

STATE OF NORTH CAROLINA
COURT OF APPEALS

RE: PETITION FOR WRIT OF MANDAMUS COMPLAINT

THEODORE MEAD KIMBLE)

PETITIONER.)

v.)

STATE OF NORTH CAROLINA)

RESPONDENT.)

NO. P03-956
FROM: GUILFORD COUNTY
FILE NOS. 97 CRS 23656
97 CRS 39581; 98 CRS 23486;
98 CRS 23241-48.

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PETITIONER'S RESPONSE TO THE

x x STATE'S ANSWER x x x x x x x x x x x

Now comes the Petitioner, THEODORE MEAD KIMBLE, And says:

1) The State's Statements of Procedural History is FALSE in the following respects:

(A) According to the State's Brief, "1. Petitioner Plead Guilty on 28 January 1999 to Second-Degree Murder, Conspiracy to Commit First-Degree Murder, First-Degree Arson, And Eight Counts of Solicitation to Commit First-Degree Murder. Copies of the Judgments and Commitments are attached to Petitioner's filing." (Brief For the State Page#1.)

In reality Petitioner did NOT Plead Guilty to Eight Counts of Solicitation to Commit First-Degree Murder. See Brief for the State

EXHIBIT (B) Page #2 of 5, And #3 of 5. Bottom of Page #2, Top of Page #3.

Quote: "Defendant also entered "ALFORD" Pleas ⁿ² to the Eight Counts of Solicitation to Commit First-Degree Murder." See Brief for the State

EXHIBIT (B) Page #3 of 5 ... Footnotes ... "n2 ^{HN1 W} An Alford plea allows a defendant to "voluntarily, knowingly, and understandingly consent to the imposition of "A" "Prison Sentence" (EMPHASIS SUPPLIED) even if he is unwilling or unable to admit his participation in the acts constituting the crime." North Carolina v. Alford, 400 U.S. 25, 37, 27 L. Ed. 2d 162, 171, 91 S. Ct. 160 (1970). which is now EXHIBIT (A) in this Motion Response.

(B) As the State pointed out, "Copies of the Judgments and Commitments are attached to Petitioner's filings." If this Honorable Court will notice EACH Judgment and Commitment in cases 99 CRS 23241-48 are MARKED " PLED GUILTY TO," In EACH box. Yet an "ALFORD" Plea is an ALFORD Plea, NOT an entry of a GUILTY Plea which is a FAULTY Judgment and Commitment paper on each Court and each Commitment. See EXHIBIT (B) 1 THUR 8. This shows yet another reason Petitioner's Motion should be granted.

(C) Even the "Transcript of Plea" paper is FALSELY listed as "GUILTY" pleas instead of ALFORD pleas in each one of the Plea (Boxes). See EXHIBIT (C) Cases/File No.s 99 CRS 23241-48. Also note EXHIBIT (D) which also shows NO mention of said ALFORD plea. It too FALSELY shows "GUILTY" pleas instead of ALFORD pleas. This further Proves the claim Petitioner made in his Motion For Appropriate Relief, that Counsel was "Ineffective and Negligent" by having Petitioner sign a "BLANK" Plea Agreement, which allowed the D.A. (Mr Panosh) to later write what he wanted.

All the time Petitioner was being told he was going to receive a TOTAL 20 year sentence for ALL charges.

2) As the State pointed out, "The precise terms of the Plea Arrangement were set forth, in writing..." However the State has chosen to overlook a few Important FACTS in which the Petitioner would like to bring to the attention of this Honorable Court. Those FACTS list as follows:

(A) Petitioner has pointed out in his "Petition For Writ of Mandamus Complaint" how there were SEVERAL "Miscarriages of Justice" throughout the entire proceedings. The Overwhelming FACT Counselor Zimmerman was Petitioner's "PRIOR" sentencing JUDGE (Conflict of Interest and Cause) whom had Petitioner sign every last piece of paper the Prosecutor (Mr Panosh) asked for. The same Counselor Zimmerman who sent Petitioner to prison "1 year and 1 month earlier!" (EMPHASIS SUPPLIED)

(B) A causal perusal of the "Brief for the State EXHIBIT (B) Page #4 of 5" (Now EXHIBIT (A) Page 3 of 3) will show the "INCOMPETENCE" of Petitioner's Counsel. Counselor Zimmerman and Crumpler sat there and working with Prosecutor Panosh against Petitioner, did NOT object to any violations of Petitioner's RIGHTS! It's the RESPONSIBILITY of the Defense Counsel to PROTECT the Defendant's Rights. As the State has shown 2 examples (EXHIBIT A Page 3 of 3) for the Petitioner, Counsel "FAIL" to object in ALL key areas. Petitioner has proven "Ineffective Assistance of Counsel" time and time again, by doing so Petitioner is ENTITLED to Relief.

(C) If this Honorable Court will look at the Plea Agreement (EXHIBIT D)

it will see written, "Count 1 of 97CRS 23656 shall be dismissed." The Court will notice the State did NOT say what this charge was because the State (Mr. Panosh) wish to DECEIVE this Court and the Petitioner. The Superior Court Judge Peter McHugh dismissed this "Count" and NEVER said what it was, because he did NOT know. Indictment #97 CRS 23656 dated Nov. 3, 97 Count 1 reads, "Arson of an Unoccupied Building." Which was already Dismissed when approx 8 months later, July 6, 1998 the Prosecutor Illegally RE-INDICTED with case #98 CRS 23486 "First Degree Arson," with the same EXACT wording, which is in FACT "Double-Jeopardy, and violation of Due Process of Law. By deception of the D.A. this violation was over-looked by the Court. Petitioner's Counsel over-looked "everything" including the Double-Jeopardy which further proves Ineffective Assistance of Counsel, both Trial Counsel and Appellate, Under Jackson v. Leonard 162 F3d.81 (2nd Cir. 1998) (NOTE: All covered in Writ of Mandamus Complaint.)

(D.) By the STATE'S OWN WORDS, the Plea Arrangement states, "...consecutive sentences in each of these cases." The Plea Arrangement stated consecutive sentences in EACH "CASE", NOT EACH COUNT! The Plea Arrangement states, "...and eight counts of Solicitation to Commit First Degree Murder..."

There was 8 COUNTS, BUT ONLY ONE CASE! Petitioner contends the state violated it's own Plea Arrangement, And the Court Errored by NOT following said Plea Arrangement to the EXACT wording. Prosecutor Panosh DECEIVED the Court by the way he presented the (1) case of "Solicitation to Commit First Degree Murder," As if it were 8 separate cases instead of 8-COUNTS. Petitioner was illegally sentenced on each count of the same CASE.

3.) The State correctly pointed out how Petitioner filed a Pro-se Motion To Withdraw his Pleas on Feb. 26, 1999, And said Motion was denied. Yet the State FAIL to mention Feb. 26, 99 was Petitioner's "2nd" Motion To Withdraw! Petitioner filed a previous Motion To Withdraw on Jan. 29, 1999, which VANISHED. See Writ Of Mandamus Page #7, which also shows how Counsel FAIL to represent Petitioner in said Motion, Obstructing Due Process of Law, And leaving Petitioner without Counsel, which the State also FAIL to mention in "Brief for the State Page #2."

