

22-5176

ORIGINAL

No. _____

Supreme Court, U.S.
FILED

MAY 05 2022

OFFICE OF THE CLERK

IN THE
SUPREME COURT OF THE UNITED STATES

John Thomas Vine II - PETITIONER
(Your Name)

vs.

Martin Frink RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI

United States Court of Appeals for the Sixth Circuit
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

John Thomas Vine II - 506356
(Your Name)

FTCC - 140 Macon Way
(Address)

Hartselle, TN 37074
(City, State, Zip Code)

(Phone Number)

RECEIVED

JUL 25 2022

OFFICE OF THE CLERK
SUPREME COURT, U.S.

**SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI**

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M 2012-02376-02376-CCA-R3-CD / Nov. - 2013 / Filed
8 November 2013 Session**

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Nashville Division, Case No. 3:21-vs-00260- October 5, 3032 Decided /
October 5, 2021 Filed / No. 2009-D-3169-11-8-13- Application /
22 May 2012**

**APPENDIX C – Opinion of State Supreme Court (Tennessee) upon consideration of the
Application for permission to appeal of John Thomas Vine II, and the record
before us, the application is DENIED: No. M2012-02376-SC-11-CO /
Application M 2012-02376-SC-R11-CD /18 Dec. 2014**

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18 Dec. 2014 / April 10, 2014 Filed ... Rehearing DENIED**

APPENDIX E

APPENDIX F

**SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI**

LIST OF PARTIES

All parties appear in the caption of the case on the cover page.

All parties do not appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

- * (Retired)Judge Seth Norman, IV Criminal Court, Nashville, Tennessee
- * Attorney Newton Holiday III, Defense Counsel
- * Michael M. Stahl, Senior Assistant Attorney General of Tennessee
- * Willis Jones, Defense Attorney
- * Martin Frink, Warden, Trousdale Turner Correctional Center, Hartsville, Tennessee

RELATED CASE(S)

Victor Turner, Petition – Appellant, V.
Margaret Bagley, Respondent – Appellee
United States Court of Appeals for the Sixth Circuit
401 F. 3d 718; 2005 U.S. App. Lexis 4549; 2005 FED
App. 0139P (6th Cir.)
05a0139 - P06 No. 03-3130
December 7, 2004
March 21, 2005, Decided
March 21, 2004, Filed

DEPOSITION

Decision of District Court: Reversed and Unconditional Writ of Habeas Corpus Granted

**SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI**

QUESTION (S) PRESENTED

- Why is the Petitioner's charge of Ineffective Counsel against Attorney Newton Holiday not being addressed by any of the (lower) courts?
- When will complete copies of the January 17, 2017 Hearing Transcripts be made available to the Petitioner? Hopefully, they will not be redacted or incomplete?
- When will the Court provide the Petitioner's request for copies of BellSouth Telephone Records for Friday, May 18, (6:00 pm – 9.00 pm), Saturday and Sunday May 19, 20, 2012, from (9:00 am – 9:00 pm)? And a copy of the January 17, 2017 Hearing Transcript?
- Why were the Petitioner's multiple letters, requesting copies of the January 17, 2017 Hearing Transcripts ignored?
- Is there a check and balance for situations such as this?
- How will the United States Supreme Court respond to the written comments submitted by Respondent, Senior Assistant Attorney General Michael M. Stahl, which is "... Specifically, Petitioner's (Vine) petition indicates that he had a post-conviction Hearing in 2017, see EFC No. page 105, however, No post-conviction record exist within the State Appellate Archives."

Please excuse the length of this question/statement by Senior Assistant Attorney General Michael M. Stahl, the petitioner felt that this statement is crucial to the Petitioner's argument.

The Petitioner holds that this requested information will validate that Attorney Newton Holiday perjured during his 'sworn' testimony on January 17, 2017.

**SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI**

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

- **28 U.S.C. S. § 2254**
- **28 U.S.C. § 2107 (a)**

**SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI**

STATEMENT OF THE CASE

Due to the fact that the Petitioner is ignorant of legal matters concerning the charges against him, The Petitioner hired an Attorney to represent him during this court case. The simple fact is that this Attorney, that was recommended, was ineffective in his representation of the Petitioner. And as such, the Petitioner felt that the lack of earnest professional efforts by this Attorney, contributed to the guilty verdict rendered against this Petitioner.

The Petitioner acknowledge that there were actions on my part that contributed to my incarceration, and I have accepted this fact. However, the level of representation provided by this attorney, was sub-standard.

