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October 27, 1997

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Mr. Richard E. Panosh
Assistant District Attorney
P. O. Box 10769
Greensboro, NC 27404-0769

Re: State of North Carolina
v. Theodore Mead Kimble
97 CRS 39581

Dear Mr. Panosh:

Thank you for allowing us to view the photographs at your office the other day.

After our meeting, I was shown a copy of a letter from you to Mr. Hatfield. In the letter, you state "The trial date will be set in late January 1998." I am unsure whether you are stating that January is when the case is to be tried, or the time you intend to set the trial date.

I was not appointed to this case until late August. I was advised when I agreed to accept the appointment that your office had indicated the case was expected to be tried in April or May 1998. I agreed to accept an appointment in this case in reliance upon that representation. As you know, I am not on the court appointed list for capital cases in Greensboro. I agreed to accept this appointment in an effort to be helpful to the court and the Bar.

Because of my current obligations to other clients, including those already on death row, I would not have accepted appointment in this case had I known it might be tried as soon as January. Obviously, I could not be prepared to proceed to trial in January. As you now know, our circumstances have become even more dire with the recent news that our investigator, Danny Carter, has sustained a life threatening injury from which he may never recover. We have been advised that there appears no chance that Mr. Carter will be able to participate in this case and we should seek another

Mr. Richard E. Panosh
October 27, 1997
Page 2

investigator. Accordingly, we are back to square one with our investigation.

I know that Mr. McClellan has also arranged his calendar to be available for trial in April or May. In doing so, he now has obligations in civil cases in January which would make it impossible for him to now be available for a lengthy capital case beginning January 1998.

Based on our circumstances, it is my hope we can agree to a trial date in April or May 1998. I hope we could come to this date by agreement of all parties, rather than involving the court. I would appreciate it if you would contact me as soon as possible to let me know what your plans are regarding the trial of this case.

Thank you very much for giving this matter your attention. Please do not hesitate to contact me if you have any questions.

Sincerely,

John Bryson

JB/ksh

pc: John B. Hatfield
Robert McClellan
✓ David Lloyd