4.) The State correctly pointed out how Petitioner's Direct Appeal was denied, And Petitioner's Discretionary Review was also denied. This was due to Ineffective Assistance of Appellate Counsel, Not bringing up issues of Material Fact correctly, and Failure of Appellate Counsel to Pursue issues diligently and zealously, as Decision states, "ABANDON ISSUES." Also Appellate Counsel did NOT report issues of Prosecutor misconduct as mandated by law; And the FACT Mr. Zimmerman was Petitioner's PRIOR sentencing JUDGE, And NO PS.I. Report was presented. Yet Counsel working with the Prosecutor sat there and did NOT object to this or any other violation of Petitioner's RIGHTS; Failure of the Prosecutor to turn over statement by witnesses which would clear Petitioner! Running Defense witnesses out-of-town, Prosecutor releasing an Inmate from prison early in exchange for a FALSE statement, Prosecutor committing Double Jeopardy and many other Miscarriages of Justice as Petitioner pointed out in the Writ Of Mandamus.

5.) The State's final assertion that Petitioner didn't serve Judge ALBRIGHT on the Proof of Service, It is shocking that the State's Attorney would

insult the intelligence of this Court to make such a desperate argument as she did in this case. Petitioner is in Central Prison! He has NO access to the Courts, except Prisoner's Legal Services which denied Petitioner aid. No information has ever been given, to include a Judge's "Particular NAME" on a Certificate of Service. The Attorney General Roy Cooper is named on the Certificate of Service, Plus the fact the "HEADING" "State of North Carolina Court of Appeals," And "State of North Carolina v. Theodore Mead Kimble" was done according to Procedure. The Court Clerk is the one who is in charge of presenting the Motion to a Judge or Judges. Petitioner has NO control or NO way of know which Judge will Rule or be assigned to his Motions, Such a theory is patently absurd.

NOTE: Certificate of Service: "A section of a Pleading or Motion filed with the "COURT", USU, contained separately on the last page, whereby the party filing the Pleading or Motion certifies to the Court that a copy has been sent to the opposing party Fed. R. Civ. P. 5(d)."

Which was done and served according to procedures, A copy was sent to Attorney General Roy Cooper.

NOTE: Attorney General: "The CHIEF law officer of a State or of the United States, Responsible for advising the Government on legal matters and representing it in litigation."

6) As for the State's final notes on her comment, "The Motion has been pending for less than one month." If this Honorable Court will notice the Date in which it is reading this Response, The Court will find the

date has well passed a month. Maybe the State's Assistant Attorney would like to trade places with the Petitioner. Then she might understand how long a month in prison can be, And what it's like to have one's freedom taken illegally. Never mind the FACT Petitioner has spent the last 6 1/2 years in prison under an illegal sentence! The ~~State~~ further said, "In this age of countless prisoner pro-se filings in the Superior Courts across this State, it cannot be said that any official has neglected an official duty." In answer to that assertion, BALD ASSERTION advanced by the State, Apparently the Assistant Attorney General does NOT read the newspapers, Especially of how recently "MANY" acts of Prosecutor's Misconduct and straight out breaking the law, And all kinds of illegal sentences are now becoming known. If this great State of North Carolina didn't convict innocent people illegally, or sentence them illegally, Maybe the State wouldn't need to constantly spend Millions of dollars on new Prisons. And as she said, "The countless filings by prisoners pro-se in the Superior Courts across this State." (Just to illustrate) If one person calls you a Horse, don't pay it no mind! If everyone calls you a Horse, maybe you should look for a bag of feed. Wouldn't it make sense that people are sick and tired of being sentenced Illegally? Is Everyone wrong in the countless prisoner pro-se filings across the state?

CONCLUSION

Petitioner has shown compelling Grounds for Relief. He showed how all of his State and Federal Rights were violated throughout the ENTIRE

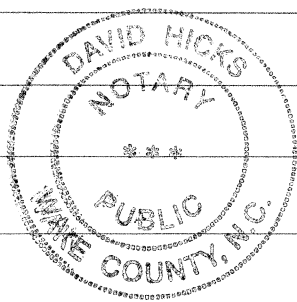
proceedings, Especially in the Superior Court of Guilford County, Many Rules and Laws were broken in the Process. This Honorable Court has the power to make this terrible Injustice correct. Petitioner's claims were NOT Addressed Responsively in the State's answer, it should be taken as "admitted" and all claims should be Granted for the reasons set forth in Petitioner's Petition for Writ of Mandamus Complaint. The Writ should Issue, Alternatively Petitioner should be given an Evidentiary Hearing on All Issues of Material Fact, Or Petitioner's sentence to be set aside and Petitioner be remanded to Superior Court of Guilford County for Re-sentencing And that this Honorable Court demand the Superior Court of Guilford County to Rule on Petitioner's Motion For Appropriate Relief. That in the interest of "The Ends of Justice" this Honorable Court Grant Relief from the Judgments and such other and further Relief this Court deems appropriate, just, and proper. Respectfully submitted, This The 24 Day of November 2003.

Pro-se: Theodore Mead Kimble

THEODORE MEAD KIMBLE

1300 Western Blvd.

Raleigh, N.C. 27606



Sworn To and Before me, This The 24th Day of November 2003

Witness Name: David Hicks

Date: 11-24-03

My Commission Expires: _____ My Commission Expires 5-18-2008

VERIFICATION

I, Theodore Mead Kimble, Being First duly Sworn depose and say, I am the Petitioner in the forgoing Petitioner's Response to the State's Answer, I have read the same, And the Statements contained therein are True, As for any Statements made on information and belief, I say they are made in good faith, And I believe to be True, Signed under penalty of Perjury This The 24 Day of November 2003,

Prose: Theodore Mead Kimble

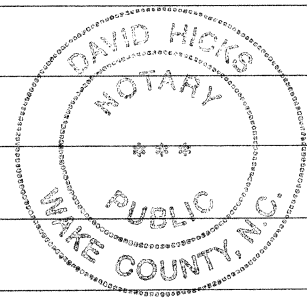
THEODORE MEAD KIMBLE
1300 Western Blvd.
Raleigh, N.C. 27606

Sworn To And Before me This
The 24th Day of November 2003.

witness: David Hicks

Date: 11-24-03

My Commission Expires: My Commission Expires 5-18-2008.

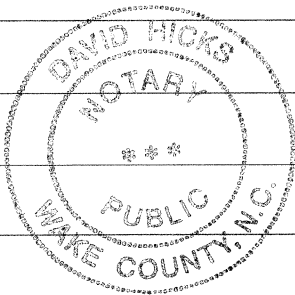


PROOF OF SERVICE

I Do Hereby Certify that the foregoing Petitioner's Response to the State's Answer Copy was Duly Served by placing the same in the U.S. MAIL, Postage Pre-Paid, And Addressed as follows:

Mr. Roy Cooper
Attorney General
P.O. Box 629
Raleigh, NC 27602

The Honorable W. Douglas Albright
Senior Resident Superior Court Judge
Courthouse
201 S. Eugene Street
P.O. Box 3008
Greensboro, N.C. 27401



This The 24 Day of November 2003.

