IN THE CIRCUIT COURT OF HARDIN COUNTY
AT SAVANNAH, TENNESSEE

ZACHARY RYE ADAMS PETITIONER	]]	
VS.	]	NO. 17-CR-10-PC
STATE OF TENNESSEE	]	

PETITIONER'S SECOND AMENDED PETITION FOR POST CONVICTION RELIEF

Comes now the Petitioner/Defendant[1], with the assistance of the undersigned Counsel[2], 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 19, 2015, and went to trial between September 9, 2017, and September 23, 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 Acquittal was denied at a hearing on August 11, 2020 with order entered August 20, 2020.
2. The Court of Criminal Appeals upheld the Defendant's convictions on all counts.

[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.

FILED 12 DAY OF Dec., 2024 AT 12:30 AM (PM)
TAMMIE WOLFE, CLERK
BY Tammie Wolfe (CLERK)

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 31, 2022.
5. Petitioner's counsel was appointed by this Court on the pending post-conviction relief petition based on the ineffective assistance of Counsel and new evidence claims.
6. By agreement, the First Amended Petition was filed on January 22, 2024.
7. Petitioner filed a Writ of Error Coram Nobis contemporaneously with the First Amended Post Conviction Relief Petition, and the Post Conviction Relief process was stayed pending resolution of the State's Motion to Dismiss. This Court entered an order on September 10, 2024, that did not toll the statute of limitations and dismissed the action.
8. The Court held a phone conference on September 11, 2024, during which the State advised it was "ready" to go forward with the PCR hearing. To date, the State has not filed an answer to the same.
9. The evidentiary hearing is currently set for hearing on May 19-25th, 2025.

II.

AMENDMENT TO ORIGINAL POST CONVICTION RELIEF PETITION

10. 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 was a Petition for Writ of Error Coram Nobis filed in this Court and was dismissed.
    b. ¶19 Undersigned Counsel is appointed to represent the Defendant in the underlying proceeding.

11. Defendant further amends ¶16 to expound upon and add to the petition as set forth below:

A.

INEFFECTIVE ASSISTANCE OF COUNSEL

Generally

12. Defense Counsel all failed to provide effective assistance of Counsel both before and at trial and thus deprived the Petitioner effective assistance of Counsel. Such deficient assistant of Counsel prejudiced the defendant that resulted in void/voidable and/or unreliable or fundamentally unfair result under both the US Constitution VI Amendment and the Tennessee Constitution Art. I, §9. This statement applies to each and every allegation individually and collectively throughout.

13. Each and every allegation of ineffective assistance of Counsel, none of these claims have been previously presented in an earlier proceeding as this is the first application to this Court in which these claims were ripe. Further, Ms. Thompson represented Mr. Adams through the appellate process and thus was conflicted to present these claims until her representation was complete.

Incorporation Against All Counsel

14. 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.

Pre trial hostility/doubts towards Ms. Thompson's Ability to Represent Mr. Adams

15. On March 1, 2017, an in-chambers meeting was held on a Motion to Continue filed by Ms. Thompson on behalf of Mr. Adams. Present for the State were Ms. Jennifer Nichols, Mr. Paul Hagerman, Mr. Eric Christensen, and Mr. Stephen Ragland; for Mr. Adams's co-defendant, Mr. Autry, were Mr. Michael Scholl and Mr. Robert Parris; for the co-defendant, Mr. Dylan Adams, were Mr. Matthew Maddox and Mr. Paul Bruno. Present for Mr. Adams, along with Ms. Thompson, was Mr. James Simmons. Many relevant issues pursuant to Mr. Adams's present claim of ineffective assistance of counsel are illustrated in the dialogue therein:

    a. A central matter of contention was Ms. Thompson's practice of recording conversations between herself and other attorneys, the Court, and/or other potential witnesses as she believed necessary in defense of the case. This topic is initially introduced by Mr. Scholl, who accuses Ms. Thompson of lying in her pleadings about a conversation between them: "This is Michael Scholl for the record. Ms. Thompson, and I'll say this for the record, has lied to me about this conversation that's in here." He continues, "...first of all, I want to know if that conversation was recorded, I want it on the record...was that conversation recorded between me and you?" Curiously given the context, Mr. Scholl expresses significant concern that his conversation with Ms. Thompson may have been recorded (i.e., one would reason Mr. Scholl would be pleased by the existence of a recording if he was genuine in his accusation Ms. Thompson was lying, as the recording would offer proof of the same). Per Mr. Scholl's statement, "It's an ethical violation for you [i.e., Ms. Thompson] to record a conversation with another attorney without my knowledge." Notably, Mr. Scholl is simply incorrect in this regard. *Rule 4.4:*

