

STATE OF 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 IN ARREST OF JUDGMENT

Now comes Petitioner, Theodore Mead Kimble, Pro-Se pursuant to North Carolina General Statutes 15A-1422 and says:

- 1.) Plaintiff is a resident of Wake County, North Carolina, His address is 1300 Western Blvd. Raleigh, N.C. 27606.
- 2.) On or about March 5, 1999 Petitioner was sentenced to a total of 107.5 minimum years, and maximum of 137.7 years for the above alleged crimes, Presiding Judge Peter M. McHugh, Petitioner was sentenced ILLEGALLY as a matter of Law.

3.) A Motion In Arrest of Judgment is defined as:

① A Defendant's Motion claiming that a substantial Error appearing on the face of the Record Violated the whole proceeding and the Judgment.

② A Post Judgment Motion in a Criminal Case claiming that the Indictment is insufficient to sustain a Judgment or that the Verdict is somehow insufficient.

4.) In support of this MOTION IN ARREST OF JUDGMENT, Petitioner shows the following:

FACTS

Persuant to N.C.G.S. 15A-1422, Grounds for Correction of Error by Appellate Division.

The following constitutes grounds for Correction by the Appellate Division.

(1) Lack of Jurisdiction.

A. The Trial Court lacked Jurisdiction over the offense.

B. The Trial Court did NOT have Jurisdiction over the person of the Defendant.

(2) Error in the Criminal Proceeding. Failure to charge A crime in that:

A. The Criminal Pleading charged acts which at the time they were committed did NOT constitute a violation of Criminal Law; or

B. The Pleading fails to state essential elements of an alleged violation as required by G.S. 15A-924(a)(5).

(3) Insufficiency of the Evidence. The Evidence was Insufficient as a matter of Law.

(4) Errors in Procedure.

A. There has been a Denial of Pre-trial Motions or Relief to which the Defendant is Entitled, so as to affect the Defendant's preparation or presentation of his defense, to his Prejudice

B. There has been a Denial of a Trial Motion or Relief to which the Defendant is Entitled, to his Prejudice

C. There has been Error in the Admission or Exclusion of Evidence, to the Prejudice of the Defendant.

D. There has been Error in the Judge's Instructions to the Jury,

to the Prejudice of the Defendant.

E. There has been a Denial of a Post-Trial Motion or Relief to which the Defendant is Entitled; To his Prejudice. This Provision is Subject to Provisions of G.S. 15A-1422.

(5) Constitutionally Invalid Procedure or Statute, Prosecution for Constitutionally Protected Conduct.

A. The Conviction was obtained by a Violation of the Constitution of the United States or of the Constitution of North Carolina.

B. The Defendant was convicted under a Statute that is in Violation of the Constitution of the United States or the Constitution of North Carolina.

C. The Conduct for which the Defendant was prosecuted was Protected by the Constitution of the United States or the Constitution of North Carolina.

(5 A) Insufficient Basis for Sentence. The Sentence imposed on the Defendant is NOT supported by Evidence introduced at Trial and Sentencing Hearing.

(5 B) Violation of Sentencing Structure. The Sentence Imposed;

A. Results from an incorrect finding of the Defendant's Prior Record level under G.S. 15A-1340.14 or the Defendant's Prior Conviction level under G.S. 15A-1340.21;

B. Contains a type of Sentence disposition that is NOT authorized by G.S. 15A-1340.17 or G.S. 15A-1340.23 For the Defendant's Class of Offense and Prior Record or Conviction level or;

C. Contains a Term of Imprisonment that is for a Duration NOT authorized by G.S. 15A-1340.17 or G.S. 15A-1340.23 For the Defendant's Class or *Offense and Prior Record or Conviction level.

*Probably should be "Class, offense".

(6.) Other Errors of Law, Any other Errors of Law was Committed by the Trial Court to the Prejudice of the Defendant.

In Reference to N.C.G.S. 15A-1443. Existence and Showing of Prejudice

(A) A Defendant is Prejudiced by Error Relating to Rights arising other than under the Constitution of the United States when there is a reasonable possibility that, Had the Error in Question Not been Committed, A different result would have been Reached at the trial out of which the Appeal arises. The Burden of showing such prejudice under this subsection is upon the Defendant. Prejudice also exists in any instance in which it is deemed Reversible Per Se.

(B) A violation of the Defendant's Rights under the Constitution of the United States is Prejudicial unless the Appellate Court finds that it was Harmless beyond a Reasonable Doubt. The Burden is upon the State to Demonstrate beyond a Reasonable Doubt, that the Error was Harmless.

(C) A Defendant is Not Prejudiced by the Granting of Relief which he has sought or by Error resulting from his own Conduct.

Petitioner contends that several of his Rights and Rules were Grossly Violated in both N.C.G.S. 15A-1442. and N.C.G.S. 15A-1443. And several Due Process and State and Federal Rights were Violated as if Petitioner was Sentenced in a "KANGAROO COURT"; where NOBODY defended Petitioner EXCEPT Petitioner Himself, at "ALL" stages of the Proceedings, and Counsel worked Diligently and Zealously constantly with the Prosecutor "AGAINST" Petitioner. In Support of all these Allegations Petitioner shows the following:

FACTS IN SUPPORT OF

1.) Petitioner contends that having His "FORMER" sentencing Judge H.W. Zimmerman represent Petitioner as his Counsel, who retired from the Bench while Petitioner was still serving the 50-60 months sentence given to Petitioner by Zimmerman on unrelated charges, Is a Violation of Due Process of Law and A Conflict of Interest. See EXHIBIT(A) (3) Page Sentencing Papers Dated 12/8/97
Judge H.W. Zimmerman Presiding.

