

**IN THE CIRCUIT COURT OF TENNESSEE
FOR THE TWENTY-FOURTH JUDICIAL DISTRICT AT SAVANNAH
HARDIN COUNTY**

**ZACHARY RYE ADAMS,
Petitioner,**

VS.

**No. 17-CR-10-PC
Post-Conviction**

**STATE OF TENNESSEE,
Respondent.**

ORDER DENYING POST-CONVICTION RELIEF

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter is before the Court for adjudication of Petitioner's post-conviction claims after a full evidentiary hearing. For the reasons set forth, post-conviction relief is DENIED.

I. CASE HISTORY

In May 2015, Petitioner Zachary Rye Adams, was charged with the murder, kidnapping, and rape of Holly Bobo.¹ In September 2017, the Honorable C. Creed McGinley presided over the trial which resulted in guilty verdicts for first degree premeditated murder; two counts of first degree felony murder; two counts of especially aggravated kidnapping; and three counts of aggravated rape. Although the State had filed a notice of its intent to seek the death penalty, following the verdicts, the parties agreed to an effective sentence of life imprisonment without the possibility of parole plus fifty years.

¹ The Court refers throughout this order to the victim, Holly Bobo, by her first and last name or by "Holly," or "the victim."

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BY Tammie Wolfe CLERK
Tammie Wolfe CLERK

In affirming the convictions, the Tennessee Court of Criminal Appeals summarized the pretrial history and the evidence presented at trial which this Court incorporates by reference. *State v. Adams*, No. W2020-01208-CCA-R3-CD, 2022 WL 4114226, at *1-29 (Tenn. Crim. App. Sept. 9, 2022). Petitioner did not seek permission to appeal to the Tennessee Supreme Court. This Court will address specific trial evidence only as relevant to Petitioner's claims.

On July 24, 2023, Petitioner timely filed a pro se petition for post-conviction relief. The Court found the claim as colorable and appointed attorney Douglas T. Bates IV to represent Petitioner. Bates filed an Amended Petition on January 22, 2024; a Second Amended Petition on December 12, 2024; and a Proposed Supplement on May 2, 2025.²

The State submitted responses and a Motion to Dismiss certain claims. At a January 16, 2025 hearing, Petitioner conceded that paragraph 36 of the Second Amended Petition did not present a proper post-conviction claim and the Court dismissed that claim by order filed February 3, 2025. During the same January 16 hearing, counsel for Petitioner clarified he was relying upon the pro se petition and his second amended petition. Accordingly, this order does not address the first amended petition and resolves all remaining claims.

This matter was heard on May 19-22, August 14-15, November 19-21, and December 29, 2025. After careful review of the claims, the evidence and arguments presented, and the entire record, the Court concludes that Petitioner is not entitled to post-conviction relief. All claims are DENIED.

² Attorney Bates also filed a Petition for Writ of Error Coram Nobis contemporaneously with the Amended Petition. The Court held in abeyance the post-conviction petitions until ruling on the coram nobis matter which the Court dismissed as time-barred by order filed September 10, 2024.

II. EVIDENTIARY HEARING

The evidentiary hearing spanned 9 days, during which 25 witnesses and 156 exhibits were presented. The Court carefully considered all the witnesses' testimony, observed their demeanors, and reviewed each exhibit. Below is a summary of the evidence in the order in which the parties introduced it.

A. John Walker

At the time of the crime, John Walker worked for the U.S. Marshal Service, where he specialized in tracking fugitives using cell phone activity.³ TBI lead investigator Terry Dicus asked Marshal Walker to assist in locating the victim. The defense called him as a witness at trial. He had mapped Holly Bobo's phone locations, located her notebook near the end of the mapped route, and interviewed both Clint Bobo, the victim's brother, and suspect Terry Britt. *See Adams*, 2022 WL 4114226, at *26; *see also* Tr. Trans. at 2337-42, 2381-2416.⁴ At trial, the State challenged his expertise in cell phone analysis, and the Court precluded him from testifying about his data and route mapping. The defense presented the excluded evidence by an offer of proof. Tr. Trans. at 2357-80.

At the post-conviction hearing, counsel properly established Marshal Walker's expertise in 2G cell phone tracking and the Court recognized him as an expert in that specific field. His testimony during the hearing was consistent with the offer of proof and with his involvement in the case. What follows is a summary of Marshal Walker's testimony that the jury never heard.

³ Although retired, the Court refers to John Walker as "Marshal Walker" to maintain consistency with the direct appeal opinion, the parties' references, and because TBI Agent Joe Walker also testified and will be referred to as "Agent Walker." Other witnesses will be referred to by last name only once established.

⁴ The Court refers throughout this order to the Trial Transcript as "Tr. Trans.", to the Post-Conviction Hearing Transcript as "PC Tr.", to Trial Exhibits as "Tr. Ex.", and to Post-Conviction Hearing Exhibits as "PC Ex."

Marshal Walker explained that, to help TBI determine where to search for Holly, he reviewed cell-tower data and tracked her cell phone activity and movements between 8:00 and 9:25 a.m. the day of the abduction. With help from an AT&T employee, he created a map of area cell towers then drove the surrounding roads more than fifty times taking measurements. *See* PC Ex. 4. He proposed a route that Holly's cell phone traveled that morning. *See* PC Ex. 5.

According to Marshal Walker, the route could not vary significantly; otherwise, the phone would have connected with different towers, or the timing of the pings would not match. For about 30 minutes, her phone stayed with the same cell tower sector. *Id.* He believed that sector was where her body would be found. Along the route he mapped, law enforcement located several of Holly's personal items. The final ping came near a creek where the last of her belongings were discovered. Marshal Walker further noted that a death occurring within an hour of abduction was consistent with FBI behavioral analysis.

Additionally, Marshal Walker mapped the locations of the phones of the four charged with this crime, Zach Adams,⁵ Dylan Adams,⁶ Jason Autry, and Shayne Austin, as well as suspect Terry Britt. According to his analysis, Britt's phone was at his home that morning; Zach's phone was at his home; and the phones of Dylan, Autry and Austin were nowhere near the victim's phone.

Marshal Walker interviewed Clint Bobo four times, describing Clint as honest and direct in his account of the man he saw with his sister that morning. Marshal Walker believed Clint's description matched Terry Britt. Based on all of his work, he concluded that the suspect was likely a local resident familiar with the isolated rural roads along the route. He identified a general area

⁵ The Court refers throughout this order to Petitioner Zach Adams, by his first and last name or as "Zach," or "Petitioner."

⁶ The Court refers throughout this order to Dylan Adams by his first and last name or as "Dylan," or "Petitioner's brother."

where the suspect would likely live. The home of Terry Britt was within that area. In Marshal Walker's view, Britt's appearance, known behavior and home location fit the suspect. He also stated that a hair found inside Britt's vehicle was microscopically similar to the victim's, though no laboratory report was introduced to support that position.⁷

At Dicus's request, Marshal Walker interviewed Terry Britt while Britt was incarcerated on another matter. He did not expect Britt to talk. However, when Marshal Walker outlined his theory that Britt was the perpetrator, Britt responded with "It sounds like you've got it all figured out." According to Marshal Walker, Britt said he would plead to a 20-year sentence. Britt also said he would "show" something if he were released, leading Marshal Walker to believe Britt might reveal the location of the victim's body. Marshal Walker stopped the interview at that point believing the TBI, not he, should continue the interrogation. On cross-examination, Marshal Walker clarified that he documented the conversation in a report and expected TBI to investigate it further. He never suggested that he had "solved" the case.

He provided all this information to Agent Terry Dicus, who agreed that the cell-tower analysis produced in PC Exhibits 4 and 5 provided an accurate route and timeline. Marshal Walker testified that, apart from Agent Dicus, most TBI personnel and prosecutor Jennifer Nichols rejected his conclusions about the route and the perpetrator. He said some investigators attempted to discredit him because his findings conflicted with theirs. Toward the end of his involvement, TBI Agents Mark Lewis and Mike Frizzell interrogated him and filed an internal affairs complaint, which was ultimately dismissed. *See* PC Ex. 6.

⁷ Later in the hearing and addressed in this order, testimony is provided that the hair was not Holly Bobo's.

Finally, Marshal Walker said he met with defense attorney Jennifer Thompson only once, the night before he testified at trial. He described her as casual and drinking wine during the meeting. He said she did not understand the difference between a cell phone expert and a 2G tracking expert. Because of this misunderstanding, Ms. Thompson presented him incorrectly at trial, leading the judge to refuse to allow his expert testimony.

The Court found that Marshal John Walker testified in an earnest, consistent, and credible manner. His testimony at trial, both in front of and outside the presence of the jury, was consistent with his post-conviction testimony.

B. Dylan Adams

Dylan Adams, Petitioner's brother, did not testify at the original trial. His post-conviction testimony was offered to show what he claimed he would have said if called as a witness. Dylan testified that neither he, Zach, nor Shayne Austin had anything to do with Holly's abduction or death. He stated that on the day of the abduction, he woke between 9:00 and 10:00 a.m. and drove with Zach and Austin to Parsons in his 2006 grey Chevrolet Silverado. He identified his vehicle in photographs from a TBI report and from an ATM video taken at 11:12 a.m. on the morning of the crime. PC Exs. 7, 8. He also identified himself on a store video in Parsons at 11:55 a.m. the same day. PC Ex. 9. Although he acknowledged telling TBI agents in 2011 that he was in Parsons earlier, between 8:00 and 9:00 a.m., he did not explain the discrepancy. He continued to deny any involvement in the abduction, rape, or murder of Holly and denied speaking about the case to Jason Kilzer or Kilzer's mother.⁸

⁸ The importance of conversations with the Kilzers will be later discussed.

Dylan explained that in 2013 he and Jason Kilzer were arrested on unrelated federal charges. After pleading guilty to those charges, Dylan was placed on probation and required to live with Dennis Benjamin, an investigator assisting the Bobo family. According to Dylan, Benjamin constantly harassed him about the Holly Bobo case. Because of Benjamin's harassment, Dylan falsely implicated himself, Zach, and Jason Autry during a November 17, 2014 interview with TBI. *See* PC Ex. 10A, 10B. He claimed the entire confession was untrue.

During cross-examination, the State confronted Dylan with written statements and telephone call recordings he made months before being placed with Benjamin. In the written statements he implicated Zach and Autry. *See* PC Ex. 12. In the calls, Dylan said he had seen Holly Bobo at Zach's house, asserted that Zach, Autry and Austin were involved, and told his mother he was telling the truth "from his heart." *See* PC Ex. 11. The State also introduced a sealed transcript of Dylan Adams' guilty plea in federal court. *See* PC SEALED Ex. 3.⁹

On redirect examination, Dylan reiterated the statements he made to the TBI and his mother were untrue. He said he would have lived with his mother after his release from federal custody, but he was not given the option. On re-cross examination, Dylan went further, stating that everything he had said about this case since February 2011 was a lie. He explained that he cried during one of the jail calls because his mother gave him an "ass chewing". PC Tr. at 166.

After reviewing his testimony and all related exhibits, the Court concluded that Dylan Adams was not credible. Although Dylan testified that he implicated Zach only because Benjamin coerced him, the documentary evidence contradicted this claim. Dylan implicated Zach and Autry in a written statement in February 2014, six months before moving in with Benjamin. Dylan's jail

⁹ The United States District Court for the Western District of Tennessee sealed the transcript. This Court considers its evidentiary value but will not refer to its contents.

calls reveal he made incriminating statements before any alleged coercion occurred. Therefore, the Court did not credit Dylan Adams' testimony.

C. Alberto Davis

Alberto Davis is a career law enforcement officer with extensive training in firearms and ammunitions handling, including work as a certified firearms instructor. He was contacted by post-conviction counsel and did not testify at trial. Drawing on decades of experience, Davis explained how he routinely uses a micrometer, an electronic measuring device capable of measuring within thousands of an inch, to check ammunition for safety and proper fit. He demonstrated the device and measured .380-caliber projectiles showing that their diameter typically measures around .350 inches, with normal variation between .340 and .360 inches.

The Court found his testimony credible, particularly given his professional background and the live demonstration of the measurements.

D. Mark Lewis

Mark Lewis, now the Special Agent in Charge of the TBI's West Region, participated in the Holly Bobo investigation from the morning of her disappearance in April 2011. At that time, he was a Special Agent II and was promoted during the investigation to Assistant Special Agent in Charge. Although available to testify at trial, he was never called.

Throughout the investigation, Lewis assisted in evidence review, vehicle processing, and forensic lab coordination. PC Ex. 18-20. He confirmed that a palm print was found on the victim's car and discussed the ATM video admitted as PC Exhibit 8. Lewis authored a 2013 digital evidence report cataloging 72 items, including CDs, DVDs, and flash drives. PC Ex. 17. Item 48 in the report referenced an ATM video labeled "V8-BP/Comm south Bank ATM – April 2011." When shown the video, he did not recall seeing it previously. He identified the vehicle in the video as a

Silverado or GMC but could not identify any distinctive features of the occupants. Lewis acknowledged that TBI collected bank records of co-defendant Austin indicating an ATM withdrawal in Parsons at 11:12 a.m. on the day of the abduction.

Petitioner introduced PC Exhibit 23 through Lewis, though drafted by Agent Joe Walker, and emphasized that the report contents were proof that the State intentionally misled the defense about the ATM video. This exhibit states,

A check of video recordings from that date is to be done when a player is obtained for the Mapco and a BP video from [Hwy] 641. The other places were not covered by our videos.

PC Ex. 23.

Regarding Terry Britt, Lewis testified that Britt became the primary suspect; however, no physical evidence connected him to the crime. A hair recovered from Britt's home, according to Lewis, did not match the victim and a wiretap produced no incriminating information. He acknowledged discussions at TBI about how the crime might not have occurred if Britt had been in custody for an earlier unrelated offense. Still, TBI had concerns that an attempt to prosecute Britt might fail with Clint Bobo as the sole eyewitness. Clint had given inconsistent statements about the man he saw leave the house with his sister. Lewis acknowledged internal discussions about writing a letter to the Bobo family expressing concerns about Clint's various statements. *See* PC Ex. 21 (offer of proof).¹⁰

Lewis explained that in 2014, investigative leadership changed. Agent Joe Walker replaced Agent Dicus as the lead case agent because Dicus was viewed internally as having lost objectivity by focusing too narrowly on Britt. The "breakthrough" in the case occurred when Shelia Kilzer

¹⁰ The state objected that this letter was not authenticated and the Court sustained the objection. No witness authenticated the letter, and the Court has not relied on it in ruling.

contacted TBI stating that she and her son had previously lied and that her son had heard information from Dylan Adams. Lewis agreed Kilzer was motivated by her desire to have her son released from jail, but said her statement redirected the investigation toward the Adams brothers.

Lewis confirmed that searches of the Adams brothers' residences and vehicles, including Dylan's truck, uncovered no forensic evidence linking any defendant to the victim or her belongings. Nonetheless, follow-up interviews, including those with Dylan, led investigators to believe the brothers were involved. Lewis referenced statements made by Autry, though he noted that Autry's account did not match Dylan's in all respects.

On February 28, 2014, Lewis and two other agents interviewed Zach who did not confess but gave multiple, inconsistent explanations for scratches on his body around the time of the abduction. He first attributed the scratches to a fight with Shayne Austin, then to carrying marijuana plants. *See* PC Ex. 22.

The Court ultimately found Lewis to be a credible witness.

E. Jonathan Reeves

Jonathan Reeves, a cellular-network engineer with nearly 30 years of experience designing and optimizing wireless systems, testified for the defense at trial as an expert in 2G cellular technology. He analyzed call detail records of the victim and the co-defendants using AT&T tower-sector information.

Reeves' report indicates that Holly's phone travelled north from her home, then east, and then south between 8:17 and 9:25 a.m. Tr. Ex. 240; PC Ex. 25. Notably, at 9:01 and 9:06 a.m. her phone connected to a southwest sector near Zach's residence. At 9:10 a.m., Holly's phone and Adams' phone registered on the same sector, an overlap that occurred only once that morning. At 9:25 a.m., Holly's phone connected to a Parsons area tower while Zach Adams' phone remained

on towers near his residence until 9:50 a.m. *See Adams*, 2022 WL 4114226, at *27-29; *see also* Tr. Trans. at 2425-69, 2481-89, 2490-2530. Then Zach's phone connected to the east-facing sector of the Birdsong tower near the Tennessee River and I-40 bridge. Between 9:50 and 10:32 a.m., his phone made or received multiple calls and texts on the same tower sector. At 10:35 a.m. his phone switched to the west-facing sector of the same tower. At 9:42 a.m. Jason Autry's phone registered one call on the east-facing sector of the Birdsong tower leading Reeves to conclude that Zach's and Autry's devices were in the same general area near the Tennessee River. Reeves also confirmed that there was no correlation between Autry's phone and Holly's phone that morning. *See Adams*, 2022 WL 4114226, at *27-29.

Reeves further testified that Shayne Austin's phone showed no activity until 9:23 a.m. when it connected to a tower serving the Austin residence. Dylan's phone showed no activity until after 4:00 p.m. Reeves explained that the location of a device is undeterminable during long inactive intervals.

A significant portion of Reeves' post-conviction testimony focused on the Birdsong tower sectors and the plausibility of the route described by Autry in his trial testimony. Reeves created maps showing predicted coverage and disputed Autry's route. *See* PC Ex. 25-26. According to Reeves, considering the cell phone data, timeline, and terrain, Autry's route was not feasible.

Reeves also analyzed the Parsons tower data which indicated the phones of Austin and Zach were operating on the south sector at 11:16 a.m., consistent with the ATM video placing them in Parsons at 11:12 a.m. At the time of trial, Reeves never knew about the ATM video. Throughout his testimony, Reeves emphasized the limitations of the cell tower data explaining that only a tower and sector can be determined, not a precise location or who was carrying the device.

Reeves reaffirmed several key correlations: the victim's and Zach's phones connected to the same tower and sector only once at 9:10 a.m.; Zach's and Autry's phones appeared together near the river; and Zach's and Austin's phones appeared together near Zach's home and then in the Parsons area later in the morning.

Reeves testified that, unlike his previous experiences as an expert witness, defense counsel did not discuss his report before trial. Trial counsel did not inform him about the claimed Autry route, nor did she question him about its plausibility. He mentioned that, although he was present during Autry's trial testimony, he did not discuss it with counsel.

The Court reviewed Reeves' trial testimony and finds it is consistent with his hearing testimony. The Court observed Mr. Reeves's demeanor and found him credible.

F. Bradley Strawn

Bradley Strawn did not testify at Petitioner's trial but appeared at the post-conviction hearing and testified about his interview by Agent Brent Booth. Strawn explained that Booth had asked whether he had sold a .32 revolver to Austin and showed him a photograph of a gun. Strawn stated he had never seen the gun before. Strawn consistently denied selling Austin such a weapon and maintained that it was not possible that he did so.

