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 Vol. 16, No. 50 - December 22, 2008

**Case Name:** *Ex parte Rodney Reed*

- OFFENSE: Post-Conviction Habeas Corpus (Capital Murder - Death Sentence)
- COUNTY: Bastrop
- CCA. CASE No. AP-75,693 DATE OF OPINION: December 17, 2008
- DISPOSITION: Relief Denied
- OPINION: [Keasler, J.](#) [PDF] VOTE: 6-3-0
- TRIAL COURT: 21st D/C; Hon.
- LAWYERS: [Morris Moon](#) (Defense); Trina Dettmer (State)

**Ed Note:** This 100 page opinion is extremely fact intensive. Ultimately, the Court holds that the bulk of Applicant's **Brady** claims are procedurally barred under Article 11.071 § 5, C.Cr.P. As to the **Brady** claims that are not barred by § 5, the Court found that Applicant failed to show that the State did not disclose favorable evidence.

**Concurring / Dissenting Opinions:** [Presiding Judge Keller](#) delivered a concurring opinion. In response to the majority's statement that, "For over forty years, our writ jurisprudence has consistently recognized that this Court is the ultimate factfinder in habeas corpus proceedings . . ." she argued that "this is a serious misstatement of the law." She said she also believes that "the Court's engagement in fact-finding in this case is unnecessary. I therefore find myself unable to join the Court's otherwise formidable opinion." [Judge Price](#) filed a separate concurring opinion, writing separately "only to briefly address Presiding Judge Keller's objection to the Court's discussion of the respective fact-finding roles of this Court and the convicting court. The Presiding Judge's view, if accepted, would relegate this Court to the status of an appellate court. But in the post-conviction context, the Texas Constitution and the Legislature have vested us with original jurisdiction. (1) I must therefore reject the Presiding Judge's view that we owe unqualified deference to the convicting court's findings of fact under any and every set of circumstances in which those findings are supported by the record. While I believe that as a matter of "efficiency, effectiveness, and comity" it is usually the better practice to defer to the findings of the convicting court, for all the reasons typically articulated for affording deference to the court in which live evidence was originally adduced, it is also important to continue to acknowledge, as the Court does today, that, in the post-conviction habeas context, that deference is never absolute." Judge Womack concurred without note.