

## He's fighting to clear name in killing

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Author: Sharon Coolidge

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### Document Text

Man takes chance on 2nd trial after original conviction overturned

Freedom or vindication?

After serving 11 years of a possible life prison term on a murder conviction, Anthony McClain faced that very choice this week.

The Lady or the Tiger.

Door 1 or Door 2.

Deal or no deal.

The 46-year-old husband and father opted for vindication. His quest to clear his record could land him in prison again.

It's up to jurors in McClain's second trial in the killing of Phillip White, 17, in Evanston in 1995. Prosecutors say McClain shot White to death for crack cocaine. McClain says he was nearby but didn't shoot White.

McClain got a second chance when an appeals court overturned his conviction last year and ordered a new trial based on new evidence found by a private investigator McClain hired.

The investigator discovered that a neighbor told police she saw a tall, thin, young, white man with blond hair running by and heard him say, "I shot (him)."

McClain is black and shares none of the physical traits she described.

Police originally talked to the witness but never forwarded her information to prosecutors, who therefore never told McClain's lawyer.

His lawyer, Clyde Bennett, felt so comfortable that the state didn't prove its case this week that he didn't put on any witnesses.

Before the trial started, Hamilton County prosecutors offered McClain a deal. Plead guilty to manslaughter, they told McClain, and he'd get a 10-to-25 sentence that would put him immediately before the parole board for possible release.

McClain chose vindication.

After a weeklong trial, his freedom is in the jurors' hands.

McClain could win both that freedom and vindication if the jury finds him not guilty. Or he could lose everything.

"He didn't do it," his wife, Shari Kemper, said. "There was no question at all. He has to prove his innocence."

At the end of the weeklong trial Friday, Bennett said there is no evidence linking McClain to the killing.

There were no witnesses. The gun was never found. Police could have, but didn't, lift fingerprints from shell casings left at the scene, Bennett said.

"It's tough because somebody died, but the evidence isn't there," Bennett said. "This is a classic case of being in the wrong place at the wrong time."

Assistant Hamilton County Prosecutor Gus Leon put on an extensive case, using testimony from the first trial and calling some of the same witnesses.

Using an oversized, detailed sketch of the scene, Leon detailed Friday what he believes happened and said nobody but McClain could have fired those shots.

"Use your common sense," Leon urged jurors. "This all leads to one in conclusion - this defendant killed Phillip White."

Jurors deliberated for two hours Friday before breaking for the weekend. They return at 9 a.m. Monday.

E-mail [scoolidge@enquirer.com](mailto:scoolidge@enquirer.com)

CAPTION: The Enquirer/Gary Landers

CAPTION: Anthony McClain (left) speaks with his lawyer, Clyde Bennett, during McClain's murder retrial

CAPTION: Friday. New evidence overturned McClain's original conviction.

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#### **Abstract** (Document Summary)

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