STATE OF MAINE
SUPREME JUDICIAL COURT
SITTING AS THE LAW COURT

LAW COURT DOCKET NO. Ken-25-137

ANDREW ROBBINS, et al.
Plaintiffs-Appellees

v.

STATE OF MAINE
Defendant-Appellant.

On Appeal from the Superior Court
Kennebec County

BRIEF OF DEFENDANT-APPELLANT STATE OF MAINE

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INTRODUCTION

This appeal focuses solely on the Superior Court's denial of the State of Maine's motion to dismiss Count V of Class Plaintiffs-Appellees' ("Robbins") First Amended Class Action Complaint for Injunctive and Declaratory Relief and Class Action Petition for Habeas Relief (Amended Complaint).

The Superior Court erred by not dismissing Count V for three independent reasons.

First, the State of Maine is immune. Sovereign immunity bars the State of Maine from being sued in its own courts, regardless of the relief sought, unless the Maine Legislature opts to expressly and unequivocally waive it. No waiver or exception applies here, even if Robbins is only pursuing declaratory relief. Said another way, the State of Maine cannot be forced into court without the Legislature's say-so.

Second, Robbins lacks a valid cause of action. Maine's Declaratory Judgments Act ("DJA") provides parties with a procedural remedy, not an alternative vehicle to get into court. Because Robbins points to no statutory or common-law authority that authorizes his declaratory claim against the State of Maine, Count V fails at the threshold.

Finally, Robbins has no standing to pursue Count V. Standing requires an injury that is traceable to the defendant and likely to be redressed by the court.

But Robbins names only the State of Maine itself, not any specific state official whose conduct could be enjoined or altered. A declaration in his favor would therefore be purely symbolic, not a form of meaningful relief.

For each of these reasons—sovereign immunity, absence of a cause of action, and lack of standing—Count V fails as a matter of law. This Court should vacate the Superior Court's order denying the State of Maine's Motion to Dismiss Count V and remand for entry of an order instructing the Superior Court to enter judgment in favor of the State of Maine.

FACTUAL AND PROCEDURAL HISTORY[1]

Robbins filed the operative Amended Complaint on May 31, 2025. App. at 85. Counts I and II are principally federal and state civil rights claims against members of MCPDS. *Id.* at 127-32. Count III is a class petition for habeas corpus relief against Maine's county sheriffs as administrators of Maine's county jails.[2] *Id.* at 132-33. Count IV was a declaratory judgment count lodged against the Maine Commission on Public Defense Services ("MCPDS"), and Count V is a

[1] Much of the lengthy history of this years-long litigation is irrelevant to the narrow issues presented in this appeal, which relates only to the validity of Robbins's declaratory claim against the State of Maine under Count V. This procedural history describes events relevant to this appeal, but a more fulsome history is available in parties' briefs filed in the expedited appeal of the Superior Court's bench trial decision, scheduled to be heard at this Court's October 2025 sitting. *See Robbins v. Me. Comm'n on Legal Def. Servs.*, Dkt. No. KEN-25-137.

[2] The State of Maine was also named a Respondent to Count III, but it was re-designated by the Superior Court—and continues to participate in the habeas portion of this litigation—as a "Party-in-Interest." *See* App. at 82.

nearly identical declaratory judgment count aimed at the State of Maine. *Id.* at 134-36. The State of Maine was not named as a defendant in any other count.

On June 14, 2024, the State of Maine moved to dismiss Count V, based on legal arguments consistent with those set forth below in this brief. *Id.* at 140-53. Other defendants filed their own tailored motions to dismiss, and argument on all initial dispositive motions was heard on July 31, 2024. *Id.* at 35.

Two weeks later, the Superior Court (*Murphy, J.*) issued an Order on Pending Motions, in which it dismissed the Attorney General of Maine from the lawsuit under the doctrine of sovereign immunity and lack of standing. *Id.* at 69-74. It dismissed the declaratory judgment count against MCPDS (Count IV), concluding that any potential relief against MCPDS officers named under Count I would be "sufficient to resolve the uncertainty regarding the lawfulness of the actions of the agency." *Id.* at 83. It further explained that it was "not inclined to grant the declaratory relief," because "Maine law holds that a 'trial court should only issue a declaratory judgment when some useful purpose will be served. *Id.* at 83 (quoting *Parker v. Dep't of Inland Fisheries and Wildlife*, 2024 ME 22, ¶ 15, n.3, 314 A.3d 208).

But the Superior Court denied the State of Maine's Motion to dismiss Count V. *Id.* at 74-82. Unlike the Attorney General of Maine, it concluded that the State of Maine may not assert a sovereign immunity defense. *Id.* at 74-81.

Specifically, it reasoned that this Court's decision in *Welch v. State of Maine*, 2004 ME 84, ¶¶ 6-10, 853 A.2d 214, established a discernable "basic principle" that "The doctrine of sovereign immunity does not preclude the Court from declaring the rights and obligations of the State when the doctrine's invocation would permit the State to avoid accountability to its citizens for rights guaranteed by the State and Federal Constitution." *Id.* at 78. It likewise rejected the State of Maine's argument that this Court's longtime precedents have consistently held that the DJA supplies no independent cause of action to file a lawsuit. *Id.* at 81-82. Instead, it determined that this Court's "recent jurisprudence suggest that parties may seek resolution of their disputes in actions for declaratory judgment under the DJA, thereby undercutting the State's contention that the DJA merely provides a remedy." *Id.* at 81.

The State of Maine filed a timely notice of appeal. *Id.* at 40. Although the legal issues underlying this brief and appeal continued to resurface at the summary judgment and post-trial stages of the Phase I trial held by the Superior Court, its August 13, 2024 "Order on Pending Motions" is the specific decision on review here.

