

IN THE <sup>Division</sup> 3 COURT OF

Shelby COUNTY, TENNESSEE AT Memphis

2020 APR 21 AM 9:06

CRIMINAL JUSTICE CENTER

PETITIONER (FULL NAME)

Jason White

CASE NO. 17-01568

VS.

(POST-CONVICTION)

STATE OF TENNESSEE

**PETITION FOR RELIEF FROM CONVICTION OR SENTENCE**

Mailing Address of Petitioner (including zip code)

Jason White # 86663  
N.E.N.M.C.F  
185 Doctor Micheal Benkins  
Clayton Nm 88415

Place of Confinement NENMCF

Dep't of Corrections Number 86663

NOTICE: BEFORE COMPLETING THIS FORM, READ CAREFULLY THE ACCOMPANYING INSTRUCTIONS.

1. Name and location (city and county) of court which entered the judgment of conviction or sentence challenged

Memphis Tennessee in Shelby County

2. Date of judgment of conviction July 14 2017

3. Case Number 17-01568

4. Length of sentence 60 yr. 100%

5. Offense Convicted of

Conspiracy to possess/Conspiracy to deliver methamphetamine within a Drug-Free Zone.

6. What was your plea? (Check One)

(a) Guilty \_\_\_\_\_

(b) Not Guilty X

(c) Not Guilty by reason of mental disease or defect \_\_\_\_\_

(d) Not guilty and not guilty by reason of mental disease or defect \_\_\_\_\_

(e) Nolo contendere \_\_\_\_\_

(f) None \_\_\_\_\_

If you entered a guilty plea to one count or indictment, and a not guilty plea to another count or indictment, specify.

(a) guilty plea counts: \_\_\_\_\_

(b) not guilty counts: \_\_\_\_\_

7. Kind of trial: (Check One)

(a) Jury X (b) Judge only \_\_\_\_\_

8. Did you testify at the trial?

Yes \_\_\_\_\_ No X

9. Did you appeal from the judgment of conviction?

Yes X No \_\_\_\_\_

10. If you did appeal, answer the following:

(a) As to the state court to which you first appealed, give the following information:

(1) Name of court Tennessee Appeals For the Western Division

(2) Result Affirm

(3) Date of result Feb-11-2019

(4) Grounds raised on appeal

See Attachment (A)

(Attach additional sheets if necessary)

(b) If you appealed to any other court, then as to the second court to which you appealed, give the following information:

(1) Name of court Tennessee Supreme Court At Jackson

(2) Result Deny

(3) Date of result 8/02/2019

(4) Grounds raised on appeal

SEE ATTACHMENT (B)

(Attach additional sheets if necessary)

(c) If you appealed to any other court, then as to the third court to which you appealed, give the following information:

(1) Name of court \_\_\_\_\_

(2) Result \_\_\_\_\_

(3) Date of result \_\_\_\_\_

(4) Grounds raised on appeal

(Attach additional sheets if necessary)

11. If more than one (1) year has passed since the date of final action on your direct appeal by the state appellate courts, state why the statute of limitations should not bar your claim.

12. Other than a direct appeal from the judgment(s) of conviction and sentence, have you previously filed any petitions, applications, or motions with respect to the judgment(s) in any state or federal court?

Yes \_\_\_\_\_ No

13. If your answer to Question 12 was Yes, then give the following information in regard to the first such petition, application, or motion you filed:

(a) (1) Name of court \_\_\_\_\_

(2) Nature of proceeding \_\_\_\_\_

(3) Grounds raised \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

(Attach additional sheets if necessary)

(4) Did you receive an evidentiary hearing on your petition, application or motion?

Yes \_\_\_\_\_ No

(5) Result \_\_\_\_\_

(6) Date of result \_\_\_\_\_

(b) As to any second petition, application, or motion, give same information:

(1) Name of court \_\_\_\_\_

(2) Nature of proceeding \_\_\_\_\_

(3) Grounds raised \_\_\_\_\_

\_\_\_\_\_

(Attach additional sheets if necessary)

(4) Did you receive an evidentiary hearing on your petition, application, or motion?

Yes \_\_\_\_\_ No

(5) Result \_\_\_\_\_

(6) Date of result \_\_\_\_\_

(c) Did you appeal the result of the action taken on any petition, application, or motion identified above?

