No. 26-5498

ORIGINAL

IN THE

SUPREME COURT OF THE UNITED STATES

LISA MARIE MICHEL — PETITIONER
(Your Name)

vs.

STATE OF NEW HAMPSHIRE — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

THE SUPREME COURT OF NEW HAMPSHIRE
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Lisa Marie Michel
(Your Name)

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(Address)

Chelsea, MA 02150
(City, State, Zip Code)

(857) 888-0655
(Phone Number)

QUESTION(S) PRESENTED

1. Whether due process permits a criminal defendant to bear the consequences of unresolved institutional facts necessary to determine compliance, materiality, prejudice, or meaningful review where the defendant cannot independently create or certify those facts and timely sought judicial procedures to establish them.

2. Whether due process permits preserved constitutional claims to be rejected for an inadequate appellate record where the defendant identified the inadequacy before briefing and timely sought judicial establishment of material portions of the record she could not independently create.

LIST OF PARTIES

A list of all parties to the proceeding in the court whose judgment is the subject of this petition is provided below. If a party is a corporation with a stock ticker symbol, that symbol is also included.

All parties appear in the caption.

Petitioner Lisa Marie Michel was the defendant-appellant below.

Respondent State of New Hampshire was the prosecution-appellee.

RELATED CASES

State of New Hampshire v. Lisa Marie Michel, No. 438-2024-CR-00764,
New Hampshire Circuit Court, District Division, Goffstown. Judgment entered Sept. 16, 2025.

Lisa Michel v. Hon. Suzanne M. Gorman, No. 2025-0521,
Supreme Court of New Hampshire. Petition denied Oct. 30, 2025.

State of New Hampshire v. Lisa Marie Michel, No. 216-2025-CR-01820,
New Hampshire Superior Court, Hillsborough County, Northern District. Returned Jan. 19, 2026.

State of New Hampshire v. Lisa Marie Michel, No. 2025-0637,
Supreme Court of New Hampshire. Judgment entered June 1, 2026.

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TABLE OF AUTHORITIES CITED

IN THE

SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

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

OPINIONS BELOW

[ ] For cases from **federal courts**:

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

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

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

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

[X] For cases from **state courts**:

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

[ ] reported at ______________________________; or,
[ ] has been designated for publication but is not yet reported; or,
[X] is unpublished.

The June 1, 2026 order of the Supreme Court of New Hampshire affirming Petitioner's convictions is unreported and is reproduced at Appendix A.

JURISDICTION

[ ] For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was ____________________.

[ ] No petition for rehearing was timely filed in my case.

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

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

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

[X] For cases from **state courts**:

The date on which the highest state court decided my case was June 1, 2026
A copy of that decision appears at Appendix A

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

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

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

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

U.S. Const. amend. XIV, § 1: "No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

STATEMENT OF THE CASE

I. PETITIONER ENTERED THE CRITICAL PRO SE PERIOD WITHOUT AN OBJECTIVELY RECONCILED DISCOVERY HISTORY.

This prosecution arose from a September 5, 2024 traffic stop. Petitioner was initially represented by counsel, but the representation broke down. A second attorney entered the case in February 2025 and withdrew in March; first counsel remained counsel of record until June. Both retained attorneys ultimately refunded their retainers in full. That unusual history is relevant here not as an independent ineffective-assistance claim, but because Petitioner ultimately became responsible for evaluating discovery without an inventory identifying the universe previously transmitted by the prosecution to counsel or the universe actually transferred from counsel to her.

Second counsel transferred several identifiable materials, but did not provide an inventory stating that the transfer represented everything received from the State. Correspondence later placed before the trial court stated that counsel could not guarantee completeness and advised Petitioner to obtain discovery from the prosecution. The relevant institutional chain therefore remained:

STATE -> COUNSEL -> PETITIONER.

Petitioner could document what she possessed. She could not independently certify the complete first stage of that chain.

II. THE LATER COMPEL-AND-PRESERVE PROCEEDING CREATED A NEW, OBJECTIVE COMPLIANCE QUESTION.

Acting pro se, Petitioner filed a category-specific motion seeking discovery and preservation. The trial-court case summary records the motion as "Granted" on June 11, 2025. App. B. At the June 17 trial-management conference, the State represented discovery as complete, Petitioner disputed that representation, and the resulting written order recorded: "Discovery completed? No." App. D.

