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NORTH CAROLINA GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION

\* \* \* \* \*

STATE OF NORTH CAROLINA            )  
  )  
      versus                            ) From Forsyth  
  ) 86 CRS 018809  
MERRITT WILLIAMS,                    ) 86 CRS 031738  
  ) Defendant.                            )

\* \* \* \* \*

TRANSCRIPT OF HEARING, Volume 4 of 4  
Friday, June 7, 2019

\* \* \* \* \*

June 4, 2019, Setting of the  
North Carolina Innocence Inquiry Commission  
The Honorable Thomas H. Lock, Judge Presiding

Commissioners Attending:

- John Boswell, Commissioner
- Luther Johnson Britt, III, Commissioner
- Robin Colbert, Commissioner
- Seth Edwards, Commissioner
- Kevin Frye, Commissioner
- Rick Glazier, Commissioner
- Dr. Frank Perry, Commissioner
- Ashley Welch, Commissioner (Alternate)

## 1 APPEARANCES:

2 Lindsey Guice Smith, Director

3 Beth Tanner, Assistant Director

4 Catherine Matoian, Grant Staff Attorney

5 Brian Ziegler, Staff Attorney

6 NORTH CAROLINA INNOCENCE INQUIRY COMMISSION

7 Post office box 2448

8 Raleigh, North Carolina 27602

9

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\*\*MASTER INDEX WILL BE IN NUMERICAL ORDER\*\*

1 FRIDAY, JUNE 7, 2019 (9:00 a.m.)

2 JUDGE LOCK: All right. I have got  
3 9:00 o'clock straight up. It looks like everyone is in  
4 place so we will come to order. I understand Dr. Houck will  
5 be available in just a moment. You've got one or two other  
6 issues that you want to bring to our attention; is that  
7 right?

8 MS. SMITH: Yes.

9 JUDGE LOCK: Yes, ma'am, Ms. Guice Smith.

10 MS. SMITH: Commissioners, we will be calling  
11 Dr. Max Houck again this morning by request of  
12 commissioners.

13 He also has provided some additional  
14 information over the evening recess that was added to your  
15 handout notebooks as Handout 88.

16 It is some slides. He is going to walk  
17 through those when he is with us this morning.

18 I did want to point out that, in this case,  
19 we did have two experts for the hair and fiber analysis.  
20 One of the reasons that we chose to do that and felt it was  
21 important to consult with both experts is because, in the  
22 Commission's history, we have had two cases where the State  
23 Crime Lab has found that hairs were microscopically  
24 consistent but where later DNA testing has shown that those  
25 hairs did not belong to that individual.

1                   Unfortunately, here we don't have those hairs  
2 and we can't do that analysis but we did want to provide for  
3 you-all all of the information out there about hair analysis  
4 and how it's done today versus how it might've been done in  
5 the mid-'80s.

6                   Both of those individuals were ultimately  
7 exonerated after going through the Commission process.

8                   We also had a third case where a hair was  
9 initially determined to be microscopically consistent but  
10 where we could not locate that hair and therefore also could  
11 not do DNA testing on the hair but other evidence linked  
12 another individual to the crime and the convicted person was  
13 also ultimately exonerated.

14                   So that's why we brought you two experts --  
15 from the crime lab and Dr. Houck. We wanted to provide all  
16 of the opinions so that you would have an understanding both  
17 of what the crime lab did then, what the crime lab does now,  
18 and what other experts in the field also say about that.

19                   We will have him on the screen momentarily.

20                                   \* \* \* \* \*

21 Thereupon, MAX HOUCK, a witness having been previously  
22 called by the Commission, was sworn and testified (via WebEx  
23 conferencing) as follows:

24                   **THE WITNESS:** Good morning.

25                   **MS. SMITH:** Good morning, Dr. Houck.

## Testimony of Max Houck, Ph.D.

1 Can you hear me?

2 **THE WITNESS:** Yes, I can.

3 **MS. SMITH:** This is Lindsey Smith, the  
4 Executive Director of the Innocence Inquiry Commission. I  
5 don't think you can see me on your screen right now but  
6 Jason might change that.

7 Good morning.

8 **THE WITNESS:** Good morning.

9 **JUDGE LOCK:** For the record, the witness  
10 remains under oath.

11 **MS. SMITH:** Thank you, sir.

12 **MR. GLAZIER:** Are we going to get to see him?

13 **JUDGE LOCK:** I don't know.

14 (Discussion off the record.)

15 **MS. SMITH:** We're having a lot of technical  
16 difficulty. You're very small on our screen but we will  
17 proceed and see if you come up bigger. They say maybe when  
18 you start talking, it will get bigger.

19 EXAMINATION

20 BY MS. SMITH: (9:07 a.m.)

21 Q. Dr. Houck, were you made aware yesterday by  
22 commission staff that Lindsey Admire from the North Carolina  
23 State Crime Lab had testified subsequent to your testimony?

24 A. Yes.

25 Q. And were you also made aware that she had reviewed

## Testimony of Max Houck, Ph.D.

1 your report and she had some disagreement with some of the  
2 items in your report?

3 A. That's correct.

4 Q. And overnight, did you provide commission staff  
5 with some PowerPoint slides that you asked us to provide to  
6 the commissioners?

7 A. Yes.

8 MS. SMITH: Commissioners, that is Handout 88  
9 that I mentioned.

10 Q. Dr. Houck, I'm just going to ask you to walk the  
11 commissioners through those slides. They've got those in  
12 front of them.

13 A. Okay. So in the -- well, first of all, Slide  
14 Number 1, you can see the description of acrylic fibers.  
15 And that's from a DuPont company technical bulletin on  
16 identification --

17 THE STENOGRAPHER: I'm having a really hard  
18 time discerning the audio. It's just not clear enough for  
19 me to make a record.

20 MS. SMITH: Your Honor, we're calling someone  
21 from the IT department.

22 JUDGE LOCK: All right.

23 MS. SMITH: We did test this before earlier  
24 this week.

25 (Court stands at ease, 9:04 to 9:16 a.m.)

## Testimony of Max Houck, Ph.D.

1 Q. All right. Dr. Houck, I think you were getting  
2 ready to walk through the PowerPoint slides that you  
3 provided to the commissioners.

4 A. Correct. Okay.

5 So going back to -- or starting with Slide 1, the  
6 company, DuPont -- this is from a technical report they  
7 issued identifying textile fibers. They, in fact, invented  
8 acrylic.

9 They state that it has a negative sign of  
10 elongation.

11 If in my testimony yesterday I said positive -- I  
12 don't recall that I did -- but if I did, that was in error.  
13 Acrylic does not have a positive sign of elongation. It has  
14 negative, as you can see here. I did not in my report and  
15 so I don't recall if I misspoke in my testimony.

16 So you can see here that acrylic has, according to  
17 DuPont, a negative sign of elongation. And the  
18 cross-section of the fiber is roundish with depression along  
19 its length.

20 On the left side of the slide, you see the drawing  
21 that the analyst made during examination of the fiber and  
22 that looks very much like the -- on the next slide, you see  
23 what an acrylic fiber looks like, it's round with that  
24 central depression that's (indiscernible) --

25 (Reporter clarification.)



## Testimony of Max Houck, Ph.D.

1                   **THE WITNESS:** Bean shaped.

2                   So the description in the notes of it having  
3 a positive sign of elongation means that it can't be  
4 acrylic.

5                   The description by the analyst in their  
6 notes, the drawing resembles an acrylic fiber.

7                   If you look at Slide Number 3, that's  
8 comparing the examiner's drawing to an acetate fiber, which  
9 is what they wrote in their notes that that fiber was. And  
10 you can see, both in the -- across the fiber and along the  
11 fiber, it looks like either what the analyst drew or what  
12 acrylic fibers look like.

13                   And, finally, on the last slide, is from the  
14 same technical bulletin, identification and characteristics  
15 for acetate fibers. It has a negative sign of elongation,  
16 as I stated in my report under B.a(4)(b), item ii, "acetate  
17 does not have a positive sign of elongation."

18                   And it's also described as having irregular  
19 striations along its length due to the cross-section shape.  
20 And you can see that in Slide 3, those long striations along  
21 the fiber that are shaped like, as I said yesterday, swollen  
22 popcorn or puffy clouds.

23                   As to Ms. Admire's testimony that the analyst  
24 did birefringent analysis, the analyst just wrote "no  
25 birefringence" for that alleged acetate fiber. And when I

## Testimony of Max Houck, Ph.D.

1 commented on it that the analyst did not calculate  
2 birefringence, that is he did not determine the numerical  
3 value for birefringence.

4 And as you can see on the slides, in the  
5 formal descriptions for both acetate and acrylic, they  
6 demonstrate a range of birefringent value. That they  
7 calculated birefringence is important because you can  
8 discriminate between otherwise similar fibers because  
9 optically they might be different.

10 Are there any questions on the fibers or  
11 should I move on to the hair comments?

12 (No response.)

13 **MS. SMITH:** Commissioners, any questions on  
14 the fibers?

15 **JUDGE LOCK:** Want to go ahead and ask about  
16 the fibers now?

17 **MR. GLAZIER:** No, Your Honor, I'd prefer to  
18 ask all my questions at one time.

19 **JUDGE LOCK:** All right.

20 Q. Move on to the hairs.

21 A. Okay. And then to my testimony in my report, I  
22 did not say you can't compare hair fibers -- the analyst is  
23 certainly free to do so -- but that depends completely on  
24 the hair, the quality, the size, a variety of factors.  
25 Generally, in my professional experience at the bench both

## Testimony of Max Houck, Ph.D.

1 at county laboratories, at the FBI laboratory, and in  
2 subsequent years, hair fragments are very risky to compare  
3 because you simply don't have enough -- you don't have the  
4 entire hair.

5 So, once again -- and each analyst would have to  
6 decide on their own based on the merits of the hair as it  
7 were. It's a risky proposition. You simply don't have the  
8 entirety of the hair and you are taking a chance. It is not  
9 a conservative approach.

10 **MS. SMITH:** Commissioners, any questions  
11 about the hairs?

12 **MR. GLAZIER:** Is he done?

13 **JUDGE LOCK:** Do you have any other questions,  
14 Ms. Guice Smith?

15 **MS. SMITH:** No, that's all that I have.

16 **JUDGE LOCK:** All right.

17 Any commissioners? Commissioner Glazier.

18 **MR. GLAZIER:** Thank you. And my questions  
19 will be a long series of questions.

20 **JUDGE LOCK:** Yes, sir. The floor is yours.

21 **MR. GLAZIER:** I'm asking for the ability to  
22 ask continuing.

23 **JUDGE LOCK:** Of course.

24 **MR. GLAZIER:** Dr. Houck, I first want to go  
25 through your credentials, please.

## Testimony of Max Houck, Ph.D.

1                   **THE WITNESS:** Sure.

2                   **MR. GLAZIER:** So if you have got your  
3 curriculum vitae in front of you.

4                   And you are currently the program director of  
5 forensic sciences and justice at the University of South  
6 Florida; is that correct?

7                   **THE WITNESS:** The program name is Forensic  
8 Studies and Justice. It's not a science program.

9                   **MR. GLAZIER:** Got it.

10                  And you're also the managing director of  
11 Forensic and Intelligence Services and have been for about  
12 eight years; is that correct?

13                  **THE WITNESS:** That's correct.

14                  **MR. GLAZIER:** And prior to that, as I am  
15 reading that, for the record, you were the director of the  
16 Department of Forensic Sciences for the District of Columbia  
17 Consolidated Forensic Science Labs in D.C. for a number of  
18 years; is that correct?

19                  **THE WITNESS:** That's correct.

20                  **MR. GLAZIER:** And prior to that, the director  
21 of Forensic Science Initiatives and Forensics Business  
22 Research and Development at West Virginia University.

23                  **THE WITNESS:** That's correct.

24                  **MR. GLAZIER:** I want to go to your editorial  
25 work.

## Testimony of Max Houck, Ph.D.

1                   You are currently the editor-in-chief of  
2     *Forensic Science International: Synergy*; is that correct?

3                   **THE WITNESS:** That's correct.

4                   **MR. GLAZIER:** Could you explain to us the  
5     importance of that periodical?

6                   **THE WITNESS:** Certainly. *Forensic Science*  
7     *International: Synergy* -- and I will just call it "*Synergy*"  
8     for now; it's easier. *Synergy* is an international journal  
9     that publishes cross-disciplinary research and articles on  
10    policy and management in forensic science. It is the first  
11    open-access academic journal in forensic science, which  
12    means that there is no fee to download the papers. So any  
13    of the research that appears in that journal is free for  
14    anyone to download.

15                  **MR. GLAZIER:** Would it be fair to say that  
16    it's one of the preeminent international forensic science  
17    journals?

18                  **THE WITNESS:** Well, we started in October so  
19    I'm not sure that it would be fair to say it is preeminent,  
20    but it is part of a larger brand of science international  
21    journals, and those are widely recognized around the world.

22                  **MR. GLAZIER:** And you're on the editorial  
23    board of *Forensic Science International and International*  
24    *Reports*; right?

25                  **THE WITNESS:** That's correct.

## Testimony of Max Houck, Ph.D.

1                   **MR. GLAZIER:** And prior to that, you served  
2 for 11 years -- I'm sorry, looks like 9 years -- as the  
3 editor-in-chief of *Forensic Science Policy and Management*;  
4 is that correct?

5                   **THE WITNESS:** That's correct.

6                   **MR. GLAZIER:** And the committees that you  
7 serve on are numerous, but I just want to highlight and make  
8 sure I understand them.

9                   You served on the Royal Society Special  
10 Session of Forensic Sciences in London?

11                   **THE WITNESS:** Correct.

12                   **MR. GLAZIER:** And also the Executive Office  
13 of the President of the United States National Science and  
14 Technology Council Committee on Science --

15                   **THE WITNESS:** That's correct.

16                   **MR. GLAZIER:** -- Subcommittee on Forensic  
17 Science?

18                   **THE WITNESS:** Yes.

19                   **MR. GLAZIER:** You're currently and have been  
20 for the last 11 years on INTERPOL's Forensic Science  
21 Symposium Planning Committee?

22                   **THE WITNESS:** That's correct.

23                   **MR. GLAZIER:** And on the Scientific Working  
24 Group on Materials Analysis that you chaired at the FBI; is  
25 that correct?

## Testimony of Max Houck, Ph.D.

1                   **THE WITNESS:** I chaired that when I was at  
2 the legal think tank, yes.

3                   **MR. GLAZIER:** You've been asked to speak and  
4 given keynote speeches at the European Academy of Forensic  
5 Sciences, the Australia and New Zealand Forensic Science  
6 Society, the National Academies of Science, the Goddard  
7 Space Flight Center, the International Association of  
8 Forensic Sciences in Hong Kong, and the Canadian Science  
9 Society of Forensic Sciences.

10                   Is that all correct?

11                   **THE WITNESS:** That is all correct.

12                   **MR. GLAZIER:** You've written chapters in a  
13 number of books, as I understand it, including on forensic  
14 anthropology, forensic pathology, fingerprints, fibers in  
15 the workfold, improving investigations with structured  
16 analytic techniques, fundamentals of forensic science, and  
17 advanced forensic science series.

18                   Would that all be correct?

19                   **THE WITNESS:** Correct.

20                   **MR. GLAZIER:** And so by count, you have 53,  
21 at least, journal publications in your vitae; is that  
22 correct?

23                   **THE WITNESS:** That sounds right.

24                   **MR. GLAZIER:** Now, with all that being said,  
25 the analyst from the SBI yesterday essentially said that the

## Testimony of Max Houck, Ph.D.

1 analyst years ago was right in calling this acetate. And  
2 your documents now suggest that, based on the notes and  
3 diagrams and comparing them to all of the professional  
4 journals, what he was really looking at and what she was  
5 really looking at was acrylic; is that correct?

6 **THE WITNESS:** In my testimony and my report I  
7 said it appears to be acrylic simply because of the shape is  
8 a characteristic of acrylic.

9 The main point is I don't think it's acetate.

10 **MR. GLAZIER:** And that is what your four  
11 documents go to point out, comparing --

12 **THE WITNESS:** Correct.

13 **MR. GLAZIER:** Okay.

14 **THE WITNESS:** It supports my assertion.

15 **MR. GLAZIER:** As to the points you made on  
16 the toboggan in the Bryson case, you indicated that the  
17 analyst could have measured the fiber diameter but did not;  
18 is that correct?

19 **THE WITNESS:** That is correct. There is no  
20 indication in the notes that they measured diameter.

21 **MR. GLAZIER:** And why would that have  
22 mattered?

23 **THE WITNESS:** Fibers are made for a purpose.  
24 There's no such thing as a generic fiber. And so they are  
25 all made with certain end products in mind. They vary by



## Testimony of Max Houck, Ph.D.

1 characteristic for those reasons, and one of those  
2 reasons -- or one of those characteristics, rather, is  
3 diameter. So diameter can distinguish between otherwise  
4 similar fibers.

5 **MR. GLAZIER:** And would it be safe to say  
6 there is a difference in diameter between a -- between  
7 acetate and acrylic fibers?

8 **THE WITNESS:** There can be.

9 **MR. GLAZIER:** And your second conclusion was  
10 that it appears the analyst incorrectly identified the  
11 fiber. We talked about that.

12 The third point is you said acetate does not  
13 have a positive sign of elongation. The analyst from the  
14 SBI said yesterday that it does. The notes that you  
15 provided us show that it does not. And would that be  
16 correct?

17 **THE WITNESS:** According to the documentation  
18 that I have, that's correct.

19 **MR. GLAZIER:** You have also indicated that  
20 given the description of the examinations conducted, the  
21 analyst should be able to make further evaluations. I think  
22 you talked about the birefringence.

23 Would it be standard practice for anyone in  
24 this profession, under international or for that matter  
25 national protocols, to mark down at least what the numbers

## Testimony of Max Houck, Ph.D.

1 were for the birefringence?

2 **THE WITNESS:** That is standard procedure and  
3 it's recommended in even elementary textbooks on forensic  
4 microscopy.

5 **MR. GLAZIER:** And infrared spectroscopy was  
6 certainly available at the time and it wasn't done in this  
7 case. Would that be correct?

8 **THE WITNESS:** That is correct.

9 **MR. GLAZIER:** Thank you. That's all the  
10 questions I have on that.

11 **JUDGE LOCK:** Any questions about the hair?

12 **MR. GLAZIER:** No. None.

13 **JUDGE LOCK:** All right.

14 **MR. BOSWELL:** Can I?

15 **JUDGE LOCK:** Yes, sir.

16 **MR. BOSWELL:** Doctor, this is John Boswell.

17 Yesterday when we were talking with the  
18 analyst from the state lab, we were discussing that the  
19 fibers that were being compared were attached to two  
20 different toboggans that had been collected but there wasn't  
21 necessarily a source that they were being compared with.

22 And I am just wondering in your opinion what  
23 the probative value of two different fibers from two  
24 different hats -- you know, what analysis can you make if  
25 you don't have the source from which those two fibers might

## Testimony of Max Houck, Ph.D.

1 have come from?

2 I'm just trying to figure out what does this  
3 tell us?

4 **THE WITNESS:** Sure. That's an excellent  
5 question.

6 And it goes back to a number of very core  
7 issues in forensic science but particularly in trace --  
8 particularly things like fibers and small materials that  
9 transfer easily.

10 It depends on how the items of evidence were  
11 handled, how they were packaged, if they came in contact  
12 with, say, the same surface at the scene, between scenes, in  
13 the laboratory. Depending on the laboratory's cleaning  
14 protocols, it's certainly possible to have materials on one  
15 item that get placed on the surface, that item gets picked  
16 up, repackaged, another item comes out, gets put on that  
17 surface, and if there's no cleaning in between, incidental  
18 transfer can happen. We call that contamination.

19 Absent that, let's assume everything was good  
20 and done appropriately, not having a known source for  
21 textiles is problematic particularly with these because, as  
22 mentioned before, they don't have color. Color is an  
23 enormous discriminator between otherwise similar fibers that  
24 are chemically similar fibers. The fact that they are white  
25 really lowers their evidentiary value and the fact that

## Testimony of Max Houck, Ph.D.

1 there's no known source lowers it even further.

2 I don't like to second-guess but typically  
3 colorless fibers, unless there's something -- unless there's  
4 a whole lot of them and they are of a particular nature, a  
5 particular type, like, might be rare or maybe, like, the  
6 carpet-type fiber that might indicate there's white  
7 carpeting involved, or a rope, fibers could be used for  
8 different things -- but I probably wouldn't pay much  
9 attention simply because, without the color, it makes it  
10 difficult to discriminate and also makes it difficult to  
11 talk about a source.

12 **MR. BOSWELL:** The evidence in this case,  
13 there was a suggestion that these two toboggans were both  
14 being worn by the same person at one point in time and --  
15 but there wasn't -- they were both brown toboggans and there  
16 wasn't any way to determine whether the fibers on one  
17 toboggan were on the other toboggan or vice versa.

18 And is there -- I think the testimony  
19 yesterday was, you know, they were just brown fibers and  
20 they couldn't really distinguish between the two of them.

21 Is there anything about that that seems odd?  
22 Would you -- if you had two toboggans that were together,  
23 should you have been able to find fibers from one toboggan  
24 on the other if you had both sources?

25 **THE WITNESS:** So to clarify, are you asking

## Testimony of Max Houck, Ph.D.

1 can the fibers from Toboggan A transfer to Toboggan B by the  
2 same person wearing them? Or how would you distinguish  
3 between two brown toboggans?

4 **MR. BOSWELL:** No. The question really is if  
5 you had Toboggan A and Toboggan B and they were supposedly  
6 on each other being worn by the same person, would it have  
7 been reasonable to be able to determine whether fibers from  
8 one were transferred to the other if you had both toboggans?

9 **THE WITNESS:** Assuming they weren't  
10 identical, yes, you should be able to.

11 **MR. BOSWELL:** How would you go about doing  
12 that? What -- because the testimony yesterday was, "Look,  
13 they were both brown toboggans made of similar material.  
14 You wouldn't really be able to figure out where the fibers  
15 from one came from."

16 **THE WITNESS:** So if they were the same --  
17 let's say they were both made by the same company -- you  
18 might have a hard time distinguishing them. Particularly at  
19 that time, the mid-'80s, color analysis -- spectroscopic  
20 color analysis was not common. At that point, it was only  
21 in research laboratories. There are other ways, there are  
22 chemical ways you could analyze the dyes in the fibers  
23 instead of the color, and that certainly could have been  
24 conducted.

25 But if both of the toboggans were made by the

## Testimony of Max Houck, Ph.D.

1 same company, I would assume that they would test out very  
2 similarly and so it might be difficult if not impossible to  
3 distinguish them.

4 If they were made by different companies,  
5 it's entirely possible that it could have been sorted out.

6 **MR. BOSWELL:** And then on the hair that was  
7 collected, there was some discussion yesterday about the  
8 ability to discern whether a hair -- I'm trying to figure  
9 out how to say this -- so there was a hair that appeared to  
10 be an African-American hair and it was consistent with the  
11 suspect, and I guess we were trying to figure out from a  
12 hair sample that was consistent with a suspect who was also  
13 African-American, is there much to be learned from that or  
14 is there likely, in a hair sample, to be a lot of  
15 African-American hair that is going to be so similar that  
16 you can't really make lots of hay from the fact that they  
17 are similar to the suspect's hair?

18 **THE WITNESS:** So first of all, reiterating  
19 the point on comparing hair fragments, that -- like I said,  
20 that's risky simply because you don't have the entire hair.  
21 So it would be like identifying somebody based on just a  
22 portion of their nose, right? You don't know -- you might  
23 have a sense -- that's a good example because you have an  
24 idea of how much of their face you had. But with hair, you  
25 don't know -- if the fragment is an inch long or it might be

## Testimony of Max Houck, Ph.D.

1 10-inch hair, you don't know.

2 Hairs vary in their characteristics and their  
3 color somewhat on each person's head and sometimes along the  
4 shaft of the hair.

5 Hairs generally -- unless they are very, very  
6 dark -- so typically people with, say, Asian ancestry, the  
7 hair is very, very dark or they are very, very blonde, very  
8 light or gray, those are the hardest to deal with.  
9 Otherwise, coloration -- if you have an adequate hair  
10 sample, there would be no reason you couldn't make an  
11 assessment.

12 **MR. BOSWELL:** Thank you. Those are my  
13 questions.

14 **MR. GLAZIER:** Judge, I have some more.

15 **JUDGE LOCK:** Yes, sir.

16 **MR. GLAZIER:** Just a couple more questions,  
17 Dr. Houck.

18 I wanted to remind myself -- approximately  
19 how many cases have you been tendered as a professional  
20 witness, expert, and testified in?

21 **THE WITNESS:** I have testified probably in  
22 between 30 and 40 cases at the local and federal levels.

23 **MR. GLAZIER:** That was going to be my  
24 question -- at both state and federal court?

25 **THE WITNESS:** Yes, sir.

1                   **MR. GLAZIER:** Thank you.

2                   **JUDGE LOCK:** Anything else?

3                   Does any other commissioner have any  
4 questions of Dr. Houck?

5                   (No response.)

6                   **JUDGE LOCK:** Thank you very much.

7                   **MS. SMITH:** Thank you, Dr. Houck.

8                   **THE WITNESS:** Thank you for the opportunity.

9                   (Witness stands down, 9:40 a.m.)

10                  **MS. SMITH:** Your Honor, the Commission's next  
11 expert will be Dr. Sharon Kelley. We will also be taking  
12 her over the videoconference and will need a few minutes to  
13 get her on the line.

14                  **JUDGE LOCK:** We will be at ease for about  
15 five minutes.

16                  (At ease, 9:40 to 9:52 a.m.)

17                  **JUDGE LOCK:** All right. Let's come back to  
18 order.

19                  **MS. SMITH:** Commissioners, you may recall  
20 that earlier there was testimony that the Commission had  
21 retained Dr. Sharon Kelley related to evaluating the  
22 statements Merritt Williams made in both cases.

23                  For commissioners who were at our last  
24 hearing, you may recall that we actually had a confessions  
25 expert and a clinical psychologist. In this case, we only



1 have one expert because Dr. Kelley has both a clinical and  
2 confession background.

3 At this time, I will call Dr. Sharon Kelley.

4 **JUDGE LOCK:** Ms. Guice Smith, before we hear  
5 from Dr. Kelley, in what field or fields will you be  
6 tendering her as an expert?

7 **MS. SMITH:** Confessions and psychology.

8 **JUDGE LOCK:** Now, Ms. Guice Smith and members  
9 of the Commission, though the rules of evidence do not apply  
10 to this proceeding, I am going to ask, Ms. Guice Smith, that  
11 you flesh out this witness's training, experience,  
12 education, and qualifications and I'll ask that you have her  
13 describe the methodology she employed in her work in this  
14 case consistent with the requirements of evidence Rule 702  
15 regarding expert testimony, and that's given that I am not  
16 aware of any case in North Carolina recognizing confessions  
17 or specifically false confessions as an area of expertise.

18 **MS. SMITH:** Yes, sir.

19 **JUDGE LOCK:** Thank you very much.

20 \* \* \* \* \*

21 Thereupon, SHARON KELLEY, J.D., Ph.D., a witness having been  
22 called by the Commission, was sworn and testified (via WebEx  
23 conference) as follows:

24 EXAMINATION

25 BY MS. SMITH: (9:54 a.m.)

## Testimony of Sharon Kelley, J.D., Ph.D.

1 Q. Good morning, Dr. Kelley.

2 A. Good morning.

3 Q. Will you please tell the commissioners about your  
4 educational background.

5 (Technical difficulties.)