(1) First petition, etc. Yes \_\_\_\_\_ No X

(2) Second petition, etc. Yes \_\_\_\_\_ No X

(d) If you did not appeal when you lost on any petition, application, or motion, explain briefly why you did not appeal:

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14. If you did not raise the grounds you raised here in your original prosecution and on your appeal from that prosecution, explain why your claim in this case has not been waived for failure to raise it on appeal. If the claim was raised, explain why your claim is not previously determined.

*Defendant was represented by Attorney before Trial & during Trial, The Attorney Did not take proper action to preserve these issues for proper review on appeal*

15. If you have previously filed a petition, application, or motion with respect to the judgment(s) in any court, explain why your claim in this case has not been waived for failure to raise it in that prior proceeding. If the claim was raised, explain why your claim is not previously determined.

*This issue were not properly preserved pre-trial or during trial*

16. Specify every ground on which you claim that you are being held unlawfully, by placing a check mark on the appropriate line(s) below and providing the required information or by attaching separate pages.

INCLUDE ALL FACTS WHICH SUPPORT THE GROUNDS YOU CLAIM.

### GROUND(S) OF PETITION

Listed below are possible grounds for relief. Consider the ground(s) that apply in your case, and follow the instruction under the ground(s):

\_\_\_\_ (1) Conviction was based on unlawfully induced guilty plea or guilty plea involuntarily entered without understanding of the nature and consequences of the plea.

\_\_\_\_ (2) Conviction was based on use of coerced confession.

\_\_\_\_ (3) Conviction was based on use of evidence gained pursuant to an unconstitutional search and seizure.

\_\_\_\_ (4) Conviction was based on use of evidence obtained pursuant to an unlawful arrest.

- (5) Conviction was based on a violation of the privilege against self incrimination.
- (6) Conviction was based on the unconstitutional failure of the prosecution to disclose to defendant evidence favorable to defendant.
- (7) Conviction was based on a violation of the protection against double jeopardy.
- (8) Conviction was based on action of a grand or petit jury that was unconstitutionally selected and impaneled.
- (9) Denial of effective assistance of counsel.
- (10) Newly discovered evidence.
- (11) Illegal evidence.
- (12) Other grounds.

THE LIST ABOVE DOES NOT INCLUDE A COMPLETE LIST OF ALL CONSTITUTIONAL VIOLATIONS. YOU MAY ADD ANY OTHERS YOU DEEM APPROPRIATE. ATTACH A SEPARATE SHEET OF PAPER LISTING EACH CONSTITUTIONAL VIOLATION THAT YOU CLAIM, WHETHER OR NOT IT IS LISTED ABOVE. UNDER EACH CLAIMED VIOLATION YOU CLAIM, LIST EACH AND EVERY FACT YOU FEEL SUPPORTS THIS GROUND. EXPLAIN IN DETAIL HOW YOU ARE PREJUDICED BY THE VIOLATION AND WHY YOU ARE ENTITLED TO RELIEF. BE SPECIFIC.

IMPORTANT NOTICE REGARDING ADDITIONAL PETITIONS: TENN. CODE ANN. § 40-30-202(c) LIMITS YOU TO ONLY ONE PETITION. TENN. CODE ANN. § 40-30-202(c) PROVIDES:

This chapter contemplates the filing of only one (1) petition for post-conviction relief. In no event may more than one (1) petition for post-conviction relief be filed attacking a single judgment. If a prior petition has been filed which was resolved on the merits by a court of competent jurisdiction, any second or subsequent petition shall be summarily dismissed.

17. Do you have any petition or appeal now pending in any court, either state or federal, as to the judgment under attack?

Yes  No

18. Give the name and address, if known, of each attorney who represented you at the following stages of the case that resulted in the judgment under attack:

(a) At preliminary hearing None

(b) At arraignment and plea Public Defender Robert Felkner  
201 Poplar Ave Memphis TN 38103

(c) At trial Claiborne Ferguson 294 Washington Ave  
Memphis, TN 38103

(d) At sentencing Pro-se

(e) On appeal Pro-se

(f) In any post-conviction proceeding \_\_\_\_\_

(g) On appeal from adverse ruling in a post-conviction proceeding \_\_\_\_\_

19. Are you currently represented by counsel?

Yes \_\_\_\_\_ No X

(a) If Yes, give name and address, if known, of the attorney representing you.

