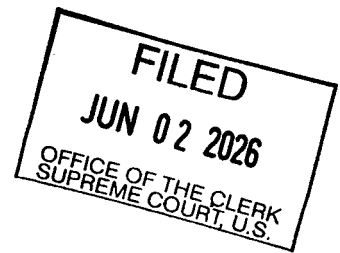


No. 26 - 5534



IN THE
SUPREME COURT OF THE UNITED STATES

BRUCE WOOD (PRO SE) — PETITIONER

VS.

STATE OF DELAWARE — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO
THE DELAWARE SUPREME COURT

PETITION FOR WRIT OF CERTIORARI

BRUCE WOOD

1181 PADDOCK ROAD

SMYRNA, DE 19977

N/A - JAMES T. VAUGHN CORRECTIONAL CENTER

QUESTIONS PRESENTED

1. Did the Delaware state courts exceed their legislative authorization under the Multiplicity Doctrine of the Double Jeopardy Clauses of the Fifth Amendment, by imposing multiple punishments for the same offense in Petitioner's single trial?
2. When Delaware's state laws and state court decisions are intertwined with the *Blockburger* test and other federal holdings for the Double Jeopardy analysis, was the Delaware Supreme Court's application of the *Blockburger* test incorrect, ambiguous and/or taken out of context, enabling Petitioner to remain imprisoned illegally in violation of the Double Jeopardy Clauses of the Fifth Amendment?
3. Are the Delaware state laws prejudicial and/or unconstitutional for the Continuous Sexual Abuse of a Child under Del. Code Title 11 § 778 and Rape in the First Degree under Del. Code Title 11 § 773(b), because the language of these statutes and legislative intent enabled Petitioner to be denied relief by the Delaware Supreme Court, in conflict with the *Blockburger* test, other federal holdings and the Multiplicity Doctrine of the Double Jeopardy Clauses under the Fifth Amendment?
4. Did the language in these statutes and legislative intent in the Delaware state laws under Del. Code Title 11 § 778 and Del. Code Title 11 § 773(b) enable the State Prosecutor to legally apply the simple expedient of dividing a single crime into a series of temporal and spatial units, without specific dates and no creditable evidence for each date (random), without proof beyond a reasonable doubt for each element for each count in violation of the Petitioner's Rights under the Due Process Clauses of the Fifth and Fourteenth Amendments?

5. Does the fact that the Delaware Supreme Court declares there is no Plain Error in Petitioner's claims in his appeal in their order to affirm, infer that the legislative intent superseded his Double Jeopardy violations and other Federal Constitutional Rights?

6. Did Petitioner's answers in his Reply Brief to the Delaware Supreme Court's "Three Questions" posed to the State in their order denying the State's motion to affirm, not only show his sentence and/or conviction violate the Double Jeopardy Clauses and there was insufficient evidence to support a conviction, but also infers his Actual Innocence and/or the entire re-indictment was barred from prosecution under the Fifth Amendment?

7. Is the legislative intent for Continuous Sexual Abuse of a Child under Del. Code Title 11 § 778 to deter child sex abuse, similar to the cumulative meaning, as the decision cited in *Blockburger v. United States* to deter the tearing or mutilation of U.S. Mailbags to be a single offense each time the mailbag was torn, not also a continuous offense and prohibited under the Fifth Amendment?

8. Does the language and legislative intent of Rape in the First Degree under Del. Code 11 § 773(b) and Continuous Sexual Abuse of a Child under Del. Code Title 11 § 778(c), enable the jury to find Petitioner guilty by merely counting each count of Rape, without any specified dates or facts for each count or element of the offense, no credible evidence and without proof beyond a reasonable doubt, in violation of the Due Process Clauses of the Fifth and Fourteenth Amendments?

9. When Petitioner's 16 counts of Rape in the First Degree under Del. Code Title 11 § 733(5) and 773(6) (both pertain to children), and 2 counts of Continuous Sexual Abuse of a Child (11 Del. C. 778) stem from the same exact transaction and conduct, and cannot be separated by any distinct time, location or intent, do these statutory crimes need to be identical either in constituent elements or in actual proof in order to be the same within the meaning of the Double Jeopardy Clauses under the Fifth Amendment?

10. When the Delaware Supreme Court (not Petitioner) points out that Petitioner's re-indictment has citation errors and questions about his Double Jeopardy violations cited in his Reply Brief, was Petitioner's Right to Equal Protection of the Law violated under the Fifth and Fourteenth Amendments, when the court denied relief for these Plain Errors, but granted relief to others for these same Plain Errors?

11. When States like Delaware did not provide counsel before This Court's decision in *Martinez* (2012) for first collateral proceedings, could Petitioner and others that never had counsel, be permitted to file state or federal post-conviction petitions for their *Brady* and *Napue* amendments in *Glossip v. Oklahoma* (2025), to correct their manifest injustices without procedural bars?

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.

"BRUCE WOOD" AND "DELAWARE"

RELATED CASES

• WOOD V. STATE, NO. [#]518, 2024, THE SUPREME COURT OF
DELAWARE. JUDGMENT ENTERED: DECEMBER 22, 2025
AND JANUARY 8, 2026

• WOOD V. STATE, NO. [#]051 2020169, THE SUPERIOR COURT OF
DELAWARE, JUDGMENT ENTERED: DECEMBER 3, 2024.

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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.

☒ 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 STATE V. WOOD (2025) DEL. SUPR. CT. NO. 518-2024, or,

☐ has been designated for publication but is not yet reported; or,

☐ is unpublished.

The opinion of the DELAWARE SUPERIOR court appears at Appendix B to the petition and is

☐ reported at _____; or,

☐ has been designated for publication but is not yet reported; or,

☒ is unpublished.

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).

☒ For cases from **state courts**:

The date on which the highest state court decided my case was 12/22/2025.
A copy of that decision appears at Appendix A.

☒ A timely petition for rehearing was thereafter denied on the following date: JANUARY 8, 2026, and a copy of the order denying rehearing appears at Appendix D.

☒ An extension of time to file the petition for a writ of certiorari was granted to and including JUNE 7, 2026 (date) on MARCH 23, 2026 (date) in Application No. 25 A 1038.

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

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Amendment V: Nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

Amendment VI: To have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defense.

Amendment XIV, Section 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.

Delaware Const. Art. I, § 7: nor shall the accused be deprived of life, liberty, or property, unless by the judgment of the accused's peers or by the law of the land (Due Process).

Delaware Const. Art. I, § 8: And no person shall be for the same offense twice put in jeopardy of life or limb.

STATEMENT OF THE CASE

Petitioner Bruce Wood's case involves the Delaware Supreme Court's denial of his rights under the Due Process Clause and the Multiplicity Doctrine of the Double Jeopardy Clauses of the Fifth and Fourteenth Amendments.

Though these constitutional violations stem from *state laws, state legislative intent* and *state court decisions*, they depend on federal holdings and are *intertwined* with federal laws and federal holdings, such as the *Blockburger* test, *Blockburger v. United States*, 284 U.S. 299 (1932) and *Brown v. Ohio*, 432 U.S. 161 (1977).

This Court stated, in part, "The United States Supreme Court will not take up a question of federal law presented in a case if the decision of the state court rests on a state law ground that is independent of the federal question and adequate to support the judgment. In context of direct review of the state ground doctrine is jurisdictional. A state ground decision is independent only when it does not depend on a federal holding, and is not intertwined with questions of federal law." *Glossip v. Oklahoma*, 2025 U.S. LEXIS 865, *** 1. Petitioner posed questions of federal constitutional law based on this Court's decision in *Glossip* in his Motion for Rehearing *en Banc* (App. I), which the Delaware Supreme Court denied on January 8, 2026.

Petitioner's case stems and involves 15-year-old Sydney Pensky (SP) and 16-year-old Kristine Geisler (KG), also known as CG on Petitioner's trial transcripts and other records (complaining witness). Petitioner knew SP's and KG's parents and had a two-year-old daughter with SP's mother, Melissa Pensky (MP).

