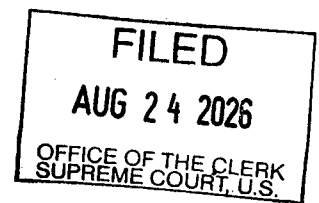


No. 26 - 5516



IN THE
SUPREME COURT OF THE UNITED STATES

JOHN WELLS - PETITIONER

VS.

JANE HANLIN, ET AL - RESPONDENTS

ON PETITION FOR WRIT OF CERTIORARI TO
THE SUPREME COURT OF OHIO

PETITION FOR A WRIT OF CERTIORARI

John Wells
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No. 344727
Noble Correctional Institution
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Caldwell, Ohio 43724

Questions Presented For Review

Question 1. Are the Duties Set Out in *Brady v. Maryland*, 373 U.S. 83 (1963), and its Progeny, “Clear Legal Duties” Enjoined Upon State Prosecuting Attorneys by United States Constitutional Law Expounded by the United States Supreme Court?

Question 2. Is Mandamus a Proper Remedy to Compel State Prosecutors to Disclose Illegally Suppressed *Brady* Material where a State’s Constitution and Laws Provided the Remedy of Mandamus to Compel Government Officers, Officials, Agents, and Agencies, to Perform Acts Specifically Enjoined upon Them by Law, but Do Not Provide a Specific Remedy to Compel Disclosure of *Brady* Material?

Question 3. Does the fact that two Motions to Compel disclosure of illegally Suppressed *Brady* Material, that have remained pending in the trial court for six years, may someday be finally decided and make available an appeal, constitute an adequate remedy available in the ordinary course of the law sufficient to preclude mandamus to compel a State Prosecutor to disclose *Brady* Material?

Question 4. Does the state’s highest court’s refusal to intervene and refusal to issue a writ of mandamus to compel a State prosecutor to disclose illegally withheld *Brady* Material deprive the Petitioner of a constitutionally guaranteed remedy and Due Process of Law where the state trial court’s six-year refusal to rule on motions to compel disclosure of *Brady* Material renders the remedy of appeal unavailable?

Question 5. Is it a violation of Due Process for the state’s highest court to fail or refuse to issue a writ of mandamus to compel a State prosecutor to disclose illegally suppressed *Brady* material despite the presentation of clear and convincing evidence proving that the state prosecutor illegally suppressed *Brady* material?

List of Parties

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List of all Proceedings Directly Related to the Case in this Court

1. Case Below / Case before the United States Supreme Court: (Appendix 1):

(A) Court: Supreme Court of Ohio; (B) Docket Number: 2026-0330 (citation at 2026 Ohio LEXIS 1164); (C) Caption: *John Wells v. Jane Hanlin, et al., Respondents*; (E) Date of Entry of the Judgment: June 3, 2026.

2. Direct Appeal of February 23, 2015, Resentencing:

(A) Court: Seventh District Court of Appeals, Jefferson County, Ohio; (B) Docket Number: 15 JE 7 (citation at 2016-Ohio-892); (C) Caption: *State of Ohio, Plaintiff Appellee, vs. John Wells, Defendant-Appellant*; (D) Date of Entry of the Judgment: March 4, 2016.

3. Second / Successive Petition, 28 U.S.C. § 2254:

(A) Court: United States District Court, Southern District, Eastern Division Ohio; (B) Docket Number: 2:17-CV-944 (citation at 2017 U.S. Dist. LEXIS 206708); (C) Caption: *John Wells, Petitioner, v. Warden, Belmont Correctional Institution*; (D) Date of Entry of the Judgment: December 15, 2017.

4. Direct Appeal and Remand after Motion for Resentencing:

(A) Court: Seventh District Court of Appeals, Jefferson County, Ohio; (B) Docket Number: 14 JE 5 (citation at 2014-Ohio-5504); (C) Caption: *State of Ohio, Plaintiff-Appellee, vs. John Wells, Defendant-Appellant*; (D) Date of Entry of the Judgment: December 12, 2014.

5. Appeal of State level Habeas Corpus:

(A) Court: Supreme Court of Ohio; (B) Docket Number: 2006-2279 (citation at 113 Ohio St. 3d 308); (C) Caption: *Wells v. Hudson* (Warden); (D) Date of Entry of the Judgment: May 9, 2007.

6. Appeal of State Level Habeas Corpus:

(A) Court: Fifth District Court of Appeals, Richland County, Ohio; (B) Docket Number: 06CA35 (citation at 2006-Ohio-4636); (C) Caption: *State ex rel John Wells v. Margaret Bradshaw*; (D) Date of Entry of the Judgment: August 22, 2006.

7. State Level Habeas Corpus:

(A) Court: Richland County Court Of Common Pleas; (B) Docket Number: 2005-CV-1045D (No citation available); (C) Caption: *Wells v. Bradshaw*; (D) Date of Entry of the Judgment: March 21, 2006.

8. Mandamus:

(A) Court: Supreme Court of Ohio; (B) Docket Number: 2005-0407 (citation at 105 Ohio St. 3d 1541); (C) Caption: *State ex rel. Wells v. Bruzzese*; (D) Date of Entry of the Judgment: May 11, 2005.

9. 28 U.S.C. § 2254 Petition:

(A) Court: United States District Court, Southern District, Eastern Division Ohio; (B) Docket Number: C2-01-628 (citation at 2002 U.S. Dist. LEXIS 29631); (C) Caption: *Wells v. Bagley*; (D) Date of Entry of the Judgment: May 20, 2002 June 28, 2002.

10. Discretionary Appeal of No. 14. Post-Conviction Appeal:

(A) Court: Supreme Court of Ohio; (B) Docket Number: 2000-1411 (citation at 90 Ohio St. 3d 1448); (C) Caption: *State of Ohio, Plaintiff-Appellee, vs. John Wells, Defendant-Appellant*; (D) Date of Entry of the Judgment: October 25, 2000.

11. Discretionary Appeal from No. 15. Direct Appeal:

(A) Court: Ohio Supreme Court; (B) Docket Number: 2000-0843 (citation at 2000 Ohio LEXIS 1901); (C) Caption: *State of Ohio, Plaintiff-Appellee, vs. John Wells, Defendant-Appellant*; (D) Date of Entry of the Judgment: August 2, 2000.

12. Appeal of State Post-Conviction Petition:

(A) Court: Seventh District Court of Appeals, Jefferson County, Ohio; (B) Docket Number: 99-JE-2 (citation at 2000 Ohio App. LEXIS 2780); (C) Caption: *State of Ohio, Plaintiff-Appellee, vs. John Wells, Defendant-Appellant*; (D) Date of Entry of the Judgment: June 21, 2000.

13. Direct Appeal from Trial Court, No. 16:

(A) Court: Seventh District Court of Appeals, Jefferson County, Ohio; (B) Docket Number: 98-JE-3 (citation at 2000 Ohio App. LEXIS 1219); (C) Caption: *State of Ohio, Plaintiff-Appellee, vs. John Wells, Defendant-Appellant*; (D) Date of Entry of the Judgment: March 22, 2000.

14. Trial Court:

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IN THE
UNITED STATES SUPREME COURT

Petition for a Writ of Certiorari

The Petitioner, John Wells, petitions the United States Supreme Court for a Writ of Certiorari to the Supreme Court of Ohio.

Concise Statement of the Basis for Jurisdiction in this Court

Pursuant to 28 USCS § 1257(a), the United States Supreme Court has jurisdiction to review the Judgment of the case below entered June 3, 2026, by the Supreme Court of Ohio in *State ex rel. Wells v. Hanlin, et al.*, Case No. 2026-0330 (Appendix 1; citation at 2026 Ohio LEXIS 1164), which is a decision of the State's court of last resort, and which has decided an important question of federal law that has not been, but should be, settled by this Court, or has decided an important federal question in a way that conflicts with relevant decisions of the United States Supreme Court.

Statutory Provision Conferring Jurisdiction on the United States Supreme Court to Review on a Writ of Certiorari the Judgment or Order in Question

28 USCS § 1257(a):

Final judgments or decrees rendered by the highest court of a State in which a decision could be had, may be reviewed by the Supreme Court by writ of certiorari where the validity of a treaty or statute of the United States is drawn in question or where the validity of a statute of any State is drawn in question on the ground of its being repugnant to the Constitution, treaties, or laws of the United States, or where any title, right, privilege, or immunity is specially set up or claimed under the Constitution or the treaties or statutes of, or any commission held or authority exercised under, the United States.

**Constitutional Provisions, Treaties, Statutes, Ordinances, and Regulations Involved
in the Case**

Ohio Revised Code Section 2969.25(A):

(A) At the time that an inmate commences a civil action or appeal against a government entity or employee, the inmate shall file with the court an affidavit that contains a description of each civil action or appeal of a civil action that the inmate has filed in the previous five years in any state or federal court. The affidavit shall include all of the following for each of those civil actions or appeals:

- (1) A brief description of the nature of the civil action or appeal;
- (2) The case name, case number, and the court in which the civil action or appeal was brought;
- (3) The name of each party to the civil action or appeal;
- (4) The outcome of the civil action or appeal, including whether the court dismissed the civil action or appeal as frivolous or malicious under state or federal law or rule of court, whether the court made an award against the inmate or the inmate's counsel of record for frivolous conduct under section 2323.51 of the Revised Code, another statute, or a rule of court, and, if the court so dismissed the action or appeal or made an award of that nature, the date of the final order affirming the dismissal or award.

