EXHIBIT G

No. _____ EIGHTEENTH DISTRICT

NORTH CAROLINA COURT OF APPEALS

STATE OF NORTH CAROLINA) FROM: GUILFORD COUNTY
)
) FILE Nos. 97CRS 23656,
V.) 97CRS 39581; 98CRS 23486
) 99CRS 23241-48
THEODORE MEAD KIMBLE)
)
PETITIONER.)

PETITION FOR WRIT OF CERTIORARI

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No. _____ GUILFORD COUNTY

NORTH CAROLINA COURT OF APPEALS

STATE OF NORTH CAROLINA	" FROM: GUILFORD COUNTY
V.	" File No.s 97CRS-23656,
THEODORE MEAD KIMBLE	" 97CRS-39581; 98 CRS-23486;
PETITIONER	" 99 CRS-23241-48

PETITION FOR WRIT OF CERTIORARI

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TO: THE HONORABLE COURT OF APPEALS OF NORTH CAROLINA

Petitioner Theodore Mead Kimble, Pro-se, Respectfully Petitions this Court to issue it's Writ of Certiorari persuant to rule 21 of the North Carolina Rules of Appellate Procedure to review the order of the Honorable W. Douglas Albright, Presiding Judge Guilford County, Superior Court, N.C. dated November 20, 2003, Denying Petitioner's MOTION FOR APPROPRIATE RELIEF filed Oct. 23, 2003, And in support of this Petition shows the following:

FACTS

Petitioner Theodore Mead Kimble, is a layman in the LAW and ask for the patience of this Honorable Court as he attempts to represent himself, and the FACTS of his case to the best of his ability.

Pursuant to Judge Albright's M.A.R summery there is a few "INACCURACIES" the Petitioner would like to point out. (see EXHIBIT A page 1 of 4) Quote: "In the motion, the defendant alleges ineffective assistance of counsel, in that his trial lawyer promised the conspiracy charge would be dismissed pursuant to plea agreement..." (NO-WHERE in the M.A.R. is this allegation Made.) "... that his lawyer told him the reason the dismissal wasn't in the plea agreement was because the deal was secret, ..." The word is "secretly", and was used one-time in the M.A.R. (See EXHIBIT C M.A.R. page 3 Bottom-line.) The word "secretly" was used in reference to the "supposed" Pre-Arranged 20 year-sentence Counselor Zimmerman spoke of, And NOT the Conspiracy charge. The Prosecutor and Counsel lead Petitioner to believe the Conspiracy charge would be dismissed by only referring to the case number, When in fact there was actually two counts on that charge. (See EXHIBIT C page 10-Bottom, page 11-Top) Mr. Albright FAIL to mention the claim of DOUBLE-JEOPARDY, and the many other claims of Ineffective Assistance of Counsel in the summary.

"A review of the file..." (See EXHIBIT "A" page "2" of 4)

1. "On 7 April 1997, Defendant was indicted ... for first degree murder..."

"... On 3 November 1997, Defendant was indicted for arson and conspiracy to commit first-degree murder..." (See EXHIBIT C M.A.R. / EXHIBIT N Indictment case #97 CRS 23656.) This indictment was "DEFECTIVE"; Titled "Arson Of An Unoccupied Dwelling," because the dwelling was occupied and stated so below the charge. "... and on 6 July 1998, Defendant was indicted for first-degree arson..." (See EXHIBIT C M.A.R. / EXHIBIT O Indictment case #98 CRS 23486.) The Prosecutor indicted TWICE for the SAME crime, and used the same exact words. The subject of Double-Jeopardy is well covered throughout the M.A.R. (See EXHIBIT C MAR pages -

1. Bottom, pg 8. Top; Page 9 Assignment #2. Cont. pages 10-11; Also (*) ESPECIALLY See. page 24- Assignment F Cont. pg. 25.) Ineffective Assistance of Counsel is proven under the JACKSON v. LEONARD, both Trial Counsel and Appellate Counsel "FAIL" to raise Double-Jeopardy claim. The act of Double-Jeopardy is clearly a miscarrage 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 DICKERSON v. VAUGHN 90 F. 3d. 87 (3rd Cir 1996) "Misrepresentation of Law applicable to Double-Jeopardy issue rendered Guilty Plea INVALID, and required State to grant Petitioner's the Right to file Conditioned Appeals NUNC PRO TUNC on Double-Jeopardy issue due to Ineffectiveness of Counsel." "..., on 28 January 1999, the State filed bills of information charging Defendant with eight counts of solicitation to commit first-degree murder..." Petitioner contends these 8 counts were to 1 case. The Prosecutor mislead the Court in the way he submitted each count as a seperate case. The Plea Arrangement stated Counts NOT Cases.

2. " On 25 January 1999, Defendant pled guilty..." It was NOT Jan. 25, It was as the record shows, 28 January 1999. "... Defendant also pled guilty to eight counts of Solicitation to commit first-degree murder..." Petitioner did NOT plead Guilty, He entered an "ALFORD PLEA." (See EXHIBIT "H" Transcript page #4.) Petitioner ask the Court to NOTE: EACH Judgment and Commitment in counts 99 CRS 23241-48 are MARKED "[XX] PLED GUILTY TO," in EACH box. (EXHIBIT C M.A.R. /EXHIBIT D-1 Thur 8.) And see Plea Arrangement (EXHIBIT C M.A.R./EXHIBIT R.) Also see. Statement Listing Pleas (M.A.R./EXHIBIT Q.) All of these documents show a "Guilty Plea" on the 8 Counts of "Solicitation..." Yet an ALFORD Plea is an ALFORD Plea, NOT an entry of a Guilty Plea. Petitioner has just shown the FACT he "entered" an "ALFORD PLEA" according to the Court Transcript.

(EXHIBIT H.) This makes all papers incorrect, "NULL and VOID." To "CORRECT" this "ERROR of the Court," would require an Evidentiary Hearing," Which I DO ASK FOR." These "ERRORS" are also shown in the Sentencing Transcripts (EXIBIT J-1 THUR 6.) Judge Peter McHugh entered judgment under the plea of "GUILTY" in cases (Counts!) 99 CRS 23241-48. As Exhibit H shows Petitioner pled ALFORD, NOT Guilty. Counsel's failure to object shows Ineffective Assistance. Counsel did NOT object once!

3. "On 26 February 1999, Defendant filed a pro-se motion to withdraw his guilty pleas..." Petitioner contends Feb. 26, 99 was the second time he tried to file said motion. Petitioner mailed his first motion to withdraw his pleas on January 29, 1999, which "VANISHED"! "...on the grounds he was "pressured into (his) earlier plea." (See EXHIBIT L Lines 11-13.) Petitioner was "THREATEN" by Counsel and coerced to enter a plea. Counsel did not object when Petitioner stated this FACT into the RECORD. "The trial Court subsequently held a hearing on the motion." At this so called hearing the Petitioner was "DENIED" representation. Counselor Zimmerman and Crumpler told the Defendant "they would sit this one out." Counsel told the Court they would remain "NEUTRAL". (See EXHIBIT C M.A.R./EXHIBIT X) Clearly violated Petitioner's State and Federal Constitutional Rights to Counsel and Due Process Violation.

— Continuation under: "A review of the file..." (see EXHIBIT A page 2 of 4)

4. "On 4 March 1999 through 5 March 1999, the trial court held Defendant's sentencing hearing." "...The defendant was sentenced consistently with his plea agreement." Petitioner contends the later statement to be "FALSE" as this Motion will Prove. Counsel had told the Petitioner a 20 year sentence had been Pre-Arranged. The Petitioner was deceived, and lied to.

5. "Defendant thereafter filed a Notice of Appeal. The Court entered appellate entries and appointed the Appellate Defender to represent the defendant." The Ineffectiveness of Appellate Counsel is addressed throughout the Motion For Appropriate Relief. (See EXHIBIT C M.A.R. page 3 assignment #2. cont. pgs. 4-5, 10, 16...) Appellate Counsel Carman "ABANDON" important FACTS and ERRORS, and FAIL to file a M.A.R. and represent Petitioner diligently and zealously within the bonds of Law, And Petitioner's Appeal was naturally Denied. Because Counselor Carman FAIL to develope the record.

