Supreme Court of New Jersey

Docket No. _____
Appellate Division Docket No. AM-667-24T1

STATE OF NEW JERSEY, *Plaintiff-Respondent*, vs. CONSTANCE DAYS-CHAPMAN, *Defendant-Movant.*	:	CRIMINAL ACTION ON LEAVE TO APPEAL FROM ORDER IN: CRIMINAL DIVISION, ATLANTIC COUNTY INDICTMENT NO. 24-09-02900-I Sat Below: HON. KATIE A. GUMMER, J.A.D. HON. CHRISTINE M. VANEK, J.A.D. HON. BERNARD E. DELURY, Jr., P.J.Cr.

BRIEF IN SUPPORT OF MOTION FOR LEAVE TO APPEAL AND SUMMARY REMAND TO THE APPELLATE DIVISION FOR CONSIDERATION ON THE MERITS ON BEHALF OF CONSTANCE DAYS-CHAPMAN

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PRELIMINARY STATEMENT

Statutory immunity from criminal liability protects an individual against facing prosecution and standing trial. As such, immunity is the type of right that mandates the uncommon remedy of interlocutory review. A statutory right to criminal immunity is vitiated entirely if an individual must first risk trial and only raise objections to the denial of immunity on direct appeal. Because of the inherent uniqueness of immunity issues, this Court's intervention is needed pre-trial. Movant-Defendant Constance Days-Chapman respectfully submits that this Court should grant her motion for leave to appeal and summarily remand the matter to the Appellate Division for consideration on the merits.

There are two interrelated issues warranting appellate review at this stage. First, what is the scope of immunity provided by N.J.S.A. 9:6-8.13 to an individual who reports potential child abuse to the Division of Child Protection and Permanency (DCPP)—specifically, does statutory immunity fail to attach where an individual reports directly to a supervisor at DCPP rather than calling a specific hotline number, as the motion court held here? Second, in a criminal matter, must the grand jury be instructed on the applicable immunity statute and determine whether the facts alleged are covered by the statute?

There is no dispute that Days-Chapman spoke with a DCPP supervisor multiple times over the course of two days, after school employees reported potential

abuse of a student to her. Nor is there any dispute that the conversations took place on their respective personal cell phones. Multiple times during the State's presentation to the grand jury, the State elicited testimony that although Days-Chapman did speak with a supervisor at DCPP, she did not call a specific hotline phone number. The repeated focus on the hotline number was a theme of the State's presentation.

But there is no legal or statutory significance for failing to call a hotline phone number. The statute does not contain a requirement to call a specific hotline number. Indeed, the Legislature used broad language in the reporting statute noting that the report should be made "to the Division of Child Protection and Permanency by telephone or otherwise." Calling a specific number cannot be a requirement superimposed on the statute when the Legislature explicitly envisioned reports not even being made by telephone.

In denying the motion to dismiss, the motion court recognized that there was no statutory requirement to call a hotline number to invoke immunity, but nonetheless, the motion court imposed additional, non-statutory requirements for Days-Chapman to meet based on "the legislative and administrative framework." Compounding the error, the motion court concluded itself that the underlying facts did not constitute making a report within the meaning of the immunity statute rather than requiring the grand jury to make that assessment for itself in the first instance.

Days-Chapman's right to appellate review would be rendered a nullity if leave to appeal is not granted. The urgency warranting interlocutory review is that Days-Chapman is asserting a statutory right of immunity—a right to not stand trial in the first place. Compelling Days-Chapman to proceed to trial and then file a direct appeal after verdict asserting her statutory immunity would defeat the entire purpose of that immunity. Even if the Appellate Division were to reverse on direct appeal and conclude that statutory immunity should have applied to Days-Chapman, the prejudice would be complete because she stood trial notwithstanding that immunity.

