

NO. P03-956

EIGHTEENTH DISTRICT

STATE OF NORTH CAROLINA
COURT OF APPEALS

THEODORE MEAD KIMBLE)

PETITIONER,)

v.)

STATE OF NORTH CAROLINA)

RESPONDENT.)

RE: { "MOTION IN ARREST OF JUDGMENT" }

" NO. P03-956

" FILE NO.'S 97CRS-23656,

" 97CRS-39581; 98CRS-23486;

" 99CRS-23241-48, = = =

* * * * *
PETITIONERS RESPONSE TO THE
STATES ANSWER.
* * * * *

NOW COMES THE PETITIONER, THEODORE MEAD KIMBLE, AND SAYS:

D. THE STATES PROCEDURAL HISTORY IS FALSE, AS HER TWO (2) OTHER RESPONSES,

(A) IF THIS COURT WILL LOOK AT IND. # 97CRS-23656, WHICH WAS COUNT ONE DISMISSED, AND IND. # 98CRS-23486, THEY SHOW THE SAME EXACT WORDING, WHICH THE PROSECUTOR (MR. PANOSH) HAD PETITIONER RE-INDICTED, THUS COMMITTING DOUBLE-JEOPARDY.

(B) PETITIONER NEVER PLEAD GUILTY TO 99CRS-23241-48, IT WAS AN ALFORD PLEA AS PETITIONER POINTED OUT IN OTHER RESPONSES TO THE STATES ANSWERS. AND PETITIONER RECEIVED ILLEGAL CONSECUTIVE SENTENCES ON EACH COUNT TOTALING 70 TO 90.4 YEARS, WHICH WAS ILLEGAL AS A MATTER OF LAW.

(C) PETITIONER WAS PROMISED A TOTAL 20 YEARS SENTENCE FOR ALL PLEAS. COUNSEL HAD PETITIONER SIGN A BLANK PLEA BARGAIN, WHICH WAS FILLED IN AFTERWARD, AND FILLED IN INCORRECTLY. IT'S A FACT PETITIONER PLED ALFORD IN CASES 99CRS-2324-48, AND THE PLEA BARGAIN WAS FILLED IN AS ALL "GUILTY" PLEAS. PETITIONER IS ENTITLED TO RELIEF IN ARREST OF JUDGMENTS BY LAW.

2. (A) BRIEF FOR THE STATE PAGE #2 STATES "INCORRECTLY", "WITH-DRAW [HIS] GUILTY-
-PLEA ON ALL ACCOUNTS AND CHARGES" THE WORD "ALFORD" PLEA WAS AGAIN CONVENIENTLY LEFT OUT.

(B) THE STATE "AGAIN" LEFT OUT THE FACT THAT PETITIONER HAD TO DEFEND HIMSELF AT THE "WITHDRAW HEARING", BECAUSE COUNSEL CHOOSE TO

REMAIN "NEUTRAL", LEAVING PETITIONER WITHOUT REPRESENTATION, VIOLATING DUE PROCESS.

③. (A) STATE ASSERTS HOW PETITIONER HAD DIRECT APPEAL, BUT LEFT OUT HOW APPELLATE COUNSEL ALSO "FAIL" TO REPRESENT AND PERSUE PERTINENT ISSUES, AND ABANDON ISSUES OF THE ILLEGAL 70 TO 90.4 YEAR SENTENCES IN CASES #99CRS-23241-48. PLUS FAIL TO REPORT PROSECUTOR MISCONDUCT, AND CONFLICT OF INTEREST BY PROSECUTORS ("PARTNER"), PETITIONER'S "PRIOR" SENTENCING JUDGE MR. ZIMMERMAN NOW REPRESENTING HIM AS COUNSEL; FAIL TO BRING UP THE ISSUE OF NO P.S.I. REPORT, OR ANY OTHER PERTINENT ISSUES AS PETITIONER POINTED OUT THROUGH HIS "MOTION IN ARREST OF JUDGMENT" UNDER DISCUSSION.

(B) PETITIONER'S APPELLATE COUNSEL FILED DISCRETIONARY REVIEW IN N.C. SUPREME COURT AFTER DENIAL IN N.C. COURT OF APPEALS. YET PETITIONER CONSTANTLY INSTRUCTED HER TO FILE MOTION FOR APPROPRIATE RELIEF, AND SHOULD HAVE APPEALED IN CERTIORARI TO N.C. SUPREME COURT. NATURALLY 99 TIMES OUT OF 100 THE N.C. SUPREME COURT USUALLY ALWAYS GOES ALONG WITH THE N.C. COURT OF APPEALS RULINGS.

