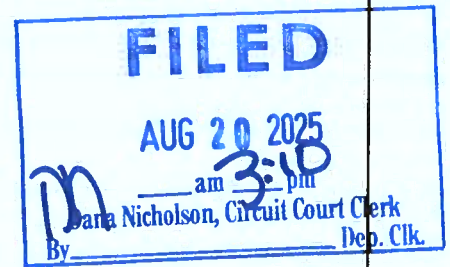


Matthew Amick – [Inmate #00643527]  
Whiteville Correctional Facility,  
P.O. Box 679,  
1440 Union Springs Rd,  
Whiteville, Tennessee [38075]



DEFENDANT'S AMENDED MOTION FOR NEW TRIAL

In re:

IN THE CIRCUIT COURT OF HICKMAN COUNTY  
AT CENTERVILLE, TENNESSEE

|                     |                                          |
|---------------------|------------------------------------------|
| STATE OF TENNESSEE  | ) NO. 21-5100-CR; 19-5081-CR; 19-5144-CR |
| Plaintiff           | ) 17-5274-CR                             |
|                     | )                                        |
| vs.                 | ) DEFENDANT'S AMENDED MOTION FOR         |
|                     | ) NEW TRIAL                              |
| Matthew Amick       | )                                        |
| Defendant/appellant | )                                        |

DEFENDANT'S AMENDED MOTION FOR A NEW TRIAL

COMES NOW the Defendant, Matthew Amick, by special appearance and not generally, and respectfully moves this Honorable Court pursuant to Tenn. R. Crim. P. 29, 33, 34, 35 or 36; Tenn. R. Crim. P. 37(b)(2); and submits this amended motion for new trial for the following Court Case Cause Numbers: 21-5100-CR; 19-5081-CR; 19-5144-CR; 17-5274-CR, and does so "pro se" as allowed by Anders v. California, 386 U.S. 738, 18 L.Ed.2d 493, 87 S.Ct. 1396 (1967); Jones v.

1 Barnes, 463 U.S. 745, at 754 (July 5, 1983); Pennsylvania v. Finley, 481 U.S. 551, at 554 (May  
2 18, 1987); Penson v. Ohio, 488 U.S. 75, 88, 109 S.Ct. 346, 102 L.Ed.2d 300 (1988); McCoy v.  
3 Court of Appeals of Wisconsin, 486 U.S. 429, at 439 (June 6, 1988), even though he is represented  
4 by Attorney Amanda J. Gentry, TSBA#32498, at the same time. This request is grounded in a  
5 series of constitutional, procedural, and evidentiary errors—many of which are structural or  
6 presumptively prejudicial in nature—that collectively rendered the trial fundamentally unfair and  
7 the resulting conviction legally unsound. In support of this motion, the Defendant states as follows:

## 8 9 I. STRUCTURAL AND PRESUMPTIVELY PREJUDICIAL ERRORS

### 10 Collapsed Adversarial System, Structural Breakdown, Pre-Indictment Through Trial

11  
12 The integrity of the adversarial process in this case was fundamentally compromised from the pre-  
13 indictment phase through the conclusion of trial. At every critical stage, the Defendant was  
14 deprived of the constitutional safeguards necessary to ensure a fair and reliable proceeding. From  
15 the outset, the State proceeded with an indictment procured through a grand jury led by a judicially  
16 appointed foreperson with a known relationship to the State's key witness, thereby tainting the  
17 neutrality of the charging process. At the same time, the Defendant was held on a no-bond *capias*  
18 and remained entirely without counsel for 631 days. During this prolonged and unlawful pretrial  
19 detention, the Defendant could neither contest the false and perjured testimony being developed  
20 against him, nor access evidence, subpoena witnesses, or make legal motions necessary to prepare  
21 a defense. Critical impeachment evidence was suppressed by means of a coordinated expungement  
22 bearing the signatures of the trial judge, the prosecuting officer, and defense counsel, further  
23 crippling the defense's ability to confront adverse witnesses. Trial proceedings then occurred  
24 following a jury waiver that was not knowing, voluntary, or intelligent, as it was based on coercion  
25 and misinformation while still under the strain of unlawful confinement. Together, these errors—  
26 each of which is substantial standing alone—formed a cumulative, systemic failure that rendered  
27 the entire process constitutionally infirm. The combined effect establishes not merely a flawed  
28 proceeding, but a collapsed adversarial structure in violation of the Sixth Amendment right to  
meaningful counsel and the Fifth and Fourteenth Amendment guarantees of due process. Gideon  
v. Wainwright, 372 U.S. 335 (1963) United States v. Cronin, 466 U.S. 648 (1984).

1  
2 **1. Ground 1: Ineffective Assistance of Counsel – Total Failure to Raise Any Available**  
3 **Objection to a Facially Invalid Especially Aggravated Kidnapping Charge**  
4

5 The Defendant, Matthew Amick, was charged with Especially Aggravated Kidnapping under  
6 Tenn. Code Ann. § 39-13-305(a), alleging the unlawful removal or confinement of his biological  
7 son. At all relevant times, the Defendant was the natural and lawful father of the alleged victim,  
8 and no custody order, court decree, or legal restriction existed limiting his custodial rights. This is  
9 critical because Tenn. Code Ann. § 39-13-301(8) defines 'unlawful' confinement as that which is  
10 accomplished by force, threat, or fraud, or is in violation of the law. Under Tennessee law, a parent  
11 cannot be criminally liable for kidnapping their own child absent a lawful restriction on their  
12 custodial rights. “[A]s the minor child’s father, the defendant is not subject to prosecution for  
13 especially aggravated kidnapping under Tennessee Code Annotated 39-13-305(a)(2) in the  
14 absence of an allegation that the minor child was removed or confined by force, threat or fraud”  
15 State v. Goodman, 90 S.W.3d 557 (Tenn. 2002); State v. Ward, No. E2011-02020-CCA-R3-CD,  
16 2014 Tenn. Crim. App. LEXIS 38 (Tenn. Crim. App. Jan. 17, 2014).

17  
18 Despite these well-established precedents, trial counsel failed to challenge the facial inapplicability  
19 of the kidnapping statute to this parent-child context and an indictment that did not allege any facts  
20 demonstrating the essential element of “unlawfulness”. An accused is constitutionally guaranteed  
21 the right to be informed of the nature and cause of the accusation. *U.S. Const. amend. VI, XIV*;  
22 *Tenn. Const. art. I, § 9*. This guarantee is implemented through both constitutional and statutory  
23 requirements for indictments. See Wyatt v. State, 24 S.W.3d 319, 324 (Tenn. 2000) “Our courts  
24 have interpreted this constitutional mandate to require an indictment to 1) provide notice to the  
25 accused of the offense charged; 2) provide the court with an adequate ground upon which a proper  
26 judgment may be entered; and 3) provide the defendant with protection against double jeopardy.”  
27 Additionally, under Tenn. Code Ann. § 40-13-202, the indictment must “state the facts constituting  
28 the offense in ordinary and concise language... in such a manner as to enable a person of common  
understanding to know what is intended.” Whether an indictment is valid is a question of law,  
reviewed de novo. State v. Hill, 954 S.W.2d 725, 727 (Tenn. 1997). The State alleged no facts that

1 could support a finding of unlawful confinement or removal by a legal parent, and the indictment  
2 failed to specify any aggravating conduct that would override the presumption of lawful parental  
3 authority. “Adequate notice of the nature of the charges is a constitutional requisite in any criminal  
4 prosecution.” State v. Byrd, 820 S.W.2d 739, 740 (Tenn.1991)

5  
6 Counsel’s failure to move for dismissal under these circumstances was objectively unreasonable.  
7 Defense counsel failed to use any of the many pretrial motions available — no motion to dismiss,  
8 no motion to quash, no request for a bill of particulars, and no objection to the indictment’s failure  
9 to specify a mode of “unlawful” removal or confinement, no demand for clarification of the legal  
10 theory and no objection raised to preserve the record. Because the indictment failed to allege an  
11 offense as a matter of law, and counsel failed to act where legal authority clearly supported a  
12 motion to dismiss, relief is warranted under Strickland v. Washington, 466 U.S. 668 (1984). See  
13 also Tenn. R. Crim. P. 12(b)(2)(B), which mandates that objections to defects in the indictment  
14 must be made prior to trial or be deemed waived. The prejudice is manifest: the charge formed the  
15 centerpiece of the State’s case and exposed the Defendant to an enhanced sentence, stigma,  
16 cumulative harm and altered the structure and outcome of the trial.

17  
18 This situation falls squarely within the framework of State v. Swindle, 30 S.W.3d 289 (Tenn.  
19 2000), where counsel’s failure to file a dispositive pretrial motion on venue was held to be  
20 ineffective assistance. In State v. Burns, 6 S.W.3d 453 (Tenn. 1999), the Court emphasized that  
21 prejudice may arise not only from the outcome, but also where the adversarial process is  
22 undermined. And in Powers v. State, No. M2005-02031-CCA-R3-PC (Tenn. Crim. App. 2007),  
23 relief was granted where counsel failed to challenge an unsupported indictment despite clear  
24 grounds to do so. Also See Ground 33 - IAC on the face of the record.

25  
26 The conviction is void as charged, and the Defendant’s Sixth Amendment rights were violated.

27  
28 **2. Ground 2: Failure to Prove Essential Elements — Especially Aggravated  
Kidnapping Conviction Void Under Tenn. Code Ann. § 39-13-305**

1 The conviction for Especially Aggravated Kidnapping under Tenn. Code Ann. § 39-13-305(a)  
2 must be vacated due to legal insufficiency of the evidence and a fatal variance between the  
3 indictment and the State's proof at trial. The State failed to prove, beyond a reasonable doubt, that  
4 the defendant's conduct constituted either, knowing unlawful, removal or confinement of his  
5 biological son as required under Tenn. Code Ann. § 39-13-301(8). Moreover, the State failed to  
6 specify in the indictment relied upon, any mode of 'unlawfulness'—whether by force, threat, fraud,  
7 or legal violation—and the child's age was the sole aggravator under Tenn. Code Ann. § 39-13-  
8 305(a)(2), but this element is legally irrelevant absent proof of a valid kidnapping under § 39-13-  
9 302, rendering the charge fatally deficient.

#### 11 The State's Proof was Legally and Factually Inadequate – Even If Believed

13 Even if the trial court credited the testimony of Rebecca Ashton Seaborn Amick, the mother, her  
14 testimony failed to establish any act of 'force,' 'threat,' or 'fraud' directed toward the child. Her  
15 allegations of emotional distress and claimed threats were not corroborated by the minor child,  
16 Seth Amick. Seth did not testify that his father physically restrained him or used any direct threat  
17 to confine him. Accordingly, even the State's strongest evidence failed to meet the statutory  
18 requirement of 'unlawfulness.' See Jackson v. Virginia, 443 U.S. 307 (1979); State v. Goodman,  
19 90 S.W.3d 557 (Tenn. 2002).

#### 21 State's Narrative was Internally Contradictory and Factually Implausible

23 Rebecca claimed that the defendant made homicidal threats and displayed violent conduct, while  
24 Seth's testimony omitted any confirmation of such threats. He reported trying to leave the house  
25 through a window, at times complying with his mother's directives and at times complying with  
26 his father's directives and ultimately left through the front door, but did not testify that he was  
27 physically prevented from doing so or threatened with harm. This internal contradiction in the  
28 State's case undermines the credibility of the alleged 'unlawfulness' and highlights the speculative  
nature of the State's proof.

1 The mother, Rebecca Ashton Seaborn Amick, testified that the child attempted to intervene in a  
2 heated and threatening dispute between the parents, implying that the situation created fear,  
3 danger, or potential harm on page 108 of Trial Transcripts, Volume I. However, when the child  
4 was directly asked by the prosecution:

5 Q: "Okay. At any point, did you try to get in the middle of it?"

6 A: "No, not really."

7 (*Trial Transcripts. Vol. I, p. 153*)  
8

9 Notably, the mother's initial forensic interview failed to allege any threats toward the child, while  
10 her trial testimony introduced such claims for the first time. This inconsistency raises serious  
11 doubts about the reliability of her allegations. Her credibility is independently raised and  
12 challenged in Grounds 23, 25. Exhibit B.  
13

14 When the defendant was physically assaulted by his ex-wife, who attempted to wrest his firearm  
15 from him, he lawfully discharged three warning shots into the floor to dissuade the attack. The  
16 later discharge into her phone was in response to an explicit threat to use fabricated evidence  
17 against him. At no time did he use the firearm in furtherance of removal or confinement, of his ex-  
18 wife or his son and it's use was in separate acts. Neither witness testified that the Defendant used  
19 a firearm to facilitate control over their liberty. These actions, now clarified through sworn  
20 affidavit, bear directly on the insufficiency of evidence to support the charge of Especially  
21 Aggravated Kidnapping and raise meritorious grounds for a new trial. The use of a weapon  
22 unrelated to removal or confinement itself does not meet the statutory aggravating element under  
23 Tenn. Code Ann. § 39-13-305(a)(1)–(5). State v. Wilkerson, 905 S.W.2d 933 (Tenn. 1995): Even  
24 "restraining conduct" must rise to a substantial interference to qualify as kidnapping, and  
25 reinforced in State v. Richardson, 251 S.W.3d 438 (Tenn. 2008), where the Court held that  
26 confinement must not be slight, brief, or incidental to an accompanying felony. See Ground 19.  
27

28 Fatal Variance between Indictment and Proof

1 The indictment failed to specify any mode of 'unlawfulness' as required by Tenn. Code Ann. § 39-  
2 13-301(8). The State did not amend the indictment nor file a bill of particulars. At trial, the  
3 prosecution relied on a general emotional narrative involving firearms and familial conflict, rather  
4 than proving any statutory mode of 'unlawful' confinement. This created a fatal variance between  
5 the indictment and the evidence adduced at trial. See State v. Burton, 751 S.W.2d 440 (Tenn. Crim.  
6 App. 1988); State v. Knowles, 470 S.W.3d 416 (Tenn. 2015)

#### 7 8 Failure to Prove Mens Rea Element: No Evidence Defendant Acted "Knowingly"

9  
10 The State failed to establish that the defendant acted with the mens rea required for conviction  
11 under Tenn. Code Ann. § 39-13-305(a). The expert testimony from Dr. Katie Spirko, a State  
12 licensed forensic and clinical neuropsychologist, concluded the defendant lacked the capacity to  
13 act 'knowingly,' due to a prior traumatic brain injury, major neurocognitive impairment, and  
14 improper medication. The State's rebuttal expert, Dr. Joe Mount did not personally test or diagnose  
15 the defendant and did not author the letter upon which he relied. This surrogate testimony  
16 introduced testimonial hearsay fully addressed in Ground 20. No findings were entered by the  
17 trial court regarding mental capacity, and no Rule 11(c) mandatory full competency hearing was  
18 held, which is fully addressed in Ground 12. As such, the mens rea element was not proven beyond  
19 a reasonable doubt. The court's rejection of the defense's qualified expert testimony, who  
20 conducted direct neuropsychological testing, was unsupported by any findings of fact and left the  
21 conviction resting on constitutionally defective evidence which deprived the defendant of a fair  
22 trial and is addressed in Ground 11 Judicial Bias.

