

IN THE CIRCUIT COURT OF HARDIN COUNTY
AT SAVANNAH, TENNESSEE

ZACHARY RYE ADAMS,
PETITIONER,

vs.

STATE OF TENNESSEE,
RESPONDENT.

No. 17-CR-10-PC

FILED 9 DAY OF May, 2024 AT 8:30 AM/PM
TAMMIE WOLFE, CLERK
BY Terrell Wright Deputy CLERK

**MOTION TO DISMISS PETITIONER ADAMS' WRIT OF ERROR CORAM NOBIS
WITHOUT AN EVIDENTIARY HEARING**

COMES NOW, the State of Tennessee, by and through undersigned counsel, and moves this Honorable Court to Dismiss Petitioner Zachary Rye Adams' Writ of Error Coram Nobis without an Evidentiary Hearing. As grounds, the State of Tennessee would show as follows:

PROCEDURAL HISTORY

On September 22, 2017, the Petitioner, Zachary Rye Adams, was convicted by a Hardin County jury of first-degree murder premeditated, first-degree murder committed during the commission of a kidnapping, first-degree felony murder committed during the commission of a rape, two (2) counts of especially aggravated kidnapping, and three counts of aggravated rape. This Court merged the first-degree felony murder convictions with the first-degree premeditated murder conviction. The Court also merged the two especially aggravated kidnapping convictions and the three rape convictions. Prior to a sentencing hearing, the parties announced a sentencing agreement, being an effective sentence of life imprisonment without the possibility of parole plus fifty years. This Court denied the Petitioner Adams' Motion for a New Trial on August 11, 2020. The Tennessee Court of Criminal Appeals affirmed the judgment of the trial court on September 9, 2022. *See State of Tennessee v. Zachary Rye Adams*, No. W2020-01208-CCA-R3-CD, 2022

WL 4114226 (Tenn. Crim. App. Sept. 9, 2022) perm, app. denied (Term. June 7, 2022). On July 28, 2023, Petitioner Adams filed a *pro se* Petition for Post-Conviction Relief in this Court. On August 18, 2023, this Court entered a Preliminary Order (colorable claim) for Petitioner Adams' Post-Conviction Relief claims and appointed him counsel. On January 22, 2024, Petitioner Adams filed an Amended Petition for Post Conviction Relief. On the same day, Petitioner Adams filed a Petition for Writ of Coram Nobis, raising for the first time a claim of newly discovered evidence. On April 11, 2024, Petitioner Adams filed an Amendment to Petition for Error Coram Nobis.

WRIT OF ERROR CORAM NOBIS LAW

The writ of error coram nobis statute, Tenn. Code Ann. § 40-26- 105(b), requires that the basis for a petition for writ of error coram nobis be "subsequently or newly discovered evidence." The writ of error coram nobis is an "extraordinary procedural remedy," filling only a "slight gap into which few cases fall." *State v. Mixon*, 983 S.W.2d 661, 672 (Tenn. 1999). It is "known more for its denial than its approval." *State v. Vasques*, 221 S.W.3d 514, 524 (Tenn. 2007) (*quoting Mixon*, 983 S.W.2d at 666). The decision to grant or deny a petition for writ of error coram nobis rests within the trial court's sound discretion. *See State v. Hart*, 911 S.W.2d 371, 375 (Tenn. Crim. App. 1995); Tenn. Code Ann. § 40-26-105.

A petition for writ of error coram nobis must relate to (1) the grounds and the nature of the newly discovered evidence; (2) why the admissibility of the newly discovered evidence may have resulted in a different judgment had the evidence been admitted at the previous trial; (3) that the petitioner was without fault in failing to present the newly discovered evidence at the appropriate time; and (4) the relief sought by the petitioner. *See Freshwater v. State*, 160 S.W.3d 548, 553 (Tenn. Crim. App. 2004).

The Tennessee Supreme Court has held that to be successful on a petition for a writ of error coram nobis, "the standard to be applied is whether the new evidence, if presented to the jury, may have resulted in a different outcome." *Vasques*, 221 S.W.3d at 526. To be considered "newly discovered," the evidence must have been unknown to the petitioner at the time of the proceedings giving rise to his conviction. See *Harris*, 301 S.W.3d 141, 160. A petitioner cannot premise relief on evidence "which is merely cumulative or 'serves no other purpose than to contradict or impeach.'" *Wlodarz v. State*, 361 S.W.3d 490, 499 (Tenn. 2012) (quoting *Hart*, 911 S.W.2d 371, 375), abrogated on other grounds by *Frazier v. State*, 495 S.W.3d 246 (Tenn. 2016).

A petition for writ of error coram nobis is "subject to dismissal on the face of the petition, without discovery or an evidentiary hearing, and even prior to notification to the opposing party." *Id.* at 825. Traditionally, a trial court has been expected to dismiss a petition which is insufficient on its face. *Id.* While some petitions cannot be resolved on the face of the petition, the court need not hold a hearing unless it determines a hearing is essential. *Id.* at 826. Accordingly, the contents of the written petition are of the "utmost importance." *Id.* (quoting *Harris II*, 301 S.W.3d at 154 (Koch, J., concurring)). "Judges anticipate that the petition itself embodies the best case the petitioner has for relief from the challenged judgment. Thus, the fate of the petitioner's case rests on the ability of the petition to demonstrate that the petitioner is entitled to the extraordinary relief that the writ provides." *Id.* (quoting *Harris II*, 301 S.W.3d at 150 (Koch, J., concurring)).

Of course, there will be instances in which the request for coram nobis relief cannot be resolved based only on the face of the petition. *Id.* (quoting *Harris I*, 102 S.W.3d at 593). However, "trial courts need only conduct evidentiary hearings when they are essential." *Harris II*, 301 S.W.3d at 154 (Koch, J. concurring) (citing Larry W. Yackle, *Postconviction Remedies* § 1:10 (2009)).

ARGUMENT

This Court should Deny Petitioner Adams' Writ of Error Coram Nobis Without an Evidentiary Hearing.

A. The petition is untimely.

A petition for a writ of error coram nobis must be filed within one year after the challenged judgment becomes final. *See* Tenn. Code Ann. § 27-7-103. Timely filing of a petition for the writ of error coram nobis “is an essential element of a coram nobis claim.” *Nunley*, 552 S.W.3d at 826. Petitioner Adams was convicted of the crimes at issue in Hardin County Circuit Court on September 22, 2017. On September 9, 2022, the Tennessee Court of Criminal Appeals affirmed Petitioner Adams’ convictions. The judgments in the present case became final thirty (30) days after the Court of Criminal Appeals entered its opinion on September 9, 2022, affirming the trial court’s judgment of conviction. Because this petition was filed on January 22, 2024, it is undoubtedly untimely, as it is after the one-year statute of limitations pursuant to *Mixon* and *Nunley*. Accordingly, the petition is time-barred unless the Petitioner Adams demonstrates he is entitled to equitable tolling of the statute of limitations.

B. Petitioner Adams fails to allege any facts that would warrant equitable tolling of the statute of limitations.

To accommodate due process concerns, the one-year statute of limitations may be tolled if a petition for a writ of error coram nobis seeks relief based upon new evidence of actual innocence discovered after the expiration of the limitations period. In the event a coram nobis petitioner seeks equitable tolling of the statute of limitations, the petitioner must allege the specific factual basis upon which equitable tolling is sought. *Id.*

“To be entitled to equitable tolling, a prisoner must demonstrate with particularity in the petition: (1) that the ground or grounds upon which the prisoner is seeking relief are “later arising” grounds, that is grounds that arose after the point in time when the applicable statute of limitations normally would have started to run; [and] (2) that,

based on the facts of the case, the strict application of the statute of limitations would effectively deny the prisoner a reasonable opportunity to present his or her claims. ... A prisoner is not entitled to equitable tolling to pursue a patently non-meritorious ground for relief.”

Id. (quoting *Harris*, 301 S.W.3d at 153 (Koch, J., concurring)).

Furthermore, actual innocence “means nothing other than that the person did not commit the crime.” *Keen v. State*, 398 S.W.3d 594, 612 (Tenn. 2012) (interpreting “actually innocent” as used in Tenn. Code Ann. § 40-30-117(a)(2)).

