IN THE SUPREME COURT
STATE OF WYOMING
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IN THE SUPREME COURT, STATE OF WYOMING

GEORGE E. POWERS, JR., Petitioner, v. KEITH G. KAUTZ, in his official capacity as Wyoming Attorney General; and OFFICE OF THE ATTORNEY GENERAL, STATE OF WYOMING, Respondents.	S-26-0131

RESPONSE TO PETITION FOR WRIT OF MANDAMUS

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Keith G. Kautz, in his official capacity as Wyoming Attorney General, respectfully submits the following response to Mr. Powers's Petition for Writ of Mandamus.

As discussed below, the Attorney General asserts that Mr. Powers's Petition is wholly inappropriate. Although the Attorney General believes the Court should deny the Petition for lack of standing and for lack of facts showing entitlement to mandamus, the undersigned recognizes the mandamus relief Mr. Powers requests is evaluation, and if appropriate, prosecution by independent counsel. The Attorney General states to the Court that shortly after Mr. Powers filed his complaint, the Attorney General authorized two independent evaluations of the complaint which accomplish all Mr. Powers requests. One of those independent evaluations was conducted by a division of the Attorney General's office (separate from the Civil division) by the construction of a "Chinese wall." The other independent evaluation was conducted by a private Wyoming law firm in conjunction with a Wyoming county and prosecuting attorney as special assistant attorneys general appointed for this purpose. Those independent attorneys submitted reports, one before Mr. Powers filed his Petition and one after the Petition was filed. Each independent counsel declined to bring criminal charges. Mr. Powers filed his petition in this matter before the Attorney General could announce that no prosecution would be forthcoming.

ISSUES

1. Should the Court dismiss this matter as moot, or should it decide whether Mr. Powers has standing and has adequately pled facts showing Mandamus should issue?

2. Should the Court issue a writ of mandamus against the Wyoming Attorney General as requested in Mr. Powers's Petition?
3. Should the Court appoint a special prosecutor as requested in the Powers's Petition?

SUMMARY OF ARGUMENT

The Court should deny all of Relator's requests because:

1. The matter is moot.
2. The Petition does not show Mr. Powers has standing.
3. The Petition does not show facts establishing the Attorney General has failed to perform a ministerial duty required of him.
4. The Petition effectively asks the Court to require the Attorney General to perform acts which are discretionary, and not mandatory ministerial duties.
5. This Court has no authority to appoint a special prosecutor.

BACKGROUND

Mr. Powers filed a complaint with the Wyoming Attorney General alleging Wyoming Secretary of State Chuck Gray violated the Wyoming election code. (*Pet. for*

Writ of Mandamus ¶ 77 ("*Pet.*")).[1] He filed a supplement to his complaint about four days later. (*Id.* ¶ 79).[2] Mr. Powers alleged the Secretary disclosed confidential voter information for every Wyoming registered voter, including Mr. Powers, to the United States Department of Justice. (*Id.* ¶¶ 77, 2, 28, 66). Mr. Powers also alleged that in disclosing the voter information the Secretary committed a crime specified in the election code. (*Id.* ¶ 77). Mr. Powers separately demanded release of the communications between the Secretary and Attorney General related to the Secretary's disclosure to the Department of Justice. The Secretary claimed his communications with the Attorney General were not subject to inspection because they were protected by the attorney-client privilege, and the Attorney General's office represented the Secretary with respect to that issue. Mr. Powers claims that as a result the Attorney General has an unwaivable conflict of interest and cannot investigate or otherwise resolve his complaint. (*Id.* ¶¶ 99-119). The remaining facts surrounding the Secretary's actions are not relevant.

The Attorney General acknowledged Mr. Powers's complaint in writing three days after the supplement, and said the complaint would be addressed "in accordance with our

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[1] Wyo. Stat. Ann. § 22-26-121(c) states "[c]omplaints that the secretary of state violated the Election Code shall be filed with the attorney general for investigation and prosecution."

