

NORTH CAROLINA  
 GUILFORD COUNTY

IN THE GENERAL COURT OF JUSTICE  
 SUPERIOR COURT DIVISION

FILE NOS. 97 CrS 39580  
 97 CrS 23654  
 98 CrS 23485

STATE OF NORTH CAROLINA )  
 )  
 v. )  
 )  
 RONNIE LEE KIMBLE, )  
 )  
 Defendant. )

VOLUME XVI  
TRIAL TRANSCRIPT

Transcript of proceedings taken in the General Court of Justice, Superior Court Division, Guilford County, Greensboro, North Carolina, on the 2nd day of September, 1998, at the August 3, 1998, Regular Criminal Session, before the Honorable C. Preston Cornelius, Judge Presiding.

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On behalf of the Defendant

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VERDICT.....2952

SENTENCING PHASE

ON BEHALF OF THE DEFENDANT:	<u>Direct</u>	<u>Cross</u>	<u>Redirect</u>
Helen Williams	2964	2970	--
Peggy Wilson	2972	2974	--
Louise Kirkman	2975	2977	--
Carl Foust	2978	2979	2981
James Stump	2982	--	--
James Stump (Voir Dire)	3000	--	--
Ronnie Lee Kimble, Sr.	3002	3014	--
Pat Crutchfield	3026	3028	--
Betty Rogers	3029	--	--
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CHARGE CONFERENCE.....3039

SIXTEENTH DAY

September 2, 1998

(Met, pursuant to evening recess of  
September 1, 1998, at 9:33 a.m.)

THE COURT: (Reading document)

Bring them back.

(Jury present. 9:40 a.m.)

THE COURT: Very pleased to have the jury panel back. Hope each of you had a nice evening and are feeling okay. Anyone on the panel experiencing any problems this morning? If so, please raise your hand and I'll talk to you about that.

The court reporter, Mrs. Garlick, has gotten the transcript. She's on vacation. She stayed up all night typing this for us so she went to great effort to provide you with this transcript. I hope you appreciate that. The Court will provide you with a copy of that.

You may return to the jury room again to begin your deliberations. When you've reached a unanimous verdict, knock on the door.

(Jury absent. 9:41 a.m.)

THE COURT: Court will stand at ease.

(Court at ease)

THE COURT: Do you know where Mr. Lloyd is?

MR. HATFIELD: I don't know, Your Honor. I was

in criminal court downstairs.

THE COURT: Here he comes now.

Okay. Ladies and gentlemen, the jury has indicated they have reached a verdict in this matter. They'll be coming into the courtroom very shortly.

The Court wants to warn each of you at this time that I will not tolerate any emotional outburst. If you feel like you're going to show any emotion here in the courtroom, you better leave now, because these officers have been instructed to identify those individuals who show such emotional outburst, and they'll be cited for contempt and they'll be either paying a fine or spending time in jail. So if you feel like you can't act as an adult and realize this is a court of law and these 12 people have been here for the last five weeks and have given this matter their very best effort. I know it's been difficult for the families and all involved. There will be a period of time that you may show emotion, but that will not occur until after this jury leaves the courtroom. So please remember, if you feel like you can't control your emotions or make any emotional outburst, then you suffer the consequences.

Bring them in.

(Jury present. 10:54 a.m.)

THE COURT: Okay. The jury foreman --

Mr. Lewey, are you still the foreman of this jury?

JURY FOREPERSON: Yes.

THE COURT: And has the jury reached a unanimous verdict as to all three matters?

JURY FOREPERSON: Yes, sir.

THE COURT: And have you signed and dated those verdict sheets, sir?

JURY FOREPERSON: Yes, sir, I have.

THE COURT: Will you please hand those to the court officer.

(Complied)

THE COURT: Let the record show the jury in the case of the State of North Carolina v. Ronnie Lee Kimble has reached unanimous verdicts as to all three matters; that the jury foreman, Mr. William Lewey, has signed and dated the verdict sheets; that the State is represented by Assistant District Attorney Mr. Richard Panosh; that the defendant is present and represented by counsel, Mr. Hatfield and Mr. Lloyd.

Madam Clerk, will you please take the verdicts.

THE CLERK: Members of the jury, you have agreed upon your verdicts. You say you find the defendant, Ronnie Lee Kimble, in 97 CrS 39580, guilty of first-degree murder. You also found issue (a) on the basis of malice, premeditation and deliberation, and

answered yes. Issue (b) under the first-degree felony murder rule, and answered yes.

As to 98 CrS 23485, you found the defendant, Ronnie Lee Kimble, guilty of first-degree arson.

As to 97 CrS 23654, you say you find the defendant guilty of conspiracy to commit murder.

Are these your verdicts and do you still assent thereto?

(Affirmative response)

THE COURT: Please poll the jury.

(The jury was polled in open court by the clerk; each juror answered that the verdict returned by the foreperson was his or her verdict and each still assented thereto.)

THE COURT: Members of the jury, at this time you may take your recess, and you'll need to be back at 2:00. We'll begin the sentencing phase evidence at 2:00, so you need to be back in the jury room at 2 p.m.

Again, be very careful at this point that you do not discuss this case any further among yourselves or with anyone else or allow anyone to talk to you about the case or talk about the case in your presence. Keep an open mind because we've got the sentencing phase to go. Please be back at 2 o'clock. And again, remember my instructions. Have a nice morning, and I'll see you

at 2.

(Jury absent. 11:05 a.m.)

THE COURT: Any matters for the record at this point?

MR. PANOSH: Not for the State.

THE COURT: Defense?

MR. LLOYD: No, Your Honor.

THE COURT: All right. The second phase, sentencing phase, will the State be in a position to present evidence at 2 o'clock?

MR. PANOSH: We will submit the evidence in the first phase only.

THE COURT: That will be the only evidence you'll be submitting?

MR. PANOSH: Yes, sir.

THE COURT: Aggravating factors you intend to submit?

MR. PANOSH: Your Honor, I'd like to consult my other folks before I finalize that, but I would submit at this point, I believe there is certainly pecuniary gain under 15A-2000. Under paragraph (e)(5) capital felony was committed while the defendant was engaged in an arson. And under (e)(10) defendant knowingly created a risk to more than one person by means of a weapon or device which would normally be hazardous to the lives of



more than one person. By that, I'm referring to the arson and the fire fighters.

THE COURT: At this point, the Court is not going to rule on that. I'll give you a chance to submit those at 2:00 when we begin the sentencing phase.

MR. PANOSH: Yes, sir.

THE COURT: Will the defense attorneys, Mr. Lloyd and Mr. Hatfield, be in a position to present your evidence at 2:00?

MR. LLOYD: Yes, sir. I think we'll be in a position to begin.

THE COURT: Do you have any projection of how long the evidence might take? I know we're getting close to the Labor Day weekend.

MR. LLOYD: Yes, sir.

THE COURT: The jurors have some concern.

MR. LLOYD: It's difficult to say, Your Honor. It just depends so much on the witnesses, Your Honor.

THE COURT: All right, sir.

MR. LLOYD: I just -- I can't predict at this point.

THE COURT: All right, sir. Be ready to go at 2:00. You may take the defendant in custody.

THE DEFENDANT: I love you-all.

MR. PANOSH: Your Honor, we will -- if counsel

is agreeable, I'll meet with them to see if we can stipulate to mitigating factors.

THE COURT: All right, sir.

MR. PANOSH: If that will assist.

THE COURT: I want to thank those of you who are here watching this trial. I appreciate very much you following the Court's instructions. You may now show any emotions you'd like to show. And court is in recess until 2:00.

(Luncheon recess)

AFTERNOON SESSION

THE COURT: Any matters we need to take care of before we bring the jury in?

MR. LLOYD: Yes, sir, Your Honor. If we may approach --

THE COURT: Yes.

MR. LLOYD: -- with the court reporter?

(The following side-bar conference was held out of the hearing and presence of the jury:)

MR. LLOYD: Judge, it would be my intention to call the defendant's father, Ronnie, Sr., to the stand. I understand Mr. Panosh has a number of witnesses, Pardee and Nichols, whom I think would say that basically Ron, Sr., knew that

Ted was dealing in stolen property at the business. Now, it is our very strong contention that has absolutely no relevance to this sentencing hearing. But out of an abundance of caution, I wanted to bring that to the Court's attention. And basically if we could get a prior ruling on that. I mean I just don't see what conceivable relevance it might have to Ronnie Kimble.

THE COURT: I thought there was evidence already in the record the father asked someone to bring one of those generators --

MR. PANOSH: That's my recollection. In addition to that, I think the record is very clear that there was a basic insurance fraud here that Mr. and Mrs. Kimble submitted that they had moved out of their home and into Ronnie's trailer and thereby collected sixteen thousand odd dollars. And the defense's own witnesses, specifically Kimberly and Ms. Wilson, said that never happened. So I think those two issues go to his

credibility.

THE COURT: If he testifies, I think his credibility is at issue and he'll be allowed to cross-examine.

MR. LLOYD: Well, let me ask you this, Your Honor. My impression -- correct me if I'm wrong. I thought the rules of evidence -- if you attack the witness' credibility, the way you do it, the rules are clear on this, then I thought collateral matters on prior conduct when you bring up somebody else, it says in my opinion this person is not honest, his reputation in the community is one of dishonesty.

THE COURT: Goes to character evidence. Yes.

MR. LLOYD: Yes, sir.

MR. PANOSH: Under impeachment, though, I can ask him about prior acts of misconduct as long as I have good faith testimony.

THE COURT: He's correct about that too.

MR. LLOYD: As long as they're relevant. But those go to show motive, opportunity,

intent, something other than character witness, Your Honor. Character, the rule is clear. Character evidence --

THE COURT: If he asks him something for impeachment purposes, just --

MR. LLOYD: I understand that, Judge. But the way you impeach a witness on credibility -- the rules are very specific on that -- is through another witness who says you -- you know, he's not truthful. His reputation in the community is not truthful. You are not allowed to ask that witness what he bases that on. You can't go to prior specific acts of untruthfulness. And if you're talking about 404(b) evidence, that goes to show something other than character evidence. That's the clear rule.

THE COURT: What did you find out during the conference? Anything?

MR. HATFIELD: Uh-uh.

MR. PANOSH: I think it's absolutely clear that he can be asked about prior acts of misconduct as long as they relate to credibility. His credibility. Not

Ronnie's. And I think that acts of fraud and larceny, specifically, and any acts of perjury, which is what you had in that false statement, are relevant to his credibility. If your Honor needs me to, I can find case law on that.

MR. LLOYD: Well, that may have been the rule 30 years ago before the federal rules.

THE COURT: I think the State can certainly argue in evidence there was a question about him -- question was the generator a stolen piece of property. I think again it's been testified --

MR. HATFIELD: All right. Let's talk about the rental of the trailer. There is no evidence that any request was made of Ronnie Kimble or anybody that had any ownership interest in that trailer to participate in that scheme.

