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October 17, 2014

(Proceedings commencing at 10:31 a.m. at  
the Granville County Courthouse.)

JUDGE LONG: Thank you, Sheriff. All  
right. Please let the record reflect that this  
Three-Judge Panel has been assembled pursuant  
to the recommendation of the Innocence Inquiry  
Commission in the case of State versus Willie  
Henderson Womble, 75CR6128, Granville County.

The record should further reflect that  
Mr. Womble is present with counsel, Mr. J.  
Thomas Burnette, and that the District Attorney  
for Judicial District 9, Mr. Samuel Currin, is  
also present.

Mr. Burnette.

MR. BURNETTE: Good morning, your Honor.  
Thank you. Madam Court Reporter, for the  
record, my name is Tom Burnette. I'm a lawyer  
here in Granville County and I represent Willie  
Womble in this proceeding.

(Defendant's Exhibits 1 through  
4 marked for identification.)

MR. BURNETTE: Your Honor, before we  
actually get started, I have some exhibits to  
hand up that I need to make part of the

1 official record here. It's Exhibits 1 through  
2 4. Exhibit 1 is the brief that was prepared by  
3 the Innocence Inquiry Commission; Exhibit  
4 Number 2 consists of two transcripts, which is  
5 the transcript of the Innocence Inquiry  
6 Commission hearing that was held in Raleigh on  
7 June 2nd and June 3rd; Exhibit 3 is the  
8 handouts that were given out at the Innocence  
9 Inquiry Commission on June the 2nd and June the  
10 3rd; and Exhibit 4 is the opinion of the  
11 Innocence Inquiry Commission.

12 Now, for the record, I need to state that  
13 all of these materials have been previously  
14 provided to each of the judges by the Innocence  
15 Inquiry Commission about two weeks ago, so I  
16 need to make these part of the record, and,  
17 your Honor, I would so move that each of these  
18 be introduced as official exhibits in this  
19 hearing.

20 MR. CURRIN: No objection.

21 JUDGE LONG: Let the record reflect  
22 without objection Defendant's Exhibits 1  
23 through 5 inclusive are received into evidence  
24 without objection by the State. Thank you.

25 MR. BURNETTE: It's actually Exhibits 1

1 through 4.

2 JUDGE LONG: I beg your pardon. 1 through  
3 4.

4 (Defendant's Exhibits 1 through  
5 4 entered into evidence.)

6 MR. BURNETTE: If I may approach the  
7 clerk, your Honor. I think you already have  
8 the exhibits.

9 Your Honor, when I became involved in this  
10 process, we were provided with thousands of  
11 pages of documents that gave us a complete  
12 picture of what occurred in this case. There  
13 were documents of every type that you can  
14 imagine. The Innocence Inquiry Commission  
15 staff did an extraordinary job of gathering  
16 this information.

17 Once we received those documents, Mr.  
18 Currin and I agreed that what we would do is  
19 look through the documents, which took hours  
20 and hours and hours of time, and then we would  
21 talk about this case. So, your Honor, I am  
22 here today because I believe, and I believe  
23 that the evidence shows in these exhibits that  
24 have been submitted, that there is clear and  
25 convincing evidence that Willie Womble is

1 innocent of these charges -- of the charge that  
2 he was convicted of back in 1976.

3 Now, Your Honorable Judges, Mr. Womble is  
4 mentally handicapped. He has an IQ, as best I  
5 can tell, around 65, according to his school  
6 records. He never attended regular school. He  
7 was a special education student up until the  
8 third grade when they stopped promoting him.  
9 The record reflects -- or the documents reflect  
10 that he failed every class that he took. And  
11 that goes to the very heart of what has  
12 happened in this case, Judges.

13 He was taken advantage of when he was  
14 arrested and was given a confession that later  
15 turned out to be false. The information was  
16 completely contrived by a Durham police  
17 officer. He was forced to sign it. He  
18 couldn't read it. He can only write his name.  
19 He certainly could not understand it. He  
20 couldn't understand his constitutional rights.  
21 He had no lawyer available at the time, and  
22 that was the only evidence in the trial of  
23 Willie Womble that had him connected to this  
24 horrible crime in any way.

25 And we know the confession is false

1 because the confession contains false  
2 information. It contains a reference to a  
3 white car. Well, there was never a white car.  
4 The co-defendant when he was tried the State  
5 introduced into evidence in his case that the  
6 parties left in a black Cadillac and that  
7 Joseph Perry and Albert Willis lived together  
8 and owned a black Cadillac together. So we  
9 know that was a false statement.

10 The alleged confession also says there  
11 were three people that actually went into the  
12 store at the time, and we know that's false.  
13 The reason we know it's false is there was an  
14 eyewitness, Mr. Bullock's daughter, who said  
15 there were only two people who ever came into  
16 the store. Mr. Bullock himself before he went  
17 unconscious told the police officers there were  
18 only two men in the store.

