ORIGINAL

No. 26-576

FILED
MAY 11 2026
OFFICE OF THE CLERK
SUPREME COURT, U.S.

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

STEPHEN LYNCH MURRAY, Petitioner

v.

JANELLE IRWIN TAYLOR, PETER D. SCHORSCH and EXTENSIVE ENTERPRISES MEDIA, LLC
Respondents

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

# PETITION FOR A WRIT OF CERTIORARI

Question: What doctrine should courts be using, for extending any immunity of fact in Fourth Amendment practices, to defamation and speech-retaliation cases?

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*Question Presented*

Judges presume their executive-branch peers act reasonably, in decisions which are too urgent, local, numerous, or esoteric -- impractical -- for courts to adjudicate measuring fact against law. This involves immunizing not just actions, but surrounding facts, against confrontation in court. Facts surrounding criminal-justice have practices immunizing them against witness-process.

Established practice extends this immunity of police-related facts beyond Fourth Amendment process, to regulating private speech in defamation and federal speech-retaliation court. Without practical reason or case law, but avoiding clear articulation for review. This conflicts with the right that police activity be regulated to be reasonable by politics, law against speech-viewpoint being regulated by police, and defamation and speech-retaliation cases requiring witness-process and juries.

**Question**: Can this Court clarify how case law applies and what doctrine courts should be using, for extending any immunity of fact in Fourth Amendment practices, to defamation and speech-retaliation cases? How and to what extent can private speech as regulated in state defamation cases, and facts in federal speech-retaliation cases, be determined by government action, and by facts immune to, or not established by, witness-process?

## PARTIES TO THE PROCEEDING

Petitioner is:

Stephen Lynch Murray, private citizen in Florida
Plaintiff in the District, Appellant in the 11th Circuit

Respondents are:

Janelle Irwin Taylor, Florida resident, author with "FloridaPolitics.com"

Peter D. Schorsch, Florida resident, "publisher" of "FloridaPolitics.com"

Extensive Enterprises Media, LLC, a Florida LLC

Defendants in the District, Appellees in the 11th Circuit

## RELATED PROCEEDINGS

United States Court of Appeals, 11th Circuit:
*Stephen Lynch Murray v. Janelle Irwin Taylor, et al*
No. 25-11744 (judgment January 16, 2026)
Rehearing Denied (March 16, 2026)

United States District Court, Middle District of FL
*Stephen Lynch Murray v. Janelle Irwin Taylor, et al*
No. 6:24-cv-6 (judgment April 25, 2025)
Reconsideration Denied (June 16, 2025)

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## PETITION FOR DOCTRINE IMMUNIZING GOVERNMENT SOCIALLY-VALIDATED FACT AGAINST WITNESS-PROCESS

Courts don't want to question why people are arrested. But must, when cops are in a nexus with their regulator, controlling speech about themselves. Government deciding fact in private speech, and immunizing publishers to lie about citizens, inverts the First Amendment and notions of government regulated through speech.

Petitioner requests certiorari on important questions of how fact determining rights and particularly fact in private speech is decided, whether in court or by government-dominated social processes immunized against courts. To openly codify these rules. Rather than courts choosing immunities in private, smuggling them in below the surface of dishonest superficial processes that obfuscate the real decision and insulate it from review.

When courts say things contradicting law like an action being authorized by state court makes it immune to federal courts, sign facts witnessed by nobody, lie, and elevate liars that fix socially-preferred court outcomes, this provokes a question: Why? Is this improvement or destruction? We must be genuine about what lower courts did and why, and address the underlying disputes.

Judges perceive that social decisions to harm strangers produce beneficial actions, usually

worsened by law-court meddling. Judges presume their executive-branch peers act reasonably, in (criminal-justice) decisions which are (all) impractical to be adjudicated by courts. Not just actions but surrounding facts, are accepted as true without (detrimental) witness-process.

Lower-court rulings turned on an unstated application of this doctrine outside circumstances white-marketed in law. By applying the immunity of Fourth Amendment decisions against witness-process, in defamation and non-cop speech-retaliation. Behind a facade of boilerplate phrases. Which predicates were legally-invalid slop pretexts for dismissal, but not the real underlying dispute/motivation of interest to this Court.

Judges presume their peers act reasonably -- and private speakers are financially encouraged to agree. Without practical reason.

Courts letting cops do what they want in the street only by wearing the cape of virtue is so ubiquitous, there's little point complaining about it here. But they carry their ideology further. By using this same process not just to retaliate against speech. But extended to letting government select what private speakers say about government and its enemies. To subvert the regulation Plaintiff has a right to, of Fourth Amendment activities by politics. And injure targets using stigma without process, an "adverse action" which courts immunize because they like it.

Government controlling speech about government, and political rather than court regulation of police, are enforcement priorities of this Court.

If Florida wants to chill defamation, they can't leverage it to abridge only speech government doesn't like, and reward, authorize, and immunize private speech according to their own design for their own benefit. If district courts let them, they need a reviewable legal reason, not a fake facade. Don't pretend to not understand what they're doing.

This Court said police are regulated by political speech. Florida courts said speech about government, is selected by the government it's supposed to regulate. If this Court wants to white-market government choosing what private speakers say without needing witness or jury because cops are virtuous, say so. If juries use witnesses but judges obtain facts socially, say so.

Lower courts abdicated based on unarticulated doctrine that socially-produced facts and actions by government are immune for being reasonable. But without law abdicated through stubborn sophistry. This Court must say: Why -- subject to what scrutiny, pursuing what legitimate interest -- can Florida abridge and privilege private speech without witness or jury?

Who decides whether legal versus informal social process will decide fact, and how's that decided?

## DECISIONS BELOW

11th Circuit denying rehearing is Appendix A page 1a.
11th Circuit Opinion is Appendix B, 3a.
Florida Middle District Opinion is Appendix C, 13a.

## JURISDICTION

11th Circuit judgment was 1/16/26, denied rehearing 3/16/26. 28 USC 1254(1) provides jurisdiction.

## CONSTITUTIONAL & STATUTORY PROVISIONS

**Sixth Amendment**
"*to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor*"
**Seventh Amendment**
*"the right of trial by jury shall be preserved "*

## STATEMENT

### A. Heretics Produce Crimes Not Facts

Plaintiff was arrested for posting "Cops2Prison.Org" fliers. And resulting from other speech activity that has no connection to and wasn't witnessed by any crime victim, but which socially -- through gossip -- classifies Plaintiff as a heretic with immoral purposes. There's no witness of anything but this, inside any court record or out.

