

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

FILED
2020 MAR 18 A 8:19
FORSYTH CO. C.S.C.
BY _____

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; Jessicah 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 has concluded by a vote of 5 to 3 concluded that there is not sufficient evidence of factual innocence to merit judicial review.

WHEREFORE, pursuant to N.C.G.S. § 15A-1468(c), and as Chair of the Commission, the undersigned refers this case to the Honorable L. Todd Burke, Senior Resident Superior Court Judge for Judicial District 21, 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 Superior Court of Forsyth County to hear evidence relevant to the Commission's recommendation.

This the 13th day of March, 2020.

A handwritten signature in black ink, appearing to read 'Thomas H. Lock', is written over a horizontal line.

The Honorable Thomas H. Lock
Senior Resident Superior Court Judge, District 11B
Alternate Chair, 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 L. Todd Burke
Senior Resident Superior Court Judge, District 21
Forsyth County Courthouse
PO Box 20099
Winston-Salem, NC 27120

The Honorable James O'Neill
District Attorney, Judicial District 21
200 N Main Street
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

This the 16th day of March, 2020.

**NORTH CAROLINA INNOCENCE
INQUIRY COMMISSION**



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Executive Director
North Carolina Innocence Inquiry Commission
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