

## Axinn Pro Bono Work Helps Secure Release of Wrongfully Incarcerated Individual

December 21, 2023

### ATTORNEYS

Irvine, Danielle

Lu, Victoria

### PRACTICE AREAS

Antitrust

Intellectual Property

Litigation

On December 15, Artis Whitehead was released from prison after serving nearly 21 years. Whitehead was wrongfully convicted in 2003 and sentenced to 249 years for a May 2002 robbery of B.B. King's Blues Club in Memphis, Tennessee. Whitehead's conviction was based solely on two eyewitness identifications occurring over eight months after the crime and a purported CrimeStoppers' tip. No physical evidence connected him to the crime, he physically bears no resemblance to the eyewitness descriptions given of the robber, and four of six testifying eyewitnesses did not identify Whitehead as the perpetrator.

Whitehead's legal team uncovered a key piece of evidence when they discovered that a police informant made the purported CrimeStoppers tip naming Whitehead in an attempt to receive a lighter sentence for his own pending criminal charges. Whitehead's legal team obtained fingerprint, palm print, and DNA testing on items at the crime scene, none of which resulted in a match to Whitehead. Additionally, the legal team presented evidence that his trial and appellate counsel had unwaivable conflicts of interest, developed new scientific evidence showing that the eyewitness identifications of Whitehead were faulty, and obtained a statement from the initial identification witness, who shared that her identification of Whitehead may have been human error.

Shelby County Criminal Court Judge Jennifer Fitzgerald's 93-page ruling vacated the conviction on multiple legal grounds, determining that the police and original prosecutor's failure to disclose the information about the informant constituted a Brady violation, Whitehead's trial counsel had failed to object to improper statements made by the prosecution during the trial, conflicts of interest existed for Whitehead's trial and appellate counsel, and that the evidence at trial against Whitehead was minimal. Whitehead was released from prison after the order was entered on December 15.

This was a collaborative representation with the Tennessee Innocence Project and attorneys from Bass, Berry & Sims, and Axinn. The Axinn team

was led by associate Danielle Irvine, who began representing Whitehead in 2019 while participating in the Bass, Berry & Sims Pro Bono Fellows program and continued working on the matter after joining Axinn in New York in 2022, and associate Victoria Lu.