Respect for the Rights of Third Persons within the *Tennessee Rules of Professional Responsibility* addresses this issue directly under Comment [1] (bold emphasis added): "For example, a lawyer may not secretly record a conversation or the activities of another person if doing so would violate state or federal law specifically prohibiting such recording. Otherwise, **this Rule does not prohibit secret recording so long as the lawyer has a substantial purpose other than to embarrass or burden the persons being recorded.** It would be a violation of RPC 4.1 or RPC 8.4(c), however, if the lawyer stated falsely or affirmatively misled another to believe that a conversation or an activity was not being recorded. By itself, however, **secret taping does not violate either RPC 8.4(c) (prohibition against dishonest or deceitful conduct) or RPC 8.4(d) (prohibition against conduct prejudicial to the administration of justice.)"** The matter is further addressed in Comment [6] therein: "The lawful secret or surreptitious recording of a conversation or the actions of another for the purpose of obtaining or preserving evidence does not, by itself, constitute conduct involving deceit or dishonesty. *See* RPC 4.4." As Tennessee is a one-party consent state, Ms. Thompson would be well within her legal rights to record an in-person or phone conversation of which she is a party without having to notify or get consent from the other parties involved (*See Tenn. Code. Ann.* § 39-13-601, § 39-13-604). Nonetheless, Mr. Scholl is joined by Ms. Nichols in a repeated badgering of Ms. Thompson, accusing her of illegal and unethical activity for recording to the point she asserts her right to consult with counsel before responding. Mr. Simmons makes no effort to challenge the wonton statements by Mr. Scholl nor Ms. Nichols, nor

does he ask the Court to consider the statements in question 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). Instead, Mr. Simmons allowed Mr. Scholl's and Ms. Nichols's comments to create a tacit implication that Ms. Thompson had acted outside the bounds of legal and ethical behavior, raising doubts about her professional competence, which seriously and substantially tainted Ms. Thompson's credibility with the Court, and by extension the Jury, who undoubtedly perceived the Court's lack of confidence in Ms. Thompson's legal performance.

b. Beyond the aforementioned accusations, multiple pointed statements were made by the various attorneys in this dialogue alleging serious misconduct and incompetence on the part of Ms. Thompson. In particular, Ms. Nichols alleged Ms. Thompson "has serious problems and does not need to be on this case," and Mr. Scholl twice suggested that Ms. Thompson's behaviors rise to the level of rendering her ineffective as counsel. Mr. Simmons reiterated that Mr. Scholl and Ms. Nichols have "brought up some serious allegations of professional misconduct, which one may be ethical, and it may, in fact, be illegal" in emphasizing the need for Ms. Thompson to consult with counsel prior to being compelled to provide a response. The Court directed Ms. Thompson to furnish the requested information regarding recorded conversations with other attorneys on the case, "or you'll [i.e., Ms. Thompson] plead a Fifth Amendment. And if you plead the Fifth Amendment, we've got some major problems with your continued representation." As further evidence of the perception that Ms. Thompson was ineffective, Mr. Scholl implored Mr. Simmons, "You know, Jim, you need to take this case over." Mr. Scholl was

apparently so bothered by his perception of the extent of Ms. Thompson's deficiencies, he proclaimed during this In Chambers meeting, "I'm about ready to pass out."

c. Whether or not Ms. Thompson was, indeed, ineffective due to professional incompetence, grossly unethical/illegal behavior, or merely the victim of egregious gaslighting behavior, the fact she was repeatedly subjected to fervent accusations of the same, not only by the prosecuting attorney, but also by fellow defense attorneys on the case, demonstrates Ms. Thompson's capacity to render effective legal representation to Mr. Adams was significantly damaged by her loss of credibility with the Court. As we will show, this loss of credibility played out in the subsequent trial proceedings, both in the Court's behavior towards Ms. Thompson in front of the Jury, and in Ms. Thompson's floundering trial performance, secondary to her obvious lack of agency in being able to effectively advocate for her client in a court system which neither trusted nor respected her as a competent peer. "A cardinal tenant of successful advocacy is that the advocate be unquestionably credible. If the fact finder loses confidence in the credibility of the advocate, it loses confidence in the credibility of the advocate's cause." *State v. Zimmerman*, 823 S.W.2d 220, 226 (Tenn. Cr. App. 1991) (internal citations omitted).

16. In his *Ex Parte Motion to Withdraw*, when Mr. Simmons posited that Ms. Thompson's belief in Mr. Adams' innocence was somehow misguided, Mr. Simmons further irrevocably damaged Ms. Thompson's credibility with the Trial Judge as well as interfered with Mr. Adams' right to a fair trial. Essentially, Mr. Simmons's implied to the Court his

disbelief in his own client's innocence; if this sort of implication to the Court on the part of a lead defense counsel does not amount to ineffective assistance of counsel, it is difficult to imagine what could possibly ever rise to that threshold. In this manner, Mr. Simmons created a perception to the Court of Mr. Adams' guilt, which substantially interfered with Mr. Adams' access to a fair trial. At this point, before the trial had even begun, Ms. Thompson lost any semblance of ability to effectively try the facts of this case in Mr. Adams' defense. In the face of these critical and substantial barriers, Ms. Thompson's cognitive capacity to remain present and adequately strategic in her legal representation of Mr. Adams was beyond salvage.

17. For further reasons set forth below, the record will ultimately acquit Mr. Adams based in part upon Jason Autry's complete and total recantation of his trial testimony, which now confirms Defense's belief that it was completely perjured. Mr. Simmons made a fatal flaw in casting the dye to the Court that Ms. Thompson was in the wrong for supporting her client's well-founded claims of actual innocence, rather than more appropriately focusing his attention on preparing to address the forthcoming introduction of perjured testimony by Mr. Autry, which was about to irreparably taint the trial. Had Mr. Simmons aligned and collaborated with his co-counsel in preparing his client's defense, rather than joining with the State and co-defendants' counsels in bullying Ms. Thompson to go the less work-intensive route of pressuring her client to accept a plea for a crime he did not commit, Mr. Adams's defense team would have been significantly better positioned to impeach Mr. Autry's clearly fabricated narrative. As the following will show, this failure was not due to lack of available evidence, but rather to lack of personnel resources in gathering, organizing, and presenting the overwhelming facts refuting Mr. Autry's testimony and

exonerating the Defendant, Mr. Adams. Simply put, Ms. Thompson was overwhelmed and under-resourced, while Mr. Simmons was uninterested in putting in the necessary work.

