

No. _____

**In the
Supreme Court of the United States**

URVE MAGGITT,

Petitioner,

v.

COMMONWEALTH OF PENNSYLVANIA,

Respondent.

**On Petition for a Writ of Certiorari to the
Supreme Court of Pennsylvania**

PETITION FOR A WRIT OF CERTIORARI

Robert E. Barnes, Esq.

Counsel of Record

BARNES LAW LLP

700 South Flower Street, Suite 1000

Los Angeles, CA 90017

(310) 510-6211

robertbarnes@barneslawllp.com

July 7, 2026

Counsel for Petitioner

SUPREME COURT PRESS



(888) 958-5705



BOSTON, MASSACHUSETTS

QUESTION PRESENTED

Whether, under the First and Fourteenth Amendments, a state may Constitutionally permit a State to arbitrarily criminalize the creation of an accurate audiovisual record of judicial proceedings by a party to those proceedings when those proceedings are open to the public and document inaccuracies in the official transcript?

PARTIES TO THE PROCEEDINGS

Petitioner and Defendant-Appellant below

- Urve Maggitti

**Respondent and
Plaintiff (Prosecutor)-Appellee below**

- State of Pennsylvania

**RULE 29.6 CORPORATE
DISCLOSURE STATEMENT**

The petitioner is an individual.

LIST OF PROCEEDINGS

Supreme Court of Pennsylvania, Middle District

No. 576 MAL 2025

Commonwealth of Pennsylvania, *Respondent*, v.
Urve Maggitti, *Petitioner*

Final Opinion: April 8, 2026

Pennsylvania Superior Court, Eastern District

No. 2859 EDA 2024

Commonwealth of Pennsylvania v. Urve Maggitti,
Appellant.

Final Opinion: September 16, 2025

Chester County Court of Common Pleas

CP-15-CR-0001735-2023

Commonwealth of Pennsylvania v. Urve Maggitti,
Appellant.

Final Rule 1925(a) Opinion: February 4, 2025

U.S. Court of Appeals for the Third Circuit

No. 24-1702

Commonwealth of Pennsylvania v.
Urve Maggitti, *Appellant*.

Final Opinion: March 20, 2025

U.S. District Court, Eastern District of Pennsylvania
No. 24-0144
Commonwealth of Pennsylvania v.
Urve Maggitti, *Defendant*
Final Order: April 16, 2024

TABLE OF CONTENTS

	Page
QUESTION PRESENTED	i
PARTIES TO THE PROCEEDINGS	ii
RULE 29.6 CORPORATE DISCLOSURE STATEMENT	ii
LIST OF PROCEEDINGS.....	iii
TABLE OF AUTHORITIES	vii
OPINIONS BELOW	1
JURISDICTION.....	1
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED	1
STATEMENT OF THE CASE.....	3
REASONS FOR GRANTING THE PETITION.....	4
I. This Case Presents an Important and Unresolved First Amendment Question	4
II. Section 5103.1 Creates an Unconstitutional Prior Restraint on Speech and Expression	5
III. Pennsylvania’s Statute Is Wildly Overbroad and Criminalizes Wide Swathes of Protected Speech	8
IV. Pennsylvania’s Statute Denies Open Access to Courts	11
V. The Statute Is Unconstitutional as Applied and the Presiding Judge Was Unconstitutionally Interested in the Case....	14
CONCLUSION.....	17

TABLE OF CONTENTS (Cont.)

