

FILED


STATE OF NORTH CAROLINA

IN THE GENERAL COURT OF JUSTICE

2015 SEP 30 P 4: 37 SUPERIOR COURT DIVISION

COUNTY OF BUNCOMBE

BUNCOMBE COUNTY, FILE NOS. 00CRS65084, 00CRS65085, 00CRS65087, 01CRS6334, 01CRS6335, and 03CRS00093

STATE OF NORTH CAROLINA, BY 

Plaintiff,)

v.)

LARRY JEROME WILLIAMS, JR.,)
DAMIAN MIGUEL MILLS, and)
TEDDY LAMONT ISBELL,)

Defendants.)

**ORDER ALLOWING MOTION
FOR APPROPRIATE RELIEF**

These cases came on to be heard before The Honorable Joseph Neil Crosswhite, Superior Court Judge, on the *Defendants' Joint Motion for Appropriate Relief*. After reviewing the files maintained by the Clerk of Superior Court of Buncombe County, *Stipulation of Facts*, and the various submissions of the parties, this Court makes the following Findings of Fact and Conclusions of Law, and enters the following Order:

PROCEDURAL HISTORY

1. On October 24, 2000, Larry Jerome Williams, Jr., Teddy Lamont Isbell, Sr., and Damian Miguel Mills were charged with first degree murder. The charges arose out of the homicide of Walter Rodney Bowman on September 18, 2000.
2. Two other individuals were also charged with first degree murder in the Bowman matter: Kenneth Kagonyera and Robert Wilcoxson.
3. On February 25, 2002, December 11, 2003 and June 26, 2001, Larry Williams, Teddy Isbell and Damian Mills, respectively entered pleas of guilty:
 - a. Williams to Second Degree Murder;
 - b. Mills to Second Degree Murder, Armed Robbery and Conspiracy to Commit Armed Robbery;
 - c. Isbell to Conspiracy to Commit Armed Robbery.

4. Larry Williams was released from prison on September 9, 2009. Teddy Isbell was released from prison on September 9, 2006. Damian Mills was released from prison on October 31, 2010.

5. On April 1, 2014 Williams and Isbell filed Motions for Appropriate Relief herein. Mills filed a Motion for Appropriate Relief on April 19, 2012, which he amended on April 1, 2014.

6. On July 30, 2014, the Honorable Alan Z. Thornburg, Senior Resident Superior Court Judge of the 28th Judicial District appointed the undersigned to hear this matter pursuant to N.C.G.S § 15A-1413.

7. The undersigned has conducted hearings in this matter on October 31, 2014, February 13, 2015, July 24, 2015, and September 30, 2015.

8. The State and the Defendants have voluntarily conducted discovery in this matter.

9. On July 24, 2015 the State and the Defendants filed a joint Stipulation of Facts for consideration by the Court along with all other evidence in the case.

FINDINGS OF FACT

The Death of Walter Bowman

10. On the evening of September 18, 2000, Walter Rodney Bowman was at the home of his son, Shaun Bowman, at 74 Church St. in Fairview, North Carolina. Also present were Shaun Bowman's girlfriend, Wanda Holloway, and Tony Gibson, a friend of Shaun Bowman.

11. Late that evening, three black men burst into the home. Each of the intruders wore a bandana tied over his face, and two of the men wore gloves. At least one of the men carried a handgun, and one carried a shotgun. Brandishing their weapons, the men yelled for everyone to "get down."

12. The intruder with the shotgun fired it through a bedroom door, striking Walter Bowman. The three men then left quickly without taking anything.

13. At 11:55 p.m., Wanda Holloway called 911 and reported that "3 guys came to the residence" and shot the victim. Buncombe County officers and homicide detectives were dispatched to the scene, as were emergency medical responders.

14. Wanda Holloway was interviewed by Detective George Sprinkle and Detective Mike Murphy on September 19, 2000. Wanda Holloway told the officers that she and Walter Bowman had been at home alone on the evening of September 18, 2000 at the time of the offense. Wanda Holloway told the officers and detectives that she had been watching television, then took a break to let her dogs out into the yard. She stated that the dogs behaved unusually, barking at a line of bushes near the front door. It was after she put the dogs back in a rear bedroom that the three had come yelling through the front door. Holloway had run into the kitchen, and one of the men had dragged her back into the living room by her hair, when she heard a single gunshot. She "then looked up and there were three guys running out of the house." She could not identify any of the three black males, who she said were wearing bandanas over the lower parts of their faces.