On cross-examination, Strawn acknowledged being close friends with Austin in high school, but they eventually drifted apart when Austin became involved in activities which Strawn opposed. Strawn explained that he inherited a large gun collection from his uncle and stored it at his grandmother's house. He told the TBI that the only way Austin could have obtained one of the guns was through him or by stealing it. He did not believe that Austin stole one of his guns.

The Court observed Mr. Strawn's demeanor and found him credible. He acknowledged the limits of his knowledge, and his testimony was straightforward and consistent.

G. Paul Dillon

Private investigator Paul Dillon was hired by postconviction counsel to test the plausibility of Autry's travel route. Using the route depicted in Trial Exhibit 184 and entered as PC Exhibit 30, Dillon drove the full path multiple times. His fastest average speed was 43 mph. A dash-camera recording of his final drive was entered as PC Exhibit 32 and his written report as PC Exhibit 29. While acknowledging that he did not know the 2011 road conditions, Dillon's fastest time travelling Autry's route in 2025 from the I-40 bridge to the CB&S Bank in Parsons was 43 minutes and 42 seconds.

The Court credits Mr. Dillon's testimony based on his demeanor, the video corroboration, and that it was not contested by the state.

H. Jim Simmons

James A. Simmons, an experienced death penalty attorney, was appointed as the first chair defense attorney when the state filed a notice seeking the death penalty. His role was to handle the penalty phase of the case. He believed the ABA Guidelines required death penalty attorneys to actively seek a settlement, which influenced his overall approach to the case. He deliberately refrained from sitting at the defense table or examining witnesses during the trial in order to preserve his credibility with a death-qualified jury should a sentencing phase occur.

Simmons testified that early in the case, the defense expected Dylan to be the State's cooperating witness. He believed Dylan's TBI statement was unreliable and uncorroborated and, at that time, Petitioner's case was defensible. The defense sought a false-confession expert to rebut Dylan's statement. *See* PC Ex. 35.

The case shifted dramatically when Autry became the State's primary witness. Simmons testified that Autry's account, unlike Dylan's, could be corroborated and, unless Autry's account

could be thoroughly refuted, the likelihood of a conviction was high. However, Simmons did not investigate Autry's timeline or route, relying on co-counsel Jennifer Thompson and her guilt-phase team for that work. Had Simmons known Autry's version was physically impossible, his advice to the defendant would have been different.

Accordingly, Simmons pursued a settlement. His position put him at odds with both Zach and Thompson, who remained committed to a full innocence defense and taking the case to trial. Simmons described a "schism" within the defense team. He believed the ABA Guidelines required him to pursue a resolution in light of what he perceived as a likely conviction and death sentence. However, Zach Adams maintained his desire to go to trial and never admitted guilt. The rift led Simmons to file a motion to withdraw from the case, in which he discussed the defense team's disagreement and expressed his expectation of a guilty verdict. *See* PC Ex. 38. Once Zach's decision to go to trial was clear, Simmons shifted his efforts entirely toward mitigation. He sought assistance from a mitigation expert. *See* PC Ex. 33.

Simmons stated that the defense believed the ATM video could have been crucial in establishing Zach's location and timeline by irrefutably placing him in Parsons. *See* PC Exs. 34, 36, 37, 46. They tried to get the footage through subpoenas and direct requests to the bank without success. Simmons could not articulate a strategic reason for stopping the search, other than they thought the video simply did not exist. He never personally saw any ATM video and was unaware of any such footage in discovery. When shown the video in court, Simmons could not identify the individuals or the vehicle.

The Court carefully observed Simmons' demeanor and testimony. He was straightforward and not particularly guarded or defensive. The Court credits his testimony.

I. Joe Walker

Joe Walker, a retired TBI agent with about 20 years of experience, became involved in the investigation early on and remained involved through the trial, although he did not testify. He described the case as complex, with many leads, tips, and inconsistent witness statements. According to Agent Walker, many people falsely claimed responsibility for the crime, which he said is common in high-profile cases. *See* PC Ex. 47.

He testified that investigators relied heavily on records to establish timelines and corroborate the movements of the suspects. He stated there were numerous conflicting accounts from witnesses, including the co-defendants. He acknowledged that several statements were later determined to be untrue, while others, such as certain aspects of Austin's statement, were corroborated by bank and cell phone records.

Agent Walker reported on the results of a subpoena for Austin's records, in relevant part,

The transactions for April 13, 2011 were as follows: \$120 from the ATM at Community South Bank, \$22.02 from Shell Service Station in Holladay, \$10 from Mapco #2012 in Parsons, \$9.84 Shell Service Station in Parsons and \$6.78 from Sonic Drive in Parsons.

A check of video recordings from that date is to be done when a player is obtained for the Mapco and a BP video from 641. The other places were not covered by our videos.

PC Ex. 23.

Based on cell phone data and bank records, he believed Zach and Austin were together at the bank in Parsons, which was consistent with the timeline investigators had developed.

Agent Walker did not find significant inconsistencies with Zach's statements during his own interviews and stressed that while consistency is important, accuracy matters most. He admitted that despite extensive searches, no physical evidence directly linked Zach to the crime.

However, some of Zach's prior statements, including those about scratches and alibis, were contradicted by other witnesses or records. Agent Walker described how reviewing the accumulated evidence in 2014 revealed that the names of Zach, Dylan, Autry, and Austin had appeared repeatedly in tips and statements "from day one" but had not been pursued adequately when Terry Britt was the investigative focus. Agent Walker testified that Tennessee Highway Patrolman Warren Rainey saw Zach washing a mattress and cleaning his truck after Holly was abducted. Agent Walker stated the floor at Austin's house had been painted. He also learned that Autry's original alibi that he was at work was false. Walker stated Autry's later account was ultimately deemed credible and partly supported by cell phone data. He admitted that Autry's statements, like others in the case, contained inconsistencies.

Agent Walker explained Terry Britt had been thoroughly investigated but was ultimately ruled out as a suspect because no evidence tied him to the crime. Also, Britt's known patterns of behavior did not match the circumstances of this offense. Still, Agent Walker acknowledged certain ambiguous statements made by Britt could be interpreted in different ways. Agent Walker participated in the PowerPoint presentation by Agent Dicus. According to Agent Walker, no one from TBI nor the prosecution team agreed with Dicus's theory.

Agent Walker acknowledged that Dennis Benjamin, a civilian investigator for the Bobo family, assisted the TBI with the case. Agent Walker claimed to have never personally met Benjamin and received information about him through other agents. But Agent Walker reported telling a Candace Johnson that "Benjamin was a good guy and he had helped" the Bobo family and TBI in the case. *See* PC Ex. 49.

Throughout his testimony, Walker acknowledged several investigative shortcomings. He admitted he did not review certain videos including the ATM video, PC Exhibit 8, despite having

written in an investigative report that some locations were “not covered by our videos.” He confirmed that, at the direction of a prosecutor, he supplied discovery materials to Autry’s attorney before Autry became a cooperating witness. *See* PC Ex. 53. When asked whether learning he might have missed reviewing a relevant video troubled him, he stated he would want to be certain before drawing conclusions but agreed it could be significant if accurate.

The Court finds that, although Agent Walker’s memory of the events was limited, his testimony was credible.

J. James Austin

James Austin, father of co-defendant Shayne Austin, testified regarding his son’s firearm ownership, drug addiction, living circumstances, and associations. He confirmed that Shayne owned a .357 handgun, a photograph of which was entered as PC Exhibit 55. Mr. Austin discussed his son’s long-term morphine addiction. During cross-examination, he admitted that he did not know everything his son was doing during the height of his addiction, but it would have been impossible for his son to have guns without his knowledge. Mr. Austin testified definitively that Shayne did not own a .32 revolver. The Court found this testimony credible.

K. Brent Booth

Brent Booth, a veteran law enforcement officer who joined TBI in 1996 and recently retired, testified for the State at trial. He was involved in the investigation from the outset.

Booth described participating in multiple key investigative steps, including a February 7, 2017, reenactment in which Autry guided investigators along the route he claimed to have taken on the day of the crime. Booth recalled Autry identifying the weapon used as a revolver, possibly a .357 caliber.

Booth remembered seeing video footage showing a truck passing through an ATM in Parsons. According to Booth, he and Agent Dicus viewed the video in May 2011. The vehicle in the footage was not identifiable, and Booth did not prepare a report documenting the video because it had been collected by another agent. Despite knowing the video existed, he never corrected another agent's report that stated no such video existed. Booth believed investigators had informed prosecutors about the video, and he understood that it generally aligned with bank records reflecting Austin's activity in Parsons that morning.

Regarding the suspect Terry Britt, Booth acknowledged swearing out a search warrant asserting probable cause existed that Britt had committed the crime. Booth testified that he initially considered Britt a viable suspect but changed his view after wiretaps and searches produced no evidence. The shift in opinion was based on the totality of the evidence, or lack thereof, gathered during that period.

Booth highlighted the challenges of the investigation, noting that many witnesses provided inconsistent or false statements and that the case lacked physical evidence. For example, Clint Bobo made multiple inconsistent statements. Booth discussed information from Sheila Kilsner, who claimed Dylan had described involvement with the victim. He ultimately determined both Kilsner and her son were unreliable and acknowledged that their account conflicted with Autry's version of events. He could not determine which, if either, was true.

Booth acknowledged inconsistencies between Autry's account and cell phone records and travel times. He agreed that aspects of Autry's story, such as time spent in certain locations, did not align with available records. He expressed doubts that events occurred exactly as Autry described, particularly given distances travelled, timing, the potential presence of witnesses, and

law enforcement activity. Booth explored a theory that the body was hidden at Austin's grandmother's house; under that scenario, Autry's statement would be untrue.

According to Booth, although a .32 caliber weapon was recovered, some witness accounts referenced different caliber weapons. He stated he was unaware of certain ballistic evidence, specifically a .380 casing found near the remains, until much later.

Booth discussed his interviews with Victor Dinsmore, a key State witness. Recordings showed Booth using interrogation techniques that included suggesting facts or applying pressure to elicit information. *See* PC Exhibits 58, 63. He acknowledged using such methods but stated his intention was to obtain truthful statements, not induce false ones. Booth followed up with Dinsmore to ensure he had not prompted untruths.

The Court carefully observed Booth throughout his testimony. At times, he was defensive and insistent. Nevertheless, he testified consistently with his trial testimony, which was credited by Petitioner's jury and by this Court.

L. Arthur Viveros

Arthur Viveros, a Special Agent with the FBI for approximately 27 years, became involved in the Holly Bobo investigation on the day of the abduction, and remained on the case until his retirement in March 2012. He worked closely with TBI Agents Terry Dicus and Brent Booth conducting interviews, gathering intelligence, and assisting with investigative strategies. Agent Viveros testified for the defense at trial.

Early in the investigation, Viveros concentrated on suspect Terry Britt, a convicted sex offender who, in his assessment, fit the physical description provided by Clint Bobo. He believed there was a strong circumstantial case against Britt. He described Britt's demeanor as nervous and

evasive during questioning. For example, Britt insisted that his wife come home from work to retrieve a receipt from their safe documenting an alibi for the morning of the abduction.

Viveros helped initiate the wiretap and other electronic surveillance targeting Britt. Technical issues resulted in incomplete recordings but Viveros documented critical conversations in notes and reports. He recalled Britt believing the State was trying to pin the case on him and denying even knowing Holly. He said Britt made odd remarks to establish an alibi and Janet Britt, the wife, said “all kinds of women’s hair” would be found in their van. *See* PC Ex. 82. According to Viveros, a hair found in the van was microscopically similar to Holly’s hair. Despite his focus on Britt, Viveros acknowledged other leads existed and he was not involved in the investigation after his retirement.

Viveros had minimal contact with Zach. He recalled that Zach denied involvement in the case when asked by members of Holly’s family. Viveros interviewed Clint Bobo and Holly’s boyfriend. He recorded statements from other witnesses who claimed Zach had made threatening or incriminating remarks about the victim. Importantly, Viveros interviewed Carl Stateler who said that he had heard Zach say, “I let Shayne [Austin] hit it” and “you’ll end up like Holly Bobo, bitch.” *See* PC Ex. 86. Viveros and Booth also interviewed Victor Dinsmore who heard Zach threaten his girlfriend saying he would “put [her] in the ground like Holly Bobo.” *See* PC Ex. 87. Viveros received a trial subpoena from Jennifer Thompson but never spoke to her until after the trial began. Even then, Viveros called Thompson to inquire whether he would be called to testify. She asked him to come to court the following day. Viveros stated that Thompson called him as a witness without discussing his testimony.

On cross-examination, Viveros acknowledged disagreements with other investigators, particularly regarding the timeline of events. He maintained his belief in Britt as the primary suspect based on the evidence available during his time on the case.

Agent Viveros was calm and consistent while testifying. His testimony during this hearing is consistent with his trial testimony and is supported by documented proof. *See* PC Ex. 81-87. The Court credits his testimony.

M. Beth Boswell

Beth Boswell is the former assistant district attorney that prosecuted this case until August 2014 when she transitioned to Assistant United States Attorney. In that capacity, she prosecuted Dylan in federal court. Initially though, Boswell collaborated closely with TBI advising on investigative steps and participating in discussions leading up to potential indictments. She relied heavily on law enforcement for factual development, including cell phone data, which she did not independently analyze or reconstruct.

Boswell explained that Terry Britt emerged as a significant suspect and by early 2012, investigators believed they had probable cause to pursue more intrusive investigative measures. She reviewed and approved wiretap applications on Britt's phones and home. *See* PC Ex. 67-68. The wiretaps, along with searches of Britt's home and vehicles, forensic testing, and surveillance, produced no evidence linking Britt to the crime. Ultimately, Britt was excluded as a suspect.

Boswell testified that Clint Bobo's multiple statements presented challenges. Clint initially believed the man seen with Holly was her boyfriend based on the voice he heard but voice identification attempts varied. Clint described the suspect's appearance as matching both Austin and Britt. These inconsistencies reduced Clint's reliability as a witness.

Boswell described notable disagreements among agents, especially surrounding Agent Dicus's work. Dicus once presented a PowerPoint that Britt committed the crime. The elected District Attorney, TBI supervisors, and Boswell were in attendance and were unpersuaded. By 2013, the investigation shifted away from Britt. Boswell attributed this change to accumulated leads, including a statement from Shelia Kilzer directing attention to Zach and the co-defendants.

Boswell testified Dylan's statement was significant in helping solve the case because he provided unknown information. She believed Dylan's statement when given, but agreed it was fundamentally different from Autry's testimony.

Dylan's plea agreement in federal court resulted in his release. According to Boswell, Dylan did not want to return home and he requested to live with Dennis Benjamin. She maintained that the living arrangement with Benjamin was for Dylan's protection and not to influence his anticipated testimony.

Boswell drafted an immunity agreement for Austin which was never finalized because he did not provide the location of Holly's remains. *See* PC Ex. 75.

The Court observed Boswell throughout her testimony and credits the same.

N. Jerry Gonzales

Attorney Jerry Gonzales testified that he joined Zach Adams's defense team just before the trial at the request of Jennifer Thompson. According to Gonzales, Thompson needed additional support because she and co-counsel Jim Simmons were no longer speaking.

Gonzales repeatedly asked Thompson for clear guidance on the defense strategy but never received any, so he prepared on his own with little direction. He focused on the medical examiner's testimony and reviewed medical literature and consulted forensic experts. He questioned whether the fatal injury could be definitively attributed to a specific caliber bullet. He emphasized the

uncertainty in determining a gun's caliber from skull damage and maintained that a .380 weapon could not be excluded as the murder weapon.

Gonzalez confirmed the defense was aware that Autry would testify but did not recall detailed strategy discussions about his testimony. Gonzales described the trial environment as very tense with significant friction among defense attorneys, prosecutors, and the judge. Thompson's conflicts with the co-defendant's attorneys and with prosecutor Jennifer Nichols caused her great stress. According to Gonzales, prosecutors did not provide notice of the next day's witness list, forcing the defense to request time to retrieve witness files. Then, Thompson would hurriedly search through paperwork during direct examination instead of engaging with the witness's testimony to prepare for cross-examination.

Gonzales stated he had no meaningful discussions with Thompson about whether Petitioner would testify and recalled her general stance that defendants should not take the stand. Gonzales created a PowerPoint presentation for Thompson's closing argument, including audio clips of testimony. Thompson did not review it and deviated from it during her closing, prompting Gonzalez to stop the presentation out of frustration.

After conviction, Gonzales initiated discussions with the prosecution to resolve the penalty phase without the State's seeking the death penalty. The discussions progressed quickly, and after consulting the victim's family, the prosecutor agreed to a sentence of life without parole.

On cross-examination, Gonzales acknowledged receiving some discovery materials, particularly related to the medical examiner, though he criticized the overall organization and accessibility of the evidence.

The Court observed Gonzales's demeanor and found his testimony credible.

O. Terry Dicus

Terry Dicus, a former TBI special agent, served as the lead investigator for about two years beginning the morning Holly disappeared. He testified for the defense at trial. At the time of the evidentiary hearing, he was practicing law.

Early in the investigation, Dicus coordinated the review and documentation of vehicle traffic and surveillance footage from various locations. He relied heavily on cell phone activity between 9:05 and 9:40 a.m. and focused on identifying vehicles that could be relevant. He reviewed the Parsons ATM video but did not recall seeing a Silverado after 11:00 a.m., nor had anyone told him about it. When shown the video in PC Exhibit 8, Dicus could not identify the type of truck.

Dicus initially had concerns about the accuracy of Clint Bobo's account, but those concerns were resolved once cell phone data confirmed Clint's timeline and supported his credibility. Dicus rejected suggestions from other agents that Clint was lying and opposed the use of aggressive interrogation tactics on him.

By mid-2011, Dicus viewed Terry Britt as the main suspect. He based his suspicion on inconsistencies in statements of Britt and his wife, the wife's unscheduled absence from work on the day of the offense, conflicting cell phone records, and a neighbor's report about Britt behaving oddly. Dicus participated in wiretaps, searches, and surveillance of Britt's property, noting cameras and multiple vehicles, including vans, on the property. Although no solid evidence linked Britt to the crime, Dicus continued to believe Britt was the most likely suspect. He asked Marshal John Walker to interview Britt and believed Britt's statements would have been admissible evidence.

