

IN THE CRIMINAL COURT FOR THE THIRTIETH JUDICIAL DISTRICT

AT MEMPHIS TN.

DIVISION 3

JASON WHITE

CASE# 17-01568

PETITIONER

VS.

STATE OF TENNESSEE

PETITION FOR WRIT OF ERROR CORAM NOBIS

NOW COME'S PETITIONER JASON WHITE PROSE PURSUANT TO T.C.A 40-26-105 WITH THIS PETITION FOR WRIT OF ERROR CORAM NOBIS IS BEING FILED FOR GOOD CAUSE IN ORDER TO PROTECT THE INTEREST OF JUSTICE. THEREFORE AS STATED:

1].Newly available evidence that was unavailable to the Petitioner during trial that's material to the Petitioner actual innocence.

2].Kristina Cole, a co- defendant, now provides material impeaching evidence that was unavailable to him during trial that proves actual innocence in the form of an affidavit [see appenx A].

"SUMMARY OF FACTS AND NEWLY AVAILABLE EVIDENCE:"

Mr. White was convicted of State Charges base upon circumstantial evidence that was obtained at the residence of co- defendant Kristina Cole and testimony giving by lead detective Mark Gaia. Lead detective Mark Gaia testified that Ms. Cole had sent text message after the package of alleged meth was placed in Ms. Cole home, to whom, he believe was Petitioner White. This evidence of text messages was the heart of the State case against Petitioner, with

no eye witnesses to corroborated detective Mark Gaia testimony. When the facts would provide that detective Mark Gaia was forced to admit during trial that he had personally sent the third text message from Ms. Cole cellphone, but continued to deny sending the other two [2] text messages.

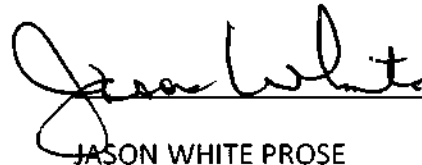
Ms. Cole now provides Petitioner White with material exculpatory evidence in the form of affidavit that was unavailable and could not had been obtain by Petitioner before or at trial due to Ms. Cole's co-defendant status, and Ms. Cole imminent and actual fear of being sent out of State during here incarceration like Petitioner in this matter. Ms. Cole was the only eye witness that could testify to what had occurred at her home during detective Mark Gaia search. Ms. Cole material exculpatory testimony would have proved Petitioner's actual innocence before a trier of fact and this will provide this Court by creating reasonable doubt in this matter

Ms. Cole now provided an affidavit [see appenx A] that she eye witness detective Mark Gaia using her cellphone and sending text messages during the search of her home and that she did not have possession of her cellphone to send text messages during the search after placing the package inside her home. This testimony could also be corroborated by Ms. Cole arrest ticketed that show she was already in custody at 15:30 [see appenx B, Ms. Cole arrest ticket]. When the State's evidence entered during trial of the text messages would show the first text message being sent at 15:38 second text message at 15:39 [see appenx C, Ms. Cole text history enter by the state at trial]. Ms. Cole e material exculpatory or impeaching testimony would also provide this Court with the only authenticate to whom detective Mark Gaia was sending these text message to from her cellphone at the time of her arrest, as stated in the affidavit being Montez Mullins whom also gave detective Robert Christian a statement providing the same information. Montez Mullins who testified at Petitioner White Post-Conviction to the same facts that would corroborate Ms. Cole testimony that he was on the receiving end of the text message from Ms. Cole cellphone and that Petitioner White had no knowledge of the package being sent to Ms. Cole home. Ms. Cole further states Petitioner White did not have any knowledge of this package being sent to her home by Montez Mullins who continues to take responsibility. If this Court cannot determine Ms. Cole affidavit stand alone as newly discovered evidence it would clearly demonstrate on the record that this newly evidence would clearly be impeaching evidence in order to attack the only evidence linking Petitioner to the crime. *When Detective mark Gaia was allow to testify during Trial in his opinion, and giving the facts that he did not enter into Ms. Cole home UNTIL 15:40 (see Appenx D, Trial Transcripts). When the documentary Evidence of Ms. Cole Arrest Ticket (Appenx B) would support Ms. Cole affidavit (Appenx A) to be truthful, that Detective MARK GAIA was being dishonest during Trial.*

Relief

Comes now Petitioner request that, this honorable Court set his conviction to the side and allows the Petitioner a new Trial or allows the Petitioner an evidentiary hearing to further establish his proof on the record in order to protect the interest of justice.

