

TO: THE GRIEVANCE COMMITTEE

THE NORTH CAROLINA STATE BAR

POST OFFICE BOX 25908

RALEIGH, NORTH CAROLINA 27611

TELEPHONE: (919) 828-4620

OFFICE USE ONLY

FILE NUMBER

I, the undersigned hereby COMPLAIN against MR RICHARD E. PANOSH, Assistant District Attorney, GUILFORD COUNTY SUPERIOR COURT, Post Office Box 3008, Greensboro, N.C. 27402-3008. A practicing Attorney of GUILFORD County. I agree to cooperate by furnishing to the representatives of the North Carolina State Bar all pertinent information and records in my possession concerning the alleged Misconduct of said Attorney. I further agree that if a Hearing or Inquiry is Ordered concerning the alleged Misconduct of said Attorney, then I will furnish Evidence concerning the "FACTS" by submitting a deposition of personal attendance at the Hearing or Inquiry. I hereby indicate that this information is provided and transmitted by me to the North Carolina State Bar for the purpose of investigating the alleged Misconduct of the above-named Attorney. I understand that I may also need to reveal this information to a privately-retained Attorney to pursue private remedies on my behalf. I further understand that the immunity granted by North Carolina General Statute 84-28.2 Applies only to those statements made without malice and intended for transmittal only to the North Carolina State Bar.

I also understand that the North Carolina State Bar may reveal this information to the accused Attorney for his response to a formal inquiry and to others pursuant only to the Rules and Regulations of the North Carolina State Bar.

Name of Complainant

MR. THEODORE MEAD KIMBLE

1300 WESTERN BLVD.

RALEIGH, N.C. 27606

Theodore Mead Kimble

Signature of Complainant

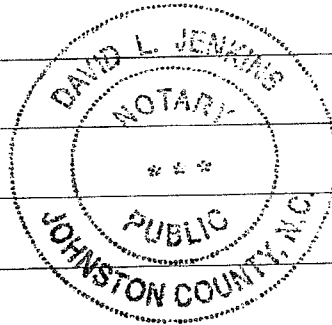
Sworn and Subscribed before

Me this the 13th Day of
February 2007.

David L. Jenkins

(NOTARY PUBLIC)

My Commission Expires 12-10-2008



DESCRIPTION OF COMPLAINT

Complainant contends that the enclosed ~~Attachments~~ and EXHIBITS will clearly show several ways in which Assistant District Attorney Richard E. Panosh **BROKE THE LAW**.

Mr. Panosh had no regard for the Rules of Conduct, Or Complainant's State and Federal Constitutional Rights. Complainant wishes this State Bar will examine the enclosed Exhibits in support of Proof to the FACTS. To better grasp the basis of this "Complaint", One should consider review of the Affidavit given by Theodore M. Kimble, (Complainant) See EXHIBIT "A". Complainant intends to show a pattern of Misconduct, by showing the FACTS to this Bar as follows:

1.) Conviction Obtained by the Unconstitutional Failure of the State to Disclose to the Defendant Evidence Favorable to the Defendant.
U.S. Const. AM. 5, 6, 14; N.C. Const ART. I, Sec. 18, 19, 23.

Complainant contends that the Prosecutor Richard Panosh withheld VITAL information from the Defense. Mr Panosh threaten and bullied Defense witnesses, Even Coerced witnesses to lie against the Complainant. I have managed to recover Transcript Records from my Co-defendant's trial. (Co-defendant Ronnie Kimble, Trial Date Aug 4, 98 - Sept 4, 98, Guilford County.)

This information was never given to the Defense of Theodore Kimble by Prosecutor Panosh. See EXHIBIT "B". This exhibit shows the sworn Testimony of Jeff Clark, who testified how Prosecutor Richard Panosh directly tried to **COERCE** him to lie in exchange

x 3 x

for a lighter sentence on pending charges in his case. Jeff Clark was simply another Jail-house inmate the Prosecutor wanted to lie and say Ronnie (Co-defendant) confessed to him. The Prosecutor's plan back-fired when this witness testified for the Defense.

Patrick Pardee was another witness coached to lie by Prosecutor Richard Panosh. Three days prior to signing a statement against me, "saying I confessed to him," Patrick told a Melanie Oxendine he didn't know anything about my case. Ms Oxendine testified to these facts at my Co-defendant's trial. EXHIBIT C, shows Ms Oxendine's sworn Testimony. Mr. Pardee was threaten and coerced to lie by Prosecutor Panosh. I have known Mr Pardee for a number of years. Since the Prosecutor no longer has pending charges against Mr. Pardee, I truly believe if this Bar would simply go and talk to this man, he would now tell the "TRUTH." The Prosecutor threaten nearly every Defense witness. See U.S. v. ESTRADA, 849 F.2d 1304 (10th Cir. 1998) Also see U.S. v. AGUILAR, 90 F.SUPP. 2d 1152 (D. Col. 2000) "Prosecutors statement to Defense witnesses that Government might void witness plea agreement and re-instate previously dismissed charges unless he invoked his fifth Amendment privilege against self-incrimination, Deprive defendant his Right to Due Process and Compulsory Process." The Rights of the Complainant were violated when Prosecutor Panosh withheld the statements of Jeff Clark and Melanie Oxendine.

Nowhere is the "obstruction of Justice" more obvious than in the case of Robert Nichols. This was yet another STAR witness coached, threaten, and Coerced to lie by Prosecutor Richard Panosh.

x 4 x

For most of the facts surrounding this witness see the Affidavit by Theodore Kimble (see EXHIBIT "A".) As pointed out, while Complainant was sitting in jail awaiting trial, Robert Nichols broke into Complainant's business and stole a trailer and roofing shingles. To support these claims I look to Greensboro (N.C.) Police Detective David Sizemore, who traced the theft of my trailer and shingles back to Robert Nichols. But Prosecutor (Panosh) for the second time refused to give Mr. Sizemore an Arrest warrant. This is despite the FACT Jeff Roberts confessed months earlier, that he was with Robert Nichols the night the trailer was stolen, and that he in fact helped Mr Nichols steal the trailer and shingles. Police Detective Sizemore has decline to give a signed Affidavit because he works with the D.A's office. "But Mr Sizemore did say if a subpoena was issued, One would gain access to his personal notes, which are none-public records." These documents would show Robert Nichols did in FACT steal my Trail. Mr. Sizemore also stated this information was turned over to Prosecutor Richard Panosh. Complainant contends Mr. Panosh never turned over this vital information to the Defense. As to the claims about the stolen trailer, Complainant has only been able to recover a few Exhibits. (see EXHIBITS D 6 Pages)

① Shows the Newspaper Ad of Complainant's stolen trailer, ② Detectives names who worked on the case, and case number, ③ Actual Police Report, ④ Auction Company bought the trailer ⑤ Invoice ⑥ Check Number. Prosecutor Richard Panosh sat on this information in an attempt to "cover-up" this crime.

Complainant states that the Prosecutor FAIL to turn over statements by "KEY" witnesses. Jeff Roberts and James Ogburn were both interviewed by Prosecutor Panosh several times. Yet Mr. Panosh NEVER turned over a single statement to the Court or the Defense. Both Mr. Roberts and Mr. Ogburn gave statements to Detectives in front of witnesses. See EXHIBIT "E", Affidavit by (Sr.) Ronnie Kimble; Also see EXHIBIT "E", Affidavit by Edna Kimble.

While a Prosecutor is clearly authorized to strike hard blows in an earnest and vigorous prosecution, He or She is NOT at liberty to strike "FOUL" ones. U.S. v. NAPPI, 243 F.3d 758 (3rd. 2001); US v. ESCHMAN, 227 F.3d 886 (7th Cir 2000.) "Due Process requires that Defendant be sentenced on basis of "ACCURATE INFORMATION." Complainant ask, "How can I receive a fair trial, or fair sentence, if the Prosecutor with-holds vital information?"

As Complainant has stated, Mr. Robert Nichols was threaten and coerced to lie by Mr. Panosh. Mr. Nichols also signed a statement saying, "I confessed to him." But just as Mr. Pardee, Mr. Nichols went around telling people he didn't know anything about my case, and that the Prosecutor was threatening him. Mr. Nichols kept sending messages to (Sr.) Rev. Ronnie Kimble, saying he wasn't going to lie against the Complainant and Co-defendant as Prosecutor Panosh wanted, And that he would stand-up and be accountable for his own actions. See EXHIBITS "G" "H". These signed statements by Walter Cole and James Ogburn verify this claim. Walter Cole is a Youth Minister and in good standing with the community. As for Robert Nichols, the Prosecutor got the best of him. Mr. Nichols went on to lie at my Co-defendant's trial.

x 6 x

The N.C. State Bar Rules Say: "Prosecutors shall make "TIMELY DISCLOSURE" to the Defense of all evidence or information that tend to negate the guilt of the accused, Mitigate the degree of the offence or reduce the punishment, in connection with sentencing, the Prosecutor is to give the Defense and the Court all unprivileged mitigating information unless relieved by Court-order.

A Prosecutor's duty is to seek Justice, Not merely to Convict. This carries specific obligation to see that the Defendant gets Procedural Justice and that guilt is decided on the basis of sufficient evidence. How far the Prosecutor must go is a matter of debate and varies in different Jurisdictions. (Note: see U.S. v. DOE, 860 F.2d. 488 (1st Cir. 1988.))

The Prosecutor should use restraint in the discretionary exercise of Government Powers, Such as choosing cases to prosecute, During trial the Prosecutor may make decisions normally made by a Client, and those affecting the public interest should be fair to all. The accused is to be given benefit of all reasonable doubt.

In the 1963 case, BRADY v. MARYLAND; The U.S. Supreme Court held that "The Supression by the Prosecution of Evidence Favorable to an Accused upon request violates Due Process where the evidence is Material either to guilt or to punishment, irrespective of the Good Faith or Bad Faith of the Prosecution.

"The principle is not punishment of society for misdeeds of a Prosecutor but avoidance of an unfair trial to the accused. Society wins not only when the guilty are convicted but when criminal trials are FAIR." Our system of the Administration of Justice suffers when

any accused is treated unfairly. An inscription on the walls of the Department of Justice states the proposition candidly for the Federal Domain: "The United States wins its point whenever Justice is done it's citizens in the Courts." The Court awarded BRADY, who had been sentenced to Death, A New trial because Prosecutors withheld a statement by Brady's Co-defendant confessing to the actual murder.

Case 99 CRS 23241-48, "Solicitation to Commit First Degree Murder," was based on the word of a D.O.C. Prison Inmate named William Stewart. Mr Stewart was more than happy to say anything the Prosecutor wanted. Mr Stewart was only (1) of many who were reading about my case in the newspapers, then writing the District Attorney to try and get a time-cut on their Prison-Sentence. Ofcourse Mr Panosh FAIL to turn-over this information to the Defense. Mr Stewart went around bragging to other inmates he was getting out of prison early to lie on the "white-Cracker" as he put it. FOUR inmates gave Sworn Testimony to these FACTS at the Sentencing of the Complainant. The Transcript Testimony of these 4 witnesses will be made available upon request.

Prosecutor Panosh had a Judge to sign an order for the early release of Mr Stewart from prison, All in exchange for Mr Stewart's False statement. Mr Panosh wanted to prosecute the Complainant so badly on this single case, Although the Grand Jury refused to indict on the word of INMATE William Stewart, Mr. Panosh had the Complainant sign "Bills of Information Waivers" so he could prosecute. This clearly shows a "VINDICTIVE PROSECUTION." (see EXHIBITS "I".) Upon review of these Waivers you will NOTE

x 8 x

each one has the same Date of November 4, 1998. Complainant contends this was a single case of "Solicitation to Commit First Degree Murder. Yet Prosecutor Richard Panosh "DECEIVED" the Court in the way he presented this single case as though it were 8 separate cases. This was in order to lengthen the Prison-sentence of the Complainant. Prosecutor Panosh withheld VITAL evidence from the Court and thus the Complainant received 70-90+ years on this single case. If you will look at the Plea Agreement (EXHIBIT "J") it states the Defendant was to receive consecutive sentences on all CASES. Previous to that it list each case and Solicitation to Commit First Degree Murder as 8 COUNTS. It was 8 Counts to a Single Case. Because the Prosecutor withheld this information, the Complainant received "8" Consecutive sentences on a single case. Prosecutor Panosh violated his own Plea Agreement! see U.S. v. CONTRERAS, 249 F3d. 595 (7th Cir 2001). "Sentencing Determination must be based on reliable evidences." Mr Panosh also withheld the fact that the Grand Jury had refused to indict on the word of Inmate William Stewart, And that if the Complainant refused to sign the waivers, the case would have to be dismissed. see U.S. v. SANDERSON, 595 F2d. 1021 (5th Cir 1979). In this case Complainant makes only the claim that the Prosecutor misrepresented the material facts, and withheld information.

Prosecutor Richard Panosh withheld the Pre-Sentence Investigative Report (P.S.I. Report) Complainant's Sentencing Transcripts, pages 218-219 (EXHIBIT K.) will show the Complainant was sentenced without this vital information. No P.S.I. Report was presented into the Record

as evidence. See U.S. v. DAVENPORT, 151 F.3d 1325 (11th Cir 1998.) "Pre-Sentence Report must be disclosed to both defense Counsel and Defendant at least ten (10) days prior to sentencing as mandated by statute." Pursuant to "N.C.G.S. 15A-1333." Mandated by LAW, pursuant to "N.C.G.S. § 7A-770." And cited as the "Sentencing Services Act." No P.S.I Report was provide to the Complainant. Also see U.S. v. GORDON, 172 F.3d. (10th Cir 1999.) and see U.S. v. BARTHOLDMEW, 974 F.2d. (5th Cir 1992.)

2.) Conviction obtained by a violation of the protection against Double-jeopardy.

Clearly a violation of Complainant's Federal and State Constitutional Rights. On November 3, 1997, Mr Panosh indicted the Complainant on case #97 CRS 23656; Count One, "Arson of an Unoccupied Dwelling." Count two, "Conspiracy." (See EXHIBIT L) The problem with Count One of this indictment is that while it states, "Arson of an Unoccupied Dwelling," Just below that title it states, "... dwelling house inhabited by Patricia Kimble." A dwelling can't be Unoccupied and occupied at the same time. Mr. Panosh realized his mistake and RE-INDICTED the Complainant on July 6, 1998, as case #98 CRS 23486, Titled "First Degree Arson." (See EXHIBIT M.) Mr Panosh even used the same wording as on the previous indictment.

Not only did Mr. Panosh commit Double-jeopardy, he "intentionally" withheld this information. As proof look at the Plea Agreement (EXHIBIT J.) you will note Mr Panosh only refers to case 97CRS23656 Count One, to be dismissed, yet all others he list as to what

x 10 x

each case is. Mr. Panosh didn't list the title to that case because he did not want to draw attention to what he had done. Complainant's Counsel was deceived and fail to notice the serious rights violation. Mr Panosh even deceived the Court, and made it look as if this case were being dismissed as part of a Plea Agreement, when in fact he was covering up. The transcript record even shows the Judge Peter McHugh dismissed that case (97 GRS 23656-count one) without stating what it was, because he did not know. (See EXHIBIT N.) Mr. Panosh withheld this information from the Court.

If you will now look at EXHIBIT O. You will notice on the last page a list of District Attorneys who have been caught "withholding evidence." Steven Bishop from Guilford County is listed at the top of the page. This is the same Guilford County and office in which D.A. Richard Panosh worked, and he obviously worked with Steven Bishop. It's only reasonable to say Steven Bishop was not the only D.A. in the office who broke the law.

Within the next few weeks I plan to file a lawsuit against Robert Nicholes for stealing my trailer. I plan to recover Detective David Sizemore's notes and reports, which he claims to have provided the same to D.A. Richard Panosh. I'm going to prove D.A. Richard Panosh broke the law, and withheld vital information from my defense.

Robert Nicholes, Patrick Pardee, and Jay Dyer were coerced and threaten to lie against me by D.A. Richard Panosh. While James Ogburn and Jeff Roberts were threaten to keep silent.

I pray the N.C. State Bar will talk to these people.
I pray this Bar will thoroughly investigate the Gross
Miscarriage of Justice and misconduct of Prosecutor Richard
E. Panosh, and visit me so I can explain in more detail.
There is no telling how many times Mr. Panosh has committed
these same crimes against other victims.

Respectfully submitted this the 13 day
of February 2004.

~~Theodore Mead Kimble~~
THEODORE M. KIMBLE
1300 Western Blvd.
Raleigh N.C. 27606

Witness: Paul Jenkins

Date: 2-13-04

My Commission Expires: _____

My Commission Expires 12-10-2008.

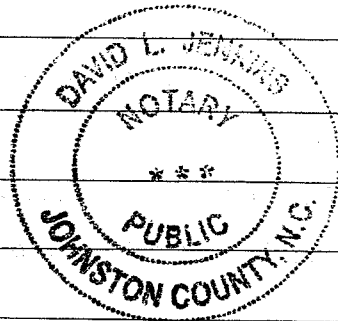


TABLE OF EXHIBITS

- (A.) AFFIDAVIT OF THEODORE M. KIMBLE
- (B.) CO-DEFENDANT'S TRANSCRIPT/TESTIMONY OF JEFF CLARK
- (C.) CO-DEFENDANT'S TRANSCRIPT/TESTIMONY OF MELANIE OXENDINE
- (D.) INFORMATION ON STOLEN TRAILER
- (E.) AFFIDAVIT OF RONNIE KIMBLE (SR.)
- (F.) AFFIDAVIT OF EDNA KIMBLE
- (G.) STATEMENT BY WALTER COLE
- (H.) STATEMENT BY JAMES OGBURN
- (I.) BILLS OF INFORMATION WAIVERS
- (J.) PLEA AGREEMENT
- (K.) SENTENCING TRANSCRIPT PAGES #218, #219
- (L.) INDICTMENT 97 CRS 23656 ARSON OF AN UNOCCUPIED DWELLING
- (M.) INDICTMENT 98 CRS 23486 FIRST DEGREE ARSON
- (N.) PLEA TRANSCRIPT PAGE #11
- (O.) RALEIGH NEWS + OBSERVER - NEWSPAPER ARTICLE
- (P.) NOTICE OF PENDING LEGAL ACTION : TO ROBERT & CANDICE NICHOLS

I was at work, Lyle's Building Material Oct. 9, 1995. AT 3:25 P.M. I called Patricia Kimble, who was about to leave work early to go home and cut the grass. Little did I know my wife would be dead by the end of the day. After I hung-up the phone I walked out of the office as my younger brother, Ronnie Kimble^(Jr.) came driving up (3:45 P.M.). AS I spoke to Ronnie an employee named James Ogburn came walking up. James asked Ronnie about the for-sale sign in the window of his car. While they talked I had to go wait on a customer. After the customer left I went and got the tools Ronnie had asked for. Ronnie left Lyle's Building MTL. around 4:25 P.M. AT 4:45 PM Ronnie (Jr.) was at his home working when his father-in-law, James STUMP came driving up to help him. The rest of the evening Ronnie spent with his in-laws and wife. Thus all of Ronnie's time was accounted for.

