

NORTH CAROLINA  
GUILFORD COUNTY

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION  
97-CRS-23656, 39581,  
98-CRS-23486, 99-CRS-23241-23248

STATE OF NORTH CAROLINA )

-VS- )

THEODORE MEAD KIMBLE, )

DEFENDANT. )

C E R T I F I C A T E

I, DEBORAH R. WISE, SUPERIOR COURT REPORTER,  
EIGHTEENTH JUDICIAL DISTRICT, DO HEREBY CERTIFY THAT THE  
FOREGOING 20 PAGES CONSTITUTE THE COMPLETE AND ACCURATE  
TRANSCRIPT OF MY STENOGRAPH NOTES TAKEN AT THE JANUARY 25,  
1999, REGULAR CRIMINAL SESSION OF SUPERIOR COURT, GUILFORD  
COUNTY, GREENSBORO, NORTH CAROLINA, AND WERE TRANSCRIBED BY ME  
PERSONALLY.

THIS, THE 3RD DAY OF MARCH, 1999.

  
DEBORAH R. WISE, SUPERIOR COURT REPORTER

NORTH CAROLINA  
GUILFORD COUNTY

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION  
97 CRS 39581

STATE OF NORTH CAROLINA )  
 )  
 vs. ) CERTIFICATE  
 )  
THEODORE MEAD KIMBLE )  
\_\_\_\_\_ )

This is to certify that transcript of the proceedings of March 4 & 5, 1999 in the above-entitled case was delivered and/or mailed to the attorney(s) of record as indicated below on the 2nd day of July, 1999.

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NORTH CAROLINA  
GUILFORD COUNTY

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION  
97 CRS 39581

STATE OF NORTH CAROLINA            )  
  )  
                  vs.                    )       T R A N S C R I P T  
  )  
THEODORE MEAD KIMBLE                )  
\_\_\_\_\_                                  )

Transcript of the proceedings taken in the  
General Court of Justice, Superior Court Division,  
Guilford County, North Carolina, at the March 4, 1999  
Criminal Session before the Honorable Peter M. McHugh,  
Judge Presiding.

APPEARANCES:

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## I N D E X

<u>State's Witnesses:</u>	<u>Direct</u>	<u>Cross</u>	<u>Redirect</u>	<u>Recross</u>
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1 (March 4, 1999.)

2 THE COURT: Mr. Panosh, you may proceed.

3 MR. PANOSH: Your Honor, we are before the  
4 Court on the matter of Theodore Mead Kimble, the  
5 remaining case is 97 CRS 39581. I believe that the first  
6 matter is a motion to withdraw filed pro se by the  
7 defendant.

8 Your Honor, the State has filed an Answer to  
9 the motion to withdraw, and I've served counsel with a  
10 copy. I did note that on page 1 when I indicated date of  
11 change of counsel, I have the wrong date there. It  
12 should have been December 3rd, of '98 change of counsel.  
13 And I've made that correction.

14 THE COURT: Thank you. Mr. Crumpler, Mr.  
15 Zimmerman, are you appearing with the defendant at this  
16 time?

17 MR. CRUMPLER: Your Honor, we are appearing  
18 by virtue of the nature of the motion. We have explained  
19 to the defendant actually we will remain neutral because  
20 we may be asked questions, and the defendant understands  
21 that.

22 THE COURT: All right. Thank you. Mr.  
23 Kimble, would you stand up, please?

24 (Defendant stands.)

25 THE COURT: Mr. Kimble, the court records

1 reflect that by letter bearing a date of February 24th  
2 addressed to the Clerk of Superior Court, uh, signed by  
3 yourself apparently that you indicated your desire to  
4 withdraw a guilty plea with regard to the matters that  
5 are before the Court at this time. Was that your letter,  
6 Mr. Kimble?

7 MR. KIMBLE: Yes, sir.

8 THE COURT: And that was sent in an envelope  
9 bearing a postmark of February 25th, and was received and  
10 filed by the Clerk on February 26th, 1999. Do you wish  
11 to be heard in support of that motion to withdraw your  
12 guilty plea at this time, Mr. Kimble?

13 MR. KIMBLE: Yes, sir.

14 THE COURT: Do you wish to offer sworn  
15 testimony in support of your motion to withdraw?

16 MR. KIMBLE: Yes, sir.

17 THE COURT: All right. Let the defendant be  
18 sworn.

19 **THEODORE MEAD KIMBLE, being first duly sworn, testified**  
20 **as follows:**

21 THE COURT: All right, sir, you may testify  
22 from there.

23 MR. KIMBLE: Uh, Your Honor, North Carolina  
24 statutes states three unusual reasons a defendant who  
25 pleads guilty may get a new trial. Number two states the

1 defendant has to withdraw his plea and go to trial, but  
2 was denied by the Superior Court judge. I want this  
3 trial and these lawyers, not a new one.

4           Upon arrival at my last hearing I was  
5 surrounded by armed guards, shotguns and revolvers  
6 everywhere. I was extremely intimidated. I was told to  
7 get out of the car. I was in fear for my life. I was  
8 brought over to the courthouse and put into a holding  
9 cell. The motion for the day was to have my trial moved  
10 to Winston-Salem. Since the D.A.'s last press  
11 conference, my lawyers have been pressuring me to cut a  
12 deal. My lawyers seem intimidated by the D.A., and I, in  
13 turn, have become intimidated by the lawyers. The  
14 lawyers wanted to talk with the D.A. to see what would be  
15 offered. Once the wheeling and dealing began, it was as  
16 if I had agreed to everything. They told me to take the  
17 deal or end up dead. I was scared to death for my life.  
18 I'm not guilty. I don't want to plead guilty. If I were  
19 guilty, I wouldn't be willing to die. I want my day in  
20 court to tell my side, the truth.

21           My lawyers have been paid to do a job, and  
22 which I ask they do. The whole purpose of getting new  
23 lawyers was to have someone I felt was willing to fight  
24 for me. I ask the Court to set aside my plea and set the  
25 trial date. I ask a gag order to be put on the D.A. He

1 had manipulated the witnesses and myself. I ask my trial  
2 be moved to Winston-Salem because of the publicity around  
3 my case, mainly caused by the D.A. I'm tired of being  
4 scared, used and run over by Guilford County. It's time  
5 I stand up for myself and quit allowing these people to  
6 abuse me. I want the truth known by all, and that's what  
7 everyone is going to get when I take the stand. It's my  
8 life, it should be my choice. Please, Your Honor, set  
9 the plea aside and set a trial date. I don't want to  
10 have to appeal the decision to get the trial I deserve.  
11 This would further delay the inevitable and tie up the  
12 court. I would have to get new court appointed lawyers  
13 and start over. The lawyers I have were paid. Let them  
14 finish what they've started. With all due respect, you  
15 represent justice. I'm willing to die to prove my  
16 innocence. I love my wife, and I want to tell the truth.  
17 The D.A. has done nothing -- everything in his power to  
18 ensure that I not receive a fair trial. Please set  
19 things straight.

20 I might add, Your Honor, being intimidated,  
21 last time I left I was somewhat abused. I was shackled  
22 so tight it left bruises on my wrists and nearly broke  
23 the skin on my ankles, and the driver was running 97 mph  
24 down 220, blowing his horn, flashing his lights at people  
25 to get out of his way. By the time I got back to my

1 cell, I was sitting here asking myself, "What just  
2 happened to me?" I was extremely intimidated and scared  
3 to death. You know, the medication I might add also that  
4 I'm on, I have my good days and my bad days. You know,  
5 the day I was showed up, I really felt like giving up.  
6 Here all these people around me are scaring me to death.  
7 You know, asking me if the medication had an effect on me  
8 would be like a highway patrolman asking a drunk driver  
9 just before writing a DWI if he's intoxicated. Uh, you  
10 know, I'm on a reasonable amount of medication, and  
11 needless to say it won't happen again, but I'm not giving  
12 up. I'm not guilty, and I want to plead my case. I want  
13 to prove myself innocent. You know, I have been  
14 railroaded in every way possible. And, you know, I  
15 should not allow these lawyers to give up so quickly. I  
16 want my day in court. You know, like I said, I was in  
17 fear for my life. You know, I'm tired of being walked  
18 over, and I'm ready to stand up for myself and tell what  
19 happened.

20 Do you have any questions?

21 THE COURT: I don't have any questions.

22 Thank you.

23 Mr. Panosh, do you wish to cross-examine the  
24 defendant on his testimony?

25 MR. PANOSH: Yes, please.

1 **CROSS EXAMINATION by MR. RICHARD PANOSH:**

2 Q. Who was it that threatened you, please?

3 A. I was told by counsel that if I didn't take your  
4 deal I would end dead.

5 Q. By end up dead were they referring to the death  
6 penalty?

7 A. Uh, yes, sir.

8 THE COURT: What was the answer, Mr. Kimble?

9 MR. KIMBLE: Yes, sir.

10 Q. Other than telling you the possible outcome of  
11 your trial, did they say anything that you considered to  
12 be a threat?

13 A. They didn't tell me anything that would be a  
14 possible threat as much as the guards around me with  
15 shotguns and revolvers. I was extremely intimidated. I  
16 mean I was looking out the window and wondering if  
17 S.W.A.T. was on team going to blow my head off. On the  
18 building going to shoot me.

19 Q. Did anyone threaten to shoot you?

20 A. No, sir. But when you got 20 SBI agents and  
21 guards staring you down, they in there with shotguns and  
22 pistols, it's a little intimidating.

23 Q. When you came into contact with these law  
24 enforcement agents, did any of them say anything to you  
25 to induce you to plead guilty?

1 A. Uh, no, sir. It was more of a silent threat.

2 Q. How long after you changed counsel did you begin  
3 to discuss with your attorneys the chance or possibility  
4 of pleading guilty?

5 A. I did not. They came back to me and recommended  
6 after your press conference intimidating witnesses and  
7 others.

8 Q. When they spoke to you and told you of their  
9 recommendation, did you agree?

10 A. No, I did not.

11 Q. When did you agree to plead guilty?

12 A. On the spur of the moment when they looked at me  
13 and told me my life was in danger.

14 Q. What date was that?

15 A. Uh, my last court appearance, the day in which I  
16 was so intimidated by law enforcement.

17 Q. You had not agreed to plead guilty prior to your  
18 court appearance?

19 A. No, I had not.

20 Q. Had your attorneys presented you with documents to  
21 sign or to review prior to your court appearance?

22 A. Uh, yes, sir. They said none of this was final,  
23 and that it was only on the drawing board, and that it  
24 was only in works, that nothing would be final until I  
25 stood before the judge. It was just a preliminary type



1 motion that would allow them to speak with you. But only  
2 until I was put up here on the spur of the moment and  
3 being extremely intimidated did I plead.

4 Q. When did you sign the transcript of plea?

5 A. I cannot recall.

6 Q. Was it in court or prior to court?

7 A. Prior to court.

8 Q. When you signed the transcript of plea, who was  
9 present?

10 A. Uh, my attorneys.

11 Q. Was anyone other than your attorneys present when  
12 you went over and signed the transcript of plea?

13 A. No, sir.

14 Q. At the time that you signed the transcript of  
15 plea, did anyone threaten you?

16 A. No, sir.

17 MR. PANOSH: No further questions.

18 THE COURT: All right, thank you, sir. You  
19 can be seated.

20 (Defendant sits.)

21 THE COURT: Is there any further evidence for  
22 the defendant on this motion at this time, either through  
23 counsel or pro se? Through counsel?

24 MR. ZIMMERMAN: Not through counsel.

25 THE COURT: Any other evidence, Mr. Kimble,

1 for you? Do you have any other evidence in support of  
2 your motion?

3 MR. KIMBLE: No, sir.

4 THE COURT: Is there evidence for the State  
5 at this time?

6 MR. PANOSH: Your Honor, we seek to introduce  
7 into evidence the transcript of his prior plea of guilty.  
8 Do you have a copy? May I approach?  
9 (Transcript handed to the judge.)

10 MR. PANOSH: I've provided counsel with a  
11 copy.

12 THE COURT: All right, Mr. Panosh, I've  
13 reviewed the transcript. Do you have further evidence?

14 MR. PANOSH: Your Honor, the allegation that  
15 defendant has just submitted that he was on some sort of  
16 medication that was affecting his ability to think is a  
17 new allegation, and we're not prepared for that. I know  
18 Your Honor covered it in the transcript of plea. I  
19 believe there would also be evidence of what, if any,  
20 medication was given at the jail. And I think to make  
21 the record complete we should have an opportunity to look  
22 into that. I don't know if you want to take a recess at  
23 this time or if you want to handle that later.

24 It also may become necessary to consult with  
25 his physicians or whoever was prescribing medication for

1 him at the Department of Corrections to find out what the  
2 effects are since he's alleged to the fact it prevented  
3 him from knowingly and voluntarily entering his plea.

4 THE COURT: Are you requesting a recess for  
5 that purpose?

6 MR. PANOSH: Yes, sir. I need to check that  
7 out.

8 THE COURT: How long do you think it will be  
9 before you're in a position to respond to that  
10 allegation?

11 MR. PANOSH: Hopefully I can get it done by  
12 FAX in 30 to 45 minutes. Maybe quicker.

13 THE COURT: All right. On the State's motion  
14 for a recess in the proceedings to meet the previously  
15 un-alleged assertion that the defendant was subject to  
16 impairing substance at the time of the entry of the plea,  
17 court will be in recess 30 minutes. Thank you.

18 (A recess was taken.)

19 THE COURT: All right, Mr. Panosh, you may  
20 proceed at this time.

21 MR. PANOSH: Major Montgomery, please. I  
22 believe she's in the hall. Will you go get her, please?

23 MAJOR DEBORAH MONTGOMERY, being first duly sworn,  
24 testified as follows during DIRECT EXAMINATION by MR.

25 RICHARD PANOSH:

1 Q. Would you please state your name?

2 A. Major Deborah Montgomery.

3 Q. Your occupation, please?

4 A. The Bureau Commander for the Detention Division in  
5 Guilford County.

6 Q. As Bureau Commander, are you familiar with the  
7 procedures and the records of the Guilford County  
8 Sheriff's Department as they apply to detention?

9 A. I am. Yes, sir.

10 Q. And are you familiar with January the 25th of 1999  
11 and thereafter the day on January 28th when the defendant  
12 appeared in Superior Court in Guilford County?

13 A. I am familiar with that.

14 Q. How did he get to Superior Court in Guilford  
15 County on January 28th?

16 A. January 28th he came in with the Department of  
17 Corrections. He came to the courthouse for his hearing.  
18 When he was finished, he went straight back out with DOC.

19 Q. Was he housed in Guilford County jail at all that  
20 day?

21 A. No, he was not housed in population.

22 Q. Was he administered any medication that day?

23 A. Not by any of our staff or our contract staff.

24 Q. While he was present in Guilford County, was he in  
25 the custody of the Sheriff's Department?

1 A. He was in the custody of the Department of  
2 Corrections.

3 Q. Do you know what time he arrived that day?

4 A. No, I don't.

5 Q. Do you know whether it was morning or afternoon?

6 A. I don't know the exact time.

7 MR. PANOSH: No further questions.

8 THE COURT: Mr. Kimble, would you like to ask  
9 this witness any questions about the matters she's  
10 testified to?

11 MR. KIMBLE: Sure, Your Honor.

12 THE COURT: You don't need to stand when  
13 you're asking questions, unless you want to.

14 **CROSS EXAMINATION by MR. THEODORE KIMBLE:**

15 Q. Are you aware of any medication coming with me  
16 from the Department of Corrections?

17 A. I'm not aware of any medication that did come. I  
18 am aware of the fact that my staff did not give out  
19 medication to you.

20 Q. Are you aware that -- was there SBI present on my  
21 arrival?

22 A. There were Department of Corrections officers  
23 present.

24 Q. Have you asked your officers if they gave me any  
25 medication?

1 A. Our officers do not administer medication. A  
2 medical professional has to administer medication.

3 Q. Did you ask them?

4 A. Like I said, our officers do not administer  
5 medication.

6 Q. But you didn't ask?

7 A. It's our policy that we do not do that.

8 MR. KIMBLE: No further questions, Your  
9 Honor.

10 THE COURT: Redirect?

11 MR. PANOSH: No, thank you.

12 THE COURT: Thank you, ma'am. Come down,  
13 please.

14 (Witness stood aside.)

15 MR. PANOSH: Dr. Tyson, please.

16 MR. ZIMMERMAN: If Your Honor please, we  
17 object to the State calling this witness at this time.

18 THE COURT: State your grounds, please.

19 MR. ZIMMERMAN: If Your Honor please, the  
20 confidentiality between psychologist and patient.

21 MR. PANOSH: I'm not going to ask about  
22 confidential communications.

23 THE COURT: All right. The objection will be  
24 overruled subject to your right to renew your objection  
25 to a particular question or specific line of questions.

1 MR. ZIMMERMAN: All right.

2 MR. PANOSH: Please come up, Doctor.

3 DR. WILLIAM MICHAEL TYSON, being first duly sworn,  
4 testified as follows during DIRECT EXAMINATION by MR.

5 RICHARD PANOSH:

6 Q. Would you state your name, please, sir?

7 A. William Michael Tyson, T-Y-S-O-N.

8 Q. And your occupation, please, sir?

9 A. I am psychologist licensed to practice by the  
10 State of North Carolina.

11 Q. And, Doctor, do you do any work for the Department  
12 of Corrections?

13 A. I'm not employed by the Department of Corrections,  
14 but I do some consulting work that brings me into contact  
15 with the Department of Corrections.

16 Q. In the course of your duties did there come a time  
17 when you consulted with defendant in January of 1999?

18 A. Uh, I did go to conduct an evaluation of the  
19 defendant in February of 1999.

20 Q. Did you meet with him on one or more dates?

21 A. On one occasion.

22 Q. What date was that, please?

23 A. Uh, that would be February 22nd, 1999.

24 Q. And the purpose of your meeting with him was to  
25 evaluate his mental condition; is that correct?

1 A. Yes.

2 Q. And in the course of evaluating his mental  
3 condition, did you obtain information from the Department  
4 of Corrections or other sources as to what, if any,  
5 medications he was taking on February 22nd?

6 A. The only information I---

7 MR. ZIMMERMAN: Objection.

8 THE COURT: Objection is overruled.

9 A. I'm sorry?

10 THE COURT: Answer the question, please.

11 A. The only information I obtained was by his self  
12 report.

13 Q. And what -- based upon that information, what  
14 medication was he taking on February 22nd?

15 MR. ZIMMERMAN: Objection.

16 THE COURT: Objection overruled.

17 A. By his report he indicated that he was taking an  
18 antidepressant.

19 MR. ZIMMERMAN: Your Honor, I need you to ask  
20 the witness to---

21 THE COURT: Can you keep your voice up,  
22 please, Doctor, so these gentlemen over here are able to  
23 hear you.

24 A. Oh, I'm sorry. I'm sorry. He indicated that he  
25 was taking the antidepressant Paxil and a another



1 medication by the name Vistaril, and that this had been  
2 prescribed for him by jail or prison authorities.

3 Q. And in the course of your dealings in the area of  
4 mental health, are you familiar with those two  
5 medications?

6 A. Yes, I am.

7 Q. And when you learned that he was taking these  
8 medications, did that in any way deter you from  
9 conducting your interview?

10 A. No, it did not.

11 Q. Would you describe the way his personal affect,  
12 how he was able to answer questions, how he appeared to  
13 you without getting into what he actually said?

14 MR. ZIMMERMAN: Objection.

15 THE COURT: Objection is overruled.

16 A. Uh, I didn't detect any indication that he was  
17 unable to participate in the interview. He appeared  
18 appropriate and engaged in conversation appropriately.

19 MR. ZIMMERMAN: Objection. Move to strike.

20 THE COURT: Motion is denied. Objection is  
21 overruled.

22 Q. Now, did you in fact do an evaluation?

23 A. I did.

24 Q. And was your evaluation based upon the information  
25 he provided you?

1 A. In part.

2 Q. In large part, correct?

3 A. In some part. I considered other facts.

4 Q. And did you consider any information he gave you  
5 was reliable considering the fact that he was under those  
6 medications? Well, let me rephrase that. Do you feel  
7 that those medications would have in any way impaired his  
8 ability to convey to you reliably the information he  
9 wanted to convey to you?

10 MR. ZIMMERMAN: Objection, if Your Honor  
11 please. This man is not a medical doctor.

12 THE COURT: Objection is overruled.

13 A. With the -- again, with the caution that I am not  
14 a medical doctor, I did not detect any signs that would  
15 cause me to question the reliability of what he was  
16 telling me on the basis of a potential medication effect.

17 Q. Now, let me ask you about your personal  
18 background. Do you have a doctorate in psychology; is  
19 that correct?

20 A. Yes. I hold a doctorate in clinical psychology  
21 from the University of Massachusetts at Amherst. And I'm  
22 licensed to practice independently by the State of North  
23 Carolina.

24 Q. And when you are practicing, you consult with a  
25 psycholog--- excuse me, with a licensed psychiatrist when

1 it comes to prescribing medications; is that correct?

2 A. Yes.

3 Q. And how long have you been a licensed  
4 psychologist?

5 A. I've been licensed permanently by the State of  
6 North Carolina since 1986. I obtained a temporary  
7 license in 1983 when I first came to the state. So,  
8 effectively since 1983.

9 Q. Now, drawing your attention to these two drugs,  
10 Paxil and Vistaril, are these drugs that you, uh, are  
11 commonly used in the course of treating individuals who  
12 have depression?

13 A. The Paxil is, yes.

14 Q. And is the Vistaril commonly used in treating  
15 individuals who have anxiety?

16 A. Anxiety or sleep disturbance.

17 MR. PANOSH: No further questions.

18 THE COURT: Would you like to ask this  
19 witness any questions about his testimony, Mr. Kimble?

20 MR. KIMBLE: Yes, sir, Your Honor.

21 **CROSS EXAMINATION by MR. THEODORE KIMBLE:**

22 Q. Does not environment affect judgment?

23 A. Yes, it does.

24 Q. So, in a controlled environment in front of you  
25 when it's just one on one could be completely different

1 from being surrounded by armed guards and shoved into  
2 cell, could it not?

3 A. The circumstance -- are you asking is the behavior  
4 likely to be different, or the effect of the medication,  
5 or just the circumstance?

6 Q. The effect of the behavior possibly conducted (sic)  
7 by the medication. In other words, the medication  
8 whereas under a controlled environment might be much more  
9 effective than under an unusual or out of the ordinary  
10 condition?

11 A. That's a possibility.

12 Q. So, other words, while the medication may work  
13 under a controlled environment, it might not be near as  
14 effective in an uncontrolled environment?

15 A. That's a possibility.

16 Q. So, therefore, taking the medication might cause  
17 someone to react differently under a uncontrolled  
18 environment?

19 A. I'm sorry? Are you asking would the medication  
20 have a different effect in one environment than in  
21 another?

22 Q. Yes.

23 A. It's possible.

24 MR. KIMBLE: Thank you, Your Honor. No  
25 further questions.

1 MR. PANOSH: No further. Thank you.

2 THE COURT: All right, thank you, Doctor.

3 (Witness stood aside.)

4 MR. PANOSH: Agent Bowman, please.

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

7 Q. Would you state your name, please, sir?

8 A. James Bowman, B-O-W-M-A-N.

9 Q. And you're an agent for the State Bureau of  
10 Investigation; is that correct?

11 A. Yes, sir.

12 Q. And over the recess did you -- were you present  
13 when a subpoena was prepared for the records of the  
14 Department of Corrections?

15 A. Yes, sir. I was.

16 Q. And did you read that to them over the telephone?

17 A. Yes, I did.

18 Q. And did they give you the information that the  
19 subpoena requested?

20 A. Yes, they did.

21 Q. And that's being FAXed; is that correct?

22 A. That's correct.

23 Q. Can you at this time verbally give the Court that  
24 information?

25 A. Yes, sir. I can.

1 Q. What was it?

2 A. I spoke with a Physician's Assistant Hines at the  
3 Caledonia Correctional Institute. He stated that the  
4 defendant was taking a prescription 50mg of Vistaril,  
5 20mg of Paxil. He stated that on January 28th at 6:00  
6 a.m. he received one dose of Vistaril and one does of  
7 Paxil.

8 Q. When was the next time he received the medication?

9 A. He stated that that was a daily medication. That,  
10 uh, actually I received the information for the 26th,  
11 27th and 28th, which he took it at 6:00 a.m. on those  
12 days. Uh, and he's going to be FAXing a schedule of  
13 those doses.

14 MR. PANOSH: No further. Thank you.

15 THE COURT: Would you like to ask any  
16 questions?

17 **CROSS EXAMINATION by MR. THEODORE KIMBLE:**

18 Q. Did you say January or February?

19 A. January.

20 Q. What institute did you call?

21 A. I called Caledonia where the records, the medical  
22 records are now housed. They were transferred there from  
23 Southern Correctional Institute.

24 MR. KIMBLE: No further questions, Your  
25 Honor.

1 THE COURT: Thank you.

2 (Witness stood aside.)

3 MR. PANOSH: Your Honor, that would be all  
4 the evidence. We'd ask the Court permission to introduce  
5 the FAX when it arrives.

6 THE COURT: That will be allowed. Do you  
7 want to be heard in opposition to this defendant's  
8 motions, counsel?

9 MR. PANOSH: Your Honor, we would submit on  
10 the Answer that we filed in reference to the medication,  
11 we would submit that the records show the defendant was  
12 taking exactly the medication that he was taking at the  
13 time that Your Honor saw him on that date. You've had a  
14 chance to evaluate his person, his appearance, his  
15 demeanor. And based upon his questions, based upon your  
16 observations, you made a finding that those prescription  
17 medications were not affecting him, and there's been no  
18 evidence to the contrary. Also, I point out that he was  
19 seen by Dr. Tyson as recently as February 22nd. Again,  
20 he was on the same medication. Again, Dr. Tyson didn't  
21 feel that that was affecting his ability to answer the  
22 questions and give reliable information based upon the  
23 statements here in court.

24 Your Honor, I think that the defendant's  
25 letter when he says he was threatened is not born out by

1 the evidence. And his testimony here simply says that he  
2 was advised of the potential that if he went to trial  
3 that he could receive capital punishment, and that there  
4 is no evidence that he was threatened by any individual.  
5 He says at this time he said then that he was satisfied  
6 with counsel. He says that he was coerced, but I think  
7 the most important part of his testimony is that he went  
8 over the transcript of plea in a room alone with his two  
9 counsel and signed that transcript of plea. And there's  
10 no indication whatsoever that anyone was present  
11 threatening him or coercing him at that time. We'd ask  
12 you to take into consideration the legal precedent we  
13 cited in our Answer, and deny the motion to withdraw.

14 THE COURT: All right, thank you.

15 MR. KIMBLE: May I be heard, Your Honor?

16 THE COURT: Yes, sir. Go ahead, please.

17 MR. KIMBLE: Uh, I'd like to first of all  
18 point out that environment -- that environment  
19 uncontrolled versus controlled has a great impact, and  
20 even the doctor himself pointed that out. I might also  
21 further add that I had been mentally taunted by inmates  
22 due to the press conference called---

23 MR. PANOSH: We object to any allegations  
24 that haven't been previously presented in evidence.

25 THE COURT: All right, that will be



1       sustained. You need to restrict yourself to matters that  
2       you have previously presented to the Court, Mr. Kimble,  
3       during this hearing.

4               MR. KIMBLE: Yes, sir, Your Honor. I might  
5       further add that jailers were, uh, the SBI or either the  
6       detectives were handing me my medication---

7               MR. PANOSH: We object. There's been no  
8       evidence of that. That hasn't been previously presented.

9               THE COURT: Again, Mr. Kimble, at this point  
10       you may present your contentions supported by evidence  
11       that you've already offered to the Court.

12              MR. KIMBLE: Okay. She agreed that she did  
13       not ask -- the young lady agreed that she never asked her  
14       employees whether or not they were administering  
15       medication to me.

16              I might also point out that in the discovery  
17       here that they pointed out that I was on 50mg a day, I'm  
18       on 150mg a day. I get it three times a day, twice just  
19       before going to bed---

20              MR. PANOSH: We again, we object to him  
21       testifying. There's no evidence to support this.

22              MR. KIMBLE: He didn't bring it forward.

23              THE COURT: That is sustained. You'll need  
24       to restrict yourself to matters that were in evidence  
25       prior to your statement at this time.

1 MR. KIMBLE: To the facts presented already  
2 is what you're saying?

3 THE COURT: Yes, sir.

4 MR. KIMBLE: Even though they were not  
5 presented?

6 THE COURT: You had a full opportunity to  
7 present evidence, Mr. Kimble.

8 MR. KIMBLE: May I be sworn to testify, Your  
9 Honor?

10 THE COURT: Go ahead. You're still under  
11 oath. Go ahead.

12 MR. KIMBLE: Stand here?

13 THE BAILIFF: Yes.

14 MR. KIMBLE: Here?

15 THE COURT: Yeah.

16 MR. KIMBLE: Your Honor, I'd like to testify  
17 to being on medication three times a day, 50mg each of  
18 Vistaril, which I get 50mg at dinner and 50mg at bedtime.  
19 Therefore, it induces me in the mornings to somewhat of a  
20 morning sickness, and sometimes a weary feeling. I also  
21 take the medication in the morning upon waking up.  
22 Therefore, it induces sometimes an intoxicated effect.  
23 Uh, I'm also on Paxil, 20mg a day, which was pointed out  
24 I took on that particular day.

