W. DAVID LLOYD

ATTORNEY AND COUNSELLOR AT LAW

101 SOUTH ELM STREET

SUITE 310

GREENSBORO, NORTH CAROLINA 27401 TELEPHONE (336) 691-0550 FACSIMILE (336) 274-8490

October 4, 1999

DWI/TRAFFIC OFFENSES FELONIES IN ALL COURTS ACCIDENTS PERSONAL INJURY

Ronnie Lee Kimble 0628799 Odom Corr. Rt. 1 Box 36 Jackson, NC 27845

Dear Ronnie:

I read your letter with interest. First, I am glad to see you taking an interest in your appeal. It shows me that you have not lost hope and seem to have your spirits up enough to write a letter that is thoughtful and well written. However, I decline to raise the issues you have suggested. Let me tell you why. Concerning the sufficiency argument, you have never seemed to grasp the terrible significance of Mitch Whidden's testimony. That is why we lost the case before the jury and if we lose on appeal that will be the reason (harmless error because of the defendant's confession). It is all the evidence the state needs to establish for appellate purposes for sufficiency. The standard for review on sufficiency is "in the light most favorable to the state." It matters not that you got on the witness stand and denied killing Patricia, the testimony of Mitch Whidden is enough by itself to defeat any sufficiency claim. You have convicted yourself out of your own mouth in the eyes of the jury and the appellate courts. I decline to raise the issues you have raised against Mr. Panosh. of these fall into the category of effective cross examination, and, as you point out, would have to be raised as plain error since Jack and I did not object. In my opinion they are not reversible even if some of them might conceivably be considered error at all. We have a very good issue on Ted's statements coming in through Nicholes and Pardee based in part on a U.S. Supreme court case that came down this summer, Lilly v. Va.; I am not going to dilute it by raising a bunch of highly marginal issues.

As far as references are concerned, don't bother with any text for paralegals; I have never met a paralegal who was taught anything about criminal law. Get West Publishing's Criminal Procedure in a Nutshell, softcover, written by the two law professors who wrote the definitive work. Cost is about \$10-\$12. West Publishing, P.O. Box 64526, St. Paul, Minn. 55164-0526. The hardcover three-

volume treatise is about \$150.

I have enclosed a copy of your appeal information sheet.

I am and remain

Sincerely yours,

W. David Lloyd

WDL/ld

cc: Jack Hatfield

Enclosure:

NORTH CAROLINA COURT OF APPEALS

APPEAL INFORMATION STATEMENT

STATE OF NORTH CAROLINA

From Guilford County

Trial Docket Nod. 97CRS 39580;23654

v.

98CRS 23485

COA Docket No.

RONNIE LEE KIMBLE

Trial Judge: Preston Cornelius

Party(ies) filing appeal: RONNIE LEE KIMBLE

- Date Judgment Entered: 9-3-98
- 2. Date of Notice of Appeal: 9-11-98
- 3(a) Is this a final judgment as to all claims and parties: Yes
- (b) If no, state basis judgment is appealable
- 4(a) Nature of the case: criminal law, first degree murder, etc.
 - (b) Ruling being appealed: Judgment from jury verdict
- 5. Issues raised on appeal: See attached
- 6. (a) Has any prior appeal in this case been filed in either appellate court? No.
- (b) Are any other appeals in this case pending before either state appellate court? No.
- (c) To your knowledge, are there any other appeals raising substantially related issues pending before either appellate court? No.
- 7. (a) Are there essential questions raised by this appeal that cannot be adequately presented by the written briefs alone and therefore require oral argument? Yes.
 - (b) Do you request oral argument? Yes.
- 8. Has this appeal, or the matters with which the appeal is concerned, been settled or rendered moot? No.

The undersigned hereby certifies that he will promptly notify the Court of Appeals if the appeal is hereafter settled or rendered moot. W.D.L.

- 9. Is there any reason why this appeal should be expedited? Yes. If yes, please explain: Defendant in prison.
- 10. Has the execution or enforcement of the order, judgment or other determination from which the appeal has been taken been stayed pending disposition of the appeal? No.

The undersigned attorney for the appellant hereby certifies that the information provided herein is true to the best of my knowledge.

This the _____ day of Hycust

W. DAVID LLOYD

ATTORNEY FOR THE DEFENDANT

101 South Elm Street Ste. 310 Greensboro, North Carolina 27401

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Telephone: (336) 691-0550