Petitioner introduced KG and SP to each other and they remained friends/associates over the years. After months of family counseling, which he initiated and paid for with SP, MP, and himself, Petitioner informed SP and MP that he was leaving them and filing for full custody of the two-year-old daughter (SP's half-sister). This escalated ongoing domestic disputes between SP, MP, KG, and himself. Soon after, SP and KG filed sexual allegations against Petitioner to the police *only two days apart*. (App. F, Ex. 2, 10). Both alleged they knew nothing about each other's allegations against Petitioner and did not collaborate against him. They alleged their incidents occurred 8 years apart, but just by some strange coincidence, both reported their sexual allegations against Petitioner *only two days apart*. Evidence on and off record infers SP, KG, and MP's real motives for wanting Petitioner found guilty of these offenses. Nothing to do with rape or sexual abuse.

In addition, during SP's police interview with Detective Greer, SP blurts out in excited utterance, "Bruce loves his children and family. I'm going to make sure he doesn't have that anymore." (App. F, Ex. 82, 83).

On February 16, 2007, after the jury argued every day for 3 days in the deliberation room, he was found guilty in the Delaware Superior Court. Petitioner was convicted of 2 counts of Continuous Sexual Abuse of a Child under Del. Code Title 11 § 778 (currently Del. Code Title 11 § 776), 8 counts of Rape in the First Degree < 12 under Del. Code Title 11 § 773(5) and 8 counts of Rape in the First Degree "Trust" under Del. Code Title 11 § 773(6) (currently repealed).

On September 7, 2007, the Delaware Superior Court sentenced Petitioner.

Despite the fact that at 43 years old, he has never been in prison, owned and operated his own business (with employees), did volunteer work and was a respected member of his community, the court sentenced him to 290 years at Level V. (App. F, Ex. B). His sentence started on January 3, 2006, when he was first incarcerated for these crimes. Petitioner has been incarcerated for *20 years*. His ineffective trial counsel also did his direct appeal, which was denied/affirmed by the Delaware Supreme Court. Petitioner filed numerous motions in state courts for postconviction relief. All were denied. He also filed numerous petitions under 28 U.S.C. § 2254 (one), 28 U.S.C. § 2244, and Fed. Ct. R. P. 60(b)(6). All were denied, procedurally barred, or did not meet the stringent requirements.

On October 30, 2024, Petitioner filed a motion for correction of illegal sentence pursuant to Del. Super. Ct. Crim. R. 35(a). (App. F, Ex. AA). *This motion cannot be time barred*. Del. Super. Ct. Crim. R. 35(a) states, “The court may correct an illegal sentence at any time.” *Brittingham v. State*, 705 A.2d 577, 998, Del. LEXIS 38 (Del. 1998), “Relief under subdivision (a) of this rule is available when sentences exceed the statutory limits; violate Double Jeopardy.” *Monroe v. State*, 843 A.2d 696, 2004 Del LEXIS (Del. 2004), “sentence is illegal when it exceeds the statutory limits; violates Double Jeopardy; is ambiguous with respect to time and manner in which it is to be served; omits a term requires; or is not authorized by judgment of conviction.” *Bowers v. State*, 923 A.2d 1249, 2007 Del. LEXIS 366 (Del. 2007), “a motion under Super. Ct. Crim. R. 35(a) may be filed at any time and is not subject to the 90-day limitations period of Super. Ct. Crim. R. 35(b).” (App. F, Ex. AA, pg. 2, 3).

Specifically, Petitioner asserts that the 16 counts of Rape in the First Degree pursuant to Del. Code Title 11 § 773(5) and § 773(6) are included offenses in the 2 counts of Continuous Sexual Abuse of a Child Pursuant to Del. Code Title 11 § 778(b). These two statutes (§ 778 and § 773(5), § 773(6)) constitute the same exact occurrences to prove both § 778 and § 773(5), § 773(6), thus, violating Petitioner's rights under the Multiplicity Doctrine of the Double Jeopardy Clauses of the U.S. Const. Amend. V and Del. Const. Art. I, § 8. (App. F, Ex. AA, pg. 6).

Petitioner also argued 4 other violations of Due Process under *state law* against excessive sentences. These 4 other grounds are contingent on his meritorious Double Jeopardy violations, because alone the 4 grounds would not put a dent in his 290 years. (App. F, Ex. AA, pg. 16-24).

In Petitioner's 35(a) motion in the Delaware Superior Court, he asserts, "The Delaware Supreme Court decided after Defendant's sentence in 2007, *Mills v. State*, 201 A.3d 1165; Del. LEXIS 14, No. 303, 2018, and *Parker v. State*, 201 A.3d 1181; 2019 Del. LEXIS 16, No. 128, 2018. These decisions clarify Double Jeopardy, Del. Code Title 11 § 206 and the 3 prong-test to determine Double Jeopardy. This was created and/or adopted by the Delaware Supreme Court. (App. F, Ex. AA, pg. 3).

All the above Delaware state courts decisions, statutes and even the three prong-test are based on federal decisions, federal holdings, and *Blockburger v. United States*, 284 U.S. 299 (1932) (*Blockburger* test) to determine Double Jeopardy analysis in Delaware *state laws/decisions* in the Delaware *state courts*. (App. F, Ex. AA, pg. 3-15).

Under Delaware Rule 35(a), Petitioner only requested relief for his illegal sentence. He requested the Delaware Superior Court to vacate his 16 counts of Rape in the First Degree that were in violation of the Multiplicity Doctrine of the Double Jeopardy Clauses of the U.S. Const. Amend. V and Del. Const. Art. I, § 8. *Plain error.* These Double Jeopardy violations enhanced the sentences for the 2 counts of Continuous Sexual Abuse of a Child. Petitioner requested to be re-sentenced for these 2 counts and to be given time-served, and his immediate release from prison. (App. F, pg. 28, 29). On December 3, 2024, the Superior Court denied Petitioner's Motion for Correction of an Illegal Sentence under Del. Super. Ct. Crim. R. 35(a). (App. B). Petitioner filed a timely notice of appeal in the Delaware Supreme Court.

On March 12, 2025, Petitioner filed his Opening Brief and Appendix in the Delaware Supreme Court. (App. E, F). He asserted he was appealing the Delaware Superior Court's denial of his motion for correction of his illegal sentence under Del. Super. Ct. Crim. R. 35(a). The Superior Court's Judge Davis states, "In this motion, Mr. Wood contends his sentence is illegal because the sentence constitutes Double Jeopardy. Specifically, Mr. Wood argues that the conviction on 16 counts of Rape in the First Degree⁵ and 2 counts of Continuous Sexual Abuse of a Child⁶ are the same offenses for Double Jeopardy purposes.

Judge Davis also states, "The court notes that the Supreme Court already held

⁵ "Mr. Wood was convicted on 8 counts under 11 Del.C. § 773(5) and 8 counts under 11 Del.C. § 773(6). The specific statutes have been changed since 2007."

⁶ "Mr. Wood was convicted under 11 Del.C. § 778, as with the rape convictions, the specific statute has been legislatively changed since 2007." (App. B).

that Rape in the First Degree and Continuous Sexual Abuse of a Child have distinct elements and are “clearly separate offenses for Double Jeopardy purposes.”⁷ “Accordingly, the Court need not engage in the additional analysis of the law as suggested by Mr. Wood. Mr. Wood’s sentence is not illegal.” (App. B).

On appeal to the Delaware Supreme Court, Petitioner argued, “The Superior Court abused their discretion when they denied Appellant’s motion for correction of illegal sentence under Del. Super. Ct. Crim. R. 35(a) (35(a) motion) based on a decision by the Delaware Supreme Court from 22 years ago in *St. Louis v. State*, (Del. 2002) and a Double Jeopardy analysis only using the *Blockburger* test, when the Delaware Supreme Court’s more recent decisions in *Mills v. State*, (Del. 2019) and *Parker v. State*, (Del. 2019), clearly renders Petitioner’s sentence illegal in violation of the Multiplicity Doctrine of the Double Jeopardy Clauses of the U.S. Const. Amend. V and Del. Const. Art. I § 8.” (App. E, pg. 2).

