

EXHIBIT ()

EXHIBIT

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TWENTY SEVEN B DISTRICT

NO.

NORTH CAROLINA COURT OF APPEALS

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STATE OF NORTH CAROLINA

V.

FROM: GUILFORD COUNTY

97CRS23656; 97CRS39581;

98CRS23486; 99CRS23241-48,

THEODORE MEAD KIMBLE

DEFENDANT.

x x x x x x x x x x x x x x x x

MOTION FOR RELIEF FROM THE JUDGMENT

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ARTICLES AND STATUTES

U.S. CONST. AM V, VI, AND XIV,
N.C. CONST. ART. I, SEC. 18, 19, 23,
N.C.G.S. 15A-954 (4),
N.C.G.S. 15A-955 (2),
N.C.G.S. 15A-1415 (b) (8),
N.C.G.S. 15A-1415 (e),

CASES AND AUTHORITIES

- BAKER V. BARBO, 177 F.3d 149 (3RD. CIR. 1999)
COSS V. LACKAWANNA COUNTY DISTRICT ATTORNEY,
204 F3d 453 (3RD. CIR. 2000)
JACKSON V. LEONARD, 162 F3d 81 (2ND CIR. 1998)
LORD V. WOOD, 184 F.3d (9TH. CIR. 1999)
OSBORN V. STILLINGER, 861 F2d 612 (10TH.
CIR. 1988)
TRICE V. WARD, 196 F.3d 1151 (10TH CIR 1999)
U.S. V. BARTHOLOMEW, 974 F2d 39 (5TH. CIR 1992)
U.S. V. DAVENPORT, 151 F3d 1325 (11TH. CIR 1998)
U.S. V. ELLISON, 798 F2d 1102 (7TH. CIR. 1998)
U.S. V. GORDON, 172 F3d 753 (10TH. CIR. 1999)
U.S. V. SANDERSON, 595, F2d 1021 (5TH. CIR 1979)
U.S. V. UNGER, 665 F2d 251 (8TH. CIR. 1981)
U.S. V. VAVAGES, 151 F3d 1185 (9TH. CIR. 1998)
WEST. V. U.S. 994 F2d 518 (9TH. CIR. 1993)

NO.

GUILFORD COUNTY

NORTH CAROLINA COURT OF APPEALS

STATE OF NORTH CAROLINA)
VS.)
THEODORE MEAD KIMBLE,)
DEFENDANT.)

"FROM: GUILFORD COUNTY
"FILE NO.'S 97CRS 23656,
"97CRS 39581; 98CRS 23486;
"99CRS 23241-48, = = = = =

MOTION FOR RELIEF FROM THE JUDGMENT

TO: THE HONORABLE COURT OF APPEALS OF
NORTH CAROLINA.

PETITIONER THEODORE MEAD KIMBLE, pro-se, respectfully
PETITIONS THIS COURT PURSUANT TO RULE 21 OF THE NORTH
CAROLINA RULES OF APPELLATE PROCEDURE TO REVIEW
THE ORDER OF THE HONORABLE PETER M. Mc HUGH,
PRESIDING JUDGE, GUILFORD COUNTY SUPERIOR COURT
N.C. DATED MARCH 5, 1999, DATE OF JUDGMENTS.

IT WAS A COERCED GUILTY PLEA IN CASES 97CRS 23656,
97CRS 39581; 98CRS 23486, AND ALFORD PLEAS IN
CASES 99CRS 23241-48. PETITIONER WAS REPRESENTED

BY THE RETIRED JUDGE H.W. ZIMMERMAN, WHO FORMALLY SENTENCED PETITIONER TO PRISON (SEE EXHIBIT (A)) WHILE PETITIONER WAS IN PRISON SERVING THE SENTENCE JUDGE ZIMMERMAN IMPOSED, MR. ZIMMERMAN CAME OFF THE BENCH AND WENT INTO PRIVATE PRACTICE. COUNSELOR ZIMMERMAN TEAMED-UP WITH FRED. G. CRUMPLER JR. TO REPRESENT PETITIONER. MR. CRUMPLER WAS NOT MUCH MORE THAN A "PUPPET", WHILE MR. ZIMMERMAN PULLED HIS STRINGS. IN SUPPORT OF THIS MOTION, PETITIONER SHOWS THE FOLLOWING:

FACTS

PETITIONER SEEKS RELIEF FROM THE JUDGMENTS UPON THE GROUNDS THAT THE SENTENCES IMPOSED WERE UN-AUTHORIZED AT THE TIME IMPOSED, CONTAINED A TYPE OF SENTENCE DISPOSITION OR A TERM OF IMPRISONMENT NOT AUTHORIZED FOR THE PARTICULAR CLASS OF OFFENCE AND PRIOR RECORD AND CONVICTION LEVEL WAS ILLEGALLY IMPOSED, OR IS OTHERWISE INVALID AS A MATTER OF LAW. (N.C.G.S. 15A-1415 (b) (8) INEFFECTIVE ASSISTANCE OF TRIAL COUNSEL NORTH CAROLINA GENERAL STATUTES 15A-1415 (e).

PETITIONER CONTENDS THAT A MOTION FOR RELIEF FROM THE JUDGMENT DEFINED AS:
A PARTY'S REQUEST THAT THE COURT CORRECT A CLERICAL MISTAKE IN THE JUDGMENT — THAT IS, A MISTAKE THAT RESULTS IN CORRECTLY REFLECTING THE COURT'S INTENTIONS — OR RELIEVE THE PARTY FROM THE JUDGMENT BECAUSE OF SUCH MATTERS AS (1) INADVERTENCE, SURPRISE, OR EXCUSABLE NEGLIGENCE, (2) NEWLY DISCOVERED PIECES OF EVIDENCE THAT COULD NOT HAVE BEEN DISCOVERED THROUGH DILIGENCE IN TIME FOR A MOTION OF A NEW TRIAL, (3) THE JUDGMENT'S BEING THE RESULT OF FRAUD, MISREPRESENTATION, OR MISCONDUCT BY THE OTHER PARTY, OR (4) THE JUDGMENTS BEING VOID OR HAVING BEEN SATISFIED OR RELEASED.

ON THE FIRST ASSERTED GROUND FOR RELIEF, WAS THE MISREPRESENTATION OF CASE # 97CRS 23656 ARSON OF AN UNOCCUPIED DWELLING, INDICTMENT DATED NOV. 3, 1997, WHICH HAD TO BE DISMISSED BY LAW, BECAUSE THE DWELLING WAS IN FACT OCCUPIED BY PATRICIA KIMBLE, HOWEVER, PETITIONER WAS NOT MADE AWARE OF THE ERROR ON THE STATE'S PART. IN FACT THE STATE MADE AN ATTEMPT TO COVER-UP THEIR MISTAKE BY "RE-INDICTING" PETITIONER ON JULY 6, 1998. "CLEARLY PROSECUTOR MISCONDUCT". THE

PROSECUTOR USED THE EXACT SAME "WORDING" OF THE PREVIOUS INDICTMENT (NOV. 3, 97), BUT THIS TIME THE PROSECUTOR UPPED THE CHARGE TO "FIRST DEGREE ARSON", CASE #98CRS 23486, THUS COMMITTED "DOUBLE-JEOPARDY". YET COUNSELOR ZIMMERMAN HAD PETITIONER PLEAD GUILTY TO SAID INDICTMENT. HOW COULD COUNSELOR ZIMMERMAN FAIL TO SEE THAT PETITIONER HAD BEEN INDICTED FOR THE SAME CHARGE TWICE. CLEARLY INEFFECTIVE ASSISTANCE OF COUNSEL. HAD MR. ZIMMERMAN SIMPLY READ THE INDICTMENT, HE WOULD HAVE SEEN THIS ERROR. THIS CLEARLY SHOWS HOW INCOMPTANT AND UNPREPARED FOR TRIAL, SAID ATTORNEYS WERE.

NEXT, PETITIONER WOULD LIKE TO POINT OUT THAT BY COUNSEL HAVING PETITIONER PLEAD GUILTY TO A CHARGE THAT HAD TO BE DISMISSED ANYWAY, AS A MATTER OF LAW, WAS A MISCARriage OF JUSTICE AND VIOLATES DUE PROCESS OF LAW (SEE U.S. CONST. AM. V, VI, AND XIV, N.C. CONST. ART. I, SEC. 18, 19, 23). ALSO SEE JACKSON V. LEONARD, 162 F 3d. 81 (2ND CIR. 1998). APPELLATE COUNSEL'S FAILURE TO RAISE DOUBLE JEOPARDY CLAIM WHERE IT WAS APPARENT THAT JACKSON'S TWO CHARGES OF FIRST DEGREE ROBBERY AND CRIMINAL USE OF A FIRE ARM IN THE FIRST DEGREE RESTED ON THE SAME FACTUAL PREDICATE CONSTITUTES

INEFFECTIVE ASSISTANCE OF COUNSEL.