Page

APPENDIX TABLE OF CONTENTS**PENNSYLVANIA STATE COURT OPINIONS**

Order Denying Petition for Allowance of Appeal, Supreme Court of Pennsylvania, Middle District (April 8, 2026)	1a
Opinion, Superior Court of Pennsylvania (September 16, 2025).....	2a
Rule 1925(a) Opinion, Chester County Court of Common Pleas (February 4, 2025)	5a
Sentencing Order, Chester County Court of Common Pleas (July 18, 2024).....	60a

FEDERAL COURT OPINIONS

Opinion, U.S. Court of Appeals for the Third Circuit (March 20, 2025).....	62a
Order, U.S. District Court for the Eastern District of Pennsylvania (April 16, 2024)	65a

RELEVANT STATUTORY PROVISION

Relevant Statutory Provision	67a
18 Pa.C.S. § 5103.1	67a

TABLE OF AUTHORITIES

	Page
CASES	
<i>ACLU of Illinois v. Alvarez</i> , 679 F.3d 583 (7th Cir. 2012)	6
<i>Ashcroft v. Free Speech Coal.</i> , 535 U.S. 234 (2002)	8
<i>Brown & Williamson Tobacco Corp. v. F.T.C.</i> , 710 F.2d 1165 (1983)	12
<i>Citizens United v. FEC</i> , 558 U.S. 310 (2010)	6
<i>City of Lakewood v. Plain Dealer Pub. Co.</i> , 486 U.S. 750 (1988)	6, 7
<i>D.C. v. Heller</i> , 554 U.S. 570 (2008)	5
<i>Fields v. City of Philadelphia</i> , 862 F.3d 353 (3d Cir. 2017)	6
<i>First Nat’l. Bank of Bos. v. Bellotti</i> , 435 U.S. 765 (1978)	6
<i>Forsyth County v. Nationalist Movement</i> , 505 U.S. 123 (1992)	6, 7, 8, 9
<i>Globe Newspaper Co. v. Superior Court</i> , 457 U.S. 596 (1982)	4, 10, 12, 14, 16
<i>Hicklin Eng’g, L.C. v. Bartell</i> , 439 F.3d 346 (7th Cir. 2006)	4
<i>In re Murchison</i> , 349 U.S. 133 (1955)	15
<i>In re Oliver</i> , 333 U.S. 257 (1948)	4

TABLE OF AUTHORITIES (Cont.)

	Page
<i>Niemotko v. State of Maryland</i> , 340 U.S. 268 (1951)	7
<i>Publicker Indus., Inc. v. Cohen</i> , 733 F.2d 1059 (3d Cir. 1984).....	11, 12, 16
<i>Richmond Newspapers, Inc. v. Virginia</i> , 448 U.S. 555 (1980)	11, 13
<i>Sheppard v. Maxwell</i> , 384 U.S. 333 (1966)	14
<i>Southeast Promotions v. Conrad</i> , 420 U.S. 546 (1975)	6
<i>United States v. Williams</i> , 553 U.S. 285 (2008)	8
<i>Withrow v. Larkin</i> , 421 U. S. 35 (1975)	15
<i>Zenith Radio Corp. v. Matsushita Electric Industrial Co.</i> , 529 F.Supp. 866 (E.D.Pa.1981).....	12

CONSTITUTIONAL PROVISIONS

U.S. Const. amend. I	i, 1, 3-9, 12, 14-16
U.S. Const. amend. XIV	i, 2, 15

STATUTES

18 Pa.C.S. § 4952	9
18 Pa.C.S. § 4953	9
18 Pa.C.S. § 5103.1	2, 3, 5, 9, 10, 15, 16
28 U.S.C. § 1257(a)	1

TABLE OF AUTHORITIES (Cont.)

	Page
JUDICIAL RULES	
Sup. Ct. R. 29.6	ii
 OTHER AUTHORITIES	
C. Goede, A FOREIGNER’S OPINION OF ENGLAND 214 (Horne trans. 1822)	13
J. Bentham, RATIONALE OF JUDICIAL EVIDENCE (1827).....	13
M. Hale, THE HISTORY OF THE COMMON LAW OF ENGLAND (6th ed. 1820)	13
Pennsylvania Court System, <i>Free To Tell the Truth: Preventing and Combating Intimidation in Court</i> (2019), https://perma.cc/8S7R-2E5H	10
Rep. Jerry Knowles, <i>Knowles’ Bill to Punish Intimidating Camera Use in Courtrooms Goes to Governor</i> (Oct. 18, 2018), https://perma.cc/D676-QJ3B	9
William Blackstone, COMMENTARIES ON THE LAWS OF ENGLAND, Book 3 (Of Private Wrongs) (1768)	13