19 Later on in 2013 Joseph Perry comes  
20 forward and says there were only two people in  
21 the store. So we know that the confession was  
22 false, that it was coerced, and without that  
23 there is no evidence of Mr. Womble's  
24 involvement in this crime in any way.

25 Even more troubling from the documents, as

1           you look at them, are the number of times that  
2           Mr. Womble was interviewed after he had  
3           counsel. He was interviewed by law enforcement  
4           several times without his lawyer present. They  
5           would go down, as you see from the record, and  
6           say that he signed a waiver of his rights, he  
7           didn't want a lawyer present, and he would  
8           answer questions. He had a lawyer and they  
9           knew he had a lawyer.

10           As a matter of fact, one time, according  
11           to the SBI report, the district attorney that  
12           was prosecuting the case went down there and  
13           met with him without his lawyer, and we know  
14           his lawyer wasn't there, because at the time  
15           sheet doesn't reflect that he was there and the  
16           report says he wasn't there, and, actually, he  
17           offered this man an opportunity to have  
18           absolute immunity from prosecution in this  
19           case.

20           Now, think about that. You know, you're  
21           down in jail, charged with a terrible crime and  
22           the prosecutor and law enforcement come down  
23           there to where you are and say, look, we're  
24           going to give you a free ticket. You know,  
25           that is -- and his lawyer never knew about this



1 offer. The SBI report didn't surface until the  
2 Innocence Inquiry Commission started looking  
3 into this, which is extraordinary. And  
4 amazingly, and rightly so, Mr. Womble refused  
5 to get on the stand and say he was somewhere  
6 where he wasn't. That, to me, is  
7 extraordinary.

8 I mean, the more I think about that, you  
9 know, here you have a poor, uneducated person  
10 who's being taken advantage of that has a free  
11 ride, and he says, I'm not going to say  
12 something that ain't true. And he has  
13 steadfastly maintained that. He has said that  
14 in front of the Innocence Inquiry Commission.  
15 He said that every time that he's been  
16 questioned about this. And he refused to do  
17 the wrong thing. He always did the right thing  
18 and he's paid dearly for it.

19 After he was convicted, he appealed his  
20 case. The Supreme Court affirmed it and he sat  
21 in prison since that time, has never made the  
22 first motion for appropriate relief, has never  
23 had the first contact with anyone about his  
24 case, and it's been almost 40 years, which is a  
25 terrible thing to have happened.

1           But out of a stroke of luck, I contend,  
2           the other person that was in the convenience  
3           store, Albert Willis, passed away in 2012.  
4           When Joseph Perry learned of that, he, without  
5           any coaching or consulting with the lawyer or  
6           anything, writes a lengthy letter to the North  
7           Carolina Innocence Inquiry Commission, that is  
8           the letter that is part of the record, and he  
9           sets forth in great detail for the first  
10          time -- see, now, Perry had gone through the  
11          motion for appropriate relief route and had  
12          always maintained that he was not the shooter.  
13          So this letter that he sent the Innocence  
14          Inquiry Commission is extraordinary in the fact  
15          that for the first time he admits that he was  
16          the shooter, that Albert Willis was with him  
17          and that Willie Womble had nothing to do with  
18          this crime. And, you know, through the efforts  
19          of the staff at the Innocence Inquiry  
20          Commission we're here today.

21                 It is clear the burden of proof is on  
22                 Mr. Womble to provide clear and convincing  
23                 evidence that he is innocent of this crime.  
24                 The record clearly reflects that, and I'm  
25                 asking you to dismiss his charge and to let him

1 go home. Thank you.

2 JUDGE LONG: Any questions for  
3 Mr. Burnette?

4 JUDGE GORHAM: No questions.

5 JUDGE LONG: Judge Cole?

6 JUDGE COLE: I have none.

7 JUDGE LONG: Thank you, Mr. Burnette.  
8 Mr. Currin.

9 MR. CURRIN: Thank you, Your Honors.  
10 These are remarks that will be addressed  
11 towards the three of you.

12 As Mr. Burnette said, the main and the  
13 only evidence against Mr. Womble was his  
14 confession. The confession was obtained by a  
15 police detective in Durham. Mr. Womble stated  
16 in the innocence inquiry hearing that the  
17 statement that he signed, both the written  
18 statement and the typed-up statement, were  
19 already in place when the detective met with  
20 him. This confession from Mr. Womble got the  
21 ball rolling against him.

22 When the SBI agents investigating this  
23 case went with the Butner detective who was  
24 investigating it, they went to Durham. That's  
25 a usual practice when a crime occurs in Butner

1 to go to Durham, which is the nearest city.  
2 They met with the detectives over there,  
3 including the detective who obtained the  
4 statement. He pretty much rounded up the usual  
5 suspects that had been committing robberies  
6 around Durham, and among these were a Joseph  
7 Perry, the actual co-defendant who later  
8 admitted that he was the shooter, and Albert  
9 Willis, who was the very fortunate guy who was  
10 never convicted of what he did as being the  
11 co-defendant who went in the store.

