FILED
11/25/2026
ELIZABETH A. BROWN
CLERK OF SUPREME COURT

IN THE SUPREME COURT OF THE STATE OF NEVADA

THE STATE OF NEVADA, Petitioner, vs. THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA, IN AND FOR THE COUNTY OF WASHOE; AND THE HONORABLE KATHLEEN A. SIGURDSON, DISTRICT JUDGE, Respondents, and JOHN ROBERT BENSON, Real Party in Interest.	No. 91994

ORDER GRANTING PETITION

This is an original petition for a writ of prohibition or mandamus challenging a district court pretrial order to produce discovery for in camera review in a criminal proceeding.

Facts and Procedural History

John Robert Benson, the real party in interest, was charged with murder with the use of a deadly weapon. With trial set to begin in March 2026, Benson, who theorized the investigation was tainted, filed a "motion for *Henthorn* material" in November 2025, asking the district court to order the State to produce the personnel files of all 18 potential law enforcement witnesses listed in the criminal information. Benson argued that he was entitled to exculpatory material under *Brady v. Maryland*, 373 U.S. 83 (1963), that the State was required to provide that evidence to the defense under *Kyles v. Whitley*, 514 U.S. 419 (1995), and that under *United States v. Henthorn*, 931 F.2d 29 (9th Cir. 1991), he was not required to make

a special showing of materiality before the prosecution must review law enforcement personnel files for information favorable to the defense.

The State opposed the motion as premature, overbroad, and resting on a misreading of *Henthorn*. Specifically, the State represented that it understood its obligations under *Brady*, that it had in place a mechanism for reviewing the personnel files of officers named as trial witnesses on the notice of witnesses required by NRS 174.234, and that it was committed to conducting the review and providing the defense with the information to which they were constitutionally entitled. It also noted that a split of authority existed as to *Henthorn*'s treatment of the materiality requirement for *Brady* disclosures in this context and argued that, even under *Henthorn*, in camera review by the court follows rather than precedes the government's review, absent a showing that the government had failed in its duty to disclose *Brady* material.

The district court heard argument on the motions, at which the lawyers reiterated their positions. The defense admitted that its motion was a prophylactic measure. The State confirmed that it understood its constitutional obligations and had a system for complying with those obligations. The district court then issued a written order granting Benson's motion. Citing *Henthorn*, the district court stated that the Ninth Circuit held that once a defendant has made a request for the personnel files of testifying officers, the State must examine those files and disclose them if they are material to the defendant's case. The district court gave the State 20 days to submit the files to the district court for its in camera review. It did so despite noting that "the State has not filed a Notice of Witnesses to date." It concluded its order by stating that *it* would "conduct an in-camera inspection of the [personnel] files of the witnesses and

determine whether those files should be disclosed to the defendant for impeachment purposes."

The State filed a petition seeking a writ of prohibition or writ of mandamus instructing the district court to (1) vacate its order granting Benson's motion for *Henthorn* material and (2) issue an order requiring the State to act in accordance with its discovery obligations, as articulated in *Brady* and its progeny.

Discussion

A writ of mandamus is an extraordinary remedy that lies within the sole discretion of this court. *State v. Eighth Jud. Dist. Ct. (Anzalone)*, 118 Nev. 140, 145, 42 P.3d 233, 236-37 (2002). This remedy is available to control the judicial discretion of the district court when that "discretion is manifestly abused or is exercised arbitrarily or capriciously." *Round Hill Gen. Improvement Dist. v. Newman*, 97 Nev. 601, 603-04, 637 P.2d 534, 536 (1981). "A manifest abuse of discretion occurs when there is a clearly erroneous interpretation or application of the law . . . ." *Johnston v. Eighth Jud. Dist. Ct.*, 138 Nev. 700, 705, 518 P.3d 94, 100 (2022).

Under *Brady*, a prosecutor is constitutionally required "to disclose evidence favorable to the defense when that evidence is material either to guilt or to punishment." *Mazzan v. Warden, Ely State Prison*, 116 Nev. 48, 66, 993 P.2d 25, 36 (2000). When a prosecutor fails to disclose such evidence, it violates a defendant's due process rights, even if that failure was inadvertent. *Jimenez v. State*, 112 Nev. 610, 618, 918 P.2d 687, 692 (1996). In *Giglio v. United States*, 405 U.S. 150, 154-55 (1972), the Supreme Court extended *Brady* to include material that could impeach the prosecution's witnesses. The Court went further in *Kyles v. Whitley*, 514 U.S. 419, 437 (1995), and held that prosecutors have an affirmative duty to

learn of favorable evidence that is known to those acting on the prosecutor's behalf, including the police.

United States v. Henthorn—the only case on which the district court relied in issuing its order—is a descendant of this line of cases. In *Henthorn*, in camera review was appropriate because (1) the defendant made a request for information, (2) the government failed to review the files and refused to turn over any information from them, and (3) the district court sustained the government's position such that the case was tried and a conviction obtained without the constitutionally mandated review by the government having occurred. *Henthorn*, 931 F.2d at 30-31. Those facts are not present here. While Benson has made a request for information, the State has not failed to review the requested files. On the contrary, the State has repeatedly represented that it understands its obligations under *Brady*, intends to comply with those obligations as to the police officer files specifically, and has procedures in place for doing so.

Nor does *United States v. Cadet*, 727 F.2d 1453 (9th Cir. 1984), a case on which *Henthorn* relies, support the district court's order. There, the court ruled that the government *could* seek in camera review of files if it was unsure whether certain documents in personnel files met the test for materiality such that it was constitutionally obligated to produce them. *Id.* at 1467-68. In other words, under *Cadet*, in camera review occurs only if the government needs help determining whether certain information meets the requisite standard for materiality. But again, there is no evidence in this record that the State needs this kind of help.

Inherent in these collective federal cases is the notion that the burden of complying with *Brady* and its progeny lies in the first instance with the prosecution. Nevada law similarly shows that the obligation to

comply with *Brady* is the State's in the first instance. *See, e.g.*, *Bradley v. Eighth Jud. Dist. Ct.*, 133 Nev. 754, 759-60, 405 P.3d 668, 673-74 (2017) (recognizing that *Brady* applies retrospectively); *Sonner v. State*, 112 Nev. 1328, 1340-41, 930 P.2d 707, 715-16 (1996) (explaining the State's burden to disclose evidence favorable and material to the defendant). A district court's intervention via in camera review is not necessary in the *Brady*-disclosure context unless and until the State refuses or fails to fulfill its obligations under *Brady*. Here, the State has not failed to fulfill but acknowledges and accepts its constitutional obligations, and no one disputes this point. By compelling the State to submit personnel files for in camera review in the first instance, despite the State's assurances it would review and produce information from the personnel files of officers who would be witnesses at trial as constitutionally required, the district court invaded the province of the State in a clear abuse of discretion.

Accordingly, we

ORDER the petition GRANTED AND DIRECT THE CLERK OF THIS COURT TO ISSUE A WRIT OF MANDAMUS instructing the district court to vacate its order granting Benson's motion for *Henthorn* material and to proceed in a manner consistent with this order. To the extent petitioners alternatively seek a writ of prohibition, we conclude that a writ of mandamus is the more appropriate relief.

Pickering, J.

Parraguirre, J.

Bell, J.

cc: Hon. Kathleen A. Sigurdson, District Judge
Attorney General/Carson City
Washoe County District Attorney
Sgro & Roger / Reno
Reno City Attorney
Washoe District Court Clerk