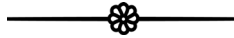
OPINIONS BELOW

The order of the Supreme Court of Pennsylvania denying the petition for allowance of appeal is unreported. (App.1a) The decision of the Superior Court of Pennsylvania is likewise unreported. (App.2a)



JURISDICTION

The Supreme Court of Pennsylvania denied a timely petition for allowance of appeal on April 8, 2026. (App.1a). This Court has jurisdiction under 28 U.S.C. § 1257(a). The Supreme Court of Pennsylvania’s decision qualifies as a “[f]inal judgment or decree[]” within the meaning of that statute. *Id.*



CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

U.S. Const. amend. I

The First Amendment to the United States Constitution provides, in relevant part:

Congress shall make no law . . . abridging the freedom of speech, or of the press. . . . or the

right of the people . . . to Petition the Government for redress of grievances.

U.S. Const. amend. XIV

The Fourteenth Amendment to the United States Constitution provides, in relevant part:

[N]or shall any State deprive any person of life, liberty, or property, without due process of law. . . .

18 Pa.C.S. § 5103.1

18 Pa. Stat. and Cons. Stat. Ann § 5103.1 states that:

A person commits an offense if the person in any manner and for any purpose uses or operates a device to capture, record, transmit or broadcast a photograph, video, motion picture or audio of a proceeding or person within a judicial facility or in an area adjacent to or immediately surrounding a judicial facility without the approval of the court or presiding judicial officer or except as provided by rules of court.



STATEMENT OF THE CASE

Here, a Pennsylvania woman, Urve Maggitti, was prosecuted and convicted under 18 Pa. Stat. and Cons. Stat. Ann. § 5103.1 for recording her own divorce proceeding in a courtroom that was otherwise open to the public. The recording demonstrated that the official transcript did not accurately reflect what occurred during the hearing. The recording was only produced to the court itself to document the incorrect record and inaccuracies in the official transcript. Rather than address the inaccuracies in the transcript, the Commonwealth prosecuted the petitioner for making the recording and sentenced her to one year of probation, a \$2,500 fine, as well as credit for time served from February 5 to February 6, 2024.

Petitioner timely sought discretionary review in the Supreme Court of Pennsylvania, which denied her Petition for Allowance of Appeal on April 8, 2026.

This case presents an important constitutional question that this Court has never answered: whether the First Amendment permits a State to criminalize the creation of an accurate audiovisual record of judicial proceedings by a party to those proceedings when those proceedings are open to the public and document inaccuracies in the official transcript. Petitioner sought discretionary review in the Supreme Court of Pennsylvania, but that court denied review without opinion. Accordingly, these important federal constitutional questions remain unresolved and warrant this Court's review.



REASONS FOR GRANTING THE PETITION

I. This Case Presents an Important and Unresolved First Amendment Question

This case strikes at the heart of the First Amendment’s demand for judicial transparency: “contemporaneous review in the forum of public opinion is an effective restraint on possible abuse of judicial power.” *In re Oliver*, 333 U.S. 257, 270 (1948). “Any step that withdraws an element of the judicial process from public view makes the ensuing decision look more like fiat. . . .” *Hicklin Eng’g, L.C. v. Bartell*, 439 F.3d 346, 348 (7th Cir. 2006). Transparency and public access to information “enhances the quality and safeguards the integrity of the factfinding process.” *Globe Newspaper Co. v. Superior Court*, 457 U.S. 596, 606 (1982). Despite this, the State of Pennsylvania maintains an arbitrary system by which—without any intelligible standards—Judges may selectively criminalize recordings made within courthouses. This is especially problematic here, where a party to the case in proceedings open to the public, recorded the proceedings to preserve an accurate record of the proceedings impacting her own rights, shared the recording only with the court itself, and the recording documented falsified transcripts by the court’s official reporter.