#### 23 24 Lack of Trial Court Findings Impedes Appellate Review

25  
26 The trial court denied the Defendant's timely pro se request for findings of fact and conclusions of  
27 law requested within the Motion for Transcripts at Public Expense. This omission deprived the  
28 record of any articulated legal basis for the conviction and renders appellate review incomplete.  
Without such findings, the appellate court cannot infer that the statutory elements were properly  
considered and applied.

1  
2 Conclusion

3  
4 This case presents not merely evidentiary insufficiency but a structurally flawed conviction. The  
5 indictment failed to allege a statutory mode of 'unlawful' confinement, the proof at trial did not  
6 cure that defect, and the evidence failed to establish that the defendant acted knowingly. The trial  
7 court offered no findings of fact or conclusions of law to justify its rejection of the only valid  
8 clinical evidence on mens rea. Because the defendant acted within the scope of his lawful parental  
9 authority, and because no credible evidence of force, threat, or fraud was presented, the conviction  
10 for Especially Aggravated Kidnapping must be vacated.

11  
12 This failure of proof on essential elements — unlawful confinement and knowing intent — renders  
13 the conviction void. Under established Tennessee precedent, such defects are not subject to  
14 harmless error analysis but constitute structural error that undermines the foundation of the  
15 proceeding. See Archer v. State, 851 S.W.2d 157 (Tenn. 1993) a void conviction may be attacked  
16 at any time; State v. Edwards, 269 S.W.3d 915 (Tenn. 2008) due process requires legally sufficient  
17 evidence to sustain conviction; Johnson v. State, 370 S.W.3d 163 (Tenn. Crim. App. 2011)  
18 structural errors require automatic reversal; Swanson v. State, 749 S.W.2d 731 (Tenn. 1988);  
19 Spratt v. State, No. E2016-01279-CCA-R3-PC (Tenn. Crim. App. 2017); Manning v. State, No.  
20 M2016-01530-CCA-R3-PC (Tenn. Crim. App. 2017).

21  
22 Because the indictment was legally deficient, the proof failed to establish essential elements, and  
23 the court rejected unrebutted medical evidence without explanation, the conviction for Especially  
24 Aggravated Kidnapping must be vacated. The record cannot support a lawful or constitutionally  
25 valid conviction under either statutory or constitutional standards.

26  
27 This Ground maintains its independent basis for relief under *Jackson v. Virginia*, regardless of  
28 overlapping factual context discussed in Grounds 11, 12, 19, 22, 24 and 25. The State's failure to  
prove either “knowing” mens rea or the “unlawfulness” element renders the conviction legally  
unsustainable.

1  
2 **3. Ground 3: Involuntary Waiver of Jury Trial Due to Coercion and Pretrial Detention**  
3

4 Although a written jury trial waiver exists in the record, the record contains no valid colloquy  
5 reflecting a knowing, voluntary, and intelligent waiver of the Defendant's Sixth Amendment right  
6 to a trial by jury. The Defendant had been incarcerated without bond on non-capital charges for  
7 nearly three years. Under extreme duress and pressure, the Defendant was misled by counsel into  
8 believing that a jury trial would take an additional 2–5 years due to alleged COVID-related delays.  
9 This waiver was made while the Defendant was held without bond, under coercive conditions, and  
10 is constitutionally invalid. See State v. Downs, 660 S.W.2d 379 (Tenn. Crim. App. 1983); Boykin  
11 v. Alabama, 395 U.S. 238 (1969) demands more than a signature — it requires that the court  
12 affirmatively ensure understanding. Brady v. United States, 397 U.S. 742 (1970), and State v.  
13 Bobo, 814 S.W.2d 353 (Tenn. 1991). Johnson v. Zerbst, 304 U.S. 458 (1938) requires intelligent  
14 relinquishment. United States v. Caston, 615 F.2d 1111, 1115 (5th Cir.), Cert. denied, 449 U.S.  
15 831, 66 L.Ed.2d 36, 101 S.Ct. 99 (1980); U.S. v. Conforte, 457 F.Supp. 641, 660-61 (D.Nev.  
16 1978); aff'd 624 F.2d 869 (9th Cir.), cert. denied, 449 U.S. 1012, 66 L.Ed.2d 470, 101 S.Ct. 568  
17 (1980). "Presuming waiver from a silent record is impermissible." Burgett v. Texas, 389 U.S. 109,  
18 88 S.Ct. 258, 19 L.Ed.2d 1 319 (1967); Bryan v. State, 848 S.W.2d 72, at 77 (Tenn.Cr.App. 1992).  
19 U.S.ex rel Williams v. DeRoberts, 538 F.Supp. 899 (1982). The conviction obtained in a bench  
20 trial must be set aside. Deficient under Strickland. See Ground 33.

21  
22 **4. Ground 4: Complete Denial of Counsel - Evident from the Face of the Record**  
23

24 The record demonstrates a complete denial of counsel for a prolonged and constitutionally  
25 intolerable period. Matthew Amick was held on a no-bond capias and remained without appointed  
26 or retained counsel for over 600 days. This deprivation extended across critical stages of the  
27 prosecution, including arraignment, bond setting, preliminary hearings, and psychiatric and  
28 psychological evaluations. During this time, the Defendant was prevented from preparing a  
defense, issuing subpoenas, filing motions, or challenging the foundational evidence against him.  
Court filings confirm no counsel had entered an appearance. See Exhibit F and Exhibit H.

1  
2 Further compounding the violation, correspondence with attorney Michael Flanagan, submitted as  
3 Exhibit O, shows the Defendant believed Flanagan to be his counsel while simultaneously  
4 attempting to discharge him, without clarity or confirmation from the court. This disarray—  
5 combined with the court’s failure to clarify counsel’s status—left the Defendant legally  
6 abandoned.

7  
8 This is a structural constitutional error under United States v. Cronin, 466 U.S. 648 (1984), and  
9 Gideon v. Wainwright, 372 U.S. 335 (1963), requiring automatic reversal. Because counsel was  
10 absent at critical stages of the prosecution, including arraignment, bail hearings, and competency  
11 evaluations, the prejudice is presumed. See also Penson v. Ohio, 488 U.S. 75 (1988); Brecht v.  
12 Abrahamson, 507 U.S. 619 (1993); Sturgis v. Goldsmith, 796 F.2d 1103 (9th Cir. 1986). It is  
13 further supported by Rothgery v. Gillespie County, 554 U.S. 191 (2008), which affirm that the  
14 right to counsel attaches at first appearance and cannot be satisfied by informal or unacknowledged  
15 representation. State v. Kilby, 763 S.W.2d 389 (Tenn. 1988); Evitts v. Lucey, 469 U.S. 387, 105  
16 S. Ct. 830, 83 L. Ed. 2d 821 (1985); State v. Rodriguez, 254 S.W.3d 361, 371 (Tenn. 2008) ; White  
17 v. Maryland, 373 U.S. 59, 83 S.Ct. 1050, 10 L.Ed.2d 193 (1963)Tenn. Sup. Ct. Rule 8, RPC 1.16(d)  
18 “The right to assistance of counsel is automatic; assuming the right is not waived, assistance must  
19 be made available at critical stages of a criminal prosecution, whether or not the defendant has  
20 requested it. Johnson v. Zerbst, 304 U.S. 458, 463, 58 S.Ct. 1019, 82 L.Ed. 1461 (1938), Defendant  
21 did not waive his right to counsel freely and without duress. See Schneckloth v. Bustamonte, 412  
22 U.S. 218, 36 L.Ed.2d 2d 854, 98 S.Ct. 2041, 2051-55 (1973); Adams v. United States ex rel.  
23 McCann, 317 U.S. 269, 87 L.Ed. 268, 63 S.Ct. 236, 240, 242 (1942); United States v. David, 511  
24 F.2d 355, 360-62 (D.C. Cir. 1975).Tenn. R.Crim. P. 44(a).

25  
26 **5. Ground 5: Actual Conflict of Interest (Prior Representation of Witness)**

27  
28 Trial counsel, Douglas T. Bates IV, labored under actual and undisclosed conflict of interest having  
previously represented the Defendant’s ex-wife and key State witness, Rebecca Seaborn Amick,  
in related domestic violence proceedings January 28, 2019 in violation of TRPC 1.7(a),(b) See

1 Exhibit M. The Defendant did not understand that this created a conflict of interest, was not advised  
2 of his right to conflict-free counsel, and did not sign a conflict waiver. This dual representation  
3 violated the Defendant's Sixth Amendment rights and triggers the presumption of prejudice under  
4 Cuyler v. Sullivan, 446 U.S. 335 (1980), and State v. Culbreath, 30 S.W.3d 309 (Tenn. 2000), and  
5 Holloway v. Arkansas, 435 U.S. 475 (1978), this conflict requires automatic reversal where  
6 adverse impact is shown, which is evident in counsel's refusal to introduce prior perjury personally  
7 known to him and adequately cross-examine and impeach the witness he previously represented,  
8 and encourage guilty pleas to unrelated charges See Exhibit B, Exhibit R and Affidavit of Mathew  
9 Amick. State v. White, 114 S.W.3d 469, 475 (Tenn.2003). See Glasser v. United States, 315 U.S.  
10 60, 62 S.Ct. 457, 86 L.Ed. 680 (1942); Von Moltke v. Gillie, 332 U.S. 708, 720, 68 S.Ct 316, 92  
11 L.Ed. 309 (1948)

12  
13 The Tennessee Appellate Court has noted that. . . "[A]n actual conflict of interest is usually defined  
14 in the context of one attorney representing two or more parties with divergent interests" State v.  
15 Tate, 925 S.W. 2d 548, 552 (Tenn. Crim. App. 1995). See Clinard v. Blackwood, 46 S.W. 3d 177  
16 (Tenn. 2001). In other words an actual conflict of interest exists when counsel is placed in a  
17 position of divided loyalties" McCullough v. State, 144 S.W. 3d 382, 385 (Tenn. Crim. App.  
18 2003). Exhibit C, See Ground 21, 23, 25, 26, 27, 28, 29, 30, 31, 33.

19  
20 This conflict not only affected witness strategy and cross-examination, but also coincided with  
21 Bates' pressure to enter guilty pleas to unrelated charges of criminal impersonation, which may  
22 have further been influenced by divided loyalty stemming from representation of another State  
23 witness, Joseph Wolford in an unrelated DUI matter.

#### 24 25 **6. Ground 6: Judicial Duty to Remedy Structural - Conflict of Interest Defect**

26 The Defendant was represented at trial by attorney Douglas T. Bates IV, who had previously  
27 represented the State's key witness, Rebecca Seaborn Amick, Jan. 28, 2019 in a domestic assault  
28 charge against the defendant. Although the Defendant was aware of that prior relationship, he was  
never advised that it constituted a legal conflict of interest, nor informed of the risks of divided  
loyalty or trial prejudice. No waiver of the conflict was obtained. Further, Bates' failure to disclose

1 this conflict, coupled with the Defendant's inability to consult independent counsel during his 631  
2 days without representation, deprived him of the opportunity to raise timely objections or secure  
3 conflict-free representation.

4  
5 Courts have an independent duty to inquire into known or apparent conflicts of interest, regardless  
6 of whether counsel or the defendant raises the issue. When the trial court fails to inquire into a  
7 known or knowable conflict, and that conflict adversely affects defense counsel's performance,  
8 prejudice is presumed as a matter of law. See Delaware 486 U.S. 153 (1988); Wood v. Georgia,  
9 450 U.S. 261 (1981). When the trial court knows or should know of a conflict, failure to inquire is  
10 constitutional error. See Cuyler v. Sullivan, 446 U.S. 335, 346–47 (1980); Frazier v. State, 303  
11 S.W.3d 674, 682–83 (Tenn. 2010). State v. White, 114 S.W.3d 469, 478 (Tenn. 2003). The record  
12 shows that Bates' conflict impaired impeachment of Rebecca Amick, suppressed objections during  
13 critical motions and cross-examinations, and led to pressured pleas to unrelated charges—  
14 decisions possibly affected by his divided loyalties.

15 While it is unknown if there is a public record showing a formal representation, Exhibit M includes  
16 private text messages in which counsel expressed an intent to “help” Rebecca Seaborn Amick.  
17 These communications, combined with the close relational and procedural context of the case,  
18 gave the court reason to know of the conflict. Even in the absence of formal filings, the court's  
19 duty to inquire was triggered by the apparent risk to adversarial fairness.

20  
21 This failure to inquire and obtain a waiver resulted in presumed prejudice. Relief is required in the  
22 form of vacating the conviction and granting a new trial. See Holloway v. Arkansas, 435 U.S. 475  
23 (1978); Tenn. Sup. Ct. R. 8, RPC 1.7.