6 Q. Can you tell the commissioners about your  
7 educational background.

8 A. So I earned a bachelor's degree in psychology ...

9 (Technical difficulties.)

10 (Technology changed to phone only.)

11 **MS. SMITH:** Commissioners, I will ask  
12 you-all, when you have questions for the witness, since she  
13 can't see you, just to identify who you are that is speaking  
14 for her.

15 Q. Dr. Kelley, this is still Executive Director  
16 Lindsey Guice Smith.

17 If you will please tell the commissioners about  
18 your educational background.

19 A. Okay. So I received a bachelors degree in  
20 psychology from St. Mary's College of Maryland. Afterwards,  
21 I attended graduate school at a law-psychology J.D.-Ph.D.  
22 program. The law school portion was housed at Villanova;  
23 the psychology portion of that was housed at Drexel. So  
24 along the way, I earned a master's degree in clinical  
25 psychology, a law degree from Villanova, and then a Ph.D. in

## Testimony of Sharon Kelley, J.D., Ph.D.

1 clinical psychology from Drexel.

2 After completing those degrees, I completed a  
3 one-year postdoctoral fellowship in forensic psychology at  
4 the University of Virginia, and that was the kind of final  
5 piece of training.

6 Q. And why did you seek all those particular degrees?

7 A. Well, so I was interested in the intersection of  
8 law and psychology, and certainly a lot of folks who are  
9 interested in the intersection don't necessarily receive  
10 both degrees, meaning a law degree and a Ph.D. I decided  
11 that I wanted to have a solid background in both disciplines  
12 if I was going to do work that at least related to those  
13 disciplines and so pursued that joint degree training.

14 Q. And where are you currently employed?

15 A. I am currently employed at the University of  
16 Virginia at the Institute of Law, Psychiatry, and Public  
17 Policy.

18 Q. And is one of the goals of that clinic forensic,  
19 scientific, or specialized research?

20 A. Yes. So the faculty members here are all pursuing  
21 different lines of research, but certainly research is one  
22 of the kind of fundamental missions here. And I am happy to  
23 speak more about that or pause there.

24 Q. Yes. Please tell us more about the research that  
25 the clinic is doing and that you specifically are doing.

## Testimony of Sharon Kelley, J.D., Ph.D.

1           A.    Sure.  One of the -- the larger research project  
2 that I am a part of now is actually not directly related to  
3 forensic mental health; it's related to forensic science.

4                    So I, along with colleagues here at the Institute  
5 and at UVA, more broadly, are part of a NIST-funded center  
6 of excellence to improve the statistical foundations --

7                            (Reporter clarification.)

8           A.    NIST-funded center of excellence to improve the  
9 forensic science, specifically pattern comparison  
10 discipline -- so like fingerprints, shoe prints, things like  
11 that -- firearms.  And our piece of that is looking at human  
12 factors, meaning cognitive biases and similar features that  
13 can affect how people look at evidence in arriving at  
14 conclusions about forensic evidence.

15           Q.    And do you directly participate in the research?

16           A.    I do.  Yes.

17           Q.    Okay.  How long have you been at the clinic?

18           A.    I have been at the clinic for going on five years  
19 now.  I did my fellowship here for a year and was hired on  
20 after that -- so for a total of about five years.

21           Q.    Do you have any other experience prior to your  
22 time at the clinic?

23           A.    In terms of formal employment?

24           Q.    Yes, ma'am.

25           A.    So in between college and graduate school, I

## Testimony of Sharon Kelley, J.D., Ph.D.

1 worked for the Babylon Center for Mental Health Law for a  
2 year doing a policy internship. But beyond that, I was in  
3 graduate school the entire -- for a span of seven years,  
4 completed a fellowship in the eighth year. And so only had  
5 formal employment at the end of that, at the conclusion of  
6 my training.

7 I also hold an adjunct faculty position at James  
8 Madison University that involves teaching one class a  
9 semester in forensic psychology.

10 Q. And have you done any research specific to the  
11 area of confessions?

12 A. So the research project that I have been involved  
13 with, I'm certainly -- I read closely the literature of  
14 false confessions. In my undergraduate work, I actually did  
15 some work on false confessions. In graduate school, much of  
16 the work was broadly on interrogations and *Miranda* waivers,  
17 and during my fellowship training, did false confession  
18 cases as part of that year, as part of the training.

19 Q. Have you done any research related to psychology  
20 that you haven't already outlined for us?

21 A. Much of my research is on *Miranda* waivers, as I  
22 mentioned, and the current forensic science grants that  
23 we're a part of. I have also done research and written book  
24 chapters and articles on a variety of topics, including  
25 violence risk assessment, let's see -- but *Miranda* waiver --

## Testimony of Sharon Kelley, J.D., Ph.D.

1 *Miranda* rights and *Miranda* comprehension are probably the  
2 most dominant theme there in terms of publications and  
3 research.

4 Q. Okay. And have you been consulted or retained as  
5 an expert related to confessions made by defendants in  
6 criminal cases?

7 A. I have. Yes.

8 Q. How many times?

9 A. A small number of times total. These cases come  
10 through the clinics fairly rarely. So I believe five times  
11 total prior to this case.

12 Q. And have you also been retained or asked to  
13 consult related to psychology?

14 A. Yes. Certainly.

15 Our clinic does a wide number of forensic mental  
16 health assessments, and so some of those are specific to  
17 confession issues, contested confessions, but a wide range  
18 of psychological issues that relate to somebody's  
19 functioning in the justice system -- for example, competence  
20 to stand trial or the insanity defense, evaluations of risk  
21 specific to sexual recidivism at sentencing -- so just a  
22 wide variety of psychological topics.

23 Q. Okay. In thinking about the cases in which you've  
24 been retained related to evaluating confessions, what is  
25 your typical role in those cases?

## Testimony of Sharon Kelley, J.D., Ph.D.

1           A.     Similar to my role in this case, in that I review  
2 records -- and I guess on one occasion, my role was limited  
3 to just reviewing records. But typically, I will do a  
4 records review as well as meet with the defendant to do a  
5 clinical interview, administer some psychological testing,  
6 and then provide a written report and occasionally  
7 testimony.

8           Q.     And what is your specialized training or knowledge  
9 that you use in evaluating those cases?

10          A.     So my specialized training and knowledge comes  
11 from following closely the false confession literature,  
12 which has become increasingly abundant especially over the  
13 past 10 years, consulting with other experts in the field  
14 who are just farther along in their professions than I am,  
15 and of course consulting with colleagues here at the  
16 Institute on those cases.

17          Q.     And when you evaluate a case related to a criminal  
18 defendant's statements in a particular case, what are the  
19 principles and methods specifically that you use?

20          A.     So the main methodology would be using the risk  
21 factors identified in the false confession literature, and  
22 that literature base includes different groups of research.  
23 One would be looking at known false confession cases to  
24 identify, again, kind of known features in those cases, as  
25 well as laboratory studies where researchers can isolate and

## Testimony of Sharon Kelley, J.D., Ph.D.

1 more closely manipulate variables so that we have a better  
2 understanding of what interrogation strategies, for example,  
3 actually result in false confessions -- or seem to increase  
4 the likelihood is a better way of saying that.

5 And so effectively what I am doing is comparing  
6 the features of a particular case with the known risk  
7 factors identified in the literature.

8 Q. And can you explain to the Commission why those  
9 principles and methods are reliable.

10 A. Well, in part because they are derived from  
11 different forms of research. I think if we only relied on  
12 known false confession cases or we only relied on laboratory  
13 studies, then the research base that we are relying on would  
14 be weaker and less reliable.

15 The combination of these two types of sources  
16 allows us to essentially be more confident in those risk  
17 factors that have been identified on the research.

18 The research is also highly replicable, meaning  
19 that different researchers carry out similar studies and get  
20 similar results across those studies.

21 So maybe I will stop there and see if there are  
22 more questions on reliability issues.

23 Q. Okay. You have mentioned this, but can you talk a  
24 little bit more about the body of research and literature  
25 related to why individuals may make statements about their



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1 participation in crimes that they -- that may ultimately be  
2 determined to be false.

3 A. Sure.

4 So there seems to be a combination, again, kind of  
5 identified through the research, of particular inherent -- I  
6 apologize -- situational factors related to an  
7 interrogation, individual factors related to the person  
8 offering the statements, and then the broader context of an  
9 interrogation and the biases that can come from that.

10 The specific one that is most relevant here is  
11 confirmation bias. So this is really an interplay of a  
12 person being in a particular situation as opposed to a  
13 phenomenon that only occurs because of a particular person  
14 or because of a single interrogation strategy or something  
15 like that.

16 So the research has identified features of an  
17 interrogation, like during lengthy interrogations or periods  
18 of custody, particular interrogation strategies such as  
19 presentations of false evidence, minimization strategies,  
20 the notion of implications of leniency and people being able  
21 to read in between the lines even when leniency is never  
22 explicitly offered, in conjunction with those individual  
23 risk factors having sometimes to do with age or immaturity,  
24 sometimes it's intellect and cognitive abilities, and  
25 sometimes it's personality style, and then putting that in

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1 the broader context with confirmation bias and with  
2 phenomena like contamination that allow people to pick up  
3 and incorporate relevant details into their statements.

4 Kind of globally, these are the phenomena  
5 associated with false confessions.

6 Q. Okay. And you mentioned that the research and  
7 literature had become more abundant over the last 10 years  
8 or so.

9 Can you just give us a brief timeline of that.

10 A. Sure. Let me think.

11 So the false confession research really began in  
12 earnest, I would say, in the 1990s and proceeded somewhat  
13 slowly but with increasing pace. Particularly, I believe,  
14 received more information -- or the community was able to  
15 access more information about DNA exonerations through The  
16 Innocence Project, which show us certainly that false  
17 confessions do occur. And then the task of the research  
18 community was to help understand how they could occur. So  
19 the 1990s was where much of this research started.

20 By 2010, there was sufficient research for the  
21 American Psychology-Law Society, which is the primary kind  
22 of law-psychology body of the American Psychological  
23 Association, believed the research was sufficient to approve  
24 a scientific consensus paper on the risk factors for false  
25 confessions. That is a rare step for the American

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1 Psychology-Law Society to take. They've only done that once  
2 before, on the topic of eyewitness identifications, and so  
3 certainly by 2010, there was a generally accepted body of  
4 research on risk factors for false confession.

5           Since -- so since then, so for about the last nine  
6 years, the research has continued and increased, I think, by  
7 all accounts. There was a 2018 survey of experts in the  
8 field documenting that many of the principles that are in my  
9 report that I've been talking about are generally accepted  
10 in the field. The scholars agree on the risk factors  
11 themselves and the principles of conducting these  
12 evaluations.

13           Q. Thank you. In criminal cases where you have  
14 evaluated the statements of a criminal defendant or  
15 convicted person, what are the types of facts or data that  
16 you use?

17           A. One category of facts and data are records around  
18 the interrogation. So certainly any statements a person  
19 made, ideally video or audio recordings of the interrogation  
20 and -- yeah. Any statements that the person made over the  
21 course of speaking to police.

22           The other broad category of facts and data are  
23 those related to the person themselves -- so data that we  
24 get from meeting with a person, looking at their records,  
25 often mental health or psychiatric records, school records

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1 too sometimes, and data we get from psychological testing.

2 And so those are the two kind of main categories  
3 of data that we're looking for about the interrogation and  
4 about the police investigation sometimes more broadly and  
5 those pertaining to the individual.

6 Q. Okay. And in this case, were you provided  
7 sufficient facts or data to make your analysis?

8 A. I was. Yes.

9 Q. And you outlined the items that you were provided  
10 related to the facts or data in an appendix to your report  
11 that starts on page 36 of your report and goes through  
12 page 38; correct?

13 A. Yes. That's right.

14 MS. SMITH: Commissioners, just so you're  
15 aware, Dr. Kelley's report is located as Handout 81 in your  
16 hearing handout notebooks.

17 Q. And in this case, did you use the same reliable  
18 principles and methods that you have outlined above?

19 A. I did. Yes.

20 Q. And in this case, did you apply those principles  
21 and methods to the facts of the case as you understood them  
22 to be?

23 A. I did.

24 Q. And based on your analysis of this case, do you  
25 believe that your specialized knowledge will assist the

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1 Commission in evaluating Mr. Williams' psychological  
2 conditions, his relative educational abilities, and  
3 understanding whether any factors exist in this case that  
4 could provide additional information as to Mr. Williams'  
5 statements to law enforcement?

6 A. I do.

7 Q. Dr. Kelley, have you ever testified as an expert  
8 in the area of confessions or psychology?

9 A. I have, yes.

10 Q. Can you tell the Court how many times.

11 A. Do you want, I'm sorry, testimony only related to  
12 confessions or testimony more broadly on any forensic mental  
13 health, forensic psychology topic?

14 Q. Let's do both of those separately.

15 A. Okay. Okay.

16 I have testified as a confession expert  
17 specifically on only 3 occasions; I've testified more  
18 broadly on other topics related to forensic psychology 20  
19 times.

20 Q. Okay. And what courts have you been admitted as  
21 an expert in the area of confessions?

22 A. Confessions specifically?

23 So the Western District of North Carolina, the  
24 Eastern District of Virginia, and the Circuit Court of  
25 Orange County here in Virginia.

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1 Q. Okay. And what about psychology?

2 A. So Fairfax Circuit Court, the Eastern District of  
3 Virginia, Stafford County Circuit Court, Albemarle County  
4 Circuit Court, Fluvanna County Circuit Court, Augusta County  
5 Circuit Court, Loudoun County Circuit Court, Lynchburg  
6 Circuit Court, Mecklenburg County Circuit Court, Rockbridge  
7 County Circuit Court, and the Arlington Immigration Court.

8 Q. And when you have testified, was there a  
9 determination made that your testimony in those areas would  
10 be helpful to the trier of fact to understand the evidence?

11 A. There was. Yes.

12 Q. Have you ever been rejected as an expert in any  
13 area in a courtroom?

14 A. I have not. No.

15 Q. Have you formulated opinions in these two cases  
16 regarding Merritt Williams' confessions as well as his  
17 psychological conditions?

18 A. I have. Yes.

19 Q. And did you provide your report and CV to the  
20 Commission?

21 A. Right.

22 Q. Does it contain your opinions and the basis for  
23 those opinions?

24 A. It does.

25 MS. SMITH: Your Honor, I would now like to

## Testimony of Sharon Kelley, J.D., Ph.D.

1 tender Dr. Kelley as an expert in confessions and  
2 psychology.

3 **JUDGE LOCK:** All right. For purposes of this  
4 hearing, the tender is allowed.

5 This witness will be allowed to testify as an  
6 expert regarding confessions and in particular the  
7 phenomenon characterized as a false confession, including  
8 the earmarks of such a confession. And she may testify as  
9 to her analysis of the defendant's statements and  
10 testimonies and as to any features or characteristics of  
11 these statements which she believes may be consistent with a  
12 false confession or, conversely, inconsistent with a true  
13 confession or admission.

14 However, she may not offer any opinion as to  
15 whether or not the defendant's statements or testimonies  
16 were in fact true or false.

17 Moreover, I do wish to note for the record  
18 that I do not believe my ruling as to this tender in any way  
19 establishes the law of the case in this matter nor is it  
20 binding on any tribunal in connection with these cases or  
21 any other case.

22 All right. You may proceed.

23 **MS. SMITH:** Thank you, Your Honor.

24 Q. Dr. Kelley, when you were contacted by the  
25 Commission, did commission staff make it clear that they

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1 were not seeking any particular opinion?

2 A. Yes. That was abundantly clear, that you wanted  
3 an evaluation and information about Mr. Williams' statements  
4 and that you were not looking for any particular conclusion  
5 in the case.

6 Q. And did commission staff make it clear that we  
7 were going to present your findings no matter what they were  
8 even if you found nothing?

9 A. Yes.

10 Q. Dr. Kelley, I want to turn your attention to your  
11 report and start by having you describe what you learned  
12 about Mr. Williams' relevant background. I believe that  
13 starts on the bottom of page 1 of your report. If you will  
14 just start with family history and tell the commissioners  
15 about that.

16 A. Sure. So the -- and I believe -- I'll just  
17 apologize at the outset. I recognize this is a lengthy  
18 report, and so I will try to distill down what I think are  
19 the most relevant points in each of these sections. But if  
20 you need to me to elaborate, please ask me to do that.

21 So Mr. Williams was adopted. He did not learn  
22 about his adoption until he turned 18, he said, and was  
23 raised by his adoptive parents in South Carolina and  
24 Georgia.

25 He described a generally positive childhood. All



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1 of his basic needs were met. He described a closer  
2 relationship with his adoptive mother than father.

3 One of the themes throughout his discussion of his  
4 history and how he related to people was that he felt  
5 distant from people or that he couldn't attach to them.  
6 This was true in his description of his relationship with  
7 his adoptive father. It was true about his later  
8 relationship with his stepfather and then later in life with  
9 romantic partners as well.

10 His adopted father died when he was --  
11 Mr. Williams was about 10 years old. His mother went on to  
12 remarry. But after his stepfather passed away, she began  
13 drinking more heavily and their relationship deteriorated.

14 At age 18, he learned that he was adopted and  
15 finally met his -- at least some members of his biological  
16 family, including his mother and -- as well as maternal  
17 half-brothers. He described not feeling particularly  
18 attached to her, although he would go on to live with her a  
19 bit later in life, and never feeling particularly close to  
20 his half-brothers and also speculating or not fully  
21 understanding why he was adopted when his siblings were not.

22 Q. Okay. And if you will turn, then, to the  
23 educational history of Mr. Williams.

24 A. Sure.

25 So by all accounts, it looks like he progressed

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1 through school typically. I don't have educational records  
2 to confirm that but he did not report any significant  
3 learning problems. Special education services may have been  
4 rare in his area at the time, but no history of special  
5 education. He described not being a particularly interested  
6 or engaged student and that he began skipping school  
7 regularly in high school such that he eventually dropped out  
8 in twelfth grade.

9 He did describe a long-standing interest in  
10 becoming an architect and later earning a scholarship to,  
11 perhaps, a creative arts school or something like that in  
12 Texas but actually never attending. When he is in prison,  
13 he reported taking engineering classes for an associate's  
14 degree, enjoying those, doing well in those by his account,  
15 and then stopping so that he could complete his GED in the  
16 early 2000s, which he said he was able to complete on his  
17 second attempt.

18 Q. And if you will turn now to the employment  
19 history.

20 MS. SMITH: Commissioners, that is on page 3  
21 of the report.

22 A. So, again, according to Mr. Williams, and -- which  
23 is quite consistent with his scant employment information  
24 available and records I've alluded to in his mental health  
25 record, it does not look like he held long-term employment

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1 in any particular field.

2 He reported, of course, working on his parents'  
3 farm in childhood, traveling with the carnival for about a  
4 year as an adult, and then working in construction and  
5 remodeling once he arrived in North Carolina, but  
6 acknowledged that this work was fairly inconsistent. He was  
7 briefly in the National Guard but said that he never  
8 actually completed any duties because of his legal history.

9 During his period of incarceration, he, early on,  
10 worked in a prison hospital, and since then, has primarily  
11 worked as a janitor, at his report.

12 Q. Okay. And if you will turn to the relationship  
13 history on page 4.

14 A. Sure.

15 So he reported a history of a couple of serious  
16 relationships, a self-described serious relationship.  
17 Ultimately, the first two he says ended because he just felt  
18 that he was missing a connection or didn't feel sufficiently  
19 attached or connected to his romantic partner.

20 In the second relationship, they may have had a  
21 son together but he said he did not believe it is was his  
22 son at the time but later came to believe that the child  
23 could have been his.

24 He was of course in a romantic relationship at the  
25 time of his arrest on the current charges. He describes

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1 this relationship as having a lot of ups and downs, having  
2 really heated disputes, reconciling, and that they broke up  
3 and got back together a couple of times. So certainly as a  
4 younger man, described special relationships and reported  
5 that he is currently in a long-term relationship that is  
6 much more stable and supportive.

7 Q. If you will turn to medical history at the bottom  
8 of page 4.

9 A. Sure.

10 So no remarkable medical history, particularly  
11 that would've been contemporaneous with these charges and  
12 his statements back in the 1980s. He reported that he was  
13 diagnosed with lupus while he was in prison and has heart  
14 problems currently and history of a couple of surgeries. No  
15 history of head injuries or seizures or any -- anything that  
16 would suggest a neurological problem.

17 Q. If you will turn to the psychiatric history for  
18 Mr. Williams on the top of page 5 of your report.

19 A. Sure.

20 So based on not only his report but per the mental  
21 health records, Mr. Williams appears to have a history of  
22 depression.

23 As he describes it, these symptoms date back to  
24 adolescence. And, again, at least in part based on this  
25 idea or this feeling that he wasn't particularly attached to

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1 anybody, felt fairly uncomfortable socially but also more  
2 classic symptoms of depression like low mood.

3 He reported that he was diagnosed with paranoid  
4 schizophrenia around age 19 when he was in prison for the  
5 first time. He speculated that maybe he received some  
6 medication but certainly didn't take any in the community  
7 and -- no other records, nor did his presentation in the  
8 interview suggest that he actually would meet criteria for  
9 schizophrenia or have that condition but was nevertheless  
10 diagnosed with it as a young man.

11 The other major feature of the psychiatric history  
12 are these personality disorders --

13 (Reporter clarification.)

14 A. Okay.

15 So his mental health prison records for  
16 correctional mental health records consistently include  
17 diagnoses of mixed personality disorders with features of a  
18 few different types of personality disorders. The main  
19 feature that's at least described clinically would be  
20 borderline personality disorder but also features of  
21 antisocial personality disorder, histrionic personality  
22 disorder as well.

23 Let's see.

24 So the records are really consistent in portraying  
25 Mr. Williams as having -- or making threats of suicide and

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1 self-harm. There's an example of threatening to cut off his  
2 toes early on in his incarceration. Seeking help for kind  
3 of self-perceived or perceived mental health crises in the  
4 emergency room, bouts of fairly impulsive anger.

5 (Technical difficulties.)

6 **MS. SMITH:** I think we might've lost you  
7 there for a minute.

8 The last word I heard was "anger."

9 **THE WITNESS:** Sorry.

10 A. Okay. So impulsive anger.

11 Oh, the clinicians reporting efforts at  
12 manipulation, which is often -- probably "manipulation" is  
13 one of the most common words seen in records with folks with  
14 multiple personality disorder for being very demanding in  
15 his encounters with mental health, speaking out.

16 (Technical difficulties.)

17 **THE STENOGRAPHER:** Can you start with the  
18 manipulation topic? Thank you.

19 **THE WITNESS:** Sure.

20 A. So the records document these efforts at  
21 manipulation, and I think one of the points I was making was  
22 that manipulation or someone being manipulative is probably  
23 the most common description of somebody with borderline  
24 personality disorder across the board.

25 In Mr. Williams' case, these were kind of his

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1 demands of specific assistance, wanting specific medication,  
2 for example, and being really frustrated if providers  
3 weren't understanding his distress or providing the type of  
4 assistance he wanted at that moment.

5           And then carrying along that same theme are these  
6 really abrupt changes in mood, feeling really distressed one  
7 moment, feeling -- seemingly, you know, feeling much better  
8 the next. All of those are consistent with borderline  
9 personality disorder.

10           The records from -- or the -- rather, the  
11 transcript documenting the testimony of the psychologist and  
12 psychiatrist who evaluated him and testified at the  
13 sentencing hearing in 1987 are also, I think, helpful in  
14 just understanding likely how he was at that point in his  
15 life.

16           Again, both of them are very clear that  
17 Mr. Williams is not psychotic. He is not somebody with  
18 schizophrenia who is completely divorced from reality, but  
19 that he doesn't have a clear understanding. His ability to  
20 differentiate fantasy from reality is not perfectly intact  
21 either. He often talks and thinks in ways that don't make  
22 sense to other people. He has this unusual thinking style  
23 that just reflects kind of a misunderstanding of how the  
24 world works.

25           There is this quote from the psychiatrist about

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1 him -- his thinking being so screwy that you can't quite get  
2 a handle on it, this borderline kind of thinking that's the  
3 confusion of fantasy and reality.

4           And Mr. Williams also describes feeling  
5 uncomfortable with others, kind of making up facts about  
6 himself -- so both saying, pretending he knew facts that he  
7 didn't actually know, portraying himself as somebody who was  
8 in the military when that just was not true, trying to put  
9 himself at the center of things even though that reportedly  
10 felt uncomfortable for him as well and just kind of not  
11 being sure of himself or how to interact with other people.

12           Q.    Thank you.

13                    Is there anything further on the psychiatric  
14 history?

15           A.    I don't believe so. I guess I'll just mention --  
16 and this comes up later in the report as well -- that many  
17 of these personality disorders fade over time, and so  
18 symptoms that are just really prominent when somebody is a  
19 teenager and a younger adult just don't -- just start to  
20 fade as somebody ages, which is very consistent with his  
21 presentation now.

22                    He is currently diagnosed with depression. He is  
23 prescribed medication for depression. But currently those  
24 symptoms of his personality disorder are not nearly as  
25 prominent.



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1 Q. Thank you.

2 If you will turn to the bottom of your -- page 7  
3 of your report and tell us about the substance abuse history  
4 for Mr. Williams.

5 A. Sure.

6 So the primary issue here is alcohol use and  
7 periods of heavy alcohol use. He reported no drug use  
8 history. So he reported kind of an increasing substance use  
9 in his teenage years and into his 20s, not really drinking  
10 heavily until he is in his 20s, and then living in  
11 Winston-Salem. It sounds like in the early '80s, by his  
12 report, he is drinking nearly every day, every day when he  
13 can, and drinking for the duration of the day.

14 He reported no periods of sobriety other than when  
15 he was incarcerated. There didn't appear to be such serious  
16 withdrawal symptoms but certainly a pattern of daily heavy  
17 alcohol use.

18 Q. And if you will turn to page 8 of your report, the  
19 legal history for Mr. Williams.

20 A. Sure.

21 So he reported these two convictions in his --  
22 again, kind of earlier years that predated the current  
23 charges, one for blowing a building up, he said, and later  
24 pleading guilty to burning an uninhabited house.

25 He was -- almost presented as confused about that

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1 first charge. He reported no memory of it, as I wrote, but  
2 did recall that others -- or at least one other had placed  
3 him at the scene. And all he really recollected was getting  
4 arrested for it in his mother's home. He nevertheless  
5 decided to plead guilty, and he had served about three years  
6 by his estimate.

7 In the early '80s, he said he was charged with  
8 burning an uninhabited house. He was adamant that he had  
9 not committed that offense but nevertheless decided to plead  
10 guilty and served about two years by his estimate.

11 The trial record in Ms. Bryson's case referenced  
12 forgery charges in South Carolina that I did not -- I did  
13 not notice until after my meeting with Mr. Williams or I  
14 would've asked him about it. And same thing with the escape  
15 charge reported in the trial record.

16 Q. Okay.

17 MS. SMITH: Commissioners, before we move on  
18 any further, are there any questions about what Dr. Kelley  
19 has testified to up to this point?

20 (No response.)

21 Q. Dr. Kelley, turning your attention to the bottom  
22 of page 8 of your report, if you will just expound on the  
23 statements related to the Arthur Wilson and Blanche Bryson  
24 cases.

