilty"

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Calderon v. Thompson, 523 U.S. 538, 539 (1998)).
According to Thomas and Alito, there's no bar to
individuals prosecuting such interests in federal
court:

***"The Court concludes that it need not
honor the family's right to be heard
because the family did not request"
(Glossip v. Oklahoma, 604 U.S. ____
(2025))***

Plaintiff found no case where an individual sued for
his rights to separation of powers, enforcement of
law. *Marsh*, *Winship*, and *Glossip*, are our only
authorities

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one way or the other. The Court cited no authority
against Plaintiff's standing to petition for this right.
Which won't be addressed by majorities whose
powers expand violating it.

Are these unambiguous words of Justices situational
sophistry, pretending an individual right exists as
momentarily convenient rhetorical counterbalance to
deny individual rights? Then absconding when this
right is invoked?

Respectfully submitted by:

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s/Stephen Lynch Murray/____ November 6, 2025

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APPENDIX E

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION**

Case No. 6:24-CV-1993-CEM-DCI

**STEPHEN LYNCH MURRAY,
Plaintiff,**

v.

**GOVERNOR, STATE OF FLORIDA,
AND CHIEF JUSTICE,
SUPREME COURT OF FLORIDA,
Defendants.**

**PLAINTIFF'S MOTION FOR
RECONSIDERATION AND CLARIFICATION**

Plaintiff Stephen Lynch Murray hereby requests Reconsideration and Clarification of the Court's Order ECF 40, to "correct manifest errors of law" (*Z.K. Marine v. M/V Archigedis*, 808 F. Supp. 1561, 1563 (S.D. Fla. 1992)), and based on "the need to correct clear error or prevent manifest injustice" (*Sussman v. Salem, Saxon & Nielsen, P.A.*, 153 F.R.D. 689, 694 (M.D. Fla. 1994)). The Court's Order is in conflict with existing law, invents unsupported paradigms of argument and interpretation, makes clear errors on fact, and gives inadequate notice of what claims Plaintiff, or any plaintiff, could bring in the future.

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The Court seems to say it doesn't have to read Plaintiff's filings or consider whether Florida law encouraging state-witness perjury is "continuous violations of federal law", because later-stage appellants in another case lacked obscure data on the Social Security Administration reversing assignments of retirement liabilities in the coal industry. And because in that case there was lack of conflicting interpretations on what is "capricious" behavior in disputes about "covered earnings", for a recently-

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passed esoteric law, the Coal Industry Retiree Health Benefit Act. In *U.S. Steel v. Astrue*, the court detailed the specific items they were lacking to make a ruling. This Court refused to quote the more common subject matter and ruled on it anyway.

The Court's barebones ruling that "Eleventh Amendment immunity" prevents a federal court redressing a complaint about "the ills of the justice system" (and that a victim of such ills has no standing), is in conflict with numerous cases, including *Pulliam v. Allen*, *Quern v. Jordan*, *Dombrowski v. Pfister*, *Counterterm v. Colorado*, and *Glossip v. Oklahoma* (US-FL-MD 6:24-cv-1993 *Murray v. Gov.* ECF 40 pages 1,2). These cases all entertain petitions asking remedy for "ills of the justice system". A religious taboo forcing courts to replace "failure to prosecute perjury" with "ills of the

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justice system", is dysfunctional when it stops a court from ruling on what it is actually ruling on.

Someone can now cite more accurately than this Court cited *Astrue*, that states have 11th Amendment immunity to petitions dealing with ills of the justice system. They might use comity to argue this doesn't abrogate things we've already said. But it forecloses any additional claims, for novel rights violations states might innovate. If taken seriously, it would close the door on all future claims to remedy factually distinct rights violations. Maybe states will start destroying the brains of criminal suspects trying to penetrate them with magnetic waves? Someone will say this has not previously been addressed in case law, and states have general immunity against

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claims for "ills of the justice system". Until the state legislature fixes the specific harm. They will never know or care what we were actually talking about here.

