

IN THE COURT OF APPEALS OF MARYLAND

No.13

September Term, 2012

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WILLIAM M. BAILEY

v.

STATE OF MARYLAND

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Bell, C.J.  
Harrell  
Battaglia  
Greene  
Adkins  
Barbera  
McDonald,

JJ.

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O R D E R

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Filed: December 5, 2012

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WILLIAM M. BAILEY

v.

STATE OF MARYLAND

\* In the  
\* Court of Appeals  
\* of Maryland  
\* No. 13  
\* September Term, 2012

### O R D E R

Upon consideration of the briefs, record, and oral argument in the above case, it is this 5th day of December, 2012,

ORDERED, by the Court of Appeals of Maryland, that the State's Motion to Dismiss this direct appeal be, and the same is hereby, granted, there being no jurisdiction in the Court to entertain a direct appeal to the Court of Appeals, under Md. Code, Crim. Proc. Art., § 8-201, from the denial by the Circuit Court for Prince George's County (as reflected in its Order of March 3, 2011) of Bailey's Motion for a New Trial Upon Newly Discovered Exculpatory Evidence filed in the circuit court on February 26, 2010, which motion does not seek DNA testing of any evidence; and, it is further

ORDERED, that this case be remanded to the Court of Special Appeals to: (a) vacate its Order of May 3, 2012, transferring this case to the Court of Appeals as a direct appeal cognizable under § 8-201; (b) consider and decide Bailey's aforesaid Motion for a New Trial Upon Newly Discovered Exculpatory Evidence as if it were an application for leave to appeal from the denial of a request to re-

open post-conviction proceedings; and, (c) subject to the Court of Special Appeals's consideration and action on said motion, remand the case ultimately to the Circuit Court for Prince George's County for the purpose of the Circuit Court considering and acting on Bailey's Motion for Release of Evidence to Conduct DNA Analysis, filed on July 1, 2010, which appears never to have been ruled upon by the Circuit Court; and, it is further

ORDERED, that costs in this Court be, and the same are, hereby waived.

/s/ Robert M. Bell  
Chief Judge