(2018)—*McClendon v. State*, 347 Ga. App. 542, 820 S.E.2d 167.

The state’s failure to reveal that an informant received money from the police was a *Brady* violation that doomed the conviction in this case.

(2017)—*Jones v. Medlin*, 302 Ga. 555, 807 S.E.2d 849.

Three soldiers were convicted of a drive-by murder in Savannah. Years later, the defendants learned that the prosecution withheld two critical pieces of evidence: first, the eyewitness at trial, who identified two of the three perpetrators in the car had previously been unable to identify any of the occupants of the perpetrators’ car; second, a nearly identical incident occurred several hours later (three soldiers threatening to shoot a black man on a street corner) at a time when the three defendants in this case were already in custody. The Supreme Court held that failing to reveal this information violated *Brady* and ordered the three defendants released twenty-five years after their convictions.

(2015)—*Danforth v. Chapman*, 297 Ga. 29, 771 S.E.2d 886.

The state failed to reveal to the defense several *Brady* items that substantially cast doubt on the testimony of the state’s “jail house confession” witness. The Supreme Court grated a writ of habeas corpus. The jailhouse witness had asked the prosecutor in a taped interview if he would get assistance in his pending case if he cooperated. At trial, however, the witness denied ever seeking any assistance. In addition, the jailhouse witness claimed that another person heard the confession as well, but the state knew that that witness had denied hearing any such confession. That other person was also aware (and told the prosecutor) that the jailhouse witness was seeking assistance in his own case.

(2011)—*Jackson v. State*, 309 Ga. App. 796, 714 S.E.2d 584.

The defendant was the getaway driver in a robbery scheme. The victim gave at least two statements to the police, one of which did not mention a third participant (i.e., the defendant) and the other of which simply stated that there was a third participant (but did not identify the defendant). The state acknowledged that prior to trial the report that did not mention a third perpetrator was not disclosed to the defense. This *Brady* violation required that a new trial be granted.

(2009)—*Gonnella v. State*, 286 Ga. 211, 686 S.E.2d 644.

A participant in the murder with which defendant was charged entered a guilty plea prior to trial and testified for the state. A copy of the plea agreement was furnished to the defendant. However, the document that was filed in court contained a phrase *that had been crossed out*: “In addition the defendant waives any right to modification of the sentence to be imposed pursuant to this agreement, and agrees that he shall not seek modification of said sentence in the future.” The fact that this phrase had been crossed out indicated that the witness at least considered the possibility that her testimony might support a later modification or reduction of her sentence. Failing to reveal this to the defense was a *Brady* violation that necessitated setting aside the murder conviction. The fact that there was no subsequent reduction in the witness’s sentence was not relevant, because at the time of her testimony, she was under the impression that she could move for such a reduction and this may have created the motive to please the prosecution and was a subject that the defendant’s attorney could have revealed to the jury as a reason to doubt her credibility.

(2007)—*Walker v. Johnson*, 282 Ga. 168, 646 S.E.2d 44.

The defendant was convicted of armed robbery and related offenses. There were two victims. One of the victims provided a detailed recorded statement to the police explaining why she thought the other victim had actually staged the robbery as part of an insurance fraud scheme. The defendant also made a recorded statement to the police during which he identified specific alibi witnesses. Neither of these statements was provided to the defense. The Supreme Court agreed with the habeas court that the conviction had to be set aside. The “victim’s” statement was obviously exculpatory and should have been provided. A brief reference to that statement in a police report was not an adequate substitute for providing the entire taped statement. The defendant’s statement should also have been furnished. Though generally a defendant’s own statement does not fall within the scope of a reversible *Brady* violation (because the defendant knows of the existence of the statement), in this case, the state argued to the jury that the defendant never said anything about an alibi until right before trial. Actually, his taped statement contained his alibi information; thus, the state’s argument would have been refuted, had they furnished the taped statement to the defense as *Brady* required.

(2005)—*Schofield v. Palmer*, 279 Ga. 848, 621 S.E.2d 726.

This death penalty conviction was set aside on habeas, based on a *Brady* violation. The state steadfastly denied withholding any *Brady* information at trial. During years of habeas discovery, the state continued to deny the existence of any *Brady* information. Moreover, a confidential file maintained by the GBI was not produced despite repeated demands. The GBI contended that there was no *Brady* information in the file. Actually, there was information in the file that a key prosecution witness had been paid by the state for the information he provided.

(2003)—*Head v. Stripling*, 277 Ga. 403, 590 S.E.2d 122.