Between August 13, 2024, and October 24, 2024, the Superior Court issued several orders related to the structure of the lawsuit and logistics of the Phase I trial set between Robbins and the MCPDS defendants. *Id.* at 36-44. On

September 13, 2024, the Superior Court held a conference of counsel to discuss the discovery schedule between Robbins and MCPDS in advance of trial. *Id.* at 38. During that conference, the State of Maine reasserted a desire to reserve the ability to conduct discovery in advance of a trial involving Count V if its sovereign immunity appeal were rejected, and the Superior Court assured the State of Maine that it would be permitted to engage in discovery if forced to go to trial. *Id.* at 161.

On October 24, 2024, a single Justice of this Court issued an Order Permitting Trial Court Action, which retroactively suspended the provisions of M.R. App. P. 3(b) and permitted the Superior Court to proceed "in the usual course as though no appeal had been taken." *Id.* 154. Thereafter, discovery continued to proceed between Robbins and MCPDS, though the State of Maine continued to not participate, having not yet answered the Amended Complaint and relying upon this Court's caselaw permitting parties to assert an immunity defense on appeal in advance of being subjected to the demands of discovery. *See, e.g.*, *Webb v. Haas*, 1999 ME 74, ¶ 5, 728 A.2d 1261 (noting that immunity "confers more than immunity from damages; it is intended to provide immunity from suit, since 'even such pretrial matters as discovery . . . can be peculiarly disruptive of efficient government.'" (quoting *Andrews v. Dep't of Envtl. Prot.*, 1998 ME 198, ¶ 4, 716 A.2d 212)).

On November 8, 2024, discovery between Robbins and MCPDS was set to close. On that date, the Superior Court held a scheduling conference whereupon it notified the State—over the State's objection—that it intended to reintegrate Count V back into the planned trial between Robbins and MCPDS. App. at 161. The Court confirmed this plan for the trial, again over the State's objection, at a conference of counsel held on November 12, 2024. *Id.* at 161-62.

According to the Superior Court's scheduling order, parties opting to seek summary judgment were required to file motions by November 22, 2024. *Id.* at 43. Although the State of Maine had not yet answered Robbins's Amended Complaint or participated in discovery, it filed a motion for summary judgment on that date, reasserting and preserving the defenses that it raised in its motion to dismiss. *Id.* at 48. It also filed that day a motion to continue the trial on Count V until after this appeal is decided, arguing that this Court's Order Permitting Trial Court Action did not require the Superior Court to incorporate Count V into the forthcoming trial and urging that it had a right to participate in discovery if—and only if—it did not prevail in this appeal. *Id.* at 158-72.

On Friday, January 3, 2025, the Superior Court issued a "Combined Order on Partially Dispositive Motions," which addressed these and other pre-trial motions. *Id.* at 173-213. Regarding the State of Maine's desire to preserve its

right to engage in pre-trial discovery after pressing its immunity appeal in this Court, the Order stated:

> With respect to Count V, the claim brought against the State of Maine, counsel for the State must now decide whether, in light of its pending appeal of the previous findings of this Court, it intends to pursue *limited* discovery in the form of depositions pursuant to Rule 56(h) as it has suggested in some of the filings on the pending motions. If the State wishes to do so, it must file a discovery plan with opposing counsel and the Court by January 6, 2025. The Court urges the State to begin to schedule any such depositions as soon as possible, and at the January 6, 2025 conference, the Court will discuss with counsel for the parties the deadlines for this discovery and how the parties will finally argue the issues presented in Count V.

Id. at 212-13 (emphasis in original). The Superior Court also confirmed that trial on all remaining Counts would begin on January 22, 2025, but it otherwise delayed ruling on the State of Maine's motion for summary judgment until after any discovery taken as a result of its order. *Id.* at 213.

Three days later, at the January 6, 2025 conference of counsel, the State of Maine—while preserving its objection to proceeding to trial on Count V without an opportunity for traditional discovery after this Court's review of this sovereign immunity appeal—requested that the Superior Court allow it to instead issue three interrogatories to Robbins, aimed at identifying which State of Maine agents or employees he believed were responsible for Count V. *See id.*

at 214-219. The Superior Court agreed, and Robbins provided his answers on January 13, 2025. *Id.*

While the State of Maine's motion for summary judgment on Count V was still pending, a three-day bench trial was held starting in late January 2025, focused mostly on the allegations in Counts I and III. *Id.* at 55-56. The State of Maine participated as a party-in-interest to the habeas issues in Count III and as a Defendant to Count V, to the extent that the Court opted to decide Count V at trial. Post-trial briefing was completed on February 28, 2025. *Id.* at 59.

On March 7, 2025, the Superior Court issued a Post-Trial Order, finding in Robbins's favor on Count I and Count III *Id.* at 221-61 On Count V, the Superior Court first reaffirmed its denial of the State of Maine's Motion to Dismiss. *Id.* at 262. It then stated in relevant part:

> Counsel for the State has represented to this Court on multiple occasions that the State would step into the shoes of MCPDS for any violations found by this Court. Now that the Court has found liability against the MCPDS Defendants, and after review of the *Avangrid* decision, the Court thinks it appropriate for the State to advise the Court as to whether the State will indeed step up and support the agency in providing a remedy for the violations found.
>
> Counsel for the State has ten days to respond to the Court's inquiry. If the State stands by its Counsel's previous statements to the Court, it will become "unnecessary" for this Court to consider or resolve the complex issues of first impression as to the injunctive relief requested by Plaintiffs.

Id. at 263-64. The court issued no declaratory relief under Count V.

