STATE OF MAINE

SUPREME JUDICIAL COURT

SITTING AS THE LAW COURT

LAW COURT DOCKET NO. Ken-25-137

ANDREW ROBBINS, et al.
Plaintiffs-Appellees

v.

STATE OF MAINE, et al.
Defendant-Appellants.

On Appeal from the Superior Court
Kennebec County

BRIEF OF PARTY-IN-INTEREST–APPELLANT STATE OF MAINE

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INTRODUCTION

The State of Maine comes to this Court at the final opportunity to correct the Superior Court's legal errors and abuses of discretion in advance of an unprecedented event: In a class-action petition for habeas corpus, the Superior Court (*Murphy, J.*) is prepared to travel from courtroom to courtroom across Maine to issue writs of habeas relief, resulting in the dismissal of criminal charges and release of an unknown number of criminal defendants into the community. This Court should not reject this appeal as interlocutory, as Maine citizens deserve their highest court's guidance on these weighty issues.

The Court's review is particularly important in light of four serious errors committed by the Superior Court that should be corrected before this litigation advances any further. On Count I, as the Maine Commission on Public Defense Services ("MCPDS") argues in its brief, the Superior Court failed to properly analyze the legal issues asserted by Plaintiffs-Appellants ("Robbins") pursuant to 42 U.S.C. § 1983. And because Count I alleges a Sixth Amendment violation, those legal errors tainted the Superior Court's analysis of liability, as well as who deserves relief, on Robbins's Count III petition for a writ of habeas corpus. This Court should therefore correct the Superior Court's Sixth-Amendment errors in accordance with MCPDS's argument, ensuring that only Subclass members with legitimate constitutional grievances are provided relief.

But even assuming for the sake of argument that the Superior Court's Sixth Amendment analysis was flawless, it committed three additional errors in weighing Robbins' Count III habeas petition. First, it eschewed the guidance of this Court and the Supreme Court of the United States ("Supreme Court") in determining how public safety should be considered when dispensing habeas relief. Second, the Superior Court intends to ride circuit across Maine to execute its flawed habeas framework. This would not only deprive local judges of the ability to rectify Sixth Amendment violations through identifying available defense counsel in their own legal communities, it would also undermine public safety by taking decisions about bail conditions out of the hands of the jurists most familiar with the defendants being released. Finally, the Superior Court is prepared to dismiss class members' criminal charges, contrary to Maine law.

Because the propriety of its habeas relief framework is legally distinct from questions related to the merits of Robbins's Sixth Amendment claims, this Court should address the habeas issues now to provide certainty going forward. Clarifying the appropriate habeas framework provides judicial efficiency and eases anxiety among the public and Subclass alike in terms of how this litigation proceeds. For these reasons and those set forth below, the State of Maine asks that this Court vacate the Superior Court's March 7, 2025 post-trial order and remand this matter with instructions consistent with the arguments below.

FACTUAL AND PROCEDURAL HISTORY

Procedural History Before the State of Maine's Participation

Robbins originally filed a putative class action on March 1, 2022. J.A. at 282. That Complaint contained two counts against MCPDS, its commissioners, and executive director.[1] Count I, brought under 42 U.S.C. § 1983, alleged MCPDS violated Robbins's Sixth Amendment right to counsel by failing to provide an indigent defense system that comports with the Maine and United States Constitutions, focusing on its oversight of defense attorneys and operation of the lawyer-of-the-day program. Count II was filed under the Maine Administrative Procedure Act, alleging MCPDS failed to adopt sufficient rules to guarantee compliance with both Constitutions.[2] *Id.* at 279-80.

On July 13, 2022, the Superior Court granted Robbins's request to certify class action status over MCPDS's opposition, defining the class to consist of all individuals "who are or will be eligible" for indigent defense counsel. Order on Mot. for Class Cert. at 5. Discovery commenced, and after a number of judicial settlement conferences, both sides agreed to settlement terms on August 21, 2023. J.A. at 21-22. But the Superior Court rejected the proposed settlement three weeks later. *Id.* at 23. The parties again reached a proposed settlement

[1] This brief refers to all Defendants-Appellants associated with MCPDS collectively as "MCPDS."
[2] The Superior Court dismissed Count II on June 2, 2022, J.A. at 16., and Robbins has not asserted another MAPA claim throughout the litigation or sought to cross-appeal as to that dismissal.

on November 28, 2023, which was met with additional Superior Court skepticism. *Id.* at 24. In response, the parties sought approval of a third settlement on February 14, 2024. *Id.* at 25-26. But, the Superior Court rejected it three days later, this time for the parties' failure to directly address the then-growing number of unrepresented indigent criminal defendants. *See* Combined Order (Feb. 27, 2024) at 11-14.

In rejecting this third proposed settlement, the Superior Court created a new Subclass, *sua sponte*, consisting of individuals "who remain unrepresented after initial appearance or arraignment." *Id.* at 16. It did not name a representative plaintiff for the Subclass, and therefore did not apply its Rule 23 typicality and adequacy certification analysis to an individual plaintiff. *Id.* It then severed the litigation into two "phases," assigning to Phase 1 questions of the Subclass's non-representation, and assigning to Phase 2 the original issues underlying Robbins's Complaint. *Id.* The Superior Court also encouraged Robbins to file an amended complaint, adding new parties and claims. *Id.*

MCPDS appealed the Superior Court's denial of the parties' settlement, which this Court dismissed as interlocutory on May 1, 2024. J.A. at 29. The Superior Court then granted Robbins's motion for leave to file an Amended Complaint, which was docketed on May 31, 2024. *Id.* at 247.

The Operative Amended Complaint and Pre-Trial Motions

Robbins's Amended Complaint consisted of five Counts and added three new categories of parties. *Id.* at 193-247. Count I restyled the § 1983 allegations against MCPDS to include the issues of nonrepresentation raised by the Superior Court, and also added the Attorney General as a defendant; Count II asserted similar claims against MCPDS and the Attorney General under the Maine Civil Rights Act; Count III was brought pursuant to 14 M.R.S.A. §§ 5501-5546 and styled as a Petition for a Writ of Habeas Corpus against the State of Maine and the sheriffs of Maine's sixteen counties; Count IV sought declaratory relief against MCPDS under Maine's Declaratory Judgments Act; and Count V sought similar declaratory relief against the State of Maine. *Id.* at 235-44.

All non-habeas defendant parties filed motions to dismiss shortly thereafter. *Id.* at 35-36. On August 13, 2024, the Superior Court ruled on each motion, dismissing the Attorney General on the basis of sovereign immunity, dismissing Count IV against MCPDS as serving "no added benefit" to the potential relief from Counts I and II, but rejecting the State of Maine's assertion of sovereign immunity on Count V.[3] Order on Pend. Mots. to Dismiss. at 18-19.

