


STATE OF NORTH CAROLINA  
COUNTY OF WASHINGTON  
STATE OF NORTH CAROLINA

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION  
94 CRS 1566 and 94 CRS 1984

FILED  
2010 OCT -9 P 12:01  
WASHINGTON CO., N.C.  
BY: 

v.

LERROY SPRUILL

OPINION

**THIS MATTER** came on for hearing before the North Carolina Innocence Inquiry Commission (Commission) on October 1 - 5, 2018, pursuant to N.C.G.S. §§ 15A-1460 – 1475.

After careful review of the evidence presented, the Commission hereby makes and enters the following findings of fact:

1. On December 18, 1993, Frank Swain was killed in his mobile home on Folly Rd. in Plymouth, North Carolina. 74 Church Road, Fairview, North Carolina.
2. On October 5, 1995, Leroy Spruill (Spruill) entered an Alford Plea to Second Degree Murder and Robbery with a Dangerous Weapon. Spruill received a life sentence for the murder and a forty year sentence for the robbery.
3. On September 29, 1995, Spruill’s codefendant Wallace Jones was found guilty of First Degree Murder and Robbery with a Dangerous Weapon after a jury trial. Jones received a life sentence for the murder and a forty year sentence for the robbery.
4. On November 2, 2009, Spruill applied to the Commission after a referral from the North Carolina Center on Actual Innocence. Spruill submitted a questionnaire and consent form to the Commission. Spruill asserted his complete factual innocence related to the murder and robbery of Frank Swain and the Commission began an inquiry pursuant to Article 92, Chapter 15A, of the General Statutes.

5. Throughout this inquiry, Spruill has fully cooperated with Commission staff, in accordance with N.C.G.S. § 15A-1467(g).
6. On October 1 - 5, 2018, the Commission held a full evidentiary hearing in this matter pursuant to N.C.G.S. § 15A-1468.
7. During the hearing, the Commission considered testimonial and documentary evidence.

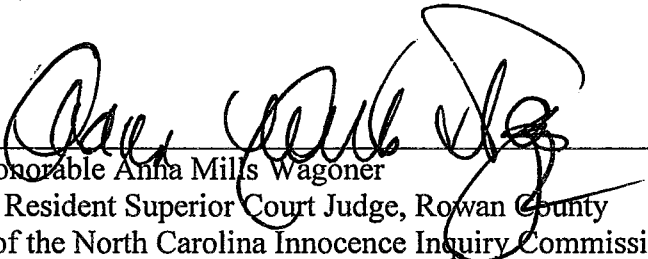
The evidence included, among other things:

- a. An 854 page brief provided to the Commission by the staff before the hearing, including a transcript of the deposition testimony of Dana Maybin taken by Commission Grant Staff Attorney Catherine Matoian;
- b. Supplemental documentation and audio/video recordings provided during the hearing, including 104 handouts, a recording of an interview with Cathy Campbell, an audio recording of an interview of Dana Maybin by attorney Maynard Harrell, and portions of the video recorded deposition of Dana Maybin taken by Commissions staff attorney Catherine Matoian;
- c. Live testimony by Commission Grant Staff Attorney Catherine Matoian, Commission Associate Director Beth Tanner, Commission Staff Attorney Brian Ziegler, Attorney Seth Edwards, Attorney Maynard Harrell, Latent Print Analysis Expert Joseph M. Ludas, Forensic Biology Expert Meghan Clement, Edward Hudson, Wyatt Spruill, Lynn Rogers, Leroy Spruill, and Wallace Brandon Jones;
- d. Affidavits from Attorneys John Skinner, Maynard Harrell, Seth Edwards, Constance Widenhouse, Leticia Echols, Marcus Jimison, Amos Tyndall, Carl Stewart, David Irvine, and Chris Mumma;
- e. A statement provided by Assistant Attorney General Benjamin O. Zellinger; and

- f. A letter provided on behalf of the Victim's family.
8. After carefully considering this evidence, the Commission has unanimously concluded that there is sufficient evidence of factual innocence to merit judicial review.

**WHEREFORE**, pursuant to N.C.G.S. § 15A-1469(a), and as Chair of the Commission, the undersigned refers this case to the Honorable Wayland Sermons, North Carolina Judicial District Two Senior Resident Superior Court Judge, and respectfully requests that the Chief Justice of the North Carolina Supreme Court appoint a three-judge panel and issue commissions to its members to convene a special session of the Superior Court in Washington County to hear evidence relevant to the Commission's recommendation.

This the 5<sup>th</sup> day of October, 2018.



The Honorable Anna Mills Wagoner  
Senior Resident Superior Court Judge, Rowan County  
Chair of the North Carolina Innocence Inquiry Commission

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that the foregoing *Opinion* was served upon the following persons by depositing a copy of the same, postage pre-paid, in an official depository of the United States Postal Service, addressed as follows:

The Honorable Wayland Sermons  
Senior Resident Superior Court Judge, District Two  
PO Box 575  
Washington, NC 27889

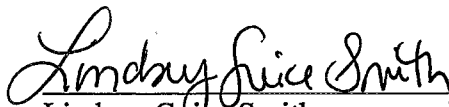
Ms. Chris Mumma  
North Carolina Center on Actual Innocence  
3710 Shannon Rd.  
Durham, NC 27707

Mr. Thomas P. Routten  
206 E. Main St.  
Room D-102  
Elizabeth City, NC 27909

Mr. Boz Zellinger  
Assistant Attorney General  
North Carolina Department of Justice  
114 W. Edenton Street  
Raleigh, NC 27603

This the 10<sup>th</sup> day of October, 2018.

**NORTH CAROLINA INNOCENCE.  
INQUIRY COMMISSION**



Lindsey Guice Smith  
Executive Director  
North Carolina Innocence Inquiry Commission  
Post Office Box 2448  
Raleigh, North Carolina 27602  
Telephone: (919) 890-1580  
Facsimile: (919) 890-1937