Petitioner Adams’ Petition for Writ of Error Coram Nobis does not contain facts to support the equitable tolling of the statute of limitations to avoid being summarily dismissed. The evidence contained in the petition filed on January 23, 2024, which Petitioner Adams asserted supported his contention of “newly discovered evidence,” consists of (1) the unsworn statements of Lisa Carroll contained in a video recording [Exhibit 1 to the Writ]; (2) the unsworn statements of Jason Autry, Petitioner Adams’ co-defendant, contained in a video recording, recanting his trial testimony [Exhibit 2 to the Writ; (3) and a signed affidavit of investigator Katie Spirko [Exhibit 3 to the Writ]. Importantly, Exhibit 1 and 2 are not affidavits from an individual with personal knowledge to substantiate Petitioner Adams’ claims of newly discovered evidence. Although Katie Spirko’s statements in Exhibit 3 are set forth in an actual affidavit, many of the statements contained in the affidavit lack any personal knowledge of the declarant and simply restate the unsworn statements of Jason Autry, Lisa Carroll, and others.

The same is true of Petitioner Adams’ Amendment to his Petition filed on April 11, 2024, which includes an affidavit signed by Jennifer Thompson, Petitioner Adams’ trial counsel. Neither the amendment nor the signed affidavit contained in Exhibit 4 contain any facts evidencing that some newly discovered evidence was discovered after Petitioner Adams’ conviction. Because

Petitioner Adams has failed to request equitable tolling with a sufficient factual basis to support such a request, this Court should summarily dismiss the Writ as time barred.

C. Even if the Court finds that Petitioner Adams' Writ sufficiently tolls the statute of limitations, the Writ of Error Coram Nobis is not supported by proper affidavits and is insufficient to establish actual innocence.

"A motion or petition seeking a new trial based on newly discovered evidence must also be supported by affidavits." *Id.* at 823 (citing *Harris*, 301 S.W.3d at 152 (Koch, J., concurring)). The affidavits supporting the grounds for relief "should be filed in support of the petition or at some point in time prior to the hearing." *Hart*, 911 S.W.2d at 375. Such an affidavit, like the testimony of a witness, must be relevant, material and germane to the grounds raised in the petition; and the affiant must have personal knowledge of the statements contained in the affidavit." *Id.* (citing *State v. Byerley*, 658 S.W.2d 134, 141 (Tenn.Crim.App.1983)). Affidavits of the witnesses through whom the newly discovered evidence is sought to be introduced must explain the materiality of the evidence and must state that the evidence was not communicated to the prisoner or his or her trial counsel prior to the original trial. *Harris*, 301 S.W.3d at 153 (Koch, J., concurring). An affidavit that fails to meet these requirements "will not justify the granting of an evidentiary hearing since the information contained in the affidavits, taken as true, would not entitle the petitioner to relief." *Id.* (citing *State v. Todd*, 631 S.W.2d 464, 466-67 (Tenn.Crim.App.1981)). If an affidavit is sufficient, and therefore justifies an evidentiary hearing, then the coram nobis court should not determine the merits of the petition based on the strength of the affidavits alone. *Id.* (citing *Hicks v. State*, 571 S.W.2d 849, 852 (Tenn.Crim.App.1978))."

Much like the error coram nobis petition itself, the affidavits supporting the petition "must set forth with particularity" facts showing that the petitioner and his trial counsel "exercised reasonable diligence and were not negligent" in searching for evidence prior to trial, and that the

petitioner and his trial counsel "had no pretrial knowledge of the allegedly newly discovered evidence." *Nunley*, 552 S.W.3d at 823 (citing *Jones v. State*, 2 Tenn. Crim. App. 160, 452 S.W.2d 365, 367 (Tenn. Crim. App. 1970)). For a petitioner to be entitled to relief through a petition for error coram nobis, it must be established, and the trial court must find, that the subsequently or newly discovered evidence "may have resulted in a different judgment had it been presented at the trial." Tenn. Code Ann. § 40-26-105. This rule presupposes that the evidence (a) would be admissible pursuant to the applicable rules of evidence, and (b) is material to the issues or grounds raised in the petition. See *Nunley*, 552 S.W.3d at 816.

1. Exhibit 1 to Writ – Unsworn Recorded Statements of Lisa Carroll

The statement provided by Lisa Carroll in Exhibit 1 does not meet the *Nunley* standard for witness statements attached to a petition for a writ of error coram nobis. According to this standard, to warrant an evidentiary hearing, the witness introducing newly discovered evidence must submit an affidavit explaining the significance of the evidence and confirming that it was not disclosed to Petitioner Adams or his attorney prior to trial. The unsworn, unnotarized statement provided by Lisa Carroll in Exhibit 1 falls short of this standard. It lacks the necessary formality of a notarized affidavit as required by *Nunley*, is inadmissible hearsay, and should not be considered by this Court unless properly authenticated and admitted pursuant to the Tennessee Rules of Evidence.

Even assuming *en arguendo* that Ms. Carroll's statements captured in the video recording were in the proper form of an affidavit, her statements still do not warrant an evidentiary hearing. Ms. Carroll's statement does not adequately set forth what is newly discovered evidence or explain the materiality of any such evidence.

2. Exhibit 2 to Writ – Unsworn Recorded Statements of Jason Autry

Likewise, the unsworn, unnotarized statement provided by Jason Autrey in Exhibit 2, lacks the necessary formality of a notarized affidavit as required by *Nunley* standard for witness statements attached to a petition for a writ of error coram nobis. To warrant an evidentiary hearing, the witness introducing newly discovered evidence must submit an affidavit explaining the significance of the evidence and confirming that it was not disclosed to Petitioner Adams or his attorney prior to trial. The unsworn, unnotarized statements contained in Exhibit 2 lack the necessary formality of a notarized affidavit as required by *Nunley*, are inadmissible hearsay, and should not be considered by this Court unless properly authenticated and admitted pursuant to the Tennessee Rules of Evidence. It is not an affidavit from an individual with personal knowledge to substantiate Petitioner Adams' claims of newly discovered evidence. *See, e.g., Reed v. State*, No. W2017-02419-CCA-R3-ECN, 2018 WL 4191228, at 5 (Tenn. Crim. App. Aug. 31, 2018) (holding that summary dismissal of error coram nobis petition was proper under similar facts).

Even assuming *en arguendo* that Mr. Autry statements captured in the video recording were in the proper form of an affidavit, his statements still do not warrant an evidentiary hearing. Petitioner Adams was aware at the time of the trial that Mr. Autry initially denied any involvement in these crimes to law enforcement and to others; Mr. Autry's credibility was thoroughly impeached during cross-examination at trial by Petitioner Adams' counsel Jennifer Thompson, the jury was aware of inconsistencies in his testimony. If Autry's statements in Exhibit 2 were in fact in the form of an affidavit, it would be merely cumulative to the impeachment evidence that the jury already heard. *See Keller v. State*, No. W2019-01652-CCA-R3-ECN, 2021 WL 1699277, at 5 (Tenn. Crim. App. Jan. 27, 2021) (coram nobis claim was meritless when the evidence at issue was "both cumulative and inculpatory"), *perm. app. denied* (Ten. May 14, 2021).

3. Exhibit 3 to Writ - Katie Spirko's Affidavit

Although investigator Katie Spirko's statements contained in Exhibit 3 to Petitioner Adams' Writ of *Coram Nobis* are properly attached as a notarized affidavit, there are numerous statements included in the document that lack personal knowledge of the declarant, specifically paragraphs 6(a), 6(b), 6(c), 6(e), 6(f), 6(g), 6(h), and 6(i). The affidavit of Katie Spirko consists of hearsay and presents no personal knowledge whatsoever that amounts to newly discovered evidence or to its materiality.

4. Exhibit 4 – Jennifer Thompson Affidavit

Similar deficiencies exist in the statements contained in Jennifer Thompson's affidavit. Although it is a signed affidavit by Petitioner Adams' trial counsel, Jennifer Thompson fails to set forth any newly discovered evidence, explain the materiality of any such evidence, or state that the evidence was not communicated to Petitioner Adams' prior to the original trial.

5. Exhibits 1, 2, 3 and 4 collectively

Collectively, Petitioner Adams has failed to demonstrate to this Court how Exhibit 1, 2, 3, and 4 "may have resulted in a different judgment had it been presented at the trial." Tenn. Code Ann. § 40-26-105. The statements contained in Exhibits 1 and 2 are inadmissible hearsay, while the affidavits in Exhibit 3 and 4 from Katie Spirko and Jennifer Thompson are wholly insufficient to establish Petitioner Adams' actual innocence. As such, this Court should summarily dismiss Petitioner Adams' Writ without an evidentiary hearing for failing to allege a colorable coram nobis claim and that Exhibit 1, 2, 3, and 4 are not newly discovered evidence.

D. Considering the evidence of the other witnesses at Petitioner Adams' trial, this Court should find that the alleged recantation of Jason Autry is insufficient to establish Petitioner Adams' innocence or would have resulted in the jury reaching a different conclusion had it been presented at trial.

