



CITY NOT LIABLE FOR FAILING TO DISCLOSE EXCULPATORY EVIDENCE WHEN PLAINTIFF ENTERED A GUILTY PLEA

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Law Enforcement Risk Management Group, 700 N. Carr Rd. #595, Plainfield, IN 46168

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On June 26, 2017, the Fifth Circuit Court of Appeals decided *Alvarez v. City of Brownsville*ⁱ, in which the court discussed whether the City of Brownsville was liable when it failed to disclose a video that showed that Alvarez was innocent of the assault of a prison guard for which he pled guilty. The relevant facts of *Alvarez*, taken directly from the case, are as follows:

In November 2005, the Brownsville Police Department ("BPD") arrested Alvarez on suspicion of burglary and public intoxication, then placed him in a holding cell. After an altercation at the jail, Detention Officer Jesus Arias pressed charges against Alvarez "for assaulting him and causing him pain." Alvarez was charged with assault on a public servant, a third-degree felony. He pleaded guilty in state court in May 2006 and was given a suspended sentence of eight years of imprisonment and a sentence of ten years of community supervision. As a condition of community supervision, the court imposed "a term of confinement and treatment in a substance abuse felony punishment facility . . . for not less than 90 days or more than 12 months[.]" Alvarez did not complete the treatment program, so the court revoked his suspended sentence and ordered him to serve eight years of imprisonment.

Several years later, videos of the altercation between Arias and Alvarez were discovered in the course of a separate § 1983 case with similar facts filed by another detainee against the City and Arias. In May 2010, Alvarez filed a writ of habeas corpus in state court, contending that the newly discovered videos—which, he claimed, BPD had withheld in violation of *Brady*—demonstrated that he was "actually innocent" of the alleged assault. After concluding that "there is a reasonable probability that, had the evidence been disclosed, the outcome of [Alvarez's] case would have been different," the state district court recommended that the writ be granted and that Alvarez be given a new trial. Based on the state district court's findings of fact and its "own independent examination of the record," the Texas Court of Criminal Appeals concluded in October 2010 that Alvarez was "actually innocent of committing the offense in this cause." That court set aside his

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conviction for assault on a public servant. One week later, the state district court granted the state's motion to dismiss all charges against Alvarez.

The following April, Alvarez filed this suit under § 1983 against the City, Arias, jail supervisor Sergeant David Infante, Chief of Police Carlos Garcia, Lieutenant Henry Etheridge, Jr., and Police Commander Roberto Avitia, Jr. Alvarez's pleadings asserted, *inter alia*, claims for fabrication of evidence and nondisclosure of exculpatory evidence under the *Brady* doctrine.ⁱⁱ

Ultimately, the district court dismissed all claims except the claim against the City of Brownsville. The City appealed to the Fifth Circuit Court of Appeals.

The first issue before the court was whether the City violated *Brady's* requirement that the government must disclose exculpatory evidence to the defendant in a criminal case.

The City argued that that the district court should have granted summary judgment on their behalf because Alvarez's guilty plea prevented him from asserting a *Brady* claim, as a matter of law.

The Fifth Circuit examined the law related to this issue. They stated

We have held, in the contexts of direct appeals and habeas corpus, that **a defendant who pleads guilty waives the right to assert a *Brady* claim.** In *Matthew v. Johnson*, a habeas case, **we held that the withholding of *Brady* material does not render a guilty plea invalid or involuntary.** We reasoned in *Matthew* that, "[b]ecause a *Brady* violation is defined in terms of the potential effects of undisclosed information on a judge's or jury's assessment of guilt, it follows that the failure of a prosecutor to disclose exculpatory information to an individual waiving his right to trial is not a constitutional violation." **We explained that the purpose of the *Brady* doctrine is to ensure that the defendant has a fair trial and concluded that *Brady's* "focus on protecting the integrity of trials suggests that where no trial is to occur, there may be no constitutional violation."** Relying on *Matthew*, subsequent panels of this court have rejected appellants' challenges on direct appeal to their guilty-plea convictions on the basis that the pleas were unknowing and involuntary because the government withheld exculpatory evidence.ⁱⁱⁱ [internal citations omitted] [emphasis added]

The court of appeals noted that the Supreme Court, in the *United States v. Ruiz*^{iv} has previously held that a defendant who pleads guilty does not have right to *impeachment evidence*, but it has not yet decided whether a defendant has a right to *exculpatory evidence*. However, the court's rationale in that case was that, in a plea, a defendant cannot be deprived of a "fair trial" by the withholding of impeachment evidence, because there is not trial when a defendant enters a plea. The Fifth Circuit noted that exculpatory evidence was not at issue in that case, however.

The Fifth Circuit also examined a prior case from within their Circuit, the *United States v. Conroy*.^v The court stated

[T]he *Conroy* panel held that the defendant's guilty plea "precludes her from claiming that the government's failure to disclose [exculpatory evidence] was a *Brady* violation." *Conroy* thus extended the impeachment evidence holding of *Ruiz* to cover exculpatory evidence as well, and we are bound by that decision.^{vi} [internal citations omitted] [emphasis added]

As such, the court, noting that they are bound by the decision in *Conroy*, held that the City did not violate the Constitution under *Brady* by failing to disclose exculpatory evidence to Alvarez when he pleaded guilty. Thus, the court reversed the district court and its judgment and dismissed Alvarez's suit.

ⁱ No. 16-40772 (5th Cir. Decided June 26, 2017)

ⁱⁱ Id. at 2-3

ⁱⁱⁱ Id. at 4-5

^{iv} 536 U.S. 622 (2002)

^v 567 F.3d 174 (5th Cir. 2009)

^{vi} Alvarez at 7