24  
25 **7. Ground 7: Constructive Denial of Counsel and Inability to Privately Confer with**  
26 **Counsel During Bond Hearing**

27  
28 The Defendant, Matthew Amick, respectfully asserts that his Sixth Amendment right to the  
assistance of counsel was constructively denied during the critical bond hearing. The Defendant  
appeared remotely, with corrections staff physically present, while counsel was physically present  
in an unknown location, with no opportunity for confidential communication preventing

1 meaningful consultation. By isolating defendant Matthew Amick from his attorney and accusers  
2 through electronic means, the court denied him the right to participate in his defense in open court  
3 and in a meaningful way. This environment chilled the Defendant's ability to speak candidly,  
4 hindered the development of an appropriate bond strategy, and deprived him of his constitutional  
5 right to effective representation during a critical phase. These defects collectively constitute  
6 structural errors of a constitutional magnitude which are underscored when pretrial liberty is  
7 denied. This violates United States v. Cronin, 466 U.S. 648 (1984), where a presumption of  
8 prejudice is appropriate when circumstances make meaningful legal assistance impossible. Gideon  
9 v. Wainwright, 372 U.S. 335 (1963). Geders v. United States, 425 U.S. 80 (1976). Coleman v.  
10 Alabama 399 U.S. 1 (1970); United States v. Salerno, 481 U.S. 739 (1987); Stack v. Boyle, 342  
11 U.S. 1 (1951), See Tenn. R. Crim. P. 46(c)

12 As reaffirmed "Where a criminal defendant has, with legitimate reason, completely  
13 lost trust in his attorney, and the trial court refuses to remove the attorney, the  
14 defendant is constructively denied counsel. This is true even where the breakdown  
15 is the result of the defendant's refusal to speak to counsel, unless the defendant's  
16 refusal to cooperate demonstrates "unreasonable contumacy." in Daniels v.  
17 Woodford, 428 F.3d 1181 (9th Cir. 2005), cert. denied, 550 U.S. 968 (2007)  
18 (quoting Brown v. Craven, 424 F.2d 1166, at 1169 (9th Cir. 1970 "When there is a  
19 breakdown in communication between counsel and client, even competent counsel  
20 may not provide an adequate defense". United States v Nguyen, 262 F.3d 998,  
21 1003, (9<sup>th</sup> Cir. 2001) State v. White, 114 S.W.3d 469 (Tenn. 2003)

22  
23 In Geders v. United States, 425 U.S. 80 (1976) the Court emphasized the centrality of unimpeded  
24 attorney-client consultation. Because the denial of private communication occurred during a  
25 critical stage, and directly impaired counsel's ability to serve the Defendant's interests, the bond  
26 hearing must be deemed constitutionally defective. The absence of adversarial testing at this stage  
27 contributed to prolonged detention, impaired preparation of the defense, and ultimately, a cascade  
28 of structural errors throughout the trial. See Rothgery v. Gillespie County, 554 U.S. 191 (2008).  
Powell v. Alabama, 287 U.S. 45, 77 L.Ed. 158, 53 S. Ct. 55, 84 A.L.R. 527 (1932), Tenn. R.Crim.  
P. 44(a). See Ground 8, Ground 33. See Exhibit R.

1  
2 **8. Ground 8: Structural Ineffective Assistance of Counsel During Bond Hearing –**  
3 **Failure to Object, Preserve or Advocate at Critical Stage**  
4

5 The Defendant, Matthew James Amick, was denied effective assistance of counsel during the  
6 critical-stage bond hearing held May 20, 2021. Counsel failed to object to inadmissible testimony,  
7 declined to cross-examine the State’s key law enforcement witness, allowed known perjured  
8 testimony from State’s witness Rebecca Ashton Seaborn Amick whom Douglas T. Bates, IV had  
9 previously represented and took no action to preserve the record for appeal. These omissions and  
10 commissions, denied the Defendant adversarial testing and constitute structural error under United  
11 States v. Cronin, 466 U.S. 648 (1984), and Strickland v. Washington, 466 U.S. 668 (1984). See  
12 Coleman v. Alabama, 399 U.S. 1 (1970); Rothgery v. Gillespie County, 554 U.S. 191 (2008).  
13

14 Although the judge noted that a court reporter was present at the bond hearing, the Defendant’s  
15 formal Pro Se Motion for Transcripts to be Provided at Public Expense, was denied by the court—  
16 sua sponte and without State objection—on October 9, 2024. The Defendant now submits a  
17 substantially verbatim transcript under Tenn. R. App. P. 24(c), with an accompanying declaration.  
18 See Exhibit R.

19 During the hearing, the State introduced a series of highly prejudicial statements to which counsel  
20 raised no objection:  
21

22 Uncharged conduct and victim impact testimony was admitted that the Defendant had “tried to  
23 kill” his ex-wife and her son with an “arsenal of weapons”, and claims that they would “always be  
24 afraid of him”—admitted without objection under Rules 404(b), 403, and relevance grounds.  
25 Speculation and lay opinion was admitted as Mr. Amick’s ex-wife was allowed to offer speculative  
26 predictions about bond compliance and about his mental health without expert foundation,  
27 violating Rules 602, 701, and 702. Improper factual and legal conclusions were admitted as Officer  
28 Carroll testified of hearing that the defendant allegedly claimed he “would not be taken alive” and  
characterized a firearm as a “machine gun” and referenced post-arrest statements without clarity  
on Miranda warnings, with no challenge under Rules 702, 802, or the Fifth Amendment. Irrelevant

1 and cumulative material was admitted as the State elicited decade-old employment history and  
2 repeated traumatic detail, further inflaming the court and prejudicing bond consideration, without  
3 objection.

4  
5 The judge made sua sponte remarks that introduced unsupported character assumptions, stating  
6 “there’s a pattern” and “I think we need a drug and alcohol assessment,” despite no record evidence  
7 suggesting substance abuse. More concerning, the judge endorsed the prosecution’s fear-based  
8 rationale: “It’s pretty rare for us to want to allow someone out on bond but send them away, and  
9 the reason we send them away is because we’re afraid of them here.” These comments reflect a  
10 predisposition to deny liberty based on generalized fear, not individualized facts in violation of  
11 Canon 2A and *Reid*, 164 S.W.3d 286 (Tenn. 2005). Counsel made no objection, and the absence  
12 of adversarial challenge permitted the narrative to stand uncorrected, rendering the proceeding  
13 structurally defective.

14 Defense counsel also failed to ask a single question of the State’s lead investigator and agreed to  
15 an unnecessary four-month continuance despite the Defendant’s 22-month pretrial incarceration.  
16 These acts and omissions enabled a one-sided narrative, resulting in continued detention, coercive  
17 pressure, and later waivers of trial rights.

18  
19 The trial court denied the Defendant’s formal pro se Motion for the transcript, which deprived the  
20 Defendant of access to the record and compelled a Rule 24(c) reconstruction. The Defendant’s  
21 submission is not new evidence, but a faithful restoration arising from the contemporaneous bond  
22 hearing, which constitutes part of the trial record, judicially suppressed. The State may not benefit  
23 from a procedural bar where the trial court itself frustrated the Defendant’s access to the record.  
24 State v. Bennett, 798 S.W.2d 783 (Tenn. Crim. App. 1990).

25  
26 The Defendant respectfully requests that the conviction and sentence be vacated and a new trial  
27 granted. In the alternative, this ground is preserved for post-conviction review under Tenn. Code  
28 Ann. § 40-30-103. See Exhibit R. See Ground 7, Ground 33.

**9. Ground 9: Defective Charging Body - Structural Grand Jury Irregularity and  
Foreman with Constitutionally Intolerable Risk of Bias, Appointed by Biased Judge**

1  
2 The Defendant, Matthew Amick, asserts that the indictment returned against him is  
3 constitutionally invalid due to structural grand jury irregularities, specifically the appointment of  
4 a grand jury foreperson with a constitutionally intolerable risk of bias, by a judge with  
5 demonstrable partiality. This defect is compounded by the Defendant's complete denial of counsel  
6 during the entire indictment period, depriving him of any opportunity to challenge the grand jury  
7 or move for recusal.

8  
9 The foreperson of the grand jury that returned the indictment against the Defendant maintained a  
10 longstanding and visible personal relationship with the brother of Rebecca Ashton Seaborn Amick,  
11 the State's key witness. This relationship, documented in Exhibit N through social media and  
12 corroborated by affidavit, establishes a direct familial tie and serious risk to actual bias that should  
13 have disqualified the foreperson under basic principles of due process and impartiality.

14  
15 In Tennessee, the grand jury foreperson is appointed by the presiding criminal court judge pursuant  
16 to Tenn. Code Ann. § 40-12-104. In this case, the appointing judge already stands accused of bias,  
17 and his appointment of a foreperson closely tied to the family of a critical State witness constitutes  
18 an independent structural error. The appearance of judicial alignment with the prosecution and the  
19 victim's family undermines the legitimacy of the entire charging process. See Tumey v. Ohio, 273  
20 U.S. 510 (1927); State v. Smith, 492 S.W.3d 224 (Tenn. 2016) and *Caperton, Infra at 11 and 17*.

21  
22 Because the Defendant was unrepresented during the entirety of the indictment phase — for a  
23 period spanning over 631 days — he was denied any opportunity to object to the grand jury  
24 composition, file a motion to quash, or otherwise protect his rights under Tenn. R. Crim. P. 6(j).  
25 This total absence of counsel rendered the indictment process non-adversarial and structurally  
26 unsound. See State v. Bondurant, 4 S.W.3d 662 (Tenn. 1999); Campbell v. Louisiana, 523 U.S.  
27 392 (1998); Peters v. Kiff, 407 U.S. 493 (1972); Hobby v. United States, 468 U.S. 339, 350 (1984).

28  
The constitutional guarantee of an impartial charging body was violated. A foreperson with an  
objectively intolerable probability of bias, appointed by a biased judge, and while the Defendant

1 lacked legal representation, produced an indictment that is facially and functionally defective.  
2 Because this defect undermines the structural integrity of the prosecution itself, it is not subject to  
3 harmless error analysis and must result in dismissal of the indictment. Rippo v. Baker, 550 U.S.  
4 285 (2017) Exhibit N. See Ground 4, 7, 8, 11, 15, 24.

5  
6 **10. Ground 10: Prosecutorial Misconduct - Use of False Testimony and Suppression of**  
7 **Impeachment Evidence through Unauthorized Expungement**  
8

9 The Defendant, Matthew Amick, moves for relief based on prosecutorial misconduct and due  
10 process violations arising from the unauthorized expungement of case number 17-5274-CR. The  
11 prosecution introduced testimony from Rebecca Ashton Seaborn Amick that was materially false  
12 and known to be so. Case No. 17-5274-CR contained sworn allegations and documentation  
13 indicating that Rebecca Ashton Seaborn Amick had previously made false and contradictory  
14 statements in a closely related matter. Despite this, the witness was permitted to testify without  
15 disclosure of her prior conduct. That record was expunged with the signatures of the prosecutor,  
16 the judge, and defense counsel. The accused was not informed of the expungement, and the court  
17 was not alerted to the destruction of relevant impeachment material. This suppression violated the  
18 accused's right to due process of the Fourteenth Amendment under Brady v. Maryland, 373 U.S.  
19 83 (1963); Napue v. Illinois, 360 U.S. 264 (1959); and Giglio v. United States, 405 U.S. 150 (1972)  
20 places the burden of knowing and disclosing upon the prosecution. Mooney v. Holohan, 294 U.S.  
21 103, 55 S.Ct. 340, 79 L.Ed. 791 (1935).

22  
23 The Brady doctrine extends to the discovery of impeachment material of potential government  
24 witnesses including information known to the "prosecution team" including "law enforcement."  
25 See United State v. Antone, 603 F.2d. 566, 569 (5th Cir. 1979); United States v. Fairman, 769 F.2d  
26 386, 391-92 (7<sup>th</sup> Cir. 1985); United States v. Bagley, 473 U.S. 667, 105 S.Ct. 3375 (1985); Giglio  
27 v. United States, 405 U.S. 150, 92 S.Ct. 763 (1972); Scurr v. Niccum, 620 F.2d 186, 190 (8th Cir.  
28 1980) and Benn v. Lambert, 382 F.3d 1040 (9th Cir. 2002). The Prosecutor should know of  
evidence of police officers who are investigating the case. United States v Butler, 567, F.2d 885,  
891 (9th Cir. 1978).

1  
2 The defendant objects and argues that the United State Supreme Court in both Kalina v. Fletcher,  
3 522 U.S. 118, 118 S. Ct. 502, 139 L. Ed. 2d 471,(December 10, 1997) and Kalina v. Fletcher, 93  
4 F.3d 653 (August 22, 1996), hold that it is unconstitutional for a prosecutor to put a man in jail  
5 based upon the prosecutors knowing use of false and perjured testimony. See Costanich v Dept.  
6 of Social and Health Services, 627 F. 3d 1101, at 1108-1109 (December 3, 2010) (citing Jones v.  
7 State, 170 Wash.2d 338, 242 P.3d 825, 831-32 (2010) See Pyles v. Kansas, 317 U.S. 213, 215-  
8 216, 63 S.Ct. 177, 178, 87 L.Ed. 214 (1942). Hysler v.Florida, 315 U.S. 411, 62 S.Ct. 688, 86  
9 L.Ed.2d 932 (1942); State v. Bolden, 1997 WL 113886 (March 14, 1997); United States v. Davis,  
10 617 F.2d 677 (D.C. Cir. 1979); St. Amant v. Thompson, 390 U.S. 727, 731, 20 L.Ed.2d 262, 88  
11 S.Ct. 1323 (1968);

12  
13 Rather than allow that prior record to be used for impeachment purposes in the present case, the  
14 prosecution—Edmonson, defense counsel – Douglas T. Bates IV, and the trial judge – Spitzer  
15 executed an expungement order without the knowledge or consent of the Defendant. Moreover,  
16 the unauthorized expungement implicates Tenn. Code Ann. § 40-32-101, which requires knowing  
17 and voluntary consent by the defendant. The absence of such consent renders the order legally  
18 defective and the underlying concealment a fraud upon the court. The concealment of this material  
19 evidence, combined with trial counsel's conflict of interest and failure to act, deprived the  
20 Defendant of a fair trial and the opportunity to fully confront and impeach the State's primary  
21 witness. Banks v. Dretke, 540 U.S. 668 (2004) prosecution is responsible for any exculpatory  
22 evidence in its control, even if hidden in procedural events. Exhibit B, Exhibit C. Exhibit G.  
23 Exhibit F, Exhibit R.

24  
25 **11. Ground 11: Judicial Bias Reflected in Omissions and Patterns of Conduct**

26  
27 The trial court disregarded the findings of a licensed neuropsychologist who evaluated the  
28 Defendant for over nine hours and found substantial major cognitive impairment due to traumatic  
brain injury and improper medication. Court appointed expert Dr. Joe Mount of MTMHI,  
acknowledged he had not personally diagnosed Defendant's competency, he testified as if he had.

1 relaying findings and conclusions derived from reports authored by non-testifying individuals.  
2 Instead, the court adopted the conclusory findings of a non-testifying evaluator based on a hearsay  
3 report. The reliance on boilerplate findings and disregard of individualized expert testimony  
4 constitute both actual and apparent bias, depriving the Defendant of an impartial tribunal. “A fair  
5 trial requires a neutral tribunal”. Turney v. Ohio, 273 U.S. 510 (1927); See Caperton v. A.T.  
6 Massey Coal Co., 556 U.S. 868 (2009); In re Murchison, 349 U.S. 133 (1955). Tenn. R. Crim. P.  
7 12(d) require that findings must be based on the evidence presented. Judicial Canon 2A prohibits  
8 bias in fact finding and extra-record decision making. “A finding is ‘clearly erroneous’ when  
9 although there is evidence to support it, the reviewing court is left with the definite and firm  
10 conviction that a mistake has been committed.” United States v. United States Gypsum Co., 333  
11 U.S. 364, 395 (1948), Smith v. Arizona 602 U.S. 779 (2024).