THEN TO TOP IS ALL OFF, PETITIONER WAS SENTENCED TO 163-205 MONTHS FOR CASE # 97CRS 23656 MNWAK, AND PETITIONER PRAYS FOR RELIEF FROM THAT JUDGMENT BY THIS HONORABLE COURT. PETITIONER'S NEXT ASSERTED GROUND FOR RELIEF FROM JUDGMENT IS IN CASES 99CRS - 23241 - 23248, WHERE PETITIONER WAS CONVICTED INTO AN ALFORD PLEA BY PROSECUTION AND COUNSEL MR. ZIMMERMAN, PETITIONER WAS TRICKED AND DECEIVED INTO SIGNING "WAIVERS" ON THOSE ABOVE CHARGES TO WAIVE THE FINDINGS AND THE RETURN OF BILLS OF INDICTMENT SHEETS, PETITIONER'S COUNSEL AND PROSECUTOR KNEW THAT BY PETITIONER DOING THIS, I'D BE AGREEING THAT THE ABOVE SAID CASES MAY BE TRIED UPON THE ABOVE INFORMATION ON THE BILLS OF INDICTMENT SHEETS, PETITIONER'S COUNSEL AND MR. PANISHA MADE BELIEVE IT WAS IN MY BEST INTEREST, OR PROSECUTOR WOULD MAKE CERTAIN THAT PETITIONER WOULD RECEIVE THE DEATH SENTENCE. see U.S. V. SANDERSON, 595 F.2d 1024 (5th Cir. 1979)! SO ON JAN. 28, 1999 PETITIONER SIGNED 8 WAIVERS AND RECEIVED 70 TO 90.4 YEARS ON THOSE CHARGES ALONE, AND ALL SENTENCES WERE RAN CONSECUTIVELY, SIX OF THEM WERE IN THE AGGRAVATED RANGE, TO JUSTIFY IT THEY USED THE

SAME ELEMENTS IN EACH ONE, TO PROVE EACH OTHER.
POSITIONED AT THE TIME WAS UNAWARE THAT ALL 8
CHARGES HAD BEEN PRESENTED TO THE GRAND JURY
FOR POSSIBLE INDICTMENT, ONLY THE GRAND JURY
REFUSED TO INDICT ON ALL 8 COUNTS, SOLELY ON
THE WORD OF A HABITUAL LIE; WHO SPENT MOST OF
HIS LIFE IN AND OUT OF PRISON, WHICH (4) OTHER
WITNESSES TESTIFIED OF HOW WILLIAM WAYNE STEWART
WAS LYING, AND MAKING THE WHOLE STORY UP. ALL 8
COUNTS WOULD HAVE BEEN DISMISSED THAT VERY SAME
DAY, IF THEY COULDN'T CONN PETITIONER INTO
PLEADING GUILTY TO THEM. THIS WAS FALSE
REPRESENTATION AND FRAUD, "A GRAVE MISCARriage
OF JUSTICE". PETITIONER SEEKS THIS HONORABLE
COURT FOR RELIEF FROM THOSE JUDGMENTS TOO.

BY TRIAL COUNSEL AND PROSECUTOR WORKING HAND
IN HAND AGAINST PETITIONER TO HAVE HIM PLEAD
GUILTY AS THEY ADVISED/COERCED/INDUCED, IN
ALL THE ABOVE SAID CASES, WHICH WOULD HAVE
HAD TO BE DISMISSED AS A MATTER OF LAW,
VIOLATED ALL PETITIONERS STATE AND FEDERAL
RIGHTS, SEE U.S. V. ELLISON, 798 F 2d 1102
(7th Cir. 1998) AND ALSO U.S. V. UNGER, 665 F 2d
251 (8th Cir. 1981) DEFENDANTS ASSERTION THAT COUNSEL

ADVISED HER THAT IF SHE PLEAD GUILTY TO KIDNAPPING CHARGES, SHE WOULD BE GIVEN PROBATION, AND THAT IF SHE WENT TO TRIAL AND WAS FOUND GUILTY, THAT SHE WOULD PROBABLY GET THE DEATH PENALTY, STATED A VALID CLAIM OF INEFFECTIVE ASSISTANCE OF COUNSEL, WHICH REQUIRED AN EVIDENTIARY HEARING! IN CASE AT BAR, PETITIONER WAS TOLD IF HE PLEADED GUILTY TO ALL CHARGES HE WOULD GET A 20 YEAR SENTENCE, AND IF HE WENT TO TRIAL HE WOULD BE FOUND GUILTY AND RECEIVE THE "DEATH PENALTY", ALSO PETITIONER WOULD LIKE TO STRESS THE FACT THAT ALL (8) CASES HAD TO BE DISMISSED AS A MATTER OF LAW, PETITIONER WAS TRICKED INTO SIGNING WAIVERS ON ABOVE CASES. THIS WAS A GRAVE MISCARriage OF JUSTICE, EXHIBIT(C).

REASON WHY MOTION SHOULD BE GRANTED

PETITIONER WAS ALREADY SERVING 50-60 MONTHS FOR UNRELATED CHARGES, WHEN THE NEW (8) CHARGES WERE BROUGHT AGAINST HIM. THE PREVIOUS SENTENCING JUDGE WAS MR. ZIMMERMAN ON DEC. 8, 1997, SEE EXHIBIT(A) WHILE PETITIONER WAS SERVING THIS SENTENCE JUDGE ZIMMERMAN RETIRED FROM THE BENCH AND BECAME ATTORNEY ZIMMERMAN. COUNSELOR ZIMMERMAN TRICKED PETITIONER INTO BELIEVING HE COULD WIN ALL THE CHARGES AND PETITIONER

WOULD NOT GET ANY TIME. PETITIONER'S FAMILY AND COUNSEL \$50,000.⁰⁰ AS ASKED FOR, BUT JUST LIKE ANY EXTORTIONIST MR. ZIMMERMAN WANTED MORE AND MORE MONEY. WHEN MR. ZIMMERMAN REALIZED HE HAD TAKEN ALL THEIR WAS TO TAKE AND NO MORE MONEY COULD BE GIVEN, HE STATED PETITIONER WOULD HAVE TO TAKE A 20 YEAR SENTENCE. PETITIONER TOLD COUNSEL HE WAS INNOCENT AND WANTED HIS DAY IN COURT, BUT COUNSEL WOULD NOT LISTEN! WHEN PETITIONER SHOWED FOR COURT ON JAN. 28, 1999, IT WAS FOR "CHANGE OF VENUE HEARING". PETITIONER HAD NOT DISCUSSED A PLEA OF ANY KIND UP TO THIS POINT WITH COUNSEL. PETITIONER'S DESIRE HAD ALWAYS BEEN TO GO TO TRIAL. ON THIS DAY MR. ZIMMERMAN STARTED ATTACKING PETITIONER. MR. ZIMMERMAN KNEW PETITIONER WAS ON MEDICATION AND TOOK FULL ADVANTAGE OF PETITIONER'S INCOHERENT MENTAL STATE OF MIND. MR. ZIMMERMAN STATED ALL WAS PRE ARRANGED FOR A 20 YEAR PLEA AGREEMENT, AND THAT IT WAS ONLY GOOD FOR THAT DAY. THAT PETITIONER MUST PLEAD GUILTY TODAY OR HE WOULD SURELY LOSE AT TRIAL AND BE PUT TO DEATH! HE FURTHER STATED THE PROSECUTOR HAD TO HAVE A CONVICTION BECAUSE OF ALL THE PUBLICITY SURROUNDING THE CASE. ACCORDING TO COUNSEL ZIMMERMAN

PETITIONER HAD NO CHOICE IN THE MATTER AND MUST SIGN THE PAPERS PLACED BEFORE HIM. PRIOR TO ENTERING THE COURTROOM MR. ZIMMERMAN STATED PETITIONER SHOULD REPEAT WHAT HE SAYS, WHEN THE PLEAS WERE ENTERED MR. ZIMMERMAN WHISPERED ALL THE ANSWERS TO THE QUESTIONS THAT JUDGE MCAUBH ASKED, AS COUNSELOR WHISPERED THE ANSWERS PETITIONER REPEATED AS TOLD. PETITIONER HAD NO CHOICE. HOWEVER, THE NEXT DAY AFTER PETITIONER REALIZED HE HAD THROWN HIS LIFE AWAY, HE FILED A MOTION TO WITHDRAW HIS PLEAS ON JAN. 29, AND FEB. 24, 1999. THE FIRST MOTION TO WITHDRAW HIS PLEAS AND ALL COPIES VANISHED AND PETITIONER HAD TO FILE SECOND MOTION AND COPIES ON FEB. 24, 1999 AND COUNSEL REFUSED TO DEFEND AND SPEAK FOR DEFENDANT AT WITHDRAWAL HEARING, SAID THEY WOULD REMAIN NEUTRAL AND "SIT THIS ONE OUT", SEE TRANSCRIPT MARCH 4, 1999 PAGE # 3 LINES 17-21 EXHIBIT (B).