THIS 21 DAY OF June 2023



JASON WHITE PROSE

G.C.C.F.

P.O. BOX 520

SANTA ROSA N.M. 38435

CERTIFICATE OF SERVICE

I, JASON WHITE PETITIONER DO HEREBY CERTIFY THAT A TRUE AND CORRECT COPY OF THE ABOVE AND FORGOING WAS MAIL OR HAND DELIVERY TO YHE FOLLOWING:

SHELBY COUNTY DRISTRICK

ATTORNEY OFFICE

201 POPLAR AVE

MEMPHIS TN. 38103

APPENDIX

| | |
|---|-----------|
| A.) AFFIDAVIT FROM KRISTINA COLE..... | Pp. 5-6 |
| B.) KRISTINA COLE ARREST TICKET..... | Pp. 7-9 |
| C.) TEXT MESSAGES FROM COLE'S CELL PHONE..... | Pp. 10-11 |

15:38 pm; 15:39 pm; 16:27 pm

A.) AFFIDAVIT FROM KRISTINA COLE.....pp. 6

AFFIDAVIT

The State of Tennessee)
) S.S.
County of Madison)

I, Kristina Cole, of Jackson, in Madison, Tennessee, MAKE OATH AND SAY THAT:

1. I was advised not to testify in my case but am coming forward now because I would like to state a few facts I was unable to do so at trial in the case of the events which happened on February 3, 2016 after my arrest at my then home residence of 2552 Jenwood St., Bartlett TN, 38134. I did not speak before out of fear of retaliation because my co-defendant, Jason White, was shipped out of state and I worried that speaking out on my behalf would cause the same to happen to me.
2. I hereby certify I did not track the FedEx package that Detective Gaia placed on the porch of my residence of 2552 Jenwood St, Bartlett TN. 38134 on February 3, 2016.
3. I hereby certify I did not send text messages from my phone after I was arrested on February 3, 2016. I also attest to the fact that I witnessed Detective Gaia search through my phone, send texts from my phone, and answered my phone talking to the caller in an aggressive and jeering manner after I was arrested and handcuffed.
4. I hereby certify that the number 615-917-3749 on my phone that was the recipient of the texts sent on February 3, 2016 belonged to Montez Mullins. Montez Mullins gave a statement that the phone number was his and that he was the caller who spoke to Detective Gaia during the 3+ minute conversation after I was arrested and handcuffed.
5. I hereby certify that my co-defendant, Jason White, had no knowledge of Montez Mullins sending me said package, the nature of its contents or for whom it was intended.

STATE OF TENNESSEE

COUNTY OF MADISON

SUBSCRIBED AND SWORN TO BEFORE ME, on the 14th
day of June, 2023

Signature [Signature] (Seal)

NOTARY PUBLIC

My Commission expires: 6-25-2025

Kristina Cole

(Signature)