A petitioner is not entitled to coram nobis relief based on recanted testimony unless the coram nobis court is reasonably satisfied that the prior testimony was false and the present testimony is true. *State v. Ratliff*, 71 S.W.3d 291, 298 (Tenn. Crim. App. 2001). Recanted

testimony is often looked upon with distrust by the courts rather than favor due to the great temptation to strengthen the weak points of the case discovered during the trial by perjury or subornation of perjury. *Tyler Wayne Banes v. State*, No. 02C01-9508-CC-00249, 1996 WL 218355, at 2 (Tenn. Crim. App. May 1, 1996) (no perm. app. filed). A trial court should only grant a writ of error coram nobis on the basis of newly discovered recanted testimony if the following conditions are met:

“(1) the trial court is reasonably well satisfied that the testimony given by the material witness was false and the new testimony is true; (2) the defendant was reasonably diligent in discovering the new evidence, or was surprised by the false testimony, or was unable to know of the falsity of the testimony until after the trial; and (3) the jury might have reached a different conclusion had the truth been told.”

Mr. Autry has not given reason to be adequately satisfied that the statements made by Autry on December 22, 2023, have any indicia of truthfulness¹. Mr. Autry’s trial testimony in September

¹ Exhibit 2 is a video interview of Jason Wayne Autry, created on December 22, 2023, at FCI Memphis, where Jason Autry is incarcerated, awaiting sentencing on federal firearms charges pending in the United States District Court Western District of Tennessee. During this video interview, Jason Autry makes unsworn statements recanting his trial testimony in the Holly Bobo case. It is important to note that on October 27, 2023, 61 days prior to this video interview, Jason Autry, through counsel of record, filed “Defendant’s Supplemental Sentencing Memorandum” that made the following factual representations to United States District Judge S. Thomas Anderson concerning his federal sentence: “III. Response to Upward Departure or Upward Variance Based Upon Criminal History – In arguing for an upward departure or variance, the government places great emphasis on Mr. Autry’s guilty plea regarding his involvement with the Holly Bobo case. Mr. Autry is solemnly sorry and cannot express his regret deeply enough for his involvement in that case, and he fully accepts responsibility for his involvement in that case. While Mr. Autry cannot change the past, he wishes to assure the Court he will never again be involved in any similar conduct in the future. While not intending to diminish in any manner whatsoever the seriousness of that offense, it is nevertheless respectfully requested what this Court consider that Mr. Autry was sentenced for and has since fully served his custodial sentence in that manner. In so doing, Mr. Autry paid his debt to society for that crime, as determined by the Decatur County, Tennessee Circuit Court. While the government correctly states that he was originally charged with especially aggravated kidnapping and first-degree murder in that case, he pled guilty to facilitation of especially aggravated kidnapping and solicitation of first-degree murder. Mr. Autry testified as a witness for the State in that case and detailed his involvement before the Judge and jury. In approving Mr. Autry sentence in that case, the Judge determined that the sentence imposed was appropriate given Mr. Autry’s involvement in the crime. Mr. Autry’s testimony was clearly instrumental for the State in obtaining a conviction against the individuals who were found to have actually kidnapped, raped and murdered Ms. Bobo. In this case, that offense has been taken into account in the calculation of his Guideline range and Mr. Autry should not be given additional punishment for that offense.” Jason Autry concludes his Supplemental Sentencing Memorandum by reminding Judge Anderson that “The Court must weigh many factors in arriving at a fair and equitable sentence. While Mr. Autry admittedly has a very serious criminal history, it is a fact that, in connection with the most serious prior offense, **his full cooperation with authorities resulted in bringing others to justice for their involvement in the offense** (emphasize added).” Moreover, on August 10, 2023, Jason Autry, through counsel of record, filed Defendant’s Objection to the Pre-Sentence Investigative Report, objecting to “some of the factual statements contained in ¶55 of the PSR regarding his

2017 was, on the other hand, under oath and subject to vigorous cross-examination and thoroughly vetted, resulting in numerous instances of outside corroboration of his recitation of the facts, while the video statements made by Mr. Autry to Katie Spirko on December 22, 2023, provided none of these safeguards. Because of this, this Court should give considerable deference to his testimony given under oath. The statements given to Katie Spirko by Jason Autry do not carry the same reliability.

Furthermore, Petitioner Adams' claims concerning Mr. Autry recantation, even if taken as true, do not fit within the category of cognizable claims. Petitioner Adams is not seeking to bring new evidence before this Court which might have had an effect on the judgment. Indeed, at Petitioner Adams' trial, Mr. Autry testified that he agreed to testify for the State, hoping that he might receive favorable treatment in exchange for his testimony (Transcript 9, pp. 1449, 12-16; pp. 1451, 18-25; pp. 1452, 1-2). Mr. Autry's testimony was thoroughly impeached by Petitioner Adams' trial counsel, Jennifer Thompson, and the jury was well aware of Mr. Autry's criminal background (Transcript 8, pp. 1186, 9-15) and that he had a motive to lie hoping that he might receive favorable treatment in exchange for his testimony (Transcript 9, pp. 1443, 1-25). Moreover, Mr. Autry acknowledged during cross-examination that he had not been truthful in prior statements about his involvement in the victim's disappearance and "denied any involvement until Mr. Parris and Mr. Scholl [Autry's trial counsel] came aboard." (Transcript 9, pp. 1425, 21-25; pp. 1425, 1-25).

convictions in Hardin County, Tennessee Circuit Court docket #2017-CR-10. Defendant admits that he pled guilty and was sentenced as indicated and that this offense give him three additional criminal history points. **Defendant objects to the extent the factual statements in this paragraph could be interpreted to be inconsistent with his trial testimony in that matter** (emphasize added)." Jason Autry's federal sentencing hearing is set to be heard on June 25, 2024, at 1:30 p.m., and the representations made by Jason Autry concerning his testimony in the Holly Bobo trial in federal criminal filings speak for themselves.

Again, Petitioner Adams' trial counsel extensively cross-examined Jason Autry at trial concerning his prior vehement denials regarding his involvement with the victim's disappearance. Prior to January 2017, Autry steadfastly denied any involvement in the crimes and made countless statements declaring his innocence to anyone willing to listen. At trial, Jennifer Thompson confronted and impeached Jason Autry's veracity over and over concerning his prior inconsistent statements. For example, these four (4) trial transcript excerpts clearly indicate that the December 22, 2023 recorded video statement of Autry is merely cumulative and serves no other purpose than to further impeach Autry's trial testimony on the exact same points that Jennifer Thompson addressed during her cross-examination:

Jennifer And you said at the time that it was a try to be to -- let me sorry.

Thompson: You said, it was a try to be a forced move to get me to bear false witness against Zach Adams; didn't you?

Jason If your records reflect that, I said that.
Autry:

Jennifer Because at the time you were objecting to the fact that the State
Thompson: was trying to get you to cooperate; weren't you?

Jason I had not spoke to the State at no time during that period.
Autry:

Jennifer You said --
Thompson:

Jason Nor made any suggestions that would link anybody to believe that
Autry: I wanted to cooperate with the State.

Jennifer Right. But you knew that there was pressure to have somebody
Thompson: cooperate; didn't you?

Jason I was under the assumption it was dealing.
Autry:

See Transcript 9, pp. 1428, 22-25; pp. 1429, 1-19.

Jennifer Thompson: You know that those telephone conversations are being provided to everybody in discovery; don't you?

Jason Autry: It tells you that it's being recorded, yeah.

Jennifer Thompson: You told your mom, mama, I didn't. I swear right hand before -- you said, I mean, I'll testify to what I know. I mean, and I am going to, but, mama, I am innocent. That's right hand before God, I am innocent. That's what you told your mother on the telephone; isn't it?

Jason Autry: I reckon that's what I am here doing.

Jennifer Thompson: But you told your mother that on the telephone specifically?

Jason Autry: Yes.

Jennifer Thompson: I mean, not just -- that's just one instance, but you told your mother that time and time again; didn't you?

Jason Autry: That's correct.

See Transcript 9, pp. 1431, 22-25; pp. 1429, 11-25; pp. 1430, 1-7.

Jennifer Thompson: You've written letters where you said, they don't have a case, I am innocent; didn't you?

Jason Autry: If your records reflect that, that's true.

Jennifer Thompson: You've written where you said, up front, I have nothing to do with Holly Bobo, no form, no fashion, right hand before God, that's the truth. You said that; didn't you?

Jason Autry: I testified earlier that I had lied multiple times in the mail and on the phone calls.