Due to the fact that the Petitioner needed legal counseling, related to the charges against him, the Petitioner hired Attorney Newton Holiday to represent him during this court case. The simple fact is that this Attorney was ineffective in his representation of the Petitioner. And as such, *the Petitioner has charged Attorney Newton Holiday with “Ineffective Counsel”*. Also, during the Evidentiary Hearing held on January 17, 2017, **Attorney Holiday committed perjury during his sworn testimony to be truthful, related to his availability to the Petitioner.**

**SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI**

REASONS FOR GRANTING THE PETITION

PROCEDURAL POSTURE: The Petitioner, an inmate at Trousdale Turner Correctional Center, Hartsville, Tennessee, sought review of a judgment from the United States District Court for the Northern District of Ohio at Cincinnati, which denied this petition of Habeas Corpus under **28 U.S.C. S. § 2254** for lack of Exhaustion. Dismissal of a Habeas Corpus Petition on Exhaustion was improper because, at the time of the dismissal, the petitioner's direct appeal of his conviction had **languished for more than forty-three months in State-Court**, due to failures of state-appointed counsel and state court, and was only dismissed there on **failure to prosecute** ground.

OVERVIEW: The Petitioner argued that the exhaustion requirement of **28 U.S.C. S. § 2254(b)(7)(a)** should be excused due to the failure of his appointed attorney and the State Court to adjudicate his direct appeal, *after more than forty-three months of no activity*, following his conviction. *Respondent, State of Tennessee, argued that the habeas petition was properly dismissed because the petitioner's conviction was subsequently affirmed.*

In addition, the State contended that the inmate did not exhaust his state remedies because he failed to go to the Tennessee Supreme Court. *At the time of the district court's decision, the Petitioner's appeal had not been ruled on, but had simply been dismissed for failure to prosecute.* The later State Court's decision affirming the Petitioner's conviction was too late. According to the court, the exhaustion Clock stopped ticking in State Court, no later than when the direct appeal was dismissed for failure to prosecute, *because such failure could only be attributed to the appointed attorneys and the state.*

For purposes of exhaustion of state remedy by Habeas Corpus petitioners, failures of court-appointed Counsel and delays by the court must be attributed to the State. *That is, the ultimate responsibility for such circumstances as negligence or overcrowded courts must rest with the government ... rather than with the defendant.*

It should be noted that the petitioner received this court decision after forty-three months, and then only after the Petitioner sent a formal complaint to the State of Tennessee Board of Judicial Conduct, lodging a complaint against Judge Seth Norman, for not responding to the Petitioner's (3) requests for a copy of the January 17, 2017 Order. The complaint was sent to the Board on August 25, 2020 and the Petitioner received a copy of the Order from the Board dated August 31, 2020. The date shown on this Court Order was August 23, 2017. It is difficult to believe that this Order was filed on August 23, 2017.

The following comments from Mr. Stahl supports this assertion ... On June 24, 2021, the Respondent, Michael M. Stahl, Senior Assistant Attorney General of Tennessee, entered a Motion to dismiss Untimely Petition for Writ of Habeas Corpus. The Respondent wrote "In support of this Motion, Respondent relies upon the State-Court Record and the Contemporaneously Filed of law."

SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI

REASONS FOR GRANTING THE PETITION (cont.)

On June 28, 2021, Senior Assistant Attorney General Michael M. Stahl wrote the following, "The Petitioner (John Vine) indicates that he had a Post-Conviction Hearing in 2017, see ECF No.1D 5. However, no post-conviction appeal appears to have been taken, and therefore, no post-conviction record exist within the State Appellate Archives."

The fact is ... The Petitioner did attend a Post-Conviction Hearing on Monday, January 17, 2017 in Judge Seth Norman's Court. *However, the Petitioner supports Senior Assistant Attorney General Stahl's statement that "no post-conviction appeal exist within the Appellate Archives."* This statement supports the Petitioner's claim that *the January 17, 2017 Post-Conviction Hearing transcripts were not filed nor recorded in the Appellate Archives, for more than forty-three months.* It seems that the documents were located, on or about August 25, 2020, when the Board of Professional Judicial Conduct inquired about them, based on the Petitioner's inquiry.