Oh. Const. Art. IV, § 2:

§ 2 Organization and jurisdiction of Supreme Court.

(A) The supreme court shall, until otherwise provided by law, consist of seven judges, who shall be known as the chief justice and justices. In case of the absence or disability of the chief justice, the judge having the period of longest total service upon the court shall be the acting chief justice. If any member of the court shall be unable, by reason of illness, disability or disqualification, to hear, consider and decide a cause or causes, the chief justice or the acting chief justice may direct any judge of any court of appeals to sit with the judges of the supreme court in the place and stead of the absent judge. A majority of the supreme court shall be necessary to constitute a quorum or to render a judgment.

(B)

(1) The supreme court shall have original jurisdiction in the following:

- (a) Quo warranto;
- (b) Mandamus;
- (c) Habeas corpus;
- (d) Prohibition;

(e) Procedendo;

(f) In any cause on review as may be necessary to its complete determination;

(g) Admission to the practice of law, the discipline of persons so admitted, and all other matters relating to the practice of law.

(2) The supreme court shall have appellate jurisdiction as follows:

(a) In appeals from the courts of appeals as a matter of right in the following:

(i) Cases originating in the courts of appeals;

(ii) Cases involving questions arising under the constitution of the United States or of this state.

(b) In appeals from the courts of appeals in cases of felony on leave first obtained,

(c) In direct appeals from the courts of common pleas or other courts of record inferior to the court of appeals as a matter of right in cases in which the death penalty has been imposed;

(d) Such revisory jurisdiction of the proceedings of administrative officers or agencies as may be conferred by law;

(e) In cases of public or great general interest, the supreme court may direct any court of appeals to certify its record to the supreme court, and may review and affirm, modify, or reverse the judgment of the court of appeals;

(f) The supreme court shall review and affirm, modify, or reverse the judgment in any case certified by any court of appeals pursuant to section 3(B) (4) of this article.

(3) No law shall be passed or rule made whereby any person shall be prevented from invoking the original jurisdiction of the supreme court.

(C) The decisions in all cases in the supreme court shall be reported, together with the reasons therefor.

**Concise Statement of the Case Setting out the Facts Material to Consideration of
the Questions Presented**

Complaint Below: The State Court decision for which the Petitioner seeks review, in which the Federal Questions sought to be reviewed were raised, resulted from an Original Action in Mandamus in the Ohio Supreme Court, Ohio's Court of last resort, under its original jurisdiction provided by Oh. Const. Art. IV, § 2(B)(1)(b); and was passed upon by the Ohio Supreme Court on June 3, 2026, without any stated reason or opinion (Appendix 1); nor lists any concurring or dissenting Justices. (Citation at *State ex rel. Wells v. Hanlin*, 2026 Ohio LEXIS 1164 (June 3, 2026)).

Although the Ohio Supreme Court's apparent violation of Oh. Const. Art. IV, § 2(B)(1)(b) by passing upon, and dismissing the Complaint below without any stated reason or opinion *is not* an issue sought to be reviewed in this Petition, it is a fact relevant to the manner in which this Petition is set up and argued:

Despite that Ohio Const. Article IV, § 2(C), demands that "[t]he decisions in all cases in the supreme court shall be reported, together with the reasons therefor", the Entry dismissing the Complaint states only "[u]pon consideration of respondent's motion to dismiss ... the motion to dismiss is granted", leaving the Petitioner to *assume* the dismissal was based upon all but one of the reasons (addressed as frivolous in Question Two's argument) provided by the Respondent in her Motion to Dismiss. Thus, the Petitioner has included in his Appendix, the Original Complaint (Appendix 2), Respondent's Motion to Dismiss (Appendix 3), and the Petitioner's Reply in Opposition to the Respondent's Motion to Dismiss (Appendix 4), as reference thereto is necessary to ascertain the grounds of the judgment and because the

petitioner believes these documents essential to understand the petition.

The Original Action in Mandamus, below, relates to the Petitioner's, and two related Criminal cases that began in October, 1997, and sought to compel the Respondents to disclose *Brady* material that was illegally suppressed by the State, and thus, was not available for the Petitioner's use at trial.

While the Petitioner could already prove grievous violations of his United States Constitutional rights based upon other newly discovered evidence, including that the State presented and failed to correct material testimony that the State knew was false, - including false hearsay testimony by a State or County employee, - *if* the trial court would actually rule on motions that have been pending for six years (as more fully explained below), the Petitioner would be able to prove his actual and factual innocence upon obtaining illegally suppressed *Brady* Material, the existence of which the Petitioner discovered from two of the alleged "victims", and several illegally suppressed exculpatory and impeaching witnesses, who contacted the Petitioner and exposed the existence of their material exculpatory and impeaching knowledge, and the existence of material exculpatory and impeaching physical evidence, many years after the Petitioner was illegally convicted and incarcerated.

As the substance of the illegally suppressed *Brady* Material is not at issue in this Petition, and a full description thereof would exceed the page limit, only a basic description is included for context.

A significant amount of *Brady* Material the State obtained after the Petitioner's arrest was illegally suppressed in the Petitioner's (*State v. John Wells*,

Jefferson County, Ohio, Case No. 97-CR-163), and his separately charged codefendant (*State v. Thomas Wells*, Case No. 97-CR-173), cases; then, after the Petitioner had been in jail for about 50 days, the Petitioner's actual accuser and her "friends" were caught committing the crimes she blamed on the Petitioner, and the facts and evidence of that case (*State v. Drema Wells*, 98-CR-5) was suppressed as it proved and verified the Petitioner's statements to investigators and his intended defense. In fact, while Drema Wells was immediately charged with providing alcohol to her minor victim, the State concealed all of the facts, evidence, and witnesses, relating to her felony charge until after the Petitioner had been convicted and was already in prison (98-CR-5), and learned of Drema's arrest through his appellate counsel. It was much later that the Petitioner discovered Drema was arrested with a coconspirator, John Amos, and years later, again, when the Petitioner discovered Amos had been convicted of nearly identical offenses with another of his and Drema's cohorts, James Cochran (*State v. Amos*, Belmont Cty. No. 07 BE 22; 2008-Ohio-7138).

The Petitioner had already managed to uncover and obtain several items of illegally suppressed *Brady* Material, as well as evidence of multiple "*Napue* violations", when, as more fully shown hereinafter, he was contacted two of the alleged "victims", who, without realizing the import of which, exposed the existence of much more *Brady* Material than the Petitioner could have ever imagined existed.

The combined effect of both undisclosed *Brady* material and the evidence that was before the jury as a whole, had the *Brady* material been available for the Petitioner's use at trial, would have been that it would have created a "reasonable

probability" that disclosure of *Brady* material would have changed the outcome. See *Kyles v. Whitley*, 514 U.S. 419, at 437 (1995) (materiality of *Brady* evidence is judged according to the "net effect" of the evidence).

Very concisely, and from the beginning:

In 1997, the Petitioner was falsely convicted by the presentation of false testimony known to the State to have been false, and the suppression of *Brady* Material in the forms of exculpatory and impeaching medical/forensic evidence, witnesses and their testimony, police statements, as well as a post-Grand-Jury-pre-trial recantation of a key witness/alleged "victim" who, when faced with having to repeat his false statements in front of the Petitioner at trial, admitted his allegations were false, that he had been told what to say, and that he had to say it.

Having no knowledge of the medical/forensic evidence, illegally suppressed witnesses, police statements, or recantation, before or during trial, the Petitioner demanded medical examinations and records, which resulted in the State immediately claiming no examinations had been conducted no records existed.

After trial, several newly discovered witnesses informed the Petitioner that examinations had been conducted, resulting in the Petitioner demanding disclosure each time he received a new letter or other information supporting his claims. Each of these efforts resulted in immediate denial by the state that any examinations had been conducted, and a near immediate order by the trial court denying the Motions to Compel Disclosure as his claims were based on hearsay. See online Docket, *State v. John Wells*, Jefferson County Court of Common Pleas, Case No. 97-CR-163.

Over the years following the trial, the Petitioner learned of illegally suppressed witnesses and evidence, received documentation including, *inter alia*, investigation reports and write-ups certified by an assistant State Attorney General that proves the State's Caseworker-witness presented testimony that the State knew was false, and failed to correct; an affidavit of John Amos admitting his involvement with illegal "threesomes" with Drema Wells and minors, and describing how Drema and others conspired to falsely convict the Petitioner; and letters from newly discovered witnesses, Richard Barncord, Karen Wells, etc., disclosing the existence of *Brady* Material, and informing the Petitioner that they wrote undisclosed police reports, etc.