See Transcript 9, pp. 1440, 7-15.

Jennifer Thompson: And you said, Mr. John, there is no way they have a case. I am an innocent man. It's awful funny, man, Ms. -- my attorney still hadn't got no motion of discovery. 11 months and still no evidence. Did you say that? At some point you did; didn't you?

Jason Autry: If your records reflect that, that's true.

See Transcript 9, pp. 1440, 16-21.

Thus, Mr. Autry's credibility was effectively questioned at trial by Petitioner Adams' trial counsel. See, e.g. *Carl E. Ross v. State*, No. W2003-01448-CCA-R3-CO, 2004 WL 115397 (Tenn. Crim. App., at Jackson, Jan. 9, 2004), perm. to appeal denied (Tenn. May 10, 2004)(finding that not only was petition time barred but affirmed court's denial of coram nobis relief on basis co-defendant's recantation would have no impact on jury verdict); *Michael Joseph Spadafina v. State*, No. W2001-02554-CCA-R3- CD, 2002 WL 31852867, at *6 (Tenn. Crim. App., at Jackson, Dec. 20, 2002)(affirming court's denial of coram nobis relief where co-defendant's recantation lacked credibility).

Moreover, Mr. Autry's testimony was a singular piece of the State's substantial proof of the Petitioner Adams' guilt. The State presented testimony from numerous witnesses at trial who testified that Petitioner Adams made incriminating admissions about his involvement with the victim's kidnapping, rape, and murder. The State also introduced multiple items of physical evidence that linked Petitioner Adams to these crimes.

1. Petitioner Adams' Admissions:

Over the course of a five (5) year period, Zachary Adams made numerous inculpatory statements acknowledging and confessing his involvement with the victim's disappearance, rape, and murder. The State has presented nine (9) separate witnesses who testified at trial concerning Adams' admission about the victim from multiple and unrelated witnesses.

Victor Dinsmore: On April 13, 2011, Mr. Dinsmore was remodeling a garage and kitchen at Ms. Dottie's residence, which is a short distance from Zachary Adams' home (Transcript 10, pp. 1502, 11-17; 1503, 11-18). Around mid-afternoon, Zachary Adams, Shane Austin, and Jason Autry arrived at Ms. Dottie's residence (Transcript 10, pp. 1504, 11-18).

Admission

"Within two or three minutes, Zach and Shane Austin were arguing and fighting. And I heard a few little spirts out of their mouth about who was going to hit it first, and I never even put it together at all. And I told them they couldn't do that there, because this was my job and they had to go. So they loaded up and took off. Train² actually kind of broke them up, and they loaded up and took off."

Trial Transcript Citation

Transcript 6, pp. 1504, 19-25;
pp. 1505, 1.

Rebecca Earp: Ms. Earp is Zachary Adams' former girlfriend, with whom he lived at the time of the offenses (Transcript 6, pp. 831, 15-23; pp. 832, 13-14). Petitioner Adams made inculpatory statements to Ms. Earps in the aftermath of the victim's disappearance:

² "Train" was Jason Autry's nickname. Moreover, Jason Autry's own testimony corroborates Mr. Dinsmore's testimony concerning this physical altercation between Zachary Adams and Shane Austin. Mr. Autry testified that around 2:30 p.m. on April 11, 2011, Autry arrived at Ms. Dottie's to purchase morphine from Victor Dinsmore (Transcript 8, pp. 1230, 1-25). Autry testified that "when I pulled up, the area was just thick with animosity. You could tell that there had been some fighting and anger amongst them." (Transcript 8, pp. 1231, 9-12). Autry further testified to hearing an exchange of words between Zachary Adams and Shane Austin, being "Shane told him, he said, you didn't have to kill her. And Zach told him, said, you're just as damn guilty, you hit it. And Zach told him, said, you shut your fucking mouth. I am sick of it being discussed. We're here. We pulled up, and he told him, he said, I'll whoop your goddamn ass. They got out of the truck at Dottie's and one lick was exchanged. Zach hit Shane." (Transcript 8, pp. 1232, 16-24).

Admission

Trial Transcript Citation

The day after the victim's disappearance, Rebecca Earp was with Zachary Adams and Shane Austin, who smirked and laughed about a news report related to the victim. Zachary Adams stated that "they will never be able to find her."

Transcript 6, pp. 845, 2-12.

Zach Adams attempted to tie Rebecca Earp up with a belt, telling her that "he would tie me up just like he did Holly Bobo, and nobody would ever see me again."

Transcript 6, pp. 849, 8-21.

Rebecca Earp overheard a conversation between Zachary Adams and his friend John Mitchell in which Zachary Adams stated, "everything was in the truck ready to go" to "take the Tupperware --- it was a blue Tupperware thing to Birdsong" and that "they said it was the remains of Holly."

Transcript 6, pp. 852, 7-25;

Carl Stateler: In 2011, Carl Stateler knew Zachary Adams, as both lived in Parsons and were involved in the local drug scene (Transcript 12, pp. 1904, 7-13; pp. 1905, 23-25; pp. 1906, 1-3). At trial, Mr. Stateler testified about several instances when Zachary Adams made incriminating statements concerning the victim's disappearance, rape, and murder:

Admission

Trial Transcript Citation

Mr. Stateler was riding in a truck with Zachary Adams during the summer of 2011 after Holly Bobo went missing and Adams said "I let Shane hit it." Carl Stateler understood the words "hit it" to mean rape.

Transcript 12, pp. 1908, 6-25;
pp. 1909, 1-7

Mr. Stateler was with Zachary Adams at Johnny's Bar and Grill in Parsons, TN, in 2011, the summer after Holly Bobo went missing, and he witnessed Zachary Adams threaten a bartender named Misty Tubbs saying to her: "I'll kill you like I did Holly Bobo."

Transcript 12, pp. 1910, 9-16.

Mr. Stateler was with Zachary Adams at Johnny's Bar and Grill in Parsons, TN, in the Summer of 2011 after Holly Bobo went missing. Zachary Adams told Carl Stateler that he, Zachary Adams, was responsible, saying, "I did it."

Transcript 12, pp. 1910, 17-25;
pp. 1911, 1-2.

Jamie Darnell: Mr. Darnell was a longtime acquaintance of Zachary Adams. In July 2012, Zachary Adams came to Mr. Darnell's home in Decatur County and made admissions about a knife in his possession (Transcript 12, pp. 1878, 18-23; pp. 1879, 4-6):

Admission

Trial Transcript Citation

In July 2012, Zachary Adams showed Mr. Darnell "a knife that he had and kind of—I was kind of like intimidate by it. Since he was, you know, trying to intimidate by it. I asked him to look at it, and I was checking it out and asked him how much he would take for it. He told me that if I knew what the knife had done, that I would probably be afraid of holding the knife."

Transcript 12, pp.1882, 13-21

"I was like, does it involve what I think it does, and he just smiled, and I gave it back to him"

Transcript 12, pp. 1882, 17-21.

Mr. Darnell later informed Zachary Adams that Adams was not to return to his home until he had "cleared his name" to which Zachary Adams responded with "he couldn't do that...he was too far involved into it, and there was no way he could do that"

Transcript 12, pp. 1891, 1-23;

Shawn Cooper: On March 4, 2014, Shawn Cooper was incarcerated in Chester County, Tennessee (Transcript 13, pp. 1949, 12-15; pp. 1958, 12-18). On that day, Mr. Cooper and Zachary Adams were at the courthouse for their respective cases. After his court hearing, Mr. Cooper sat on a bench speaking to court personnel about his bond (Transcript 13, pp. 1950. 9-13). Mr. Cooper was advised by court personnel that he was going to be transported to the Obion County detention center, which was also a federal holding facility (Transcript 13, pp. 1950. 14-25). Zachary Adams was sitting on the same bench and overheard the conversation as well. When Zachary Adams

learned that Mr. Cooper was going to Obion County. Prior to that day, Mr. Cooper did not know Zachary Adams. Adams asked Cooper to relay a message to Adams brother/Codefendant, Dylan Adams, who was housed in Obion County (cite). At trial, Mr. Cooper testified about multiple incriminating statements that Zachary Adams made to him concerning the victim during this courtroom encounter (Transcript 13, pp. 1951, 9-16):

Admission	Trial Transcript Citation
Zachary Adams told Mr. Cooper that he was Zachary Adams, "I'm the Holly Bobo murder case."	Transcript 13, pp. 1951, 22-25;
Zachary Adams told Mr. Cooper to communicate a message to his brother / Codefendant, Dylan Adam: "you tell him if he don't keep his mouth shut, I'm going to put him in a hole beside her."	Transcript 13, pp. 1952, 23-25; pp. 1952, 1-3 and 19-25; pp. 1953, 1-3.
Zachary Adams went into court then came back making jokes about his bond.	Transcript 13, pp. 1954, 11-25; pp. 1955, 1-4.

