STATE OF WORTH CARDLINA COUNTY OF GUILFORD

STATE OF NORTH CAROLINA?

V.

THEODORE MEAD KIMBLE?

DEFENDANT.

IN THE GENERAL COURT
OF JUSTICE
SUPERIOR COURT DIVISION
FILE NO.'s 91 CRS 23456
91 CRS 39581; 98 CRS 23486
99 CRS 23241-48

MOTION FOR APPROPRIATE RELIEF

NOW COMES, THE DEFENDANT, THEODORE MEAD KIMBLE PRO-SE
IN THE ABOVE-CAPTIONED CASE'S, AND RESPETFULLY MOVE THIS HONORABLE COURT, PERSUANT TO N.C.G.S. ISA-HII, ET. SEQ., FOR APPROPRIATE
RELIEF FROM THE DEFENDANTS CONVICTION AND SENTENCES IN SAID
CASES. IN SUPPORT OF THIS MOTION, DEFENDANT SHOWS THE COURTS

FACIS

CONVICTIONS WHICH I AM PRESENTLY OBLIGATED TO SERVE: DATE OF CONVICTIONS WHICH I AM PRESENTLY OBLIGATED TO SERVE: DATE OF CONVICTION WAS MARCH 5, 1999. PRESIDING JUDGE PETER M. McHUGH, IT WAS A GUILTY PLEA TO SECOND DEGREE MURDER 97 CRS 39581; FIRST DEGREE ARSON 98 CRS 23486; THE CHARGE OF CONSPIRACY TO COMMIT FIRST DEGREE MURDER CASE #97 CRS 23656 WAS "SUPPOSED" TO BE "DISMISSED" PER PLEA AGREEMENT UPON PLEA OF GUILTY,

However Petitioner was sentenced to 163-205 months REGARDLESS.

Petitioner took an "ALFORD" plea in cases 99 CBS 23241-48, After being TRICKED" and "DECIEVED" into signing "WAIVERS" to waive the Findings and the Return of Bills of Indictment, and agreed that the above said cases may be tried upon the above information on the BILL OF INFORMATION SHEETS, by prosecutor RICHARD PANOSH; and attorneys H.W. ZIMMERMAN JR., FRED G. CRUMPLER JR., On January 28,99 making me believe it was in my best interest, for which Petitioner recieved a total of a minimum of 840 months and maximum of 1,084 months on those "8" charges alone, which equals 70 to 90.4 years, So by counsel deceiving Petitioner into signing those papers, Petitioner was actually "THROWING HIS LIFE AWAY" without even having the Grand Jury show they be "-lieved there would be enough evidence to indict on said charges, Solely on the word of a known Jail house thirt, Hamosexval, and Habitual lier, Which "FOUB" other witnesses test-- I fied to those facts, So it's as if counsel was working against Petitiones, which was obviously Ineffective Assistance of Counsel. As if Petitioner had no counsel at all Petitioner wants to bring out the "FACT" attorney HW. ZIMMERMAN "WAS" the sentencing JUDGE whom had sentenced Petitioner on December, 1997 to a total of 50-60 months, For B.E. Larceny charges, and while serving that sentence Mr Zimmerman came off the bench and went into private practice. Petitioner and his family hired F.G. Crumpler Ir. From a law-firm in Winston-Salem (N.C.) Mr Zimmerman had just started working at the same law-firm. Mr. Zimmerman wanted to team-up with Mr Crumpler to represent Petitioner. (Judge) Zimmer--man told Petitioner and his family that he could win the case for \$50,000 dollars, That since he had served as a Judge he could "ARRANGE" everything. A month or so after retired Judge Zimmerman took my case and had recieved full payment, he started asking Petitioner's family for more money, When Mr. Zimmerman learned they had no-more money to give, Mr Zimmerman changed his statement from how be could

WIN the case, to how Petitioner mist take a "20 year PLEA BARGAIN". If Petitioner did

NOT take the 20 year plea bargain he would be pot to death, Petitioner had hired

H.W. Zimmerman out of DURESS, after his previous attorneys had told him the same.

Hing. Mr. Zimmerman coerced Petitioner to sign the said WATVERS, He assured Petitioner

everything was ARRANGED, Petitioner was to get 20 years sentence total for Everything,"

Although it wasn't shown on the Plea Bargain when signed. As Mr. Zimmerman

stated, he had "PULL" with the Judge (Peter Methogh) and Prosecutor (Richard Panesh),

as the worked with them when he was a Judge HIMSELF, when sentenced Petitioner

recieved a total of 1,289 minimum months and 1,651 maximum months on all sentences,

which were all ran consecutively. Attorney (Judge) Zimmerman showed prejudice toward

EXHIBIT

Petitioner's attorney filed Notice of Appeal in the NaCo Court of Appeals on

March 12, 1999.

3). On October 7, 1999 Petitioner's appellate coursel assigned, MS. DANTELLE M.CARMAN
filed The Proposed Record on Appeal, ON APRIL 20, 2000, Appellate Coursel sent Petitioner
a copy of the State's brief. Petitioner had told Appellate Coursel to make sure that she
brought it to the Courts attention in her assignment of Errors, The "FACT" that Mr. Zimmerman WMS the sentencing JUDGE who sentenced Petitioner on the unrelated charges
(to begin with), and how he had assured Petitioner and his family how he had everything undercontrol, How he would use his INFLUENCE from being a Former Judge to
ensure that Petitioner won his case, How a WIN changed to a 20 year plea agreement when no-more money could be sent. Petitioner would recieve a 20 year sentence
on All charges, how Petitioner was told the reason it couldn't be in the PleaBargain
because it would draw ATTENTION and may arrowse SUSPICION that it had all
been PRE-ARRANGED secretly, when in FACT, Mr Zimmerman's only GOAL was to

Send Petitioner away for the Rest of HIS LIFE, And get PAID \$50,000 for Doing It!

Yet Appellate Counsel Common fail to say one word about threse FACTS in her ASSIGNTMENT of ERRORS! Which shows Ineffective Assistance of Appellate Counsel, and Grave Miscorrage of Justice!

4). The entire time Petitioner's appeal was in the N.C. Cent of Appeals, Petitioner repeatedly told appealate Counsel to file a Metion for Appropriate Pelief, To bring out FACTS that were NOT able to be put in her brief. Like the FACT Mr. Zimmernan was the previous sentencing JUDGE, and how he TRICKED Petitioner into allowing him to represent Petitioner through FALSE Promises, And at the threat of recieving a DEATH Penalty. Still appealate Counsel refused to fill a M.A.R, which would be "allowed to be filed in the Court of Appeals, Instead of in Superior Court of Guilford County where Petitioner was "SHANGHAIED" and many of his RIGHTS were violated, STATE and CONSTITUTIONAL RIGHTS, and Petitioner was sentenced INEGALLY, But Counsel Carman stated she does NOT file Motions for Appropriate Belief. Counsel could have brought out all Kinds of frats NOT included in her brief, As Rules state, Persuant to ISA-1418. Which Provides in Petitionat parts as FOLLOWS:

A). When a case in the Appellate Division is there for review based upon grounds set out in N.C.G.S. 15A-1415 must be made in the Appellate Division. For the purpose of this section, A case is in the Appellate Division when the jurisdiction of the Trial Court has been divested as provided in G.S. 15A-1418 (OR) when a Petitioner for Writ of Certiorari has been granted. Petitioner seeks Relief upon the following grounds:

The sestence imposed was unauthorized at the time imposed, Contained A type of sentence disposition or A term of inprisonment Not authorized for the particular class of offense and prior record, and conviction level was ILLEGALLY imposed, or is otherwise invalid as a matter of Law. (N.C.G.S. 15A-1415(B)(B) Ineffective Assistance of

Treal Counsel North Carolina General Statue 15A-1415 (E). But Counsel Carman REFUSED to File a Motion for Appropriate Relief and Petitioner's appeal was DENIED.

laws that were VIOLATED in Retitioner's case and ILLEGAL sentence.

5). Thereafter, Petitioner pleaded with Appelliate Counsel Danielle Corman to file a Motion for Appropriate Relief again repetitiously, and Counsel finally said she would, HOWEVER, Appellate Coursel did just the OPPOSITE, on April 10, 2001 Petitiones was mailed a letter from Appellite Coursel Carman along with a ORDER from the N.C. SUPREME COURT denying a petition she filed for DISCRETIONARY REVIEW dated April 6, 2001 AGAINST MY KNOWLEDGE and against my will By Coursel Filing a "Petition for Discretionary Review, the court simply denied my appeal. This did NOT enable her to bring out the FACTS and ISSUES that can be brought out in a M.A.R., As Petitioner constantly instructed her to file. This was a Gross Display of Ineffective Assistance of Appellate Counsel. Ms. Carman never brought it to the Courts attention that Mr. Zimmerman was the previous sentencing JUDGE, and what a GRAVE CONFLICT of INTEREST it was by him representing Patitioner. Ms Carman stated it would NOT do any good to bring up those FACTS, and speaking on that issue would only cause trouble for her. She FEARED REPROCUTIONS from all involved if she pointed those facts out!

STATEMENT OF FACTS

- 6). This Motion comes within N.C.G.S. 15A-1415.
- A). My convictions were obtained in violetion of Due Process of Law, (U.S. Const. AM. S. 6,14; N.C. Const. ART. I, sec 18,19,23,) as well as other provisions of the United States and North. Carolina Constitutions. G.S. 15A-1415.
 - B). Even if my convictions were valid, there was a problem "IN THE WAY" I was sentenced

OTHER CONSTITUTIONAL VIOLATIONS

A). Conviction Obtained by Plea of Guilty which was Unlawfully Induced or NOT made VOLUNTARY with understanding of the nature of the charge and the consequences of the pleasure. U.S. Const. AM 5,6, H; NC Const. ART I sec. 19,23.

1) Movest was represented by and through attorneys H.W. Zimmerman Ir. and Fred G. Crumpler Ir. As such Movent was of the impression and understanding that said attorneys were skilled and trained in the Laws of N.C. Movent was advised (COMPELLED/INDUCED) to take a Plea Bargain by the forenamed counsel; They stated that it was in my best a interest. Mr. Zimmerman told Petitioner that everything was all PRE-ARRANGED for a "20 year sentence", That Mr. Parosh only wanted a CONVICTION because of all the Publ--icity. If the tax payers had to pay all the unnecessary money to go to trial, the D.A. would make sure I was sentenced to DEATH no matter what see Moore V. U.S. 950 F2d 656 (10TH CTR 1991) Coercion by Trial Counsel or the Prosecutor to induce A GUILTY plea render the plea INVOLUNTARY. Also see U.S. v. ELLISON, 798 F2d. 1102 (7TH CIR 1998) and U.S. v. UNGER, 665 F2d 251 (8TH CIR 1981) Defendant's assertion that Coursel advised her that if she plead guilty to kidnapping charges, she would be given probation, and that if she went to trial and was found guilty, that she would probably get the Death Penalty, Stated a Valid claim of Ineffective Assistance of Counsel, Which "REQUIRED an EVIDENTIARY HEARING," In this case at bar, Petitioner was told IF he plead guilty, the would get a sentence of 20 years. If he went to trial, the -would POSITIVELY be found Guilty, And get the Death Sentence FORESURE! It was later assertained just recently, upon Movent having time to study N.C. Laws and Procedures, and studying the Court transcript records, that Movert's attorneys

COMPELLED/INDUCED him to sign waivers which would ensure him 70 to 90.4 years on 8" Counts alone. The fact Mr. Zimmerman "was" a JUDGE, leaves No Excuse for such a Gross Miscarriage of Jutice. , Making Petitioner sign & waivers knowing the charges would positively be DISMISSED if Petitioner did NOT sign. This is A conflict of Interest. And it is obvious that Mr. Zimmerman wanted to make absolutly sure that Petitioner would spend the rest of his life in prison. see. U.S. v. SANDERSON, 595 F2d 1021 (5TH CIR 1979) (Trial Counsel's misrepresentation of material facts, witholding information, And exerted pressure on Defendant to induce a guilty pleas Constitutes Ineffective Assistance of Coursel and REQUIRES on Evidentiary Hearing to Resolve Claim.) In case at bar, Prosecutor had already tried to have Petitioner "indicted on all (8) counts, But solely on the word of one inmate William Wayne Stewart, And FOUR people saying Stewart was lying, No indictment could ever be considered on such FLIMSEY-HERESY. Mr. Panosh needed a conviction on those & counts to give Petitioner 70 to 90. Hyears, which was twice as much time at the orig-Tinal charges put together. Mr. Panosh himself had offered a 20 year plea agreement to Petitioner prior to Cordefendant's trial. Petitioner fully believed Counselor Zimm -erman when he gave assurance of a 20 year plea agreement, that all charges would be combined, that the state only wanted a conviction. After Counselor Zimmerman had Petitioner sign waivers, he had Petitioner plead Guilty to a Charge that was INVALID and DISMISSED, Isul later (Approx. 8 morrhs) being RE-CHARGED with a different case number (98 CRS 23486) and changed the name of the charge to First Degree Arson, with the same wording as the previous charge from 8-months earlier, Which was then case number (97 CRS 23656) Arson of an Unoccupied Building, However as the WORDING states in pertinent parts "Burn or lause to be burned a the Dwelling house INHABITED by PATRICIA KIMBLE." Obviously a charge titled

UNOCCUPIED can't also be INHABITED at the same time, so it naturally had to be dismissed as a matter of Law. However, Counsel had Movent believe that particular charge and "ENTIRE" case #910RS 23656 was being dismissed as part of the plea bargain, Counsel FAIL to note the RE-INDICTMENT (DOUBLE-JEOPARDY) for the same offense, Only this lime as case #98 CBS 23486 titled "First Degree Arson," with the same exact wording as in previous dismissed case. #97 CBS 23656. Which was Ineffective Assistance of Counsel and Due Process of Low. see U.S. v. GIARDINO 197 F 2d 30 (1st Cir 1986)

Trial Counsel lied to Defendant to induce a Guitty Hear, Constitutes Trieffective Assistance of Counsel and REQUIRES the plea to be set aside. Case at bar, Counselow Zimmerman lied when he told Petitioner everything had been Arranged for the 20 ricer plear agreement, that Petitioner should NOT question his autipority. Clearly a Conflict of Interest for Mr. Zimmerman was the JUDGE that first sent Petitioner to prison, the can NOT possibly be looking out for Petitioner's best interest, To prove

B). Conviction obtained by the Unconstitutional Failure of the State to disclose to the Defendant evidence favorable to the Defendant. U.S. Cont. AM. 5, 6, 14; N.C. Const. ART. I, sec 18, 19, 23.

1). State "FAIL" to provide the Defendant and the Court with the results of the (PRESENTENCE · INVESTIGATION · REPORT), Despite the fait the lady was subpoenced, By Court
records "2" weeks prior to March 5, 99 sentencing. It's a violation of Due Process of law
not to be given the chance to have the Judge consider the recommandations of
the P.S. I. Report, Defeating the whole purpose of the P.S. I. Rules, And Defendant
was sentenced ANYWAY. See U.S. v. DAVENPORT, 151 F3d 1325 (11TH Gir. 1998) Pre-Sentence
Report must be disclosed to BOTH defense Counsel and Defendant at least TEN(10)
Day's prior to sentencing as MANDATED by Statue. Also see U.S. v. GORDON 172 F3d

(10 TH Cir. 1999) and U.S. v. BARTHOLOMEN 974 F2d (5 TH Cir. 1992) Trial (oursel NOT only didn't have a chance to object to any inaccuracies or erriors in the P.S.I. Report, "NO P.S.I.

Report was ever produced." A casual perusal of the record shows that Pititioner was denied all his State and Constitutional Rights from "DAY ONE", why Start following the Rules at this point, Sentence Petitioner anyway! see WEST v. U.S. 994 F2d 518(8THCir.1993)

Trial Counsel's FAILURE to object to errors in the Pre-sentence Report can constitute Ineffective Assistance." In case at bar, Trial Counsel did NOT even care that NO Pre-Sentence Report was even produced! No less object to any errors in it! Counselor Zimmerman was a JUDGE, there's "No" excuse, the just sat there and did NoTHING! Blatantly prejudice and malice toward Petitioner.

= 2) State NOT only FAIL to advise the Petitioner that the charge of ARSON OF AN UNOCCUPIED" Dwelling IND 97CKS 23656 DATED NOW 3, 1997 had been Dismissed by Law. Because the Dwelling WAS OCCUPIED by Patricia Kimble, The indictment was in fact a mistake, Making it "NULL AND VOID". Even the words underneath the charge states in pertinent part, "The Dwelling house INHABITED by PATRICIA KIMBLE." Therefore this can't be an "UNOCCUPIED DWELLING" Yet, Instead of making these facts known, The State made the Petitioner believe Conspiracy to Murder 97 CRS 23656 charge would be DISMISSED as part of the plea bargaing they convilled "DOUBLE JEOPARDY" by RE-SUBMITTING the charge to the Grand Jury as case #98 CRS 23486 titled "FIRST DEGREE ARSON", this time dotted JULY 6, 1998, For further "PROOF" if this was not in fact TRUE then WHY wasn't Pititioner charged with "FIRST DEGREE ARSON" on Nov. 3, 1997, and was instead MISTAKENLY charged with 97CRS 23656 "Arson of an Unoccupied Building"? The "FACTS" speak for themselves in this issue. BOTH Indictments had the same exact wording. Which was also Ineffective Assistance of Counsel for NOT saying anything about it! And Due Process of Law. See JACKSON v. LEONARD 162 F3d 81 (2ND Cir. 1998) Appellate Counsel's failure

to raise Double-Jeopardy claim where it was apparent that Jackson's two charges of First Degree Robery and Criminal use of a Firearm in the First Degree rested on the same FACTUAL Predicate Constitutes Ineffective Assistance of Coursel. In case at bar, Not only was Appellate Counsel Ineffective for Not putting it in her Assignment of Errors, But Trial Coursel HAD PITITIONER PLEAD GUILTY TO IT, which calls to mind WILLIAMS V. TURPIN 87 F3d 1204 1211 (11THC1-1996) Petitioner entitled to Evidentiary Hearing if Petitioner succeds in demonstrating Ineffective Assistance of Appellate Counsel, then the Evidentiary Hearing maybe considered in court. With the Underlying claim of Ineffective Assistance of Trial Counsel. In case at bar, The record and Appellate Counsel's Assignment of Errors show clearly that Petitioner just PROVED the above Ineffectiveness of BOTH Coursel at the "Same time for a FACT! Appellate counsel Carman has a duty to report any Miscarriage of Jutice, Not only in her Assignment of Errors, She should also have reported the fact that Mr Zimmerman was the prior sentencing Judge to the State Bar, Rus with all the other obvious misconduct from all parties involved, All the "ILLEGAL" State and Federal have violations that were used to get these convictions, All should have Immediatly been reported to the State Bar, NOT only did she FAIL to Report ANYTHING, she did NOT put ANY of these FACTS in her Brief. The Prosecutor CONNED Retitioner into believing the ENTIRE indictment (#9702823656) would in fact be dis--missed by his Plea of Guitty. By just referring to case #97 crs 23656 which was the ONE and ONLY indictment that had "2" Counts, Out of all the indictments. The State tricked Petitioner with the aid of Counselor Zimmerman, into believing by Pleading Guilty to that charge, it would be DISMISSED, Even in the Jan 28, 99 transcript of the proceedings Pagell Lines 18-19 The Court Stated, "In Case 97 CRS 23656 Shall be dismissed By the state upon your plea of guilty." On Jan 28,99 The only charge in case 91ces 1356 was in fact "Conspiracy First Degree Murder," so Petitioner naturally figured that was the

charge - the court was talking about and Mistake or Not the Judge in fact Dismissed "Conspiracy First Degree Murder." See SCOTT v. WAINWRIGHT 698 F2d 427 429-30 (11 THGit. 1983) Trial Counsel's FAILURE to learn the facts and familiarize himself with the law in relation to Plea Constitutes Ineffective Assistance of Counsel. HERBING v. ESTELLE, 491 F2d 125 (5TH CIR 19714) Trial Counsel's FAILURE to Samiliarize himself with the facts, Law relevant to the case in relation to the guiffy plea Constitutes Ineffective Assistance of Counsel and renders the plea INVOLUNTARILY ENTERED. In case at bar, After plea was entered Pititioner discovered his trial Coursel only possessed 3 of 20 plus volumes covering his corde-Fendant's trial, Coursel never ever recovered much of the notes and information from Petitioner's previous Counsel. Clearly Trial and Appellate Counsel did NOT read the "Indictments or they would have noticed Petitioner was charged TWICE for ARSON. Petitioner "was" ignorant of the law, but even now with limited knowledge the ERROR is plain to the eye. The Prosecutor had to have knowledge of these Facts as he is the one who used TRICKERY by Re-Submitting the crime charge to begin with, but concealing these facts to make Prtitioner believe he was getting some kind of break in a plea deal, And Counsel west right along with the Prosecutor in this "CONSPIRACY" they committed against Petitioner, As if Petitioner had Counsel acting as the Prosecution working against him, Because Counsel surely didn't do ANYTHING to help Retitioner in ANY, SHAPE, or FURM! On July 6,1998 The State ILLEGALLY RE-INDICTED Petitioner on 98 CRS 23486 calling it in fact "First Degree Arson," this time with the same exact Wording ! See JACKSON v. LEDNARD 162 F3d 81 (2NO Cir 1998) Prosecutor this time committed Double Jeopardy, by using the same case Twice, to raise the charge, Changing the title, But SAME WORDING, Same FACTUAL PREDICATED. And PROSECUTOR MISCONDUCT. Petitioner was given 163-205 months for an ILLEGAL RE-INDICTMENT. The State didn't even type the right charge number correctly on the Judgement and Commitment paper, listed as "98"CRS 23656 making the paper VOID. (See Judgement and Commitment paper EXHIBIT (B)

- 3). Petitioner contends that the Prosecutor having Petitioner Plead Guilty to 97CRS 39581

 "Second Degree Murder" was in fact an "ILLEGAL SENTENCE," Petitioner positively did NOT Kill

 Anybody! And Petitioner can't be guilty of 97CRS 23656 Conspiracy First Degree Murder and guilty of Second Degree Murder at the same time, this is despite the fact that charge was DISMISSED upon Plea of Guilty anyway!
- 4). State and Attorneys TRICKED defendant into signing 8 Bills of Information WAIVERS on Jan. 28,99 there by "WAIVING the Findings and Return of a Bill of Indictment on case 99CRS--23241-48", knowing for a fact there was No evidence to present said cases to the Grand Jury for consideration of indictment, "Soley" on the word of Innate William Wayne Stewart, when "FOUR" witnesses all testified the inmate inquestion bragged of robbing Petitioner, bragged of lying on Petitioner to get out of prison early, was in fact the one who solicited the Defendant, Robbed Petitioner's locker to steal information about his case, Stewart stole legal and personal information to make his PHONY story more believable, when he is in fact a known Habitual Lier, Thref, Homosexual, who claimed to be a "Hit-Man", the only thing he"Hit" was Petitioner's locker to steal his property to fabricate a WIID STORY so he could be released from prison early, which the PROSECUTOR" arranged by having a Judge order his release in violation of all State and Federal Laws. The Prosecutor made positively sure that William Wayne Stewart was NOT in court to testify or face cross examination of his PHONY STORY. Yet his statement was entered in the record against Potitioner. Petitioner was CONNED into an ALFORD-Plea on all (8) counts with "NO Proof what so ever "and Petitioner recieved a total of 840 to 1,084 Months on those charges alone, which is 70 to 90.4 years, on the word of an inmate who FOUR witnesses testified to the fact it was all "LIES". This should be considered as a BRADY violation, In view of facts.
- 5). Counsel not only FAIL to take a statement from Patrick Pardee, but also FAIL to take statement from several other witnesses. Mr. Pardee would have testified for the Defense,

but Counsel waited until the D.A. threaten Mr. Pardee with prosecution of several changes, And would fabricate charges if necessary, The D.A. threater Mr. Pardee with severe prosecution if he didn't make a statement against Petitioner. The D.A. also threaten Robert Nicholes in the same manner. Jeff Roberts and James Ogburn were going to testify for the Defense, but the D.A. threaten them and ran then off! It's Prosecutor MISCANDUCT to threaten a Defendant or witnesses or anyone else with additional or fabricated charges, See U.S. v. ESTRADA, 849 F2d 130+ (10TH Cir 1998) Furthermore, Prosecutor Can't threaten witnesses in ANYWAY, See U.S. v. AGUILAR 90 F. SUPP. 2d 1152 (D.Col. 2000) Prosecutor's statement to Defense witness that government might wid witness plea agreement and re-instate previously dismissed charges unless he invoked his Fifth Amendment privaledge against self-incrimination, * Deprived defendant of his Right to Due Process and Compulsory Process. In case at bur, The Prosecutor threaten every witness in one way or another, Destroying all Defense witnesses. and Counsel went right along with it working hand and hand with the Prosecutor, as if Petitioner had no course! at all. Mr. Panosh (D.A.) knew he didn't have to follow any rules or disclose any facts to the Defense or Petitioner, due to the fact Mr. Zimmerman wanted to put his client away for the rest of his natural life. Counsel just let Mr Panosh do any--thing he wanted, legally or illegally. The main goal with everyone working together was to send Petitioner away for the rest of his life, and they all succeeded as the record shows. Even Appellate Counsel worked against Petitioner, as the brief she filed speaks for itself. Mr. Pardee-told Melanie Oxendine 3 days before he signed a statement against Petitioner, that he had No idea of anything about the Kimble case, Then all of a sodden after the Prosecution threater Pardee, he then signed a statement against Petitioner. This was clearly Variative-Prosecution, Plus the fact that this is a violation of Due Process of Law. "Clearly Prosecutor Misconduct!"