These voluminous details aren't relevant, yet. What's relevant to this Court, is whether lower courts have to consider such details, or why not. Who decides facts and how, when that decision is used to shape private speech and injure targets beyond street detentions? Whether lower courts need witnesses to support factual conclusions, or even have jurisdiction to make them, is disputed.

By the design and on the financial prompt of government, Defendants deliver to search engines indexed to Plaintiff's name every day, that Plaintiff approached a housewife stealthily with sexual motive. This bargain gives something to all sides, letting Defendants invent a sex story for money, while covering up the actual activities of police and injuring an enemy of government.

When Plaintiff contacted Defendants and swore as the only witness that their story was false, Defendants admitted their story was malicious and it didn't matter if it's false because government tells them what they can say, steers speech with a financial incentive. And because government determines what Defendants can say, it's illegal for an actual witness of the subjects they write about to contact them.

Police use cover of this false story broadcast to trusting voters -- the propaganda viewpoint that police activity is reasonable because Plaintiff was approaching a housewife for sex -- to support brazen violations of Plaintiff's speech and Fourth

Amendment rights for years. Including following, detaining and threatening Plaintiff, and searching Plaintiff's accounts seemingly to this day, confessed by government in writing to be without crime in response to political speech.

Whether courts provide direct protection against such Fourth Amendment infringements or condone scams and lies, isn't our issue. Courts can invent and sign falsehoods, and refuse process, to preserve that the possibility police imagined a crime at their opaque vantage point, makes harming hypothetical criminals with search/detention/arrest legal. And say Plaintiff only has a right to voters, not courts, monitoring it.

But Plaintiff argues a witness is necessary for infringements beyond police doing things with their own hands in searches/detentions, extended to speech control -- to control and retaliate for speech, and subvert the right to political regulation of Fourth Amendment activity -- until some court explains why not. And courts can't actually point to a witness of anything other than Plaintiff being arrested for posting fliers. But resort to inventing facts in defamation/stigma/Mt-Healthy court, the same as in Fourth Amendment processes.

The question is whether not just street detentions, but cops pointing their fingers this way and that to shape private speech, injure targets, and subvert their own political regulation, is immune to jurisdiction and witness under some umbrella of

Fourth Amendment reasoning. Whether police pointing at someone makes facts immune to witness.

So that cops can direct their own political coverage as casually as directing traffic, without courts using witnesses to look over their shoulder. Until this Court says who decides such facts and how, whether by witnesses/juries in court, or through social validation by government.

Criminal-process is an arena of socially-validated inventions about government targets, accepted by courts -- swindled on jurors when necessary -- without and immune to witness-process. Government harming criminal targets based on socially-regulated facts is an arena of immunity, that's what *Imbler* does. The question is whether this philosophy that courts shouldn't look over the shoulder of cops, can be extended to everything. To the point of government selecting private speech to injure rights, using the same social-validation process as street detentions, plea bargains, state-witness reliability, etc. So that all court proceedings that don't have much public interest are a slouch-job rubber-stamping executive-chosen outcomes.

Shaping private speech with exemptions to confrontation by witness-process in defamation court, has nothing to do with detaining people in the street or any legitimate state interest. This Court's case-history on government selecting speech viewpoints is unambiguous. The only way courts could get around it to do the socially-validated

activity by paying Defendants to harm Plaintiff and protect lying cops, is by refusing good-faith process at every step. All fake prancing, not just spurious citations, even objecting to Plaintiff saying "McDonalds".

This Court can white-market courts slouching, to grease the way for executive-branch mob rule. Whether courts have to consider witnesses, or can be given some openly-reviewable reason to immunize social validation of government harms and speech-control against process, is the question. Just state in a white-market way, that it isn't illegal to privilege government viewpoints in private speech and injure targets without witness, confrontation, or legitimate state interest. Or it's illegal, but they're immune to courts doing anything about it. Or courts have jurisdiction, but using some socially-validated fact doctrine.

## B. 1983 Proceedings

Plaintiff sued Defendants as state actors for

**1)** adverse action in retaliation for past speech, citing *Mt. Healthy*
**2)** designed infringement without due process, of future liberty interests with stigma citing *Paul v. Davis*
**3)** infringement of Plaintiff's right to systemic political checks on Fourth Amendment activity, citing *Hudson* and *Herring.*

The Magistrate refused to recount Plaintiff's allegation that he was arrested for posting "Cops2Prison.org" fliers, using a vague/evasive affidavit, with no witness of the crime, no allegations that fit the statute, and perjury. The District instead asserted novel inventions about what Plaintiff did, which didn't come from any witness or party but was shaped by gossip through the District's peer network.

The District disagreed with Plaintiff's rights-interpretations and case law, or that the facts fit them, or that the District had jurisdiction to enforce them or was compelled to. But instead of saying that, insulated those disputes from review with theatric misunderstanding and fake shotgun citations. The District said they couldn't understand the rights or they were formatted wrong, therefore all Plaintiff's facts were irrelevant.

The District betrayed the real reason, by incorrectly saying that actions being authorized by a state court forecloses federal jurisdiction. Which expresses a belief that facts promoted as reasonable by government, are immune to witness-venue.

When Plaintiff tried to engage in the legally-required shotgun dialog, the District refused to respond to efforts at elucidation, acknowledge or answer any of Plaintiff's "Objections", tell Plaintiff what was material, or do something so simple as use paragraph numbers. The District then lied that Plaintiff hadn't written anything, in a bizarre opinion that's a complete charade.

The District said basically:

**1)** the complaint is too long -- which it wouldn't be if they really couldn't understand, but wanted to analyze the state-action nexus;
**2)** they can't understand the rights -- which was just fake refusal to immunize enforcing the rights;
**3)** they implicitly can't understand the facts -- by getting the facts wrong, which implies a need for more detail rather than less;
**4)** state-court authorization forecloses federal jurisdiction making everything immaterial -- when they really meant criminal-justice facts, and activity thereby made reasonable, are immune to federal jurisdiction using witnesses.

The dialog of courts' objections to Plaintiff's complaints was fake, but also very misleading to Plaintiff. Not just the District's refusal to give honest specifics on the shotgun stuff, but everything courts said, was misleading cover to avoid openly stating the reality, that courts were never going to consider what Plaintiff witnessed or do anything about it. And didn't want to waste time reading. Lowlife nobodies can't make virtuous people produce witness.