The State of Maine responded to the Superior Court's inquiry on March 17, 2025, explaining that it had not previously committed that the State of Maine would "step into the shoes" of MCPDS if the Commission were found liable at trial. *Id.* at 265. The State of Maine also explained that because it did not know which state actors or employees might be the focus of undetermined injunctive relief under Count V, its counsel could not meaningfully make any commitments on behalf of the "State of Maine" to "support" MCPDS in providing a remedy. *Id.* at 265-67. Doing so could risk breaching the Maine Constitution's strong separation of powers, and it could also cause counsel to make representations on behalf of undetermined government actors without their knowledge or consent.

On March 27, 2025, MCPDS appealed the Superior Court's Post-Trial Order regarding Count I, and the State of Maine as party-in-interest in Count III appealed the Post-Trial Order regarding the habeas protocol that the court had set up pursuant to Count III. *Id.* at 59-60. With its motion for summary judgment on Count V still pending and no declaratory relief issued against it, the State of Maine did not file any additional appeals related to Count V.

On April 2, 2025, the State of Maine, in its capacity as party-in-interest to Count III, filed a motion in Superior Court, seeking to confirm that its previously scheduled events related to this litigation were on pause due to the two new

appeals. *Id.* at 61. After additional briefing and conferences of counsel, the Superior Court issued on May 7, 2025, a "Combined Order On All Pending Motions. ("Combined Order"). *Id.* at 268-92.

Regarding the State of Maine's response to the Superior Court's inquiry, the Combined Order stated that in light of the Maine Legislature's April 23, 2025 enactment of L.D. 1101, "An Act to Address the Limited Availability of Counsel in Courts to Represent Indigent Parties in Matters Affecting Their Fundamental Rights," and "the Legislature's active and ongoing oversight of Maine's indigent defense system, the [Superior] Court conclude[d] that it [was] not necessary for it to address the issue of first to impression as to its authority, or any Maine court's authority, to order injunctive relief against the State." *Id.* at 291. It further added that "it could be said that the State of Maine's three branches of government are working within their own spheres of authority to address the same problem." *Id.* Finally, it concluded that these developments "constitute the work of 'the State'" to remedy Robbins's harms. *Id*.

Separately, the Combined Order informed the parties that the Superior Court intended to move forward with habeas corpus hearings while the two additional appeals were pending. *Id.* at 291-92. In response, the State of Maine, as party-in-interest to Count III, sought emergency relief in this Court, and on

June 20, 2025, docketed in Ken-25-137, the Chief Justice issued an Order Staying Trial Court Action On Count 3 Habeas Corpus Hearings. *Id.* at 293.

Briefing followed thereafter on this appeal of the Superior Court's August 13, 2024 denial of the State of Maine's motion to dismiss. As of this date, the Superior Court has issued no relief against the State of Maine as to Count V, and the State of Maine has not yet filed an answer to the Amended Complaint.

SUMMARY OF THE ARGUMENT

This appeal turns on three independent, well-settled principles of Maine law. Each is sufficient to compel dismissal of Count V. Viewed collectively, they leave no doubt that the Superior Court's order should be vacated.

The first and most fundamental principle is sovereign immunity, a doctrine that protects the State of Maine from being sued in its own state courts without its consent. Sovereign immunity does not merely safeguard the State's treasury, but also secures the State of Maine's ability to govern without being hauled into court at the whim of any private litigant. Maine has chosen to waive its immunity only in limited, clearly defined contexts. None apply here. It does not matter that Robbins frames his request as one for declaratory relief rather than damages. This Court has consistently held that sovereign immunity applies regardless of the remedy sought. Because the Maine Legislature has not

authorized claims of this kind, the State of Maine remains immune, and Count V should have been dismissed on that basis alone.

Count V likewise fails for lacking a valid cause of action. Plaintiffs cannot sue the State of Maine simply by invoking the DJA. The statute is procedural, not substantive: it permits courts to declare rights and obligations under statutes, but only in connection with legal disputes that can invoke some other basis for the court's jurisdiction. Without an independent statutory or common-law basis for his claim, Robbins has no foothold to proceed. By treating the DJA as a freestanding cause of action, the Superior Court overlooked the well-settled distinction between remedy and right.

Finally, Robbins lacks standing to bring Count V. To establish standing on any given Count against any given defendant, plaintiffs must sufficiently allege that each defendant has caused them to suffer a particularized legal injury that may be redressed via judicial relief. Robbins does not meet that test. Under Count V, he names only the State of Maine itself, not any official whose conduct could be enjoined or coerced in any way by a court order. And even if the Superior Court were to issue the declaration that Robbins seeks on Count V, it would have no practical effect on his alleged injury. Without a defendant whose actions can be remedied, Count V amounts to a generalized grievance about state policy—exactly the kind of dispute that standing doctrine forbids.

Each of these flaws is fatal. Sovereign immunity bars Count V outright. The lack of a cause of action leaves the Court without any substantive claim to adjudicate. And Robbins's lack of standing deprives the judiciary of a real case or controversy that can be resolved or remedied. For each of these reasons, the Superior Court should have dismissed Count V.

STATEMENT OF THE ISSUES ON APPEAL

I. The State of Maine is immune from suit in its own state courts, regardless of the relief sought, except in circumstances where the Legislature has explicitly waived the State's sovereign immunity. Because the Legislature has not waived Maine's sovereign immunity in this action, should the Superior Court have granted the State of Maine's motion to dismiss Count V?

II. Under this Court's consistent precedents, plaintiffs may seek a declaratory judgment under 14 M.R.S. § 5954 as a form of remedy if—but only if—they have an independent cause of action to file suit. Here, Robbins pointed to no such cause of action for seeking a declaratory judgment against the State of Maine. Accordingly, should the Superior Court have granted the State of Maine's Motion to Dismiss Count V?

