

**IN THE SUPREME COURT
STATE OF SOUTH DAKOTA**

APPEAL NO. 31092

BRIAN H. PYLE,
Plaintiff and Appellant,
v.

**STATE OF SOUTH DAKOTA, SOUTH
DAKOTA DIVISION OF CRIMINAL
INVESTIGATION, MARTY JACKLEY,
SOUTH DAKOTA ATTORNEY GENERAL,
STEVE COTTON, CHARLES MIX STATE'S
ATTORNEY, AMY BARTLING, GREGORY
COUNTY STATE'S ATTORNEY,
CHARLES MIX SHERIFF'S OFFICE, AND
GREGORY COUNTY SHERIFF'S OFFICE,**
Defendant and Appellee.

**APPEAL FROM THE CIRCUIT COURT
FIRST JUDICIAL CIRCUIT
CHARLES MIX COUNTY, SOUTH DAKOTA**

THE HONORABLE BRUCE ANDERSON
Circuit Court Judge

APPELLANT'S BRIEF

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Notice of Appeal Filed May 13, 2025

TABLE OF CONTENTS

SECTION	PAGE
JURISDICTIONAL STATEMENT.....	1
STATEMENT OF LEGAL ISSUES	2
STATEMENT OF THE CASE.....	2
STATEMENT OF THE FACTS.....	3
ARGUMENT	3
CONCLUSION.....	6
CERTIFICATE OF SERVICE.....	7

APPENDIX

Memorandum Decision	001
Order Quashing Provisional Writ of Mandamus and Dismissing Petition	002

TABLE OF AUTHORITIES

STATUTES CITED	PAGE
S.D.C.L. § 15-26A-3.....	2
S.D.C.L. § 23A-28C-4	5
S.D.C.L. CH. 1 – 27	6
S.D. CONS. ART. 6 § 29	2, 5
S.D. CONS. ART. 6 § 29 (1)	5

CASES CITED	PAGE
<i>Anderson v. City of Sioux Falls</i> , 384 NW2d 666, 668 (SD 1986)	4
<i>Asper v. Nelson</i> , 896 NW2d 666, 668 (SD 2017).....	3, 4
<i>Bohn v. Bueno</i> , 3 NW3d 441, 447 (SD 2024)	3, 4
<i>In re Issuance of Summons Compelling Essential Witness to Appear and Testify in State of Minnesota</i> , 908 NW2d 160, 166 9SD 2018)	5
<i>Krsnak v. S.D. Dep't of En't and Nat. Res.</i> , 2012 824 NW2d 429, 434 9SD 2012)	4
<i>Okerson v. Common Council of City of Hot Springs</i> , NW2d 531, 533 (SD 2009)	4
<i>Poppen v. Walker</i> , 520 NW2d 238, 242 (SD 1994))	6
<i>Rupert v. City of Rapid City</i> , 827 NW2d 55, 71 n. 10 (SD 2013)	6
<i>Sorrels v. Queen of Peace Hosp.</i> , 575 NW2d 240, 242 (SD 1998)	4
<i>State v. Fierro</i> , 853 NW2d 235, 243 (SD 2014)	2, 6
<i>Willoughby v. Grim</i> , 581 NW2d 165, 167 (SD 1998)	3
<i>Woodruff v. Bd. Of Comm'rs for Hand Cnty</i> , 741 NW.2d 746, 747 (SD 2007)	4

IN THE SUPREME COURT
STATE OF SOUTH DAKOTA

No. 31092

BRIAN PYLE,

Petitioner/Appellant,

vs.

STATE OF SOUTH DAKOTA,
SOUTH DAKOTA DIVISION OF
CRIMINAL INVESTIGATION,
MARTY JACKLEY, SOUTH DAKOTA
ATTORNEY GENERAL, STEVE COTTON,
CHARLES MIX STATE'S ATTORNEY,
AMY BARTLING, GREGORY COUNTY
STATE'S ATTORNEY, CHARLES MIX
SHERIFF'S OFFICE, AND GREGORY
COUNTY SHERIFF'S OFFICE,

Respondents/Appellees.

PRELIMINARY STATEMENT

Defendant and Appellant, Brian Pyle, is referred to throughout this brief as "Brian" or "Appellant." Appellee, State of South Dakota, is referred to as "State" or "Appellee." The transcript of the motion hearing is referred to as "M.H."

JURISDICTIONAL STATEMENT

On September 20, 2024, Petitioner, through counsel, filed an Application for Writ of Mandamus. On September 25, 2024, the Honorable Bruce Anderson signed a Peremptory Writ of Mandamus. The same was filed and served upon all parties in this matter. On October 15, 2024, the State filed a Motion to Quash the Writ of Mandamus. Subsequently both sides filed briefs for the trial court to consider. A hearing was held on December 16, 2024, at the Charles Mix County Courthouse in Lake Andes, South

Dakota. The trial court heard the parties of counsel and took the matter under advisement. The trial court issued a Memorandum Decision on April 2, 2025. Thereafter the trial court signed an Order Quashing Provisional Writ of Mandamus and Dismissing Petition; the same was filed on April 8, 2025. Notice of Entry was filed on April 15, 2025.

Notice of Appeal was filed on May 13, 2025. This Court has jurisdiction pursuant to SDCL 15-26A-3.

STATEMENT OF LEGAL ISSUES

1. The trial court erred in denying petitioner's application for writ of mandamus

S.D. Cons. Art. 6 § 29
State v. Fierro, 853 NW2d 235, 243 (SD 2014)

STATEMENT OF THE CASE

On September 20, 2024, Petitioner, through counsel, filed an Application for Writ of Mandamus. On September 25, 2024, the Honorable Bruce Anderson signed a Peremptory Writ of Mandamus. The same was filed and served upon all parties in this matter. On October 15, 2024, the State filed a Motion to Quash the Writ of Mandamus. Subsequently both sides filed briefs for the trial court to consider. A hearing was held on December 16, 2024, at the Charles Mix County Courthouse in Lake Andes, South Dakota. The trial court heard the parties of counsel and took the matter under advisement. The trial court issued a Memorandum Decision on April 2, 2025. Thereafter the trial court signed an Order Quashing Provisional Writ of Mandamus and Dismissing Petition; the same was filed on April 8, 2025. Notice of Entry was filed on April 15, 2025.

Notice of Appeal was filed on May 13, 2025. This Court has jurisdiction pursuant to SDCL 15-26A-3.

STATEMENT OF FACTS

Appellant's son, Ryan Andrew Pyle ("Ryan"), was reported missing in August of 2020. The above-captioned law enforcement agencies and officers were in charge of the investigation into the missing person's report. Two months later in November of 2020, Ryan was found deceased near Snake Creek Recreation, Charles Mix County, Platte, South Dakota. His cause of death was determined to be hypothermia.

Since Ryan's death, his father, Brian, has sought numerous times to get access to information about the investigation surrounding his son's death but has repeatedly been ignored. Brian has requested medical records, police and investigative reports through counsel, investigators and by himself. Brian has also hired various private investigators and experts who have reviewed the case and scene and all have determined that some sort of foul play was involved. Brian simply wants to review the reports and materials so he can have some closure regarding his son's death. On September 20, 2024, Brian submitted an Application for Writ of Mandamus. A Provisional Writ was signed by the trial court on September 25, 2024.

STANDARD OF REVIEW

"Circuit courts possess discretion in deciding whether to grant a writ of mandamus; thus, the appropriate standard of review on appeal is abuse of discretion." *Asper v. Nelson*, 896 NW2d 665, 668 (SD 2017) (quoting *Willoughby v. Grim*, 581 NW2d 165, 167 (SD 1998).

ARGUMENT

"A writ of mandamus is an extraordinary remedy that will issue only when the duty to act is clear." *Bohn v. Bueno*, 3 NW3d 441, 447 (SD 2024)

. "To prevail on a writ of mandamus or prohibition, Petitioners must show a 'clear legal right to performance of the specific duty sought to be compelled and the [respondent]

must have a definite legal obligation to perform a duty.” *Bohn*, 3 NW3d at 448. “The writ of mandamus must be issued in all cases where there is not a plain, speedy, adequate remedy, in the ordinary court of law.” *Id.*

“The granting of a writ of mandamus is not a matter of absolute right, but is vested in the sound discretion of the court; and, where there is reason to doubt the necessity or propriety of issuing it, it should be refused.” *Id.* (quoting *Anderson v. City of Sioux Falls*, 384 NW2d 666, 668 (SD 1986)). “Mandamus is a potent, but precise remedy. Its power lies in its expediency; its precision in its narrow application. It commands the fulfillment of an existing legal duty, but creates no duty itself, and acts upon no doubtful or unsettled right.” *Okerson v. Common Council of City of Hot Springs*, NW2d 531, 533 (SD 2009) (quoting *Sorrels v. Queen of Peace Hosp.*, 575 NW2d 240, 242 (SD 1998)).