25 Uh, I'd also like to further state that for

1 the record that I had been mentally taunted by other  
2 inmates saying that Mr. Panosh was going to fry me, was  
3 going to kill me, prior to coming to court that day.

4 MR. PANOSH: This evidence is not supportive  
5 of any allegations before Your Honor.

6 MR. KIMBLE: Due to his press conferences and  
7 volunteering information to the press making it public  
8 knowledge to other inmates, and which in Troy is the  
9 primary newspaper is the *Greensboro News and Record*. My  
10 case is common knowledge among the inmates. Inmates  
11 reading everything that Mr. Panosh had put in the  
12 newspaper invoked them to retaliate against me. Prior to  
13 coming to court I felt my life was threatened. Coming to  
14 court, being involved with law enforcement with everyone  
15 toting guns around me and staring me down, telling me to  
16 get out of the car, come this way, go that way, being put  
17 into a cell, and then further information from my lawyers  
18 saying take this deal or die, I felt my life was beyond  
19 threatened, my safety, primarily from Mr. Panosh.

20 Uh, I'd also like -- like I said, the  
21 environment condition. It's easy to sit in a room one on  
22 one with a physician where my nerves are calm and I'm  
23 relaxed versus coming in here where I'm extremely nervous  
24 and I feel like I'm being stepped on. I'm not a very  
25 outspoken person. I may be today, but many times I'm

1 very down and depressed. And my medication has different  
2 effects at different days. Just like I may go and be  
3 evaluated by the Department of Corrections psychologist  
4 one day, she asked me where I rate from 1 to 10, I have  
5 to give her a 1 to 10 answer; 1 being the best and 10  
6 being the worst. On any day it's liable to be anywhere  
7 on that chart. Under the uncontrolled environment which  
8 I was placed last time being extremely intimidated, all  
9 facts correlated together, I felt that I was being  
10 threatened upon death, not necessarily from the death  
11 penalty as much as from Mr. Panosh.

12 Any cross-examination?

13 THE COURT: Are you finished?

14 MR. KIMBLE: Yes, sir.

15 THE COURT: You wish to cross-examine?

16 MR. PANOSH: No, Your Honor.

17 THE COURT: All right, thank you. Anything  
18 further at this time?

19 MR. PANOSH: We have documents. I'll submit  
20 them, if you want to review them. If you gentlemen want  
21 to see them?

22 (Documents handed to Mr. Zimmerman and Mr. Crumpler.)

23 MR. PANOSH: Your Honor, I'll hand those up.  
24 State's #1 is seven pages.

25 MR. KIMBLE: Your Honor, I'd like to be heard

1 on the document.

2 THE COURT: All right, sir.

3 MR. KIMBLE: Uh, I've had no time to review  
4 the document. No prior knowledge to it. I'd also like  
5 to move -- upon sitting here reviewing it, it was filled  
6 out when they didn't give me the medication. How could  
7 they have known when I got it and when I didn't. If  
8 you'll note on the 25th, I was in court that day and they  
9 filled it out as though they had administered it to me.  
10 So, I object---

11 THE COURT: All right, thank you.

12 MR. KIMBLE: ---to the introduction of the  
13 information.

14 THE COURT: Objection is overruled.

15 (Pause.)

16 THE COURT: At this time is there anything  
17 further for the defendant or for the respondent State?

18 MR. PANOSH: No, Your Honor.

19 THE COURT: All right, thank you. Enter this  
20 order. This matter is before the Court upon the  
21 defendant's motion submitted pro se to the Court that he  
22 be allowed to withdraw a plea of guilty, which the  
23 defendant entered before the Court on January 28th, 1999  
24 before the undersigned presiding judge. Upon the  
25 defendant's appearance in court on January 28th, 1999,

1 the defendant being represented by counsel, Mr. Zimmerman  
2 and Mr. Crumpler, the Court proceeded to adjudicate the  
3 defendant's plea of guilty upon the offenses of second  
4 degree murder, conspiracy to commit first degree murder,  
5 arson, and eight counts of solicitation to commit murder.  
6 Pursuant to statute, the Court thereupon conducted a plea  
7 colloquy with the defendant, and the Court has directed  
8 upon notification that the defendant has presented this  
9 motion, transcript of the proceedings before the Court on  
10 January 28th be promulgated by the verbatim court  
11 reporter assigned to preside at that session. And the  
12 transcript has been made available to the Court. The  
13 Court has had the opportunity to review the transcript of  
14 said proceeding.

15 This motion is called for hearing upon the  
16 motion of the defendant, and with his consent. Present  
17 at all times during the conduct of this hearing was the  
18 defendant, who argued this motion pro se on his own  
19 behalf, his attorneys, Mr. Zimmerman and Mr. Crumpler,  
20 and present representing the State of North Carolina is  
21 Assistant District Attorney Richard Panosh.

22 The Court has had the opportunity to see and  
23 to observe the witnesses who have testified in this  
24 hearing, and the Court has had the opportunity to  
25 determine what weight and credibility to assign to the

1 testimony of each witness who has testified.

2 Based upon the testimony presented at this  
3 hearing, and based upon the Court's review of the records  
4 of this proceeding, the Court makes the following  
5 findings of fact, combined findings of fact and  
6 conclusions of law.

7 The Court concludes as a matter of law that  
8 pursuant to the rule enunciated in State of North  
9 Carolina versus Handy in 326 N.C. 532, a presentence  
10 motion to withdraw a plea of guilty should be allowed if  
11 the defendant meets the burden of showing that his motion  
12 to withdraw is supported by some fair and just reason.  
13 The factors which this Court has considered in  
14 determining whether the defendant should be permitted to  
15 withdraw his guilty plea upon a showing of some fair and  
16 just reason include the following factors,  
17 determinations, and circumstances. Whether the defendant  
18 has actually asserted his legal innocence, the Court has  
19 determined and considered whether the strength of the  
20 State's proffer of evidence is strong or is not strong to  
21 establish the defendant's guilt to the offenses to which  
22 he's entered a plea of guilty. The Court has considered  
23 the length of time between the defendant's entry of the  
24 guilty plea and his desire to change the guilty plea.  
25 The Court has determined whether the, and considered

1 whether the defendant has had competent counsel at all  
2 relevant times to the issues presently before the Court.  
3 Court has furthered considered such circumstances as any  
4 misunderstanding of the consequences of the guilty plea  
5 by the defendant, any hasty entry of the guilty plea by  
6 the defendant, confusion or coercion exerted upon the  
7 defendant. Based upon the credible evidence introduced  
8 at this hearing, the Court finds as a fact that during  
9 the plea adjudication hearing on January 28th, 1999 the  
10 State of North Carolina, pursuant to the stipulation of  
11 the defendant, was permitted to make a factual showing to  
12 establish a factual basis for the plea. The Court finds  
13 that the evidence offered by the State during this  
14 forecast and during the factual showing was  
15 extraordinarily strong, and pointed unerringly to the  
16 guilt of the defendant to the offenses then before the  
17 Court. The Court finds as a fact that following the  
18 entry of the plea of guilty on January 28th, 1999 the  
19 defendant by letter, which was dated February 24th, 1999  
20 bearing a postal mark of February 25th, 1999, and  
21 received and filed by the Clerk of Superior Court on  
22 February 26th, 1999, that the defendant made known to the  
23 Court his desire and his intent to withdraw the plea of  
24 guilty. The Court finds that the expiration of  
25 approximately 20-some days from the time of the entry of



1 the guilty plea to the time of the notice of the intent  
2 to withdraw is a long period of time, which mitigates and  
3 causes the Court to determine that a much stronger  
4 showing of fair and just reason for the withdrawal of the  
5 plea must be established by the defendant. The Court  
6 finds as a fact, based upon the Court's perusal of the  
7 records in this action, that the defendant has been  
8 represented in this action at all times by competent  
9 counsel, and the defendant makes no assertion otherwise.  
10 The Court finds as a fact that the defendant, shortly  
11 after being served with a warrant for arrest alleging  
12 first degree murder, was appointed to be represented by  
13 the Public Defender of Guilford County, Mr. Wallace  
14 Harrelson. Within a number of days following that  
15 appointment, the defendant was provided the services of  
16 Robert McClellan to assist Wallace Harrelson in the  
17 representation of the defendant. Thereafter Mr.  
18 Harrelson and Mr. McClellan represented the defendant  
19 until the Public Defender's Office was permitted by order  
20 of the Court to withdraw by reason of a conflict, and  
21 concurrent with the order permitting the withdrawal of  
22 Mr. Harrelson, Mr. John Bryson of the Guilford County Bar  
23 was appointed to assist Mr. McClellan in the  
24 representation of the defendant. Mr. McClellan and Mr.  
25 Bryson continued to represent the defendant at all times

1 following their appointment until the date of December  
2 3rd, 1998. On said date at a hearing before the  
3 undersigned Court, the defendant, under oath and having  
4 been advised of the premises, instructed the Court that  
5 it was his intention to discharge Mr. McClellan and Mr.  
6 Bryson, and to retain Mr. Crumpler and Mr. Zimmerman.  
7 The Court makes findings of fact and conclusions of law  
8 that the defendant's determination to retain Zimmerman  
9 and Crumpler was his own voluntary choice made freely and  
10 intelligently, and that the decision to discharge  
11 appointed counsel was likewise so made.

12 The Court has had the occasion and the  
13 responsibility to review fee petitions submitted by Mr.  
14 Bryson and Mr. McClellan. And the Court takes judicial  
15 notice of the fee petitions which are incorporated in the  
16 court file. That the attorneys submitted a combined  
17 hours of representation for the defendant in excess of  
18 500 hours. The Court has reviewed these fee petitions  
19 and determined that the petitions are reasonable, and are  
20 not inflated or otherwise excessive.

21 From the date of December 3rd, 1998 until the  
22 present date, the defendant has at all occasions been  
23 represented by Mr. Zimmerman and Mr. Crumpler. During  
24 the course of this hearing, the defendant has presented  
25 to the Court no complaint or no dissatisfaction with the

1 services of his attorneys, and has in fact advised the  
2 Court that he wishes them to continue to represent him in  
3 this matter.

4 Based upon the foregoing, the Court concludes  
5 as a matter of law that the defendant at all times  
6 relevant to this consideration has been represented by  
7 highly competent, skilled and expert attorneys, who have  
8 extensive experience in the trial of capital cases and  
9 grievous and serious criminal proceedings.

10 The Court has considered whether the  
11 defendant did not understand the consequences of his  
12 guilty plea. Upon a review of the record, it is clear to  
13 the Court that the defendant made unequivocal responses  
14 to the Court on each inquiry during the January 28  
15 proceeding, and indicated that he understood completely  
16 in each and every respect the nature of the proceeding  
17 and the consequences of his plea. The Court in fact  
18 finds that the defendant benefitted the plea arrangement  
19 entered into on January 28, 1999. And that in return for  
20 the defendant's pleas of guilty to the offenses  
21 heretofore recounted, the State agreed to and did in fact  
22 dismiss a charge of first degree murder. The defendant  
23 was thereupon allowed to avoid the possible imposition of  
24 the death penalty.

25 The Court has considered whether the plea was

1 entered in haste under coercion or at a time when the  
2 defendant was confused or otherwise impaired. The Court  
3 finds as a fact that at the date of the entry of the plea  
4 of guilty in this action, which was January 28th, 1999,  
5 that this date was not on the eve of trial, and that the  
6 jury had not been convened or summonsed to hear the  
7 issues in the capital proceeding against the defendant.  
8 In fact, although the term of January 25th had been  
9 tentatively scheduled for the commencement of the trial,  
10 that date had been continued upon the motion of the  
11 defendant. After having been represented by Mr.  
12 Zimmerman and Mr. Crumpler, the defendant filed a motion  
13 to continue and that was consented to by the State of  
14 North Carolina. The Court retained this matter on the  
15 calendar for the term of January 25th to determine the  
16 defendant's motion for change of venue, and to determine  
17 certain other pretrial motions, which the defendant,  
18 through his attorneys, had indicated an intention or  
19 desire to prosecute. Therefore, this plea arrangement  
20 was not made on the eve of trial.

21 Furthermore, the Court finds as a fact and  
22 concludes as a matter of law that the defendant was in no  
23 way impaired or under the influence of impairing  
24 substances, or otherwise unable to understand the nature  
25 of the proceedings. During the proceedings before the

1 Court on January 28th, the Court observed closely the  
2 defendant's demeanor and his responses to the Court's  
3 questions, and the Court satisfied itself that the  
4 defendant's pleas were made freely, voluntarily and  
5 understandingly.

6 Furthermore, no credible evidence of any  
7 nature has been received during hearing of this motion to  
8 lead the Court to find by any standard of proof that the  
9 defendant was coerced, threatened, or under the influence  
10 of any impairing or intoxicating substance at the time  
11 the plea was made.

12 The Court finds as a fact and concludes as a  
13 matter of law that the defendant has wholly failed to  
14 meet his burden of showing to the Court that the motion  
15 to withdraw is supported by some fair and just reasons.  
16 The defendant having failed to meet his burden of proof  
17 to show to the Court any just and fair reason to withdraw  
18 the guilty plea, the motion to withdraw the guilty plea  
19 is denied. The defendant's objection to this order is  
20 noted for the record. The Court will retain jurisdiction  
21 to enter a final order in this action containing such  
22 further findings of fact and conclusions of law as may be  
23 supported by the record in this action and the competent  
24 evidence received.

25 MR. KIMBLE: I'd like to object to the entry

1 of that order, sir.

2 THE COURT: What?

3 MR. KIMBLE: I'd like to object to that  
4 entry.

5 THE COURT: You may do that. Objection is  
6 noted. Are you ready to proceed?

7 MR. CRUMPLER: Your Honor, I believe at one  
8 point you mentioned that a hearing January 25th, 1995.

9 THE COURT: I'm sorry, January 28th, 1999. I  
10 will correct any, uh---

11 MR. CRUMPLER: I think you were right on the  
12 day and month, but I did hear '95.

13 THE COURT: I'm sorry, I will correct that  
14 upon review.

15 MR. PANOSH: Your Honor, with your  
16 permission, we'd like to proceed at 2:00. I don't think  
17 we can finish this quickly.

18 THE COURT: Okay, we'll be in recess until  
19 2:00.

20 (A lunch recess was taken.)

21 THE COURT: State ready to proceed?

22 MR. PANOSH: Yes, sir.

23 THE COURT: Defendant ready to proceed?

24 MR. ZIMMERMAN: Yes, Your Honor.

25 THE COURT: Matter is before the Court for

1 judgment. Is there further evidence for the State at  
2 this time?

3 MR. PANOSH: Your Honor, yes, there is. In  
4 reference to the homicide and the conspiracy and the  
5 arson, I'd like to summarize the evidence, unless counsel  
6 has objection. This case was tried and, therefore,  
7 everyone is aware of the evidence. The evidence is  
8 contained in transcripts of the prior trial of co-  
9 defendant, Ronnie Kimble. The evidence shows that on or  
10 about December the 2nd, of 1993 the defendant and the  
11 victim got married, and this was a somewhat secret  
12 wedding. They went to Virginia and were married in  
13 private. Thereafter on May the 7th, 1994 they had a  
14 public wedding. The evidence showed that the defendant  
15 had worked at Lyles Building Supply since he was about 15  
16 years of age. He worked himself up to a position of  
17 trust, and then he decided that he would purchase the  
18 building supply business, and he in fact did purchase it  
19 prior to the wedding. The evidence showed through a  
20 number of sources that one of the things that was  
21 necessary for him to purchase the business was that he be  
22 married, and that he have a stable environment because  
23 the person who was selling the business, Mr. Lyles,  
24 wanted -- was going to take back the mortgage on the  
25 business. He wanted to make sure that Mr. Theodore

1 Kimble was a stable person at the time that he sold the  
2 business and took back that second mortgage.

3 The evidence shows that shortly after they  
4 were married, on June the 28th, defendant started  
5 changing the victim's life insurance policies to his own  
6 name. June the 28th he spoke with Mr. Apple, who was the  
7 insurance agent who had previously represented Patricia  
8 Kimble, and changed her first life insurance policy to  
9 his name as beneficiary. That was a \$25,000 policy with  
10 double indemnity or \$50,000 insurance coverage.

11 On November the 5th, of 1995 there was a  
12 second policy issued through Mr. Apple, which increased  
13 the coverage to a total of \$50,000 double indemnity of  
14 \$100,000.

15 Then just prior to her death on September the  
16 14th, of 1995 he went to Mr. William Jarrell and applied  
17 for a \$200,000 policy. Now, the evidence showed that he  
18 had previously spoken to two other agents. In March of  
19 1995 he attempted to obtain life insurance on Patricia at  
20 that time. And in the course of the testimony of one of  
21 those other agents, he indicated that Patricia Kimble  
22 came to the location where they were filling out the  
23 application and unequivocally said that she didn't want  
24 any further life insurance. He then went to a different  
25 life insurance agent, Mr. William Jarrell, and on -- in



1 September, that is, of 1995 he took out an application in  
2 the amount of \$200,000 on Patricia's life. Patricia did  
3 come to the location, but the meeting was Mr. Jarrell was  
4 outside in the car getting some forms, and during that  
5 period of time Mr. Jarrell believed that she signed the  
6 application since she was present at the business where  
7 the application was filled out. But it turned out the  
8 defendant in fact forged her signature, and she became  
9 very upset when she found out about this subsequent  
10 insurance policy.

11 The evidence -- the defendant, at a much  
12 later time, about a month after her death, admitted that  
13 he did in fact forge her signature, and he said it was  
14 just for the purpose of convenience. But the evidence  
15 indicated that Mr. Jarrell was present, that the victim  
16 came to the meeting, went into the meeting and spoke to  
17 the defendant while Mr. Jarrell was out in the parking  
18 lot. At that time she refused to sign the papers, and at  
19 that time he forged her signature after she left.

20 As we get closer to the date of her death,  
21 which was Monday, October the 9th, of 1995, she some how  
22 found out that he had in fact submitted the \$200,000  
23 application, and that there was a scheduled blood test  
24 done. Or a blood test was scheduled to be done, and she  
25 became very upset about that. She told several

1 individuals, close friends of hers and Mrs. Lyles, that  
2 she was very much afraid because of this policy being  
3 issued, that Ted was taking this policy without her  
4 knowledge, and she was afraid for her life.

5 The evidence indicated that on the date of  
6 her death she was working, and she was working with Nancy  
7 Young at an apartment project, and she had previously  
8 told Miss Young about her concerns about the life  
9 insurance policy and the fact that Ted was trying to take  
10 out this large policy without her knowing about it.

11 Just before her death, she indicated that she  
12 had discussed it with her husband and that was all  
13 resolved. That he was not going to try to take out that  
14 policy. She left her place of employment. She was going  
15 home. She left at 3:30. She should have been home about  
16 3:45 in the afternoon, cut the lawn, and then she was  
17 going to go to a meeting at her church at 6:00. As I  
18 said, this was Monday. This was a holiday. And they  
19 planned to be out of town the following weekend;  
20 therefore, she needed to be home to cut the lawn so it  
21 wouldn't get too long over the next weekend when they  
22 would be out of town.

23 The defendant, on October the 9th, 1995 was  
24 continuously at his place of employment, which was Lyles  
25 Building Supply. The evidence showed he opened the

1 business supply by 8:30. He was there throughout the  
2 lunch period. And, in fact, he and Patricia talked on  
3 the telephone and met for lunch. That at or about the  
4 time of her death, which we believe to be about 4:00, he  
5 was at Lyles Building Supply. He left Lyles Building  
6 Supply and went to a second job at Precision Fabrics. He  
7 checked in there at 6:00, having left Lyles about 5:30.

8 Evidence indicated that he met with his  
9 mother between the time he left Lyles Building Supply and  
10 got to Precision Fabrics.

11 The evidence showed that the defendant did in  
12 fact apply for this second job at Precision Fabrics in  
13 September, and that he had just entered employment there.  
14 He had gone through one week of training. It was day  
15 shift, and then he was actually to begin his regular  
16 shift, which is second shift, beginning at 3:00 on that  
17 day. This was his first day of employment and also his  
18 last day of employment. And the State argued that he  
19 obtained the second position simply to have an alibi at  
20 the time of her death. The evidence showed that he was  
21 supposed to be there at 3:00, but he called in and said  
22 he'd be late because he had to close up his business, and  
23 he did arrived there at 6:00.

24 Sometime around 7:00 p.m. he started making  
25 telephone calls. He called his brother-in-law, Rubin.

1 That's his wife's brother. And indicated that he wanted  
2 Rubin to check on Patricia. And this was very unusual,  
3 and made Rubin somewhat concerned that he drove the five  
4 miles or so to her residence and found that the residence  
5 was on fire.

6 The fire was very much contained within the  
7 building. There was no visible signs, but there was  
8 extreme heat at the doors. They called the fire  
9 department. When the fire department eventually got  
10 there, they found it to be a very intense contained fire.  
11 They went in, fought the fire, and sometime later on they  
12 found the victim's body.

13 All of the evidence indicated that this  
14 particular home had been broken into on two prior  
15 occasions, and that she was very much afraid of someone  
16 breaking into her home.

17 The evidence indicated on this particular  
18 night she came home, as we said, about 3:45 in the  
19 afternoon. Pulled into the driveway, and for one reason  
20 or another, she pulled all the way to the left side of  
21 the driveway. It's a two-car garage. The State argued  
22 the reason she pulled all the way to the left was because  
23 she recognized her brother-in-law's car there. The  
24 reason she went into the home without being at all afraid  
25 was because she assumed that the brother-in-law was in

1       there.

2                   The evidence indicated that this was a  
3       typical ranch house. First entry point is the kitchen.  
4       You go through the living area down the sharp hallway to  
5       the bedrooms. And as she entered and went down those --  
6       down that hallway, she passed a bathroom on the left, and  
7       the State's contention always was that the person, Ronnie  
8       Kimble, was in the bathroom with a .45 caliber pistol  
9       with a laser sight, and as she walked passed the door, he  
10      shot her once in the head.

11                   The autopsy results were consistent with  
12      that. She had one shot to the left side of the head.  
13      Traveled parallel and did not exit, and death was almost  
14      instantaneous. She fell there in the floor, and the  
15      evidence showed that either before her death or after her  
16      death the house was ransacked. But all of the ransacking  
17      was limited to the back bedrooms. There was nothing  
18      taken whatsoever in the front bedrooms.

19                   Evidence showed that -- State's contention  
20      always was that they were staging a breaking and entry to  
21      make it look like a burglar had killed her. But that  
22      didn't fool the law enforcement officers because they  
23      noticed that they passed up cash, they passed up t.v.s,  
24      they passed up stereos. There were a number of things  
25      that would normally have been taken, and law enforcement

1 officers quickly came to the conclusion that this was in  
2 fact a staged breaking and entering.

3 After her death, someone poured a great deal  
4 of gasoline on her body and around her body and in the  
5 kitchen area and in the living room area, over the couch  
6 and somehow ignited it. The evidence -- the experts who  
7 testified said it was very intense fire that lasted a  
8 short period of time because it was a fairly new house.  
9 The fire was deprived of oxygen and burned down and  
10 around her body. Burned very hot, but very contained.  
11 It actually burned through the floor boards, through the  
12 joists, and her body fell into the crawl space.

13 By 5:30 or 6:00 that evening the witnesses  
14 who were in the area smelled the smoke which was  
15 prevented from going out the roof or the windows, but was  
16 going down through the crawl space and out the vents.  
17 And the evidence indicated, and the experts testified,  
18 that the evidence indicated it was consistent with a fire  
19 that would have been set at approximately 4:00 p.m. and  
20 burned until it was discovered until 8:00 p.m.

21 Your Honor, at this time I have a series of  
22 photographs I'd like to introduce. They've been  
23 previously marked in the other trial. I'm going to use  
24 the same numbers. And I've showed them to counsel. May  
25 I approach?

1 THE COURT: You've reviewed those exhibits,  
2 Counsel?

3 MR. CRUMPLER: We have, Your Honor.

4 (PHOTOGRAPHS HEREINAFTER REFERRED TO WERE MARKED FOR  
5 IDENTIFICATION AS: STATE'S EXHIBIT NOS. 1, 4, 5, 11, 17,  
6 46, 57, AND 60.)

7 MR. PANOSH: State's Exhibit that is marked  
8 number one is a picture of Patricia prior to her death at  
9 the time of her wedding.

10 State's 4 and 5 show the exterior of the  
11 house, the front of the house, particularly the driveway  
12 area.

13 State's 11 shows part of the interior of the  
14 house that is the doorway leading from the kitchen area  
15 to the hallway that goes between into the bedrooms.

16 State's 17 shows the area that was burned  
17 through in the hallway where her body was found. You'll  
18 see there remnants of a washer and dryer. That was in a  
19 hallway closet. When the floor gave way, that actually  
20 fell on top of her body. Her body was found below the  
21 floor on top of aluminum heating ducts that were  
22 underneath the house.

23 When her body was removed, it's depicted in  
24 State's Exhibit 46.

25 State's Exhibits 57 and 60 show the murder

1 weapon, or what the State has always contended was the  
2 murder weapon. This is a .45 caliber pistol that  
3 belonged to and was registered to the defendant.

4 **(AN ITEM HEREINAFTER REFERRED TO WAS MARKED FOR**  
5 **IDENTIFICATION AS: STATE'S EXHIBIT NO. 84-A.)**

6 MR. PANOSH: Your Honor, I'll hand that up.  
7 It's previously marked at State's Exhibit 48-A -- excuse  
8 me, 84-A.

9 The evidence was that the defendant carried  
10 this weapon. He had purchased it several years before.  
11 That he carried it almost all the time. Certainly  
12 carried it when he was closing his business. And the  
13 evidence indicated that it was left in the house, and  
14 found in the bedroom area underneath some rubble as  
15 depicted in those photographs.

16 The evidence showed that the weapon, when it  
17 was recovered, was fully loaded. That it was missing one  
18 round in order to be fully loaded. That was a Golden  
19 Sabre type .45 caliber weapon. The bullet that was  
20 recovered from her head was microscopically consistent,  
21 although not identical to that barrel. It was also a .45  
22 caliber Golden Sabre, which is fairly expensive and not  
23 that common.

24 As I said, there is a laser sight that's  
25 attached to the weapon that is used for aiming the



1        weapon. The evidence indicated through a number of her  
2        friends said she was concerned about her marriage,  
3        concerned about the way her husband had -- the defendant  
4        had changed shortly after marriage. He was very much  
5        concerned with money and no longer concerned with her.  
6        That she told Mrs. Dudley specifically that -- she called  
7        her, she was very upset. Ted had taken out a big life  
8        insurance policy on her. She doesn't understand how he  
9        could have done it. She never signed anything. She  
10       indicated he must have forged it. He must have used cash  
11       to buy it, and she kept saying that she didn't want to  
12       believe that he could hurt her, but she wanted to call  
13       Mrs. Dudley and let her know about this in case something  
14       ever happened to her.

15                        Mrs. Rose Lyles at the time lived in Long  
16       Beach. Mrs. Lyles was an acquaintance of Patricia's and  
17       a close friend. Rose Lyles and Gary Lyles owned the  
18       business before it was sold to the defendant. Just  
19       shortly before her death, the victim called Mrs. Lyles.  
20       She was very much afraid. According to Mrs. Lyles she  
21       said that she had never heard such fear in anyone's voice  
22       before. And she went on to describe the life insurance  
23       policy and indicated that she didn't know if she would  
24       wake up each morning and that she was very much afraid of  
25       Ted.

1           Subsequent to the fire there was a policy  
2 life -- or rather a policy on the home. The insurance  
3 policy eventually paid out \$52,606 for personal property.  
4 That went to the defendant and his family. That included  
5 \$16,000 that was given to defendant's father for  
6 temporary lodging while the defendant was living in his  
7 father's home.

8           Of the \$86,000 policy limits on the house,  
9 they paid \$53,417 to the estate, and that has yet to be  
10 distributed.

11           It's interesting to note that in the proof of  
12 loss they claim \$191,000 worth of replacement items in a  
13 \$60,000 home. That includes the defendant's wardrobe,  
14 which was \$17,000. And the victim's wardrobe was  
15 \$68,000. And linens valued at \$4,700.

16           Your Honor, all that evidence went to show,  
17 plus we had evidence showing that in the past, that prior  
18 to meeting Patricia, the defendant had been involved in  
19 certain schemes to defraud insurance company. All that  
20 evidence tended to show that this was a scheme to defraud  
21 the insurance company.

22           Just prior to her death, as I said, on  
23 October the 5th she was scheduled to appear and have  
24 blood drawn. The defendant called and canceled that  
25 appointment. He eventually did have it drawn subsequent

1 to her death because there was also a life insurance  
2 policy been issued on him that had actually lapsed.

3           Shortly after her death, the defendant  
4 attempted to make claims on the \$200,000 life insurance  
5 policy. The application was pending. That included  
6 calling the insurance agent, Mr. Jarrell, and asking for  
7 payment. Calling Mr. Hendrix, who represented the  
8 company at the main office and asking for payment, and  
9 hiring an attorney who filed a demand for payment on Life  
10 of Georgia, which was the company that had the \$200,000  
11 life insurance application. Their position was, of  
12 course, that because the blood test hadn't been done  
13 there was no policy in effect, and they have not paid.

