



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. WR-86,219-01

OPINION WITHDRAWN JANUARY 24, 2018

EX PARTE KEITH JOSEPH BROSSETTE, Applicant

ON APPLICATION FOR A WRIT OF HABEAS CORPUS
CAUSE NO. 16,697-2001A IN THE 402ND DISTRICT COURT
FROM WOOD COUNTY

Per curiam.

OPINION

Pursuant to the provisions of Article 11.07 of the Texas Code of Criminal Procedure, the clerk of the trial court transmitted to this Court this application for a writ of habeas corpus. *Ex parte Young*, 418 S.W.2d 824, 826 (Tex. Crim. App. 1967). Applicant was convicted of indecency with a child by contact and sentenced to ninety-nine years' imprisonment. The Sixth Court of Appeals affirmed his conviction. *Brossette v. State*, 99 S.W.2d 277 (Tex. App. — Texarkana, Feb. 3, 2003).

Applicant contends, among other things, that the State withheld favorable evidence from the defense prior to trial in violation of *Brady v. Maryland*, 373 U.S. 83 (1963). Specifically, Applicant alleges that the State did not disclose a video recording of an interview of the complainant by the Child Protective Service investigator who testified in this case, relating to earlier accusations of

sexual abuse by Applicant. In the undisclosed video, the complainant denied having been sexually abused by anyone including Applicant, despite repeated leading questions by the investigator. This matter was remanded to the trial court to obtain affidavits, findings of fact and conclusions of law addressing Applicant's allegations.

The trial court has determined that the State failed to disclose favorable evidence to the defense prior to trial, and that the evidence in question was material. Relief is granted. The judgment in Cause No. 16,697-2001A in the 402nd District Court of Wood County is set aside, and Applicant is remanded to the custody of the Sheriff of Wood County to answer the charges as set out in the indictment. The trial court shall issue any necessary bench warrant within 10 days after the mandate of this Court issues.

Copies of this opinion shall be sent to the Texas Department of Criminal Justice-Correctional Institutions Division and Pardons and Paroles Division.

Delivered: July 26, 2017
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