[2] In the interest of quickly disposing of this matter, this response treats Mr. Powers's factual allegations as true, but not his legal interpretations.

office policies, the law and the Wyoming Rules of Professional Conduct for Attorneys at Law." (*Id.* ¶ 80). In the ensuing weeks, Mr. Powers emailed the Attorney General several times and attempted to reach him by phone. (*Id.* ¶¶ 81, 83, 85). In these communications, Mr. Powers demanded the Attorney General answer his questions about any investigation and about Mr. Powers's interpretation of the Attorney General's ethical obligations. (*Pet.* exs. H, K).

Mr. Powers cited (and still cites) no legal authority showing the Attorney General is required to inform a complainant about whether and how an investigation is being conducted.[3] (*Id.* exs. H, K). The Attorney General did not provide Mr. Powers any information about whether and how an investigation was being conducted, but told him that investigations and charging decisions were not conducted in the public square. (*Id.* ¶¶ 80, 82, 86, 88).

Mr. Powers filed his petition for a writ of mandamus on June 2, 2026. (*Pet.*). He asks this Court for a writ of mandamus commanding the Attorney General and the Attorney General's Office as a whole to "recuse themselves from investigating the alleged violation of Wyoming's Election Code committed by Secretary of State Chuck Gray." (*Id.* ¶ 127). His petition presumes, and asks this Court to presume: (1) the Attorney General has a duty

[3] For example, Mr. Powers quotes comment 1 to Rule 3.6 of the Rules of Professional Responsibility, regarding the value of some public dissemination of information about legal proceedings. (*Pet.* ex. K). Notably, Rule 3.6 permits—but does not require—attorneys to disclose some information about investigations in limited circumstances.

to inform Mr. Powers with details about any investigation, and (2) the Attorney General's statement that Mr. Powers's complaint was being properly addressed is untrue. In addition to issuing the writ, Mr. Powers asks this Court to appoint "an independent prosecutor" to handle Mr. Powers's complaint. (*Id.*).

ARGUMENT

"Mandamus is a drastic remedy, and is to be invoked only in extraordinary situations." *Barclaysamerican Corp. v. Kane*, 746 F.2d 653, 654 (10th Cir. 1984); *see also State ex. rel. Sublette Cnty. Bd. of Cnty. Comm'rs v. State*, 33 P.3d 107, 112 (Wyo. 2001) (*In re Bd. of Cnty. Comm'rs*). Mandamus is not simply injunctive relief by another name. The "function of mandamus is to command the performance of a ministerial duty that is plainly defined and required by law." *In re Bd. of Cnty. Comm'rs*, 33 P.3d at 111. "Absent a clear ministerial duty, mandamus is not an appropriate remedy." *State ex rel. Arnold v. Ommen*, 2009 WY 24, ¶ 21, 201 P.3d 1127, 1134 (Wyo. 2009). A writ of "[m]andamus will not lie unless the duty itself is absolute and incontrovertible, or clear, certain, and indisputable." *In re Bd. of Cnty. Comm'rs*, 33 P.3d at 111 (quoting *State ex rel. Epp v. Mayor*, 894 P.2d 590, 595 (Wyo. 1995)). "The law must not only authorize the demanded action but require it." *Arnold*, ¶ 16, 201 P.3d at 1133. "Whether or not to issue a writ of mandamus is left to the sound judicial discretion of the . . . court." *In re Bd. of Cnty. Comm'rs*, 33 P.3d at 112 (citing *State ex rel. Cross v. Bd. of Land Comm'rs*, 58 P.2d 423, 426 (Wyo. 1936)).

A relator petitioning for a writ of mandamus has the burden of showing absolute, clear and indisputable facts which require the issuance of a writ. *Stevens v. Governing Body of Town of Saratoga*, 2025 WY 35, ¶¶ 55-63, 566 P.3d 166, 179-80 (Wyo. 2025). To accomplish this, the petition must meet three requirements. First, the relator must show he has standing. In the mandamus context, standing is described as a clear individualized legal

right that is being withheld or threatened to be withheld. *State ex rel. Bennett v. Barber*, 32 P. 14, 23 (Wyo. 1893); *State ex rel. R.R. Crow & Co. v. Copenhaver*, 184 P.2d 594, 45 (Wyo. 1947). Second, the relator must demonstrate the respondent owes a clear, certain, and indisputable legal duty to perform the act sought. *Arnold*, ¶ 21, 201 P.3d at 1134. Third, the relator must show he has no adequate remedy at law. Wyo. Stat. Ann. § 1-30-104; *LeBeau v. State ex rel. White*, 377 P.2d 302, 304 (Wyo. 1963). The third element is not at issue here because Mr. Powers has no legal remedy for his so-called harms, mandamus or otherwise.