2.)(A) By Counselor Zimmerman and the Prosecutor forcing Petitioner to sign 8 waivers in cases 99 CRS 23241-48, which were in FACT rejected by the Grand Jury for possible Indictment and would have been DISMISSED, was a Violation of Law and Due Process. To THREATEN Petitioner by saying if he didn't sign, The Prosecutor would make sure he recieved the DEATH Sentence, And by saying it was "ALL" PRE-ARRANGED, The charges would all be consolidated into one sentence. And Petitioner would receive a 20 year Sentence for "ALL" charges, when in fact Petitioner recieved all CONSECUTIVE sentences in all charges, and recieved 70 to 90.4 years on 8 waivers alone is a Miscarriage of Justice and Due Process, See U.S. v. SANDERSON 595 F2d 1021 (5TH Cir 1979) (Trial Counsels misrepresentation of material facts, withholding information, and exerted pressure on Defendant to induce a Guilty Plea, Constituted Ineffective Assistance of Counsel and required an Evidentiary Hearing to resolve claim).

(B) In case at bar, Petitioner would like to point out that the

Supreme Court in HILL v. LOCKHART, 474 U.S. 52 L.Ed. 2d 203, 106 S.Ct. 336 (1985), Held that the two part STRICKLAND v. WASHINGTON, 446 U.S. 668, 687-88, 694, 104 S.Ct. 2052, 2064-74, 80 L.Ed. 2d 674 (1984)

Test Applies to Challenges to Guilty Pleas based on Ineffective Assistance of Counsel. The HILL Court found in the Plea Bargaining context, A Petitioner seeking to establish Ineffective Assistance of Counsel must demonstrate that:

① Counsel's advice and performance fall below an objective standard of reasonableness; and ② The Petitioner must show that there is a reasonable probability that, but for Counsel's Errors, He would NOT have Plead Guilty and would have insisted on going to trial. Id. AT (474 U.S. 59) (EMPHASIS ADDED).

③ Petitioner contends that by Counsel and Prosecutor forcing/coercing Petitioner to Plead Guilty to 8 cases that would be Dismissed by Law, and receiving 70 to 90.4 years proves Both Parts of the Two Part test Automatically; And the FACT Petitioner spent \$50,000 to obtain Private Attorneys only a few months prior (Under Duress), Shows Petitioner's intent to go to trial, Clearly proves Part (2); Plus vindictive Prosecution and Due Process violations all rolled into one at the same time, the Record speaks for itself, See EXHIBIT (B) 8 WAIVERS SIGNED.

3.) Petitioner contends that having Petitioner Plead Guilty to an INVALID Indictment Charge in case # 97 CRS 23656 "Arson of an Unoccupied Building" Nov. 3, 97' EXHIBIT (C) which was DISMISSED when approx 8 months later being RE-CHARGED with a different case number 98 CRS 23486

"First Degree Arson" July 6, 98' EXHIBIT(D), But with the same exact wording which is in fact DOUBLE-JEOPARDY and violation of Due Process of Law. See JACKSON v. LEONARD 162 F3d, 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 Firearm in the First Degree" rested on the same Factual predicate constitutes Ineffective Ass. of Counsel.

4) The Prosecutor CONNED Petitioner into believing the entire Indictment 97CRS 23656 EXHIBIT(C) would in fact be DISMISSED by his Plea of Guilty, by just referring to case 97CRS 23656, which was the only Indictment that had "2" Counts, Out of ALL the Indictments. The state TRICKED Petitioner with the AID of Counselor Zimmerman, into believing by Pleading Guilty to that charge, it would be Dismissed, Even in Jan 28, 99 Transcript of proceedings Page #11 Lines 18-19 EXHIBIT(E). The Court stated "In case 97CRS 23656 shall be dismissed by the state upon your Plea of Guilty." When the D.A. illegally RE-INDICTED Petitioner on July 6, 98' (case #98 CRS 23486 EXHIBIT(D)), Committing DOUBLE-JEOPARDY, Count One of case 97CRS 23656 EXHIBIT(C) was automatically dismissed. Therefore on Jan. 28, 1999 the only charge left was "Conspiracy First Degree Murder," and Mistake or Not the Judge in FACT DISMISSED "Conspiracy First Degree Murder." The paper-work (Record) speaks for itself.