(b) If No, do you wish to have an attorney appointed?

Yes \_\_\_\_\_ No X

(c) Has any attorney assisted in drafting or given advice regarding this petition for post-conviction relief?

Yes \_\_\_\_\_ No X

If Yes, give name and address of attorney(s).

20. In the judgment you are attacking, were you sentenced on more than one count of an indictment, or on more than one indictment, in the same court and at the same time?

Yes X No \_\_\_\_\_

21. Do you have any future sentence to serve after you complete the sentence imposed by the judgment under attack?

Yes \_\_\_\_\_ No X

(a) If so, give name and location of court which imposed sentence to be served in the future:

(b) And give date and length of sentence to be served in the future:

(c) Have you filed, or do you contemplate filing, any petition attacking the judgment which imposed the sentence to be served in the future?

Yes \_\_\_\_\_ No \_\_\_\_\_

22. What date is this petition being given to prison authorities for mailing? \_\_\_\_\_

Wherefore, petitioner prays that the court grant petitioner relief to which petitioner may be entitled in this proceeding.

**PETITIONER'S VERIFICATION UNDER OATH  
SUBJECT TO PENALTY FOR PERJURY**

I swear (or affirm) under penalty of perjury that the foregoing is true and correct. Executed on

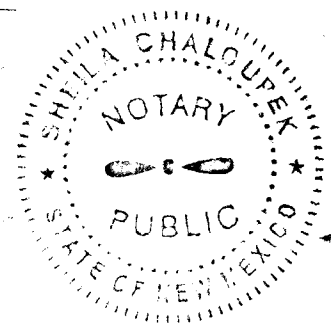
1-2-20  
(Date)

Jason White  
Signature of Petitioner

SWORN TO AND SUBSCRIBED before me this the 2nd day of January, 2020.

Shella Chaloupek  
Notary Public

My commission expires: 05/18/2023





### **Statement of the Case**

Jason White was taken to trial and convicted on July 14, 2017 in the Shelby County Criminal Court Division III on charges of Conspiracy: Unlawful Possession of a Controlled Substance with Intent to Sell/Deliver, to wit; Methamphetamine over Three Hundred Grams in a Drug Free Zone on Count 1 (App. Vol. 2 P. 46-47) and Count 2 (App. Vol. 2, P. 48-49). On October 11, 2017 Judge Robert Carter, Jr. sentenced Mr. White to 60 years in the Tennessee Department of Corrections.

### **Statement of the Facts**

At trial, the State alleged that Mr. White conspired with co-defendants Kristina Cole and Montez Mullins in having a package containing methamphetamine over 300 grams sent through Fed Ex tracking # 8088570733748 by an unidentified person in Visalia, California.

According to the State the package was address to Bailey Green at 2552 Jenwood St., Bartlett TN, 38134. The State's key witness Detective Mark Gaia testified that upon a controlled delivery of the package containing methamphetamine by the Bartlett Police Department. Detective Mark Gaia testified that Ms. Cole tracked the package, then sent Mr. White three text messages in reference to the package being delivered on a contra-band cell phone at Riverbend Maximum Security Prison where Mr. White was housed. Detective Mark Gaia further testified that during the search of Ms. Cole's residence a picture of Mr. White was found on Ms. Cole's bedside table along with numerous letter from Mr. White. Detective Mark Gaia further testified that Mr. White's brother Dustin White and fiancé Jazzavor McEntrye pulled up at the residence and that according to Detective Mark Gaia's testimony a 615 number was calling Dustin White's phone, being the same number that was calling Ms. Cole phone. The State did not introduce testimony from Dustin White or Jazzavor McEntrye but introduced into evidence a small bag of marijuana seized from Dustin White according to Detective Mark Gaia's testimony. The State alleged that in Mr. White's brother, Dustin White showing up at the residence with the same 615 number on his phone as the same number calling Ms. Cole phone. The State alleged that Ms. Cole called Mr. White's mother Kimberly White after being arrested and while she was in jail. Detective Mark Gaia testified that his investigation showed the number

Ms. Cole called was listed to Kimberly White. These allegations made by the State were made through the testimony of the State's key witness lead Detective Mark Gaia.

