

IN THE DISTRICT COURT OF APPEAL  
SIXTH DISTRICT OF FLORIDA

STATE OF FLORIDA,  
RICHARD WALSH

HONERABLE JUDGE MADRIGAL III  
Respondents.

v. Original Case No. 48-2022-CF-00688 AO

KELLI LYNCH,  
DEFENDANT

RUSTY MILLER,  
NON-PARTY  
Petitioners.

**EMERGENCY PETITION FOR WRIT OF MANDAMUS OR PROHIBITION  
AND MOTION FOR STAY PENDING APPEAL (PRO SE WITH REQUEST  
FOR APPOINTMENT OF APPELLATE COUNSEL)**

Pursuant to Florida Rule of Appellate Procedure 9.100, the Appellant, KELLI LYNCH, respectfully petitions this Court for a Writ of Mandamus or Prohibition, and a Motion for Stay Pending Appeal.

**I. BASIS FOR INVOKING JURISDICTION**

This Court has jurisdiction to issue a Writ of Mandamus or Prohibition under Article V, Sections 4(b)(3) and 5(b)(3) of the Florida Constitution, and Florida Rule of Appellate Procedure 9.030(b)(2) and (3). These writs are appropriate remedies to address the trial court's clear abuse of discretion and authority, as well as the numerous violations of Petitioner's due process rights detailed herein.

## **II. STATEMENT OF THE FACTS**

Kelli Lynch, a 45-year-old woman with no prior criminal history, was arrested for attempted fraud at an Orlando car dealership. The fraudulent documents used in the crime were created by others, not Ms. Lynch. Despite this, she was charged while her co-defendants, who have extensive criminal histories including successful thefts similar to this one, faced no charges. State Attorney Richard Walsh valued the co-defendants' testimony as evidence of Ms. Lynch being the mastermind, despite privately admitting to her initial defense attorney that she had little culpability.

This was Ms. Lynch's first felony charge. She is a mother of three and has been portrayed as a hardened criminal and a danger to society, even though she was coerced into the crime and escorted to the dealership by a co-defendant. Her co-defendants, who have committed similar crimes multiple times in the past, were not charged.

Ms. Lynch attempted to abandon the crime before law enforcement arrived, consistent with the legal defense of abandonment. The first officer on the scene corroborates this, but State Attorney Walsh chose to use the testimony of previously convicted co-defendants to support his flawed theory.

Adding to the injustice, Ms. Lynch was also charged with trafficking methamphetamines despite having a valid prescription for the medication, which was picked up earlier that day for her girlfriend. State Attorney Walsh was aware of the prescription as early as the bond hearing but proceeded with the charge anyway.

This case highlights the lengths to which the lower court, particularly State Attorney Walsh, will go to obstruct justice and secure a conviction rather than pursue real justice. The facts surrounding the case expose a miscarriage of justice and raise serious concerns about the integrity of the legal process.

State Attorney Walsh is not solely responsible for this injustice. Ms. Lynch's attorney, Mr. Jonathan Mills, who was paid \$15,000 by Ms. Lynch's close friend Mr. Rusty Miller to defend her case on the abandonment defense, was negligent in his duties. This is evident in transcripts from April of the previous year, over a year and a half into the case, where Mr. Mills is

criticized in open court by the judge and State Attorney Walsh for wasting the court's time by noticing depositions on the same day as the final pre-trial hearing without notifying the State Attorney or coordinating with his office. After receiving a continuance and failing to depose any witnesses, Mr. Mills filed another notice without coordinating with the State Attorney, again on the same day as the adjusted pre-trial hearing. State Attorney Walsh reminded the court that this was the seventh delay in the case for trial.

Mr. Mills failed to attend a single pre-trial hearing for Ms. Lynch and was under heavy scrutiny from the court going into trial management. In the next hearing, Mr. Walsh told Mr. Mills that it appeared he was taking a truant approach to the case, to which Mr. Mills responded, "Yeah, I'll take fault for that."

Transcripts will show that Mr. Mills proposed a "Quartermaster's" style plea deal to the court, where Ms. Lynch would make a statement about the crime to the State Attorney to assist him in proving his theory in the case. Mr. Mills admitted that he had not even discussed this with Ms. Lynch but assured the judge that he would have her on board. This route would eliminate scrutiny from the court and shield Mr. Mills from further scrutiny down the line. The judge even stated that three years for someone who had never committed any crimes in the past seemed harsh. Mr. Mills made a laughing comment of "just another three years" when the judge finished his statement that for some it's just a walk in the park.