SEE MOTION TO WITHDRAW PLEAS (LETTER FORM) DATED FEB. 24, 1999 EXHIBIT (D), SEE OSBORN V. SKILLINGER, 861 F. 2d 612 (10TH CIR. 1988)

"DEFENSE COUNSEL'S PERFORMANCE WAS NOT ONLY INEFFECTIVE, BUT COUNSEL ABANDONED THE REQUIRED DUTY OF LOYALTY TO HIS CLIENT; COUNSEL DID NOT

SIMPLY MAKE POOR STRATEGIC OR TACTICAL CHOICES;
HE ACTED WITH RECKLESS DISREGARD FOR HIS CLIENT'S
BEST INTEREST, AND APPARENTLY WITH THE INTENTION
TO WEAKEN HIS CLIENTS CASE". THEY WERE UNPREPARED
-ED FOR TRIAL, AND ONLY WANTED TO SEND PETITIONER
AWAY FOR THE REST OF HIS NATURAL LIFE (OR)
KILL HIM WITH DEATH PENALTY IF HE REFUSED TO
PLEAD GUILTY! END NOTE.

PETITIONER WOULD LIKE TO BRING TO THE COURTS
ATTENTION N.C.G.S. 15A-954 (4) STATES "THE
DEFENDANTS CONSTITUTIONAL RIGHTS HAVE BEEN
FLAGRANTLY VIOLATED AND THERE IS SUCH
IRREPARABLE PREJUDICE TO THE DEFENDANTS
PREPARATION OF HIS CASE THAT THERE IS NO REMEDY
BUT TO DISMISS THE PROSECUTION"! ALSO SEE

BILL OF INDICTMENT CASE # 97CRS 23656 WHICH
WAS CLEARLY MISREPRESENTED DATED NOV. 3, 1997
WHICH HAD TO BE DISMISSED BY LAW, BUT PETITIONER WAS
CANNED INTO PLEADING GUILTY TO IT AS PART OF THE PLEA
BARGAIN EXHIBIT (E) AND THEN TRIED TO COVER-UP
THEIR MISTAKE BY RE-INDICTING PETITIONER ON
JULY 6, 1998 EXHIBIT (E) USING THE EXACT SAME
WORDING ONLY THIS TIME AS CASE # 98CRS 23486 "FIRST
DEGREE ARSON" THUS COMMITTED "DOUBLE-JEOPARDY"!

PETITIONER CONTENDS THAT HAVING THE SENTENCING "JUDGE",
JUDGE ZIMMERMAN, WHO SENT PETITIONER TO PRISON
FOR 50-60 MONTHS TO BEGIN WITH, THEN RETIRE FROM
THE BENCH, AND BECOME A LAWYER, AND THEN DEFEND
THE PERSON HE SENT TO PRISON TO BEGIN WITH, AND TELL
HIM AND HIS FAMILY THAT BEING A PRIOR JUDGE, HE
CAN "PULL STRINGS" AND GET PETITIONER OFF
WITH "NO TIME", FOR \$50,000.⁰⁰, AND WHEN COUNSEL
COULDN'T GET MORE MONEY CHANGED HIS STORY TO 20
YEARS, KNOWING POSITIVELY WELL, JUST HAVING PETITION-
ER SIGN 8 WAIVERS TO ENSURE HIM 70 TO 90.4
YEARS CLAIMING IT HAD ALL BEEN ARRANGED FOR 20
YEARS FOR EVERYTHING, YET PETITIONER RECEIVED
111 YEARS MINIMUM, SHOWS "CAUSE", "MALICIOUS
PROSECUTION", AND CONFLICT OF INTEREST, AND GRAVE
MISCARriage OF JUSTICE, AND PETITIONER SHOULD BE
GRANTED RELIEF FROM JUDGMENTS.

IF THE COURT WILL LOOK AT THE RECORD,
IT'S OBVIOUS THAT MANY-MANY OF PETITIONER'S OTHER
RIGHTS, STATE AND FEDERAL WERE ALL VIOLATED, NO
P.S.I. REPORT WAS EVEN HANDED IN, AND PETITIONER
WAS SENTENCED ANYWAY, SEE SENTENCING TRANSCRIPTS
PAGES 218 AND 219 EXHIBIT (G), FAILURE TO DEFEND,
FAILURE TO INVESTIGATE WITNESSES, COUNSEL DIDN'T EVEN

WANT TO SEE THE STATEMENTS PETITIONER'S MOTHER HAD
GOTTEN FROM WITNESSES, SEE EXHIBIT (H), ALSO FAILURE
TO RAISE DOUBLE JEOPARDY CLAIM, PROSECUTOR RUNNING
WITNESSES FOR THE DEFENSE OUT-OF-TOWN DURING TRIAL
ON ANY COURT PROCEEDINGS AND COUNSEL DIDNT CARE OR
SAY ANYTHING ABOUT IT, FAILURE TO READ CO-DEFENDANT'S
TRANSCRIPTS OR EVEN OBTAIN THE 20 VOLUMES TO
BEGIN WITH, AND ONLY POSSESSED (3) VOLUMES AND
DIDNT EVEN READ THEM, FAILURE TO REPORT MISCONDUCT
OF PROSECUTOR, WORKING HAND IN HAND WITH PROSECUTOR
TO MAKE PETITIONER PLEAD GUILTY TO EVERYTHING, EVEN
CHARGES THAT WOULD HAVE TO BE THROWN OUT BY
LAW, NOT HELPING OR DEFENDING PETITIONER IN ANY
SINGLE WAY, SHAPE, OR FORM, AND NEVER OBJECTED
TO ANYTHING THE PROSECUTOR DID. PETITIONER
CONTENDS THAT THERE ARE MANY MANY MORE VIOLATIONS,
ESPECIALLY THE FACT THAT JUDGE ZIMMERMAN RETIRING
FROM THE BENCH AFTER PUTTING PETITIONER IN PRISON
FOR 50-60 MONTHS AND THEN MAKING BELIEVE HE
WAS DEFENDING HIM, AND SENDING PETITIONER AWAY
THIS TIME, FOR 111 YEARS (FOREVER) SHOULD BE PUT
IN THE GUINNESS BOOK OF WORLD RECORDS, AS IT'S A
"FIRST", AND PETITIONER'S ENTIRE CASE SHOULD BE
GRANTED RELIEF FROM JUDGMENT, PETITIONER

CONTENDS THAT HAVING PREVIOUS JUDGE REPRESENT
PETITIONER AS ATTORNEY, AND GETTING PETITIONER 111
YEARS AS SUCH A GRASS MISCARriage OF JUSTICE,
PETITIONER CAN'T FIND ANY CASE SO GRASS FOR COMP-
-ARISON, OR EVEN CLOSE TO IT. ESPECIALLY WHEN
COUNSEL AND PROSECUTOR COMPELLED/INDUCED/COERCED/
THREATENED WITH DEATH SENTENCE FOR PETITIONER TO SIGN
8 WAIVERS THAT GRAND JURY REFUSED TO INDICT, THAT
WOULD HAVE BEEN DISMISSED BY LAW, AND PETITIONER
RECEIVED 70 TO 90.4 YEARS ALONE, WAS VIOLATION OF
DUE PROCESS, SEE U.S. V. UNGER 665 F.2d 251
(8TH. CIR. 1981), SEE N.C.S. 15A 955(2) "THE
REQUISITE NUMBER OF QUALIFIED GRAND JURORS
DID "NOT" CONCUR IN FINDING THE INDICTMENT".
AND IT'S WELL KNOWN ESPECIALLY IN THE STATE OF N.C.,
FOR THE GRAND JURY TO NOT INDICT, THERE MUST BE
POSITIVELY NO EVIDENCE, BECAUSE IN N.C. THE LAW SEEMS
TO BE STRICTER THAN ANYWHERE IN THE USA. YET COUNSEL
AND PROSECUTOR THREATEN PETITIONER TO SIGN WAIVERS
ANYWAY AND KNOWING POSITIVELY, THE GRAND JURY
REFUSED TO INDICT ON THE ONLY EVIDENCE OF AN
INMATE WHO (4) WITNESSES TESTIFIED WAS "ALL LIES",
HOW WILLIAM WAYNE STEWART TOLD ALL (4) WITNESSES
IT WAS ALL LIES, YET PETITIONER WAS FORCED TO PLEAD

GUILTY (ALFORD) PLEAS TO ALL 8 CHARGES THAT HE DIDN'T COMMIT, OR RECEIVE DEATH SENTENCE, WAS A GRAVE MISCARriage OF JUSTICE AND VINDICTIVE PROSECUTION. PETITIONER CONTENDS THAT TRIAL COUNSEL NEGLECTED TO EVEN BOTHER INTERVIEWING WITNESSES THAT COULD HAVE GAVE SWORN TESTIMONY THAT PETITIONER OR CO-DEFENDANT COULDN'T HAVE HUMANLY POSSIBLY BEEN AT (TWO) PLACES AT THE SAME TIME, SEE COSS V. LACKAWANNA COUNTY DISTRICT ATTORNEY 204 F3d 453 (3RD. CIR. 2000) "DEFENSE COUNSEL'S FAILURE TO SUBP-
-ORNA CERTAIN WITNESS AND TO INTERVIEW THOSE WITNESS CONSTITUTED INEFFECTIVE ASSISTANCE OF COUNSEL."

