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NORTH CAROLINA GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION

* * * * *

STATE OF NORTH CAROLINA)
)
 versus) From Forsyth
) 86 CRS 018809
MERRITT WILLIAMS,) 86 CRS 031738
) Defendant.
)

* * * * *

TRANSCRIPT OF HEARING, Volume 1 of 4
Tuesday, June 4, 2019

* * * * *

June 4, 2019, Setting of the
North Carolina Innocence Inquiry Commission
The Honorable Thomas H. Lock, Judge Presiding

Commissioners Attending:

- John Boswell, Commissioner
- Luther Johnson Britt, III, Commissioner
- Robin Colbert, Commissioner
- Seth Edwards, Commissioner
- Kevin Frye, Commissioner
- Rick Glazier, Commissioner
- Dr. Frank Perry, Commissioner
- Ashley Welch, Commissioner (Alternate)

1 APPEARANCES:

2 Lindsey Guice Smith, Director

3 Beth Tanner, Assistant Director

4 Catherine Matoian, Grant Staff Attorney

5 Brian Ziegler, Staff Attorney

6 NORTH CAROLINA INNOCENCE INQUIRY COMMISSION

7 Post Office Box 2448

8 Raleigh, North Carolina 27602

9

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Judge Lock Calls the Cases

1 TUESDAY, JUNE 4, 2019 (9:08 a.m.)

2 **JUDGE LOCK:** I call this hearing to order.

3 Today we will be addressing and considering
4 the claims from Forsyth County of Merritt Williams Drayton
5 in Case Numbers 86 CRS 18809 involving the homicide of
6 Arthur Wilson and in 86 CRS 31738 involving the homicide of
7 Blanche Bryson.

8 This hearing is open to the public pursuant
9 to N.C.G.S. 15A-1468(a). While the hearing is open to the
10 public, distractions are to be kept to a minimum. The door
11 should remain closed during the hearing and no one with the
12 exception of Commission staff should go in or out unless we
13 are on a break. If there are any disruptions, people may be
14 asked to leave. No one from the public should at any time
15 come past the ropes or attempt to speak with the
16 commissioners about the case.

17 I don't see any members of the press here,
18 but the press is welcome. This is, of course, a public
19 hearing. I will, in my discretion, allow still photographs.
20 If anyone attempts to take any video or if there is any
21 request for live streaming, please alert me so that I may
22 consider that request.

23 At this time, we will go around the table and
24 have the commissioners and commission staff who are at the
25 tables say and spell their names for the court reporter.

Judge Lock Calls the Cases

1 If you are serving as a commissioner for
2 today's hearing, please indicate that. If you are an
3 alternate who is serving as a commissioner for today's
4 hearing, please indicate that. If you are an alternate who
5 is attending as an alternate, please indicate that.

6 All right. I am Tom Lock, more formally
7 Thomas H. Lock, serving as chairman today in the absence of
8 Judge Wagoner.

9 I will go ahead and we'll start down there.

10 **MR. ZIEGLER:** Brian Ziegler, Z-i-e-g-l-e-r,
11 staff attorney at the Commission.

12 **MS. TANNER:** Beth Tanner, B-e-t-h,
13 T-a-n-n-e-r, Associate Director.

14 **MS. SMITH:** Lindsey Guice Smith,
15 L-i-n-d-s-e-y, G-u-i-c-e, S-m-i-t-h, Executive Director of
16 the Commission.

17 **MS. MATOIAN:** Catherine Matoian,
18 C-a-t-h-e-r-i-n-e, M-a-t-o-i-a-n, Grant Staff Attorney with
19 the Commission.

20 **MS. WELCH:** I'm Ashley Welch, W-e-l-c-h. I
21 am an alternate serving as an alternate.

22 **MR. EDWARDS:** I am Seth Edwards, S-e-t-h,
23 E-d-w-a-r-d-s. I am serving as a commission member.

24 **JUDGE LOCK:** Again, Tom Lock, and I neglected
25 to mention I'm the Senior Resident Superior Court Judge for

Judge Lock Calls the Cases

1 Judicial District 11.

2 **MR. BRITT:** I'm Johnson Britt, J-o-h-n-s-o-n,
3 B-r-i-t-t. I'm an alternate serving as a commissioner in
4 lieu of Mr. Mike Grace.

5 **MR. GLAZIER:** I am Rick Glazier,
6 G-l-a-z-i-e-r. I am a commission member serving in that
7 capacity.

8 **SHERIFF FRYE:** Kevin Frye, K-e-v-i-n, F-r-y-e,
9 I'm Sheriff in Avery County serving on the Commission.

10 **DR. PERRY:** Frank Perry, P-e-r-r-y,
11 commissioner.

12 **MR. BOSWELL:** John Boswell, B-o-s-w-e-l-l,
13 commissioner.

14 **MS. COLBERT:** Robin Colbert, C-o-l-b-e-r-t,
15 commissioner.

16 **JUDGE LOCK:** All right. Thank you very much.
17 For the record, we do have eight voting
18 members of the Commission present as required by statute.

19 At this time, I will make a formal inquiry as
20 to whether any commissioner needs to recuse himself or
21 herself pursuant to Rule 7, subsection -- 7, subsection (c),
22 subsection (1) of our rules and procedures.

23 The rule states: "A Commissioner shall
24 recuse himself or herself if he or she had any involvement
25 in the case during the original trial or any post-conviction

Judge Lock Calls the Cases

1 motions. A Commissioner shall recuse himself or herself if
2 some event has caused him or her to become biased about a
3 case and unable to participate in the hearing in a fair and
4 impartial manner."

5 Are there any commissioners who need to
6 recuse themselves based on this rule?

7 (No response.)

8 **JUDGE LOCK:** It appears, for the record,
9 there are none.

10 Because Judge Wagoner has been recused, I am
11 serving in her place as chair of the Commission. I am
12 alternate chair. And because Defense Attorney Michael Grace
13 has been recused, alternate defense attorney Johnson Britt
14 is serving in his place.

15 All right. Rule 7(c)(3) prohibits
16 commissioners from conducting any independent investigation
17 of the case.

18 Have any commissioners conducted any
19 independent investigation of either of the cases?

20 (No response.)

21 **JUDGE LOCK:** It appears for the record that
22 none have.

23 All right. Let me remind those of you who
24 are attending as alternates that Article 7D of the
25 Commission Rules and Procedures state: "If an Alternate

Judge Lock Calls the Cases

1 Commissioner is not fulfilling full commission duties, he or
2 she may attend hearings of the Commission but may not
3 participate in deliberations and may not vote.

4 "During the hearing, Alternate Commissioners
5 may ask questions of the witnesses. Alternate Commissioners
6 will be asked to leave prior to deliberations."

7 We have, right now, just one alternate
8 commissioner with us, District Attorney Ashley Welch.
9 Again, welcome. We do expect that discretionary member
10 alternate Deb Newton will be here at least part of the time.

11 I am now going to enter at least one order
12 related to the management of this hearing.

13 In my capacity as Superior Court Judge and
14 Alternate Chair of the Commission and Chair of this
15 proceeding, all witnesses other than Commission Staff and
16 expert witnesses shall be sequestered until released.

17 No individual listening to the evidence is
18 permitted to speak with witnesses about the case. The
19 exception to this order would be Ms. Boyer, who represents
20 the claimant. She will be allowed to update her client,
21 Mr. Merritt Williams.

22 One other thing -- as all of you are aware, I
23 believe, you will be allowed to question witnesses. The
24 rules of evidence, of course, do not apply to this
25 proceeding. I would ask that, of course, we try to keep our

Presentation by Director Smith

1 questions relevant and that we be respectful at all times to
2 the witnesses.

3 Also, we should avoid talking over each other
4 and talking over the witness. Our court reporter can only
5 hear one person at a time.

6 All right. At this time, I am going to turn
7 the hearing over to our Executive Director, Ms. Smith, for
8 presentation of the case.

9 (9:15 a.m.)

10 **MS. SMITH:** Good morning, commissioners.
11 Thank you all for coming from your respective areas of the
12 state to be with us this week.

13 To the right of you, you have three notebooks
14 in a stack. Those are your hearing handout notebooks. You
15 are more than welcome to put two of them on the floor or out
16 to the side if you wish. We will be starting with Number 1
17 there, and I will direct you to where you need to be in
18 those notebooks throughout the hearing.

19 This case involves two separate crimes.
20 Arthur Wilson was found dead in the street of the 1700 block
21 of Claremont Avenue in the early morning hours of
22 September 17, 1983. Merritt Williams pled guilty to
23 second-degree murder related to the death of Arthur Wilson
24 in October 1986. He was sentenced to life.

25 Blanche Bryson was found murdered in her home

Presentation by Director Smith

1 on the evening of December 10, 1985. Merritt Williams was
2 found guilty after a jury trial of first-degree murder on
3 July 30, 1987. He was sentenced to life. This sentence
4 runs consecutive to his life sentence in the Wilson case.

5 The Commission opened its investigation in
6 the death of Arthur Wilson on March 8, 2011. The Commission
7 opened its investigation into the death of Blanche Bryson on
8 June 29, 2015.

9 Mr. Williams submitted a questionnaire and
10 consent form to the Commission for both claims and has
11 asserted innocence -- his complete factual innocence to the
12 Commission of both of the crimes. Throughout this inquiry,
13 Mr. Williams has cooperated with commission staff in
14 accordance with North Carolina General Statute 15A-1467(g).

15 In the presentation of this case, as you will
16 soon understand more fully, the investigation of the Bryson
17 case included a confession by an alternate suspect to
18 commission staff earlier this year. That was accompanied
19 with a voluntary DNA sample from the alternate suspect which
20 was then compared to evidence in the Bryson case showing
21 that the alternate suspect matched the DNA from that
22 evidence.

23 Mr. Williams' case was not originally
24 scheduled for hearing in June but rather had been planned
25 for later in the year. However, based on those

Presentation by Director Smith

1 developments, commission staff worked diligently and almost
2 around the clock to complete our investigation and
3 prioritize Mr. Williams' cases so that they could be heard
4 earlier. You-all were also asked to come an extra day this
5 week so that we could attempt to get all of this in this
6 week.

7 In addition, because the Commission's case
8 investigation unfolded with the Bryson case leading the
9 investigation, the presentation to you-all will also follow
10 that path. The information related to the Bryson case will
11 be presented first followed by information related to the
12 Wilson case instead of presenting to you in the
13 chronological order in which the crimes occurred.

14 Pursuant to North Carolina General Statute
15 15A-1460, a claim of factual innocence means "a claim on
16 behalf of a living person convicted of a felony in the
17 General Court of Justice of the State of North Carolina
18 asserting the complete innocence of any criminal
19 responsibility for the felony for which the person was
20 convicted and for any other reduced level of criminal
21 responsibility relating to the crime and for which there is
22 some credible, verifiable evidence of innocence that has not
23 previously been presented at trial or considered at a
24 hearing granted through post-conviction relief."

25 As a reminder, pursuant to the Commission's

Presentation by Director Smith

1 rules and procedures, for the purpose of claimants who pled
2 guilty, new evidence is evidence that wasn't reasonably
3 available at the time of the plea.

4 Mr. Williams' case -- cases include a plea,
5 the Wilson case, and a trial, the Bryson case.

6 Mr. Williams' plea in the Wilson case was a
7 guilty plea; it was not an *Alford* plea or a no contest plea.

8 The new evidence investigated by commission
9 staff will be presented throughout the hearing. In
10 addition, keep in mind that in both cases there was some
11 litigation following the resolution of Mr. Williams' plea or
12 trial but well before his application to the Commission.

13 For example, in the Bryson case, Robbin
14 Carmichael's statements and conviction came after
15 Mr. Williams' trial in that case. Mr. Carmichael's
16 statements have not, to the Commission's knowledge, been
17 presented in any post-conviction hearings on behalf of
18 Mr. Williams.

19 In the Wilson case, there was evidence that
20 was presented in the trials of his codefendant, Darryl Hunt,
21 and -- for the Wilson crime, and some of that investigation
22 done in preparation for Mr. Hunt's trials came after
23 Mr. Williams pled guilty in the Wilson case. To the
24 Commission's knowledge, that information has also not been
25 presented at any post-conviction hearings on behalf of

Presentation by Director Smith

1 Mr. Williams.

2 In both instances, there may be evidence that
3 was part of other litigation in the cases prior to the
4 Commission's involvement but that could still be considered
5 "new" under the Commission's governing statute. Some of
6 that was outlined for you in your briefs.

7 You have all been provided with the lengthy
8 commission brief of 1604 pages that describes, at the time
9 of completing the brief, the information that was available
10 to commission staff related to law enforcement
11 investigations and the resulting criminal litigation in
12 those cases.

13 For the most part, we will not review the
14 information that we covered in the brief during the hearing.
15 However, the Commission's investigation in the case included
16 extensive work in gathering records from multiple sources.
17 Some portion of the hearing will include testimony and
18 handouts related to what more we were able to gather
19 regarding the police investigation and the criminal
20 litigation in both cases. I will refer you to page numbers
21 in your brief as it relates to topics on which commission
22 staff is testifying throughout the hearing so that you can
23 reference that in case it may be helpful to you. I think
24 everyone here probably brought their brief on their
25 computer. You have outlet access so you should be able to

Presentation by Director Smith

1 do a page number search for that to locate those pretty
2 quickly.

3 In addition to the brief, you were provided
4 several handouts prior to the Commission's hearing. For
5 those of you who are new, this was something a little bit
6 different than we had done in the past, but we did that in
7 an effort to keep things moving this week because there are
8 a lot of handouts.

9 The handouts that you were provided prior to
10 the hearing include Handout 46, which is the testimony of
11 Mattie Mae Davis, Patricia Williams, and Barbara Bason from
12 Darryl Hunt's first trial of the Wilson case. As you will
13 recall, we located the transcript after your briefs were
14 provided.

15 Handout 47 is the testimony of James Ford
16 from Sammy Mitchell's second trial in the Wilson case. We
17 also prepared for you a summary of that testimony due to its
18 length and provided both the summary and the actual
19 testimony. And, again, that transcript was located after
20 your briefs were provided.

21 Handout 25 is the transcript and transcript
22 summary of the Commission's interview with Merritt Williams
23 which was related to the Bryson case as well as a transcript
24 and transcript summary of another interaction commission
25 staff had with Mr. Williams when we collected his buccal

Presentation by Director Smith

1 swabs.

2 As an aside, Mr. Williams was not made aware
3 of the alternate suspect's confession or the DNA match to
4 the alternate suspect prior to the interview with the
5 Commission in April of 2019. I don't think that we provided
6 you that information when we sent those out but we wanted to
7 make you aware of that.

8 Handout 38 is the transcript and transcript
9 summary of the Commission's interview with Merritt Williams
10 related to the Wilson case. These interviews were conducted
11 on back-to-back days and each interview focused solely on
12 one of the two cases.

13 We also located additional documents after
14 your brief was provided and then provided those to you in
15 handout form as well.

16 Handout 31 is the 2008 assessment of the WSPD
17 criminal investigation division.

18 Handout 32 is pages 13 to 18 of the Calvin
19 Michael Smith committee report.

20 Handout 33 is the 1990 voir dire testimony of
21 Williams at the Sykes trial.

22 Handout 34 is the 1993 written statement of
23 Merritt Williams regarding Johnny Gray, which was also
24 related to the Sykes case.

25 There will be testimony about those documents

Presentation by Director Smith

1 later on and I will reference them, but since you've already
2 had an opportunity to read them, we will not provide
3 significant time for those to be read during the hearing.

4 Additionally, we also provided in advance the
5 following handouts related to our expert witnesses.

6 Handout 16 is the forensic testing chart
7 which includes all of the testing that was conducted on
8 behalf of the Commission.

9 Handout 17 was the CV of Meghan Clement,
10 forensics expert.

11 Handout 77 was the report by Casson Reynolds
12 and his CV and exhibits. He is the reconstruction expert.

13 Handout 78 is Dr. McLemore's report and her
14 CV. She is the pathology expert.

15 Handout 79 is the CV of Lindsey Admire, who
16 is a trace expert with the North Carolina Crime Lab.

17 Handout 80 is the report and CV of Dr. Houck,
18 who was also a trace expert.

19 And Handout 81 was the report and CV of
20 Dr. Kelley, who is an expert in psychology and confessions.

21 Grant Staff Attorney Catherine Matoian, Staff
22 Attorney Brian Ziegler, and Associate Director Beth Tanner
23 are the lead investigators on this case, though the case was
24 investigated also by former staff. Throughout the hearing,
25 these three individuals will be called to testify about the

Presentation by Director Smith

1 Commission's investigation.

2 As Judge Lock mentioned, commission hearings
3 are not bound by the rules of evidence and so we will hear
4 testimony from them about their interviews and about their
5 investigation.

6 Several witnesses have been subpoenaed to
7 testify, including multiple expert witnesses.

8 The claimant, Merritt Williams, is currently
9 incarcerated in the North Carolina Department of Public
10 Safety. Judge Lock has issued a writ for his presence and
11 he will be here on Friday to testify.

12 Commission staff has interviewed numerous
13 other individuals who will not be called to testify but they
14 will testify about those interviews instead. They will
15 testify as to whether each interview has been recorded and
16 transcribed, and although we do not intend to provide
17 you-all with all of those transcripts, if there is a
18 transcript that a Commissioner wishes to review, if you will
19 just let us know, we will provide that for all commissioners
20 to review either on a break or the overnight recess.

21 District Attorney Jim O'Neill from Forsyth
22 County represents the State in this matter. His
23 representative, Ben White, an assistant district attorney
24 from Forsyth County, is here with us today.

25 Mr. Williams is represented by Julie Boyer,

Presentation by Director Smith

1 who is here as well.

2 As required by our rules, the Commission held
3 a prehearing conference in this matter on May 23 of this
4 year via phone with the State and the defense in attendance.

5 At the prehearing conference, Mr. O'Neill was
6 informed that the District Attorney's office had a right to
7 inspect evidence pursuant to North Carolina General Statute
8 15A-1468(a)(2). Mr. O'Neill was also informed that pursuant
9 to that same section he had the right to provide a written
10 statement to the Commissioners for your consideration.

11 Ms. Boyer was informed that the defense is
12 not afforded those rights under that statute.

13 Mr. White spent a good portion of the day
14 last week reviewing documents from the Commission file at
15 our office, and Mr. O'Neill has submitted a written
16 statement which will become part of the record.

17 Commissioners, that is going to be designated
18 Handout 82 in your very last hearing handout notebook.
19 Right now, that's the last handout in the notebooks. You
20 will be given the opportunity to read that at some point
21 during the hearing. We will make sure that you've read it
22 before you-all deliberate on Friday.

23 At the end of the hearing, you're going to be
24 asked to determine whether there is sufficient evidence of
25 factual innocence to merit judicial review.

Testimony of Beth Tanner

1 Because Mr. Williams pled guilty in the
2 Wilson case, that case will only move forward if all eight
3 commissioners vote that there is sufficient evidence of
4 factual innocence to judicial review. If not unanimous, the
5 Wilson case will be closed with the Commission and no appeal
6 is available.

7 Because Mr. Williams was convicted after a
8 trial in the Bryson case, his case will only move forward if
9 at least five of the eight commissioners vote that there is
10 sufficient evidence of factual innocence to merit judicial
11 review. If less than five commissioners vote for further
12 review, the Bryson case will be closed with the Commission
13 and no appeal is available.

14 Your Honor, at this time, the Commission
15 would call Associate Director Beth Tanner.

16 * * * * *

17 Thereupon, BETH TANNER, a witness having been called by the
18 Commission, was sworn and testified as follows:

EXAMINATION

19 BY MS. SMITH: (9:30 a.m.)

20 Q. Would you please state your name for the record.

21 A. Beth Tanner.

22 Q. And how are you employed?

23 A. I'm the Associate Director for the Commission.

24 Q. How long have you been employed at the Commission?
25

Testimony of Beth Tanner

1 A. October 2017 -- since then.

2 Q. And can you tell the commissioners who was
3 assigned to Mr. Williams' case.

4 A. Sure. Initially, the case was assigned to Former
5 Associate Director Sharon Stellato. But as of fall 2017,
6 the case was assigned to Brian Ziegler and Catherine
7 Matoian. Though I worked on some of the legal issues in the
8 case starting in early 2018, I was assigned as an
9 investigator in late 2018.