REASONS WHY WRIT SHOULD ISSUE

In the Courts Order dated Nov. 20, 2003, "Based on the record, the Court concludes..." (see EXHIBIT A - 2 of 4)

1. "...See State v. Reynolds, ... he may not thereafter raise independent claims relating to the deprivation of constitutional rights that occurred prior to the entry of the guilty." The Petitioner would like to point out his Motion to withdraw his plea on the 4th of March, was after and NOT prior to his plea of Guilty. Counsel ABANDON the Defendant. Petitioner was NOT made aware of any Rights. He was DENIED representation. STATE v. Reynolds is NOT applied when "INEFFECTIVE ASSISTANCE OF COUNSEL" is proven. Besides, several of the violations listed took place AFTER the Plea entry. Counsel threaten and coerced the Petitioner to enter a Plea. "Conviction obtained by Plea of Guilty which was unlawfully induced or NOT made voluntary with understanding of the nature of the charge and the consequences of the Plea violates U.S. Const. AM. 5, 6, 14; N.C. Const. ART. I, sec. 19, 23. As Petition pointed out in EXHIBIT C M.A.R. pages #6, #7, how Moore v. U.S. 950 F 2d. 656 (10TH Cir 1991) Coercion by Trial Counsel or the

Prosecutor to indice a Guilty Plea render the Plea involuntary. Also see U.S. v. ELLISON, 798 F2d. 1102 (7TH Cir 1998) and U.S. v. UNGER, 665 F2d. 251 (8TH Cir 1981) Clearly (Mirrors) Case at Bar. Also contrary to the Courts Order stating, "The Defendant was aware of all the facts he now claims show prosecutorial misconduct at the time he Pled Guilty based on the documents he provided with his Motion." Apparently the Court didn't read the Motion, As it clearly states at the bottom of page #6 (M.A.R.) "It was "LATER" assertained "JUST RECENTLY," (EMPHASIS SUPPIED) Upon movent having time to study N.C. Law and Proceedures, and study the Court transcripts..." The fact Mr. Zimmerman "WAS" a JUDGE, leaves No-EXCUSE for such a Gross Miscarrage of Justice, Making the Petitioner sign 8 waivers on charges that would be dismissed, if Petitioner did NOT sign! see U.S. v. SANDERSON 595 F2d. 1021 (5TH Cir 1979) also (see M.A.R. pages #17, #18)

Petitioner is always entitled to effective assistance of counsel and a lawful sentence through all stages of any proceedings, before, during, and after entry of any pleas under the Federal Constitution. Petition is entitled to protection under the Federal Constitution against misconduct. Furthermore, "Double-Jeopardy" committed by Prosecutor Panosh is not, "Concerning the alleged defect in the indictment and concerning the Prosecutor's conduct," We are talking about a GRAVE "MISCARRAGE OF JUTICE." Even a layman can clearly see that indictment #97CRS 23656 "Arson of an Unoccupied Dwelling", with "Someone inside the dwelling" had to be dismissed. The Prosecutor broke the LAW and committed Double-Jeopardy by RE Submitting the charge to the Grand Jury on July 6, 1998 as case #98CRS 23486, "First Degree Arson." Which is "A Conviction obtained by a Violation of the

protection against Double-Jeopardy." Not a simple "Defect" in the indictment! See Jackson v. LEONARD 162 F3d. 81 (2nd Cir 1998). (See EXHIBIT C M.A.R. pages 24, 25) The Prosecutor tried to cover-up the crime of Double-Jeopardy by only refering to the case number in the Plea Arrangement, and FAIL to disclose the information, which constitutes "conviction obtained by the unconstitutional failure of the Prosecution to disclose to the Defendant evidence favorable to the Defendant," Violates U.S. Const. AM. 5, 6, 14; N.C. Const ART I sec. 18, 19, 23. Petitioner pointed out in "SEVERAL" ways in EXHIBIT C M.A.R. pages #8 Thur #15, Numbers 1-6.

2. "Ridings v. Ridings," cited in Court order is NOT controlling. That case did not deal with facts clearly appearing in public records, Abstracts of which were presented to the courts. Additionally Judge McHugh is NOT qualified as a medical professional or qualified in the medical field to make an examination of the defendant, or make a diagnosis that the defendant is competent or NOT! As stated Mr McHugh is a Judge in the field of Law. Furthermore Judge McHugh had doubts in his own judgment as to the competence of the Petitioner. At the withdrawl Hearing Judge McHugh pressed a psychologist Dr. William M. Tyson to answer a question he was NOT qualified to answer. (See EXHIBIT K) On Lines 13-14 of exhibit "K" the Dr. Tyson stated, "... with the caution that I am NOT a medical Doctor..." Dr. William Tyson did a psychology exam of the Defendant near the end of February, which was nearly a month after the Plea entry. By this time the Petitioner had built up a tolerance to the medication and was able to function. Petitioner even stated on record that the "guards" were dispensing medication to him on the Jan. 28. The Petitioner was nearly

drunk on the medication. Counselor Zimmerman knew the condition of his client and even ask the Petitioner to lie. Counsel tried to convince the Petitioner to deny being on medication when asked by the Judge McHugh. Counselor Zimmerman took advantage of the situation. He stood next to the Petitioner at the Plea Hearing and had the Petitioner repeat after him as he whispered the answers to the questions, as the Judge ask them. (See EXHIBIT C M.A.R. page #18.) As for Judge Albright's quote of N.C.G.S. 15A-1001., The psychologist stated on the stand that he was NOT a medical doctor, At that point Petitioner contends the Judge McHugh should have applied N.C.G.S. 15A-1002(b) and ordered the defendant examined or committed temporarily to determine his mental evaluation on the competent issue, but the court FAIL to do this. (EMPHASIS SUPPLIED.)

3. As for the Courts order, statemen #3 on page #3 (See EXHIBIT A page 3 of 4) The Courts position that the defendant was satisfied with his attorneys when he pled guilty and that he stated under oath that he was satisfied with his attorneys services is explained as follows:

Petitioner at the time was not in a position to contest the irrienious application of law. Furthermore, this does not justify violating Petitioner's Due Process Rights guaranteed by the U.S. Constitution Amendments V, XIV, and North Carolina Constitution, Article I, sections 18, 19, 21, and 23. See NAT. Counsel of resistance to Iran v. Dept. of State, 251, F3d 192 (D.C. Cir. 2001) MATTHEWS v. ELDRIDGE, 424, U.S. 319, 333, 47 L.Ed. 2d. 18, 96 S. Ct. 892. (1976) ARMSTRONG v. MONZO, 380. U.S. 545, 552, 14 L.Ed. 2d. 62, 85 S. Ct. 1187 (1965)

Due Process requires as General Matter opportunity to be heard at

a meaningful time and in a meaningful manner. Citizens must be afforded Due Process before deprivation of life, liberty, or property. No reasonable jurist could conclude that Petitioner is bound by his statement that he was satified with his attorneys and their services. That statement was made BEFORE the Petitioner had an opportunity to review court documents and study his case, or study the N.C. Law and proceedures and evaluate the record. There is nothing in the record to suggest the Petitioner was aware of or should have known his attorneys were in fact "RAILROADING" Him. The court order (page*3, statement *3.) seems to insinuate that a defendant is required to know in advance that his attorneys assistance will be ineffective. Now see, "... the defendant has already had the opportunity for a hearing on this issue..." As for this supposed hearing and opportunity, the Defendant was DENIED effective assistance, rather DENIED ANY ASSISTANCE OF COUNSEL! At that Hearing the Defendant's Counsel decided to remain "NEUTRAL" and left Petitioner to defend for himself! Counsel told the Petitioner he was embarrassing them and it was best if..(Quote:) "We'll sit this one out." Petitioner is NOT an attorney and had No-idea of how to raise his issues at that hearing, as a licenced, skilled attorney does. The Petitioner paid $50,000 to Counselor Zimmerman and Crumpler, yet they REFUSED to represent him at this Hearing. Which is a DENIAL of Effective Assistance of Counsel. See the M.A.R page 26, where Counsel remained "NEUTRAL"! Now moving forward see, "Any error in that decision should have been raised on appeal. The defendant's motion does not raise a question of fact and even if it did, it is procedurally barred." Petitioner contends this statement to be "FALSE"!

