

Serial: **199569**

IN THE SUPREME COURT OF MISSISSIPPI

No. 2014-DR-01305-SCT

EDDIE LEE HOWARD, JR.

v.

STATE OF MISSISSIPPI

ORDER

This matter is before the Court en banc on Eddie Lee Howard's Motion to Vacate Conviction and Supplemental Memorandum in Support of Post-Conviction Relief. Also before the Court are the State of Mississippi's response to said motion and Howard's reply to the State's response.

Howard previously filed with this Court a petition for post-conviction relief, in which he raised claims of newly discovered evidence and requested leave to pursue DNA testing of biological evidence to support his claims. This Court granted Howard's request for DNA testing and dismissed his other claims without prejudice, to be refiled with the DNA test results. *Howard v. State*, 49 So. 3d 79, 80 (Miss. 2010). Testing is now complete, and Howard has resubmitted his previously filed claims through the instant motion.

After due consideration, the Court finds that Howard should be granted leave to file his petition for post-conviction relief in the trial court, and the trial court should rule on the

petition after first conducting an evidentiary hearing on the following issue:

Whether the newly discovered evidence presented in Howard's Motion to Vacate Conviction, including the results of his post-conviction DNA testing, is of such a nature that it "will probably produce a different result or induce a different verdict, if a new trial is granted." *Crawford v. State*, 867 So. 2d 196, 204 (Miss. 2003) (citing *Meeks v. State*, 781 So. 2d 109, 112 (Miss. 2001)).

IT IS, THEREFORE, ORDERED that Eddie Lee Howard is granted leave to file his petition for post-conviction relief in the Circuit Court of Lowndes County within forty-five days after the issuance of this Court's mandate, and that the trial court shall rule on that petition after first holding an evidentiary hearing on the above issue.

SO ORDERED, this the 4th day of August, 2015.

/s/ William L. Waller, Jr.

WILLIAM L. WALLER, JR.
CHIEF JUSTICE
FOR THE COURT