25 DR. PERRY: Judge, I take it she's not coming

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1 back to the psychological profile?

2 **MS. SMITH:** She will talk about her clinical  
3 assessment of him.

4 **DR. PERRY:** I have a quick question,  
5 Dr. Kelley. My name is Frank Perry.

6 **THE WITNESS:** Sure.

7 **DR. PERRY:** And is borderline a personality  
8 type or strict disorder?

9 **THE WITNESS:** Well, it can be a type. Our  
10 diagnostic manual talks about conditions in terms of  
11 disorders, but certainly somebody can have features of a  
12 disorder without necessarily meeting full diagnostic  
13 criteria for it.

14 And in that case, it's not as though those  
15 symptoms are insignificant for the person. So somebody can  
16 certainly have a personality style that is marked by those  
17 features even if they might not meet kind of full diagnostic  
18 criteria for a disorder.

19 So all of these kind of exist on a continuum,  
20 but it's certainly kind of a personality style.

21 **DR. PERRY:** But it's your opinion that  
22 Mr. Williams has a disorder as opposed to a type?

23 **THE WITNESS:** I think that, based on records  
24 of him in the 1980s, that he would have met full criteria  
25 for that disorder. I do not think he necessarily would meet

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1 criteria for the disorder now, though he likely still has or  
2 does still have, I think, some of the features of it.

3 **DR. PERRY:** So you may overcome a disorder  
4 but not the type?

5 **THE WITNESS:** Yes. Exactly.

6 And so personality styles are what they are  
7 because they are long-standing. And so many of the more  
8 severe symptoms, particularly of borderline, kind of remit  
9 over time but some of those underlying features won't go  
10 away entirely because personality styles are so  
11 long-standing and entrenched.

12 **DR. PERRY:** Thank you.

13 **THE WITNESS:** No problem.

14 Q. All right. Turning back now to the bottom of  
15 page 8 of your report.

16 A. So Mr. Williams broadly describes his decision to  
17 make statements in Arthur Wilson's case and Blanche Bryson's  
18 case as essentially a problem-solving strategy once he got  
19 arrested for Mary Smith's death.

20 He essentially described being worried that, you  
21 know, he's going to get the book thrown at him, that the  
22 penalty was going to be quite severe. He referenced Darryl  
23 Hunt's conviction in the Sykes case and essentially thought,  
24 he said, that if he could offer helpful information to the  
25 police, that perhaps a resolution of the Mary Smith case

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1 would be more in his favor.

2 He said that he was able to discern details of  
3 these cases both from just being in the neighborhood, being  
4 aware of media reports, being aware of neighborhood gossip,  
5 and also being asked leading questions by police that  
6 suggested to him details that he should incorporate into his  
7 statement and this kind of iterative pattern of offering  
8 information and then determining, based on officers'  
9 responses, what information might need to be amended or  
10 corrected based on their reactions to what he was saying.

11 With Ms. Bryson's case, he -- an added component,  
12 he said, was that he was taken to the crime scene, to  
13 Ms. Bryson's home before he was questioned, which is  
14 inconsistent with police records, but said that he was able  
15 to kind of see the crime scene and see some of those details  
16 actually before making a statement at all.

17 And so, yes, through these processes, he reported  
18 that he was able to pick up, you know, enough relevant  
19 details or enough accurate details to provide these two  
20 statements.

21 He recognized that he -- seemingly, after -- once  
22 he was charged with Mr. Wilson's murder, kind of just, you  
23 know, kept digging, in a way, and offered these statements  
24 about Ms. Bryson's case as well.

25 He was -- he reported feeling somewhat perplexed

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1 by that decision at this point in his life but said that he  
2 nevertheless perceived this need to kind of keep going and  
3 keep attempting to help the police in a way to negotiate  
4 better outcomes in his case.

5 Q. And you also conducted a clinical evaluation of  
6 Mr. Williams?

7 A. I did. Yes.

8 Q. Starting on page 10 of your report is where you  
9 talk about your findings in that.

10 Can you tell us about that evaluation.

11 A. Sure.

12 And so, yeah, the evaluation spanned this entire  
13 meeting with him where I am gathering details about his  
14 history, administering some psychological testing.

15 Generally speaking, he comes across as somebody  
16 who is very somber and solemn and kind of pessimistic about  
17 his life. There were no -- as I referenced earlier, there's  
18 no signs that he has a psychotic disorder, something like  
19 schizophrenia. There was no evidence of delusions and kind  
20 of fixed false beliefs that people sometimes have,  
21 hallucinations, which are those kind of false sensory  
22 perceptions like hearing voices that aren't really there, or  
23 grossly disorganized behavior. But he does come across as  
24 somebody who is depressed.

25 His response style overall -- and I can talk about

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1 this more in the context of testing too, seemed to be  
2 generally candid and straightforward. He did not come  
3 across as domineering, manipulative. The information he was  
4 providing was generally consistent with what was available  
5 in records. The exceptions are kind of noted in the report,  
6 that one exception about this Bryson's case, for example.

7 So, overall, he came across as a pretty  
8 straightforward reporter.

9 Any more questions about that before I start  
10 talking about the testing?

11 (No response.)

12 Q. It doesn't look like it.

13 A. Okay.

14 So the psychological testing here was in two basic  
15 domains. One has to do with his cognitive abilities. As we  
16 will talk about later, intellectual disability and low  
17 intellectual functioning is a risk factor for false  
18 confessions. And so cognitive testing is really common in  
19 these evaluations. And then the second domain is  
20 personality and psychopathology -- mental illness testing.

21 The first thing that we do when we do cognitive  
22 testing is to look at somebody's effort to try to determine  
23 whether they were actually putting forth enough effort that  
24 the test results are valid. And so we can do this in a  
25 couple of different ways with a couple of different

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1 measures. I used two of them. One is a standalone test and  
2 one is an embedded test on the Wechsler IQ test that I  
3 administered.

4 Both of those -- I think the take-home message  
5 here is that both of those indicate that he was putting  
6 forth adequate effort, that we could have faith that these  
7 results are a reasonable estimate of his cognitive  
8 abilities.

9 The WAIS, which is the Wechsler Adult Intelligence  
10 Scale, which is the most common IQ test, revealed that he is  
11 in the low average range for IQ. His full-scale IQ score  
12 was 88. And these are scores that have an average of 100.  
13 So 100 is average. He is below average -- solidly in the  
14 low average range with an 88.

15 Another way to think about that score in terms of  
16 frequencies is that if he were in a room with 100 people,  
17 about 80 of them would have a higher IQ score. That's what  
18 that 21st percentile means. So 79 percent of same-age peers  
19 would be expected to score higher than him.

20 His abilities in general are fairly reasonably  
21 clustered around that full-scale IQ score of 88. Verbal  
22 abilities are a relative weakness for him. Perceptual kind  
23 of constructional abilities are a strength for him. But  
24 overall, he is kind of functioning lower than the average  
25 person does in terms of intellect.



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1                   **MS. SMITH:** Commissioners, do you have any  
2 questions about that?

3                   **MS. COLBERT:** I have a question.

4                   Hi, this is Robin Colbert. So when you say  
5 his perceptual abilities, can you further define what that  
6 actually means?

7                   **THE WITNESS:** Sure.

8                   So these are nonverbal tasks. So if you  
9 think about his ability to kind of manipulate objects, see  
10 how shapes and objects fit together, those are perceptual  
11 abilities or abilities to kind of organize physical things  
12 that have nothing to do with words.

13                   So a concrete example is that he does really  
14 well on a task where he has to use blocks and particular  
15 blocks to kind of mimic a pattern that is given to him. So  
16 he is good in terms of kind of using his hands and  
17 coordinating that with his eyesight to replicate a pattern  
18 that he sees.

19                   When he has to do harder tasks, tasks that  
20 involve reasoning with shapes where he can't use his  
21 hands -- there is not a hands-on component -- that becomes  
22 much harder for him. But these kind of basic constructional  
23 tasks are where he has a decent strength.

24                   **MS. COLBERT:** And so does that kind of  
25 translate to his learning style?

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1                   **THE WITNESS:** Some of it could, certainly,  
2 and it certainly suggests that words and language and verbal  
3 skills are not a strength for him and that he does, you  
4 know, somewhat better when tasks are nonverbal, right, when  
5 he can -- kind of consistent with these architecture tasks  
6 that he is describing really enjoying, that is visual --  
7 kind of visual, perceptual skills in putting these together  
8 that way are going to be better for him. So there's some  
9 tie to his learning style there.

10                   **MS. COLBERT:** Thank you.

11                   Q. Dr. Kelley, if you would now talk about, on  
12 page 12 of your report, the personality and psychopathology.

13                   A. Sure.

14                   So I used here the Personality Assessment  
15 Inventory. We -- as a field, we really like measures like  
16 this because the -- includes validity scale so that we can  
17 tell if somebody is really guarded or defensive. We can  
18 tell if somebody is indiscriminately endorsing symptoms to  
19 kind of come across as sicker than they are, whether a  
20 person attended to the task and was able to kind of  
21 comprehend it, read it accurately -- things like that.

22                   So Mr. Williams' results on the PAI indicated that  
23 he was not -- he is not defensive. They raise some  
24 possibility about exaggeration, although often that type of  
25 result occurs when somebody truly is quite depressed, quite

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1 pessimistic.

2           There are scales on the PAI, actually indices on  
3 the PAI, that are much more specific to malingering, meaning  
4 somebody who is intentionally endorsing symptoms to  
5 exaggerate or fake mental illness. None of those were  
6 elevated for Mr. Williams.

7           So it appears that his response style is just  
8 somebody who perceives himself as pretty distressed, not  
9 happy, and he likely sees himself as more impaired or  
10 distressed than a person looking at him would.

11           Any questions about that piece of the PAI before I  
12 talk about the more clinical -- the personality and  
13 psychopathology?

14           **MR. BOSWELL:** Doctor, this is John Boswell.  
15 Give us an example of what would be an indicator that  
16 someone was malingering or trying to seem sicker than they  
17 are.

18           **THE WITNESS:** Sure.

19           So on the PAI -- well, so I can answer that a  
20 couple different ways.

21           On the PAI, there are items deliberately  
22 incorporated into the test where, based on research, we know  
23 that people who do not have mental illness but are trying to  
24 pretend that they have a mental illness tend to endorse and  
25 people who truly have a mental illness tend not to endorse.

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1 And so those indices are in part based on those items.

2 And Mr. Williams is not responding to items  
3 that are the kind of -- yeah, the ones that we know are  
4 inconsistent with true mental illness that kind of appeal to  
5 the people who want to fake it. And this often comes across  
6 just in an interview as well, not only on testing, where  
7 somebody will describe symptoms in a way that they think  
8 sounds like mental illness, they think sounds like something  
9 like schizophrenia but just does not fit with what we know  
10 about the disorder.

11 So somebody talking about, you know, seeing  
12 aliens in a corner or something like that that is quite  
13 over-the-top that people, you know, often assume people with  
14 schizophrenia will have these really vivid hallucinations  
15 and see things all the time that aren't really there.  
16 That's not consistent with schizophrenia, actually. And so  
17 the PAI has items similar to that.

18 It also looks at how somebody responded  
19 across items, which is what those indices do, and looks for  
20 patterns of responding that are, again, consistent with  
21 people malingering but not consistent with somebody simply  
22 reporting true experiences.

23 **MR. BOSWELL:** Thank you.

24 **THE WITNESS:** You're quite welcome.

25 Q. Dr. Kelley, you can move on to the next section,

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1 it looks like.

2 A. Okay.

3 So Mr. Williams' profile on the PAI produced a lot  
4 of elevations, and so this just, generally speaking, tells  
5 us that the person is fairly distressed. His particular --  
6 the scales that he elevated on or that his response is  
7 elevated, as you can see in the report, kind of are a broad  
8 range of clinical syndromes. So there's a lot of anxiety in  
9 there, borderline features which are symptoms of borderline  
10 personality disorder which we have talked about, depression,  
11 and then this schizophrenia scale.

12 He likely -- the anxiety scales just speaks to  
13 kind of these maladaptive behaviors that he's reporting to  
14 kind of control or manage his anxiety. He likely comes  
15 across as somewhat vigilant, maybe a bit paranoid, and also  
16 reported experiencing some traumatic event in his past that  
17 continues to bother him today.

18 The borderline features elevation is consistent  
19 with those attributes of borderline personality disorder I  
20 mentioned -- feeling uncertain about life, kind of  
21 purposeless, not having a strong sense of direction, being  
22 really scared about feeling abandoned or rejected in  
23 relationships, symptoms of depression, low mood, low  
24 self-esteem -- all of those features that can also overlap  
25 with borderline.

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1           The schizophrenia elevation was not due to  
2 Mr. Williams reporting more florid psychotic experiences.  
3 So he is not reporting symptoms of hearing voices that  
4 aren't there, for example. What he is reporting is social  
5 detachment, which is one kind of small piece of the pie of  
6 psychotic disorders.

7           And so the items he is responding to are about  
8 feeling uncomfortable in social relationships, maybe even  
9 feeling that social interactions can be aversive and anxiety  
10 inducing at times and so not schizophrenia the way we are  
11 thinking of it, but just this social detachment piece.

12           So overall, the kind of borderline social  
13 detachment, depression, and anxiety -- all generally  
14 consistent with what he is reporting and what is in mental  
15 health records that were available.

16           **MS. COLBERT:** So this is Robin Colbert again.

17           And so some of the things that you mention  
18 about, you know, the borderline feature about, you know,  
19 uncertain about, you know, major life issues, his feeling of  
20 abandonment and social detachment, could that have something  
21 to do with his current situation of being -- I mean, how  
22 does that compare with other folks who are -- have a long  
23 prison term when there doesn't seem to be -- that there is  
24 no hope, that how --

25           **THE WITNESS:** Sure.

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1 (Overlapping speakers.)

2 **MS. COLBERT:** -- based on your experience?

3 **THE WITNESS:** Sure.

4 So this is not -- I certainly evaluated and  
5 others who use this instrument certainly evaluate people  
6 currently serving long prison sentences, and this is not a  
7 scale that is just inevitably elevated every time somebody  
8 is serving a long sentence and not particularly hopeful  
9 about the future.

10 Although, you know, some of the PAI results  
11 are going to be a reflection of how he is right now, the  
12 measure is also getting information about how the person has  
13 been over their lifespan. And so many of the items are  
14 phrased in a way that doesn't just reflect right now but  
15 reflects, you know, historically how the person acts, feels,  
16 thinks about things -- that type of thing.

17 So it's not -- the way the test is designed  
18 and the way that it works in practice is that it's not  
19 that -- we wouldn't see an elevation like that just because  
20 of his current situation. Although I think you're right  
21 that, inevitably, some of that, you know, that's  
22 contributing to how he feels right now but that it's  
23 reflecting something longer-term as well.

24 **MS. COLBERT:** So when you talk about this  
25 assessment -- and it's my understanding, that this is

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1 something that the individual -- you know, it is a  
2 self-report.

3 **THE WITNESS:** Yes.

4 **MS. COLBERT:** And so you had mentioned that,  
5 you know, doing your assessment in 1986 versus your  
6 assessment of him now and understanding that this  
7 self-report is about over his lifespan, right --

8 **THE WITNESS:** Yes.

9 **MS. COLBERT:** -- so are you saying that  
10 because, back in 1986, you're saying that, you know, he had  
11 this borderline kind of personality but now he doesn't  
12 appear to have these -- you know, it doesn't appear to be as  
13 bad as it was in 1986, do you attribute this to the  
14 medications that he is taking?

15 **THE WITNESS:** No. Probably not, honestly.  
16 It's really time and maturity and just -- yeah, really, it's  
17 a matter of time. And that people, as they age, the folks  
18 who have this type of disorder over time just become less  
19 impulsive, as we all do, as we age, less angry, those kind  
20 of -- the threats of self-harm, the kind of chronic feeling  
21 of wanting to die or wanting to hurt yourself -- those just  
22 seem to reduce with age and not necessarily because of a  
23 medication or anything like that.

24 But that's the pattern that is very -- very  
25 consistently observed with a disorder like this and other



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1 personality orders as well, is that we, you know, to  
2 degree -- you know, there's less energy, there's less --  
3 yeah, kind of the motivation for that impulsivity or the  
4 energy behind the impulsivity is likely some of that. But  
5 that just some of these -- yeah, some of these features  
6 become less dramatic, certainly, over time.

7 **MS. COLBERT:** So you had indicated that, you  
8 know, he had trouble earlier, establishing what -- based on  
9 these disorders establishing what was fantasy and what was  
10 reality.

11 Is that what you had shared?

12 **THE WITNESS:** Sure.

13 That was -- those were the statements of the  
14 psychologist and the psychiatrist who observed him at the  
15 time. And that -- so I was sharing kind of their  
16 perceptions of him or their assessment of him at the time.

17 And so, yes, absolutely. They said that he  
18 had difficulty distinguishing between fantasy and reality.  
19 And often in borderline personality disorder that is kind of  
20 really lacking an understanding of likely consequences of  
21 actions, you know, understanding how things will play out in  
22 the future if I take this dramatic step, if I threaten  
23 suicide, their intended -- or understanding of the  
24 consequences that may follow from that are often quite  
25 divorced from the reality.

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1                   And so I imagine that that's what those  
2 providers were seeing.

3                   **MS. COLBERT:** So what I think I'm hearing you  
4 say is that the clarity that he has now does not necessarily  
5 mean that the medication helped but he has just gotten older  
6 and wiser.

7                   **THE WITNESS:** Correct. Correct.

8                   The medication would likely help with some of  
9 the depression symptoms, and that certainly clears up  
10 thinking as well. So it's not that the medication has no  
11 role but that some of this really is just time and age and  
12 wisdom and maturity.

13                  **MS. COLBERT:** Thank you.

14                  **THE WITNESS:** You are very welcome.

15                  **MS. SMITH:** Commissioners, were there other  
16 questions?

17                  (No response.)

18                  **Q.** Dr. Kelley, you can continue on if you have any  
19 additional clinical impressions.

20                  **A.** Sure.

21                  And I guess we have talked about these kind of  
22 personality disorder features a good bit so I won't belabor  
23 it. There's certainly, I think, good evidence of depression  
24 both historically and currently. And that, you know, again,  
25 particularly in the 1980s, that these personality features

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1 of borderline narcissistic histrionic personality disorders  
2 would have been fairly prominent.

3 His unstable relationships, both -- both in terms  
4 of early caregivers as well as romantic relationships, kind  
5 of feeling detached from others, having a really reactive  
6 mood and lots of anger and threats of self-harm, this kind  
7 of -- I did touch on this before, but, you know, he just  
8 kind of boasted and just flat out told lies, you know, about  
9 his performance in high school, for example, when he was  
10 testifying at his -- in Blanche Bryson's case.

11 Those qualities are somewhat narcissistic and  
12 grandiose and, again, in the same family of personality  
13 disorders as borderline. He had the self-reported desire to  
14 kind of put himself at the center of things, which is  
15 consistent with histrionic personality disorder, which is  
16 kind of an attention-seeking presentation.

17 And so I think there is really compelling evidence  
18 of features of all of these disorders in that same family of  
19 personality disorder that just aren't as prominent today.

20 And then the other important feature here is that  
21 the IQ or his cognitive functioning that I touched on  
22 briefly -- so he's certainly not in the range of  
23 intellectual disability, what we used to call mental  
24 retardation, but he's also -- his IQ is much lower than  
25 average and he's working with fewer resources than the

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1 average person is. And so that's another important  
2 component of his clinical presentation.

3 **MS. SMITH:** Commissioners, do you have any  
4 questions related to the clinical analysis Mr. Williams?

5 (No response.)

6 Q. Okay. Dr. Kelley, if you will turn now beginning  
7 on page 15 of your report and walk us through the overview  
8 of the basis of your evaluation related to the false  
9 confessions research.

10 A. Sure.

11 So I just wanted to offer this kind of quick  
12 primer on how the field thinks about false confessions  
13 through, again, a fairly voluminous body of research at this  
14 point.

15 The main typology or types of false confessions  
16 that scholars talk about are voluntary false confessions,  
17 compliant false confessions, which are when an individual is  
18 essentially induced through interrogation to confess to a  
19 crime they didn't commit, and internalized false  
20 confessions, when somebody actually comes to believe, often  
21 temporarily, not permanently necessarily, that they actually  
22 did commit the crime in question when they did not.

23 As I note here in the report, there is somewhat  
24 less research on voluntary false confessions than the other  
25 types. They're often more readily identified as false

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1 because often these are folks that -- sometimes known mental  
2 illness, consenting to very high-profile offenses, things  
3 like that. And so the research is somewhat more limited  
4 here, and I wanted to make that clear.

5 The risk factors that I referenced before fall  
6 into these two main groups: one, the situational factors  
7 associated with interrogations, and then the dispositional  
8 factors associated with the person being interrogated.

9 We know the phenomenon of contamination. That's  
10 been documented in these kind of observational studies of  
11 folks watching interrogations, explains how these false  
12 confessions often contain accurate details of the offense.  
13 And then confirmation bias helps us kind of understand how  
14 this process can kind of unfold over the course of an  
15 interrogation and the way that just, we, as humans, hear  
16 evidence, interpret evidence -- things like that.

17 So each of those is fleshed out in a bit more  
18 detail in terms of the risks just associated with being in  
19 custody and isolation for a lengthy period of time, the  
20 particular interrogation strategies, particularly  
21 minimization -- so the strategies kind of offering a  
22 justification for the suspect's behavior, getting somebody  
23 to kind of confess to a milder version of the crime they  
24 think, and then presentations of false evidence.

25 And so much of the literature is based on those

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1 minimization strategies and presentations of false evidence.  
2 Those have been replicated in laboratory studies so we know  
3 that, for example, showing somebody false evidence  
4 dramatically increases the rate of false confessions but not  
5 true confessions.

6           In terms of minimization, there are a couple  
7 psychological phenomena that happen here. One is just  
8 positive reinforcement, so just this idea of every type of  
9 person that, you know, presents information that's perceived  
10 favorably, that officers want to hear -- that is rewarded,  
11 often not in a particularly concrete way, but is rewarded by  
12 a change in demeanor, the officer becoming friendlier or  
13 happier, and then pragmatic implication.

14           So the fact that, as humans, we are just kind of  
15 wired to read in between the lines so that we don't need to  
16 be offered explicit deals or explicit promises to kind of  
17 infer from somebody's conduct and behavior towards us that  
18 the ultimate punishment here might be much less if we offer  
19 a statement.

20           Any questions about those kind of situational  
21 factors before I quickly go over the dispositional ones?

22           **JUDGE LOCK:** Ms. Guice Smith -- recess?

23           **MS. SMITH:** Dr. Kelley, I think we've got a  
24 request here for just a brief break, if we can do that.

25           **THE WITNESS:** Sure.

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1                   **MS. SMITH:** I think 10 minutes and then we'll  
2 come back to you.

3                   **THE WITNESS:** Sure thing.

4                   (Recess taken, 11:17 to 11:33 a.m.)

5                   **JUDGE LOCK:** All right. It looks like  
6 everyone is ready. If you'll get our witness back on the  
7 line, we'll go back on the record.

8                   (Call initiated.)

9                   **MS. SMITH:** Hi, Dr. Kelley. This is Lindsey  
10 Guice Smith with the Innocence Inquiry Commission. We're  
11 back on the record for our hearing.

12                   **THE WITNESS:** Okay.

13                   Q. I believe before we left for break you had just  
14 finished up talking about the situational risk factors.

15                   Did you want to move into dispositional risk  
16 factors?

17                   A. Sure. That sounds just fine with me.

18                   Okay. For the -- one of the first dispositional  
19 risk factors identified through research is adolescence and  
20 immaturity, in part simply because youth and even young  
21 adults are just really impulsive in their decision-making,  
22 heavily biased towards immediate rewards, poor kind of  
23 future orientation or thinking about what the long-term  
24 consequences of a decision are, and so sometimes they will  
25 find themselves in interrogations and come to believe that

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1 offering a confession even if it is false is the quickest  
2 way to kind of alleviate the stress of that situation  
3 without thinking about the long-term consequences of having  
4 made the decision.

5           And so that is certainly a pattern that can play  
6 out in anybody, including adults, but it's much more likely  
7 with the youth kind of the way -- because of the way they  
8 think and because of the way their brain is wired at that  
9 point in life.

10           Cognitive and intellectual disabilities is another  
11 risk factor -- dispositional risk factor. We know, both for  
12 youth and for individuals with intellectual disabilities,  
13 are overrepresented in studies of known false confessions or  
14 in samples of known false confessions. It seems to be  
15 because these folks are more gullible, naïve, acquiescent --  
16 which often serves them well in other domains, to kind of go  
17 along with what people tell them to do, but is not  
18 necessarily effective during interrogations.

19           In terms of personality and psychopathology, we  
20 know that certain personality traits like suggestibility and  
21 compliance are linked to false confessions. Certain forms  
22 of mental illness -- including anxiety, depression,  
23 psychosis -- are linked to false confessions as well as are  
24 certain personality disorders.

25           There are a range of personality disorders and



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1 some seem to be riskier than others in terms of false  
2 confessions, but those that include chronic anxiety and low  
3 self-esteem -- and these would be disorders like borderline,  
4 dependent -- seem to have a relationship with false  
5 confessions because these folks are often compliant and kind  
6 of willing to go along with what other folks say.

7           The "Contamination" section that follows is  
8 largely drawn from, again, these known false confession  
9 cases where often, you know, watching the interaction,  
10 looking at the transcript, you can see instances where  
11 officers reveal details of a crime that later get picked up  
12 by the suspect and, kind of, regurgitated.

13           Jim Trainum is somebody -- he was a Washington,  
14 D.C., homicide detective who's written about this topic  
15 after he elicited a false confession and has written about  
16 the different ways in which contamination can happen  
17 including leading questions, taking somebody to the crime  
18 scene, developing these kind of minimization themes, and  
19 occasionally just telling the suspect what he should say,  
20 but he acknowledges that doesn't necessarily happen all that  
21 often.

22           And he and others have noted that contamination  
23 can come from nonpolice sources -- so media, neighborhood  
24 gossip, things like that.

25           And then the final piece here is confirmation

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1 bias, which I described briefly earlier. This describes how  
2 people perceive information and kind of reflects, I think --  
3 the quick summary of confirmation bias is it reflects our  
4 human tendency to just search for evidence that confirms  
5 existing beliefs. This is not driven by motivation. This  
6 isn't out of a desire to only look for evidence that  
7 confirms our beliefs. It's simply how our brains are wired.  
8 This is an automatic process that helps us in really basic  
9 senses but doesn't always help us when we are engaged in  
10 more complex tasks.

11 So in the context of interrogations or police  
12 investigations broadly, this can affect how people -- kind  
13 of, what information people seek out and how they interpret  
14 and understand the information that they receive.

15 And, of course, as Detective Trainum and others  
16 have noted, there is likely an intersection between  
17 contamination and confirmation bias. Most officers are  
18 deliberately trying not to reveal information to the suspect  
19 during an interrogation because they want to be able to  
20 corroborate, ultimately, a statement that the person makes,  
21 but that because of confirmation bias, kind of, invisibly  
22 facilitating the process, I can kind of lead people to  
23 unintentionally reveal these details that then get repeated  
24 later and kind of bolster the strength of somebody's  
25 statement, seemingly.

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1           So let me pause there and see what questions there  
2 might be.