5) Petitioner contends that Trial Courts denying Petitioner's Motion to Withdraw his Pleas and Justifying it by the Court's Findings OF, FACT AND CONCLUSIONS OF LAW, And denying his Right to Withdraw his Alford Pleas despite the "Fact" Petitioner met the requirements in N.C. v. HANDY 326 N.C. 532, and the "Fact" that

Petitioner sent a Motion to Withdraw his Pleas (letter form) on Jan. 29, 99; the day after his Pleas were entered, which letter Disappeared, And Petitioner filed a second Motion to Withdraw his Pleas Feb. 24, 99'

EXHIBIT (F) see U.S. v. ALVAREZ-TAUTIMEZ, 160 F.3d. 573 (9TH Cir 1998) Also see U.S. v. ELLISON, 798 F.2d. 1102 (9TH Cir 1986) Ellison filled a Motion to withdraw his Guilty Plea in the context of a letter form. Ellison claimed his Guilty Pleas were the result of psychological pressure of Solitary Confinement, The exclusion from family and friends; and on the erroneous advice of his Court appointed Attorney, "That an immediate Guilty Plea would place him in a better and more humane living conditions and renew contact with family and friends." In case at bar, Petitioner was placed in Solitary Confinement on Dec. 22, 98 and DENIED contact with family and friends, "Prison Records" will show. Court Records were off by 3 weeks, but still it shows Petitioner was in Solitary Confinement. See EXHIBIT (G)

Note: Exhibit states one Non-contact weekly visit per week, but Petitioner was DENIED ALL visits.

6.) Petitioner was DENIED Counsel Representation at Withdrawal Hearing, Counsel REFUSED to defend Petitioner saying, "We'll sit this one out." Petitioner had to represent Himself, leaving him without Counsel. Counsel stated, "We will remain NEUTRAL because we maybe asked questions." See EXHIBIT (H) Page #3 Lines 19-21. Counsel NEVER discussed anything with Petitioner. This is a Violation of U.S. Const. AM 5, 6, 14; N.C. Const ART. I, sec 18, 19, 23. As well as other provisions in both Constitutions and Due Process.

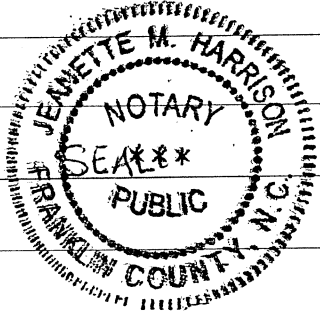
7) Petitioner contends that NO P.S.I. Report was turned into the Court, Despite the fact the lady from Step-One was subpoenaed 2 weeks before sentencing, yet Counsel never said a word, and let Petitioner be sentenced anyway, without the P.S.I. Report. See EXHIBIT (I) Pages 218 and 219 Sentencing Transcripts. Which Violates U.S Const AM. 5, 6, 14; N.C. Const. ART. I, Sec. 18, 19, 23. See U.S. v. DAVENPORT, 151 F.3d 1325 (11th Cir 1998) Pre-Sentence Report must be disclosed to both Defense Counsel and Defendant at least (10) days prior to sentencing as mandated by Statute. This clearly shows conviction obtained by the unconstitutional failure of the State to disclose to the Defendant evidence favorable to the Defendant, In Violation of Petitioner's State and Federal Rights and Due Process of Law, see U.S. v. GORDON, 172 F3d (10th Cir 1999) and U.S. v. BARTHOLOMEW, 474 F2d (5th Cir 1992) Trial Counsel NOT only didn't have a chance to object to any inaccuracies or errors in the P.S.I. Report, "NO" P.S.I. Report was ever produced! see WEST v. US, 994 F2d 518 (8th Cir 1993) Trial Counsel's failure to object to Errors in the Pre-Sentence Report can constitute Ineffective Assistance of Counsel.

8) Petitioner contends there were many-many other violations throughout the entire Proceedings, But Petitioner never recieved an Evidentiary Hearing, To bring out these issues of Material Facts, Such as Prosecutor intimidation and threatening witnesses, Running Defense witness out of town, Having a PHONY witness against Petitioner released from Prison early, Failure of

Prosecutor to turn over Evidence of Material Facts favorable to the Defense, Petitioner could go on and on, But if this Honorable Court will just look at the Record, It's obvious that Petitioner was Railroaded.

Petitioner prays this Honorable Court in view of all the above Miscarriages of Justice that were committed against Petitioner, Grant Petitioner's Motion In Arrest of Judgment, And any other Relief this Honorable Court deems Just and Proper,

Respectfully Submitted This
The 29 Day of October 2003,



Pro-se: Theodore Mead Kimble

THEODORE MEAD KIMBLE

Date: 10-29-03

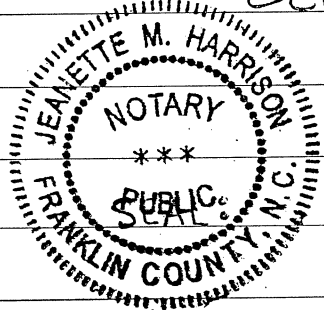
Witness: Jenette M Harrison

My Commission Expires: 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 In Arrest of 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 29 Day of
October 2003.



Pro-Se: Theodore Mead Kimble

THEODORE MEAD KIMBLE

Sworn To And Before Me This The 29 Day of
October 2003

Witness: Jeanette M Harrison Date: 10-29-03

My Commission Expires: My Commission Expires 4-4-2006.