[3] The State of Maine filed a notice of appeal as to this Order, which has been docketed as Ken-24-450. J.A. 41. As this Court has made clear for 80 years, the DJA cannot supply a plaintiff with an independent cause of action against a defendant. *See, e.g.*, *Sold, Inc. v. Town of Gorham*, 2005 ME 24

It also granted then-Respondent State of Maine's request to be redesignated as a "Party-In-Interest," in accordance with the decision of a single Justice in *Peterson v. Johnson*, Dkt. No. SJC-23-2 (Nov. 6, 2023) (*Douglas, J.*), permitting the State of Maine to continue to "participate in the proceedings and to be heard on the propriety of any relief" on Count III. *Id.* at 19.

On September 26, 2024, the Superior Court granted, over MCPDS's objection, a motion to amend the plaintiff class, which was expanded to include not only individuals "indicted," but also those "charged," with crimes punishable by imprisonment.[4] J.A. at 191. In the same order, the Superior Court also *sua sponte* redefined the Subclass, though again named no representative plaintiff as it related to the amended Subclass.[5] *Id.* It announced that it would treat the Subclass "as a class as permitted by Rule 23(c)(4)(B)" and defined it to include "[a]ll individuals who currently are, or in the future eligible for appointment of" indigent counsel "but who remain unrepresented after

¶ 10, 868 A.2d 172; *Me. Broad Co. Inc. v. E. Trust & Banking Co.*, 142 Me. 220, 223, 49 A.2d 224 (1946). That issue is part of (Defendant) State of Maine's appeal in Ken-24-450.

[4] The State of Maine indicated throughout Superior Court proceedings that, unless it filed its own briefing on pre-trial motions, it was adopting MCPDS's arguments on such issues.

[5] When referring to the previous definition of the Subclass, the Superior Court did—seemingly for the first time—allude to three representative class plaintiffs (but not representative Subclass plaintiffs, which had never been established). The Superior Court did not state who these representative plaintiffs were or why they met the Rule 23 requirements to represent the Subclass, only that a mooted plaintiff will not be presumed to defeat typicality or adequacy. J.A. at 189.

arraignment or first appearance on any criminal charge punishable by incarceration or imprisonment." *Id*.

Subsequent to the close of discovery, on November 22, 2024, parties filed motions for summary judgment. Robbins sought partial summary judgment on the question of liability as to Counts I, II, III, and V; MCPDS sought summary judgment on Counts I, and II; and the State of Maine sought summary judgment on Count V. *Id*. at 49-50, 283-305. On that same date, the State of Maine filed a motion to continue trial on Count V, since it had not yet answered the Amended Complaint or participated in discovery, in light of its pending sovereign immunity appeal before this Court in Ken-24-450. *Id.* at 49.

On January 3, 2025, the Superior Court (*Murphy, J.*) granted partial summary judgment in Robbins's favor on the question of liability as to Count I; granted summary judgment in favor of MCPDS on Count II, granted in part Robbins's motion for partial summary judgment on Count III, and reserved ruling on the State of Maine's motion as to Count V. *Id.* at 141-81.

The "Phase 1" Trial and Decisions on Appeal

On January 22-24, 2025, the Superior Court held a "Phase 1 Trial" on all unresolved issues in the remaining counts as applied to members of the Subclass. *Id.* at 56-58. Parties completed post-trial briefing on February 28, 2025, and on March 7, 2025, the Superior Court issued an "Order After Phase

One Trial" ("Post-Trial Order") setting forth findings of facts, conclusions of law, and various remedies in light of the bench trial. J.A. at 92-140.

Relevant to the State of Maine's appeal on Count III, the Post-Trial Order included an initial framework for habeas relief to be further developed after an April 7, 2025 hearing. *Id.* at 132. As part of the framework, the Superior Court announced that it intended to "conduct several court sessions at several locations in northern, central and southern Maine during the month of April 2025." *Id.* It further stated that "any Subclass member who has been detained and remains detained for more than 14 days after their initial appearance or arraignment" would be released from such detainment. *Id.* at 133. Finally, "Subclass members who have remained without counsel for more than 60 days after their initial appearance or arraignment or more than 60 days after counsel has been granted leave to withdraw" would have their criminal charges dismissed without prejudice until counsel could be provided. *Id.*

On March 27, 2025, both MCPDS and the State of Maine filed notices of appeal as to the March 7, 2025 Post-Trial Order. *Id.* at 61-62. The parties disagreed as to whether the Superior Court was permitted to proceed with habeas hearings while this appeal is pending and briefed the issue to the Superior Court. *See* Pl.s' Mot. to Cont. (Apr. 10, 2025); State of Me. Opp. (April. 15, 2025); *see also* J.A. at 62-63. Among the issues that arose during that

briefing was whether the Superior Court—assuming hearings could go forward—could issue habeas relief to individuals accused of crimes historically categorized as felonies.

On May 7, 2025, the Superior Court issued a combined order announcing that it intended to proceed with the habeas hearings as previously envisioned and announcing that it would "consider habeas corpus relief for any unrepresented Plaintiff, regardless of whether or not they are being restrained on "felony" charges, so long as they meet other criteria established in prior orders."[6] J.A. at 75. On May 15, 2025, the Superior Court issued an "Order Scheduling Individual Habeas Corpus Hearings," setting the first hearing date for June 24, 2025. *Id.* at 63-64.

In response, the State of Maine sought emergency relief in this Court to enforce M.R. App. P. 3 and stay all trial court action during the pendency of this appeal, which this Court granted on June 20, 2025. *Id*. at 65.

SUMMARY OF THE ARGUMENT

Tied to its erroneous interpretation of the Sixth Amendment and after a weeklong trial, the Superior Court determined that Robbins and all Subclass members are entitled to blanket habeas relief. In crafting a remedy framework,

[6] The May 7, 2025 combined order also granted the State of Maine's motion for summary judgment on Count V as to injunctive relief, but denied the motion as to declaratory relief.

the Superior Court indicated that it was prepared to grant sweeping relief to all Subclass members by traveling to courthouses across Maine and ordering their release into the community, without regard to the nature of their alleged crimes or any other individualized circumstances. That was error.

The death-knell exception allows an immediate appeal when waiting for a final judgment would cause permanent harm that a later appeal cannot fix. That is this case here, where the Superior Court is prepared to release into the community individuals charged with any number of violent crimes. Because it raises serious legal questions that could not be rectified on a future date, the Court should hear this appeal under its "death-knell exception."