“To prevail in seeking a writ of mandamus, the petitioner must have a clear legal right to performance of the specific duty sought to be compelled and the respondent must have a definite legal obligation to perform that duty.” *Id.* (quoting *Sorrels*, 575 NW2d at 242). Mandamus “will not be granted when it would be unavailing.” *Asper*, 896 NW2d at 668 (citation omitted).

A writ of mandamus ‘commands the fulfillment of an existing legal duty...’ *Woodruff v. Bd. of Comm’rs for Hand Cnty.*, 741 NW. 2d 746, 747 (SD 2007). “To prevail on a writ of mandamus or prohibition, Petitioners must show ‘a clear legal right to performance of the specific duty sought to be compelled and the [respondent] must have a definite legal obligation to perform that duty.’” *Krsnak v. S.D. Dep’t of Env’t and Nat. Res.*, 2012 824 NW2d 429, 434 (SD 2012). Further, a writ of “[m]andamus may only be used to compel ministerial duties, not discretionary duties.” *Krsnak v. SD Dep’t of Env’t & Natural Res.*, 824 NW2d 429, 434 (SD 2012).

In this case, the Respondents have a clear legal duty to act under the South Dakota Constitution Article Six Section Twenty-nine (“Marcy’s Law”), as Brian is a “victim” within the definition of this Constitutional Amendment. A criminal investigation occurred into the death of Ryan, and under Marcy’s Law, a victim, Brian, has “[t]he right to *due process* and to be treated with fairness and respect for the victim’s dignity. . .” S.D. Cons. Art. 6 § 29 (1) (emphasis added). The purpose of Marcy’s Law is to guarantee victims, or their families in the event of a death, constitutional rights to be “...kept informed and allowed to meaningfully participate in the criminal justice system...” *In re Issuance of Summons Compelling Essential Witness to Appear and Testify in State of Minnesota*, 908 NW2d 160, 166 (SD 2018).

“This language, along with the nineteen enumerated rights in Article VI, § 29, show that the predominant purpose of Marcy’s Law is to ensure that crime victims are kept informed and allowed to meaningfully participate in the criminal justice system throughout the time a crime is prosecuted and punished.” *Id.* The term “victim” as used within Marcy’s Law is defined as “a person against who a crime or delinquent act is committed[.]; and “[i]f the case of a victim who is killed or incapacitated as a result of the crime or delinquent act ... the term also includes And parent[.]” SD Const Art 6 § 29. Further, under SDCL 23A-28C-4 the term ‘victim’ is also defined as “any person being the direct subject” of any one of the enumerated assortments of criminal acts listed therein, or “[i]f the victim does not survive ... the term, victim, means the members of the immediate family of the primary victim.” The trial court concluded that Appellant is not a victim under Marcy’s Law because, at the present time, law enforcement has determined no crime has been committed. The trial court further cited a number of statutes indicating that records of a criminal investigation are protected and confidential records. See SDCL

Ch. 1-27. This is contradictory to the trial court concluding that Brian is not considered a victim under Marsy's Law. Mary's Law is a Constitutional Right and grants victims significant rights. Such a narrow reading and interpretation of Marsy's Law by the trial court contravenes the entire intent of Marsy's Law.

The Respondents repeatedly point to statutory language as authority to continue withholding information related to Andrew's death. However, under South Dakota law, a state statute cannot preempt a Constitutional Right. See *State v. Fierro*, 853 NW2d 235, 243 (SD 2014) ("Furthermore, our precent is clear that the Legislature cannot enact a statute that would preempt a citizen's constitutional right...."); *Poppen v. Walker*, 520 NW2d 238, 242 (SD 1994) ("The legislature cannot define the scope of a constitutional provision by subsequent legislation."); *Rupert v. City of Rapid City*, 827 NW2d 55, 71 n. 10 (SD 2013) ("As the Constitution is the 'mother law,' and statutory framework must conform to it and not vice versa.") additional citations omitted.

The trial court also concluded that Brian can send a written request for the materials. The trial court found that the written request, included in the record sent by the undersigned counsel and received by the Attorney General's Office, constituted an informal request, however this is in error as Brian had previously personally requested the materials from the Attorney General's Office and had also requested the materials through the investigators he employed in this matter. It is clear the Attorney General's Office has no intention of allowing Brian to simply review the file concerning the death of his son and quite frankly, doesn't care if Brian has any closure or peace of mind concerning the circumstances of his son's death.

CONCLUSION

Under Marcy's Law, Petitioner has a due process right to review material associated with the death of his son. His right to meaningfully participate in the criminal

investigation has been infringed upon, and accordingly, Petitioner requests this Court reverse the trial court's Order Quashing Provisional Writ of Mandamus and Dismissing Petition and order the State to disclose all medical records, police and investigative reports regarding his son's death.

Dated this 21st day of November, 2025.

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Appellant, through counsel, hereby respectfully requests oral argument in the above-entitled matter.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that he served one (1) copy of Appellant's Brief upon the persons herein next designated all on the date below by email to said addresses, to wit:

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Dated this 21st day of November, 2025.

/s/Manuel J. de Castro, Jr.
Manuel J. de Castro, Jr.

FILED

APR - 2 2025

STATE OF SOUTH DAKOTA

IN CIRCUIT COURT

COUNTY OF CHARLES MIX

CHARLES MIX COUNTY CLERK OF COURTS
FIRST JUDICIAL CIRCUIT COURT OF SD

FIRST JUDICIAL CIRCUIT

BRIAN PYLE,

Petitioner,

vs.

11CIV24-46

**STATE OF SOUTH DAKOTA, SOUTH
DAKOTA DIVISION OF CRIMINAL
INVESTIGATION, MARTY JACKLEY,
SOUTH DAKOTA ATTORNEY
GENERAL, STEVE COTTON, CHARLES
MIX STATE'S ATTORNEY, AMY
BARTLING, GREGORY COUNTY
STATE'S ATTORNEY, CHARLES MIZ
SHERIFF'S OFFICE, AND GREGORY
COUNTY SHERRIFF'S OFFICE,**

Respondents.

MEMORANDUM DECISON

This matter was brought before the Court by a petition for writ of mandamus, filed on September 25, 2024, as well as a subsequent motion to quash the writ of mandamus, filed on October 15, 2024. A hearing has held on December 16, 2024, at the Charles Mix County Courthouse in Lake Andes, South Dakota. The Petitioner, Brian Pyle, was represented by Manuel J. de Castro, appearing via Zoom. The Respondents were represented by Nolan Welker, Assistant Attorney General of the South Dakota Attorney General's Office, and Steve Cotton, Charles Mix County State's Attorney, who were present, as well as Amy Bartling, Gregory County State's Attorney, appearing via Zoom. The Court heard oral arguments at the hearing and both parties had previously submitted briefs on this matter prior to the hearing. The Court, after reviewing the briefs and considering the oral arguments presented at the hearing, now issues its decision.

Facts

In August of 2020 the Petitioner's son, Ryan Andrew Pyle, was reported missing and his last known location was believed to have been in the area of Gregory County and Charles Mix County. Accordingly, the South Dakota Division of Criminal Investigation, Charles Mix County Sheriff's Department, and the Gregory County Sheriff's Department were tasked with the investigation into the missing persons report of Mr. Pyle. In November of 2020, Mr. Pyle was found deceased in the vicinity of the Snake Creek Recreation Area, in Charles Mix County. Following an investigation Mr. Pyle's cause of death was determined to be hypothermia and the investigating authorities have determined that as of now it is their belief there was no criminal conduct involved leading to his death. In an attempt to seek clarification of the circumstances surrounding the death of his son, Petitioner asserts that he has sought the investigatory records of the aforementioned agencies in relation to this manner personally, through representative counsel, and through numerous private investigators he has employed. However, the South Dakota Attorney General's Office has only located a record of one prior request from Petitioner of the requested records prior to the commencement of these proceedings. The culmination of Petitioner's efforts resulted in the present petition for writ of mandamus, that is the center of the current proceedings, to procure the investigatory records of the aforementioned agencies in relation to his son's death.