This Court long recognized that the First Amendment protects the acquisition of information as well as its dissemination, and that public access to judicial proceedings promotes confidence in the administration of justice. Yet Pennsylvania prohibits the creation of an accurate audiovisual record of public judicial proceed-

ings through a licensing scheme that vests virtually unbridled discretion in the presiding judge to hide corruption in the courthouse and punish a party from recording their own hearing.

The importance of this matter has increased dramatically in the digital age. Nearly every litigant, journalist, attorney, and citizen now carries a sophisticated recording device in a smartphone. Restrictions that once primarily affected television networks and professional media organizations now govern millions of ordinary Americans who seek to observe and document the operation of their public courts. This Court's guidance is urgently needed.

II. Section 5103.1 Creates an Unconstitutional Prior Restraint on Speech and Expression

Pennsylvania's law, 18 Pa. Stat. and Cons. Stat. § 5103.1 ("Section 5103.1"), forbidding the recording of judicial proceedings is an unconstitutional prior restraint on First Amendment protected speech. Title 18, § 5103.1 undoubtedly serves as a prior restraint on speech: it creates a blanket prohibition on the "use of an audio or video device in court." It demands that any member of the public get the "approval of the court or presiding judicial officer" before being allowed to use a phone, video, photograph, or other such device during a judicial proceeding. *Id.*

"[T]he First Amendment protects modern forms of communications," it is not limited by the means available at the time of the founders. *D.C. v. Heller*, 554 U.S. 570, 582 (2008). "The First Amendment protects actual photos, videos and recordings, and for this protection to have meaning the Amendment must also protect the act of creating that material." *Fields*

v. City of Philadelphia, 862 F.3d 353, 358 (3d Cir. 2017) (internal citation omitted). After all, “[t]here is no practical difference between allowing police to prevent people from taking recordings and actually banning the possession or distribution of them.” *Id.* (citing *ACLU of Illinois v. Alvarez*, 679 F.3d 583, 596 (7th Cir. 2012)). “Laws enacted to control or suppress speech may operate at different points in the speech process.” *Citizens United v. FEC*, 558 U.S. 310, 326 (2010). The First Amendment “goes beyond protection of the press and the self-expression of individuals to prohibit government from limiting the stock of information from which members of the public may draw.” *First Nat’l. Bank of Bos. v. Bellotti*, 435 U.S. 765, 783 (1978). This Court has held that “placing unbridled discretion in the hands of a government official or agency” to decide whether someone may engage in expressive activity “constitutes a prior restraint.” *City of Lakewood v. Plain Dealer Pub. Co.*, 486 U.S. 750, 757 (1988).

Prior restraints on First Amendment protected conduct are presumptively unconstitutional. *Forsyth County v. Nationalist Movement*, 505 U.S. 123, 133 (1992). Indeed, the “presumption against prior restraints is heavier—and the degree of protection broader—than that against limits on expression” through other means because prior restraints create a “formidable” risk of “freewheeling censorship” by government officials. *Southeast Promotions v. Conrad*, 420 U.S. 546, 558-559 (1975). The danger to free expression is “at its zenith when the determination of who may speak and who may not is left to the unbridled discretion of a government official.” *Lakewood*, 486 U.S. at 763. Thus, prior restraints violate the First

Amendment unless they are “narrowly drawn, reasonable and [have] definite standards.” *Forsyth County v. Nationalist Movement*, 505 U.S. 123, 133 (1992) (quoting *Niemotko v. State of Maryland*, 340 U.S. 268, 271 (1951)).