While most legal issues can be resolved on direct appeal in the normal course, statutory immunity is one of the rare exceptions. The Legislature granted broad statutory immunity, including from criminal liability, to those who report potential child abuse to DCPP. Days-Chapman is entitled to that immunity here. This Court should grant Days-Chapman's motion for leave to appeal and summarily remand the matter to the Appellate Division for consideration on the merits.

STATEMENT OF PROCEDURAL HISTORY AND FACTS[1]

According to the State's grand jury presentment, on January 22, 2024, Atlantic City High School guidance counselor Jonathan Rivera and his supervisor, Laurie Carter, met with Days-Chapman, the principal of the high school, to discuss a report of alleged abuse by a student, J.S. (1T 37:14–19; 39:14 to 41:18.)[2] J.S., without identifying the alleged abuser, had informed Rivera that she experienced an isolated episode of abuse. (1T 39:14 to 40:4.) Rivera then informed Carter; neither called DCPP. (1T 42:14–16; 46:13–19.)

Instead, according to the State, the two of them met with Days-Chapman on January 22 and 23. (1T 41:7–18.) On January 23, 2024, after the second meeting with Rivera and Carter, Days-Chapman called Bianca Dozier, a supervisor with DCPP, and spoke with her about the alleged abuse for approximately thirty minutes. (1T 57:2–4; 57:25 to 58:13.) Following this conversation, Days-Chapman and Dozier spoke three more times between January 24 and 25 about J.S.'s report, including one conversation that was approximately twenty-one minutes. (DCa 53–DCa55.) Days-Chapman had no other phone conversations with Dozier in the weeks

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1 The procedural history and factual background are intertwined and therefore presented together.

2 1T refers to the grand jury transcript dated September 11, 2024.
Da refers to the Appendix to the Defendant's Motion for Leave to Appeal.
DCa refers to the Confidential Appendix to the Defendant's Motion for Leave to Appeal.

preceding or following her report to Dozier. (Ibid.)

DCPP first reported to J.S.'s home on January 24, 2024, to investigate the allegations. (DCa2–DCa3.) At that time, DCPP concluded that the allegations of abuse by the parents were "unfounded" or "not established." (Ibid.)

From the beginning, DCPP recognized that this investigation was different, and that special attention needed to be given to it. On January 24, a supervisor at DCPP e-mailed the Special Victims Unit saying, "Please let me know if you would like us to hold off on responding today. Dad is the mayor of AC and mom is the superintendent of AC Public Schools." (DCa1.) DCPP itself viewed the matter in such a way that "hold[ing] off on responding" was a viable option given the circumstances. (See ibid.) In fact, five minutes after DCPP sent this e-mail to the Special Victims Unit, Dozier called Days-Chapman, and the two had their twenty-one minute conversation. (Ibid.; DCa55.)

On September 11, 2024, the Atlantic County Prosecutor's Office returned an eight-count indictment against Days-Chapman. (Da43–Da52.) The Indictment alleges: four counts of second-degree official misconduct for failing to make a report to DCPP and law enforcement (Counts 1, 2, 4, and 5); second-degree endangering the welfare of a child for failing to make a report of child abuse (Count 3); second-degree official misconduct for notifying the superintendent of the Atlantic City Public Schools, who was the child's mother, of the reported abuse (Count 6); third-

degree hindering a prosecution for failing to make a report of child abuse (Count 7); and second-degree pattern of official misconduct (Count 8). (Ibid.)

Days-Chapman moved to dismiss the Indictment on multiple grounds: (1) that Days-Chapman reported the alleged abuse to DCPP, through Dozier, which triggered statutory immunity for Days-Chapman under N.J.S.A. 9:6–8.13; (2) that the State's elevation of a disorderly persons offense, N.J.S.A. 9:6-8.14, to multiple second- and third-degree offenses deprived Days-Chapman of her constitutional rights to due process notice and equal protection, as well as violated principles of fundamental fairness; and (3) that each specific offense charged was fatally deficient for failing to allege a violation within the scope of the statute. (Da6–Da7.)