After Petitioner’s denied Rehearing *en Banc* in the Delaware Supreme Court (App. D), he found omitted portions of the *Blockburger* test/decision, which not only makes Delaware’s Double Jeopardy analysis the same as the *Blockburger* test/decision under Delaware state law, but it also proves Petitioner’s sentence and conviction is in violation of the Multiplicity Doctrine under U.S. Const. Amend. V and Del. Const. Art. I, § 8, for both state laws and federal holdings/laws. (See foregoing pages).

The Delaware Superior Court erred by not applying *Mills v. State*, (Del. 2019)

⁷ *St. Louis v. State*, 778 A.2d (TABLE), 2002 WL 1160979 at *** 1 (Del. Ma. 24, 2002).

and/or *Parker v. State*, (Del. 2019) to Petitioner's Double Jeopardy assertions. *Mills* and *Parker* is the most recent modified Double Jeopardy analysis decided by the Delaware Supreme Court to be used in Delaware state courts. The Delaware Supreme Court outlines in great detail the Double Jeopardy analysis to be used.

Instead, the Delaware Superior Court erred by denying Petitioner's 35(a) motion, using the Delaware Supreme Court's prior decision in *St. Louis v. State* at ***1 (Del. 2002), which is clearly in conflict with the Delaware Supreme Court's decisions in *Mills v. State*, 201 A.3d 1163; Del. LEXIS 14, No. 303, 2018 (Del. 2019) and *Parker v. State*, 201 A.3d 1183; Del. LEXIS 16, No. 126, 2018 (Del. 2019). Both *Mills* and *Parker* were decided on the same day of January 14, 2019. *Both appear to be the most recent decisions by the Delaware Supreme Court for the Double Jeopardy analysis, and appears to supersede the Delaware Supreme Court's prior decision in St. Louis v. State, (Del. 2002), pertaining to the Double Jeopardy analysis to be used.*" (App. E, pg. 6).

The Delaware Superior Court erred because *St. Louis* erroneously conceded that the two offenses had distinct elements and were clearly separate offenses. *St. Louis v. State*, at ***1 (Del. 2002). *St. Louis* did not pursue this issue, so neither did the Superior Court nor the Supreme Court. Instead, both courts based their Double Jeopardy analysis on *St. Louis's* claims, that the jury instructions overlapped his evidence causing Double Jeopardy. *St. Louis* waived his arguments and/or conceded that both Continuous Sexual Abuse of a Child (11 Del.C. 778) and Rape in the First Degree (11 Del.C. 773) have distinct elements and are separate offenses for Double

Jeopardy purposes. Petitioner asserts that both statutes for Continuous Sexual Abuse of a child (11 Del.C. 778) and Rape in the First Degree (11 Del.C. 773) are the same offenses for Double Jeopardy purposes in accordance with the Delaware Supreme Court's decisions in *Mills v. State*, (Del. 2019) and *Parker v. State*, (Del. 2019), making his sentence and conviction illegal. (App. E, pg. 6).

Petitioner's multiple 16 counts of Rape in the First Degree pertain to children in the statute itself under Del. Code Title 11 § 773(5) and § 773(6). Petitioner was also sentenced and convicted of 2 counts of Continuous Sexual Abuse of a Child under Del. Code Title 11 § 778, which obviously pertains to children. The specific elements for these 2 statutes are as follows. (App. E, pg. 9, 10).

8 counts of Rape in the First Degree pursuant to Del. Code Title 11 § 773(5) < 12, "The victim has not yet reached the victim's twelfth birthday, and Defendant has reached Defendant's eighteenth birthday. (App. E, pg. 10).

8 counts of Rape in the First Degree, pursuant to Del. Code Title 11 § 773(6) Trust, the victim has not yet reached the victim's sixteenth birthday, and Defendant stands in a position of trust, authority, or supervision of designee over the child" (Del. Code Title 11 § 773(6) is currently repealed) (App. E, pg. 10).

2 counts of Continuous Sexual Abuse of a Child pursuant to Del. Code Title 11 § 778(a), "A person is guilty of continuous sexual abuse of a child when, either residing in the same home with the minor child or having recurring access to the minor child, the person intentionally engages in 3 or more acts of sexual conduct with a child under 18 years of age, over a period of time not less than 3 months in duration." (App.

E, pg. 10).

Continuous Sexual Abuse of a Child pursuant to Del. Code Title 11 § 778(b), “Sexual conduct under this section is defined as any of those criminal sexual acts under § 768, § 769, § 770, § 771, § 772, § 773, § 774, § 775 ... or 1108 of this title.” (App. E, pg. 10).

Continuous Sexual Abuse of a Child pursuant to Del. Code Title 11 § 778(c), “To convict under this section, the trier of fact, if a jury, need unanimously agree only requisite number of acts occurred, not which acts constitute the requisite number.” (App. E, pg. 10).

St. Louis v. State, at ***1 (Del. 2002), “In a Double Jeopardy context, the *Blockburger* test holds that where the same act or transaction constitutes a violation of two distinct provisions, the test to be applied to determine whether each provision requires proof which the other does not.” (App. E, pg. 11).

Since the Delaware Supreme Court’s decision in *St. Louis* and the *Blockburger* test to determine Double Jeopardy, the Court decided *Mills v. State*, (Del. 2019) and *Parker v. State*, (Del. 2019) (an intervening change in controlling law?). Though Petitioner’s Double Jeopardy assertions would meet the requirements under the *Blockburger* test, he applied the Delaware Supreme Court’s more recent decisions for the Double Jeopardy analysis in *Mills* and *Parker* (Del. 2019). Though these decisions are predicated upon the *Blockburger* test, there are more specific differences pertaining to Delaware statutes and Delaware laws in *Mills* and *Parker* (Del. 2019) for Double Jeopardy purposes. (App. E, pg. 11).

Mills v. State, 201 A.3d 1163; 2019 LEXIS 14, No. 308, 2018 (Del. 2019), “Del. Code Tit. 11 § 206 is consistent with the U.S. Supreme Court’s test in *Blockburger v. United States*, which provides that where the same act or transaction constitutes a violation of two distinct statutory provisions, the test to be applied to determine whether there are two offenses or only one, is whether each provision requires proof of fact, which the other does not.” (App. E, pg. 11).

Parker v. State, 201 A.3d 1181; 2019 Del. LEXIS 16, No. 126, 2018 (Del. 2019), “Del. Code Tit. 11 § 206 provides that Defendant may not be convicted of more than one offense if it is included in the other, as defined in section (b) of this section. Del. Code Ann. Title 11 § 206(a)(1) section (b) provides in part, that “the offense is included when established by proof of the *same or less than the facts* required to establish the commission of an offense charged.” (App. E, pg. 11).

In Petitioner’s case, the 16 counts of Rape in the First Degree he was sentenced and convicted of pursuant to Del. Code Ann. Title 11 § 773 are included offenses under (2 counts of) Continuous Sexual Abuse of a Child pursuant to Del. Code Ann. Title 11 § 778(b). There are many different types of sexual acts with a child listed under 778(b). 773, Rape in the First Degree, is describing the sexual acts that allegedly occurred with the child over the course of 3 months or more in duration, and allegedly occurred the number of 3 times, or more under 778(a). The jury only needed to agree that the sexual acts occurred the requisite number, not which acts constitute the requisite number, pursuant to Del. Code Ann. Title 11 § 778(c). Petitioner could have been sentenced and convicted of only one of the statutes, not both. (Double Jeopardy)

(App. E, pg. 12).

In Petitioner's case, all 16 counts of Rape in the First Degree pertain to children/minors under Del. Code Ann. Title 11 § 773(5) and 773(6) and two counts of Continuous Sexual Abuse of a Child (11 Del.C. § 778), which requires a position of trust, care of a child, or having recurring access with a child. Multiple counts (3 or more) Rapes in the First Degree (11 Del.C. 773(5) and 7873(6)) with the same minor/child, infers (continuous) recurring access, living with minor/child and/or a position of trust or care of a child pursuant to Del. Code Ann. Title 11 § 778(a). Rape in the First Degree pursuant to Del. Code Ann. Title 11 § 773 is clearly an *included offense* of Continuous Sexual Abuse of a Child under *sexual conduct/sexual acts* pursuant to Del. Code Ann. Title 11 § 778(b).