The Petitioner, Jason White was indicted on April 21, 2016. A Capias was issued on him by the said Clerk Richard L Desaussare III stating he witnessed a True Bill of Indictment against Jason White for Two Counts of Conspiracy-Promote Manuf Methamphetamine T.C.A. 39-17-433 (See attached Capias, this was not part of the record). Jason White was brought before the court, two months later on June 2, 2016. Upon arrival at the Shelby County Jail, Mr. White was taken directly into the courtroom without being served with any information or without being advised of his rights. Mr. White was presented in front of Judge Robert "Bobby" Carter, Jr. who appointed the public Defender Robert Felkner on the spot to assist in Mr. White's arraignment. Mr. Felkner proceeded to waive the formal reading of the Indictment and entered a plea of not guilty, prior to speaking with Mr. White about his charges (See attached Arraignment Transcripts). Mr. White was booked into the Shelby County Jail on charges of Conspiracy-Promote Manuf Methamphetamine T.C.A. 39-17-433 (See attached Booking Sheet, this was not part of the record).

On February 9, 2017 a Motion to Suppress was filed by Co-Defendant Cole's attorney Michael Scholls to challenge the evidence obtained that was found during the 4<sup>th</sup> Amendment violation. Claiborne Ferguson did not have Mr. White brought from the prison to be a part of this Motion to Suppress hearing, where Mr. White could have challenged evidence against him through this 4<sup>th</sup> Amendment violation (See Suppression Hearing Transcript).

On February 21, 2017 the first trial date set, Mr. Ferguson had put in a transfer order for Montez Mullins to be brought from North East Correctional Prison as a witness for defense (See Transfer Order, this was not made part of the record). Once the State became aware of Mr. Mullins, the State asked for a continuance. Detective Robert Christian was sent by the State to take a statement from Mr. Mullins. In the statement Mr. Mullins took full responsibility of arraigning to have a package of methamphetamine to Ms. Cole residence. According to Mr. Mullins statement he told Ms. Cole the package would contain jewelry for his mother. Mr. Mullins stated that Mr. White had no knowledge of the package and nothing to do with this

arrangement. The State proceeded to make Mr. Mullins a Co-defendant by re-indicting the first Indictment # 16-02794 to Indictment # 17-01568 only to add Mr. Mullins to the Indictment (See attached Indictment # 16-02794 and Indictment # 17-01568 (See attached Indictments). Mr. Mullins did not take the stand at trial because Mr. Ferguson and Co-Defendant Cole's attorney Ms. Simmons convinced him not to take the stand. The State presented testimony from Robert Christian on the statement he took from Mr. Mullins. The State played the Out of Court Statement from Mr. Mullins, then allowed Detective Christian to testify to his opinion that Mr. Mullins was not being truthful in his statement.

On July 10, 2017 Mr. White was brought from West Tennessee State Prison (WTSP) to court the morning for jury trial to begin. Prior to jury selection, Mr. Ferguson asked the courtroom Deputy to speak with Mr. White. The Deputy advised Mr. Ferguson there was no rooms available, but he could bring Mr. White into the courtroom. Mr. Ferguson told the Deputy he could speak with Mr. White in the hallway of the holding area, the Deputy pulled Mr. White into the hallway to speak with Mr. Ferguson. The deputy returned to the courtroom leaving the doorway cracked, but after a few minutes he opened the door checking on the attorneys and clients in the holding area. Mr. Ferguson and Mr. White were still engaged in conversation, so the Deputy stepped back into the courtroom. A couple minutes later Mr. Ferguson was heard yelling "Jason get your hands off me", "he choked me that's a felony". Mr. Ferguson stepped back into the courtroom and the Deputy proceeded to question Mr. White on what had happened. Mr. White explained to the Deputy that he had informed Mr. Ferguson that his family was going to sue him. The Deputy advised that he had observed Mr. Ferguson in courtroom after the incident that he didn't believe Mr. Ferguson had been a victim of assault (See attached Incident Report, this was not made a part of the record).