12  
13 The court’s refusal to hold a full competency hearing—despite the constitutional mandate in *Pate*  
14 and *Drope*—reflects not neutral error, but an impermissible predisposition to proceed regardless  
15 of fairness. When paired with the court’s other adverse rulings and refusal to safeguard the  
16 Defendant’s mental fitness, this supports a finding of judicial bias warranting new trial and recusal.  
17 State v. Reid, 164 S.W.3d 286 (Tenn. 2005) See State v. Holmes, 302 S.W.3d 831 (Tenn. 2010)  
18 and *Drope, supra*. Exhibit C, Exhibit N. Exhibit R. See Ground 12, 13, 17, 18, 20.

19  
20 **12. Ground 12: Failure to Hold a Mandatory Full Competency Hearing - Structural**  
21 **Due Process Violation**  
22

23 Defendant suffered from a documented traumatic brain injury and had received a diagnosis of  
24 Major Neurocognitive Disorder. Despite these known impairments, the trial court failed to sua  
25 sponte order a full competency hearing as required under Pate v. Robinson, 383 U.S. 375 (1966).  
26 A new head injury occurred between the initial MTMHI screening and the trial, which was known  
27 by trial Counsel Bates, which warranted renewed inquiry under Medina v. California, 505 U.S.  
28 437 (1992). The trial proceeded in violation of constitutional due process and Tenn. Const. Art. I,  
§ 8. This is a structural constitution error that the defendant is unable to waive, not subject to  
harmless error.

1  
2 The trial court was presented with expert testimony from licensed forensic neuropsychologist Dr.  
3 Spirko, who opined that the Defendant was not competent to proceed and lacked the ability to form  
4 criminal intent. This diagnosis came after a new head injury sustained post-MTMHI evaluation  
5 and warranted mandatory judicial inquiry under Pate v. Robinson. The court's failure to act on this  
6 new and materially distinct medical evidence violates due process.

7  
8 "As this Court said in Berndt v. State, 733 S.W.2d 119 (Tenn.Crim.App.1987): It  
9 is a fundamental principle of our system of criminal justice that one who is charged  
10 with a crime cannot be required to plead to the offense, be put to trial, convicted,  
11 or sentenced while insane or otherwise mentally incompetent. Pate v. Robinson,  
12 383 U.S. 375, 86 S.Ct. 836, 15 L.Ed.2d 815 (1966); Drope v. Missouri, 420 U.S.  
13 162, 95 S.Ct. 896, 43 L.Ed.2d 103 (1975); State v. Stacy, 556 S.W.2d 552  
14 (Tenn.Crim.App.1977); Mackey v. State, 537 S.W.2d 704 (Tenn.Crim.App.1975).  
15 The conviction of an accused while mentally incompetent violates the basic  
16 concepts of the Due Process Clause of the Fourteenth Amendment to the United  
17 States Constitution. Pate v. Robinson, supra; Drope v. Missouri, supra. Such a  
18 conviction also violates Article 1, Section 8 of the Tennessee Constitution. 733  
19 S.W.2d at 121-122." Clark v. State, 800 S.W.2d 500, at 505 (Tenn.Cr.App. 1990)

20  
21 "State trial judge must conduct a competency hearing, regardless of whether  
22 defense counsel requests one, whenever the evidence before the judge raises a bona  
23 fide doubt about the defendant's competence to stand trial." Williams v. Woodford,  
24 384 F.3d 567, 603 (9 th Cir., 2004). See also Odle v. Woodford, 238 F.3d 1084,  
25 1087 (9 th Cir., 2001); United States v. Denkins, 367 F.3d 537, 547 (6 th Cir.,  
26 2004); Johnson v. Norton, 249 F.3d 20, 26 (1 st Cir., 2001); Carter v. Johnson, 131  
27 F.3d 452, 459 n.10 (5 th Cir., 1997); Silverstein v. Henderson, 706 F.2d 361, 369  
28 (2 nd Cir., 1983).

1 A competency hearing is a critical stage of a criminal proceeding. See e.g., Appel v. Horn, 80  
2 L.Ed.2d 657 (1984). United States v. Collins, 430 F.3d 1260, 1264 (10<sup>th</sup> Cir., 2005); Sturgis v.  
3 Goldsmith, 796 F.2d 1103, 1109 (9th Cir., 1986), cert. denied, 508 U.S. 918, 113 S. Ct. 2362, 124  
4 L.Ed.2d 269 (1993). “For the defendant, the consequences of an erroneous determination of  
5 competence are dire” Cooper v. Oklahoma, 517 U.S. 348, 364, 116 S. Ct. 1373, 134 L.Ed.2d 498  
6 (1996).

7  
8 This failure of the court to exercise its independent constitutional duty, in light of its repeated  
9 disregard for the Defendant’s rights and known vulnerabilities, is further evidence of judicial bias.  
10 Additionally under Strickland, the record will show a failure to motion for a full competency  
11 hearing. See Ground 11, 13, 33.

12  
13 **13. Ground 13: Americans with Disabilities Act and Due Process Access Violation -**  
14 **Failure to Provide CART for Defendant with Traumatic Brain Injury**

15  
16 The Defendant, diagnosed with a traumatic brain injury (TBI) and major neurocognitive disorder,  
17 was not provided access to Communication Access Realtime Translation (CART) services during  
18 any stage of the proceedings, despite his known cognitive impairment. This constitutes a violation  
19 of his rights under Tenn. Const. Art. 1 §8 and the Americans with Disabilities Act (ADA), 42  
20 U.S.C. § 12101 et seq., and the Due Process Clause of the Fourteenth Amendment. The court,  
21 having knowledge of the Defendant’s diagnosis and observable impairments, had an affirmative  
22 duty to ensure equal access to the proceedings. CART is a federally recognized accommodation  
23 for individuals with cognitive and processing impairments, and its absence prejudiced the  
24 Defendant’s ability to understand, participate, and effectively assist in his own defense.

25  
26 The Defendant's cognitive limitations were well-documented in the record, including assessments  
27 by forensic neuropsychologist Dr. Spirko and the MTMHI screening. Despite these findings, no  
28 defense counsel—including retained and court-appointed attorneys—requested CART or any  
comparable communication aid. The failure of all counsel to act on this known need further

1 supports claims of ineffective assistance and reflects a systemic disregard for the Defendant's  
2 statutory and constitutional rights.

3  
4 Moreover, the presiding trial court's failure to inquire or ensure ADA compliance compounds the  
5 appearance of judicial bias and reinforces the structural breakdown of adversarial fairness. Under  
6 Tennessee law and federal ADA regulations, trial courts have a duty to identify and address  
7 accessibility barriers affecting a litigant's meaningful participation. The absence of such  
8 accommodations here cannot be considered harmless error. Instead, it rises to the level of structural  
9 error necessitating reversal. Tennessee v. Lane, 541 U.S. 509 (2004): Recognized the right of  
10 access to the courts under the ADA. Robertson v. Las Animas Cty. Sheriff's Dept., 500 F.3d 1185,  
11 1197 (10th Cir. 2007): A public entity has a duty to act when it knows of a disability that impairs  
12 access. Silva v. Baptist Health S. Fla., Inc., 856 F.3d 824, 834 (11th Cir. 2017): Duty to provide  
13 auxiliary aids applies even absent a specific request if the need is obvious. Tenn. R. Crim. P. 44  
14 (a); State v. Holmes, 302 S.W.3d 831 (Tenn. 2010), See Ground 11, Ground 12, Ground 33

15  
16 **14. Ground 14: Systemic Breakdown of the Adversarial Process - Structural Violation**  
17 **Under United States v. Cronic**

18  
19 From the moment of arrest through trial and conviction, the adversarial structure of the criminal  
20 justice process in this case collapsed so completely that Matthew Amick was never afforded a  
21 fundamentally fair trial. The breakdown is not isolated to any single stage but is demonstrated  
22 cumulatively and structurally, as follows:

23  
24 **A. Pre-Indictment Denial of Counsel:**

25 For over 600 days following arrest, Defendant was without appointed or retained  
26 counsel. During this critical period, the State presented the cases to a grand jury,  
27 issued a no-bond *capias*, and made numerous strategic decisions unopposed. This is a  
28 textbook example of denial of counsel at a critical stage, triggering *per se* prejudice  
under *Cronic*, 466 U.S. at 659.

1           **B. Involuntary Jury Waiver Induced by Deprivation of Liberty:**

2           The waiver of jury trial was secured while Defendant was held without pretrial liberty  
3           ten days short of three years, based in part on statements obtained in violation of  
4           Miranda and under coercive conditions. Defendant was misled to believe that a jury  
5           trial would not occur for several more years. These conditions undermined voluntary  
6           decision-making and stripped Defendant of informed legal guidance.  
7

8           **C. Absence of Competency Hearing Despite Known Brain Injury:**

9           The trial court failed to hold a mandatory full competency hearing despite: (1)  
10          documentation of a traumatic brain injury, (2) observable symptoms witnessed by  
11          counsel post-MTMHI screening, and (3) subsequent diagnosis of major  
12          neurocognitive disorder by a forensic neuropsychologist. This failure further  
13          disrupted adversarial reliability and judicial impartiality.  
14

15          **D. Failure of Defense Counsel to Subject the Prosecution to Adversarial Testing:**

16          Defense counsel's performance was not merely substandard; it was structurally  
17          absent. All counsel failed to file motions to dismiss a void charge, to impeach the  
18          State's key witness, to present defense witnesses, or to challenge warrant affidavits  
19          despite known perjury. All counsel further failed to challenge consolidation, demand  
20          Brady material, or raise constitutional defenses.  
21

22          **E. Conflict of Interest and Divided Loyalty:**

23          Trial counsel labored under an undisclosed actual conflict of interest arising from his  
24          prior representation of the State's primary witness, Defendant's ex-wife. This conflict  
25          not only went un-waived, but was never disclosed in the trial court, and infected the  
26          core of the defense strategy, if any existed.  
27

28          **F. Judicial Bias and Partiality:**

          The trial court failed to intervene or inquire into these visible breakdowns. The court  
          admitted hearsay expert testimony in violation of confrontation rights, relied on false

1 witness testimony, and did not address the absence of strategic defense posture or  
2 mental state presentation. The cumulative inaction evidences loss of neutrality.

3  
4 These facts demonstrate not discrete errors, but a complete breakdown in the adversarial process—  
5 the very structure meant to ensure fairness. Under United States v. Cronic, when counsel fails to  
6 subject the prosecution's case to meaningful adversarial testing, prejudice is presumed and  
7 structural reversal is required.

8 “The presumption that the defendant has been prejudiced... applies... if counsel  
9 entirely fails to subject the prosecution's case to meaningful adversarial testing.”  
10 — *Cronic*, 466 U.S. at 659  
11

12 Accordingly, this Court must find that the Defendant was deprived of his Sixth Amendment rights  
13 at every meaningful phase of this proceeding, and that the resulting judgment is constitutionally  
14 void. Exhibit N, Exhibit F, Exhibit H. see all Grounds.

15  
16 **15. Ground 15: Motion to Dismiss Indictment Due to Structural Denial of Counsel and**  
17 **Tainted Grand Jury Proceedings.**

18 The Defendant moves to dismiss the indictment on the grounds that it was obtained in violation of  
19 constitutional due process, specifically during a 631-day period when the Defendant was deprived  
20 of the assistance of counsel, and pretrial liberty . During this period, the Defendant had no legal  
21 representation and was unable to challenge the indictment or the grand jury process. The grand  
22 jury foreperson who returned the indictment had a close, longstanding relationship with the family  
23 of the State's primary witness (Exhibit N), and was appointed by a trial judge who is himself  
24 subject to allegations of bias under Tenn. Code Ann. § 40-12-104. The use of a biased foreperson,  
25 appointed by a conflicted judge, fatally taints the indictment. See Campbell v. Louisiana, 523 U.S.  
26 392 (1998); Peters v. Kiff, 407 U.S. 493 (1972); Tumey v. Ohio, 273 U.S. 510 (1927).  
27

28 These circumstances resulted in a constitutionally void indictment and denied the Defendant any  
opportunity for adversarial testing, constituting structural error under United States v. Cronic, 466  
U.S. 648 (1984) and ), and Rothgery v. Gillespie County, 554 U.S. 191 (2008), which require that

1 critical stages of prosecution be subjected to meaningful adversarial testing and affirms right to  
2 counsel attaches at first appearance.

3 The indictment must be dismissed with prejudice as the product of a fundamentally defective  
4 charging process. These defects are jurisdictional in nature and not subject to waiver or harmless  
5 error analysis. See Exhibit N. Ground 4, Ground 10, Ground 11, Ground 24.  
6

7 **16. Ground 16: Motion to Arrest Judgement Pursuant to Tenn. R. Crim. P 34**  
8

9 In the alternative to Ground 15, and for the purpose of preserving this issue for appellate and post-  
10 conviction review, the Defendant respectfully moves this Court to arrest judgment pursuant to  
11 Rule 34 of the Tennessee Rules of Criminal Procedure. A motion in arrest of judgment is proper  
12 where the indictment fails to charge an offense or the trial court lacked jurisdiction to enter  
13 judgment.  
14

15 Here, the Defendant incorporates by reference all facts and legal arguments presented in Ground  
16 15. The judgment must be vacated because it rests on an indictment that was returned during a  
17 prolonged period of complete denial of counsel, never accessible to the defendant, overseen by a  
18 judge with an apparent conflict, and endorsed by a foreperson with a disqualifying relationship to  
19 the State's key witness. These defects divested the Court of jurisdiction and rendered the resulting  
20 judgment void. Pursuant to Rule 34(a), this judgment must be arrested as a matter of law, and the  
21 conviction vacated in its entirety.  
22

23 **17. Ground 17: Invalid Capias and Jurisdictional Defect – Constitutional Challenge to**  
24 **Tennessee's Capias Practice as Applied**  
25

26 The Defendant respectfully submits this ground for relief under Tenn. R. Crim. P. 33 and Rule  
27 3(e) of the Tennessee Rules of Appellate Procedure, challenging the legal validity and  
28 constitutional basis of the 19-5081-CR capias used to initiate his arrest and pretrial detention and  
the 19-5144-CR capias issued while the defendant was already in custody. The issuance and  
execution of both capias bypassed required procedural safeguards and violated structural due  
process, rendering the court's jurisdiction void ab initio.

