NORTH CAROLINA GUILFORD COUNTY

IN THE GENERAL COURT OF JUSTICE SUPERIOR COURT DIVISION FILE NO. 97CRS-39580

STATE OF NORTH CAROLINA		
vs.	) <u>MOTION TO</u> ) <u>PROHIBIT PHOTOS</u> )	
RONNIE LEE KIMBLE, DEFENDANT.	)	

NOW COMES the defendant, above-named, through counsel, and moves the court pursuant to Article I, Sections 19, 23, and 24 and the Fifth, Sixth and Fourteenth Amendments to the Constitution of the United States to prohibit the introduction of photographs of the body of the deceased taken at the crime scene. In support of this motion the defendant shows the court the following:

- 1. Law enforcement officers and the medical examiner's office have provided the prosecutor pictures of the crime scene and the body of the deceased.
- 2. The primary effect of such pictures is to inflame the passions of the jury rather than to serve as material evidence.
- 3. The danger of unfair prejudice far outweighs any probative value such pictures might have. N.C. Rule of Evidence 403.
- 4. Nor can our State and Federal Constitutions countenance a scheme whereby a jury is allowed to render a

verdict for guilt or innocence, and ultimately death or life, based on passion as opposed to reason.

WHEREFORE, the defendant prays the court order the crime scene pictures of the body of the deceased not be admitted.

This the  $\frac{22}{2}$  day of  $\frac{590495}{2}$ 

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