III. Maine's prudential standing doctrine requires plaintiffs to establish a minimum legal interest that trial courts may redress by issuing relief against a defendant party. Under Count V of this suit, Robbins seeks a declaration against the State of Maine that is not authorized by law and will not redress any aspect of his purported legal injuries. Should the Superior Court therefore have dismissed Count V for lack of standing?

The Answer to each of the above questions is "yes."

ARGUMENT

I. Sovereign immunity bars Count V against the State of Maine.

A. Standard of Appellate Review

Because the issue of whether a party is entitled to the defense of sovereign immunity is purely a question of law, this Court reviews de novo the Superior Court's denial of the State of Maine's Motion to Dismiss Count V. *Knowlton v. Attorney General*, 2009 ME 79, ¶ 10, 976 A.2d 973; *see also Ramsey v. Baxter Title Co.*, 2012 ME 113, ¶ 6, 54 A.3d 710 ("We 'review de novo the legal sufficiency of a complaint when it has been challenged by a motion to dismiss.'" (quoting *McCormick v. Crane*, 2012 ME 20, ¶ 5, 37 A.3d 295)).

B. Under this Court's precedent, the "death-knell" exception permits immediate review of the State of Maine's sovereign immunity defense.

This Court has long allowed interlocutory appeals from trial court decisions denying motions based on sovereign immunity. *See Knowlton*, 2009 ME 79, ¶ 10, 976 A.2d 973 (noting that "[i]mmediate review is permitted pursuant to the death knell exception . . . where the motion was based on a claim of immunity"); *J.R.M., Inc. v. City of Portland*, 669 A.2d 159, 160-61 (Me. 1995) (noting that where immunity "may be determined on the basis of the pleadings alone," then such appeals "fall within an exception to the final judgment rule" and are immediately appealable).

C. Because the State of Maine has not relinquished its sovereign immunity in this action, the Superior Court's failure to dismiss Count V was error.

"The immunity of the sovereign from suit is one of the highest attributes inherent in the nature of sovereignty, and [it] can only be waived by specific authority conferred by an enactment of the Legislature.'" *Knowlton*, 2009 ME 79, ¶ 12, 976 A.2d 973 (quotation marks omitted); *cf. Seminole Tribe of Fla. v. Florida*, 517 U.S. 44, 54-58 (1996). Where a defendant is entitled to assert sovereign immunity, dismissal and judgment in the defendant's favor are both warranted. *See, e.g., Knowlton*, 2009 ME 79, ¶ 18, 976 A.2d 973 (instructing Superior Court to enter summary judgment in favor of the Attorney General on the basis of sovereign immunity); *J.R.M., Inc.*, 669 A.2d at 161 (instructing trial court to dismiss count against defendant on the basis of sovereign immunity).

Although the Eleventh Amendment to the federal constitution does not itself bind state court suits, the same doctrine of sovereign immunity that underlies the Eleventh Amendment nevertheless applies. *See Scott v. Androscoggin Cty. Jail*, 2004 ME 143, ¶ 23, 866 A.2d 88 ("[T]he State of Maine retains its privilege to assert sovereign immunity in its own courts."); *Alden v. State*, 1998 ME 200, ¶ 11, 715 A.2d 172 (discussing State of Maine's immunity from suit in its own courts), *aff'd by Alden v. Maine*, 527 U.S. 706 (1999). In fact, this Court has "relied in the past on federal Eleventh Amendment sovereign

immunity jurisprudence to develop [Maine's] own doctrine of sovereign immunity." *Moody v. Comm'r, Dep't of Human Servs.*, 661 A.2d 156, 159 (Me. 1995) (Lipez, J., concurring); *accord Alden*, 1998 ME 200, ¶ 8, 715 A.2d 172.

Maine scrupulously guards its sovereign immunity rights. *See* 14 M.R.S. § 8118 ("Nothing in this chapter or any other provision of state law shall be construed to waive the rights and protections of the State under the Eleventh Amendment of the United States Constitution, except where such waiver is explicitly stated by law . . . .") (emphasis added) (Westlaw Sept. 23, 2025). And it has relinquished its immunity only for a narrow band of claims. *See, e.g.,* 14 M.R.S. §§ 8103, 8104-A & 8104-B (Westlaw Sept. 23, 2025). None apply here.

Nor does a state forgo its sovereign immunity rights when a plaintiff seeks only declaratory or injunctive relief, as opposed to monetary damages. "States and their agencies are entitled to sovereign immunity 'regardless of the relief sought.'" *Poirier v. Mass. Dept. of Corr.*, 558 F.3d 92, 97 (1st Cir. 2009) (quoting *Kentucky v. Graham*, 473 U.S. 159, 167 n.14 (1985)). Likewise, as this Court explained in *Bell v. Town of Wells*, where it concluded that private plaintiffs could maintain a declaratory judgment action against a municipality but not the State of Maine, "the Declaratory Judgments Act . . . does not override sovereign immunity when that doctrine is properly applied[.]" 510 A.2d 509, 515 (Me. 1986) (emphasis added).

This appeal should start and end there. Because the DJA does not override the State of Maine's sovereign immunity, the Superior Court should have dismissed Count V.

D. The State of Maine's discretion to assert (or not) its sovereign immunity in prior suits does not alter its right to assert a sovereign immunity defense here.

Below, the Superior Court expressed skepticism of the State of Maine's ability to assert sovereign immunity in this case in light of decisions from this Court, where it would appear that the State of Maine (or its agencies) chose not to assert the defense. *See, e.g.*, App. at 80 ("While the State suggests that it is up to the Legislature—or perhaps even an Assistant attorney General—to decide whether sovereign immunity will be waived as a defense, the Court observes that it 'is the duty as well as the function of this Court to safeguard the fundamental principles of government vouchsafed by the State and Federal Constitutions.") (cleaned up). These cases include *NECEC Transmission LLC v. Bureau of Parks & Lands*, 2022 ME 48, ¶ 3, 281 A.3d 618, and *Parker v. Department of Inland Fisheries and Wildlife*, 2024 ME 22, ¶ 4, 314 A.3d 208.