See CITY OF WEST COVINA v. PERKINS, ___ U.S. ___, L.Ed. 2d. ___, 119 S.Ct. 678 (1999), A primary purpose of the notice required by the Due Process clause is to ensure that the opportunity for a Hearing is meaningful in "ALL" cases, The HIGHER Court has the authority to overrule the lower Court's orders, Not the lower Court overrule a higher Court's orders, U.S. v. NAPPI, 243 F3d. 758 (3rd Cir 2001) U.S. v. ESCHMAN 227 F3d. 886 (7th Cir 2001) Due Process requires that Defendant be sentenced on basis of "Accurate Information. U.S. v. CONTRERAS 249 F3d. 595 (7th Cir 2001) Sentencing determination must be based on "Accurate Information." See STRICKLAND v. GREENE, ___ U.S. ___, ___ L Ed. 2d ___ 119 S.Ct. 1936 (1999) Under BRADY an inadvertent nondisclosure has the same impact on the fairness of the proceeding as DELIBERATE CONCEALMENT. N.C.G.S. 15A-1419(B) Requires the Court to deny the motion under any of the circumstances specified in N.C.G.S. 15A-1419(A) "UNLESS" Defendant can demonstrate good cause and actual prejudice, (or) that failure to consider defendants claim, or raise a question of fact is "NOT" Procedurally barred, If Defendant's claim will result in a fund--emental miscarrage of justice. "BOTH" these exceptions were demonstrated in Petitioners Motion for Appropriate Relief, And requires an Evidentiary Hearing to resolve these claims and issues. However, Petitioner's motion was DENIED without a Hearing.

(A) Denial of Petitioner's Motion without consideration of the merits was inappropriate because good cause and "Question of Fact" existed for excusing any valid grounds listed in the Court's order. Actual Prejudice resulted from Petitioner's claim. The Defendant can demonstrate good cause as defined in sec. 15A-1419(C). Petitioner's failure to raise a

Claim was the result of violations of the United States Constitution, including ineffective assistance of Trial and Appellate Counsels. The basis of Petitioner's attempts to raise post Conviction Relief is and has been an ILLEGAL Sentence resulting from Conflict of Interest on the part of Mr. Zimmerman being Petitioners former "Sentencing JUDGE" and failure of Appellate Counsel Carman "ABANDONING" issues, Not reporting Prosecutor Misconduct, Vandictive Prosecution, And many more Violations of Law; As Petitioner pointed out in his M.A.R. For further information and proof, see EXHIBITS (D) and (E). Motion for Relief from the Judgment, and response to the State's answer. Also see EXHIBIT'S (F) and (G) Motion in Arrest of Judgment, And response to the States answer.

(B.) By the Court's order saying "...it is procedurally barred," results in the refusal of the Superior Court Judge to exercise his disgression in the case, and was an abuse of disgression. Furthermore the Judge Albright obviously didn't exercise a casual perusal of the record, Petitioner pled Guilty and entered ALFORD pleas on Jan 28, 1999, Not Jan 25, as stated in the Courts Order (page #2 statement #2) Or the FACT it was ALFORD Pleas in 8 Counts of Solicitation to Commit First Degree Murder; NOT Guilty pleas as stated in the Court's Order (page #2 statement #1). In FACT, NONE of the Court's Statements seem to be in accordance of anything shown in the record. The Court didn't even get the right case numbers on page #1, It's 98 CRS 23486 NOT 98CRS 23484. This is despite the fact Petitioner's Conviction was obtained by use of Coerced Confession, As Petitioner pointed out in "several" ways in his Motion for Appropriate Relief. See EXHIBIT (C) M.A.R. pages 20 Thur 25. Also see EXHIBIT L

Counsel threaten the Petitioner by telling him his life was in danger.

As for the Court's Order Statement #3, Page #3 dated Nov. 20, 2003, this further shows how Petitioner's Rights were violated, Denial of Right to Appeal, By Trial Counsel, and Appellate Counsel Carman's Ineffective Assistance of Counsel. For further proof see Motion for Appropriate Relief Exhibit C pages #15 Thur #17.

4. As for the Courts Order statement #4, on Page #3 (see EXHIBIT A-3 of 4) Petitioner has shown in this Petition for Writ of Certiorari Page #4, how Petitioner's Plea was NOT voluntary. Also Petitioner pointed out these FACTS in his M.A.R. pages #6, 7, 8, As the Court FAIL to even mention. It is NOT enough for the Court to simply NEGLECT to read the record or the Motions, to make a "BALD ASSERTION" that it contains no issues of fact, which would require an evidentiary hearing to resolve said issues of Material Fact, As the Court quoted factors as "Misunderstanding, duress, misrepresentation by others," Have No Comparison to Petitioner's Federal Rights, and his Conviction was obtained by Violation of Privledge against self-incrim-ination (See EXHIBIT C M.A.R. pages 17, 18, 19, and 20) Plus as for Misunder-standing, Duress, Misrepresentation, The Due Process clause giving rise to Petitioner's claims is contained in the Constitution of the United States of America Amendment 14. Petitioner is aware of No published decision in which "ANY" Court has questioned the proprosition that the United States Constitution is a "FEDERAL LAW." Yes, the defendant was informed of the applicable maximum sentences and that no promises were made, Because "THE ATTORNEY SAID IT WAS ALL "PRE-ARRANGED" FOR A 20 YEAR SENTENCE TOTAL!" (See EXHIBIT C M.A.R. page #18) The Court quoted STATE v. WILKINS, 131 N.C.

APP. 220 (1998) which does NOT apply in this case at bar. Now see for comparrison to STATE v. WILKINS, see TREJO v. U.S. 66 F. SUPP. 2d 1274 (S.D. FLA. 1999) (A YEAR AFTER THE WILKIN'S CASE) "Counsels misrepresentation of plea agreement that (1) Cooperation of any on defendant would insure to the benefit to all of them; (2) That this agreement need "NOT" be included in the plea agreement because it had been "ARRANGED" with the Prosecutor; (3) That based on their cooperation, The defendant would receive a sentence as low as five years of inprisonment, but in any case, not more than 10yrs, Required setting aside the Guilty Plea based on Ineffective Assistance of Counsel." In case at bar, Petitioner was promised a 20year Sentence total. Again the Court must have neglected to see EXHIBIT C MAR. Page #22, or I'm sure the Court wouldn't have bothered to quote the WILKINS case. (EMPHASIS SUPPLIED)!

The Courts Order statement #4 page #3 referring to the "Unambiguous record creates a "formidable barrier", (Nothing more than a "Professional Smokescreen" concealing the TRUTH!) The quoting BLACKLEDGE v. ALLISON, and CF. UNITED STATES v. CERVANTES, Petitioner contends that he has numerous Proofs and "EXTRAORDINARY" Circumstances." Who can name a case where a JUDGE sends a man to prison, then comes off the bench and becomes the mans Attorney, with the Promise of winning the case. But instead works with the Prosecutor to RAIL-ROAD the man and cause him to be sentenced to over a HUNDRED YEARS! It's as if Judge Zimmerman didn't get enough of me, when he sentenced me the FIRST-time! So he became my Attorney and had me put away for the rest of my life! (See EXHIBIT C MAR/ EXHIBIT EE-1 thur 3.) If the Petitioner is given his Constitutional Right

to an Evidentiary Hearing, he will Produce MORE than one Affidavit from reliable third parties. Petitioner exaustidly expressed in his M.A.R. several examples of Prosecutor Misconduct. (see EXHIBIT C M.A.R/EXHIBIT S.)

Petitioner presented many issues of Material Fact, And has undisputable Proof to show at an Evidentiary Hearing. Which he is entitled to under "Color of Law" and the "Ends of Justice".