Despite all the elements and facts (including rape) were included in the two counts of Continuous Sexual Abuse of a Child (for two complaining witnesses), the State split up and added 18 counts of Rape in the First Degree (11 Del.C. 773(5) and 773(6)) in the re-indictment, with the two counts of Continuous Sexual Abuse of a Child. See (App. F, Ex. A).

Reader v. State, 349 A.2d 745 (Del. 1975), "the State may not split up and separately prosecute parts of a crime." (App. E, pg. 12).

Continuous Sexual Abuse of a Child (11 Del.C. 778) was enacted to deter and criminalize a course of conduct – namely continuous sexual abuse of a child. See S.B. No. 17, synopsis (introduced January 14, 1993) (App. E, pg. 13).

"Seeking justice for children is admirable, but it is not when it is done in a way,

as the case in hand, that violates a defendant's U.S. Const. Amendment and Delaware Const. rights. This exacerbates the chances of convicting and/or sentencing exceeding the limits of punishment imposed and/or convicting someone who is actually innocent, as in Petitioner's case." See Judicial Notice (App. F, Ex. AA, No. 83) and (App. E, pg. 13).

Parker v. State, 201 A.3d 1981; 2019 Del. LEXIS 16, No. 126, 2018 at ***23 (Del. 2019), citing the following, *Poteat v. State*, 840 A.2d 599, 603-04 (Del. 2003); See *Brown*, 432 U.S. at 165 ("where consecutive sentences are imposed at a single trial, the rule of the constitutional guarantee is limited to assuring the court does not exceed its legislative authorization by imposing multiple punishments for the same offense."). *Brown* is the origin of the prohibition on "dividing a single crime into a series of spatial or temporal units." *Id.* at 169; see also *Handy v. State*, 803 A.2d 937, 940-44 (Del. 2002), "Prosecutors may not manufacture additional counts of a crime by simple expedient of dividing a single crime into a series of temporal or spatial units" (quoting *Brown*, 432 U.S. at 169)." (App. E, pg. 13).

When Del. Code Ann. Title 11 § 773(5) and 773(6) are spread out over the course of 3 months or more, the sexual acts occurred at least 3 times or more, living with and/or having recurring access, for Rape in the First Degree, "There is no proof of fact, that the other does not under the *Blockburger* test." Petitioner's 16 counts of rape (11 Del.C. 773(5) and 773(6)) have the same exact facts for both statutes under Continuous Sexual Abuse of a Child 11 Del.C. 778(a), 778(b), and 778(c) (all the elements) (Double Jeopardy), in violation of the Multiplicity Doctrine of the Double

Jeopardy Clauses of the U.S. Const. Amend. V and Del. Const. Art. I, § 8.

The Delaware Superior Court used information filed by the State in the re-indictment on 3/20/2006, to convict and sentence Petitioner (App. F, Ex. A). This re-indictment *joined* complaining witnesses (SP and KG) into one indictment. This totaled 18 counts of Rape in the First Degree pursuant to Del. Code Ann. Title 11 § 773(5) < 12 and § 773(6) trust, and 2 counts of Continuous Sexual Abuse of a Child pursuant to Del. Code Ann. Title 11 § 778 (App. E, pg. 14).

Petitioner's re-indictment (App. F, Ex. A) and sentencing order (App. F, Ex. B) distributes the 16 counts of rape (11 Del.C. 773(5) and 773(6)) almost evenly between both complaining witnesses (KG and SP), so that sexual acts/sexual conduct (Rapes in the First Degree under 773) pursuant to Del. Code Ann. Title 11 § 778(b), occurred over 3 months or more and occurred 3 or more times pursuant to Del. Code Ann. Title 11 § 778(a) (App. E, 13, 14).

These Rapes in the First Degree (11 Del.C. 773(5) and 773(6)) also contain the same elements under 11 Del.C. 778(a) for Continuous Sexual Abuse of a Child. Petitioner lived with SP and MP (SP's mother). KG came down to Petitioner's condo with her siblings from their upstairs condo. His girlfriend at the time (Jessica) babysat them and/or they came down to play with his son. Petitioner lived with SP and MP, and had recurring access with KG. Both situations between Petitioner, KG, and SP contain the same elements pursuant to Del. Code Ann. Title 11 § 778(a). Both SP and KG were friends/associates. (App. E, pg. 14).

As for these rapes (11 Del.C. 773(5) and 773(6)) containing the same elements

under Del. Code Ann. Title 11 § 778(c) for Continuous Sexual Abuse of a Child states, “The jury needed to only agree that the requisite number of acts (rape) occurred, not which acts constitute the requisite number.” As for this, all that needed to be done is to *count* the number of rapes (18 counts) that the State laid out for the jury, that should not have been on the sentencing record (or presented to the jury in trial), to convict and sentence Petitioner for the 2 counts of Continuous Sexual Abuse of a Child (and vice versa) (App. E, pg. 14).

In Petitioner’s case, he was convicted and sentenced of 16 counts of Rape in the First Degree pursuant to Del. Code Ann. Title 11 § 773(5) and § 773(6). He was also sentenced and convicted of 2 counts of Continuous Sexual Abuse of a Child pursuant to Del. Code Ann. Title 11 § 778. Both statutes and convictions (and sentences) stem from the same exact facts and occurrences from a single trial. (App. E, pg. 15), *Double Jeopardy*.

Mills v. State, 201 A.3d 1163; Del. LEXIS 14 303, 2018 (Del. 2019), “The Supreme Court of Delaware has previously employed a three-pong/factor balancing test to determine whether multiple violations of the same offense have occurred, weighing whether *the acts* are sufficiently differentiated by (1) time, (2) location, or (3) intended purpose. At the bottom, the critical inquiry is whether the temporal and spatial separation between *the acts* support a factual finding that Defendant formed a separate intent to commit each criminal act.” (App. E, pg. 15).

In other words, in order to convict and sentence Petitioner of Continuous Sexual Abuse of a Child and multiple counts of rape in a single trial, the State must

prove beyond a reasonable doubt (under Del. Code Ann. Title 11 § 301(b)), that these 16 (18) counts of rape in Petitioner's case, formed a separate intent from the 2 counts of Continuous Sexual Abuse of a Child. The State did not for the following reasons:

The State's re-indictment reads in part (App. F, Ex. A):

(1) KG's alleged 8 counts of rape (11 Del.C. 773(5)) and 1 count of Continuous Sexual Abuse of a Child (11 Del.C. 778) are alleged to have occurred between September 1, 1996 to June 30, 1998 (20 months). (App. E, pg. 15).

(2) "SP alleged 10 counts of rape (11 Del.C. 773(6)) and 1 count of Continuous Sexual Abuse of a Child (11 Del.C. 778) allegedly occurred between March 26, 2000 to March 25, 2005 (6 counts); between September 1, 2005 to September 30, 2005 (2 counts); between June 15, 2005 to August 1, 2005 (1 count); on or between October 30, 2005 (1 count). SP's 1 count of Continuous Sexual Abuse of a Child allegedly occurred between March 26, 2000 to March 25, 2005." 2 counts of SP's rape were *undecided* by the jury. (App. F, Ex. 106). This left a total of 8 counts of rape (11 Del.C. 773(6)) for SP. (App. E, pg. 16).

Essentially, *particular dates* would be needed to prove these rapes were separate from the intent to commit Continuous Sexual Abuse of a Child offenses under the Delaware Supreme Court's three-prong test in *Mills v. State*, (Del. 2019). In order to sufficiently differentiate *the acts* by (1) time, (2) location, or (3) intended purpose, a particular date would be needed so the alleged *acts* for each separate count of rape can be proven or disproven. SP's and KG's 16 counts of Rape in the First Degree (11 Del.C. 773(5) and 773(6)) that Petitioner was convicted and sentenced of,

contain *no particular dates* to sufficiently differentiate any of the 16 counts of rape. This would render these 16 counts of rape (11 Del.C. 773(5) and 773(6)) illegal and in violation of the Double Jeopardy Clauses in accordance with *Mills v. State*, (Del. 2019) (App. E, pg. 16).

