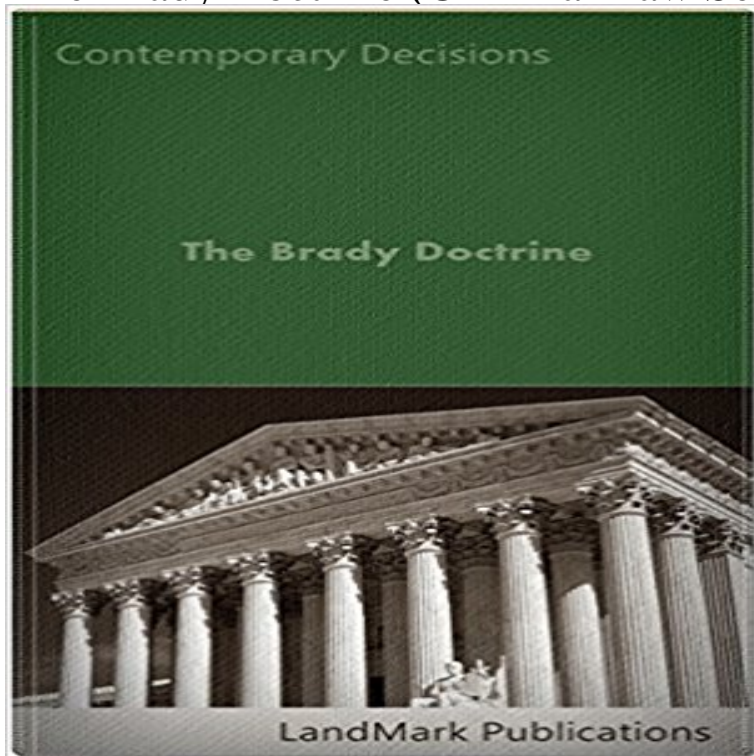


The Brady Doctrine (Criminal Law Series)



THIS CASEBOOK contains a selection of 229 U. S. Court of Appeals decisions that discuss, analyze and apply the Brady doctrine. The selection of decisions spans from 2004 to the date of publication. In *Brady v. Maryland*, the Supreme Court held that the suppression by the prosecution of evidence favorable to an accused upon request violates due process where the evidence is material either to guilt or to punishment, irrespective of the good faith or bad faith of the prosecution. 373 U.S. 83, 87 (1963). *Comstock v. Humphries*, (9th Cir. 2015). To establish a Brady violation, a defendant must show that (1) the [Government] suppressed evidence, (2) the evidence was favorable to the defense, and (3) the evidence was material to an issue at trial. *United States v. Villasenor*, 664 F.3d 673, 683 (7th Cir.2011). Evidence is suppressed when the prosecution fail[s] to disclose the evidence in time for the defendant to make use of it and the evidence was not otherwise available to the defendant through the exercise of reasonable diligence. *Ienco v. Angarone*, 429 F.3d 680, 683 (7th Cir.2005). Although the Government has an affirmative duty to learn of and to disclose any favorable evidence, the defendant bears the burden of establishing a Brady violation by offering more than mere speculation or unsupported assertions that the Government suppressed evidence. See *United States v. Jumah*, 599 F.3d 799, 808-09 (7th Cir.2010). *US v. Shields*, 789 F. 3d 733 (7th Cir. 2015). There are three distinct elements of a Brady violation: First, [t]he evidence at issue must be favorable to the accused, either because it is exculpatory, or because it is impeaching. *Strickler v. Greene*, 527 U.S. 263, 281-82 (1999). Second, that evidence must have been suppressed by the State, either willfully or inadvertently. *Id.* at 282. Third, prejudice must have ensued. *Id.* *Shelton v. Marshall*, (9th Cir. 2015). * * *

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