LOBO V. WOOD, 184 F. 3RD. 1083 (9TH. CIR. 1999)

"COUNSEL'S FAILURE TO INVESTIGATE EVIDENCE, WHICH DEMON-
-STRATED HIS CLIENT'S FACTUAL INNOCENCE, UNDERMINES THE CONFIDENCE IN THE VERDICT AND CONSTITUTES INEFFECTIVE ASSISTANCE OF COUNSEL". AND COUNSEL WAITED SEVERAL MONTHS NEGLECTING TO TAKE STATEMENTS FROM DEFENSE WITNESSES, GIVING PROSECUTOR TIME TO THREATEN AND MAKE ALL WITNESSES CHANGE THEIR MIND AND CHANGE THEIR STORIES AND TESTIFY AGAINST PETITIONER OR FACE SEVERE PROSECUTION ON PENDING CHARGES.
SEE U.S. V. VAVAGES, 151 F3d 1185 (9TH. CIR. 1998)

WHICH STATES THE FOLLOWING IN PERTINENT PARTS:
"GOVERNMENTAL INTERFERENCE WITH A DEFENSE
WITNESS' CHOICE WHETHER TO TESTIFY CONSTITUTES
A VIOLATION OF "DUE PROCESS" AND REQUIRES A
REVERSAL AND A REMAND", WITH A CASUAL
PERUSAL OF THE RECORD AND PUBLIC RECORDS
AND ALL WITNESSES "RESULTS" OF THEIR PENDING
CHARGES AND CRIMINAL CASES "ALL" RESULTED IN
DISMISSALS OR PROBATION ON ALL THEIR PENDING
CHARGES IN "EXCHANGE" FOR THEIR TESTIMONY
AGAINST PETITIONER AND THE HABITUAL LIES,
WILLIAM WAYNE STEWART WAS EVEN LET OUT OF
PRISON EARLY ON A MOTION BY PROSECUTOR TO
RELEASE HIM EARLY, IN EXCHANGE FOR HIS TESTIMONY
AGAINST PETITIONER, AND PROSECUTOR PANASHA EVEN
ADMITTED ON RECORD, HE IN FACT PUT IN THE MOTION
TO HAVE WILLIAM WAYNE STEWART RELEASED EARLY
FROM PRISON, AND MADE SURE HE DIDN'T SHOW UP IN
COURT FOR THE TRUTH TO COME OUT, AND COUNSEL
SHOULD HAVE SUBPOENA HIM TO COURT, BUT NEVER
DID, AND PETITIONER CONTINUES TO SERVE THIS
ILLEGAL SENTENCE. AND PETITIONER WAS SENTENCED ILLEGALLY
WITHOUT P.S.I. REPORT, AND PRACTICALLY ALL SENTENCES IN ABBEVILLE
-ING RANGE, AND ALL CHARGES CONSECUTIVELY SEE U.S. V.
DAVENPORT 151 F3d 1325 (11TH CIR. 1998) AND

U.S. V. GARDON, 172 F. 3d 753 (10TH CIR. 1999)
ALSO U.S. V. BARTOLOMEW 974 F. 2d 39 (5TH CIR. 1992)
AND WEST V. U.S. 994 F. 2d 518 (9TH CIR. 1993).

IN SUPPORT OF THIS MOTION, PETITIONER PRAYS
THIS HONORABLE COURT WILL INVESTIGATE THE ENCLOSED
LIST OF EXHIBITS.

LIST OF EXHIBITS

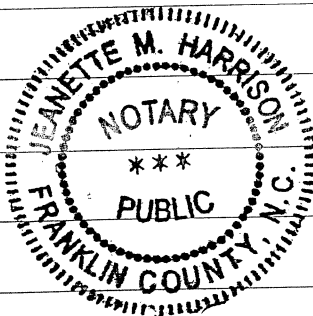
- (A) 3 PAGE JUDGMENT AND COMMITMENT, JUDGE ZIMMERMAN.
- (B) PAGE # 3 WITHDRAWAL OF PLEA HEARING ON MARCH 4, 1999.
- (C) 8 PAGES OF WAIVERS THAT PETITIONER WAS FORCED INTO SIGNING BY COUNSEL ZIMMERMAN AND PROSECUTOR.
- (D) MOTION BY PETITIONER TO WITHDRAW ALL HIS PLEAS (LETTER FORM) 3 PAGES. (FIRST MOTION 1/29/99 VANISHED).
- (E) MISREPRESENTED INDICTMENT DATED NOVEMBER 3, 1997 CASE # 97 CRS 23656.
- (F) RE-SUBMITTED INDICTMENT DATED JULY 6, 1998 CASE # 98 CRS 23486 (DOUBLE-JEOPARDY).
- (G) SENTENCING TRANSCRIPTS PAGES # 218 AND # 219 WHERE PETITIONER WAS SENTENCED NO PST REPORT!
- (H) WITNESS STATEMENTS.

END NOTE : COUNSEL'S OBLIGATION TO CONDUCT
REASONABLE INVESTIGATION EXTENDS TO
MATTERS RELATED TO SENTENCING TRICE V. WARD,
196 F3d 1151 (10TH CIR. 1999) AN ATTORNEY
WHO DOES NOT KNOW THE BASIC SENTENCE FOR AN
OFFENCE AT THE TIME HIS CLIENT IS CONTEMPLAT-
-ING ENTERING A PLEA IS INEFFECTIVE. SEE
BAKER V. BARBO, 177 F.3d 149 (3RD CIR
1999) BY COUNSEL TELLING PETITIONER TO
SIGN 8 WAIVERS THAT WOULD HAVE HAD TO
BE DISMISSED BY LAW, AND SAYING THAT IT
WOULD ALL BE RUN TOGETHER AND THAT ALL
WAS PRE-ARRANGED FOR A 20 YEAR SENTENCE,
AND THEN PETITIONER RECEIVING 70 TO 90.4
YEARS SHOWS COUNSEL "LIED" AND COULDN'T
HAVE POSSIBLY KNOWN BASIC SENTENCE (OR)
INTENDED TO SEND PETITIONER AWAY FOR THE
REST OF HIS LIFE, AND BEING "HIS FORMER
SENTENCING JUDGE", HE SHOULD KNOW THE LAW
BETTER THAN ANY ATTORNEY! EITHER WAY,
IT'S OBVIOUS PETITIONER WAS CLEARLY SENTENCED
IN VIOLATION OF ALL STATE AND FEDERAL
LAWS AND WAS CLEARLY RAILROADED!

PRAYER FOR RELIEF

PETITIONER RESPECTFULLY PRAYS THIS HONORABLE COURT REVIEW ALL PETITIONER'S CLAIMS AND THE RECORD, AND IN THE INTEREST OF JUSTICE OF THE "ENDS OF JUSTICE" GRANT PETITIONER'S MOTION AND GRANT RELIEF FROM THE ABOVE JUDGMENTS, AND ANY OTHER RELIEF THIS HONORABLE COURT DEEMS JUST AND PROPER.

RESPECTFULLY SUBMITTED THIS
THE 22 DAY OF OCTOBER 2003.



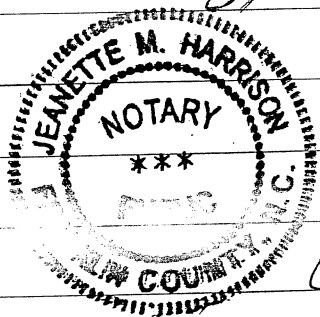
Pro-se of ~~Theodore Mead Kimble~~
THEODORE MEAD KIMBLE
Jeanette M Harrison
10-22-03
My Commission Expires 4-4-2006.

