

STATE OF LOUISIANA
9th JUDICIAL DISTRICT COURT
PARISH OF RAPIDES

* * * * *
STATE EX REL.
DARRELL J. ROBINSON

Petitioner

Case No. 243-583

VERSUS

Division "E"

DARREL VANNNOY, Warden,
Louisiana State Penitentiary,
Angola, Louisiana

DEATH CASE

Respondent

* * * * *

MOTION TO VACATE CONVICTION AND SENTENCE

Petitioner Darrell Robinson, through undersigned counsel, respectfully submits that Petitioner's conviction and sentence should be reversed and vacated because material exculpatory and impeachment evidence was not provided to the defense, in violation of *Brady v. Maryland*, 373 U.S. 83 (1963), *Napue v. Illinois*, 360 U.S. 264, 271 (1959), and Mr. Robinson's due process rights. As detailed in the *Joint Stipulation of Facts*, submitted herewith, and Petitioner's *Revised and Amended First Supplemental Petition for Post-Conviction Relief*, the State failed to disclose the existence of a deal with prosecution witness Leroy Goodspeed as well as documentation of that deal, statements of witnesses, and forensic evidence that contradicted the testimony of the State's witnesses. The cumulative effect of this undisclosed evidence is highly likely to have affected the judgment of the jury, and it significantly undermines confidence in Petitioner's conviction. Under *Brady* and its progeny, Petitioner's conviction must be vacated.

ARGUMENT

Failure to disclose exculpatory evidence "violates due process where the evidence is material either to guilt or to punishment, irrespective of the good faith or bad faith of the prosecution." *Brady* at 87. Undisclosed evidence is material if there is "any reasonable likelihood" it could have "affected the judgment of the jury." *Giglio v. United States*, 405 U.S. 150, 154 (1972) (*quoting Napue v. Illinois*, 360 U.S. 264, 271 (1959)).

The State's obligations under *Brady* are affirmative and self-executing; they do not await specific demand from the defense. *United States v. Agurs*, 427 U.S. 97, 107 (1976). Moreover,

the duty to disclose favorable evidence is not limited to evidence in the actual possession of the prosecutor, it extends to evidence in possession of *the entire state team*. This team is composed of all investigative and government agencies and includes the police, the Sheriff's Office, the Coroner's Office, and all forensic laboratories. *Kyles v. Whitley*, 514 U.S. 419, 437 (1995). "The individual prosecutor has a duty to learn of any favorable evidence known to others acting on the government's behalf, including the police." *Id.*; see also *State v. Wells*, 2011-0744 (La. Ct. App., April 13, 2016) (slip opinion) ("Importantly, the state is not absolved of its duties under *Brady* simply because an individual prosecutor does not possess or have knowledge of the evidence.").

Consequently, "*Brady* suppression occurs when the government fails to turn over even evidence that is 'known only to police investigators and not to the prosecutor.'" *Youngblood v. W. Virginia*, 547 U.S. 867, 869-70 (2006) (quoting *Kyles*, 514 U.S. at 438). Whether or not prosecutor Michael Shannon knew of the undisclosed evidence is irrelevant to evaluating Petitioner's *Brady* claims. Similarly, the intent of the prosecution is irrelevant when considering a failure to disclose material evidence, which requires reversal "irrespective of the good faith or bad faith of the prosecution." *Brady* at 87. Thus, Petitioner need not show that the undisclosed evidence was intentionally withheld, or even that Mr. Shannon knew of its existence.

Finally, to establish materiality, Petitioner need not show that he "more likely than not" would have been acquitted had the new evidence been admitted . . . [he] must show only that the new evidence is sufficient to 'undermine confidence' in the verdict." *United States v. Michael Wearry*, 577 U.S. ____ (2016) (slip op. at 7), quoting *Smith v. Cain*, 565 U. S. 73, ____ (2012) (slip op., at 2-3). For example, undisclosed evidence is material if it "would have raised opportunities to attack ... the thoroughness and even the good faith of the investigation," or could have been used to "attack[] ... the investigation as shoddy," and lessen the credibility of the State's case. *Kyles*, 514 U.S. at 445. Similarly, undisclosed evidence is material if it would have enabled the defense to "construct a plausible alternative narrative of the crime and raise reasonable doubt in the minds of the jurors." *Bies v. Sheldon*, 775 F.3d 386, 400 (6th Cir. 2014). And the determination of materiality turns on evaluation of the *cumulative* effect of all the undisclosed evidence on the jury, rather than evaluation of the materiality of each individual piece of evidence. *Wearry* (slip op. at 9).