THE COURT: I think you're right. As to Ronnie.

MR. HATFIELD: Or as to Ronnie, Sr. And that's not insurance fraud anyway. You know. If you can persuade -- if I have a

right to per diem allowance because of a casualty claim, and I tell them that I need -- even though I'm a single man, I have a three-bedroom house with a two-car garage, which is essentially what Ted said to them, it's up to them to protect themselves to say you don't need that. There was no fraud. Was consummated just because one -- just because one person thinks that a two-hundred-dollar-a-night hotel is appropriate and another person thinks an eighty-nine-dollar hotel is appropriate, that doesn't mean you're committing fraud when you ask for the two-hundred-dollars-a-night one. This stuff is calculated to shed this young man's right to have his parents talk to the jury about whether to impose the death penalty upon him. And these promises of impeachment which are coldly calculated to dissuade these people who love their child from taking the witness stand are not in good faith. There's nothing about insurance fraud that Ron, Sr., is involved in. If he's involved in

insurance fraud, they should have charged him a long time ago. And as far as whether or not he knew that a generator that he observed those young men in possession of --

THE COURT: The evidence -- the jury has already heard that.

MR. HATFIELD: Well, fine. We don't know that it was stolen.

THE COURT: Probably was.

MR. HATFIELD: We don't know. Every day of the week decisions are made by law enforcement officers and assistant DA's concerning whether or not an item that is stolen was known to have been stolen by somebody who possessed it.

THE COURT: I'm probably not going to let it in. I won't jeopardize the trial on this basis.

MR. PANOSH: I understand your ruling.

THE COURT: I'm going to at this time keep it out. I think you've got a good trial at this point. Don't jeopardize it.

MR. PANOSH: We'd only say it's



admissible under 608(b), specific instances of conduct of a witness, for the purpose of attacking his credibility, other than conviction of a crime may -- and then it goes on to say may not be proved by extrinsic evidence, which is accurate. We cannot bring up someone to rebut it.

THE COURT: I think he ought to be able to say what he wants to say about his son at this point of the evidence.

MR. PANOSH: Yes, sir.

MR. LLOYD: Yes, sir. 608 covers the situation, Your Honor.

THE COURT: Denied.

MR. HATFIELD: I need to talk to him for 30 seconds.

(Open court resumed)

THE COURT: All right. Bring them in.

MR. LLOYD: We're ready, Your Honor.

THE COURT: All right. They're bringing the alternates down to the courtroom.

(Three alternates present)

THE COURT: Ms. Caldwell, how is the foot?

JUROR CALDWELL: It's fine.

THE COURT: Did they find a fracture?

JUROR CALDWELL: Yes, they did.

THE COURT: Okay. You got it in a cast?

Immobilize it?

JUROR CALDWELL: Yes.

THE COURT: Okay. I've got some information about the county's policy with regard to that. I'll be glad to get that to you.

JUROR CALDWELL: okay. Thank you.

(Jury present)

THE COURT: Very pleased to have the jury panel back. Anyone having any problems this afternoon I should know about, if you'd raise your hand, I'll be glad to talk to you about that.

Okay. We're about to begin the sentencing phase. State wish to present any evidence?

MR. PANOSH: We'd rely on the evidence submitted in the first phase.

THE COURT: All right, sir. On behalf of the defendant, evidence?

MR. LLOYD: Yes, Your Honor. Defense would call Mrs. Helen Williams to the stand, please.

(Whereupon, the witness was first duly sworn.)

HELEN WILLIAMS, being first duly sworn, was examined and testified as follows during DIRECT EXAMINATION by

MR. LLOYD:

Q. Mrs. Williams, would you state your name for the jury, please.

A. Helen Williams.

Q. All right. And where do you live, Mrs. Williams?

A. 6328 Monnett Road, Climax, North Carolina.

Q. And are you employed now, Mrs. Williams?

A. No. I'm retired.

Q. All right. And what did you do before you were retired?

A. We made wood louvers.

Q. And do you know Ronnie Kimble, the defendant in this case?

A. Yes, I do.

Q. And how do you know him?

A. I guess I met Ronnie through going to Monnett Road Baptist Church. I've known him for over eleven years.

Q. And did you have any contact with Ronnie other than through the church?

A. Oh, yes. Ronnie helped me probably from the time he was 14 until he entered the Marines.

Q. All right. When you say helped, what do you mean by that, Mrs. Williams?

A. Basically, mostly outdoors. Repairing lawn mowers. Mowing. Maintenance. Anything -- actually anything, including carrying the grandchildren to the dentist.

Q. And was he paid for that?

A. Oh, yes.

Q. All right. And how did you pay him, Mrs. Williams?

A. I paid Ronnie by the hour. As a matter of fact -- and I really can't remember whether I sought out Ronnie to get him to help me or whether he -- it was just generally known that he was a willing worker. But one of my memories is that I didn't have time -- it wasn't like that Ronnie was working for the company and used the time clock. So I told him early on that I would just get him to keep up with his time daily and at the end of every week I would settle up with him. And I let him know, you know, that I really just didn't have time to do that. But knowing that you -- I really felt like I could trust him, and knowing that you really should keep a check on kids, I did for the first two or three weeks. I kept a check on Ronnie's time. And every week, when he would bring me his time, it was to the minute.

Q. All right. So you were kind of looking over his

shoulder even though you told him he could keep his own time?

A. Yes.

Q. And during that time when you were checking on him, you didn't see any evidence that he had fudged on his time at all?

A. None whatsoever.

Q. All right.

A. As a matter of fact, if he knocked off five minutes to do something for himself that I didn't even know about, he would deduct that. I was very much impressed.

Q. Now, you spoke of the business. Were you helping your husband with the business --

A. Yes.

Q. -- that you-all have?

A. Uh-huh.

Q. So basically you were involved in the running of that business?

A. Yes. Uh-huh.

Q. How many employees did you-all have, Mrs. Williams?

A. Oh, it varied. From two to twelve.

Q. Now, how would you describe Ronnie as a worker?

A. Absolutely the most cheerful, willing worker

I've ever met in my life. I had a half a dozen kids of my own, so all during the fifties and sixties and seventies, I've had occasion to know a lot of kids. My kids' friends and relatives, and whatnot. And I can truthfully say that in all the years that I knew Ronnie, he was beyond the shadow of a doubt the nicest kid I ever knew.

Q. Now, Mrs. Williams, did there come a time when you were asked to sign on a note for Ronnie?

A. Yes. I think Ronnie was 17, and he was going to buy a truck, and I didn't have any hesitancy whatsoever being willing to cosign the note for him. And when that note was -- in the meantime, I didn't hear -- I had -- he was meeting his payments and everything.

Q. Ronnie was responsible --

A. Yes.

Q. -- for the payments; you were not?

A. Yes. Ronnie made the payments. And after -- after his commitment to that note was paid, I got a call from the banker, which I considered very unusual, and he said Mrs. Williams, when you signed this note for Ronnie, I didn't know whether you knew what you were doing or not.

MR. PANOSH: We object, please.

THE COURT: Sustained.

THE WITNESS: But apparently you did.

MR. LLOYD: Your Honor, if I may, the normal rules of evidence do not apply to the sentencing hearing. Certainly she's not relating something that the banker is going to lie about.

THE COURT: Sustained.

Q. All right. Let me ask you this, Mrs. Williams: As a result of the phone conversation with the banker, did you learn that Ronnie had completed his obligation?

A. Never late and usually two or three days early. And he had completed it.

Q. Mrs. Williams, if you were asked what adjectives you would use to describe Ronnie Kimble, what would you tell the ladies and gentlemen of the jury?

A. Cheerful. Optimistic. Happy. And very -- very considerate, very gentle with children, animals, and just a very up person.

Q. Now, Mrs. Williams, did you have an opportunity to observe Ronnie in terms of how he was able to learn things?

A. What Ronnie did for me, he seemed to be mechanically and everything -- he seemed to be quite capable. I got this feeling that reading -- I'll tell you the truth. I got this feeling he was a lot like my granddaughter. Highly intelligent but with attention

deficit disorder is the feeling that I got.

Q. Did you -- did you feel like that he was not -- that he was not up to par academically, that he had problems in that area?

A. Yes. To the extent that he seemed to be very intelligent. But as I say, my granddaughter makes in the high 90's on her tests, but just has these other difficulties. It's hard to describe.

MR. LLOYD: Yes, ma'am. Thank you,

Mrs. Williams.

MR. PANOSH: Ma'am, wait a minute, please.

MR. LLOYD: Mrs. Williams, Mr. Panosh needs to ask you just a few questions.

THE WITNESS: Oh, I'm sorry.

CROSS-EXAMINATION by MR. PANOSH:

Q. You indicated that he worked for you?

A. Yes, sir.

Q. What years did he work for you?

A. It was up from the time he was about 14 until the time he entered the Marines, and I'm not exactly sure when that was.

Q. And you indicated that there was a loan, and he was 17 years of age; is that correct?

A. Yes, sir.

Q. And when was that completed; paid off?



A. I really don't know whether it was two years later or three years later. It just sort of runs together with me since I retired.

Q. Did he ever deceive you?

A. No, sir.

Q. Did he ever come to you for personal advice?

A. On occasion.

Q. Did that personal advice include a time when he and a young lady --

MR. LLOYD: Well, objection, Your Honor.

THE COURT: Overruled.

Q. Did that personal advice include a time when he and Joy Dyer had a specific personal problem?

A. Yes, sir.

Q. And did you advise him to speak with his parents about that?

A. Yes, sir. I just -- I just told him that -- this was like in the middle of the night and I was surprised. And I just told him that I didn't consider that I was real good at advising him like that, but there were agencies and places that could give him some good advice.

Q. So did you advise him?

A. Did I advise him?

Q. Yes. About that problem?

A. No. Not really.

Q. Did you tell him not to go to his parents?

A. Oh, no, sir. Uh-uh. He had told me he couldn't go to his parents. You know how it is with kids.

Q. I understand what you said, ma'am. My question to you is did you tell him not to go to the parents?

A. I'm sure I didn't.

MR. PANOSH: No further questions.

THE COURT: Step down, ma'am. Next witness, please. You may step down.

(Witness stood aside)

MR. LLOYD: Ms. Peggy Wilson, please.

(Whereupon, the witness was first duly sworn.)

PEGGY WILSON, being first duly sworn, was examined and testified as follows during DIRECT EXAMINATION by

MR. LLOYD:

Q. Ms. Wilson, would you state your name for the record, please, ma'am.

A. Peggy Wilson.

Q. Okay. If you can keep your voice up so the jurors all the way on the end can hear you.

And where do you live, Ms. Wilson?