Ms. Lynch and Mr. Miller were expecting a different defense in the case. They were both present in a meeting where additional evidence was added to the record to prove the ineffectiveness of Mr. Mills. This evidence will confirm that one of the co-defendants was willing to turn over text messages between him and the other co-defendant to prove a minimal role in the crime and that Ms. Lynch was targeted and forced to commit the crime or face being kicked out of where she lived. It was explained to Ms. Lynch and Mr. Miller that this meeting would prove this theory and Ms. Lynch could end up possibly with probation. Mr. Miller, who normally attended all of Ms. Lynch's hearings, was told by Mr. Mills that this upcoming hearing was when the plan would be told to the judge and would be a quick hearing, so Mr. Miller stayed home.

However, this was the day Ms. Lynch took the plea. She was told to just sign something and that they would be going into the meeting to give the messages after the hearing. Scared and unsure of how the court worked, Ms. Lynch followed her attorney's advice. When asked if she was changing her not-guilty plea to no contest, Mr. Mills answered the question loudly for her, prompting the judge to repeat the question for Ms. Lynch to then respond yes.

After the plea hearing, they proceeded with the proffer for Ms. Lynch to make a statement. Mr. Mills failed to bring the text messages between the co-defendants and did not establish any agreement for Ms. Lynch to receive a reduced sentence. When Ms. Lynch attempted to discuss the co-defendant's role and maintained her minimal involvement in the crime, State Attorney Walsh ended the proffer. Despite the plea hearing failing to mention the proffer, all parties involved assumed the case would proceed smoothly. However, unbeknownst to them, Mr. Mills had inadvertently created a witness to the entire scheme.

Judge Madrigal, who presided over the sentencing hearing, engaged in ex parte conversations with the State Attorney, discussing the possibility of a harsher sentence for Ms. Lynch if the State Attorney would stop objecting to the withdrawal of the plea. This demonstrated the judge's bias in favor of the State Attorney. Through privileged information provided by Mr. Mills, the court aimed to minimize the influence of Mr. Miller, a close friend of Ms. Lynch, while simultaneously making him a central figure in the case without any documented involvement. The judge also displayed bias against Ms. Lynch, making statements such as "She would already be in DOC if it were not for her buddy Rusty," and pressuring her to accept a plea deal by threatening her with 80 years due to Mr. Miller's perceived influence. The judge also dismissed motions filed by the petitioner without allowing for proper argument, raising concerns about due process violations.

The State Attorney engaged in misconduct by withholding exculpatory evidence, namely the valid prescription, and failing to correct the misattribution of key evidence. These actions, along with the judge's bias and the ineffective assistance of counsel provided by Ms. Lynch's attorneys, raise serious questions about the fairness and integrity of the legal process in this case.

The following arguments will detail the failures of the actors in this case, demonstrating that the only reasonable conclusion is to demand that the lower court dismiss the case with prejudice. This is necessary to regain trust not only for Ms. Lynch but also for the public, who expect the courts to adhere to their own rules and to seek actual justice, not just convictions disguised as justice.

### **III. ARGUMENT**

The lower court's engagement in ex parte communications with the State Attorney regarding the potential refiling of a more serious charge against Ms. Lynch, even if conducted in open court, raises significant due process concerns. The judge's active participation in discussions about potential charges, as evidenced by the transcript, arguably blurs the line between the judicial and prosecutorial roles, compromising the impartiality required of a judge as held in *In re Murchison*, 349 U.S. 133 (1955). The Supreme Court in *Mayberry v. Pennsylvania*, 400 U.S. 455 (1971), further emphasized the importance of not only actual impartiality but also the appearance of impartiality, which was arguably compromised in this instance.

Furthermore, the judge's statement that the State Attorney knew Ms. Lynch's attorney, Mr. Mills, was aware of the conversation, followed by a cursory inquiry to Ms. Lynch about her understanding without any further explanation, effectively denied her a meaningful opportunity to be heard. This lack of transparency and opportunity for clarification from her counsel is a clear violation of her due process rights, as articulated in *Goldberg v. Kelly*, 397 U.S. 254 (1970), which emphasizes the importance of providing individuals with a meaningful opportunity to be heard before depriving them of a significant interest, such as liberty.