5. "The Court concludes..." by statement #5 the following. (see EXHIBIT A page 4 of 4.) The case of Strickland v. Washington, "STRICKLAND" establishes a two-prong test for ineffective assistance of counsel: first, that counsel's performance must fall below an objective standard of reasonableness, and second, that the deficient representation must be so serious as to deprive defendant of a fair trial." North Carolina adopted the "Strickland" standard under the case of "State v. Braswell. Judge Albright has stated, "the defendant has failed to raise any issues of material fact about his attorneys' representation or the specific effect of the alleged conflict of interest." The Petitioner contends that Judge Albright did NOT read the M.A.R. In the case at bar, Counsel's performance fell way below an objective standard of reasonableness and as a result the defendant was seriously harmed! It can't possibly be reasonable for Counsel to have had the defendant sign (Bill of Information) Waivers on 8 Counts of Solicitation to Commit First-Degree Murder, after the Grand Jury had refused to indict on the charges, And the charges were going to be dismissed! Especially when Counsel Knew the defendant was innocent! It can't be reasonable for Counsel to have had the defendant plead Guilty to "First-Degree Arson," when

the case had to be dismissed because the Prosecutor committed Double-Jeopardy! It can't be reasonable for Counsel to sit there and NOT object while the Judge sentences the defendant to 8 Consecutive sentences on a single case of Solicitation To Commit First-Degree murder. It can't be reasonable for Counsel to sit there and NOT object when the Judge "ILLEGALLY" sentences the defendant in the "Aggravated Range" on 8 of the 11 sentences, BECAUSE THE CLERK MARKED THE WRONG BOX! If my case doesn't show "Conflict of Interest" I don't know if such a case exist. Judge Zimmerman sentenced the Petitioner to "PRISON" on Dec. 8, 1997. (See EXHIBIT C M.A.R/ EXHIBIT EE.) while serving that sentence Judge Zimmerman came off the Bench and became Petitioner's lawyer, to provide representation on pending charges. The Petitioner contends that Counselor Zimmerman helped the Prosecutor Rail-Road him! Look at all the UN-REASONABLE things he did. Had Counsel done their Job the Petitioner would NOT be serving a sentence of over a Hundred years!

As for Judge Albright's "SARCASTIC" remark referring to the Pititaner's M.A.R., as he put it, "A Laundry list of alligations, they are unsupported by any competent evidence." In the following Assignment(#8) the Petitioner will walk the Court through the CLEAR EVIDENCE PROVEN IN THE RECORD of how the Petitioner was sentenced ILLEGALLY. The BEST is saved for LAST!

Had Judge Albright read the M.A.R. maybe he would have gotten the case numbers, the Plea hearing date, and the ALFORD pleas correct. There is a difference between an ALFORD plea and a Guilty plea.

Allow me to point-out once again as Judge Albright brings it to the attention of the Court, "The defendant stated under oath at the time of his guilty plea that he was satisfied with his attorneys and he has already had a hearing ..." Petitioner was on medication at the Plea Hearing and only repeated after Counsel as instructed. Counsel had assured the Petitioner a total sentence of 20 years had been Pre-Arranged. How was the Petitioner to know Counsel had lied to him? How was Petitioner to know what Double-Jeopardy was? Or that the Grand-Jury had refused to indict on the 8 counts of Solicitation, and that those charges would be dismissed if he didn't sign the waivers. How could the Petitioner know that Counsel would refuse to represent him at his Motion to withdraw? How could the Petitioner know that Counsel would sit there and NOT object to ANYTHING when the Judge sentenced him ILLEGALLY!

Yes, The Petitioner had a Withdraw hearing where he tried to raise issues of FACT. But Counsel REFUSED to represent him, And Petitioner was left to fight for himself. Petitioner was DENIED Counsel! The Court has thrown Justice out the window if it's to imply the said hearing was Just and Fair.

6. Judge Albright's statement by assignment #6 (EXHIBIT A page 4 of 4.) is a flat out LIE! The Petitioner has shown: (See EXHIBIT C M.A.R. pages #8, 9 and M.A.R/EXHIBIT D.D. Transcript pgs. #218-#219.) The Court record clearly shows the P.S.I. Report was NOT available, and the defendant was sentence WITHOUT the P.S.I. Report. Judge Albright then made the claim it is not a constitutional violation to be sentenced without the P.S.I Report. See U.S. v. DAVENPORT, 151 F3d 1325 (11TH Cir 1998) Pre-Sentence Report must be disclosed to Both defense Counsel and Defendant at least Ten (10) Days prior to sentencing as MANDATED by Statue. "Persuant to N.C.G.S. 15A-1333."

Availability of "PRESENTENCE REPORT."

(A.) Presentence Reports and Sentencing Services information not public records. A written presentence report, the record of an oral presentence report, and information obtained in the preparation of a sentencing plan by a Sentencing Service Program under ARTICLE 61 of Chapter 7A are not public records and may not be made available to any person except as provided in this section.

(B.) Access to Reports. The Defendant, His Counsel, The Prosecutor, Or the Court may have access at any reasonable time to a written presentence report or to any record of an oral presentence report. Access to a Sentencing Plan and information obtained in the preparation of a Sentencing Plan shall be in accordance with the comprehensive sentencing service program plan developed persuant to N.C.G.S. 7A-774

(C.) Expunging Reports. On Motion of the Defendant, the Court in it's discretion may order a written presentence report, The record of an Oral Presentence report, or a Sentencing Plan expunged from the Record. (Chgd. BY 2000-67 § 15.9(C), eff. 7/1/2000.)

N.C.G.S. § 7A-774. Requirements for a Comprehensive Sentencing Service Program Plan.

Agencies applying for grants shall prepare a comprehensive sentencing service program plan for the development, implementation, operation, and improvement of a sentencing services program for the Superior Court District, As prescribed by the director. The Plan shall be updated annually and shall be submitted to the Senior Resident Superior Court Judge for the Superior Court District for the Judges advice and written endorsement. The plan shall then be forwarded to the director for approval. The Plan shall include:

(1) Goals and Objectives of the Sentencing Service Program.

(2) Specification of the Kinds or catagories of offenders for whom the Program will provide sentencing information to the Courts.

(3) Proposed procedures for the identification of appropriate offenders to comply with the plan and the criteria in N.C.G.S. 7A-773(1).

(4) strategies for ensuring that Judges and Court officials who are possible referral sources use the Program's Services in appropriate cases.

(5) Procedures for obtaining services from existing public or private agencies, and a detailed budget for staff, contracted services, and other costs.

(Chgd. BY 1999-306, § 1, eff. 1/1/2000.)

Furthermore, All the above is "MANDATED BY LAW", Persuant to N.C.G.S. § 7A-770, And cited as the "SENTENCING SERVICES ACT"! The FALSE statement by Judge Albright given in assignment #6 (EXHIBIT A-page 4 of 4) makes me ask a lot of questions. Judge Albright is the "RESIDENT SUPERIOR COURT JUDGE" in Guilford County Court House. Surely he knows of the "Sentencing Service Act." Either Judge Abright is lying to COVER for his fellow Judge "FRIENDS", (Judge Peter McHugh and RETIRED Judge H.W. Zimmerman) Or "Someone has possibly "BACK-DATED" a P.S.I. Report to COVER their BACK-SIDE." Either way, I've got a Court-Room FULL of Witnesses who can varify "NO" P.S.I. Report was GIVEN! And Petitioner shows the M.A.R EXHIBIT D.D.

7. As for statement #7, Courts Order page #4 (see EXHIBIT A pages 4 of 4) Petitioner argues the Appellate Counsel has the Obligation to pursue what is BEST for her client, And NOT simply what is easiest for her to perform! Appellate Counsel has an Obligation to represent Petitioner's Assignments of Errors, and NOT ABANDON issues of an ILLEGAL 70 to 90.4 yrs. Sentence as Counselor Carman did! The Court of Appeals RULING even varified this fact! Counselor Carman FAIL

to raise "Ineffective Assistance" claims, Or "Conflict of Interest," In that Mr. Zimmerman was Petitioner's prior Sentencing Judge, Or Prosecutor Misconduct, Or any other issues of Material Fact Mandated by Law.

