

STATE OF NORTH CAROLINA  
COUNTY OF BUNCOMBE

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION  
FILE NOS. 00 CRS 65086; 00 CRS 65088

STATE OF NORTH CAROLINA

v.

KENNETH MANZI KAGONYERA;  
ROBERT WILCOXSON, III

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DECISION OF THE COURT PURSUANT TO N.C. Gen. Stat. § 15A-1469

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THESE MATTERS came on for hearing before the undersigned Judges of the Superior Court sitting as a Three-Judge Panel appointed by the Chief Justice of the North Carolina Supreme Court pursuant to N.C. Gen. Stat. §15A-1469(a) on September 12, 2011, at a special session of the Buncombe County Superior Court to hear evidence relevant to the North Carolina Innocence Inquiry Commission's recommendation in the cases of State v. Kenneth Manzi Kagonyera, 00 CRS 65086, and State v. Robert Wilcoxson, III, 00 CRS 65088.

The Three-Judge Panel ("the panel") heard evidence on September 12, 13, 14, 15, 19, 20 and 21, 2011. The State of North Carolina was represented by Assistant District Attorney Kate Dreher. The defendant Kagonyera was represented by Noell Tin, Esq. and the defendant Wilcoxson was represented by Christopher Fialko, Esq. The convicted persons, Kagonyera and Wilcoxson, were present at all times in open court during these proceedings.

The evidence consisted of the sworn testimony of thirty-three persons, stipulations of the State and of counsel for the defendants, the transcripts and files generated pertaining to the previous proceedings in these matters, and more than 240 exhibits. The evidence was concluded on September 21, 2011. At the conclusion of the evidence the State and the defendants, through counsel, made closing statements. Thereafter, the court recessed in order for panel members to review and consider the evidence received during the seven days of the hearing.

N.C. Gen. Stat. §15A-1460 (1) provides that a "Claim of factual innocence" means a claim on behalf of a living person convicted of a felony in the General Court of Justice of the State of North Carolina asserting the complete innocence of any criminal responsibility for the felony for which the person was convicted and for any other reduced level of criminal responsibility relating to the crime, and for which there is some



credible, verifiable evidence of innocence that has not previously been presented at trial or considered at a hearing granted through post-conviction relief.

N.C. Gen. Stat. §15A-1469 provides that the panel shall rule as to whether the convicted person has proved by clear and convincing evidence that the convicted person is innocent of the charges. Such a determination shall require a unanimous vote. If the vote is unanimous the panel shall enter a dismissal of all or any of the charges. If the vote is not unanimous, the panel shall deny relief.

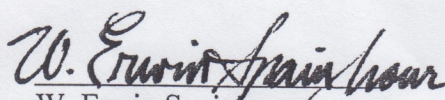
N.C. Gen. Stat. §15A-1470 provides that there is no right to any further review of the decision of the three-judge panel but the convicted person retains the right to other post-conviction relief.

The panel members have now considered N.C. Gen. Stat. §15A-1460, *et seq.* and all of the evidence presented and the arguments of counsel for the State and ~~the~~ Kagonyera and Wilcoxson, the convicted persons. The matter is now ripe for decision.

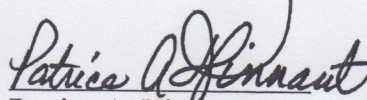
The unanimous decision of the three-judge panel of Superior Court Judges is that the defendants, Kenneth Manzi Kagonyera and Robert Wilcoxson III, the convicted persons, have proved by clear and convincing evidence that they are innocent of the murder of Walter Bowman on September 18, 2000.

IT IS THEREFORE ORDERED, pursuant to the decision of the three-judge panel and N.C. Gen. Stat. §15A-1469, that the relief sought by the convicted persons, Kenneth Manzi Kagonyera and Robert Wilcoxson, III, is granted and that the charge of murder of Walter Bowman on September 18, 2000, as to each of the convicted persons shall be, and the same is hereby, DISMISSED.

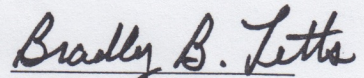
This the 22<sup>d</sup> day of September, 2011.



W. Erwin Spainhour  
Senior Superior Court Judge  
Presiding



Patrice A. Hinnant  
Superior Court Judge



Bradley B. Letts  
Superior Court Judge