Alternatively, this case fits squarely within the Court's "collateral order" exception. The collateral order exception allows immediate appeal where a legal issue is separate from the merits of the rest of the case, is unsettled, and there is a risk of irreparable harm if review is delayed. That standard is met here where the Superior Court's order raises purely legal questions about (1) blanket habeas relief for felony defendants; and (2) whether discharge is an available remedy under Maine's habeas statutes. Because both issues are collateral to the merits of Robbins's underlying Sixth Amendment claim against MCPDS, the Court should resolve them now.

Given that this action is functionally two separate lawsuits brought under a single caption, the Court would also be well within precedent to apply its "extraordinary circumstances" exception to the final judgment rule. It should not wait to resolve the legal questions before it.

In addition to the Superior Court's errors in legal analysis regarding its interpretation of the Sixth Amendment, addressed by MCPDS's appeal—whose legal argument the State of Maine joins—it committed three categories of errors in resolving Robbins' petition for habeas relief.

First, it failed to create a framework for individualized review in violation of Maine statute and this Court's precedent. Without any additional information regarding their identities, charges, or circumstances, it has indicated that it intends to provide blanket relief to individuals charged with felonies, despite Maine statute stating that they "shall not of right have" the writ. 14 M.R.S.A. § 5512 (Westlaw July 24, 2025). Likewise, it provided ambiguous guidance on the important question of how it would factor into its analysis the public safety effects of any relief, potentially departing from both Supreme Court and this Court's precedent.

Second, Maine's Unified Criminal Docket already requires weekly in-custody review hearings to ensure unrepresented defendants are advised of their right to counsel and assigned attorneys if available. If the Court affirms

the Superior Court's ruling that there has been a Sixth Amendment violation, the State of Maine urges the Court to rule that any relief should be implemented through these existing local hearings, rather than through the Superior Court's centralized, circuit-riding approach. Local judges are better positioned to identify eligible Subclass members, assess available counsel in their respective communities, and set appropriate bail conditions. This decentralized process would not only be more equitable than the Superior Cout's makeshift protocol, but it would also provide relief more efficiently when the law demands it. Although the State of Maine disagrees with Robbins on when the right to counsel attaches, it supports a fair, expeditious remedy consistent with the law.

Finally, the Superior Court erred in ordering dismissal of criminal charges as a form of habeas relief under 14 M.R.S.A. § 5523, which authorizes only discharge from unlawful custody—not dismissal. In justifying this relief, the Superior Court relied on a combination of foreign caselaw arising outside of the habeas context, alongside a strained, unreasonable construction of Maine's statutes. This error, too, should be corrected.

If not addressed here, each of these fundamental errors committed by the Superior Court is a bell that cannot be unrung. Given the weighty nature of the issues in this case, all parties, as well as the People of Maine, deserve to benefit from the legal guidance that only the State's highest Court can provide.

The State of Maine urges the Court to vacate the March 7, 2025 Post-Trial Order and remand the case for further proceedings with the legal arguments in this brief.

STATEMENT OF THE ISSUES ON APPEAL

1. The Superior Court's Post-Trial Order resolved all common issues of law and fact specific to the Subclass's habeas petition regarding nonrepresentation. If the State of Maine cannot appeal now, it will have no opportunity to challenge the Superior Court's erroneous legal determinations before Subclass members are released and their charges dismissed. Under these circumstances, should this Court apply the "death-knell exception" and/or "collateral order exception" to its final judgment rule?

2. In *United States v. Morrison*, 449 U.S. 361, 364 (1981), the Supreme Court instructed that remedies to Sixth Amendment violations "should be tailored to the injury suffered" and "should not infringe on competing interests." For any individualized habeas hearings that may occur as a result of this litigation, should courts weigh risks to public safety as one of the competing interests under a *Morrison* analysis when deciding whether and under what conditions to issue writs of habeas corpus and granting release?

3. In other states where class plaintiffs demonstrated insufficient numbers of indigent defense counsel, courts crafted a framework for relief that entrusted local judges to dispense. Should the Superior Court have done the same here, rather than assigning to itself the role of traveling across Maine to administer relief?

4. Maine's habeas corpus statute, 14 M.R.S.A. § 5523, provides for only one remedy when an individual is illegally held in custody—discharge. Is the Superior Court therefore barred from providing additional remedies in ruling on this habeas petition?

The answer to each of the above questions is "yes."

ARGUMENT

I. Because this is the State of Maine's only opportunity to seek review of the Superior Court's materially erroneous legal determinations before it begins issuing habeas relief, the final judgment rule does not bar this interlocutory appeal.

A. Standard of appellate review.

Ordinarily the final-judgment rule bars interlocutory review "unless the appeal falls within an exception." *Cassidy v. City of Bangor*, 2014 ME 44, ¶ 4, 88 A.3d 732. These include the collateral order exception and the death knell exception. *Maples v. Compass Harbor Village Condo. Ass'n*, 2022 ME 26, ¶ 16, 273 A.3d 358. The party seeking immediate appellate review bears the burden of demonstrating that such an exception applies. *Doe v. Roe*, 2022 ME 39, ¶ 14, 227 A.3d 369.

B. Because this is the final chance to review the Superior Court's bench trial order before it dismisses criminal charges and orders Robbins's release from custody, the death-knell exception applies to this appeal.

The death knell exception to the final judgment rule applies where awaiting final judgment would "cause 'substantial rights of a party to be irreparably lost.'" *Salerno v. Spectrum Medical Group, P.A.*, 2019 ME 139, ¶ 8, 215 A.3d 804 (citation modified) (quoting *Fiber Materials, Inc. v. Subilia*, 2009 ME 71, ¶ 14, 974 A.2d 918). A right becomes irreparably lost where an "appellant would not have an effective remedy if the interlocutory

determination were to be vacated after a final disposition of the entire litigation." *Id.* (quoting *Subilia*, 2009 ME 71, ¶ 14, 974 A.2d 918). Examples of irreparable loss include denial of immunity defenses, denial of anti-SLAPP motions to dismiss, and denials of a preliminary injunction seeking to enjoin disclosure of confidential records. *Id.* Each example is a metaphorical egg that cannot be unscrambled by a post-judgment appeal. As is this appeal.