15. James "Tony" Gibson was interviewed by Detective George Sprinkle and Detective Mike Murphy on September 20 and 21, 2000. In a written statement given September 20, 2000, Gibson stated that he had left the house prior to the shooting. In a second written statement given September 21, 2000, Gibson stated that he was at the Bowman home at the time of the murder, and that he had been watching Monday Night Football when a man opened the door pointing a gun, and told everyone to "get down." Two more men then entered the Bowman house, one carrying a semi-automatic pistol and the other carrying a pistol grip shotgun. Gibson said that after the third man came in he could see " . . . one standing outside the door." Gibson described the men as black males, and stated he did not recognize them and that they were wearing bandanas covering their faces. Gibson recalled hearing a gunshot, and then the perpetrators running out.

16. Wanda Holloway was interviewed a second time by Detective Sprinkle and Detective Sandy Clementson of the BCSO on September 28, 2000. Holloway stated that Walter Bowman's son, Shaun Bowman, and Tony Gibson were both present at the time of the shooting. She further stated that after the shooting, "It was 3 or more guys fighting to get out of the door".

17. Deputy Brenda Fraser of the BCSO interviewed Holloway on September 19, 2000. In her written report, Deputy Fraser recorded that Holloway stated there were 3 black male intruders.

18. Shaun Bowman left the residence at 74 Church Street after the shooting but before the arrival of EMTs and law enforcement officers, and was not found until October 23, 2000.

19. Walter Bowman died en route to the hospital.

The Initial Investigation

20. On September 20 the BCSO received a Crime Stoppers tip that identified Lacy "J.J." Pickens, Bradford Summey and Robert Rutherford as the individuals who had attempted

the armed robbery that left Walter Bowman dead. All three had histories of involvement in the drug trade in Buncombe County.

21. At around 7 a.m. on September 19, 2000, the morning after the shooting, Heather Somerset, a United States Postal Service carrier who lived in Fairview, spotted what appeared to be bandanas and gloves on the side of the road not far from the Bowman home. She called 911 to inform the police of her discovery.

22. Buncombe County Sheriff Crime Scene Technician Eddie Davis and other law enforcement officers, responding to this call, found three bandanas and four gloves along a stretch of road near the Bowman house. Davis placed all of these gloves and bandanas into evidence envelopes and logged them on a property control sheet.

23. Also on September 19, 2000, Detective John Elkins with the BCSO interviewed several witnesses who had been at an Amoco service station near Reynolds High School (the "Kounty Line Amoco"), just a few miles from the scene of the murder, the night before. These witnesses reported seeing three black males arrive in a car near the time of the murder. Elkins took into evidence the time-lapse security camera VHS tape from the Kounty Line Amoco, wrote on the sheet "Possible Evidence in Homicide," and marked it as evidence in the Walter Bowman case. The videotape showed three black males arriving in a car and coming into the station at 11:19 p.m. on the night of the murder. The car left the station at 11:32 pm, just minutes before the murder.

24. On October 23, 2000 Shaun Lee Bowman was finally located and gave a written statement to Detective George Sprinkle of the BCSO, saying he was at the residence of his father, Walter Bowman, at the time of the shooting. Also present were Walter Bowman, Tony Gibson and Wanda Holloway. Shaun Bowman stated that four black males had come into the residence with firearms, and that when his father ran back to a bedroom, one of the men went and shot him through the door. Shaun Bowman identified the four men as Aaron Brewton, Robert Wilcoxson, Kenny Kagonyera and Larry Williams.

25. Shaun Bowman later recanted knowing the identities of the intruders and making those statements to law enforcement. Shaun Bowman has stated under oath:

"The officers at the time told me who it was. They told – that's why they names is at the end... I put my trust in – the police told me that it was them. The police told me, 'These are the guys that did it.' They supposed to have been "The officers at that time told me who it was. They told -- that's why they names is at the end. I never was using none of they names, why I'm not saying, "Well, Aaron Brewton did this." I'm saying: 'One guy, one this, one that, one this, one that, and one this.'

