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June 12, 2025

BY EMAIL
Matt Pollack
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Re: *Andrew Robbins, et al v. State of Maine, et al.* (Law Court No. KEN-25-137, Superior Court No. KENSC-CV-22-54)

Dear Mr. Pollack:

Enclosed for filing, please find Plaintiffs-Appellees' Opposition to State of Maine's "Emergency" Motion to Stay the Trial Court's Action to Address the State's Sixth Amendment Crisis. If you have any questions regarding this filing, I can be reached at (207) 619-8687 or cgarvan@aclumaine.org.

Very truly yours,

/s/ Carol Garvan

Carol Garvan,

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SUPREME JUDICIAL COURT OF THE STATE OF MAINE
SITTING AS THE LAW COURT

No. 25-137

ANDREW ROBBINS, *et al.*

Plaintiffs-Appellees,

v.

STATE OF MAINE, *et al.*

Defendants-Appellants.

On Appeal from an Interlocutory Order of the
Superior Court, Kennebec County (Murphy, J.),
Superior Ct. No. KENSC-CV-22-54

PLAINTIFFS' OPPOSITION TO STATE OF MAINE'S "EMERGENCY" MOTION TO STAY THE TRIAL COURT'S ACTION TO ADDRESS THE STATE'S SIXTH AMENDMENT CRISIS

In this certified class action, Plaintiffs have sought—and the trial court has ordered—relief for the State's persistent failure to provide counsel to indigent criminal defendants. There is little doubt that the State has failed to fulfill its constitutional obligations: as Chief Justice Stanfill recognized last year, "[w]e are in a constitutional crisis," with "fewer and fewer lawyers available and willing to take cases" on behalf of indigent defendants. State of the Judiciary Address of Chief

Justice Valerie Stanfill to 2d Reg. Sess. 131st Legis., at 7 (Feb. 21, 2024). On January 3, 2025, following extensive discovery and briefing, the trial court granted summary judgment to Plaintiffs on their Sixth Amendment claims. Combined Order on Partially Dispositive Motions, 2025 WL 1020109 at *16 (Me. Super. Ct. Jan. 3, 2025) ("Jan. 3 Order").[1] And on March 7, 2025, after a three-day remedies hearing, the court ordered injunctive and habeas relief to remedy the widespread Sixth Amendment violations. Order After Phase 1 Trial (Counts I, III, and V), 2025 WL 1018447 at *23 (Me. Super. Ct. Mar. 7, 2025) ("Mar. 7 Order"). The court scheduled additional proceedings on all counts, including an April 7 hearing to schedule ongoing proceedings implementing the ordered habeas relief for indigent defendants without counsel. *Id*.

However, before the trial court could conduct those proceedings, on March 27 both Party-in-Interest State of Maine and the MCPDS Defendants filed interlocutory notices of appeal on all counts. Moreover, the State took the position that its interlocutory March 27 notice of appeal automatically deprived the trial court of jurisdiction and halted all scheduled habeas proceedings. State of Maine's Mot. for Clarification of Procedural Schedule (Apr. 2, 2025) ("State's Apr. 2 Mot.") (Ex. B to State's Mot.).

[1] The orders cited herein are available at https://www.courts.maine.gov/news/robbins/.

In a carefully reasoned 25-page order, the trial court properly rejected the State's bid to halt habeas proceedings, concluding that it could move forward with the urgently needed relief for unrepresented indigent defendants. Combined Order on All Pending Mots. at 9-19 (May 7, 2025) ("May 7 Order") (Ex. F to State's Mot.). This Court should reject the State's late-breaking "emergency" motion to interfere with the trial court's ongoing efforts to remedy the state's Sixth Amendment crisis, for four reasons:

1) This is not an emergency;
2) The trial court correctly concluded that it had authority to continue with the scheduled habeas hearings under both longstanding common law and Rule of Appellate Procedure 3(b), and in any event the State's "party-in-interest" status did not give it authority to stop all habeas proceedings;
3) In the alternative, under Rule of Appellate Procedure 3(d) this Court should permit the trial court to continue the urgently needed habeas remedies for unrepresented indigent defendants; and
4) The State falls well short of meeting its burden to show that this Court should grant a stay under the four-factor equities test: indeed, after a three-day hearing the trial court held that each of these factors weighs heavily in favor of the Plaintiffs, not the State.