I. The matter is moot.

As outlined in the introduction to this response, the Attorney General assigned Mr. Powers's complaint to independent counsel for evaluation and prosecution if appropriate. A writ of mandamus requiring such assignment would be meaningless.

II. Mr. Powers has not shown he has standing.

The most fundamental standing requirement in Wyoming is that a party must have an existing and genuine personal right or interest in the controversy. See *Brimmer v. Thomson,* 521 P.2d 574, 578 (Wyo. 1974). To show such a right, Mr. Powers must "demonstrate a personal stake in the outcome of a case. It is not enough that a party cares deeply about an issue or is affected only as a member of the public at large; his interest must be distinguishable from that which could be raised by any citizen." *Williams v. Bd. of Cnty. Comm'rs of Johnson Cnty.*, 2025 WY 127 ¶ 11, 579 P.3d 1128, 1132-33 (Wyo. 2025). Mr. Powers claims he has standing because (a) "every citizen has a vested and

affected interest" in proper investigation of a complaint about the Secretary of State, and (b) Mr. Powers personally filed the complaint against the Secretary of State.

Mr. Powers's first assertion of standing – that he has an interest as a citizen—necessarily fails. This Court has repeatedly rejected standing where the applicant's claimed injury is indistinguishable from any injury suffered by the general public. For example, in *Jolley v. State Loan and Investment Board,* 2002 WY 7, ¶ 8, 38 P.3d 1073, 1077 (2002), the Court found appellant did not have standing where his' claimed harms—the negative impact on his newspaper's subscriber base, his attendance at public meetings, and his status as a citizen and potential purchaser of state land—were not sufficient claims of individual injury. The Court held the appellant had "only raised the specter of speculative harm based on future or contingent interests indistinguishable from that which could be raised by any citizen of Wyoming." *Id*., ¶ 8, 38 P.3d at 1077. The Court reaffirmed and quoted this principle in *Allred v. Bebout,* 2018 WY 8, ¶ 44, 409 P.3d 260, 273 (Wyo. 2018). Just six months ago, the Court again found no standing for parties (taxpayers) whose "concerns are no different than any resident and taxpayer of Johnson County." *Williams*, ¶ 15, 579 P.3d at 1134. Mr. Powers's claim of standing because he represents the interests of all Wyoming citizens fails for the same reason.

This general standing requirement that a party have a personal stake in the outcome of a case applies specifically to requests for mandamus. *See Protect Our Water Jackson Hole v. Wyo. Dep't of Env't Quality,* 2025 WY 36, ¶ 14, 566 P.3d 181, 186 (Wyo. 2025) (describing interests to establish standing); *State ex rel. Sullivan v. Schnitger,* 95 P. 698, 708-09 (Wyo. 1908) (relator did not have standing in mandamus action). By statute, a

relator must be "beneficially interested" to obtain a writ of mandamus. Wyo. Stat. Ann. § 1-30-104. This Court has long required relators seeking writs of mandamus to demonstrate they have individualized legal interests in the matter. *Bennett*, 32 P. at 23. This common sense and constitutionally required[4] standing requirement avoids courts becoming political debate forums and ensures courts only interfere with other branches of government when there are actual, real-world disputes. *See Allred,* ¶ 30, 409 P.3d at 268 (the concept of standing ensures the judiciary limits itself to resolving actual disputes involving harm to litigants rather than undertaking tasks assigned to the political branches of government). It recognizes that the executive and legislative branches handle general public grievances, and the judicial branch handles specific, individual injuries. See Wyoming Constitution, Art. 1, Sec. 8 ("All courts shall be open and every person for an injury done to person, reputation or property shall have justice administered without sale, denial or delay. Suits may be brought against the state in such manner and in such courts as the legislature may by law direct."); *Allred, supra*. In a mandamus case, this Court long ago said "the authorities are to the effect, with substantial unanimity, that a private individual, in order to entitle himself to a writ of mandamus in any case, must show a legal interest in himself in the result of the proposed action." *Bennett,* 32 P. at 22-23. Later, the Court reiterated that to establish standing for mandamus, a petition must include "facts or