3           **JUDGE LOCK:** Yes, sir, Mr. Glazier.

4           **MR. GLAZIER:** Thank you, Mr. Chairman.

5           Dr. Kelley, this is Rick Glazier, and I've  
6 got two questions, please.

7           I think you said on the first page of your  
8 overview, and I just wanted to make sure I understand, that  
9 of the 300 or more -- now more than 300 postconviction DNA  
10 cases which takes us from 1989 on, over a quarter of them,  
11 it turned out, had false confessions; is that correct?

12          **THE WITNESS:** Yes.

13          **MR. GLAZIER:** And am I also right that a  
14 significant number of other cases, including some of these,  
15 but some were closing in on the 40 to 45 percent of those  
16 cases had false eyewitness -- or not false, but erroneous  
17 eyewitness identification as well?

18          **THE WITNESS:** Sure.

19          Yeah. I believe that number is somewhere  
20 maybe in the 75 percent range even. But yes, eyewitness  
21 misidentifications are also a leading contributor to  
22 wrongful convictions.

23          **MR. GLAZIER:** So between the two of them, you  
24 know, the ones that we've been able to identify across the  
25 country where DNA has eventually is exonerated -- and I'm

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1 asking this because I had one of the first cases where that  
2 happened --

3 **THE WITNESS:** Yeah.

4 **MR. GLAZIER:** Between the two factors -- the  
5 false confessions and erroneous IDs -- both pieces of  
6 evidence that juries and we tend to take as the most  
7 important pieces of evidence we'll see and hear in a  
8 majority of those cases, one or both of those factors were  
9 at play in leading to the erroneous conviction including in  
10 death cases. Would that be accurate?

11 **THE WITNESS:** Certainly. Yes.

12 **MR. GLAZIER:** Thanks.

13 **JUDGE LOCK:** Yes, sir, Mr. Edwards.

14 **MR. EDWARDS:** I would like to follow up.  
15 Good afternoon. This is Seth Edwards -- or  
16 good morning. It is still morning.

17 **THE WITNESS:** Still morning.

18 **MR. EDWARDS:** Following up on Mr. Glazier's  
19 question, I know one of the first things you're taught in  
20 law school is never ask a question to which you don't  
21 already know the answer, but I'm going to ask you a question  
22 that I don't know the answer because I think this group  
23 needs to know this information.

24 Of all of these false confessions that, you  
25 know -- or in your research are deemed to have been false

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1 confessions, how many of those cases did the defendant take  
2 the stand and testify on at least three occasions and in  
3 fact admit guilt in those cases?

4 **THE WITNESS:** So I guess the quick and honest  
5 answer is that I do not know the answer to your question off  
6 the top of my head. It's uncommon -- I imagine that the  
7 frequency is low simply because the frequency of -- as I'm  
8 sure you all know, the frequency of defendants testifying is  
9 fairly rare, and so I don't -- I do not have a number or a  
10 percentage for you off the top of my head.

11 That may be discoverable through some digging  
12 but it is, I think, an unusual -- probably an unusual  
13 element of Mr. Williams' case.

14 **MR. EDWARDS:** Okay. Thank you.

15 **JUDGE LOCK:** Mr. Perry.

16 **DR. PERRY:** Doctor, Frank Perry. And in  
17 follow-up to Mr. Glazier and Mr. Edwards both, does the  
18 frequency of false confessions increase with an increase in  
19 the number of counts or charges leveled that a subject is  
20 facing?

21 **THE WITNESS:** Well, again -- so, again, quick  
22 and honest answer is I don't have a great answer for that  
23 and the research may not have a great answer for that in  
24 part because the interrogations are taking place before  
25 specific charging decisions are made.

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1                   So we know that false confessions have run  
2 the gamut in terms of the severity of the kind of most  
3 serious crimes. But in terms of just the number of charges  
4 that are leveled against somebody, that is often a decision  
5 that kind of comes after the interrogation and confession  
6 have happened.

7                   So that may be a variable that is effectively  
8 hard to tease out in the research.

9                   **DR. PERRY:** Good point. I should not have  
10 used the word "leveled." I should have used the word  
11 "facing."

12                  **THE WITNESS:** And I think also, you know,  
13 that decision, too, in a way, the person kind of -- any  
14 suspect kind of understands fundamentally the most serious  
15 charge they are facing at the time of an interrogation but  
16 may not fully understand all of the potential charges that  
17 they could be facing that arise out of an incident.

18                  So, again, I think even understanding the  
19 caveat that it's not necessarily a leveled charge, the  
20 current research just does not tell us about the number of  
21 charges and the relationship there to false confessions.

22                  **DR. PERRY:** Doctor, one final thing.  
23 Confirmation bias -- are you speaking more to that or are  
24 you Director Guice Smith? Are you asking anything about  
25 confirmation bias?

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1           Is that a bit of a moving target? That's  
2 like accusing someone of being bigoted -- you have to prove  
3 the negative? Is there a lot of science on the quantity and  
4 quality that would justify that claim?

5           **THE WITNESS:** Well, I suppose -- let me think  
6 of the best way to answer that.

7           It's essentially not -- I think it's  
8 qualitatively different than kind of leveling an accusation  
9 of bigoted because this is simply a human phenomenon. This  
10 is how our brains work in most situations. And so we  
11 have -- there are experimental studies kind of documenting  
12 how confirmation plays out across different settings.

13           When you watch -- when you're trying to apply  
14 confirmation bias to a set of actions that occurred  
15 retrospectively, it's always somewhat -- again, it's, A,  
16 always somewhat speculative, but B, because it's just this  
17 human phenomenon, it's almost inevitably there. It almost  
18 has to be there. Whether it was harmful, whether it damaged  
19 anything, whether there would have been a different outcome  
20 if different procedures had been followed is kind of a  
21 different question.

22           But we're all vulnerable to confirmation  
23 bias, and it's a bias in the kind of neutral sense. It's  
24 just a bias in the way our brains work not a conscious bias  
25 that we're holding, a bias against someone or something.

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1                   **DR. PERRY:** Thank you.

2                   **JUDGE LOCK:** Commissioner Boswell.

3                   **MR. BOSWELL:** Dr. Kelley, this is John  
4 Boswell.

5                   Are there many cases where you have multiple  
6 false confessions to different crimes? And is there any  
7 indication of whether that makes -- whether that indicates  
8 whether the confessions are more likely false or less likely  
9 false? Or, you know, is this just one of those unique  
10 situations?

11                   **THE WITNESS:** This is mostly an outlier in  
12 terms of an individual reporting two false confessions to  
13 two separate crimes. So by and large, the research almost  
14 entirely consists of folks who offered a false confession to  
15 a single -- you know, a single event, which is, you know,  
16 not at all similar to Mr. Williams' case.

17                   Certainly, the personality that -- the kind  
18 of individual vulnerability that would lead to any false  
19 confession in the first place would kind of heighten the  
20 risk of a second false confession.

21                   But, admittedly, you know, it's not as though  
22 we have an abundant amount of research on that particular  
23 scenario.

24                   **MR. BOSWELL:** Following on, this case is also  
25 different in that not only did Mr. Williams voluntarily



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1 contact the police and falsely -- maybe falsely confess, but  
2 he also testified at other trials of his participation.

3 And I guess my question is, is that unusual?  
4 And does that -- you know, does the research say anything  
5 about somebody who not only falsely confessed, but then  
6 reiterated it in other trials on the stand, et cetera?

7 **THE WITNESS:** Again, that would be uncommon  
8 based on our kind of known false confession cases. It is  
9 more common for people to recant much more quickly and  
10 sometimes, you know, almost immediately after an  
11 interrogation and confession have happened.

12 And so, yes, it is certainly unusual. I  
13 don't have statistics for you, but certainly unusual for  
14 somebody to testify in a way that's consistent with a kind  
15 of purported false confession in their own cases and then,  
16 you know, down the road in other cases as well.

17 So that, again, is an unusual element of this  
18 case.

19 **MR. BOSWELL:** And I think I probably know the  
20 answer to this but I'll ask for your thoughts on it.

21 And does the later intervention of attorneys  
22 tend to create -- get them to stop false confessing where,  
23 in this case, you know, even with lawyers, this person had  
24 lawyers involved, that he was still saying he did these  
25 crimes?

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1                   How does that impact anything?

2                   **THE WITNESS:** I imagine -- so yeah, it would  
3 be maybe tempting to think that the presence of attorneys  
4 would mitigate the risk. And for some it very well might.  
5 It would depend, I think, ultimately on the person's  
6 perception of what defense counsel will be able to do for  
7 them and how effective that relationship is going to be.

8                   And so if the person fundamentally perceives  
9 that having an attorney is not going to alter in a  
10 meaningful way the outcome of their case, that that  
11 intervention is not going to be meaningful for them. If  
12 they, you know, on the opposite of the spectrum, think that,  
13 you know -- try to really see the person as an advocate for  
14 them, then their problem-solving around their case would  
15 look quite different.

16                   And so somebody, you know, with Mr. Williams'  
17 history of pleading guilty, of serving periods of  
18 incarceration, you know, certainly could have believed that,  
19 and consistent with a number of people that I talked to in  
20 the course of evaluations. But being represented by an  
21 attorney does not fundamentally alter the course of a case.  
22 Even if that's factually untrue, that's kind of something in  
23 people's perception.

24                   **MR. BOSWELL:** Thank you.

25                   **JUDGE LOCK:** Commissioner Glazier has a

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1 question and then Commissioner Frye.

2 **MR. GLAZIER:** Thank you.

3 First a quick comment. Mr. Boswell --  
4 Commissioner Boswell, I spent a career trying to get my  
5 clients to follow my advice and my expectations were always  
6 dashed.

7 But back to the issue with regard to the  
8 confessions -- and this may lead us into the application  
9 part of your testimony. I will ask this as open-ended as I  
10 can, but in the application false confession research to the  
11 case, is it a highly significant -- or what significance  
12 would you put to the factor that the law enforcement  
13 officials knew the defendant and knew him repeatedly to make  
14 or try to make false statements in other cases to ingratiate  
15 himself and warned their own officers not to trust much of  
16 what he said?

17 Would that be a significant factor in  
18 considering whether his confessions in the end in these  
19 cases -- or one case -- was particularly more likely than  
20 not to be false?

21 **THE WITNESS:** Sure.

22 So I think that is absolutely significant if  
23 he has a known history of making false statements in an  
24 attempt to help his legal situation.

25 As humans, our patterns of behavior tend to

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1 repeat themselves over time. So certainly somebody with a  
2 history of almost anything, including a history of making  
3 false statements, is much more likely to do so in the  
4 future. And so I think that's absolutely part of the  
5 application here, that if somebody has a history of doing  
6 the one behavior that we're interested in, that's going to  
7 bear on whether we think he did that behavior, you know, at  
8 some point again.

9 **JUDGE LOCK:** Dr. Perry?

10 **DR. PERRY:** I'll pass. Thank you.

11 **JUDGE LOCK:** All right.

12 **MS. COLBERT:** I do have a question.

13 **JUDGE LOCK:** Yes, Commissioner Colbert.

14 **MS. COLBERT:** So, Doctor, in your -- in the  
15 situational -- not the situation -- the other risk  
16 factors --

17 **THE WITNESS:** Sure.

18 **MS. COLBERT:** You mention, you know, three  
19 kind of broad categories in regard to adolescence and  
20 immaturity, cognitive and intellectual disabilities, and  
21 personality and psychological. So I just have a couple of  
22 questions on defining "youth" because sometimes it is  
23 defined -- are you talking about a set age?

24 **THE WITNESS:** The research does not -- as  
25 psychologists, we really like continuums, not hard cutoffs.

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1 So when we talk about adolescence and immaturity and when  
2 talking about youth, we really are reflecting the current  
3 research showing that -- in a lot of respects, that  
4 adolescent, immature thinking style extends into early  
5 adulthood, and often that's kind of thought of as the  
6 mid-20s. And so we're talking about not just kind of  
7 juveniles or minors in a legal sense, but kind of extending  
8 into young adulthood as well.

9 **MS. COLBERT:** And so when you say the  
10 mid-20s, we know based on, you know, neurobiology of the  
11 brain, that, you know, kids don't really -- aren't able to  
12 make decisions until, like, after 25.

13 Is that -- you know, because, you know, in  
14 earlier reports, we're talking about impulsive  
15 decision-making; right?

16 **THE WITNESS:** Sure.

17 **MS. COLBERT:** And so, you know, there is  
18 evidence that says that when somebody really can't make --  
19 good decision-making doesn't happen until they are around  
20 25 percent -- matter of fact, there was an ABC commercial  
21 here in North Carolina that spoke to that.

22 **THE WITNESS:** Yeah.

23 **MS. COLBERT:** Are we using that as a range as  
24 far as defining youth and immaturity?

25 **THE WITNESS:** Yes. Yes, I think, is the

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1 quick answer.

2           The one kind of supplement to that is that  
3 it's not -- decision-making isn't a stable phenomenon,  
4 meaning that if we are -- you know, when you take a 15- and  
5 16-year-old, if you put them in a low-pressure situation, if  
6 you give them time to think about decisions, if you give  
7 them an adult to consult with, they can actually make some  
8 fairly well-thought-out decisions.

9           When those same kids are -- or young adults  
10 are put in a high-stress situation, that's when you see some  
11 of the most significant impairment in their decision-making.

12           So some of this is just based on the person  
13 but it's also an interaction between the person and the  
14 context that they're in and so you're going to see really  
15 big deficits, you know, under stress and more reasoned  
16 decision-making when the person has kind of all of their  
17 faculties and the maximum use of their faculties.

18           **MS. COLBERT:** Yeah. But what my question  
19 really relates to, based on how you lay out these  
20 dispositional risk factors, it does not factor in any kind  
21 of environmental stuff that does help with decision-making?  
22 You're talking about looking at an individual, right, as  
23 they go through whether --

24           **THE WITNESS:** Sure. But that --

25           **MS. COLBERT:** Yeah.

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1                   **THE WITNESS:** I'm sorry.

2                   **MS. COLBERT:** So we're not talking about  
3 environmental factors or anything when we're talking about  
4 how -- I'm looking at how you lay out this dispositional  
5 risk factors. We're talking about individuals within each  
6 one of these spheres, right, well, it's adolescence and  
7 immaturity -- so we're talking about really looking at that  
8 individual and not necessarily somebody else outside that's  
9 helping them to make these decisions when I talk about  
10 impulsive.

11                   **THE WITNESS:** Sure. Sure.

12                   Yes. Exactly.

13                   And so at the conclusion of this, it's all  
14 about understanding the interactions between the individual  
15 and environment.

16                   But yes, with that particular risk factor,  
17 I'm talking about, you know, people in that category, people  
18 up to about age 25 just because of their age and reasoning  
19 abilities being at higher risk for offering a false  
20 confession.

21                   **MS. COLBERT:** Because in the case of  
22 Mr. Williams, he was almost 30; right?

23                   **THE WITNESS:** Sure. Yeah. Exactly.

24                   And I wanted -- so my intent in this section  
25 was simply to lay out what the research has identified

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1 without yet applying it to Mr. Williams. So I just wanted  
2 to be transparent in the risk factors that we look for even  
3 if they don't apply to him. You know, it's important to  
4 know if there are risk factors out there that aren't  
5 applicable to the case.

6 **MS. COLBERT:** Because you already  
7 established, as far as the cognitive and intellectual  
8 disability, that that really didn't apply to him. You  
9 mentioned something about, when you did the testing of him,  
10 whether, on the scale of -- whether he, you know, had some  
11 sort of intellectual disability, that he did not.

12 **THE WITNESS:** That's correct. He does not  
13 have an intellectual disability. He does have low -- you  
14 know, below average intellectual abilities, and so that's  
15 still somewhat of a risk factor for him. It's not as  
16 powerful or as significant as it would be if he had a much  
17 lower IQ and other adaptive limitations that would qualify  
18 him for an intellectual disability diagnosis.

19 But, again, these factors exist on a  
20 continuum and so, you know, low average intellectual  
21 functioning, we're not necessarily as concerned as we would  
22 be with -- as we would if it were ID, intellectual  
23 disability.

24 But, you know, it's still on this continuum.

25 **MS. COLBERT:** Thank you.



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1                   **JUDGE LOCK:** Ms. Guice Smith.

2                   **MS. SMITH:** Thank you.

3           Q.     Dr. Kelley, we are going to turn in just a minute  
4 to your application of the false confession research to  
5 Mr. Williams' case, but I first wanted to point you to  
6 page 35 of your report.

7           A.     Yes.

8           Q.     It's correct that you say you cannot opine whether  
9 a particular confession was false; is that correct?

10          A.     Yes. That's correct.

11          Q.     Okay. Now, if you will just tell the  
12 commissioners about the application of the false confession  
13 research to this case.

14          A.     Okay. So as all of your -- yeah, as all of these  
15 good questions, I think, have alluded to, there are many  
16 respects in which Mr. Williams' case is different than maybe  
17 a typical false confession case. And because we don't have,  
18 for the most part, transcriptions or full recordings of the  
19 entire conversations between Mr. Williams and police  
20 officers, there isn't the evidence that there is in some  
21 other cases where we can see clearly how contamination might  
22 have occurred or we could all see how different  
23 interrogation strategies might get employed.

24                   It's also different because of, as you-all have  
25 noted, the fact that these were voluntary statements, that

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1 he initiated contact with police and he did so on a number  
2 of occasions and in two separate cases.

3 So there are some important respects in which this  
4 case is just not -- just not typical for a false confession  
5 case.

6 We still can look at, of course, the reliability  
7 of his statements in terms of how consistent they are with  
8 other evidence in the case and how consistent they are over  
9 time, and there's still kind of, you know, from these -- the  
10 police records that do exist, possible places where we might  
11 look for evidence of contamination or confirmation bias  
12 playing out.

13 So with respect to Mr. Arthur Wilson's case, what  
14 seems apparent from Mr. Williams' statements is that there  
15 are ways in which, right, they're consistent with other  
16 evidence in the case and then there are these  
17 inconsistencies as well.

18 There is the understandable, I think, limitation  
19 that the police were working with is that there simply was  
20 not a lot of evidence in the case to begin with. But in  
21 some respects, Mr. Williams' statements don't kind of  
22 clearly align with those first two witnesses, Linda Walser  
23 and Ronald McGee, their account of coming onto the scene and  
24 kind of chasing the suspects in their car. These details  
25 change over the course of Mr. Williams' statements. Some of

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1 them mentioned two cars, some of them mentioned being chased  
2 on foot by people who were driving a car.

3 His statements -- and other witnesses' statements,  
4 too, were also not necessarily consistent with the autopsy  
5 report and this report of blunt trauma to the right side of  
6 the head and no real other evidence of more -- kind of a  
7 lengthier assault, right, consistent with his report of  
8 kicking and beating and him and Sammy Mitchell and Darryl  
9 Hunt kind of engaging in this lengthier assault of the  
10 victim.

11 Again, none of these are dispositive. I think --  
12 I want to make clear that of course there are going to be  
13 some inconsistencies in any case that evidence just, you  
14 know, in real life can't always align 100 percent perfectly  
15 but that it, you know, bears thinking through the  
16 significance of these inconsistencies.

17 Mr. Williams' statements in terms of how they  
18 align with these other witness statements, of course, are in  
19 some ways quite consistent in that a large number of people  
20 are identifying Sammy Mitchell and Darryl Hunt being at this  
21 drink house the night before. Many of these other witnesses  
22 are identifying or describing an altercation between -- a  
23 verbal altercation between Sammy Mitchell and Arthur Wilson.

24 Ultimately, only these three women -- Mattie Mae  
25 Davis, Ms. Bason, and then Patricia Williams -- are

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1 offering, you know, a relatively consistent account with  
2 Mr. Williams, although their statements also change somewhat  
3 over time and don't all necessarily involve Mr. Williams  
4 being involved, although they clearly incriminate Sammy  
5 Mitchell and Darryl Hunt.

6           The women's statements also don't involve each  
7 other and, again, that could be simply, you know, a product  
8 of true events and poor recollection but could be a  
9 significant omission if, you know -- again, they are all  
10 kind of reporting seeing the events play out from relatively  
11 close proximity from relatively the same vantage point and  
12 them not seeing each other.

13           And then we have James Ford providing quite a  
14 different account of the offense than everybody else, his  
15 behavior being somewhat erratic and difficult over the  
16 course of these police interviews, it seems like, but being  
17 quite clear that it was not Sammy Mitchell or Darryl Hunt  
18 and that rather it was the three other men who had also been  
19 identified in CrimeStoppers tips.

20           So, again, these inconsistencies exist both in  
21 terms of the original witnesses to the crime, the autopsy  
22 report, and then in terms of witness statements, only three  
23 of which really identify Mr. Williams as being a perpetrator  
24 in this crime.

25           I will pause there. I know I have been talking a

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1 lot.

2 MS. SMITH: Commissioners, do you have any  
3 questions related to that?

4 (No response.)

5 Q. All right, Dr. Kelley. If you want to continue.

6 A. Sure.

7 So Mr. Williams' statements, of course, changed  
8 over time. He made multiple statements in Arthur Wilson's  
9 case. His account of the manner of death or a murder weapon  
10 seems to have changed. His account changed from a guy that  
11 had been stomped to death and then kind of seemingly quickly  
12 incorporates this ax handle with black tape around it. He  
13 seemingly at one point earlier in the investigation told  
14 police he had not seen that ax handle recently and then two  
15 days later actually told the police that the ax handle is  
16 located in his apartment and that's where officers later  
17 retrieved it.

18 So, again, these inconsistencies over time -- oh,  
19 and what I failed to mention was that his statement, of  
20 course, it falls from observing the events from just being  
21 essentially a witness to the offense to actually taking part  
22 in it, although the way -- the specific way in which he  
23 takes part, again, seems to shift over time.

24 You know, I think one perspective on that is  
25 simply, you know, a lot of people probably are reluctant to

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1 acknowledge involvement in an offense at first. And so that  
2 may be an understandable phenomenon.

3 Other details, other inconsistencies or changes in  
4 his statements over time are less consistent with that, with  
5 a desire to look innocent, and just seem to potentially,  
6 again, reflect these opportunities for contamination,  
7 perhaps, that I will talk about later.

8 Q. Okay. If you want to continue on.

9 A. Sure.

10 So in terms of Ms. Bryson's case, Mr. Williams is  
11 able to provide -- in terms of how his statements align with  
12 this, he's able to say that the victim was strangled with an  
13 object that looks like a rope, he knows that the victim's  
14 house is ransacked, that the television was moved. He  
15 understands or reports details about a brown toboggan, a car  
16 pulling up beside the house -- so in many respects is able  
17 to provide details about the crime scene itself that are  
18 seemingly consistent with other evidence in the case.

19 Some of these details are firmer than others. He,  
20 for example, was able to say that something was funny about  
21 the doorknob but he couldn't remember what it was. They had  
22 actually been removed, it appears. And so, again, some  
23 consistency there but some of these details are kind of  
24 fuzzier than others.

25 His fingerprints were reportedly never matched to

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1 any of the latents recovered from the scene. His hair was  
2 determined to be consistent with one of those hairs  
3 recovered from a toboggan at the scene. And then he  
4 retracts this detail about lampshades that he at one point  
5 reported that he stole from the victim's house.

6 His account, of course, is quite different from  
7 Robbin Carmichael's account, who also, much like Mr. Wilson  
8 [sic] it seems, tries to give police information about this  
9 case in order to help negotiate a better outcome for an  
10 unrelated charge.

11 Robbin Carmichael's statement implicates Darren  
12 Johnson. And Robbin Carmichael's print is consistent with a  
13 print left on the car. He also produced back the costume  
14 jewelry that seemingly belonged to the victim.

15 And then there is this much more recent march 2019  
16 statement from Mr. Johnson, where he takes responsibility  
17 for this crime and provides an account that is quite similar  
18 to Mr. Carmichael's, really seemingly only differing in who  
19 went back into the house after they returned -- or after  
20 Mr. Johnson returned to Ms. Bryson's home with Robbin  
21 Carmichael.

22 So here, Mr. Williams' statements are in many  
23 respects consistent with the evidence. His hair was  
24 consistent with hairs recovered from the toboggan but his  
25 overall account is quite different from Robbin Carmichael's

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1 and Darren Johnson's, of course.

2 So maybe I will pause there.

3 **MS. SMITH:** Commissioners, any questions so  
4 far?

5 (No response.)

6 Q. All right. If you will just move forward  
7 regarding the consistency of Mr. Williams' statements over  
8 time.

9 A. Sure.

10 So, again, these statements, much like his  
11 statements in Arthur Wilson's case, change over time. He  
12 adds details and subtracts details from these two kind of  
13 back-to-back statements on April 18. His statements  
14 includes this added rationale, more details about the attack  
15 on the victim. He deletes or kind of omits a detail in the  
16 second statement about hearing a car running over gravel.  
17 It seems like that might not have been consistent with the  
18 actual crime scene or the victim's driveway. And then later  
19 retracts this detail about stealing lampshades from the  
20 victim's home.

21 He also incriminates -- in terms of the  
22 accomplices that he names, incriminates different people at  
23 different times depending on what statements he's making.  
24 He begins by incriminating Sammy Mitchell, Terry Smith, and  
25 somebody named Gadget. He later retracted that piece of his



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1 statement so that somebody named "Lou" or Lieutenant was the  
2 accomplice, and then at his sentencing identified this  
3 person as George Thompson.

4 So really marked discrepancies in terms of who  
5 he's identifying as his accomplices.

6 **MS. SMITH:** Commissioners, any questions?

7 (No response.)

8 Q. If you want to continue on your report -- the top  
9 of page 28 regarding the contamination and confirmation  
10 bias.

11 A. Sure.

12 So I think part of this -- part of understanding  
13 the broader context is that certainly, as homicide  
14 investigations, there would have been some pressure to  
15 resolve them -- understandable pressure. It appears that  
16 the investigations were reopened a few months before  
17 Mr. Williams got arrested. And, again, this just kind of  
18 facilitates or elevates the risk of confirmation bias when  
19 people are working hard, working under pressure and trying  
20 to, you know, kind of provide an elegant solution to a  
21 complicated set of facts.

22 The fact that Mr. Williams also had multiple  
23 interviews with police means that there are multiple  
24 opportunities for contamination, that it's certainly  
25 possible that details of his accounts changed over time

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1 because he was hearing new details or being encouraged to --  
2 even implicitly encouraged to change details in his  
3 statements, although because we don't have transcripts of  
4 those full conversations, we don't know with certainty that  
5 that played out, but it certainly raises the possibility.

6           After talking with you-all, with contacts at the  
7 North Carolina Innocence Inquiry Commission, and looking at  
8 kind of understanding the broader context in terms of the  
9 Deborah Sykes murder investigation and how that -- what that  
10 tells us essentially about how the police operate in this  
11 period of time, what the conclusions of the Sykes  
12 Administrative Review Committee suggest about the police  
13 practices, again just kind of raises the possibility of  
14 confirmation bias.

15           It seems that confirmation bias likely contributed  
16 to some of the errors that the SARC report articulated in  
17 terms of the decision to pursue Darryl Mitchell and Sammy  
18 Hunt [sic] despite weaknesses in the evidence and the  
19 failure to pursue the possibility that the multiple cases  
20 were related and kind of getting tunnel vision into the  
21 Sykes investigation.

22           So I think, again, the kind of broader context  
23 provides kind of the circumstantial evidence that  
24 confirmation bias can certainly play out and influence  
25 investigations in the same era of Mr. Williams' statements

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1 to police.