CASE SUMMARY

The Respondent argues that "The Petitioner failed to timely file his petition because he states that he did not receive a copy of the Order denying his post-conviction appeal until August 31, 2020, three years and seven months after the January 17, 2017 Hearing; and also because he "had no legal assistance on this matter" and was not aware of the one-year statute of limitations or any related Statutes of Limitations"

Due to the fact that the Petitioner is ignorant of legal matters concerning the charges against him, the Petitioner hired Attorney Newton Holiday to represent him during this court case. The simple fact is that *Attorney Holiday was ineffective in his representation of the Petitioner.* And as such, *the Petitioner has charged Attorney Newton Holiday with "Ineffective Counsel".* Also, during the Evidentiary Hearing held on January 17, 2017, Attorney Newton Holiday committed perjury during his sworn testimony to be truthful, related to his availability to the Petitioner.

**SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI**

REASONS FOR GRANTING THE PETITION (cont.)

For purposes of exhaustion of state remedy by habeas corpus petitioners, failures of court-appointed counsel and delays by the court are attributed to the State. That is, the ultimate responsibility for such circumstances as negligence or overcrowded courts must rest with the government rather than with the defendant.

Criminal Law & Procedure> Habeas Corpus > Exhaustion of Remedies > General Overview

A habeas petitioner who makes frequent but unavailing request to have his appeal processed in State Court is not required to take further futile steps in State Court in order to be heard in federal court, even if the State Court subsequently decides his appeal.

**Criminal Law & Procedure > Habeas Corpus > Cognizable Issues > General Overview
Constitutional > Bill of Rights > Fundamental Rights > Criminal Process > Due Process >
Assistance of Counsel > Ineffective Assistance**

A State Court's hearing of an appeal does not moot a habeas petition based on a claim denial of due process of the petitioner's right to appeal because it does not resolve the fundamental issue raised: Whether delay or ineffective assistance of counsel violated the Petitioner's right to an adequate and effective appeal.

The Respondent, Michael M. Stahl, Senior Assistant Attorney General, Office of the Attorney General of Tennessee, submitted a 'Motion For Extension of Time submitted, No. 3:21 – ev – 0026', that included the following statement ... *"Specifically, Petitioner's petition indicates that he had a Post-Conviction hearing in 2017, see ECF No.1, Page 105, however no post-conviction appeal appears to have been taken and, therefore, no post-conviction record exist within the State Appellate archives."*

Please note that the above "Official Statement" included in the 'Motion For Extension of Time To File Answer' appears to support the Petitioner's claim that "It is highly probable that the January 17, 2017 Hearing Transcripts were lost or simply misplaced. And after the Board of Judicial Responsibility contacted Judge Seth Norman's Office in August, 2020, regarding the Petitioner's complaint, they found that Judge Norman had retired in 2018. The Board of Judicial Responsibility was sent a copy of the January 17, 2017 Order during the week of August 25, 2020, and on August 31, 2020, Forty-three months after the September 17, 2017 Hearing, The Board of Judicial Responsibility forwarded a copy of the document to the Petitioner. It will be interesting to see how those involved in this conspiracy against the Petitioner will 'spin/explain' this statement, written and presented to the court by Respondent, Senior Assistant Attorney General of Tennessee Michael M. Stahl.

**SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI**

REASONS FOR GRANTING THE PETITION (cont.)

In that no action was taken to prove or disproved the Petitioner's charge of Ineffective Counsel against Attorney Holiday, it has become obvious to the Petitioner that favor and protection was being shown to Attorney Newton Holiday. The Petitioner holds that this requested information will validate the charge that Attorney Holiday committed Perjury During the January 17, 2017 Hearing.

PROCEDURAL POSTURE: Petitioner, an inmate, sought review of a judgment from the United States District Court of Appeals for the Sixth Circuit, at Cincinnati which denied his petition for habeas corpus under for lack of exhaustion **28 U.S.C. S. § 2254** Dismissal of a habeas corpus petition on exhaustion was improper because, at the time of the dismissal, the inmate's direct appeal of his conviction had languished for more than three years and seven months in state court due to failures of state-appointed counsel and state court, and was only dismissed there on failure to prosecute ground.

"It is therefore ordered that Vine show cause in writing not later than twenty-one days from the date of this Order why the appeal should not be dismissed for failure to comply with **28 U.S.C. § 2107 (a)** and Federal Rule of Appellate Procedure 4(a). Official Court of Appeals Caption for 21 – 6120.

OVERVIEW:

The Petitioner argued that the exhaustion requirement of 28 U.S.C.S. § 2254 (b)(7)(a) should be excused due to the failure of his appointed attorney and the State Courts to adjudicate his direct appeal for more than three years and seven months following his conviction. Respondent, State of Tennessee, argued that the habeas petition was properly dismissed because the inmate's conviction was subsequently affirmed.