[4] *Allred v. Bebout*, 2018 WY 8, ¶ 61, 409 P.3d 260, 278 (Wyo. 2018) (KAUTZ, J., specially concurring).

proof" that "show at least a clear legal right in the relators and that mandamus is the proper remedy." *State ex rel. R.R. Crow & Co. v. Copenhaver*, 184 P.2d 594, 612 (Wyo. 1947).

Mr. Powers asserts that he established his personal legal interest by filing a complaint under Wyo. Stat. Ann. § 22-26-121(c) alleging the Secretary of State committed a crime. (*Pet.* ¶ 42-45). In other words, Mr. Powers argues that anyone who files a "complaint" alleging criminal conduct somehow develops a personal right in whether and how that complaint is investigated. Mr. Powers cites no authority for the proposition that filing a complaint transforms a generalized injury into a particularized one. To the contrary, a complaint that someone violated a criminal statute is a generalized claim of injury against the state, and not a claim of a particularized, personal injury to the complainant.

The U.S. Supreme Court holds "a private citizen lacks a judicially cognizable interest in the prosecution or nonprosecution of another," and accordingly "lacks standing to contest the policies of the prosecuting authority when he himself is neither prosecuted nor threatened with prosecution." *Linda R.S. v. Richard D.*, 410 U.S. 614, 619 (1973).[5] *See also, Chamberlain v. State*, 348 P.2d 280, 282 (Wyo. 1960) ("Legalistically speaking, a crime is never 'committed by one against the other[.]' Crimes are

[5] Mr. Powers' passing assertion that he may have standing under the Victims' Bill of Rights requires no serious consideration. (*Pet.* ¶ 43.) Among other reasons, Mr. Powers has not alleged that he "has suffered direct or threatened physical, emotional or financial harm" because of the Attorney General's actions on his complaint. Wyo. Stat. Ann. § 1-40-202(a). At this point Mr. Powers is not a victim as defined by the Wyoming Victim's Bill of Rights.

committed against the state. Offenses against an individual are civil wrongs."). Therefore, the act of filing a misconduct complaint or report does not, by itself, create a particularized injury sufficient for mandamus standing. A complainant has no role once the complaint is made, and, consequently, does not have an individual right to be involved with, or informed about, the investigation of the crime. *Starr v. Mandanici*, 152 F.3d 741, 748 (8th Cir. 1998) (discussing a complainant's role in an ethics investigation). The mere fact that Mr. Powers brought the complaint against Secretary Gray does not give Mr. Powers any legal interest in how that complaint is investigated, nor may he claim any individualized injury because he is not made aware of how the complaint is investigated.

Aside from the weight of authority, elementary logic disposes of the idea that filing a complaint somehow creates an individual injury. Given "car[ing] deeply about an issue" is not enough to confer standing, writing down the issue about which the party cares deeply and sending it to a public official cannot somehow transform a general objection into a particularized injury. *Williams*, ¶ 12, 579 P.3d at 1133. Indeed, in the *Williams* case, the lead appellant specifically discussed his concerns over the Johnson County audits with the Director of the Department of Audit. *Id.* ¶ 3, 579 P.3d at 1130. That fact did not, however, alter this Court's standing analysis. *Id.* ¶¶ 12-15. Moreover, if Mr. Powers is correct, then every pleading or petition to initiate a lawsuit would create a particularized injury, making the standing requirement irrelevant. Mr. Powers's reliance on his own complaint to confer standing is as impossible as the proverbial act of levitating by bootstraps. *See People v. Infante*, 147 Cal. Rptr. 3d 439, 440 n.3 (Cal. App. 4th Div. 2012), *superseded on other grounds, People v. Infante*, 291 P.3d 325 (Cal. 2013). ("To pull oneself up by one's own

bootstraps' generally refers to an impossible act, such as pulling one's self out of a swamp by one's hair." (citation omitted)).