The State of Maine has a statutory right to be heard when courts weigh whether and how to set pre-trial bail. *See, e.g.*, 15 M.R.S.A. §§ 1026-1031 (Westlaw July 22, 2025). It likewise has a right to prosecute individuals for violations of its criminal laws, which includes the discretion of choosing when to dismiss criminal charges. *See, e.g.* 5 M.R.S.A. § 191 (Westlaw July 22, 2025); 30-A M.R.S.A. §§ 283-284 (Westlaw July 22, 2025). Here, the Superior Court has indicated that it "will order release" of incarcerated Subclass members subject to its Post-Trial Order and that it "shall order" that charges against Subclass members be dismissed for those who have gone 60 days without appointed counsel. J.A. at 133.

But if the Superior Court erred in determining when the Sixth Amendment right attaches or in concluding that 14 M.R.S.A. § 5523 permits dismissal of criminal charges despite express statutory language to the contrary, then the State of Maine will not only irreparably lose the ability to

keep especially dangerous criminal defendants in custody pre-trial, but may lose the practical ability to prosecute them for their crimes altogether.

The people of Maine—including Robbins, himself—deserve finality from this Court on the important legal questions underlying the "Phase 1" portion of litigation. It took the parties three years to litigate Phase 1. The framework for habeas hearings should not undergo years of beta-testing under the Superior Court's approach, all while the prospect of this Court ultimately rejecting it and imposing a different protocol looms in the background. This situation not only underscores the irreparable harm facing the State of Maine if the appeal is not heard, but risks undermining public confidence in the stability of Maine's criminal justice procedures if everything shifts again once Phase 2 is complete.

The death-knell exception applies here. This Court should invoke it, rather than waiting to resolve the important legal issues raised by this appeal.

C. Because the question of whether individuals charged with felonies are entitled to habeas relief is an important legal question that does not rely upon the merits of either the Phase 1 or Phase 2 litigation, the collateral order exception applies.

The collateral order exception permits an interlocutory appeal "where (1) that order involves a claim separable from and collateral to the gravamen of the lawsuit; (2) it presents a major and unsettled question of law; and (3) there would be irreparable loss of the rights claimed in absence of immediate

review." *Doe*, 2022 ME 39, ¶ 15, 227 A.3d 369 (quoting *Bond v. Bond*, 2011 ME 105, ¶ 11, 30 A.3d 816).

In *Doe*, a litigant in a protection-from-abuse action appealed an interlocutory order that permitted discovery in that action. *Id.* ¶ 2. This Court held that the collateral order exception applied because (1) the question of whether discovery is permitted in such a case is "a claim separable from the gravamen of the litigation;" (2) this Court had "never spoken" on the matter; and (3) a litigant arguing immunity from discovery could not vindicate their position on an appeal from final judgment if forced to have already undergone discovery. *Id.* ¶ 16.

The same rationale applies here. As things currently stand under the Post-Trial Order, all Subclass members charged with felonies are set to receive the same blanket habeas relief as those charged with misdemeanors, despite clear statutory language that rejects this approach. *See* 14 M.R.S.A. § 5512. This is a pure question of law entirely separate from the merits of Robbins's underlying class litigation—determining whether he has suffered a Sixth Amendment violation. Second, this Court has never squarely addressed the meaning of this provision, which traces its roots to the Revolutionary Era. And third, the State of Maine cannot vindicate its right to keep certain dangerous

individuals in custody pre-trial if it is forced to litigate this issue at the conclusion of the unrelated Phase 2 trial.[7]

Whether individuals charged with felonies may obtain blanket habeas relief under 14 M.R.S.A. § 5512 and whether Subclass members may seek dismissal of their criminal charges under 14 M.R.S.A. § 5523 does not alter the merits of if (and when) Robbins suffered a Sixth Amendment violation. Both issues are collateral to the merits of his claims, and the Court should therefore invoke the exception to the final judgment rule to hear this appeal right away.

D. The Court could also invoke the "extraordinary circumstances" exception to the final judgment rule because, for all intents and purposes, the Phase1 and Phase 2 trials are separate pieces of litigation.

This Court has also acknowledged the potential for recognizing new exceptions to the final judgment rule when confronted with "extraordinary circumstances." *See Austin ex rel. Soiett v. Univ. Cheerleaders Ass'n*, 2002 ME 174, ¶ 8, 812 A.2d 253. Such circumstances may give rise to new categorical exceptions, *Geary v. Stanley Med. Res. Inst.*, 2008 ME 9, ¶¶ 14-18, 939 A. 2d 86 (immunity defenses), while for others it may be appropriate for the Court to "craft an *ad hoc* exception," *Moshe Myerwitz, D.C., P.A. v. Howard*, 507 A.2d 578, 581 (Me. 1986).

[7] Each of these factors also applies to the question of whether habeas petitioners may seek dismissal of criminal charges pursuant to 14 M.R.S.A. § 5023.

Here, Robbins originally filed suit in 2022, alleging that MCPDS was failing to ensure that indigent defense counsel were competent. J.A. at 248-82. After rejecting multiple settlements over the next two years, the Superior Court created a Subclass and suggested to Robbins that he amend his Complaint to separately allege that MCPDS is not supplying enough attorneys to serve the needs of indigent defendants. *See* Combined Order (Feb. 27, 2024) at 16. The Superior Court labeled Robbins's original claims against MCPDS as Phase 2 of the litigation and set the stage to try an entirely different suit in Phase 1. *Id.*

It is unusual, at best, for parties to litigate two entirely separate legal claims in successive trials under the caption of a single lawsuit. That this occurred at the Superior Court's insistence, after three times rejecting the parties' arm's-length negotiated settlements, makes it extraordinary. Given the peculiar procedural development of this case, the Court could invoke this exception without risk of opening its floodgates to other interlocutory appeals.

For the reasons stated above, this Court should hear this appeal.

II. The Superior Court erred when it concluded that "any" Subclass member is entitled to discharge from custody after 14 days without appointed counsel, regardless of the circumstances surrounding their alleged criminal acts.

A. Standard of appellate review.

In "criminal habeas cases," this Court applies "a de novo-like standard to the legal, constitutional, and statutory interpretation issues underlying a habeas decision." *LincolnHealth*, 2021 ME 6, ¶ 14, 246 A.3d 157. The ultimate decisions to grant or deny a habeas petition under Title 14 are typically reviewed for an abuse of discretion. *Id.*; *see also McDonald v. State*, Dkt. No. CUM-23-32, 2023 WL 11988373, at *1 (Me. May 30, 2023) (Mem. Dec.).

B. Maine's habeas statutes do not treat individuals charged with felonies, i.e., Class A, B, or C crimes, the same as those who have not.