In addition, the State contended that the inmate did not exhaust his state remedies because he failed to go to the Tennessee Supreme Court. On review, the Court concluded that dismissal was improper because the inmate's appeal in Tennessee State Courts years languished for forty-three months, with adjudication due to the fault of the State-appointed Counsel and the Court. At the time of the district court decision, the inmate's appeal had not been ruled on, but had simply been dismissed for failure to prosecute. The later State Court's decision affirming his conviction was too late. According to the Court, the exhaustion Clock stopped ticking in State Court no later than when the direct appeal was dismissed for failure to prosecute because such failure could be attributed to the appointed attorneys was dismissed for failure to prosecute because such failure could only be attributed to the appointed attorneys and the State.

The fact is that the attorney hired by the Petitioner was a disappointment. There was little preparation and consultation with me, prior to the beginning of my trial. Please note that these concerns were expressed to the attorney. This attorney, later, officially withdrew as my legal representative.

**SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI**

REASONS FOR GRANTING THE PETITION (cont.)

As a direct result of this attorney's ineptness in his lack of preparation and presentation, the Petitioner charged the Attorney with Ineffective Counsel. The Petitioner is prayerfully requesting that since the Denial and Dismissal of the aforementioned petition for Writ of Habeas Corpus, Doc. No. 1, was on untimely filing, and taking into consideration, *the forty-three months that the Petitioner's Court Order languished in the lower courts*, before the Order was sent to the petitioner, on August 31, 2020, that the *United States Supreme Court would reverse this decision and Grant this Petitioner an Unconditional Writ of Habeas Corpus.*

"Respondent hereby moves this count pursuant to Rules 5(b) and 8(a) of the Federal Rules Governing section 2254 cases, and Fed. R. Cir. P12 (b) (6), to dismiss the Petition for Writ of Habeas Corpus in the above referenced case on grounds that it was filed outside the one-year Statute of Limitations ... See statement below ...

"Specifically, Petitioner's petition indicates that he had a Post-Conviction Hearing in 2017, see ECF No. 1, page 105, however no Post-Conviction Hearing appears to have taken place , and, therefore, no post-conviction record exist within the State Appellate Archives."

*The Official Response From the Respondent,
Michael M. Stahl, Senior Assistant Attorney General,
Office of the Attorney General of Tennessee*

Therefore, dismissal of a Habeas Corpus Petition on Exhaustion was improper because, at the time of the dismissal, the Inmate's Direct Appeal of his conviction had languished for more than forty-three months in State of Tennessee Courts, due to the failures of State-Appointed Counsel and the State Courts. And was only dismissed there on failure to prosecute ground.

Respondent, Michael M. Stahl, Senior Assistant Attorney General, State of Tennessee, argued that "the Habeas Corpus Petition was properly dismissed because the inmate's conviction was subsequently affirmed. In addition, the State contended that the inmate did not exhaust his State remedies because he failed to go to the Tennessee Court."

The Petitioner is prayerfully requesting that the Denial and Dismissal of the aforementioned Petition for Writ of Habeas Corpus (Doc. No. 1) was based on 'untimely filing, and taking into consideration the forty-three months that this Order 'languished' in the lower courts, before the Order was sent to the Petitioner on August 31, 2020, that ...

"the United States Supreme Court would 'reverse' this decision and GRANT the Petitioner an Unconditional Writ of Habeas Corpus."

**SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI**

REASONS FOR GRANTING THE PETITION (cont.)

"A Habeas Petitioner who makes frequent but unavailing request to have his appeal processed in the State Court **is not** required to take further futile steps in State Court in order to be heard in Federal Court, even if the State Court subsequently denies his appeal. (Refer to Attachments 1,2,3,4,5)

Criminal Law > Procedure > Habeas Corpus > Cognizable Issues >
General Overview Constitutional Law > Bill of Rights >
Fundamental Rights > Criminal Process > Assistance of Counsel >
Criminal Law & Procedures > Habeas Corpus >
Cognizable Issues > Due Process > Ineffective Assistance

A State Court's hearing of an appeal does not moot a habeas corpus based on a claimed denial of due process of the petitioner's right to appeal because it does not resolve the fundamental issue raised: whether delay or ineffective assistance of Counsel violated the petitioner's right to an adequate and effective appeal.