Once trial began Mr. White tired numerous times to talk with Mr. Ferguson, Mr. White was seated several feet behind Mr. Ferguson in the courtroom. This making communication between Mr. Ferguson and Mr. White difficult during trial. Mr. White stepped behind Mr. Ferguson asking him to lodge an objection, Mr. Ferguson advised Mr. White that if he did not sit down he would have him removed from the courtroom. On July 11, 2016 when Mr. White

was brought into the courtroom he addressed the trial court stating he requested a “Motion to Severance” due to Ms. Cole’s attorney playing the blame game in her opening statement. Later in asking for a Motion to be filed due to the authentication on the fact that during trial Detective Mark Gaia testified to text messages and his opinion belief that Mr. White was on the receiving end of the text messages sent to the # 615. Detective Mark Gaia had no personal knowledge to authenticate, even after Mr. White stood up and objected. Mr. Ferguson failed to communicate with Mr. White or take any actions after Mr. White addressed his concerns.

During the trial process the State presented Internal Affairs Officer from Riverbend Maximum Security Prison Andrew Brown. I.A. Brown testified that on February 3, 2016, the same day the search warrant was executed at 2552 Jenwood St., Bartlett, TN 38134 he was contacted by Detective Mark Gaia advising him of the incident with Ms. Cole and requested that inmate Jason White’s cell be searched. I.A. Brown testified that after Detective Gaia advised him of the situation within 30 minutes a team at the prison went to Mr. White’s cell, that before entering the cell he observed Mr. White flushing a cell phone down the toilet, but was unable to retrieve the cell phone charger, but no evidence was introduced during trial. The state alleged Mr. White was in possession of a contra band cell phone, the same number the text messages were sent to Mr. White by Ms. Cole’s cell phone to a 615 #. When the 901-208-9195 phone bill will relate the 615# was still in use on February 3, 4 and 11, 2016 this document was not made apart of the record (See attached phone bill). The State further questioned I.A. Brown on his opinion of what an inmate would need access to Green Dot, and Pay-Pal cards within the prison system. No further testimony or evidence was introduced to collaborate I.A. Brown’s testimony.

The Petitioner, Mr. White comes before this court to present facts that Mr. White is innocent of the alleged charges by the State. On September 23, 2016 Mr. White’s family hired attorney Claiborne Ferguson, who signed onto the case for the charge of Conspiracy-Promote Manuf Methamphetamine T.C.A. 39-17-433 (See attached Contract). On September 23, 2016, Mr. Ferguson filed numerous Motions for Mr. White, then Mr. Ferguson withdrew these Motions without giving Mr. White any explanation of why these Motions would not be heard. At this point Mr. White started filing complaints against Claiborne Ferguson with the Board of

Professional Responsibility (See attached letters, which was not a part of the record). The numerous letters written to the Board of Professional Responsibility during the pre-trial process was in hopes that Mr. Ferguson would proceed in taking proper actions in preparing a defense for Mr. White by investigating and attacking the State's alleged case on every point.

According to misleading facts presented by the State in testimonies, and in evidence the Fed Ex package containing methamphetamine was never sent from an unidentified person, but was sent by Detective Adam Collins in Visalia, California through UPS tracking # J451-270-4671 to Bartlett Police Department Detective Mark Gaia in care of the Bartlett Police Department. Detective Mark Gaia took the Fed Ex package out of the UPS box, the address on the Fed Ex package containing methamphetamine was to Bailey Green 2552 Linwood St. Bartlett, TN 38134. Detective Gaia testified that upon receiving the package containing the methamphetamine, he found no address existed being 2552 Linwood St. Bartlett, TN 38134, however; there was a 2552 Jenwood St., Bartlett, TN 38134. In obtaining a sworn Affidavit (See attached Affidavit, this was not made part of the record) Detective Mark Gaia stated the delivery address was 2552 Jenwood St., Bartlett, TN 38134, never mentioning the fact that the Fed Ex shipping label showed the package containing methamphetamine was address to be 2552 Linwood St. Bartlett, TN 38134. During trial Detective Mark Gaia testified upon receiving the package containing methamphetamine through UPS tracking #J451-270-4671 he contacted Detective Adam Collins in Visalia, California who looked at the hand written shipping label and stated the address was 2552 Jenwood St., Bartlett, TN 38134 that the Fed Ex employee had entered the address incorrectly. The State introduced the handwritten shipping label and shipping bill as evidence during trial that clearly reads 2552 Linwood St., Bartlett, TN 38134 (See App. Vol. 3 Ex. 8 and App. Vol. 3 Ex. 5). Detective Adams Collins was not presented during trial to testify or for cross examination.

