

**SYNOPSIS OF OPINION IN DEATH PENALTY CASE IN THE MISSISSIPPI
SUPREME COURT HANDED DOWN FEBRUARY 2, 2017**

Caleb Corrothers v. State, No. 2014-DR-01689-SCT, 2017 WL 452912 (Miss. Feb. 2, 2017),
reh. den. (May 11, 2017)

CASE: Motion in Supreme Court for Leave to Proceed in the Trial Court for Post-Conviction Relief

SENTENCE: Death

COURT: Circuit Court, Lafayette County,

TRIAL JUDGE: Hon. Andrew K. Howorth

MOVANT ATTORNEYS: Office of Capital Post-Conviction Counsel by Louwlynn Vanzetta Williams, Dellwyn K. Smith

RESPONDENT ATTORNEYS: Office of the Attorney General by Brad Alan Smith,

DISTRICT ATTORNEY: Ben Creekmore

DISPOSITION: *En banc.* Leave to seek post-conviction relief granted in part and denied in part. Maxwell, J., for the Court. Waller, C.J., Dickinson and Randolph, P.JJ., Kitchens, King, Coleman, Beam and Chamberlin, JJ., concur.

ISSUES: Leave to proceed was granted on claim that right to trial by impartial jury was violated by alleged improper juror contact between a juror and a victim family member during the trial. Other PCR claims denied such leave.

FACTS: Corrothers was convicted of, *inter alia*, the robbery-based capital murders of Taylor Clark and Taylor's father Frank Clark at the Clark home and sentenced to death on both convictions. The Mississippi Supreme Court affirmed on direct appeal. In support of his Motion for Leave, Corrothers submitted affidavits from his own mother Vonda and from his cousin Makyia Sanders. Each affiant claimed she observed improper contact between a juror and Taylor's mother/Frank's widow Tonya Clark during the trial. Vonda stated that she saw the juror "communicating a lot of information to Tonya Clark when the jury would enter the courtroom," and that "[d]uring the time the verdict was about to be read at sentencing, I noticed that this same juror said to Tonya Clark, 'We got it.'" Makyia reported that she saw the juror "smile and wink her eye at Taylor's mother during the trial."

HELD: "[Corrothers's] allegation of improper juror contact warrants an evidentiary hearing. Where allegations of juror impartiality have been made, the United States Supreme Court "has long held that the remedy ... is a hearing in which the defendant has the opportunity to prove actual bias." *Smith v. Phillips*, 455 U.S. 209, 216, 102 S.Ct. 940, 945, 71 L.Ed.2d 78 (1982) (citing *Remmer v. United States*, 347 U.S. 227, 74 S.Ct. 450, 98 L.Ed. 654 (1954))."

To read the full opinion, click here: <https://courts.ms.gov/Images/Opinions/CO117576.pdf>

DISCLAIMER: These synopses are provided as a service by the Mississippi Office of State Public Defender. They are designed for the educational and research benefits of Mississippi public defenders only. As such, they do not necessarily represent the official opinion of the Office of State Defender or the Mississippi Public Defenders Association. They may be FREELY distributed in whole or in part. — Beau Rudder, Director of Training, Office of State Public Defender.