

STATE OF NORTH CAROLINA
COUNTY OF FORSYTH

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
02 CRS 38882

STATE OF NORTH CAROLINA)
)
 v.)
)
 JERMAL TOLLIVER)
)

**(AMENDED)
OPINION**

THIS MATTER came on for hearing before the North Carolina Innocence Inquiry Commission (Commission) on March 9, 2020 through March 13, 2020 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 November 15, 2002, Nathaniel Jones was robbed and murdered at his home.
2. On May 20, 2005, Jermal Tolliver (Tolliver) was found guilty, after a jury trial, of Second Degree Murder and Common Law Robbery. He received a sentence of thirteen years and one month to sixteen years and six months for the murder and a consecutive sentence of one year and one month to one year and four months for the robbery. Tolliver was released on February 3, 2017.
3. On November 26, 2019, Tolliver applied to the Commission claiming innocence in this case and the Commission began an inquiry pursuant to Article 92, Chapter 15A, of the General Statutes.
4. Throughout the Commission's inquiry, Tolliver has fully cooperated with Commission staff in accordance with N.C.G.S. § 15A-1467(g).
5. On March 9, 2020 through March 13, 2020, the Commission held a full evidentiary hearing in this matter pursuant to N.C.G.S. § 15A-1468.
6. During the hearing, the Commission considered testimonial and documentary evidence. The evidence included, among other things:

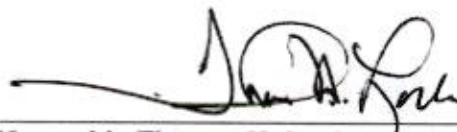
- a. A 2233 page brief provided to the Commission by the Commission's Director prior to the hearing;
 - b. Supplemental documentation, in the form of handouts, a PowerPoint presentation, and audio and video recordings provided prior to and during the hearing;
 - c. Live testimony by Commission Staff Attorney Julie Bridenstine; Commission Legal Investigator Mackenzie Myers; Commission Associate Director Beth Tanner; Commission Grant Staff Attorney Catherine Matoian; latent print expert Christopher Cavazos; footwear impression expert Marty Ludas; forensic biology expert Meghan Clement; juvenile interrogations, confessions and psychology expert Dr. Hayley Cleary; Jessica Black; Detective Jason Swaim; Arlene Tolliver (phone); claimant Jermal Tolliver; claimant Rayshawn Banner; claimant Nathaniel Cauthen; and claimant Christopher Bryant;
 - d. Affidavits from attorneys Vernetta Alston; Barbara Blackman; Haral Carlin; George "Pete" Clary; Nils Gerber; Rick Glazier; Teresa Hier; Paul Herzog; Kevin Mauney; Beth McNeill; and James Parish.
7. After carefully considering this evidence, the Commission concluded by a vote of 5 to 3 that there was sufficient evidence of factual innocence to merit judicial review.
 8. The Commission's Opinion was filed with the Forsyth County Clerk of Court on March 18, 2020.
 9. In his role as Chair of the Commission and pursuant to N.C.G.S. § 15A-1468(c) the undersigned referred this case to the Honorable L. Todd Burke, Senior Resident Superior Court Judge for Judicial District 21, and respectfully requested 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 Superior Court of Forsyth County to hear evidence relevant to the Commission's recommendation.

10. On March 18, 2020, then Chief Justice Cheri Beasley appointed R. Allen Baddour, Jr. (Chair), John M. Dunlow, and Karen Eady-Williams to serve on the three-judge panel in the above-captioned case.
11. On April 6, 2022, it was brought to the attention of the undersigned that there was a typo in the file stamped copy of the Commission's opinion in paragraph 7 which stated, "After carefully considering this evidence, the Commission has concluded by a vote of 5 to 3 concluded that there is not sufficient evidence of factual innocence to merit judicial review."
12. Having reviewed page 1183 of the Transcript of the Commission's proceedings in the above-captioned case, the undersigned has confirmed that the Commission concluded by a by a vote of 5 to 3 that there is sufficient evidence of factual innocence to merit judicial review. This transcript was filed with the Forsyth County Clerk of Superior Court on April 22, 2020.

WHEREFORE, as Chair of the Commission, the undersigned submits this corrected Commission Opinion consistent with the findings of the Commission as reflected in the Transcript of the Commission's proceedings in the above-captioned case, to the assigned three-judge panel in the above-captioned case.

This the 7th day of April, 2022.



The Honorable Thomas H. Lock
Senior Resident Superior Court Judge, District 11B
Chair, North Carolina Innocence Inquiry Commission

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing *Amended 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 Allen Baddour
Chair of Three-Judge Panel
Senior Resident Superior Court Judge, Judicial District 15B
Old Orange County Courthouse
Hillsborough, NC 27278

The Honorable John Dunlow
Senior Resident Superior Court Judge, Judicial District 9
101 Main Street Room 221
Oxford, NC 27565

The Honorable Karen Eady-Williams
Superior Court Judge, Judicial District 26F
832 E. 4th Street, Suite 9600
Charlotte, NC 28202

The Honorable James O'Neill
District Attorney, Judicial District 21
200 N. Main Street
Winston-Salem, NC 27101

Mr. Bradley J. Bannon
Patterson Harkavy
100 Europa Drive, Suite 420
Chapel Hill, NC 27517

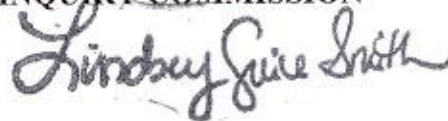
Ms. Julie Boyer
Attorney At Law
P.O. Box 21358
Winston-Salem, NC 27101

Mr. Mark Rabil
Director, Wake Forest Innocence & Justice Clinic
Clinical Professor of Law
P.O. Box 7206
Winston-Salem, NC 27109

Ms. Christine Mumma
North Carolina Center on Actual Innocence
3710 Shannon Road
Durham, NC 27707

This the 8th day of April, 2022.

**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