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

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

    a. Mr. Zach Adams was with co-defendants Mr. Shayne Austin and Mr. Dylan Adams withdrawing money from the drive thru ATM at the Community South Bank (now CB&S Bank) in Parsons, TN, at the time of the victim's abduction on April 13, 2011 (as pled in the original post-conviction petition). On October 18, 2016, counsel for Mr. Adams issued a subpoena on the bank in question, and the bank responded that no ATM recordings could be located. The only documentation produced responsive to the subpoena were bank statements reflective of the date but with no time stamp. This bank statement did, however, confirm a $120 ATM withdrawal made that day from Shayne Austin's account, in addition to purchases at every other stop corroborating Mr. Adams's alibi, as detailed in the Table below. Upon receipt of this information, Counsel failed to make any further inquiry or effort to obtain/recover the video ATM footage evidence that could exonerate their client. Further, Counsel for Mr. Adams neither introduced this testimony nor offered into evidence any of the bank records corroborating this alibi. Moreover, upon information and belief, the former security manager at Community South Bank, Mr. Jason Bawcum, had offered to provide security footage to the TBI years

before issuance of the subpoena, depicting Defendant Mr. Zach Adams backing Mr. Dylan Adams's 2006 Chevy Silverado pickup into the ATM drive thru with Mr. Shayne Austin sitting in the passenger seat, accessing the ATM to withdraw money during the time of the abduction. However, this footage was either never obtained by the TBI, or if it was, the same was never provided to the Defense or the nature of it was never understood by all involved. **This is a stand alone claim of actual innocence pursuant to *Dellinger v. State*, 279 S.W.3d 382 (Tenn. 2009) that has not been litigated in a prior proceeding because it was either incapable of being introduced at trial; or alternatively was not introduced at trial because of the the constitutionally ineffective assistance of counsel—which was not known until the final hearing.**

b. That Zach Adams was on his grandmother's computer during the operative time frame on April 13, 2011 (this was pled in the original post-conviction petition). However, the Petitioner requests this Court consider this fact both in the ineffective assistance of counsel claim and as a stand alone claim of actual innocence pursuant to *Dellinger*. This stand alone claim of actual innocence has not been brought in a prior proceeding as it serves as a basis for Mr. Adams' attorneys' deficient performance.

Defendant Zach Adams provided the following alibi for his whereabouts and activities on the day of the victim's abduction, with numbers corresponding to the Table below. Mr. Zach Adams woke up at approximately 7:30am and received a call from co-defendant Shayne Austin informing Mr. Adams that Mr. Austin had money to purchase Xanax and requesting Mr. Adams transport Mr. Austin to make

said purchase so they could engage in recreational drug use together (1). Mr. Adams did not have access to his vehicle at the time, as his grandfather had taken it from him the week prior (2). Mr. Adams asked his brother, Mr. Dylan Adams, to accompany them so they could use Mr. Dylan Adams's vehicle. Mr. Zach Adams walked over to his grandfather's house, where his brother lived, and signed into his Facebook account from his grandparents' home while waiting for his brother to get ready (3). The Adams brothers picked up Shayne Austin at his residence, then the three men went to the Shell Service Station off the interstate in Holladay, TN, to put $5 worth of gas in Dylan's truck (4) so they could get to Parsons where gas was less expensive and fill up the tank there. While getting gas at this Shell station, Zach Adams observed five unmarked SUVs appearing to be TBI agents driving at a high speed towards the Parsons/Darden area, which he estimated to be driving 100 miles per hour (5). The three defendants next pulled into the Community South Bank (now CB&S Bank) through the back entrance off Long Drive, backed into the ATM so that the passenger window was facing the ATM kiosk (6), and headed back through the Long Drive exit toward the "Delta" Shell Service Station in Parsons to fill the remainder of their tank (7). While at this station, Mr. Zach Adams observed Decatur County Sherriff's Deputy Tony Weber (8), so Mr. Adams asked Mr. Austin to go into the gas station and pay for the gas, as Mr. Adams wished to avoid Mr. Weber due to a recent negative interaction with Mr. Weber. From there, the three defendants went to the rented home of Ms. Gay White, a local drug dealer from whom Mr. Austin would purchase Xanax (9). Then they went to Sonic and ordered food at the drive through (10). Next, they went to Joe's Video and Tanning, where

Mr. Zach Adams's girlfriend, Rebecca Earp was working. Mr. Adams and Ms. Earp got into an altercation during this visit, prompting someone to call the police on Mr. Adams, but no officers responded, presumably because all available law enforcement were looking for the victim at this time (11). As depicted below in the Table, Defendant's alibi throughout the time of the victim's abduction was corroborated through multiple evidence sources, and counsel failed to adequately convey this critical data, which if effectively presented, would have shown it had been impossible for Mr. Adams to have committed the crimes for which he was charged and ultimately convicted.