On June 26, 2020, a key witness in the Petitioner's case, the Petitioner's second daughter and alleged "victim", - whom the Petitioner had not seen or heard from since her appearance in his December, 1997, trial, - contacted the Petitioner via JPay® "email" and accidentally* informed the Petitioner of the existence of exculpatory evidence that the State had falsely denied existed since before the Petitioner's trial (*the Petitioner responded to her first email saying he had to wait for her to contact him because, *inter alia*, he was concerned what "professionals" might have told her; to which she errantly assumed meant "doctors", and responded (paraphrasing) "as for professionals, there were lots of examinations by lots of doctors at lots of hospitals." (See Appendix 2, Exhibit 2, pages 4 and 5 [Appx. pages 45-46])).

On July 27, 2020, the Petitioner filed a Motion for an Order Compelling Disclosure of *Brady* Material (Exhibit 1 to Appendix 2), then, a few days later, attached copies of the emails to a document entitled Defendant's Evidence in Support

of His Motion to Compel Disclosure of *Brady* Material (Exhibit 2 to Appendix 2).

In October 2020, after discovering additional illegally suppressed *Brady* Material from the same key witness, the Petitioner filed a new Motion to Compel Disclosure of Illegally Suppressed *Brady* Material (Exhibit 3 to Appendix 2).

In late 2021, the Petitioner was contacted by another of the alleged “victims”, who also verified that she and her siblings had been subjected to medical/forensic examinations as a result of the allegations against the Petitioner.

For context, but not otherwise relevant, in March, 2022, the Petitioner filed a Motion to Amend the Verdicts and Impose Sentence on the Verdicts as Modified.

Unlike previous motions to compel disclosure, the new motions, supported by direct and irrefutable evidence, received no State response, and no disposition.

On May 28, 2025, the Petitioner filed an Affidavit of Disqualification (Appendix 5) alleging the trial court judge should be Disqualified for “undue friendship or bias” as she refuses to rule on the Petitioner’s motions in order to protect her friend, Respondent Prosecutor Jane Hanlin. As a result, Judge Miller ordered the prosecutor to answer the then-five-year-old motions. The Respondent avoided the claims and merits, and responded only that the litigation has gone on too long and should be terminated (Appendix 6).

On June 30, 2025, the Petitioner filed a Motion to Transcribe Grand Jury Proceedings to Prove illegal suppression of a recantation of an alleged victim. Judge Miller quickly ordered the Respondent to respond (Appendix 8). The Respondent quickly responded (Appendix 9), and Judge Miller quickly denied the Motion

(Appendix 10), as well as an Evidentiary Hearing request (Appendix 11).

After the Petitioner's Affidavit of Disqualification was denied without investigation (Appendix 7), Judge Miller realized the Ohio Supreme Court would not intervene and took no further, leaving the now-six-year-old motions undecided. And although decisions on Affidavits of Disqualification with their reasons for dismissal are published in Lexis Nexis®, the decision on the Petitioner's summary and unreasoned dismissal of the Petitioner's Affidavit of Disqualification does not appear in Lexis Nexis®.)

In attempting to help the Petitioner obtain some of the illegally suppressed *Brady* Material, the Petitioner's friend, Clifford Culgan, filed a public records request with the Jefferson County Clerk of Courts (resolved in *State ex rel. Culgan v. Jefferson Cnty. Clerk of Cts.*, 178 Ohio St. 3d 86 (2024), and filed three public records requests with Respondents Prosecutor Jane Hanlin and the Jefferson County Prosecutor's Office, relating to the Petitioner's, the Petitioner's ex-wife's, and the Petitioner's brother's, criminal cases (as all are related). After Mr. Culgan's Public Records Requests were ignored, Mr. Culgan was forced to file a Complaint for Mandamus seeking to compel Prosecutor Hanlin to comply. However, Prosecutor Hanlin avoided judgment in Culgan's favor, and avoided disclosing the records, by claiming the records did not exist. See *State ex rel. Culgan v. Prosecutor Hanlin*, 176 Ohio St. 3d 543 (2024), reconsideration denied 176 Ohio St. 3d 1413 (2024).

As a result of the Ohio Supreme Court dismissing Culgan's Public records Mandamus on the grounds that Prosecutor Hanlin and the Jefferson County

Prosecutor's Office have no duty to provide records that do not exist, Culgan filed three separate Complaints, later merged into a single action, in the Jefferson County Court of Common Pleas alleging illegal destruction of records in the three relevant criminal cases (*State v. John Wells*, Case No. 97-CR-163; *State v. Thomas Wells*, Case No. 97-CR-173; and *State v. Drema Wells*, Case No. 97-CR-5) in *Culgan v. Hanlin*, Jefferson County Court of Common Pleas Case No. 25 CV 00051, disposition at 2025 Ohio Misc. LEXIS 3830 (Ohio C.P. August 29, 2025), Remanded by, Reversed by *Culgan v. Hanlin*, 2026-Ohio-549 (Feb. 18, 2026).

In response to Culgan's claims (*Culgan v. Hanlin*, Case No. 25 CV 00051), at first, Prosecutor Hanlin claimed that no records existed, and that Culgan could not prove the records ever existed; but when Culgan provided copies of letters and affidavits of the newly discovered witnesses, as well the Petitioner's Affidavit, the alleged "victim's" emails speaking of multiple examinations by multiple doctors, etc., Prosecutor Hanlin came back with a claim in an unsworn "Affidavit" declaring

The Jefferson County Prosecutor's Office is in the process of moving its office to a new location. As part of the move, we are relocating records, furniture, supplies, and other material in the office. During this process, we discovered old records that had been placed by a prior Prosecutor in a back room behind a cleaning room. The location of the files was nowhere near the records room where they should have been stored and where records for my office are kept in the normal course of business. The records from the three criminal cases that the Plaintiff previously requested were among the records that were discovered in the back room.

When we received Mr. Culgan's public records requests at issue in this case, we searched in all of the locations that the records would reasonably have been located. We had no reason to believe that any records of my office, including the records requested by Mr. Culgan, were in the back room, or to search in the back room for the records.

The records were provided to my counsel in this matter, and I understand that they have now been provided to Mr. Culgan.

(Hanlin Aff. ¶ 3-5).

Id., *Culgan v. Hanlin*, 2026-Ohio-549 (Jefferson County, February 18, 2026).

Ms. Hanlin also claimed that her affidavit was not notarized because she could not find a notary, despite the fact that she works in an office full of attorneys.

However, having admitted the records in all three cases still exist, not all of the records requested by Culgan were provided to him, as the files provided included only “Filed” stamped court records, without any witness statements, police reports, or other *Brady* Material subject to public disclosure.

Ignoring the *astronomical* odds against Ms. Hanlin truly having discovered records that had been “lost” for about 20 years (despite their use in extensive litigation while they were “lost”) in the very week she stood to lose up to \$30,000.00 in “statutory damages” for illegal destruction or removal of the records, her admission that the records still exist, her alleged timeline, and her 15-year records retention schedule, preclude any possibility that any of the illegally suppressed *Brady* Material could have been destroyed, at least lawfully; and that same admission implicated the Respondents’ continuing duty to disclose the illegally suppressed *Brady* Material to the Petitioner. (As Ohio’s Public records Act contains a prohibition against destruction or removal of any records of which State or Federal law prohibits destruction or removal, in *Culgan v. Hanlin*, Case No. 25 CV 00051, Culgan argued that Federal law precluded destruction or removal of suppressed *Brady* Material.)

As an aside, and for context, while examination of the substance of the illegally

suppressed *Brady* Material is not necessary to answer the Questions Presented for Review, in order to see and appreciate the gravity of the illegal suppression of *Brady* Material, in addition to the evidence presented with the Complaint for Mandamus in the case below, the Supreme Court could access the Grand Jury Minutes Relevant to *State v. John Wells*, Jefferson County, Ohio, Case No. 97-CR-163, to see that the Petitioner's son, John Wells, Jr., testified before the Grand Jury, and that one or more counts were issued based upon his testimony; then compare those records with the trial record to see that the same "key witness" was not presented at trial as either "witness" or alleged "victim", but instead, his alleged "testimony" was "presented" via hearsay testimony by State's witnesses although he was neither incompetent nor unavailable. The State did this because, as disclosed to the Petitioner by two newly discovered witnesses, - including the Petitioner's then-estranged brother, Mark Wells, who had custody of John Wells, Jr., at the time, - after having testified before the Grand Jury then later learning he would be required to repeat his testimony at trial with the Petitioner present, he recanted and admitted that his testimony was false, he had been told what to say, and that he had to say it. The Respondent's suppression of this exculpatory and impeaching information not only resulted in the presentation of material testimony known by the State and the State's witnesses to have been false, but, in order to preserve the indictment, it resulted in the shifting of count(s) from this recanting "witness"/"victim" to one or more other alleged "victim(s)", which was facilitated by the lack of names within the five counts.

On Mar. 23, 2026, based upon the State's continuing duty to disclose the illegally

suppressed *Brady* Material that is separate and distinct from the trial court's duty to issue an order compelling such disclosure, and having no remedy of appeal for Judge Miller's refusal to rule on the Petitioner's motions and want of a final appealable order, the Petitioner filed the underlying Complaint for a writ of mandamus (Appendix 2) seeking to compel Prosecutor Jane Hanlin and the Jefferson County Prosecutor's Office to turn over and disclose the illegally suppressed *Brady* Material.