14           In the period of time after the defendant's  
15 death -- er, uh, after the victim's death, the defendant  
16 went into a -- or entered into a scheme where he and two  
17 other persons working in the business were going out and  
18 stealing large amounts of building supplies and taking  
19 them back to Lyles and selling them. Lyles essentially  
20 is a place that sells used goods, surplus items.

21           In the course of that he met, or he dealt  
22 with Mr. Nichols. And after he and Mr. Nichols got  
23 close, defendant admitted to Mr. Nichols that he was  
24 responsible for Patricia's death. He went on to say,  
25 "Ask me no questions and I'll tell you no lies." He said

1 that Mr. Nichols would never understand why he did it  
2 because his father, meaning defendant's father, was an  
3 alcoholic and had beat him and his mother when he was  
4 young.

5 In the course of interviewing Mr. Nichols, he  
6 made reference to guns and silencers and all kinds of  
7 devices that defendant had to intimidate him to keep him  
8 silent. When we searched the business at or about the  
9 time of the defendant's arrest, we did in fact find a  
10 homemade silencer and a number of books and video tapes  
11 on making bombs, making C-4 explosives.

12 There was evidence that the defendant, when  
13 he felt that the Sheriff's Department was closing in on  
14 him, that he purchased a sniper rifle in the amount of  
15 \$5,500. And he showed that to various persons in an  
16 effort to keep them quiet in reference to his  
17 participation in the offense.

18 He also got to know Mr. Pardee. And Mr.  
19 Pardee participated in the stealing. Mr. Pardee was a  
20 close friend of his. He indicated that the defendant  
21 told him the police were closing in on him, but he had an  
22 alibi. And when Mr. Pardee said an alibi for what, he  
23 said Patricia's death. Mr. Pardee asked him, you didn't  
24 do it, did you; and he said, no, my brother Ronnie did.  
25 He went on to tell about shooting the victim, pouring

1 gasoline on her and indicated it was for the insurance  
2 money. He also indicated the weapon that was used was  
3 the Glock .45 that the police had, and that he was upset  
4 because they had not paid the \$200,000 life insurance  
5 policy.

6           Shortly after the victim's death, this was  
7 three weeks after her death, defendant started dating  
8 other women, including Miss Lynn McLeod. She testified  
9 that he was very much upset because the insurance company  
10 wasn't paying him. That on one day he took Miss McLeod  
11 back to the house where the victim's body had been found.  
12 That he saw the defendant -- she saw the defendant go  
13 down into the hole, look around, and exhibited no  
14 emotions whatsoever about the fact that that's where her  
15 body was located, but he was very much upset about the  
16 insurance not paying.

17           The investigation went until January of 1997.  
18 At that time the co-defendant, Mr. Ronnie Kimble, was  
19 visiting a friend of his, who is now a reverend. That  
20 was Reverend Whidden. He was visiting in Lynchburg,  
21 Virginia. At that time he confessed to his involvement  
22 and indicated his brother. Reverend Whidden hired an  
23 attorney, or worked through an attorney and contacted our  
24 office. We reached an agreement whereby we would attempt  
25 to protect him from the defendant and his brother. And

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.

1 THE COURT: All right, you may proceed.

2 MR. CRUMPLER: Thank you. Your Honor, prior  
3 to proceeding could we have about 10 minutes with the  
4 defendant?

5 THE COURT: All right. Court will be in  
6 recess for 10 minutes, Bailiff.

7 (A recess was taken.)

8 (Defendant and Mr. Zimmerman absent.)

9 MR. CRUMPLER: Your Honor, before the  
10 witnesses whom we have subpoenaed--they are having to be  
11 brought across the street--they were inmates. Uh, they  
12 are trying to do this at the Court's convenience. The  
13 first one should be here any time now.

14 THE COURT: Yes, sir. As I understand it,  
15 your first witness is in custody and is being transported  
16 right now.

17 MR. CRUMPLER: And they understand your  
18 schedule and they are trying to work it out with Your  
19 Honor.

20 THE COURT: All right, thank you. Mr.  
21 Crumpler, why don't you go get Mr. Zimmerman and your  
22 client and have them brought into the courtroom, please.  
23 (All parties present.)

24 MICHAEL HOLLMAN, being first duly sworn, testified as  
25 follows during DIRECT EXAMINATION by MR. FRED CRUMPLER:

1 Q. Mr. Hollman, can you hear me?

2 A. Yes, sir.

3 MR. ZIMMERMAN: Speak up.

4 THE COURT: If you will, speak right into  
5 that microphone so the attorneys and everyone can hear  
6 you. You're just going to have to lean forward. Thank  
7 you.

8 Q. Can you hear me now?

9 A. Yes, sir.

10 Q. Mr. Hollman, my name is Fred Crumpler. I'm one of  
11 the attorneys who represent the defendant next to me, Mr.  
12 Ted Kimble. Now first, have you ever seen me before?  
13 (No audible response.)

14 Q. Have you ever had a spoken word with me before?

15 THE COURT: What you need to do is answer so  
16 the court reporter can take down your answers.

17 A. No, sir.

18 Q. Your answer is no, you've never seen me or never  
19 had a spoken word with me?

20 A. Yeah.

21 Q. Now, do you know the defendant, Ted Kimble?

22 A. No.

23 Q. Have you served in the Southern Correctional  
24 Institute where he was also serving?

25 A. Yeah.

1 Q. You knew who he was, though, did you not?

2 A. No.

3 Q. Did you know William Stewart?

4 A. Yeah.

5 Q. Tell us how you knew William Stewart.

6 A. I knew him from at work.

7 Q. Knew him from what?

8 A. We're from the same home front. We're from  
9 Winston-Salem.

10 Q. Was he serving -- was he an inmate there at the  
11 same time you were an inmate at the Southern Correctional  
12 Institute?

13 A. Yeah.

14 Q. Did you ever see Mr. Stewart in the presence of  
15 Ted Kimble?

16 A. Yes, sir.

17 Q. Describe to the Court what you observed, about how  
18 often you saw them together and what you observed.

19 A. Well, me and my home boys from Winston-Salem, we  
20 used to walk on the yard. And, uh, we see Stewart and  
21 Mr. Kimble walk together. And so I thought, I thought he  
22 was messing with Ted because basically any time you see a  
23 white inmate and a black inmate walking together, they  
24 doing something funny. So, I thought he was messing with  
25 him. So, I asked the dude, I was like, I kept asking

1 him, we kept messing with Stewart saying--well, we call  
2 him Squirrel--kept asking Squirrel what you messing, uh,  
3 you doing something with Ted? He kept saying no. He  
4 trying to play the cracker out of some money. That's all  
5 he kept saying.

6 Q. He said what?

7 A. He trying to play the cracker out of some money.  
8 That's all he kept saying, I'm trying to play the cracker  
9 out of his money. That's all he kept saying.

10 Q. Now, this, you're saying that Stewart told you  
11 that what he was doing with Ted Kimble was trying to get  
12 the cracker out of some of his money?

13 A. Yeah. He just kept saying I'm playing the cracker  
14 out of his money. We kept saying he was -- we thought he  
15 was committing homosexual acts with him.

16 Q. Uh-huh.

17 A. And he was like, no, I'm trying to play the  
18 cracker out of his money. That's what he kept saying.

19 Q. How many times did he tell -- did you have such a  
20 conversation with him, and how many times did he tell you  
21 that?

22 A. Well, basically whenever we seen them together on  
23 the yard. It was about -- I just got over there in  
24 October, and it was about from about October to November.  
25 Somewhere around there. From about October to November.

1 Q. Would you say that's about a month?

2 A. Yes, sir.

3 Q. This going on?

4 A. Yes, sir.

5 Q. What became of Stewart? Do you know what happened  
6 to him later?

7 A. Yeah. He went home.

8 Q. Did he make any statement to you before he went  
9 home about what was going on?

10 A. No. No, sir. He didn't say nothing about that.

11 MR. CRUMPLER: We have no further questions,  
12 Your Honor.

13 THE COURT: Cross-examine.

14 **CROSS EXAMINATION by MR. RICHARD PANOSH:**

15 Q. You said you thought they were committing  
16 homosexual acts. Who are you talking about?

17 A. Uh, Kimble and Stewart.

18 Q. Stewart a homosexual?

19 A. No. No.

20 Q. Why did you draw that conclusion?

21 A. Because basically when you see a white inmate and  
22 a black inmate walking together in the yard, they doing  
23 something. So, I figured they was doing something.

24 So---

25 Q. So, these are all your suspicions?

1 A. Huh?

2 Q. These are all your suspicions?

3 A. Uh, yeah. And he was my homeboy, so I would be  
4 asking him. I was wanting to know if he was dealing with  
5 the homosexuality, because if he was, I was going to put  
6 him out there. I was going to tell everybody when I got  
7 out that he was a homosexual in the prison. So, I wanted  
8 to know if he was a homosexual, committing homosexual  
9 acts. So, I asked him was you having homosexual acts  
10 with that man. He was like no, I'm trying to play the  
11 cracker out of his money. That exactly what he kept  
12 saying.

13 MR. PANOSH: No further questions.

14 MR. CRUMPLER: I have no other questions,  
15 Your Honor.

16 THE COURT: All right, thank you.

17 (Witness stood aside.)

18 MR. ZIMMERMAN: Come around Homer Webster  
19 Moore, please. Go up please. Put your left hand on the  
20 Bible up there, please, sir.

21 THE COURT: While he's coming around, sir,  
22 the name of that last witness for the record was?

23 MR. CRUMPLER: Hollman. Just a moment.  
24 Michael Hollman, H-O-L-L-M-A-N.

25 THE COURT: Thank you.

1 WEBSTER H. MOORE, being first duly sworn, testified as  
2 follows during DIRECT EXAMINATION by MR. BUTCH ZIMMERMAN:

3 Q. Take a chair. What is your name, sir?

4 A. Webster H. Moore.

5 Q. Where is your home, Mr. Moore?

6 A. Julian, North Carolina.

7 Q. All right. That's a little town up the road, is  
8 it not?

9 A. Yes, sir.

10 Q. And how long have you lived in Julian?

11 A. Approximately 13 years.

12 Q. And where were you raised?

13 A. I was raised here in Greensboro.

14 Q. All right, sir. What do you do for a living?

15 A. I'm a sales representative for Beard Insulation  
16 Company.

17 Q. Are you married?

18 A. Yes, sir.

19 Q. Have children?

20 A. Oh, yes.

21 Q. And you live with your wife and family there in  
22 Julian?

23 A. Yes, sir.

24 Q. All right. Do you know Theodore Mead Kimble?

25 A. Yes, sir.



1 Q. How long have you known him?

2 A. Approximately 17 years.

3 Q. All right. And how did you come to know him?

4 A. Ted and his family moved in a house across the  
5 street from me when I was living here in Greensboro.

6 Q. And did you see him on a daily basis or once or  
7 twice a week, or what?

8 A. In those days, just about on a daily basis.

9 Q. What kind of neighbor was he?

10 A. Ted was a great kid. Around me he was always very  
11 well behaved, very well spoken, very polite, uh, he cut a  
12 lot of grass in the neighborhood. Earned his own money.  
13 My opinion of him, he was just a great kid.

14 Q. All right. And how old were y'all at that time?

15 A. I was approximately 30, 31.

16 Q. And married?

17 A. No, sir.

18 Q. All right. And how old was Ted at that time?

19 A. I don't know, maybe 10.

20 Q. All right. Do you have an opinion satisfactory to  
21 yourself as to his character and reputation in the  
22 community at the time that you knew him?

23 A. Like I said, uh---

24 Q. Just answer the question yes or no. Do you have  
25 an opinion?

1 A. Yes, I have an opinion.

2 Q. All right. And what is that opinion, sir?

3 A. My opinion is Ted was a straight up, straight  
4 forward honest kind of kid.

5 Q. Ever give you any trouble at all?

6 A. No, sir. To the contrary.

7 Q. All right. And you say he mowed grass. Did he  
8 mow neighbors' yards and things like that?

9 A. Yes, sir.

10 Q. And was that for spending money, as far as you  
11 knew?

12 A. As far as I knew.

13 Q. Know anything about his athletic prowess, or  
14 whether or not he played any sports?

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

16 Q. How long has it been since you've seen him?

17 A. I guess over the last 10 years, 10 or 12 years, I  
18 haven't seen Ted but maybe, maybe a dozen times, and that  
19 was basically just passing at church. We'd have church  
20 functions. Ted and Patricia would come, and I would get  
21 a chance to speak to him briefly then.

22 Q. All right. And how did he seem to you to get  
23 along with his deceased wife?

24 A. They seemed to be fine.

25 Q. Ever notice any discord or trouble or ill feeling

1 between them at any of the church functions?

2 A. No, sir.

3 Q. This, uh, matter that he's pled guilty to totally  
4 out of character as far as you know?

5 A. Yes, sir. Very much so.

6 MR. ZIMMERMAN: Cross-examine him.

7 **CROSS EXAMINATION by MR. RICHARD PANOSH:**

8 Q. Would you describe Patricia Kimble?

9 A. I didn't know Patricia Kimble. I was introduced  
10 to her several times. We very briefly spoke, and that  
11 was it. Aside from that, I have never seen the girl.

12 Q. So, you've had very little contact with Patricia  
13 and Ted Kimble after their marriage?

14 A. That's correct.

15 MR. PANOSH: No further.

16 THE COURT: Any redirect, Counsel?

17 MR. ZIMMERMAN: No redirect. Thank you very  
18 much, sir. Any objection to excusing this witness?

19 THE COURT: Any objection to releasing him  
20 from subpoena?

21 MR. PANOSH: No, Your Honor. Thank you.

22 THE COURT: Yes, sir, you're free to leave  
23 the courtroom if you'd like. Thank you.

24 (Witness stood aside.)

25 MR. ZIMMERMAN: All right, if you would,

1 please, step right up here, please, sir.

2 MR. CRUMPLER: Your Honor, if I could  
3 interrupt just a moment. If they bring these other  
4 witnesses, I'm willing to put them on. Because of the  
5 way we're having to do this, if they'll just let us know  
6 when they get here.

7 THE COURT: Yes, sir. You have some other  
8 witnesses?

9 MR. CRUMPLER: We have other witnesses we can  
10 call, but I thought what I would do is just call them  
11 until---

12 THE COURT: Will you just let me know when  
13 the other witnesses are on their way, and we'll excuse  
14 whoever is on the stand.

15 MR. ZIMMERMAN: Is Homer Wilson here?

16 THE COURT: Go ahead and call your witness,  
17 please.

18 **HOMER WILSON, being first duly sworn, testified as**  
19 **follows during DIRECT EXAMINATION by MR. BUTCH ZIMMERMAN:**

20 Q. State your name, please, sir.

21 A. Homer Wilson.

22 Q. Mr. Wilson, where is your home?

23 A. Greensboro.

24 Q. And how long have you lived in Greensboro?

25 A. Since 1977.

- 1 Q. All right. Where did you live before that?
- 2 A. Moved here from Kinston, North Carolina.
- 3 Q. From Kinston?
- 4 A. Yes, sir.
- 5 Q. All right. And what kind of a job do you have?
- 6 A. I manage the information systems department for
- 7 Gilbarco.
- 8 Q. At Gilbarco?
- 9 A. Yes, sir.
- 10 Q. All right. And how long have you done that?
- 11 A. That particular job since '92.
- 12 Q. All right. Have you been with Gilbarco for some
- 13 time?
- 14 A. Since 1980.
- 15 Q. All right. What did you do when you were down in
- 16 Kinston?
- 17 A. I worked for a company called Texfli Industries.
- 18 We manufactured double knit fabrics.
- 19 Q. All right. And what is your job with Gilbarco,
- 20 did you say?
- 21 A. I manage the informations systems department
- 22 there.
- 23 Q. All right. And that's a large corporation, is it
- 24 not?
- 25 A. Yes, sir. Department of about 50.

1 Q. Married?

2 A. Yes.

3 Q. Children?

4 A. Yes.

5 Q. Live with your wife and children?

6 A. One daughter, the youngest, 21, is still at home.

7 She's a student at UNC-G.

8 Q. All right. Everybody else grown up and gone.

9 A. Grandbabies.

10 Q. I understand. Congratulations. Now, sir, do you  
11 know Theodore Mead Kimble?

12 A. Yes, sir.

13 Q. How did you come to know him?

14 A. We started going to church at Monnett Road in  
15 1984.

16 Q. That his daddy's church?

17 A. That's where his daddy was pastor.

18 Q. And what's the name of the church?

19 A. Monnett Road Baptist Church.

20 Q. All right. Did you know Pat Kimble?

21 A. Yes.

22 Q. His wife?

23 A. Yes.

24 Q. Can you tell us what you observed about Ted Kimble  
25 while you were at church and knowing him?

1 A. In the younger years, well Ted spent several times  
2 when his parents had to be out of town or had to travel,  
3 uh, Ted spent time at our house. He would spend two or  
4 three days at a time. If they needed to be out of town  
5 for something, he would spend time at our home.

6 Q. And what kind of person was he when he was in your  
7 home?

8 A. Impeccable. He was a perfect gentleman around my  
9 wife, both my daughters.

10 Q. Polite?

11 A. Polite, courteous.

12 Q. Nice?

13 A. Nice.

14 Q. Ever have any problems with leaving him at home  
15 with your wife and your children?

16 A. Oh, absolutely not.

17 Q. Do you feel like you're a good friend of Mr. Ted  
18 Kimble's?

19 A. Yes.

20 Q. Good friends with his daddy and his mama?

21 A. Absolutely.

22 Q. Do you have a -- how long would you say you've  
23 known this young man?

24 A. Well, since 1984 when we started going to church  
25 there.

1 Q. All right. Do you have an opinion satisfactory to  
2 yourself as to the general character and reputation of  
3 this defendant, Mr. Ted Kimble, as he sits here now?

4 A. Yes, I do.

5 Q. And what is that, sir?

6 A. Nothing I've heard in this court today represents  
7 Ted Kimble. I think he's an outstanding young man.

8 Q. You think what you've heard about this alleged  
9 homicide is totally out of character with what---

10 THE COURT: Mr. Wilson, excuse me, would you  
11 step down out of the stand for awhile. Then you can come  
12 back up.

13 THE WITNESS: Back to my seat?

14 THE COURT: If you'll just have a seat back  
15 in the audience, and then you'll be called back around  
16 shortly; yes, sir.

17 (Witness stood aside.)

18 **JAMIE LAMONT GAYLES, being first duly sworn, testified as**  
19 **follows during DIRECT EXAMINATION by MR. FRED CRUMPLER:**

20 Q. Would you state your full name to the Court,  
21 please?

22 A. Jamie Lamont Gayles.

23 Q. Mr. Gayles, my name is Fred Crumpler. I'm a  
24 lawyer, and I'm one of the attorneys who represent the  
25 defendant, Ted Kimble. Now in starting, have you ever



1 seen me before?

2 A. No.

3 Q. All right. You ever had a spoken word with me  
4 ever?

5 A. No.

6 Q. Are you now at the Southern Correctional  
7 Institute?

8 A. Yes.

9 Q. Did you know Ted Kimble when he was there?

10 A. No. I seen him.

11 Q. You knew who he was but you were not acquainted  
12 with him personally?

13 A. I knew his face. I didn't even know his name  
14 until he came to the holding.

15 Q. Now, did you know another inmate whose name was  
16 William Stewart?

17 A. Yes.

18 Q. Tell us how well you knew William Stewart?

19 A. Well, I first met him at Polk Youth Center back in  
20 '90. I think it was like in '93. I've knowed him  
21 through prisons, coming up in prison.

22 Q. Well, first, by knowing him that long, would you  
23 tell us what his reputation as to telling the truth?

24 A. Well, he was all right with me, but his thing was  
25 stealing, breaking in people stuff, stealing, stealing,

1 going in people's lockers. That's Squirrel. I mean I  
2 knew him by Squirrel. You know what I'm saying. He  
3 called him -- I guess William Stewart was his birth name,  
4 but I know him by Squirrel.

5 Q. Now, did you ever have an occasion to either have  
6 a conversation with him or overhear a conversation that  
7 he had in reference to Ted Kimble?

8 A. Yeah. I mean I talked with him. He came to me  
9 talking about -- I slept in the block with him. I was in  
10 the hole. I got out of lock-up. When I came to lock-up,  
11 when I got out of lock-up, he was in the block. And Ted  
12 Kimble was in the block and William Stewart was in the  
13 block. And, uh, William said something about him --  
14 William was telling me that, uh, he was trying to, he was  
15 trying to go home and the only thing he needed to go home  
16 was was he tried to get him a radio so he can go to the  
17 hole and go home. So, he was telling me he wanted to  
18 break in that white boy's locker. So, I'm asking him  
19 what white boy, and he told me Ted Kimble. Whatever his  
20 name is. Ted. And, uh, he wanted to get his radio and  
21 he wanted to get his stamps so he can just do rest of the  
22 little bit of time in the hole and leave. That was the  
23 first time I ever talked to him about why. Well, I  
24 didn't really talk to him. He just told me, you know  
25 what I'm saying. I don't know why he told me.

1 Q. Did he ever have a conversation with you or did  
2 you ever overhear a conversation in relation to any  
3 statement on his part that dealt with killing someone for  
4 Ted, or that he was acting -- going to help Ted escape  
5 from prison or anything to that effect?

6 A. All right. I went to the hole. They locked me  
7 up. Being in the hole. They locked me up. They say I'm  
8 rebellious. So, they put me in the hole. So, it was  
9 like in October or something. William Stewart came back  
10 there. And, uh, I'm thinking that he was fixing to go  
11 home. So, uh, I guess he wanted a cigarette or  
12 something. But he came to me, you know, talking to me,  
13 you know, beating me out of conversation. And, uh, that  
14 Ted name came up. So, uh, first thing he said was I got  
15 that cracker. I said what you talking about. He said  
16 you remember the white boy I was trying to get in his  
17 locker. I said yeah. He said, uh, -- he said, uh, -- he  
18 said I got him. I said what you mean you got him. He  
19 said that, uh, he fixing to get paid. I said how you  
20 going to get paid. He said, uh, do you know who he is?  
21 I said no, I don't know who he is. He said he be on the  
22 news and all. I said, man, I don't listen to news. So,  
23 uh, I'm asking who is it. What's up with him? He told  
24 me, man, this dude he's supposed to killed some people.  
25 And, uh, he said that, uh, he was trying to get the dude,

1 he was trying to get Ted into thinking, you know, that he  
2 was, uh, a expert killer, you know what I'm saying. I  
3 said, man, you know you ain't no killer. He like I'm  
4 just trying to get him to think I'm a killer, and then  
5 I'm going to, you know, I'm going to get his money. And  
6 I said I don't know Ted, you know what I'm saying. And  
7 I'm trying to jump off the subject. I don't know Ted,  
8 and really don't care nothing about him as far as first  
9 hearing it. You know what I'm saying? If he wanted to  
10 get his money, you know, that's -- I ain't got no problem  
11 with him taking his money, you know what I'm saying. I  
12 don't let nobody bother me. But, uh, I said how you  
13 going to go about getting his money. He say he --  
14 something -- he was telling me about him trying to  
15 convince Ted that he was a killer and wanted to give him,  
16 you know, let him know if he needed anybody killed, then  
17 let him know. He said but he getting mad. He said Ted  
18 making him mad because he, you know what I'm saying, he  
19 saying that he don't want nobody killed. So, basically  
20 what he was trying to get me -- what he was telling me  
21 was is that, uh, he was trying to get Ted into thinking  
22 that he was somebody he ain't. But, uh, he was -- he was  
23 -- he was trying to get Ted to think he was somebody that  
24 he's not. And, uh, he was also just trying to get him to  
25 give him some people's names to, uh, to kill somebody.

1. Some names that he needed hurt or whatever. So, I asked  
2 him did he get any names, did Ted give him any names. He  
3 said no. He said but he broke in his locker and he got a  
4 whole lot of stuff that belonged to Ted, and he got names  
5 and all kind of -- he got radios and whatever. So, you  
6 know what I'm saying. Then I told him, I said man,  
7 somebody going to kill you. But, you know what I'm  
8 saying, what he doing, that's, you know, what he was  
9 doing, you know, that's between them until, you know, I  
10 found out what was really going on, you know.

11 Q. And I believe you testified that he said that Ted  
12 said that Ted did not want to get anyone killed, but the  
13 other man was trying to convince him that he wanted him  
14 to do it?

15 A. He was telling me -- all right, he was telling me  
16 what he was trying to do. Okay? Then he said that, uhm,  
17 Ted don't -- you know what I'm saying, Ted said that he  
18 don't want him to kill nobody, you know what I'm saying.  
19 But that's the only way he can get money. He's telling  
20 me the only way -- William saying the only way he can get  
21 money out of Ted is to convince him that he needs  
22 somebody killed. All right? So, he's saying that Ted  
23 don't tell him that he want nobody killed, but he got  
24 names from him from where he done been in his locker of  
25 where he, you know, stole some of his stuff. So, I don't

1 know what kind of names he got or what all he got, but I  
2 know he said he went in the man locker.

3 Q. Do you know whether or not he was released from  
4 prison earlier than he was supposed to have been  
5 released?

6 A. See, he started talking stupid and then I didn't  
7 want to hear no more because he was saying something  
8 about SBI's and him getting hurt in the process, and I  
9 didn't really -- I really -- I don't know. But, uh, he  
10 was saying some -- I don't know. No, he didn't never say  
11 nothing about, uh, about, uh, about him getting out of  
12 prison or nothing like that. But he did say something  
13 about him getting money, you know what I'm saying? He  
14 was basically trying to -- he was just trying to get  
15 him -- manipulate him into thinking he was somebody he  
16 was not so he can get paid.

17 Q. Thank you, Mr. Gayles.

18 MR. CRUMPLER: I have no further questions,  
19 Your Honor.

20 THE COURT: Examine him.

21 **CROSS EXAMINATION by MR. RICHARD PANOSH:**

22 Q. What is the hole?

23 A. Lock-up.

24 Q. That's punishment?

25 A. Segregation.

1 Q. Is that punishment?

2 A. I, uh, I don't call it punishment. I guess the  
3 people that work in Department of Corrections call it  
4 punishment.

5 Q. So, you're saying that Mr. Stewart's plan was to  
6 get put in the hole?

7 A. Excuse me?

8 Q. Are you saying that Mr. Stewart's plan was to get  
9 put in the hole?

10 A. I mean at what point in time are you talking  
11 about?

12 Q. You said that he was planning to break into that  
13 white boy's locker, steal his radio, and he wanted to get  
14 put in the hole?

15 A. Yes.

16 Q. That was his plan, to get put in the hole?

17 A. Yes. At first.

18 Q. Isn't it a fact that he ended up working in the  
19 kitchen?

20 A. Yeah. 'Cause he -- see he, that's why I wanted  
21 y'all to know because this is why I was trying to get it  
22 understood that, uh, two -- two conversations took place.  
23 One conversation took place is when we was in a block  
24 together for him to indicate which white boy he was  
25 talking about. The second conversation took place in the

1 hole, which he done been through the kitchen and now in  
2 the hole. That's where the second conversation took  
3 place at. One conversation took place on the yard. The  
4 next conversation was like a month and a half apart, and  
5 that took place in lock-up.

6 Q. But he did get to work in the kitchen?

7 A. I don't know. But he was on the yard. I don't  
8 even really---

9 Q. Didn't you say a minute ago he was working in the  
10 kitchen, sir? Was he or wasn't he?

11 A. I mean if you told me he was working in the  
12 kitchen, evidently he was. I was in the hole. When I  
13 talked to this guy the first time, I talked to him in the  
14 block. I want you get a understanding of this. The  
15 first time I talked to him was in the cell, was in the  
16 block.

17 Q. What were you in the hole for, sir?

18 A. What am I in the hole for?

19 Q. What were you in the hole? Why did you get put in  
20 the hole, segregation?

21 A. They said I was too rebellious. They said I got  
22 too many infractions to be on the yard and had to put me  
23 in the hole.

24 Q. Too rebellious?

25 A. Uh-huh.



1 Q. What have you been tried and convicted for in the  
2 last 10 years, sir?

3 A. Excuse me?

4 Q. What have you been tried and convicted for? Tell  
5 us what you're in prison for.

6 A. I mean that ain't got nothing to do with what I'm  
7 in here for.

8 THE COURT: Just go ahead and answer the  
9 question.

10 A. I mean I got locked -- I got convicted for murder.

11 Q. Yeah. Thank you.

12 A. Murder. I got convicted for murder. So, I mean  
13 anything else you need to know what happened before that?  
14 You need to know about any of the good things I did  
15 before I got that murder charge? You need to know any of  
16 that?

17 MR. PANOSH: I have no further questions.

18 THE WITNESS: Okay.

19 MR. CRUMPLER: I have no further questions,  
20 Your Honor.

21 THE COURT: All right, that's all.

22 (Witness stood aside.)

23 MR. ZIMMERMAN: All right, call Mr. Homer  
24 Wilson back.

25 THE COURT: Yes, sir. Mr. Wilson, come

1 around, please.