Reaching out to stop the trial court's efforts to remedy this constitutional crisis

pending resolution of the State's current appeal is particularly inappropriate because the State's stay request hinges on an improper interlocutory appeal. This Court repeatedly has indicated its desire not to address appeals in this case on a piecemeal basis, and instead to "permit[] this matter to continue efficiently in the trial court." Order Permitting Trial Court Action (Oct. 24, 2024); *see also* Order on Motion for Clarification of Order (Nov. 4, 2024); Order Dismissing [MCPDS Defendants'] Appeal (May 1, 2024). Rather than heed this warning, on March 27 the State of Maine (as well as the MCPDS Defendants) filed interlocutory notices of appeal of the trial court's March 7 Order, even though it is anything but an appealable final judgment. The trial court's March 7 Order addressed only Plaintiffs' Phase 1 claims and did not rule on any of Plaintiffs' Phase 2 claims. It did not issue any ruling whatsoever on Count V's claim for injunctive relief, expressly leaving that issue open for later proceedings. And it ordered equitable remedies on Counts I and V and scheduled additional trial court proceedings to implement the remedies on both of those Counts. And yet Defendants appealed on March 27 even though the trial court had not yet ruled on the MCPDS Defendants' March 17 Rule 54(b) motion to certify the March 7 Order on Count I as an appealable final judgment, and even though the State had not filed a Rule 54(b) motion regarding either of the Counts to which it is a party (Counts III and V). Far from "fully decid[ing] and dispos[ing] of the entire matter pending before the court" and "leaving no questions for the future

consideration and judgment of the court," *Aubry v. Town of Mount Desert*, 2010 ME 111, ¶ 4, 10 A.3d 662, the March 7 Order is plainly not an appealable final judgment.

This Court should reject the State's gamesmanship and decline its emergency bid to stop all habeas relief for unrepresented indigent defendants pending resolution of its improper interlocutory appeal.

BACKGROUND

Plaintiffs brought this class-action lawsuit against the Maine Commission on Indigent Legal Services (MCILS) and its officers to challenge the constitutional adequacy of Maine's indigent-defense system. *See* Compl. ¶¶ 105-115 (Mar. 1, 2022). As Plaintiffs explained in their initial complaint, "MCILS has failed to develop and implement an effective system for the appointment of counsel for indigent defendants." *Id.* ¶ 110. The Superior Court denied Defendants' motion to dismiss in relevant part and certified a class of individuals eligible for appointment of counsel. Order on Mot. for Class Cert. at 5 (July 13, 2022); Order on Mot. to Dismiss, 2022 WL 17348139 (Me. Super. Ct. June 2, 2022).

However, while the parties engaged in discovery and undertook settlement negotiations, the situation on the ground deteriorated: as of early 2024, "[w]e have people sitting in jail every day—frequently a dozen or more in Aroostook County alone—without an attorney because there is no one to take their cases." State of the Judiciary Address, *supra*, at 2. As a result, the trial court denied preliminary approval

of the revised settlement agreement, finding that it "fails to address or provide enforceable relief for the ever-increasing number of unrepresented indigent defendants." Combined Order at 14 (Feb. 27, 2024) ("Feb. 27 Order"). The court then (1) "create[d] a Subclass consisting of Class Members who remain unrepresented after initial appearance or arraignment, unless the right to counsel has been waived by an individual class member"; and (2) bifurcated the case into two phases:

> In Phase 1, the Court will adjudicate the federal and state claims and defenses regarding non-representation as they relate to the subclass above. In Phase 2, claims which allege that systemic conditions or practices exist which may pose an "unconstitutional risk" of deprivation of counsel will then be adjudicated.

