

**[J-56-2025] [MO:Wecht, J.]**  
**IN THE SUPREME COURT OF PENNSYLVANIA**  
**WESTERN DISTRICT**

COMMONWEALTH OF PENNSYLVANIA,	:	No. 3 WAP 2025
Appellee	:	Appeal from the Order of the Superior Court entered June 28, 2024, at No. 17 WDA 2022, Affirmed in Part and Vacating In Part the Order of the Court of Common Pleas of Beaver County entered December 15, 2021, at No. CP-04-CR-000913-2001 and remanding.
v.	:	
JAMIE M. BROWN,	:	
Appellant	:	SUBMITTED: May 20, 2025

**CONCURRING AND DISSENTING OPINION**

**JUSTICE BROBSON**

**DECIDED: JANUARY 28, 2026**

I join the Majority Opinion<sup>1</sup> with the exception of Section V. I am persuaded by Justice Dougherty's view that the Majority unnecessarily resolves possible evidentiary issues surrounding the Dorsett/Tusweet Smith statement that may or may not arise on remand. (Concurring and Dissenting Op. at 7-8.) At this juncture, the parties have only asked us to consider whether a third-party confession can serve as a newly discovered fact under the Post Conviction Relief Act (PCRA).<sup>2</sup> I agree with the Majority that it can, and, here, under Section 9545(b)(1)(ii) of the PCRA, 42 Pa. C.S. § 9545(b)(1)(i), Brown has *alleged* the fact upon which his *Brady*<sup>3</sup> claim is predicated—*i.e.*, the Dorsett/Tusweet Smith statement. Notwithstanding, the PCRA court denied Brown the opportunity to prove

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<sup>1</sup> While Section V of the lead opinion has not garnered a majority vote, I, nevertheless, refer to that lead opinion as the "Majority" or the "Majority Opinion" for ease of discussion.

<sup>2</sup> 42 Pa. C.S. §§ 9541-9546.

<sup>3</sup> *Brady v. Maryland*, 373 U.S. 83 (1963).

that predicate fact, which resulted in the instant appeal. In my view, whether Brown can prove the predicate fact at an evidentiary hearing with admissible evidence and, ultimately, overcome the PCRA's time bar is an issue entirely separate from the one on which we granted review. Accordingly, I do not join this aspect of the Majority Opinion. (Majority Op. at 35-40.)