2 I will pause there just in case there are  
3 questions.

4 (No response.)

5 Q. Looks like you can continue.

6 A. Okay. So we know in terms of Arthur Wilson that  
7 some of the details that Mr. Williams provides in his  
8 accounts could have been easily known from newspaper  
9 articles or neighborhood gossip or conversations based  
10 newspaper articles, just kind of the basic outline of how  
11 the offense took place. So it was kind of understood, you  
12 know, how the murder would've taken place in terms of three  
13 black males beating, kicking, and robbing Wilson.

14 The fact that Mr. Williams' statements change over  
15 time and come to incorporate a murder weapon further, you  
16 know, suggests contamination -- that he kind of picked up  
17 that there -- police were thinking that there was a murder  
18 weapon, that this person wasn't stomped to death or just  
19 kicked to death.

20 Similarly, the fact that he kind of incorporates  
21 these details over time about a car arriving -- which are --  
22 kind of approximate what Linda Walser and Ronald McGee are  
23 saying but don't quite fit it perfectly again suggests that  
24 he picked up these details and then elaborated on them  
25 incorrectly.

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1           There is also this example of the victim's watch,  
2 where the police seemingly get this information at 4:00 p.m.  
3 on April 30 of '86, and then at 4:45 he reportedly gives a  
4 statement specifically about that watch including details of  
5 its appearance which, you know, seem to be somewhat  
6 different than the wife's description and the fact that it  
7 was pawned. And so certainly the fact that he only mentions  
8 the watch after police have information about it would  
9 suggest that that statement was contaminated.

10           The -- I'm sorry?

11           Q.    We're good.

12           A.    Okay. Sorry.

13           The seven questions -- there is this police memo  
14 from April 16 documenting the seven questions that they  
15 intend to ask all witnesses, which includes some, you know,  
16 again, kind of understandable but leading questions that  
17 suggest details of the offense that could have contaminated  
18 how people remembered the night in question, particularly  
19 about Art Wilson being at the house, this argument between  
20 Art Wilson and Sammy Mitchell, the fact that Sammy Mitchell,  
21 Darryl Hunt, and Merritt Drayton were kind of understood to  
22 leave the house together, all of these details -- you know,  
23 again, understandably, I think police would want to be  
24 eliciting this information and documenting it, but starting  
25 off by asking these questions instead of, you know, ideally

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1 eliciting this information through open-ended questions and  
2 then if the person doesn't recall the detail, kind of asking  
3 them a more detailed question, but documenting if the  
4 person's memory kind of changed, right, if they didn't  
5 remember or they don't spontaneously mention this argument  
6 between Art Wilson and Sammy Mitchell but once the argument  
7 is mentioned, they seem to have more of a recollection of  
8 that event. So that we can clearly trace back to kind of  
9 what events were recalled spontaneously versus, you know,  
10 what events were kind of primed or called for.

11 Let's see.

12 This omission in Patricia Williams' statement  
13 about, you know, the victim being hit the face that is not  
14 reflected in the police report. Again, not to make too much  
15 hay of something, but this is an example of how confirmation  
16 bias can play out, where we just don't hear or don't really  
17 take in evidence that doesn't fit with our understanding of  
18 how something played out. And so those are the types of  
19 interactions that are certainly consistent with confirmation  
20 bias.

21 Let's see.

22 The, again, kind of broader context of police  
23 investigations as well as some of the information provided  
24 in those interviews and depositions with law enforcement  
25 certainly suggested that police were quite aware of who

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1 Sammy Mitchell was, that he did not have a positive  
2 reputation in the community, that certainly people had  
3 approached police -- it sounded like there was a rumor that  
4 Sammy Mitchell was involved in Arthur Wilson's death.

5           So that is easily, again, the type of information  
6 that police would absolutely need to investigate but where  
7 confirmation bias can also kind of interfere with a thorough  
8 investigation, where they are more quick or just more prone  
9 to kind of hear incriminating information against Sammy  
10 Mitchell and just not quite register in the same way  
11 information that might be exonerating. And, again, largely  
12 because of his reputation in the community.

13           All right. Again, another possible example here  
14 of confirmation bias plays out in Linda Walser's interview.  
15 She was one of the original witnesses from '83 that gets  
16 reinterviewed in 1986.

17           And to save space, which is maybe laughable in a  
18 38-page report, I didn't provide the entire transcription of  
19 their exchange, but the detectives' summaries of her  
20 statements are really kind of glaringly inconsistent with  
21 the information that she is providing.

22           She provides a description of what happened that  
23 night, and his summary is kind of "What you're saying is  
24 that you would not be able to positively identify anybody,"  
25 and that even if she continues to provide details to kind of

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1 clarify what she saw and didn't see, he kind of continues to  
2 summarize that that she didn't actually see anything, that  
3 "Basically what you saw was the backs of their heads. Is  
4 that what you're saying?" When, again, that really doesn't  
5 reflect the content of her statements to police.

6 And, again, this is just -- I don't -- this does  
7 not suggest wrongdoing or a deliberate attempt to be  
8 dismissive, but this is kind of what confirmation bias can  
9 look like -- where you're focused kind of on one narrative  
10 of a set of events and just don't quite hear or take in  
11 evidence that is inconsistent.

12 And then we have Ronald McGee's kind of  
13 perception, at least, when he was reinterviewed in 1986,  
14 that the police just, you know, were really focused on Hunt  
15 and Mitchell and didn't really want to hear what he had to  
16 say. And I think he was, at least in this article, saying  
17 that he was being pretty clear that he just didn't know if  
18 Darryl Hunt or Sammy Mitchell was there, but that he  
19 certainly hadn't seen Hunt or Mitchell at the scene.

20 And so, again, just kind of an example of how  
21 confirmation bias can play out.

22 Questions there? I can keep rolling?

23 Q. I would say just keep rolling.

24 A. Okay. Again, must Mr. Wilson's case -- so now  
25 transitioning to Ms. Bryson's case, there's, you know,

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1 understandably, newspaper articles, things like that, where  
2 it would be possible to pick up some basic details about the  
3 crime.

4 He changes -- Mr. Williams' statements change over  
5 time to incorporate details like a rationale for the offense  
6 and omit others that seem to be inconsistent with the crime  
7 scene like hearing tires on gravel.

8 And then some of these details that, you know,  
9 might again show kind of clear evidence that he was at the  
10 crime scene are only vaguely reported, like something being  
11 funny about the doorknob or just kind of involved in a  
12 somewhat strange explanation. That, again, isn't  
13 dispositive, but it's worth noting, I think, like the fact  
14 that he was reportedly wearing two toboggans at the crime  
15 scene.

16 So, again, we don't -- I don't have some of those  
17 conversations, like the ones they do in Arthur Wilson's  
18 case. But, again, these do just kind of raise the  
19 possibility for confirmation and contamination in  
20 Ms. Bryson's case as well.

21 Q. Okay.

22 A. So Mr. Williams' vulnerability -- so these are  
23 kind of the individual factors specific to him that might  
24 increase his risk of offering a false confession, and most  
25 of them come down to his personality style.



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1           He was, you know -- again, not just by his account  
2 but based on records describing his behavior in prison -- he  
3 is impulsive, he is insecure, he makes exaggerated claims  
4 about his abilities and just was really kind of markedly  
5 poor problem-solving, which is certainly consistent with the  
6 decision to make this, like, really kind of hasty,  
7 imprudent, poorly reasoned decision.

8           You know, again, while these personality features  
9 don't necessarily -- they're not just dispositive of the  
10 issue. They don't, you know, clearly weigh on the side of  
11 false confession versus a true confession, but the fact that  
12 he implicates himself along with others in two murders in  
13 about 10 days just really underscores his impulsivity and  
14 poor judgment -- again, regardless of whether the  
15 confessions were true or false.

16           He -- again, this -- going back to what his early  
17 psychologists and psychiatrists were saying about him in  
18 terms of difficulty distinguishing reality from fantasy, he  
19 just does not seem to have a reality-based understanding of  
20 the consequences of his actions. He uses the same strategy  
21 of trying to ingratiate himself with police and offer  
22 information despite the fact that he has now been charged in  
23 another murder -- or another death at least.

24           As I believe somebody's question raised the  
25 issue -- raised this issue before, it seems at least like,

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1 at least, that one of the officers realized at the time or  
2 understood Mr. Williams' kind of general strategy at the  
3 time of being a compulsive liar, trying to ingratiate  
4 himself or offer information to police and really stressing  
5 that that information needed to be corroborated because  
6 Mr. Williams was not a "very believable person" -- and that  
7 was Detective McCoy, I believe.

8           The fact that he is so -- again, his case is so  
9 different in some respects, but the fact that he is a  
10 volunteer and effectively, you know, implicating himself  
11 without any police pressure, at least at first, likely made  
12 him pretty pliable. He was ready to go along, you know,  
13 with this narrative.

14           One of the features of histrionic personality  
15 disorder which he showed signs of through his lifespan is  
16 suggestibility, being easily influenced by others -- one of  
17 those kind of well-known risk factors for false confessions.  
18 Our diagnostic manual kind of cautions that these folks can  
19 be overly trusting especially of authority figures that they  
20 see as magically solving their problems.

21           So he has kind of got this hunch, you know, that  
22 providing information to police will help him and really  
23 holds on to that even when it starts to become really  
24 maladaptive and harmful.

25           He also kind of has this -- both Detective Weavil

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1 and Detective Hicks in their recent depositions recalled  
2 this kind of dramatic reveal of being more involved in  
3 Arthur Wilson's murder than he initially reported -- again,  
4 kind of consistent with this personality style, this kind of  
5 attention seeking behavior. And so even though he's not  
6 saying now, like, you know, "I wanted to be at the center of  
7 attention, I was trying to implicate myself in these crimes  
8 to get attention," that was likely part of his personality  
9 style at least at the time.

10           This phenomenon of pragmatic implication -- this  
11 just kind of general human quality to kind of read between  
12 the lines and infer things even if they're not said  
13 explicitly likely exacerbated kind of some of these personal  
14 vulnerabilities Mr. Williams had. And so he's looking to  
15 make a deal with police. He's probably fairly sensitive to  
16 their reactions to what he's saying. And then kind of  
17 reading in between the lines, even if things are in a  
18 concrete way going poorly for him, such as being charged  
19 with a murder, kind of still inferring that maybe somewhere  
20 along the line, somebody will help him with his criminal  
21 cases.

22           And so, again, this isn't proof for any kind of  
23 firm resolution or concrete resolution, but his personality  
24 style absolutely makes him more vulnerable to offering false  
25 confessions and it led him at least in other contexts to

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1 make what we know are just a false claims at least about  
2 himself.

3 So I will pause there.

4 Q. If you will just move into the last section there,  
5 and I think the commissioners do have some questions for you  
6 at the conclusion of that.

7 A. Okay. So just to wrap up, I mean, his account is  
8 fundamentally that he was motivated to do this. He has been  
9 very clear that police did not coerce him into doing this,  
10 which sets his case apart from other false confession cases,  
11 and that he was able to provide details that are roughly  
12 consistent at least with the crimes through just kind of  
13 media coverage or neighborhood conversations and then  
14 leading questions and other actions by police.

15 It's clear that there were multiple interviews  
16 with Mr. Williams in each of these cases which increases the  
17 possibility of contamination. The broader context certainly  
18 suggests that confirmation bias could have played a role in  
19 these investigations. And these recent -- you know,  
20 Mr. Johnson's recent statements that are consistent with  
21 Robbin Carmichael's earlier statements -- really  
22 inconsistent with Mr. Williams, was kind of a new,  
23 interesting piece of evidence that, again, is not always the  
24 case in false confession cases but I think also just kind of  
25 raises the likelihood that perhaps his statements were not

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1 true.

2 And so I think, just overall, the inconsistencies  
3 in his statements -- or the inconsistencies between his  
4 statements and other evidence, the inconsistencies among his  
5 statements over time are important considerations as are the  
6 opportunity that leads for contamination, the pressure to  
7 solve these crimes, and then his personality style, that  
8 just makes him more vulnerable.

9 MS. SMITH: All right. Commissioners, do  
10 you-all have any questions for Dr. Kelley?

11 JUDGE LOCK: Sheriff Frye.

12 SHERIFF FRYE: Dr. Kelley, my name is Kevin  
13 Frye. I'm sheriff in Avery County.

14 How are you doing today?

15 THE WITNESS: Good. How are you doing?

16 SHERIFF FRYE: Doing great.

17 You testified that you have been qualified as  
18 an expert three times in court regarding to false  
19 confessions; correct?

20 THE WITNESS: Yes.

21 SHERIFF FRYE: How many times have you been  
22 utilized as an expert in false confessions, hired by  
23 somebody to give your opinion?

24 THE WITNESS: That simply would not have  
25 resulted in testimony?

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1                   **SHERIFF FRYE:** Yes.

2                   **THE WITNESS:** On three other occasions that  
3 did not require any testimony in court.

4                   **SHERIFF FRYE:** So six times total?

5                   **THE WITNESS:** Sure. Yes.

6                   **SHERIFF FRYE:** Out of those times, how many  
7 did you say there wasn't any problems with the confession?

8                   **THE WITNESS:** Well, so in the cases that I  
9 was retained in, all six of those there were issues with the  
10 confession. There were kind of risk factors from the  
11 literature.

12                               I have turned away between five and six  
13 cases -- so probably an equal number -- where, based on the  
14 referral, there were no problems that I saw and I basically  
15 said, you know, this might well be a waste of your money to  
16 proceed with an evaluation.

17                               So I'll pause there and see if that helps the  
18 question.

19                   **SHERIFF FRYE:** So what you're saying is about  
20 50 percent of the time, you find that there is a problem  
21 with the statement or confession that you're analyzing?

22                   **THE WITNESS:** Well, maybe it's not a problem,  
23 just something, some way in which the case solves known risk  
24 factors for false confessions, maybe I will say it that way,  
25 where -- you know, cases where there is something to say

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1 versus cases where, you know, none of these risk factors  
2 seem to be present.

3 **SHERIFF FRYE:** And I know you're not saying  
4 any confession is false or truthful or anything because  
5 that's beyond your purview, but you are laying out the risk  
6 factors; correct?

7 **THE WITNESS:** Yes. That's right.

8 **SHERIFF FRYE:** How many articles have you had  
9 published on false confessions?

10 **THE WITNESS:** I have not personally published  
11 any articles on false confessions. All of my published work  
12 has been kind of *Miranda* -- well, on a variety of topics,  
13 but *Miranda* waivers and comprehension would be the closest.

14 **SHERIFF FRYE:** Comprehension competency --  
15 things of that nature?

16 **THE WITNESS:** Yes.

17 **SHERIFF FRYE:** And with your psychological  
18 evaluation of Merritt Williams in this case, he was  
19 completely competent to stand trial. You're not raising any  
20 questions about his competency. He knew right from wrong;  
21 correct?

22 **THE WITNESS:** Well, I didn't evaluate that.  
23 So honestly, I understand that there was a competency  
24 evaluation done back in the '80s and that he was found  
25 competent. Because I didn't personally evaluate those, I

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1 couldn't answer the question from my own --

2 **SHERIFF FRYE:** But you talked to him?

3 **THE WITNESS:** Sure. Yeah.

4 **MR. GLAZIER:** Okay. And based on what you've  
5 read in the past from his past competency hearings and your  
6 knowledge of him, you find him to be competent; correct?

7 **THE WITNESS:** Certainly currently. I think  
8 that there is -- had I met with him back then, there is at  
9 least some chance that that -- my opinion there would be  
10 different. But certainly currently he is.

11 **SHERIFF FRYE:** Okay. As you have described  
12 this in your testimony, you said that he is definitely an  
13 outlier. You have described it as abnormal, different, set  
14 apart because you have never seen where somebody has  
15 confessed to multiple crimes, went through court, testified  
16 in court multiple times -- so his is very rare as far as  
17 that goes if this is a false statement or confession;  
18 correct?

19 **THE WITNESS:** Yes. That's correct. The kind  
20 of typical pattern of somebody confessing over the course of  
21 a lengthy interrogation because of particular interrogation  
22 strategies or something like that would be a more typical  
23 case.

24 And so yes, Mr. Williams' case is certainly  
25 atypical.



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1                   **SHERIFF FRYE:** Okay. And when we're talking  
2 about confirmation bias, that is kind of like the air that  
3 we breathe, is it not?

4                   **THE WITNESS:** Yes.

5                   **SHERIFF FRYE:** Every one of us see things  
6 that we particularly see in our given field. And I will say  
7 this. You know, looking at you and going by what you're  
8 saying, you say all this about him and yet you find that  
9 there is all of these risk factors involved, if you're  
10 looking for risk factors, it's easy to find risk factors;  
11 correct?

12                   **THE WITNESS:** Well, maybe a different way of  
13 thinking about that, you know, the risk factors are -- part  
14 of my reason for including that kind of literature review  
15 section in the middle is to clearly say what they are and so  
16 that you-all can determine for yourselves as well whether  
17 they appear to be present in the case.

18                   And as you can see, there are many, you know,  
19 risk factors that don't appear to be present. And so I  
20 think that by delineating them up front and being  
21 transparent about what I'm looking for, I'm trying to be  
22 very clear with you-all about what I'm seeing and what I'm  
23 not seeing.

24                   **SHERIFF FRYE:** Okay.

25                   **THE WITNESS:** So yeah, that's the approach.

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1                   **SHERIFF FRYE:** On page 16 of your report  
2 here, you list about six things that are empirically linked  
3 to false confession.

4                   One is -- and I'm going to just go down  
5 through a real quick list here -- directly accusing the  
6 person of the crime, bolstering accusations with evidence,  
7 minimizing suspect culpability. You put "sympathizing" --  
8 we use "empathizing" -- empathizing or offering  
9 justifications.

10                   **THE WITNESS:** Right.

11                   **SHERIFF FRYE:** All of those are taught to law  
12 enforcement officers -- as we take interview and  
13 interrogation classes, all of those are taught as ways to  
14 interview and interrogate people.

15                   **THE WITNESS:** Yes.

16                   **SHERIFF FRYE:** Okay. Yet those are risk  
17 factors for a false confession?

18                   **THE WITNESS:** Particularly -- so the  
19 presentations of false evidence is certainly one of those  
20 factors that there has been far more, you know, research on  
21 that absolutely is a risk factor for false confessions. And  
22 frankly, the minimization strategies as well.

23                   So we know, of course, that those are present  
24 in non false confession cases. We certainly understand  
25 that, but they are nevertheless still a risk factor for

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1 false confessions.

2           **SHERIFF FRYE:** But if they are present in  
3 every interview, then they are going to be present in the  
4 good ones and the bad ones.

5           **THE WITNESS:** We know from laboratory studies  
6 that they increase the risk of false confessions without  
7 increasing the risk of true confessions.

8           So, again, I agree with you that they are  
9 going to be present in both true and false confession cases  
10 but what we know from research is that they elevate the risk  
11 of false confessions even though, you know, they are taught  
12 as kind of standard interrogation strategies.

13           **SHERIFF FRYE:** Okay. A couple other real  
14 quick questions.

15           You say Merritt Williams -- easily influenced  
16 by others, wanted acceptance, he was a follower; correct?

17           **THE WITNESS:** Not necessarily a follower  
18 because I don't have a lot of evidence about his social  
19 functioning. But yeah, I would, I think, fundamentally  
20 agree with the other pieces.

21           **SHERIFF FRYE:** Okay. That he wants  
22 acceptance, very easily influenced by others?

23           **THE WITNESS:** Could have been. Sure.

24           **SHERIFF FRYE:** Particularly very strong  
25 personalities such as Sammy Mitchell; correct?

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1                   **THE WITNESS:** Potentially.

2                   Again, I don't have evidence of that playing  
3 out in any other scenarios. But potentially, yes.

4                   **SHERIFF FRYE:** Okay. Last generalized  
5 question here.

6                   On page 35, you say "It's reasonable to  
7 consider Mr. Williams' statements in the Wilson and Bryson  
8 cases independently. However, these events are inextricably  
9 linked (that they were close in time, involved overlapping  
10 law enforcement personnel, and Mr. Williams). Persuasive  
11 evidence of false confession in one case necessarily  
12 influences the likelihood of false confession in the other."

13                   Correct?

14                   **THE WITNESS:** Sure. Yes.

15                   **SHERIFF FRYE:** Okay. There is one part of  
16 this that tends to be left out, and that is his confession  
17 in Mary Smith.

18                   **THE WITNESS:** Sure.

19                   **SHERIFF FRYE:** So now, what is the -- if  
20 you're looking at the likelihood, what is the likelihood you  
21 confess truthfully in one, falsely in another, and falsely  
22 in another? I mean, you've got to put all three of those  
23 into this same ball of twine, would you not?

24                   **THE WITNESS:** Sure. That is fair. I  
25 think -- yes. And I think his, by all accounts, kind of

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1 true confession or actual involvement in her case is another  
2 wrinkle here. It seems that -- the thought I had in my mind  
3 just slipped right out.

4 But yes, I fundamentally agree with you that  
5 he has a history -- kind of a known history of also making  
6 truthful statements to police and that he would have done so  
7 in close proximity to the next set of statements.

8 It also seems to have contributed to the  
9 context for his claim of false confessions in these -- the  
10 subsequent two cases.

11 But agreed, you know, he, by all accounts,  
12 made this truthful confession.

13 **SHERIFF FRYE:** So that would make this even  
14 more of an abnormality; correct?

15 **THE WITNESS:** Well, in some respects yes and  
16 in some respects no.

17 So yes in that it all occurs in such a close  
18 period of time. I think what we know from known false  
19 confession cases is that these folks often do have criminal  
20 histories. Not all of them do but some of them, and since  
21 some of them have been involved in criminal activity before  
22 and might have made a statement to police in cases before --  
23 before going on to offer false confessions later.

24 So it's not extremely atypical necessarily,  
25 but the close proximity in time certainly makes it unusual.

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1                   **SHERIFF FRYE:** Okay. Thank you very much.

2                   **THE WITNESS:** Yes. Thank you.

3                   **JUDGE LOCK:** Representative Glazier.

4                   **MR. GLAZIER:** This is just a quick follow-up  
5 to one of the sheriff's questions. I want to make the  
6 record kind of clear.

7                   **THE WITNESS:** Yes.

8                   **MR. GLAZIER:** You had indicated that you had  
9 not published on the area of false confessions in terms  
10 of -- I assume you were talking about books.

11                               But you have certainly presented on the area  
12 of false confessions multiple times according to your CV.

13                               And -- correct me if I'm wrong -- that in  
14 2010, you were part of the team that presented at the  
15 American Psychology-Law Society a document called "Police  
16 Strategy During Interrogations of Juveniles: Two Different  
17 Types of Pressure Affect the Likelihood of False  
18 Confessions" -- you were part of that paper presentation,  
19 were you not?

20                   **THE WITNESS:** Yes. That's correct. And that  
21 did not result in a later publication. But yes, we've  
22 certainly done some of that research and presented that at  
23 conferences.

24                   **MR. GLAZIER:** And then in 2015, again part of  
25 the team that presented at the American Psychology-Law

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1 Society in San Diego, "Self-Perceived Likelihood of False  
2 Confessions: A Comparison of Juvenile and Adult Offenders";  
3 is that correct?

4 **THE WITNESS:** Yes. That's correct.

5 **MR. GLAZIER:** And then, finally, in March of  
6 2015, at the same, it appears, meeting, "Psychometric  
7 Properties and Factor Structure of the Perceptions of  
8 Confession Behavior During the Holding and Interrogation  
9 Process"; is that correct?

10 **THE WITNESS:** Yes. That is correct.

11 **MR. GLAZIER:** All right. Thanks.

12 **JUDGE LOCK:** Commissioner Boswell.

13 **MR. BOSWELL:** Dr. Kelley, in this case, what  
14 would be some of the indications or indicators that the  
15 confessions were actually true and his recantation of the  
16 confessions are false?

17 **THE WITNESS:** Well, you know, the ways in  
18 which the information that he is providing is consistent was  
19 known evidence about the case. You know, it all kind of  
20 comes down to whether someone thinks that because he was  
21 factually involved in it versus whether he picked up those  
22 details along the course of interviews with police. But  
23 he's certainly able to provide information that's  
24 consistent, you know, at least in some respects with known  
25 facts about the case.

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1           You know, we know that he has a criminal  
2 history. It's not -- it's not as though he's somebody  
3 completely new to the justice system or has no criminal  
4 history whatsoever who is confessing to behavior that is  
5 just completely atypical, although what he's confessing to  
6 is much more serious than what he has ever been involved in  
7 before.

8           So I think those would be the main -- yeah,  
9 the main reasons to see his statements as credible. And the  
10 fact that, you know, frankly that he volunteered them, I  
11 think that can -- I think that can be seen differently. Or  
12 maybe the best way for me to say it is that there could be  
13 alternate explanations, right, of his voluntary statements.

14           But the fact that, you know, they were, by  
15 all accounts, at least started off as just kind of him  
16 initiating contact with police, that is unique. It is  
17 certainly much more -- you know, it has happened before.  
18 People initiate contact and make all kinds of claims, but  
19 it's just not the typical false confession case.

20           **MR. BOSWELL:** What weight would you put on  
21 the fact that basically three years after he had falsely  
22 confessed to these two crimes that he comes back into trial  
23 and admits his involvement again in a retrial of another  
24 person?

25           How would you weigh that -- not necessarily



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1 with this guy, but with anyone -- how would you weigh that  
2 as far as whether it suggests a false or true involvement?

3 **THE WITNESS:** Yeah. Again, empirically, just  
4 in terms of descriptively, I think that is probably unusual.

5 Now, I'm not sure that a lot of the research  
6 has looked for that piece, you know, that particular  
7 behavior specifically. But -- but still, I think that's  
8 probably just a descriptively unusual thing for somebody to  
9 do.

10 It certainly could be that that simply  
11 reflects hopelessness about his situation and that, again,  
12 is, you know, potentially consistent with either a true or a  
13 false statement to police, but that he just sees himself as,  
14 you know, kind of dug into such a deep hole that he won't be  
15 able to extricate himself, and using just that main  
16 problem-solving strategy of, you know, cooperation with  
17 people in authority in the hopes, you know, that either  
18 anything good comes out of it or at least, you know, nothing  
19 worse can come out of it.

20 So, again, I think it's unusual but it's hard  
21 to know how to weigh it specifically in part because it's  
22 unusual.

23 **MR. BOSWELL:** Right. And then my final  
24 question I had is if you accept this premise that one of  
25 these confessions is absolutely false, how does that weigh

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1 on whether the other one is likely false or true? Is there  
2 any -- can you give an opinion about that?

3 **THE WITNESS:** Sure.

4 Again, there's not -- not a lot of research  
5 on this point or not really particular research on this  
6 point. I think it increases the likelihood of the other  
7 statement being false because it suggests, again, kind of a  
8 personality style and a set of behaviors that is now known  
9 to have happened once and, therefore, more likely to happen  
10 another time.

11 But, again, you know, this -- as the sheriff  
12 pointed out earlier, this also happens in the context of a  
13 true confession that should be eliminated from  
14 consideration. But, you know, I still think fundamentally  
15 that if one of these is false, it does increase the  
16 likelihood of the other one being false.

17 **MR. BOSWELL:** Thank you.

18 **JUDGE LOCK:** Dr. Perry.

19 **DR. PERRY:** A quick follow-up, Doctor. Frank  
20 Perry.