The motion court denied the motion to dismiss. On immunity, the court acknowledged that the statutory text does not require a specific method for reporting the alleged abuse but nevertheless found that Days-Chapman did not follow the method defined in the district policy. (Da11–Da12.) On the specific offenses, the court found that: (1) Days-Chapman's failure to report, notwithstanding it was a general duty imposed on every New Jersey citizen, served as the basis for the subsection (b), non-performance of official duty official misconduct charges, (Da19–Da20); (2) a lapsed policy could serve as the basis for the subsection (a), "unauthorized act" official misconduct charge, (Da20); (3) Days-Chapman's legal duty to care or assumption of responsibility for J.S. served as the basis for the

endangering charge, (Da21–Da22); and (4) Days-Chapman's failure to report and affirmative dissuading of others served as the bases for the hindering charge, (Da21).

Days-Chapman moved for reconsideration because the motion court's opinion rewrote the Indictment in two ways. First, the court's overly broad reading expanded the Indictment to include charging Days-Chaman with exploiting her authority as principal to direct her employees not to report the alleged abuse, but such an allegation was not returned by the grand jurors who only charged Days-Chapman with failing to perform her own duty to report. (Da27–Da28.) Second, the court expanded the Indictment to include the "assumed responsibility" prong of endangering the welfare of a child when the Indictment solely charged the "legal duty" prong. (Da28.) The court denied this motion. (Da25–Da42.)

Days-Chapman timely filed a motion for leave to appeal to the Appellate Division on the statutory immunity and other issues. On September 11, 2025, the Appellate Division denied the motion. (Da135.)

This motion follows and focuses on the statutory immunity issue only.

ARGUMENT

LEAVE TO APPEAL SHOULD BE GRANTED BECAUSE DAYS-CHAPMAN IS STATUTORILY IMMUNE FROM THIS PROSECUTION.

Title 9 contains broad immunity for anyone who reports potential child abuse to DCPP pursuant to N.J.S.A. 9:6-8.10. This explicitly includes protection from criminal liability. Days-Chapman's calls to a supervisor at DCPP qualified Days-Chapman for immunity from this prosecution as a matter of law. At a minimum, the grand jury should have been instructed on the immunity statute to make its own determination of whether Days-Chapman's conduct was covered by the immunity.

Days-Chapman has a statutory right, under N.J.S.A. 9:6-8.13, to not stand trial. Unless this Court intervenes, she will not have an opportunity to exercise that right until after trial, which would completely defeat the purpose of the immunity statute.

A. Resolving statutory immunity regularly requires interlocutory relief.

Leave to appeal to review the applicability of immunity is regularly granted.[3]

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3 See, e.g., Radiation Data, Inc. v. New Jersey Dep't of Envtl. Prot., 456 N.J. Super. 550, 558 (App. Div. 2018) (granting defendant's leave to appeal denial of motion to dismiss based on qualified immunity and reversing); Parsons v. Mullica Twp. Bd. of Educ., 440 N.J. Super. 79, 82–83 (App. Div. 2015) (granting defendant's leave to appeal denial of summary judgment motion based on Torts Claims Act immunity and reversing); Estate of Komninos v. Bancroft Neurohealth, Inc., 417 N.J. Super. 309, 312 (App. Div. 2010) (granting defendant's leave to appeal denial of partial summary judgment motion based on charitable immunity and reversing); Malik v. Ruttenberg, 398 N.J. Super. 489, 492 (App. Div. 2008) (granting defendant's leave to appeal denial of motion to dismiss based on judicial immunity and reversing); Peterson v. Ballard, 292 N.J. Super. 575, 580 (App. Div. 1996) (granting plaintiff's leave to appeal to review entry of summary

In fact, in one matter involving the immunity statute at issue here, the Appellate Division twice granted leave to appeal. F.A. by P.A. v. W.J.F., 280 N.J. Super. 570, 572–74 (App. Div. 1995) (F.A. II) (granting leave to appeal and reversing denial of defendant's motion for summary judgment, holding that immunity attached); F.A. by P.A. v. W.J.F., 248 N.J. Super. 484, 488–89 (App. Div. 1991) (granting leave to appeal and affirming denial of defendant's motion to dismiss based on immunity).