Other than myself James Ogburn was the key witness who could verify Ronnie's location from 3:45 P.M. to 4:25 P.M. Detectives spoke to James Ogburn at least (4) times. But the Prosecutor (Dick Panosh) never turned over a single statement made by James. Two of those interviews were made downtown in the D.A.'s office. The first time James Ogburn gave his statement was at Lyle's Building MTL. in-front of Edna Kimble. James was interviewed by whom is believed to be Detective Sergeant Debarry. Detectives Church and Debarry spoke to James at the company a few times.

Approximately a year after the death of Patricia Kimble, A young man named Robert Nicholes (Rob) came to work at Lyle's Building MTL. At the time no-one knew that with Rob came a drug (cocaine) and alcohol problem. In Dec. (96) Rob started selling small amounts of lumber to the company (Lyle's Building MTL.) He claimed

a contractor was giving him the left-over lumber off job-sites. On Jan. 2, 1997, Rob asked for my help to go and pick-up some lumber as soon as the company closed. at 5:30 P.M. I agreed to go and help. Before the company closed a friend at the time named Patrick Pardee came driving up. when asked he also agreed to go and help. I closed up as always and the 3 of us headed across town. when we arrived at the site to get the lumber, we not only loaded what Rob claimed was promised to him, we loaded it all. Thus began a crime spree that lasted for the next 60 days.

By the end of the first week in March, Patrick and I had pretty much stopped stealing. Do to Rob's drug problem he continued stealing in an attempt to support his habit. During the second week of March I realized Rob was now stealing from the company (which I own), but I didn't know what to do about it. During the same week Rob came-up and stated he and his friend (Jeff Roberts) had spotted a trailer loaded with ladders, and asked if I needed anymore? I said, "NO." "Let me ask you Rob, did you tell Jeff what we had done?" Rob said, "NO" and walked off. James Ogburn then walked up and I said, "we're busted because Rob told Jeff. You know how the two of them fight all the time. The next time they fall-out, Jeff will call Crime-stoppers for the reward, so he can get more drugs."

On April 1, 1997 I was arrested. A few weeks later I was indicted on 47 felony Breaking/Entering and Larceny charges. When I got the case discovery information I read where Jeff Roberts had called Crime-stoppers just like I said he would. In my absence my father, Ronnie Kimble (Sr.) ran Lyle's Building Mtl. My younger brother, Ronnie Kimble (Jr.) was also arrested April 1 (97) and indicted for the death of Patricia Kimble. I would be indicted a few months later. While Ronnie (Jr.) sat in the Greensboro Jail of Guilford County, I sat in the High Point Jail.

While I sat in jail there was a break-in at Lyle's Building MTL. Someone loaded shingles into the company's brand new trailer (\$5,500) and drove off with it. A few months passed and Jeff Roberts started coming into "Lyle's" for business. One day while Jeff spoke to Ronnie (Sr.) he broke-down and started telling Mr. Kimble about things he and Rob had done. Jeff stated he and Rob had broke into "Lyle's" and stolen the trailer and shingles. Jeff also said he went to the beach with Rob Nicholas, Rob's wife and daughter. While at the beach Jeff helped Rob do a roofing job with the stolen shingles, then Rob went and sold the trailer. Mr. Kimble (Sr.) called and reported this information to the authorities. A detective came and interviewed Jeff Roberts and took a statement, but the District Attorney's office refused to issue a warrant and arrest Robert Nicholas. The actions or lack thereof by the D.A.'s office should've come as no surprise. Jeff also told Mr. Kimble (Sr.) that Rob stated he didn't know anything about Patricia Kimble's death, because I (T.K.) had never talked to him about it. And that the D.A. (Dick Panosh) was coaching him as what to say. Jeff said Rob would joke about having to go down-town for his coaching lessons.

One day James Ayburn and a co-employee of "Lyle's" ran into Rob. Rob asked that they let Mr. Kimble (Sr.) know, he had talked it over with his wife and decided not to go through with it (lie), and testify against Ted (T.K.). James and the co-employee gave signed statements, which copies are enclosed within the M.A.R. "But once again Rob lied."

Meanwhile Patrick Pardee showed up at Chilly's Restaurant one day for lunch, and spoke to a young woman named Melanie Oxendine. Patrick told Melanie he didn't know anything about Patricia Kimble's death, but the Prosecutor was pressing him to sign a statement against Ted (T.K.) anyway. Three days after this conversation Patrick Pardee signed a statement against me (T.K.).

Maybe a month or so after Jeff Roberts confessed to Mr. Kimble (Sr.), Jeff

got arrested and thrown into jail. Jeff wasn't just placed anywhere, The D.A. (Dick Panosh) had Jeff placed at the HighPoint Jail, in the very cell "next to me." Jeff told me he was out attempting to steal some scrap aluminum when his truck got stuck in the mud. During the following week Jeff made several trips to the Greensboro D.A.'s office, where he was interrogated, interviewed, and threaten. Each time Jeff would return to his cell and tell me what was happening. Jeff first stated Dick Panosh (Asst. D.A.) and detective J.D. Church wanted him to try and talk to me about my case. On another visit they wanted Jeff to sign a statement against me, which stated I had confessed to him while he was in the cell next to me. If Jeff didn't sign the statement Mr. Panosh threaten to prosecute him to the max! This was the same way Mr Panosh got Robert Nicholes and Patrick Pardee to sign statements, which said the same thing. After 3-4 visits to the D.A.'s office Jeff was scared to death, but he held-out. After the final visit Jeff told me that Mr Panosh had stated he better keep his mouth shut and disappear. If Jeff did as told the pending charges against him would be dropped. Mr Panosh told Jeff he had better NOT show up at trial to testify against Rob during the "Kimble trial." A day or two after this conversation with Jeff, he got of jail and was never heard from again. Up until the time Mr Panosh threaten Jeff, he was going to testify for the defense.

I complained to my lawyer about Jeff being in the cell next to me, and told of what Mr Panosh was trying to do. But my lawyers did nothing.

I was still in jail awaiting trial when a patrol car arrived at Lyle's Building Material. The police officers arrested James Ogburn and claimed it was for back child-support payments. But when James got downtown he was taken to the D.A.'s office to discuss the "Kimble's case." James said the D.A. told him his life was

at a fork in the road, one path leads to prison for the rest of his life, the other path leads to probation. "Don't show-up at the Kimble trial!"

For over two years James Ogburn had stated Ronnie Kimble was in front of him on Oct. 9, 1995 between 3:45-4:30 P.M. Two week before Ronnie Kimble's trial James was at the D.A.'s office again for another pep-talk. Once again the D.A. threaten James and made it clear he had better not testify for the defense.

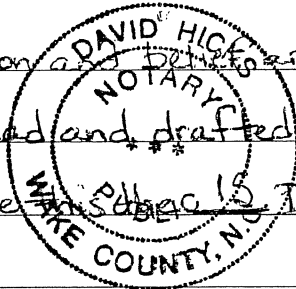
You have to Remember, James was involved with the 47 plus felony Breaking/Entering and Larceny cases. The D.A. threatens to prosecute James on all of these charges if he didn't change his statement. After James' last visit to the D.A.'s office his statement changed. James said he couldn't remember the exact time anymore, and he refused to testify. In exchange the D.A. didn't prosecute James on a single charge.

When it came time for (co-defendant) Ronnie Kimble Jr.'s trial, Jeff Roberts and James Ogburn were no-where in sight. The D.A. had threaten them, and ran them off. Robert Nicholes and Patrick Pardee both marched into court and lied on the stand, saying "I had confessed to them, and told them I had hired Ronnie (Jr) to Kill my wife. They lied just as Richard Panosh (D.A.) coached them to do. I NEVER said any such thing to either of them! Ronnie Kimble was standing in front of myself and James Ogburn at the time Patricia Kimble died. It would be impossible for Ronnie to be in two places at the same time! Both Rob and Patrick had plea-agreements with Richard Panosh on pending charges, and neither saw a day in prison. To my knowledge both had prior criminal records, yet both received probation and or the First Offender's Program. It's also my understanding Rob and Patrick were only charged with 2-3 crimes each, while I was charged with 47 felonies in which they were

also involved. If this isn't a case of selective prosecution I don't know what is. The D.A. even got a young lady named Joy Dyers, who was an X-girlfriend, to lie in court. Just as the others she had pending charges in which the D.A. used as leverage to coerce witnesses to lie. After Joy testified to the lies, her pending charges were dismissed.

In mid 99' while sitting in prison, waiting on my direct Appeal to be filed, I picked up the Raleigh newspaper (The News & Observer) and read the classifieds. Low and behold I saw an "Ad" for a "TRAILER" which sounded like the one Rob stole from me. I sent the Ad to my father Ronnie (Sr.) who drove half-way across the state and found my trailer. It was a custom-built trailer (\$5,500) so there is NOT another one like it in the World. Finally, had evidence which could be traced back to Robert Nicholes. Mr Kimble (Sr.) reported this information to the authorities, but just as before the District Attorney's office refused to go and get the trailer, They refused to arrest Robert Nicholes. Clearly this was a miscarriage of Justice, and Prosecutor Misconduct. Richard Parosh sees himself above the Law he's suppose to represent.

The above Affidavit is written in True Accounts of Events that took place, To the Best of my knowledge all statements made are TRUE and CORRECT, As for any statement made on information and beliefs are made in good faith, And I Believe to be TRUE, I have read and drafted the same, I swear under perjury. Sworn to and before me this 15th Day of October 2003.



WITNESS: David H. Kimble -10-15-03

X: Woodrow M. Kimble

MY COMMISSION EXPIRES: My Commission Expires 5-18-2008.

THE FINE MEAT KITCHEN

1 (Court reconvened at 11:17 a.m. The defendant was present.
2 The jury was not present.)

3 (The jury entered the courtroom at 11:17 a.m.)

4 THE COURT: You may call the next witness for the
5 defense, please.

6 MR. HATFIELD: Jeffrey Clark.

7 JEFFREY CONLUIS CLARK, being first duly sworn, testified as
8 follows during DIRECT EXAMINATION by MR. HATFIELD:

9 Q Will you state your name, please, sir.

10 A Jeffrey Conluis Clark.

11 Q Okay. You have to speak up. This room has very poor
12 acoustics, Mr. Clark.

13 A Jeffrey Conluis Clark.

14 Q Mr. Clark, are you currently serving a prison sentence
15 in the North Carolina Department of Corrections?

16 A Yes, I am.

17 Q In recent months, have you been incarcerated in both
18 the Greensboro and High Point Jail?

19 A Yes, sir.

20 Q Do you know Ronnie Lee Kimble, who's sitting beside me?

21 A Yes, I do.

22 Q At some point in time, were you confined in the same
23 jail facility as he was?

24 A Yes, I was.

25 Q Do you also know Ted Kimble?

1 A Yes, I do.

2 Q And were you confined with him for a period of time --

3 A Yes, sir.

4 Q -- in the same facility? And was that High Point?

5 A Correct.

6 Q Did a time arrive when an incident took place, perhaps
7 in July of 1997, between you and Ronnie Kimble?

8 A Yes, sir.

9 Q Can you briefly describe that incident.

10 A Well, one day I was -- well, Ronnie used to serve and
11 clean up the trays in the jail. And one particular morning,
12 the officer allowed me to go out and clean up. And before
13 that, there was some words exchanged, and Ronnie thought
14 that I was just making a racial thing, but he got the wrong
15 -- he wasn't right about it. It wasn't me, it was another
16 inmate. So I couldn't get Ronnie's tray from up under his
17 door, so, you know, when the officer opened the door, Ronnie
18 like pushed his tray, Kimble took his foot and pushed his
19 tray towards me at the door. And I thought that, you know,
20 he was trying to attack me or something. So it was like a
21 little confrontation. But other than that, that was it.

22 Q And did the --

23 A Like it blew over.

24 Q Did the guard who was present resolve that controversy
25 right away?

- 1 A Yeah. Officer Stevenson.
- 2 Q All right. Now, did something happen later in the day?
- 3 A Yeah.
- 4 Q What happened?
- 5 A Detective Church called me down to his office.
- 6 Q In the Detective Division of the sheriff's office?
- 7 A I guess that's what it is. I know --
- 8 Q Is that in the same --
- 9 A -- it was outside -- I know it was out--
- 10 Q Is that in the same building where the jail is?
- 11 A Yeah. Where B.J. Barnes' office is.
- 12 Q What did Detective Church say to you?
- 13 A He stated his name, told me who he was, and heard that
- 14 -- he had got word that me and Ronnie Kimble had got into a
- 15 little confrontation. And he said he's the first to know
- 16 about anything that has any dealings with Ronnie Kimble.
- 17 Q He told you he -- whenever anything happened with
- 18 Ronnie Kimble, he was the first to know?
- 19 A Yeah.
- 20 Q And did he ask you the details of what had happened
- 21 with Ronnie Kimble?
- 22 A Yeah.
- 23 Q Did you tell him?
- 24 A Yeah.
- 25 Q And then what did Mr. Church say to you?

1 A He asked me, he said, "Well, back up --" "When you go
2 back up there, find out --" you know, "see what you can --"
3 said, "Have Ronnie said anything to you concerning why he
4 was in the jail? Or have you heard him talking about his
5 case?" And at the time --

6 Q Did Detective Church tell you anything about Ronnie's
7 case?

8 A Not at that present time, but on another occasion, he
9 did.

10 Q So this time, he told you to go back up and see if
11 Ronnie would say anything about his case?

12 A Yeah, he did, he did say that.

13 Q Did he tell you how it was that Ronnie's sister-in-law
14 had met her death?

15 A Yeah.

16 Q What did he tell you?

17 A He said that she was shot in the head with a large
18 caliber pistol, and she was chained and soaked with gasoline
19 and burned.

20 Q Chained to a chair?

21 A Yes, sir.

22 Q And soaked with gasoline?

23 A Yes, sir.

24 Q And burned?

25 A Yes, sir.

1 Q Did he tell you that he thought Ronnie did that?

2 A He said that -- yeah, he has good -- he said he has a
3 good idea, and he's pretty for sure that Ted and Ronnie had
4 something to do with it.

5 Q Now, did Detective Church write up a -- was he writing
6 while he was talking to you?

7 A Yeah. Every occasion he was writing.

8 Q And did he show you what he wrote?

9 A No.

10 Q Now, subsequently, did you have another occasion to
11 meet with Detective Church?

12 A Yes, in --

13 Q Where was --

14 A -- High Point.

15 Q In High Point?

16 A Yes.

17 Q Do you know when that was?

18 A I'm not for certain on the dates.

19 Q All right. And tell the jury what happened then.

20 A Well, on that occasion, he came to me and asked me, had
21 I talked to Ted at the time. And I told him, yeah, we
22 talked. And -- I'm not really for sure right off what he
23 said to me at that time or what that really -- that
24 conversation was about. But I remember the last
25 conversation.

1 Q Did he ask you if Ted had given you anything?

2 A Yeah.

3 Q What did you respond?

4 A I said yeah. He gave me a little pamphlet, it's like a
5 religious pamphlet. And he asked me, could he see it. I
6 showed it to him. He was writing some stuff down. And he
7 said, "Well, are you sure I will get Ted Kimble's
8 fingerprints off of this?" I said, "Yes, sir." And he took
9 it.

10 Q Did it have any drawings in it of anything unusual?

11 A Yeah. It had some drawings, like little cartoon
12 things. And I'm not really for sure. It's been so long.

13 Q On that occasion, did Detective Church say anything to
14 you about the prison time you were facing?

15 A Yeah. He said he would -- don't worry about -- don't
16 worry about anything, he would help me. Whatever time that
17 I get, I wouldn't get it.

18 Q And what did you think he meant by that?

19 A I mean, I wasn't going to prison.

20 Q He was going to excuse you from going to prison, if
21 you'd cooperate with him?

22 A Yes, sir.

23 Q Is that what he made you believe?

24 A Yes, sir.

25 Q Now, was there a subsequent visit after that with Mr.

1 Church?

2 A Yes, sir.

3 Q And what happened then? Was anybody with him?

4 A Yeah. It was SBI agent -- I don't see him in here.

5 Q Was it Mr. Pendergrass?

6 A Pendergrass. Pendergrass.

7 Q All right. And what happened on that occasion?

8 A Well, that occasion, he came and talked to me, and he
9 told me he was going to visit an inmate by the name of
10 Dominic Harris at the high-rise. And we had talked. And
11 SBI Agent Pendergrass, he walked out of the room, and
12 Detective Church showed me three pictures.