VERIFICATION

I, Theodore Mead Kimble, BEING FIRST DULY SWORN DEPOSE AND SAY, I AM THE PETITIONER IN THE FOREGOING MOTION FOR RELIEF FROM JUDGMENT, I HAVE READ THE SAME, AND THE STATEMENTS CONTAINED THEREIN ARE TRUE, AS FOR ANY STATEMENTS MADE ON INFORMATION AND BELIEF, ARE MADE IN GOOD FAITH, AND I BELIEVE TO BE TRUE. SIGNED UNDER PENALTY OF PERJURY THIS THE 22 DAY OF OCTOBER 2003.

Pro-se Theodore Mead Kimble
THEODORE MEAD KIMBLE

SWORN TO AND BEFORE ME THIS THE 22 DAY OF OCTOBER 2003.



MY COMMISSION EXPIRES _____

NY Commission Expires 4-4-2008.

Jeanette M Harrison

PROOF OF SERVICE

I DO HEREBY CERTIFY THAT A COPY OF
THE FOREGOING MOTION FOR RELIEF FROM
THE JUDGMENTS 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, N.C. 27602

THIS THE 22 DAY OF OCTOBER 2003.

J Theodore Mead Kimble

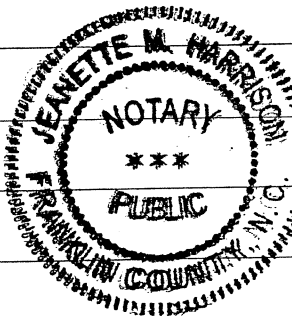
THEODORE MEAD KIMBLE

1300 WESTERN BLVD.

RALEIGH, N.C. 27606

Jeanette M Harrison

10-22-03
My Commission Expires 4-4-2006.



STATE OF NORTH CAROLINA

GUILFORD County GREENSBORO Seat of Court

File No. 97CR-2

EXHIBIT A 1 of 3

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 offense(s).]

STATE VERSUS

JUDGMENT AND COMMITMENT

Defendant THEODORE MEAD KIMBLE

Handwritten notes: 1145, 109, A, M, 12-08-1969, CLERK OF SUPERIOR COURT

ACTIVE PUNISHMENT FELONY

Race: White Sex: M DOB: 12-08-1969

STRUCTURED SENTENCING

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

Attorney For State RICHARD PANOSH

Def. Found Not Indigent Def. Waived Attorney

Attorney For Defendant ROBERT L. MCCLELLAN

Appointed Retained

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

Table with 5 columns: File No(s) And Offense(s), Date Of Offense, G.S. No., F./M., CL. Row 1: 97CRS 23655 POSSESS WEAPON OF MASS DESTRUCTION, 04-01-1997, 14-288.8, F, F

The Court: [X] 1. has determined, pursuant to G.S. 15A-1340.14, the prior record points of the defendant to be -0- RECORD LEVEL: [X] 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.

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. [] 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). [] 7. finds no Extraordinary Mitigation.

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: 015 months for a maximum term of: 018 months in the custody of the: [X] N.C. DOC. [] Sheriff pursuant to G.S. 15A-1352(b). [] Other [] 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 32 days spent in the confinement prior to the date of this Judgment as a result of this charge.

[] 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.)

Handwritten: 12/16/97 BKKP

(check all that apply)

1. The defendant shall pay the costs. 2. The defendant shall pay a fine of \$ _____.

The Court recommends:

3. Substance Abuse Treatment Unit pursuant to G.S. 15A-1351(h). 4. Psychiatric and/or psychological counseling.
 5. Work Release
 6. Payment as a condition of post release supervision, if applicable, or from work release earnings, if applicable, of the items and amounts set out below.

Fine	Costs	Restitution*	Reimbursement For Atty Fee & Other Expenses	Total Amount Due
			\$1,850.00	\$1,850.00

*Name(s), address(es), amount(s) & social security number(s) of aggrieved party(ies) to receive restitution:

The Court further recommends:

The Court does not recommend:

1. Restitution as a condition of post release supervision or work release. 2. Work release.

AWARD OF FEE TO COUNSEL FOR DEFENDANT

A hearing was held in open court in the presence of the defendant at which time a fee, including expenses, was awarded the defendant's appointed counsel or assigned public defender.

ORDER OF COMMITMENT/APEAL ENTRIES

- It is ORDERED that the Clerk deliver two certified copies of this Judgment and Commitment to the sheriff or other qualified officer and that the officer cause the defendant to be delivered with these copies to the custody of the agency named on the reverse to serve the sentence imposed or until the defendant shall have complied with the conditions of release pending appeal.
 The defendant gives notice of appeal from the judgment of the Superior Court to the Appellate Division. Appeal entries and any conditions of post conviction release are set forth on form AOC-CR-350.

SIGNATURE OF JUDGE

Date 12-08-1997	Name Of Presiding Judge (Type Or Print) H. W. ZIMMERMAN, JR.	Signature Of Presiding Judge 
--------------------	---	--

ORDER OF COMMITMENT AFTER APPEAL

Date Appeal Dismissed	Date Withdrawal Of Appeal Filed	Date Appellate Opinion Certified
-----------------------	---------------------------------	----------------------------------

It is ORDERED that this Judgment be executed. It is FURTHER ORDERED that the sheriff arrest the defendant, if necessary, and recommit the defendant to the custody of the official named in this Judgment and furnish that official two certified copies of this Judgment and Commitment as authority for the commitment and detention of the defendant.

Date	Signature Of Clerk	<input type="checkbox"/> Deputy CSC <input type="checkbox"/> Assistant CSC <input type="checkbox"/> Clerk Of Superior Court.
------	--------------------	---

CERTIFICATION

I certify that this Judgment and Commitment with the attachment marked below is a true and complete copy of the original which is on file in this case.

Appeal Entries (AOC-CR-350)
 Felony Judgment Findings Of Aggravating And Mitigating Factors (AOC-CR-605)
 Judicial Findings As To Forfeiture Of Licensing Privileges (AOC-CR-317)
 Commitment Information Statement (DC-600)

Date	Signature And Seal
Date Certified Copies Delivered To Sheriff 12-16-97	<input type="checkbox"/> Deputy CSC <input type="checkbox"/> Assistant CSC <input type="checkbox"/> Clerk Of Superior Court

STATE OF NORTH CAROLINA
 Guilford County
 GUILFORD COUNTY
FILED
 DEC 8 1997
 File No. See Transcript
 In The General Court Of Justice
 District Superior Court Division

STATE VERSUS
 Name And Address Of Defendant
 Theodore M. Kimble
 Social Security No. SID No. NC 0725218A
 Race W Sex M DOB 12/8/69

WORKSHEET
PRIOR RECORD LEVEL FOR
FELONY SENTENCING AND
PRIOR CONVICTION LEVEL FOR
MISDEMEANOR SENTENCING
 (STRUCTURED SENTENCING)
 G.S. 15A-1340.14, 15A-1340.21

NOTE: This worksheet is provided to assist the attorney for the state in calculating and presenting the defendant's prior record level or prior conviction level. Record the defendant's prior record on the reverse side of this form or attach a copy of the defendant's prior record pursuant to G.S. 15A-1340.14(f). If sentencing for a felony, count the number of prior convictions in each offense class and enter those totals in the chart in section I below. For multiple prior convictions at one session of court, see G.S. 15A-1340.14(d). Class 1 misdemeanor offenses under Chapter 20 are not assigned any points for determining prior record level for felony sentencing except misdemeanor death by vehicle [G.S. 20-141.4(a2)]. First Degree Rape and First Degree Sexual offense convictions prior to October 1, 1994, are Class B1 convictions.