Robbins brought Count III pursuant to Maine's habeas statutes codified at 14 M.R.S.A. §§ 5501-5546. Section 5512 provides:

> **Writ not available.**
>
> The following persons shall not of right have such writ:
>
> 1. **Persons committed to jail for certain offenses.** Persons committed to or confined in prison or jail on suspicion of treason, felony or accessories before the fact to a felony, when the same is plainly and specifically expressed in the warrant of commitment.

14 M.R.S.A. § 5512. This provision is not new. Maine's first Legislature adopted it in 1821, *see* Revised Statutes, 1821, ch. 64, § 1. Even then it represented the

recodifying of a Massachusetts statute enacted during the Founding Era. *See* 1784 Acts and Resolves passed by the General Court, ch. 72, § 1.[8]

This Court has never directly construed Section 5512's provision that individuals charged with felony offenses "shall not of right have such writ." Rather, it has suggested in dictum from one century-old case that it may be within the trial court's discretion to grant a petition filed by an individual charged with a felony. *See Welch v. Sheriff of Franklin Cty.*, 95 Me. 451, 451, 50 A. 88 (noting that individuals "charged with the commission of a felony . . . are not entitled to the writ of habeas corpus," but ultimately dismissing the petition because petitioners had refused to apply for bail).

Section 5512 can mean only one of possibly two things: either (1) individuals charged with felonies may not obtain a habeas writ whatsoever; or (2) they do not have an automatic "right" to obtain such a writ in the way that those not charged would, assuming the other elements of a proper habeas petition are met. Below, the State of Maine argued that the provision bars relief altogether. *See* Opp. to Mot. to Cont. (Apr. 15, 2025). But as the Superior Court pointed out, Section 5518 of the same chapter provides a template form for a writ to be "issued on an application in behalf of any person described in section

[8] Available at: https://archives.lib.state.ma.us/server/api/core/bitstreams/6c39fd0e-d543-4304-bcbd-8e7dde96d94c/content; *see also* Mass. Gen. Laws, 1836, ch. 111, § 2 (acknowledging 1784 adoption).

5512." J.A. at 73-74. It therefore reasoned that the Legislature must have intended for individuals charged with felony-equivalent crimes may be eligible for habeas relief.[9] *Id.* at 74.

Upon reviewing the Superior Court's decision on this issue, the State of Maine agrees that Section 5512 does foreclose all individuals charged with a felony from ever obtaining habeas relief. But it disagrees with any implication of the Superior Court's orders that such individuals have the same access to the writ as those not facing felony charges. *Compare id. with* J.A. at 133 (anticipating automatic relief for "any" Subclass member).

The first Maine Legislature's decision in 1821 to adopt the language of Section 5512 and every following Legislature's decision for the following two centuries not to repeal the statute is significant. As noted *infra*, the Subclass's membership is indeterminate and constantly in flux. To pre-judge all felony-charged members of the Subclass as deserving of habeas relief when their identities, charges, and circumstances are unknown—in the face of clear statutory language not to do so—would render Section 5512 meaningless.

[9] Maine eliminated the felony-misdemeanor dichotomy and replaced it with a "crime-classification prescript" when it adopted the first version of the State's modern Criminal Code in 1976. *See State v. Vainio*, 466 A.2d 471, 474 (Me. 1983). It nevertheless continues to draw the distinction between felonies and misdemeanors in important respects, such as barring individuals convicted of crimes punishable for more than one year from possessing a firearm. *Id.*; *see also* 15 M.R.S.A. § 393.

Yet in deciding this issue, the Superior Court ruled that it would "exercise its discretion to consider habeas corpus relief" for all individuals charged with felonies, except for those charged with formerly capital offenses. J.A. at 75. Because the Post-Trial Order stated that for "any" Subclass member without counsel, it "will order release from detention" and "shall order" dismissal of charges, *id.* at 133, this was an abuse of discretion and error.

C. Once Robbins prevailed on liability for his Sixth Amendment claim, the Superior Court should have developed a habeas relief framework that provides for tailoring to Subclass members' individual circumstances.

Both the Supreme Court and this Court have acknowledged that Sixth Amendment violations "are subject to the general rule that remedies should be tailored to the injury suffered from the constitutional violation and should not unnecessarily infringe on competing interests." *Morrison*, 449 U.S. at 363-65; *see also State v. Addington*, 518 A.2d 449, 452 (Me. 1986) (applying *Morrison*).[10] Establishing a system that applies this approach to each member of the Subclass is an appropriate way to effectuate habeas relief, where such relief is warranted. As recently as last year, a single Justice of this Court reaffirmed such a framework. *See Peterson*, Final Dec. & Order ("Final Dec.") at 28, No. SJC-23-2 (Jan. 12, 2024) ("Cases involving deprivation of counsel, even under the Sixth

[10] This tailoring approach has also been adopted more recently by the Superior Court in attempting to rectify Sixth Amendment violations outside of a habeas petition. *See State v. Lerman*, Dkt. No. ANDCD-CR-2024-451, Dismiss. of Crim. Compl. at 18-28 (Me. Super. Ct. June 13, 2024).

Amendment, 'are subject to the general rule that remedies should be tailored to the injury suffered.'" (quoting *Morrison*, 449 U.S. at 364)).

Below, the Superior Court criticized the State of Maine for "blithely" pointing to the Supreme Court's guidance in *Morrison*. J.A. 120. To be clear, just as the State of Maine appreciates that the Superior Court is not indifferent to the risks posed to public safety when dangerous individuals are released from custody, *id.* at 122, it is not indifferent to those who suffer Sixth Amendment violations.[11] The Superior Court also inaccurately characterized the State of Maine's position as opposing relief to "any" Subclass member "who may present public safety concerns." Not so. The State of Maine's position is merely that courts should consider public safety when determining both whether an individual may obtain relief, and which conditions of release should apply.

Each Subclass member's situation should be examined by a trial court to balance the harms suffered alongside the competing public interests as directed by *Morrison*. This approach involves two steps: First, courts "identify the harm caused by the absence of counsel." *See Lerman*, slip op. at 19 (quoting *Morrison*,

[11] The Superior Court's Post-Trial Order asserts that the State of Maine "ha[d] repeatedly taken to reminding it" of a tragedy that occurred after an unrepresented individual was released from custody in June 2024. J.A. at 122. The trial transcript will reflect that the State of Maine elicited testimony regarding the tragedy in Auburn only once for purposes of establishing it in the record. Trial Tr., Jan. 22, 2025 at 66-67. The State of Maine then referenced this record testimony in its post-trial brief once, in a footnote, in response to Robbins's assertions that concerns about public safety are merely "theoretical" or "hypothetical." *See* State of Me. Post-Hearing Brief at 19 n.11 (Feb. 21, 2025).