2 **HOMER WILSON, being previously duly sworn, testified as**  
3 **follows during DIRECT EXAMINATION by MR. BUTCH ZIMMERMAN:**

4 Q. Remind you you're still under oath, Mr. Wilson.  
5 Let me just ask you this, sir. Would you say that what  
6 you've heard here is totally out of character with the  
7 Ted Kimble that you know?

8 A. Yes, sir.

9 Q. You still have those same feelings about it as a  
10 man of good character and reputation?

11 A. Absolutely.

12 MR. ZIMMERMAN: Cross-examine, sir.

13 **CROSS EXAMINATION by MR. RICHARD PANOSH:**

14 Q. You said you knew Patricia?

15 A. Yes.

16 Q. What kind of person was she?

17 A. She was a sweet girl. I was with them probably  
18 three or four times. That's how much I know her.

19 Q. And right after she was killed, his church took up  
20 a collection for Mr. Kimble and they gave him some money,  
21 and he went out and spent that on a new motorcycle; isn't  
22 that true?

23 A. I don't know that.

24 Q. And he's admitted to killing his wife, and you  
25 still think he's a fine person?

1 A. I don't know the circumstances under which he made  
2 that plea. From what I -- the only thing I've seen of  
3 Ted Kimble has been a fine upright young man.

4 Q. And we have a document in evidence here where he  
5 plotted to kill eight witnesses in his own handwriting  
6 with his fingerprints on it. You still think he's a fine  
7 person?

8 A. It's hard to say what that means. I mean where  
9 those come from and under the circumstances for which Ted  
10 wrote that. I don't know the documents, haven't seen the  
11 documents. But I can say this, if he's there and under  
12 those conditions, I don't know what anybody would do  
13 under those circumstances, especially if they thought  
14 they were innocent.

15 Q. You think a fine person who thought he was  
16 innocent would plot to kill some witnesses?

17 A. You don't know what they -- right. Now whether  
18 anybody would go through with that would be a different  
19 story. If a person went through with it, that would be  
20 one thing. But who knows what people might do when  
21 they're sitting locked up in a cell. Especially somebody  
22 if they felt that their options were pretty limited at  
23 that point.

24 Q. So, just asking to kill witnesses, that's all  
25 right. To really kill them, that's not all right.

1 A. It's not all right.

2 MR. ZIMMERMAN: Well, objection, if Your  
3 Honor please.

4 MR. PANOSH: No further questions.

5 THE COURT: Argumentative. Sustained.

6 MR. ZIMMERMAN: Thank you.

7 MR. PANOSH: No further.

8 THE COURT: Come down please.

9 (Witness starts to leave the stand.)

10 MR. ZIMMERMAN: Wait just a minute, sir.

11 **REDIRECT EXAMINATION by MR. BUTCH ZIMMERMAN:**

12 Q. Now, say you knew Pat?

13 A. Uh, yes. We had been with them couple three times  
14 at dinner.

15 Q. The times that you had been with them, did you see  
16 any evidence of any marital discourse (sic) or  
17 disagreements, any upset?

18 A. Exact opposite.

19 Q. You saw what, love and caring?

20 A. Yes.

21 Q. Did you ever hear any ill words between husband  
22 and wife?

23 A. No.

24 Q. These questions that the solicitor asked you a  
25 minute ago, that is Mr. Panosh, kind of hard to answer

1 because you haven't ever been in that situation; isn't  
2 that right?

3 A. Exactly.

4 MR. ZIMMERMAN: Thank you. Come down.

5 (Witness stood aside.)

6 MR. ZIMMERMAN: Carl Foust, come around.

7 **CARL FOUST, being first duly sworn, testified as follows**  
8 **during DIRECT EXAMINATION by MR. BUTCH ZIMMERMAN:**

9 Q. Mr. Foust, and that's F-O-U-S-T, isn't it?

10 A. Right.

11 Q. Where is your home, sir?

12 A. Pleasant Garden.

13 Q. Out on Steeple Chase Road; is that right?

14 A. Yes, sir.

15 Q. How long have you lived there?

16 A. Uh, 30 years.

17 Q. All right. Are you retired or do you work at some  
18 gainful employment?

19 A. I'm working American General Life Insurance.

20 Q. All right. What's your job with them?

21 A. Uh, selling. Salesman.

22 Q. All right. General agent?

23 A. Yeah.

24 Q. All right. And what kind, is it life insurance,  
25 you say?

- 1 A. Yes, sir.
- 2 Q. All right. How old are you, sir?
- 3 A. Sixty.
- 4 Q. Married?
- 5 A. Yes.
- 6 Q. Family?
- 7 A. Yes.
- 8 Q. Live at home with your wife and family?
- 9 A. Well, I live at home with my wife. Kids are gone.
- 10 Q. Everybody -- kids are all grown up. All right.
- 11 Now how long would you say you've known Ted Kimble and
- 12 his mom and dad?
- 13 A. Since 1984.
- 14 Q. All right. And what's the occasion for knowing
- 15 the mother and father, first?
- 16 A. Going to church.
- 17 Q. All right. And you go to his father's church?
- 18 A. Yes, sir.
- 19 Q. Do you participate in the church worship and the
- 20 church goings on and functions there?
- 21 A. Yes, sir.
- 22 Q. And what's the occasion knowing this young man,
- 23 here, Theodore Mead Kimble?
- 24 A. I met him at church.
- 25 Q. All right. Did you know his wife, Pat?

1 A. Yes. Vaguely. Just met her.

2 Q. All right. In other words, you're not socially  
3 inclined to be with Ted and his wife; is that right?

4 A. Well, we just didn't -- I've eat lunch with them  
5 at the pastor's house a few times. But other than that  
6 just, you know.

7 Q. Didn't see them on any social occasions other than  
8 that?

9 A. Right.

10 Q. All right. Tell me what you know about this young  
11 man right here.

12 A. Uh, been a fine boy since I've known him.

13 Q. You got an opinion satisfactory to yourself as to  
14 his general character and reputation in the community in  
15 which he lived?

16 A. Yes.

17 Q. What is that?

18 A. Well, he's always been mannerly, hard worker, and  
19 when he's been around me, it's nothing but yes, sir; no,  
20 sir, that type.

21 Q. Always been polite to you and your wife?

22 A. Right.

23 Q. This incident that you've heard about and these  
24 accusations and what that Mr. Panosh, the solicitor for  
25 the State, has said about these things totally out of

1 character of the Ted Kimble you know?

2 A. Yes.

3 Q. Did you ever see any marital discord between him  
4 and his wife, Pat?

5 A. No. Every time I was with them they were fine.

6 Q. Seem to be a loving couple?

7 A. Yes.

8 MR. ZIMMERMAN: Cross-examine, sir.

9 **CROSS EXAMINATION by MR. RICHARD PANOSH:**

10 Q. Are you saying, sir, that none of the facts you've  
11 heard about him killing his wife and getting his brother  
12 involved in killing his wife and plotting to kill these  
13 witnesses, none of that changes your opinion?

14 A. I don't know that all that happened.

15 Q. So--- never mind.

16 MR. PANOSH: No further.

17 **REDIRECT EXAMINATION by MR. BUTCH ZIMMERMAN:**

18 Q. You weren't there, of course, were you?

19 A. No, I wasn't.

20 MR. ZIMMERMAN: Thank you. Come down.

21 (Witness stood aside.)

22 MR. ZIMMERMAN: Mr. Joe Hagler.

23 **JOE HAGLER, being first duly sworn, testified as follows**  
24 **during DIRECT EXAMINATION by MR. BUTCH ZIMMERMAN:**

25 Q. Tell His Honor and the court reporter your name.



- 1 A. My name is Joe Hagler.
- 2 Q. And it's spelled H-A-G-L-E-R?
- 3 A. That's correct.
- 4 Q. All right. And where is your home, sir?
- 5 A. Greensboro.
- 6 Q. And how long have you lived here in the Greensboro  
7 Guilford County area?
- 8 A. Uh, 20 years plus 2 years in college here.
- 9 Q. All right. Where are you originally from?
- 10 A. Uh, Locust, North Carolina.
- 11 Q. Locust. All right. Big city. All right. And  
12 what do you do for a living, sir?
- 13 A. I work for the school system.
- 14 Q. Doing what?
- 15 A. I'm an assistant principal at Colfax School.
- 16 Q. All right. And have you been in education all of  
17 your adult life?
- 18 A. Just about. Twenty and a half years.
- 19 Q. All right. And where did you say you went to  
20 college?
- 21 A. Greensboro College for two years. Prior to that  
22 Wingate.
- 23 Q. All right. And did I understand you to say you've  
24 been with the Guilford County Greensboro public school  
25 system for a number of years?

1 A. Greensboro City prior to Guilford County, yes,  
2 sir. Twenty and a half years.

3 Q. And how long total in education?

4 A. This is my 21st year.

5 Q. All right, sir. Now, Mr. Hagler, are you a  
6 married man?

7 A. Yes, sir.

8 Q. Family?

9 A. No children, just a wife.

10 Q. Live at home with your wife?

11 A. That's correct.

12 Q. Is she a teacher also?

13 A. She is.

14 Q. Excellent. Do you know, sir, this defendant,  
15 Theodore Mead Kimble?

16 A. Yes, sir. I do.

17 Q. How did you come to know him?

18 A. The first time I met Ted he was a little kid in  
19 third or fourth grade. His parents had just moved to  
20 Greensboro from Lynchburg or somewhere. His daddy just  
21 finished school at Liberty and they moved to Greensboro  
22 and he was a student at Hunter School where I taught.

23 Q. All right. And did you watch him as he came along  
24 in the school systems?

25 A. Well, I -- I saw him -- I was one of his teachers

1 for a couple years, and then I sort of lost contact with  
2 him until later on I bought a house and was building a  
3 deck and bought some materials at Lyles from Mr. Lyles,  
4 and Ted was working there when he was in high school.

5 Q. Were you some kind of advisor to him at that point  
6 in time when you were---

7 THE COURT: Mr. Hagler, I'm going to have to  
8 interrupt you. Excuse me, Counsel, we've got the other  
9 witness coming in. Would you mind stepping down for a  
10 moment, please.

11 (Witness stood aside.)

12 **GARY WAYNE DURHAM, being first duly sworn, testified as**  
13 **follows during DIRECT EXAMINATION by MR. FRED CRUMPLER:**

14 Q. Mr. Durham?

15 A. Yes, sir.

16 Q. Will you tell, uh, state your full name to the  
17 Court, please?

18 A. Gary Wayne Durham.

19 Q. Mr. Durham, my name is Fred Crumpler. I represent  
20 -- I'm one of the two attorneys who represent Mr. Ted  
21 Kimble. Now, I'm asking you first, do you know Mr.  
22 Kimble?

23 A. Yes, sir.

24 Q. How long have you known him?

25 A. Ever since he's been in prison. It's been six,

1 seven, eight months.

2 Q. Are you at the Southern Correctional Institute?

3 A. Yeah. Yeah. I've known him as long as he's been  
4 there.

5 Q. You met him when he came there and have known him  
6 while he was there?

7 A. Yes, sir.

8 Q. Now, do you also know a man whose name is William  
9 Stewart?

10 A. Yes, sir.

11 Q. How do you know him?

12 A. He was at Southern Correctional, too.

13 Q. Describe him to the Court, if you will, and I'm  
14 particularly referring to his habit for telling the  
15 truth, if you know that.

16 A. He doesn't -- he doesn't tell the truth. He's not  
17 going to tell the truth.

18 Q. Is he known for not telling the truth?

19 A. He's habitual liar.

20 Q. Have you had any occasion to overhear  
21 conversations either with yourself or with him with other  
22 people where he made reference to some plan that he had  
23 with Ted Kimble?

24 A. Uh, he -- what that was is basically he, uh, --  
25 see, he's a homosexual. William Stewart, he's a

1 homosexual. What he'll do is he'll approach young white  
2 guys and he'll try to use them for money. He'll say  
3 anything and do anything and try to use them, you know,  
4 for money, and he'll brag about it to other people. See,  
5 like, uh, when you come to prison, if you're young and  
6 you're white, they're going to prey on you. And he's one  
7 of those. You know, he would say anything for some  
8 money, or, you know, any kind.

9 Q. Would you tell us whether he ever made a statement  
10 that he had represented himself to Ted Kimble as a hit  
11 man?

12 A. Yes, sir.

13 Q. Tell us what he said in that respect?

14 A. He said he, uh, he had this this -- he was going  
15 to try to get this man to pay him to kill somebody. And  
16 he, you know, he's, you know, guy had like a 8 to 10  
17 month sentence and he knew he was getting out soon. He  
18 was trying to get some, I guess get some money together.  
19 And, uh, he said he had approached Mr. Kimble. And, uh,  
20 he said, you know, if he doesn't, you know, he said, you  
21 know, he was going to write the D.A. He was going to  
22 write the D.A. in the man's case because he knew he was  
23 facing a murder trial in Guilford County. Uh, basically  
24 he, uh, you know, it's, you know, you'd have to, you'd  
25 have to, you know, it's different. You have to

1 understand how how how prison works. It's all a game.  
2 That's all it is is a game. I mean, you know, of course  
3 he's not going to kill anyone. And this man, you know,  
4 never approached him, never asked him -- Mr. Kimble never  
5 asked him to do anything. You know, he certainly never  
6 asked him to kill anyone for him. But it's -- in there  
7 it's a game that these people play with authority.  
8 They'll tell on you for any reason, for extra clothes,  
9 having extra food or anything to get a phone call or a  
10 cigarette. That's how they -- that's how they, you know,  
11 it's all a game. Now, uh, you know, he didn't, you know,  
12 like I said, uh---

13 Q. What was he in prison for, do you know?

14 A. No, sir. I mean, you know, he lies so much you  
15 really wouldn't, you know -- I just know, you know, he's  
16 approached me, you know, and uh for cigarettes, you know.

17 Q. Did you ever ask Ted whether he said -- ever  
18 intended to kill anyone or make an escape or anything of  
19 that kind?

20 A. Yes, sir. I've asked him, you know, several  
21 times.

22 Q. And what did he say?

23 A. No.

24 MR. PANOSH: Objection, please.

25 THE COURT: Overruled.

1 MR. PANOSH: Is he going to testify?

2 THE WITNESS: Sir?

3 MR. CRUMPLER: Your Honor, I would submit at  
4 the sentencing hearing the rules of evidence---

5 THE COURT: We will not strictly observe the  
6 rules of evidence at this hearing.

7 MR. PANOSH: Yes, sir.

8 Q. Go ahead and answer my question, please.

9 A. No, sir. May I make a statement? I got pretty  
10 close to Ted, you know, the whole time I was at Southern  
11 Correctional. He comes from a christian background. Lot  
12 of time he goes to church and he's invited me to church a  
13 lot of times, you know. I'm not a christian, you know,  
14 and a lot of times -- every time I've ever been around  
15 Ted Kimble he's always tried to, you know, to get me to  
16 get saved, dedicate my life to the Lord, things of that  
17 nature there. I felt that we had become pretty close,  
18 you know. And I feel, honestly feel, if he wanted to  
19 kill somebody, he wanted to plot an escape or something  
20 like that, he would have definitely told me because I was  
21 one of the closest people to him period. And he's never  
22 ever made any statement like that.

23 MR. CRUMPLER: I have no further questions.

24 **CROSS EXAMINATION by MR. RICHARD PANOSH:**

25 Q. Mr. Kimble ever asked you to get him a gun?

1 A. No, sir.

2 Q. Ever take \$500 from him?

3 A. No, sir.

4 Q. You say Mr. Stewart is a homosexual?

5 A. Yes, sir.

6 Q. And did you know anything about Mr. Stewart  
7 breaking into Mr. Kimble's locker?

8 A. Yes, sir.

9 Q. When did that happen?

10 A. This happened on several different occasions.  
11 He's, uh -- that was of the main reason he was run up by  
12 the block. You had like seven or eight guys that got  
13 stuff missing, and he was a known thief. He was a known  
14 thief.

15 Q. So, he was a good friend of Mr. Kimble's and  
16 playing up to him, but he still broke into his locker?

17 A. Yes, sir. That happens every day in there.  
18 That's like I said, you know, everything is not what it  
19 seems, you know. I can look at you and be your best  
20 friend one minute and be plotting to rob you or steal  
21 from you the next. That's just -- you have to understand  
22 the type of -- you're dealing with the worst scum on  
23 earth. You know, they're in prison.

24 Q. People who do breaking and entries and assault  
25 people?



- 1 A. Yes, sir.
- 2 Q. What have you been convicted of, sir?
- 3 A. Many things.
- 4 Q. Would you tell the Court, please?
- 5 A. I've been on this sentence maybe nine and a half,  
6 ten years. I been, uh, -- in fact, I've been sentenced  
7 by the Honorable Judge Mr. McHugh on several different  
8 occasions as a juvenile. Uh, currently I'm serving time  
9 for second degree kidnapping.
- 10 Q. You've also been convicted of assault with a  
11 deadly weapon?
- 12 A. Yes, sir. That was in prison.
- 13 Q. In prison?
- 14 A. Yes, sir.
- 15 Q. How many times you been convicted of breaking and  
16 entering?
- 17 A. Several.
- 18 Q. How about burglary?
- 19 A. I don't -- I don't -- maybe it might have been  
20 broke down to breaking and entering.
- 21 Q. First degree burglary in Wentworth?
- 22 A. Yes, sir. I believe that was with Mr. McHugh  
23 here. I believe he sentenced me on that.
- 24 Q. Ever been convicted of larceny?
- 25 A. Yes, sir.

1 Q. How about escape?

2 A. Yes, sir. That's misdemeanor escape from uh,  
3 uh,---

4 Q. Well, in order to be convicted of misdemeanor  
5 escape, you still have to escape.

6 A. Yeah. I pled guilty. I pled guilty. Was gone  
7 less than six hours.

8 Q. Stealing cars?

9 A. Yes, sir.

10 Q. Breaking into cars?

11 A. Yes, sir.

12 Q. Assault on a female?

13 A. Yes, sir.

14 MR. PANOSH: No further questions.

15 THE WITNESS: May I make a statement, Your  
16 Honor?

17 THE COURT: No. Just answer his questions.

18 MR. CRUMPLER: No, Your Honor. Excuse me.

19 THE COURT: Come down.

20 (Witness stood aside.)

21 MR. ZIMMERMAN: Have Mr. Hagler back up.  
22 Remind you you're still under oath, sir. If it please  
23 the Court?

24 THE COURT: Yes, sir.

25 **JOE HAGLER, being previously duly sworn, testified as**

1 follows during DIRECT EXAMINATION by MR. BUTCH ZIMMERMAN:

2 Q. I believe at some point in time I'd asked you if  
3 you were some kind of a counselor, and I believe you told  
4 me later on you were his resource teacher at school; is  
5 that right?

6 A. That's correct.

7 Q. And what school was that?

8 A. That was at Hunter School.

9 Q. All right. What grade was that?

10 A. I'm not sure. It was either third or fourth  
11 grade. I think at the time we were third, fourth, fifth  
12 and sixth grade one year. And then I think when Ted was  
13 there it was third and fourth grade.

14 Q. All right. And did you follow him as he got older  
15 in the school system?

16 A. I didn't until I bought a house over in the  
17 Glenwood section and bought some supplies from Mr. Lyles  
18 and noticed that I thought it was Ted working there. And  
19 then we sort of got reacquainted. I said how you doing,  
20 what are you doing in school, and then every now and then  
21 I would see him there when I bought materials.

22 Q. All right. Do you have any connection or contact  
23 with his dad and mother and that church?

24 A. No, sir. I'm not a member of that church. I need  
25 to go back to another question.

1 Q. Yes, sir.

2 A. After several years passed, Ted when he, uh, about  
3 the time he bought Lyles Building Supply, I did purchase  
4 some stuff from him and he built a roof for me at a place  
5 on the lake that I have.

6 Q. All right.

7 A. So, that was basically my last dealings with him.

8 Q. Have your dealings with Mr. Kimble all through the  
9 time that he was in the fourth or fifth grade or whenever  
10 all the way up to the time when you were buying or  
11 purchasing things from Lyles Building Supplies always  
12 been open and aboveboard?

13 A. Yes, sir.

14 Q. And what kind of young man did you find him to be  
15 when he was in grammar school?

16 A. He was very mannerly. Yes, sir; no, sir; that  
17 sort of thing.

18 Q. Did that opinion of him being mannerly, your  
19 opinion of his being mannerly ever change when you dealt  
20 with him at Lyles?

21 A. No. He was always very helpful and mannerly then.

22 Q. Do you have an opinion satisfactory to yourself as  
23 to this defendant's character and reputation in the  
24 community in which he lived?

25 A. Uh, yes.

1 Q. And what is that, sir?

2 A. Well, based on my experience with him, it was  
3 positive.

4 Q. All right. And you feel like this, what you've  
5 heard today, the allegations or the factual statements  
6 made by the solicitor for the State about this killing of  
7 his wife, you find that totally out of character with the  
8 young man you knew?

9 A. Based on the period that I knew him, yes, sir, I  
10 do.

11 Q. All right. Understand you don't condone what  
12 happened, but you just find it just doesn't match up with  
13 the young man you knew?

14 A. That's correct.

15 Q. All right.

16 MR. ZIMMERMAN: Cross-examine him, please.

17 **CROSS EXAMINATION by MR. RICHARD PANOSH:**

18 Q. Do you know that during this period of time he was  
19 running Building Supply up there that he was stealing  
20 most of that, and he's pled guilty to 20-odd breaking and  
21 entries, thousands of dollars worth of property, stuff he  
22 was selling at the store?

23 A. I didn't know it at the time I did business with  
24 him, but I read it in the paper later.

25 Q. Now that you know that he's admitted to that kind

1 of conduct, you still think he's open and aboveboard?

2 A. Well, as I said before, up until -- during the  
3 time that I knew him, he was a real positive person. But  
4 I don't support the kind of behavior that I've heard  
5 about stealing and that sort of thing.

6 Q. Or murder?

7 A. Or murder, if that be the case.

8 MR. PANOSH: No further, thank you.

9 **REDIRECT EXAMINATION by MR. BUTCH ZIMMERMAN:**

10 Q. Let me just ask you this.

11 A. Yes, sir.

12 Q. Mr. Hagler, as a matter of fact, you thought  
13 enough of him that when he was building this deck or  
14 whatever it was down there at the lake, you let him have  
15 the keys to your lake house to stay?

16 A. Yes, sir. He and his wife and another couple went  
17 up a couple weeks later for a few days.

18 Q. And you didn't have any reason to -- didn't find  
19 anything missing in there, didn't have any reason to  
20 think anything would be missing from your place, did you?

21 A. No. I couldn't even tell they had been there.

22 MR. ZIMMERMAN: All right. Thank you so  
23 much. You can come down.

24 (Witness stood aside.)

25 MR. ZIMMERMAN: All right, come around,

1 please, ma'am.

2 These witnesses who've testified on behalf of  
3 Mr. Kimble, if Your Honor please---

4 THE COURT: If there is no objection by the  
5 State, they may be released from subpoena.

6 MR. PANOSH: No objection.

7 MR. ZIMMERMAN: If Your Honor please, I need  
8 to step out on another matter.

9 THE COURT: Yes, sir.

10 (Mr. Zimmerman leaves the courtroom briefly.)

11 **EDNA KIMBLE, being first duly sworn, testified as follows**  
12 **during DIRECT EXAMINATION by MR. FRED CRUMPLER:**

13 Q. Mrs. Kimble, state your full name for the Court,  
14 please.

15 A. Edna Layton Kimble.

16 Q. And I believe, ma'am, that you're Ted Kimble's  
17 mother, are you not?

18 A. Yes, sir.

19 Q. Mrs. Kimble, Your Honor is going to have to pass  
20 judgment on your son when we conclude this hearing. And  
21 I ask you would you state to the Court matters that you  
22 think the judge may consider in your son's behalf by  
23 telling us about his past and things that you'd like the  
24 judge to consider.

25 A. I've raised my son, and I had little to no trouble

1 with my children. I've been proud in the past and I am  
2 still proud to stand here and say that I gave him life.  
3 And not one person in this courtroom will ever ever  
4 convince me that he murdered his wife.

5 I watched him grow up. I watched his manner. And  
6 I loved him, and to this day I still love him, and I will  
7 die loving him. No matter what these people have  
8 concocted, and the way they've concocted it, it won't  
9 matter. I'll stand by him until the day I take my last  
10 breath.

11 I saw him and her on a day about two to three  
12 times a week. She would call my home and ask me to come  
13 visit her, to be with them. I never saw these things  
14 these people said. I cannot believe that I was that  
15 blind because I don't consider myself a stupid person.  
16 Up until the day she died everything was fine. The last  
17 time I saw my daughter-in-law alive my son had tossed her  
18 over his shoulder bouncing her through a parking lot.  
19 She was waving at me goodbye. We had just hugged and  
20 kissed, and we'd had a nice lunch together. We had spent  
21 all morning together at a yard sale. Not once did she  
22 ever tell me she was threatened, worried or scared of my  
23 son. This is not the ugly picture that these people have  
24 painted. So, I have trouble believing that my son killed  
25 his wife. I have faced him, looked him in the eyes, and



1 I have asked him did you kill your lovely wife. And he  
2 told me no. And until that day, if he -- which I don't  
3 believe he'll ever tell me that because I don't believe  
4 he killed her. I don't think that he hired anybody to  
5 kill her. I know my other son is innocent. It was no  
6 physical evidence. There was never no one -- they never  
7 even proved that he was there, but yet he's in prison for  
8 life because they have the time to do it.

9 Q. Mrs. Kimble, let me ask you this. I believe your  
10 husband is a minister of a church, is he not?

11 A. Yes, he is.

12 Q. Has your family been involved, Ted included, in  
13 the church and in religious development?

14 A. Yes. My husband and I were saved in our mid-20's,  
15 and my husband accepted his calling of God in those  
16 years. And we sold our home and moved to Virginia. And  
17 there the boys were put into a christian academy, and we  
18 worked hard to get him through school. And then we moved  
19 here to Greensboro because this is where God thought --  
20 Ronnie thought that God would have him be to start a  
21 church. And we did end up starting a church in Julian,  
22 and that's where we've been ever since.

23 Q. Has Ted ever taught any subjects, Sunday School  
24 classes or any subjects involving religion?

25 A. Yes.

1 Q. When was that, and what did he teach?

2 A. He usually taught children and it was -- he taught  
3 children's church. And it's been different times. Any  
4 time we needed help in an area, uh, Mr. Foust who has  
5 testified, he was our Sunday School director, and any  
6 time that someone was out or we needed a fill in, then,  
7 of course, he would ask Ted and Ted would fill in. But  
8 even after the death of Patricia, Ted was coming to the  
9 church right before he was arrested, and he was teaching  
10 a class.

11 Q. Is there anything else, Mrs. Kimble, that you'd  
12 like the judge to consider?

13 A. As you make judgment on my son today, I would like  
14 for you to remember that you judge him -- you will be  
15 judging him as an innocent man. (Witness is crying.) I  
16 know who I raised and I know he's not a killer. And  
17 that's what I would like you to consider. To be merciful  
18 to him because the years that you put him in prison, I  
19 too will be in prison. Until I have victory over this,  
20 every day of my life will be like this. Every day I cry.  
21 And the crying won't stop because the pain is going to be  
22 always there that I can't hold him. I can't watch him  
23 laugh. I can't go to dinner with him like I used to.  
24 And every time I face him I have to know that I'm looking  
25 at an innocent man in prison for a crime he didn't do.

1 And they had the opportunity to stand up this morning and  
2 play out a little play for you of all the things that  
3 they said happened, but you yourself have not been in the  
4 other courtroom where these things, and he added and he  
5 took away and he made it sound like a really pretty  
6 story. But it's not a true story, and there are a lot of  
7 loopholes in it that weren't heard today. So, when you  
8 judge him, please keep those things in mind. Just  
9 because he said it doesn't mean it's true.

10 THE COURT: All right, thank you, ma'am.  
11 Would you please step down at this time?

12 (Witness stood aside.)

13 MR. CRUMPLER: Your Honor, is there  
14 another---

15 **RODNEY ALEXANDER McLEAN, being first duly sworn,**  
16 **testified as follows during DIRECT EXAMINATION by MR.**

17 **FRED CRUMPLER:**

18 MR. CRUMPLER: Could the Court give me just a  
19 moment, Your Honor?

20 (Pause.)

21 Q. Mr. McLean, would you state your full name to the  
22 Court, please?

23 A. Yes. Rodney Alexander McLean.

24 Q. If you will, speak up as loud as you can because  
25 this is a large courtroom, and it's hard for me hear your

1 answers. My name is Fred Crumpler, and I'm an attorney.

2 I represent Mr. Ted Kimble. Do you know Mr. Kimble?

3 A. Yes, I do.

4 Q. Tell us how you know him.

5 A. Uh, I met him in an institution in Troy. Uh,  
6 that's pretty much how I met him.

7 Q. How long were you there together?

8 A. Uh, I can't tell exactly how long. Couple of  
9 months maybe.

10 Q. Do you know William Stewart?

11 A. Yes, I do.

12 Q. Now, will you tell us what knowledge you have of  
13 any relationship between Ted Kimble and William Stewart,  
14 and I'm particularly making reference to any plans to  
15 either murder someone or escape or anything of that type.

