

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 12 DAY OF April, 2024 AT 4:30 AM/PM
TAMMIE WOLFE, CLERK
BY Tammie Wolfe CLERK

STATE OF TENNESSEE'S MOTION TO HOLD AMENDED PETITION FOR POST-
CONVICTION RELIEF IN ABEYANCE PENDING DISPOSITION OF PETITIONER'S
WRIT OF ERROR CORAM NOBIS

COMES NOW, the State of Tennessee, by and through the undersigned, and moves this Honorable Court to hold in abeyance the Petitioner Adams' Amended Petition for Post Conviction Relief until such time as the Court rules upon Petitioner Adams' Writ of Error Coram Nobis and the State's response thereto. The State intends to file a Motion seeking a denial of the Writ of Error Corum Nobis without an evidentiary hearing based upon Petitioner's inability to satisfy the stringent requirements of such extraordinary relief. As ground therefore, the State of Tennessee avers:

1. Petitioner Adams filed his Writ of Corum Nobis and Amended Petition for Post Conviction Relief on January 22, 2024.
2. As indicated by Petitioner Adams' Counsel, Mr. Bates had not been appointed to represent the Petitioner for a Writ of Error Corum Nobis.
3. Though the undersigned agreed to several extension requests by the Petitioner Adams to file an Amended Petition for Post-Conviction Relief, there was no mention of a Writ

of Error Corum Nobis being filed, and thus, the undersigned did not have the opportunity to address this issue at the time the extensions were agreed to.

4. The State's Motion to Strike Exhibits or, in the Alternative, Place Exhibits under Seal is currently pending before this court. This motion is referenced and relied upon in Petitioner Adams' two (2) filings, the Amended Petition for Post-Conviction Relief and the Writ of Error Corum Nobis. The State's Motion is scheduled for hearing on April 17, 2024, at 10 a.m.
5. On April 11, 2024, Petitioner Adams filed an Amendment to his Petition for Corum Nobis with this Court, with an attached affidavit from trial counsel Jennifer Thompson.
6. The State anticipates filing a Motion to Dismiss the Writ of Error Corum Nobis Without an Evidentiary Hearing based on Petitioner Adams' inability to satisfy the stringent requirements of such extraordinary relief and that the petition is time-barred and due process tolling is not warranted.
7. If the Court rules in the State's favor and the Writ is dismissed, the necessity of subpoenaing multiple witnesses to litigate the allegations in the Writ will be unnecessary. Many witnesses who will be relevant and necessary to litigate the Writ are irrelevant and unnecessary to the disposition of the Amended Petition for Post Conviction Relief.
8. In the event that the Court rules against the State on its Motion to Dismiss the Writ of Error Corum Nobis Without an Evidentiary Hearing and an evidentiary hearing is scheduled, only those witnesses for that hearing will be required and the second set of witnesses, necessary for the Amended Petition for Post Conviction Relief, will not be.


9. If an evidentiary hearing is held for the Writ of Error Corum Nobis, depending on the outcome of that hearing, the Amended Petition for Post Conviction could be mute and thus, no State's Response or subsequent hearing even required.
10. If the two (2) post-conviction filings proceed to hearing and are heard together, it will present a logistical nightmare for both sides. Separate groups of attorney witnesses, both private and government, whose testimony is relevant to only one or the other of the two filings will be required to clear their court schedules, travel to Hardin County, wait, testify, and potentially be recalled to the standby one side or the other.
11. Furthermore, there are non-attorney witnesses who fall within the same category as described above. For example, an apparent key witness for Petitioner in the Writ of Error Corum Nobis, Petitioner's former Co-Defendant Jason Autry, (presently awaiting sentencing in Federal Court for a lengthy prison sentence, 15-60 years) would likely be necessary to Petitioner's Writ of Error Corum Nobis. His appearance at the hearing involves transportation and housing, presumably by Federal officials, to Hardin County, in order to testify in what may well be multiple days on the witness stand.
12. The same former Co-Defendant's attorneys will likewise be required to travel and testify in the matter in which the petitioner is seeking relief. Conversely, the former Co-Defendant is not an obviously required witness for a hearing on the Amended Petition for Post-Conviction Relief.
13. Petitioner Adams had three (3) trial attorneys during his original trial. All three (3) will most likely be subpoenaed for any hearing on the Amended Petition for Post Conviction Relief but not necessarily required for a hearing on the Writ of Error Corum Nobis.

14. A review of the two filings raises the question of whether the undersigned will ultimately elect to represent the state during the hearing on both the Writ of Error Coram Nobis, if there is one, and Amended Petition for Post Conviction Relief, or will elect to testify as a witness in one or the other.
15. If this Honorable Court issues a ruling on the State's forthcoming Motion to Deny the Writ of Error Coram Nobis Without Evidentiary Hearing first and either schedules a hearing on the Writ or proceeds to the Amended Petition for Post Conviction Relief, it helps ensure the availability and presence of only those necessary witnesses and an orderly, perhaps more judicially economical proceeding. It will also minimize the issue described in paragraph 13.
16. Lastly, Tennessee caselaw supports evaluating a Writ for Petition for Error Coram Nobis and Petition for Post-Conviction Relief in separate hearings. For example, "in cases in which a petitioner seeks relief via a petition for writ of error coram nobis as well as post-conviction proceedings, both based on newly discovered evidence improperly suppressed by prosecutors at trial, each claim for relief should be presented and evaluated on a separate track, so to speak—the first in accordance with the coram nobis statutes, and the second for a constitutional *Brady* violation under a petition for post-conviction relief. *Nunley v. State*, 552 S.W.3d 800, 820 (Tenn. 2018) (citing *Berry v. State*, No. M2015-00052-CCA-R3-ECN, 2016 Tenn. Crim. App. LEXIS 214 (Crim. App. Mar. 23, 2016)). The State submits that Petitioner Adams' pending petitions should be presented and evaluated on separate tracks by this Court as set forth in *Nunley*.

WHEREFORE, premises considered, the State of Tennessee respectfully requests that this Court enter an Order:

1. Petitioner Adams' claims for relief should be presented and evaluated on separate tracks, with this Court first addressing the Writ of Error Coram Nobis.
2. That Petitioner Adams' Amended Petition for Post-Conviction Relief be held in abeyance pending disposition of Writ of Error Coram Nobis.
3. Any further general or specific relief to which the State of Tennessee may be entitled.

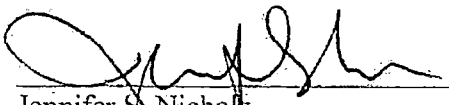
Respectfully submitted,


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CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing has been emailed and mailed to Douglas Bates, attorney for the Petitioner, on this 12 day of April 2024.

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