

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

ZACHARY RYE ADAMS,
Petitioner,

v.

STATE OF TENNESSEE,
Respondent

No. 17-CR-10-PC

FILED 22 DAY OF May, 2025 AT _____ AM/PM
TAMMIE WOLFE, CLERK
BY Tara Wright, Deputy CLERK

**ORDER ON THE STATE'S MOTION TO EXCLUDE JASON AUTRY[']S VIDEO
INTERVIEW RECORDED ON DECEMBER 22, 2023 (State's motion in limine #1)**

Before the Court is a motion in limine filed by the State on May 15, 2025, to exclude from evidence at Mr. Adams' post-conviction hearing a video-recorded interview dated December 22, 2023, between codefendant Jason Autry and Dr. Katie Spirko, a neuropsychologist hired by counsel for Mr. Adams. During the interview, Jason Autry claims his September 2017 trial testimony was false. In a response filed on May 17, 2025, the Petitioner argued that Mr. Autry's statement is admissible as a declaration against interest from an unavailable witness under Tenn. R. Evid., Rule 804(3).

On May 19, 2025, before the commencement of the evidentiary hearing, this Court heard argument on pending motions, including the motion to exclude Mr. Autry's video statement.¹ The videotaped statement was received as an offer of proof to the post-conviction hearing and marked as Exhibit 1. The state acknowledged that Mr. Autry was unavailable because, after the appointment of counsel, he filed a notice with this Court stating his intent to invoke his Fifth

¹ Transcript of Post-Conviction Proceeding, May 19, 2025.

Amendment right against self-incrimination.² The state argued that Mr. Autry's video statement was inadmissible hearsay, and the hearsay exception for statements against interest was inapplicable. Specifically, the state contended that the statement itself was not perjurious; Mr. Autry could only be subject to prosecution for perjury if he took the stand and testified to the truth of the statement. Further, to attack the reliability of the statement and the credibility of Mr. Autry, the State produced Mr. Autry's subsequent assertions on recorded telephone conversations that he was "high" on drugs at the time he spoke with Dr. Spirko and that he made the statement as a means to get revenge on the state. The recorded calls were entered into evidence at the post-conviction hearing as Collective Exhibit 2.

The Petitioner's counsel asserted that Mr. Autry's statement is admissible as a statement against interest because the statement is inconsistent with representations he made in a federal court plea agreement, and therefore, it subjects him to prosecution for perjury.³ Counsel referenced the state's request for an attorney for Mr. Autry as proof that the statement placed him in legal peril. In addition, counsel argued the statement was important because it indicated that, at the time of the trial, Mr. Autry was a state agent, and he testified falsely.

Considering all the circumstances, this Court GRANTED the motion for the reasons stated from the bench.⁴ This Court's supplemental ruling follows.

Mr. Autry's video statement is hearsay. It is an out-of-court statement that the Petitioner offers as true. The hearsay exception for a statement against interest provides:

² This notice included a statement of intent not to waive any other rights or any privilege with his prior counsel. Notice of Intent Jason Autry, filed April 11, 2025.

³ State's Motion Requesting the Court to Appoint Counsel for Jason Autry, Exhibit F, PDF page 397 of 767, filed March 7, 2025.

⁴ Transcript of Post-Conviction Proceeding, May 20, 2025.

Statement Against Interest. A statement which was at the time of its making so far contrary to the declarant's pecuniary or proprietary interest, or so far tended to subject the declarant to civil or criminal liability or to render invalid a claim by the declarant against another, that a reasonable person in the declarant's position would not have made the statement unless believing it to be true.

Tenn. R. Evid. 804(b)(3). A statement against interest is admissible if the declarant is unavailable. Rule 804(b).

Here, Jason Autry is unavailable because he asserted his Fifth Amendment right against self-incrimination. Tenn. R. Evid. 804(a)(1). On April 11, 2025, counsel for Mr. Autry filed a "Notice of Intent" wherein Mr. Autry asserts "all protections afforded to him under the United States Constitution and the Tennessee Constitution." Additionally, this Court finds that Mr. Autry is unavailable under Rule 804(a)(5) since he is absent from the hearing and Petitioner's counsel has been unable to procure his attendance by process. In February and March of this year, the Petitioner attempted to subpoena Mr. Autry to court. The Federal Bureau of Prisons refused to transport Mr. Autry without a request and documentation from the state. The state declined to provide this information.⁵ Accordingly, Mr. Autry is an unavailable witness.

This Court has viewed Mr. Autry's video statement. Considering all the circumstances, this Court finds that the statement does not "so far tend" to subject Mr. Autry to civil or criminal liability that a reasonable person in his position would only make the statement if they believed it was true.

