

EXHIBIT (E)

NO. P03-956

EIGHTEENTH DISTRICT

NORTH CAROLINA COURT OF APPEALS

THEODORE MEAD KIMBLE } PETITIONER, ) V. ) STATE OF NORTH CAROLINA, ) RESPONDENT. )	RE: "MOTION FOR RELIEF FROM JUDGMENT" " NO. P03-956 " FROM: GUILFORD COUNTY " FILE NO.'S 97CAS-23656, " 97CAS-39581, 98CAS-23486; " 99CAS-23241-48, = = =
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PETITIONER'S RESPONSE TO THE STATES ANSWER

NOW COMES THE PETITIONER, THEODORE MEAD KIMBLE, AND SAYS:

D. AS PETITIONER STATED IN HIS RESPONSE TO THE STATES ANSWER IN HIS MOTION FOR WRIT OF MANDAMUS COMPLAINT, AND WILL RESPOND IN THE MOTION IN ARREST OF JUDGMENT, DIFFERENT ISSUES, AS THEY ARE IN FACT (3) SEPERATE MOTIONS, UNLIKE THE "CARBON COPY" RESPONSE FROM STATES ATTORNEY KATHLEEN U. BALDWIN, AS IF SHE DIDNT OR NEGLECTED TO EVEN READ SAID MOTIONS, HER PROCEDURAL HISTORY STATEMENTS ARE FALSE AS THE

RECORD CLEARLY SHOWS.

(A) PETITIONER "DID NOT" PLEAD GUILTY TO 8 COUNTS OF SOLICITATION TO COMMIT FIRST DEGREE MURDER. IT WAS "ALFORD" PLEAS, AND SINCE THE STATE'S ATTORNEY DECIDED TO TURN THEM INTO GUILTY PLEAS, THE PETITIONER MUST BRING OUT THE FACT THAT AS MANDATED BY LAW AND IS WORDED AS FOLLOWS:

"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."

(B) PETITIONER PLED GUILTY TO ALL OTHER CHARGES BUT "NOT" 99CRS-23241-48, PLUS THE "FACT" IT WAS "ONE" CHARGE FOR 8 COUNTS, MEANING PETITIONER COULD ONLY HAVE RECEIVED "ONE" SENTENCE BY LAW AND DUE PROCESS, NOT 8 CONSECUTIVE SENTENCES. IN AN EXAMPLE (OR) ILLUSTRATION, "IF" A PERSON WALKS INTO A HUGE DEPARTMENT STORE WITH 500 PEOPLE INSIDE, AND THEN SOLICITS SOMEONE TO KILL "EVERYONE" IN THE STORE, IT WOULD BE ONE ("1") CHARGE OF CONSPIRACY TO COMMIT FIRST DEGREE MURDER WITH 500 COUNTS; THE PERSON COULD ONLY RECEIVE ONE ("1") SENTENCE IF HE PLEAD ALFORD, NOT 500 SENTENCES

"RUN CONSECUTIVELY"! PETITIONER WAS SENTENCED ON A SINGLE DAY. PETITIONER RECEIVED 8 CONSECUTIVE SENTENCES TOTALING TO TO 90.4 YEARS, AN ENTIRE LIFETIME. IN CASE AT BAR, SUCH A SENTENCE IS NOT LEGAL BY NO MEANS, SEE N.C.G.S. 15A-1340.14(d) IF THE DEFENDANT WAS CONVICTED OF MORE THAN ONE OFFENCE IN A SINGLE SUPERIOR COURT DURING ONE CALENDAR WEEK, ONLY THE CONVICTION WITH THE HIGHEST POINTS TOTAL IS COUNTED. IF THE DEFENDANT WAS CONVICTED OF MORE THAN ONE OFFENCE DURING A SINGLE SESSION (I.E., DAY) OF DISTRICT COURT ONLY THE MOST SERIOUS CONVICTION IS COUNTED, N.C.G.S. 15A-1051-1054 MAKE IT POSSIBLE FOR THE COURT OR PROSECUTOR TO GIVE A PERSON IMMUNITY IN EXCHANGE FOR THAT PERSONS AGREEMENT TO PLEAD GUILTY TO AN OFFENCE. WHEN THIS KIND OF IMMUNITY HAS BEEN GRANTED, THE PERSON MAY NOT BE PROSECUTED FOR THAT OFFENCE OR OFFENCES REGARDLESS OF THE EVIDENCE AGAINST HIM OR HER, THIS IS A CASE OF DOUBLE-JEOPARDY WHICH IS IN VIOLATION OF THE 5<sup>TH</sup> AMENDMENT OF THE UNITED STATES CONSTITUTION, BUT THE GREAT STATE OF NORTH CAROLINA IS FAMOUS FOR THIS TYPE OF BEHAVIOR AND CONDUCT ANYWAY, AS IS WELL KNOWN.