Finally, Mr. Powers argues this Court should address the merits under the great public importance doctrine, as stated in *State ex rel. Wyo. Ass'n of Consulting Eng'rs & Land Surveyors v. Sullivan*, 789 P.2d 826 (Wyo. 1990), *abrogation recognized by Allred*, ¶ 39, 409 P.3d at 271. (*Pet.* ¶ 48). While he is correct that this Court used the doctrine to reach the merits in *Sullivan*, Mr. Powers fails to note or apply this Court's more current caselaw. Since it decided *Sullivan*, this Court has "retreated from [its previous] liberal application of the public interest factor." *Allred*, ¶¶ 40, 46, 409 P.3d at 271, 273. Even if the matter in dispute is of great public concern, the proponent "must still make a basic showing that he meets the *Brimmer* requirements for standing," which includes a particularized injury. *Williams*, ¶ 11, 579 P.3d 1128. As already discussed at length above, Mr. Powers has not done so.

Moreover, the matter in dispute in this mandamus action is not of great public importance. The issue is not whether the Secretary of State violated the law; rather, it is whether a complainant may require the Attorney General to include or inform him of specifics about how his complaint is addressed. He invites the Court to become involved in the discretionary matter of deciding whether or not to prosecute, which belongs exclusively to the executive branch. This Court should not find Mr. Powers has standing on the basis of the great public importance doctrine.

III. The Petition does not show facts establishing that the Attorney General has failed to perform a ministerial duty required of him.

Section 22-26-121(c) states "complaints that the secretary of state violated the Election Code shall be filed with the attorney general for investigation and prosecution." Mr. Powers filed such a complaint. This statute empowers the Attorney General to consider that complaint, but it does not set out how or when any investigation must be accomplished. As explained above, any duty to investigate is owed to the public and does not create any legal right in Mr. Powers. Mr. Powers then argues the Wyoming Rules of Professional Conduct for Attorneys at Law create a ministerial duty requiring independent counsel, outside the Attorney General's office, to conduct the investigation (and any resulting prosecution). Similarly, such a duty would not create any personal legal right in Mr. Powers. Although the undersigned does not concede a duty to appoint outside counsel under the Rules of Professional Conduct, assuming arguendo that a non-discretionary duty exists, the Petition for Writ of Mandamus in this case does not and cannot show facts indicating the Attorney General failed or refused to act. To obtain a writ of mandamus, Mr. Powers must show facts that the Attorney General has not properly addressed Mr. Power's complaint or used independent counsel, if appropriate. His petition fails to do so. Mr. Powers does not allege or assert the Attorney General has refused to address any ethical conflict. Instead, his core complaint is that the Attorney General did not share information about any investigation into whether Secretary Gray willfully violated the election code.

Mr. Powers's alleged facts depict a complainant who reported what he perceived to be a crime—as was his right—and then grew increasingly disgruntled because the Attorney

General chose not to share the process or details of any resulting investigation. Mr. Powers lodged his complaint on April 13, 2026, and supplemented his complaint on April 17. (*Id.* ¶¶ 77, 79). The Attorney General acknowledged Mr. Powers's complaint and said he would take appropriate action. (*Id.* ¶ 80). Mr. Powers made several demands for information concerning the investigation and the Attorney General declined to comment. (*Id.* ¶ 81-83, 85-88). In one instance, the Attorney General made clear that he had no intention to speak publicly about an ongoing investigation: "A prosecutor's investigation and exercise of prosecutorial discretion are not conducted in the public square." (*Id.* ¶ 86).

The Attorney General's discretionary choice to not disclose information about the investigation is consistent with prosecutorial standards. The American Bar Association Criminal Justice Standards for the Prosecution Function prohibit a prosecutor from making statements that "have a substantial likelihood of materially prejudicing a criminal proceeding or heightening public condemnation of the accused." Am. Bar Ass'n, *Criminal Justice Standards for the Prosecution Function* std. 3-1.10.

