

STATE OF NORTH CAROLINA
COURT OF APPEALS

STATE OF NORTH CAROLINA

VS.

THEODORE MEAD KIMBLE

Defendant.

From: GUILFORD COUNTY

File No.'s 97 CRS 23656

97 CRS 39581; 98 CRS 23486;

99 CRS 23241-48.

PETITION FOR:
WRIT OF MANDAMUS

Now comes THEODORE MEAD KIMBLE, Pursuant to North Carolina General Statutes § 15A-534.; § 15A-536., And § 15A-537. Prose 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 years Minimum and 137.7 years Maximum, Imprisonment in the above mentioned cases and alleged crimes. Presiding Judge PETER M. Mc HUGH, Petitioner was sentenced ILLEGALLY as a Matter of Law.
- 3.) Petitioner was represented by his "previous" Sentencing "JUDGE" H.W. ZIMMERMAN, who retired from the Bench and CONNED Petitioner and his family to allow him to represent Petitioner as Counsel, With the "Promise" of getting Petitioner off with "No Time". For payment of Petitioner's Parent's "Life-Savings", In the

amount of \$50,000, with Counselor CRUMPLER as Co-Counsel, who merely acted as a PUPPET for Mr. Zimmerman.

4) Petitioner is awaiting a Ruling on His Appeal, in the North Carolina Court of Appeals. For His Illegal Sentence.

5) As pointed out in N.C.G.S. 15A-534; 536; and 537., N.C.G.S. 15A 536 (A) A Defendant whose Guilt has been established in the Superior Court and is either awaiting sentence or has filed an Appeal from the Judgment entered may be ordered released upon conditions in accordance with the provisions of this Article.

(B) If release is ordered, The Judge must impose the conditions set out in G.S. 15A-534(A) which will reasonably assure the presence of the Defendant when required and provide adequate protection to persons and the Community. If no single condition gives the assurance, The Judge may impose the conditions in G.S. 15A-534(A)(3) in addition to any other condition and may also, or in lieu of the condition in G.S. 15A-534(A)(3), Place restrictions on the travel, associations, conduct, or place abode of the Defendant.

(C) In determining what conditions of release to impose, The Judge must, On the basis of available information consider the appropriate factors set out in G.S. 15A-534 (C).

(D) A Judge authorizing release of a Defendant under this section must issue an appropriate order containing a statement of the conditions imposed, if any; inform the Defendant in writing of the Penalties applicable to violations of the conditions of His release; and advise

Him that His arrest will be ordered immediately upon any such violation. The Order of the release must be filed with the Clerk and a copy given the Defendant.

(E.) An Order of Release may be Modified or revoked by any Superior Court Judge who has ordered the Release of a Defendant under this section or, if that Judge is absent from the Superior Court District or set of Districts as defined in G.S. 7A-41.1, By any other Superior Court Judge. If the Defendant is placed in custody as the result of a revocation or modification of an Order of Release, The Defendant is entitled to an immediate hearing on whether He is again entitled to Release and, if so, upon what conditions.

(F.) In imposing conditions of Release and in modifying and revoking Orders of Release under this section, The Judge must take into account all evidence available to him which he considers reliable and is not strictly bound by the Rules of Evidence applicable to Criminal Trials.

6.) As pointed out in G.S. 15A-537 (A) Following any Authorization of Release of any person in accordance with the provisions of this Article, Any Judicial official must effect the Release of that Person upon Satisfying Himself that the conditions of Release have been met. In the absence of a Judicial official, Any Law-Enforcement Officer or Custodial official having the person in custody must effect the Release upon satisfying Himself that the conditions of Release have been met, But Law-Enforcement and Custodial Agencies may Administratively Direct which Officers or officials are authorized to Effect Release under this section. Satisfying

oneself whether conditions of Release are met includes determining if sureties are sufficiently solvent to meet the Bond obligation, But no Judicial Official, Officer, or Custodial may be held Civilly Liable for actions taken in good faith under this section.

(B) Upon Release of the person in question, The person effecting Release must file any Bond Deposit, or Mortgage and other papers pertaining to the Release with the clerk of the Court in which Release was Authorized.

(C) For the limited purposes of this section, Any Law-Enforcement officer or Custodial official may administer oaths to sureties and take other actions necessary in carrying out the Duties imposed by this Section. Any surety Bond so taken is to be regardedⁱⁿ every respect as any other Bail-Bond.

D) As N.C.G.S. 15A-1021 states, "Plea Conference; Improper Pressure Prohibited; Submission to Judge of Agreement; Restitution and Reparations as Part of Plea Arrangement Agreement, ETC." As Petitioner pointed out in his Motion for Appropriate Relief, Motion for Relief From The Judgment, Motion in Arrest of Judgment, Proofs, Exhibits, Affidavits, Newly Discovered Evidence, etc. All waiting "BULING", Petitioner was Threaten, Coerced, Induced, Into all his Pleas, By the Prosecutor, Counsel, Everyone. Petitioner's Counsel was his "prior" Sentencing Judge, Who, retired from the Bench. The Prosecutor broke the law in "SEVERAL" ways, Intimidating witnesses with severe prosecution on pending charges, No P.S.I. Report was ever turned into the Court as Ordered, And Petitioner was sentenced "Regardless". Counsel FAIL to Advise and Defend at Withdrawal Plea Hearing. The Prosecutor committed Double-Jeopardy RE-Indicting Petitioner on the same case Twice, with the same exact wording.