Pro-Se: Theodore Mead Kimble

THEODORE MEAD KIMBLE

1300 Western Blvd.

Raleigh, N.C. 27606

Witness By: David Hicks

Date: 11-24-03

My Commission Expires: My Commission Expires 5-18-2008.

ATTACHMENTS
LIST OF EXHIBITS

(A) No. COA 99-1518 DECISION (3 PAGES)

(B) 99 CRS 23241-48 (8 PAGES)

(C) PLEAS PAPER LISTING CHARGES

(D) TRANSCRIPT OF PLEA PAPER

(E) PETITION FOR WRIT OF MANDAMUS COMPLAINT

plain error, second-degree, motion to withdraw, entry of judgment, sentencing, conspiracy to commit, mitigating, sentencing hearing, competent evidence, prejudicial impact, indicted, sufficiency of evidence, governmental function, aggravating factor, appellate review, matter of law, guilty pleas, plea hearing, understandingly, preservation, preserved, answered, lawful

LexisNexis (TM) HEADNOTES - Core Concepts - ♦ Hide Concepts

Criminal Law & Procedure > Guilty Pleas > Alford Pleas

HN1 ♦ An Alford plea allows a defendant to voluntarily, knowingly, and understandingly consent to the imposition of a prison sentence even if he is unwilling or unable to admit his participation in the acts constituting the crime. [More Like This Headnote](#)

♦ Show Headnotes

COUNSEL: Attorney General Michael F. Easley, by Special Deputy Attorney General Edwin W. Welch, for the State.

Appellate Defender Malcolm Ray Hunter, Jr. by Assistant Appellate Defender Danielle M. Carman, for defendant-appellant.

JUDGES: GREENE, Judge. Judges TIMMONS-GOODSON and FULLER concur.

OPINIONBY: GREENE

OPINION: [*145] [**343]

GREENE, Judge.

Theodore Mead Kimble (Defendant) appeals judgments dated 5 March 1999, finding him guilty of second-degree murder, conspiracy to commit first-degree murder, first-degree arson, and eight counts of solicitation to commit first-degree murder. n1

----- Footnotes -----

n1 Defendant also appeals from and assigns error to the trial court's order, made in open court, denying Defendant's motion to withdraw his guilty pleas. As Defendant makes no argument in his brief to this Court regarding the trial court's order denying this motion, this assignment of error is deemed abandoned. N.C.R. App. P. 28(b)(5).

----- End Footnotes----- [***2]

On 7 April 1997, Defendant was indicted by a Guilford County grand jury for first-degree murder based on the death of Patricia Gail Kimble (Kimble), Defendant's wife. The indictment alleged Kimble was murdered on 9 October 1995. On 3 November 1997, Defendant was indicted for arson and conspiracy to commit first-degree murder based on the 9 October 1995 incident, and on 6 July 1998, Defendant was indicted for first-degree arson based on the 9 October 1995 incident. Finally, on 28 January 1999, the State filed bills of information charging Defendant with eight counts of solicitation to commit first-degree murder. The eight counts of solicitation to commit first-degree murder related to an incident that occurred subsequent to the 9 October 1995 death of Kimble.

On 25 January 1999, Defendant pled guilty to second-degree murder, conspiracy to commit first-degree murder, and first-degree arson. Defendant also entered *Alford* pleas n2 to the

eight counts of solicitation to commit first-degree murder. At the time Defendant entered his pleas, the trial court asked whether Defendant "stipulated that a factual basis exists for the entry of the pleas of guilty." Defense counsel answered: *****3** "Defendant does." The trial court then asked Defendant whether he "stipulated that, if necessary, the State may summarize the factual basis." Defense counsel answered: "Yes, sir, we do." The State then summarized the factual basis for Defendant's pleas. Subsequent to the State's summary, the trial court made the following findings: "The ****344** court finds that . . . Defendant is competent to stand trial and that the plea entered is . . . Defendant's informed choice and it is made freely, voluntarily[,] and understandingly. . . . Defendant's plea is hereby accepted by the court and it is ordered recorded." ***146** Defendant did not object to the trial court's acceptance of Defendant's pleas.

----- Footnotes -----

n2 ^{HNI} An *Alford* plea allows a defendant to "voluntarily, knowingly, and understandingly consent to the imposition of a prison sentence even if he is unwilling or unable to admit his participation in the acts constituting the crime." *North Carolina v. Alford*, 400 U.S. 25, 37, 27 L. Ed. 2d 162, 171, 91 S. Ct. 160 (1970).

----- End Footnotes----- *****4**

On 26 February 1999, Defendant filed a *pro se* motion to "with- draw [his] guilty-plea on all accounts and charges" on the ground he was "pressured into [his] earlier plea." The trial court subsequently held a hearing on the motion. At the conclusion of the hearing, the trial court "concluded as a matter of law that . . . Defendant has wholly failed to meet his burden of showing to the Court that the motion to withdraw is supported by some fair and just reasons." The trial court, therefore, denied Defendant's motion to withdraw his guilty pleas.

On 4 March 1999 through 5 March 1999, the trial court held Defendant's sentencing hearing. At the conclusion of the hearing, the trial court found aggravating and mitigating factors existed. The trial court found the following aggravating factors when sentencing Defendant for second-degree murder: (1) "Defendant acted with premeditation and deliberation in committing this offense," and (2) "Defendant acted for pecuniary gain in committing the offense." Also, the trial court found the following aggravating factor when sentencing Defendant for first-degree arson: "This offense was committed for the purpose of avoiding detection in the *****5** murder of . . . Kimble and for the purpose of covering up the murder." Finally, the trial court found the following aggravating factor when sentencing Defendant for six counts of solicitation to commit first-degree murder: "The offense was committed to: a. disrupt the lawful exercise of a governmental function or the enforcement of laws[, and] b. hinder the lawful exercise of a governmental function or the enforcement of laws." In regard to the charges of second-degree murder, first-degree arson, and six counts of solicitation to commit first-degree murder, the trial court found the aggravating factors outweighed the mitigating factors and sentenced Defendant in the aggravated range. In regard to the charges of conspiracy to commit first-degree murder and two counts of solicitation to commit first-degree murder, the trial court found no aggravating or mitigating factors existed.

The issues are whether: (I) Defendant preserved for appellate review the issue of whether there was a factual basis to support the *Alford* pleas entered by Defendant for eight charges of solicitation to commit first-degree murder; and (II) Defendant preserved for appellate review the issue of whether *****6** the aggravating factors found by the trial court regarding Defendant's convictions for second-degree murder, ***147** first-degree arson, and six counts of solicitation to commit first-degree murder were supported by competent evidence, and whether the trial court erroneously used the same evidence to prove two

aggravating factors.