Maybe a different prosecutor conveniently performs a direct examination, one that does not know something is a lie to correct it under *Glossip*. (*Fields v. Wharrie* contemplates a two-prosecutor innovation, and this was actually used with witness Jackson Athaide in Seminole County 16-CF-3668-A.) Or a dog trainer conveniently lies on a sworn form,

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about a dog being trained to smell coffee not drugs. All this would fall under "lack of regulation over perjury", if adopted from the Report. And the state could make - has made - a system of it, immune to any redress. 11th Amendment immunity implies these ills are not due process violations, and this Court would spend years rejecting petitions from people spending life in state prison for recurring categories of lies.

The Order parted out details from Report changing the legal meaning. The Court has not adopted "Plaintiff witnessed perjury" and "lack of regulation over perjury" from the Report, as the injury for which relief is barred under the 11th Amendment. But rather has accepted Plaintiff's Objection to these simplifications, to instead summarize Plaintiff's facts more broadly as ongoing "ills of the justice system" (ECF 40 page 2). But nor does the Court clearly say that these ills are not rights violations, or "failure to state a claim", only that Defendants are immune to relief, and Plaintiff has no standing to seek prospective relief for these unspecified rights violations. The

combination of standing and 11th Amendment immunity without failure to state a claim, seems to imply that somebody's rights were violated, or will be, and federal courts have no jurisdiction over it:

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The Report implied that either "lack of regulation over perjury" is entirely in the past, or is not a violation of due process if it harms Plaintiff in the future, or is not a predictable or likely harm. The Court chose to replace that with "ills of the justice system" are not violations of due process. The Court did not say ills of the justice system are solely retrospective, or unlikely to happen to Plaintiff based on some facts. The Court cannot represent that all ills of the justice system are in the past or are not violations of due process. The Court is implicitly saying the exact ills complained of by Plaintiff - pervasive incentives to perjury - either are factually disputed, are not a violation of due process, or are not amenable to prospective relief for Plaintiff, based on some unstated facts. But the Court used a euphemism "ills", which replaces review of discretion on fact, with lack of clarity whether all ills are without relief, or just the ills actually raised by Plaintiff.

The best way to make sense of this, is not as an abuse of discretion to ignore Plaintiff's actual claims, but an implicit ruling on the prospective claims without stating them. The Court must be referring to the specific ills of the justice system raised by Plaintiff. Either that, or it is an abuse of discretion to misconstrue those ills, as some set of facts not applying to Plaintiff's, and then make a ruling on those

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misconstrued facts without stating them. If the Court thinks some set of facts are rights violations but not amenable to prospective relief, say it.

Plaintiff cannot predict when a state witness will lie at trial without being corrected by a prosecutor. But Plaintiff can predict that cops, jailhouse confession witnesses, witnesses who receive plea bargains, and witnesses who have already been encouraged and coached in the investigative process, will know the circumstances and the statements where they risk no penalty but only a reward for lying. Like they did in the cited *Glossip* and *Holberg* cases (ECF 34 page 6). Plaintiff gave an example of widely-available statistics which make the unreliability of such witnesses predictable (ECF 24 page 2). These statistics are forbidden to be considered by the finder of fact, making injustice statistically predictable. The Florida Supreme Court knew jurors were being misled, and chose not to correct it.

Plaintiff can predict right now (and prove using empirical data and logic) that if there is a jailhouse confession witness at a trial in the next year, or a cop pulls someone over with an out-of-state rental car for "following too closely", he is most likely lying, we all know this, and this will be hidden from jurors. State witnesses not being prosecuted for perjury and thereby being incentivized, while jurors are left with uncured bias to imagine otherwise, is much more predictable and without exception, than prosecutors

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not correcting state witnesses when they lie which varies with each case. Plaintiff has made clear this is prospective, because it is encouraged by a

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perpetual system - state law - not random events.