1 This Ground challenges not only procedural error in issuing and executing the capiases, but the  
2 constitutional foundation of Tennessee's post-indictment capias system as applied in this case.  
3 Where liberty is taken by the mere return of an indictment, without judicial findings, without  
4 opportunity for response, and without due process protections, the result is a structural presumption  
5 of guilt—repugnant to the foundational principles of the presumption of innocence and procedural  
6 fairness enshrined in the U.S. and Tennessee Constitutions.

7  
8 Case No. 19-5081-CR – Capias Issued Post-Indictment Without Findings or Justification on  
9 Record

10 Although an indictment was returned in 19-5081-CR the day prior to arrest, the record reflects no  
11 contemporaneous judicial findings of nonappearance, no motion for a no-bond capias, no affidavit  
12 of complaint (See Exhibit G), and no prior opportunity or failure to appear. Under Tenn. R. Crim.  
13 P. 6(c), a summons—not a capias—must issue for bailable offenses unless there is a prior FTA or  
14 a documented judicial finding that the defendant would not respond.

15  
16 While Tenn. R. Crim. P. 9(a) allows for post-indictment capias issuance, it does not override  
17 constitutional due process. Mechanical issuance of the most coercive form of process, based solely  
18 on the return of indictment without individualized documented judicial findings, violates the  
19 liberty protections afforded under the Fourteenth Amendment. In Stack v. Boyle, 342 U.S. 1  
20 (1951), the U.S. Supreme Court held that liberty before trial is the norm, and any departure must  
21 be based on a finding supported by evidence. The Supreme Court further held in Morrissey v.  
22 Brewer, 408 U.S. 471 (1972), that due process demands notice and a fair opportunity to be heard  
23 before liberty is restrained. In Gerstein v. Pugh, 420 U.S. 103 (1975), the Court reaffirmed that  
24 pretrial detention must be preceded by a judicial determination of probable cause—not merely  
25 prosecutorial allegations.

26  
27 Because Tennessee's default issuance of capias upon indictment is based on a non-adversarial,  
28 secret proceeding using hearsay, the indictment alone cannot justify the suspension of liberty  
without further process. This framework effectively treats indictment as an un-rebuttable  
presumption of guilt, undermining the presumption of innocence and the right to pretrial liberty.

1 The resulting detention of the Defendant—without summons, without bond, and without initial  
2 appearance—constitutes an unlawful restraint imposed without procedural safeguards. See also  
3 Coleman v. Alabama, 399 U.S. 1 (1970); Alvarez v. Smith, 558 U.S. 87 (2009).

4  
5 Case No. 19-5144-CR – Capias Issued While Defendant in Custody, No Return Filed

6 In Case 19-5144-CR, the Defendant was already in state custody at the time of the indictment.  
7 Nevertheless, a capias was issued, and no return was ever filed or recorded. There is no record of  
8 service, execution, or judicial processing. Tenn. R. Crim. P. 9(a) mandates that a capias be  
9 executed promptly and returned to the court. The failure to file a return renders the prosecution  
10 jurisdictionally defective when the court failed to perfect personal jurisdiction. See State v. Goins,  
11 705 S.W.2d 648 (Tenn. 1986).

12  
13 Absent valid service or return, the court never lawfully acquired personal jurisdiction over the  
14 Defendant in 19-5144-CR. The State’s reliance on participation in later proceedings does not cure  
15 this threshold error. See also State v. Pendergrass, 13 S.W.3d 389 (Tenn. Crim. App. 1999), which  
16 requires lawful service of process as a jurisdictional prerequisite.

17  
18 Grand Jury Bias and Additional Constitutional Defects

19 Both capiases were issued following grand jury indictments returned by a foreperson who  
20 maintained a close, visible familial relationship with the State’s primary witness in 19-5144-CR,  
21 as documented on social media (Exhibit N). This constitutes a clear violation of due process under  
22 Campbell v. Louisiana, 523 U.S. 392 (1998), and State v. Bondurant, 4 S.W.3d 662 (Tenn. 1999),  
23 which hold that indictments influenced by biased or conflicted grand jurors are constitutionally  
24 void.

25  
26 The Defendant was held without counsel for 631 days, never served with or shown the indictments,  
27 nor afforded any opportunity to challenge the grand jury composition or the facial sufficiency of  
28 the charging instruments, or to engage in the adversarial process—thus violating Gideon v.  
Wainwright, 372 U.S. 335 (1963); United States v. Cronin, 466 U.S. 648 (1984); Cole v. Arkansas.

1 333 U.S. 196 (1948); and Rothgery v. Gillespie County, 554 U.S. 191 (2008). Ground 9, 10:  
2 Exhibit G, Exhibit N.

### 3 4 Judicial Bias and Structural Breakdown

5 Additionally, both capiases were issued by a judge whose structural judicial bias is now apparent  
6 on the face of the record. The same judge later: (1) made factual findings contrary to expert  
7 testimony; (2) failed to order a full competency hearing; (3) failed to investigate an actual conflict  
8 of interest between defense counsel and a State's witness; (4) failed to provide ADA-compliant  
9 CART access despite documented cognitive impairment; and (5) appointed the grand jury  
10 foreperson with familial ties to the prosecution's witness in 19-5144-CR. Such conduct violates  
11 the standards of neutrality required by Tumey v. Ohio, 273 U.S. 510 (1927), and Caperton v. A.T.  
12 Massey Coal Co., 556 U.S. 868 (2009).

13  
14 Because neither prosecution was initiated through lawful service or supported by judicial findings  
15 of necessity, and because the record is silent as to any justification for bypassing a summons or  
16 detaining the Defendant without process, the trial court failed to acquire valid personal jurisdiction.  
17 The structural nature of these defects, particularly the failure to return process and comply with  
18 Rule 5 obligations timely, renders both proceedings constitutionally infirm in violation of the  
19 Fourteenth Amendment to the United States Constitution and Article I §§ 8 and 9 of the Tennessee  
20 Constitution. See Grounds 6, 11, 12, 13 and Exhibit C, Exhibit R.

### 21 22 Conclusion and Remedy Requested

23 The capiases were not merely defective—they were constitutionally and procedurally void. They  
24 were issued in derogation of the Defendant's presumption of innocence and without adherence to  
25 procedural due process. All proceedings flowing from them, including the Defendant's detention,  
26 trial, and conviction, are thus invalid. Relief is required, and the judgment must be vacated in its  
27 entirety. See Arizona v. Fulminante, 499 U.S. 279 (1991).

## 28 18. Ground 18: Structural Error - Denial of Rule 5 Initial Appearance and Judicial Oversight

1 The Defendant was arrested on August 8, 2019 in case 19-5081-CR following an indictment  
2 returned on August 7, 2019 and a capias issued the next day, marked “hold without bond.” The  
3 capias facially listed an initial appearance date of October 1, 2019, but the Defendant contends no  
4 such appearance ever occurred. The only pretrial hearing reflected on the Rule Docket is an  
5 arraignment held on August 27, 2019—conducted without counsel and with no advisement of  
6 rights, appointment of representation, or bond review. The Defendant was never taken before a  
7 magistrate at any time for a Rule 5 initial appearance.

8  
9 In case 19-5144-CR, a separate indictment was returned on October 3, 2019, and a second capias  
10 was issued on October 8, 2019, setting bond at \$30,000. The Defendant was already in custody at  
11 that time. The capias lists an initial appearance date of October 29, 2019—the same day as the  
12 scheduled arraignment. Although the return section of the capias is signed, the Rule Docket reflects  
13 no entry confirming service. No Rule 5 hearing occurred, and bond was not addressed. The  
14 Defendant remained detained under these combined proceedings for more than twenty-two (22)  
15 months without legal representation and without judicial review of the conditions or legality of  
16 confinement.

17 Tennessee Rule of Criminal Procedure 5(a)(1) provides that any person arrested—*except upon a*  
18 *capias pursuant to indictment or presentment*—shall be taken without unnecessary delay before a  
19 magistrate. However, this exception is not absolute. It presumes a lawfully issued capias, a valid  
20 arrest, and judicial oversight consistent with due process. Rule 5(b) requires that the magistrate  
21 advise the defendant of the charges, the right to counsel, and determine the conditions of release.  
22 The Tennessee Supreme Court has long recognized that Rule 5 exists to prevent arbitrary detention  
23 and guarantee procedural fairness. State v. Huddleston, 924 S.W.2d 666, 670 (Tenn. 1996).

24  
25 The State may attempt to invoke the Rule 5(a)(1) exemption to argue that an initial appearance  
26 was not required. However, the exemption does not apply here. In 19-5081-CR, the capias imposed  
27 a “no bond” detention without any judicial findings or recorded hearing. In 19-5144-CR, the  
28 Defendant was already in custody when the capias issued, yet no appearance or bond review was  
conducted. A facial return was signed, but no entry was made on the Rule Docket to confirm

1 service, and no judicial advisement followed. In neither case did the magistrate perform the  
2 mandatory functions set forth under Rule 5(b).

3  
4 This prolonged, unreviewed, and uncounseled detention constitutes a per se violation of due  
5 process, created an appearance of judicial bias, structural unfairness, and allowed a no-bond order  
6 to persist without justification. It is further exacerbated by the total absence of bond determination  
7 until 22 months after arrest, which was denied entirely throughout proceedings despite non-capital  
8 charges. The Tennessee Supreme Court has held that a trial court may not deny bond or impose a  
9 “no bond” condition absent a constitutionally sufficient hearing. State v. Burgins, 464 S.W.3d 298,  
10 309 (Tenn. 2015). Article I, § 15 of the Tennessee Constitution similarly provides that all prisoners  
11 shall be bailable by sufficient sureties, unless for capital offenses when the proof is evident or the  
12 presumption great. No capital offense was alleged, and no hearing was held and due process of  
13 law was deprived. See Mathews v. Eldridge, 424 U.S. 319 (1976).

14 The Defendant was denied access to the court, denied counsel at a critical stage, denied bail in  
15 violation of constitutional and statutory law, and detained under capiases issued and enforced  
16 without any accompanying judicial review. The record establishes a complete failure of the trial  
17 court to comply with Rule 5, to safeguard pretrial liberty, and to provide the most basic elements  
18 of adversarial process and fundamental due process guarantees under the Fourteenth Amendment  
19 to the United States Constitution and Article I, § 8 of the Tennessee Constitution. See Gerstein v.  
20 Pugh, 420 U.S. 103, 114 (1975); Coleman v. Alabama, 399 U.S. 1 (1970). Rothgery v. Gillespie  
21 County, 554 U.S. 191 (2008)

22  
23 This prolonged, uncounseled detention constituted a constructive denial of counsel under *Cronic*,  
24 466 U.S. 648 (1984), and violated the Defendant’s right to adversarial process at a critical stage.  
25 See *Rothgery*, 554 U.S. 191 (2008). The resulting isolation, psychological distress, and loss of  
26 access to legal assistance impaired trial preparation and exerted coercive pressure contributing to  
27 the Defendant’s waiver of trial rights. See Barker v. Wingo, 407 U.S. 514 (1972).

28 The complete absence of any Rule 5 appearance, rights advisement, bond determination, or  
assignment of counsel renders the proceedings in both 19-5081-CR and 19-5144-CR structurally

1 defective. These violations affected the entire framework of the prosecution from its inception and  
2 require relief. The Defendant respectfully requests that this Court: Vacate the conviction and  
3 sentence in full; Dismiss the indictment(s) in 19-5081-CR and/or 19-5144-CR as originating from  
4 constitutionally invalid process; Or, in the alternative, grant a new trial based on the structural  
5 error and deprivation of the Defendant's rights under Rule 5, Article I of the Tennessee  
6 Constitution, and the Fifth, Sixth, and Fourteenth Amendments to the United States Constitution.  
7 Fleming v. State, 371 S.W.2d 897 (Tenn. 1963)

8  
9 **19. Ground 19: Compelled Testimony Contrary to Defendant's Belief is a Constitutional**  
10 **Violation and Structural Error**

11  
12 The Defendant alleges that trial counsel Douglas T. Bates IV, advised him to give scripted  
13 testimony that he knew to be false. This not only violated the Defendant's right to testify truthfully  
14 Rock v. Arkansas, 483 U.S. 44 (1987) interfering with trial integrity but constituted a breach of  
15 ethical duties by counsel Tenn. Sup. Ct. R. 8, RPC 1.2(d), 3.3 and a fundamental due process  
16 violation of the Fifth and Sixth Amendments. See Nix v. Whiteside, 475 U.S. 157 (1986); United  
17 States v. Dunnigan, 507 U.S. 87 (1993). United States v. Cronin, 466 U.S. 648 (1984). Counsel-  
18 induced testimony contrary to the defendant's actual memory, belief and desire constitutes  
19 ineffective assistance of counsel, constructive denial of counsel, undermines the integrity of the  
20 adversarial process and violates the Defendant's due process rights under the Fourteenth  
21 Amendment. See Ground 33. See Matthew Amick Statement of the Case Affidavit/Declaration.

22  
23 **II. CONSTITUTIONAL ERRORS SUPPORTING REVERSAL**

24 **20. Ground 20: Violation of Sixth Amendment Confrontation Clause - Hearsay Expert**  
25 **Testimony**

26  
27 Dr. Joe Mount testified regarding the Defendant's competency based on a SLUMS test  
28 administered by, non-testifying MTMHI staff and a letter created by non-testifying MTMHI staff.  
He testified he was not a neuropsychologist and did not personally evaluate or diagnose the  
Defendant. This surrogate testimony violated the Confrontation Clause of the Sixth Amendment  
and deprived the defendant of his right to confront his accusers. Crawford v. Washington, 541 U.S.

1 36 (2004); Melendez-Diaz v. Massachusetts, 557 U.S. 305 (2009); and Bullcoming v. New  
2 Mexico, 564 U.S. 647 (2011), bar such testimonial hearsay unless the original declarant is subject  
3 to cross-examination. Counsel failed to object or preserve the violation. State v. Maclin, 183  
4 S.W.3d 335 (Tenn. 2006). Smith v. Arizona 602 U.S. 779 (2024) Deficient under Strickland. See  
5 Ground 33.

## 6 7 **21. Ground 21: Failure to Impeach State Witnesses**

8  
9 At trial, the State's witnesses, particularly Rebecca Ashton Seaborn Amick and Seth Amick  
10 testifying in 19-5144-CR and Alice Mayzell Riley and Harold Bowers testifying in 19-5081-CR,  
11 made internally contradictory statements under oath, plainly visible in the trial transcript. . Trial  
12 counsel failed to impeach or confront these inconsistencies, depriving the court of critical  
13 credibility determinations and violating the Defendant's confrontation rights. This failure denied  
14 the Defendant the effective assistance of counsel under Strickland and undermined the truth-  
15 seeking function of the adversarial process. See Davis v. Alaska, 415 U.S. 308 (1974); Delaware  
16 v. Van Arsdall, 475 U.S. 673 (1986).; California v. Green, 399 U.S. 149, 158 (1970).