Petitioner argues that under South Dakota Constitution Article Six Section Twenty-nine ("Marsy's Law"), he is a "victim" and as such has a constitutional right to review the investigatory records regarding the death of his son. Respondents argue that since their investigation has determined that no foul play or criminal conduct has occurred in relation to the disappearance and death of Mr. Pyle that Petitioner is not a "victim" of a crime and consequently

not afforded victim's rights under Marsy's Law. Respondents further argue that they are not under any existing legal duty to provide their investigatory records and that such records constitute confidential criminal justice information and as such are exempt from public disclosure. Respondents also argue that a writ of mandamus is not available to Petitioner as he has not yet exhausted his available administrative remedies in this matter.

Analysis

"A writ of mandamus is an extraordinary remedy that will issue only when the duty to act is clear." *Bohn v. Bueno*, 2024 S.D. 6, ¶ 13, 3 N.W.3d 441, 447 (citation omitted). "A writ of mandamus 'commands the fulfillment of an existing legal duty, but creates no duty itself, and' does not act 'upon ... doubtful or unsettled law.' " *Id.* (citation omitted). "The granting of a writ of mandamus ... is vested in the sound discretion of the court; and, where there is reason to doubt the necessity or propriety of issuing it, it should be refused." *Pres. French Creek, Inc. v. Cnty. of Custer*, 2024 S.D. 45, ¶ 8, 10 N.W.3d 233, 237 (citation omitted). "To prevail on a writ of mandamus or prohibition, Petitioners must show 'a clear legal right to performance of the specific duty sought to be compelled and the [respondent] must have a definite legal obligation to perform that duty.' " *Bohn*, 2024 S.D. 6, ¶ 13, 3 N.W.3d 441, 448 (citation omitted). "The writ of mandamus must be issued in all cases where there is not a plain, speedy, and adequate remedy, in the ordinary course of law." *Id.* Further, a writ of "[m]andamus may only be used to compel ministerial duties, not discretionary duties." *Krsnak v. S.D. Dep't of Env't & Natural Res.*, 2012 S.D. 89, ¶ 10, 824 N.W.2d 429, 434 (citation omitted). Accordingly, this Court can only grant a writ of mandamus if the duty to perform the requested action is ministerial and certain.

1. Whether Marsy's Law creates a clear and definite duty requiring Respondents to provide the requested records to Petitioner.

"The second to the last paragraph of Article VI, § 29 succinctly expresses that the purpose of Marsy's Law is to 'ensure the victim has a meaningful role throughout the criminal and juvenile justice systems.' " *In re Issuance of Summons Compelling Essential Witness To Appear & Testify in State of Minnesota*, 2018 S.D. 16, ¶ 15, 908 N.W.2d 160, 166 (quoting S.D. Cons. Art. 6 § 29). "This language, along with the nineteen enumerated rights in Article VI, § 29, show that the predominant purpose of Marsy's Law is to ensure that crime victims are kept informed and allowed to meaningfully participate in the criminal justice system throughout the time a crime is prosecuted and punished." *Id.* The term "victim" as used within Marsy's Law is defined as "a person against whom a crime or delinquent act is committed[.]" and "[i]n the case of a victim who is killed or incapacitated as a result of the crime or delinquent act ... the term also includes any ... parent[.]" S.D. Cons. Art. 6 § 29. Further, under SDCL 23A-28C-4 the term "victim" is also defined as "any person being the direct subject" of any one of the enumerated assortment of criminal acts listed therein, or "[i]f the victim does not survive ... the term, victim, means the members of the immediate family of the primary victim."

In the present case Petitioner is not a "victim" as defined by South Dakota law as the case presently stands. In the course of the investigation of the disappearance and death of Mr. Pyle, the Respondents determined that no criminal conduct had occurred. Thus, Petitioner cannot properly be categorized as a "victim" under Marsy's Law given that it has been determined that no crime was committed against his son.

Additionally, this Court can find no specific language within Marsy's Law that creates a mandatory duty to require Respondents to allow Petitioner access to the investigative records under the circumstances in this matter. None of the nineteen enumerated rights, nor the

remaining textual portions of Marsy's Law plainly express a definitive right for victims to access the entirety or any portion of the records created during the investigation of the alleged crime committed against them. The purpose of Marsy's Law creates a nondescriptive duty or right as to the amount of information and the level of participation that victims of crimes are entitled to, which this Court believes to plainly fail to meet the standard for the proper issuance of a writ of mandamus.

Moreover, in consideration of SDCL Ch. 1-27 such investigative records that are being sought in the present case may be expressly protected and exempt from disclosure. Under SDCL 1-27-1.5, certain "records are not subject to §§ 1-27-1, 1-27-1.1, and 1-27-1.3[.]". The relevant and pertinent subsection of which to this matter provides that "[r]ecords developed or received by law enforcement agencies and other public bodies charged with duties of investigation or examination of persons, ... if the records constitute a part of the examination, investigation, intelligence information, citizen complaints or inquiries, informant identification, or strategic or tactical information used in law enforcement training" are not subject to public examination. SDCL 1-27-1.5(5). In addition, SDCL 23-5-11 provides that "[c]onfidential criminal justice information ... [is] specifically exempt from disclosure pursuant to §§ 1-27-1 to 1-27-1.15, inclusive, and may be withheld by the lawful custodian of the records." "Confidential criminal justice information" is defined as "criminal identification information compiled pursuant to chapter 23-5, criminal intelligence information, criminal investigative information, criminal statistics information made confidential pursuant to § 23-5-14, and criminal justice information otherwise made confidential by law[.]" SDCL 23-5-10(1). "The records developed or received by the agencies charged with the duty to investigate" the circumstances surrounding an individual's "death constitute confidential criminal justice information as defined by statute."

Mercer v. South Dakota Attorney General Office, 2015 S.D. 31, ¶ 20, 864 N.W.2d 299, 304. The determination by the party holding such records of whether or not to release them is discretionary. *Id.* ¶ 21 at 305 (*see* SDCL 1-27-27).

In the present case the records being sought may also be categorized as confidential criminal justice information since they also involve a death investigation, and as such it is within the Respondents discretion as whether they choose to release such records. Although Marcy's Law grants crime victims significant rights, no express language of the that amendment clearly converts the Attorney General's discretion into a ministerial obligation to allow the petitioner here access to the requested records. Framed as a mandamus action, this discretion prohibits the Court from granting relief. Accordingly, this Court can not properly issue a writ of mandamus seeking the performance of a discretionary duty that would require the release of protected records contrary to South Dakota law.

II. *A Writ of Mandamus cannot properly issue as Petitioner has failed to exhaust available remedies under SDCL Ch.1-27.*

The statutory scheme of Chapter 1-27 of the South Dakota Codified Law provides the proper manner in which to request records from state agencies, such as the Respondents in this matter. SDCL Ch. 1-27 provides that both informal requests and written requests can be made for records sought in accordance with the chapter. It is further provided that "[i]f an informal request is denied ... a written request may be made by the requestor pursuant to this section." SDCL 1-27-35. In the present matter the single request, for which there is a record evidencing its occurrence, made by Petitioner for the investigative records in relation to the disappearance and death of Mr. Pyle, is properly considered as an informal request. As such Petitioner is still afforded the opportunity to submit a written request for the records sought in this matter under SDCL 1-27-35. Thus, Petitioner still has a potential plain, speedy, and adequate remedy in the

ordinary course of law available to him to receive the records sought in this matter. One issue remaining to resolve through that administrative process is if the records requested can be deemed to be "confidential criminal justice information" if the State has investigated and determined that no foul play or crime occurred with respect to the death of Mr. Pyle. The Court acknowledges that there is a contradiction present here where the State claims that "no crime occurred" and consequently the Petitioner is "not a victim" under Marcy's Law, and the claim that the information is protected confidential criminal justice information. This case is much different than *Mercer*, where the investigation included, in addition to the death of Mr. Benda, an additional investigation as to embezzlement or mishandling of EB5 money. These are issues that must be worked out in the administrative process first, and are inappropriate for mandamus relief under the current record.

As mentioned above this Court finds that Marcy's Law is vague in this particular area and creates a nondefinitive duty or right as to the amount of information and the level of participation that victims of crimes are entitled to, and if the records sought in this matter constitute confidential criminal justice information, and as such are exempt from mandatory disclosure under SDCL Ch. 1-27. It is apparent to this Court that SDCL Ch. 1-27 was enacted by the Legislature to establish the statutory vehicle to obtain records from state agencies, and the plain language as well as the vague nature of a victim's rights to information and participation under Marcy's Law support this Court's finding that requiring compliance with the statutory scheme of SDCL Ch. 1-27 is not in contravention, nor repugnant to the constitutional provisions of Marcy's Law. Consequently, the provisional writ is QUASHED and the application for a writ of mandamus is DISMISSED.