The State later relied in part on an asserted February production to former counsel. That earlier production may ultimately establish substantial or complete prior disclosure. But it preceded the pro se compel request, the later court action, the June 17 determination that discovery remained incomplete, and the later discovery deadline. Once the later obligation existed, the institutional questions were not simply whether something had been produced in February, but what the later ruling required, what had already been produced, what remained responsive, what remained preserved, what additional production occurred, and what objectively established compliance by the later deadline.

Two June 19 communications established particular later transmissions: a radar-related document and electronic access to audiovisual evidence. App. E. Those communications were evidence of production. They did not themselves identify the complete February universe, the complete universe responsive to the later order, or the transition from the June 17 notation of incompleteness to complete compliance.

III. PETITIONER PROCEEDED ON THE UNDERSTANDING THAT THE COMPEL-AND-PRESERVE MOTION HAD BEEN GRANTED; ONLY LATER DID SHE RECOGNIZE THAT THE AVAILABLE DISPOSITIONS LEFT ITS PRECISE SCOPE UNCERTAIN.

The trial-court case summary recorded Petitioner's category-specific Motion to Compel Discovery and Preservation as: **"Granted."** App. B. Another available disposition reflected: **"granted/denied."** App. C.

Petitioner had seen that disposition, but, in light of the case summary's unqualified notation of "Granted," she did not understand it at the time as establishing that particular requested categories had been denied. She therefore proceeded through the remaining pretrial proceedings and trial on the understanding that the category-specific motion had been granted and disputed compliance on that basis.

Only later, upon closer review of the record, did Petitioner recognize that the two notations could signify that the motion had been granted in part and denied in part.

That realization did not answer the underlying question. It exposed it.

Petitioner can identify no category-by-category ruling establishing what was granted and what was denied. She therefore cannot now determine from the available record which requested categories formed part of the operative discovery-and-preservation obligation. She cannot assume that every requested category was granted merely because the case summary says "Granted." Nor can she identify particular categories as denied merely because another disposition says "granted/denied."

Granted / Granted-Denied -> Which categories? -> Scope of obligation -> Production and preservation -> Compliance.

Petitioner does not ask this Court to choose between the notations or determine the scope of the ruling. The point is that the scope is itself an institutional fact that Petitioner cannot independently certify, yet it is antecedent to determining compliance and prejudice.

IV. PETITIONER REPEATEDLY SOUGHT USABLE, RETAINABLE DISCOVERY AND OBJECTIVE RECORDS BEFORE TRIAL.

Petitioner did not merely request a replacement or "usable, retainable" electronic link. She objected that the expiring, copy-prohibited link was not practically usable or retainable, but her repeated request was broader: usable, retainable discovery or dismissal for noncompliance. App. B.

That broader request reflected the nature of the problem. Petitioner could identify certain materials in her own possession, but she could not identify the complete universe the State had transmitted to counsel or determine how that production mapped onto the benchmark she then understood to be the granted Compel-and-Preserve Order.

At the time, Petitioner believed one predicate was certain and the other was not:

Known obligation -> Unknown production universe -> Unknown compliance.

Only later did she recognize that even the first predicate might require institutional clarification because the case summary said "Granted," while another disposition said "granted/denied," without identifying which categories fell on either side. The problem therefore became:

Uncertain ruling / scope -> Uncertain production universe -> Uncertain compliance -> Uncertain prejudice.

Petitioner did not ask the courts to infer noncompliance from uncertainty. She asked for the institutional predicates to be identified so compliance could actually be determined. She also sought objective materials capable of testing the asserted pre-stop basis for the seizure, including pre-stop audiovisual evidence and institutional records concerning radar activity, CAD, dispatch, radio, vehicle assignments, officer identities, and chronology.

The constitutional point presented here does not depend on accepting Petitioner's factual theory about the stop. Those records could have supported her theory, disproved it, or shown that responsive material did not exist. Their relevance is that Petitioner could not manufacture those institutional facts herself. She sought a process by which the responsible institutions could identify what existed, what had been produced, what remained preserved, and what obligations had been satisfied.

The trial-court case summary reflects several uncontested pretrial motions and dispositions entered on September 15, 2025, the eve of trial. Petitioner therefore learned of those rulings as trial began the following day. The dispositions permitted trial to proceed but did not provide an itemized reconciliation of the February production, the later compel-and-preserve obligation, the June 19 transmissions, and the later deadline. Trial therefore approached with compliance still described through competing accounts rather than an objectively reconciled institutional history. App. B.

