



court] to take note of *Kyles v. Whitley*, 514 U.S. 419, 436 . . . (1995) (stating that the materiality of suppressed evidence should be ‘considered collectively, not item by item.’), in its further consideration of this case.” (Doc. 39).

Thereafter the parties proceeded with the state habeas action. Hittson was apparently denied relief and ultimately filed a Petition for Writ of Certiorari with the United States Supreme Court on April 21, 2011. *Hittson v. Humphrey*, No. 10-10335. A search of the docket at [www.supremecourt.gov](http://www.supremecourt.gov) shows that the United States Supreme Court denied Hittson’s petition on June 10, 2011. *Hittson v. Humphrey*, No. 10-10335.

Judge Fitzpatrick’s August 30, 2004 Order provided:

Petitioner is directed to **diligently** file a new Petition for Writ of Habeas Corpus in the appropriate Georgia Superior Court so that the state may rule on Petitioner’s new *Brady* claims. This Court shall retain jurisdiction over the federal habeas corpus petition until Petitioner fully exhausts his state remedies with respect to the new *Brady* claims. Thereafter, in the event the state court (including any state appellate court) grants Petitioner’s Writ of Habeas Corpus, Petitioner is directed to **diligently** notify this Court and the Court will dismiss the federal habeas corpus action as moot. In the event the state court (including any state appellate court) denies Petitioner’s Writ of Habeas Corpus, Petitioner is directed to **diligently** notify this Court and to amend his original petition to include the newly exhausted *Brady* claims.

(Doc. 35, at 8-9) (emphasis in original).

Because it now appears Hittson has been denied relief by the state courts and the United States Supreme Court, he needs to notify the Court how he plans to proceed with his federal habeas corpus action. Thus, Hittson has until **July 11, 2011** to amend his original 28 U.S.C. § 2254 petition to include the now-exhausted *Brady* claim<sup>1</sup> or to notify

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<sup>1</sup> After Hittson amends his petition, the Court will, pursuant to Rules 4 and 5 of the Rules Governing Section 2254 Cases in the United States District Courts, enter an Order setting forth the time for Respondent to file an Answer and supplement the record with all relevant transcripts, pleadings, and decisions relating to Hittson’s exhaustion of his *Brady* claim.

the Court why he cannot so amend.

**SO ORDERED**, this 30th day of June, 2011.

S/ Marc T. Treadwell  
MARC T. TREADWELL, JUDGE  
UNITED STATES DISTRICT COURT