CERTIFICATE OF SERVICE

I DO HEREBY CERTIFY THAT THE FOREGOING MOTION
IN ARREST OF JUDGMENT 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

Pro-Se in Theodore Mead Kimble

SEAL:

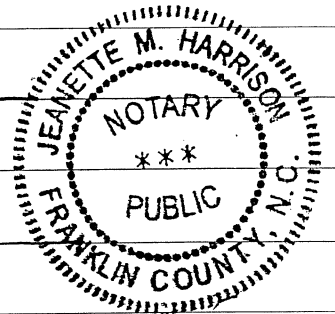
THEODORE MEAD KIMBLE
1300 Western Blvd.
Raleigh N.C. 27606

Sworn To And Before Me This The 29 Day of
October 2003

Date: 10-29-03

Witness: Jeannette M Harrison

My Commission Expires 4-4-2006.



STATE OF NORTH CAROLINA

File No. 97CR 2

EXHIBIT (A) 1 of 3

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 offense(s).)

STATE VERSUS

JUDGMENT AND COMMITMENT

Defendant THEODORE MEAD KIMBLE

ACTIVE PUNISHMENT FELONY

Race White Sex M DOB 12-08-1969

CLERK OF SUPERIOR COURT

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 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: 1. has determined, pursuant to G.S. 15A-1340.14, the prior record points of the defendant to be -0- PRIOR RECORD LEVEL: I II III IV V VI

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).

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: N.C. DOC. Sheriff pursuant to G.S. 15A-1352(b). Other

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.)

12/16/97 EKP

(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

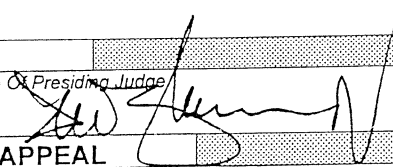
A hearing was held in open court in the presence of the defendant at which time a fee, including expenses, was awarded the defendant's appointed counsel or assigned public defender.

ORDER OF COMMITMENT/APPEAL 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	Name Of Presiding Judge (Type Or Print)	Signature Of Presiding Judge
12-08-1997	H. W. ZIMMERMAN, JR.	

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	<input type="checkbox"/> Deputy CSC <input type="checkbox"/> Assistant CSC <input type="checkbox"/> Clerk Of Superior Court
12-16-97	

STATE OF NORTH CAROLINA

FILED

File-No.

See Transcript

Gulford County

DEC 8 1997

In The General Court Of Justice

District Superior Court Division

STATE VERSUS

AT 4:00 O'CLOCK P M

Name And Address Of Defendant

BY NA P CLERK OF SUPERIOR COURT

Theodore M. Kimble

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

Table with 4 columns: NUMBER, TYPE, FACTORS, POINTS. Rows include Prior Felony Class A Conviction (X10), 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).

II. CLASSIFYING PRIOR RECORD/CONVICTION LEVEL

MISDEMEANOR

FELONY

NOTE: If sentencing for a misdemeanor, total the number of prior conviction(s) listed on the reverse and select the corresponding prior conviction level.

NOTE: If sentencing for a felony, locate the prior record level which corresponds to the prior record determined in section I above.

Table with 2 columns: No. Of Prior Convictions, Level. Rows: 0 (I), 1-4 (II), 5+ (III).

PRIOR CONVICTION LEVEL []

Table with 2 columns: Points, Level. Rows: 0 (I), 1-4 (II), 5-8 (III), 9-14 (IV), 15-18 (V), 19+ (VI).

PRIOR RECORD LEVEL [I]

The Court has determined the number of prior convictions to be _____ and the level to be as show above.

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]

EXHIBIT (B) 1068

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

File No. 99CRS 23241

GUILFORD COUNTY
STATE OF NORTH CAROLINA
v.
THEODORE MEAD KIMBLE

GUILFORD COUNTY
FILED
JAN 28 1999
AT 3:50 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, knowingly 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 (B)
2018

GUILFORD COUNTY
STATE OF NORTH CAROLINA

GUILFORD COUNTY Film No.

FILED

JAN 28 1999

BILL OF INFORMATION
Solicitation to Commit
First Degree Murder

v.
THEODORE MEAD KIMBLE

AT 350
BY [Signature]
CLERK OF SUPERIOR COURT

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

Date of Offense
On or about November 4, 1998

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 Theodore Kimble

Signature of Attorneys for the Defendant

[Signature]
[Signature]

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

EXHIBIT (B)
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 350 U.S. 1 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

File No. 99CRS 23244

EXHIBIT (B)
40F8

GUILFORD COUNTY
STATE OF NORTH CAROLINA
v.
THEODORE MEAD KIMBLE

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

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

[Signature]
[Signature]

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

File No. 99CRS 23245

EXHIBIT (B)
50FB

GUILFORD COUNTY
STATE OF NORTH CAROLINA

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

Film 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
[Signature: R. E. P. D.]

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
[Signature: T. B. Campbell]
[Signature: A. W. ...]

