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SUPREME COURT OF ARKANSAS

No. CR09-60

CHARLES JASON BALDWIN
APPELLANT

V.

STATE OF ARKANSAS
APPELLEE

Opinion Delivered November 4, 2010

APPEAL FROM THE CRAIGHEAD
COUNTY CIRCUIT COURT,
WESTERN DISTRICT
[NO. CR93-450]
HON. CHARLES DAVID
BURNETT, JUDGE

REVERSED AND REMANDED.

JIM HANNAH, Chief Justice

Appellant Charles Jason Baldwin appeals the denial of his petition for writ of habeas corpus and motion for new trial brought pursuant to Arkansas Code Annotated section 16-112-201 to -208 (Repl. 2006), the statutes regarding postconviction appeals based on DNA testing and other scientific evidence. Baldwin asserts that the circuit court erred in its interpretation of the statutes, and thus applied the wrong legal standards throughout its analysis. He further asserts that the circuit court erred in denying relief under the statutes without first holding an evidentiary hearing.

Based on the reasoning set forth in *Echols v. State*, 2010 Ark. 417, 373 S.W.3d 892, which we also hand down today, we hold that the circuit court erroneously interpreted the DNA testing statutes. Accordingly, we reverse and remand for an evidentiary hearing, at which the circuit court shall hear Baldwin's petition and motion and consider the DNA test

results “with all other evidence in the case regardless of whether the evidence was introduced at trial” to determine if Baldwin has “establish[ed] by compelling evidence that a new trial would result in acquittal.” Ark. Code Ann. 16-112-208(e)(3).

Baldwin additionally contends that the circuit court erred in (1) refusing to consider his allegations of juror misconduct, (2) denying his request for further scientific testing of hair and fiber evidence, and (3) denying his motion to recuse.

In denying Baldwin’s petition and motion, the circuit court found that it could not “entertain [Baldwin’s] juror bias and misconduct claims under the DNA testing statute and that the court’s consideration of them in any proceeding [was] foreclosed by law of the case.” While it is true that Baldwin is barred from relitigating any issue as a means of collaterally attacking his convictions, evidence of juror bias and misconduct may or may not be relevant under section 16-112-208(e)(3) to a determination of whether a new trial would result in acquittal.

In denying Baldwin’s request for further scientific testing of hair and fiber evidence, the circuit court found that, “[a]s is true of the results he relies on now, any results of those further tests would not raise a reasonable probability that he did not commit the offenses, a required showing under § 16-112-202(8)(B) [Repl. 2006].” We must reverse and remand to the circuit court because it applied the wrong legal standard. Baldwin’s request for additional testing was made in November 2002; therefore, the circuit court should have considered the request under the DNA testing statutes in effect at that time, *see* Ark. Code Ann. §§ 16-112-201 to -207 (Supp. 2001).

Finally, Baldwin contends that the circuit court, with the Honorable David Burnett presiding, erred in denying his motion for recusal. We take judicial notice that Judge David Burnett has been elected to the Arkansas Senate, District 15, and will take office on January 1, 2011. As a member of the General Assembly, he will be unable to sit as a judge in this matter. See Ark. Const. art. 4, §§ 1, 2; art. 5, § 7; Ark. Code Jud. Conduct Canons 3.1(A), (B); 3.2. As such, the recusal issue is moot.

The court directs the Honorable Ralph Wilson, Jr., Administrative Judge of the Second Judicial District, to reassign this case in accordance with its Administrative Plan.

Reversed and remanded.

Special Justice JEFF PRIEBE joins.

WILLS, J., not participating.

J. Blake Hendrix and John T. Philipsborn, for appellant.

Dustin McDaniel, Att’y Gen., by: *David R. Raupp*, Sr. Ass’t Att’y Gen., for appellee.