### i. Fake Shotgun Dialog

The District ruled shotgun using fake-citation theater, rather than case-relevant indications of anything Plaintiff could fix. This didn't elucidate any amendment that could satisfy their objections, but ultimately that none would. The real ruling was

federal courts don't have jurisdiction over state action that's made reasonable by fake facts supporting Fourth Amendment infringements. But courts couldn't supply law saying that, to justify refusing process for a white-market reason.

The District used citations which didn't match Plaintiff's complaint, as excuses absent white-market reasons. Which becomes apparent when you try using the citations as instructions for amendment.

**a)** Saying Plaintiff's "allegations" lacked numbers, not by pointing to any allegation that lacked numbers, but comparing Plaintiff's "798 numbered paragraphs" to a 34-page complaint with no numbers. The only "allegations" Plaintiff could find without numbers were headings before the claims. Based on these vague non-instructions, Plaintiff removed the headings. The District then said the same rights could no longer be understood, first because they didn't have numbers, then because they did.

**b)** Lying that Plaintiff didn't say how this was state action, after Plaintiff did so twice with citations and argument, that was called "diatribe" on state law.

**c)** Saying Plaintiff needed to fix incorporating all preceding facts, when many complaints incorporate all facts, and without pointing to any facts which were irrelevant to a specific claim. The District never said "this paragraph is immaterial to this right" or used the numbers it demanded.

**d)** Saying Plaintiff's claims weren't unique, without detailing two claims which weren't unique.

**e)** Lying that Plaintiff hadn't stated what each defendant did, after Plaintiff did so more clearly than many complaints.

**f)** Comparing Plaintiff's complaint to *Barmapov*, which had "20 causes of action, under both federal and state law, against 23 named defendants and 20 John Doe defendants". Plaintiff named two defendants and their business. Plus the facts Defendants claimed to be telling voters about, and hypothetical witnesses of those facts, all relevant to any real defamation process. Necessary to show whether Defendants are journalists depicting witnessed activities, or propaganda agents whitewashing government wrongdoing with immunized government-validated facts. The District signed unwitnessed falsehoods, while ruling that actual events and witnesses of them were immaterial.

Courts pretend to not understand that what actual witnesses witnessed is material to whether Defendants' story is "independent" (*Murthy*) journalism, depicting the actual activities of Plaintiff and government, or falsehoods cultivated by government protecting wrongdoing. To say that because some other plaintiff didn't know who the defendants were, state-paid lies are immune to confrontation by witness; that what Plaintiff and government witnessed is irrelevant to what

Defendants are immunized to tell voters about Plaintiff and government, and facts which show government privileging harmful lies in private speech, necessary to explain state action, are immaterial. The ruling underlying saying actual witnesses are confusing/immaterial, is that Defendants' story is reasonable not needing witness, because government says so.

**g)** When Plaintiff pointed this out, the District got more fake citing *Astrue*, to say Plaintiff hadn't written any facts and law. When the format of Plaintiff's complaint was the facts and the shotgun standards were the law. Showing shotgun wasn't the real dispute.

The District avoided statements disputing the rights interpretations. Making it impossible for Plaintiff to pin down what rights the District was aware of or misinterpreted, and what facts the District thought were material. None of those instructions targeted for debate and review, the fatal state-action disagreement -- relegated to a footnote -- and the doctrine courts were using to accept unwitnessed lies immune to witness.

With no way to use the Report to figure out what would cure dismissal, Plaintiff sensed some underlying problem with the fact doctrine. Not yet realizing the unarticulated doctrine of fake facts promoted for Fourth Amendment purposes being immunized against witness in federal court. Plaintiff focused his first Objections asking for clarification of

what fact doctrine or burden the District contemplated, for whatever rights the District interpreted.

When the District refused to respond with that clarification, Plaintiff shortened the complaint. And attempted to construe logically in response to shotgun objections that weren't meant for such.

When Plaintiff then pointed out how this shotgun dialog was fake, after his amendment was rejected, the District had a fit. But still without articulating the real objections to Plaintiff's complaint, including behind-the-scenes gossip that Plaintiff is a bad person. Which makes harming Plaintiff reasonable, immune to fact and law.

Plaintiff tried in Motion for Reconsideration, to deconstruct the doublespeak obfuscating the real policy. Which wasn't meant to be engaged with, sending Judge Mendoza off, for Plaintiff not reading "f-off scumbag" between the lines clearly enough the first time.

Filings by Plaintiff before even being served outside the courthouse, and rulings, were accompanied by the Magistrate clicking on links about Plaintiff shared from Tallahassee, and the Judge clicking on links where Plaintiff criticized local judges.

### ii. Fake Short-and-Plain Doctrine

"Short-and-plain... conclusory" misleads what courts

do. The idea that Plaintiff would be accepted as true, if he simply summarized facts in a "short-and-plain" way, has no evidence in reality. Every chance courts had to accept anything Plaintiff firsthand-witnessed, needing no discovery, as true, or even acknowledge/recount what Plaintiff said, they refused. Whereas people who weren't witnesses, from Defendants' lawyers to judges, recited things that had no basis anywhere.

Courts used facts no witness said, or no party even tried to assert. Like Magistrate Maynard saying Plaintiff emailed a link which attached a picture referring to Shannon Sprowls, it wasn't "The Governor" who sent police to threaten Plaintiff, and whoever did was worried about Plaintiff's welfare. Plaintiff contradicted these as witness, nobody disputed Plaintiff, the Magistrate said them anyway and added inventions.

Gossip grew corrupted as necessary to justify government activity. Plaintiff asked to strike it as unwitnessed garbage, and was ignored. The idea that Plaintiff's fact problem is not being short-and-plain is fake, when the real doctrine is immunity of government narrative.

A pro se plaintiff couldn't believe:

1) the warrant judge didn't care the cop was vague, evasive, used perjury, admitted there was no necessary crime witness, and even the false facts didn't fulfill the statute;

2) the defamation judge wouldn't read Plaintiff's pleadings, would accept statements of Defendants' lawyer who wasn't a witness over Plaintiff's as firsthand witness, and sign obvious objective falsehoods;
3) the FLSD Magistrate didn't care when she invented that Plaintiff's email about the January 6th mob attached a picture of some crime victim, without seeing any email or discovery, contrary to what Plaintiff said as the only witness,
4) AG Ashley Moody sending links about Plaintiff to Magistrate Hoffman-Price, and Plaintiff criticizing local judges, would determine this case before Defendants filed anything.