12 Unfortunately, Mr. Womble caught the brunt  
13 of this, and I think it is because he was  
14 mentally challenged and didn't know what he was  
15 signing.

16 He clearly cannot read and write. He  
17 testified before the Innocence Inquiry  
18 Commission that he couldn't. He testified in  
19 his trial that he couldn't. And the detective  
20 from Durham told absolute falsehoods, said that  
21 he could read and write, and that he actually  
22 read his rights and read what he signed on the  
23 confession. Absolutely not true.

24 And as a lot of detectives like to do, and  
25 I understand, you know, the human motivation to

1 want to get credit for doing something, I think  
2 this is very revealing, however. The detective  
3 that got the confession called up the SBI agent  
4 and said, I've got this crime solved for you.  
5 And it was solved because of the illegally  
6 obtained confession.

7 Just before the probable cause hearing was  
8 to come up for the four of them, Mr. Womble had  
9 indicated to a lawyer and to the State that he  
10 wasn't going to testify against the other three  
11 because he didn't know anything about the crime  
12 and, in fact, had never even been to the Town  
13 of Butner.

14 The assistant district attorney  
15 prosecuting the case, in fact, as Mr. Burnette  
16 stated, offered him absolute immunity out of  
17 the presence of his lawyer. I don't think his  
18 lawyer ever knew anything about the offer of  
19 immunity. Don't you know that if he did, he  
20 would have advised Mr. Womble, I know you're  
21 innocent, but you got to take this, this is too  
22 good an offer. And, you know, they would just  
23 had to correct the fact that he would, you  
24 know, have to testify against people he didn't  
25 know anything about. They could have gotten

1 that straight.

2 At any rate, there are several indications  
3 in his confession, and Mr. Burnette has pointed  
4 out one of them, he states that the get-away  
5 vehicle was a white Ford pickup with a camper  
6 on the back. That's in the confession. In  
7 actuality, we know from Joseph Perry's trial  
8 that the get-away vehicle was a black Cadillac  
9 which actually was registered in the names of  
10 Albert Willis and Joseph Perry. So we know  
11 that that was a vehicle that was there.

12 As I've stated, Mr. -- the detective,  
13 rather, from the Durham Police Department  
14 stated that Mr. Womble could read and write.  
15 Clearly that was not true. He was a special ed  
16 student and did not go beyond the fourth grade.

17 Also, I think another indication is that  
18 Mr. Bullock, the deceased, and his daughter,  
19 Lois, who were in the store, indicated that  
20 only two people came in, that she didn't see  
21 any third person. She was in the refrigerated  
22 area and didn't see the actual shooting, but  
23 she knows that one of them was tall and one of  
24 them was short, noticeably short. If you look  
25 at the heights of the three people involved,

1 Mr. Perry was about 6 1. Mr. Womble is 5 11.

2 How would you notice the difference?

3 Mr. Willis, on the other hand, was only 5 foot  
4 6, noticeably shorter than the other.

5 Now, I understand this case was tried back  
6 in 1976. I don't think this has anything to do  
7 with it, except for the fact that he stayed in  
8 so long, but it was tried before fair  
9 sentencing or structured sentencing when if you  
10 got a life sentence, you know, it meant every  
11 day, just like it does today, for first degree  
12 murder. Chapter 15A had only come in a year  
13 earlier. And inexperienced defense lawyers  
14 were appointed to represent defendants in very  
15 serious crimes, and IDS now appoints only  
16 experienced lawyers as first chairs to  
17 represent people accused of something this  
18 serious.

19 Also, back in 1976 you had virtually no  
20 discovery laws. I mean, I remember trying  
21 cases back in the late '70s and early '80s  
22 when, you know, you would hand the defense  
23 lawyer the statement of the co-defendant right  
24 before, you know, you were supposed to  
25 cross-examine him. You didn't have time to

1 check out and to see whether it was true.

2 I would like to think, you know, that this  
3 would not happen again, that it wouldn't happen  
4 today. I hope that it wouldn't.

5 Like Mr. Burnette said, we read well over  
6 a thousand pages of material, and I could find  
7 nothing in those pages to indicate any evidence  
8 of guilt against Mr. Womble.

9 I know that he has suffered greatly and  
10 the court system in the State of North Carolina  
11 have let him down and for that I apologize.

