No. 23-1345

IN THE
Supreme Court of the United States

DANNY RICHARD RIVERS,
Petitioner,
v.

BOBBY LUMPKIN, DIRECTOR,
TEXAS DEPARTMENT OF CRIMINAL JUSTICE,
CORRECTIONAL INSTITUTIONS DIVISION,
Respondent.

**On Writ of Certiorari
to the United States Court of Appeals
for the Fifth Circuit**

BRIEF OF FORMER FEDERAL AND STATE PROSECUTORS AS *AMICI CURIAE* IN SUPPORT OF PETITIONER

JOSHUA D. BRANSON
JARROD A. NAGURKA
Counsel of Record
DIEGO NEGRON-REICHARD
KELLOGG, HANSEN, TODD,
FIGEL & FREDERICK,
P.L.L.C.
1615 M Street, N.W.
Suite 400
Washington, D.C. 20036
(202) 326-7900
(jnagurka@kellogghansen.com)

January 28, 2025

TABLE OF CONTENTS

Page

TABLE OF AUTHORITIES iii

INTEREST OF *AMICI CURIAE* 1

INTRODUCTION AND SUMMARY OF ARGUMENT.. 2

ARGUMENT 3

I. Finality Is Best Hastened by the Second Circuit's Rule Construing Any Substantial Issue Raised During the Pendency of an Appeal as Part of the Initial Habeas Petition 4

A. Finality removes the cloud over a state conviction 4

B. Finality brings relief to victims and their families... 7

II. Resolving New and Substantial Issues Raised While an Initial Habeas Petition Is Pending on Appeal Preserves Limited and Strained Prosecutorial Resources 9

A. By failing to consider substantial issues raised during the pendency of an initial habeas appeal, the Fifth Circuit's rule would add to already overburdened and overwhelmed state prosecutors 10

B. Addressing substantial issues raised during the pendency of an initial habeas appeal also preserves resources by making it more likely the same prosecutor will oversee the case 11

CONCLUSION.. 12
APPENDIX 1a

TABLE OF AUTHORITIES

Page

CASES

Banister v. Davis, 590 U.S. 504 (2020) 2-5, 7, 9, 11

Berger v. United States, 295 U.S. 78 (1935).............. 7

Brady v. Maryland, 373 U.S. 83 (1963) 5

Brecht v. Abrahamson, 507 U.S. 619 (1993) 4

Calderon v. Thompson, 523 U.S. 538 (1998) ... 2, 4-5, 7-8

Engle v. Isaac, 456 U.S. 107 (1982)............................ 4

Grady v. Corbin, 495 U.S. 508 (1990) 9

Habeas Corpus Cases, *In re*, 216 F.R.D. 52 (E.D.N.Y. 2003).. 12

Harrison v. Nelson, 394 U.S. 286 (1969).................... 3

Hill v. McDonough, 547 U.S. 573 (2006).................... 7

Holberg v. Lumpkin:

2021 WL 3603347 (N.D. Tex. Aug. 13, 2021) 6

2023 WL 2474213 (5th Cir. Mar. 13, 2023) 6

Jeffries v. Morgan, 522 F.3d 640 (6th Cir. 2008)....... 11

Mays v. Hines, 592 U.S. 385 (2021).......................... 11

McCleskey v. Zant, 499 U.S. 467 (1991).............5, 7, 9

Orona v. United States, 826 F.3d 1196 (9th Cir. 2016).. 6

Panetti v. Quarterman, 551 U.S. 930 (2007)............. 3

Shinn v. Ramirez, 596 U.S. 366 (2022)...................... 4

United States v. Stokes, 211 F.3d 1039 (7th Cir. 2000)... 9

United States v. Vilar, 645 F.3d 543 (2d Cir. 2011) 11

Whab v. United States, 408 F.3d 116 (2d Cir. 2005) 2

STATUTES AND RULES

Antiterrorism and Effective Death Penalty Act of 1996, Pub. L. No. 104-132, 110 Stat. 1214 3-6