The warrant judge's conclusion wasn't something the cop said short-and-plain, the cop said the crime didn't happen. The defamation judge ignored Plaintiff's short statements at hearing. Plaintiff wrote a one-paragraph petition for rehearing in 11th Circuit *25-12309*. Only needing respond to one sentence, they still didn't acknowledge Plaintiff wrote anything.

Only the FLSD Magistrate admitted "A court is under no obligation to parse". Then invented facts and dismissed with prejudice anyway. Which the 11th Circuit then didn't read, and lied there were no dismissals with prejudice.

Executive officers can't just think "we want to harm someone", but must say "because of some fact, we can do this". But without witness or confrontation of that

fact. Because it's impractical to cultivate lies, coach witnesses, or use plea bargains, for every Fourth Amendment action.

Courts are allergic to witnesses in favor of virtue, to let cops do what they want. They pretend 1983 is for taxes or fired teachers. And won't entertain short-and-plain disputes about whether vague suggestions of possible criminality make it legal for cops to injure nobodies, even in speech.

Courts immunize by not reading or responding. Longer or shorter can't fix willful blindness. It's lies and fake excuses, repealing 14th Amendment §5 with games.

### iii. Fake Short-and-Plain Dialog

The issue was never length and understanding. It's doctrine, and materiality of facts to it.

If the District honestly acknowledged even one of Plaintiff's legal or factual assertions, then a shotgun dialog, and amended complaint, could've been built around that. Instead, courts pretended to be confused about facts and not understand the legal arguments, rather than admitting facts didn't matter.

Plaintiff fell for this. Plaintiff wrote longer filings from being misled that courts didn't at first understand facts but wanted to, were open to trying. By the time Plaintiff got to this case, Plaintiff was a

sucker for this scam that if he really laid it out with details, judges would understand what Plaintiff was talking about. This act of not understanding, wasn't meant to be overcome.

No law says complaints must be arbitrarily short; many are enormous. No law says a complaint doesn't need to try to explain something as necessary -- "contain... grounds" -- when courts pretend to not understand. If a Court is pretending to not understand what facts and rights are, but isn't disputing any right or saying any fact is immaterial to it, that's instruction the complaint isn't long enough to explain the actual facts and rights (*Twombly*).

Plaintiff also knew when courts give real process, in cases involving state schemes to control speech or make private parties state actors, they use long thoughtful analysis of what's really going on. Plaintiff understood speech is the regulator of police this Court prefers. The District never said "we're not going to give honest process even extending to speech issues, because Plaintiff was arrested, we don't like him".

Courts pretending incorrect facts were given process due in state court, implies Plaintiff must provide greater detail that Florida never provided witness-process. Or get guidance what fact-process the District thinks is due. By lying that Plaintiff hadn't mentioned state action, courts implied Plaintiff needed greater detail about the speech schemes.

The District could've responded that all Plaintiff needs say is:

•arrested for posting fliers by a cop using perjury,
•Defendants knowingly broadcast malicious lies, without/against witness that Plaintiff was arrested for approaching a housewife stealthily for sex,
•boasted selective immunity to process in defamation court, to harm targets government selects, broadcasting viewpoints government privileges, for money,
•this is adverse state action in response to speech.

That was the first pages in both complaints. Everything after, is escalation from courts ignoring, pretending Plaintiff said nothing.

The District could've acknowledged any legal concept:

•Defendants boasted being encouraged with state authorization,
•selectively immunized to defamation-process as financial carrot,
•to promote false government viewpoints in private speech about police activity and enemies of government,
•this adverse action was response to political speech,
•this subverts voter checks which violates Fourth Amendment rights,
•harms Plaintiff's future liberty interests.

Plaintiff said this enough times, the District could've

talked law if it wanted. Then said relevant facts to keep in, leave everything else out.

Finally after providing more detail, Plaintiff realized it wasn't "provide grounds", it's the fact doctrine. Courts were wrong about facts because the doctrine excludes witnesses.

The basic facts creating or foreclosing cause of action weren't hard to understand. Rather, the basic facts on their face, led courts to a preliminary legal conclusion to not give process of even reading Plaintiff's facts. But to accept unwitnessed assertions of Defendants or whatever they wanted as true, to blow off the case.

Courts didn't read details, because the subject-matter immunized state facts against confrontation. But without white-market law saying federal courts have no jurisdiction to consider facts witnessed by people who were arrested -- certainly not extended to speech -- courts achieved this with a smokescreen.

The idea Plaintiff could overcome this with any length amendment is fake. But courts lying about what was going on misled Plaintiff to write what he wrote.

When courts pretend as a substitute for white-market immunities, and say the complaint is long as generic objection without citing paragraph numbers or sections -- as substitute for honest indication what Plaintiff can do to fix it, when nothing can -- that

doesn't give notice what's going on.

Finally we isolate the unarticulated doctrine: Government social promotion makes false facts reasonable, displacing witnesses in court.

### C. Fourth Amendment "Reasonable" Facts Become Speech-Control Device

Speech isn't decided in a split second in the street. It's decided in front of a jury in defamation or federal retaliation court. Unlike arrests, defamation and federal speech cases have witnesses.

"Defamation" in Florida, is adjusted around government objectives foreclosing process. Imagining the virtue of government in arrests substitutes for witness, extending "urgent" Fourth Amendment fact-process to speech.

Courts aren't as dumb as they pretend, to not understand Defendants were selectively immunized against defamation fact-standards for government objectives -- to abridge only speech government doesn't like. Courts don't even set out to practice law, thinking process produces bad results in criminal justice.

Maybe courts learned their independent minds are often wrong, better to swim in schools like fish for safety. Cops and criminals create a haze courts can't penetrate, even sweeping in innocents. This goes beyond arresting people, to speech about cops and

people they arrest.

Many judges admit to not believing anything accused criminals say. But don't really believe cop facts, have just abandoned adjudicating outcomes in court. Not prosecuting perjury is part of deprecating witness-hearings, to expedite government choosing fact. Now this is a device for government to decide speech about itself.