Jason Kirk. On March 4, 2014, Jason Kirk was present in Chester County jail for his arraignment and witnessed the statements Zachary Adams made to Mr. Cooper (Transcript 13, Page 1965, 18-22; pp. 1967, 3-13). Mr. Kirk did not know and had never seen Zachary Adams (Transcript 13, 20-22). At trial, Mr. Kirk testified about multiple incriminating statements that Zachary Adams made in his presence.

Admission	Trial Transcript Citation
Zachary Adams stated to Mr. Cooper, "tell my brother, in Obion, if he doesn't keep his fucking mouth shut. I'm going to plant him next to that bitch"	Transcript 13, pp. 1968, 2-6;
Zachary Adams also told Mr. Cooper "my brother is telling on me and it was – went into a rant about it."	Transcript 13, pp. 1968, 9-12

Zachary Adams told Mr. Cooper "his brother got caught with something, I wasn't sure what it was, with the feds. And to get out of it, was trying to tell on him."

Transcript 13, pp. 1968, 9-15

After Zachary Adams' arraignment, Mr. Kirk overheard him stating. "I guess you got to kill a bitch to get that kind of bail around here."

Transcript 13, pp. 1969, 15-21

Zachary Adams stated "but I'm not worried. He said, don't have no body. They don't have no gun. They don't have a conviction, because they don't have a body and they don't have a gun."

Transcript 13, pp. 1970, 1-4

Anthony Phoenix: Mr. Phoenix lived in Parsons around the time of the offenses (Transcript 12, pp. 1859, 1-6). In 2010-2011, Mr. Phoenix had a substance abuse problem and often turned to crime to fund his drug habit (Transcript 12, pp. 1859, 11-23). Mr. Phoenix knew Zachary Adams well and "use to...get high" with him (Transcript 12, pp. 1862, 6-11). At the time of the victim's disappearance, Mr. Phoenix was incarcerated (Transcript 12, pp. 1861, 23-25; pp. 1862, 1-2). When he was released from jail, Mr. Phoenix continued to socialize with Zachary Adams (Transcript 12, pp. 1862, 22-25; pp. 1863, 1-3). At trial, Mr. Phoenix testified about multiple incriminating statements that Zachary Adams made in his presence.

Admission

Zachary Adams told Mr. Phoenix that he had met with the victim's mother and Adams expressed concern about what he told Karen Adams.

Zachary Adams and Mr. Phoenix were driving around, when Zachary Adams "made the comment about - something along the lines of let's rape this bitch." Mr. Phoenix asked Zachary Adams what that comment had to do with what they were doing at the moment, and

Trial Transcript Citation

Transcript 12, pp. 1864, 23-25;
pp. 1865, 1-6.

Transcript 12, pp. 1866, 12-25;
pp. 1867, 1-6.

Zachary Adams told him "I couldn't have picked a prettier bitch."

Mr. Phoenix told Zachary Adams that he didn't want to hear about it, to which Zachary Adams responded with "it sure was fun."

Transcript 12, pp. 1867, 4-6.

Corey Rivers: In 2016, Corey Rivers, from Jacksonville, Florida (Transcript 12, pp 1919, 10-12), was driving through Tennessee when he was pulled over by law enforcement in Williamson County. (Transcript 12, pp. 1920, 8-14). During the traffic stop, Mr. Rivers provided the officer with false identification. As a result, Mr. Rivers was convicted and received a 60-day jail sentence. While serving the 60-day jail sentence in the Williamson County Jail, he met Zachary Adams, who was his next-door cellmate (Transcript 12, pp. 1922, 5-14; pp. 1923, 11-15). At trial, Mr. Rivers testified about several instances when Petitioner Adams made incriminating statements concerning Holly Bobo. Furthermore, Mr. Rivers testified that before getting locked up on the driving charges in Williamson County, he did not know anything about the case regarding Holly Bobo, nor Zachary Adams, Dylan Adams, Shane Austin, or Jason Autry (Transcript 12, pp. 1922, 20-25; pp. 1923, 1-10).

Admission

Zachary Adams saw Mr. Rivers reading the Bible. Zachary Adams asked him about forgiveness and whether God would ever forgive him.

Mr. Rivers asked Zachary Adams what happened. "Him and a couple of his friends got drunk" and "him and a couple of friends had went into the – you know, they got drunk, and they went into the woods with this girl. And, you know, one led – one thing led to another, and then he was like, you know, I was – I was there for the worst of it. And I was like, well,

Trial Transcript Citation

Transcript 12, pp. 1924, 14-23.

Transcript 12, pp. 1927, 12-20

did you do it? And he was like, I was there for the worst of it, and he just left it like that.

Zachary Adams told Mr. Rivers what happened to Holly's body, "the bottom side was found in one part of Tennessee and some other – some other pieces was found other wheres."

Transcript 12, pp. 1928, 19-24.

Zachary Adams told Corey Rivers that the body was chopped up: "He -- it had got chopped up. Said it was – it had been chopped up."

Transcript 12, pp. 1929, 7-9.

Zachary Adams told Corey Rivers that Holly's upper torso was found: "Q: Specifically, did he tell you that they found her upper torso | A: Yes, ma'am."

Transcript 12, pp. 1929, 16-18

Zachary Adams told Corey Rivers that there's a video, and that "it was right under the nose of, you know, the people who's looking into this," but that "they haven't found it"

Transcript 12, pp. 1932, 1-7.

Zachary Adams continued to talk to Mr. Rivers about his case even though Adams said his attorney and his Paw Paw had told him not to talk about it.

Transcript 12, pp. 1940, 3-13.

Chris Swift: In 2016, Mr. Swift was incarcerated in the Williamson County Jail, and he and Zachary Adams were housed in the same area (Transcript 13, pp. 1977, 20-24; 1978, 1). During this period, Zachary Adams made multiple admissions to Swift concerning the Holly Bobo's death.

Admission

Trial Transcript Citation

On one occasion, Zachary Adams noticed that Mr. Swift was praying, Zachary Adams asked him if he thought God would forgive him. Mr. Swift asked, "forgive you for what," and Zachary Adams responded, "my case...the Holly killing."

Transcript 13, pp. 1980, 4-12.

Over time, Zachary Adams discussed his case with Mr. Swift. Zachary Adams told Mr. Swift that he “wasn’t involved in the killing” but was “involved in the worst part of it.”

Transcript 13, pp. 1981, 14-18.

Zachary Adams also told Mr. Swift that “some boy that hung himself” and his brother/codefendant Dylan Adams was involved in the killing.

Transcript 13, pp. 1981, 20-25.

Zachary Adams told Mr. Swift that “his brother and some boy that hung himself” were in “a back room having sex with her” and that “something went bad wrong and, you know, he said he was involved in the worst part of it.”

Transcript 13, pp. 1982, 1-9.

Zachary Adams told Mr. Swift that he would be going home after his trial because “they didn’t have a body. They didn’t have the murder weapon nor a motive.”

Transcript 13, pp. 1984, 8-10.

On another occasion, after this conversation, Zachary Adams met with his attorney and afterward told Mr. Swift that “it doesn’t look good for him.”

Transcript 13, pp. 1984, 17-20

Zachary Adams later told Mr. Swift that he “was going to get the death penalty.”

Transcript 13, pp. 1987, 11-12.

After Mr. Swift was released from jail, he received a telephone call from Zachary Adams, who used another inmate's pin number to call Swift. During the conversation, Zachary Adams told Mr. Swift “I probably wouldn’t be talking to anybody else,” and ended the call. Mr. Swift felt threatened.

Transcript 13, pp. 1986, 12-23.

2. Physical Evidence

(a) Scratches on Petitioner Adams’ Body

Chris Hill: Mr. Hill was a park ranger employed by Natchez Trace State Park who encountered Zachary Adams during a traffic stop approximately eight (8) or nine (9) days prior to

the victim's disappearance (Transcript 5, pp. 788, 17-25). During this traffic stop, Petitioner Adams fled on foot from the officer into a wooded area (Transcript 5, pp. 789, 10-13).