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

File No. 99CRS 23246

EXHIBIT (B)
6018

GUILFORD COUNTY
STATE OF NORTH CAROLINA
v.
THEODORE MEAD KIMBLE

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

GUILFORD COUNTY
FILED
JAN 23 1999
AT 3:50 U. CLERK P.M.
CLERK OF SUPERIOR COURT

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

Date of Offense
On or about November 4, 1998

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
REP

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
Theodore Kimble
Signature of Attorneys for the Defendant
Fred A. Crumpler
AW

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

EXHIBIT (B)
7018

File No. 99CRS 23247

GUILFORD COUNTY
STATE OF NORTH CAROLINA

v.
THEODORE MEAD KIMBLE

GUILFORD COUNTY
FILED
JAN 28 1999
AT 350
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

File No. 99CRS 23248

EXHIBIT (B)
80F8

GUILFORD COUNTY
STATE OF NORTH CAROLINA
v.
THEODORE MEAD KIMBLE

GUILFORD COUNTY
FILED
JAN 23
BY COO
CLERK OF SUPERIOR COURT

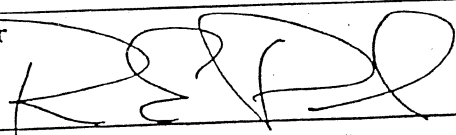
Film No.
**BILL OF INFORMATION
Solicitation to Commit
First Degree Murder**

Date of Offense
On or about November 4, 1998

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


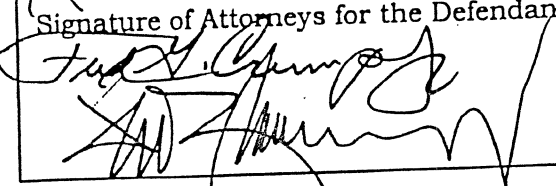
COUNT I

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


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 of Attorneys for the Defendant


581

EXHIBIT (C)

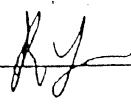
STATE OF NORTH CAROLINA

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

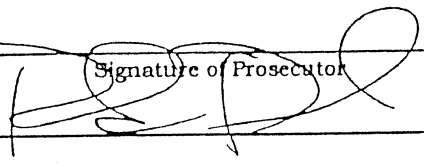
**COUNT I
ARSON OF AN UNOCCUPIED DWELLING**

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

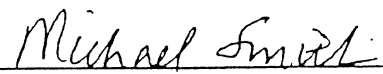
The witnesses marked "X" were sworn by the undersigned Foreman of the Grand Jury and after hearing testimony, this bill was found to be:

- 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 (D)

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 *[Signature]*

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]
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
[Signature]

1 GUILTY TO THOSE OFFENSES BECAUSE YOU CONSIDER IT TO BE IN YOUR
2 BEST INTEREST TO DO SO?

3 DEFENDANT:- YES, SIR.

4 THE COURT:- DO YOU UNDERSTAND THAT WHEN YOU PLEAD
5 GUILTY TO THOSE OFFENSES UPON THAT CONDITION THAT YOU WILL BE
6 ADJUDGED GUILTY AND SENTENCED FOR THOSE OFFENSES WHETHER OR NOT
7 YOU, IN FACT, ADMIT THAT YOU ARE GUILTY OF THEM?

8 DEFENDANT:- YES, SIR.

9 THE COURT:- HAVE YOU AGREED TO TENDER A PLEA OF
10 GUILTY TO THESE SEVERAL OFFENSES AS PART OF A PLEA ARRANGEMENT
11 THAT WAS NEGOTIATED ON YOUR BEHALF BY YOUR ATTORNEYS WITH THE
12 DISTRICT ATTORNEY?

13 DEFENDANT:- YES, SIR.

14 THE COURT:- IS THIS A CORRECT STATEMENT OF WHAT YOU
15 UNDERSTAND YOUR FULL PLEA ARRANGEMENT TO BE: THE STATE OF
16 NORTH CAROLINA HAS AGREED, PURSUANT TO THE PLEA ARRANGEMENT, TO
17 ACCEPT A PLEA OF GUILTY TO SECOND DEGREE MURDER IN CASE
18 97-CRS-39581. COUNT ONE IN THAT -- IN CASE 97-CRS-23656 SHALL
19 BE DISMISSED BY THE STATE UPON YOUR PLEA OF GUILTY. IN RETURN,
20 THE DEFENDANT AGREES TO ENTER PLEAS OF GUILTY TO SECOND DEGREE
21 MURDER IN CASE 39581, CONSPIRACY TO COMMIT FIRST DEGREE MURDER
22 IN CASE 97-CRS-23656, AND FIRST DEGREE ARSON IN CASE
23 98-CRS-23486, AND EIGHT COUNTS OF SOLICITATION TO COMMIT FIRST
24 DEGREE MURDER PURSUANT TO THE BILLS OF INFORMATION WHICH HAVE
25 BEEN SUBMITTED TO THE COURT. THE DEFENDANT AGREES PURSUANT TO

Therese Kimble
Po Box 786
Troy NC 27371

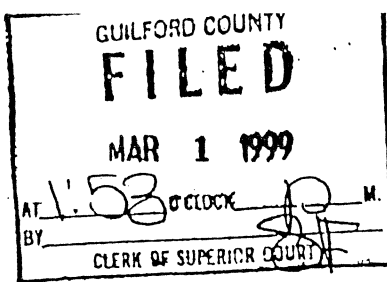
1995
MAIL FROM
PIEDMONT TRIAD AREA
PM
SOUTH CAROLINA
CORRECTIONAL INSTITUTION



To: Guilford County Court House
Superior Court Judge Peter McHugh
Greensboro NC 27402

27400/9999

EXHIBIT (F) 2 of 3



Superior Court Judge
Peter McHugh

I Therefore Mr 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! The 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

I request a gag order be placed on the D.A. He has done nothing but brain wash the public and potential jurors. Further

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 show at the Kimble trial."