Id. at 16. MCPDS filed an interlocutory appeal of the trial court's Feb. 27 Order, which this Court dismissed. Order Dismissing Appeal (May 1, 2024). Plaintiffs then filed an amended complaint, expanding their allegations and claims to more directly address the urgent crisis of non-representation. At the State's request, the trial court designated the State as a "Party-in-Interest" to Count III. After adjudication of motions to dismiss, the State of Maine filed an interlocutory appeal of the court's denial of its motion to dismiss Count V, seeking declaratory and injunctive relief against the State. This Court directed that the trial court could proceed "in the usual course as though no appeal had been taken," in the interest of "permitting this matter

to continue efficiently in the trial court." Order Permitting Trial Court Action (Oct. 24, 2024).

Through this period, the parties engaged in Phase 1 discovery on the surviving counts: (1) Count I, seeking declaratory and injunctive relief against the MCPDS Defendants for failure to provide counsel in violation of the Sixth Amendment; (2) Count II, seeking declaratory and injunctive relief against the MCPDS Defendants for failure to provide counsel in violation of the Maine Constitution; (3) Count III, seeking habeas relief against Respondent Sheriffs and Party-in-Interest State of Maine for Subclass members unlawfully detained without counsel; and (V) Count V, seeking declaratory and injunctive relief against the State of Maine for failure to provide counsel. First Am. Class Action Compl. at 43-54 (May 31, 2024).

Following extensive discovery, on January 3, 2025, the trial court granted summary judgment to the Subclass members on liability on their Phase 1 claims for non-representation, concluding that Defendants had violated the Subclass members' Sixth Amendment right to counsel by failing to provide continuous representation from the time of initial appearance or arraignment and at all critical stages. Jan. 3 Order at *16.[2] On March 7, 2025, after a three-day remedies hearing, the trial court ordered remedies pursuant to its summary judgment order: (1) on Count I, the trial

[2] The Court granted summary judgment to Defendants on Count II, Plaintiffs' claim for denial of counsel under the Maine Civil Rights Act and the Maine Constitution.

court issued an injunction requiring the MCPDS Defendants to provide continuous representation of counsel and ordered MCPDS to submit a plan for how they would comply; (2) on Count III, the court ordered that Subclass members who remained without counsel after set time periods were entitled to habeas relief in the form of discharge from custody and dismissal of charges; and (3) on Count V, the court deferred ruling on injunctive and declaratory relief against the State until after it received additional requested information from the State. Mar. 7 Order at *23.

The court's March 7 Order scheduled future trial court proceedings on all counts. *Id*. Before the court could conduct these additional proceedings, however, on March 27 the State and the MCPDS Defendants filed interlocutory notices of appeal on all counts. Defendants filed their premature notices of appeal even though the trial court had scheduled additional proceedings on all counts, even though the trial court had not yet ruled on the MCPDS Defendants' Rule 54(b) motion to certify the March 7 Order as an appealable final judgment, and even though the State had not filed any Rule 54(b) motion on the counts to which it is a party. The State, as Party-in-Interest on Count III, further asserted that the trial court lacked jurisdiction to conduct any of the scheduled habeas proceedings because it had filed a notice of appeal. State's Apr. 2 Mot. at 3-4. Plaintiffs maintained that the court could and should move forward with implementing the Count III remedies to address the urgent constitutional crisis of non-representation. Pls.' Mot. to Continue Action on

Count III at 1-2 (Apr. 10, 2025) ("Pls.' Mot. to Continue") (Ex. D to State's Mot.).

In its detailed May 7 Order, the trial court rejected the State's effort to stop all habeas proceedings and granted Plaintiffs' motion to continue trial court action. May 7 Order at 9-19. The State then sat on its hands until June 6—three months after the court's March 7 Order ordering habeas hearings, nearly a month after the court's May 7 Order declining to stay those hearings, and just over two weeks before the first hearing—to file this "emergency" motion asking the Court to halt the upcoming habeas proceedings.

ARGUMENT

I. This is not an emergency.

The State baselessly asserts that its motion to stop all habeas relief must be decided on an "emergency" basis and could not have been submitted before 11:53 PM on June 6, 2025. But the State has failed to identify any legitimate emergency or provide appropriate notice as required by Maine Rule of Appellate Procedure 10(4). This Court need not wade into the myriad issues the State raises in its 20-page motion on an emergency basis, particularly when that "emergency" has been artificially manufactured by the State's decision to wait and file this motion at the last minute.