A. 3513 Chippendale Trail, Greensboro.

Q. Are you employed, Ms. Wilson?

A. No, sir.

Q. And how do you know Ronnie Kimble?

A. I met Ronnie through church. He was about 12, 13 years old when we went down there.

Q. And did you maintain that relationship with him?

A. Yes, sir.

Q. And did there come a time, Ms. Wilson, when he stayed in your home?

A. Yes.

Q. And when was that, if you remember?

A. I don't remember exactly when. They were -- he was, you know, like I said, very young at that time.

Q. What was the duration of his stay?

A. A week.

Q. All right. And did you trust him in your home, Ms. Wilson?

A. Absolutely.

Q. Was there anything that you saw that indicated that trust was justified?

A. Well, I know there's been things -- you know, just like in any household that things have been left laying around, loose change, or whatever, valuables maybe, and nothing was ever gone. It was always there.

Q. Now, did you -- well, let me ask you this, Ms. Wilson: If you had to choose adjectives to describe the Ronnie Kimble that you knew, how would you describe

him?

A. He's honest. He's pleasant. He's cheerful. He's a hard worker. Dependable. Loving. Cares for other people.

MR. LLOYD: That's all I have, Your Honor.

CROSS-EXAMINATION by MR. PANOSH:

Q. Did you know Patricia Kimble?

A. Yes. Not real well, but I knew her.

Q. And what was your impression of her?

MR. LLOYD: Well, objection, Your Honor.

THE COURT: Overruled.

THE WITNESS: I liked Patricia. She's a very nice person.

Q. What about Theodore Kimble? Do you know him?

A. Yes, sir.

MR. LLOYD: Objection, Your Honor. Not only is it beyond the scope of what we asked on direct, it is entirely irrelevant to this case.

THE COURT: Overruled.

Q. Do you know Theodore Kimble?

A. Yes.

Q. And what was your opinion of him?

A. The same as Ronnie. He's a very nice person.

MR. PANOSH: No further questions.

THE COURT: Step down, ma'am. Next witness,

please.

(Witness stood aside)

MR. LLOYD: Mrs. Louise Kirkman, please.

(Whereupon, the witness was first duly sworn.)

LOUISE KIRKMAN, being first duly sworn, was examined and testified as follows during DIRECT EXAMINATION by

MR. LLOYD:

Q. Mrs. Kirkman, would you state your name for the record, please, ma'am.

A. Louise Kirkman.

Q. All right. And how are you employed, Mrs. Kirkman?

A. I work part-time for Harris Corporation. Retired from AT&T.

Q. And how do you know Ronnie Kimble?

A. Through church.

Q. Okay. How long have you known him?

A. About eight years.

Q. And what was the nature of your relationship with Ronnie Kimble?

A. We just become real good friends. He'd always come over and help me mow the yard. I love him like a son. He was always so nice to me. Sweet. We would talk. I just love him.

Q. Now, did you -- did there come a time

afterwards -- after Ronnie -- well, let me ask you this, Mrs. Kirkman: After Ronnie was arrested, did you continue to hear from him?

A. Always. I write him once or twice a week. And he writes me and calls me all the time.

Q. Okay. And when he calls you from the jail, what did you talk about? Just -- without saying what you said, just generally speaking?

A. Just asked him how he was doing. And we'd laugh. And I'd send him little jokes sometimes in the letters and he would laugh about that and tell me he was glad to get them. He was always glad to hear from me.

Q. If you had to choose adjectives to describe the Ronnie Kimble that you knew, Mrs. Kirkman, what would you say?

A. He's a very sweet person. He's thoughtful. He was always so considerate of me. And always offered to help me. And he just thought of me as another mother. And that's the way I looked at him -- as a son.

He'd see me out and he'd stop and see what was wrong with me. He didn't know. I'd know some people up the road and he'd stop and check on me and see if I was all right. He just couldn't be beat. Just like my son.

MR. LLOYD: That's all I have, Your Honor.

THE COURT: Mr. Panosh?

CROSS-EXAMINATION by MR. PANOSH:

Q. Do you know Patricia Kimble?

A. No, I don't.

Q. Do you know Theodore Kimble?

A. I've talked to him a couple of times.

Q. And what was your opinion of Theodore Kimble, his brother?

MR. LLOYD: Objection once again, Your Honor.

THE COURT: Overruled.

THE WITNESS: I thought a lot of him too.

Q. In your discussions with Ronnie, did he ever tell you about the pictures of that young lady he had in his Bible?

MR. LLOYD: Well, objection, Your Honor.

THE WITNESS: No.

THE COURT: Overruled.

THE WITNESS: No.

Q. Do you know why he'd have pictures of some woman other than his wife?

MR. LLOYD: Well, object, Your Honor.

THE COURT: Overruled.

THE WITNESS: No. I didn't ask him any questions like that.

MR. PANOSH: No further questions. Thank you, ma'am.

THE COURT: Step down, ma'am.

(Witness stood aside)

THE COURT: Call your next witness.

MR. LLOYD: Mr. Carl Foust, please.

Thank you, Mrs. Kirkman.

(Whereupon, the witness was first duly sworn.)

CARL FOUST, being first duly sworn, was examined and testified as follows during DIRECT EXAMINATION by

MR. LLOYD:

Q. Mr. Foust, if you could state your name for the record, please, sir.

A. Carl Foust.

Q. All right. And how are you employed, Mr. Foust?

A. I work for American General Life Insurance.

Q. Okay. And how long have you worked for them?

A. Well, we merged, so it's hard -- six years.

Q. Now, how do you know Ronnie Kimble?

A. From church.

Q. All right. And what was your position in the church?

A. Sunday school superintendent. Bus driver.

Q. And what did Ronnie do for you in the church?

A. Taught Sunday school; filled in when I needed him; was real good with the kids. Helped me occasionally when I needed him on the bus.



Q. Did he seem to have a good rapport with the kids in the Sunday school?

A. Kids loved him.

Q. And you said he filled in. When you say that, Mr. Foust, what do you mean?

A. Well, if I had a teacher that couldn't be there or something, he'd fill in for me. And then later on he took a class of his own.

Q. Do you remember what age group that class was?

A. Six-to-eight-year-old boys.

Q. Now, how would you describe Ronnie Kimble -- well, let me ask you this, Mr. Foust: Did you have any other dealings with Ronnie other than at church?

A. Yeah. He's done work around my house for me. He's done some things for my wife.

Q. Okay. And how would you describe his work habits and characteristics?

A. He's a good worker.

MR. LLOYD: That's all I have, Your Honor.

CROSS-EXAMINATION by MR. PANOSH:

Q. Did you know Ted Kimble, Theodore Kimble?

A. Yes.

MR. LLOYD: Well, objection, Your Honor.

THE COURT: Overruled.

Q. What's your opinion of him?

A. As far as I know, Ted is a good boy. He did things for me too.

Q. Have you testified previously for Ted or Ronnie?

A. I was at the hearing --

MR. LLOYD: Well, objection, once again.

THE COURT: Sustained.

Q. Your position at the church, is that paid or voluntary?

A. It's voluntary.

Q. And how long have you worked there, sir?

A. Since 1984.

Q. And who do you work for?

A. The Lord.

Q. Okay. And while you're working there in the church, who is your immediate supervisor?

A. I don't answer to anybody.

Q. Who is the pastor, sir?

A. Ronnie Kimble.

Q. Ronnie, Sr.?

A. Yes.

Q. And in fact, isn't his relationship with you essentially that of a supervisor?

A. Well, this is an independent Baptist church, so we're not set up that way. He's the pastor and he's in

charge of everything. But as far as answering to somebody, not really.

Q. So he's also in charge of the Sunday school program that you are responsible for; is that right?

A. Well, he's in charge of everything. He's the pastor.

Q. So would it be fair to say, sir, that you work under his direction?

A. As pastor, I do. Yeah.

Q. And you've worked that way under his direction since 1984?

A. Right.

Q. Pretty much on a daily basis?

A. Yeah.

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

MR. LLOYD: Mr. -- hold on just a second, Mr. Foust.

REDIRECT EXAMINATION by MR. LLOYD:

Q. Mr. Foust, are you up here testifying because Ron Kimble, Sr., asked you to testify?

A. No, sir.

Q. Are you up here of your own volition?

A. Yes.

MR. LLOYD: That's all I have, Your Honor.

THE COURT: Step down, sir.

Members of the jury, you may stand and stretch, if you'd like.

(Witness stood aside)

THE COURT: Next witness, please.

MR. HATFIELD: Next witness is James Stump.

(Whereupon, the witness was first duly sworn.)

JAMES STUMP, being first duly sworn, was examined and testified as follows during DIRECT EXAMINATION by

MR. HATFIELD:

Q. Mr. Stump, you testified before, didn't you?

A. Yes, sir.

Q. And you're Ronnie Kimble's father-in-law?

A. That's right.

Q. Will you tell us again, you may have covered some of this before, but when did you meet Ronnie?

A. I met Ronnie about 14 years ago. Well, actually about 12 years ago. He was 14. And I met him at the church too.

Q. And at that time did he become acquainted with your daughter?

A. I think more or less become buddies. I become his buddy too. And we got pretty close. And it's just kind of something that just got, you know, tighter and tighter. And him and Kim went together there for -- for

a little bit. You know. For a while. Then they kind of broke it off. They went separate ways. And then they finally got back together later.

Q. When they went together that first time, do you remember how old Kim was?

A. Probably somewhere around -- if you call it puppy love is what I call it, probably around 15.

Q. And how long did that last?

A. Probably on up to about -- I would say she was probably 17.

Q. And did that include going out on dates? Did they go out on dates?

A. You know, I really don't know.

Q. Did they just get together around each other's house?

A. I think it was more or less just around the house. They may have went anywhere -- if they went anywhere like that, usually me and Judy or somebody was with them.

Q. Now, you were quite a sportsman when you were a little younger, weren't you?

A. Yes, sir, I was.

Q. And what was your principal sport?

A. I played a lot of softball when I got to the age I couldn't play baseball.

Q. Did you involve yourself with any softball activities with Ronnie?

A. Well, Ronnie -- we did -- me and Ronnie and Kim, we would play in the backyard usually on Sunday afternoons. Even when -- at the age of 14, he would come at the house and we would get back in the backyard and that's where we would play. But Ronnie never played on a team with me.

Q. Did you form any opinions at that time about his sportsmanship and his attitude about playing games and that sort of thing? Anything you can tell the jury?

A. Well, Ronnie was a good boy, but I don't think he was that good in sports.

Q. He just didn't have the athletic ability?

A. Not what I could see.

Q. Do you remember his activities with yard care and lawn mowing and all that?

A. I sure do.

Q. Can you tell the jury -- I know they've heard it before, but can you tell them what your observations were about that?

A. Well, some of the work I seen Ronnie do, Ronnie was good at it. He done excellent work like that. Of course, I didn't follow him around all the time. One of the ladies here that lived down below us he did a lot of

work for. And if you go by there now, she's got one of the prettiest yards you can see, and a lot of that is because of Ronnie Kimble.

