

1 he gave us critical information that led to the arrest,  
2 which occurred on April the 4th, 1997.

3 THE COURT: Mr. Panosh, excuse me for just a  
4 minute.

5 (Pause.)

6 THE COURT: Thank you, Mr. Panosh, you can  
7 proceed.

8 MR. PANOSH: Your Honor, essentially that  
9 would be the State's evidence. If this matter had gone  
10 to trial, we would have relied upon the statements that  
11 the defendant made to his co-conspirators in the breaking  
12 and entry scheme, and the statements that his brother  
13 made to Reverend Whidden, and all of the circumstantial  
14 evidence, which was extremely powerful indicating that he  
15 had a motive, and that he was acting for pecuniary gain.

16 Your Honor, as to the -- I've prepared a  
17 sentencing memorandum, and I'll give Your Honor a copy.  
18 (Document handed to the judge.)

19 THE COURT: Thank you.

20 MR. PANOSH: I've given one to counsel. As  
21 to the offenses that occurred in Troy, I'd ask Agent  
22 Bowman to testify briefly.

23 THE COURT: Come around, please.

24 **AGENT JAMES BOWMAN, being first duly sworn, testified as**  
25 **follows during DIRECT EXAMINATION by MR. RICHARD PANOSH:**

1 Q. State your name, please, sir.

2 A. James Bowman.

3 Q. And you're an agent with the State Bureau of  
4 Investigation; is that correct?

5 A. Yes, sir.

6 Q. In the course of your duties, did there come a  
7 time when you came into contact with a Mr. Stewart in  
8 reference to this investigation?

9 A. Yes, sir. I did.

10 Q. Would you explain that to the Court, please?

11 A. On November 20th, of 1998, correction, November  
12 23rd, 1998 I interviewed a William Wayne Stewart, who was  
13 an inmate with the North Carolina Department of  
14 Corrections. Stewart related that he had information  
15 related to the defendant. He stated that he had been  
16 incarcerated with the defendant at Piedmont Correctional  
17 Institute in Salisbury, and also at Southern Correctional  
18 Institute in Troy. He related that during the time he  
19 was incarcerated with the defendant, he had informed the  
20 defendant that he was going to be getting out of prison  
21 soon, and that the defendant proceeded to talk to him  
22 about after he got out of prison he was interested in him  
23 assisting in eliminating some witnesses in his pending  
24 murder trial. Stewart related that Kimble offered him  
25 \$100,000 to perform what he referred to as a series of

1 five missions. He related that the missions were to kill  
2 people that Kimble had referred to numerically to him as  
3 number one, Louis Whidden, Jr. in Arcadia, Florida;  
4 number two, Gary and Rose Lyles in Long Beach, North  
5 Carolina; number three, Kara and David Dudley in  
6 Greensboro, North Carolina; number four, Linda and Kevin  
7 Cherry in Archdale, North Carolina; and number five,  
8 Patrick Roy Pardee in Greensboro, North Carolina.

9           Stewart related that Kimble sent him several  
10 handwritten notes during the time that they were  
11 incarcerated together; however, he stated that he had  
12 disposed of most of the notes, except for one which he  
13 had received by mail on November 4th, 1998. He provided  
14 a copy of that letter to me during the course of the  
15 interview, which I submitted to the State Bureau of  
16 Investigation Laboratory in Raleigh for some laboratory  
17 analysis.

18           Reviewing the letter prior to submitting it  
19 to the Lab, I observed that it contained a map of the  
20 Guilford County courthouse. It was a hand drawn map,  
21 which outlined the hallways, holding cells, and other  
22 areas of the courthouse.

23           The letter also contained the name and  
24 address of Kimble's parents, the Reverend R. L. Kimble in  
25 Julian, North Carolina. And it contained his father's

1 home phone number and pager number. It also contained  
2 the name and address of a female acquaintance, a Melanie  
3 Oxendine, and it contained her home telephone number.

4           Stewart went on to explain that when he had  
5 conversations about the escape with Kimble that in their  
6 face-to-face conversations he would, in his words, talk  
7 straight out about what he wanted done. However, he  
8 stated that he had established a code that in any written  
9 correspondence he referred to it as "going to school."  
10 And he referred to the various missions as his "tests."  
11 And he stated that frequently Kimble would make reference  
12 to him that he wanted him to make an A+ on the tests. He  
13 stated that he would make reference to school supplies in  
14 referring to money and vehicles which had been promised  
15 to him in exchange for him completing the missions.