13 Q What were those pictures of?

14 A It was of a -- well, one of them I know was a female.
15 It was a small wallet-size picture of a female, looked like
16 maybe a Glamour Shot picture, a very pretty girl. And the
17 second one was of an open-face garage, with a gas can
18 outside of it. And he said that "I'm for sure this is the
19 gas can that was used in the burning." And the second one
20 was -- it could have been a body, you know. I couldn't
21 really tell. All I know, it was like ashes. It was a
22 burned house. I mean --

23 Q That was the third one?

24 A Yeah. If you showed me the picture, maybe I could
25 maybe identify it.

1 Q I show you what's been marked State's Exhibit 1. Does
2 that look like the picture of the girl he showed you, except
3 bigger?

4 A No, that's not the picture, but it's a much smaller
5 picture, but it looks like the girl.

6 Q The girl depicted in Exhibit 1 looks like the girl in
7 the picture that he showed you?

8 A Uh-huh. It's a much smaller picture, though.

9 Q All right. And showing you what's been marked Exhibit
10 5, does that look like the garage that he showed you a
11 picture of?

12 A That's the garage, but it was a gas can outside of it.

13 Q There was a gas can in there?

14 A Yeah.

15 Q And showing you Exhibit 46, a body that's severely
16 burned.

17 A Yeah.

18 Q Does that look like the picture he showed you?

19 A Somewhat of it.

20 Q Now, what -- after he showed you these pictures, what
21 did he say to you?

22 A Well, after he showed them to me, we was sitting there
23 just -- I think we was talking about the weather or
24 something, and he noticed that Mr. Pendergrass was coming
25 back in, so he slid them in the file and he said, "Look, you

1 didn't see this from me or hear it from me, these pictures."

2 Q And what did -- did you draw the conclusion he didn't
3 want Mr. Pendergrass to know he'd showed you that stuff?

4 A Correct.

5 Q And what was his purpose in showing you that stuff?

6 MR. PANOSH: Objection.

7 THE COURT: Sustained.

8 Q Was he asking you to implicate the Kimble brothers in
9 murder?

10 A Yeah.

11 Q Now --

12 A I mean, from the whole time I got with talking to Mr.
13 Church, it was like, what I got from it, it was trying to
14 put this on the Kimble brothers.

15 Q Now, did -- at any time prior to very recently, did
16 anyone show you any of these writings that Mr. Church wrote
17 down?

18 A Well, I think about maybe two to three weeks ago, I
19 came back here and --

20 Q Back here?

21 A Well, I came to the DA's Office.

22 Q Yeah.

23 A And the DA, he went downstairs and got a stack -- a
24 book with a stack of papers in it. And he just briefly read
25 over some things. It was like maybe --

1 Q Was that Mr. Panosh?

2 A Right. But he said at the time that he really didn't
3 have time to talk, because Mr. Church wasn't in, he had to
4 go to Winston-Salem for something.

5 Q Did Mr. Panosh read to you any of the things from the
6 statements that Mr. Church had turned in on you?

7 A He didn't read over them. He just opened them up and
8 started briefly reading to his self.

9 Q Did he mention anything to you that you felt you hadn't
10 heard before?

11 A I think he read the first statement when I went to see
12 Mr. Church. That's about me and Ronnie being into the
13 confrontation.

14 Q And did you tell Church on that occasion that Ronnie
15 pushes religion at everybody?

16 A I think I made the statement, Ronnie talks the religion
17 talk to everyone in the jail.

18 Q And was it your -- did you try to put it in terms of
19 pushing religion on people?

20 A I'm not going to say, because it's been so long.

21 Q Did you tell Detective Church that Ronnie was always
22 trying to start trouble among the inmates?

23 A No.

24 Q You didn't tell him that?

25 A No, I don't think so.

1 Q Did you tell Detective Church that Ronnie had his wife
2 call the jail and find out what you were charged with, and
3 then told other inmates?

4 A No.

5 Q You didn't tell him that?

6 A No.

7 Q Did you tell him Ronnie gives the young guys that come
8 into the cell block snacks, to try to win their friendship
9 over?

10 A No.

11 Q You didn't say that?

12 A No.

13 Q Did you tell him that Ronnie said that his brother had
14 been selling stolen property from his business?

15 A No.

16 Q Did you tell him that Ronnie said his brother had taken
17 an insurance policy out on his wife, the woman who was
18 murdered?

19 A (The witness shook his head from side to side.)

20 Q Did you ever hear Ronnie discuss any of those things?

21 A No. But I heard Mr. Church, he discussed it some
22 briefly to that about it.

23 Q So, while Detective Church was writing this statement,
24 he was telling you those things?

25 A I remember one occasion in High Point, yeah.

1 Q Did you tell Detective Church that you overheard Ronnie
2 Kimble on the telephone talking to someone, and he stated
3 that "They," meaning law enforcement, "think my rifle was
4 used, but they don't know for sure if it was a rifle or a
5 pistol"? Did you ever make that statement?

6 A No, sir.

7 Q Did Detective Church say something like that to you?

8 A I don't remember that statement.

9 Q Did Ronnie Kimble say to you and did you tell Detective
10 Church that Ronnie thinks his truck was seen in the area,
11 but the person who seen the truck cannot positively identify
12 him? Did you ever say that to Church?

13 A No, I didn't. But I do remember Mr. -- the DA reading
14 that to me.

15 Q And did you tell Mr. DA when he read it to you that you
16 had never said it?

17 A Say again.

18 Q Did you tell him you never said it?

19 A I don't recall. I mean, at the time that I saw the DA,
20 it was like real brief.

21 Q After you saw Mr. Panosh, did you realize that there
22 were things in Church's reports that you had never said?

23 A Yes, sir.

24 Q And are you telling this jury now that Mr. Church told

25 --

1 MR. PANOSH: Objection to leading, please.

2 THE COURT: Don't lead him.

3 MR. HATFIELD: No further questions.

4 Thank you.

5 THE COURT: Mr. Panosh?

6 MR. PANOSH: Yes.

7 (Mr. Panosh showed exhibits to Mr. Lloyd and Mr. Hatfield.)

8 MR. PANOSH: May I approach the witness?

9 THE COURT: Yes, sir.

10 CROSS-EXAMINATION by MR. PANOSH:

11 Q Mr. Clark, I'm going to show you three exhibits. The
12 first one is numbered 150. Do you recognize your signature
13 on 150?

14 A Yes, sir.

15 Q And I believe it says here it's Page 1 of 4; is that
16 right?

17 A I recognize my signature.

18 Q Okay. But the page number is identified as Page 1 of
19 4, right?

20 A Okay. Right.

21 Q Okay. And your signature's on Page 1. Is your
22 signature on Page 2?

23 A Correct.

24 Q Is your signature on Page 3?

25 A Correct.

1 Q Is your signature on Page 4?

2 A Correct.

3 Q Okay. Showing you then 151, it says Page -- it's a
4 two-page document. Is your signature on Page 1?

5 A Correct.

6 Q Is your signature on Page 2?

7 A Correct.

8 Q Okay.

9 MR. HATFIELD: We object to the second document.

10 THE COURT: Overruled at this point.

11 Q Showing you then State's 152, this is a, says five
12 pages; is that right, sir?

13 A Correct.

14 Q Is that your signature on Page 1?

15 A Yes, sir.

16 Q How about Page 2, sir?

17 A That's my name. It don't look like my handwriting,
18 though.

19 Q Okay. So you don't know if that's your signature?

20 A No.

21 Q Okay. How about Page 3?

22 A No.

23 Q Page 4?

24 A No, that one isn't.

25 Q Page 5?

1 A (The witness shook his head from side to side.)

2 Q So on State's Exhibit 152, you're saying that's yours
3 on the first page, but the other ones look different?

4 A Yeah, they look different.

5 Q Okay.

6 A They don't look like my writing.

7 Q But you're sure on the first page that's your
8 signature?

9 A Yeah.

10 Q Okay. Going back to State's Number 150, and on the
11 second page, there are cross-outs and there are initials
12 there. Do you recognize those initials?

13 A Correct.

14 Q Are those your initials?

15 A Yeah.

16 Q Page -- there were no more on that one. Excuse me.
17 151 -- I'm sorry, 152, Page 2, there's a cross-out. Do you
18 recognize your initials?

19 A Yeah.

20 Q The second cross-out, do you recognize your initials?

21 A Right.

22 Q Page 3 of Number 152, there's a cross-out there. Do
23 you recognize your initials?

24 A Yes, sir.

25 Q Okay. And then on Page 5, there's a cross-out. Do you

1 recognize your initials?

2 A Yes, sir.

3 Q So you recognize your signature on each of these,
4 except for the Pages 2 through 5 of 152; is that right?

5 A Correct.

6 Q And you recognize the initials on 152 as being your
7 initials?

8 A J.C.

9 Q Okay. Isn't it a fact, sir, that these are the
10 interviews you gave Detective Church, and he read them over
11 and let you make corrections?

12 A No, sir.

13 Q He didn't make --

14 A He didn't -- I signed them. He never read them over to
15 me.

16 Q Okay. You signed them, without reading them?

17 A Correct.

18 Q And when he crossed things out, those initials, J.C.,
19 did you put those there?

20 A Yes, I did.

21 Q So you initialed things, without reading them?

22 A Correct.

23 Q But you did sign each page?

24 A Yes, I did.

25 MR. HATFIELD: Objection. He said there were

1 pages he said he didn't sign.

2 THE COURT: Sustained.

3 Q Of the pages you indicated you signed, do you recognize
4 your signature?

5 A Yeah.

6 Q And all of the cross-outs, you recognize as your
7 initials?

8 A Correct.

9 Q Now, drawing your attention to 150. It indicates your
10 name; is that correct?

11 A Correct.

12 Q Your date of birth, March 17th of '66; is that correct?

13 A Correct.

14 Q It says that you're 31, or you were then?

15 A (The witness nodded his head up and down.)

16 Q That you're six foot three and 205 pounds. Is that
17 information correct?

18 A Correct.

19 Q It says, "I was arrested on July 22nd of '97 and moved
20 to D floor of the jail on July 23, 1997. After this date, I
21 became familiar with Ronnie Kimble, by Ronnie's trying to
22 push religion and the Bible at me." Is that correct?

23 A No.

24 Q You didn't say that?

25 A No.

1 Q Sir, under the line that says "push religion and the
2 Bible at me" is your signature, and you've already
3 identified that as your signature; isn't that right, sir?

4 A Correct.

5 Q So you're saying that you signed that piece of paper
6 with that --

7 A What I'm saying is that --

8 Q -- statement on it, without reading it?

9 A What I'm saying is that I signed this paper without Mr.
10 Church reading it to me or me reading it. That's what I'm
11 saying.

12 Q Well, why would you do that, sir?

13 A I mean, if a man promised you, if you're facing a lot
14 of time, if a man promised you that he would get the time up
15 off of you, if you cooperate with him and help him out in
16 the case, would you go along with him?

17 Q If it's all right --

18 A That's my reason for that, okay.

19 Q Isn't it a fact that he read to you this entire
20 statement and asked you to sign it page by page?

21 A No, it's not true.

22 Q And isn't it a fact that he went on to say that you --
23 "that Ronnie was trying to push religion and the Bible at
24 me, while he was in the hallway of the cell block and would
25 be cleaning the same. Ronnie pushes religion at everyone.

1 I also been the cleanup person in our cell block"? Is that
2 true?

3 A Yeah, that's true.

4 Q "Yesterday, I was doing the cleaning and picking up
5 food trays. When I got to Ronnie Kimble's cell, I couldn't
6 get his tray from under the door, so the officer opened the
7 door, and I saw Ronnie Kimble's foot on the tray." Is that
8 true?

9 A Correct.

10 Q "Ronnie was upset, because I got the job of cleaning
11 up. He accused me of being a racist. But I don't know why,
12 other than it's his excuse to keep the cleanup job on that
13 hallway." Is that true?

14 A Correct.

15 Q "Ronnie put his finger in my face and took his foot and
16 kicked the food tray at me." Is that true?

17 A Not the finger part.

18 Q Okay.

19 A But he did push the tray at me.

20 Q "I pushed him away, and that's when Officer Stevenson
21 came between us." Is that correct?

22 A I never put my hands on him.

23 Q Okay. "Ronnie is always trying to get things started,
24 and causes trouble among the inmates." Did you say that?

25 A No.

1 Q "Ronnie somehow found out what I was charged with. I
2 heard the inmate in Cell G and Ronnie talking, and Ronnie
3 stated that he had his wife call the jail and find out what
4 I was charged with. And Ronnie told the guy in Cell G that
5 I was charged with rape." Is that true?

6 A No, sir.

7 Q Were you charged with rape?

8 A Yes, sir.

9 Q Now, in that sentence, there are two cross-outs, and
10 you initialed them. Are you saying that you changed -- made
11 those changes, without reading it?

12 A I initialed it and I signed it. I never did read it,
13 and neither did Mr. Church ever read it to me.

14 Q So you're saying Mr. Church made those changes for some
15 reason, and you just initialed them?

16 A Mr. Church did all the writing. The only thing I did
17 was sign.

18 Q And initial?

19 A And initial it.

20 Q Okay. So he changed -- here it says, "Ronnie somehow
21 found out what," and he changed that, and you initialed it;
22 is that right?

23 A I initialed and signed. Mr. Church did all the
24 writing.

25 Q Right. And you're saying that you had no input into

1 what changes he was making?

2 A No, I didn't.

3 Q And then you -- it goes on to say, "what I was charged
4 with. I heard the inmate in Cell G," and the change is the
5 word "heard." And you had no input in there?

6 A I signed J.C. I signed my name Jeffrey Clark. I never
7 changed anything, and Mr. Church did all the writing.

8 Q I understand he did the writing. Did you tell him what
9 to write there, sir?

10 A No, I did not.

11 Q Okay. "The guy in Cell G called me a rapist." Was
12 that true?

13 A No, sir.

14 Q "I know for a fact that the inmates on the floor don't
15 like Ronnie Kimble. They told me so." Was that true?

16 A No, sir.

17 Q "Ronnie gives the young guys that come in our cell
18 block snacks, to try to get them --" "to win them over."
19 Was that true?

20 A No, sir.

21 Q "I heard Ronnie talking to an inmate named or called
22 Dominic on one occasion. Ronnie told him that his brother
23 was selling stolen property from his business, and that's
24 how he was linked to the murder." Was that true?

25 A I never said that Ronnie told Dominic anything about

1 his brother. I told Detective Church that Ronnie had a
2 friend, Dominic Harris, that he always talked to.

3 Q Okay. You didn't say Ronnie told him that his brother
4 was selling stolen property from his business, and that's
5 how he was linked to the murder that he is charged with?

6 A No, I did not.

7 Q But in the middle of that sentence, there's a
8 correction with your initials?

9 A It's a whole lot of it with my initials in there.

10 Q Okay. So you're saying that was corrected and you
11 didn't have any input in that correction?

12 A I put J.C. on it. I never corrected anything.

13 Q "He also said that he was home on leave that weekend
14 from the Marine Corps." Did you say that?

15 A No.

16 Q "He further told Dominic that they, meaning law
17 enforcement, think that is why she was killed, for the
18 insurance money." Did you say that?

19 A No, I did not.

20 Q You do know who Dominic is, don't you?

21 A Yeah.

22 Q You didn't mention Dominic Harris?

23 A Yes, I did.

24 Q In fact, that's the reason they went to see Dominic
25 Harris, is because you gave them their (sic) name?

1 A I'm not for sure, other than, I told Detective Church,
2 he asked me, he said, "Who does Ronnie associate up there in
3 the block?" And I said, "Dominic Harris."

4 Q So that part of the statement is true?

5 A Read it again.

6 Q "He further told Dominic that they, meaning law
7 enforcement, think that's why she was killed, for the
8 insurance."

9 A No, it's not true. I never heard Ronnie tell Dominic
10 any such thing concerning his case.

11 Q Okay. "I also heard him on the telephone talking to
12 someone, and he stated that they, meaning law enforcement,
13 think my rifle was used, but they don't know for sure if it
14 was a rifle or a pistol." Is that true?

15 A No, it's not.

16 Q "He also said that they, meaning law enforcement, think
17 his truck was seen in the area, but the person who seen the
18 truck cannot positively identify him." Is that true?

19 A No, it's not.

20 Q "I also heard him say that he would be released if
21 they, meaning law enforcement, did not release information
22 to his attorneys within 45 days."

23 A I did hear that.

24 Q And that part is true?

25 A That part is true.

1 Q That part is true. So there are some parts in here
2 that are true, but most is false?

3 A Correct.

4 Q But you signed every page?

5 A Correct.

6 Q 151.

7 MR. HATFIELD: Object.

8 THE COURT: Overruled.

9 Q "On the night --"

10 MR. HATFIELD: Your Honor, this is a means of
11 bringing evidence in that's completely extraneous.

12 THE COURT: Overruled.

13 MR. HATFIELD: We don't need -- this is cross-
14 examination. I didn't bring these other statements up on
15 direct. We've heard enough.

16 THE COURT: He's testified. Overruled.

17 Q "On the night before I was moved to High Point Jail,
18 there was a young kid in a cell beside me that was finding
19 out about some other inmates' cases. On that night, this
20 kid had found out about Ronnie Kimble was in jail for."

21 MR. HATFIELD: Your Honor, these statements were
22 not disclosed, to the best of my knowledge, only --

23 THE COURT: The witness has identified the
24 statements as being his.

25 MR. HATFIELD: They were not disclosed in

1 pretrial, as far as I know. The only thing I have --

2 THE COURT: Overruled. Sit down, sir.

3 Move along.

4 Q "Everybody was locked up, and this kid kept talking on
5 and on about Kimble being charged with murder. This kid
6 kept saying, 'You murderer. You murderer. You burned her.
7 You burned her. You call yourself a man. You ain't no man.
8 Why don't you try to shoot me, if you think and call
9 yourself a man.' This kid --"

10 MR. LLOYD: Objection, Your Honor.

11 Q "-- just kept on and on saying --"

12 THE COURT: Overruled.

13 Q "-- this, and at one point, Kimble started yelling,
14 'How do you know I'm a killer?' and broke down and started
15 crying." Did you say that?