Petitioner's contemporaneous conduct also shows that she was treating the dispute as urgent before trial, not constructing it after conviction. She pursued extraordinary relief in the Supreme Court of New Hampshire in No. 2025-0521 and sought a stay of trial; the stay was denied on September 12, 2025 while the mandamus track remained pending. She had also pursued separate oversight complaints. Those collateral efforts are not offered as proof that her underlying allegations were correct. They are relevant only to chronology and notice: before trial, Petitioner was already asserting that unresolved discovery and record problems were serious enough to require intervention. App. F.

Petitioner's contemporaneous appellate materials also referenced a U.S. Department of Justice Civil Rights Division complaint, No. 625529-LZC, and an Attorney Discipline Office complaint denied on September 11, 2025. Neither collateral complaint is offered as proof that Petitioner's underlying allegations were correct or as an independent basis for relief. They are referenced only as chronology and notice, showing that before trial Petitioner was already treating the discovery and record dispute as serious and was pursuing available avenues for intervention.

V. FINAL-WITNESS DISCLOSURE, OFFICER IDENTIFICATION, AND EXHIBIT NOTICE PRESENTED DISTINCT PRETRIAL-PREPARATION PROBLEMS.

The June 17 Trial Management Conference Order separately imposed later deadlines for discovery and final witness disclosure. Petitioner can identify no State-created final witness list establishing compliance, proof of timely service, request for extension, or ruling determining compliance before trial.

The hearing materials identified Officers Plante and Nauit as potential State witnesses. But potential-witness identification did not itself establish compliance with the final-witness-disclosure requirement, and it did not resolve Petitioner's separate compelled request for the identities and roles of all participating officers.

The incident report attributed the asserted speed observation and radar scan to Officer Plante. Officer Nauit was identified by name, but her complete role was not disclosed. Petitioner had also repeatedly raised two additional officers whom she believed appeared during the field-sobriety sequence, yet she could not identify those officers or their roles from the materials available to her.

Those uncertainties affected preparation in two directions:

Officer identity + role -> State witness? -> Prepare targeted cross-examination.

Officer identity + role -> Not a State witness? -> Assess materiality -> Decide whether a defense subpoena is necessary.

Without a finalized witness disclosure and without knowing all participating officers and their roles, Petitioner could not reliably determine whom the State intended to call, prepare targeted cross-examination, or determine which materially involved officers not called by the State she might need to subpoena herself. **An unidentified officer cannot meaningfully be subpoenaed.**

Potentially possessing discovery also did not tell Petitioner what the State intended to use at trial. Petitioner can identify no State exhibit list or comparable pretrial communication establishing the complete universe of evidence the prosecution intended to present.

The three institutional universes therefore remained distinct:

DISCOVERY -> What had been produced and preserved?

WITNESSES -> Who would testify?

EXHIBITS -> What would be used?

Possession of an item could not answer the latter two questions. Thus, identifying Plante and Nauit as potential witnesses did not resolve either the final-witness-disclosure question or the separate compelled officer-identity-and-role inquiry; and possession of some materials did not provide notice of the State's exhibit structure.

VI. THE TRIAL DID NOT ITSELF CREATE A COMPLETE, OBJECTIVELY IDENTIFIED APPELLATE RECORD.

At trial, Petitioner recalls again stating that discovery was incomplete. The prosecution relied on prior production to counsel and the later June transmissions. Petitioner does not ask this Court to decide whose account was correct. The relevant point is that the dispute was not reduced to an objective institutional accounting capable of being carried into appellate review.

Audiovisual evidence was played to the factfinder from the State's computer. Petitioner later could not identify a preserved court copy establishing the exact digital files and portions displayed. Some trial-related materials later appeared outside the ordinary trial-docket structure or commingled with another case. A transcript could memorialize that a video was played; it could not necessarily identify the precise digital file, version, or portion shown unless the underlying evidence itself was objectively identified.

VII. PETITIONER IDENTIFIED THE APPELLATE-RECORD PROBLEM BEFORE MERITS REVIEW AND SOUGHT JUDICIAL ESTABLISHMENT OF THE RECORD.

The Supreme Court of New Hampshire first ordered Petitioner to designate transcripts by November 17, 2025. Petitioner filed her transcript designation by that deadline. App. G. In that timely filing she identified structural record defects, stated that transcripts were not requested "at this time," and reserved the ability to request them later. Her position was sequencing, not abandonment: a transcript could memorialize proceedings, but could not create the State-to-counsel production history, a final witness disclosure, an exhibit inventory, digital identifiers, or a compliance determination that had never been objectively established.

