

**UNITED STATES DISTRICT COURT**

**DISTRICT OF CONNECTICUT**

**JOHN FLYNN,**  
Petitioner,

v.

**WHITING FORENSIC HOSPITAL,**  
Respondent.

Civil No. 3:25-cv-00636 (SFR)  
September 9, 2025

**PETITIONER’S REPLY TO RESPONDENT’S RESPONSE TO NOTICE OF RELEASE  
AND CONTINUING JUSTICIABILITY (ECF 182)**

**I. INTRODUCTION**

Respondent’s filing (ECF 182) urges dismissal based on mootness and termination of Next Friend status. These arguments fail. Habeas corpus extends beyond jailhouse walls to any unlawful restraint of liberty. Jurisdiction attached at filing endures so long as collateral consequences and risks of repetition remain.

More troubling, Respondent and Petitioner’s attorney have concealed material facts from this Court. The Superior Court vacated the Probate Court’s decree on September 4, 2025, and attorney Kirk Lowry, an advocate lawyer with the Connecticut Legal Rights Project (a nonprofit funded to represent psychiatric patients), withdrew the probate appeal he had filed on Petitioner’s behalf on September 8, 2025, without the Petitioner’s permission or knowledge. None of this appears in ECF 182, which instead relies on a vague claim of mootness. This selective presentation misleads the Court and underscores why habeas remains the only adequate safeguard of Petitioner’s liberty.

This Reply is submitted under the supreme authority of the organic Constitution for the united States of America, circa 1787, as amended with the Bill of Rights in 1791. It does not arise under, nor does it consent to, any derivative statutory framework, administrative code, or state procedure.

## **II. HABEAS IS NOT MOOT**

### **A. Jurisdiction Attached at Filing and Survives Release**

The Suspension Clause of Article I, §9 secures habeas as a continuing safeguard. Jurisdiction attaches once a petition is filed during custody and does not evaporate upon later release. *Carafas v. LaVallee*, 391 U.S. 234, 238 (1968); *Jones v. Cunningham*, 371 U.S. 236 (1963); *Hensley v. Municipal Court*, 411 U.S. 345 (1973).

Here, Petitioner was confined at Whiting when this petition was filed. That unlawful custody cannot be retroactively excused by state maneuvering.

### **B. Collateral Consequences Are Real and Continuing**

Petitioner continues to suffer legal and practical consequences, including:

- **Judicial stigma of incompetency**, impairing liberty, reputation, and employability.
- **Medical and psychological disabilities**, including mental and physical impairments caused by poor diet, administration of harmful psychotropic drugs, improper diabetic care, and psychological and physical abuse.
- **Civil disabilities**, including election restrictions, firearm restrictions under 18 U.S.C. §922(g)(4), professional licensing barriers, and ongoing credibility impairments.

- **Use of psychiatric records and incompetency findings** in future proceedings, exposing Petitioner to heightened risk of recommitment.

These consequences are concrete, traceable to the unlawful detention, and redressable through habeas.

### **C. Vacatur of the Conservatorship Does Not Moot This Case**

On September 4, 2025, Respondent secured a same-day Superior Court order vacating the Probate Court decree appointing a special limited conservator after the filing of Next Friend to the same court on September 3, 2025 at 1:22 p.m. On September 8, 2025, attorney Kirk Lowry, an advocate with the Connecticut Legal Rights Project, withdrew the appeal, without the knowledge or permission of the Petitioner.

Although the conservatorship decree was vacated, the stigma, records, and consequences remain. These continuing restraints confirm habeas jurisdiction. Moreover, the omission of these facts from ECF 182 is material: Respondent and Petitioner's attorney concealed the very actions it now relies on to assert mootness.

It is important to note, the **Petitioner never personally consented** to this withdrawal, despite Respondent's representation in the September 4, 2025 "Consent Motion" (MMX-CV25-6046369-S) that "Plaintiff consents." **This was a misrepresentation to the Superior Court and should not be credited here.**

### **III. CAPABLE OF REPETITION, YET EVADING REVIEW**

Short-term psychiatric commitments routinely terminate before federal review is complete, making them archetypal “capable of repetition yet evading review” cases. *Southern Pacific Terminal Co. v. ICC*, 219 U.S. 498, 515 (1911); *United States v. Juvenile Male*, 564 U.S. 932, 938 (2011).

Petitioner remains under active criminal prosecution. The State has already invoked incompetency once, and the likelihood of recurrence is not speculative but imminent.

#### IV. NEXT FRIEND STATUS REMAINS VALID

Next Friend standing is measured at the time of filing. At filing, Petitioner was confined, judicially declared incompetent, and inaccessible, satisfying *Whitmore v. Arkansas*, 495 U.S. 149 (1990). That suffices.

Later events do not retroactively undo jurisdiction or nullify the grant of Next Friend status. Continuing stigma and risk of recommitment further justify maintaining Next Friend to ensure meaningful access to the Court. See *Coalition of Clergy v. Bush*, 310 F.3d 1153, 1163 (9th Cir. 2002).