Q. So are you saying that he was capable of sticking to his guns and doing a good job --

A. I sure do.

Q. -- and works hard?

A. Certainly.

Q. Do you know whether he's got -- what's his reputation for honesty and truthfulness?

A. Well, my house was always open. He'd come -- he would come and go when he got ready. Like I said, he hung around there quite a bit. And there was probably always change or something like that or some kind of piece of gold, you know, like a ring or something laying around, it was never touched. We never had a problem like that. He even knew where the key is, and still does know where the key is, where if he wants to he can get in and out of the house.

Q. Did -- as time went by, Ronnie and your daughter drifted away from one another and there was a period when they were really not friends; is that right?

A. That's right.

Q. Did you continue to be friends with Ronnie during that period?

A. Ronnie would -- even when Ronnie was dating somebody else, he'd always either come by the house or someone -- he wanted to know our opinion. We tried to be honest with him because we would flat give him our opinion. And sometimes he didn't particularly like it, but we'd give him our opinion because that's what he come by there for.

And I've seen Kim follow him all the way out of the house and give her opinion all the way to the car, and vice versa, if they was in a car or truck. Sometimes they'd be in a car and sometimes they'd be in a truck.

Q. Now, are you saying when he wasn't dating Kim he would bring his friends over to your house?

A. Sure would.

Q. Would that include lady friends he had?

A. That was the ones that he would bring most of the time.

Q. During these years when you were watching Ronnie grow up, did you have occasion to observe Ted?

A. I knew Ted as far as just knowing somebody. I probably know some of the people in here on the jury probably better than I really knew Ted. I just knew of Ted and I'd speak to Ted, but that's as far as we ever got.



Q. Did you have a chance to observe the relationship or the interaction between Ted and Ronnie?

A. Ted and Ronnie just didn't get along. I don't know if it's age difference -- I think what it was with Ted was Ted was older. He wanted to do his things and he didn't want little brother hanging around him.

Q. Well, even if they didn't get along, did Ted have the ability to boss Ronnie or correct Ronnie?

A. Most of the time.

Q. He did?

A. Yeah.

Q. And what did you see of your own knowledge that let you know that?

A. Just by some of the conver- -- when they'd be talking or something of that sort. Just little things. Like, Ronnie go on, or something like that right there. It was nothing major. Again, I look at it as you've got an older brother and a little brother.

Q. So when --

A. My brother did me the same way.

Q. Were you a younger brother?

A. I was the baby in my family.

Q. And did you get bossed by the bigger brothers?

A. All the time.

Q. Do you -- do you feel that Ted somehow, even

though Ronnie and Ted may not have been close, that he had some control over Ronnie?

A. No. I don't think he had control over Ronnie.

Q. So you wouldn't call him a domineering person --

A. No.

Q. -- in a relationship?

A. See, that's what I'm saying. I went through the same situation growing up. My brother would boss me around, but he couldn't -- that was as far as he could go with it.

Q. Now, as the years went by then, of course, Ronnie began to get close to Kim again and they decided to get married, didn't they?

A. Right. Ronnie was on float overseas and he called one day. Of course, I think him and Kim had been writing off and on for a while there. He give me a call. And I tried to tell them, I said, Please, don't do this. And of course, I talked to Ron on the telephone. I said, Let's wait till we get out of the military. I said, Both of you-all save your money, get out of the military. I said that's the best way to be. At least you've got something to get started on.

Q. So did they decide to get married anyway?

A. They decided to get married anyway.

Q. So when they decided to get married, they didn't

really have a current relationship that led to that marriage, they sort of had an old relationship that --

A. That's right.

Q. -- patched together long distance? Would that be fair to say?

A. That's it. I think Ronnie and Kim always liked each other, though, from day one.

Q. In your observations of the relationship between those two young people, did either one of those people dominate the other?

A. I didn't see it.

Q. What would you tell this jury about Ronnie's way of handling himself with Kim?

A. I think Ronnie, as far as a husband, was about as good as a husband could be. What I could see with him and Kim -- and believe me, I would not take up for my daughter and I wouldn't take up for Ronnie. If I'd seen something, I'd let him know about it. That's just the way I am.

But as far as those two, they got along great. They tried to work hard. Tried to have things. Kim, I think, more or less looked after more of the money part of it than Ronnie did. And Ronnie did sell plasma and pick up stuff like that so he could have extra money. But they were trying to pay for this mobile home, cars,

different things. So it takes money to do that. I went through the same thing, me and my wife. Everybody does that when you're young.

But as far as their relationship, as far as a husband, Ronnie was just about as good as anybody you could see. And I'm not saying that because I know Ronnie.

Q. Well, I'm not asking you about Kim's attitude toward Ronnie but strictly Ronnie's behavior toward Kim?

A. It was excellent.

Q. It was excellent?

A. It was excellent.

Q. Did you ever see any signs of short temper or violence demonstrated by Ronnie towards your daughter?

A. I never seen any. Doesn't mean times that might not have been something there, but I never saw anything at all.

Q. Now, during the period of time that Ronnie has been waiting for trial in the Guilford County jail, have you had a chance to visit him and talk to him?

A. Unless it was a day where I couldn't get there, or like if they had something over there where you couldn't get in the jail, I visit Ronnie I think every day maybe but one, and that's when I'd be out of town. But I've been there and I've talked to Ronnie once or

twice every week on the phone.

Q. Has Ronnie -- what sort of attitude about his religious beliefs and his hope for the future has Ronnie indicated to you during this period while he was waiting for trial?

A. He was hoping when everything like this right here happened that when he got out, that he would be able to go back -- maybe to Liberty University and go to school. Him and Kim I think was going to try to get involved in something up there themselves and go back to school.

Q. Strictly with regard to Ronnie's feelings and not anything having to do with Kim's feelings, what -- has Ronnie maintained his Christian faith while he's been incarcerated?

A. As far as I know. Except for one situation.

Q. And has he always continued to maintain hope and belief in God?

A. Oh, yeah. Still does. To this day.

Q. If Ronnie Kimble's life is spared, will he continue to serve God or will he become cynical and bitter?

MR. PANOSH: Objection.

THE COURT: Sustained.

Q. Do you know whether his religious beliefs will

withstand any decision that this jury may have?

MR. PANOSH: Object.

THE COURT: Sustained.

Q. How -- how strongly are these beliefs that he holds, if you know?

A. Knowing Ronnie like I do, I think Ronnie will always be like he is as far as religious beliefs. I don't think he could change that.

MR. HATFIELD: Nothing further. Thank you.

MR. PANOSH: My we approach?

THE COURT: Yes, sir.

(The following side-bar conference was held out of the hearing of the jury:)

MR. PANOSH: Opened the door.

MR. HATFIELD: Opened the door to what?

THE COURT: Whatever has been -- what he wants to put in.

MR. PANOSH: Your Honor, we'd ask we be allowed to inquire into those letters or in the alternative to have the testimony stricken.

MR. HATFIELD: That is ridiculous.

THE COURT: You put it in.

MR. HATFIELD: What are we talking about?  
I specifically asked this man --

THE COURT: You asked him if he was a good husband. Carrying on an affair with a lady --

MR. HATFIELD: No. I did not ask him if he's a good husband. I challenge the Court to show me that language. I asked what his attitude was, not his wife's attitude toward him and not his attitude toward marriage. His attitude toward religion. I did not open any door to that slime.

THE COURT: You asked about his Christian faith while incarcerated.

MR. HATFIELD: You can't test Christian faith with that slime.

THE COURT: That letter tests it.

MR. HATFIELD: Can't test all of it. We'll have Janet Smith come in here.

THE COURT: It's relevant for the purposes of sentencing on a probative basis.

MR. HATFIELD: What is relevant?

THE COURT: Has he been a good husband. Evidently, he's not. Carrying on an affair while in jail.

MR. HATFIELD: He did not carry on --

THE COURT: He's got all these foul letters.

MR. HATFIELD: You didn't know this before. He didn't carry on any affairs.

THE COURT: That's what the letters show.

MR. HATFIELD: The letters do not show that. If you will study the letters, it doesn't show --

MR. LLOYD: It may well be a mistake. Your Honor, if that's Your Honor's ruling, I would ask that whatever portion of that testimony Mr. Panosh has said just be stricken. I mean we could be here for days longer litigating this whole issue --

MR. PANOSH: I agree.

MR. LLOYD: -- of Janet Smith.

MR. HATFIELD: I understood that a sentencing hearing in a death penalty --

THE COURT: Any evidence is relevant to sentencing. We're talking about death penalty.

MR. HATFIELD: Yeah.

THE COURT: That's relevant. You paint



it one way; the evidence shows it another way.

MR. HATFIELD: I did not paint it.

THE COURT: That's what your witness is trying to show.

MR. HATFIELD: The witness?

THE COURT: The victim is entitled to a hearing that shows both sides of this matter.

MR. HATFIELD: We're not trying to show the quality of the marriage. We are trying to show religious faith and hope for the future, and I don't know exactly how there can be anybody that knows more about that than the boy's father-in-law. Because he has -- if we are going to ask this jury to let this boy live so that he can -- so that he can face his God every day for the rest of his life, then we have to show whether or not he -- this is about religion. This is not about --

THE COURT: This is a two-phase thing.

You've got a victim here that was killed. The jury has found he killed her and justice ought to be done. They ought to

know what kind of person he is.

MR. HATFIELD: We did not put on evidence of a good marriage. There probably is a good marriage. We did not put on evidence.

THE COURT: The witness just testified he was a good husband. He also testified --

MR. HATFIELD: No. He said he was nice to his daughter.

THE COURT: I wrote it down. Good husband.

MR. HATFIELD: How can he not be a good husband?

THE COURT: Well --

MR. HATFIELD: Why would you make a decision like this when you've already been over this and, you know, that that stuff is pure poison?

THE COURT: I didn't open the door. I didn't paint him on there for the jury. And I think the State is entitled to show he's not what you're painting him to be.

MR. LLOYD: Your Honor, in the interest of judicial efficiency and judicial economy, why don't we just strike that

portion of the testimony where he's talking about the relationship between his daughter and Ronnie Kimble?

THE COURT: I'll strike that portion. he was a good husband, that his Christian faith while incarcerated --

MR. LLOYD: Let's just do that.

MR. HATFIELD: Why don't we just let them kill him? Why don't we just stipulate he has no religious value; there's nothing left in him except an animal. Why don't we tell them that?

THE COURT: You've got a victim, and the law and the evidence. You paint him one way and the jury knows the other.

They're entitled to know the aggravating factors and mitigating factors.

MR. HATFIELD: Every question I asked that man on the witness stand was to frame it in terms of Ronnie and not in terms of Ronnie and the girl. I'll tell you this much just if -- just because he engaged in a letter writing circle, which did not include any sexual conduct, it did not, that does not prove anything.

It simply has no probative value. You've already decided this once, and apparently for some reason we're just going to have to talk about it.