Additionally, the judge's failure to elucidate the potential consequences of withdrawing her plea denied Ms. Lynch her right to be fully informed of the nature and cause of the accusations against her, as affirmed in *Faretta v. California*, 422 U.S. 806 (1975). This lack of transparency not only prejudiced Ms. Lynch's ability to make an informed decision but also undermines the fundamental fairness and integrity of the judicial process.

## **Judicial Interference and Ineffective Assistance of Counsel:**

Judge Madrigal's conduct in this case demonstrates a pattern of judicial misconduct that severely prejudiced Petitioner's case. By publicly disparaging Rusty Miller, an individual not formally involved in the case, and revealing his confidential arrest record, the judge breached the duty of impartiality and created an appearance of impropriety, as prohibited in *In re Inquiry Concerning a Judge (Maloney)*, 639 So. 2d 608 (Fla. 1994). This bias tainted the proceedings and undermined Petitioner's right to a fair trial, as guaranteed by the Florida and U.S. Constitutions.

The judge's actions in this case mirror the judicial misconduct observed in *The Florida Bar v. Kelsay Dayon Patterson*, where unfounded allegations and procedural violations resulted in a denial of justice. In the present case, Judge Madrigal's personal bias and manipulation of the proceedings, including his derogatory remarks about Mr. Miller and attempts to coerce a plea deal, similarly prejudiced Petitioner's case.

The actions of Ms. Lynch's attorneys, Ms. Kazzi, Mr. Swartz, and Mr. Holland, raise serious concerns about ineffective assistance of counsel. Ms. Kazzi's withdrawal after drafting a potentially viable motion to dismiss, Mr. Swartz's withdrawal due to concerns about misattributed evidence, and Mr. Holland's failure to challenge the state's weak case and his pressure on Ms. Lynch to accept a plea deal despite evident witness issues all point to a pattern of inadequate representation that falls below the objective standard of reasonableness required by *Strickland v. Washington*, 466 U.S. 668 (1984).

Furthermore, there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different. Had the attorneys effectively challenged the misattributed evidence, pursued viable defense strategies, and adequately advised Ms. Lynch about the risks and benefits of accepting a plea deal, she may not have entered a plea or the charges against her might have been dismissed or reduced.

The combined effect of judicial interference, prosecutorial misconduct, and ineffective assistance of counsel resulted in a miscarriage of justice for Ms. Lynch. These violations of her due process and fair trial rights necessitate a thorough review and reconsideration of her case.

It is imperative that the lower court dismiss the charges against Ms. Lynch with prejudice and cease any further involvement in this case as it will only continue to harm the already serious destruction thus far.. uphold the integrity of the legal system and ensure that justice is served. Ms. Lynch is entitled to a fair trial where her rights are protected, and the evidence against her is presented accurately and without prejudice. The actions of the judge, the State Attorney, and Ms. Lynch's attorneys have undermined these fundamental principles, and it is the duty of the higher court to rectify this injustice.

The cumulative effect of judicial and prosecutorial misconduct, coupled with ineffective assistance of counsel, culminated in the coercion of a guilty plea from Ms. Lynch, thereby violating her constitutional due process rights.

The Supreme Court in *Boykin v. Alabama*, 395 U.S. 238 (1969), unequivocally established that a guilty plea must be knowing, intelligent, and voluntary. In this instance, the judge's biased remarks, threatening an 80-year sentence, coupled with the State Attorney's manipulation of evidence and charges, including the leveraging of the trafficking charge as a bargaining chip, created a coercive atmosphere that pressured Ms. Lynch into accepting a plea deal.

While *Brady v. United States*, 397 U.S. 742 (1970), acknowledges that a plea entered to avoid a harsher penalty is not inherently involuntary, it must be made with full awareness of the consequences. In Ms. Lynch's case, the combined effect of judicial pressure, prosecutorial misconduct, and inadequate legal representation raises substantial doubts about the voluntariness of her plea. The record demonstrates that she was not fully informed of the consequences of her plea and was not adequately shielded from the coercive tactics employed by the judge and the State Attorney.

Furthermore, the lower court's failure to conduct a proper plea colloquy, a critical safeguard mandated by *Boykin v. Alabama* to ensure that the defendant understands the nature of the charges, the rights being waived, and the consequences of the plea, further supports the argument that Ms. Lynch's plea was not voluntary. The absence of a thorough plea colloquy in this case indicates that Ms. Lynch may not have fully comprehended the implications of her plea, thus rendering it involuntary.

