SC25-1020

In the Supreme Court of Florida

JON MAY,
Petitioner,

v.

THE FLORIDA BAR,
Respondent.

ON PETITION FOR WRIT OF MANDAMUS

AMICUS BRIEF OF THE STATE OF FLORIDA IN SUPPORT OF THE FLORIDA BAR

JAMES UTHMEIER
Attorney General

DAVID DEWHIRST
Chief Deputy Attorney General
JEFFREY PAUL DESOUSA (FBN110951)
Acting Solicitor General
JASON MUEHLHOFF
Chief Deputy Solicitor General
OFFICE OF THE ATTORNEY GENERAL
The Capitol, PL-01
Tallahassee, Florida 32399
(850) 414-3300
jeffrey.desousa@myfloridalegal.com
jason.muehlhoff@myfloridale-gal.com
jenna.hodges@myfloridalegal.com

Counsel for State of Florida

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INTERESTS OF *AMICUS CURIAE*

The State of Florida has an obvious interest in preventing The Florida Bar from deteriorating into an implement of partisan lawfare. The State also seeks to ensure that high-ranking executive branch officers remain free to faithfully discharge their constitutional duties, undistracted by baseless ethics investigations and complaints. This case strikes at both interests.

INTRODUCTION & SUMMARY OF ARGUMENT

"Lawfare" strategically uses legal systems and institutions to damage, delegitimize, or hinder an opponent for political aims. That aptly describes Petitioner Jon May's efforts to coopt The Florida Bar—and now this Court—into a weapon to punish, deter, and distract a devoted public servant, United States Attorney General Pam Bondi. This follows an unfortunate trend in other States, where bar discipline has been invoked against political adversaries. May is entitled to no relief, and certainly not the extraordinary relief mandamus represents.

After receiving May's ethics complaint against General Bondi, the Bar reviewed the complaint and properly concluded that no further inquiry was appropriate given the obvious potential for

disruption to the Attorney General's ability to carry out her official duties. As a legal matter, mandamus is unavailable to contest that determination. For one thing, mandamus requires that the petitioner possess a clear legal right. But complainants lack any private rights in the Bar's handling of an ethics complaint. *See The Florida Bar v. Tyson*, 826 So. 2d 265, 268 (Fla. 2002). Once a complaint is filed, the matter is handled between the Bar, acting on behalf of the public, and the attorney under investigation.

For another, it is far from "indisputable" that the Bar has any legal duty to investigate here. Federalism, separation-of-powers, and comity concerns would likely entitle the Attorney General to permanent, absolute immunity from state bar discipline stemming from her oversight of the federal Department of Justice; and those principles almost assuredly would prevent the Bar from proceeding against a *sitting* Attorney General. May's allegations of ethics violations flow from the Department of Justice's personnel actions—its decisions to discipline lawyers that the Department deemed insufficiently zealous or who had disclosed attorney-client communications. Running an agency of more than 115,000 federal employees is a gargantuan task. Every day, the Attorney General must make tough policy and

personnel decisions affecting the national interest. She cannot be expected to do so impartially and responsibly if she is encumbered by attacks against her law license back home. This case therefore implicates more than a century's worth of immunity jurisprudence.

Even if May could establish the legal requirements for mandamus (which he plainly cannot), he overlooks that mandamus is an extraordinary remedy within the exercise of this Court's sole discretion. Multiple discretionary reasons warrant denying relief here.

Most striking is the serious potential for disruption to a senior federal official's duties that a full-scale Bar investigation would entail. Even setting aside that federalism and separation-of-powers principles likely forbid the Bar from investigating General Bondi for official federal executive branch acts, prudence entreats this Court to stay out of the fray. And the petition smacks of lawfare. In recent years, several other state bars have seen an unfortunate rise in ethics complaints targeting prominent attorneys who worked on politically sensitive matters. State bars were never intended to act as partisan forces, policing their ranks to weed out those who take politically unpopular positions or represent polarizing clients. Bar discipline is not an acceptable workaround for the political process. The Florida Bar

should instead remain a neutral, dedicated to guaranteeing the basic competence of Florida attorneys.

The Court should deny the petition.

ARGUMENT

May's attacks on a decorated public servant are baseless. If he succeeds in compelling a further investigation into the Attorney General, it will only chill future officials from the free exercise of their governmental duties and deter countless others from entering public service. But May has neither met the legal requirements for mandamus nor shown that this Court should exercise its discretion to grant that extraordinary remedy here. His petition must be denied.