THE COURT: Now, you're going to put it in evidence and I'm not going to let you do that without the State having an opportunity that he's not what you paint him to be.

MR. HATFIELD: What did I paint him to be?

THE COURT: Good husband; Christian faith while incarcerated.

MR. HATFIELD: No. I did not. I asked if he treated the girl decently in the man's presence. I don't know -- as a matter of fact, I don't think he said he's a good husband. It's a total distortion.

THE COURT: Read it back.

MR. LLOYD: Your Honor, I think he did say that, Your Honor.

MR. HATFIELD: If he did, it was not in response to a question that was intended to elicit an answer because every

question I asked him, I framed it --

THE COURT: Mr. Panosh, you want to be heard?

MR. PANOSH: We'd ask to be allowed to put the letters in or strike those questions and answers that you've indicated stricken.

MR. HATFIELD: What questions and answers?

THE COURT: He was a good husband and Christian faith while incarcerated.

MR. LLOYD: Just strike those, Your Honor. Just strike them. Strike those.

MR. PANOSH: There's one more thing he said about -- if I understand him correctly, he said he knew some of the jurors.

THE COURT: I heard that too.

MR. HATFIELD: He didn't say that.

THE COURT: Yes, he did. You can ask him about that.

MR. PANOSH: I'd like to do that out of the presence of the jury, not necessarily now.

THE COURT: Mark can come back to --

MR. HATFIELD: That was a figure of speech.

MR. LLOYD: Just a figure of speech.

THE COURT: I don't know if he did or not. He said --

MR. LLOYD: The jurors are the ones that are supposed to tell us if they know the people on the witness list.

MR. PANOSH: That might be a reason to look into one of the jurors later on.

THE COURT: I agree with that.

(Open court resumed)

THE COURT: Members of the jury, we'll strike this witness' testimony about the defendant being a good husband. You will not consider that. You will also strike that portion of his testimony about the Christian faith while incarcerated. You will not consider that.

And you may step out for a moment at this time. Do not discuss the case. The three alternates, if you'll go down to the other room, please.

(All jurors absent)

THE COURT: Mr. Panosh, you may examine the witness about his statement.

MR. PANOSH: Yes, sir.

VOIR DIRE EXAMINATION by MR. PANOSH:

Q. Sir, at one point you said I know some of the persons here on the jury better than I know Ted Kimble. Which members of the jury do you know?

A. Well, I was just talking about what time I've been here.

Q. You didn't know those -- the individuals who are currently serving prior to this trial?

A. No. Uh-uh.

MR. PANOSH: No further questions.

THE COURT: Bring the jury back.

MR. HATFIELD: He can stay on the stand, can't he?

THE COURT: Yes, he can.

MR. PANOSH: I have no further questions.

MR. HATFIELD: Your Honor, could we take a recess to talk about the situation? I will tell the Court we have not had any opportunity to go to lunch.

THE BAILIFF: Excuse me. Excuse me. One of the jurors is waiting.

THE COURT: They need to stay out a moment.

MR. HATFIELD: Mr. Lloyd and I have not had any opportunity to coordinate what we were doing, because I had to spend time handling the meeting that Your Honor authorized; he had to do other things. We need a few minutes, if the Court would indulge us.

THE COURT: How much do you need? Fifteen minutes?

MR. HATFIELD: Yes, sir.

THE COURT: Court will be recessed 15 minutes.

All the jurors may take a recess for 15 minutes.

(Witness stood aside)

(Recess)

(Defendant present)

(All jurors present)

THE COURT: If you'll call the next witness for the defense, please.

MR. LLOYD: Yes, sir. The defense would call Mr. Ron Kimble, Sr.

(Whereupon, the witness was first duly sworn.)

RONNIE LEE KIMBLE, being first duly sworn, was examined and testified as follows during DIRECT EXAMINATION by

MR. LLOYD:

Q. Mr. Kimble, if you would state your name for the record, please, sir.

A. Ronnie Lee Kimble.

Q. And are you senior?

A. Just the second. I mean the first. He's the second. Excuse me.

Q. And how are you employed?

A. I am at the present time pastor of the Monnett



Road Baptist Church in Julian, North Carolina.

Q. And Ronnie is your son; is that correct?

A. Ronnie is my son. Yes, sir.

Q. Now, Reverend Kimble, directing your attention to the time when Ronnie was born, how old were you at that time?

A. My wife and I got married very young. She was 15 when we got married and I was 17. Ronnie was born -- Ted had already been born. I was 18 and 16. Ted was born. And then I was 20 and my wife was 18 when Ronnie was born.

Q. All right. And where did you-all live at that time?

A. We lived in Mebane, North Carolina.

Q. All right. And where did you work at that time, Mr. Kimble?

A. I worked at -- in a mill. Universal Products.  
Excuse me.

Q. Did your wife work?

A. Universal Textured Yarns.

Q. Did your wife work at that time?

A. She went to work there also.

Q. Was she working -- did she work around the time that Ronnie was born?

A. Yes, sir.

Q. All right. Now, how long did you -- did you work at that mill in Mebane?

A. I worked there till it closed down. I worked there from the time I was about 16 till -- I worked there about eight years. I must have been about twenty- -- no. I went to work when I was 16. Must have been till I was about twenty- -- about 23, I believe it was.

Q. And so how old would Ronnie have been at that time?

A. When I was 23, Ronnie would have been, what, five years old.

Q. Somewhere around three years old?

A. Three or four years old. Yeah. Ted would have been around five.

Q. And did -- what was your family life like back then?

A. I loved my kids very much. I was an alcoholic.

Q. Now --

A. I began drinking when I was around 18.

Q. When you say you were an alcoholic, how much did you drink during that time period, Mr. Kimble?

A. I drunk every day.

Q. Did you -- did you spend much time at home with your family?

A. When the kids were younger, I'd pick a fight -- not really a physical fight but an argument with my wife, and I'd go to bars and stay till about one or two o'clock in the morning. It's something I'm not proud of.

Q. And did there come a time, Mr. Kimble, when you quit drinking?

A. Yes, sir.

Q. When was it?

A. I got in church when I was about 26. I gave my life to the Lord. I was in church about a year and I backslid. I went back to drinking again for about another year. Then March 16, 1978, about 1:00 in the morning, I looked at the Lord and said Lord, I don't want to do this no more. I give my life totally to you. Lord, the only way I can do it is with you and your strength. I've not taken a drink since March 16, 1978.

Q. And was Ronnie somewhere around the age of six or seven at that time?

A. Yes. About six, I think it was. Or seven. 'Cause he was in the first grade. He must have been about seven.

Q. Okay. And while Ronnie was in the first grade, how did he do in school?

A. He did very slow. The teacher suggested that we

hold him back because he was not able to keep up with the other children.

Q. Now, after Ronnie's first-grade year, did there come a time when you and your family moved?

A. Yes, sir. 1978, the fall of that year, when I surrendered my life to Christ, I said Lord, whatever you want me to do, I'll do. Wherever you want me to go to school to study your word, I'll go. And I felt God calling me to Lynchburg, Virginia, to go to the Institute of Biblical Studies where I met Dr. Falwell. Also, I studied under Dr. Hal Weatherton. And at that time we put the kids in a Christian school. And they told us the same thing the public school had told us. That they needed help. Both of them needed to be held back a year.

Q. And was Ronnie in fact held back a year?

A. Yes, sir.

Q. All right. Now, Reverend Kimble, prior to Ronnie going to school, was there -- was there anything where he had a significant health problem?

A. When he was young -- right when he was about a year old, he started having convulsions. When he was little, his eyes would roll back in his head, he tried to swallow his tongue, and it scared us to death. We really had a problem with high fevers with him. One

time his fever went up to about 108, we couldn't get it down, and we ended up taking him to Chapel Hill.

Q. When you say you took him to Chapel Hill, what do you mean by that?

A. The ambulance took him down there. We were afraid that he was dying. We got him down there and they bathed him down. Finally managed to get his temperature down some.

And on a Sunday -- I'll never forget one Sunday morning we got up about 7:00, and he had a fever. It was a little over 105 all day that day. We couldn't get it to go down. And we carried him to the emergency room, and they just worked with him. And finally on Monday, we carried him to a pediatrician. I can't remember her name. And she started seeing him. And she began to treat the problems that he was having with certain medications, and it began to help him. And I've never told Ronnie this, but I feel like to a certain extent that high fever has probably slowed his -- Ronnie, I'm sorry -- his thinking down some.

Q. Slowed his thinking processes down?

A. (Witness nodded head affirmatively)

Q. Now, how long did you and your family stay in Lynchburg?

A. The institute program lasted two years. And I

was there for the full two years. And I worked -- while I was in school, I worked nighttime and went to school during the daytime. I didn't get to spend much time at all with my family during that time.

Q. And after Lynchburg, where did you and your family go?

A. We came to Greensboro, North Carolina. We lived on Carrington Street. And that's when I began to be able to spend time with my children some. I never spent time with them up till about that time. And Ronnie must have been -- he was about in the fourth grade and Ted was about in the sixth grade, and I kind of started getting to know them about then.

Q. Now, you said Ronnie was in the fourth grade. What was his -- what was his progress in school like at that time?

A. He was put in special class.

Q. All right. When you say special class, what do you mean by special class?

A. He had to have tutoring to help him through the grade.

Q. All right. And that was after he had been in a Christian school up in Lynchburg, but this was when you came back down to Greensboro?

A. Yes, sir.

Q. Now, did you -- did Ronnie have any -- any counseling during that period of time?

A. When Ronnie was a little older, we carried him to a personal counselor, a Christian counselor in Kernersville, to try to get him some help because his reasoning -- his mother and I talked about it. Just seemed like he couldn't reason things just right. And we carried him to try to help Ronnie through that time period in his life.

Q. And during that -- did Ronnie receive counseling from this counselor?

A. Yes, sir.

Q. All right. And in terms of the relationship as they were growing up through their adolescence, both Ted and Ronnie, who was the -- I believe you had indicated Ted was born two years before Ronnie; is that right?

A. Yes, sir.

Q. Who was the bigger of the two children?

A. As I said a minute ago, when we moved to Greensboro after I got out of school, I got to spend some time with my children. And Ted was always larger -- considerably larger than Ronnie, and Ronnie was always short. Then all of a sudden, he finally hit a growing spell where he began to grow taller. And Ted was always the leader of them, as far as being the

dominant one. And as they got older, I think Ronnie resisted that and they fought a lot. But Ted has always had a lot of charisma, as far as being more dominant.

Q. And did he at times dominate Ronnie?

A. Yes.

Q. And Reverend Kimble, did they -- did they have a -- I mean how would you describe the relationship between Ted and Ronnie?