§ 106, 110 Stat. 1220-21 5

28 U.S.C. § 2244 .... 6, 10

28 U.S.C. § 2244(b) 2, 5, 12

28 U.S.C. § 2244(b)(3)(B) 12

28 U.S.C. § 2244(b)(3)(D) 6

Sup. Ct. R. 37.6 1

OTHER MATERIALS

ABA Model Rules of Professional Conduct (2024) 10

Am. Pet. for Writ of Habeas Corpus Under 28 U.S.C. § 2241, *Holberg v. Lumpkin*, No. 2:15-cv-00285, ECF No. 65 (N.D. Tex. Mar. 4, 2016) 6

Bexar Cnty., *Conviction Integrity Unit*, https://perma.cc/E3GP-PJNM 10

Winn S. Collins, *Empty Pockets and Overfilled Dockets: Prosecutors Leaving the Profession*, 81 Wis. Law. 16 (Mar. 1, 2008) 12

Adam M. Gershowitz & Laura R. Killinger, *The State (Never) Rests: How Excessive Prosecutorial Caseloads Harm Criminal Defendants*, 105 Nw. U.L. Rev. 261 (2011)........... 9

Amanda Hernández, *Shortage of Prosecutors, Judges Leads to Widespread Court Backlogs*, Stateline (Jan. 25, 2024), *available at* https://perma.cc/YAQ9-NJFF.............................. 12

Seri Irazola et al., ICF Inc., *Final Report: Study of Victim Experiences of Wrongful Convictions* (Sept. 2013), *available at* https://perma.cc/QZ29-JT7S.................................. 8

INTEREST OF *AMICI CURIAE*[1]

Amici curiae are 17 former federal and state prosecutors,[2] and they include former U.S. Attorneys (appointed by presidents of both political parties), elected District Attorneys, and State Attorneys General, all of whom are committed to ensuring the integrity and efficiency of the criminal justice system.[3] *Amici* have spent their careers fighting for victims and their families to receive justice, while also safeguarding the constitutional rights of the accused. Collectively, they have supervised thousands of criminal cases and hundreds of employees, while also working closely with countless victims and their families. *Amici* have also opposed—either directly or in supervisory capacities—hundreds of petitions for writs of habeas corpus. Based on their experiences, *amici* submit this brief to outline the practical reasons why petitioner's rule, which would permit adjudication of pre-appellate review amended habeas filings as part of a first-in-time petition, promotes finality and conserves legal resources.

---

[1] Pursuant to Supreme Court Rule 37.6, counsel for *amici* represent that they authored this brief in its entirety and that none of the parties or their counsel, nor any other person or entity other than *amici* or their counsel, made a monetary contribution intended to fund the preparation or submission of this brief.

[2] The views expressed herein are those of *amici* alone and do not necessarily reflect the views of any office or institution of which they are or have been affiliated.

[3] A list of *amici* is attached as an Appendix to this brief.

INTRODUCTION AND SUMMARY OF ARGUMENT

This case presents an important question for prosecutors and the victims they fight for: when a prisoner uncovers new, substantial evidence supporting his or her innocence claim and raises that evidence while his or her first-in-time habeas petition is pending on appeal, must prosecutors and victims wait years to litigate that claim in a later, new habeas case, or may they address that new evidence more efficiently as part of the pending habeas petition?

Although it may seem intuitive that any habeas filing after the first is "second or successive," this Court has "often made clear" that is not the case. *Banister v. Davis*, 590 U.S. 504, 511 (2020); *see Calderon v. Thompson*, 523 U.S. 538, 556 (1998) (using a circuit court's mandate, not the district court's judgment, as a benchmark occurrence in the habeas context). But the Court has not addressed how to characterize post-judgment habeas filings made before appellate review.