4. PETITIONER FILED "MOTION IN ARREST OF JUDGMENT" BECAUSE HE IS ENTITLED RELIEF FROM HIS ILLEGAL SENTENCE. IT'S NOT IN ACTUALITY A "MOTION FOR APPROPRIATE RELIEF" AS THE STATE'S ATTORNEY BALDWIN HAS STATED IN "BRIEF FOR THE STATE PAGE #2." PETITIONER CAN'T EXPECT ANY RELIEF WHATSOEVER IN A SUPERIOR COURT THAT RAILROADED HIM IN EACH AND EVERY WAY POSSIBLE, AS IF IT WAS A LYNCHING MOB. THAT'S WHY PETITIONER FILED A "MOTION IN ARREST OF JUDGMENT" TO THIS HIGHER COURT, TO TRY AND ACTUALLY RELIEVE JUSTICE.

5. THE STATE POINTED OUT HOW, "RELIEF FORMERLY AVAILABLE BY MOTION IN ARREST OF JUDGMENT, MOTION TO SET ASIDE THE VERDICT, MOTION FOR NEW TRIAL, POST CONVICTION PROCEEDINGS, CORAM VOBIS AND ALL OTHER POST-CONVICTION PROCEEDINGS' MOTIONS IS AVAILABLE BY MOTION FOR APPROPRIATE RELIEF." THE STATE LEFT OUT THE FACT THAT RELIEF IS ALSO AVAILABLE BY FILING MOTION IN ARREST OF JUDGMENT IN THE N.C. COURT OF APPEALS, AND THE FACT IT'S NOT "MANDATORY" TO FILE IT IN SUPERIOR COURT. AND TO PROVE THAT "FACT",

"IF" PETITIONER WAS NOT ALLOWED BY LAW TO
FILE SAID MOTION IN THE COURT OF APPEALS, THEN
MR. JOHN H. CONNELL CLERK OF N.C. COURT OF APPEALS
WOULD NEVER HAVE DOCKETED THE SAID MOTIONS FOR
A RULING (OR) GIVEN A DOCKET CASE NUMBER
PO3-956; THIS IS DESPITE THE FACT PETITIONER HAD
SOMEONE CALL HIM AND HE SAID "YES" THE MOTIONS CAN
BE FILED IN THIS COURT! (919) 733-3561. MR. CONNELL
SAID PROCEEDURE IS THAT "IF" THE MOTIONS COULDN'T BE
FILED OR HEARD IN THIS COURT, HE WOULD HAVE RETURNED
THEM AND INSTRUCTED OF HOW IT WAS "MANDATORY" TO
FILE THE SAID MOTIONS IN SUPERIOR COURT! THE STATE'S
ATTORNEY KATHLEEN U. BALDWIN WOULDN'T NEED TO FILE (3)
"SEPERATE" IDENTICAL RESPONSES EITHER, ASKING THE
COURT TO DISMISS (OR) DENY PETITIONER'S MOTIONS
"UNLESS" THE COURT OF APPEALS HAS THE POWER AND
AUTHORITY TO GRANT PETITIONER'S MOTIONS. (EMPRASIS SUPPLIED).

3) PETITIONER WOULD ALSO LIKE TO BRING TO THE COURTS
ATTENTION THAT AGAIN ON ALL (3) MOTIONS PETITIONER FILED
IN THIS COURT UNDER DISCUSSION, STATES ATTORNEY BALDWIN
"FAIL" TO PROTEST ANY OF PETITIONER'S CONTENTIONS
IN ANY ONE OF THE THREE MOTIONS; AS IT'S OBVIOUS
IN ALL (3) MOTIONS THAT ALL PETITIONER'S
STATE AND FEDERAL RIGHTS WERE VIOLATED IN

SO MANY WAYS THAT PETITIONER CAN'T
COUNT THEM ALL.

D. PETITIONER CONTENDS THAT THE PURPOSE
OF THE ASSISTANT ATTORNEY GENERAL TO EVEN
RESPOND "AT ALL" TO ANY SUBMITTED MOTIONS
IS TO POINT OUT HOW PETITIONER IS WRONG
IN HIS ASSERTED GROUNDS FOR RELIEF; IN ANY
PARTICULAR MOTION. (NOT "WINNING" AT ALL COSTS) HOWEVER,
STATE'S ATTORNEY BALDWIN DIDN'T AND COULDN'T
RESPOND TO ANYTHING IN ANY OF PETITIONER'S
MOTIONS, BECAUSE AS THE BIBLE SAYS, "THE
HANDWRITING IS ON THE WALL"!

E. PETITIONER IS SEEKING JUSTICE
AND A LAWFUL SENTENCE, AND APPEALING TO
THIS HONORABLE COURT TO REVIEW PETITIONER'S
MOTIONS, THE RECORD, THE ILLEGAL INDICT-
MENTS, THE ILLEGAL SENTENCES, THE ILLEGAL
REPRESENTATION OF COUNSELOR ZIMMERMAN BEING
PETITIONER'S PRIOR SENTENCING JUDGE, THE ILLEGAL ACT
OF FORCING PETITIONER TO DEFEND HIMSELF AT THE WITH-
-DRAW HEARING, NOW PETITIONER WAS ILLEGALLY
SENTENCED WITH NO PST REPORT, THE ILLEGAL
JUDGMENT AND COMMITMENT PAPERS, NOW
PETITIONER WAS ILLEGALLY SENTENCED ON THE DOUBLE-