Testimony	Trial Transcript Citation
Mr. Hill testified he had occasion to observe Zachary Adams "face to face, body to body after he was arrested."	Transcript 5, pp. 789, 19-21.
Mr. Hill testified that Zachary Adams did not have any linear markings on his left arm at the time the he was apprehended inside Natchez Trace State Park.	Transcript 5, pp. 789, 22 – 25.
Mr. Hill testified that if he had seen "bloody, linear scratches" on Zachary Adams, he would have "absolutely" taken note of it.	Transcript 5, pp. 798, 17-23.

Rebecca Earp: Ms. Earp testified that she observed scratches on Petitioner Adams' neck on the evening of the victim's disappearance:

Testimony	Trial Transcript Citation
Ms. Earp testified that she saw three (3) parallel scratches on Petitioner Adams' neck on the evening of the victim's disappearance.	Transcript 6, pp. 846, 6-15.
These scratches were not present when he left home that morning to go scraping.	Transcript 6, pp. 846, 17-19.
These scratches were present after he returned from scraping.	Transcript 6, pp. 846, 20-21.
She described them as scratches on the right side of Defendant Adams' neck, extending from under the jawline at the ear towards the Adam's apple.	Transcript 6, pp. 878, 10-23.

Matthew Ross: FBI Agent Matthew Ross interviewed Petitioner Adams at his home approximately ten (10) days after the victim's disappearance (Transcript 5, pp. 773, 8-25; pp. 774,

1-2). During that interview, Agent Ross observed scratches on Petitioner Adams' arms and legs and testified to same that the trial:

Testimony	Trial Transcript Citation
Agent Ross "noticed that he had some pretty visible scratches on his arms and knees, I think, or leg area."	Transcript 5, pp. 775, 1-5.
Agent Ross "took photographs. I asked him if I could take photographs of him and the scratches, and he said yes."	Transcript 5, pp. 775, 6-10.
Zachary Adams told Agent Ross that he "had gotten the scratches after he had been arrested by the police somewhere...[a]nd that he had run through the woods trying to escape and got cut up by a bunch of briars."	Transcript 5, pp. 778, 8-12.

(b) Recovered Gun

Victor Dinsmore testified that two months after the victim's disappearance, Shane Austin wanted to trade a pistol for drugs. Mr. Dinsmore knew Dinsmore was not supposed to possess a gun because he was a convicted felon, but he thought he could sell it. Jason Autry was present during the trade. Mr. Dinsmore gave the pistol to his wife for her protection but later told her to "get rid of it" because he feared it had been used to kill someone. Ms. Dinsmore disposed of the pistol, and in 2016, Mr. Dinsmore told law enforcement where she disposed of it. The pistol was subsequently recovered by law enforcement from a creek-like area three to four miles from Yellow Springs Road. After its recovery, Mr. Dinsmore identified the pistol as the same handgun that Mr. Austin traded him for twelve morphine pills.

Testimony	Trial Transcript Citation
A few months after the victim went missing, Shawn Austin wanted to trade a pistol to Mr. Dinsmore for drugs.	Transcript 10, pp. 1513, 20-24.

When Mr. Austin made this trade with Mr. Dinsmore, Jason Autry was with him.

Transcript 10, pp. 1514, 13-14.

Mr. Dinsmore traded his drugs for Mr. Autin's pistol.

Transcript 10, pp. 1514, 3-12.

Mr. Dinsmore later told his wife to get rid of the pistol because he believed that "it had a body on it" meaning "it had killed somebody."

Transcript 10, pp. 1515, 24- 25;
pp. 1516, 1-5

In 2016, Mr. Dinsmore and his wife provided TBI with information concerning this pistol.

Transcript 10, pp. 1516, 19-25;
pp. 1517, 1-6.

Mr. Dinsmore and his wife assisted TBI in locating the pistol, specifically in the creek off Hollyday Road.

Transcript 10, pp. 1517, 7-25.

Mr. Dinsmore identifies the gun that had been previously marked as Exhibit 180, saying "that's the gun" that Dinsmore obtained from Shane Austin in exchange for drugs.

Transcript 10, pp. 1514, 8-12.

Mr. Dinsmore has no doubt in his mind "that this is the gun that you bought or traded" for "12 morphine pills".

Transcript 10, pp. 1514, 8-12.

Jason Autry's trial testimony independently corroborates Victor Dinsmore's testimony concerning this pistol:

Testimony

Trial Transcript Citation

Jason Autry testified that on April 13, 2011, he saw a gun holstered to Shane Austin's hip when Autry arrived at 30 Yellow Springs Road.

Transcript 8, pp. 1275, 15-18.

The same gun "was in the Nissan Frontier 4x4, laying in the driver's side floodboard" when Autry got into the vehicle with Zachary Adams.

Transcript 8, pp. 1277, 12-19.

The next time Jason Autry sees the same gun is in Zachary Adams's right hand before he shoots Holly Bobo.

Transcript 8, pp. 1277, 21-23.

Jason Autry next sees this pistol when Autry and Shane Austin sell it to Victor Dinsmore – “I was with Shane when he traded Dinsmore the gun for meth – for Morphine.”

Transcript 8, pp. 1278, 2-7.

(c) Fight between Zachary Adams and Shane Austin at Ms. Dottie’s House on April 13, 2011.

Zachary Adams and Shane Austin got into a physical altercation during the afternoon of April 13, 2011, shortly after the victim’s disappearance. The fight occurred at Dottie Cooley’s residence and was witnessed by Jason Autry, Victor Dinsmore, and Debbie Dorris:

Victor Dinsmore: On April 13, 2011, Mr. Dinsmore was remodeling Ms. Dottie’s garage and kitchen (Transcript 10, pp. 1502, 11-17).

Testimony

Trial Transcript Citation

“I was inside the garage doing some work. The cleaning lady had showed up, Debbie. Her and I talked a little bit. She went to work. I went back to work, and then Zach and Shane and Train pulled up in Dylan’s truck”

Transcript 10, pp. 1504, 11-15.

“Within two or three minutes, Zach and Shane Austin were arguing and fighting. And I heard a few spirts out of their mouth about who was going to hit it first, and I never even put it together at all. And I told them they couldn’t do that here, because this was my job and they had to go. So they loaded up and took off. Train actually kind of broke them up, and they loaded up and took off.”

Transcript 10, pp. 1504, 19-25;
pp. 1505, 1-2.

Debbie Dorris: Ms. Dorris was a housecleaner who was cleaning Ms. Dottie’s home on April 13, 2011, in Decatur County, Tennessee. Ms. Dorris identified three (3) individuals speaking to Victor Dinsmore. Of the three, Ms. Dorris recognized one of them – Jason Autry. Ms. Dorris testified to the following:

Testimony	Trial Transcript Citation
Arrived to Ms. Dottie's house "probably around 8:00 and 9:00."	Transcript 11, pp. 1686, 11-12.
Mr. Dinsmore was also at Ms. Dottie's house that day in the morning.	Transcript 11, pp. 1686, 13-18.
Ms. Dorris and Mr. Dinsmore stayed at Ms. Dottie's house all day, to around "5:00 that afternoon."	Transcript 11, 1686, 19-22.
Around 2:30 and 3:30, Ms. Dorris sees "three guys by a pickup truck talking to Victor."	Transcript 11. 1687, 1-5.
Ms. Dorris was recognized one of the individuals, being Jason Autry.	Transcript 11, 1688, 3-4.

Jason Autry's trial testimony independently corroborates Dinsmore and Dorris' testimony that Zachary Adams and Shane Austin got into a fight at Ms. Dottie's house on April 11, 2011:

Testimony	Trial Transcript Citation
"From Zach's house to Dottie's house where we was headed is less than two miles. I mean, it's - - you can be in there -- I mean, it's less than two miles, probably a mile and a half. I don't know exactly. We got in there and we pulled out of the driveway, him and Shane started arguing."	Transcript 8, pp. 1232, 5-10.
"Yeah. Shane told him, he said, you didn't have to kill her. And Zach told him, said, you're just as damn guilty, you hit it. And Zach told him, said, you shut your fucking mouth. I am sick of it being discussed. We're here. We pulled up, and he told him, he said, I'll whoop your goddamn ass. They got out of the truck at Dottie's and one lick was exchanged. Zach hit Shane. Dinsmore pulls up."	Transcript 8, pp. 1232, 16-23.

(d) The White Nissan Truck

Testimony concerning Zachary Adams' white Nissan truck was significant evidence of Adams' involvement in the events surrounding the victim's disappearance and actions taken by Adams and Jason Autry on the day of the crime:

Rebecca Earp: Testified that on the morning of the offenses, Zachary Adams woke Earp up, stating he was going to "haul off scrap" metal (Transcript 6, pp. 838, 22-23). Ms. Earp testified to the vehicle Zachary Adams was driving the morning of April 13, 2011:

Testimony	Trial Transcript Citation
Zachary Adams was driving a white Nissan truck on April 13, 2011.	Transcript 6, pp. 926, 16-19.