21 **THE WITNESS:** Yeah.

22 **DR. PERRY:** The notion of confirmation bias  
23 seems like it would be a never-ending phenomenon. As the  
24 sheriff alluded to, the district attorney -- may I comment  
25 on the DA's response to her being here? Is that privileged?

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1                   **MS. SMITH:** No. No.

2                   **DR. PERRY:** The district attorney in Forsyth  
3 County is claiming that this Commission is guilty of  
4 confirmation bias because of your testimony.

5                   **THE WITNESS:** Okay.

6                   **DR. PERRY:** And so is this a wash? Is the  
7 notion of confirmation bias -- it's not admissible in state  
8 court -- testimony about confirmation bias -- false  
9 confessions, is it admissible in the State of North  
10 Carolina?

11                   I don't know the answer.

12                   **JUDGE LOCK:** I don't either.

13                   **DR. PERRY:** Is it admissible in federal  
14 court, Dr. Kelley?

15                   **THE WITNESS:** I have testified on the topic  
16 in federal court.

17                   **DR. PERRY:** But not in state?

18                   **THE WITNESS:** Not in North Carolina. And I  
19 know that it has also been excluded in some circuits, some  
20 federal circuits.

21                   **DR. PERRY:** So it is clearly useful for  
22 deliberations like this, but it's like calligraphy -- it's  
23 not admissible in court; is that correct?

24                   **THE WITNESS:** Yeah. I suppose depending on  
25 what court you're in. But yeah, I hear what you're saying,

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1 that it's not necessarily admissible in North Carolina state  
2 courts.

3 **MR. GLAZIER:** Can I follow on what Dr. Perry  
4 spoke to -- just, again, to clear the record?

5 You had indicated that the three confession  
6 cases that you were certified or tendered and proffered and  
7 accepted as an expert -- one of those was in the Western  
8 District of North Carolina, am I not correct?

9 **THE WITNESS:** Yes.

10 **MR. GLAZIER:** But that was the question.  
11 Thank you.

12 **THE WITNESS:** Yes.

13 **JUDGE LOCK:** Mr. Edwards.

14 **MR. EDWARDS:** This is Seth Edwards again.

15 In the cases in which you have been qualified  
16 as an expert in court, whether it be in North Carolina or in  
17 the Commonwealth of Virginia, were -- any of those cases,  
18 were you called on behalf of the State of North Carolina or  
19 the Commonwealth of Virginia?

20 **THE WITNESS:** I have -- in any case you're  
21 talking about or false confession case -- or confession  
22 cases?

23 **MR. EDWARDS:** Yeah. In the confession cases,  
24 have you ever been called as a witness on behalf of the  
25 State of North Carolina or the Commonwealth of Virginia?

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1                   **THE WITNESS:** Not in confession cases, no.  
2 In other cases, yes.

3                   **MR. EDWARDS:** Following up on the question  
4 earlier about the research of false confessions and whether,  
5 in any of those cases, the defendant whose confession was  
6 deemed to be false had in fact testified as to his guilt --  
7 and you indicated that it was rare or unusual, I believe; is  
8 that right?

9                   **THE WITNESS:** Yes. That's right.

10                  **MR. EDWARDS:** -- are you aware of any case  
11 where the confession was deemed to be false that a  
12 defendant, that particular defendant had testified in court  
13 as to his guilt?

14                  **THE WITNESS:** Again, not off the top of my  
15 head.

16                         You know, I don't -- I imagine those cases  
17 exist but admittedly in much smaller numbers. So I don't  
18 want to tell you that it's impossible or that it's never  
19 happened. Off the top of my head, I couldn't give you --  
20 you know, I couldn't tell you a case name where that has  
21 happened before.

22                  **MR. EDWARDS:** Okay. Thank you.

23                  **THE WITNESS:** Sure.

24                  **JUDGE LOCK:** Yes, Commissioner Welch.

25                  **MS. WELCH:** Ma'am, this is Ashley Welch. I

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1 only have a few questions.

2                   The first sort of follows up on what  
3 Mr. Edwards asked you. In the cases where you have  
4 testified as an expert in confessions, he asked you if you  
5 had testified for the State of North Carolina or the  
6 Commonwealth of Virginia.

7                   Did you testify for the federal government in  
8 the cases that you were tendered as an expert in federal  
9 court?

10                   **THE WITNESS:** No. For the defense.

11                   **MS. WELCH:** Okay. And then did you take the  
12 time to analyze Mr. Williams' confession in the Mary Smith  
13 case?

14                   **THE WITNESS:** I did not. Yeah, I did not  
15 because it was clear in the way in which the case came to  
16 us -- or the clinic, it was clear that that confession was  
17 not being contested and so I don't have any documents  
18 related to that.

19                   **MS. WELCH:** So I just want to make sure that  
20 I understand.

21                   You did not take the opportunity to evaluate  
22 and look at a confession in another homicide case where this  
23 individual claims that that confession was accurate but that  
24 these other two were not; is that right?

25                   **THE WITNESS:** Correct. Yeah. I did not have

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1 those documents. And that was not part of -- I understand  
2 the question. I think that is a really fair point.

3 But I did not -- so I did not evaluate or  
4 look at his statement in Mary Smith's case, and that just --  
5 yeah, because it was not the referral question. But I  
6 understand -- yeah. I understand the limitations there.

7 **MS. WELCH:** So, I mean, you wouldn't have any  
8 knowledge of the fact, that, in that he first denied it and  
9 then he started admitting and then he started admitting more  
10 details, very similarly to these other two confessions?

11 **THE WITNESS:** Sure. Right. I mean,  
12 correct -- that I wouldn't have been privy to that  
13 information.

14 And like I said, in Mr. Wilson's case, you  
15 know, that pattern is just, you know, sometimes associated  
16 with genuine guilt and how people progress to providing more  
17 details or a more involved account over time. So I  
18 understand that general phenomenon and understand now that  
19 Mr. Williams had engaged in that before.

20 **MS. WELCH:** And then just very briefly -- and  
21 then I promise I'm done -- part of having a borderline  
22 personality disorder or a cluster of some sort of  
23 personality disorder like you've described, and I believe  
24 narcissism fits in that, is that those individuals can be  
25 manipulative; is that right?

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1                   **THE WITNESS:** Sure. I mean, they're at least  
2 sometimes perceived by others as manipulative. Yeah.

3                   **MS. WELCH:** And I believe that you also said  
4 that Mr. Williams was angry as a result of his personality  
5 disorder?

6                   **THE WITNESS:** Well, only in that the  
7 psychiatric records document him getting frustrated easily  
8 and that, you know, a symptom of borderline personality  
9 disorder is kind of -- I believe it is phrased as "extreme  
10 displays of anger," and that that was only documented in the  
11 context of his psychiatric records.

12                   **MS. WELCH:** Thank you.

13                   **JUDGE LOCK:** Commissioner Britt.

14                   **MR. BRITT:** Dr. Kelley, my name is Johnson  
15 Britt. I am a former prosecutor who was involved in the  
16 exoneration of two men here in North Carolina that DNA  
17 showed that they did not commit crimes of horrendous murder  
18 and rape --

19                   **THE WITNESS:** Yeah.

20                   **MR. BRITT:** -- that they confessed to.

21                                   Can you talk a little bit about the  
22 risk/reward factor that's involved in an individual falsely  
23 confessing or making a false confession?

24                   **THE WITNESS:** Can you restate that? Your  
25 voice is a bit quieter.



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1                   **MR. BRITT:** Can you talk a little bit about  
2 the risk/reward factor that may be involved in someone  
3 falsely confessing.

4                   **THE WITNESS:** So I may ask you for a little  
5 bit more elaboration of what specifically you're talking  
6 about.

7                   **MR. BRITT:** Their motivation.

8                   **THE WITNESS:** Sure.

9                   So I think certainly people perceive, during  
10 their interrogations with police, that as they offer --  
11 offer information that's incriminating, that behavior in the  
12 context of the interrogation gets rewarded by police  
13 behavior -- police becoming more friendly, backing off  
14 pressure, things like that.

15                   And I think -- so in general, that phenomenon  
16 has certainly played out in a lot of false confession cases,  
17 where people get rewarded over time for offering increasing  
18 details about their involvement in an offense, whether it is  
19 true or false.

20                   Does that help answer the question?

21                   **MR. BRITT:** Yes.

22                   And in Mr. Williams' case, was that -- do you  
23 believe that was a factor in his talking with police?

24                   **THE WITNESS:** Sure.

25                   Certainly his motivation, which is, again,

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1 somewhat atypical for maybe a standard case, but his whole  
2 motivation is to kind of ingratiate himself. And so  
3 certainly he would have been pretty sensitive to how the  
4 police are responding to the information he's giving them  
5 and so providing kind of these increasingly incriminating  
6 details or increasingly accurate details about the crime  
7 scenes would have been, you know, I think, rewarded by  
8 police behavior in the moment and then perceived by him as  
9 kind of a successful deployment of his problem-solving  
10 strategy that he is using in the moment of trying to be  
11 helpful to police.

12 **MR. BRITT:** And this is the last question.

13 In your studies and your research in cases in  
14 which individuals have made false statements, do you see an  
15 adoption by those individuals of those statements as being  
16 true?

17 **THE WITNESS:** Sometimes, absolutely. So  
18 sometimes it becomes internalized for the person. The  
19 person continues to believe in their guilt for some time.  
20 But those are, again, rare -- less frequent than other types  
21 of confessions, but certainly there are cases where people  
22 continue to believe in their guilt at least for some period  
23 of time.

24 **MR. BRITT:** And do we see that in  
25 Mr. Williams' cases?

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1                   **THE WITNESS:** So, not by his account. You  
2 know, by his account, he is effectively, you know,  
3 understanding that he's falsely giving information -- or  
4 he's giving false information and just feels so -- you know,  
5 his account for testifying is that he felt that he just  
6 needed to take that additional step to really kind of  
7 formalize or -- not formalize, but to show his commitment to  
8 the police in helping them, as, you know, counterintuitive  
9 as that might be.

10                   And so at no point in our interview or in  
11 anything -- any documents I've seen did he seem to suggest  
12 that he actually believed he was guilty. So I don't have  
13 any evidence of that playing out in his case.

14                   **MR. BRITT:** Thank you.

15                   **THE WITNESS:** Sure.

16                   **DR. PERRY:** Just quickly. Please forgive me,  
17 Dr. Kelley, Frank Perry again. Maybe this was covered. It  
18 could be a ridiculous question.

19                   **THE WITNESS:** Not at all.

20                   **DR. PERRY:** Any studies on false confessors  
21 being polygraphed about their confessions?

22                   **THE WITNESS:** So we don't have a lot of -- we  
23 don't have research on that intersection specifically. We  
24 know that a lot of false confessors were polygraphed. I  
25 mean, those were, again, kind of common strategies, and so

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1 we know that's how those -- that those co-occur, that people  
2 who provide false confession -- who have provided false  
3 confessions have also been polygraphed, but we don't have  
4 any, at least to my knowledge, laboratory studies on that  
5 topic specifically.

6 But we do know that they co-occur at least in  
7 some cases.

8 **DR. PERRY:** Certainly one may have a false  
9 confession and pass a polygraph?

10 **THE WITNESS:** Sure. Yes.

11 **DR. PERRY:** As Mr. Britt said, believing what  
12 they are stating.

13 **THE WITNESS:** Sure.

14 Or simply not being kind of physiologically  
15 aroused. You know, because they've kind of committed to  
16 that statement, their body isn't reacting as though they're  
17 telling a lie.

18 **DR. PERRY:** I see.

19 **THE WITNESS:** Like, you know, the  
20 physiological arousal that often accompanies lies is what  
21 the polygraph is detecting, and so if somebody is committed  
22 to whatever the story is, whatever the narrative is, then a  
23 polygraph might not detect that either.

24 So, you know, both people who come to believe  
25 that they're truly guilty for some time but also people just

## Court's Clarification on Expert Tender

1 committed to their narratives.

2 **DR. PERRY:** That's helpful. Thank you.

3 **THE WITNESS:** Yes.

4 **JUDGE LOCK:** Does any commissioner -- any  
5 other commissioner have any other questions?

6 (No response.)

7 **MS. SMITH:** Thank you, Dr. Kelley.

8 **THE WITNESS:** Yes. You're welcome.

9 (Witness stands down, 1:06 p.m.)

10 **JUDGE LOCK:** Lunch?

11 **MS. SMITH:** Lunch.

12 **JUDGE LOCK:** All right. It's about 1:07 or  
13 so. If we break until 1:45, will that give everyone enough  
14 time to eat?

15 (Recess taken, 1:07 to 1:47 p.m.)

16 **JUDGE LOCK:** We will come back to order.

17 Before we hear from Mr. Williams, I do want  
18 to clarify one thing with regard to the ruling I made  
19 concerning Ms. Guice Smith's tender of Dr. Kelley as an  
20 expert.

21 I thought I said this, but I do want to make  
22 it clear for the record that I was not aware and am not  
23 aware of any North Carolina appellate court case recognizing  
24 confessions or false confessions as an area of expertise or  
25 recognizing such a witness as an expert witness.

## Testimony of Beth Tanner

1 I certainly do believe there have been a  
2 number of cases across the country, apparently including in  
3 our federal courts, in which such witnesses have been  
4 accepted. It's also quite possible that some trial judge in  
5 our state has allowed such testimony. I'm just not aware of  
6 any appellate court case.

7 And I believe Ms. Tanner has actually done  
8 some research on this issue -- or had done some; is that  
9 correct? I think you passed out a handout?

10 **MS. TANNER:** Yes, Your Honor. Handout 89.

11 **JUDGE LOCK:** All right. Do you want to  
12 recall her briefly?

13 **MS. SMITH:** Yes, please.

14 **JUDGE LOCK:** All right. Yes, ma'am.

15 She remains under oath.

16 **MS. SMITH:** The Commission recalls Associate  
17 Director Beth Tanner.

18 (Beth Tanner recalled.)

19 BY MS. SMITH: (1:48 p.m.)

20 Q. Ms. Tanner, can you please provide the  
21 commissioners information related to the cases that are  
22 located in Handout 89.

23 A. Yes.

24 These are both Fourth Circuit Federal District  
25 Court Cases. The first is *United States v*

1 *Rodriguez-Soriano*. That is actually cited in part by the  
2 district attorney's statement there.

3 In that case -- while the Court in that case  
4 ultimately determined that the expert there would be  
5 excluded -- that starts on page 2 of 3 in that case under  
6 header "Reliability of the Expert." On page 3 of 3, the  
7 Court goes on to provide that "This is not to say that false  
8 confession expert testimony would be unhelpful to a jury in  
9 every case."

10 That paragraph cites another case, the *Belyea*  
11 case, which is the second case -- or maybe it's the first --  
12 in your handout as well.

13 It says that "However" -- in the *Rodriguez* case it  
14 says "However, such testimony is inappropriate in this case.  
15 Here, unlike in *Belyea*, the defense presented no  
16 corroborating evidence to suggest that  
17 Mr. Rodriguez-Soriano's confession was false." And then it  
18 goes on to describe that more as to what evidence that is.

19 In *Belyea*, that court was reviewing the trial  
20 Court's -- that Court was looking at an exclusion of an  
21 expert as well, and what it was looking at is whether or not  
22 the Trial Court had abused its discretion in excluding the  
23 expert, which is the standard when they're back looking at  
24 that. And what the Court there said is that the Trial Court  
25 did because it simply did not go through the different

1 factors of whether or not that expert would be helpful. So  
2 it laid those out there.

3 So we provided both of those cases for you-all.

4 I think the district attorney's statement also  
5 says that there is no North Carolina appellate court or  
6 Supreme Court decision since *Daubert* has been used in North  
7 Carolina as to state court decisions, and that was -- I also  
8 do not find anything in that in North Carolina state --  
9 appellate court or supreme court.

10 **MS. SMITH:** Are there any questions for  
11 Ms. Tanner?

12 (No response.)

13 **JUDGE LOCK:** Thank you very much.

14 (Witness stands down, 1:50 p.m.)

15 **MS. SMITH:** Commissioners, you have heard  
16 testimony related to and listened to the commission staff's  
17 interviews with Mr. Williams in both the Bryson and Wilson  
18 cases.

19 I am calling Mr. Williams to testify, and I  
20 just have a few follow-up questions for him mostly based on  
21 information we learned after we had an opportunity to  
22 interview him.

23 When I am done with that, you-all will have  
24 an opportunity to question him about anything that you would  
25 like to.



1                   You were previously provided Handouts 25 and  
2 38 to be read prior to today. Those were the transcripts of  
3 the Commission's interviews with Mr. Williams.

4                   I do have a copy of that up here to hand up  
5 to him if anyone wants to refer him to a specific page and  
6 line in that transcript so that he can look at them. So if  
7 you-all will just let me know, I can provide that to him at  
8 that time.

9                   At this time, Your Honor, we would call  
10 Merritt Williams.

11                   **JUDGE LOCK:** All right.

12                   (Discussion off the record.)

13                   **MS. SMITH:** Mr. Williams will be sitting here  
14 on the witness stand, so if you want to turn and move, you  
15 may do that.

16                   **JUDGE LOCK:** All right.

17                   Good afternoon, Mr. Williams. Do you have  
18 any objection to taking an oath on the Bible?

19                   **THE WITNESS:** No, sir.

20                   **JUDGE LOCK:** If you would place your left  
21 hand on the Bible and raise your right hand as best you can.

22                   Sir, do you swear that the testimony you will  
23 give before the Commission this afternoon will be the truth,  
24 the whole truth, and nothing but the truth, so help you God?

25                   **THE WITNESS:** Yes, sir.

## Testimony of Merritt Williams

1                   **JUDGE LOCK:** Thank you very much. You may be  
2 seated, sir.

3                   \* \* \* \* \*

4 Thereupon, MERRITT WILLIAMS, a witness having been called by  
5 the Commission, was sworn and testified as follows:

## EXAMINATION

6  
7 BY MS. SMITH: (1:53 p.m.)

8           Q. Good afternoon, Mr. Williams.

9           A. Good afternoon.

10          Q. My name is Lindsey Guice Smith. I'm the Executive  
11 Director of the North Carolina Innocence Inquiry Commission.

12                  You may recall that we met once before when I came  
13 and collected your DNA --

14          A. Yes.

15          Q. -- when you were being housed at Avery  
16 Correctional last year.

17          A. Yes.

18          Q. I do have a couple of questions for you today.  
19 After I'm done asking questions, the commissioners seated  
20 around the room may have also questions for you. Okay?

21          A. Uh-huh.

22          Q. I'm first going to start by handing you a  
23 document. This is an affidavit from 1993 that appears to  
24 have your signature on it.

25                  Do you recognize that?

## Testimony of Merritt Williams

1 A. Yes.

2 Q. And if you will flip to the third page.

3 Is that your signature on that document?

4 A. Yes.

5 Q. And are you able to read the document?

6 **MR. BOSWELL:** What document is this? Is it  
7 in our brief?

8 **MS. SMITH:** It's not in the brief because we  
9 received it after.

10 **MR. BOSWELL:** Is it in our notebooks?

11 **MS. SMITH:** One moment.

12 **MR. ZIEGLER:** 34.

13 **MS. SMITH:** Thank you, Brian.

14 A. Some of it I can read, some of it I can't because  
15 of the color of the paper.

16 Q. Okay. So you're able to read some of it but not  
17 all of it because of the color of the paper?

18 A. Uh-huh.

19 Q. Do you recognize that?

20 A. Yes.

21 Q. And it appears to be related to Johnny Gray and  
22 the Deborah Sykes case; is that correct?

23 A. Yes.

24 Q. Do you recall when you signed this document?

25 A. Not at the time.

## Testimony of Merritt Williams

1 Q. Do you recall how you came to provide this  
2 information about Johnny Gray in the Deborah Sykes case?

3 A. No, ma'am. I can't remember.

4 Q. Do you remember what is outlined here as actually  
5 happening?

6 A. Yes.

7 Q. Do you recall meeting with an attorney with the  
8 last name McGough related to this document?

9 A. No, ma'am. I have heard of the name. I remember  
10 the document all the way around. It was a document it was  
11 done at Round Creek Correctional, I believe.

12 Q. Thank you, sir.

13 I'm going to turn your attention to the Bryson  
14 case.

15 A. Yes.

16 Q. Did you kill Blanche Bryson?

17 A. No.

18 Q. Were you involved in Blanche Bryson's murder in  
19 any way?

20 A. No, ma'am.

21 Q. Have you ever been in Blanche Bryson's home?

22 A. No.

23 Q. Have you ever been in Blanche Bryson's car?

24 A. No.

25 Q. Do you know Robbin Carmichael?

## Testimony of Merritt Williams

1           A.     Only from when he ended up at CP maybe a year and  
2 a half after I was incarcerated at CP.

3           Q.     And is that the first time you had ever met him?

4           A.     Yes, ma'am.

5           Q.     Did you speak with him while you were in prison?

6           A.     Just talked.  Speak -- nothing about that.

7           Q.     What did you talk to him about?

8           A.     I just told him I had knew who he were.  But I  
9 didn't spend no time with him, we didn't like each other  
10 like that.  He kind of shunned around me.

11          Q.     You said you told him you knew who he was?

12          A.     Yes.

13          Q.     How did you who know he was?

14          A.     From other guys from Winston-Salem.

15          Q.     That were in prison with you?

16          A.     Uh-huh.

17          Q.     What did they tell you about him?

18          A.     They just told me that was the guy that was doing  
19 that time for the same murder I had got convicted of.

20          Q.     When you saw him or spoke with him, did you ever  
21 provide him with the name Darren Johnson?

22          A.     No.  Because I don't know who Darren Johnson is.

23          Q.     Did he ever tell you about a Darren Johnson?

24          A.     No, ma'am.

25          Q.     When was the first time you heard that name?

## Testimony of Merritt Williams

1           A.    First time I heard was when you talked to me at  
2 the meeting in the mountains.

3           Q.    When commission staff talked with you?

4           A.    Yes.

5           Q.    Did you know Robbin Carmichael at the time of  
6 Blanche Bryson's murder?

7           A.    No.

8           Q.    Have you ever met Darren Johnson?

9           A.    No, ma'am.

10          Q.    Did you know Darren Johnson at the time of Blanche  
11 Bryson's murder?

12          A.    No, ma'am.

13          Q.    If you did not commit the murder of Blanche  
14 Bryson, why would you tell law enforcement that you were  
15 involved?

16          A.    To this day, I still can't understand why I did  
17 that. I could never understand it.

18          Q.    Where did you get --

19          A.    I --

20          Q.    Go ahead.

21          A.    I tried to understand it but I just can't  
22 understand what caused me to do that.

23          Q.    Where did you get the information that you  
24 provided to law enforcement?

25          A.    Most of it came from articles and some help from

## Testimony of Merritt Williams

1 the police department.

2 Q. What do you mean when you say "help from the  
3 police department"?

4 A. Like asking me where was the car or -- and then  
5 driving me out to the house and then had me get out the car  
6 with them and walk around the house -- stuff like that.

7 Q. Did you go to the house at your request?

8 A. No. They drove to the house.

9 Q. Did you kill Arthur Wilson?

10 A. No.

11 Q. Were you involved in the death of Arthur Wilson in  
12 any way?

13 A. No, ma'am.

14 Q. Were you present when Arthur Wilson was killed?

15 A. No, ma'am.

16 Q. Were you involved in kicking or beating Arthur  
17 Wilson?

18 A. No, ma'am.

19 Q. Did you take anything from Arthur Wilson?

20 A. No, ma'am.

21 Q. What was your involvement in the crime related to  
22 Arthur Wilson?

23 A. None at all.

24 Q. Were you at Ezelle Clowers' drink house on  
25 September 17, 1983, the night of Arthur Wilson's death?

## Testimony of Merritt Williams

1           A.    I don't recall being at the house at that time.  
2   Some people said I was but I don't remember being at the  
3   time, that particular night.

4           Q.    Anytime that night or just around the time of the  
5   crime?

6           A.    Around the time of the crime.

7           Q.    Do you recall being there earlier in the night?

8           A.    Earlier.

9           Q.    When did you leave?

10          A.    I don't know the exact time.

11          Q.    Did you leave with anyone?

12          A.    Mattie Mae Davis.

13          Q.    Who is Mattie Mae Davis?

14          A.    Then, that was my girlfriend.

15          Q.    And where did you go when you left?

16          A.    We went home, which is right to the next street  
17   over.

18          Q.    One street over?

19                    What street was that?

20          A.    18th Street.

21          Q.    Did you see anyone when you left?

22          A.    No, ma'am.

23          Q.    Did you see Arthur Wilson at Ezelle Clowers' drink  
24   house on the night of the crime?

25          A.    He was in the house but not where I was at. He



## Testimony of Merritt Williams

1 was at the bar. I was on the back side of the house.

2 Q. Did you know who he was?

3 A. Yes.

4 Q. Was he someone that you hung out with?

5 A. No.

6 Q. Do you know if he was still in the home when you  
7 left?

8 A. No, ma'am, I don't know.

9 Q. Did you see him leave?

10 A. No.

11 Q. Did you see either Sammy Mitchell or Darryl Hunt  
12 at Ezelle Clowers' drink house on the night of the crime?

13 A. Early in the evening, they were there.

14 Q. Did you see them leave that evening?

15 A. No, ma'am.

16 Q. Do you know if they were still there when you  
17 left?

18 A. No.

19 Q. Did you otherwise hang out with Sammy Mitchell or  
20 Darryl Hunt on a routine basis?

21 A. No. We just -- we just see each other at the  
22 drink house, and that was it.

23 Q. And Mattie Mae Davis, who is now Mattie Mae  
24 Little, maintains that she was with you at Ezelle Clowers'  
25 drink house on the night of the crime, the night Mr. Wilson

## Testimony of Merritt Williams

1 was -- died, and that she saw you and Sammy Mitchell and  
2 Darryl Hunt when Sammy Mitchell knocked Mr. Wilson down.

3 Do you have any explanation for why Ms. Davis  
4 would today give that story?

5 A. I don't know if she's scared or not, but she got  
6 that story from -- we had -- when I was in jail, they took  
7 me to a private room and brought Mattie Mae in, and our  
8 stories had to match each other. And that's when she get  
9 the idea of that from. We stayed in the room together  
10 probably an hour and a half or more. They put us in the  
11 room.

12 Q. And when you were in that room together, it was  
13 just you and her?

14 A. Just me and her.

15 Q. And what were you doing?

16 A. Getting our stories to collaborate each other.

17 Q. So if Ms. Davis today, now, tells the commission  
18 staff that that never happened -- that she was never alone  
19 in a room with you getting her story together, why would she  
20 say that?

21 A. She would be -- she would be telling a lie because  
22 it should be -- when the police took me out, took me to the  
23 room, they put both of us in it.

24 Q. Why would she tell a lie today?

25 A. I don't know but we were in a room together.

## Testimony of Merritt Williams

1 Q. Do you have any contact with her?

2 A. No.

3 Q. When was last time you had contact with her?

4 A. Jail.

5 Q. Before you were convicted?

6 A. Uh-huh. That was it.

7 Q. Mr. Williams, if you did not commit the murder of  
8 Arthur Wilson or have any involvement in that, why would you  
9 tell police that you did that?

10 A. When I got arrested for a homicide of Ms. Smith at  
11 our house, Mary Smith, that's when I got involved in that  
12 case.