I. May has not satisfied the legal requirements for a writ of mandamus.

Mandamus is an extraordinary writ "that offers relief only in narrow circumstances." *Mayfield v. Sec'y, Fla. Dep't of State*, 402 So. 3d 1002, 1005 (Fla. 2025). A "demanding standard" applies. *Id.* To satisfy that standard, May must show (1) a clear legal right to the requested action, (2) the respondent's indisputable legal duty to perform that action, and (3) that there are no other adequate remedies available. *Huffman v. State*, 813 So. 2d 10, 11 (Fla. 2000). May has

not met the first two elements.

A. A person who files an ethics complaint with the Bar has no clear legal right to an investigation.

The threshold requirement for mandamus is that the petitioner must demonstrate a "clear legal right" to the requested action. *Id.* In attempting to clear that hurdle, May fatally mischaracterizes the nature of Florida's attorney disciplinary system. While Rule Regulating the Florida Bar 3-7.3 sets out procedures for handling complaints, it does not create any enforceable individual right to a full factual investigation.

Indeed, this Court has consistently held that "the purpose of an attorney disciplinary proceeding is the protection of the public, not the vindication of private rights." *The Florida Bar v. Tyson*, 826 So. 2d 265, 268 (Fla. 2002) (citing *In re Harper*, 84 So. 2d 700, 702 (Fla. 1956)). Mandamus is thus unavailable in this circumstance; it is "the *petitioner*," not the *public*, who "must have a clear legal right" before mandamus will lie. *Huffman*, 813 So. 2d at 11 (emphasis added).

Tyson is on point. There, an inmate sought mandamus to force the Bar to "proceed with disciplinary charges" against his former prosecutor. 826 So. 2d at 268. Citing precedent, this Court held that

the clear-legal-right element of mandamus was lacking. *Id.* "Disciplinary proceedings against attorneys," the Court wrote, "are instituted in the public interest and to preserve the purity of the courts." *Id.* In a disciplinary proceeding, "[n]o private rights except those of the accused attorney are involved." *Id.* Put another way, in the same way that "crime victims" "cannot demand that the prosecuting authority file criminal charges against a particular individual," a "complaining witness in a bar disciplinary proceeding" has no private stake in the process. *Id.* at 267; *see also id.* at 268 (explaining that Bar disciplinary determinations are "not generally subject to judicial review" (quoting *State v. Cotton*, 769 So. 2d 345, 350 (Fla. 2000))).

With no private right to an investigation, the complainant could have no right to mandamus. *See id.* at 268. For that reason alone, the Court denied the petition in *Tyson*. *Id.*

That defeats May's mandamus claim as well. May tries to distinguish *Tyson* by asserting that its clear-legal-right holding is confined to cases where a complainant seeks to have the Bar "reopen its investigation" after the Bar conducted a factual investigation and "determined that no further action was warranted." Pet. 10 n.2 (quoting *Tyson*, 826 So. 2d at 267). May accurately recites *Tyson*'s facts, but

misses its holding: *Tyson* holds, categorically, that a complainant lacks a "clear legal right" to a Bar investigation because any rights to an investigation are held by "the public," not by the "private" complainant. 826 So. 2d at 268. It is irrelevant, in other words, whether The Florida Bar was required to perform a more complete investigation into May's complaint, because even if it was, the right to that investigation does not belong to May himself.

May's remaining arguments fail to justify departing from this precedent. To show that he has a clear legal right, May points to Rule 3-2.1(d)'s definition of "complainant," which includes "any person who has complained of the conduct of any member of The Florida Bar." Pet. 8. But as *Tyson* recognizes, that definition does not confer a vested right to compel specific investigative procedures. At most, it would permit members of the public to file an ethics complaint, not to oversee the Bar's subsequent handling of the complaint. And while the public has an interest in attorney discipline, individual complainants have no cognizable legal right to dictate *how* The Florida Bar exercises its regulatory authority. The Bar exists to protect legal

consumers generally, not any particular stakeholder.[1]