Table. Zach Adams's Alibi on April 13, 2011

Numbered Event	*Approximate Time*	*Corroborating Evidence Not Culled by Defense or Ineffectively Presented at Trial*
(1) Shayne Austin contacts Zach Adams regarding plans to purchase Xanax from local drug dealer Lucy Gay White		• Shayne Austin cell phone communication records confirm corroborating communications with Zach Adams and Lucy Gay White
(2) Zach Adams needs access to brother Dylan's truck since Zach's grandfather had taken away Zach's vehicle	N/A	• Trial testimony of Dick Adams, grandfather to Zach and Dylan Adams • Confirmed by trial testimony of Billy Bell, co-worker to Dick Adams, who was holding Zach Adams's truck in Mr. Bell's mother's storage building at the time
(3) Zach signs into Facebook from his grandmother's computer	8:39am – 10:40am	• Facebook Records – Zachary Adams pg. 167-168 o Posted 2011-04-13 13:39:43 UTC | Status "you never was you stupid whore" o User Zachary Adams (100001062617522) | Text "Sorry for the bad word let it slip wont happen again mom | Time 2011-04-13 15:40:09 UTC

(4) The three defendants get $5 of gas at Shell Station off Hwy 641 in Holladay, TN	Est. 10:45am	• CB&S Bank records for Shayne Austin (acct #3168034) o $22.02 POS charge – Shell Service Station – 13781 Highway 641 North I-40/Hwy69 Rt1 Box 300, Holladay, TN 38341
(5) Zach Adams observes TBI agents racing by in unmarked SUVs towards Parsons/Darden area	Est. 10:20-10:45am	• Law Enforcement crime scene personnel arrival/departure time logs consistent with Mr. Adams's eyewitness account (e.g., per "First Day Summary" Craig Smith THP Special Ops and team, Wes Mays, and FBI SA Bilnoski, FBI SA Viveros, and JPD task force officer Terry Buckley all report arriving on scene 10:30-11am; Andy Rose arrives 11:10am)
(6) Defendants use Community South Bank ATM in Parsons; Shayne Austin withdraws $120	Est. 11:05am – 12pm	• CB&S Bank records for Shayne Austin (acct #3168034) o $120.00 ATM withdrawal comm south parsons M – 51 W Main Street, Parsons, TN 38363
(7) Defendants get additional gas at Delta/Shell Station in Parsons	Est. 11:15am – 12:10pm	• CB&S Bank records for Shayne Austin (acct #3168034) o $9.84 POS charge – Shell Service Station – Parsons TN
(8) Zach Adams observes Deputy Tony Weber at this gas station		• Decatur County charge records confirm Deputy Weber purchased gas at this station
(9) Shayne Austin purchases Xanax from Gay White	Est. 11:30 – 12:25pm	• TBI Investigative Reports confirming Gay White's residence at the time 767 Georgia Avenue in Parsons, with house matching defendants' independent descriptions; Decatur County Sherriff's office and multiple neighbor accounts confirming Ms. White selling pills including Xanax, Hydros, and Oxy's. Per "29 Lucy Gaye White.pdf": "Lucy White stated that she does remember Shayne coming and getting pills from her exactly as described by Zach Adams" though she could not recall specific date.

		• Cell phone records between Shayne Austin and Ms. White day of abduction corroborate date of the abduction.
(10) Defendants order food through the drive through at Sonic in Parsons	Est. 2-3pm	• CB&S Bank records for Shayne Austin (acct #3168034) o $6.78 POS charge at Sonic Drive in #2753 – Parsons TN
(11) Defendants go to Joe's Video & Tanning, where altercation ensues between Zach Adams and girlfriend Rebecca Earp, prompting 911 call requesting officer presence	3:27pm (time 911 call placed per dispatch log)	• Decatur County E-911 Dispatch Log, pg 7 "Joe's Video – Sandy wanting officer to come by video store" • Audio file "20110413 - #5 3911 – 15-27-45 – Request For Officer to Joe's Video – Con....wav"

19. In a separate *Petition for Writ of Error Coram Nobis*, it was alleged the Defendant's trial was significantly prejudiced by counsel's failure to present to the Court, through no fault of the Defendant's, two issues. To the extent the Court finds the Defendant was, in fact, responsible for presenting this testimony, then the Defendant alleges this failure was the result of ineffective of assistance of Counsel. Specifically:

    a. (DELETED)

    b. Petitioner further alleges that Defense Counsel failed to conduct a thorough cross examination of Jason Autry's blatantly perjured testimony. Based on his interview with Dr. Spirko as part of Petitioner's investigation, Jason Autry made the entire story up to avoid, what his attorney advised him was a 95% certainty of conviction.

    c. Again, the Petitioner's position is that Defense counsel was incapable of procuring Jason Autry to admit he was lying because he was manipulating everyone to receive his reduced sentence, thus that is why this issue has not been litigated in a full hearing on the merits at an earlier proceeding.