(C) RULE 11(e) OF THE FEDERAL RULES OF CRIMINAL PROCEDURE GOVERNS THE CONDUCT OF THE GOVERNMENT AND THE DEFENDANT, DURING PLEA NEGOTIATIONS see U.S. v. KNIGHT, 867 F.2d 1285, 1288, (11th Cir. 1998); see e.g. U.S. v. WATKINS, 85 F.3d 498, 500 (10th Cir. 1996)

RULE 11(e)(1) AUTHORIZES PLEA AGREEMENTS WE KNOW, WHEN A DEFENDANT PLEAS GUILTY TO THE CHARGED OFFENCE OR TO A LESSER RELATED OFFENCE WITH MORE THAN ONE SENTENCE UNLESS THE SENTENCES ARE CONSOLIDATED FOR JUDGMENT.

(STILL "ONE" SENTENCE)! IN CASE AT BAR, PETITIONER WAS TOLD HE WOULD RECEIVE "ONE" SENTENCE OF 20 YEARS ON ALL COUNTS! THAT IT HAD ALL BEEN PRE-ARRANGED WITH PROSECUTOR.

see Fed. R. Crim. P. 11(e)(2); see e.g. U.S. v. Romero - TAMAYO, 212 F.3d 729, 731 (2d Cir. 2000) UNDER SUCH AGREEMENT, THE PROSECUTOR MAY MOVE FOR A DISMISSAL OF OTHER CHARGES see Fed. R. Crim. P. 11(e)(1)(A)

A DEFENDANT WHO ALLEGES THAT THE GOVERNMENT BREACHED A PLEA AGREEMENT MAY BE ENTITLED TO AN EVIDENTIARY HEARING OR AT THE COURT'S DISCRETION EXPANSION OF THE

RECORD. SEE BLACKLEGG V. WATSON, 431 U.S.  
63, 75-76, 80-82, (1977) SEE EG. U.S. V.  
WATSON, 988 F.2d. 544, 551-52 (5TH CIR. 1992);  
PEAVY V. U.S., 31 F.3d. 1341, 1346 (6TH CIR. 1994)

IF THE DEFENDANT DEMONSTRATES THAT THE  
GOVERNMENT DID BREACH THE COVENANT, MAY ALLOW  
WITHDRAWAL OF THE PLEA, FILE A MOTION FOR  
RELIEF FROM THE JUDGMENT TO HIGHER COURT,  
(WHICH PETITIONER IN FACT "DID" IN CASE AT BAR)  
ALTER THE SENTENCE, VACATE THE SENTENCE, ORDER  
SPECIFIC PERFORMANCE OF THE AGREEMENT. SEE  
U.S. V. LEZINE, 166 F.3d. 895, 901 (7TH CIR. 1999);  
QUOTING U.S. V. HARVEY, 791 F.2d. 294, 300,  
(4TH CIR. 1986), SEE ALSO U.S. V. TAYLOR, 77 F.3d  
368, 372, (11TH CIR. 1996) IF THE FEDERAL COURT  
FINDS THE STATE PROSECUTORS HAVE BREACHED A  
PLEA AGREEMENT, IT SHOULD REMAND THE CASE SO  
THAT A STATE COURT CAN DEVISE THE PROPER  
REMEDY OR VACATE SENTENCE ALTOGETHER! SEE  
SANTA BELLO V. NEW YORK, 404, U.S. 257,  
262-63 (1971).

