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SUPREME COURT OF ALABAMA

SPECIAL TERM, 2013

1120561

Ex parte Michael Anthony Sockwell

PETITION FOR WRIT OF CERTIORARI
TO THE COURT OF CRIMINAL APPEALS

(In re: Michael Anthony Sockwell

v.

State of Alabama)

(Montgomery Circuit Court, CC-88-1244.60;
Court of Criminal Appeals, CR-08-1540)

MOORE, Chief Justice.

1120561

WRIT DENIED. NO OPINION.

Stuart, Bolin, Parker, Main, and Bryan, JJ., concur.

Murdock and Shaw, JJ., concur in part and dissent in part.

Wise, J., recuses herself.*

*Justice Wise was a member of the Court of Criminal Appeals when that court considered this case.

1120561

SHAW, Justice (concurring in part and dissenting in part).

The Court of Criminal Appeals held that the petitioner, Michael Anthony Sockwell, failed to allege under Rule 32.1(e), Ala. R. Crim. P., that his claim of a violation of Brady v. Maryland, 373 U.S. 83 (1963), was based on newly discovered evidence. Sockwell v. State, (No. CR-08-1540, Aug. 24, 2012), ___ So. 3d ___ (Ala. Crim. App. 2012) (table). However, as this Court recently held in Ex parte Beckworth, [Ms. 1091780, July 3, 2013] ___ So. 3d ___ (Ala. 2013), a claim that a petitioner's constitutional rights were violated under Brady may be alleged under Rule 32.1(a), Ala. R. Crim. P., and not be required to meet the elements of a claim of newly discovered material facts under Rule 32.1(e). Sockwell claims that he properly alleged his Brady claim under Rule 32.1(a); I would grant the petition as to this ground to review whether his allegations were sufficient to entitle him to an evidentiary hearing. As to the remaining issues in the petition, I concur to deny certiorari review.

Murdock, J., concurs.