In addition, *Mills v. State*, (Del. 2019) in part states, “(3) intended purpose. At the bottom, the critical inquiry is whether the temporal or spatial separation between *acts* support the findings that Defendant formed a separate intent to commit each criminal act.” (App. E, pg. 16).

Even *if* all 16 counts of rape gave particular dates for these alleged crimes, these rapes cannot be separated into separate offenses. There was no separate intent to commit Continuous Sexual Abuse of a Child (11 Del.C. 778), and no separate intent to commit Rape in the First Degree (11 Del.C. 773(5) and 773(6)). In Petitioner’s case, “these sexual acts exist together, are one in the same and cannot be separated in 2 offenses/statutes, without violating Double Jeopardy.” (App. E, pg. 17).

Continuous Sexual Abuse of a Child pursuant to Del. Code Ann. Title 11 § 778(b) lists different types of sexual acts with a child. Rape in the First Degree under § 773 is an *included* as one of these sexual acts with a child under § 778(b). Rape (§ 773) is *the type of sexual act* with a child and was not intended to be charged as a separate offense. *Mills v. State*, (Del. 2019) infers this same analogy in theft statute, and theft of a motor vehicle statute. (App. E, pg. 17).

The Delaware Supreme Court’s version of the Double Jeopardy analysis in *Mills v. State*, (Del. 2019) varies in some from the *Blockburger* test. In some cases,

the legislative intent supersedes the *Blockburger* test. Petitioner's 35(a) motion was denied by the Delaware Superior Court based on the Delaware Supreme Court's prior decision in *St. Louis v. State*, (Del. 2002), which was based on the *Blockburger* test. This decision by the Superior Court is directly in conflict with the Delaware Supreme Court's decisions in *Parker v. State*, (Del. 2019) and *Mills v. State*, (Del. 2019).

Parker v. State, (Del. 2019), "Del. Code Ann. Title 11 § 206 provides that a defendant may not be convicted of more than 1 offense if it is included in the other." Rape in the First Degree (11 Del.C. 773) is clearly an included offense of Continuous Sexual Abuse of a Child pursuant to Del. Code Ann. Title 11 § 778(b). (App. E, pg. 17).

Mills v. State, 201 A.3d 1163; 2019 Del. LEXIS 14 No. 303, 2018 at ***3 (Del. 2019), "Theft of a Motor Vehicle and Theft are the same offense for Double Jeopardy purposes. Even if Theft of a Motor Vehicle and Theft would not be an included offense under the *Blockburger* test, *Blockburger* is only an aid to statutory construction, and where a better indication of legislative intent is available, it does not apply. Here, there is a better indicator of legislative intent: the statement in the felony theft statute included *the acts* decided in this section as well as those described in Del. Code Ann. Title 11 § 841A-846. Section 841 is the theft of a motor vehicle provision; thus, by plain language of the Theft statute, Theft of a Motor Vehicle is an included offense of Theft." (App. E, pg. 18).

Just like *Mills*, ***3 (Del. 2019) above, in Petitioner's case, the 16 counts of Rape in the First Degree (11 Del.C. 773(5) and 773(6)) and the 2 counts of Continuous

Sexual Abuse of a Child are the same offenses for Double Jeopardy purposes. Even if Rape in the First Degree would not be an included offense under the *Blockburger* test, *Blockburger* is only an aid to statutory construction, and where a better indicator of legislative intent is available, it does not apply. Here, there is a better indicator of legislative intent: the statement in felony Continuous Sexual Abuse of a Child statute that includes the sexual act described in the section 11 Del.C. 778(b), as well as those described in § 773, section § 773 is Rape in the First Degree provision 11 Del.C. 773; thus, by the plain language of the Continuous Sexual Abuse of a Child statute, Rape in the First Degree is an included offense of Continuous Sexual Abuse of a Child. (App. E, pg. 18).

The Delaware Superior Court abused their discretion by applying *St. Louis v. State*, (Del. 2002) to Petitioner's Double Jeopardy assertions, when the Delaware Supreme Court recently decided *Mills v. State*, (Del. 2019) and *Parker v. State*, (Del. 2019), which clearly proves his sentence (and conviction?) was in violation of the Multiplicity Doctrine of the Double Jeopardy Clauses of the Fifth Amendment to the United States Constitution and Article I, § 8 of the Delaware Constitution. *Plain error*. (App. E, pg. 18).

On December 22, 2025, the Delaware Supreme Court affirmed the Delaware Superior Court's denial of Petitioner's Motion for Correction of an Illegal Sentence under Del. Super. Ct. Crim. R. 35(a) (35(a) motion) (App. A). In this order, the Delaware Supreme Court contends that:

FIRST: The Delaware Supreme Court contends the Petitioner's offenses of

Continuous Sexual Abuse of a Child and Rape in the First Degree have distinct elements and are clearly separate offenses for Double Jeopardy purposes. (App. A, pg. 6, 7). This contention totally contradicts the findings in *Mills v. State*, (Del 2019) and *Parker v. State*, (Del. 2019), which is intertwined with the *Blockburger* test, *Blockburger v. United States*, 284 U.S. 299 (1932), and *Brown v. Ohio*, 432 U.S. 161 (1977).

The Delaware Supreme Court sidesteps any mention of *Mills v. State*, (Del. 2019) and *Parker v. State*, (Del. 2019) in their order to affirm. (App. A). These 2 decisions are the crux of Petitioner's Double Jeopardy arguments. Instead, the Delaware Supreme Court cites their decisions for Double Jeopardy pre-dating *Mills* and *Parker*. The one decision cited in 2025 was in regards to citation error, nothing to do with Double Jeopardy. The Delaware Supreme Court also cites *St. Louis v. State*, (Del. 2002) to support their motion to affirm, which is ambiguous and in direct conflict with Del. Code Title 11 § 206, *Mills v. State*, (Del. 2019), *Parker v. State*, (Del. 2019), *Blockburger v. United States*, and *Brown v. Ohio*.

If the Delaware Supreme Court cited their more recent findings in *Mills* and *Parker* for Double Jeopardy analysis in Petitioner's motion to affirm, it would show Petitioner's (and St. Louis's) Rape(s) in the First Degree and Continuous Sexual Abuse of a Child are the same offenses for Double Jeopardy purposes under Del. Code Title 11 § 206. This is why Petitioner posed the question to the Delaware Supreme Court in his Motion for Rehearing *en Banc* (App. I), "*Question Fourteen*: Should the Court overrule *St. Louis v. State*, (Del. 2002) to maintain uniformity in this Court's

Double Jeopardy decisions in *Parker v. State*, (Del. 2019) and *Mills v. State*, (Del. 2019) in accordance with Delaware Supreme Court Rule 4(f)(ii) and (iii)?”

Parker v. State, 201 A.3d 1181; 2019 Del. LEXIS 16 No. 126, 2018 (Del. 2019), “Del. Code Title 11 § 206 provides that a defendant may not be convicted of more than one offense if one is included in the other, as defined in section (b) of this section. Del. Code Ann. Title 11 § 206(a)(1) section (b) provides, in part, that the offense is included when established by proof of the *same or less than the facts* required to establish the commission of a crime.” (App. E, pg. 11). Petitioner’s (and St. Louis’s) Rape(s) in the First Degree are included offenses for Continuous Sexual Abuse of a Child under Del. Code Title 11 § 778(b) are the same offenses for Double Jeopardy purposes. (App. E, pg. 17, 18).

Mills v. State, (207 A.3d 1163; 2019 Del. LEXIS 14 No. 303, 2018 (Del. 2019), “Del. Code Title 11 § 206 is consistent with the U.S. Supreme Court’s test in *Blockburger v. United States*, which provides that where the same act or transaction constitutes a violation of two distinct statutory provisions, the test to be applied to determine whether there are two offenses or only one, is whether each provision requires proof of fact, which the other does not.” (App. E, pg. 11).