The appellate rules require a party seeking emergency relief to "[provide] as much advance notice of the intent to file the motion as possible" and "state the nature

of the emergency and the harm the movant will suffer if the motion is not granted." M.R. App. P. 10(4)(A), (D). The State has failed on all counts. The State has not identified any emergency that requires immediate Law Court intervention, but instead just repeatedly states that its motion is an emergency—this is clearly insufficient under the Rule.

Even assuming *arguendo* the claimed "emergency" is the habeas hearings currently scheduled to begin on June 24, and the claimed harm is a generalized "public safety" interest, the State is still unsuccessful. The State's purported harm is already safeguarded by judicial officers and has been addressed at length by the trial court, *and* the trial court has committed to taking this concern into account as it proceeds. As the trial court explained:

> No Judge or Justice in either the District or Superior Court needs to be reminded about the consequences of decisions they make every single day . . . . Public safety is always top of mind . . . . It is sometimes the case, however, that the Maine and United States Constitutions actually *require* that someone be released from custody or restraint. . . . The Court fully intends to factor in the legitimate concerns about public safety expressed by the State.

Mar. 7 Order at *31-33. It is difficult to imagine how the State's purported interest could be better protected. Because the asserted harm is non-existent, there is no "immediate threat to public health, safety, or general welfare" that could be labeled an emergency. 5 M.R.S. § 8054(1) (defining "emergency rulemaking"); *Morris v.*

Goss, 147 Me. 89, 91, 83 A.2d 556, 558 (1951) (applying same definition to emergency legislation).

Moreover, any "emergency" is entirely of the State's own making. The State has known that these hearings would happen since at least March 7, when they were first ordered, and yet for three months it chose not to pursue a stay with this Court. The State cannot be permitted to *create* an emergency and bypass standard appellate procedures by waiting to file its motion at the eleventh hour.

Finally, the State has failed its duty to provide Plaintiffs' counsel with "as much advance notice of the intent to file the motion as possible." M.R. App. 10(4)(A). The State did not inform Plaintiffs' counsel of its intent to submit this motion until the morning of June 6, the same day it filed the motion. The State has known that the trial court planned to implement habeas hearings since March 7, and has known that the trial court intends to proceed with habeas hearings despite the pending improper interlocutory appeals since May 13. Chronology of Events & Filings Potentially Relevant to the Emergency Motion and/or Appeal (Ex. H to State's Mot.). Because the State has failed to meet the requirements of Rule 10(4) and cannot identify either an emergency or a harm it will suffer, the Court should reject the State's request for emergency relief.

II. The trial court did not err in continuing action to implement habeas remedies while the State's interlocutory appeal remains pending.

The trial court properly exercised its authority to continue addressing the state's Sixth Amendment crisis by moving forward with the scheduled habeas remedies. As explained in the trial court's May 7 Order, it can proceed with the scheduled habeas relief under Count III for three independent reasons: (a) under longstanding common law regarding the "Great Writ of Liberty," the trial court's order granting habeas relief is not stayed pending appeal (May 7 Order at 14-19); (b) under Rule of Appellate Procedure 3(b), the trial court can continue action on the case following (as here) an interlocutory appeal of a summary judgment order (*id.* at 9-12); and (c) the State's status as a "Party-in-Interest" on Count III does not permit it to halt all habeas relief (*id.* at 12-14). Moreover, even if this Court concludes that the trial court lacked authority to continue action without leave of this Court, this Court should permit the trial court to continue action implementing the habeas relief proceedings under Rule of Appellate Procedure 3(d).

a. An appeal of the grant of habeas relief is governed by the longstanding common-law rule that habeas relief is not stayed pending appeal.

As the trial court correctly held, the State's appeal of Count III does not suspend the operation of habeas relief. May 7 Order at 14-19.

