

IN THE SUPREME COURT OF TENNESSEE
AT KNOXVILLE

JAMES A. DELLINGER v. STATE OF TENNESSEE

No. E2005-01485-SC-R11-PD

ORDER - Filed January 22, 2009

On August 13, 2008, James A. Dellinger, the petitioner, filed a Motion for Disclosure of Evidence Favorable to the Appellant Pursuant to Brady v. Maryland and the Federal and State Constitutions Regarding State Witness Charles Harlan. The State filed a response to the motion on August 22, 2008. This Court denied Dellinger's motion in an order dated August 26, 2008.

On August 29, 2008, Dellinger filed a Motion to Reconsider, to Permit Oral Argument on this Motion, and to Strike the State's Response to Petitioner's Motion for Disclosure of Evidence ("Motion to Reconsider") as well as a Motion That Court Take Judicial Notice. The State filed a response to both motions on September 12, 2008. On November 3, 2008, Dellinger filed a Reply to State's Response to Petitioner's Motion to Reconsider Motion for Disclosure of Evidence, Motion to Strike State's Response, and Motion to Take Judicial Notice.

We conclude that Dellinger has not shown grounds for reconsideration or for any other relief requested in his Motion to Reconsider. As we stated in the original order of August 26, 2008, "[Dellinger] forfeited the issues raised in his motion by failing to raise them in the courts below." Nor has Dellinger shown grounds to support his Motion That Court Take Judicial Notice. The information at issue became available to Dellinger on May 4, 2005. The post-conviction trial court entered its "Findings of Fact and Conclusions of Law" on June 2, 2005. Dellinger offers no explanation for his failure to request permission to supplement the record by submitting the information to the post-conviction trial court while those proceedings were pending or for his three-year delay in requesting permission to supplement the record on appeal.

Accordingly, Dellinger's Motion to Reconsider and Motion That Court Take Judicial Notice are denied.

PER CURIAM