



**In The
Court of Appeals
Sixth Appellate District of Texas at Texarkana**

No. 06-09-00156-CR

GERALD DEWAYNE BUTLER, Appellant

V.

THE STATE OF TEXAS, Appellee

On Appeal from the 188th Judicial District Court
Gregg County, Texas
Trial Court No. 36304-A

Before Morriss, C.J., Carter and Moseley, JJ.
Memorandum Opinion by Justice Moseley

MEMORANDUM OPINION

Gerald DeWayne Butler was convicted of aggravated robbery in four separate prosecutions, for multiple robberies of different victims, occurring on three different dates. Those convictions are all presently before this Court on appeal. A fifth robbery involving a shooting was prosecuted earlier, and that conviction was appealed to this Court. (All five robberies occurred during the span of six weeks.) Our opinion affirming the conviction on the fifth robbery issued on November 12, 2009.¹ By agreement with the State and the trial judge, issues that were litigated in the first prosecution concerning a pretrial motion to suppress could also be brought forward as issues in his four current appeals.

In this case, Butler appeals from his conviction on his plea of guilty pursuant to a plea bargain agreement that granted him the right of appeal from pretrial hearings. He was convicted of aggravated robbery, with a deadly weapon finding, and sentenced to twenty years' imprisonment, to run consecutively with his other convictions.

Butler raises three points on appeal wherein he alleges: (1) the court erred by denying his motion to suppress evidence; (2) the court erred by not suppressing his confession based on the violation of his right to exculpatory evidence under *Brady*²; and (3) the court erred by not suppressing his confession on constitutional grounds because he was not advised that he was being recorded.

¹*Butler v. State*, 300 S.W.3d 474 (Tex. App.—Texarkana 2009, pet. ref'd, untimely filed).

²*Brady v. Maryland*, 373 U.S. 83 (1963).

Because the issues raised in each appeal, and the facts underlying each appeal are identical, for the reasons stated in our opinion dated this day in *Butler v. State*, cause number 06-09-00150-CR, we likewise in this appeal affirm the judgment of the trial court.

Bailey C. Moseley
Justice

Date Submitted: July 6, 2010
Date Decided: July 20, 2010

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