Similarly, U.S. Department of Justice policies provide practical guidelines for ensuring that the rights of an accused are not infringed while an investigation is pending or ongoing. Among other things, those policies provide that the agency "generally will not confirm the existence of or otherwise comment about ongoing investigations." U.S. Dep't of Justice, *Justice Manual* § 1-7.400(2) (2024). The Justice Manual continues:

> Receipt of a request to open an investigation may be publicly acknowledged, but care should be taken to avoid implying that the referral will lead to an investigation. There is a distinction between reviewing a request and opening an investigation.

Id. § 1-7.410 (2018). Standard releases containing information about the subjects of investigations are generally permitted only after charges are brought. *Id.* § 1-7.500 (2018). Exercising discretion concerning investigative details is an important part of the presumption of innocence. It forms the basis, for example, of grand jury secrecy. *Douglas Oil Co. of Calif. v. Petrol Stops N.W.*, 441 U.S. 211, 219 (1979).

Mr. Powers assumes the Attorney General's lack of comment means that he is doing nothing, at best, and violating the Rules of Professional Responsibility, at worst. (*Id.* ¶¶ 98, 107-124). Mr. Powers invites this Court to make the same assumptions, what is sometimes referred to as an appeal to ignorance. (*Pet.* ¶ 127); Gerald Lebovits, *Say It Ain't So: Leading Logical Fallacies in Legal Argument-Part 2*, N.Y. St. B.J., September 2016, at 64, 58. But, "[i]t is axiomatic in both science and law that 'an absence of evidence is not evidence of absence.'" *Quynh Truong v. Allstate Ins. Co.*, 227 P.3d 73, 84 (N.M. 2010) (quoting *Commonwealth v. Heilman*, 867 A.2d 542, 547 (Pa. Super. Ct. 2005)); *accord U.S. v. Acosta-Gallardo*, 656 F.3d. 1109, 1117 (10th Cir. 2011). Mr. Powers does not and cannot assert facts showing the Attorney General and his staff are not complying with ethical obligations. This Court should not presume those facts exist. Mr. Powers does not allege any facts in the Petition showing the Attorney General has failed to do just what he promised: address the complaint in accordance with policy, the law and the Rules of Professional Conduct.

IV. Discretionary duties

The true impetus behind the petition for mandamus in this case appears to be Mr. Powers's desire to be informed of, and involved with, how his complaint is being handled, and some notion on Mr. Powers's part that there is a mandatory time frame for complaints such as his to be addressed. Both the time frame within which a prosecutor must investigate matters submitted to him, and whether a prosecutor communicates with the complainant are matters of discretion. Neither is a non-discretionary, ministerial duty. Wyoming recognizes a prosecutor has a duty to "timely" address a case. *Bd. Of Prof. Resp., Wyo. State Bar v. Manlove*, 2023 WY 27, ¶¶ 52-53, 527 P.3d 186, 208 (Wyo. 2023).[6] However, the "timeliness" duty creates no bright line time limit. Rather, this Court evaluated whether a prosecutor acted with reasonable thoroughness and promptness under the circumstances. *Id.* It follows that a prosecutor, like the Attorney General, or an independent counsel assigned the task of addressing a complaint, has discretion in how and when a complaint is investigated, depending on the circumstances. To the extent Mr. Powers's objections are based on a notion that counsel, whether the Attorney General or independent counsel, should have addressed Mr. Powers's complaint to his satisfaction by now, the scheduling

[6] Although the Court in *Manlove* identified an ethical duty for prosecutors to act with reasonable timeliness, it did not indicate that duty was the source of an individual right for a complainant to compel executive action through mandamus. The consequence for unreasonable delay was professional discipline, not a judicially enforceable right for the complainant to compel action within a set period.

and processing of the investigation are discretionary matters, dependent on the circumstances. The prosecutor's duties under these conditions are not subject to mandamus.

It is obvious that Mr. Powers wants to be informed of how the Attorney General has addressed his complaint. As explained above, a prosecutor has no duty to communicate with a complainant. Instead, a prosecutor has discretion in deciding on whether to communicate about an investigation with the complainant or the public, and that decision is subject to ethical cautions related to the potential defendant and the possible effect of such communication on an eventual prosecution, should the prosecutor decide to proceed.