In the United States District Court for the Middle District of Tennessee, Nashville Division ... Motion to Dismiss Untimely Petition for WRIT OF HABEAS CORPUS – No. 3:21-cv-00260
John Thomas Vine II - Petitioner / Raymond Byrd – Respondent

"Respondent hereby moves this court pursuant to Rules 5(b) and 8(a) of the Federal Rules Governing Section 2254 cases, and Fed. R. Civ. P. 12(b)(b) to dismiss the Petitioner for Writ of Habeas Corpus in the above referenced case **on grounds that it was filed outside the one-year statute of limitations**

Case(s) in other Court(s) that are directly related to this case ...

**Turner v. Bagley, 05a0139P.06-3130
U.S. Court of Appeal for the Sixth Circuit
Judgment entered on March 21, 2005**

**SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI**

REASONS FOR GRANTING THE PETITION (cont.)

Please note that the (above) "Official Statement" included in the 'Motion For Extension of time to File Answer' appears to support the Petitioner's claim that "it is highly probable that the January 17, 2017 Hearing Transcripts were lost or simply misplaced. And after the Board of Judicial Responsibility contacted Judge Seth Norman's Court in August, 2020, regarding the Petitioner's concern about the missing court order.

It is believed that the Petitioner's Post-Conviction order was not entered in 2017, but rather in August 2020, **Forty-three months after the 2017 Hearing**. The Petitioner believes that the comments from Senior Assistant Attorney General's comments clearly supports this notion ...

"Specifically, Petitioner's petition indicates that he had a Post-Conviction Hearing in 2017, see ECF No. 1, page 105 ... however no Post-Conviction Hearing appears to have taken place, and therefore, no post-conviction record exist within the State Appellate Archives."

*The Official Response From the Respondent,
Michael M. Stahl, Senior Assistant Attorney General,
Office of the Attorney General of Tennessee*

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully Submitted,



Date: July 15, 2022

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

John Thomas Vine II - PETITIONER
(Your Name)

VS.

Martin Frink - RESPONDENT(S)

PROOF OF SERVICE

I, John Thomas Vine II, do swear or declare that on this date,
July 15, 2022, as required by the Supreme Court Rule 29 I
have served the enclosed MOTION FOR LEAVE TO PROCEED IN FORMA
PAUPERIS and PETITION FOR A WRIT OF CERTIORARI on each party to the
above proceeding or that party's counsel, and on every other person required to be
served, by depositing an envelope containing the above documents in the United
States mail properly addressed to each of them and with first-class postage prepaid,
or by delivery to a third-party commercial carrier for delivery within 3 calendar
days.

The names and addresses of those served are as follows:

Michael M. Stahl
Senior Assistant Attorney General
P. O. Box 20201

I declare under penalty of perjury that the foregoing is true and correct.

Executed on July 15, 2022

John Thomas Vine II
(Signature)

① John Thomas Vine II - 506356

Trousdale Turner Correctional Center

140 Macon Way

Hartsville, TN 37074

2-14-2022

United States Court of Appeals

For the Sixth Circuit

100 East Fifth Street, Room 540

Potter Stewart U.S. Courthouse

Cincinnati, Ohio 45202-3988

Re: Case No. 21-6120, John Vine II v. Martha Frink

Originating Case No. 3:21-cv-00760

This missive is in response to the Order this Court issued on February 04, 2022, in this case. The following point of concern is, both the text and structure of Rule 4(a) and 28 U.S.C. 74101 provides that if a losing party wants more time to appeal, it must file a motion in the district court asking for more time. Vine did not file such a motion in the district court...

Vine's failure to file a timely notice of appeal deprives this court of jurisdiction.

However, the Petitioner submits that the court has shown bias against the Petitioner in favor of the court, in this manner... On February 7, 2017, the Petitioner brought charges of 'Ineffective Counsel'

against Attorney Newton Holiday, based on the Petitioner's assertion that Attorney Holiday committed perjury during his testimony given on January 17, 2017, at the Petitioner's Post-Conviction Relief Hearing (attachment 1).

Please Note that I did not receive any response from the Court on this matter.

This perjury charge against Attorney Newton Holiday was based on Attorney Holiday stating under oath that he "did not receive any calls from me," and that he "was waiting for my call." Attorney Holiday further stated, under sworn oath to tell the truth, that "his (cell) phone was available to receive calls on Friday evening, throughout Saturday, and Sunday, May 18, 19, 2017.