16 A. Well, I have no knowledge of any plans of escape  
17 or murder or anything. But I know Mr. Kimble confided in  
18 me. He told me one day that he was afraid for his  
19 girlfriend's safety. That she had been called by someone  
20 asking for money.

21 Q. And was that William Stewart?

22 A. Uh, he did say it was William Stewart.

23 Q. How long did the period go when he talked with you  
24 about being afraid?

25 A. Excuse me?

1 Q. How long was it that you had these kinds of  
2 conversations with him? Has it been a week, a month, day  
3 or whatever it is?

4 A. I don't know. I can't remember exactly.

5 Q. Was there more than one occasion when he discussed  
6 that with you?

7 A. Yes.

8 Q. And did he -- will you tell us whether Ted Kimble  
9 ever made any statement to you about his -- any plans to  
10 escape or to do anyone harm?

11 A. No, sir.

12 Q. Yet, he did tell you he was afraid of William  
13 Stewart because he had been trying to get money from his  
14 girlfriend?

15 A. Yes.

16 Q. Did he ever tell you whether he in fact ever got  
17 any money from the girlfriend?

18 A. No, he never told me.

19 MR. CRUMPLER: No further questions, Your  
20 Honor.

21 **CROSS EXAMINATION by MR. RICHARD PANOSH:**

22 Q. He knew to call her up because Mr. Kimble gave Mr.  
23 Stewart her name, address and telephone number; isn't  
24 that right?

25 A. I have no idea.

1 Q. If it's in a letter there, you wouldn't dispute  
2 that, would you?

3 A. Guess I couldn't.

4 Q. What have you been convicted of, sir?

5 A. I've been convicted of three counts of second  
6 degree murder, and two counts of armed robbery.

7 Q. Total of three murders?

8 A. Yes.

9 MR. PANOSH: No further.

10 THE COURT: Mr. Crumpler, anything further?

11 MR. CRUMPLER: No further questions, Your  
12 Honor.

13 THE COURT: All right, with these four  
14 witnesses, I intend to have them transported unless you  
15 need them for any further reason.

16 MR. CRUMPLER: Your Honor, the defendant has  
17 no further questions of any of the four witnesses.

18 THE COURT: All right, they can be  
19 transported, Sheriff.

20 (Witness stood aside.)

21 MR. ZIMMERMAN: One second, please, if Your  
22 Honor please.

23 (Pause.)

24 **RONNIE LEE KIMBLE, being first duly sworn, testified as**  
25 **follows during DIRECT EXAMINATION by MR. FRED CRUMPLER:**

1 Q. Mr. Kimble, your full name is Ronald Kimble?

2 A. Ronnie Lee Kimble.

3 Q. Ronnie Kimble?

4 A. Yes, sir.

5 Q. And where do you live, sir?

6 A. I live at 6318 Liberty Road in Julian.

7 Q. And I believe you're the father of the defendant,  
8 Ted Kimble?

9 A. Yes, sir.

10 Q. You have only two children?

11 A. Yes, sir.

12 Q. And they were the two sons, Ted and Ronnie?

13 A. Yes, sir.

14 Q. What is your profession?

15 A. I'm the pastor of Monnett Road Baptist Church in  
16 Julian.

17 Q. Are you an ordained minister?

18 A. Yes, sir.

19 Q. And where did you study the ministry?

20 A. I went to school in Lynchburg, Virginia at  
21 Institute of Biblical Studies at Liberty University.

22 Q. Did you yourself establish a church after coming  
23 back to this area?

24 A. Yes, sir. We started off with two families.

25 Q. What's the size of your congregation to date?

1 A. We probably have 350 on the roll. And on Sunday  
2 morning worship attendance we probably average 150 to 175  
3 altogether.

4 Q. Mr. Kimble, you've heard the witnesses here in  
5 court today. Have you heard your wife's testimony?

6 A. Yes, sir.

7 Q. Keeping in mind that His Honor is going to have to  
8 pass judgment on your son, Ted, at the conclusion of the  
9 hearing, will you relate to the Court things about your  
10 son Ted that you would ask the Court to consider in his  
11 behalf?

12 A. Yes, sir. Your Honor, I've sat through my other  
13 son's trial. There was a question at the end of trial by  
14 Mr. Panosh. I told him I would like to express to you I  
15 believe with all my heart my sons did not do this. I  
16 know I believe it because the time frame, I'd look at it  
17 humanly and the time frame that my other son supposedly  
18 committed the murder for this son, he could not have done  
19 it because he was at the place of business at Lyles  
20 Building Material with my son, and with another witness.  
21 The witness was going to testify that he was at Lyles up  
22 to about 4:30. He told me this on numerous occasions.  
23 And about two weeks before the trial started, the D.A.  
24 called him down here to his office, and they had  
25 mentioned to him about bringing him in on the breaking,



1 entering, larcenies if he didn't cooperate with them. He  
2 come back to the place of business and his story changed  
3 that my son left -- well, last time he saw him was around  
4 3:00. But he told me all the way up to that time that he  
5 would be glad to come to court, be glad to testify that  
6 my son was at that business till about 4:30. But then  
7 when he went to the D.A.'s office, he come back, his  
8 story changed. I know with all my heart that my sons are  
9 not guilty of this. And I'll go to my grave knowing that  
10 because it's just no way. I asked myself could they have  
11 done it. I looked at it from every way possible. It's  
12 no way they could have because they could not have been  
13 there. And my other son, he was working two jobs. His  
14 wife told him that if he would pay off the boat--- He  
15 wanted to buy a motorcycle. That if he would pay off the  
16 boat that he could buy a motorcycle. And then after her  
17 death, he did go buy a motorcycle. But first of all, he  
18 went out and bought the clothes that he needed, the  
19 things that he needed. Then he took little bit of that  
20 money, he went and borrowed money from the bank on a  
21 charge card and he did buy a motorcycle, which I did not  
22 approve of. I owned a couple of motorcycles and they're  
23 dangerous. With all my heart I do not believe either one  
24 of my sons had anything to do with this murder. I know  
25 he took the plea bargain. I know that he did that. But

1 the only reason he did that was because he was told by  
2 Mr. Zimmerman, Mr. Crumpler, not these only, but he was  
3 told by the other lawyers that if he didn't take the plea  
4 bargain that Dick Panosh would have him put to death  
5 through the court system. And I do ask you to have mercy  
6 on him. That's all I can do.

7 One day I cried out to God and asked God to  
8 forgive me. I was a alcoholic. He forgave me through  
9 His mercy and grace. And that's all I can ask you for is  
10 just for mercy.

11 THE COURT: All right, sir. Thank you. Do  
12 you have any further direct examination?

13 MR. CRUMPLER: No, Your Honor.

14 **CROSS EXAMINATION by MR. RICHARD PANOSH:**

15 Q. July of 1996 about a year after Patricia's death,  
16 Ted was running Lyles Building Supply; is that right?

17 A. Yes, sir.

18 Q. And you were working out there with him?

19 A. I was helping him out when he needed help.

20 Q. And how was his financial condition at that time?

21 A. As far as I know, it was fine. He did the books  
22 and everything.

23 Q. And about that time he realized the Sheriff's  
24 Department was closing in on him and his reaction was to  
25 go out and buy a sniper rifle, wasn't it?

1 A. No, sir.

2 Q. He didn't buy a sniper rifle?

3 A. He had went to the gun show, and I went to the gun  
4 show with him. And at the gun show he met this man that  
5 was handling rifles. He saw this rifle and he began to  
6 make arrangements to purchase this rifle. It was a --  
7 Ted has an infatuation about guns. And which I know a  
8 lot of people that have infatuations about guns. They  
9 collect guns. And as far as a sniping rifle, I just knew  
10 it was a rifle.

11 Q. And what happened to that rifle?

12 A. I sold it.

13 MR. PANOSH: Court's indulgence a moment.

14 Q. Do you know how much he paid for that rifle?

15 A. No, sir. I do not.

16 Q. Isn't it a fact the paperwork was in the box when  
17 you got it, when you sold it, indicating that he paid  
18 \$5,500?

19 A. I didn't -- I didn't mess with the rifle. I just  
20 got rid of it.

21 Q. It was imported from Britain? Imported from  
22 Britain; is that right?

23 A. All I know is it was supposedly a British rifle.  
24 I carried it to the gun show here in Greensboro last gun  
25 show, and that looks like it. And I met a dealer there,

1 and I told him about this rifle that I had, and I sold it  
2 to him.

3 Q. Drawing your attention to that rifle in Mr.  
4 Church's hands, that's a sniper rifle, isn't it, sir?

5 A. That's what it says that it's a rifle. I don't  
6 know anything about guns.

7 Q. All you can do with that is kill people; isn't  
8 that right?

9 A. I guess you could deer hunt with it, if you wanted  
10 to.

11 Q. How many people do you know that deer hunt with a  
12 rifle you need a tripod for?

13 A. If I'm not mistaken, that probably shoots a 30/30  
14 shell. And a 30/30 shell, lot of people deer hunts with  
15 30/30's.

16 Q. So, after Patricia's death and the Sheriff's  
17 Department was closing in on your son, he decided to take  
18 up deer hunting; is that what you're saying?

19 A. Do what now?

20 MR. ZIMMERMAN: Objection, if Your Honor  
21 please.

22 THE COURT: Argumentative.

23 THE WITNESS: I don't understand the---

24 MR. ZIMMERMAN: Don't have to answer it.

25 Q. Isn't it a fact that he got that weapon because he

1 was threatening to kill law enforcement officers if they  
2 got close to him?

3 A. No, sir. It was not.

4 MR. PANOSH: No further questions. Thank  
5 you, sir.

6 MR. CRUMPLER: Just one question, if Your  
7 Honor please.

8 **REDIRECT EXAMINATION by MR. FRED CRUMPLER:**

9 Q. Mr. Kimble, do you know whether that was purchased  
10 before his wife's death?

11 A. From what I understand, I think it was ordered  
12 before her death that he saw it at the gun show. Because  
13 Patricia, myself, and my wife, all four of us went to the  
14 gun show. And I think she was -- at that time that was  
15 before her death. And, uh, it took him, from what I  
16 understand, about a year to get it. And that was after  
17 her death when he got it.

18 But as far as my son and his wife's relationship,  
19 Your Honor, I can testify they had a close relationship.  
20 We ate dinner two or three times a week. Every Friday  
21 night just about we would go to Kyoto's Restaurant,  
22 Japanese restaurant here in Greensboro, and they were  
23 always loving each other. I mean smooching. In fact, it  
24 could be embarrassing sometimes, they were so lovey  
25 dovey. I never -- I never saw them described as the D.A.

1 has described them. It's just -- Patricia -- I'll tell  
2 you one thing, if you don't mind, before I go down.  
3 About a week before Patricia was murdered, I called the  
4 house and I disguised my voice picking with Patricia. I  
5 picked at her a lot of times, and she picked up who I  
6 was. Oh, hello, Daddy. And I said, how did you know who  
7 I was. And I'll never forget with the most solemn voice  
8 of somebody that was very down and depressed, she said  
9 you're the only one who ever calls here. And during her  
10 trial she had so many friends to come and say that they  
11 were her friends, but from what she told me, nobody never  
12 called her. But it just broke my heart. And we loved  
13 Patricia just like we love Ted. She was a very good  
14 girl. They were good for each other.

15 MR. CRUMPLER: I have no further questions,  
16 Your Honor.

17 THE COURT: All right, thank you, sir.  
18 (Witness stood aside.)

19 MR. ZIMMERMAN: If Your Honor please, it's  
20 our client's desire to testify. At the break we took  
21 earlier on, uh, Mr. Crumpler and I advised him that if he  
22 took the stand, he'd be subject to cross-examination. He  
23 said he understood that. That is cross-examination by  
24 the solicitor for the State, and place himself and his  
25 character in evidence as to certain matters of things.

1 He desires to testify at this time. I'd like the Court  
2 to make inquiry.

3 THE COURT: All right, have the defendant  
4 stand and be sworn, please.

5 THEODORE MEAD KIMBLE, being first duly sworn, answered  
6 questions propounded by THE COURT as follows:

7 THE COURT: Mr. Kimble, you've heard your  
8 attorney, Mr. Zimmerman, advise the Court that he has  
9 conferred with you regarding your decision to testify in  
10 this case. You've heard that, sir?

11 MR. KIMBLE: I have, sir.

12 THE COURT: And he's advised the Court that  
13 you have determined despite his advice to you that you  
14 will testify in this proceeding; is that also correct?

15 MR. KIMBLE: Yes, sir.

16 THE COURT: Your attorney has advised you  
17 that if you do take the stand to testify, you will be  
18 subject to cross-examination regarding the circumstances  
19 of this proceeding, regarding the circumstances of the  
20 charges against you, and regarding other matters which  
21 the Court may deem relevant. Do you understand that you  
22 are subject to cross-examination by the District Attorney  
23 on those matters?

24 MR. KIMBLE: Yes, sir.

25 THE COURT: You do have the right to testify

1 in this proceeding, even though it is against your  
2 attorneys' wishes. Is that in fact what your  
3 determination in this case is?

4 MR. KIMBLE: I'm ready to take the stand,  
5 sir.

6 THE COURT: All right. Do you have any  
7 questions you'd like to address to the Court regarding  
8 your decision to testify at this proceeding?

9 MR. KIMBLE: Not at this time, sir.

10 THE COURT: All right, thank you. Let the  
11 record show the Court finds as a fact and concludes as a  
12 matter of law that the defendant's decision to testify in  
13 his own behalf at this sentencing proceeding is a  
14 decision that the defendant has made freely, voluntarily  
15 and intelligently, and it is ordered that his testimony  
16 may be presented.

17 All right, sir, come around, please.

18 **THEODORE MEAD KIMBLE, being first duly sworn, testified**  
19 **as follows during DIRECT EXAMINATION by MR. BUTCH**

20 **ZIMMERMAN:**

21 Q. Just one little preliminary matter, Mr. Kimble. I  
22 believe when we were back there talking about your  
23 testifying, we didn't give you any opinion as to what our  
24 opinion was about whether or not you should or shouldn't  
25 testify; is that correct?



1 A. Yes, sir.

2 Q. Just told you what you'd be subject to is cross-  
3 examination; is that correct?

4 A. Yes, sir.

5 Q. And it's your decision now after talking with  
6 Judge McHugh that you wish to testify; is that right?

7 A. Yes, sir.

8 Q. All right. What is your name, sir?

9 A. Theodore M. Kimble.

10 Q. And how old are you?

11 A. I'm 29 years old.

12 Q. And where are you presently residing?

13 A. Caledonia Correctional Institute.

14 Q. All right. Is that in the eastern part of the  
15 state?

16 A. Yes, sir.

17 Q. Have you been continually in custody since your  
18 arrest back sometime ago?

19 A. 4/1/97, yes, sir.

20 Q. April the 1st of '97?

21 A. Yes, sir.

22 Q. All right. Now, tell me a little bit about your  
23 background. Where did you go to school?

24 A. I graduated from Southeast Senior High, Guilford  
25 County. Scholar athlete. Honorable mention for all

1 conference. I took work release from which I worked at  
2 the same job for 13 years since 9th grade in high school.

3 Q. What kind of athletics did you play?

4 A. Football.

5 Q. All right. What position?

6 A. Full back.

7 Q. All right. Did you engage in any other pursuits,  
8 scholarly or sports-wise or otherwise while you were in  
9 high school?

10 A. No, sir. I pursued a occupational career in, uh,  
11 at Lyles Building Material.

12 Q. All right. Did you have that job when you got out  
13 of high school?

14 A. Yes, sir. I was always under the impression that  
15 some day if I stuck with the company that I would have  
16 the option of purchasing it.

17 Q. Was that because you and Mr. Lyles got along, or  
18 he thought a lot of you, or what?

19 A. Yes, sir. We had a good relationship. Father and  
20 son type relationship. I greatly admired the man. And  
21 I'm deeply offended---

22 Q. I'm sorry?

23 A. I'm deeply offended at the accusations that I  
24 would ever harm that man.

25 (Defendant crying.)

1 Q. And what was Pat, your wife, what was her  
2 relationship with Mr. Lyles?

3 A. Uh, we were -- they were good friends. Gary had a  
4 high opinion of her, more so than any of the other girls  
5 that I had dated, and saw the qualities that I eventually  
6 saw in her myself.

7 Q. All right. How did you meet Pat?

8 A. I first met Patricia Kimble, Patricia Blakley, at  
9 a house warming party when she first moved to Pleasant  
10 Garden. I was dating her cousin, Janet Blakley. And we  
11 had went to the party briefly. I recall her dog had just  
12 been killed, and I helped Rubin bury it in the backyard.  
13 Uh, but that's how we first met. And then---

14 Q. Did you hit it off?

15 A. No. We were as different as night and day. She  
16 thought I was -- she thought I was spoiled rotten, or so  
17 to say. And we were just two different people. We later  
18 met each other at South Elm Street Baptist Church where  
19 we grew together.

20 Q. All right. And did there come a time when you  
21 felt like you were in love with Pat Blakley?

22 A. Yes, sir. I, uh, I dated Patricia off and on. I  
23 also lived with Patricia for a brief period of time, and  
24 it was very unapproved of by my parents, and I received a  
25 scalding for that.

1 Q. What, living together in sin so to speak?

2 A. Yes, sir. Living together as in  
3 boyfriend/girlfriend. Not only that, I was -- we were  
4 friends, and then we were more. It developed into more  
5 than friends because when I had first moved in with her,  
6 I was dating other people.

7 Q. But at some point in time you fell in love with  
8 her and got married?

9 A. Yes, sir.

10 Q. What kind of relationship did you have while you  
11 were married? That is with your wife and with your  
12 mother and father?

13 A. Had a wonderful relationship. I loved my wife.  
14 And I'm not guilty of this.

15 Q. What kind of relationship did you and she, after  
16 you were married, have with your mother and dad?

17 A. Wonderful. We spent a lot of time together. We  
18 did things together. We went out to eat all the time.  
19 My dad would come by my office. We correlated. They ate  
20 at my house. We ate at their house. I mean---

21 Q. Was there anything about your marriage after you  
22 got married there in the early years or whenever that  
23 was, uh, that estranged either one or both of you from  
24 each other?

25 A. No, sir. We never had a conflict. And that's one

1 thing the D.A. cannot provide is anyone to come up here  
2 to say that I ever abused my wife or there was a problem.

3 Q. Now, getting up close to the time when your wife  
4 died, let me ask you this. There's been evidence  
5 introduced through the statement of the solicitor for the  
6 State concerning some insurance. Do you want to explain  
7 that, please?

8 A. I would love to. I haven't figured out what  
9 insurance the D.A. is talking about yet.

10 Q. Well, tell me about the \$200,000 policy.

11 A. I signed an application, not an insurance policy.  
12 There has never been a \$200,000 insurance policy. I  
13 signed an application. I was told by Bill Jarrell that  
14 there was no insurance policy issued prior to the medical  
15 examination. It was made clear to me that he would  
16 personally deliver the policy. Until I had it in my  
17 hand, there was no insurance.

18 Q. Did you ever ask for that money, the \$200,000?

19 A. I called -- a few days, several days, maybe three  
20 days after her death, I called the insurance agent to  
21 report it because we were just leaving the the funeral  
22 home. And I called him and let him know what was going  
23 on. He said he'd already heard about it in the  
24 newspaper. This is Bill Jarrell I'm referring to. When  
25 I made mention of the policy, I was referring to the

1 reimbursement for payment made, and he automatically goes  
2 on the offensive as though I'm implying to pursue a claim  
3 against the insurance.

4 Q. So, you were asking for your money back as to what  
5 you paid on the premium?

6 A. Yes, sir. I was -- let me finish what -- I want  
7 to make this very clear. I got back into my vehicle with  
8 my mother and father. We had just left the funeral home.  
9 And I told them of the circumstance, and told them that I  
10 had reported it. And my mother knew very well that I had  
11 signed my wife's name. I had made it clear to her, and  
12 she had even warned me that should something ever happen  
13 that it would be wise for her to have her sign her own  
14 application. I told Bill Jarrell, I called that man and  
15 told him I signed it. He had made a mistake. He left  
16 that policy with me to take home and have my wife sign  
17 it. I'm sorry, application. Bill Jarrell lied under  
18 oath, and said he did not. This rumor or these  
19 allegations that he was out at the car is a bunch of  
20 hogwash.

21 Q. Did your wife ever refuse to sign this in your  
22 presence or the presence of Mr. Jarrell, this  
23 application?

24 A. No, sir. She was never present. At the  
25 presentation when he was giving me, trying to push

1 insurance on me, she came in and brought my lunch, set it  
2 down in front of us. He had to move his papers over on  
3 the desk so she could sit my lunch down. She said she  
4 didn't have time to discuss it right now, she had to get  
5 back to work, and she left. Bill Jarrell left the  
6 application with me to take home and have her sign. I  
7 forgot to get her to sign it and I signed it. And I  
8 never denied it and never made any scheme of it. You  
9 know, the D.A. would implicate that I was trying to hide  
10 it. I was very aware---

11 Q. Let me ask you this. There was some indication  
12 that she was afraid for her life because of this  
13 application of the \$200,000 policy, and then later that  
14 she was all right with everything. Would you explain  
15 that, sir?

16 A. Yes, sir. On the spur of the moment when she  
17 found out, she overreacted. The insurance agent had made  
18 it clear to me that he would have to call her and verify  
19 some medical questions. So, I already knew that she  
20 would know, and I had planned to discuss it with her. I  
21 had nothing to hide. But I failed to talk it over with  
22 her and explain everything to her before he called. When  
23 he called and she realized that she had been left out,  
24 she became concerned and it scared her. So, she made --  
25 just like rumors, the feathers flew, and the accusations

1 were all over the church and everywhere else when  
2 something happened to her.

3 Q. Did there come a time that you and she talked it  
4 over and everything was smoothed out?

5 A. Yes. Yes. That week I got the financial  
6 statements. I was showing her how much we owed and  
7 everything. And we discussed it. Even Susan  
8 Kirkpatrick, our banker, had suggested possibly seeking  
9 insurance elsewhere when we bought our jeep earlier that  
10 year. Uh, we -- uh, I in turn was pursuing it. I showed  
11 it to her and showed her the bills and everything. She  
12 agreed to it. She even told Rubin Blakley what he  
13 required (sic) a few weeks later. She had just dismissed  
14 it. He comes to her and asked her, hey, you know, what  
15 about this insurance. And she says, oh, everything is  
16 fine.

17 Q. And how much beyond or before the date of her  
18 death was that?

19 A. Oh, this was a month that I signed the application  
20 prior to her death.

21 Q. And when was it y'all got together and everything  
22 was all right?

23 A. Like the following week.

24 Q. All right.

25 A. I mean, see, that was the application. She had to



1 go get the medical. All right, if I wanted to hide it  
2 from my wife, she could have up to \$100,000 and not have  
3 to have a medical exam. I had no intentions of hiding  
4 anything from my wife. I couldn't -- she had two \$25,000  
5 policies. I could have taken out another \$49,000 and not  
6 told her a word and she would have never known. But that  
7 was not my intentions. It was made clear to me that  
8 she'd have to have a medical exam on that type of  
9 insurance in order for a policy to ever be issued. Okay?  
10 I had nothing to hide from her.

11 Q. Did she try to make arrangements to have a blood  
12 test, or a medical exam?

13 A. She agreed to go with me to have the blood test.  
14 Uh, Mr. Pan--- Mr. Jarrell gave me an infor--- a phone  
15 number of a nursing---

16 Q. Keep your voice up.

17 A. Bill Jarrell gave me the phone number of a nursing  
18 clinic on Meadowview, which I was to call and set up  
19 appointment. Mr. Panosh has apparently made a few  
20 mistakes in his allegations of my other job. I had  
21 worked there nearly a month, sir. I -- working this  
22 second job, I made prior arrangements on the three days  
23 during the time of her death that week, I was to be late  
24 for work for three days, due to my father which was  
25 helping me. I was in training on second shift to go---

1 Q. Ted, forget that a minute. Tell me about the  
2 blood test.

3 A. I'm sorry.

4 Q. Did you try to make arrangements to have the blood  
5 test?

6 A. I tried to make arrangements. We were supposed to  
7 go the week before her death, before she was killed, to  
8 have the blood work and she agreed to it. Needless to  
9 say, with me working it conflicted with my time being  
10 able to make the appointment. So, I called and canceled  
11 it, the appointment, and it was rescheduled for the  
12 following week. I didn't have the phone number, and I  
13 had to call Bill Jarrell to get the phone number to the  
14 clinic and then call the clinic to reschedule.

15 Q. Did -- was the blood test or the medical test ever  
16 completed?

17 A. No, sir. It was not. She was---

18 Q. All right. But had you and Pat come to an  
19 agreement that you would go ahead with it, with the  
20 insurance application?

21 A. Yes, sir.

22 Q. All right. Now, in this while you were working  
23 for Lyles at some point in time the evidence indicates  
24 and you've testified and I think the Court understands  
25 that at some point in time Mr. Lyles sold you that

1 business; is that right?

2 A. Yes, sir.

3 Q. And you were in the, what is it, the lumber  
4 business or the home improvement business or---

5 A. Surplus and salvage in the building supply.

6 Q. And it was building supplies, was it?

7 A. Yes, sir.

8 Q. Now, did at some point in time you fall on hard  
9 times and feel like you had to have another job?

10 A. Uh, no, sir. Not at -- not at that point. Not  
11 that I ever recall. The purpose of the second job was,  
12 first of all, to pay off my boat. The second was for job  
13 security purposes. My lease was running out on the  
14 property on which it was on. I was possibly going to  
15 have to relocate the business, and I wanted to make sure  
16 that I had some kind of income during that transaction.

17 Q. All right. And did you in fact take another job?

18 A. Yes, sir. I took a job at---

19 Q. Was that at Precision?

20 A. Precision Fabrics Group.

21 Q. And how long had you worked at Precision, Ted,  
22 when on the -- up to the time that your wife was killed?

23 A. Nearly a month.

24 Q. All right. Now, during that period of time when  
25 you worked at Lyles and when you were part owner of

1 Lyles, did you know these two people, Mr. Pardee and Mr.  
2 Nichols?

3 A. Very well, sir.

4 Q. And, uh, did you ever have any conversation with  
5 Mr. Nichols or Mr. Pardee concerning anything about your  
6 wife or manner in which she was killed or whatever?

7 A. Never. The only conversation, and it was limited,  
8 was with Patrick Pardee, and it was about the crooked  
9 dealings of the D.A.

10 Q. Did Mr. Nichols or Mr. Pardee ever give you any  
11 indication that they would not testify to these facts  
12 that you had told them, that you'd had your wife killed  
13 or words to that effect?

14 A. I've never heard any of the comments they've made.  
15 I do know that Patrick Pardee, three days before signing  
16 a statement against me, told Melanie Oxendine that he had  
17 no idea of any of the facts surrounding my case. That  
18 the D.A. and detectives were pressuring him to lie  
19 against me.

20 Q. All right.

21 A. Three days later he signs a statement against me  
22 and supposedly knows everything there is about my case.  
23 And this is under oath. Melanie Oxendine testified to  
24 it.

25 Q. Now, tell me about what happened on the 9th day of

1 October, the date your wife died. Can you tell me what  
2 time you -- how long you were at work?

3 A. I need to finish what I was saying.

4 Q. Excuse me. Go ahead.

5 A. Rob Nichols told James Ogburn and a fellow inmate  
6 from Lyles Building Material, which I believe you have a  
7 statement written by those two employees of Lyles. They  
8 ran into each other at the gas station across the street,  
9 and he verified to them that he had been being coached by  
10 the D.A. That he was no longer going to testify against  
11 me, quote unquote, "lie" against me, as the D.A. had been  
12 pressuring him to do.

13 Q. All right. Anything else about either one of  
14 them?

15 A. Uh, I would like to mention that Rob Nichols has a  
16 very serious drug problem. Alcohol abuse problem.  
17 Abuses his wife and his child. Uh, the B&E's, he would  
18 take his little girl out on the job sites and have his  
19 little girl stick her arm through the key hole to reach  
20 up and unlock the dead bolt. I mean this is the witness  
21 with the halo around his head the D.A. portrays him as.

22 Q. Now, along those lines about the breaking and  
23 enterings and the thievery or taking of property, were  
24 you engaged in some of that also with them?

25 A. Yes, sir. I'm ashamed to admit it. Under the

1 circumstances, I had been buying the building supplies.  
2 For the entire business career, we have bought building  
3 supplies left over off construction jobs. Roofers,  
4 framers, what have you, from contractors. Rob Nichols  
5 claimed that he was getting some surplus off of  
6 construction jobs and selling them to me. I warned him  
7 and made it clear to him, and I started off legitimately  
8 writing him checks and telling him this better not be  
9 stolen. If it is, I will prosecute. Needless to say,  
10 after a couple of months went by, the amounts got larger  
11 and larger. He claimed to need some help one afternoon:  
12 This is on 1/2/97, Mr. Panosh, make note.

13 Q. Don't make any comments. Go on with your---

14 A. I'm sorry. My point being is that's the day it  
15 started. Rob Nichols asked that I help him load up some  
16 materials. He needed some assistance. The contractor  
17 wasn't going to be at the site. Patrick Pardee comes  
18 driving in at my place of business, wanted to know what I  
19 was up to that afternoon. I said, well, I'm going to go  
20 help Rob here get some materials before I'll be free.  
21 Would like to go? Sure. We pile in the truck, and we  
22 drive over to Brassfield. We back up to a construction  
23 site, and here we're in the middle of \$500,000 houses,  
24 and Rob says right here's the lumber we're supposed to  
25 get, and we load it up. And unfortunately I became

1 addicted as to the fact it was so easy. It was wrong.