Corroborating that result, the only "[r]ight[] of the [c]omplaining [w]itnesses" conveyed by the text of the Rules Regulating The Florida Bar is set out in Rule 3-7.4(i): "the right to be present at any grievance committee hearing when the respondent is present before the committee." R. Regulating Fla. Bar 3-7.4(i). That is not the right May seeks to vindicate here. And Rule 3-7.4(i) explicitly denies complainants any right of appeal from Bar decisions, confirming that complainants possess no enforceable rights in the disciplinary process beyond the right to be present at any hearing. Rule 3-7.4(i) doubles down on what this Court's decisions already make clear: "The complaining witness is not a party to the disciplinary proceeding." R. Regulating Fla. Bar 3-7.4(i).[2]

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[1] The typical bar complainant is a former client who believes a lawyer failed to live up to his ethical duties to the client. May's interest here is far more attenuated than that: He lays claim to no more than the same general interest that every American has in the work of the United States Attorney General. *Cf.* App. 6 (complaining that General Bondi's "professional misconduct . . . threatens the rule of law and the administration of justice.").

[2] Rule 3-7.4(i) was adopted (originally as Rule 3-7.6(j)) to clarify that complainants lack enforceable rights. In 2000, the Court observed that it "routinely receive[d] inquiries from individuals who

Nor can May ground his clear legal right in the "special obligation" of Bar members to report the ethical violations of other attorneys. Pet. 8–9. An *obligation* is the opposite of a right. May discharged any such obligation when he referred the matter to the Bar, at which point any rights in the process belonged to "the public." *Tyson*, 826 So. 2d at 268.

May's final effort to obtain review in this Court is his invocation of Rule Regulating The Florida Bar 3-7.7(e), which he characterizes as creating a right to seek a writ of mandamus. Pet. 21. The rule says no such thing. It specifies that "[a]ll applications for extraordinary writs that are concerned with disciplinary proceedings under these rules of discipline must be made to the Supreme Court of Florida." R. Regulating Fla. Bar 3-7.7(e). All that means is that this Court is the proper venue for discipline-related extraordinary writs; Rule 3-7.7(e) says nothing about *who* may seek such a writ. And in a

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[we]re unhappy with the Bar's handling of their complaint against an attorney." *Amends. to the Rules Regulating The Florida Bar*, 763 So. 2d 1002, 1003 (Fla. 2000). "Consistent with the Court's standard response to such inquiries," the amendment creating what was later renumbered Rule 3-7.4(i) "makes clear that a complainant has no right to appeal in a Bar disciplinary proceeding." *Id.* at 1003–04.

neighboring subsection of Rule 3-7.7, the rule clarifies that the "[r]ight of [r]eview" under Rule 3-7.7 is limited to "[a]ny party to a [disciplinary] proceeding." R. Regulating Fla. Bar 3-7.7(a)(1). Again, "[t]he complaining witness is not a party to the disciplinary proceeding." R. Regulating Fla. Bar 3-7.4(i). The rule itself therefore contemplates that complainants cannot seek mandamus.

B. The Bar has no indisputable legal duty to perform a full factual investigation.

Next, the Bar declined to conduct a full-fledged factual investigation into May's complaint because, in its considered judgment, such proceedings "could encroach on the authority of the federal government concerning" high-ranking federal officials and the "exercise of their duties." App. 30. It is hard to find fault in that determination. But even if the Bar erred, mandamus requires May to show more: he must prove that the Bar's duty to conduct that fuller investigation is "indisputable." *Huffman*, 813 So. 2d at 11. Novel theories of law like May's cannot give rise to that sort of indisputable duty. *See Fla. League of Cities v. Smith*, 607 So. 2d 397, 400–01 (Fla. 1992) (holding that because "no prior judicial opinion" had established the right underlying the petitioner's theory, mandamus would not lie); *State ex*

rel. Hester v. State Bd. of Admin., 30 So. 2d 356, 359 (Fla. 1947) (same where there could be "reasonable" disagreement). Because a full factual investigation into the Attorney General's conduct would risk serious disruption to the work of the Department of Justice, it is plausible, if not likely, that Article II of the United States Constitution and the federal-state balance would forbid such an investigation. That too suffices to deny the petition.

1. Supreme Court precedent has long recognized the potential for disruption that state investigations into high-ranking federal officials would entail. Public servants "represent the interest of society as a whole." *Ferri v. Ackerman*, 444 U.S. 193, 202–03 (1979). Society, consequently, has an "interest in providing such public officials with the maximum ability to deal fearlessly and impartially with the public at large." *Id.* at 203. Various immunity doctrines safeguard that interest by "forestall[ing] an atmosphere of intimidation that would conflict with" an official's "resolve to perform their designated functions in a principled fashion." *Id.* at 204.