10 Q. In the course of its investigation, did commission
11 staff obtain and review files and records of other agencies?

12 A. Yes.

13 The Commission's gathering of records in this case
14 actually became a large part of our investigative effort.
15 Generally, we are able to gather files from various expected
16 sources, but in this case, there were several avenues that
17 required additional time and investigative efforts. This
18 primarily happened because of the age of the case, because
19 of the lengthy litigation histories in both of the cases,
20 and because there were some unique sources of information.

21 Also, in some instances in this case, the
22 Commission was required to become involved in litigation to
23 enforce its access to evidence.

24 Q. Please tell us what files and records you obtained
25 and reviewed. And as we go through each, you can discuss

Testimony of Beth Tanner

1 any important aspects in gathering those records.

2 A. Sure.

3 We gathered files from the Winston-Salem Police
4 Department. We made our first verbal request for files to
5 WSPD in July 2015 and then sent a formal letter requesting
6 the files in August 2015.

7 When we did not receive a response by late
8 September 2015, we reached back out to the attorney for WSPD
9 who informed us she was checking with the DA's office.

10 Ms. Stellato actually spoke with Ms. Martin at the
11 DA's office in October 2015 and provided her a copy of the
12 Commission's statutory authority to gather records.

13 Ms. Stellato reported Ms. Martin as indicating it was up to
14 Ms. Sykes -- Ms. Sykes was the police department attorney --
15 that it was up to Ms. Sykes to decide whether to provide
16 records. However, when Ms. Stellato then followed up with
17 Ms. Sykes, she indicated it was up to the DA's office.

18 Nonetheless, after several more communications,
19 WSPD referred us to Captain Tolley (phonetic), who would be
20 gathering the records for us. On October 26, 2015, we
21 requested records from Captain Tolley. He prepared them for
22 pickup by us on October 30, 2015.

23 In the initial production from WSPD, the only
24 mention of Robbin Carmichael was a property report that
25 showed there was a taped statement from him but we didn't

Testimony of Beth Tanner

1 have the substance of that statement.

2 We knew that Carmichael was also convicted because
3 of the information provided to us by Mr. Williams and what
4 was available publicly, but we didn't understand the
5 substance of his involvement.

6 After commission staff interviewed Robbin
7 Carmichael, we realized that we needed to reach back out to
8 WSPD and see if there was some more information in the
9 files.

10 In October 2017, we requested the records related
11 to the Bryson case that the Commission staff had learned
12 through a request for files in an unrelated case were stored
13 in the evidence room. So essentially, we figured out in an
14 unrelated case that there was a file in the evidence room
15 that was different, potentially, than the file in the
16 records room.

17 We also requested information on Carmichael both
18 related to the Bryson case as well as any contacts that WSPD
19 had had with Carmichael just so we made sure we had
20 everything.

21 Lieutenant Cardwell (phonetic) with WSPD, who
22 replaced Mr. Tolley in managing the documents request,
23 advised that any records related to Carmichael that were not
24 related to the Bryson case were at the DA's office.

25 In late October 2017, we had another conversation

Testimony of Beth Tanner

1 with Ms. Martin and WSPD where they expressed concern about
2 providing us with Carmichael's records outside of those in
3 the Bryson case and about the Commission's reason for
4 wanting those records. WSPD also expressed a concern about
5 the volume of records that we were asking so the Commission
6 made an appointment to copy the records in early November
7 2017. While we were there making copies of the files
8 located in evidence management, we realized that there was a
9 box of materials in the evidence room that appeared to have
10 some additional documents.

11 Ultimately we determined, as I just explained,
12 that WSPD has a records section where we understand there to
13 be, like, an electronic version of the file but that they
14 also store a paper file in the evidence room.

15 Though we had received some communication early on
16 about files in the evidence room, we did not fully
17 understand until later that the file in the evidence room
18 was not necessarily the same file in the records section.
19 Once we realized that, we were able to work on being sure we
20 had collected the full WSPD file in both cases.

21 The Commission also requested complete WSPD
22 records for Williams, Carmichael, and Johnson for police
23 contacts with those individuals unrelated to the Bryson
24 case. WSPD expressed concern over the privacy of Carmichael
25 and Johnson in turning over those records and also requested

Testimony of Beth Tanner

1 that the Commission obtain a court order related to any
2 juvenile records. The Commission obtained those orders and
3 the records were turned over by WSPD.

4 WSPD did not request a court order for Williams'
5 juvenile records, and those records were provided to the
6 Commission. These records included a list from what is
7 called the PISTOL system, P-I-S-T-O-L, which is basically a
8 list of contacts between an individual and WSPD.

9 The Commission also requested and received these
10 PISTOL records for Darryl Hunt and Sammy Mitchell in order
11 to compare their records to the records previously
12 maintained for Merritt Williams.

13 We also collected all of the evidence that WSPD
14 had in the cases as they required that we take all of the
15 evidence at one time.

16 Q. Did you also obtain files from the Forsyth County
17 Clerk's office?

18 A. We did. Forsyth only had files on microfilm. We
19 also checked with the Catawba County Clerk's office because
20 one of Hunt's trials for the Wilson case was held there.

21 They did not have records there and they indicated
22 that this case was likely what they termed a "change of
23 location" as opposed to a "change of venue," and essentially
24 what that told them is that they didn't see that Catawba had
25 created their own court file; they had no record of a file

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1 at all in Catawba County.

2 Q. Did commission staff also seek DPS records?

3 A. Yes. We sought DPS records related to Merritt
4 Williams, Robbin Carmichael, and Darren Johnson, including
5 movement records, mental health records, combined records
6 file. The combined records file is like your sentencing,
7 your crime version reports.

8 We also collected selected DPS records for Sammy
9 Mitchell, Darryl Hunt, and James Ford. These select records
10 included movement records so that we could see when and
11 where any of these individuals were housed together.

12 We also collected certain phone calls from NC DPS
13 that were relevant to the case. This included all of
14 Merritt Williams' phone calls made with his PIN number,
15 P-I-N, and calls made to certain numbers by Merritt Williams
16 using another inmate's PIN number. We also collected other
17 select DPS phone records as we will describe more fully
18 later in the hearing.

19 The collection of NC DPS records in this case was
20 somewhat lengthy because this case was one of the several
21 cases in 2018 in which NC DPS suddenly refused to provide
22 records over concerns about the Commission's use of the
23 file.

24 After approximately six months, we were able to
25 reach agreement with NC DPS over a process that is mostly

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1 successful in collecting records except that we are required
2 to get separate orders for certain types of inmate calls.

3 Q. Did the Commission collect any additional files?

4 A. Yes.

5 We collected files from the state crime lab. We
6 also collected newspaper articles microfilmed and collected
7 by the local library system in Winston-Salem, articles that
8 we could find online and articles provided by some of the
9 individuals that we interviewed in the case. These were
10 included in your brief.

11 We also collected records from the Office of the
12 Chief Medical Examiner. Though we had the autopsy from the
13 WSPD file, based on some interviews in the case, we
14 determined that OCME might have more records in the case.
15 We collected the entire file after we completed the brief in
16 this case so we will discuss later what additional documents
17 we were able to gather.

18 Also, we finally were able -- we attempted to
19 obtain jail records from the Forsyth County Sheriff's Office
20 for Williams, Carmichael, Johnson, Hunt, and Mitchell.
21 Forsyth County Sheriff's Office indicated they had no
22 records going back to the relevant time periods and provided
23 an affidavit to that effect to assure.

24 **MS. SMITH:** Commissioners, if you will open
25 your first hearing handout notebook and refer to Handout 1

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1 in your hearing handout notebook, this is the affidavit of
2 Christina Howell, who is the public information officer at
3 Forsyth County Sheriff's Office.

4 If you'll just take a moment to review her
5 affidavit.

6 Q. Ms. Tanner, was the Commission staff able to
7 collect any additional records?

8 A. Yes.

9 We were able to collect some additional records
10 from former defense attorney for Darryl Hunt, Mark Rabil.
11 Mr. Rabil was actually working on a project with the Wake
12 Forest Law Library to do a collection related to Darryl
13 Hunt. He had collected documents from Mr. Hunt himself and
14 also from his own documents and some other defense attorneys
15 and provided those to the library.

16 Wake Forest Law Library had also gotten records
17 from a reporter, Phoebe Zerwick, and the *Winston-Salem*
18 *Journal*. Though initially there was a legal challenge from
19 Ms. Zerwick related to those records, we were able to work
20 with her attorney and resolve those issues.

21 **MS. SMITH:** Commissioners, if you will refer
22 to Handout 2 in your hearing handout notebook, this is a
23 list of the documents provided and related to the Wake
24 Forest Law Library project.

25 If you'll just take a moment to review that.

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1 Commissioners, the records outlined in
2 Handout 2 came in to the Commission after we completed the
3 brief in this case. So where they fit in as appropriate, we
4 will talk about some of those documents in more detail.

5 Q. Ms. Tanner, can you tell the Commissioners if we
6 contacted anyone else related to records in this case?

7 A. Yes.

8 We also reached out to the Winston-Salem City
9 Manager's office. During the time of the Wilson and Bryson
10 trials, ongoing litigation in another case, the murder of
11 Deborah Sykes, was also occurring. Many of the suspects and
12 police officers involved in the Bryson and Wilson cases were
13 also involved in the investigation of Deborah Sykes' murder.

14 That case, the Sykes case, S-y-k-e-s, resulted in
15 a committee investigation and report in Winston-Salem. We
16 believed that there might be records related to the Wilson
17 case at the City Manager's office based on what was
18 contained in the Sykes Committee report.

19 The City Manager's office forwarded our request to
20 WSPD's police attorney -- also Mrs. Sykes. We were able to
21 identify a particular file cabinet at the Winston-Salem
22 Police Department which was inventoried at the time of the
23 Sykes Committee investigation in 2004. The inventory listed
24 a transcript from the Wilson trials.

25 After we identified the cabinet, the Winston-Salem

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1 Police Department was able to find those transcripts. It
2 did turn out to be a portion of Darryl Hunt's first trial in
3 this Wilson case from 1987.

4 The Commission also requested that the district
5 attorney's office conduct an additional search for
6 transcripts at their office. The DA's office was able to
7 locate the transcript of the defense case in Mitchell's
8 second trial. We previously had only had the State's
9 evidence.

10 Again, we received these transcripts after we
11 completed the brief; so we will provide any pertinent
12 additional information throughout the hearing.

13 **MS. SMITH:** And, Commissioners, several of
14 those -- the testimony from several witnesses and those
15 transcripts was already provided to you-all prior to the
16 hearing for your review. With the exception of the
17 transcript that the district attorney -- or the partial
18 transcript that the district attorney's office was able to
19 locate, did they have any other files related to these
20 cases?

21 A. No. They were unable to locate any files related
22 to Williams, Carmichael, Mitchell, or Hunt in these cases.

23 Q. Were there any other sources from which you sought
24 records?

25 A. Yes.

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1 There was quite a bit of community involvement in
2 the Wilson case. We interviewed individuals who were
3 identified as being involved in the defense of Darryl Hunt
4 in the Wilson case as well as any living attorneys involved
5 in these cases and any living assistant district attorneys
6 or district attorneys in the case.

7 None of these sources had any additional documents
8 outside of what we already have outlined for you. However,
9 Mr. Rabil contacted the production company for a documentary
10 that was done on Mr. Hunt because he recalled that there was
11 footage about the Arthur Wilson case that was filmed but not
12 ultimately included in the documentary. After several
13 tries, he provided that there had just been no luck on the
14 production company finding anything.

15 During our interview of Merritt Williams, he also
16 indicated that he had applied to another innocence
17 organization but did not remember the name. From the
18 details he provided, it appeared that he was referring to
19 the North Carolina Center on Actual Innocence. Mr. Williams
20 said he had been sent a letter saying that they did not have
21 the resources to investigate his case. We did request a
22 file from the Center. The Center indicated that
23 Mr. Williams never completed a questionnaire and that there
24 was no investigation into his case.

25 Mr. Williams was not able to provide us a copy of

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1 the letter that he described in his interview.

2 MS. SMITH: Commissioners, do you have any
3 questions of Mr. Tanner about any of the files the
4 Commission sought, obtained, or reviewed?

5 Commissioners, as I mentioned earlier, we
6 have created a condensed timeline for you regarding both
7 cases that will be helpful for your reference throughout
8 this case. That is located as Handout 3 in your hearing
9 handout notebooks.

10 If you want to take just a moment to look at
11 that, you may wish to reference it throughout the hearing.

12 In addition, we also compared movement
13 records of various pertinent individuals in this case.
14 Handout 4 is the chart that we made to outline any times
15 that Merritt Williams, Sammy Mitchell, Darryl Hunt, Robbin
16 Carmichael, and Darren Johnson were housed together and/or
17 could have otherwise had contact based on the records that
18 we were able to collect from DPS.

19 If you'll take a moment to review that.

20 Additionally, as you will probably note, many
21 of the police officers, defense attorneys, suspects in the
22 various cases come up several times.

23 Handout 5 in your notebooks is a reference
24 chart for these individuals which you may also find helpful
25 to reference throughout the hearing, if you just want to

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1 take a moment to look at them.

2 Your Honor, if there are no questions from
3 Commissioners for Ms. Tanner, may she step down?

4 **JUDGE LOCK:** Any questions?

5 All right. The witness is excused.

6 (Witness stands down, 9:54 a.m.)

7 **MS. SMITH:** Commission calls Grant Staff
8 Attorney Catherine Matoian.

9

10 * * * * *

11 * * * * *

12 Thereupon, CATHERINE MATOIAN, a witness having been called
13 by the Commission, was sworn and testified as follows:

14 EXAMINATION

15 BY MS. SMITH: (9:55 a.m.)

16 Q. Good morning.

17 A. Good morning.

18 Q. Can you state your full name for the record.

19 A. It's Catherine Matoian.

20 Q. And how are you employed?

21 A. I am a grant staff attorney for the North Carolina
22 Innocence Inquiry Commission.

23 Q. How long have you been employed by the Commission?

24 A. Six years.

25 **MS. SMITH:** Commissioners, Handout 6 in your

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1 notebooks is a map of various locations related to the
2 Bryson case which you may wish to refer to throughout the
3 hearing.

4 I am also putting that map on the screen.

5 Q. Ms. Matoian, can you point out the landmarks for
6 the Commissioners.

7 A. The green star over here is the victim's home,
8 which was 2705 Gilmore Avenue. 27th Street is a one-way
9 street that goes in this direction. 28th Street is on the
10 other side of Gilmore Avenue and goes in the opposite
11 direction.

12 The purple star is at 21st and Ivy Street, which
13 is the location where the victim's car was found. It's
14 about .6 miles away from the victim's home.

15 Over here, the red star, that is the home that
16 Robbin Carmichael told the Commission he was living at at
17 the time. It used to be 19th Street; it's currently 1226
18 Bethlehem Lane. That is about 1.3 miles away from the
19 victim's home.

20 MS. SMITH: Do the Commissioners have any
21 questions about the map?

22 (No response.)

23 Q. Ms. Matoian, can you tell the Commissioners who
24 Robbin Carmichael is.

25 A. Robbin Carmichael came forward with information

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1 about his involvement in the Blanche Bryson murder in
2 March 1988. That was several months after Merritt Williams
3 had been convicted of this crime. He was in jail on other
4 charges when he began providing information on the Bryson
5 case.

6 He, in June 1988, pled guilty to second-degree
7 murder, larceny of a motor vehicle, and second-degree
8 burglary in the Bryson case.

9 MS. SMITH: Commissioners, Mr. Carmichael's
10 criminal record was provided to you in your brief on
11 page 1551. Mr. Carmichael's previous statements were also
12 provided to you in your briefs on pages 1283 to 1376.

13 Mr. Carmichael has been subpoenaed to testify
14 later today and my understanding is that he is en route so
15 he should be here this afternoon.

16 Q. Ms. Matoian, what information did the Commission
17 have about Mr. Carmichael's involvement in the crime
18 initially?

19 A. Mr. Williams' questionnaire indicated that Robbin
20 Carmichael had turned himself in and admitted to the murder
21 of Blanche Bryson.

22 Mr. Williams' questionnaire also stated that
23 Carmichael "also named a codefendant that I don't have a
24 name."

25 As Ms. Tanner testified, the original police file

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1 that was provided to the Commission did not mention
2 Mr. Carmichael other than a property report or a taped
3 statement from him. That report did not contain the
4 substance of the statement itself. Public DPS records did
5 not show the date of offense for Carmichael's charges. So
6 Commission staff went and reviewed the microfilm at the
7 Clerk's office to confirm that Carmichael had in fact been
8 convicted of the Blanche Bryson murder.

9 Q. Did the Commission interview Mr. Carmichael?

10 A. Yes. I spoke to him over the phone on
11 September 14, 2017.

12 Q. And at the time that you spoke to Mr. Carmichael,
13 what information did you have about his involvement in the
14 Crime?

15 A. Only the information from Mr. Williams'
16 questionnaire and the information from the clerk's office.

17 Q. Was that call recorded and transcribed?

18 A. It was.

19 MS. SMITH: Commissioners, if you will refer
20 to Handout 7 in your hearing notebook, this is the
21 transcript of the Commission's September 14, 2017, call with
22 Mr. Carmichael.

23 Please take some time to review that
24 transcript.

25 Commissioners, do you have any questions for

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1 Ms. Matoian related to the interview of Mr. Carmichael?

2 **MR. BOSWELL:** He was out of prison? He
3 wasn't in jail when you were having this conversation?

4 **THE WITNESS:** Correct. He had been paroled
5 in 2008 and I believe he got off parole in 2013.

6 **JUDGE LOCK:** Please refresh my memory. He
7 was convicted -- pled guilty to second-degree murder in
8 connection to Ms. Bryson's murder; is that correct?

9 **THE WITNESS:** That's correct. It was
10 second-degree murder, larceny of a motor vehicle, and
11 second-degree burglary.

12 Q. Ms. Matoian, what did the Commission do next?

13 A. At that time, the Commission obtained additional
14 records related to the Bryson case that had been kept in
15 evidence management at the police department.

16 Q. Did those records contain any information related
17 to Robbin Carmichael?

18 A. They did. Those records contained the reports
19 related to Mr. Carmichael coming forward and what he said
20 about Darren Johnson's involvement, the fingerprint
21 identification of Mr. Carmichael to the latent print from
22 the victim's car, the jewelry bags that Mr. Carmichael said
23 he got from Mr. Johnson the night of the murder, and the
24 report related to his plea.

25 We also collected several cassette tapes from the

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1 Winston-Salem Police Department and sent them to the N.C.
2 State Crime Lab to converted to digital recordings. One
3 tape corresponded to a transcript the Commission had of an
4 interview Detective Bishop conducted of Mr. Carmichael on
5 the first day that he came forward.

6 The other tapes included a three-part interview
7 that appeared to be an interview related to a polygraph
8 examination given to Mr. Carmichael. The detective on the
9 tape did not identify himself, no date is on the tapes, and
10 there's no corresponding report in the Winston-Salem Police
11 Department file related to the polygraph examination.

12 **MS. SMITH:** Commissioners, the Commission had
13 transcripts of those undated recordings made, and those were
14 provided to you-all in your brief on pages 1290 to 1376.

15 Q. Ms. Matoian, was the Commission able to determine
16 who conducted that interview?

17 A. We did. It was Randy Patterson who took over for
18 Barry Owens in conducting polygraphs for the Winston-Salem
19 Police Department.

20 Mr. Owens had done a lot of the polygraphs of
21 Williams and other people in the Bryson and Wilson cases in
22 the early investigation.

23 We spoke to Mr. Patterson over the phone and sent
24 him the recordings of the tapes and the transcripts of the
25 tapes. He reviewed them and e-mailed the Commission, and he

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1 indicated that at that time it was his practice to write a
2 report to the lead detective with the result of the
3 examination and the questions and then place the tapes of
4 the interviews into evidence management.