16 A I have no knowledge.

17 Q You have no knowledge?

18 A Not of that right there statement.

19 Q Sir, didn't you just say that you signed this two-page
20 statement?

21 A I said that I signed and initialed all the ones that I
22 recognize as my handwriting.

23 Q There's not a lot of writing there, sir, is there?

24 A No, it's not.

25 Q And you're saying that you signed these documents

1 without reading them?

2 A That's what I said.

3 Q Without having anybody read them?

4 A Correct.

5 Q Did you know these were important, sir?

6 A Yes, I did.

7 Q The statement goes on, "Everybody could hear it." Was
8 that true?

9 A I have no knowledge.

10 Q Were you present on the cell block?

11 A Yes, I was -- I may was.

12 Q Did you hear that?

13 A I have no knowledge.

14 Q Sir, could you say yes, you heard it or no, you don't
15 -- didn't hear it?

16 THE WITNESS: I have no knowledge, Your Honor.

17 THE COURT: He's answered.

18 MR. PANOSH: Yes, sir.

19 Q "An officer came and took the kid out in the hallway
20 and talked to him for a while." Do you remember that?

21 THE WITNESS: Your Honor, them officers --

22 THE COURT: Answer the question, sir.

23 A I have no knowledge.

24 Q "The officer came back in the cell block and told the
25 kid to keep his mouth shut or closed, or he'd have to chain

1 him down in a chair." Do you remember that?

2 A I have no knowledge.

3 Q "Kimble was put back in his cell, and no one said
4 anything the rest of that night. The next day, I was moved
5 to High Point." Did you say that?

6 A No, I didn't.

7 Q Were you in fact moved to High Point?

8 A Yes, I was.

9 Q 152. "Since I've been in the High Point Jail, I have
10 met Ted Kimble. I never knew Ted Kimble was (sic) before
11 coming to the High Point Jail."

12 MR. LLOYD: Object again, Your Honor.

13 THE COURT: Objection sustained at this point.

14 MR. PANOSH: I believe he's identified this, Your
15 Honor.

16 THE COURT: Page 1.

17 MR. PANOSH: That's what I'm reading from.

18 THE COURT: All right.

19 Again, members of the jury, this testimony of what
20 Ted Kimble may have said is not to be used against this
21 defendant, unless you first find that there was an agreement
22 to commit an unlawful act and that this defendant and Ted
23 Kimble participated in that agreement or intended to
24 participate in that agreement.

25 Q Were you in fact moved to the High Point Jail?

1 A Yes, I was.

2 Q Did you meet Ted Kimble?

3 A Yes, I did.

4 Q Was that first sentence true, "Since I have been in the
5 High Point Jail, I have met Ted Kimble"?

6 A Yes.

7 Q "I never knew Ted Kimble before coming to the High
8 Point Jail." Is that true?

9 A Correct.

10 Q "I did or do know his brother Ronnie Kimble from the
11 time I spent with him in the Greensboro Jail." Is that
12 true?

13 A Correct.

14 Q "The only thing I know about their case is that they
15 are charged with murder, and I don't know what Ted has told
16 me." Excuse me. "The only thing that I know about their
17 case is that they are charged with murder, and I know what
18 Ted has told me." Is that correct?

19 A That first line is.

20 Q What part isn't correct, sir?

21 A What Ted has told me. Ted never told me anything.

22 Q "Approximately two weeks ago, Ted Kimble and I were out
23 on the floor at the same time. Ted asked me my name and
24 told me that he had observed that I stayed in my cell and
25 "kept to myself a lot." Did you say that?

1 A I don't recall.

2 Q It's got your initials there at that correction, sir.

3 A It's a lot of things has my initials in there I didn't
4 say.

5 Q "Ted said he noticed that I didn't beat on the door and
6 yell through the vents like the other inmates do." Do you
7 remember saying that?

8 A I don't recall.

9 Q "After that, Ted and I --"

10 A Yes, I do. Yes, I do.

11 Q You said that part?

12 A Yes, I did.

13 Q Okay. "After that, Ted and I didn't talk until this
14 past Tuesday, November the 4th of '97." Did you say that?

15 A I don't recall.

16 Q It's got -- the date is crossed out and Tuesday's
17 written in and there's your initials. Didn't you make that
18 correction, sir?

19 A No, I did not make the correction. I put J.C. beside
20 it. I never did do any of the writing.

21 Q So you don't know what was being done when that
22 correction was made?

23 A No, I don't, because I never -- didn't read the
24 statement.

25 Q You didn't watch him cross it out, put in Tuesday and

1 put your initials there?

2 A No, I did not.

3 Q "On this day, Officer Roberts was talking to an inmate
4 Simmons about the Bible. I didn't pay any attention to
5 exactly what they were saying, but I know it was about
6 religion." Was that true?

7 A Yes. Correct.

8 Q "I was cleaning on the top tier at the time Officer
9 Roberts was talking to inmate Simmons in front of Ted
10 Kimble's cell door." Was that part true?

11 A Correct.

12 Q "Ted spoke to me through the slot in the door and asked
13 me if I had heard what Officer Roberts had said." Was that
14 part true?

15 A Correct.

16 Q "I told Ted that I heard them talking, but I hadn't
17 paid any attention to what they said. Ted asked me if I was
18 saved, and I told him that I believed in God." Was that
19 part true?

20 A Correct.

21 Q "Ted said, 'Did you hear what Officer Roberts said,
22 that there's only one belief?'" Was that part true?

23 A Correct.

24 Q "I told him I didn't hear Officer Roberts say this.
25 Ted told me what he heard Officer Roberts say was that there

1 was only one belief and that was God." Is that true?

2 A Correct.

3 Q "Ted indicated Officer Roberts meant that one belief
4 was God, and not Baptist, Holiness or any other
5 denomination." Is that true?

6 A Yes.

7 Q "I took this to mean that Ted did not agree with
8 Officer Roberts." True?

9 A Correct.

10 Q "Ted then handed me a pamphlet and told me to read it,
11 and told me that he had --" "that if I had a radio, to put
12 it on 95 point something." Is that true?

13 A Correct.

14 Q "I didn't listen to the station, like he asked me to."
15 Was that true?

16 A Correct.

17 Q "Ted told me he would talk to me when he came back for
18 his hour." Is that true?

19 A Correct.

20 Q Talking about an hour of exercise?

21 A Correct.

22 Q "I did read the part of the pamphlet he gave me. It
23 was a truck driver, one believed in God, and two didn't.
24 And also, something about burning a house and a murder." Is
25 that true?

1 A No, it's not.

2 Q Ted didn't give you a pamphlet that said that?

3 A Yes, he gave me a pamphlet, but as far as him saying a
4 murder and all that, he never said that.

5 Q Well, actually it says it in the pamphlet; isn't that
6 correct?

7 A I'm not for sure. I think I -- I didn't get through
8 the whole pamphlet.

9 Q You gave it to Detective Church; is that right?

10 A Correct.

11 Q "Like I said, I didn't read the whole pamphlet,"
12 correct?

13 A Correct.

14 Q "Ted and I didn't talk again until yesterday. It was
15 after lunch when Ted got his hour out of his cell. Ted came
16 up to my cell and asked me if I had read the pamphlet, and I
17 told him yes." Is that correct?

18 A No, I didn't.

19 Q You didn't say that?

20 A No.

21 Q "Ted said, 'You know, every time I read that pamphlet,
22 I get upset and cry.'" Did he tell you that?

23 A No. He told me that -- he said it upsets him. He did
24 say that, correct.

25 Q Left out the --

1 A Crying.

2 Q The crying part wasn't true?

3 A He didn't say nothing about crying.

4 Q Even though you signed that?

5 A Correct.

6 Q "Ted asked me if I was from North Carolina. I told him
7 no, that I'd been in North Carolina a couple of years on and
8 off." Is that correct?

9 A Correct.

10 Q "Ted then said, 'I really can't go into it, but I can't
11 believe I saw that burning house and hurt the one I loved.'"
12 Did you say that?

13 A No, sir.

14 Q That's not correct?

15 A No, sir.

16 Q "I asked him what he meant, and Ted said, 'I wanted
17 more.'" Did he say that?

18 A No, sir.

19 Q "I asked him 'More what?' and he said, 'More money.'"
20 Did he say that?

21 A No, sir.

22 Q Although you signed it?

23 A Correct.

24 Q "At that time, the canteen man came into my cell and
25 Ted walked away, and that was the end of the conversation."

1 Did you say that?

2 A I don't -- I don't recall that.

3 Q Uh-huh. Did you go on and tell Detective Church, "The
4 reason I have come forward to give this information is not
5 because I like to tell on anyone, or not because I dislike
6 Ted or Ronnie Kimble, but it's the right thing to do. And
7 if my wife, mother or sister had been murdered, I would only
8 hope if anyone had information, that they would do the
9 same." Did you say that?

10 A No, I did not.

11 Q Even though you signed it?

12 A Correct.

13 Q "Detective Church and Agent Pendergrass --"

14 THE COURT: Well, Mr. Panosh, is that Page 1, or
15 is that 2, 3, 4 or 5?

16 MR. PANOSH: He just identified Page 5 as signing
17 it, sir.

18 THE COURT: All right, sir.

19 Q "Detective Church and Agent Pendergrass have made it
20 very clear to me that no promise, no deal or anything
21 related to my charges could be made by either of them."
22 Did you say that?

23 A No, I did not.

24 Q Even though you signed it?

25 A Correct.

1 Q "This statement that I have given is absolutely the
2 truth, and I'm willing to take any test to prove my
3 truthfulness." Did you say that?

4 A No, sir.

5 Q Even though you signed it?

6 A Correct.

7 Q "Detective Church or Agent Pendergrass has not asked me
8 to contact, talk to, or do anything in their behalf related
9 to Ted or Ronnie Kimble, prior to this statement or the
10 other statements." Did you say that?

11 A No, sir.

12 Q But you signed it?

13 A Correct.

14 Q And that's the last thing that's on that page?

15 A Correct.

16 Q And you're saying you didn't read the last thing right
17 before your signature?

18 A I never read anything on any of those papers.

19 Q But you have identified Page 1 as your signature and
20 Page 5 as your signature, correct?

21 A That's not my signature. (Indicated.)

22 MR. LLOYD: Let the record reflect, Your Honor,
23 that he said Page 5 was not his signature.

24 THE COURT: Let the record so reflect.

25 Q Do you remember talking to me on August the 6th, this

1 year?

2 A Yes, I do.

3 Q About lunchtime?

4 A Correct.

5 Q In the DA's Office conference room?

6 A Correct.

7 Q Do you remember -- did I make any promises?

8 A No, you didn't.

9 Q Did I in fact tell you that nothing could be done to
10 alter your sentence?

11 A I don't recall. I know you didn't make me any
12 promises.

13 Q Do you remember telling me that Ronnie is all God one
14 minute, and then he's totally different the next?

15 A We never did really have a conversation, DA.

16 Q So if I wrote that down, that's incorrect?

17 A Correct.

18 MR. HATFIELD: Objection.

19 THE COURT: Sustained.

20 MR. HATFIELD: If he wants to testify --

21 THE COURT: Sustained.

22 Q Do you remember telling me that "Ronnie never admitted
23 it, he started to say it, but he just wouldn't come out and
24 say it"?

25 A No, I do not.

1 Q That's not correct?

2 A No. We wasn't there long enough to really have a
3 conversation, because you went downstairs to get a book,
4 supposedly with these papers right here in it, and you
5 wanted Detective Church to be there, but you said he wasn't
6 there, he had to go to Winston. And you said, "Well, I got
7 to get back to court." So that was the end of that
8 conversation. We was there maybe 10 to 15 minutes.

9 Q But I did go downstairs and get those papers?

10 A You went downstairs and got a book with those papers in
11 it.

12 Q Yes. And we went over those papers, didn't we?

13 A No, we did not go over all those papers.

14 Q And what have you been tried and convicted of in the
15 last 10 years that carries a punishment in excess of 60
16 days?

17 A I don't know. Less than 60 days?

18 Q Greater than, sir.

19 A Kidnapping, armed robbery -- I mean, yeah, robbery and
20 rape.

21 Q What's your present sentence, sir?

22 A 240 months to 273.

23 MR. PANOSH: No further questions.

24 REDIRECT EXAMINATION by MR. HATFIELD:

25 Q Did you ask Detective Church to put these promises to

1 you in writing?

2 A Yes, I did.

3 Q What did he say in response to that?

4 A Told me that he couldn't, because it was an ongoing
5 investigation, but he would take care of it.

6 Q Did he mention that he would assist you with avoiding a
7 prison sentence each and every time he talked to you?

8 A Yes, sir.

9 Q Is the reason that you signed some of these documents,
10 in order to satisfy him, so that he would help you avoid a
11 prison sentence?

12 A Yes, sir.

13 Q Is that what your understanding was?

14 A Yes, sir.

15 Q Now, when I asked you about the photographs that you
16 were shown by Detective Church, you said that Mr.
17 Pendergrass was not in the room. Do you see Mr. Pendergrass
18 in the room now?

19 A Yes, sir. This gentleman right here. (Indicated.)

20 Q This gentleman seated next to the family? (Indicated.)

21 A Correct.

22 Q And Mr. Pendergrass was not present when these
23 photographs were shown to you, was he?

24 A No, he wasn't.

25 Q And did Mr. Church tell you not to let Mr. Pendergrass

1 know he showed you these pictures?

2 A He said not to let anyone know.

3 Q Now, do you remember talking to Investigator Mike
4 Ingold on July 11, 1998?

5 A Yes, I do.

6 Q Where was that?

7 A High Point Detention Center.

8 Q And did you tell Mr. Ingold the entire story of how you
9 were dealt with by Mr. Church?

10 A Yes.

11 Q Are the things that you told Mr. Ingold the truth?

12 A Correct.

13 Q And have you told the truth today in this courtroom?

14 A Correct.

15 Q Does it make any difference to you whether you serve
16 240 months or a life sentence?

17 MR. PANOSH: We object to leading this witness.

18 A It is a life sentence.

19 THE COURT: Sustained.

20 Q It is a life sentence?

21 A Yes, it is.

22 THE COURT: Don't answer that.

23 Q Sir, would you misrepresent the truth --

24 MR. PANOSH: We object to --

25 Q -- in this courtroom?

1 MR. PANOSH: -- leading, please.

2 THE COURT: Your witness. Don't --

3 A No, sir.

4 THE COURT: Sustained.

5 Q Now, you were shown State's Exhibit 151 a few minutes
6 ago, weren't you?

7 (Mr. Hatfield approached the witness and indicated.)

8 A Correct.

9 Q The printing on that -- on the text of this statement,
10 whose handwriting is that?

11 A Are you talking about these here? (Indicated.)

12 Q Yeah. The words.

13 A Detective Church.

14 Q Did you write any of those words?

15 A No, sir.

16 Q Now, in this statement -- Is the date of this
17 statement October 28, 1997? Can you see that?

18 A Correct.

19 Q Who wrote that date?

20 A I wrote that date.

21 Q You did?

22 A Yes, I did.

23 Q Were you told to write it?

24 A Yes.

25 Q Now --

1 A He told me to sign it, put the date and time on it.

2 Q Now, this is a very short statement. Are you saying
3 that you did not read the words in the statement?

4 MR. PANOSH: Object to leading his own witness,
5 please.

6 A I never read any of it.

7 THE COURT: Sustained.

8 Q You never read any of this statement?

9 A No.

10 MR. PANOSH: We object to leading his witness,
11 please.

12 THE COURT: Overruled.

13 MR. HATFIELD: First of all, he's not my witness.

14 THE COURT: Well, proceed.

15 MR. HATFIELD: He's Mr. Church's witness, if Your
16 Honor please.

17 THE COURT: Well --

18 MR. HATFIELD: I submit I ought to be entitled --

19 THE COURT: -- counsel --

20 MR. HATFIELD: Yes, sir.

21 Q Who was the person -- do you recall an inmate screaming
22 at Ronnie Kimble, "You murderer. You murderer," etc.?

23 A No.

24 Q You don't recall that event?

25 A No.

1 Q Do you recall Kimble responding to some inmate who was
2 screaming taunts at him?

3 A No, I don't.

4 Q Did you ever say to Detective Church or anyone else
5 that you heard Ronnie Kimble discuss being a killer?

6 A No.

7 MR. PANOSH: Object, please.

8 A No.

9 THE COURT: Overruled.

10 Q Then when it's written here, "The kid just kept on and
11 on saying this, and at one point, Kimble started yelling
12 out, 'How do you know I'm a killer?'" Did you ever hear
13 Kimble say that?

14 A I never heard Kimble say anything concerning being a
15 killer.

16 Q Do you know of anyone else that ever heard this
17 incident?

18 A No.

19 Q Did you ever see Ronnie Kimble break down and cry?

20 A No.

21 Q And did you ever hear Ronnie say, "Even if I am a
22 killer, you don't know. You weren't there"?

23 A No, I didn't.

24 Q It says, "Everybody could hear it, the whole cell
25 block." Is there any truth to that?

1 A I didn't hear it.

2 Q Now, I believe that this statement was taken in High
3 Point. Is that your understanding?

4 A 10/28. That's October?

5 Q Yes.

6 A Correct.

7 Q Now, is this the time that Mr. Pendergrass was present
8 with Mr. Church, or was this one of the occasions when Mr.
9 Church was by himself?

10 A I'm not for sure, because I had Mr. Church interview me
11 two times in High Point. Only on one occasion was Mr.
12 Pendergraph (sic) there.

13 Q Do you know whether -- you were on D floor before
14 October of 19-- late October of 1997, in Greensboro? Were
15 you on D floor in Greensboro?

16 A No. I was on D floor in Greensboro from July through
17 September the 28th of '97.

18 Q So, September 28th?

19 A Right.

20 Q So where were you during the 30 days prior to the time
21 you were transferred to High Point, so that you could give
22 that statement?