A. They could not work together. But yet, when they did work together, Ted was always the dominant one over Ronnie.

Q. When they were younger, when they were adolescents, did they -- did they fight?

A. Yes, sir. I had to pull Ronnie off of Ted more than one time.

Q. Now, you say -- you said you pulled Ronnie off of Ted more than one time?

A. I mean I had to pull Ted off of Ronnie more than one time.

Q. Who won those fights, Reverend Kimble?

A. Ted, of course. Ted was a lot broader than Ronnie.

Q. Now, when you took Ronnie to the counselor, did you get any sort of specific diagnosis from the counselor as to what Ronnie's problems might have been?



Was there any mention of attention deficit disorder?

A. Ronnie was always very compulsive. In other words, he had a good idea one minute and the next minute he'd be on something else. And he was very high strung. And I remember when we carried him to talk to the counselor the first time -- it's kind of funny in a way. He said you can carry me to him, but you can't make me talk to him. And we carried him to Mr. Meyers' office. And we went in and sat down, waited a few minutes for him to come in, and then he come in, you know, and spoke to me and my wife, and he took Ronnie back to his office. And the next thing I know, he was looking forward to going back the next week --

Q. All right.

A. -- to talk to him.

Q. So he participated in the counseling sessions?

A. Yes, sir.

Q. All right.

A. Yes, sir.

Q. And you had mentioned that one of the reasons that you took Ronnie to the counselor is because he didn't appear to be able to reason things out. Could you explain that to the members of the jury?

A. Most people, when they stop to -- start to do something, they can reason the results of it after they

do it. But Ronnie a lot of times would act compulsive and not reason what the outcome would be.

Q. Now, how would you describe Ronnie's abilities as a student in junior high and high school?

A. He was slow in school. But Ronnie -- Ted and Ronnie was always a lot different. For instance, Ted had leadership ability, was always progressing ahead, but Ronnie was physically a hard worker.

Q. All right.

A. He went to work mowing yards when he was about eleven years old. He bought his own bicycle and worked very hard.

Q. All right.

A. Very proud of him being a hard worker.

Q. Now, how did he -- how did he treat his schoolwork?

A. We had to make him do his schoolwork. He did not like schoolwork at all. For one thing, he -- comprehending, I think, was about fifty percent of the problem. Comprehending what was taking place in the class. And keeping his mind on what was taking place.

Q. Now, did you -- did you notice any improvement in Ronnie's ability to structure his life when he went into the Marine Corps?

A. We noticed a great big difference. Ronnie grew

up. He changed drastically.

Q. And Reverend Kimble, it's been testified to earlier that Ronnie taught Sunday school at your church.

A. Yes, sir. Yes, sir.

Q. How did he get along with the children?

A. Ronnie has always gotten along better with younger children and older people. He has never gotten along real well with people his own age. Seemed like -- well, the ladies that testified a few minutes ago. My wife and I was a lot like that. We were children with children, and we always related better to older people. Because most people our age were still in sports and high school. And we were married with children. We were actually children raising children.

Q. Now, did Ronnie participate voluntarily in church activities?

A. Yes, sir. Sure did.

Q. Did you -- I'm sure that it was assumed or since you were the pastor at the church you expected your son to go to church?

A. Never had to make Ronnie go to church. It's something that when we got up on Sunday morning and started getting ready for church on Sunday night or Wednesday night -- we'd go three times a week -- we'd say it's time to go to church, he'd go. We never had to

make him, make our family or anything. It's just something we always did. When I gave my life to the Lord, it was just a way of life.

MR. LLOYD: That's all I have, Your Honor.

THE COURT: Mr. Panosh?

CROSS-EXAMINATION by MR. PANOSH:

Q. Sir, were you here earlier in the trial when there was testimony about Ted indicating that you were an alcoholic and you had beaten the family when he was a young child?

A. I would say I was -- Ted remembers one time in my life that I'm very ashamed of. Ted was about four years old. I came in about 1:00 one morning. Had been drinking real heavy. I never have forgotten it. My wife was holding him in her arms standing in the hallway. And we lived in a mobile home at that time. And she looked at me and made some remarks to me. I slapped her. I'll never forget. Ted said, "Mommy, that's all right. I'll take care of you. I'll take care of you, Mommy." That's the only time I ever really remember really striking her real hard.

Q. So the information that Ted said that you beat the family, that was not correct?

A. He may call it beating, but I whooped them when they misbehaved.

Q. So there was some grain of truth to that?

A. Yes, sir.

Q. Now, you indicated that you took Ronnie to a counselor. Was that a psychiatrist or psychologist or --

A. Psychologist.

Q. And when was that?

A. He was still in high school when we did that.

He was -- it's Joe Meyers' son which is a pastor at Kerwin Baptist Church. He had been in school and studied counseling. He came to our church. He helped us. We asked him to come to speak to our parents in our church. We had a counseling session with parents where all the parents came to church. Like on a Wednesday night, he came and he spoke to our church, and the parents at that time had a chance to ask him questions about raising children. And I met him like that. And then after that is when we carried Ronnie to see -- to see him.

Q. And his name was Joe Meyers?

A. No. His son. Kevin -- K-E-V-I-N -- Meyers.

Q. Meyers?

A. M-E-Y-E-R-S.

Yes, sir.

Q. You say he was a psychologist?

A. Yes, sir.

Q. Is he still in this area?

A. As far as I know, he's still in Kernersville, sir. You can call Kerwin Baptist Church, if you'd like to get in touch with him. And his secretary or Joe Meyers which is the pastor can tell you how to get in touch with him.

Q. What age was Ronnie when he was seen by Mr. Kevin Meyers?

A. I would say in the age -- neighborhood -- I cannot remember exactly. Probably around 15 or 16.

Q. What was the diagnosis?

A. He -- he just said that Ronnie needed someone to talk to to let out his frustrations.

Q. Do you have any documentation of that, sir?

A. He would. I did not know I would be asked to discuss that in this trial or I could have got some documentation.

Q. Of course, Ronnie would have been aware of that counseling session?

A. Yes, sir.

Q. And he -- when he applied to the Marine Corps, he should have made that known to them?

MR. LLOYD: Objection, Your Honor.

THE COURT: Sustained.

MR. LLOYD: Move to strike.

THE COURT: Disregard it, members of the jury.

Q. Now, are you saying that in your opinion Ronnie Kimble has a mental disability?

A. Yes, sir.

Q. And that has existed even through the time that he was in the Marine Corps?

A. Yes, sir.

Q. And you don't have specific documentation of that, that's just your opinion?

A. Yes, sir.

Q. Are you saying the reason he committed this murder was because of that mental disability?

A. Sir, I don't believe he committed the murder, so I can't answer that.

Q. Do you feel the mental disability that you observed in your son was sufficient to cause him to commit a murder?

A. I don't believe he committed the murder, sir.

Q. Sir, do you feel that the mental disability that you observed in your son --

MR. LLOYD: Objection, Your Honor. It's been asked and answered.

THE COURT: Overruled. He can answer.

Q. -- was sufficient to cause him to murder

someone?

A. I don't believe he did, sir.

Q. Without passing on what you believe, sir, I'm trying to ask you whether you feel the mental disability was severe enough to cause him to commit a murder?

MR. LLOYD: Your Honor, he's asked the question three times. It's like asking him does he still beat his wife.

THE COURT: Overruled.

THE WITNESS: I would have to say that I believe he did it, but I don't believe he did it to answer that question, sir.

Q. Can you give the ladies and gentlemen of the jury any gauge of how severe this mental disability was that you observed?

A. He was very slow at comprehending things. He -- you would have to really talk to him to see what I'm talking about. When you talk to Ronnie, you ask him a question, like Mr. Panosh asked him several questions when he was on the stand and which I know you probably noticed, that it wasn't a matter of him answering yes or no. He had to explain every answer on and on and on. And that's the way Ronnie always has been. And that would say -- it's like he couldn't comprehend a "yes" or a "no" answer. He had to -- if he did say "yes," or if



he said "no," he had to get the last word in to explain himself.

Q. And of course in his upbringing he was taught the difference between right and wrong?

A. Yes, sir.

Q. Did this mental disability that you observed in your son, did that prevent him from knowing what was right from wrong?

A. I think in some ways it did.

Q. You think that that would prevent him from knowing that it was wrong to murder someone?

A. Sir, I don't think he murdered someone, so I can't answer that.

Q. Did the mental disability that you observed in your son, would that be so severe that it would prevent him from knowing that it was wrong to take someone's life?

A. I know he knows it's wrong to take somebody's life, because I've taught him that all his life.

Q. If you would please address, sir, the question. The question is do you feel the mental disability --

MR. LLOYD: He answered his question.

THE COURT: Overruled.

Q. -- that you saw in your son was so severe that it would prevent him from knowing that it was wrong to

take someone's life?

A. I don't understand your question?

MR. LLOYD: Your Honor, he said I know he knows it's wrong because I've taught him all his life.

THE COURT: Well, if the question is phrased differently than that, then the State is entitled to ask that question on the statute of mitigating --

MR. LLOYD: But my point is, Your Honor, he answered the question. He answered it as directly as possible.

THE COURT: I think the State is entitled to an answer.

THE WITNESS: Ask the question again, sir.

Q. You did observe a mental disability in your son?

A. Yes, sir.

Q. Did that mental disability affect his ability to determine what was right from what was wrong?

A. To a certain -- yes, sir.

Q. In your opinion, was that mental disability so severe that he did not know it was wrong to kill someone?

A. I don't feel like -- I'm not -- something that major, yes, I feel like he know -- knew it would be wrong.

Q. You said that Theodore Kimble exercised some

dominance over Ronnie?

A. Yes, sir. Like I said, when the kids were younger, I didn't really get to know them until we moved to Greensboro and I got out of school. And I noticed that when they were playing together out in the yard that Ted would always be the leader; Ronnie would be the follower. Whatever was done.

Q. Did that dominance continue into their teenage years?

A. Ted tried to continue it on through the teenage years as well as all the way up to today. And at times it seemed like he would be dominating and at times Ronnie would resist and fight back.

Q. Are you saying that Ted Kimble was capable of convincing Ronnie Kimble to kill someone?

A. I don't believe Ronnie Kimble killed someone, so I can't answer that.

Q. Drawing your attention to the dominance that you observed in your son Theodore Kimble, are you saying that that dominance was sufficient to allow him to cause Ronnie Kimble to kill someone?

MR. LLOYD: Objection, Your Honor.

THE WITNESS: I don't believe he killed someone.

THE COURT: Overruled.

THE WITNESS: So I can't answer that.

Q. Could you address the degree of the dominance that you observed?

A. I believe that -- as far as dominance goes, that Ted overpowered Ronnie.

Q. And could he overpower him so much that he could cause Ronnie to do something that was wrong?

A. I believe he could.

Q. And could he overpower him so much that he could cause Ronnie to commit a murder?

A. No, sir.

Q. You indicated that -- let me ask you this, sir: Do you know whether or not your son was evaluated by a psychiatrist in the Marine Corps?

A. No, sir. I don't.

Q. You indicated that you saw traits in your son which you described as compulsive, that is, that Ronnie Kimble was compulsive; is that correct?