②. AS FOR THE STATES BRIEF PAGE #2  
NUMBERS 3, 4, 5, AGAIN AS THE STATES  
ATTORNEY SAID THE EXACT SAME THING IN ALL

(Three) (3) STATE'S RESPONSES TO EACH "SEPARATE"  
MOTION FILED BY PETITIONER, WHICH WERE FILED  
SEPARATELY AS EACH SEPARATE MOTION IS FOR  
SEPARATE CIRCUMSTANCES, SO THE STATE'S  
ATTORNEY COULDN'T REFUTE ANYTHING IN  
PETITIONER'S (3) SEPARATE VARIOUS CONTENTIONS,  
EXCEPT HOW SHE (LEFT-OUT) MOST "RELEVANT"  
FACTS, LIKE HOW PETITIONER'S STATE AND FEDERAL  
CONSTITUTIONAL RIGHTS WERE VIOLATED AT WITHDRAWAL  
HEARING, BY COUNSEL REFUSING TO DEFEND OR  
REPRESENT PETITIONER, NOT SURPRISING BECAUSE  
COUNSEL ZIMMERMAN WAS PETITIONER'S FORMER SENTENCING  
JUDGE IN ADVANCE, WHICH SPANS "CAUSE" AND GROSS  
CONFLICT OF INTEREST, AND THE STATE'S ATTORNEY  
AS IN ALL 3 "IDENTICAL" RESPONSES LEFT OUT HOW  
APPELLATE COUNSEL CARMIN FAILED TO BRING UP  
PERTINENT ISSUES ON APPEAL, FAIL TO PERSUE  
PERTINENT ISSUES, "ABANDON" PERTINENT ISSUES,  
FAIL TO REPORT PROSECUTOR MISCONDUCT, FAIL  
TO REPORT CONFLICT OF INTEREST OF COUNSEL  
ZIMMERMAN BEING PETITIONER'S FORMER SENTENCING  
JUDGE, FAIL TO REPORT AVE PROCESS (NO  
P.S.T. REPORT) SENTENCED IN ADVANCE, FAIL TO  
REPORT DOUBLE-JEOPARDY BY PROSECUTOR, AND

AND ON AND ON, AS THE STATE'S ATTORNEY  
POINSED OUT IN BRIEF FOR THE STATE PAGE #2  
"5. PETITIONER SUBSEQUENTLY FILED IN THIS  
COURT THE INSTANT MOTION FOR RELIEF FROM THE  
JUDGMENT, ALONG WITH A MOTION IN ARREST OF  
JUDGMENT AND A PETITION FOR WRITS OF HABEAS CORPUS.  
THE FILES ARE SET UP SEPARATELY AND THE  
STATE WILL RESPOND INDIVIDUALLY TO EACH FILING".

YES, THE STATE RESPONDED "INDIVIDUALLY" TO  
EACH FILING, (WITH THE SAME EXACT RESPONSE) AND  
DID NOT DENY ANY OF PETITIONER'S ISSUES IN  
"ANY" OF PETITIONER'S MOTIONS, SO IN REALITY  
THIS COURT SHOULD TAKE AS "ADMITTED" EACH  
OF PETITIONER'S PROOFS, ALLEGATIONS, AND PRAYERS  
FOR RELIEF, IN EACH SEPARATE MOTION,

3) PETITIONER READILY ADMITS, HE  
COULD HAVE FILED ALL (3) MOTIONS IN THE  
SENTENCING COURT, BUT PETITIONER IS AWARE  
OF NO "MANDATORY" RULES OR "POSITIVE"  
WARDING SAYING THE ABOVE (3) MOTIONS MUST  
BE FILED IN THE SENTENCING COURT, ALSO A  
MOTION FOR APPOINTMENT RELIEF PER "NOT"  
NECESSARILY HAVE TO BE FILED ONLY IN THE  
SUPERIOR COURT, FOR THAT MATTER. IN FACT,

WHEN AN APPEAL OR PETITION IS PENDING IN THE COURT OF APPEALS, A MOTION FOR APPOINTMENT RELIEF MUST BE FILED IN THE COURT OF APPEALS, NOT SENTENCING COURT. ALSO, PETITIONER IS A RESIDENT OF WAKE COUNTY, N.C. COURT OF APPEALS IS LOCATED IN WAKE COUNTY, PETITIONER IS ALLOWED BY LAW TO FILE MOTIONS IN WAKE COUNTY COURTS, PLUS THE FACTS SURROUNDING ALL THE VIOLATIONS, AND PROSECUTOR MISCONDUCT WHICH HAD OCCURRED IN GUILFORD COUNTY, AND ALL THE ILLEGAL SENTENCES PETITIONER RECEIVED IN GUILFORD COUNTY; PETITIONER CONTENDS HE HAS NO POSSIBLE CHANCE FOR ANY FORM OF JUSTICE WHATSOEVER IN A COURT THAT VIOLATED EACH AND EVERY SINGLE STATE AND FEDERAL CONSTITUTIONAL RIGHTS WHEN PETITIONER WAS SENTENCED, AND PETITIONER SEEKS "RELIEF FROM JUDGMENTS" WHICH WAS IMPOSED ILLEGALLY IN THE SENTENCING COURT, AND THIS HONORABLE COURT OF APPEALS HAS THE POWER TO CORRECT AND ALTER OR VACATE SAID ILLEGAL SENTENCES.