16           He stated that he also talked to him about  
17 the potential of escaping from custody. He talked to him  
18 about escape plans related to escaping from the Guilford  
19 County courthouse, which is what the hand drawn map  
20 referred to. And then he also talked to him about the  
21 potential of escaping from Southern Correctional  
22 Institute in Troy. That plan involved stealing a dump  
23 truck, crashing through a predetermined location on the  
24 fence at a predetermined time when Kimble would be on the  
25 yard and escaping.

1                   He also stated that Kimble told him that each  
2 of the murders should be done differently so that it  
3 would not appear obvious what was going on. He stated  
4 that when he did number two, which was Gary and Rose  
5 Lyles, that he could do it as a robbery. He stated that  
6 he had information that Mr. Lyles frequently had a lot of  
7 money on him, and that would be extra money for Stewart.  
8 He also suggested other methods of killing the witnesses.  
9 He suggested death by electrical wiring, robbery motive,  
10 a rape motive, double suicide, and a kidnapping gone bad,  
11 or Satanic cult type murder.

12                   Stewart explained that he went along with the  
13 conversations because during his association with Kimble,  
14 Kimble was frequently buying him things from the Canteen  
15 and giving him small amounts of money, which he was able  
16 to buy snacks and things from the Canteen. He stated  
17 that he didn't intend to participate in anything like  
18 this, and at the point he realized that Kimble was  
19 serious about his plans, he went to the superintendent of  
20 the prison and reported his information.

21                   I later interviewed the superintendent and  
22 confirmed that Stewart did report to him his  
23 conversations with Kimble.

24                   Stewart stated that the last contact --  
25 during that interview, Stewart stated that the last

1 contact he had with Kimble was on Sunday, November 22nd,  
2 and in passing, and he stated at that time Kimble made  
3 the statement to him, "Are you ready to go to school?"  
4 And he said, "I hope you get an A+," and he gave him the  
5 thumbs up sign as they parted.

6 I conducted a subsequent interview with  
7 Stewart on Thursday, December 17th. He stated that he  
8 had had another contact on December 13th with Kimble, and  
9 at that time Kimble had stated that he was more  
10 interested in trying to escape from prison. He stated  
11 that he wanted to attempt a crash through the gate at  
12 Southern Correctional Institute on Wednesday, December  
13 23rd, and he provided Stewart with a time that he would  
14 be on the courtyard. Stewart stated that Kimble talked  
15 to him about having someone on the outside potentially to  
16 help with the plans; however, he did not identify that  
17 person to him.

18 Q. I draw your attention to his plans to escape,  
19 specifically on page 3 of your report. That his plans to  
20 escape from the Guilford County courthouse, did he have  
21 any specific plans about how he would get the weapons  
22 into the courthouse?

23 A. Are you referring to page 3 of Stewart's  
24 interview?

25 Q. Yes.

1 MR. ZIMMERMAN: While he's looking that up,  
2 if Your Honor please, may I approach?

3 THE COURT: Yes, sir.

4 (Mr. Zimmerman and Mr. Panosh approached the bench.)

5 MR. PANOSH: Your Honor, may I have a minute  
6 to mark some exhibits?

7 THE COURT: Yes, sir.

8 **(DOCUMENTS HEREINAFTER REFERRED TO WERE MARKED FOR**  
9 **IDENTIFICATION AS: STATE'S EXHIBIT NOS. TK-1, TK-2,**  
10 **TK-3, TK-5, TK-6, TK-7, TK-8, AND TK-9.)**

11 THE COURT: Are you ready to proceed?

12 Q. Could you go back to my prior question? Do you  
13 need me to restate that?

14 A. No, sir.

15 Q. Okay.

16 A. Stewart related that Kimble had planned to discuss  
17 potential ways of escaping from the Guilford County  
18 courthouse during his trial. He drew diagrams which  
19 detailed the location of the holding cell, elevators,  
20 courtroom and the back hallways of the Guilford County  
21 courthouse. He suggested ways that Stewart could get a  
22 gun into the courthouse. He stated that he could wear  
23 work boots, which contained steel toes, and put a small  
24 gun in each boot. He stated that when the metal detector  
25 activated, he could tell the guards that the boot had

1 steel toes and potentially pass through. He also  
2 suggested that Stewart could visit the courthouse several  
3 days in a row wearing a belt with a large buckle, which  
4 would set off the alarm at each visit. After a few  
5 times, the guards would recognize him and stop checking  
6 the belt area of his pants. He also stated that he could  
7 put a gun inside a paper Hardee's bag, place the bag  
8 under the steps at the rear double exit doors, and he  
9 stated that he could open door as if he was leaving, get  
10 the bag and re-enter the courthouse without passing any  
11 security guards.