Immunity takes several forms. Prosecutors have absolute immunity from civil liability for acts taken within the scope of their prosecutorial duties. *See Imbler v. Pachtman*, 424 U.S. 409, 424–28

(1976) ("The public trust of the prosecutor's office would suffer if he were constrained in making every decision by the consequences in terms of his own potential liability in a suit for damages."). Judges, likewise, enjoy absolute immunity from civil liability, for "[i]mposing such a burden on judges would contribute not to principled and fearless decisionmaking but to intimidation." *Pierson v. Ray*, 386 U.S. 547, 553–55 (1967).

These concepts are at their apex with the highest-ranking federal officials. The President is the prime example. The President has absolute immunity from criminal prosecution when he exercises his "core constitutional powers," while for all other "official acts" he is entitled to "presumptive immunity." *Trump v. United States*, 603 U.S. 593, 642 (2024). In the civil arena, a former President "is entitled to absolute immunity from damages liability predicated on his official acts." *Nixon v. Fitzgerald*, 457 U.S. 731, 749 (1982). And when Congress attempts to subpoena the President's personal information, "courts must perform a careful analysis that takes adequate account of the separation of powers principles at stake, including both the significant legislative interests of Congress and the 'unique position' of the President." *Trump v. Mazars USA, LLP*, 591 U.S. 848, 869

(2020). These doctrines flow from concerns over the "unique risks" to effective government that "arise when the President's energies are diverted by proceedings that might render him 'unduly cautious in the discharge of his official duties,'" including "supervisory and policy responsibilities of utmost discretion and sensitivity." *Trump v. United States*, 603 U.S. at 610–11.

Compounding that, the Supreme Court has explained that while the President is not immune from civil liability in *federal* court during his term for his (unofficial) conduct, the same might not be true in *state* court. *Clinton v. Jones*, 520 U.S. 681, 691 (1997). "[I]nstead of advancing a separation-of-powers argument," the President in a "state tribunal" would "presumably rely on federalism and comity concerns, as well as the interest in protecting federal officials from possible local prejudice." *Id.* Those considerations may well "present a more compelling case for immunity." *Id.*

Though the President "occupies a unique position in the constitutional scheme" (since he is the "only person who alone composes a branch of government"), *Trump v. United States*, 603 U.S. at 610, forms of immunity also apply to cabinet members and federal agency heads. In *Spalding v. Vilas*, the Supreme Court recognized the

immunity from damages liability possessed by the Postmaster General for actions taken in his official capacity. 161 U.S. 483, 498–99 (1896). A contrary rule, the Court explained, "would seriously cripple the proper and effective administration of public affairs as intrusted to the executive branch of the government." *Id.* at 498. So severe is this risk of disruption that the "general rule" for federal officials sued for constitutional violations is "qualified immunity from damages liability." *Butz v. Economou*, 438 U.S. 478, 508 (1978).[3]

What of the federal official at issue here? The United States Attorney General is the Nation's top law-enforcement official. Each day she must make dozens of "sensitive" and "far-reaching" decisions, *Trump*, 603 U.S. at 611, from managing the Department of Justice's 115,000-person staff, to directing prosecutorial strategy, to implementing federal law-enforcement policy. If any federal official short of the President deserves special solicitude in state court, it is the

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[3] Also relevant here is the doctrine of "intergovernmental immunity," under which States cannot "interfer[e] with or control[] the operations of the Federal Government." *See United States v. Washington*, 596 U.S. 832, 838 (2022). That doctrine places independent limits on a State's ability to regulate federal officials or contractors. *See id.* at 838–40.

Attorney General.

State bar investigations of the Attorney General pose a possibility of distraction akin to criminal or civil suits against the President, prosecutors, and judges. Bar investigations can involve witness interviews and document production that could interfere with ongoing federal law-enforcement operations. Compelling the Attorney General to participate in state disciplinary proceedings likewise could divert resources from federal responsibilities. Not to mention that the threat of state disciplinary proceedings for the Attorney General's official acts could "chill[]" her "from taking the 'bold and unhesitating action' required of" a high-ranking federal officer. *Trump*, 603 U.S. at 613. We trust that this Attorney General cannot be bulled. But an official concerned with losing her state bar license might well modify prosecutorial strategies or legal positions based on state bar concerns rather than federal constitutional obligations.

