To: N.C. Prisoner Legal Services

Dear Mr. Kressy,

I just got a letter from my father (Rev. Ronnie Kimble) who told me you had been assigned to my case. I would like to start by saying “Thank you” for the time you will spend handling my review. If there is anything I can do please feel free to ask.

As you know I’m not an attorney. I have done the best I can up until this point. I met an inmate late last year (03’), who spoke as if he knew something about the law. I’ve since learned that he did not know as much as he would have led me to believe. Based on his advice and work I filed several Motions. As the Courts began to “Deny or Dismiss” all of my Motions, I began to question the inmate’s advice. By the time I filed my last Motion (Writ of Certiorari) it seem to me I was being used for what little this man could gain. By the end I found it necessary to re-write everything the inmate wrote, “his work was so bad,” you could say I learned a lot about the law from this inmate, and I learned enough to know not every claim he made was the truth. Against his advice I did NOT file my 2254 Habeas Corpus yet, because the “Memorandum in Support of the 2254 Habeas Corpus” was so bad that he wrote.
I pray my case isn't messed-up. I'm scared to do anything, but know I've got a time deadline to file in Federal Court. Please show mercy toward me and my family. For seven long years my wonderful parents have traveled all over the state to visit my brother and I. My mother still cries nearly everytime she sees me, and it breaks my heart.

I nad my brother are innocent, but no-one will listen. We are victims of "Prosecutor Misconduct." There is no physical evidence in my case, only circumstantial. Much of which the Prosecutor created. Assistant District Attorney Richard Panosh walked all over my Rights as if I did not have any, and my lawyers let him. Mr. Panosh withheld evidence which would clear my brother and I.

Late last year I started reading several newspaper articles on Prosecutor Misconduct. I also read about The N.C. State Bar investigating the D.A.'s for withholding evidence. The inmate helping me wrote a Grievance in the form of a Complaint Brief, in which I "tried" to file with The State Bar. On Jan. 8, 2004 I received a rejection notice, and it stated (3) reasons why I was being denied. I then personally wrote a "New" Brief (Grievance) and tried to leave out anything that would apply to why my first Brief was denied. I sent the Second Brief to the State Bar at the end of February.
Just last week I received another rejection notice from the N.C. State Bar. Once again they refer to the Jan 8, 2004 letter they sent me, "This is very upsetting because I worked on that Brief (6) weeks, I still don't understand what I'm doing wrong. Please give me some advice."

About 4-5 weeks ago I sent a copy of my Brief (Grievance) to your office (N.C.P.L.S) with many other items requested. If you read my Grievance you will see a pattern of misconduct by the Prosecutor, and you will get a general understanding of my case. I did not list everything Mr. Panosh did because I was trying to avoid being "denied" by the Bar. Mr. Panosh even had the nerve to send me "threats" through my lawyers. While in prison I'm limited as to whom I can talk to, or what I can do. I was trying to file a Grievance with the State Bar, because I was hoping they would talk with the witnesses who were forced to lie against me and my brother. Since the Prosecutor no longer has pending charges against these witnesses, they might be willing to now tell the truth.

Being unable to prove my innocence at the moment and having no help, I've been attacking my sentence, trying to prove it illegal. As I understand if I can get my sentence set aside, N.C.G.S. 15A-1335 should cause my case to be thrown out of court. Since I can't be sentenced twice
for the same crime my charges would have to be reduced. Most of my charges can't be reduced and therefore would be dismissed.

I've already sent N.C.P.I.S. everything they asked for (I think) and then some. The directions stated I was not to send any transcripts. I feel that it's important for you to review my transcripts because my case is so unusual.

Upon your review you would see how my lawyers "ABANDON" me. First, they bullied me to sign a Plea Agreement (Jan 25, 1999). Once I got away from my lawyers I wrote the D.A. and asked to withdraw my Pleas and go to trial. When no answer came, I wrote the Clerk of Superior Court (Feb 24, 1999). The Court waited until the day I was to be sentenced to give me a Pro Se Withdrawal Hearing. At which Counsel refused to represent me. Counsel stated, "I was embarrassed then and that they would sit this one out." I was never advised of my Right to Counsel at the Withdrawal Hearing. My Parents paid these lawyers $50,000 and they refused to help me. I was forced to represent myself. I had to put myself on the stand and do the best I could. The Judge (Peter McHugh) acted as if he had decided to deny my request before hand. My Sentencing was set and did not follow the Withdrawal Hearing as if everyone knew my request was going to be denied.

The letter I sent to the Clerk of Court to withdraw
my Pleas is listed as exhibit "y" in my Motion for Appropriate Relief. Which N.C.P. has at this time.

Mr Kressy, there isn't anything I wouldn't do to repay N.C.P. for their help, I'm desperate. Please help me.

I had an eye witness (James Ogbum) who could verify my brother and I were 15 miles away at the time of the crime. But DA Richard Panosh threaten James and ran him away. Although detectives and Mr Panosh personally interviewed this witness several times, not a single statement was turned over.

Please remember Counselor Zimmerman was my prior Sentencing Judge, who sent me to prison to begin with. My private detective (Mr Homer Young) has agreed to testify of how harsh my "prior" lawyers spoke to me and placed me under duress. That was the main reason I hired Mr Zimmerman. Also the fact Mr Zimmerman made the claim he could win my case.