(*) 8. In closing Judge Albright has chosen to completely over-look (4) Four SERIOUS VIOLATIONS of Petitioner's Rights. Each of the following "Violations" are CLEARLY seen on the Court Transcripts, Pages 220-227 of the Sentencing Hearing. (EXHIBITS I & J.) Please follow me to the "Ends of Justice". If the Court has fail to agree on any other issue of Material Fact, I pray this Court will REVIEW and ADDRESS each of the following:

*A) Judge Albright said, "There is nothing in the record to support the defendant's claims that the sentences he received are illegal..." (See EXHIBIT A page 4 of 4, statement *8.)

(1) Petitioner contends by the State's own words, (See EXHIBIT C MAR./EXHIBIT R.) The Plea Arrangement says "... he will receive consecutive sentences in each of these cases." The Plea Arrangement stated consecutive sentences in each "CASE", NOT each COUNT! The Plea Arrangement states "... and eight counts of Solicitation to Commit First Degree Murder..." There was 8 Counts, BUT ONLY ONE CASE! For "PROOF" see the Bill of Information WAIVERS (EXHIBIT B pages 1 Thur 8.) Notice each Waiver states the same "alleged" crime DATE of NOVEMBER 4, 1998. There was only (1) one "ALLEGED" Solicitation. Petitioner contends the State violated it's own Plea Arrangement, And the Court made a SERIOUS ERROR by NOT following the EXACT wording of the Plea Arrangement. Prosecutor Parosh DECEIVED the Court by the way he presented the single (1) case of Solicitation, As if it were 8 separate cases, Instead of 8 Counts as shown in the Plea Arrangement. Petitioner was ILLEGALLY sentenced on each Count of a SINGLE CASE. Petitioner had Ineffective Assistance of Counsel as they just sat there and FAIL to Object! (See EXHIBIT J pages 1-6.) The Petitioner received 8 consecutive sentences.

(2.) The Petitioner has already shown PROOF on page #3 Assignment #2 in this Motion, how he entered an ALFORD Plea. (EXHIBIT H.) Now Please look at "EXHIBIT J-1 Thur 6." The Court will see that Judge McHugh pronounced Judgment under a Guilty Plea, instead of an ALFORD plea. This clearly makes the 8 Counts of Solicitation to Commit First Degree Murder an "ILLEGAL-SENTENCE". The Petitioner was NOT found Guilty, Nor did he plead guilty. An ALFORD Plea is an "ALFORD PLEA."

(3.) The Petitioner was ILLEGALLY sentenced in the Aggravated Range in 6 of the 8 counts of Solicitation to Commit First Degree Murder, In that to justify the Aggravated Sentence the Judge used the same ELEMENTS in EACH one, to prove each OTHER. This is only allowed to be done (1) one time, Not 5 additional times. (see EXHIBIT J-1 Thur 6.)

*B.) Judge Albright said, "The sentences he received are valid and within the ranges allowed by the legislature for the crimes to which the defendant pled guilty." (See EXHIBIT A page 4 of 4 statement #8.)

(4.) Of the (4) Four Violations now comes the MOST SERIOUS ERROR, and VIOLATION of Petitioner's Rights. PLEASE, Look at Pages #220 through #227 of the Sentencing Transcript. (See EXHIBITS I-1 and 2; Also See EXHIBIT J-1 Thur 6.) Note cases 97 CRS 39581, 98 CRS 23486; and 99 CRS 23241, 42, 43, 44, 46, 47. In each of these cases the Petitioner was sentenced in the Aggravated Range "ILLEGALLY." Now look at the "Findings of Aggravating and Mitigating Factors." (see EXHIBIT C M.A.R./EXHIBIT E, F, G, H, I, J, K, L.) On EXHIBITS E & F under "Aggravating Factors" you will see (1) Box Marked (X) by assignment number (20), Which means there is one (1) Aggravating Factor in each case. Also see EXHIBITS G, H, I, J, K, L, on each under "Aggravating Factors" you will see

x 20 x

(*NOTE: SEE N.C.G.S. 15A-1340.16 AGGRAVATING AND MITIGATING FACTORS)

(1) Box Marked (X) by assignment number (5), which means there is one (1) Aggravating Factor in each of these cases. Now in "ALL" of these cases under the "Mitigating Factors" you will see (3) BOXES Marked (X) by assignments #12, #18, #19, which means there is THREE (3) Mitigating Factors in each of the 8 cases. Now that means there is (1) Aggravating Factor and (3) Mitigating Factors on each of the 8 CASES shown. If this Honorable Court will now look at the "Bottom" of Each EXHIBIT showing "Mitigating Factors", You will find: "THE WRONG BOX HAS BEEN MARKED!" "Factors in Mitigation outweigh the factor in Aggravation and that a Mitigated Sentence is justified," SHOULD HAVE BEEN MARKED! And NOT "Factors in Aggravation outweigh the factors in mitigation and that an aggravated sentence is justified. The Sentencing Transcript pages #220-#227 (EXHIBIT I and J.) show the Judge sentenced the Petitioner "ILLEGALLY" in the Aggravated Range on 8 of the 11 consecutive sentences he received. These FACTS are shown in the Motion For Appropriate Relief on pages #31 and #32, Assignment X through XIII. But Judge Albright FAIL to ADDRESS this claim. Now I ask, "How can Judge Albright say there is nothing in the record to support the deffendant's claims?" Or say, "The sentences he received are valid and within the ranges allowed...?" The only way he can say it is to throw Justice out the window. As the record shows in the Transcript, the Petitioner was quickly taken from the Courtroom the moment the Judge stopped speaking. Counsel Never once OBJECTED to Anything! It was as if the Defendant had No-Counsel. Serious HARM was caused by this "ERROR" of the Court. The Petitioner received a number of "YEARS" added to his sentence "ILLEGALLY." Petitioner ask for an Evidentiary Hearing to resolve this "Material FACT."

TABLE OF EXHIBITS

PRAY FOR RELIEF

Wherefore, The Petitioner respectfully prays this Court issue it's Writ of Certiorari to the Superior Court of Guilford County North Caroline to permit review of the Order above specified, Upon the following issues;

1.) Did Petitioner's Motion for Appropriate Relief set forth Probable Grounds for Appropriate Relief?

2.) Are Defendant's Grounds for Relief BARRED by N.C.G.S. 15A-1419?

3.) Has Petitioner been DENIED Effective Assistance of Trial and Appellate Counsel?

4.) Errors to be assigned in the record on Appeal constitutes in accordance with Rules of Appellate Procedure or such issues as the Court determine; And that Petitioner's case and sentence be set aside and released from prison (or) His case be remanded to the Superior Court of Guilford County North Caroline for an Evidentiary Hearing on all faitual issues, see N.C.G.S. 15A-1420 (c)(1); and (4) And appoint Counsel to represent and advise him persuant to N.C.G.S. 15A-1420(c)(4), 15A-1421, 7A-450 and 7A-451, And to be released from prison upon the posting of a suitable Bond pending Appeal persuant N.C.G.S. 15A-536, And any other Relief this Court deems just and proper.

Pro-se: Theodore Mead Kimble

Sworn To and Before me This the 12th Day of December 2008.

DAVID HICKS NOTARY PUBLIC WAKE COUNTY, N.C.

Witness: David Hicks

Date: 12-12-03

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

THEODORE MEAD KIMBLE
300 WESTERN BLVD.
RALEIGH, N.C. 27606

VERIFICATION

I, Theodore Mead Kimble, Being first Duly Sworn depose and say, I am the Petitioner in the foregoing Petition for Writ of Certiorari, I have drafted and 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 12 day of December 2003.

Pro-se: Theodore Mead Kimble

THEODORE MEAD KIMBLE

Sworn To and Before Me This The 12th Day of December 2003.

Witness: David Hicks

Date: 12-12-03

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

DAVID HICKS NOTARY PUBLIC WAKE COUNTY, N.C.

CERTIFICATE OF SERVICE

I, Theodore Mead Kimble, Do hereby Certify

That the foregoing Petitioner's Writ of Certiorari copy was Duly Served, By placing in the U.S. Mail, Postage pre-paid and addressed as follows:

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 the 12th Day of December 2003.

Witness: David Hicks

Date: 12-12-03

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

DAVID HICKS NOTARY PUBLIC WAKE COUNTY, N.C.

EXHIBIT (A) 1 of 4.