449 U.S. at 364); *Peterson*, Final Dec. at 28 (citing same). Second, they "must weigh competing interests, including 'society's interest in the administration of criminal justice.'" *Lerman*, slip op. at 20 (quoting *Morrison*, 449 U.S. at 365).

Below, Robbins decried the notion that some Subclass members might not obtain pre-trial release under the *Morrison* framework. Perhaps that is true. Perhaps not. The State of Maine's position is merely that relief should be tailored to individual Subclass members. Because even if release is warranted, the *Morrison* framework is still the appropriate vehicle to consider when setting bail and determining what release conditions should be imposed.

And there may be other aspects of an individual's unique situation appropriate to consider, like whether there is some separate, lawful basis to hold someone in custody apart from the criminal charges that drew them into the Subclass. *See United States v. Montalvo-Murillo*, 495 U.S. 711, 722 (1990) (noting that "an unlawful arrest does not require a release and rearrest to validate custody, where probable cause exists"); *see also id.* at 721 (citing *Morrison*'s command that "remedies should be tailored to the injury suffered"). For example, there may be a lawful basis to hold Subclass members already serving criminal convictions for other crimes. Some might be lawfully restrained due to bail or probation violations. Or there may be evidence—as the Superior Court acknowledged is a possibility—that an "individual persists

in 'firing' appointed counsel for less than good cause, and/or in order to obtain relief." J.A. at 133.

For these Subclass members, the "harm" caused by a Sixth Amendment violation differs significantly from those facing charges with no criminal history. Likewise, tailoring a remedy for a Subclass member who has been without counsel for two months would sharply diverge from a member on their third day without counsel. Both society and individual Subclass members—particularly those who may have suffered the most egregious violations—have a significant interest in courts making a case-by-case determination of harm.

Next, courts should weigh the competing interests between "[s]ociety's dual commitment to public safety" and "fairness" afforded to the criminal defendant. *Lerman,* slip op. at 20. Even Robbins conceded below that courts are not foreclosed from ignoring what he referred to as "[t]heoretical concerns about public safety." *See* Robbins's Post-Trial Br. at 36 (Feb. 7, 2025). Both common sense and federal habeas precedent dictate that concerns about public safety are very real. Among Subclass members are individuals accused of serious, violent crimes. While public safety is not the only concern that courts should weigh in a *Morrison* review, it is certainly an important one.

The District of Oregon considered public safety when it developed a federal habeas remedy in *Betschart v. Garrett*, 700 F. Supp. 3d 965, 988 (D. Or.

2023), *aff'd*, 103 F.4th 607, 615 (9th Cir. 2024). There, the court relied on public safety concerns when it permitted state court judges to apply Oregon's bail statute on remand, along with "any other conditions that the Circuit Court may impose that are related to assuring the appearance of the class member and the safety of the community." *Id*. And it further considered public safety by tailoring its order as to not override the Oregon Constitution's provision barring release of accused murderers. *Id.* at 981 n.1.

Even in *Lavallee v. Justices in Hampden Superior Court*—a non-habeas case on which the Superior Court erroneously relied to construct its dismissal remedy—the Massachusetts Supreme Judicial Court underscored a need to avoid "unduly increasing the risk to public safety" in rectifying that state's failure to uphold the Sixth Amendment. 812 N.E. 2d 895, 910 (Mass. 2004) ("Our holding also presumes that judges and prosecutors will continue to assess presumed threats to public safety on a careful, case-by-case basis.").

And in *Peterson*, a single Justice of this Court cited *Morrison*'s directive that "remedies should be tailored to the injury suffered' and 'should not unnecessarily infringe on competing interests.'" *Peterson*, Final Dec. at 28 (quoting *Morrison*, 449 U.S. at 364). Eschewing public safety interests by presuming that "any" Subclass member is entitled to release without first evaluating that individual's unique circumstances, J.A. 133, is simply not a

proper application of the *Morrison* framework. Nor would it be a proper application of Maine law if that Subclass member were facing a felony charge.

Finally, Robbins argued below that because he represents a Rule 23(b)(2) class, instituting an individualized relief process would violate either that Rule or a prior order of the Superior Court. Robbins's Pls.' Post-Trial Br. at 39. But that is not how Rule 23(b)(2) operates. Rather than requiring uniform relief across a class on all counts, Rule 23(b)(2) merely requires that all members of a class be similarly situated enough that "the party opposing the class" might find itself on the receiving end of a declaratory judgment or injunction on "grounds generally applicable to the class." (Emphasis added). In other words, if all members of a class could feasibly obtain some form of "final injunctive relief or corresponding declaratory relief" against the party that had opposed class certification, then the class can proceed, even if it could never obtain universal relief against a third party or on another count. *See* M.R. Civ. P. 23(b)(2); *see also In re New Motor Veh. Can. Export Antitrust Litig.*, 522 F.3d 6, 12 n.8 (1st Cir. 2008) (quoting parallel federal Rule 23(b)(2)).

Here, Robbins had the ability to obtain such injunctive or declaratory relief—and he in fact did so at both summary judgment and trial under Count I against MCPDS—the party opposing the class. J.A. at 136, 181. A Superior Court order requiring individualized evaluations of all Subclass members in advance

of habeas discharge on Count III would not destroy Robbins's class status on the bases of Rule 23(b)(2)—both because he still enjoys the prospect of some generally applicable declaratory and injunctive relief against MCPDS under Count I, but also because he never had the prospect of generally applicable "declaratory" or "injunctive" relief against habeas Respondents in Count III. *See Id.* at 76 n.4. ("[H]abeas corpus is a unique remedy" that is not "properly understood as a form of injunctive relief.").

If Robbins's theory on this point were correct, then the Superior Court's current framework for relief would be no more valid, because it too provides for some amount of individualized assessment to determine whether criminal defendants are (1) members of the Subclass; (2) eligible for relief; and (3) not charged with a formerly capital offense. *See Id.* at 132. The trial court's deficiency regarding individualized relief is not the absence of any individualized analysis, but its reluctance to apply the *Morrison* framework, as envisioned in *Peterson*.[12] *Id.* at 119.

As explained above in Part II.B, the fact that individuals charged with felonies "are not entitled to the writ of habeas corpus as a matter of right,"

[12] Likewise, if an individualized assessment in crafting habeas remedies were not permissible in class actions brought under Rule 23(b)(2), then *Betschart*'s relief permitting Oregon state courts to assess individualized bail and release conditions would not have been permissible, as that case was certified under the parallel federal rule. 700 F. Supp. 3d at 978.