5 He would keep more detailed reports regarding the
6 polygraphs separately. However, because we were not able to
7 provide him with his report related to this examination of
8 Mr. Carmichael, he couldn't provide us any additional
9 information.

10 Q. Did the Commission do anything else related to
11 Mr. Carmichael?

12 A. We did.

13 We contacted him on April 19, 2018, about a
14 follow-up interview. He declined at that time to
15 participate in another interview.

16 The Commission also obtained a court order for
17 Mr. Carmichael's DNA standard.

18 On May 10, 2018, we served the court order for DNA
19 on Mr. Carmichael and also served him with a subpoena for a
20 deposition. On that date, Mr. Carmichael refused to comply
21 with the court order for his buccal swab. Mr. Carmichael
22 told commission staff that this situation was done because
23 he had served his time and Merritt Williams didn't help him
24 and he didn't want to help Merritt Williams.

25 The Commission was able to depose Robbin

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1 Carmichael on June 1, 2018. And on that date, he did agree
2 to comply with the court order.

3 Q. Was that deposition recorded and transcribed?

4 A. It was.

5 **MS. SMITH:** Commissioners, we're going to
6 watch the full deposition of Mr. Carmichael. We've also
7 provided a transcript of the deposition. It is located at
8 Handout 8 in your hearing handout notebooks if you want to
9 follow along as we watch the deposition.

10 Judge Lock, we are maybe 20 minutes ahead of
11 schedule, which is great, but I was going to take a break
12 right before we did this since it's about an hour and 10
13 minutes. If you want to have a quick break so people can go
14 to the bathroom or we can do that and then break for a few
15 minutes after that.

16 (Discussion off the record.)

17 **JUDGE LOCK:** Let's roll.

18 **MS. SMITH:** Ms. Matoian, you may step down.

19 (Witness stands down, 10:11 a.m.)

20 (Video Deposition of Robbin Carmichael played,
21 10:12 to 11:19 a.m.)

22 **MS. SMITH:** I suggest we take a break now and
23 then we come back in 15 minutes.

24 **JUDGE LOCK:** 15 minutes, everyone?

25 Thank you.

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1 (Recess taken, 11:19 to 11:40 a.m.)

2 (Witness resumes the stand, 11:40 a.m.)

3 **JUDGE LOCK:** All right. Looks like everyone
4 is in place. We're ready to get started.

5 I understand that the next witness -- we'll
6 take our lunch recess. The next witness is expected to be
7 about 30 minutes or so. Everyone needs to stay here over
8 lunch because we will be watching video. We will have more
9 to say about that in just a moment.

10 I believe Representative Glazier has a
11 question right now.

12 **MR. GLAZIER:** Thank you very much, Mr. Chair.

13 I'm just curious -- and it may be
14 immaterial -- but as to the polygraph that he says he was
15 given, I know the only thing I remember reading in the
16 materials in the brief was that was a pretest interview.

17 Was there ever any documents uncovered that
18 showed the results of the polygraph, the questions asked on
19 the polygraph outside of the pretest interview?

20 And I may have missed it. If you could just
21 refer those documents to me. But I'm getting the sense that
22 that's the only thing that exists.

23 **THE WITNESS:** You're correct. I testified a
24 little bit earlier about Randy -- we figured out who
25 conducted that interview. It was Randy Patterson who was

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1 the polygraph examiner. But in the materials we got from
2 the Winston-Salem Police Department, there was no report
3 related to this exam and what the results were and what the
4 questions asked were.

5 And what we've also learned from talking to
6 several polygraph examiners at Winston-Salem Police
7 Department from that time period is that what would go into
8 the file would be a short report that said "This person was
9 polygraphed; the results show that they were truthful, not
10 truthful, or inconclusive" and did not include the questions
11 that they were asked, the charts, scores -- anything like
12 that. All of that more detailed information was kept
13 separately in the polygraph area. And we have asked
14 Winston-Salem Police Department to look for those documents
15 should they still exist and they were not able to locate
16 anything. So we do not have any reports related to Robbin
17 Carmichael's polygraph.

18 **MR. GLAZIER:** May I ask one follow-up?

19 **JUDGE LOCK:** Yes, of course.

20 **MR. GLAZIER:** Thank you, Mr. Chair.

21 So was there a follow-up with Winston-Salem
22 or even the district attorney's office in Winston-Salem to
23 say -- to try and determine why, in the file, there wasn't
24 any statement of the results even if the documents
25 underlying that were not found? It seems to be, under

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1 protocol, they would have or should have had some, at least,
2 sentence about just what you said -- what were the results.

3 **THE WITNESS:** As Ms. Tanner testified about
4 our efforts to gather records from the Winston-Salem Police
5 Department, it is our understanding that we have collected
6 all the records that may possibly exist regarding the Bryson
7 case from the Winston-Salem Police Department.

8 We did -- after learning about the separation
9 of the polygraph reports and the more detailed polygraph
10 files, we sought and obtained a judicial subpoena for the
11 Winston-Salem Police Department to search for and turn over
12 any records related to polygraphs that exist, and they
13 responded that they were unable to locate those records and
14 indicated that no one there currently was there at the time
15 and they do not know what happened to those records.

16 **MR. GLAZIER:** Thank you very much.

17 **JUDGE LOCK:** All right.

18 Yes, ma'am.

19 **MS. COLBERT:** I had a question. I did not --
20 there was no evidence of sexual contact or sexual assault
21 with Ms. Bryson, was there?

22 **THE WITNESS:** That's correct.

23 **MS. COLBERT:** And Darren Johnson is not in
24 prison for any of these cases; is that correct?

25 **THE WITNESS:** That's correct. Darren Johnson

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1 has never been charged in the murder of Blanche Bryson.

2 **MS. COLBERT:** Or Wilson or Sykes?

3 **THE WITNESS:** Correct.

4 **MR. BOSWELL:** Will we hear any evidence about
5 whether Darren Johnson had any DNA or anything like that
6 having to do this murder?

7 **THE WITNESS:** We will.

8 **MR. BOSWELL:** Okay.

9 **JUDGE LOCK:** Does any commissioner have any
10 other question before we resume?

11 **MS. SMITH:** Okay.

12 **JUDGE LOCK:** Yes, ma'am.

13 Q. Ms. Matoian, I am putting up on the screen a
14 zoomed-in version of Exhibit 3 from your deposition with
15 Robbin Carmichael where he drew in a red marker the path
16 that he said that he and Darren Johnson took after they left
17 the victim's home.

18 Can you just point that out for the commissioners?

19 A. I can.

20 Up here is 2705 Gilmore Avenue, which is the
21 victim's home. And in the deposition, he indicated that he
22 and Mr. Johnson went down 27th Street to Patterson Avenue
23 and then down Patterson Avenue. And he has them going --
24 it's kind of an industrial park in this area. He has them
25 going through the industrial park, taking a left, and

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1 leaving the car at 21st and Ivy Streets, which is where the
2 victim's car was found. And then this arrow here indicates
3 the direction that he thought he and -- Mr. Carmichael
4 thought that he and Mr. Johnson had taken to get back to
5 Mr. Carmichael's home after leaving the car.

6 Q. Do you have any information on which direction
7 Mr. Carmichael's house is on that map?

8 A. We do. If this is Liberty Street right here,
9 which he mentioned in the deposition -- it's a little bit
10 hard to see, but you will see the beginning of, right here,
11 that says "New Hope" -- that's New Hope Lane. And
12 Mr. Carmichael's house is off to this direction. It's not
13 on this map, but it is on Handout 6, I believe.

14 Q. And, Ms. Matoian, did Mr. Carmichael also give a
15 statement to law enforcement back in 1988 about the
16 direction that he and Mr. Johnson traveled after leaving the
17 victim's home?

18 A. He did. He told law enforcement that him and
19 Mr. Johnson went down 27th Street again, down Patterson
20 Avenue again. However, in this statement from 1988, he has
21 them going down 17th Street. So instead of through the
22 industrial park like he said during the deposition, that
23 they went down 17th Street before going up to 21st and Ivy
24 Streets.

25 **MS. SMITH:** Commissioners, do you have any

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1 questions about that or any other questions related to the
2 deposition of Robbin Carmichael?

3 **SHERIFF FRYE:** I just want to make sure I've
4 got my head wrapped around this right because there's a lot
5 of interesting things.

6 He is saying that the guy pulled up in the
7 car -- in Ms. Bryson's car to begin with. He had a bloody
8 mouth. He gave him something to wipe his mouth off. Then
9 they went back to Ms. Bryson's house; is that correct?

10 **THE WITNESS:** That is correct.

11 **SHERIFF FRYE:** Okay.

12 **THE WITNESS:** In his 1988 interviews with
13 police, he described it as a Buick Skylark, which the
14 victim's car was. It was orange on the bottom and white on
15 top.

16 Q. Ms. Matoian, was the Commission able to talk to
17 any of Robbin Carmichael's attorneys?

18 A. We did. Mr. Carmichael contacted the Commission
19 after his deposition and let us know the names of his
20 attorneys, which were Laurel Boyles, L-a-u-r-e-l, Boyles,
21 and Rob Lang. He voluntarily agreed to sign releases. And
22 once the Commission obtained those releases, we contacted
23 both those attorneys.

24 Laurel Boyles was unable to speak to the
25 Commission due to health issues; however, his wife did

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1 confirm that he did not still have any files related to his
2 practice.

3 The Commission also spoke to Rob Lang over the
4 phone on July 18, 2018. He indicated that during the time
5 he represented Mr. Carmichael, he had been at Carl Parrish's
6 law firm. He said that any files that still existed would
7 be at the Parrish firm. Mr. Parrish now has Alzheimer's and
8 is no longer practicing. The Commission contacted his
9 sister Melody, who is helping to manage his affairs. She
10 was able to locate Mr. Lang's file for Mr. Carmichael's
11 case.

12 Q. And what information did Mr. Lang's file contain?

13 A. The file contained some notes regarding his time
14 on the case that seemed to indicate some meetings with law
15 enforcement or the district attorney's office but no notes
16 from those meetings and also some notes regarding sentencing
17 factors.

18 There were no notes related to any meetings with
19 Mr. Carmichael or any information that Mr. Carmichael had
20 told Lang about the case.

21 Q. Did Mr. Lang remember anything about
22 Mr. Carmichael's case?

23 A. Mr. Lang recalled that he had been appointed to
24 represent Mr. Carmichael on the armed robberies that he was
25 in jail for prior to coming forward in the Bryson case. A

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1 detective called Mr. Lang to ask him if Mr. Carmichael was
2 willing to help himself. Mr. Lang spoke to Mr. Carmichael
3 in the jail and Carmichael said yes but did not indicate
4 that the information he had was about a murder.

5 About three days later, Mr. Lang said he saw on TV
6 that Mr. Carmichael had been arrested for the murder.

7 When commission staff asked Mr. Lang if he knew
8 that Merritt Williams had been convicted of the crime the
9 year before, Mr. Lang asked if the Commission was sure and
10 then said that that might have been the case. He remembered
11 that the car was in the driveway and thought that
12 Mr. Carmichael must have been in the car. He thinks that
13 the police were still looking for codefendants when
14 Mr. Carmichael confessed, and he could not recall if
15 Mr. Carmichael had ever mentioned the name Darren Johnson.

16 Q. Did the Commission obtain any records --
17 additional records related to Mr. Carmichael?

18 A. We did.

19 The Commission contained [sic] all of the
20 Winston-Salem Police Department's records related to
21 Mr. Carmichael, including cases in which he was a witness or
22 a victim. And at the police department's request, the
23 Commission obtained a court order to obtain any records from
24 when he was a juvenile.

25 Q. What did those records indicate?

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1 A. Those records indicated that Mr. Carmichael had
2 been suspected or charged in several larcenies going back to
3 1978 as well as burglaries and drug-related charges. A few
4 of the reports indicated that, in late 1987 to early 1988
5 going to about one month before he confesses in the Bryson
6 case, he was doing controlled buys for the police
7 department.

8 Q. Were Mr. Johnson or Mr. Williams mentioned in any
9 of the police reports related to Robbin Carmichael?

10 A. No, they were not.

11 Q. Did the Commission obtain any other records
12 related to Mr. Carmichael?

13 A. We did.

14 We obtained his Department of Public Safety
15 records including his combined records, medical and mental
16 health records, disciplinary records, and probation and
17 parole records.

18 **MS. SMITH:** Commissioners, commission staff
19 has prepared a handout related to Mr. Carmichael's education
20 and mental health DPS records, and it is included as
21 Handout 9 in your hearing handout notebooks.

22 Your Honor, this document contains
23 information from records that are protected by the federal
24 and state law regarding education and mental health of
25 Robbin Carmichael. Furthermore, this information was

Testimony of Catherine Matoian

1 received from DPS pursuant to the requirement that the
2 Commission get the information through court order.

3 I would simply request that this document be
4 sealed from the public record.

5 **JUDGE LOCK:** All right. So ordered.

6 **MS. SMITH:** Commissioners, if you will take a
7 moment to review Handout 9.

8 **DR. PERRY:** Mr. Chairman, may I ask while we
9 are --

10 **JUDGE LOCK:** Yes, sir.

11 **DR. PERRY:** Did you say Mr. Carmichael was a
12 source for Winston-Salem?

13 **THE WITNESS:** There were a few reports that
14 indicated that Mr. Carmichael was doing controlled buys for
15 the Winston-Salem Police Department, yes.

16 **DR. PERRY:** Do you know how loosely arranged
17 that was or was it a formal informant relationship?

18 **THE WITNESS:** I don't know enough about it to
19 know how formal it was. There was only a few reports that
20 indicated he was doing controlled buys, and I believe the
21 last one he did, the report indicated he took the money for
22 the controlled buy and then just left.

23 **DR. PERRY:** He left?

24 **THE WITNESS:** And I think he got arrested
25 pursuant to that.

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1 **DR. PERRY:** Do you know the year of that?

2 **THE WITNESS:** That was -- I can double-check
3 but those records were from 1987 to 1988.

4 **DR. PERRY:** So the murderers had already --

5 **THE WITNESS:** Correct.

6 **DR. PERRY:** Thank you.

7 **MR. GLAZIER:** I'm trying to read through all
8 of the mental health notes on this.

9 Is there going to be any discussion of that
10 or did you just want us to read this? Because I have some
11 questions about it.

12 **MS. SMITH:** If you have questions for
13 Ms. Matoian, you may ask them.

14 **MR. GLAZIER:** Thank you.

15 It's really hard for me to make any
16 assessment of the credibility of any of these comments
17 because I don't know anything about the person making the
18 comments or the testing source or -- because I'm just trying
19 to get a sense of context of the '93 and '95 notes.

20 The '88 and '90 notes seem pretty objective,
21 but the '93 and '95 notes have some real substantive
22 comments, subjective notes. I have no idea whether to
23 believe the person or not believe them.

24 **MS. SMITH:** Sure. We can pull the records
25 from DPS and provide a little more context as to where that

Testimony of Catherine Matoian

1 came from.

2 **MR. GLAZIER:** That would be helpful for me,
3 Mr. Chairman.

4 I think the other thing is, if the Commission
5 has any assessment of the credibility -- well, that's not
6 correct -- but the reputation of the source of the
7 information, whether it's a psychologist or whoever is
8 making this assessment from the prison, some folks are
9 really good at their job; others are not so good at their
10 job. So it's just -- this is sort of trying to get the
11 context of the reputation of the source of the information.

12 **MS. SMITH:** Sure. And we do not have any
13 information related to the reputability of the folks who
14 were at the prison doing those assessments. We just have
15 the records of the assessments themselves. But we can pull
16 that -- it will be over our next break and we will circle
17 back to that for you.

18 **MR. GLAZIER:** Thank you so much.

19 **MS. SMITH:** Absolutely.

20 **THE WITNESS:** Dr. Perry, I looked up the
21 records that you were just asking about.

22 In February of 1988, the report indicates
23 that Mr. Carmichael contacted the police department about a
24 location being used to sell drugs. He was given money for a
25 controlled buy and then never came back.

Testimony of Catherine Matoian

1 **DR. PERRY:** He approached them?

2 **THE WITNESS:** He did.

3 **DR. PERRY:** Then he pled the same year?

4 **THE WITNESS:** Correct.

5 That particular incident happened in
6 February 1988. So that was the month before he came forward
7 in the Blanche Bryson case.

8 **DR. PERRY:** Thank you.

9 **THE WITNESS:** And both of those were after
10 the Blanche Bryson murder had happened.

11 **MS. COLBERT:** I have a question.

12 The mental health tests, the two -- are these
13 he's given randomly or by request of another physician?

14 **MS. SMITH:** When we pull the assessment, that
15 might actually provide the context as to why the person was
16 in to see that particular provider. So when we pull that,
17 we will see if we can answer that question for you.

18 **MS. COLBERT:** Thank you.

19 **MS. SMITH:** Any other questions about that?

20 (No response.)

21 Q. Ms. Matoian, did Mr. Carmichael make any
22 statements related specifically to this case in any of the
23 records?

24 A. In a psychological assessment from 1993, that
25 report indicates that Mr. Carmichael stated he was not

Testimony of Catherine Matoian

1 guilty and "shows little remorse and is more concerned with
2 the fact that he was more or less given a life sentence for
3 a murder which he did not actually commit even though he was
4 on the scene."

5 There is no mention of Darren Johnson in
6 Mr. Carmichael's DPS records.

7 Q. Has the Commission become aware of any other
8 interviews of Mr. Carmichael throughout his investigation?

9 A. Yes. The journalist, Phoebe Zerwick, from the
10 *Winston-Salem Journal*, talked about interviewing Robbin
11 Carmichael in her 2004 article about the Bryson case.

12 **MS. SMITH:** Commissioners, a portion of the
13 Phoebe Zerwick article that is related to Mr. Carmichael in
14 the Bryson case can be found on pages 1537 to 1538 of your
15 brief.

16 Q. Did the Commission collect any additional records
17 related to Mrs. Zerwick's purported interview of Robbin
18 Carmichael?

19 A. We did.

20 The Commission obtained undated notes from Phoebe
21 Zerwick that were related to an interview she conducted of
22 Carmichael in her reporting on the Hunt case. There is no
23 recording of that interview.

24 Q. What did those notes say?

25 A. The notes are difficult to read but appear to give

Testimony of Catherine Matoian

1 a similar version of events to the one that Mr. Carmichael
2 gave to the police and the Commission.

3 Q. Did the Commission do anything else with respect
4 to those notes?

5 A. Because some were difficult to read and because
6 some of the notes suggested on their face that Merritt
7 Williams may have been involved in this case, the Commission
8 spoke to Phoebe Zerwick over the phone on May 10, 2019.

9 MS. SMITH: Commissioners, Ms. Zerwick was
10 reluctant to provide the Commission with any of the
11 documents and was also reluctant to speak with the
12 Commission. She retained an attorney and we worked with her
13 attorney to get those records.

14 She also agreed to an interview but only to
15 answer limited questions related to her notes about
16 Mr. Carmichael's interview. She is currently out of the
17 country.

18 Q. Was the call --

19 JUDGE LOCK: Excuse me. I believe
20 Mr. Glazier had a question.

21 MR. GLAZIER: I apologize. I'm just trying
22 to follow a little bit, actually, on Dr. Perry's question.

23 Regardless of, sort of, any consistencies in
24 some of the detail, what I'm trying to get a handle of -- it
25 seems to me the statements that Carmichael has made from the

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1 beginning through everything you have got is consistent
2 about him being present at the scene and having
3 essentially -- well, he talks about having conversations or
4 the issues with Johnson although a couple of statements
5 don't include any note about Johnson.

6 But I guess my question is am I right that
7 there is not -- maybe I should ask it differently.

8 Is there any statement he has made about what
9 happened that night that doesn't -- that indicates anything
10 different other than his presence at the scene?

11 **THE WITNESS:** No, there is not.

12 **MR. GLAZIER:** Thank you.

13 **MR. BRITT:** You mentioned earlier in the --
14 his assessment records that there is no mention of
15 Mr. Johnson.