These considerations likely justify the conclusion that the Attorney General is immune from state-bar discipline for her oversight of the Department of Justice. Here, however, The Florida Bar took a far more modest approach: It did not purport to apply an immunity from ethics investigations for all time, but only during the Attorney

General's term, when federalism and comity concerns are heightened. App. 30. ("The Florida Bar does not investigate or prosecute sitting officers appointed under the U.S. Constitution *while they are in office*." (emphasis added)); App. 32 ("You may refile your grievance once [Attorney General] Bondi no longer serves in such position."). That decision to abstain is eminently supportable. At the very least, May cannot show that the Bar "*indisputabl*[*y*]" had to investigate the Attorney General immediately, or indeed, that it indisputably had to investigate her ever.

2. May contests none of this potential for disruption to the affairs of the Nation's top law-enforcement official. He instead contends that Congress waived any federalism and comity concerns by enacting the McDade Amendment. *See* Pet. 23. That is unpersuasive. Adopted over concerns about federal prosecutorial overreach, the McDade Amendment merely provides that attorneys for the government are subject to the ethics rules "in each State where such attorney engages in that attorney's duties." 28 U.S.C. § 530B(a). Federal courts have issued no definitive pronouncements on the meaning of that text that would suggest the McDade Amendment waives away federalism obstacles to highly intrusive state-bar investigations into

senior federal officials. And its text certainly does not suggest that the Attorney General's oversight of employees at the Department of Justice is subject to state control.

Though Congress may in some circumstances approve state regulation of federal executive employees, "an authorization of state regulation is found only when and to the extent there is 'a clear congressional mandate.'" *Hancock v. Train*, 426 U.S. 167, 179 (1976). The McDade Amendment does not feature the "clear and unambiguous" language required for that purpose. *United States v. Washington*, 596 U.S. 832, 840 (2022). Section 530B(a) does, as May accurately recites, prescribe that federal attorneys are subject to state ethics rules "to the same extent and *in the same manner* as other attorneys in that State." 28 U.S.C. § 530B(a) (emphasis added). That could perhaps be construed as authorizing state disciplinary proceedings against Department of Justice Attorneys. In the next breath, however, Congress left it to the "*Attorney General*" to "make and amend rules of the Department of Justice to assure compliance with this section," *id.* § 530B(b), seemingly delegating to the Department the responsibility for enforcing the applicable state-bar rules. It is thus unclear that Congress has permitted, even as to lower-level

Department lawyers, the ethics investigation May seeks to compel.

That is doubly inadequate in the mandamus context. May must not only overcome *Hancock*'s clear-statement rule, he must show that his interpretation of the McDade Amendment is "indisputable." *Huffman*, 813 So. 2d at 11. He can do neither.

His petition therefore fails as a matter of law.

II. Even if May had met the elements of mandamus, he has not established that the Court should exercise its discretion to issue that extraordinary writ here.

May is not entitled to relief either way. Mandamus is a remedy that issues "not as a matter of right, but in the exercise of sound judicial discretion and upon equitable principles." *State ex rel. Haft v. Adams*, 238 So. 2d 843, 844 (Fla. 1970). If the Court nonetheless finds that May's petition for mandamus is legally sufficient, it should still reject that petition as both inequitable and imprudent. Indeed, we can imagine few state court actions more destructive of the federal-state balance than an ethics investigation into the Nation's top law-enforcement officer. And entertaining May's petition would only invite more lawfare.

A. Federalism concerns warrant abstention.

Most basically, equitable principles counsel against risking the

serious disruption to the functioning of the Department of Justice that May's complaint would entail. Even if principles of federalism would permit The Florida Bar to investigate General Bondi, this Court can and should exercise its discretion to decline to issue a writ of mandamus in this highly unusual setting.

We have already detailed the potential for disruption this case poses. *Supra* § I.B. Policy questions like the ones raised here can appropriately drive this Court's decision to withhold a writ of mandamus. *See, e.g.*, *Fla. League of Cities v. Smith*, 607 So. 2d 397, 400 (Fla. 1992). In *Smith*, the Court took heed of the "strong public policy against courts interfering in the democratic processes of elections." *Id.* It thus stayed out of an election-law dispute presented in a mandamus petition, since entering the fray via mandamus "would lead to a gross misapplication of the writ of mandamus." *Id.* This is no different.