Dicus described cell phone tracking as a key investigative tool. Working with Marshal Walker and AT&T engineers, investigators mapped the likely route of Holly's phone as it moved through the county. Dicus identified PC Exhibit 5 as a map of the route, and agreed PC Exhibit 15, a demonstrative aid created by post-conviction counsel, recreated the same map. Dicus believed the direction of travel could be determined with reasonable confidence even if precise locations were less certain. He also noted that none of Holly's belongings were found along the early part of the route, which he considered a sign that she was still alive at that time. Discarded items were discovered along the route after a period of no cell movement. Dicus believed Holly was killed during that period.

Dicus said he and other investigators repeatedly examined and cleared Zach and the co-defendants. He cited cell phone data placing them elsewhere, alibi statements, and physical descriptions inconsistent with the abductor. He specifically noted Autry's height and work alibi and information placing the Adams brothers at home. Although he acknowledged some inconsistent statements, he did not consider them significant enough to implicate the group.

Dicus described growing disagreements within TBI and other agencies by late 2012 over whether Britt should continue as the focus of the investigation. He presented a PowerPoint outlining evidence against Britt, but supervisors and prosecutors were unwilling to pursue charges. He felt increasing pressure to shift attention away from Britt. His involvement in the case ended in mid-2013 after internal disputes, including his resistance to treating Clint Bobo as a suspect. He was removed from the case and resigned from TBI within a few months.

On cross-examination, Dicus admitted he did not share all the information he had gathered with prosecutors, focusing instead on what he believed could be used in court. He maintained that Britt was the most likely suspect and that Zach and the co-defendants were never credible suspects

before he left the case. When Dicus reviewed Autry's subsequent trial testimony, he did not believe much of Autry's story was true.

Dicus testified consistently at trial and in the evidentiary hearing. The Court credits his testimony.

P. Cathy Ferguson

Cathy Ferguson, a TBI Agent who became more involved in the case over time, has served as the lead case agent since 2018, which was after the trial. She did not testify at trial. Ferguson confirmed that the early investigation attention focused on Terry Britt, but internal disagreements within TBI and among prosecutors resulted in a shift away from him. As the case progressed, Ferguson helped organize evidence and prepare materials for the prosecution. She worked closely with the Bobo family, who were frustrated with the pace and direction of the investigation. Ferguson acknowledged there was a group within TBI that questioned Clint Bobo's reliability. While she shared concerns about inconsistencies in his statements, she did not believe Clint was responsible.

Ferguson was aware of private investigator Dennis Benjamin contacting witnesses. After hearing recordings of Benjamin's interactions, she found his tactics troubling, noting he made false claims and applied pressure in an apparent effort to elicit statements. She did not know whether his actions were officially sanctioned but acknowledged that Agent Jack Vanhooser brought Benjamin into the investigation. Vanhooser was the Assistant Special Agent in Charge at the beginning of the investigation and later became the Special Agent in Charge.

Ferguson identified the statements of Dylan and Autry as major turning points. Although the statements were inconsistent, Dylan's admission of rape prompted additional charges on all

co-defendants as well as the potential for the death penalty. Ferguson believed both statements were self-serving and at least one left out critical details.

According to Ferguson, multiple witnesses described different possible murder weapons, a .357, a .38, and a .32. A .357 caliber Ruger was seized from the home of Dick Adams, Zach's grandfather, and a .32 caliber gun was eventually recovered. She acknowledged these accounts did not align but did not raise those inconsistencies at the time. Ferguson conducted testing which suggested a .32 caliber gunshot would sound more like a sharp crack than the "boom" described in Autry's trial testimony. *See Ex. 99.* She did not view the test results as undermining the case.

Ferguson explained that early cell phone technology was limited. Location data could only approximate a phone's position within a broad area, so investigators relied on those records cautiously to track general movement rather than exact locations. Ferguson acknowledged conflicts between cell phone data and witness accounts. For example, Holly's phone appeared to move while Zach, Dylan, Autry and Austin were reportedly elsewhere. Despite this, she expressed firm belief that Zach and the co-defendants were collectively responsible for the crimes. She expressed equal certainty that Britt was not involved.

Other investigative points from Ferguson include (1) that there was a login to Petitioner's Facebook account at 8:39 a.m. on the day of the offense, but it was not possible to identify the person who logged in, (2) that a palm print was found on the victim's vehicle but never identified, and (3) that nothing corroborated Petitioner's account of seeing Sheriff Wever at a gas station on the morning of the offense.

The Court found Agent Ferguson's testimony was credible.

Q. Dennis Benjamin

Dennis Benjamin, a retired Memphis police officer with 24 years of experience, testified that he became involved in the investigation in 2013 at the request of Karen Bobo, Holly's mother. Benjamin had undergone multiple brain surgeries before working on the case and acknowledged significant memory issues. He described his recollection of this case as similar to "remembering a dream."

Benjamin received numerous large binders compiled by Karen Bobo and concluded that the investigation at that time was disorganized. Although he communicated with TBI Agent Jack Vanhooser, he emphasized the relationship was one-sided. Benjamin forwarded information he discovered to TBI, but TBI did not provide him case details or access to their files.

Benjamin's efforts focused on Zach and his associates. He traveled twice to Indiana to interview Victor Dinsmore, recording their conversations and turning them over to TBI. *See* PC Ex. 103.¹¹ He admitted using various interrogation techniques to encourage Dinsmore to talk, including exaggerating his knowledge, discussing potential reward money, cultivating a rapport, and "blowing smoke" to gather information. Benjamin acknowledged threatening Dinsmore with the possibility of the death penalty if he withheld information about Holly's whereabouts.

Benjamin also became involved with Dylan after law enforcement expressed concerns about Dylan's safety upon his release. Benjamin allowed Dylan to live with him and his wife. He testified that he was reimbursed for minimal expenses, such as clothing and basic needs, through a state witness fund, but not paid for investigative work.

¹¹ The State objected to admission of PC Exhibit 103, an audio recorded interview between Benjamin and Victor and Sandy Dinsmore. To the extent the recording proves the interrogation techniques used by Benjamin, the objection is overruled. To the extent the recording offers statements of the Dinsmores to assert fact, the objection is sustained as hearsay with no applicable exception.

Benjamin claimed to develop a close bond with Dylan, describing him as emotionally fragile and fearful of his brother and others involved in the case. While staying at Benjamin's home, Dylan made a significant statement: he admitted to raping Holly Bobo but denied killing her. *See* PC Ex. 104. According to Benjamin, no questioning or pressure prompted the disclosure. It was offered voluntarily "out of respect." Benjamin immediately contacted Agent Vanhooser and brought Dylan to the TBI office the next day.

Benjamin denied coaching Dylan or attempting to shape his testimony. He encouraged Dylan to be truthful and to follow his attorney's advice. Benjamin acknowledged, however, becoming emotionally invested in Dylan's well-being and recognized the unusual nature of housing a key witness.

The Court has significant concerns regarding Benjamin's credibility. These concerns stemmed from his prolonged avoidance of subpoenas, medical excuses, prior brain surgeries, and his own admission that his recollection had deteriorated. The Court did not determine what parts of his testimony could be untrue but does not give much weight to the testimony overall.

R. Paul Hagerman

Paul Hagerman, a seasoned Memphis prosecutor, joined the case after the State had already filed notice of seeking the death penalty. He approached the case with significant skepticism because he was aware of theories involving Britt and internal disagreements within the TBI.

Hagerman explained that he reviewed Dylan's recorded statements and found them unreliable, incomplete, and at times impossible to reconcile with the objective cell phone data. He said Dylan's timeline conflicted with known facts and cell-tower activity and appeared to leave out significant details. These omissions made Hagerman unwilling to rely on Dylan as a primary witness.

By contrast, Hagerman described Autry's 2017 proffer as a turning point in the case. He said Autry provided a clear, chronological account which prosecutors compared against cell phone data. Hagerman felt any discrepancies could be reconciled. Key elements of Autry's story were supported by phone records and other circumstantial evidence. Though not perfect, Autry's account was the most detailed and corroborated version that the State possessed. He added that the State's case against Autry was relatively weak, which made Autry's cooperation particularly valuable.

A central theme of the testimony concerned Autry's credibility. Hagerman acknowledged entering the proffer session with "healthy skepticism," but said Autry began at the beginning of the story and went straight through to the end. Autry remained consistent each time he recounted the events. Hagerman denied ever having been told by any TBI agent that Autry was lying. He said if a trusted agent had raised such concerns, he would have reported it.

Regarding concerns about subornation of perjury, Hagerman testified that his co-counsel, Jennifer Nichols, had listened to Agent Booth's interview of Victor Dismore and was "not impressed" with how Booth handled the interview. However, Hagerman denied that Nichols ever said Booth had suborned perjury. Her criticisms related more to interview technique than to accusations of intentional misconduct.

Hagerman described ongoing discovery issues throughout the case, including inaccessible files, missing attachments, and a voluminous 4-terabyte hard drive of evidence. He confirmed that defense attorney Thompson persistently raised these problems and frequently identified gaps. The prosecution eventually held joint evidence-review sessions with TBI in Nashville to ensure the defense had access to all materials.

A significant portion of the testimony focused on disputes about Holly's location and the location of her cell phone on the morning of the abduction. Hagerman acknowledged that the cell-tower data placed Holly's phone stationary from approximately 8:26 to 8:56 a.m. and later moving south toward Gooch Creek, where items linked to her were recovered. The State believed Holly and her phone were separated sometime after her abduction but before Zach and Autry traveled to the Tennessee River. He agreed that some portions of Autry's timeline could not be matched precisely to the cell-tower times, and that the State relied on the idea of wide tower-coverage "circles" rather than pinpoint GPS data. Hagerman acknowledged the existence of apparent timing conflicts raised during cross-examination but maintained that the overall movements were consistent with Autry's account.

Hagerman also addressed the ATM surveillance video showing a truck resembling one owned by Dylan Adams. He said he likely had seen the video before trial and agreed that the truck in the image looked similar to Dylan's. He had no clear memory of the moment he first reviewed the video.

Regarding plea discussions, Hagerman testified that no formal agreement existed with Autry prior to his testimony. However, there were internal prosecution discussions anticipating that Autry would not receive much additional prison time if he testified truthfully, especially given the weak case against him. He said the internal discussions were never communicated to Autry or his attorneys, and that only a general statement was given that truthful cooperation would be considered at sentencing.

Hagerman described the trial as a close and hard-fought case, with both sides presenting competing theories. The state relied heavily on Autry's testimony, corroborated by circumstantial evidence such as inconsistent alibis, statements attributed to the defendant, and observations of

suspicious behavior by Zach on the day of the disappearance. The defense, meanwhile, highlighted the lack of physical evidence, the cell-tower timing conflicts, investigative missteps, and alternative-suspect theories. Hagerman consistently maintained that Autry's testimony filled critical gaps, answered questions left open for years, and provided the most coherent explanation of events surrounding Holly Bob's death.

The Court credits Mr. Hagerman's testimony.

S. Valerie Troutt

Valerie Troutt, a former TBI agent, described her involvement in the investigation beginning as a polygraph examiner and later as an investigator who reviewed evidence and conducted interviews. She did not testify at trial.

Troutt listened to wiretapped conversations involving Terry Britt and found his behavior unusual, noting persistent whispering and loud music. She considered such conduct inconsistent with normal conversations inside a home.

Troutt discussed a significant shift in leadership and direction in the investigation. Agent Jack Vanhooser replaced Special Agent in Charge John Mehr and, according to Troutt, a different atmosphere emerged. Troutt described a less cohesive and more adversarial investigation, especially toward the Bobo family. She testified that at one point there was a discussion within the TBI about dropping the case.

Troutt testified that the names of Zach Adams and his codefendants "had rung from day one." PC Tr. at 1499. She interviewed Victor Dinsmore and Rebecca Earp. *See* PC Ex. 112-114. She stated that Dinsmore did not reveal to her information about Zach hiding a truck at the Dinsmore home or that Dinsmore identified a particular weapon used in the crime. She expressed

concerns about Agent Booth's sloppy paperwork but did not believe he tried to influence witness statements.

Troutt recalled encountering Dennis Benjamin in a TBI conference room. She learned that Benjamin was working with the Bobo family but was not informed about his role. She described confusion within the TBI about his presence and activities.

The Court observed Troutt's demeanor and found her credible.

T. Zachary Adams

Zachary Adams testified that in April 2011 his life was dominated by heavy drug use, unstable relationships, and spending time with his brother Dylan, Shayne Austin, and Jason Autry. He claimed he did not know Holly Bobo and denied any part in her kidnapping, rape, murder, or the disposal of her remains. He described April 13, 2011, as an ordinary day except for a call from Austin about taking Xanax together. Zach and Dylan picked Austin up in Dylan's Silverado, bought gas and traveled to Parsons. Zach had not remembered the ATM withdrawal where Dylan backed into the drive-through lane until reviewing discovery for the post-conviction hearing. *See* PC Ex. 8. He provided innocent explanations for the scratches on his body, his regularly cleaned vehicles, and cleaning a mattress outside his home. He acknowledged making crude or threatening statements to various individuals but attributed them to efforts to cultivate a reputation as a dangerous drug dealer rather than admissions of guilt. He rejected as fabricated or exaggerated the testimony of multiple witnesses, both acquaintances and jailhouse informants, who claimed he made incriminating remarks.

On cross-examination, the State confronted Zach with extensive phone-record evidence showing numerous calls and texts on the morning of April 13, including frequent contact with Autry and others. Across multiple interviews over several years, he had not disclosed the

communications, the Parsons ATM trip, or that he had been with Autry that morning. The prosecution challenged his explanations for his movements and highlighted contradictions between his recollection and the testimony of multiple trial witnesses. He continued to deny those witness accounts and insisted they lied or misunderstood him.

Zach testified that he often went to the river to fish or use drugs, but he did not remember doing so on the day of the offense. He acknowledged that phone records placed him at the river that morning. He did not remember the many phone calls he made that day and suggested they were likely related to drug activity. He did not remember going to Victor Dinsmore's house but recalled being there on other occasions, including a time when he had a fight with Austin. He maintained that nothing about that day stood out to him, and his lack of memory should not be interpreted as evidence of guilt.

Addressing various statements attributed to him by witnesses, Zach denied confessing to the crime. He also denied making specific incriminating remarks, or explained that if he did, they were exaggerated, sarcastic, or intended to intimidate others in his role as a drug dealer. He claimed he had built a reputation for being dangerous so people would fear him and pay their debts. He acknowledged making threatening or crude statements in general but insisted they did not mean he was involved in the crime. He denied making confessions to jailhouse informants and suggested any conversations they claimed occurred were either misinterpreted or fabricated. He emphasized that he did not know those individuals well enough to confide in them about something so serious.

Zach discussed his interactions with law enforcement, stating he spoke to officers whenever they asked, and he contacted authorities on one occasion after learning they were looking for him. He admitted he did not always provide complete information, especially about his drug use or associations, because he did not want to implicate himself or others in drug activity.

Zach stated he wanted to testify at trial but was advised by Jennifer Thompson not to do so. He said his mother and cousin strongly influenced his decision, and he felt he had to follow their wishes. When confronted with a transcript of the *Momon* hearing, PC Exhibit 116, Petitioner said he did not fully understand that the final decision was his to make and believed he had to follow his attorney's advice. However, he also said his decision not to testify was solidified when he promised his mother and cousin he would not. According to Zach, had he testified, the jury would have heard explanations for many of the statements and circumstances used against him.

Zach criticized his trial representation, describing Thompson as disorganized and claiming he lacked full access to discovery materials. He said he was unaware of certain evidence, including the ATM video, at the time of trial. He contrasted the experience with his current attorneys, stating there was a "day and night difference" in their level of organization and communication.

Zach acknowledged a long history of criminal conduct, including drug offenses, theft, and assault, but emphasized he had never committed a sex crime. He addressed an incident in which his mother was shot, explaining it was accidental and the result of reckless handling of a firearm while under the influence of drugs. Additionally, he rejected Autry's trial testimony and denied asking anyone to harm his brother. He attributed the case against him largely to false statements by others, particularly his brother, and to misunderstandings or exaggerations of his own behavior and words.

The Court carefully observed Petitioner's demeanor throughout his testimony. He was adamant in his statements, even during cross-examination. The Court recognizes the testimony as self-serving to Petitioner and not credible.

U. Jennifer Nichols

Jennifer Nichols, a seasoned prosecutor and now sitting circuit judge, testified about her role in the prosecution and her perspective on the case. She described her philosophy as presenting all available evidence to the jury, even if some questions could not be fully answered.

Nichols joined the case in November 2014 after the District Attorneys Conference requested assistance. She could not recall certain procedural details, including whether a death penalty notice had been filed when she became involved. She did recall reviewing voluminous evidence, including Dylan's statements, which she found unreliable. She believed Dylan minimized his role and offered an account inconsistent with other information. Because his statements would not have been admissible against the other defendants, she viewed them as having limited prosecutorial value.

According to Nichols, the case file was enormous: hundreds of thousands of pages and thousands of investigative reports. She worked to provide full access to the defense, organizing evidence reviews and providing materials upon request. She noted that defense attorney Jennifer Thompson was particularly thorough, frequently asking for materials that were subsequently provided. Nichols insisted she was unaware of any exculpatory evidence being withheld.

Regarding the ATM footage that appeared to show Petitioner in Parsons, Nichols said she did not consider it significant because the State already had other evidence placing him there. She similarly downplayed any importance of cell phone-location discrepancies, pointing to uncertainties about exact times and movements.

Nichols frequently expressed limited memory of specific interviews, recordings, and evolving witness statements. When confronted with inconsistencies, particularly regarding Victor Dinsmore's multiple accounts, she characterized them as additions or refreshed memories rather

than contradictions. She acknowledged that Agent Booth may have led Dinsmore during interviews but describe it as an effort to jog his memory, not an attempt to manufacture testimony. She rejected suggestions of her own misconduct, insisting she would never knowingly allow false testimony.

Nichols placed significant weight on the multiple witnesses who said Petitioner had confessed to them. Although their accounts differed in detail, she viewed them collectively as powerful evidence. She also believed that Autry's testimony strengthened the case by filling in gaps, even where timelines were imperfect. For her, variations in witness accounts were expected in a complex case and were matters for the jury to resolve. She dismissed the idea that Terry Britt confessed, describing his comments to Marshal Walker as sarcasm rather than an admission.

Nichols stood by the state's theory that a .32 caliber revolver was the murder weapon. She acknowledged conflicting witness descriptions but said she relied on the medical examiner's conclusion that the wound was consistent with a .32-caliber bullet. She maintained that her closing argument accurately represented the evidence.

Nichols expressed confidence in the jury's verdict and maintained her personal belief in Petitioner's guilt. She praised Jennifer Thompson's dedication and deep knowledge of the case, calling her more familiar than any other attorney involved. Although she disagreed with Thompson's conclusions, she believed Thompson's strategy regarding Britt as an alternate suspect was sound and consistently executed.