A. Yes, sir.

Q. Are you saying that he was so compulsive that he could just choose to kill someone without thinking about it?

MR. LLOYD: Objection, Your Honor.

THE WITNESS: I don't believe he killed someone

so --

THE COURT: Sustained.

MR. LLOYD: You don't have to answer that.

Q. Would you address how compulsive you observed him to be?

A. Well, let me give you an illustration. Suppose one day you decide you're going to do one thing, the next day -- for a living, the next day you decide you're going to do something else for a living, and you don't take time to do either one.

Q. Do you feel that he was so compulsive that he would do something that was wrong?

MR. LLOYD: Well, object, Your Honor.

THE COURT: Overruled.

THE WITNESS: You mean -- explain what you mean by that?

Q. Based upon your observations of your son and your conclusion that his behavior was compulsive, do you feel that he was so compulsive that he would do something wrong?

A. Do I feel like he would be so compulsive to do something wrong? If he was following somebody else's leadership, perhaps.

Q. Are you indicating that Theodore Kimble could have caused him to create this -- to commit this murder?

A. I don't believe he committed the murder, sir, so I can't answer that.

Q. When you said that he was so compulsive that he would follow someone else's leadership, do you feel that Theodore Kimble -- were you indicating that Theodore Kimble probably caused him to commit this murder?

A. I don't believe he committed the murder.

MR. LLOYD: Object, Your Honor.

THE COURT: Sustained.

Q. Would this compulsiveness that you saw in your son, would that cause him to commit a murder?

MR. LLOYD: Objection, Your Honor.

THE WITNESS: No, sir.

THE COURT: Overruled.

THE WITNESS: I don't understand what you're saying? 'Cause you asked me if I thought this compulsion would cause him to commit a murder. Like I've said over and over, I don't believe he committed this murder. I don't want you to twist my words, sir.

Q. Would you like to answer the question again then?

A. Ask me the question again.

Q. Do you feel that the compulsiveness that you saw in your son was sufficient to cause him to commit a murder?

A. I don't believe he committed the murder.

Q. Relating your answer now to the compulsiveness

that you observed in your son, do you feel that there was some character trait which you've described as being compulsive that was so strong in your son that he could commit a murder?

MR. LLOYD: Objection, Your Honor.

THE COURT: Overruled.

THE WITNESS: I told you I don't believe he could commit a murder.

Q. Would the answer to that question be "no" then?

A. He could not have committed a murder.

Q. And you have an impression about Theodore Kimble; is that correct?

A. He's my oldest son.

Q. And is your opinion of Theodore Kimble the same? That he could not have been involved in this murder?

MR. LLOYD: Objection, Your Honor.

THE COURT: Sustained.

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

MR. LLOYD: You may come down, Mr. Kimble.

THE COURT: Would you like to stand and stretch, members of the jury. Call your next witness, please.

(Witness stood aside)

MR. LLOYD: Defendant would call Pat Crutchfield to the stand.

(Whereupon, the witness was first duly sworn.)

PAT CRUTCHFIELD, being first duly sworn, was examined and testified as follows during DIRECT EXAMINATION by MR. LLOYD:

Q. Ms. Crutchfield, if you could state your name for the record, please, ma'am.

A. Pat Crutchfield. I'm from Liberty, North Carolina.

Q. And where do you work, Ms. Crutchfield?

A. I'm retired from Lorillard. And I'm a housekeeper now.

Q. All right. And how is it that you know Ronnie Kimble?

A. Well, we run a business.

Q. When you say "we," who do you mean, Ms. Crutchfield?

A. My husband and I and our children. Family-operated.

Q. What kind of business is it?

A. It's a salvage yard and restoring vehicles.

Q. And directing your attention to my original question, how is it that you know Ronnie Kimble?

A. Well, I was shopping around for a church and someone invited me to Monnett Church. And I started going up there. And we joined the church up there. And



I come to know Ronnie in 1986, by going to that church.

Q. About how old was Ronnie at that time?

A. Around 14.

Q. All right. And did you have a chance to observe Ronnie's character at that time?

A. Yes, sir. He was very honest. He's a hard worker. You could depend on him. And he -- at church, he was good with the children. The youth.

Q. All right. Now, did he work for you and your husband at the business you've talked about?

A. Yes, he did. He worked part-time. He would mow yards. And then when he'd get slack with mowing yards, he would come there and work part-time for us.

Q. Okay. And did there come a time, Ms. Crutchfield, when you and your husband helped him with the purchase of any vehicles?

A. Yes. He purchased two vehicles, and my husband and he were taking care of that. My husband can tell you more about that. But my husband did sell him two vehicles and they bargained that out.

Q. And how was the payment arrangement made on those vehicles?

A. I don't know exactly, but I think that he worked some of it out. Worked a loan and worked the payments out.

MR. LLOYD: That's all I have, Your Honor.

THE COURT: Mr. Panosh?

CROSS-EXAMINATION by MR. PANOSH:

Q. What age did you know Ronnie Kimble?

A. Around 14.

Q. And how long did that acquaintanceship last?

A. Up until now.

Q. I take it he worked with you or for you until he went in the Marine Corps?

A. Off and on, he worked for us -- he'd come down there and do part-time work off and on.

Q. Before or after the Marine Corps, ma'am?

A. Before the Marine Corps.

Q. Do you know a Ted Kimble?

A. I know him through church.

Q. And do you have an opinion about him too?

MR. LLOYD: Objection, Your Honor.

THE COURT: Sustained.

MR. LLOYD: Thank you, Your Honor.

MR. PANOSH: No further questions. Thank you.

THE COURT: Step down, ma'am. Watch your step.

Next witness, please.

MR. LLOYD: Ms. Betty Rogers.

(Witness stood aside)

(Whereupon, the witness was first duly sworn.)

BETTY ROGERS, being first duly sworn, was examined and testified as follows during DIRECT EXAMINATION by

MR. LLOYD:

Q. Ms. Rogers, if you'd state your name for the record, please, ma'am.

A. Betty Rogers.

Q. All right. And where do you work, Ms. Rogers?

A. I'm retired.

Q. What are you retired from?

A. Twenty-two years at Gilbarco.

Q. And how do you know Ronnie Kimble?

A. I met Ronnie through Monnett Road Baptist Church. I've been going there 15 years. And I met Ronnie when he was about 11, whenever we started to go to church down there.

Q. And did you know him on a level outside the church as well?

A. Yes, I did. We've had several cookouts, and Ronnie comes up there to the cookouts. And then he's come by several times on Saturdays and we've chatted a little bit. And to me Ronnie is an outstanding person. And he's just a good person, you know, for the church. He's just an outstanding person to me. And he's always taught Sunday school. And he's called me every week since he's been in jail. And we've often talked about

the church and all. And he's told me that the people that he has led to the Lord in the chaplain's office. And I said, Well, praise the Lord, Ronnie. That's another one the devil won't have.

Q. And did you have a chance -- how was he -- you mentioned that he taught Sunday school. How was he --

A. He taught Sunday school. He helped with Sunday school. He'd do anything that he could for the church. He was just a shining light for the church in my opinion. He's just a good boy. And he's -- when he went to the Marines, he come home on the weekends and he still taught Sunday school. And he was just an excellent boy in my opinion.

Q. You indicated that he had called you while he was in jail.

A. Yes, he did. He called me every week.

Q. And what did you talk about on those occasions without going in exactly what people said? What in general did you say?

A. When he was in jail and called me?

Q. Yes, ma'am.

A. We was just talking about the church. He wanted to know if I had seen Kim, his wife. And I'd tell him yes. He'd always talk about how pretty she was. I said yes, she does look good.

Q. Did he talk about other people in the church and ask you how they were doing?

A. Yes. He's asked about his mom and dad, and he's asked about other members of the church. He sure did. He's always been a caring and loving boy.

MR. LLOYD: Thank you, Ms. Rogers. That's all I have.

MR. PANOSH: No questions.

THE COURT: Step down, ma'am. Next witness, please.

(Witness stood aside)

MR. LLOYD: Ms. Beverly Wharf, Your Honor.

(Whereupon, the witness was first duly sworn.)

BEVERLY WHARF, being first duly sworn, was examined and testified as follows during DIRECT EXAMINATION by

MR. LLOYD:

Q. Ms. Wharf, if you could state your full name for the record, please, ma'am.

A. Beverly Wharf.

Q. All right. And you work, Ms. Wharf?

A. I'm a housewife. And I operate two mobile home companies in South Carolina.

Q. All right. And how is it that you know Ronnie Kimble?

A. As well as I can remember, I met him through the

Kimble family. When he was about 14, 15 years old.

Q. And did there come a time when Ronnie did work for you?

A. Yes. He worked for us for several years. He mainly mowed the yard. He made a lot of flower beds. He made nature areas. He worked in -- then we were in the chicken business, which I hate to say that, but he worked a little bit in that. He would do most anything. One of the most hardworking, ambitious young men I've ever met.

Q. All right. And during the time that he'd worked for you, Ms. Wharf, did there come a time that he did any painting for you?

A. Yes. He painted the inside of our house. On the inside. Done a great job.

Q. And if you -- you've touched on some of his work habits. If you had to describe his work habits, how would you describe those?

A. Some of the best I've ever seen. For his age, he done better than a lot of older men could do.

Q. Now, did Ronnie take an interest in you personally?

A. I think so. And I did him too.

Q. All right.

A. He'd eat over at my house. And when he went in

the Marines, I took him out to eat one night. My husband had aimed to go, but he couldn't go because he works for BellSouth and he was tied up, and he told me to go ahead and take him out to eat because we were very proud of him.

Q. And if you had to sum up your relationship with Ronnie, how would you describe that?

A. (Witness visibly upset)

Excuse me. He was just like the son I never had. I loved him. I still do.

Q. You need some water, Ms. Wharf?

A. No.

MR. LLOYD: That's all I have, Your Honor.

THE WITNESS: He's a great young man.

MR. PANOSH: No questions. Thank you.

THE COURT: Step down, ma'am. Next witness, please.

MR. LLOYD: Your Honor, if I could have just a second with Mr. Hatfield.

THE COURT: Would you like to stretch, members of the jury.

(Witness stood aside)

MR. LLOYD: Your Honor, that would be the penalty phase presentation for the defense.

THE COURT: Be rebuttal evidence for the State?

MR. PANOSH: May we approach?

THE COURT: Yes, sir.

(The following side-bar conference was held out of the hearing of the jury:)

MR. PANOSH: A few minutes ago, we heard for the first time about this psychologist Kevin Meyers. I'd like a chance to at least interview him. I've sent somebody to try to locate him. I don't know if that's --

THE COURT: Is that the only rebuttal witness you'll have?

MR. PANOSH: The only thing I can think of, Your Honor.