6). Jeff Roberts and James Ogburn were BOTH interviewed several times by the

D.A., The Prosecutor "FAIL" to turn over a single statement to the Court and to Petitioner's Coursel. Jeff Roberts could have testified that Robert Nicholes had told him that he Knew NOTHING about the Kimble case, And that Bob claim to be going down to the D.A.'s office for "COACHING LESSONS" on the Kimble case. James Ogburn could have testi--fied how Ronnie Kimble was infront of him from "3:45PM. until 4:30PM, On Oct. 9,95 the time and day that the Homicide took place. James agourn could have testified about the conversations he had with Robert Nicholes, See "Newly Discovered Evidence EXHIBIT(T)" See U.S. v. ESCHMAN 227 F3d 886 (TIHCIT200) Due Process REQUIRES that Defendant be sentenced on basis of Accurate Information. The Prosecutor never turned over those statements to the Court or the Defense, In fact for further information Please (see "AFFIDAVIT OF "THEODORE KIMBLE" EXHIBIT (S)). This is all in violation of U.S. Const. AM 5, 6, 14; N.C. Const. Art I, sec 1819, 23. The State FAIL to supply or provide the Court and Petitioner many Various FACTS and EVIDENCE, and statements from Pardee, Roberts, Ogburn, and others as stated here in and above. The D.A. TWISTED Witnesses testimonys around and threaten them to change their Story. And took a FALSE statement from William Stewart, And many other Violations. This ENTIRE procedure was done in violation of N.C.G.S. 15.A-1340.14 and A.M. rmed by STATE V. RICH, 130 N.C. APP. 113,502, SE 2d 49 (1998). BOYLE U. MILLION, 201 F3d 711 (LTH Cir 2000) BERGER V. U.S. 295 U.S. 78,88,79, L. ed. 1314,55 Sct. 629 (1935).

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 158 (3RD.2001)

U.S. v. ESCHMAN, 227 F 3d. 886 (7TH Cir. 2000) Due Process REQUIRES that Defendant be sentenced on basis of "Accurate Information" U.S. v. HERRERA-ROJAS, 243 F 3d. 1139 (9TH Cir 2001) If the District Court fails to make the required findings during the Sentencing Hearing, The Sentence must be VACATED and the Defendant Resentenced. U.S. v. CONTRERAS, 249 F 3d. 595 (7TH Cir. 2001)

Sentencing Determination must be based on RELIABLE evidence. Bit, NO PSI. Report at Sentencing.

U.S. v. DOE, 860 F2d 488 (15TCin:1986) "Prosecutor does NOT represent an Entity whose interests include Winning at all cost; Prosecutors altert is Society, which seeks Justice NOT Victory."

Furthermore, Petitioner would be DENTED Due Process of Law if his Motion for Appropriate Relief is denied without a hearing. (See N.C.G.S. 15A-1420(C)(DAND(4). ALSO STATE v. HANTON, 140 N.C. App. 689, 540. S.E. 2d 382. was Remanded for Pre-Sentencing because he didn't stipulate to the "NATURE" of his SUPPOSED prior Convictions. In this case at bar, Petitioner's Counsel stipulated to level II, Petitioner was never asked at all about his prior convictions, And never was it mentioned or explained to him. Petitioner contend that the prior convictions were never mentioned, because THEN it would be on record in the transcripts that Judge. Zimmerman, now attorney Zimmerman for the defense, Is the one who in fact sentenced Petitioner, This would clearly show "CAUSE" and "GROSS CONFLICT" of Interest and Ineffective Assistance of Counsel.

T). As Pititioner has demonstrated in his M.A.R. and is prepared to show in his Evidentiary. Hearing if granted by this Honorable Court, MANY of the ALLIGATIONS represented as fact to him and the Court were in fact FALSE. As these were also matters of public second, with D.A. must be presumed to have actual Knowledge of their FALSITY, Plus the fact he BROKE THE LAW, Twisted testimonies by "BLACKMAIL" of the witnesses. Counsel obviously went along with the D.A. and any information he gave them (LIES), Never varifying anything the D.A. said. Petitioner therefore received Ineffective Assistance of Counsel and an Unlawful Sentence. Furthermore, if Petitioner is Denied this Wotion for Appropriate Belief and an Evidentiary Hearing, Petitioner would be denied his Right to introduce evidence to "Refute" the State's False Alligations.

c). DENIAL OF RIGHT TO APPEAL.

1). Petitioner's Coursel said he had no-right of Appeal at Sentencing. They FAIL
and Neglected to advice Pititioner of his Rights of Appeal. Not only did Counsel
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say I had No Right of Approl, Coursel also didn't Kequest Bond or Speak on Petitioner's behalf, or say anything at ally See U.S. v. HAMMONDS, 425 F2d 597 (D.C. 7 Cir 1970) Trial Counsel's FAILURE to Request Bond after Conviction and speak on Defendants behalf after sentencing, Constituted Ineffective Assistance of Counsel. Also see LOZADA V. DEEDS, 488 U.S. 430, 112 L. ed. 2d. 956 11 S. ct. 860 (1991) Deferse Coursel's FAILURE to inform Petitioner of his Right to Appeal Constitutes Ineffective Assistance of Coursel. When Petitioner did Appeal, the instructed Appellate Coursel Danielle Coman repeality to file a M.A.R., And add all kinds of FACTS, Establishing the unlawfulness of his sentences to the record, She REFUSED to file a M.A.R., (OR) A Reply Brief! Petitioner's Appad was DENIED because many IMPORTANT FACTS establishing the ounlawfulness of the sentences were NOT in the record, which should've been done by filing a M.A.R., And raising substantial issues of MATERIAL FACT. Like the fact Judge Zimmerman sentenced Petitioner to Prison to begin with, And then he got a second chance as Petitioner's Counsel, to send Pititioner away for the rest of his life, and that's exactly what Courselor Zimmerman did Just as if he were sitting on the beach all over again, only this time he got paid \$50,000 for doing it, And he tried to get more money out of Petitioner's Parents by promising that Petitioner wouldn't get any time. When he realized he wasn't getting anymore money , the Story changed to a 20 year plea. Mr Zimmerman and Mr Panosh TRICKED Petitioner into signing those & waivers, On charges that were going to be dismissed, that alone insured 70 to 90 Hyears. By Appeilate Coursel Carman NOT filing a M.A.R. in the Court of Appeals she was unable to bring out issues of Material Fact, For which the Court could Review. Had Counselor Carman filed a M.A.R. as Petitioner INSTRUCTED her to do, The MANY issues of Material facts could have been raised By Counselor Carman's refusal to file a M.A.R. as instructed, Petitioner was actually DEPRIVED of his Right

to Appeal and Effective Assistance of Counsel. See EVITTS v. LUCEY, 469 U.S.387,83 Led.
2d 821,105 Set. 830 (1985) Due Process guarantees Defendant the Right to Effective
Assistance of Counsel on First Direct Appeal. Also see WALKER v. McCAUGHTRY, 72 Supp.
2d 1025 (E.D. WIS 1999) Denial of Appellate Counsel resulted in Automatic Prejudice and
Required Prinstatement of State Appeal.

2). Transcript of proceeding Page ** 8 Lines 22:25 the Sentencing JUDGE said Petitioner would have NO. Right of Appeal. SCC EXHIBIT (V). See PARKUS v. DELE, 33 F 3d 933 939-940 (8 TH Cir 1994) (Petitioner ENTITLED TO EVIDENTIARY HEARING HAVING SHOWN CAUSE AND PREJUDICE) see Tonly v. GAMMON, 76 F34.693,697 (8 TH Cir. 1996) (Petitioner entitled to Evidentiary Hearing where Counsel Failed to Obtain requested blood test); see WILLIAMS v. TURPIN, 57 F34.1204,1211 (11 TH Cir 1996) (Petitioner Evitilled to Evidentiary Hearing if Petitioner Sweeds in demonstrating Ineffective Assistance of Appellate Counsel, then the Evidentiary Hearing may be considered in Court, with the Underlying claim of Ineffective Assistance of Trial Gounsel). Furthermore, by the Trial JUXEE denying Petitioner's Right to Appeal and forfit all his Rights, State and Federal, Petitioner Submits that advising a Defendant that he has No-Right of Appeal is a Professional Derelection of the Judge's responsibility and Structual Error, And should be Considered a BRADY violation. See EXHIBIT(V)

D) Conviction Obtained by the VIOLATION of the Privilege Against Self-Incrimination.

1). On Jan. 28, 99 Both Prosecutor and Counsel Everced/Induced Petitioner into signing WAINERS on (8) cases that never could possibly have brought back Indictments soley on the word of a Jail-house, Petty Thief, and Habitual Lier, There by Petitioner signing away his entire life, Given 70 to 90 Hyears alone on those charges see U.S. v. SANDERSON, 595 F2d. 1021 (5TH Cir. 1979) (Trial Counsel's Misrepresenting of Material Facts, Witholding Information, and experted pressure on Defendant to Induce a Guilty Plea, Constitutes Ineffective Assistance and Requires and Evidentiary Hearing to Resolve Claim.)

In relation to case at hand, Counsel and Prosecutor Misrepresented the facts, that the Grand Jury Refused to Indict on & Counts soley on the word of William Stewart; Witholding Information that all 8 Counts would be DISMISSED automatically if I did NOT sign the Waivers. Both Counsel and Prosecutor exherted pressure by saying, "Sign and Plead Guilty, or Be Pot To Death Infront of Your Parents." Counsel said to Plead Guilty and all Petitioner would get is 20 years under the Plea-Bargain, Counsel further stated the Prosecutor truly wanted to put Petitioner to Death, when the Plea was entered Counselor Zimmermanstand next to Petitioner WHISPERING the words, JUST SAY II - SAY YES ... "The whole time Coursel Knew Petitioner didn't want to enter a Plea of Guilty, To something he did NOT do Clearly Prosecutor misconduct and Ineffective Assistance of Course |. Mr. Zimmerman being a former JUDGE who sentenced Petitioner to prison to begin with, knew by Pititioner saying "yes," it would seal Petroners fate. Counselor Crumpler was acting as a Puppett", after all what Chance did he have to defend his client, with everyone else against Petitioner. Even Petitioner's private detective got mad and walked out after seeing McImmerson speaking body to Petitioner in an attempt to Coerce him. The Private Detective told Patitioner's Parents he couldn't believe Counsel was talking to Petitioner in such a menner. If Petitioner is given his Evidentiary Hearing by this Honorable Court, Petitioner would like to have the private Detective subpoenced to court to testify to this and other facts of misconduct by Mr Zimmerman and Prosecutor Panosh. An Evidentiary Hearing would be required to bring out these vital issues of Material Fact, Petitioner ask what happen to the PRE-ARRANGED 20 year Plea Agreement Coursel promised to be and his parents? Petitioner got 70-to 90.4 years on (8) Foney counts alone! Each were ran consecutively; On top of everything Petitioner was sentence in the "AGGRIVATED RANGE" on nearly every charge!

See MOORE v. U.S. 950 F2d. 656 (10TH Cin 1997) Coercion by Trial Counsel or Prosecutor to

INDUCE a Guilty Plea Renders the Plea Involuntary." Case at bar, The Private

Detective would testify to the Coercion he witnessed, and the misconduct

of Mr. Zimmerman. All that is needed would be a Evidentiary Hearing to bring
out these and many other issues of material fact!

2) Prosecutor's press Conference Pertraying Petrhaner as a villar as some kind of Monster, "Deprived Petrtioner of any Kind of Chance for a FAIR Trial, And Petrtioner begged the Court to move the trial to Winston-Salem. Extreme Prejudice and Intimidation were pressed upon Petrtioner in Greensbord N.C. The Day Petrtioner entered his Plea, Jan 28, 1999

Petritioner was ascorted to court surrounded by armed guards carrying Machine guns and M.16's. Dressed in solid Black, they were body armor with skirmask over their faces. At one point Petrtioner stumbled over his leg irons and mearly Fell, Only to look up and see a "Machine Gun Pointed at Wis Head. Petrtioner feared for his life. Inmates who saw Petrtioner being escorted by such a show of force were intimidated. One inmate said, "I don't know what you did, but I'll pray for you." By trial Counsel's FAILURE to aid or speak for Petrtioner, to express the need for the trial to be moved, Shows Conflict of Interest, To make Petrtioner defend himself, (FiAII TO AID OR SPEAK FOR DEFENDANT) see

<u>CARDINER v. U.S. 679 F. SUPR 1143 (D. Me. 1988)</u> Failure to Speak in Defendant's behalf at sentencing, may constitute Ineffective Assistance of Coursel.

3). Prosecutor-Ihreatening-The Workense's with severe prosecution if he didn't Change his testimony of how he was with Petitioner on the Day of the murder till at least 5:30 pm., And with Romie Kimble (JR) till 4:30 pm. By the Prosecutor destroying all of Petitioner's witnesses, And FAILURE of Counsel-to "AID AND DEFEND", And by saying if Petitioner didn't Plead Guitty he would be put to "DEATH" no matter what, Petitioner had No choice but to Plead Guitty, Do-to Prosecutor Misconduct, Threating Defense witnesses with severe prosecution

if they didn't change their statement to say what he wanted. See U.S. v. AGUILAR, 90 F. Supp 2d 1152 (D.Col. 2000) Prosecutor's statement to Defense witness that the Government might void witness plea agreement and reinstate previously dismissed charges unless he invoke his Fifth Amendment priviledge, against self-incrimination, DEPRIVED Defendant of his Right to Due Process. By the Prosecutor threatening a KEY WITHESS of the Defense, so he would NOT testify to the "TRUTH", Deprived Patritioner of any chance at a fair and just trial. Thereby obtaining a conviction by the violation of the priviledge against self-incrimination, same as NOT allowing Petitioner to move the trial to winster Salem, For a chance of a fair trial, and "NO" help from Counsel!

4) The Averment and Allegations of (A) Thur (G) of these Constitutional and N.C. violations are incorporated as if more fully set forth herein. Because Petitioner's attorneys FAIL to prepare the case for trial and Petitioner was adviced that the Plea offer was reasonable, since they were NOT the one(s) who would have to spend the rest of their lives in prison for crimes Petitioner did NOT even commit. Petitioner was wrongfully coerced into entering a Plea which was clearly contrary to his best interest, And which he would NOT have considered but for the DENIAL of Effective Assistance of Counsel, And the Prosecutor's Attitude of "WIN ATALL COST," Legally or Illegally does NOT matter to him.

E) CONVICTION OBTAINED BY USE OF COERCED CONFESSION.

1). The Trial Court denying Petitioner's Motion to Withdraw his Pleas and Justifying it by the Court's Findings of Fazt and Conclusions of Caw, and denying his Right to Withdraw his ALFORD Pleas despite the Fact Petitioner met the requirements in N.C. V. HANDY 326 NG532 quoted by the Court to TWIST the requirements around when Petitioner DID IN FACT ASSERT his INNOCENCE. Petitioner DID send a letter to the Court on Jan 29,99 and a copy to the Prosenter, which "VANISHED." This should surprise NO-ONE, And Petitioner had to send ANOTHER letter to withdraw on Feb. 24,99. See U.S. v. ALVAREZ-TAUTIMEZ, 160 F31.573(9TH Cir. 1998) ALSO:

U.S v. ELLISON, 748 F2d 1102 (7TH Cir. 1986) Ellison filed a Metion to Withdraw his Guilty Plea in the Context of a tetter form. Ellison claimed his Guitty Pleas were the result of psychological pres--sure of Solitary Continement, the exclusion from family and friends; And on the erroneous advise of his Court appointed attorney, That an immediate Guilty Plea would place him in better and more humaine living conditions and renew contact with family and friends. In case at bar, Petitioner was placed in solitary confinement on Dec 22,98 and DENIED contact with family and friends, "Prison Records" will show. Court Records were off by 3 weeks, but still it shows Petitioner was on solitary confinement. See EXHIBIT (F.F.) Note : Exhibit states one NON-contact weekday visit perweek, but Petitioner was DENIED ALLVISIT! Petitioner was under psychological pressure of solitary confinement, was "COERCED" into a Confession for crimes he had NOTHING to do with, rather than get sentenced to DEATH! "Coursel REFUSED to aid and detend Petitioner on Motion to withdraws. Counsel was only concerned with getting the case over with At the Withdraw Hearing Counsel said, "WE WILL SIT THIS ONE OUT." Counsel found Patitioner might be successful in withdrawing his Pleas, because they had NOT prepared for trial, Counsel never read much of the information on the case, they couldn't have read but so much because they never took the time to go get it! 2). How could Coursel be considered competent having Petitioner sign Waivers insuring their Client 70 to 90.4 years, in those charges alone, Petitioner's Pleas were in fact entered in hoste and coerced by counsel telling him the trial would start right away, How could be let himself be put to "DEATH" and make his parents suffer for the rest of their lives, Petitioner was told he would get 20 years, His attorneys told him and his parents several times. Petitioner's attorney's asked how he could take a Death Sentence and put his Mother through such pain as to watch her son be put to death. Plus the fact that on this sameday of Jan 28,99 Petitioner was SUPPOSED to be in Court soley for x 21 x

a "CHANGE OF VENUE," And to make matters werse, his attorneys had him sign a BLANK Plea Bargain and later typed in what they wanted, Clearly Petitioner would have known he was NOT getting the 20 years sentence PROMISED, if the Plea Burgain had been properly filled in . For further information and proof, the only people that could HUMANLY fit into the tight holding-cell area where Petitioner signed the papers were himself, Detective, and attorneys, Yet Christina Dann signed in the box beside Retitioner's name, "SWORN AND SUBSCRIBED TO BEFORE ME," She was no-where around because there was no place for her to stand, "SHE lied," Note the paper bore No notary stamp what so ever. Also other names were then added later, like Mr Panosh, and Judge Peter M. Mc Hugh. See EXHIBIT (R). In BORIA v. KEANE 83 F. 48 (2ND Cir 1996) Defense Counsel's Failure to advise Defendant the Desirability of accepting offered plea bargain of 1 to 3 years and discuss the strength of the Government and changes of acquital, Constituted Ineffective Assistance of Counsel. Thus, Prejudice was established where the Defendant recreved a 20 year sentence as opposed to 1 to 3 years plea bargain offer. The court ordered the Defendant's sentence to be reduced to time served and discharged from prison. In case at bar, Counsel said No-matter what, Petitioner would only get 20 years. Counsel said, "I all 37-122ANGED," Yet Petithoner recieved over 100 years! see TREJO v. U.S. 66 F. SUPP. 2d 1274 (S.D. FLA. 1999) "Counsel's Misrepresentation of plea agreement that (1) Cooperation of any on Defendant would insure to the benifit of all of them; (2) That this agreement need not be included in the pleatogreement because it had been "ARRANGED" with the Prosecutor; (3) That based on their cooperation, the Defendant would recieve a sentence as low as five years of inprisonment, but in any case not more than Ten years, required setting aside the Guitty Pleas based on Ineffective Assistance of Counsel." In case at bary Counsel COERCED Petitioner into Pleading Quity! Saying he'd get 20 years total!