Notably, where leave to appeal has been granted to resolve immunity issues, the cases have mixed results. That is, in some cases, courts found immunity to apply, and in others, courts found it not to apply. Leave to appeal was granted to resolve the critical issue of immunity on an interlocutory basis even if the appellate court ultimately concluded that immunity did not apply in that specific matter.

The reasons justifying granting leave to appeal for immunity issues are strong. Immunity presents "a question of law" that obviates the need for further litigation. Malik v. Ruttenberg, 398 N.J. Super. 489, 494 (App. Div. 2008). Immunity also serves to "spare" a defendant from "the costs and expenses of litigation and standing trial," and immunity is thus resolved "early in the proceedings of a case" to prevent an unwarranted trial from taking place. Baskin v. Martinez, 243 N.J. 112, 127 (2020). For example, qualified immunity is an "immunity from suit," and for that

judgment in favor of defendant based on litigation privilege immunity and affirming); Murray by Olsen v. Shimalla, 231 N.J. Super. 103, 105 (App. Div. 1989) (granting defendant's leave to appeal denial of summary judgment motion based on parental immunity and affirming).

reason, "the benefit of the immunity is effectively lost if the case is allowed to go to trial." Bayer v. Twp. of Union, 414 N.J. Super. 238, 263 (App. Div. 2010).

Immunity is more likely to arise in a civil matter, but no less important when involving criminal liability. Because criminal immunity grants the right to avoid prosecution, that right is eliminated if a defendant is compelled to stand trial and seek appellate relief on direct appeal post-trial. The United States Supreme Court has explained that the criminal immunity for legislators under the Speech and Debate Clause was ripe for interlocutory review because "[t]he right protected by the Clause would have been lost if the appeal had been postponed." United States v. Hollywood Motor Car Co., 458 U.S. 263, 266 (1982) (citing Helstoski v. Meanor, 442 U.S. 500 (1979)). Similarly, a defendant's right to be free from successive criminal trials under the Double Jeopardy Clause warrants interlocutory review because "if a criminal defendant is to avoid exposure to double jeopardy and thereby enjoy the full protection of the Clause, his double jeopardy challenge to the indictment must be reviewable before that subsequent exposure occurs." Abney v. United States, 431 U.S. 651, 662 (1977).

Just recently, the Appellate Division granted a defendant's motion for leave to appeal the denial of his motion to dismiss his indictment based on an assertion of statutory immunity. State v. C.C.W., 481 N.J. Super. 551, 565–66 (App. Div. 2025). In reversing the motion court's decision, the panel focused on the "plain text" of the

statutory immunity provision, rather than adopting the additional "preconditions" that the motion court "assumed" into the statute. Id. at 566–67.

C.C.W. exemplifies the need to promptly resolve issues of criminal immunity. Not only did the motion court err here by applying requirements under the immunity statute that the Legislature did not include, but the court also failed to require the State to instruct and charge the grand jury with the immunity statute. Days-Chapman's statutory right of immunity from liability would be lost if she must stand trial and wait for a post-trial appeal to challenge the motion court's ruling.

B. N.J.S.A. 9:6-8.13 immunity, and its application here.

Since granting leave to appeal to address "[t]he critical issue" of "the scope of the immunity afforded by a New Jersey statute, N.J.S.A. 9:6–8.13" thirty years ago, *see* F.A. II, 280 N.J. Super. at 572, appellate courts have not revisited the scope of the reporting immunity statute in detail. N.J.S.A. 9:6-8.13 provides that:

> Anyone acting pursuant to this act in the making of a report under this act shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed. Any such person shall have the same immunity with respect to testimony given in any judicial proceeding resulting from such report.