I

Defendant argues the trial court erroneously entered judgment against Defendant for eight counts of solicitation to commit first- degree murder because there was an insufficient factual basis for the pleas, in violation of N.C. Gen. Stat. § 15A-1022(c) and the Fourteenth Amendment of the United States Constitution. Defendant argues, in the alternative, that seven of Defendant's eight convictions for solicitation to commit first-degree murder should be vacated because "the [State's] factual narrative showed that there was only one solicitation as a matter of law." Defendant, however, did not object during the plea hearing to the State's summary of the factual basis for the entry of judgment against Defendant for these charges. Additionally, Defendant did not argue before the trial court that the factual basis for the entry of judgment against Defendant supported [***7] only one count of solicitation to commit first-degree murder. Further, although Defendant brought a motion to withdraw his pleas subsequent to the entry of judgment, the basis of this motion was not that there was an insufficient factual basis to support Defendant's pleas. This issue, which was not raised before the trial [**345] court, is therefore not properly before this Court. See N.C.R. App. P. 10(b)(1). Accordingly, we do not address this issue.

II

Defendant argues the aggravating factors found by the trial court when sentencing Defendant for second-degree murder, first-degree arson, and six counts of solicitation to commit first-degree murder were not supported by competent evidence in the record. Defendant, however, did not object to these findings during the sentencing hearing. This issue, therefore, is not properly before this Court. n3 N.C.R. App. P. 10(b)(1); *State v. Hughes*, 136 N.C. App. 92, 98, 524 S.E.2d 63, 67 (1999), *disc. review denied*, 351 N.C. 644, 543 S.E.2d 878 (2000); *State v. Degree*, 110 N.C. App. 638, 643, 430 S.E.2d 491, 494 (1993).

[*148] Additionally, although Defendant states in his brief to this [***8] Court that "Defendant asserts plain error," Defendant does not make any argument in his brief to this Court regarding the prejudicial impact of the alleged plain error. Accordingly, the issue of whether any alleged errors resulted in plain error pursuant to Rule 10(d) of the North Carolina Rules of Appellate Procedure is not properly before this Court. See *State v. Cummings*, 352 N.C. 600, 536 S.E.2d 36, 61 (2000) ("Defendant's empty assertion of plain error, without supporting argument or analysis of prejudicial impact, does not meet the spirit or intent of the plain error rule.").

----- Footnotes -----

n3 We note that in the event the trial court's written findings on aggravating and mitigating factors differ from its findings made in open court, there would be no requirement Defendant object to the written findings in order to preserve his right to appellate review of the written findings. This is because Defendant would not have an opportunity to object to findings made by the trial court outside of Defendant's presence.

----- End Footnotes----- [***9]

Affirmed.

Judges TIMMONS-GOODSON and FULLER concur.

EXHIBIT (B) 1078

STATE OF NORTH CAROLINA

a No. 99CRS 23241

Guilford

County

Greensboro

Seat of Court

In The General Court Of Justice Superior Court Division

NOTE: (This form is to be used for (1) felony offense(s), and (2) misdemeanor offense(s), which are consolidated for judgment with any felony offense(s). Use AOC-CR-301 on DWI

STATE VERSUS

JUDGMENT AND COMMITMENT

Name Of Defendant

Theodore Mead Kimble

ACTIVE PUNISHMENT

FELONY

(STRUCTURED SENTENCING)

G.S. 15A-1301, 15A-1340.13

Race

White

Sex

Male

DOB

12-08-69

Attorney For State

Richard Panosh

Def. Found Not Indigent Def. Waived Attorney

Attorney For Defendant

Zimmerman/Crumpler

Appointed Retained

The defendant pled guilty to: was found guilty by a jury of: pled no contest to:

Table with 7 columns: File No.(s), Off, Offense Description, Offense Date, G.S. No., F/M, CL. Row 1: 99CRS 23241, Solicitation: First degree murder, 11-04-98, C.L. & 14-2.6, F, C

The Court:

PRIOR

I III V

- 1. has determined, pursuant to G.S. 15A-1340.14, the prior record points of the defendant to be 02. RECORD LEVEL: XI IV VI
2. makes no prior record level finding because none is required for Class A felony, enhanced firearm penalty, violent habitual felon, or drug trafficking offenses.

The Court:

- 1. makes no written findings because the prison term imposed is: (a) within the presumptive range of sentences authorized under G.S. 15A-1340.17(c). (b) for a Class A felony. (c) for enhanced firearm penalty (G.S. 15A-1340.16A). (d) for an adjudication as a violent habitual felon. G.S. 14-7.12. (e) for drug trafficking offenses.
2. makes the Findings of Aggravating and Mitigating Factors set forth on the attached AOC-CR-605.
3. imposes the prison term pursuant to a plea arrangement as to sentence under Article 58 of G.S. Chapter 15A.
4. finds the defendant has provided substantial assistance pursuant to G.S. 90-95(h)(5).
5. adjudges the defendant to be an habitual felon pursuant to Article 2A of G.S. Chapter 14.
6. finds enhanced punishment from a Class 1 misdemeanor to a Class I felony G.S. 90-95(e)(3) (drugs); G.S. 14-3(c) (race, etc.)
7. finds no Extraordinary Mitigation.
8. finds the above designated offenses(s) is a reportable conviction involving a minor. G.S. 14-208.6.
9. finds the defendant is classified as a sexually violent predator. G.S. 14-208.20.

The Court, having considered evidence, arguments of counsel and statement of defendant, finds that the defendant's plea was freely, voluntarily, and understandingly entered, and Orders the above offenses be consolidated for judgment and the defendant be imprisoned

for a minimum term of: 108 months for a maximum term of: 139 months in the custody of: N.C. DOC. Class A Felony: Life Imprisonment Without Parole Death (see attached Death Warrant and Certificates) Class B1 Felony: Life Imprisonment Without Parole Violent Habitual Felon: Life Imprisonment Without Parole

The defendant shall be given credit for -0- days spent in confinement prior to the date of this Judgment as a result of this charge(s).

- The sentence imposed above shall begin at the expiration of all sentences which the defendant is presently obligated to serve.
The sentence imposed above shall begin at the expiration of the sentence imposed in the case referenced below:

(NOTE: List the case number, date, county and court in which prior sentence imposed.)

98CRS 23486 Criminal Superior Division Guilford County Greensboro 03-05-99

EXHIBIT B 2018

STATE OF NORTH CAROLINA

Guilford

Greensboro

Case No.

99CRS23242

County

Seat of Court

In The General Court Of Justice
Superior Court Division

NOTE: (This form is to be used for (1) felony offense(s), and (2) misdemeanor offense(s), which are consolidated for judgment with any felony offense(s). Use AOC-CR-301 or DW-100.)