3). Petitioner was under the influence of medication which impaired his judgement on Jan 28,99, Yet the Judge let a psychologist testify who clearly stated on the the stand that he was NOT QUALIFIED, Yet Govert Entered Judgement and Commitment in all cases reguardless, on Mar. 5, 99 sentencing. The Grounds that trial Court's statements about the Mandatory minimum and possible maximum punishments were erroneous in Law and Violated N.C.G.S. 15A-1022, and that Petitioner's Pleas were NOT voluntary, but were COERCED and uninformed, all in Violation of NEGS, 15A-1021 and 15A-1022, Also N.C. Common Law; Petitioner recieved Ineffective Assistance of Counsel at the Motion to Withdraw Hearing (See TRANSCRIPT PG. #3 Line 17-21 EXHIBIT(X) Counsel remained "NEUTRAL" Didn't defend or help Petitioner with his asserted grounds to withdraw Pleas, Clearly a conflict of Interest and Ineffective Assistance of Counsel.) Counsel remained NEUTRAL and did NOT aid or defend Patitioner at the Motion to withdraw Hearing, because Coursel did NOT prepare for trial! After a plea was entered Petitioner discovered Counsed did NOT have Most of the information about the case. Courselor Zimmerman Knew Petitioner was on medication the day a plea was entered, Coursel knew Petitioner was in a weaken mental state and took adventage of him. At one point Counsel even suggested Petitioner deny being on any medication if anyone asked, especially the Judge Peter McHugh. Petitioner was incoherent and did NOT understand what was going on around him. Counseler Zimmerman placed papers before Petitioner and demanded he sign them. Coursel stated if Petitioner wanted to live he had better sign said papers. Counsel assured Petitioner everything was ARRANGED as PROMISED, Petitioner must plead Guilty to what charges Judge McHugh said, to recieved the 20 year sentence. Petitioner tried to over come the pressure and stated his innocense to Counsel,

and clearly stated he wanted to go to trial, but Counsel would NOT lissen. When Petitioner entered his plea Counselor Zimmer stood next to him WHISPERING all the answers to the questions Judge Peter McHugh asked. Counselor Zimmerman had told Petitioner prior to entering the court-room that it would best to simply repeat what ever he said. See UNGER v. COHEN, 718 F. SUPP. 185(S. D. N.Y. 1989) "Unger characterized the criminal proceedings as "Assembly-line Justice" which certainly was correct. Unger was not allowed to contact the Counsel of his choice. After spending a night in jail, A legal aid attorney met him briefly at the Court house, who advise was to plea Guilty to whatever the Judge said, Counsel waived the reading of the charges, the reading of Unger's Rights, and the allocation on the Guilty Plea. The record did not indicate an admission of factual Guilt on Ungers part. Ungers Coursel merely informed the Court that her client intended to plead Guilty. The Court concluded that counsel's advice was not within the range of competence demanded of attorneys in criminal cases. "In case at bar, Petitioner was coerced and threaten with DEATH unless he pled Guilty to everything the judge stated, as in the above UNGER case. Petitioner recieved over a hundred years at the cost of \$50,000 to his family. The Court's findings are NOT supported by the evidence, the conclusions are NOT support by the findings and are erroneous under N.C. Statutory and Common Law, and Violated Petitioners State and Federal Constitutional Rights to the extent this ERROR is NOT preserved, Petitioner asserts plan error and his counsel did NOT Defend, diligently and zealously within the bonds of law. F) Conviction Obtained by Violation of the Protection Against Double-Jeopardy. 1). Indictment case 97 CRS 23656 Dated Nov. 3, 1997 incorrectly listed as ARSON of an UNOCCUPIED DWELLING, Yet statement read in pertinent parts, The DWELLING

HOUSE INHABITED BY PATRICIA KIMBLE," had to be DISMISSED by Law, because an INHABITED house can't be UNOCCUPIED at the same time? Petitioner was CONNED by both Attorneys working AGAINST him. The Prosecutor (Richard Panosh) made a ERROR, but instead of making it known he broke the law in an attempt to cover-up his ERROR, and RE-INDICTED Petitioner a second time, 8 months later on July 6, " Changing the Charge to "First Degree Arson," with the same exact wording. Thus charging Pertitioner with the same alleged crime TWICE committing DOUBLE JEOPARDY! Yet Counsel had Petitioner plea Guilty to the charge! see JACKSON V. LEONARD 162 F3d. 81 (2nd Cir 1998) Appellate Counsel failure to raise Double-Jeopardy Claim where it was apparent that Jackson's two charges of First Degree Robbery and Criminal use of a firearm in the First Degree raised on the same FACTUAL predicated Constitutes Ineffective Assistance of Counsel. Case at bar, Applies to Counsel having Petitioner Plead Guilty, Inducing / Coerced plea, And Clearly Prosecutor MISCONDUCT! Appellate Counsel also Fail to raise Double-Jeopardy claim, Clearly Ineffective Assistance." G). Denial Of Effective Assistance of Coursel i). On Jan 29, 1999 Petitioner sent a tetter to the Court and a copy to Prosecutor Richard Panosh, Requesting to withdraw his Pleas and go to trial. When Petitioner did Not hear anything in the following few weeks, he filed a SECOND motion on Feb. 24, 1999. See EXHIBIT (U) Petitioner was represented by Counsel, and thus it was the Counsel's JOB to file a Motion to Withdraw the Guilty Plea, Petitioner told Counsel that he was innocent repeatedly, and that he wanted to go to trial, but Coursel would NOT lissen. Coursel coerced Petitioner into entering a Plea. Movent told Counsel he did NOT want to enter a pleas but Counsel continued to attack Relitioner. When Retitioner tried to Withdraw his Plea, Coursel REFUSED to aid.

Counselor Zimmerman instructed Petitioner he was UNPREPARED for Trial, Should Petitioner win his Motion to Withdraw Petitioner would surely go to trial and lose, would receive the Death Sentence and be pot to **DEATH**. see U.S. v. ALVAREZ-TAUTIMEZ 160 F3d 593(9THCir. 1998) 2). On March 1,99 Petitioner's Motion to withdraw was heard before the Court. Retitioner was forced to represent himself as best he could because Counsel refused to aid him. Petitioner presented SEVERAL reason for his desire to withdraw his Pleas as *EXHIBIT(X) 1. First, Withdraw of Pleas Hearing Page 3 Lines 17-21 Conflict of Interest and Fail-- ure of Counsel to Defend and Represent their Client Diligently and Zealously within the Bonds of Law, Counsel remained "NEUTRAL" and forced Petitioner to defend and Express himself in all his Explanations, As if he had NO counsel at all. Clearly Ineffective Assistance of Trial Counsel. See EXHIBIT(X) See GARDINER V.U.S 679 F. Supp. 1143 (D. Me. 1988) "Failure to speak in Defendant's behalf at sentencing may constitute Ineffective Ass. of Counsel." See U.S. v. HAMMONDS, 425 F. 2d. 597 (D.C. Cir 1970) "Trial Counsel's Failure to request bond after conviction and to speak on Defendants behalf after sentencing, Constitutes Ineffective Assistance of Counsel." In case at box, Counsel did MOTHING! 11. Counsel FAILED to get a Sworn Affidavit from a "STAR" witness, James Ogburn could positively SWARE that Petitioner and Ronnie Kimble (brother) were at "Lyke's Building Material standings infront of him at the time of the crime. Thus impossed for Ronnie to have committed the cime, see COSS v. LACKAWANNA Country District ATTORNEY 204 F.3d. 453 (3rd Cir2000) Defense Coursel's failure to Subpoens certain witness and to interview those witness Constituted Ineffective Assistance of Counsel, Also see HART V. GOMEZ 174 F3d 1067 (9TH Cir 1999). Course! Let the Prosecutor pressure James Ogburg NOT to testify for the Defense Mr. Ogburn changed his story after the D.A. threaten

him. see EXHIBIT (A.A.) page # 49 Transcript Lines 14-19. Three days Before signing a Statement against Petitioner, Potrick Pardee told Melanie Oxendine he knew Nothing about the kimble case. Yet Counsel FAILED to get a sworn Affidavit be Gre the DoA. (Panosh) had a chance to coach Pardee and threaten him with severe Prosecution on pending charges. Shows GROSS Ineffective Assistance. of Counsel, Sep. U.S. v. ESTRADA, 849 F2d 1304 (10TH Cir 1988) The Court held that (1) Defendant who alleged that Prosecutor threatened to file Unwarranted charges against him, that Defense Counsel Coerced him to Plead Guilty by threatening to withdraw, and that both Prosecutor and Defense Course Promised him light sentence, was entitled to Evidentiary Hearing to Determine Voluntariness of Plea. 111. See EXHIBIT (A.A) Transcript page #149 Lines 21-24. Melanie exendine testified of the FACTS in the statement Patrick Pardee made to her. (Mr. Zimmerman clearly showed the Conflict of Interest between himself and Petitioner, being the former JUDGE that first sent Petitioner to Prison, All he wanted was to help the Prosecutor) TV: Petitioner's father even got on the stand on Mar. 5, 1999. See Transcripts Page #129 Line 12 Thru Page #130 Line 8 EXHIBIT (Z). James Ogburn told him 2 Wicks" before Trial, How he was with both sons when the crime was committed, and how the D.A. THREATEN Him to charge his story, with pressure of pending charges. The FACT Counsel had "MONTHS" to get a Sworn Affidavit from this "STAR" witness, But REFUSED to do so. A case of Grave Negligence and FAILURE to defend Petitioner, Consel only cared about A"Plea Bargin", Clearly Ineffective Assistance of Counsel. see U.S. v. SCOTT, 625 F2d. 623 (STHCT-1981) A conviction on a Guilty Plea that is entered solely as a result of faulty legal advice is a miscarriage of Justice. Also see HART V. GOMEZ, 174 F3d. 1067 (9TH Cir 1999). LORD v. WOOD, 184 F3d. 1083 (9TH Cir 1999)

Coursel's failure to investigate evidence, which demonstrated his clients factual innocence, undermines the confidence in the verdict and constitutes Ineffective Assistance of Counsel. See HOLLINES V. ESTELLE, 569 F Supp. 146 (W.D. TOX. 1983) Trial Counsels failure to conduct pretrial investigation and interview witnesses; Constitutes Inc. Practive Assistance of Counsel. See U.S. v. JOHNSON, 995 F. Supp. 1259 (D. KAN. 1998) Trial Counsel's Failure to investigate, and to call "Critical" witnesses required an Evidentiary Hearing to resolve Ineffective Assistance claim. I. On Jan 28,99 Counsel acting (in consent) with Prosecutor Panosh" all INDUCED/-COERCED Petitioner into signing (8) waivers in cases 23241-48 which would SEAL Petitioner's FATE. Both Prosecutor and Counsel Knew for a FACT those charges could NOT be presented to the Grand Jury for possible Indictment solely on the word of WILLIAM STEWART, Tailhouse petty threef and Habitual lier, As "FOUR" withesses testified in Court against his testimony, yet Coursel working Hand-in-Hand with the D.A. COERCED/INDUCED Petitioner to sign the (8) waivers, giving the Petitioner another years onto his sentences to ensure he would positively server get out of prison alive. Which was clearly Gross Ineffective Assistance of Counsel. Trial Coursel should have told his Client NOT TO SIGN waivers that clearly would be Dismissed, As NO Indictments could possibly be returned on such NONSENCE evidence, "Counsel FAIL to even explain what the waivers wore" see U.S. v. TAYLOR, 139 F3d 924 (D.C.Cr- 1993) "Trial Counsel's failure to advice Defendant of "Advice Of Counsel" Defense resulted from a conflict of interest amounting to Ineffective Assistance of Coursel and "Required" an Evidentiary Hearing." In case at Hand, Black's Law Dictionary defines "Advice of Coursel", as O "The guidence given by lawyers to their clients. D'In a Malicious Prosention la suit and Consumo complete presen--tation of facts by the Defendant to his or her Attorney and honest compliance

with the Attorney's advice. (3) A Defence in which a party seeks to avoid liability by Claiming that He or She acted reasonably and in good faith on the Attorney's advice." In case of bar, Having his client sign & waivers that were about to be dismissed "BY LAW", Can NOT possibly be the result of an attorney looking out for his clients best interest, Sending Him away "FOREVER"! The Sec Transcripts page #150 Lines 5-12 EXHIBIT (A.A.) Oneday James Ogburn and a fellow employee of Lyles Building Material took a work break. They walked across the street to get a soda at the gas station. While there Rob Nicholes Pulled-up. Rob told James and Mr. Cole Sr. he had talked it over with his wife, and decided Not testify and lie against Ted (Petitioner) as the D.A. had been pressuring him to do. Rob stated He was on His way down town for one of his coaching lessons from the D.A., but this time he plan to tell the D.A. he wasn't going through with it (SEE NEWLY DISCOVERED EVIDENCE STATEMENTS EXHIBIT (T) 15A-1415(c) course | didn't care about using this Vital" evidence against the D.A. to show "VINDICTIVE PROSECUTION," Charly Ineffective Assistance of Counsel VII. As Petitioner pointed out in Transcript Page #165 Lines 3-15 EXHIBIT (B.B.) Which is a matter of public record for Proof," How Pardee and Nichols both signed statements against Petitioner How they both had pending charges, And the Prosecutor "CUT-DEALS" (Take Horelse!) in exchange for their statements ("SELECTIVE PROSECUTION") Against-Petitioner. Violated all Laws and Rules, and Guidelines. Even let William Stewart out of prison early by Panosh Filing a Motion in Court for his EARLY-RELEASE, and Counsel did NOTHING about it "Ineffective Assist." VIII. See Transcript Page #176 Lines 15-19 EXHIBIT (C.C.) When questioned by the Prosecutor, Petitioner spoke of the Trailer he owned, how Robert (Rob) Nichols

broke into his business and stole it, took it to the beach and sold it! The D.A. refused to do anything about it. The D.A. actually "COVERED-UP" the crime by running a Defense Witness (Jeff Roberts) out of Town, who could have testified to the "FACTS" see SWORN AFFIDAVIT OF T.M.KIMBLE EXHIBIT (S) On Page 176 Line #19 (EXHIBIT C.C.) The Prosecutor just went on to the next Question, as if Petitioner never made that statement of year later (or less) Petitioner's Dad went and reported WHERE the stolen trailer was, After Petitioner saw how it was FOR-SALE in the newspaper. Still the D.A. COVERED-UP once again. The Appellate Counsel Carman REFUSED to have Prosecutor "REPORTED", for this Gross Miscarriage of Justice. Ineffective Assistance of Course again and again! See FREEMAN v. LANE, 962 F2d 1252 (7TH Cir 1992) Appellate Counsel's failure to raise issue of Prosecutorial Misconduct on direct Appeal created a "Procedural Default" that limited review of the ERROR and constituted "CAUSE" for failure to raise the claim under WAINSWRIGHT v. SYKES. Also see GRAY v. GREER, 800 F2d 644 (7TH Cir 1987) Appellate Coursel's Ineffectiveness can Constitute "CAUSE" for failure to raise a significant and Obvious Essue Also see MEDINA v. BARNES, 71 F32 363 (10TH Cir 1995) Triel Counsel's failure to Investigate Prosecution's key witness where key writness lied about his Criminal activity with victum at the time he called police constituted "CAUSE" for Procedure Default and required an Evidentiary Hearing under the fundamental Miscarriage of Justice Standard to resolve Ineffective Assistance of Coursel claims, Case at bag By Appellate Counsel NOT RAISING the issue that counselor Zimmerman was Petitioner's previous sentencing JuDGE, who put him into prison to begin with, Constitutes "CAUSE", And Violates Due Process! IX. See. Page #218 Transcripts And Page 219 EXHIBIT (D.D.) Shows how the P.S.I. Report was NEVER given to the Court, And Petitioner was sentenced

without it, all in Violation of DUE PROCESS, Despite the fact the lady was subpensed from "Step-one" 2 weeks in advance prior to sentencing, and "Prior" to her getting sick, when she was at home and could have given the report to anyone from Step-One PSI Organization to bring to Court. see RYDER v. MORRIS, 752 F2d 327, 332-33 (8TH Cir 2000) Counsel's failure to object to inaccuracies in PS.R. amounts to Ineffective Assistance and requires an Evidentiary Hearing. In case at Hand, Counsel never every objected to the fact, "NO P.S.I. REPORT WAS EVER TURNED IN! See SMITH V. U.S. 871 F. Supp. 251, 255 (E.D. VA. 1994) Defense Counsel's failure to lodge objections to Clear an indisputable ERROR in Presentence Report is not within the wide range of Professional Proformance, REMANDED BY THE SIXTH AMENDMENT. The prosecutor could have went and got the Report, but why would he go and get something FAVORABLE for the Defense, since he (D.A. Panosh) failed to hand over anything favorable to the Defense through the ENTIRE case! Counselor Zimmerman allowed Mr. Panosh to do anything he wanted, legal or illegal did not matter. Counsel should have at least Postponed Sentencing, until the Judge McHugh could read the reco--mmendations. However Course | said NOTHING as always, why should they start to defend Petitioner's Rights at this point? They were paid \$50,000 to do Nothing! All they wanted was to get it over with, and find New Victoms to take their money, when does DEFEND DILIGENTLY AND ZEALOUSLY HAPPEN"? U.S. v. DAVENPORT, 151 F3d 1325 (11 TH Cir 1998) Presentence report must be disclosed to both Defense Counsel and Defendant of least Ten(10) days prior to sentencing as mandated by statute." I. Coursel was Ineffective by "NOT" objecting to Petitioner being sentenced in the AGGRAVATING Range on the NON-STATUTORY Aggravating sentence

Factor in case 97 CRS 39581 and Court imposed a Greater-Than-Presumptive Sentence, and was Supported by the same Evidence used to prove an Element of the Offense Violated N.C. Statutory and Common Law and Petitioner's Federal Constitutional Rights. See EXHIBIT (E).

TI. Counsel NOT objecting to the Greater-Than-Presumptive sentence in case 97 CRS 39581 which was NOT supported by any competent record evidence either, which was a NON-STATUTORY Aggravating Sentence factor also. EXHIBIT(E) XII Counsels NOT objecting to the Courts' NON-AGGRAVATING sentence factor used in 98 CRS 23486 resulting in Petitioner being Sentenced of a Greater-Than-Presumptive range, and the factor was NOT proven adequately in Law, Not supported by Element of offense. See EXHIBIT(F).

ATT. Coursel NOT objecting to the Courts findings of both Aggravating Sentencing factors 5(A) and 5(B) in case 99 CRS 23241, 23242, 23243, 23244, 23246, and 23247 recieving a Greater-Than-Presumptive Sentences, When grounds were NOT adequately proven in Law, NOT supported by and Competent record evidence, Supported by the Same evidence used to prove an Element of the offense, and used by the "SAME" exidence used to prove "EACH-OTHER" all in Violation of N.C. Statutory and Common Law and State / Federal Constitutional Rights, and Counsel did NOT object to any of these VIOLATIONS in X thru XIII, all Theffertive Assistance of Counsel.

See EXHIBITS (G)(H)(I)(J)(K)(L).

XIV. See Transcript Page 6 Lines 1-4 EXHIBIT (Y). Petitioner Himself had to beg the Court to move the trial to winston-Salem to get a fair trial and possibly a just D.A., when Counsel remained "NEUTRAL" which was a FAILURE to defend and represent, Counsel got paid, why should they have to do any work? Ineffective Assistance of Counsel and Procedural Default. Clearly a Conflict of Interest by

Courselor Zimmerman being Petitioners previous sentencing JUDGE and then his lawyer. A casual perusal of the record at various Stages will show nothing but "Vandictiveness" by Mr. Zimmerman, How he FAILED to defend or represent Petitioner. Mr Zimmerman made sure Petitioner got as much time as possible, which is proven by Petitioner recieving over looyears in prison. Movent is NOT a skilled Attorney and as such relied upon Trial Counsel to do a workman type Presentation in Court, of the Case, By and through trial Counsel's MANY Unprofessional acts and Conflicts of Interest, and working AGAINST Petitioner, Movent is now being DENIED Protection of the Constitution and his Liberty. PRAYER FOR RELIEF WHEREFORE Petitioner respectfully moves this Honerable Court for the following Relief Based on Submitted Motion for Appropriate Relief? (A) Petitioner be Remanded to the Superior Court of Guilford County for a NEW Sentencing Hearing G.S. 15A-1417(A) (4). (B) To be Released from Prison upon the Posting of a Suitable BOND pending Appeal persuart to N.C.G.S. 15A-536. (c) Any other Appropriate Relief G.S. 15A-1417 (A) (4). Petitioner further respectfully request this Honorable Court to Appoint Counsel to advise and represent Petitioner on this Motion. (See General Statutes 15A-1420(c)(4), 15A-1421, 7A-450-451); and Order an Evidentiary Flearing on all Factual Issues, See G.S. 15-A-1420(C)(1) and (4). And any other Relief this Court Deems Just and Proper.

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(Continued Page 34)

Respectfully Submitted This The 23 Day of
October 2003.
COLODE STATE
ORNO HICKO
THE THE WEAR VINDLE
WITNESS: Nam Huhr
DATE: 10-23-03 My Commission Expires 5-18-2008.
MY COMMISSION EXPIRE:
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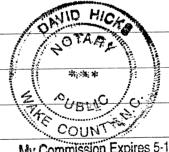
VERIFICATION

I THEODORE MEAD KIMBLE, BEING FIRST DULY SWORN DEPOSE AND SAY, I AM THE PETITIONER IN THE FOREGOING MOTION FOR APPROPRIATE RELIEF. I HAVE DRAFTED AND READ THE SAME, AND THE STATEMENTS CONTAINED THEREIN ARE TRUE, 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 23 DAY OF OCTOBER 2003.

PRO-SE Theodore Mead Kindle

THEODORE MEAD KIMBLE

SWORN TO AND BEFORE ME THIS THE 23 DAY OF OCTOBER 2003.



My Commission Expires 5-18-2008.

MY COMMISSION EXPIRES

10-23-03

CERTIFICATE OF SERVICE

I DO HEREBY CERTIFY THAT THE FOREGOING WAS DULY SERVED BY PLACING SAME IN THE U.S. MAIL, POSTAGE PRE-PAID AND ADDRESSED AS FOLLOWS:

MR, ROY COOPER ATTORNEY GENERAL P.O. BOX 629,

RALEIGH, N.C. 27602

DISTRICT ATTORNEY

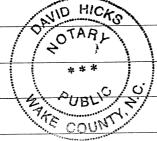
18 TH JUDICIAL DISTRICT

GUILFORD COUNTY SUPERIOR COURT

P.O. BOX 10169

GREENSBORO, N.C. 27402

SWORN TO AND BEFORE ME THIS THE 23 DAY
OF OCTOBER, 2003



PRO-SE-Theodore Mead Pendle
THEODORE MEAD KIMBLE
1300 WESTERN BLVD.

RALFIGH, N.C. 21606 My Commission Expires 5-18-2008.

MY COMMISSION EXPIRES

Law Sul 10-2303

LIST OF EXHIBIT	S IN SUPPORT OF FACTS
(A) 97 CRS-39581 JUDGMENT AND CO	MMITMENT
(B) 97 CRS-23656 JUDGMENT AND C	OMMITMENT
(C) 98 CRS-23486 JUDGMENT AND C	OMMITMENT
(D) 99 CRS-23241-48 JUDGMENT AND COM	1MITMENTS
(E) 97 CRS-39581 AGGRAVATING/MITAG	ATING FACTORS
(F) 98 CRS-23486 AGGRAVATING/MITAG	ATING FACTORS
(C) 99 CRS-23241 AGGRAVATING/MITAG	ATING FACTORS
(H) 99 CRS-23242 AGGRAVATING/MITAG	ATING FACTORS
(I) 99 CRS-23243 AGGRAVATING/MITAG	ATING FACTORS
(J) 99 CRS-23244 AGGRAVATING/MITAGA	TING FACTORS
(K) 99 CRS-23246 AGGRAVATING/MITAGA	ITING FACTORS
(L) 99 CRS 23247 AGGRAVATING/MITAGA	ATING FACTURS
(M) N.C. SUPREME COURT ORDER	
(N) 97CRS-23656 NOV.3,97 INDICTMENT	(Y) TRANSCRIPT PAGE 46
(O) 98 CRS -23486 JULY 6,98 INDICTMENT	(Z) TRANSCRIPT PAGES #129 \ 130
(P) DISMISSAL PERSUANT TO PLEA	(A.A.) TRANSCRIPT PAGES #149 14 150
(Q) STATEMENT LISTING OF PLEAS	(B.B.) TRANSCRIPT PAGE #165
(B) PLEA AGREEMENT PAPER	(C.C.) TRANSCRIPT PAGE #176
(S) AFFIDAVIT OF T.M.KIMBLE	(D.D.) TRANSCRIPT PAGES #218 = 219
(T) NEWLY DISCOVERED EVIDENCE	(E.E.) 97 CAS 2365S JUDGMENT AND COMMITMENT
(U) MOTION TO WITHDRAW PLEAS	BY H.W.ZIMMERMAN JR. (JUDGE)
(V) TRANSCRIPT PAGE *8	(NOTE: (EE) IS ONE EXAMPLE/TOTAL SENTENCE WAS 50-LOMONTHS)

(W) TRANSCRIPT PAGES*11:12 (EE) STATEMENT OF CONFINEMENT

(X) TRANSCRIPT PAGE #3

STATE OF Guilford	NOF	RTH CA. JLIN	A EXHIBIT	(A)	le No.	97CRS	39581		
NOTE: (This form is to be	e used for	County (1) felony offense(s), and (2) n with any felony offense(s). Use	nisdemeanor offense(s), which are	Seat of Court	t		General Court uperior Court D		е
Name Of Defendant Theodore Me		STATE VERSUS		Fil 12: 0,4		TIVE PU	D COMMITMEN INISHMENT ONY	T	
<i>Race</i> White		Sex Male	12/08/69/	100		UCTURED	SENTENCING) G.S. 15A	-1301, 15A-1	340.13
Attorney For State Richard Par	nosh		Def. Found Def. Waiver Not Indigent Attorney	Zimmerman		ler	Дарро	ointed XXRe	etained
The defendant	XXple	d guilty to: 🗌 was f	found guilty by a jury o	of: pled no	contest to	o:			
File No.(s)	011		Offense Description		Offer	ise Date	G.S. No.	F/M	CL
97CRS 39581		Second degree	murder		10-	-09-95	14-17	F	Е
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The Court, having	efenda	ant is classified as a s	i) is a reportable convi- sexually violent predat ments of counsel and ed, and Orders the ab-	tor. G.S. 14-20	08.20. Jefendant,	finds the	at the defendant	s plea was	s
imprisoned for a minimum ter 2	rm of:	months	for a maximum term	of: 254 m	nonths		ıstody of:		
	ny: <i>Lil</i>	Life Imprisonment V Parole fe Imprisonment Withon: Life Imprisonment	Warrant out Parole	see attached De and Certificate		Sherif	f pursuant to G.S.	15A-1352	(b).
The sentence	impos impos	ed above shall begin	days spent in confir at the expiration of all at the expiration of th d court in which prior se	l sentences wh le sentence imp	iich the de oosed in th	fendant i	s presently oblig	ated to ser	

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		***************************************	?) misdemeanor offense(s), which eve Use AOC-CR-301 on DWI				General Court Of uperior Court Division		e
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Name Of Defendant Theodore Me	ad Kin	nble			ACT		NISHMENT		
Rece		Sex	DOB /		A CO TOTAL A A	FEL(
White		Male	12-08-69	4554		GIURED	SENTENCING) G.S. 15A-130	I, 15A-13	340.13
Attorney For State Richard Pan	osh		Def. Found Def. Waived Not Indigent Attornsy	Aubrney For Defe Zimmerman/		er	Appointed	/X [X] {Re	tained
The defendant	XXX pled	guilty to: wa	s found guilty by a jury c	f: pled no co	ontest to:				
File No.(s)	Off		Offense Description		Offenso	e Date	G.S. No.	F/M	CL.
98CRS 23656		Conspiracy:	: First Degree Mu	irder	10-09	9-95	C.L. & 14-2.4	F	B-
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for a minimum ter	163 y: □ 4	months Life Imprisonment Parole	20. t Without Death (se		onths (2)]N.C. [-1352(b).
☐ Violent Habitu	al Felon:	Imprisonment Will: Life Imprisonment ven credit for	thout Parole nt Without Parole O—_ days spent in confin	ement prior to th	he date of ti		ment as a result of this	s charge	e(s).
The sentence	impose	d above shall begi	in at the expiration of all in at the expiration of the and court in which prior ser Division Guilfor	sentence impo	sed in the	case re	ferenced below:	to ser	ve.

