

Brady

Prosecution's
suppression of evidence
favorable to the
defendant as depriving
the defendant of due
process.

United States v. Agurs, 427 U.S. 97, 107-114, 49 L. Ed. 2d
342, 96 S. Ct. 2392 (1976); Brady v. Maryland, 373 U.S. 83,
87, 10 L. Ed. 2d 215, 83 S. Ct. 1194 (1963)

Petitioner may be
granted habeas
corpus relief on basis
of Brady claim.

Ex Parte Brandley, 781 S.W.2d 886, 892-894 (Crim.
App. 1989).

Prosecutor's duty to correct known false evidence exists if prosecutor should have recognized misleading nature of evidence.

Duggan v. State, 778 S.W.2d 465, 468 (Crim. App. 1989)

Prosecution as having
obligation to divulge
information becoming
material as trial
progresses.

Pennsylvania v. Ritchie, 480 U.S. 39, 60, 108 S. Ct. 989, 94 L.
Ed. 2d 40 (1987)

For suppression of evidence to be reversible error, there must be finding that evidence suppressed was material, admissible, and exculpatory.

[Iness v. State, 606 S.W.2d 306, 308 \(Crim. App. 1980\)](#)

To obtain reversal for suppression of nonsubstantive impeaching testimony defendant must show that undisclosed evidence probably would have required acquittal.

Monroe v. Blackburn, 607 F.2d 148, 151 n. 5 (5th Cir. [La.] 1980)

Reversal should result from prosecution's use of false testimony if there is any reasonable likelihood that false testimony could have affected jury.

Monroe v. Blackburn, 607 F.2d 148, 151 n. 5 (5th Cir. [La.] 1979)

Failure of prosecution to disclose favorable evidence as requiring reversal in the absence of a request for exculpatory evidence if the undisclosed evidence creates a reasonable doubt that did not otherwise exist.

United States v. Agurs, 427 U.S. 97, 107-114, 49 L. Ed. 2d 342, 96 S. Ct. 2392 (1976); Stone v. State, 583 S.W.2d 410, 414-415 (Crim. App. 1979)

Evidence of any understanding or agreement concerning the future prosecution of a key prosecution witness as material.

Giglio v. United States, 405 U.S. 150, 154, 31 L. Ed. 2d 104, 92 S. Ct. 763 (1972)

Prosecution as having duty
to refrain from
deliberately
misrepresenting the truth
or knowingly using perjured
testimony to convict a
defendant.

Napue v. Illinois, 360 U.S. 264, 269-270, 3 L. Ed. 2d 1217, 79
S. Ct. 1173 (1959); Appleman v. State, 531 S.W.2d 806, 810
(Crim. App. 1976)

Suppression of evidence
which may exonerate
the defendant or be of
material importance to
the defense as requiring
reversal.

Holloway v. State, 525 S.W.2d 165, 169 (Crim. App. 1975);
Means v. State, 429 S.W.2d 490, 492-495 (Crim. App. 1968)

Prosecution as having
a continuing burden to
disclose evidence.

Granviel v. State, 552 S.W.2d 107, 119 (Crim. App. 1976),
cert. denied, 431 U.S. 933, 53 L. Ed. 2d 250, 97 S. Ct. 2642
(1977)

Disclosure of favorable evidence during trial as being permissible.

Adams v. State, 577 S.W.2d 717, 723 (Crim. App. 1979);
Payne v. State, 516 S.W.2d 675, 677 (Crim. App. 1974)

Prosecution's duty of disclosure as not requiring the prosecution to deliver its entire file to the defendant.

Villarreal v. State, 576 S.W.2d 51, 65 (Crim. App. 1978)

CONSEQUENCES OF NON DISCLOSURE

Reversal of Convictions

Kyles v. Whitley, 514 U.S. 419 (1995);
United States v. Bagley, 473 U.S. 667
(1985); Brady; Giglio; "El Rukn" cases:
[United States v. Burnside, 824 F. Supp.
1215, 1272 (N.D. Ill. 1993); United States
v. Andrews, 824 F. Supp. 1273, 1291;
United States v. Boyd, 833 F. Supp.
1277, 1365 (N.D. Ill. 1993), aff'd, 55 F.3d
239 (7th Cir. 1995)].

Referral to Office of Professional Responsibility,

(U.S.A.M.. §1 - 4.100) United States v. Ranger Electronic Communications, 22 F. Supp. 2d 667, 676 (W.D. Mich. 1998), Rev'd on other grounds, 210 F.3d 627 (6th Cir. 2000).

Bar disciplinary proceedings.

In the Matter of Attorney C. No. 01 SA19, Colorado Supreme Court, decided May 13, 2002. (violation of Rule 3.8(b), Rules of Professional conduct.

Publication of
AUSA's
(prosecutor's)
name in Federal
reporters

Award of Attorneys fees (18 U.S.C. § 3006A).

United States v. Ranger Electronic Communications, 22 F. Supp. 2d 667, 676 (W.D. Mich. 1998), rev'd on other grounds, 210 F.3d 627 (6th Cir. 2000) Indictment of prosecution. See e.g., People v. Vosburgh et al., No 96 CF 2586 (Eighteenth Judicial Circuit, DuPage County, Ill).

Civil suit against investigators and prosecutors.

Jean v. Collins, 221 F.3d 656 (4th Cir. 2000); Smith v. Holtz, 210 F.3d 186 (3rd Cir. 2000); Kelly v. Curtis, 21 F.3d 1544 (11th Cir. 1994); McMillian v. Johnson, 88 F.3d 1554 (11th Cir. 1996), cert. denied, 521 U.S. 1121 (1977).