Specifically, the Superior Court's theory seems to be that if the State of Maine could have successfully asserted a sovereign immunity defense in a declaratory judgment action such as this one, then this Court would not have needed to decide the legal issues present in *NECEC* and *Parker*, but could have

instead disposed of them on the basis of sovereign immunity. *Id.* There are two problems with this reasoning.

First, the State of Maine's discretionary choices regarding when to raise the defense of sovereign immunity in one lawsuit do not bind its legal defenses in future, unrelated lawsuits. Second, unlike unwaivable doctrines such as standing, justiciability, or subject matter jurisdiction, courts do not have an independent obligation to examine whether the State is entitled to assert the affirmative defense of sovereign immunity. *See, e.g. Maysonet-Robles v. Cabrero*, 323 F.3d 43, 52 (1st Cir. 2003) (noting that States are permitted to waive sovereign immunity by engaging in "litigation conduct" that is "unambiguous."). Therefore, this Court was under no obligation to analyze sovereign immunity—and in fact performed no such analysis—in *NECEC* or *Parker*. These decisions' existence do not undermine the State of Maine's right to assert sovereign immunity here.

Nor is the State of Maine's decision to assert a sovereign immunity defense in this action, when it has not done so in every action, evidence of some sort of unclean hands, as implied by the Superior Court. *See* App. at 80. This Court has underscored that one key difference between sovereign immunity and other traditional affirmative defenses is that once it is placed into dispute, the defense of sovereign immunity is treated as jurisdictional in nature and can

be raised for the first time on appeal. *See, e.g.*, *Rutherford v. City of Portland*, 494 A.2d 673, 675 (Me. 1985) (stating that "sovereign immunity cannot be waived by imposition of procedural requirements or forfeited by procedural defaults); *see also Larson v. United States*, 274 F.3d 643, 648 (1st Cir. 2001) (noting sovereign immunity is a jurisdictional defense that can be raised for the first time on appeal).

If a hypothetical failure to raise sovereign immunity before a trial court does not bar the State of Maine from litigating the defense for the first time on appeal, then certainly its discretionary choices regarding when to assert sovereign immunity in unrelated prior litigation bears no effect on its ability to assert the defense here. Simply put, the Bureau of Public Lands' decision not to press a sovereign immunity defense in *NECEC*, 2022 ME 48, ¶ 3, 281 A.3d 618—or any State defendant's failure to do so in any other matter—cannot bind the State of Maine in this litigation.

Nor would it matter if Robbins were seeking only declaratory relief against the State of Maine, with no prospect of obtaining damages or an injunction. Sovereign immunity's "jurisdictional bar applies regardless of the nature of the relief sought." *Pennhurst State School & Hosp. v. Halderman*, 465 U.S. 89, 100 (1984); *see also Bell*, 410 A.2d at 515 ("the Declaratory Judgments Act alone does not override sovereign immunity when that doctrine is properly

applied"); *Drake v. Smith*, 390 A.2d 541, 544 (Me. 1978) ("The immunity of the state from suit, a much abused concept, is not altered or modified by the Declaratory Judgments Act.") (quoting *Lister v. Bd. of Regents of the Univ. of Wisc. Sys.*, 24 N.W. 2d 610, 625 (Wisc. 1976)).

Because the State of Maine does not consent to suit, it was entitled to dismissal of Count V under the doctrine of sovereign immunity.

E. Nonbinding and foreign caselaw does not support establishing an exception to the State of Maine's sovereign immunity.

As explained above, the State retains its immunity from suit unless the Legislature has expressly waived it or the State has consented to a particular suit. But below, the Superior Court relied upon a quiet-title decision from this Court to discern that "[t]he doctrine of sovereign immunity does not preclude the [Superior] Court from declaring the rights and obligations of the State when the doctrine's invocation would permit the State to avoid accountability to its citizens for rights guaranteed by the State and Federal Constitution." *See* App. 78 (citing *Welch*, 2004 ME 84, ¶¶ 6-10, 853 A.2d 214).

But that is not the holding of *Welch*. Instead, *Welch*'s holding is inextricably linked to its status as a quiet-title action. *See Welch*, 2004 ME 84, ¶ 5, 853 A.2d 214 ("Thus, we have not before answered whether sovereign immunity prohibits our courts from resolving disputes over property in which

the State holds title. We turn to that question now.") (emphasis added). As this Court stated, "invoking the doctrine of sovereign immunity in a quiet title action 'is illogical because it assumes the merits—the existence of the State's interest—in order to avoid litigating the merits . . . [and] would represent a radical assault on the stability of title to real property within this State and the availability of legal remedies to defend it." *Welch*, 2004 ME 84, ¶ 9, 853 A.2d 214. Here, invoking sovereign immunity does not require a trial court to assume the merits of the underlying legal claims.

The Superior Court's erroneous reliance on *Welch* clashes directly with this both this Court's more recent binding instruction that sovereign immunity "can only be waived by specific authority conferred by an enactment of the Legislature," *Knowlton*, 2009 ME 79, ¶ 12, 976 A.2d 973, and this Court's longstanding binding precedent that the "Declaratory Judgments Act alone does not override sovereign immunity when that doctrine is properly applied," *Bell*, 510 A.2d at 515.[3]

[3] As a practical matter, the Superior Court's assertion that its decision would prevent "the State [from] avoid[ing] accountability to its citizens," *see* App. at 78, is flatly wrong. Allowing Robbins to name the amorphous "State of Maine" as a defendant in Count V, against whom the Superior Court can issue no enforceable relief—rather than an actual state official who would not be free to ignore a judgment or court order—represents a greater risk to the principles of government accountability.