12 Q. Now, in the course of your investigation did you  
13 look at that last option? Was that a viable option?

14 A. Yes. In my opinion, it could be.

15 Q. Drawing your attention then to the plan to kill  
16 Ms. Kara Dudley, did he give any special instructions as  
17 to what should be done to Ms. Dudley?

18 A. Which page are you referring to?

19 Q. Page 4, third paragraph, mid way.

20 A. Yes.

21 Q. What were those?

22 A. As previously stated, he had suggested some  
23 potential different methods of the murders. In reference  
24 to Kara Dudley, he suggested that she be raped.

25 Q. Now, based upon the information you received, you



1 did a further investigation, including a search of the  
2 defendant's personal property; is that correct?

3 A. That's correct.

4 MR. PANOSH: May I approach the witness?

5 THE COURT: Yes, sir.

6 Q. Drawing you now to what has been marked as TK-1,  
7 would you identify that for the record and the Court,  
8 please?

9 A. Yes. TK-1 is the letter which was provided to me  
10 by Stewart, dated November 4th, 1998. It's the letter  
11 which contains the name and address of the defendant's  
12 parents and girlfriend.

13 Q. And drawing your attention to TK-2, what is that,  
14 please?

15 A. TK-2 is a two-page document, which numerically  
16 lists the five targets or missions previously referred  
17 to. And it also contains a sketch of the courthouse,  
18 including the back hallways and holding cell.

19 Q. Going to page 2 of that, please, what is on page  
20 2?

21 A. Page 2 is an additional map which details  
22 elevators, courtroom, and back hallways of Guilford  
23 County courthouse.

24 Q. And in the course of your investigation, did you  
25 determine that to be a map of the third floor?

1 A. That's correct.

2 Q. Now, there are Xes located on various points. I'm  
3 going to highlight some Xes that were placed on the  
4 diagram. Do you remember specifically what was said in  
5 reference to those Xes?

6 A. Yes, I do.

7 Q. What is that?

8 A. He stated that the Xes were potential positions  
9 for victims, bailiffs, Assistant District Attorney or  
10 District Attorney people who might be in the back hallway  
11 or courtroom area, people that would need to be shot  
12 during the escape.

13 Q. Did his plan have a specific way of getting rid of  
14 the bailiffs that would be guarding him?

15 A. He said they should be shot.

16 Q. Show you now TK-3. What is that, please?

17 A. TK-3 is a document that was also provided by  
18 Stewart. It was a document that Stewart stated was in  
19 his handwriting where he made some notes during a  
20 conversation with Kimble. And that was where he made the  
21 notes where he referred to the potential ways of doing  
22 the murders, electrical wiring, robbery motive, rape,  
23 double suicide, murder/suicide, kidnapping, ransom gone  
24 bad, and Satanic cult victims. And he also made two  
25 notations of amounts of money. One was \$100,000 and one

1 was \$50,000, which he stated was amounts of money that  
2 was discussed in his conversation with Kimble.

3 Q. Now, the notation that says "notes for writing my  
4 book deadlock," what's that about, if you recall?

5 A. I don't recall that.

6 Q. All right. Draw your attention to TK-5. What was  
7 that, please?

8 A. TK-5 is a hand drawn map that is directions to the  
9 location of one of the intended targets. And it's an  
10 area in the City of Greensboro.

11 Q. And TK-6, what is that?

12 A. TK-6 is a Laboratory Report from the North  
13 Carolina State Bureau of Investigation concerning a  
14 document which was submitted for examination, which  
15 included the letter received by me from Stewart that  
16 Stewart had received from Kimble. And this is a report  
17 of a latent fingerprint examination of that letter.

18 Q. What were they able to determine as to the latent  
19 fingerprints?

20 A. Agent Faggert determined that there was one  
21 identifiable latent print, which was developed on one of  
22 the pieces of paper I submitted on Item 1. That  
23 identifiable latent print was compared to major case  
24 inked impressions of Theodore Mead Kimble and identified  
25 as having been made by the left index finger of Theodore

1 Mead Kimble.

2 Q. Now showing you State's Exhibit TK-7, what is  
3 that, please?

4 A. State's Exhibit TK-7 is also a State Bureau of  
5 Investigation Laboratory report prepared by Special Agent  
6 M. L. Creasy, who is a documents examiner. This was a  
7 documents examination which, in other words, is a  
8 handwriting examination of the previously referred to  
9 letter, along with known handwriting samples of Theodore  
10 Mead Kimble. Agent Creasy stated that the above items  
11 have been examined and compared, and it's this examiner's  
12 conclusion that Theodore M. Kimble is the author of the  
13 writing on Items Q-1A and Q-1B, which was the letter and  
14 maps.