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STATE OF	NOR	TH CARU	LINA			. <i>No.</i> 98CR	523486			
Guilford		County_	Greensboro		Seat of Court	In	The Ge	neral Cour	t Of Jus	tice
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		STATE VERSU	IS 1999	1111	5 711 121 11 40 u			OMMITME	NT	
Name Of Defendant Theodore Mea	d Kir	mble			2000	ACTIVE	PUNIS			
Race		Sex	DOB					NTENCING)		
White Attorney For State		Male	12/08/	——————————————————————————————————————	Attorney For Defend	,			A-1301, 15	A-1340.13
Richard Pano	sh		,	el. Waived Attorney	Zimmerman/Cı			ПАР	pointed XX	Retained
The defendant	XXpled	d guilty to: 🔲 v	vas found guilty by	a jury of:	pled no con	itest to:				
File No.(s)	011		Offense Descrip	otion		Offense Da	ate	G.S. No.	F/	M CL.
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for a minimum ter		month	for a maximum		: mont	. 1	e custo	dy of:		
Class A Felon	082 y: 🗌	Life Imprisonme	ent Without D		attached Death	XXN	.C. DOC neriff pu	rsuant to G.S	i. 15A-13	52(b).
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97CRS23656	Crim	inal Superi	or Division Gu	uilford	l County Gre	ensboro	03-05-	-99		

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Material opposite unmarked squares is to be disregarded as surplusage.

1		RTH CARULINA			<i>a No.</i> ▶ 99CRS	23241	-	
NOTE: (This form is to b	e used for	CountyG (1) felony offense(s), and (2) misvith any felony offense(s). Use A	reensboro demeanor offensels), which are -	_ Seat of Court		ne General Court Of Superior Court Divis		е
Name Of Defendant Theodore Me		STATE VERSUS	1999 Talih —.	11 10: 04 Ju	ACTIVE P	ND COMMITMENT PUNISHMENT LONY		
<i>Raco</i> White		Sex Male	12-08-69		•	ED SENTENCING) G.S. 15A-130)1, 15A-1	340.13
Attorney For State Richard Pan	osh		Def. Found Def. Waived Not Indigent Attorney	Attorney For Defen Zimmerman/Cr		Appointe	d XXRe	tained
The defendant	^{XX} ple	d guilty to: was fo	ound guilty by a jury o	f: pled no co	ntest to:		-y	·
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99CRS 23241 Solicitation: First degree murder 11-04-98 C.L. & 14-2.6							F	С
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STATE OF NO	DRTH CARULIN	IA eensboro	12018	.e No. 99CRS232	242		
NOTE: (This form is to be used	CountyCounty	nisdameanar offansafel, which are	Seat of Court		e General Court Of Superior Court Divis		ce
Name Of Defendant Theodore Mead	STATE VERSUS	1777 ::		ACTIVE P	ND COMMITMENT UNISHMENT		
Race White	Sex Male	DOB. 12-08-69			LONY ED SENTENCING) G.S. 15A-130	1 154.1	1340 1
Attorney For State Richard Panos	h	Def. Found Def. Waived Not Indigent Attorney	Attorney For Defendan Zimmerman/Cru		Appointed		···
The defendant XX p	oled guilty to: 🗌 was f	found guilty by a jury of	: pled no conte	est to:			
File No.(s) Of	f	Offense Description		Offense Date	G.S. No.	F/M	CL
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STATE OF	NOR	TH CAROLIN	A		1. 1Vo. 99CRS	5 23243		
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Name Of Defendant Theodore	Mead K	imble	* ()	0.0.0.		UNISHMENT		
Race		Sex	DOB	()		LONY D SENTENCING)		
White Attorney For State		Male	12-08-69	Attorney For Defend	,	G.S. 15A-130	01, 15A-1	340.13
Richard P	anosh		Def. Found Def. Waived Not Indigent Attorney	Zimmerman/Cr		Appointe	d XX R	etained
The defendant	κχ pled	guilty to: was f	ound guilty by a jury o	f: pled no con	test to:			
File No.(s)	Off		Offense Description		Offense Date	G.S. No.	F/M	CL
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The Court:						PRIOR I		\prod_{V}
1. has determi 2. makes no	prior rec	ord level finding bec	0.14, the prior record poi ause none is required f tual felon, or drug traff	or Class A felony,	t to be <u>02</u> .			□ v
under G.S (d) for a 2. makes the 3. imposes the 4. finds the c 5. adjudges t 6. finds enha 7. finds no E 8. finds the a 9. finds the c	. 15A-13 an adjudi Findings he prisor defendan the defer anced pu xtraordir above de	340.17(c). (b) for cation as a violent has of Aggravating and term pursuant to a that has provided substituted and to be an habitunishment from a Classian Mitigation.	prison term imposed in a Class A felony. Tabitual felon. G.S. 14 I Mitigating Factors serplea arrangement as to tantial assistance pursual felon pursuant to A ss 1 misdemeanor to a properties of the convicus of the convi	c) for enhanced [-7.12. [-] (e) for the atta of sentence under uant to G.S. 90-99 [-] (c) Class I felony [-] (c) tion involving a mater. G.S. 14-208.2	firearm penalt for drug traffic ched AOC-CR Article 58 of (5(h)(5). Chapter 14. G.S. 90-95(e)(3) inor. G.S. 14- O.	ey (G.S. 15A-1340.16) eking offenses605. G.S. Chapter 15A. (drugs); G.S. 14-3	SA).	, etc.
freely, voluntarily imprisoned	, and un	ered evidence, argur nderstandingly entere	ments of counsel and s ed, and Orders the abo	ve offenses be co	nsolidated for	judgment and the de	ea was fendan	it be
for a minimum te	erm ot: LO8	months	for a maximum term of 139	or: mont	hs	ustody of:		
Class A Felor	ıy: 🔲 /	Life Imprisonment W Parole	l /ithout	e attached Death and Certificates)	─────────────────────────────────────	ff pursuant to G.S. 15	4-1352	(b).
☐ Violent Habitu	ial Felon:	Imprisonment Witho : Life Imprisonment	Without Parole					
The defendant sh	nall be gi	ven credit forO_	_ days spent in confine	ement prior to the	date of this Jud	gment as a result of the	is charg	je(s).
The sentence	impose casa nui	d above shall begin a	at the expiration of all at the expiration of the description of the description which prior send Division Guilfo:	sentence impose tence imposed.)	d in the case r	eferenced below:	d to ser	ve.

STATE OF	NOR	TH CARCLI	NA GIH.	1815(D)	4078	V₀. 99CR	s 2324	44			
Guilford		County	Greensbor	<u>o</u> .	_ Seat of Court	t	In The	e Genera	l Court Of	Justic	е
		l) falony offense(s), and (2, th any falony offense(s). U			· · · · · · · · · · · · · · · · · · ·				Court Divis		Ü
	S	TATE VERSUS		677	->	JUDGMI	ENT AN	ID COM	MITMENT		The Condense of Conse
Name Of Defendant Theodore M	iead K					AC' 1.0.0.		IMHSIML YNO.	ENT		
White		Sex Male	12-	08 + 69 (100	(STR		D SENTEN	ICING) G.S. 15A-130	1. 15A-13	140 13
Attorney For State Richard Pa	nosh		Def. Found	Def. Waived	Attorney For De Zimmerman		er				
. 2			Not Indigent	Attorney	1				Appointe	a AMH8	tained
The defendant	Typled	guilty to: was	found guilty	by a jury o	f: [] pled no	contest to	:	T		7	
File No.(s)	Off		Offense Des	cription ————		Offen	se Date	G.	S. No.	F/M	CL.
99CRS 23244		Solicitation	Solicitation: First degree murder 11-04-98 C.L. & 14-2.6						F	С	
					·						
enhanced to the Court: 1. makes no to under G.S. (d) for a	orior reco firearm p written f . 15A-13 in adjudi	ord level finding be penalty, violent had indings because to 340.17(c). (b) indication as a violen	ecause none i bitual felon, o he prison term for a Class A t habitual felo	s required for drug traff imposed ifelony. G.S. 14	or Class A felicking offenses: (a) withing (c) for enhander -7.12.	ony, es. in the pres nced firearr (e) for dru	umptive n penali	range of ty (G.S. 1 cking offe	sentences a	authoria	red
3. imposes the day of	ne prisor lefendar he defer	s of Aggravating and term pursuant to the thick that provided su and and to be an hall and and to be an hall and and a Communication and communication a	o a plea arrang bstantial assis pitual felon pu	ement as t tance purs rsuant to A	o sentence un uant to G.S. 9 rticle 2A of G	nder Article 90-95(h)(5 i.S. Chapte	e 58 of (). er 14.	G.S. Chap		c) (race	, , etc.).
7. finds no E 8. finds the a 9. finds the	xtraordir above de defendar	nary Mitigation. esignated offenses nt is classified as	s(s) is a report a sexually viol	able convic ent predato	tion involving or. G.S. 14-20	a minor. 08.20.	G.S. 14	-208.6.			
The Court, having freely, voluntarily imprisoned	g consid , and ur	ered evidence, arg nderstandingly ent	guments of co ered, and Ord	unsel and s ers the abo	statement of c ve offenses b	defendant, e consolid	finds th ated for	at the de Judgmen	fendant's pl t and the de	ea was fendan	t be
for a minimum te			for a maxir	num term o		m a n t h a	in the c	custody o	f:		
Class A Felor		months Life Imprisonment Parole	t Without		ee attached Do and Certificate	eath	⊠¥N.C. □Sher □Othe	iff pursuar	nt to G.S. 15.	A-1352	(b).
☐ Violent Habitu	ıal Felor	e Imprisonment Wi n: Life Imprisonme	nt Without Par	ole '							
The defendant s	hall be g	iven credit forC	days spe		ement prior to						
The sentence	e impose e impose e case nu	ed above shall beg ed above shall beg umber, date, county minal Superio	in at the expir in at the expir and court in wi	ation of the hich prior sea	e sentence imposed	posed in tl d.)	ne case	reference	d below:	d to ser	ve.

STATE OF	NOR	TH CARC_	NA Ex	HIBIT (0)	5018	v₀. 99Ci	RS 23245	учений под	
Guilford			Greensbo		Seat of Court		e General Court Of		e
NOTE: [This form is to be consolidated for ju		i) felony offense(s), and (2 th any felony offense(s). L		on DWI	T		Superior Court Divis	ion	
Name Of Defendant Theodore M					0 0 000	ACTIVE P	ID COMMITMENT JNISHMENT JONY		
Race White		Sex Male	1.	8 2-08 <u>-</u> 69	CON		D SENTENCING) G.S. 15A-130	1, 15A-1;	340.13
Attorney For State Richard Pa	nosh		Def. Found Not Indigen	-	Aftorney For:Defend Zimmerman/Cı		Appointe	d XX Re	tainea
The defendant	™pled	guilty to: wa	s found guil	ty by a jury o	f: pled no con	test to:			
File No.(s)	Off		Offense D	Description		Offense Date	G.S. No.	F/M	CL.
99CRS 23245		Solicitatio	n: First	degree m	urder	11-04-98	C.L. & 14-2.6	F	C
					λ,				
			1 41 . *						
2. makes no penhanced fi The Court: 1. makes no w	rior rec irearm (vritten (ord level finding b penalty, violent ha findings because t	because non abitual felon the prison te	e is required to a contract of the contract of	for Class A felony icking offenses.	, ne presumptive	range of sentences aty (G.S. 15A-1340.16	authori	
2. makes the large of the large	Finding: e prisor efendar ne defer	s of Aggravating a n term pursuant to nt has provided su ndant to be an hal	and Mitigatir o a plea arra ibstantial as: bitual felon p	ng Factors se ngement as t sistance purs pursuant to A	o sentence under uant to G.S. 90-9 .rticle 2A of G.S.	iched AOC-CR Article 58 of 5(h)(5). Chapter 14.		c) (race	e, etc
8. finds the al	bove de efendar	nt is classified as	a sexually vi	iolent predato	etion involving a mor. G.S. 14-208.2	20.			
"The Court, having freely, voluntarily, imprisoned	consid and ur	ered evidence, arg nderstandingly ent	guments of tered, and O	counsel and s rders the abo	statement of defer ve offenses be co	ndant, finds th insolidated for	at the defendant's pl judgment and the de	ea was fendan	t be
for a minimum ter 096 Class A Felony)	months Life Imprisonment			mont	hs N.C.	ustody of: DOC. iff pursuant to G.S. 15	V 1252	/h)
	ηγ: <i>Life</i>	Parole Imprisonment Wii : Life Imprisonme			and Certificates)	Othe	·	. 1332(
The sentence in the sentence i	impose impose <i>case nu</i>	d above shall begind above shall beginder, date, county	in at the exp in at the exp and court in t	oiration of all piration of the which prior ser	sentences which sentence impose	the defendant d in the case	Igment as a result of this presently obligated referenced below:		

STATE OF	NORT	H CARC A	NA EXHIBITIDIO	0/8.	No.	,99C	RS 23246		·
Guilford NOTE: (This form is to be	used for (1)	County	Greensboro Imisdemeanor offense(s), which are	Seat of Cour	t		e General Court Of uperior Court Divis		е
Name Of Defendant Theodore M	S		<u> </u>	ID -5 TH		TIVE PL	D COMMITMENT INISHMENT ONY	ng manganan mangadag sinar di maha	
Race White		Sex Male	12-08-69	0	•	UCTURE	D SENTENCING) G.S. 15A-130	1, 15A-13	340.13
Attorney For State Richard Pa	nosh	,	Def. Found Def. Weived Not Indigent Attorney	Attorney For D		er	Appointe	d XX Re	tained
The defendant	K አ bled	guilty to: 🗌 wa	s found guilty by a jury o	f: pled no	contest to):			
File No.(s)	Off		Offense Description		Offer	ise Date	G.S. No.	F/M	CL.
99CRS 23246		Solicitatio	n: First degree m	urder	11-	04-98	C.L. & 14-2.6	F	С
· 	-			\					
							PRIOR I		
2. makes no penhanced f	orior rec	ord level finding l penalty, violent h	340.14, the prior record po because none is required abitual felon, or drug traf the prison term imposed	for Class A fe ficking offens	elony, es.	, 02 .	RECORD LEVEL: 📈 II		
under G.S. ☐(d) for a ☐ 3. imposes the	. 15A-13 in adjudi Finding: ne prisor	340.17(c). [] (b) cation as a violer s of Aggravating term pursuant t	for a Class A felony. [nt habitual felon. G.S. 14 and Mitigating Factors se o a plea arrangement as ubstantial assistance purs	(c) for enha 4-7.12 et forth on the to sentence u	nced firear] (e) for dro attached Inder Articl	m penalt ug traffic AOC-CR e 58 of (ty (G.S. 15A-1340.) cking offenses. -605.	6A).	
5. adjudges t 6. finds enha 7. finds no E 8. finds the a 9. finds the	he defer nced pu xtraordir above de lefendar	ndant to be an ha nishment from a nary Mitigation. esignated offense nt is classified as	bitual felon pursuant to A Class 1 misdemeanor to a s(s) is a reportable convi- a sexually violent predat	Article 2A of (Class I felon ction involving or. G.S. 14-2	G.S. Chapt _{DY} □ G.S. 90 g a minor. 208.20.	er 14. 0-95(a)(3 G.S. 14	-208.6.		
The Court, having freely, voluntarily imprisoned	g consid , and ur	ered evidence, ar nderstandingly en	guments of counsel and tered, and Orders the abo	statement of ove offenses I	defendant be consolic	, finds th lated for	nat the defendant's p judgment and the d	lea wa: efendar	s nt be
for a minimum te	L08	months Life Imprisonmer Parole	nt Without			⊠N.C. □Sher	iff pursuant to G.S. 15	5A-1352	2(b).
Class B1 Felo	ny: Life	Imprisonment W	fithout Parole ent Without Parole			Othe			***************************************
The sentence (NOTE: List the	impose impose case nu	d above shall beg d above shall beg amber, date, county	days spent in confirming days spent in confirming days spent in confirming days at the expiration of the court in which prior second Division Guilfice	sentences w e sentence im entence impose	hich the denposed in t	efendant he case	referenced below:		

STATE OF NO	RTH CARCLIN	NA GXAISIAD	7018	<i>№.</i> 99CRS	23247		
Guilford	County	Greensboro	Seat of Court	In The	General Court Of	Justic	e
	or (1) felony offense(s), and (2) i t with any felony offense(s). Us	misdemeanor offense(s), which are a AOC-CR-301 on DWI	The second second second		uperior Court Divis		
Name Of Defendant Theodore Mead	STATE VERSUS Kimble	1000 m		ACTIVE PU	D COMMITMENT INISHMENT ONY		,
Raca White	Sex Male	008 12-08-69	COS	(STRUCTURE	D SENTENCING) G.S. 15A-130	01, 15A-13	340.13
Attorney For State Richard Panos	h	Def. Found Def. Waived Not Indigent Attorney	Attorney For Defe Zimmerman/		Appointe	d XX Re	tainad
The defendant Kypl	ed guilty to: was	found guilty by a jury o	f: pled no c	ontest to:			
File No.(s) Off		Offense Description		Offense Date	G.S. No.	F/M	CL.
99CRS 23247	Solicitation	: First degree m	urder	11-04-98	C.L. & 14-2.6	F	С
enhanced firear	ecord level finding be m penalty, violent hat	40.14, the prior record po ecause none is required to bitual felon, or drug traff	for Class A felo licking offenses	dant to be <u>02</u> p ny,			
under G.S. 15A (d) for an adj 2. makes the Findi 3. imposes the pri 4. finds the defend 5. adjudges the defendenced 7. finds no Extraol 8. finds the above	-1340.17(c). (b) fudication as a violent ngs of Aggravating at son term pursuant to dant has provided substendant to be an hab punishment from a Clardinary Mitigation.	ne prison term imposed in or a Class A felony. habitual felon. G.S. 14 and Mitigating Factors set a plea arrangement as the ostantial assistance pursual felon pursuant to Alass 1 misdemeanor to a sexually violent predate.	(c) for enhance of the forth on the act of sentence unconstructed and the construction of the construction of the construction involving a construction involving a construction of the construction involving a construction in a construction involving a construction involving a construction involving a construction in a construction involving a construction in a	eed firearm penaltie) for drug traffic ttached AOC-CR- der Article 58 of G 0-95(h)(5). S. Chapter 14. G.S. 90-95(e)(3)	y (G.S. 15A-1340.1 king offenses. 605. G.S. Chapter 15A. (drugs); G.S. 14-3	6A).	,
The Court, having confreely, voluntarily, and imprisoned	sidered evidence, arg I understandingly ente	uments of counsel and ered, and Orders the abo	statement of de ove offenses be	efendant, finds the consolidated for	judgment and the de	lea was efendan	t be
for a minimum term o 108 Class A Felony:	f: months Life Imprisonment Parole			onths N.C.	ff pursuant to G.S. 15	A-1352	(b).
☐ Violent Habitual Fe	Life Imprisonment Wit Ion: Life Imprisonmer	nt Without Parole					
The sentence important The sentence imports.	osed above shall begi osed above shall begi a number, date, county	days spent in confirn at the expiration of all n at the expiration of the and court in which prior sero Division Guilfo	sentences whi e sentence imp ntence imposed.,	ch the defendant osed in the case r J	is presently obligate referenced below:		

STATE OF NO	RTH CARO.	NA EXHIBIT (D)	80F.8	99CRS	23248		
Guilford	County	Greensboro	Seat of Court	In Th	e General Court Of	Justic	 :e
	or (1) felony offense(s), and (2 with any felony offense(s). U) misdemeanor offense(s), which are Use AOC-CR-301 on DWI	····	S	Superior Court Divis	ion	
Name Of Defendant Theodore Mead		land a		ACTIVE P	ID COMMITMENT UNISHMENT LONY		
Race White	Sex Male	12-08-69	000	(STRUCTURE	D SENTENCING) G.S. 15A-130	1, 15A-13	340.13
Attorney For State Richard Panost	ı	Def. Found Def. Walved Not Indigent Attorney	Author Keef Desender Zimmerman/Cr		Appointe	d XX Re	atained
The defendant Myple	ed guilty to: was	s found guilty by a jury o	f: pled no con	test to:			
File No.(s) Off		Offense Description	,	Offense Date	G.S. No.	F/M	CL.
99CRS 23248	Solicitatio	n: First degree m	urder	11-04-98	C.L. & 14-2.6	F	C
			×				
2. makes no prior reenhanced firearn The Court: 1. makes no writte	ecord level finding b n penalty, violent ha n findings because t	340.14, the prior record porecause none is required abitual felon, or drug traffiche prison term imposed for a Class A felony.	for Class A felony ficking offenses. is: ∰(a) within th	, e presumptive	range of sentences a	authoria	vi
(d) for an adjusted an adjusted and adjusted and adjusted and a second	udication as a violenings of Aggravating asson term pursuant to lant has provided su fendant to be an hal	t habitual felon. G.S. 14 and Mitigating Factors set a plea arrangement as to betantial assistance purseitual felon pursuant to A	-7.12. (e) It forth on the atta to sentence under tuant to G.S. 90-9 Article 2A of G.S.	for drug traffic ched AOC-CR Article 58 of 5(h)(5). Chapter 14.	cking offenses. -605. G.S. Chapter 15A.		
7. finds no Extraor 8. finds the above 9. finds the defend	dinary Mitigation. designated offenses lant is classified as	Class 1 misdemeanor to a s(s) is a reportable convic a sexually violent predate guments of counsel and	etion involving a m or. G.S. 14-208.2	ninor. G.S. 14 20.	-208.6.		
freely, voluntarily, and imprisoned for a minimum term of	understandingly ent	for a maximum term	ove offenses be co	onsolidated for	judgment and the de	fendan	it be
1	96 months Life Imprisonment Parole	t Witḥout 🔲 Death (s	125 mont ee attached Death and Certificates)	———X≯N.C. ☐ Sher	iff pursuant to G.S. 15	A-1352	(b).
☐ Violent Habitual Fel	ife Imprisonment Wi on: Life Imprisonme	nt Without Parole		Othe	***************************************		
) days spent in confir					
The sentence impo	sed above shall beg	in at the expiration of all in at the expiration of the and court in which prior se or Division Cuilfo	e sentence impose ntence imposed.)	ed in the case	referenced below:	d to ser	rve.