23 A I was in High Point -- Okay. In Greensboro. Like I
24 say, I got in Greensboro the 22nd. I was placed on D floor
25 the 23rd. From the 23rd of July of '97, through October --

1 I mean September 28, '97, I was on D floor.

2 Q So, for the last month that you were in Greensboro, you
3 were not on D floor; is that right?

4 A Yes, I was.

5 Q You were on D floor?

6 A Right.

7 Q I thought you said that you were on D floor until
8 September 28th?

9 A I was. From the 23rd of October -- I mean, from the
10 23rd of July, up through the 28th, and from then, I was in
11 High Point after that.

12 (Mr. Hatfield approached the witness and picked up an
13 exhibit.)

14 Q Now, this statement was made in High Point, wasn't it?

15 A What month was that, October?

16 Q Yes, sir.

17 A Correct.

18 Q October 28th. (Indicated.)

19 A Correct.

20 Q So this statement would have been one month after you
21 had left D floor in Greensboro; is that right?

22 A Correct.

23 Q So this statement would have been referring back to
24 conduct that would have taken place in the latter days of
25 September, if it happened on D floor?

1 MR. PANOSH: Object to leading his own witness,
2 please.

3 A Correct.

4 THE COURT: Sustained.

5 Don't lead him.

6 Q So, does the statement say, "On the night before I was
7 moved to the High Point Jail, there was a young kid in a
8 cell beside me that had been finding out about other
9 inmates' cases"? Is that what the statement says?

10 A That's what the statement says.

11 Q All right. Now, do you remember such a person finding
12 out about other people's cases?

13 A You have so many guys come up there. They assume about
14 other inmates' cases.

15 Q It says, "On the night before I was moved to the High
16 Point Jail." What would the date of "the night before I was
17 moved to the High Point Jail" have been?

18 A The 27th.

19 Q September 27th, wouldn't it?

20 A Correct.

21 Q And this statement is dated October 28th?

22 A 28th, correct.

23 Q Do you remember which section of D floor you were in on
24 September 27th?

25 A Yes. I was in D, Block 1, Cell 2.

1 Q Do you remember where Ronnie Kimble was?

2 A One, two -- maybe three cells down.

3 Q Do you remember whether or not you communicated with
4 Ronnie at all during those latter days?

5 A Yeah.

6 Q Do you remember anything that Ronnie said to you during
7 that period?

8 A No, I don't. I mean, after that incident that we had,
9 it wasn't nothing negative going on between us.

10 Q Would you classify yourselves as friends?

11 A Yeah.

12 Q Did you have respect for each other?

13 MR. PANOSH: We object, please.

14 A Yeah.

15 THE COURT: Sustained.

16 A I mean, other than that incident that we had --

17 MR. PANOSH: We object, please.

18 A -- you know --

19 THE COURT: Overruled. He may answer that.

20 A -- after that, it's no problem.

21 Q Other than the incident that was written up --

22 A Correct.

23 Q -- by Officer Stevenson, there was never any problem;
24 is that right?

25 A No.

1 MR. HATFIELD: I don't have any further questions.

2 MR. PANOSH: No further.

3 THE COURT: You may step down, sir.

4 (The witness left the witness stand.)

5 MR. HATFIELD: Your Honor, may I ask the Court to
6 release this witness. He's got trouble with his surgery and
7 he's had surgery.

8 THE COURT: Release him to what, sir?

9 MR. HATFIELD: Just have him released from this
10 trial, so that they can ship him back to where he can be
11 treated for his injury.

12 THE COURT: Yes, he may be transported back for
13 medical attention.

14 Stand and stretch, if you'd like.

15 Next witness, please.

16 MR. HATFIELD: Mr. Dziadaszek, please. He's
17 already been sworn earlier.

18 JAMES ALLEN DZIADASZEK, II, having been previously duly
19 sworn, testified as follows during DIRECT EXAMINATION by MR.
20 HATFIELD:

21 Q State your name again, please.

22 A James Allen Dziadaszek, II.

23 Q Mr. Dziadaszek, are you now officially out of the
24 Marine Corps?

25 -A Yes, I am.

1 THE COURT: Any rebuttal evidence for the
2 defendant?

3 MR. HATFIELD: Yes, sir. One witness.
4 Melanie Oxendine, please.

5 THE COURT: Come around, please, ma'am.

6 MELANIE WILLIAMS OXENDINE, being first duly sworn, testified
7 as follows during DIRECT EXAMINATION by MR. HATFIELD:

8 Q Will you state your name, please.

9 A Melanie Williams Oxendine.

10 Q Where do you live, ma'am?

11 A 6401 Nazarene Church Road, Pleasant Garden.

12 Q Now, I see you have some papers up here. You didn't
13 bring those with you to testify, did you?

14 A No.

15 Q Would you just close those --

16 A Yeah.

17 Q -- and put them aside. Ms. Oxendine, where do you
18 work?

19 A Chili's restaurant.

20 Q How long have you worked there?

21 A Five years.

22 Q Do you know Ted Kimble?

23 A Yes, I do.

24 Q Do you know Patrick Pardee?

25 A Yes, I do.

1 Q Would you briefly tell the jury how it is that you know
2 Ted Kimble.

3 A I've known Ted Kimble for 14 years.

4 Q And in the early days of your acquaintanceship with
5 him, tell the jury what happened.

6 A When I was younger, do you mean?

7 Q Yes, ma'am.

8 MR. PANOSH: We'd object. It's not surrebuttal.

9 MR. HATFIELD: Just want to show the connection.
10 I'm getting right to Patrick Pardee. It's --

11 THE COURT: Overruled.

12 A We dated from, I was 12 to 15.

13 Q Nothing serious?

14 A No.

15 Q Just a childhood friendship?

16 A Yes.

17 Q What church are you a member of?

18 A Monnett Road Baptist Church.

19 Q Now, throughout the subsequent years, did you remain an
20 acquaintance of Ted Kimble's?

21 A Acquaintance, yes.

22 Q That's all?

23 A That's all.

24 Q Now, did there come a time that you became aware that
25 Ted Kimble had married a woman named Patricia? Did you know

1 anything about that marriage?

2 A I know they got married, yeah.

3 Q Did you know her?

4 A No.

5 Q Did you hear about the death of Ted's wife?

6 A Yeah.

7 Q And at any time after her death and prior to his arrest
8 in April of 1997, did Ted Kimble discuss anything with you
9 about his wife's death?

10 A No.

11 Q Shortly before he was arrested in April of 1997, did
12 you have some encounters with Ted Kimble?

13 A Yes.

14 Q Will you briefly tell the jury what that was.

15 A Him and Patrick Pardee come and saw me on December 24,
16 1996. They were out Christmas shopping. They wanted to buy
17 some gift certificates. That's when I met Patrick Pardee.

18 Q Now, you remember it was the 24th, because you sold
19 them gift certificates --

20 A It was Christmas Eve.

21 Q -- to give to their friends? And these were gift
22 certificates for your place of employment?

23 A Correct.

24 Q And that is Chili's?

25 A Correct.

1 Q Now, after that, did you get to know Patrick Pardee?

2 A Yes. He come in several times with business
3 acquaintances, and he come in with Ted Kimble a lot to eat.

4 Q Did you go out with Ted on a casual basis shortly
5 before he was arrested?

6 A Twice.

7 Q Okay. Tell the jury about that, please.

8 A Once we went with Patrick Pardee to the lake for the
9 day. We come back. And one time he took me to dinner with
10 my daughter.

11 Q Was there any romantic involvement?

12 A No, not -- no.

13 Q Now, after Ted was arrested in April of 1997, did you
14 speak to Patrick Pardee?

15 A Yes.

16 Q Tell the jury the circumstances of that, please.

17 A It was two days after Ted got arrested, he come into
18 Chili's. He was pale. He come up to the bar, and I said,
19 "How are you?" He said, "I'm not doing too good." He said,
20 "I feel like I've lost 10 pounds within a week." I said,
21 "Well, what's wrong?" And he said, "Well, I was in
22 Charlotte, and two investigators come and woke me up 3:00 or
23 3:30 in the middle of the night, to take me back to
24 Greensboro, because they wanted to investigate and ask me
25 questions." And he said, "They wanted to know everything I

1 knew about Ted and this homicide. I told them that I didn't
2 know anything, that if I knew anything, I would have not
3 have hung around him, I wouldn't have went to Gatlinburg
4 with him, I wouldn't have been his friend for the last year
5 and a half."

6 Q So in essence, Patrick Pardee told you that he knew
7 nothing of any involvement that Ted may have had in the
8 death of Patricia; is that right?

9 A Exactly.

10 Q Did he say anything more about that?

11 A He said that he had a career to get into, and that this
12 kind of stuff upset that, that he needed to go on. He said
13 -- what else did he say? That's about it.

14 Q Did he tell you anything about what he was being
15 investigated for?

16 A He was being investigated for the breaking and
17 entering.

18 Q Now, prior to his telling you that, had you had any
19 idea that he was involved in activity like that?

20 A No.

21 Q And what did you say to him about that?

22 A I said, "How could you do something so stupid like
23 that?"

24 Q Did he give you any explanation?

25 A He said -- he raised his hand and said, "I'm not saying

1 anything to incriminate myself."

2 MR. HATFIELD: Thank you.

3 No further questions.

4 CROSS-EXAMINATION by MR. PANOSH:

5 Q Now, in addition to dating Theodore Kimble those last
6 few weeks before he was arrested, did you have any further
7 contact?

8 A Now, do you mean?

9 Q Yes.

10 A I see him every week. I go with his parents to see him
11 every week.

12 Q So, since April of 1997, you've been visiting him on a
13 weekly basis; is that correct?

14 A Prior -- except for the two weeks after he was
15 arrested, yes.

16 Q And that's strictly friendship?

17 A Friendship only.

18 Q At the time that Patrick made these statements that
19 you've testified to, he was aware that you were seeing Ted?

20 A I wasn't seeing him. We went out twice. I wasn't
21 dating him.

22 Q Was the two times that you went out with him just prior
23 to your conversation with Patrick?

24 A Yes.

25 Q And when was the first time you reported this

1 information to law-enforcement officers?

2 A When was the first time -- say that again.

3 Q When was the first time you reported this information
4 to law-enforcement officers?

5 A To law enforcement? All I talked to was lawyers.

6 Q Did there come a time when you determined that it was
7 important enough to tell the police department or the
8 sheriff's department about the information you had?

9 A I felt that he gave me the information I wanted to
10 know. He said he knew nothing about it.

11 Q And did you report that to the officers?

12 A No. I didn't know he had anything to do with this
13 case, until he showed up.

14 Q You were unaware that Patrick Pardee was involved in
15 this case until this trial; is that what you indicated?

16 A Exactly.

17 MR. PANOSH: No further.

18 REDIRECT EXAMINATION by MR. HATFIELD:

19 Q Now, since your conversations with Patrick Pardee in
20 April of 1997, have you continued to see him from time to
21 time?

22 A Patrick Pardee?

23 Q Yes.

24 A No. He will not come in the restaurant anymore.

25 Q So he knows where -- you have been working there

1 continuously since long before any of these events took
2 place?

3 A Correct.

4 Q And he met you in connection with your employment in
5 the restaurant?

6 A Correct.

7 Q And since you had this one conversation with him, where
8 he told you he knew nothing about Patricia's death, he just
9 has steered clear of your restaurant?

10 MR. PANOSH: Objection. Leading his own witness.

11 THE COURT: Sustained.

12 Q Is it your testimony that you have not seen him again,
13 after all --

14 A I have not seen him again or talked to him.

15 Q Now, you knew that Ted Kimble was charged with murder,
16 didn't you?

17 A Yes, I did.

18 Q Did you have any idea that Patrick Pardee was a
19 material witness for --

20 MR. PANOSH: Objection to --

21 Q -- the State --

22 MR. PANOSH: -- leading his own witness.

23 THE COURT: Sustained.

24 Q Did you know that Patrick Pardee was a potential
25 witness?

1 A No.

2 Q Did Mr.'s Church and Pendergrass ever come to see you?

3 A No.

4 Q Did you have any idea before this trial proceeded that
5 you had any evidence that might have a bearing on this case?

6 A No.

7 Q Well, now, you understand that Ted Kimble's not on
8 trial?

9 MR. PANOSH: We object to leading, please.

10 THE COURT: Sustained.

11 Q Who's on trial here?

12 A Ronnie Kimble.

13 MR. PANOSH: Objection.

14 Q Is Ted Kimble on trial?

15 A No.

16 MR. HATFIELD: No further questions.

17 MR. PANOSH: No further.

18 THE COURT: You may step down.

19 MR. HATFIELD: That's all we have. Thank you very
20 much.

21 THE COURT: Any evidence for the State?

22 MR. PANOSH: No, Your Honor.

23 (The witness left the witness stand.)

24 THE COURT: Members of the jury, this completes
25 the evidence, and on Monday, it'll be your duty to decide

EXHIBIT (D) 1 of 6

136 Trailers

NEW TILT BED TRAILER, 4' x 6', 12' sides, lights, treated wood bed, \$450, 557-5194

TRAILER, Enclosed Cargo 5x10, New, \$1695, Many sizes in stock, 90 Days SAC, 365-5111

TRAILER, 2 axle, 24ft, no title, \$1000, 850-2420

UTILITY TRLR, All steel, Elect. brakes, 64" wide, 136" long, designed to haul tractors, Incl. loading ramp, \$650, 910-892-6746

16' TANDEM Flatbed w/ stake pockets, ramps, lights, elec. brakes, NEW \$2000, 785-0117

16' 2-AXLE heavy-duty trlr, New, \$1250, Call 919-431-0074

3-AXLE EQUIPMENT TRAILER, Dove tail and ramps, \$1575, 919-272-3018

Newspaper Ad from the
Raleigh News and Observer
N.C.

Field Reference Card
CARRBORO POLICE DEPARTMENT

POLICE
EMERGENCY
911

INFORMATION
ONLY
968-7709

CASE REFERENCE NUMBER: 99-10390

OFFICER: P. Tivnan

PLEASE MAKE REFERENCE TO ANY QUESTIONS
CONCERNING YOUR CASE BY USING THE ABOVE NUMBER.

EXHIBIT (D) 2 of 6

Greensboro Police Detective

David Sizemore (336) 433-7277

P.O. Box 3136

Greensboro NC. 27406

EXHIBIT (D) 3 of 6

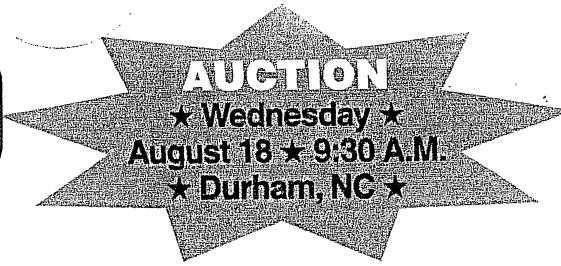
CASE NO: 19970127779	GREENSBORO POLICE DEPARTMENT	PAGE: 1
UN TIME: 1616	INVESTIGATIVE REPORT - PUBLIC COPY	DATE: 11/18/2003
Case No.: 19970127779	DIV/SQUAD: CID/AUT	Earliest Occ: 04/25/1997 2100
Off/Class: AUTOTH	AUTO THEFT - OTHER MV	Latest Occ: 04/26/1997 0800
Location: 1700 W LEE ST		Reported: 04/29/1997 0953
Location:		
Premises: BUSINESS LOT		
ATTACKED		
Prop Value: 6,000	Damage Value:	
Extent:	Type Inj:	
Method: BY TAKING AND CARRYING AWAY.		
PROPERTY DESCRIPTION		
.996 3 AXLE 18FT 18,000 TON TRAILER		
SOLVABILITY		
Evidence Spe:	NONE CALLED	
Inv Officer:	1144 D L HOLLIMAN	
Case Status:	Ins Rpt: Y	Warrant Adv: N Warrant Iss: N
Victim Pros?: Y	Evidence: N	Arrest: N Suspect ID: N Initial Stat: INA
N A M E S E C T I O N		
Role: VIC	Victim Code:	
Name:		
Race:	Sex:	Age: DOB:
----- HOME ADDRESS -----		
Street Addr:		
City/St/Zip:		
----- BUSINESS ADDRESS -----		
Bus. Name:	LYLES BUILDING MATERIAL	
Street Addr:	1700 W LEE ST	
City/St/Zip:	GREENSBORO NC 27403	
E N D O F R E P O R T		

NOTE: There is a second police report which Detective David Sizemore (336)433-7277 (Gboro N.C.) can provide a case number. In the second police report (not shown) A Jeff Roberts confessed to Mr Sizemore, he and Robert Nicholes stole the trailer, yet Prosecutor Panish still refused to issue a warrant and arrest these people.



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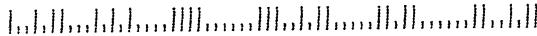
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EXHIBIT (D) 4 of 6



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EXHIBIT (D) 5 of 6

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Page :
 Date : 06/07/1998

Buyer Number: 531
 MARINA
 201 N GREENSBORO
 CARRBORO, NC 27510
 Phone ()

Invoice # 100135
 Tax Status 1 Resale
 Tax Status 2 Resale
 Tax Status 3 Resale
 Resale # 605-1-068-08888
 Driver's Lic#
 Fax Phone

Purchased at Auction of: MYRTLE BEACH, SC

Lot	Description	Tax	Quantity	Unit Price	Extension Exp
			1	12.50	12.50
47	+ 3 TON JACK STAND	1	1	1,400.00	1,400.00
52	+1986 BUTLER 2 AXLE TAG TRAILER SN:1BUD1420581005031	1	1	3,700.00	3,700.00
106	+1993 GROVE 31/46 LIFT, SN#:28397	1	1	2,700.00	2,700.00
125	+STRATO LIFT KRX-20 ELECTRIC SCISSOR LIFT SN:2902	1	1	1,500.00	1,500.00
129	+MITE-E-LIFT SCISSOR LIFT, GAS POWER, SN:	3	1	30,750.00	30,750.00
180	1995 CATERPILLAR 933 CRAWLER LOADER, DROPS, GP BUCKET, GOOD UNDERCARRIAGE LOW HOUR	2	1	13,750.00	13,750.00
389	+1989 INTERNATIONAL S1954, SINGLE AXLE, TIRE SERVICE TRUCK WITH IMT KNUCKLE BOOM CRANE, DT466 ENGINE, 5-SPEED TRANSMISSION, SN#:1HTLDTVN4JH612926	2	1	3,750.00	3,750.00
481	+1995 MITSUBISHI MIGHTY MAX REFRIGERATOR TRUCK, 5-SPEED, 81681MI, SN#:JA7LS21G1SP008016	2	1	3,750.00	3,750.00
482	+1995 MITSUBISHI MIGHTY MAX REFRIGERATOR TRUCK, 5-SPEED, 75362MI, SN#:JA7LS21G8SP007963	2	1	1,050.00	1,050.00
522	+3 AXLE EQUIPMENT TRAILER, DOVE TAIL AND RAMPS (15' x 8')	1	1		

Call and talk to Debbie

2527

* 843-700 0000

Hand CK # 1515

EXHIBIT(D) 6 of 6

EXHIBIT (E)

AFFIDAVIT OF RONNIE LEE KIMBLE SR.