FILED

STATE OF NORTH CAROLINA

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION

COUNTY OF GUILFORD

97 CrS 23656, 39581
98 CrS 23484, 99 CrS 23241-48

2003 OCT 25 PM 12:16

GUILFORD COUNTY, C.S.C.

BY _____

STATE OF NORTH CAROLINA,

v.

THEODORE MEAD KIMBLE,
Defendant.

ORDER

This matter is before the Court on a paper writing filed by the Clerk on October 29, 2003. It is captioned "Motion for Appropriate Relief" and is signed by the defendant acting pro se.

In the motion, the defendant alleges ineffective assistance of counsel, in that his trial lawyer promised the conspiracy charge would be dismissed pursuant to plea agreement, that his lawyer told him the reason the dismissal wasn't in the plea agreement was because the deal was secret, that the conspiracy charge was not so dismissed, and that he received an additional sentence for conspiracy; that he was tricked and deceived in unspecified ways by his attorneys into waiving indictment by the grand jury to eight counts of solicitation to commit murder which charges were not supported by any evidence other than the testimony of "a known habitual liar, thief, homosexual"; that his attorneys told him if he did not accept the plea bargain he would get the death penalty "for sure;" that one of his attorneys had a conflict of interest in that the attorney had, while serving as a judge of the Superior Court, earlier sentenced the defendant for an earlier conviction; that defendant's attorney on appeal did not raise all of these various errors before the North Carolina Court of Appeals; that his appellate counsel refused to file a Motion for Appropriate Relief on his behalf; that his attorneys failed and refused to assist him when he filed his pro se motion to withdraw his guilty plea; and that his attorneys failed to get an affidavit from defendant's "star" witness, who then disappeared after defendant's attorneys allowed the District Attorney to threaten the witness.

The defendant further alleges that the sentences imposed were illegal and unauthorized by law in unspecified ways; that the state failed to provide the defendant and the Court with the results of a pre-sentence investigation report in violation of his right to due process; that the new arson charge to which defendant pled guilty violated his right against double jeopardy, having previously been dismissed by the state; that the District Attorney threatened various witnesses for the defendant that if they testified for the defendant they would be prosecuted for other crimes, thus depriving him of key

EXHIBIT (A) 2 of 4.

witnesses; and that the defendant was on unspecified medication on the day he pled guilty and did not know what he was doing.

A review of the file, including the decision by the North Carolina Court of Appeals, shows the following facts of record:

1. On 7 April 1997, Defendant was indicted by a Guilford County grand jury for first-degree murder based on the death of Patricia Gail Kimble (Kimble), Defendant's wife. The indictment alleged Kimble was murdered on 9 October 1995. On 3 November 1997, Defendant was indicted for arson and conspiracy to commit first- degree murder based on the 9 October 1995 incident, and on 6 July 1998, Defendant was indicted for first-degree arson based on the 9 October 1995 incident. Finally, on 28 January 1999, the State filed bills of information charging Defendant with eight counts of solicitation to commit first-degree murder. The eight counts of solicitation to commit first-degree murder related to incidents that occurred after the 9 October 1995 death of Kimble.
2. On 25 January 1999, Defendant pled guilty to second-degree murder, conspiracy to commit first-degree murder, and first-degree arson. Defendant also pled guilty to the eight counts of solicitation to commit first-degree murder. Sentencing was continued.
3. On 26 February 1999, Defendant filed a pro se motion to withdraw his guilty pleas on the ground he was "pressured into [his] earlier plea." The trial court subsequently held a hearing on the motion. At the conclusion of the hearing, the trial court denied Defendant's motion to withdraw his guilty pleas.
4. On 4 March 1999 through 5 March 1999, the trial court held Defendant's sentencing hearing. At the conclusion of the hearing, the trial court found aggravating and mitigating factors existed as to some of the crimes. The defendant was sentenced consistently with his plea agreement.
5. Defendant thereafter filed a Notice of Appeal. The Court entered appellate entries and appointed the Appellate Defender to represent the defendant. The Court of Appeals found no error.

Based on the record, the Court concludes that:

1. A defendant who voluntarily and intelligently enters an unconditional guilty plea waives all non-jurisdictional defects in the proceeding, including constitutional violations that occurred before entry of the plea. See State v. Reynolds, 298 N.C. 380, 395, 259 S.E.2d 843, 852 (1979) ("When a criminal defendant has solemnly admitted in open court that he is in fact guilty of the offense with which he is charged, he may not thereafter raise independent claims relating to the deprivation of constitutional rights that occurred prior to the entry of the guilty.") By pleading guilty, defendant has waived his claims concerning the alleged defects in the indictment and concerning the prosecutor's conduct; as to the latter, the defendant was aware of all the facts he now claims show prosecutorial misconduct at the time he pled guilty based on the documents he provided with his motion. Moreover, when a defendant pleads guilty, the state no longer has to prove its case beyond a reasonable doubt. By his plea, the defendant has waived any argument he had that the State's evidence was insufficient.

EXHIBIT (A) 3 OF 4.

2. A person is presumed competent. "Everyone is presumed to be sane until the contrary appears." Ridings v. Ridings, 55 N.C.App. 630, 633, 286 S.E.2d 614, 616, disc. rev. denied, 305 N.C. 586 (1982). The judge who accepted defendant's guilty plea had the opportunity to examine the defendant in person, and thereafter found the defendant competent to proceed. Nothing in the defendant's motion and attachments gives rise to any question about his ability to understand the nature and object of the proceedings against him, to comprehend his own situation, or to assist counsel in a rational way. NCGS δ 15A-1001. Defendant's unsupported post-conviction assertions that he was incompetent at the time of the guilty plea because he was taking medicine do not overcome the Court's properly entered findings and do not require an evidentiary hearing.

3. The record further shows that the defendant was satisfied with his attorneys when he pled guilty. The defendant at that time stated under oath that he was satisfied with his attorney's services. Moreover, the defendant has already had the opportunity for a hearing on this issue in front of the judge who accepted his guilty plea and who sentenced him, when the matter was raised by the defendant in his motion to set aside the guilty plea. Any error in that decision should have been raised on appeal. The defendant's motion does not raise a question of fact and even if it did, it is procedurally barred.

4. A guilty plea is not voluntary and intelligent unless it is "entered by one fully aware of the direct consequences, including the actual value of any commitments made to him by the court, prosecutor, or his own counsel . . .," Brady v. United States, 397 U.S. 742, 755, 25 L. Ed. 2d 747, 760 (1970) (quoting Shelton v. United States, 246 F.2d 101, 115 (5th Cir. 1957) (Tuttle, J., dissenting)); Bryant v. Cherry, 687 F.2d 48, 49 (4th Cir. 1982), cert. denied, 459 U.S. 1073, 74 L. Ed. 2d 637, and is not "the product of such factors as misunderstanding, duress, or misrepresentation by others." Blackledge v. Allison, 431 U.S. 63, 75, 52 L. Ed. 2d 136, 147-148 (1977); State v. Loye, 56 N.C. App. 501, 289 S.E.2d 870 (1982).

The defendant's claim that his lawyers told him the conspiracy charge would be dismissed is belied by the record, including his own sworn statement and his attorneys' certification. The record unambiguously reveals that the defendant was correctly informed of the applicable maximum sentence and that there was no promise made to him that the conspiracy charge would be dismissed. The defendant swore that no other promises had been made to him, and he signed a plea agreement that did not contain any other promises: State v. Wilkins, 131 N.C. App. 220 (1998)(Defendant knew or should have known that she did not have a plea agreement with the State where the defendant signed a plea transcript which detailed the charge to which she was pleading guilty but contained no plea agreement.) Moreover, he was asked in open court about his plea agreement and he did not inform the Court at that time that he had been guaranteed dismissal of the conspiracy charge and indeed specifically pled guilty to the conspiracy charge and denied that any promises other than those in the plea agreement had been made. This unambiguous record creates a "formidable barrier" to defendant's claim. Blackledge v. Allison, 431 U.S. at 73-74. Only extraordinary circumstances would

EXHIBIT (A) 4 OF 4.

entitle defendant to relief. Blackledge v. Allison, 431 U.S. at 80 n.19. There are no such extraordinary circumstances here and absolutely no independent indicia that the defendant's claim has merit. Cf. United States v. Cervantes, 132 F.3d 1106, 1110 (5th Cir. 1998)(must be independent indicia of the likely merit of defendant's allegations, such as one or more affidavits from reliable third parties).