With your permission I'd like to send you a copy of my transcripts and the rest of what I have. I've got extra copies so there isn't any problem to do so. Please respond.

I truly believe I've got a winning case and can prove my sentence is illegal. I also believe I can get my case over-turned and go to trial. But if I can get my case thrown-out because the sentence is illegal, I willn't have to go to trial and face a Death Sentence.

Sincerely, Theodore Kimble 4/13/04
April 6, 2004

Mr. Theodore M. Kimble
1300 Western Boulevard
Raleigh, N C 27606

Re: Richard Panosh

Dear Mr. Kimble:

The N C State Bar has received the information you filed recently against the above listed attorney and this appears to be a matter that the State Bar cannot assist you. On January 8, 2004 we acknowledged your previous correspondence. A copy of that letter is enclosed for your review.

So, in your case this a matters which we cannot assist. We cannot give you advice or otherwise represent you or your interest.

Sincerely,

Donald H. Jones
The North Carolina State Bar
Office of Counsel

Carolin D. Bakewell
Counsel

January 8, 2004

A. Root Edmonson, Deputy Counsel
Fern Gunn Simeon, Deputy Counsel
Bobby D. White, Deputy Counsel
David R. Johnson, Deputy Counsel
Thomas F. Moffitt, Deputy Counsel

Mr. Theodore M. Kimble
1300 Western Boulevard
Raleigh, NC 27606

Re: Your Complaint Against Attorney Richard E. Panosh

Dear Mr. Kimble:

The N.C. State Bar has received the grievance that you filed recently against the above-listed attorney. This appears to be a matter concerning which the Bar cannot assist you. Specifically, the Discipline & Disability Rules of the N.C. State Bar provide that the Bar may decline to investigate grievances involving the following allegations:

1) complaints that an attorney provided ineffective assistance of counsel in a criminal case, unless a court has granted a motion for appropriate relief based upon the member's conduct;

2) complaints that a plea entered in a criminal case was not made voluntarily and knowingly, unless a court has granted a motion for appropriate relief based upon the member's conduct;

3) complaints that an attorney's advice or strategy in a civil or criminal matter was inadequate or ineffective.

See 27 N.C. Admin. Code Chapter 1, Subchapter B, Section .0111(f)

Because the grievance that you filed raises one or more of the grounds set out in Rule .0111(f), my office respectfully declines to take further action in this matter. If a court grants relief based on the conduct referred to in your complaint, please let me know and we will reconsider our decision.

Thank you for your cooperation.

Very truly yours,

Carolin Bakewell
Counsel
False actions charged in trial

Gell's prosecutors face bar inquiry

BY JOSEPH NEFF  STAFF WRITER

The N.C. State Bar has charged that two former prosecutors in the Attorney General's Office withheld evidence and made false statements to a judge in the 1998 murder trial that put Alan Gell on death row.

The prosecutors, David Hoke and Debra Graves, withheld a tape recording of the state's star witness saying she had to "make up a story" about the murder for police.

They also withheld eight witness statements that indicated the slaying occurred while Gell was in jail. Still, the prosecutors told the trial judge they had landed over all such witness statements.

The bar's seven-page complaint, obtained Thursday, said: "This representation was false." Hoke and Graves "knew, or should have known from a reasonable examination of the State Bar Investigatory file in their possession and control, that the representation was false."

"Gell spent nine years behind bars, half of it on death row, after his arrest in the murder of Allen Ray Jenkins. He was acquitted at a second trial in February," the withdrawn evidence played a central role in the outcome of that trial. "A three-member panel of the State Bar's disciplinary committee will schedule a hearing within two to three months. The outcomes could range from dismissal of the bar's charges to revocation of license.

Neither could be reached Thursday evening.

Jim Maxwell, a Durham lawyer, is representing both Hoke and Graves before the State Bar. Maxwell declined to comment Thursday. He said he planned to answer the State Bar's charges in a written response next week.

At Gell's 1998 trial, Hoke and Graves argued that Gell used a shotgun to ambush and kill Jenkins in 2003 at the time. Morris and Hall struck plea bargains; they received 10-year sentences for murder in return for testifying against Gell.

At trial, Hoke and Graves possessed a secretly recorded phone conversation in which Morris is heard talking about how he had to make up a story for police. Hoke and Graves knew about the tape and its contents but didn't turn it over to Gell's lawyers, the bar complaint alleged.

The tape was a central piece of evidence at Gell's retrial. Jurors played it during their deliberation and later said it was strong evidence of the girls' deceit and lack of remorse.

The other part of the bar complaint concerns interviews police conducted with 17 people who said they saw Jenkins alive after Gell had been jailed for car theft. Jenkins' time of death was the central point in Gell's trials, since he was either out of state or in jail for the 11 days before Jenkins' body was found.

The trial judge ordered Hoke and Graves to hand over all such statements to Gell's lawyers. The burden was on them as prosecutors to hand over these materials.

But according to the bar complaint, Hoke and Graves did not check their files but relied on FBI agents to hand them over. Ransome produced statements from nine people who Ransome said had changed their stories in a second round of interviews.

Ransome did not produce statements from people he did not re-interview, the complaint said. Taken in the first hours after Jenkins' body was found, those statements were made by Jenkins' brother, his across-the-street neighbor, a lifelong friend and five others, all of whom said they saw Jenkins alive when Gell was in jail.

Ransome did not return phone calls Thursday.