16 Is there any mention of Mr. Drayton?

17 **THE WITNESS:** There is of Mr. Williams in the
18 official crime versions and anything that -- official that
19 indicates that they were both convicted of the same crime,
20 but there is nothing where Mr. Carmichael is speaking
21 directly about Mr. Williams.

22 Q. Was the call with Ms. Zerwick recorded and
23 transcribed?

24 A. It was.

25 Q. And what did she say in that call?

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1 A. Ms. Zerwick did not remember most of the details
2 of her interview with Mr. Carmichael but was able to clarify
3 what some of the notes said and also gave us her
4 interpretation of those notes based on her practices as a
5 journalist.

6 She explained to us that it was her practice that
7 if she learned an important fact related to a story that she
8 was investigating, she would report that fact in her story.

9 She agreed that she had never been told that
10 Merritt Williams knew Darren Johnson or that Merritt
11 Williams participated in the murder of Blanche Bryson.

12 Or -- I'm sorry.

13 She agreed that if she had ever been told that
14 Merritt Williams knew Darren Johnson or that Merritt
15 Williams participated in the murder of Blanche Bryson, that
16 she would have deemed that fact important and would have
17 reported it.

18 **MS. SMITH:** Commissioners, Handout 10 in your
19 hearing handout notebooks are the portions of Ms. Zerwick's
20 notes for which the Commission staff had questions.

21 If you will follow along, Ms. Matoian is
22 going to testify about the clarifications commission staff
23 received from Ms. Zerwick about her notes.

24 We have highlighted those in a green-blue
25 color there so that you can follow along.

Testimony of Catherine Matoian

1 Q. Ms. Matoian, if you would go through that, please.

2 A. Sure.

3 On page 1 of the handout, the first highlighted
4 portion that says "Merritt Drayton told him Darren was with
5 me," Ms. Zerwick did note that she did not report that
6 Robbin Carmichael told her Merritt Williams said Darren
7 Johnson had been with him. She stated she would have
8 reported that if Robbin Carmichael had told her that.

9 Her interpretation of this note is that Merritt
10 Williams approached Carmichael and indicated to Carmichael
11 that Carmichael was the person with Darren Johnson.

12 In the second highlighted portion, Ms. Zerwick
13 clarified that this note says that "he," meaning
14 Mr. Carmichael, "talked to Williams three times in prison."

15 The third highlighted portion on that first page,
16 Ms. Zerwick clarified that this note says "He never admitted
17 he was there with Darren Johnson." Zerwick interpreted this
18 to mean that Williams never admitted to being there with
19 Darren Johnson.

20 Q. And if you will turn to the second page of the
21 handout --

22 **MR. BOSWELL:** Before you get to that, can we
23 go over the first one again? You lost me.

24 **THE WITNESS:** Sure.

25 So the note says "Merritt Drayton told him

Testimony of Catherine Matoian

1 Darren was with me."

2 Ms. Zerwick noted that she did not report
3 that Robbin Carmichael told her that Merritt Williams said
4 Darren Johnson was with him, meaning Mr. Williams.

5 Ms. Zerwick stated she would have reported that if Robbin
6 Carmichael and told her that.

7 So her --

8 **MR. BRITT:** Just to clarify the first one.

9 **THE WITNESS:** Yeah.

10 **MR. BRITT:** Is it Merritt Drayton told her
11 Darren was with -- who is "him"?

12 **THE WITNESS:** "Merritt Drayton told him
13 Darren was with me."

14 So Ms. Zerwick interprets that to mean that
15 Merritt Williams approached Mr. Carmichael and indicated to
16 Mr. Carmichael that Mr. Carmichael was the person with
17 Darren Johnson. And she interprets it that way because she
18 did not report in her story that Robbin Carmichael told her
19 that Merritt Williams told Mr. Carmichael that he had been
20 with Mr. Johnson. She said if she'd been told that, she
21 would've reported that.

22 **MR. BRITT:** Thank you.

23 **MR. EDWARDS:** What's the next line under
24 that?

25 I see "Yeah, I'm the guy. Darren got off

Testimony of Catherine Matoian

1 scot-free."

2 Is that what it says?

3 **THE WITNESS:** I believe so, yes.

4 I believe, going on to the second page, the
5 highlighted portion towards the bottom, Ms. Zerwick
6 confirmed that this says "Drayton, did he ever deny? He had
7 to know Darren because when I told him, he knew him."

8 Ms. Zerwick interpreted this note to mean
9 that Mr. Carmichael assumed Williams and Johnson knew each
10 other because the first time Williams approached
11 Mr. Carmichael in prison, Mr. Williams said that Carmichael
12 had been with Johnson.

13 Mr. Carmichael seemed to think that Williams
14 and Johnson knew each other.

15 Ms. Zerwick confirmed that it was
16 Carmichael's opinion that Williams and Johnson had committed
17 the murder together. She did not include that in her
18 article because it was just his opinion and it was not her
19 habit to report opinions.

20 If he had provided any direct knowledge of
21 Merritt Williams' involvement, she would've included that in
22 her reporting.

23 **MS. SMITH:** Any questions about page 2?

24 (No response.)

25 Q. Okay. Ms. Matoian, if you will move on to page 3

Testimony of Catherine Matoian

1 of that handout.

2 A. Sure.

3 The highlighted portion towards the top -- the
4 notes say "He never would tell who the third person was."

5 When asked about this note, Ms. Zerwick speculated
6 that these notes were referring to the fact that Williams
7 had said in his confession that he was there with someone
8 else. She never reported anyone referring to a third
9 person. She did report Williams confessing to killing the
10 victim with someone else and Carmichael confessing to going
11 with Johnson in the victim's car to her house.

12 **DR. PERRY:** Would you repeat that, please.

13 **THE WITNESS:** Sure.

14 The notes say "He never would tell who the
15 third person was."

16 **DR. PERRY:** The rest of that.

17 **THE WITNESS:** Sure -- "i.e., Darren, Drayton,
18 and a third person."

19 Ms. Zerwick's speculation was that these
20 notes were referring to the fact that Williams had said in
21 his confession that he was at the crime scene with someone
22 else. She never reported anyone referring to a third
23 person. She did report Williams confessing to killing the
24 victim with someone else and Carmichael confessing to going
25 with Johnson in the victim's car to her house.

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1 Q. And the fourth page?

2 A. The fourth page, the notes say -- or Ms. Zerwick
3 interpreted these notes to say he "never told Bishop that he
4 saw Johnson standing over the body. He made accusations and
5 I said I don't know. I didn't go in there."

6 Based on the notes below, the part where he says
7 "I never went in there," Ms. Zerwick indicated she thought
8 this meant Bishop accused Carmichael of this during his
9 interrogation and that Mr. Carmichael told Detective Bishop
10 that he never went in the house.

11 Q. And page 5?

12 A. These notes say "Drayton, do you think he
13 committed this with Johnson?"

14 "Yeah, my honest opinion. Yeah."

15 And the second highlighted portion says "He must
16 have" --

17 Q. Does it say "must have been scared of him"?

18 A. "Must have been scared of him." Yes. I'm sorry.

19 Zerwick interpreted this portion to be
20 Carmichael's opinion that Williams committed this crime with
21 Johnson and thought that Williams didn't name Johnson
22 because he was scared.

23 And, again, she was not reporting -- she indicated
24 it would have not been her practice to report opinions.

25 **MS. SMITH:** Commissioners, do you have any

Testimony of Catherine Matoian

1 other questions about those notes?

2 **MR. BOSWELL:** Did you have -- did you have
3 her read all of these notes, not just the green highlighted
4 parts?

5 **THE WITNESS:** We did.

6 **MR. BOSWELL:** Okay.

7 **THE WITNESS:** And then we called her and
8 directed her to the specific portions that we were not able
9 to read.

10 **MR. BOSWELL:** Okay. And why were the ones --
11 why are they highlighted? Because you couldn't read them or
12 because they were particularly important?

13 **THE WITNESS:** We highlighted them because
14 they were important things that we wanted either
15 clarification on to either understand what the notes said or
16 what the notes meant. So we highlighted them so that you
17 were able to follow along when I was testifying about them
18 today.

19 **MR. BOSWELL:** Okay.

20 Q. What else did Ms. Zerwick say during the phone
21 call?

22 A. Ms. Zerwick said that she was only interested in
23 the Bryson case because of Williams' involvement in the
24 Wilson case. Her reporting was focused on Sammy Mitchell
25 and Darryl Hunt, and her interest in Merritt Williams

Testimony of Catherine Matoian

1 specifically was related to his credibility. She would have
2 reported if Carmichael had told her that Merritt Williams
3 was with him during the Blanche Bryson murder, and nowhere
4 in the notes is there an indication that Robbin Carmichael
5 had direct personal knowledge Mr. Williams' involvement in
6 the crime.

7 Q. What other interviews did the Commission become
8 aware of?

9 A. The Commission received additional documentation
10 and recordings from the Winston-Salem Police Department on
11 April 29, 2019, pursuant to a judicial subpoena.

12 We learned that the Winston-Salem Police
13 Department interviewed Robbin Carmichael at the police
14 department on March 20, 2019, which was the day after the
15 Commission's interview of Darren Johnson.

16 He gave a videotaped statement to the police
17 department, and in that statement, he provided a similar
18 version of events to what he has told the police department
19 and the Commission previously.

20 **MS. SMITH:** Your Honor, we do intend to play
21 the video of this interview for the commissioners.

22 **DR. PERRY:** That seems rather odd to me. Am
23 I missing something? So they interviewed him after you did?

24 **THE WITNESS:** Correct.

25 The day after the Commission interviewed

1 Darren Johnson, the police department picked up Robbin
2 Carmichael and interviewed him at the police again.

3 (Witness stands down, 12:12 p.m.)

4 **MS. SMITH:** If I may explain.

5 Pursuant to the Commission's governing
6 statute, if we receive evidence of another crime, we are
7 required to turn that over.

8 **DR. PERRY:** Oh, it's pursuant, then, to your
9 contact. I see.

10 **MS. SMITH:** And so when we received a
11 confession from Darren Johnson that we did not have before,
12 we provided that to the district attorney's office and, in
13 turn, they went out and interviewed Robbin Carmichael and
14 also Darren Johnson, which you'll hear about later.

15 So this is an interview with Robbin
16 Carmichael after the Commission got the confession of Darren
17 Johnson.

18 **DR. PERRY:** Was that just a telephonic
19 referral or was it a letter or --

20 **MS. SMITH:** I actually called the district
21 attorney and reported that to him over the phone. We also
22 had several e-mail communications about that as well.

23 Your Honor, we do intend to play that
24 interview for the commissioners. It is a video that is part
25 of an active investigation with the Winston-Salem Police

Judge's Ruling Regarding Video

1 Department.

2 As you are aware, 132-1.4, Records of
3 Criminal Investigations, are not public record. I think
4 you've heard from both of the DA's office and Winston-Salem
5 about that video. And I assume that you're prepared to make
6 a ruling as to whether or not that will become a public
7 record and whether or not the public will be able to stay
8 for the viewing.

9 **JUDGE LOCK:** I am.

10 I have considered their positions and it is
11 my opinion that in that this video is part of an ongoing
12 criminal investigation, it is not public. So we are going
13 to watch this video over our lunch break and I'm going to
14 exclude all bystanders from the room while we are watching
15 it. The only ones present will be us, the commissioners,
16 and the commission staff.

17 **MS. SMITH:** So, Your Honor, that video is
18 approximately an hour and 20 minutes plus. In that, there
19 is also another 10 minutes or so of him just sitting in a
20 room by himself that we can fast-forward through.

21 We will need a few minutes to go get our
22 lunch and come into the room. So perhaps about an hour and
23 40 minutes?

24 **JUDGE LOCK:** I think that would be prudent to
25 allow us time to eat and take a comfort break ourselves.

Judge's Ruling Regarding Video

1 **MS. SMITH:** Would you like to come back at
2 2:00 o'clock? That's about an hour and 45 minutes.

3 **JUDGE LOCK:** That sounds good.
4 Anything else before we recess?

5 (Discussion off the record.)

6 **JUDGE LOCK:** Anything else on the record?
7 We will stand in recess until 2:00 o'clock.

8 (Closed proceedings, 12:14 to 2:13 p.m.)

9 **JUDGE LOCK:** Let's come back to order,
10 please. If you would continue with your testimony.

11 I am going to have one suggestion. Later in
12 these proceedings when -- I'll call them "civilian
13 witnesses" testify -- and by that I mean witnesses other
14 than our attorneys or staff investigators -- that we refrain
15 from asking questions, if possible, until the examination
16 conducted by our attorneys is complete because they very
17 well may ask what is on our minds once a witness is through
18 testifying. All of us will have the opportunity to ask
19 questions and, indeed, follow up with questions of the
20 witness.

21 **MS. SMITH:** As a matter of housekeeping,
22 first, we are going to finish our testimony about Robbin
23 Carmichael and then we are going to take things a little bit
24 out of order than we had planned.

25 We had a request by a commissioner that we

Testimony of Beth Tanner

1 not call Robbin Carmichael yet. They would like to hear the
2 interviews with Darren Johnson first since Mr. Carmichael
3 has not been confronted on any differences that there may be
4 between those interviews and statements.

5 So we're going to do all of that. And then
6 we've got Mr. Carmichael here and he'll just be later this
7 afternoon when we finish those.

8 I have recalled Ms. Tanner to take care of
9 one of the matters I believe Mr. Glazier asked about the DPS
10 records in one of your handouts, Handout Number 9, related
11 to Robbin Carmichael's mental health and education summary.

12 Ms. Tanner has been able to pull some
13 information for us over the break, and I'm going to let her
14 tell us what she found.

15 (Witness Beth Tanner resumes the stand, 2:15 p.m.)

16 **MS. TANNER:** Handout 9 has two quotes from
17 records that were created and maintained by DPS.

18 What is now Handout 83, that is going to be
19 in notebook 3 of y'all's handout notebooks, are the two
20 records that are quoted. The quote date in Handout 9 is
21 5/9/95 and 9/17/93, respectively.

22 Those dates do not correspond to the dates of
23 the psychological assessments because those are the dates
24 that the MMPI was given. So the note that talks about the
25 MMPI, which is the Minnesota Multiphasic Personality

Testimony of Beth Tanner

1 Inventory, is this particular note.

2 The records do not have the actual scoring
3 from the 5/9/95 and 9/17/93 MMPIs. There are later ones
4 where the actual score sheet exists in the records. I'm not
5 particularly surprised that DPS didn't have '93 and '95
6 scoring, but they did not have them. Nonetheless, they were
7 assessed and used in these assessments provided here for
8 Mr. Carmichael.

9 Both the assessments done in '93 and '95 that
10 you have in Handout 83 were done for the purpose of
11 determining Mr. Carmichael's suitability for promotion to
12 minimum custody.

13 In my experience, that is not from '93 or
14 '95, it would not be atypical for that to just be like a
15 routine event that occurred to determine whether someone
16 could be promoted out of what was probably medium custody
17 into minimum custody. He was already there so it's not like
18 his initial assessments, but it would be like he was already
19 at prison and they were determining whether to move him to a
20 minimum custody facility. So he was given this assessment
21 to make that determination.

22 Q. Ms. Tanner, you said kind of based on your
23 experience.

24 Can you just briefly provide the commissioners why
25 you may have some background and experience related to DPS.

Testimony of Beth Tanner

1 A. I used to work as an attorney for the North
2 Carolina Department of Public Safety and I also represented
3 the Department at the Attorney General's office prior to
4 that, though not in the '90s.

5 **MS. SMITH:** Questions?

6 **MR. BRITT:** In Handout 83 --

7 **THE WITNESS:** Yes, sir.

8 **MR. BRITT:** -- beginning the last sentence on
9 the first page, "Detective said" -- is that a summary?

10 **THE WITNESS:** Yes.

11 **MR. BRITT:** Drayton's name gets inserted in
12 this paragraph as being Mr. Carmichael's crime partner?

13 Does that show up anywhere in the police
14 records?

15 **THE WITNESS:** So it does show up and I would
16 have to go back and double-check the police records that the
17 detective suggested this to Mr. Carmichael.

18 Is that what you're asking? I'm sorry. I
19 want to be clear about the question.

20 **MR. BRITT:** Is Carmichael -- so is Carmichael
21 giving them the history?

22 **THE WITNESS:** So from the paragraph -- and
23 I'm looking at what's marked Bates-stamp page 284 to the top
24 of 285; is that right?

25 **MR. BRITT:** Yes.

Testimony of Beth Tanner

1 **THE WITNESS:** Okay. Based on my review of
2 this, in Handout 30 of -- you have this handout -- there is
3 an official crime version. That document is there for you
4 guys. Though it is not the exact same, the facts are
5 relatively similar in this official crime version to what
6 you see here in this psychological assessment.

7 And though I could not testify as to the
8 practice in, like I said, the '90s, I would say that, in
9 creating an assessment like this, in my experience, they
10 would have access to the official crime version.

11 Q. Ms. Tanner, do you have any knowledge as to where
12 information for the official crime version comes from?

13 A. This particular official crime version, which,
14 like I said, is Handout 30, was obtained from the Forsyth
15 County Clerk's office. This is a report of Officer J. Leach
16 from WSPD and from a conversation with Detective Ken Bishop
17 of the Winston-Salem Police.

18 Q. Is it your understanding that that information
19 does not, though, directly come from the inmate themselves?

20 A. The official crime version does not directly come
21 from the -- I have no indication in the records here that
22 the official crime version came from the inmate themselves,
23 correct.

24 **JUDGE LOCK:** Mr. Glazier.

25 **MR. GLAZIER:** Thank you, Mr. Chairman.

Testimony of Beth Tanner

1 And I think Ms. Smith's question is sort of
2 where I was at, which is, as I'm reading this, I -- it looks
3 like to me that what Carmichael is talking about is what he
4 has been saying and referring in his mind to Darryl, but
5 that what's being inserted as to Drayton is coming because
6 the psychologist has only got the official crime version and
7 was substituting that in -- not coming from Carmichael
8 himself, but just putting two things together that may have
9 been two plus two that isn't equal to five but the
10 psychologist thought it was.

11 That's sort of how it looks to me.

12 Can you comment on that part?

13 **THE WITNESS:** We are not aware -- the
14 commission staff is not aware of anyplace where Robbin
15 Carmichael has said anything more about Mr. Drayton than we
16 have seen in his interviews with us or with police on the
17 video.

18 So we don't have a document where he said, "I
19 went into the house with Merritt Drayton."

20 **MR. GLAZIER:** So -- following up?

21 **JUDGE LOCK:** Yes.

22 **MR. GLAZIER:** So the follow-up is that when
23 they noted in a later paragraphs -- later part of the
24 paragraph to "Drayton," that is simply -- looks like the
25 psychologist taking that from the official crime version and

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1 making the leap, whether correct or incorrect, that he was
2 referring to Drayton; is that correct?

3 **THE WITNESS:** We did not talk to this
4 psychologist but I can say that the official crime version
5 has this same information in it.

6 **MR. GLAZIER:** Thank you.

7 **MR. BRITT:** With respect to -- and I don't
8 know if you want to call him Mr. Wilson [sic] or
9 Mr. Drayton -- do we have an official crime version from DPS
10 about his cases?

11 **THE WITNESS:** I'm sure that we do have an
12 official crime version for Mr. Williams. We can pull that
13 for you if we haven't already.

14 **MR. BRITT:** I just wondered if they are
15 similar, if they're identical, if Mr. Carmichael's name
16 appears in his.

17 **THE WITNESS:** Sure. We'll pull that for you
18 and double-check if it's not already in a handout -- it is
19 not, but we will get it.

20 **MR. BRITT:** Okay. Thank you.

21 **JUDGE LOCK:** No problem.

22 **MS. COLBERT:** So, Beth, did I hear you speak
23 correctly that this particular assessment -- that the prison
24 that he was already at, Randolph Correction Center, was
25 already a minimum custody?

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1 **THE WITNESS:** I don't know.