First, the environment in which the statement was made does not have the indicia of solemnity to provide notice to Mr. Autry of the gravity of, or any consequences from, his statements. He begins the video laughing. The video depicts Mr. Autry speaking casually with an agent of the Petitioner, Dr. Katie Spirko. He did not express any genuine reservations about talking

⁵ See e.g., State's Response to Petitioner's Motion for Amended Writ of Habeas Corpus Ad Testificandum and to Compel the State of Tennessee, filed March 20, 2025.

with Dr. Spirko. He said his incriminating trial testimony was untrue. He did not provide an alternative account of his actions or those of others during the time surrounding the crimes against the victim. This statement was not made to law enforcement or a member of the prosecutor's office, which would impress upon a reasonable person the possibility of legal consequences. The statement was not made under any oath or vow of honesty. Mr. Autry did not attest to its truth in the video nor subsequently subscribe in writing to the truth of the statement. When he spoke with Dr. Spirko, Mr. Autry's state sentence for crimes associated with the instant case had expired. This Court questions the reliability of the statement. This Court finds that the circumstances do not tend to show that Mr. Autry, or a reasonable person under the same circumstances, would have believed the statements were incriminating to the extent that they would not have been made unless they were true. Furthermore, even if the statement were perjurious, any consequence would pale in comparison to the unrelated federal term of imprisonment Mr. Autry is currently serving. This Court finds that any criminal sanction resulting from the video-recorded statement would not have deterred Mr. Autry from lying, as contemplated by Rule 804(b)(3).

Second, the statement's content alone is not incriminating; it does not provide sufficient evidence for the prosecution to use in proving any criminal charges. Generally, Mr. Autry asserts that his trial testimony was untrue. He claims his testimony was fictional; a story he conceived based on pre-trial discovery documents. The Petitioner has not shown or cited any inculpatory statements in the video.⁶ He simply asserts that the statement is a recantation of Mr. Autry's trial testimony, where he had admitted to assisting the Petitioner dispose of the victim's body. Yet, a recantation is not a statement against one's interest. Mr. Autry's assertion that he concocted his

⁶ A court must examine each assertion in a hearsay statement to determine whether it is inculpatory. *See State v. Dotson*, 254 S.W.3d 378, 392–93 (Tenn. 2008) (citing *Williamson v. United States*, 512 U.S. 594, 599–600 (1994)).

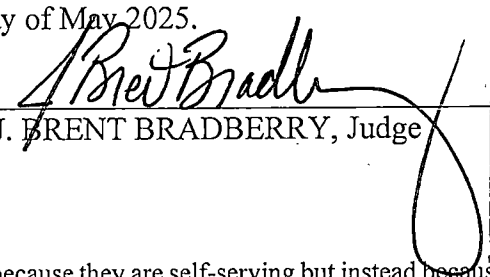
trial testimony tends to exculpate himself or minimize his criminal conduct. This Court finds Mr. Autry's video statement is predominantly self-serving,⁷ and at the least, it is not against his penal interest.

Finally, Mr. Autry's subsequent actions undermine the reliability and veracity of the videotaped statement. He stated that he was under the influence of drugs when he spoke with Dr. Spirko.⁸ He also admitted he made the videotaped statement as revenge against the State of Tennessee.⁹ Finally, he invoked his Fifth Amendment privilege against self-incrimination when informed of the possible consequences of testifying under oath to the videotaped statement. His subsequent actions when his attorney confronted him with the possibility of criminal liability contrast with his free-flowing conversation with Dr. Spirko.

The totality of the circumstances leads this Court to find that Mr. Autry's video statement is not a statement against interest. Without an applicable exception to the rule against hearsay, this Court cannot admit the statement into evidence.

WHEREFORE, the motion to exclude Jason Autry's video interview recorded on December 22, 2023, is GRANTED.

IT IS SO ORDERED on the 22nd day of May 2025.


J. BRENT BRADBERRY, Judge

⁷ Most self-serving statements are excluded not solely because they are self-serving but instead because they constitute inadmissible hearsay. *State v. Vandenburg*, No. M2017-01882-CCA-R3-CD, 2019 WL 3720892, at *46 (Tenn. Crim. App. Aug. 8, 2019) (quoting *Tony A. Phipps v. State*, No. E2008-01784-CCA-R3-PC, 2010 WL 3947496, at *8 (Tenn. Crim. App. Oct. 11, 2010)).

⁸ Collective Exhibit 2 to the post-conviction hearing (three audio files and transcripts). *See also* State's Motion Requesting the Court to Appoint Counsel for Jason Autry, Exhibit F, PDF page 713 of 767, filed March 7, 2025; State's Response to Petitioner's Motion for Amended writ of Habeas Corpus Ad Testificandum and to Compel the State of Tennessee, filed March 20, 2025 (listing dates and content of Autry's subsequent statements).

⁹ *Ibid*; Exhibit F at PDF page 737 of 767.