Welch, 95 Me. at 88, 50 A. 88, is an issue of law that should cleave the Subclass in two. Individualized release assessments are particularly important in light of the Superior Court's failure to name a subclass representative plaintiff and perform a proper Rule 23 analysis of the individual's typicality and adequacy to represent the entire Subclass. In fact, it is not even clear that the Subclass has standing to pursue class relief when it has no representative plaintiff.

An important proviso for the creation of a subclass is that it must comport with all of the standard requirements for a broader class under Rule 23. *See Agostino v. Quest Diagnostics, Inc.*, 256 F.R.D. 437, 470 (D.N.J. 2009). A representative plaintiff is crucial for determining both common issues of law and fact across a class, as well as to ensure the class interests are fairly and adequately represented." *See, e.g.*, *Kaplan v. Pomerantz*, 131 F.R.D. 118, 127 (N.D. Ill. 1990) (granting class certification in some respects and denying it others, based on representative plaintiff's ability to represent the full class.). That is why they must "establish standing personally before obtaining class certification . . . and cannot represent a class alleging constitutional claims that the named plaintiff does not have standing to raise." *Hawkins v. Comparet-Cassani*, 251 F.3d 1230, 1237-38 (9th Cir. 2001).

This Court should therefore vacate the Superior Court's relief framework and provide for a relief framework—assuming *arguendo* that such relief is

warranted—that follows *Morrison*'s guidance. A proper relief framework should require presiding judges to weigh the identified harm suffered by the specific criminal defendant alongside the competing interests of public safety, prosecution of crimes, and the need for fundamentally fair proceedings. Criminal defendants' relief should be tailored to their specific circumstances whereby judges are free to consider any number of options that could ameliorate a Sixth Amendment violation, including but not limited to the appointment of counsel, reduction of bail, a brief continuance, release from custody with standard bail conditions, or release from custody with specialized bail conditions.

III. The Superior Court should have crafted a framework for individual habeas hearings to be implemented by judges in local courthouses across Maine.

A. Standard of appellate review.

Because the Superior Court concluded as a matter of law that it would not be appropriate for other Maine jurists to implement its habeas framework, J.A. 131-33, this Court reviews the Superior Court's framework for determining individualized relief de novo. *See LincolnHealth*, 2021 ME 6, ¶ 14, 246 A.3d 157. ("In criminal habeas cases, this Court [has] typically applied a de novo-like standard to the legal, constitutional, and statutory interpretation issues underlying a habeas decision.").

B. Weekly in-custody review hearings at the local level are the appropriate forum for providing habeas relief to eligible Subclass members.

Judges of Maine's Unified Criminal Docket have already ordered that in-custody criminal defendants who have not been assigned counsel must be brought before a court no less frequently than every seven days to be apprised of their right to counsel, to be assigned counsel if available, and to be represented by a "lawyer of the day" to argue motions related to bail. *See* Unified Criminal Docket Standing Order on Initial Assignment of Counsel, November 3, 2023 at 1-2.[13] If this Court affirms the Superior Court's determination of a Sixth Amendment violation, it should nevertheless require that any relief be applied by local judges at weekly in-custody review hearings held throughout Maine's courts.

Below, Robbins referred to this as a "remedy that is a continuation of the status quo," while the Superior Court criticized this proposal because it believes "this is not a Judicial Branch form," despite its appearance to the contrary. J.A. 120. But the State of Maine is not suggesting that the current weekly reviews of in-custody defendants set forth in the UCD Standing Order currently require judges to engage in *Morrison*'s careful balancing analysis or that all

[13] Available at: https://www.courts.maine.gov/adminorders/so-ucd-initial-assignment-of-counsel.pdf

courts across Maine are already implementing the type of relief that would be required by a successful habeas claim brought under 14 M.R.S.A. § 5523.

Rather, these weekly reviews would provide the most logical venue to effectuate class-wide relief in an otherwise unwieldy system where most members of the Subclass are constantly in flux. First and foremost, reviews conducted in local courts on a weekly basis are the most likely way to rectify the absence of counsel and avoid the need for a *Morrison* analysis at all. This is particularly true now that judges are permitted to appoint non-rostered qualified counsel pursuant to P.L. 2025, ch. 40, § 3, which was not the case when the Superior Court issued its Post-Trial Order on March 7, 2025. Common sense dictates that a judge who sits regularly in Houlton or Dover-Foxcroft is far more familiar with the local legal community and will be in a much better position to know whether willing-and-capable counsel exists in the area than a single Justice providing relief by riding circuit across Maine.

Localized, weekly hearings are also the most logical venue to identify unknown members of the ever-shifting Subclass. Rather than requiring class counsel, MCPDS, and sheriffs to comb and cross-check the "in-custody" lists provided by the Administrative Office of the Courts, as the Superior Court envisioned, weekly in-custody review hearings constitute a forum where judges can feasibly determine on an individual basis whether specific criminal

defendants are actual Subclass members eligible for relief. Likewise, local judges who have already been presiding over these cases are in a much better position to know what types of bail conditions may be necessary to balance an individual's right to release against legitimate public safety concerns.

Finally, if this Court ultimately determines that Robbins is entitled to habeas relief, an appropriate framework could provide uniformity across all counties to ensure that criminal defendants are treated equitably, regardless of their geography. This type of process would also be much more efficient than the one set forth by the Superior Court. Rather than one judge focusing on one county at a time, this process could be incorporated into the regular business of the UCD. Although the State of Maine does not agree with Robbins as to when the Sixth Amendment Right attaches, it does not have any desire to act as a barrier to appropriate relief where the law demands it.

IV. The Superior Court applied an overly broad interpretation of Maine's habeas statutes and thus erred when it provided for dismissal of criminal charges.

A. Standard of Appellate Review.

When a party challenges the Superior Court's interpretation of a statute, this Court's review is "conducted de novo and without deference to the trial court. *Smith v. Henson*, 2025 ME 55, ¶ 12 -- A.3d --. In construing statutes, Maine courts "give effect to the Legislature's intent" by looking to "plain

language" and by applying "due weight to the design, structure, and purpose of the statute, as well as to aggregate language." *Id.* (citation modified). If a statute "gives rise to only one reasonable interpretation," courts apply the "unambiguous" construction. *Id.* Only if it gives rise to multiple reasonable interpretations will courts consider additional "indicia of the Legislature's intent," such as statutory history and the policy underlying the statute. *Id.*

B. Maine's habeas statutes do not provide for dismissal of criminal charges.

The Superior Court's Post-Trial Order not only granted Robbins' request for relief regarding release from custody, but also intended to grant dismissal of charges after any indigent defendant who remains without counsel after 60 days, regardless of whether they are incarcerated. But Maine's habeas statute does not provide for dismissal of charges. And even if it did, the Superior Court's directive that charges be dismissed without prejudice "until such time as counsel is made available" is not feasible.