STATE OF NORTH CAL	ROLINA	0.	A.c.		e No. 97CRS39581	
Guilford	County	CX#16	315(B) 1 of	Gard .	In The General Court Of J Superior Court Division	
STATE VERS Name Of Defendant Theodore Mead Kimble	SUS Įņņņ	- NAN - 5	FN 12: 44	FINE	FELONY JUDGMENT DINGS OF AGGRAVATING DINITIGATING FACTORS	
Offense		(20	0.8.0.		RUCTURED SENTENCING)	
Second degree murder NOTE: When consolidating offenses for	: NY		100	aitiantin		.S. 15A-1340.16
NOTE: When consolidating offenses for offense. Separate findings of ag	ggravating factors	and mitigating	g factors should i	be made	e for each offense that is not cor	nsolidated.
建和种种的控制和扩展的 (1) (1)	AG	GRAVATI	IG FACTORS		g the subject of the majority was to be to the more than the subject of the subje	
2. The defendant joined with conspiracy.	of leadership or o more than one o	dominance o other person t of, or at th	f other participation in committing to direction of, a	the offe	the commission of the offendense and was not charged winninal street gang, with the speedefendant was not charged	th committing a
3. The offense was committed	ed for the purpos	se of:	Th offeeting	, ,,, ,,,	cape from custody.	
a. avoiding or preventin 4. The defendant was:		•				
a. hired to commit the commit the commit the committee.			b. paid to	commi	t the offense.	
a. disrupt the lawful exe	ercise of a gover	nmental fun	ction or the enf	forcem	ent of laws.	
 6. The offense was committee employee of the Departme judge, clerk or assistant or engaged in the performance. 7. The offense was especially would normally be hazarded. 9. The defendant held public. 10. The defendant. 	ed against or proent of Correction deputy clerk of ce of that person y heinous, atrocicreated a great rous to the lives of office at the time.	ximately cau, jailer, firem court, magis 's official du ous or cruel isk of death of more than e of the offe	used serious injuan, emergency strate, prosecut ities or because to more than o one person.	ury to a medicator, jurden of the one persone fense f	a present or former law enfor al technician, ambulance atte or, or witness against the def exercise of that person's off son by means of a weapon of elated to the conduct of the o	ndant, justice of endant, while ficial duties. device which
11. The victim was:					I a deadly weapon at the time physically infirm. e. h	andicapped.
12. The defendant committed 13. The defendant involved a	person under the	le on pretrial age of 16 i	n the commissi	other ch	narge.	
c. damage causing gre 15. The defendant took advan 16. The offense involved the s 17. The offense was committe 18. The defendant does not su 18.a. The defendant has previous committed by an adult.	at monetary loss tage of a position sale or delivery or ed against a vict upport the defenually been adjudically	s. n of trust or f a controlle im because dant's family eated delingu	d. confidence to d substance to of the victim's /. lent for an offer	an un commi a mind race, d	usually large quantity of cont t the offense. or. olor, religion, nationality, or c It would be a Class A, B, C, I	country of origin
The victim of this offense 20. Additional written findings	suffered serious of factors in ad	injury thati gravation:	s permanent ar	ia aebi	iitatiiig.	
1. The defendant acted with 2. The defendant acted for	h premeditat	cion and				ense.
		· factors				
The Court makes no findings of	any aggravating	ractors.				

13	指数数据 医水杨二二氏抗菌	WITHOUT THE THE TABLE
	a. dures b. coerc c. threa d. comp	ant committed the offense under: S which was insufficient to constitute a defense but significantly reduced the defendant's culpability. John which was insufficient to constitute a defense but significantly reduced the defendant's culpability. It which was insufficient to constitute a defense but significantly reduced the defendant's culpability. Solution which was insufficient to constitute a defense but significantly reduced the defendant's culpability. Solution which was insufficient to constitute a defense but significantly reduced the defendant's culpability.
	a. was	a passive participant in the commission of the offense. d a minor role in the commission of the offense.
1	I am the second	and were guiffering from 8'
l	a. ment	al condition that was insufficient to constitute a defense but significantly reduced the defendant's culpability
١		ne offense. ical condition that was insufficient to constitute a defense but significantly reduced the defendant's
	∐ b. phys	ability for the offense.
	•	
	🗌 b. limit	ed mental capacity at the time of the commission of the offense significantly received
		ability for the offense.
	5. The defend	dant has made: stantial restitution to the victim.
	□ b. full	restitution to the victim.
	6. The victim	was more than 16 years of age and: a voluntary participant in the defendant's conduct,
	a. was	sented to the defendant's conduct.
تمنششه	7. The defen	dant:
	a. aide	d in the apprehension of another felon. Ified truthfully on behalf of the state in another prosecution of a felony.
٠		to the transfer of the province of the provinc
	b. The	relationship between the defendant and the victim was otherwise extendeding.
	9. The defer	Id not reasonably foresee that the defendant's conduct would cause of the start solution ,
ari ^{ris}	i have	reised caution to avoid serious bodily harm of feat to other persons.
	10. The defer	dant reasonably believed that the defendant's conduct was legal. Indeed the defendant of the defendant of the defendant of the defense to a law enforcement officer:
	a. at a	in early stage of the criminal process.
	b. pric	or to arrest. Indeed, the defendant lives and a good reputation in the community in which the defendant lives.
	10 71 16	-da is a minor and has reliable SUDE/VISION available.
	14. The defer	ndant has been honorably discharged from the United States Armod Services.
	16 The defer	adent has entered and is currently involved in or has successfully completed a drug
	alcohol tr	eatment program subsequent to arrest and prior to trial.
	Was The defe	ndant supports the defendant's family. Indant has a support system in the community.
	JETA A D TOTAL A A	the three profitive employment history of is gainfully employed.
	20. The defe	ndant has a positive employment history of the government has a positive employment history and a workable treatment plan is available. al written findings of factors in mitigation:
	Z1. Addition	Witten mange of these
		to the form withouting factors
	The Court m	nakes no findings of any mitigating factors. DETERMINATION (NOTE: Check only one)
		considering the evidence and arguments presented at the trial and sentencing hearing, finds that the aggravating the evidence and arguments presented at the trial and sentencing hearing, finds that the
	and mitigating for	actors marked, if any, were proven by a preponderance of the evidence and that the
	XX factors in a	ggravation outweigh the factors in mitigation and that an aggravated sentence is justified. Itigation outweigh the factors in aggravation and that a mitigated sentence is justified.
	factors in m	Name Of Presiding Judge (Type Or Print) Signature Of Fresidary Judge
	03-05-99	PETER M. MCHUGH

AOC-CR-605, Side Two, Rev. 11/97
• 1997 Administrative Office of the

Material opposite unmarked squares is to be disregarded - surplus

EXHIBIT(A) 10F2 STATE OF NORTH CARL INA 98CRS 23486 In The General Court Of Justice Guilford County Superior Court Division STATE VERSUS FELONY JUDGMENT Name Of Defendant FINDINGS OF AGGRAVATING Theodore Mead Kimble AND MITIGATING FACTORS (STRUCTURED SENTENCING) First degree arson G.S. 15A-1340.16 When consolidating offenses for judgment, findings of aggravating factors and mitigating factors should be made only for the most serious offense. Separate findings of aggravating factors and mitigating factors should be made for each offense that is not consolidated. 精神病病性 医阴道缺陷 医内侧性动脉 医神经神经 计自由的 医多种性 医多种性 医多种性 医二氏 AGGRAVATING FACTORS □ 1. The Defendant: a. induced others to participate in the commission of the offense. b. occupied a position of leadership or dominance of other participants in the commission of the offense. The defendant joined with more than one other person in committing the offense and was not charged with committing a □ 2. 2.a. The offense was committed for the benefit of, or at the direction of, any criminal street gang, with the specific intent to promote, further, or assist in any criminal conduct by gang members, and the defendant was not charged with committing a conspiracy. The offense was committed for the purpose of: b. effecting an escape from custody. a. avoiding or preventing a lawful arrest. The defendant was: 4. b. paid to commit the offense. a. hired to commit the offense. The offense was committed to: a. disrupt the lawful exercise of a governmental function or the enforcement of laws. b. hinder the lawful exercise of a governmental function or the enforcement of laws. The offense was committed against or proximately caused serious injury to a present or former law enforcement officer, employee of the Department of Correction, jailer, fireman, emergency medical technician, ambulance attendant, justice or judge, clerk or assistant or deputy clerk of court, magistrate, prosecutor, juror, or witness against the defendant, while engaged in the performance of that person's official duties or because of the exercise of that person's official duties. The offense was especially heinous, atrocious or cruel. The defendant knowingly created a great risk of death to more than one person by means of a weapon or device which would normally be hazardous to the lives of more than one person. The defendant held public office at the time of the offense and the offense related to the conduct of the office. The defendant: ٦10. a. was armed with a deadly weapon at the time of the crime. b. used a deadly weapon at the time of the crime. The victim was: c. mentally infirm. d. physically infirm. e. handicapped. b. very old. The defendant committed the offense while on pretrial release on another charge. 712. The defendant involved a person under the age of 16 in the commission of the crime. ٦13. The offense involved: □ 14. a. an attempted taking of property of great monetary value. b. the actual taking of property of great monetary value. d. an unusually large quantity of contraband. c. damage causing great monetary loss. The defendant took advantage of a position of trust or confidence to commit the offense. 715. The offense involved the sale or delivery of a controlled substance to a minor. 116. The offense was committed against a victim because of the victim's race, color, religion, nationality, or country of origin. 17. The defendant does not support the defendant's family. ٦18. 18.a. The defendant has previously been adjudicated delinquent for an offense that would be a Class A, B, C, D or E felony if committed by an adult. The victim of this offense suffered serious injury that is permanent and debilitating. 19. Additional written findings of factors in aggravation: This offense was committed for the purpose of avoiding detection in the murder of Patricia Gail Kimble and for the purpose of covering up the murder.

The Court makes no findings of any aggravating factors.

MILIGATING PACIFICS SERVICE CONTRACTORS
1. The defendant committed the offense under: a. duress which was insufficient to constitute a defense but significantly reduced the defendant's culpability.
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(=)
d. compulsion which was insufficient to constitute a defense but significantly reduced the defendant's culpability.
2. The defendant:
a. was a passive participant in the commission of the offense. b. played a minor role in the commission of the offense.
3. The defendant was suffering from a:
a. mental condition that was insufficient to constitute a defense but significantly reduced the defendant's culpability
for the offense. b. physical condition that was insufficient to constitute a defense but significantly reduced the defendant's
b. physical condition that was insufficient to constitute a described a
culpability for the offense. 4. The defendant's: (the offense significantly reduced the defendant's
4. The defendant's:a. age, or immaturity, at the time of the commission of the offense significantly reduced the defendant's
culpability for the offense. b. limited mental capacity at the time of the commission of the offense significantly reduced the defendant's
culpability for the offense.
5. The defendant has made:
a. substantial restitution to the victim.
b. full restitution to the victim.
6 The victim was more than 16 years of age and:
a. was a voluntary participant in the defendant's conduct.
b. consented to the defendant's conduct.
7. The defendant:
a sided in the apprehension of another felon.
b. testified truthfully on behalf of the state in another prosecution of a felony.
□ o □ o The defendant acted under strong provocation.
b. The relationship between the defendant and the victim was otherwise extenuating.
9. The defendant: a. could not reasonably foresee that the defendant's conduct would cause or threaten serious bodily harm or fear.
a. could not reasonably foresee that the defendant's conduct would educe of the second
b. exercised caution to avoid serious bodily harm or fear to other persons.
10. The defendant reasonably believed that the defendant's conduct was legal. 11. The defendant voluntarily acknowledged wrongdoing in connection with the offense to a law enforcement officer:
11. The defendant voluntarily acknowledged wrongdoing in connection with the overlap of the eximinal process
a. at an early stage of the criminal process.
b. prior to arrest. The defendant has been a person of good character or has had a good reputation in the community in which the defendant live
13. The defendant is a minor and has reliable supervision available.
14. The defendant has been honorably discharged from the United States Armed Services.
l lam me and the second and the second politicity for the detendant's criminal conduct.
16. The defendant has entered and is currently involved in or has successfully completed a drug treatment program of
alcohol treatment program subsequent to arrest and prior to trial.
17. The defendant supports the defendant's family.
VV18. The defendant has a support system in the community.
初 10. The defendant has a positive employment history or is gainfully employed.
20. The defendant has a good treatment prognosis and a workable treatment plants available.
21. Additional written findings of factors in mitigation:
The Court makes no findings of any mitigating factors.
DETERMINATION (NOTE: Check only one)
The Court, after considering the evidence and arguments presented at the trial and sentencing hearing, finds that the aggrava
and mitigating factors marked, if any, were proven by a preponderance of the evidence and that the
ATV feature in aggregation outweigh the factors in mitigation and that an aggravated sentence is justified.
factors in aggravation outweigh the factors in aggravation and that a mitigated sentence is justified.
Signature Of Fresiden Judge
03-05-99 PETER M. MCHUGH
AOC-CR-605, Side Two, Rev. 11/97 Material opposite unmarked squares is to be disregarded as surplusage
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• 1997 Administrative Office of the

STATE OF NORTH CALLINA 99CRS Guilford ... In The General Court Of Justice EXHIBITED /ofa-County Superior Court Division STATE VERSUS FELONY JUDGMENT Name Of Defendant FINDINGS OF AGGRAVATING Theodore Mead Kimble AND MITIGATING FACTORS Offense (STRUCTURED SENTENCING) Solicitation: first degree murder: G.S. 15A-1340.16 When consolidating offenses for judgment, findings of aggravating factors and mitigating factors should be made only for the most serious offense. Separate findings of aggravating factors and mitigating factors should be made for each offense that is not consolidated. PROPERTY OF THE PROPERTY OF THE REAL PROPERTY OF THE PROPERTY AGGRAVATING FACTORS □ 1. The Defendant: a. induced others to participate in the commission of the offense. b. occupied a position of leadership or dominance of other participants in the commission of the offense. The defendant joined with more than one other person in committing the offense and was not charged with committing a **2.** 2.a. The offense was committed for the benefit of, or at the direction of, any criminal street gang, with the specific intent to promote, further, or assist in any criminal conduct by gang members, and the defendant was not charged with committing a conspiracy. The offense was committed for the purpose of: b. effecting an escape from custody. a. avoiding or preventing a lawful arrest. The defendant was: 4. b. paid to commit the offense. a. hired to commit the offense. The offense was committed to: [X] 5. 🛱 a. disrupt the lawful exercise of a governmental function or the enforcement of laws. IX b. hinder the lawful exercise of a governmental function or the enforcement of laws. The offense was committed against or proximately caused serious injury to a present or former law enforcement officer, 6. employee of the Department of Correction, jailer, fireman, emergency medical technician, ambulance attendant, justice or judge, clerk or assistant or deputy clerk of court, magistrate, prosecutor, juror, or witness against the defendant, while engaged in the performance of that person's official duties or because of the exercise of that person's official duties. The offense was especially heinous, atrocious or cruel. The defendant knowingly created a great risk of death to more than one person by means of a weapon or device which would normally be hazardous to the lives of more than one person. The defendant held public office at the time of the offense and the offense related to the conduct of the office. 10. The defendant: 🗌 a. was armed with a deadly weapon at the time of the crime. 🔲 b. used a deadly weapon at the time of the crime. The victim was: 11. d. physically infirm. e. handicapped. c. mentally infirm. a. very young. b. very old. The defendant committed the offense while on pretrial release on another charge. 712. The defendant involved a person under the age of 16 in the commission of the crime. 713. The offense involved: 14 a. an attempted taking of property of great monetary value. b. the actual taking of property of great monetary value. d. an unusually large quantity of contraband. c. damage causing great monetary loss. The defendant took advantage of a position of trust or confidence to commit the offense. 15. The offense involved the sale or delivery of a controlled substance to a minor. 16. The offense was committed against a victim because of the victim's race, color, religion, nationality, or country of origin. 717. The defendant does not support the defendant's family. 18. The defendant has previously been adjudicated delinquent for an offense that would be a Class A, B, C, D or E felony if ີ 18.a. committed by an adult. The victim of this offense suffered serious injury that is permanent and debilitating. 19. Additional written findings of factors in aggravation: **20.**

Material opposite unmarked squares is to be disregarded as surplusage.

ACC-CR-605 Rev. 11/97

| | The Court makes no findings of any aggravating factors.

	431 173	711.					MITIGATI	NG FAC	CTORS	137 p				137 - 1 377 - 1
		1.			nmitted the of					ON NI	1819 10	41 20	16 J	
			Πb.	coercion wh	h was insuffic nich was insuff n was insuffici	icient to co	onstitute a c	defense l	out signif	icantly re	duced the	e defenda	nt's culpat	oility.
			☐ d.	compulsion	which was ins	sufficient to	constitute	a defen	se but sig	nificantly	y reduced	the defer	ndant's cul	pability.
	П	2.	-	defendant:	,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,					,	•			
			□ a.	was a passi	ve participant	in the com	mission of t	the offer	se.					
					nor role in the		n of the off	ense.						
		3.			is suffering fro				_					1 1 122
				for the offe										
			□ b.		ndition that wa for the offense		ent to const	titute a d	efense b	ut signific	cantly red	luced the	defendant	's
		4.	The c		naturity, at the		e commissio	on of the	offense	significa	ntly reduc	ed the de	fendant's	
			☐ b.	limited mer	for the offense Ital capacity at For the offense	the time of	of the comm	nission o	f the offe	ense signi	ificantly r	educed th	e defenda	nt's
		5.		defendant ha										
1		,			restitution to t									
	a desperation	la _s .			ion to the victi nore than 16 y		and:							
RÍ	لــا	ъ.	The	ii sew mijoiv	ntary participar	nt in the de	fendant's c	onduct.						
					to the defenda									
		7		defendant:	the determen	0 00								
1	لسسا	, .	Па	aided in the	apprehension	of another	felon.							
1			□ b.	. testified tru	thfully on beh	alf of the s	tate in anot	ther pros	ecution o	of a felon	γ.			
1	. "	8.	a.	. The defend	ant acted unde	er strong pi	rovocation.			mulaa avt	anuatina			
			□b.	The relation	ship between	the defend	lant and the	victim \	vas otnei	rwise ext	enuating.	•		
	لــا	9.	The	defendant:	easonably fore	see that th	e defendant	t's condu	act would	d cause o	r threater	ı serious t	odily harn	n or fear.
			∐a.	. could not it	aution to avoid	d serious b	odily harm o	or fear to	other pe	ersons.				
	\Box	10.	Tho	defendant re	asonably believ	ved that th	e defendant	t's condu	ict was le	egal.				
	日	11.	. The	defendant vo	oluntarily ackno	owledged v	wrongdoing	in conne	ction wit	th the off	ense to a	law enfo	rcement o	fficer:
			a.	, at an early	stage of the c	riminal pro	cess.							
	4737		b	prior to arro	est. as been a perso	of acod	obaracter o	r has had	a good re	enutation i	n the com	munity in v	vhich the de	efendant lives.
		12	The	defendant ha	as been a perso a minor and h	on or good as reliable	supervision	available	a good re 3.	, ратитот т		,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,		
	H	14	The	defendant h	as been honora	ably discha	rged from th	he Unite	d States	Armed S	ervices.			
		15	771	بط فصمام ساء ال	on accounted re-	enoneihility	, for the def	fendant's	s criminal	conduct				
		16	. The	defendant ha	as entered and	is currentl	y involved i	in or has	successf	fully com	pleted a	drug treati	ment progr	ram or an
			alco	hol treatmen	t program subs	sequent to	arrest and p	prior to t	rial.					
		17	. The	defendant su	upports the de	fendant's f	amily.							
	XX	18	. The	defendant h	as a support sy as a positive e	ystem in tr molovmeni	e communi Lhistory or i	iy. İs dəinfu	lly emplo	ved.				
,	XX	119	. The	defendant h	as a positive el as a good treat	tment prod	nosis and a	workab	e treatm	ent plan	is availab	le.		
	1	20	. rne hhΔ	litional writte	n findings of f	actors in m	itigation:							
		,	. , , , , ,											
	_	Ìт	he Co	ourt makes no	findings of ar	ny mitigatir	ng factors.							
							ERMINATI	ON (NO	TE: Check	k only one)			
	Th	ie C	Court,	after considering factors m	ering the evider narked, if any,	nce and are	guments pre	esented a	at the tria	al and ser	ntencing l	nearing, fi It the	nds that th	ne aggravatin
					on outweigh th								l.	
		<u>ላ</u> f: ገ 4	actors	s in aggravati s in mitigation	on outweigh tr n outweigh the	factors in	aggravation	n and the	it a mitig	ated sen	tence is j	ustified.		
	Date		actors	, in minigation	Name Of Presiding	Judge (Type	Or Print)	S	ignature Of	Fresiding	Judge :	/		
			05-9	i	PETER M.			1	100	en M.	//c//	coj		
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	10	199	7 Adm	ninistrative Off	ice of the Ci	ı						`		

STATE OF NORTH CARLINA	No. 99CRS 23242
Guilford County GXHIBI	In The General Court Of Justice Superior Court Division
STATE VERSUS	FELONY JUDGMENT FINDINGS OF AGGRAVATING AND MITIGATING FACTORS (STRUCTURED SENTENCING) G.S. 15A-1340.16
NOTE: When consolidating offenses for judgment, findings of aggrava	ating factors and mitigating factors should be made only for the most seriou ng factors should be made for each offense that is not consolidated.
AGGRAVAT	ING FACTORS
 2. The defendant joined with more than one other person conspiracy. 2.a. The offense was committed for the benefit of, or at the content of the benefit o	of other participants in the commission of the offense. In in committing the offense and was not charged with committing a The direction of, any criminal street gang, with the specific intent to
committing a conspiracy. 3. The offense was committed for the purpose of: a. avoiding or preventing a lawful arrest. The defendant was:	gang members, and the defendant was not charged with b. effecting an escape from custody.
□ a. hired to commit the offense. □ a. hired to commit the offense. □ a. disrupt the lawful exercise of a governmental full	b. paid to commit the offense.
b. hinder the lawful exercise of a governmental fur 6. The offense was committed against or proximately ca employee of the Department of Correction, jailer, firen judge, clerk or assistant or deputy clerk of court, magi	iction or the enforcement of laws. Hused serious injury to a present or former law enforcement officer, han, emergency medical technician, ambulance attendant, justice or istrate, prosecutor, juror, or witness against the defendant, while
The offense was especially heinous, atrocious or crue 8. The defendant knowingly created a great risk of death would normally be hazardous to the lives of more than	to more than one person by means of a weapon or device which none person.
10. The defendant:a. was armed with a deadly weapon at the time of	ense and the offense related to the conduct of the office. the crime. b. used a deadly weapon at the time of the crime.
 12. The defendant committed the offense while on pretria 13. The defendant involved a person under the age of 16 14. The offense involved: a. an attempted taking of property of great monet. 	in the commission of the crime. ary value. b. the actual taking of property of great monetary value.
18. The defendant does not support the defendant's famil 18.a. The defendant has previously been adjudicated delinque.	ed substance to a minor. of the victim's race, color, religion, nationality, or country of origin.
committed by an adult. 19. The victim of this offense suffered serious injury that 20. Additional written findings of factors in aggravation:	is permanent and debilitating.
☐ The Court makes no findings of any aggravating factors.	
ACC CR 505 Roy 11/97 Material opposite unmarked	squares is to be disregarded as surplusage.