Other state supreme courts have grappled with related questions in the context of bar disciplinary actions. One noteworthy example is the Texas Bar's attempt to discipline that State's First Assistant Attorney General for allegedly bringing a meritless election lawsuit. *See Webster v. Comm'n for Lawyer Discipline*, 704 S.W.3d

478 (Tex. 2024). In ordering the disciplinary action dismissed, the Texas Supreme Court cited the horizontal separation of powers. *Id.* at 487–506. It reasoned that the Texas Bar, which in lawyer-discipline cases wields the power of the "judiciary" itself, had a "duty to refuse invitations to interfere with coordinate-branch decisions that are ultimately political." *Id.* at 504. It would be appropriate to sanction an executive-branch official, the court wrote, "*only after* assuring ourselves that doing so did not involve or trespass into the executive branch's 'expertise or judgment.'" *Id.* at 488 (emphasis added).

Here, of course, May's ethics complaint would require The Florida Bar to second guess General Bondi's oversight of the employees at the Department of Justice—a quintessentially executive function. *See id.* at 498 (rejecting the claim that a state bar possesses "a free-ranging power to second-guess the [state] attorney general's and his first assistant's exercise of discretion"); *see also Seila Law LLC v. Consumer Fin. Protection Bur.*, 591 U.S. 197, 213 (2020) ("[I]f any power whatsoever is in its nature Executive, it is the power of appointing, overseeing, and controlling those who execute the laws." (quoting 1 Annals of Cong. 463 (1789))). It might also tempt the Attorney General to reveal, as part of her defense against state ethics charges,

sensitive information that informed the Department's decision to terminate or discipline members of its staff, thereby impeding the functions of the Department. *Webster*'s reasoning has even more force here, where a state bar is urged to investigate a sitting *federal* officer.

So whether or not the Bar itself was correct to abstain, this Court would be right to do so as a discretionary matter.

B. The Court should not allow its mandamus procedure to be used as a tool for lawfare.

Finally, mandamus is not appropriate where it "would result in" "disorder" or "disturbance." *State ex rel. Haft v. Adams*, 238 So. 2d 843, 844 (Fla. 1970). Those precise purposes animate May's complaint. Granting mandamus would only encourage the sort of brazen lawfare that has been seen in other state bars in recent years.[4] As in *Webster*, the complainant here is an "individual with no connection to the underlying" facts of the case, 704 S.W.3d at 483, and who—despite protestations to the contrary, Pet. 23—seems intent on

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[4] *See, e.g.*, Kiera Riley, "Justice faces ethics complaint over pledge to 'fight for conservative principles,'" Arizona Capitol Times (Oct. 23, 2024), https://tinyurl.com/v6j5t9a7; Kyle Pfannenstiel, "Attorney General Labrador under ethics investigation by Idaho State Bar after complaint," Idaho Capital Sun (Aug. 30, 2024), https://tinyurl.com/2wzu64wh.

influencing the political decision-making at the highest levels of the Department of Justice.

Courts should stay out of the business of refereeing lawfare. "Collaterally disciplining an official"—"particularly" over "politically sensitive matters"—"creates a serious risk that the judicial branch will venture into, or be dragged into, the contentious arena of political disputes." *Webster*, 704 S.W.3d at 501. And each time courts oblige these political attacks by allowing judicial process to be employed as a weapon, they incentivize the practice. The Texas Supreme Court had it right: May's "approach risks allowing the judiciary to be commandeered by adversaries—political or otherwise—who wish to leverage the disciplinary process in service of deeply felt views of policy or politics that are best addressed outside the disciplinary process." *Id.* at 504. "[T]ime and again," that court has "refused to do so." *Id.* This Court should too.

Still less is mandamus warranted to compel the Bar to investigate the specific public servant at issue here. General Bondi's impressive career spans more than three decades, the lion's share of which she spent protecting the people of Florida. After 20 years prosecuting domestic violence, capital murder, and everything in

between, Pam Bondi was elected to serve as Attorney General of Florida. In her eight-year tenure, she worked tirelessly to promote the health and welfare of Floridians. She dismantled Florida's reputation as the "pill mill" capital of the United States, strengthened the State's efforts to combat human trafficking, and did so much more. President Trump nominated her to serve as United States Attorney General, and since February 5, 2025 she has diligently defended the rule of law nationwide.