The Delaware Supreme Court contends that Petitioner’s Rape in the First Degree (11 Del.C. 773) and Continuous Sexual Abuse of a Child (11 Del.C. 778) requires proof of facts, which the other does not (which requires proof that the defendant have sexual intercourse with the victim under various enumerated scenarios) such as, engaging in 3 or more sexual acts with minor/child, over the course

of 3 months or more (“continuous”) and lived with or had recurring access to minor/child. According to the Court, they “have distinct elements and are clearly separate offenses for Double Jeopardy purposes.” (App. A, pg. 6).

“The Delaware Supreme Court’s same rationale that they concluded that Petitioner’s Continuous Sexual Abuse of a Child and Rapes in the First Degree are separate offenses for Double Jeopardy purposes; that is, each offense has proof of a fact that the other does not.” But then, they contend this *Blockburger* test does not apply to Theft and Theft of a Motor Vehicle in *Mills v. State*, (Del. 2019).

Mills v. State, 201 A.3d 1163; 2019 Del. LEXIS 14 No. 303, 2018 at ***3 (Del. 2019), “Theft of a Motor Vehicle and Theft are the same offense for Double Jeopardy purposes. Even if Theft of a Motor Vehicle would not be an included offense under the *Blockburger* test. *Blockburger* is only an aid to statutory construction, and where a better indicator of legislative intent is available, it does not apply. Here, there is a better indicator of legislative intent: the statement in felony Theft statutes includes the acts decided in this section as well as those described in Del. Code Ann. Title 11 § 841A-846. Section 841 is a Theft of a Motor Vehicle provision; thus, by plain language of the Theft statute, Theft of a Motor Vehicle is an included offense of Theft.” (App. E, pg. 17, 18).

Despite the fact that Petitioner’s Rape in the First Degree and Continuous Sexual Abuse of a Child are the same offense for Double Jeopardy purposes under *Mills v. State*, (Del. 2019) (App. E, pg. 17, 18), the Delaware Supreme court overlooked this, and applied the *Blockburger* test.

The Delaware Supreme Court denied Petitioner's Double Jeopardy violations by using the *Blockburger* test, taken out of context. When the *Blockburger* test, *Blockburger v. United States*, and *Brown v. Ohio* are reviewed in their entirety and the full Double Jeopardy analysis is applied to Petitioner's Double Jeopardy assertions, it reveals all his offenses he was convicted and sentenced are all in violation of the Double Jeopardy Clause under the Fifth Amendment.

In addition, the Georgetown Law Journal 2024 reveals the meaning of "transaction" that was omitted from Petitioner's copy of *Blockburger v. United States*, (1932), that clarifies the *Blockburger* test and strengthens Petitioner's arguments. *It is unclear if this omission is just in the published copies of Blockburger v. United States to Delaware inmates or this is nationwide.* The U.S. Supreme Court clarified omissions and misconceptions in *Napue v. Illinois*, (1959), as decided in *Glossip v. Oklahoma*, (2025).

"Under *Blockburger v. United States*, if the same transaction [1546] violates two distinct statutory provisions, the test to determine whether they count for Double Jeopardy purposes as the 'same offense' is whether each provision requires proof of a fact that the other does not." (53 Geo. L. J. Ann. Rev. Crim. Proc. (2024) pg. 569, 570).

1546. "Separate conduct or transactions occur if distinct and separate acts take place at different times." *Blockburger v. United States*, 284 U.S. 299, 301-03 (1932). See (53 Geo. L. J. Ann. Rev. Crim. Proc. (2024) pg. 569).

When this Blockburger definition for 'transaction' is clarified, it makes apparent the invalid "proof of facts that the other does not" presented by the

prosecution showing separate distinct offenses to deny Double Jeopardy claims to the courts, as in Petitioner's case.

Petitioner was convicted and sentenced using the State's re-indictment (App. F, Ex. A) for 16 *random* counts of Rape in the First Degree (11 Del.C. 773(5) and 773(6)) and 2 counts of Continuous Sexual Abuse of a Child (11 Del.C. 778), with a wide range of *random* dates. These two statutory provisions (11 Del.C. 773) and 11 Del.C. 778) are the same offenses for Double Jeopardy purposes, because there are no distinct times in the re-indictment to prove each offense is "separate conduct or transaction occur if distinct and separate acts take place at different times."

Blockburger, 284 U.S. 299, 301-03. This analysis is similar to the three-prong test used by the Delaware Supreme Court in *Mills v. State*, 201 A.3d 1163; Del. LEXIS 14, 303, 2018 (Del. 2019) App. E, pg. 16). Petitioner proved his Double Jeopardy violations using this three-prong analysis (App. E, pg. 16-19). Unfortunately, the Delaware Supreme Court did not acknowledge his Double Jeopardy violations due to exceeding their legislative authorization.

Continuous Sexual Abuse of a Child pursuant to Del. Code Title 11 § 778(b) states Rape in the First Degree is an included offense (11 Del.C. 773). This is saying the distinct act of Rape in the First Degree is the sexual act with a child. This is the initial sexual act with a child that occurred at the same exact time and are the same exact act, not 2 separate acts or offenses. Any facts after this are irrelevant for Double Jeopardy purposes, but could be used to enhance sentencing if found guilty. Having an ongoing relationship with a person *is inherently continuous*, and would also infer

that one lived with this person or had recurring access to a person.

Blockburger argued, in part, that his multiple counts of drug offenses constitute a single “continuing offense,” because these transactions (acts) were made with the same person. The U.S. Supreme Court states, “the contention is unfound.” *Blockburger*, [284 U.S. 303].

“The distinction between the transactions here involved and an offense continuous in character is well settled, as was pointed out by this Court in the case of *Re Snow*, 120 U.S. 274, 30 L. Ed. 658, 7 S.Ct. 556. There, it was held that the offense of cohabiting with more than one woman, created by the act of March 22, 1882, Chap. 47, 22 Stat. at 31, was a continuous offense, and was committed in the sense of the statute, where there and living or dwelling together as husband and wife. The Court said (pp. 281, 286), “*Blockburger*, [284 U.S. 303], “It is, inherently, a continuous offense having duration, and not an offense consisting of an isolated act...” *Blockburger*, [284 U.S. 303].

“A distinction is laid down in adjudged cases and in textwriters between an offense continuous in its character, like the one at bar, and a case where the statute is aimed at an offense that can be committed *uno ictu*,” *Blockburger*, [284 U.S. 303].

“These words plainly indicate that it was the intention of the lawmakers to protect each and every mailbag from felonious injury and mutilation, whenever any one mail bag is torn, cut, or injured, the offense is complete. Although the transaction of cutting the mail bags was in a sense continuous, the complete statutory offense was committed every time a mail bag was cut in the manner described, with the

intent charged. The offense as to each separate bag was complete when the bag was cut, irrespective of any attack upon, or mutilation of, any other bag.” *Blockburger*, [284 U.S. 304].

Blockburger makes the distinction between “a continuous offense, having duration; and not an offense that is aimed at an offense that can be committed *uno actu* (one act/offense). *In re Snow* [120 U.S. 274], shows that cohabiting with more than one woman was continuous in its character, and was committed, in the sense of the statute.” These continuous acts constituted one single offense (statute), because ~~there was no other offense in this continuous offense that could be charged as a single~~ act (*uno actu*).