It's a freakshow where judges refuse to say "state-witness perjury is never prosecuted", the way Muslims never show a picture of Muhammad. Starting with the Fifth Amendment euphemism "witness against himself" instead of "coerced to lie". "Prosecutors rewarding not prosecuting state-witness perjury, and this not being considered by the finder of fact" and "no institution to deter and prosecute state-witness perjury", are replaced with "lack of regulation over perjury", and "Plaintiff witnessed perjury". M. Night Shyamalan's "those we don't speak of", is cops who lie in affidavits and traffic stops as standard practice. And Defendants literally file a motion to stay silent, about whether any jailhouse confession witness was ever prosecuted in cases overturned by DNA, when every lawyer knows the answer.

Plaintiff construes that this Court and every lawyer over the age of 40 knows exactly what the specific claims are. Only this Court doesn't want to deal with them, but has no legitimate legal argument to deny authority to deal with them. And so this Court made a nonsensical Order, to avoid naming those infamous

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state processes it is implicitly ruling as legal. This Court must clarify the specific ills and the legal ruling.

This Court needs to say "Plaintiff alleges-state witness perjury is never prosecuted, and this is a violation of due process. The Court disagrees." When the detailed complaint Plaintiff actually wrote is called "perfunctory" (via the Objections), it is

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guaranteed the Court would not respond to a mythical "short and plain" statement of the same thing. Plaintiff can say it long or short, but no court will repeat that state witnesses are rewarded and not prosecuted for perjury. But that is what Plaintiff has put in front of this Court, and that is what this Court has to rule on.

**The Court Responding While
Claiming Nothing To Respond To**

So far as the Court "refusing to address a perfunctory and underdeveloped argument with no citation to legal authority" (ECF 40 page 2 mentioning *Astrue*), this characterization is simply false. Never mind that this Court did "address" the issues or claims it is calling factually underdeveloped, with lack of standing and 11th Amendment immunity, when the burden was on Defendants prior to discovery. Plaintiff was not

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required to develop facts at this stage like *Astrue* was required to at the time of appeal. *Astrue* called a claim perfunctory and underdeveloped for lacking obscure factual data on "prior practice" pursuant to a new law, not for lack of previous cases interpreting the esoteric provisions of a new law in the district.

So far as "underdeveloped" facts, *Astrue* was missing detail on some obscure "prior instances in which the SSA reversed an assignment". Whereas instances of perjury in state criminal court are the only thing this Court has begrudgingly accepted that Plaintiff has witnessed. And such perjury is widely known to be a common and primary issue. Plaintiff has provided more of these facts than people want to hear. The Report said "riddled with conclusory" without actually disputing any (ECF 37 page 5). And the Report accepted that Plaintiff had witnessed perjury, the only

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questions being whether the "lack of regulation" is systemic and prospective, and whether it is a violation of due process, which Plaintiff's cited cases and rational analysis on basic principles say it is.

Plaintiff cannot introduce new facts in Objections, to remedy a lack of facts like cited in *Astrue*. But Plaintiff did incorporate facts in his Complaint, into the arguments in his Objections, by classifying them as abstract case types which are amenable to various

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legal mechanisms. Plaintiff's facts involve state criminal process within the jurisdiction of this Court, rather than sovereign money liabilities. Plaintiff abstracted his facts to general hypothetical case types and historical remedies, to clarify how those facts fit into the cited cases and Plaintiff's arguments, in his Objections.

The Order said "the Court is instead treated primarily to Plaintiff's stream of consciousness on the ills of the justice system" (ECF 40 page 2). Plaintiff spent max four sentences in 10 pages of Objections making factual assertions about the justice system, and argued almost entirely about legal mechanisms for remedying various hypothetical categories of cases, as interpretations of history and law.

Astrue referred to a party citing "no legal authority" for their esoteric injury described as "not following its prior practice of reversing assignments when the Combined Fund informs the SSA". Plaintiff cited numerous cases and laws, involving commonplace injuries from states misleading courts to evade law, and

involving federal courts remedying such injuries. If this Court wants to say "there is no case which makes the state producing lies in court a violation of any right", say it.

