



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. WR-68,876-01

EX PARTE ALFRED DEWAYNE BROWN

**ON APPLICATION FOR POST-CONVICTION WRIT OF HABEAS CORPUS
FROM CAUSE NO. 1035159A IN THE 351ST DISTRICT COURT
HARRIS COUNTY**

Per curiam.

O P I N I O N

This is an application for a writ of habeas corpus filed pursuant to the provisions of Texas Code of Criminal Procedure Article 11.071.

In October 2005, a jury found applicant guilty of the offense of capital murder committed on April 3, 2003. The jury answered the special issues submitted pursuant to Texas Code of Criminal Procedure Article 37.071, and the trial court, accordingly, set applicant's punishment at death. This Court affirmed applicant's conviction and sentence on direct appeal. *Brown v. State*, 270 S.W.3d 564 (Tex. Crim. App. 2008).

Applicant presents numerous allegations in his application in which he challenges the validity of his conviction and resulting sentence. In allegation V.D.3., applicant claims that the State withheld exculpatory evidence in violation of *Brady v. Maryland*, 373 U.S. 83 (1963). The State conceded that material exculpatory evidence was withheld from applicant. The habeas court adopted the parties' agreed findings of fact and conclusions of law and recommended that this Court grant relief.

This Court has reviewed the record with respect to the *Brady* allegation made by applicant. Based on the habeas court's findings and conclusions and our own review, we hold that the State withheld evidence that was both favorable and material to applicant's case in violation of *Brady*. *See also Kyles v. Whitley*, 514 U.S. 419, 434 (1995). Therefore, relief is granted. We dismiss as moot applicant's remaining challenges to his conviction and sentence.

We vacate applicant's conviction and sentence, and remand the case to the trial court for a new trial or other proceeding consistent with this opinion.

Delivered: November 5, 2014

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