15 Q. And then TK-8 and 9 contain the originals that are  
16 covered with fingerprint chemicals; is that right?

17 A. That's correct.

18 MR. PANOSH: You need to see these any  
19 further, Counsel? Your Honor, we seek to introduce  
20 those.

21 THE COURT: Admitted.

22 (STATE'S EXHIBIT NOS. TK-1, TK-2, TK-3, TK-5, TK-6, TK-7,  
23 TK-8, AND TK-9 RECEIVED INTO EVIDENCE.)

24 Q. In the course of your investigation were you able  
25 to identify who the outside person was?

1 A. No, sir.

2 MR. PANOSH: That'd be all the questions.

3 Thank you.

4 THE COURT: Cross-examine?

5 MR. CRUMPLER: Yes, Your Honor.

6 **CROSS EXAMINATION by MR. FRED CRUMPLER:**

7 Q. Agent Bowman, when you were investigating what  
8 Stewart had said, from what I understand you testified  
9 to, Stewart told you that the defendant came up with this  
10 idea and had approached him and tried to employ him to do  
11 these things; am I correct?

12 A. That's correct.

13 Q. Did you -- the defendant has subpoenaed four  
14 inmates there that was with the two of them serving, all  
15 of them being incarcerated together. Did you, in your  
16 investigation, talk with Mr. Jamie Gayles?

17 A. No, sir.

18 Q. Did you talk with Mr. Gary Durham?

19 A. No, sir.

20 Q. Or Mr. Michael Hollman?

21 A. No, sir.

22 Q. Or Mr. Rodney McLean?

23 A. No, sir.

24 Q. Now, I'll ask you did you talk with anyone there -  
25 - did you investigate or talk with any other of the other

1 inmates about this plan?

2 MR. PANOSH: We object for reasons which are  
3 apparent.

4 THE COURT: Objection is overruled.

5 MR. PANOSH: Your Honor, may we approach?

6 THE COURT: All right.

7 (Counsel approach the bench.)

8 Q. Agent Bowman, in the hypothetical, inmates testify  
9 that Stewart said he was going to get all the money he  
10 could from this white cracker, and it was his idea. As a  
11 background, did you talk with anyone who told you that  
12 during your investigation?

13 A. No, sir.

14 Q. And you don't have any information Stewart tried  
15 to get the money from the defendant contrary to the  
16 defendant tried to persuade Stewart? You didn't  
17 interview anyone who gave you that information?

18 A. No, sir. I didn't receive that information from  
19 anyone.

20 Q. But Stewart stated that he did get money from the  
21 defendant, didn't he?

22 A. Yes, he did.

23 Q. How much money did he say he got from the  
24 defendant?

25 A. I don't find a specific amount in my notes. But

1 as I recall, he estimated that he received close to \$200  
2 at various times in amounts of \$10 to \$20 at a time.

3 Q. And that money was money somehow or another he got  
4 from the defendant and there was not anything he did in  
5 return for getting that, did he? Other than whatever he  
6 persuaded him to, whatever persuasion was involved?

7 A. That's correct.

8 Q. Uh, I believe when the defendant was confronted  
9 with the evidence that you presented, you found some of  
10 those items in his cell, did you not?

11 A. What items are you referring to?

12 Q. Did you find a letter that was written and  
13 crumpled up and somewhere disposed of in his cell?

14 A. Yes, sir. Yes, I did.

15 Q. And rather than communicating with Stewart, did he  
16 tell you he had abandoned whatever plan he had and had  
17 crumpled this up and thrown it and not sent it to him?

18 A. I don't recall him telling me that.

19 Q. Did you ask him why, if he were trying to get this  
20 to Stewart, he would crumple it up and throw it away?

21 A. At the time I talked to him, I had not had a  
22 chance to review the materials that were in his cell.

23 Q. Now, I believe you testified that he reported this  
24 to some prison authority at the Southern Correctional  
25 Institute. Do you have a copy of that report?

1 A. I have a copy of my interview with the  
2 superintendent.

3 Q. May I see that, please?

4 MR. CRUMPLER: May I approach the witness,  
5 Your Honor?

6 THE COURT: Yes, sir.

7 (Mr. Crumpler looks at report.)

8 Q. By virtue of the report, Mr. Clark, who I believe  
9 was the person in charge of that particular facility, had  
10 stated that he had just received information from  
11 Stewart, but he didn't have any details or didn't relate  
12 any of the facts which you've testified to here? Mr.  
13 Clark.