Our State Constitution reads: "And the privilege of the writ of habeas corpus shall not be suspended, unless when in cases of rebellion or invasion the public safety

may require it." Me. Const., art. I, § 10 ("Suspension Clause"). The U.S. Constitution preserves the habeas writ in almost identical language. U.S. Const., art. I, § 9. Often called the "great writ of liberty," the common-law writ of habeas corpus dates back to at least the Magna Carta, centuries before its adoption in the Maine and U.S. constitutions. *See Carafas v. LaVallee*, 391 U.S. 234, 238 (1968) (citing Article 39 of the Magna Carta (see 9 W. Holdsworth, at 112-125). The "Great Writ" was "designed to accomplish summary release from illegal restraint whether governmental or otherwise." *Roussel v. State*, 274 A.2d 909, 913 (Me. 1971). As this Court has explained, this "'great writ of liberty' must not be destroyed or weakened." *In re Opinion of the Justices*, 157 Me. 187, 211, 170 A.2d 660, 672-73 (1961).

Maine's preconviction habeas statute was first enacted in 1821, and it has remained in substantially the same form since. 14 M.R.S. §§ 5501-5546; PL 1821, c. 64. Maine's habeas statute codifies the common-law "great writ of liberty," but under the Suspension Clause it may not limit or otherwise abridge the common-law writ. *In re Opinion of the Justices*, 157 Me. 187, 211 (striking down a statutory provision that would have limited the scope of the common-law habeas writ as a violation of the Suspension Clause).

This Court has long held that "[e]xceptions do not lie to the discharge of a prisoner on *habeas corpus*." *Knowlton v. Baker*, 72 Me. 202, 202 (1881).[3] This is because "[t]he object of the writ is to secure the right of personal liberty; and this can only be accomplished by prompt action . . . [t]o allow exceptions [to orders] discharging a prisoner, would necessarily result in considerable delay, and thus defeat one of the principal purposes of the writ, namely, a speedy release." *Id.*; *see also French v. Cummings*, 125 Me. 522, 522 (1926) ("It is a well-settled principle that exceptions do not lie to the discharge of a prisoner upon habeas corpus.").

This Court affirmed this principle in *Stewart v. Smith*, 101 Me. 397, 397 (1906), declining to address a respondent's habeas appeal due to "the well-settled principle . . . that exceptions do not lie to the discharge of a prisoner upon habeas corpus." The Court further emphasized that "[t]o allow exceptions to the order for a discharge . . . would be to seriously impair the efficiency of a process . . . and would be inconsistent with the history and theory of the writ." *Id*. Thus, "[i]t is better that

[3] Other jurisdictions are in accord: the longstanding common-law rule under both state and federal law is that the government's appeal from a successful habeas petition does not automatically stay the awarded relief pending appeal. *See* Pls.' Mot. to Continue at 2-6. As explained by Chief Justice Cardozo, writing for New York's highest court:

> It would be intolerable that a custodian adjudged to be at fault, placed by the judgment of the court in the position of a wrongdoer, should automatically, by a mere notice of appeal, prolong the term of imprisonment, and frustrate the operation of the historic writ of liberty. 'The great purpose of the writ of habeas corpus is the immediate delivery of the party deprived of personal liberty.'

People ex rel. Sabatino v. Jennings, 246 N.Y. 258, 259–61, 158 N.E. 613, 614–15 (1927) (cleaned up). Thus, a statute "suspending the effect of the discharge by the mere force of an appeal would be at war with the mandate of the Constitution whereby the writ of habeas corpus is preserved in all its ancient plenitude." *Id*. (citing Const. art. 1, § 4 (Suspension Clause)).

occasional errors . . . should go uncorrected than that the speedy release of a person illegally deprived of his liberty should be prevented, or delayed by the length of time that must necessarily elapse in many cases before exceptions to an order for [discharge] could be presented, argued, and determined." *Id.* The Court further noted that that the importance of efficiently resolving habeas petitions is codified in Maine's habeas statute based on the plain language of 14 M.R.S. § 5521 (requiring court to act "without delay") and § 5523 (allowing court to evaluate petition in a "summary way"), which emphasize the importance of avoiding delay in habeas proceedings. *Id.*; *see also Ex parte Holbrook*, 133 Me. 276, 277 (1935) (reaffirming that appeals do not lie to discharge of prisoner on writ of habeas corpus). *Id.*

In short, Maine law dating back well over a century establishes that an appeal cannot interfere with the release of a successful habeas petitioner. These precedents have never been disapproved of, let alone overruled. And there is nothing in the Maine habeas statute, nor any other Maine statute, that abrogates these precedents. *See* 14 M.R.S. §§ 5501-5546 ("Habeas Corpus").