I. SCORING PRIOR RECORD/FELONY SENTENCING			
NUMBER	TYPE	FACTORS	POINTS
	Prior Felony Class A Conviction	X 10	
	Prior Felony Class B1 Conviction	X 9	
	Prior Felony Class B2 or C or D Conviction	X 6	
	Prior Felony Class E or F or G Conviction	X 4	
	Prior Felony Class H or I Conviction	X 2	
	Prior Class A1 or 1 Misdemeanor Conviction (see note)	X 1	
		SUBTOTAL	0
If all the elements of the present offense are included in the prior offense		+ 1	
If the offense was committed: (a) while on probation, parole, or post-release supervision; or (b) while serving a sentence of imprisonment; or (c) while on escape		+ 1	
		TOTAL	0

MISDEMEANOR		FELONY																							
<p>NOTE: If sentencing for a misdemeanor, total the number of prior conviction(s) listed on the reverse and select the corresponding prior conviction level.</p> <table border="1"> <tr> <th>No. Of Prior Convictions</th> <th>Level</th> </tr> <tr> <td>0</td> <td>I</td> </tr> <tr> <td>1-4</td> <td>II</td> </tr> <tr> <td>5+</td> <td>III</td> </tr> </table> <p>PRIOR CONVICTION LEVEL <input type="text"/></p>		No. Of Prior Convictions	Level	0	I	1-4	II	5+	III	<p>NOTE: If sentencing for a felony, locate the prior record level which corresponds to the prior record determined in section I above.</p> <table border="1"> <tr> <th>Points</th> <th>Level</th> </tr> <tr> <td>0</td> <td>I</td> </tr> <tr> <td>1 - 4</td> <td>II</td> </tr> <tr> <td>5 - 8</td> <td>III</td> </tr> <tr> <td>9 - 14</td> <td>IV</td> </tr> <tr> <td>15 - 18</td> <td>V</td> </tr> <tr> <td>19+</td> <td>VI</td> </tr> </table> <p>PRIOR RECORD LEVEL <input type="text" value="I"/></p>		Points	Level	0	I	1 - 4	II	5 - 8	III	9 - 14	IV	15 - 18	V	19+	VI
No. Of Prior Convictions	Level																								
0	I																								
1-4	II																								
5+	III																								
Points	Level																								
0	I																								
1 - 4	II																								
5 - 8	III																								
9 - 14	IV																								
15 - 18	V																								
19+	VI																								
<input type="checkbox"/> The Court has determined the number of prior convictions to be _____ and the level to be as show above.		<input type="checkbox"/> The Court finds the prior convictions, prior record points and the prior record level of the defendant to be as shown herein.																							

Date 12/12/97 Name Of Presiding Judge (Type Or Print) H.W. Zimmerman, Jr. Signature Of Presiding Judge [Signature]

1 (March 4, 1999.)

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

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

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

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

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

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

24 (Defendant stands.)

25 THE COURT: Mr. Kimble, the court records

EXHIBIT C 1068

STATE OF NORTH CAROLINA
In the General Court of Justice
Superior Court Division

File No.

99CRS 23241

GUILFORD COUNTY
STATE OF NORTH CAROLINA

Film No.

v.
THEODORE MEAD KIMBLE

GUILFORD COUNTY
FILED
JAN 23 1999
AT 350 P.M.
BY [Signature]
CLERK OF SUPERIOR COURT

BILL OF INFORMATION
Solicitation to Commit
First Degree Murder

Date of Offense
On or about November 4, 1998

Offense in Violation of G.S.
14-2.6 & Common Law

COUNT I

I, the undersigned prosecutor, upon information and belief, allege that on or about November 4, 1998, the Defendant, Theodore Mead Kimble, did unlawfully, willfully, feloniously solicit William Wayne Stewart to commit first degree murder, in that he did solicit William Wayne Stewart to willfully, deliberately and with premeditation, kill Rose Gray Lyles, in violation of N.C. Gen.Stat. 14-17. Said murder was to occur in Guilford County prior to the trial date of the defendant, which was set for January 25, 1999. This being a violation of N.C. Gen.Stat. 14-2.6 and the Common Law of the State of North Carolina. Said crime did occur in Troy, Montgomery County, North Carolina, and has been transferred to Guilford County for the purpose of plea and sentencing by the consent of all parties.

Prosecutor

[Signature]

WAIVER

I, the below signed defendant, waive the finding and the return of a Bill of Indictment and agree that the case may be tried upon the above information.

Date

1/28/99

Signature of the Defendant.

[Signature]

Signature of Attorneys for the Defendant

[Signature]
[Signature]

STATE OF NORTH CAROLINA

In the General Court of Justice
Superior Court Division

File No.

99CRS 23242

EXHIBIT C
2018

GUILFORD COUNTY
STATE OF NORTH CAROLINA

v.

THEODORE MEAD KIMBLE

GUILFORD COUNTY
FILED
JAN 28 1999
350
BY [Signature]
CLERK OF SUPERIOR COURT

BILL OF INFORMATION
Solicitation to Commit
First Degree Murder

Date of Offense
On or about November 4, 1998

Offense in Violation of G.S.
14-2.6 & Common Law

COUNT I

I, the undersigned prosecutor, upon information and belief, allege that on or about November 4, 1998, the Defendant, Theodore Mead Kimble, did unlawfully, willfully, feloniously solicit William Wayne Stewart to commit first degree murder, in that he did solicit William Wayne Stewart to willfully, deliberately and with premeditation, kill Patrick Roy Pardee, in violation of N.C. Gen.Stat. 14-17. Said murder was to occur in Guilford County prior to the trial date of the defendant, which was set for January 25, 1999. This being a violation of N.C. Gen.Stat. 14-2.6 and the Common Law of the State of North Carolina. Said crime did occur in Troy, Montgomery County, North Carolina, and has been transferred to Guilford County for the purpose of plea and sentencing by the consent of all parties.

Prosecutor
[Signature]

WAIVER

I, the below signed defendant, waive the finding and the return of a Bill of Indictment and agree that the case may be tried upon the above information.

Date 1/28/99
Signature of the Defendant
X [Signature]
Signature of Attorneys for the Defendant
[Signatures]

STATE OF NORTH CAROLINA
In the General Court of Justice
Superior Court Division

EXHIBIT C
3 OF 8

File No. 99CRS 23243

GUILFORD COUNTY
STATE OF NORTH CAROLINA

Film No.

v.
THEODORE MEAD KIMBLE

GUILFORD COUNTY
FILED
JAN 28 1999
AT 3:50 U.S. P.M.
BY [Signature]
CLERK OF SUPERIOR COURT

BILL OF INFORMATION
Solicitation to Commit
First Degree Murder

Date of Offense
On or about November 4, 1998

Offense in Violation of G.S.
14-2.6 & Common Law

COUNT I

I, the undersigned prosecutor, upon information and belief, allege that on or about November 4, 1998, the Defendant, Theodore Mead Kimble, did unlawfully, willfully, feloniously solicit William Wayne Stewart to commit first degree murder, in that he did solicit William Wayne Stewart to willfully, deliberately and with premeditation, kill Louie Mitchell Widden, in violation of N.C. Gen.Stat. 14-17. Said murder was to occur in Guilford County prior to the trial date of the defendant, which was set for January 25, 1999. This being a violation of N.C. Gen.Stat. 14-2.6 and the Common Law of the State of North Carolina. Said crime did occur in Troy, Montgomery County, North Carolina, and has been transferred to Guilford County for the purpose of plea and sentencing by the consent of all parties.

Prosecutor
[Signature]

WAIVER

I, the below signed defendant, waive the finding and the return of a Bill of Indictment and agree that the case may be tried upon the above information.

Date 1/28/99
Signature of the Defendant.
X Theodore Kimble
Signature of Attorneys for the Defendant
[Signatures]

STATE OF NORTH CAROLINA
In the General Court of Justice
Superior Court Division

EXHIBIT C
4068

File No. 99CRS 23244

GUILFORD COUNTY
STATE OF NORTH CAROLINA

GUILFORD COUNTY Film No.
FILED
JAN 23 1999
AT 350 P.M.
BY [Signature]
CLERK OF SUPERIOR COURT

BILL OF INFORMATION
Solicitation to Commit
First Degree Murder

v.
THEODORE MEAD KIMBLE

Date of Offense
On or about November 4, 1998

Offense in Violation of G.S.
14-2.6 & Common Law

COUNT I

I, the undersigned prosecutor, upon information and belief, allege that on or about November 4, 1998, the Defendant, Theodore Mead Kimble, did unlawfully, willfully, feloniously solicit William Wayne Stewart to commit first degree murder, in that he did solicit William Wayne Stewart to willfully, deliberately and with premeditation, kill David Shane Dudley, in violation of N.C. Gen.Stat. 14-17. Said murder was to occur in Guilford County prior to the trial date of the defendant, which was set for January 25, 1999. This being a violation of N.C. Gen.Stat. 14-2.6 and the Common Law of the State of North Carolina. Said crime did occur in Troy, Montgomery County, North Carolina, and has been transferred to Guilford County for the purpose of plea and sentencing by the consent of all parties.

Prosecutor
[Signature]

WAIVER

I, the below signed defendant, waive the finding and the return of a Bill of Indictment and agree that the case may be tried upon the above information.