There are two other principles relevant to the materiality inquiry in Petitioner's case. First, a court should evaluate the prosecution's suppression of evidence "in the context of the entire record"—and, "if the verdict is already of questionable validity, additional evidence of relatively minor importance might be sufficient" to satisfy the materiality standard. *Agurs*, 427 U.S. at 112-113. Second, in conducting the materiality inquiry, a court should consider the possibility that, even if a piece of suppressed evidence would not itself have been admissible at trial, it would have led to admissible evidence if it had been produced. *Wood v. Bartholomew*, 516 U.S. 1, 5-6 (1995) (per curiam).

The Supreme Court's recent decision in *Wearry* illustrates why *Brady* requires reversal here. In *Wearry*, the Court held, among other things, that the State violated *Brady* when it failed to disclose that a prosecution witness testified pursuant to a deal. (Slip op. at 6). The Court further held that the State's failure to disclose forensic evidence (medical records) that contradicted the story it advanced at trial also violated *Brady*. (Slip op. at 5-6). The Court found these violations to be so obvious that it summarily reversed Mr. Wearry's conviction without even hearing oral arguments on the case. (Slip op. at 10).

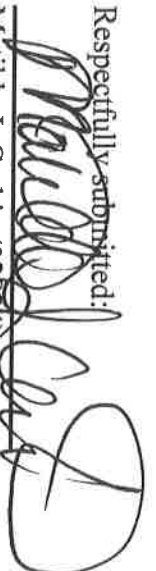
Here, as in *Wearry*, the State failed to disclose evidence of the deal between the State and its key snitch witness, Leroy Goodspeed. Moreover, as in *Wearry*, the State in this case failed to disclose witness statements and forensic evidence that conflicted with the testimony of the State's witnesses and could have enabled the defense to construct a plausible alternative narrative of the crime. The cumulative effect of this undisclosed evidence is highly likely to have affected the judgment of the jury, it significantly undermines confidence in Petitioner's conviction, and therefore easily satisfies the standard of materiality articulated in *Brady* and its progeny.

CONCLUSION

For the above-stated reasons, Petitioner respectfully requests that the Court reverse and vacate Petitioner Darrell Robinson's conviction and sentence.

Date: May 9, 2016

Respectfully submitted,



Matilde J. Carbia (32824)

Capital Post-Conviction Project of Louisiana

1340 Poydras Street, Suite 1700
New Orleans, Louisiana 70112
Telephone: (504) 212-2110

Edward Q. Cassidy (134119)
Lousene M. Hoppe (387171)
Kevin C. Riach (389277)
Fredrikson & Byron, P.A.
200 South Sixth St., Ste. 400
Minneapolis, MN 55402
Telephone: (612) 492-7878
(admitted *pro hac vice*)

Counsel for Petitioner Darrell Robinson

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served by hand delivery to the Office of the District Attorney, Mr. Greg Wampler, Assistant District Attorney, on this 9th day of May, 2016.

A handwritten signature in cursive script, reading "Matthew J. Davis", written over a horizontal line.

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ORDER

Based on the *Joint Stipulation of Facts* submitted by Petitioner Darrell Robinson and the State of Louisiana and Petitioner’s *Revised and Amended First Supplemental Petition for Post-Conviction Relief*, both of which detail material exculpatory and impeachment evidence that was not disclosed to trial counsel, in violation of *Brady v. Maryland*, 373 U.S. 83 (1963), *Napue v. Illinois*, 360 U.S. 264, 271 (1959), and Mr. Robinson’s due process rights, Petitioner Darrell Robinson’s conviction and sentence are hereby reversed and vacated.

Honorable Patricia Koch
Ninth Judicial District, Division E