Hoke is now No. 2 official in state court system.

Gell spent nine years behind bars after arrest in slaying.

Ins, a retired truck driver who lived in the small Bertie County town of Aydeler.

Hoke and Graves built their case on the testimony of two girls, Crystal Morris and Shanna Hall. Both
This is to acknowledge receipt of your letter, dated ______________. Listed below is ☐ the information you requested ☐ the information indicated below is needed before your request can be processed. Please return this form to our office once the necessary information has been provided.

☐ Full name:
☐ Case/File Number(s):
☐ Charge(s):
☐ Date(s) of conviction(s):
☐ Other:

☐ The copies you requested are enclosed with this letter. There is no charge for these copies since this is the first time they have been requested and made for you. However, should you request additional copies of these documents, you will be required to pay for them. Additional requests will not be forwarded to you until payment has been received. You will be charged $2.00 for the first page and $0.25 for each additional page thereafter, per document, as provided by law. (This includes the indictment, judgment and commitment, transcript of plea and arresting information.)

☐ In accordance with the North Carolina General Statutes, the cost for copies is $2.00 for the first and $0.25 for each additional page thereafter per document. The copies will not be forwarded to you until payment in the amount of $____ has been received. Please send certified check or money order payable to "Guilford County Clerk of Superior Court". No personal checks will be accepted. This letter should be included with your payment.

(Note: Please be advised that in some pauper's status applies only to the waiver of a filing fee and not copies.

We, Other: You need to contact your attorney for your request on a P.S. I report our files do not have that information.

Michelle Jiclee
Deputy C Assistant Clerk of Superior Court
STATE OF NORTH CAROLINA
Guilford County

IN THE MATTER OF:

Name And Address
Joy H. Dyer

CRIMINAL RECORD CHECK
Records Check From This Date To Present
May 1983

This is to certify that I have searched the indices to criminal actions in this office from the date shown above to the present to determine:

☐ only the convictions and pending charges, if any,
☒ the entire criminal record, if any,

which appear in the records under the name given above, and found:

☐ that no record was indexed by the name given above.
☒ the following excerpts from the public records indexed by the name given above.

The criminal records in this office are indexed solely by name and not by any other identifying characteristic. This office cannot guarantee that the records listed herein belong to the individual for whom such record is sought.

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<th>File No.</th>
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<th>Charge</th>
<th>Date Disposed And Disposition</th>
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Date Of Search 8/28/00

Signature Melissa Sutton

Deputy CSC  □ Assistant CSC  □ Clerk Of Superior Court
400 Guilford-Br
OB2800 CRIMINAL CHECK
CRITERIA NAME: Dyer, Joy?

Dyer, Joy, Hedgecock
OF: 032886 (M) shoplifting concealment goods

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2323 Kersey S=F R=W DOB=09141974
DISMISSED BY DA 96CR 046761 G
022800 CR

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7016 Hemphil S=F R=W DOB=09141974
DISMISSED BY DA 97CR 027022 G
022800 CR

--
115 E Carter S=F R=W DOB=09141974
DISMISSED BY DA 97CR 057405 G
022800 CR

--
601D W Terre S=F R=W DOB=00230000
DISMISS DEFER PROSC 98CR 090975 B
022800 CR

OF: OFFENSE DATE, DOB=BIRTH (M) Misd (F) Felony (T) Traffic

OB2800 INFRACTION CHECK
CRITERIA NAME: Dyer, Joy?

Dyer, Joy, Hedgecock
OF: 032886 (I) speeding

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3516 Cascade S=F R=W DOB=09141974
045 in 35 zone charged
861F 020722 G
044 in 35 zone conv lesser offense
SATISFIED

OF: OFFENSE DATE, S=SEX, R=RACE, DOB=BIRTH (T) TRAFFIC (I) INFRINGEMENT

*END*
STATE OF NORTH CAROLINA
Guilford County

IN THE MATTER OF:

Robert Harold Nichols

CRIMINAL RECORD CHECK

Records Check From This Date To Present

May 1983

This is to certify that I have searched the indices to criminal actions in this office from the date shown above to the present to determine:

☐ only the convictions and pending charges, if any,
☐ the entire criminal record, if any,

which appear in the records under the name given above, and found:

☐ that no record was indexed by the name given above.
☐ the following excerpts from the public records indexed by the name given above.

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Date Of Search: 8/29/00

Signature: Melissa Sutton

Deputy CSC
Assistant CSC
Clerk Of Superior Court

AOC-GR-314
Rev. 6/87
Nichols, Robert, Harold

DOB: 10/08/1971

Consolidated for Judgment with 97CR023715 51

GUILTY

Nichols, Robert, Harold

5663 Hornada St M R-W DOB: 10/08/1971

97CR023723 E

010200 CRS

Nichols, Robert, Harold

5663 Hornada St M R-W DOB: 10/08/1971

77CR 040741 E

Nichols, Robert, Harold

5663 Hornada St M R-W DOB: 10/08/1971

97CR040742 E

Nichols, Robert, Harold

5663 Hornada St M R-W DOB: 10/08/1971

97CR 040741 E

Nichols, Robert, Harold

5663 Hornada St M R-W DOB: 10/08/1971

97CR040742 E

Nichols, Robert, Harold

5663 Hornada St M R-W DOB: 10/08/1971

97CR 040741 E

Nichols, Robert, Harold

5663 Hornada St M R-W DOB: 10/08/1971

97CR040742 E
OF:CRIME DATE,DOB=BIRTH,(M,MISD,(F,FELONY,(T,TRAFFIC)

