

to be filed w/
C.S.
EXHIBIT
F

NORTH CAROLINA
GUILFORD COUNTY

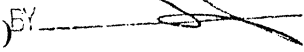
FILED

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION

1999 MAR 10 PM 2:51
FILE NOS. 97 CRS 23656, 97 CRS 39581,
98 CRS 23486, 99 CRS 24241-48

GUILFORD COUNTY, N.C.

STATE OF NORTH CAROLINA)

BY 

MOTION TO WITHDRAW

vs)

THEODORE MEAD KIMBLE)

NOW COME THE UNDERSIGNED ATTORNEYS for the above named Defendant to remove pursuant to NCGS 15A-144 that they be permitted to withdraw as Attorneys of Record for the above named Defendant, and respectfully show unto the Court:

I

That the undersigned attorneys were retained on or about November 3, 1998 for the sole purpose of a trial upon the merits or plea of guilty or no contest if it was in the best interest of Theodore Mead Kimble;

II

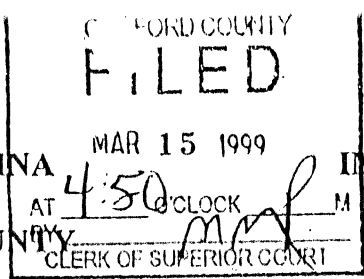
On or about January 28, 1999, in the Criminal Superior Court of Guilford County, the above named Defendant entered pleas of guilty, and an Alford plea of guilty to the charges above numbered;

III

That after entering the above pleas the Defendant on March 5, 1999, without advice from counsel and upon his own Motion, moved to withdraw the pleas and enter pleas of not guilty. This Motion was denied by the Court, and the Court heard evidence and sentenced the Defendant. The Defendant has indicated that he wished to enter Notice of Appeal to the Court of Appeals;

IV

That Defendant had previously authorized his attorneys to negotiate the pleas entered, by virtue of which it would be difficult for the same attorneys to represent the Defendant's best interest in presenting this issue to the Court of Appeals, if not in direct conflict. Further, the Defendant is indigent within the meaning of the statute.



NORTH CAROLINA
GUILFORD COUNTY

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
FILE NOS. 97 CRS 23656, 97 CRS 39581,
98 CRS 23486, 99 CRS 24241-48

STATE OF NORTH CAROLINA)
)
 vs)
)
THEODORE MEAD KIMBLE)

ORDER ALLOWING
ATTORNEYS TO WITHDRAW

THIS CAUSE, coming on to be heard and being heard before the undersigned Judge of the Superior Court duly assigned to hold the Superior Criminal Courts of Guilford County, upon motion of counsel, to wit: WHITE AND CRUMPLER, by Fred G. Crumpler, Jr. and H. W. Zimmerman, Jr., and the Court makes the following findings of fact:

1. That the undersigned attorneys were retained on or about November 3, 1998, for the sole purpose of a trial upon the merits or plea of guilty or no contest if it was in the best interest of Theodore Mead Kimble;
2. On or about January 28, 1999, in the Criminal Superior Court of Guilford County, the above named Defendant entered pleas of guilty, and an Alford plea of guilty to the charges above numbered;
3. That after entering the above pleas the Defendant, on March 5, 1999, without advice from counsel and upon his own Motion, moved to withdraw the pleas and enter pleas of not guilty. This Motion was denied by the Court, and the Court heard evidence and sentenced the Defendant. The Defendant has indicated that he wished to enter Notice of Appeal to the Court of Appeals;
4. That Defendant had previously authorized his attorneys to negotiate the pleas entered, by virtue of which it would be difficult for the same attorneys to represent the Defendant's best interest in presenting this issue to the Court of Appeals, if not in direct conflict. Further, the Defendant is indigent within the meaning of the statute.
5. That the above named Defendant, and his parents, Ronnie Lee Kimble and Edna Mayton Kimble, understand that the representation agreement did not include representation for any appeals which may result from the trial or hearing of said criminal cases;

The Court further CONCLUDES that the above findings constitute good cause for withdrawal of counsel pursuant to NCGS 15A-144.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED:

1. That good cause exists to permit the withdrawal of White and Crumpler and Fred G. Crumpler, Jr. and H. W. Zimmerman, Jr. as Attorneys of Record for said Defendant and that said attorneys are hereby allowed to withdraw as provided in NCGS 15A-144;
2. That the Clerk of the Superior Court is hereby ordered to remove said counsel's name from the file jacket as attorney of record;
3. That the Court by separate order has appointed another attorney this day to represent the above named defendant to perfect said appeal, to wit: the Appellate Defender;

This is 15th of March, 1999.



JUDGE SUPERIOR COURT

STATE OF NORTH CAROLINA

File No.

97CRS 39581

GUILFORD County

FILED

In The General Court Of Justice
District Superior Court Division

STATE VERSUS

Name Of Defendant

THEODORE MEAD KIMBLE

1999 MAR 31 AM 8:28

APPELLATE ENTRIES

Social Security No.

240-47-9619

GUILFORD COUNTY C.S.C.

Rules 7, 9, 11, 27; N. C. Rules Of App. Proc.

Codefendant(s) If Tried Jointly

N/A

BY [Signature]

Additional File No.(s)

97CRS 23656;98CRS 23486;99CRS 23241-48

Name And Address Of Trial Prosecutor

RICHARD PANOSH
P O BOX 10769
GREENSBORO NC 27404-0769

Telephone No.

(336) 574-4313

Name And Address Of Defendant's Trial Counsel

H. W. ZIMMERMAN, JR. &
FRED CRUMPLER
11 WEST FOURTH ST
WINSTON SALEM NC 27101

Telephone No.

(336) 725-1304

Name And Address Of Court Reporter(s)

DEBBIE WISE (1/28/99 guilty plea)

P O BOX 3008
GREENSBORO NC 27402

Telephone No.

(336) 574-4319

PAM VAUGHN (3/4-5/99 motion to withdraw &
sentencing)

P O BOX 3008
GREENSBORO NC 27402

Telephone No.

(336) 574-4342

Name And Address Of Defendant's Appellate Counsel

[X] The Appellate Defender (919) 560-3334
200 Meredith Drive, Suite 200, Durham, NC 27713

[] Alternative Counsel to Appellate Defender

[] Appellate Counsel

Date(s) Of Trial And Other Hearings

1/28/99 guilty plea; 3/4-5/99 motion to withdraw plea & sentencing

Telephone No.

JUDGE'S INITIAL APPEAL ENTRIES

- 1. The defendant has given Notice of Appeal to the: [X] N. C. Court of Appeals. [] N. C. Supreme Court.
2. Defendant's trial counsel was given an opportunity to object to the jury charge out of the hearing or presence of the jury [] did so. [] did not do so.
3. The defendant shall serve a proposed record on appeal on the State within 35 days, if this is a non-capital case, or 70 days if this is a capital case, after the court reporter(s) delivers copies of the transcript to defendant's appellate counsel or after giving or filing notice of appeal if no transcript was ordered.
4. The State shall serve its amendments, objections or proposed alternative record on appeal on the defendant within 21 days if this is a non-capital case or 35 days if this is a capital case, after service upon it of the defendant's proposed record on
5. Release of the defendant pursuant to G.S. 15A-536 is [X] denied. [] allowed upon execution of a secured bond in the amount of \$ _____ and compliance with the following additional conditions:

- 6. Unless indigent, the defendant shall contract with the court reporter(s) for production of the transcript as provided in the Rules of Appellate Procedure.
[X] 7. (NOTE: Check in all cases where defendant is indigent.) The defendant is indigent and has requested a transcript and the appointment of counsel. It is ORDERED that the defendant is allowed to appeal as an indigent and:
a. The Administrative Office of the Courts shall pay the costs of producing a transcript, and of reproducing the record and the defendant's brief.
b. [X] (1) The appellate defender is appointed to perfect the defendant's appeal. In the event the appellate defender declines this appointment pursuant to G.S. 7A-486.3(1), the defendant's alternative appellate counsel named above is appointed to perfect the defendant's appeal.
[] (2) The defendant's appellate counsel named above is appointed to perfect the defendant's appeal.
c. The Clerk shall furnish to the defendant's appellate counsel a copy of all documents on file in this case.
d. Unless the parties stipulate that parts of the proceedings shall not be transcribed, the Clerk shall order from the court reporter(s) a transcript of all parts of the proceedings except:

8. The Clerk shall mail a copy of these Entries to the prosecutor, all appellate counsel, the defendant (if unrepresented), and to the court reporter(s).

Date 03-15-1999 Name Of Presiding Judge (Type Or Print) PETER M. MCHUGH Signature Of Presiding Judge s/Peter M. McHugh

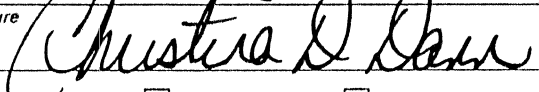
(NOTE: To be completed ONLY when defendant is indigent.)

To The Court Reporter(s) Named On The Reverse:

Prepare and deliver to the parties a transcript of all portions of the proceedings in the above-captioned case except:
(Specify any portions of the proceedings which need not be transcribed pursuant to a stipulation filed by the parties under Rule 7(a)(2), or pursuant to No. 7.d. on reverse side.)

I certify that I delivered a copy of this Transcript Order to the court reporter(s) on the date shown below:

- personally.
- by mailing it to the reporter(s) at the address(es) shown on the reverse.

Date Clerk's Transcript Order Entered And Filed 03/15/99	Signature 
Date Order Delivered To Court Reporter(s), If Different 03/31/99	<input checked="" type="checkbox"/> Deputy C3 <input type="checkbox"/> Assistant CSC <input type="checkbox"/> Clerk Of Superior Court

EXTENSION OF TIME TO PREPARE TRANSCRIPT OR SERVE RECORD

Pursuant to Rules 7 and 27, N. C. Rules of Appellate Procedure, upon motion of the defendant State court reporter, and for good cause shown, it is ORDERED that:

- the time for preparation of the transcript is extended for 30 additional days.
- the time permitted for service of the proposed record on appeal is extended for 30 days.

NOTE: The trial court may grant only one extension of time to prepare the transcript or to serve the record on appeal. Neither extension may be for more than 30 days. A motion for any further extension of time must be made in the Appellate Court to which the appeal has been taken. Rules 7(b)(1) and 27(c)(2), N. C. Rules of Appellate Procedure.

Date	Name Of Judge (Type Or Print)	Signature Of Judge
------	-------------------------------	--------------------

CERTIFICATION

I certify this Appellate Entries form is a true and complete copy of the original on file in this case.

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

11

STATE OF NORTH CAROLINA
COUNTY OF GUILFORD

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
97 CrS 23656, 39581; 98 CrS 23486,
GUILFORD COUNTY, 99 CrS 23241-23248

BY BBR

STATE OF NORTH CAROLINA)
)
 v.)
)
 THEODORE MEAD KIMBLE)

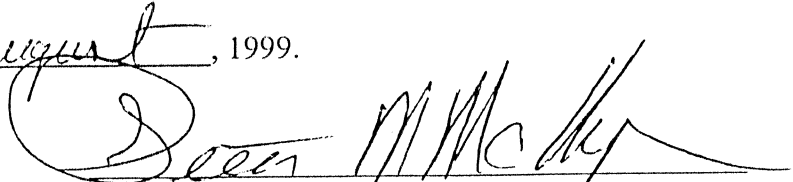
ORDER EXTENDING TIME TO PERFECT RECORD ON APPEAL

Upon motion of the defendant, Theodore Mead Kimble, and for good cause shown:

IT IS HEREBY ORDERED that the time within which to serve defendant's proposed record on appeal upon the State be extended (30) days, until the 6th day of September, 1999.

IT IS FURTHER ORDERED that counsel for the defendant promptly serve a copy of this Order on all other parties to this action.

This the 16th day of August, 1999.



HONORABLE PETER M. McHUGH
SUPERIOR COURT JUDGE

No. COAP99-520

North Carolina Court of Appeals

STATE OF NORTH CAROLINA

V

THEODORE MEAD KIMBLE

ORDER

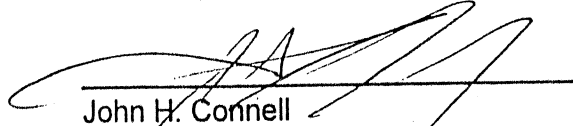
The following order was entered:

The motion filed in this cause on the 7th day of September 1999 and designated "Motion For Extension of Time to Serve Defendant-Appellant's Proposed Record on Appeal" is allowed. Proposed record on appeal shall be served on or before 7 October 1999.

By order of the Court this the 8th day of September 1999.

The above order is therefore certified to the Clerk of Superior Court Guilford County.

Witness my hand and official seal this the 8th day of September 1999.


John H. Connell
Clerk of North Carolina Court of Appeals

CSC Orig

cc:

Ms. Danielle M. Carman

Attorney General

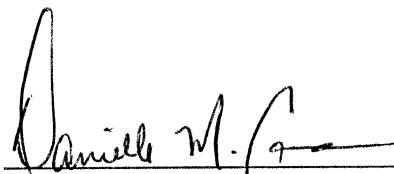
From Guilford
(97CRS39581, 98CRS23486, 98CRS23656,
99CRS23241-48)

FILED
SEP - 8 PM 2:43
CLERK OF APPEALS
NORTH CAROLINA

CERTIFICATE OF SERVICE

I hereby certify that a copy of Defendant-Appellant's Proposed Record on Appeal has been duly served by sending it first-class mail, postage prepaid to Richard E. Panosh, Assistant District Attorney, 18th Judicial District, Post Office Box 10769, Greensboro, North Carolina 27402, by placing it in a depository for that purpose.

This the 7th day of October, 1999.

A handwritten signature in black ink, appearing to read "Danielle M. Carman", written over a horizontal line.

Danielle M. Carman
Assistant Appellate Defender

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.

STATE OF NORTH CAROLINA
GUILFORD COUNTY

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
97 CrS 23656, 39581; 98 CrS 23486;
99 CrS 23241-48

STATE OF NORTH CAROLINA)
)
 v.)
)
 THEODORE MEAD KIMBLE)

STIPULATION AND SETTLEMENT OF RECORD ON APPEAL

It is hereby stipulated and agreed by all parties to this appeal that the foregoing constitutes the agreed record on appeal.

It is further stipulated and agreed that the complete stenographic transcript of the trial proceedings in the trial tribunal, consisting of 301 pages bound in 3 volumes, is an accurate transcription of the pre-trial and trial proceedings and shall be a part of the record on appeal and filed with the Clerk of the North Carolina Court of Appeals when the record is filed.

This the ___ day of _____, 1999.

Danielle M. Carman
Assistant Appellate Defender
Office of the Appellate Defender
123 West Main Street, Suite 600
Durham, North Carolina 27701

Richard E. Panosh
Assistant District Attorney
18th Judicial District
Guilford County Superior Court
Post Office Box 10769
Greensboro, North Carolina 27402

ATTORNEY FOR DEFENDANT

ATTORNEY FOR STATE

STATE OF NORTH CAROLINA
GUILFORD COUNTY

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
97 CrS 23656, 39581; 98 CrS 23486;
99 CrS 23241-48

STATE OF NORTH CAROLINA)
)
 v.)
)
THEODORE MEAD KIMBLE)

CERTIFICATE OF SETTLEMENT

Counsel for Defendant-Appellant certifies as follows:

Defendant-Appellant heretofore served his Proposed Record on Appeal by sending it to the State-Appellee on October 7, 1999; and

(1) The Record on Appeal has been settled by stipulation, or

(2) The Record on Appeal has been settled because the time has expired for the State-Appellee to serve upon the Defendant-Appellant a notice of approval of the Proposed Record on Appeal or objections, amendments or alternative Proposed Record on Appeal pursuant to Rule 11 of the Rules of Appellate Procedure.

Based upon the foregoing, Defendant-Appellant's Proposed Record on Appeal constitutes the Record on Appeal in this case as a matter of law. Rule 11(b), Rules of Appellate Procedure.

A copy of this Certificate has been served this day upon Mr. Richard Panosh, the Assistant District Attorney representing the State in this case by sending it first-class mail.

This the ____ day of _____, 1999.

Danielle M. Carman
Assistant Appellate Defender
123 West Main Street, Suite 600
Durham, North Carolina 27701
(919) 560-3334

ATTORNEY FOR DEFENDANT-APPELLANT

NAMES OF COUNSEL

Danielle M. Carman
Assistant Appellate Defender

Malcolm Ray Hunter, Jr.
Appellate Defender
Office of the Appellate Defender
123 West Main Street, Suite 600
Durham, North Carolina 27701

(919) 560-3334

ATTORNEYS FOR DEFENDANT-APPELLANT

Michael F. Easley
Attorney General
Department of Justice
Post Office Box 629
Raleigh, North Carolina 27602
(919) 733-3377

ATTORNEY FOR APPELLEE

1 on the document.

2 THE COURT: All right, sir.

3 MR. KIMBLE: Uh, I've had no time to review
4 the document. No prior knowledge to it. I'd also like
5 to move -- upon sitting here reviewing it, it was filled
6 out when they didn't give me the medication. How could
7 they have known when I got it and when I didn't. If
8 you'll note on the 25th, I was in court that day and they
9 filled it out as though they had administered it to me.
10 So, I object---

11 THE COURT: All right, thank you.

12 MR. KIMBLE: ---to the introduction of the
13 information.

14 THE COURT: Objection is overruled.

15 (Pause.)

16 THE COURT: At this time is there anything
17 further for the defendant or for the respondent State?

18 MR. PANOSH: No, Your Honor.

19 THE COURT: All right, thank you. Enter this
20 order. This matter is before the Court upon the
21 defendant's motion submitted pro se to the Court that he
22 be allowed to withdraw a plea of guilty, which the
23 defendant entered before the Court on January 28th, 1999
24 before the undersigned presiding judge. Upon the
25 defendant's appearance in court on January 28th, 1999,

1 the defendant being represented by counsel, Mr. Zimmerman
2 and Mr. Crumpler, the Court proceeded to adjudicate the
3 defendant's plea of guilty upon the offenses of second
4 degree murder, conspiracy to commit first degree murder,
5 arson, and eight counts of solicitation to commit murder.
6 Pursuant to statute, the Court thereupon conducted a plea
7 colloquy with the defendant, and the Court has directed
8 upon notification that the defendant has presented this
9 motion, transcript of the proceedings before the Court on
10 January 28th be promulgated by the verbatim court
11 reporter assigned to preside at that session. And the
12 transcript has been made available to the Court. The
13 Court has had the opportunity to review the transcript of
14 said proceeding.

15 This motion is called for hearing upon the
16 motion of the defendant, and with his consent. Present
17 at all times during the conduct of this hearing was the
18 defendant, who argued this motion pro se on his own
19 behalf, his attorneys, Mr. Zimmerman and Mr. Crumpler,
20 and present representing the State of North Carolina is
21 Assistant District Attorney Richard Panosh.

22 The Court has had the opportunity to see and
23 to observe the witnesses who have testified in this
24 hearing, and the Court has had the opportunity to
25 determine what weight and credibility to assign to the

1 testimony of each witness who has testified.

2 Based upon the testimony presented at this
3 hearing, and based upon the Court's review of the records
4 of this proceeding, the Court makes the following
5 findings of fact, combined findings of fact and
6 conclusions of law.

7 The Court concludes as a matter of law that
8 pursuant to the rule enunciated in State of North
9 Carolina versus Handy in 326 N.C. 532, a presentence
10 motion to withdraw a plea of guilty should be allowed if
11 the defendant meets the burden of showing that his motion
12 to withdraw is supported by some fair and just reason.
13 The factors which this Court has considered in
14 determining whether the defendant should be permitted to
15 withdraw his guilty plea upon a showing of some fair and
16 just reason include the following factors,
17 determinations, and circumstances. Whether the defendant
18 has actually asserted his legal innocence, the Court has
19 determined and considered whether the strength of the
20 State's proffer of evidence is strong or is not strong to
21 establish the defendant's guilt to the offenses to which
22 he's entered a plea of guilty. The Court has considered
23 the length of time between the defendant's entry of the
24 guilty plea and his desire to change the guilty plea.
25 The Court has determined whether the, and considered

1 whether the defendant has had competent counsel at all
2 relevant times to the issues presently before the Court.
3 Court has furthered considered such circumstances as any
4 misunderstanding of the consequences of the guilty plea
5 by the defendant, any hasty entry of the guilty plea by
6 the defendant, confusion or coercion exerted upon the
7 defendant. Based upon the credible evidence introduced
8 at this hearing, the Court finds as a fact that during
9 the plea adjudication hearing on January 28th, 1999 the
10 State of North Carolina, pursuant to the stipulation of
11 the defendant, was permitted to make a factual showing to
12 establish a factual basis for the plea. The Court finds
13 that the evidence offered by the State during this
14 forecast and during the factual showing was
15 extraordinarily strong, and pointed unerringly to the
16 guilt of the defendant to the offenses then before the
17 Court. The Court finds as a fact that following the
18 entry of the plea of guilty on January 28th, 1999 the
19 defendant by letter, which was dated February 24th, 1999
20 bearing a postal mark of February 25th, 1999, and
21 received and filed by the Clerk of Superior Court on
22 February 26th, 1999, that the defendant made known to the
23 Court his desire and his intent to withdraw the plea of
24 guilty. The Court finds that the expiration of
25 approximately 20-some days from the time of the entry of

1 the guilty plea to the time of the notice of the intent
2 to withdraw is a long period of time, which mitigates and
3 causes the Court to determine that a much stronger
4 showing of fair and just reason for the withdrawal of the
5 plea must be established by the defendant. The Court
6 finds as a fact, based upon the Court's perusal of the
7 records in this action, that the defendant has been
8 represented in this action at all times by competent
9 counsel, and the defendant makes no assertion otherwise.
10 The Court finds as a fact that the defendant, shortly
11 after being served with a warrant for arrest alleging
12 first degree murder, was appointed to be represented by
13 the Public Defender of Guilford County, Mr. Wallace
14 Harrelson. Within a number of days following that
15 appointment, the defendant was provided the services of
16 Robert McClellan to assist Wallace Harrelson in the
17 representation of the defendant. Thereafter Mr.
18 Harrelson and Mr. McClellan represented the defendant
19 until the Public Defender's Office was permitted by order
20 of the Court to withdraw by reason of a conflict, and
21 concurrent with the order permitting the withdrawal of
22 Mr. Harrelson, Mr. John Bryson of the Guilford County Bar
23 was appointed to assist Mr. McClellan in the
24 representation of the defendant. Mr. McClellan and Mr.
25 Bryson continued to represent the defendant at all times

1 following their appointment until the date of December
2 3rd, 1998. On said date at a hearing before the
3 undersigned Court, the defendant, under oath and having
4 been advised of the premises, instructed the Court that
5 it was his intention to discharge Mr. McClellan and Mr.
6 Bryson, and to retain Mr. Crumpler and Mr. Zimmerman.
7 The Court makes findings of fact and conclusions of law
8 that the defendant's determination to retain Zimmerman
9 and Crumpler was his own voluntary choice made freely and
10 intelligently, and that the decision to discharge
11 appointed counsel was likewise so made.

12 The Court has had the occasion and the
13 responsibility to review fee petitions submitted by Mr.
14 Bryson and Mr. McClellan. And the Court takes judicial
15 notice of the fee petitions which are incorporated in the
16 court file. That the attorneys submitted a combined
17 hours of representation for the defendant in excess of
18 500 hours. The Court has reviewed these fee petitions
19 and determined that the petitions are reasonable, and are
20 not inflated or otherwise excessive.

21 From the date of December 3rd, 1998 until the
22 present date, the defendant has at all occasions been
23 represented by Mr. Zimmerman and Mr. Crumpler. During
24 the course of this hearing, the defendant has presented
25 to the Court no complaint or no dissatisfaction with the

1 services of his attorneys, and has in fact advised the
2 Court that he wishes them to continue to represent him in
3 this matter.

4 Based upon the foregoing, the Court concludes
5 as a matter of law that the defendant at all times
6 relevant to this consideration has been represented by
7 highly competent, skilled and expert attorneys, who have
8 extensive experience in the trial of capital cases and
9 grievous and serious criminal proceedings.

10 The Court has considered whether the
11 defendant did not understand the consequences of his
12 guilty plea. Upon a review of the record, it is clear to
13 the Court that the defendant made unequivocal responses
14 to the Court on each inquiry during the January 28
15 proceeding, and indicated that he understood completely
16 in each and every respect the nature of the proceeding
17 and the consequences of his plea. The Court in fact
18 finds that the defendant benefitted the plea arrangement
19 entered into on January 28, 1999. And that in return for
20 the defendant's pleas of guilty to the offenses
21 heretofore recounted, the State agreed to and did in fact
22 dismiss a charge of first degree murder. The defendant
23 was thereupon allowed to avoid the possible imposition of
24 the death penalty.

25 The Court has considered whether the plea was

1 entered in haste under coercion or at a time when the
2 defendant was confused or otherwise impaired. The Court
3 finds as a fact that at the date of the entry of the plea
4 of guilty in this action, which was January 28th, 1999,
5 that this date was not on the eve of trial, and that the
6 jury had not been convened or summonsed to hear the
7 issues in the capital proceeding against the defendant.
8 In fact, although the term of January 25th had been
9 tentatively scheduled for the commencement of the trial,
10 that date had been continued upon the motion of the
11 defendant. After having been represented by Mr.
12 Zimmerman and Mr. Crumpler, the defendant filed a motion
13 to continue and that was consented to by the State of
14 North Carolina. The Court retained this matter on the
15 calendar for the term of January 25th to determine the
16 defendant's motion for change of venue, and to determine
17 certain other pretrial motions, which the defendant,
18 through his attorneys, had indicated an intention or
19 desire to prosecute. Therefore, this plea arrangement
20 was not made on the eve of trial.

21 Furthermore, the Court finds as a fact and
22 concludes as a matter of law that the defendant was in no
23 way impaired or under the influence of impairing
24 substances, or otherwise unable to understand the nature
25 of the proceedings. During the proceedings before the

1 Court on January 28th, the Court observed closely the
2 defendant's demeanor and his responses to the Court's
3 questions, and the Court satisfied itself that the
4 defendant's pleas were made freely, voluntarily and
5 understandingly.

6 Furthermore, no credible evidence of any
7 nature has been received during hearing of this motion to
8 lead the Court to find by any standard of proof that the
9 defendant was coerced, threatened, or under the influence
10 of any impairing or intoxicating substance at the time
11 the plea was made.