	MARKET STATE OF THE STATE OF TH	1.1	MITIGATING	FACTORS	Logica Bereignayeta Million	1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1
	a. duress wh b. coercion w c. threat whi d. compulsio The defendant:	vhich was insuffici ch was insufficien n which was insuf	nt to constitute a defens ient to constitute a defen t to constitute a defense ficient to constitute a de	e but signifficantly rense but significantly rebut significantly restense but significantly restense but significan	educed the defendant's culpa reduced the defendant's cul educed the defendant's culpa ntly reduced the defendant's	pability. bility.
	b. played a n		the commission of the commission of the offense			
3.		ndition that was ir		a defense but signif	icantly reduced the defendar	it's culpability
	b. physical c		insufficient to constitute	e a defense but sign	ificantly reduced the defenda	ant's
4.	The defendant's a. age, or im	:	me of the commission o	f the offense signific	cantly reduced the defendant	t's
	b. limited me	ental capacity at the for the offense. The offense of the offense	ne time of the commission	on of the offense sig	gnificantly reduced the defen	dant's
<u> </u>	-	al restitution to the				
<u> </u>	The victim was	ition to the victim. more than 16 yea untary participant		uct.		
		to the defendant				
	b. testified to		of the state in another p	prosecution of a felc	ony.	
8.	. ☐ a. The defen ☐ b. The relatio . The defendant:	dant acted under s inship between th	strong provocation. e defendant and the vict	im was otherwise e	extenuating.	
	a. could not		e that the defendant's co erious bodily harm or fea		or threaten serious bodily ha	arm or fear.
□10 □11	The defendant re The defendant v	easonably believed	f that the defendant's co ledged wrongdoing in co	induct was legal.	offense to a law enforcement	: officer:
13	. The defendant is	nas been a person s a minor and has	reliable supervision avai	lable.	n in the community in which the	defendant lives.
15	. The defendant h	nas accepted respo	y discharged from the Ui onsibility\for the defenda currently involved in or	int's criminal condu	Services. ict. impleted a drug treatment pro	ogram or an
17	alcohol treatment. The defendant s	nt program subsec supports the defer	quent to arrest and prior adant's family.	to trial.		
XM 9	. The defendant h	nas a positive emp	em in the community. Noyment history or is ga	infully employed.	n ie available	
20 21	. The defendant I . Additional writt	has a good treatme en findings of fact	ent prognosis and a wor fors in mitigation:	kable treatment plai	ii is availuole.	
LUT	he Court makes n	no findings of any		INOTE OL L.		Market and the second s
The C	Court, after consid	ering the evidence marked, if any, we	DETERMINATION e and arguments present ere proven by a preponder	ed at the trial and s	entencing hearing, finds that	. the aggravating
XX f	actors in addravat	ion outweigh the	factors in mitigation and ctors in aggravation and	that an aggravated	I sentence is justified.	
Date	05-99	Name Of Presiding Ju PETER M. MCH	dge (Type Or Print) UGH	Signature Of Fresiding	MM //w/	
AOC-0	CR-605, Side Two, 7 Administrative Of	Rev. 11/97 fice of the ('s	Material opposite unmarked sq	uares is to be disregarded as	surplusage.	

Guilford		<i>a</i>	· c d a A	Managanananananan	In The General Co	ourt Of Justice
- COLLEGE	_ County	CAMBIN	(3) let.	J-1	Superior Cou	
STATE VERSU	S	1777	12 7		FELONY JUDGME	
Vama of Datandant Theodore Mead Kimble		01			INGS OF AGGRA MITIGATING FA	
Solicitation first degree		107 (120()		RUCTURED SENTE	
		(No	: 23.4L		G.S. 15A-1340.1
NOTE: When consolidating offenses for ju offense. Separate findings of aggr	avating factors	and mitigatin	g factors shoul	ld be made	g factors should be ma for each offense that	nde only for the most serion is not consolidated.
Barry Lasterale value en encette en en accesa en	AC	GGRAVATII	NG FACTOR	IS	The second second	The state of the s
1. The Defendant:						
a. induced others to particle b. occupied a position of The defendant joined with meconspiracy.	leadership or ore than one	dominance o other person	of other partic in committing	ipants in g the offe	ense and was not ch	narged with committing
2.a. The offense was committed promote, further, or assist in committing a conspiracy.	for the benef any criminal	it of, or at th conduct by (e direction of gang members	, any crin s, and the	ninal street gang, wi a defendant was not	ith the specific intent to charged with
3. The offense was committeda. avoiding or preventing a			□ þ. effecti	ng an esc	cape from custody.	
4. The defendant was: a. hired to commit the off	ense.		b. paid t	o commit	the offense.	
The offense was committeda. disrupt the lawful exercises		rnmental fur	nction or the e	enforceme	ent of laws.	
ि b. hinder the lawful exerci	ise of a gover	nmental fun	ction or the er	nforceme	nt of laws.	
6. The offense was committed employee of the Department judge, clerk or assistant or de engaged in the performance of the control of the cont	of Correctior eputy clerk of of that persor neinous, atroc	n, jailer, firem court, magi: n's official du ious or cruel	nan, emergend strate, prosec uties or becau	cy medica cutor, juro ise of the	al technician, ambula ir, or witness agains exercise of that per	ance attendant, justice at the defendant, while rson's official duties.
8. The defendant knowingly crewould normally be hazardous	to the lives	of more than	one person.			
9. The defendant held public off 10. The defendant:						
a. was armed with a dead	lly weapon at	the time of	the crime.] b. used	a deadly weapon at	
a. very young. b	. very old. e offense whi	ile on pretrial	ntally infirm. I release on ar	nother ch	physically infirm. arge.	e. handicapped.
13. The defendant involved a per	rson under the	e age of 16 i	n the commis	ssion of th	ne crime.	
a. an attempted taking of	monetary los	s.		d. an unu	isually large quantity	y of great monetary value. y of contraband.
15. The defendant took advantages 16. The offense involved the sales 17. The offense was committed	or delivery of	of a controlle	d substance t	to a minor	r .	ality or country of origi
18. The defendant does not supp	ort the defen	dant's family	√ ∙			
18.a. The defendant has previously committed by an adult.	/ been adjudit	cated demiqu	ient for an off	iense mai	Would be a Class A	A, B, C, D OF E TEIDING II
19. The victim of this offense su20. Additional written findings of			s permanent	and debili	tating.	
The Court makes no findings of an	v aggravating	ı factore				

	4. F (2.1)	PROBLEM STATE OF THE STATE	MITIGATING FACT	ORS	STATE OF STATE OF STATE OF THE STATE OF	Sharp handiffer a
		The defendant committed the of	ense under: CYAIRIS	(5) 2nf	2)	
	, ···	a. duress which was insuffici	ent to constitute a defense but s	ignificantly red	uced the defendant's culpabilit	ty.
ľ		b. coercion which was insuff	cient to constitute a defense but	significantly r	educed the defendant's culpab	oility.
-		c. threat which was insufficient	ent to constitute a defense but si	gnificantly red	uced the defendant's culpabilit	у.
		d. compulsion which was ins	ufficient to constitute a defense	but significant	y reduced the defendant's culp	oability.
	2 .	The defendant:				
		a. was a passive participant	n the commission of the offense	•		
		b. played a minor role in the				
ĺ	3.	. The defendant was suffering from		but planifin	antly radiused the defendant's	culnability
		t	Insufficient to constitute a defer	ise but signine	antily reduced the defendant's	Culpability
		for the offense.	s insufficient to constitute a defe	ance hut signif	icantly reduced the defendant'	S
				arise but signin	carrity roudous this development	
		culpability for the offense. The defendant's:				
	□ 4.	a. age, or immaturity, at the	time of the commission of the of	ffense significa	intly reduced the defendant's	
		and ability for the offence				n+!a
		b. limited mental capacity at	the time of the commission of the	ne offense sign	ifficantly reduced the defendan	11. 5
		culpability for the offense				
	5	. The defendant has made:				
		a. substantial restitution to t				
		b. full restitution to the viction				
1	6	The victim was more than 16 years	it in the defendant's conduct.			
-1		b. consented to the defendan				
		. The defendant:	n s conducti			
	⊔ /	a. aided in the apprehension	of another felon.			
		b testified truthfully on behi	alf of the state in another prosect	ution of a felor	ny.	
a	"П в	The defendant acted unde	r strong provocation.			
1		b. The relationship between	the defendant and the victim wa	s otherwise ex	tenuating.	
	9	The first dame.				or fear.
		a. could not reasonably fores	see that the defendant's conduct I serious bodily harm or fear to o	ther nersons.	ar theaten some as soun, many	
١		. The defendant reasonably believ	and that the defendant's conduct	was legal.		
1	HI	. The defendant reasonably believed. The defendant voluntarily acknowledges.	wledged wrongdoing in connecti	ion with the of	fense to a law enforcement of	ficer:
	Ш11	a. at an early stage of the ci	iminal process.			
		- ling to proof				
	XX 12	2. The defendant has been a perso	on of good character or has had a	good reputation	in the community in which the de	fendant lives.
1	13	The defendant is a minor and h.	as reliable supervision available.			
-		The defendant has been honora	bly discharged from the United S	riminal conduc	t	
-1		5. The defendant has accepted res 5. The defendant has entered and	is currently involved in or has su	accessfully con	rpleted å drug treatment progr	am or an
		o. The defendant has entered and	equent to arrest and prior to tria	l.		
l	□ 17	7. The defendant supports the def	endant's family.			
	XX 18	The defendant has a support sy	stem in the community.			
	YV 10	The defendant has a positive el	nnlovment history or is gainfully	employed.		
-	<u> </u>	The defendant has a good treat	ment prognosis and a workable t	treatment plan	is available.	
	21	1. Additional written findings of fa	actors in mitigation:			
		u				
	l	•				
. !						
		The Court makes no findings of ar	y mitigating factors.			
			DETERMINATION (NOTE	: Check only on	e)	
السائر		Court, after considering the evider	nce and arguments presented at	the trial and se	ntencing hearing, finds that th	ie aggravatini
÷	Land	Court, after considering the evider mitigating factors marked, if any,	were proven by a preponderance	of the eviden	ce and that the	
di di						
	X 1	factors in aggravation outweigh the	testors in mitigation and that	su ayyravateu a mitinatad sar	ntence is justified.	
		factors in mitigation outweigh the	Judge (Type Or Print) Sign	our Of Fresiding	Judge	
	Date	Name of Presiding 15-99 PETER M.	\	No.	Malle	
	1		Material opposite unmarked squares is t	o be disregarded as s	urplusage.	N. 41-7-1-1-1-1-1-1-1-1-1-1-1-1-1-1-1-1-1-1
	AOC-	-CR-605, Side Two, Rev. 11/97		•		

STATI	E OF NORTH CAL	LINA		99CRS 23244
Security and property and the property of	Guilford	_ County EXWIGI	(T) 1012	In The General Court Of Justice Superior Court Division
	STATE VERSU	IS		FELONY JUDGMENT
Name Of Defer		1023	1	INDINGS OF AGGRAVATING
	lore Mead Kimble	1 1 .		AND MITIGATING FACTORS
Offense Solic	itation first degree	murder		(STRUCTURED SENTENCING) G.S. 15A-1340.
NOTE: W	hen consolidating offenses for ju	dgment, findings of aggrava	nting factors and mitig	ating factors should be made only for the most seri nade for each offense that is not consolidated.
1	And the state of t		ING FACTORS	For the way of the territory with
	The Defendant:			
2.	a. induced others to partible b. occupied a position of The defendant joined with maconspiracy. The offense was committed	leadership or dominance ore than one other person for the benefit of, or at ti	of other participants n in committing the he direction of, any	s in the commission of the offense. offense and was not charged with committing criminal street gang, with the specific intent to I the defendant was not charged with
	committing a conspiracy.			
3.	The offense was committed a. avoiding or preventing	for the purpose of:	□ h effecting an	escape from custody.
	a. avoiding or preventing a The defendant was:	a lawlul allest.	p. erreemig an	, sociapo mem carro 1,
	a. hired to commit the off		b. paid to con	nmit the offense.
☆ 5.	The offense was committed	to:	notion or the enforc	ement of laws
CONTRACT MANY	\overline{X} a. disrupt the lawful exerc \overline{X} b. hinder the lawful exerc	ise of a governmental fur	nction of the enforce	ement of laws.
7.	employee of the Department judge, clerk or assistant or dengaged in the performance. The offense was especially have the defendant knowingly crewould normally be hazardous. The defendant held public of the defendant: a. was armed with a dead the victim was: a. very young. The defendant committed the defendant involved a perfense involved: a. an attempted taking of the defendant took advantation of the defendant took advantation. The offense involved the saling of the offense was committed.	of Correction, jailer, firer eputy clerk of court, mag of that person's official definitions, atrocious or crue eated a great risk of death is to the lives of more than fice at the time of the office at the defendant of trust of the office at the defendant's family been adjudicated deling	man, emergency me istrate, prosecutor, luties or because of al. In to more than one person. If the crime. b. centally infirm. If al release on anothe in the commission of a confidence to comed substance to a me of the victim's racily. In the crime of the commission of the victim's racily. In the commission of the victim's racily.	of the crime. e actual taking of property of great monetary value a unusually large quantity of contraband. mit the offense. ninor. e, color, religion, nationality, or country of orig that would be a Class A, B, C, D or E felony i
☐ The C	Court makes no findings of a	ny aggravating factors.		

AND THE PROPERTY OF THE PARTY O
1. The defendant committed the offense under: a. duress which was insufficient to constitute a defense but significantly reduced the defendant's culpability. b. coercion which was insufficient to constitute a defense but significantly reduced the defendant's culpability.
c. threat which was insufficient to constitute a defense but significantly reduced the defendant's culpability. d. compulsion which was insufficient to constitute a defense but significantly reduced the defendant's culpability. 2. The defendant:
a. was a passive participant in the commission of the offense. b. played a minor role in the commission of the offense. 3. The defendant was suffering from a:
a. menta! condition that was insufficient to constitute a defense but significantly reduced the defendant's culpability for the offense.
b. physical condition that was insufficient to constitute a defense but significantly reduced the defendant's culpability for the offense.
4. The defendant's: a. age, or immaturity, at the time of the commission of the offense significantly reduced the defendant's culpability for the offense.
b. limited mental capacity at the time of the commission of the offense significantly reduced the defendant's culpability for the offense.
5. The defendant has made: a. substantial restitution to the victim.
 b. full restitution to the victim. 6. The victim was more than 16 years of age and: a. was a voluntary participant in the defendant's conduct.
b. consented to the defendant's conduct.
 7. The defendant: a. aided in the apprehension of another felon. b. testified truthfully on behalf of the state in another prosecution of a felony.
8. a. The defendant acted under strong provocation. b. The relationship between the defendant and the victim was otherwise extenuating.
9. The defendant: a. could not reasonably foresee that the defendant's conduct would cause or threaten serious bodily harm or fear.
b. exercised caution to avoid serious bodily harm or fear to other persons.
 10. The defendant reasonably believed that the defendant's conduct was legal. 11. The defendant voluntarily acknowledged wrongdoing in connection with the offense to a law enforcement officer: a. at an early stage of the criminal process. b. prior to arrest.
12. The defendant has been a person of good character or has had a good reputation in the community in which the defendant lives. 13. The defendant is a minor and has reliable supervision available.
14. The defendant has been honorably discharged from the United States Armed Services. 15. The defendant has accepted responsibility for the defendant's criminal conduct.
16. The defendant has entered and is currently involved in or has successfully completed a drug treatment program or an alcohol treatment program subsequent to arrest and prior to trial.
17. The defendant supports the defendant's family. X 18. The defendant has a support system in the community.
19. The defendant has a positive employment history or is gainfully employed. 20. The defendant has a good treatment prognosis and a workable treatment plan is available.
21. Additional written findings of factors in mitigation:
The Court makes no findings of any mitigating factors.
DETERMINATION (NOTE: Check only one)
The Court, after considering the evidence and arguments presented at the trial and sentencing hearing, finds that the aggravating and mitigating factors marked, if any, were proven by a preponderance of the evidence and that the
factors in aggravation outweigh the factors in mitigation and that an aggravated sentence is justified. [factors in mitigation outweigh the factors in aggravation and that a mitigated sentence is justified.
Date 03-05-99 Name Of Presiding Judge (Type Or Print) PETER M. MCIIUGII Signature Of Fresiding Judge Leg Leg
AOC-CR-605, Side Two, Rev. 11/97 Material opposite unmarked squares is to be disregarded as surplusage.

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STAT	E OF NORTH CAL	JLINA	. 6	^{' '9} 9CRS 23246	
	Guilford	EANIE. County	11 (k) lots	In The General C Superior Co	
Name of Dete The	STATE VERS andant eodore Mead Kimble	US (77)		FINDINGS OF AGGR	AVATING
Offense Sol	licitation first degr	ree murder,		(STRUCTURED SENT	ENCING)
		. !		to the state of th	G.S. 15A-1340.16
NOTE: W	Then consolidating offenses for j ffense. Separate findings of agg	iudgment, findings of aggra gravating factors and mitig	avating factors and ating factors shoul	d be made for each offense the	at is not consolidated.
the mountains	PPB charge in the space of the space of	AGGRAVA	TING FACTOR	S Programme	
1.	The Defendant:				
2.	The defendant Joined with r	f leadership or dominand	ce of other partic	ipants in the commission of	the offense. Charged with committing a
2.a.	conspiracy. The offense was committed promote, further, or assist i	I for the benefit of, or a n any criminal conduct l	t the direction of by gang member	, any criminal street gang, v s, and the defendant was n	with the specific intent to ot charged with
<u> </u>	committing a conspiracy. The offense was committed a. avoiding or preventing	I for the purpose of: a lawful arrest.	∐\b. effecti	ng an escape from custody	
☐ 4.	The defendant was: a. hired to commit the old	ffense.	☐ b. paid t	o commit the offense.	
☒ 5.	The offense was committed XXa. disrupt the lawful exe	i to:	function or the e	enforcement of laws.	
	1XXb binder the lawful exer	cise of a governmental	function or the e	nforcement of laws.	. Laura - Annamant officer
☐ 6.☐ 7.	The offense was committed employee of the Departmen judge, clerk or assistant or engaged in the performance. The offense was especially	nt of Correction, jailer, fi deputy clerk of court, m g of that person's officia theinous, atrocious or cl	reman, emergend nagistrate, prosed al duties or becau ruel.	cy medical technician, ambu cutor, juror, or witness agair use of the exercise of that p	plance attendant, justice of the defendant, while erson's official duties.
8.	The defendant knowingly co	reated a great risk of de us to the lives of more t	eath to more than han one person.		
□ 9. □10.	The defendant held public of the defendant:	ffice at the time of the	offense and the		
☐ 11.	a. was armed with a dea The victim was:	adly weapon at the time	of the crime.	b. used a deadly weapon	
	a. very young.	he offense while on pre	mentally infirm. trial release on a	d. physically infirm.	e. handicapped.
☐ 13. ☐ 14.	The defendant involved a p The offense involved:				
☐ 15.	a. an attempted taking of c. damage causing great The defendant took advantage.	t monetary loss. age of a position of trus	لــا t or confidence t:	 b. the actual taking of prope d. an unusually large quant o commit the offense. 	rty of great monetary value. ity of contraband.
<u> </u>	The offense involved the sa The offense was committee	de or delivery of a contr	folled substance 1	to a minor.	nality, or country of origin
☐ 17. ☐ 18.	The defendant door not cur	poort the defendant's fa	ımilv.		
☐ 18.a.	The defendant has previous committed by an adult.				, A, B, C, D of E lotting
<u> </u>	The victim of this offense s	suffered serious injury th	nat is permanent	and debilitating.	
20.	Additional written findings	of factors in aggravation	n:		
				·	

☐ The Court makes no findings of any aggravating factors.