The State suggests that this Court's longstanding precedents have been overruled by generally applicable court rules. But as noted above, the common-law habeas writ long predates our procedural rules or statutes, and under the Suspension Clause its scope may not be limited in this manner by statute or rule. *In re Opinion*

of the Justices, 170 A.2d at 672-73; Me. Const., art. I, § 10 ("the writ of habeas corpus shall not be suspended . . . .").

Moreover, the Maine Rules of Civil Procedure expressly provide that they have "[l]imited [a]pplicability" to "[p]roceedings . . . under the writ of habeas corpus." M.R. Civ. P. 81(b)(1)(A). As the Reporter's Notes to Rule 81 explain:

> Proceedings under the extraordinary writs are excluded from general coverage because they differ so greatly from the ordinary civil actions for which the rules are primarily designed. Some of them, notably habeas corpus, symbolize traditional rights of citizens. While the substance of these rights would of course be preserved in any event, there is value in preserving the symbol as well.

Reporter's Notes to Rule 81 (1959). In line with this principle, Rule 81(b) recognizes that, "[i]n respects not specifically covered by statute or other court rules, the practice in these proceedings shall follow the course of the common law, but shall otherwise conform to these rules." M.R. Civ. P. 81(b)(1)(F). In other words, common law principles govern proceedings on habeas writs unless there is a specific contrary statute or rule. Here, there is no Maine rule or statute specifically governing appeals in habeas proceedings, and the common law therefore governs. And under longstanding common law, appeals cannot interfere with a grant of habeas relief.

In sum, there is no basis to stay Count III proceedings pending appeal—let alone to allow the filing of an interlocutory notice of appeal to bring those proceedings to an automatic halt. A stay of the grant of habeas relief pending appeal would violate the longstanding common law rule, prolong Subclass members'

unlawful detention, and undermine the fundamental purpose of the "Great Writ of Liberty." *In re Opinion of the Justices*, 157 Me. at 211. A stay would result in unlawfully detained individuals automatically languishing for months or years while appeals play out.

b. The trial court can act without Law Court approval following an interlocutory appeal of a summary judgment order or an order of equitable injunctive relief.

The trial court alternatively concluded that it can separately proceed with Count III under a straightforward application of Maine Rule of Appellate Procedure 3. May 7 Order at 9-12. Under Rule 3, the State's filing of an interlocutory notice of appeal does not deprive this Court of jurisdiction and does not merit any stay of the relief ordered, for two separate reasons: (1) Maine Rule of Appellate Procedure 3(c)(4) permits the trial court to act without Law Court approval in cases pending interlocutory appeal of orders on summary judgment, and (2) a grant of habeas relief is properly understood as an injunction under Maine Rule of Civil Procedure 62.[4]

First, the trial court can continue to implement remedies on Count III because the State's appeal is an interlocutory appeal of a summary judgment order. Maine Rule of Appellate Procedure 3(c)(4) states: "The trial court is permitted to act on a case pending resolution of any appeal of . . . an order granting or denying a motion

[4] In its May 7 Order, the trial court relied on the first of these bases for continuing action; it did not adopt the alternative second basis. *Id.*

for summary judgment . . . that does not resolve all pending claims." The March 7 Order is simply the remedies order issued pursuant to its summary judgment ruling on Count III (among other counts). In other words, the January remedies trial "was conducted pursuant to the Court's January 3, 2025 Combined Order on Partially Dispositive Motions," in which "the Court granted partial summary judgment on the issue of liability under the Sixth Amendment in favor of Plaintiff Subclass members on Count III." Mar. 7 Order at *1.

