

VIA ZOOM, TUESDAY, MAY 11, 2021, AT 10:30 A.M.

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 47793

JEFFERY ALAN BAKER,)
)
 Petitioner-Appellant,)
)
 v.)
)
 STATE OF IDAHO,)
)
 Respondent.)
)
 _____)

Appeal from the District Court of the Fourth Judicial District, State of Idaho, Ada County. Hon. Peter G. Barton, District Judge.

Ferguson Durham PLLC; Craig H. Durham, Boise, for appellant.

Hon. Lawrence G. Wasden, Attorney General; Kenneth K. Jorgensen, Deputy Attorney General, Boise, for respondent.

A jury found Jeffrey Alan Baker guilty of first degree murder of his eleven-week-old daughter, G.B. This Court affirmed Baker's judgment of conviction and sentence on direct appeal. Thereafter, Baker filed a petition for post-conviction relief in which he raised numerous claims. The State moved for summary dismissal of Baker's petition, and he moved for partial summary disposition of his claim that the State violated his constitutional rights as articulated in *Brady v. Maryland*, 373 U.S. 83 (1963), and its progeny. After a hearing, the district court summarily dismissed all of Baker's claims.

Baker timely appeals. He asserts the district court erred by summarily dismissing five of his claims. He argues he is entitled to a new trial based on his *Brady* claim. Alternatively, Baker argues he at least established genuine issues of material fact warranting an evidentiary hearing. He argues he established factual issues including: (1) whether the State violated *Brady* by failing to disclose information about an inmate informant who testified Baker confessed to G.B.'s murder; (2) whether Baker's trial counsel was ineffective for failing to present the expert testimony of a neuroradiologist and a pediatric neurologist; and (3) whether Baker's trial counsel was ineffective for failing to object to the prosecutor's misconduct during closing argument. Further, Baker urges this Court to adopt a freestanding claim of actual innocence under the state and federal Constitutions and to conclude that no reasonable juror could find Baker guilty beyond a reasonable doubt based on the newly discovered and developed evidence.