	WITIGATING FAUTURES LE TABLE DE LA TRANSPORTE
	1. The defendant committed the offense under: a. duress which was insufficient to constitute a defense but significantly reduced the defendant's culpability. b. coercion which was insufficient to constitute a defense but significantly reduced the defendant's culpability. c. threat which was insufficient to constitute a defense but significantly reduced the defendant's culpability.
	d. compulsion which was insufficient to constitute a defense but significantly reduced the defendant's culpability. 2. The defendant:
	a. was a passive participant in the commission of the offense. b. played a minor role in the commission of the offense.
	2. The defendant was suffering from 8:
	a. mental condition that was insufficient to constitute a defense but significantly reduced the defendant's culpability
	for the offense. b. physical condition that was insufficient to constitute a defense but significantly reduced the defendant's culpability for the offense.
	4. The defendant's: a. age, or immaturity, at the time of the commission of the offense significantly reduced the defendant's
	culpability for the offense. b. limited mental capacity at the time of the commission of the offense significantly reduced the defendant's
	culpability for the offense.
	5. The defendant has made: a. substantial restitution to the victim.
	b. full restitution to the victim.
	6. The victim was more than 16 years of age and: a. was a voluntary participant in the defendant's conduct.
	b. consented to the defendant's conduct.
	7. The defendant:
	a. aided in the apprehension of another felon. b. testified truthfully on behalf of the state in another prosecution of a felony.
	8. a. The defendant acted under strong provocation. b. The relationship between the defendant and the victim was otherwise extenuating.
	9. The defendant: a. could not reasonably foresee that the defendant's conduct would cause or threaten serious bodily harm or fear.
	a. could not reasonably foresee that the defendant's conduct would cause of throaten serious. b. exercised caution to avoid serious bodily harm or fear to other persons.
48 gr	to me the transport believed that the defendant's conduct was legal.
	11. The defendant voluntarily acknowledged wrongdoing in connection with the offense to a law emoticement of the criminal process.
	b. prior to arrest. XX 12. The defendant has been a person of good character or has had a good reputation in the community in which the defendant lives 13. The defendant is a minor and has reliable supervision available.
	14. The defendant has been honorably discharged from the United States Armed Services.
	15. The defendant has accepted responsibility for the defendant's criminal conduct. 15. The defendant has accepted responsibility for the defendant's criminal conduct. 16. The defendant has entered and is currently involved in or has successfully completed a drug treatment program or an acceptance of the current and prior to trial.
	alcohol treatment program subsequent to arrest and prior to trial. 17. The defendant supports the defendant's family.
	মুল্য 18. The defendant has a support system in the community.
	10. The defendant has a positive employment history or is gainfully employed. 20. The defendant has a good treatment prognosis and a workable treatment plan is available.
	21. Additional written findings of factors in mitigation:
	The Court makes no findings of any mitigating factors.
	DETERMINATION (NOTE: Check only one)
	The Court, after considering the evidence and arguments presented at the trial and sentencing hearing, finds that the aggravati and mitigating factors marked, if any, were proven by a preponderance of the evidence and that the
	Wy factors in aggravation outweigh the factors in mitigation and that an aggravated sentence is justified.
	factors in mitigation outweigh the factors in aggravation and that a minigated sentence is justified.
	Dote 03-05-99 Name Of Presiding Judge (Type Or Print) PETER M. MCHUGH Signature of Fresiding Judge LOW Name Of Presiding Judge PETER M. MCHUGH
	AOC-CR-605, Side Two, Rev. 11/97 Material opposite unmarked squares is to be disregarded as surplusage. P 1997 Administrative Office of the

STATE OF NORTH CALLINA		%o. 99CRS 23247
Guilford County	High (4) logiz	In The General Court Of Justice
OTATE VEDGUE	1000 1110	Superior Court Division
STATE VERSUS Name Of Defendant Theodore Mead Kimble		THE FELONY JUDGMENT NOTING
Offense		AND MITIGATING FACTORS (STRUCTURED SENTENCING)
Solicitation first degree murder	- Chi	G.S. 15A-1340.16
offense. Separate findings of aggravating factors	gs of aggravating factors and mitiga and mitigating factors should be m	ating factors should be made only for the most serious nade for each offense that is not consolidated.
Making Charles Control Ac	GRAVATING FACTORS	The first of the second of the
conspiracy. 2.a. The offense was committed for the benef promote, further, or assist in any criminal committing a conspiracy.	dominance of other participants other person in committing the of the office of the office of the office of the office office of the office of	offense and was not charged with committing a criminal street gang, with the specific intent to
3. The offense was committed for the purpo a. avoiding or preventing a lawful arrest	p-manual and a second	escape from custody.
4. The defendant was: a. hired to commit the offense.	b. paid to comi	mit the offense.
 The offense was committed to: a. disrupt the lawful exercise of a gove b. hinder the lawful exercise of a gover 		
employee of the Department of Correction judge, clerk or assistant or deputy clerk of engaged in the performance of that person 7. The offense was especially heinous, atroc 8. The defendant knowingly created a great rewould normally be hazardous to the lives of 9. The defendant held public office at the times 10. The defendant:	, jailer, fireman, emergency med court, magistrate, prosecutor, justical duties or because of tous or cruel. isk of death to more than one put finder than one person. e of the offense and the offense.	
11. The victim was:	, c. mentally infirm.	d. physically infirm. e. handicapped.
 12. The defendant committed the offense whi 13. The defendant involved a person under the 14. The offense involved: a. an attempted taking of property of g c. damage causing great monetary loss 	age of 16 in the commission of reat monetary value. b. the	charge. f the crime. actual taking of property of great monetary value. unusually large quantity of contraband.
 15. The defendant took advantage of a position 16. The offense involved the sale or delivery of the offense was committed against a victor 18. The defendant does not support does not suppo	n of trust or confidence to comr f a controlled substance to a mi im because of the victim's race, dant's family.	mit the offense. nor. , color, religion, nationality, or country of origin.
committed by an adult.		hat would be a Class A, B, C, D or E felony if
☐ 19. The victim of this offense suffered serious☐ 20. Additional written findings of factors in ag		
The Court makes no findings of any aggravating	factors.	·

1	VIN STALL BY TO BE A TO BE A SECOND WITH A TIME PAULONS
1	1. The defendant committed the offense under: $EXH(B) I(L) 20 I J$
	a. duress which was insufficient to constitute a defense but significantly reduced the defendant's culpability.
	b. coercion which was insufficient to constitute a defense but significantly reduced the defendant's culpability.
	c. threat which was insufficient to constitute a defense but significantly reduced the defendant's culpability.
	d. compulsion which was insufficient to constitute a defense but significantly reduced the defendant's culpability.
	2. The defendant:
	a. was a passive participant in the commission of the offense.
	b. played a minor role in the commission of the offense.
	3. The defendant was suffering from a:
1	a. mental condition that was insufficient to constitute a defense but significantly reduced the defendant's culpability
1	for the offense.
1	b. physical condition that was insufficient to constitute a defense but significantly reduced the defendant's
١	culpability for the offense.
	4. The defendant's:
	a. age, or immaturity, at the time of the commission of the offense significantly reduced the defendant's
	culpability for the offense. b. limited mental capacity at the time of the commission of the offense significantly reduced the defendant's
	culpability for the offense.
	·
	5. The defendant has made:
	a. substantial restitution to the victim. b. full restitution to the victim.
	6. The victim was more than 16 years of age and:
	a. was a voluntary participant in the defendant's conduct.
	b. consented to the defendant's conduct.
ļ	7. The defendant:
	a. aided in the apprehension of another felon.
	b. testified truthfully on behalf of the state in another prosecution of a felony.
	B. a. The defendant acted under strong provocation.
	b. The relationship between the defendant and the victim was otherwise extenuating.
	The defendants
	a. could not reasonably foresee that the defendant's conduct would cause or threaten serious bodily harm or fear.
	b. exercised caution to avoid serious bodily harm or fear to other persons.
	10. The defendant reasonably believed that the defendant's conduct was legal.
	11. The defendant voluntarily acknowledged wrongdoing in connection with the offense to a law enforcement officer:
	a. at an early stage of the criminal process.
	b. prior to arrest.
	12. The defendant has been a person of good character or has had a good reputation in the community in which the defendant lives
	13. The defendant is a minor and has reliable supervision available.
	14. The defendant has been honorably discharged from the United States Armed Services. 15. The defendant has accepted responsibility for the defendant's criminal conduct.
	15. The defendant has accepted responsibility for the defendant of shared completed a drug treatment program or an
	alcohol treatment program subsequent to arrest and prior to trial.
	17. The defendant supports the defendant's family.
	13. The defendant has a support system in the community.
	1 VV19 The defendant has a positive employment history or is gainfully employed.
	20. The defendant has a good treatment prognosis and a workable treatment plan is available.
	21. Additional written findings of factors in mitigation:
of the same	
	The Court makes no findings of any mitigating factors.
	DETERMINATION (NOTE: Check only one)
	The Court, after considering the evidence and arguments presented at the trial and sentencing hearing, finds that the aggravation of the court, after considering the evidence and arguments presented at the trial and sentencing hearing, finds that the aggravation of the court, after considering the evidence and arguments presented at the trial and sentencing hearing, finds that the aggravation of the court, after considering the evidence and arguments presented at the trial and sentencing hearing, finds that the aggravation of the court, after considering the evidence and arguments presented at the trial and sentencing hearing, finds that the aggravation of the court, after considering the evidence and arguments presented at the trial and sentencing hearing, finds that the aggravation of the court of
	and mitigating factors marked, if any, were proven by a preponderance of the evidence and that the
	factors in aggravation outweigh the factors in mitigation and that an aggravated sentence is justified. factors in mitigation outweigh the factors in aggravation and that a mitigated sentence is justified.
	Date 03-05-99 Name Of Presiding Judge (Type Or Print) PETER M. MCHUGH Signature Of Fresiding Judge PORT M. MCHUGH
	100-00-11 LBLER III HOHOUL \(\(\lambda\) \(\lambda\) \(\lambda\) \(\lambda\) \(\lambda\) \(\lambda\)

AOC-CR-605, Side Two, Rev. 11/97

• 1997 Administrative Office of the

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No. 37P01

EXHIBIT (M) EIGHTEENTH DISTRICT

SUPREME COURT OF NORTH CAROLINA

(State v Theodore Mead Kimble)

State of North Carolina

Theodore Mead Kimble

From NC Court of Appeals (COA99-1518) (97CRS23656) (97 CRS 39581) (98 CRS 23486) (99CRS23241-48)

ORDER

Upon consideration of the petition filed by Defendant in this matter for discretionary review of the decision of the North Carolina Court of Appeals pursuant to G.S. 7A-31, the following order was entered and is hereby certified to the North Carolina Court of Appeals:

"Denied by order of the Court in conference, this the 5th day of April 2001.

s/ Butterfield, J. For the Court"

WITNESS my hand and the seal of the Supreme Court of North Carolina, this the 6th day of April 2001.

Christie Speir Çameron Clerk, Supreme Court of North Carolina

Carol B. Templeton
Assistant Clerk

Copy to:

North Carolina Court of Appeals

Ms. Danielle M. Carman, Assistant Appellate Defender, For Kimble

Mr. Edwin W. Welch, Special Deputy Attorney General, For State

Mr. Horace M. Kimel, Jr., District Attorney

Mr. David Churchill, Clerk of Superior Court

Mr. Ralph A. White, Appellate Court Reporter

West Publishing Company

Lexis-Nexis



2021 1 1 2001

.561	EXHIBIT ()	A J File No.			
STATE OF NORTH C In the General Court Superior Court Divis	of Justice	97CRS 23656			
GUILFORD COUNT STATE OF NORTH CARO v.	Y	Film No. INDICTMENT ARSON			
THEODORE MEADE KIM	BLE	CONSPIRACY TO MURDER			
Date of Offense October 9, 1995	<i>0</i> ∨ <i>∂</i>	Offense in Violation of G.S. 14-58 and the Common Law			
AR		OUNT I OCCUPIED DWELLING			
1 1 October 0 1005 the De	fendant, Theodore burned a the dwellii	CAROLINA, upon their oath present and find that on or Mead Kimble did unlawfully, willfully, maliciously and ng house inhabited by Patricia Kimble, located at 2104 County NC.			
		OUNT II SPIRACY			
that on or about October 9, 1 feloniously that conspire, combined that the First Degree in the	995, the Defendant ine, confederate and bot Theodore Mead	NORTH CAROLINA, upon their oath do present and find it, Theodore Mead Kimble did unlawfully, willfully, and d agree with Ronnie Lee Kimble to commit the felony of Kimble did agree with Ronnie Lee Kimble to murder, kill Stat. 14-17, and the common law of the State of North			
**		Signature of Prosecutor			
1,					
	WIT	rnesses			
J. D. Church Guilford County Sheriff's 95-1009-0027	s Department				
The witnesses marked "X" were testimony, this bill was found to	sworn by the unders	signed Foreman of the Grand Jury and after hearing			
A TRUE BILL by twel attest the concurrence of twelve INOT A TRUE BILL	ve or more grand juro or more grand juro				
Date		Signature of Grand Jury Foreman			
NOV 03 1997		Michael Smith			

•

253		EXMIGIT	(\mathcal{O})	,	
	STATE OF NORTH CARO In the General Court of Ju Superior Court Division			98CRS 23486	
	GUILFORD COUNTY STATE OF NORTH CAROLINA v. THEODORE MEAD KIMBLE	1998 JUL -6 GUILROID O	Fil 3: 58	Film No. INDICTMEN FIRST DEGREE	
	of Offense er 9, 1995	BY SK		Offense in Violation of 14-58 and the Comm	
		FIRST DE	GREE AR	SON	·
felonio Brande	THE JURORS FOR THE STAT October 9, 1995, the Defenda usly burn or cause to be burned on Station Court, Pleasant Gard the dwelling.	nt, Theodore	Mead Kimb	le did unlawfully, williu habited by Patricia Kim	ble, located at 2104
			\		
ab. "					
					·
				Signature of Prosect	utor
		WIT	NESSES	`	
	J. D. Church Guilford County Sheriff's Depa 95-1009-0027	rtment			
The w	itnesses marked "X" were sworn nony, this bill was found to be:	by the unders	signed Foren	nan of the Grand Jury an	d after hearing
attest	A TRUE BILL by twelve or in the concurrence of twelve or mo	more grand juror ore grand juror	rors, and I the rs in this Bil	ne undersigned Foreman of Indictment.	of the Grand Jury,
Date			Signat	ure of Grand Jury Foreman	
Market Street Control	JUL 0 6 1998			Handal In Pr	rie

File No.	Count No.(s)	EXMIBIT (P) Offe	onsa(s)
97CRS23656		Second Degree Arson	
97CRS23663	1 & 2	Breaking and Entry and Larceny	
97CRS23661	1 & 2	Breaking and Entry and Larceny	
97CRS23657	1 & 2	Breaking and Entry and Larceny	
97CRS23671	BERTON CHARLES TO THE STATE OF	Breaking and Entry	1
97CP.S23675	1 & 2	Breaking and Entry and Larceny	
,	отличного (од нове). Заправо) о Проференция от нашеле выгорий сообразоров (од новерхного за		
And the state of the section of the	and American Charles and Charl		
	aan filiku qaraga saan daraga suuqad diisisiin saa jirgiin aan agan ay ah ay ka saa doonada ah ah aa sa sa sa		
and at the Confidence of the C			
		CERTIFICATION BY PROSECUTOR	
	ecutor enters a	CERTIFICATION BY PROSECUTOR dismissal to the above charges pursuar	nt to a ples arrangement shown o

Name Of Defendant

THEODORE MEADE KIMBLE

EXMIBIT (9)

7CRS39581 7CRS23656 8CRS23486 9CRS 73241		1	SECOND DEGREE MURDER					Punishmen
8CRS23486 9CRS 73241 9CRS 23242	323656			10-09-1995	14-17	F	в-2	415
9CRS 73241 9CRS 23242		2	CONSPIRACY: First Degree Murder	10-09-1995	C.L. & 14-2.4	F	B-2	415
9CRS 23242	23486	1	FIRST DEGREE ARSON	10-09-1995	C.L. & 14-58	F	D	199
	73241	1	SOLICITATION: First Degree Murder	11-04-1998	CL. & 14-2.6	F	С	261
	23242	1	SOLICITATION: First Degree Murder	11-04-1998	CL. & 14-2.6	F	С	261
9CRS 23243	23243	1	SOLICITATION: First Degree Murder	11-04-1998	CL. & 14-2.6	F	С	261
9CRS 23244	23244	1	SOLICITATION: First Degree Murder	11-04-1998	CL. & 14-2.6	F	С	261
9CRS 23245	23245	1	SOLICITATION: First Degree Murder	11-04-1998	CL. & 14-2.6	F	С	261
9CRS 23244		1	SOLICITATION: First Degree Murder	11-04-1998	CL. & 14-2.6	F	С	261
9CRS 2 3 2 4 7		1	SOLICITATION: First Degree Murder	11-04-1998	CL. & 14-2.6	F	С	261
9CRS_23248		.1	SOLICITATION: First Degree Murder	11-04-1998	CL. & 14-2.6	F	С	261
			JAN 28 1999 AT 350 YOURS CLERK OF SUPERIOR COURSE					
p.,								

MANDATORY MINIMUM FINES & SENTENCES (if any)

B2: 130 mos., D: 53 mos., C: 80 mos.

14. (if applicable) The prosecutor and your lawyer have informed the Court that these are all the terms are	nd #	Answers
conditions of your plea: (See attachment for additional plea arrangements, including voluntary dismissals.)		
The State of North Carolina agrees to accept a plea to Second Degree Murder in 97CRS39581. Cour	nt 1 of 97CR	S23656
shall be dismissed. In return, the Defendant agrees to enter guilty pleas to Second Degree Murder in	97CRS3958	51,
Conspiracy to Commit First Degree Murder in 97CRS23656, First Degree Arson in 98CRS23486, and	nd eight cour	nts of
Solicitation to Commit First Degree Murder in Bills of Information which are to be filed this date. T		
and understands that he will receive consecutive sentences in each of these cases. Further, the Defer		
ashes of Patricia Blakley Kimble to the Blakley family. The State agrees to dismiss any Breaking an	d Entry or L	arceny
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 Sente	ncing Act the	e maximum
sentence he can receive for each B-2 felony is 254 months, for each Class C felony 159 months, and	for the Clas	s 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	(15)	no
or threatened you in any way to cause you to enter this plea against your wishes?		11100
16. Do you enter this plea of your own free will, fully understanding what you are doing?	(16)	
17. Do you have any questions about what has just been said to you or about anything else		110
connected with your case?	(17) _	my,
I have read or have heard all of these questions and understand them. The answers shown are the one they are true and accurate. Neither my lawyer nor anyone else has told me to give false answers in ordered accept my plea in this case. The conditions of the plea as stated above, if any, are accurate.	ler to have the	he Court
SWORN AND SUBSCRIBED TO BEFORE ME 00000 (/28/99		
Olympia Of Difference		
Date 1/28/09 Signature / Will Mar & Det X Therefore Kind		
Name Of Defendent (Type Or Print)	0_	
1420 aor 11/22	<u> </u>	
CERTIFICATION BY LAWYER FOR DEFENDANT	محام حاملات	defendant's
As lawyer for the defendant named above, I hereby certify that the conditions stated above, if any, upon	on which the	explained to
plea was entered are correct and they are agreed to by the defendant and myself. I further certify that the defendant the nature and elements of the charge(s) to which the defendant is nleading.	///)
Date Wallet of the Company of the	if h	
CERTIFICATION BY PROSECUTOR	ν γ	
As prosecutor for this Prosecutorial District, I hereby certify that the conditions stated above, if any, at	re the terms	agreed to by
the defendant and his/her lawyer and myself for the entry of the plea by the defendant to the chargets	In this case	Э.
Date C. O Name Of Prosecutor (Type Or Print) Signature Of Prosecutor		
1/28/97 Richard E. Kanosh 1 To	\rightarrow	
PLEA ADJUDICATION \		
Upon consideration of the record proper, evidence presented, answers of defendant, and statements o defendant and the District Attorney, the undersigned finds:	f the lawyer	for the
1. That there is a factual basis for the entry of the plea.		
a must be a start of a	مل المستم ألمستالين	mada fraaly
3. That the defendant is competent to stand trial and that the plea is the informed choice of the determinant	indant and is	made freely,
voluntarily and understandingly.		
The defendant's plea is hereby accepted by the Court and is ordered recorded.		·
Date Name Of Presiding Judge (Type Or Pant) Signeture of Presiding Judge	$M M_{\gamma}$	bould
1/28/99 JETU 11. 11(CN CU)	1-110	1911-
		/
AOC-CR-300, Side Two, Rev. 10/97 • 1997 Administrative Office of the Court		

I was at work, tyle's Building material Oct. 9, 1995. AT 3:25 PM. I called Patrica.

Kimble jusho 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 phase I worked out of the office as my younger brother;

Romie Kimble came driving up (3:45 PM). AS I spike to Romie an employee named James Ogburn came working up. James asked Romie about the for
sale sign in the window of his car. while they talked I had to go wait on a costomer. After the customer left I went and got the tools Romaie had asked for. Romie left Lyle's Building MtL around 4:25 PM. AT 4:45 PM Romiels.)

was at his home working when his father-w-law, James STUMP came driving up to help him. The rest of the evening Romie spent with his in-laws and wife. Thus all of Romiels time was accounted for.

Other than myself James again was the key witness who could varify Ramie's location from 3:45 P.M. to 4:25 P.M. Detectives spoke to James Deburn at least (4) times. But the Prosecutor (Dick Panosh) never turned over a single statement made by James. Two of those intervews were made down-town in the D.A.'s office. The first time Jame again gove his statement was at Lyle's Building Mtl. infront of Edna Kimbbe. James was interreleased 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 alway 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 space 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 This 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 leaded with latters, 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 then fight all the time. The next time they fallout, 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 Febry Breaking / Entering and Larcery charges. When I got the case discovery information I read where Jeff Roberts had called Erime-stoppers just like I said he would. In my absence my father, Ronnie kimble (Sr.) ran Lyles Building Mt. My younger brother, Romie Kimble (Ir) was also arrested April 1 (97) and indicted for the death of Patricia Kimble. I would be indicted a few months later. While Romie (Ir.) sat in the Greenshoro Sail of Guilford County, I sat in the High Point Sail.

While I sat in jail there was a breakin at Lyle's Building MtL. Sameone loaded Shingles onto 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. aneday 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 Nicholes, Rob's wife and daughter. while at the beach Jeff helped Rob do a roofing job with the stolen shingles, then Rob west and soid 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 warrest and arrest Robert Nicholes. The ractions or lack there of by the D.A.'s office should've come as no surprise. Jeff also told Mr. Kimble (3r.) 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.

They let Mr. Kinble (Sr.) Know, He had talked it over with his wife and desided not to go through with it (Lie), and testify against Ted (T.K.). James and the Co-employee give 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 oneday for kinch, and spoke to a young woman named Melanie Exendine. Patrick told Melanie he didn't know anything about Patricia Kinble'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 Parosh) had Jeff placed at the HighPoint Jail, in the very cell "next to me." Jeff told me he was out attempting to stead 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 Parosh (Asst. D.A.) and detective J.D.Church wanted him to try and talk to me about my case. On another visit they wanted If 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. Roush athreater 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 34 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 Parosh had stated he bester keep his mouth short and disappear. If Jeff did as told the pending charges against him would be drapped. 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 Jeffghe got of jail and was never heard from again. Up until the time Mr Parosh threater 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 Parosh was trying to do. But my lawyers did nothing.

I was still in jail a waiting trial when a patrol car arrived at lyle's Building.

Material. The police officers arrested James agourn and claimed it was for back childsupport payments. But when James got down town he was taken to the D.A's

affice 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 Cyburn 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 peptalk. 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 AT plus felony Breaking/ Entering and Larceny cases. The D.A. threaten to prosecute James on all of those 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 (cordefendant) Rannie Kimble Iris trial, Tell Roberts and James Cyburn were nowhere 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 Rannie (Ir) 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! Rannie Kimble was standing infront of myself and James Cyburn at the time Patricia Kimble died. It would be impossible for Rannie 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 Jay 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 Jay 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 on "Ad" for a TRATUER "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, I had evidence which could be traced back to Robert Nicholes. Mrkimble (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 acrest Robert Nicholes. Clearly this was a Miscarriage of Justice, and Prosecutor Misconduct. Richard Panash 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 belief are made in good faith, And I Believe to be TRUE, I have regten & trafted the same, I swear under purjury. Swom to and before me this the 15 Day of October 2003.

My Commission Expires 5-18-2006

MY COMMISSION EXPIRES: THEODORE MEAD KIMBLE EXHIBIT (T) 1043

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 Kon in reference to how thou 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 technique He stated that instead he would take the" contempt ot court charge" que de the time at the Country term He told James that he was telling him this so that he could relay it to MR Kimble. Walter a Cole of 8/2/97

EXHIGH (T) 2013 Time 12:00 4-18-97

Robert informed me that the Police was on him concerning Ted And the murder Robert Also snys that, Ted tild him somethings that he shouldn't have, but nothing concerning the murder. Robert says he was going to plea guility to All larcensey changes.

Kamer Uglum

GKAIBIT (1) 30/3 7-29-97

On July 22nd I saw Robert nicklous in the parking down from Syles Bld. Materials, he stated to me that he wasn't going to testifin against ted, concerning the muder of his wife. Lob, also asked me to reform you. Limble of this matter too . Robert says that he would be not testibing, and that he would deal with that. the primary missage was bor me to inform Mr. K

of his actions concerning

James Ogburn

EXMIBIT (U) 1083

To Contect Courty Cart House Superior Court Judge Peter Me Hugh

Theodesic Kimble Po sex 186. Tery NC 2737/

GNAIBIT (11)

Superior Correct Judge -

I Therefore I'll Kimble would like to with draw my guilty-Ples on All recognits and changes. I Request to go before a jury and pleas my case. I was pressured into my earlier pleas. I'm Not Guilty and here by with draw my earlier pleas of Guilty.

When you read the Plea Agreement, you asked it I bird been threaten in anyway to force me to take the agreement? The assure is yes! the Zimmenn stad by my side, under his breath saying, "Play it coal." I fold him yes before hand and he was affected I'd fell you. I ask, How can I say "No" when I in being told if I dou't, I'll be killed . Should I go to treat.

I believe your opinion needs to want tall the evidence is heard. I disapprove of you saying "Good To be to my lawyers. It sounds me it you had read the newspapers and formed your own givings. I hope a byist attitude isn't show during the treat or tayour to the DA.