5. Every criminal defendant is entitled to the effective assistance of counsel. Strickland v. Washington, 466 U.S. 668, 80 L. Ed. 2d 674, 104 S. Ct. 2052 (1984). Strickland establishes a two-prong test for ineffective assistance of counsel: first, that counsel's performance must fall below an objective standard of reasonableness, and second, that the deficient representation must be so serious as to deprive defendant of a fair trial. See State v. Braswell, 312 N.C. 553, 324 S.E.2d 241 (1985) (adopting Strickland standard for ineffective assistance claims). Here, the defendant has failed to raise any issues of material fact about his attorneys' representation or the specific effect of the alleged conflict of interest. While he has made a laundry list of allegations, they are unsupported by any competent evidence. Moreover, there has been no showing that a different result would have obtained had defense counsel handled any one of these matters differently. Finally, as noted above, the defendant stated under oath at the time of his guilty plea that he was satisfied with his attorneys and he has already had a hearing on many of the issues he raises in the Motion for Appropriate Relief when he his motion to withdraw his guilty plea was heard.

6. The sentencing report is on file herein and there is no evidence that it was not available to the trial court and to the defendant before sentencing. Even if it was not, that is not a constitutional violation.

7. An attorney appointed to represent a criminal defendant on appeal has no obligation to file a Motion for Appropriate Relief on behalf of that criminal defendant.

8. There is nothing in the record to support the defendant's claims that the sentences he received are illegal. The sentences he received are valid and within the ranges allowed by the legislature for the crimes to which the defendant pled guilty.

It is therefore ORDERED that:

1. The Defendant's Motion for Appropriate Relief is DENIED.
2. The Clerk shall mail a copy of this Order to the defendant, to the District Attorney for the Eighteenth Judicial District, and to the North Carolina Department of Corrections.

This 20 day of November, 2003.

Superior Court Judge Presiding

EXHIBIT (B) 1 of 8

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**	Film No. GUILFORD COUNTY FILED JAN 28 1999 AT 3:00 o'clock P M. BY 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, ...oniously 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

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

Fred H. Crumpler

W. Turner

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

EXH 019 (B)
2 of 8

File No.
99CRS 23242

GUILFORD COUNTY
STATE OF NORTH CAROLINA
v.
THEODORE MEAD KIMBLE

GUILFORD COUNTY
FILED
JAN 28 1999
AT 350 P.M.
BY
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 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

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

EXHIBIT (B)
3 OF 8

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

File No. 99CRS 23243

GUILFORD COUNTY
STATE OF NORTH CAROLINA
v.
THEODORE MEAD KIMBLE

GUILFORD COUNTY
FILED
JAN 28 1999
AT 350 O'CLOCK P M.
BY
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 icit 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

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

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

EXHIBIT (B)
4 of 8

File No. 99CRS 23244

Film No.

GUILFORD COUNTY
STATE OF NORTH CAROLINA
v.
THEODORE MEAD KIMBLE

GUILFORD COUNTY
FILED
JAN 28 1999
AT 350 P M
BY ____
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.
X [signature]

Signature of Attorneys for the Defendant
[signature]
[signature]

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

EXHIBIT (B) 5 OF 8

File No.
99CRS 23245

GUILFORD COUNTY
STATE OF NORTH CAROLINA
v.
THEODORE MEAD KIMBLE

GUILFORD COUNTY
FILED
JAN 28 ... M.
BY ...
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 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. Pell

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
Fred B. Crumpler Jr
A W Stevens Jr

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

EXHIBIT (B)
6 of 8

File No.
99CRS 23246

GUILFORD COUNTY
STATE OF NORTH CAROLINA
v.
THEODORE MEAD KIMBLE

GUILFORD COUNTY
FILED
JAN 28 1999
AT 350 O'CLOCK P M.
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 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.
X Theodore Kimble

Signature of Attorneys for the Defendant
Fred A. Crumpler Jr.
AW Attorney

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

EXHIBIT (B)
7 of 8

File No.
99CRS 23247

GUILFORD COUNTY
STATE OF NORTH CAROLINA
v.
THEODORE MEAD KIMBLE

GUILFORD COUNTY
FILED
JAN 28 1999
AT 350 O'CLOCK P M.
BY
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

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

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

EXHIBIT (B)
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File No.
99CRS 23248

GUILFORD COUNTY
STATE OF NORTH CAROLINA
v.
THEODORE MEAD KIMBLE

GUILFORD COUNTY
FILED
JAN 25
AT 3:30 P.M.
BY
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.

X Theodore Kimble

Signature of Attorneys for the Defendant

MR. PANOSH:- YOUR HONOR, THERE IS A TRANSCRIPT OF PLEA.

AT THIS TIME, HOW DOES YOUR CLIENT PLEAD IN 97-CRS-39581, TO SECOND DEGREE MURDER?

MR. CRUMPLER:- HE PLEADS GUILTY, YOUR HONOR.

MR. PANOSH:- 97-CRS-23656, CONSPIRACY TO COMMIT FIRST DEGREE MURDER?

MR. CRUMPLER:- HE PLEADS GUILTY.

MR. PANOSH:- 98-CRS-23486, FIRST DEGREE ARSON?

MR. CRUMPLER:- HE PLEADS GUILTY.

MR. PANOSH:- AND 99-CRS-23241 THROUGH 23248, EIGHT COUNTS OF SOLICITATION TO COMMIT FIRST DEGREE MURDER?

MR. CRUMPLER:- NOW, THEY ARE THE 1998 CASES SHOWN ON THE PLEA TRANSCRIPT?

MR. PANOSH:- IT SHOULD BE '99. THEY'RE FILED TODAY.

MR. CRUMPLER:- OKAY. YOUR HONOR, HIS PLEA IS GUILTY, BUT UNDER THE VIRTUE OF THE ALFORD PLEAS.

THE COURT:- ALFORD PLEA WITH REGARD TO THE OFFENSES PRESENTED ON THE BILLS OF INFORMATION ONLY?

MR. CRUMPLER:- YES, SIR.

THE COURT:- ALL RIGHT. THANK YOU. GUILTY PLEA WITHOUT RESERVATION WITH REGARD TO THE OTHER MATTERS PRESENTED BY THE STATE?

MR. CRUMPLER:- YES, SIR.

THE COURT:- THANK YOU.

has entered a plea of guilty to the offense of second degree murder. The Court having previously found, and the defendant having stipulated that the defendant is subject to sentence for these felony offenses, and each of them a prior offender level 2. In case 39581, the Court makes the following findings in aggravation and in mitigation. The factor found by the Court in aggravation is found pursuant to North Carolina General Statutes 15A-1340.16(d)(20). And it is that the defendant in the commission of this offense acted with premeditation and deliberation. And the Court finds further pursuant to the same provisions of the North Carolina General Statutes that the defendant acted for pecuniary gain in the commission of the offense, the murder of Patricia Kimble. The Court finds the statutory factors in mitigation, and these factors are found by the preponderance of the evidence. North Carolina General Statute section 1340.16(e)(12)(18) and (19).

Upon considering the aggravating factor and the mitigating factors found, the Court concludes as a matter of law that the factor found in aggravation outweighs the factors found in mitigation. And the Court concludes as a matter of law that the defendant in this action is subject to sentence within the aggravated range, a prior record level 2 for the Class B2 felony of

second degree murder.

And the judgment of the Court on that finding is that the defendant, Theodore Mead Kimble, should be imprisoned and he is assigned to the North Carolina Department of Corrections to serve a minimum term of 204 months and a maximum term of 254 months. And this sentence imposed by this Court shall commence at the expiration of any sentence the defendant is currently assigned to serve in the custody of the North Carolina Department of Corrections.