Below, the Superior Court's Post-Trial Order acknowledged that it would "rely" upon three cases from foreign jurisdictions to inform how it would "provide the framework" for habeas relief. J.A. 126. While these cases may provide some utility in informing the contours of the Sixth Amendment, none of them were brought pursuant to the cause of action invoked by Robbins in this suit. *Betschart* was brought pursuant to federal habeas statutes, 28 U.S.C.

§§ 2241-2254, and provided only release from custody. *Betschart*, 103 F.4th 607 at (9th Cir. 2024); *see also Betschart*, 700 F. Supp. 3d at 988. And while both *Lavallee*, 442 Mass.at 812 N.E.2d 895, and *Carrasquillo v. Hampden County District Courts*, 142 N.E.3d 28, 34 (2020), provided for release from custody and dismissal of charges, they were not habeas cases. Instead, they were actions filed pursuant to a specific Massachusetts statute that provides for that state's Supreme Judicial Court to exercise "superintendence over inferior courts." *See* Mass. Gen. Laws Ann. ch. 211, § 3 (Westlaw July 20, 2025).

The relief available to any party is bound by the cause of action that invokes a court's jurisdiction. *See Goodwin v. School Admin. Dist. No. 35*, 1998 ME 263, ¶ 1, 721 A.2d 642 (acknowledging that a party may not obtain a specific form of relief when "no cause of action exists in Maine law"); *see also Deane v. Cent. Me. Power Co.*, 2024 ME 72, ¶¶ 30-30, 322 A.3d 1223 (discussing "contours of the rights of action," including "forms of relief" that may be bound by statutory causes of action.). *Lavallee* and *Carrasquillo* are thus irrelevant in interpreting the language of Maine's entirely different habeas statutes.

Maine's habeas statutes are clear as to what type of relief is available: "[I]f no legal cause is shown for such imprisonment or restraint, the court or justice shall discharge him, except as provided in section 5516." 14 M.R.S.A. § 5523 (July 20, 2025) (emphasis added). Section 5516 adds that, if a court finds an

individual to be held under a demand for excessive bail, "reasonable bail shall be fixed, and on giving it to the plaintiff, he shall be discharged." *Id.* § 5516 (Westlaw July 20, 2025). No other remedy is provided.

The Superior Court's reasoning for providing dismissal of charges seems to be grounded in the theory that people facing criminal charges can be characterized as being "unlawfully deprived of [their] personal liberty" under Section 5501 and viewed as subject to a "restraint" from which they can be discharged. This broad reading injects ambiguity into the statute where it is otherwise absent. This Court should reject such a reading.

Where applicable, this Court applies the "well-settled rule of statutory interpretation[, which] states that express mention of one concept implies the exclusion of others not listed," sometimes referred to by its Latin canon, "expressio unius est exclusio alterius." *Musk v. Nelson*, 647 A.2d 1198, 1202 (Me. 1994). Here, Section 5523 provides one basic remedy, "discharge" from "imprisonment or restraint," plus one specific remedy in certain circumstances, "reasonable bail" if a court determines that the original bail was excessive. 14 M.R.S.A. §§ 5516, 5523 (Westlaw July 24, 2025).

Characterizing a pending criminal charge as such a "restraint" from which an individual can be "discharged" is an overly broad reading that makes little sense in the context of the actual statute. Because the Legislature included

a remedy for excessive bail, but excluded any remedy for dismissal of charges, the Superior Court's broad construction of the terms "discharge" and "restraint" is not reasonable. If "restraint" on someone's individual liberty can be read as broadly as the Superior Court's construction, then certainly "excessive bail" that serves to keep an individual incarcerated would constitute such a restraint. If that were the case, Section 5516 would be redundant. And because "no words are to be treated as surplusage if they can reasonably be construed," the Superior Court's interpretation of Maine's habeas statutes was error.[14]

Even if dismissal of charges were available here—which it is not—the Superior Court's Post-Trial Order would raise serious logistical concerns. If charges are "dismissed," then the search for counsel necessarily ends. When individuals are no longer subject to prosecution, they have no need for (or Sixth Amendment right to) counsel. The Superior Court's Post-Trial Order providing that charges will be "dismissed without prejudice until such time as counsel is

[14] Below, Robbins pointed to *Lewisohn v. State*, 443 A.2d 351 (Me. 1981), which provided for dismissal of charges in a "habeas" proceeding. However, *Lewisohn* was not a traditional "habeas" action, but instead involved a petition for post-conviction review, under a different title of the Maine Revised Statutes, 15 M.R.S.A. § 2129 (Westlaw July 24, 2025). Although federal law still frequently refers to these two distinct types of actions as seeking "habeas" relief, that is no longer the case in Maine. Two years before *Lewisohn*, the Legislature amended Title 15 to replace the term "habeas" with "post-conviction review." *See* P.L. 2025, ch. 40, § 3. It is likely the Court was merely continuing to using familiar language when it issued *Lewisohn*. In any event, *Lewisohn* is irrelevant here since Maine's post-conviction review framework provides for "appropriate relief," 15 M.R.S.A. § 2130 (Westlaw July 24, 2025), while its habeas framework, under which this case was brought, does not.

available" would, at best, place law enforcement and prosecutors in the wasteful and illogical position of potentially re-arresting and re-charging accused individuals on day 46 or sometime beyond, which poses the risk of exacerbating the strains on the Maine criminal justice system.

Moreover, the only state actors who could possibly effectuate a dismissal would be other Maine judges or prosecutors. Unlike *Lavallee* and *Carrasquillo*, where petitions were brought against the Hampden County Courts, there is no respondent in this habeas action to operate against regarding dismissal, as county sheriffs have no ability to dismiss criminal charges. Even if the Legislature altered Maine's habeas statutes tomorrow to add dismissal as a remedy, Robbins would need to name the state official that he seeks relief from so that the individual would have an opportunity to be heard.

To be clear, that dismissal is not available under Maine's habeas statute does not leave Robbins without any course for relief. Other sources of Maine law permit courts to dismiss criminal charges where appropriate; that source simply cannot be found in the habeas statutes of Title 14.

CONCLUSION

For the foregoing reasons, the State of Maine asks the Court to vacate the March 7, 2025 Post-Trial Order and remand this matter to the Superior Court with instructions to proceed consistent with the foregoing legal argument.

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Respectfully submitted,

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