I Ronnie Kimble Sr. make the following statement freely and voluntarily. This is my affidavit of true events that transpired from January 1997 until December 1999. Although there are many things I know which happened prior, during, and after this time, the purpose of this Affidavit is to discuss the misconduct of Assistant District Attorney Richard E. Panosh.

I Ronnie L. Kimble Sr. am a retired Pastor of 20 some years. On April 1, 1997 Theodore (Ted) Kimble was arrested. At the time Ted owned and operated Lyles' Building Materials (L.B.M.) at 1700 West Lee Street, Greensboro, North Carolina. Due to the circumstances I took over operating the company of L.B.M., and managed it's two employees, Robert (Rob) Nichols and James Ogburn.

Just prior to my assuming control of L.B.M., Ted Kimble, Rob Nichols, and a Patrick Pardee had a theft ring going, dealing with stolen construction materials. This would lead to some 40 charges brought against them.

Shortly after April 1, 1997, Rob Nichols came into the office of L.B.M. and said due to the charges being brought against himself and Patrick Pardee, D.A. Richard Panosh had offered to make a plea bargain with them. Rob stated Mr. Panosh wanted him to lie against Ted Kimble. Rob was to say Ted had told him of hiring his brother (Ronnie Kimble Jr.) to kill his wife (Patricia Kimble). Rob said he was assured if he agreed to lie against Ted, he would not have to serve any prison time for the B&E's. And if Rob fell to agree with the terms, Mr. Panosh would make sure that he spent the next 40 years in prison. Rob went on to say that he and his wife had talked it over, and he would never tell such a lie on Ted, he would serve the time first. I asked point blank, "Did Ted ever say anything to you about his wife's death?" Rob said, "No, Ted only said how much he loved his wife."

James Ogburn, another employee of L.B.M. came to me on April 18, 1997. James said Rob had just told him that the police were onto him concerning Ted and the murder case. James gave me a signed statement to verify this conversation, and I have turned over this Statement to Theodore Kimble.

On April 29, 1997, I arrived at work (L.B.M.) and found the lock on the gate had been cut, and a custom built trailer had been stolen. I called the police and they came out and made a report. Rob Nichols only worked a few days after the theft of the trailer. Being left with only James Ogburn I was short-handed, so I hired a man named Walter Cole.

At the end of July in 1997, James and Walter came and told me that they had spoken with Rob Nichols down the street. Rob had asked them to let me know that he was not going to testify against Ted. I asked both James and Walter to write statements for me of all they could remember. I have turned over these statements to Theodore Kimble.

A few weeks later a young man named Jeff Roberts came in at Lyles' Building Materials. Jeff told me who he was and stated he knew who had stolen the trailer off the lot. Jeff told me that Rob Nichols had loaded the trailer with shingles, and that the two of them drove to the Coast and did a roofing job. Rob then took the trailer and sold it. Jeff also said Rob's wife and child were with them. I called the police and a Detective came to take Jeff's statement. James Ogburn then step forward and stated Rob previously told him that he had stolen the trailer, because he felt Ted owed him that much for all of his legal fees. I asked the Detective if Rob Could be arrested for stealing the trailer even if the trailer had not been found? The Detective said he didn't see why not. It was not until later that I found out no warrant would be issued for Rob's arrest, because Rob took the plea bargain from Richard Panosh to lie on Ted. Mr. Panosh had bought his second testimony, right behind Patrick Pardee. (97')

In mid 1999, while Ted was at Central Prison in Raleigh North Carolina he found an ad in the newspaper which described his stolen trailer. Ted sent me the newspaper ad and asked that I check into it. So my wife (Edna Kimble) and I drove to Carrboro North Carolina, Late one night to check out the trailer. I recognized the stolen trailer right away. I called the police there in Carrboro, and they made a report. The Carrboro police told us that we were to go back to Greensboro North Carolina and file a report. In Greensboro we spoke to Detective David Sizemore, and he went to work on the case. Detective Sizemore later told me that he had traced the trailer back to where it was sold by Rob Nichols to a person at the coast. When Detective Sizemore finished his report, he claims to have given it to the District Attorney's office. But Richard Panosh would not give Mr. Sizemore an arrest warrant on Rob Nichols. D.A. Panosh refused to proceed with the case. I could not believe what I was hearing. If ever there was a case of "Obstruction of Justice," this is it!!!

Back to Jeff Roberts. Sometime later after the report was given to the police by Jeff, he came back to Lyles's Building Materials. Jeff told my wife (Edna Kimble) and I that do to some trouble he had gotten himself into for stealing, Richard Panosh told him that if he did not back-off Rob Nichols he would be spending a long time in prison. Jeff further said he would not be able to come around us anymore because they (Panosh and the Sheriff's department) were threatening him. Jeff Roberts was the second witness who came to me and stated that he was being threaten by D.A. Richard Panosh.

After Ted and Ronnie Kimble Jr. were arrested and placed in jail, Detectives from the Sheriff's department came to Lyles' Building Materials several times to talk with James Ogburn. During one of these visits I personally witness Detectives question James about where Ronnie Jr. was on October 9, 1995 at 4:30 pm; the day of Patricia Kimble's death. James said,

“Ronnie (Jr.) was here on this lot, because I remember looking at the clock to see how much longer I had to work that day. I did not have but one hour to go till 5:30 (p.m.).” James had told me the same statement.

No matter how many times James Ogburn answered the Detective’s questions, they kept coming. I could see the Detectives were harassing James, but felt helpless to do anything about it. One afternoon some Sheriff’s cars showed up at L.B.M. to arrest James for non-child support. The police carried James downtown, and sometime later that day he came back to work. James said that the Detectives (J.D. Church, Sgt. DeBarry...) and the D.A. (Richard Panosh) used that child support scheme just to get him down town, and tried to persuade him to change his story of where Ronnie Kimble’s (Jr.) was at 4:30 (p.m.) on the day of the murder. James went on to say, “I know where Ronnie Kimble (Jr.) was that afternoon and I am not going to change the truth and lie!” James Ogburn stood by his statement for nearly (3) years.

A couple of weeks before the trial of Ronnie (Jr.) in 1998, James Ogburn told me that he had to go down town to the D.A.’s office. The D.A. and Detectives wanted to talk with him. James seemed upset and I could see the pressure placed on him to go.

When James returned to work he told me that he had met with the D.A., and that Mr. Panosh brought up the charges against Rob, Patrick, and Ted for the B&E’s. Mr. Panosh told James these same charges could be brought against him because of his involvement.

After James Ogburn was threaten by Mr. Panosh, James statement changed from Ronnie (Jr.) leaving Lyles’ Building Materials at 4:30 (p.m.) to Ronnie (Jr.) leaving at 3:00 (p.m.). This was not true because Ronnie (Jr.) was at his home on the phone talking to his wife at that time. This is nothing but blackmail, no matter what you call it!!!! This is “Obstruction of Justice”. This made the third witness to tell me they were being threaten by Mr. Panosh.

The notes of the meetings between James and the Detectives could have cleared Ronnie and Ted, but this evidence was withheld.

During the time Ronnie (Jr.) was in the Greensboro jail awaiting trial, a female Deputy named Janet Smith became infatuated with him. Ms. Smith actually attempted to have an affair with Ronnie, but her actions were reported to superior officers. To subvert prisoners seem to be common practice at the Greensboro jail, for a lack of supervision. Not only was Ms. Smith fired for such behavior, but two of her co-workers were also fired.

What surprised me about Janet Smith is her statement, which she disclosed to myself and others. Richard Panosh told Janet Smith if she would (lie) say Ronnie confess to her, she could keep her job. If Janet refused, Mr. Panosh promised she would never work for North Carolina again. Ms. Smith refused to lie and lost her job. In keeping count, Ms. Janet Smith made the fourth person to directly tell me, "Richard Panosh had threaten them."

I Ronnie Lee Kimble Sr., Being First Duly Sworn depose and say, I am the Author of the forgoing Affidavit, I have drafted and read the same, as for any statements made on information and belief, are made in good faith, and I believe to be true. Signed under penalty of perjury this the 10th day of Feb 2004.

Ronnie Lee Kimble Sr.
Ronnie Lee Kimble Sr.

Sworn to and before me this the 10th day of February 2004.

Witness: Camela P. Beane
My Commission Expires: 10-12-2005

EXHIBIT (F)

AFFIDAVIT OF EDNA M. KIMBLE

I Edna M. Kimble make the following statement freely and voluntarily. This is my affidavit of true events that transpired following the death of my daughter-n-law Patricia Kimble, who died October 9, 1995. Although I know of many things that have happened, the purpose of this Affidavit is to discuss the misconduct of Assistant District Attorney Richard E. Panosh. The following events I either witnessed for myself or was told directly from a victim of Mr. Panosh.

I Edna M. Kimble am the wife of Rev. Ronnie Lee Kimble Sr. I have been married almost 35 years. I currently work at UnitedHealthcare, and have done so for over 15 years.

Following the death of Patricia Kimble I watched as Detectives J.D. Church, Debarry, and Pendergrass, with District Attorney Richard Panosh threaten and harassed anyone who stood between them and a conviction of Ronnie Jr. and Theodore (Ted) Kimble.

The key eye witness of the time and location of Ronnie Jr. and Ted Kimble was a man named James Ogburn. James and Robert (Rob) Nichols were employees of Lyles' Building Materials, which Ted owned and operated until he and Ronnie Jr. were arrested on April 1, 1997. My husband Ronnie L. Kimble Sr. took over the company after Ted's arrest. I should point out just prior to this, Ted Kimble, Rob Nichols, and Patrick Pardee were involved in stealing lumber from construction sites.

Detectives had spoken to James Ogburn many times. During one such interview I set in the company's office and listened. As to the day Patricia Kimble died, James Ogburn told Detective Ted was at work all day and that his brother Ronnie (Jr.) was there from 3:45 until 4:30 (p.m.). James said he remembered because he looked at the time clock and thought to himself, "I have one more hour to work." James continued to stand on this statement and repeated this

numerous times to me and my husband.

On a later visit to Lyles Building Materials, I was present when about 4 sheriff cars came flying onto the lot with their blue lights flashing. Police were there to arrest James Ogburn for late child support, they cuffed him and took him down town. The scene was one of excessive force and intimidation. Later when James returned he said that it had nothing to do with child support, and he knew that because he had already worked that out. James said after they got him down town he was taken to see the District Attorney (Mr. Panosh) and the Detectives working on Ted's case. They told James he could be charged with the same B&E charges brought against Ted, Rob and Patrick for the stolen lumber, because he knew the lumber was stolen, and had cut the ends off of it so that it could not be identified. James said they wanted him to change his statement and say Ronnie left the business at 3:00 (p.m.). When James refused to lie they told him that if he testified they would remember these charges. They said that they knew he was part of the theft ring, but chose not to charge him. James stood his ground for a time. A couple of weeks before Ronnie Jr.'s trial, James Ogburn was called on to go down-town. This time James's wife Renee went to the D.A.'s office with him. When James came back things were never the same. James did not want to talk to me anymore about the case and began to avoid me. Renee Ogburn who "was" always nice and friendly, would not even get out of the car when she came to see James. Now when Ronnie's lawyers talked to James he would not cooperate, and the lawyers told us it would be better not to use James as a witness. Ronnie's best witness was now being blackmailed by D.A. Richard Panosh.

After Ronnie's trial I went back to Lyles's Building Materials and faced James. I asked him to please come forward and tell what happen, but James got angry and began to curse (James had never before cursed in front of me). I began to cry and said, "All I want you to do is

tell the truth, the same thing you have been telling us for the last two years, that Ronnie was here at 4:30. James began to curse again and walked off. Nancy Boyer, the office clerk told me that James was upset the rest of the day, walking around cursing, talking to himself and showing anger.

The next person I would like to discuss is Jeff Roberts. There was another employee of Lyles's Building Materials named Robert Nichols (Rob), and shortly before Rob quit a trailer valued at over \$6,000 dollars was stolen. My husband called the police and a report was filed. Jeff Roberts, whom we did not know came on the lot and introduced himself. Jeff told my husband that he knew who stole the trailer. Jeff first told my husband his story and later repeated it to me. Jeff told me that Rob had called him and said that he had a roofing job for them. So they met at Lyles' Building Materials after hours. There Rob cut the lock off the gate and went in, hooked up the trailer to his truck using a ball hitch that he brought with him, because this trailer did not use a standard ball. They loaded the trailer with shingles and took it to the coast, completed the job, and Rob then put the trailer up for sale. My husband called the police again, and a Detective came and took Jeff Roberts' statement. Then James Ogburn stated that Rob had also told him that he stole the trailer, but he did not say anything because at the time Rob was still working there. Although we had two witnesses stating Rob stole the trailer, the District Attorney Richard Panosh would not give the Detective a warrant to arrest Rob.

While Ronnie Kimble Jr. was in the Greensboro jail there was a female deputy, Janet Smith who started flirting with him. At the time Ronnie was married. Still Janet pursued Ronnie and tried to tempt him to have sex with her by writing him dirty letters. Although Ronnie Jr. wrote her back a few times, Janet stated Ronnie loved his wife to much and would

not have sex with her. I don't believe Ronnie would have gotten involved with writing Janet back if he were not so depressed about his wife just losing their baby. Just before she got fired Janet was in the visitation room where Kim (Ronnie's wife) and I were waiting to see Ronnie, Janet told us that she needed to speak to Ronnie's lawyers because the D.A.'s office was trying to set Ronnie up. Janet stated she could not talk to us there because she was being watched, so she gave us her number and told us to have the lawyers call. Shortly there after Janet was charged. Janet, her supervisor and one other guard were fired. Janet told me she had a meeting with D.A. Richard Panosh, who told her if she would say Ronnie had confessed to her, saying he had killed his sister-in-law, she could keep her job, but if she didn't she would never work in North Carolina again. Janet refused and lost her job. Janet also said that she learned that the sheriff and D.A.'s office knew about her and Ronnie for a long time and was hoping to catch them in some sex act that never happen. There was no sexual act, Ronnie would not do it. Janet said one of the guys who was fired from the jail was a homosexual having sex with some of the inmates. When all of this came out it upset me that Janet and Ronnie were the ones who were plastered all over the newspapers and television, and not a word about the homosexual. When Sheriff Barns was interviewed by one of the television stations he lied, in his words they were having a sex orgy yet there was no proof. Mr. Barns was trying to discredit Ronnie in the public's eye, since they still did not have any proof that Ronnie was at the murder scene, after holding him for over a year in jail.

During Ronnie's trial I watched as several people took the stand to testify. When many of these people were given a copy of their own past statements for review, each one would argue about things they never said being in the report. It was as if Detective Church would go out and interview these people, then go write false police reports to read as to what D.A. Panosh

wanted to hear. I know of four such people. A prime example of this was when an inmate named Jeff Clark took the stand to testify. Mr. Clark stated he had been promised help on his case to lie against Ronnie Kimble Jr. Mr. Clark said he never read his own signed statement. Detective Church wrote what they wanted the statement to say and had Mr. Clark sign it. Mr. Clark even pointed out that someone else had signed his name on some of the false statements. Mr. Panosh did nothing about Mr. Clark's claims, and actually tried to discredit this man. The only reason Mr. Clark did not lie for Mr. Panosh and instead testified for Ronnie's defense, was because Mr. Panosh did not help Mr. Clark on his pending charges as promised. Although Jeff Clark did not get the help he was promised, others did. One such case was a young woman named Joy Dyer. Ronnie dated Joy when he was a teenager, I watched Joy Dyer testify to some unbelievable lies. When Joy testified I could not understand why she would make-up such stories. As Joy was leaving the courtroom she made a statement loud and clear in front of Kim (Ronnie's wife), Kim's mother Judy Stump, and myself. Her exact words, "What the hell did he want me to say." I wondered at this statement and while discussing it with Ronnie Jr., he said I should check her criminal record. After Ronnie was convicted according to Joy Dyer's criminal record, charges that were pending against her were dismissed by D.A. Richard Panosh. Mr. Panosh blackmailed Joy Dyer to lie against Ronnie and Ted Kimble.

Now back to Rob Nichols. Ted Kimble was at Raleigh's Central Prison in 1999, reading a newspaper and came across an ad that described a three wheel trailer with a dove tail. This ad sounded like Ted's stolen trailer, so he clipped the ad and mailed it to us. The ad was from Carrboro about an hour away. It was late and my husband and I were tired, but we decided to ride down there and see. Sure enough it was Ted's custom built trailer. We went down the street and called the police, In turn the police called the owner of the business where

we found the trailer, and he came up. The man gave details of purchasing the trailer, and could not produce a title. The officer told us we should go back to Greensboro and report this to police there. The Police officer then gave us a card and said that he would do anything to help. In Greensboro a Detective David Sizemore took the new information and looked up the old information on the computer. Mr. Sizemore kept us updated and traced the trailer back to a parking lot where Rob Nichols, his wife and little girl met a man there and sold the trailer to him. Detective Sizemore said he was ready to get his warrant. Later he came back and said that the D.A. Richard Panosh would not issue the warrant, and without the warrant he could do nothing. Once again Mr. Panosh violated the law. It's now 2004 and the stolen trailer still has not been recovered. We have since spoke to Mr. Sizemore and he said he still has his notes about the case.