12 The Court finds as a fact and concludes as a
13 matter of law that the defendant has wholly failed to
14 meet his burden of showing to the Court that the motion
15 to withdraw is supported by some fair and just reasons.
16 The defendant having failed to meet his burden of proof
17 to show to the Court any just and fair reason to withdraw
18 the guilty plea, the motion to withdraw the guilty plea
19 is denied. The defendant's objection to this order is
20 noted for the record. The Court will retain jurisdiction
21 to enter a final order in this action containing such
22 further findings of fact and conclusions of law as may be
23 supported by the record in this action and the competent
24 evidence received.

25 MR. KIMBLE: I'd like to object to the entry

1 of that order, sir.

2 THE COURT: What?

3 MR. KIMBLE: I'd like to object to that
4 entry.

5 THE COURT: You may do that. Objection is
6 noted. Are you ready to proceed?

7 MR. CRUMPLER: Your Honor, I believe at one
8 point you mentioned that a hearing January 25th, 1995.

9 THE COURT: I'm sorry, January 28th, 1999. I
10 will correct any, uh---

11 MR. CRUMPLER: I think you were right on the
12 day and month, but I did hear '95.

13 THE COURT: I'm sorry, I will correct that
14 upon review.

15 MR. PANOSH: Your Honor, with your
16 permission, we'd like to proceed at 2:00. I don't think
17 we can finish this quickly.

18 THE COURT: Okay, we'll be in recess until
19 2:00.

20 (A lunch recess was taken.)

21 THE COURT: State ready to proceed?

22 MR. PANOSH: Yes, sir.

23 THE COURT: Defendant ready to proceed?

24 MR. ZIMMERMAN: Yes, Your Honor.

25 THE COURT: Matter is before the Court for

to be filed w/
C.S.C. -
C.S.C. keeps
orig.

NORTH CAROLINA
GUILFORD COUNTY

FILED

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION

1999 MAR 10 PM 2:51
FILE NOS. 97 CRS 23656, 97 CRS 39581,
98 CRS 23486, 99 CRS 24241-48

GUILFORD COUNTY, N.C.

STATE OF NORTH CAROLINA)
)
 vs)
)
 THEODORE MEAD KIMBLE)

BY _____

MOTION TO WITHDRAW

NOW COME THE UNDERSIGNED ATTORNEYS for the above named Defendant to remove pursuant to NCGS 15A-144 that they be permitted to withdraw as Attorneys of Record for the above named Defendant, and respectfully show unto the Court:

I

That the undersigned attorneys were retained on or about November 3, 1998 for the sole purpose of a trial upon the merits or plea of guilty or no contest if it was in the best interest of Theodore Mead Kimble;

II

On or about January 28, 1999, in the Criminal Superior Court of Guilford County, the above named Defendant entered pleas of guilty, and an Alford plea of guilty to the charges above numbered;

III

That after entering the above pleas the Defendant on March 5, 1999, without advice from counsel and upon his own Motion, moved to withdraw the pleas and enter pleas of not guilty. This Motion was denied by the Court, and the Court heard evidence and sentenced the Defendant. The Defendant has indicated that he wished to enter Notice of Appeal to the Court of Appeals;

IV

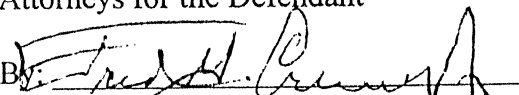
That Defendant had previously authorized his attorneys to negotiate the pleas entered, by virtue of which it would be difficult for the same attorneys to represent the Defendant's best interest in presenting this issue to the Court of Appeals, if not in direct conflict. Further, the Defendant is indigent within the meaning of the statute.

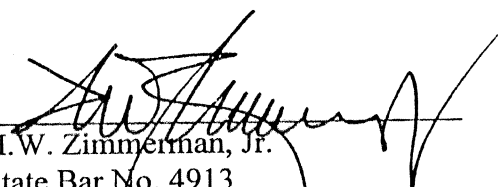
That the above named Defendant, and his parents, Ronnie Lee Kimble and Edna Mayton Kimble, understand that the representation agreement did not include representation for any appeals which may result from the trial or hearing of said criminal cases;

WHEREFORE, The undersigned attorneys believe that this constitutes good cause for said withdrawal; therefore, the undersigned attorneys pray that they be permitted to withdraw as Attorneys of Record; and further pray that since the Defendant is indigent, the North Carolina Appellant Defender be appointed to perfect said case on appeal.

This is 10th of March, 1999.

WHITE AND CRUMPLER
Attorneys for the Defendant

By: 
Fred G. Crumpler, Jr.
State Bar No. 1033

By: 
H. W. Zimmerman, Jr.
State Bar No. 4913

11 West Fourth Street
Winston-Salem, NC 27101
(336) 725-1304

COURT OF APPEALS

FILED

18th JUDICIAL DISTRICT

1999 MAR 12 PM 2: 20

NORTH CAROLINA COURT OF APPEALS

BY

J.M.D.

STATE OF NORTH CAROLINA

vs.

FROM GUILFORD COUNTY
FILE NOS. 97 CRS 23656
97 CRS 39581, 98 CRS 23486
99 CRS 24241-48

THEODORE MEAD KIMBLE

NOTICE OF APPEAL TO THE COURT OF APPEALS

TO THE HONORABLE COURT OF APPEALS OF NORTH CAROLINA:

Theodore Mead Kimble hereby gives notice of appeal to the Court of Appeals of North Carolina from the final judgment in said cases entered on March 5, 1999, in the Superior Court of Guilford County and also from a denial of Defendant's Motion to Withdraw his pleas of guilty heard and denied immediately preceding the entry of said final judgment which was entered as follows:

See attached sheet for judgments;

Respectfully submitted this the 12 day of March, 1999.

Theodore Mead Kimble

THEODORE MEAD KIMBLE

MAR 15 1999

copy to R. Dnosh

In Case # 97 CRS 39581 an aggravated sentence for second degree murder of 204 months to 254 months to begin at the expiration of any sentence now serving;

In Case # 97 CRS 23656 a presumptive sentence for conspiracy to commit murder of a 163 months to 205 months to begin at the expiration of the second degree murder sentence in 97 CRS 39581;

In Case # 98 CRS 23486 an aggravated sentence for first degree arson of 82 months to 108 months to begin at the expiration of the conspiracy sentence in 97 CRS 23656;

In Case # 99 CRS 24241 an aggravated sentence for solicitation to commit murder of 108 months to 139 months running at the expiration of the first degree arson sentence in 98 CRS 23486;

In Case # 99 CRS 24242 an aggravated sentence for solicitation to commit murder of 108 months to 139 months running at the expiration of the solicitation to commit murder sentence in 99 CRS 24241;

In Case # 99 CRS 24243 an aggravated sentence for solicitation to commit murder of 108 months to 139 months running at the expiration of the solicitation to commit murder sentence in 99 CRS 24242;

In Case # 99 CRS 24244 an aggravated sentence for solicitation to commit murder of 108 months to 139 months running at the expiration of the solicitation to commit murder sentence in 99 CRS 24243;

In Case # 99 CRS 24245 a presumptive sentence for solicitation to commit murder of 96 months to 125 months running at the expiration of the solicitation to commit murder sentence in 99 CRS 24244;

In Case # 99 CRS 24246 an aggravated sentence for solicitation to commit murder of 108 months to 139 months running at the expiration of the solicitation to commit murder sentence in 99 CRS 24245;

In Case # 99 CRS 24247 an aggravated sentence for solicitation to commit murder of 108 months to 139 months running at the expiration of the solicitation to commit murder sentence in 99 CRS 24246;

In Case # 99 CRS 24248 a presumptive sentence for solicitation to commit murder of 96 months to 125 months running at the expiration of the solicitation to commit murder sentence in 99 CRS 24247;

NORTH CAROLINA

Wake COUNTY

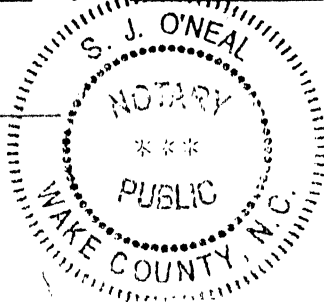
I, S. J. O'Neal, a Notary Public in and for said County and State, do hereby certify that THEODORE MEAD KIMBLE personally appeared before me this day and acknowledged the due execution of the foregoing Notice of Appeal.

Witness my hand and notarial seal, this 12 day of March, 1999.

S. J. O'Neal
Notary Public

My Commission Expires 11-23-2003

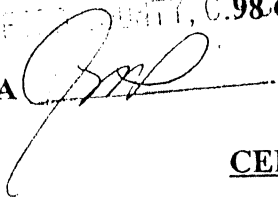
My commission expires: _____



NORTH CAROLINA
GUILFORD COUNTY

FILED IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
1999 MAR 12 5:12 PM
FILE NOS. 97 CRS 23656, 97 CRS 39581,
98 CRS 23486, 99 CRS 24241-48

STATE OF NORTH CAROLINA



v.

CERTIFICATE OF SERVICE

THEODORE MEAD KIMBLE

The undersigned hereby certifies that he is the defendant in this Action.

That on the 12 day of March, 1999, he served a copy of the attached NOTICE OF APPEAL by placing said copy in a postpaid envelope addressed to the person hereinafter named, at the place and address stated below, which is the last known address, and by depositing said envelope and its contents in the United States Mail at Winston-Salem, North Carolina.

ADDRESSEE: Richard E. Panosh
Assistant D.A.
Guilford County Superior Court
P. O. Box 2378
Greensboro, NC 27402-2378

Theodore Mead Kimble
THEODORE MEAD KIMBLE

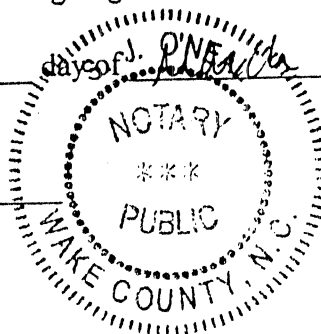
NORTH CAROLINA

Wake COUNTY

I, S. J. O'Neal, a Notary Public in and for said County and State, do hereby certify that THEODORE MEAD KIMBLE personally appeared before me this day and acknowledged the due execution of the foregoing.

Witness my hand and notarial seal, this 12 day of March, 1999.

S. J. O'Neal
Notary Public



My Commission Expires 11-23-2003

My commission expires: _____

GUILFORD COUNTY
FILED
 MAR 15 1999
 AT 4:50 CLOCK M
 CLERK OF SUPERIOR COURT

NORTH CAROLINA
 GUILFORD COUNTY

IN THE GENERAL COURT OF JUSTICE
 SUPERIOR COURT DIVISION
 FILE NOS. 97 CRS 23656, 97 CRS 39581,
 98 CRS 23486, 99 CRS 24241-48

STATE OF NORTH CAROLINA)
)
 vs)
)
 THEODORE MEAD KIMBLE)

ORDER ALLOWING
ATTORNEYS TO WITHDRAW

THIS CAUSE, coming on to be heard and being heard before the undersigned Judge of the Superior Court duly assigned to hold the Superior Criminal Courts of Guilford County, upon motion of counsel, to wit: WHITE AND CRUMPLER, by Fred G. Crumpler, Jr. and H. W. Zimmerman, Jr., and the Court makes the following findings of fact:

1. That the undersigned attorneys were retained on or about November 3, 1998, for the sole purpose of a trial upon the merits or plea of guilty or no contest if it was in the best interest of Theodore Mead Kimble;
2. On or about January 28, 1999, in the Criminal Superior Court of Guilford County, the above named Defendant entered pleas of guilty, and an Alford plea of guilty to the charges above numbered;
3. That after entering the above pleas the Defendant, on March 5, 1999, without advice from counsel and upon his own Motion, moved to withdraw the pleas and enter pleas of not guilty. This Motion was denied by the Court, and the Court heard evidence and sentenced the Defendant. The Defendant has indicated that he wished to enter Notice of Appeal to the Court of Appeals;
4. That Defendant had previously authorized his attorneys to negotiate the pleas entered, by virtue of which it would be difficult for the same attorneys to represent the Defendant's best interest in presenting this issue to the Court of Appeals, if not in direct conflict. Further, the Defendant is indigent within the meaning of the statute.
5. That the above named Defendant, and his parents, Ronnie Lee Kimble and Edna Mayton Kimble, understand that the representation agreement did not include representation for any appeals which may result from the trial or hearing of said criminal cases;

The Court further CONCLUDES that the above findings constitute good cause for withdrawal of counsel pursuant to NCGS 15A-144.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED:

1. That good cause exists to permit the withdrawal of White and Crumpler and Fred G. Crumpler, Jr. and H. W. Zimmerman, Jr. as Attorneys of Record for said Defendant and that said attorneys are hereby allowed to withdraw as provided in NCGS 15A-144;
2. That the Clerk of the Superior Court is hereby ordered to remove said counsel's name from the file jacket as attorney of record;
3. That the Court by separate order has appointed another attorney this day to represent the above named defendant to perfect said appeal, to wit: the Appellate Defender;

This is 15th of March, 1999.


JUDGE SUPERIOR COURT

GUILFORD County

FILED

In The General Court Of Justice
District Superior Court Division

STATE VERSUS

Name Of Defendant

THEODORE MEAD KIMBLE

Social Security No.

240-47-9619

Coddefendant(s) If Tried Jointly

N/A

Name And Address Of Trial Prosecutor

RICHARD PANOSHI
P O BOX 10769
GREENSBORO NC 27404-0769

Telephone No.

(336) 574-4313

Name And Address Of Court Reporter(s)

DEBBIE WISE (1/28/99 guilty plea)
P O BOX 3008
GREENSBORO NC 27402

Telephone No.

(336) 574-4319

PAM VAUGHN (3/4-5/99 motion to withdraw & sentencing)

P O BOX 3008
GREENSBORO NC 27402

Telephone No.

(336) 574-4342

Date(s) Of Trial And Other Hearings

1/28/99 guilty plea; 3/4-5/99 motion to withdraw plea & sentencing

Additional File No.(s)

97CRS 23656; 98CRS 23486; 99CRS 23241-48

Name And Address Of Defendant's Trial Counsel

H. W. ZIMMERMAN, JR. &
FRED CRUMPLER
11 WEST FOURTH ST
WINSTON SALEM NC 27101

Telephone No.

(336) 725-1304

Name And Address Of Defendant's Appellate Counsel

The Appellate Defender (919) 560-3334
200 Meredith Drive, Suite 200, Durham, NC 27713

Alternative Counsel to Appellate Defender

Appellate Counsel

Telephone No.

JUDGE'S INITIAL APPEAL ENTRIES

- 1. The defendant has given Notice of Appeal to the: [X] N. C. Court of Appeals. [] N. C. Supreme Court.
2. Defendant's trial counsel was given an opportunity to object to the jury charge out of the hearing or presence of the jury [] did so. [] did not do so.
3. The defendant shall serve a proposed record on appeal on the State within 35 days, if this is a non-capital case, or 70 days if this is a capital case, after the court reporter(s) delivers copies of the transcript to defendant's appellate counsel or after giving or filing notice of appeal if no transcript was ordered.
4. The State shall serve its amendments, objections or proposed alternative record on appeal on the defendant within 21 days if this is a non-capital case or 35 days if this is a capital case, after service upon it of the defendant's proposed record on
5. Release of the defendant pursuant to G.S. 15A-536 is [X] denied. [] allowed upon execution of a secured bond in the amount of \$ _____ and compliance with the following additional conditions:

- 6. Unless indigent, the defendant shall contract with the court reporter(s) for production of the transcript as provided in the Rules of Appellate Procedure.
[X] 7. (NOTE: Check in all cases where defendant is indigent.) The defendant is indigent and has requested a transcript and the appointment of counsel. It is ORDERED that the defendant is allowed to appeal as an indigent and:
a. The Administrative Office of the Courts shall pay the costs of producing a transcript, and of reproducing the record and the defendant's brief.
b. [X] (1) The appellate defender is appointed to perfect the defendant's appeal. In the event the appellate defender declines this appointment pursuant to G.S. 7A-486.3(1), the defendant's alternative appellate counsel named above is appointed to perfect the defendant's appeal.
[] (2) The defendant's appellate counsel named above is appointed to perfect the defendant's appeal.
c. The Clerk shall furnish to the defendant's appellate counsel a copy of all documents on file in this case.
d. Unless the parties stipulate that parts of the proceedings shall not be transcribed, the Clerk shall order from the court reporter(s) a transcript of all parts of the proceedings except:

- 8. The Clerk shall mail a copy of these Entries to the prosecutor, all appellate counsel, the defendant (if unrepresented), and to the court reporter(s).

Date

03-15-1999

Name Of Presiding Judge (Type Or Print)

PETER M. MCHUGH

Signature Of Presiding Judge

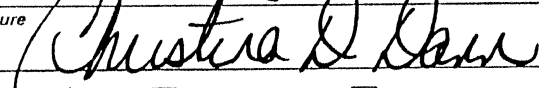
s/Peter M. McHugh

(NOTE: To be completed ONLY when defendant is indigent.)

To The Court Reporter(s) Named On The Reverse:

Prepare and deliver to the parties a transcript of all portions of the proceedings in the above-captioned case except:
 (Specify any portions of the proceedings which need not be transcribed pursuant to a stipulation filed by the parties under Rule 7(a)(2), or pursuant to No. 7.d. on reverse side.)

I certify that I delivered a copy of this Transcript Order to the court reporter(s) on the date shown below:
 personally.
 by mailing it to the reporter(s) at the address(es) shown on the reverse.

Date Clerk's Transcript Order Entered And Filed 03/15/99	Signature 
Date Order Delivered To Court Reporter(s), If Different 03/31/99	<input checked="" type="checkbox"/> Deputy C3 <input type="checkbox"/> Assistant CSC <input type="checkbox"/> Clerk Of Superior Court

EXTENSION OF TIME TO PREPARE TRANSCRIPT OR SERVE RECORD

Pursuant to Rules 7 and 27, N. C. Rules of Appellate Procedure, upon motion of the defendant State
 court reporter, and for good cause shown, it is ORDERED that:
 the time for preparation of the transcript is extended for 30 additional days.
 the time permitted for service of the proposed record on appeal is extended for 30 days.

NOTE: The trial court may grant only one extension of time to prepare the transcript or to serve the record on appeal. Neither extension may be for more than 30 days. A motion for any further extension of time must be made in the Appellate Court to which the appeal has been taken. Rules 7(b)(1) and 27(c)(2), N. C. Rules of Appellate Procedure.

Date	Name Of Judge (Type Or Print)	Signature Of Judge
------	-------------------------------	--------------------

CERTIFICATION

I certify this Appellate Entries form is a true and complete copy of the original on file in this case.

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

F11

STATE OF NORTH CAROLINA
COUNTY OF GUILFORD

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
97 CrS 23656, 39581; 98 CrS 23486,
GUILFORD COUNTY, 99 CrS 23241-23248

BY BBR

STATE OF NORTH CAROLINA)
)
 v.)
)
 THEODORE MEAD KIMBLE)


ORDER EXTENDING TIME TO PERFECT RECORD ON APPEAL

Upon motion of the defendant, Theodore Mead Kimble, and for good cause shown:

IT IS HEREBY ORDERED that the time within which to serve defendant's proposed record on appeal upon the State be extended (30) days, until the 6th day of September, 1999.

IT IS FURTHER ORDERED that counsel for the defendant promptly serve a copy of this Order on all other parties to this action.

This the 16th day of August, 1999.



HONORABLE PETER M. McHUGH
SUPERIOR COURT JUDGE

No. COAP99-520

North Carolina Court of Appeals

STATE OF NORTH CAROLINA

v

THEODORE MEAD KIMBLE

From Guilford

(97CRS39581, 98CRS23486, 98CRS23656,
99CRS23241-48)

FILED
SEP - 8 PM 2:43
COURT OF APPEALS
NORTH CAROLINA

ORDER

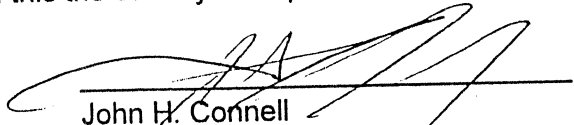
The following order was entered:

The motion filed in this cause on the 7th day of September 1999 and designated "Motion For Extension of Time to Serve Defendant-Appellant's Proposed Record on Appeal" is allowed. Proposed record on appeal shall be served on or before 7 October 1999.

By order of the Court this the 8th day of September 1999.

The above order is therefore certified to the Clerk of Superior Court Guilford County.

Witness my hand and official seal this the 8th day of September 1999.



John H. Connell
Clerk of North Carolina Court of Appeals

CSC Orig

cc:

Ms. Danielle M. Carman
Attorney General

DEFENDANT'S ASSIGNMENTS OF ERROR

Defendant assigns as error the following:

1. The trial court's findings of fact, conclusions of law, and ruling waiving attorney Zimmerman's conflict of interest and allowing Zimmerman to represent defendant, on the grounds that the findings were not supported by the evidence, and the conclusions and rulings were erroneous under North Carolina statutory and common law and violated defendant's State and Federal constitutional rights.

Dec. 3, 1998 Motions Hearing, Tpp. 46, line 6 through 49, line 14

2. The trial court's action in misinforming defendant about the consequences of his guilty pleas and *Alford* pleas, on the grounds that the court's statements to defendant about the mandatory minimum sentences and possible maximum sentences were erroneous under North Carolina statutory and common law, violated G.S. 15A-1022, and rendered defendant's pleas involuntary in violation of defendant's State and Federal constitutional rights. Defendant asserts plain error.

Jan. 28, 1999 Pleas Transcript, Tpp. 9, line 15 through 10, line 7
Jan. 28, 1999 Pleas Transcript, Tp. 12, lines 8-16
Rpp. 17-20

3. The trial court's acceptance of defendant's guilty pleas and *Alford* pleas, on the grounds that the pleas were not freely, voluntarily, and understandingly entered, and that the court's action was erroneous under North Carolina common law and G.S. 15A-1021 and 15A-1022, and violated defendant's State and Federal constitutional rights. Defendant asserts plain error.

Jan. 28, 1999 Pleas Transcript, Tp. 18, lines 4-14
Rp. 18

4. Defendant's attorneys' ineffective assistance of counsel at the hearing on his motion to withdraw his pleas, on the grounds that the attorneys had a conflict of interest and that their performance was deficient in violation of defendant's State and Federal constitutional rights.

Mar. 4, 1999 Motion to Withdraw, Tpp. 3-39

5. The trial court's ruling denying defendant's objection to State documentary exhibit number 1 and admission of that exhibit into evidence at the motion to withdraw hearing, on the grounds that the evidence was inadmissible and incompetent, and that the court's ruling was erroneous under North Carolina statutory and common law and violated defendant's State and Federal constitutional rights.

Mar. 4, 1999 Motion to Withdraw, Tpp. 29, line 23 through 30, line 14

6. The trial court's findings of fact, conclusions of law, and Order denying defendant's motion to withdraw his guilty pleas and *Alford* pleas, and entry of judgment and commitment in all cases, on the grounds that the trial court's statements about the mandatory minimum and possible maximum punishments were erroneous in law and violated G.S. 15A-1022; that defendant's pleas were involuntary, coerced, and uninformed in violation of G.S. 15A-1021 and 15A-1022 and North Carolina common law; that defendant received ineffective assistance of counsel at the motion to withdraw hearing; and that the court's findings are not supported by the evidence, the conclusions are not supported by the findings and are erroneous in law, and the Order is erroneous under North Carolina statutory and common law, and violative of defendant's State and Federal constitutional rights. To the extent this error is not preserved, defendant asserts plain error.

Mar. 4, 1999 Motion to Withdraw, Tpp. 30, line 19 through 39, line 14
Rpp. 27-36, 54-75

7. The trial court's admission of State witness James Bowman's testimony at the sentencing hearing, on the grounds that the evidence was inadmissible and incompetent hearsay and that the court's action was erroneous under North Carolina statutory and common law and violated defendant's State and Federal constitutional rights. Defendant asserts plain error.

Mar. 4, 1999 Sentencing Hearing, Tpp. 56, line 11 through 67, line 1

8. The Trial Court's finding of the non-statutory aggravating sentencing factor that "defendant acted with premeditation and deliberation in committing this offense" in case number 97 CrS 39581 and imposition of a greater-than-presumptive sentence in that case, on the grounds that the factor was not adequately proved in law, not supported by any competent record evidence, inherent in the offense, and supported by the same evidence used to prove an element of the offense in violation of North Carolina statutory and common law and defendant's State and Federal constitutional rights.

Mar. 5, 1999, Sentencing Hearing, Tpp. 220, line 5 through 221, line 10
Rpp. 38-39, 54-55

9. The Trial Court's finding of the non-statutory aggravating sentencing factor that "defendant acted for pecuniary gain" in case number 97 CrS 39581 and imposition of a greater-than-presumptive sentence in that case, on the grounds that the factor was not adequately proved in law and not supported by any competent record evidence in violation of North Carolina statutory and common law and defendant's State and Federal constitutional rights.

Mar. 5, 1999, Sentencing Hearing, Tpp. 220, line 5 through 221, line 10
Rpp. 38-39, 54-55

10. The Trial Court's finding of the non-statutory aggravating sentencing factor that the "offense was committed for the purpose of avoiding detection in the murder of Patricia Gail Kimble and for the purpose of covering up the murder" in case number 98 CrS 23486 and imposition of a greater-than-presumptive sentence in that case, on the grounds that the factor was not adequately proved in law, not supported by any competent record evidence, inherent in the offense, and supported by the same evidence used to prove an element of the offense in violation of North Carolina statutory and common law and defendant's State and Federal constitutional rights.

Mar. 5, 1999, Sentencing Hearing, Tpp. 221, line 25 through 222, line 23
Rpp. 40-41, 58-59

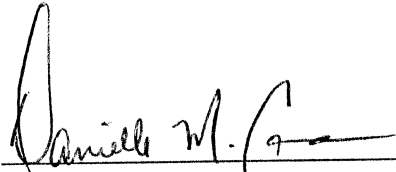
11. The trial court's findings of both statutory aggravating sentencing factors 5(a) and 5(b) in case numbers 99 CrS 23241, 23242, 23243, 23244, 23246, and 23247 and imposition of greater-than-presumptive sentences in those cases, on the grounds that the factors were not adequately proved in law, not supported by any competent record evidence, supported by the same evidence used to prove an element of the offense, and supported by the same evidence used to prove each other in violation of North Carolina statutory and common law and defendant's State and Federal constitutional rights.