After the conviction, Nichols met with the Bobo family to discuss sentencing. She supported removing the death penalty from consideration because the family wanted finality rather than a prolonged and emotionally draining appeals process.

The Court credits Judge Nichols' testimony.

V. Jennifer Thompson

Jennifer Thompson, a criminal defense attorney licensed since 1996, was retained by Petitioner's family in early 2014. Although experienced in serious criminal cases, she had never tried a death penalty case. Thompson testified that she assumed Petitioner was likely guilty because prosecutors repeatedly stated that DNA evidence was forthcoming. She brought in veteran capital attorney Jim Simmons based on his experience resolving such cases. They agreed that Thompson would handle the trial and Simmons would handle sentencing and mitigation.

Discovery consisted of a voluminous 4-terabyte hard drive with thousands of unlabeled and non-searchable documents, audio files, and videos. According to Thompson, the only inculpatory evidence was statements Petitioner made about the victim and/or the crime. She dismissed those "wild and crazy." PC Tr. at 1818. Even though Thompson hired a computer expert to assist in the process, she struggled with the discovery up to the day of trial.

Early discussions of a joint defense with codefendants' counsel quickly deteriorated. She described feeling undermined or marginalized. Disputes arose over how to jointly review discovery, particularly during sessions at the TBI office. Thompson insisted on reviewing all the materials while others preferred selective review.

Eventually, Thompson was no longer convinced that Zach was guilty. She immersed herself in the case, eventually dedicating most of her practice to it. She spent significant time reviewing evidence, investigating alternative suspects such as Britt, and studying technical areas like cell phone records. She found no physical evidence connecting Zach to the crime and believed that Dylan's statement was unreliable, inconsistent, and heavily influenced by investigators. As a trial date neared, she had Dylan's statement transcribed. *See* PC Ex. 127. She expected to

undermine the prosecution by exposing contradictions. However, Dylan did not testify, and she introduced none of this at trial nor sought admissibility under any rule of evidence.

Thompson met with Petitioner roughly ten times. She felt his lengthy history of methamphetamine use affected his ability to provide useful information, but he consistently denied involvement. Thompson did not thoroughly review the voluminous discovery with Zach and generally advised him against testifying for risk of exposing extensive impeachment material.

As trial neared, Thompson remained overwhelmed and requested a continuance which the trial court denied. She began experiencing depression and anxiety during the case resulting in treatment and medication. She did not disclose this to the court or her client.

She described the trial environment as hostile and admitted substantial shortcomings in her trial performance. She failed to effectively cross-examine key witnesses, did not highlight contradictions in testimony, and did not challenge shifts in the State's theory. She missed opportunities to introduce exculpatory evidence including digital alibi records, timeline inconsistencies, and evidence of witness coercion. She did not object to certain prosecutorial arguments or evidentiary issues, including mischaracterizations related to the caliber of the murder weapon and the size of a .380 projectile. Thompson attributed these failures to a combination of factors: lack of preparation time, overwhelming discovery, late evidence disclosures, and her deteriorating mental health.

The Court observed Thompson's demeanor, which was reserved and mostly deferential to post-conviction counsel's questioning. Ms. Thompson did not appear to mislead the Court who finds her testimony credible.

W. Forrest Richardson

Forrest Richardson, an investigator with the Tennessee Comptroller of the Treasury, testified about his review of Jennifer Thompson's billing records reflecting her representation of Zach Adams. The prosecution in this post-conviction case requested that he review Thompson's time records and prepare a summary for the court. *See* PC Ex. 148-150.

Richardson explained that he investigates allegations of fraud, waste, and abuse of state and local funds. In this case, his role was limited to summarizing how Thompson documented her time spent on the Zach Adams case. He had no opinion on the quality or sufficiency of the work. According to the data submitted by Thompson, she logged 2,870 hours on the case with extensive time reviewing evidence and trial preparation.

The Court credits Mr. Richardson's testimony based on his demeanor and the documentation of his analysis.

X. Michael Frizzell

Michael Frizzell, Assistant Director with the Tennessee Bureau of Investigation with 27 years of experience, testified at trial as the State's expert in cell phone call-detail record analysis. He began with TBI as a field agent and was later assigned to the technical services unit, where he handled cell phone tracking, surveillance systems, and digital forensics. He was also a member of the FBI's Cellular Analysis Survey Team, a specialized group trained in cell phone-based location analysis.

At the evidentiary hearing, Frizzell testified that he prepared a cellular analysis report in August 2017 covering the morning of the offense. The report, PC Exhibit 151, examined the cell phone activity of the victim, Petitioner, and codefendant Autry. His analysis relied on AT&T call-detail records, which show when a phone connects to the strongest available cell tower and

identifies the sector of the tower used. He emphasized that these connections provide only a general area, not a precise location. According to his analysis, all three relevant phones showed activity throughout the morning, including communication between Zach and Autry beginning around 8:19 a.m.

Holly's phone showed a sequence of tower connections indicating movement across a wide geographic area. Frizzell testified that the data could reflect movement in the directions of north, east, and then south, but he stressed that such conclusions were limited by the size and variability of tower sectors.

The Court credits Mr. Frizzell's testimony based on his demeanor and the consistency of his testimony with his previous trial statements.

Y. Mitchell Hayes

Mitchell Hayes, a welder, testified about his activities on the day of the offense. His usual routine was to take his children to school and then, if he was not working, spend time fishing or hunting.

On the morning of Holly's abduction, Hayes dropped his children at school between 7:30 and 7:45 a.m. and then drove roughly 20 miles to the "tie yard" boat ramp near the interstate. He launched his boat and traveled north for 30 to 35 minutes to a preferred fishing area. He did not observe anyone else in the area and fished between 30 and 90 minutes before hearing a loud, echoing gunshot from north of his location. Hayes found the gunshot odd because it appeared the shot came from a federal game reserve where discharging firearms was prohibited. Despite this, he did not stop fishing and did not connect the gunshot to any crime.

On his drive home from fishing, Hayes heard an Amber Alert on the radio for Holly Bobo. At the time, he did not believe the alert was related to the gunshot he had heard. Hayes did not

realize until the trial that the gunshot might be connected. He became convinced of its relevance after watching trial testimony suggesting no one had been in the area that morning. After realizing the potential significance, he approached Agent Booth and reported what he had heard.

During cross-examination, Hayes acknowledged he had not reported the gunshot earlier, even though he had discussed his presence at the tie yard with others. He also confirmed it was turkey season, meaning gunfire in surrounding areas was possible, though he could not say whether the shot came from private land or federally protected property.

Hayes acknowledged his wife was a follower of a “Justice for Holly” Facebook page. He also admitted to social connections with individuals linked to the case, including Agent Booth and mutual acquaintances of the victim’s family.

The Court observed Mr. Hayes’ testimony as he recounted events from fifteen years ago. Although Hayes appeared to testify truthfully, the state failed to corroborate Hayes’ testimony through Agent Booth. The testimony is not given much weight whether credible or not.

III. POST-CONVICTION STANDARDS

A. Post-Conviction Review

Tennessee’s Post-Conviction Procedure Act permits relief only when a “conviction or sentence is void or voidable” because of a constitutional violation. Tenn. Code Ann. § 40-30-103. A petition must include a “clear and specific statement of all grounds upon which relief is sought, including full disclosure of the factual basis of those grounds.” Tenn. Code Ann. § 40-30-106(d). Petitioner bears the burden of proving these factual allegations by clear and convincing evidence. Tenn. Code Ann. § 40-30-110(f); Tenn. S. Ct. R. 28, § 8(D)(1).

A jury verdict, as approved by the trial court, resolves all evidentiary conflicts in the State’s favor. *State v. Jones*, 733 S.W.2d 517, 520 (Tenn. Crim. App. 1987). The jury is the primary arbiter

of witness credibility. *Bolin v. State*, 405 S.W.2d 768, 771 (Tenn. 1966). “A petitioner may not relitigate a previously determined issue by presenting additional factual allegations.” *Cone v. State*, 927 S.W.2d 579, 582 (Tenn. Crim. App. 1995). He also may not raise an issue which could have been raised on direct appeal. *State v. Townes*, 56 S.W.3d 30, 35 (Tenn. Crim. App. 2000), *overruled on other grounds by State v. Terry*, 118 S.W.3d 355 (Tenn. 2003).

A claim is waived when it could have been raised earlier and was not, unless Petitioner shows either (1) a newly recognized constitutional right requiring retroactive application, or (2) that the failure to present the ground was the result of State action. Tenn. Code Ann. § 40-30-106(g). A claim is previously determined if a court has ruled on the merits after a full and fair hearing. Tenn. Code Ann. § 40-30-106(h). There is also a rebuttable presumption that any claim not raised previously is waived. Tenn. Code Ann. § 40-30-110(g); *Coleman v. State*, 341 S.W.3d 221, 257 (Tenn. 2011). Failure to explain why an issue was not raised earlier requires dismissal. *Green v. State*, 2001 WL 872791, at *2 (Tenn. Crim. App. Aug. 2, 2001) (citing *Blair v. State*, 969 S.W.2d 423, 425-26 (Tenn. Crim. App. 1997)).

These principles govern the structure of this order: claims already available at trial or on direct appeal are addressed as procedurally barred, and claims unsupported by testimony or proof at the evidentiary hearing are deemed abandoned.

B. Ineffective Assistance of Counsel

The Tennessee Supreme Court applies the *Strickland v. Washington*, 466 U.S. 668 (1984), standard to all ineffective assistance claims. *Davidson v. State*, 453 S.W.3d 386 (Tenn. 2014). To obtain relief, a petitioner must establish both:

- Deficient performance, meaning counsel’s representation fell below an objective standard of reasonableness; and

- Prejudice, meaning a reasonable probability that, but for counsel’s errors, the result of the trial would have been different.

Strickland, 466 U.S. at 687-688; *Felts v. State*, 354 S.W.3d 266, 276 (Tenn. 2011).

Tennessee courts presume that counsel’s conduct falls within the wide range of reasonable professional assistance. *Davidson*, 453 S.W.3d at 393. Strategic decisions, especially those made after reasonable investigation, are “virtually unchallengeable.” *Strickland*, 466 U.S. at 690-691. Reviewing courts must resist hindsight and evaluate counsel’s decisions on the circumstances at the time. *Mobley v. State*, 397 S.W.3d 70, 80 (Tenn. 2013); *Hellard v. State*, 629 S.W.2d 4, 9 (Tenn. 1982). The failure to ask particular cross-examination questions does not, by itself, establish deficient performance. *State v. Kerley*, 820 S.W.2d 753, 756 (Tenn. Crim. App. 1991).

When alleging that counsel failed to investigate or present witnesses or evidence, Petitioner must present those witnesses or evidence at the post-conviction hearing. *Pylant v. State*, 263 S.W.3d 854, 869 (Tenn. 2008) (citing *Black v. State*, 794 S.W.2d 752, 757 (Tenn. Crim. App. 1990)). Speculation about what an uncalled witness might have said is insufficient. *Owens v. State*, 13 S.W.3d 742, 756 (Tenn. Crim. App. 1999). Many of Petitioner’s claims later addressed in this order fail for this reason.

C. Prosecutorial Misconduct

1. *Brady* Claims

Under *Brady v. Maryland*, 373 U.S. 83 (1963), the State must disclose material evidence favorable to the accused, including impeachment evidence. This includes any promises of leniency or favorable treatment to witnesses. *State v. Spurlock*, 874 S.W.2d 602, 616-17 (Tenn. 1993). Evidence is “material” only when there is a reasonable probability that the result would have been different had it been disclosed. *Nunley v. State*, 552 S.W.3d 800, 817 (Tenn. 2018); *State v. Edgin*,

902 S.W.2d 387, 390 (Tenn. 1995). Evidence is “favorable” if it could assist in impeachment, challenge the investigation, or support a defense theory, and it need not be independently admissible. *State v. Jackson*, 444 S.W.3d 554, 593-94 (Tenn. 2014); *Jordan v. State*, 343 S.W.3d 84, 96 (Tenn. Crim. App. 2011).

2. *Napue/Giglio* Claims

Under *Napue v. Illinois*, 360 U.S. 264 (1959), and *Giglio v. United States*, 405 U.S. 150 (1972), the State violates due process if it knowingly presents false testimony or fails to correct it. A petitioner must show:

- The testimony was false,
- The State knew it was false, and
- The falsehood may have affected the verdict.

If such a showing is made, the burden shifts to the State to prove harmlessness beyond a reasonable doubt. *United States v. Bagley*, 473 U.S. 667, 680, n. 9 (1985); *State v. Morse*, 2025 WL 1145231, at *12 (Tenn. Crim. App. Apr. 17, 2025). Petitioner’s later claims involving Autry, Dinsmore, and the ATM video are evaluated under these standards.

D. Actual Innocence

Tennessee recognizes a freestanding claim of actual innocence only when based on newly discovered scientific evidence. *Dellinger v. State*, 279 S.W.3d 282, 290 (Tenn. 2009); *Maze v. State*, 2025 WL 3066297 (Tenn. Crim. App. Oct. 31, 2025); *Scott v. State*, 2024 WL 4442053, at *21 (Tenn. Crim. App. Oct. 8, 2024). Evidence such as recantations, videos, or impeachment material is not scientific and therefore cannot support a post-conviction innocence claim.

Even when considered alternatively on the merits, a petitioner must present clear and convincing evidence leaving the Court with no serious or substantial doubt that he did not commit

the crime. *Dellinger*, 279 S.W.3d at 293-94; *Clardy v. State*, 691 S.W.3d 390, 408 (Tenn. 2024). Cumulative, speculative, or previously available evidence cannot meet this standard. *Barnes v. State*, 2018 WL 3154346, at *7 (Tenn. Crim. App. June 26, 2018); *Wlodarz v. State*, 361 S.W.3d 490, 499 (Tenn. 2012).

Under this controlling authority, as later explained, Petitioner's claims based on Jason Autry's 2023 statement and the ATM video are both non-cognizable and insufficient.

IV. PETITIONER'S CLAIMS

Petitioner raised claims of ineffective assistance of counsel, prosecutorial misconduct, and actual innocence. Several claims are presented under alternative theories, and those claims are addressed together. For clarity, the Court has reorganized the claims. The numbering used in this order does not correspond to the numbering in Petitioner's filings. Each claim listed includes a parenthetical reference to the pleading from which it came. The Court has reviewed all of Petitioner's allegations and finds that none warrant relief.

The claims are addressed in the following manner:

- Section V discusses claims that are waived because they were known at the time of trial but were not raised earlier.
- Section VI addresses claims deemed abandoned due to Petitioner's failure to support them with evidence.
- Section VII covers claims alleging Petitioner's actual innocence, or, in the alternative, ineffective assistance of counsel or prosecutorial misconduct.
- Section VIII evaluates Petitioner's ineffective assistance of counsel claims on their merits.

V. WAIVED CLAIMS

Pursuant to the law set out in III(A) above, the Court finds the following claims have been waived and are therefore DISMISSED.

A. Shayne Austin's Letter (pro se petition)

Petitioner provided no explanation for failing to raise this issue on direct appeal even though available at that time. The claim is waived.

Even if it were not waived, Petitioner failed to address the issue at the evidentiary hearing. He neither questioned the prosecutors or his trial counsel nor introduced the letter or any other evidence on this issue. By failing to present or argue this claim at the hearing, Petitioner effectively abandoned it.

On the merits, the trial transcript confirms the letter was never admitted into evidence. Although Petitioner did not cite the record, the Court reviewed Rita Austin's trial testimony. *See* Tr. Trans. at 2022-27. During cross-examination, Prosecutor Nichols attempted to introduce the letter, and Ms. Austin identified her son's handwriting. However, trial counsel Thompson objected and the court twice ruled the letter was hearsay. The letter was not admitted as evidence or shown to the jury. No confrontation error occurred. The claim is DENIED.

B. Alleged False Testimony from Victor Dinsmore (proposed supplement)

Petitioner provided no explanation for failing to raise this issue on direct appeal even though available at that time. The claim is waived.

Even if it were not waived, the claim centers on the allegation that Agent Brent Booth coached Victor Dinsmore's testimony, and that the State was aware Dinsmore's testimony was false. At the post-conviction hearing, trial counsel Thompson testified she received recordings of Booth's interviews with Dinsmore before trial and described these interviews as "significant."

According to Thompson, “Brent Booth was absolutely telling Victor Dinsmore how to testify.” PC Tr. at 1860-61. She cross-examined Dinsmore on his prior statements but did not object or request a mistrial when Dinsmore testified. The Court finds that Petitioner had access to all relevant information at trial. Under Tennessee law, a claim not raised at trial or on direct appeal is waived and generally cannot be revived in post-conviction proceedings. *See Martin v. State*, 2004 WL 438328, at *13 (Tenn. Crim. App. Mar. 10, 2004).

Alternatively, the Court finds the allegations to be without merit. At trial, Dinsmore testified that Petitioner and co-defendant Austin had argued over “who was going to hit it first,” that Petitioner hid his white Nissan truck in Dinsmore’s shop after the victim disappeared, and that Dinsmore received a .32 revolver Austin traded him for drugs. *See Adams*, 2022 WL 4114226, at *33, *13-14. Dinsmore also detailed the morphine purchase from him by Petitioner, Austin and Autry. *Id.* at *13-14. Dinsmore stated that he disposed of the .32 revolver because he feared it had been used in the murder. *Id.* at *14. The pistol was later recovered from a creek near Yellow Springs Road. *Id.* Dinsmore obtained both federal and state immunity for his firearm and drug involvement. *Id.* He implicated a third party in the burial of Holly Bobo’s body and acknowledged memory lapses tied to trauma. *Id.* He also admitted initial inconsistencies in describing the truck’s location and type of revolver. *Id.*

Thompson cross-examined Dinsmore thoroughly, highlighting his inconsistent statements about where the truck was hidden, the interview with Booth, and the varying caliber of the gun he received from Austin. Tr. Trans. at 1520-57, 1564-66.

At the evidentiary hearing, Petitioner argued that Booth coached Dinsmore by putting words in his mouth about the truck being hidden at Dinsmore’s property. The recorded interviews show Booth suggesting that Autry would testify to this fact, and encouraging Dinsmore to “nail

this down.” PC Exs. 131 and 58. Dinsmore and his wife both denied that the white truck was kept in their garage and only conceded it “could have happened”, according to Petitioner, after pressure from Booth. *Id.* However, Booth returned the next day “so that he wasn’t the one putting words in your mouth.” Tr. Trans. at 1555. At the evidentiary hearing, Booth testified he disclosed Autry’s expected testimony to Dinsmore as an investigative technique, asserting that his goal was to elicit the truth. He stated, “I didn’t know it was untrue, I still don’t” and said he “was trying to get the truth.” PC Tr. at 658, 678.