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The definition of perfunctory -- "done routinely and with little interest or care" -- applies more to this Court's citations to the 11th Amendment and *Astrue*, than to Plaintiff's Complaint (which is often criticized as giving passion to too many details). Perfunctory citations to the 11th Amendment and *Astrue*, cannot cure this Court's stated ruling being in conflict with existing law. Or conceal this Court's implicit ruling that prosecutors encouraging perjury is not a recurring violation of due process. Behind a statement that addressing "ills in criminal justice" is prohibited by the 11th Amendment, while pretending that is all Plaintiff has said without being more specific.

The Court claimed Plaintiff refused to provide facts or an argument which this Court could rule on. But that is simply false color, seemingly to avoid a court ever having to say "state witnesses are rewarded not prosecuted for perjury". And nor would lack of citations and supporting facts fit Eleventh Amendment immunity, which this Court has given as grounds for dismissal. The Court must clarify the facts and legal rulings it is actually making, to something specific not in conflict with so much law and justice. The Court instead offered this color of case law (*Astrue*) as excuse to not clearly state the implicit legal ruling, to shirk stating the specific facts or rights or claims against which standing and 11th Amendment immunity are measured.

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**Implicit Rulings should be
Clearly Stated for Review**

The Court's Order contains multiple implicit legal conclusions that must be clearly stated, for the purpose of review on appeal and future use by participants in the justice system. These hidden factual and legal conclusions are implied in dismissal under the 11th Amendment, and in the statement "stream of consciousness on the ills" (ECF 40 page 2). Calling a legal argument (or facts) "stream of consciousness" is a legal ruling rejecting that argument (or facts), while avoiding clearly saying what that legal ruling is (supported by what authority).

The words "stream of consciousness" are not a fair paraphrase of any cited case. And the Court divined from this "stream" some certainty of meaning that precluded a pro se plaintiff from amending it. Now we are up to the Court complaining about no citations to cases (false), underdeveloped facts (false), and "stream of consciousness" (no established legal meaning).

Assuming "stream of consciousness" refers to the legal argument rather than the facts, Plaintiff asks for a more clearly articulated legal standard of what the boundary is between legal argument and "stream of consciousness", other than chosen at the arbitrary discretion of this Court and given legal color with

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false statements and inapplicable citations. If "stream of consciousness" is not a pleading standard, but another way of saying "the Court disagrees with this line of argument", the Court should clearly state each line of argument and facts it is ruling against, or

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at least using to arrive at a case category granted 11th Amendment immunity.

Calling witnessed facts "ills" rather than systemic violations of due process is either a legal ruling that they do not comprise a system for violating due process. Or an abuse of discretion to view as implausible or mischaracterize the witnessed facts. The Court has cited laws and facts for dismissal, rather than a pleading standard, but without clearly articulating the laws and facts it is using and rejecting.

The combination of 11th Amendment immunity with the need to deny standing, implies conflicting unstated rulings about ills. If Plaintiff's specific ills are both not a due process violation and do not threaten Plaintiff, but threaten someone who would have a non-due-process cause of action against the state in state court, maybe the Court is implicitly adopting the specific ill as "Plaintiff witnessed perjury" harming someone else. It is an abuse of discretion or plain error to say that is the injury

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Plaintiff has raised.

The Court cannot make an 11th Amendment immunity ruling, without making a more specific ruling as to what the injury is (or at least more specific facts) for which a remedy is sought. The Report characterized the injury as being that "Plaintiff witnessed perjury", which is plainly not the systemic process (and prospective injury from it) which Plaintiff detailed. The Court then replaced witnessing perjury being the injury, with the injury being "the ills of the justice system" (ECF 40 page 2).