At that time, Petitioner proceeded on the understanding that her category-specific Compel-and-Preserve Motion had been granted, as reflected in the trial-court case summary. Her record concern was therefore not uncertainty about the benchmark itself, but her inability to identify the complete State production-and-preservation universe against which compliance with that benchmark could be measured.

Before merits briefing, Petitioner sought trial-court settlement and clarification of the record. App. H. The trial court took "NO ACTION." Her record-cure request asked the State first to identify and lodge the trial-used exhibits and audiovisual evidence. A supplemental identification-only index then identified the three MP4 files Petitioner possessed for record-integrity purposes, while preserving the distinction between possession of those files and institutional identification of the evidence actually used at trial. App. H.

Petitioner therefore faced a practical record-transfer problem. She could identify no finalized State witness list establishing compliance, no State exhibit list or complete trial-exhibit structure, and no objective accounting reconciling the State-to-counsel production history with the later discovery-and-preservation obligation. The trial materials she could identify included exhibits appearing outside the operative docket and associated with an earlier case. She could transmit materials she possessed; she could not certify that those materials constituted the complete institutional record.

With deadlines continuing, Petitioner reconstructed what she could in good faith while objecting to narrative reconstruction as a substitute for objective institutional verification. Her request for limited remand sought verification of matters capable of institutional determination rather than acceptance of her narrative as fact: what the court had required; what the State had produced and preserved; whether final witness disclosure had occurred; what exhibits and audiovisual materials constituted the trial record; and what remained capable of certification or preservation.

A parallel Superior Court de novo proceeding also intervened and delayed the appellate course. Upon becoming aware of it, Petitioner placed the courts on notice and challenged jurisdiction. The de novo proceeding took time to close and subsequently closed without objection. Only after that proceeding had closed did the Supreme Court of New Hampshire request a response from the State concerning Petitioner's request for limited remand.

Petitioner's February 6, 2026 filing was a reply to that State response in support of limited remand, an alternative extension, and stay. App. I. She again asked that unresolved record deficiencies be objectively addressed before merits briefing and referred back to her earlier objection to resolution through narrative reconstruction. Rather than granting the requested limited remand, the court thereafter established merits-briefing deadlines, and the appeal proceeded with the underlying record deficiencies unresolved.

Only later, upon closer examination of the available dispositions, did Petitioner recognize an additional problem: although the case summary recorded the Compel-and-Preserve Motion as "Granted," another disposition stated "granted/denied" without identifying which requested categories fell on either side. That later uncertainty does not explain Petitioner's earlier conduct; it compounds the record problem she had already been trying to resolve.

Her understanding therefore evolved from:

Known obligation -> Unknown production / preservation universe -> Unknown compliance.

to:

Uncertain scope of obligation -> Unknown production / preservation universe -> Unknown compliance.

Thus, even the benchmark against which Petitioner had been attempting to measure production ultimately became an institutional fact requiring clarification.

The same concern persisted through merits briefing. The State argued that the record and transcript were inadequate; Petitioner replied that the absence of a defined record could not be charged to her and again sought limited remand. Apps. K-L. Thus, after giving early notice of structural defects in her transcript designation, Petitioner sought judicial correction three times before affirmance: first through trial-court record settlement, and twice through requests to the Supreme Court of New Hampshire for limited remand.

VIII. THE INADEQUACY PETITIONER TRIED TO CURE BECAME THE REASON MATERIAL CLAIMS COULD NOT RECEIVE MERITS REVIEW.

On June 1, 2026, the Supreme Court of New Hampshire affirmed. App. A. The judgment concluded that the record was inadequate to evaluate material discovery and due-process claims.

Petitioner was therefore expected to demonstrate downstream prejudice while the antecedent institutional predicates necessary to evaluate prejudice remained unsettled:

Ruling -> Scope of obligation -> Production / preservation -> Compliance -> What remained unavailable -> Investigation and preparation -> Prejudice -> Remedy.

She could not reliably establish what remained unavailable without first establishing what was required and what had been produced and preserved. She could not reliably establish compliance without first establishing the operative scope of the court's ruling. Those predicates were not facts Petitioner could create for herself.

An appellant can transmit materials she possesses. She cannot independently create a prosecution production history, proof of service, final-witness disclosure, exhibit accounting, digital-file identification, or judicial compliance adjudication that the responsible institutions have not identified or settled. The very absence of those predicates became the reason meaningful review could not occur.