STATE VERSUS

JUDGMENT AND COMMITMENT

Name Of Defendant

Theodore Mead Kimble

Race

White

Sex

Male

DOB

12-08-69

ACTIVE PUNISHMENT
FELONY

(STRUCTURED SENTENCING)

G.S. 15A-1301, 15A-1340

Attorney For State

Richard Panosh

Def. Found Not Indigent

Def. Waived Attorney

Attorney For Defendant

Zimmerman/Crumpler

Appointed Retained

The defendant pled guilty to: was found guilty by a jury of: pled no contest to:

File No.(s)	Off	Offense Description	Offense Date	G.S. No.	F/M	C
99CRS 23242		Solicitation:First degree murder	11-04-98	C.L. & 14-2.6	F	C

The Court:

- 1. has determined, pursuant to G.S. 15A-1340.14, the prior record points of the defendant to be 02. RECORD LEVEL: II IV
- 2. makes no prior record level finding because none is required for Class A felony, enhanced firearm penalty, violent habitual felon, or drug trafficking offenses.

The Court:

- 1. makes no written findings because the prison term imposed is: (a) within the presumptive range of sentences authorized under G.S. 15A-1340.17(c). (b) for a Class A felony. (c) for enhanced firearm penalty (G.S. 15A-1340.16A). (d) for an adjudication as a violent habitual felon. G.S. 14-7.12. (e) for drug trafficking offenses.
- 2. makes the Findings of Aggravating and Mitigating Factors set forth on the attached AOC-CR-605.
- 3. imposes the prison term pursuant to a plea arrangement as to sentence under Article 58 of G.S. Chapter 15A.
- 4. finds the defendant has provided substantial assistance pursuant to G.S. 90-95(h)(5).
- 5. adjudges the defendant to be an habitual felon pursuant to Article 2A of G.S. Chapter 14.
- 6. finds enhanced punishment from a Class 1 misdemeanor to a Class I felony G.S. 90-95(e)(3) (drugs); G.S. 14-3(c) (race, etc)
- 7. finds no Extraordinary Mitigation.
- 8. finds the above designated offenses(s) is a reportable conviction involving a minor. G.S. 14-208.6.
- 9. finds the defendant is classified as a sexually violent predator. G.S. 14-208.20.

The Court, having considered evidence, arguments of counsel and statement of defendant, finds that the defendant's plea was freely, voluntarily, and understandingly entered, and Orders the above offenses be consolidated for judgment and the defendant be imprisoned

for a minimum term of: 108 months	for a maximum term of: 139 months	in the custody of: <input checked="" type="checkbox"/> N.C. DOC. <input type="checkbox"/> Sheriff pursuant to G.S. 15A-1352(b). <input type="checkbox"/> Other
<input type="checkbox"/> Class A Felony: <input type="checkbox"/> Life Imprisonment Without Parole <input type="checkbox"/> Death (see attached Death Warrant and Certificates)		
<input type="checkbox"/> Class B1 Felony: Life Imprisonment Without Parole <input type="checkbox"/> Violent Habitual Felon: Life Imprisonment Without Parole		

The defendant shall be given credit for -0- days spent in confinement prior to the date of this Judgment as a result of this charge(s)

- The sentence imposed above shall begin at the expiration of all sentences which the defendant is presently obligated to serve
- The sentence imposed above shall begin at the expiration of the sentence imposed in the case referenced below:

(NOTE: List the case number, date, county and court in which prior sentence imposed.)

99CRS 23241 Criminal Superior Division Guilford County Greensboro 03-05-99

EXHIBIT (B) 30F8

STATE OF NORTH CAROLINA

No. 99CRS 23243

Guilford County Greensboro Seat of Court

In The General Court Of Justice Superior Court Division

NOTE: (This form is to be used for (1) felony offenses, and (2) misdemeanor offenses, which are consolidated for judgment with any felony offenses). Use AOC-CR-301 on DWI

STATE VERSUS

JUDGMENT AND COMMITMENT

Name Of Defendant Theodore Mead Kimble

ACTIVE PUNISHMENT FELONY

Race White Sex Male DOB 12-08-69

(STRUCTURED SENTENCING)

G.S. 15A-1301, 15A-1340

Attorney For State Richard Panosh

Def. Found Not Indigent Def. Waived Attorney

Attorney For Defendant Zimmerman/Crumpler

Appointed Retained

The defendant pled guilty to: was found guilty by a jury of: pled no contest to:

Table with 5 columns: File No.(s), Off, Offense Description, Offense Date, G.S. No., F/M. Row 1: 99CRS 23243, Solicitation: First degree murder, 11-04-98, C.L. & 14-2.6, F

The Court: 1. has determined, pursuant to G.S. 15A-1340.14, the prior record points of the defendant to be 02. RECORD LEVEL: II

The Court: 1. makes no written findings because the prison term imposed is: (a) within the presumptive range of sentences authorized under G.S. 15A-1340.17(c). (b) for a Class A felony. (c) for enhanced firearm penalty (G.S. 15A-1340.16A). (d) for an adjudication as a violent habitual felon. G.S. 14-7.12. (e) for drug trafficking offenses. 2. makes the Findings of Aggravating and Mitigating Factors set forth on the attached AOC-CR-605.

The Court, having considered evidence, arguments of counsel and statement of defendant, finds that the defendant's plea was freely, voluntarily, and understandingly entered, and Orders the above offenses be consolidated for judgment and the defendant to be imprisoned

for a minimum term of: 108 months for a maximum term of: 139 months in the custody of: N.C. DOC. Class A Felony: Life Imprisonment Without Parole Death (see attached Death Warrant and Certificates) Class B1 Felony: Life Imprisonment Without Parole Violent Habitual Felon: Life Imprisonment Without Parole

The defendant shall be given credit for -0- days spent in confinement prior to the date of this Judgment as a result of this charge: The sentence imposed above shall begin at the expiration of the sentence imposed in the case referenced below: (NOTE: List the case number, date, county and court in which prior sentence imposed.) 99CRS 23242 Criminal Superior Division Guilford County Greensboro 03-05-99

Guilford County Greensboro Seat of Court

In The General Court Of Justice Superior Court Division

NOTE: (This form is to be used for (1) felony offense(s), and (2) misdemeanor offense(s), which are consolidated for judgment with any felony offense(s). Use AOC-CR-301 on DWI

STATE VERSUS

JUDGMENT AND COMMITMENT ACTIVE PUNISHMENT FELONY

Name Of Defendant

Theodore Mead Kimble

Race

White

Sex

Male

DOB

12-08-69

(STRUCTURED SENTENCING)

G.S. 15A-1301, 15A-1340.13

Attorney For State

Richard Panosh

Def. Found Not Indigent

Def. Waived Attorney

Attorney For Defendant

Zimmerman/Crumpler

Appointed Retained

The defendant pled guilty to: was found guilty by a jury of: pled no contest to:

Table with 6 columns: File No.(s), Off, Offense Description, Offense Date, G.S. No., F/M, CL. Row 1: 99CRS 23244, Solicitation: First degree murder, 11-04-98, C.L. & 14-2.6, F, C

The Court:

PRIOR

I III V

- 1. has determined, pursuant to G.S. 15A-1340.14, the prior record points of the defendant to be 02. RECORD LEVEL: II IV VI
2. makes no prior record level finding because none is required for Class A felony, enhanced firearm penalty, violent habitual felon, or drug trafficking offenses.