This Court stated in *Billis v. State*, 800 P.2d 401, 419 (Wyo. 1990), under separation of powers principles, a prosecutor is not required to give a reason for dismissing a prosecution. *Billis* specifically recognized law enforcement involves discretion and executive branch policy—things which are beyond mandamus.

> The executive department . . . is charged with carrying out the government's policy on law enforcement and is usually informed on more levels than the other two departments of government. "In such a situation, a decision not to prosecute is analogous to the exercise of executive privilege. The executive's absolute and exclusive discretion to prosecute may be rationalized as an illustration of the doctrine of separation of powers."

Id. (quoting *United States v. Cox*, 342 F.2d 167, 193 (5th Cir. 1965) (Wisdom, J., concurring specially)). It follows logically that the same rule applies to a prosecutor's decision not to respond to a complainant who wants information about the process of investigation and analysis.

V. This Court may not appoint a "special" or "independent prosecutor."

Mr. Powers seeks not only to dictate the Attorney General's investigation, but also to compel this Court to appoint an independent prosecutor. (*Pet.* ¶ 26, 127). As an initial matter, it is unclear how his request can be part of a petition for a writ of mandamus directed toward the Attorney General. Unless Mr. Powers is petitioning this Court to issue a writ directing itself to take action, it is difficult to see how this request is proper.

Moreover, appointing an independent prosecutor is not "an act which the law specially enjoins as a duty resulting from an office, trust or station." Wyo. Stat. Ann. § 1-30-101. If this Court had authority to appoint a special prosecutor, it would undoubtedly be a discretionary decision. But, of course, no law empowers this Court to appoint a special prosecutor. And to do so without specific statutory authority infringes on executive powers.

Mr. Powers provides no pertinent authority for the proposition that this Court may appoint a special prosecutor. He cites three cases, none of which support his claim. (Pet. ¶ 122). In *Meyer v. Norman*, this Court acknowledged its own authority to "supervise the conduct of Wyoming attorneys." 780 P.2d 283, 288 (Wyo. 1989). It went on to explain that it exercises that authority through disciplinary proceedings. *Id.* Nothing in *Meyer* suggests this Court may seize control over prosecutorial decisions. The court in *People ex rel. Peters v. District Court. In and For County of Arapahoe* considered whether appointed defense counsel had a conflict of interest warranting removal. 951 P.2d 926, 928-29, 933 (Colo. 1998). Its facts do not remotely resemble those alleged in this case. And in *State ex rel. Trumbull Cnty. Board of Elections v. Trumbull Cnty. Board of Comm'r*, the prosecutor was responsible for representing both agencies who were opposing parties in the underlying

dispute. The court held new counsel must be appointed to represent one party because Ohio's statutory scheme required outside counsel be appointed when the prosecutor had a conflict of interest. 2010 WL 2026075 ¶¶ 19-22 (Ohio App. 11th Dist. 2010). The *Trumball County* situation is nothing like this case and Wyoming does not have a statute which requires appointment of a special prosecutor under these circumstances. Appointing a "special prosecutor" is simply not a type of relief that Wyoming's mandamus laws make available.

CONCLUSION

This matter is moot. Furthermore, Mr. Powers has not alleged infringement of any individualized injury or right and therefore lacks standing to bring this petition for a writ of mandamus. Even if he did have standing, he has not shown the Attorney General or his office has neglected to perform a ministerial act that would be appropriate for mandamus. Finally, Mr. Powers requests relief to which he is not entitled as a matter of law. For these reasons, Attorney General Kautz respectfully requests that this Court deny Mr. Powers's petition for a writ of mandamus.

Dated this 16th day of June, 2026.

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CERTIFICATE REGARDING ELECTRONIC FILING

I, Mackenzie Williams, hereby certify that the foregoing Response to Petition for Mandamus was served electronically via the Wyoming Supreme Court C-Track Electronic Filing System, this 16th day of June, on the following party:

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I also certify that all required privacy redactions have been made and, with the exception of those redactions, every document submitted in digital form or scanned .pdf is an exact copy of the written document filed with the Clerk, and that the document has been scanned for viruses and is free of viruses.

Mackenzie Williams
Deputy Attorney General