Judgment of this Court is entered next in case number 23656, wherein the defendant has entered a plea of guilty to the offense of conspiracy to commit first degree murder. In this action the Court makes no findings in aggravation or in mitigation. Upon the findings previously found that the defendant is subject to sentence at prior offender level 2 for this offense, the judgment of the Court is that this defendant, Theodore Mead Kimble, is to be imprisoned to serve a term of imprisonment assigned to the North Carolina Department of Corrections for a minimum term of 163 months, and a maximum term of 205 months. This sentence is to commence at the expiration of the sentence imposed by the Court for case 97 CRS 39581.

Judgment is entered next in case 98 CRS

23486. On the defendant's plea of guilty to the offense of first degree arson, the Court makes the following findings in aggravation and in mitigation. Pursuant to North Carolina General Statute 1340.16(d)(20), the Court finds by the preponderance of the evidence that this offense was committed for the purpose of avoiding detection in the murder of Patricia Gail Kimble, and it was committed for the purpose of covering up that murder. The Court finds the following statutory mitigating factors as previously found by the preponderance of the evidence, factors 12, 18 and 19. The Court concludes as a matter of law that the aggravating circumstance found outweighs the mitigating circumstances found, and the Court concludes in this action that the defendant is subject to sentence in the aggravated range at prior offender level 2 for this Class D felony offense. The judgment of the Court on these findings is that the defendant is sentenced to serve a term of imprisonment assigned to the North Carolina Department of Corrections for a minimum term of 82 months, and for a maximum term of 108 months. This sentence shall commence at the expiration of the sentence imposed by this Court in case number 97 CRS 23656.

Judgment is entered next in case number 23242. That is 99 file number -- strike that -- 23241.

On the defendant's plea of guilty to the offense of solicitation to commit first degree murder, the Court makes the following findings in aggravation and in mitigation. Pursuant to North Carolina General Statute 15A-1340.16(d)(5), this Court finds by a preponderance of the evidence that this offense was committed for the purpose of disrupting the enforcement of the laws, and that the act of paying someone to murder a person who would be expected to testify against the defendant in the prosecution of the charged murder of Patricia Gail Kimble is an act tending to disrupt or hinder the enforcement of the laws of this state. The Court finds the same statutory factors in mitigation as previously found. And the Court concludes as a matter of law that the aggravating factor found outweighs the mitigating factors found, and concludes that the defendant is subject to sentence in this action within the aggravated range prior offender level 2 on the Class C felony of solicitation to commit first degree murder. In that offense the judgment of the Court is defendant is to be confined to serve a term of imprisonment for a minimum of 108 months and for a maximum of 139 months, assigned to the North Carolina Department of Corrections. The sentence imposed by the Court in this action is to commence at the expiration of the sentence imposed by the Court in case 23486.

In the next action, which is 23242 on the defendant's previously entered and accepted plea of guilty to the offense of solicitation to commit first degree murder, the Court enters the same findings in aggravation and in mitigation as are recorded in case 23241. Court finds in this action that the factor found in aggravation outweighs the factors found in mitigation. The judgment of the Court is in 23242 that the defendant should be confined to be assigned to the North Carolina Department of Corrections for a term of 108 months minimum and a maximum term of 139 months. And this sentence shall commence at the expiration of the sentence imposed by the Court in 23241.

Judgment shall be entered next by the Court in case 23243. In this action, upon the defendant's plea of guilty to solicitation to commit first degree murder, the Court makes those same findings in aggravation and in mitigation as are recorded previously in case 23241. The Court concludes in this action that the factor found in aggravation outweighs the factors found in mitigation, and enters judgment that the defendant shall be confined in this action to serve a term of imprisonment for a minimum term of 108, and a maximum term of 139 months. The sentence imposed by the Court in case 243 is to commence at the expiration of the sentence imposed by the

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Court in case 23242.

Judgment shall be entered next in case 23244. In that action the judgment of the Court is that upon the finding of the same factors in aggravation and in mitigation as were found by the Court in case 23241, the judgment of the Court upon the conclusion that the defendant is subject to sentence within the aggravated range as a prior offender level 2, that he be confined to serve a term of imprisonment of not less than 108 months, and not more than 139 months to be assigned to the North Carolina Department of Corrections. And this sentence shall commence at the expiration of the sentence imposed in case 23243.

Judgment to be entered next in case 23245. In that action the Court makes no findings in aggravation or in mitigation. The defendant shall be sentenced within the presumptive range, prior offender level 2 as a Class C felon. The judgment of the Court is that the defendant should be confined to serve a term of imprisonment of not less than 96 months, and a maximum term of 125 months, assigned to the North Carolina Department of Corrections, and this sentence shall commence at the expiration of the sentence imposed by the Court in case 23244.

Judgment to be entered next in case 23246.

In this action the judgment of the Court is based upon the findings that the same aggravating factors and mitigating factors as found to exist by a preponderance of the evidence in case 23241 are found in this action. The Court concludes that the aggravating factor found outweighs the mitigating factors found. The judgment of the Court in this action is that the defendant is ordered confined to serve a term of imprisonment for a minimum term of 108, and a maximum term of 139 months. This sentence shall commence at the expiration of the sentence imposed by this Court in case 23245.

Judgment is to be entered next in case 23247. In this action the Court makes findings in aggravation and in mitigation identical to those findings entered in case 23241. In this action the judgment of the Court is that the defendant should be confined to serve a term of imprisonment of not less and 108 and not more than 139 months assigned to the North Carolina Department of Corrections. And this sentence is to commence at the expiration of the sentence imposed in case 23246.

The final judgment of this Court shall be entered in case 23248. In that action the Court makes no findings in aggravation or in mitigation. The judgment of the Court in that action upon the previously entered conclusion that the defendant is subject to sentence at

prior offender level 2 is that the defendant should be confined to serve a term of imprisonment assigned to the North Carolina Department of Corrections of not less than 96 and not more than 125 months. That sentence is to commence at the expiration of the sentence imposed by the Court in case 23247.

Take the defendant, Sheriff.

MR. CRUMPLER: May we approach, Your Honor?

THE COURT: Yes.

(Counsel approach the bench.)

THE COURT: Sheriff Barnes, may I see you, please, at the Bench.

(Sheriff Barnes approached the bench.)

THE COURT: Is there anything further at this time, Counsel?

MR. ZIMMERMAN: Not for the defense, if Your Honor please.

MR. CRUMPLER: No, Your Honor.

MR. PANOSH: No further. Thank you, Judge.

THE COURT: Court's in recess, Sheriff.

(A recess was taken at 11:40 a.m.)

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END OF TRANSCRIPT

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A. In part.

Q. In large part, correct?

A. In some part. I considered other facts.

Q. And did you consider any information he gave you was reliable considering the fact that he was under those medications? Well, let me rephrase that. Do you feel that those medications would have in any way impaired his ability to convey to you reliably the information he wanted to convey to you?

MR. ZIMMERMAN: Objection, if Your Honor please. This man is not a medical doctor.

THE COURT: Objection is overruled.

A. With the -- again, with the caution that I am not a medical doctor, I did not detect any signs that would cause me to question the reliability of what he was telling me on the basis of a potential medication effect.

Q. Now, let me ask you about your personal background. Do you have a doctorate in psychology; is that correct?

A. Yes. I hold a doctorate in clinical psychology from the University of Massachusetts at Amherst. And I'm licensed to practice independently by the State of North Carolina.

Q. And when you are practicing, you consult with a psycholog--- excuse me, with a licensed psychiatrist when

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A. Uh, no, sir. It was more of a silent threat.

Q. How long after you changed counsel did you begin to discuss with your attorneys the chance or possibility of pleading guilty?

A. I did not. They came back to me and recommended after your press conference intimidating witnesses and others.

Q. When they spoke to you and told you of their recommendation, did you agree?

A. No, I did not.

Q. When did you agree to plead guilty?

A. On the spur of the moment when they looked at me and told me my life was in danger.

Q. What date was that?

A. Uh, my last court appearance, the day in which I was so intimidated by law enforcement.

Q. You had not agreed to plead guilty prior to your court appearance?

A. No, I had not.

Q. Had your attorneys presented you with documents to sign or to review prior to your court appearance?

A. Uh, yes, sir. They said none of this was final, and that it was only on the drawing board, and that it was only in works, that nothing would be final until I stood before the judge. It was just a preliminary type