The consequences continued after affirmance. Petitioner continued to seek rulings on record-related matters that had originated before appellate merits review. At sentencing, most of those requests were orally denied as moot in light of the affirmance. Thus, affirmance did not resolve the institutional facts Petitioner had previously sought to establish; it left those questions unresolved while the judgment resting on an inadequate record remained operative. These later proceedings are not presented as an independent basis for jurisdiction or as part of the record supporting the June 1 judgment.

REASONS FOR GRANTING THE PETITION

I. REVIEW IS WARRANTED UNDER RULE 10(c) BECAUSE THE PETITION PRESENTS AN IMPORTANT FEDERAL QUESTION THAT HAS NOT BEEN, BUT SHOULD BE, SETTLED BY THIS COURT.

This case does not ask the Court to constitutionalize ordinary state discovery. It presents a narrower question: when meaningful adjudication of a preserved criminal claim depends on institutional facts a defendant cannot independently create or certify, and the defendant timely invokes available judicial procedures to establish them, may the unresolved absence of those facts later be attributed to the defendant as the reason merits review cannot occur?

Rule 10(c) expressly reaches a state-court decision presenting an important question of federal law that has not been, but should be, settled by this Court. A conflict among lower courts is therefore not a prerequisite to review under this branch of Rule 10(c). The question here concerns the constitutional adequacy of the process for creating a reviewable criminal record when the missing predicates are institutional rather than private facts.

The question extends beyond this prosecution. Modern criminal records increasingly depend on electronically transmitted discovery, evidence-platform access, expiring links, digital exhibits displayed from devices, metadata, and materials associated electronically with multiple case files. A transcript may establish that a video was played without identifying the exact digital file or portion shown. An electronic link may establish that access was offered without identifying the complete production universe or what became part of the official trial record.

II. THE ABSENCE OF A DEVELOPED SPLIT DOES NOT MAKE THE QUESTION UNIMPORTANT; THE PROCEDURAL SAFEGUARDS THAT USUALLY PREVENT THIS PROBLEM ALSO MAKE A CLEAN VEHICLE UNUSUAL.

This petition does not claim a conflict among state courts or courts of appeals. Its submission is instead the one Rule 10(c) independently recognizes: an important federal question remains unsettled.

The unusual posture helps explain why. Record-designation, settlement, supplementation, remand, preservation, and exhibit-identification procedures ordinarily provide opportunities to correct record defects before those defects become the basis for denying review.

Here, those safeguards did not converge on a settled record. Petitioner gave early notice of structural defects and then sought judicial correction three times before affirmance: once through trial-court settlement and twice through requests for limited remand in the Supreme Court of New Hampshire. Yet the record remained inadequate, and that inadequacy became dispositive. The problem therefore affected each stage rather than being cured at one of them.

Rarity in that posture is not a reason to leave the constitutional allocation of risk undefined. It is a reason this case presents a useful vehicle before the same sequence is repeated: a defendant timely identifies a record defect, invokes the mechanisms designed to cure it, cannot herself create the missing institutional facts, and then loses meaningful review because those facts remain unsettled.

III. THE QUESTIONS ARE SQUARELY PRESENTED AND OUTCOME-DETERMINATIVE.

The record inadequacy was not collateral to the judgment; it became dispositive. Petitioner identified the problem before briefing, sought trial-court settlement, received "NO ACTION," reconstructed what she could while deadlines continued, and twice sought limited remand for objective verification. The unresolved record then became the reason material claims could not receive meaningful merits review.

That sequence matters because Petitioner was not declining to transmit an otherwise settled record. At the time, she understood the Compel-and-Preserve Motion to have been granted and was trying to determine the State's complete production-and-preservation universe against that benchmark. She could identify no finalized State witness list, no State exhibit list or complete exhibit structure, and no institutional accounting capable of establishing that the materials she possessed were the complete record. Her good-faith reconstruction therefore could not substitute for the binary or institutionally verifiable facts for which she sought limited remand.

Her later recognition that another disposition stated "granted/denied" without allocating categories did not cause the earlier record problem. It compounded it by making uncertain even the benchmark she had previously believed fixed.

This is therefore not an advisory question. The procedural consequence already occurred. Nor does resolution require this Court to determine whether the State actually withheld discovery, whether former counsel failed to receive or transfer something, whether an officer lied, whether radar evidence was staged, or whether Petitioner is factually innocent. Those contested matters may be assumed against Petitioner for purposes of the federal question.