20. The Defense Counsel should have requested a testifying expert to educate the jury on distinguishing accurate firsthand recall from false and manufactured witness testimony as well as false confessions procured through various police interrogation tactics. This expert would also explore the ways in which Shayne Austin, Dylan Adams, and/or Jason Autry succumbed to manipulation, coercion, and pressure, in addition to their otherwise unstable mental health which resulted in the false statements they made throughout the proceedings. Further, a mental health expert with memory expertise should have been retained to test the validity and indicators of accurate recall to rebut Jason Autry's extremely detailed testimony regarding events which allegedly occurred more than six years prior while he was admittedly under the influence of narcotics. The same expert would have exposed and discredited the ways in which law enforcement treated witnesses like Victor Dinsmore, Lisa Autry, and Rebecca Earp in its efforts to procure the same faulty and inaccurate reports. These strong-arm tactics included but are not limited to arresting witnesses when they did not provide law enforcement the information they wanted and threatening to remove a witness' children from their home. After procuring the sought testimony and witness accounts, these witnesses were subsequently rewarded with immunity agreements and the dismissal of pending charges brought solely to coerce such false testimony.
21. The Defense Counsel should have requested a handwriting expert or otherwise present lay testimony to show the written statement of Dylan Adams was not, in fact, Dylan's and therefore, was fraudulently obtained.
22. Upon information and belief, the landowner, on whose property the victim's remains were found, was never called to testify that there had been multiple search efforts on this property prior to the remains being found. Moreover, the property owner would have testified that

his land was known to be a place used by others, including some or all of the Defendants, as a hang out where they would do drugs. The point should have been argued that it was reasonably possible 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.

23. Defense Counsel failed to rebut Mr. Autry's perjured testimony with any evidence in the following ways:

    a. Failure to present evidence in rebuttal of Jason Autry's false account of the way the alleged gunshot echoed; testimony easily refuted.

    b. Failure to provide a photo illustrating the scene where Mr. Adams allegedly shot the victim so as to rebut Mr. Autry's false testimony regarding the visibility below the interstate by the Tennessee River.

    c. Defense Counsel failed to review flood records and/or water levels from the day in question to verify whether Mr. Autry's story was possible with the water levels from that day.

    d. Defense Counsel failed to highlight the discrepancies between Mr. Autry's initial report to law enforcement that Shayne Austin was holding a .357 Magnum and his subsequent testimony that the victim was shot with a .32 revolver. Mr. Autry's altered testimony curiously conformed to the evidence presented regarding the casual exchange between Shayne Austin and Victor Dinsmore involving a .32 revolver—which the State did not credibly prove was the weapon used to kill the victim.

24. Defense Counsel should have issued a subpoena to Michael Scholl and/or Mr. Robert Parris for all communications they had with the prosecutors in this case regarding Mr. Autry's

testimony and forced them to testify at trial and called General Nichols to develop what exactly "leniency" meant as stated in the transcript the State was offering for Mr. Autry's statements.

25. Defense Counsel should have gone into greater detail to explain the DNA analysis of the hair found at Terry Britt's home, including the potential for new, up-to-date testing of the same.

26. Defense Counsel should have requested the spent .380 cartridge found at the scene near the victim's remains be tested for latent fingerprints.

2. Ineffective Assistance of Counsel at Voir Dire and Jury Trial

27. Ms. Thompson inadequately conducted voir dire/jury selection. Her attempt to use the "Colorado Method" was misplaced in this case and set the mood immediately that the issue in this case was whether Mr. Adams should be put to death; not whether the jury could appropriately determine guilt or innocence.

28. At trial and generally speaking, Ms. Thompson's manner of presentation, inability to communicate effective points of defense or highlight through persuasive argument and forceful cross examination all combined for a harried, unfocused, discombobulated and poor defense of an innocent man.

29. Defense Counsel failed to illustrate for the jury the manipulated testimony, and the multiple fallacies presented as credible evidence in the following ways:

    a. Dylan Adams, whom it is undisputed suffered from intellectual deficiencies, was coerced into a plea deal in a federal case wherein he was forced to live with Dennis Benjamin, a retired detective from Memphis who was coincidentally working for the Bobo family in their search to find Holly. Dylan Adams was then pressured

and manipulated by Mr. Benjamin into thinking he was involved in the victim's murder. It was only after Dylan was placed in Mr. Benjamin's custody that he allegedly confessed. If the State's theory of the case is correct, then Dylan's entire statement was a lie; or, as the Defendant will show, *they were all lies*. Regardless, Dylan's false statements and coerced confessions formed the bedrock of the subsequent investigation, and all matters regarding Dylan Adams' and Dennis Benjamin's involvement should have ultimately been exposed by proper pretrial discovery and during trial presentation of evidence on this thematic point.

b. Shayne Austin provided no real confession other than corroborating what TBI officers and agents represented to him as statements made by Dylan Adams. Despite Mr. Austin's promise to do so, he was unable to provide the State with the location of the victim's remains because he simply did not know.

c. Jason Autry then offered up a better, more polished story, and through his masterful, raconteur personality was able to weave the discovery evidence (and important cell phone records) into a plausible timeline by simply adding the victim's presence to the actual events of his day. Nonetheless, Mr. Autry's story had significant gaps and points of deception of which the Defense Counsel failed to exploit or capitalize.

d. In its cross-examination of key witnesses, Defense Counsel's performance was both lackadaisical and rambling resulting in an ineffective, unclear, disorganized, and unpersuasive presentation.

e. Defense Counsel failed to cross-examine Brent Booth on his statements that Karen and Dana Bobo lied throughout the investigation.