Prosecutor Jennifer Nichols testified she was aware of the interviews before trial and attributed Dinsmore’s shifting statements to drug use and refreshing of memory. She stated, “I would never suborn perjury.” PC Tr. at 1672. Prosecutor Hagerman confirmed he had no indication that Nichols believed Booth suborned perjury.

Dinsmore did not testify at the evidentiary hearing, so the jury’s verdict stands as an endorsement of his trial testimony.

This Court finds that Petitioner has not shown by clear and convincing evidence that Dinsmore’s trial testimony was false or knowingly employed by the State as false. Booth’s interview methods, though suggestive, were aimed at uncovering truth, and both prosecutors testified they did not believe Dinsmore lied. Furthermore, his trial testimony was corroborated by co-defendant Autry, and the jury credited it despite cross-examination. The claim is DENIED.

VI. ABANDONED CLAIMS

Pursuant to the law set out in III(A) above, the Court finds the following claims were abandoned because Petitioner (1) presented no proof, (2) failed to introduce the referenced evidence, or (3) did not question trial counsel about the claim. These claims are therefore DISMISSED.

In some claims, the Court offers alternative rulings if the claims are deemed to not be abandoned. For those claims that no alternative ruling is provided, the Court finds that Petitioner provided no evidence of deficiency or prejudice. The Court cannot assess the significance of unpresented evidence and Petitioner has not overcome the presumption of reasonable professional assistance. The claims are DENIED.

A. Ineffective Assistance - Pre-Trial Publicity and Venue (pro-se petition)

Petitioner failed to plead a complete factual basis for this claim and presented no evidence at the evidentiary hearing. The claim was abandoned.

Even if not abandoned, the record shows trial counsel raised this exact objection in the amended motion for new trial. Tech. Rec. Vol.10 at p.1198. Petitioner has not overcome the presumption of reasonable professional assistance. The claim is DENIED.

B. Ineffective Assistance - Prior to Trial

For those claims enumerated in VI(B)(1) through (4), Petitioner failed to plead a complete factual basis for the claims, failed to question trial counsel about the claims and/or failed to present proof through witnesses or exhibits supporting the claims. The claims were abandoned.

Even if those claims enumerated in VI(B)(1) through (4) were not abandoned, Petitioner has not overcome the presumption of reasonable professional assistance. The claims are DENIED.

- 1. Failure to Utilize Forensics Expert (second amended petition)**
- 2. Failure to Utilize Expert on Memory, False Statements, and False Confessions**
- 3. Failure to Request Fingerprint Analysis of a Cartridge**
- 4. Failure to Seek Recusal of the Court and Court Officer Anthony Alexander
(second amended petition)**

5. Failure to Test a Palm Print (pro-se petition)

Petitioner failed to plead a complete factual basis for this claim. Although post-conviction witnesses Mark Lewis, Joe Walker, and Kathy Ferguson acknowledged the existence of a palm print on the victim's car, no evidence connected it to any individual. Petitioner did not question trial counsel on this issue or introduce forensic evidence. The claim was abandoned.

Even if not abandoned, trial counsel elicited testimony from Agent Booth that Petitioner and co-defendants were excluded from the palmprint. Tr. Trans. at 1633. Petitioner presented no proof establishing that additional testing would have yielded exculpatory results. He has not overcome the presumption of reasonable professional assistance. The claim is DENIED.

6. Failure to Utilize a Handwriting Expert or Lay Testimony - Dylan Adams' Statement (second amended petition)

Petitioner failed to plead a complete factual basis for this claim and produced no expert testimony. The claim was abandoned.

Even if not abandoned, Dylan testified the handwritten statement ascribed to him was not in his handwriting, but Petitioner did not demonstrate the statement was admitted at trial or explain how proving it fraudulent would have aided his defense. *See* PC Exhibit 12. With no proof supporting deficiency or prejudice, Petitioner failed to rebut the presumption of effective counsel. The claim is DENIED.

7. Failure to Properly File a Touhy Letter (pro se petition)¹²

Petitioner failed to plead a complete factual basis for this claim. At the evidentiary hearing, Marshal Walker testified he obtained proper authorization to testify at trial and that limitations on

¹² In this case, the Touhy "letter" was a request to the U.S. Marshal Service to allow John Walker to testify at trial. A Touhy request is required when an employee of the U.S. Government is asked to testify and the Government is not a party to the litigation.

his testimony were due to counsel attempting to qualify him as a cell phone expert rather than a 2G tracking expert. No proof was presented that the Touhy letter was deficient or prejudicial. The claim was abandoned.

Even if not abandoned, Marshal Walker testified at trial. With no proof supporting deficiency or prejudice, Petitioner failed to rebut the presumption of effective counsel. The claim is DENIED.

8. Thompson's Request to Add Defense Attorney Luke Evans

Petitioner failed to plead a complete factual basis for this claim and provided no proof demonstrating how counsel's attempt to add attorney Luke Evans harmed the defense. The claim was abandoned.

Even if not abandoned, the trial court denied Thompson's request due to a conflict of interest and the Court's ruling was upheld both on interlocutory and direct appeal. *Zachary Rye Adams*, No. W2017-00359-CCA-R10B-CO (order); *Adams*, 2022 WL 4114226, at *36-42. The claim is DENIED.

C. Ineffective Assistance - Voir Dire (second amended petition)

Petitioner provided no specific factual allegations, transcript citations, or questions to trial counsel concerning voir dire. The claim was abandoned.

D. Ineffective Assistance – Certain State's Evidence

For those claims enumerated in VI(D)(1) through (6), Petitioner failed to plead a complete factual basis for the claims, failed to question trial counsel about the claims and/or failed to present proof through witnesses or exhibits supporting the claims. The claims were abandoned.

Even if not abandoned, Petitioner has not rebutted the strong presumption of reasonable professional assistance. The claims are DENIED.

- 1. Failure to Introduce Inconsistent Statements from Clint Bobo (second amended petition)**
- 2. Failure to Cross-Examine Ernest Stone (second amended petition)**
- 3. Failure to Call District Attorney Matt Stowe (second amended petition)**
- 4. Failure to Argue the Vehicle was Too Small to Transport the Body (second amended petition)**
- 5. Failure to Argue Either Autry or Clint Bobo Lied (second amended petition)**
- 6. Failure to Call Autry's Attorneys (second amended petition)**
- 7. Failure to Question Autry About His Claim of Innocence (second amended petition)**

Petitioner did not question trial counsel at the evidentiary hearing on this issue. The claim was abandoned.

Even if not abandoned, trial counsel *did* cross-examine Autry about prior statements of innocence. As stated in the direct appeal opinion, Autry “proclaimed his innocence frequently and that he wrote letters stating he did not kidnap, rape, and kill the victim.” *Adams*, 2022 WL 4114226, at *12. Without testimony from trial counsel or Autry, the Court finds Petitioner has not rebutted the strong presumption of reasonable professional assistance. The claim is DENIED.

8. Failure to Question Autry's Timeline Based on Terry Dicus's Affidavit (second amended petition)

At the evidentiary hearing, Petitioner did not introduce Agent Dicus's affidavit into evidence or question trial counsel on this subject. The claim was abandoned.

Even if not abandoned, trial counsel cross-examined Autry about the timeline of events, and the Court will not second-guess alternative methods of doing so. Tr. Trans. at Vol. IX. Petitioner failed to prove deficiency or prejudice. The claim is DENIED.

9. Failure to Question Autry Regarding His False Testimony About:

- a. Why Zach Adams and Shayne Austin were at the Bobo's house (second amended petition),**
- b. That he had previously found a body at the same location but never reported it to law enforcement (second amended petition),**
- c. Why he had not pled to charges involving this case (second amended petition), and**
- d. Why he insisted on proclaiming innocence (second amended petition).**

Petitioner did not plead facts, cite transcript locations, or present evidence showing Autry's testimony on these issues was false or that the State knew it was false. The claim was abandoned.

Even if not abandoned, the Court finds Petitioner has not overcome the strong presumption of reasonable professional assistance. To the extent Petitioner alleged a *Napue* violation, he failed to provide record citations to the alleged false testimony and failed to present evidence that Autry's testimony was false or that the prosecution knew it was false. The claim is DENIED.

10. Failure to Cross-Examine Agent Booth Regarding Bobo Family Lies

Petitioner did not adequately plead facts or present evidence. The claim was abandoned.

Even if not abandoned, trial counsel questioned Agent Booth about statements in his affidavit regarding the Bobo family's misleading statements. Tr. Trans. at 1630. Petitioner has not overcome the presumption of reasonable professional assistance. The claim is DENIED.

E. Ineffective Assistance – Failure to Present Evidence

For those claims enumerated in VI(E)(1) and (2), Petitioner failed to plead a complete factual basis for the claims, failed to question trial counsel about the claims and/or failed to present proof through witnesses or exhibits supporting the claims. The claims were abandoned.

Even if not abandoned, Petitioner has not rebutted the strong presumption of reasonable professional assistance. The claims are DENIED.

- 1. Failure to Call Prosecutor Nichols (second amended petition)**
- 2. Failure to Call the Landowner Where the Remains Were Located (second amended petition)**
- 3. Failure to Effectively Introduce Evidence through Agents Dicus and Viveros (second amended petition)**

Petitioner did not plead a full factual basis for this claim by setting forth the evidence he alleged trial counsel failed to introduce. Furthermore, at the evidentiary hearing, Petitioner did not question trial counsel about her examination of Agents Dicus and Viveros. The claims were abandoned.

Even if not abandoned, at trial, Dicus testified the cell phone data placed the victim and Petitioner at different locations and Petitioner “could not have been involved” in the victim’s kidnapping. *Adams*, 2022 WL 4114226, at *16. Viveros testified about the wiretap on Terry Britt’s house and a conversation Britt had with his sister, indicating police might be listening. *Id.* at *24. Post-conviction counsel did not highlight any significant differences between their trial testimony and their testimony at the evidentiary hearing. After comparing the testimony, the Court did not find a reasonable probability that any discrepancies, which did not involve cumulative evidence, were significant enough to undermine the trial’s outcome. Petitioner did not overcome the strong presumption of reasonable professional assistance regarding introduction of evidence through Agents Dicus and Viveros. The claims are DENIED.

- 4. Failure to Introduce the Video-Recorded Interview of Rebecca Earp (second amended petition)**

Petitioner argued trial counsel should have introduced the video of Agent Valerie Troutt threatening to take away the unborn child of Petitioner's girlfriend, Rebecca Earp, if she did not cooperate. At the evidentiary hearing, trial counsel was not asked why she did not present the video recording. The claim was abandoned.

The video was introduced at the evidentiary hearing as PC Exhibit 113, but Petitioner's jury heard this twice through Earp's testimony. *See* Tr. Trans. at 860-61. As stated in the direct appeal opinion:

After the Defendant's arrest, Ms. Earp became pregnant with her first child. She was interviewed by TBI Agent Valerie Troutt, who threatened to take her child away and place the child in the custody of the Department of Children's Services if Ms. Earp did not tell the TBI everything.

Adams, 2022 WL 4114226, at *8.

The Court finds Petitioner has not overcome the strong presumption of reasonable professional assistance. Trial counsel presented evidence that Earp was threatened, and the video would have been merely cumulative. The Court cannot conclude that the failure to present cumulative evidence, even if deficient performance, may have affected the trial's outcome. The claim is DENIED.

F. Ineffective Assistance - Opening Statement and Closing Argument (second amended petition)

Petitioner did not plead specific deficiencies or cite transcripts as required by Tenn. Code Ann. § 40-30-106(d). Although post-conviction counsel's closing argument included the assertion that trial counsel should have played the audio recording of Booth's interview with Dinsmore during her opening statement, he did not question trial counsel about her argument strategy. The claim was abandoned.

G. Ineffective Assistance – Pursuant to the Appellate Opinion (pro se petition)

Petitioner did not plead specific facts or allegations and did not question trial counsel. Courts are not required to search the appellate record to find potential claims. *Trezevant v. Trezevant*, 696 S.W.3d 527, 530 (Tenn. 2024). The claim was abandoned.

VII. ACTUAL INNOCENCE CLAIMS

Petitioner asserted a freestanding actual innocence claim based on (1) a December 2023 video-recorded statement from co-defendant Jason Autry, and (2) ATM video footage captured at 11:12 a.m. on the day of the offense. He further alleged this same evidence establishes ineffective assistance of counsel and prosecutorial misconduct.

The Court first addresses whether a freestanding actual innocence claim is cognizable and then, alternatively, considers the merits of all related claims on the two pieces of evidence.

A. Petitioner's Actual Innocence Claims are Not Cognizable

Tennessee law on a freestanding post-conviction claim of actual innocence is stated in Section III(D). Decisions subsequent to *Dellinger* have consistently reaffirmed this doctrine. *See French v. State*, 2021 WL 1100765 at *20 (Tenn. Crim. App. Mar. 23, 2021) (citing *Shaun Alexander Hodge v. State*, 2011 WL 3793503 at *7-8 (Tenn. Crim. App. Aug. 26, 2011), and *James W. Vanover v. State*, 2011 WL 3655136 at *5 (Tenn. Crim. App. Aug. 19, 2011)). *See also Maze v. State*, 2025 WL 3066297 (Tenn. Crim. App. Oct. 31, 2025); *Scott v. State*, 2024 WL 4442053 at *21 (Tenn. Crim. App. Oct. 8, 2024) (a freestanding claim of actual innocence may only be brought under the Post Conviction Act if based on newly discovered scientific evidence); *Ivy v. State*, 2012 WL 6681905 at *29 (Tenn. Crim. App. Dec. 21, 2012) (same) (citing *Cribbs v. State*, No. W2006-01381-CCA-R3-PD (Tenn. Crim. App. July 1, 2009)); *Irick v. State*, 2010 WL 11742445 at *9 (Tenn. Crim. App. Sept. 16, 2010) (same).

This rule forecloses Petitioner's reliance on Autry's recantation and the ATM footage, which are clearly non-scientific. Petitioner raised similar arguments in a petition for writ of error coram nobis, which this Court dismissed as untimely. *Dellinger* is dispositive. The actual innocence claims are DISMISSED.

B. Alternative Merits-Based Rulings

Even assuming the claims were cognizable, Petitioner must prove actual innocence by clear and convincing evidence leaving no serious or substantial doubt that he did not commit the crime. *Dellinger*, 279 S.W.3d at 293-94; *Clardy v. State*, 691 S.W.3d 390, 408 (Tenn. 2024). Speculative or cumulative evidence cannot meet this standard. *See Maze*, 2025 WL 3066297; *see also Wlodarz*, 361 S.W.3d at 499.

1. Actual Innocence

a. Autry's 2023 Statement

The Court excluded Autry's 2023 statement as inadmissible hearsay, and Autry invoked his constitutional right not to testify. *See* PC Ex. 1 (offer of proof). As a result, the Court had no opportunity to observe his demeanor or assess his credibility under oath.

Even assuming the statement is admissible, it does not prove Petitioner is innocent. Autry's expectation of leniency, now cited as the basis for his alleged fabrication, was known to the jury and explored at trial. *See e.g.*, Tr. Trans. at 193, 1449, 1452. *See also Adams*, 2022 WL 4114226, at *12 ("[Autry] said that he was hoping for leniency."). Trial counsel cross-examined him extensively on this issue.

In the 2023 statement, Autry did not implicate any other perpetrator or provide an alibi for Petitioner. His description of meeting Petitioner at the river was consistent with his trial testimony and the prosecution's theory that Petitioner and Autry were with the victim when Petitioner shot

her. *See Adams*, 2022 WL 4114226. at *10. It also matches the trial and post-conviction evidence showing Petitioner's cell phone activity on the Tennessee River cell tower between 9:50 and 10:37 a.m.

The statement creates no serious or substantial doubt about guilt. The claim is DENIED.

b. The ATM Video

The ATM video was included in the State's discovery. *See* PC Ex. 8 (ATM video); PC Ex. 101 (still image from video). Although mislabeled or difficult to open, the file was nonetheless in trial counsel's possession and cannot be deemed "newly discovered." *See e.g., Nunley v. State*, 2017 WL 838241, at *3 (Tenn. Crim. App. Mar. 3, 2017) (because trial counsel possessed laboratory reports before the trial they cannot qualify as newly discovered evidence), *aff'd on other grounds*, 552 S.W.3d 800 (Tenn. 2018); *Casterlow v. State*, 2011 WL 5166438, at *2 (Tenn. Crim. App. Oct. 31, 2011) (although the potential evidence came to light only after Petitioner's trial, it appeared in his trial attorney's file and could not, therefore, be described as newly-discovered); *Carney v. State*, 2007 WL 3038011, at *3 (Tenn. Crim. App. Oct. 17, 2007) (petitioner was aware or could have been aware of the evidence at the time of trial; therefore, it did not qualify as "newly discovered evidence").

Even assuming the video is newly discovered, it is not exculpatory. It depicts a truck backing toward an ATM at 11:12 a.m., well after the relevant window during which the crime occurred. It does not show the occupants of the truck and is merely duplicative of the cell-tower evidence already before the jury: both the State's and defense's cell-tower experts testified that Petitioner's phone was in Parsons after 11:00 a.m.

The ATM footage does not establish actual innocence. The claim is DENIED.

2. Ineffective Assistance of Counsel

a. Autry's 2023 Statement

Petitioner argued that Autry's 2023 statement demonstrates that trial counsel's cross-examination was ineffective. Even assuming Autry's statement is admissible as substantive evidence, the Court finds that it does not demonstrate deficient performance by trial counsel or prejudice against Petitioner.

Trial counsel Thompson cross-examined Autry about his relationship with the Bobo family, his phone records, and the route he claimed he and Petitioner traveled that day. Counsel questioned him about his height, weight, and hair color. She asked Autry whether he had access to the discovery materials before testifying. She questioned him about his prior statements and his letters claiming his innocence. She explored his agreements with federal and state prosecutors and elicited testimony about his expectations of leniency in exchange for cooperating. *See e.g., Tr. Trans. at 1290-1410, 1421-1452.*

During her hearing testimony, Thompson expressed that her cross-examination of Autry was ineffective because she could not get him to admit he was lying. Her cross was broad, covered numerous relevant topics, and mirrored the subjects discussed at the post-conviction hearing. While she acknowledged taking antidepressant medication and feeling overwhelmed during trial, she did not take any medication that affected her mental acuity. *Strickland* requires objective unreasonableness, not perfect performance. *See Strickland*, 466 U.S. at 688. The Court finds that Thompson's cross-examination of Autry did not fall below an objective standard of reasonableness.

