

IN THE CIRCUIT COURT OF HARDIN COUNTY, TENNESSEE
AT SAVANNAH

ZACHARY RYE ADAMS,
Petitioner,

v.

STATE OF TENNESSEE.

Case No. 17-CR-10-PC

**MOTION FOR AMENDED WRIT OF HABEAS CORPUS AD TESTIFICANDUM AND
TO COMPEL THE STATE OF TENNESSEE**

The Petitioner, ZACHARY RYE ADAMS, requests this Court issue an Amended Writ of Habeas *Corpus Ad Testificandum* to ensure the presence of JASON WAYNE AUTRY in this case. Tenn. Code Ann. § 41-21-305 states: "Whenever the presiding judge of any court has reason to believe that the evidence of an inmate is necessary in any criminal proceedings and that other evidence cannot be obtained on behalf of the state or of the defendant, the presiding judge shall order a writ to be issued directing the warden of the penitentiary to bring the body of the inmate before the court, on a day to be named in the writ, to give testimony for the state or for the defendant in such case."

Petitioner alleges that Jason Autry is a material witness and necessary for the evidentiary hearing on Petitioner's *Petition for Post Conviction Relief* currently set for May 19, 2025. Jason Autry was a key witness for the State during the Petitioner's trial in this matter which resulted in the Petitioner's conviction. Mr. Autry has since recanted his entire testimony in this cause offering new facts regarding the State's conduct and is necessary and material to the adjudication of the pending *Petition for Post Conviction Relief*.

FILED 7 DAY OF March, 2025 AT 12 AM/PM
TAMMIE WOLFE, CLERK
BY Tammie Wolfe CLERK

The Petitioner alleges the said Jason Autry (Register No. 25371-076) is presently confined in the United States Penitentiary McCreary located in Pine Knot, Kentucky and is in the custody of the warden of said institution.

Thus, the witness is beyond the jurisdiction of this Court and cannot be subpoenaed pursuant to Rule 17 of the Tennessee Rules of Criminal Procedure, nor can the witness be required to attend the trial of this cause through the provisions of the Uniform Laws to Secure the Attendance of Witnesses from Within or Without a State in criminal proceedings. The only remedy available to the Petitioner is the extraordinary writ of habeas corpus ad testificandum and an Order from this Honorable Court compelling the State of Tennessee to issue a 10-point letter containing the Prosecutor's certification to assist in facilitating this transport.

The Petitioner alleges he is indigent within the meaning of the law and cannot pay the costs of having the said Jason Autry brought to Hardin County, Tennessee, and returned to the United States Penitentiary McCreary in Pine Knot, Kentucky. Therefore, all necessary and proper costs associated with the transportation of Jason Autry as well as the detention and housing of the witness must be paid by the State of Tennessee and adjudged as costs against the Petitioner.

28 CFR Part 527 Subpart D provides:

The Bureau of Prisons will consider a request made on behalf of a state **or local court** that an inmate be transferred to the physical custody of state or local agents pursuant to state writ of habeas corpus *ad prosequendum* or *ad testificandum*. The Warden at the institution in which the inmate is confined is authorized to approve this transfer in accordance with the provisions of this rule.

- (a) These procedures apply to state and federal inmates serving sentences in federal institutions and shall be followed prior to an inmate's transfer to state or local agents other than through the Interstate Agreement on Detainers.

- (b) The Warden shall authorize transfer only when satisfied that the inmate's appearance is necessary, that state and local arrangements are satisfactory, that the safety or other interests of the inmate (such as an imminent parole hearing) are not seriously jeopardized, and that federal interests, which include those of the public, will not be interfered with, or harmed. Authorization may not be given where substantial concern exists over any of these considerations.
- (c) The request for transfer of custody to state agents shall be made by the prosecutor **or other authority who acts on behalf of the court** and shall be directed to the Warden of the institution in which the inmate is confined. The request shall be made by letter. The request shall indicate the need for appearance of the inmate, name of the court, nature of the action, date of the requested appearance, name and phone number of the state agency or other organization with responsibility for transporting the inmate, the name and location where the inmate will be confined during legal proceedings, and anticipated date of return. For civil cases, the request shall also indicate the reason that production on writ is necessary and some other alternative is not available. The applying authority shall provide either at the time of application or with the agent assuming custody, a statement signed by an authorized official that state or local officials with custody will provide for the safekeeping, custody, and care of the inmate, will assume full responsibility for that custody, and will return the inmate to Bureau of Prisons' custody promptly on conclusion of the inmate's appearance in the state or local proceedings for which the writ is issued.(emphasis added).

Undersigned counsel has made multiple efforts to facilitate the transport of Mr. Autry, but to date, the State has been unwilling to assist in this endeavor, and despite the clear language of the CFR Regulation allowing the request to be made by "the prosecutor or other authority who acts on behalf of the court", the Bureau of Prisons seems unwilling to accept anything other than a 10 point letter from the State containing the Prosecutor's certification.

The Petitioner is requesting Jason Autry be placed in the custody of the Sheriff of Hardin County, Tennessee and confined in the County Jail during the pendency of the evidentiary

hearing on the Petition for Post Conviction Relief currently set to be heard on May 19, 2025. Mr. Autry would need to be picked up by the Hardin County Sheriff's Department on May 18, 2025, confined in the county jail and then returned to the exclusive custody of USP McCreary directly following his testimony.

This is the Petitioner's first application for extraordinary relief in this cause.

WHEREFORE, PREMISES CONSIDERED, the Petitioner, Zachary Rye Adams, prays:

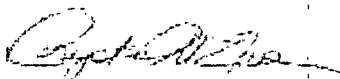
1. That a writ of habeas corpus ad testificandum issue on his behalf directed to the Warden of the United States Penitentiary McCreary in Pine Knot, Kentucky commanding the Warden to release the person of the said Jason Wayne Autry (Register No. 25371-076) to the Sheriff of Hardin County, Tennessee and the Sheriff of Hardin County, Tennessee to have the person of the said Jason Autry before the Hardin County Circuit Court for the 24th Judicial District at Savannah, Tennessee on the 19th day of May, 2025 at 8:30 a.m. to testify as a witness on behalf of the Petitioner, Zachary Rye Adams, in the case styled Zachary Rye Adams vs. State of Tennessee. Case Number 17-CR-10-PC, and from day to day as the Court may direct, during the pendency of the evidentiary hearing on the aforesaid Petition for Post Conviction Relief filed on behalf of the Petitioner.
2. That this Honorable Court enter an Order compelling the State of Tennessee to issue a 10 point letter containing the Prosecutor's Certification and to otherwise comply with the requirements of 28 CFR Part 527 Subpart D for the transportation of Jason Wayne Autry.

3. And for any such other specific or general relief to which the Petitioner may be entitled.

THIS MOTION IS SET TO BE HEARD ON MARCH 21, 2025 AT 9:00 A.M. IN THE CIRCUIT COURT MOTION DOCKET AT THE HARDIN COUNTY COURTHOUSE IN SAVANNAH, TENNESSEE BEFORE THE HONORABLE J. BRENT BRADBERRY.

Respectfully submitted,

/s/ Douglas T. Bates, IV (w/perm by C. Etue)
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CERTIFICATE OF SERVICE

The undersigned certifies that he has on the 7th day of March 2025, 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 – apweirich@tndagc.org
ADA Christopher Boiano – cvboiano@tndagc.org