During a controlled delivery the package containing methamphetamine was placed on Ms. Cole porch, Detective Mark Gaia executed the search warrant once Ms. Cole was observed taking the package inside her residence. Upon entering the residence the package containing methamphetamine was sitting inside the door unopened. Detective Mark Gaia testified that Ms.

Cole agreed to the search of her computer, then testified that Ms. Cole was tracking the package containing methamphetamine by Fed Ex # 8088570733748. The State introduced photos of a computer browser history showing the website address, omitting the screen portion showing the time the photos were accessed (See App. Vol. 2 Ex. 13). Detective Mark Gaia testified that Ms. Cole's phone was repeatedly ringing with a 615# during the search displaying "Boo other line" on cell phone screen.

Further testifying that two people showed up, identified as Dustin White, along with his fiancé Jazzavor McEntyre. According to testimony of Detective Mark Gaia, Dustin White's phone was repeatedly ringing with the same 615 # that was calling Ms. Cole and the screen displayed "J". Dustin White nor Jazzavor McEntyre was arrested or called by the State as witnesses. No cell phone was introduced as evidence from Dustin White. Jazzavor McEntyre did provide an Affidavit to Claiborne Ferguson stating Detective Mark Gaia made false statements in reference to their arrival. Jazzavor McEntyre told Mr. Ferguson she was willing to testify (see attached Affidavit, this was not made part of the record at trial). Claiborne Ferguson failed to interview or call Jazzavor McEntyre as a witness nor did Mr. Ferguson call Dustin White as a witness as expressed to Mr. Ferguson.

During trial Detective Mark Gaia testified that Ms. Cole had sent Mr. White three text Messages after the package containing methamphetamine was placed on your front door and took the package inside. On cross examination Detective Mark Gaia was forced to admit he had sent the third text message from Ms. Cole's cell phone. In discovering the fact that Detective Mark Gaia had used Ms. Cole's cell phone to send a text message pertaining to the package containing methamphetamine, Detective Mark Gaia was asked if there was anything else that needed to be clarified for the jury in reference to the text messages introduced as evidence against Mr. White. Detective Mark Gaia answered "No". "No not to my knowledge". When in fact Ms. Cole was booked into the jail at 15:30 hr. according to her booking sheet, the State introduced the first text message being sent at 15:38 (See App. 3 Vol. 3 Ex. 31) after Ms. Cole was booked into jail (See attached Booking Sheet, this was not made part of the record). On February 4, 2016 the day after the text messages were sent from Ms. Cole's cell phone Detective Mark Gaia obtained an Affidavit for a search on the same cell phone and two additional cell

phones (See attached Affidavit, this was not made a part of the record).

Detective Mark Gaia testified that during the search of Ms. Cole's residence, a photo was found on her bedside table that Ms. Cole identified as Timothy Smith. Detective Mark Gaia used this photo to identify Mr. White, and began targeting Mr. White in his investigation. Ms. Cole did not testify. Detective Mark Gaia testified that during his investigation in this case Ms. Cole made calls from the Shelby County Jail to a 901-208-9195 number and that this number was shown to be listed to Mr. White's mother, Kimberly White. Detective Mark Gaia further testified Ms. Cole was speaking to an individual name Timothy or Timmy, according to Detective Mark Gaia this was the same individual Ms. Cole identified in the photo during the search of her residence to be Mr. White. Detective Mark Gaia was not truthful in his investigation, the 901-208-9195 was not listed to Kimberly White, but was listed to Mike Underwood (See attached phone bill, this was not made part of the record).

Mr. White clearly points out the fact that Lead Detective Mark Gaia was the only witness for the State that could testify to the evidence pertaining to the origination of the Fed Ex package containing methamphetamine from Visalia, California through UPS tracking # J451-270-4671 to himself at the Bartlett Police Department, who then placed the package containing methamphetamine at the wrong address, in breaking the chain of custody of the package and not having anyone sign for the package. Once the package was in the residence of 2552 Jenwood St., Detective Gaia proceeded to execute a search warrant, then planted text messages in Ms. Cole's cell phone after she was booked into jail. Detective Mark Gaia was the only State witness to testify to evidence that Ms. Cole tracked the Fed Ex package containing methamphetamine by introducing a photo of a computer screen with no dates or access information. Detective Mark Gaia failed to disclose facts that the package was not delivered by Fed Ex, but by UPS # J451-270-4671, then lied in a sworn affidavit as to the delivery address in order to have over 300 hundred grams of methamphetamine delivered to 2552 Jenwood St., St Bartlett, TN 38134. During the search of the residence Detective Mark Gaia discovered the photo of Mr. White along with letters from Riverbend Maximum Security Prison, making him the main target of his investigation.