4. PETITIONER IS ALSO COURIOUS AS TO WHY STATE'S ATTORNEY BALDWIN DID "NOT" ENTER ON EITHER RESPONSE'S TO MOTION FOR RELIEF FROM JUDGMENT OR RESPONSE TO MOTION FOR

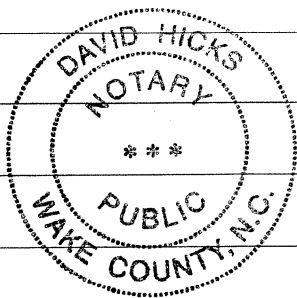


ARREST OF JUDGMENT, AS SHE MADE SUCH A  
POINT OF IT IN HER RESPONSE TO WRIT OF  
MANDAMUS HOW PETITIONERS FILING PRO-SE  
MOTIONS ALL ACROSS THE STATE, WHICH SEEMED  
TO BE "SARCASTIC" THAT INMATES SEEK JUSTICE.

WHEREFORE, PETITIONER RESPECTFULLY PRAYS  
THIS HONORABLE COURT REVIEW ALL PETITIONERS  
CLAIMS AND THE RECORD, AND IN THE INTEREST OF  
JUSTICE OF THE "ENDS OF JUSTICE" GRANT PETITIONERS  
MOTION FOR RELIEF FROM JUDGMENT AND ANY  
OTHER RELIEF THIS HONORABLE COURT DEEMS  
JUST AND PROPER.

RESPECTFULLY SUBMITTED THIS THE  
24 DAY OF NOVEMBER 2003.

PRO-SE \$ Theodore Mead Kimble  
THEODORE MEAD KIMBLE



My Commission Expires 5-18-2008.

David Hicks  
11-24-03

# VERIFICATION

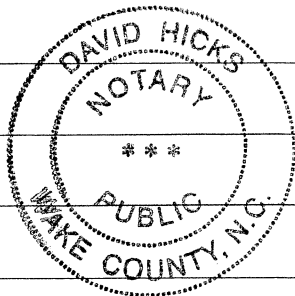
I, THEODORE MEAD KIMBLE, BEING FIRST DULY SWORN  
DEPOSE AND SAY, I AM THE PETITIONER IN THE  
FOREGOING PETITIONERS RESPONSE TO THE STATES  
ANSWER, I HAVE READ THE SAME, AND THE  
STATEMENTS CONTAINED THEREIN ARE TRUE, AS FOR  
MY STATEMENTS MADE ON INFORMATION AND BELIEF,  
ARE MADE IN GOOD FAITH, AND I BELIEVE TO  
BE TRUE, SIGNED UNDER PENALTY OF PERJURY  
THIS THE 24 DAY OF NOVEMBER 2003,

pro-se Theodore Mead Kimble  
THEODORE MEAD KIMBLE

SWORN TO AND BEFORE ME THIS THE 24<sup>th</sup> DAY OF  
NOVEMBER 2003.

My Commission Expires 5-18-2008.

MY COMMISSION EXPIRES



David Hicks  
11-24-03

PROOF OF SERVICE

I DO HEREBY CERTIFY THAT A COPY OF THE  
FOREGOING RESPONSE TO THE STATES ANSWER WAS  
FULLY SERVED BY PLACING THE SAME IN THE  
U.S. MAIL, POSTAGE PRE PAID AND ADDRESSES AS  
FOLLOWS:

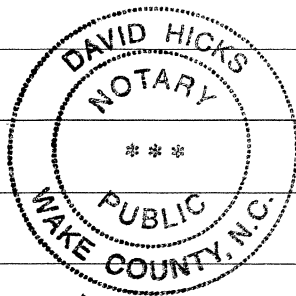
MR. RAY COOPER  
ATTORNEY GENERAL  
P.O. BOX 629,  
RAVENEL, N.C. 27602

THIS THE 24<sup>th</sup> DAY OF NOVEMBER 2003,

§ Theodore Mead Kiddle  
THEODORE MEAD KIDDLE  
1300 WESTERN BLDG,  
RAVENEL, N.C. 27606

My Commission Expires 5-18-2008.

My Commission Expires



David Hicks  
11-24-03

x // x