

IN THE CIRCUIT COURT OF HARDIN COUNTY
AT SAVANNAH, TENNESSEE

ZACHARY RYE ADAMS
PETITIONER

VS.

STATE OF TENNESSEE

NO. 17-CR-10-PC

FILED 22 DAY OF Jan 2024 AT 2:50 AM PM
TAMMIE WOLFE, CLERK
BY Shirley W. Wynn CLERK

PETITIONER/DEFENDANT'S AMENDED PETITION FOR POST CONVICTION
RELIEF

Comes now the Petitioner/Defendant¹, with the assistance of the undersigned Counsel², and pursuant to T.C.A. § 40-30-101 *et. seq.* files the following amended petition for post conviction relief :

I.

PROCEDURAL HISTORY AND JURISDICTION

1. The Defendant was indicted on a multi-count, multi-defendant indictment on May 19th, 2015 and went to trial between September 9th, 2017 and September 23rd, 2017. A Jury issued a finding of guilt on all counts and the Defendant appealed to the Court of Criminal Appeals after the Defendant's Motion for New Trial and/or for Judgment of

¹ Mr. Zach Adams is referred to throughout as both the Petitioner and the Defendant. He is the Petitioner in the Post Conviction Relief proceeding, but was the Defendant in the trial proceedings. The two will be used in the appropriate context throughout.

² Counsel has just been appointed in this pending post conviction relief petition. Counsel is filing also a petition for writ of error coram nobis, pro bono, and will further request the Court either allow him to proceed pro bono in this underlying case or just will not request attorney fees for trial representation in this case.

Acquittal was denied at a hearing on August 11th, 2020 with order dated August 20th, 2020.

2. The Court of Criminal Appeals upheld the Defendant's convictions on all counts.
3. The Defendant is serving a life sentence without the possibility of parole, plus 50 years, for his convictions as outlined above for first degree murder, especially aggravated kidnapping, and aggravated rape.
4. The Petitioner Mr. Adams filed a pro se application to this Court on July 31st, 2022.
5. Petitioner was appointed by this Court on the pending post conviction relief petition based on the ineffective assistance of Counsel and new evidence claim.
6. By agreement, this Amended Petition is due or by January 22nd, 2024 at close of business.
7. Petitioner is filing contemporaneous with this Amended Post Conviction Relief Petition a Writ of Error Coram Nobis. Counsel submits that both issues are substantially related.

II.

AMENDMENT TO ORIGINAL POST CONVICTION RELIEF PETITION

8. Petitioner incorporates all statements of facts in the original petition pursuant to T.C.A. §40-30-104(g), except as indicated below:
 - a. ¶17 is amended to reflect there is also a writ of coram nobis filed in this Court and presently pending as it is filed on the same date.
 - b. ¶19 Undersigned Counsel is appointed to represent the Defendant in the underlying proceeding.
9. Defendant further amends ¶16 to expound upon and add to the petition as set forth below:

A.

INEFFECTIVE ASSISTANCE OF COUNSEL

(1) Incorporation Against All Counsel

10. Counsel incorporates each and every allegation in the original petition against all Counsel who represented the Defendant, specifically James Simmons, Jennifer Thompson and Jerry Gonzalez as they are jointly and severally liable for their failures to provide adequate and effective assistance of Counsel to the Defendant.
11. Specifically, James Simmons on March 1st, 2017, failed to argue to the Court that Ms. Thompson was allowed to record conversations between either attorneys, the Court or really anyone else it wanted to in defense of the case³. Instead of asking any of the outraged attorney Michael Scholl for the authority upon which he waled was unethical and asking the Court to consider his statements as admissible hearsay under Rule 803(1.2) and generally *Simmons v. O'Charley's, Inc.*, 914 S.W.2d 895, 902 (Tenn. Ct. App. 1995) and why they could not be recorded, his comments made a tacit implication that Mr. Thompson had done wrong. As can be seen below, this was not merely a trivial as it set the stage that somehow Jennifer Thompson was the problem.
12. Mr. Simmons further reinforced this belief to the Trial Judge that Ms. Thompson was the problem in his *ex parte* motion to withdraw that he positioned to the Court that Ms. Thompson's belief that Mr. Adams was innocent was somehow misguided.
13. For the further reasons set forth below, the record will ultimately acquit Mr. Adams based upon Mr. Jason Autry's complete and total recantation of this testimony at trial that we know realize was completely perjured testimony. Futher, Mr. Autry's truthful testimony provides the necessary alibi for Mr. Adams.