In the Second Circuit, "so long as appellate proceedings following the district court's dismissal of the initial petition remain pending when a subsequent petition is filed, the subsequent petition does not come within [28 U.S.C. § 2244(b)]'s gatekeeping provisions for 'second or successive' petitions." *Whab v. United States*, 408 F.3d 116, 118 (2d Cir. 2005). By contrast, under the Fifth Circuit's rule, § 2244(b) applies as soon as a district court enters its final judgment. The Second Circuit has the better rule.

"In addressing what qualifies as second or successive, this Court has looked for guidance in two main places." *Banister*, 590 U.S. at 512. First, the Court has "explored historical habeas doctrine and practice." *Id.* Second, the Court has "considered AEDPA's own

purposes." *Id.*[4] Petitioner persuasively explains why both historical habeas and AEDPA's purposes support the Second Circuit's rule. *Amici* add their practical perspectives as former federal and state prosecutors on two of AEDPA's purposes: finality and resource conservation.

ARGUMENT

All habeas petitions are not created equal. Second or successive petitions are subject to a heightened gatekeeping standard. *See Banister v. Davis*, 590 U.S. 504, 507 (2020) (noting the "stringent limits on second or successive habeas applications"). Thus, a person's fundamental liberty may depend on whether a court construes a habeas filing as "part and parcel of the first habeas proceeding" or a "second or successive habeas corpus application." *Id.*; *see also Harrison v. Nelson*, 394 U.S. 286, 290-91 (1969) (describing habeas as "the fundamental instrument for safeguarding individual freedom").

From *amici*'s perspectives as former prosecutors, the Second Circuit's rule furthers two of AEDPA's purposes: promoting finality and conserving resources. This Court looks to both purposes to determine whether a particular habeas filing is "second or successive." *Banister*, 590 U.S. at 515; *see Panetti v. Quarterman*, 551 U.S. 930, 945 (2007) (same). The Second Circuit's rule (1) promotes finality, including by removing the habeas cloud from state convictions and bringing some measure of relief to victims; and (2) conserves prosecutorial resources, which aligns with AEDPA's focus on "conserv[ing] judicial resources." *Banister*, 590 U.S. at 512.

---

[4] "AEDPA" refers to the Antiterrorism and Effective Death Penalty Act of 1996, Pub. L. No. 104-132, 110 Stat. 1214.

I. Finality Is Best Hastened by the Second Circuit's Rule Construing Any Substantial Issue Raised During the Pendency of an Appeal as Part of the Initial Habeas Petition

AEDPA is grounded in, and aims to promote, finality. *See Banister*, 590 U.S. at 515; *Calderon v. Thompson*, 523 U.S. 538, 558 (1998). As the Court has previously explained, finality can be realized in different ways. *See Calderon*, 523 U.S. at 555-56. *Amici* outline below two of the ways in which finality is hastened by the Second Circuit's rule.

A. Finality removes the cloud over a state conviction

Habeas claims, particularly those based on actual innocence, hang over state convictions until "a federal *court of appeals* issues a mandate denying federal habeas relief." *Calderon*, 523 U.S. at 556 (emphasis added); *see also Banister*, 590 U.S. at 523 (Alito, J., dissenting) (noting the importance of "remov[ing] the cloud of federal review from state-court judgments"). And federalism principles counsel that federal courts should review and adjudicate challenges to state convictions as quickly as possible. *See Brecht v. Abrahamson*, 507 U.S. 619, 635 (1993) (explaining "the State's interest in the finality of convictions"); *Engle v. Isaac*, 456 U.S. 107, 128 (1982) (recognizing that "Federal intrusions into state criminal trials frustrate . . . the States' sovereign power to punish offenders"); *see also Shinn v. Ramirez*, 596 U.S. 366, 377 (2022) ("[F]ederal intervention imposes significant costs on state criminal justice systems.").