On April 16, 2026, Prosecutor Hanlin filed her Motion to Dismiss (Appendix 3), alleging, inter alia, that Prosecutors cannot be compelled to disclose illegally suppressed *Brady* material by use of a writ of mandamus.

During all of the litigation and despite *many* opportunities to have done so, Respondent Hanlin has *never* denied that her predecessors and the Respondent Prosecutor's Office illegally suppressed the *Brady* Material; nor, after having confessed to possessing the records from all three relevant cases, has she ever claimed the Respondent Prosecutor's Office does not possess the illegally suppressed *Brady* Material; likely to avoid making provably false statements because the Petitioner has repeatedly proven, by presentation of evidence and by Respondent Hanlin's own admissions to avoid losing Culgan's illegal destruction of records claim (see *Culgan v. Hanlin*, 2026-Ohio-549), that it exists and is in the Respondents' possession. Rather, Respondent Hanlin simply comes up with excuses for not disclosing it.

On June 3, 2026, the Ohio Supreme Court issued its Entry (Appendix 1) dismissing the Petitioner's Complaint without stated Reason.

Argument Amplifying the Reasons Relied on for Allowance of the Writ

The Ohio Supreme Court, a state court of last resort, has decided important federal questions in a way that conflicts with the decision of another state court of last resort or of a United States court of appeals; has decided an important question of federal law that has not been, but should be, settled by this Court; or has decided important federal questions in a way that conflicts with relevant decisions of the United States Supreme Court.

Question 1. Are the Duties Set Out in *Brady v. Maryland*, 373 U.S. 83 (1963), and its Progeny, “Clear Legal Duties” Enjoined Upon State Prosecuting Attorneys by United States Constitutional Law Expounded by the United States Supreme Court?

This Question must be answered in the affirmative:

It is beyond argument that the Respondents are part of the State Executive Branch, and thus, part of the government bound by United States Supreme Court decisions and United States law. While *Brady v. Maryland*, 373 U.S. 83 (1963), does not use the term “duty” in the context of prosecutors, *Brady’s* holdings, - which its progeny expand and define, - set out mandatory clear legal duties to discover and disclose “evidence that is favorable to the defense and material to the defendant’s guilt or punishment” that its progeny expressly state. See, e.g., *Kyles v. Whitley*, 514 U.S. 419, 432 (1995) (“The prosecution’s *affirmative duty* to disclose evidence favorable to a defendant...”)(emphasis added).

The Ohio Supreme Court recognizes *Brady* as enjoining affirmative duties:

In *Brady v. Maryland*, the Supreme Court of the United States recognized that the prosecution has an *affirmative duty* to disclose evidence that is favorable to the accused and material to the

accused's guilt or punishment. 373 U.S. 83, 87, 83 S.Ct. 1194, 10 L.Ed.2d 215 (1963); see also *Kyles v. Whitley*, 514 U.S. 419, 432, 115 S.Ct. 1555, 131 L.Ed.2d 490 (1995). That "*duty* encompasses impeachment evidence as well as exculpatory evidence," *Strickler v. Greene*, 527 U.S. 263, 280, 119 S.Ct. 1936, 144 L.Ed.2d 286 (1999), and "it encompasses evidence 'known only to police investigators and not to the prosecutor,'" *id.* at 280-281, quoting *Kyles* at 438. The *Brady* rule applies regardless of whether evidence is suppressed by the state willfully or inadvertently. *Strickler* at 282.

State v. McNeal, 169 Ohio St. 3d 47, 52 (2022) (emphasis added).

The United States Supreme Court continues to affirm and define those duties:

In *Brady v. Maryland*, 373 U. S. 83, 83 S. Ct. 1194, 10 L. Ed. 2d 215 (1963), this Court held that the government violates the Constitution's Due Process Clause "if it withholds evidence that is favorable to the defense and material to the defendant's guilt or punishment." *Smith v. Cain*, 565 U. S. 73, 75, 132 S. Ct. 627, 181 L. Ed. 2d 571 (2012)

Turner v. United States, 582 U.S. 313, 315 (2017).

Decision of this case requires us to again consider "what might loosely be called the area of constitutionally guaranteed access to evidence." *United States v. Valenzuela-Bernal*, 458 U.S. 858, 867 (1982). In *Brady v. Maryland*, 373 U.S. 83 (1963), we held that "the suppression by the prosecution of evidence favorable to the accused upon request violates due process where the evidence is material either to guilt or to punishment, irrespective of the good faith or bad faith of the prosecution." *Id.*, at 87. In *United States v. Agurs*, 427 U.S. 97 (1976), we held that the prosecution had a *duty* to disclose some evidence of this description even though no requests were made for it...

Arizona v. Youngblood, 488 U.S. 51, 55 (1988) (emphasis added).

The prosecution's affirmative duty to disclose evidence favorable to a defendant can trace its origins to early 20th-century strictures against misrepresentation and is of course most prominently associated with this Court's decision in Brady v. Maryland, 373 U.S. 83, 10 L. Ed. 2d 215, 83 S. Ct. 1194 (1963). See *id.*, at 86 (relying on *Mooney v. Holohan*, 294 U.S. 103, 112, 79 L. Ed. 791, 55 S. Ct. 340 (1935), and *Pyle v. Kansas*, 317 U.S. 213, 215-216, 87

L. Ed. 214, 63 S. Ct. 177 (1942)). *Brady* held "that the suppression by the prosecution of evidence favorable to an accused upon request violates due process where the evidence is material either to guilt or to punishment, irrespective of the good faith or bad faith of the prosecution." 373 U.S. at 87; see *Moore v. Illinois*, 408 U.S. 786, 794-795, 33 L. Ed. 2d 706, 92 S. Ct. 2562 (1972). In *United States v. Agurs*, 427 U.S. 97, 49 L. Ed. 2d 342, 96 S. Ct. 2392 (1976), however, it became clear that *a defendant's failure to request favorable evidence did not leave the Government free of all obligation*. There, the Court distinguished three situations in which a *Brady* claim might arise: first, where previously undisclosed evidence revealed that the prosecution introduced trial testimony that it knew or should have known was perjured, 427 U.S. at 103-104;⁷ second, where the Government failed to accede to a defense request for disclosure of some specific kind of exculpatory evidence, *id.*, at 104-107; and third, where the Government failed to volunteer exculpatory evidence never requested, or requested only in a general way. The Court found a *duty* on the part of the Government even in this last situation, though only when suppression of the evidence would be "of sufficient significance to result in the denial of the defendant's right to a fair trial." *Id.*, at 108.

In the third prominent case on the way to current *Brady* law, *United States v. Bagley*, 473 U.S. 667, 87 L. Ed. 2d 481, 105 S. Ct. 3375 (1985), the Court disavowed any difference between exculpatory and impeachment evidence for *Brady* purposes, and it abandoned the distinction between the second and third *Agurs* circumstances, i.e., the "specific-request" and "general- or no-request" situations. *Bagley* held that regardless of request, favorable evidence is material, and constitutional error results from its suppression by the government, "if there is a reasonable probability that, had the evidence been disclosed to the defense, the result of the proceeding would have been different." 473 U.S. at 682 (opinion of Blackmun, J.); *Id.*, at 685 (White, J., concurring in part and concurring in judgment).

(Footnote seven): The Court noted that "a conviction obtained by the knowing use of perjured testimony is fundamentally unfair, and must be set aside if there is any reasonable likelihood that the false testimony could have affected the judgment of the jury." *Agurs*, 427 U.S. at 103 (footnote omitted). ...

Kyles v. Whitley, 514 U.S. 419, 432-434 (1995) (emphasis added).

Kyles describes the *Brady* Rule as an “inescapable” “affirmative” “constitutional duty”; determined that prosecutors have a duty to learn of and disclose *Brady* material in the possession of investigatory bodies:

Although the *constitutional duty* is triggered by the potential impact of favorable but undisclosed evidence, a showing of materiality does not require demonstration by a preponderance that disclosure of the suppressed evidence would have resulted ultimately in the defendant's acquittal (whether based on the presence of reasonable doubt or acceptance of an explanation for the crime that does not inculcate the defendant). *Id.*, (*Bagley*) at 682.

Id., *Kyles*, at 434 (emphasis added).

This in turn means that *the individual prosecutor has a duty to learn of any favorable evidence known to the others acting on the government's behalf in the case, including the police*. But whether the prosecutor succeeds or fails in meeting this *obligation* (whether, that is, a failure to disclose is in good faith or bad faith; see *Brady*, 373 U.S. at 87), *the prosecution's responsibility for failing to disclose known, favorable evidence rising to a material level of importance is inescapable*.