* * *

"I put my trust in -- the police told me that it was them. The police told me, 'These are the guys that did it.' They supposed to have been doing their job if

they was doing the evidence right . . . They had the bandanas. They had the tape. They had everything. They was still doing their job. They was working. So when they -- when I turned myself in a month and something later, I'm figuring they done captured the guys -- these are the guys that they telling me that done it, and they done captured them . . . They -- they -- they told me, 'These are the guys,' and so I put my trust into believing that the police had done their job. Now they needed a statement from me. I'm just trying to get that whoever done this to my dad some justice for my family or my daddy. I'm thinking the police, in the month that I was on the run or whatever, that they did they job. When you come and, "These are the guys," it wasn't nobody else's name that they brought up.

* * *

They -- they convinced me that these was the guys that did it . . . If I can't trust the police, who else are we supposed to trust?"

2001 Exculpatory DNA Evidence

26. In October of 2000, with their consent, genetic material was collected from Isbell, Williams, Mills, Kagonyera, Wilcoxson and Aaron Brewton, the sixth man charged with murder of Walter Bowman.

27. On November 2, 2000, the gloves and bandanas recovered near the scene of the Bowman murder were submitted to the state SBI lab by the BCSO.

28. BCSO sent the items to the SBI Laboratory with a request to "please match through DNA any hair or other bodily fluids found on items 9-14 [the gloves and bandanas] to suspects [DNA samples from defendants]."

29. On March 7, 2001, North Carolina SBI Agent Mark Boodee completed the DNA analysis and sent the report of the results back to Davis. Although DNA was found on two of the bandanas used in the murder, Boodee's testing excluded Kagonyera, Wilcoxson, Williams, Isbell and Mills as sources of the DNA found on the bandanas. That is, the results established that the genetic material recovered from the bandanas and gloves could not have come from any of these men.

The 2003 Confession of Robert Rutherford

30. On March 27, 2003, Special Agent Barnabas Whiteis, United States Drug Enforcement Administration, was contacted by Robert Rutherford, who was then an inmate at the Federal Correctional Institution in Manchester, Kentucky. Whiteis knew Rutherford from previous involvement in Rutherford's arrest and prosecution for drug trafficking in Western North Carolina in late 2000. Rutherford told Whiteis that he had been involved in a homicide in Fairview in 2000, and that he wanted to provide information on that murder. At the time, Whiteis was assigned to the DEA Office in Charlotte and had no knowledge of the Bowman murder.

31. During the phone call on the March 27 and a subsequent phone call on the 28th, Rutherford gave Whiteis a detailed confession to the murder of Walter Bowman.

32. The details in White's report of this confession are very specific. Rutherford said that he, Summey and Pickens drove to Fairview in Pickens car, which he described as a 1970's model blue Oldsmobile Cutlass sedan. He stated that the three men stopped at a convenience store near Reynolds High School prior to the shooting. Rutherford stated the three men had driven east to the Bowman house and parked the car a block or so from the home. He further told Agent Whiteis that he, Summey and Pickens had initially hidden in the bushes by the house. He said all three entered the Bowman house with bandanas over their faces, that Pickens and Summey had gloves on, and that they had a handgun and a pistol-grip shotgun. Rutherford accurately described Wanda Holloway running into the kitchen when they first entered the house, he accurately described the locations of the two bedrooms in the house, he accurately described the shotgun used, and he accurately identified the room in which Walter Bowman was shot.

33. Agent Whiteis called the Buncombe County Sheriff's office shortly after the two phone calls with Rutherford, and informed a detective there of the substance of Rutherford's confession. Det. Sprinkle was told of this confession; and on March 31, 2003, Sprinkle therefore ran a Master Index record check of Rutherford.

34. On April 15, 2003, Agent Whiteis faxed his three-page report of Rutherford's confession to Captain Lee Farnsworth of the Buncombe County Sheriff's Office. On the fax cover page, Whiteis included his personal telephone number in case the detectives there had any questions. Whiteis did not hear back from anyone.

35. A post-it note recovered during the NCIC's investigation of Wilcoxson's and Kagonyera's claims show that on or around July 17, 2003, Captain Farnsworth forwarded the confession to the District Attorney's Office.

36. Sprinkle, the BCSO, and the District Attorney did nothing to follow up on Rutherford's confession.

The 2007 CODIS Linkage

37. "CODIS" is an acronym for Combined DNA Index System, a database used by crime labs nationwide to index and store DNA information from felony offenders and crime scenes. DNA profiles detected on items of evidence collected in a local criminal investigation are uploaded to CODIS, where those profiles are scanned against the CODIS database. The CODIS database is constantly up-dated with the profiles of newly convicted offenders. When a freshly acquired profile is determined to match a profile in the database - that is, a profile acquired during the investigation of a specific crime and, thereafter, stored in the CODIS

database - CODIS generates a report of that match and forwards the report to the relevant law enforcement agencies and/or prosecutorial entities.