The Court:

- 1. makes no written findings because the prison term imposed is: (a) within the presumptive range of sentences authorized under G.S. 15A-1340.17(c). (b) for a Class A felony. (c) for enhanced firearm penalty (G.S. 15A-1340.16A). (d) for an adjudication as a violent habitual felon. G.S. 14-7.12. (e) for drug trafficking offenses.
2. makes the Findings of Aggravating and Mitigating Factors set forth on the attached AOC-CR-605.
3. imposes the prison term pursuant to a plea arrangement as to sentence under Article 58 of G.S. Chapter 15A.
4. finds the defendant has provided substantial assistance pursuant to G.S. 90-95(h)(5).
5. adjudges the defendant to be an habitual felon pursuant to Article 2A of G.S. Chapter 14.
6. finds enhanced punishment from a Class 1 misdemeanor to a Class I felony G.S. 90-95(e)(3) (drugs); G.S. 14-3(c) (race, etc.).
7. finds no Extraordinary Mitigation.
8. finds the above designated offenses(s) is a reportable conviction involving a minor. G.S. 14-208.6.
9. finds the defendant is classified as a sexually violent predator. G.S. 14-208.20.

The Court, having considered evidence, arguments of counsel and statement of defendant, finds that the defendant's plea was freely, voluntarily, and understandingly entered, and Orders the above offenses be consolidated for judgment and the defendant be imprisoned

for a minimum term of: 108 months for a maximum term of: 139 months in the custody of: N.C. DOC.
Class A Felony: Life Imprisonment Without Parole Death (see attached Death Warrant and Certificates)
Class B1 Felony: Life Imprisonment Without Parole
Violent Habitual Felon: Life Imprisonment Without Parole

The defendant shall be given credit for -0- days spent in confinement prior to the date of this Judgment as a result of this charge(s).

- The sentence imposed above shall begin at the expiration of all sentences which the defendant is presently obligated to serve.
The sentence imposed above shall begin at the expiration of the sentence imposed in the case referenced below:

(NOTE: List the case number, date, county and court in which prior sentence imposed.)

99CRS 23243 Criminal Superior Division Guilford County Greensboro 03-05-99

Guilford County Greensboro Seat of Court

In The General Court Of Justice Superior Court Division

NOTE: (This form is to be used for (1) felony offense(s), and (2) misdemeanor offense(s), which are consolidated for judgment with any felony offense(s). Use AOC-CR-301 on DWI)

STATE VERSUS

JUDGMENT AND COMMITMENT

Name Of Defendant Theodore Mead Kimble

ACTIVE PUNISHMENT FELONY

Race White Sex Male DOB 12-08-69

(STRUCTURED SENTENCING)

G.S. 15A-1301, 15A-1340.13

Attorney For State Richard Panosh

Attorney For Defendant Zimmerman/Crumpler

The defendant [X] pled guilty to: [] was found guilty by a jury of: [] pled no contest to:

Table with 6 columns: File No.(s), Off, Offense Description, Offense Date, G.S. No., F/M, CL. Row 1: 99CRS 23245, [], Solicitation: First degree murder, 11-04-98, C.L. & 14-2.6, F, C

The Court: [X] 1. has determined, pursuant to G.S. 15A-1340.14, the prior record points of the defendant to be 02. RECORD LEVEL: [X] II [] I [] III [] IV [] V

The Court: [X] 1. makes no written findings because the prison term imposed is: [X] (a) within the presumptive range of sentences authorized under G.S. 15A-1340.17(c). [] (b) for a Class A felony. [] (c) for enhanced firearm penalty (G.S. 15A-1340.16A). [] (d) for an adjudication as a violent habitual felon. G.S. 14-7.12. [] (e) for drug trafficking offenses.

The Court, having considered evidence, arguments of counsel and statement of defendant, finds that the defendant's plea was freely, voluntarily, and understandingly entered, and Orders the above offenses be consolidated for judgment and the defendant be imprisoned

for a minimum term of: 096 months for a maximum term of: 125 months in the custody of: [X] N.C. DOC. [] Sheriff pursuant to G.S. 15A-1352(b). [] Other

The defendant shall be given credit for -0- days spent in confinement prior to the date of this Judgment as a result of this charge(s). [] The sentence imposed above shall begin at the expiration of all sentences which the defendant is presently obligated to serve. [X] The sentence imposed above shall begin at the expiration of the sentence imposed in the case referenced below:

Guilford County Greensboro Seat of Court

In The General Court Of Justice
Superior Court Division

NOTE: (This form is to be used for (1) felony offense(s), and (2) misdemeanor offense(s), which are consolidated for judgment with any felony offense(s). Use AOC-CR-301 on DWI)

STATE VERSUS

JUDGMENT AND COMMITMENT

Name Of Defendant
Theodore Mead Kimble

ACTIVE PUNISHMENT

Race White Sex Male DOB 12-08-69

FELONY
(STRUCTURED SENTENCING)

Attorney For State
Richard Panosh

Attorney For Defendant
Zimmerman/Crumpler

G.S. 15A-1301, 15A-1340.13

Appointed Retained

The defendant pled guilty to: was found guilty by a jury of: pled no contest to:

File No.(s)	Off	Offense Description	Offense Date	G.S. No.	F/M	CL
99CRS 23246		Solicitation: First degree murder	11-04-98	C.L. & 14-2.6	F	C

The Court:
 1. has determined, pursuant to G.S. 15A-1340.14, the prior record points of the defendant to be 02. PRIOR I III V
 2. makes no prior record level finding because none is required for Class A felony, RECORD LEVEL: II IV V
 enhanced firearm penalty, violent habitual felon, or drug trafficking offenses.

The Court:
 1. makes no written findings because the prison term imposed is: (a) within the presumptive range of sentences authorized under G.S. 15A-1340.17(c). (b) for a Class A felony. (c) for enhanced firearm penalty (G.S. 15A-1340.16A). (d) for an adjudication as a violent habitual felon. G.S. 14-7.12. (e) for drug trafficking offenses.
 2. makes the Findings of Aggravating and Mitigating Factors set forth on the attached AOC-CR-605.
 3. imposes the prison term pursuant to a plea arrangement as to sentence under Article 58 of G.S. Chapter 15A.
 4. finds the defendant has provided substantial assistance pursuant to G.S. 90-95(h)(5).
 5. adjudges the defendant to be an habitual felon pursuant to Article 2A of G.S. Chapter 14.
 6. finds enhanced punishment from a Class 1 misdemeanor to a Class I felony G.S. 90-95(e)(3) (drugs); G.S. 14-3(c) (race, etc)
 7. finds no Extraordinary Mitigation.
 8. finds the above designated offense(s) is a reportable conviction involving a minor. G.S. 14-208.6.
 9. finds the defendant is classified as a sexually violent predator. G.S. 14-208.20.