3/1/99 cc: Parosh

Zimmerman/Crompler

EXHIBIT (G)

STATEMENT CONCERNING DEFENDANT'S CONFINEMENT

Prior to entry of his guilty pleas in the instant cases, defendant was in the custody of the Department of Corrections at Southern Correctional Institution in Troy, North Carolina for unrelated larceny and breaking and entering convictions. On January 12, 1999, defendant was placed on disciplinary segregation. Defendant entered his guilty pleas in the instant cases on January 28, 1999. On February 1, 1999, defendant's control status was changed to administrative segregation. On February 5, 1999, defendant was placed on maximum control and remained there until he was transferred to Caledonia Correctional Institution on February 26, 1999. Pursuant to state-wide policy, all three levels of control require 23-hour-per-day lock-up, with one hour per day for showering and individual recreation. In addition, inmates held at all three control levels are not allowed phone calls and are permitted only one non-contact week-day visit per week.

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

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

NO. P03-956

EIGHTEENTH DISTRICT

STATE OF NORTH CAROLINA
COURT OF APPEALS

THEODORE MEAD KIMBLE)

PETITIONER,)

v.)

STATE OF NORTH CAROLINA)

RESPONDENT.)

RE: { "MOTION IN ARREST OF JUDGMENT" }

" NO. P03-956

" FILE NO.'S 97CRS-23656,

" 97CRS-39581; 98CRS-23486;

" 99CRS-23241-48, = = =

* * * * *
PETITIONERS RESPONSE TO THE
STATES ANSWER.
* * * * *

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

D. THE STATES PROCEDURAL HISTORY IS FALSE, AS HER TWO (2) OTHER RESPONSES,

(A) IF THIS COURT WILL LOOK AT IND. # 97CRS-23656, WHICH WAS COUNT ONE DISMISSED, AND IND. # 98CRS-23486, THEY SHOW THE SAME EXACT WORDING, WHICH THE PROSECUTOR (MR. PANOSH) HAD PETITIONER RE-INDICTED, THUS COMMITTING DOUBLE-JEOPARDY.

(B) PETITIONER NEVER PLEAD GUILTY TO 99CRS-23241-48, IT WAS AN ALFORD PLEA AS PETITIONER POINTED OUT IN OTHER RESPONSES TO THE STATES ANSWERS. AND PETITIONER RECEIVED ILLEGAL CONSECUTIVE SENTENCES ON EACH COUNT TOTALING 70 TO 90.4 YEARS, WHICH WAS ILLEGAL AS A MATTER OF LAW.

(C) PETITIONER WAS PROMISED A TOTAL 20 YEARS SENTENCE FOR ALL PLEAS. COUNSEL HAD PETITIONER SIGN A BLANK PLEA BARGAIN, WHICH WAS FILLED IN AFTERWARD, AND FILLED IN INCORRECTLY. IT'S A FACT PETITIONER PLED ALFORD IN CASES 99CRS-2324-48, AND THE PLEA BARGAIN WAS FILLED IN AS ALL "GUILTY" PLEAS. PETITIONER IS ENTITLED TO RELIEF IN ARREST OF JUDGMENTS BY LAW.

2. (A) BRIEF FOR THE STATE PAGE #2 STATES "INCORRECTLY", "WITH-DRAW [HIS] GUILTY-
-PLEA ON ALL ACCOUNTS AND CHARGES" THE WORD "ALFORD" PLEA WAS AGAIN CONVENIENTLY LEFT OUT.

(B) THE STATE "AGAIN" LEFT OUT THE FACT THAT PETITIONER HAD TO DEFEND HIMSELF AT THE "WITHDRAW HEARING", BECAUSE COUNSEL CHOOSE TO

REMAIN "NEUTRAL", LEAVING PETITIONER WITHOUT REPRESENTATION, VIOLATING DUE PROCESS.

③. (A) STATE ASSERTS HOW PETITIONER HAD DIRECT APPEAL, BUT LEFT OUT HOW APPELLATE COUNSEL ALSO "FAIL" TO REPRESENT AND PERSUE PERTINENT ISSUES, AND ABANDON ISSUES OF THE ILLEGAL 70 TO 90.4 YEAR SENTENCES IN CASES #99CRS-23241-48. PLUS FAIL TO REPORT PROSECUTOR MISCONDUCT, AND CONFLICT OF INTEREST BY PROSECUTORS ("PARTNER"), PETITIONER'S "PRIOR" SENTENCING JUDGE MR. ZIMMERMAN NOW REPRESENTING HIM AS COUNSEL; FAIL TO BRING UP THE ISSUE OF NO P.S.I. REPORT, OR ANY OTHER PERTINENT ISSUES AS PETITIONER POINTED OUT THROUGH HIS "MOTION IN ARREST OF JUDGMENT" UNDER DISCUSSION.