2 What I'm saying is that based on this
3 paragraph here, that they say the purpose of the meeting was
4 to determine the suitability for his promotion to minimum
5 custody, and I was noting that he was already an inmate.

6 So the comparison I was making was that this
7 wasn't his initial, like, entry into prison where they do a
8 bunch of assessments. This was he's already an adult inmate
9 at Randolph and they're deciding whether he can be promoted
10 to minimum custody.

11 **MS. COLBERT:** Thank you.

12 **MS. SMITH:** Are there any other questions?

13 Your Honor, Handout 83 is a mental health
14 record of Mr. Carmichael which are otherwise protected by
15 law and for which the Commission had to get a court order to
16 obtain. I would request that that document not be made
17 public record and be sealed.

18 **JUDGE LOCK:** All right. So ordered.

19 And that was Number 83?

20 **MS. SMITH:** Number 83.

21 **JUDGE LOCK:** Was that passed out to us?

22 **MS. SMITH:** It's in the back of your Notebook
23 Number 3, the very last handout.

24 I am going to have Ms. Tanner step down.
25 We're going to look for that official crime version related

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1 to Merritt Williams. And once we find that, we'll have
2 someone testify about that.

3 At this time I will recall Ms. Matoian.

4 (Witness stands down, 2:24 p.m.)

5 (Catherine Matoian resumes the stand, 2:24 p.m.)

6 **JUDGE LOCK:** The witness remains under oath.

7 BY MS. SMITH:

8 Q. Ms. Matoian, in the interview that we just watched
9 with Robbin Carmichael and the officers from the
10 Winston-Salem Police Department, Mr. Carmichael indicated
11 that Detective Bishop had told Mr. Carmichael that
12 Mr. Carmichael was the lieutenant, and Mr. Carmichael said,
13 "He thought that I was the mastermind."

14 Is the lieutenant mentioned anywhere else in the
15 law enforcement file?

16 A. Merritt Williams, in his second confession in the
17 Blanche Bryson case, changes from his original story that he
18 committed the crime with Sammy Mitchell, Terry Smith, and
19 someone named "Gadget," and then says he committed the crime
20 with someone who's named "Lieutenant," and that that person
21 worked for Terry Smith. He used the name Lieutenant but
22 didn't elaborate that that person was Terry Smith's
23 lieutenant. He just referred to him as "Lieutenant."

24 Mr. Williams first identified Lieutenant as being
25 a man named Lester Davis and later identified Lieutenant as

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1 someone named George Thompson, and we're going to have
2 testimony about both of those individuals coming up shortly.

3 Q. Did the Commission do anything to follow up after
4 the Winston-Salem Police Department's recent interview of
5 Mr. Carmichael?

6 A. We did.

7 In that interview, Mr. Carmichael said that he had
8 talked to Darren Johnson's brother in Dan River Correctional
9 and that the brother had told Mr. Carmichael that he knew
10 that Johnson had done him -- meaning Mr. Carmichael --
11 wrong.

12 The Commission knew from prison records we had
13 obtained that Mr. Johnson had a brother named James Johnson
14 who had been in prison, and we contacted him by phone on
15 5/18/2019.

16 Q. Was that call recorded and transcribed?

17 A. It was.

18 **MS. SMITH:** Commissioners, if you will refer
19 to Handout 11 in your notebooks, this is the criminal record
20 of James Johnson. If you would like to take a moment to
21 review that.

22 Q. What did James Johnson tell commission staff?

23 A. James Johnson said that he had been mostly raised
24 in Greensboro but did live in Winston-Salem for a few years
25 as a teen.

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1 He indicated that he and Darren Johnson had lived
2 very separate lives. James Johnson did not know who Merritt
3 Williams was or Robbin Carmichael. He had not ever heard of
4 the Blanche Bryson case. He wasn't aware of anyone in
5 prison that knew his brother. And he also indicated that he
6 had never gone up to anyone in prison and said that he
7 thought Darren Johnson had done them wrong.

8 We also reviewed the DPS movement records for
9 Mr. Johnson and Robbin Carmichael. Those indicated that
10 they were housed together at Randolph Correctional from
11 12/31/1992 to 8/16/1993 with no bed assignment overlap
12 during that time.

13 They were housed together again at Harnett
14 Correctional from 12/22/1998 to 3/9/2000. While they were
15 at Harnett, their bed assignments overlapped from
16 February 12, 1999, to February 17, 1999.

17 They were housed together again at Dan River
18 Correctional from October 14, 2005 to February 14, 2006,
19 with no bed assignment overlap during that time.

20 **MR. BOSWELL:** What does "bed assignment
21 overlap" mean?

22 **MS. COLBERT:** I was going to ask.

23 **THE WITNESS:** So in the DPS movement records,
24 they will have housing assignments where it indicates what
25 dorms they are in with letter designations. So when we

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1 reviewed those files, we looked for any time that those
2 letter destinations overlap.

3 **MR. BOSWELL:** Does that mean they share a
4 cell or does it mean --

5 **THE WITNESS:** I don't know that it means that
6 they share a cell. They may be in the same dorm depending
7 on how that particular facility works.

8 **MS. COLBERT:** So from what I'm hearing you
9 saying, that James Johnson and Mr. Carmichael, on three
10 occasions, were in the same facility together?

11 **THE WITNESS:** That's correct.

12 **MS. COLBERT:** But Mr. Johnson said he didn't
13 know Mr. Carmichael?

14 **THE WITNESS:** Correct.

15 Q. Ms. Matoian, did the Commission have
16 Mr. Carmichael's DNA compared to any of the unknown DNA
17 profiles developed through commission testing?

18 A. We did.

19 **MS. SMITH:** Commissioners, we have an expert
20 in DNA that will testify tomorrow as to those results, but
21 we do have -- I am going to have Ms. Matoian just provide a
22 very brief summary of the testing that was done with respect
23 to Mr. Carmichael.

24 A. Mr. Carmichael's DNA profile was included on a
25 profile from one of the velour bags containing a gold

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1 necklace that police collected from him in 1988.

2 He was also included on one of the cigarette butts
3 from the victim's car.

4 He was excluded from profiles from the overnight
5 bag found in the victim's car, the makeup bag from the
6 victim's home, the profile from the black glove from the
7 victim's home that was developed by Bode Cellmark Forensics
8 and the profile from the victim's fingernail scrapings.

9 **MS. SMITH:** Commissioners, do you have any
10 additional questions of Ms. Matoian related to Robbin
11 Carmichael?

12 **MR. BOSWELL:** I do.

13 On that last point you were making, were any
14 of the items where Carmichael had any DNA -- the only one he
15 had DNA was the one that was in his house?

16 Was any of his DNA found from something that
17 was collected from within her -- the victim's home?

18 **THE WITNESS:** The velour bags were collected
19 from him. Based on the information from him, those velour
20 bags came from the victim's home.

21 **MR. BOSWELL:** Right. But, I mean, they were
22 in his house?

23 **THE WITNESS:** Correct. Correct.

24 The only item we were able to test from the
25 victim's home specifically was the makeup bag, and he was

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1 excluded from that.

2 **MS. COLBERT:** But you said that -- I think I
3 heard you say that the cigarette butt -- his DNA was on the
4 cigarette butt that was inside Ms. Bryson's car?

5 **THE WITNESS:** Yes. Inside Ms. Bryson's car.
6 And also during the initial investigation,
7 police identified the fingerprint from the victim's
8 passenger -- yeah, the passenger door as belonging to Robbin
9 Carmichael as well.

10 **MR. GLAZIER:** I'm just trying to remember, I
11 thought -- I can't remember if it's in the written statement
12 that y'all took or the one we just saw that he was asked
13 whether he or Darryl ever smoked in the car, and I thought
14 he said neither did.

15 **THE WITNESS:** That's correct. I asked him
16 that during our deposition of him and he said that neither
17 of them smoked.

18 **MR. GLAZIER:** Thank you.

19 Q. Ms. Matoian, one additional follow-up.

20 In Mr. Johnson's interview with law enforcement
21 recently, he indicated that they found his fingerprints on
22 the door -- like the outside door of the victim's home.

23 A. Do you mean Mr. Carmichael?

24 Q. I do mean Mr. Carmichael's fingerprint on the
25 outside door of the victim's home.

1 Is that accurate?

2 A. No, it's not. It was the fingerprint from the
3 passenger side door of the victim's car. According to the
4 police file, there were no fingerprints obtained from the
5 door to the victim's home.

6 **MS. SMITH:** Commissioners, any other
7 questions of Ms. Matoian at this point?

8 (No response.)

9 **MS. SMITH:** If Ms. Matoian can step down, we
10 have got the answer to Mr. Britt's question regarding the
11 crime version.

12 (Witness stands down, 2:33 p.m.)

13 **MS. SMITH:** We are going to pass around the
14 official crime version from Merritt Williams' DPS records.
15 This will be Handout 84. You-all can insert this into your
16 third notebook when you have a chance.

17 Commissioners, if you'll take a moment to
18 review that and then Ms. Tanner can answer any questions.

19 I will point out that the second half of this
20 page is related to the murder of Blanche Bryson.

21 **MR. BOSWELL:** If I understood what was said
22 earlier, it sounded like there was supposed to be a
23 connection between what's in 83 and what's in 84. I don't
24 see anything in 84 that would lead to what was on the second
25 page of 83, talking about how the murder was committed.

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1 Did I misunderstand what was being said
2 earlier?

3 **THE WITNESS:** Yes. So 84 is the official
4 crime version for Mr. Williams from Mr. Williams' case file.

5 **MR. BOSWELL:** Okay.

6 **THE WITNESS:** The official crime version for
7 Mr. Carmichael is actually Handout 30.

8 **MR. BOSWELL:** Okay.

9 **THE WITNESS:** And the mental health records
10 that were reviewed were for Mr. Carmichael.

11 **JUDGE LOCK:** Sheriff Frye.

12 **SHERIFF FRYE:** A timeline question.

13 **THE WITNESS:** Yes.

14 **SHERIFF FRYE:** On the official crime version
15 versus what I read -- sorry, I can't remember exactly where
16 I read it in our notes. It says that Emma Davis Harper -- I
17 think it's Harper -- was a friend of the deceased -- to go
18 to a Christmas party.

19 Now, I read in our notes that they went to
20 the Christmas party with her and they were going to go back
21 to meet her to go to a wake and she didn't show up. And
22 then they come back and got her son to check on her.

23 So did she go to the Christmas party?

24 **THE WITNESS:** So she went to a planning
25 meeting for, like, a group that she was involved in for

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1 their Christmas party.

2 **SHERIFF FRYE:** Okay.

3 **THE WITNESS:** Then returned home and was
4 supposed to go, I think, to the funeral home.

5 **MR. GLAZIER:** Okay. So the official crime
6 version --

7 **THE WITNESS:** To a Christmas party at a
8 funeral home. Sorry. Is that right?

9 **MS. SMITH:** That's correct.

10 **MR. BOSWELL:** Unusual place for a Christmas
11 party but ...

12 **SHERIFF FRYE:** So the official crime version
13 narrative is slightly -- or maybe it's not, since the
14 Christmas party --

15 **THE WITNESS:** So it's --

16 **SHERIFF FRYE:** -- was at the funeral home.
17 I'm not sure.

18 **THE WITNESS:** So the Department of
19 Corrections' official crime version, the fact in the Blanche
20 Bryson murder paragraph that says that they were to meet
21 Ms. Bryson at her residence earlier in the evening to go to
22 a Christmas party, it is correct, I think, that they were to
23 meet and go together to this Christmas party that was, in
24 fact, at a funeral home.

25 That is correct; right? I'm not losing my

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1 mind?

2 Okay.

3 **SHERIFF FRYE:** They were going to a wake?

4 **MR. BOSWELL:** No, it was a party.

5 **SHERIFF FRYE:** Okay.

6 (Discussion off the record.)

7 **MS. SMITH:** Any other questions about that?

8 Then I will allow Ms. Tanner to step down and

9 I will recall Ms. Matoian.

10 (Witness stands down, 2:39 p.m.)

11 (Ms. Matoian resumes the stand, 2:39 p.m.)

12 BY MS. SMITH:

13 Q. Ms. Matoian, who is Darren Johnson?

14 A. Darren Johnson is the person Robbin Carmichael
15 named in his statements to the police and Commission as also
16 being involved in this crime.

17 **MS. SMITH:** Commissioners, if you will refer
18 to Handout 13 in your hearing handout notebooks, this is the
19 criminal record of Darren Johnson.

20 If you'll take just a moment to review that.

21 Q. Ms. Matoian, in Mr. Carmichael's interview and
22 deposition with the Commission and as well as in his prior
23 interviews and current interview with the Winston-Salem
24 Police Department, he refers to the person that he was with
25 on the night of the crime as Darryl Johnson.

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1 Can you provide any additional information about
2 that?

3 A. I can.

4 Going back to the recordings of police interviews
5 and through the Commission's contact with Mr. Carmichael and
6 the police department's recent contact with Mr. Carmichael,
7 he has consistently referred to Darren Johnson as "Darryl
8 Johnson."

9 To confirm with Mr. Carmichael that the Commission
10 was looking for the right person, you saw during the
11 deposition we asked him to look at several photographs of
12 Darren Johnson, and he identified the oldest photographs in
13 that photo set as the man he was referring to.

14 We also verified through prison records that the
15 Darren Johnson the Commission was looking for was at the
16 prison named in Detective Bishop's in 1988 report related to
17 the Darren Johnson interview while he was in prison.

18 To also say that during the Commission's interview
19 of Darren Johnson, he refers to Robbin Carmichael as "Robert
20 Carmichael." We showed him pictures of Mr. Carmichael as
21 well, and he identified the person he was speaking about in
22 his interview to the Commission as Robbin Carmichael.

23 Q. What did the Commission initially know about
24 Mr. Johnson?

25 A. The Commission did not know about Mr. Johnson

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1 until its first interview with Robbin Carmichael on
2 September 14, 2017.

3 Once we obtained additional records from the
4 police department, we became aware that they had interviewed
5 Mr. Johnson after Mr. Carmichael came forward in 1988.

6 Mr. Johnson denied involvement in the crime. The
7 report does not provide any additional details about that
8 particular interview, and there is no other documentation in
9 the WSPD file about any additional interviews of Mr. Johnson
10 or investigation into Mr. Johnson.

11 **MS. SMITH:** Commissioners, that report that
12 Ms. Matoian just referred can be found on page 1286 of your
13 brief.

14 Q. What did the Commission do with respect to
15 Mr. Johnson after its initial interview of Mr. Carmichael?

16 A. The Commission obtained a court order for
17 Mr. Johnson's DNA. When we attempted to locate Mr. Johnson,
18 we were informed that he had moved to South Carolina with
19 his sister.

20 Initially, we were unable to locate any addresses
21 for him other than a homeless shelter in Columbia, South
22 Carolina.

23 Q. So what else did the Commission do with respect to
24 Mr. Johnson's DNA?

25 A. Because of legal issues involved in getting the

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1 court order for Mr. Johnson's DNA enforced in South
2 Carolina, the Commission explored other options for finding
3 Mr. Johnson's DNA in North Carolina.

4 We confirmed that Mr. Johnson's DNA was in the
5 CODIS database and that the crime lab had a bloodstain for
6 Mr. Johnson. However, the crime lab expressed concerns
7 about their certification and MOU with the national CODIS
8 system if they were to turn over the sample for Commission
9 use.

10 The Commission submitted the unknown DNA profile
11 from the victim's fingernail scrapings to CODIS. The crime
12 lab issued a report indicating that the profile had been
13 uploaded to CODIS with no results.

14 **MS. SMITH:** Commissioners, there will be
15 additional testimony relating to the CODIS submission when
16 we get to that section on DNA testing.

17 Q. What other steps did the Commission take to obtain
18 a DNA standard for Mr. Johnson?

19 A. In the event that we were unable to get a DNA
20 standard for Mr. Johnson, we contacted Parabon NanoLabs to
21 discuss submitting the unknown profile from the fingernail
22 scrapings for testing using genetic genealogy. However,
23 this profile was ineligible because of the insufficient
24 amount of DNA present in the profile and also because it was
25 a 50-50 mixture and the Commission did not have an

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1 elimination standard for the victim to eliminate her portion
2 of the profile.

3 On June 19, 2018, the Commission sent a letter to
4 WSPD requesting they check their evidence room to see if
5 they had collected a DNA sample from Mr. Johnson in any of
6 their previous arrests of him.

7 District Attorney Jim O'Neill contacted the
8 Commission on June 26, 2018, requesting more information to
9 determine whether they still had a buccal swab for
10 Mr. Johnson.

11 The Commission provided the PISTOL contact sheets
12 that the police department had provided with Mr. Johnson's
13 Police Department records that showed all of his dates of
14 arrest.

15 As of August 2018, the Commission had been unable
16 to obtain an answer regarding whether or not the police
17 department was still in possession of a buccal swab or blood
18 standard for Mr. Johnson. The Commission sought and
19 obtained a court order to compel production of DNA evidence
20 related to Mr. Johnson and served it on the police
21 department.

22 On August 8, 2018, the Commission traveled to the
23 police department to pick up additional records in this
24 case. During that meeting, WSPD indicated that under the
25 current protocol a person's DNA standard would be listed

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1 under their own name but were not sure how long that
2 protocol had been in place.

3 So if a standard was in the system without listing
4 Mr. Johnson as the owner, the search that they had done
5 would not have turned up that buccal swab for Mr. Johnson.
6 They indicated they could not look through the evidence
7 inventory for each of Mr. Johnson's cases.

8 After further conversations with DA O'Neill and
9 Police Attorney Sykes, WSPD complied with the order and
10 filed a response indicating they had searched for the
11 standard without finding it.

12 Q. Was the Commission ever able to obtain a DNA
13 standard for Mr. Johnson?

14 A. We were.

15 He voluntarily provided his DNA standard to the
16 Commission during his interview with us on March 19, 2019.

17 Q. Where did that interview take place?

18 A. It took place at a library in Columbia, South
19 Carolina.

20 **MS. SMITH:** Commissioners, do you have any
21 questions about the Commission's efforts to obtain the DNA
22 standard for Mr. Johnson?

23 (No response.)

24 Q. Did the Commission obtain any records related to
25 Mr. Johnson?

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1 A. We did.

2 The Commission obtained all WSPD records related
3 to Mr. Johnson, including cases in which he was a witness or
4 a victim. At the police department's request, we obtained a
5 court order to obtain any police department records for when
6 Mr. Johnson was a juvenile.

7 Q. What did those records indicate?

8 A. The records indicated Mr. Johnson had been
9 suspected or charged in several larcenies going back to 1980
10 as well as burglaries, breaking and enterings, and assaults.

11 Q. Were Mr. Carmichael or Mr. Williams named in any
12 of those reports?

13 A. No, they were not.

14 Q. Was there anything of note in the reports?

15 A. There was a report from November 4, 1985, which is
16 about one month before the Blanche Bryson murder. That
17 report indicates that Mr. Johnson kicked in the door of a
18 home. He was by himself. The homeowner held Mr. Johnson at
19 gunpoint until the police arrived.

20 In his commission interview, Mr. Johnson did
21 recall breaking into a house and getting beat by the older
22 man inside of it before being arrested.

23 Q. Did the Commission obtain any additional records
24 for Darren Johnson?

25 A. We did.

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1 We obtained his DPS records, including combined
2 records, medical and mental health records, probation and
3 parole records, and disciplinary records.

4 **MS. SMITH:** Commissioners, commission staff
5 has prepared a handout related to Mr. Johnson's education
6 and mental health records from Department of Public Safety.
7 It is included as Handout 14 in your hearing notebooks.

8 Your Honor, this document contains
9 information from records that are protected by both federal
10 and state law related to the mental health and education of
11 Darren Johnson. This information was received from DPS via
12 court order, and I would request that it be sealed from the
13 public record.

14 **JUDGE LOCK:** All right. It is so ordered.
15 Commissioner Glazier.

16 **MR. GLAZIER:** Am I reading the -- I am
17 looking at Exhibit 13 as I was looking at 14. I'm just
18 trying to get a -- I recognize, I think, 13 is just
19 convictions, not charges.