It was also improper for the Superior Court to discern an exception to sovereign immunity by relying upon foreign caselaw, interpreting other states' constitutions. This Court's body of precedent supplies an unambiguous answer to the question of whether the State of Maine can assert sovereign immunity: Yes, because it has not been explicitly waived by the Legislature. *Knowlton*, 2009 ME 79, ¶ 12, 976 A.2d 973. But even if it were appropriate to look at foreign caselaw, the decisions cited below by the Superior Court and Robbins are materially distinguishable from the legal issues presented here.

For example, the Superior Court pointed to a decision establishing an exception grounded in the unique contours of Kentucky law. *See* App. at 78 n.5. Specifically, the Kentucky Supreme Court concluded that the nature of Kentucky's declaratory judgment act permits actions "brought standing alone," and that sovereign immunity was not a legitimate defense if it "would leave citizens of [Kentucky] with no redress for the unconstitutional exercise of legislative power." *Kentucky v. Ky. Ret. Sys.*, 396 S.W.3d 833, 840 (Ky. 2013).

Aside from its irrelevance under Maine law, other foreign caselaw that Robbins cited below is equally unpersuasive. In *Patel*, attorneys for a Texas state agency conceded that Texas law does not permit a sovereign immunity defense when challenging a statute as unconstitutional. *Patel v. Tex. Dep't of*

Licensing & Regul., 469 S.W.3d 69, 75-76 (Tex. 2015). But that is apparently because Texas law would otherwise foreclose such actions. *Id.* at 76.

Here, Maine's sovereign immunity has not foreclosed Robbins's 42 U.S.C. § 1983 claims against the Commissioners and Executive Director of MCPDS, named in their official capacities, to both challenge the federal constitutionality of Maine's indigent criminal defense system and seek prospective equitable relief under Count I. Nor would it stand in the way of Robbins seeking similar § 1983 relief against other Maine government officials unaffiliated with MCPDS, had Robbins successfully identified and asserted legitimate claims that additional officials were responsible for violating his constitutional rights.[4]

And other foreign cases that Robbins cited below are irrelevant or otherwise do not undermine Maine's sovereign immunity doctrine. *See, e.g.*,

[4] Under the *Ex parte Young* doctrine, courts have recognized a narrow exception to sovereign immunity's absolute bar on obtaining prospective injunctive relief against state government officials named in their official capacities pursuant to 42 U.S.C. § 1983. *See Ex parte Young* 209 U.S. 123 (1908); *see also Alden v. Maine*, 527 U.S. 706, 747-48 (1999) ("Had we not understood the States to retain a constitutional immunity from suit in their own courts, the need for the Ex parte Young rule would have been less pressing, and the rule would not have formed so essential a part of our sovereign immunity doctrine."); *Danish Health Club, Inc. v. Town of Kittery*, 562 A.2d 663, 666 (Me. 1989) (acknowledging *Ex parte Young* exception to challenge the constitutionality of a coercive ordinance, unless there exists "an alternative path of access to the courts, free of the threat of coercive penalties").

Claremont Sch. Distr. v. Governor, 761 A.2d 389, 393 (N.H. 1999) (analyzing propriety of fee-shifting statute against New Hampshire governor); *Corum v. Univ. of N.C. Through Bd. of Governors*, 413 S.E.2d 276, 289 (N.C. 1992) (explaining that state official capacity defendants are not entitled to assert sovereign immunity defenses in certain constitutional challenges); *Textron, Inc. v. Wood*, 355 A.2d 307, 312 (Conn. 1974) (barring sovereign immunity defense in *Ex parte Young*-type action against state cabinet official). These cases are all analogous to Robbins's § 1983 claim against MCPDS's Commissioners and Executive Director under Count I, not the single declaratory count subject to this appeal. And unlike Count V (but like Count I) each of these cases were brought against state officials and not an entire state. Even more importantly, these foreign decisions provide no assistance to Robbins when this Court's body of precedent is not lacking.

The State of Maine has not waived its sovereign immunity, and Count V thus fails.

II. The Declaratory Judgments Act does not provide a valid cause of action to support Count V.

A. Standard of Appellate Review

This Court "review[s] de novo the legal sufficiency of a complaint when it has been challenged by a motion to dismiss." *Ramsey*, 2012 ME 113, ¶ 6, 54

A.3d 710 (quoting *McCormick*, 2012 ME 20, ¶ 5, 37 A.3d 295); *Knowlton*, 2009 ME 79, ¶ 10, 976 A.2d 973.

B. Multiple exceptions to the "final judgment rule" allow this Court to exercise its pendent appellate jurisdiction and decide immediately the validity of Robbins's asserted cause of action.

The State of Maine moved to dismiss Count V for failing to set forth a valid cause of action upon which relief can be granted. This Court is permitted to review the Superior Court's resolution of this appellate issue under the "judicial economy" exception to the final judgment rule's bar on interlocutory appeals. The "judicial economy" exception applies "when resolution of the appeal can 'establish a final, or practically final, disposition of the entire litigation' and the interests of justice require that an immediate review be undertaken." *Trump v. Sec'y of State*, 2024 ME 5, ¶ 18, 307 A.3d 1089 (quoting *State v. Me. State Emps. Ass'n*, 482 A.2d 461, 464-65 (Me. 1982)).

Although the State of Maine has been permitted to participate as a "party-in-interest" in the habeas aspect of this case brought under Count III, the Court's resolution of Count V in the State of Maine's favor would end all aspects of the litigation where the State of Maine is compelled to participate as a defendant party. Moreover, immediate review of this question would serve the interests of justice because neither party—nor the courts, themselves—would be well-served if parties were to spend years on discovery and litigating both the

"Phase I" and "Phase II" elements of Count V, only for this Court to determine at the end of litigation that no cause of action existed to support Robbins's Count V claim against the State of Maine in the first place.