Id., *Kyles*, at 437-438 (emphasis added). See also, *United States v. Bagley*, 473 U.S. 667, 669 (1985); *United States v. Agurs*, 427 U.S. 97 (1976); *Cf.*, *Imbler v. Pachtman*, 424 U.S. 409 (1976), Footnote 34 (emphasis added):

We do not accept the distinction urged by Mr. Justice White for several reasons. As a matter of principle, we perceive no less an infringement of a defendant's rights by the knowing use of perjured testimony than by the deliberate withholding of exculpatory information. ... Moreover, the distinction is not susceptible of practical application. A claim of using perjured testimony simply may be reframed and asserted as a claim of suppression of the evidence upon which the knowledge of perjury rested. That the two types of claims can thus be viewed is clear from our cases discussing the constitutional prohibitions against both practices. *Mooney v. Holohan*, 294 U.S. 103, 110 (1935); *Alcorta v. Texas*, 355 U.S. 28, 31-32 (1957); *Brady v. Maryland*, 373 U.S. 83, 86 (1963); *Miller v. Pate*, 386 U.S. 1, 4-6 (1967); *Giglio v. United States*, 405

U.S. 150, 151-155 (1972). ...

We further think Mr. Justice White's suggestion, post, at 440 n. 5, that absolute immunity should be accorded only when the prosecutor makes a "full disclosure" of all facts casting doubt upon the State's testimony, *would place upon the prosecutor a duty exceeding the disclosure requirements of Brady and its progeny*, see 373 U.S., at 87; *Moore v. Illinois*, 408 U.S. 786, 795 (1972); cf. *Donnelly v. DeChristoforo*, 416 U.S. 637, 647-648 (1974). ...

The law regarding the *duties* enjoined upon the Respondent by United States Constitution was well established by the United States Supreme Court when the *Brady* Material was Suppressed, and while there may be some duties exposed by United States Supreme Court decisions that may be *as* clear as those set out in *Brady* and its progeny, there are none any clearer.

Therefore, it is undeniable that *Brady v. Maryland*, 373 U.S. 83 (1963), and its progeny disclose the law of the United States, as expounded by the Supreme Court of the United States, and enjoin "inescapable" clear legal duties upon state prosecuting attorneys to discover and disclose to criminal defendants all material "evidence that is favorable to the defense and material to the defendant's guilt or punishment".

Question 2. Is Mandamus a Proper Remedy to Compel State Prosecutors to Disclose Illegally Suppressed *Brady* Material where a State's Constitution and Laws Provided the Remedy of Mandamus to Compel Government Officers, Officials, Agents, and Agencies, to Perform Acts Specifically Enjoined upon Them by Law, but Do Not Provide a Specific Remedy to Compel Disclosure of *Brady* Material?

This Question must also be answered in the affirmative as *Brady* violations are "rights withheld", and for every right withheld, there must be a remedy. See, e.g., United States Supreme Court precedent, including *Marbury v. Madison*, 5 U.S. 137,

2 L. Ed. 60, 1 Cranch 137 (1803).

A claimed *Brady* violation "necessarily implies the invalidity of the underlying conviction." *Hobbs v. Faulkner*, 2020 U.S. App. LEXIS 18163, 2020 WL 12933850, at *2 (6th Cir. June 9, 2020) (quoting *Ruiz v. Hofbauer*, 325 F. App'x 427, 431 (6th Cir. 2009)); see also *United States v. Paulus*, No. 20-6017, 2021 U.S. App. LEXIS 24620, 2021 WL 3620445, at *3 (6th Cir. Aug. 16, 2021) ("The remedy for a *Brady* violation is a new trial.").

Burris v. Kovac, 2024 U.S. Dist. LEXIS 175077 (W.D. Mich. 2024).

But Ohio law requires presentation of the newly discovered *Brady* Material before a motion for new trial can be made, so, first, there must be a remedy for the Petitioner to obtain newly discovered and known illegally suppressed *Brady* Material from the Respondents who work diligently to prevent its disclosure.

Ohio law does not set out a specific remedy though which a criminal defendant may seek to compel post-trial disclosure of illegally suppressed *Brady* Material discovered after the time to appeal has passed; the "remedy available in the ordinary course of the law" that Ohio courts rely on to prohibit Writs of Mandamus is the remedy of appeal, but not can the Petitioner not appeal the Respondents' refusals and failures to perform "clear legal duties" owed the Petitioner as they cannot issue "judgments" or "final appealable orders" as members of the Executive Branch, but the State trial court has *intentionally* blocked (as more fully appears hereinafter) the remedy of appeal and made it unavailable by *intentionally* failing and refusing to rule on Motions to Compel Disclosure of the *Brady* Material at issue.

The Ohio Supreme Court has jurisdiction to pass upon the Federal issues raised in the case below, though Federal law governs:

Litigants asserting federal rights as the basis of a claim (*Testa v.*

Katt, 330 U.S. 386) or as a defense to a claim under state law (*Miles v. Illinois Central R. Co.*, 315 U.S. 698) may do so in state courts which *must recognize and protect the federal rights*. Chief Justice White stated it as the "duty resting upon" state and federal courts "to protect and enforce rights lawfully created, without reference to the particular government from whose exercise of lawful power the right arose." *Minneapolis & St. Louis R. Co. v. Bombolis*, 241 U.S. 211, 223. Litigants, resting on a federal right, need not resort to federal courts to protect those rights where those rights are put in jeopardy in state proceedings.

Mills v. Louisiana, 360 U.S. 230, 237-238 (1959) (emphasis added);

State courts have jurisdiction over federal causes of action not because it is "conferred" upon them by the Congress; nor even because their inherent powers permit them to entertain transitory causes of action arising under the laws of foreign sovereigns, see, e. g., *McKenna v. Fisk*, 1 How. 241, 247-249 (1843); but because "the laws of the United States are laws in the several States, and just as much binding on the citizens and courts thereof as the State laws are. . . . The two together form one system of jurisprudence, which constitutes the law of the land for the State; and the courts of the two jurisdictions are not foreign to each other" *Claflin v. Houseman*, 93 U.S. 130, 136-137 (1876); see also *Minneapolis & St. Louis R. Co. v. Bombolis*, 241 U.S. 211, 221-223 (1916).

Id., *Tafflin*, at 469-470;

Although we conclude that state courts have jurisdiction in this type of case, we hold that federal law governs, that the governing federal standards were not applied here, and that the judgment of the Supreme Court of Missouri must accordingly be reversed.

Vaca v. Sipes, 386 U.S. 171, 174 (1967); and *Tafflin v. Levitt*, 493 U.S. 455, 458 (1990)

("[W]e have consistently held that state courts have inherent authority, and are thus presumptively competent, to adjudicate claims arising under the laws of the United States.").

Additionally, there is no Federal remedy without first accessing State Courts:

...a federal court may not issue a writ of mandamus to compel action by a state court or state official. See generally *In re Grand*

Jury Proceedings, 654 F.2d 268, 278 (3d Cir. 1981) (a federal court "ordinarily may not issue a writ of mandamus to compel a state court to exercise a jurisdiction entrusted to it, nor may a federal court (with the exception of the Supreme Court) review a decision of a state tribunal through a writ of certiorari"); *In re Wolenski*, 324 F.2d 309, 309 (3d Cir. 1963) (per curiam) (explaining that a district court lacked jurisdiction "to issue a writ of mandamus compelling action by a state official").

In re Marchisotto, 814 Fed. Appx. 725, 726 (3d Cir. N.J., 2020). See also, *Coe v. Coe*, 2025 U.S. App. LEXIS 25518 (5th Cir. Tex., 2025).

Citing only State law cases, the Respondents' Motion to Dismiss alleged that the Petitioner's claim fails on the merits (Appendix 3, at 6). But not only does United States Supreme Court precedent show the Petitioner's claims are meritorious, the Respondents' cited authority *are not even close to relating to the Petitioner's claims*.

For example, claiming numerous similar actions had been dismissed because those relator's lacked a right to relief, the Respondents cited *State ex rel. Flagner v. Arko*, 1998 Ohio App. LEXIS 380 (8th Dist.). However, not only was Arko a *detective* not subject to the duties enjoined on the Respondent by the *Brady* rule, but Flagner's claim was based upon a newspaper article that mentioned *possible* exculpatory evidence not used at trial, which the court held was an insufficient basis upon which to rest a claim for mandamus because it was *hearsay* of the remotest character and could not be accepted as evidence, where the Petitioner's claim is against State prosecutors supported by direct statements and affidavits from newly discovered witnesses. Conversely, the *Brady* rule shows the Petitioner is entitled to relief.

The Respondent also cited *Winn v. State*, 2016-Ohio-3180 (8th Dist.), to suggest the Petitioner is not entitled to post-trial "discovery" because the right to discovery

ends with the criminal trial and the remedy for such is appeal.

Indeed, State law decisions plainly prohibit “*discovery*” after trial, in civil post-conviction cases, and writs of mandamus to “compel the general observance of unspecified laws”. See, e.g., *State ex rel. Harrison v. McGinty*, 2016-Ohio-946, ¶3 (8th Dist.) (“...not entitled to the discovery material pursuant to Crim.R. 16 because his criminal trial concluded approximately five years ago.”); *State v. Twyford*, 2001 Ohio App. LEXIS 1443, [*16] (7th Dist., Jefferson County 2001), citing *State ex rel. Love v. Cuyahoga County Prosecutor's Office*, 87 Ohio St. 3d 158, 158-159 (1999) (“...discovery between the state and a defendant can take place only when a criminal case is pending for trial” and “A writ of mandamus will not be issued to compel the general observance of unspecified laws.”).