13 Q. Why did you get involved?

14 A. Well, I was trying to see if I could cover myself  
15 to get out of that one because after slaying a Caucasian at  
16 my house, it was bad because everybody was looking at just  
17 that point, that she was Caucasian and she probably had some  
18 connection with people.

19 And so I told them I was involved. At first, I  
20 told them Sammy and Darryl was involved, but then they took  
21 me downtown and then start showing me different things about  
22 the case, and they had me involved in it.

23 Q. Why would you think that telling them you were  
24 involved in that crime could help you in the Mary Smith  
25 case?

## Testimony of Merritt Williams

1           A.    At first, it wasn't me, it was just Darryl and  
2 Sammy. And then they kept pushing, saying "Well, you need  
3 to help yourself." They said, "Was you there?" and I put  
4 myself into it.

5           Q.    Which officer was that?

6           A.    Oh, God. I can't remember the officer name now.  
7 I can't remember the officer name who handled it -- handled  
8 the case.

9                       **MS. SMITH:** Just one moment, Your Honor.

10          Q.    Mr. Williams, do you remember an interview with  
11 Ms. Tanner here and Mr. Ziegler in the back of the room --

12          A.    Yes.

13          Q.    -- in April of this year?

14          A.    Yes.

15          Q.    And during that interview, Mr. Ziegler asked  
16 "Where were you the night that he was killed?" -- and he was  
17 talking about Arthur Wilson.

18          A.    Uh-huh.

19          Q.    And you responded "I have no idea. I know I  
20 wasn't over there. I know that."

21                       Then Mr. Ziegler asked -- said "You were not at  
22 the drink house on Claremont?"

23                       And you said "No."

24                       Today you just told me that you were there earlier  
25 in the night.

## Testimony of Merritt Williams

1 A. The night, yeah.

2 Q. Can you explain why you told Mr. Ziegler something  
3 different back in April?

4 A. Because he was -- but I'm answering him, only  
5 thing he thinking about what had really happened. I wasn't  
6 there. I was there earlier in the day and that was it, not  
7 in the nighttime when it happened.

8 Q. And when you say "earlier in the day," can you  
9 describe for us at what time of day you were at Ezelle  
10 Clowers' drink house on the day --

11 A. About 6:30.

12 Q. In the morning or the evening?

13 A. Evening.

14 Q. In the evening.

15 Is that -- so you're at the drink house at 6:30 in  
16 the evening?

17 A. Uh-huh.

18 Q. Is that when you arrived or when you left?

19 A. That's when I arrived. We didn't stay long. We  
20 stayed an hour or so and then we left.

21 Q. I'm sorry. You stayed --

22 A. Stayed about an hour and then we left.

23 Q. So you're saying you would have left by about  
24 7:30 --

25 A. Uh-huh.

## Testimony of Merritt Williams

1 Q. -- that evening?

2 A. We just stopped to get some drinks and leave.

3 Q. And did you go straight home?

4 A. Yes.

5 MS. SMITH: Commissioners, do you have any  
6 questions for Mr. Williams? Any questions?

7 JUDGE LOCK: Yes, sir, Mr. Edwards.

8 MR. EDWARDS: Mr. Williams, my name is Seth  
9 Edwards. Let me just get a little bit closer to you.

10 THE WITNESS: Yes, sir.

11 MR. EDWARDS: I just have a couple of  
12 questions for you.

13 Now, you're not contesting your involvement  
14 in the case of Mary Smith; is that right?

15 THE WITNESS: No, sir.

16 MR. EDWARDS: All right.

17 Now, if these two convictions that you're --  
18 you know, you're asking the Innocence Commission to review  
19 and asking this Commission today to review -- if these two  
20 murder convictions where you received life sentences were  
21 overturned, then you would have already served your time on  
22 the case with Mary Smith; isn't that right?

23 THE WITNESS: Yes, sir.

24 MR. EDWARDS: Because you got a life sentence  
25 plus a life sentence plus another 10 years for Mary Smith;

## Testimony of Merritt Williams

1 is that correct?

2 **THE WITNESS:** Yes, sir.

3 **MR. EDWARDS:** All right. So if the two cases  
4 that we're considering were overturned and you -- you would  
5 essentially walk out of prison?

6 **THE WITNESS:** (Moves head up and down.)

7 **MR. EDWARDS:** You should. You would have  
8 served your time; correct?

9 **THE WITNESS:** Yes, sir.

10 **MR. EDWARDS:** All right. And your testimony  
11 is that Ms. Mattie Mae Davis -- the two of you were in a  
12 room at the police department for an hour and a half or so  
13 and got your stories straight on the Arthur Wilson case; is  
14 that right?

15 **THE WITNESS:** Yes, sir.

16 **MR. EDWARDS:** Now, if you had that much time  
17 to talk with her and get your stories straight, wouldn't it  
18 have made more sense to come up with a story that you were  
19 not involved in Arthur Wilson's case?

20 **THE WITNESS:** I had done got so deep in I  
21 didn't see no way out.

22 **MR. EDWARDS:** Now, today, obviously you've  
23 come here before the Commission, you put your hand on the  
24 Bible, swore of tell the truth today; is that right?

25 **THE WITNESS:** Yes, sir.

## Testimony of Merritt Williams

1                   **MR. EDWARDS:** I want to ask you about -- by  
2 my count, on at least three occasions you have gone into a  
3 courtroom somewhere, put your hand on the Bible, swore to  
4 tell the truth, and in the three occasions, admitted your  
5 guilt or your involvement in these cases that are here  
6 today.

7                   How can you explain that?

8                   **THE WITNESS:** I can't. In the Mary Smith, I  
9 admitted because I did push her.

10                   In that Blanche Bryson and Wilson, I can't  
11 explain why I did it. I wish I could. I can't. I don't  
12 have an explanation but I do know that I didn't have any  
13 doubt -- I didn't have nothing to do with their murders.

14                   **MR. EDWARDS:** Those are my questions.

15                   **JUDGE LOCK:** Mr. Britt.

16                   **MR. BRITT:** Mr. Williams, my name is Johnson  
17 Britt.

18                   Can you explain how it was that after you  
19 were arrested for Ms. Smith's and were in jail that you  
20 contacted the police that started this series of events --  
21 and why you did?

22                   **THE WITNESS:** I don't know. Because when  
23 they first arrested me, they started asking me questions  
24 about Darryl and Sammy. And then after that, I just went to  
25 babbling about the Mary Wilson [sic] murder and I ended up



## Testimony of Merritt Williams

1 involving them and then myself into it.

2 **MR. BRITT:** You said the police started  
3 asking you questions about Sammy Mitchell and Darryl Hunt.

4 Was -- had Deborah Sykes already been killed?

5 **THE WITNESS:** Yes.

6 **MR. BRITT:** And both of them were still on  
7 the street?

8 **THE WITNESS:** No.

9 **MR. BRITT:** Or was Darryl Hunt already --

10 **THE WITNESS:** Darryl was still in. Sammy was  
11 still on the streets.

12 **MR. BRITT:** And was their focus more -- was  
13 the focus more on getting Sammy or getting Darryl or getting  
14 both of them?

15 **THE WITNESS:** Getting both.

16 **MR. BRITT:** Why did the police come to you  
17 for information if you weren't close friends with them?

18 **THE WITNESS:** Because of the people who I  
19 hung around were Ms. Smith, she was close to them, and her  
20 old man, they were real close, and I was close to her old  
21 man and they started asking questions.

22 **MR. BRITT:** So you contact the Winston-Salem  
23 police and they take you from the jail to the police  
24 department?

25 **THE WITNESS:** Uh-huh.

## Testimony of Merritt Williams

1                   **MR. BRITT:** Describe the way in which you  
2 were interviewed or how you presented the information to  
3 them.

4                   **THE WITNESS:** Only thing I told them --  
5 first, we didn't go all the way. We stopped to a McDonald's  
6 or something, and they went in and got -- stopped and got me  
7 something to eat and we started talking about the Arthur  
8 Wilson case.

9                   And they said, "Well, we know Darryl and  
10 Sammy was involved."

11                   Said, "What you think about it?"

12                   I said, "Yeah, they was." And then we  
13 started with that.

14                   **MR. BRITT:** Why did you tell them that Darryl  
15 and Sammy were involved? Did you know they were?

16                   **THE WITNESS:** No. Because I was trying to  
17 get myself out of the murder with Ms. Smith.

18                   **MR. BRITT:** So you were trying to cooperate  
19 with them?

20                   **THE WITNESS:** Yes, sir.

21                   **MR. BRITT:** Trying to, in essence, please  
22 them.

23                   **THE WITNESS:** And end up putting myself into  
24 it.

25                   And when we got to the police department,

## Testimony of Merritt Williams

1 they started asking me questions and what -- when they were  
2 writing the information down that wasn't right, they would  
3 initial it and have me go back over it, and then they would  
4 rewrite it. And they did that for -- I think we did four  
5 different statements until they felt that it was correct.

6 **MR. BRITT:** Prior to being arrested for  
7 Ms. Smith's, you drank pretty heavily, didn't you?

8 **THE WITNESS:** Yes.

9 **MR. BRITT:** Can you give us an example of how  
10 much you were drinking during the course of a day back then?

11 **THE WITNESS:** Sometimes close to a gallon a  
12 day, sometimes.

13 **MR. BRITT:** A gallon of liquor? beer?

14 **THE WITNESS:** Liquor.

15 **MR. BRITT:** A gallon of liquor?

16 **THE WITNESS:** We got up in the morning, start  
17 drinking, and drink all day long, all that night.

18 **MR. BRITT:** And so when you -- you place  
19 yourself at the drink house?

20 **THE WITNESS:** Yes, sir.

21 **MR. BRITT:** Would you say you were drunk when  
22 you arrived there?

23 **THE WITNESS:** No. Leaving, I was high. I  
24 wouldn't consider drunk, but I was pretty tipsy when we left  
25 together.

## Testimony of Merritt Williams

1                   **MR. BRITT:** Tell me the difference between  
2 being high and being drunk.

3                   **THE WITNESS:** Well, not staggering. I wasn't  
4 staggering but I was ...

5                   **MR. BRITT:** Okay. For you, drunk means  
6 you're falling down?

7                   **THE WITNESS:** Falling down, yeah.

8                   **MR. BRITT:** Okay. Otherwise, you're high?

9                   **THE WITNESS:** Yes.

10                  **MR. BRITT:** All right. And how much did you  
11 have -- do you recall how much you had to drink that  
12 evening, that night, at the drink house?

13                  **THE WITNESS:** Well, when we got there, we got  
14 four or five shots of vodka, we drunk that and a couple of  
15 beers, and then we left.

16                  **MR. BRITT:** Who else do you remember seeing  
17 at the drink house?

18                  **THE WITNESS:** Ezelle. Ezelle's son. God. I  
19 saw Ms. Williams there. That's about it. And some people I  
20 didn't even know that just come in and drink, buy drinks up  
21 there.

22                  **MR. BRITT:** Okay. And you testified earlier  
23 that Sammy and Darryl were there.

24                  **THE WITNESS:** Yeah, they were there.

25                  **MR. BRITT:** Did you talk with them?

## Testimony of Merritt Williams

1                   **THE WITNESS:** No.

2                   **MR. BRITT:** Did you speak to them?

3                   **THE WITNESS:** No. They were in the back  
4 room.

5                   **MR. BRITT:** How often did you socialize with  
6 Darryl and with Sammy?

7                   **THE WITNESS:** Well, if I do go over there,  
8 it's not like we socialize every day. They may buy a drink  
9 or something and talk and then that's it. You know, not  
10 being together.

11                   **MR. BRITT:** Would you -- did you run with  
12 Sammy?

13                   **THE WITNESS:** No.

14                   **MR. BRITT:** You answered that pretty quickly.  
15 Why didn't you run with Sammy?

16                   **THE WITNESS:** Because he was wild. He loved  
17 fighting and I didn't -- I don't too much get into that  
18 fighting stuff.

19                   **MR. BRITT:** Okay. And from the drink house  
20 to go to where you and Mattie Mae were living, you said you  
21 had to go down to 18th Street?

22                   **THE WITNESS:** Uh-huh.

23                   **MR. BRITT:** And that would have -- to your  
24 knowledge, is that in the direction of where Mr. Wilson was  
25 found?

## Testimony of Merritt Williams

1                   **THE WITNESS:** No. 18th Street is before you  
2 get to Ezelle's.

3                   **MR. BRITT:** So you have to go back up the  
4 hill?

5                   **THE WITNESS:** You have to go back up.

6                   **MR. BRITT:** And go back down the hill to --  
7 is that the way it is?

8                   **THE WITNESS:** Well, no. Where that house was  
9 at, it was just about at the top of the hill. So we just  
10 had to walk out the house and walk maybe 30 foot and go back  
11 down the street.

12                   **MR. BRITT:** Tell me little bit about that  
13 house.

14                   **THE WITNESS:** Ezelle house?

15                   **MR. BRITT:** Yeah. In terms of where it was  
16 positioned on the lot. Because what we've been told is that  
17 house was torn down by the time you were tried. There's no  
18 photographs of that house.

19                                   Did it sit close to the street?

20                   **THE WITNESS:** Let's see. It set, I guess,  
21 from here to the wall from the street. No trees. Just a  
22 bare yard and a driveway. Front porch. No back porch at  
23 all. There was no back porch to the house.

24                   **MR. BRITT:** Front porch downstairs or  
25 upstairs?

## Testimony of Merritt Williams

1                   **THE WITNESS:** It just was like four steps --  
2 I think four steps up.

3                   **MR. BRITT:** So it was a one-story house?

4                   **THE WITNESS:** Yeah. One-story.

5                   **MR. BRITT:** And was the front porch covered  
6 or uncovered?

7                   **THE WITNESS:** Covered.

8                   **MR. BRITT:** Did it have columns?

9                   **THE WITNESS:** Column like just this little, I  
10 guess 2x4 or something like that.

11                   **MR. BRITT:** A support for the roof?

12                   **THE WITNESS:** Support for the roof.

13                   **MR. BRITT:** And did people congregate out  
14 there when you folks were over there drinking?

15                   **THE WITNESS:** No.

16                   **MR. BRITT:** Why didn't they congregate on the  
17 front porch?

18                   **THE WITNESS:** He didn't allow anybody to be  
19 out there. They go in the back because the back has a yard  
20 in it but there wasn't a porch to that yard. Some house is  
21 built up, you know, like a slope lot, and everything in the  
22 park was just flat -- just flat land.

23                   **MR. BRITT:** Was part of the reason he didn't  
24 want folks on the front porch, that he didn't want to draw  
25 attention to what he was doing?

## Testimony of Merritt Williams

1           **THE WITNESS:** I don't know.

2           **MR. BRITT:** Common knowledge that he ran a  
3 liquor house?

4           **THE WITNESS:** Yeah. Several of them. So ...

5           **MR. BRITT:** And from the front porch, could  
6 you look down the street and see Claremont as it went away  
7 from the house?

8           **THE WITNESS:** Most you could see is to the  
9 corner there, the intersection, where there was a little  
10 stool sitting off in the grassy area. That's as far as you  
11 could see.

12           **MR. BRITT:** Why was that as far you could  
13 see?

14           **THE WITNESS:** Because if you're up on the  
15 porch, you had -- people had trees in their yard and cars  
16 and trucks parked. You couldn't see nothing.

17           **MR. BRITT:** Was that during the daytime  
18 that's as far as you could see? Or at nighttime as well?

19           **THE WITNESS:** Oh, no, nighttime, that's as  
20 far as you could see. Daytime, you could stand out -- stand  
21 on the porch and see good, but you couldn't see but a  
22 certain distance, and that was it.

23           **MR. BRITT:** And I want to get back to you  
24 contacted the police. This statement, you say, was a result  
25 of four attempts --



## Testimony of Merritt Williams

1           **THE WITNESS:** Yes, sir.

2           **MR. BRITT:** -- at "getting it right"?

3           **THE WITNESS:** Yes, sir.

4           **MR. BRITT:** Who was providing you with the  
5 information?

6           **THE WITNESS:** Well, they would get mad when  
7 it didn't sound like -- they got somewhat, I guess, not teed  
8 off, but they just didn't like it. And they would keep  
9 asking me like -- they asked me -- the first thing they  
10 asked me about the car and how far did he chase me, which I  
11 didn't know about that. So I had to fit my story around the  
12 car and the chase. And when it sounded right, they started  
13 badgering me about it.

14           **MR. BRITT:** You know, there's an old adage  
15 that if you tell a lie, you can't tell the same lie again;  
16 if you tell the truth, you can always tell the truth.

17                           Are you familiar with that?

18           **THE WITNESS:** (Moves head up and down.)

19           **MR. BRITT:** And Mr. Edwards asked you about  
20 testifying in court -- whether it was the probable cause  
21 hearing or it's any of the trials.

22                           If this was a lie, how did you keep it  
23 straight?

24           **THE WITNESS:** Just by what I could remember  
25 what we were doing from the statements. That was it.

## Testimony of Merritt Williams

1                   **MR. BRITT:** Prior to -- prior to ever  
2                   testifying in court, did you meet with your lawyers and go  
3                   over what your potential testimony might be in those cases?  
4                   Or did you meet with the police or the DA about what your  
5                   testimony might be?

6                   **THE WITNESS:** I met with the police. But my  
7                   lawyers, they didn't really talk too much. Because when we  
8                   went to go to trial on the Wilson case, strange part about  
9                   it was that they wanted to try it and they didn't want to  
10                  try it. So they decided -- we did a plea. So I went on and  
11                  pleaded to it. I wanted to try it but we plead out to it.

12                  **MR. BRITT:** Now, you testified against Sammy?

13                  **THE WITNESS:** At one hearing, we did. In --  
14                  the second time, when he got acquitted. Not Sammy, but  
15                  Darryl. I testified on Darryl only. Never testified on  
16                  Sammy.

17                  **MR. BRITT:** You only testified in Darryl's  
18                  case?

19                  **THE WITNESS:** Yeah.

20                  **MR. BRITT:** If you thought that this was  
21                  going to help you in the Smith case and then you got tried  
22                  for killing Mr. Wilson, you didn't get any help.

23                  **THE WITNESS:** No.

24                  **MR. BRITT:** Fair to say?

25                  **THE WITNESS:** (Moves head side to side.)

## Testimony of Merritt Williams

1                   **MR. BRITT:** You didn't get any help in the  
2 Bryson case?

3                   **THE WITNESS:** Nope.

4                   **MR. BRITT:** And then you ended up pleading  
5 guilty to a lesser charge in Ms. Smith's case?

6                   **THE WITNESS:** Yes.

7                   **MR. BRITT:** Why didn't you ever come forward  
8 back then and say, "Hold on. All the stuff I have told --  
9 have said is a lie, I made it up"?

10                  **THE WITNESS:** I tried to. I tried to.

11                  **MR. BRITT:** How did you try to?

12                  **THE WITNESS:** When we was going to trial in  
13 the Wilson case, I talked to my lawyers and told them, I  
14 said, "This ain't right. I didn't do it."

15                                 And then after, they said, "Well, it's too  
16 late. You're going to have to either go into trial or we're  
17 going to plead."

18                                 And I told them, I said, "I'll just get a new  
19 set of lawyers."

20                                 But the DA said, "No." He said, "You're not  
21 smart enough. We're going to go ahead and try it."

22                                 So my lawyer said, "There ain't nothing you  
23 can do but plead out."

24                                 I wrote -- yeah, since I been -- twice about  
25 it. One was when I was at Brown Creek in the 11th month of

## Testimony of Merritt Williams

1 2011. I wrote them from another camp, and they sent my  
2 letter from me to -- not the Inquiry Commission but the Duke  
3 Innocence Project. They said there's nothing they could do  
4 because it was too old, they didn't have the money to put  
5 into it. And I went on and filed with the Commission.

6 **MR. BRITT:** Now, did you take an appeal in  
7 either this case or in the Bryson case?

8 **THE WITNESS:** On the Bryson case -- I think  
9 my lawyer did on both.

10 **MR. BRITT:** Was it a different set of  
11 lawyers --

12 **THE WITNESS:** Yes.

13 **MR. BRITT:** -- than were your trial lawyers?

14 **THE WITNESS:** Yes.

15 **MR. BRITT:** Did you ever talk to those  
16 lawyers about what happened?

17 **THE WITNESS:** No, sir.

18 **MR. BRITT:** Why not?

19 **THE WITNESS:** Never seen them.

20 **MR. BRITT:** You never met with them?

21 **THE WITNESS:** Never met with them. The  
22 appeal was handled and that was it. Never talked to  
23 anybody.

24 **MR. BRITT:** Never talked to anybody about  
25 what we call "postconviction"?

## Testimony of Merritt Williams

1                   **THE WITNESS:** Didn't have no postconviction  
2 with anybody.

3                   **MR. BRITT:** Let's go to the Bryson case.  
4 How did you know so much detail about the  
5 Bryson case?

6                   **THE WITNESS:** Most of the Bryson case -- a  
7 lot of it was in the paper. And being in the community,  
8 people talk about it a lot because I was out on the street a  
9 lot, and that was it.

10                  **MR. BRITT:** You say "in the community."  
11 Are you talking -- I mean, Winston-Salem is a  
12 big place.

13                  **THE WITNESS:** Yeah.

14                  **MR. BRITT:** Are you talking about in the  
15 neighborhood?

16                  **THE WITNESS:** Neighborhood, yes.

17                  **MR. BRITT:** You didn't necessarily live in  
18 the same neighborhood as Ms. Bryson, did you?

19                  **THE WITNESS:** No.

20                  **MR. BRITT:** So --

21                  **THE WITNESS:** Lived across.

22                  **MR. BRITT:** Why was there so much talk in the  
23 community neighborhood about Ms. Bryson's case?

24                  **THE WITNESS:** Because on that side of town,  
25 some of the areas on that side of town a lot of people go to

## Testimony of Merritt Williams

1 in the daytime and they end up coming back home.

2 There was a piece of paper in the newspaper  
3 that I read and I got from that and that was it.

4 And we went to the house a couple of times  
5 because they showed me.

6 **MR. BRITT:** You went to Ms. Bryson's house a  
7 couple of times?

8 **THE WITNESS:** Police took me.

9 **MR. BRITT:** That was with the police?

10 **THE WITNESS:** Police each time.

11 The first time we went, we drove in the yard  
12 and they got me to get out. They want to show me the back  
13 door, porch, and showed me the clothesline. And that's  
14 where the thing about the toboggan came into play.

15 **MR. BRITT:** Did you have two brown toboggans?

16 **THE WITNESS:** No. Only one toboggan. I  
17 don't have two toboggans. I wear one.

18 **MR. BRITT:** The one they collected at the  
19 jail?

20 **THE WITNESS:** The one I had at the jail, yes.

21 **MR. BRITT:** Where did the idea -- where was  
22 this thing about two toboggans?

23 **THE WITNESS:** It wasn't from me. I didn't  
24 even know of another toboggan.

25 **MR. BRITT:** Okay. We've heard -- I'm going

## Testimony of Merritt Williams

1 to switch back to the Wilson case.

2 We've heard some talk about an ax handle.

3 **THE WITNESS:** Uh-huh.

4 **MR. BRITT:** Was that used to killed  
5 Mr. Wilson?

6 **THE WITNESS:** No. The ax handle was actually  
7 in the 9th Street apartment when we moved in. We moved in  
8 the apartment -- the only thing we took in was our couch,  
9 refrigerator, and bed and nothing else. That was it,  
10 including two lampshades that were already there.

11 **MR. BRITT:** Why did you tell the police the  
12 ax handle was used by Sammy Mitchell?

13 **THE WITNESS:** He said -- because he kept  
14 asking me, he said he needed -- he said, "Well, where's the  
15 weapon? You got to have a weapon." And that was the only  
16 thing that came to my mind then.

17 **MR. BRITT:** And when you were talking to the  
18 police in all of this, was it a conversation like you and I  
19 are having or more they were leaning on you, trying to get  
20 information from you?

21 **THE WITNESS:** It was more them trying to get  
22 the things straight.

23 **MR. BRITT:** Did they ask you questions that  
24 suggested answers?

25 **THE WITNESS:** Sometimes, you know, it just go

## Testimony of Merritt Williams

1 along with what they said, whatever they erase or take out,  
2 they would have me to put a notation by it and then they  
3 would rewrite it. And that happened several times.

4 **MR. BRITT:** And you didn't know  
5 Mr. Carmichael from the streets in Winston-Salem?

6 **THE WITNESS:** No.

7 **MR. BRITT:** And you said that there were  
8 people in the prison when he arrived at CP that told you --

9 **THE WITNESS:** Who he was.

10 **MR. BRITT:** -- he had been convicted of the  
11 murder --

12 **THE WITNESS:** Of the same crime.

13 **MR. BRITT:** -- that you were in prison for?

14 (Overlapping speakers.)

15 (Reporter clarification.)

16 **MR. BRITT:** That you were in prison for?

17 **THE WITNESS:** Uh-huh.

18 **MR. BRITT:** And according to you, you did not  
19 go seek him out and say anything to him about that.

20 **THE WITNESS:** No. Wasn't no need to seek him  
21 out because I didn't even know him. And when I seen him and  
22 known him, when I left work, he spoke to me. We never said  
23 anything about crime or anything. But I never opened my  
24 mouth about that to him. It's just -- I was letting it go.

25 **MR. BRITT:** Have you ever come up for parole?



## Testimony of Merritt Williams

1           **THE WITNESS:** I think I have a couple of  
2 times. The way the parole system is now, you don't really  
3 know when you come up. I came up one time and I never did  
4 know and then I came up one time and they told me that I had  
5 already been up a couple times and I couldn't believe it  
6 because nobody ever told me.

7           **MR. BRITT:** I don't have any other questions.

8           **JUDGE LOCK:** Dr. Perry.

9           **DR. PERRY:** If I may, is it Mr. Drayton? Do  
10 you prefer Mr. Drayton?

11           **THE WITNESS:** No. That's my middle name.  
12 That's my birth name.

13           **DR. PERRY:** That's your birth name?

14           **THE WITNESS:** Yes.

15           **DR. PERRY:** But you have signed your name, I  
16 think, Merritt W. Drayton in the past?

17           **THE WITNESS:** I have.

18           **DR. PERRY:** Mr. Williams, my name is Frank  
19 Perry.

20                           And my question has to do with the police and  
21 your interaction -- following Mr. Britt's questions.

22                           Had you had much interaction with the police  
23 prior to their coming to you about the murder cases?

24           **THE WITNESS:** No.

25           **DR. PERRY:** As far as developing you as an

## Testimony of Merritt Williams

1 informant --

2 **THE WITNESS:** No.

3 **DR. PERRY:** -- did they ever ask you to do  
4 anything for them as far as any drug buys?

5 **THE WITNESS:** No.

6 **DR. PERRY:** But that did happen in another  
7 place; is that right?

8 **THE WITNESS:** Yes.

9 **DR. PERRY:** But from that other place, your  
10 name was not referred to Winston-Salem police about that  
11 activity --

12 **THE WITNESS:** (Moves head side to side.)

13 **DR. PERRY:** -- that you would make possibly a  
14 good informant?

15 **THE WITNESS:** No.

16 **DR. PERRY:** The answer is no?

17 **THE WITNESS:** No.

18 **DR. PERRY:** Do you remember the first officer  
19 that approached you -- first deputy, agent, officer,  
20 trooper -- whoever it was that first approached you about a  
21 murder case? Who would that have been?

22 **THE WITNESS:** I can't remember his name.