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Plaintiff's Complaint was plainly something more specific than general "ills". It was Florida law which gives prosecutors discretion to selectively incentivize and not penalize perjury, and the finder of fact not considering such extrinsic factors in witness credibility. If the Court really wants to adopt "Plaintiff witnessed perjury" as the injury for which relief is barred under the 11th Amendment, that is an abuse of discretion. If the Court wants to adopt "lack of regulation over perjury" as not an ongoing systemic violation of due process, say it. But to avoid abusing discretion, the Court should recite the actual facts which are ruled as not creating a redressable prospective injury.

Saying no "ills of the justice system" have remedy in federal court, is a plain conflict with existing law. If

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this Court really did not believe it has authority to prevent some future "ills" using 42 USC 1983 or 28 USC 1651, the Court should clearly state what the "ills" are that are outside the jurisdiction of this Court. Dismissing them as merely "ills" is saying they are factual scenarios not contemplated in legislation or case law. This Court must state what these specific ills are, that the Court is classifying in this way.

If the Court is saying some specific ill has no remedy, say the specific ill and that it has no remedy in the jurisdiction of federal courts. It is not Plaintiff but this Court, which refuses to detail an ill and provide legal reasoning upon it, such as by saying that state witnesses facing no prosecution for lying (by the same prosecutor) is not

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contemplated by the authority of "due process", or for prospective relief. Calling what Plaintiff has witnessed, and his legal argument upon it, a "stream of consciousness on the ills", is shirking both legal argument, and acceptance or rejection of facts.

Appeals courts have probably affirmed the authority of districts to use the 11th Amendment broadly, to grant motions to dismiss without citing a single accepted fact much less measuring that fact against law. But this Court should at least cite to such a case, by saying "in this other case, a district court

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dismissed a case citing the 11th Amendment, without citing any actual witnessed fact from the complaint or measuring a law against that fact".

Such practice which might work well for plaintiff-specific injuries, creates a problem when Plaintiff is suing for a prospective injury based on state law, like *ex parte Young*, rather than for a specific past injury. The Court's ruling does not just apply to the narrow facts of some specific thing only Plaintiff experienced, which the Court can choose to ignore or invent. Rather the ruling applies to a general category of experiences; to every person in the state who experiences "ills of the justice system". In throwing away one pro se nobody, and substituting a euphemism for what it is throwing away, the Order is throwing away everybody. Courts that lie about Plaintiff are not going to stop cops lying about Plaintiff. But this Court affirms cops can do general harm to anyone. Which may be true, but should be clearly stated.

Implicit Ruling on Whether The Ills are Rights

By using the word "ills", the Court seems to admit ongoing systemic rather than past case-specific harms. Such that any citizen might face the prospect of suffering some such "ill" in the future (some more than others). And yet this Court says it is beyond the Court's jurisdiction to create a remedy to prevent

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these regularly-occurring harms, without saying what the harms are. When *Hudson v. Michigan* and 28 USC 1651 show this Court has broad authority to regulate state process to prevent harms. General "ills" including "lack of regulation over perjury", must therefore not be due process or liberty interest harms. The standing dismissal might somehow be based on an implicit ruling that the harms could affect anyone in the future, which ruling Plaintiff objects to. But this ruling is not clearly stated for review and future use, rather the Report made a clear error saying all claims were for retrospective relief.

The Court is perhaps making the argument that random tragedies cannot be prevented. But the Court should clearly say it disagrees that prosecutors having the discretion to not prosecute perjury they encouraged, is a curable systemic factor leading to the same ills over and over. (Including there being no institution in Florida with a mandate or incentive to investigate and deter perjury other than in utopian political myth.) This Court should clearly adjudicate that this state law has no effect on the random occurrence of perjury creating state-favored outcomes for ill. And clearly state a ruling, against Plaintiff's arguments that this state law does encourage regular ill events (and is incompatible with cure by political surveillance). And clearly

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state that this systemic problem could not be cured by the decision to prosecute perjury being vested, newly created in a competing "department" (Federalist 51). As Justice Scalia recounted new departments had been created in *Hudson v. Michigan* ("regime for internal discipline... citizen review").