- JEOPARDY INDICTMENTS, ILLEGALLY SENTENCED ON 8 WAIVERS WITH CONSECUTIVE SENTENCES AND COUNSEL JUST SAT BACK AND SAID NOTHING; ILLEGALLY FILLING IN BLANK PLEA BARGAIN, THE PROSECUTOR ILLEGALLY RELEASING AN INMATE FROM PRISON EARLY IN EXCHANGE FOR A FALSE STATEMENT AGAINST PETITIONER, THE PROSECUTOR ILLEGALLY RUNNING WITNESSES FOR DEFENSE OUT OF TOWN, THE PROSECUTOR ILLEGALLY THREATEN PETITIONER WITH THE DEATH PENALTY SENTENCE, THE PROSECUTOR ILLEGALLY COVERED-UP THE CRIME OF ROBERT NICHOLS STEALING PETITIONERS TRAILER AND SELLING IT, THE PROSECUTOR ILLEGALLY THREATEN DEFENSE WITNESSES WITH SEVERE PROSECUTION ON PENDING CHARGES IF THEY DIDN'T CHANGE THEIR STATEMENTS AND GO AGAINST PETITIONER, AND OFFERING TO DISMISS AND GIVE PRO-BATION TO ALL WITNESSES ON THEIR PENDING CHARGES IF THEY COOPERATE WITH THE PROSECUTOR. WITNESSES "RECORDS" WILL VARY THE PROSECUTOR ILLEGALLY DID WHATEVER IT TOOK TO SEND PETITIONER AWAY FOR THE REST OF HIS NATURAL LIFE. THE WORD "LEGAL" DOES NOT APPLY ANYWHERE THROUGHOUT THESE PROCEEDINGS, SO NATURALLY PETITIONER SEEKS "JUSTICE" IN THE HIGHER COURT!

WHEREFORE, IN VIEW OF ALL THE ABOVE
MISCARRAGES OF JUSTICE THAT WERE COMMITTED
AGAINST PETITIONER, PETITIONER PRAYS THIS
HONORABLE COURT GRANT PETITIONER'S MOTION
IN ARREST OF JUDGMENT, AND ANY OTHER
RELIEF THIS HONORABLE COURT DEEMS JUST AND
PROPER.

RESPECTFULLY SUBMITTED THIS THE
24 DAY OF NOVEMBER 2003.

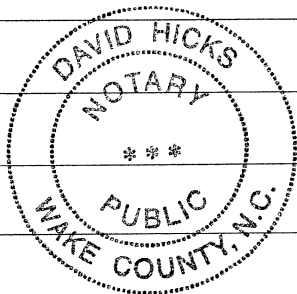
pro-se: Theodore Mead Kimble
THEODORE MEAD KIMBLE

DATE: 11-24-03

WITNESS: David Hicks

My Commission Expires 5-18-2008.

MY COMMISSION EXPIRES _____



* J *

VERIFICATION

I, THEODORE MEAD KIMBLE, BEING FIRST ONLY SWORN
DEPOSE AND SAY, I AM THE PETITIONER IN THE
FOREGOING PETITIONERS RESPONSE TO THE STATES ANSWER,
I HAVE READ THE SAME, AND THE STATEMENTS
CONTAINED THEREIN ARE TRUE, AS FOR ANY STATE-
MENTS MADE ON INFORMATION AND BELIEF, ARE MADE
IN GOOD FAITH, AND I BELIEVE TO BE TRUE.

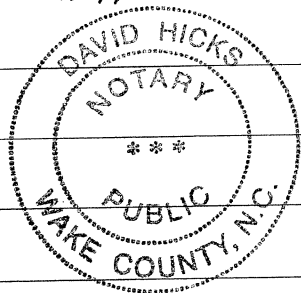
SIGNED UNDER PENALTY OF PERJURY, THIS THE 24
DAY OF NOVEMBER 2003.

Pro-se Theodore Mead Kimble
THEODORE MEAD KIMBLE

SWORN TO AND BEFORE ME THIS THE 24 DAY OF
NOVEMBER 2003,

DATE: 11-24-03
WITNESS: David Hicks

MY COMMISSION EXPIRES 5-18-2008.



CERTIFICATE OF SERVICE

I, Theodore Mead Kimble, do hereby certify
that the foregoing petitioners response to the
states answer was only served by placing the
same in the U.S. Mail, postage pre-paid and
addressed as follows:

Mr. Roy Cooper
Attorney General
P.O. Box 629,
Raleigh, N.C. 27602,

pro-se Theodore Mead Kimble
Theodore Mead Kimble
1300 Western Blvd.
Raleigh, N.C. 27606

Sworn to and before me this 24th day of
November 2003.

DATE: 11-24-03

Witness: Daniel Huber

My Commission Expires

My Commission Expires 5-18-2008.