Delaware’s Continuous Sexual Abuse of a Child statute (11 Del.C. 778) is similar in some ways to this Court’s decision in *Snow*, in that both address continuous relationships with a person(s), while living with (or recurring access to) over a continuous duration of time (11 Del.C. 778(a)). The big difference between *Snow*’s language in the statute and Delaware’s language in the Continuous Sexual Abuse of a Child statute (11 Del.C. 778) is: in order to find a defendant guilty of Continuous Sexual Abuse of a Child, there must be a single sexual act (*uno actu*) with a child/minor under Delaware Code Title 11 § 778(b). In Petitioner’s case, it is 16 counts of Rape in the First Degree under Delaware Code Title 11 § 773, which is an included offense under 11 Del.C. 778(b). These separate Continuous Sexual Abuse of a Child offenses (11 Del.C. 778), “grew out of a single criminal act, episode, or transaction” of Rape in the First Degree (11 Del.C. 773(5) and 773(6)). The

Continuous Sexual Abuse of a Child statute under 11 Del.C. 778(c) enables Petitioner's 16 counts of Rape First Degree to be counted (for 3 or more) to be considered continuous to be charged and convicted twice for the same offense stemming from the same exact acts (Double Jeopardy). The legislative intent in Delaware Code Title 11 § 206 was enacted to prevent Double Jeopardy violations such as this, but the Delaware Supreme Court overruled or overlooked Petitioner's argument under Delaware Code Title 11 § 206. (App. E, pg. 11-18). (Because of legislative intent in 11 Del.C. 778 and 11 Del.C. 773(b)?).

Despite the fact that the Delaware Supreme Court contends Petitioner's conviction and sentences are not in Double Jeopardy, because there are different facts/wording in Continuous Sexual Abuse of a Child (App. A). *Brown v. Ohio*, at ***3, 4 (1977), "Separate statutory crimes need not be identical – either in constituent elements or in actual proof – in order to be the same within the meaning of the Double Jeopardy Clause of the Fifth Amendment." Petitioner also demonstrates how these contended different proof of facts in Continuous Sexual Abuse of a Child (11 Del.C. 778), are exactly the same occurrences, stem out of the same exact acts/transactions as Rape in the First Degree (11 Del.C. 773(5) and 773(6)). Both (5) and (6) pertain to children. *Double Jeopardy*. (App. E, pg. 9-18).

On December 22, 2025, the Delaware Supreme Court affirmed the Delaware Superior Court's denial of Petitioner's motion for correction of an illegal sentence under Del. Super. Ct. Crim. R. 35(a). (App. A). In this order, the Delaware Supreme Court contends that:

SECOND: The Delaware Supreme Court contends that the legislative intent in Rape in the First Degree under Delaware Code Title 11 § 773(b) and the legislative intent of Continuous Sexual Abuse of a Child under Delaware Code Title 11 § 778 allows Petitioner to be sentenced and convicted of both offenses in a single trial. (App. A, pg. 6, 7).

Delaware Code Title 11 § 773(b) states, “nothing contained in this section shall preclude a separate charge or sentence for any other crime set forth in this title, or in Delaware Code.” See 35(a) motion (App. F, pg. 3, 4).

When the Delaware Supreme Court uses Rape in the First Degree under 773(b) in this context to justify also convicting and sentencing Petitioner of Continuous Sexual Abuse of a Child (11 Del.C. 778), it is in direct conflict and ambiguous to Delaware’s legislative intent for Delaware Code Title 11 § 206.

Parker v. State, 201 A.3d 1181, 2019 Del. LEXIS 16 No. 126, 2018 (Del. 2019), “Delaware Code Title 11 § 206 provides that a defendant may not be convicted of more than one offense if it is included in the other, as defined in section (b) of this section. Delaware Code Title 11 § 206(a)(1) section (b) provides, in part, “that the offense is included when established by proof of the same or less than the facts required for commission of an offense charged. *See* (pg. 13).

Petitioner has shown in his petitions to the Delaware courts with state and federal holdings (App. E-I), and in his aforementioned pages in this court (pgs. 6-21), that the Delaware Superior Court sentenced and convicted him for multiple punishments in a single trial. This was in violation of the Multiplicity Doctrine of

the Double Jeopardy Clauses of the Fifth Amendment and Del. Const. Art. I, § 8.

The Delaware Supreme Court contends that these are not in violation of the Double Jeopardy Clauses, because legislative intent under 11 Del.C. 778 and 11 Del.C. 773(b) allows Petitioner to be convicted of both offenses. (App. A, pg. 6, 7). The Delaware Supreme Court sidesteps the fact that they cite *Brown v. Ohio* (1977), that precludes legislative intent for multiple punishments for the same offense. *See Parker v. State*, 201 A.3d 1181, 2019 Del. LEXIS 16 No. 126, 2018 at ***23 (Del. 2019) (App. E, pg. 13). (App. F, Ex. AA, pg. 9).

Brown v. Ohio, [432 U.S. 166] (1977), “where consecutive sentences are imposed at a single criminal trial, the role of the constitutional guarantee is limited to assuring that the court does not exceed its legislative authorization by imposing multiple punishments for the same offense.” *See Gore v. United States*, 357 U.S. 386, 2 L. Ed. 1405, 78 S.Ct. 1280 (1958); *Bell v. United States*, 349 U.S. 81, 99 L. Ed. 905, 75 S.Ct. 620 (1955).

THIRD: The Delaware Supreme Court contends in the order to affirm that, “(9) we turn now to the arguments Wood makes on appeal. As noted above, we review those claims that Wood raises for the first time before this Court (namely, that the jury instructions are confusing, that there was insufficient evidence to support his convictions, and trial counsel was ineffective) for plain error. There is no error, plain or otherwise error here – these arguments, which do not concern the legality of Wood’s sentence, are not appropriately raised in a Rule 35(a) motion.” (App. A, pg. 5, 6).

Brown v. Ohio, [432 U.S. 167] (1977), [10] [11a] if two are the same under this

test for purposes of barring consecutive sentences at a single trial, they necessarily will be the same for purposes of barring successive prosecutions. *See In re Nielsen*, 131 U.S. 176, 187-88, 33 L. Ed. 118, 9 S.Ct. 672 (1889); cf. *Gavieres v. United States*, 220 U.S. 338, 55 L. Ed. 489, 31 S.Ct. 421 (1911). “Where the judge is forbidden to impose cumulative punishment for two crimes at the end of a single proceeding, the prosecutor is forbidden to strive for the same result in successive proceedings. Unless ‘each statute requires proof of an additional fact which the other does not,’ *Morey v. Commonwealth*, 108 Mass. 433, 434 (1871), the Double Jeopardy Clause prohibits successive prosecutions as well as cumulative punishment.”

The Delaware Supreme court’s contention that Petitioner raised grounds for his conviction in his 35(a) for correcting illegal sentences is misleading. This court can see Petitioner did not litigate any arguments for his conviction in his 35(a) motion. (App. F, Ex. AA).

While Petitioner was applying state and federal Double Jeopardy analysis to his illegal sentence and researching, he discovered evidence on the record of his actual innocence, multiple *Brady* violations, multiple ineffective assistance of counsel claims, multiple *Napue* violations, and multiple instances of prosecutorial misconduct. (App. E, pg. 3, VII). As cited in *Brown* by this Court in the previous page, Petitioner realized that his Double Jeopardy violations effected his sentencing, but also had a devastating and prejudicial effect on the outcome of the trial, which led to his wrongful conviction. Petitioner’s Double Jeopardy violations should have been barred from prosecution. (App. E, pg. 26-33). Petitioner gave *judicial notice* to

the courts that there were other issues that need to be addressed, but cannot be litigated in his 35(a) motion. This was stated in his 35(a) motion (App. F, Ex. AA, No. 82) and in his appeal. (App. E, pg. 5).

“82. Judicial Notice: Defendant’s aforementioned facts, rules, and decisions presented in this (35(a)) motion, *questions the reliability, integrity, and the validity* of the 2 remaining counts of Continuous Sexual Abuse of a Child, to even being part of the sentencing procedure. Plain error. The evidence infers that without the 16 (18) (illegal) counts of Rape in the First Degree, the 2 counts of Continuous Sexual Abuse of a Child *would not exist either for Defendant’s sentencing*. See pg. 13 – No. 39, pg. 14 – No. 40, and pg. 12 – No. 34. This information discovered in this 35(a) motion infers other issues that cannot be litigated in a 35(a) motion.” (App. F, Ex. AA, pg. 29, No. 82).