³ A copy of the March 1, 2017, transcript will be provided to the Court at a Motion to Introduce Trial Transcript before the hearing and/or the Evidentary Hearing in this case.

14. But Mr. Simmons cast the dye to the Court that Ms. Thompson was the problem, not the forthcoming introduction of perjured testimony that was about to taint irreparably the trial

(2) Failure to Find, Develop and/or otherwise Introduce Exculpatory Evidence and/or New Evidence

15. Defense Counsel failed to find, develop and otherwise introduce the following exculpatory evidence:

- a. There was substantial exculpatory evidence that one or more Defendants were at an ATM/Sonic and Gas store on April 13th, 2017 (this was pled in the original post conviction petition);
- b. That Mr. Zach Adams was on his grandmother's computer during the operative time frame on April 13th, 2017 (this was pled in the original post conviction petition);

16. In a separate petition for writ of corm nobis, it is alleged that the Defendant's trial was significantly prejudiced by two issues that the Defendant was without fault in presenting this to the Court. To the extent the Court finds that the Defendant was responsible for presenting this testimony, then the Defendant alleges it was because of ineffective of assistance of Counsel. Specifically:

- a. Defense Counsel failed to present Lisa Sanders as a witness who would have testified that on April 13th, 2011, she was taking children to school and saw a truck driven by a man in black, wavy hair, mustache and wearing camouflage. He was a burly man per Ms. Sanders. Per Ms. Sanders, he was definitely trying to hide something. While driving, he made a move to conceal whether he had a passenger or not. The vehicle was a tan small truck heading west on Stokes Road

in the Benton/Decatur County area. Ms. Sanders then later saw the same man on a 4-wheeler around her home about 2-3 days later. The man had a white box on the back of his 4-wheeler. Ms. Sanders followed him to Prospect Cemetery where the 4-wheeler was sitting, but the man was not present at the 4-wheeler and instead in the woods. Ms. Sanders told a friend, Bonnie Hamm, who called the information in to the referenced hotline. She later saw this man at a grocery store and saw the truck he was in at another house later and has never seen the truck since. Ms. Sanders later saw the individual while the case was on TV and she remembered seeing the eyes and thinking, something "ain't right" the day of April 13th, 2011. She confirmed it was Terry Britt. A copy of this statement is provided as Exhibit #1 on a thumb drive.

- b. It is alleged Further, Defense Counsel failed to pierce through Jason Autry's testimony to reveal it as the perjury that it was. Based upon Exhibit, 2A,B(1)(2),(C) on an attached thumb drive, Jason Autry made the entire story up to avoid what his attorney told him was 95% certain of a conviction.
 - c. Again, it is argued that both Mr. Autry's testimony and Ms. Sander's was incapable of being procured by Defense Counsel and the Defendant was without fault. This allegation is presented in the event the Court finds the Defendant was with fault in failing to present both.
17. The Defense Counsel should have requested a mental health testifying expert to help explore the ways in which Shane Austin, Dylan Adams, and/or Jason Autry succumbed to manipulation, coercion, pressure, or otherwise manipulated and/or unstable mental health to provide the false statements that they did throughout the proceedings. Further, a

Rebecca Epp, DTB

other witnesses for the state

DTB

ZA

neuro-psychologist with memory expertise should have been retained to test the validity and indicators of accurate recall to rebut Jason Autry's testimony.

18. The Defense Counsel should have requested a handwriting expert or otherwise lay testimony to show the statements of Dylan Adams was not Dylan's and therefore fraudulently obtained.
19. Upon information and belief, the landowner on whose land the victim's remains were found was not called to testify to submit into evidence that prior to the finding of the remains, there were multiple efforts to find the remains on that property. Further, the property was a known place where other people, including some or all of the Defendants, had used drugs before and it was known to be that. The point should have been argued that it was reasonably possible that the remains were placed there by some biased person and/or organization in an effort to remove guilt on others and/or frame the charged defendants.
20. Further along this point in ¶19, an expert should have been retained to explore why no soil samples were taken from the location the skull and remains of the victim were found and how the remains of the victim could have been in the position they were in if they had been there for as long as the State alleged.
21. Defense Counsel should have issued a subpoena to Natalie Bobo to rebut the testimony of Jason Autry and further introduce Exhibit 3, a text from Holly Bobo to Natalie Bobo to present the theory that the disappearances were related.
22. Defense Counsel should have rebutted Mr. Autry's perjured testimony with evidence as follows:

- a. Failure to provide evidence to the contrary that the alleged gun shot would have echoed the way in which Jason Autry lied the way that it did.
 - b. Failure to provide a photo that showed you can see below the interstate by the TN River Mr. Autry lied about where he and Mr. Adams were when Mr. allegedly shot the victim.
 - c. Further, Defense Counsel failed to review flood records and/or water levels from the day in question to see even if Mr. Autry's story was possible with the water levels from that day.
23. Defense Counsel should have issued a subpoena to Michael School and/or Mr. Robert Parris for all communications they had with the prosecutors in this case regarding Mr. Autry's testimony.

2. Ineffective Assistance of Counsel at Trial

24. Defense Counsel failed to provide effective assistance of Counsel at trial by the following:
- a. Ineffective, unclear, not persuasive, unorganized and generally both lackadaisical and rambling in presentation the cross examination of key witnesses.
 - b. Failure to cross examine Brent Booth on his statements that Karen and Dana Bobo lied throughout the investigation.
 - c. Failure to cross examine Mr. Earnest Stone about all particularities of the day he found the skull in question, including any criminal record of his and/or his dealings with the Sherriff's Office before the day he said he found the skull.
 - d. Failure to call Matt Stowe as a witness and introduce into evidence why he recused his office from the case.

- e. Failure to argue that the vehicle that it was alleged that Zach Adams and Shane Austin were driving was too small for the victim to be in the ~~home~~ ^{some vehicle.} (DTB) (ZA)
- f. Failure to push Jason Autry about the idea that he had found another body there and never reported it and otherwise follow up on this clearly exaggerated and perjured testimony.
- g. Failure to ask Mr. Autry why has not pled to anything and instead is still saying he is not guilty to the charges. Further, Defense Counsel should have asked if Mr. Autry had been charged with attempted murder of Dylan Adams.
- h. The Defendant incorporates the entire affidavit of Terry Dicus it attached to the Motion for New Trial to show that on its face, that any jury would believe Mr. Autry was because of ineffective cross examination and defense evidence being submitted into trial. Further, Defendant asserts Counsel did not properly and effectively utilize Arthur Viviano and Terry Dicus at trial and now further Terry Dicus
- i. Failure to present this simple dichotomy of the proof to the jury: **Mr. Autry said Zach Adams and Shane Austin were there to teach Clint Bobo how to make methamphetamine. That means for years, Clint Bobo obstructed justice and lied repeatedly about the day his sister was kidnapped. Or, you can believe Clint Bobo and his story and thus, Mr. Autry is lying; it cannot be reconciled either other way.** (DTB) (Britt committed these crimes)
- j. Significantly, failure to allow Mr. Zach Adams to testify. Ms. Thompson stated in a subsequent interview that Zach really wanted to testify. Ms. Thompson coerced Mr. Adams into not testifying and thus denied his effective constitutional right to testify himself.

3. Miscellaneous Issues that Arise to Ineffective Assistance of Counsel

25. Upon information and belief, the Defense Counsel failed to ask for either the Court disqualify itself and/or the Court officer, Anthony Alexander, who upon information and belief, is 1st cousins to Dana Bobo and business partners with ABC Clean-Up together, to disqualify himself from the proceedings. Upon information and belief, Mr. Alexander had direct engagement with the jury.
26. Ms. Thompson should have better observed the landscape of this case and realized the Court had very little confidence and trust in her capabilities as a trial lawyer. She was attacked by opposing Counsel and fellow defense attorneys and lost confidence in herself and in her case, resulting in a significantly flawed presentation of evidence and opening and closing statements. She needed to either withdraw or ally herself with a competent attorney who had some working relationship with the trial court and/or prosecution. The move to try and bring Luke Evans in was a disastrous move in which she lost the confidence, if any remained, of the trial court.

4.