When a conviction is challenged, prosecutors typically want it resolved as quickly as possible. Indeed, a court's rejection of a meritless challenge vindicates the prosecution and allows the government to "execute

its moral judgment." *Calderon*, 523 U.S. at 556. Prosecutors also want habeas challenges of colorable merit to be resolved as quickly as possible. *See Brady v. Maryland*, 373 U.S. 83, 87 (1963) (quoting an inscription at the Department of Justice that reads: "The United States wins its point whenever justice is done its citizens in the courts."). First, prosecutors' ethical obligations demand it. *See infra* Part II.A. Second, if the writ is granted due to some constitutional infirmity and a new trial is ordered, the sooner it is granted the more likely it is that evidence, witnesses, and memories will hold. *See McCleskey v. Zant*, 499 U.S. 467, 491 (1991), *superseded by statute on other grounds*, AEDPA, § 106, 110 Stat. 1220-21, *as recognized in Banister*, 590 U.S. at 514.

For these reasons, the Court should adopt the Second Circuit's rule, as it allows amended habeas filings to be considered soonest.

In practice, filings to amend a pending initial habeas petition proceed in one of two ways. First, under the Second Circuit's rule, a court will consider the filing as part of the initial petition, at which point the district court would evaluate it in the first instance. Petitioner's brief outlines the procedure for doing this and the safeguards against frivolous filings. *See* Pet. Br. 17-22, 44-45. Alternatively, under the Fifth Circuit's rule, a court will only consider the filing later—no matter how substantial its contents—through § 2244(b)'s provisions for second or successive petitions. In that case, a court will likely review the second or successive petition based on the amended filing only after the final disposition of appellate proceedings on the initial petition.

The Fifth Circuit's rule results in substantial delays. A court of appeals may take years to decide

the initial habeas petition, even without any post-judgment amendment. *See*, *e.g.*, *Holberg v. Lumpkin*, No. 21-70010 (5th Cir.), No. 2:15-cv-00285 (N.D. Tex.) (operative habeas petition filed March 2016; petition denied August 2021; certificate of appealability granted in part March 2023; argument heard June 2024; still pending decision). Then, after that process plays out, a prisoner would need to apply for authorization to file a second or successive petition. Although § 2244(b)(3)(D) gives circuit courts 30 days to rule on those applications, courts of appeals do not view that requirement as mandatory and have in some instances taken substantially longer to rule. *See Orona v. United States*, 826 F.3d 1196, 1199 (9th Cir. 2016) (per curiam) ("Given the large volume of second or successive applications our court must process each month, it frequently takes us longer—sometimes much longer—than 30 days to rule on such applications.").

If a court of appeals ultimately determines that the § 2244 application is meritless, only then will the issue previously raised be resolved—long after it otherwise could have been. Indeed, a meritless filing could have been quickly resolved within the initial petition. If, however, the court of appeals grants the § 2244 application, the entire habeas process starts anew. It is far more efficient to address the issue in the context of the initial habeas filing.

There is no legitimate state justification for delaying consideration of an amended habeas filing. The only putative benefit the Fifth Circuit's rule gives States is to make it harder for prisoners who assert their innocence through new evidence (uncovered after a district court's judgment but before the appeal is adjudicated) to obtain habeas relief given AEDPA's escalating

stringency. *See Banister*, 590 U.S. at 509 (observing that, after a prisoner files an initial habeas petition, "the road gets rockier"). But procedurally hamstringing a prisoner's amended habeas filing, particularly where the new filing reflects newly discovered evidence, does not serve any legitimate state interest. *See Berger v. United States*, 295 U.S. 78, 88 (1935) ("It is as much [a prosecutor's] duty to refrain from improper methods calculated to produce a wrongful conviction as it is to use every legitimate means to bring about a just one."). Indeed, prosecutors are not tasked with winning at all costs and using all available procedural tools to uphold convictions. *See id.* Rather, prosecutors are sworn to serve the communities they represent, owing fidelity to truth above all else. Ensuring that amended habeas filings—particularly those raising new, substantial issues—are heard as part of the still-pending, first-in-time habeas petition serves the interests of prosecutors, victims, and the public alike.