In light of these factors, it is evident that Ms. Lynch's guilty plea was not the product of a knowing, intelligent, and voluntary decision. The coercive tactics employed by the judge and the State Attorney, combined with the inadequate representation by her attorneys, created an environment that pressured her into accepting a plea deal without a full understanding of its consequences. This constitutes a clear violation of her due process rights and necessitates a thorough review and reconsideration of her case.

### **Judicial Misconduct: A Violation of Due Process and Fair Trial Rights**

Judge Madrigal's conduct in this case reflects a pattern of judicial misconduct that severely prejudiced Petitioner Kelli Lynch's due process and fair trial rights. His actions not only violated established legal and ethical standards but also potentially exposed him to legal repercussions, including the loss of judicial immunity.

1. **Breach of Impartiality and Appearance of Impropriety:** By publicly disparaging Rusty Miller, a non-party to the case, and disclosing his confidential arrest record, Judge Madrigal breached his fundamental duty of impartiality. This conduct created an appearance of impropriety, casting doubt on the judge's ability to preside over the case fairly. The Florida Supreme Court in *In re Inquiry Concerning a Judge (Maloney)*, 639 So. 2d 608 (Fla. 1994), explicitly prohibits such bias, emphasizing that judges must not only be impartial but must also appear impartial. The judge's actions in this case align with the judicial misconduct observed in *The Florida Bar v. Kelsay Dayon Patterson*, where unfounded allegations and procedural violations led to a denial of justice. In both cases, the judge's personal bias and manipulation of the proceedings prejudiced the defendant's case.
2. **Violation of Privacy Rights:** The judge's public disclosure of Mr. Miller's confidential arrest record potentially violated his right to privacy. While Florida's Public Records Act generally allows for public access to official records, there are exceptions for certain confidential information, including arrest records that did not result in a conviction. The judge's actions could be seen as exceeding his judicial authority and infringing upon Mr. Miller's privacy rights, raising concerns about potential civil liability.
3. **Loss of Judicial Immunity:** Judicial immunity, which shields judges from liability for actions taken in their official capacity, is not absolute. It does not protect judges from liability for actions taken in the clear



absence of all jurisdiction or actions that are non-judicial in nature. In this case, Judge Madrigal's public disclosure of Mr. Miller's confidential information could be seen as a non-judicial act, potentially exposing him to civil liability and even the loss of judicial immunity.

Judge Madrigal's conduct in this case constitutes a clear violation of Petitioner's due process and fair trial rights. His actions demonstrate a pattern of judicial misconduct that not only prejudiced Ms. Lynch's case but also undermined public confidence in the judiciary. The judge's breach of impartiality, potential violation of privacy rights, and the risk of losing judicial immunity underscore the gravity of his misconduct. This conduct warrants a thorough review and investigation by the appropriate authorities to ensure the integrity and fairness of the judicial system.

### **Prosecutorial Misconduct: Suppression and Manipulation of Evidence**

The State Attorney's conduct in this case demonstrates a pervasive and deliberate pattern of manipulating and suppressing evidence, resulting in egregious violations of Petitioner Kelli Lynch's constitutional due process rights.

1. **Brady Violation:** The State Attorney's failure to disclose the exculpatory prescription during plea negotiations constitutes a blatant violation of the Brady rule, a fundamental principle of due process mandating the disclosure of material exculpatory evidence. As established in *Brady v. Maryland*, 373 U.S. 83 (1963), the suppression of evidence favorable to the accused that is material either to guilt or punishment violates due process, irrespective of the good faith or bad faith of the prosecution. In this instance, the prescription's existence directly negates the trafficking charge, rendering it material evidence under *United States v. Bagley*, 473 U.S. 667 (1985), and its concealment deprived Ms. Lynch of the opportunity to make an informed decision regarding her plea, thus undermining its voluntariness. This deliberate withholding of evidence not only violates due process but also contravenes the ethical duty of prosecutors to seek justice, not merely convictions, as emphasized in *Berger v. United States*, 295 U.S. 78 (1935).

