

The Supreme Court of the State of Louisiana

KEITH EZIDORE

No. 2023-KP-01312

VS.

TIMOTHY HOOPER, WARDEN

IN RE: Keith Ezidore - Applicant Plaintiff; Applying For Supervisory Writ, Parish of St. James, 23rd Judicial District Court Number(s) 1983-F, Court of Appeal, Fifth Circuit, Number(s) 23-KH-363;

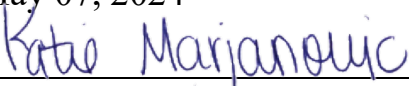
May 07, 2024

Writ application granted in part. See per curiam.

JTG
JLW
JDH
PDG

Crichton, J., dissents and would deny.
Crain, J., dissents and would deny.
McCallum, J., dissents and would deny.

Supreme Court of Louisiana
May 07, 2024



Chief Deputy Clerk of Court
For the Court

SUPREME COURT OF LOUISIANA

No. 2023-KP-01312

KEITH EZIDORE

VS.

TIMOTHY HOOPER, WARDEN

On Supervisory Writ to the 23rd Judicial District Court, Parish of St. James

PER CURIAM:

Writ granted in part; otherwise denied. We find that the court of appeal correctly determined that the district court erred in imposing procedural bars to dismiss applicant’s post-conviction claims involving violations of *Brady v. Maryland*, 373 U.S. 83, 87, 83 S.Ct. 1194, 1196, 10 L.Ed.2d 215 (1963). *Ezidore v. Hooper*, 23-363 (La. App. 5 Cir. 8/30/23) (unpub’d). However, we also find that the court of appeal erred in determining from the information available that post-conviction applicant Keith Ezidore failed to show that any material suppression had occurred. Accordingly, we grant the application in part to reverse that portion of the court of appeal’s ruling, and we remand to the district court with instructions to conduct an evidentiary hearing at which applicant will have the opportunity to carry his burden post-conviction, La.C.Cr.P. art. 930.2, of showing the State suppressed material evidence that was reasonably likely to have affected the judgment of the jury. *See generally Wearry v. Cain*, 577 U.S. 385, 136 S.Ct. 1002, 194 L.Ed.2d 78 (2016); *see also Giglio v. United States*, 405 U.S. 150, 92 S.Ct. 763, 31 L.Ed.2d 104 (1972) (clarifying that the rule stated in *Brady* applies to evidence undermining witness credibility).

As for applicant’s recantation-based claim of factual innocence, we find that applicant has failed to present evidence that is both new and sufficiently

corroborated in accordance with La.C.Cr.P. art. 926.2(B)(2), (B)(1)(a). Therefore, applicant's claim of factual innocence can properly be dismissed, *see* La.C.Cr.P. arts. 929, 930, and the application here with regard to the claim of factual innocence is denied.

REVERSED IN PART AND REMANDED