17  
18 Prejudice was amplified by improper joinder: witnesses addressed unrelated charges, allowing the  
19 court to conflate their testimony in a bench trial. The failure to impeach, coupled with the failure  
20 to sever, materially contributed to the conviction. Deficient under Strickland. See Ground 5, 33.

## 21 22 **22. Ground 22: Improper Joinder of Offenses**

23  
24 The criminal impersonation charges were unrelated in time, manner, and motive to the Especially  
25 Aggravated Kidnapping charge. Counsel failed to move to sever the cases under Tennessee Rule  
26 of Criminal Procedure 14. The joinder prejudiced the Defendant by conflating unrelated offenses,  
27 enabling character-based inferences, and allowing the court to consider otherwise inadmissible  
28 evidence across charges. See State v. Garrett, 331 S.W.3d 392 (Tenn. 2011). See Ground 33.

1       **23. Ground 23: Failure to Present Exculpatory Witnesses and Evidence — Deprivation**  
2       **of Complete Defense and Compulsory Process**

3  
4 Trial counsel, Douglas T. Bates IV, rendered ineffective assistance by failing to subpoena  
5 favorable witnesses, introduce exculpatory evidence, or investigate leads provided by the  
6 Defendant and his family. These omissions violated the Defendant's Sixth Amendment right to  
7 compulsory process and to present a complete defense.

8  
9 Despite repeated requests, counsel refused to call exculpatory witnesses whose identities were  
10 known and referenced on the record. These include witnesses with direct knowledge contradicting  
11 the State's narrative, as well as individuals connected to expunged case 17-5274-CR, which  
12 contained evidence of perjury by a key prosecution witness. Counsel also failed to introduce  
13 physical or documentary evidence identified by the Defendant.

14  
15 Such failures fall below the professional standard required under Strickland v. Washington, 466  
16 U.S. 668 (1984), and satisfy both deficient performance and prejudice. See also State v. Burns, 6  
17 S.W.3d 453 (Tenn. 1999); Hooper v. Garrahty, 845 F.2d 471 (4th Cir. 1988); McCoy v.  
18 Wainwright, 804 F.2d 1196 (11th Cir. 1986). Because this conduct deprived the Defendant of  
19 meaningful advocacy and denied the trial court access to relevant exculpatory facts, the conviction  
20 cannot stand. See Exhibit E, I, J, K, L, and P, See Defendant's Affidavits, Ground 5, 33.

21  
22       **24. Ground 24: Pre-Indictment Denial of Counsel**

23  
24 The Defendant was without counsel during the grand jury process held prior to defendant's arrest  
25 on a no-bond Capias. Defendant remained without counsel for over 600 days while, no motion to  
26 quash the indictment was filed, nor was there any effort to contest the integrity of the grand jury,  
27 despite clear grounds to do so. The foreman was known to be personally associated with a key  
28 State witness. The lack of counsel during this critical stage, combined with structural irregularities,  
constitutes a Sixth Amendment violation. See Coleman v. Alabama, 399 U.S. 1 (1970); United  
States v. Wade, 388 U.S. 218 (1967).

1 “Attachment of the constitutional right to counsel occurs when a prosecution is  
2 commenced, which occurs at “the initiation of adversary judicial criminal  
3 proceedings – whether by way of formal charge, preliminary hearing, indictment,  
4 information, or arraignment.” Rothgery v. Giles County, 554 U.S. 191, 198,  
5 128 S.Ct. 2578, 171 L.Ed.2d 366 (2008) (emphasis added) (internal quotation  
6 marks omitted) (quoting United States v. Gouveia, 467 U.S. 180, 188, 104 S.Ct.  
7 2292, 81 L.Ed.2d 146 (1984). The Court in Rothgery “reaffirm[ed] what we have  
8 held before and what an overwhelming majority of American jurisdictions  
9 understand in practice: a criminal defendant’s initial appearance before a judicial  
10 officer, where he learns the charge against him and his liberty is subject to  
11 restriction, marks the start of adversary judicial proceedings that trigger attachment  
12 of the Sixth Amendment right to counsel.” 554 U.S. at 213.” State v. Charlton, 23  
13 Wn.App.2d 150, at 158, 515 P.3d 537 (August 9, 2022).

14  
15 “Moreover, the wrongful deprivation of a criminal defendant’s right to counsel is a  
16 structural error which so contaminates the proceeding that reversal is mandated.  
17 See United States v. Gonzalez-Lopez, 548 U.S. 140, 148-51, 126 S.Ct. 2557, 165  
18 L.Ed.2d 409 (2006); Penson v. Ohio, 488 U.S. 75, 88-89, 109 S.Ct. 346, 102  
19 L.Ed.2d 300 (1988); Chapman v. California, 386 U.S. 18, 23 & n. 8, 87 S.Ct. 824,  
20 17 L.Ed.2d 705 (1967); State v. Rodriguez, 254 S.W.3d 361, 371 (Tenn. 2008). . .  
21 . A trial court’s erroneous ruling to deprive a defendant of his fundamental  
22 constitutional right to counsel is per se reversible error. Chapman U.S. at 23 & n.  
23 8, 87 S.Ct. 824 (1967); Rodriguez, 254 S.W.3d at 371. Accordingly, we must  
24 reverse Defendant’s conviction and remand this matter for appointment of trial  
25 counsel and a new trial.” State v. Holmes, 302 S.W.3d 831, 838, 848 (Jan. 12,  
26 2010).

27 The right to the assistance of counsel is automatic; assuming the right is not waived, assistance  
28 must be made available at critical stages of a criminal prosecution whether or not the defendant  
has asked for it; Hendon v. State, 489 S.W.2d 271, at 274 (Sept. 6, 1972). The State of Tennessee  
has .... “The burden of establishing valid waiver of defendants Sixth Amendment right to counsel”

1 Michigan v. Jackson, 475 U.S. 625, 89 L.Ed.2d 631, 106 S.Ct. 1404 (1986). The record must show,  
2 or there must be an adequate allegation and the evidence which clearly shows “a defendant’s  
3 understanding and voluntary waiver of representation by counsel” Glasser, 369 U.S. 506, 514, 516,  
4 8 L.Ed.2d 70, 82 S.Ct. 884 (1962) Johnson v. Zerbst, 304 U.S. 458, 82 L.Ed. 1461, 58 S.Ct. 1019  
5 (1938). “Waivers of constitutional rights must not only be voluntary, but must be done with  
6 sufficient awareness of the relevant circumstance and likely consequences” Brady v. United States,  
7 397 U.S. 742, 748, 25 L.Ed.2d 747, 90 S.Ct. 1463 (1970). See Exhibit N. See Ground 11,17  
8

### 9 III. EVIDENTIARY AND PROCEDURAL ERRORS

#### 10 **25. Ground 25: Failure to Move for Discovery of Impeachment Material**

11  
12 All counsel failed to request or compel discovery of known impeachment evidence against the  
13 State’s key witness, Rebecca Ashton Seaborn Amick. Specifically, trial counsel had personal  
14 knowledge that Ms. Amick had previously admitted to perjury in Cause No. 17-5274-CR, and was  
15 a signatory to a subsequent expungement order concealing that charge. Neither a Brady motion  
16 nor any discovery request was filed to secure this impeachment material.  
17

18 This evidence would have been critical to undermine the witness’s credibility and challenge the  
19 truthfulness of her testimony in the present matter. The failure to seek or preserve this material  
20 violated the Defendant’s rights under Brady v. Maryland, 373 U.S. 83 (1963); Giglio v. United  
21 States, 405 U.S. 150 (1972); and Strickland v. Washington, 466 U.S. 668 (1984). This omission  
22 under Tenn. R. Crim. P. 16 prejudiced the defense and permitted the introduction of unchallenged  
23 perjury, contributing to a fundamentally unfair trial.  
24

25 This failure to act not only constituted ineffective assistance of counsel, deprived the Defendant  
26 of valuable exculpatory evidence but also violated the Defendant’s Fifth and Fourteenth  
27 Amendment right to due process and a fair trial. Exhibit B, Exhibit C. See Ground 5, 33.  
28

#### **26. Ground 26: Failure to Move for a Franks Hearing to Challenge Affidavit Falsehoods and Omissions**

1 Under Franks v. Delaware, 438 U.S. 154 (1978), a defendant is entitled to a hearing upon a  
2 preliminary showing that a warrant affidavit contains knowingly false or recklessly misleading  
3 statements material to probable cause.

4 In this case, affidavits supporting charges in 19-5144-CR included statements by Rebecca Seaborn  
5 Amick, who previously made false allegations in Cause No. 17-5274-CR. That case was later  
6 expunged without the Defendant's knowledge, removing access to key impeachment material.  
7 Defense counsel was aware of these contradictions but failed to move for a Franks hearing or seek  
8 suppression of derivative evidence. See Exhibit B, C, P.

9 "A witness may be impeached by significant omissions from his or her testimony.  
10 Such omissions may relate to matters included in a former hearing relating to the  
11 matter on trial or to matters which the witness has a duty to disclose, provided that  
12 there has actually been a failure to disclose and the witness was interrogated upon  
the matter." Am Jur. 2d, Witnesses § 961.

13 At least one known series of "failure(s) to disclose when interrogated" occurred in the bond hearing  
14 and the omission deprived the Defendant of a vital safeguard against misuse of the warrant process,  
15 allowed potentially tainted evidence to reach the trier of fact, and constituted ineffective assistance  
16 under Strickland v. Washington, 466 U.S. 668 (1984), and a due process violation under Mooney,  
17 Napue, and Giglio. Suppression was required; reversal is warranted. See Ground 5, 33.

## 18 19 **27. Ground 27: Admission of Prior Bad Acts**

20  
21 At both the bond hearing and trial, the prosecution improperly referenced expunged case no. 17-  
22 5274-CR to imply Defendant's criminal propensity, in violation of Tenn. R. Evid. 404. Trial  
23 counsel failed to object, file a motion to exclude, or request limiting instructions—despite having  
24 jointly executed the expungement with the State without Defendant's knowledge or consent. See  
25 State v. Rickman, 876 S.W.2d 824 (Tenn. 1994); State v. Smith, 868 S.W.2d 561 (Tenn. 1993).

26  
27 This unauthorized expungement also destroyed impeachment evidence of prior perjury by key  
28 State witness Rebecca Ashton Seaborn Amick, violating the Defendant's due process rights under  
Brady v. Maryland, 373 U.S. 83 (1963), and Napue v. Illinois, 360 U.S. 264 (1959).

1 Counsel's failure to preserve or challenge this compounded the constitutional harm and constituted  
2 ineffective assistance under Strickland. Exhibit C, Exhibit R. See Ground 5, 33.

3  
4 **28. Ground 28: Failure to Present Mental State Defense**

5  
6 Despite the defendant's documented and professionally diagnosed major neurocognitive  
7 impairment, trial counsel failed to raise a legally sufficient affirmative defense and argue that this  
8 diagnosis defeated an essential element of the State's case, requiring specific intent, as an argument  
9 that could be determinative, failed to file pre-trial briefs or move for a full competency hearing  
10 and failed to notify the court of the defendant's new head trauma while in custody and incurred  
11 after the MTMHI competency screening. State v. Holmes, 302 S.W.3d 831 (Tenn. 2010) and  
12 Drope v. Missouri, 420 U.S. 162 (1975) Because the Defendant was unable to act knowingly or  
13 intentionally, the evidence suggests he was unable to commit the alleged charges requiring intent.

14  
15 Counsel's failure allowed conviction based on a mental state that the defendant may not have  
16 legally possessed and constitutes ineffective assistance of counsel under Strickland v. Washington,  
17 466 U.S. 668 (1984). The defense would have negated the mens rea for all charges. See Ground  
18 12, Ground 33.

19  
20 **29. Ground 29: Deprivation of Speedy Trial**

21 A criminal defendant's constitutional right to a speedy trial is violated when the government causes  
22 an unreasonable delay that results in actual prejudice to the defense, including the loss or  
23 impairment of favorable evidence or witnesses. Matthew Amick was arrested on August 8, 2019,  
24 but was not brought to trial until July 28, 2022—a delay of 1,085 days. This extraordinary delay  
25 violated his right to a speedy trial guaranteed by the Sixth Amendment to the U.S. Constitution,  
26 Article I, § 9 of the Tennessee Constitution, and Tennessee Code Annotated §§ 40-14-101 and 40-  
27 20-101.

28  
Under the four-factor balancing test established in Barker v. Wingo, 407 U.S. 514 (1972), State v.  
Bishop, 493 S.W.2d 81, 83-85 (Tenn. 1973), State v. Simmons, 54 S.W. 3d 755 (Tenn. 2001)

1 all factors weigh decisively in the Defendant's favor: 1) The length of delay was presumptively  
2 prejudicial. 2) The reason for delay has not been justified and reflects bureaucratic inertia. 3) The  
3 Defendant asserted his right in formal written requests. 4) The Defendant suffered clear prejudice,  
4 including the loss of memories and impairment of diminished capacity of a child witness to  
5 effectively testify favorably, and erosion of familial context, while alienated from the defendant  
6 and subject to hostile custodial influence during the prolonged delay, the impaired ability to  
7 prepare a defense, and coercive pressure to waive rights.

8  
9 "The right to a speedy trial is a fundamental principle of constitutional law. It has  
10 been zealously guarded by the English people since the signing of the Magna Carta.  
11 It is written into the Constitution of the United States and in the Constitution of this  
12 state. A right so sacredly guarded cannot be lightly ignored. It is a right, not a  
13 privilege, and cannot be frittered away by the laches of public officers." State v.  
14 Brockelman, 173 Kan. 469, 249 P.2d 692 (1952). "As one court has noted, where  
15 delay is "the product of sheer bureaucratic indifference (that factor) weighs heavily  
16 against the government" United States v. Macdonald, 632 F.2d 258, 262 (4<sup>th</sup> Cir.  
17 1980). . . . While we recognized that an affirmative demonstration of prejudice to  
18 the defendant is not essential to prove a denial of the right to a speedy trial. Moore  
19 v. Arizona, 414 U.S. 25, 94 S.Ct 188, 38 L.Ed.2d 183 (1973)" State of Tennessee  
20 v Mark Wallace, 648 S.W. d. 264, at 270 (Nov. 19, 1980).