This Court refusing to accept witness statements, that state witnesses are regularly rewarded rather than punished for lying in Florida courts, would be an abuse of discretion. Such a ruling on facts should be clearly stated, and exposed to review. Characterizing Florida prosecutors incentivizing and orchestrating state-witness perjury, and then not punishing witnesses caught lying as "ills", is either rejecting Plaintiff's statements as witness that this happened. Or saying such ills happened as witnessed, but are not systemic. Or are systemic but are not violations of due process, or are not curable. The Court must clarify which one. The 11th Amendment does not broadly immunize this Court against actual judging.

The Court has in fact made a legal determination that the "ills" described (or construed) are not a violation of due process, which threaten prospective harm. So Plaintiff asks the Court make a clear statement of the implied legal ruling. State clearly that prosecutors having discretion to reward and orchestrate perjury, and then to not prosecute

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perjury when caught (and avoid producing facts about past perjury to be put into use by the finder of fact) - in effect to incentive perjury in support of the state narrative, and have finders of fact pretend this extrinsic bias does not exist -

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is not a violation of due process. (*Glossip v. Oklahoma* says prosecutors knowingly producing perjury - which is what the current process is Florida has been shown to do both logically and empirically - is a violation of due process. *Napue v. Illinois* says jurors not knowing the incentives of the witness to lie is a violation of due process.)

Alternately, the Court might say it has rather made a factual determination, that state witnesses in Florida have not been given incentives to lie, and then not prosecuted when caught lying. At least not as a regular process encouraged by state law. As witnessed by Plaintiff. The Court should then clearly state a conclusion that the "ills" Plaintiff has witnessed do not involve this basic factual scenario.

**The Court Writes Novel Law
Without Clearly Stating What It Is**

The Court said "Plaintiff makes no argument supported by legal authority that the Magistrate Judge actually erred" (ECF 40 page 2).

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There is no past case in which the Magistrate's Report in this case was overturned on appeal. Plaintiff found no past case which said "a Magistrate is wrong to apply these cases to a state failing to prosecute perjury". This Court found no past case that said "a Magistrate is right to apply these cases to the novel issues of Plaintiff's case". Plaintiff said the Court has to write, not cite, the interpretation of legislation upon the novel facts of this case, that being systemic encouragement of perjury (ECF 38 page 6). The Court then invented a novel paradigm of legal interpretation, and wrote novel law on general facts, both in conflict with precedent.

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Just because no previous case addresses the exact issues of this case, does not mean dissimilar cases are always correctly applied to the present case, or are even applied to the actual facts of the present case. The Magistrate said the injury was "Plaintiff witnessed perjury". Plaintiff argued that the Magistrate erred about basic facts of the case, and by matching case law from dissimilar cases to the present case. Plaintiff objected that the case law cited had been misapplied, to the dissimilar and novel facts of Plaintiff's case. Plaintiff used elements of previous cases such as to argue for prospective relief, and cited past cases as forming a general principle of federal remedies for all state harms in criminal justice (ECF 30 page 8).

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The Magistrate did not actually cite a case involving the supposed facts "lack of regulation over perjury" or cures for this being unavailable. The Magistrate did not cite a case saying federal courts cannot compel states to fix their criminal process. Plaintiff cited cases which show federal courts can compel states to fix criminal-justice processes. Plaintiff cited cases such as *Herring v. United States* and *Glossip*, which consider that systemic state processes regulate and deter future perjury and rights violations. Plaintiff cited *Napue v. Illinois* which says hiding incentives to lie from the jury violates due process, presumably even if it is done systemically. These cases say processes which do not mitigate perjury violate due process, and therefore are within the jurisdiction of federal courts to compel cures for.