38. In March of 2007, a CODIS match report was generated: DNA extracted from the gray bandana found near the Bowman residence matched a profile that had been uploaded to CODIS in 2006. The source of that profile was Bradford Summey.

DNA Testing by the NCIIC

39. In 2010, the staff of the Innocence Commission provided the North Carolina State Bureau of Investigation with a new DNA sample from Summey. That sample allowed the SBI to confirm that the DNA on the gray bandana recovered near the Bowman residence was an identical match to Brad Summey's DNA. In proceedings before the NCIIC proceedings, SA Timothy Baize testified that the statistical odds that the DNA material on the bandana was provided by any person other than Summey were approximately one in one trillion.

40. In addition to providing the SBI lab with Summey's DNA, in 2010 and 2013 the NCIIC had LabCorp, a firm nationally recognized in the area of DNA profiling, re-analyze the gloves and bandanas and compare any DNA material that was extracted to Kagonyera, Wilcoxson, Isbell, Williams and Mills, as well as to Pickens, Summey and Rutherford.

41. The analyses performed by LabCorp confirmed what the SBI report had shown ten years earlier – that Kagonyera, Wilcoxson, Isbell, Williams and Mills were all excluded as possible contributors to the DNA found on the items tested.

42. Further, the LabCorp tests linked each of Lacy Pickens, Bradford Summey, and Robert Rutherford to various items. Meghan Clement, an employee of LabCorp, testified before the NCIIC on December 16, 2013 about the results of LabCorp's testing.

43. Clement testified that a DNA mixture was recovered from two brown gloves, a left and right, and the mixture contained a rare allele only found in approximately 0.03% of the African American population. Clement further testified that Lacy Pickens' DNA profile also contained this rare allele, and that Pickens could not be excluded as potentially contributing to the DNA found on those two items.

44. Clement testified that Robert Rutherford's DNA could not be excluded from a red bandana recovered near the scene of the Bowman homicide, and that the likelihood that the DNA was anyone other than Rutherford's was one in 21,030.

The Enhanced Kounty Line Amoco Security Video

45. Detective Elkins had obtained a videotape from the Kounty Line Amoco's security system on September 19, 2000. The tape showed several different areas of the gas station,

including cameras from inside the store and cameras pointed towards the gas pumps and parking areas, and covered the entire day of September 18, 2000.

46. After Elkins obtained the tape, he gave it to Detective Sprinkle.

47. Thereafter, the most critical portion of the videotape - the four minutes beginning at 11:17 p.m., showing the car with the three suspicious black males arriving and parking at the gas station, and then walking up toward the front doors and entering the convenience store - were obliterated. A scene from a television soap opera was recorded over that portion of the tape.

48. In 2010 the NCIC sent the videotape to the SBI laboratory to determine if the portion that had been taped over could be recovered, and if the rest of the video could be enhanced. The SBI was able to recover only a few seconds of the four minutes that had been taped over, and produced a few still frames from the recovered video. Stills from the enhanced video showed a side view of a 1971 Oldsmobile Cutlass with a vinyl top.

49. This identification was confirmed during the 2011 NCIC hearing for Kagonyera and Wilcoxson, when John Flory, an expert in American classic automobiles, identified the vehicle in the video tape conclusively as a 1971 or 1972 Oldsmobile Cutlass Supreme.

50. North Carolina Department of Motor Vehicles records establish that Lacy "JJ" Pickens was the registered owner of a 1971 Oldsmobile Cutlass Supreme on September 18, 2000. Pickens had been ticketed by law enforcement while driving the 1971 Oldsmobile on June 25th and July 1st, 2000.

Proceedings Before the Innocence Commission Regarding Kagonyera and Wilcoxson

51. Pursuant to the general statutes governing the NCIC, beginning on September 12, 2011, Judges Bradley Letts, Patrice Hinnant, and Erwin Spainhour conducted a hearing on to determine the factual innocence of Kenneth Kagonyera and Robert Wilcoxson. After eight days of evidence presentation, both were exonerated and unanimously found to be factually innocent by the three judge panel on September 22, 2011. This finding stands in direct contradiction to the inculpatory statements given investigators by Kagonyera, Williams, Isbell and Mills.

