

Affirmed and Opinion filed October 18, 2001.



In The
Fourteenth Court of Appeals

NO. 14-00-00545-CR

ALVARO GRISALES, Appellant

V.

THE STATE OF TEXAS, Appellee

**On Appeal from the 337th District Court
Harris County, Texas
Trial Court Cause No. 800,645**

OPINION

Appellant, Alvaro Grisales, was charged by indictment with possession of at least 400 grams of cocaine with intent to deliver. The charge was enhanced with a prior felony conviction for a previous possession of cocaine with intent to deliver. Pursuant to the terms of a plea bargain agreement, the State abandoned the enhancement allegation; appellant entered a plea of guilty to the indictment; and the trial court assessed appellant's punishment at confinement in the state penitentiary for 37 years and a fine of \$1,000. In a single point

of error, appellant contends the trial court erred in denying his pretrial request for disclosure of the identity of the State's confidential informant. We affirm.

Prior to trial, appellant filed a request entitled "Motion for Discovery of Snitch's Identity." Appellant alleged that law enforcement officers had obtained information from a confidential informant during their investigation of the case. Appellant further alleged the informant might be able to give testimony necessary to a fair determination of a material issue relating to appellant's guilt or innocence; thus, appellant requested the identity of the informant.

A request for the identity of a confidential informant is generally resolved by an *in camera* hearing to determine whether the informant could, in fact, supply testimony relevant to the determination of a material issue relating to the defendant's guilt or innocence. *See* TEX. R. EVID. 508(c)(2). If the court determines that the testimony of the informant is necessary to a fair determination of the issues of guilt or innocence of the accused, his identity must be disclosed to the defendant. *Beal v. State*, 35 S.W.3d 677, 685 (Tex. App.—Houston [1st Dist.] 2000, no pet. h.). Here, appellant's co-defendant had previously made a similar motion in another district court. The judge in that case conducted an *in camera* hearing and denied the co-defendant's motion to disclose the identity of the informant. Thus, in lieu of another *in camera* hearing, appellant requested the trial court to review the record made in his co-defendant's case. The trial court agreed. After reviewing the record from the *in camera* hearing, the trial court denied appellant's motion.

We have reviewed the sealed record from the *in camera* hearing and also conclude the informant could not have provided any testimony relating to any material issue regarding appellant's guilt or innocence. Accordingly, the trial court did not abuse its discretion in overruling appellant's motion.

The judgment of the trial court is affirmed.

/s/ J. Harvey Hudson
Justice

Judgment rendered and Opinion filed October 18, 2001.

Panel consists of Justices Anderson, Hudson, and Frost.

Do Not Publish — TEX. R. APP. P. 47.3(b).