

APPENDIX “A”

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT

TROY WILLIAMS,
Appellant,

v.

STATE OF FLORIDA,
Appellee.

No. 4D18-3022

[December 27, 2018]

Appeal of order denying rule 3.850 motion from the Circuit Court for the Seventeenth Judicial Circuit, Broward County; Dennis D. Bailey, Judge; L.T. Case No. 04-5077CF10A.

Troy Williams, Miami, pro se.

No appearance required for appellee.

PER CURIAM.

Affirmed.

CIKLIN, LEVINE and CONNER, JJ., concur.

* * *

Not final until disposition of timely filed motion for rehearing.

APPENDIX “B”

IN THE CIRCUIT COURT OF THE 17TH JUDICIAL CIRCUIT
IN AND FOR BROWARD COUNTY, FLORIDA

STATE OF FLORIDA,

Case No. 04-5077CF10A

Plaintiff,

Judge: Dennis D. Bailey

v.

TROY WILLIAMS,

Fourth DCA Case No. 4D18-2788
(Petition for Writ of Mandamus)

Defendant.

**ORDER DENYING DEFENDANT'S *PRO SE*
SECOND OR SUCCESSIVE MOTION FOR POST-CONVICTION RELIEF**

THIS CAUSE came before the Court upon Defendant's timely filed *pro se* Second or Successive Motion for Post-Conviction Relief, pursuant to Rule 3.850(c)(7), Florida Rules of Criminal Procedure, submitted to prison authorities on February 13, 2018, and filed with the Court on February 15, 2018. Pursuant to Court Order, the State filed a Response thereto dated September 24, 2018. The Court, having examined the instant motion, the State's Response, the Court file, and applicable law, finds as follows:

Defendant was charged with one count of sexual battery upon a five-year old child. Defendant was convicted by jury of the charge and sentenced on November 20, 2007, to life in prison and declared a sexual predator. Defendant appealed, and the Fourth District Court of Appeal affirmed *per curiam* the judgment and conviction. *Williams v. State*, 39 So.3d 1273 (Fla. 4th DCA 2010). The Mandate issued on August 20, 2010, the date when the instant case became final.

On or about October 21, 2016, pursuant to Rule 2.220(b)(4), Florida Rules of Criminal Procedure, the State filed a generic *Brady*¹ Notice concerning the statistical testing of DNA findings using the Combined Probability of Inclusion (CPI) "to calculate the

¹ *Brady v. Maryland*, 373 U.S. 83, 83 S. Ct. 1194, 10 L. Ed. 2d 215 (1963).

statistical significance of genetic profiles when allelic dropout is known and/or suspected to have occurred." The generic *Brady* Notice provides that the CPI calculations were "only used by the BSO [Broward Sheriff's Office] DNA crime lab in complex DNA mixture cases."

Defendant files the instant motion on the basis of this generic *Brady* Notice, which he alleges constitutes "newly discovered evidence" pursuant to Rule 3.850(c)(7), Florida Rules of Criminal Procedure. He asserts that because DNA evidence was used in the instant case, he is entitled to a new trial; he further asserts that based on this newly discovered evidence, if he is granted a new trial, there is a good probability of acquittal.

The Court adopts and incorporates herein the legal and factual reasoning that is contained in the State's Response² and denies the instant motion. As more fully set forth in the State's Response, the generic *Brady* Notice strictly concerns and is solely limited to: (1) a Broward Crime Lab analyst—and no other persons—who (a) testified at trial or (b) provided a written report or (c) provided a deposition (2) in a complex DNA mixture case (3) using the CPI method of calculation. If *any* one of these items is missing, i.e., (1), (2) or (3), the generic *Brady* Notice does *not* apply. Even if all three of these items applied, a defendant would *also* have to demonstrate prejudice *and* a probability of acquittal at trial (or retrial). Moreover, a defendant's claim may nonetheless fail if the record reflects that there was strong corroborating evidence, such as eyewitnesses or matching fingerprints, or if the victim clearly identified the perpetrator of the crime, or a confession by defendant.

The record reveals that item (3), the CPI method of calculation, was *not* used to calculate the DNA evidence that was collected and used in the instant case. Therefore,

² The State has certified that it sent a copy of its 212-page Response to the Defendant via U.S. mail on September 24, 2018; as such, an *additional* copy is not attached hereto.

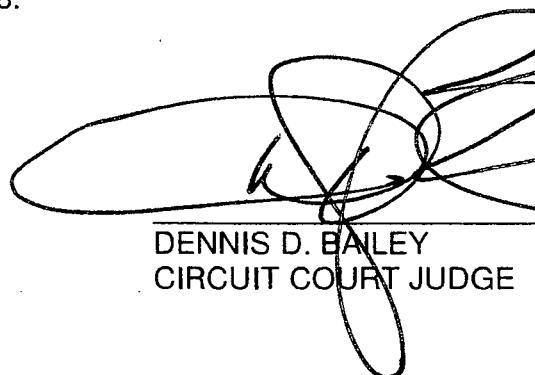
since item (3) above was not used, the generic *Brady* Notice does not apply to the Defendant and relief is not warranted.

Based on the foregoing, it is

ORDERED AND ADJUDGED that Defendant's *pro se* Second or Successive Motion for Post-Conviction Relief is hereby **DENIED**.

The Defendant has thirty (30) days from the date of this order to file an appeal.

DONE AND ORDERED in Chambers, Fort Lauderdale, Broward County, Florida, this 25th day of September, 2018.



Dennis D. Bailey
DENNIS D. BAILEY
CIRCUIT COURT JUDGE
SEP 25 2018
A True Copy

Copies furnished to:

Susan Odzer Hugentugler, Esq.
Assistant State Attorney

Troy Williams, Defendant, DC #B05078
Mayo Correctional Institution Annex
8784 U.S. Highway 27 West
Mayo, FL 32066

Samantha Angel, Legal Assistant
Appellate Court Case No. 4D18-2788
(regarding Defendant's Petition for Writ of Mandamus)
Office of the Attorney General
1515 North Flagler Drive, Suite 900
West Palm Beach, FL 33401-3432
Email: Samantha.angel@myfloridalegal.com

Lonn Weissblum, Clerk
Appellate Court Case No. 4D18-2788
(regarding Defendant's Petition for Writ of Mandamus)
Fourth District Court of Appeal
110 South Tamarind Avenue
West Palm Beach, FL 33401

APPENDIX “C”

2419

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT, 110 SOUTH TAMARIND AVENUE, WEST PALM BEACH, FL 33401

February 04, 2019

CASE NO.: 4D18-3022
L.T. No.: 04-5077CF10A

TROY WILLIAMS

v. STATE OF FLORIDA

Appellant / Petitioner(s)

Appellee / Respondent(s)

BY ORDER OF THE COURT:

ORDERED that the appellant's January 14, 2019 *pro se* motion for rehearing is denied.

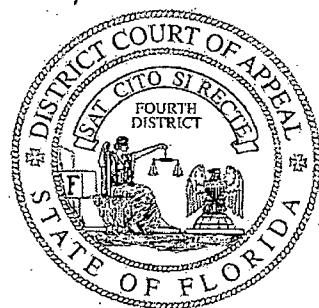
Served:

cc: Attorney General-W.P.B. Troy Williams

kr

Lonn Weissblum

LONN WEISSBLUM, Clerk
Fourth District Court of Appeal



**Additional material
from this filing is
available in the
Clerk's Office.**