

STATE OF NORTH CAROLINA
COUNTY OF FRANKLIN

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
93 CRS 2261-2263
FILED

STATE OF NORTH CAROLINA 2019 SEP 12 P 3: 22

v.

KENNETH EVANS

FRANKLIN CO., C.S.C.

BY

[Signature]

OPINION

THIS MATTER came on for hearing before the North Carolina Innocence Inquiry Commission (Commission) on September 9, 2019 through September 10, 2019, 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 March 5, 1990, Euther "Rea" Andrews Manning was robbed and kidnapped from her home.
2. On April 7, 1995, Kenneth Evans was found guilty, after a jury trial, of First Degree Kidnapping, Second Degree Burglary, Robbery with a Dangerous Weapon, and Larceny. He received a sentence of forty years for First Degree Kidnapping; a sentence of forty years for Robbery with a Dangerous Weapon; and a sentence of ten years for Breaking and Entering to run consecutive to a sentence of forty years he received in 92 CRS 4717 (Franklin County).
3. Evans appealed his conviction for Second Degree Burglary. The Court of Appeals vacated that conviction and remanded it for entry of judgment as a conviction of Felonious Breaking or Entering.
4. On August 10, 2016, Evans 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.

5. Throughout the Commission's inquiry, Evans has fully cooperated with Commission staff in accordance with N.C.G.S. § 15A-1467(g).
6. On September 9, 2019 through September 10, 2019, 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. A 454-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 video recordings provided prior to and during the hearing;
 - c. Live testimony by Commission Grant Staff Attorney Catherine Matoian, Commission Grant Legal Investigator Mackenzie Myers, DNA expert Meghan Clement, trace expert Kristen Crawford, Ron Keane, Amanda Nosalek, Larry Davis, and Kenneth Evans; and
 - d. An affidavit from Shirley Evans.
8. After carefully considering this evidence, the Commission has concluded by a vote of 6-2 that there is 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 John M. Dunlow, Senior Resident Superior Court Judge for Judicial District 9, 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 Franklin County to hear evidence relevant to the Commission's recommendation.

This the 10th day of September, 2019.



The Honorable Anna Mills Wagoner
Senior Resident Superior Court Judge, Judicial District 19C
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:

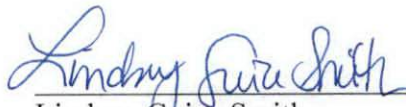
The Honorable John M. Dunlow
Senior Resident Superior Court Judge, District 9
Granville County Courthouse
101 Main St.
Oxford, NC 27565

The Honorable Michael D. Waters
District Attorney, Prosecutorial District 11
102 S. Main Street
Louisburg, NC 27549

Mr. Kevin Tully
Mecklenburg County Public Defender
720 E 4th Street, Suite 300
Charlotte, NC 28202

This the 12th day of September, 2019.

**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