f. Failure to retain a ballistics expert regarding the defect size in the victim's skull versus the .32 revolver and .380 found at the scene of the remains. Defense Counsel failed to effectively argue or reconcile the discrepancies between said defect and that which would have been made by either weapon. Further, Defense counsel failed to point out that the State did not test this .380.

g. Failure to properly utilize key witnesses such as John Walker, Art Viveros, and Terry Dicus, whose testimony could have shed considerable doubt on the prosecution's case and the complete failure to capitalize on the assessment from Mr. Dicus' investigation.

h. Failure to introduce the multitude of other false confessions procured from other people throughout the course of the investigation.

i. Failure to introduce inconsistent statements from Clint Bobo and the expressed opinions of law enforcement that he was dishonest, including law enforcement's recorded document to this effect.

j. Failure to object to the dermatological assessment of the scars on Zach Adams' arms which were introduced by the State through non-expert testimony. Additionally, the failure to solicit testimony emphasizing the inconsistent appearance of the scars with those which would evidence a physical confrontation consistent with the crime.

k. Failure to cross-examine Mr. Earnest Stone about all particularities of the day on which he found the victim's skull, including Mr. Stone's criminal record and/or prior dealings with the Sherriff's Office.

l. Failure to call Matt Stowe as a witness and introduce into evidence the reasons he recused his office from the case.

m. Failure to argue the deficient size of the vehicle Zach Adams and Shayne Austin were allegedly driving and failure to illustrate how said vehicle would have been too small to transport the Defendants and the victim.

n. Failure to pursue lines of questioning during the cross-examination of Jason Autry that would challenge or otherwise rebut Mr. Autry's clearly exaggerated and perjured testimony, including but not limited to his statements that he previously found another body at the same location as the victim's remains but never reported it to law enforcement.

o. Failure to question Mr. Autry as to why he had not pled to anything regarding his alleged involvement and why he continued to insist on proclaiming his innocence to the charges. Further, Defense Counsel should have asked whether Mr. Autry had been charged with attempted murder of Dylan Adams.

p. The Defendant incorporates the entire affidavit of Terry Dicus attached to his *Motion for New Trial* to illustrate on its face, that any jury would have believed Mr. Autry's testimony simply due to the ineffective cross-examination by Defense Counsel and the lack of evidence submitted by the Defense at trial.

q. Failure to proffer the following simple dichotomy of the proof to the jury: **Mr. Autry said Zach Adams and Shayne Austin were at the Bobo residence to teach Clint Bobo how to make methamphetamine. If true, Clint Bobo obstructed justice for years and lied repeatedly about the day his sister was kidnapped.**

Conversely, if we are to believe Clint Bobo and his story, it is Mr. Autry who was placed on the stand to lie; it cannot be reconciled either way.

r. Significantly, Defense Counsel's failure to allow Zach Adams to testify. Ms. Thompson stated in a subsequent interview that Zach really wanted to testify. Ms. Thompson coerced Mr. Adams into not taking the stand, thus denying Zach his constitutional right to testify in his own defense.

s. Failure to call Jason Autry's attorneys and demand information pertaining to what Jason Autry was being offered in exchange for his testimony. Additionally, failure to request non attorney-client privilege (especially after the State opened this door slightly) communications from the lawyer to Mr. Autry.

3. Miscellaneous Issues which Arise to Ineffective Assistance of Counsel

30. The Defense Counsel failed to seek recusal of the Court itself and/or request disqualification and removal from the proceedings of the Court officer, Anthony Alexander, who was not only listed as a witness on the TBI Investigative report, but upon information and belief, is Dana Bobo's first cousin and therefore related to the victim. Mr. Alexander and Dana Bobo are also believed to be business partners with ABC Clean-Up. Moreover, upon information and belief, Mr. Alexander had direct engagement with the sequestered jury.

31. Ms. Thompson should have been more aware of the landscape of this case and realized how little confidence and trust the Court had in her capabilities as a trial lawyer. She was attacked by Opposing Counsel as well as by fellow defense attorneys and lost confidence in herself and in her case. Subsequently, this resulted in a significantly flawed presentation of the evidence as well as her opening and closing statements which were sorely

ineffective. She should have either withdrawn as counsel or aligned herself with a competent attorney with some semblance of a working relationship with the trial court and/or prosecution. Ms. Thompson's choice to bring in Luke Evans was a disastrous move in which she lost the confidence, if any remained, of the trial court.

32. Further, Ms. Thomson failed to plan for the logistics of this trial. The Court advised it would not force the State to tell the Defense which witnesses would be called the next day. Ms. Thompson continued to keep the voluminous boxes in her hotel and would thus have to go and retrieve the boxes when a witness was identified. She spent much of the direct examination hurriedly going through the portion of discovery pertaining to the testifying witness instead of actually listening to the witness' testimony and preparing for an effective cross examination. As a result, her cross examination often came off as perfunctory impeachment without a point.

4.

Effect

33. Defendant submits that 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 provided in the Due Process Clause (14th Amendment) and 6th amendment of the United States Constitution as well as Article 1, Section 9 of the Tennessee Constitution.

34. For all of the reasons stated above, the Defendant was prejudiced and both a void or voidable and/or unfair and unreliable result was obtained because of this ineffective assistance of Counsel. Had Mr. Adams been represented by constitutionally effective Counsel, he would have received a vastly different result at trial.