The respondents are directed to submit an appropriate order to this effect so that proper

notice of entry of that order can be served upon Petitioner.

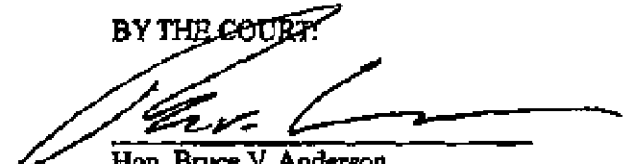
This memorandum decision shall constitute the Courts findings of fact and conclusions of law in accordance with SDCL 15-6-52(a).

Dated this 2nd day of April, 2025.

BY THE COURT:

ATTEST:


Clerk of Courts


Hon. Bruce V. Anderson
First Circuit Judge



STATE OF SOUTH DAKOTA)
: SS
COUNTY OF CHARLES MIX)

IN CIRCUIT COURT

FIRST JUDICIAL CIRCUIT

BRIAN PYLE,)
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Petitioner,)
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v.)
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STATE OF SOUTH DAKOTA,)
SOUTH DAKOTA DIVISION OF)
CRIMINAL INVESTIGATION,)
MARTY JACKLEY, SOUTH)
DAKOTA ATTORNEY GENERAL,)
STEVE COTTON, CHARLES MIX)
COUNTY STATE'S ATTORNEY,)
AMY BARTLING, GREGORY)
COUNTY STATE'S ATTORNEY,)
CHARLES MIX SHERIFF'S)
OFFICE, AND GREGORY COUNTY)
SHERIFF'S OFFICE,)
)
Respondents.)

11 CIV 24-46

ORDER QUASHING PROVISIONAL
WRIT OF MANDAMUS AND
DISMISSING PETITION

A Petition for writ of mandamus having been filed on September 25, 2024, and motion for quash the writ of mandamus having been filed on October 15, 2024, and the matter having come for hearing before the Court on December 16, 2024, and the Court having considered the filings and the arguments of the parties, and having been fully advised in the premises, it is hereby:

ORDERED that the Court's Memorandum Decision is fully incorporated herein as if set forth in full;

It is further ORDERED that Marsy's Law does not provide Petitioner the relief he seeks;

It is further ORDERED that Petitioner has not exhausted all available and appropriate remedies under SDCL chapter 1-27.

It is further ORDERED that the Provisional Writ of Mandamus is quashed and the Petition for Writ of Mandamus is denied for the reasons set forth in the Court's Memorandum Decision;

4/8/2025 3:52:06 PM



Honorable Bruce Anderson
CIRCUIT COURT JUDGE

Attest:
Robertson, Jennifer
Clerk/Deputy



IN THE SUPREME COURT
STATE OF SOUTH DAKOTA

No. 31092

BRIAN PYLE,

Petitioner and Appellant,

v.

STATE OF SOUTH DAKOTA, SOUTH DAKOTA DIVISION OF CRIMINAL
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ATTORNEY, AMY BARTLING, GREGORY COUNTY STATE'S ATTORNEY,
CHARLES MIX SHERIFF'S OFFICE, and GREGORY COUNTY SHERIFF'S
OFFICE,

Respondents and Appellees.

APPEAL FROM THE CIRCUIT COURT
FIRST JUDICIAL CIRCUIT
CHARLES MIX COUNTY, SOUTH DAKOTA

THE HONORABLE BRUCE ANDERSON
First Circuit Court Judge

APPELLEE'S BRIEF

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Notice of Appeal filed May 13, 2025.

TABLE OF CONTENTS

	PAGE
TABLE OF AUTHORITIES	ii
PRELIMINARY STATEMENT.....	1
JURISDICTIONAL STATEMENT	1
STATEMENT OF LEGAL ISSUE AND AUTHORITIES.....	2
STATEMENT OF THE CASE.....	2
STATEMENT OF FACTS.....	5
ARGUMENT	
I. THE TRIAL COURT PROPERLY EXERCISED ITS DISCRETION WHEN IT QUASHED THE PROVISIONAL WRIT AND DISMISSED PETITIONER'S APPLICATION	6
CONCLUSION.....	16
CERTIFICATE OF COMPLIANCE.....	17
CERTIFICATE OF SERVICE	17

TABLE OF AUTHORITIES

CONSTITUTIONAL AUTHORITIES CITED:

S.D. Const. Art. VI, § 29	10, 11, 14
---------------------------------	------------

STATUTES CITED:

PAGE

SDCL Ch. 1-26	9
SDCL 1-26-37	9
SDCL 1-27-1.5	8
SDCL 1-27-1.5(5).....	15
SDCL 1-27-35	8
SDCL 1-27-37	8, 15
SDCL 1-27-37(5).....	8
SDCL 1-27-38	8
SDCL 1-27-39	9
SDCL 1-27-40	9
SDCL 1-27-41	9
SDCL 7-12-1	12
SDCL 9-29-16	12
SDCL 9-29-18	12
SDCL 9-29-19	12
SDCL 15-26A-3	2
SDCL 21-29-1	7, 10
SDCL 21-29-2	7
SDCL 23-3-12	12
SDCL 23-3-14	12
SDCL 23-3-18.1.....	12
SDCL 23-3-19	12
SDCL 23A-28C-1(14)	15

SDCL 23A-28C-4	11
Session Law 2018, Chapter 2, § 2	10, 11

CASES CITED:

<i>Bohn v. Bueno</i> , 2024 S.D. 6, 3 N.W.3d 441	7, 10, 13
<i>Brendtro v. Nelson</i> , 2006 S.D. 71, 720 N.W.2d 670.....	11, 13
<i>Hauck v. Clay County Commission</i> , 2003 S.D. 43, 994 N.W.2d 707	7
<i>In re Issuance of Summons Compelling Essential Witness to Appear and Testify in the State of Minnesota</i> , 2018 S.D. 16, 908 N.W.2d 160.....	10, 11
<i>Jensen v. Lincoln County Bd. of Com'rs</i> , 2006 S.D. 61, 718 N.W.2d 606.....	9
<i>Krsnak v. S.D. Dep't of Env't & Nat. Res.</i> , 2012 S.D. 89, 824 N.W.2d 429.....	6, 7, 14, 15
<i>Mercer v. South Dakota Attorney General's Office</i> , 2015 S.D. 31, 864 N.W.2d 299.....	9, 15
<i>Puffy's, LLC v. Dep't of Health</i> , 2025 S.D. 10, 18 N.W.3d 134	passim
<i>Schafer v. Deuel County Bd. of Com'rs</i> , 2006 S.D. 106, 725 N.W.2d 241.....	10
<i>S.D. Bd. of Regents v. Heege</i> , 428 N.W.2d 535 (S.D. 1988).....	7
<i>State v. Antuna</i> , 2024 S.D. 78, 15 N.W.3d 439	12
<i>State v. Waldner</i> , 2024 S.D. 67, 14 N.W.3d 229	12
<i>Thompson v. Lynde</i> , 2018 S.D. 69, 918 N.W.2d 880	15

OTHER CITED AUTHORITIES

Op. S.D. Atty. Gen. 16-02	11
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IN THE SUPREME COURT
STATE OF SOUTH DAKOTA

No. 31092

BRIAN PYLE,

Petitioner and Appellant,

v.

STATE OF SOUTH DAKOTA, SOUTH DAKOTA DIVISION OF CRIMINAL INVESTIGATION, MARTY JACKLEY, SOUTH DAKOTA ATTORNEY GENERAL, STEVE COTTON, CHARLES MIX COUNTY STATE'S ATTORNEY, AMY BARTLING, GREGORY COUNTY STATE'S ATTORNEY, CHARLES MIX SHERIFF'S OFFICE, and GREGORY COUNTY SHERIFF'S OFFICE,

Respondents and Appellees.

PRELIMINARY STATEMENT

In this brief, Petitioner/Appellant, Brian Pyle, is referred to as "Petitioner" or "Pyle." Respondents/Appellees, are collectively referred to as "Respondents." The Settled Record is called "SR." Petitioner's Brief is referred to as "PB." And all citations to the settled record and Petitioner's Brief are followed by the appropriate page number.