GUILFORD-GR
832500 CRIMINAL CHECK- PENDING--DISPOSED--MOTOR V.--UNSERVED--CONVICTED
CRITERIA- NAME: NICHOLS,ROBERT,H?
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NICHOLS,ROBERT,Harold 5665 HORNADA S=M R=W DOB=10/01/1971 97CRS023714 0
OF:020237 (F) BREAKING AND OR ENTERING (F) GUILTY 043099 CRS
CONSOLIDATED FOR JUDGMENT WITH 97CRS023711 51
OF:020237 (F) LARCENY AFTER BREAK/ENTER GUILTY 043099 CRS
CONSOLIDATED FOR JUDGMENT WITH 97CRS023711 51

NICHOLS,ROBERT,Harold 5665 HORNADA S=M R=W DOB=10/01/1971 97CRS023715 B
OF:02047 (F) BREAKING AND OR ENTERING (F) GUILTY 043099 CRS
FINE/COSTS= RESTS 1256.00 SENT:008-010M TYPE: I PROB:06M
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SEE ALSO: 97CRS023716, 97CRS023717, 97CRS023718, 97CRS023719
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OF: 010197 (F) BREAKING AND OR ENTERING (F) GUILTY
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NICHOLS, ROBERT, HAROLD 5665 HORNADA S=M R=W DOB=10081971 GUILTY 97CRS023707 G 043099 CRS
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NICHOLS, ROBERT, HAROLD 5665 HORNADA S=M R=W DOB=10081971 GUILTY 97CRS023711 G 043099 CRS
OF: 013097 (F) FELONY LARCENY GUILTY
FINE/COSTS: REST: 5365.00 SENT: 108-010M TYPE: I PROB: 06OM SUPERVISED
SEE ALSO: 97CRS023712, 97CRS023713, 97CRS023714
SPEC. COND: (EAGLES)
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NICHOLS, ROBERT, HAROLD 5665 HORNADA S=M R=W DOB=10081971 GUILTY 97CRS023713 G 043099 CRS
OF: 021297 (F) FELONY LARCENY GUILTY
CONSOLIDATED FOR JUDGMENT WITH 97CRS023711 51
NICHOLS, ROBERT, HAROLD
OF: 042295 (T) LICENSE NOT IN POSSESSION
SPEC. COND: ADDED ON 26 102695
CR:

NICHOLS, ROBERT, HAROLD
OF: 110495 (T) DWLR
SPEC. COND: (EAGLES)
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NICHOLS, ROBERT, HAROLD
OF: 011447 (M) MISDemeanor Larceny
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NICHOLS, ROBERT, HAROLD
OF: 020447 (F) Breaching and or Entering (F)
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OF: 110197 (F) Breaching and or Entering (F)
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OF: 010197 (F) Breaching and or Entering (F)
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CR:

NICHOLS, ROBERT, HAROLD
OF: 010197 (F) Breaching and or Entering (F)
CR:
This is to certify that I have searched the indices to criminal actions in this office from the date shown above to the present to determine:

☐ only the convictions and pending charges, if any,
☒ the entire criminal record, if any,

which appear in the records under the name given above, and found:

☐ that no record was indexed by the name given above.
☒ the following excerpts from the public records indexed by the name given above.

The criminal records in this office are indexed solely by name and not by any other identifying characteristic. This office cannot guarantee that the records listed herein belong to the individual for whom such record is sought.

<table>
<thead>
<tr>
<th>File No.</th>
<th>Race/Sex</th>
<th>DOB</th>
<th>Charge</th>
<th>Date Disposed And Disposition</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>12/4/06</td>
<td>See Attached 3 pages</td>
<td></td>
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</tbody>
</table>

Date Of Search: 8/28/00

Signature: Melissa Sutton
<table>
<thead>
<tr>
<th>CRIMINAL CHECK</th>
<th>PENDING</th>
<th>DISPOSED</th>
<th>MOTOR V.</th>
<th>UNSERVED</th>
<th>CONVICTED</th>
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<tbody>
<tr>
<td>NAME: PARDEE, PATRICK</td>
<td>R</td>
<td>1414 COUNTRY S=M</td>
<td>R=W DOB=12041966</td>
<td>97CR 005485 H</td>
<td>110697 CR</td>
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<td>JF: 021097 (F) BREAKING AND OR ENTERING (F)</td>
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<td>110697 CR</td>
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<td>PARDEE, PATRICK</td>
<td>R</td>
<td>1414 COUNTRY S=M</td>
<td>R=W DOB=12041966</td>
<td>97CR 005486 H</td>
<td>102897 CR</td>
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<tr>
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<td>102897 CR</td>
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<tr>
<td>JF: 011297 (F) LARCENY AFTER BREAK/ENTER</td>
<td>DISMISSED BY DA</td>
<td>102897 CR</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>JF: 011297 (F) POSSESSION OF STOLEN GOODS (F)</td>
<td>DISMISSED BY DA</td>
<td>++</td>
<td></td>
<td></td>
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<tr>
<td>PARDEE, PATRICK</td>
<td>R</td>
<td>1414 COUNTRY S=M</td>
<td>R=W DOB=12041966</td>
<td>97CRS023686 G</td>
<td>121599 CRS</td>
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<tr>
<td>JF: 031297 (F) BREAKING AND OR ENTERING (F)</td>
<td>GUILTY</td>
<td>UNSUPERVISE</td>
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<td></td>
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<td>FINE/COSTS $ 11. REST $ 6635.00 SENT:006-008M TYPE: C PROB:024M</td>
<td>PLUS MORE</td>
<td>121599 CRS</td>
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<td></td>
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<tr>
<td>SEE ALSO: 97CRS023687, 97CRS023688, 97CRS023689, 97CRS023690</td>
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<td></td>
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<tr>
<td>CONSOLIDATED FOR JUDGMENT WITH 97CRS023686 51</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