(B) PETITIONER'S APPELLATE COUNSEL FILED DISCRETIONARY REVIEW IN N.C. SUPREME COURT AFTER DENIAL IN N.C. COURT OF APPEALS. YET PETITIONER CONSTANTLY INSTRUCTED HER TO FILE MOTION FOR APPROPRIATE RELIEF, AND SHOULD HAVE APPEALED IN CERTIORARI TO N.C. SUPREME COURT. NATURALLY 99 TIMES OUT OF 100 THE N.C. SUPREME COURT USUALLY ALWAYS GOES ALONG WITH THE N.C. COURT OF APPEALS RULINGS.

4. PETITIONER FILED "MOTION IN ARREST OF JUDGMENT" BECAUSE HE IS ENTITLED RELIEF FROM HIS ILLEGAL SENTENCE. IT'S NOT IN ACTUALITY A "MOTION FOR APPROPRIATE RELIEF" AS THE STATE'S ATTORNEY BALDWIN HAS STATED IN "BRIEF FOR THE STATE PAGE #2." PETITIONER CAN'T EXPECT ANY RELIEF WHATSOEVER IN A SUPERIOR COURT THAT RAILROADED HIM IN EACH AND EVERY WAY POSSIBLE, AS IF IT WAS A LYNCHING MOB. THAT'S WHY PETITIONER FILED A "MOTION IN ARREST OF JUDGMENT" TO THIS HIGHER COURT, TO TRY AND ACTUALLY RELIEVE JUSTICE.

5. THE STATE POINTED OUT HOW, "RELIEF FORMERLY AVAILABLE BY MOTION IN ARREST OF JUDGMENT, MOTION TO SET ASIDE THE VERDICT, MOTION FOR NEW TRIAL, POST CONVICTION PROCEEDINGS, CORAM NOBIS AND ALL OTHER POST-CONVICTION PROCEEDINGS' MOTIONS IS AVAILABLE BY MOTION FOR APPROPRIATE RELIEF." THE STATE LEFT OUT THE FACT THAT RELIEF IS ALSO AVAILABLE BY FILING MOTION IN ARREST OF JUDGMENT IN THE N.C. COURT OF APPEALS, AND THE FACT IT'S NOT "MANDATORY" TO FILE IT IN SUPERIOR COURT. AND TO PROVE THAT "FACT",

"IF" PETITIONER WAS NOT ALLOWED BY LAW TO FILE SAID MOTION IN THE COURT OF APPEALS, THEN MR. JOHN H. CONNELL CLERK OF N.C. COURT OF APPEALS WOULD NEVER HAVE DOCKETED THE SAID MOTIONS FOR A RULING (OR) GIVEN A DOCKET CASE NUMBER PO3-956; THIS IS DESPITE THE FACT PETITIONER HAD SOMEONE CALL HIM AND HE SAID "YES" THE MOTIONS CAN BE FILED IN THIS COURT! (919) 733-3561. MR. CONNELL SAID PROCEDURE IS THAT "IF" THE MOTIONS COULDN'T BE FILED OR HEARD IN THIS COURT, HE WOULD HAVE RETURNED THEM AND INSTRUCTED OF HOW IT WAS "MANDATORY" TO FILE THE SAID MOTIONS IN SUPERIOR COURT! THE STATE'S ATTORNEY KATHLEEN U. BALDWIN WOULDN'T NEED TO FILE (3) "SEPERATE" IDENTICAL RESPONSES EITHER, ASKING THE COURT TO DISMISS (OR) DENY PETITIONER'S MOTIONS "UNLESS" THE COURT OF APPEALS HAS THE POWER AND AUTHORITY TO GRANT PETITIONER'S MOTIONS. (EMPHASIS SUPPLIED).

3) PETITIONER WOULD ALSO LIKE TO BRING TO THE COURTS ATTENTION THAT AGAIN ON ALL (3) MOTIONS PETITIONER FILED IN THIS COURT UNDER DISCUSSION, STATES ATTORNEY BALDWIN "FAIL" TO PROTEST ANY OF PETITIONER'S CONTENTIONS IN ANY ONE OF THE THREE MOTIONS; AS IT'S OBVIOUS IN ALL (3) MOTIONS THAT ALL PETITIONER'S STATE AND FEDERAL RIGHTS WERE VIOLATED IN

SO MANY WAYS THAT PETITIONER CAN'T
COUNT THEM ALL.

7. PETITIONER CONTENDS THAT THE PURPOSE
OF THE ASSISTANT ATTORNEY GENERAL TO EVEN
RESPOND "AT ALL" TO ANY SUBMITTED MOTIONS
IS TO POINT OUT HOW PETITIONER IS WRONG
IN HIS ASSERTED GROUNDS FOR RELIEF; IN ANY
PARTICULAR MOTION. (NOT "WINNING" AT ALL COSTS) HOWEVER,
STATE'S ATTORNEY BALDWIN DIDN'T AND COULDN'T
RESPOND TO ANYTHING IN ANY OF PETITIONER'S
MOTIONS, BECAUSE AS THE BIBLE SAYS, "THE
HANDWRITING IS ON THE WALL"!