JURISDICTIONAL STATEMENT

Petitioner appeals the trial court's Memorandum Decision and corresponding Order Quashing Provisional Writ of Mandamus and Dismissing Petition. The Honorable Bruce Anderson, Circuit Court Judge, First Judicial Circuit, filed the Memorandum Decision on April 2, 2025. SR:26-33. The trial court signed and filed its Order Quashing Provisional Writ of Mandamus and Dismissing Petition on April 8, 2025.

SR:34-35. Respondents filed a Notice of Entry of the order on April 15, 2025. SR:38-39. Petitioner timely filed a Notice of Appeal on May 13, 2025. SR:40-41. This Court has jurisdiction under SDCL 15-26A-3.

STATEMENT OF LEGAL ISSUE AND AUTHORITIES

I

WHETHER THE TRIAL COURT PROPERLY EXERCISED ITS DISCRETION BY QUASHING THE PROVISIONAL WRIT AND DISMISSING PETITIONER'S APPLICATION?

The trial court granted Respondents' Motion to Quash and entered an Order Quashing the Provisional Writ and Dismissing Petitioner's Application for mandamus relief.

Bohn v. Bueno, 2024 S.D. 6, 3 N.W.3d 441

Krsnak v. S.D. Dep't of Env't & Nat. Res., 2012 S.D. 89,
824 N.W.2d 429

Puffy's, LLC v. Dep't of Health, 2025 S.D. 10, 18 N.W.3d 134

S.D. Const. Art. VI, § 29

STATEMENT OF THE CASE

On September 20, 2024, Petitioner filed an Application for Writ of Mandamus. SR:1-2. The Application alleged that Respondents were in charge of the investigation of "missing person" Ryan A. Pyle ("Ryan"), whose body was found in November 2020 near Platte. SR:1. The Application further alleged that Petitioner had filed numerous requests for medical records, police reports, and investigative reports related to the investigation of Ryan's death, all of which allegedly were ignored. *Id.* None of those allegedly "filed numerous requests" were attached to

the Application, nor were they described in any detail. SR:1-2. The Application requested a Writ requiring an answer from Respondents and final Mandamus, “ordering Respondent to provide to the Petitioner all medical records, police, and investigative reports.” *Id.*

On September 25, 2024, the trial court signed, filed, and entered a Peremptory Writ of Mandamus. SR:4-5. The Peremptory Writ required Petitioner to serve the Peremptory Writ and Respondents to file a Return of Answer within ten days of service. *Id.* Petitioner served the Peremptory Writ upon Respondents on October 2, 2024. SR:6.

On October 7, 2024, Respondents, by and through the South Dakota Office of Attorney General, filed a Motion to Quash Writ of Mandamus and a Brief in Support. SR:9-14. The Motion and Brief requested the Peremptory Writ be quashed because (1) Petitioner had not exhausted all available remedies; (2) Petitioner does not have a clear legal right to the performance of the requested duty; and (3) Respondents had no clear legal duty to act. *Id.* Respondents attached to the Brief in Support the only instance that Respondents could locate where Petitioner had previously requested records from Respondent South Dakota Division of Criminal Investigation (“DCI”) or Marty Jackley, South Dakota Attorney General. SR:15-16. Respondent Charles Mix County, by and through Charles Mix County State’s Attorney Steven Cotton, joined in the Motion to Quash and Brief in Support in a written filing. SR:19-20.

Petitioner filed a Brief in Response to Respondents' Motion to Quash on October 22, 2024. SR:21-23. In Petitioner's Brief, Petitioner alleged that he had requested information about Respondents' investigation multiple times himself, through counsel, and through investigators. SR:22. Petitioner provided no evidence or documentation supporting these requests and did not mention any specifics of the alleged previous requests. SR:21-23.

The matter came to a hearing on Respondents' Motion to Quash on December 16, 2024. SR:24; SR:56-83. The trial court heard arguments from Respondents and from Petitioner. *Id.* At the hearing, Charles Mix County State's Attorney Steven Cotton and Gregory County State's Attorney Amy Bartling joined in the Attorney General's motion and argument on behalf of themselves, and their respective counties and sheriff's departments. SR:71-72.

Respondents reinforced its arguments from its Motion to Quash and Brief in Support. Specifically, Respondents argued that Petitioner had not exhausted all available remedies; Petitioner does not qualify as a victim under Marsy's Law; and even if Petitioner did qualify as a victim under Marsy's Law, Respondents do not have a clear duty to provide the requested records to a victim under Marsy's Law or any other law. SR:60-83.

Petitioner maintained his argument that he had previously requested these materials from Respondents multiple times. SR:72-83.

But Petitioner did not present evidence of such requests. *Id.* Petitioner also claimed that Marsy's Law should apply to him. *Id.* However, Petitioner was unable to identify (1) any crime which applied to Ryan's death; (2) any alleged perpetrator of any crime against Ryan; or (3) any facts which could change Respondents' determination of Ryan's cause of death or that no foul play could be identified in Ryan's death. *Id.*

The Court took the case under advisement. SR:83. In April 2025, the Court's Memorandum Decision and Order Quashing Provisional Writ of Mandamus and Dismissing Application were signed, filed, and entered as described above. SR:26-39.

STATEMENT OF FACTS

No evidence has been taken in this case. The facts are sparse and are taken from the filings, statements, and argument of counsel.

Petitioner Brian Pyle is Ryan's father. SR:1. Ryan was reported as a "missing person" in August 2020. SR:1. Respondents were among the agencies who investigated the "missing person" report. *Id.*

Ryan was found deceased and in the fetal position in a remote area on the east side of the Missouri River near Platte in Charles Mix County in November 2020. *Id.* Ryan's vehicle was found abandoned on the west side of the Missouri River in Gregory County. SR:73-75. Ryan's deceased pet dog and some of his other belongings were found scattered near his vehicle or near his remains on either side of the Missouri River. SR:73-75.

During the course of an investigation, Respondents were unable to identify any theory suggesting Ryan's death was the result of a crime or foul play. SR:69. Respondents also could not identify any person who may be a possible suspect in a crime or foul play. *Id.* The most likely cause of death was determined to be hypothermia. SR:73. No potential date of death for Ryan was specifically identified in the record by either party.

Respondents communicated these conclusions to Petitioner and included Petitioner in Ryan's investigation through interviews and updates regarding the investigation. SR:74. Petitioner refused to accept Respondents' conclusions and hired private investigators and consultants. SR:72-75. Petitioner, even with the help of his private investigators and consultants, could not provide any theory or evidence making himself or Ryan a victim of a specific crime committed by any potentially identifiable person.

ARGUMENT

I

THE TRIAL COURT PROPERLY EXERCISED ITS DISCRETION WHEN IT QUASHED THE PROVISIONAL WRIT AND DISMISSED PETITIONER'S APPLICATION

A. Standard of Review

A trial court's decision to grant or deny "a writ of mandamus is reviewed for an abuse of discretion." *Puffy's, LLC v. Department of Health*, 2025 S.D. 10, ¶ 26, 18 N.W.3d 134, 142 (citing *Krsnak v. S.D.*

Dep't of Env't & Nat. Res., 2012 S.D. 89, ¶ 8, 824 N.W.2d 429, 433).

“An abuse of discretion refers to a discretion exercised to an end or purpose not justified by, and clearly against reason and evidence.”

Puffy's, 2025 S.D. 10, ¶ 26, 18 N.W.3d at 142 (citation omitted).

“Underlying questions of statutory interpretation and application in the mandamus action are questions of law” that are reviewed *de novo*. *Id.* (citing *Bohn v. Bueno*, 2024 S.D. 6, ¶ 12, 3 N.W.3d 441, 447 (other citations omitted)). The threshold inquiry as to whether a plain, speedy, and adequate remedy exists in the ordinary course of law is reviewed *de novo*. *Hauck v. Clay County Commission*, 2023 S.D. 43, ¶ 11, 994 N.W.2d 707, 711.

B. Petitioner Did Not Exhaust All Available Remedies

“South Dakota law allows a trial court to issue a writ of mandamus where *no plain, speedy, and adequate remedy exists* in the ordinary course of law.” *Krsnak*, 2012 S.D. 89, ¶ 9, 824 N.W.2d at 433-34 (citing SDCL 21-29-1 and -2) (emphasis added). “Exhaustion of administrative remedies is a fundamental principle that requires the withholding of judicial relief on a claim or dispute cognizable by an administrative agency until the administrative process has run its course.” *Puffy's*, 2025 S.D. 10, ¶ 27, 18 N.W.3d at 142 (internal quotations omitted) (citing *S.D. Bd. of Regents v. Heege*, 428 N.W.2d 535, 539 (S.D. 1988)) (other citations omitted). Only when a government agency’s failure to act forecloses an aggrieved party’s ability

to appeal is the aggrieved party “free to pursue other remedies such as mandamus.” *Puffy’s*, 2025 S.D. 10, ¶ 32, 18 N.W.3d at 143-44 (citations omitted).