John Babb: Testified that he personally observed a white pickup truck near the victim's home the morning of the victim's disappearance:

Testimony	Trial Transcript Citation
"Well first I heard something, a motor revving up loudly on the road. I looked over and a white truck came by extremely fast, probably faster than any car -- any vehicle I've seen on that road before or since, probably traveling 55, 60 miles an hour, and I turned to my buddy and said, "man, that white truck was flying."	Transcript 4, pp. 593, 18-25; pp. 594, 1-3.
The vehicle was "an actual pickup truck."	Transcript 4, pp. 594, 4-5.
The truck was going south, and just at the very north end of the Bobo property and my property, Swan Johnson turns into a gravel road. so, I find it inconceivable that somebody could have been going that speed with any -- well, that made any sense whatsoever after coming off that gravel road unless they were in one heck of a hurry. That's why it -- it drew my attention.	Transcript 4, pp. 595, 9-18.

Victor Dinsmore: Testified that Zachary Adams hid his white Nissan truck in Dinsmore's pole barn after the Holly Bobo's disappearance:

Testimony

Victor Dinsmore testifies about a particular pole barn on Dinsmore's property that Zachary Adams hid his grandfather's white Nissan in on April 13, 2011, after the victim went missing.

Trial Transcript Citation

Transcript 10, pp. 1510, 24-25;
pp. 1511, 1-14.

Jason Autry's trial testimony concerning Zachary Adams' white Nissan truck corroborates the trial testimony provided by Rebecca Earp, John Babb, and Victor Dinsmore that Zachary Adams was driving a white pickup truck on the morning of April 13, 2011:

Testimony

Jason Autry testified that on the morning of April 13, 2011, Jason Autry met Zachary Adams at 30 Yellow Springs Road. Zachary Adams "was standing at the door of a white 4x4 Nissan Frontier."

Trial Transcript Citation

Transcript 8, pp. 1205, 2-3.

"A few minutes later, I got out and walked back to the 4x4 Nissan where Zach was standing in the door, and he said, I need you to help me bury this body. And I told him I said, goddamn, I hate that y'all killed little Joe Joe. He said, Jason, he said -- he said Train, he didn't say Jason. My nickname was Train. He said, Train, that's Holly Bobo."

Transcript 8, 1205, 7-14.

(e) Cell Phone Data:

Michael Frizzell: Mr. Frizzell was a TBI special agent who testified for the State at trial as an expert in cellular telephone tracking. Mr. Frizzell's testimony and expert report were able to establish the movement and interactions of Zachary Adams, Jason Autry, and the victim on April 13, 2011.

Testimony

Victim's Phone: On April 13, 2011, the victim's phone, number 731-549-7352, started

Trial Exhibit

Exhibit 208, pp. 5

utilizing towers to the north of her residence at 8:17 AM and 8:26 AM. The phone then utilized a tower to the east at 9:06 AM. AT&T provided three locations for this phone via latitude and uncertainty showing the phone in the same general geographic areas from 8:57 AM to 9:10 AM. These locations are consistent with being in the same general geographic area as telephone numbers 731-549-7352 [Jason Autry] and 731-733-0191 [Zachary Adams] at the same times. AT&T provided a final approximate location for telephone number 731-549-7352 in the general geographic area as the victim residence and where the phone and SIM card were located.

Zachary Adams' Phone: On April 13, 2011, the target phone of (731) 733-0191 consistently utilized the AT&T tower located at 50 Cox Road, Holladay, TN, which is near the I-40 / HWY 641 intersection, throughout the day, with two exceptions. The first exception occurred from approximately 9:50 am to 10:37 am on April 13, 2011 when this target phone utilized the AT&T tower located at the Birdsong Road / I-40 intersection near the Tennessee River.

The second exception occurred when this target phone utilized an AT&T tower located in Parsons, TN, which is south of I-40 / Hwy 641 intersection, at approximately 11:16 am through approximately 12:18 pm.

At approximately 12:35 pm through 11:36 pm on April 13, 2011, the target phone of (731) 733-0191 then began utilizing the AT&T tower located at 50 Cox Road, Holladay, TN, which is near the I-40 /Hwy 641 intersection.

No network activity was noted for target phone (731) 733-0191 on April 13, 2011 between the times of 4:58 am and 8:19 am.

Jason Autry's Phone: On the morning of April 13, 2011, the target telephone of (731)

733-2073 utilized an AT&T tower in Camden, TN area, at approximately 6:50 am. This target phone began utilizing the AT&T tower located at 50 Cox Road, Holladay, TN, which is south of Camden, TN, at approximately 8:19 am, where it remained until approximately 8:55 am. It was during this time frame that this particular target phone first had contact with target phone (731) 733-0191 on April 13, 2011. The next network activity occurred at approximately 9:42 am in which the AT&T tower located at the Birdsong Road / I-40 intersection near the Tennessee River was utilized until approximately 10:36 am. The next activity occurred at approximately 10:39 am and again at approximately 10:48 am in which the AT&T tower located at 50 Cox Road, Holladay, TN was utilized.

Jason Autry's trial testimony concerning his whereabouts and movements on April 13, 2023, is corroborated by cell phone data analyzed by Michael Frizzell and the conclusions reached in his TBI Cellular Analysis Report.

(f) Victim's Autopsy:

Dr. Marco Ross: Dr. Ross, a forensic pathologist, testified for the State concerning the autopsy of the victim. *See* attached collective **Exhibit "A"** for Report of Autopsy Examination and Photos. Dr. Ross testified that only bones from the victim's upper torso were recovered and examined by his office. Moreover, Dr. Ross testified that Holly Bobo's cause of death was a gunshot wound to the back of the head.

Testimony

"What we received for examination included the skull along with the mandible with some teeth present in there, as well as several individual loose teeth. The left scapula or shoulder blade, and there were six ribs here."³

Trial Exhibit

Transcript 8, pp. 1134, 2-6.

³ Dr. Ross' testified that only bones belonging to the victim's upper torso were recovered. This evidence is corroborated by Cory Rivers testimony at trial, that Zachary Adams told Rivers that Holly Bobo's body

Dr. Ross testified the cause of the victim's death was a gunshot wound to the back of the head.

Transcript 8, pp. 1147, 21-24.

Dr. Ross testified that the bullet wound to the back of the victim's skull is consistent with a caliber bullet that was no larger than .36 inches or smaller, which includes a .32 caliber bullet.

Transcript 8, pp. 1146, 22-23;
pp. 1146, 3-10.

Jason Autry's trial testimony corroborated Dr. Ross' testimony:

Testimony

Trial Exhibit

Jason Autry acted as a lookout while Zachary Adams shot Holly Bobo. Autry testified Zachary Adams shot Holly Bobo once, and immediately afterwards, Autry heard a boat motor, which caused them both to quickly load Holly Bobo's body back in the truck and leave the area. Autry noted that there was a blood pooling the size grapefruit.

Transcript 8, pp. 1221, 3-14;
pp. 1222, 9-19;
pp. 1223, 2-8;
pp. 1223, 9-18.

3. Other witnesses corroborate Jason Autry's trial testimony.

(a) Brenda O'Bryant Testimony

Brenda O'Bryant testified that in April 2011, her parents lived in the Holladay community across the street from Kelly Ridge. Her parents' property was wooded and contained three ponds. About one week after the victim's disappearance, Ms. O'Bryant testified that she observed a silver PT cruiser traveling up her parents' driveway. The individual driving the PT cruiser came to the door of the residence and asked Ms. O'Bryant permission to fish in the ponds (Transcript 10, pp. 1482, 12-24; pp. 1483, 1-25).

Testimony

Trial Transcript Citation

was chopped up: "He -- it had got chopped up. Said it was -- it had been chopped up," and that "the bottom side was found in one part of Tennessee and some other -- some other pieces was found other wheres." (Transcript 12, pp. 1928, 19-24; pp. 1929, 7-100).

Brenda O'Bryant told the visitor he would have to talk to her dad. The visitor asked where O'Bryant's father was, and O'Bryant responded that her father was helping in the search for the victim.

Trial Transcript 10, pp. 1483, 1-7.

"When I mentioned Holly, he became very stressed. He rolled his eyes, ran his fingers through his hair. Just looked extremely stressed. At that point, he said, okay, I may come back later. He got in his car and he backed out."

Trial Transcript 10, pp. 1483, 10-14.