Kristina Cole

B.) KRISTINA COLE ARREST TICKET.....Pp. 8-9

SHELBY COUNTY SHERIFF'S OFFICE

| RECORD OF ARREST | | | | | | | | | | Sequence# | | Booking No. | | Arrest | | Transaction No. | | | | | |
|---|--|--|--|---|--|--------------------|--|--------|--|--|--|---|--|--|--|---|--|--|--|---------------------|--|
| Day | | Date | | Time | | Location of Arrest | | | | District | | <input checked="" type="checkbox"/> Adult | | <input type="checkbox"/> Remanded Juvenile | | <input type="checkbox"/> Juvenile | | | | | |
| 02/03/2016 | | 1530 | | 2552 Jenwood Street, Memphis, TN, 38134 | | | | | | | | Driver License No. & State | | 076399506 TN | | Home Phone | | | | | |
| Last Name | | First | | Middle | | Aliases - Nickname | | | | | | Arrest | | Where Employed & Phone | | | | | | | |
| Cole | | Kristina | | Yvette | | | | | | | | | | | | | | | | | |
| Date of Birth | | Age | | Sex | | Race | | Ethnic | | HT | | WT | | Hair | | Eyes | | Comp | | | |
| 11/05/1973 | | 43 | | F | | B | | | | 5'06" | | 180 | | Black | | Brown | | Medium | | | |
| Residence | | Street | | Apt# | | City | | State | | ZIP | | Residence of jurisdiction where offense occurred? | | <input checked="" type="checkbox"/> Yes | | Type of | | X On scene WITHOUT warrant or previous offense report | | | |
| 2552 Jenwood Street | | | | | | Memphis | | TN | | 38134 | | | | <input type="checkbox"/> No | | Arrest | | <input type="checkbox"/> WITH warrant or previously submitted report | | | |
| Arrestee armed with at time of arrest: (Check up to TWO and enter 'A' if fully automatic) | | | | | | | | | | Weapon Make & Model | | Weapon Serial No. | | Gang Affiliation | | Weapon Caliber | | | | | |
| <input type="checkbox"/> Handgun | | | | | | | | | | <input type="checkbox"/> Rifle | | <input type="checkbox"/> Lethal cutting instrument (Knife, switchblade, etc.) | | | | | | | | | |
| <input type="checkbox"/> Explosive | | | | | | | | | | <input type="checkbox"/> Shotgun | | <input type="checkbox"/> Club, Blackjack, brass knuckles | | | | | | | | | |
| <input type="checkbox"/> Fire/Incendiary device | | | | | | | | | | <input type="checkbox"/> Other Firearm | | | | | | | | | | | |
| Arrestee | | Year | | Make | | Model | | Color | | License & State | | VIN # | | Accident | | Disposition of Vehicle | | Bureau Held For | | | |
| | | | | | | | | | | | | | | <input type="checkbox"/> YES | | <input type="checkbox"/> NO | | | | | |
| Domestic Violence Only - Warrant signed by: | | | | | | | | | | Multiple Clearance Indicator | | Property Receipt No. | | | | | | | | | |
| <input type="checkbox"/> Officer | | | | | | | | | | <input type="checkbox"/> Victim | | <input type="checkbox"/> Both | | <input type="checkbox"/> Multiple | | <input type="checkbox"/> Court Arrestee | | | | | |
| Bureau Involved | | | | | | | | | | BPD Offense Report Number | | Sheriff's R&I No. | | State Control No. | | | | | | | |
| | | | | | | | | | | 1602020020BT | | | | | | | | | | | |
| X Complainant's Name | | <input type="checkbox"/> Victim's Name | | DOB | | Age | | Sex | | Race | | Residence Address | | Residence Phone | | Business Phone | | | | | |
| CITY OF BARTLETT | | | | | | | | | | | | 3730 APPLING RD | | | | 385-6886 | | | | | |
| Witness | | | | DOB | | Age | | Sex | | Race | | Residence Address | | Residence Phone | | Business Phone | | | | | |
| | | | | | | | | | | | | | | | | | | | | | |
| Charges and Court Action | | | | | | | | | | TIBRS Code | | DATE | | Hour | | Div. | | Disposition | | | |
| UPCS w/Intent to Sell (Methamphetamine) 39-17-434 | | | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | | | |
| Arresting Officer | | | | | | | | | | BMP # | | Arresting Officer | | BMP # | | Car # (s) | | Transported By Car #: | | | |
| M. Gaia | | | | | | | | | | MG360 | | M. Christian | | RC371 | | | | | | | |
| Investigating Officer | | | | | | | | | | BMP # | | CAR # | | Time | | S.A.C. Results | | Assigned | | Supervisor Approval | |
| M. Gaia | | | | | | | | | | MG360 | | | | | | | | | | | |
| Narrative: On February 02, 2016, detectives with the Bartlett Police Department Narcotics Unit received information from Detective Adam Collins with the Visalia Police Department in Visalia, CA. Det. Collins advised that a FedEx package# 808857073374 contained approximately one pound of methamphetamine and had a delivery destination of 2552 Jenwood Street, Memphis, TN, 38134. Det. Collins rerouted the package to the Bartlett Police Department for further investigation. On February 03, 2016, FedEx package# 808857073374 arrived at the Bartlett Police Department. The contents were examined and photographed. The suspected methamphetamine was tested and weighed. The methamphetamine weighed 480.6 grams tww and tested positive as such using a Marquis Reagent. Test# 902. A controlled delivery was orchestrated to deliver the package to its original destination of 2552 Jenwood Street, Memphis, TN, 38133. At approximately 1530 hours, detectives delivered FedEx package# 808857073374 to 2552 Jenwood Street. The package was placed at the front door. Detectives observed the above named defendant, Kristina Yvette Cole, exit the residence, collect the package, and walk back inside of 2552 Jenwood Street with the package. | | | | | | | | | | | | | | | | | | | | | |
| ***** SEE BACK***** | | | | | | | | | | | | | | | | | | | | | |