Petitioner claims that, prior to seeking mandamus, he had requested the records he seeks from Respondents on “numerous” occasions. SR:1; PB:3. Petitioner’s claim is not supported by evidence in the settled record. Instead, it appears that Petitioner only officially requested the records from Respondents one known time, on January 4, 2024 in a letter written to the South Dakota Attorney General. SR:15-16. The Attorney General’s Office did not respond in writing to Petitioner’s January 4, 2024 request and did not provide the requested records.¹ SR:13.

In requesting disclosure of documents or records from a government agency, the requesting party may make an “informal request” to the custodian of the record. SDCL 1-27-35. If an informal request is denied, a second written request may be made pursuant to SDCL 1-27-37. If the government agency’s public record officer does not respond, the request is considered denied. SDCL 1-27-37(5).

Once a second written request is denied, the requesting party may file a written notice of review with the Office of Hearing Examiners. SDCL 1-27-38. The Office of Hearing Examiners will then proceed

¹ SDCL 1-27-1.5 exempts certain law enforcement records from public disclosure.

according to SDCL chapter 1-26 and SDCL 1-27-39 through -41, inclusive. The Office of Hearing Examiner's decision may be appealed to the circuit court pursuant to SDCL chapter 1-26 and 1-27-41. Thereafter, the circuit court's decision may be appealed to the South Dakota Supreme Court under SDCL 1-26-37. *See, e.g., Mercer v. South Dakota Attorney General Office*, 2015 S.D. 31, 864 N.W.2d 299.

Petitioner skipped all of the above steps. Petitioner stopped at an informal request and proceeded directly to mandamus. Petitioner is, at the very least, required to go through the proper administrative procedure first. *Compare Puffy's*, 2025 S.D. 10, 18 N.W.3d 134 (finding that no applicable administrative remedy in statute or rule actually existed for the Department of Health's failure to act as required) *with Jensen v. Lincoln County Bd. of Com'rs*, 2006 S.D. 61, ¶ 6, 718 N.W.2d 606, 609 (holding that "the Legislature specifically gave a taxpayer the right to bring a mandamus proceeding against the proper official or officials in order to compel specific performance of any duty required by the state zoning laws or county ordinances.").

"The exhaustion principle provides that no one is entitled to judicial relief for a supposed or threatened injury until the prescribed administrative remedy has been exhausted." *Puffy's*, 2025 S.D. 10, ¶ 28, 18 N.W.3d at 143. Because Petitioner has not exhausted all administrative remedies, mandamus is not available to him, and thus, the trial court's order was proper.

C. Petitioner Has No Legal Right to Performance of the Requested Duty and Respondents Have no Clear Duty to Perform

A writ of mandamus may be issued to “compel the performance of an act which the law specially enjoins as a duty resulting from office, trust, or station[.]” SDCL 21-29-1. Mandamus is “an extraordinary remedy that will issue only when the duty to act is clear.” *Bohn*, 2024 S.D. 6, ¶ 13, 3 N.W.3d at 447 (citations omitted). This caution is well-reasoned. “Mandamus is a potent but precise remedy. Its power lies in its expediency; its precision in its narrow application.” *Schafer v. Deuel Count Bd. of Com’rs*, 2006 S.D. 106, ¶ 7, 725 N.W.2d 241, 244 (citation omitted).

First, the law under which Petitioner seeks mandamus does not apply to him. Petitioner is not a victim under Marsy’s Law. Marsy’s Law was passed as a Constitutional amendment in 2016. S.D. Const. Art VI, § 29 (amended by Session Law 2018, chapter 2, § 2).

“Constitutional amendments are adopted for the purpose of making a change in the existing system and we are under the duty to consider the old law, the mischief, and the remedy, and interpret the constitution broadly to accomplish the manifest purpose of the amendment.” *In re Issuance of Summons Compelling Essential Witness to Appear and Testify in the State of Minnesota*, 2018 S.D. 16, ¶ 14, 908 N.W.2d 160, 166 (citations omitted). “Where a constitutional provision is quite plain in its language, [this Court] construe[s] it according to its natural

import.” *Id.* (quoting *Brendtro v. Nelson*, 2006 S.D. 71, ¶ 16, 720 N.W.2d 670, 675).

The provisions of Marsy’s Law were established to “ensure that the victim has a meaningful role throughout the criminal and juvenile justice systems.” S.D. Const. Art VI, § 29. As used in Marsy’s Law, the term “victim” means “a person against whom a crime or delinquent act is committed[,]” including a deceased victim’s certain family members. *Id.*; Op. S.D. Atty. Gen. 16-02 (written prior to the 2018 amendment to Marsy’s Law); *see also* SDCL 23A-28C-4 (defining a victim as “any person being the direct subject of an alleged act that would constitute” any of the thereafter listed crimes).

Prior to its 2018 amendment, Marsy’s law rights explicitly attached “at the time of victimization.” Session Law 2018, Chapter 2, § 2. Now, the text of Marsy’s Law says that it only applies when a “crime or delinquent act is committed.” S.D. Const. Art. VI, § 29. The “predominant purpose of Marsy’s Law is to ensure that crime victims are kept informed and allowed to meaningfully participate in the criminal justice system throughout the time a crime is *prosecuted* and *punished*.” *In re Issuance*, 2018 S.D. 16, ¶ 15, 908 N.W.2d at 166 (holding that victims of crimes which occurred and are being prosecuted in a different state do not have South Dakota Marsy’s Law rights and also noting that enforcement of victims’ rights is done with the court that has jurisdiction “over the [criminal] case.”) (emphasis added); *see*,

e.g., *State v. Waldner*, 2024 S.D. 67, ¶¶ 43-50, 14 N.W.3d 229, 243-46 (discussing a victim’s Marsy’s Law rights in light of the accused’s requests for information in the criminal case) *and State v. Antuna*, 2024 S.D. 78, ¶¶ 29-30, 15 N.W.3d 439, 448 (same).

Nothing in the text of Marsy’s Law hints that a law enforcement investigation, whether by DCI or any other state or local agency, vests a person with Marsy’s Law rights. Investigations are often required to be performed regardless of whether a crime was even committed. *See* SDCL 7-12-1 (sheriffs are required to “keep and preserve the peace,” may “call to aid any person” as necessary, etc.), SDCL 9-29-16, -18, *and* -19 (similar requirements for police chiefs), SDCL 23-3-12 (“It shall be the duty of DCI to prevent and detect violations of the laws of the state.”), SDCL 23-3-14 (DCI must cooperate with other local and state law enforcement “in performance of their duties relating to crime and criminal proceedings.”), *and* SDCL 23-3-18.1 *through* 23-3-19, *inclusive* (regarding DCI’s and other law enforcement agencies’ obligations to investigate and track missing persons cases and potential criminal violations). Indeed, just because a law enforcement agency investigates a matter does not mean that a crime has occurred or that a victim exists.

It follows that Marsy’s law can only apply when an identifiable crime is committed against an identifiable victim. Such is not the case here. Law enforcement could not conclude through careful examination

that any crime occurred in Ryan's death or that any potential suspect or further investigative leads exist.

The lack of a workable, reasonable theory to tie Ryan's death to a crime committed by a potentially identifiable suspect under any burden is dispositive. Even Petitioner could only categorize law enforcement's efforts as a "missing persons" investigation, not a criminal investigation. SR:1, 21; PB:3.

Make no mistake, Respondents sympathize with Petitioner's position as a grieving father. Respondents kept Petitioner up to speed on the findings and results of their investigation and are willing to continue to speak with Petitioner about the same. SR:74, 82. But to hold that Petitioner falls under the umbrella of Marsy's Law definition of a victim under these facts would stretch the Constitution beyond its well-intended and practical mandates. This Court should refuse to "construe a constitutional provision to arrive at a strained, unpractical[,] or absurd result." *Brendtro*, 2006 S.D. 71, ¶ 30, 720 N.W.2d at 680 (citation omitted). Petitioner is not a victim under Marsy's Law.

Second, even if this Court determines that Marsy's Law applies to Petitioner, Marsy's Law does not give Petitioner a clear legal right, nor does it obligate Respondents, to performance of the requested duty.