MR. LLOYD: The only thing I asked was whether he went to see a counselor. He said yes. And that was it. We didn't call the counselor. I mean there's nothing --

MR. PANOSH: My notes indicate he said he went to see a counselor Kevin Meyers, there was a diagnosis, and that he went on to say that in his opinion Ronnie had a mental disability. Now, certainly that



charge on that, and the State is certainly entitled to find out if there's any truth to that, what the basis --

THE COURT: Depends on what the defendant is going to offer.

MR. LLOYD: We're not going to offer any mitigating factor on that subject, Your Honor.

MR. PANOSH: No mitigating factor on mental disability?

MR. LLOYD: We're going to ask -- the testimony was he was learning disabled. He was in learning disabled classes. We're going to put that up, and that's it.

MR. PANOSH: Learning disabled?

MR. LLOYD: Yeah.

THE COURT: Sleep disorder? Any evidence of that?

MR. LLOYD: I don't know that we'll put that in as a mitigator or not.

MR. PANOSH: If they're not going to put up the mental disability, there's no need for me to find that psychologist.

MR. LLOYD: No. Not to that extent.

THE COURT: Any other rebuttal evidence other than that?

MR. PANOSH: No, sir.

THE COURT: How long do you think it's going to take us to get these -- how long is your argument going to be?

MR. LLOYD: Well, I don't know.

MR. PANOSH: I would hope that we could perhaps conclude our jury conference today. My argument would be less than an hour.

THE COURT: It's going to take a while to type all this stuff up.

MR. PANOSH: Your Honor, I've got something on the computer.

THE COURT: Why don't we have the jury come in at 10:30? Is that okay? That would give us time to get the arguments in and do some tomorrow if we have to.

MR. LLOYD: Judge, to be perfectly frank with you, I don't know if we're in a position to name all our mitigating factors at this point. I mean I need to go back and look at my notes.

THE COURT: We're not at that portion.

Tomorrow morning I expect to have a list and look at them.

MR. LLOYD: Yes. Yes. I've got some of them, but I don't have --

MR. PANOSH: Your Honor, if it suits everybody, if you've got -- without staking himself out and give the ones he's got, I can work with the court reporter and use the computer. They're all up there. Include them or exclude them.

I'll show you what I can show you after the jury is gone.

THE COURT: The ones I see are no prior criminal activity; defendant acted under domination of another person.

MR. LLOYD: Yes, sir. We'd ask for that.

THE COURT: Those are the only -- those are the only two statutory ones I see.

MR. PANOSH: My only suggestion is after the jury is gone we can probably get a lot of it done before the end of the day.

MR. HATFIELD: Why are we starting so late?

THE COURT: I assume it's going to take a

while to get all this stuff typed up.

MR. LLOYD: Judge Cornelius, suggest we come in at 9:00?

THE COURT: We come in at 9:30. The jury comes in 10, 10:30.

MR. LLOYD: We're going to type up all our --

MR. HATFIELD: There's only two.

MR. LLOYD: We've got the nonstatutory.

MR. HATFIELD: Well --

MR. PANOSH: Can we discuss this after the jury is gone?

THE COURT: What I want to know is when we need to bring the jury back.

MR. HATFIELD: Bring them back at 10, and we should start at 9 or 9:30.

MR. PANOSH: I don't oppose starting at 9 and bringing them in at 10. That's fine.

MR. LLOYD: I'm not opposed to that.

THE COURT: That's fine.

(Open court resumed)

THE COURT: Members of the jury, this will complete the evidence at the sentencing phase. Tomorrow morning when we return, the Court will -- the attorneys will make their final arguments to you in regard to the

sentencing phase, and then the Court will give you instructions, and then you'll begin to deliberate the sentencing phase of this case.

It's very important that you remember again do not discuss this case among yourselves or with your family or friends, or do any investigation or research on your own. Keep an open mind about it. And do not read, watch, listen to any news media accounts of the trial if such are available to you.

Now, you'll need to be back in the morning at 10, I believe is what we discussed?

MR. LLOYD: Yes, sir.

THE COURT: 10:00. Report to the jury room at 10. And then hopefully at that time we'll be able to bring you in the courtroom and the attorneys will make their final arguments, and then the Court will give you the instructions, and then you will begin the second phase of this trial.

Please remember those instructions. Have a nice evening. I'll see you in the morning at 10.

(Jury absent)

THE COURT: Okay. At this point, the Court will conduct the instruction conference with the attorneys. Defendant being present.

State's contentions as to aggravating factors

that it will request the Court to submit to the jury?

MR. PANOSH: Your Honor, we're going to limit them to two: And the first is pecuniary gain, and the second is the arson. And I'll give you the paragraph numbers.

THE COURT: I've got it here.

MR. PANOSH: Paragraph (e)(5) and (e)(6).

May I approach?

THE COURT: Yes.

MR. PANOSH: I've done a substantial amount of work, Your Honor, and I don't mind working with defense counsel and just incorporate their mitigating factors in there. I think we can probably get it done by the end of the day.

THE COURT: Does the defense wish to be heard on those two aggravating factors?

MR. LLOYD: No, Your Honor. Since we're in a death penalty situation, we object for the record, but would not ask to be heard.

THE COURT: All right, sir. Court will submit two aggravating factors, the two that the district attorney has indicated, 5 and 6 in the statute. And I've got those for the court reporter marked.

Okay. Mitigating factors on behalf of the defendant? Statutory ones first.

MR. LLOYD: The statutory, as Your Honor has already indicated, Your Honor, that the defendant was under the influence or the domination (f)(5), I believe.

THE COURT: Yes, sir.

MR. LLOYD: And (f)(1), defendant has no significant history of prior criminal activity.

THE COURT: All right, sir.

MR. LLOYD: (f)(7) is one that I had thought about, Your Honor. The age of the defendant.

I know the case law speaks -- there are cases that say it's not directly related to chronological age. I don't know if there's any direct evidence that the defendant's chronological age would be less than what his actual age is, Your Honor. But I don't know that the age -- he would have been 23 at the time Patricia Kimble was killed in this case. And I don't -- I don't know where that -- where it stops being a factor, Your Honor, to be honest with you.

THE COURT: The Court will grant your request with regards to the mitigating factor No. 1, the defendant has no significant history of prior criminal activity, and No. 5, the defendant acted under duress or under the domination of another person. And out of abundance of caution, the Court will grant your request for the age of the defendant at the time of the crime.

Any others, sir?

MR. LLOYD: Statutory?

THE COURT: Yes, sir.

MR. LLOYD: No, Your Honor. Your Honor, we would ask that the Court consider giving peremptory instructions on those.

THE COURT: I'll give the standard pattern on the statutory ones.

MR. LLOYD: All right.

THE COURT: Mitigating ones, if you'll submit me a list of those you intend to call.

Mr. Panosh, you submitted other mitigating ones that you feel -- you want to be heard on those?

MR. PANOSH: I didn't submit those, Your Honor. I just typed that before we had this hearing. I wasn't sure if they would be in there or not. I agree with Your Honor's evaluation. I think that they are entitled to a peremptory on No. 1, that he has no significant criminal history. I don't -- I believe they are not entitled to a peremptory on the other two statutes.

THE COURT: Wish to be heard on it, Mr. Lloyd?

MR. LLOYD: Not any further than -- I think the evidence speaks for itself on this.

THE COURT: Court will submit those three mitigating -- statutory mitigating factors, and as I've



indicated will give a peremptory instruction on number one. The other two will be the standard pattern.

MR. LLOYD: All right. And Your Honor, just to maybe save us some argument, if Your Honor could just briefly list the ones Mr. Panosh had listed.

THE COURT: He listed all of them. He just took all of them and put them in there.

MR. LLOYD: Oh, I see. He just took all the ones out of the statute.

THE COURT: Right.

MR. LLOYD: All right.

And we will have our list on --

THE COURT: You have any idea how many there might be?

MR. LLOYD: Well, Your Honor, at lunchtime and earlier, prior to that, I think I had gotten about seven others. I'm not one of these -- I'm not a lawyer who presents, you know, a laundry list of 25 or 30. I think Mr. Hatfield and I discussed that if we could come up with what we feel are 12 solid --

THE COURT: The reason I ask you that, it's going to be necessary that the court reporter or clerk or someone type up that issue sheet. As you know, it will be a long sheet. And have to make at least 15 copies.

MR. LLOYD: Yes, sir. In the past, I generally settle somewhere around 12. Something like that. I don't believe in putting everything.

THE COURT: All right, sir. Arguments. Of course, the defendant is going to have the closing argument. Mr. Panosh, are you going to have one argument?

MR. PANOSH: I'll have one argument. I don't know if they've indicated whether they're going to have opening.

THE COURT: Are you going to have two or one?

MR. LLOYD: We'll have two. Mr. Hatfield and I will each give one, Your Honor. And I don't -- we hadn't discussed it in detail, but we may go after Mr. Panosh back to back. I just don't know at this point.

THE COURT: He probably needs to have some idea of what you intend to do.

MR. LLOYD: Well, I don't know. I think what Mr. Hatfield said to me, we were walking back from the bench, was he sort of contemplated both of us coming after Mr. Panosh, but I'm not going to stake myself out on that at this time.

THE COURT: You may do that if you wish. Of course, that's courtesy to him to know.

MR. LLOYD: All right. I don't have any problems with that, Your Honor. I will anticipate I will give the last argument for the defense. But I would argue just that one time.

THE COURT: All right, sir.

MR. LLOYD: I don't anticipate my argument going over 35, 40 minutes. At the most. May not be that long, Your Honor.

THE COURT: All right. Court will begin tomorrow -- we need to be here at 9:00 tomorrow morning to get everything finalized. And the jurors are coming in at ten, so you should be in a position to give your arguments sometime around ten.

MR. LLOYD: Yes, sir.

MR. PANOSH: Did Your Honor want me to prepare anything before the morning?

THE COURT: In what manner are you referring to, sir?

MR. PANOSH: Do you want to try to refine the charge or not?

THE COURT: I think you've got it pretty well down. I think you can go back and redo it to eliminate all those other things other than the ones we've talked here about and agreed upon as far as statutory aggravating and mitigating factors. Of course, they

will be adding nonstatutory tomorrow morning that will be placed in the charge.

MR. PANOSH: Yes, sir.

THE COURT: Leave a space for that. And may save some time.

MR. PANOSH: Yes, sir.

MR. LLOYD: Your Honor, because it may have some bearing on the order which Mr. Hatfield and I argue, if I could inquire of Mr. Panosh approximately how long he intends to argue?

MR. PANOSH: Less than an hour.

THE COURT: Well, I think -- okay. He says less than an hour. You're talking about ten to eleven. So you've got 11:30 -- 11 to 12:30. Can you do both in that period of time or --

MR. LLOYD: Well, we may, Your Honor. I don't know.

THE COURT: Okay. Any other matters before we recess for the evening?

9:00 in the morning, Sheriff. Nine.

(Whereupon, an evening recess was taken at 4:20 p.m., to resume proceedings on September 3, 1998, at 9:00 a.m.)