Furthermore, The Petitioner is unable to secure a certified Article III attorney qualified to defend the Habeas or willing to enforce the **Constitution and proceed with fidelity to the Constitution alone**, not in coordination or obedience to state and political institutional interests including the professional, economic and political influence of the Connecticut Bar Association.

Since the inception of this matter in U.S. District Court and through recognition by the court as Next Friend, all filings have asserted jurisdiction solely under the authority of the **organic**

**Constitution for the united States of America, circa 1787, as amended with the Bill of Rights in 1791**, and under the unrepealed Habeas Corpus Act of 1867 (14 Stat. 385). Attorneys available to the Petitioner are either unwilling or unable to invoke the Constitution and instead defer to statutory schemes, state codes, and administrative regulation. Next Friend shall be construed as an objection to limited remedies, waiver of rights, or submission to any other jurisdiction.

## **V. EX PARTE TIMELINE DEMONSTRATES MANUFACTURED MOOTNESS**

The State's conduct demonstrates a coordinated attempt to manufacture mootness:

- **Sept. 3, 2025** – Next Friend filed petition; Notice and Demand for Court and Accept Filings by Next Friend at the Middletown Superior Court on DOCKET NO. MMX-CV25-6046369-S (received by clerk via fax with confirmation of receipt at 1:22 p.m.)
- **Sept. 4, 2025** – Next Friend's Notice and Demand was briefly listed on the docket but no longer appears.
- **Sept. 4, 2025 (same day)** – Superior Court grants Kirk Lowry (CLRP) motion for waiver of fees (initially filed July 24, 2025).
- **Sept. 4, 2025 (same day)** – AG's office enters appearance in the Middletown probate appeal.
- **Sept. 4, 2025 (same day)** – AG files Consent Motion to Withdraw and Vacate.
- **Sept. 4, 2025 (same day)** – Superior Court grants vacatur order, falsely representing Petitioner's "consent."
- **Sept. 5, 2025** – AG files ECF 182 in this Federal District Court, citing "mootness."

- **Sept. 8, 2025** – Kirk Lowry (CLRP), a nonprofit advocate lawyer, files withdrawal of the probate appeal.

Crucially, **ECF 182 does not mention the Superior Court vacatur, the purported “consent,” or the subsequent withdrawal.** This omission deprived the Court of material context. By orchestrating rapid vacatur, misrepresenting Petitioner’s consent, and concealing the sequence, Respondent seeks to evade habeas review. But the Constitution forbids the State from mooting federal jurisdiction through unilateral maneuvers. See *Fay v. Noia*, 372 U.S. 391 (1963).

## **VI. CONCLUSION**

Collateral consequences persist; the controversy is capable of repetition yet evading review; and Next Friend standing remains proper. The omissions, misrepresentation of consent, and ex parte maneuvers of Respondent underscore the need for this Court to retain jurisdiction.

**Relief Requested.** Petitioner respectfully asks the Court to:

1. Reject Respondent’s mootness arguments in ECF 182;
2. Affirm continuing jurisdiction under the Suspension Clause and Habeas Corpus Act of 1867;
3. Preserve Next Friend status; and
4. Proceed to adjudicate the merits.

## **VII. JURISDICTIONAL RESERVATION**

This Reply is issued solely under the authority of the **organic Constitution for the united States of America, circa 1787, as amended with the Bill of Rights in 1791**, and under the

unrepealed Habeas Corpus Act of 1867 (14 Stat. 385). It does not arise under, nor does it invoke, any statutory scheme, state code, or administrative regulation. Nothing herein shall be construed as consent to limited remedies, waiver of rights, or submission to any other jurisdiction.

**All rights are reserved, UCC 1-308.**

**Respectfully submitted, on September 9, 2025**

/s/ Lori Hopkins-Cavanagh  
Lori Hopkins-Cavanagh, sui juris  
Next Friend to John Flynn

**Jurisdictional Disclaimer**

This communication is issued solely under the authority of the national Constitution and an unrepealed Act of Congress — specifically the Habeas Corpus Act of 1867 (14 Stat. 385). It does not arise under, nor does it invoke, any state administrative code, statutory procedure, or interpretive regulation, including, but not limited to, the Connecticut General Statutes or the Connecticut Freedom of Information Act.

No part of this demand shall be construed as consent to state jurisdiction, waiver of federal standing, entry into any contract of adhesion, or submission to any implied statutory framework. Jurisdiction is expressly reserved to the United States District Court under Article III of the national Constitution and the Supremacy Clause of Article VI.

**Certificate of Service**

I, Lori Hopkins-Cavanagh, sui juris, hereby certify that on September 9, 2025, I filed the foregoing **PETITIONER'S REPLY TO RESPONDENT'S RESPONSE TO NOTICE OF RELEASE AND CONTINUING JUSTICIABILITY (ECF 182)** by electronic submission through the CM/ECF system, which effects service upon:

Assistant Attorney General Shawn L. Rutchick  
Office of the Attorney General  
165 Capitol Avenue  
Hartford, CT 06106

Executed in good faith under the Constitution for the united States of America (1787) and the Bill of Rights (1791).

/s/ Lori Hopkins-Cavanagh