A writ of mandamus "creates no duty itself and does not act upon doubtful or unsettled law." *Bohn*, 2024 S.D. 6, ¶ 13, 3 N.W.3d at 448

(citations omitted). “Mandamus may only be used to compel ministerial duties, not discretionary ones.” *Krsnak*, 2012 S.D. 89, ¶ 10, 824 N.W.2d at 434 (citations omitted). “When public officials have a mandatory duty to perform[,] mandamus may require performance but mandamus may not dictate details when there is discretion in how the duty is to be performed.” *Id.* (citation omitted).

There are nineteen enumerated rights in Marsy’s Law. S.D. Const. Art. VI, § 29. The vast majority of the nineteen rights apply directly to the victim’s role in the criminal or juvenile justice proceedings against an accused after the accused has been charged with a crime. S.D. Const Art. VI, §§ 29(3)-(19). The other two regard general rights to due process, fairness, dignity, and freedom from intimidation, harassment and abuse. S.D. Const. Art. VI, §§ 29(1)-(2). None of the rights listed in Marsy’s Law suggest a victim has a right to receive a copy of law enforcement’s reports or other records relating to the investigation.

General rights of due process, fairness, and dignity are not enough to create a clear ministerial obligation on the Respondents to provide these types of records to a victim. *Compare* S.D. Const. Art. VI, § 29(1) *with Puffy’s*, 2025 S.D. 10, ¶¶ 39-44, 18 N.W.3d at 145-46 (holding that an administrative rule stating that the respondents “must” perform a specific act creates a clear ministerial obligation and noting that the Court “cannot rewrite laws to add language that simply is not

there.”) *and Thompson v. Lynde*, 2018 S.D. 69, ¶¶ 7-13, 918 N.W.2d 880, 883-84 (holding that failing to substantially comply with “express conditions” prerequisite to a referendum petition being required to be placed on a ballot by a county auditor prevented the petitioner’s from succeeding on a writ of mandamus) *and Krsnak*, 2012 S.D. 89, ¶ 22, 824 N.W.2d at 437-38 (noting that if respondents had a “specific duty to act, that duty must be apparent in state law”). No mandatory, clear obligation exists here.

Rather, the opposite is true. Providing law enforcement reports or other related material to victims is entirely discretionary absent a court order. SDCL 23A-28C-1(14) (“Victims of the crime” have the right to “be provided a copy of any report of law enforcement that is related to the crime, *at the discretion of the state’s attorney*, or upon motion and order of the court.”); *see also* SDCL 1-27-1.5(5) (exempting records “developed or received by law enforcement agencies” from public if the records “constitute part of the . . . investigation”) *and Mercer*, 2015 S.D. 31, ¶¶ 19-22, 864 N.W.2d at 304-05 (holding that SDCL 1-27-37 grants the custodian of such records discretion to grant or deny a request for such records in whole or in part).

A writ of mandamus is not the proper avenue by which Petitioner could obtain the relief he seeks. Petitioner does not qualify as a victim under Marsy’s Law. And even if he did, Respondents are under no clear

ministerial duty because no law mandates the reports be turned over.
Thus, the trial court's order was proper. This Court should affirm.

CONCLUSION

Respondents respectfully request that this Court affirm the trial court's Memorandum Decision and Order Quashing Provisional Writ of Mandamus and Dismissing Application.

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

1. I certify that the Appellee's Brief is within the limitation provided for in SDCL 15-26A-66(b) using Bookman Old Style typeface in 12-point type. Appellee's Brief contains 3,243 words.

2. I certify that the word processing software used to prepare this brief is Microsoft Word 2016.

Dated this 16th day of December 2025.

/s/ Nolan Welker

Nolan Welker

Assistant Attorney General

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this December 16, 2025, a true and correct copy of Appellee's Brief in the matter of *Brian Pyle v. State of South Dakota, South Dakota Division of Criminal Investigation, Marty Jackley, South Dakota Attorney General, Steve Cotton, Charles Mix County State's Attorney, Amy Bartling, Gregory County State's Attorney, Charles Mix Sheriff's Office, and Gregory County Sheriff's Office* was served via Odyssey File and Serve upon Manuel de Castro at mdecastro1@yahoo.com.

Dated this 16th day of December 2025.

/s/ Nolan Welker

Nolan Welker

Assistant Attorney General

IN THE SUPREME COURT
STATE OF SOUTH DAKOTA

APPEAL NO. 31092

BRIAN H. PYLE,
Plaintiff and Appellant,
v.
**STATE OF SOUTH DAKOTA, SOUTH
DAKOTA DIVISION OF CRIMINAL
INVESTIGATION, MARTY JACKLEY,
SOUTH DAKOTA ATTORNEY GENERAL,
STEVE COTTON, CHARLES MIX STATE'S
ATTORNEY, AMY BARTLING, GREGORY
COUNTY STATE'S ATTORNEY,
CHARLES MIX SHERIFF'S OFFICE, AND
GREGORY COUNTY SHERIFF'S OFFICE,**
Defendant and Appellee.

APPEAL FROM THE CIRCUIT COURT
FIRST JUDICIAL CIRCUIT
CHARLES MIX COUNTY, SOUTH DAKOTA

THE HONORABLE BRUCE ANDERSON
Circuit Court Judge

APPELLANT'S REPLY BRIEF

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Notice of Appeal Filed May 13, 2025

TABLE OF CONTENTS

SECTION	PAGE
JURISDICTIONAL STATEMENT	1
STATEMENT OF LEGAL ISSUES	2
STATEMENT OF THE CASE	2
STATEMENT OF THE FACTS	3
ARGUMENT	3
CONCLUSION	6
CERTIFICATE OF SERVICE	7

TABLE OF AUTHORITIES

STATUTES CITED	PAGE
S.D.C.L. § 15-26A-3	2
S.D.C.L. § 23A-28C-4	5
S.D.CL. CH. 1 – 27	5
S.D. CONS. ART. 6 § 29	2
S.D. CONS. ART. 6 § 29 (1)	5

CASES CITED	PAGE
<i>Anderson v. City of Sioux Falls</i> , 384 NW2d 666, 668 (SD 1986)	3
<i>Asper v. Nelson</i> , 896 NW2d 665, 668 (SD 2017)	3
<i>Bohn v. Bueno</i> , 3 NW3d 441, 447 (SD 2024)	3
<i>In re Issuance of Summons Compelling Essential Witness to Appear and Testify in State of Minnesota</i> , 908 NW2d 160, 166 9SD 2018)	5
<i>Krsnak v. S.D. Dep't of En't and Nat. Res.</i> , 2012 824 NW2d 429, 434 9SD 2012)	4
<i>Okerson v. Common Council of City of Hot Springs</i> , NW2d 531, 533 (SD 2009)	4
<i>Poppen v. Walker</i> , 520 NW2d 238, 242 (SD 1994))	6
<i>Rupert v. City of Rapid City</i> , 827 NW2d 55, 71 n. 10 (SD 2013)	6
<i>Sorrels v. Queen of Peace Hosp.</i> , 575 NW2d 240, 242 (SD 1998)	4
<i>State v. Fierro</i> , 853 NW2d 235, 243 (SD 2014)	2, 6
<i>Willoughby v. Grim</i> , 581 NW2d 165, 167 (SD 1998)	3
<i>Woodruff v. Bd. Of Comm'rs for Hand Cnty</i> , 741 NW.2d 746, 747 (SD 2007)	4

IN THE SUPREME COURT
STATE OF SOUTH DAKOTA

No. 31092

BRIAN PYLE,

Petitioner/Appellant,

vs.

STATE OF SOUTH DAKOTA,
SOUTH DAKOTA DIVISION OF
CRIMINAL INVESTIGATION,
MARTY JACKLEY, SOUTH DAKOTA
ATTORNEY GENERAL, STEVE COTTON,
CHARLES MIX STATE'S ATTORNEY,
AMY BARTLING, GREGORY COUNTY
STATE'S ATTORNEY, CHARLES MIX
SHERIFF'S OFFICE, AND GREGORY
COUNTY SHERIFF'S OFFICE,

Respondents/Appellees.

PRELIMINARY STATEMENT

Defendant and Appellant, Brian Pyle, is referred to throughout this brief as "Brian" or "Appellant." Appellee, State of South Dakota, is referred to as "State" or "Appellee."

The transcript of the motion hearing is referred to as "M.H."

JURISDICTIONAL STATEMENT

On September 20, 2024, Petitioner, through counsel, filed an Application for Writ of Mandamus. On September 25, 2024, the Honorable Bruce Anderson signed a Peremptory Writ of Mandamus. The same was filed and served upon all parties in this matter. On October 15, 2024, the State filed a Motion to Quash the Writ of Mandamus. Subsequently both sides filed briefs for the trial court to consider. A hearing was held on December 16, 2024, at the Charles Mix County Courthouse in Lake Andes, South

Dakota. The trial court heard the parties of counsel and took the matter under advisement.