20 **THE WITNESS:** Correct.

21 **MR. GLAZIER:** I wonder if there is any
22 evidence that in the period post -- 2004 and post -- well, I
23 see one in 2004. Let me correct my question.

24 Whether there is any evidence post 2004 that
25 this defendant was subsequently charged as an habitual and

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1 not convicted of being an habitual. Since he already had
2 one and he had all these charges, I'm just trying to figure
3 out how this guy is out in 2011 through 2017 and getting
4 more charges when he's a big an habitual as you can find --
5 just curious.

6 **THE WITNESS:** The chart only -- you are
7 correct that the chart only contains convictions. We still
8 have the additional documentation about any charges. So one
9 of our staff members is going to look into that.

10 **MR. GLAZIER:** Thank you very much.

11 **MS. SMITH:** Other questions related to that
12 handout?

13 **MR. EDWARDS:** Just a comment. I mean, it
14 looks like all of his convictions after 2004 were for
15 misdemeanors.

16 **MR. GLAZIER:** Yeah. I was just trying to see
17 if he had been charged with felonies that had been dropped.

18 **MR. EDWARDS:** Okay. Thanks.

19 Q. Ms. Matoian, in reviewing the DPS records, did
20 Mr. Johnson make any statements about this case in any of
21 the records?

22 A. No. He did not make any mention of the Bryson
23 case in these DPS records and he also did not mention
24 Mr. Carmichael or Mr. Williams.

25 Q. How did the Commission get in contact with Darren

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1 Johnson?

2 A. On March 13, 2019, the Commission served
3 Mr. Johnson's stepmother, Barbara Leak, with a subpoena for
4 a deposition in order to collect more information about
5 where Mr. Johnson was currently located as we had not had
6 any luck in locating him ourselves. In previous contacts
7 with the Commission, Mrs. Leak had not provided any current
8 contact information for Mr. Johnson.

9 On March 16, 2019, Mr. Johnson contacted the
10 Commission by phone and spoke to Mr. Ziegler. Prior to
11 Mr. Ziegler explaining what case the Commission was looking
12 into, Mr. Johnson stated that he recalled that police had
13 talked to him about a murder years ago pertaining to Robbin
14 Carmichael. He said he had been paranoid since then because
15 the police were framing people. He initially indicated he
16 would not speak to the Commission and that the Commission
17 would need a subpoena.

18 On March 18, 2019, Mr. Johnson left a message for
19 commission staff and Mr. Ziegler called him back.
20 Mr. Johnson indicated that he wanted to "cooperate fully"
21 with the Commission.

22 We told Mr. Johnson that due to his lack of
23 transportation, if he was willing to give a voluntary DNA
24 swab and be interviewed, we would come to him in South
25 Carolina.

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1 Mr. Johnson agreed to meet with the Commission at
2 the library near his apartment in Columbia.

3 Q. Did the Commission interview Darren Johnson?

4 A. We did, in person, at a library in Columbia, South
5 Carolina, March 19, 2019.

6 Q. And was that recorded and transcribed?

7 A. It was.

8 Q. During that interview, did Mr. Johnson also
9 provide a voluntary DNA sample?

10 A. He did. He provided that prior to the beginning
11 of the interview.

12 Q. What happened during that interview?

13 A. During the interview, Mr. Johnson initially denied
14 any involvement in the murder of Blanche Bryson but did
15 confess later on in the interview to killing Mrs. Bryson by
16 strangling her with his arm and then wrapping a cord around
17 her neck.

18 Mr. Johnson said he was by himself when he
19 strangled Mrs. Bryson and then took her car to get
20 Mr. Carmichael before returning to the home.

21 **MS. SMITH:** Commissioners, I am going to play
22 the audio recording of the full commission interview of
23 Mr. Johnson. That is just an audio recording, not a video
24 recording.

25 We have also provided a copy of the

Housekeeping

1 transcript of the interview as Handout 15 in your handout
2 notebooks if you would like to follow along as we listen to
3 that.

4 **JUDGE LOCK:** How long is this recording?

5 **MS. SMITH:** It's about an hour.

6 **JUDGE LOCK:** Anyone need a comfort break or
7 are we good to go?

8 (No response.)

9 (Witness stands down, 2:56 p.m.)

10 (Recording played, 2:57 to 4:00 p.m.)

11 **JUDGE LOCK:** Ms. Smith, I'd like to call on
12 Commissioner Glazier for a moment to identify what appears
13 to be a small but potentially significant error in the
14 transcript.

15 **MS. SMITH:** Yes, sir.

16 **MR. GLAZIER:** On page 56, line 5.

17 **MS. SMITH:** Yes, sir.

18 **MR. GLAZIER:** It says "MR. JOHNSON: Somebody
19 went in after I came out."

20 But it was pretty clear on the tape that he
21 said "Unless somebody came in after I came out."

22 The word "unless" seems to be missing.

23 **MS. SMITH:** We heard that as well. This
24 particular court reporter is not the court reporter in the
25 room or the one that we have on our staff, and so we will

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1 follow up with Gloria Veilleux and see if that is a
2 correction that she can make to the actual transcript and to
3 the transcript that we will provide as part of the public
4 record.

5 **MR. GLAZIER:** Thank you.

6 **JUDGE LOCK:** Do you have access to the
7 recording between now and Friday?

8 **MS. SMITH:** We will make sure that happens.
9 We will get on that today and I will update Your Honor as we
10 have to take a listen to that and see if that is a change
11 that she can make.

12 **JUDGE LOCK:** Would this be a good time for a
13 quick break?

14 **MS. SMITH:** Yes, maybe 10 minutes or so.

15 **JUDGE LOCK:** Thank you.

16 (Recess taken, 4:02 to 4:18 p.m.)

17 (Catherine Matoian resumes the stand.)

18 **JUDGE LOCK:** Let's go back on the record.

19 Anything to discuss before we hear from our
20 next witness?

21 (No response.)

22 BY MS. SMITH (4:18 p.m.)

23 Q. All right. Ms. Matoian, I want to circle back
24 real quick to a question that we had from Mr. Glazier prior
25 to our last audio.

Testimony of Catherine Matoian

1 Mr. Glazier had asked about the criminal record of
2 Darren Johnson and about his -- whether he had been
3 convicted of habitual felon in the later years and any other
4 felony charges since 2004.

5 Can you fill us in on that?

6 A. Yes.

7 We looked back in Mr. Johnson's -- I'm sorry --
8 yes -- Mr. Johnson's criminal record. From 2004 to 2011, he
9 was in prison. Post 2011, all of his charges have been
10 misdemeanors with the exception of one felony, which was
11 malicious conduct by a prisoner in 2013, but that was
12 dismissed by the DA so he was not convicted on that charge.

13 **MR. GLAZIER:** Thank you for checking.

14 **MS. SMITH:** Commissioners, do you have any
15 questions for Ms. Matoian about the interview that she and
16 Mr. Ziegler did of Darren Johnson?

17 (No response.)

18 Q. Ms. Matoian --

19 **MS. COLBERT:** Remind me again where the
20 interview was conducted.

21 **THE WITNESS:** It was conducted at a library
22 in Columbia, South Carolina.

23 Q. Did the Commission do anything after that
24 interview with Darren Johnson?

25 A. We did.

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1 Mr. Ziegler and I immediately notified the
2 Executive Director of Mr. Johnson's confession, and she
3 contacted DA Jim O'Neill that evening and told him about the
4 confession. This information was provided pursuant to the
5 Commission's Statute 15A-1468(d), which requires the
6 Commission to report any evidence of crimes or wrongdoing.

7 The next day, the Commission provided the
8 recording of the interview with Mr. Johnson and, at
9 Mr. O'Neill's request, the WSPD reports and recordings
10 related to Mr. Carmichael that the Commission had previously
11 collected from the police department.

12 Q. Did the Commission have any additional contact
13 with the district attorney's office related to this?

14 A. We did.

15 Ms. Smith spoke to Mr. O'Neill again on March 21,
16 2019, and he indicated that WSPD had interviewed Darren
17 Johnson and that he provided a consistent story to the one
18 he told the Commission.

19 Ms. Smith also informed Mr. O'Neill that she would
20 provide results of the comparison of Mr. Johnson's DNA to
21 the unidentified DNA profiles once she received them.

22 On March 22, 2019, Mr. O'Neill requested documents
23 related to Mr. Williams' interviews by WSPD and the trial
24 transcript, and the Commission provided those documents as
25 well.

Testimony of Catherine Matoian

1 Q. Did the Commission have Mr. Johnson's DNA profile
2 compared to the unknown DNA profiles that were developed in
3 the case?

4 A. We did.

5 Q. And what were the results?

6 A. Mr. Johnson was included on the profile from the
7 victim's fingernails scrapings. He was excluded from the
8 profiles from the velour bag containing a gold necklace.
9 This is the same profile that included Mr. Carmichael that I
10 mentioned earlier. The cigarette butt from the victim's
11 car -- again, that was another profile that included
12 Mr. Carmichael.

13 **MR. BOSWELL:** And Mr. Johnson was excluded?

14 **THE WITNESS:** He is excluded. Correct.

15 A. He was also excluded from the overnight bag from
16 the victim's car, the makeup bag from the victim's home, and
17 the profile developed by Bode Cellmark Forensics on the
18 blood from the victim's home.

19 **MS. SMITH:** Commissioners, again, we will
20 have the DNA expert here tomorrow morning to testify more in
21 depth about those results.

22 Q. Did the Commission have any additional contact
23 with the district attorney's office related to this?

24 A. We did.

25 On April 1, 2019, Ms. Smith provided verbal

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1 results of the DNA comparisons to Mr. O'Neill indicating
2 that Mr. Johnson was included on the mixture from the
3 victim's fingernails scrapings and the inclusion of
4 Mr. Carmichael on one of the cigarette butts from the
5 victim's car.

6 Mr. O'Neill at that time indicated he was going to
7 discuss these results with the police department and
8 determine if there was probable cause to arrest Mr. Johnson.

9 The Commission also provided the written report of
10 the DNA comparisons once it became available.

11 On April 24, 2019, Mr. O'Neill sent an e-mail to
12 Ms. Smith with several questions and the Commission
13 responded the next day.

14 The questions and responses are as follows:
15 Mr. O'Neill asked whether the Commission had consumed the
16 DNA sample from the victim's fingernails scrapings. We had
17 not consumed that sample.

18 The second question was whether the DNA sample
19 from the right-hand glove had been compared to Merritt
20 Williams. The answer to that was these results had been
21 provided in the statutorily required six-month confidential
22 case status update to the parties. Bode had been unable to
23 make any conclusions on that mixture. The Commission then
24 had this profile run through the STRmix system at a
25 different lab, and the software could not explain the

Testimony of Catherine Matoian

1 mixture using the profile of Mr. Williams.

2 **MR. BRITT:** Repeat that.

3 **THE WITNESS:** Sure.

4 There was a profile from the glove that had
5 been developed by Bode Cellmark Forensics, and that was a
6 mixture profile, and they indicated they were not able to
7 make any conclusions on that profile.

8 We then sent the glove to a separate lab, DNA
9 Labs International, and had them test the extracts from Bode
10 and run it through the STRmix system. And their report
11 indicated that the STRmix software could not explain the
12 mixture using the profile of Mr. Williams.

13 The DNA expert will be able to explain that a
14 lot better than I can tomorrow.

15 A. The third question asked by Mr. O'Neill was why
16 the names of other individuals had been blacked out on the
17 DNA report that the Commission provided to him.

18 The Commission responded that the written report
19 had been provided pursuant to our statutory duty under
20 1468(d) and because the other individuals were excluded from
21 the profiles, there was no statutory duty to report those
22 results and the Commission files were confidential.

23 However, that confidential six-month status update
24 provided by the Commission to the parties previous to this
25 did include a list of individuals the Commission had

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1 collected voluntary DNA samples from and indicated that the
2 Commission intended to have those profiles compared.

3 Q. Did the Commission do anything else with respect
4 to Mr. Johnson?

5 A. Although the Commission had subpoenaed Mr. Johnson
6 for a deposition in South Carolina for April 2nd, 2019, the
7 Commission canceled that deposition due to our awareness
8 that WSPD had been in contact with Mr. Johnson after our
9 interview.

10 Q. Ms. Matoian, has Darren Johnson been arrested for
11 the murder of Blanche Bryson?

12 A. Not to our knowledge. As of today, we checked the
13 CJLeads, DCIN, the Forsyth County jail roster, the Richland
14 County, South Carolina, jail roster, and VINELink for both
15 states, and to our knowledge, he has not been arrested.

16 **MS. SMITH:** Commissioners, do you-all have
17 any questions about this material?

18 **MR. GLAZIER:** You bet.

19 So let me just see if I've got this straight.

20 The man who may have committed the murder
21 confesses to the murder in some detail. He repeats the
22 confession to the Winston-Salem Police Department in
23 substantially the same form.

24 The victim has fingernail scratch -- has skin
25 under her fingernails from the assault that killed her. The

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1 alleged perpetrator has scratch marks that he admits to.
2 The DNA includes him as a very possible and likely source of
3 that scratch-marked skin under her fingernails.

4 The codefendant who went to jail for the
5 murder implicates this defendant, and this man is still
6 walking around months later and not under arrest.

7 Is that an accurate summary?

8 **THE WITNESS:** To our knowledge, Mr. Johnson
9 has not been arrested and charged with this crime.

10 **JUDGE LOCK:** Mr. Edwards.

11 **MR. EDWARDS:** My question is when you went to
12 Columbia to talk to Mr. Johnson, you served him with a
13 subpoena for the deposition; is that correct?

14 **THE WITNESS:** Correct.

15 **MR. EDWARDS:** Which would have been
16 audiotaped and videotaped just like the deposition that you
17 did for Mr. Carmichael; correct?

18 **THE WITNESS:** Correct.

19 **MR. EDWARDS:** So if you intended to take his
20 deposition, then why did you question him on that particular
21 day?

22 **THE WITNESS:** On that particular day, we had
23 not talked to Mr. Johnson to that point. And at that point,
24 we only had that short report from the Winston-Salem Police
25 Department file where he had denied any knowledge.

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1 So our -- what we were trying to do that day
2 was just talk to Mr. Johnson and find out a little bit more
3 information about what he knew about the case.

4 The reason for subpoenaing him for a
5 deposition is because he was out of state, and knowing that
6 this case might come to a hearing at some point and that
7 there may be difficulties in getting an out-of-state
8 witness, the deposition was to be able to get him under oath
9 to whatever he had told us in the initial interview in case
10 we were not able to secure his attendance at a commission
11 hearing.

12 **MR. EDWARDS:** Okay. So the statement that he
13 gave you that we've just listened to, that was not under
14 oath?

15 **THE WITNESS:** That's correct.

16 **JUDGE LOCK:** Has an arrest warrant been
17 issued for Mr. Darren Johnson or has the district attorney
18 sought an indictment, if you know?

19 **THE WITNESS:** We are not aware of either of
20 those things.

21 **MS. COLBERT:** So -- excuse my ignorance
22 around this process.

23 So you think -- the Commission quashed the
24 subpoena because he had talked to law enforcement?

25 **THE WITNESS:** Right. We released him from

Testimony of Catherine Matoian

1 his subpoena after we were made aware that the Winston-Salem
2 Police Department had been interviewing him and was
3 conducting their own investigation.

4 Because he had confessed to the Commission
5 during our interview of him, we decided not to go ahead with
6 deposition because the police department was conducting
7 their own investigation.

8 **MS. SMITH:** And just to clarify, that is a
9 decision that came from Beth and I. Our staff didn't have
10 to make that decision.

11 We made that decision based on a number of
12 factors, including the open investigation with Winston-Salem
13 Police Department, the cost of doing an out-of-state
14 deposition, and the likelihood that, given that Mr. Johnson
15 was potentially going to be arrested, that he would invoke
16 some kind of Fifth Amendment right. So ...

17 Any other questions?

18 **MS. COLBERT:** Was the Winston-Salem Police
19 Department notified that you had decided not to do the
20 subpoena or --

21 **THE WITNESS:** I don't believe so, no.

22 **DR. PERRY:** May I, Mr. Chairman?

23 **JUDGE LOCK:** Yes, sir.

24 **DR. PERRY:** So in the case of your interview
25 of Carmichael, WSPD interviewed him the next day?

Testimony of Catherine Matoian

1 **THE WITNESS:** The day after we interviewed
2 Mr. Johnson. Correct.

3 **DR. PERRY:** Right. No, Mr. Carmichael.

4 **THE WITNESS:** Right. Mr. Carmichael was
5 interviewed by the Police Department the day after
6 Mr. Johnson.

7 **DR. PERRY:** The day after yours.
8 How many days later for Johnson?

9 **THE WITNESS:** He was the very next day. We
10 interviewed Mr. Johnson on 3/19. They interviewed
11 Mr. Carmichael on 3/20. And then they interviewed
12 Mr. Johnson on 3/21.

13 **DR. PERRY:** So they followed up.

14 **JUDGE LOCK:** Immediately.

15 **DR. PERRY:** Same length of time for both.
16 Thank you.

17 **MS. SMITH:** Any other questions about that?

18 (No response.)

19 Q. Ms. Matoian, has the Commission become aware of
20 any additional interviews of Darren Johnson throughout our
21 investigation?

22 A. We have been made aware of attempts for additional
23 interviews.

24 Phoebe Zerwick indicates in her article that
25 Mr. Johnson declined to speak to her during the time that

1 she was reporting on this case. The index for documents at
2 the Wake Forest University library from Phoebe Zerwick
3 included a sealed letter from Zerwick to Johnson. The
4 envelope notes that Zerwick had opened that envelope herself
5 on 4/22/2019, but it had been sealed up until that point.

6 Q. And were there any other interviews of
7 Mr. Johnson?

8 A. There were.

9 The Commission also obtained reports and a video
10 recording of WSPD's interview of Darren Johnson from
11 3/21/2019.

12 Q. Did the Commission review that recording and those
13 reports?

14 A. We did.

15 In that interview, Mr. Johnson gave WSPD a similar
16 statement to the one he had made to the Commission. He
17 again maintained that he had killed Ms. Bryson by himself
18 before taking her car to go get Mr. Carmichael. And he
19 again indicated he did not know Merritt Williams.

20 He also stated that he thought Robbin Carmichael
21 was not admitting to going into the victim's house because
22 he didn't want anyone to know that he went in there.

23 **MS. SMITH:** Your Honor, we intend to play
24 that video of the interview in full.

25 That video is part of the active

1 investigation of the Winston-Salem Police Department and I
2 would just ask that you seal that from the public record
3 and, as you did before, make a ruling that the public should
4 not be present for the playing of video.

5 I think both Winston-Salem Police Department
6 and the district attorney's office weighed in on that with
7 you as well.

8 **JUDGE LOCK:** When do you propose to do that?
9 Now?

10 **MS. SMITH:** Now.

11 **JUDGE LOCK:** And how long is that one?

12 **MS. SMITH:** That one is an hour and five
13 minutes.

14 **MR. BOSWELL:** Mr. Chairman, can I ask a
15 question?

16 **JUDGE LOCK:** Yes, sir.

17 **MR. BOSWELL:** Do we need to see that, having
18 just heard the other and heard the report of it?

19 **JUDGE LOCK:** I think it's important to see
20 it, speaking for myself, yes.

21 Scheduling issue, though, you'd mentioned
22 that we were going to hear from Mr. Carmichael this
23 afternoon?

24 **MS. SMITH:** Yes. We had planned to go until
25 6:15 or 6:30 today. So if we hear this until 5:35, we can

1 take him right after that.

2 **JUDGE LOCK:** It depends on how long he would
3 testify, I suppose.

4 **MS. SMITH:** I suppose.

5 I scheduled about an hour but -- based on
6 past interviews.

7 **SHERIFF FRYE:** Should we go ahead and do him
8 and then and do --

9 **MR. BRITT:** I would suggest, as a courtesy to
10 Mr. Carmichael -- I assume he has come here from
11 Winston-Salem on his own.

12 **MS. SMITH:** He has.