I requested, in writing, that Judge Seth Norman Order Copies of Attorney Holiday's and my home and cellular call records for the dates and times mentioned. Please note that Attorney Holiday was in Atlanta, Georgia during this period of time, using his cellular telephone. Again, I did not receive any response from Judge Norman's Court on this request.

D

Out of frustration and despair, On August 24, 2020, I wrote to the State of Tennessee Board of Judicial Conduct, lodging a Complaint against Judge Seth Norman. On August 31, 2020, I received a response from the Board, informing me that "Judge Norman is a retired judge as of 2018... We have enclosed your Post-Conviction Order that was entered in 2017."

The Post-Conviction Order is Date Stamped to have been entered on August 23, 2017. It is most probable that this date may not be accurate. The questions that I ask are:

- How accurate is the stamped date of August 23, 2017
- Why was there a long delay in providing a copy of this Order? (43 months)
- Is it possible that the August 23, 2017 date is false?
- If it is determined that the document date of filing is not an accurate date, how would this discovery have an impact on my case with the Federal Courts?

I understand the need for deadlines. My concern and Complaint is why am I being held to a standard that the Courts are not held to?

- Why did it take approximately forty-three months for me to receive a copy of the January 17, 2017 Order?

It is stated in the January 17, 2017 Order, page 4, that "the trial record reflects that Petitioner signed a Miranda Waiver." This statement is not correct. The Petitioner did not sign a Miranda Waiver, nor was this option presented to the Petitioner. Nor was this document offered in Court.

The Petitioner argues that Counsel was instructed by Petitioner to excuse four jurors who personally knew one of the State witnesses, Pastor Maxwell. Counsel failed to excuse these jurors, allowing them to be seated. Mr. Holiday testified at the January 17, 2017 hearing, ^{recollection} that he had no to four objections to the four jurors who stated that they knew ^{the} Pastor and regularly attended his church.

The statement by the Court was, "There is no reasonable grounds as to why an attorney would refuse to strike a juror at the reasonable request of any defendant." The Petitioner agrees with this statement by the Court. The Petitioner requested that these four jurors be excused. However, Attorney Holiday refused my request(s) and allowed these four jurors to be seated, against the wishes and objections of the Petitioner. Attorney Holiday stated to me "I know what I'm doing!"

D

Summary:

My prayer is that this Order, dated February 4, 2022
from the United States Court of Appeals for the
Sixth Circuit be reversed by the Circuit Judges and
the additional information, above, be reviewed and
considered.

John T. Vane

Attachments: 1, 2, 3, 4, 5

Copy:

Michael M. Stahl

Office of the Tennessee

Attorney and Reporter

P.O. Box 20207

Nashville, TN 37202

John T. Vines, II - 506356

TTCC

140 Macon Way
Hartsville, TN 37074

February 2, 2017

The Honorable Judge Seth Norman

Division IV

Criminal Court for Davidson County, Tennessee

Justice A. A. Birch Building

408 2nd Avenue North

Nashville, TN 37201

Dear Judge Norman:

During my Petition of Post-Conviction Relief hearing, on January 17, 2017, I brought charges of Ineffective Counsel against my former trial attorney, Newton Holiday.

While testifying on my defense, I stated that on Friday, May 18, 2012, Attorney Holiday presented me with a plea offer from ADA Sharon Reddick. He stated that I had to either accept or reject the plea offer immediately. I informed Mr. Holiday that I could not make an intelligent decision right then. I told him that I needed more information from him and then consult with my family.



→ Honorable Judge Seth Norman

February 2, 2017

Page 2

Attorney Holiday told me that he was going out of town and instructed me to call him around 6:00 pm on that Friday, and we would discuss the plea offer. This conversation was around 11:00 A.M. in a room off the Courtroom.

During the January 17, 2017 Post-Conviction Relief hearing, I stated, under oath, that I began calling Attorney Holiday at approximately 6:00 P.M. on Friday, May 18, 2012, as instructed by him. He did not answer and my call went to his 'voicemail,' where I left a message for him to call me back so that we can discuss the plea offer. After not receiving a call-back, I called approximately six (6) more times that Friday evening, to no avail. My calls went to his voice mail, each time I left a call-back message.

I continued calling Attorney Holiday throughout the day on Saturday and Sunday, May 19 and 20, 2012. By Saturday afternoon, his voice mail was full and I was not able to leave any messages. However, I continued to call.