Petitioner also fails to establish *Strickland's* prejudice prong. Counsel could not have cross-examined Autry about his 2023 statement because it did not exist at the time of trial, more than six

years earlier. Nonetheless, counsel's cross examination addressed the key themes reflected in that statement, including Autry's use of discovery materials and his expectations of leniency. Her questioning elicited information similar to what Autry gave in the statement, meaning the jury was already aware of the substance of the topics contained in the statement.

Accordingly, Petitioner has not shown a reasonable probability that the result of the trial would have been different. For these reasons, the Court concludes that counsel's cross-examination of Autry was not ineffective. The claim is DENIED.

b. The ATM Video

Petitioner argued that trial counsel was ineffective for failing to introduce the ATM video as part of an alibi defense.

Defense counsel must conduct a reasonable investigation or make a reasonable, professionally informed decision that certain investigative steps are unnecessary. *Strickland*, 466 U.S. at 690–91. Any specific decision not to investigate must be evaluated for reasonableness under all circumstances, with substantial deference given to counsel's judgment. *Id.* When determining whether Petitioner has shown prejudice from counsel's failure to present evidence, the Court examines whether there is a reasonable probability that the missing evidence would have changed the trial's outcome, considering the strength of the State's case and the credibility of the witnesses.

This Court finds that counsel's performance fell within the "range of competence demanded of attorneys in criminal cases." *Baxter v. Rose*, 523 S.W.2d 930, 936 (Tenn. 1975). In other words, her investigation into the facts of the case met the minimum standard required of attorneys in capital cases.

Regarding the alibi investigation, trial counsel Thompson testified that Petitioner told her he was at specific locations when the victim went missing. Petitioner explained that he, Dylan, and Austin drove to Parsons in Dylan's truck, visited Sonic, and used an ATM to withdraw money from Austin's bank to buy Xanax in Parsons. Counsel was aware of Austin's bank records, which showed transactions in Parsons on the relevant day. She understood that the ATM video was "very, very important" to the defense and considered it a "partial alibi." PC Tr. at 1836, 1930. Petitioner's mitigation specialist, Lee Norton, also recommended obtaining the ATM video because it would function as alibi evidence. *See* PC Ex.34.

Both Simmons and Thompson testified they attempted to obtain the video, but the bank stated that the video did not exist. *See* PC Ex. 37. Relying on that representation, counsel believed the video did not exist. Thompson's timesheets show she spent approximately 366 hours reviewing discovery. *See* PC Ex. 149. Both prosecutors testified that trial counsel thoroughly reviewed the discovery, made follow-up requests, and knew the facts better than anyone involved in the case. However, Thompson testified that she did not know the ATM video was included on the discovery hard drive. She attempted to access the file before her post-conviction testimony but could not open it. *See* PC Ex. 133.

The Court finds that counsel's efforts attempting to obtain the video from the bank and conducting an extensive review of discovery constituted a reasonable investigation. Counsel also presented sufficient other alibi evidence to secure an alibi jury instruction. *See* Tr. Trans. at 2558. Accordingly, counsel's performance was not deficient.

The Court further finds that Petitioner has not shown a reasonable probability that introducing the ATM video would have changed the verdict. As summarized in the direct appeal opinion, counsel presented testimony from cell phone expert Jonathan Reeves indicating Petitioner

remained at home before going to the river and later to Parsons after 11:00 a.m. *Adams*, 2022 WL 4114226, at *29. State witness Agent Frizzell offered similar testimony. *Id.* at *15-16. The ATM video of the truck provides additional but relatively weak corroboration that Petitioner was in Parsons because it does not show the truck's occupants. Moreover, Petitioner's presence in Parsons after 11 a.m. does not preclude his involvement in the crime earlier that day. The jury rejected the cell phone evidence as establishing an alibi or proving innocence. It is therefore not reasonably probable that the ATM video would have changed the jury's verdict. The claim is DENIED.

3. Prosecutorial Misconduct

a. Autry's 2023 Statement

Petitioner asserted two claims of prosecutorial misconduct arising from Autry's recent statement. First, Petitioner alleged that 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." Second Amended Petition at 27 ¶39. In other words, Petitioner alleged, the State knowingly presented false testimony that affected the verdict in violation of *Napue*. However, Petitioner did not plead a specific or complete factual basis for the claim. Apart from listing the allegation in his petition, he provided no further explanation.

Alternatively, even assuming the claim were properly pled, the Court finds it is without merit. At the evidentiary hearing, neither Autry nor Clint Bobo testified. Although Petitioner testified, he was not questioned about this issue. Prosecutor Jennifer Nichols addressed it. She testified that she did not believe Autry was truthful when he stated at trial that Petitioner went to the Bobo residence that morning "to make meth" with Clint Bobo. PC Tr. at 1719. She explained that she presented the testimony to the jury,

[b]ecause it was part of what was said. And had I not let it all go out there as that's what it said, you'd be asking me, did you parse the statement to hide something from the jury. The jury could decide. You asked me if I thought that Clint Bobo would have taken and cooked meth at Karen Bobo and Dana Bobo's house, the answer is no. I did not think Clint was going to cook meth in his backyard at the Bobo's house.

Q. But you submitted it to the jury?

A. It wasn't my statement, Mr. Bates. Yes.

Id.

No evidence presented at the hearing clearly and convincingly established that Autry's trial testimony was false. Moreover, Petitioner failed to demonstrate how the statement about Clint Bobo "cooking meth" could have affected the jury's verdict. Autry's claim that Petitioner and Austin were at the victim's home was contradicted by the cell phone data and by Clint Bobo's testimony. Without proof, the Court cannot conclude that there is any reasonable likelihood the testimony affected the jury's judgment. The claim is DENIED.

Second, Petitioner argued that Autry's 2023 statement supports a claim of prosecutorial misconduct because the prosecution (1) failed to disclose a plea agreement with Autry and (2) Autry's agreement to testify made him a State agent who knowingly presented false testimony. The State denies these allegations and maintains that Autry testified without any agreement for favorable treatment.

At the time of trial, Petitioner and his counsel were aware Autry was cooperating with the State and would testify. By not raising the issues of an undisclosed plea agreement or Autry's alleged status as a State agent at trial or on direct appeal, Petitioner cannot now raise them as independent grounds for post-conviction relief. Regardless, the claims lack merit.

Assuming the claims were properly pled and Autry's 2023 statement is admissible as substantive evidence, it does not establish that the State withheld a plea agreement, that Autry's testimony was false, or that he acted as a State agent. In his 2023 statement, Autry did not claim he had an agreement with the State, nor did he claim to be a State agent. At most, he said the prosecutor prepared him for trial. Autry exercised his right against self-incrimination and declined to testify at the post-conviction hearing. Without his testimony, the Court considered his recent statement only in conjunction with the prosecutors' testimony and the trial record. Both prosecutors denied having an agreement with Autry. They were not asked about the State agent allegation.

Prosecutor Nichols testified that Autry ultimately received the maximum sentence the State could justify. She explained that the State's case against Autry was the weakest among the four co-defendants because Autry had not made an inculpatory statement. Prosecutor Hagerman similarly testified that there was no agreement with Autry in exchange for his testimony and that the State only indicated that his truthful testimony would be considered. Autry's own trial testimony reflected the same understanding—he hoped for leniency. On this key point, Autry's trial testimony and his 2023 statement are consistent.

The Court finds Petitioner did not prove the existence of a plea agreement, that Autry testified falsely, or that Autry acted as a State agent. The Court also concludes that the State's use of Autry's testimony did not violate due process. The State did not withhold impeachment material. Trial counsel thoroughly cross-examined Autry about his expectations, motives, and potential bias, providing the jury a sufficient basis to assess his credibility. *See State v. Bolden*, 979 S.W.2d 587, 591 (Tenn. 1998) (weighing evidence and credibility is a function of the trier of fact) (citing *State v. Hornsby*, 858 S.W.2d 892 (Tenn. 1993)). The trial court instructed the jury

that Autry was an accomplice and that his testimony required sufficient corroboration. *Adams*, 2022 WL 4114226, at *36. The Court of Criminal Appeals found adequate corroboration. *Id.* Considering the entire record, including the prior finding that counsel's cross-examination of Autry was not ineffective, the Court concludes Petitioner's due process rights were not violated.

The claim of prosecutorial misconduct is DENIED.

b. The ATM Video

Petitioner argued that the ATM video file was deliberately mislabeled on the discovery hard drive provided to trial counsel, and that this mislabeling constituted prosecutorial misconduct and a violation of *Brady*. The Court finds that the ATM video was neither withheld from Petitioner nor material to his defense.

The ATM video fell within Petitioner's pretrial request for *Brady* material, and the State produced it to the defense. As previously explained, the Court's reasons for concluding that the video is not new evidence of actual innocence also support its finding that the video was not withheld. It is undisputed that the video was included on the discovery hard drive provided to defense counsel. At the post-conviction hearing, Petitioner did not establish that the video file was intentionally mislabeled. Agent Joe Walker testified that interns labeled or named the files, and other members of the investigative team testified that they did not know how the labels or filenames were created.

Petitioner also failed to prove that Agent Walker attempted to mislead defense counsel or hide the video's existence when he stated in IR 2743, "[t]he other places were not covered by our videos." *See* PC Ex. 23. When questioned about this statement at the post-conviction hearing, Agent Walker testified he could not recall which "other places" he had checked, but maintained that the statement was not false. The Court finds that, although Agent Walker's memory was

limited, Petitioner did not establish, by clear and convincing evidence, that Agent Walker's report was deceptive or intended to mislead.

The Court further finds that the ATM video was favorable to Petitioner in that it contributed to other evidence placing him in Parsons. Nevertheless, it was not material to the defense. While Petitioner need not show that the video was exculpatory to establish materiality, the Court's earlier discussion of his actual innocence claim is relevant to determining whether the video could have cast doubt on the verdict. The video does not offer a different perspective; at best, it is cumulative of the cell phone data introduced at trial. The jury heard evidence regarding Petitioner's cell phone activity on the morning of the victim's disappearance, including activity in Parsons after 11:00 a.m., which did not align with the victim's cell phone locations. Petitioner's argument that the video is significant because it places him at a specific location at 11:12 a.m., a time when the cell phone data already indicated he was in Parsons, overstates the video's importance. The video does not clearly show enough of the truck to identify it as Dylan's vehicle, and it does not show any person, including Zach, inside the cab. Its probative value is further limited because it depicts events after 11:00 a.m., which, according to the State's theory, was after Petitioner had killed the victim near the river.

For these reasons, the Court finds that Petitioner has failed to prove that the ATM video was material. The claim is DENIED.

4. Conclusion

Co-defendant Autry's 2023 statement and the ATM video, taken alone or together, do not establish that Petitioner did not commit the crime, show that counsel's performance was ineffective, or support the allegations of prosecutorial misconduct. For these reasons, the claims

of actual innocence, and the alternative claims of ineffective assistance of counsel and prosecutorial misconduct, are DENIED.

VIII. INEFFECTIVE ASSISTANCE OF COUNSEL CLAIMS

A. Prior to Trial

1. Failure to Retain a Ballistics Expert (second amended petition)

Petitioner claimed trial counsel was ineffective for not retaining a ballistics expert to show that the skull defect was consistent with a .380-caliber bullet rather than the .32-caliber pistol identified by the State. The record shows the victim suffered a single gunshot wound consistent with a .36-caliber or smaller bullet. *Adams*, 2022 WL 4114226, at *9. The State linked a .32 caliber revolver to the homicide. *Id.* at *32. No .32 ammunition was found in Petitioner's home and his grandfather testified neither owned such a gun. *Id.* at *15, *25.

At the evidentiary hearing, firearms expert Alberto Davis described .380 dimensions. Trial counsel Gonzales testified he researched skull defects, consulted with a forensic anthropologist, and cross-examined the medical examiner thoroughly. Thompson attempted to find an expert who would exclude a .32 as the cause of the defect but could not find one. PC Tr. at 1877-78.

The Court finds that trial counsels' investigation was reasonable and met professional norms. The State did not present a ballistics expert and relied on the medical examiner. Trial counsel conducted a meaningful inquiry and cross-examination. Petitioner failed to prove deficiency or prejudice. The claim is DENIED.

2. Failure to Review Discovery with Petitioner (pro se petition)

Petitioner alleged that his attorneys failed to review the entirety of the discovery material with him and that jail restrictions prevented review of electronic materials. Petitioner testified that counsel met with him frequently and reviewed discovery. PC Tr. at 1600. He contended, however,

that he did not see all the materials because the jail restricted computer access. *Id.* at 1581. Thompson testified she met with Petitioner ten times before trial and would review anything upon request, but Petitioner struggled cognitively due to long-term methamphetamine use. *Id.* at 1833.

The Court finds no deficiency. Petitioner failed to show specific omitted discovery that would have affected the verdict. Jail restrictions are not attributable to counsel and should have been raised on direct appeal. The claim is waived under Tenn. Code Ann. § 40-30-110(f) and is DENIED.

3. Failure to Re-create a Timeline of the Offense (second amended petition)

Petitioner alleged counsel failed to reconstruct the crime timeline using cell phone and location data. The petition does not include the factual basis required by Tenn. Code Ann. § 40-30-106(d). Furthermore, the claim is without merit.

Marshal John Walker created a map, PC Exhibit 5, based on cell phone data. Although the trial court excluded the map, Agent Dicus testified the cell phone records established that “the Defendant could not have been involved in the kidnapping.” *Adams*, 2022 WL 4114226, at *22. Cell phone expert Jonathan Reeves testified that the victim’s phone traveled in a direction inconsistent with Petitioner’s cell phone movements. Tr. Trans. at 2443-50. The same evidence plus the excluded map, was introduced at the post-conviction hearing.

Petitioner failed to overcome the strong presumption of reasonable professional assistance. The jury heard the substance of the cell phone movement evidence related to the victim, Petitioner and the co-defendant. Petitioner has not demonstrated that admission of the map would have changed the verdict. The claim is DENIED.

**4. Alleged Hostility Toward Trial Counsel and Her Recording of Other Attorneys
(second amended petition)**

Petitioner alleged Jim Simmons inadequately represented him regarding hostility toward Thompson and her recordings of other attorneys. Petitioner introduced evidence of a contentious trial environment but failed to question Jim Simmons about this issue. Petitioner presented no evidence showing that allegations regarding Thompson's recording practices impacted her performance before the jury. The Court has not found, and Petitioner did not suggest, that the trial court made any findings of misconduct nor was any evidence presented to the jury regarding these allegations.

Petitioner relied on *State v. Zimmerman*, 823 S.W.2d 220, 225 (Tenn. Crim. App. 1991), which emphasizes the importance of a defense attorney's credibility before the jury. But *Zimmerman* is distinguishable. There, the attorney promised evidence to the jury in opening statements and then failed to produce it. Here, the jury was unaware of any allegations against Thompson.

Attorney Gonzales testified that when he joined the defense team, Thompson and Simmons were no longer communicating, and the courtroom atmosphere was highly adversarial. He described the trial judge as "very confrontational" toward Thompson and Prosecutor Nichols as equally adversarial. This hostility, he said, caused Thompson significant stress and impaired her ability to work effectively.

Thompson testified similarly. She stated the judge belittled her repeatedly and that both the judge and the State were "rough" on her in front of the jury. PC Tr. at 1918-1919, 1931. She believed this dynamic harmed her confidence and made it difficult to advocate effectively. *Id.* The

stress also impacted her mental health to the extent she began taking high doses of antidepressant medications. *Id.* at 1852.

However, Thompson ultimately acknowledged that she did not believe her performance changed the outcome of the trial. Petitioner's attorney inquired:

Q. Do you think if you had done a better job, the verdict would be the same?

A. I think so, because I think the way that we picked the jury and the way the judge was handling the case, I don't think the judge was going to let Zach get a not guilty. I think the judge was going to do what he needed to do in order to see that there was a conviction in that case.

Q. Okay. It would hurt you professionally if it were your fault, right?

A. I am not sure it would hurt me more than this testimony is hurting me.

PC Tr. at 1934-35.

The Court finds that Petitioner failed to rebut the strong presumption of reasonably competent professional assistance. The evidence does not show that either Thompson or Simmons fell below the minimum professional standards, nor does it establish a reasonable probability of a different result. The claim is DENIED.

5. Jim Simmons's Motion to Withdraw (pro se petition)

Petitioner argued that Simmons's motion to withdraw improperly expressed a belief in Petitioner's guilt, violating attorney-client privilege and constituting ineffective assistance. *See* PC Ex. 38.

Thompson testified that Simmons pressured Petitioner to plead guilty and that Petitioner therefore wanted Simmons removed. She recalled that the motion to withdraw mentioned "something to the effect that he believed [Zach] was guilty." PC Tr. at 1867-68. Simmons, however, testified that he never stated Petitioner was guilty, only that, given co-defendant Autry's

cooperation, a death-qualified jury would likely return a guilty verdict. PC Tr. at 387. He believed the ABA Guidelines obligated him to pursue settlement discussions, which created friction with Thompson. Importantly, Petitioner offered no proof of how the Simmons's motion prejudiced his case.

The Court finds that Petitioner failed to prove by clear and convincing evidence that Simmons actually informed the trial judge that he believed Petitioner was guilty. Simmons affidavit clearly states, "[b]ased upon my experience, education, and the facts of this case, I believe a trial would result in a guilty verdict and sentence of death." PC Ex. 38 ¶6. His statement of a belief about how a jury may rule is not a statement of belief about Petitioner's guilt. This distinction is legally significant.

Even assuming the motion implied guilt, Petitioner provided no evidence showing prejudice. The claim is DENIED.

B. During Trial

1. Ineffective Cross-Examination – Generally (second amended petition)

Petitioner alleged that trial counsel's cross-examination was "lackadaisical and rambling," resulting in an ineffective and disorganized presentation. Second Amended Petition at 18 ¶29(d). Thompson acknowledged she was unprepared for trial and unable to conduct the focused, strategic cross-examinations she believed were necessary. She expected a continuance and dedicated considerable time pursuing newly disclosed leads rather than preparing targeted cross-examination of key witnesses. As a result, she reviewed records during direct-examination instead of listening and forming cross-examination questions. Co-counsel Gonzalez confirmed Thompson's difficulties noting that unknown witness scheduling increased the burden and caused Thompson further stress.

The Court finds that Thompson lacked a strategic reason for omitting the cross-examination questions raised by post-conviction counsel. Thompson conceded these questions were consistent with her theory of defense and, in hindsight, should have been asked. However, the Court credits testimony showing Thomson possessed a deep factual knowledge of the case, possibly more than any other lawyer involved. Given the voluminous discovery, the Court's review of Thompson's trial performance, and all the circumstances of the case, the Court cannot conclude that Thompson's failure to ask certain cross-examination questions constitute "egregious error" under Tennessee law. *See Douglas v. State*, 2004 WL 1686606, at *5 (Tenn. Crim. App. July 26, 2004) (recognizing that the failure to ask particular cross-examination questions does not alone establish ineffective assistance); *see also Moffitt v. State*, 29 S.W.3d 51, 55 (Tenn. Crim. App. 1999) ("Effective assistance is not flawless, perfect, or error free assistance[.]").