B. Finality brings relief to victims and their families

Amici's experiences working with crime victims and their families teach that processing trauma and grief is different for everybody, but a common thread on the path to healing is certainty about the offender's guilt. *See Calderon*, 523 U.S. at 556 (observing that "[o]nly with real finality can the victims of crime move forward"); *McCleskey*, 499 U.S. at 491 ("Neither innocence nor just punishment can be vindicated until the final judgment is known.").

Victims typically want courts to act as quickly as possible so that meritless habeas claims can be rejected and those convictions vindicated. *See Hill v. McDonough*, 547 U.S. 573, 584 (2006) ("[V]ictims of crime have an important interest in the timely enforce-

ment of a sentence."). Victims also prefer prompt adjudication of facially colorable claims so they can either close the door on the challenge or, if someone was wrongfully convicted, expedite the prisoner's release and bring the actual perpetrator to justice. *See generally* Seri Irazola et al., ICF Inc., *Final Report: Study of Victim Experiences of Wrongful Convictions* 44-47 (Sept. 2013) (studying the impact of wrongful convictions on crime victims), *available at* https://perma.cc/QZ29-JT7S.

This is not to say that the Second Circuit's rule will address every post-conviction challenge in one fell swoop. It will not. No matter the rule the Court adopts, prisoners will always pursue second or successive petitions and develop new habeas claims. But resolving all substantial issues raised while an initial habeas petition is pending invites closure, confidence, and finality.

Consider a situation where a prisoner attempts to amend his or her habeas petition with new evidence indisputably establishing his or her innocence. Under the Fifth Circuit's rule, the court could not consider that amended filing and so would deny the petition and issue its mandate. Thereafter, the prisoner files a second or successive petition, and a favorable decision on the merits then issues years later than it otherwise would have under the Second Circuit's rule. Besides the injustice of prolonging a wrongful imprisonment, that type of back-and-forth, whereby the court of appeals issued its mandate denying the petition knowing full well a strong claim of innocence was outstanding, threatens mental anguish for victims and their families. *Cf. Calderon*, 523 U.S. at 557 (discussing emotional impact of recalling a prior mandate denying habeas relief).

Accordingly, the best way to bring closure to victims and their families is to address all substantial, pending habeas filings raised before the court of appeals reviews the district court's judgment.

II. Resolving New and Substantial Issues Raised While an Initial Habeas Petition Is Pending on Appeal Preserves Limited and Strained Prosecutorial Resources

Because habeas proceedings place a "heavy burden" on the legal system, efficient allocation of legal resources is important. *McCleskey*, 499 U.S. at 491; *see Banister*, 590 U.S. at 512 (observing that "[t]he point of § 2244(b)'s restrictions . . . is to conserve judicial resources") (cleaned up).

Overworked prosecutors' offices, much like the judiciary, need to deploy resources efficiently. *See United States v. Stokes*, 211 F.3d 1039, 1042 (7th Cir. 2000) (discussing courts' overall interest in "reduc[ing] the waste of precious judicial *and prosecutorial* time in the already overburdened federal judicial system") (emphasis added); *see also Grady v. Corbin*, 495 U.S. 508, 524 (1990) (observing that "[p]rosecutors' offices are often overworked"); Adam M. Gershowitz & Laura R. Killinger, *The State (Never) Rests: How Excessive Prosecutorial Caseloads Harm Criminal Defendants*, 105 Nw. U.L. Rev. 261, 262-63 (2011) (discussing excessive state prosecutor caseloads, including some jurisdictions where prosecutors each handle more than one thousand felony cases annually). The Second Circuit's rule promotes efficient resource allocation for both the prosecutors who originally obtained, and the prosecutors now tasked with defending, the convictions.