Mar. 5, 1999, Sentencing Hearing, Tpp. 222, line 24 through 226, line 20
Rpp. 42-53, 60-73

CERTIFICATE OF SERVICE

I hereby certify that a copy of Defendant-Appellant's Proposed Record on Appeal has been duly served by sending it first-class mail, postage prepaid to Richard E. Panosh, Assistant District Attorney, 18th Judicial District, Post Office Box 10769, Greensboro, North Carolina 27402, by placing it in a depository for that purpose.

This the 7th day of October, 1999.

A handwritten signature in black ink, appearing to read "Danielle M. Carman", written over a horizontal line.

Danielle M. Carman
Assistant Appellate Defender

STATE OF NORTH CAROLINA
GUILFORD COUNTY

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
97 CrS 23656, 39581; 98 CrS 23486;
99 CrS 23241-48

STATE OF NORTH CAROLINA)
)
 v.)
)
 THEODORE MEAD KIMBLE)

STIPULATION AND SETTLEMENT OF RECORD ON APPEAL

It is hereby stipulated and agreed by all parties to this appeal that the foregoing constitutes the agreed record on appeal.

It is further stipulated and agreed that the complete stenographic transcript of the trial proceedings in the trial tribunal, consisting of 301 pages bound in 3 volumes, is an accurate transcription of the pre-trial and trial proceedings and shall be a part of the record on appeal and filed with the Clerk of the North Carolina Court of Appeals when the record is filed.

This the ___ day of _____, 1999.

Danielle M. Carman
Assistant Appellate Defender
Office of the Appellate Defender
123 West Main Street, Suite 600
Durham, North Carolina 27701

ATTORNEY FOR DEFENDANT

Richard E. Panosh
Assistant District Attorney
18th Judicial District
Guilford County Superior Court
Post Office Box 10769
Greensboro, North Carolina 27402

ATTORNEY FOR STATE

STATE OF NORTH CAROLINA
GUILFORD COUNTY

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
97 CrS 23656, 39581; 98 CrS 23486;
99 CrS 23241-48

STATE OF NORTH CAROLINA)
)
 v.)
)
THEODORE MEAD KIMBLE)

CERTIFICATE OF SETTLEMENT

Counsel for Defendant-Appellant certifies as follows:

Defendant-Appellant heretofore served his Proposed Record on Appeal by sending it to the State-Appellee on October 7, 1999; and

(1) The Record on Appeal has been settled by stipulation, or

(2) The Record on Appeal has been settled because the time has expired for the State-Appellee to serve upon the Defendant-Appellant a notice of approval of the Proposed Record on Appeal or objections, amendments or alternative Proposed Record on Appeal pursuant to Rule 11 of the Rules of Appellate Procedure.

Based upon the foregoing, Defendant-Appellant's Proposed Record on Appeal constitutes the Record on Appeal in this case as a matter of law. Rule 11(b), Rules of Appellate Procedure.

A copy of this Certificate has been served this day upon Mr. Richard Panosh, the Assistant District Attorney representing the State in this case by sending it first-class mail.

This the ____ day of _____, 1999.

Danielle M. Carman
Assistant Appellate Defender
123 West Main Street, Suite 600
Durham, North Carolina 27701
(919) 560-3334

ATTORNEY FOR DEFENDANT-APPELLANT

NAMES OF COUNSEL

Danielle M. Carman
Assistant Appellate Defender

Malcolm Ray Hunter, Jr.
Appellate Defender
Office of the Appellate Defender
123 West Main Street, Suite 600
Durham, North Carolina 27701

(919) 560-3334

ATTORNEYS FOR DEFENDANT-APPELLANT

Michael F. Easley
Attorney General
Department of Justice
Post Office Box 629
Raleigh, North Carolina 27602
(919) 733-3377

ATTORNEY FOR APPELLEE

GUILFORD

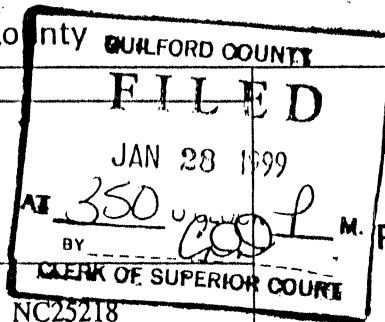
County **GUILFORD COUNTY**

In The General Court Of Justice
 District Superior Court Division

STATE VERSUS

Name And Address Of Defendant

THEODORE MEADE KIMBLE
 DEPT. OF CORRECTIONS



WORKSHEET
PRIOR RECORD LEVEL FOR
FELONY SENTENCING AND
PRIOR CONVICTION LEVEL FOR
MISDEMEANOR SENTENCING
 (STRUCTURED SENTENCING)

Social Security No
 240-47-9619

SID No.
 NC25218

Race: WHITE Sex: MALE DOB: 12-08-1969

G.S. 15A-1340.14, 15A-1340.21

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

I. SCORING PRIOR RECORD/FELONY SENTENCING

NUMBER	TYPE	FACTORS	POINTS
	Prior Felony Class A Conviction	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	
1	Prior Felony Class H or I Conviction	X 2	2
	Prior Class A1 or 1 Misdemeanor Conviction (see note)	X 1	
		SUBTOTAL	2
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	2

II. CLASSIFYING PRIOR RECORD/CONVICTION LEVEL

MISDEMEANOR

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

No. Of Prior Convictions	Level
0	I
1-4	II
5+	III

PRIOR CONVICTION LEVEL **I**

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

FELONY

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

Points	Level
0	I
1 - 4	II
5 - 8	III
9 - 14	IV
15 - 18	V
19+	VI

PRIOR RECORD LEVEL **II**

The Court finds the prior convictions, prior record points and the prior record level of the defendant to be as shown herein.

Date: 1-28-99

Name Of Presiding Judge (Type Or Print): Peter M. McHugh

Signature Of Presiding Judge: [Signature]

(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.

Fines	Costs	Restitution*	Reimbursement For Attorney Fee & Other	Total Amount Due

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

The Court further recommends:

The Court does not recommend:

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

AWARD OF FEE TO COUNSEL FOR DEFENDANT

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

ORDER OF COMMITMENT/APEAL ENTRIES

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

SIGNATURE OF JUDGE

Date 03-05-99	Name Of Presiding Judge (Type Or Print) PETER M. MCHUGH	Signature Of Presiding Judge <i>Peter M. McHugh</i>
------------------	--	--

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 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 <i>3-23-99</i>	Signature And Seal <i>Harold Mitchell</i>
Date Certified Copies Delivered To Sheriff <i>3/3/99</i>	<input type="checkbox"/> Deputy CSC <input type="checkbox"/> Assistant CSC <input type="checkbox"/> Superior Clerk of Court

STATE OF NORTH CAROLINA

Guilford

County

Greensboro

Seat of Court

File No.

97CRS 39581

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 offenses). Use AOC-CR-301 on DWI.

STATE VERSUS

JUDGMENT AND COMMITMENT

Name Of Defendant Theodore Mead Kimble

1999 MAR -5 PM 12:44

ACTIVE PUNISHMENT FELONY

Race White Sex Male DOB 12/08/69

(STRUCTURED SENTENCING)

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

Attorney For State Richard Panosh

Def. Found Not Indigent Def. Waived Attorney

Attorney For Defendant Zimmerman/Crumpler Appointed Retained

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

Table with 7 columns: File No.(s), Off, Offense Description, Offense Date, G.S. No., F/M, CL. Row 1: 97CRS 39581, Second degree murder, 10-09-95, 14-17, F, B.

The Court: PRIOR RECORD LEVEL: 1. has determined, pursuant to G.S. 15A-1340.14, the prior record points of the defendant to be 02. RECORD LEVEL: II

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). (b) for a Class A felony. (c) for enhanced firearm penalty (G.S. 15A-1340.16A). (d) for an adjudication as a violent habitual felon. G.S. 14-7.12. (e) for drug trafficking offenses. 2. makes the Findings of Aggravating and Mitigating Factors set forth on the attached AOC-CR-605.

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: 204 months for a maximum term of: 254 months in the custody of: N.C. DOC. Class A Felony: Life Imprisonment Without Parole Death (see attached Death Warrant and Certificates) Class B1 Felony: Life Imprisonment Without Parole Violent Habitual Felon: Life Imprisonment Without Parole

The defendant shall be given credit for 381 days spent in confinement prior to the date of this Judgment as a result of this charge(s). The sentence imposed above shall begin at the expiration of all sentences which the defendant is presently obligated to serve.

(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.

Fines	Costs	Restitution*	Reimbursement For Attorney Fee & Other	Total Amount Due

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

The Court further recommends:

The Court does not recommend:

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

2. Work release.

AWARD OF FEE TO COUNSEL FOR DEFENDANT

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

ORDER OF COMMITMENT/APEAL ENTRIES

It is ORDERED that the Clerk deliver two certified copies of this Judgment and Commitment to the sheriff or other qualified officer and that the officer cause the defendant to be delivered with these copies to the custody of the agency named on the reverse to serve the sentence imposed or until the defendant shall have complied with the conditions of release pending appeal.

The defendant gives notice of appeal from the judgment of the Superior Court to the Appellate Division. Appeal entries and any conditions of post conviction release are set forth on form AOC-CR-350.

SIGNATURE OF JUDGE

Date: 03-05-99
 Name Of Presiding Judge (Type Or Print): PETER M. MCHUGH

Signature Of Presiding Judge: *Peter M. McHugh*

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: _____
 Deputy CSC Assistant CSC
 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 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: 3-23-99

Signature And Seal: *Maura M. Mitchell*

Date Certified Copies Delivered To Sheriff: 3/5/99

Deputy CSC Assistant CSC Superior Clerk of Court

STATE OF NORTH CAROLINA

No. 98CRS23486

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

STATE VERSUS

1999 MAR 5

JUDGMENT AND COMMITMENT

Name Of Defendant Theodore Mead Kimble

ACTIVE PUNISHMENT FELONY

Race White Sex Male DOB 12/08/69

(STRUCTURED SENTENCING)

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

Attorney For State Richard Panosh

Def. Found Not Indigent Def. Waived Attorney

Attorney For Defendant Zimmerman/Crumpler Appointed Retained

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

Table with 6 columns: File No.(s), Off, Offense Description, Offense Date, G.S. No., F/M, CL. Row 1: 98CRS 23486, First degree arson, 10-09-95, C.L. & 14-58, F, D

The Court:

PRIOR I III V

- 1. has determined, pursuant to G.S. 15A-1340.14, the prior record points of the defendant to be 02. RECORD LEVEL: II IV VI
2. makes no prior record level finding because none is required for Class A felony, enhanced firearm penalty, violent habitual felon, or drug trafficking offenses.

The Court:

- 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). (b) for a Class A felony. (c) for enhanced firearm penalty (G.S. 15A-1340.16A). (d) for an adjudication as a violent habitual felon. G.S. 14-7.12. (e) for drug trafficking offenses.
2. makes the Findings of Aggravating and Mitigating Factors set forth on the attached AOC-CR-605.
3. imposes the prison term pursuant to a plea arrangement as to sentence under Article 58 of G.S. Chapter 15A.
4. finds the defendant has provided substantial assistance pursuant to G.S. 90-95(h)(5).
5. adjudges the defendant to be an habitual felon pursuant to Article 2A of G.S. Chapter 14.
6. finds enhanced punishment from a Class 1 misdemeanor to a Class I felony G.S. 90-95(e)(3) (drugs); G.S. 14-3(c) (race, etc.)
7. finds no Extraordinary Mitigation.
8. finds the above designated offenses(s) is a reportable conviction involving a minor. G.S. 14-208.6.
9. finds the defendant is classified as a sexually violent predator. G.S. 14-208.20.

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: 082 months for a maximum term of: 108 months in the custody of: N.C. DOC. Class A Felony: Life Imprisonment Without Parole Death (see attached Death Warrant and Certificates) Class B1 Felony: Life Imprisonment Without Parole Violent Habitual Felon: Life Imprisonment Without Parole

The defendant shall be given credit for -0- days spent in confinement prior to the date of this Judgment as a result of this charge(s).

- 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.)

97CRS23656 Criminal Superior Division Guilford County Greensboro 03-05-99

(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.

Fines	Costs	Restitution*	Reimbursement For Attorney Fee & Other	Total Amount Due

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

The Court further recommends:

The Court does not recommend:

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

2. Work release.

AWARD OF FEE TO COUNSEL FOR DEFENDANT

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

ORDER OF COMMITMENT/APEAL ENTRIES

It is ORDERED that the Clerk deliver two certified copies of this Judgment and Commitment to the sheriff or other qualified officer and that the officer cause the defendant to be delivered with these copies to the custody of the agency named on the reverse to serve the sentence imposed or until the defendant shall have complied with the conditions of release pending appeal.

The defendant gives notice of appeal from the judgment of the Superior Court to the Appellate Division. Appeal entries and any conditions of post conviction release are set forth on form AOC-CR-350.

SIGNATURE OF JUDGE

Date 03-05-99	Name Of Presiding Judge (Type Or Print) PETER M. MCHUGH	Signature Of Presiding Judge 
------------------	--	--

ORDER OF COMMITMENT AFTER APPEAL

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

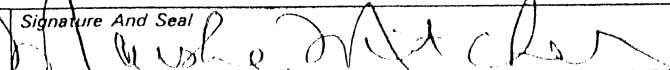
It is ORDERED that this Judgment be executed. It is FURTHER ORDERED that the sheriff arrest the defendant, if necessary, and recommit the defendant to the custody of the official named in this Judgment and furnish that official two certified copies of this Judgment and Commitment as authority for the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

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

CERTIFICATION

I certify that this Judgment and Commitment with the attachment marked below is a true and complete copy of the original which 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 3-23-99	Signature And Seal 
Date Certified Copies Delivered To Sheriff 3/5/99	<input type="checkbox"/> Deputy CSC <input type="checkbox"/> Assistant CSC <input type="checkbox"/> Superior Clerk of Court

STATE OF NORTH CAROLINA

Guilford

County

Greensboro

Seat of Court

a No.

99CRS 23241

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)

In The General Court Of Justice Superior Court Division

STATE VERSUS

1999 11-04

JUDGMENT AND COMMITMENT

Name Of Defendant

Theodore Mead Kimble

ACTIVE PUNISHMENT

FELONY

(STRUCTURED SENTENCING)

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

Race

White

Sex

Male

DOB

12-08-69

Attorney For State

Richard Panosh

Def. Found Not Indigent

Def. Waived Attorney

Attorney For Defendant

Zimmerman/Crumpler

Appointed Retained

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

Table with 7 columns: File No.(s), Off, Offense Description, Offense Date, G.S. No., F/M, CL. Row 1: 99CRS 23241, Solicitation: First degree murder, 11-04-98, C.L. & 14-2.6, F, C

The Court:

PRIOR

I III V

- 1. has determined, pursuant to G.S. 15A-1340.14, the prior record points of the defendant to be 02. RECORD LEVEL: XI IV VI
2. makes no prior record level finding because none is required for Class A felony, enhanced firearm penalty, violent habitual felon, or drug trafficking offenses.

The Court:

- 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). (b) for a Class A felony. (c) for enhanced firearm penalty (G.S. 15A-1340.16A). (d) for an adjudication as a violent habitual felon. G.S. 14-7.12. (e) for drug trafficking offenses.
2. makes the Findings of Aggravating and Mitigating Factors set forth on the attached AOC-CR-605.
3. imposes the prison term pursuant to a plea arrangement as to sentence under Article 58 of G.S. Chapter 15A.
4. finds the defendant has provided substantial assistance pursuant to G.S. 90-95(h)(5).
5. adjudges the defendant to be an habitual felon pursuant to Article 2A of G.S. Chapter 14.
6. finds enhanced punishment from a Class 1 misdemeanor to a Class I felony G.S. 90-95(e)(3) (drugs); G.S. 14-3(c) (race, etc.)
7. finds no Extraordinary Mitigation.
8. finds the above designated offenses(s) is a reportable conviction involving a minor. G.S. 14-208.6.
9. finds the defendant is classified as a sexually violent predator. G.S. 14-208.20.

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: 108 months for a maximum term of: 139 months in the custody of: N.C. DOC. Class A Felony: Life Imprisonment Without Parole Death (see attached Death Warrant and Certificates) Class B1 Felony: Life Imprisonment Without Parole Violent Habitual Felon: Life Imprisonment Without Parole

The defendant shall be given credit for -0- days spent in confinement prior to the date of this Judgment as a result of this charge(s).

- 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.)

98CRS 23486 Criminal Superior Division Guilford County Greensboro 03-05-99

(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.

Fines	Costs	Restitution*	Reimbursement For Attorney Fee & Other	Total Amount Due

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

The Court further recommends:

The Court does not recommend:

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

2. Work release.

AWARD OF FEE TO COUNSEL FOR DEFENDANT

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

ORDER OF COMMITMENT/APEAL ENTRIES

It is ORDERED that the Clerk deliver two certified copies of this Judgment and Commitment to the sheriff or other qualified officer and that the officer cause the defendant to be delivered with these copies to the custody of the agency named on the reverse to serve the sentence imposed or until the defendant shall have complied with the conditions of release pending appeal.

The defendant gives notice of appeal from the judgment of the Superior Court to the Appellate Division. Appeal entries and any conditions of post conviction release are set forth on form AOC-CR-350.

SIGNATURE OF JUDGE

Date	Name Of Presiding Judge (Type Or Print)	Signature Of Presiding Judge
03-05-99	PETER M. MCHUGH	<i>Peter M. McHugh</i>

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 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
3-23-99	<i>Maisha Mitchell</i>
Date Certified Copies Delivered To Sheriff	<input checked="" type="checkbox"/> Deputy CSC <input type="checkbox"/> Assistant CSC <input type="checkbox"/> Superior Clerk of Court
3/5/99	

STATE OF NORTH CAROLINA

Guilford

County Greensboro

Seat of Court

Case No.

99CRS23242

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, or DWI, or DWI-5, or DWI-15.)

STATE VERSUS

JUDGMENT AND COMMITMENT

Name Of Defendant

Theodore Mead Kimble

ACTIVE PUNISHMENT

FELONY

(STRUCTURED SENTENCING)

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

Race

White

Sex

Male

DOB

12-08-69

Attorney For State

Richard Panosh

Def. Found
Not Indigent

Def. Waived
Attorney

Attorney For Defendant

Zimmerman/Crumpler

Appointed Retained

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

File No.(s)	Off	Offense Description	Offense Date	G.S. No.	F/M	CL.
99CRS 23242		Solicitation:First degree murder	11-04-98	C.L. & 14-2.6	F	C

The Court:

PRIOR

I III V

1. has determined, pursuant to G.S. 15A-1340.14, the prior record points of the defendant to be 02. RECORD LEVEL: II IV VI
2. makes no prior record level finding because none is required for Class A felony, enhanced firearm penalty, violent habitual felon, or drug trafficking offenses.

The Court:

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). (b) for a Class A felony. (c) for enhanced firearm penalty (G.S. 15A-1340.16A). (d) for an adjudication as a violent habitual felon. G.S. 14-7.12. (e) for drug trafficking offenses.
2. makes the Findings of Aggravating and Mitigating Factors set forth on the attached AOC-CR-605.
3. imposes the prison term pursuant to a plea arrangement as to sentence under Article 58 of G.S. Chapter 15A.
4. finds the defendant has provided substantial assistance pursuant to G.S. 90-95(h)(5).
5. adjudges the defendant to be an habitual felon pursuant to Article 2A of G.S. Chapter 14.
6. finds enhanced punishment from a Class 1 misdemeanor to a Class I felony G.S. 90-95(e)(3) (drugs); G.S. 14-3(c) (race, etc.)
7. finds no Extraordinary Mitigation.
8. finds the above designated offenses(s) is a reportable conviction involving a minor. G.S. 14-208.6.
9. finds the defendant is classified as a sexually violent predator. G.S. 14-208.20.

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:
108 months

for a maximum term of:
139 months

in the custody of:

Class A Felony: Life Imprisonment Without Parole Death (see attached Death Warrant and Certificates)

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

Class B1 Felony: Life Imprisonment Without Parole
 Violent Habitual Felon: Life Imprisonment Without Parole

The defendant shall be given credit for -0- days spent in confinement prior to the date of this Judgment as a result of this charge(s).

- 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.)

99CRS 23241 Criminal Superior Division Guilford County Greensboro 03-05-99

(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.

Fines	Costs	Restitution*	Reimbursement For Attorney Fee & Other	Total Amount Due

*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
03-05-99

Name Of Presiding Judge (Type Or Print)
PETER M. MCHUGH

Signature Of Presiding Judge

ORDER OF COMMITMENT AFTER APPEAL

Date Appeal Dismissed

Date Withdrawal Of Appeal Filed

Date Appellate Opinion Certified

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

Date

Signature Of Clerk

Deputy CSC Assistant CSC
 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 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

3-23-99

Signature And Seal

Date Certified Copies Delivered To Sheriff

3/5/99

Deputy CSC Assistant CSC Superior Clerk of Court

STATE OF NORTH CAROLINA

No. 99CRS 23243

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]

STATE VERSUS

1779 W.D. - 5 CH 12-45

JUDGMENT AND COMMITMENT

Name Of Defendant Theodore Mead Kimble

ACTIVE PUNISHMENT FELONY

Race White Sex Male DOB 12-08-69

(STRUCTURED SENTENCING)

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

Attorney For State Richard Panosh

Def. Found Not Indigent Def. Waived Attorney

Attorney For Defendant Zimmerman/Crumpler

Appointed Retained

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

Table with 6 columns: File No.(s), Off, Offense Description, Offense Date, G.S. No., F/M, CL. Row 1: 99CRS 23243, Solicitation: First degree murder, 11-04-98, C.L. & 14-2.6, F, C

The Court: 1. has determined, pursuant to G.S. 15A-1340.14, the prior record points of the defendant to be 02. RECORD LEVEL: II

- 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). (b) for a Class A felony. (c) for enhanced firearm penalty (G.S. 15A-1340.16A). (d) for an adjudication as a violent habitual felon. G.S. 14-7.12. (e) for drug trafficking offenses. 2. makes the Findings of Aggravating and Mitigating Factors set forth on the attached AOC-CR-605.

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: 108 months for a maximum term of: 139 months in the custody of: N.C. DOC. Class A Felony: Life Imprisonment Without Parole Death (see attached Death Warrant and Certificates) Class B1 Felony: Life Imprisonment Without Parole Violent Habitual Felon: Life Imprisonment Without Parole

The defendant shall be given credit for -0- days spent in confinement prior to the date of this Judgment as a result of this charge(s). 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.) 99CRS 23242 Criminal Superior Division Guilford County Greensboro 03-05-99

(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.

Fines	Costs	Restitution*	Reimbursement For Attorney Fee & Other	Total Amount Due

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

The Court further recommends:

The Court does not recommend:

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

2. Work release.

AWARD OF FEE TO COUNSEL FOR DEFENDANT

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

ORDER OF COMMITMENT/APEAL ENTRIES

It is ORDERED that the Clerk deliver two certified copies of this Judgment and Commitment to the sheriff or other qualified officer and that the officer cause the defendant to be delivered with these copies to the custody of the agency named on the reverse to serve the sentence imposed or until the defendant shall have complied with the conditions of release pending appeal.

The defendant gives notice of appeal from the judgment of the Superior Court to the Appellate Division. Appeal entries and any conditions of post conviction release are set forth on form AOC-CR-350.

SIGNATURE OF JUDGE

Date
03-05-99

Name Of Presiding Judge (Type Or Print)
PETER M. MCHUGH

Signature Of Presiding Judge

ORDER OF COMMITMENT AFTER APPEAL

Date Appeal Dismissed

Date Withdrawal Of Appeal Filed

Date Appellate Opinion Certified

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

Date

Signature Of Clerk

Deputy CSC Assistant CSC

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 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

3-23-99

Signature And Seal

Date Certified Copies Delivered To Sheriff

3/5/99

Deputy CSC Assistant CSC Superior Clerk of Court

STATE OF NORTH CAROLINA

Vo.

99CRS 23244

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

STATE VERSUS

JUDGMENT AND COMMITMENT

Name Of Defendant Theodore Mead Kimble

ACTIVE PUNISHMENT FELONY

Race White Sex Male DOB 12-08-69

(STRUCTURED SENTENCING)

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

Attorney For State Richard Panosh Def. Found Not Indigent Def. Waived Attorney Zimmerman/Crumpler

Attorney For Defendant Zimmerman/Crumpler Appointed Retained

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

Table with 6 columns: File No.(s), Off, Offense Description, Offense Date, G.S. No., F/M, CL. Row 1: 99CRS 23244, Solicitation: First degree murder, 11-04-98, C.L. & 14-2.6, F, C

The Court: PRIOR RECORD LEVEL: 1. has determined, pursuant to G.S. 15A-1340.14, the prior record points of the defendant to be 02. RECORD LEVEL: II

The Court: 1. makes no written findings because the prison term imposed is: 2. makes the Findings of Aggravating and Mitigating Factors set forth on the attached AOC-CR-605.

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: 108 months for a maximum term of: 139 months in the custody of: N.C. DOC. Class A Felony: Life Imprisonment Without Parole Death (see attached Death Warrant and Certificates)

The defendant shall be given credit for -0- days spent in confinement prior to the date of this Judgment as a result of this charge(s). The sentence imposed above shall begin at the expiration of the sentence imposed in the case referenced below: 99CRS 23243 Criminal Superior Division Guilford County Greensboro 03-05-99

(check all that apply)

1. 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.

Fines	Costs	Restitution*	Reimbursement For Attorney Fee & Other	Total Amount Due
-------	-------	--------------	--	------------------

*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 conditions of post conviction release are set forth on form AOC-CR-350.

SIGNATURE OF JUDGE

Date
03-05-99

Name Of Presiding Judge (Type Or Print)
PETER M. MCHUGH

Signature Of Presiding Judge

ORDER OF COMMITMENT AFTER APPEAL

Date Appeal Dismissed

Date Withdrawal Of Appeal Filed

Date Appellate Opinion Certified

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

Date

Signature Of Clerk

Deputy CSC Assistant CSC
 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 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

3-23-99

Signature And Seal

Date Certified Copies Delivered To Sheriff

3/5/99

Deputy CSC Assistant CSC Superior Clerk of Court

STATE OF NORTH CAROLINA

No. 99CRS 23245

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)

STATE VERSUS

JUDGMENT AND COMMITMENT

Name Of Defendant Theodore Mead Kimble

ACTIVE PUNISHMENT FELONY

Race White Sex Male DOB 12-08-69

(STRUCTURED SENTENCING)

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

Attorney For State Richard Panosh

Def. Found Not Indigent Def. Waived Attorney

Attorney For Defendant Zimmerman/Crumpler Appointed Retained

The defendant Pled guilty to: was found guilty by a jury of: pled no contest to:

Table with 7 columns: File No.(s), Off, Offense Description, Offense Date, G.S. No., F/M, CL. Row 1: 99CRS 23245, Solicitation: First degree murder, 11-04-98, C.L. & 14-2.6, F, C

The Court: PRIOR RECORD LEVEL: 1. has determined, pursuant to G.S. 15A-1340.14, the prior record points of the defendant to be 02. 2. makes no prior record level finding because none is required for Class A felony, enhanced firearm penalty, violent habitual felon, or drug trafficking offenses.

