

To: Criminal Justice & Public Safety Committee

From: Foster Bates

Re: In Support of LD 425 "An Act to Establish a Conviction Integrity Unit in the Attorney General's Office"

Date: February 24, 2025

My name is Foster Bates and I would like to take a moment to thank you for listening to my testimony, and thank Representative Nina Milliken for her willingness to read my testimony into the record.

I have been incarcerated for 24 years on a life sentence for a crime **I Did Not** commit. The most powerful piece of evidence that would have proved to the jury that I did not commit the crime was a 6-hour audiotape and videotape recorded interview of the alternative suspect's admission of guilt to the Maine State Police. Had the jury heard the exculpatory evidence of the alternative suspect's admission of guilt, **Not Guilty** would have been the outcome.

In July of 2002, the day before my trial, the Assistance Attorney General, Fernand LaRoche claimed that the Maine State Police lost the 6-hour audio and videotape recorded interview of the admission of guilt by the alternative suspect. AAG LaRoche stated, "they can't find it...the interview with Detective Parlin would have been videotaped, and they can't find it." The trial court judge did nothing and, my court-appointed attorneys did nothing. At my trial, Maine State Police Detective, Patrick Lehan, testified that the interview with the alternative suspect "could not be shown to the jury because police had lost it." This is a clear and obvious violation of Brady v. Maryland and my Constitutional Rights. A Brady violation occurs, whether it is primarily the fault of the prosecutor or the police, whether the violations are intentional or accidental. Under M.R.U. Crim. P. 16 (a) (b) and 3.8 [Prosecutorial Obligations], a prosecutor is obligated by law to disclose exculpatory evidence that is favorable to the defendant even if that evidence contradicts the state's case.

The State can preserve evidence in cold case files for 30-plus years, and lose exculpatory evidence in my case the day before my trial. How is that possible?

Passing LD 425 will safeguard the Constitutional Rights of Maine citizens and will prevent prosecutorial misconduct by holding prosecutors and district attorneys accountable. The bill will improve the public trust in our criminal justice system.

The Attorney General's Office will oppose LD 425 because the bill offers significantly indispensable checks and balances to prosecutorial misconduct.

The Anthony Sanborn case should be an unescapable reminder of why LD 425 is necessary. The Attorney General's office withheld exculpatory evidence from Mr. Sanborn for nearly 30 years. The state emphatically refused to acknowledge any

wrongdoing on its part. The State's vigorous opposition against a Maine citizen exuberantly trying to prove their innocence, reasonably indicates that a Conviction Integrity Unit is well overdue in the Office of the Attorney General in our State. Currently, more than 115 Conviction Integrity Units are operating in the United States, within the more than 2,500 prosecutor's offices nationwide. Legislators across the country have recognized that prosecutorial misconduct has led to an alarming number of innocent men and women being wrongfully convicted. And, I am one of them.

LD 425 will protect the "Due Process" Clause of the Fourteenth Amendment and ensure fairness to those who stand accused. Most importantly, LD 425 has the potential to impede a wrongful conviction and prevent innocent men and women from dying in prison for a crime he or she did not commit.

In closing, I invite the Committee to request that the Attorney General's Office disclose the audio and videotape recorded interview of the alternative suspect in my case. If the AG's Office cannot locate the audio and videotaped interview then ask the AG's Office, how exculpatory evidence gets misplaced when there is a mandatory chain of custody. Evidence removed from the evidence locker must be signed out and signed back in.

Respectfully submitted,

*Foster Bates*