2. **Manipulation of Plea Negotiations:** The State Attorney's subsequent nolle prosequi of the trafficking charge, followed by its reinstatement after a Brady warning was filed, reveals a calculated strategy to manipulate the plea bargaining process. This "bait-and-switch" tactic, as condemned in *State v. Leroux*, 132 So. 3d 277 (Fla. 2014), used the potential dismissal of a serious charge as leverage to coerce Ms. Lynch into accepting a plea deal. This not only violates her right to a fair trial but also undermines the integrity of plea negotiations, which, as held in *Mabry v. Johnson*, 467 U.S. 504 (1984), are contractual in nature and require adherence to promises made.
3. **Prosecutorial Vindictiveness:** The State Attorney's decision to refile the trafficking charge after the Brady warning was filed raises a strong inference of prosecutorial vindictiveness, a form of prosecutorial misconduct strictly prohibited in *Blackledge v. Perry*, 417 U.S. 21 (1974). This conduct implies a punitive motive for Ms. Lynch's exercise of her right to challenge the plea agreement, further eroding her due process rights.

### **Misattribution of Business Records:**

The State Attorney's failure to correct the misattribution of business records attributed to Luiz Holt, constitutes a further and egregious violation of her due process rights. This misattribution not only prejudiced her defense by falsely implicating her in fraudulent activities but also amounts to the suppression of potentially exculpatory evidence. Under *United States v. Agurs*, 427 U.S. 97 (1976), suppression of material evidence favorable to the accused, regardless of prosecutorial intent, violates due process. Additionally, this misattribution raises concerns of a *Giglio* violation, where the prosecution fails to disclose evidence that could impeach a witness's credibility (*Giglio v. United States*, 405 U.S. 150 (1972)).

The State Attorney's reliance on misattributed evidence led directly to Ms. Lynch's wrongful conviction, thereby violating the principle of fundamental fairness enshrined in *Lisenba v. California*, 314 U.S. 219 (1941). Moreover, as established in *Mooney v. Holohan*, 294 U.S. 103 (1935), deliberate deception of the court through the presentation of known perjured testimony is a clear violation of due process. The misattribution of evidence in this case can be seen as such a deception.

The cumulative effect of these prosecutorial actions demonstrates a blatant disregard for Ms. Lynch's due process rights and a pattern of misconduct that undermines the fairness and integrity of the legal proceedings.

#### **IV. CONCLUSION**

The egregious misconduct of the lower court, the State Attorney, and Ms. Lynch's successive defense counsels has culminated in a profound miscarriage of justice. The cumulative effect of judicial bias, prosecutorial malfeasance, and ineffective assistance of counsel has irrevocably tainted the proceedings, rendering Ms. Lynch's conviction fundamentally flawed and unreliable.

The judge's blatant disregard for impartiality, coupled with his disparaging remarks and coercive tactics, created an environment that precluded a fair and impartial trial. The State Attorney's deliberate suppression of exculpatory evidence, manipulation of the plea bargaining process, and reliance on misattributed evidence further exacerbated the injustice. Moreover, the successive failures of Ms. Lynch's attorneys to adequately represent her interests compounded the prejudice she suffered.

The combined effect of these violations has not only deprived Ms. Lynch of her due process rights but also cast a shadow over the integrity of the entire judicial process. The lower court's actions have eroded public confidence in the fairness and impartiality of the judiciary, a cornerstone of our democratic society.

In light of the overwhelming evidence of misconduct and the resulting prejudice to Ms. Lynch, the only just resolution is to vacate her conviction and dismiss the charges with prejudice. This is not merely a matter of correcting an individual injustice; it is about upholding the fundamental principles of due process, fair trial, and the rule of law. Failure to do so would not only perpetuate a grave injustice against Ms. Lynch but also send a dangerous message that such misconduct is tolerated within the judicial system.

The higher court has a duty to intervene and rectify this miscarriage of justice. By demanding the lower court to dismiss the charges with prejudice. The court can then and only then begin to restore Ms. Lynch's rights, uphold the integrity of the legal process, and reaffirm the public's trust in the judiciary. This is not just a legal imperative; it is a moral one.

## **V. LEGAL ARGUMENT**

### **A. Petitioners are Entitled to a Fair and Impartial Tribunal**

1. The Florida Code of Judicial Conduct mandates that judges uphold the integrity and independence of the judiciary, avoid impropriety and the appearance of impropriety, and perform their duties impartially and diligently.
2. Judge Madrigal's actions, as described above, demonstrate a clear bias against Petitioners and a disregard for their due process rights.
3. His statements and actions have created an environment in which neither Petitioner can receive a fair trial or hearing before him.