As the trial court explained, "[t]he January 3rd Order, the January 2025 trial, and the March 7 Order were all part and parcel of the decision of the parties to litigate and resolve Count III (and the other Counts) by way of Rule 56 of the Maine Rules of Civil Procedure, which anticipates and provides for such sequential proceedings." May 7 Order at 11. The State's arguments to the contrary describe the typical summary-judgment process in which a party loses summary judgment, and then there is a separate trial to determine liability. But that was not the case here: instead, the court determined Count III liability as a matter of law in its summary judgment order and then held the January remedies hearing "pursuant to the summary judgment order." Mar. 7 Order at *1. Rule 3(c)(4) therefore provides an independent basis for the trial court to move forward with the ordered equitable remedies.

Second, Maine Rule of Appellate Procedure 3(c)(2) separately permits the trial court to act on injunctive relief under Rule 62(a) and 62(d). The State concedes

that Appellate Rule 3(c)(2) generally permits continued trial court action on injunctions, but argues that habeas relief is not an "injunction." But that argument elevates form over substance. Both Maine Rule of Civil Procedure 62 and Maine Rule of Appellate Procedure 3(c) plainly permit the trial court to continue to act on injunctions pending appeal, and the court's Count III habeas remedy commanding the release of unrepresented Subclass members falls within any reasonable understanding of an injunction. *See* Black's Law Dictionary (12th ed. 2024) (defining injunction as "[a] court order commanding or preventing an action"); *see also Betschart v. Garrett*, 700 F.Supp.3d 965 (D. Or. Nov. 14, 2023) (issuing injunction ordering release of unrepresented class members from detention as a class-wide habeas remedy).

c. The State's "Party in Interest" role does not permit it to halt all habeas relief.

The trial court correctly found that the State's status as a "Party in Interest" on Count III does not permit it to halt all habeas proceedings in this case. May 7 Order at 12-14.

As the court explained, at the State's request it designated the State as a "Party-in-Interest" to Count III. May 7 Order at 14. The court followed the example of Justice Douglas, who made a similar designation in *Peterson v. Johnson*, No. SJC-23-2 (Nov. 6, 2023), in reliance on 14 M.R.S. § 5522. Section 5522 defines the rights of the State in habeas proceedings not as a "party" but as an "interested person" with

the right to receive notice of the habeas hearing, be represented at the hearing, and object to the hearing. The statute does not confer a right on the State, as Party-in-Interest, to appeal the grant of writ of habeas corpus, let alone to halt all habeas relief pending resolution of such an appeal. Thus, the trial court correctly concluded that "[t]he Party-in-Interest's legislatively prescribed rights in a habeas proceeding may be exercised at the individual habeas hearings," but "those rights should not be construed to prevent such habeas proceedings from occurring at all." May 7 Order at 14.

III. In the alternative, this Court should permit the trial court to continue implementing habeas remedies under Rule of Appellate Procedure 3(d).

Even if this Court concludes that the trial court lacked authority to continue action without leave of this Court under Rule of Appellate Procedure 3(b), this Court should clarify that the trial court is permitted to continue its action on the Count III habeas remedies under Rule of Appellate Procedure 3(d), which allows the Law Court to permit specific trial court action in the event it is not already permitted. As discussed above, *supra* at 12-16, this Court's longstanding precedents establish that a grant of habeas relief is not stayed pending appeal, and that is particularly true here because the appeal is an improper interlocutory appeal brought not by a party but by a "Party in Interest" with statutorily limited rights. And as discussed below, *infra* at 21-24, the balance of the equities demonstrate that the trial court should not delay

its implementation of the urgently needed remedies for unrepresented indigent defendants.

IV. This Court should not interfere with the trial court's ongoing proceedings because the State has not met its burden to satisfy the balance-of-equities test.

Lastly, the State argues that even if the trial court has authority to continue its action on Count III, this Court should reach out and halt the trial court's remedial proceedings to address the State's Sixth Amendment crisis, because otherwise the State will be irreparably harmed. This argument strains credulity.

