

FILED

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SEP 12 2024

4TH DISTRICT  
STATE OF UTAH  
UTAH COUNTY

STATE OF UTAH  
Craig Peterson

WRIT OF MANDAMUS - Motion

Case 211401656

Judge Robert Lunnan

vs.

MARK STEWART ALLEN,

## Introduction

**Mark Allen**, respectfully petitions this honorable Court for a Writ of Mandamus to compel the **STATE OF UTAH ATTORNEY GENERAL** to perform its legal duty by addressing the multiple instances of **prosecutorial misconduct, judicial errors**, and the failure to disclose **exculpatory evidence** in violation of the Allen's constitutional rights.

## Jurisdiction

This Court has continuing jurisdiction to issue a Writ of Mandamus pursuant to **UTAH Code 78B-6-6-609**, which grants this Court the authority to compel government officials and lower courts to fulfill their legal obligations when they fail to do so.

## Statement of Facts

### 1. Background:

- **Mark Allen**, has been subject to numerous wrongful prosecutions stemming from cases including **Case Nos. 160400655, 171402280, 20190395-CA, 191400132 and 211401656**, in which exculpatory evidence was **knowingly withheld** by the prosecuting attorneys, including **David Leavitt, Lance Bastian, Albert Pranno**, and Ms. Koehler and others.

### 2. Failure to Disclose Exculpatory Evidence:

- During the course of these prosecutions, critical **exculpatory evidence** favorable to the Allen's defense was withheld in violation of **Brady v. Maryland**, 373 U.S. 83 (1963). This evidence, including emails, attorney settlement audio recordings, secret audio recordings body camera footage, 911 call transcripts, and documentation that contradicted the claims made by the prosecution, was not provided to the defense, despite repeated requests.

3. **Prosecutorial Misconduct:**

- The prosecuting attorneys, acting under the supervision of **David Leavitt**, deliberately concealed evidence that would have exonerated Allen. This constitutes **prosecutorial misconduct** and a violation of Allen's **due process rights** under the **Fifth and Fourteenth Amendments**.

4. **Judicial Failures:**

- The presiding judges in these matters, including **Judge Brown, Brady, Judge Harris, Judge Hagen, Judge Harris, Judge Mortensen, Judge Taylor, Judge Lunnan**, failed to act on multiple motions and failed to correct the evident errors in the case. Despite being aware of the prosecutorial misconduct, the judiciary neglected its duty to ensure a fair trial. In fairness to the judges, Attorney Pranno withheld exculpatory evidence from Judge Brown, Judge Hagen, Judge Harris, Judge Mortensen, it was only during the early part of 2019, that the exculpatory evidence was provided to State of Utah Prosecutors who withheld the evidence from Discovery and Motions to Compel Discovery.
- Parallel to the 191400132 case, the Appellate case was being argued, Pranno withheld evidence opportunistically to ensnare Allen and it worked. It would be 5 months after the Appellate ruling against Allen that Allen would obtain via Utah County Commission GRAMA APPEAL, the exculpatory evidence Pranno and State Prosecutors withheld which brought great harm to Allen.
- **The Judges noted in this case should be righteously enraged that Attorney Pranno soiled the judicial process without sanctions.** Pranno was sanctioned in another matter, which resulted in the suicide of a client after Pranno spent the clients frozen retirement funds. The sanctions which a Special Prosecutor should review should include the cumulative unethical conduct of Pranno and his deceiving others at the expense of Allen. Candor toward the Tribunal, Fairness to Opposing Counsel, Rule 8.3 and many more possible sanctions should be reviewed by a Special Prosecutor.

5. **Ongoing Harm:**

- Allen has continued to suffer significant harm, including legal, financial, and reputational damage, as a result of the **wrongful prosecutions and judicial failures**. These errors have been compounded by the inaction of those responsible for upholding justice.

## Legal Grounds for the Writ of Mandamus

### 1. **Duty to Disclose Exculpatory Evidence:**

Under **Brady v. Maryland**, the **prosecution** is required to disclose all evidence favorable to the defendant that is material to guilt or punishment. The Prosecutions failure to provide the exculpatory evidence violates this constitutional duty and deprived the Allen of a fair trial.

### 2. **Judicial Duty to Act:**

The presiding judges in this case had a duty under the **Utah Code of Judicial Conduct** to ensure the fairness of the proceedings and to address the misconduct of the prosecution. The judiciary's failure to intervene and correct these violations constitutes a dereliction of duty.

### 3. **No Adequate Remedy at Law:**

Allen has no adequate remedy at law to address the ongoing violations of his constitutional rights. The withholding of exculpatory evidence and the failure to act on judicial errors have created a situation in which only a **Writ of Mandamus** can provide relief.

### 4. **Clear and Indisputable Right:**

Allen has a **clear and indisputable right** to the exculpatory evidence and to a fair trial free from prosecutorial misconduct and judicial errors. The continued refusal to correct these violations has caused irreparable harm to the Allen.

## Relief Sought

The Allen respectfully requests that this Court issue a **Writ of Mandamus** compelling the following actions:

### 1. **Immediate Disclosure:**

The Respondents must immediately disclose all **exculpatory evidence** that has been withheld, and any other materials relevant to the Allen's defense.

### 2. **Judicial Review:**

The presiding judges must review and correct the **judicial errors** that have allowed the prosecutorial misconduct to persist. This includes reconsidering motions and ensuring that justice is served by dismissing any wrongful charges.

### 3. **Appointment of a Special Prosecutor:**

A **special prosecutor** should be appointed to investigate the misconduct of **David Leavitt**, **Albert Pranno**, and others involved in the wrongful prosecution of the Allen. This is necessary to ensure that those responsible are held accountable and that further harm is prevented.

### 4. **Expungement:**

The Court should order the **expungement** of all wrongful charges and records related to the cases against the Allen, as these prosecutions were based on faulty evidence and prosecutorial misconduct., with the caveat that the 211401656 be delinked pending a criminal

investigation, expungement would seal the records and make investigating the 116 plus civil right and due process violations more complicated.

## **Conclusion**

For the reasons stated above, Allen respectfully requests that this Court issue a **Writ of Mandamus** to compel the disclosure of withheld evidence, correct judicial errors, and ensure that the rights of the Allen are fully protected. The ongoing violations of the Allen's constitutional rights demand immediate and decisive action by this Court.

Respectfully submitted,

**Mark Allen**

Allen

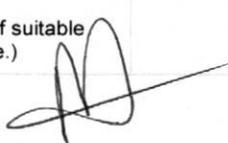
September 12th 2024

### Certificate of Service

I certify that I filed with the court and am serving a copy of this Stipulated Motion on the following people.

Person's Name	Service Method	Service Address	Service Date
State of Utah Craig Peterson	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input checked="" type="checkbox"/> E-filed <input type="checkbox"/> Email <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.)	Efile	<del>August 12, 2024</del> 9.11.24
Judge Brady, Judge Lunnen	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input checked="" type="checkbox"/> E-filed <input type="checkbox"/> Email <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.)	Efile	<del>August 12, 2024</del> 9.11.24
	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> Email <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.)		

August 12 2024

Signature ► 

Date

Printed Name Mark Allen