- OFFENSE DATE, DOB=BIRTH, (M)MISD, (F)FELONY, (T)TRAFFIC - MORE -
OF: OFFENSE DATE, DOB=BIRTH, (M) MISD, (F) FELONY, (T) TRAFFIC

400 GUIFORD-AR
08/28/00 CRIMINAL CHECK--PENDING--DISPOSED--MOTOR V.--UNSERVED--CONVICTED
CRITERIA--NAME: FARDEE, PATRICK?
R=RACE: S=SEX: DOB:

FARDEE, PATRICK, ROY
OF: 07/02/88 (M) SECOND DEGREE TRESPASS
1414 COUNTY S=M R=W DOB=12/04/1966 DISMISSED BY DA
08CR 044523 G

FARDEE, PATRICK, ROY
OF: 09/12/89 (T) SPEEDING
1414 COUNTY S=M R=W DOB=12/04/1966 072 IN 55 ZONE DISMISSED BY DA
03/06/90 CR

FARDEE, PATRICK, ROY
OF: 09/21/91 (T) RECKLESS DRIVING TO ENDANGER
1414 COUNTY S=M R=W DOB=12/04/1966 CHARGED
RESP LESSER OFFENSE 12/09/91
91CR 043767 G
FINE/COSTS= 130 REST
SPEC. COND: MAINE

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

1. Are you able to hear and understand me? (1) **Yes**
2. Do you understand that you have the right to remain silent and that any statement you make may be used against you? (2) **Yes**
3. At what grade level can you read and write? (3) **12th**
4. (a) Are you now under the influence of alcohol, drugs, narcotics, medicines, pills, or any other intoxicants? (4a) **No**
(b) When was the last time you used or consumed any such substance? (4b) **n/a**
5. Have the charges been explained to you by your lawyer, and do you understand the nature of the charges, and do you understand every element of each charge? (5) **Yes**
6. (a) Have you and your lawyer discussed the possible defenses, if any, to the charges? (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 and be tried by a jury? (7a) **Yes**
(b) Do you understand that at such trial you have the right to confront and to cross examine witnesses against you? (7b) **Yes**
(c) Do you understand that by your plea(s) you give up these and your other constitutional rights relating to a trial by jury? (7c) **Yes**
8. Do you understand that, if you are not a citizen of the United States of America, your plea(s) of guilty or no contest may result in deportation, the exclusion from admission to this country, or the denial of naturalization under federal law? (8) **/\**

9. **(if applicable)** Do you understand that upon conviction of a felony that you automatically forfeit any licensing privileges as defined by G.S. 15A-1331A for the full term:
   (a) **(FSA cases only occurring on or after May 1, 1994)** of the maximum sentence of imprisonment imposed at the time of conviction if: (1) you are offered a suspended sentence on condition that you accept probation and you refuse probation, or (2) your probation is revoked or suspended and the Court makes findings that you failed to make reasonable efforts to comply with the conditions of probation. (9a) **/\**
   (b) **(Structured Sentencing cases committed on or after October 1, 1994)** of the period you are placed on probation if: (1) your probation is revoked or suspended, or (2) **(for offenses committed before 1/1/97)** you are offered a suspended sentence on condition you accept probation and you refuse probation. G.S. 15A-1331A(b). (9b) **Yes**

10. Do you understand that you are pleading (guilty) **(as consent)** to the charges shown on the attached sheet, which carry the total punishments listed. (10) **Yes**
11. Do you now personally plead (guilty) **(as consent)**? (11) **Yes**
12. (a) **(if applicable)** Are you in fact guilty? (12a) **1995 Offenses**
(b) **(if applicable)** Do you understand that upon your plea of no contest you will be treated as being guilty whether or not you admit your guilt? (12b) **N/A**
(c) **(if applicable)** (Alford Plea)
   (1) Do you now consider it to be in your best interest to plead guilty? (12c1) **1998 Offenses**
   (2) Do you understand that upon your "Alford Plea" you will be treated as being guilty whether or not you admit that you are in fact guilty? (12c2) **Yes**

13. Have you agreed to plead as part of a plea arrangement? Before you answer, I advise you that the Courts have approved plea negotiating, and if there is such, you may advise me truthfully without fear of incurring my disapproval? (13) **Yes**

AOC-CR-300, Rev. 10/97
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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?  
(b) Do you now personally accept this arrangement?  

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?  

16. Do you enter this plea of your own free will, fully understanding what you are doing?  

17. Do you have any questions about what has just been said to you or about anything else connected with your case?  

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

Signature  Christina Dene

Deputy CSC

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 by to 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  Richard E. Panosh

Signature Of Lawyer For Defendant  

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 charges(s) in this case.