The Court: 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). (b) for a Class A felony. (c) for enhanced firearm penalty (G.S. 15A-1340.16A). (d) for an adjudication as a violent habitual felon. G.S. 14-7.12. (e) for drug trafficking offenses. 2. makes the Findings of Aggravating and Mitigating Factors set forth on the attached AOC-CR-605. 3. imposes the prison term pursuant to a plea arrangement as to sentence under Article 58 of G.S. Chapter 15A. 4. finds the defendant has provided substantial assistance pursuant to G.S. 90-95(h)(5). 5. adjudges the defendant to be an habitual felon pursuant to Article 2A of G.S. Chapter 14. 6. finds enhanced punishment from a Class 1 misdemeanor to a Class I felony G.S. 90-95(e)(3) (drugs); G.S. 14-3(c) (race, etc.). 7. finds no Extraordinary Mitigation. 8. finds the above designated offenses(s) is a reportable conviction involving a minor. G.S. 14-208.6. 9. finds the defendant is classified as a sexually violent predator. G.S. 14-208.20.

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: 096 months for a maximum term of: 125 months in the custody of: N.C. DOC. Class A Felony: Life Imprisonment Without Parole Death (see attached Death Warrant and Certificates) Class B1 Felony: Life Imprisonment Without Parole Violent Habitual Felon: Life Imprisonment Without Parole

The defendant shall be given credit for -0- days spent in confinement prior to the date of this Judgment as a result of this charge(s). 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.) 99 CRS 23244 Criminal Superior Division Guilford County Greensboro 03-05-99

(check all that apply)

1. The court has recommended...

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.

Fines	Costs	Restitution*	Reimbursement For Attorney Fee & Other	Total Amount Due

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

The Court further recommends:

The Court does not recommend:

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

AWARD OF FEE TO COUNSEL FOR DEFENDANT

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

ORDER OF COMMITMENT/APEAL ENTRIES

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

SIGNATURE OF JUDGE

Date: 03-05-99
 Name Of Presiding Judge (Type Or Print): PETER M. MCHUGH
 Signature Of Presiding Judge: *Peter M. McHugh*

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: _____
 Deputy CSC Assistant 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 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: 3-23-99
 Signature And Seal: *[Signature]*
 Date Certified Copies Delivered To Sheriff: 3/5/99
 Deputy CSC Assistant CSC Superior Clerk of Court

STATE OF NORTH CAROLINA

No.

99CRS 23246

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)

STATE VERSUS

JUDGMENT AND COMMITMENT

Name Of Defendant

Theodore Mead Kimble

ACTIVE PUNISHMENT

FELONY

Race

White

Sex

Male

DOB

12-08-69

(STRUCTURED SENTENCING)

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

Attorney For State

Richard Panosh

Def. Found
 Not Indigent

Def. Waived
 Attorney

Attorney For Defendant

Zimmerman/Crumpler

Appointed Retained

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

File No.(s)	Off	Offense Description	Offense Date	G.S. No.	F/M	CL.
99CRS 23246		Solicitation: First degree murder	11-04-98	C.L. & 14-2.6	F	C

The Court:

PRIOR

I III V

1. has determined, pursuant to G.S. 15A-1340.14, the prior record points of the defendant to be 02. RECORD LEVEL: II IV VI
2. makes no prior record level finding because none is required for Class A felony, enhanced firearm penalty, violent habitual felon, or drug trafficking offenses.

The Court:

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). (b) for a Class A felony. (c) for enhanced firearm penalty (G.S. 15A-1340.16A). (d) for an adjudication as a violent habitual felon. G.S. 14-7.12. (e) for drug trafficking offenses.
2. makes the Findings of Aggravating and Mitigating Factors set forth on the attached AOC-CR-605.
3. imposes the prison term pursuant to a plea arrangement as to sentence under Article 58 of G.S. Chapter 15A.
4. finds the defendant has provided substantial assistance pursuant to G.S. 90-95(h)(5).
5. adjudges the defendant to be an habitual felon pursuant to Article 2A of G.S. Chapter 14.
6. finds enhanced punishment from a Class 1 misdemeanor to a Class I felony G.S. 90-95(e)(3) (drugs); G.S. 14-3(c) (race, etc.).
7. finds no Extraordinary Mitigation.
8. finds the above designated offenses(s) is a reportable conviction involving a minor. G.S. 14-208.6.
9. finds the defendant is classified as a sexually violent predator. G.S. 14-208.20.

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:

108

months

for a maximum term of:

139

months

in the custody of:

N.C. DOC.

Sheriff pursuant to G.S. 15A-1352(b).

Other

Class A Felony: Life Imprisonment Without Parole Death (see attached Death Warrant and Certificates)

Class B1 Felony: Life Imprisonment Without Parole

Violent Habitual Felon: Life Imprisonment Without Parole

The defendant shall be given credit for -0- days spent in confinement prior to the date of this Judgment as a result of this charge(s).

- 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.)

99CRS 23245 Criminal Superior Division Guilford County Greensboro 03-05-99

(check all that apply)

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.

Fines	Costs	Restitution*	Reimbursement For Attorney Fee & Other	Total Amount Due
				▶

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

The Court further recommends:

The Court does not recommend:

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

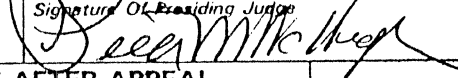
AWARD OF FEE TO COUNSEL FOR DEFENDANT

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

ORDER OF COMMITMENT/APEAL ENTRIES

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

SIGNATURE OF JUDGE

Date 03-05-99	Name Of Presiding Judge (Type Or Print) PETER M. MCHUGH	Signature Of Presiding Judge 
------------------	--	--

ORDER OF COMMITMENT AFTER APPEAL

Date Appeal Dismissed	Date Withdrawal Of Appeal Filed	Date Appellate Opinion Certified
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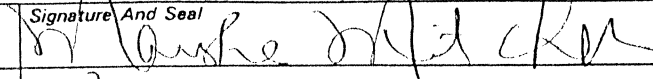
It is ORDERED that this Judgment be executed. It is FURTHER ORDERED that the sheriff arrest the defendant, if necessary, and recommit the defendant to the custody of the official named in this Judgment and furnish that official two certified copies of this Judgment and Commitment as authority for the commitment and detention of the defendant.

Date	Signature Of Clerk	<input type="checkbox"/> Deputy CSC <input type="checkbox"/> Assistant Clerk <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 3-23-99	Signature And Seal 
Date Certified Copies Delivered To Sheriff 3/5/99	<input checked="" type="checkbox"/> Deputy CSC <input type="checkbox"/> Assistant CSC <input type="checkbox"/> Superior Clerk of Court

STATE OF NORTH CAROLINA

No.

99CRS 23247

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)

STATE VERSUS

JUDGMENT AND COMMITMENT

Name Of Defendant
Theodore Mead Kimble

ACTIVE PUNISHMENT

FELONY

Race: White Sex: Male DOB: 12-08-69

(STRUCTURED SENTENCING)

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

Attorney For State: Richard Panosh
Def. Found Not Indigent Def. Waived Attorney

Attorney For Defendant: Zimmerman/Crumpler
Appointed Retained

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

File No.(s)	Off	Offense Description	Offense Date	G.S. No.	F/M	CL.
99CRS 23247		Solicitation: First degree murder	11-04-98	C.L. & 14-2.6	F	C

The Court: PRIOR I III V
 1. has determined, pursuant to G.S. 15A-1340.14, the prior record points of the defendant to be 02. RECORD LEVEL: II IV VI
 2. makes no prior record level finding because none is required for Class A felony, enhanced firearm penalty, violent habitual felon, or drug trafficking offenses.

The Court:
 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). (b) for a Class A felony. (c) for enhanced firearm penalty (G.S. 15A-1340.16A). (d) for an adjudication as a violent habitual felon. G.S. 14-7.12. (e) for drug trafficking offenses.
 2. makes the Findings of Aggravating and Mitigating Factors set forth on the attached AOC-CR-605.
 3. imposes the prison term pursuant to a plea arrangement as to sentence under Article 58 of G.S. Chapter 15A.
 4. finds the defendant has provided substantial assistance pursuant to G.S. 90-95(h)(5).
 5. adjudges the defendant to be an habitual felon pursuant to Article 2A of G.S. Chapter 14.
 6. finds enhanced punishment from a Class 1 misdemeanor to a Class I felony G.S. 90-95(e)(3) (drugs); G.S. 14-3(c) (race, etc.).
 7. finds no Extraordinary Mitigation.
 8. finds the above designated offenses(s) is a reportable conviction involving a minor. G.S. 14-208.6.
 9. finds the defendant is classified as a sexually violent predator. G.S. 14-208.20.

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: 108 months for a maximum term of: 139 months in the custody of:
 N.C. DOC.
 Sheriff pursuant to G.S. 15A-1352(b).
 Other _____
 Class A Felony: Life Imprisonment Without Parole Death (see attached Death Warrant and Certificates)
 Class B1 Felony: Life Imprisonment Without Parole
 Violent Habitual Felon: Life Imprisonment Without Parole

The defendant shall be given credit for -0- days spent in confinement prior to the date of this Judgment as a result of this charge(s).
 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.)
 99CRS 23246 Criminal Superior Division Guilford County Greensboro 03-05-99

(check all that apply)

- 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.

Fines	Costs	Restitution*	Reimbursement For Attorney Fee & Other	Total Amount Due
-------	-------	--------------	--	------------------

*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 all conditions of post conviction release are set forth on form AOC-CR-350.

SIGNATURE OF JUDGE

Date: 03-05-99
 Name Of Presiding Judge (Type Or Print): PETER M. MCHUGH
 Signature Of Presiding Judge: *Peter M. McHugh*

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: _____
 Deputy CSC Assistant CSC
 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 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 (DG-600).

Date: 3-22-99
 Signature And Seal: *Marsha Mitchell*

Date Certified Copies Delivered To Sheriff: 3/5/99
 Deputy CSC Assistant CSC Superior Clerk of Court

STATE OF NORTH CAROLINA

99CRS 23248

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)

STATE VERSUS

JUDGMENT AND COMMITMENT

Name Of Defendant
Theodore Mead Kimble

Race White Sex Male DOB 12-08-69

ACTIVE PUNISHMENT

FELONY

(STRUCTURED SENTENCING)

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

Attorney For State
Richard Panosh

Def. Found Not Indigent Def. Waived Attorney

Attorney For Defendant
Zimmerman/Crumpler

Appointed Retained

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

File No.(s)	Off	Offense Description	Offense Date	G.S. No.	F/M	CL.
99CRS 23248		Solicitation: First degree murder	11-04-98	C.L. & 14-2.6	F	C

The Court: PRIOR I III V
 1. has determined, pursuant to G.S. 15A-1340.14, the prior record points of the defendant to be 02. RECORD LEVEL: II IV VI
 2. makes no prior record level finding because none is required for Class A felony, enhanced firearm penalty, violent habitual felon, or drug trafficking offenses.

The Court:
 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). (b) for a Class A felony. (c) for enhanced firearm penalty (G.S. 15A-1340.16A). (d) for an adjudication as a violent habitual felon. G.S. 14-7.12. (e) for drug trafficking offenses.
 2. makes the Findings of Aggravating and Mitigating Factors set forth on the attached AOC-CR-605.
 3. imposes the prison term pursuant to a plea arrangement as to sentence under Article 58 of G.S. Chapter 15A.
 4. finds the defendant has provided substantial assistance pursuant to G.S. 90-95(h)(5).
 5. adjudges the defendant to be an habitual felon pursuant to Article 2A of G.S. Chapter 14.
 6. finds enhanced punishment from a Class 1 misdemeanor to a Class I felony G.S. 90-95(e)(3) (drugs); G.S. 14-3(c) (race, etc.).
 7. finds no Extraordinary Mitigation.
 8. finds the above designated offenses(s) is a reportable conviction involving a minor. G.S. 14-208.6.
 9. finds the defendant is classified as a sexually violent predator. G.S. 14-208.20.

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: 96 months for a maximum term of: 125 months in the custody of:

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

Class A Felony: Life Imprisonment Without Parole Death (see attached Death Warrant and Certificates)
 Class B1 Felony: Life Imprisonment Without Parole
 Violent Habitual Felon: Life Imprisonment Without Parole

The defendant shall be given credit for -0- days spent in confinement prior to the date of this Judgment as a result of this charge(s).
 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.)
 99CRS 23247 Criminal Superior Division Guilford County Greensboro 03-05-99

(check all that apply)

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.

Fines	Costs	Restitution*	Reimbursement For Attorney Fee & Other	Total Amount Due
-------	-------	--------------	--	------------------

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

The Court further recommends:

The Court does not recommend:

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

AWARD OF FEE TO COUNSEL FOR DEFENDANT

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

ORDER OF COMMITMENT/APEAL ENTRIES

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

SIGNATURE OF JUDGE

Date: 03-05-99
 Name Of Presiding Judge (Type Or Print): PETER M. MCHUGH
 Signature Of Presiding Judge: *Peter M. McHugh*

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: _____
 Deputy CSC Assistant 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 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: 3-23-99
 Signature And Seal: *[Signature]*

Date Certified Copies Delivered To Sheriff: 3/5/99
 Deputy CSC Assistant CSC Superior Clerk of Court

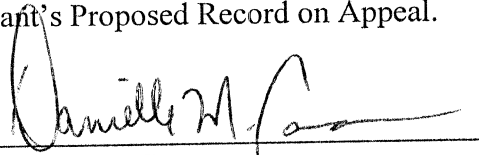
STATE OF NORTH CAROLINA
GUILFORD COUNTY

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
97 CrS 23656, 39581; 98 CrS 23486;
99 CrS 23241-48

STATE OF NORTH CAROLINA)
)
 v.)
)
THEODORE MEAD KIMBLE)

DEFENDANT'S PROPOSED RECORD ON APPEAL

The attached constitutes Defendant's Proposed Record on Appeal.



Danielle M. Carman
Assistant Appellate Defender

Malcolm Ray Hunter, Jr.
Appellate Defender
Office of the Appellate Defender
123 West Main Street, Suite 600
Durham, North Carolina 27701
(919) 560-3334

ATTORNEYS FOR DEFENDANT

No.

EIGHTEENTH DISTRICT

NORTH CAROLINA COURT OF APPEALS

STATE OF NORTH CAROLINA)	
)	
v.)	<u>From Guilford</u>
)	97 CrS 23656, 39581; 98 CrS 23486;
)	99 CrS 23241-48
THEODORE MEAD KIMBLE)	

INDEX

Organization of Trial Tribunal.....	1
Arrest Warrants.....	2
Indictments.....	4
Waiver of Venue in Cases 99 CrS 23241-48.....	7
Bills of Information.....	8
Appearance of Counsel.....	16
Transcript of Proceedings.....	16
Exhibits.....	16
Statement Concerning Defendant’s Representation.....	16
Transcript of Pleas.....	17
Order Transferring Venue and Continuing Sentencing.....	21
Statement Concerning Defendant’s Confinement.....	22
Defendant’s <i>Pro Se</i> Motion to Withdraw His Pleas.....	23
Order Denying Defendant’s Motion to Withdraw His Pleas.....	27
Prior Record Level Worksheet.....	37
Findings of Aggravating and Mitigating Factors.....	38
Judgments and Commitments.....	54
Defendant’s Attorneys’ Motion to Withdraw.....	76
Notice of Appeal.....	78
Order Allowing Attorneys to Withdraw.....	82
Appellate Entries.....	84
Appointment of the Appellate Defender.....	84
Extensions of Time.....	86
Assignments of Error.....	88
Certificate of Service.....	91
Stipulation and Settlement of Record.....	92
Certificate of Settlement.....	93
Names of Counsel.....	94

No.

EIGHTEENTH DISTRICT

NORTH CAROLINA COURT OF APPEALS

STATE OF NORTH CAROLINA)

v.)

THEODORE MEAD KIMBLE)

From Guilford

97 CrS 23656, 39581; 98 CrS 23486;

99 CrS 23241-48

ORGANIZATION OF TRIAL TRIBUNAL

These cases came on for entry of pleas at the January 25, 1999 Criminal Session of Guilford County Superior Court before Superior Court Judge Peter M. McHugh. On January 28, defendant entered guilty pleas in case numbers 97 CrS 39581, 97 CrS 23656, and 98 CrS 23486. On the same day, defendant consented to waiver of venue to Guilford County and entered *Alford* pleas in case numbers 99 CrS 23241-23248.

These cases came on for a hearing on defendant's *pro se* motion to withdraw his pleas at the March 1, 1999 Criminal Session of Guilford County Superior Court before Superior Court Judge Peter M. McHugh. On March 4, 1999, Judge McHugh denied defendant's motion and held sentencing proceedings. Judgments and Commitments were entered on March 5, 1999. Defendant appealed.

N91185L

File No. 97CR 039581

STATE OF NORTH CAROLINA

In The General Court Of Justice
District Court Division

GUILFORD County

WARRANT FOR ARREST

Offense

FIRST DEGREE MURDER

THE STATE OF NORTH CAROLINA VS.

Name, Address & Telephone No. Of Defendant

THEODORE MEAD KIMBLE
6318 LIBERTY ROAD
JULIAN, N.C. 27283

039581

Race	W	Sex	M	Date Of Birth	12-08-69	Age	27
Social Security No.	240-47-9619			Drivers License No. & State	7546920 N.C.		
Name Of Defendant's Employer	SELF EMPLOYED, LYLES BLD. MATERIAL, GSO						

Offense Code

Offense In Violation Of G.S. 14-17

Date Of Arrest & Check Digit No. (As Shown On Fingerprint Card)

OCTOBER 9, 1995
N47185L

Complainant (Name, Address Or Department, Phone No.)

DET. J. D. CHURCH
GUILFORD COUNTY SHERIFF'S DEPT.
SA H. G. PENDERGRASS
N.C. STATE BUREAU OF INVESTIGATION

Witnesses (Names, Addresses, Phone Numbers)

951009027

This act(s) was in violation of the law(s) referred to in this Warrant. This Warrant is issued upon information furnished under oath by the complainant listed. You are DIRECTED to arrest the defendant and bring the defendant before a judicial official without unnecessary delay to answer the charge(s) above.

Date Issued	<i>Oct 28, 1997</i>	Signature	<i>[Signature]</i>	Location Of Court	
Date Of Service		Magistrate	<input type="checkbox"/>	Court Date	
		Assistant CSC	<input type="checkbox"/>	Court Time	<input type="checkbox"/> AM <input type="checkbox"/> PM
		Deputy CSC			
		Clerk Of Superior Court			

Dist. Court Judge (Over)

GUILFORD-CR COUNTY

SUPERIOR COURT DIVISION

ORDER FOR ARREST

CTS CHARGE DESCRIPTION
01 F FIRST DEGREE ARSON

G. S. NUMBER
14-58

STATE OF NORTH CAROLINA
VS.

KIMBLE, THEODORE, MEAD
GUILFORD CTY JAIL

HIGH POINT NC

RACE: W SEX: M DOB: 12/08/69

DR LIC NO:

SOC SEC NO:

LID NO:

COMPLAINANT:

CHURCH, J. D

SFF

RECEIVED
SHERIFF'S OFFICE
98 JUL -7 PM 3:40
GUILFORD COUNTY

TO ANY OFFICER WITH AUTHORITY AND JURISDICTION TO SERVE AN ORDER FOR ARREST:

THE GRAND JURY OF THIS COUNTY HAVING RETURNED A TRUE BILL OF INDICTMENT, A COPY OF WHICH IS ATTACHED.

YOU ARE DIRECTED TO ARREST THE DEFENDANT AND BRING HIM BEFORE THE COURT AT THE PLACE, DATE AND TIME INDICATED BELOW OR UPON THE FIRST DAY OF COURT FOLLOWING HIS ARREST. IF COURT IS NOT IN SESSION, THEN YOU ARE TO TAKE HIM BEFORE A JUDICIAL OFFICIAL FOR THE PURPOSE OF DETERMINING CONDITIONS OF RELEASE AND COMMITMENT IF HE IS UNABLE TO COMPLY.

RELEASE IS TO BE THE OFFICIALS DISCRETION.

Def. must be fingerprinted.

Division Of Court
GREENSBORO, NC ROOM GB4C

Court Date 07/31/98

Court Time 09:30 AM

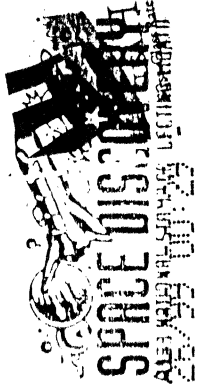
Date Of Issue 07/06/98

Signature

ESTIE BENNINGTON

Deputy CSC Assistant CSC Clerk Of Superior Court
 Magistrate District Court Judge Superior Court Judge

Therese Kimble
Po Box 786
Troy NC 27371



ISSUED FROM
SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INSTITUTION # 2530025

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

27400/9999

FILED

FEB 23 AM 10:48

GUILFORD COUNTY, C.S.C.

BY BBR

Clerk of Superior Court

I Theodore M. Kimble would like to withdraw my guilty-plea on all accounts and charges. I request to go before a jury and plead my case. I was pressured into my earlier plea. I'm not Guilty and here by withdraw my earlier plea of Guilty.

Thank you,

Theodore M. Kimble

2-24-99

2/26/99

cc: Richard Panosh

{ H.W. Zimmerman
1 { Crumpler
Freedman

cad

03/17

APR 1 920

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 stare at the Kimble trial."

3/1/99 cc: Panosh
Zimmerman/Crompter

DEFENDANT'S ASSIGNMENTS OF ERROR

Defendant assigns as error the following:

1. The trial court's findings of fact, conclusions of law, and ruling waiving attorney Zimmerman's conflict of interest and allowing Zimmerman to represent defendant, on the grounds that the findings were not supported by the evidence, and the conclusions and rulings were erroneous under North Carolina statutory and common law and violated defendant's State and Federal constitutional rights.

Dec. 3, 1998 Motions Hearing, Tpp. 46, line 6 through 49, line 14

2. The trial court's action in misinforming defendant about the consequences of his guilty pleas and *Alford* pleas, on the grounds that the court's statements to defendant about the mandatory minimum sentences and possible maximum sentences were erroneous under North Carolina statutory and common law, violated G.S. 15A-1022, and rendered defendant's pleas involuntary in violation of defendant's State and Federal constitutional rights. Defendant asserts plain error.

Jan. 28, 1999 Pleas Transcript, Tpp. 9, line 15 through 10, line 7
Jan. 28, 1999 Pleas Transcript, Tp. 12, lines 8-16
Rpp. 17-20

3. The trial court's acceptance of defendant's guilty pleas and *Alford* pleas, on the grounds that the pleas were not freely, voluntarily, and understandingly entered, and that the court's action was erroneous under North Carolina common law and G.S. 15A-1021 and 15A-1022, and violated defendant's State and Federal constitutional rights. Defendant asserts plain error.

Jan. 28, 1999 Pleas Transcript, Tp. 18, lines 4-14
Rp. 18

4. Defendant's attorneys' ineffective assistance of counsel at the hearing on his motion to withdraw his pleas, on the grounds that the attorneys had a conflict of interest and that their performance was deficient in violation of defendant's State and Federal constitutional rights.

Mar. 4, 1999 Motion to Withdraw, Tpp. 3-39

5. The trial court's ruling denying defendant's objection to State documentary exhibit number 1 and admission of that exhibit into evidence at the motion to withdraw hearing, on the grounds that the evidence was inadmissible and incompetent, and that the court's ruling was erroneous under North Carolina statutory and common law and violated defendant's State and Federal constitutional rights.

Mar. 4, 1999 Motion to Withdraw, Tpp. 29, line 23 through 30, line 14

6. The trial court's findings of fact, conclusions of law, and Order denying defendant's motion to withdraw his guilty pleas and *Alford* pleas, and entry of judgment and commitment in all cases, on the grounds that the trial court's statements about the mandatory minimum and possible maximum punishments were erroneous in law and violated G.S. 15A-1022; that defendant's pleas were involuntary, coerced, and uninformed in violation of G.S. 15A-1021 and 15A-1022 and North Carolina common law; that defendant received ineffective assistance of counsel at the motion to withdraw hearing; and that the court's findings are not supported by the evidence, the conclusions are not supported by the findings and are erroneous in law, and the Order is erroneous under North Carolina statutory and common law, and violative of defendant's State and Federal constitutional rights. To the extent this error is not preserved, defendant asserts plain error.

Mar. 4, 1999 Motion to Withdraw, Tpp. 30, line 19 through 39, line 14
Rpp. 27-36, 54-75

7. The trial court's admission of State witness James Bowman's testimony at the sentencing hearing, on the grounds that the evidence was inadmissible and incompetent hearsay and that the court's action was erroneous under North Carolina statutory and common law and violated defendant's State and Federal constitutional rights. Defendant asserts plain error.

Mar. 4, 1999 Sentencing Hearing, Tpp. 56, line 11 through 67, line 1

8. The Trial Court's finding of the non-statutory aggravating sentencing factor that "defendant acted with premeditation and deliberation in committing this offense" in case number 97 CrS 39581 and imposition of a greater-than-presumptive sentence in that case, on the grounds that the factor was not adequately proved in law, not supported by any competent record evidence, inherent in the offense, and supported by the same evidence used to prove an element of the offense in violation of North Carolina statutory and common law and defendant's State and Federal constitutional rights.

Mar. 5, 1999, Sentencing Hearing, Tpp. 220, line 5 through 221, line 10
Rpp. 38-39, 54-55

9. The Trial Court's finding of the non-statutory aggravating sentencing factor that "defendant acted for pecuniary gain" in case number 97 CrS 39581 and imposition of a greater-than-presumptive sentence in that case, on the grounds that the factor was not adequately proved in law and not supported by any competent record evidence in violation of North Carolina statutory and common law and defendant's State and Federal constitutional rights.