### **B. Dismissal of Charges is Warranted**

1. The evidence against Petitioner Lynch is insufficient to prove her intent to defraud. The focus is primarily on her possession of fraudulent documents, not their creation or her knowledge of their fraudulent nature.
2. Providing a higher value of credibility to the co-defendants who have committed similar crimes prior compared to her never been convicted of a felony.
3. To rely more on the statements of the co-defendants rather than a police officer who was first on the scene to support the State Attorney's flawed indictment.

4. Petitioner Lynch's actions of leaving the dealership without completing the purchase could be interpreted as abandoning the criminal act before its completion.
5. The inconsistencies in the police reports raise doubts about the accuracy and reliability of the evidence against Petitioner Lynch.
6. The State Attorney's withholding of exculpatory evidence, specifically a valid prescription for the controlled substance Ms. Lynch was accused of trafficking, constitutes a *Brady* violation, further undermining the integrity of the case against Petitioner Lynch.

### C. Judge Madrigal's Misconduct

1. **Misrepresentation and Coercion in Plea Negotiations:** Judge Madrigal misrepresented a plea agreement as a "Quartermen agreement," concealing its true nature and coercing Ms. Lynch into accepting it without full comprehension.
2. **Ex Parte Communications and Erosion of Due Process:** Judge Madrigal engaged in ex parte communications with State Attorney Walsh regarding plea withdrawal and potential refiling of charges, deliberately excluding Ms. Lynch and violating her right to be informed and participate in decisions affecting her liberty.
3. **Violation of Non-Party Rights:** The court conducted an unauthorized investigation into and publicly defamed Rusty Miller, an associate of Ms. Lynch, by disclosing his sealed criminal history and making false accusations against him.
4. **Ineffective Assistance of Counsel:** Ms. Lynch's attorneys failed to adequately represent her interests, including neglecting to challenge misattributed evidence, failing to depose a key witness (Mr. McAlpine), and remaining silent during ex parte communications.
5. **Attorney Withdrawal and Delay Tactics:** An attorney withdrew from the case without filing a drafted "Motion to Dismiss," potentially due to intimidation or ineffective assistance of counsel. The trial was also delayed for adversarial reasons rather than zealous defense, coercing Ms. Lynch into a new plea deal.
6. **Failure to Challenge Charges:** The defense failed to challenge charges based on a sworn lawsuit by a key witness admitting fraud, impacting the degree of the crime and indicating ineffective assistance of counsel.

7. **Disclosure of Privileged Information and Mocking Behavior:** The court improperly received privileged information and engaged in inappropriate behavior, laughing about the potential for Ms. Lynch's incarceration, and disrespecting her family members.
8. **False Accusations and Perjury:** The court made false accusations against Mr. Miller regarding filing motions, a fact later confirmed by the State Attorney. Despite this, the judge repeated the false claim in subsequent hearings.

#### **D. A Writ of Mandamus and/or Prohibition is the Appropriate Remedy**

1. Judge Madrigal's numerous acts of misconduct, as detailed above, constitute a clear abuse of discretion and exceed his jurisdiction.
2. A writ of mandamus is necessary to compel Judge Madrigal to dismiss the charges against Petitioner Lynch due to the pervasive misconduct and violations of due process that have tainted the proceedings.
3. A writ of prohibition is necessary to prevent Judge Madrigal from further judicial acts in this matter, as his continued involvement would irreparably harm Petitioners' rights and interests.
4. A writ of mandamus is necessary to compel the State of Florida to dismiss the charges related to the U-Haul in question being that there is an active contract, as well no final bill was ever received in the matter, nor any notification that the contract was pending involuntary termination.
5. A writ to determine Judicial Misconduct rising to the level of loss of immunity against Rusty Miller in the case.
6. A writ to determine that the State Attorney's office under Andrew Bain has conducted itself in a manner opening the door for civil claims against the State of Florida.

The case of Lynch vs. Court involves significant allegations of judicial and prosecutorial misconduct, which have severely compromised Ms. Kelli Lynch's right to a fair trial. The lower court engaged in unauthorized ex parte communications between Judge Diego Madrigal III and State Attorney Richard Walsh, discussing the potential refiling of more serious charges if Ms. Lynch withdrew her plea. This conduct, coupled with the abrupt dismissal of Ms. Lynch's motions without a meaningful opportunity for argument, demonstrates a blatant disregard for due process.