2 Q. All right. And did you plead guilty to those  
3 things?

4 A. Yes, sir. I pled -- I pled guilty to ones I  
5 wasn't even sure I did. Certain ones the D.A. tried to  
6 charge me for while I was in jail.

7 Q. And you received an active prison sentence for  
8 that?

9 A. Yes, sir.

10 Q. All right. Now, let me get you up to the date  
11 that your wife died. What time did you go to work that  
12 day at Lyles?

13 A. Eight o'clock, as I do every day.

14 Q. All right. And did you stay at Lyles all day?

15 A. Yes, sir.

16 Q. And did you see Pardee or Nichols there during  
17 that day, if you recall?

18 A. Rob Nichols didn't work for me at that time.

19 Q. All right. Did you have any conversation with  
20 anybody outside on the parking lot or the lot at Lyles  
21 that day before you went to Precision?

22 A. No, sir.

23 Q. That you recall?

24 A. Not that I recall.

25 Q. Did you have any conversation with your brother,

1 Ronnie?

2 A. Yes. I'm sorry. Ronnie Kimble was -- let me tell  
3 the facts of that day.

4 Q. All right, go ahead.

5 A. That morning my mother came by. My father was at  
6 a conference at Liberty University, a preacher's  
7 conference. My mother wanted me to dog-sit our  
8 Pomeranian. She came by my house approximately 6:30. I  
9 left a key underneath the flower pot on the front porch.  
10 She opened the door and let the dog in, and locked the  
11 door behind her.

12 At approximately 7:15 my younger brother came by  
13 my house. He was to borrow my box truck for the day to  
14 pick up some underpinning to underpin his modular home.  
15 He left behind me at around approximately 7:30. We pull  
16 out and we go to Lyles Building Material. I open at 8:00  
17 sharp, as I do every day. Well, six days a week. Ronnie  
18 comes in behind me, and he piddles around. He's wait --  
19 killing time for Atlantic Mobile Home Supply to open so  
20 he can get his underpinning.

21 Around 10:00, 10:30 he goes and gets it. He shows  
22 back up with it hanging out the back of the truck at  
23 Lyles Building Material. And this is around 12:00. I  
24 recall my mother being there. She showed up at 11:30 to  
25 come eat lunch, and brought me something to eat. That's



1 right, she brought me something to eat, because Patricia  
2 later at 1:00 showed up with something else to eat.

3 Q. Your wife brought you something else to eat that  
4 day?

5 A. Yes. And my mom shows---

6 Q. The day she died?

7 A. Yes. It was still in the refrigerator. I  
8 remember what it was. It was a salad and french fries  
9 and a frosty from Wendy's.

10 Q. All right. But my mom brought me Taco Bell. I  
11 ate, and Ronnie showed up, like I said around 12:00,  
12 12:15. Mom was fixing to leave. Uh, Ronnie is going to  
13 head to the house and uh---

14 Q. Which house?

15 A. His house. To unload the underpinning, and he  
16 said he's going to return my truck to my house and pick  
17 his car up. And that being around 12:00, unload the  
18 truck at his house, drive to my house, it probably put  
19 him picking my truck up -- or dropping my truck off  
20 around 1:00, picking his car up and going home.

21 Q. Did he come back to Lyles?

22 A. Yes, sir. He did that afternoon. Uh, I'm sorry.  
23 My mom left. My wife shows up. She sees I've already  
24 eaten and fusses at me for not calling her and telling  
25 her that, hey, you've already got something to eat.

1 She's running late as usual. She's dropping my lunch  
2 off. Here it is around 1:00. She's saying she going to  
3 go home and cut the grass. I told her to be careful  
4 because we have a steep bank in our front yard, and the  
5 lawn mower is Hustler 970, swivels in the middle. It's  
6 easy to flip over if you're not careful, and I feared for  
7 her safety.

8 She left, went back to work. I wait on customers,  
9 do my usual thing. My linoleum salesman came in. Jack  
10 Lamb with Peerless. He's retired now. He was there  
11 around 3:00, and he left about right at 3:30. I remember  
12 because at 3:25 I noticed the time and called my wife and  
13 told her how much I loved her.

14 Q. Did she answer the phone?

15 A. Yes.

16 Q. And she was at your home then? Y'all talked?

17 A. No, she was at her work at Cinnamon Ridge.

18 Q. All right.

19 A. And Nancy was still there, you know, was watching  
20 the office, and she was going to take off. She was  
21 supposed to go home and cut the grass. We had a weekend  
22 retreat planned and paid for, a vacation scheduled the  
23 following month.

24 Q. You and your wife?

25 A. Yes, sir.

1 Q. All right.

2 A. We had weekend plans, so she was going to cut the  
3 grass. Needless to say, I talked to her at 3:30. Uh,  
4 about 3:45 my brother shows up. He needs some power  
5 tools to work on the underpinning at his house. Okay,  
6 Ronnie is at my place of business. Billy Smith is there.  
7 Comes in around 4:30, and he could testify to being there  
8 at 4:30. James Ogburn is standing there. Billy says he  
9 doesn't remember Ronnie, but James Ogburn is standing  
10 right there in front of Billy Smith and in front of  
11 Ronnie Kimble and myself.

12 Q. And what are y'all discussing?

13 A. Well, James spoke to Ronnie about his car being  
14 for sale. Ronnie is pushing me to get him some power  
15 tools to put up his underpinning with. And Billy is  
16 giving me a door, or dropping off a door and looking for  
17 34-inch door I didn't have. Uh---

18 Q. So, how long would you say your brother stayed  
19 there at the house?

20 A. He was there till---

21 Q. ---at Lyles.

22 A. All right, I put him off. I said look, I had  
23 Steve, a mentally retarded employee. I say retarded,  
24 he's very slow educationally. And I asked Ronnie to help  
25 him set up a jig and table saw to cut some dog house

1 parts. Ronnie takes off with him, and I get busy with  
2 the customers and waiting on Billy. I get freed up, it's  
3 nearly 4:20, 4:30. I get my brother his power tools, and  
4 he takes off.

5 Q. So, he stays around until about 4:20?

6 A. Yeah. No, 4:30.

7 Q. Four thirty. All right.

8 A. I mean I know because I was looking at my watch  
9 because at 4:30 every day I start trying to get things  
10 together so that I'm ready for those last minute  
11 customers and able to get out of there by 5:30.

12 Q. Did you ever see him any more after that time that  
13 day?

14 A. No, sir. No, sir, I did not.

15 Q. All right. How long then did you stay at Lyles  
16 before you left to go to Precision?

17 A. Uh, I got away about 5:30, 5:35. I had a last  
18 minute customer, and I was trying to rush and get him  
19 out. I stopped by Mrs. Winners and bought a chicken  
20 sandwich. I told the detectives, but they wouldn't  
21 pursue verifying any of these things. I went and saw my  
22 mom about quarter till, and dropped the dog off at Mrs.  
23 Winners on High Point Road. I went down Meadowview,  
24 stopped at the gas station, Conoco Gas Station, on the  
25 corner of Meadowview and South Elm Eugene, got a

1 Gatorade, pack of chewing gum. I went to PFG. At 6:00 I  
2 was knocking on the door, and somebody let me in.

3 Q. Did you have any conversations with Ronnie Kimble  
4 or your wife from 4:30 on until the time when you got to  
5 Precision?

6 A. No, sir.

7 Q. Did you make any phone calls to anybody during  
8 that period of time?

9 A. No, sir.

10 Q. All right, how long were you at Precision before  
11 you found out something was wrong or heard something?

12 A. Patricia was to page me when she got through  
13 cutting the grass to let---

14 Q. When she got through cutting?

15 A. When she got through cutting grass, she was to  
16 page me sevens or something to let me know that she was  
17 through cutting grass and she was okay. You know, I was  
18 very protective over Patricia, and she had had knee  
19 surgery a couple of different times. I spent the night  
20 in the hospital with her trying to take care of her and  
21 make sure she was okay. But she was supposed to page me  
22 and let me know.

23 Q. At Precision?

24 A. At Precision on my pager. I never received a  
25 page, and I became concerned. And I started calling

1 home, but the answering machine didn't answer. So, it  
2 raised some suspicion, you know, why is this answering  
3 machine not answering.

4 Q. So, what did you do?

5 A. Well, I paged her with sevens.

6 Q. Well, at some point in time did you leave to go?

7 A. I left when I got word. I got a page from Christy  
8 Blakley's mother to come home, your house is on fire.

9 Q. Did you tell the authorities at Precision and then  
10 go home?

11 A. I told, uh, guy by the nickname Rooster. I can't  
12 remember his true name. That someone just paged me and  
13 said your house is on fire, and I've got to go.

14 Q. And did you go?

15 A. I tore down the road 90 mph to get home.

16 Q. What did you find when you got there?

17 A. Hysteria. Fire trucks everywhere. Lights  
18 flashing. People crying. Alan Fields coming up to me,  
19 hugging me, saying we're sorry, Ted, we're sorry. You  
20 know, we did what we could do. You know, there's a body  
21 in the house, and all these accusations flying  
22 everywhere, you know, there's a body.

23 Q. What was your first thought when you got on the  
24 scene?

25 A. Oh, it freaked -- scared me to death. I was

1 shaking, hysterical, upset, crying.

2 Q. Who were you thinking about?

3 A. My wife. I said where is Patricia. And all I got  
4 was there's a body in the house, and there's her car  
5 sitting in the driveway. It was just mass hysteria.  
6 People going everywhere. You know, running everywhere.  
7 I come up, uh, Richard Blakley is there. The mother  
8 shows up shortly after, and she starts crying out. Oh,  
9 it was horrible. It was like a nightmare. I could see  
10 through the knocked out windows in the house, uh, you  
11 know, lights through the house, people down in a hole in  
12 the house. Somebody said that a fireman fell in a hole  
13 on a body or something. It was horrible.

14 Q. And did they finally recover the body of your  
15 wife?

16 A. Yes, sir.

17 Q. Did you view that body?

18 A. Uh, no, sir. I did not. I've seen pictures since  
19 then.

20 Q. All right. And I take it how long after the body  
21 was recovered was the funeral?

22 A. Uh, like a week and a half.

23 Q. All right. Can you describe what grieving period  
24 you went through at that point in time for the Court?

25 A. I didn't have much of one. I didn't have much of

1 a chance. The detectives immediately started hounding me  
2 and harassing me. Every day they were at my place of  
3 business saying that I wasn't cooperative. They were  
4 telling -- making accusations to people. I never had a  
5 chance. I was getting rumors left and right. Did you  
6 hear what the, you know, this detective said or this  
7 detective said.

8 Q. Was that in reference to the insurance policies  
9 and things of that nature?

10 A. All the above.

11 Q. All right.

12 A. I mean it's like they never took a word I said. I  
13 told them of possible suspects. You know, I read in the  
14 discovery they waited over a year to follow some of those  
15 leads. People that put a -- here I put a -- I had a  
16 custom built cabinet built the week before my house  
17 burned installed in my house. I had carpenters in there  
18 putting a cabinet in for my wife. Now, this is a cabinet  
19 I ordered for her birthday, \$486.00, put in my house.  
20 Carpenters I don't even know, and they never even  
21 questioned those men. They could have easily saw how  
22 secluded my house is and set me up. (Pause) To rob me.  
23 I mean---

24 Q. Now, after your wife, uh, the funeral, was your  
25 wife cremated?



1 A. Uh, yes, sir.

2 Q. And did you have her ashes?

3 A. Uh, yes, sir.

4 Q. And what did you do with the ashes of Patricia  
5 Blakley Kimble?

6 A. I spread them, sir.

7 Q. And where did you spread them and why?

8 A. It was our agreement between us -- I waited for  
9 some time afterwards. That should something ever happen  
10 to the other, that we would spread our ashes in the  
11 mountains in a certain place.

12 Q. Can you tell us where you did it?

13 A. Uh, no, sir.

14 Q. Can you tell us what it was near?

15 A. Black Mountain.

16 Q. I'm sorry?

17 A. Black Mountain.

18 Q. All right. Is that some place you and she had  
19 gone together before?

20 A. Yes, sir. Several times. It's on the way to  
21 Gatlinburg. We used to go to Gatlinburg all the time  
22 together. We used to go to Florida. We traveled a lot.  
23 We spent an enormous amount of time together. You know,  
24 she had wanted time share. I just agreed and we bought a  
25 time share up in Colonial Williamsburg back in the summer

1 on our vacation. They let us stay there. That's about  
2 the only we could afford the deposit, but we, uh, we got  
3 a home equity loan and bought a time share, mainly  
4 because that's what she wanted. She loved to travel. We  
5 both loved to travel. You know, the summer before she  
6 died, we spent like nine or ten weeks in a row at the  
7 lake.

8 Q. Wait just one minute.

9 (Pause.)

10 Q. This pistol that was identified at State's 57 or  
11 60, whatever it was, the record will so indicate, this  
12 .45 caliber pistol, was that your pistol?

13 A. Yes, sir. It is. Uh, I kept it around mostly for  
14 protection. And, uh, I had showed Patricia how to use  
15 it. She was somewhat scared of guns. I had tried to  
16 convince her to let me get her a gun for self protection.

17 Q. But the pistol was in the home on the day in  
18 question, that is October the 9th?

19 A. Yes, sir.

20 Q. Of '95?

21 A. Yes, sir.

22 Q. Now, let me ask you this, Mr. Kimble. Did you  
23 have anything to do with the death of your wife?

24 A. No, sir. I did not.

25 Q. Was that pistol kept in the house at all times?

1 A. It was either kept in the house or in my vehicle.  
2 I generally kept my shotgun underneath the bed loaded, or  
3 either my handgun near the back of the house. We had  
4 been robbed -- I say we; she had been robbed twice prior  
5 and both times walked into the house as far as my  
6 knowledge. I know the second time she did. She called  
7 me from the kitchen phone. I was up in Pleasant Garden  
8 working. I said where are you at. She said I'm in the  
9 house. I said has it ever occurred to you that somebody  
10 else might still be in the house.

11 Q. All right.

12 A. And, but---

13 Q. Let me ask you this. Indication was made that  
14 Linda Dudley, if that's her name, and Rose Lyles had  
15 indicated that your wife was scared to death of you and  
16 was in fear of her life because of this insurance  
17 policies or one thing and another. Can you tell us how  
18 you know about that? Do you have an explanation for  
19 that?

20 A. Uh, I do know that Rose Lyles takes an enormous  
21 amount of pain killers, medication. She has bad back  
22 problems.

23 Q. You don't know of any reason why she'd say that?

24 A. Uh, she says that's what Patricia told her. Far  
25 as a their feelings toward me, I must say that Ms. Dudley

1 is a biased opinion. She has never liked me, and told me  
2 to my face.

3 Q. And it's your contention that Mr. Pardee and Mr.  
4 Nichols, who are under indictment for something; is that  
5 correct?

6 A. Yes, sir. They face charges on the B&E's. And  
7 they have both signed plea agreements with the D.A. Per  
8 se cut deals for their testimony to lie against me.

9 Q. All right. So, you're saying, telling us that  
10 there is some sentence consideration on the part of the  
11 State in return for their testimony?

12 A. Shoot yeah. That's the only reason he could get  
13 them to testify against me, was to give them a plea  
14 agreement. Just like the William Stewart guy got out of  
15 prison early.

16 Q. All right. Now that's where I'm headed right now.  
17 Let me ask you this. As to this William Stewart, how  
18 long did you know William Stewart at Southern  
19 Correctional?

20 A. Possibly a month. A month or so.

21 Q. During this month period, did Mr. -- did you  
22 approach Mr. Stewart about having anybody killed?

23 A. No, sir. I did not. He approached me.

24 Q. And what was his -- can you tell us how he brought  
25 it up to or broached the subject to you about killing

1 these witnesses, if any?

2 A. We -- I met -- I met Stewart in a round about way.  
3 I never really came up and started talking to him. We  
4 were sitting around watching t.v. and he was telling  
5 everyone about working at a funeral home and what happens  
6 to the body when they do the autopsy and different  
7 procedures. And he was talking about people who die and  
8 don't die per se, and how they stage some -- I mean he  
9 was telling me about the crooked dealings of his funeral  
10 home associates, and law enforcement might want to check  
11 those out.

12 Q. Just tell me about the so-called plot to kill  
13 witnesses. Whose idea was that?

14 A. It was his idea. He saw how distressed I was.  
15 Had read about me in the newspaper, was somewhat familiar  
16 with my case in a round about way, as many inmates are  
17 down at the prison. I mean they get the newspaper down  
18 there every day, the Greensboro newspaper.

19 Q. Well, what did he want out of you? Mr. Stewart.

20 A. Oh, he was trying to get money out of me. And I  
21 told -- the inmates think I've got money. I'm on lock-up  
22 and I got one inmate sending me a letter asking to borrow  
23 \$15,000. People think I'm rich or something. If it  
24 wasn't for my mother and father, I wouldn't have the  
25 money to buy a snack if they didn't put a few dollars in

1 my account each week.

2 Q. Did he name the amount of money that he wanted you  
3 to give him?

4 A. No. That was no -- he wanted me to send his girl  
5 \$5,000. I told him he had to be crazy. I said I'm not  
6 -- I don't wish harm upon these people. I went to church  
7 with these people, grown up with these people. You know,  
8 I have no hard feelings toward these people. You know, I  
9 -- they're going on what they're told by the D.A.

10 Even---

11 Q. How about these plans to escape from custody up  
12 here at the Guilford County Courthouse or Southern  
13 Correctional?

14 A. I never---

15 Q. Whose idea was that?

16 A. That was William Stewart's idea. Crashing a gate,  
17 I told him he had to be crazy. I said ain't no way I'm  
18 ever going to get my head blowed off trying to ride out  
19 of here on a truck.

20 Q. Who drew these maps?

21 A. I drew the diagrams. William Stewart finally  
22 convinced me as to the fact if I should ever be found  
23 guilty facing the death penalty that he could acquire the  
24 keys to walk around here and just open the door and I  
25 could walk out. Many of the times in a regular court

1 session, they could just -- you're just back there in the  
2 holding cell. Those Xes on that paper, I had nothing to  
3 do with assassinating or killing people, coming in here  
4 with guns blazing. That's the craziest thing I've ever  
5 heard.

6 Q. Did you ever at any time ask William Stewart to  
7 kill any witnesses in this case?

8 A. No, sir.

9 Q. The Lyles, or any of these Dudleys, or any of  
10 these other people?

11 A. No, sir. Ain't no way. The D.A. claims to have a  
12 letter me asking for help to kill people. I'd like that  
13 letter read to the general public. That's a bunch of  
14 garbage. You know it. He knows it, and I know it.  
15 There is no such letter.

16 Q. Well, the Court has seen it supposedly. I think  
17 it was offered into evidence, and that's all the people  
18 that need to see it at this point in time. My question  
19 to you is, and I'll ask it again, did at any time you  
20 ever solicit William Stewart to kill anybody?

21 A. No, sir.

22 Q. And you understand today from the testimony of  
23 Special Agent Bowman of the North Carolina State Bureau  
24 of Investigation that at least the SBI and the  
25 Solicitor's office did in fact make some kind of attempt,

1 and did succeed, in getting his sentence reduced in  
2 return for this so-called information; is that correct?

3 A. Yes, sir. He couldn't get it out of me; so, he  
4 got it out of them.

5 Q. And you know this Ms. Dudley?

6 A. Yes, sir. Go to church with her. She's -- she at  
7 one time was best friends I would say with my wife. But  
8 in the last several years of our acquaintance she wasn't  
9 very close to my wife. She may say she was, but I can't  
10 say that they've ever eaten at my house other than a  
11 family get together or we at theirs.

12 Q. Well, Ms. Dudley is a nice person, isn't she?

13 A. Yes, sir. My opinion.

14 Q. All right. And Mr. and Mrs. Lyles are nice folks,  
15 are they not?

16 A. Super.

17 Q. Would you ever encourage anybody to do any harm to  
18 any of those people?

19 A. No, sir. I would not.

20 Q. Do you know where -- can you tell us where he got  
21 these names from?

22 A. Yes. From my locker. He stole the information  
23 after he ripped me off.

24 Q. Did he ever indicate to you that he wanted to go  
25 to your mama and daddy and get money too?



1. A. Yes, sir.

2 Q. I'm talking about Mr. Stewart.

3 A. What it amounted to is William had agreed to -- to  
4 watch Rob Nichols in the event of him breaking the law.  
5 Rob Nichols is a habitual liar and drug addict. All it  
6 would take is -- the D.A. knows all this. The guy is out  
7 buying drugs, ripping off construction sites, the  
8 tailgate on the man's truck is stolen. It's painted  
9 black underneath the green where he stole it slap off of  
10 another parked truck. The guy is an habitual thief.  
11 He's got four or five DWIs, and he's still out there  
12 driving. They keep hauling him in and giving him free  
13 get out jail cards for his testimony to lie against me.  
14 I mean they look -- you talk about looking the other way,  
15 this guy has got a rap sheet a mile long.

16 Q. Well, that's not the question. The question is  
17 did you ever tell him you had your wife killed or  
18 anything---

19 A. No, sir. I did not.

20 Q. ---to do with it?

21 A. All I wanted was as far as the few -- I was going  
22 to pay him a few dollars to take some pictures of Rob  
23 Nichols out on construction sites, or something of that  
24 nature, a few other people that are breaking the law.  
25 But I only showed him the diagram of the courthouse. I

1 never gave him that paper. He went in my locker and  
2 stole it. When he couldn't get any money out of me, he  
3 went to the D.A.

4 Q. Well, you mistook my question. My question is did  
5 you ever tell Rob Nichols or Pardee---

6 A. No, sir.

7 Q. ---anything about having anything to do with the  
8 death of Pat Kimble?

9 A. No, sir. I've never discussed it with them.

10 Q. All right.

11 A. I mean they've told other people I didn't.

12 MR. ZIMMERMAN: Cross-examine if you would.

13 COURT REPORTER: Judge, I need a break.

14 THE COURT: Excuse me. You need a change or  
15 you need a break?

16 COURT REPORTER: I just need to step out a  
17 minute.

18 THE COURT: Okay. Take a 15 minute recess.

19 (A recess was taken.)

20 THE COURT: All right, Counsel, you may  
21 cross-examine.

22 MR. PANOSH: Thank you.

23 **CROSS EXAMINATION by MR. RICHARD PANOSH:**

24 Q. Sir, you've indicated that you didn't file any  
25 claims on that \$200,000 policy?

1 A. I didn't say that.

2 Q. You did file the claims on it?

3 A. I didn't say that either.

4 Q. All right. Let me ask you. After your wife was  
5 dead, did you attempt to collect a \$200,000 policy that  
6 you put her name on?

7 A. Uh, finishing the statement that I gave earlier to  
8 Mr. Zimmerman, after reporting the initial claim on the  
9 two \$25,000 policies for the benefit of the funeral home,  
10 uh, upon getting back in the vehicle, I had just inquired  
11 of my refund on the policy. And getting back in the  
12 vehicle I told my parents of the situation. And my  
13 father stated well I might want to inquire or question if  
14 I had any grounds for on that policy.

15 We went straight from that gas station down to  
16 Steve Bowden's. I asked him about the policy, and he  
17 said well just leave it with me, I'll check into it. I  
18 left it with him. And the reason I was wanting to check  
19 in, I wanted to make sure was because the body had to be  
20 examined by the insurance company, and if there was any  
21 stipulation or any loophole whereas the insurance company  
22 might need to see the body, I need to know if they needed  
23 to or anything like that on any of it before having the  
24 funeral home okaying the cremation.

25 Q. My question to you, sir, is did you file demand on

1 that insurance policy?

2 A. He -- he sent in some kind of request for payment.

3 So, I assume that would be a yes.

4 Q. You hired an attorney---

5 A. I did not hire anybody. I asked him if I had  
6 grounds. He said he would check into it.

7 Q. So, he filed a demand on his own?

8 A. Yes, sir.

9 Q. Without your knowledge?

10 A. No, sir. He said he would -- well, I didn't know.  
11 He said he would check into it. He sent in a letter.

12 You will note that there is no contract or otherwise  
13 signed between he and I or any kind of agreement. He  
14 checked on it and told me that they denied payment, and  
15 said that he could take it into litigation. And I said  
16 that is not necessary. I'm not interested.

17 Q. So, when Mr. Jarrell said you tried to claim the  
18 policy, that wasn't accurate?

19 A. No, sir.

20 Q. And when Mr. Hendrix said you tried to claim the  
21 policy, that wasn't accurate?

22 A. On the \$200,000? Maybe the 25's, but not the 200.

23 Q. And if Mr. Bowden filed a demand for payment on  
24 that policy, he did that on his own?

25 A. Yes, sir.

1 Q. And you also called Mr. Sasnoff (spelled  
2 phonetically) in New York. That was your wife's  
3 employer, and tried to get that life insurance that she  
4 had through her work; isn't that true?

5 A. Uh, I don't recall calling him or Cinnamon Ridge.  
6 But I called inquiring of it, yes.

7 Q. You tried to get the money from the \$50,000 life  
8 insurance that your wife had through her work. And you  
9 found out only when you called Mr. Sasnoff that your  
10 wife's mother was the beneficiary; isn't that right?

11 A. Yes, sir.

12 Q. And that really upset you?

13 A. No, sir. It did not.

14 Q. So, when he testified to that, that wasn't  
15 accurate?

16 A. No, sir. I mean that man's in New York. How does  
17 he know how I feel 200, you know, 500 miles away.

18 Q. You said that you had this lease on your property,  
19 the property that Lyles was on, it was about to expire?

20 A. Uh, I think I had another year or so.

21 Q. It was good through 1997; isn't that right?

22 A. I cannot recall. I've renewed that lease so many  
23 times.

24 Q. Well, Mr. Routh was the agent you renewed it  
25 through; right?

1 A. Yes, sir.

2 Q. And if he said it was good through 1997, that  
3 would probably be accurate?

4 A. Most likely. That would give me -- since it was  
5 in March as a renewal date, that would give me about 12,  
6 15 months.

7 Q. And, in fact, you tried to buy that property?

8 A. Uh, I questioned as far as selling it, yes.

9 Q. And the purchase price was \$180,000?

10 A. Yes.

11 Q. So, that's what you needed the \$200,000 for, isn't  
12 it, sir?

13 A. Uh, no, sir. My father had, uh, told me to  
14 inquire and that he would help me, if possible.

15 Q. Your father had already put up his house to  
16 purchase the Lyles Building Supply, the business; isn't  
17 that right?

18 A. Part of which, yes.

19 Q. And you said that you were just kind of along for  
20 the ride in this stealing with you and Mr. Pardee---

21 A. I didn't say that, sir. You're saying that.

22 Q. Well, you said it was so easy.

23 A. It was. I mean here Rob Nichols, who is a drug  
24 addict out ripping people off for months and whom you've  
25 cut a deal to let go to lie against me is out ripping

1 people off bringing the stuff, selling it to me, and gets  
2 me to helping him, you know---

3 Q. Got you to help him?

4 A. He got me to help him.

5 Q. In fact, you're the one that purchased the two-way  
6 radios, didn't you?

7 A. The walkie talkies?

8 Q. Yes.

9 A. Yes.

10 Q. And the scanner to listen for the police?

11 A. I had a scanner prior to that. My dad's got one  
12 too. Does that make him a criminal?

13 Q. And went out and rented a U-Haul, I mean a lift  
14 and a trailer to go to---

15 A. I own the trailer, sir. I owned the trailer  
16 before Rob Nichols broke in my lot and stole it and took  
17 it to the beach and sold it, and you refused to do  
18 anything about it.

19 Q. You rented a lift, didn't you, to go to---

20 A. Yes, I did. To go to Home Depot to load up  
21 lumber.

22 Q. Lumber by the lift full?

23 A. Exactly. Rob Nichols used to work there and rip  
24 them off all the time. And he instigated it. He knew  
25 the managers. He knew their schedule. He knew

1 everything about the place.

2 Q. And you say that Mr. Stewart broke into your  
3 locker and took these names?

4 A. Yes, sir. That, my money, radio, stamps.

5 MR. PANOSH: May I approach?

6 THE COURT: Yes, sir.

7 MR. PANOSH: May I have the exhibits?

8 (Documents handed to Mr. Panosh.)

9 Q. Showing you now what's been marked as TK-2, do you  
10 want to take a look at that, sir?

11 A. Yes, sir.

12 Q. That's your handwriting, isn't it, sir?

13 A. Yes, sir.

14 Q. And you listed the names and the addresses of--may  
15 I have it?

16 A. Yes, sir.

17 Q. The names and the addresses of the witnesses?

18 A. Yes, sir.

19 Q. You put down Mitch Whidden's address in Arcadia,  
20 Florida. He was a Baptist preacher, and how to find him;  
21 isn't that right?

22 A. That was the information I had on it. But if  
23 you'll note, I drew the maps prior to writing that  
24 information on there. I copied that information over  
25 from a smaller piece of paper and had saved that.