Prosecutor and Counsel having Petitioner sign 8 Waivers that were REJECTED by the Grand Jury for Indictment, And Petitioner receiving 70 to 90.4 years on those cases alone, All sentences were ran CONSECUTIVELY, And Most in the Aggravating Range "ILLEGALLY." The Prosecutor ran Defense witnesses out of Town, Appellate Counsel fail to raise Prosecutor Misconduct, or the Fact Petitioner's Counsel (Zimmerman) was his Prior Sentencing Judge. Prosecutor and Counsel assured Petitioner everything was Pre-Arranged for a 20 year Sentence on all charges, Although Counselor Zimmerman had first stated for \$50,000.00 he Promised that Petitioner wouldn't receive any time. If this Honorable Court will look at the Record and Motions before the Court now, It's Obvious that Petitioner was sentenced ILLEGALLY on All Counts, As a matter of Law.

WHEREFORE PETITIONER PRAYS THIS HONORABLE COURT ORDER:

- 1.) That a Bond Hearing be held, and this Honorable Court review the Record as a whole, And in the interest of the "Ends of Justice," Take into consideration Petitioner only has 2 prior Record Points, from a prior conviction given by the not so Honorable Judge Zimmerman, who retired from the Bench and represented Petitioner as an Attorney. In which Mr Zimmerman first told Petitioner he would receive "NO" Time as long as Petitioner's Parents paid their entire Life Savings of \$50,000.00. When Mr Zimmerman couldn't EXTORT more money, his statement changed to a 20 year sentence on all charges, if Petitioner Pled to all charges, And Petitioner in fact received a total of 107.5 minimum to 137.7 maximum years Illegally.

2) That this Honorable Court take into consideration that Petitioner has already served all these years in Prison waiting for the wheels of Justice to see the Enevitable, How Petitioner was constantly Pressured with a DEATH Sentence if he didn't plead Guilty to all the charges. When in "FACT" Petitioner did NOT commit ANY of Them!

3) How Petitioner was NOT allowed to take back his Plea, Despite filing (2) Motions to Withdraw. And Counsel REFUSED to Represent Petitioner at the Withdrawal Hearing. Or any other time for that matter.

4) That Petitioner is NOT a flight-risk, And has strong Community ties, Is well liked and respected in the Community. Petitioner will surely obey All Bond Rules and Stipulations, And make All Court Appearances.

5) That this Honorable Court appoint Counsel to assist Petitioner in prosecuting his pending Appeal, Copy of All Motions are in this Court for Review, Exhibits, and Proofs. Petitioner Prays this Honorable Court will allow Petitioner to be Released from Prison upon the Posting of a Suitable Bond pending Appeal Pursuant to N.C.G.S. 15A-536.

6) That Petitioner be Granted such other Relief as Justice requires and as this Court Deems Appropriate.

Signed Under Penalty of Perjury this the 10th
Day of November 2003.

Pro-se: Theodore Mead Kimble

THEODORE MEAD KIMBLE

1300 Western Blvd.

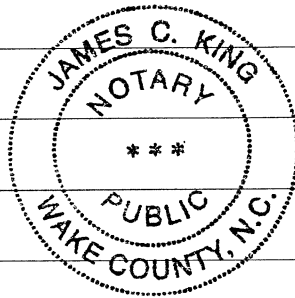
Raleigh, N.C. 27606

Sworn To and Before me this the 10
Day of November 2003.

Witness: James C. King

Date: 11-10-03

My Commission Expires: My Commission Expires 12-8-2007



VERIFICATION

I, Theodore Mead Kimble, Being First Duly Sworn
Depose and Say, I am the Petitioner in this Above
Petition for Writ of Mandamus, I have read the same,
And the statements contained therein are True, As
for any statement made on information and belief,
Are made in Good faith and I believe to be True.
Signed Under Penalty of Perjury This the 10th Day
of November 2003.

Pro-Se: Theodore Mead Kimble

THEODORE MEAD KIMBLE

1300 Western Blvd.

Raleigh, N.C. 27606

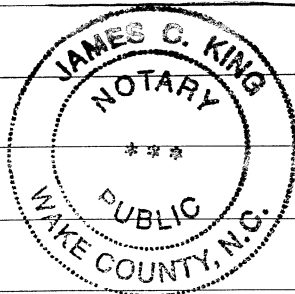
Sworn To and Before me this the 10 Day
of November 2003.

Witness: James C. King

Date: 11-10-03

My Commission Expires:

My Commission Expires 12-8-2007



PROOF OF SERVICE

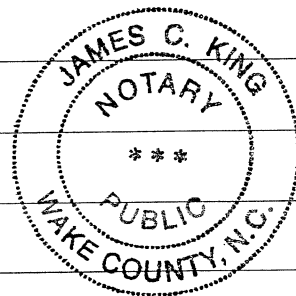
This is to Certify that the Foregoing Petitioner's
Petition for Writ of Mandamus was Duly Served
by placing a copy of same, In the U.S. Mail,
Postage pre-paid and Addressed as Follows:

Mr. Roy Cooper
ATTORNEY GENERAL
Box 629
Raleigh, N.C. 27602

Pro-se: ~~Theodore Mead Kimble~~
THEODORE MEAD KIMBLE
1300 Western Blvd.
Raleigh, NC. 27606

Sworn To and Before me this the 10
Day of November 2003.

Witness: James C. King
Date: 11-11-03



My Commission Expires: 12-8-2007