Date  1/28/99

Name Of Prosecutor  Richard E. Panosh

Signature Of Prosecutor  

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. 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 understandably.

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

Date  1/28/99

Signature Of Presiding Judge  

AOC-CR-300, Side Two, Rev. 10/97

© 1997 Administrative Office of the Court
<table>
<thead>
<tr>
<th>Plea</th>
<th>File Number</th>
<th>Count No.(s)</th>
<th>Offense(s)</th>
<th>Date Of Offense</th>
<th>G.S. No.</th>
<th>F/M</th>
<th>CL</th>
<th>Maximum Punishment</th>
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<tr>
<td>G</td>
<td>97CRS39581</td>
<td>1</td>
<td>SECOND DEGREE MURDER</td>
<td>10-09-1995</td>
<td>14-17</td>
<td>F</td>
<td>B7</td>
<td>415</td>
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<td>G</td>
<td>97CRS23656</td>
<td>2</td>
<td>CONSPIRACY: First Degree Murder</td>
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<td>C.L. &amp; 14-2.4</td>
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<td>FIRST DEGREE ARSON</td>
<td>10-09-1995</td>
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TOTAL MAXIMUM PUNISHMENT: 3177 mos.

MANDATORY MINIMUM FINES & SENTENCES (if any):
<table>
<thead>
<tr>
<th>File No.</th>
<th>Count No.(s)</th>
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<td>97CRS23656</td>
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<td>Second Degree Arson</td>
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<td>97CRS23663</td>
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<td>Breaking and Entry and Larceny</td>
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<td>1 &amp; 2</td>
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<td>1 &amp; 2</td>
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<tr>
<td>97CRS23675</td>
<td>1 &amp; 2</td>
<td>Breaking and Entry and Larceny</td>
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</table>

**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  
Signature Of Prosecutor: [Signature]

Richard E. Panosh
### STATE OF NORTH CAROLINA

**Guilford County**

**Worksheet**

**Prior Record Level for Felony Sentencing and Prior Conviction Level for Misdemeanor Sentencing**

**Structured Sentencing**

G.S. 15A-1340.14, 15A-1344

**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(4). 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(4). Class I misdemeanor offenses under Chapter 20 are not assigned any points for determining prior record level for felony sentencing except misdemeanor dealing by vehicle (G.S. 20-141.4(a2)). First Degree Rape and First Degree Sexual offense convictions prior to October 1, 1994, are Class B1 convictions.

## I. Scoring Prior Record/Felony Sentencing

<table>
<thead>
<tr>
<th>Number</th>
<th>Type</th>
<th>Factors</th>
<th>Points</th>
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</thead>
<tbody>
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<td></td>
</tr>
<tr>
<td>Prior Felony Class B1 Conviction</td>
<td>X9</td>
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<td></td>
</tr>
<tr>
<td>Prior Felony Class B2 or C or D Conviction</td>
<td>X8</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Prior Felony Class E or F or G Conviction</td>
<td>X4</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1</td>
<td>Prior Felony Class H or I Conviction</td>
<td>X2</td>
<td>2</td>
</tr>
<tr>
<td>Prior Class A1 or 1 Misdemeanor Conviction (see note)</td>
<td>X1</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Subtotal:** 2

If all the elements of the present offense are included in the prior offense:

- (a) while on probation, parole, or post-release supervision; or
- (b) while serving a sentence of imprisonment; or
- (c) while on escape

## II. Classifying Prior Record/Conviction Level

<table>
<thead>
<tr>
<th>Misdemeanor</th>
<th>Felony</th>
</tr>
</thead>
</table>

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

- **No. of Prior Convictions**
  - 0 | I
  - 1-4 | II
  - 5+ | III

**Prior Conviction Level**

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

**Prior Record Level**

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

**Date:** 12-27-97

**Name of Presiding Judge:** Peter M. McHugh

**Signature of Presiding Judge:**

**(Over)**
SUPREME COURT OF NORTH CAROLINA

(State v Theodore Mead Kimble)

State of North Carolina
v
Theodore Mead Kimble

From NC Court of Appeals
(COA99-1518)
(97CRS23656)
(97 CRS 39581)
(98 CRS 23488)
(99CRS23241-48)

ORDER

Upon consideration of the petition filed by Defendant in this matter for discretionary review of the decision of the North Carolina Court of Appeals pursuant to G.S. 7A-31, the following order was entered and is hereby certified to the North Carolina Court of Appeals:

"Denied by order of the Court in conference, this the 5th day of April 2001.

s/ Butterfield, J.
For the Court"

WITNESS my hand and the seal of the Supreme Court of North Carolina, this the 6th day of April 2001.

Christie Speir Cameron
Clerk, Supreme Court of North Carolina

Carol B. Templeton
Assistant Clerk

Copy to:
North Carolina Court of Appeals
Ms. Danielle M. Carman, Assistant Appellate Defender, For Kimble
Mr. Edwin W. Welch, Special Deputy Attorney General, For State
Mr. Horace M. Kimel, Jr., District Attorney
Mr. David Churchill, Clerk of Superior Court
Mr. Ralph A. White, Appellate Court Reporter
West Publishing Company
Lexis-Nexis
STATE OF NORTH CAROLINA

V

THEODORE MEAD KIMBLE

ORDER

The following order was entered:

The motion filed in this cause on the 27th day of October 2003 and designated "Motion For Relief From The Judgment" is dismissed.

