

STATE OF NORTH CAROLINA
COUNTY OF EDGECOMBE

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION

STATE OF NORTH CAROLINA,)

V.)

08 CRS 50309

KNOLLY BROWN, JR.,)
Defendant.)

DECISION AND ORDER
OF THREE JUDGE PANEL

THIS CAUSE, coming on to be heard and being heard before the undersigned Superior Court Judges sitting as a Three-Judge Panel (Panel) and presiding over a special session of Edgecombe County Criminal Superior Court by Order and appointment of the Chief Justice of the North Carolina Supreme Court pursuant to N.C. Gen. Stat. 15A-1469(a). The purpose of this panel is to review the record and hear evidence relevant to the North Carolina Innocence Inquiry Commission (Commission) recommendation in the above captioned case.

The Panel received the record in this case prior to the hearing, which consisted of relevant law enforcement reports, diagrams, and the transcript of the hearing before the Commission panel.

At the hearing, the State of North Carolina was represented by Terry Orndorff, and the convicted person, Mr. Brown, who was present, was represented by Lamont Wiggins.

As a preliminary matter, the Panel made inquiry into Mr. Wiggins' representation of Mr. Brown, and learned that Mr. Wiggins had been appointed by Senior Resident Superior Court Judge Milton Fitch pursuant to N.C. Gen. Stat. 15A-1469(e). Mr. Wiggins had represented Mr. Brown early in the original proceedings, but had been relieved of his responsibilities by Mr. Brown prior to the disposition of the case. In addition to making inquiry into Mr. Wiggins' present representation of Mr. Brown, the Panel further determined that Mr. Brown continued to waive his attorney-client privilege relating to Mr. Wiggins' original representation of Mr. Brown.

As a additional preliminary matter, the Panel determined that Mr. Brown did have the capacity to proceed for purposes of the hearing.

N.C. Gen. Stat. 15A-1460(1) defines a "Claim of factual innocence" as 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.

At least thirty days prior to the hearing, pursuant to N.C. Gen. Stat. 15A-1469(f), the victim was notified of the hearing and of her right to be present.

Pursuant to N.C. Gen. Stat. 15A-1469(d), the Panel conducted an evidentiary hearing on May 27, 2016. The Panel received the testimony of Sharon Stallato of the Commission, who described the important findings of the Commission, most significantly the additional DNA testing of the clothing of the victim in the case, which excluded Mr. Brown as the donor of any of the human material located on her clothes. The Panel received Defendant's Exhibits 1-14 into the record without objection. At the close of the evidence, Mr. Brown moved for a finding of innocence and a declaration of exoneration, and was joined in the motion by ADA Orndorff.

Pursuant to N.C. Gen. Stat. 15A-1469(h), the Panel unanimously determines that the convicted person, Mr. Brown, has proved by clear and convincing evidence that he is innocent of the rape of the victim in this case.

IT IS THEREFORE ORDERED ADJUDGED AND DECREED, pursuant to unanimous decision of the Panel that the relief sought by the convicted person, Knolly Brown, Jr., is granted, and that pursuant to N.C. Gen. Stat. 15A-1469(h) that the charge of rape is hereby dismissed.

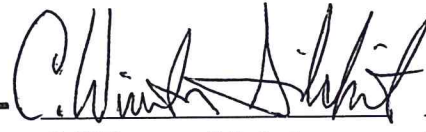
IT IS FURTHER ORDERED that Mr. Brown shall be immediately removed from the Sex Offender and Public Protection Registration Program (both the sex offender registry and any requirements for satellite-based monitoring), pursuant to N.C. Gen. Stat. 14-208.6C.

IT IS FINALLY ORDERED that Mr. Brown be released immediately, directly from this courtroom, and no longer held in the custody of the North Carolina Department of Adult Corrections, not even to return to Craven Correctional for processing.

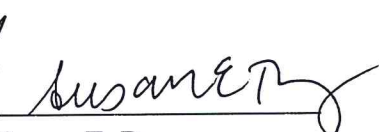
Announced in open court the 27th day of May, 2016, and entered this, the 13 day of June, 2016.



R. Allen Baddour, Jr.
Superior Court Judge



C. Winston Gilchrist
Senior Resident
Superior Court Judge



Susan E. Bray
Superior Court Judge