The Appellate Division has held that this immunity "shall be broadly and liberally construed." F.A. II., 280 N.J. Super. at 572. A broad application of the immunity provision is necessary because Title 9 imposes a universal requirement to report on every person in New Jersey. Id. at 582.

The statute also contains language about granting immunity to individuals "who report[] or cause[] to report in good faith." N.J.S.A. 9:6-8.13. The statute does not demand perfection in reporting to cloak the reporter in immunity. Yet, that is how the State presented the case to the grand jury here; the State added numerous requirements to the duty to report that are not mandated by Title 9, which the motion court accepted and imposed as requirements for immunity.

During the grand jury presentment, the State repeatedly highlighted Days-Chapman's failure to call a specific hotline phone number as a key factor—if not the single most important factor—in her alleged failure to report:

> **Q:** Is there any other telephone number designated by DCP&P that an employee of the school district can officially call?
> **A:** No.
> **Q:** So it's just the hotline?
> **A:** Correct.
> [1T 42:8–13.]

> **Q:** We confirmed you said this previously, but DCP&P confirmed that Chapman has never made a notification to the abuse hotline regarding [J.S.] ever?
> **A:** Correct.
> [1T 67:22 to 68:1.]

> **Q:** And then she called Dozier on Dozier's personal cell phone?
> **A:** Yes.
> **Q:** So no notification was made to DCP&P about any abuse on the abuse hotline on January 23rd, 2024 either?
> **A:** No.
> [1T 72:18–24.]

This testimony is legally inaccurate and misled the grand jurors. There is no statutory

requirement to "officially call" a specific number. (See 1T 42:8–13.)

The reporting statute says the report should be made "to the Division of Child Protection and Permanency by telephone or otherwise." N.J.S.A. 9:6-8.10 (emphasis added). The Legislature did not require individuals to call a specific hotline number to be protected by blanket immunity, but the State nevertheless seeks to impose that requirement on Days-Chapman. Not only is calling the hotline not mandated, but the statute contains a catchall "or otherwise," explicitly permitting a report to be made by means other than the telephone. Neither the State nor the motion court offered a statutory explanation for why the Legislature included the phrase "by telephone or otherwise" if the Legislature intended to restrict reporting solely to a specific hotline phone number. This statutory language cannot be rendered superfluous.

The motion court accepted the State's position though, thereby adding "preconditions" to immunity beyond the plain text of the statute, by concluding that the use of cell phones, rather than the hotline number, meant immunity did not apply. See C.C.W., 481 N.J. Super. at 566–67. "The record reflects, however, that these conversations were initiated on Dozier's personal cell phone . . . . The statutory text does not enumerate the specific method or channel for transmitting a report, but the legislative and regulatory framework, as well as school district policy, uniformly require reports to be made to the [State Central Registry] using the designated hotline." (Da11.)

This added a precondition for immunity not contemplated by the Legislature. The motion court was correct to recognize that "[t]he statutory text does not enumerate the specific method or channel for transmitting a report." But notwithstanding a clear directive by the Legislature to not impose specific means of reporting, the motion court imposed a non-statutory requirement based on a "framework." "Courts must not disregard plain statutory language to replace it with an unenacted legislative intent." State v. W.S.B., 453 N.J. Super. 206, 226 (App. Div. 2018) (quotation omitted). The motion court effectively held that school district policy can supersede laws passed by the Legislature and signed by the Governor. Contra State v. Saad, 461 N.J. Super. 517, 528 (App. Div. 2019) ("[W]e do not accept the premise that the elements of a crime can be defined by an administrative regulation, which can be amended or repealed by [the Board] without involvement of the Legislature.").