B.

NEW EVIDENCE OF ACTUAL INNOCENCE

35. Upon information and belief, the Petitioner was captured on an ATM recorder the morning of the victim's abduction. The recorder was never sought but clearly exists, as once the Defendant began discussing retrieval of the recorder with the bank's liaison, the State subsequently seized the recorder to hold for themselves. The State did agree to provide a copy and a subsequent motion that will be filed to capture the original for testing if necessary. Suffice to say, such information, once obtained from experts, will prove by clear and convincing evidence that the Defendant is actually innocent.

    a. Further, Counsel has just found out that the State already reviewed the ATM data in 2011 and that Terry Dicus was one of the agents responsible for viewing this footage. This was in May of 2011 and neither Zach Adams, Dylan Adams nor Shayn Austin were persons of interest when this footage was viewed. Upon information and belief, a log was created that summarized the vehicles (generically, ie no license plates were recorded) carrying passengers going to the bank's ATM machine. A multi page log was created, however, the pages of the log's timeframe in which both Mr. Adams (Dyland and Zach) and Mr. Austin purportedly went to the ATM has not been found. This is a fluid issue at the moment that will be updated.

    b. The evidence of Mr. Zach Adams on the CB&S Bank ATM recorder is scientific evidence in nature such that proves actual evidence and is ripe for this post conviction proceeding pursuant to *Dellinger v. State*, 279 S.W.3d 382 (Tenn. 2009). *To the extent it is deemed to have been waived because Mr. Adams Counsel did not*

bring this issue up at trial, then such was because of the ineffective assistance of counsel.

36. The Petitioner respectfully requests this Court, and perhaps the Appellate/Supreme Court, to extend the predicate of *Dellinger v. State, 279 S.W.3d 382 (Tenn. 2009)* to the recantation of Jason Autry and how it proves in this stand-alone petition that Mr. Adams is actually innocent of the crimes for which he was convicted.

37. Neither of these claims have been presented in a proceeding before. The ATM data was sought by the Defendant and advised that none existed; thus they did not understand that it did exist and the State had even reviewed it. Mr. Autry's recantation occurred in 2023 and was the basis for the petition for writ of error claim that was denied based on the statute of limitations issue.

IV.

PROCEFURAL (14th Amendment of US Constitution and Article I, Section 8 and 9 of TN Constitution) DUE PROCESS, BRADY VIOLATIONS and PROSECUTORIAL MISCONDUCT

38. The Defendant was effectively denied a fair trial under the 14th Amendment of the United States Constitution and Article I, sections 8 and 9 of the Tennessee Constitution. In December of 2023, Mr. Jason Autry provided new information in this case to show that Mr. Adams's constitutional rights were violated by the State's prosecution of him based on various theories espoused below that a void and/or voidable and/or unreliable result occurred because of the abridgement of certain rights guaranteed to him by the Constitution of Tennessee and/or the Constitution of the United States. This includes ultimately his procedurally due process rights under the XIV Amendment and Article I of

the United States Constitution, Section 8 and 9 of the Tennessee Constitution based upon the principles of prosecutorial misconduct and violations of *Brady v. Maryland*, both of which were revealed in Jason Autry's December 2023 hearing and thus were incapable of being presented at any earlier proceeding. At no point were these issues waived because the Defendant did not have access to this information during his trial or appellate process. Nor has any court addressed the merits of these claims in a full and final hearing. Mr. Autry thus revealed that (a) the State prosecution and him engrained themselves to such a degree that Mr. Autry became an agent of the State in presenting false testimony that was important and material that impacted the result; (b) the State prosecution did in fact convey through his attorney sufficient enough of an understanding what Mr. Autry's sentence would be if and when he testified and that should have been disclosed. The recorded interview revealed factually the following:

a. He admitted to concocting the entire story in his cell at jail while reviewing the discovery and in discussions with his attorney about the best way to avoid spending the rest of his life in prison. This story was what he presented at trial.

b. He admitted that it was all false that he used the extensive cell phone data provided in discovery to create a story around it.

c. He said he just recreated his day and "added Holly to it." He acknowledged it was all to get him out of jail at the express guidance from his attorney.

d. At one point, he said "we put it together in 3 days." It is unclear exactly who "we" were, but it is believed that at the very least, his attorneys and/or private investigators were involved. Previously, though, his attorneys stated publicly

anybody and we're here to seek justice for Jason Autry." Further, per his recorded interview, there were discussions between his attorneys and State and the State spent days with him in investigating his "story" and forthcoming testimony—which we *now* realize is false based on the December 2023 interview.

e. Mr. Autry further explained how details of his story came to light, including parts of the story how he created the story about the gun from an incident with Terry Britt.

f. The Court said Mr. Autry's testimony was some of the most credible and persuasive testimony the Court has ever seen. Further, Mr. Autry said he was very well trained by ADA Jennifer Nichols, whom he referred to as the "boss of it all."

Mr. Autry's Plea Deal

g. Most importantly, at Jason Autry's plea deal which occurred just after Mr. Adams' Motion for New Trial was Denied, 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."

h. 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 became incredibly technical saying the state has provided no "**formal** offer," saying nothing as to what was informally offered. It is submitted that the "informal"

offer and plea discussion (referenced below as to what the State was prepared to enter) was Brady material that was unknown at the time of the trial and not subject to appellate review.