Courts have been high-IQ finding government selecting speech viewpoints, coming from the right interest-groups. Not arrested subversives.

Once you say "arrested", fact and witness -- process -- are suspended in favor of government-promoted gossip. And this Court's high-horse-riding on political regulation of police activity, and government selecting speech, absconds. Criminal-justice being regulated socially, becomes social communication is regulated by cops.

### D. The Unstated Legal Principle

When Plaintiff was arrested, Okeechobee cops didn't know what the charge was, only Plaintiff "pissed off the wrong people". The warrant judge accepted no crime/witness, perjury, fake bond conditions, and ignored rules of criminal procedure. Defendants ignored witness saying it doesn't matter with arrests, they're also privileged to imagine government is reasonable and targets are criminals. The defamation judge agreed. Defamation is reasonable

contrary to fact and witness, when the subject is arrests. Facts about criminal-justice are selected by government. Federal judges extended this to federal trial court.

Courts immunized false government-preferred narratives against witness, extended outside arrests to other liberty interests. With no such fact/immunity doctrine, this manifested as misstating/ignoring law, lying about/refusing to respond to filings.

Words missing from these rulings are "reasonable" and "immunity". How can witness-contrary facts be reasonable, how are not just actions, but unwitnessed facts asserted by government for privilege in private speech to inform voters (or selected for coercion in plea bargains), reasonable? What makes facts asserted by government immune outside "emergencies"?

When a prosecutor decides what testimony to reward, it's based on preference of facts he isn't witness of. But coercing witnesses to say these things, and never prosecuting when it's perjury, is considered "proper" because the prosecutor's objectives are (pre-judged) virtuous.

The Fifth Amendment doesn't say "no defendant shall be compelled to testify viewpoints government thinks are reasonable". They perceive some problem with historical coerced confessions. But can't escape perceptions that facts selected by prosecutors are

reasonable. Stripping out the second from the first, they're left with some problem when talking about yourself. Not during plea bargains before the judge. But telling jurors what they must glean from someone choosing not to testify, because jurors can't "compel" self-description of innocence.

Police/prosecutors/judges can bully people to testify anything -- including against themselves just not spoken during trial, only jurors can't. Government can coerce witnesses to lie, when socially-validated.

Lower courts didn't use "fair" like defamation court, to say witness-contrary invented facts are "fair". They used "jurisdiction", misstating that federal courts can't have jurisdiction over actions selected by state courts. What they mean is courts accept government-validated facts involving criminal-justice, immune to witness/jury, preempting independent speech.

Prisoners, publishers and voters, can be told something or to say something, punished and rewarded for it, because it's cop-promoted, harming targets is virtuous.

## REASONS FOR GRANTING PETITION

### I. The Fundamental Decision of Law

Expansion of society beyond the limits of conscious collective cooperation and coordination, uses progressive subdivision of opaque local domains of

distributed decision-makers. The boundaries of these domains and their ability to check each other, is codified in law and resolved in court. The most important recurring question of law, is not assuming a particular court will make a particular decision, what law will be applied. It's whether the decision should even be made by law in formal process, or by competing social processes or government-officer discretion.

What decision-makers will make different decisions, whether courts, legislators, executive officers serving their own agenda, business managers following prices, or voters through direct democracy? And how will the preferences of strangers be conveyed to those decision-makers? If not through prices, then whether socially or through legislation or open case law in court processes?

Particularly upon novel material, questions of who decides -- whether to give jurisdiction to law or local social agendas -- must be elevated for review, not abused as excuse to immunize government action at the whim of local cliques.

## II. Practical Problem of Who Should Decide

Specialization, division of labor, mass production, and costly middlemen, operate in politics like industry, to produce knowledge and apply it to local circumstances. Every voter can't research every crime, then vote which criminals are guilty. They delegate representatives to record a list of laws

distributed to local decision-makers, to measure against fact in each case in a proceeding opaque to outsiders. Then delegate other decision-makers, to measure whether the first decisions-makers followed the rules. Resembling the two-key system for missile launches, or competition between businesses. Checks are monitored in progressively less detailed/more abstract layers of review.

The **Cost** of making a decision can be crudely expressed as:
**C=N(P+I+C)**
**Number** of people involved in deciding
**Preference** discovery cost
**Information** discovery cost
**Compliance** discovery cost

Suppose the cost of learning all the facts in each case is 100. For 1,000 voters to decide what to do to 100 criminals based on their personal preferences would be:

1,000(0+100+0) = 100,000

If it also costs 100 for a voter to learn what legislation says punishments should be, 1,000 voters deciding what to do to 100 criminals based on law would be:

1,000(100+100+0) = 200,000

To have voters enforce laws rather than their own preferences, we need another 1,000 people to monitor

that each voter knew what the law was and used it.

1,000(100+100+100) = 300,000

This is before monitoring whether the people providing the details are lying, or government actually does what voters decide. If we instead decide using a court, harnessing adversaries to provide information and narrow compliance disputes dovetailing with their own agendas, the cost might be closer to:

10(100+100+100) = 3,000

If the days required to make a decision is the square root of the number of people involved, a city of 100,000 could only vote on one decision every 316 days. If they instead delegate decisions to groups of 10 people checked for compliance by another 10 people, they could make 5,000 decisions every 6.32 days.

20 people who want to go on vacation together might reach a vague consensus on the type of vacation, then entrust one person to talk to a travel agent. When a decision involves the preferences of more than 10 people, it's cheaper for a specialist delegate to discover their preferences, make the decision on their behalf, and have his compliance checked.

Transmitting preferences to strangers through middlemen to make decisions on your behalf, and monitoring compliance, requires costly imperfect

procedures. This still costs less than making decisions redundantly.

It's costly for government to tell restaurants what food to make or customers what to eat, monitor that, and have voters monitor the monitors. This is mitigated with more general details, like give free food to children before 10AM, you can't serve dirty food. Preferences are transmitted as vague abstractions, delegates then choose details upon details. Even large factors of unique situations are hard to anticipate.

The more decisions must be made more quickly, the more they must be delegated and the less they can be monitored. A monitor like a court may look as soon after an emergency as possible, or never.

Delegation is optimized by comparing efficiency benefits with costs of imperfect preference transmission/monitoring. The right delegated decision-maker balances how costly it is to convey preferences to others and monitor them, versus the costs and risks of not doing so. Formal distributed decision-making is superior to informal social decision-making, when the cost of conveying preferences and monitoring that delegates are serving them, is less than the improved decision capacity.