The State's presentation imposed other preconditions for the statutory immunity to apply absent from the text. See C.C.W., 481 N.J. Super. at 566–67. The motion court concluded that the conversations "did not involve explicit disclosure of the child's identity." (See Da11.) While N.J.S.A. 9:6-8.10 lists information that is often included in a report, such as the identity of the child, the statute explicitly notes that providing such information is not always required. This factual conclusion also does not accurately reflect the grand jury presentation. The State elicited testimony

that Dozier "didn't recall" if Days-Chapman gave J.S.'s name to Dozier in the thirty-minute conversation between the two on January 23, 2024. (1T 58:3 to 59:6.) That said, on January 24, 2024, Dozier and Days-Chapman had a twenty-one-minute conversation specifically about J.S. (1T 60:5–20.) While Dozier indicated she could not recall whether J.S. came up in the first conversation, Dozier explicitly acknowledged that the two discussed J.S. in the second. (1T 60:17–20.)

This ties into another precondition for immunity that the State imposed contrary to law—that a report was not made "immediately." The State repeatedly instructed the grand jury that Days-Chapman had an obligation to make a report immediately. (1T 4:7–21, 7:5–8, 10:1–7, 12:9–14, 14:13–16.) But the Appellate Division has explicitly held that N.J.S.A. 9:6-8.13 immunity does not lapse if the report is not made "immediately." "Immunity will not be withheld merely because the reporter did not act 'immediately.' The requirement of reporting 'immediately' was intended to protect children from the potentially serious consequences of delay. We glean no legislative intent that the failure to act immediately will necessarily strip immunity from the reporter." F.A. II, 280 N.J. Super. at 578. In F.A. II, an eleventh-month delay in reporting potential abuse did not vitiate the protections of statutory immunity. Id. at 572-73, 578-79. Here, Days-Chapman notified DCPP within one day of the reported abuse.

The facts adduced by the State demonstrate that Days-Chapman spoke with a

supervisor at DCPP, Dozier, about alleged abuse of a student multiple times over three days. The State may not like how Days-Chapman made her report and may have preferred, as best practice, that she formally called the hotline number instead of a personal cell phone. But Days-Chapman's actions fall within the scope of the "broad[]" immunity afforded by the Legislature under N.J.S.A. 9:6-8.13. See F.A. II, 280 N.J. Super. at 572. If these facts as the State presented them are insufficient to determine, as a matter of law, that statutory immunity applies to Days-Chapman, then, at a minimum, the grand jury should have been instructed on the immunity statute to assess its applicability to the facts presented.

C. A grand jury must be charged with applicable criminal immunity statutes and be allowed to determine whether the facts presented by the State fall within the scope of the statutory coverage.

The motion court's error in supplementing the Legislature's requirements for immunity was compounded by not requiring the grand jury to resolve whether the immunity requirements were met in this situation. The State never charged the immunity statute to the grand jury.

It is fundamental that grand jurors "cannot be denied access to evidence that is credible, material, and so clearly exculpatory." State v. Hogan, 144 N.J. 216, 236 (1996). To that end, a prosecutor cannot present an incomplete and "distorted version of the facts," which is "tantamount to telling the grand jury a 'half-truth.'" Id.

"[A] prosecutor's obligation to instruct the grand jury on possible defenses is

a corollary to his responsibility to present exculpatory evidence." State v. John Hogan, 336 N.J. Super. 319, 341 (App. Div. 2001). "[T]he question of whether a particular defense need be charged depends upon its potential for eliminating a needless or unfounded prosecution. The appropriate distinction for this purpose is between exculpatory and mitigating defenses." Id. at 341-42.

N.J.S.A. 9:6-8.13 immunity is an "exculpatory defense," meaning it "would, if believed, result in a finding of no criminal liability, i.e., a complete exoneration." See id. at 342. Not only does Days-Chapman's immunity from liability provide "complete exoneration" to her, but it also "eliminat[es] a needless or unfounded prosecution." Ibid. If the grand jury believed that the State's facts constituted a report within the meaning of the immunity statute, then there could be no prosecution or trial of Days-Chapman. By failing to charge the immunity provision, the State deprived the grand jury of the opportunity to assess whether Days-Chapman's multiple conversations with Dozier were sufficient to immunize her conduct in violation of John Hogan.[4]