The trial court issued a Memorandum Decision on April 2, 2025. Thereafter the trial court signed an Order Quashing Provisional Writ of Mandamus and Dismissing Petition; the same was filed on April 8, 2025. Notice of Entry was filed on April 15, 2025.

Notice of Appeal was filed on May 13, 2025. This Court has jurisdiction pursuant to SDCL 15-26A-3.

STATEMENT OF LEGAL ISSUES

1. The trial court erred in denying petitioner's application for writ of mandamus

S.D. Cons. Art. 6 § 29

State v. Fierro, 853 NW2d 235, 243 (SD 2014)

STATEMENT OF THE CASE

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Notice of Appeal was filed on May 13, 2025. This Court has jurisdiction pursuant to SDCL 15-26A-3.

STATEMENT OF FACTS

Appellant hereby incorporates his previously set forth Statement of Facts as if set forth in full.

STANDARD OF REVIEW

“Circuit courts possess discretion in deciding whether to grant a writ of mandamus; thus, the appropriate standard of review on appeal is abuse of discretion.” *Asper v. Nelson*, 896 NW2d 665, 668 (SD 2017) (quoting *Willoughby v. Grim*, 581 NW2d 165, 167 (SD 1998)).

ARGUMENT

Appellant hereby incorporates his previously set forth Argument as if set forth in full and supplements the same with the following.

“A writ of mandamus is an extraordinary remedy that will issue only when the duty to act is clear.” *Bohn v. Bueno*, 3 NW3d 441, 447 (SD 2024)

“To prevail on a writ of mandamus or prohibition, Petitioners must show a ‘clear legal right to performance of the specific duty sought to be compelled and the [respondent] must have a definite legal obligation to perform a duty.’” *Bohn*, 3 NW3d at 448. “The writ of mandamus must be issued in all cases where there is not a plain, speedy, adequate remedy, in the ordinary court of law.” *Id.*

“The granting of a writ of mandamus is not a matter of absolute right, but is vested in the sound discretion of the court; and, where there is reason to doubt the necessity or propriety of issuing it, it should be refused.” *Id.* (quoting *Anderson v. City of Sioux Falls*, 384 NW2d 666, 668 (SD 1986)). “Mandamus is a potent, but precise remedy. Its power lies in its expediency; its precision in its narrow application. It commands the fulfillment of an existing legal duty, but creates no duty itself, and acts upon no doubtful or unsettled right.” *Okerson v.*

Common Council of City of Hot Springs, NW2d 531, 533 (SD 2009) (quoting *Sorrels v. Queen of Peace Hosp.*, 575 NW2d 240, 242 (SD 1998)).

Appellee argues that Pyle did not exhaust all available remedies prior to filing a Writ of Mandamus, however this is not correct.

The written request, included in the record sent by the undersigned counsel and received by the Attorney General's Office, certainly constituted an informal request. Brian Pyle had also previously personally requested the materials from the Attorney General's Office and had also requested the materials through the investigators he employed in this matter. All of the requests were either denied, or went unanswered leaving Pyle with "no plain, speedy, or adequate remedy in the ordinary course of law." *Krsnak v. SD Dept of Env't & Nat Res*, 824 NW2d 429, 433-434 (SD 2012). It is clear the Attorney General's Office has no intention of allowing Brian to simply review the file concerning the death of his son and quite frankly, doesn't care if Brian has any closure or peace of mind concerning the circumstances of his son's death.

A writ of mandamus "commands the fulfillment of an existing legal duty..." *Woodruff v. Bd. of Comm'rs for Hand Cnty.*, 741 NW. 2d 746, 747 (SD 2007). "To prevail on a writ of mandamus or prohibition, Petitioners must show 'a clear legal right to performance of the specific duty sought to be compelled and the [respondent] must have a definite legal obligation to perform that duty.'" *Krsnak v. S.D. Dep't of Env't and Nat. Res.*, 2012 824 NW2d 429, 434 (SD 2012). Further, a writ of "[m]andamus may only be used to compel ministerial duties, not discretionary duties." *Krsnak v. SD Dep't of Env't & Natural Res.*, 824 NW2d 429, 434 (SD 2012).

In this case, the Respondents have a clear legal duty to act under the South Dakota Constitution Article Six Section Twenty-nine ("Marcy's Law"), as Brian is a "victim" within the definition of this Constitutional Amendment. A criminal investigation

occurred into the death of Ryan, and under Marcy's Law, a victim, Brian, has "[t]he right to *due process* and to be treated with fairness and respect for the victim's dignity. . ."

S.D. Cons. Art. 6 § 29 (1) (emphasis added). The purpose of Marcy's Law is to guarantee victims, or their families in the event of a death, constitutional rights to be "...kept informed and allowed to meaningfully participate in the criminal justice system..." *In re Issuance of Summons Compelling Essential Witness to Appear and Testify in State of Minnesota*, 908 NW2d 160, 166 (SD 2018).

"This language, along with the nineteen enumerated rights in Article VI, § 29, show that the predominant purpose of Marsy's Law is to ensure that crime victims are kept informed and allowed to meaningfully participate in the criminal justice system throughout the time a crime is prosecuted and punished." *Id.* The term "victim" as used within Marsy's Law is defined as "a person against who a crime or delinquent act is committed[.]; and "[i]n the case of a victim who is killed or incapacitated as a result of the crime or delinquent act ... the term also includes And parent[.]" SD Const Art 6 § 29. Further, under SDCL 23A-28C-4 the term 'victim' is also defined as "any person being the direct subject" of any one of the enumerated assortments of criminal acts listed therein, or "[i]f the victim does not survive ... the term, victim, means the members of the immediate family of the primary victim." The trial court concluded that Appellant is not a victim under Marsy's Law because, at the present time, law enforcement has determined no crime has been committed. The trial court further cited a number of statutes indicating that records of a criminal investigation are protected and confidential records. See SDCL Ch. 1-27. This is contradictory to the trial court concluding that Brian is not considered a victim under Marsy's Law. Marsy's Law is a Constitutional Right and grants victims' significant rights. Such a narrow reading and interpretation of Marsy's Law by the trial court contravenes the entire intent of Marsy's Law.

The Respondents repeatedly point to statutory language as authority to continue withholding information related to Andrew’s death. However, under South Dakota law, a state statute cannot preempt a Constitutional Right. See *State v. Fierro*, 853 NW2d 235, 243 (SD 2014) (“Furthermore, our precent is clear that the Legislature cannot enact a statute that would preempt a citizen’s constitutional right....”); *Poppen v. Walker*, 520 NW2d 238, 242 (SD 1994) (“The legislature cannot define the scope of a constitutional provision by subsequent legislation.”); *Rupert v. City of Rapid City*, 827 NW2d 55, 71 n. 10 (SD 2013) (“As the Constitution is the ‘mother law,’ and statutory framework must conform to it and not vice versa.”) additional citations omitted.

Appellee argues that “[r]espondents sympathize with Petitioner’s position as a grieving father ... and are willing to continue to speak with Petitioner about the same”, but their actions thus far have shown to the contrary. Petitioner has simply requested over the duration of the investigation to read and view the investigative reports and findings. Petitioner has not requested copies of the reports or findings, but rather to sit in a room with counsel and his own investigator and review the materials as all investigation that Petitioner has done has deemed that his son was a victim of a crime. The State has done nothing but thwart said attempts to view the reports and allow him to have a “meaningful role” throughout the criminal justice system.

CONCLUSION

Under Marcy’s Law, Petitioner has a due process right to review material associated with the death of his son. His right to meaningfully participate in the criminal investigation has been infringed upon, and accordingly, Petitioner requests this Court reverse the trial court’s Order Quashing Provisional Writ of Mandamus and Dismissing Petition and order the State to allow Pyle, and his attorney and investigator, a chance to

read and review all medical records, police and investigative reports regarding his son's death.

Dated this 16th day of March, 2026.

/s/ Manuel J. de Castro, Jr.

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Appellant, through counsel, hereby respectfully requests oral argument in the above-entitled matter.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that he served one (1) copy of Appellant's Reply Brief upon the persons herein next designated all on the date below by email to said addresses, to wit:

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Dated this 16th day of March, 2026.

/s/ Manuel J. de Castro, Jr.

Manuel J. de Castro, Jr.