The problem when minorities are cooking on behalf of strangers -- comparing preferences of strangers to local information only they know -- is creating

incentives and penalties for them to serve those preferences rather than their own agenda. When we're not transmitting the cost and benefit of a commodity between two domains like a hamburger -- monitoring by recipient -- rather we're transmitting the value of educating other people's children or punishing a heretic, prices fail and we must use laws and social influence. "Collective" or informal social decision-making, and formal distributed delegation, suit different decisions.

Government delegates formal institutions like courts and central banks bounded by laws. Private institutions like political parties have less formal structures, with thought leaders and specialists trusted to make various decision, who then tell party members what to vote for.

A party can have trusted researchers on vaccines like a government. But the whole process is less formal and therefore potentially less efficient, with more redundancy and blind spots, and less exposed to review with a formal record. Having 1 fact-originator and 3 monitors for every 1,000 parrots, amplifies falsehoods, and is as corruptible to self-serving in private institutions as in government.

Formal procedure in government institutions can be too rigid, hard to fix. Informal private associations allow faster creation and destruction like industry. Once you remove stable preference-codification in law, and formal distribution of decisions/compliance and checks/review-exposure, it's a volatile free-for-

all.

Optimization breaks, when people underestimate the cost and inefficiency of voters monitoring compliance, or overestimate the wisdom of voters knowing what to do, fantasizing "collective" decision-making. Others exploit that miscalculation, to self-serve or make disastrous decisions, while pretending they're monitored by the wisdom of voters.

If a policeman is directing traffic, it's not practical to record and have voters/delegates monitor every time he waves his hands. Citizens can vote once a year whether the sheriff is generally serving their preferences. Saying voters will monitor whether police infringe the rights of innocents, depends on assuming 1) informal social monitoring is less costly and more efficient than it is, and 2) whims of voters won't lead to their own destruction.

The pitfall finding/conserving the right decision-makers, is human imagination overestimates the power of social perception and transmission of costs and benefits, to create spontaneous networks of coordination. By not specifying formal processes and costs, or not enforcing decision-domains like private property, social transmission/monitoring is imagined to happen for free in some unspecified way. People just saying what they want, knowing what others are doing, is imagined to costlessly achieve preferences.

The common man imagines a utopia where he can simply tell people what he wants -- shout in the

street -- and his leader knows all (without needing instruction from courts and laws) and doesn't lie to him. Important people -- college professors, elected officials, rich businessmen -- misperceive based on personal experience, that transmitting preferences socially works better than it does, and that social preferences are wiser than they are.

Society chooses the wrong tradeoff, replacing court and business decisions with conscious social decisions through religious trust in a political party. Creating perpetual competition between survival-of-the-fittest favoring distributed decision-making, pitted against men choosing socialism resulting in their destruction.

Giving murderers 10 years versus death, is easy to debate. Law's greatest battle, is conserving formally-distributed decision-processes, against human inclination to serve impulses using social influence. So that once we discover which punishment works best, we can preserve it as legislation and adjust it over time, the DNA that conserves our civilization.

There's nothing in the knowledge and reasoning people are born with, that stops them burning down a bakery when they see moldy bread, then the next day forcing people to eat moldy bread.

"Tyranny of the majority" is a mirage, because it's not possible for 1,000 people to have the same information beyond a handful of facts, or operate as a single consciousness. They're captive to the person

with the information who tells them what decision she's making and why.

All decisions are inevitably distributed, based on the geographic friction of the physical world. The vague mirage of some collective consciousness that sees everything, in practice hands decisions to myopic impulses of local groups who actually control the decision. Social monitoring equals no monitoring, which wolves use to sell their power to sheep, a tyranny of opaque local discretion, camouflaged in lies and popularly defended.

There's no fixed number of states, departments or jurors. Debates involve whether information is cheaper and human nature more virtuous than it is, so courts and middlemen aren't needed.

## III. Myopic Perceived Virtuousness of Social Decisions

Saying rights come from God complements misperception that not harming strangers has no practical value.

In large societies, conscious human preferences become dead prices and laws, to transmit them across large distances and coordinate strangers. Nobody advocates teary-eyed that giving my child an extra glass of milk will result in some remote stranger being malnourished. Nobody whines to me about his difficult work fixing the cow-milking machine. The high price simply tells me I can only

have one glass of milk. The distant reasons -- the costs -- are unknowable, in both prices and laws.

Everyone from a juror who reads news stories, to a prosecutor, to a voter who sees homelessness or factories emitting pollution, may "know" the relevant facts and what the decision should be, beyond his legally-given domain. This gives the appearance the inanimate process, where local social actors have their actions confined for unknown reasons by prices and law, lacks virtue. Actions we're forced to take, for reasons we don't know, appear to neglect important reasons we do know.

What decision is made, is determined by what costs and benefits are included versus left out. This is affected by whether prices, informal social dynamics (including votes), or legislation is used to measure costs. Legislation in formal process, and human reason serving local agendas, perceive different costs and benefits, to produce different decisions. As illustrated by the decades in court to execute someone. Versus a rookie cop can kill someone in the street, requiring only that he politically frame it as an evil suspect and possibility there might've been a gun. A judge can't order the murder but can immunize a cop to, and voters can never know or care.

A traditional decision-maker compares local information he knows to local agendas he knows, in an informal process of conscious social decision. This leads him to steal the property of immoral outsiders

and strangers, and call it virtuous, for serving costs and benefits known inside the tribe. This myopic nature of social decisions leads to war and conflict, rather than cooperation (trade), with outsiders.

A distributed decision-maker compares human information he knows, against cold prices and laws that have survived history. He's forced to, using externally-imposed processes which are themselves subject to checks from others, bounding his domain. Laws and prices bring to bear costs and benefits to which local social decisions are myopic. This "human-spirit-alienating" arrangement preserves large societies.

Making decisions within the capacity of a social group to consciously perceive and process costs and benefits, looks profitable by only including costs and benefits they can see. Reduced computing capacity and memory creates the mirage of profit.

Some see McDonalds giving a free hamburger to a homeless person as a benefit, others as a cost. One group might want McDonalds managers to decide whom to give hamburgers, others might want government employees to decide. Those who imagine conscious decisions are more virtuous, will prefer decisions made by informal social processes, rather than prices or due process.