I, Edna M. Kimble, Being First Duly Sworn depose and say, I am the Author of the foregoing Affidavit, I have drafted and read the same, as for any statements made on information and belief, are made in good faith, and I believe to be true.

Signed under penalty of perjury this the 10 day of February 2004.

Edna M. Kimble
EDNA M. KIMBLE

Sworn to and before me this the 10th day of February 2004.

Witness: Camela P. Beane
My Commission Expires: 10-12-2005

EXHIBIT (G)

Leaving work, James and I ran into Rob and talked with him in the parking lot of the boat place. He talked about how well he was doing with his new business and the new home he just purchased. He also spoke on Ted and Ron in reference to how they were doing etc. and mentioned that he was not going to testify to that "bull-shit" because it wasn't right. He stated that he and his wife had talked about it and he had had a change of heart and realized it was wrong to do so. She had the same feelings. He stated that instead he would take the "contempt of court charge" and do the time at the County farm. He told James that he was telling him this so that he could relay it to Mr. Kimble.

Walter A. Cole Sr.
8/2/97

EXHIBIT(H) 1 of 2 Time 12:00
4-18-97

Robert informed me that the Police
was on him concerning Ted and the
murder ^{case}. Robert also says that Ted
told him some things that he shouldn't have,
but nothing concerning the murder. Robert
says he was going to plea guilty to
all larceny charges.

James Ogden

7-29-97

On July 22nd, I saw Robert Nicklaus in the parking lot down from Sykes Bld. Materials. He stated to me that he wasn't going to testify against Ted, concerning the murder of his wife. Rob also asked me to inform Mr. Kimble of this matter too. Robert says that he would be in contempt of court, for not testifying, and that he would deal with that. His primary message was for me to inform Mr. K

of his actions concerning this matter.

James Ogden

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

EXHIBIT (I)
1 of 8

File No. 99CRS 23241

GUILFORD COUNTY
STATE OF NORTH CAROLINA
v.
THEODORE MEAD KIMBLE

GUILFORD COUNTY
FILED
JAN 28 1999
AT 3:50 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 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 [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 [Signature]

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

EXHIBIT (I)
2 of 8

File No. 99CRS 23242

GUILFORD COUNTY
STATE OF NORTH CAROLINA
v.
THEODORE MEAD KIMBLE

GUILFORD COUNTY Film No.
FILED
JAN 28 1999
AT 350
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 Theodore Kimble

Signature of Attorneys for the Defendant

[Signature]
[Signature]

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

EXHIBIT (I)

3 of 8

File No.

99CRS 23243

GUILFORD COUNTY
STATE OF NORTH CAROLINA

v.

THEODORE MEAD KIMBLE

Film No.

GUILFORD COUNTY

FILED

JAN 28 1999

BILL OF INFORMATION
Solicitation to Commit
First Degree Murder

Date of Offense
On or about November 4, 1998

AT 350 U.S. P. 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]

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

EXHIBIT (I)
4 of 8

File No. 99CRS 23244

GUILFORD COUNTY
STATE OF NORTH CAROLINA
v.
THEODORE MEAD KIMBLE

GUILFORD COUNTY Film No.
FILED
JAN 23 1999
AT 3:50 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

EXHIBIT (I)

File No.

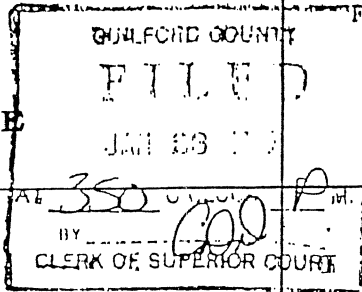
99CRS 23245

5 of 8

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 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

Frederic B. Campbell
W. J. [Signature]

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

EXHIBIT (I)

File No.

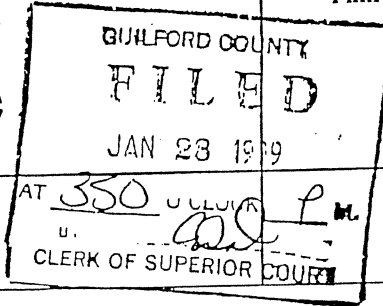
99CRS 23246

6 of 8

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 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

EXHIBIT (I)

File No.

99CRS

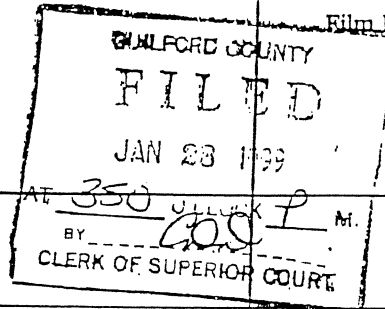
23247

1 of 8

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

EXHIBIT (I)

File No.

99CRS 23248

8 of 8

GUILFORD COUNTY
STATE OF NORTH CAROLINA

v.

THEODORE MEAD KIMBLE

Film No.

GUILFORD COUNTY

FILED

JAN 25

BILL OF INFORMATION
Solicitation to Commit
First Degree Murder

Date of Offense
On or about November 4, 1998

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 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.

X Theodore Kimble

Signature of Attorneys for the Defendant

[Signature]
[Signature]

EXHIBIT(J)

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.) Answers

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 <u>1/28/99</u>
Date <u>1/28/99</u>	Signature <i>[Signature]</i>	Signature Of Defendant <i>[Signature]</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) <u>Theodore Mead Kimble</u>

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 <u>1/28/99</u>	Name Of Lawyer For Defendant (Type Or Print) <u>Frederick W. Zimmerman, Jr.</u>	Signature Of Lawyer For Defendant <i>[Signature]</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 <u>1/28/99</u>	Name Of Prosecutor (Type Or Print) <u>Richard E. Parosh</u>	Signature Of Prosecutor <i>[Signature]</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:

- That there is a factual basis for the entry of the plea.
- The the defendant is satisfied with his/her lawyer.
- 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 <u>1/28/99</u>	Name Of Presiding Judge (Type Or Print) <u>Peter M. McHugh</u>	Signature Of Presiding Judge <i>[Signature]</i>
------------------------	---	--

1 right up to the time of her execution. That just shows
2 you not a mitigating factor, that shows that he's a cold
3 blooded murderer. He planned this and he had the ability
4 to hug and kiss his wife knowing that he was about to
5 kill her to collect the insurance money.

6 This defendant, Your Honor, lives in a world
7 of bombs and silencers and sniper rifles. He just feels
8 that anybody who gets in his way, he should be able to
9 eliminate. We ask you to sentence him remembering that.
10 Thank you.

11 THE COURT: All right, thank you. Mr.
12 Zimmerman, are you prepared to tender your sentencing
13 memorandum?

14 MR. ZIMMERMAN: We don't have it at this
15 point in time, if Your Honor please. If Your Honor would
16 be kind enough to consider a short recess, I'll check one
17 more time and see what the problem is. This witness has
18 been subpoenaed since two weeks ago. And she was just
19 deathly ill yesterday. I apologize for having the phone
20 ringing in the courtroom. That was her calling me
21 yesterday. She couldn't get out of the bed. It's this
22 flu going around, and I can understand it because I had
23 some of that before I had my other problem.

24 MR. PANOSH: May we approach?

25 THE COURT: Yes, sir.

1 MR. ZIMMERMAN: Absolutely satisfactory with
2 the defendant.

3 (Counsel approach the bench.)

4 THE COURT: Counsel, the Court will provide
5 you with a recess to attempt to provide that element of
6 evidence.

7 Court will be in temporary recess, Sheriff.

8 (A recess was taken.)

9 (All parties present.)

10 MR. ZIMMERMAN: If Your Honor pleases, the
11 defense appreciates Your Honor's thoughtful and serious
12 consideration of the presentence study, and apologizes
13 for the delay.

14 THE COURT: That's no need to apologize,
15 Counsel. In this matter I'm anxious to have all the
16 evidence that any party wishes to produce.

17 Is there any further evidence at this time
18 for the State or for the defendant?

19 MR. PANOSH: No, thank you, Your Honor.

20 MR. CRUMPLER: No, Your Honor.

21 THE COURT: Is there any further matters
22 before the Court enters judgment?

23 MR. PANOSH: No, Your Honor.

24 THE COURT: Judgment of this Court shall be
25 entered first in case 97 CRS 39581, wherein the defendant

EXHIBIT (L)

STATE OF NORTH CAROLINA

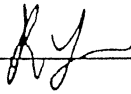
In the General Court of Justice
Superior Court Division

GUILFORD COUNTY

STATE OF NORTH CAROLINA

v.

THEODORE MEADE KIMBLE



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

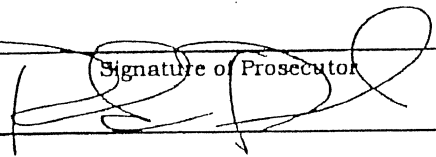
COUNT I
ARSON OF AN UNOCCUPIED DWELLING

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



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



253

EXHIBIT (M)

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 COUNTY, N.C.

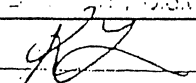
File No.

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




EXHIBIT (N)

1 GUILTY TO THOSE OFFENSES BECAUSE YOU CONSIDER IT TO BE IN YOUR
2 BEST INTEREST TO DO SO?

3 DEFENDANT:- YES, SIR.

4 THE COURT:- DO YOU UNDERSTAND THAT WHEN YOU PLEAD
5 GUILTY TO THOSE OFFENSES UPON THAT CONDITION THAT YOU WILL BE
6 ADJUDGED GUILTY AND SENTENCED FOR THOSE OFFENSES WHETHER OR NOT
7 YOU, IN FACT, ADMIT THAT YOU ARE GUILTY OF THEM?

8 DEFENDANT:- YES, SIR.

9 THE COURT:- HAVE YOU AGREED TO TENDER A PLEA OF
10 GUILTY TO THESE SEVERAL OFFENSES AS PART OF A PLEA ARRANGEMENT
11 THAT WAS NEGOTIATED ON YOUR BEHALF BY YOUR ATTORNEYS WITH THE
12 DISTRICT ATTORNEY?

13 DEFENDANT:- YES, SIR.

14 THE COURT:- IS THIS A CORRECT STATEMENT OF WHAT YOU
15 UNDERSTAND YOUR FULL PLEA ARRANGEMENT TO BE: THE STATE OF
16 NORTH CAROLINA HAS AGREED, PURSUANT TO THE PLEA ARRANGEMENT, TO
17 ACCEPT A PLEA OF GUILTY TO SECOND DEGREE MURDER IN CASE
18 97-CRS-39581. COUNT ONE IN THAT -- IN CASE 97-CRS-23656 SHALL
19 BE DISMISSED BY THE STATE UPON YOUR PLEA OF GUILTY. IN RETURN,
20 THE DEFENDANT AGREES TO ENTER PLEAS OF GUILTY TO SECOND DEGREE
21 MURDER IN CASE 39581, CONSPIRACY TO COMMIT FIRST DEGREE MURDER
22 IN CASE 97-CRS-23656, AND FIRST DEGREE ARSON IN CASE
23 98-CRS-23486, AND EIGHT COUNTS OF SOLICITATION TO COMMIT FIRST
24 DEGREE MURDER PURSUANT TO THE BILLS OF INFORMATION WHICH HAVE
25 BEEN SUBMITTED TO THE COURT. THE DEFENDANT AGREES PURSUANT TO



Thriller: Victor Stephens celebrates after his touchdown seals the Wolfpack's win. **PAGE 1CC**

THE SUNDAY NEWS OBSERVER

**JUSTICE
WITHHELD**

The adversarial system has gotten to the point where winning is more important than justice.

TOM ROSS OF GREENSBORO, FORMER SUPERIOR COURT JUDGE

Cheating prosecutors ruin lives, go unpunished

Nathan Hoffman is on death row because of testimony from a cousin with whom prosecutors made a deal. Hoffman's lawyers have presented evidence that prosecutors, in violation of the law, did not disclose the deal; Hoffman, convicted of murder in 1995, is appealing.

STAFF PHOTO BY SCOTT LEWIS

LAW OPENS FILES FOR THOSE ON DEATH ROW, BUT OTHER INMATES ARE IN THE DARK WHEN THE STATE KEEPS VITAL EVIDENCE SECRET

By JOSEPH NEFF
STAFF WRITER

After Alan Gell got off death row last year because state prosecutors withheld evidence of his innocence, Attorney General Roy Cooper said the actions were unintentional. The misconduct was described as unusual, perhaps unique.

Yet prosecutorial misconduct has unalone at least four other North Carolina death row sentences in recent years, and several similar cases are grinding their way through the appeals process.

In these cases where judges ordered new trials, prosecutors broke the law by withholding evidence helpful to defendants, such as witness statements or deals cut with jailhouse informants. The prosecutors have received no significant punishment.

Death row inmates now have com-

plete access to the files of prosecutors and police because of a little-noticed 1996 change in state law that has thrown light into a dark corner of the criminal justice system.

By seeing the entire law enforcement files, convicts and their lawyers can determine whether prosecutors, at trial, turned over all evidence helpful to the defendants, as the U.S. Supreme Court has required since 1963.

In several cases, they did not. Inmates affected by the allegations of misconduct include:

■ Gell, who was sentenced to death in 1998 for the murder of a retired truck driver in Bertie County. Late last year, a Superior Court judge ruled that David Hoke and Debra Graves of the state Attorney General's Office withheld witness statements indicating that the murder occurred while Gell was in jail. They also

failed to reveal a tape recording of the state's star witness saying she had "to make up a story" to tell police.

■ Jerry Lee Hamilton, who was sentenced to death in 1997 for the murder of a Richmond County woman raped and stabbed to death. He won a new trial in April because prosecutors and police withheld a document undermining the credibility of the state's sole witness, Hamilton's nephew, who had initially confessed to committing the murder alone.

■ Jonathan Hoffman, whose lawyers have filed an appeal that shows that prosecutors in Union County hid deals with their star witness. The witness's testimony cut his prison time by at least 15 years and put several thousand dollars into his pocket.

INSIDE

CAUGHT: A web of deceit entangles a prosecutor. **▶ 4A**

ONLINE

A state prosecutor's advice: Ignore information damaging to a witness. news-observer.com.

MONDAY

THE TOLL: A family unravels after a woman is wrongly imprisoned.

SEE JUSTICE, PAGE 4A

Charles Munsey of Wilkesboro, who won a new trial in 1999. In that case, Wilkes County District Attorney Randy Lyon withheld evidence that the state's star witness, a jailhouse informant, was never in the prison where Munsey supposedly confessed to him.

Former Superior Court Judge Tom Ross of Greensboro, who tossed out Munsey's conviction, said the case changed his view of the justice system.

"From my perspective as a lawyer and judge, the adversarial system has gotten to the point where winning is more important than justice," said Ross, who also worked as the court system's top administrator and now runs the Z. Smith Reynolds Foundation.

"There is an extra responsibility on the state to see that justice is done," he said. "You aren't representing victims of the crime but the people of the state, and the people are seeking justice."

Most prosecutors do follow the law and hand over evidence that might be helpful to the defense before trial. Many, such as Wake's Colon Willoughby, practice "open file discovery" and let the defense see all information, not just the evidence helpful to the defense.

But open file discovery is optional at the trial stage. State law and the U.S. Supreme Court place the burden on prosecutors to turn over what is required. Defendants have no way of knowing whether they're getting all evidence that might benefit them.

Only after convictions in death-penalty cases does state law require that defendants get the full files. Since the law was changed in 1996, judges have thrown out at least five death penalty convictions in which helpful evidence was withheld; in North Carolina, 198 people are on death row.

Death row inmates make up less than 1 percent of the prison population, meaning that the vast majority of inmates do not have automatic review of law enforcement files. Would inmates such as Gell or Hamilton have found the helpful evidence if a jury had sentenced them to life in prison instead of death?

"No," said state Sen. Wib Gulley, a Durham Democrat, a skeptic about the death penalty and author of the 1996 change. "We've avoided some serious miscarriages of justice in capital cases, but it raises the question: Why we don't have this approach in noncapital cases as well."

The murder case against Jonathan Hoffman rested on the testimony of a jailhouse informant. Hoffman's trial lawyers demanded but did not get information on key deals made with him.

1 Oct. 8, 1996: Hoffman's lawyers ask for all helpful evidence, including any deals made with witnesses for the state.

Handwritten document titled "MOTION TO REVEAL GRANT OF IMMUNITY OR OTHER CONCESSIONS" with a signature at the top.

JONATHAN GREGORY HOFFMAN

MOTION TO REVEAL GRANT OF IMMUNITY OR OTHER CONCESSIONS

NOW COMES THE DEFENDANT, by and through his attorneys, and moves the Court to order the State of North Carolina to disclose;

1. Any plan to grant immunity to any State's witnesses in this case.

2 Oct. 31, 1996: Prosecutors give Superior Court Judge William Helms notes of an Oct. 5 interview with Johnell Porter, the jailhouse informant. No mention of concessions or deals. Judge puts notes under seal in manila envelope.

Handwritten notes from an interview with Johnell Porter, dated October 5, 1996.

GET ARREST RECORD ON PORTER IN SEPTEMBER 1995 SHOWING HIM ARRESTED AND IN JAIL. HIS RELEASE WAS THE SAME WEEK HOFFMAN AND PORTER WENT TO MARSHVILLE TO LOOK AT THE STORE.

TALK TO PORTER ABOUT THE STATEMENT MADE TO MCMAIN IN THE PRESENCE OF HOFFMAN ABOUT WHY PORTER WOULD NOT LET HOFFMAN CARRY THE GUN.