Prior to defendant’s death penalty trial, the judge reviewed the state parole file that existed for the defendant from prior incarcerations and concluded that there was some exculpatory information (relating to his mental retardation), but that it was cumulative of other evidence that the defendant had. Neither the prosecutor, nor the defense attorney was given access to the parole file. The Supreme Court, reviewing the case on a writ of habeas corpus, set aside the verdict.

(2003)—*Brownlow v. Schofield*, 277 Ga. 237, 587 S.E.2d 647.

The defendant was convicted of aggravated child molestation and related offenses. The child victim made inconsistent statements regarding the defendant’s conduct, but testified at trial that the defendant did molest him. Ten days prior to trial, however, the assistant DA questioned the child and the child shook his head negatively when asked if one specific act of sodomy occurred. The prosecutor did not reveal this to the defense. The Supreme Court held that failing to reveal this information required setting aside this count of conviction. The Court noted that even though other evidence of the child’s inconsistent statements was revealed, the state may not conceal the victim’s denial to the assistant DA. The Court also held that when evaluating whether the concealed exculpatory information is material and necessitates a new trial, the question is not whether stronger exculpatory evidence was produced by the state, but whether the revelation of the suppressed evidence satisfies the standard that “a reasonable probability exists that the outcome of the proceeding would have been different.” The Court holds that the suppressed evidence satisfied this standard.

(2000)—*Byrd v. Owen*, 272 Ga. 807, 536 S.E.2d 736.

After the defendant was convicted of murder, he appealed, contending that the state’s failure to reveal immunity agreements it had reached with two witnesses violated *Brady*. On direct appeal, the Supreme Court held that this information should have been furnished to the defense, but the error was harmless. Then, during habeas proceedings, it was revealed that the state’s key witness had also been immunized by the District Attorney’s office, and this information, too, had been withheld from the defense (as well as the Supreme Court during the direct appeal). At trial, the witness denied that there was any deal, and the prosecutor made no effort to correct this erroneous testimony. The Supreme Court granted the writ of habeas corpus.

(2000)—*Harridge v. State*, 243 Ga. App. 658, 534 S.E.2d 113.

The defendant was charged with vehicular homicide. He denied being the cause of the fatal crash. The state’s failure to reveal to the defense prior to trial that the driver of the other car, the victim, had cocaine and alcohol in his blood was a *Brady* violation that required setting aside the conviction.

(1997)—*Mondy v. State*, 229 Ga. App. 311, 494 S.E.2d 176.

Though the defendant did not opt in to the 1995 Discovery Act provisions, he was still entitled to receive all *Brady* information pursuant to his request. Here, there was a videotape of the arrest of the defendant and his colleague. On the tape, the colleague acknowledged possessing drugs that were found in his bags. At trial, however, the colleague, who testified for the state, denied knowing about the drugs and claimed that the defendant must have put the drugs in his bag. The tape was never provided to the defense and was not played to the jury. The defendant learned about the tape, however, and failed to object to the state’s failure to provide it to him and did not request a continuance, or any other relief. Viewed as a *Brady* violation, therefore, there was no reversible error. Nevertheless, the appellate court concluded that this was more than simply a *Brady* violation. The conviction in this case was secured through the knowing use of perjured testimony. As such, regardless of whether the *Brady* violation was waived, the conviction had to be set aside.

(1996)—*Carroll v. State*, 222 Ga. App. 560, 474 S.E.2d 737.

After the defendant entered a guilty plea to homicide by vehicle, she learned that the state had withheld certain *Brady* information which suggested that there was insufficient evidence that she was speeding and that the construction of the roadway may have caused the accident. The trial court should have allowed the defendant to withdraw her plea at that time. The state should have disclosed the new information to the defense and had a duty to correct the record when the factual basis for the plea was explained by the defense attorney, who stated that the state’s evidence would show that the defendant was speeding at the time of the accident.

(1996)—*Smith v. State*, 221 Ga. App. 306, 471 S.E.2d 227.

The defendant requested the identity of the informant, as well as any deals which were made with him. The state supplied the name of the informant, but denied that there were any deals, claiming that there were no pending charges. Actually, there was a pending probation revocation warrant which, in light of the informant’s assistance, the police officer had requested the probation officer to “hold.” Failing to reveal this information was reversible error.

(1996)—*Dinning v. State*, 266 Ga. 694, 470 S.E.2d 431.