To require a prosecutor to charge immunity to a grand jury, "the proofs of the

4 Presenting inaccurate instructions on legal requirements to lay grand jurors— such as the State did here by indicating that calling the hotline was a mandatory requirement of the statute— further compounded the problem. See State v. Brady, 452 N.J. Super. 143, 166 (App. Div. 2017) ("[T]he prosecutor must clearly and accurately explain the law to the grand jurors and not leave purely legal issues open to speculation by lay people who are simply performing their civic duty.").

immunity's applicability must be so apparent as to be 'jumping off the page.'" W.S.B., 453 N.J. Super. at 234 (quoting State v. Denofa, 187 N.J. 24, 42 (2006)). Here, not only are the proofs clear, but the State itself presented the factual support for those proofs to the grand jury. The State introduced evidence that Days-Chapman and Dozier, a supervisor at DCPP, spoke multiple times. (1T 57:2–4; 57:25 to 59:6.) Although Dozier could not recall if the child's name was mentioned during the initial conversation, there is no dispute that Days-Chapman and Dozier discussed the specific student, J.S., in a later conversation. (1T 60:5–20.)

Despite "the facts known to the prosecutor" and introduced at presentment, the State did not instruct and explain immunity to the grand jurors. See John Hogan, 336 N.J. Super. at 343. This is not a situation where the prosecutor would have had to "meticulously [] sift through the entire record of investigative files to see if some combination of facts and inferences might rationally sustain" the immunity provision. See ibid. Rather, based on the State's own version of the facts, immunity is "jumping off the page." See W.S.B., 453 N.J. Super. at 234. As such, immunity should have been explained and charged to the grand jury.

D. To fully effectuate both Days-Chapman's right to appeal and her right to statutory immunity, interlocutory review is necessary.

Days-Chapman has two rights implicated with this motion: the right to appeal an adverse trial ruling and the right to immunity from criminal liability. For both rights to be given full effect, interlocutory review is necessary. The usual course of

exercising the right to appeal post-trial does not work here. The statutory right that Days-Chapman seeks to invoke is one to avoid prosecution and trial entirely. Waiting until direct appeal to raise objections to the motion court's immunity ruling would effectively amount to a forced waiver of Days-Chapman's immunity from prosecution and trial. Standing trial cannot be a threshold requirement for an individual to fully assert her right to criminal immunity from that trial.

The Appellate Division has proclaimed that N.J.S.A. 9:6-8.13 immunity should be "addressed and determined speedily without extensive and burdensome discovery and trial preparation." F.A. II, 280 N.J. Super. at 579. That determination should extend to interlocutory appellate review of a trial court's ruling on N.J.S.A. 9:6-8.13 immunity (as the Appellate Division recognized by twice granting leave to appeal in the F.A. matter). "Speed[y]" resolution of the immunity issue is even more important for Days-Chapman since she faces criminal liability compared to the civil liability in F.A. See ibid.

Days-Chapman has shown that she is entitled to statutory immunity under N.J.S.A. 9:6-8.13 and this matter cannot proceed. At a minimum, this matter cannot proceed unless and until the State re-presents to the grand jury with accurate instructions on the reporting law, including a charge on the immunity statute.

Even if this Court disagrees and believes that the issue is less clear-cut than Days-Chapman has argued—or even if this Court believes the Appellate Division

may be likely to affirm the motion court's ruling that immunity did not attach—leave to appeal should still be granted. Fundamentally, immunity from prosecution is the type of legal issue that should be resolved completely, including through appeal, before trial occurs. Immunity issues are a poor fit for direct appeal.

CONCLUSION

For the foregoing reasons, this Court should grant Days-Chapman's motion for leave to appeal the motion court's July 9, 2025 order and August 6, 2025 order and summarily remand the matter to the Appellate Division for consideration on the merits.

CHIESA SHAHINIAN & GIANTOMASI PC

By: *s/ Lee Vartan*

Dated: September 25, 2025

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