Mar. 5, 1999, Sentencing Hearing, Tpp. 220, line 5 through 221, line 10
Rpp. 38-39, 54-55

10. The Trial Court's finding of the non-statutory aggravating sentencing factor that the "offense was committed for the purpose of avoiding detection in the murder of Patricia Gail Kimble and for the purpose of covering up the murder" in case number 98 CrS 23486 and imposition of a greater-than-presumptive sentence in that case, on the grounds that the factor was not adequately proved in law, not supported by any competent record evidence, inherent in the offense, and supported by the same evidence used to prove an element of the offense in violation of North Carolina statutory and common law and defendant's State and Federal constitutional rights.

Mar. 5, 1999, Sentencing Hearing, Tpp. 221, line 25 through 222, line 23
Rpp. 40-41, 58-59

11. The trial court's findings of both statutory aggravating sentencing factors 5(a) and 5(b) in case numbers 99 CrS 23241, 23242, 23243, 23244, 23246, and 23247 and imposition of greater-than-presumptive sentences in those cases, on the grounds that the factors were not adequately proved in law, not supported by any competent record evidence, supported by the same evidence used to prove an element of the offense, and supported by the same evidence used to prove each other in violation of North Carolina statutory and common law and defendant's State and Federal constitutional rights.

Mar. 5, 1999, Sentencing Hearing, Tpp. 222, line 24 through 226, line 20
Rpp. 42-53, 60-73

In Case # 97 CRS 39581 an aggravated sentence for second degree murder of 204 months to 254 months to begin at the expiration of any sentence now serving;

In Case # 97 CRS 23656 a presumptive sentence for conspiracy to commit murder of a 163 months to 205 months to begin at the expiration of the second degree murder sentence in 97 CRS 39581;

In Case # 98 CRS 23486 an aggravated sentence for first degree arson of 82 months to 108 months to begin at the expiration of the conspiracy sentence in 97 CRS 23656;

In Case # 99 CRS 24241 an aggravated sentence for solicitation to commit murder of 108 months to 139 months running at the expiration of the first degree arson sentence in 98 CRS 23486;

In Case # 99 CRS 24242 an aggravated sentence for solicitation to commit murder of 108 months to 139 months running at the expiration of the solicitation to commit murder sentence in 99 CRS 24241;

In Case # 99 CRS 24243 an aggravated sentence for solicitation to commit murder of 108 months to 139 months running at the expiration of the solicitation to commit murder sentence in 99 CRS 24242;

In Case # 99 CRS 24244 an aggravated sentence for solicitation to commit murder of 108 months to 139 months running at the expiration of the solicitation to commit murder sentence in 99 CRS 24243;

In Case # 99 CRS 24245 a presumptive sentence for solicitation to commit murder of 96 months to 125 months running at the expiration of the solicitation to commit murder sentence in 99 CRS 24244;

In Case # 99 CRS 24246 an aggravated sentence for solicitation to commit murder of 108 months to 139 months running at the expiration of the solicitation to commit murder sentence in 99 CRS 24245;

In Case # 99 CRS 24247 an aggravated sentence for solicitation to commit murder of 108 months to 139 months running at the expiration of the solicitation to commit murder sentence in 99 CRS 24246;

In Case # 99 CRS 24248 a presumptive sentence for solicitation to commit murder of 96 months to 125 months running at the expiration of the solicitation to commit murder sentence in 99 CRS 24247;

EXHIBIT (E) 1012

STATE OF NORTH CAROLINA

Case No.

97CRS39581

Guilford

County

FILED

In The General Court Of Justice
Superior Court Division

STATE VERSUS

1999 MAR 5

PM 12:44

FELONY JUDGMENT
FINDINGS OF AGGRAVATING
AND MITIGATING FACTORS
(STRUCTURED SENTENCING)

Name Of Defendant

Theodore Mead Kimble

Offense

Second degree murder

G.S.C.

G.S. 15A-1340.16

NOTE: When consolidating offenses for judgment, findings of aggravating factors and mitigating factors should be made only for the most serious offense. Separate findings of aggravating factors and mitigating factors should be made for each offense that is not consolidated.

AGGRAVATING FACTORS

- 1. The Defendant:
 - a. induced others to participate in the commission of the offense.
 - b. occupied a position of leadership or dominance of other participants in the commission of the offense.
- 2. The defendant joined with more than one other person in committing the offense and was not charged with committing a conspiracy.
- 2.a. The offense was committed for the benefit of, or at the direction of, any criminal street gang, with the specific intent to promote, further, or assist in any criminal conduct by gang members, and the defendant was not charged with committing a conspiracy.
- 3. The offense was committed for the purpose of:
 - a. avoiding or preventing a lawful arrest.
 - b. effecting an escape from custody.
- 4. The defendant was:
 - a. hired to commit the offense.
 - b. paid to commit the offense.
- 5. The offense was committed to:
 - a. disrupt the lawful exercise of a governmental function or the enforcement of laws.
 - b. hinder the lawful exercise of a governmental function or the enforcement of laws.
- 6. The offense was committed against or proximately caused serious injury to a present or former law enforcement officer, employee of the Department of Correction, jailer, fireman, emergency medical technician, ambulance attendant, justice of the peace, judge, clerk or assistant or deputy clerk of court, magistrate, prosecutor, juror, or witness against the defendant, while engaged in the performance of that person's official duties or because of the exercise of that person's official duties.
- 7. The offense was especially heinous, atrocious or cruel.
- 8. The defendant knowingly created a great risk of death to more than one person by means of a weapon or device which would normally be hazardous to the lives of more than one person.
- 9. The defendant held public office at the time of the offense and the offense related to the conduct of the office.
- 10. The defendant:
 - a. was armed with a deadly weapon at the time of the crime.
 - b. used a deadly weapon at the time of the crime.
- 11. The victim was:
 - a. very young.
 - b. very old.
 - c. mentally infirm.
 - d. physically infirm.
 - e. handicapped.
- 12. The defendant committed the offense while on pretrial release on another charge.
- 13. The defendant involved a person under the age of 16 in the commission of the crime.
- 14. The offense involved:
 - a. an attempted taking of property of great monetary value.
 - b. the actual taking of property of great monetary value.
 - c. damage causing great monetary loss.
 - d. an unusually large quantity of contraband.
- 15. The defendant took advantage of a position of trust or confidence to commit the offense.
- 16. The offense involved the sale or delivery of a controlled substance to a minor.
- 17. The offense was committed against a victim because of the victim's race, color, religion, nationality, or country of origin.
- 18. The defendant does not support the defendant's family.
- 18.a. The defendant has previously been adjudicated delinquent for an offense that would be a Class A, B, C, D or E felony if committed by an adult.
- 19. The victim of this offense suffered serious injury that is permanent and debilitating.
- 20. Additional written findings of factors in aggravation:

- 1. The defendant acted with premeditation and deliberation in committing this offense.
- 2. The defendant acted for pecuniary gain in committing the offense.

The Court makes no findings of any aggravating factors.

EXHIBIT (E) 2097

- 1. The defendant committed the offense under:
 - a. duress which was insufficient to constitute a defense but significantly reduced the defendant's culpability.
 - b. coercion which was insufficient to constitute a defense but significantly reduced the defendant's culpability.
 - c. threat which was insufficient to constitute a defense but significantly reduced the defendant's culpability.
 - d. compulsion which was insufficient to constitute a defense but significantly reduced the defendant's culpability.
- 2. The defendant:
 - a. was a passive participant in the commission of the offense.
 - b. played a minor role in the commission of the offense.
- 3. The defendant was suffering from a:
 - a. mental condition that was insufficient to constitute a defense but significantly reduced the defendant's culpability for the offense.
 - b. physical condition that was insufficient to constitute a defense but significantly reduced the defendant's culpability for the offense.
- 4. The defendant's:
 - a. age, or immaturity, at the time of the commission of the offense significantly reduced the defendant's culpability for the offense.
 - b. limited mental capacity at the time of the commission of the offense significantly reduced the defendant's culpability for the offense.
- 5. The defendant has made:
 - a. substantial restitution to the victim.
 - b. full restitution to the victim.
- 6. The victim was more than 16 years of age and:
 - a. was a voluntary participant in the defendant's conduct.
 - b. consented to the defendant's conduct.
- 7. The defendant:
 - a. aided in the apprehension of another felon.
 - b. testified truthfully on behalf of the state in another prosecution of a felony.
- 8. a. The defendant acted under strong provocation.
 - b. The relationship between the defendant and the victim was otherwise extenuating.
- 9. The defendant:
 - a. could not reasonably foresee that the defendant's conduct would cause or threaten serious bodily harm or fear.
 - b. exercised caution to avoid serious bodily harm or fear to other persons.
- 10. The defendant reasonably believed that the defendant's conduct was legal.
- 11. The defendant voluntarily acknowledged wrongdoing in connection with the offense to a law enforcement officer:
 - a. at an early stage of the criminal process.
 - b. prior to arrest.
- 12. The defendant has been a person of good character or has had a good reputation in the community in which the defendant lives.
- 13. The defendant is a minor and has reliable supervision available.
- 14. The defendant has been honorably discharged from the United States Armed Services.
- 15. The defendant has accepted responsibility for the defendant's criminal conduct.
- 16. The defendant has entered and is currently involved in or has successfully completed a drug treatment program or an alcohol treatment program subsequent to arrest and prior to trial.
- 17. The defendant supports the defendant's family.
- 18. The defendant has a support system in the community.
- 19. The defendant has a positive employment history or is gainfully employed.
- 20. The defendant has a good treatment prognosis and a workable treatment plan is available.
- 21. Additional written findings of factors in mitigation:

The Court makes no findings of any mitigating factors.

DETERMINATION (NOTE: Check only one)

The Court, after considering the evidence and arguments presented at the trial and sentencing hearing, finds that the aggravating and mitigating factors marked, if any, were proven by a preponderance of the evidence and that the

- factors in aggravation outweigh the factors in mitigation and that an aggravated sentence is justified.
- factors in mitigation outweigh the factors in aggravation and that a mitigated sentence is justified.

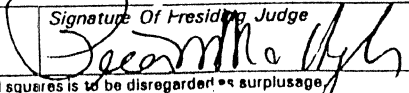
Date 03-05-99	Name Of Presiding Judge (Type Or Print) PETER M. MCHUGH	Signature Of Presiding Judge 
------------------	--	--

EXHIBIT (F) 1 of 2

Guilford

County

In The General Court Of Justice
Superior Court Division

STATE VERSUS

1999 MAR -5 TIME: 44

Name Of Defendant

Theodore Mead Kimble

FELONY JUDGMENT
FINDINGS OF AGGRAVATING
AND MITIGATING FACTORS
(STRUCTURED SENTENCING)

Offense

First degree arson

G.S. 15A-1340.16

NOTE: When consolidating offenses for judgment, findings of aggravating factors and mitigating factors should be made only for the most serious offense. Separate findings of aggravating factors and mitigating factors should be made for each offense that is not consolidated.

AGGRAVATING FACTORS

- 1. The Defendant:
 - a. induced others to participate in the commission of the offense.
 - b. occupied a position of leadership or dominance of other participants in the commission of the offense.
- 2. The defendant joined with more than one other person in committing the offense and was not charged with committing a conspiracy.
- 2.a. The offense was committed for the benefit of, or at the direction of, any criminal street gang, with the specific intent to promote, further, or assist in any criminal conduct by gang members, and the defendant was not charged with committing a conspiracy.
- 3. The offense was committed for the purpose of:
 - a. avoiding or preventing a lawful arrest.
 - b. effecting an escape from custody.
- 4. The defendant was:
 - a. hired to commit the offense.
 - b. paid to commit the offense.
- 5. The offense was committed to:
 - a. disrupt the lawful exercise of a governmental function or the enforcement of laws.
 - b. hinder the lawful exercise of a governmental function or the enforcement of laws.
- 6. The offense was committed against or proximately caused serious injury to a present or former law enforcement officer, employee of the Department of Correction, jailer, fireman, emergency medical technician, ambulance attendant, justice or judge, clerk or assistant or deputy clerk of court, magistrate, prosecutor, juror, or witness against the defendant, while engaged in the performance of that person's official duties or because of the exercise of that person's official duties.
- 7. The offense was especially heinous, atrocious or cruel.
- 8. The defendant knowingly created a great risk of death to more than one person by means of a weapon or device which would normally be hazardous to the lives of more than one person.
- 9. The defendant held public office at the time of the offense and the offense related to the conduct of the office.
- 10. The defendant:
 - a. was armed with a deadly weapon at the time of the crime.
 - b. used a deadly weapon at the time of the crime.
- 11. The victim was:
 - a. very young.
 - b. very old.
 - c. mentally infirm.
 - d. physically infirm.
 - e. handicapped.
- 12. The defendant committed the offense while on pretrial release on another charge.
- 13. The defendant involved a person under the age of 16 in the commission of the crime.
- 14. The offense involved:
 - a. an attempted taking of property of great monetary value.
 - b. the actual taking of property of great monetary value.
 - c. damage causing great monetary loss.
 - d. an unusually large quantity of contraband.
- 15. The defendant took advantage of a position of trust or confidence to commit the offense.
- 16. The offense involved the sale or delivery of a controlled substance to a minor.
- 17. The offense was committed against a victim because of the victim's race, color, religion, nationality, or country of origin.
- 18. The defendant does not support the defendant's family.
- 18.a. The defendant has previously been adjudicated delinquent for an offense that would be a Class A, B, C, D or E felony if committed by an adult.
- 19. The victim of this offense suffered serious injury that is permanent and debilitating.
- 20. Additional written findings of factors in aggravation:
This offense was committed for the purpose of avoiding detection in the murder of Patricia Gail Kimble and for the purpose of covering up the murder.

The Court makes no findings of any aggravating factors.

MITIGATING FACTORS

1. The defendant committed the offense under: **EXHIBIT (F) 2012**
- a. duress which was insufficient to constitute a defense but significantly reduced the defendant's culpability.
 - b. coercion which was insufficient to constitute a defense but significantly reduced the defendant's culpability.
 - c. threat which was insufficient to constitute a defense but significantly reduced the defendant's culpability.
 - d. compulsion which was insufficient to constitute a defense but significantly reduced the defendant's culpability.
2. The defendant:
- a. was a passive participant in the commission of the offense.
 - b. played a minor role in the commission of the offense.
3. The defendant was suffering from a:
- a. mental condition that was insufficient to constitute a defense but significantly reduced the defendant's culpability for the offense.
 - b. physical condition that was insufficient to constitute a defense but significantly reduced the defendant's culpability for the offense.
4. The defendant's:
- a. age, or immaturity, at the time of the commission of the offense significantly reduced the defendant's culpability for the offense.
 - b. limited mental capacity at the time of the commission of the offense significantly reduced the defendant's culpability for the offense.
5. The defendant has made:
- a. substantial restitution to the victim.
 - b. full restitution to the victim.
6. The victim was more than 16 years of age and:
- a. was a voluntary participant in the defendant's conduct.
 - b. consented to the defendant's conduct.
7. The defendant:
- a. aided in the apprehension of another felon.
 - b. testified truthfully on behalf of the state in another prosecution of a felony.
8. a. The defendant acted under strong provocation.
 b. The relationship between the defendant and the victim was otherwise extenuating.
9. The defendant:
- a. could not reasonably foresee that the defendant's conduct would cause or threaten serious bodily harm or fear.
 - b. exercised caution to avoid serious bodily harm or fear to other persons.
10. The defendant reasonably believed that the defendant's conduct was legal.
11. The defendant voluntarily acknowledged wrongdoing in connection with the offense to a law enforcement officer:
- a. at an early stage of the criminal process.
 - b. prior to arrest.
12. The defendant has been a person of good character or has had a good reputation in the community in which the defendant lives.
13. The defendant is a minor and has reliable supervision available.
14. The defendant has been honorably discharged from the United States Armed Services.
15. The defendant has accepted responsibility for the defendant's criminal conduct.
16. The defendant has entered and is currently involved in or has successfully completed a drug treatment program or an alcohol treatment program subsequent to arrest and prior to trial.
17. The defendant supports the defendant's family.
18. The defendant has a support system in the community.
19. The defendant has a positive employment history or is gainfully employed.
20. The defendant has a good treatment prognosis and a workable treatment plan is available.
21. Additional written findings of factors in mitigation:

The Court makes no findings of any mitigating factors.

DETERMINATION (NOTE: Check only one)

The Court, after considering the evidence and arguments presented at the trial and sentencing hearing, finds that the aggravating and mitigating factors marked, if any, were proven by a preponderance of the evidence and that the

- factors in aggravation outweigh the factors in mitigation and that an aggravated sentence is justified.
- factors in mitigation outweigh the factors in aggravation and that a mitigated sentence is justified.

Date 03-05-99	Name Of Presiding Judge (Type Or Print) PETER M. MCHUGH	Signature Of Presiding Judge 
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STATE OF NORTH CAROLINA

Guilford ...

County

EXHIBIT (G) 1 of 2

No.

99CRS 23241

In The General Court Of Justice
Superior Court Division

STATE VERSUS

1000-5 11/2/95
G.S.C.

FELONY JUDGMENT
FINDINGS OF AGGRAVATING
AND MITIGATING FACTORS
(STRUCTURED SENTENCING)

Name Of Defendant

Theodore Mead Kimble

Offense

Solicitation: first degree murder

G.S. 15A-1340.16

NOTE: When consolidating offenses for judgment, findings of aggravating factors and mitigating factors should be made only for the most serious offense. Separate findings of aggravating factors and mitigating factors should be made for each offense that is not consolidated.

AGGRAVATING FACTORS

- 1. The Defendant:
 - a. induced others to participate in the commission of the offense.
 - b. occupied a position of leadership or dominance of other participants in the commission of the offense.
- 2. The defendant joined with more than one other person in committing the offense and was not charged with committing a conspiracy.
- 2.a. The offense was committed for the benefit of, or at the direction of, any criminal street gang, with the specific intent to promote, further, or assist in any criminal conduct by gang members, and the defendant was not charged with committing a conspiracy.
- 3. The offense was committed for the purpose of:
 - a. avoiding or preventing a lawful arrest.
 - b. effecting an escape from custody.
- 4. The defendant was:
 - a. hired to commit the offense.
 - b. paid to commit the offense.
- 5. The offense was committed to:
 - a. disrupt the lawful exercise of a governmental function or the enforcement of laws.
 - b. hinder the lawful exercise of a governmental function or the enforcement of laws.
- 6. The offense was committed against or proximately caused serious injury to a present or former law enforcement officer, employee of the Department of Correction, jailer, fireman, emergency medical technician, ambulance attendant, justice or judge, clerk or assistant or deputy clerk of court, magistrate, prosecutor, juror, or witness against the defendant, while engaged in the performance of that person's official duties or because of the exercise of that person's official duties.
- 7. The offense was especially heinous, atrocious or cruel.
- 8. The defendant knowingly created a great risk of death to more than one person by means of a weapon or device which would normally be hazardous to the lives of more than one person.
- 9. The defendant held public office at the time of the offense and the offense related to the conduct of the office.
- 10. The defendant:
 - a. was armed with a deadly weapon at the time of the crime.
 - b. used a deadly weapon at the time of the crime.
- 11. The victim was:
 - a. very young.
 - b. very old.
 - c. mentally infirm.
 - d. physically infirm.
 - e. handicapped.
- 12. The defendant committed the offense while on pretrial release on another charge.
- 13. The defendant involved a person under the age of 16 in the commission of the crime.
- 14. The offense involved:
 - a. an attempted taking of property of great monetary value.
 - b. the actual taking of property of great monetary value.
 - c. damage causing great monetary loss.
 - d. an unusually large quantity of contraband.
- 15. The defendant took advantage of a position of trust or confidence to commit the offense.
- 16. The offense involved the sale or delivery of a controlled substance to a minor.
- 17. The offense was committed against a victim because of the victim's race, color, religion, nationality, or country of origin.
- 18. The defendant does not support the defendant's family.
- 18.a. The defendant has previously been adjudicated delinquent for an offense that would be a Class A, B, C, D or E felony if committed by an adult.
- 19. The victim of this offense suffered serious injury that is permanent and debilitating.
- 20. Additional written findings of factors in aggravation:

The Court makes no findings of any aggravating factors.

MITIGATING FACTORS

1. The defendant committed the offense under: *EXHIBIT (G) 2 of 2*
- a. duress which was insufficient to constitute a defense but significantly reduced the defendant's culpability.
 - b. coercion which was insufficient to constitute a defense but significantly reduced the defendant's culpability.
 - c. threat which was insufficient to constitute a defense but significantly reduced the defendant's culpability.
 - d. compulsion which was insufficient to constitute a defense but significantly reduced the defendant's culpability.
2. The defendant:
- a. was a passive participant in the commission of the offense.
 - b. played a minor role in the commission of the offense.
3. The defendant was suffering from a:
- a. mental condition that was insufficient to constitute a defense but significantly reduced the defendant's culpability for the offense.
 - b. physical condition that was insufficient to constitute a defense but significantly reduced the defendant's culpability for the offense.
4. The defendant's:
- a. age, or immaturity, at the time of the commission of the offense significantly reduced the defendant's culpability for the offense.
 - b. limited mental capacity at the time of the commission of the offense significantly reduced the defendant's culpability for the offense.
5. The defendant has made:
- a. substantial restitution to the victim.
 - b. full restitution to the victim.
6. The victim was more than 16 years of age and:
- a. was a voluntary participant in the defendant's conduct.
 - b. consented to the defendant's conduct.
7. The defendant:
- a. aided in the apprehension of another felon.
 - b. testified truthfully on behalf of the state in another prosecution of a felony.
8. a. The defendant acted under strong provocation.
 b. The relationship between the defendant and the victim was otherwise extenuating.
9. The defendant:
- a. could not reasonably foresee that the defendant's conduct would cause or threaten serious bodily harm or fear.
 - b. exercised caution to avoid serious bodily harm or fear to other persons.
10. The defendant reasonably believed that the defendant's conduct was legal.
11. The defendant voluntarily acknowledged wrongdoing in connection with the offense to a law enforcement officer:
- a. at an early stage of the criminal process.
 - b. prior to arrest.
12. The defendant has been a person of good character or has had a good reputation in the community in which the defendant lives.
13. The defendant is a minor and has reliable supervision available.
14. The defendant has been honorably discharged from the United States Armed Services.
15. The defendant has accepted responsibility for the defendant's criminal conduct.
16. The defendant has entered and is currently involved in or has successfully completed a drug treatment program or an alcohol treatment program subsequent to arrest and prior to trial.
17. The defendant supports the defendant's family.
18. The defendant has a support system in the community.
19. The defendant has a positive employment history or is gainfully employed.
20. The defendant has a good treatment prognosis and a workable treatment plan is available.
21. Additional written findings of factors in mitigation:

The Court makes no findings of any mitigating factors.

DETERMINATION (NOTE: Check only one)

The Court, after considering the evidence and arguments presented at the trial and sentencing hearing, finds that the aggravating and mitigating factors marked, if any, were proven by a preponderance of the evidence and that the

- factors in aggravation outweigh the factors in mitigation and that an aggravated sentence is justified.
 factors in mitigation outweigh the factors in aggravation and that a mitigated sentence is justified.

Date
03-05-99

Name Of Presiding Judge (Type Or Print)
PETER M. MCHUGH

Signature Of Presiding Judge

Peter M. McHugh

STATE OF NORTH CAROLINA

No.

99CRS 23242

Guilford

County

EXHIBIT (H) 1042

In The General Court Of Justice
Superior Court Division

STATE VERSUS

1999 JAN -5 11:15:15

Name Of Defendant

Theodore Mead Kimble

FELONY JUDGMENT
FINDINGS OF AGGRAVATING
AND MITIGATING FACTORS
(STRUCTURED SENTENCING)

Offense

Solicitation first degree murder

COJ

G.S. 15A-1340.16

NOTE: When consolidating offenses for judgment, findings of aggravating factors and mitigating factors should be made only for the most serious offense. Separate findings of aggravating factors and mitigating factors should be made for each offense that is not consolidated.

AGGRAVATING FACTORS

- 1. The Defendant:
 - a. induced others to participate in the commission of the offense.
 - b. occupied a position of leadership or dominance of other participants in the commission of the offense.
- 2. The defendant joined with more than one other person in committing the offense and was not charged with committing a conspiracy.
- 2.a. The offense was committed for the benefit of, or at the direction of, any criminal street gang, with the specific intent to promote, further, or assist in any criminal conduct by gang members, and the defendant was not charged with committing a conspiracy.
- 3. The offense was committed for the purpose of:
 - a. avoiding or preventing a lawful arrest.
 - b. effecting an escape from custody.
- 4. The defendant was:
 - a. hired to commit the offense.
 - b. paid to commit the offense.
- 5. The offense was committed to:
 - a. disrupt the lawful exercise of a governmental function or the enforcement of laws.
 - b. hinder the lawful exercise of a governmental function or the enforcement of laws.
- 6. The offense was committed against or proximately caused serious injury to a present or former law enforcement officer, employee of the Department of Correction, jailer, fireman, emergency medical technician, ambulance attendant, justice or judge, clerk or assistant or deputy clerk of court, magistrate, prosecutor, juror, or witness against the defendant, while engaged in the performance of that person's official duties or because of the exercise of that person's official duties.
- 7. The offense was especially heinous, atrocious or cruel.
- 8. The defendant knowingly created a great risk of death to more than one person by means of a weapon or device which would normally be hazardous to the lives of more than one person.
- 9. The defendant held public office at the time of the offense and the offense related to the conduct of the office.
- 10. The defendant:
 - a. was armed with a deadly weapon at the time of the crime.
 - b. used a deadly weapon at the time of the crime.
- 11. The victim was:
 - a. very young.
 - b. very old.
 - c. mentally infirm.
 - d. physically infirm.
 - e. handicapped.
- 12. The defendant committed the offense while on pretrial release on another charge.
- 13. The defendant involved a person under the age of 16 in the commission of the crime.
- 14. The offense involved:
 - a. an attempted taking of property of great monetary value.
 - b. the actual taking of property of great monetary value.
 - c. damage causing great monetary loss.
 - d. an unusually large quantity of contraband.
- 15. The defendant took advantage of a position of trust or confidence to commit the offense.
- 16. The offense involved the sale or delivery of a controlled substance to a minor.
- 17. The offense was committed against a victim because of the victim's race, color, religion, nationality, or country of origin.
- 18. The defendant does not support the defendant's family.
- 18.a. The defendant has previously been adjudicated delinquent for an offense that would be a Class A, B, C, D or E felony if committed by an adult.
- 19. The victim of this offense suffered serious injury that is permanent and debilitating.
- 20. Additional written findings of factors in aggravation:

The Court makes no findings of any aggravating factors.

