

STATE OF NORTH CAROLINA  
COUNTY OF BUNCOMBE

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION  
00 CRS 65086; 00 CRS 65088

STATE OF NORTH CAROLINA )  
 )  
 v. )  
 )  
 KENNETH MANZI KAGONYERA; )  
 ROBERT WILCOXSON III )  
 \_\_\_\_\_ )

**ORDER**

**THIS MATTER** came on for hearing before the North Carolina Innocence Inquiry Commission (Commission) on April 28 and 29, 2011, 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:

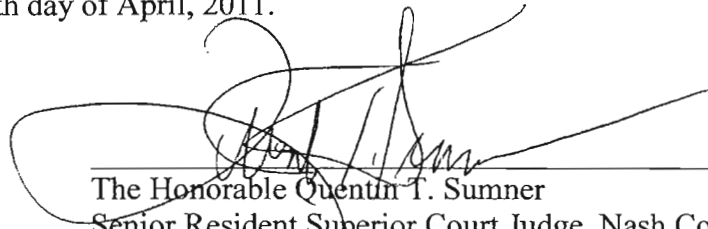
1. On September 18, 2000, Walter Bowman was shot and killed at his residence.
2. On December 13, 2001, Kenneth Kagonyera pled guilty to second degree murder for his alleged role in Bowman’s death. Additionally, he pled guilty to separate charges of dog fighting, assault with a deadly weapon with intent to kill inflicting serious injury, felonious breaking and entering, and felonious possession of a Schedule II controlled substance.
3. Pursuant to a plea agreement, these charges were consolidated into a single sentence for second degree murder.
4. On August 26, 2008, Kagonyera submitted a claim of factual innocence to the Commission pursuant to Article 92, Chapter 15A, of the General Statutes, with regard to the second degree murder conviction.

5. On August 15, 2002, Robert Wilcoxson pled guilty to second degree murder for his alleged role in Bowman's death. Pursuant to his plea agreement, all other pending charges facing Wilcoxson were dismissed.
6. On November 22, 2010, Wilcoxson submitted a claim of factual innocence to the Commission pursuant to Article 92, Chapter 15A, of the General Statutes, with regard to the second degree murder conviction.
7. Throughout this inquiry, Kagonyera and Wilcoxson have fully cooperated with Commission staff, in accordance with N.C.G.S. § 15A-1467(g).
8. On April 28 and 29, 2011, the Commission held a full evidentiary hearing in this matter, pursuant to N.C.G.S. § 15A-1468.
9. During the hearing, the Commission considered testimonial and documentary evidence as well as summaries by the Commission staff. This evidence included, amongst other things:
  - a. A 178 page brief provided to the Commission by the staff before the hearing;
  - b. Supplemental documentation provided during the hearing;
  - c. Live testimony by Ms. Wanda Holloway, Kagonyera's Defense Attorney Sean Devereux, Commission Staff Attorneys Jamie Lau and Lindsey Guice Smith, expert testimony from SBI Special Agent Tim Baize, Forensic Biologists Meghan Clement and Shawn Weiss;
  - d. Affidavits from Attorneys Jack Stewart and Al Messer, Car Expert John Flory, Confession Reliability Expert Steven Drizin, and Buncombe County Sheriff's Office Major Glen Matayabas; and

- e. Videotape segments from depositions of Matthew Bacoate, Detective George Sprinkle, Larry Jerome Williams, Jr., Robert Wilcoxson III, and Kenneth Manzi Kagonyera.
  - f. Evidence presented to the Commission in regards to DNA testing.
10. After carefully considering this evidence, the Commission has unanimously concluded that there is sufficient evidence of factual innocence to merit further judicial review.

**WHEREFORE**, pursuant to N.C.G.S. § 15A-1469(a), and as Chairman of the Commission, the undersigned respectfully requests that the Chief Justice appoint a three-judge panel, not to include any trial judge that has had substantial previous involvement in the case, and issues commissions to its members to convene a special session of the superior court in Buncombe County to hear evidence relevant to the Commission's recommendation.

This the 29th day of April, 2011.



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The Honorable Quentin T. Sumner  
Senior Resident Superior Court Judge, Nash County  
Chairman, North Carolina Innocence Inquiry Commission

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that the foregoing *Order* 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:

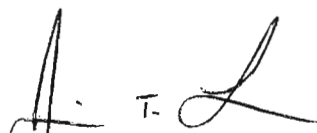
The Honorable Ronald Moore  
Buncombe County District Attorney  
P.O. Box 7158  
Asheville, NC 28802

Mr. Franklin E. Wells, Jr.  
Megerian & Wells  
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Asheboro, NC 27203

Mr. Chris Fialko  
Rudolf, Widenhouse, & Fialko  
225 East Worthington Avenue, Suite 200  
Charlotte, NC 28203

This the 5<sup>th</sup> day of May, 2011.

**NORTH CAROLINA INNOCENCE  
INQUIRY COMMISSION**



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