This Court has previously noted that restraints on recording or broadcasting must have firm boundaries lest they deteriorate into freewheeling, arbitrary censorship. This Court has held that:

Standards provide the guideposts that check the licensor and allow courts to quickly and easily determine whether the licensor is discriminating against disfavored speech. Without these guideposts, post hoc rationalizations by the licensing official and the use of shifting or illegitimate criteria are far too easy, making it difficult for courts to determine in any particular case whether the licensor is permitting favorable, and suppressing unfavorable, expression.

City of Lakewood v. Plain Dealer Pub. Co., 486 U.S. 750, 758 (1988).

The First Amendment is continually applicable in modern contexts and to modern forms of communication. Today, audio and video recording are the primary means by which the public interact with and gain information. In any other context, it would be—and is—positively absurd to treat video or audio recording as an inferior form of First Amendment protected activity. However, Pennsylvania rules about recording do exactly that: they relegate the most common form of public access to second-class status. Considering that one of the primary purposes of the First Amendment right to

open courts is to protect both the appearance and actuality of justice via maximum transparency, Pennsylvania’s prohibition on broadcasting or recording court proceedings is directly contrary to the First Amendment.

III. Pennsylvania’s Statute Is Wildly Overbroad and Criminalizes Wide Swathes of Protected Speech

This Court has long established that overbroad restrictions on the First Amendment are facially invalid. “The Constitution gives significant protection from overbroad laws that chill speech within the First Amendment’s vast and privileged sphere. Under this principle, [overbroad laws are] unconstitutional on its face if [they] prohibit[] a substantial amount of protected expression.” *Ashcroft v. Free Speech Coal.*, 535 U.S. 234, 244 (2002); *see also United States v. Williams*, 553 U.S. 285, 292 (2008) (“a statute is facially invalid if it prohibits a substantial amount of protected speech.”). While the Pennsylvania legislature may attempt to claim that this law is justifiable, “[t]he prospect of crime, however, by itself does not justify laws suppressing protected speech.” *Ashcroft*, at 244. “It is well established that in the area of freedom of expression an overbroad regulation may be subject to facial review and invalidation, even though its application in the case under consideration may be constitutionally unobjectionable.” *Forsyth County v. Nationalist Movement*, 505 U.S. 123, 129 (1992).

This law does not even pretend to limit itself to preventing criminal activities or any other unprotected categories: it imposes blanket authority for judges to prohibit First Amendment activity without any limit-

ations. Indeed, the law’s plain text explicitly creates an offense which prohibits anyone from using any recording, broadcasting, photography, or other equipment “without the approval of the court or presiding judicial officer or except as provided by rules of court.” 18 Pa. Stat. and Cons. Stat. § 5103.1. Indeed, Section 5103.1 is the definitional epitome of overbroad: it blanket prohibits an entire category of First Amendment protected conduct and allows government officials to selectively decide—according to their own subjective, personal discretion—what conduct is permissible. There are absolutely no exceptions, it expressly states that it prohibits these expressive activities “in any manner and for any purpose.” *Id.* (emphasis added).

Pennsylvania cannot claim that § 5103.1 is the most “narrowly drawn” method of achieving its intended goals. *Forsyth*, 505 at 133. § 5103.1 aims to combat witness intimidation.¹ However, the use of arbitrary prior restraints is hardly the only practicable method, let alone the least intrusive means of preventing witness intimidation. For instance, 18 Pa. Cons. Stat. §§ 4952-4953 already prohibits intimidation and retaliation against witnesses and victims. These statutes criminalize the actual wrong, not the pure exercise of free expression without any criminal intent or showing of actual harm. Indeed, the Pennsylvania Court System released a handbook outlining the tools that Judges can use to prevent witness intimidation: § 5103.1 only merited a single paragraph out of the fifty-pages. *Free To Tell the Truth: Preventing and Combating Intimida-*