21  
22 Even where no specific prejudice is proven, courts may presume prejudice when the delay is  
23 extreme or deliberate. The presumption that pre-trial delay has prejudiced the accused intensifies  
24 over time. See Doggett v. United States, 505 U.S. 647 (1992); Smith v. Hooey, 393 U.S. 374  
25 (1969); Dickey v. Florida, 398 U.S. 30 (1970). United States v. Ewell, 383 U.S. 116, 86 S. Ct. 773,  
26 15 L.Ed 2d 627; Because the delay impaired the adversarial process and undermined the fairness  
27 of the trial, reversal is required. State v. Utley, 956 S.W.2d 489 (Tenn. 1997) – total denial of  
28 counsel and pre-trial liberty during delay compounds prejudice. Exhibit F, Exhibit R. See Ground  
14, 33.

### **30. Ground 30: Warrant Based Search of Wrong Address**

1  
2 The search warrant authorized entry at 512 E. Kelly Road, yet law enforcement searched 404 E.  
3 Kelly Road in addition, without a new or amended warrant. The search was not justified by exigent  
4 circumstances. Defense counsel failed to file a motion to suppress, allowing the fruits of the illegal  
5 search to be admitted without challenge. See State v. Talley, 307 S.W.3d 723 (Tenn. 2010); State  
6 v. Lakin, 588 S.W.3d 544 (Tenn. 2019). Wong Sun v. United States, 371 U.S. 471 (1963), and  
7 Mapp v. Ohio, 367 U.S. 643 (1961). Neither the defendant nor State's witness Rebecca Ashton  
8 Seaborn Amick have an ownership interest in 404 E. Kelly Rd. Centerville, Tennessee. Exhibit J  
9 Exhibit K. See Ground 33.

### 10 11 **31. Ground 31: Miranda Violations Prejudicing Bail and Trial**

12  
13 The Defendant was interrogated while in custody and without being read his Miranda rights.  
14 Although Officer Carroll later recorded a Miranda advisement nearly one week after the original  
15 interrogation, the prosecution relied on the earlier unwarned statements to portray Defendant as  
16 morally flawed and a public safety threat, inflaming the trial court's perception. Statements  
17 obtained were subsequently introduced during the bond hearing and these statements appear to  
18 have influenced the denial of pretrial bail—an essential liberty interest under the Eighth  
19 Amendment, Article I, § 15 of the Tennessee Constitution, and Tenn. Code Ann. § 40-11-101,  
20 which guarantees the right to bail in non-capital cases. These statements were not preceded by a  
21 valid waiver and should have been suppressed. See Miranda v. Arizona, 384 U.S. 436 (1966);  
22 Berghuis v. Thompkins, 560 U.S. 370 (2010). Before there can be a voluntary and knowing waiver,  
23 "the accused must be adequately and effectively apprised of his rights." Miranda, supra, 384 U.S.  
24 at 467, 86 S. Ct. at 1624, 16 L. Ed. 2d at 719; Smith, supra, 834 S.W.2d at 918. Rhode Island v.  
25 Innis, 446 U.S. 291 (1980); Edwards v. Arizona, 451 U.S. 477 (1981). Minnick v. Mississippi, 498  
26 U.S. 146 (1990); United States v. Massey, 550 F.2d 300 (5th Cir. 1977); United States v. Priest,  
27 409 F.2d 491 (5th Cir. 1969); United States ex rel. Russo v. New Jersey, 352 F.2d 429 (3rd. Cir.  
28 1965) "An admission, in addition to being oral, may take the form of any act on the defendant's  
part which tends to convey thought processes" People v Speller, 121 Misc. 2d 354, at 355, 467

1 N.Y.S.2d 806 (1983). Voluntariness alone does not overcome this procedural requirement. Mays  
2 v. State, Tenn. Cr. App., 495 S.W.2d 833, 836 (1972). Specific statements referenced in Affidavits.

3  
4 The record does not reflect a valid waiver, and as the Supreme Court stated in Carnley v. Cochran,  
5 369 U.S. 506 (1962), “presuming waiver from a silent record is impermissible.” Without objection  
6 or challenge, the prosecution’s narrative stood untested. Counsel did not move to suppress  
7 constituting ineffective assistance of counsel. Under Strickland see Ground 33. Exhibit R.

8  
9 **32. Ground 32: Motion to Withdraw Guilty Pleas of Criminal Impersonation**

10 The Defendant moves to withdraw his guilty pleas to 4 counts of Criminal Impersonation pursuant  
11 to Tenn. R. Crim. P 32(f) which allows a guilty plea to be withdrawn after sentencing to correct a  
12 manifest injustice, on the grounds that the pleas were not entered knowingly, voluntarily, or  
13 intelligently and were the product of duress, misrepresentation and improper joinder with an  
14 inapplicable and prejudicial charge. See State v. Turner, 919 S.W.2d 346 (Tenn. Crim. App. 1995).

15  
16 The Criminal Impersonation charges to which Defendant pled guilty were joined with a charge of  
17 Especially Aggravated Kidnapping (EAK), despite the fact that the cases were not part of a  
18 common scheme or plan. The impersonation charges involved separate factual allegations,  
19 different locations, and different witnesses than the EAK case. Joinder of these unrelated charges  
20 violated Rule 14(c)(2) of the Tennessee Rules of Criminal Procedure and introduced severe  
21 prejudice into the proceedings.

22  
23 This improper consolidation created an overwhelming prosecutorial advantage, allowing the State  
24 to exert plea leverage by placing the Defendant under the weight of a severe, highly prejudicial  
25 and materially invalid EAK charge—one which itself was legally deficient due to the Defendant’s  
26 parental relationship with the alleged victim and lack of restraint, fraud, or force. See State v.  
27 Goodman, 90 S.W.3d 557 (Tenn. 2002); State v. Ward, 138 S.W.3d 245 (Tenn. Crim. App. 2003).

28  
The Defendant entered guilty pleas to Criminal Impersonation, not because he acknowledged guilt,  
but because he was improperly induced to believe that a plea would lead to leniency or dismissal

1 of the Especially Aggravated Kidnapping charge. “ In examining whether a guilty plea was  
2 knowingly and voluntarily entered, the standard is “ ‘whether the plea represents a voluntary and  
3 intelligent choice among the alternative courses of action open to the defendant’” Jaco v. State,  
4 120 S.W.3d 828, 831 (Tenn.2003) (quoting North Carolina v. Alford, 400 U.S. 25, 31, 91 S.Ct.  
5 160, 27 L.Ed.2d 162 (1970)).

6  
7 At the time of the plea, the Defendant was incarcerated, lacked effective counsel, and was facing  
8 an inapplicable and excessive felony charge that should have been dismissed or severed. Under  
9 such coercive circumstances, the Defendant was unable to make a knowing, intelligent, and  
10 voluntary waiver of his constitutional rights. “A guilty plea must be voluntarily, understandingly,  
11 and knowingly entered to pass constitutional muster” See Boykin v. Alabama, 395 U.S. 238  
12 (1969); State v. Neal, 810 S.W.2d 131, 134-35 (Tenn.1991); State v. Crowe, 168 S.W.3d 731  
13 (Tenn. 2005). The pleas were not made with a full understanding of the nature and cause of the  
14 charges and potential defenses nor intelligent alternative courses of action.

15  
16 “[T]hat there is a reasonable probability that, but for counsel’s error, he would not  
17 have pleaded guilty and would have insisted on going to trial.” Id. At 516 (quoting  
18 Hill v. Lockhart, 474 U.S. 52, 59, 106 S.Ct. 366, 88 L.Ed.2d 203 (1985)). A  
19 “reasonable probability that sufficiently undermines confidence in the outcome.  
20 Strickland, 466 U.S. at 694, 104 S.Ct. 2052.” Howell v. State, 185 S.W.3d 319, at  
21 329 (Tenn. 2006).

22  
23 The improper joinder of charges, coupled with the Defendant’s reliance on a legally defective  
24 charge as the basis for a coerced plea, constitutes manifest injustice and requires that the guilty  
25 pleas to the impersonation charges be withdrawn. See Ground 5, 33.

#### 26 27 **IV. INEFFECTIVE ASSISTANCE OF COUNSEL ON THE FACE OF THE RECORD**

##### 28 **33. Ground 33: Ineffective Assistance of Counsel on the Face of the Record**

1 “The essence of an ineffective-assistance claim is that counsel's unprofessional errors so upset the  
2 adversarial balance between defense and prosecution that the trial was rendered unfair and the  
3 verdict rendered suspect.” Kimmelman v. Morrison, 477 U.S. 365, 374, 91 L.Ed.2d 305, 106  
4 S.Ct. 2574, 2582 (1986).

5  
6 Under Strickland v. Washington, 466 U.S. 668 (1984), a conviction must be reversed where trial  
7 counsel's performance falls below an objective standard of reasonableness and the resulting  
8 prejudice undermines confidence in the outcome. This ground sets forth specific deficiencies that  
9 are identifiable from the face of the record, trial transcripts, procedural history, and attached  
10 exhibits. These errors are independently and cumulatively sufficient to establish ineffective  
11 assistance of counsel and are fully preserved for appellate and post-conviction review.

12  
13 First, These critical omissions reflect a pattern of incompetence and neglect, marked by counsel's  
14 failure to act when duty required. Counsel failed to: Object to structural defects, including a  
15 facially void charge and a tainted indictment issued by a biased grand jury foreperson (Exhibit N);  
16 impeach prosecution witnesses using available material visible in the trial transcript; File pretrial  
17 motions to suppress a Miranda violation and to challenge a search warrant executed at the wrong  
18 address (Exhibits J, K); Seek severance of unrelated charges or file a Franks motion despite known  
19 false affidavit testimony and impeachment material; Subpoena available exculpatory witnesses;  
20 Challenge the unlawful capias, request bond reconsideration, or assert a speedy trial violation  
21 despite prolonged pretrial incarceration; Object to improper surrogate expert testimony and  
22 inadmissible references to prior 'bad acts' from expunged case 17-5274-CR; Move for discovery  
23 of known impeachment material from that expunged case, prejudicing confrontation and cross-  
24 examination rights; Move for a full mental competency hearing or request ADA-compliant CART  
25 services despite documented Traumatic Brain Injury and observed neurological issues; Challenge  
26 sentencing irregularities or raise post-trial objections.

27  
28 And, Trial counsel failed to move for a judgment of acquittal under Tenn. R. Crim. P. 29 despite  
the State's failure to meet its burden of proof beyond a reasonable doubt. This omission is clearly  
prejudicial where the conviction relied heavily on uncorroborated, impeachable testimony and was

1 unsupported by physical evidence or criminal intent. Moreover, the Defendant was never served  
2 with or provided access to the indictments or charging instruments during the pendency of the  
3 case. He was therefore unable to challenge the sufficiency of the State's evidence relative to any  
4 specific statutory elements. This is a violation of due process under Cole v. Arkansas, 333 U.S.  
5 196 (1948), and Jackson v. Virginia, 443 U.S. 307 (1979), which require a defendant be convicted  
6 only of the offense charged and proven beyond a reasonable doubt. Counsel's failure to invoke  
7 Rule 29 constitutes ineffective assistance under *Strickland* and independently supports relief.

8  
9 Secondly, These affirmative acts of commission demonstrate not only incompetence but also  
10 potential ethical violations, conflicts of interest, and intentional suppression. Each materially  
11 harmed the defense and is evident from the face of the record or accompanying exhibits. Counsel:  
12 Signed an expungement order without the Defendant's knowledge or consent, destroying material  
13 impeachment evidence (Exhibit C); Represented the Defendant despite a known conflict involving  
14 prior representation of the State's witness, without disclosing the conflict or obtaining a valid  
15 waiver (Exhibits M, P); Advised the Defendant to plead guilty under conflicted representation,  
16 without seeking severance of unrelated charges; Suggested or permitted testimony that amounted  
17 to subornation of perjury; Allowed known false testimony to go unchallenged during trial;  
18 Participated in pretrial hearings, including bond proceedings, without ensuring the Defendant had  
19 private access to counsel. See "Matthew Amick Statement of the Case Affidavit/Declaration," 214  
20 pages.

21  
22 The convergence of these omissions and commissions—none strategic—produced a trial outcome  
23 that cannot be considered reliable under *Strickland* as applied in Tennessee Courts, State v. Burns,  
24 6 S.W.3d 453 (Tenn. 1999); Howell v. State, 185 S.W.3d 319, at 326 (Tenn. 2006) (citing Baxter  
25 v. Rose, 523 S.W.2d 930, 936 (Tenn.1975) and Goad v. State, 938 S.W.2d 363, 370  
26 (Tenn. 1996), State v. Carruthers, 35.W.3d 516, 546 (Tenn.2000); Poindexter v. State, 183 Tenn.  
27 193, 191 S.W.2d 445 (1946); State v. Holmes, 302 S.W.3d 831, at 838 (Tenn. 2010). Grindstaff  
28 v. State, 297 S.W.3d 208 (Tenn. 2009); See also T.C.A. § 40-2002; T.C.A. § 40-2003; T.C.A. §§  
40-2014 to 40-2028; Tenn. R. Crim. P. 44(a).

1 The court's fact-finding was tainted by unchallenged testimony, inadmissible evidence, and absent  
2 defense presentation. New trial or vacatur is appropriate. Defendant Matthew Amick's trial  
3 counsel Douglas T. Bates IV continues to refuse to provide the defendant Matthew Amick with a  
4 true and correct and complete copy of his file of Cause No. 17-5274-CR, in direct violation of  
5 Tenn. R. Sup. Ct. 1.4(a)(4); Tenn. R. Sup. Ct. 1.16(d)(4)(5), and article 1, section 9 of the  
6 Tennessee State Constitution. See Exhibit B, Exhibit C, Exhibit D, Exhibit E, Exhibit H, Exhibit  
7 I, Exhibit J, Exhibit J, Exhibit K, Exhibit L, Exhibit M, Exhibit N, Exhibit O, Exhibit P, Exhibit  
8 R. incorporated by reference in "Matthew Amick Statement of the Case Affidavit/Declaration"  
9 filed contemporaneously, offer(s) of proof and further factual support pursuant to Tenn. R. Evid.  
10 103(a)(2). See Ground 5, 7, 8, 9, 10, 12, 13, 14, 19, 20, 21, 22, 23, 25, 26, 27, 28, 29, 30, 31.