MITIGATING FACTORS

1. The defendant committed the offense under: *EXHIBIT (H) 2073*
- a. duress which was insufficient to constitute a defense but significantly reduced the defendant's culpability.
 - b. coercion which was insufficient to constitute a defense but significantly reduced the defendant's culpability.
 - c. threat which was insufficient to constitute a defense but significantly reduced the defendant's culpability.
 - d. compulsion which was insufficient to constitute a defense but significantly reduced the defendant's culpability.
2. The defendant:
- a. was a passive participant in the commission of the offense.
 - b. played a minor role in the commission of the offense.
3. The defendant was suffering from a:
- a. mental condition that was insufficient to constitute a defense but significantly reduced the defendant's culpability for the offense.
 - b. physical condition that was insufficient to constitute a defense but significantly reduced the defendant's culpability for the offense.
4. The defendant's:
- a. age, or immaturity, at the time of the commission of the offense significantly reduced the defendant's culpability for the offense.
 - b. limited mental capacity at the time of the commission of the offense significantly reduced the defendant's culpability for the offense.
5. The defendant has made:
- a. substantial restitution to the victim.
 - b. full restitution to the victim.
6. The victim was more than 16 years of age and:
- a. was a voluntary participant in the defendant's conduct.
 - b. consented to the defendant's conduct.
7. The defendant:
- a. aided in the apprehension of another felon.
 - b. testified truthfully on behalf of the state in another prosecution of a felony.
8. a. The defendant acted under strong provocation.
 b. The relationship between the defendant and the victim was otherwise extenuating.
9. The defendant:
- a. could not reasonably foresee that the defendant's conduct would cause or threaten serious bodily harm or fear.
 - b. exercised caution to avoid serious bodily harm or fear to other persons.
10. The defendant reasonably believed that the defendant's conduct was legal.
11. The defendant voluntarily acknowledged wrongdoing in connection with the offense to a law enforcement officer:
- a. at an early stage of the criminal process.
 - b. prior to arrest.
12. The defendant has been a person of good character or has had a good reputation in the community in which the defendant lives.
13. The defendant is a minor and has reliable supervision available.
14. The defendant has been honorably discharged from the United States Armed Services.
15. The defendant has accepted responsibility for the defendant's criminal conduct.
16. The defendant has entered and is currently involved in or has successfully completed a drug treatment program or an alcohol treatment program subsequent to arrest and prior to trial.
17. The defendant supports the defendant's family.
18. The defendant has a support system in the community.
19. The defendant has a positive employment history or is gainfully employed.
20. The defendant has a good treatment prognosis and a workable treatment plan is available.
21. Additional written findings of factors in mitigation:

The Court makes no findings of any mitigating factors.

DETERMINATION (NOTE: Check only one)

The Court, after considering the evidence and arguments presented at the trial and sentencing hearing, finds that the aggravating and mitigating factors marked, if any, were proven by a preponderance of the evidence and that the

- factors in aggravation outweigh the factors in mitigation and that an aggravated sentence is justified.
- factors in mitigation outweigh the factors in aggravation and that a mitigated sentence is justified.

Date

03-05-99

Name Of Presiding Judge (Type Or Print)

PETER M. MCHUGH

Signature Of Presiding Judge

Deen MCHUGH

Guilford

County

EXHIBIT I left

In The General Court Of Justice
Superior Court Division

STATE VERSUS

Name Of Defendant

Theodore Mead Kimble

FELONY JUDGMENT

FINDINGS OF AGGRAVATING
AND MITIGATING FACTORS
(STRUCTURED SENTENCING)

Offense

Solicitation first degree murder

G.S. 15A-1340.16

NOTE: When consolidating offenses for judgment, findings of aggravating factors and mitigating factors should be made only for the most serious offense. Separate findings of aggravating factors and mitigating factors should be made for each offense that is not consolidated.

AGGRAVATING FACTORS

- 1. The Defendant:
 - a. induced others to participate in the commission of the offense.
 - b. occupied a position of leadership or dominance of other participants in the commission of the offense.
- 2. The defendant joined with more than one other person in committing the offense and was not charged with committing a conspiracy.
- 2.a. The offense was committed for the benefit of, or at the direction of, any criminal street gang, with the specific intent to promote, further, or assist in any criminal conduct by gang members, and the defendant was not charged with committing a conspiracy.
- 3. The offense was committed for the purpose of:
 - a. avoiding or preventing a lawful arrest.
 - b. effecting an escape from custody.
- 4. The defendant was:
 - a. hired to commit the offense.
 - b. paid to commit the offense.
- 5. The offense was committed to:
 - a. disrupt the lawful exercise of a governmental function or the enforcement of laws.
 - b. hinder the lawful exercise of a governmental function or the enforcement of laws.
- 6. The offense was committed against or proximately caused serious injury to a present or former law enforcement officer, employee of the Department of Correction, jailer, fireman, emergency medical technician, ambulance attendant, justice or judge, clerk or assistant or deputy clerk of court, magistrate, prosecutor, juror, or witness against the defendant, while engaged in the performance of that person's official duties or because of the exercise of that person's official duties.
- 7. The offense was especially heinous, atrocious or cruel.
- 8. The defendant knowingly created a great risk of death to more than one person by means of a weapon or device which would normally be hazardous to the lives of more than one person.
- 9. The defendant held public office at the time of the offense and the offense related to the conduct of the office.
- 10. The defendant:
 - a. was armed with a deadly weapon at the time of the crime.
 - b. used a deadly weapon at the time of the crime.
- 11. The victim was:
 - a. very young.
 - b. very old.
 - c. mentally infirm.
 - d. physically infirm.
 - e. handicapped.
- 12. The defendant committed the offense while on pretrial release on another charge.
- 13. The defendant involved a person under the age of 16 in the commission of the crime.
- 14. The offense involved:
 - a. an attempted taking of property of great monetary value.
 - b. the actual taking of property of great monetary value.
 - c. damage causing great monetary loss.
 - d. an unusually large quantity of contraband.
- 15. The defendant took advantage of a position of trust or confidence to commit the offense.
- 16. The offense involved the sale or delivery of a controlled substance to a minor.
- 17. The offense was committed against a victim because of the victim's race, color, religion, nationality, or country of origin.
- 18. The defendant does not support the defendant's family.
- 18.a. The defendant has previously been adjudicated delinquent for an offense that would be a Class A, B, C, D or E felony if committed by an adult.
- 19. The victim of this offense suffered serious injury that is permanent and debilitating.
- 20. Additional written findings of factors in aggravation:

The Court makes no findings of any aggravating factors.

MITIGATING FACTORS

- 1. The defendant committed the offense under: *EXWBK I JoFz*
 - a. duress which was insufficient to constitute a defense but significantly reduced the defendant's culpability.
 - b. coercion which was insufficient to constitute a defense but significantly reduced the defendant's culpability.
 - c. threat which was insufficient to constitute a defense but significantly reduced the defendant's culpability.
 - d. compulsion which was insufficient to constitute a defense but significantly reduced the defendant's culpability.
- 2. The defendant:
 - a. was a passive participant in the commission of the offense.
 - b. played a minor role in the commission of the offense.
- 3. The defendant was suffering from a:
 - a. mental condition that was insufficient to constitute a defense but significantly reduced the defendant's culpability for the offense.
 - b. physical condition that was insufficient to constitute a defense but significantly reduced the defendant's culpability for the offense.
- 4. The defendant's:
 - a. age, or immaturity, at the time of the commission of the offense significantly reduced the defendant's culpability for the offense.
 - b. limited mental capacity at the time of the commission of the offense significantly reduced the defendant's culpability for the offense.
- 5. The defendant has made:
 - a. substantial restitution to the victim.
 - b. full restitution to the victim.
- 6. The victim was more than 16 years of age and:
 - a. was a voluntary participant in the defendant's conduct.
 - b. consented to the defendant's conduct.
- 7. The defendant:
 - a. aided in the apprehension of another felon.
 - b. testified truthfully on behalf of the state in another prosecution of a felony.
- 8. a. The defendant acted under strong provocation.
 - b. The relationship between the defendant and the victim was otherwise extenuating.
- 9. The defendant:
 - a. could not reasonably foresee that the defendant's conduct would cause or threaten serious bodily harm or fear.
 - b. exercised caution to avoid serious bodily harm or fear to other persons.
- 10. The defendant reasonably believed that the defendant's conduct was legal.
- 11. The defendant voluntarily acknowledged wrongdoing in connection with the offense to a law enforcement officer:
 - a. at an early stage of the criminal process.
 - b. prior to arrest.
- 12. The defendant has been a person of good character or has had a good reputation in the community in which the defendant lives.
- 13. The defendant is a minor and has reliable supervision available.
- 14. The defendant has been honorably discharged from the United States Armed Services.
- 15. The defendant has accepted responsibility for the defendant's criminal conduct.
- 16. The defendant has entered and is currently involved in or has successfully completed a drug treatment program or an alcohol treatment program subsequent to arrest and prior to trial.
- 17. The defendant supports the defendant's family.
- 18. The defendant has a support system in the community.
- 19. The defendant has a positive employment history or is gainfully employed.
- 20. The defendant has a good treatment prognosis and a workable treatment plan is available.
- 21. Additional written findings of factors in mitigation:

The Court makes no findings of any mitigating factors.

DETERMINATION (NOTE: Check only one)

The Court, after considering the evidence and arguments presented at the trial and sentencing hearing, finds that the aggravating and mitigating factors marked, if any, were proven by a preponderance of the evidence and that the

- factors in aggravation outweigh the factors in mitigation and that an aggravated sentence is justified.
- factors in mitigation outweigh the factors in aggravation and that a mitigated sentence is justified.

Date
03-05-99

Name Of Presiding Judge (Type Or Print)
PETER M. MCHUGH

Signature Of Presiding Judge

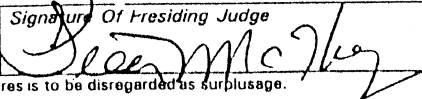


EXHIBIT (3) 10/2

Guilford County

In The General Court Of Justice
Superior Court Division

STATE VERSUS

Name Of Defendant

Theodore Mead Kimble

Offense

Solicitation first degree murder

FELONY JUDGMENT
FINDINGS OF AGGRAVATING
AND MITIGATING FACTORS
(STRUCTURED SENTENCING)

G.S. 15A-1340.16

200

NOTE: When consolidating offenses for judgment, findings of aggravating factors and mitigating factors should be made only for the most serious offense. Separate findings of aggravating factors and mitigating factors should be made for each offense that is not consolidated.

AGGRAVATING FACTORS

- 1. The Defendant:
 - a. induced others to participate in the commission of the offense.
 - b. occupied a position of leadership or dominance of other participants in the commission of the offense.
- 2. The defendant joined with more than one other person in committing the offense and was not charged with committing a conspiracy.
- 2.a. The offense was committed for the benefit of, or at the direction of, any criminal street gang, with the specific intent to promote, further, or assist in any criminal conduct by gang members, and the defendant was not charged with committing a conspiracy.
- 3. The offense was committed for the purpose of:
 - a. avoiding or preventing a lawful arrest.
 - b. effecting an escape from custody.
- 4. The defendant was:
 - a. hired to commit the offense.
 - b. paid to commit the offense.
- 5. The offense was committed to:
 - a. disrupt the lawful exercise of a governmental function or the enforcement of laws.
 - b. hinder the lawful exercise of a governmental function or the enforcement of laws.
- 6. The offense was committed against or proximately caused serious injury to a present or former law enforcement officer, employee of the Department of Correction, jailer, fireman, emergency medical technician, ambulance attendant, justice or judge, clerk or assistant or deputy clerk of court, magistrate, prosecutor, juror, or witness against the defendant, while engaged in the performance of that person's official duties or because of the exercise of that person's official duties.
- 7. The offense was especially heinous, atrocious or cruel.
- 8. The defendant knowingly created a great risk of death to more than one person by means of a weapon or device which would normally be hazardous to the lives of more than one person.
- 9. The defendant held public office at the time of the offense and the offense related to the conduct of the office.
- 10. The defendant:
 - a. was armed with a deadly weapon at the time of the crime.
 - b. used a deadly weapon at the time of the crime.
- 11. The victim was:
 - a. very young.
 - b. very old.
 - c. mentally infirm.
 - d. physically infirm.
 - e. handicapped.
- 12. The defendant committed the offense while on pretrial release on another charge.
- 13. The defendant involved a person under the age of 16 in the commission of the crime.
- 14. The offense involved:
 - a. an attempted taking of property of great monetary value.
 - b. the actual taking of property of great monetary value.
 - c. damage causing great monetary loss.
 - d. an unusually large quantity of contraband.
- 15. The defendant took advantage of a position of trust or confidence to commit the offense.
- 16. The offense involved the sale or delivery of a controlled substance to a minor.
- 17. The offense was committed against a victim because of the victim's race, color, religion, nationality, or country of origin.
- 18. The defendant does not support the defendant's family.
- 18.a. The defendant has previously been adjudicated delinquent for an offense that would be a Class A, B, C, D or E felony if committed by an adult.
- 19. The victim of this offense suffered serious injury that is permanent and debilitating.
- 20. Additional written findings of factors in aggravation:

The Court makes no findings of any aggravating factors.

MITIGATING FACTORS

- 1. The defendant committed the offense under: *MITIGATED*
 - a. duress which was insufficient to constitute a defense but significantly reduced the defendant's culpability.
 - b. coercion which was insufficient to constitute a defense but significantly reduced the defendant's culpability.
 - c. threat which was insufficient to constitute a defense but significantly reduced the defendant's culpability.
 - d. compulsion which was insufficient to constitute a defense but significantly reduced the defendant's culpability.
- 2. The defendant:
 - a. was a passive participant in the commission of the offense.
 - b. played a minor role in the commission of the offense.
- 3. The defendant was suffering from a:
 - a. mental condition that was insufficient to constitute a defense but significantly reduced the defendant's culpability for the offense.
 - b. physical condition that was insufficient to constitute a defense but significantly reduced the defendant's culpability for the offense.
- 4. The defendant's:
 - a. age, or immaturity, at the time of the commission of the offense significantly reduced the defendant's culpability for the offense.
 - b. limited mental capacity at the time of the commission of the offense significantly reduced the defendant's culpability for the offense.
- 5. The defendant has made:
 - a. substantial restitution to the victim.
 - b. full restitution to the victim.
- 6. The victim was more than 16 years of age and:
 - a. was a voluntary participant in the defendant's conduct.
 - b. consented to the defendant's conduct.
- 7. The defendant:
 - a. aided in the apprehension of another felon.
 - b. testified truthfully on behalf of the state in another prosecution of a felony.
- 8. a. The defendant acted under strong provocation.
 - b. The relationship between the defendant and the victim was otherwise extenuating.
- 9. The defendant:
 - a. could not reasonably foresee that the defendant's conduct would cause or threaten serious bodily harm or fear.
 - b. exercised caution to avoid serious bodily harm or fear to other persons.
- 10. The defendant reasonably believed that the defendant's conduct was legal.
- 11. The defendant voluntarily acknowledged wrongdoing in connection with the offense to a law enforcement officer:
 - a. at an early stage of the criminal process.
 - b. prior to arrest.
- 12. The defendant has been a person of good character or has had a good reputation in the community in which the defendant lives.
- 13. The defendant is a minor and has reliable supervision available.
- 14. The defendant has been honorably discharged from the United States Armed Services.
- 15. The defendant has accepted responsibility for the defendant's criminal conduct.
- 16. The defendant has entered and is currently involved in or has successfully completed a drug treatment program or an alcohol treatment program subsequent to arrest and prior to trial.
- 17. The defendant supports the defendant's family.
- 18. The defendant has a support system in the community.
- 19. The defendant has a positive employment history or is gainfully employed.
- 20. The defendant has a good treatment prognosis and a workable treatment plan is available.
- 21. Additional written findings of factors in mitigation:

The Court makes no findings of any mitigating factors.

DETERMINATION (NOTE: Check only one)

The Court, after considering the evidence and arguments presented at the trial and sentencing hearing, finds that the aggravating and mitigating factors marked, if any, were proven by a preponderance of the evidence and that the

- factors in aggravation outweigh the factors in mitigation and that an aggravated sentence is justified.
- factors in mitigation outweigh the factors in aggravation and that a mitigated sentence is justified.

Date

03-05-99

Name Of Presiding Judge (Type Or Print)

PETER M. MCHUGH

Signature Of Presiding Judge

Peter M. McHugh

Guilford County

EXHIBIT (K) 1 of 2

In The General Court Of Justice
Superior Court Division

STATE VERSUS

FELONY JUDGMENT

FINDINGS OF AGGRAVATING
AND MITIGATING FACTORS
(STRUCTURED SENTENCING)

Name Of Defendant

Theodore Mead Kimble

Offense Solicitation first degree murder

G.S. 15A-1340.16

NOTE: When consolidating offenses for judgment, findings of aggravating factors and mitigating factors should be made only for the most serious offense. Separate findings of aggravating factors and mitigating factors should be made for each offense that is not consolidated.

AGGRAVATING FACTORS

- 1. The Defendant:
 - a. induced others to participate in the commission of the offense.
 - b. occupied a position of leadership or dominance of other participants in the commission of the offense.
- 2. The defendant joined with more than one other person in committing the offense and was not charged with committing a conspiracy.
- 2.a. The offense was committed for the benefit of, or at the direction of, any criminal street gang, with the specific intent to promote, further, or assist in any criminal conduct by gang members, and the defendant was not charged with committing a conspiracy.
- 3. The offense was committed for the purpose of:
 - a. avoiding or preventing a lawful arrest.
 - b. effecting an escape from custody.
- 4. The defendant was:
 - a. hired to commit the offense.
 - b. paid to commit the offense.
- 5. The offense was committed to:
 - a. disrupt the lawful exercise of a governmental function or the enforcement of laws.
 - b. hinder the lawful exercise of a governmental function or the enforcement of laws.
- 6. The offense was committed against or proximately caused serious injury to a present or former law enforcement officer, employee of the Department of Correction, jailer, fireman, emergency medical technician, ambulance attendant, justice or judge, clerk or assistant or deputy clerk of court, magistrate, prosecutor, juror, or witness against the defendant, while engaged in the performance of that person's official duties or because of the exercise of that person's official duties.
- 7. The offense was especially heinous, atrocious or cruel.
- 8. The defendant knowingly created a great risk of death to more than one person by means of a weapon or device which would normally be hazardous to the lives of more than one person.
- 9. The defendant held public office at the time of the offense and the offense related to the conduct of the office.
- 10. The defendant:
 - a. was armed with a deadly weapon at the time of the crime.
 - b. used a deadly weapon at the time of the crime.
- 11. The victim was:
 - a. very young.
 - b. very old.
 - c. mentally infirm.
 - d. physically infirm.
 - e. handicapped.
- 12. The defendant committed the offense while on pretrial release on another charge.
- 13. The defendant involved a person under the age of 16 in the commission of the crime.
- 14. The offense involved:
 - a. an attempted taking of property of great monetary value.
 - b. the actual taking of property of great monetary value.
 - c. damage causing great monetary loss.
 - d. an unusually large quantity of contraband.
- 15. The defendant took advantage of a position of trust or confidence to commit the offense.
- 16. The offense involved the sale or delivery of a controlled substance to a minor.
- 17. The offense was committed against a victim because of the victim's race, color, religion, nationality, or country of origin.
- 18. The defendant does not support the defendant's family.
- 18.a. The defendant has previously been adjudicated delinquent for an offense that would be a Class A, B, C, D or E felony if committed by an adult.
- 19. The victim of this offense suffered serious injury that is permanent and debilitating.
- 20. Additional written findings of factors in aggravation:

The Court makes no findings of any aggravating factors.

MITIGATING FACTORS

EXHIBIT (K) 2 OF 3

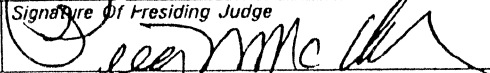
- 1. The defendant committed the offense under:
 - a. duress which was insufficient to constitute a defense but significantly reduced the defendant's culpability.
 - b. coercion which was insufficient to constitute a defense but significantly reduced the defendant's culpability.
 - c. threat which was insufficient to constitute a defense but significantly reduced the defendant's culpability.
 - d. compulsion which was insufficient to constitute a defense but significantly reduced the defendant's culpability.
- 2. The defendant:
 - a. was a passive participant in the commission of the offense.
 - b. played a minor role in the commission of the offense.
- 3. The defendant was suffering from a:
 - a. mental condition that was insufficient to constitute a defense but significantly reduced the defendant's culpability for the offense.
 - b. physical condition that was insufficient to constitute a defense but significantly reduced the defendant's culpability for the offense.
- 4. The defendant's:
 - a. age, or immaturity, at the time of the commission of the offense significantly reduced the defendant's culpability for the offense.
 - b. limited mental capacity at the time of the commission of the offense significantly reduced the defendant's culpability for the offense.
- 5. The defendant has made:
 - a. substantial restitution to the victim.
 - b. full restitution to the victim.
- 6. The victim was more than 16 years of age and:
 - a. was a voluntary participant in the defendant's conduct.
 - b. consented to the defendant's conduct.
- 7. The defendant:
 - a. aided in the apprehension of another felon.
 - b. testified truthfully on behalf of the state in another prosecution of a felony.
- 8. a. The defendant acted under strong provocation.
 b. The relationship between the defendant and the victim was otherwise extenuating.
- 9. The defendant:
 - a. could not reasonably foresee that the defendant's conduct would cause or threaten serious bodily harm or fear.
 - b. exercised caution to avoid serious bodily harm or fear to other persons.
- 10. The defendant reasonably believed that the defendant's conduct was legal.
- 11. The defendant voluntarily acknowledged wrongdoing in connection with the offense to a law enforcement officer:
 - a. at an early stage of the criminal process.
 - b. prior to arrest.
- 12. The defendant has been a person of good character or has had a good reputation in the community in which the defendant lives.
- 13. The defendant is a minor and has reliable supervision available.
- 14. The defendant has been honorably discharged from the United States Armed Services.
- 15. The defendant has accepted responsibility for the defendant's criminal conduct.
- 16. The defendant has entered and is currently involved in or has successfully completed a drug treatment program or an alcohol treatment program subsequent to arrest and prior to trial.
- 17. The defendant supports the defendant's family.
- 18. The defendant has a support system in the community.
- 19. The defendant has a positive employment history or is gainfully employed.
- 20. The defendant has a good treatment prognosis and a workable treatment plan is available.
- 21. Additional written findings of factors in mitigation:

The Court makes no findings of any mitigating factors.

DETERMINATION (NOTE: Check only one)

The Court, after considering the evidence and arguments presented at the trial and sentencing hearing, finds that the aggravating and mitigating factors marked, if any, were proven by a preponderance of the evidence and that the

- factors in aggravation outweigh the factors in mitigation and that an aggravated sentence is justified.
- factors in mitigation outweigh the factors in aggravation and that a mitigated sentence is justified.

Date 03-05-99	Name Of Presiding Judge (Type Or Print) PETER M. MCHUGH	Signature Of Presiding Judge 
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Guilford County

EXHIBIT (L) 1042

In The General Court Of Justice Superior Court Division

STATE VERSUS

Name Of Defendant

Theodore Mead Kimble

Offense

Solicitation first degree murder

FELONY JUDGMENT FINDINGS OF AGGRAVATING AND MITIGATING FACTORS (STRUCTURED SENTENCING)

COO

G.S. 15A-1340.16

NOTE: When consolidating offenses for judgment, findings of aggravating factors and mitigating factors should be made only for the most serious offense. Separate findings of aggravating factors and mitigating factors should be made for each offense that is not consolidated.

AGGRAVATING FACTORS

- 1. The Defendant:
a. induced others to participate in the commission of the offense.
b. occupied a position of leadership or dominance of other participants in the commission of the offense.
2. The defendant joined with more than one other person in committing the offense and was not charged with committing a conspiracy.
2.a. The offense was committed for the benefit of, or at the direction of, any criminal street gang, with the specific intent to promote, further, or assist in any criminal conduct by gang members, and the defendant was not charged with committing a conspiracy.
3. The offense was committed for the purpose of:
a. avoiding or preventing a lawful arrest.
b. effecting an escape from custody.
4. The defendant was:
a. hired to commit the offense.
b. paid to commit the offense.
5. The offense was committed to:
a. disrupt the lawful exercise of a governmental function or the enforcement of laws.
b. hinder the lawful exercise of a governmental function or the enforcement of laws.
6. The offense was committed against or proximately caused serious injury to a present or former law enforcement officer, employee of the Department of Correction, jailer, fireman, emergency medical technician, ambulance attendant, justice or judge, clerk or assistant or deputy clerk of court, magistrate, prosecutor, juror, or witness against the defendant, while engaged in the performance of that person's official duties or because of the exercise of that person's official duties.
7. The offense was especially heinous, atrocious or cruel.
8. The defendant knowingly created a great risk of death to more than one person by means of a weapon or device which would normally be hazardous to the lives of more than one person.
9. The defendant held public office at the time of the offense and the offense related to the conduct of the office.
10. The defendant:
a. was armed with a deadly weapon at the time of the crime.
b. used a deadly weapon at the time of the crime.
11. The victim was:
a. very young.
b. very old.
c. mentally infirm.
d. physically infirm.
e. handicapped.
12. The defendant committed the offense while on pretrial release on another charge.
13. The defendant involved a person under the age of 16 in the commission of the crime.
14. The offense involved:
a. an attempted taking of property of great monetary value.
b. the actual taking of property of great monetary value.
c. damage causing great monetary loss.
d. an unusually large quantity of contraband.
15. The defendant took advantage of a position of trust or confidence to commit the offense.
16. The offense involved the sale or delivery of a controlled substance to a minor.
17. The offense was committed against a victim because of the victim's race, color, religion, nationality, or country of origin.
18. The defendant does not support the defendant's family.
18.a. The defendant has previously been adjudicated delinquent for an offense that would be a Class A, B, C, D or E felony if committed by an adult.
19. The victim of this offense suffered serious injury that is permanent and debilitating.
20. Additional written findings of factors in aggravation:

The Court makes no findings of any aggravating factors.