→ Honorable Judge Seth Norman

February 2, 2017

Page 3

During the January 17, 2017 Post-Conviction Relief Hearing, Attorney Holiday stated under Oath that he "did not receive any calls from me" and that he "was waiting for my call." He also stated that his (cell) phone was available to receive calls on Friday, Saturday, and Sunday, May 18, 19, 20, 2012.

Sir, I believe that my telephone records and his telephone records will show that Attorney Holiday perjured himself and disrespected your Court by purposely lying under Oath.

I understand that today's Telephone Technology can isolate an individual Telephone number (Cellular and landline) that will show calls made and received, dating back to Friday, Saturday, and Sunday (from 6:00 P.M. Friday through 10:00 P.M. Sunday) May 18, 19, 20, 2012.

My home and Cellular numbers (in 2012) were 615-331-0312, home, and 615-319-4603 Cellular. Attorney Holiday's number (in 2012) was 615-400-6360 Cellular.

X I am formally requesting that the Court order copies of my home and Cellular numbers and copies of Attorney Holiday's Cellular records for these dates and times.

→ Honorable Judge Seth Norman

February 1, 2017

Page 4

I know that these telephone records will show that unanswered calls were made from my telephone to Attorney Holiday's (cellular) telephone. In essence, it will show that Attorney Holiday lied under oath in your Courtroom.

As a result of Attorney Holiday not making himself available to discuss with me the merits of accepting the plea offer, the decision by me to go to trial was an uninformed decision due to Attorney Holiday's failure to provide me with professional guidance. He never discussed with me the pros and cons of accepting or rejecting the plea offered on Friday, nor the sentence I would receive if I went to trial and found guilty. Since we did not talk from Friday afternoon until Monday morning, approximately fifteen minutes before the trial began.

I submit that Attorney Newton Holiday's unprofessional actions and outright perjury, will support my claim of 'Ineffective Counsel' during the plea offer and trial.

→ Honorable Judge Seth Norman

February 21, 2017

page 5

Sincerely,

J. L. T. Vine II

John T. Vine II

TDOC Inmate # 506356

XC: Willis Jones, Esq.

Tracie A. Walker, Durable Power-of-Attorney

John T. Vine II - 506356

TTCC

140 Macon Way
Hartsville, TN 37074

August 5, 2017

The Honorable Judge Seth Norman
Division II

Criminal Court for Davidson County, Tennessee
Justice A.A. Birch Building
408 2nd Avenue North
Nashville, TN 37201

Dear Judge Norman:

I write to you for several reasons. First, I write to find out if you received my February 2, 2017 letter I wrote to you. (See enclosed). A simple acknowledgement from your Clerk will suffice.

I also write to find out if the Court has issued a subpoena to AT&T and BellSouth Mobility (my carriers) to produce Telephone and Cellular records, dating back to Friday, Saturday and Sunday, (from 6:00pm Friday through 10:00pm Sunday) for the dates of May 18, 19, 20, 2012.

The Honorable Judge Seth Norman
August 5, 2017
Page two

As stated in my 2012 letter, my home number was 615-331-0312 and my Cellular number was 615-319-4603. Attorney Newton Holiday's Cellular number in 2012 was 615-400-6360. I am not sure of his Carrier.

Finally, I write to mention two other concerns brought up in my defense, in addition to Ineffective Counsel. These other concerns presented during my January 17, 2017 Post-Conviction Relief Hearing were 'Failure to read me my (federally mandated) Miranda Rights' before being interrogated by Metro Nashville Police Detectives, which was acknowledged during my May 21, 22, 2012 trial (acknowledged by Detective Sexton during her testimony)... And failure by Attorney Holiday to remove several jurors that I sternly requested to be removed.

Sir, I do not write to address when a decision on my hearing will be made, for I understand and respect the adage that "the wheels of justice turn slowly." I simply anxiously await this decision.

The Honorable Judge Seth Norman

August 5, 2017

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If possible, I am requesting a copy of my January 17, 2017 hearing transcripts, and if available, a copy of my (and Attorney Holiday's) May 18, 19, 20, 2012 home and cellular telephone calls.

If necessary, I give permission to share my phone records, for this time period with Attorney Holiday.

Also, at this time, is Attorney Willis Jones still available to me?

Thank you for whatever actions you take on my above mentioned reasons for writing you.