A. By failing to consider substantial issues raised during the pendency of an initial habeas appeal, the Fifth Circuit's rule would add to already overburdened and overwhelmed state prosecutors

A prisoner's federal habeas claim may implicate state prosecutors' ethical obligations. Prosecutors are bound to act on "new, credible and material evidence" regarding wrongful convictions. ABA Model Rules of Professional Conduct 3.8(g) (2024); *see also id.*, Rule 3.8(h) (requiring prosecutors to take steps to remedy wrongful convictions). Indeed, with respect to any conviction that a state prosecutor's office obtains, when new evidence of innocence comes to light, the office is under a continuing obligation to "make reasonable efforts to cause another appropriate authority to undertake the necessary investigation." *Id.*, Rule 3.8 cmt. [7]. This duty is not academic: many state prosecutors affirmatively act on this obligation by dedicating resources to conviction review or integrity units.[5]

If, however, a habeas petitioner's new evidence is adjudicated when it is first raised (by a court reviewing the evidence as part of the initial habeas petition, rather than later pursuant to § 2244), then the state prosecutor's investigative duty is arguably satisfied by the court's immediate, independent evaluation of the new evidence on the merits.

To be clear, having federal courts review the new evidence sooner does not shift any burden from state

---

[5] For example, in Bexar County, Texas, the district attorney's conviction integrity unit "consider[s] any and all post-conviction claims," from reviewing habeas petitions to more informal claims "from any source." Bexar Cnty., *Conviction Integrity Unit*, https://perma.cc/E3GP-PJNM (last visited Jan. 27, 2025).

prosecutors to federal courts. Federal courts will ultimately consider the evidence, either in the initial petition (immediately) or in a second or successive petition (years later). Instead, the Second Circuit's rule merely allocates resources more efficiently by having the federal court review the evidence upfront, which arguably satisfies the state prosecutor's duty to cause the new evidence to be investigated.

B. Addressing substantial issues raised during the pendency of an initial habeas appeal also preserves resources by making it more likely the same prosecutor will oversee the case

Just as the district court that initially hears a habeas petition is best suited to make "quick work" of an amended filing, *Banister*, 590 U.S. at 517, so too are the government lawyers who opposed that initial petition. In many instances, a complete review of the state trial record is necessary. *See Mays v. Hines*, 592 U.S. 385, 392 (2021) (per curiam) (assigning error where appeals court failed to "properly consider[] the entire record"); *Jeffries v. Morgan*, 522 F.3d 640, 644 (6th Cir. 2008) (requiring, depending on the nature of the claim, "a careful review of the entire trial transcript by the habeas court"). And parsing through a state trial record is no small task, particularly because such records are often not models for clarity. *See United States v. Vilar*, 645 F.3d 543, 548 (2d Cir. 2011) (per curiam) (noting that a court's review of a habeas petition is "time consuming").

Waiting to evaluate new evidence until years after a prisoner first raised it can make prosecutors' jobs harder. Prosecutors (like judges) get promoted, retire, or may otherwise not be available to return to a prior case. *See In re Habeas Corpus Cases*, 216 F.R.D. 52,

54 (E.D.N.Y. 2003) (noting "staffing crises" within state prosecutor offices tasked with opposing habeas petitions); Winn S. Collins, *Empty Pockets and Overfilled Dockets: Prosecutors Leaving the Profession*, 81 Wis. Law. 16, 17 (Mar. 1, 2008) (discussing "prosecutor understaffing and turnover"); Amanda Hernández, *Shortage of Prosecutors, Judges Leads to Widespread Court Backlogs*, Stateline (Jan. 25, 2024).[6] Thus, an issue can be resolved quickest by addressing it when all the relevant actors are most familiar with it, and not years later when new lawyers (and judges) will have to spend considerable time learning the case. And even if the same lawyers later return to the matter, memories fade.

Admittedly, prosecutors have little involvement in resolving meritless § 2244(b) applications that a court of appeals panel rejects. However, the types of amended filings that are at issue in this case (that is, those that are new and substantial) are likely to be the types where a § 2244(b)(3)(B) panel might order opposition briefing or even just grant the application. And both briefing and a full-on habeas petition add considerably to prosecutor workloads.

CONCLUSION

The Court should reverse the judgment of the court of appeals and remand.