13 **MR. BRITT:** I know as much as I hate to drive
14 around this time -- this hour of the day, but I mean, he has
15 been here all afternoon.

16 **MS. SMITH:** He has been here since noon.

17 **MR. BRITT:** Well, I would think as a matter
18 of courtesy we would go ahead and take him.

19 **JUDGE LOCK:** I would concur.

20 I think -- do you see any reason not to
21 proceed in that fashion, Ms. Smith?

22 **MS. SMITH:** I don't.

23 I think Sheriff Frye had asked that we at
24 least hear one of the audios in case there were differences
25 in the statements. I don't think that you will hear very

1 much different between what he said on our audio and what is
2 said in the Winston-Salem Police Department video with
3 respect to the differences between his and Carmichael's
4 stories. So I think that that would be fine.

5 **MR. BRITT:** I have a question.

6 **JUDGE LOCK:** Yes, sir, Mr. Johnson.

7 **MR. BRITT:** In light of Darren Johnson's
8 statements to both the Commission and to the Winston-Salem
9 Police Department, has there been a follow-up by either the
10 Commission or the Winston-Salem Police Department with
11 Mr. Carmichael?

12 **MS. SMITH:** There has not. I have a limited
13 number of questions for him based on some things that we
14 learned after our interview with him, and then I do know
15 that Sheriff Frye was hoping for the opportunity to confront
16 him on some of the differences between the statements.

17 **MR. BRITT:** Well, I mean, the next comment I
18 have to make -- it's not really a question but a comment.

19 Is it prudent for us to inform Mr. Carmichael
20 that Mr. Johnson has confessed when we have three statements
21 from Mr. Carmichael that are all fairly consistent from him,
22 and there is ongoing investigation?

23 **MS. SMITH:** I think that's up to Judge Lock.

24 **JUDGE LOCK:** I would suggest -- though I
25 don't know that I have the authority to prohibit any

1 commissioner from asking any question, I would suggest that
2 it would be prudent not to inform Mr. Carmichael of the
3 contents of Mr. Johnson's statements. And this is, after
4 all, still an ongoing police investigation and Mr. Johnson
5 is an uncharged suspect.

6 What do our law enforcement officer members
7 have to say about that?

8 **DR. PERRY:** I agree.

9 **SHERIFF FRYE:** I don't have a problem.

10 **MS. SMITH:** It's also up to you-all as to
11 whether or not you want to hear from Robbin Carmichael. I
12 had a couple of questions but I'm not certain that any of
13 those are questions that have to be answered.

14 We just had a couple of things that came up
15 after we spoke with him that, had we known before speaking
16 with him, we would've asked him about.

17 **JUDGE LOCK:** I do think one advantage to
18 hearing from him is that it affords all of us the
19 opportunity to assess his credibility. So while his
20 testimony might not take long, it might be beneficial to
21 hear from him.

22 **SHERIFF FRYE:** Again, timeline question for
23 me that goes back to Mr. Britt's question.

24 Mr. Carmichael, when he was interviewed by
25 the Winston-Salem Police Department on the interview that we

Testimony of Catherine Matoian

1 watched, that was after we notified them about the
2 confession of Darryl Johnson; correct?

3 **MS. SMITH:** Darren Johnson. Yes.

4 **SHERIFF FRYE:** Okay.

5 **MS. SMITH:** Ms. Matoian --

6 **SHERIFF FRYE:** So there was a subsequent
7 interview after?

8 **MR. BRITT:** But he doesn't know about Darren
9 Johnson's --

10 **SHERIFF FRYE:** Correct.

11 **MS. SMITH:** He doesn't know, but I believe
12 that the reports from WSPD indicate that they all -- the
13 officers listened, watched our deposition of Darren Johnson,
14 and then the following day went and interviewed Robbin
15 Carmichael.

16 So the officers had watched.

17 **THE WITNESS:** It was earlier in the day of
18 the Robbin -- of March 20 because we did not send the
19 recording -- we interviewed him on March 19. We sent the
20 recording on March 20. Some of the continuing discovery
21 provided by the police department indicated that the
22 detectives had gotten together and listened to that
23 interview and also reviewed some reports and then Carmichael
24 was interviewed later that afternoon.

25 **MR. GLAZIER:** I want to go back to the

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1 judge's point, if I could, and just try to figure out where
2 we're headed.

3 It sounds like we don't have any knowledge
4 that Carmichael knows Johnson confessed.

5 Is that accurate?

6 **THE WITNESS:** As of that interview that we
7 all watched, he was not aware that Mr. Johnson confessed in
8 that interview. I don't have any reports from that
9 continuing discovery indicating that the police department
10 informed him after that interview or have had any subsequent
11 contact with Mr. Carmichael. We just don't know if he was
12 told afterwards.

13 **MR. GLAZIER:** I mean, I think it's -- I agree
14 with the judge that it's worth hearing from him a little bit
15 as to credibility, but limited to a pretty narrow scope that
16 I think you want to ask him questions about. But I don't
17 see anything to be gained by confronting him or having him
18 have knowledge that Johnson confessed.

19 **MR. BOSWELL:** Because the only issue we're
20 concerned about right now for this is whether Mr. Merritt
21 Williams was involved; right?

22 **MR. GLAZIER:** Right.

23 **JUDGE LOCK:** (Moves head up and down.)

24 Why don't we bring him in.

25 **MS. SMITH:** Okay.

Testimony of Robbin Carmichael

1 * * * * *

2 Thereupon, ROBBIN CARMICHAEL, a witness having been called
3 by the Commission, was sworn and testified as follows:

4 EXAMINATION

5 BY MS. SMITH: (4:41 p.m.)

6 Q. Good afternoon, Mr. Carmichael.

7 A. How you doing?

8 Q. Good. I am Lindsey Guice Smith. I'm the
9 Executive Director of the North Carolina Innocence Inquiry
10 Commission.

11 I have just a couple of questions for you today
12 and then after I'm done with my questions, the commissioners
13 sitting around the table here may also have questions for
14 you.

15 Okay?

16 A. (Moves head up and down.)

17 Q. Can you tell the commissioners your full name,
18 please.

19 A. Robbin Leon Carmichael.

20 Q. Tell us what you remember happened on the day that
21 Blanche Bryson was murdered.

22 A. Darren Johnson, he picked me up. It was about
23 7:00, 8:00 o'clock. He -- he had -- something was wrong
24 with his mouth like he had been hit in the mouth, and I gave
25 him a face rag so he could dry the blood up.

Testimony of Robbin Carmichael

1 And I asked him what was wrong. And he said his
2 girlfriend and a guy had jumped on him. And then he said,
3 "I need to go over there and get my stuff."

4 So I helped him. But as we was going out of the
5 house, he had a car out there. And I asked him whose car
6 that was. He never did answer. So we in turn went to
7 Ms. Bryson's house. And he actually -- he went into a dark
8 house. The lights wasn't on.

9 I just -- I had a bad feeling. And I waited about
10 five minutes and then I went and knocked on the door. I
11 actually put my hand on the outside of the door to look in.
12 There was no lights on in the living room.

13 And after about 10 minutes after I knocked, he
14 come out. He was sweating. He jumped in the car. I had
15 actually walked away. And he -- he got in the car, backed
16 it up, flooded it -- couldn't flood it. And from this day
17 forward -- I know now the car that was across the street was
18 actually her son -- I didn't know that at the time. He
19 pulled up and Darren finally got the car cranked and turned
20 on 27th Street. And he seen me and picked me up. And I
21 asked him, "What's going on?" He never did tell me.

22 So he ran a red light and he turned off of 27th,
23 down Patterson, went down across 25th. Then he turned on --
24 I think it was 14 Street, and he actually -- the car --
25 ended up parking the car behind -- I think it's the

Testimony of Robbin Carmichael

1 Sealtest -- behind Blum Park, the Sealtest storage unit.

2 He actually got out the car and started wiping the
3 car down. And I kept asking him. He said, "Don't worry
4 about it." So I let it go for a little while and then asked
5 him again. And he said, "You know what? If you don't leave
6 this alone, I'm going to kill you."

7 So, you know, I backed up. I called him -- a
8 so-called friend would never say that to another friend.
9 So, you know, I was leery of him that day.

10 But end up, he said he wanted to go get some
11 cocaine. We got some cocaine -- I went and got some cocaine
12 for him, we used that up, and went and got some more.

13 So he -- and the third time I went and got some
14 cocaine, he wasn't in the room. He was in the bathroom.
15 And he was actually in there shooting up. I didn't know he
16 was ever shooting up. But he just -- it was just something
17 that I found out a lot of things about him I didn't know.

18 But by him taking me to that house, he implicated
19 me in it. And by me, in turn, telling the police to try to
20 clear my name, they used the *Miranda* law against me.

21 So I thought it was done.

22 But Darren, he was -- you know, he said -- he told
23 the police I did it. But in turn, I met Merritt Drayton at
24 Central Prison, and I was in processing and he was -- I
25 forgot what they call it, but he was passed throughout

Testimony of Robbin Carmichael

1 processing. I was in processing. I was just -- federal and
2 state.

3 And he finally sent word about somebody to talk to
4 me, and he told me, he said, "You know, I didn't know that
5 was you." He thought -- he actually thought I was Darren.

6 But I explained to him about everything that
7 happened, and he knew that was Darren. He knew.

8 But you -- I never did see him anymore. So I
9 don't know what happened to him now, you know.

10 But like I said, I don't -- I don't know about
11 Merritt Drayton.

12 Q. Mr. Carmichael, did you ever call in a
13 CrimeStoppers tip related to the Blanche Bryson homicide?

14 A. No. I actually -- I actually -- I seen it on TV
15 and I said that it looked familiar, and I think it was
16 like -- it dawned on me after I had seen it, I said, "I seen
17 that house before." And I realized that's the house that
18 Darryl had took me -- to Darren Johnson.

19 And I actually told the police about it, and they
20 in turn used everything I said to them against me. K.W.
21 Bishop say, "You know, you know too much." So, you know,
22 once I had told him, I had already -- I was done.

23 So I ended up pleading guilty to it and, you know,
24 went off and did my time.

25 But this is just -- I don't know. But ...

Testimony of Robbin Carmichael

1 Q. I am going to hand you a CrimeStoppers tip. I
2 just want you to take a look at it.

3 After you take a look at it, let me know if you
4 called that in.

5 MS. SMITH: Commissioners, this is on page
6 1282 of your brief.

7 A. I don't remember calling it in.

8 Q. Okay.

9 A. But I do remember telling the detectives about it.

10 Q. Do you know of anyone else who knew about this
11 crime other than you and Mr. Johnson?

12 A. Merritt Drayton was -- he was charged with it. He
13 was charged with it first, and then I was charged with
14 second. And the detective, K.W. Bishop, said it was a
15 closed case because -- they actually said I was the
16 lieutenant. I knew too much. So it was a closed case.

17 Q. All right. I'm also going to hand you a
18 hand-drawn map, and I just want to know if this is your
19 handwriting or if you recognize that.

20 MS. SMITH: Commissioners, this is Handout 12
21 in your hearing handout notebooks.

22 A. Yes. I recognize it.

23 Q. Did you draw that map?

24 A. I think I did.

25 Q. Is that your handwriting on the map?

Testimony of Robbin Carmichael

1 A. I would say yeah.

2 Q. Do you remember when you drew that map?

3 A. This was in the process of when I was saying
4 something to the detectives. 1988.

5 Q. Do you recall what the map is showing?

6 A. I was trying to describe to them about the way
7 Darryl left and -- from Bryson's house. And it was showing
8 where he parked the car.

9 MS. SMITH: Commissioners, this was an
10 undated, unsigned map that we located in a law enforcement
11 file. We were just trying to get clarification on where it
12 might have come from.

13 Q. Mr. Carmichael, do you recall being interviewed by
14 the Winston-Salem Police Department a couple of months ago?

15 A. Yes.

16 Q. And you told them that you thought that Merritt
17 Williams Drayton must have been with Darren Johnson at
18 Blanche Bryson's home earlier the evening of her death.

19 Do you recall that?

20 A. Yeah. I said something like that.

21 Q. Do you have any direct knowledge that Merritt
22 Williams was there?

23 A. No. Not -- not direct. But Darryl never -- he
24 never did identify the person, but he did tell me it was
25 somebody with him.

Testimony of Robbin Carmichael

1 I would say I jumped the gun and I was assuming
2 before. But he had been tried before I was. I assumed that
3 was -- him and Darryl was together.

4 Q. Did he ever specifically tell you that Merritt
5 Williams was with him?

6 A. No. No.

7 Q. And you said that Merritt Williams came up to you
8 while you were in prison --

9 A. Yes.

10 Q. -- and talked to you?

11 A. I was in K dorm processing, and he was in O dorm
12 upstairs, and he sent word by somebody to find me, and I
13 talked to him the first time. The first thing he said, "I
14 didn't know that was you."

15 What gave me the impression was he thought I was
16 Darryl, you know. I'm not sure, but that's the impression I
17 got.

18 Q. So that was your impression?

19 A. Yes.

20 Q. He didn't ever tell you that he was with Darren
21 Johnson?

22 A. No.

23 Q. Did Merritt Williams ever tell you that he
24 committed the crime?

25 A. No.

Testimony of Robbin Carmichael

1 Q. And do you have any direct knowledge as to whether
2 or not Merritt Williams and Darren Johnson knew each other
3 at the time of the crime?

4 A. No.

5 MS. SMITH: Commissioners, do you have
6 questions for Mr. Carmichael?

7 JUDGE LOCK: I'm just going to go around the
8 table, if that's all right.

9 Commissioner Colbert, do you have any
10 questions?

11 MS. COLBERT: No, sir, I do not.

12 JUDGE LOCK: Mr. Boswell?

13 MR. BOSWELL: No, sir.

14 JUDGE LOCK: Dr. Perry?

15 DR. PERRY: I do not.

16 JUDGE LOCK: Commissioner Frye?

17 SHERIFF FRYE: Not at the moment.

18 JUDGE LOCK: Commissioner Glazier?

19 MR. GLAZIER: I do not.

20 JUDGE LOCK: Mr. Britt?

21 MR. BRITT: Mr. Carmichael, my name is
22 Johnson Britt. I have a few questions.

23 Were you born and raised in Winston-Salem?

24 THE WITNESS: Yes.

25 MR. BRITT: What area?

Testimony of Robbin Carmichael

1 **THE WITNESS:** Winston-Salem, North Carolina.

2 **MR. BRITT:** What area of town?

3 **THE WITNESS:** It's right off of Patterson
4 Avenue.

5 **MR. BRITT:** Near 52?

6 **THE WITNESS:** No. It's closer to the
7 coliseum.

8 **MR. BRITT:** Okay. How long had you known
9 Mr. Johnson?

10 **THE WITNESS:** I would say about anywhere from
11 10 to 14 years.

12 **MR. BRITT:** Okay. Are y'all roughly the same
13 age?

14 **THE WITNESS:** No. I was little bit older
15 than he was.

16 **MR. BRITT:** And you did not know Merritt
17 Williams?

18 **THE WITNESS:** No.

19 **MR. BRITT:** Not until you met him in prison?

20 **THE WITNESS:** In prison, yeah.

21 **MR. BRITT:** Did you ever run around with
22 Sammy Mitchell?

23 **THE WITNESS:** No.

24 **MR. BRITT:** Darryl Hunt?

25 **THE WITNESS:** No.

Testimony of Robbin Carmichael

1 **MR. BRITT:** Did you know of those
2 individuals?

3 **THE WITNESS:** I knew -- Darryl Hunt -- I
4 never did meet Sammy Mitchell, but I met Darryl Hunt in
5 prison.

6 **MR. BRITT:** Do you know whether or not
7 Mr. Johnson knew Sammy Mitchell or Darryl Hunt?

8 **THE WITNESS:** I don't know.

9 **MR. BRITT:** And so on the night that
10 Ms. Bryson was killed, it's your testimony that Mr. Johnson
11 came and found you at your house?

12 **THE WITNESS:** Yes.

13 **MR. BRITT:** And that he asked you to go with
14 him because he'd had a run-in with his girlfriend and
15 another boyfriend?

16 **THE WITNESS:** Yeah.

17 **MR. BRITT:** And you agreed to go assist him
18 in whatever he was going to do?

19 **THE WITNESS:** Uh-huh.

20 **MR. BRITT:** And you went to a house that you
21 were not familiar with?

22 **THE WITNESS:** Yes.

23 **MR. BRITT:** Did you know what girlfriend he
24 was talking about when you left with him?

25 **THE WITNESS:** No. No.

Testimony of Robbin Carmichael

1 **MR. BRITT:** Did you know where that person
2 might live?

3 **THE WITNESS:** No.

4 **MR. BRITT:** And when you got to that house,
5 you said it was dark?

6 **THE WITNESS:** Yes, it was.

7 **MR. BRITT:** Was that an indication to you
8 that no one was there?

9 **THE WITNESS:** No. It's kind of unusual in
10 any neighborhood for a house to be totally dark. But the
11 way Darren Johnson -- when he got out of the car, he went
12 straight in. So that gives me an indication that he had to
13 know somebody in there or be familiar with the house by it
14 being dark.

15 **MR. BRITT:** So he didn't pause to knock on
16 the door or call out to anyone --

17 **THE WITNESS:** No.

18 **MR. BRITT:** -- he just walked right in?

19 **THE WITNESS:** He walked right in.

20 **MR. BRITT:** And how long would you estimate
21 that he had been in there before you got out of the car?

22 **THE WITNESS:** I think I was in the car like 5
23 or 10 minutes, and I got out of the car and I went knocking
24 on the door -- and I actually put my hands to look in. And
25 about -- I would say about 10, 15 minutes later, he came

Testimony of Robbin Carmichael

1 out.

2 **MR. BRITT:** Still no lights on the house?

3 **THE WITNESS:** No.

4 **MR. BRITT:** And when you looked in, what, if
5 anything, could you see?

6 **THE WITNESS:** Nothing.

7 **MR. BRITT:** What could you hear?

8 **THE WITNESS:** It was totally dark.

9 **MR. BRITT:** Could you hear anything?

10 **THE WITNESS:** No.

11 **MR. BRITT:** Were you able to see where
12 Mr. Johnson was in the house?

13 **THE WITNESS:** No.

14 **MR. BRITT:** And you went back and got in the
15 car?

16 **THE WITNESS:** No. No. I actually -- I felt
17 something wasn't really right so I started walking from
18 the -- I started walking to 27th Street and I started
19 walking toward Patterson.

20 **MR. BRITT:** Okay. And Mr. Johnson came by or
21 picked you up?

22 **THE WITNESS:** Yeah. He come out of the house
23 before I actually turned the corner, he got in the car and
24 flooded the car when he backed up. Like I was saying, it
25 was a car across the street that pulled up. At the time, I

Testimony of Robbin Carmichael

1 didn't know who it was, but later on I found out it was her
2 son.

3 And Darren got the car cranked, he turned
4 around on 27th, he seen me, picked me up. We went from
5 there to Patterson, the corner of Patterson, and he made a
6 right. He ran the light -- he ran about three lights. And
7 I knew -- because I told him, I said, "Stop the car and let
8 me get out" because I knew something wasn't right. But he
9 never did stop.

10 He ended up stopping by the Sealtest storage
11 unit right -- right behind Blum Park. He got out of the car
12 and started wiping everything down. And I just knew
13 something wasn't right.

14 **MR. BRITT:** And was the Sealtest plant -- was
15 that near the R.J. Reynolds building?

16 **THE WITNESS:** No.

17 If you come down 27th Street and come to
18 Patterson, you make a right on Patterson. He ran across --
19 he run the 25th light. I think it's a light. But he ran
20 three lights. Sealtest -- it's nothing close -- the only
21 thing that's close to Sealtest is Hotdog City -- it's not
22 well-known, a convenience store.

23 **MR. BRITT:** Was the car left at Sealtest?

24 **THE WITNESS:** Yeah. He left -- he left it at
25 the -- right -- it's a parking deck at Sealtest, and he

Testimony of Robbin Carmichael

1 parked it right there.

2 **MR. BRITT:** Is that near railroad tracks?