Sincerely,

Robert. Vine II
Robert. Vine II

X.C: Willis Jones, Attorney-at-Law

Tracie A. Walker-Durable Power-of-Attorney

Enclosure

John T. Vine #506356

TTCC

140 Macon Way
Hartsville, TN 37074

March 9, 2018

Mr. Howard Gentry Jr.
Criminal Court Clerk / Davidson County
Justice A.A. Birch Building
408 2nd Avenue North - Suite 2120
Nashville, TN 37201

Dear Mr. Gentry:

I had a Post-Conviction Relief hearing on January 17, 2017, in the Criminal Court Room of the Honorable Judge Seth Norman. At this hearing, I brought charges of Ineffective Counsel against my former Trial Attorney, Newton Holiday.

On February 5, 2017, I forwarded information to Judge Norman, that I felt would show that Attorney Holiday perjured himself during his sworn testimony during the January 17, 2017 hearing. (Please refer to attachment 2)

On August 5, 2017, I wrote, again, to Judge Norman to ask if he had received my February 5, 2017 Correspondence. I was concerned because I had not received an adjudication on my Post-Conviction hearing. (Please refer to attachment 2)

To date, I have not received any response from the Court. I was informed by the Inmate Law Clerks here at Trousdale

Mr. Howard Gentry Jr.

Criminal Court Clerk / Davidson County

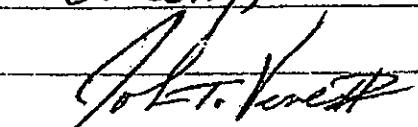
March 9, 2018

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Turner Correctional Center; that if I received no Relief on my Post-Conviction hearing, I had one-year to appeal this judgement to the Sixth Circuit Court of Appeals. And since it has been more than a year, I am anxious to know what the ruling is.

Would you please have your staff to investigate this situation, I look forward to hearing from your office.

Sincerely,



John T. Vines II- 506356

John T. Vine II -- 506356
TTCC
140 Macon Way
Hartsville, TN 37074

January 17, 2020

The Honorable Judge Seth Norman
Criminal Court for Davidson County, Tennessee
Division IV
Justice A.A. Birch Building
408 2nd Avenue North
Nashville, TN 37201

Dear Judge Norman:

On January 17, 2017, I had a Post-Conviction Hearing in your Court. During that Hearing, I brought charges of Ineffective Counsel against my former trial attorney, Newton Holiday. On February 2, 2017, and August 5, 2017, I wrote to you regarding Attorney Holiday committing perjury during the January 17, 2017 Hearing. (see attachments 1 and 2) On March 9, 2018, I also wrote to Howard Gentry, Criminal Court Clerk, regarding not hearing from your Court. (Attachment 3)

In the February 2, 2017 letter written to you, I requested that your court would order copies of both Attorney Holiday and my telephone records for 6:00 pm Friday, May 18, 2012 through 10 :00 pm, Sunday, May 20, 2012. I am certain that these records will absolutely prove that Attorney Holiday committed perjury during the January 17, 2017 Hearing.

These transcripts will show that Attorney Holiday stated that I did not try to call him during the times I mentioned, because he had his mobile telephone on during these times, and would have answered these call attempts. However, the telephone records will show that calls from me to Attorney holiday were made to him, but were not answered.

I had expressed to Attorney Holiday that I was concerned about the the possible negative outcome of the upcoming, May 21, 2012, trial because we had not discussed any defense strategies. He shared with me that he was going out of town and would be available, via his mobile telephone, to discuss my concerns. Both his telephone records and mine, will show that I made more than ten calls to Attorney Holiday during the dates and times mentioned, but none were answered.

These Hearing Transcripts will also show that Attorney Holiday declared that there were defense strategies he did not use on my behalf because he thought I was guilty of the charges against me. The transcripts will show that Attorney Holiday made these comments while testifying.

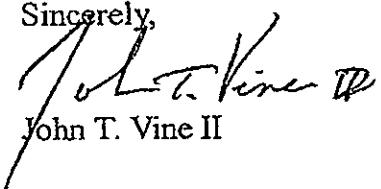
I also requested a copy of the transcripts from the January 17, 2017 Post-Conviction Hearing. To date, I have not received the requested Transcripts, nor any acknowledgment that this request was received.

I have not received a judgment from the January 17, 2017 Hearing. I am very anxious to receive this judgment, so that I can determine what my next steps will be in fighting for my freedom.

The Honorable Judge Seth Norman
Criminal Court for Davidson County, Tennessee
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I await your response to these concerns I mentioned.

Sincerely,

A handwritten signature in black ink, appearing to read "John T. Vine II".

John T. Vine II

Attachments 1,2,3