However, not only did the Petitioner not seek post-trial “discovery” under State discovery rules, but he also did not seek to “compel the general observance of unspecified laws”, or “civil discovery in postconviction proceedings”, but specifically sought to compel compliance with the *Brady* rule by performance of clear legal duties imposed by the very specific law of *Brady* and its progeny, i.e., to disclose illegally suppressed *Brady* Material under United States Supreme Court law.

The case below shows plainly upon its face that the Petitioner made his claim under *Brady* and its progeny, not under any State law or rule, specifically demanded disclosure of illegally suppressed *Brady* Material, and specifically proved the evidence was suppressed then discovered *years after trial*, which is a proper claim because the United States Supreme Court stated in *United States v. Agurs*, 427 U.S.

97, 103 (1976), that the *Brady* rule applies *only* in situations “involve(ing) the discovery, *after trial*, of information which had been known to the prosecution but unknown to the defense.” (Emphasis added.)

While there are statutes and rules in Ohio which provide remedies to challenge convictions obtained by the illegal suppression of *Brady* Material which are available *after* defendants obtain the illegally suppressed of *Brady* Material, there are no statutes or rules of procedure that provide a remedy to enable Ohio criminal defendants to obtain illegally suppressed *Brady* Material from State prosecutors after the trial and appeal have ended; and the Ohio Supreme Court has specifically held that discovery cannot be had as part of a postconviction proceedings:

Had the Respondent’s claim that prosecutors cannot be compelled by mandamus been correct, *Love* almost certainly would have stated so, but did not; and, in fact, no case does. Moreover, the lack of a statutory or rules-based remedy to compel post-trial disclosure of illegally suppressed *Brady* material would unconstitutionally leave the Petitioner without a remedy, while requiring any remedy to be exercised before or during trial would be a legal oxymoron, as *Brady* violations occur only after trial, and most often cannot be discovered until after appeal.

The Respondents also claimed

Respondents are not aware of any Ohio case in which a court granted a writ of mandamus for a prosecutor to turn over purported exculpatory evidence, much less a writ of mandamus to turn over evidence over 25 years after a conviction followed by multiple appeals and habeas petitions.

Id., Appendix 3, at 7.

Not only is being unaware of any case law granting mandamus to compel

disclosure of *Brady* Material *not* a valid defense, but the lack of case law is likely because most claims have been resolved by appeals such as the *potential* appeal that has been *blocked* by Judge Miller's refusal to rule on the Petitioner's motions. It is just as likely that the Respondents are not aware of any other case where a defendant repeatedly proved illegal suppression of *Brady* Material, but was denied the ability to appeal by a trial judge who has intentionally deprived a criminal defendant of due process and access to courts to protect her Prosecutor-friend.

For academic purposes, the Complaint could not have been dismissed on the Respondents' final "reason" because R.C. 2969.25(A) (verbatim, *supra*, at 2), which requires incarcerated litigants in certain civil actions to file an affidavit declaring certain information, does not apply to original actions in the Ohio Supreme Court:

We have held that R.C. 2969.25 is inapplicable to original actions filed in this court. See, e.g., *State ex rel. McDougald v. Greene*, 155 Ohio St.3d 216, 2018-Ohio-4200, 120 N.E.3d 779, ¶ 8-10. The requirements of R.C. 2969.25 apply only to "a civil action or appeal against a government entity or employee," R.C. 2969.25(A). The statutory definition of that phrase does not include original actions filed in this court. See R.C. 2969.21(B)(1)(a) and (b). Indeed, R.C. 2969.21(B)(2) expressly excludes original actions filed in this court from the scope of R.C. 2969.25.

Original actions filed in this court are governed by the Supreme Court Rules of Practice. Those rules impose no special filing requirements on inmates seeking writs of mandamus.

The motions to dismiss are premised entirely upon Evans's noncompliance with R.C. 2969.25. Because that statute does not apply, we deny the motions to dismiss.

State ex rel. Evans v. Tieman, 157 Ohio St. 3d 99, 100-101 (2019).

Thus, the Respondents' reliance upon that irrelevant claim was misplaced, was entirely frivolous, and could not have formed the reasons for dismissal.

A remedy to compel disclosure of illegally suppressed *Brady* Material cannot be limited to time limits or appeals because, without special inside help, or a crystal ball, illegally suppressed *Brady* Material most often remains unknown to defendants, or unprovable, if known, and is often discovered by accident years after conviction.

Not only are there no Ohio statutes or Rules of Procedure that provide a specific post-trial remedy to enable Ohio criminal defendants to obtain illegally suppressed *Brady* Material from prosecutors, but there are also no laws or rules that limit defendants to seeking disclosure of illegally suppressed *Brady* Material by a specific remedy, or by motions filed in the trial courts; nor are there any laws or rules that precluded defendants from filing Complaints for Writs of Mandamus directly against prosecuting attorneys where there is no remedy of appeal because the claim arises as a result of a decision of an officer or office of the Executive Branch, or an appeal is made unavailable by a trial court's failure of refusal to issue a final appealable order upon which the Courts of Appeals' subject matter jurisdiction which is. See, e.g., *Smith v. Chen*, 142 Ohio St. 3d 411 (2015) (Without a final, appealable order, the court of appeals lacked subject-matter jurisdiction ...").

In fact, as motion judgments are not always final appealable orders, Ohio law base availability of Mandamus on availability, not on the ability to file motions:

Daniels is not entitled to a writ of mandamus or procedendo, because he had an adequate remedy in the ordinary course of the law in the form of a direct appeal from Judge Russo's April 2016 entry denying Daniels's motion for a new sentencing entry. The question whether the denial of a motion for a revised sentencing entry is appealable depends on whether the denial is a "final order." "The final-order requirement comes from the Ohio Constitution, which provides that courts of appeals 'shall have such

jurisdiction as may be provided by law' to review 'final orders' rendered by inferior courts." *In re D.H.*, 152 Ohio St.3d 310, 2018-Ohio-17, 95 N.E.3d 389, ¶ 5, quoting Ohio Constitution, Article IV, Section 3(B)(2).

Jurisdiction is "provided by law" primarily through two statutes. *Id.* R.C. 2501.02 provides that courts of appeals have jurisdiction "upon an appeal upon questions of law to review, affirm, modify, set aside, or reverse judgments or final orders of courts of record inferior to the court of appeals within the district." And R.C. 2505.02 identifies seven types of final orders, including an order that "affects a substantial right in an action that in effect determines the action and prevents a judgment," R.C. 2505.02(B)(1).

A "substantial right" is a right "that the United States Constitution, the Ohio Constitution, a statute, the common law, or a rule of procedure entitles a person to enforce or protect." R.C. 2505.02(A)(1). We conclude that Daniels has a substantial right to a judgment of conviction that satisfies the requirements of Crim.R. 32; we further conclude that Judge Russo's denial of Daniels's motion for a new sentencing entry affected that substantial right. If we were to conclude otherwise, then Daniels would have no ability to challenge his convictions, either on appeal or by seeking a writ of mandamus or procedendo (which requires the relator to demonstrate a clear legal right to the relief requested).

It is also clear to us that Judge Russo's denial of Daniels's motion for a new sentencing entry "in effect determine[d] the action and prevent[ed] a judgment." As we recently observed, the question under R.C. 2505.02(B)(1) is whether the "entire" action has been determined. *In re D.H.*, 152 Ohio St.3d 310, 2018-Ohio-17, 95 N.E.3d 389, at ¶ 14. At the time Judge Russo denied Daniels's motion for a new sentencing entry, all questions of guilt, innocence, and sentencing in the case had already been resolved, and Judge Russo's entry disposed of the only issue that remained for the trial court to resolve. Therefore, because Daniels could have appealed the denial of his motion, he cannot satisfy the elements necessary for relief in mandamus or procedendo.

State ex rel. Daniels v. Russo, 156 Ohio St. 3d 143, 145-146 (2018).

Thus, as no appeal is available for the trial court's refusal to rule on the Petitioner's motions to compel disclosure, and because the Respondent is a different,

i.e., Executive, entity that the trial court, the only remedy, is mandamus.

The Respondents asserted that Respondent Jefferson County Prosecutor's Office is *sui non juris*, and thus, cannot be sued. (Appendix 3, at ____). (Although no such claim was made directly relating to Respondent Jane Hanlin, the Ohio Supreme Court's failure to provide written reasons requires the Petitioner to presume that the dismissal of all claims relating to both respondents was based upon all reasons proffered in the Respondents' Motion to Dismiss.) However, this rule applies only to suits seeking monetary damages, not actions seeking to invoke the supervisory powers of a court to compel the Respondents to perform clear legal duties enjoined upon them by well settled United States Supreme Court decisions. See, e.g., *Titan Logistics Grp. LLC v. Tischler*, 2026 U.S. Dist. LEXIS 132362 (N.D. Ohio, 2026):

The Eleventh Amendment generally prohibits a plaintiff from suing a prosecutor's office for monetary damages. See, e.g., *Simmons v. Sigler*, No. 2:19-CV-4108, 2020 U.S. Dist. LEXIS 88702, 2020 WL 2557051, at *3 (S.D. Ohio May 20, 2020) (citing cases). But "[a]n action seeking to enjoin enforcement of an allegedly unconstitutional statute through a suit against state officials charged with its enforcement is not barred by the Eleventh Amendment." *McNeilus Truck & Mfg., Inc. v. Ohio ex rel. Montgomery*, 226 F.3d 429, 437 (6th Cir. 2000) (citing *Ex parte Young*, 209 U.S. 123, 28 S. Ct. 441, 52 L. Ed. 714 (1908) and *Zielasko v. State of Ohio*, 873 F.2d 957 (6th Cir. 1989)). And county and municipal prosecutors are properly named as defendants in a lawsuit like this one because they are tasked with enforcing state law. *McNeilus*, 266 F.3d at 437 (citation omitted).