MITIGATING FACTORS

1. The defendant committed the offense under: *EXHIBIT(L) 2062*
- a. duress which was insufficient to constitute a defense but significantly reduced the defendant's culpability.
 - b. coercion which was insufficient to constitute a defense but significantly reduced the defendant's culpability.
 - c. threat which was insufficient to constitute a defense but significantly reduced the defendant's culpability.
 - d. compulsion which was insufficient to constitute a defense but significantly reduced the defendant's culpability.
2. The defendant:
- a. was a passive participant in the commission of the offense.
 - b. played a minor role in the commission of the offense.
3. The defendant was suffering from a:
- a. mental condition that was insufficient to constitute a defense but significantly reduced the defendant's culpability for the offense.
 - b. physical condition that was insufficient to constitute a defense but significantly reduced the defendant's culpability for the offense.
4. The defendant's:
- a. age, or immaturity, at the time of the commission of the offense significantly reduced the defendant's culpability for the offense.
 - b. limited mental capacity at the time of the commission of the offense significantly reduced the defendant's culpability for the offense.
5. The defendant has made:
- a. substantial restitution to the victim.
 - b. full restitution to the victim.
6. The victim was more than 16 years of age and:
- a. was a voluntary participant in the defendant's conduct.
 - b. consented to the defendant's conduct.
7. The defendant:
- a. aided in the apprehension of another felon.
 - b. testified truthfully on behalf of the state in another prosecution of a felony.
8. a. The defendant acted under strong provocation.
 b. The relationship between the defendant and the victim was otherwise extenuating.
9. The defendant:
- a. could not reasonably foresee that the defendant's conduct would cause or threaten serious bodily harm or fear.
 - b. exercised caution to avoid serious bodily harm or fear to other persons.
10. The defendant reasonably believed that the defendant's conduct was legal.
11. The defendant voluntarily acknowledged wrongdoing in connection with the offense to a law enforcement officer:
- a. at an early stage of the criminal process.
 - b. prior to arrest.
12. The defendant has been a person of good character or has had a good reputation in the community in which the defendant lives.
13. The defendant is a minor and has reliable supervision available.
14. The defendant has been honorably discharged from the United States Armed Services.
15. The defendant has accepted responsibility for the defendant's criminal conduct.
16. The defendant has entered and is currently involved in or has successfully completed a drug treatment program or an alcohol treatment program subsequent to arrest and prior to trial.
17. The defendant supports the defendant's family.
18. The defendant has a support system in the community.
19. The defendant has a positive employment history or is gainfully employed.
20. The defendant has a good treatment prognosis and a workable treatment plan is available.
21. Additional written findings of factors in mitigation:

The Court makes no findings of any mitigating factors.

DETERMINATION (NOTE: Check only one)

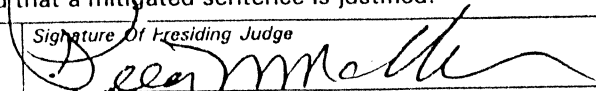
The Court, after considering the evidence and arguments presented at the trial and sentencing hearing, finds that the aggravating and mitigating factors marked, if any, were proven by a preponderance of the evidence and that the

- factors in aggravation outweigh the factors in mitigation and that an aggravated sentence is justified.
 factors in mitigation outweigh the factors in aggravation and that a mitigated sentence is justified.

Date
03-05-99

Name Of Presiding Judge (Type Or Print)
PETER M. MCRUGH

Signature Of Presiding Judge



381
STATE OF NORTH CAROLINA

In the General Court of Justice
Superior Court Division

GUILFORD COUNTY
STATE OF NORTH CAROLINA

v.

THEODORE MEADE KIMBLE

EXHIBIT (N)

RJ

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

[Handwritten Signature]

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

Michael Smith

253

EXHIBIT (0)

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

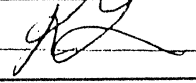
v.

THEODORE MEAD KIMBLE GUILFORD CO. N.C. S.C.

File No: **98CRS 23486**

Film No.
**INDICTMENT
FIRST DEGREE ARSON**

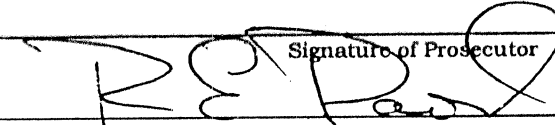
Date of Offense
October 9, 1995

BY 

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

FIRST DEGREE ARSON

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


Signature of Prosecutor

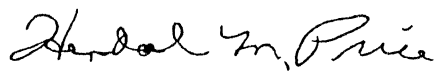
WITNESSES

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

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

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

Date
JUL 06 1998

Signature of Grand Jury Foreman


Name Of Defendant

THEODORE MEADE KIMBLE

EXHIBIT (R)

PLEAS

Plea*	File Number	Count No.(s)	Offense(s)	Date Of Offense	G.S. No.	F/M	CL	Maximum Punishment
G	97CRS39581	1	SECOND DEGREE MURDER	10-09-1995	14-17	F	B-2	415
G	97CRS23656	2	CONSPIRACY: First Degree Murder	10-09-1995	C.L. & 14-2.4	F	B-2	415
G	98CRS23486	1	FIRST DEGREE ARSON	10-09-1995	C.L. & 14-58	F	D	199
G	99CRS 23241	1	SOLICITATION : First Degree Murder	11-04-1998	CL. & 14-2.6	F	C	261
G	99CRS 23242	1	SOLICITATION : First Degree Murder	11-04-1998	CL. & 14-2.6	F	C	261
G	99CRS 23243	1	SOLICITATION : First Degree Murder	11-04-1998	CL. & 14-2.6	F	C	261
G	99CRS 23244	1	SOLICITATION : First Degree Murder	11-04-1998	CL. & 14-2.6	F	C	261
G	99CRS 23245	1	SOLICITATION : First Degree Murder	11-04-1998	CL. & 14-2.6	F	C	261
G	99CRS 23246	1	SOLICITATION : First Degree Murder	11-04-1998	CL. & 14-2.6	F	C	261
G	99CRS 23247	1	SOLICITATION : First Degree Murder	11-04-1998	CL. & 14-2.6	F	C	261
G	99CRS 23248	1	SOLICITATION : First Degree Murder	11-04-1998	CL. & 14-2.6	F	C	261

WILFORD COUNTY
FILED
 JAN 28 1999
 BY 350 ymc/p
 CLERK OF SUPERIOR COURT

*G = Guilty
 NC = No Contest

TOTAL MAXIMUM PUNISHMENT

3177 mos.

MANDATORY MINIMUM FINES & SENTENCES (if any)

B2: 130 mos., D: 53 mos., C: 80 mos.

14. (if applicable) The prosecutor and your lawyer have informed the Court that these are all the terms and conditions of your plea: (See attachment for additional plea arrangements, including voluntary dismissals.)

The State of North Carolina agrees to accept a plea to Second Degree Murder in 97CRS39581. Count 1 of 97CRS23656 shall be dismissed. In return, the Defendant agrees to enter guilty pleas to Second Degree Murder in 97CRS39581, Conspiracy to Commit First Degree Murder in 97CRS23656, First Degree Arson in 98CRS23486, and eight counts of Solicitation to Commit First Degree Murder in Bills of Information which are to be filed this date. The Defendant agrees and understands that he will receive consecutive sentences in each of these cases. Further, the Defendant agrees to return the ashes of Patricia Blakley Kimble to the Blakley family. The State agrees to dismiss any Breaking and Entry or Larceny indictments against Theodore Meade Kimble which are presently pending in Guilford County.

The parties stipulate that the Defendant is a level II offender, and that under the Structured Sentencing Act the maximum sentence he can receive for each B-2 felony is 254 months, for each Class C felony 159 months, and for the Class D felony 108 months.

- (a) Is this correct as being your full plea arrangement? (14a) yes
- (b) Do you now personally accept this arrangement? (14b) yes
- 15. (Other than the plea arrangement between you and the prosecutor) has anyone made any promises or threatened you in any way to cause you to enter this plea against your wishes? (15) no
- 16. Do you enter this plea of your own free will, fully understanding what you are doing? (16) yes
- 17. Do you have any questions about what has just been said to you or about anything else connected with your case? (17) no

I have read or have heard all of these questions and understand them. The answers shown are the ones I gave in open court and they are true and accurate. Neither my lawyer nor anyone else has told me to give false answers in order to have the Court accept my plea in this case. The conditions of the plea as stated above, if any, are accurate.

SWORN AND SUBSCRIBED TO BEFORE ME		Date 1/28/99
Date 1/28/99	Signature <i>Christina Davis</i>	Signature Of Defendant X <i>Theodore Meade Kimble</i>
<input checked="" type="checkbox"/> Deputy CSC	<input type="checkbox"/> Assistant CSC	<input type="checkbox"/> Clerk Of Superior Court
		Name Of Defendant (Type Or Print) Theodore Meade Kimble

CERTIFICATION BY LAWYER FOR DEFENDANT

As lawyer for the defendant named above, I hereby certify that the conditions stated above, if any, upon which the defendant's plea was entered are correct and they are agreed to by the defendant and myself. I further certify that I have fully explained to the defendant the nature and elements of the charge(s) to which the defendant is pleading.

Date 1/28/99	Name Of Lawyer For Defendant (Type Or Print) Fred G. Zimmerman, Jr.	Signature Of Lawyer For Defendant <i>Fred G. Zimmerman, Jr.</i>
-----------------	--	--

CERTIFICATION BY PROSECUTOR

As prosecutor for this Prosecutorial District, I hereby certify that the conditions stated above, if any, are the terms agreed to by the defendant and his/her lawyer and myself for the entry of the plea by the defendant to the charge(s) in this case.

Date 1/28/99	Name Of Prosecutor (Type Or Print) Richard E. Parosh	Signature Of Prosecutor <i>Richard E. Parosh</i>
-----------------	---	---

PLEA ADJUDICATION

Upon consideration of the record proper, evidence presented, answers of defendant, and statements of the lawyer for the defendant and the District Attorney, the undersigned finds:

1. That there is a factual basis for the entry of the plea.
2. That the defendant is satisfied with his/her lawyer.
3. That the defendant is competent to stand trial and that the plea is the informed choice of the defendant and is made freely, voluntarily and understandingly.

The defendant's plea is hereby accepted by the Court and is ordered recorded.

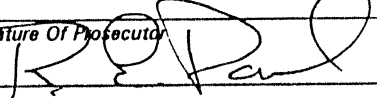
Date 1/28/99	Name Of Presiding Judge (Type Or Print) Peter M. McHugh	Signature Of Presiding Judge <i>Peter M. McHugh</i>
-----------------	--	--

DISMISSALS PURSUANT TO PLEA ARRANGEMENT

File No.	Count No.(s)	Offense(s)
97CRS23656	1	Second Degree Arson
97CRS23663	1 & 2	Breaking and Entry and Larceny
97CRS23661	1 & 2	Breaking and Entry and Larceny
97CRS23657	1 & 2	Breaking and Entry and Larceny
97CRS23671	1	Breaking and Entry
97CRS23675	1 & 2	Breaking and Entry and Larceny

CERTIFICATION BY PROSECUTOR

The undersigned prosecutor enters a dismissal to the above charges pursuant to a plea arrangement shown on the Transcript Of Plea attached.

Date	1/28/99	Name Of Prosecutor (Type Or Print)	Richard E Panosh	Signature Of Prosecutor	
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STATE OF NORTH CAROLINA **EXHIBIT (A)**

File No.

97CRS 39581

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 - FILED)

STATE VERSUS

JUDGMENT AND COMMITMENT

ACTIVE PUNISHMENT
FELONY

(STRUCTURED SENTENCING)

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

Name Of Defendant **1997 MAR -5** **FILED 12:44**
Theodore Mead Kimble

Race White Sex Male DOB 12/08/69

Attorney For State Richard Panosh Def. Found Not Indigent Def. Waived Attorney

Attorney For Defendant Zimmerman/Crumpler Appointed Retained

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

File No.(s)	Off	Offense Description	Offense Date	G.S. No.	F/M	CL
97CRS 39581		Second degree murder	10-09-95	14-17	F	B

The Court:

PRIOR I III V

- 1. has determined, pursuant to G.S. 15A-1340.14, the prior record points of the defendant to be 02. RECORD LEVEL: II IV VI
- 2. makes no prior record level finding because none is required for Class A felony, enhanced firearm penalty, violent habitual felon, or drug trafficking offenses.

The Court:

- 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). (b) for a Class A felony. (c) for enhanced firearm penalty (G.S. 15A-1340.16A). (d) for an adjudication as a violent habitual felon. G.S. 14-7.12. (e) for drug trafficking offenses.
- 2. makes the Findings of Aggravating and Mitigating Factors set forth on the attached AOC-CR-605.
- 3. imposes the prison term pursuant to a plea arrangement as to sentence under Article 58 of G.S. Chapter 15A.
- 4. finds the defendant has provided substantial assistance pursuant to G.S. 90-95(h)(5).
- 5. adjudges the defendant to be an habitual felon pursuant to Article 2A of G.S. Chapter 14.
- 6. finds enhanced punishment from a Class 1 misdemeanor to a Class I felony G.S. 90-95(e)(3) (drugs); G.S. 14-3(c) (race, etc.)
- 7. finds no Extraordinary Mitigation.
- 8. finds the above designated offense(s) is a reportable conviction involving a minor. G.S. 14-208.6.
- 9. finds the defendant is classified as a sexually violent predator. G.S. 14-208.20.

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: 204 months	for a maximum term of: 254 months	in the custody of: <input checked="" type="checkbox"/> N.C. DOC. <input type="checkbox"/> Sheriff pursuant to G.S. 15A-1352(b). <input type="checkbox"/> Other _____
<input type="checkbox"/> Class A Felony: <input type="checkbox"/> Life Imprisonment Without Parole <input type="checkbox"/> Death (see attached Death Warrant and Certificates)		
<input type="checkbox"/> Class B1 Felony: Life Imprisonment Without Parole <input type="checkbox"/> Violent Habitual Felon: Life Imprisonment Without Parole		

The defendant shall be given credit for 381 days spent in confinement prior to the date of this Judgment as a result of this charge(s).

- 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.)

EXHIBIT (B)

STATE OF NORTH CAROLINA

Guilford

County Greensboro

Seat of Court

Case No.

97CRS 23656

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]

STATE VERSUS

1999 MAR -5

JUDGMENT AND COMMITMENT

Name Of Defendant

Theodore Mead Kimble

ACTIVE PUNISHMENT

FELONY

(STRUCTURED SENTENCING)

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

Race White

Sex Male

DOB 12-08-69

Attorney For State

Richard Panosh

Def. Found Not Indigent Def. Waived Attorney

Attorney For Defendant

Zimmerman/Crumpler

Appointed Retained

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

Table with 6 columns: File No.(s), Off, Offense Description, Offense Date, G.S. No., F/M, CL. Row 1: 98CRS 23656, Conspiracy: First Degree Murder, 10-09-95, C.L. & 14-2.4, F, B-

The Court:

PRIOR I III V

1. has determined, pursuant to G.S. 15A-1340.14, the prior record points of the defendant to be 02. RECORD LEVEL: II IV 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). (b) for a Class A felony. (c) for enhanced firearm penalty (G.S. 15A-1340.16A). (d) for an adjudication as a violent habitual felon. G.S. 14-7.12. (e) for drug trafficking offenses.

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: 163 months for a maximum term of: 205 months in the custody of: N.C. DOC. Class A Felony: Life Imprisonment Without Parole Death (see attached Death Warrant and Certificates) Class B1 Felony: Life Imprisonment Without Parole Violent Habitual Felon: Life Imprisonment Without Parole

The defendant shall be given credit for -0- days spent in confinement prior to the date of this Judgment as a result of this charge(s).

- 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.) 97CRS39581 Criminal Superior Division Guilford County Greensboro 03-05-99

EXHIBIT (C)

STATE OF NORTH CAROLINA

No. 98CRS23486

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

STATE VERSUS

1999 MAR 5

JUDGMENT AND COMMITMENT

Name Of Defendant Theodore Mead Kimble

ACTIVE PUNISHMENT FELONY

Race White Sex Male DOB 12/08/69

(STRUCTURED SENTENCING)

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

Attorney For State Richard Panosh

Def. Found Not Indigent Def. Waived Attorney

Attorney For Defendant Zimmerman/Crumpler Appointed Retained

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

Table with 6 columns: File No.(s), Off, Offense Description, Offense Date, G.S. No., F/M, CL. Row 1: 98CRS 23486, First degree arson, 10-09-95, C.L. & 14-58, F, D

The Court: PRIOR I III V 1. has determined, pursuant to G.S. 15A-1340.14, the prior record points of the defendant to be 02. RECORD LEVEL: II IV 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). (b) for a Class A felony. (c) for enhanced firearm penalty (G.S. 15A-1340.16A). (d) for an adjudication as a violent habitual felon. G.S. 14-7.12. (e) for drug trafficking offenses. 2. makes the Findings of Aggravating and Mitigating Factors set forth on the attached AOC-CR-605.

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: 082 months for a maximum term of: 108 months in the custody of: N.C. DOC. Class A Felony: Life Imprisonment Without Parole Death (see attached Death Warrant and Certificates) Class B1 Felony: Life Imprisonment Without Parole Violent Habitual Felon: Life Imprisonment Without Parole

The defendant shall be given credit for -0- days spent in confinement prior to the date of this Judgment as a result of this charge(s). 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.) 97CRS23656 Criminal Superior Division Guilford County Greensboro 03-05-99

STATE OF NORTH CAROLINA

Guilford

County Greensboro

Seat of Court

a No. 99CRS 23241

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

STATE VERSUS

JUDGMENT AND COMMITMENT

Name Of Defendant

Theodore Mead Kimble

ACTIVE PUNISHMENT

FELONY

Race

White

Sex

Male

DOB

12-08-69

(STRUCTURED SENTENCING)

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

Attorney For State

Richard Panosh

Def. Found Not Indigent

Def. Waived Attorney

Attorney For Defendant

Zimmerman/Crumpler

Appointed Retained

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

Table with 6 columns: File No.(s), Off, Offense Description, Offense Date, G.S. No., F/M, CL. Row 1: 99CRS 23241, Solicitation: First degree murder, 11-04-98, C.L. & 14-2.6, F, C

The Court:

PRIOR I III V

- 1. has determined, pursuant to G.S. 15A-1340.14, the prior record points of the defendant to be 02. RECORD LEVEL: XI IV VI
2. makes no prior record level finding because none is required for Class A felony, enhanced firearm penalty, violent habitual felon, or drug trafficking offenses.

The Court:

- 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). (b) for a Class A felony. (c) for enhanced firearm penalty (G.S. 15A-1340.16A). (d) for an adjudication as a violent habitual felon. G.S. 14-7.12. (e) for drug trafficking offenses.
2. makes the Findings of Aggravating and Mitigating Factors set forth on the attached AOC-CR-605.
3. imposes the prison term pursuant to a plea arrangement as to sentence under Article 58 of G.S. Chapter 15A.
4. finds the defendant has provided substantial assistance pursuant to G.S. 90-95(h)(5).
5. adjudges the defendant to be an habitual felon pursuant to Article 2A of G.S. Chapter 14.
6. finds enhanced punishment from a Class 1 misdemeanor to a Class I felony G.S. 90-95(e)(3) (drugs); G.S. 14-3(c) (race, etc.)
7. finds no Extraordinary Mitigation.
8. finds the above designated offense(s) is a reportable conviction involving a minor. G.S. 14-208.6.
9. finds the defendant is classified as a sexually violent predator. G.S. 14-208.20.

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

Form with fields for minimum/maximum terms (108/139 months), custody (N.C. DOC.), and sentencing options (Class A/B1 Felony, Violent Habitual Felon, Life Imprisonment Without Parole, Death Warrant and Certificates).

The defendant shall be given credit for -0- days spent in confinement prior to the date of this Judgment as a result of this charge(s).

- 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.)
98CRS 23486 Criminal Superior Division Guilford County Greensboro 03-05-99

STATE OF NORTH CAROLINA

Guilford

County Greensboro

Seat of Court

Case No.

99CRS23242

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.]

STATE VERSUS

JUDGMENT AND COMMITMENT

Name Of Defendant

Theodore Mead Kimble

ACTIVE PUNISHMENT

FELONY

(STRUCTURED SENTENCING)

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

Race

White

Sex

Male

DOB

12-08-69

Attorney For State

Richard Panosh

Def. Found
Not Indigent

Def. Waived
Attorney

Attorney For Defendant

Zimmerman/Crumpler

Appointed Retained

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

File No.(s)	Off	Offense Description	Offense Date	G.S. No.	F/M	CL.
99CRS 23242		Solicitation:First degree murder	11-04-98	C.L. & 14-2.6	F	C

The Court:

PRIOR

I III V

1. has determined, pursuant to G.S. 15A-1340.14, the prior record points of the defendant to be 02. RECORD LEVEL: II IV VI
2. makes no prior record level finding because none is required for Class A felony, enhanced firearm penalty, violent habitual felon, or drug trafficking offenses.

The Court:

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). (b) for a Class A felony. (c) for enhanced firearm penalty (G.S. 15A-1340.16A). (d) for an adjudication as a violent habitual felon. G.S. 14-7.12. (e) for drug trafficking offenses.
2. makes the Findings of Aggravating and Mitigating Factors set forth on the attached AOC-CR-605.
3. imposes the prison term pursuant to a plea arrangement as to sentence under Article 58 of G.S. Chapter 15A.
4. finds the defendant has provided substantial assistance pursuant to G.S. 90-95(h)(5).
5. adjudges the defendant to be an habitual felon pursuant to Article 2A of G.S. Chapter 14.
6. finds enhanced punishment from a Class 1 misdemeanor to a Class I felony G.S. 90-95(e)(3) (drugs); G.S. 14-3(c) (race, etc.)
7. finds no Extraordinary Mitigation.
8. finds the above designated offenses(s) is a reportable conviction involving a minor. G.S. 14-208.6.
9. finds the defendant is classified as a sexually violent predator. G.S. 14-208.20.

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: 108 months	for a maximum term of: 139 months	in the custody of: <input checked="" type="checkbox"/> N.C. DOC. <input type="checkbox"/> Sheriff pursuant to G.S. 15A-1352(b). <input type="checkbox"/> Other
<input type="checkbox"/> Class A Felony: <input type="checkbox"/> Life Imprisonment Without Parole <input type="checkbox"/> Death (see attached Death Warrant and Certificates)		
<input type="checkbox"/> Class B1 Felony: Life Imprisonment Without Parole <input type="checkbox"/> Violent Habitual Felon: Life Imprisonment Without Parole		

The defendant shall be given credit for -0- days spent in confinement prior to the date of this Judgment as a result of this charge(s).

- 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.)
99CRS 23241 Criminal Superior Division Guilford County Greensboro 03-05-99

STATE OF NORTH CAROLINA

No. 99CRS 23243

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]

STATE VERSUS

JUDGMENT AND COMMITMENT

Name Of Defendant Theodore Mead Kimble

ACTIVE PUNISHMENT FELONY

Race White Sex Male DOB 12-08-69

(STRUCTURED SENTENCING)

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

Attorney For State Richard Panosh

Def. Found Not Indigent Def. Waived Attorney

Attorney For Defendant Zimmerman/Crumpler

Appointed Retained

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

Table with 6 columns: File No.(s), Off, Offense Description, Offense Date, G.S. No., F/M, CL. Row 1: 99CRS 23243, Solicitation: First degree murder, 11-04-98, C.L. & 14-2.6, F, C

The Court: 1. has determined, pursuant to G.S. 15A-1340.14, the prior record points of the defendant to be 02. RECORD LEVEL: II

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). (b) for a Class A felony. (c) for enhanced firearm penalty (G.S. 15A-1340.16A). (d) for an adjudication as a violent habitual felon. G.S. 14-7.12. (e) for drug trafficking offenses. 2. makes the Findings of Aggravating and Mitigating Factors set forth on the attached AOC-CR-605.

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: 108 months for a maximum term of: 139 months in the custody of: N.C. DOC. Class A Felony: Life Imprisonment Without Parole Death (see attached Death Warrant and Certificates) Class B1 Felony: Life Imprisonment Without Parole Violent Habitual Felon: Life Imprisonment Without Parole

The defendant shall be given credit for -0- days spent in confinement prior to the date of this Judgment as a result of this charge(s). 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.) 99CRS 23242 Criminal Superior Division Guilford County Greensboro 03-05-99

STATE OF NORTH CAROLINA

Exhibit (2) 9098

No.

99CRS 23244

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)

STATE VERSUS

JUDGMENT AND COMMITMENT

Name Of Defendant

Theodore Mead Kimble

ACTIVE PUNISHMENT

FELONY

(STRUCTURED SENTENCING)

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

Race

White

Sex

Male

DOB

12-08-69

Attorney For State

Richard Panosh

Def. Found Not Indigent

Def. Waived Attorney

Attorney For Defendant

Zimmerman/Crumpler

Appointed Retained

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

Table with 6 columns: File No.(s), Off, Offense Description, Offense Date, G.S. No., F/M, CL. Row 1: 99CRS 23244, [blank], Solicitation: First degree murder, 11-04-98, C.L. & 14-2.6, F, C

The Court:

PRIOR

I III V

- 1. has determined, pursuant to G.S. 15A-1340.14, the prior record points of the defendant to be 02. RECORD LEVEL: II IV VI
2. makes no prior record level finding because none is required for Class A felony, enhanced firearm penalty, violent habitual felon, or drug trafficking offenses.

The Court:

- 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). (b) for a Class A felony. (c) for enhanced firearm penalty (G.S. 15A-1340.16A). (d) for an adjudication as a violent habitual felon. G.S. 14-7.12. (e) for drug trafficking offenses.
2. makes the Findings of Aggravating and Mitigating Factors set forth on the attached AOC-CR-605.
3. imposes the prison term pursuant to a plea arrangement as to sentence under Article 58 of G.S. Chapter 15A.
4. finds the defendant has provided substantial assistance pursuant to G.S. 90-95(h)(5).
5. adjudges the defendant to be an habitual felon pursuant to Article 2A of G.S. Chapter 14.
6. finds enhanced punishment from a Class 1 misdemeanor to a Class I felony G.S. 90-95(e)(3) (drugs); G.S. 14-3(c) (race, etc.).
7. finds no Extraordinary Mitigation.
8. finds the above designated offenses(s) is a reportable conviction involving a minor. G.S. 14-208.6.
9. finds the defendant is classified as a sexually violent predator. G.S. 14-208.20.

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

Form with fields for minimum term (108 months), maximum term (139 months), custody (N.C. DOC), and sentencing options (Class A/B1 Felony, Violent Habitual Felon, Life Imprisonment Without Parole, Death Warrant).

The defendant shall be given credit for -0- days spent in confinement prior to the date of this Judgment as a result of this charge(s).

- 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.)