12 JUDGE LONG: Thank you, Mr. Currin. .

13 Judge Gorham, ma'am, questions for  
14 Mr. Currin?

15 JUDGE GORHAM: No questions.

16 JUDGE LONG: Judge Cole?

17 JUDGE COLE: I have none.

18 JUDGE LONG: Anything on behalf of  
19 Mr. Womble or the State?

20 MR. BURNETTE: Nothing further for  
21 Mr. Womble, Your Honor.

22 MR. CURRIN: May I say one further thing?

23 JUDGE LONG: Please, yes, sir.

24 MR. CURRIN: I failed to read this, but  
25 this, obviously, -- and we have some family



1 members of Mr. Bullock in the audience -- was a  
2 terrible tragedy for them, and I want you to be  
3 aware of that when you consider what you do,  
4 but I'm urging you to let Mr. Womble go because  
5 he is factually innocent.

6 JUDGE LONG: Thank you, Mr. Currin.

7 JUDGE COLE: Judge Gorham, would you like  
8 to make a statement or comment on the case?

9 JUDGE GORHAM: I just really would like to  
10 thank the North Carolina Innocence Inquiry  
11 Commission for their diligence in investigating  
12 this matter.

13 JUDGE LONG: Judge Cole.

14 JUDGE COLE: I concur.

15 JUDGE LONG: I would also like to thank  
16 the Innocence Inquiry Commission for the hard  
17 work they've done. I would like to thank Judge  
18 Gorham and Judge Cole for the hard work they  
19 put in this case. It's been a pleasure serving  
20 with them on this panel. They are excellent  
21 judges and it's been my honor to work with them  
22 in this case.

23 I would like to thank Mr. Burnette and  
24 Mr. Currin for the hard work they have done  
25 once this case was afforded to them by the

1 Innocence Inquiry Commission. I know how hard  
2 Mr. Burnette has worked on this case, and I  
3 would also like to note the courageousness of  
4 Mr. Currin as the district attorney coming  
5 forward and noticing that an injustice has been  
6 done, agreeing or stipulating to the fact that  
7 this panel should find Mr. Womble innocent and  
8 set aside his conviction and I appreciate that.

9 I have been authorized by the Honorable  
10 Judge Gorham, Honorable Judge Cole to inform  
11 you that this body having considered -- the  
12 Three-Judge Panel having considered the  
13 evidence afforded to it does that unanimously  
14 to set aside the conviction of Mr. Womble and  
15 to order his immediate release from the North  
16 Carolina Department of Corrections.

17 Do you have an order that will memorialize  
18 that, Mr. Burnette?

19 MR. BURNETTE: Yes, sir, I do. If I may  
20 approach.

21 JUDGE LONG: Please. Thank you, sir.

22 MR. BURNETTE: If your Honor please, if I  
23 can request that the orders be certified as  
24 quickly as possible and transmitted to the  
25 custodian of the records and the prison

1 facility so that we expedite this?

2 JUDGE LONG: Yes, sir. I think we owe  
3 that to Mr. Womble. I'm sure we owe a lot more  
4 to Mr. Womble than that, but that's the least  
5 we can do for him here today.

6 Madam Clerk, will you please certify these  
7 and expedite it to the Department of  
8 Corrections, notify them and tell them that  
9 Mr. Womble's release has been ordered by the  
10 Three-Judge Panel. Thank you, ma'am.

11 Anything further, Mr. Burnette?

12 MR. BURNETTE: No, sir.

13 JUDGE LONG: Anything further, Mr. Currin?

14 MR. CURRIN: Other than to thank all the  
15 people involved, the Innocence Inquiry  
16 Commission and Your Honors for being here and  
17 making this decision. Thanks.

18 JUDGE LONG: Judge Gorham, anything  
19 further?

20 JUDGE GORHAM: No, Judge. Thank you very  
21 much. And, Mr. Womble, I do wish you well. .

22 MR. WOMBLE: Thank you.

23 JUDGE LONG: Judge Cole.

24 JUDGE COLE: You know, this is such a -- I  
25 think this speaks very, very highly of you,

1 Mr. Currin, and this great State. Mr. Womble,  
2 it's a long time coming, but justice has been  
3 served. Again, we apologize also.

4 JUDGE LONG: I concur with everything the  
5 two esteemed judges have said.

6 Mr. Womble, it's a sad chapter for  
7 jurisprudence in this State and with the final  
8 happy paragraph things have been right at long  
9 last.

10 MR. WOMBLE: Thank you.

11 JUDGE LONG: Sheriff, will you adjourn  
12 court for us, please.

13 (Proceedings concluded, 10:59  
14 a.m.)

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**CERTIFICATION OF TRANSCRIPT**

This is to certify that the foregoing transcript of proceedings taken on Friday, October 17, 2014, in Granville County Superior Court is a true and accurate transcript of the proceedings taken by me and transcribed by me. I further certify that I am not related to any party or attorney, nor do I have any interest whatsoever in the outcome of this action.

This 21st day of November, 2014.

*Denise St Clair*

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