

STATE OF NORTH CAROLINA
COUNTY OF YANCEY

FILED
IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
2021 DEC 17 PM 12:10
H CRS 304 and 11 CRS 305
YANCEY COUNTY, C.S.C.

STATE OF NORTH CAROLINA)
)
 v.)
)
 JOHN PRITCHARD)
)
 _____)

OPINION

THIS MATTER came on for hearing before the North Carolina Innocence Inquiry Commission (Commission) on December 14 - 15, 2021, pursuant to N.C.G.S. §§ 15A-1460 – 1475. After careful review of the evidence presented, the Commission hereby makes and enters the following findings of fact:

1. On March 6, 2011, Jonathan Whitson was found dead in his family’s home at 410 English Branch Rd. in Burnsville, North Carolina.
2. In an autopsy report dated March 7, 2011, Medical Examiner Dr. Brent Hall identified Jonathan Whitson’s cause of death as morphine toxicity.
3. On April 17, 2014, John Pritchard (Pritchard) was convicted after a jury trial of Second-Degree Murder, Delivery of a Schedule II Controlled Substance, Possession with Intent to Manufacture Sell or Distribute a Schedule II Controlled Substance, and Maintaining a Vehicle or Dwelling Place for Controlled Substances. He received sentence of 170-213 months.
4. On September 30, 2019, Pritchard applied to the Commission. Pritchard submitted a questionnaire and consent form to the Commission. Pritchard asserted his complete factual innocence related to the death of Jonathan Whitson and the Commission began an inquiry pursuant to Article 92, Chapter 15A, of the North Carolina General Statutes.

5. Throughout this inquiry, Pritchard has fully cooperated with Commission staff, in accordance with N.C.G.S. § 15A-1467(g).
6. On December 14 - 15, 2021, the Commission held a full evidentiary hearing in this matter pursuant to N.C.G.S. § 15A-1468.
7. During the hearing, the Commission considered testimonial and documentary evidence.

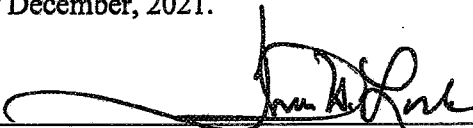
The evidence included, among other things:

- a. A 519-page brief provided to the Commission by the Commission staff prior to the hearing;
- b. Supplemental documentation provided prior to and during the hearing, including transcripts of interviews and depositions conducted by Commission staff; two audio recordings; 55 handouts; and a PowerPoint presentation;
- c. Expert reports and evaluations by Dr. Jerri McLemore, Dr. Christena Roberts, Dr. Andy Ewens, Dr. Barbara Wolf, Dr. George Behonik, and Dr. Christopher Holstege;
- d. Live testimony by Commission Staff Attorneys Julie Bridenstine and Brian Ziegler, John Pritchard, Stephanie Randolph, Dr. Brent Hall, Dr. Jerri McLemore, Dr. Christena Roberts, Dr. Andy Ewens, Dr. Barbara Wolf, Dr. George Behonik, and Dr. Christopher Holstege;
- e. Affidavits from Attorneys Daniel Hockaday, Christine Vance, Robert Sirianni, Jr., and Sofia Hernandez; and
- f. A Statement provided by the District Attorney's Office of the 35th Prosecutorial District.

8. After carefully considering this evidence, the Commission has concluded by a vote of 7 to 1 that there is not sufficient evidence of factual innocence to merit judicial review of Pritchard's convictions of Delivery of a Schedule II Controlled Substance and Possession with Intent to Manufacture Sell or Distribute a Schedule II Controlled Substance, Yancey County case 11 CRS 305.
9. The Commission has further concluded by a vote of 6 to 2 that there is sufficient evidence of factual innocence to merit judicial review of Pritchard's conviction of Second-Degree Murder, Yancey County case 11 CRS 304.
10. As to the Maintaining a Vehicle or Dwelling Place for Controlled Substances, that conviction is a misdemeanor and is therefore not statutorily eligible for review by the Commission.

WHEREFORE, pursuant to N.C.G.S. § 15A-1468(c), Yancey County case 11 CRS 305 is now closed. Pursuant to N.C.G.S. § 15A-1469(a), and as Chair of the Commission, the undersigned refers Yancey County case 11 CRS 304, to the Honorable Gary M. Gavenus, North Carolina Judicial District 24 Senior Resident Superior Court Judge, and respectfully requests that the Chief Justice of the North Carolina Supreme Court appoint a three-judge panel and issue commissions to its members to convene a special session of the Superior Court in Yancey County to hear evidence relevant to the Commission's recommendation. A copy of this opinion is filed with the Yancey County Clerk of Superior Court and delivered to Judge Gavenus, the District Attorney's Office of Prosecutorial District 35, and counsel for the convicted person.

This the 15th day of December, 2021.



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

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing *Opinion* was served upon the following persons by depositing a copy of the same, postage pre-paid, in an official depository of the United States Postal Service, addressed as follows:

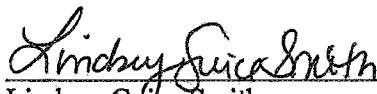
The Honorable Gary M. Gavenus
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PO Box 1801
Burnsville, NC 28714

The Honorable Robert Orr & Mr. Milton Fletcher
Office of the District Attorney, District 35
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This the 16th day of December, 2021.

**NORTH CAROLINA INNOCENCE
INQUIRY COMMISSION**



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