The Court could also choose to review this issue under the "collateral order exception" to the final judgment rule. The collateral order exception permits "immediate appeal from an interlocutory order . . . where (1) that order involves a claim separable from and collateral to the gravamen of the lawsuit; (2) it presents a major and unsettled question of law; and (3) there would be irreparable loss of the rights claimed in absence of immediate review." *Id.* (quoting *Moshe Myerowitz, D.C. P.A. v. Howard*, 507 A.2d 578, 589 (Me. 1986)). Here, the legal question of whether the DJA permits Robbins to bring any claims whatsoever against the State of Maine is entirely "separable from and collateral to the gravamen" of the factual question of whether the State of Maine is responsible for violating Robbins's Sixth Amendment right to counsel. Therefore, the Court may also review this portion of the Superior Court's decision under the collateral order exception to the final judgment rule.

Finally, although the State of Maine may not ordinarily be entitled to immediate review of a M.R. Civ. P. 12(b)(6) motion to dismiss outside of the immunity context discussed above, appellate courts permit the exercise of pendent appellate jurisdiction in a narrow band of circumstances, including

(1) where a pendent issue is "inextricably intertwined" with the genuine issue on appeal; or (2) where review of the pendent issue is "necessary to ensure meaningful review" of the appeal. *See Posada v. Cultural Care, Inc.*, 66 F.4th 348, 363 (1st Cir. 2023) (quoting *Swint v. Chambers Cty. Comm'n*, 514 U.S. 35, 51 (1995)). Although this Court's body of caselaw draws no such hard-and-fast test in determining whether to review a legal issue as part of its pendent appellate jurisdiction, it has expressed an openness to exercising such jurisdiction when doing so would serve the purpose of preserving judicial resources. *See In re Matter of Int'l Paper Co., Androscoggin Mill Expansion*, 363 A.2d 235, 241 n.3 (Me. 1976) (discussing this Court's application of pendent appellate jurisdiction).

And this Court has also acknowledged the potential for recognizing new exceptions to the final judgment rule when confronted with "extraordinary circumstances." *See Austin ex rel. Soiett v. Univ. Cheerleaders Ass'n*, 2002 ME 174, ¶ 8, 812 A.2d 253. Such circumstances may give rise to new categorical exceptions, *Geary v. Stanley Med. Res. Inst.*, 2008 ME 9, ¶¶ 14-18, 939 A. 2d 86 (immunity defenses), while for others it may be appropriate for the Court to "craft an *ad hoc* exception," *Moshe Myerwitz*, 507 A.2d at 581. If the Court determines that the judicial economy or collateral order exceptions do not

apply, it should nevertheless apply the extraordinary circumstances exception to exercise pendent appellate jurisdiction over this aspect of the appeal.

C. The DJA—the only source of law that Robbins invokes to maintain Count V—creates no independent cause of action.

Litigants may not seek relief in court unless they file suit pursuant to a valid cause of action grounded in statute or common law. *See Edwards*, 429 A.2d at 1016 ("In order to state a claim upon which relief can be granted, a complaint must aver either the necessary elements of a cause of action or facts which would entitle a plaintiff to relief upon some theory.") (quoting *E.N. Nason, Inc. v. Land-Ho Development Corp.*, 403 A.2d 1173, 1177 (Me. 1979)).

The Amended Complaint identifies only the DJA, 14 M.R.S. §§ 5951-5963, as providing Robbins with a cause of action against the State of Maine in Count V. *See* App. at 135. But this Court has stated consistently—and repeatedly—that the DJA does not create an independent cause of action. *See, e.g.*, *Sold, Inc. v. Town of Gorham*, 2005 ME 24, ¶ 10, 868 A.2d 172 ("A declaratory judgment action cannot be used to create a cause of action that does not otherwise exist."); *Colquhoun v. Webber*, 684 A.2d 405, 411 (Me. 1996) ("We have stated that the purpose of the Declaratory Judgment Act is to provide a more adequate and flexible remedy in cases where jurisdiction already exists.") (emphasis added); *Sch. Comm. of Town of York v. Town of York*, 626 A.2d 935,

942 (Me. 1993) ("All courts require the declaratory plaintiff to show jurisdiction and a justiciable controversy." (quoting *Hodgdon v. Campbell*, 411 A.2d 667, 670 (Me. 1980)); *Hodgdon* 411 A.2d at 669 ("The statute does not create a new cause of action; its purpose is 'to provide a more adequate and flexible remedy in cases where jurisdiction already exists.'" (emphasis added) (quoting *Casco Bank & Trust Co. v. Johnson*, 265 A.2d 306, 307 (Me. 1970))).

In other words, the DJA provides only a remedy—declaratory relief—ancillary to some other valid cause of action. This is not to say that all lawsuits asserting a single declaratory count seeking declaratory relief against governmental actors are automatically barred for lacking a cause of action. For example, some pre-enforcement challenges to state statutes ultimately rely upon 42 U.S.C. § 1983 to supply a cause of action.[5] *See, e.g.*, *Doe I v. Williams*, 2013 ME 24, ¶ 72, 61 A.3d 718 (analyzing challenge to Maine's SORNA statute under § 1983).

Because Robbins has pointed to no other statutory or common law cause of action against the State of Maine, the Superior Court should have dismissed Count V for failing to state a claim upon which relief could be granted.

[5] It is still important to note that even though § 1983 creates a cause of action to vindicate civil rights violations against individual state officials acting under color of state law, it was not "intended to disregard the well-established immunity of a State from being sued without its consent." *Will v. Mich. Dep't of State Police*, 491 U.S. 58, 67 (1989); *see also*, *supra* Part I.