IV. QUESTION TWO REMAINS EVEN ASSUMING FULL DISCOVERY COMPLIANCE.

Assume the prosecutor produced everything required. Assume former counsel received it, transferred it, the later compel-and-preserve obligation was fully satisfied, and witness disclosure was proper. Question Two remains because meaningful appellate review still required an identifiable record of what evidence the factfinder actually received, which audiovisual files and portions were shown, what constituted the State's exhibit record, and what official record should have transferred for review. That feature makes this case a useful vehicle. The Court can address the allocation of risk from an unsettled institutional record without adjudicating the underlying discovery dispute.

V. DUE PROCESS CANNOT MAKE PROOF OF THE MISSING RECORD A PREREQUISITE TO THE PROCEDURE FOR ESTABLISHING IT.

Chessman v. Teets, 354 U.S. 156 (1957), is important not because its facts are identical, but because of the sequence it rejected. The Court expressly declined to hold that Chessman's record had already been shown inaccurate or incomplete. Yet it held that affirmance could not stand where the disputed record had been settled through a process that denied him a constitutionally adequate opportunity to participate, and it returned the matter so the state courts could provide review upon a properly settled record.

That principle answers the central difficulty here. Petitioner invoked judicial record-correction procedures three times before decision: once by asking the trial court to settle and clarify the record, and twice by asking the Supreme Court of New Hampshire for limited remand so unresolved institutional predicates could be established below. Those requests pursued the same procedural objective: return unresolved institutional questions to the tribunal capable of establishing them before their absence defeated review.

Due process should not permit that sequence to become circular. A defendant who timely identifies a material record deficiency and asks the responsible courts to establish it cannot reasonably be required first to prove what the missing record would show as the condition for obtaining the procedure necessary to establish it. Otherwise the absence of an institutional record becomes both the reason corrective procedure is unavailable and the reason meaningful review fails.

Record inadequate -> judicial settlement requested -> missing institutional facts cannot be privately certified -> record remains inadequate -> claims fail because the record is inadequate.

material inadequacy of a record as the price of obtaining the very procedure needed to determine what the record objectively contains. Where the dispute concerns institutional facts outside the defendant's control, requiring proof of the missing predicate before allowing a process to establish that predicate risks making the remedy logically unavailable.

The bottom of the chain cannot supply the missing top.

Draper v. Washington, 372 U.S. 487 (1963), Mayer v. City of Chicago, 404 U.S. 189 (1971), and Evitts v. Lucey, 469 U.S. 387 (1985), reinforce the broader framework that appellate procedures must permit meaningful review. Petitioner does not contend that those cases prescribe the exact sequence requested here. They establish the constitutional foundation; this case asks how it applies to modern institutional acts - what was produced, served, preserved, shown, or officially recorded - that the defendant cannot create on her own.

VI. THE DECISION BELOW ALLOCATES THE RISK OF INSTITUTIONAL UNCERTAINTY TO THE PERSON LEAST ABLE TO CURE IT.

Petitioner could preserve what she possessed. She could not independently certify what the court ordered, what the prosecution transmitted to counsel, what remained preserved pursuant to the later order, whether a final witness disclosure was served, which exact digital files were displayed, or what constituted the official record. Yet deficiencies in those predicates made it harder for her to establish prejudice and obtain review.

The record problem involved two antecedent predicates: the scope of the operative obligation and the scope and completeness of the State's production, preservation, and compliance with that obligation. Petitioner initially believed the first predicate was fixed by the case summary's "Granted" notation and could not establish the second from the materials and institutional record available to her. Later review showed that even the first predicate may require clarification because a separate disposition stated "granted/denied" without allocating categories. Thus the uncertainty she timely sought to cure was compounded: the compliance universe was unresolved, and later even the benchmark against which compliance had to be measured became uncertain.

actually produced and preserved. Petitioner initially believed the first was established and disputed only the second. Later review showed that even the scope of the first may require clarification. Neither predicate could be privately certified by Petitioner, yet both were necessary before compliance and prejudice could be meaningfully adjudicated.

The same institutional-record problem appeared in three separate pretrial universes that could not be collapsed into one another: discovery asked what had been produced and preserved; witness disclosure asked who would testify; and exhibit notice asked what evidence the State intended to use. Possession of some discovery did not itself establish final witness disclosure or the State's exhibit structure.

DISCOVERY -> What was produced? WITNESSES -> Who would testify? EXHIBITS -> What would be used?

What was ordered? -> What was required? -> What was produced and preserved? -> Was there compliance? -> What remained unavailable? -> What prejudice followed?