Under *Strickland* and *Goad v. State*, 938 S.W.2d 363, 369 (Tenn. 1996), counsel's conduct must fall below an objective standard of reasonableness. The Court finds that, under the circumstances, Thompson's preparation efforts and cross-examination performance did not fall outside the range of prevailing professional norms.

Even if certain cross-examinations were deficient, Petitioner has not established prejudice. Evidence related to the themes raised at the evidentiary hearing was presented to the jury at trial. Additional questioning of witnesses would have been cumulative rather than outcome-determinative. Thus, Petitioner has not shown a reasonable probability that the result would have been different had the cross-examinations been more thoroughly conducted. The claim is DENIED.

2. Petitioner's Scars (second amended petition)

At trial, the State argued that scratches on Petitioner's arms were defensive wounds inflicted by the victim. FBI Special Agent Matthew Ross observed these scratches during his interview with Petitioner. According to Agent Ross, Petitioner consented to photographs, which were admitted as exhibits at trial. The photos showed vertical linear marks on the inside of the left forearm, along with a round scab on the tricep. Petitioner stated he received the scratches while running through the woods and a briar patch a few days before the victim disappeared. Agent Ross agreed the marks appeared as reddish-pink lines without scabs and resembled "pink-colored scars." *Adams*, 2022 WL 4114226, at *6.

Petitioner's girlfriend, Rebecca Earp, testified that she noticed three parallel scratches on Petitioner's neck the day after the victim went missing, which she had not seen the previous day. On cross-examination, Earp described the scratches as superficial and located on the right side of the neck, extending from beneath the jawline toward the Adam's Apple. She stated she initially did not report the scratches because she was scared. She also told a defense investigator that the scratches were unrelated to the victim's disappearance and were sustained when Petitioner ran from a park ranger prior to the offense. She testified Petitioner "always had scratches." *Id.* at *7.

Defense counsel also presented testimony from bail bondsman Kristie Gutsell, who assisted Petitioner after his arrest at Natchez Trace State Park. Gutsell testified that Petitioner had scratches "all over him like he had ran through the woods basically," along with older scars on his arms. She observed scratches across his arms, legs, and neck. *Id.* at *27.

At the evidentiary hearing, trial counsel Jennifer Thompson testified that she addressed the scratches during trial and introduced testimony from multiple witnesses offering an alternate explanation for their origin. The Court finds counsel effectively challenged the State's theory and

presented the jury with a reasonable alternative account. Although the argument was ultimately unsuccessful, counsel's performance was not deficient. The claim is DENIED.

The petition also alleged that counsel should have objected to a "dermatological assessment" of Petitioner's scars by a lay witness. Petitioner, however, did not question trial counsel about the issue at the evidentiary hearing nor present any such dermatological proof. Accordingly, the Court finds the issue waived. Alternatively, Petitioner has not overcome the presumption of reasonable professional assistance, and without proof, the Court cannot determine any significance or prejudice. The claim is DENIED.

3. DNA of the Hair in Terry Britt's Vehicle (second amended petition)

Petitioner failed to plead a full factual basis for this claim. He did not cite the record to show any instance of deficient performance by trial counsel concerning DNA evidence, and it is not the Court's role to search the record on his behalf.

At trial, Agent Terry Dicus testified about the search of Terry Britt's home and property, including hair recovered during that search. As summarized on direct appeal, "[i]nside Mr. Britt's van, hairs were found that were microscopically and macroscopically identical to the victim's hair, but DNA analysis later showed that the hairs did not belong to the victim." *Adams*, 2022 WL 4114226, at *24.

At the evidentiary hearing, post-conviction counsel did not question trial counsel about hair evidence, nor present any forensic proof or argument explaining how counsel should have addressed the DNA results differently. Post-conviction counsel referenced the victim's hair in Britt's vehicle several times while examining witnesses, but testimony on this issue was inconsistent. Viveros testified that Janet Britt stated there would be various types of female hair in her husband's vehicle. Viveros also said a hair matching the victim's had been found. Marshal

Walker testified that the FBI indicated it was the victim's hair. Lewis testified the victim was excluded from the hair found in Britt's home, and Booth stated a hair sample was not tested.

This inconsistent testimony does not establish, by clear and convincing evidence, that trial counsel should have pursued the matter differently. The Court finds Petitioner failed to prove the hair matched the victim, failed to overcome the presumption of effective assistance, and failed to show prejudice. The claim is DENIED.

4. Ineffective Cross-Examination – Petitioner's Inculpatory Statements (second amended petition)

Seven witnesses testified that Petitioner made inculpatory statements. Trial counsel cross-examined each of them.

At the evidentiary hearing, Petitioner testified regarding his relationships with those witnesses and the context for those statements. However, he did not question trial counsel about her strategy nor present testimony from any witness to show what additional or different cross-examination would have accomplished.

The Court therefore finds Petitioner has not overcome the presumption that counsel's performance fell within the wide range of reasonable professional assistance. Without evidence of counsel's investigation, strategy, or decision-making, the Court cannot identify deficient performance or resulting prejudice. The claim is DENIED.

5. Ineffective Cross-Examination – Jason Autry (second amended petition)

a. Generally

Petitioner argued that trial counsel failed to conduct an adequate cross-examination of Jason Autry, who Petitioner claims provided "blatantly perjured testimony." Second Amended Petition at 14. He further contended counsel should have used an expert to educate the jury about

false testimony and that Autry's 2023 statement shows Autry fabricated the entire story to avoid what Autry's attorney described as a 95% certainty of conviction. Petition at 14-15. According to Petitioner, counsel could not get Autry to admit he was lying because Autry was manipulating everyone in order to obtain a reduced sentence.

At the evidentiary hearing, trial counsel testified that she consulted with a memory and false-confession expert. Petitioner did not ask why she chose to not call that expert at trial, nor did he present testimony from that or any other expert explaining what such a witness would have said. Trial counsel acknowledged she was unable to get Autry to admit he was lying:

Q. How was your cross-examination of important witnesses?

A. Well, Victor Dinsmore and Jason Autry—it was poor. I—in the past, when somebody lies and makes up stories, I've been able to go through their story very slowly and show all the lies—I mean, they get twisted up in their story. But Jason didn't get twisted up. He stuck with it, and so, what I ended up doing was just nailing down, just confirming and reaffirming Jason's story instead of showing that he was lying. He was lying.

PC Tr. at 1935.

Counsel's inability to achieve her intended impeachment strategy, standing alone, does not constitute deficient performance. *See Strickland*, 466 U.S. at 688. The mere fact that counsel did not pursue additional impeachment methods does not establish deficient performance. *See Williams v. State*, 599 S.W.2d 276, 279-80 (Tenn. Crim. App. 1980). A defendant is not entitled to perfect or error-free representation, only constitutionally adequate assistance. *See Denton v. State*, 945 S.W.2d 793, 796 (Tenn. Crim. App. 1996); *See also Harmer v. State*, 2006 WL 1472513, at *5 (Tenn. Crim. App. May 30, 2006); *Osborne v. State*, 2015 WL 832288, at *10 (Tenn. Crim. App. Feb. 26, 2015) ("it cannot be said that a failed witness examination strategy...rises to the level of incompetent representation").

Here, counsel cross-examined Autry over more than 150 transcript pages addressing his drug use, phone calls on the day of the crime, and the route he said he traveled that morning. She also used satellite images and had Autry mark them. While she chose not use an expert, she was not required to do so. Moreover, Petitioner produce no evidence that an expert would have provided testimony that would have changed the result. Because Autry invoked his right against self-incrimination at the evidentiary hearing, this Court was unable to assess his credibility. The jury's verdict, however, demonstrates that it credited enough of Autry's testimony to support a conviction. Petitioner has not overcome the strong presumption of reasonable professional assistance, and without expert testimony, the Court cannot assess the significance or prejudice of any alleged failure.

b. Austin's Gun

At trial, Autry testified that the pistol he saw holstered on Austin on the day of the offense was the same pistol used by the Defendant to shoot the victim and was the same gun recovered by law enforcement. *Adams*, 2022 WL 4114226, at *11. Trial counsel Thompson cross-examined Autry about this identification:

- Q. Now, initially during your proffer session, you specifically said that the gun that Shane Austin had was a .38 or a .357; didn't you?
- A. That's correct. That's what I was under the impression of it being.
- Q. That's before they found a gun in a creek; isn't it?
- A. The gun.
- Q. And the gun they found in a creek is a .32; isn't it?
- A. If you say so.
- Q. You don't know what caliber that gun is?

A. I do not.

Q. So you just eyeballed that gun, and you're just pretty sure even though it's rusted, it's the same gun?

A. That is the same gun.

Q. It's the same gun, but you have to admit it's much rustier than it was when you claimed to have originally seen it?

A. The blueing is off of it, and it's aged.

Tr. Trans. at 1450.

At the evidentiary hearing, counsel testified she failed to clearly emphasize that Autry originally identified the murder weapon as a .357 but later described it as a .32. She admitted she did not know why that point was unclear and attributed it to inadequate preparation. The record, however, shows that counsel *did* cross-examine Autry on this inconsistency. Autry conceded he did not know the caliber but maintained that it was the same weapon. There is no indication that continued questioning would have changed his testimony. Once again, Petitioner has not rebutted the strong presumption of reasonable professional assistance. Without proof, including Autry's testimony or other evidence, the Court cannot assess the significance or prejudice of any alleged deficiency. The claim is DENIED.

c. Other Deficiencies

Petitioner also claimed counsel failed to question Autry about the echo of the gunshot, failed to use a photograph of the scene, and failed to present flood-level or water-level information. At the evidentiary hearing, Petitioner did not ask counsel about these issues. The State asked whether she consulted with a sound expert, and she could not recall. Without evidence of counsel's investigative process or proof of what such questioning would have revealed, the Court cannot evaluate the significance or potential prejudice of the alleged omissions.

The Petition also states that counsel should have used a photograph showing the area where Zach allegedly shot the victim to challenge Autry's testimony about visibility. Second Amended Petition at ¶23(b). Yet the record indicates counsel used satellite images during cross-examination. Her performance is not deficient simply because she did not ask a specific question about visibility. Autry testified they left the river because they heard a boat motor. Whether Autry saw the boat does not undermine that stated reason. Petitioner has again failed to rebut the strong presumption of reasonable professional assistance, and without supporting proof, the Court cannot assess the significance or prejudice of the alleged failure. The claim is DENIED.

6. Ineffective Cross-Examination – Brent Booth

Petitioner asserted that trial counsel should have used the factual basis contained in the wiretap warrant of Britt's residence to demonstrate that Britt lied about his alibi, his cell phone, and his prior knowledge of the victim.

At trial, the jury heard that Agent Booth initially focused on known sexual offenders and that law enforcement "took Terry Britt's life apart." Booth conducted physical surveillance, placed wiretaps on Britt's phones and inside his home, executed search warrants on Britt's home, property, vehicles, and outbuildings, and interviewed Britt's neighbors. Booth testified that despite this extensive investigation, law enforcement found nothing connecting Britt to the victim. *Adams*, 2022 WL 4114226, at *14.

Trial counsel Thompson did not cross-examine Booth specifically regarding Terry Britt, though she questioned him about other search warrants, including the warrant for the Bobo family's bank records.

At the evidentiary hearing, trial counsel testified she should have relied more heavily on the search warrant affidavits when examining Booth.

- A. So, with the search warrants, I mean, I did bring up the fact that he had done hundreds of search warrants, and I did ask Brent Booth about that. But I should have gone through them, each one, and said, you know, you at one point, said it was the Bobo family, and you at one point, said it was Terry Britt. And all the different search warrants he had done for all the different people that he had sworn on oath that they were guilty.

I should have been much more organized and laid things down like that in a solid -- I should have just gone through one by one by one and just shown how the State had changed their theory of the case so many times.

PC Tr. at 1919-20.

Post-conviction counsel questioned Booth about the facts asserted in the probable cause affidavit for the search warrant. *See* PC Ex. 56.

- Q. You just tell what the Court what the probable cause was, sir. If you need -
- if you need time to review this, you can.

- A. Identification of Terry Lee Britt as a suspect. Terry Britt's past sexual predatory behavior. Terry Britt's alibi is false. Terry Britt changes his physical appearance. These are headlines to paragraphs that Terry Dicus and I wrote. Analysis of the Holly Bobo cell phone records. Subject's residence and proximity to physical evidence recovered. Terry Britt's pre-abduction knowledge of Holly Bobo. Additional predatory behavior of Terry Britt, et cetera, et cetera. It goes on and on.

PC Tr. at 580.

Agent Booth then reiterated, consistent with his trial testimony:

- A. The search warrants that we had served on his property, his residence, his vehicles. A totality of everything that we had looked at and heard on Terry Britt did not yield probable cause that he was the individual that committed this crime.

Id. at 581.

Although the facts supporting the search warrant might have supported the defense theory that Britt was the perpetrator, Booth had already testified at trial that the thorough investigation yielded no evidence linking Britt to the crime. As his post-conviction testimony shows, further

questioning by trial counsel would likely have led Booth to again emphasize that the investigation “did not yield probable cause” to suspect Britt.

The Court concludes that Petitioner has not overcome the strong presumption of reasonable professional assistance. Even assuming counsel should have questioned Booth further, Petitioner has not shown a reasonable probability that the additional testimony would have affected the outcome of the trial. The claim is DENIED.

7. Ineffective Cross-Examination – Victor Dinsmore and Mistrial (proposed addition to second amended petition)

Petitioner contended that trial counsel inadequately cross-examined Victor Dinsmore on his inconsistent and evolving statements, as well as the circumstances surrounding those statements. Petitioner asserted counsel should have questioned Dinsmore about whether he previously identified the gun received from co-defendant Austin as “a .38 revolver with a .357 interchangeable barrel,” rather than simply a .38 or .357. Petitioner further asserted that private investigator Dennis Benjamin threatened Dinsmore with the death penalty and pressured him to adopt a false narrative implicating Petitioner. Petitioner also alleged that Dinsmore told Benjamin that Dylan was the weak link among the co-defendants, prompting law enforcement to pressure Dylan to talk. Petitioner also alleged that Booth suggested the facts Dinsmore should testify to and told him that remembering certain facts would “help the case.”

At trial, Dinsmore denied that on the date of the offense, the Defendant said he had parked his truck in Dinsmore’s shop. Dinsmore said, though, that the Defendant hid the truck in the shop sometime after the victim’s disappearance. He recalled that “they moved tires” in the shop to conceal the truck and that the Defendant hid it because he had attempted to “run over” Natchez Trace park police with the vehicle. *Adams*, 2022 WL 4114226, at *13.

Dinsmore also testified that two months after the victim's disappearance, Austin traded Dinsmore a pistol for drugs. Although Dinsmore knew he could not possess the gun due to his status as a felon, he believed he could sell it. He identified the pistol recovered during the police investigation as the handgun Austin traded for twelve morphine pills and stated that Autry was present during the exchange. Dinsmore ultimately gave the pistol to his wife but later told her to "get rid of it" because he feared it had been used in a homicide. She disposed of the pistol and, in 2016, Dinsmore aided law enforcement in recovering it three to four miles from Yellow Springs Road. *Adams*, 2022 WL 4114226, at *14.

Trial counsel cross-examined Dinsmore on his prior inconsistent statements highlighting that although he told Agent Troutt that Petitioner hid the truck, he did not specify the barn. She questioned him about his interview with Booth, his "changing memory," and the inconsistencies in his descriptions of the gun. Tr. Trans. at 1537-1554. Dinsmore confirmed that Booth returned the next day "so that he wasn't the one putting words in your mouth" *Id.* at 1555. He acknowledged making various inconsistent statements and explained that speaking with his wife and daughter refreshed his memory. He also admitted suggesting multiple types of guns prior to the victim's remains being discovered.

At the post-conviction hearing, trial counsel testified that she received audio recordings of Booth's interviews with Dinsmore before trial, considered them "significant", and had them transcribed because "Brent Booth was absolutely telling Victor Dinsmore how to testify." PC Tr. at 1860-1861. She described her cross-examination as "poor," explaining it reinforced Dinsmore's account rather than undermined it. She conceded she did not address the inconsistency in the timeline involving the argument between Petitioner and Austin over who would "hit it first," which did not fit the State's theory if referring to the victim because the argument occurred after her

death. Counsel also admitted she created the impression that Dinsmore mentioned two guns rather than one .38 revolver with a .357 interchangeable barrel. Finally, she acknowledged she did not object or seek a mistrial when Dinsmore testified, contrary to the recorded interview, that he spoke with his wife prior to the Booth interview. She stated she avoided requesting a mistrial because she did not want “another opportunity for the judge to belittle me in front of the jury.” PC Tr. at 1918.

Dinsmore did not testify at the evidentiary hearing. As a result, the Court cannot assess whether his testimony would have differed, if at all, nor can it evaluate his credibility.

As stated, counsel’s performance is judged objectively, not by hindsight or by whether cross-examination successfully led the witness to admit to dishonesty. Trial counsel cross-examined Dinsmore on his inconsistent statements concerning the gun and the white truck and relied on the transcript of the recorded interview with Booth to challenge his account. Petitioner has not rebutted the strong presumption of competency. The Court finds that counsel was aware of the facts, prepared for cross-examination, and addressed the relevant issues. Accordingly, the Court concludes counsel’s performance was not deficient.

Furthermore, because Dinsmore did not testify at the post-conviction hearing, the Court cannot find prejudice resulting from any alleged deficiency. The claim is DENIED.

C. Failure to Establish an Alibi (pro se petition, second amended petition)

Petitioner argued that trial counsel was ineffective for failing to establish an alibi for Zach through Facebook login information, testimony from Rita Austin and her son’s ATM receipts, and a more developed timeline of his movements on the date of the offense.

1. Facebook Login

Petitioner contended that counsel should have corroborated his alibi by introducing Facebook records showing he logged into his account on the morning of the offense while at his grandparents' home. At the evidentiary hearing, Petitioner testified accordingly. Agent Ferguson confirmed that someone logged into Petitioner's Facebook account at 8:39 a.m. on the day of the crime. *See* PC Ex. 100. Ferguson also testified that the records did not identify who performed the login. Trial counsel Thompson testified she had no strategic reason to withhold the Facebook login information, acknowledged it was available in the discovery materials, and noted that the login appeared to have originated from a landline connection.