**Argument:**

Jason White states he is innocent. No crime was committed through Fed Ex by an unknown suspect, but by unidentified Detective Adam Collins through UPS. Detective Adam Collins alleged he seized a package containing methamphetamine from Fed Ex in Visalia, California only to reship the package containing methamphetamine from himself to Detective Mark Gaia in Bartlett, Tennessee. Detective Mark Gaia then lied in a sworn Affidavit to take the package containing methamphetamine to the wrong address of 2552 Jenwood St. Then planted evidence to further establish a conspiracy, when Detective Mark Gaia was the only person called to testify to evidence that was created by his hands. Mr. White's due process under the 14<sup>th</sup> Amendment and in Mr. Ferguson failure to take any actions prior to trial or during trial denied Mr. White effective assistance of counsel. That under the Post -Conviction Procedure Act (PCPA) a petitioner is entitled to relief whenever his "conviction or sentences is void or voidable because of the abridgment of any right guaranteed by the Constitution of Tennessee or the Constitution of the United States" Tenn. Code Ann. 40-30-103. Mr. White is entitled to relief under the PCPA because his due process and counsel's failure to provide effective assistance of counsel in violation of Mr. White's 5th, 6th, and 14th Amendment right to the United States Constitution. Trial Counsel's accumulative errors are listed below as well as the Constitutional violations listed below.



**Appendix:**

- Attachment A: Grounds for Appeal to Appellate Court in Jackson, TN.** P. 19
- Attachment B: Grounds Raised on Appeal to the Supreme Court** P. 21
- Attachment C: Grounds for Petition (A-D) (D1 -D21); Conclusion, Certificate of Service** P. 22-36
- Attachment D: Contract with Ferguson; BOPR Letters; Incident Report** P. 38-60
- Attachment E: Capias; Mr. White's Booking Sheet; Pre-Sentence Report; Judgement Sheet; Shelby Co. Court Case Information 17-01568** P. 62-82
- Attachment F: Arraignment with Mr. Felkner; Order; Indictment 16-02794 and Indictment 17-01568** P. 84-101
- Attachment G: Pretrial Motions; Jazzavor McEntyre Affidavit; Mullins' Transfer Order** P. 103-149
- Attachment H: Text Messages; Ms. Cole's Booking Sheet ; Cell Phone Warrant; Search Warrant and Affidavit of Complaint** P. 151-160
- Attachment I: Handwritten Shipping Label; and Fed Ex Shipping Bill** P. 162-163
- Attachment J: Det. Adam Collins Statement; Phone Bill for 901-208-9195,** P. 165-202

**Attachment A: Grounds for Appeal to Appellate Court in Jackson, TN**

**10A). Grounds for Appeal to Appellate Court in Jackson, TN.**

1. Whether the trial court erred in allowing attorney Claiborne Ferguson to continue to represent Mr. White due to a clear conflict of interest acknowledged by the trial court?
2. Whether the trial court committed error in Sentencing the Appellate wrongfully to charges of Conspiracy-Unlawful Possession of a Controlled Substance with intent to Sell/Deliver, to wit; Methamphetamine over Three Hundred Grams in a Drug Free Zone on Count 1 and Count 2?
3. Whether the trial court erred in allowing speculative testimony from CO Andrew Brown on gang monikers that lead to opinion based testimony of gang issues and opinion based testimony on green dot and pay-pal cards?
4. Whether the trial court erred in allowing the jury to hear Detective Mark Gaia's testimony without issuing jury instructions on his credibility and evidence presented by lead Detective Mark Gaia?
5. Whether the trial court erred in allowing the State to play Co-Defendant Montez Mullins out of court confession through Detective Robert Christian?
6. Whether the trial court erred in allowing the State to introduce text messages from 2011-2015, such evidence was cumulative and had no relevance to the case?
7. Whether the evidence was sufficient to establish the elements of a conspiracy.
8. Whether it was prosecutorial misconduct for the State to introduce the marijuana in the box with the other evidence presented during trial?