¹ The sponsor of § 5103.1 cited only concerns about witness intimidation as motivation for the legislation. See Rep. Jerry Knowles, *Knowles’ Bill to Punish Intimidating Camera Use in Courtrooms Goes to Governor* (Oct. 18, 2018), <https://perma.cc/D676-QJ3B>.

tion in Court 5 (2019), <https://perma.cc/8S7R-2E5H>. This clearly demonstrates that there are far less intrusive and constitutionally unjustifiable ways of protecting witnesses from intimidation: § 5103.1 is not “narrowly tailored to serve” to serve the government’s interest in protecting sensitive information. *Globe Newspaper Co.*, 457 U.S. at 606-07. There are clearly “less restrictive way[s] to serve that governmental interest.” *Cohen*, 733 F.2d at 1070.

This statute—by default—criminalizes wedding photos, broadcasts of county commission meetings in local courthouses, witness interviews, photographs of oaths of citizenship, and mock trial recordings. The statute punishes all of these activities unless the presiding judge exercises his personal and arbitrary absolute discretion to exempt these activities. The law provides no limitations or even standards which judges must adhere to when deciding what speech to permit; they have complete discretion.

The statute is not only overbroad in the scope of what activity it prohibits, it also prohibits these activities in spaces far beyond the “courtroom, hearing room, and judicial chamber[]” but also encompasses “any other room made available to interview witnesses.” 18 Pa. Cons. Stat. § 5103.1(c). Lawyers who record conversations with their clients in courthouse offices are criminals, as are court-appointed psychiatrists who record mental health evaluations with defendants. Police detectives are forbidden from recording their interviews with suspects in courthouse jails. Section 5103.1 provides no exemptions for these activities: it is a staggeringly overbroad statute which punishes a broad array of conduct which does not serve a compelling or even important government interest.

IV. Pennsylvania's Statute Denies Open Access to Courts

“Underlying the First Amendment right of access to criminal trials is the common understanding that ‘a major purpose of that Amendment was to protect the free discussion of governmental affairs.’” *Globe Newspaper Co. v. Superior Ct. for Norfolk Cnty.*, 457 U.S. 596, 604 (1982) (quoting *Mills v. Alabama*, 384 U.S. 214, 218 (1966)). This right extends to civil trials as well: “the public and the press possess a First Amendment and a common law right of access to civil proceedings; indeed, there is a presumption that these proceedings will be open.” *Publicker Indus., Inc. v. Cohen*, 733 F.2d 1059, 1071 (3d Cir. 1984). Indeed, “[t]ransparency is pivotal to public perception of the judiciary’s legitimacy and independence.” *United States v. Aref*, 533 F.3d 72, 83 (2d Cir. 2008). This principle rests on the American Founders’ fundamental distrust of the abuses of the Star Chamber—where trials were conducted in secret and thus all nominal Due Process was completely ineffectual. *See e.g., In re Oliver*, 333 U.S. 257 (1948).

Without public access to the courts, “important aspects of freedom of speech and ‘of the press could be eviscerated.’” *Richmond Newspapers, Inc. v. Virginia*, 448 U.S. 555, 569 (1980) (quoting *Branzburg v. Hayes*, 408 U.S. 665, 681 (1972)). “[T]he First Amendment serves to ensure that the individual citizen can effectively participate in and contribute to our republican system of self-government.” *Globe Newspaper Co.*, 457 U.S. at 604. Indeed, “criminal trials both here and in England had long been presumptively open.” *Id.* at 605 (quoting *Richmond Newspapers, Inc. v. Virginia*, 448 U.S. 555, 569 (1980)). “Where . . . the State attempts to deny the right of access in order to inhibit the

disclosure of sensitive information, it must be shown that the denial is necessitated by a compelling governmental interest, and is narrowly tailored to serve that interest.” *Globe Newspaper Co.*, 457 U.S. at 606–07. The standard is the same for civil trials as for criminal: the government must demonstrate that there is an “important governmental interest and that there is no less restrictive way to serve that governmental interest.” *Cohen*, 733 F.2d at 1070 (citing *Globe Newspaper Co.*, 457 U.S. at 606–07 (holding that courts apply strict scrutiny)); *Brown & Williamson Tobacco Corp. v. F.T.C.*, 710 F.2d 1165, 1179 (1983) (holding that courts apply strict scrutiny)).