Plaintiff made arguments that his claims were supported by written and

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unenumerated rights, not one-for-one with all elements of previous specific cases. Plaintiff argued his issues are covered by the general principles by which legislation attempts to anticipate a broad variety of future cases in an abstract way, not by the narrow interpretations of that law on previous issues. The Court is saying that previous interpretations of the 11th Amendment, 42 USC 1983, and 28 USC 1651 must be applied to scenarios not contemplated by previous cases, rather than

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applying the actual language of the original law to unique facts of the present case. This in effect narrows and misapplies the legislation, by displacing the legislation with interpretations in dissimilar cases (taxes and bond payments are not "ills", and states are not immune to petitions to courts to enjoin criminal-justice activity).

The Court is saying interpretation of "due process" on novel case facts is foreclosed by previous cases (i.e. "a finite list" ECF 1 paragraphs 27-30). In effect saying that the book is closed on due process, so that any new innovation or permutation by government to avoid it is without remedy. Plaintiff disagrees with that legal argument, and asks that it be clearly stated for review. Plaintiff can think of additional detail being added to "due process" case law as recently as *Glossip v. Oklahoma*. In that case, Justice Thomas argued that even though the credibility of a witness is material, failure to produce credibility information is only a denial of due process, if the lie the prosecutor failed to call out as a lie, was material not based on credibility. Thomas argued something like due process went from "the prosecutor cannot produce material lies, and correcting material lies can produce credibility

information that is material, when the lie being material shows incentives to lie", to "the prosecutor must point out lies, because knowing the witness lied

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about something irrelevant is material". Justice Thomas said Justice Barrett was wrong using the same case Barrett used, but a plaintiff cannot say a magistrate is wrong using the same case the Magistrate used?

Plaintiff argues that prosecutors incentivizing perjury without risk of penalty, and hiding these systemic policies from the finder of fact, is similarly a violation of due process. The Court says such a "stream of consciousness" by which legislation and case law are interpreted on novel facts, is prohibited from this day forward on all new permutations of "ills of the justice system". The Court would no more have accepted a simple statement like "no system of ordered liberty can include X", than a detailed analytical argument like *Marbury v. Madison*. This paradigm of legal interpretation asserted by the Court to foreclose argument, is in conflict with past cases.

CONCLUSION

If the facts of this case specifically are barred remedy by the 11th Amendment, this Court must state what those facts are. The Court cannot really mean that no "ills" in state criminal justice have remedy in federal court.. Seemingly many ills do have remedy. The Court must state what the subset of ills are that are denied remedy. If this Court wants to say that federal courts are prohibited by the 11th Amendment from curing all "ills" of state justice systems or even

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thinking about it, that is directly contradicted by the "stream of consciousness" in such cases as *Hudson v. Michigan*.

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If the Court wants to simply say "Plaintiff can't sue the Florida Supreme Court in federal court to fix their justice system", say that, clarify all the circumstances that applies to, and publish it. It is dishonest to pretend Plaintiff has not cited authorities and argued upon them, to say that he can do this. It is dishonest to ignore the much more specific facts and legal arguments of the present case, which must be addressed to avoid making such a broad ruling, or even to make any legal ruling at all.

So Plaintiff asks a clear statement of this Court's implicit factual conclusions and legal ruling upon those facts; a summary of accepted and rejected facts about state witnesses lying and not being punished, institutions to do this or not, whether this comprises a system with predictable future effects, whether jurors and judges are cured of bias about such extrinsic incentives, and whether that violates due process.

Plaintiff asks for what other than abuse of discretion colored with perfunctory legal authority, forecloses the simple jurisdiction of this Court to consider state-encouraged perjury as it interacts with due process.

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Or a clear citation that the 11th Amendment can be used to grant dismissal without honestly accepting or rejecting facts and measuring them against authorities, as seems to be the uncited custom. But those cases usually involve a plaintiff-specific harm, and at least cite to a pleading standard to give legal color to ignoring and inventing facts, even if they then proceed without facts to 11th Amendment prejudice.

Defendants OPPOSE this Motion.

/s/Stephen Lynch Murray____executed April 28, 2025

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