4.13, p.4

3 October 2003: Hoffman's attorneys file an appeal and attach original copy of interview notes, which they had found in District Attorney Kenneth Honeycutt's file. Prosecutors had removed from the document given to Judge Helms their plans to seek concessions for Porter.

Handwritten notes from an interview with Johnell Porter, dated October 5, 1996.

GET ARREST RECORD ON PORTER IN SEPTEMBER 1995 SHOWING HIM ARRESTED AND IN JAIL. HIS RELEASE WAS THE SAME WEEK HOFFMAN AND PORTER WENT TO MARSHVILLE TO LOOK AT THE STORE.

TALK TO PORTER ABOUT THE STATEMENT MADE TO MCMAIN IN THE PRESENCE OF HOFFMAN ABOUT WHY PORTER WOULD NOT LET HOFFMAN CARRY THE GUN.

MEET WITH US ATT. AND GET SOME CONCESSIONS MADE TO PORTER IN THE EVENT HE TESTIFIES FOR US.

4.13A, p.4

Legal standard set

The U.S. Supreme Court established the defendants' right of "exculpatory evidence" in 1963; prosecutors must hand over evidence that would help defendants prove their innocence, lessen their punishment, or undercut the credibility of state witnesses.

North Carolina's 1996 law went beyond that standard by opening all law enforcement files to death row inmates. The law was passed during a push to streamline the death-penalty process.

Defense lawyers argued that prosecutors and police were causing delays of executions because getting files or evidence from them could take years. Giving

death row inmates the law enforcement files at the start of the appeals process, they contended, would eliminate some delays.

Gulley inserted that change into the bill. The General Assembly agreed, despite the vigorous objection of Mike Easley, then the attorney general and now governor.

Easley's office continued to fight the law even after it was passed.

Soon after, Special Deputy Attorney General Barry McNeill — the state's leading death-penalty lawyer — discussed the new law at a meeting of prosecutors in Asheville. Defendants had not been having problems obtaining evidence helpful to them, McNeill contended. There was no need to open all law enforcement files, and his office would help prosecutors ward off attempts to do so, he said.

whose "roots" or "spells" were said to protect clients from arrest and other misfortunes.

"Porter made a forceful and compelling witness," Honeycutt wrote in a November 1996 letter to federal prosecutors. "A conviction in this case would probably not have been possible but for Johnell Porter's testimony."

Porter benefited from his testimony. Under a deal arranged by Honeycutt, Porter's prison sentences were reduced by at least 15 years, he was not prosecuted for at least a dozen serious crimes, and he pocketed several thousand dollars in rewards, according to recently filed court papers.

And, the court papers show, Honeycutt hid the deal from Hoffman's lawyers, the jury and the trial judge.

Under the Supreme Court standard, prosecutors must disclose any concessions or immunity they give to their witnesses. That information allows a jury to assess truthfulness: Is the witness trading testimony for favors?

In April 1996, Porter pleaded guilty in federal court to an October 1995 bank robbery in Huntersville, near Charlotte. He expected a sentence of six to eight years. But a federal probation officer discovered that Porter had avoided serving a seven- to 20-year sentence in South Carolina. Instead of looking at six to eight years, Porter, 45, was looking at 22 to 40 years behind bars.

A flurry of meetings ensued involving Porter; his lawyer, Aaron Michel; Honeycutt and his assistant, Scott Brewer; Assistant U.S. Attorney Brian Whisler; and various investigators. The culmination was a meeting Oct. 17, 1996, at the Mecklenburg County jail with Porter, Honeycutt, Brewer, Whisler and investigators, Michel said in a sworn affidavit.

"The meeting lasted one to one and one half-hours and Mr. Honeycutt did the vast majority of the talking. Mr. Honeycutt said, in so many words, that Mr. Porter could rely on them to reward him for his cooperation."

The reward had five parts, according to Michel: a reduced federal sentence, help for Porter to reduce his South Carolina sentence, reward money, immunity from other state charges, and immunity from other federal charges. Porter would not be prosecuted in federal or state court for any past crimes.

One week before this meeting, on Oct. 10, there was a pretrial hearing where Hoffman's lawyers had asked for any concessions or deals struck with state witnesses. Hon-

eycutt said there was none yet.

"If there is one, disclose it to them so they will have that information," Superior Court Judge William Helms told Honeycutt at the hearing.

At trial, Honeycutt disclosed only one of five parts of the deal as outlined by Michel's affidavit: the letter Honeycutt promised to write asking that Porter's federal sentence be reduced.

On the day that Porter testified, Judge Helms ordered Honeycutt to hand over any statements Porter had made.

Honeycutt produced several documents, which Helms read during lunch. Satisfied there was no exculpatory or helpful evidence, he put the documents under seal in the case file.

What Helms did not know was that some of the documents had been altered. The records of an Oct. 5 jailhouse meeting, for example, contained a copy of Honeycutt's notes rather than the original, and several items were missing. The original notes, later discovered in Honeycutt's files by Hoffman's lawyers, said "Meet with US Att. and get some concessions made to Porter in the event he testifies for us."

A deal that cut

Porter took the stand and told the jury how Hoffman had confessed to him in the Mecklenburg County jail. He said he and Hoffman had teamed up on some robberies in the past. And he admitted acting alone in crimes that could have put him in prison for several decades: armed robberies, attempted robberies, possession of a firearm by a felon, sale of crack cocaine, credit card theft and credit card fraud.

During closing arguments, the prosecutors argued that Porter should be believed because he had spilled all his crimes at risk to himself. Porter "told you things he hasn't been charged with," Brewer told the jury. "That which he had no deals on, no deals of any sort. Why would he do that and not tell you the truth about what Mr. Hoffman did? There is no reason, no reason."

Honeycutt re-emphasized the point: In exchange for testifying against Hoffman and confessing to uncharged crimes, all Porter could gain was a letter from Honeycutt urging a lesser federal sentence.

Honeycutt did not disclose the nonprosecution deal in federal court or Mecklenburg County. He did not disclose that he said he would write a letter urging a reward for Porter.

Hoffman was sentenced to death.

Several weeks later, a federal judge reduced Porter's federal sentence from the 15- to 20-year range to less than eight years. The judge scheduled that sentence concurrently with a seven- to 20-year sentence in South Carolina.

Porter was not prosecuted for the crimes he admitted to at trial. And after Honeycutt wrote a letter to the reward fund, Porter received several thousand dollars. Brewer, the assistant prosecutor, declined to discuss the case, referring questions to Honeycutt.

Hoffman received a fair trial, Honeycutt said. He said ethical guidelines prevented him from

SEE WITHHELD, PAGE 5A

WITHHELD

CONTINUED FROM PAGE 4A

discussing the case and said he's not surprised by the accusations of wrongdoing.

"They always accuse us of lying, cheating and stealing," Honeycutt said. "There are pictures of Abraham Lincoln and naked women in the library. They're just not together. That's the sort of thing we're dealing with here."

The evidence of Porter's treatment by Honeycutt was unearthed by Hoffman's lawyers, Rob Hale of Raleigh and Mike Howell of Durham. Hoffman has always maintained his innocence, Hale said.

"My personal belief, based on a review of all the files and trial testimony, is that he's innocent," Hale said. "There is absolutely no evidence that connects him to the crime."

Hoffman is on death row at Central Prison while his lawyers pursue his appeals.

The price and the pain

For the wrongfully convicted, prosecutorial misconduct means years in prison. For the victims' families and the public, there is the pain and cost of a second trial. For the prosecutors, there are rarely any consequences.

An example: David Hoke, who prosecuted Alan Gell, is now the No. 2 administrator in the state court system. Debra Graves, his co-counsel, is a federal public defender. Both declined to talk about the case.

The law has a remedy when helpful evidence is withheld; the defendant can win a new trial. However, the law doesn't levy any punishment for withholding such evidence.

"In view of the problems created by [the new law], my office has taken an aggressive stance against such discovery requests and motions by" death row inmates, McNeill said.

The N.C. Supreme Court overruled that stance in 1998. The court said prosecutors and police must hand over their "complete files."

North Carolina may be the only state to open all law enforcement files during a death-penalty appeal, years after the trial. But before trial, experts say, North Carolina is among the most restrictive states for sharing evidence.

Some other states order prosecutors to provide witness statements before trial. In Florida, defendants have access to law enforcement files before trial, and defense lawyers can even question prosecution witnesses under oath before trial.

A kick from his kin

Under any state's standard, Jonathan Hoffman should have known more during his trial about the favors prosecutors were giving their star witness.

On Nov. 27, 1995, a masked man with a sawed-off shotgun entered Cook's Discount Jewelry in Marshville, about 30 miles southeast of Charlotte. The robber exchanged fire with the owner, Danny Cook, who was shot in the chest and killed. The robber took Cook's gun and jewelry.

Hoffman is on death row for the murder, put there by the testimony of his cousin.

The cousin, Johnell Porter, was essential to the conviction, and Union County District Attorney Kenneth Honeycutt was the first to admit it.

Letters written after the trial, Honeycutt wrote that the case was circumstantial. The witness identifications of the robber were weak. Before Hoffman's cousin took the stand, the case hung on the testimony of a 90-year-old man

EVIDENCE WITHHELD

Since a law passed in 1996 gave death row inmates access to all files about their cases, five have won new trials. One died in jail, two pleaded guilty to second-degree murder, and two are awaiting trial. Several similar appeals are pending.

SAME OFFICE AS PANOSH

WILKES COUNTY

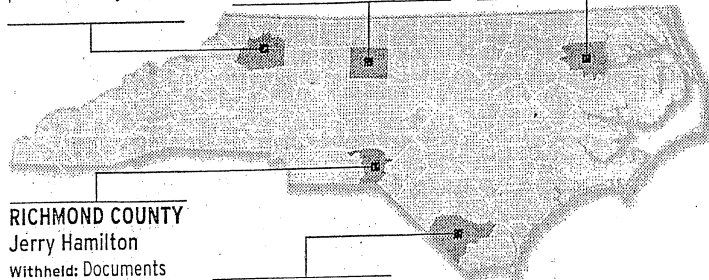
Charles Munsey
Withheld: Documents showing state's key witness, a jailhouse informant, was never in the same prison with Munsey.
Status: Munsey died in prison awaiting a retrial.

GUILFORD COUNTY

Steven Bishop
Withheld: Witness statement from a Kmart cashier who said Bishop was in the store and miles away from the scene about the time of the murder.
Status: Pleaded guilty to second-degree murder and other charges, serving life term.

BERTIE COUNTY

Alan Gell
Withheld: Witness statements showing murder occurred when Gell was in jail, and tape recording of the state's key witness saying she had "to make up a story" to tell police.
Status: Awaiting retrial in February.



RICHMOND COUNTY

Jerry Hamilton
Withheld: Documents undercutting credibility of the state's key witness, who had confessed to the murder.
Status: Awaiting retrial

COLUMBUS COUNTY

Curtis Ray Womble
Withheld: Statements from five witnesses who saw the victim alive one day after Womble was supposed to have beaten him to death.
Status: Pleaded guilty to second-degree murder, serving life term.

Source: Case files

The News & Observer

Punishment would come from the N.C. State Bar, the agency that oversees and disciplines lawyers. But that has happened only twice in the history of the State Bar.

When it comes to misconduct in court, many lawyers see a double standard. Most believe that prosecutors are not disciplined as strictly as defense attorneys, according to Rick Gammon, a Raleigh lawyer who is chairman of the State Bar's Disciplinary Hearing Committee.

"If I, a defense attorney, lie to the court, they will take my license," Gammon said. "History has shown that they are less likely to do that with prosecutors."

The State Bar has suspended or revoked the licenses of hundreds of lawyers over the years, for offenses that include stealing a client's money and failing to do the work promised. In 2002, the bar disciplined 37 lawyers.

The only two times the organization took action against prosecutors for withholding evidence, it put the discipline on hold, saying there would be no penalty if there were no further violations.

In March 2001, the State Bar sanctioned former Guilford County prosecutor Gary B. Goodman for his misbehavior in three murder cases. The bar found that Goodman had withheld exculpatory evidence in two murder cases. In one, a capital case, a judge overturned the conviction of Steven Bishop and ordered a new trial. In a third case, Goodman refused to comply with two court orders to hand over material from his files.



Goodman, a former prosecutor, is a defense lawyer now.

The other lawyer disciplined for withholding evidence is Kingsley C. Dozier, an assistant district attorney in Randolph County.

Shirley Faye Andrews was charged with a 1997 murder; two acquaintances were charged with helping her. Dozier told the acquaintances he would dismiss their charges if they testified against Andrews. Dozier did not commit the deal to writing.

Dozier did not disclose the deals when asked. After Andrews was convicted of second-degree murder, Dozier dropped the charges against the two acquaintances, as promised.

Andrews' lawyer read about the deals in the newspaper and challenged the convictions. Superior Court Judge Catherine Eagles tossed out Andrews' conviction, saying the jury needed to know that the state had given leniency to its star witnesses in return for their testimony.

The State Bar suspended Goodman's and Dozier's licenses for two years but immediately put the suspensions on hold. They could continue to practice law during this warning period as long as they had no further problems.



"There is an extra responsibility on the state to see that justice is done. You aren't representing victims of the crime but the people of the state, and the people are seeking justice."

TOM ROSS, FORMER SUPERIOR COURT JUDGE



"We've avoided some serious miscarriages of justice in capital cases, but it raises the question: Why we don't have this approach in noncapital cases as well."

WIB GULLEY, STATE SENATOR



"If I, a defense attorney, lie to the court they will take my license. History has shown that they are less likely to do that with prosecutors."

RICK GAMMON, LAWYER



Union County District Attorney Kenneth Honeycutt didn't reveal a deal with a key witness. He insists the trial was fair.

STAFF PHOTO BY SCOTT LEWIS

Goodman, who now works as a defense lawyer, declined to discuss his cases.

Dozier, still an assistant district attorney, said he was unsure whether he had to disclose oral plea deals the same as written deals. "Clearly I made a mistake, and I own up to it," Dozier said. "I hate I was the test case."

So far, the State Bar has not suspended or revoked a prosecutor's law license, the most severe punishment it can exact. Shame has been the only punishment.

"They don't have to suffer anything except the embarrassment of publicity," Gammon said.

Staff writer Joseph Neff can be reached at 829-4516 or jneff@newsobserver.com.

NOTICE OF PENDING LEGAL ACTION EXHIBIT(P) 1 of 4

Atten: Robert Nicholes

3311 Darden Road

Greensboro, N.C. 27407

On or about April 25-26, 1997 Robert Nicholes (Rob) called a Jeff Roberts and informed him of a roofing job he had arranged at the coast. The two then met at Lyles Building Materials after hours. At this time Lyles Building Materials was owned by Theodore M. Kimble (Ted). Rob Nicholes proceeded to cut the lock off the Company's gate and drove into the business. Rob then attached a Brand New 18Ft. Triple Axle Trailer to his truck. This trailer was the "Personal-Property" of Ted Kimble. Rob and Jeff then loaded the trailer with shingles which they also stole. Robert, his wife Candice, their daughter, and Jeff Roberts then went to the coast, where Robert and Jeff did a roofing job with the stolen shingles. Rob, Candice, and their daughter then took the stolen trailer to an undisclosed parking lot, where they met a man and sold him the trailer.

Police Detectives have interview witnesses and taken statements, which will be presented as evidence to the Court. The trailer was found, but not recovered. Do to this "Newly Discovered Evidence," I have found the foregoing parties responsible for the theft of my personal property.

(Page 1 of 2)

I hereby make the request of payment, in the amount of \$8,000.00 dollars to be paid in full. This letter serves to notify said parties I fully intend to persue Civil Legal Action against all parties involved, within the next few weeks "if" I do not hear a response to this notice. I am willing to negotiate and settle out of Court for considerably less, "If" an agreement can be reached, before I acquire any legal expenses.

I strongly suggest you address this issue immediately. I may be reached by correspondence at the following address.

Sincerely,

Theodore M. Kimble

THEODORE M. KIMBLE

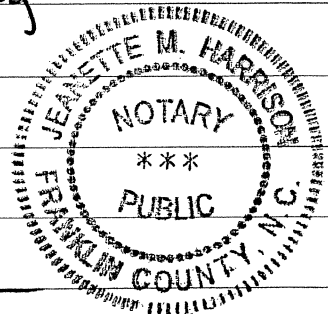
1300 WESTERN BLVD.

RALEIGH, N.C. 27606

Sworn to and before me this the 06 day
of February 2004.

Witness: *Jeanette M. Harrison*

My Commission Expires *My Commission Expires 4-4-2008*



NOTICE OF PENDING LEGAL ACTION EXHIBIT (P) 3 of 4

Atten: Candice Nicholes

3311 Darden Road

Greensboro, N.C. 27407

On or about April 25-26, 1997 Robert Nicholes (Rob) called a Jeff Roberts and informed him of a roofing job he had arranged at the coast. The two then met at Lyle's Building Materials after hours. At this time Lyles Building Materials was owned by Theodore M. Kimble (Ted). Rob Nicholes proceeded to cut the lock off the Company's gate and drove into the business. Rob then attached a Brand New 18FT. Triple Axle Trailer to his truck. This trailer was the "Personal-Property" of Ted Kimble. Rob and Jeff then loaded the trailer with shingles which they also stole. Rob, his wife Candice, their daughter, and Jeff Roberts then went to the coast, where Rob and Jeff did a roofing job with the stolen shingles. Rob, Candice, and their daughter then took the stolen trailer to an undisclosed parking lot, where they met a man and sold him the trailer.

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I strongly suggest you address this issue immediately. I may be reached by correspondence at the following address.

Sincerely,

Theodore M. Kimble

THEODORE M. KIMBLE

1300 WESTERN BLVD

RALEIGH, North Carolina 27606

Sworn to and before me this the 06 day
of February 2004.

witness: Jeanette M. Harrison

My Commission Expires: My Commission Expires 4-4-2008.