Indeed, there is a presumption that the court is open to the public, and the party seeking closure or sealing “bears the burden of showing that the material is the kind of information that courts will protect and that there is good cause for the order to issue.” *Id.* Good cause requires “that disclosure will work a clearly defined and serious injury to the party seeking closure.” *Id.* at 1071 (citing *Zenith Radio Corp. v. Matsushita Electric Industrial Co.*, 529 F.Supp. 866, 890 (E.D.Pa. 1981)). There is no serious and defined injury to the court in this case. In fact, it is entirely the opposite: Ms. Maggitti would have been harmed if not for her decision to exercise her First Amendment rights and record the proceeding. Ms. Maggitti’s decision to record her own judicial proceeding served the precise purpose of the right to an open court: upholding transparency and honesty.

In fact, the purpose of the First Amendment requirement of public access is to give “assurance that the proceedings were conducted fairly to all concerned and discouraging perjury, the misconduct of participants, or

decisions based on secret bias or partiality.” *Richmond Newspapers*, 448 U.S. at 569 (plurality opinion) (citing M. Hale, *THE HISTORY OF THE COMMON LAW OF ENGLAND* 343-345 (6th ed. 1820); 3 W. Blackstone, *COMMENTARIES* *372-73). This Court has noted that:

Without publicity, all other checks are insufficient: in comparison of publicity, all other checks are of small account. Recordation, appeal, whatever other institutions might present themselves in the character of checks, would be found to operate rather as cloaks than checks; as cloaks in reality, as checks only in appearance.

Id. (quoting 1 J. Bentham, *RATIONALE OF JUDICIAL EVIDENCE* 524 (1827)). Indeed, “[t]he main excellence of the English judicature consists in publicity, in the free trial by jury, and in the extraordinary despatch with which business is transacted. The publicity of their proceedings is indeed astonishing. Free access to the courts is universally granted.” *Id.* at 570 (quoting C. Goede, *A FOREIGNER’S OPINION OF ENGLAND* 214 (Horne trans. 1822)).

This case precisely demonstrates why the Founders and the common law required that all American citizens have public access to the courts. If not for Ms. Maggitti’s decision to exercise her constitutional rights, the court reporter’s falsification of the record would have gone unexposed and this Court’s review would be fruitless. However, instead of correcting the court reporter’s falsification, the trial court chose to sanction and punish Ms. Maggitti for exposing the truth.

There is no “compelling state interest” in preventing a defendant from recording her own legal proceedings

to prevent fraudulent and deceptive alterations to the record. Furthermore, blanket prohibitions on recording and broadcasting within Pennsylvania state courtrooms are hardly the “least restrictive means” available to further any legitimate governmental interests. The state cannot say that its “justification in denying access” is “weighty.” *Globe Newspaper Co.*, 457 U.S. at 606.

Although under the First Amendment “the presence of the press must be limited when it is apparent that the accused might otherwise be prejudiced or disadvantaged,” the trial court cannot claim that it punished Ms. Maggitti “to protect [the defendant] from inherently prejudicial publicity.” *Sheppard v. Maxwell*, 384 U.S. 333, 358, 363 (1966). The recording was only ever shown to the Judge. Indeed, Ms. Maggitti was prejudiced and disadvantaged because of the limitation on her freedom and the freedom of the press to broadcast and record court proceedings. Indeed, the public interest weighs in favor of preventing fraud by court officers.