By order of the Court this the 24th day of November 2003.
The above order is therefore certified to the Clerk of Superior Court Guilford County.
Witness my hand and official seal this the 24th day of November 2003.

John H. Connell
Clerk of North Carolina Court of Appeals

CSC Orig
cc:
Mr. Theodore Kimble
Ms. Kathleen U. Baldwin
No. COAP03-956

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 3rd day of November 2003 and designated "Motion in Arrest of Judgment" is dismissed.

By order of the Court this the 24th day of November 2003.

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

Witness my hand and official seal this the 24th day of November 2003.

John H. Connell
Clerk of North Carolina Court of Appeals

CSC Orig
cc:
Mr. Theodore Kimble
Ms. Kathleen U. Baldwin
STATE OF NORTH CAROLINA

V

THEODORE MEAD KIMBLE

ORDER

The following order was entered:

The petition filed in this cause on the 7th day of November 2003 and designated "Petition For Writ Of Mandamus" is Denied.

By order of the Court this the 24th day of November 2003.

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

Witness my hand and official seal this the 24th day of November 2003.

[Signature]

John H. Connell
Clerk of North Carolina Court of Appeals

CSC Orig
cc:
Mr. Theodore Kimble
Ms. Kathleen U. Baldwin
No. COAP03-956
North Carolina Court of Appeals

STATE OF NORTH CAROLINA

V

THEODORE MEAD KIMBLE

ORDER

The following order was entered:

The petition filed in this cause on the 18th day of November 2003 and designated "Petition For Writ Of Mandamus" is Denied.

By order of the Court this the 24th day of November 2003.

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

Witness my hand and official seal this the 24th day of November 2003.

John H. Connell
Clerk of North Carolina Court of Appeals

CSC Orig

cc:
Mr. Theodore Kimble
Ms. Kathleen U. Baldwin
ORDER

The following order was entered:

The petition filed in this cause on the 16th day of December 2003 and designated "Petition For Writ Of Certiorari" is denied.

By order of the Court this the 13th day of January 2004.

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

Witness my hand and official seal this the 13th day of January 2004.

John H. Connell
Clerk of North Carolina Court of Appeals

CSC Orig
cc:
Mr. Theodore Kimble
Ms. Kathleen U. Baldwin
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;
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
The defendant, having offered a plea of _______ and being first duly sworn, makes the following answers to the questions set out below:

1. Are you able to hear and understand me?  
   (1) Yes

2. Do you understand that you have the right to remain silent and that any statement you make may be used against you?  
   (2) Yes

3. At what grade level can you read and write?  
   (3) 12th grade

4. (a) Are you now under the influence of alcohol, drugs, narcotics, medicines, pills, or any other intoxicants?  
   (4a) No

   (b) When was the last time you used or consumed any such substance?  
   (4b) Present

5. Have the charges been explained to you by your lawyer, and do you understand the nature of the charges, and do you understand every element of each charge?  
   (5) Yes

6. (a) Have you and your lawyer discussed the possible defenses, if any, to the charges?  
   (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 and be tried by a jury?  
   (7a) Yes

   (b) Do you understand that at such trial you have the right to confront and to cross examine witnesses against you?  
   (7b) Yes

   (c) Do you understand that by your plea(s) you give up these and your other constitutional rights relating to a trial by jury?  
   (7c) Yes

8. Do you understand that, if you are not a citizen of the United States of America, your plea(s) of guilty or no contest may result in deportation, the exclusion from admission to this country, or the denial of naturalization under federal law?  
   (8) N/A

9. (if applicable) Do you understand that upon conviction of a felony that you automatically forfeit any licensing privileges as defined by G.S. 15A-1331A for the full term:

   ☑ (a) (FSA cases only occurring on or after May 1, 1994) of the maximum sentence of imprisonment imposed at the time of conviction if: (1) you are offered a suspended sentence on condition that you accept probation and you refuse probation, or (2) your probation is revoked or suspended and the Court makes findings that you failed to make reasonable efforts to comply with the conditions of probation.  
   (9a) N/A

   ☑ (b) (Structured Sentencing cases committed on or after October 1, 1994) of the period you are placed on probation if: (1) you are offered a suspended sentence on condition you accept probation and you refuse probation, or (2) your probation is revoked or suspended. G.S. 15A-1331A(b).  
   (9b) Yes

10. Do you understand that you are pleading (guilty) (no contest) to the charges shown on the attached sheet, which carry the total punishments listed.  
    (10) Yes

11. Do you now personally plead (guilty) (no contest)?  
    (11) Yes

12. (a) (if applicable) Are you in fact guilty?  
    (12a) Yes

    (b) (if applicable) Do you understand that upon your plea of no contest you will be treated as being guilty whether or not you admit your guilt?  
    (12b) N/A

    (c) (if applicable) (Alford Plea)  
    (1) Do you now consider it to be in your best interest to plead guilty?  
    (12c1) N/A

    (2) Do you understand that upon your "Alford Plea" you will be treated as being guilty whether or not you admit that you are in fact guilty?  
    (12c2) N/A

13. Have you agreed to plead as part of a plea arrangement? Before you answer, I advise you that the Courts have approved plea negotiating, and if there is such, you may advise me truthfully without fear of incurring my disapproval?  
    (13) No.
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.)