99CRS 23243 Criminal Superior Division Guilford County Greensboro 03-05-99

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)

STATE VERSUS

JUDGMENT AND COMMITMENT

Name Of Defendant Theodore Mead Kimble

ACTIVE PUNISHMENT FELONY

Race White Sex Male DOB 12-08-69

(STRUCTURED SENTENCING)

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

Attorney For State Richard Panosh

Def. Found Not Indigent Def. Waived Attorney

Attorney For Defendant Zimmerman/Crumpler Appointed Retained

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

Table with 7 columns: File No.(s), Off, Offense Description, Offense Date, G.S. No., F/M, CL. Row 1: 99CRS 23245, Solicitation: First degree murder, 11-04-98, C.L. & 14-2.6, F, C

The Court:

- 1. has determined, pursuant to G.S. 15A-1340.14, the prior record points of the defendant to be 02. RECORD LEVEL: II
2. makes no prior record level finding because none is required for Class A felony, enhanced firearm penalty, violent habitual felon, or drug trafficking offenses.

The Court:

- 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). (b) for a Class A felony. (c) for enhanced firearm penalty (G.S. 15A-1340.16A). (d) for an adjudication as a violent habitual felon. G.S. 14-7.12. (e) for drug trafficking offenses.
2. makes the Findings of Aggravating and Mitigating Factors set forth on the attached AOC-CR-605.
3. imposes the prison term pursuant to a plea arrangement as to sentence under Article 58 of G.S. Chapter 15A.
4. finds the defendant has provided substantial assistance pursuant to G.S. 90-95(h)(5).
5. adjudges the defendant to be an habitual felon pursuant to Article 2A of G.S. Chapter 14.
6. finds enhanced punishment from a Class 1 misdemeanor to a Class I felony G.S. 90-95(e)(3) (drugs); G.S. 14-3(c) (race, etc.).
7. finds no Extraordinary Mitigation.
8. finds the above designated offenses(s) is a reportable conviction involving a minor. G.S. 14-208.6.
9. finds the defendant is classified as a sexually violent predator. G.S. 14-208.20.

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: 096 months for a maximum term of: 125 months in the custody of: N.C. DOC.
Class A Felony: Life Imprisonment Without Parole Death (see attached Death Warrant and Certificates)
Class B1 Felony: Life Imprisonment Without Parole
Violent Habitual Felon: Life Imprisonment Without Parole

The defendant shall be given credit for -0- days spent in confinement prior to the date of this Judgment as a result of this charge(s).

- 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.)

99 CRS 23244 Criminal Superior Division Guilford County Greensboro 03-05-99

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)

STATE VERSUS

JUDGMENT AND COMMITMENT

Name Of Defendant Theodore Mead Kimble

ACTIVE PUNISHMENT

Race White Sex Male DOB 12-08-69

FELONY

(STRUCTURED SENTENCING)

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

Attorney For State Richard Panosh

Attorney For Defendant Zimmerman/Crumpler Appointed Retained

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

Table with 6 columns: File No.(s), Off, Offense Description, Offense Date, G.S. No., F/M, CL. Row 1: 99CRS 23246, Solicitation: First degree murder, 11-04-98, C.L. & 14-2.6, F, C

The Court:

- 1. has determined, pursuant to G.S. 15A-1340.14, the prior record points of the defendant to be 02. RECORD LEVEL: II
2. makes no prior record level finding because none is required for Class A felony, enhanced firearm penalty, violent habitual felon, or drug trafficking offenses.

The Court:

- 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). (b) for a Class A felony. (c) for enhanced firearm penalty (G.S. 15A-1340.16A). (d) for an adjudication as a violent habitual felon. G.S. 14-7.12. (e) for drug trafficking offenses.
2. makes the Findings of Aggravating and Mitigating Factors set forth on the attached AOC-CR-605.
3. imposes the prison term pursuant to a plea arrangement as to sentence under Article 58 of G.S. Chapter 15A.
4. finds the defendant has provided substantial assistance pursuant to G.S. 90-95(h)(5).
5. adjudges the defendant to be an habitual felon pursuant to Article 2A of G.S. Chapter 14.
6. finds enhanced punishment from a Class 1 misdemeanor to a Class I felony G.S. 90-95(e)(3) (drugs); G.S. 14-3(c) (race, etc.).
7. finds no Extraordinary Mitigation.
8. finds the above designated offenses(s) is a reportable conviction involving a minor. G.S. 14-208.6.
9. finds the defendant is classified as a sexually violent predator. G.S. 14-208.20.

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: 108 months for a maximum term of: 139 months in the custody of: N.C. DOC. Class A Felony: Life Imprisonment Without Parole Death (see attached Death Warrant and Certificates) Class B1 Felony: Life Imprisonment Without Parole Violent Habitual Felon: Life Imprisonment Without Parole

The defendant shall be given credit for -0- days spent in confinement prior to the date of this Judgment as a result of this charge(s).

- 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.) 99CRS 23245 Criminal Superior Division Guilford County Greensboro 02-05-99

STATE OF NORTH CAROLINA

EXHIBIT 7112

No. 99CRS 23247

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

STATE VERSUS

JUDGMENT AND COMMITMENT

Name Of Defendant Theodore Mead Kimble

ACTIVE PUNISHMENT FELONY

Race White Sex Male DOB 12-08-69

(STRUCTURED SENTENCING)

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

Attorney For State Richard Panosh

Def. Found Not Indigent Def. Waived Attorney

Attorney For Defendant Zimmerman/Crumpler Appointed Retained

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

File No.(s)	Off	Offense Description	Offense Date	G.S. No.	F/M	CL.
99CRS 23247		Solicitation: First degree murder	11-04-98	C.L. & 14-2.6	F	C

The Court: PRIOR I III V II IV VI
 1. has determined, pursuant to G.S. 15A-1340.14, the prior record points of the defendant to be 02 . RECORD LEVEL: II IV VI
 2. makes no prior record level finding because none is required for Class A felony, enhanced firearm penalty, violent habitual felon, or drug trafficking offenses.

The Court:
 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). (b) for a Class A felony. (c) for enhanced firearm penalty (G.S. 15A-1340.16A). (d) for an adjudication as a violent habitual felon. G.S. 14-7.12. (e) for drug trafficking offenses.
 2. makes the Findings of Aggravating and Mitigating Factors set forth on the attached AOC-CR-605.
 3. imposes the prison term pursuant to a plea arrangement as to sentence under Article 58 of G.S. Chapter 15A.
 4. finds the defendant has provided substantial assistance pursuant to G.S. 90-95(h)(5).
 5. adjudges the defendant to be an habitual felon pursuant to Article 2A of G.S. Chapter 14.
 6. finds enhanced punishment from a Class 1 misdemeanor to a Class I felony G.S. 90-95(e)(3) (drugs); G.S. 14-3(c) (race, etc.).
 7. finds no Extraordinary Mitigation.
 8. finds the above designated offenses(s) is a reportable conviction involving a minor. G.S. 14-208.6.
 9. finds the defendant is classified as a sexually violent predator. G.S. 14-208.20.

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: 108 months for a maximum term of: 139 months in the custody of: N.C. DOC.
 Class A Felony: Life Imprisonment Without Parole Death (see attached Death Warrant and Certificates) Sheriff pursuant to G.S. 15A-1352(b).
 Class B1 Felony: Life Imprisonment Without Parole Other
 Violent Habitual Felon: Life Imprisonment Without Parole

The defendant shall be given credit for -0- days spent in confinement prior to the date of this Judgment as a result of this charge(s).
 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.)

99CRS 23246 Criminal Superior Division Guilford County Greensboro 03-05-99

EXHIBIT (P) 8098

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

STATE VERSUS

JUDGMENT AND COMMITMENT

Name Of Defendant Theodore Mead Kimble

ACTIVE PUNISHMENT

FELONY

(STRUCTURED SENTENCING)

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

Race White Sex Male DOB 12-08-69

Attorney For State Richard Panosh

Def. Found Not Indigent Def. Waived Attorney

Attorney For Defendant Zimmerman/Crumpler

Appointed Retained

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

Table with 6 columns: File No.(s), Off, Offense Description, Offense Date, G.S. No., F/M, CL. Row 1: 99CRS 23248, Solicitation: First degree murder, 11-04-98, C.L. & 14-2.6, F, C

The Court: PRIOR RECORD LEVEL: 1. has determined, pursuant to G.S. 15A-1340.14, the prior record points of the defendant to be 02. RECORD LEVEL: II

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: 96 months for a maximum term of: 125 months in the custody of: N.C. DOC. Class A Felony: Life Imprisonment Without Parole Death (see attached Death Warrant and Certificates)

The defendant shall be given credit for -0- days spent in confinement prior to the date of this Judgment as a result of this charge(s). 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.) 99CRS 23247 Criminal Superior Division Guilford County Greensboro 03-05-99

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

FILED

Film No.

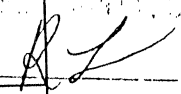
STATE VERSUS

97 APR -7 PM 12:00

Defendant

THEODORE MEAD KIMBLE

BY



INDICTMENT

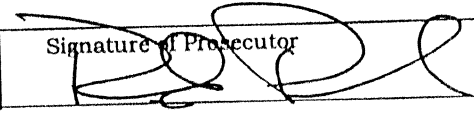
Date of Offense
10-9-95

Offense in Violation of G.S.
14-17

FRIST DEGREE MURDER

The jurors for the State upon their oath present that on or about October 9, 1995 and in Guilford County, the defendant, Theodore Mead Kimble unlawfully, willfully and feloniously did of malice aforethought kill and murder Patricia Gail Kimble.

Signature of Prosecutor



WITNESSES

Det. J.D. Church G.C.S.D.

Det. D.L.DeBerry G.C.S.D.

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

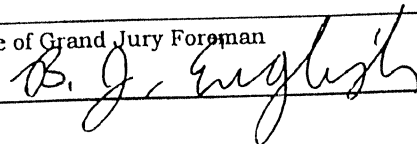
A TRUE BILL by twelve or more grand jurors, and I the undersigned Foreman of the Grand Jury, attest the concurrence of twelve or more grand jurors in this Bill of Indictment.

NOT A TRUE BILL

Date

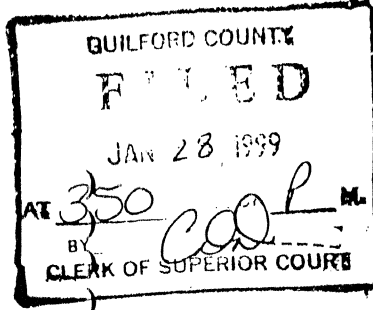
APR 07 1997

Signature of Grand Jury Foreman



STATE OF NORTH CAROLINA
COUNTY OF GUILFORD

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION



99CRS 23241
through
99CRS 23248

STATE OF NORTH CAROLINA

v.

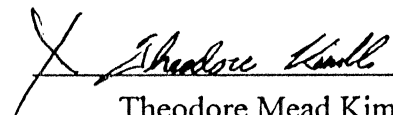
THEODORE MEAD KIMBLE,)
DEENDANT)

WAIVER OF VENUE

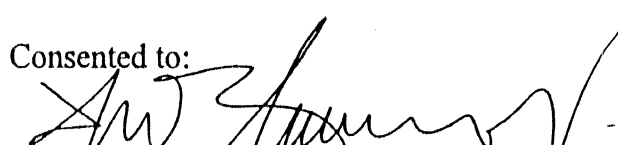
NOW COMES, the defendant, Theodore Mead Kimble pursuant to N.C.Gen.Stat. 15A-1012(c) and hereby WAIVES venue in the above cases and specifically consents that venue be transferred from the 19B Judicial District, Montgomery County, to Guilford County, the 18th Judicial District, for the purpose of filing bills of information, entering a plea of guilty, and sentencing, in the above entitled actions, and MOVES this court to enter an order transferring venue. This waiver covers eight counts of solicitation to commit murder which occurred in the State Department of Corrections at Troy on or about November 4, 1998, and allege the defendant solicited William Stewart to kill eight individuals who were witnesses or related to witnesses in the murder charge that was pending against the defendant.


The parties to this criminal action, by signing this agreement to waive venue, hereby stipulate and agree that there is a factual basis for the offenses being transferred and that the purpose of the transfer of venue is for entering pleas of guilty, and sentencing to the felonies charged.

This Thursday, January 28, 1999.


Theodore Mead Kimble,
The defendant

Consented to:


H.W. Zimmerman, Jr. Attorney for Defendant


Fred G. Crumpler, Jr.

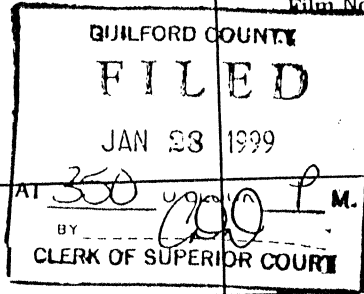

Horace M. Kimel, Jr.
District Attorney, Guilford County, Accepting Venue

Garland N. Yates,
District Attorney, Montgomery County, Transferring Venue

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



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, maliciously 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.

Signature of Attorneys for the Defendant

STATE OF NORTH CAROLINA

In the General Court of Justice
Superior Court Division

File No.

99CRS 23242

GUILFORD COUNTY
STATE OF NORTH CAROLINA

v.

THEODORE MEAD KIMBLE

GUILFORD COUNTY Film No.
FILED
JAN 28 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 Patrick Roy Pardee, in violation of N.C. Gen.Stat. 14-17. Said murder was to occur in Guilford County prior to the trial date of the defendant, which was set for January 25, 1999. This being a violation of N.C. Gen.Stat. 14-2.6 and the Common Law of the State of North Carolina. Said crime did occur in Troy, Montgomery County, North Carolina, and has been transferred to Guilford County for the purpose of plea and sentencing by the consent of all parties.

Prosecutor

[Signature]

WAIVER

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

Date

1/28/99

Signature of the Defendant.

X [Signature]

Signature of Attorneys for the Defendant

[Signatures]

STATE OF NORTH CAROLINA

In the General Court of Justice
Superior Court Division

File No.

99CRS 23243

GUILFORD COUNTY
STATE OF NORTH CAROLINA

v.

THEODORE MEAD KIMBLE

Film No.

GUILFORD COUNTY

FILED

JAN 23 1999

**BILL OF INFORMATION
Solicitation to Commit
First Degree Murder**

Date of Offense

On or about November 4, 1998

AT 350 up 9 M.
BY [Signature]
CLERK OF SUPERIOR COURT

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

[Signature]
[Signature]

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

File No. 99CRS 23244

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

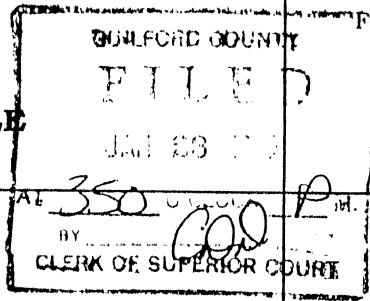
I, the below signed defendant, waive the finding and the return of a Bill of Indictment and agree that the case may be tried upon the above information.

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

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

File No. 99CRS 23245

GUILFORD COUNTY
STATE OF NORTH CAROLINA



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

v.
THEODORE MEAD KIMBLE

Date of Offense
On or about November 4, 1998

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

COUNT I

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

Prosecutor
R. E. P. O.

WAIVER

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

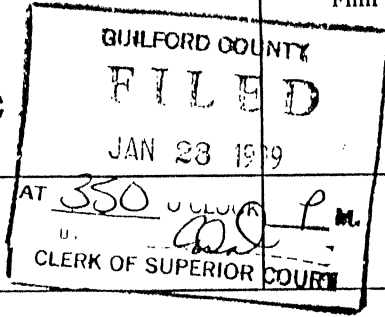
Date 1/28/99
Signature of the Defendant.
X Theodore Kimble
Signature of Attorneys for the Defendant
Frank B. Campbell
AW [Signature]

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

File No. 99CRS 23246

GUILFORD COUNTY
STATE OF NORTH CAROLINA
v.
THEODORE MEAD KIMBLE

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

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

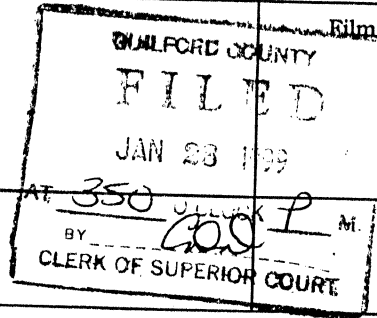
STATE OF NORTH CAROLINA
In the General Court of Justice
Superior Court Division

File No. 99CRS 23247

GUILFORD COUNTY
STATE OF NORTH CAROLINA

Film No.

v.
THEODORE MEAD KIMBLE



**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

File No. 99CRS 23248

GUILFORD COUNTY
STATE OF NORTH CAROLINA
v.
THEODORE MEAD KIMBLE

GUILFORD COUNTY
FILED
JAN 23 1999
BY [Signature]
CLERK OF SUPERIOR COURT

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

Date of Offense
On or about November 4, 1998

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

COUNT I

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

Prosecutor

[Signature]

WAIVER

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

Date

1/28/99

Signature of the Defendant.

[Signature: Theodore Kimble]

Signature of Attorneys for the Defendant

[Signatures]

APPEARANCE OF COUNSEL

Richard E. Panosh, Assistant District Attorney, 18th Judicial District, represented the State.

Fred G. Crumpler, Jr. and H.W. Zimmerman, Jr., Attorneys at Law, Winston-Salem, North Carolina, represented the defendant.

TRANSCRIPT OF PROCEEDINGS

Pursuant to Appellate Rule 9(c), the complete stenographic transcript of the proceedings in this case, consisting of 301 pages and bound in three (3) volumes, as detailed below, is filed contemporaneously with this record.

<u>Volume</u>	<u>Date of Proceeding</u>	<u>Pages</u>	<u>Court Reporter</u>
I	December 3, 1998	1-53	Marsha M. Garlick
II	January 28, 1999	1-20	Deborah R. Wise
III	March 4-5, 1999	1-228	Pamela K. Vaughn

EXHIBITS

Pursuant to Appellate Rule 9(d), all exhibits received into evidence in this case are a necessary part of the Record on Appeal. Upon request, the Guilford County Clerk of Court will forward exhibits to the Clerk of the North Carolina Court of Appeals.

STATEMENT CONCERNING DEFENDANT'S REPRESENTATION

On April 2, 1997, the Presiding Judge of Guilford County Superior Court found defendant to be indigent and appointed Public Defender Wallace C. Harrelson to represent defendant at trial. On April 3, 1997, Robert L. McClellan was appointed as co-counsel pursuant to N.C. Gen. Stat. § 7A-450(b1). On August 22, 1997, the Presiding Judge of Guilford County Superior Court found that the Public Defender's Office had a conflict of interest, relieved that Office of its appointment in this case, and appointed John Bryson as substitute counsel. Subsequently, on December 3, 1998, defendant waived appointed counsel and retained attorneys Crumpler and Zimmerman to represent him at the trial proceedings.

GUILFORD County

BULLFORD COUNTY FILED

In The General Court Of Justice
District Superior Court Division

STATE VERSUS

JAN 28 1999

Name Of Defendant

THEODORE MEADE KIMBLE

AT 350 WILKINSON M. TRANSCRIPT OF PLEA
CLERK OF SUPERIOR COURT

DOB

12-08-1969

Age

29

Highest Level Of Education Completed

12

G.S. 15A-1022

The defendant, having offered a plea of GUILTY and being first duly sworn, makes the following answers to the questions set out below:

Answers

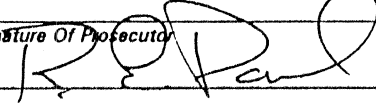
- 1. Are you able to hear and understand me? (1) yes
2. Do you understand that you have the right to remain silent... (2) yes
3. At what grade level can you read and write? (3) 12th
4. (a) Are you now under the influence of alcohol... (4a) no
(b) When was the last time you used or consumed any such substance? (4b) ext medication
5. Have the charges been explained to you by your lawyer... (5) yes
6. (a) Have you and your lawyer discussed the possible defenses... (6a) yes
(b) Are you satisfied with your lawyer's legal services? (6b) yes
7. (a) Do you understand that you have the right to plead not guilty... (7a) yes
(b) Do you understand that at such trial you have the right to confront... (7b) yes
(c) Do you understand that by your plea(s) you give up these... (7c) yes
8. Do you understand that, if you are not a citizen... (8) /
9. (if applicable) Do you understand that upon conviction... (9a) /
(b) Structured Sentencing cases... (9b) yes
10. Do you understand that you are pleading (guilty) (no contest)... (10) yes
11. Do you now personally plead (guilty) (no contest)? (11) YES
12. (a) (if applicable) Are you in fact guilty? (12a) 1995 Offenses yes
(b) (if applicable) Do you understand that upon your plea... (12b) N/A
(c) (if applicable) (Alford Plea) (12c1) 1998 Offenses
(12c2) YES
13. Have you agreed to plead as part of a plea arrangement... (13) yes

DISMISSALS PURSUANT TO PLEA ARRANGEMENT

File No.	Count No.(s)	Offense(s)
97CRS23656	1	Second Degree Arson
97CRS23663	1 & 2	Breaking and Entry and Larceny
97CRS23661	1 & 2	Breaking and Entry and Larceny
97CRS23657	1 & 2	Breaking and Entry and Larceny
97CRS23671	1	Breaking and Entry
97CRS23675	1 & 2	Breaking and Entry and Larceny

CERTIFICATION BY PROSECUTOR

The undersigned prosecutor enters a dismissal to the above charges pursuant to a plea arrangement shown on the Transcript Of Plea attached.

Date 1/28/99	Name Of Prosecutor (Type Or Print) Richard E Panosh	Signature Of Prosecutor 
-----------------	--	---

STATE OF NORTH CAROLINA

File No.

97CRS39581; 23656; 98CRS23486; 99CRS23241-48

GUILFORD County

In The General Court Of Justice
District Superior Court Division

FILED

STATE VERSUS

1999 FEB -1 PM 1:36

JUDGMENT/ORDER OR

Name Of Defendant

THEODORE MEAD KIMBLE

OTHER DISPOSITION

Race: WHITE, Sex: MALE, Date Of Birth: 12-08-1969, Social Security No.: 240-47-9619

Attorney For State

RICHARD PANOSH

Def. Found Not Indigent, Def. Waived Attorney

Attorney For Defendant

ZIMMERMAN/CRUMPLER

Appointed Retained

Offense

2nd degree murder; consp to commit 1st degree murder; 1st degree arson;

NOTE: (For use in recording Misdemeanor conviction levels under S.S.A.)

8 counts solicitation to commit 1st degree murder

PLEA

VERDICT

PRIOR CONVICTIONS:

No./Level I (0) II (1-4) III (5+)

Guilty/Responsible No Contest

Guilty/Responsible

MISD. CLASS: 1 2 3

Guilty/Responsible No Contest

Guilty/Responsible

MISD. CLASS: 1 2 3

Not Guilty/Not Responsible

Not Guilty/Not Responsible

The defendant is present in court represented by attorneys H.W. Zimmerman, Jr., Fred Crumpler and David Freedman through whom a plea of guilty is entered in the above entitled charges. Present for the State of North Carolina is Assistant District Attorney Richard Panosh through whom the evidence is heard.

Motion to Quash Subpoena Duces Tecum to Paula Christian made by the defendant. State has no objections. MOTION ALLOWED.

Motion to have waiver of venue to transfer 8 counts of solicitation to commit murder transferred from Montgomery County to Guilford County made by the State. No objections. Defendant consents. MOTION ALLOWED.

Motion to continue sentencing made by the State. No objections. MOTION ALLOWED.

IT IS THEREFORE ORDERED THE SENTENCING HEARING WILL BE CONTINUED FROM DAY TO DAY, TERM TO TERM UNTIL ~~APPROPRIATE~~ State shall pray judgment

Date: 01-28-1999, Name Of Presiding Judge (Type Or Print): PETER M. MCHUGH, Signature Of Presiding Judge: [Signature]

APPEAL ENTRIES

The defendant gives notice of appeal from the judgment of the District Court to the Superior Court. The current pretrial release order is modified as follows:

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.

Date, Name Of Presiding Judge (Type Or Print), Signature Of Presiding Judge

NORTH CAROLINA

Wake COUNTY

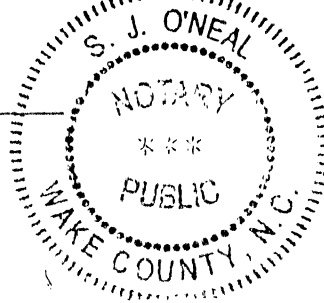
I, S. J. O'Neal, a Notary Public in and for said County and State, do hereby certify that THEODORE MEAD KIMBLE personally appeared before me this day and acknowledged the due execution of the foregoing Notice of Appeal.

Witness my hand and notarial seal, this 12 day of March, 1999.

S. J. O'Neal
Notary Public

My Commission Expires 11-23-2003

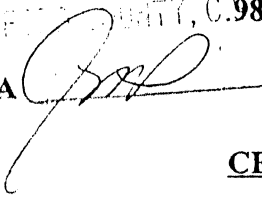
My commission expires: _____



NORTH CAROLINA
GUILFORD COUNTY

FILED IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
1999 MAR 12 FILE NO. 97
GUILFORD COUNTY, N.C. 98 CRS 23486, 99 CRS 24241-48
FILE NOS. 97 CRS 23656, 97 CRS 39581,

STATE OF NORTH CAROLINA



v.

CERTIFICATE OF SERVICE

THEODORE MEAD KIMBLE

The undersigned hereby certifies that he is the defendant in this Action.

That on the 12 day of March, 1999, he served a copy of the attached NOTICE OF APPEAL by placing said copy in a postpaid envelope addressed to the person hereinafter named, at the place and address stated below, which is the last known address, and by depositing said envelope and its contents in the United States Mail at Winston-Salem, North Carolina.

ADDRESSEE: Richard E. Panosh
Assistant D.A.
Guilford County Superior Court
P. O. Box 2378
Greensboro, NC 27402-2378

Theodore Mead Kimble
THEODORE MEAD KIMBLE

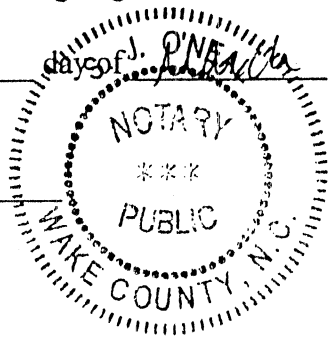
NORTH CAROLINA

Wake COUNTY

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Witness my hand and notarial seal, this 12 day of March, 1999.

S. J. O'Neal
Notary Public



My Commission Expires 11-23-2003

My commission expires: _____