The Court, having considered evidence, arguments of counsel and statement of defendant, finds that the defendant's plea was freely, voluntarily, and understandingly entered, and Orders the above offenses be consolidated for judgment and the defendant be imprisoned

for a minimum term of: 108 months	for a maximum term of: 139 months	in the custody of: <input checked="" type="checkbox"/> N.C. DOC. <input type="checkbox"/> Sheriff pursuant to G.S. 15A-1352(b). <input type="checkbox"/> Other
<input type="checkbox"/> Class A Felony: <input type="checkbox"/> Life Imprisonment Without Parole <input type="checkbox"/> Death (see attached Death Warrant and Certificates)		
<input type="checkbox"/> Class B1 Felony: Life Imprisonment Without Parole		
<input type="checkbox"/> Violent Habitual Felon: Life Imprisonment Without Parole		

The defendant shall be given credit for -0- days spent in confinement prior to the date of this Judgment as a result of this charge(s).
 The sentence imposed above shall begin at the expiration of all sentences which the defendant is presently obligated to serve.
 The sentence imposed above shall begin at the expiration of the sentence imposed in the case referenced below:
 (NOTE: List the case number, date, county and court in which prior sentence imposed.)
 99CRS 23245 Criminal Superior Division Guilford County Greensboro 03-05-99

Guilford County Greensboro Seat of Court

In The General Court Of Justice Superior Court Division

NOTE: (This form is to be used for (1) felony offense(s), and (2) misdemeanor offense(s), which are consolidated for judgment with any felony offense(s). Use AOC-CR-301 on DWI

STATE VERSUS

JUDGMENT AND COMMITMENT

Name Of Defendant

Theodore Mead Kimble

ACTIVE PUNISHMENT

FELONY

(STRUCTURED SENTENCING)

G.S. 15A-1301, 15A-1340.13

Race

White

Sex

Male

DOB

12-08-69

COJ

Attorney For State

Richard Panosh

Def. Found Not Indigent

Def. Waived Attorney

Attorney For Defendant

Zimmerman/Crumpler

Appointed Retained

The defendant pled guilty to: was found guilty by a jury of: pled no contest to:

Table with 6 columns: File No.(s), Off, Offense Description, Offense Date, G.S. No., F/M, CL. Row 1: 99CRS 23247, Solicitation: First degree murder, 11-04-98, C.L. & 14-2.6, F, C

The Court:

PRIOR

I III V

- 1. has determined, pursuant to G.S. 15A-1340.14, the prior record points of the defendant to be 02. RECORD LEVEL: II IV VI
2. makes no prior record level finding because none is required for Class A felony, enhanced firearm penalty, violent habitual felon, or drug trafficking offenses.

The Court:

- 1. makes no written findings because the prison term imposed is: (a) within the presumptive range of sentences authorized under G.S. 15A-1340.17(c). (b) for a Class A felony. (c) for enhanced firearm penalty (G.S. 15A-1340.16A). (d) for an adjudication as a violent habitual felon. G.S. 14-7.12. (e) for drug trafficking offenses.
2. makes the Findings of Aggravating and Mitigating Factors set forth on the attached AOC-CR-605.
3. imposes the prison term pursuant to a plea arrangement as to sentence under Article 58 of G.S. Chapter 15A.
4. finds the defendant has provided substantial assistance pursuant to G.S. 90-95(h)(5).
5. adjudges the defendant to be an habitual felon pursuant to Article 2A of G.S. Chapter 14.
6. finds enhanced punishment from a Class 1 misdemeanor to a Class I felony G.S. 90-95(e)(3) (drugs); G.S. 14-3(c) (race, etc.).
7. finds no Extraordinary Mitigation.
8. finds the above designated offense(s) is a reportable conviction involving a minor. G.S. 14-208.6.
9. finds the defendant is classified as a sexually violent predator. G.S. 14-208.20.

The Court, having considered evidence, arguments of counsel and statement of defendant, finds that the defendant's plea was freely, voluntarily, and understandingly entered, and Orders the above offenses be consolidated for judgment and the defendant be imprisoned

for a minimum term of: 108 months for a maximum term of: 139 months in the custody of: N.C. DOC. Class A Felony: Life Imprisonment Without Parole Death (see attached Death Warrant and Certificates) Class B1 Felony: Life Imprisonment Without Parole Violent Habitual Felon: Life Imprisonment Without Parole

The defendant shall be given credit for -0- days spent in confinement prior to the date of this Judgment as a result of this charge(s).

- The sentence imposed above shall begin at the expiration of all sentences which the defendant is presently obligated to serve.
The sentence imposed above shall begin at the expiration of the sentence imposed in the case referenced below: (NOTE: List the case number, date, county and court in which prior sentence imposed.)

Guilford County Greensboro Seat of Court

In The General Court Of Justice
Superior Court Division

NOTE: (This form is to be used for (1) felony offense(s), and (2) misdemeanor offense(s), which are consolidated for judgment with any felony offense(s). Use AOC-CR-301 on DWI)

STATE VERSUS

JUDGMENT AND COMMITMENT

Name Of Defendant
Theodore Mead Kimble

ACTIVE PUNISHMENT

Race: White Sex: Male DOB: 12-08-69

FELONY
(STRUCTURED SENTENCING)

Attorney For State: Richard Panosh
Def. Found Not Indigent Def. Waived Attorney

Attorney For Defendant: Zimmerman/Crumpler
G.S. 15A-1301, 15A-1340.1
 Appointed Retained

The defendant pled guilty to: was found guilty by a jury of: pled no contest to:

File No.(s)	Off	Offense Description	Offense Date	G.S. No.	F/M	CL
99CRS 23248		Solicitation: First degree murder	11-04-98	C.L. & 14-2.6	F	C

The Court:

1. has determined, pursuant to G.S. 15A-1340.14, the prior record points of the defendant to be 02. PRIOR I III V
 2. makes no prior record level finding because none is required for Class A felony, enhanced firearm penalty, violent habitual felon, or drug trafficking offenses. RECORD LEVEL: II IV V

The Court:

1. makes no written findings because the prison term imposed is: (a) within the presumptive range of sentences authorized under G.S. 15A-1340.17(c). (b) for a Class A felony. (c) for enhanced firearm penalty (G.S. 15A-1340.16A). (d) for an adjudication as a violent habitual felon. G.S. 14-7.12. (e) for drug trafficking offenses.
 2. makes the Findings of Aggravating and Mitigating Factors set forth on the attached AOC-CR-605.
 3. imposes the prison term pursuant to a plea arrangement as to sentence under Article 58 of G.S. Chapter 15A.
 4. finds the defendant has provided substantial assistance pursuant to G.S. 90-95(h)(5).
 5. adjudges the defendant to be an habitual felon pursuant to Article 2A of G.S. Chapter 14.
 6. finds enhanced punishment from a Class 1 misdemeanor to a Class I felony G.S. 90-95(e)(3) (drugs); G.S. 14-3(c) (race, etc)
 7. finds no Extraordinary Mitigation.
 8. finds the above designated offense(s) is a reportable conviction involving a minor. G.S. 14-208.6.
 9. finds the defendant is classified as a sexually violent predator. G.S. 14-208.20.