The conviction in this case was set aside because the prosecution failed to disclose to the defense that three witnesses for the state had been promised immunity from a drug prosecution in exchange for their testimony. The defendant was charged with murder, and part of the state’s case relied on proof that the defendant used money which he stole from the murder victim to purchase drugs from the witnesses. Moreover, the law enforcement officers who promised immunity to the witnesses were part of the prosecution team, so the fact that the prosecutor himself did not make the offer to the witnesses did not excuse the failure to disclose the deal to the defense.

(1994)—*West v. State*, 213 Ga. App. 362, 444 S.E.2d 398.

The defendant was charged with participating in a narcotics transaction with an informant. The informant taped the transaction with a body bug which was only partially audible. The state failed to provide the defense with a copy of the tape pretrial—indeed, the state told the defense that the tape was damaged and could not be played. At trial, the state introduced the tape. On the tape, it could be discerned that the informant was talking to someone other than the defendant, because the defendant was repeatedly referred to in the third person during the conversation. It was reversible error to fail to produce this tape to the defense earlier so that efforts could be made to better understand what was being said and to enable the defense to make better use of the tape.

(1991)—*Nelson v. Zant*, 261 Ga. 358, 405 S.E.2d 250.

The state offered the testimony of an expert that the hair found on the victim matched the defendant’s hair. The prosecutor possessed an FBI crime lab report, however, which indicated that a comparison could not be made. The failure to reveal this report to the defendant was a *Brady* violation, requiring that a writ of habeas corpus be granted.

(1983)—*Smith v. Zant*, 250 Ga. 645, 301 S.E.2d 32.

A prosecution witness who was a participant in the homicide for which the defendant was being tried testified that no promises were made to him in exchange for his testimony. During closing argument, the prosecutor reiterated this claim. After trial, it was learned that the prosecutor had agreed to waive the death penalty against the witness if he would agree to testify for the state. This promise should have been revealed to the defense, and the prosecutor engaged in misconduct in allowing the witness’s false testimony to go uncorrected and in arguing the false testimony in closing argument. The case was remanded to the habeas court for a full evidentiary hearing.

(1983)—*Williams v. State*, 250 Ga. 463, 298 S.E.2d 492.

The state had a police report which contained statements of the officer which were inconsistent with the officer’s trial testimony. The defense asked the trial judge to conduct an in camera review of the report to determine if there were any inconsistencies. The prosecutor stated that there were no inconsistencies. This misrepresentation by the prosecutor required a new trial. “We do so because we cannot and will not approve corruption of the truth-seeking function of the trial process.”

(1981)—*Kitchens v. State*, 160 Ga. App. 492, 287 S.E.2d 316.

Defense counsel was aware that a witness had been beaten by members of the sheriff’s department. At trial, however, the witness denied this. Because the defense offered unrefuted affidavits at a new trial motion establishing that these beatings occurred, the defendant was entitled to a new trial. In essence, the conviction was based on the perjured testimony of the witness, which was known by the state. The fact that the defense attorney was aware of the perjury is not determinative.

(1977)—*Price v. State*, 141 Ga. App. 335, 233 S.E.2d 462.

The district attorney failed to advise defense counsel that he was going to dismiss the charges against a codefendant who had been severed and who testified against the defendant. Where there is an understanding or agreement as to the future prosecution of an accomplice, on whose testimony the state’s case almost entirely depends, such evidence is relevant to the accomplice’s credibility, and the jury is entitled to know of it. The prosecutor has a duty to disclose it, and the failure to make this disclosure violates due process and requires reversal.

(1975)—*Banks v. State*, 235 Ga. 121, 218 S.E.2d 851.

The state withheld the name of a witness who supported the defendant’s theory of the defense. The trial court should have granted the defendant’s motion for new trial when this witness was discovered by the defense after trial.

(1975)—*Rini v. State*, 235 Ga. 60, 218 S.E.2d 811.

The credibility of a key prosecution witness was questionable, because of inconsistent statements he made in court and in an interview with defense counsel. The trial court erred in failing to order the production of the witness’s prior statements to the police.

(1973)—*Allen v. State*, 128 Ga. App. 361, 196 S.E.2d 660.

When a witness denied on cross-examination that he expected a recommendation of a lenient sentence in exchange for his testimony, the prosecutor had a duty to alert the defense that such a promise had been made to the witness’s attorney. Whether the prosecutor knew that the attorney had relayed the message to his client (the witness) is immaterial. The prosecutor cannot avoid his duty by communicating with the attorney instead of the witness directly.