The Court finds that Petitioner established the absence of a strategic reason for counsel's failure to introduce the Facebook records. However, Petitioner has not shown prejudice. The jury heard multiple sources of evidence placing Petitioner at home during the relevant time period. Agents Frizzell and Dicus, along with defense expert Reeves, testified that Petitioner's phone communicated with his "home" cell tower between 8:19 a.m. and 9:12 a.m., which includes the 8:39 a.m. Facebook login. Thus, the Facebook evidence is cumulative of other evidence presented to the jury. Further, the investigative report in PC Exhibit 100 does not identify the device or person associated with the login, reducing its probative value. Accordingly, Petitioner has not demonstrated that the omission of this evidence affected the outcome of his trial. *See Williamson v. State*, 476 S.W.3d 405, 425 (Tenn. Crim. App. 2015). (holding counsel's failure to preserve phone messages did not prejudice the defendant when he was able to introduce evidence of the victim's anger through other means). The claim is DENIED.

2. Rita Austin (pro-se petition)

Petitioner asserted counsel should have questioned Rita Austin, mother of co-defendant Austin, about her son's financial transactions on the day of the offense. Although Ms. Austin testified at trial, Petitioner offered no testimony from her or from trial counsel at the evidentiary hearing on this issue. Trial counsel Thompson testified that Petitioner told her he was with Austin when he withdrew cash from an ATM in Parsons. Trial counsel knew Marshal Walker had subpoenaed Austin's bank records. When shown an ATM receipt at the hearing, which was not entered into evidence, counsel noted it was dated two days before the offense. She was also told no ATM video existed, although she believed that such a video would have been strong evidence. Counsel explained she presented other evidence placing Petitioner in Parsons through Reeves.

Petitioner did not prove, by clear and convincing evidence, the existence of an ATM receipt dated the day of the offense. No receipt was produced for this Court. Because Petitioner failed to show such a receipt existed at the time of trial, he cannot establish deficient performance or prejudice. Additionally, counsel presented alternative evidence of Petitioner's presence in Parsons. Petitioner has not overcome the strong presumption of reasonable professional assistance. The claim is DENIED.

3. Timeline

Petitioner claimed counsel failed to offer a complete timeline of Zach's movements on the date of the offense. He asserted the timeline should have included evidence that he lacked access to a vehicle; that Deputy Tony Weber saw him at a gas station in Parsons; that a drug dealer, Gay White, saw him at her home; and that he subsequently visited his girlfriend, Rebecca Earp, at her workplace. *See* Second Amended Petition at p.12 (Table).

The record reflects that in November 2016, counsel Simmons filed a response to the State's alibi notice request, stating that Petitioner was at home and in Parsons on the date of the offense. *See* Tech. Rec. Vol.4 at 498, Vol.9 at 1080. Counsel identified Dick Adams, Dylan, Autry, and Earp as alibi witnesses. At trial, counsel advanced an alibi defense, though not in the form Petitioner now proposes. The trial court gave an alibi instruction based on Reeves' testimony, which included a detailed timeline of cell phone location data from 8:17 a.m., when the victim's phone moved, through 12:18 p.m., when Petitioner's phone was in Parsons. Counsel also relied on Terry Dicus's testimony to support an alibi in closing argument.

At trial, Deputy Weber was not questioned about whether he saw Petitioner in Parsons. *See Adams*, 2022 WL 4114226, at *5. Earp testified, but admitted making inconsistent statements about Petitioner's whereabouts. She testified Petitioner came to see her "close to the afternoon" and that they argued because she believed he lied about going to the scrap yard. *Id.* at *7. She also stated that after Petitioner's arrest by a park ranger for an unrelated event, Petitioner's grandfather left the white truck in the impound lot "for a while." *Id.* at *8. Trial evidence indicated Petitioner drove Dylan's truck on the day of the offense.

At the evidentiary hearing, trial counsel testified she could not verify that Weber ever saw Petitioner in Parsons. Agent Ferguson confirmed that the records did not show Weber purchased gas from the station, contrary to Petitioner's claim. Petitioner presented no testimony from Weber, White, or Earp, the alleged alibi witnesses. Dylan testified that he lied to authorities when he incriminated Petitioner, but the State impeached him with 2014 jail calls where he told his mother that he knew Zach was involved. Dylan claimed he lied during those calls; however, the Court finds his testimony was impeached and Dylan did not provide an alibi for Zach.

Petitioner has not shown, by clear and convincing evidence, that Weber or White were alibi witnesses as neither testified at the evidentiary hearing. Earp's testimony at trial contradicts Petitioner's assertions. The record demonstrates that counsel did present an alibi defense, and the jury was instructed accordingly. Without proof that additional witnesses were available and would have offered exculpatory testimony, Petitioner has not shown deficient performance or prejudice. The claim is DENIED.

D. Failure to Effectively Introduce Evidence Through Marshal Walker

Petitioner asserted that trial counsel rendered ineffective assistance by failing to properly qualify Marshal John Walker as an expert witness, which resulted in the exclusion of his testimony. At trial, Walker testified that he had tracked and mapped the location of the victim's cell phone. *Adams*, 2022 WL 4114226, at *26. However, the trial court prohibited him from providing further details regarding the phone's movements or from introducing the map he created. *See* PC Ex. 5.

At the post-conviction hearing, Walker explained that the trial court's limiting his testimony stemmed from trial counsel's attempt to qualify him as a "cell phone expert," rather than as an expert in 2G tracking, which was his actual area of expertise. He also testified that he met with trial counsel for about an hour the night before he testified.

Trial counsel testified that Walker's testimony was important because it supported the defense theory that the victim and Petitioner were not in the same locations, that the victim was abducted and killed between 8:26 a.m. and 8:50 a.m., that the perpetrator traveled a particular route, and that the victims' belongings were discarded along a route leading toward Britt's residence. She stated that the trial court ultimately prevented her from offering this testimony.

Counsel recalled meeting with Walker before trial but did not remember whether they discussed the map or his qualifications. She explained she may have misunderstood Walker's

expertise impairing her ability to qualify him as an expert. She also testified she could have subpoenaed Walker to bring co-defendant Austin's bank records, which she believed would have been consistent with Petitioner and Austin being in Parsons. Although she described the bank records as "not a smoking gun," she agreed there was no reason not to present them.

The Court concludes that trial counsel's performance in attempting to qualify Marshal Walker as an expert did not meet an objective standard of reasonableness. Counsel failed to properly understand Marshal Walker's field of expertise and did not clearly convey his qualifications to the trial court. *Mobley*, 397 S.W.3d at 85 (finding counsel's performance was deficient where he failed to understand the law and elicit an expert opinion). Counsel initially informed the court, "I'd like to use him as a cell phone expert." Tr. Trans. at 2343. During the voir dire of Marshal Walker, the State twice elicited his acknowledgment that he was not a cell phone expert. *Id.* at 2344, 2353. Thompson then questioned Walker about tracking individuals through cell phone data, and offered him as "an expert in finding people using their phones." *Id.* at 2347-2348. Later she argued he could testify as a fact witness. *Id.* at 2354. The trial court ultimately concluded that Walker was not an expert in cell phones, he could not express an opinion, and he could not refer to his map because it was outside his area of expertise. *Id.* at 2354-56. The Court finds that counsel's inconsistent descriptions of Walker's role were confusing and that a reasonable attorney, particularly one who considered the map central to the defense, would have understood the witness's actual expertise and been prepared to lay a proper foundation. Accordingly, this portion of trial counsel's performance was deficient.

Nevertheless, Petitioner has not shown a reasonable probability of a different outcome had this evidence been properly introduced. The jury heard substantially similar testimony from the defense's cell phone expert Reeves. As the Court of Criminal Appeals summarized, "Mr. Reeves

concluded that the victim's phone moved north from her home, traveled east, and then moved south, which was east of the victim's home." *Adams*, 2022 WL 4114226, at *27. This mirrors the information that counsel sought to introduce through Marshal Walker's map. The jury heard evidence concerning the victim's phone movements yet still convicted Petitioner. Hearing the same evidence a second time does not create a reasonable probability of a different verdict. Thus, trial counsel's failure to present Marshal Walker's testimony about cell phone location data was not prejudicial.

As to the Austin bank records, the Court finds no strategic reason for counsel's failure to introduce them. The records show that Austin's bank card was used to withdraw money from an ATM in Parsons and to make purchases in Parsons and Holladay on the day of the crime. PC Ex. 23. However, the records lacked timestamps. Although the evidence supports the defense theory that Petitioner and Austin were in Parsons, the Court agrees with trial counsel that the records were not a "smoking gun" and were cumulative of other evidence already before the jury.

For instance, Agent Frizzell testified that Petitioner's and Austin's phones communicated multiple times between 10:10 a.m. and 10:49 a.m., with Petitioner's phone using a tower near his home. *Adams*, 2022 WL 4114226, at *16. At 11:16 a.m. and 12:18 p.m., Petitioner's phone used a tower in Parsons. *Id.* Reeves similarly testified that both phones were likely together in Parsons. *Id.* at *28. The bank records add little to this existing evidence and, lacking timestamps, are weaker than the cell phone data that provided precise times and general locations. The jury rejected the cell phone evidence as establishing an alibi. It is not reasonably probable that the bank records would have altered the verdict. Counsel's omission, therefore, did not result in prejudice. The claim is DENIED.

E. Failure to Properly Advise and Present Zach's Testimony

At the evidentiary hearing, Petitioner testified that he maintained his innocence and wanted to take the stand at trial. He stated he felt pressured by trial counsel, as well as by his mother and cousin, not to testify. According to Petitioner, his family urged him not to testify because the State would introduce damaging information about his prior convictions, including drug offenses and his reckless shooting of his mother.

Petitioner acknowledged the trial court conducted a *Momon* colloquy regarding his decision not to testify. *See* PC Ex. 116. Nevertheless, he maintained he did not realize he could disregard counsel's advice. He explained, "[w]e paid her a lot of money, and I was told to listen to her. And that's what I did." PC Tr. at 1581. On cross-examination, however, Petitioner testified he had already decided not to testify before the *Momon* colloquy occurred. He reiterated, "[m]y mind was already made up about the testifying before the judge asked me all this. My mind was made up the minute that I promised my mom and my cousin that I wouldn't testify. It was no -- there was nothing that was going to change that." PC Tr. at 1597. The Court observed Petitioner's demeanor during this testimony and found it credible. Petitioner further stated that, with the benefit of hindsight, he would have insisted on testifying.

Trial counsel Thompson testified she advised Petitioner not to testify. She did not recall Petitioner ever telling her he intended to testify, nor did she recall who brought Petitioner's mother and cousin to speak with him on the issue. PC Tr. at 1990-1991. On cross-examination, Thompson acknowledged the *Momon* colloquy but maintained, "I think he did not want to testify, because I told him he shouldn't testify." PC Tr. at 1996.

During cross-examination, the State presented what impeachment evidence would have been presented had Petitioner taken the stand. This included a frantic 911 call from his grandfather

on the morning of the offense, multiple phone calls Petitioner made that morning, several inconsistent statements he gave law enforcement, and his admission that, in a previous incident, he recklessly discharged a firearm when he was high on drugs, injuring his mother. *See* PC Ex. 117.

Although counsel recommended Petitioner not testify and believed she influenced his decision, the Court finds Petitioner ultimately chose not to testify because he promised his mother and cousin he would not. He testified this promise was determinative of his decision. Therefore, the claim lacks merit. Additionally, based on the testimony of both Petitioner and Thompson, Petitioner had limited memory of the events on the day of the offense and could offer little beyond general denials. The claim is DENIED.

F. Failure to Introduce False Confessions from Others

Petitioner asserted trial counsel was ineffective for failing to introduce “the multitude of other false confessions procured from other people throughout the course of the investigation.” Second Amended Petition at 19 ¶29(h). Petitioner did not fully plead a factual basis for this claim, except for the assertion that trial counsel should have introduced Dylan’s statement to show it conflicted with the State’s theory and Autry’s testimony. *See* Second Amended Petition at 17-18 ¶29(a).

At the evidentiary hearing, trial counsel testified she obtained a transcript of Dylan’s recorded interview. *See* PC Ex. 127. She described the interview as “terrible” and “very suggestive,” explaining that investigators repeatedly fed Dylan information. PC Tr. at 1820. She believed the inconsistencies in Dylan’s statement could have been useful to the defense and testified she expected him to be called as witness for the State. He was not.

Counsel testified she did not introduce Dylan's statement or evidence related to Benjamin's involvement with Dylan. She acknowledged the statement was inconsistent with the cell phone evidence but believed it was significant because it contradicted Autry's account and could have shown Autry's motive to distance himself from the rape allegation. Thompson stated she wished she had introduced Dylan's statement to undermine Autry's testimony and admitted she had no strategic reason for failing to do so. PC Tr. at 1904-1905.

The Court finds that although counsel did not make an intentional strategic decision regarding Dylan's statement, she did attempt to undermine Autry's testimony through cross-examination. She challenged his timeline and sought to present evidence regarding Autry's affiliation with the Aryan Nation to explain his motive to deny involvement in the rape. The trial court restricted this line of questioning as irrelevant, and the Court of Criminal Appeals upheld that ruling. *See Adams*, 2022 WL 4114226, at *50-51 (finding the trial court did not abuse its discretion by limiting the cross-examination).

The appellate court also concluded that sufficient evidence corroborated Autry's trial testimony, including Petitioner's lack of an alibi, the firearm evidence, Petitioner's scratches, and his multiple inculpatory statements. *See Adams*, 2022 WL 4114226, at *30-36. Because Autry did not testify at the post-conviction hearing, the Court cannot determine whether his trial testimony would have been affected by the introduction of Dylan's statement. Accordingly, Petitioner has not met his burden. The claim is DENIED.

G. Thompson's Mental Health

Finally, Petitioner argued counsel rendered ineffective assistance by failing to disclose her declining mental health or her use of antidepressant medication, and by failing to move to withdraw from the case. A defendant alleging ineffective assistance based on counsel's impairment must

show, through specific examples, how the impairment affected trial strategy, preparation, or performance; proof of the impairment alone is insufficient. *See Brimmer v. State*, 29 S.W.3d 497, 510 (Tenn. Crim. App. 1998) (examining cases where attorneys abused alcohol or drugs). Petitioner need not demonstrate that the trial would have resulted in an acquittal to establish prejudice. He needs only to prove there is a reasonable probability that, but for counsel's unprofessional error, the result of the proceeding would have been different. *See Brimmer*, 29 S.W.3d at 509.

Trial counsel testified she sought medical treatment because of depression and anxiety stemming from the case. She stated that she increased her antidepressant dosage over time, ultimately taking Zoloft and Wellbutrin at levels exceeding FDA-recommended limits. PC Tr. at 1851-1852. Counsel admitted she did not inform Petitioner, the Court, or anyone else about her mental health struggles. She explained that she did not move to withdraw because she feared replacement counsel would urge Petitioner to plead guilty. *Id.* at 1932-1933. Counsel also believed that even if she had performed better, the verdict would have remained the same. *Id.* at 1934.

The Court credits counsel's testimony that she avoided medication that could impair her mental acuity and finds her efforts to seek medical assistance were reasonable. Petitioner presented no proof that counsel's mental health affected her performance at trial. He testified counsel met with him often, reviewed discovery with him, and engaged with the case. His complaints centered on counsel's organization and the volume of discovery, not on her mental condition.

The trial record reflects counsel's active engagement: she cross-examined nearly all of the prosecution's witnesses, presented expert and lay witnesses, advanced the defense theory of innocence, and presented alibi evidence sufficient to warrant an alibi instruction. The jury

deliberated for two days. Petitioner presented no evidence that counsel's use of antidepressants or her mental health condition affected the outcome. The claim is DENIED.

The Court also finds no showing that a motion to withdraw would have been granted. The trial court had previously denied co-counsel Jim Simmons' motion to withdraw. The only evidence concerning the potential effect of withdrawal was counsel's speculation that a replacement lawyer would have urged a guilty plea. Petitioner has failed to establish prejudice. The claim is DENIED.

IX. CONCLUSION

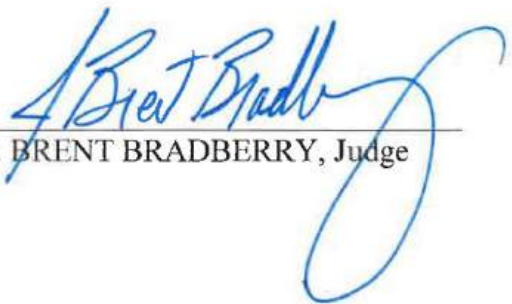
For all the reasons stated herein, having presided over multiple days of evidentiary hearings, observed the witnesses' demeanors, reviewed the extensive trial record, and considered all exhibits, arguments, and applicable legal standards, the Court concludes that Petitioner has failed to establish any ground for post-conviction relief. The Court finds that Petitioner did not prove by clear and convincing evidence that counsel rendered ineffective assistance under *Strickland*, nor did he establish that any alleged prosecutorial misconduct violated the principles articulated in *Brady*, *Napue*, or their progeny. Likewise, Petitioner's claims of actual innocence, whether asserted as freestanding claims or as alternative theories supporting ineffective assistance or prosecutorial misconduct, are not cognizable under Tennessee law and, even when considered in the alternative, do not create serious or substantial doubt as to Petitioner's guilt.

The Court further determines that all waived and abandoned claims were properly dismissed pursuant to Tenn. Code Ann. §§ 40-30-106(g)–(h) and applicable case law. To the extent any issue was addressed in the alternative, the Court finds no merit. These findings are based on the Court's review of the full evidentiary record.

Accordingly, Petitioner has not met his burden under Tennessee's Post-Conviction Procedure Act, and this Court is left with no serious or substantial doubt concerning the validity of the jury's verdicts. Post-conviction relief is therefore DENIED in all respects.

The Clerk shall file this Order and serve a copy to all counsel pursuant to Tenn. R. Crim. P. 49.

IT IS SO ORDERED on this 17th day of July 2026.



J. BRENT BRADBERRY, Judge

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing Order has been served in accordance with Tenn. R. Crim. P. 49 to the following this 17th day of July 2026:

Jamie Wolfe, Clerk

Attorneys for Petitioner:

Douglas T. Bates, IV, Esquire
Bates & Bates Law Office
Post Office Box 1
Centerville, Tennessee 37033
Email: dtbates4@bates.law

Crystal M. Etue, Esquire
219 3rd Avenue North
Franklin, Tennessee 37064
Email: crystal@etuelaw.com

Attorneys for the State of Tennessee:

Amy P. Weirich
Special Counsel
Post Office Box 38
Somerville, Tennessee 38068
Email: apweirich@tndagc.org

Christopher V. Boiano
Assistant District Attorney
113 West Main Street
Third Floor, Cordell Hull Building
Gallatin, Tennessee 37066
Email: cvboiano@tndagc.org