The Court, having considered evidence, arguments of counsel and statement of defendant, finds that the defendant's plea was freely, voluntarily, and understandingly entered, and Orders the above offenses be consolidated for judgment and the defendant be imprisoned

for a minimum term of: 96 months	for a maximum term of: 125 months	in the custody of: <input checked="" type="checkbox"/> N.C. DOC. <input type="checkbox"/> Sheriff pursuant to G.S. 15A-1352(b). <input type="checkbox"/> Other _____
<input type="checkbox"/> Class A Felony: <input type="checkbox"/> Life Imprisonment Without Parole <input type="checkbox"/> Death (see attached Death Warrant and Certificates)		
<input type="checkbox"/> Class B1 Felony: Life Imprisonment Without Parole <input type="checkbox"/> Violent Habitual Felon: Life Imprisonment Without Parole		

The defendant shall be given credit for -0- days spent in confinement prior to the date of this Judgment as a result of this charge(s).

- The sentence imposed above shall begin at the expiration of all sentences which the defendant is presently obligated to serve.
 The sentence imposed above shall begin at the expiration of the sentence imposed in the case referenced below:
 (NOTE: List the case number, date, county and court in which prior sentence imposed.)

THEODORE MEADE KIMBLE

EXHIBIT (C)

PLEAS

Plea*	File Number	Count No.(s)	Offense(s)	Date Of Offense	G.S. No.	F/M	CL	Maximur Punishme
G	97CRS39581	1	SECOND DEGREE MURDER	10-09-1995	14-17	F	B2	415
G	97CRS23656	2	CONSPIRACY: First Degree Murder	10-09-1995	C.L. & 14-2.4	F	B2	415
G	98CRS23486	1	FIRST DEGREE ARSON	10-09-1995	C.L. & 14-58	F	D	199
G	99CRS 23241	1	SOLICITATION : First Degree Murder	11-04-1998	CL. & 14-2.6	F	C	261
G	99CRS 23242	1	SOLICITATION : First Degree Murder	11-04-1998	CL. & 14-2.6	F	C	261
G	99CRS 23243	1	SOLICITATION : First Degree Murder	11-04-1998	CL. & 14-2.6	F	C	261
G	99CRS 23244	1	SOLICITATION : First Degree Murder	11-04-1998	CL. & 14-2.6	F	C	261
G	99CRS 23245	1	SOLICITATION : First Degree Murder	11-04-1998	CL. & 14-2.6	F	C	261
G	99CRS 23246	1	SOLICITATION : First Degree Murder	11-04-1998	CL. & 14-2.6	F	C	261
G	99CRS 23247	1	SOLICITATION : First Degree Murder	11-04-1998	CL. & 14-2.6	F	C	261
G	99CRS 23248	1	SOLICITATION : First Degree Murder	11-04-1998	CL. & 14-2.6	F	C	261

WILMINGTON COUNTY
FILED
 JAN 28 1999
 BY 350 yjg/np
 CLERK OF SUPERIOR COURT

*G = Guilty NC = No Contest	TOTAL MAXIMUM PUNISHMENT	3177 mos.
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MANDATORY MINIMUM FINES & SENTENCES (if any)	B2: 130 mos., D: 53 mos., C: 80 mos.
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... the prosecutor and your lawyer have informed the Court that these are all the terms and conditions of your plea: (See attachment for additional plea arrangements, including voluntary dismissals.)

The State of North Carolina agrees to accept a plea to Second Degree Murder in 97CRS39581. Count 1 of 97CRS23656 shall be dismissed. In return, the Defendant agrees to enter guilty pleas to Second Degree Murder in 97CRS39581, Conspiracy to Commit First Degree Murder in 97CRS23656, First Degree Arson in 98CRS23486, and eight counts of Solicitation to Commit First Degree Murder in Bills of Information which are to be filed this date. The Defendant agrees and understands that he will receive consecutive sentences in each of these cases. Further, the Defendant agrees to return the ashes of Patricia Blakley Kimble to the Blakley family. The State agrees to dismiss any Breaking and Entry or Larceny indictments against Theodore Meade Kimble which are presently pending in Guilford County.

The parties stipulate that the Defendant is a level II offender, and that under the Structured Sentencing Act the maximum sentence he can receive for each B-2 felony is 254 months, for each Class C felony 159 months, and for the Class D felony 108 months.

- (a) Is this correct as being your full plea arrangement? (14a) yes
- (b) Do you now personally accept this arrangement? (14b) yes.
- 15. (Other than the plea arrangement between you and the prosecutor) has anyone made any promises or threatened you in any way to cause you to enter this plea against your wishes? (15) no
- 16. Do you enter this plea of your own free will, fully understanding what you are doing? (16) yes.
- 17. Do you have any questions about what has just been said to you or about anything else connected with your case? (17) no.

I have read or have heard all of these questions and understand them. The answers shown are the ones I gave in open court and they are true and accurate. Neither my lawyer nor anyone else has told me to give false answers in order to have the Court accept my plea in this case. The conditions of the plea as stated above, if any, are accurate.

SWORN AND SUBSCRIBED TO BEFORE ME		Date 1/28/99
Date 1/28/99	Signature <i>Christina Carr</i>	Signature Of Defendant X <i>Theodore Meade Kimble</i>
<input checked="" type="checkbox"/> Deputy CSC	<input type="checkbox"/> Assistant CSC	<input type="checkbox"/> Clerk Of Superior Court
		Name Of Defendant (Type Or Print) Theodore Meade Kimble

CERTIFICATION BY LAWYER FOR DEFENDANT

As lawyer for the defendant named above, I hereby certify that the conditions stated above, if any, upon which the defendant's plea was entered are correct and they are agreed to by the defendant and myself. I further certify that I have fully explained to the defendant the nature and elements of the charge(s) to which the defendant is pleading.

Date 1/28/99	Name Of Lawyer For Defendant (Type Or Print) Fred W. Zimmerman, Jr.	Signature Of Lawyer For Defendant <i>Fred W. Zimmerman, Jr.</i>
-----------------	--	--

CERTIFICATION BY PROSECUTOR

As prosecutor for this Prosecutorial District, I hereby certify that the conditions stated above, if any, are the terms agreed to by the defendant and his/her lawyer and myself for the entry of the plea by the defendant to the charge(s) in this case.

Date 1/28/99	Name Of Prosecutor (Type Or Print) Richard E. Parosh	Signature Of Prosecutor <i>R. E. Parosh</i>
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PLEA ADJUDICATION

Upon consideration of the record proper, evidence presented, answers of defendant, and statements of the lawyer for the defendant and the District Attorney, the undersigned finds:

1. That there is a factual basis for the entry of the plea.
2. The the defendant is satisfied with his/her lawyer.
3. That the defendant is competent to stand trial and that the plea is the informed choice of the defendant and is made freely, voluntarily and understandingly.

The defendant's plea is hereby accepted by the Court and is ordered recorded.

Date 1/28/99	Name Of Presiding Judge (Type Or Print) Peter M. McHugh	Signature Of Presiding Judge <i>Peter M. McHugh</i>
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