

Serial: **215276**

IN THE SUPREME COURT OF MISSISSIPPI

No. 2017-DR-00206-SCT

SHERWOOD BROWN

Appellant

v.

STATE OF MISSISSIPPI

Appellee

EN BANC ORDER

Now before the Court, *en banc*, is the Motion Pursuant to § 99-39-7 of the Mississippi Uniform Post-Conviction Collateral Relief Act to Vacate His Convictions Based on Exculpatory DNA Testing Results and False Forensic Testimony filed by Sherwood Brown. A Response in Opposition was filed by the State of Mississippi, to which Brown filed a Rebuttal.

On December 6, 2012, the Court entered a unanimous En Banc Order which granted Brown “leave to file his motion for DNA testing of biological evidence in the” Circuit Court of DeSoto County. Upon completion of the DNA testing and submission of the associated reports, Brown now requests that the Court vacate his convictions and sentences in *Sherwood Brown v. State of Mississippi*, No. 95-DP-00407-SCT, and grant him a new trial.

Having considered all pertinent materials, including the Motion and attached exhibits, the State’s Response, Brown’s Rebuttal, and the record filed and opinion issued in Brown’s direct appeal,¹ the Court finds the Motion is well-taken and should be granted. The State fails to demonstrate any issues of fact that would render a hearing necessary. Brown’s convictions

¹See *Brown v. State*, 690 So. 2d 276 (Miss. 1996).

and sentences in *Sherwood Brown v. State of Mississippi*, No. 95-DP-00407-SCT, should be reversed and the case remanded to the Circuit Court of DeSoto County for a new trial.

The relief afforded herein is extraordinary and extremely rare in the context of a petition for leave to pursue post-conviction collateral relief, and we limit the relief we today grant to the facts of the above-styled case.

IT IS THEREFORE ORDERED that the Motion Pursuant to § 99-39-7 of the Mississippi Uniform Post-Conviction Collateral Relief Act to Vacate His Convictions Based on Exculpatory DNA Testing Results and False Forensic Testimony filed by Sherwood Brown is hereby granted.

IT IS FURTHER ORDERED that the convictions and sentences in *Sherwood Brown v. State of Mississippi*, No. 95-DP-00407-SCT, are hereby reversed, and the case at issue here and in the direct appeal styled *Sherwood Brown v. State of Mississippi*, No. 95-DP-00407-SCT, is remanded to the Circuit Court of DeSoto County for a new trial.

SO ORDERED, this the 24th day of October, 2017.

/s/ Josiah Dennis Coleman

JOSIAH DENNIS COLEMAN, JUSTICE

TO GRANT MOTION,
VACATE CONVICTIONS,
AND REMAND FOR A NEW TRIAL:

WALLER, C.J., KITCHENS, P.J., KING,
COLEMAN AND ISHEE, JJ.

TO GRANT MOTION AND
REMAND FOR EVIDENTIARY
HEARING:

RANDOLPH, P.J., MAXWELL AND
BEAM, JJ.

NOT PARTICIPATING:

CHAMBERLIN, J.