Additionally, Judge Madrigal publicly disparaged Rusty Miller, an associate of Ms. Lynch, and unlawfully disclosed his sealed criminal record, creating a hostile environment and further compromising the integrity of the proceedings.

The State Attorney's deliberate withholding of exculpatory evidence, including a valid prescription for the controlled substance Ms. Lynch was accused of trafficking, constitutes a clear violation of the Brady Rule. This evidence, if disclosed, could have significantly undermined the prosecution's case. The state's charging document was also intentionally ambiguous, blending language from both first-degree and third-degree felony statutes, which created confusion and hindered Ms. Lynch's ability to mount a proper defense.

Ms. Lynch's defense attorney, Jonathan Mills, failed to effectively challenge the state's tactics and provided ineffective assistance of counsel, further prejudicing her case. The cumulative effect of these actions has resulted in a severe miscarriage of justice, warranting the intervention of the Appeals Court. The court must recognize the gravity of these violations, including the unauthorized ex parte communications, judicial bias, suppression of exculpatory evidence, and ineffective assistance of counsel, and take appropriate action to rectify this miscarriage of justice. The Appeals Court should overturn the lower court's rulings and dismiss the case with prejudice to restore faith in the principles of due process and ensure a fair and impartial justice system.

## **VII. RELIEF SOUGHT**

### **A. For Petitioner Kelli Lynch:**

1. Issue an emergency stay of proceedings in the lower court.
2. Appoint an appellate attorney for Ms. Lynch.
3. Issue a writ of mandamus compelling the lower court to:
  - o Reconsider all motions filed by Ms. Lynch
  - o Vacate Ms. Lynch's plea and sentence
  - o Dismiss all charges with prejudice
4. Sanction Judge Madrigal for their misconduct.
5. Investigate the State Attorney's Office for potential misconduct.

## **B. For Petitioner Rusty Miller:**

1. Demand the lower court to issue a public acknowledgment of the erroneous and defamatory statements made by Judge Madrigal against Mr. Miller.
2. Demand the lower court to make corrections of the record to remove all references to Mr. Miller, including but not limited to the 25 instances where his name or a name the judge used to refer to him was mentioned.
3. Demand the lower court to the remove of any references to Mr. Miller's adjudicated arrest history where Judge Madrigal inappropriately resurrected past arrest that was to be previously adjudicated not guilty or was dismissed from the court record and issue a declaration that the judge's actions violated Mr. Miller's due process rights and potentially infringed upon double jeopardy protections.
4. Demand the lower court to make corrections of the record to remove any privileged information allegedly received by the judge from Jonathan Mills and/or Gary Swartz.
5. Demand the lower court to issue a public apology from Judge Madrigal for any instances of potential perjury or defamation resulting from false statements about Mr. Miller. This includes promoting the State Attorney's office to seek criminal charges against Mr. Miller, despite the judge's knowledge that these statements were false, even after being informed of their falsity by the State Attorney on multiple occasions spanning over 4 months. This conduct demonstrates a lack of jurisdiction and an abuse of judicial authority.
6. Refer Judge Madrigal's conduct to the appropriate judicial disciplinary authority for investigation and potential sanctions.
7. Issue a declaration that Judge Madrigal exceeded their judicial authority and acted outside their jurisdiction in defaming and disclosing Mr. Miller's arrest history.
8. Order Judge Madrigal III to refrain from making any further mention of Mr. Miller by name or suggestive in nature or making any comments or disclosures that are suggestive of Mr. Miller to include any additional personal information in court proceedings without a valid legal basis and or affirmative authorization from Mr. Miller.



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#### **CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing Motion has been furnished via electronic mail, to Honorable Judge Diego Madrigal III, [12orange@ninthcircuit.org](mailto:12orange@ninthcircuit.org); State Attorney Richard Walsh, [division12@sao9.org](mailto:division12@sao9.org); Allen Holland, [allenholland@bellsouth.net](mailto:allenholland@bellsouth.net); Jonathan Mills, [floridalaw2009@gmail.com](mailto:floridalaw2009@gmail.com); Amanda Kazzi, [amanda@kazzilaw.com](mailto:amanda@kazzilaw.com); Gary Schwartz, [gschwartz@rc5state.com](mailto:gschwartz@rc5state.com), on this 9th day of July, 2024.

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