Jason Autry's testimony at trial is corroborated by Brenda O'Bryan's testimony. Autry was suspicious that Holly Bobo's body was in the area near the O'Bryan property and went there to investigate.

Testimony

Trial Transcript Citation

Jason Autry testified he owned a PT Cruiser.

Trial Transcript 8, 1228, 15-18.

"There was two ponds there on the property at the entrance of Kelly Road at Kelly's Ridge. I seen buzzards sitting in an old dead tree in the back side of one of the ponds."

Trial Transcript 8, pp. 1268, 11-14.

"There is a house at the entrance of Kelly Road. I got out and I knocked on the door, and I asked the person living there if I could go fishing down there."

Trial Transcript 8, pp. 1268, 19-22.

"They told me, no, that there had been some river otters or creek otters come through there and wiped all the fish out. They didn't want nobody on the property. At that time, I got back in the vehicle and left."

Trial Transcript 8, pp. 1269, 2-6.

CONCLUSION

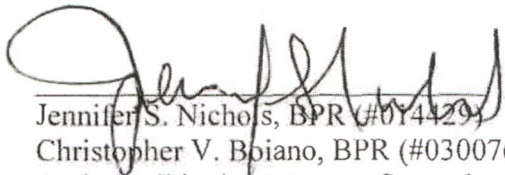
Petitioner Adams' coram nobis petition fails to show that the evidence is "newly discovered," as he had access to this evidence in prior to trial and in a manner that would have afforded him an opportunity to assert a claim, if any, within a reasonable time. As such, this Court

should find that Petitioner Adams has failed to show facts on the face of his coram nobis petition that he is entitled to equitable tolling of the statute of limitations.

While Jason Autry's testimony was helpful to the State, as the trial transcript reflects, Mr. Autry did not play the role of "star witness" in Petitioner Adams' trial. Petitioner Adams' own admissions to multiple individuals concerning his involvement in the disappearance, rape, and murder of the Holly Bobo are the most incriminating pieces of evidence the State of Tennessee presented at trial. These admissions came from Petitioner Adams himself – not from anyone else, including co-defendant Jason Autry. Mr. Autry's alleged "recantation" does not exculpate Petitioner Adams. *See, e.g. Carl E. Ross v. State*, No. W2003-01448-CCA-R3-CO, 2004 WL 115397 (Tenn. Crim. App., at Jackson, Jan. 9, 2004), perm. to appeal denied (Tenn. May 10, 2004)(finding that not only was petition time barred but affirmed court's denial of coram nobis relief on basis co-defendant's recantation would have no impact on jury verdict); *Michael Joseph Spadafina v. State*, No. W2001-02554-CCA-R3- CD, 2002 WL 31852867, at 6 (Tenn. Crim. App., at Jackson, Dec. 20, 2002)(affirming court's denial of coram nobis relief where co-defendant's recantation lacked credibility).

This Court should deny Petitioner Adams' Writ of Error Coram Nobis without an evidentiary hearing.

Respectfully Submitted,



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cvboiano@tndagc.org

CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing has been emailed and mailed to Douglas Thompson Bates IV, attorney for Petitioner Adams, on this 8 day of May 2024.

Douglas Thompson Bates, IV
Bates & Bates Law Office
406 W. Public Sq., 2nd Floor, Bates Building
P.O. Box 1
Centerville, TN 37033

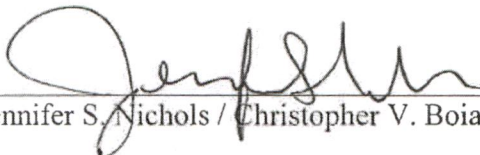

Jennifer S. Nichols / Christopher V. Boiano

Exhibit A

EXHIBIT #: #174
Zachary Adams - 17-CR-10
Date: 9.13.17
Reporter: Erin Angel

OFFICE OF THE MEDICAL EXAMINER
WEST TENNESSEE REGIONAL FORENSIC CENTER

REPORT OF INVESTIGATION BY COUNTY MEDICAL EXAMINER

Decatur County Medical Examiner: Charles Alderson

Judicial District Number: 24

District Attorney: Honorable Matt Stowe

State Number: 14-20-0011

Case Number: MEC2014-1203

1. Name of Decedent Holly Lynn Bobo		2. Age 23 Years	3. Race White	4. Sex Female
5. Address 681 Swan Johnson Road, Darden, TN 38328				
6. Date of Death 09/07/2014	7. Type of Death Suspected Homicide		8. Investigating Agency/Complaint #: TN Bureau of Investigation	
9. Place of Death County Corner Rd, Holladay, TN				
10. Narrative Summary Reportedly individuals hunting for Gingseng in the area of County Corner Rd. in Decatur County last date, discovered a human skull. 911 emergency was contacted and Decatur County Sheriff's Office and Tennessee Bureau of Investigations responded to the scene where several other bones were located. This Office was notified by S/A Jeff Jackson, who requested this Office perform the examination. Chief Karen Chancellor was contacted by this Investigator and Jurisdiction for the examination was accepted. The decedent was transported to the West Tennessee Regional Forensic Center by Special Agents Joe Wheeler and Brent Booth this date for examination, identification and final disposition to the funeral home. Carl Fowler, Investigator 9/08/14				
11. Jurisdiction Accepted Yes	12. Autopsy Ordered Yes		13. Toxicology Ordered No	
14. Physician Responsible for Death Certificate Karen E Chancellor, M.D.				
15. Cremation Approved No	16. Funeral Home			
17. Cause of Death Gunshot Wound to the Back of the Head				
18. Contributory Cause of Death				
19. Manner of Death Homicide				

CERTIFIED TO BE A TRUE AND
EXACT COPY OF THE ORIGINAL

Office of the Medical Examiner
Decatur County Medical Examiner

1/21/2015

KE

1/21/2015

West Tennessee Regional Forensic Center
Office of the Medical Examiner
637 Poplar Avenue
Memphis, Tennessee 38105-4510
Telephone (901) 222-4600 Fax (901) 222-4645

REPORT OF AUTOPSY EXAMINATION

CASE NUMBER: 2014-1203 **DECEDENT:** Holly Bobo

AGE: 23 years **RACE:** White **SEX:** Female

Authorized by: District Attorney Matthew Stowe

Received from: Decatur County

Date of Autopsy Examination: September 8, 2014 **Time:** 10:00 AM

Body Identified by: Dental records and x-rays

PATHOLOGICAL DIAGNOSES

Gunshot wound to the back of the head.
Skeletonized, partial human remains.

CAUSE OF DEATH: Gunshot Wound to the Back of the Head

The facts stated herein are correct to the best of my knowledge and belief.

Electronically signed by Karen E. Chancellor, M.D. on Wednesday, January 21, 2015

Karen E. Chancellor, M.D., Pathologist Date

EXTERNAL DESCRIPTION

The remains consist of a skull (cranium), mandible, manubrium, 7 ribs (6 right ribs and one left rib), left scapula and several teeth. No soft tissue is present. The bones are weathered and demonstrate animal scavenging. Evidence of postmortem animal activity is noted on the cranium and on the left scapula.

EVIDENCE OF INJURY

There is a gunshot wound to the right side of the back of the head, located at the junction of the occipital bone and right parietal bone, at the lambdoid suture. This entrance defect is round and has internal beveling of the endocranium.

The wound tract exits the cranium through the clivus of the occipital bone, forming a defect with external beveling. The wound tract continues through the left sided facial bones; a defect with external beveling is noted on the fractured edge of the left maxilla. Linear fractures, resulting from this gunshot wound injury are described in the Forensic Anthropology report.

This is a gunshot wound to the right side of the back of the head with the wound tract passing forward, from right to left and slightly downward. The range of fire is indeterminate.

ADDITIONAL PROCEDURES

Radiology:	X-rays of the remains are made.
Evidence Collected:	A fiber-like strand of material is removed from the manubrium. This fiber appears to be a fragment of vegetation. A fragment of pink, yarn-like material is removed from a right rib.

SUMMARY AND INTERPRETATION

On September 7, 2014, human skeletal remains were found in a rural area of Decatur County Tennessee. These remains were subsequently identified as those of a 23-year-old white female, Holly Bobo, by comparison of antemortem dental records and x-rays with the postmortem dentition. Please see the Forensic Dental report. A Forensic Anthropology consultation is also obtained.

At postmortem examination, there is a gunshot wound entrance of the back of the head with exit through the basilar skull and left facial bones. In my opinion, this gunshot wound is the cause of death. The manner of death is homicide.

KEC



EXHIBIT #: 102
Zachary Adams - 17-CR-10
Date: 9.13.17
Reporter: Erin Angel