See also, *Ex parte Young*, 209 U.S. 123, 157 (1908); *Cf.*, *McNeilus Truck & Mfg., Inc. v. State ex rel. Montgomery*, 226 F.3d 429, 437 (6th Cir. Ohio, 2000) (refusing to dismiss Ohio's Attorney General and county prosecutors from the case pursuant to the *Ex parte Young* doctrine regarding enforcement of laws); *Cf.*, *Zielasko*

v. State of Ohio, 873 F.2d 957 (6th Cir. 1989) (Where there is an imminent threat of enforcement, the Attorney General and all county attorneys are proper defendants) *Cf. Titan Logistics Grp. LLC v. Tischler*, 2026 U.S. Dist. LEXIS 132362, [*5] (N.D. Ohio June 15, 2026).

It would be a legal absurdity to hold that State Prosecutors have a clear legal duty under *Brady* and its progeny, or any United States Supreme Court decision that enjoins clear legal duties upon State Prosecutors, then hold that State courts lack the power, jurisdiction and authority to compel State Prosecutors to perform them.

Thus, it is apparent that where a state has within its Constitution and laws set up the remedy of mandamus to compel government officers, officials, agents, and agencies, to perform acts specifically enjoined upon them by law of the State and United States, mandamus is a proper remedy to compel State prosecutors to disclose illegally suppressed *Brady* material. Otherwise, where a state trial court fails of refuses to rule on a Motion to Compel Disclosure, as the trial courts has in this case for *six years*, defendants would be left without a remedy to compel State Prosecutors to perform clear legal duties enjoined by United States Supreme Court precedent.

Question 3. Does the Fact that Two Motions to Compel Disclosure of Illegally Suppressed *Brady* Material May *Someday* be Finally Decided and Make Available an Appeal, After Having Remained Pending in the Trial Court for Six Years, Constitute an Adequate Remedy Available in the Ordinary Course of the Law Sufficient to Preclude Mandamus to Compel a State Prosecutor to Disclose *Brady* Material?

This Question must be answered in the negative.

For context, - as it forms no part of the claims herein or below, - as shown in the Concise Statement of the Case Setting out the Facts Material to Consideration of the Questions Presented, herein, and the argument in support of Question 4, in July and October, 2020, the Petitioner filed two separate Motions to Compel Disclosure of Illegally Suppressed *Brady* Material (Exh. 1 & 3, Appx. 2), and “Evidence in Support ...” thereof (Exh. 2, Appx. 2); the first of which outlined the facts and manner in which the Petitioner was contacted by one of three alleged “victims”, who informed him, in writing, of the existence of exculpatory and impeaching evidence that the Petitioner repeatedly requested prior to, and after, trial, and which the State repeatedly denied existed; and the second of which outlined additional *Brady* Material withheld by the State that the Petitioner had no knowledge of its existence until after July, 2020, as well as descriptions of other illegally suppressed *Brady* Material revealed to him after trial by other newly discovered witnesses had. See Exhibits to Appendix 2.

Not only has the State trial court purposely prevented appeal for *six years* by refusing to rule on the Petitioner’s two Motions to Compel disclosure of illegally Suppressed *Brady* Material, but the record shows that the motions were not simply forgotten by the trial court, who, in 2025, ordered (Appendix 6) the Respondent to reply to the motions after the Petitioner filed an Affidavit of disqualification (Appendix 5), but then allowed the motions to return to eternal hibernation as soon as Judge Miller realized the Ohio Supreme Court would not intervene.

[S]uch delay reflects, on the part of the state, a cannibalistic appetite for the constitutionally protected time and individual freedoms of other persons. The representatives of the state should be the guardians of the constitutional rights of all persons. *Justice*

delayed is justice denied.

State v. Meeker, 26 Ohio St. 2d 9 (1971) (emphasis added).

See also, *Johnson v. Jones*, 515 U.S. 304 (1995) (relating, in part, to “the danger of denying justice by delay”.); *Price v. Dunn*, 587 U.S. 999, 1008 (2019), Justice Thomas, with whom Justice Alito and Justice Gorsuch joined, concurring in the denial of certiorari (“...injustice, in the form of justice delayed...”); *State v. Philpotts*, 170 Ohio St. 3d 189, 191 (2022), Justice Donnelly dissenting (“Justice delayed is justice denied.”); *Volodkevich v. Volodkevich*, 36 Ohio St. 3d 612 (1988), Justice Douglas concurring in part, dissenting in part (“... justice delayed is justice denied.”).

A *potential* appeal that the Petitioner has had to wait six years, but still cannot access, is neither “available”, nor “adequate”: the action below could not have been replaced by an appeal because there is no “final appealable order” due to the trial court’s six-year refusal to rule on the Petitioner’s motions, and because the action below was against Prosecutor Jane Hanlin and the Prosecutor’s Office, whose decisions, failures and refusals to perform clear legal duties are not subject to appeal because members of the Executive Branch cannot issue “judgments or final orders” necessary to form an Ohio Appellate Court’s subject matter jurisdiction.

We therefore cannot reach the merits of this appeal. ... Without a final, appealable order, the court of appeals lacked subject-matter jurisdiction over the appeal, *CitiMortgage, Inc. v. Roznowski*, 139 Ohio St.3d 299, 2014-Ohio-1984, 11 N.E.3d 1140, ¶ 10, and we therefore lack jurisdiction over the merits of the discovery order.

Smith v. Chen, 142 Ohio St. 3d 411, 412 (2015).

A fortiori, if State courts could hide behind the mere *possibility* of an appeal becoming available sometime in the unforeseeable future, - based upon the *unlikely*

resolution of motions that have been pending six years before a court to preclude a writ of mandamus against a different entity who exists in an entirely different branch of the government, - not only would due process be satisfied by the mere codification of a “remedy” otherwise rendered unavailable by the trial court’s failure and refusal to act upon it, but State courts could bypass United States Supreme Court constitutional mandates by restricting State defendants to a “remedy” that may be deprived by the state court’s failure and refusal to render judgment on the remedy. After all, as long as there is no judgment, there can be no appeal, and the misconduct of the Respondent-Prosecutor - the trial court judge’s best friend - will never be exposed or corrected where the State’s highest court refuses to intervene.

If Question 3 answer is answered in the affirmative, or not answered at all, all State trial courts would have to do to prevent review of any issue, including important Federal Questions as in this case, would be to refuse to enter a final appealable order.

The refusal to act on “jurisdiction that is given” was addressed in the early days of the United States Supreme Court:

It is most true that this Court will not take jurisdiction if it should not: but it is equally true, that it must take jurisdiction if it should. The judiciary cannot, as the legislature may, avoid a measure because it approaches the confines of the constitution. We cannot pass it by because it is doubtful. With whatever doubts, with whatever difficulties, a case may be attended, we must decide it, if it be brought before us. We have no more right to decline the exercise of jurisdiction which is given, than to usurp that which is not given. The one or the other would be treason to the constitution. Questions may occur which we would gladly avoid; but we cannot avoid them. All we can do is, to exercise our best judgment, and conscientiously to perform our duty.

Cohens v. Virginia, 19 U.S. 264, 404 (1821).

Four score and seven years later, *Ex parte Young*, 209 U.S. 123, 143 (1908), *supra* at 21, quoted, and thus reaffirmed, *Cohens v. Virginia*, 19 U.S. 264, 404 (1821).

The State trial court judge has refused to exercise “jurisdiction which is given”, refused to rule on several motions, has deprived the Petitioner of Due Process of law guaranteed by the United States Constitution; and has thereby disregarded and violated her Constitutional Oath of Office.

That not being the question, but the catalyst that raises the question which can be summed up to whether a State prosecutor can avoid the clear legal duties, i.e., constitutional mandates, spelled out by the United States Supreme Court in its precedential constitutional decisions, by claiming an adequate remedy in the ordinary course of the law despite the fact that the State trial judge, who just happens to be a close personal friend of the State Prosecutor, has blocked that remedy to protect her friend, rendering the “remedy” entirely useless and unavailable?

Most of the reasons the remedy of appeal is unavailable is merely contextual and academic because the remedy that precludes mandamus is the appeal itself, not the motion to be appealed, and without a judgment on the motion, there simply can be no remedy of appeal available in the ordinary(?) course of the law. What part of a trial court refusing to rule on motions for any number of years, and thereby preventing appeal, is “in the ordinary course of the law” where justice is supposed to be “swift” as stated in *Barker v. Wingo*, 407 U.S. 514, 521 (1972).

