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## Defense rests in WNC innocence hearing for 2 men

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ASHEVILLE, N.C. (AP) — The prosecution has begun presenting evidence in an unusual innocence hearing at which two North Carolina men are trying to prove they didn't kill a man, despite their guilty pleas to second-degree murder.

The defense rested Tuesday in the case of Kenneth Kagonyera and Robert Wilcoxsin, and the prosecution began presenting evidence. The two men pleaded guilty to second-degree murder in the death of Walter Bowman of Fairview, who was killed in a home invasion in 2000.

A three-judge panel is listening to evidence in the case, which was referred by the N.C. Innocence Inquiry Commission after it determined there was enough new evidence they didn't commit the crime to warrant the rare hearing

The state's first witness called by Assistant District Attorney Kate Dreher was Bradford Summey, who the defense maintains committed the crime along with Robert Rutherford and Lacy "J.J." Pickens. The men were never charged, and Pickens has since died.

A federal drug agent testified earlier that Rutherford confessed in 2003 to the home invasion and named Pickens and Summey as his accomplices. Testing by the State Bureau of Investigation determined that Summey's DNA was on a bandana found discarded near the crime scene.

Summey, who was just released from prison after serving nearly four years for holding up three convenience stores in the Asheville area at gunpoint, testified he wasn't involved in Bowman's death.

"I know everyone's pointing at me," he said. "I did a lot of crazy things in my life. I had nothing to do with that. I never killed anybody in my life."

Summey said Rutherford might have confessed to earn a reduction in his federal sentence for a drug conspiracy. Summey also testified that he, Rutherford and Pickens committed some home break-ins in the Fairview area that went unsolved, and the bandanas they wore could have been discarded there.

"When we did breaking and enterings, we always used bandanas," he said.

Under questioning by defense attorney Noell Tin, Summey said he had told investigators earlier that he had no idea how his DNA could have gotten on the bandana found near Bowman's house and never mentioned the break-ins.

"You said maybe someone took the bandana out of your house," Tin said.

Defense attorney Chris Fialko accused Summey of having an ulterior motive for his testimony.

"Mr. Summey, you know if you don't admit to this murder you're never going to be charged," Fialko said.

Also testifying Tuesday were the defendants. Kagonyera said he relented to pressure from law enforcement and his attorney and pleaded guilty rather than face the prospect of life in prison or worse.

"It was pretty much you can die in prison or be put to death," he said. "There was no other way around it."

"Did you commit the home invasion at Walter Bowman's house on Sept. 18, 2000?" defense attorney Noell Tin asked Kagonyera.

"No, I did not," he said.

He said he voluntarily provided a DNA sample to investigators and had assumed that test results on the bandanas would eventually demonstrate his innocence.

"I didn't need a test to know my DNA didn't match," he said.

It was only after his conviction that he learned the testing excluded the presence of DNA from any of the six men who were charged, he said.

Wilcoxson testified he pleaded guilty to second-degree murder because his lawyer told him he couldn't win at trial and could face life in prison. His girlfriend also was expecting their child at the time.

"She could end up with life without a father," he said.

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