The less complete the institutional record, the less capable the defendant becomes of proving the consequences of an alleged constitutional deprivation. Due process need not presume the defendant correct. But it should not permit unresolved institutional uncertainty automatically to become an appellate default against a defendant who timely asked the responsible institutions to establish the record while correction remained possible.

VII. THE TIMING MAKES THIS CASE A CLEAN VEHICLE: PETITIONER SOUGHT CORRECTION THREE TIMES BEFORE THE INADEQUACY BECAME DISPOSITIVE.

This is not a case in which a litigant ignored the record until after losing. Petitioner's transcript designation gave early notice of structural defects. She then sought trial-court settlement before merits briefing.

A parallel Superior Court de novo proceeding intervened. Once Petitioner became aware of it, she placed the courts on notice and challenged jurisdiction. That proceeding later closed without objection. After it had closed, the Supreme Court of New Hampshire requested a State response concerning limited remand; Petitioner's February 6 filing replied in support of that remand request. After "NO ACTION" on trial-court settlement, and with the de novo detour closed, Petitioner still did not ask the appellate court simply to accept her reconstruction. She sought objective verification through limited remand. Rather than granting that request, the court proceeded to merits-briefing deadlines, and Petitioner renewed the remand request during briefing.

The three requests matter: trial-court settlement, the February 6 limited-remand request, and the renewed limited-remand request in appellate briefing. They eliminate the temporal paradox that otherwise obscures record cases. Petitioner was not asking after affirmance to repair a problem she had ignored. She was asking before affirmance to prevent an identified problem from becoming dispositive.

VIII. THE CONTINUING POST-AFFIRMANCE CONSEQUENCES CONFIRM THAT THE PROCEDURAL LOOP NEVER CLOSED.

The June 1 affirmance did not settle the institutional facts; it treated the record as inadequate to review material claims.

After affirmance, Petitioner returned to the trial court seeking resolution of record-related matters that had originated before merits review. Those efforts were not an attempt to create a new federal issue after losing. They sought first to determine what the historical record objectively established, what remained preserved, what could still be reliably reconstructed, and only then what substantive remedy, if any, remained available.

That inquiry necessarily depended on the same unresolved sequence:

Ruling -> Scope -> Obligation -> Production / Preservation -> Compliance -> Trial evidence and witnesses -> What remains preserved -> Reliable reconstruction -> Prejudice -> Remedy.

A new trial might ultimately be warranted, unnecessary, or no longer capable of curing all prejudice. That determination itself depends on knowing what evidence remains, what historical facts can still be established, what can be reliably reconstructed, and what cannot.

At sentencing, however, most of those post-affirmance requests were orally denied as moot in light of the affirmance. The result was the same circularity at another stage:

Before trial -> Petitioner sought the objective record needed to investigate and prepare.

At trial -> Compliance, witness preparation, and the evidentiary structure remained contested.

Post-trial -> Petitioner sought to establish and preserve the institutional record.

On appeal -> The unresolved record prevented meaningful merits review.

Post-affirmance -> Efforts to establish that same record in order to determine what remedy remained were treated as moot because review had already ended.

The inadequacy therefore affected every stage. It was not merely an appellate defect. The unresolved record prevented review; review ended; and the end of review then became the reason further attempts to establish the record and determine remaining remedies were treated as moot.

Those later events do not independently supply jurisdiction and are not offered to enlarge the judgment under review. They demonstrate the practical closure of the procedural loop.

IX. THE REQUESTED RULE IS MODEST: OBJECTIVE RECORD ESTABLISHMENT FIRST, RELIABLE RECONSTRUCTION ONLY FOR GENUINE GAPS, AND MERITS REVIEW THEREAFTER.

The Court need not impose a new federal certification code on state courts. Nor need it decide the discovery dispute, suppression issue, or ultimate remedy. The narrower principle is that when a criminal defendant timely identifies a material record defect, invokes available procedures to establish institutional facts she cannot independently create, and those facts are necessary for meaningful review, the State may not make the unresolved absence of those same facts the dispositive default without providing a constitutionally adequate opportunity to settle the record.

On remand, the state courts remain free to choose the mechanics consistent with that principle. They can identify what existing objective records establish, determine what evidence remains preserved, identify genuine gaps, use reliable reconstruction where necessary, determine what can no longer reliably be established, and adjudicate the preserved claims and appropriate remedy on the resulting record.