## 11 12 **V. SENTANCING ERRORS**

### 13 14 **34. Ground 34: Improper Application of Enhancement Factors - T.C.A. § 40-35-114**

15  
16 The trial court improperly applied enhancement factors under Tenn. Code Ann. § 40-35-114 during  
17 sentencing without sufficient factual or legal justification. Specifically, the court relied on  
18 enhancement factors (5) exceptional cruelty, (10) high risk to human life, and (14) abuse of private  
19 trust. However, the record does not support these findings.

20  
21 The enhancement for exceptional cruelty (5) lacked any specific findings and this factor is not  
22 supported where, as here, the defendant was found by Dr. Spirko, a licensed forensic and clinical  
23 neuropsychologist, to be unable to comprehend or intend cruelty, due to major cognitive  
24 impairment and incorrect medication. Without awareness or intent, exceptional cruelty cannot be  
25 proven.

26  
27 Factor (10), which requires proof that the defendant knowingly created a high risk to the life of  
28 others beyond the victim, was not supported by the facts presented at trial. Dr. Spirko's testimony  
demonstrated defendant Matthew Amick lacked this capacity entirely at the time of the offense.

1 Moreover, factor (14) was applied despite no evidence that the accused occupied a position of  
2 private trust at the time of the incident—particularly as the parties were divorced, and no abuse of  
3 trust can arise from exercising lawful parental authority of his own biological child.

4  
5 These factors were applied without adequate foundation, in contravention of Tennessee's  
6 sentencing standards, which require enhancement factors to be proven by a preponderance of the  
7 evidence and grounded in the record. See State v. Winfield, 23 S.W.3d 279 (Tenn. 2000). When  
8 the statutory factors are not supported by the record, their use constitutes reversible error. See State  
9 v. Imfeld, 70 S.W. 3d 698 (Tenn. 2002); State v. Poole, 945 S.W. 2d 93 (Tenn. 1997). See the  
10 "pre-sentence report" to review the wrongful sentencing issues pursuant to the principals of State  
11 v. Cannady, No. W2016-00494-CCA-R3-CD, 2017 WL 192691, at \*3 (Tenn. Crim. App. Jan. 17,  
12 2017) quoting State v. Banner, No. 03C01-9701-CR-00039, 1997 WL 789948, at \*1 (Tenn. Crim.  
13 App. Dec. 23, 1997). See Pre-Sentence Report, Ground 33.

### 14 **35. Ground 35: Improper Imposition of Consecutive Sentences - T.C.A. § 40-35-115**

15  
16 Under T.C.A. § 40-35-115, consecutive sentencing is permitted only under specific circumstances.  
17 None of the statutory grounds under subsections (1), (2), (5), (6), (7), or (8) were applicable to Mr.  
18 Amick, who had no prior criminal history, was not on probation, and was not incarcerated at the  
19 time of the offense.

20 The court cited factors (3) mentally abnormal person posing a danger to society, however expert  
21 neuropsychological testimony from Dr. Spirko as well as State's witness Dr. Mount contradicted  
22 the trial court's determination of mental abnormality.

23  
24 The application of the 'dangerous offender' classification under factor (4) requires specific findings  
25 of behavior beyond that necessary to support the elements of the offense, as well as proof that the  
26 aggregate sentence reasonably relates to the severity of the offense. The trial court failed to make  
27 the constitutionally mandated findings required by State v. Wilkerson, 905 S.W.2d 933 (Tenn.  
28 1995).

1 Multiple victims (10), the application of this factor was inappropriate. Matthew Amick's biological  
2 son over whom he exercised lawful parental authority should not be classified as a victim, these  
3 cases were improperly joined and count 10, possession of a prohibited weapon, is not related to or  
4 committed against any alleged victim and should have been sentenced concurrently.

5  
6 The improper imposition of consecutive sentences materially increased the defendant's  
7 punishment and violated principles of proportionality and individualized sentencing. State v.  
8 McClintock, 732 South Western Reporter 268, at 273 (April 27, 1987). See Pre-Sentence Report,  
9 Ground 33.

## 10 11 **VI. REQUEST FOR MANDATORY JUDICIAL NOTICE**

### 12 13 **36. Ground 36: Request for Mandatory Judicial Notice**

14  
15 Pursuant to Tenn. R. Evid. 201(d), the Defendant respectfully requests that this Court take judicial  
16 notice of adjudicative facts in the record, including testimony and documentary evidence presented  
17 at trial and in post-trial filings, specifically testimony of Dr. Katie Spirko, Dr. Joe Mount and  
18 defendant, Matthew Amick Affidavit. These facts are capable of accurate and ready determination,  
19 and contradict certain factual findings or omissions in the Court's ruling. The Court has a duty to  
20 correct its findings to conform with the record and ensure accurate adjudication. State v. Hall, 976  
21 S.W.2d 121 (Tenn. 1998) which permits courts to take judicial notice of facts "not subject to  
22 reasonable dispute," including records in proceedings involving the same parties.

## 23 24 **VII. PRESERVATION OF ALL GROUNDS FOR APPEAL AND FOR POST-** 25 **CONVICTION RELIEF**

### 26 27 **37. Ground 37: Claims reserved for Post-Conviction Relief**

28  
To the extent this Honorable Court finds the factual record insufficient to grant relief on any  
individual ground raised in this Motion, the Defendant respectfully submits that each ground is

1 fully preserved pursuant to Rule 3(e) of the Tennessee Rules of Appellate Procedure, and Tenn.  
2 Code Ann. § 40-30-103 for post-conviction review. The issues raised herein implicate structural  
3 due process violations, ineffective assistance of counsel, prosecutorial misconduct, judicial bias,  
4 and the suppression of material exculpatory evidence, and are supported by the Defendant's sworn  
5 affidavits and Exhibits A through R.

6  
7 Claims of ineffective assistance of counsel (IAC), Prosecutorial Misconduct and Judicial Bias are  
8 not fully asserted in this Motion for New Trial outside of the proof in the record, as such claims  
9 typically require evidence outside the trial record and are more appropriately addressed in, and  
10 here preserved for the concurrent Petition for Post-Conviction Relief under T.C.A. § 40-30-101 et  
11 seq. See State v. Black, 794 S.W.2d 752 (Tenn. Crim. App. 1990). These issues are identified here  
12 for preservation but are not argued fully, and Defendant explicitly reserves the right to develop  
13 them in post-conviction proceedings.

14  
15 To the extent that further evidence is revealed in post-conviction proceedings, the Defendant  
16 reserves his right to assert any additional constitutional violations, including but not limited to:  
17 Ineffective Assistance of Counsel, Prosecutorial misconduct, including suppression of exculpatory  
18 material or presentation of false evidence; Judicial bias, conflict of interest, or misconduct  
19 adversely affecting impartiality or due process; Denial of compulsory process, confrontation, equal  
20 protection, or access to counsel at critical stages;

- 21 1. Failure to disclose actual conflict(s) of interest or obtain informed, written waiver.
- 22 2. Failure to call known exculpatory witnesses despite direct instruction from Defendant.
- 23 3. Pressure or coercion to testify falsely or inconsistently with personal memory or truth.
- 24 4. Failure to investigate or present expert evidence regarding cognitive impairment and mental  
25 state.
- 26 5. Suppression of impeachment material in expunged case 17-5274-CR involving State  
27 witness.
- 28 6. Unexplained refusal to release prior client files to Defendant from related prior  
representation.
7. Failure to challenge grand jury bias or file motion to quash based on foreperson's conflict.

1 8. Any off-record or undisclosed cooperation with prosecutor or judicial officer adverse to  
2 Defendant.

### 3 **VIII. CUMULATIVE ERROR**

#### 4

#### 5 **38. Ground 38: Cumulative Effect of Multiple Structural, Constitutional, Evidentiary** 6 **and Procedural Errors**

#### 7

8 Even if each error identified herein is not, in isolation, sufficient to warrant a new trial, the  
9 cumulative impact of the numerous constitutional violations, procedural irregularities, and  
10 evidentiary missteps rendered the proceedings fundamentally unfair. The combined effect of all  
11 counsel's deficiencies, prosecutorial misconduct, judicial partiality, improper evidentiary rulings,  
12 and denial of pretrial protections deprived the Defendant of a reliable verdict and a fair trial. See  
13 State v. Hester, 324 S.W.3d 1 (Tenn. 2010); State v. Jordan, 325 S.W.3d 1 (Tenn. 2010). United  
14 States v. Payseno, 782 F.2d 832 (9th Cir. 1985).

15 "A fair trial in a fair tribunal is a basic requirement of due process." In re Murchison, 349 U.S.  
16 133, 75 S.Ct. 623, 99 L.Ed. 942 (1955)." Perry v. Banks, 521 S.W.2d 549, 554 (March 10, 1975).

### 18 **IX. REQUESTED REMEDIES AND RELIEF**

#### 19

20 The Defendant respectfully requests that this Honorable Court grant relief based upon the  
21 cumulative and individual impact of the structural, constitutional, and jurisdictional violations  
22 presented in this Motion. These include ineffective assistance of counsel, judicial bias,  
23 prosecutorial misconduct, newly discovered evidence, due process violations, and the absence of  
24 lawful jurisdiction at the time of arrest and prosecution.

25  
26 To the extent any factual record is deemed incomplete at this stage, the Defendant respectfully  
27 requests preservation of all claims under Tenn. Code Ann. § 40-30-103 for post-conviction relief  
28 and under Rule 37(b)(2) of the Tennessee Rules of Appellate Procedure for direct appeal.

Pursuant to Tennessee Code Title 40 and Tenn. R. Crim. P. 29, 33, 34, 35, and 36, and based upon  
the facts and authorities submitted, the Defendant moves the Court to:

1 I. Jurisdictional and Structural Relief

- 2
- 3 1. Vacate the conviction and all associated judgments as void ab initio, based on the use of a
- 4 constitutionally and procedurally void capias.
- 5 2. Dismiss the indictment and all charges with prejudice, including the charge of Especially
- 6 Aggravated Kidnapping, due to:
- 7
- 8 • A grand jury foreperson with visible familial ties to the State's witness (Campbell
  - 9 v. Louisiana; Bondurant);
  - 10 • A capias not based on lawful charging instruments or failure to appear (Tenn. R.
  - 11 Crim. P. 3-5, 9);
  - 12 • A judge later disqualified by structural bias on the face of the record (Turney;
  - 13 Caperton).
- 14 3. Order immediate release if the Defendant is still detained on the basis of any conviction
- 15 resulting from the void capias.
- 16 4. In the alternative, certify the jurisdictional question for expedited appellate review under
- 17 Tenn. R. App. P. 9 or 37(b)(2).
- 18

19 II. Substantive Trial and Sentencing Relief

- 20
- 21 5. Vacate the conviction for Especially Aggravated Kidnapping and dismiss that charge
- 22 under Tenn. Code Ann. § 39-13-305, as the record establishes that the Defendant was the
- 23 natural parent with no court order limiting custodial rights (State v. Goodman; State v.
- 24 Ward).
- 25 6. Permit withdrawal of guilty pleas entered on four (4) counts of Criminal Impersonation
- 26 (T.C.A. § 39-16-301) based on involuntariness, undisclosed conflicts of interest, lack of
- 27 severance, and failure to present a factual basis.
- 28 7. Grant a new trial due to cumulative ineffective assistance of counsel and complete
- breakdown of adversarial process, where defense counsel failed to:

- Move to suppress unlawfully obtained statements;

- Challenge known falsehoods in warrant affidavits;
- Subpoena exculpatory witnesses;
- Move to sever or hold a Franks hearing;
- Protect the Defendant's rights under the ADA and Sixth Amendment.

8. If the Court determines guilt stands, order a new sentencing hearing due to procedural and evidentiary errors in the punishment phase.

### III. Procedural and Evidentiary Preservation

9. Formally preserve all grounds for appeal and/or post-conviction relief under Rule 37(b)(2) and Tenn. Code Ann. §§ 40-30-101-104.

10. Order the entry into the appellate record of all:

- Exhibits (A-R),
- Affidavits (including the Matthew Amick Affidavit Statement of Case, Affidavit in Support of Amended Petition),
- Hearing transcripts, trial transcripts, and sentencing materials, pursuant to Tenn. R. App. P. 24(a)-(d).
- All "pro se" documents authored by the defendant, under Faretta v. California, 422 U.S. 806 (1975).

11. Take judicial notice of facts and filings already in the record, as permitted under Tenn. R. Evid. 201 and Tenn. R. Crim. P. 1.

12. Direct the Clerk of Court to compile and certify the complete appellate record for review by the Tennessee Court of Criminal Appeals.

### IV. Findings of Fact for Review

13. If any part of this Motion is denied, the Defendant respectfully requests that the Court enter written findings of fact and conclusions of law as required by Tenn. R. Crim. P. 33(c) to facilitate meaningful appellate review.

1 Matthew Amick

2 Matthew Amick - Print Name

3  
4  
5 Matthew Amick

6 Matthew Amick - Sign Name

7  
8  
9 Dated this 15 day of July, A.D. 2025

10  
11  
12 Counsel must investigate potential defenses and follow through on leads given to counsel by the  
13 defendant and/or his family. Hooper v. Garraghty, 845 F.2d 471, 474 (4th Cir. 1988); McCoy v.  
14 Wainwright, 804 F.2d 1196, 1198 (11th Cir. 1986); Hawkman v. Parratt, 661 F.2d 1161, at 1168  
15 (1981); It is essential that counsel contact and independently interview potential witnesses and not  
16 simply rely upon the police reports. Public Defenders or Assigned Counsel or Hired Counsel can  
17 be sued for ineffective assistance of counsel for failure to adequately investigate all the facts before  
18 advising defendant's to plead guilty, failure to adequately investigate the record for speedy trial  
19 errors, failure to adequately apprise defendants of all the elements of the charges filed, failure to  
20 investigate and argue all potential defenses, including a "diminished capacity defense", the risk of  
21 going to trial and the consequences of pleading guilty, failure to file an Anders Brief and for failure  
22 to properly take over and preserve any assignments of error for the court of appeals. Anders v.  
23 California, 386 U.S. 738, 18 L.Ed.2d 493, 87 S.Ct. 1396 (May 8, 1967), rehearing denied, 388  
24 U.S. 924, 87 S.Ct. 2094, 18 L.Ed.2d 1377 (June 12, 1967); Penson v. Ohio, 488 U.S. 75, 102  
25 L.Ed.2d 300, 109 S.Ct. 346 (1988); and Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052,  
26 80 L.Ed.2d 674 (1984) (where the Court held a defendant has the right to effective assistance of  
27 counsel at trial).

28 \_\_\_\_\_, TSBA #32498

Amanda J. Gentry

(Signature of Assigned Counsel Amanda J. Gentry is Required).