8. PETITIONER IS SEEKING JUSTICE
AND A LAWFUL SENTENCE, AND APPEALING TO
THIS HONORABLE COURT TO REVIEW PETITIONER'S
MOTIONS, THE RECORD, THE ILLEGAL INDICT-
MENTS, THE ILLEGAL SENTENCES, THE ILLEGAL
REPRESENTATION OF COUNSELOR ZIMMERMAN BEING
PETITIONER'S PRIOR SENTENCING JUDGE, THE ILLEGAL ACT
OF FORCING PETITIONER TO DEFEND HIMSELF AT THE WITH-
-DRAW HEARING, NOW PETITIONER WAS ILLEGALLY
SENTENCED WITH NO PSY REPORT, THE ILLEGAL
JUDGMENT AND COMMITMENT PAPERS, NOW
PETITIONER WAS ILLEGALLY SENTENCED ON THE DOUBLE-

- JEOPARDY INDICTMENTS, ILLEGALLY SENTENCED ON 8 WAIVERS WITH CONSECUTIVE SENTENCES AND COUNSEL JUST SAT BACK AND SAID NOTHING; ILLEGALLY FILLING IN BLANK PLEA BARGAIN, THE PROSECUTOR ILLEGALLY RELEASING AN INMATE FROM PRISON EARLY IN EXCHANGE FOR A FALSE STATEMENT AGAINST PETITIONER, THE PROSECUTOR ILLEGALLY RUNNING WITNESSES FOR DEFENSE OUT OF TOWN, THE PROSECUTOR ILLEGALLY THREATEN PETITIONER WITH THE DEATH PENALTY SENTENCE, THE PROSECUTOR ILLEGALLY COVERED-UP THE CRIME OF ROBERT NICHOLS STEALING PETITIONERS TRAILER AND SELLING IT, THE PROSECUTOR ILLEGALLY THREATEN DEFENSE WITNESSES WITH SEVERE PROSECUTION ON PENDING CHARGES IF THEY DIDN'T CHANGE THEIR STATEMENTS AND GO AGAINST PETITIONER, AND OFFERING TO DISMISS AND GIVE PRO-BATION TO ALL WITNESSES ON THEIR PENDING CHARGES IF THEY COOPERATE WITH THE PROSECUTOR. WITNESSES "RECORDS" WILL VARY THE PROSECUTOR ILLEGALLY DID WHATEVER IT TOOK TO SEND PETITIONER AWAY FOR THE REST OF HIS NATURAL LIFE. THE WORD "LEGAL" DOES NOT APPLY ANYWHERE THROUGHOUT THESE PROCEEDINGS, SO NATURALLY PETITIONER SEEKS "JUSTICE" IN THE HIGHER COURT!

WHEREFORE, IN VIEW OF ALL THE ABOVE
MISCARRAGES OF JUSTICE THAT WERE COMMITTED
AGAINST PETITIONER, PETITIONER PRAYS THIS
HONORABLE COURT GRANT PETITIONER'S MOTION
IN ARREST OF JUDGMENT, AND ANY OTHER
RELIEF THIS HONORABLE COURT DEEMS JUST AND
PROPER.

RESPECTFULLY SUBMITTED THIS THE
24 DAY OF NOVEMBER 2003.

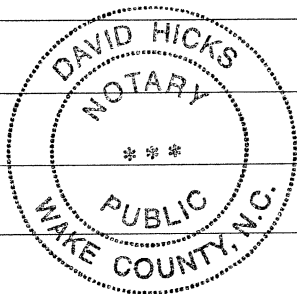
pro-se: Theodore Mead Kimble
THEODORE MEAD KIMBLE

DATE: 11-24-03

WITNESS: David Hicks

My Commission Expires 5-18-2008.

MY COMMISSION EXPIRES _____



* J *

VERIFICATION

I, THEODORE MEAD KIMBLE, BEING FIRST ONLY 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 ANY STATE-
MENTS MADE ON INFORMATION AND BELIEF, ARE MADE
IN GOOD FAITH, AND I BELIEVE TO BE TRUE.

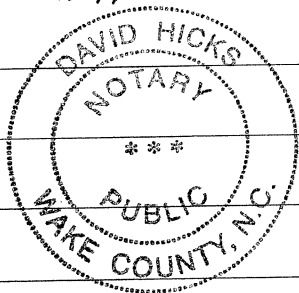
SIGNED UNDER PENALTY OF PERJURY, THIS THE 24
DAY OF NOVEMBER 2003.

Pro-se Theodore Mead Kimble
THEODORE MEAD KIMBLE

SWORN TO AND BEFORE ME THIS THE 24 DAY OF
NOVEMBER 2003,

DATE: 11-24-03
WITNESS: David Hicks

MY COMMISSION EXPIRES 5-18-2008.



CERTIFICATE OF SERVICE

I, Theodore Mead Kimble, do hereby certify
that the foregoing petitioners response to the
states answer was only 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,

pro-se Theodore Mead Kimble
Theodore Mead Kimble
1300 Western Blvd.
Raleigh, N.C. 27606

Sworn to and before me this 24th day of
November 2003.

DATE: 11-24-03

Witness: David Hicks

My Commission Expires

My Commission Expires 5-18-2008.