V. The Statute Is Unconstitutional as Applied and the Presiding Judge Was Unconstitutionally Interested in the Case

The state of Pennsylvania cannot claim that it has an “important interest” let alone a “compelling interest” in suppressing Ms. Maggitti’s right to record her own judicial proceedings. The state suffered no injury from her decision to record her own judicial proceedings and present them to the presiding court. In contrast, Ms. Maggitti has suffered “actual injury” from the denial of her right to an open court. The Trial Court’s Reporter, rather than dutifully recording the transcript, altered several key statements. These alterations changed

key testimony. Under Fourteenth Amendment Due Process, Judge Capuzzi should have disqualified himself. Under the Fourteenth Amendment, a judge must recuse himself when “the probability of actual bias on the part of the judge . . . is too high to be constitutionally tolerable.” *Withrow v. Larkin*, 421 U. S. 35, 47 (1975).

This is exactly such a situation: the Court Reporter is someone with a personal relationship to the Judge. The recording at issue is evidence of the Judge’s own court reporter altering the transcript in crucial ways. Under these circumstances, the probability of actual bias is unreasonably high. Indeed, this Court has previously found that it is a violation of Due Process for an interested Judge to try individuals for contempt. *In re Murchison*, 349 U.S. 133 (1955). “[J]ustice must satisfy the appearance of justice.” *Id.* at 137.

While there are circumstances where a law might validly restrict the ability of citizens to record in judicial proceedings, § 5103.1 is not only overbroad but also has been applied in a patently unconstitutional way which does serve any governmental interest. As has already been noted, the First Amendment requires transparency in trials for the express purpose of presenting these miscarriages of justice. However, rather than fixing the problem or acknowledging the court reporter’s fraud (or, at the very least, egregious error), the trial court decided that Ms. Maggitti’s efforts to expose fraudulent behavior justified punishing her for recording her own trial. “Public scrutiny of a criminal trial enhances the quality and safeguards the integrity of the factfinding process, with benefits to both the defendant and to society as a whole” and furthermore “fosters an appearance of fairness, thereby heightening public respect for the judicial process.”

Globe Newspaper Co., 457 U.S. at 606. Not only has the trial court failed to foster an appearance of fairness but also it has fostered actual unfairness-and punished Ms. Maggitti for attempting to uphold the integrity of the factfinding process.

Indeed, Sir William Blackstone explained that the public access to the court is intended to protect the truth against “the private and secret examination taken down in writing before an officer, or his clerk, in the ecclesiastical courts, and all others that have borrowed their practice from the civil law.” *Cohen*, 733 F.2d at 1069 (quoting 3 W. Blackstone, Commentaries *373) (emphasis added). In fact, this law can and did create an unconscionable conflict of interest: the Reporter whose misconduct Ms. Maggitti exposed works directly for the Judge who punished Ms. Maggitti for exposing that misconduct. This conflict of interest completely sabotages and short circuits justice and the truthseeking function of the court. If a judge can unilaterally choose what conduct is exposed to the light of day, the First Amendment’s requirement of an open court is effectively meaningless. Section 5103.1 is not only facially unconstitutional, but also unconstitutional as applied here.



CONCLUSION

This case highlights a dangerous trend where courts try to monopolize the record to proceedings even when those proceedings' official record is provably false, denies equal and open access to the court, and makes the courts look like frauds. This will only become a worse problem if not corrected quickly as more and more states borrow these tactics—criminalizing the act of petitioning the government for redress of grievances and criminalizing assisting in honest, accurate reporting of proceedings by a party to those proceedings, disclosed only to courts governing those proceedings. For the reasons set forth, this Court should grant this petition for a writ of certiorari.

Respectfully submitted,

/s/ Robert E. Barnes

Robert E. Barnes, Esq.

Counsel of Record

BARNES LAW LLP

700 South Flower Street, Suite 1000

Los Angeles, CA 90017

(310) 510-6211

robertbarnes@barneslawllp.com

Counsel for Petitioner

July 7, 2026