Some imagine decisions by executive-branch officers are more virtuous than courts, by virtue of being elected (propagandizing that some collective mind of

voters is virtuous and can see what officials are doing). They make decisions for these human reasons, the pain of familiar people, rather than laws, the pain of strangers. Assuming police are wise and virtuous, any time they're not allowed to do what they want or must pay the costs of judicial process, is a cost to society. If a cop tells a McDonalds manager to stop making french fries, it's presumed to create a net benefit.

Legislation tallies harms to strangers as harm to society, social processes tally harms to strangers as profit. Empathy protects people we know, law and prices protect strangers. One side sees $1 taken from a stranger by a cop as a $1 loss, the other a $1 profit.

There's no social backlash when court and business decisions are corrupted into social processes, at great cost to society. But for the reason that prices enable people to benefit from commerce with people they never met, they benefit from laws that stop them harming strangers.

A tyranny of local social reasonableness -- myopic, capricious, and corrupt -- is fighting where to stick a thermometer then declaring it "the Earth's temperature". Utilizing information from strangers enables civilization.

## IV. Closing The Eyes of Law in Favor of Social Decisions

Social factions who want a decision can't change the

preferences that dictate the decision, when it's made by due process. But will try to change who decides, arguing law calls for the decision-maker who makes the decision they want. Authors of abstract principles at the Founding, advocated for different decision-makers, when pursuing specific decisions.

The standard court dispute is factions that control executive offices trying to immunize cases against abstract legislation, local social agendas against law. What people think of as law, where witnessed fact is measured painstakingly against legislation, is only rarely practiced thereafter. When courts choose to, often when social forces demand a tie-breaker.

Courts use social signals, open the eyes of law for disputes which are at first social, referee disputes of local importance. They won't scrutinize 100 appeals, only the one with social indications there's something in there to find.

Facts might be tested in court, if there's preexisting social debate of those facts. Courts then admit parties advocating those facts, in proportion as social groups think it's fair to consider them, when there seem to be well-meaning people on both sides. Judges do everything in proportion as the side or conflict is socially-validated.

Changing the decision-maker is called "states rights", "the people decide", "unitary executive"... If you go far back enough, you can always find 1) a time when the power of the collective was unchecked, 2)

people who didn't understand anything other than executives representing the social group, or 3) people who advocated social decisions over law.

Neglecting such sophistry, quick mechanisms for closing the eyes of law to social decisions range from "prudential", "immunity", and "jurisdiction" at the white-market end, to "discretion" and "lying".

Closing the eyes of law is often done in a black market, where judges put up a facade of legal arguments, or use their discretion to permit then rely on lies. Commonly involving Fourth Amendment violations, where more often than not police provide some lies or misleading statements, which courts welcome as legalizing the desired action.

Sometimes closing the eyes of law begins standardized in a black market, but courts find a way to codify and bring it in the open. Like Imbler saying prosecutors are immune, replaced judges secretly closing their eyes to violations by lying ("often prejudice"). *Terry* replaced probable-cause charades.

Some decisions really are impractical for courts, and others are pretended to be, to immunize the social decision. The problem comes when courts have law/witness/filings that can dictate the preference, but still think the social outcome is more virtuous. How to make the facts more opaque, introduce impracticality, feign confusion?

Even with witnessed facts in front of them, courts will argue it's impractical to penetrate the social vantage point or imagination of cops. They may lie that they can't understand or that nothing was filed, or simply make rulings not connected to anything actually in the filings, closing the eyes of law without clear reasons.

The fact that local decision-makers must have some discretion and courts can't perfectly reproduce their vantage point, is a wedge to drive in social decisions. Once it's reasonable to arrest or search someone, there's discretion given to cops how to do that, which discretion is legislated by communist courts. Suppose it's reasonable to search someone's car, can you impound the car, or shoot the owner if he locks the doors?

Once you admit some activities are urgent, there are domains opaque to courts, it's reused as excuse, a parroted rationale to close the eyes of law, copy-pasting immunities everywhere.

The fact that voters have some information and are pandered to as virtuous, is a rhetorical wedge to drive in social decisions. Without having to specify how this can work, but burdening heretics to prove it won't. The Fourth Amendment becomes a domain where local social groups can do whatever they want, a door to immunize everything.

Cops' reasons for doing something are always more virtuous than some nobody's reasons for cops not

doing them. This is written into law, not by legislators but judges. As long as there's a reason it's called reasonable, or a legitimate state interest, and witnesses can't confront the virtue.

The Fourth Amendment opens this sphere of urgent local action where government can do whatever they want. By making details opaque, we can endow anything from deciding facts in private speech to arresting people for posting fliers, with the presumption of virtuousness and therefore reasonableness, licensing the socially-preferred harm.

## V. White-Marketing Social Facts

Social processes produce not just actions, but facts, which are reasonable. These may be actual beliefs, or tokens propagated to satisfy monitors.

The virtue of socially-produced decisions and socially-produced facts are so closely related, it's surprising there's rarely formal statements of when facts should come predetermined from government not witnesses in court. Police use spurious devices like unnamed informants, and judges accept vague statements and lies, to get facts through the door to obtain outcomes. Rather than courts just openly saying "We assume there's probably a crime when police say so because police are virtuous. And we don't care to argue with nobodies about their so-called facts."

Courts are captivated by social consensus, and actual witnesses often try to break the hypnosis. This hasn't compelled courts to articulate reasons, never openly saying "I prefer official imagination over witnesses". Blunt instruments like "conclusory", "shotgun", and "per curiam", spare courts articulating the real fact doctrines they're applying, when rulings imply preferred imagination is fact, and actual witnesses are liars.

Facts and reasons may be opaque to courts. But people known to be virtuous -- people validated and put forward by social groups -- say true facts and do reasonable things. Elected officials are trusted. Strangers accused of crimes do unreasonable things and lie. The more opaque executive-officer decisions are, the more they're assumed to be virtuous. The local/urgent nature of Fourth Amendment infringements, creates a window for not just actions, but facts about those actions preferred by government, to be immune to witness-process, in favor of social validation.

A cop can just run past and knock you down. It's "conclusory" that he didn't "reasonably" imagine you were committing a crime, based on some unknown thing at his vantage point. But even if the cop confesses otherwise in writing, judges will ignore that and say something else or that it's conclusory. Witnessed tidbits, can't overcome the cop's virtue, social validation.