As the State acknowledges, the party seeking a discretionary stay pending appeal is governed by the same four-factor test for obtaining injunctive relief: the State must show that "(1) it will suffer irreparable injury if the [stay] is not granted; (2) such injury outweighs any harm which granting the [stay] would inflict on the other party; (3) it has a likelihood of success on the merits (at most, a probability; at least, a substantial possibility); and (4) the public interest will not be adversely affected by granting the [stay]." *Nat'l Org. for Marriage v. Comm'n on Governmental Ethics & Elections Practices*, 2015 ME 103, ¶ 15, 121 A.3d 792 (denying stay).

The State cannot come close to meeting its burden to justify a stay of remedial proceedings. Indeed, after a three-day remedies hearing, the trial court concluded in

a detailed 45-page order that each of the four equitable relief factors weighed strongly in favor of the unrepresented indigent *Plaintiffs*, not the State. Mar. 7 Order.

The State falls well short of meeting its burden to show it has a likelihood of prevailing on the merits. The State takes a scattershot approach, briefly flagging a number of potential legal issues, but it fails even to argue—let alone demonstrate—that it actually has a likelihood of prevailing on any of these issues. State's Mot. at 14-17. This Court need not and should not wade into the merits of these issues on this "emergency" motion. Notably, many of the State's arguments—including that habeas relief is unavailable to individuals accused of felonies and that class actions are not available for habeas—were never raised below by the State (or any other party) and are plainly waived.[5] Indeed, throughout the summary-judgment proceedings on liability, the State made no separate arguments regarding Count III habeas claims; instead, the State rested on its sovereign immunity objections to Count V and MCPDS's liability arguments on Count I and II. State's Motion for Summary Judgment on Count V (Nov. 22, 2024); State's Opposition to Plaintiffs' Motion for Summary Judgment (Dec. 13, 2024). In any event, the trial court ruled for Plaintiffs on liability in a 41-page order after carefully analyzing hundreds of pages of cross-summary judgment briefing, based on a "voluminous" summary

[5] The State raised the possibility of a felony-bar for first time, orally, at the April 7, 2025 hearing, a month *after* the May 7 remedial order it appeals from here. And the State never raised any argument in opposition to class certification on the habeas claim.

judgment record. Jan. 3 Order at *27. And the trial court ruled for Plaintiffs on remedies following a three-day hearings and hundreds of pages of pre- and post-trial briefing. Mar. 7 Order. The State provides nothing to undercut those rulings.

The State likewise utterly fails to show that failure to grant a stay would cause it irreparable harm. To the contrary, as the trial court explained, it is the unrepresented indigent defendants who face irreparable harm each day they are denied their basic Sixth Amendment right to counsel. Mar. 7 Order at *10-17. The State vaguely gestures at "public safety" concerns, but as discussed above, the trial court's carefully crafted remedies already directly address these concerns. *See supra* at 10.

Finally, the State has not come close to meeting its burden to show the balance-of-equities and public interest would be served by granting a stay. *See Nken v. Holder*, 556 U.S. 418, 435 (2009) (explaining that when the government is the defendant, these two factors merge). As the trial court cogently explained, ordering remedies to address the State's ongoing Sixth Amendment crisis serves important public interests: the "public interest in a fair, functional, and stable criminal justice system; the public interest in the protection of the liberty interests for all the citizens of Maine who are charged with crimes punishable by incarceration; and the public interest in ensuring that the presumption of innocence is meaningfully protected against the power of the State through the effective assistance of counsel." Mar. 7

Order at *18. Conversely, staying these remedies pending appeal would put the Sixth Amendment on hold, resulting in unlawfully detained people automatically languishing for months or years while any appeals are resolved.

CONCLUSION

No stay is warranted here, and this Court should permit the trial court to continue with implementing urgently needed remedies for the Subclass on Count III. The State's improper appeal and its "emergency" bid to halt all habeas remedies will only lead to distractions and delays in the resolution of our State's crisis of non-representation.

June 12, 2025

Respectfully submitted.

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CERTIFICATE OF SERVICE

I certify that on June 12, 2025, I served the foregoing document, Plaintiffs' Opposition to State of Maine's "Emergency" Motion to Stay the Trial Court's Action to Address the State's Sixth Amendment Crisis, upon counsel for Defendants by electronically transmitting a copy of the document to:

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