23 **DR. PERRY:** Winston-Salem police?

24 **THE WITNESS:** Yes. Detective. I don't know  
25 if it was Daulton. I can't remember. It was so long ago.

## Testimony of Merritt Williams

1           **DR. PERRY:** Did you expect that contact?  
2 Were you expecting that? Or was it abrupt?

3           **THE WITNESS:** No. I was expecting it.

4           **DR. PERRY:** You were.

5                   How -- I know Mr. Britt asked you this but  
6 did they lean on you at that meeting? Or was it more  
7 open-ended, "What do you know, sir," type of questioning?

8           **THE WITNESS:** It started more or less  
9 open-ended, but then it started like I've got to provide  
10 more because I have to know more. So I ended up keep  
11 talking until I ingested [sic] myself into it.

12           **DR. PERRY:** And sir, from that point, that  
13 first interview, to the time you confessed, pled, was that a  
14 slow development or was that after many interviews that you  
15 began to form your plea or your confession?

16           **THE WITNESS:** After many.

17           **DR. PERRY:** After many?

18           **THE WITNESS:** Yeah. I seen them quite a few  
19 times.

20           **DR. PERRY:** Quite a few?

21           **THE WITNESS:** (Moves head up and down.)

22           **DR. PERRY:** It's my understanding you have  
23 the reputation of being a stand-up man, you were not a  
24 pushover. Why didn't you stand up to that line of  
25 questioning over time?

## Testimony of Merritt Williams

1           **THE WITNESS:** No, that --

2           **DR. PERRY:** You knew the result, you knew  
3 what was going to happen.

4           **THE WITNESS:** Knew some of it. I just ...

5           **DR. PERRY:** You don't know? And you've been  
6 asked that many times.

7           **THE WITNESS:** Many times. Even in prison.

8           **DR. PERRY:** I just want you to help me  
9 understand why you would not have said up front, "What I  
10 have been telling you is simply not true."

11           **THE WITNESS:** I wanted to many times. I just  
12 couldn't do it -- just couldn't find a way to do it.

13           **DR. PERRY:** How would you describe your  
14 feeling? Is it fear? Is it wanting to settle something? to  
15 protect someone else? What was the reason?

16           **THE WITNESS:** I still can't answer that  
17 question. I went to my psychologist and psychiatrist on  
18 State, and I still couldn't get a answer -- tell me what  
19 make me do that.

20           **DR. PERRY:** Thank you.

21           **JUDGE LOCK:** Mr. Boswell.

22           **MR. BOSWELL:** Mr. Williams, from the time  
23 that Mr. Wilson was killed until you were arrested for  
24 Ms. Smith's death, that was about three years.

25           **THE WITNESS:** Yes, sir.

## Testimony of Merritt Williams

1                   **MR. BOSWELL:** During that period of time,  
2 what was discussed in your circle of people about what  
3 happened to Mr. Wilson?

4                   **THE WITNESS:** You mean during -- from the  
5 period it happened till I confessed?

6                   **MR. BOSWELL:** Yeah. During that three years,  
7 what was talked about regarding Mr. Wilson's death?

8                   **THE WITNESS:** Yeah. I was in prison too, I  
9 think.

10                  **MR. BOSWELL:** Between 1983 and 1986 you were  
11 in prison?

12                  **THE WITNESS:** Yes, sir.

13                  **MR. BOSWELL:** Okay. I thought you didn't go  
14 to prison until you were convicted for -- I mean until you  
15 were arrested for Mrs. Smith.

16                  **THE WITNESS:** (Moves head side to side.)

17                  **MR. BOSWELL:** So you were in prison that  
18 whole time?

19                  **THE WITNESS:** I was in prison in 1983.

20                  **MR. BOSWELL:** You weren't in prison when  
21 Mr. Wilson died?

22                  **THE WITNESS:** Right after -- I think I went  
23 right after Wilson died.

24                  **MR. BOSWELL:** So you don't know what  
25 conversations were happening about -- in the community about

## Testimony of Merritt Williams

1 Mr. Wilson?

2 **THE WITNESS:** No.

3 **MR. GLAZIER:** Can I interrupt the line for  
4 just a question?

5 Where is the defendant's record?

6 **MR. BRITT:** What tab?

7 **MS. SMITH:** It's in the brief. If you'll  
8 give me one moment, I'll give you the page.

9 It's on page 1550.

10 **MR. BOSWELL:** What was the date of the Wilson  
11 death?

12 **MS. SMITH:** September 17, 1983.

13 **MR. BOSWELL:** Do you know when you went to  
14 jail after the Wilson murder?

15 **THE WITNESS:** No, sir.

16 **MS. SMITH:** If you will give us a moment, we  
17 are trying to pull that record up.

18 **MR. BOSWELL:** While they're looking for that,  
19 I wanted to ask you a couple of other questions.

20 Why did you -- why were you willing to put  
21 Mr. Hunt and Mr. Mitchell in jail for a murder you didn't  
22 know they committed?

23 **THE WITNESS:** I wish I could answer that.  
24 That was -- that's more "lean on" because at first they  
25 didn't believe it. And then they went out and they had me

## Testimony of Merritt Williams

1 solicit witnesses that would testify. And then that's when  
2 they felt they did it, that soliciting witnesses.

3 **MR. BOSWELL:** So it was about a month after  
4 the Wilson murder that you went to jail for burning a public  
5 building.

6 **THE WITNESS:** Uh-huh.

7 **MR. BOSWELL:** Is that right?

8 **THE WITNESS:** (Moves head up and down.)

9 **MR. BOSWELL:** Explain this -- they had you  
10 solicit witnesses to the murder.

11 How did they have you out soliciting  
12 witnesses?

13 **THE WITNESS:** Well, we went to Ezelle house  
14 on Claremont where they picked up Ms. Williams and, I guess,  
15 Bryson -- Big Titty Barb, what they really called her.  
16 Those were the two witnesses that were solicited to testify,  
17 I think in the brief -- I think they're in the paperwork  
18 too.

19 **MR. BOSWELL:** And that was in 1986 --

20 **THE WITNESS:** Yes, sir.

21 **MR. BOSWELL:** -- they had you do that?

22 **THE WITNESS:** Yes, sir.

23 **MR. BOSWELL:** You went and picked up those  
24 two witnesses and told them -- what did you tell them?

25 **THE WITNESS:** I didn't. I told the name. We

## Testimony of Merritt Williams

1 went out and they picked them up and took them back to the  
2 station and took me back to the jail.

3 **MR. BOSWELL:** Okay.

4 **THE WITNESS:** So I don't know what they had  
5 actually said until seeing it in the paper.

6 **MR. BOSWELL:** Okay. And when did this  
7 meeting between you and your former girlfriend supposedly  
8 happen?

9 **THE WITNESS:** It happened shortly after that.  
10 We were in a -- they took me from jail, took me to the  
11 police department, and that's when she was there and we got  
12 in the room together.

13 **MR. BOSWELL:** Okay. So this whole -- the  
14 story about the person -- for the Bryson murder, the person  
15 name of Lieutenant and you referred to him as George  
16 Thompson, who is that?

17 **THE WITNESS:** It's a guy that I knew from  
18 back home, we drunk -- we drank a lot together.

19 **MR. BOSWELL:** Why were you willing to  
20 implicate him in a murder if he didn't have anything to do  
21 it?

22 **THE WITNESS:** At that time, I don't know why.  
23 Things happened so fast, I couldn't answer. You asking why  
24 I did that, I don't know.

25 **MR. BOSWELL:** Thank you.



## Testimony of Merritt Williams

1           **DR. PERRY:** I have a few follow-up questions,  
2 if I may, sir.

3           Mr. Williams, in response to Mr. Britt here,  
4 what did you say the DA said when you requested a new  
5 attorney?

6           **THE WITNESS:** He told the DA -- the DA told  
7 the judge, he said that "He don't know nothing about law so  
8 there's no need for that."

9           **DR. PERRY:** Who doesn't know?

10          **THE WITNESS:** Me. He was talking about me.

11          They went into chambers and came back --  
12 because I had asked, you know, to do the lawyers -- to get  
13 another lawyers. And to hear that motion, they went -- they  
14 didn't hear the motion in open court. They went back into  
15 chambers and heard the motion without me and they came back  
16 and said no, and that's when they started the plea bargain  
17 process.

18          **DR. PERRY:** To Mr. Britt, you said -- used  
19 the term you're "not smart enough."

20          **THE WITNESS:** Yeah. "Not smart enough."

21          **DR. PERRY:** Which terms did he use? "Don't  
22 know enough" or "not smart enough"?

23          **THE WITNESS:** "Not smart enough."

24          You know, somehow -- I don't know why they  
25 didn't hear it in open court, but they went into chambers.

## Testimony of Merritt Williams

1 When they came back out, they weren't happy. They said it's  
2 going to happen right then. You'll pick a jury or plead  
3 guilty. That was it. There wasn't going to be no more  
4 noted lawyers or anything.

5 **DR. PERRY:** Thank you.

6 **THE WITNESS:** So I ended up picking a jury --  
7 we didn't end up picking a jury. Went up plea bargaining to  
8 life -- one day to life.

9 **DR. PERRY:** Yes, sir. Thank that you.

10 **JUDGE LOCK:** Commissioner Colbert, do you  
11 have any questions?

12 **MS. COLBERT:** No, sir.

13 **JUDGE LOCK:** Commissioner Glazier.

14 **MR. GLAZIER:** This is just a comment for the  
15 record, not a question.

16 At least page 1550 indicates that other than  
17 a forgery conviction in 1977, until all of this happened, he  
18 had no criminal convictions.

19 **JUDGE LOCK:** Sheriff? Commissioner Frye?

20 **SHERIFF FRYE:** Okay. You were talking --  
21 I've just got one question.

22 You have reconciled the fact of how you and  
23 Mattie Mae got your stories together.

24 **THE WITNESS:** (Moves head up and down.)

25 **SHERIFF FRYE:** How did the other people in

## Testimony of Merritt Williams

1 the drink house have their stories matching yours?

2 **THE WITNESS:** I don't know because they  
3 picked them up and brought them to the police station that  
4 night, that first night we used those and we went back to  
5 jail and put me in my cell and that was it.

6 **SHERIFF FRYE:** The people in the drink house  
7 seen Sammy with an ax handle with black tape on it and you  
8 just happened to have an ax handle with black tape on it.

9 How did they know that?

10 **THE WITNESS:** Somebody had to tell them, take  
11 into consideration.

12 **SHERIFF FRYE:** Who would know that -- excuse  
13 me.

14 Who would know that you had an ax handle in  
15 your apartment that had been there since you bought it -- or  
16 since you started staying there?

17 **THE WITNESS:** I told them where the ax handle  
18 was. Remember, Mattie Mae Davis moved six times before  
19 she -- before we got back together.

20 **SHERIFF FRYE:** But how would the people in  
21 the drink house know that?

22 **THE WITNESS:** Because of people talking.  
23 Mattie Mae was never locked up. She knew everything I did.  
24 She knew about the ax handle being moved at the apartment  
25 that we stayed at.

## Testimony of Merritt Williams

1                   **SHERIFF FRYE:** That's all I have.

2                   **MR. BOSWELL:** Can I get a clarification?

3                   Are you saying that you had told the police  
4 about the ax handle and the police told other people about  
5 the ax handle?

6                   **THE WITNESS:** They got the ax handle. Me and  
7 Mattie Mae was together. She was in one car and I was in  
8 another car when they went to the apartment and got the ax  
9 handle.

10                   The handle was there when we got to the  
11 apartment because when we moved in the apartment, it was  
12 just like a bunch of junk we had to move out. The ax handle  
13 and some other stuff was in there. She had to move six  
14 times.

15                   When I got back to Winston-Salem and we got  
16 back together, she had done moved, God, I think like six  
17 times altogether. So when we got back, we moved in  
18 together.

19                   **MR. BOSWELL:** Thank you.

20                   **JUDGE LOCK:** Yes, sir, Mr. Britt.

21                   **MR. BRITT:** The ax handle was yours or was it  
22 Sammy Mitchell's?

23                   **THE WITNESS:** Nobody's. It was in the house  
24 when we moved in the house -- when we moved to the  
25 apartment --

## Testimony of Merritt Williams

1                   **MR. BRITT:** So it was just there?

2                   **THE WITNESS:** -- it was just there.

3                   **MR. BRITT:** Okay.

4                   **JUDGE LOCK:** Ms. Colbert.

5                   **MS. COLBERT:** Mr. Williams, you said that you  
6 met or you spoke with Robbin Carmichael when y'all were in  
7 Central Prison.

8                   **THE WITNESS:** Yes, ma'am.

9                   **MS. COLBERT:** Do remember saying to him "I  
10 didn't know that was you"?

11                   **THE WITNESS:** No.

12                   **MS. COLBERT:** You did not say that to him?

13                   **THE WITNESS:** No.

14                   **MS. COLBERT:** Were y'all ever in -- so you  
15 just remember seeing him in passing? Or y'all never had any  
16 conversations or --

17                   **THE WITNESS:** Just say hello and stuff. But  
18 as far as talking about a crime, no. How I knew about him  
19 is when he came into the system, I worked in the hospital,  
20 and you had to come through intake. Some of the guys from  
21 Winston pointed him out, and that's how I knew who he was.

22                   **MS. COLBERT:** Thank you.

23                   **THE WITNESS:** Yes, ma'am.

24                   **JUDGE LOCK:** All right.

25                   At this point, does any commissioner have any

## Testimony of Merritt Williams

1 further questions of Mr. Williams?

2 Ms. Guice Smith.

3 **MS. SMITH:** I have one follow-up, and I hope  
4 I didn't miss it when we were looking up this stuff.

5 EXAMINATION

6 BY MS. SMITH: (2:46 p.m.)

7 Q. Mr. Williams, you told law enforcement that you  
8 took the lampshades from Ms. Bryson's home.

9 A. Uh-huh.

10 Q. Why would you tell them you took lampshades from  
11 her home?

12 A. Because they said, "Well, what did you get out of  
13 the house?"

14 And I remember the lampshade that was in my house.  
15 We had two that were in there along with the handle. There  
16 were two left in the house. And they weren't -- they  
17 weren't any lampshades because they were just wires --  
18 nothing else, just wires. No covering or nothing.

19 Q. At your home?

20 A. Uh-huh. They were just wires. So that's where  
21 they got that, from the house. It was just wires. You know  
22 how you strip your lampshades down and just leave it bare?  
23 That's all it was.

24 Q. Okay. So that was just something you randomly,  
25 came up with --

## Testimony of Merritt Williams

1 A. Yes.

2 Q. -- that you took some lampshades from her home?

3 A. Yes.

4 Q. Because you had some lampshades in your house --

5 A. Yes.

6 Q. -- that were left over?

7 A. Yeah. They were old. They actually were rusted  
8 so you couldn't use them as a lampshade at all. There  
9 weren't any parts to them.

10 MS. SMITH: I don't have any further  
11 questions.

12 I do have some clarification on when he was  
13 and wasn't in prison, if you-all want that before we release  
14 him.

15 JUDGE LOCK: Sure.

16 MS. SMITH: So it appears that after the  
17 burning of a building, he was admitted to prison on  
18 April 17, 1984. So that is after the Wilson homicide in  
19 September of '83.

20 He had an escape on December 28 of '84 and  
21 was returned to prison on December 29 of '84.

22 He was paroled on October 29 of '85.

23 His parole was terminated on January 29 of  
24 '86 but he wasn't readmitted to prison until August 7 of  
25 1987, which would have been after his convictions.

## Housekeeping Matters

1                   **JUDGE LOCK:** All right.

2                   Does any commissioner have any further  
3 questions?

4                   (No response.)

5                   **JUDGE LOCK:** Thank you, Mr. Williams.

6                   (Witness stands down, 2:48 p.m.)

7                   **MS. SMITH:** Your Honor, a couple of  
8 housekeeping matters.

9                   I have for your review the affidavit of our  
10 court reporter, Victoria Pittman. This is related to the  
11 transcript that we watched -- we watched a recording  
12 earlier -- audio recording, listened to the audio recording  
13 earlier this week, and there was a little bit of a dispute  
14 between what the audio recording said and what the  
15 transcript said.

16                   Ms. Pittman has listened to that and she  
17 agrees with the commissioners' assessment also that the word  
18 "unless" should be inserted on that particular page and line  
19 and has filled out that affidavit as such that we would just  
20 ask be made part of the record.

21                   **JUDGE LOCK:** All right. So ordered.

22                   You just want to give this a handout number  
23 to put in the notebook?

24                   **MS. SMITH:** We are. It will become Handout  
25 90.



## Housekeeping Matters

1                   **JUDGE LOCK:** All right. This affidavit of  
2 Ms. Pittman will become part of the record.

3                   **MS. SMITH:** Before we conclude the  
4 presentation of this case, Commissioners, do you have any  
5 additional questions for which you would like me to recall  
6 either Ms. Tanner, Ms. Matoian, or Mr. Ziegler?

7                   **MR. EDWARDS:** Well, I have a question that --  
8 and we may not need to recall them, but my question was  
9 going to be what efforts were made to contact the families  
10 of the victims in these cases and what response, if any, did  
11 you get?

12                   **MS. SMITH:** Yes, sir.

13                   The Commission is statutorily required to  
14 provide notice of victims in this case.

15                   For the Arthur Wilson case, we learned that  
16 there was no living family members. We did reach out to the  
17 ex -- no -- the wife of a deceased son of Mr. Wilson. She  
18 did not reply back to our efforts and so no additional  
19 efforts were made there.

20                   In the Bryson case, we sent a -- multiple  
21 letters to Mr. Bryson, the son of Ms. Bryson. He did not  
22 respond to the Commission.

23                   I believe it's my understanding that the  
24 district attorney's office may have some contact over the  
25 years with Mr. Bryson. I do not know if any of that is

## Housekeeping Matters

1 recent.

2 We are also statutorily obligated to notify  
3 victims of the outcome of this hearing and will do that as  
4 well.

5 **MS. COLBERT:** When you say "the son," you're  
6 talking about Jeffrey, the one who was at the scene?  
7 Because she had multiple children.

8 **MS. SMITH:** Jeffrey. Yes, ma'am.

9 It appeared based on our review that Jeffrey  
10 was the family member that was most close to the case and  
11 that is why we made efforts to reach out to him.

12 **JUDGE LOCK:** All right.

13 Is there any further evidence?

14 **MS. SMITH:** There is not.

15 I will caution commissioners, though, if  
16 there is something you don't feel like we have given you but  
17 you think we may have, now would be the time to request  
18 that. Once you go into deliberations, I cannot provide you  
19 any materials that haven't already been provided.

20 So we need to do that on the record now -- if  
21 anyone can think of anything that maybe we have mentioned  
22 but not provided you or you just want to inquire as to  
23 whether we have that information.

24 **JUDGE LOCK:** We will, of course, be allowed  
25 to take our notebooks and our briefs with us.

## Housekeeping Matters

1                   **MS. SMITH:** Yes.

2                   You will absolutely be able to refer to  
3 anything that we have handed out or that you have read in  
4 preparation. If there is a video that we have watched, I  
5 will be able to provide that for you to watch as well.

6                   **JUDGE LOCK:** Very well. Commissioner Perry.

7                   **DR. PERRY:** An administrative question.  
8 You're leaving, I take it?

9                   **MS. SMITH:** The director will be present for  
10 your deliberations and available to answer your basic  
11 questions about anything that was put on the record.

12                   **DR. PERRY:** There's something I brought up a  
13 couple of times.

14                   Please tell me what "sufficient evidence"  
15 means on the scale that --

16                   **JUDGE LOCK:** We will talk about that.

17                   **DR. PERRY:** You're going over that later?

18                   **MS. SMITH:** Yes, sir.

19                   **DR. PERRY:** Okay. I just wanted to know  
20 where on the scale of certainty that is.

21                   There was something else. I think that's it.

22                   **JUDGE LOCK:** All right. Any further evidence  
23 at all? If not --

24                   **MS. SMITH:** Before you close the hearing, I  
25 will go over the standard of review.

Ms. Smith Presents the Standard of Review

1                   Commissioners, you are now asked to decide  
2 whether you conclude there is sufficient evidence of factual  
3 innocence to merit judicial review.

4                   In the Wilson case, because Mr. Williams'  
5 conviction was the result of a guilty plea, your vote will  
6 need to be unanimous in order for the case to move forward  
7 to a three-judge panel.

8                   In the Bryson case, because Mr. Williams'  
9 conviction resulted from a guilty verdict after a trial,  
10 five of eight of you must vote that there is sufficient  
11 evidence of factual innocence to merit judicial review in  
12 order for the case to move forward to a three-judge panel.

13                   You have three options in each case:

14                   First, you can decide that there is  
15 sufficient evidence, and the case will be referred to a  
16 three-judge panel;

17                   Second, you may decide that there is not  
18 sufficient evidence and the case will be closed.  
19 Mr. Williams would not have a right to appeal that decision;

20                   Third, you may instruct the commission staff  
21 to continue the investigation and reconvene this hearing at  
22 a later date.

23                   At this time, Judge Lock, I would ask that  
24 you close the hearing to the public for deliberations and I  
25 would remind the commissioners that we are going to remove

Findings of the Commission

1 into a room almost directly across the hall, the Longleaf  
2 Pine room, for our deliberations.

3 **JUDGE LOCK:** All right. At this time, the  
4 evidence in this matter is closed. The Commissioners and  
5 the Executive Director will move to another room for  
6 deliberations.

7 Only the commissioners and Ms. Guice Smith  
8 may be present during the deliberations.

9 I do want to thank our Alternate  
10 Commissioner, Ms. Welch, for being present with us and for  
11 participating actively during the hearing. And you're  
12 certainly welcome to stay with everyone else and await our  
13 decisions.

14 But with that -- perhaps we might need about  
15 a two-minute comfort break, but we will move into our  
16 deliberation room.

17 **MS. SMITH:** And for the public, we will come  
18 back on the record after deliberations back in this room for  
19 the deliverance of the Commission's opinion.

20 (Deliberations, 2:55 to 5:00 p.m.)

21 **JUDGE LOCK:** All right. Let's come back to  
22 order.

23 Let the record reflect, please, that it is  
24 5:00 o'clock p.m. on a Friday.

25 I will be entering orders in two cases, the

## Findings of the Commission

1 two that we've been discussing all week, the State of North  
2 Carolina versus Merritt Williams.

3 First, in Case Number 86 CRS 31738, by  
4 statute, the Chair or Alternate Chair of the Commission is  
5 required to enter an order containing findings of fact and  
6 conclusions of law, and those orders have been prepared and  
7 will be signed. They are public record if anybody wants to  
8 read them. In the interest of time, I am not going to read  
9 all the findings of fact into evidence, but, again, they are  
10 available for inspection if you would like.

11 First, again, in 86 CRS 31738, which is the  
12 murder of Blanche Bryson, this matter came on for hearing  
13 before the North Carolina Innocence Inquiry Commission on  
14 June 4, 2019, through June 7, 2019, pursuant N.C.G.S.  
15 15A-1470 through 1475.

16 After careful review of the evidence, the  
17 Commission has concluded unanimously that there is  
18 sufficient evidence of factual innocence to merit judicial  
19 review.

20 Accordingly, pursuant to N.C.G.S.  
21 15A-1468(c), and as Chair of the Commission, the undersigned  
22 refers this case to the Honorable L. Todd Burke, Senior  
23 Resident Superior Court Judge for District 21, and  
24 respectfully requests that the Chief Justice of the North  
25 Carolina Supreme Court appoint a three-judge panel and issue

## Findings of the Commission

1 commissions to its members to convene a special session of  
2 Superior Court of Forsyth County to hear evidence relevant  
3 to the Commission's recommendation.

4 This, the 7th of June 2019, signed Thomas H.  
5 Lock.

6 Again, that decision was unanimous.

7 In Case Number 86 CRS 18809, this is the  
8 murder of Arthur Wilson, again, the matter came on for  
9 hearing before the Innocence Inquiry Commission on June 4,  
10 2019, through June 7, 2019.

11 After careful consideration of the evidence,  
12 the Commission has concluded by a vote of six to two that  
13 there is not sufficient evidence of factual innocence to  
14 merit judicial review.

15 Accordingly, this case is now closed and a  
16 copy of this opinion shall be filed with the Forsyth County  
17 Clerk of Superior Court and delivered to the claimant  
18 through his counsel, delivered to the Forsyth County  
19 District Attorney's office, and to the Honorable L. Todd  
20 Burke, Senior Resident Superior Court Judge for Judicial  
21 District 21.

22 This order also will be signed this, the 7th  
23 day of June, 2019, by Thomas H. Lock, Superior Court Judge.

24 Now, if I recall correctly, by statute, the  
25 Chair is required to enter into the record the votes of the

## Findings of the Commission

1 individual commissioners with regard to Case Number 86 CRS  
2 18809 in that this case was not unanimous -- or the opinion  
3 was not unanimous.

4 Accordingly, I will be calling upon each  
5 member of the Commission to state for the record his or her  
6 vote as to whether or not this matter should be referred to  
7 a three-judge panel for judicial review.

8 I will just go by the roster.

9 **MR. BRITT:** Point of clarification. That is  
10 the Wilson case?

11 **JUDGE LOCK:** That is the Wilson case.

12 Did I misspeak and say Bryson?

13 **MR. BRITT:** No, sir, you didn't.

14 **JUDGE LOCK:** The Wilson case.

15 A vote of "yes" means that it would be your  
16 decision -- or it was your decision to refer the case to a  
17 three-judge panel for judicial review.

18 A vote of "no" means that it is your decision  
19 not to refer the case to a three-judge panel for judicial  
20 review.

21 The Honorable Seth Edwards.

22 **MR. EDWARDS:** No.

23 **JUDGE LOCK:** Ms. Robin Colbert.

24 **MS. COLBERT:** No.

25 **JUDGE LOCK:** Mr. Luther Johnson Britt III.



## Findings of the Commission

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**MR. BRITT:** No.

**JUDGE LOCK:** Dr. Frank Perry.

**DR. PERRY:** Yes.

**JUDGE LOCK:** Sheriff Kevin Frye.

**SHERIFF FRYE:** No.

**JUDGE LOCK:** Mr. John Boswell.

**MR. BOSWELL:** No.

**JUDGE LOCK:** Mr. Rick Glazier.

**MR. GLAZIER:** No.

**JUDGE LOCK:** Is that everyone except me?

The Chair votes yes -- voted yes.

All right. Is there any further business?

**MS. SMITH:** There is not.

**JUDGE LOCK:** All right.

This concludes the business of the Commission  
for this matter. The hearings of State versus Williams in  
Case Numbers 86 CRS 18809 and 86 CRS 31738 are adjourned.

(Hearing concluded, 5:05 p.m.)

## Findings of the Commission

1 STATE OF NORTH CAROLINA )  
 2 COUNTY OF WAKE )

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## CERTIFICATE

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9

I, Victoria L. Pittman, BA, CVR-CM-M, the officer before whom the foregoing proceeding was held, do hereby certify that said hearing, pages 1 through 835 inclusive, in four volumes, is a true, correct, and verbatim transcript of said proceeding.

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I further certify that I am neither counsel for, related to, nor employed by any of the parties to the action in which this proceeding was heard; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties thereto, and am not financially or otherwise interested in the outcome of the action.

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Dated at Wake Forest, North Carolina, the 9th day of August, 2019.



Victoria L. Pittman, BA, CVR-CM-M  
 AOC-Approved Per Diem Reporter

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