1 Q. My question to you, sir, is you put down his name  
2 and how to find him, and a description of him, 28 years  
3 old?

4 A. Personal.

5 Q. And what was the purpose of writing that down if  
6 it wasn't to inform someone how to find and kill him?

7 A. That was for my future reference.

8 (Laughter in the audience.)

9 THE COURT: All right, Sheriff.

10 THE BAILIFF: Remain quiet.

11 THE COURT: Ladies and gentlemen, if there's  
12 any audible response, the courtroom will be cleared. I  
13 want it quiet.

14 Q. You wrote down Gary and Rose Lyles. You put down  
15 their ages. You put down their home address. You put  
16 down their telephone number. And you put down directions  
17 how to get to their house.

18 A. Would you please point out their age for me?

19 Q. Right here. Sixty-two. And Rose is fifty-nine.

20 A. Let me see that. I've got their address. I paid  
21 the man \$486 every month for the building supply company.

22 Q. My question to you is you wrote this down; is that  
23 correct, sir?

24 A. Yes, sir.

25 Q. And the purpose of writing it down was what, sir?

1 A. For my personal information.

2 Q. It wasn't to describe how to get to their house  
3 and kill them?

4 A. Not for William Stewart, or anyone else.

5 Q. You wrote down Kara and David Dudley's address?

6 A. Yes. It's on the church directory.

7 Q. And you gave her a description of a dirty blonde  
8 hair, 5'8", 180 pounds, her address, her telephone  
9 number, and then you wrote down the directions of how to  
10 get there. Wendover to Shoney's, turn left, follow that  
11 around past Lowe's, come to the second or third housing  
12 development entrance, turn left, first street on the  
13 left, three or four houses down on the left. And that  
14 was for your personal reference, sir?

15 A. I can't remember if that's her address or my youth  
16 minister's. He lives on the same street.

17 (Laughter in the courtroom.)

18 THE COURT: (To the Bailiff) Mark, come  
19 here. Post yourself back there, any person that you can  
20 hear, out of the courtroom.

21 Proceed.

22 Q. Same thing with Linda and Kevin Cherry. You wrote  
23 down their address, their telephone number, and that was  
24 for your personal reference?

25 A. Yes. I got the information. I mean---

1 Q. Patrick Roy Pardee, you wrote down his address,  
2 his telephone number, and the directions again, follow  
3 Randleman Road straight out of town---

4 A. I'm sorry, I wrote most of this information for my  
5 detective to seek these people out to question them. I  
6 mean it would make common sense for him.

7 Q. So, your detective has got a copy of this?

8 A. Uh, no, he does not.

9 Q. Does it have a diagram of the courthouse on it?

10 A. Uh, no, sir.

11 Q. Tell us again what those Xes are there for on that  
12 diagram?

13 A. Those show the holding cells, sir. Not people to  
14 assassinate.

15 Q. Holding cells are over here; isn't that right?

16 A. See the -- see, it says holding cell on it.

17 Q. Over here, what is that? That's the middle of the  
18 courtroom. That's where the D.A. stands. That's where  
19 the bailiffs are; isn't that right, sir?

20 A. No, sir. You're saying that, not me. Are you  
21 asking me or are you telling me?

22 Q. I'm asking you, sir?

23 A. Then I'm telling you that's where I would sit.  
24 You think I'm going to get somebody to assassinate me?

25 MR. ZIMMERMAN: Let me object. Don't argue

1 with him. Answer his questions, sir, please.

2 MR. KIMBLE: He's putting words in my mouth.

3 If he'd ask a plain question---

4 MR. ZIMMERMAN: Just answer the question,  
5 then you may explain.

6 Q. You indicated that without your permission Mr.  
7 Stewart called your girlfriend and upset her; is that  
8 right?

9 A. Yes, sir.

10 Q. That was Melanie Oxendine?

11 A. Yes, sir.

12 Q. Isn't this in fact a letter to Mr. Stewart with  
13 her name and address and her telephone number in it?

14 A. Yes, sir.

15 Q. And isn't that your handwriting?

16 A. Yes, sir.

17 Q. And you gave him that so that he could contact her  
18 to get money; isn't that right?

19 A. At a earlier date, yes, sir.

20 Q. And you signed it "Harley Bryson"? Who's Harley  
21 Bryson?

22 A. In prison everybody has a nickname they go by.  
23 And in my particular situation, you've made it nearly  
24 impossible for me to get by in prison without everybody  
25 wanting to cut a deal with you to lie against me. So, a

1 lot of times I tell people my name is Harley to escape  
2 persecution.

3 Q. Three weeks after your wife was killed you started  
4 dating; isn't that right?

5 A. Uh, no, sir. Would you specify or clarify dating?

6 Q. When Linda McLeod testified that she started  
7 dating you three weeks after the death of your wife and  
8 there was a personal relationship, there was a sexual  
9 relationship, that was not accurate?

10 A. I wouldn't say so, sir.

11 Q. Was it or was it not accurate?

12 A. No. All parts?

13 Q. Why did Ms. McLeod have a reason to lie, sir?

14 MR. ZIMMERMAN: Objection.

15 THE COURT: Overruled.

16 A. Ms. McLeod was a stalker. She was pursuing me  
17 constantly. We were -- she, I, Patrick Pardee and Rhonda  
18 Stanfield were all activity -- put on a activity  
19 directors over the singles group. She was trying to get  
20 to me, using me through that group to correspond with me  
21 trying to plan activities for the group.

22 Q. She was a stalker?

23 A. I finally had to tell her to quit coming to my  
24 office. The law enforcement department was getting  
25 complaints or getting calls saying Ted Kimble must be

1 over the death of his wife since this girl is always at  
2 his office. I had to actually ask her to quit coming to  
3 my office.

4 Q. Reason you stopped seeing her is because you  
5 started seeing Rhonda Stanfield; isn't that right?

6 A. I wouldn't say I ever dated the girl. We went out  
7 one time. And if you call that a dating relationship, I  
8 suppose so.

9 Q. When the police came to your place of business on  
10 April the 1st and you were arrested and searched, they  
11 found books in there about how to make bombs and booby  
12 traps?

13 A. Yes, sir.

14 Q. What did you need that for, sir?

15 A. Reading literature. They didn't take all the how  
16 to build a house, or how to wire a house, or anything  
17 else, or how the human anatomy works.

18 Q. They found---

19 A. I had cases of books, sir.

20 Q. They founds books about how to beat a polygraph.  
21 What did you need that for, sir?

22 A. Personal reading. I couldn't understand how  
23 certain people were telling me they worked and some  
24 people said they didn't work. And if you can buy a book  
25 on how to beat it, then how can you say they're reliable.

1 Q. They found books on how to disappear and how to  
2 make new identification for yourself. What did you need  
3 that for, sir?

4 A. Personal education. Personal benefit. That's  
5 what you buy them for. It plainly says on the books.  
6 Not only that, I might add that these books were  
7 purchased six or eight months after the death of my wife,  
8 not to imply that I would purchase them prior.

9 Q. That's when you purchased the books on how to be a  
10 sniper?

11 A. All that was purchased afterwards.

12 Q. Two books on being a sniper, and a video, *The*  
13 *Ultimate Sniper*?

14 A. Yes.

15 Q. Bought the same time you purchased that sniper  
16 rifle?

17 A. Uh, no, sir. I ordered that sniper rifle two or  
18 three months before the death of my wife, and I used it  
19 deer hunting.

20 Q. You used that deer hunting?

21 A. Yes, sir. I've been deer hunting with customers  
22 of mine at Lyles.

23 Q. But it is a sniper rifle?

24 A. It's a hunting rifle, sir. It may be classified  
25 as whatever you want to call it. It is a -- classified

1 as a Super Windmag 300.

2 Q. How much did you pay for that, sir?

3 A. Thirty-two hundred dollars.

4 Q. So, when the literature in there says \$5,500,  
5 that's not accurate?

6 A. With the accessories, the scope, the tripod, total  
7 I think it was like \$5,300.

8 Q. Now, when you put the scope and the tripod on it,  
9 then it was close to \$5,500?

10 A. The case and everything else. No, it was like  
11 \$5,300.

12 Q. You didn't purchase that to use on law enforcement  
13 when they started closing in on you?

14 A. Hardly. I ordered it before the death of my wife.  
15 I don't see how you can gather that. I put a deposit,  
16 couple thousand dollar deposit on that months before the  
17 death of my wife.

18 Q. And you had two volumes on silencers. What did  
19 you need a silencer for, deer hunting?

20 A. (Laughs.) No, sir.

21 Q. There was a silencer seized from your business,  
22 wasn't there?

23 A. Yes, sir. I pled guilty to it, of course.

24 Q. You remember standing before Judge McHugh and  
25 executing the transcript of plea in this case?



1 A. I'm sorry, say that again.

2 Q. Do you remember the transcript of plea where you  
3 pled guilty and received a plea bargain?

4 A. Yes, sir.

5 Q. And you remember discussing that with your lawyers  
6 prior to doing it?

7 A. Five minutes worth, yes, sir.

8 Q. Five minutes worth?

9 A. Few minutes worth, yeah. I mean it was only that  
10 day that they really discussed it with you.

11 Q. Did you understand everything that was in there?

12 A. No, I did not.

13 Q. Did you understand the part where you said you  
14 agreed to return the ashes as part of the plea bargain,  
15 return Patricia's ashes to her family?

16 A. I was told I didn't have to return what I did not  
17 have, sir.

18 Q. Excuse me?

19 A. I was told I did not have to return what I did not  
20 have.

21 Q. You mean you told your lawyers that you didn't  
22 have those ashes?

23 A. Sir?

24 Q. Are you saying you told your lawyers that you  
25 didn't have those ashes?

1 A. Correct.

2 Q. Which lawyers did you tell?

3 A. Those lawyers.

4 Q. And when did you tell them that?

5 A. Whew. Recently.

6 Q. Yes. Going back to the day that you entered into  
7 that negotiated plea, did you read the part where it said  
8 you will return the ashes?

9 A. Uh, yes, sir.

10 Q. Did you understand it?

11 A. Yes, sir.

12 Q. Did you then tell your lawyers that you didn't  
13 have those ashes?

14 A. I can't recall if I told them at that particular  
15 moment or not. I said what about those, and they said --  
16 I told them I didn't have them.

17 Q. You told them that your mother had them?

18 A. No.

19 Q. You didn't say that?

20 A. No, sir.

21 Q. You told them they had been spread?

22 A. Yes, sir. I said I had the urn. But I'm not  
23 liable to return the urn.

24 Q. So, the lawyers came in here and executed that  
25 transcript of plea and put their names on it, they were

1 deceiving the Court, saying that those ashes were to be  
2 returned; is that what you're saying?

3 A. They didn't know I didn't have them at that time.

4 Q. You knew you didn't have them?

5 A. Yes, sir.

6 Q. You were deceiving the Court?

7 A. No, sir.

8 Q. Just like you've been deceiving the Court all day;  
9 isn't that right, sir?

10 A. No, sir.

11 MR. PANOSH: No further questions.

12 THE COURT: Redirect.

13 **REDIRECT EXAMINATION by MR. BUTCH ZIMMERMAN:**

14 Q. Let me ask you this, Mr. Kimble. With the letter  
15 with the witnesses' names on there that Mr. Panosh, the  
16 solicitor, showed you, what was the reason for making  
17 that list up?

18 A. In the event to help my detective to find the  
19 witnesses to question them.

20 Q. For what reason?

21 A. To hopefully clear myself.

22 Q. I'm sorry?

23 A. To clear myself hopefully. I mean I had the  
24 information on a smaller piece of paper, and I had copied  
25 it over on that larger piece of paper with the map I'd

1 drawn previously, and stored it in my personal property.

2 Q. Did you draw that list of witnesses for the  
3 purpose of harming any of them?

4 A. No, sir. Not at all. I mean, shoot, Gary Lyles  
5 has been like a father to me for 15 years.

6 Q. All right. Are you a member of any fraternal  
7 organizations?

8 A. Yes, sir. I'm a masonic mason.

9 Q. All right. Are you a mason in good standing, or  
10 were you up until the time you were arrested?

11 A. Very much so, sir.

12 MR. ZIMMERMAN: All right, nothing further.

13 **RE-CROSS EXAMINATION by MR. RICHARD PANOSH:**

14 Q. Sir, when you put together that list, when was  
15 that?

16 A. Months ago.

17 Q. Where were you?

18 A. Southern -- well, take that back. That list  
19 copied over from a list I've had for months

20 Q. When you wrote on the piece of paper that's in  
21 court today, where were you?

22 A. Southern Correctional.

23 Q. What month and year was that?

24 A. It had to be between September and December.

25 Q. After your brother's trial?

1 A. After my brother -- yes. I mean as far as writing  
2 it over, yes. But I had it way before his trial.

3 Q. And all those witnesses had testified, and their  
4 names and addresses were in the record, and in fact your  
5 private investigator had already talked to them; isn't  
6 that right, sir?

7 A. I believe I gave most of the information to my  
8 attorneys and where to find them.

9 MR. PANOSH: No further.

10 MR. ZIMMERMAN: Nothing further, Your Honor.

11 THE COURT: Come down, please.

12 (Witness stood aside.)

13 THE COURT: Will there be any further  
14 evidence for the defendant on the issue of judgment?

15 MR. ZIMMERMAN: On the issue of what, Your  
16 Honor?

17 THE COURT: Judgment.

18 MR. ZIMMERMAN: Yes, sir. If Your Honor  
19 pleases, just keeping in mind what Your Honor has  
20 indicated back in the corridor a little bit ago about  
21 continuing either today or going tomorrow, I want to  
22 bring it to the Court's attention whatever the Court  
23 wishes, and I want to let you know that we had subpoenaed  
24 a Mrs. Yvonne Johnson of One Step Further, 621 Eugene  
25 Court, Suite 101, here in Greensboro. She has done a

1 presentence diagnostic study on this, uh, a report on  
2 Theodore Mead Kimble. She sounded like she was at  
3 death's door when I got her on the telephone. I  
4 apologize. That's at least one of those rings on here.  
5 Uh, she can't get out of bed. She's sick. She couldn't  
6 get the report here today, but she said she could get it  
7 here tomorrow.

8 THE COURT: Has the report been prepared at  
9 this time, Mr. Zimmerman?

10 MR. ZIMMERMAN: That is my information. I  
11 have not seen same.

12 THE COURT: Let me have you do this. If  
13 you'll make arrangements to have that report picked up,  
14 collected and have it delivered to the Chambers upstairs  
15 first thing tomorrow morning, I will take the opportunity  
16 to review it before the session convenes, and that will  
17 save whatever amount of time it would take otherwise to  
18 review it.

19 MR. ZIMMERMAN: All right.

20 THE COURT: Just have it please delivered to  
21 the Judge's Chambers tomorrow morning as soon as  
22 possible, as early as possible.

23 Mr. Panosh -- would that be the balance of  
24 your evidence, Mr. Zimmerman?

25 MR. ZIMMERMAN: That would be the balance.

1 THE COURT: I understood, Mr. Panosh, you  
2 intend to offer victim impact evidence for the State on  
3 the issue of judgment?

4 MR. PANOSH: Yes, Your Honor. Under the  
5 statute, they would like to address the Court. I have  
6 some of them in writing, and I could provide each, and  
7 give the defense these. But they would like to read them  
8 into the record and speak to Your Honor.

9 THE COURT: All right. We'll recess for the  
10 evening at this time then. We'll reconvene at 9:30 in  
11 the morning. And I will ask you again, Counsel, to  
12 deliver the sentence report to the Chambers prior to that  
13 time.

14 (A recess was taken at 5:53 p.m.)

15

16 (Court reconvened on March 5, 1999 at 9:35 a.m.)

17 (All parties present.)

18 THE COURT: Mr. Zimmerman, with regard to the  
19 presentence report you discussed last evening, is that  
20 available?

21 MR. ZIMMERMAN: If Your Honor please, I've  
22 been calling ever since 8:00, and I don't believe One  
23 Step opens till 9:00. Mrs. Johnson is still ill, but she  
24 -- my secretary said that she was going to go over to One  
25 Step and then have it brought over here. Perhaps we

1 could go ahead and hear the victim statements, it will  
2 probably be here.

3 Anybody here from One Step? Yvonne Johnson?

4 THE COURT: Mr. Panosh, are you ready to  
5 proceed with your evidence at this stage?

6 MR. PANOSH: Yes, sir.

7 THE COURT: All right, you may proceed.

8 MR. PANOSH: Your Honor, the victim's family  
9 wants to address the Court. First is Patricia Kimble's  
10 father.

11 Go ahead and give your name and then say what  
12 you want to say.

13 MRS. BLAKLEY: My name is Sheila Blakley.  
14 I'm Patricia Blakley Kimble's mother.

15 THE COURT: Ma'am, can I ask you to speak up,  
16 please. I'm having some difficulty hearing you.

17 MRS. BLAKLEY: All right. I am Sheila  
18 Blakley Kimble's mother. On October the 9th at 9:35 I  
19 had a phone call, and that was my daughter-in-law's  
20 parents. Let me rephrase that. They were knocking at  
21 the door, and I got up and that's when my nightmare  
22 began. That was the worstest (sic) thing I've ever been  
23 in in my life. Through the grace of God and faith and  
24 strength He's given me, that's why I can stand here  
25 today. And through our lives, our lives have changed



1       tremendously. Through churches, through the members of  
2       the church, through the hurt the church has gone through,  
3       through my life and my son's life and my daughter-in-  
4       law's life. And it's hurt Ronnie and Edna's life. Ted's  
5       parents. It's hurt Kim's life. It's attacked a lot of  
6       people's lives, and our lives will never be the same.

7                 You can lose a person by cancer, you can pick  
8       up and go on. And I envy people that loses people like  
9       that. It's not that I'm jealous, but I know that what I  
10      went through with Pat and am still going through it, and  
11      I will until the day I die, that you can't pick up the  
12      pieces and go on like you can in other deaths, other  
13      situations. And the day that this happened, the night it  
14      happened I never wanted to believe that Ted did it, and I  
15      don't believe it now. I can't bring myself to believe  
16      that he would do this, or even his brother. But as he  
17      sits up here and his brother sat up here and told lie  
18      after lie, there's got to be something there that  
19      triggered something to make this happen. And I can be at  
20      work, I can be at church, and I sit there and I just  
21      freeze. I can see people talking and laughing, cutting  
22      up at work, or even singing praise songs at church my  
23      daughter loved, and I just sit there and think could I  
24      ever be happy like these people again. But through Pat I  
25      think I can get back to reality to some extent, but not

1 like it was before October the 9th. And I don't want to  
2 sit here or stand here and accuse Ted of anything, and  
3 only God and him knows if he did it or he didn't do it.  
4 And I'm not pointing my finger at him, but I pray that if  
5 he did do it, that he will confess. I think he owes that  
6 to the families, the people he has destroyed, the witness  
7 list that he has written. And as he sat up there and  
8 said things about people on the witness list that was --  
9 I forgot what he said, but people don't do this. You  
10 know it don't make sense. And I hope and pray that  
11 through the media would have stepped back and not said  
12 anything, I've not said anything about anyone, and we've  
13 kept quiet. But now this day has come where we're going  
14 to speak out, and we'll probably continue to speak out.  
15 And if we hurt feelings, we're sorry, but we have been  
16 hurt. And the day that Ronnie was -- the jury came back  
17 and said he was guilty, we went out to dinner. As we  
18 went out to dinner, we approached Ronnie and Edna. They  
19 were sitting out there on those cement columns. And we  
20 just walked casually by them. We haven't said nothing to  
21 them. I'm not saying that they had anything to do with  
22 this or whatever. But she sits there and she calls me  
23 murderer. The reason, I don't know. Even then she stood  
24 up and she come towards me, and she said "You're nothing  
25 but a cold blooded murderer." That was even worse. And

1 as my body got weaker and weaker, I didn't know at the  
2 time who was holding me up to get to the parking lot. We  
3 had about ten people with us, and they heard this. I  
4 know she's hurting. I'm hurting. I know she loves her  
5 children, and her children loved her. And I love my  
6 children. But I give her benefit of a doubt by being  
7 hurt, by her saying those harsh words. And being as a  
8 christian wife, preacher's wife, I would say she should  
9 have given me an apology, and I expected an apology from  
10 her for what she said. I never got that. And I still  
11 say she owes me that apology because I've never hurt  
12 anybody. I don't look at people and judge and condemn  
13 people. But now as I look at people in this situation  
14 we've gone through, I wonder what is that person like. I  
15 never had that. I always looked at people -- I don't  
16 look for bad in people, I just want to be everybody to  
17 love everybody and get along with everybody. So, I'm  
18 saying today that my life will never be the same because  
19 of this. And every day I live, I don't know whether I  
20 can live another day without Pat. I told somebody  
21 yesterday that I don't think I could live -- I don't even  
22 want to think that I'm going to live until I'm 55 because  
23 I don't know how I can make it to 55 without her. And I  
24 hope, and I understand what I'm saying, and I can say  
25 more, but I won't. But I'm just telling you I'm not

1 pointing fingers at nobody, but Ted has made himself look  
2 guilty all along. If he'd have cooperated with the law  
3 enforcement officers to start with, maybe he wouldn't be  
4 sitting over here. Maybe he wouldn't be in jail. But we  
5 cooperated with them. We were suspects just like he was,  
6 and they told us that. And had he cooperated -- but the  
7 things that he's done before and after, I just can't  
8 believe that somebody as a christian would do these  
9 things. That's all I got to say. Thank you.

10 THE COURT: All right. Thank you, ma'am.

11 MR. PANOSH: Tell the court reporter who you  
12 are.

13 MR. BLAKLEY: My name is Richard Blakley. I  
14 was Patricia's father, or I am Patricia's father.  
15 Patricia Blakley had done nearly everything right her  
16 entire life. She earned A's in school. She kept her  
17 teeth so clean she never had a cavity. As a child her  
18 mother only had to spank her once for teasing her brother  
19 and cousin. She was a good girl, a devoted christian who  
20 taught Sunday School, a hard worker who saved enough to  
21 buy a car at age 16 and her own house at 23. But she  
22 made one mistake. She married Ted Kimble, and it cost  
23 her her life.

24 The following is some statements made by Jack  
25 Hatfield during Ronnie Kimble's sentencing. If it were

1 not for Ted Kimble, Patricia Kimble would be alive today.  
2 Ted Kimble is a psychopath. He is a murderer, and the  
3 force of his personality is so powerful, he can influence  
4 many people and deceive many people.

5           Statements allegedly made by Ted Kimble in a  
6 letter to William Wayne Stewart about a murder and escape  
7 plot, the SBI analyzed this letter and concluded that Ted  
8 Kimble did write it. I'm a winner who never gives up.  
9 I'm presently working on a back-up idea to insure  
10 success. It doesn't involve anybody -- anyone but  
11 myself. A winner who never gives up. Never gives up.  
12 The point I'm trying to make is, in my opinion, he will  
13 never give up. As long as there is a breath in his body,  
14 he will try to escape.

15           Ted's a wolf in sheep's clothing, and a devil  
16 in blue jeans. There is a lot of friends and relatives  
17 who loved Pat dearly. One of the sad parts of this is  
18 that we who love her feel we have to watch our backs day  
19 and night because we believe there is a hit person out  
20 here to get us. And many of us have felt this way since  
21 her death on October 9th, 1995.

22           Thank you, sir.

23           THE COURT: All right, sir. Thank you very  
24 much.

25           MR. PANOSH: Christy.

1 MS. BLAKLEY: My name is Christy Blakley.  
2 I'm Patricia's sister-in-law. Murder is defined as the  
3 unlawful killing of a person; to put an end to. I would  
4 like to submit that Ted Kimble committed six murders  
5 instead of one. The minute Ted Kimble contemplated  
6 Patricia's brutal death, the minute Rubin and I arrived  
7 at Patricia's home to find it on fire, the minute we  
8 realized Patricia was inside, our life, her family's life  
9 came to an end. What we have experienced the past three  
10 and a half years is not life, but death. We have slowly  
11 died each time we learned of Ted's attempts to gain  
12 insurance money, each time we sat in church hearing him  
13 proclaim his innocence, each time we sat in church and  
14 saw him with a girlfriend he had three weeks after  
15 Patricia's death, each time we sat in church seeing our  
16 friends supporting him, each time we received a phone  
17 call from the Sheriff's office or the D.A.'s office  
18 informing us of Ted's latest offense, each time we have  
19 sat down in this courtroom, we have experienced death as  
20 we have come to know anger and hate, as we have cried  
21 ourselves to sleep, as we have experienced fear from  
22 walking into our homes wondering if someone was waiting  
23 for us at the end of the hall, as we have realized our  
24 lives will never be the same. I am no stranger to death.  
25 I see death daily as I watch patients young and old die

1 in their homes in their warm beds surrounded by loving  
2 family free from pain. Each time I see this, I think of  
3 Patricia lying in the hall underneath the floor with a  
4 bullet lodged in her head, with parts of her head, chest  
5 and legs burned away, killed by the person she loved most  
6 in the world. Like death, Ted Kimble is not a respecter  
7 of life. It seems the only life he respects is his own  
8 as he has tried so desperately to save it. I contend  
9 that his life is worthy only of sitting in jail for his  
10 remaining days to die alone with the excruciating pain of  
11 seeing Patricia as I do, knowing that he is responsible.

12 THE COURT: Thank you.

13 MR. PANOSH: Please state your name for the  
14 Court and record.

15 MS. CHERRY: My name is Linda Cherry, and I'm  
16 one of the victim's of Ted's plot. I will never forget  
17 the last time that I saw Patricia alive. It was a Sunday  
18 morning the day before she died. She was wearing a  
19 purple floral dress and her hair was up on the sides and  
20 a purple bow. She was standing in the foyer of the  
21 church, and she greeted my husband and I with her usual  
22 warm sweet smile. The same smile that she could always  
23 light up a room with. Something happened that morning at  
24 church that to this very day I thank God for. Patricia  
25 gave my husband and I a big hug, and each of us said I

1 love you. We didn't normally say that to each other very  
2 often, but for some reason we did that morning. Maybe  
3 that was God's way of providing a little closure to what  
4 was about to happen. There is some comfort in knowing  
5 that we had a chance to tell her we loved her before she  
6 died.

7 I want to be able to remember her only the  
8 way she was that morning. But because of Ted Kimble's  
9 evil, I'm forced to think about the pain and fear that he  
10 deliberately caused her. I remember the sadness she felt  
11 when she confided in me shortly before her death about  
12 her decaying marriage. In the betrayal of realizing that  
13 she had been deceived from the very beginning by a man  
14 that she never even knew. Now I'm forced to think about  
15 her senseless death at the hands of a mad man that so  
16 many of us at one time blindly trusted. Even though her  
17 life was snuffed out, and her body destroyed, she still  
18 lives on now in the presence of glory. She feels no more  
19 pain. That beautiful smile that Ted tried so hard to  
20 destroy forever now shines even brighter than ever before  
21 because she's resting in the arms of my savior awaiting  
22 the day of our homecoming. That is something that Ted  
23 Kimble can never take away.

24 On October 9th, 1995 Ted made a choice. He  
25 has no one to blame but himself, and nothing can excuse



1 what he's done. With greed in his heart, he deliberately  
2 had Patricia murdered execution style. He did it with  
3 full knowledge that it was not only wrong, but it was  
4 pure evil. He made a decision that dreadful day that  
5 financial gain was worth more to him than his soul. Now  
6 it's time for him to reap what he has sown. Ted never  
7 thought that he wouldn't collect the loads of money that  
8 he so desperately wanted. And his arrogance kept him  
9 from even dreaming of ever getting caught. So after his  
10 arrest, he couldn't stand by and let the truth come out.  
11 So after Ronnie's trial, Ted sought revenge. Having  
12 Patricia killed wasn't enough for him. He wanted eight  
13 more notches in his belt. So while in prison he made all  
14 the plans and contacts he needed to insure the deaths of  
15 eight witnesses. As one of those targets, I want to see  
16 justice. Ted wouldn't just stop at taking away a dear  
17 friend. Instead he wanted to continue his evil by  
18 invoking a killing spree. He's taken away our sense of  
19 security and peace of mind. But ultimately he wants to  
20 take away our lives. My husband and I have never had a  
21 price put on our heads before. I'm sure you can imagine  
22 how we felt this past November receiving a phone call  
23 from the police informing us that someone, who's already  
24 killed at least once, wants us dead. Because of Ted  
25 Kimble I find myself constantly looking over my shoulder

1 everywhere I go. When we were first notified of the  
2 threat, I sometimes felt like a small child in a dark  
3 room being startled at every creak or noise that the  
4 house made. Then when we found out before Christmas that  
5 he wanted -- that Ted wanted us killed over the holidays,  
6 the impact of it really hit my husband and I. It was  
7 hard to smile and laugh and act festive this past  
8 Christmas fearing what or who might be waiting for us  
9 when we got home.

10 We're here today because we all want justice  
11 for Patricia, and for her family. We know that true  
12 justice won't come until Ted stands before a holy and  
13 righteous God after his death and receives full judgment.  
14 Since Ted has escaped the death penalty, the very minimum  
15 he deserves is to never again have any ounce of freedom.  
16 He needs to be held under the tightest security available  
17 for the rest of his miserable life. And I do hope indeed  
18 that it will be miserable.