52. The evidence supporting the Judicial Panel's finding of actual innocence included the following:

a. In March 2003, Robert Rutherford, a federal inmate serving a lengthy sentence for drug offenses, called DEA agent Barney Whiteis and confessed that he had been involved in the Bowman murder, and that his accomplices were Bradford Summey and Lacy "JJ" Pickens. All three were black males, and had been named in the first Crime Stoppers tip received by the BCSO on September 20, 2000.

b. Rutherford provided Agent Whiteis, who knew nothing about the crime, with detailed and accurate information about the murder which only a perpetrator would have known, including the make and model of the car used (a 1970's blue Oldsmobile Cutlass sedan), the location of a gas station at which the three men had stopped shortly before the murder (the Amoco station near Reynolds High School), the fact that they had waited outside the house in the bushes before the attack, a description of who occupied each bedroom in the house and in which room Walter Bowman was shot, a description of the shotgun used in the attack, and the fact that after leaving the scene Rutherford, Summey and Pickens discarded three bandanas and two pairs of gloves used during the crime.

c. Witness statements and physical evidence in the possession of the BCSO corroborated Rutherford's confession. The initial eyewitness reports had stated that the perpetrators were three black males. The eyewitnesses reported that just before the attack the dogs had been barking at something in the bushes outside the house. Two witnesses at the Amoco station near Reynolds High School had told investigators that three black males pulled into the station around 11:15 pm, shortly before the shooting, in an older model car with a light vinyl top. The video taken from the station showed the three males and the car outside the station, leaving at 11:32 pm, just a few minutes before the murder. The car in the video, a 1971 Oldsmobile Cutlass Supreme with a vinyl top, matched the car that JJ Pickens owned at the time of the murder. The locations of the bedrooms and the room in which Walter Bowman was shot were accurately described. The shotgun used in the murder matched the description given by Rutherford. Three bandanas and two pair of gloves had been found on the side of the road near the scene of the murder.

d. In addition, Rutherford's confession was corroborated by the fact that DNA extracted by the SBI from the bandanas and gloves found the day after the murder, on the side of a road near the scene of the homicide, matched the DNA of Bradford Summey, one of the two accomplices named by Rutherford. Isbell, Williams, Mills and the other people arrested with them were all excluded as the source of that DNA.

e. In 2010 and again in 2013, the NCIC retained an outside forensic laboratory, LabCorp, to conduct full DNA testing of all six of the original suspects, the three alternate suspects (Summey, Pickens and Rutherford), and the bandanas and gloves belonging to the perpetrators that were found the day after the murder on the side of the road near the Bowman house. This full DNA testing by an independent laboratory confirmed that:

- i. Isbell, Williams, Mills, Kagonyera, Wilcoxson and Brewton were all excluded from contributing to the DNA profiles found on the gloves and bandanas.

- ii. Lacy "JJ" Pickens' DNA profile contained a rare allele that was present on two of the gloves.
- iii. It was highly likely that Robert Rutherford's DNA was in a mixture found on one of the bandanas. More specifically, the odds of someone unrelated to Rutherford having a DNA profile included in that mixture was approximately 1 in 21,030.
- iv. Brad Summey's DNA exactly matched the DNA found on one of the bandanas.

f. The location of the gloves and bandanas found on the side of the road matched the probable location of Pickens, Summey and Rutherford in Pickens' car. The two gloves linked to Pickens, who drove the car, were found on the driver's side of the road. The bandana that matched Summey was found on the passenger side of the road. The bandana linked to Rutherford was also found on the passenger side of the road.

53. On September 22, 2011, the three-judge panel of Superior Court Judges found unanimously that the defendants Kagonyera and Wilcoxson had proved by clear and convincing evidence that they were innocent of the murder of Walter Bowman.

54. The stipulations in paragraphs 1 through 39 above, with the exception of paragraph 16, were part of the evidence received by the three-judge panel, and these stipulations, along with other evidence presented in the hearing before the panel supported the NCIIC's determination of the innocence of Kagonyera and Wilcoxson.

55. The above-numbered cases of Defendants Larry Jerome Williams, Jr., Damian Miguel Mills, and Teddy Lamont Isbell, Sr., were presented to the North Carolina Innocence Inquiry Commission. The Commission conducted a hearing on December 16-18, 2013. The Commissioners were not unanimous in their votes, as required by statute, and the investigation was closed, without referral to a three-judge panel.

