

Dear Ms Carman

"Hi." It's me again. ☺ I hope this letter finds you doing well. In trying to be helpful on my appeal, I've done a little research. I thought you should know some of the following facts.

- A) When defendant is represented by counsel during plea process and enters plea on counsel's advice, voluntariness of plea depends on whether counsel's advice was within range of competence demanded of attorney's in criminal cases - *Blalock v. Lockhart*, 977 F.2d 1253
- B) Ineffective assistance of counsel claim requires two-part showing that: Counsel's performance was deficient, meaning that counsel made errors so serious that counsel was not functioning as the "counsel" guaranteed defendant by Sixth Amendment; and deficient performance prejudiced defendant by depriving him or her of fair trial, a trial whose result is reliable. - *Loyd v. Whitley*, 977 F.2d 149.

Defendants previous lawyers were

H.W. Zimmerman Jr. and Fred G. Crumpler Jr.

"White and Crumpler" (910) 725-1304

11 West Fourth St. Winston-Salem, NC 27101

(page 1, A-B) The defence lawyers advise the defendant without reviewing the case discovery or the complete trial transcripts of co-defendant.

- note:
- 1) The father of the defendant had to recover the case-discovery from defendants previous lawyers. (Bob McCullen)
  - 2) During the trial the clerk of court complains that the defence hadn't retrieve court transcripts of the co-defendant, which had been prepared two weeks prior.

(page 1, A-B) Despite numerous request to go to trial, the defence lawyers coerce the defendant into signing a plea agreement.

- note:
- 1) Defence lawyers told the defendant, if he went to trial the prosecutor would have him put to death.
  - 2) Furthermore the defendant was told he wouldn't receive a fair trial because of the negative publicity in the media. (Prosecution had called a Press Conference)

3) The defendant requested to withdraw his plea of guilty and go to trial, but was denied by the Superior Court Judge. (This Right is protected under N.C. **post conviction Remedies**.)  
The request to withdraw was before being sentenced.

C) Principle that defendant in felony case is entitled not only to appointment of counsel but to effective assistance of counsel is general in scope and effect, and applies to counsel's behavior at all critical stages of case, including entry of plea.

U.S. CIA. Const. Amends. 6, H. Jones v. Larkhart, 977 F.2d 444.

(page 3, C) The defendant was not provided counsel or advised of his rights at the time he requested to withdraw his guilty plea.

Note 1) The defendant was told by his defence lawyers ~~quote~~: "We're sitting this one out. We can't represent you at this hearing."

2) The defendant had to represent himself on his motion to withdraw the plea and go to trial.

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- 3) Mr Zimmerman stand next to the defendant while the plea was being entered and whispered, "Play it cool; Say it."
- 4) Prior to the defendant signing the plea the defendant ask his defense, "How can **I** say my life isn't being threaten and sign the plea while your telling me to sign or else be killed."

After the plea was entered the defence lawyers told the defendant, "The judge just congratulated us on a job well done."

### Examples of Reversible Error

- Errors Involving the Constitution - I was denied the right to trial by jury.
- Errors Involving Venue - Motion before the judge never ruled upon.
- Errors Involving Judges - The judge on the bench was a friend of defendant's lawyer. (EX-Judge)
- Errors Involving Defense Attorney - Refuse to defend the defendant at his motion to withdraw hearing.
- Errors Involving Guilty Pleas - entered under coercion of lawyers.

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Special Note \* The defendant is considered an out patient of the mental ward and was on medication at the time of the plea. The defendant has been diagnosed as "Depressed."

\* At the time he was on 20mg. Paxil in the morning and 50mg. Vestareal 3 times a day.

- Errors Involving Publicity - The prosecutor called press conferences and detectives were giving statements to the newspapers.

- Errors Involving Discovery - Defence lawyers advised the defendant without reviewing the discovery. The Prosecutor is withholding discovery entitled to the defence.

- Errors Involving Witnesses

- Errors Involving Hearsay } At the defendant's sentencing, hearsay by witnesses unaccounted for was aloud.

- Errors Involving Documents - Notes / letters were submitted as evidence, identified as the defendant's hand writing, Part of which the defendant has never seen.

Evidence (Handwriting identification)

U.S. v. McVeigh & Nichols, No. 96 CR 68-11 (D.Colo)

Abstract: Handwriting identification evidence is no more reliable than astrology, palm readings or psychic readings. This alleged expertise

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has never been validated as credible scientific, technical or other specialized knowledge, and does not comport with the requirements of evidentiary reliability articulated in *Daubert v. Merrell Dow* (1993)

I hope the enclosed information helps answer any question you may have when you receive my trial transcripts. I appreciate the letter and information you sent me. I read every word. I understand that these things take time. I'm trying my best to be patient. My previous defense lawyers have assured me, "I'll get my day in court." Although they didn't sign it, they prepared the paper work for me in which got the court to appoint you. It's been a long road and it seems to be no end in sight. I pray everyday for victory over this nightmare. I know this is but one step in that direction.

Take care,

P.S. Please file this and

—Ted Kumbler

Return it with the transcripts 6-8-99

when your finished. The information maybe helpful to my defense

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Superior Court Judge

2-24-99

Peter McHugh

I Theodore M. Kimble would like to withdraw my guilty Plea on all accounts and charges. I request to go before a jury and plead my case. I was pressured into my earlier plea. I'm not Guilty and here by withdraw my earlier plea of Guilty.

When you read the plea agreement, you asked if I had been threaten in anyway to force me to take the agreement? The answer is yes! Mr. Zimmerman stood by my side, under his breath saying, "Play it cool" I told him yes before hand and he was afraid I'd tell you. I ask, How can I say "No" when I'm being told if I don't, I'll be killed should I go to trial.

I believe your opinion needs to wait till the evidence is heard. I disapprove of you saying, "Good To" to my lawyers. It sounds as if you had read the newspapers and formed your own opinion. I hope a byist attitude isn't shown during the trial or favoritism to the D.A.

I Request a gag order be placed on the D.A. He has done nothing but brain wash the public and potential jurors. Further limiting my chances of a fair trial. Do to the D.A.'s press conferences I'd like my trial moved to Winston Salem in Forsyth County.

I've not made my decision known to my attorneys at this point, but am presently doing so. I assure you, I will not allow someone to push me around again my mind is made up.

Thank you,  
Sheddie M. Kimble  
2-24-99

PS. What is justice when a D.A. tells an opposing witness, "Your life is at a fork in the road one goes to prison the other to probation. Don't show at the Kimble trial."

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Client