Judges believe their peer network is virtuous, and

act like confrontation of socially-produced fact is a doorway for evil. Saying prosecutors being afraid of lawsuits creates net costs to society, without rigorous proof, is simply saying prosecutors are virtuous.

Reliability of hearsay based on virtue, is a cheap substitute for witnesses in formal process. But white-market doctrine to do this, is rarely formalized. It doesn't need to be when outcomes are socially supported.

Courts say people already serving life in prison are unreliable if they confess to crimes the state wants to convict someone else for (prove innocence). But when they're let out of prison for lying that another inmate confessed to them -- when it's a prosecutor's agenda -- the judge has discretion to accept them as reliable and swindle the jury. The testimony of jailhouse-confession witnesses is reasonable when prosecutors choose to let them out for saying it, but unreliable when years later for non-government-selected reasons, they swear they previously lied.

Prosecutors letting dangerous felons out of prison as a reward for lying -- and hiding from juries there being no penalty but only a reward for perjury with a historical record of producing perjury, while the prejudice of jurors to imagine otherwise remains uncured rather cultivated -- all this is ignored, because the facts produced are socially-validated as reasonable. There's no examination by expert witnesses of the process and incentives for producing jailhouse-confession testimony, and empirical

results. The empirical data is prosecutors, harms, are virtuous.

Prosecutors decide what testimony they want. Then hide other proffers, much less prosecute conspiracies of lies, the necessary raw material from which they sub-select. Then tell jurors witnesses have agreed to testify truthfully, without mentioning there's no penalty for lying. Prisoners are trafficked as currency to produce testimony, for lawyers to bank fees without trials. The local lawyers clique can determine outcomes. Elections confer this power to reward and punish viewpoints. This spawns patterns of fact, in proportion as the outcome is socially validated. Courts pretend testimony which surfaces from government's choices between stories to expose and hide are independent witnessed facts, to introduce facts in proportion as they're reasonable.

Flimsy witnesses/processes for admitting/excluding facts in court, and the extrinsic biases, are eclipsed because harms are socially-validated. There's no double-blind protocol at the state crime lab. Because unlike greedy drug companies, factions that control the test-outcomes are virtuous. Scientific theories of guilt are accepted by defense attorneys, because they're crowd-validated. Devices to pretend socially-preferred facts emerged independently from witnesses are infinite.

Confessions suspects are steered to by police bullying, are reasonable until socially unpopular. Then judges pretend people in chains saying what

the person holding the chains wants them to say -- witness tampering -- is a novel discovery. The "discovery", is what government chooses for witnesses to say, isn't always beneficial.

While judges pretend the Fifth Amendment identifies a problem when people talk about themselves, not when government selects testimony and dresses up this scam with theater. If judges realize how much social selection determines facts, they won't object to the reasonable outcomes.

Courts require vague misleading suggestions, just assurance of noble intentions by police. Then ignore facts raised by nobodies. Examples of what government wants to say being accepted without juries, only social validation, are innumerable.

If they can't move the decision-maker, they fake the facts. Ways to do this have been white-marketed. None for the circumstances of this case.

The unwritten doctrine, is the reasonableness not just of unconfronted government action, but of witness-contrary government fact. Not just police actions, but facts about them, are immune. No such doctrine is clarified for speech; it's achieved by fudging law and process. This Court must articulate the doctrine for review.

## VI. Debating Social Fact-Validation

The greatest power wielded by courts and their

influences, isn't choosing how to interpret law upon fact. It's choosing when to open and close the eyes of law, in favor of competing social preferences. This may be justified economically like Rule 10 saying this Court ignores errors of fact and misapplication of law, or corroborated by legislation like *Marbury*.

Courts here closed the eyes of law to government selecting private-speech viewpoints, to injure targets, benefit itself, and subvert systemic regulation of police activity. They did this in a black-market way, ignoring fact and law, and refusing basic process such as responding to filings rather than lying about them.

Witnesses and journalists say "we're immune to lie" -- a warrant to lie. Then judges dissimulate.

Devising white-market reasons for courts to do what they're doing anyway has long been the mandate of this Court (*Imbler, Terry*...).

Who will make which decisions, can't be decided in private, by local courts behind a facade of other reasons.

There are valid reasons to use one decision-maker versus another. Which must be openly debated, not usurped based on moral superiority. Popular policies and common behaviors of judges can't live in a black market. We need honest records, precedents for courts to report they're ignoring witnesses and immunizing liberty-infringements.

Plaintiff has a right that who decides what, is based in law with notice and review. How we decide who decides, isn't "judges when they want an outcome".

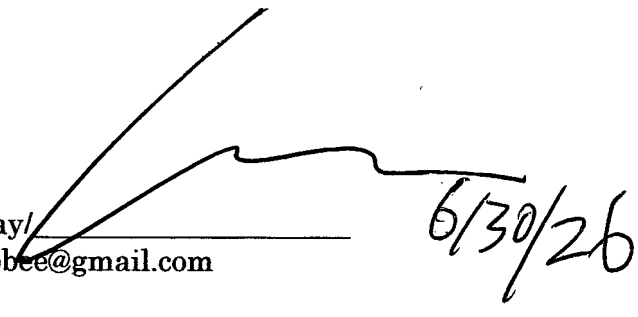
Black-market justice blurring the eyes of law in favor of socially-validated agendas, blurs the eyes of democracy to what the policy is, and the ability to manage it through legislation.

It wastes resources faux-litigating cases with politically-predetermined outcomes. Time was wasted here, for not being openly codified that witnessed fact and basic law would be ignored in favor of socially-determined discretion. Nobody said courts will refuse to acknowledge cop perjury is alleged, to protect socially-validated decisions.

When courts regularly immunize government as virtuous, executives wonder why courts get to decide ignoring legislation. Voters recognize that choosing which activities are more virtuous than law, is for people they elected. Executives get executive discretion. Courts get paid to argue they shouldn't have a job.

Doctrine for immunizing government-promoted facts which it's impractical or there's legitimate reason for courts not adjudicating, has wide application. When can a judge, prosecutor, or other official simply tell people or suggest things are true -- mislead -- while immunizing against evidence they're not, not just publishers but even jurors?

Categories of immune facts need doctrines. Whether reductions to specific rights, or broad immunity of government-preferred facts against witness. Otherwise it's black-market discretion for government to control speech and everything.



6/30/26

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