Date 1/28/99
Signature of the Defendant
[Signature]
Signature of Attorneys for the Defendant
[Signatures]

STATE OF NORTH CAROLINA
In the General Court of Justice
Superior Court Division

EXHIBIT C
50FB

File No. 99CRS 23245

GUILFORD COUNTY
STATE OF NORTH CAROLINA

GUILFORD COUNTY
FILED
JAN 23 1999
CLERK OF SUPERIOR COURT

Bill No. **BILL OF INFORMATION
Solicitation to Commit
First Degree Murder**

v.
THEODORE MEAD KIMBLE

Date of Offense
On or about November 4, 1998

Offense in Violation of G.S.
14-2.6 & Common Law

COUNT I

I, the undersigned prosecutor, upon information and belief, allege that on or about November 4, 1998, the Defendant, Theodore Mead Kimble, did unlawfully, willfully, feloniously solicit William Wayne Stewart to commit first degree murder, in that he did solicit William Wayne Stewart to willfully, deliberately and with premeditation, kill Gary Paul Lyles, in violation of N.C. Gen.Stat. 14-17. Said murder was to occur in Guilford County prior to the trial date of the defendant, which was set for January 25, 1999. This being a violation of N.C. Gen.Stat. 14-2.6 and the Common Law of the State of North Carolina. Said crime did occur in Troy, Montgomery County, North Carolina, and has been transferred to Guilford County for the purpose of plea and sentencing by the consent of all parties.

Prosecutor
R. E. P. O.

WAIVER

I, the below signed defendant, waive the finding and the return of a Bill of Indictment and agree that the case may be tried upon the above information.

Date
1/28/99

Signature of the Defendant.
X Theodore Kimble

Signature of Attorneys for the Defendant
Frank B. Campbell
AW [Signature]

STATE OF NORTH CAROLINA
In the General Court of Justice
Superior Court Division

File No. 99CRS 23246

EXHIBIT
6018

GUILFORD COUNTY
STATE OF NORTH CAROLINA

Film No.

v.
THEODORE MEAD KIMBLE

GUILFORD COUNTY
FILED
JAN 28 1999
AT 350 JULIOR P.M.
U. [Signature]
CLERK OF SUPERIOR COURT

BILL OF INFORMATION
Solicitation to Commit
First Degree Murder

Date of Offense
On or about November 4, 1998

Offense in Violation of G.S.
14-2.6 & Common Law

COUNT I

I, the undersigned prosecutor, upon information and belief, allege that on or about November 4, 1998, the Defendant, Theodore Mead Kimble, did unlawfully, willfully, feloniously solicit William Wayne Stewart to commit first degree murder, in that he did solicit William Wayne Stewart to willfully, deliberately and with premeditation, kill Cara R. Dudley, in violation of N.C. Gen.Stat. 14-17. Said murder was to occur in Guilford County prior to the trial date of the defendant, which was set for January 25, 1999. This being a violation of N.C. Gen.Stat. 14-2.6 and the Common Law of the State of North Carolina. Said crime did occur in Troy, Montgomery County, North Carolina, and has been transferred to Guilford County for the purpose of plea and sentencing by the consent of all parties.

Prosecutor
[Signature]

WAIVER

I, the below signed defendant, waive the finding and the return of a Bill of Indictment and agree that the case may be tried upon the above information.

Date 1/28/99

Signature of the Defendant.
[Signature]

Signature of Attorneys for the Defendant
[Signatures]

STATE OF NORTH CAROLINA
In the General Court of Justice
Superior Court Division

EXHIBIT
708

File No. 99CRS 23247

GUILFORD COUNTY
STATE OF NORTH CAROLINA

v.
THEODORE MEAD KIMBLE

GUILFORD COUNTY
FILED
JAN 28 1999
AT 350 J. L. P. M.
BY [Signature]
CLERK OF SUPERIOR COURT

Film No.

BILL OF INFORMATION
Solicitation to Commit
First Degree Murder

Date of Offense
On or about November 4, 1998

Offense in Violation of G.S.
14-2.6 & Common Law

COUNT I

I, the undersigned prosecutor, upon information and belief, allege that on or about November 4, 1998, the Defendant, Theodore Mead Kimble, did unlawfully, willfully, feloniously solicit William Wayne Stewart to commit first degree murder, in that he did solicit William Wayne Stewart to willfully, deliberately and with premeditation, kill Linda Thompson Cherry, in violation of N.C. Gen.Stat. 14-17. Said murder was to occur in Guilford County prior to the trial date of the defendant, which was set for January 25, 1999. This being a violation of N.C. Gen.Stat. 14-2.6 and the Common Law of the State of North Carolina. Said crime did occur in Troy, Montgomery County, North Carolina, and has been transferred to Guilford County for the purpose of plea and sentencing by the consent of all parties.

Prosecutor
[Signature]

WAIVER

I, the below signed defendant, waive the finding and the return of a Bill of Indictment and agree that the case may be tried upon the above information.

Date 1/28/99
Signature of the Defendant [Signature]
Signature of Attorneys for the Defendant [Signature]

STATE OF NORTH CAROLINA
In the General Court of Justice
Superior Court Division

EXHIBIT
8078

File No. 99CRS 23248

GUILFORD COUNTY
STATE OF NORTH CAROLINA
v.
THEODORE MEAD KIMBLE

GUILFORD COUNTY
FILED
JAN 25 1999
BY [Signature]
CLERK OF SUPERIOR COURT

Film No.

BILL OF INFORMATION
Solicitation to Commit
First Degree Murder

Date of Offense
On or about November 4, 1998

Offense in Violation of G.S.
14-2.6 & Common Law

COUNT I

I, the undersigned prosecutor, upon information and belief, allege that on or about November 4, 1998, the Defendant, Theodore Mead Kimble, did unlawfully, willfully, feloniously solicit William Wayne Stewart to commit first degree murder, in that he did solicit William Wayne Stewart to willfully, deliberately and with premeditation, kill Kevin Cherry, in violation of N.C. Gen.Stat. 14-17. Said murder was to occur in Guilford County prior to the trial date of the defendant, which was set for January 25, 1999. This being a violation of N.C. Gen.Stat. 14-2.6 and the Common Law of the State of North Carolina. Said crime did occur in Troy, Montgomery County, North Carolina, and has been transferred to Guilford County for the purpose of plea and sentencing by the consent of all parties.

Prosecutor
[Signature]

WAIVER

I, the below signed defendant, waive the finding and the return of a Bill of Indictment and agree that the case may be tried upon the above information.

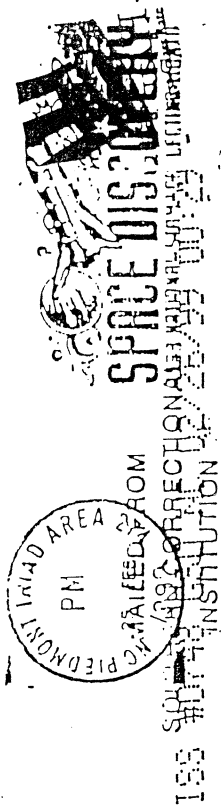
Date 1/28/99

Signature of the Defendant
[Signature]

Signature of Attorneys for the Defendant
[Signature]

EXHIBIT (D)

1 of 3

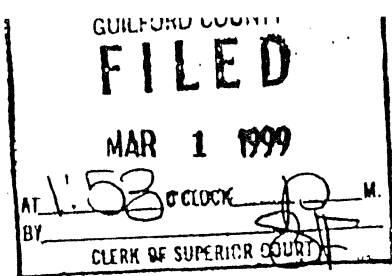


Therese Limbke
 Po Box 786
 Troy NC 27371

To: Guilford County Court #1
 Superior Court Judge Peter McHenry
 Greensboro NC 27402

27400/9999

EXHIBIT D) 2 of 3



Superior Court Judge
Peter McHugh

I Theodor 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 threatened in any way 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 Job" to my lawyers. It sounds as if you had read the newspapers and formed your own opinions. 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

03:17

APR 1 1999

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,

Theodore W. Kimble

2-24-99

P.S. 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 slide at the Kimble trial."

3/1/99 cc: Parosh
Zimmerman/Crompter

EXHIBIT (E)

STATE OF NORTH CAROLINA

In the General Court of Justice
Superior Court Division

GUILFORD COUNTY

STATE OF NORTH CAROLINA

v.

THEODORE MEADE KIMBLE

File No.

97CRS 23656

Film No.

**INDICTMENT
ARSON
CONSPIRACY TO MURDER**

Date of Offense
October 9, 1995

Offense in Violation of G.S.
14-58 and the Common Law

**COUNT I
ARSON OF AN UNOCCUPIED DWELLING**

THE JURORS FOR THE STATE OF NORTH CAROLINA, upon their oath present and find that on or about October 9, 1995, the Defendant, Theodore Mead Kimble did unlawfully, willfully, maliciously and feloniously burn or cause to be burned a the dwelling house inhabited by Patricia Kimble, located at 2104 Brandon Station Court, Pleasant Garden, in Guilford County NC.

**COUNT II
CONSPIRACY**

AND THE JURORS FOR THE STATE OF NORTH CAROLINA, upon their oath do present and find that on or about October 9, 1995, the Defendant, Theodore Mead Kimble did unlawfully, willfully, and feloniously that conspire, combine, confederate and agree with Ronnie Lee Kimble to commit the felony of Murder in the First Degree, in that Theodore Mead Kimble did agree with Ronnie Lee Kimble to murder, kill and slay Patricia Kimble in violation of N.C. Gen.Stat. 14-17, and the common law of the State of North Carolina.