NARRATIVE CONTINUED:

Detectives executed a previously obtained search warrant for 2552 Lenwood Street. The defendant opened the front door to the residence and allowed detectives to enter. The FedEx package# 808857073374 was located just inside of the front door. Detective Gaia located a laptop computer in the downstairs office of the residence. A search of the browsing history revealed multiple searches for the FedEx package# 808857073374, indicating the defendant was checking the deliver status of the package in anticipation of its arrival. These events took place approximately 235 feet away from Raleigh-Bartlett Meadows Elementary School (5195 Twin Woods) making it a violation of the Drug Free School Zone Act. These events took place in Shelby County, TN.

C.) TEXT MESSAGES FROM COLE'S CELL PHONE.....Pp. 11

15:38 pm; 15:39 pm; 16:27 pm

| | | | | | | | | | |
|-----|--------------|---------------------|-----------------------------------|--------------|------|-------|-------|----------|---|
| 807 | +14234838995 | * Ted | 02/02/2016 15:15:32 (GMT-6) | +16787618001 | Read | Inbox | Phone | Incoming | Thanks |
| 808 | +14234838995 | * Ted | 02/02/2016 15:16:13 (GMT-6) | | Sent | Sent | Phone | Outgoing | You're welcome |
| 809 | 7314203393 | N/A | 02/02/2016 19:38:25 (GMT-6) | | Sent | Sent | Phone | Outgoing | https://m.youtube.com/watch?v=G-9NZdrEFc4# |
| 810 | 7314874294 | * Karlos | 02/02/2016 19:39:25 (GMT-6) | | Sent | Sent | Phone | Outgoing | https://m.youtube.com/watch?v=G-9NZdrEFc4# |
| 811 | 72881 | N/A | 03/02/2016 14:07:19 (GMT-6) | | Sent | Sent | Phone | Outgoing | bundle |
| 812 | 6159173749 | * Line Boo Other | 03/02/2016 15:38:45 (GMT-6) | | Sent | Sent | Phone | Outgoing | Package arrived |
| 813 | 6159173749 | * Line Boo Other | 03/02/2016 15:39:28 (GMT-6) | | Sent | Sent | Phone | Outgoing | They put the wrong street name. Lucky they knew what it was suppose to be |
| 814 | 6159173749 | * Line Boo Other | 03/02/2016 16:27:16 (GMT-6) | | Sent | Sent | Phone | Outgoing | What do you want me to do with it? |
| 815 | +17314874294 | * Karlos | 03/02/2016 18:34:31 (GMT-6) | +16787618001 | Read | Inbox | Phone | Incoming | Ok |

* Phonebook name lookup used to retrieve names