BASED ON THE FOREGOING FINDINGS OF FACT, THE COURT CONCLUDES AS A MATTER OF LAW THAT:

1. A claim of factual innocence asserted through the North Carolina Innocence Inquiry Commission does not constitute a motion for appropriate relief and does not impact rights or relief provided for in Article 89 (Motion for Appropriate Relief and Other Post-Trial Relief), North Carolina General Statutes. N.C. Gen. Stat. § 15A-1411(d).

2. Defendants Williams, Isbell and Mills each entered guilty pleas herein. A motion seeking withdrawal of a guilty plea post-sentencing is properly treated as a motion for appropriate relief. *State v. Handy*, 326 N.C. 532 (1990).

3. When a motion seeks withdrawal of a guilty plea after sentence has been imposed, that motion will be granted to avoid manifest injustice. *Handy*, 326 N.C. at 536; *State v. Suites*, 109 N.C. App. 373; 427 S.E. 2d 318 (1993); See generally *Kercheval v. United States*, 274 U.S. 220, 224, 71 L. Ed. 1009, 1012 (1927).

4. The Courts of this state have noted that the term "manifest injustice" most often means actual innocence. See *State v. Lawrence*, 365 N.C. 506, 516 (2012).

5. Under N.C. Gen. Stat. § 15A-1415(c), a defendant is entitled to the benefit of evidence which was unknown or unavailable to the defendant at the time of trial, which could not with due diligence have been discovered or made available at that time and which has a direct and material bearing upon the defendant's guilt or innocence. *State v. Britt*, 320 N.C. 705, 712-713 (1987); *State v. Nickerson*, 320 N.C. 603, 609-10 (1987); *State v. Beaver*, 291 N.C. 137, (1976).

6. The following evidence is newly discovered and material within the criteria of N.C. Gen. Stat. §15A-1415(c) and relevant case law:

- a. The 2001 SBI Laboratory DNA results;
- b. The 2003 confession of Robert Rutherford (to all Defendants except Isbell);
- c. The 2007 CODIS DNA match;
- d. The 2010 and 2013 LabCorp DNA Results;
- e. The enhanced footage from the Kounty Line Amoco Security Camera;

7. There is no credible basis for distinguishing the newly discovered evidence herein from the evidence that supported the IIC's determination of the innocence of Kagonyera and Wilcoxson.

8. Defendants Williams, Isbell and Mills have demonstrated their actual innocence by clear and convincing evidence. *State v. Sinclair*, 301 N.C. 193 (1980)("The Court of Appeals should strongly consider vacating the judgment in those cases and dismissing those cases since all of the cases arise out of the same series of events and are part of a common plan and should have been consolidated for trial." Exum, C.J.)

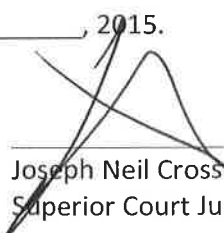
9. Allowing the convictions of Williams, Isbell and Mills to stand in the face of the NCIC's Judicial Panel's determination of the actual innocence of Kagonyera and Wilcoxson is a manifest injustice.

10. Larry Williams, Teddy Isbell and Damian Mills are innocent of the charges brought against them for the murder of Walter Bowman; and their actual innocence in this matter entitles them to relief.

BASED UPON THE FOREGOING FINDINGS OF FACT AND CONCLUSIONS OF LAW, THE COURT HEREBY ORDERS AND DECREES THAT:

- a. All convictions of Larry Jerome Williams, Jr.; Teddy Lamont Isbell, Sr.; and Damian Miguel Mills which are the subject of the pending Motions for Appropriate Relief are vacated.
- b. All charges herein against all three defendants are dismissed.
- c. This Order shall be filed by the Clerk of Superior Court and file-stamped copies shall be distributed to the Office of the District Attorney to the attention of the Honorable Todd Williams and counsel for the defendants, W. Bradford Searson, Frank Goldsmith and Stephen Cash.
- d. The file-stamped copy of this Order shall be transmitted via FACSIMILE, immediately upon receipt by the Clerk of Superior Court to the Department of Public Safety's Division of Combined Records.
- e. The Court bases its grant of relief upon its finding of factual innocence.

This 30 the day of Sept, 2015.



Joseph Neil Crosswhite
Superior Court Judge Presiding