

SYNOPSIS OF OPINION IN DEATH PENALTY CASE IN THE MISSISSIPPI SUPREME COURT HANDED DOWN September 14, 2017

State of Mississippi v. Joseph Patrick Brown, No. 2015-DR-01099-SCT (Sept. 14, 2017)

CASE: DEATH PENALTY – SUCCESSIVE PETITION FOR POST CONVICTION RELIEF-
SENTENCE: Death

TRIAL COURT: Circuit Court, Adams County,

ATTORNEYS for Joseph Patrick Broun: Office of Capital Post-Conviction Counsel, Jamila K. Alexander, Louwlynn Vanzetta Williams, Alexander Kassoff

ATTORNEYS for State of Mississippi: Office of the Attorney General by Brad Alan Smith

DISPOSITION: *En banc*. Pre-petition Motion for Leave to Invoke Discovery and Seek Access Orders in the Circuit Court denied Waller, C.J., for the Court, Randolph, P.J., Coleman, Maxwell, Beam and Chamberlin, JJ., concur; Dickinson, Presiding Justice, dissented, joined by Kitchens, King, JJ., and by Coleman, J., in part.

ISSUES: Whether Brown as a successive post-conviction relief petitioner is entitled to seek the pre-petition discovery and disclosures in the trial court provided for by Miss. R. App. P. 22(c).

FACTS: In 1994, Brown was tried, convicted, and sentenced to death on a charge of capital murder in the Circuit Court of Adams County. His conviction and sentence were affirmed on direct appeal. On a post-conviction petition filed in 1998 Brown was granted leave to seek relief in the trial court. He did so, but that relief was ultimately denied by the Circuit Court of Adams County, a ruling affirmed by the Mississippi Supreme Court in 2012. Brown sought habeas corpus relief in federal court, but those proceedings were stayed to allow a successive post-conviction proceeding to exhaust claims allegedly not raised due to ineffective assistance of previous post-conviction counsel. Brown filed his Notice of Intent to Seek Successive Post-Conviction Relief with the Mississippi Supreme Court and the separate Motion for Leave disposed of by the Court here, relying upon Miss. R. App. P. 22(c) for the authority to seek pre-filing discovery in the trial court.

HELD: Rule 22(c) does not apply to successive petitions for post-conviction relief.

The majority construed Rule 22(c) in light of the Uniform Post-Conviction Collateral Relief Act's (UPCCRA) pronouncement that criminal defendants are entitled to file only one petition for post-conviction, subject to limited exceptions. It concluded that Rule 22(c) is therefore inapplicable in the instant case. Assuming that Brown eventually files his successive petition for post-conviction relief he may be entitled statutory-based excusal from any requirements that cannot be met due to the absence of Rule based pre-petition discovery and/or to statutory post-petition discovery.

The dissenters would hold that the plain language of Rule 22(c) does not distinguish between initial and successive post-conviction relief proceedings, and that the majority's reliance on the statute to construe the Rule otherwise, and as the sole basis for any post-petition filing discovery or other relief violates the separation of powers.

To read the full opinion, click here: <https://courts.ms.gov/Images/Opinions/CO123109.pdf>

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