That process may establish complete compliance and defeat Petitioner's underlying claims. It may establish that earlier production encompassed every later-relevant category, that all responsive evidence was preserved, or that Petitioner's factual theory is wrong. It may instead establish partial compliance, nonexistence, unavailability, or historical predicates that can no longer reliably be reconstructed. The constitutional rule does not prejudge any of those possibilities.

Record first; reliable reconstruction for genuine gaps; merits and remedy only after the record is constitutionally adequate. That modest sequence protects meaningful review without converting every discovery disagreement into a federal constitutional case.

CONCLUSION

This case presents a narrow procedural due-process problem. Petitioner did not ask the state courts to accept her version of disputed facts without verification. She repeatedly sought procedures capable of establishing institutional facts she could not create herself: the scope of the operative discovery-and-preservation ruling, the relationship between earlier production and the later obligation, the status of material disclosures and preservation, the identity of trial exhibits and audiovisual evidence, and the contents of the record required for meaningful appellate review.

The dependency matters:

Ruling -> Scope -> Obligation -> Production / Preservation -> Compliance -> Missing material -> Prejudice -> Remedy.

Petitioner originally believed the first predicate was fixed by the case summary's "Granted" notation and disputed the second predicate - the scope and completeness of production. Her repeated request for usable, retainable discovery or dismissal was not merely a request for a better link; it reflected her inability to identify the complete State production universe against the benchmark she believed controlled. Later, she recognized that the separate "granted/denied" disposition, without any category allocation, made even the benchmark's precise scope uncertain.

That uncertainty was not limited to discovery. The June 17 order separately established final-witness obligations, while Petitioner can identify no State-created final witness list establishing timely compliance. Potential-witness references to Plante and Nauit did not identify all participating officers or their roles, and Petitioner could not determine whether an unidentified material officer should be prepared for cross-examination or subpoenaed by the defense. She likewise can identify no pretrial State exhibit structure identifying what evidence would actually be used.

Discovery asked what was produced. Witness disclosure asked who would testify. Exhibit notice asked what would be used.

Thus, the two antecedent predicates needed to adjudicate compliance were institutional: the scope of the operative obligation and the scope and completeness of the State's production, preservation, and compliance. Petitioner initially believed the first was fixed and could not independently establish the second. Later, the separate "granted/denied" disposition made even the first predicate uncertain. She could not reliably establish prejudice until those predicates were institutionally established.

was required and what was actually produced and preserved. She could not reliably establish prejudice until those predicates were established.

When the trial court took "NO ACTION" on settlement while appellate deadlines continued, Petitioner did not simply refuse to transmit a settled record. She could identify no finalized State witness list, no State exhibit list or complete exhibit structure, and no institutional accounting establishing the complete production-and-preservation universe. Operating then on the understanding that the Compel-and-Preserve Motion had been granted, she reconstructed what she could in good faith while objecting to competing narratives as substitutes for objective institutional identification.

She sought limited remand for verification of institutional facts, and renewed that request. Only later did she recognize that the separate "granted/denied" disposition could make even the benchmark's precise scope uncertain. That later uncertainty compounded rather than created the problem. The record nevertheless remained inadequate, and that inadequacy became the reason material constitutional claims could not receive merits review.

The inadequacy then continued into the post-affirmance stage. Petitioner sought first to determine what the historical record established, what remained preserved, what could still be reliably reconstructed, and only then what substantive remedy, if any, remained available. Those efforts were later treated as moot in light of the affirmance.

Pretrial -> Trial -> Post-trial -> Appeal -> Post-affirmance.

At each stage, the unresolved institutional record affected what Petitioner could investigate, prepare, preserve, prove, obtain reviewed, or seek as a remaining remedy. Even a new-trial determination cannot reliably escape that sequence without first knowing what remains preserved, what can still be established, what can be reconstructed, and what cannot.

The Court need not determine that the State failed to comply with discovery, that any officer acted improperly, or that Petitioner is entitled to a new trial. It need only decide whether due process permits unresolved institutional facts to be charged against a criminal defendant after she timely sought judicial procedures to establish those facts and could not independently create them.

Petitioner respectfully requests that the Court grant the petition, vacate the judgment of the Supreme

Court of New Hampshire, and remand for constitutionally adequate proceedings that first establish the objective institutional record to the extent reasonably possible; identify genuine gaps and matters that can no longer reliably be determined; reconstruct only those genuine gaps where reliable reconstruction remains possible; and then adjudicate the preserved constitutional claims and appropriate remedy on the record thus established.

Record first. Remedy second.

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Lisa Marie Michel, Petitioner, Pro Se

Date: 8/31/2026