19 This Court needs to understand that Ted has  
20 no remorse whatsoever. The only thing he's sorry about  
21 is that he got caught. He has already proven to us that  
22 he can never be trusted. The stuff that he tried to pull  
23 yesterday just shows us even more of that, that he can't  
24 be trusted. However, I firmly believe that he's still a  
25 threat, Your Honor. In fact, in a letter written in his

1 own words, he said he never gives up. He also said he's  
2 presently working on a back-up idea, just as Richard  
3 stated earlier. How do we know he doesn't have more  
4 plans, especially when he said so himself? He claimed to  
5 have help on the outside, and I think he does. How could  
6 he have planned such a detailed escape by himself? And  
7 how did he get all the information he had on the eight  
8 witnesses. Ted's sentence doesn't just end everything.  
9 We're still left with pain and confusion, and for some of  
10 us, fear. I don't know what this Court has the authority  
11 to enforce, but for our own safety, Ted Kimble should  
12 never be allowed any means of contact with the outside  
13 whatsoever. It was because of contact with other  
14 inmates, as well as communication with the outside, that  
15 almost made his plans for an escape and further  
16 executions successful. He has the potential to remain a  
17 threat if he is allowed such communication. I hope this  
18 Court can do something to protect us.

19 Ted, I've listened to your lies when you were  
20 on the stand. I also listened to so many people stand up  
21 there and talk about how polite and mannerly and kind you  
22 always were. Well, the serial killer Ted Bundy was kind  
23 and polite and charming also. Frankly, I'm surprised  
24 that you wrote down the information about us was only for  
25 your personal information. I thought you were more

1 creative than that to be honest. Despite what you've  
2 said, you fully intended for us to die, and I believe  
3 that's still what you want. You may have some of these  
4 people fooled, but God is not fooled. I do hope some  
5 day, believe it or not, despite what I've said, that you  
6 will find salvation. However, you first must find true  
7 remorse. Remorse that leads to long lasting grief over  
8 what you've done. Remorse that leads to sincere  
9 repentance and a change of heart. Remorse that causes  
10 you to cry out to God, because you will never have  
11 redemption without it. Until such time, may God have  
12 mercy on your soul.

13 MR. PANOSH: Your Honor, Ms. Dudley has  
14 submitted a statement in writing. I've given it to Your  
15 Honor and to the defense.

16 THE COURT: That is Kara Dudley?

17 MR. PANOSH: Yes.

18 THE COURT: Yes, I've read it.

19 MR. PANOSH: Your Honor, Mrs. Lyles would  
20 like to be heard. She's also a victim.

21 THE COURT: Is this a person named in an  
22 indictment?

23 MR. PANOSH: Yes.

24 MRS. LYLES: My name is Rose Lyles. My  
25 husband is Gary Lyles. I have so many good memories of

1 Patricia. I think of the day -- I was thinking of the  
2 day that she helped me wrap -- spent an afternoon helping  
3 me wrap Christmas presents for my grandchildren to go  
4 under the Christmas tree that she decorated because I  
5 have such back problems and was not able to do it.

6 I was thinking of the gold charm that she  
7 gave me for Christmas to go on my charm bracelet. It was  
8 the head of a son, of a man. And on the back of it she  
9 had had engraved Ted and Patricia.

10 But then I think of the time that she called  
11 us just prior to her murder. And, Your Honor, I have  
12 lived with the sound of her crying for so long now. I  
13 don't think I'll ever be able to forget that.

14 I think of the times that they came and spent  
15 New Year's Eve and New Year's day with us at our beach  
16 house. And the after Christmas shopping together. But  
17 then I hear her crying. I didn't know what she was  
18 crying about, but I was crying with her before she could  
19 compose herself enough to tell me what caused her fear.  
20 And I so hoped to get some closure on this today, Your  
21 Honor. That that sound of her crying would be stopped,  
22 and that I could remember her as she was in happier  
23 times.

24 I can't believe that Ted would want to murder  
25 us. But we have lived in terror. We have had the police

1 -- Long Beach Police have patrolled around our street and  
2 around the street behind us. Afraid to go out of the  
3 house. Afraid of every sound that you hear. You don't  
4 know if you're going to live or not, which is what she  
5 told me when she called. She said, "Rose, I don't know  
6 if I'll wake up in the morning or not. Ted sleeps with a  
7 gun under his pillow." I do hope for closure. Thank  
8 you.

9 THE COURT: Thank you, ma'am.

10 MR. PANOSH: That will be the State's  
11 presentation. Thank you.

12 THE COURT: All right. Do you have your  
13 sentencing memorandum ready at this time?

14 MR. ZIMMERMAN: Anybody here from One Step?  
15 Not here at this time, Your Honor.

16 THE COURT: All right, I'll hear arguments of  
17 counsel at this time. Defendant may be heard through  
18 counsel.

19 MR. ZIMMERMAN: The defendant goes first?

20 THE COURT: Yes, sir. State has the right to  
21 close at this point.

22 MR. ZIMMERMAN: If Your Honor pleases, I do  
23 hope that at some point in time if this report gets here  
24 Your Honor will consider it, if it gets here before Your  
25 Honor is going to pass sentence.

1 THE COURT: I'll certainly look at it if it  
2 comes here at any time, or even if it---

3 MR. ZIMMERMAN: Thank you very much. If Your  
4 Honor please, Your Honor has heard the evidence in this  
5 case based upon the plea to all these offenses. The  
6 defendant understands that he will receive consecutive  
7 sentences based upon the Court's interpretation of the  
8 evidence that Your Honor has heard, based upon the fact  
9 that Your Honor is to decide within the Level 2  
10 punishment of mitigation to aggravation what this  
11 particular sentence will be in each and every category  
12 and as to each and every offense.

13 I'm not going to stand here and try to  
14 justify anything that has come into evidence here today  
15 or yesterday with respect to the crime itself. This  
16 Court is very able Court, very knowledgeable Court. This  
17 Court has heard a number of cases. Every case stands on  
18 its own bottom, and every murder case is a bad case. As  
19 the old bard once said, "Murder shrieks out," and it  
20 does. But if Your Honor pleases, we'd ask on behalf of  
21 the defendant, Ted Kimble, and his mother and father that  
22 Your Honor give close scruple to the facts as elicited by  
23 the State and by the defendant as to the particular  
24 factors in this homicide. When Your Honor fashions a  
25 judgment in this case, the only thing that we could ask

1 is that Your Honor closely scrutinize the evidence,  
2 particularly with respect to what Your Honor has heard  
3 today with respect to these victims as to this so-called  
4 alleged and intended killing of witnesses.

5 Now, if Your Honor please, this case is  
6 replete throughout with promises of sentence reductions,  
7 with promises of early release if you'll tell us what you  
8 know, promises made by the State, the all powerful State,  
9 and actually carried through as to early release of  
10 somebody who tells your story. A promise. And I say to  
11 Your Honor that that evidence is fraught with error. I  
12 say to Your Honor in all candor that this so-called plot  
13 to kill eight witnesses does not hold water based upon  
14 the evidence that Your Honor has heard. And one of the  
15 excellent things about a plea is that you've got someone  
16 who is learned sitting on the Bench who can distinguish  
17 these things. Now, Your Honor heard the evidence. Your  
18 Honor heard the evidence from these people in custody.  
19 What reason have they got to tell a lie? They're not  
20 going to get any sentence reduction. They're not going  
21 to get out early. And I just say to Your Honor that I  
22 don't believe William Stewart is worthy of belief. And I  
23 don't believe there was any serious plot to kill any  
24 eight witnesses. If indeed it was, it was about the most  
25 ludicrous plot I've ever heard of in my life. Then you



1 couple that with a press release announcing to the world  
2 that there's some kind of a plot to kill eight witnesses  
3 based upon the testimony, or so-called affidavit or so-  
4 called statement of one Stewart.

5 Now, if Your Honor pleases, we'd ask that you  
6 closely scrutinize the factors so that when you fashion a  
7 judgment, you'll fashion a judgment that does do justice.  
8 Justice tempered with mercy, if Your Honor please. And  
9 that, I think is what the robe and being a judge is all  
10 about. If you can do justice to the victim, to this  
11 defendant, tempered with mercy, that's all in the world  
12 we ask, if Your Honor please. That's all in the world we  
13 can ask because we've thrown ourselves on the mercy of  
14 the Court. On the mercy of the Court.

15 And, if Your Honor pleases, Your Honor heard  
16 testimony yesterday as to the character of this young man  
17 from the time he was in the third or fourth grade all the  
18 way up to until the present or till the time he got in  
19 this trouble. And I submit to the Court that the  
20 preponderance of the evidence shows that this defendant,  
21 number 12 in the mitigating factors, has been a person of  
22 good character and had a good reputation in the community  
23 in which he lived at some point in time. Also number 18,  
24 that he has a support system in the community. That is,  
25 his friends and neighbors, and certainly his loving

1 mother and father. And number 19, he has a positive  
2 employment history, and at the time of this was gainfully  
3 employed.

4 If Your Honor pleases, the Court well knows  
5 Your Honor can sentence anywhere from the lowest of the  
6 mitigating to the highest of the aggravating, and we  
7 would say to Your Honor to please give consideration to  
8 the mitigating factors in this case. And please, we ask  
9 Your Honor, to render a judgment which will give this  
10 young man some hope in the future of returning to society  
11 after he's paid his debt to society at some point in  
12 time.

13 We humbly suggest to this Court that Your  
14 Honor sentence from the mitigating range. If not, from  
15 the presumptive range. And with that, I'll yield to Mr.  
16 Crumpler.

17 THE COURT: All right, thank you, Counsel.

18 MR. ZIMMERMAN: Thank you.

19 THE COURT: Mr. Crumpler.

20 MR. ZIMMERMAN: Anybody here from One Step?

21 MR. CRUMPLER: May it please the Court, I had  
22 asked Mr. Zimmerman to go first simply because this case  
23 is so complex and there's so many deep emotions, I really  
24 was not clear in my mind how to proceed. I compliment  
25 Mr. Zimmerman on his expressions.

1           My thoughts, as I sat here this morning in  
2 the courtroom, Your Honor, and I've done this many years,  
3 and I've been involved in many murder cases, and as Mr.  
4 Zimmerman had said, they're all bad. The most difficult  
5 role that anyone has to play in this case is Your Honor  
6 as a judge. We, as advocates, are supposed to, we have  
7 an obligation to our clients and do all we can to support  
8 their interest. Mr. Panosh representing the State has  
9 the duty to doing that as our opponent. That prepares  
10 work, very careful work which he has done. But our  
11 duties are not as difficult as yours.

12           Your Honor, I think of our profession, and  
13 I've thought about this throughout my career, I remember  
14 Dr. Williams in law school when he taught us, and he  
15 taught us to believe that practice in law was the most  
16 honorable profession, going back to Athens and to Greece  
17 where common people would select somebody whom they  
18 believed to be prominent who could stand up and speak for  
19 them, and there's where it started. I'm always  
20 flattered, and I always feel inadequate when I speak in  
21 someone else's behalf remember that. And with Ted Kimble  
22 we're confronted with facts, just a mass of facts, of  
23 obviously we've gone in our society beyond the days --  
24 and my heart goes out to all of these people. When I  
25 listen to each one, you can't help but have sympathy.

1 But, Your Honor, justice rises up above. You can't --  
2 the days when you were put to death or you were punished  
3 by your victims is a day really of chaos. These people  
4 should have the right to be heard, and I have great  
5 respect for that right. But, Your Honor, Your Honor is  
6 placed on a much higher level. It's your very difficult  
7 duty to put all of these things together and render a  
8 judgment that's just and rises above our emotions.

9 The part of this that I address probably most  
10 seriously are the parts of the evidence that was offered  
11 concerning Ted's plan as alleged by the State to  
12 exterminate these witnesses and the various things we  
13 heard in court. That's supported only and primarily by  
14 William Stewart. We brought four witnesses, whom I had  
15 never seen and who had never seen me, had nothing  
16 whatever to gain, and as I recall what they testified to  
17 was that this man was a notorious liar. That he was  
18 playing himself a con game to solicit whatever he could  
19 from the defendant.

20 Now, I understand how people would be in  
21 fear. Any of us would be in fear because you don't  
22 understand really whether there is a real threat. But I  
23 submit there was no threat at all, other than that this  
24 was primarily the act of a con man who gained something  
25 from it. And it was his idea and his act and not the

1 defendant's. It originated with him. It did not  
2 originate with the defendant.

3 Your Honor, as I conclude, I think both sides  
4 of this case, and the terrible sorrow and tragedy that  
5 they're confronted with, you have two parents. The  
6 Blakleys have lost their daughter. And I know they will  
7 grieve forever. I would do that if it were my daughter.  
8 The Kimbles, him being a pastor and her his wife, having  
9 only two sons, have lost both of their sons. None of  
10 those parents are guilty of any wrongdoing. Apparently  
11 they've all tried to be good parents. The Kimbles have  
12 raised their children in church, just as the Blakleys.  
13 And yet, those two sides have this in their future. One  
14 has lost their daughter. The others have lost both sons.  
15 And I submit that a life forever in prison is sometimes  
16 worse than death. And they face this on a loaded issue  
17 each morning. And, Your Honor, somewhere in between that  
18 lies justice. Where that is, I don't know. I simply ask  
19 in your wisdom that you consider all of these factors,  
20 and enter judgment that comes from the judge in a  
21 position that rises above all of us, and I feel you will  
22 do your very best to do that. And I thank you.

23 THE COURT: Thank you, Counsel.

24 MR. PANOSH: Your Honor, we have submitted a  
25 sentencing memorandum. As to the second degree murder

1 case set forth in our memorandum, we submitted the  
2 aggravating factor of premeditation and deliberation  
3 should apply. We've set forth State versus O'Neal  
4 specifically supports that position. We tell Your Honor  
5 that when the defendant stood before you and pled guilty,  
6 he said he was in fact guilty of murder, he was in fact  
7 guilty of conspiracy to commit murder, and thereby he  
8 admitted that it was premeditated and deliberate murder.  
9 And I tell Your Honor that that day he knew exactly what  
10 he was doing because he stood before you and  
11 distinguished between the 1995 offenses, when he said I'm  
12 in fact guilty, and the 1998 offenses, where he said  
13 these I'm pleading guilty to because it's in my best  
14 interest. We submit there's adequate evidence for the  
15 aggravating factor of premeditation and deliberation.

16 We submit as to the murder that the  
17 aggravating factor of pecuniary gain applies. We've  
18 submitted State versus Griffin and State versus Manning  
19 to support our position.

20 Your Honor, there's no question in this case  
21 he intended to collect the three existing life insurance  
22 policies on his wife--two where he was named beneficiary,  
23 and one where Patricia's mother was named beneficiary  
24 that he thought he was the beneficiary. And he also  
25 intended to try and collect on that \$200,000 application

1 that he put in just weeks before her murder.

2 As to the first degree arson, we submit that  
3 that first degree arson was committed for the purpose of  
4 covering up the murder. That would be an aggravating  
5 factor as set forth in State versus Barnes, which is in  
6 our memorandum.

7 As to the solicitation to commit murder, we  
8 submit the aggravating factor that the defendant  
9 committed this offense to destruct or hinder law  
10 enforcement exercise of a government function. And  
11 that's supported by State versus Brown. We'd also submit  
12 that the fact that it was a solicitation to commit a  
13 named witness applies to six of these cases, and that is  
14 supported by State versus Brown.

15 Your Honor, as to the supposition that Mr.  
16 Stewart was in fact just playing him to get everything  
17 that he could out of him, that might be true. It might  
18 be true that Mr. Stewart intended to gain money from the  
19 defendant. But the key here, Your Honor, is that the  
20 time the defendant gave Mr. Stewart this list of names,  
21 at the time he gave him these diagrams, he fully intended  
22 that these people be killed. He fully intended that  
23 there be a plot to escape from this courtroom, from this  
24 courthouse. And we would submit that is another  
25 aggravating factor. He intended to come in here. He

1 planned the death of courtroom personnel, people we work  
2 with, we know, we respect. He planned to come in here  
3 and totally disrupt our system and kill the bailiffs and  
4 the courtroom personnel, anyone else who got in his way.

5 Your Honor, Mr. Stewart did get early  
6 release. He was released, all the evidence shows he was  
7 released about two weeks early for the sole purpose of  
8 allowing us to go down there and execute that search  
9 warrant and getting him out of that prison facility.  
10 There's not one shred of evidence to show that before he  
11 made this statement he had any promises. And he  
12 certainly had no promise of early release. And Your  
13 Honor knows that the law requires that if there was a  
14 promise, we would have had to disclose it to counsel. We  
15 haven't done so because there was no promise.

16 Your Honor, in sentencing this defendant, I  
17 ask you to take into consideration all the wonderful  
18 things you've heard said about Patricia. I don't intend  
19 to repeat them. I couldn't say them as eloquently as her  
20 family has. I ask you to take into consideration that he  
21 has no remorse. Not one shred of remorse for what he has  
22 done either to Patricia, her family, or those people he  
23 named to be killed.

24 You heard all this evidence about this public  
25 show of affection that the defendant had with his wife



1 right up to the time of her execution. That just shows  
2 you not a mitigating factor, that shows that he's a cold  
3 blooded murderer. He planned this and he had the ability  
4 to hug and kiss his wife knowing that he was about to  
5 kill her to collect the insurance money.

6 This defendant, Your Honor, lives in a world  
7 of bombs and silencers and sniper rifles. He just feels  
8 that anybody who gets in his way, he should be able to  
9 eliminate. We ask you to sentence him remembering that.  
10 Thank you.

11 THE COURT: All right, thank you. Mr.  
12 Zimmerman, are you prepared to tender your sentencing  
13 memorandum?

14 MR. ZIMMERMAN: We don't have it at this  
15 point in time, if Your Honor please. If Your Honor would  
16 be kind enough to consider a short recess, I'll check one  
17 more time and see what the problem is. This witness has  
18 been subpoenaed since two weeks ago. And she was just  
19 deathly ill yesterday. I apologize for having the phone  
20 ringing in the courtroom. That was her calling me  
21 yesterday. She couldn't get out of the bed. It's this  
22 flu going around, and I can understand it because I had  
23 some of that before I had my other problem.

24 MR. PANOSH: May we approach?

25 THE COURT: Yes, sir.

1 MR. ZIMMERMAN: Absolutely satisfactory with  
2 the defendant.

3 (Counsel approach the bench.)

4 THE COURT: Counsel, the Court will provide  
5 you with a recess to attempt to provide that element of  
6 evidence.

7 Court will be in temporary recess, Sheriff.

8 (A recess was taken.)

9 (All parties present.)

10 MR. ZIMMERMAN: If Your Honor pleases, the  
11 defense appreciates Your Honor's thoughtful and serious  
12 consideration of the presentence study, and apologizes  
13 for the delay.

14 THE COURT: That's no need to apologize,  
15 Counsel. In this matter I'm anxious to have all the  
16 evidence that any party wishes to produce.

17 Is there any further evidence at this time  
18 for the State or for the defendant?

19 MR. PANOSH: No, thank you, Your Honor.

20 MR. CRUMPLER: No, Your Honor.

21 THE COURT: Is there any further matters  
22 before the Court enters judgment?

23 MR. PANOSH: No, Your Honor.

24 THE COURT: Judgment of this Court shall be  
25 entered first in case 97 CRS 39581, wherein the defendant

1 has entered a plea of guilty to the offense of second  
2 degree murder. The Court having previously found, and  
3 the defendant having stipulated that the defendant is  
4 subject to sentence for these felony offenses, and each  
5 of them a prior offender level 2. In case 39581, the  
6 Court makes the following findings in aggravation and in  
7 mitigation. The factor found by the Court in aggravation  
8 is found pursuant to North Carolina General Statutes 15A-  
9 1340.16(d)(20). And it is that the defendant in the  
10 commission of this offense acted with premeditation and  
11 deliberation. And the Court finds further pursuant to  
12 the same provisions of the North Carolina General  
13 Statutes that the defendant acted for pecuniary gain in  
14 the commission of the offense, the murder of Patricia  
15 Kimble. The Court finds the statutory factors in  
16 mitigation, and these factors are found by the  
17 preponderance of the evidence. North Carolina General  
18 Statute section 1340.16(e)(12)(18) and (19).

19           Upon considering the aggravating factor and  
20 the mitigating factors found, the Court concludes as a  
21 matter of law that the factor found in aggravation  
22 outweighs the factors found in mitigation. And the Court  
23 concludes as a matter of law that the defendant in this  
24 action is subject to sentence within the aggravated  
25 range, a prior record level 2 for the Class B2 felony of

1 second degree murder.

2 And the judgment of the Court on that finding  
3 is that the defendant, Theodore Mead Kimble, should be  
4 imprisoned and he is assigned to the North Carolina  
5 Department of Corrections to serve a minimum term of 204  
6 months and a maximum term of 254 months. And this  
7 sentence imposed by this Court shall commence at the  
8 expiration of any sentence the defendant is currently  
9 assigned to serve in the custody of the North Carolina  
10 Department of Corrections.

11 Judgment of this Court is entered next in  
12 case number 23656, wherein the defendant has entered a  
13 plea of guilty to the offense of conspiracy to commit  
14 first degree murder. In this action the Court makes no  
15 findings in aggravation or in mitigation. Upon the  
16 findings previously found that the defendant is subject  
17 to sentence at prior offender level 2 for this offense,  
18 the judgment of the Court is that this defendant,  
19 Theodore Mead Kimble, is to be imprisoned to serve a term  
20 of imprisonment assigned to the North Carolina Department  
21 of Corrections for a minimum term of 163 months, and a  
22 maximum term of 205 months. This sentence is to commence  
23 at the expiration of the sentence imposed by the Court  
24 for case 97 CRS 39581.

25 Judgment is entered next in case 98 CRS

1 23486. On the defendant's plea of guilty to the offense  
2 of first degree arson, the Court makes the following  
3 findings in aggravation and in mitigation. Pursuant to  
4 North Carolina General Statute 1340.16(d)(20), the Court  
5 finds by the preponderance of the evidence that this  
6 offense was committed for the purpose of avoiding  
7 detection in the murder of Patricia Gail Kimble, and it  
8 was committed for the purpose of covering up that murder.  
9 The Court finds the following statutory mitigating  
10 factors as previously found by the preponderance of the  
11 evidence, factors 12, 18 and 19. The Court concludes as  
12 a matter of law that the aggravating circumstance found  
13 outweighs the mitigating circumstances found, and the  
14 Court concludes in this action that the defendant is  
15 subject to sentence in the aggravated range at prior  
16 offender level 2 for this Class D felony offense. The  
17 judgment of the Court on these findings is that the  
18 defendant is sentenced to serve a term of imprisonment  
19 assigned to the North Carolina Department of Corrections  
20 for a minimum term of 82 months, and for a maximum term  
21 of 108 months. This sentence shall commence at the  
22 expiration of the sentence imposed by this Court in case  
23 number 97 CRS 23656.

24 Judgment is entered next in case number  
25 23242. That is 99 file number -- strike that -- 23241.

1 On the defendant's plea of guilty to the offense of  
2 solicitation to commit first degree murder, the Court  
3 makes the following findings in aggravation and in  
4 mitigation. Pursuant to North Carolina General Statute  
5 15A-1340.16(d)(5), this Court finds by a preponderance of  
6 the evidence that this offense was committed for the  
7 purpose of disrupting the enforcement of the laws, and  
8 that the act of paying someone to murder a person who  
9 would be expected to testify against the defendant in the  
10 prosecution of the charged murder of Patricia Gail Kimble  
11 is an act tending to disrupt or hinder the enforcement of  
12 the laws of this state. The Court finds the same  
13 statutory factors in mitigation as previously found. And  
14 the Court concludes as a matter of law that the  
15 aggravating factor found outweighs the mitigating factors  
16 found, and concludes that the defendant is subject to  
17 sentence in this action within the aggravated range prior  
18 offender level 2 on the Class C felony of solicitation to  
19 commit first degree murder. In that offense the judgment  
20 of the Court is defendant is to be confined to serve a  
21 term of imprisonment for a minimum of 108 months and for  
22 a maximum of 139 months, assigned to the North Carolina  
23 Department of Corrections. The sentence imposed by the  
24 Court in this action is to commence at the expiration of  
25 the sentence imposed by the Court in case 23486.

1           In the next action, which is 23242 on the  
2 defendant's previously entered and accepted plea of  
3 guilty to the offense of solicitation to commit first  
4 degree murder, the Court enters the same findings in  
5 aggravation and in mitigation as are recorded in case  
6 23241. Court finds in this action that the factor found  
7 in aggravation outweighs the factors found in mitigation.  
8 The judgment of the Court is in 23242 that the defendant  
9 should be confined to be assigned to the North Carolina  
10 Department of Corrections for a term of 108 months  
11 minimum and a maximum term of 139 months. And this  
12 sentence shall commence at the expiration of the sentence  
13 imposed by the Court in 23241.

14           Judgment shall be entered next by the Court  
15 in case 23243. In this action, upon the defendant's plea  
16 of guilty to solicitation to commit first degree murder,  
17 the Court makes those same findings in aggravation and in  
18 mitigation as are recorded previously in case 23241. The  
19 Court concludes in this action that the factor found in  
20 aggravation outweighs the factors found in mitigation,  
21 and enters judgment that the defendant shall be confined  
22 in this action to serve a term of imprisonment for a  
23 minimum term of 108, and a maximum term of 139 months.  
24 The sentence imposed by the Court in case 243 is to  
25 commence at the expiration of the sentence imposed by the

1 Court in case 23242.

2 Judgment shall be entered next in case 23244.

3 In that action the judgment of the Court is that upon the  
4 finding of the same factors in aggravation and in  
5 mitigation as were found by the Court in case 23241, the  
6 judgment of the Court upon the conclusion that the  
7 defendant is subject to sentence within the aggravated  
8 range as a prior offender level 2, that he be confined to  
9 serve a term of imprisonment of not less than 108 months,  
10 and not more than 139 months to be assigned to the North  
11 Carolina Department of Corrections. And this sentence  
12 shall commence at the expiration of the sentence imposed  
13 in case 23243.

14 Judgment to be entered next in case 23245.

15 In that action the Court makes no findings in aggravation  
16 or in mitigation. The defendant shall be sentenced  
17 within the presumptive range, prior offender level 2 as a  
18 Class C felon. The judgment of the Court is that the  
19 defendant should be confined to serve a term of  
20 imprisonment of not less than 96 months, and a maximum  
21 term of 125 months, assigned to the North Carolina  
22 Department of Corrections, and this sentence shall  
23 commence at the expiration of the sentence imposed by the  
24 Court in case 23244.

25 Judgment to be entered next in case 23246.



1 In this action the judgment of the Court is based upon  
2 the findings that the same aggravating factors and  
3 mitigating factors as found to exist by a preponderance  
4 of the evidence in case 23241 are found in this action.  
5 The Court concludes that the aggravating factor found  
6 outweighs the mitigating factors found. The judgment of  
7 the Court in this action is that the defendant is ordered  
8 confined to serve a term of imprisonment for a minimum  
9 term of 108, and a maximum term of 139 months. This  
10 sentence shall commence at the expiration of the sentence  
11 imposed by this Court in case 23245.

12 Judgment is to be entered next in case 23247.

13 In this action the Court makes findings in aggravation  
14 and in mitigation identical to those findings entered in  
15 case 23241. In this action the judgment of the Court is  
16 that the defendant should be confined to serve a term of  
17 imprisonment of not less and 108 and not more than 139  
18 months assigned to the North Carolina Department of  
19 Corrections. And this sentence is to commence at the  
20 expiration of the sentence imposed in case 23246.

21 The final judgment of this Court shall be  
22 entered in case 23248. In that action the Court makes no  
23 findings in aggravation or in mitigation. The judgment  
24 of the Court in that action upon the previously entered  
25 conclusion that the defendant is subject to sentence at

1 prior offender level 2 is that the defendant should be  
2 confined to serve a term of imprisonment assigned to the  
3 North Carolina Department of Corrections of not less than  
4 96 and not more than 125 months. That sentence is to  
5 commence at the expiration of the sentence imposed by the  
6 Court in case 23247.

7 Take the defendant, Sheriff.

8 MR. CRUMPLER: May we approach, Your Honor?

9 THE COURT: Yes.

10 (Counsel approach the bench.)

11 THE COURT: Sheriff Barnes, may I see you,  
12 please, at the Bench.

13 (Sheriff Barnes approached the bench.)

14 THE COURT: Is there anything further at this  
15 time, Counsel?

16 MR. ZIMMERMAN: Not for the defense, if Your  
17 Honor please.

18 MR. CRUMPLER: No, Your Honor.

19 MR. PANOSH: No further. Thank you, Judge.

20 THE COURT: Court's in recess, Sheriff.

21 (A recess was taken at 11:40 a.m.)

22 \* \* \* \* \*

23 **END OF TRANSCRIPT**

24 \* \* \* \* \*

25

C E R T I F I C A T E

This is to certify that the foregoing transcript of proceedings taken at the March 4, 1999 Session of Criminal Superior Court is, to the best of my knowledge, a true and accurate transcription of the proceedings taken by me in Stenomask recording and transcribed by me personally.

This the 1st day of July, 1999.

*Pamela K. Vaughn*

Pamela K. Vaughn  
Official Reporter & Notary Public  
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My Commission Expires:

October 3, 2000