Signature of Prosecutor

WITNESSES

J. D. Church
Guilford County Sheriff's Department
95-1009-0027

The witnesses marked "X" were sworn by the undersigned Foreman of the Grand Jury and after hearing testimony, this bill was found to be:

A TRUE BILL by twelve or more grand jurors, and I the undersigned Foreman of the Grand Jury, attest the concurrence of twelve or more grand jurors in this Bill of Indictment.
 NOT A TRUE BILL

Date

NOV 03 1997

Signature of Grand Jury Foreman

253

EXHIBIT (F)

20

STATE OF NORTH CAROLINA

In the General Court of Justice
Superior Court Division

FILED

GUILFORD COUNTY

STATE OF NORTH CAROLINA 1998 JUL -6 PM 3: 58

v.

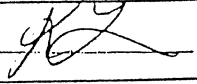
THEODORE MEAD KIMBLE GUILFORD COUNTY, N.C.

File No: **98CRS 23486**

Film No.

**INDICTMENT
FIRST DEGREE ARSON**

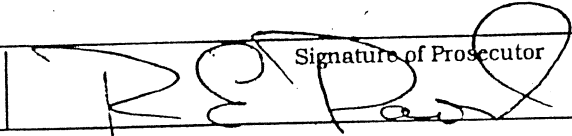
Date of Offense
October 9, 1995

BY 

Offense in Violation of G.S.
14-58 and the Common Law

FIRST DEGREE ARSON

THE JURORS FOR THE STATE OF NORTH CAROLINA, upon their oath present and find that on or about October 9, 1995, the Defendant, Theodore Mead Kimble did unlawfully, willfully, maliciously and feloniously burn or cause to be burned a the dwelling house inhabited by Patricia Kimble, located at 2104 Brandon Station Court, Pleasant Garden, in Guilford County NC. At the time of the burning Patricia Kimble was in the dwelling.


Signature of Prosecutor

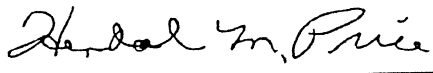
WITNESSES

J. D. Church
Guilford County Sheriff's Department
95-1009-0027

The witnesses marked "X" were sworn by the undersigned Foreman of the Grand Jury and after hearing testimony, this bill was found to be:

A TRUE BILL by twelve or more grand jurors, and I the undersigned Foreman of the Grand Jury, attest the concurrence of twelve or more grand jurors in this Bill of Indictment.
 NOT A TRUE BILL

Date
JUL 06 1998

Signature of Grand Jury Foreman


1 right up to the time of her execution. That just shows
2 you not a mitigating factor, that shows that he's a cold
3 blooded murderer. He planned this and he had the ability
4 to hug and kiss his wife knowing that he was about to
5 kill her to collect the insurance money.

6 This defendant, Your Honor, lives in a world
7 of bombs and silencers and sniper rifles. He just feels
8 that anybody who gets in his way, he should be able to
9 eliminate. We ask you to sentence him remembering that.
10 Thank you.

11 THE COURT: All right, thank you. Mr.
12 Zimmerman, are you prepared to tender your sentencing
13 memorandum?

14 MR. ZIMMERMAN: We don't have it at this
15 point in time, if Your Honor please. If Your Honor would
16 be kind enough to consider a short recess, I'll check one
17 more time and see what the problem is. This witness has
18 been subpoenaed since two weeks ago. And she was just
19 deathly ill yesterday. I apologize for having the phone
20 ringing in the courtroom. That was her calling me
21 yesterday. She couldn't get out of the bed. It's this
22 flu going around, and I can understand it because I had
23 some of that before I had my other problem.

24 MR. PANOSH: May we approach?

25 THE COURT: Yes, sir.

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MR. ZIMMERMAN: Absolutely satisfactory with the defendant.

(Counsel approach the bench.)

THE COURT: Counsel, the Court will provide you with a recess to attempt to provide that element of evidence.

Court will be in temporary recess, Sheriff.

(A recess was taken.)

(All parties present.)

MR. ZIMMERMAN: If Your Honor pleases, the defense appreciates Your Honor's thoughtful and serious consideration of the presentence study, and apologizes for the delay.

THE COURT: That's no need to apologize, Counsel. In this matter I'm anxious to have all the evidence that any party wishes to produce.

Is there any further evidence at this time for the State or for the defendant?

MR. PANOSH: No, thank you, Your Honor.

MR. CRUMPLER: No, Your Honor.

THE COURT: Is there any further matters before the Court enters judgment?

MR. PANOSH: No, Your Honor.

THE COURT: Judgment of this Court shall be entered first in case 97 CRS 39581, wherein the defendant

Leaving work, James and I ran into Rob and talked with him in the parking lot of the boat place. He talked about how well he was doing with his new business and the new home he just purchased. He also spoke on Ted and Ron in reference to how they were doing etc. and mentioned that he was not going to testify to that "bull-shit because it wasn't right. He stated that he and his wife had talked about it and he had had a change of heart and realized it was wrong to do so. She had the same feelings. He stated that instead he would take the "contempt of court charge" and do the time at the County farm. He told James that he was telling him this so that he could relay it to Mr. Kimble.

Walter A. Cole
8/2/97

EXHIBIT A 2 of 3

Time 12:00
4-18-97

Robert informed me that the Police
was on him concerning Ted and the
murder ^{case}. Robert also says that, Ted
told him some things that he shouldn't have,
but nothing concerning the murder. Robert
says he was going to plea guilty to
all larceny charges.

James Ogden

EXHIBIT H 3043

7-29-97

On July 22nd, I saw Robert Nickdown in the parking^{lot} down from Sykes Bld. Materials. He stated to me that he wasn't going to testify against Ted, concerning the murder of his wife. Rob also asked me to inform Mr. Kimble of this matter too. Robert says that he would be in contempt of court, for not testifying, and that he would deal with that. His primary message was for me to inform Mr. K

of his actions concerning this matter.

James Ogden

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 OFFENSE 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 OFFENSE 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 OFFENSE. WHEN THIS KIND OF IMMUNITY HAS BEEN GRANTED, THE PERSON MAY NOT BE PROSECUTED FOR THAT OFFENSE OR OFFENCES REGARDLESS OF THE EVIDENCE AGAINST HIM OR HER, THIS IS A CASE OF DOUBLE-JEOPARDY WHICH IS IN VIOLATION OF THE 5TH 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 THE, WHICH SPANS "GROSS" 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 PERSUASIVE
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 THE, 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 WRIT 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 OF 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.

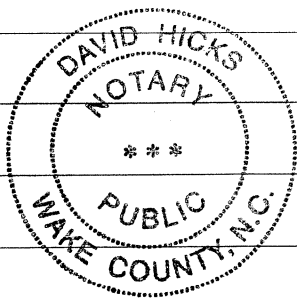
4). PETITIONER IS ALSO COURIOUS AS TO WHY STATE'S ATTORNEY BALDWIN DID "NOT" ENTER ON EITHER RESPONSE'S TO MOTION FOR RELIEF FROM JUDGMENT OR RESPONSE TO MOTION FOR

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

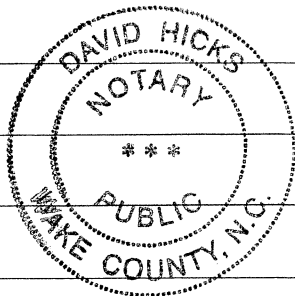
I, THEODORE MEAD KIMBLE, BEING FIRST DULY SWORN
DEPOSE AND SAY, I AM THE PETITIONER IN THE
FOREGOING PETITIONERS RESPONSE TO THE STATES
ANSWER, I HAVE READ THE SAME, AND THE
STATEMENTS CONTAINED THEREIN ARE TRUE, AS FOR
MY STATEMENTS MADE ON INFORMATION AND BELIEF,
ARE MADE IN GOOD FAITH, AND I BELIEVE 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 24th 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:

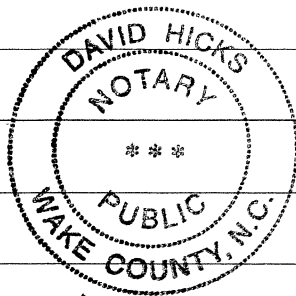
MR. RAY COOPER
ATTORNEY GENERAL
P.O. BOX 629,
RAVENNA, N.C. 27602

THIS THE 24th DAY OF NOVEMBER 2003,

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

My Commission Expires 5-18-2008.

My Commission Expires



David Hicks
11-24-03

x // x