Thus, where a court refuses to rule on motions, or render judgment on any pleading or matter, there is no remedy of appeal available in the ordinary course of

the law for want of a final appealable order, and the Ohio Supreme Court deprived the Petitioner of his constitutional rights to due process of law, access to courts, and to remedy, by failing or refusing to issue a writ of mandamus compelling the Respondent to perform the clear legal duty identified and enjoined upon the Respondent by the United States Supreme Court in *Brady v. Maryland*, 373 U.S. 83 (1963), and its progeny.

Question 4. Does the state's highest court's refusal to intervene and refusal to issue a writ of mandamus to compel a State prosecutor to disclose illegally withheld *Brady* Material deprive the Petitioner of a constitutionally guaranteed remedy and Due Process of Law?

This Question must also be answered in the affirmative.

As shown above in the Concise Statement of the Case Setting out the Facts Material to Consideration of the Questions Presented, herein, and the argument in support of Question 3, the Respondents Prosecutor and Prosecutor's Office refuse to disclose illegally suppressed *Brady* Material and, for six years; the state trial court has blocked the remedy of appeal by refusing to rule on the Petitioner's six-year-old motions to compel disclosure (Appendix 2, Exh. 1 & 3) rendering the remedy of appeal unavailable for want of final appealable order; and the trial court's refusal to finally determine the motions is not simple forgetfulness, as proven by Petitioner 2025 Affidavit of Disqualification (Appendix 5) that prompted the trial court to order the Respondents to answer the then-five-year-old motions before the trial court allowed the motions going back "on the shelf", when the Ohio Supreme Court (Appendix 7)

refused to intervene. Thus, the Petitioner's only remedy is by Mandamus.

On March 23, 2026, the lack of remedy caused by the trial court judge's intentional deprivation of the Petitioner's rights to Due Process and Access to Courts compelled the Petitioner to file a Complaint for a Writ of Mandamus (Appendix 2), - directly against the Respondents based upon the Respondents' clear legal duty owed to the Petitioner as defined by *Brady* and its progeny, - which the Ohio Supreme Court dismissed on June 3, 2026 (Appendix 1), creating a complete deprivation of the Petitioner's rights to Due Process, Access to Courts, and Remedy.

The very essence of civil liberty certainly consists in the right of every individual to claim the protection of the laws, whenever he receives an injury. One of the first duties of government is to afford that protection.

In the 3d vol. of his commentaries, p. 23, Blackstone states two cases in which a remedy is afforded by mere operation of law.

"In all other cases," he says, "it is a general and indisputable rule, that where there is a legal right, there is also a legal remedy by suit or action at law, whenever that right is invaded."

And afterwards, p. 109, of the same vol. he says, "I am next to consider such injuries as are cognizable by the courts of the common law. And herein I shall for the present only remark, that all possible injuries whatsoever, that did not fall within the exclusive cognizance of either the ecclesiastical, military, or maritime tribunals, are for that very reason, within the cognizance of the common law courts of justice; for It is a settled and invariable principle in the laws of England, that every right, when withheld, must have a remedy, and every injury its proper redress."

The government of the United States has been emphatically termed a government of laws, and not of men. It will certainly cease to deserve this high appellation, if the laws furnish no remedy for the violation of a vested legal right.

Marbury v. Madison, 5 U.S. 137, 163, 2 L. Ed. 60, 69.

The Petitioner's Due Process, right to a full and fair trial, and jury trial rights, have been withheld by the State prosecuting attorney having illegally suppressed exculpatory and impeaching evidence and witness testimony to prevent the Petitioner from using it at trial; and the Petitioner's Due Process right to post-trial disclosure of *Brady* Material has been withheld by the State prosecuting attorney, thus, the Petitioner has the right of remedy to correct those deprivations.

Further, the Petitioner's right to remedy in the State trial court has been withheld by the State trial judge who has failed and refused to rule on his motions to compel disclosure of the illegally suppressed *Brady* Material *for six years*, thereby blocking the remedy of appeal by withholding a judgment or final appealable order.

Nonetheless, the Petitioner still has the right to a remedy that compels the State prosecutor to disclose the illegally suppressed *Brady* Material; a clear legal duty owed *directly* to the Petitioner by the Respondents which exists separately and independently from any duty owed to the Petitioner by the trial court and trial judge.

The same as *Marbury* shows that mandamus is the proper remedy to compel a Secretary of State to deliver a commission to which the party was entitled, mandamus is proper to compel a state prosecutor to disclose *Brady* Material to which the Petitioner is entitled when there is no adequate remedy in the ordinary course of the law for want of a final appealable order.

Question 5. It is it a violation of Due Process for the state's highest court to fail or refuse to issue a writ of mandamus to compel a State prosecutor to disclose illegally suppressed *Brady* material despite the presentation of clear and convincing evidence

proving that the state prosecutor illegally suppressed *Brady* material?

This Question must also be answered in the affirmative, as allowing the rights implicated by *Brady* and its progeny to exist without remedy would be to declare *Brady* and its progeny illusory.

It is well-settled that State courts have jurisdiction to pass on Federal issues, and the United States Supreme Court will generally refused to decide federal constitutional issues raised without having first been presented to the state court. See, e.g., *Cardinale v. Louisiana*, 394 U.S. 437, 438 (1969):

It is also well settled that the Supremacy Clause binds State courts to decisions of the United States Supreme Court regarding United States constitutional law. See, e.g., *Cooper v. Aaron* (1958), 358 U.S. 1; *Elmendorf v. Taylor* (1825), 23 U.S. (10 Wheat.) 152; *Martin v. Hunter's Lessee* (1816), 14 U.S. (1 Wheat.) 304. See also *State v. Burnett*, 93 Ohio St. 3d 419 (2001) ("It has long been settled that the Supremacy Clause binds state courts to decisions of the United States Supreme Court on questions of federal statutory and constitutional law.")

See also, *Ableman v. Booth*, 62 U.S. 506, 517 (1859):

The language of the Constitution, by which this power is granted, is too plain to admit of doubt or to need comment. It declares that "this Constitution, and the laws of the United States which shall be passed in pursuance thereof, and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land, and the judges in every State shall be bound thereby, anything in the Constitution or laws of any State to the Contrary notwithstanding."

But the supremacy thus conferred on this Government could not peacefully be maintained, unless it was clothed with judicial power, equally paramount in authority to carry it into execution...

Thus, it is manifest that State courts, when passing on important federal questions, must do so in a manner that respects and complies with constitutional law as expounded by United States Supreme Court decisions; and, therefore, must consider the duties enjoined on State prosecutors by *Brady*, and its progeny, to be mandatory clear legal duties which State prosecutors enjoy no discretion to fail or refuse to perform, and thus, must issue Writs of Mandamus to compel State prosecutors to perform the clear legal duties imposed upon them by *Brady*, and its progeny, when a criminal defendant files a Complaint for a Writ of Mandamus presenting evidence proving the State suppressed *Brady* Material.

The United States Supreme Court determined that a decision of a state court refusing a petition for a writ of mandamus, in which “the plaintiff in error claimed and set up a right under the Constitution of the United States, and the decision of the Supreme Court of the State was tantamount to the denial of that right, there is a Federal question”, and is, therefore, reviewable in the Supreme Court of the United States. *Detroit, F. W. & B. I. Railway v. Osborn*, 189 U.S. 383 (1903), Syllabus 1.

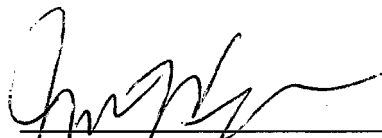
Conclusion

The Ohio Supreme Court has refused to compel the Respondent to comply with her clear legal duty under *Brady v. Maryland* and its progeny, and has refused to disqualify the trial court judge despite the Petitioner having proved the Judge has refused to determine his Motions to Compel Disclosure for what is now six years, thereby preventing appeal and Due Process. The Petitioner’s only hope to break through the judicial wall erected by the trial court’s refusal and failure to rule on the

six-year-old motions, and cemented by the Ohio Supreme Court's refusal to intervene, is either a future election of a new trial court judge and Prosecutor who will not evade their Constitutional duties and Oaths of Office, or the United States Supreme Court chooses to intervene, grant Certiorari, reverse the judgment of the Ohio Supreme Court in the case below, and render a decision that sets the law of the land regarding State defendants' rights to compel State prosecutors to disclose illegally suppressed Brady material, and sets a remedy where the State Courts refuse to provide one.

For the foregoing reasons, the United States Supreme Court should accept jurisdiction and issue a decision declaring the law of the land, that, because for every right withheld there must be a remedy, where a criminal defendant lacks a remedy to enforce illegally suppressed *Brady* Material, for whatever reasons, be it the lack of statute or rule providing a remedy, or a court's incomprehensible act of blocking appeal by refusing to render judgment and final appealable order on motions to compel disclosure, a complaint for a writ of mandamus is a proper and valid remedy which may be accessed by the injured party to compel a prosecuting attorney's, and the Prosecutor's Office, to comply with the Brady Rule, and disclose illegally suppressed *Brady* Material.

Respectfully submitted,



John Wells – Petitioner