3 **THE WITNESS:** Yes. Blum Park is actually
4 kind of right -- well, farther up, but the railroad track
5 goes right between -- behind the storage unit.

6 **MR. BRITT:** Okay. And did you-all walk away
7 together? Did you walk away different directions?

8 **THE WITNESS:** Yes. Walked up -- I don't know
9 the name of the street but we walked up the street, which is
10 a dead end, and you have to cross the railroad tracks there
11 right next to the highway before you turn on the highway.

12 **MR. BRITT:** Did you ever ask him --
13 Mr. Johnson -- what he was doing the house?

14 **THE WITNESS:** I just said, "What's going on?"
15 He never would tell me. And when I kept pushing the issue,
16 he actually turned and told me, he said, you know, "If you
17 tell anybody, I'm going to kill you."

18 **MR. BRITT:** Now, was that before or after you
19 started doing cocaine?

20 **THE WITNESS:** No. This was actually before
21 this happened. I was leery of him -- we supposed to been
22 friends, and I had never heard him seem that way.

23 **MR. BRITT:** When was the first time you ever
24 told your account of what happened?

25 **THE WITNESS:** My account?

Testimony of Robbin Carmichael

1 **MR. BRITT:** Yes, sir.

2 **THE WITNESS:** I told it to the detective
3 after I recognized the house on CrimeStoppers.

4 **MR. BRITT:** And were you already locked up?

5 **THE WITNESS:** Yes, I was.

6 **MR. BRITT:** You were locked up on some other
7 charges?

8 **THE WITNESS:** Yes, I was.

9 **MR. BRITT:** Did you -- and you approached the
10 police?

11 **THE WITNESS:** Yeah. Well -- yeah, I did.

12 **MR. BRITT:** Through your lawyer?

13 **THE WITNESS:** Yeah.

14 **MR. BRITT:** Okay. Was your lawyer present
15 when you were talking to the police?

16 **THE WITNESS:** No.

17 **MR. BRITT:** So your lawyer had no idea what
18 you were going to tell the police?

19 **THE WITNESS:** No.

20 **MR. BRITT:** You had never discussed it with
21 him?

22 **THE WITNESS:** (Moves head side to side.)

23 Well, he said, "If you can help them, please
24 help them." That's all he said.

25 But afterwards, he said, "If I'd knew what

Testimony of Robbin Carmichael

1 you do, I wouldn't" -- you know ...

2 **MR. BRITT:** He would never advise you to talk
3 to them if you're going to chain yourself up?

4 **THE WITNESS:** Yeah.

5 **MR. BRITT:** Okay. Thank you.

6 **JUDGE LOCK:** Anything further?

7 Mr. Edwards?

8 **MR. EDWARDS:** I have -- just very briefly.
9 Good afternoon, Mr. Carmichael. My name is
10 Seth Edwards.

11 Back on this occasion, you said that y'all
12 had been doing some cocaine that night; is that right?

13 **THE WITNESS:** Yes.

14 **MR. EDWARDS:** How were you using it or
15 ingesting it?

16 **THE WITNESS:** I was snorting it. Darren was
17 snorting it too, but by me -- by the couple times I had went
18 and got some, I didn't realize that he was actually shooting
19 up.

20 **MR. EDWARDS:** Now, back in those days, was
21 LSD also kind of a common thing?

22 **THE WITNESS:** No. I never messed with that.

23 **MR. EDWARDS:** I'm not asking if you had ever
24 done it but, I mean, just in the neighborhood. Did you know
25 if people --

Testimony of Robbin Carmichael

1 **THE WITNESS:** No, it wasn't common. No.

2 **MR. EDWARDS:** And -- but do you know how
3 people ingested that? Was it something that they just put
4 in their mouth? Did they shoot that up? Or do you know?

5 **THE WITNESS:** No. I don't know.

6 **MR. EDWARDS:** On another subject, a few
7 minutes ago you said that when you met Merritt Drayton
8 Williams in prison -- and he made some comment to you like,
9 "I didn't know that was you."

10 **THE WITNESS:** Yes.

11 **MR. EDWARDS:** And then you said that -- you
12 explained to Drayton what had happened, you know, at this
13 lady's house.

14 **THE WITNESS:** Yes.

15 **MR. EDWARDS:** And then you said "he knew" --
16 "he" being Drayton -- "He knew that was Darryl."

17 What you mean by that?

18 **THE WITNESS:** Well, I jumped the gun. I
19 jumped the gun.

20 I was assuming -- and it was already in the
21 paper that -- he had already seen the newspaper. My picture
22 was in the paper. But Darryl/Darren Johnson -- the only
23 thing they said about him was -- they didn't even say his
24 name. They said unrelated person Carmichael tried to
25 identify. And they made it seem like I was making something

Testimony of Robbin Carmichael

1 up.

2 I was somewhat jumping the gun by me saying
3 that I'm assuming that he knew Darryl. I don't know.

4 **MR. EDWARDS:** Okay. It just -- I want to
5 clear up some confusion on my part.

6 I know that you've said you made the
7 assumption that when Darren Johnson said another person was
8 with him, you assumed that that was Merritt?

9 **THE WITNESS:** Yeah. By me -- by the papers.

10 **MR. EDWARDS:** But you jumped the gun?

11 **THE WITNESS:** By the papers.

12 **MR. EDWARDS:** Okay. But the comment -- when
13 you met Drayton in prison and you said that you explained to
14 him what had happened, what did you explain to him -- to
15 Drayton?

16 **THE WITNESS:** Really, mostly everything. How
17 Darryl Johnson had, you know, picked me up and -- well,
18 everything I'm explaining to y'all, I explained to him.

19 **MR. EDWARDS:** So what did Drayton say to you
20 in response to that? Anything?

21 **THE WITNESS:** No. He just said, "I'm sorry,
22 man. I didn't know it was you."

23 **MR. EDWARDS:** Okay.

24 **THE WITNESS:** Like I said, my picture was
25 already in the paper. Anybody could have asked me about the

Testimony of Robbin Carmichael

1 crime, but I -- you know, I was -- I was messed up.

2 **MR. EDWARDS:** Those are all the questions I
3 have.

4 **JUDGE LOCK:** Commissioner Welch?

5 **MS. WELCH:** I just have a few.

6 Sir, my name is Ashley Welch.

7 Did you say that you had never met

8 Mr. Williams prior to meeting him in prison; is that right?

9 **THE WITNESS:** Yes.

10 **MS. WELCH:** So you don't know him well enough
11 to know what he means by certain statements, do you?

12 **THE WITNESS:** That's true. That's true.

13 **MS. WELCH:** Did he ever tell you, when you
14 explained to him what happened, that he was sorry that that
15 had happened to you?

16 **THE WITNESS:** Yeah. He did say -- it was
17 some compassion. But, you know, I -- at the time, I didn't
18 know the full picture of him being implicated in this. But
19 he was saying, "Man, I'm sorry that happened to you."

20 I mean, a lot of people was telling me that.
21 I figured, you know, they found out that I was in prison.

22 **MS. WELCH:** Did he ever say to you, "I didn't
23 do it either? I know how you feel"?

24 **THE WITNESS:** Yeah. He made -- he made a
25 statement, but I don't know. He just -- basically, I don't

Testimony of Robbin Carmichael

1 know.

2 **MS. WELCH:** I am a little confused, too,
3 about when you said that you felt like Mr. Williams thought
4 that you were Darryl when he saw you in the prison.
5 Somebody --

6 **THE WITNESS:** Like I was telling that
7 gentleman, I jumped the gun. I jumped the gun.

8 By him saying that, he could have meant two
9 things. I'm going on the assumption of by him reading about
10 in the paper and then they were saying it was another person
11 still out at large.

12 And the way the paper did it, they made it
13 seem like I was the person that was at large. So I jumped
14 the gun. I didn't know the full picture. I was going on
15 the paper. I wasn't going on like -- like I was actually
16 there. So I don't know.

17 **MS. WELCH:** Did he send for you by name? Did
18 he ask for you by name?

19 **THE WITNESS:** Yeah. He knew -- he knew my
20 name. Like I was saying, my name was already -- had been in
21 the paper. And most guys from Winston-Salem or surrounding
22 areas, they get that paper. And he -- he didn't know me by
23 face, but he sent somebody -- one of the guys, one of the,
24 like, trustees to come to get me. And then I actually met
25 him through a gate and we talked.

Testimony of Robbin Carmichael

1 **MS. WELCH:** And that's when he said, "I
2 didn't know that it was you"; is that right?

3 **THE WITNESS:** Yes.

4 **MS. WELCH:** And you don't know who, if
5 anybody, Mr. Johnson was with prior to him picking you up?

6 **THE WITNESS:** No. I don't know.

7 **MS. WELCH:** But he did tell you somebody was
8 with him?

9 **THE WITNESS:** Yes.

10 **MS. WELCH:** Thank you, sir.

11 **JUDGE LOCK:** Mr. Carmichael, how did you
12 think it was going to help you to talk to the detectives
13 about this matter after you had seen the report on
14 CrimeStoppers?

15 **THE WITNESS:** Clear my conscience.

16 **JUDGE LOCK:** To clear your conscience?

17 **THE WITNESS:** Uh-huh.

18 **JUDGE LOCK:** Why did you plead guilty to the
19 murder of Ms. Bryson?

20 **THE WITNESS:** Well, I mean, *Miranda* law was
21 used. Once you use -- actually, when Darryl stayed at my
22 house, he actually left some of Ms. Bryson's jewelry at the
23 house. And I was hoping he would come get it, but he
24 didn't. And to tell the police, I actually, in turn, gave
25 it to them and they just didn't believe me. They said I

Testimony of Robbin Carmichael

1 knew too much. You know how that goes. One person says
2 they did it and then this person says they did it. Well,
3 somebody's going to jail.

4 But I gave them the jewelry and told them
5 everything. The detective, K.W. Bishop, said, "You know too
6 much."

7 **JUDGE LOCK:** Were you originally charged with
8 first-degree murder?

9 **THE WITNESS:** Yes. They dropped it down to
10 second-degree.

11 **JUDGE LOCK:** Do you know if the district
12 attorney had stated he was seeking the death penalty against
13 you?

14 **THE WITNESS:** No. Well, no, he didn't. He
15 didn't say that. But K.W. Bishop told me, he said, "I'm
16 going to see that you burn for this."

17 **JUDGE LOCK:** I see.

18 **THE WITNESS:** And I have never faced nothing.
19 I had never been in prison. So I mean ...

20 **JUDGE LOCK:** All right. Any further
21 follow-up questions?

22 Commissioner Perry.

23 **DR. PERRY:** Hello, sir. My name is Frank
24 Perry. And thank you for being here today.

25 To follow up on the Judge's question, did you

Testimony of Robbin Carmichael

1 plead for fear of first-degree or were you in fear of
2 Johnson?

3 **THE WITNESS:** Second-degree. I pleaded to
4 second-degree.

5 **DR. PERRY:** Right.

6 **THE WITNESS:** They charged me with
7 first-degree.

8 **DR. PERRY:** But you pled to avoid first?

9 **THE WITNESS:** Yes.

10 **DR. PERRY:** Was that weightier than fear of
11 Johnson given his threat?

12 **THE WITNESS:** No. No. It was -- I had never
13 faced any serious time or anything. I didn't know.

14 **DR. PERRY:** So his threat to you "Don't say
15 anything or I'll kill you" --

16 **THE WITNESS:** Well --

17 **DR. PERRY:** -- that weighed on you, but it
18 didn't demotivate you for this; is that right?

19 **THE WITNESS:** Well, it kept -- I kept it in
20 my mind. But you know how people say stuff and they
21 don't -- sometimes you feel they don't mean it? But just --
22 it was -- the reason I pleaded guilty because I had never
23 faced anything that harsh. I had seen some on TV,
24 first-degree murder. Then K.W. Bishop told me, "I'm going
25 to make sure you burn for this."

Testimony of Robbin Carmichael

1 **DR. PERRY:** Right.

2 **THE WITNESS:** So, I mean, that's going to
3 scare any person.

4 **DR. PERRY:** Anybody.

5 And lastly, sir, in follow-up to Ms. Welch
6 and Mr. Edwards, when you met Mr. Drayton, how long was that
7 encounter again? That was at Central?

8 **THE WITNESS:** Yes, Central Prison.

9 **DR. PERRY:** Through a gate?

10 **THE WITNESS:** Yeah. Through a gate.

11 **DR. PERRY:** First and only time?

12 **THE WITNESS:** Yeah. That's the first time I
13 met him. But K dorm is processing, O dorm is like
14 population. When you finish populating, they put you in the
15 system, you can move up to K dorm.

16 We still interact, but the guards keep us
17 separate from the population. We still see people but we
18 are, like, caged.

19 **DR. PERRY:** Right.

20 **THE WITNESS:** So I seen Drayton and didn't
21 know Darryl. I seen a few people from Winston-Salem. But
22 that's the only time -- the first time we ever talked.

23 **DR. PERRY:** And at that occasion on any other
24 walk-bys or casual meetings inside, did you ever feel that
25 he and you were in the same boat as far as a plea?

Testimony of Robbin Carmichael

1 **THE WITNESS:** I can't say that because I
2 don't -- I don't know his situation compared to mine. Each
3 man is different.

4 **DR. PERRY:** But the media reports --

5 **THE WITNESS:** I know.

6 **DR. PERRY:** -- disclosed both.

7 **THE WITNESS:** I know.

8 But sometimes you can't go by what the media
9 say. Merritt -- nothing like myself. They said I was in an
10 attempt. I didn't even know -- I just spoke to the
11 detectives and told them what I knew. But they, in turn,
12 turned that on me. And, you know, that's what happened.

13 I had seen it in the paper, but I didn't --
14 it's just like -- just let it go by. Until I -- it affected
15 me, that's when I -- okay, "This is this person. He's in
16 there for the same thing." But each man is different. It
17 may be the same case but we're not the same. I think he
18 was -- was found guilty. I pleaded.

19 **DR. PERRY:** Okay. Thank you.

20 **JUDGE LOCK:** Commissioner Frye, yes, sir.

21 **SHERIFF FRYE:** I would like to go last.

22 **JUDGE LOCK:** Mr. Glazier.

23 **MR. GLAZIER:** Thank you.

24 Thank you, Mr. Carmichael, very much, for
25 being here. I just wanted to make sure I'm correct in what

Testimony of Robbin Carmichael

1 I understand.

2 The night of the murders, you never saw
3 Merritt Williams; correct?

4 **THE WITNESS:** No. Never seen him.

5 **MR. GLAZIER:** You never saw him at the Bryson
6 house?

7 **THE WITNESS:** No.

8 **MR. GLAZIER:** Near the car?

9 **THE WITNESS:** No.

10 **MR. GLAZIER:** While you were driving?

11 **THE WITNESS:** No.

12 **MR. GLAZIER:** When you guys were walking?

13 **THE WITNESS:** No.

14 **MR. GLAZIER:** And you never saw Merritt
15 Williams in the days after the murder either at -- in
16 Winston-Salem?

17 **THE WITNESS:** No. No.

18 **MR. GLAZIER:** And Mr. Johnson never mentioned
19 Mr. Williams?

20 **THE WITNESS:** No.

21 **MR. GLAZIER:** Thank you.

22 **JUDGE LOCK:** Mr. Britt.

23 **MR. BRITT:** You said you learned about this
24 from the newspaper.

25 **THE WITNESS:** Yes.

Testimony of Robbin Carmichael

1 **MR. BRITT:** Did your picture and Merritt
2 Williams' picture or your names ever appear in the same
3 newspaper article?

4 **THE WITNESS:** I can't recall, but I know my
5 picture was in the second -- the second paper. I had seen
6 Drayton paper -- I had seen his picture in the paper. But
7 like I was saying, I didn't actually read the full article.
8 I didn't know. I can't recall his picture being in the
9 paper with mine.

10 **MR. BRITT:** When did you first make the
11 connection that Mr. Williams was in prison for the same
12 crime that you were in prison for?

13 **THE WITNESS:** The detectives, they brought it
14 up.

15 **MR. BRITT:** When they came and talked to you?

16 **THE WITNESS:** Yeah.

17 **MR. BRITT:** Okay. Thank you.

18 **JUDGE LOCK:** Mr. Edwards? Ms. Welch?

19 **MS. WELCH:** No, thank you.

20 **JUDGE LOCK:** Commissioner Frye.

21 **SHERIFF FRYE:** Before I ask my question, just
22 a point of clarification from you guys that know. Because
23 he's pled guilty, double jeopardy is attached and he cannot
24 be tried -- or nothing that he says can cause him any
25 problems with a case that has already been disposed of;

Testimony of Robbin Carmichael

1 correct?

2 **JUDGE LOCK:** That is correct.

3 **SHERIFF FRYE:** But future crimes, such as
4 perjury, could be charged; correct?

5 **JUDGE LOCK:** That is correct.

6 **SHERIFF FRYE:** Okay.

7 Having that in mind, it appears you've done
8 really, really well for yourself since you got out of
9 prison, got a job, doing well.

10 You are under oath.

11 Did you go into the house --

12 **THE WITNESS:** No.

13 **SHERIFF FRYE:** -- that night?

14 **THE WITNESS:** No, I did not.

15 I actually put my hand on the outside. They
16 never found my prints on the inside.

17 **SHERIFF FRYE:** I'm not asking what they
18 found. I'm asking you as a man: Did you go in the house
19 that night?

20 **THE WITNESS:** No.

21 **JUDGE LOCK:** All right. Does any
22 Commissioner have any further follow-up questions?

23 Ms. Guice Smith, do you have any further
24 questions?

25 **MS. SMITH:** I do not.

1 **JUDGE LOCK:** Mr. Carmichael, thank you very
2 much for being here today.

3 **THE WITNESS:** Thank you, sir.

4 **JUDGE LOCK:** Any objection to releasing him
5 from his subpoena?

6 (No response.)

7 **JUDGE LOCK:** All right. He is released.

8 (Witness stands down, 5:21 p.m.)

9 **JUDGE LOCK:** Is the recording next?

10 **MS. SMITH:** It is. It is about an hour and
11 five minutes. And then we have maybe five minutes of
12 testimony after that to kind of wrap up the Darren Johnson
13 piece. So we could finish up by about 6:30.

14 **JUDGE LOCK:** All right. And, again, for the
15 record, this is a recording of whom?

16 **MS. SMITH:** This is the recording of Darren
17 Johnson's interview with the Winston-Salem Police Department
18 in March of 2019.

19 **JUDGE LOCK:** Which is part of the law
20 enforcement file?

21 **MS. SMITH:** This is part of the ongoing law
22 enforcement investigation.

23 **JUDGE LOCK:** All right.

24 Mr. Glazier.

25 **MR. GLAZIER:** And I understand the need to

Housekeeping Matters

1 hear it, but I wonder if there is any way to truncate the
2 time and focus the interview just on the sections where
3 we're talking about the substance of whether it's the same
4 or not as opposed to what is likely to be lots of testimony
5 that is unrelated.

6 **MS. SMITH:** I wouldn't be able to do that.
7 We don't have a transcript of this interview and I don't
8 think that we have done a summary of that or anything like
9 that.

10 **JUDGE LOCK:** All right. May I suggest we
11 take a two-minute comfort break while we are setting up the
12 video?

13 **MS. SMITH:** If it is easier, since I know the
14 public will have to leave for this, if we want to just
15 finish at the end of the video, I can put Ms. Matoian up in
16 the morning for that last five minutes, and that way we
17 don't have to have anything on the record other than you
18 dismissing us for the day.

19 **JUDGE LOCK:** All right. Thank you. And
20 thank you for reminding me of that.

21 Consistent with my ruling prior to the lunch
22 break, in that this video recording is part of the ongoing
23 law enforcement investigative file and is not a public
24 record, then I am going to order that the proceeding at this
25 time, during the playing of this video, be closed to the

Housekeeping Matters

1 public and all members of the public must be excused with
2 the exception of commissioners and staff.

3 The public will be invited back in in the
4 morning.

5 (Overnight recess, 5:23 p.m.)

6 (Volume 2 begins on page 144.)

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