

Early Jencks
saves trial
long trial

NORTH CAROLINA

FILED

IN THE GENERAL COURT OF JUSTICE

GUILFORD COUNTY

1998 JAN 22 PM 1:56

SUPERIOR COURT DIVISION

FILE NO. 97CRS-39580

GUILFORD COUNTY, C.S.C.

STATE OF NORTH CAROLINA

JSR

VS.

RONNIE LEE KIMBLE,
DEFENDANT.

MOTION FOR IMMEDIATE
PRODUCTION OF STATEMENTS
OF STATE'S WITNESSES

NOW COMES the Defendant, above named, by and through his undersigned counsel, and respectfully moves the Court for an Order requiring the State to produce forthwith all statements of any witnesses who may testify at trial for the State. As grounds for this Motion the Defendant shows the Court the following:

1. Law enforcement personnel for the State who investigated this homicide took written statements from several witnesses. It will be very crucial to the defense that these statements be scrutinized with the utmost care, thus requiring defense counsel to make a detailed and careful examination of each statement. Such an examination could require hours to perform properly, particularly the recorded statements which tend to be lengthy in nature.

2. While G.S. 15A-903(f) does not require the production of statements of State's witnesses before they have testified on direct examination, the Court, in its discretion, may order pretrial discovery of the statements of State's witnesses. See e.g. United States v. Holmes, 34 CrL 2180 (4th Cir. 1983), United States v. Bullock, 551 F.2d. 1377 (5th Cir. 1977) [both cases applying the "Jencks Act", 18 U.S.C. 3500 which is the federal equivalent of G.S. 15A-903(f)].

3. The immediate production of the statements of State's witnesses would profoundly promote fairness and judicial economy in the trial of these cases. G.S. 15A-903(f) (3) provides, in pertinent part, that the Court may, upon application of the Defendant, recess the proceedings for a period of time that is reasonably necessary for the examination of the statement by the Defendant and his preparation for its use at trial. In Holmes, supra, the Fourth Circuit commented on the prudence of allowing early production of "Jencks" statements:

"Of course, the Jencks Act does not require that the statement of a government witness be produced for the use of a defendant until the witness has testified. Many

times, however, in cases where there are many statements or where the bulk of witness statements is large, the government will agree, or it may even be ordered, to deliver material at an earlier time so as to avoid lengthy delays before the beginning of cross-examination. Id. at 2180.

4. The trial of this case, which is likely to have several interruptions to permit the defense to examine or listen to statements of State's witnesses, would be considerably expedited by the granting of this Motion since that would eliminate the necessity of a recess each time a witness testifies for the State who has made a prior statement.


WHEREFORE the Defendant respectfully prays this Court to issue an Order requiring the State to produce forthwith all statements of the State's witnesses (in written and recorded form).

This this the 22 day of January, 1998.



W. DAVID LLOYD
ATTORNEY FOR THE DEFENDANT

101 South Elm St.
Greensboro, N.C. 27401
Telephone: 910-691-0550


JOHN B. HATFIELD, JR.,
ATTORNEY FOR THE DEFENDANT

219 W. Washington Street
Greensboro, NC 27401