Plain error: “An error that is so obvious and prejudicial that an appellate court should address it despite the parties’ failure to raise a proper objection at trial.” Black’s Law Dictionary.

Delaware Supreme Court Rule 8 allows the appellate court to review under the plain error doctrine in the interest of justice. “Supreme Court may excuse a waiver if it finds that the trial court committed plain error requiring review in the interest of justice.” *Monroe v. State*, 652 A.2d 560, 1995 Del. LEXIS 33 (Del. 1995).

Plain error (federal): “A reviewing court may grant relief for *plain error* even if the error was not raised at trial or sentencing. In an appeal based on *plain error*, the defendant must show (1) there was an error (2) that is “clear” or “obvious” and (3) the

error affected the defendant's "substantial rights." To determine if a ruling affected the defendant's substantial rights, as appellate court analysis the alleged error in context of the entire record. *United States v. Dominguez-Benitez*, 542 U.S. 74, 82 (2004); also see 53 Geo. L.J. Ann. Rev. Crim. Proc. (2024) pgs. 1091-1093.

Plain error has infected Petitioner's case in the Delaware courts since its conception in 2006. Petitioner has never had counsel for his first or any of his collateral proceedings in state or federal courts. It has taken him 20 years of (trial and error) denied motions to learn enough about the law to present his claims adequately. Unfortunately, all proceedings are procedurally barred except for a correction of illegal sentence under Del. Super. Ct. Crim. R. 35(a). The plain error discovered during researching his 35(a) motion has revealed missing pieces of facts and evidence that show his wrongful conviction and/or his actual innocence. This information is too voluminous to fit in this petition. Petitioner respectfully requests this Honorable Court to review his Appendixes E, F (Ex. AA) and G, along with this petition supporting questions posed to this court, to embrace Petitioner's injustices he endured.

Petitioner has shown the Delaware courts how the prosecutor pulled these *random* 16(18) counts of Rape in the First Degree (11 Del.C. 773) out of thin air. These random 16(18) counts of rape are shown to contain no dates for any facts (App. F, Ex. A) to sufficiently differentiate by (1) time, (2) location, or (3) intended purpose. These random counts of rape cannot be sufficiently differentiated from the acts of Continuous Sexual Abuse of a Child (Double Jeopardy), under the *Blockburger* test

(pg. 25, 26) and *Mills v. State* (Del. 2019). See (pgs. 17 to 21).

This occurred during a pre-trial conference between prosecutor, defense counsel, and trial judge. (App. F, Ex. C). There was an 8-year plea offer on the table. Logic dictates that this plea offer was only including the 2 counts of Continuous Sexual Abuse of a Child. When Petitioner rejected the plea, this evidence on the record infers the prosecutor put back on the re-indictment these random 16(18) counts of rape. The ease in which the prosecutor removed and put back on the re-indictment these 16(18) counts of rape, *questions the integrity and validity of these 16(18) counts of rape*. See (App. F, Ex. AA, pgs. 22-24) and (App. E, pgs. 29-31).

It is obvious that the prosecutor merely divided Petitioner's 2 counts of Continuous Sexual Abuse of a Child into a series of temporal or spatial units. Plain error. See (App. F, Ex. A). The Delaware Supreme Court cites this Court's ruling precluding this practice in *Brown v. Ohio*, but sidesteps this fact when ruling in Petitioner's appeal (or legislative intent enabled this?).

Parker v. State, 201 A.3d 1181; 2019 Del. LEXIS 16 126, 2018 at ***23 (Del. 2019), in part states, ("prosecutors may not manufacture additional counts of a particular crime by simple expedient of diving a single crime into a series of temporal or spatial units," (quoting *Brown*, 432 at 169).") (App. F, Ex. AA, pg. 9) and (App. E, pg. 13).

Blockburger, in part states, "(3) each provision required proof of an additional fact the other does not," such that an acquittal for a conviction under either statute would not exempt Defendant from prosecution and punishment under the other

statute.” (Ex. G, pg. 10 Reply Brief).

Petitioner inferred to this fact, as cited above, in his judicial notice in his 35(a) motion. He realized after applying state and federal Double Jeopardy analyses, the 16(18) counts of rape were invalid. Without 3 or more sexual acts (rape) occurring over 3 months or more for Continuous Sexual Abuse of a Child under Del. Code. Title 11 § 778(a), (b), (c) (all elements), the 2 counts of Continuous Sexual Abuse of a Child are exempt from prosecution. See Judicial Notice (App. F, Ex. AA, pg. 29 No. 82). Plain error.

Petitioner also discovered that the construction and/or legislative language of Continuous Sexual Abuse of a Child under Del. Code Title 11 § 778(c) may be unconstitutional, because it enables the jury to find Defendant guilty by merely counting the invalid sexual acts (rape) that the State manufactured for the jury, without proof beyond a reasonable doubt under the Due Process Clauses of Fifth and Fourteenth Amendments. Plain error.

Continuous Sexual Abuse of a Child pursuant to Del. Code Title 11 § 778(c), “to convict under this section, the trier of fact, if a jury need unanimously agree only requisite number acts occurred (3 or more, 778(a)),” not which acts constitute the requisite number.

The legislative intent to make it easier for convictions for continuous sexual abuse of children inadvertently created an unconstitutional statute. The language and construction of 778(c) relieve the jury from proving Defendant guilty by proof beyond a reasonable doubt of every element for every count of the offense, as required

in state and federal courts. See (App. E, pg. 29 to 31).

Petitioner's purpose for explaining his judicial notice in his 35(a) motion is to make the courts aware of his above discovery, to put the Delaware Supreme Court on notice of additional issues on appeal in the interest of justice under the plain error doctrine of the Delaware Supreme Court (Rule 8).

In order to prove this on appeal, in conjunction with his Double Jeopardy violations, he needed to prove the only way he was found guilty was the jury could not find him guilty with no credible evidence and no specific dates. The evidence provided by Petitioner in detail in his assertions in his three grounds on appeal strongly infers *the jury just counted* the counts to find him guilty with no credible evidence. See (App. E, pgs. 26-33).

Petitioner's answers to the Delaware Supreme Court's constitutional questions helps answer the questions presented to this Court. See (App. G).

REASONS FOR GRANTING THE PETITION

The Delaware Supreme Court exceeded their legislative authorization by imposing multiple punishments for the same crime in Petitioner's single trial, in violation of the Multiplicity Doctrine of the Double Jeopardy Clauses under the Fifth Amendment.

The Delaware Supreme Court intertwines state laws and state decisions with federal holdings, such as *Brown v. Ohio*, (1977) and *Blockburger v. United States*, (1932). The Delaware Supreme Court cites both *Blockburger's* and *Brown's* Double Jeopardy analysis in their prior decisions to grant relief, but denied Petitioner this same relief for his Double Jeopardy claims. They contend that legislative intent supersedes his Double Jeopardy violations under 11 Del.C. 778 and 11 Del.C. 773(b). This decision is in direct conflict with this Court's decision in *Blockburger* and *Brown*, and also in direct conflict with their own 11 Del.C. 206 for Double Jeopardy analysis. The Delaware Supreme Court applied the *Blockburger* analysis incorrectly, taken out of context, and ambiguously. In addition, Petitioner discovered an omitted portion of the *Blockburger* test that may be omitted nationwide. This omission strengthens the *Blockburger* test, and helps preclude invalid "proof of a fact that the other does not."

When Petitioner applied federal and state Double Jeopardy analysis to his offenses under 11 Del.C. 778 and 11 Del.C. 773(b), it revealed that the construction, language, and legislative intent of these 2 statutes/provisions enable sentences and convictions that violate Double Jeopardy, enable prosecutors to stack offenses and convictions without proof beyond a reasonable doubt and imprison those who are

actually innocent and/or exceed sentences imposed. The Fourteenth Amendment in part states, “no state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States.”

The United States Supreme Court is needed to intervene to stop and correct this injustice in Delaware, and courts nationwide with similar statutes, and grant relief from these unconstitutional practices IN THE INTEREST OF JUSTICE.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Bruce Wood

Date: MAY 27, 2026