Effect

27. Defendant submits that either each complaint on its face and/or all of the grievances combined and taken in total were below the reasonable standard of competency and/or the Constitutionally provided safeguard of effective assistance of Counsel pursuant to Article 1, Section 9 of the Tennessee Constitution.
28. Further, the ineffective assistance of Counsel prejudiced the Defendant. It is submitted that he would have received a different result at trial. Specifically, Defendant presents the following:

- a. At the conclusion of Jason Autry's testimony, the trial court implied that the parties might want to re-enter plea negotiations (Vol. 38; pg. 1453). The implication was that the Defendant was going to be found guilty because of Mr. Autry's testimony (which the record will bear out was perjury).
- b. The Court said Mr. Autry's testimony was some of the most credible and persuasive testimony the Court has ever seen. It is not surprising because Mr. Autry has clarified he concocted the story over months and months of examining the discovery and as he said, he already had a story of what they did that day, he just added Holly to it (See Exhibit 2). Further, Mr. Autry said he was very well trained by ADA Jennifer Nichols, whom he referred to as the "boss of it all."
- c. Most importantly, at Jason Autry's plea deal, Assistant District Attorney General Paul Hagerman said that Mr. Autry's testimony "answered a many questions that were left open factually in the investigation and many questions Karen and Dana had with what happened to their daughter and it was a very important piece of getting justice for Holly." This is, respectfully to the District Attorneys' office, staggering in that it indicted all four defendants with "many questions left open." Putting that issue aside, no greater corroboration of the importance this testimony had on the result than the DA and Court's comments on it.
- d. During this plea deal, the Court stated that Mr. Autry's Counsel told him "we will NOT need a trial date" though it clarified Defense Counsel did not say anything was worked out. This is a difficult to reconcile with how quickly the Court wanted to press the case forward. Incidentally, during the same hearing, the trial court said if it was involved in the case, it would be a race to the District Attorney

General's Office. A recording of this entire hearing is as follows:

<https://www.youtube.com/watch?v=K0IFfyWftvM>

III.

NEW EVIDENCE

29. Counsel incorporates all statements above and state that the new evidence referenced above are substantial grounds to justify post conviction relief in the alternative that his writ of error *coram nobis* is denied and this is the vehicle upon which a new trial should be granted.

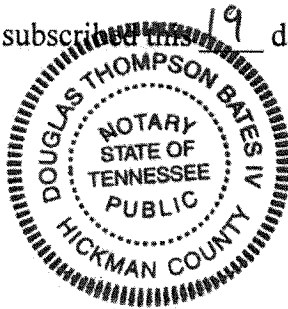
WEREFORE, PREMISES CONSIDERED, DEFENDANT/PETITIONER PRAYS UPON THIS COURT TO:

1. For the Court to set aside his jury conviction and order a new trial or alternatively, dismiss all pending charges against him;
2. For the Court to work with Counsel for Defense and the State on scheduling this matter within a reasonable time frame in light of the voluminous record and transcript the Court must read.
3. For the Court to allow the Petitioner to use the subpoena powers of this Court prior to the hearing in this matter.
4. For the Court to allow all prosecutors involved to stand for cross examination and to be compelled to produce requested documents under the subpoena powers of this Court.
5. For the Court to approve all discretionary fees for Mr. Adams who is indigent.
6. For such further and general relief to which the Petitioner is entitled.

Zachary Rye Adams 1-17-24

ZACHARY RYE ADAMS DATE

Sworn to me and subscribed this 19 day of JANUARY, 2024.



RESPECTFULLY SUBMITTED:

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CERTIFICATE OF SERVICE

The undersigned certifies that he has on the 22 day of JANUARY 2024, sent a true and correct copy of the following to the person(s) listed below in compliance with the Tennessee Rules of Civil Procedure, Rules 5 and/or 5A, by the following indicated method(s):

ADA Jennifer Nichols
District Attorney General
18th Judicial District
113 West Main Street, 3rd Floor
Gallatin, TN 37066
jsnichols@tndagc.org

- ☒ U.S.P.S., first-class postage pre-paid
- ☐ Via Fax
- ☒ Via Email
- ☐ Hand-delivery by:
- ☐ Certified Mail, Return Receipt Requested



DOUGLAS THOMPSON BATES, IV