14 A. That's correct. He didn't have those facts.

15 Q. Did he tell you why he didn't ask for them if  
16 Stewart said he had a plan to escape?

17 A. No, sir. He didn't.

18 Q. What was Stewart incarcerated for, and how much  
19 time was he to be there?

20 A. Stewart was incarcerated on an auto larceny  
21 conviction, and he was serving a 10 to 12 month sentence.

22 Q. How much time did he have left to serve at the  
23 particular time he reported this?

24 A. As I recall, less than a month.

25 Q. Did he -- was he released from prison at the time



1 of his release date, or before or after?

2 A. He was released before his release date.

3 Q. Why was he released early?

4 A. There was an amended order from his sentence, and  
5 he was released a few days early. Probably five days  
6 prior to his predicted release date.

7 Q. Do you have a copy of that order, and what was the  
8 basis of amending an order releasing him early?

9 A. No, sir. I don't.

10 Q. Do you know where he is today?

11 A. No, I don't.

12 Q. When is the last time you've had any contact with  
13 him?

14 A. Had contact with him in January of this year.

15 Q. Do you know where he was then?

16 A. Yes, I do.

17 Q. Did---

18 A. Beg your pardon?

19 Q. I'm just phrasing a question. Do you know whether  
20 or not he had received any money that's in any way  
21 related to his testimony in this case, other than what  
22 you've testified to?

23 A. He didn't receive any money.

24 Q. But he did get out of prison early?

25 A. Yes, sir.

1 Q. Do you know whether or not the SBI was in any way  
2 involved in him being released early?

3 MR. PANOSH: We'll stipulate it was. We'll  
4 stipulate that I presented a motion to Judge Freeman.  
5 Judge Freeman reduced his sentence by a short period of  
6 time so the search warrant could be served on December  
7 22nd, and Mr. Stewart would not be in prison at the time  
8 the warrant was served.

9 THE COURT: Let the record show the State  
10 stipulates to the facts enunciated by the prosecutor.

11 MR. CRUMPLER: Will the Court give me just a  
12 moment, Your Honor?

13 THE COURT: Yes, sir.

14 Q. After he made -- after Stewart made the report to  
15 Mr. Clark, who was in charge of the facility, do you know  
16 whether or not Mr. Clark himself made a report of this?

17 A. As explained to me by Mr. Clark, he communicated  
18 this information to his personnel to monitor Kimble's  
19 behavior closely. I don't know if he made any type of  
20 written report. He did not provide any written report to  
21 me.

22 Q. How -- who made the report to the District  
23 Attorney's office about this?

24 A. In reference to what?

25 Q. The facts involving all of the schemes that you've

1 related that Stewart told you about?

2 A. A letter was sent to the District Attorney's  
3 office by Stewart.

4 Q. How did Stewart know to send a letter to the  
5 District Attorney's office?

6 A. From his conversations with Kimble, he knew where  
7 his pending trial was, and the conversations he had had  
8 with him concerning the maps of the courthouse, he knew  
9 that it was going to be Guilford County.

10 Q. So, Stewart on his own, according to the  
11 information you have, wrote a letter or some way  
12 communicated with the District Attorney's office?

13 A. That's correct.

14 Q. Were you in any way involved in that or have any  
15 knowledge that he was doing this?

16 A. After the fact, I was aware of it.

17 Q. Who did you tell about it when you found out about  
18 it?

19 A. Well, the letter went to the District Attorney's  
20 office. So, actually they were aware of it prior to my  
21 being aware of it.

22 Q. And by the information you have all of this came  
23 from a man named Stewart who was an inmate and who was  
24 released early?

25 A. That's correct.

1 MR. CRUMPLER: I have no further questions,  
2 Your Honor.

3 THE COURT: Mr. Panosh.

4 MR. PANOSH: Yes, please.

5 **REDIRECT EXAMINATION by MR. RICHARD PANOSH:**

6 Q. You took various steps to corroborate Mr.  
7 Stewart's information, including the fingerprints and the  
8 handwriting analysis. In the course of taking those  
9 steps, did any of the information turn out to be not  
10 valid?

11 A. No, it did not.

12 MR. PANOSH: No further.

13 THE COURT: Recross, Mr. Crumpler?

14 MR. CRUMPLER: No, Your Honor.

15 THE COURT: All right, thank you. Come down,  
16 please.

17 (Witness stood aside.)

18 MR. PANOSH: Your Honor, that would be the  
19 State's presentation. I'd like to be heard at the  
20 appropriate time. A number of the victim's family would  
21 like to be heard at the appropriate time.

22 THE COURT: All right, sir. Is there  
23 evidence for the defendant at this time, Counsel?

24 MR. CRUMPLER: Yes, Your Honor, there will  
25 be.