Nowhere in the Bar complaint has May succeeded in impugning her sterling reputation. Take May's allegation that General Bondi acted improperly in terminating DOJ lawyer Erez Reuveni. App. 10–12. May asserts that Reuveni was fired for "telling the truth." App. 8, 17. The complaint never mentions that Reuveni told a federal judge that he *disagreed with his client's own position* and apparently revealed—in open court—privileged attorney-client communications when he announced that "my recommendation to my client" was to return the deportee who was the subject of the proceedings, "but so

far that hasn't happened."[5] Florida ethics rules make clear that "[a]s an advocate, a lawyer zealously asserts the client's position under the rules of the adversary system." R. Regulating Fla. Bar 4, Preamble. If a lawyer "has a fundamental disagreement" with the client's position, he can withdraw from the representation. R. Regulating Fla. Bar 4-1.16(b)(2). But under no circumstances can the lawyer simply declare publicly that he disagrees with the client, a point General Bondi made in explaining the decision to terminate Reuveni. App. 11. Adding to that, an attorney "must not reveal information relating to a client's representation," R. Regulating Fla. Bar 4-1.6(a), and "[a] communication between lawyer and client is 'confidential' if it is not intended to be disclosed to third persons." § 90.502(1)(c), Fla. Stat. That includes a lawyer's advice to a client. *See Keir v. State*, 11 So. 2d 886, 888 (Fla. 1943) ("[N]or would he be allowed to disclose any advice given by him in the course of his professional employment, without the consent of his client."). Neither Reuveni's situation—which May

[5] Josh Gerstein, "Justice Department lawyer who argued deportation case is put on paid leave," Politico (Apr. 5, 2025), https://www.politico.com/news/2025/04/05/doj-lawyer-leave-deportation-00274412.

touts as the "most alarming example" of ethical violations, App. 8—nor those of the other DOJ attorneys May cites, App. 8, 12–15, 17–22, sketch out a prima facie claim for bar discipline.

* * *

Incidentally, these arguments about the proper exercise of the Court's discretion hold sway no matter whether this Court considers the petition as a request for mandamus—as May formally styled it—or alternatively as a request that the Court exercise its original authority to regulate The Florida Bar—as May alludes to at various points. *See* Pet. 26–27 (invoking the Court's "supervisory duties over the administration of the disciplinary process"). The Florida Constitution gives this Court "exclusive jurisdiction to regulate the admission of persons to the practice of law and the discipline of persons admitted." Art. V, § 15, Fla. Const. If anything, that underscores the propriety of denying relief. The Bar wields its authority to investigate Florida attorneys only because this Court delegated it the power to do so. This Court can thus rightly conclude, within its absolute discretion, that any investigation of General Bondi should not move forward.

CONCLUSION

The Court should deny the petition.

September 8, 2025

Respectfully submitted,

JAMES UTHMEIER
Attorney General

DAVID DEWHIRST
Chief Deputy Attorney General

/s/ Jeffrey Paul DeSousa
JEFFREY PAUL DESOUSA (FBN110951)
Acting Solicitor General
JASON MUEHLHOFF
Chief Deputy Solicitor General
Office of the Attorney General
The Capitol, PL-01
Tallahassee, Florida 32399
(850) 414-3300
jeffrey.desousa@myfloridalegal.com
jason.muehlhoff@myfloridale-gal.com
jenna.hodges@myfloridalegal.com

Counsel for State of Florida

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing was furnished via the e-Filing Portal to the following on this **eighth** day of September 2025:

Jon May
Creative Criminal Defense Consultants
P.O. Box 970006
Boca Raton, FL 33497
(954) 439-6500
jonmay@jonmaycriminaldefense.com

Counsel for Petitioner

Mark R. Freeman
Daniel Tenny
Jaynie Lilley
Attorneys, Appellate Staff
Civil Division, Room 7321
U.S. Department of Justice
950 Pennsylvania Ave., NW
Washington, DC 20530

Counsel for Amicus Curiae United States

Mark Mason
Francisco-Javier Digon-Greer
Bar Counsel
The Florida Bar
Attorney Consumer Assistance Program
ACAP Hotline (866) 352-0707
651 E. Jefferson Street
Tallahassee, Florida 32399
mmason@floridabar.org
acapintake@floridabar.org

Counsel for Respondent

/s/ Jeffrey Paul DeSousa
Acting Solicitor General

CERTIFICATE OF COMPLIANCE

I certify that this brief was prepared in 14-point Bookman font, in compliance with Florida Rule of Appellate Procedure 9.210(a)(2) and contains 5,000 words.

/s/ Jeffrey Paul DeSousa
Acting Solicitor General