III. Robbins lacks standing to pursue Count V against the State of Maine.

A. Standard of Appellate Review.

As with the other issues on appeal, this Court applies de novo review to the Superior Court's denial of a motion to dismiss for failure to state a claim based on lack of standing. *Black v. Bureau of Parks & Lands*, 2022 ME 53, ¶ 26, 288 A.3d 346.

B. Multiple exceptions to the "final judgment rule" allow this Court to review Robbins's standing to pursue Count V.

As with the cause-of-action appellate issue discussed above in Part II.B. this Court would not ordinarily entertain immediate review of a motion to dismiss for lack of standing. And yet the collateral order, judicial economy, and extraordinary circumstances exceptions discussed above apply equally to the Court's review of Robbins's lack of standing. *See supra*, Part II.A. Whether Robbins has standing to bring Count V against the State of Maine is entirely collateral to merits of what he seeks to prove in Count V. And determining now whether Robbins has standing to bring Count V could save massive amounts of judicial and legal resources if the Court were to determine that he does not, rather than waiting until after two separate discovery and trial processes to decide the issue. For these reasons, in addition to those set forth above at Part II.A., the Court should not wait to hear this appellate issue.

C. Because the DJA does not provide the form of relief that Robbins seeks, he lacks standing to pursue Count V.

Maine's DJA provides in pertinent part:

> Any person interested under a deed, will, written contract or other writings constituting a contract, or whose rights, status or other legal relations are affected by a statute, municipal ordinance, contract or franchise may have determined any question of construction or validity arising under the instrument, statute, ordinance, contract or franchise and obtain a declaration of rights, status or other legal relations thereunder.

14 M.R.S. § 5954 (Westlaw Sept. 16, 2025) (emphasis added). The DJA does not provide the form of relief that Robbins seeks in Count V.

In other words, contrary to Robbins' allegation, the DJA—even if it could form the basis for an independent cause of action under Maine law—does not provide a party to litigation the general opportunity to obtain "an official interpretation of a constitutional obligation" as requested by Robbins. *See* App. at 136, ¶ 181 (Amended Complaint alleging that "Resolution of this disagreement is fit for judicial review because it concerns an official interpretation of a constitutional obligation to Class members"). Instead, the DJA provides only the opportunity to obtain the determination of "any question of construction or validity arising under [an] instrument, statute, ordinance, contract or franchise." 14 M.R.S. § 5954. Therefore, the Amended Complaint's request that the Superior Court declare the State of Maine to have, in the past,

"unlawfully failed to furnish counsel to Class members when commencing prosecution against those individuals" is not a form of relief authorized by the DJA.[6]

This absence of a meaningful remedy against the State of Maine is not merely an inconvenience for Robbins. It is fatal to his standing to pursue Count V. The burden to establish standing in a claim for declaratory relief is on the plaintiff. *Clardy v. Jackson*, 2024 ME 61, ¶ 12, 322 A.3d 1158. Maine's standing doctrine "refers to the minimum interest or injury suffered that is likely to be redressed by judicial relief" and operates to "limit access to the courts to those best suited to asserting a particularly legal claim." *Bank of Am., N.A. v. Greenleaf*, 2014 ME 89, ¶ 7, 96 A.3d 700.

While Maine's standing doctrine is prudential in nature, *Roop v. City of Belfast*, 2007 ME 32, ¶ 7, 915 A.2d 966, the three traditional factors of standing require (1) identifying an injury-in-fact; (2) tracing the injury's causation to the named defendant; and (3) ensuring the defendant can redress the injury when ordered by a court. *See Collins v. State*, 2000 ME 85, ¶ 6, 750 A.2d 1257 ("To have standing, a party must show they suffered an injury that is fairly traceable to the challenged action and that is likely to be redressed by the judicial relief

[6] The Amended Complaint's allegation that the DJA "is the appropriate vehicle for obtaining a declaration of rights when a genuine controversy exists that depends on the interpretation of those rights," App. at 135, ¶ 175, does not change this result.

sought." (citing *Allen v. Wright*, 468 U.S. 737 (1984))); *see also Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560-61 (1992).

Robbins's redressability deficiencies result in a twofold standing problem. First, he cannot obtain any relief under the DJA, which renders redressability a nonstarter. But even if he could obtain declaratory relief, Robbins has not established how such a declaration could begin to redress his alleged legal injuries.

By naming the "State of Maine" under Count V, rather than the state official(s) whose behavior Robbins wishes to change, Count V represents nothing more than a symbolic grievance against the Maine state government. When courts issue relief against state officials declaring a statute to be unlawful and enjoining those officials from enforcing them against plaintiffs, such decisions can genuinely redress a plaintiff's legal injuries. But Robbins has never established how a declaration aimed at the "State of Maine" could provide him "'likely,' as opposed to the merely "speculative,'" relief that basic standing doctrine requires. *See Lujan*, 504 U.S. at 561, 568-71; *see also Collins*, 200 ME 85, ¶ 6, 750 A.2d 1267. Instead, a mere declaration stating that the "State of Maine has unlawfully failed to furnish counsel to [Robbins] when commencing prosecutions," which is what the Amended Complaint seeks, *see* App. 138, smacks of an advisory opinion.

Because the DJA does not authorize the form of relief that Robbins seeks in Count V—and separately because the relief that Robbins is pursuing against the State of Maine under Count V will do nothing to redress his legal injuries it has purportedly caused—Robbins has failed to establish standing to pursue Count V.

CONCLUSION

This Court should vacate the Superior Court's order denying the State of Maine's Motion to Dismiss Count V and remand for entry of an order instructing the Superior Court to enter judgment in favor of the State of Maine on Count V.

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Respectfully submitted,

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