None

(e) Is this correct as being your full plea arrangement?  
(b) Do you now personally accept this arrangement?  

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?  

No

16. Do you enter this plea of your own free will, fully understanding what you are doing?  

Yes

17. Do you have any questions about what has just been said to you or about anything else connected with your case?  

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 those answers 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: 12/8/97  
Signature: Christina D. Camp  

Deputy CSC  

**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 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: 12/8/97  
Name of Lawyer For Defendant (Type Or Print): Robert E. McClellan  
Signature Of Lawyer For Defendant: Robert McClellan

**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: 12/8/97  
Name Of Prosecutor (Type Or Print): Richard E. Fenster  
Signature Of Prosecutor: Richard Fenster

**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: 12/8/97  
Name Of Presiding Judge (Type Or Print): H. W. Zimmerman, Jr.  
Signature Of Presiding Judge: H. W. Zimmerman, Jr.
STATE VERSUS

Theodore M. Kimble

Social Security No.

Race W

Sex M

DOB 12/8/69

Prior Felony Conviction

Type Prior Felony Class A Conviction

Prior Felony Class B1 Conviction

Prior Felony Class B2 or C or D Conviction

Prior Felony Class E or F or G Conviction

Prior Felony Class H or I Conviction

Prior Class A1 or 1 Misdemeanor Conviction (see note)

Factors X10

X 9

X 6

X 4

X 2

X 1

SUBTOTAL 0

If all the elements of the present offense are included in the prior offense

+ 1

TOTAL 1

II. CLASSIFYING PRIOR RECORD/CONVICTION LEVEL

MISDEMEANOR

FELONY

Points Level

0 I

1 - 4 II

5 - 8 III

9 - 14 IV

15 - 18 V

19+ VI

The Court finds the prior convictions, prior record points and the prior record level of the defendant to be as shown herein.
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<th>PLES</th>
<th>FILE NUMBER</th>
<th>COUNT NO.(S)</th>
<th>OFFENSE(S)</th>
<th>DATE OF OFFENSE</th>
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*G = Guilty
NG = No

TOTAL MAXIMUM

MANDATORY MINIMUM FINES & SENTENCES (if any)

see page 3

AOC-CR-300, Page Two
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<th>Count No.(s)</th>
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*G = Guilty
NC = No

**TOTAL MAXIMUM** 1,959 months

MANDATORY MINIMUM FINES & SENTENCES (if any)
STATE OF NORTH CAROLINA
GUILFORD County GREENSBORO Seat of Court
NOTE: [This form is to be used for (1) felony offense(s), and (2) misdemeanor offense(s), which are consolidated for judgment with any felony offense(s). Use AOC-CR-301 on DWI offense(s).]

STATE VERSUS

JUDGMENT AND COMMITMENT

THEODORE MEAD KIMBLE

ACTIVE PUNISHMENT

FEZY

(STRUCTURED SENTENCING)

Race: White Sex: M DOB: 12-08-1980

Attorney For Defendant

RICHARD PANOSH

Def. Found Not Indigent Def. Waived Attorney

Attorney For Defendant

ROBERT L. MCCLELLAN

☐ Appointed ☐ Retained

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

File No.(s) And Offense(s)
97CRS 23655 POSSESS WEAPON OF MASS DESTRUCTION

Date Of Offense: 04-01-1997 G.S. No. 14-288.8 F/M: F CL: F

The Court:

☒ 1. has determined, pursuant to G.S. 15A-1340.14, the prior record points of the defendant to be _0_.

☒ 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).

☒ 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)

☒ 7. finds no Extraordinary Mitigation.

The Court, having considered evidence, arguments of counsel and statement of defendant, finds that the defendant's plea was freely, voluntarily, and understandingly entered, and Orders the above offenses be consolidated for judgment and the defendant be imprisoned for a minimum term of: 015 months ☐ for a maximum term of: 018 months ☒

In the custody of the:

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

☐ 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 32 days spent in the confinement prior to the date of this Judgment as a result of this charge.

☒ The sentence imposed above shall begin at the expiration of all sentences which the defendant is presently obligated to serve.

☒ The sentence imposed above shall begin at the expiration of the sentence imposed in the case referenced below:

(NOTE: List the case number, date, county and court in which prior sentence imposed.)

AOC-CR-301
New 10/94

12/14/97
(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.

<table>
<thead>
<tr>
<th>Fine</th>
<th>Costs</th>
<th>Restitution*</th>
<th>Reimbursement For Att’y Fee &amp; Other Expenses</th>
<th>Total Amount Due</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>$1,850.00</td>
<td></td>
<td></td>
<td></td>
<td>$1,850.00</td>
</tr>
</tbody>
</table>

*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: 12-08-1997

Name Of Presiding Judge (Type Or Print): H. W. ZIMMERMAN, JR.

Signature Of Presiding Judge: [Signature]

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: [Signature]

☐ 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 is on file in this case.

☐ Appeal Entries (AOC-CR-350)
☐ Felony Judgment Findings Of Aggravating And Mitigating Factors (AOC-CR-605)
☐ Judicial Findings As To Forfeiture Of Licensing Privileges (AOC-CR-317)
☐ Commitment Information Statement (DC-600)

Date: 

Signature And Seal: [Signature]

☐ Deputy CSC  ☐ Assistant CSC  ☐ Clerk Of Superior Court

Date Certified Copies Delivered To Sheriff: 12-16-97