A.

Specific Lie known to be false by the State

39. Specifically, the Petitioner cites the above referenced testimony of Jason Autry wherein he stated that Zach Adams told him he and Shayne Austin were at Holly Bobo's house to teach Clint Bobo how to make methamphetamine. It is unclear who the State thought was lying; Zach to Jason or Jason to the jury. However, what is clear is the State could not have believed Mr. Autry's recitation of these facts, or it would have had Clint Bobo arrested for obstruction of justice and never would have presented his testimony at the start of the trial. While the State did relay the evidence was "not being presented for the truth of the matter," that distinction is intended for Rule 801 hearsay objections, and not to allow false testimony to be go uncorrected. This amounts to prosecutorial misconduct and the admission of such untrue evidence significantly prejudicial effect on the verdict.

40. The Defense submits that this issue (item 39) has not presented in any claim for relief because of either Ms. Thompson's constitutionally deficient performance and/or the full extent of the Mr. Autry's deceitful testimony were not understood until he recanted in December of 2023.

Jason Autry as State Agent and Misconduct

41. Moreover, at this point, any grounded trier of fact now knows that all of Mr. Autry's testimony was false. While the prosecution may have been fooled to believe that Mr. Autry was telling the truth, Mr. Autry clearly knew he was lying. And Mr. Autry so engrained

himself into the prosecution, and the prosecution affirmed Mr. Autry's participation by agreement, that Mr. Autry became an agent of the State in the prosecution of Zach Adams. Such perjured testimony by a State agent violated Mr. Adams' due process rights because the term "prosecutor" encompasses actions of government agents for which the prosecution must account.

42. Jason Autry became an agent of the State in the same way third parties can become agents of the State to the extent their interactions with the Defendant violate their VI Amendment's right to Counsel. Specifically, Mr. Autry and the State had multiple meetings in which there was an explicit agreement for Mr. Autry to act as an agent of the State in testifying. While the prosecution presumably believed every word of their new agent, Jason Autry knew otherwise. Thus, he was an agent of the State who knew he was lying, and such lies were of vital importance to the rendered result and material to the Defendant's conviction. See generally *State v. Willis*, 496 S.W.3d 653 (Tenn. 2016) for the discussion of how third parties can become agents of the State.

43. The Defense submits that this issue (item 41 and 42) has not presented in any claim for relief because of either Ms. Thompson's constitutionally deficient performance and/or the full extent of the Mr. Autry's deceitful testimony were not understood until he recanted in December of 2023.

44. The Defendant also submits it was a *Brady v. Maryland*, 373 U.S. 83 (1963) violation to withhold from the Defense what parameters of sentence negotiations the State was prepared to enter with Mr. Autry and what informal negotiations had taken place regarding the same. In 2020—well after the jury verdict and after the Court denied the motion for new trial—Mr. Autry received only 8 years that with time served, effectively allowed him

out of jail within weeks of his plea. Further, this sentence was run concurrent with an unrelated federal charge. The defense asked for this information, was never advised by the State on what sentence they were prepared to release Mr. Autry, such evidence was favorable to the Defendant and the evidence was material. This was a violation of Mr. Adams' procedural and substantive due process rights under the XIV/14th Amendment to the United States Constitution and *Brady v. Maryland* and *State v. Edgin*, 902 S.W.2d 387 (Tenn. 1995).

45. The Defense submits that this issue (item 44) has not presented in any claim for relief because the event that revealed the need for Brady disclosure—Mr. Autry's plea deal—did not take place until after this Court denied his Motion for New Trial and the matter was travelling through the appellate process.

CERITIFICATION OF COUNSEL

I, DOUGLAS BATES IV, #027089, certify that I have thoroughly investigated under the circumstances of the voluminous discovery the possible violations alleged by petitioner, including all those in the original and amended and this proposed second amended complaint and any other ground that petitioner may have for relief. I have discussed other possible constitutional grounds with the petitioner. I have raised all non-frivolous constitutional grounds by existing law or a good faith argument for the extension, modification, or reversal of existing law which petitioner has. I am aware that any ground not raised shall be forever barred by application of T.C.A. S40-30-106(g), and have explained this to the Petitioner.

DETOBA

COURT APPOINTED COUNSEL FOR PETITIONER

WEREFORE, PRESMISES 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 for the relief cited above or in subsequent presentation or pleadings to this Court;
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.

I, Zacharry Rye Adams, hereby swear and affirm under threat of penalty of perjury that the information submitted above is true to the best belief and information I have available as indicated or upon my factual knowledge and belief of the same.

Zach Adams 12-11-24

ZACHARY RYE ADAMS DATE

State of TN]
County of HICKMAN]

Sworn to me and subscribed this 11th day of December, 2024.

Ashleigh Love 2/26/2025

NOTARY PUBLIC Comm. Expires

ASHLEIGH LOVE
STATE OF TENNESSEE NOTARY PUBLIC
COUNTY OF HICKMAN

RESPECTFULLY SUBMITTED:

DTBates

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CERTIFICATE OF SERVICE

The undersigned certifies that he has on the 12 day of DECEMBER 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 Amy Weirich
ADA Christopher Boiano

☐ 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