---

[6] *Available at* https://perma.cc/YAQ9-NJFF.

Respectfully submitted,

JOSHUA D. BRANSON
JARROD A. NAGURKA
Counsel of Record
DIEGO NEGRON-REICHARD
KELLOGG, HANSEN, TODD,
FIGEL & FREDERICK,
P.L.L.C.
1615 M Street, N.W.
Suite 400
Washington, D.C. 20036
(202) 326-7900
(jnagurka@kellogghansen.com)

January 28, 2025

APPENDIX

List of *Amici Curiae*

The federal prosecutor *amici* are:

- **A. Bates Butler III** served as the U.S. Attorney for the District of Arizona from 1980-1981 and was the First Assistant U.S. Attorney in that office from 1977-1980.
- **Edward L. Dowd, Jr.** served as the U.S. Attorney for the Eastern District of Missouri from 1993-1999 and previously served as an Assistant U.S. Attorney in that office from 1979-1984. He also served as the Deputy Special Counsel on the Waco Investigation. He is a partner at Dowd Bennett LLP.
- **Barry Grissom** served as the U.S. Attorney for the District of Kansas from 2010-2016. He is currently a partner at Grissom Miller Law Firm, LLC.
- **A. Melvin McDonald** served as the U.S. Attorney for the District of Arizona from 1981-1985. He served as a Superior Court Judge for Maricopa County from 1974-1981 and as a prosecutor in the Maricopa County Attorney's office from 1970-1974. He has also served as an appointed special prosecutor in an Arizona impeachment investigation and in the Lewis Prison hostage case.
- **Terry Pechota** served as the U.S. Attorney for the District of South Dakota from 1979-1981. He is the principal of Pechota Law Office.
- **Steven H. Levin** served as an Assistant U.S. Attorney in the District of Maryland from 2002-2008, where he was Deputy Chief of the Criminal Division from 2005-2008, and as an Assistant U.S. Attorney in the Middle District of North Carolina from 1998-2002.

- **Randy Luskey** served as an Assistant U.S. Attorney in the Northern District of California from 2011-2014. He is currently a partner at Paul, Weiss, Rifkind, Wharton & Garrison LLP.
- **Gregory T. Nolan** served as an Assistant U.S. Attorney in the Middle District of Florida from 2015-2020 and as a Deputy District Attorney in Santa Barbara County, California from 2020-2022.

The attorney general *amici* are:

- **Rufus Edmisten** served as the elected Attorney General of North Carolina from 1974-1984. He also served as North Carolina's elected Secretary of State from 1989-1996. He was also the Deputy Chief Counsel of the Senate Watergate Committee.
- **Karl Racine** served as the elected Attorney General for the District of Columbia from 2015-2023.

The state prosecutor *amici* are:

- **Chesa Boudin** served as the elected District Attorney for San Francisco County, California from 2020-2022. He currently serves as the executive director of UC Berkeley Law's Criminal Law & Justice Center.
- **Gilbert Garcetti** served as the elected District Attorney for Los Angeles County, California from 1992-2000, which capped 32 years of service in that office.
- **Stan Garnett** served as the elected District Attorney for Colorado's 20th Judicial District from 2009-2018. He is a founding partner of Garnett Powell Maximom Barlow & Farbes.

- **John Hummel** served as the elected District Attorney for Deschutes County, Oregon from 2015-2023. He is a partner at Fleener Petersen Law.
- **Carol A. Siemon** served as the elected Prosecuting Attorney for Ingham County, Michigan from 2017-2022.
- **Rudolph J. Gerber** served as a prosecutor in Maricopa County from 1977-1979. He also served as a judge on the Arizona Court of Appeals from 1988-2001 and on the Maricopa County Superior Court from 1979-1988.
- **Corinna Lain** served as an assistant commonwealth's attorney in Richmond, Virginia from 1997-2000. She currently serves as the S. D. Roberts & Sandra Moore Professor of Law at the University of Richmond School of Law.