I rejuct a gag order be placed on the D.A. He has done nothing but brain whith the public and potential junious. Firther April 1 Sam

EXMIBIT (IA) 30/3

Do to the DA'S DRESS CONFERENCES I'd like my tripl moved to Winston Sittem in Farsyth County.

I've Not made my decision known to my atterneys At this point, but Am presently doing so. I Assize you, I willn't Allow somewhe to push me Around Again. My mind is made up.

Thank you, Theodore W. Kunhl. 2-24-99

PS. what is justice when A D.A fells an opposing witness, "Town life is not a back in the Road, one goes to prison the other to probation. Don't show at the Kimble trint."

and the second s

3/1/99 cc: Parosh Zimmerman/Crompter

EXHIBIT (V)

1	GUILTY TO?
2	DEFENDANT:- YES, SIR.
3	THE COURT:- ARE YOU SATISFIED WITH YOUR ATTORNEYS'
4	LEGAL SERVICES ON YOUR BEHALF?
5	DEFENDANT:- YES, SIR.
6	THE COURT:- HAVE YOU DISCUSSED ANY POSSIBLE DEFENSES
7	THAT YOU MAY HAVE AVAILABLE TO ASSERT AGAINST THESE VARIOUS
8	CHARGES THAT HAVE BEEN FILED AGAINST YOU?
9	DEFENDANT:- YES, SIR.
10	THE COURT:- AND YOU ARE SATISFIED WITH YOUR
11	ATTORNEYS' SERVICES WITH REGARD TO THEIR CONSULTATION, IS THAT
12	CORRECT?
13	DEFENDANT:- YES, SIR.
14.	THE COURT:- ALL RIGHT. YOU UNDERSTAND YOU HAVE THE
15	RIGHT TO PLEAD NOT GUILTY TO THESE CHARGES AND TO BE TRIED BY A
16	JURY UPON A PLEA OF NOT GUILTY?
17	DEFENDANT:- YES, SIR.
18	THE COURT:- DO YOU UNDERSTAND THAT, AT SUCH TRIAL,
19	YOU WOULD HAVE THE RIGHT TO CONFRONT THE WITNESSES AGAINST YOU
20	AND TO CROSS EXAMINE THE WITNESSES AGAINST YOU?
21	DEFENDANT:- YES, SIR.
22	THE COURT:- AND DO YOU UNDERSTAND THAT, BY ENTRY OF
23	THIS PLEA, YOU ARE WAIVING, THAT IS, GIVING UP, THESE AND ALL
24	OF YOUR OTHER CONSTITUTIONAL RIGHTS RELATING TO BEING TRIED BY
25	A JURY?

EXHIBIT (N) 1002

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

DEFENDANT: YES, SIR.

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

DEFENDANT:- YES, SIR.

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

DEFENDANT:- YES, SIR.

UNDERSTAND YOUR FULL PLEA ARRANGEMENT TO EE: THE STATE OF
NORTH CAROLINA HAS AGREED, PURSUANT TO THE PLEA ARRANGEMENT, TO
ACCEPT A PLEA OF GUILTY TO SECOND DEGREE MURDER IN CASE
97-CRS-39581. COUNT ONE IN THAT — IN CASE 97-CRS-23656 SHALL
BE DISMISSED BY THE STATE UPON YOUR PLEA OF GUILTY. IN RETURN,
THE DEFENDANT AGREES TO ENTER PLEAS OF GUILTY TO SECOND DEGREE
MURDER IN CASE 39581, CONSPIRACY TO COMMIT FIRST DEGREE MURDER
IN CASE 97-CRS-23656, AND FIRST DEGREE ARSON IN CASE
98-CRS-23486, AND EIGHT COUNTS OF SOLICITATION TO COMMIT FIRST
DEGREE MURDER PURSUANT TO THE BILLS OF INFORMATION WHICH HAVE
BEEN SUBMITTED TO THE COURT. THE DEFENDANT AGREES PURSUANT TO

Exmended 2012

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THAT PLEA ARRANGEMENT 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 PURSUANT TO ITS COMMITMENT AND THE PLEA ARRANGEMENT TO DISMISS ANY BREAKING AND ENTERING OR LARCENY INDICTMENTS PENDING AGAINST THEODORE MEAD KIMBLE WHICH ARE PRESENTLY PENDING IN GUILFORD COUNTY, NORTH CAROLINA. THE PARTIES STIPULATE, PURSUANT TO THE PLEA ARRANGEMENT, THAT THE DEFENDANT, THAT IS YOU, IS SUBJECT TO SENTENCE AS A LEVEL TWO OFFENDER, AND THAT, PURSUANT TO THE STRUCTURED SENTENCING ACT, THE MAXIMUM SENTENCE THAT THE DEFENDANT MAY RECEIVE FOR EACH OF THE B2 FELONIES IS 254 MONTHS, FOR EACH CLASS C FELONY, IT'S 159 MONTHS, AND FOR THE CLASS D FELONY, IT IS 108 MONTHS. IS WHAT I'VE JUST SAID TO YOU A CORRECT STATEMENT OF WHAT YOU UNDERSTAND YOUR FULL PLEA ARRANGEMENT TO BE, MR. KIMBLE?

DEFENDANT: YES, SIR.

THE COURT: - AND DO YOU PERSONALLY ACCEPT THE PLEA ARRANGEMENT AT THIS TIME?

DEFENDANT:- YES, SIR.

THE COURT: OTHER THAN THE CONDITIONS OF THE PLEA ARRANGEMENT I HAVE JUST RECITED TO YOU, HAS ANYONE THREATENED YOU OR MADE ANY PROMISES TO YOU TO IN ANY WAY ATTEMPT TO CAUSE YOU TO ENTER THIS PLEA OF GUILTY AGAINST YOUR WISHES?

DEFENDANT:- NO, SIR.

EXHIBIT (X)

(March 4, 1999.)

THE COURT: Mr. Panosh, you may proceed.

MR. PANOSH: Your Honor, we are before the Court on the matter of Theodore Mead Kimble, the remaining case is 97 CRS 39581. I believe that the first matter is a motion to withdraw filed pro se by the defendant.

Your Honor, the State has filed an Answer to the motion to withdraw, and I've served counsel with a copy. I did note that on page 1 when I indicated date of change of counsel, I have the wrong date there. It should have been December 3rd, of '98 change of counsel.

And I've made that correction.

THE COURT: Thank you. Mr. Crumpler, Mr. Zimmerman, are you appearing with the defendant at this time?

MR. CRUMPLER: Your Honor, we are appearing by virtue of the nature of the motion. We have explained to the defendant actually we will remain neutral because we may be asked questions, and the defendant understands that.

THE COURT: All right. Thank you. Mr. Kimble, would you stand up, please?

(Defendant stands.)

THE COURT: Mr. Kimble, the court records

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had manipulated the witnesses and myself. I ask my trial be moved to Winston-Salem because of the publicity around 2. my case, mainly caused by the D.A. I'm tired of being scared, used and run over by Guilford County. It's time I stand up for myself and quit allowing these people to I want the truth known by all, and that's what everyone is going to get when I take the stand. It's my life, it should be my choice. Please, Your Honor, set the plea aside and set a trial date. I don't want to have to appeal the decision to get the trial I deserve. This would further delay the inevitable and tie up the I would have to get new court appointed lawyers and start over. The lawyers I have were paid. Let them finish what they've started. With all due respect, you represent justice. I'm willing to die to prove my I love my wife, and I want to tell the truth. The D.A. has done nothing -- everything in his power to ensure that I not receive a fair trial. Please set things straight. 22 23

I might add, Your Honor, being intimidated, last time I left I was somewhat abused. I was shackled so tight it left bruises on my wrists and nearly broke the skin on my ankles, and the driver was running 97 mph down 220, blowing his horn, flashing his lights at people to get out of his way. By the time I got back to my

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- We probably have 350 on the roll. And on Sunday morning worship attendance we probably average 150 to 175 altogether.
- Mr. Kimble, you've heard the witnesses here in court today. Have you heard your wife's testimony?
- Yes, sir. Α.
- Keeping in mind that His Honor is going to have to pass judgment on your son, Ted, at the conclusion of the hearing, will you relate to the Court things about your son Ted that you would ask the Court to consider in his behalf?
- Yes, sir. Your Honor, I've sat through my other son's trial. There was a question at the end of trial by I told him I would like to express to you I Mr. Panosh. believe with all my heart my sons did not do this. know I believe it because the time frame, I'd look at it humanly and the time frame that my other son supposedly committed the murder for this son, he could not have done it because he was at the place of business at Lyles Building Material with my son, and with another witness. The witness was going to testify that he was at Lyles up to about 4:30. He told me this on numerous occasions. And about two weeks before the trial started, the D.A. called him down here to his office, and they had mentioned to him about bringing him in on the breaking,

GXH1619 (2) P6,20,2.

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entering, larcenies if he didn't cooperate with them. come back to the place of business and his story changed that my son left -- well, last time he saw him was around But he told me all the way up to that time that he would be glad to come to court, be glad to testify that my son was at that business till about 4:30. But then when he went to the D.A.'s office, he come back, his story changed. I know with all my heart that my sons are not quilty of this. And I'll go to my grave knowing that because it's just no way. I asked myself could they have done it. I looked at it from every way possible. It's no way they could have because they could not have been And my other son, he was working two jobs. wife told him that if he would pay off the boat--- He wanted to buy a motorcycle. That if he would pay off the boat that he could buy a motorcycle. And then after her death, he did go buy a motorcycle. But first of all, he went out and bought the clothes that he needed, the things that he needed. Then he took little bit of that money, he went and borrowed money from the bank on a charge card and he did buy a motorcycle, which I did not approve of. I owned a couple of motorcycles and they're dangerous. With all my heart I do not believe either one of my sons had anything to do with this murder. he took the plea bargain. I know that he did that.

Lyles, did you know these two people, Mr. Pardee and Mr. Nichols?

A. Very well, sir.

- Q. And, uh, did you ever have any conversation with Mr. Nichols or Mr. Pardee concerning anything about your wife or manner in which she was killed or whatever?
- A. Never. The only conversation, and it was limited, was with Patrick Pardee, and it was about the crooked dealings of the D.A.
- Q. Did Mr. Nichols or Mr. Pardee ever give you any indication that they would not testify to these facts that you had told them, that you'd had your wife killed or words to that effect?
- A. I've never heard any of the comments they've made. I do know that Patrick Pardee, three days before signing a statement against me, told Melanie Oxendine that he had no idea of any of the facts surrounding my case. That the D.A. and detectives were pressuring him to lie against me.
- Q. All right.
- A. Three days later he signs a statement against me and supposedly knows everything there is about my case. And this is under oath. Melanie Oxendine testified to it.
- Q. Now, tell me about what happened on the 9th day of

October, the date your wife died. Can you tell me what 1 time you -- how long you were at work? 2 I need to finish what I was saying. Α. 3 Excuse me. Go ahead. Q. 4 Rob Nichols told James Ogburn and a fellow inmate 5 Α. from Lyles Building Material, which I believe you have a 6 statement written by those two employees of Lyles. 7 ran into each other at the gas station across the street, 8 and he verified to them that he had been being coached by 9 That he was no longer going to testify against 10 me, quote unquote, "lie" against me, as the D.A. had been 11

pressuring him to do.

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All right. Anything else about either one of Q. them?

Uh, I would like to mention that Rob Nichols has a very serious drug problem. Alcohol abuse problem. Abuses his wife and his child. Uh, the B&E's, he would take his little girl out on the job sites and have his little girl stick her arm through the key hole to reach up and unlock the dead bolt. I mean this is the witness with the halo around his head the D.A. portrays him as.

- Now, along those lines about the breaking and enterings and the thievery or taking of property, were you engaged in some of that also with them?
- Yes, sir. I'm ashamed to admit it. Under the Α.

EXHIBIT (88)

is a biased opinion. She has never liked me, and told me to my face.

21.

- Q. And it's your contention that Mr. Pardee and Mr. Nichols, who are under indictment for something; is that correct?
- A. Yes, sir. They face charges on the B&E's. And they have both signed plea agreements with the D.A. Per se cut deals for their testimony to lie against me.
- Q. All right. So, you're saying, telling us that there is some sentence consideration on the part of the State in return for their testimony?
- A. Shoot yeah. That's the only reason he could get them to testify against me, was to give them a plea agreement. Just like the William Stewart guy got out of prison early.
- Q. All right. Now that's where I'm headed right now.

 Let me ask you this. As to this William Stewart, how

 long did you know William Stewart at Southern

 Correctional?
- A. Possibly a month. A month or so.
- Q. During this month period, did Mr. -- did you approach Mr. Stewart about having anybody killed?
- A. No, sir. I did not. He approached me.
- Q. And what was his -- can you tell us how he brought it up to or broached the subject to you about killing

EXHIBIT (CO)

- people off bringing the stuff, selling it to me, and gets

 me to helping him, you know---
 - Q. Got you to help him?
 - A. He got me to help him.
 - Q. In fact, you're the one that purchased the two-way radios, didn't you?
- 7 | A. The walkie talkies?
 - Q. Yes.

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- 9 | A. Yes.
- 10 | 0. And the scanner to listen for the police?
- 11 A. I had a scanner prior to that. My dad's got one too. Does that make him a criminal?
- Q. And went out and rented a U-Haul, I mean a lift and a trailer to go to---
 - A. I own the trailer, sir. I owned the trailer before Rob Nichols broke in my lot and stole it and took it to the beach and sold it, and you refused to do anything about it.
 - Q. You rented a lift, didn't you, to go to---
- 20 A. Yes, I did. To go to Home Depot to load up lumber.
- 22 | Q. Lumber by the lift full?
- 23 A. Exactly. Rob Nichols used to work there and rip
 24 them off all the time. And he instigated it. He knew
 25 the managers. He knew their schedule. He knew

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

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

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

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

MR. PANOSH: May we approach?

THE COURT: Yes, sir.

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EXMIBIT (00) 2012

MR. ZIMMERMAN: Absolutely satisfactory with 1 the defendant. 2 (Counsel approach the bench.) 3 THE COURT: Counsel, the Court will provide 4 you with a recess to attempt to provide that element of 5 evidence. 6 Court will be in temporary recess, Sheriff. 7 (A recess was taken.) 8 (All parties present.) 9 MR. ZIMMERMAN: If Your Honor pleases, the 10 defense appreciates Your Honor's thoughtful and serious 11 consideration of the presentence study, and apologizes 12 for the delay. 13 That's no need to apologize, THE COURT: 14 In this matter I'm anxious to have all the 15 evidence that any party wishes to produce. 16 Is there any further evidence at this time 17 for the State or for the defendant? 18 MR. PANOSH: No, thank you, Your Honor. 19 MR. CRUMPLER: No, Your Honor. 20 Is there any further matters THE COURT: 21 before the Court enters judgment? 22 MR. PANOSH: No, Your Honor. 23 THE COURT: Judgment of this Court shall be 24 entered first in case 97 CRS 39581, wherein the defendant 25

STATE OF N	ORTH CAROL	ıNA _r	es ustraferitet att en Kommerke	FIIO NO.	97CK_Z.	EXH	BIT (E	E) lak	63	
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NOTE: [This form is to be used consolidated for judgme	for (1) felony offense(s), and (2) mint with any felony offense(s). Use i	sdemeanor offense(s AOC-CR-301 on DW), which are offense(s).]		q		Superior (
Defendant	STATE VERSUS		0)				ND COMM			
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RICHAR	LD PANOSH	Not Indigent		i	ERT L. M	ICCLELL	AN	⊠ Appointe	ed Re	etained
The defendant	pled guilty to: 🔲 was	s found guilty b	oy a jury of:	pled no	o contest	to:				
File No.(s) And Offense(s	s)				Date Of	Offense ·	G.S. No.		F./M.	CL.
97CRS 23655 POSS	ESS WEAPON OF MASS	DESTRUCTION	ON		04-0	04-01-1997 14-288.8			F	F
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🗌 2. makes no prio	pursuant to G.S. 15A-134 r record level finding be arm penalty, violent hab	cause none is	required fo	or Class A felo	ny,	PRI 0- REC	OR LEVI	EL: II		UV VI
under G.S. 15. (d) for an a 2. makes the Fin 3. imposes the p 4. finds the defer 5. adjudges the c 6. finds enhance 7. finds no Extra	ten findings because the A-1340.17(c). (b) for adjudication as a violent dings of Aggravating arrison term pursuant to andant has provided subsidefendant to be an habiled punishment from a Clordinary Mitigation.	r a Class A fel- habitual felon d Mitigating Fa plea arranger stantial assista tual felon purs ass 1 misdeme	ony. (c) (c) (d) (d) (d) (d) (d) (d) (d) (d) (d) (d	c) for enhance 7.12. (e) for the on the att sentence under the G.S. 90-cle 2A of G.S. Class I felony.	d firearm or drug tra tached AC er Article -95(h)(5). Chapter	penalty (Cafficking of CC-CR-60 58 of G.S. 14. 90-95(e)(G.S. 15A-13 ffenses. 5. Chapter 1 3) (drugs);	340.16A). 5A.	14-3(c)	(race).
voluntarily, and under	nsidered evidence, argu standingly entered, and	Orders the ab	oove offens	es be consoli	dated for	judgment	and the de	fendant be	impriso	oned
for a minimum term o	f: months	for a maxim	um term of: 018	•	months	1	ustody of t	he:		
Class A Felony:	Life Imprisonment V		Deatl	h (see attache	ed Death	– ⊠n.c	. DOC. eriff pursual	nt to G.S. 1	I5A-135	52(b).
-	Life Imprisonment With elon: Life Imprisonmen			ant and Certifi	icales)	— ⊡ Oth	er			
The defendant shall b	pe given credit for -3	2- days s	pent in the	confinement	prior to th	e date of	his Judgm	ent as a res	ult of this	charge.
☐ The sentence imp☐ The sentence imp	osed above shall begin osed above shall begin e number, date, county an	at the expirati	on of the se	entence impos					serve.	
AOC-CR-601 12	11100 1110	Material opposite unm	narked squares is	s to be disregarded a	as surplusade					

AOC-CR-601 New 10/94

EXHIBIT (BE) 2073

(check all that apply)	
L 1. The defendant shall pay the costs. The Court recommends:	2. The defendant shall pay a fine of \$
3. Substance Abuse Treatment Unit pursuant to G.S. 15A-135	1(h) A Prychiatric and/or neverbological courses lines
5. Work Release	11(h). 4. Psychiatric and/or psychological counseling.
6. Payment as a condition of post release supervision, if applic	cable, or from work release earnings, if applicable, of the items and
amounts set out below.	Solve a principle of the feeting contraction
Fine Costs Restitution*	Reimbursement For Atty Fee & Other Expenses Total Amount Due
	\$1,850.00 \$1,850.00
*Name(s), address(es), amount(s) & social security number(s) of ag	grieved party(ies) to receive restitution:
The Court further recommends:	
The Court does not be seen as	,
The Court does not recommend: 1. Restitution as a condition of post release supervision or work	k release.
	UNSEL FOR DEFENDANT
A hearing was held in open court in the presence of the defendard defendant's appointed counsel or assigned public defender.	at which time a fee, including expenses, was awarded the
	ENT/ADDEAL ENTDIES
	ENT/APPEAL ENTRIES
that the officer cause the defendant to be delivered with these co	Judgment and Commitment to the sheriff or other qualified officer and opies to the custody of the agency named on the reverse to serve the
sentence imposed or until the defendant shall have complied with	h the conditions of release pending appeal.
The defendant gives notice of appeal from the judgment of the Si	uperior Court to the Appellate Division. Appeal entries and any
conditions of post conviction release are set forth on form AOC-C	;R-350.
SIGNATURE	OF JUDGE
Date Name Of Presiding Judge (Type Or Print)	Signature Of Presiding Judge
12-08-1997 H. W. ZIMMERMAN, JR.	
Date Appeal Dismissed Date Withdrawal Of Appeal File	MENT AFTER APPEAL Date Appellate Opinion Certified
It is ORDERED that this Judgment be executed. It is FURTHER OR	DERED that the sheriff arrest the defendant, if necessary, and
recommit the defendant to the custody of the official named in this Jι	udgment and furnish that official two certified copies of this Judgment
and Commitment as authority for the commitment and detention of the	ie defendant.
Date Signature Of Clerk	Deputy CSC Assistant CSC
CERTIE	Clerk Of Superior Court
I certify that this Judgment and Commitment with the attachment main this case. Appeal Entries (AOC-CR-350)	rked below is a true and complete copy of the original which is on file
Felony Judgment Findings Of Aggravating And Mit	igating Factors (AOC-CR-605)
Judicial Findings As To Forfeiture Of Licensing Pri	,
Commitment Information Statement (DC-600)	,
Date	Signature And Seal
	···
Date Certified Copies Delivered To Sheriff	Deputy CSC Assistant CSC Clerk Of Superior Court
12-16-97	Deputy CSC Assistant CSC Clerk Of Superior Court

AOC-CR-601, Side Two New 10/94

		GUILFORD	COUNTY	EXHI	BIT (EE)	30F3	
STATE OF N	IORTH CAROLINA	Cares Agencia	ED:	•	File-No.	Transcript	
<u>Gu</u>	Place County	DEC 8	3 1997		In The Genera	al Court Of Justice	
		4.000°CL	DOK O M	Di	strict XSu	perior Court Divisior	
Name And Address Of Defe	endant BY	CLERK OF SUPE	DICT COURT		RKSHEET		
Theod	ore M. Kimble	ZERN OF SUPE	M. D. T. S.		ORD LEVE		
					ENTENCINO		
Social Security No.	SID No.				ICTION LE		
	NC\$725	7218A	MISDEMEANOR SENTENCING (STRUCTURED SENTENCING)				
Race	Sex M BOB	8/19		(01.1.0010)		5A-1340.14, 15A-1340.2	
defendant's prior record on number of prior convictions G.S. 15A-1340.14(d). Clas	provided to assist the attorney for the state in a the reverse side of this form or attach a copy in each offense class and enter those totals is 1 misdemeanor offenses under Chapter 20 41.4(a2)]. First Degree Rape and First Degree	of the defendant's in the chart in secti are not assigned a ee Sexual offense	prior record pursuar ion I below. For mul any points for determ convictions prior to C	nt to G.S. 15A-1340 tiple prior convictior nining prior record le October 1, 1994, are	el or prior conviction 1.14(f). If sentencing is at one session of evel for felony senter of Class B1 conviction	n level. Record the n for a felony, count the court, see	
	I. SCORING PR	IOR RECOF	RD/FELONY S	ENTENCING			
NUMBER	ТҮРЕ				FACTORS POINTS		
	Prior Felony Class A Convict				X10		
	Prior Felony Class B1 Convid	ction			X 9		
	Prior Felony Class B2 or C o	n 		X 6			
	Prior Felony Class E or F or		X 4				
۵*	Prior Felony Class H or I Cor	nviction		X 2			
	Prior Class A1 or 1 Misdemeanor Conviction (see note)				X 1	The second secon	
	,	SUBTOTAL >					
If all the elements	of the present offense are inclu	ided in the pr	ior offense		+ 1		
	robation, parole, or post-release ing a sentence of imprisonment		; ог		+ 1		
	er J			Т	OTAL •	0	
	II. CLASSIFYING	PRIOR RE	CORD/CONVI				
	MISDEMEANOR				ELONY		
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And the second of the second o			19+	VI			
☐ The Court has de	etermined the number of prior conv	ictions	☐ The Court f	finds the prior c	convictions, pric	or record points and	
to be	and the level to be as show a	above.	•		e defendant to	be as shown herein.	
Date 12/2/97	Name Of Presiding Judge (Type Or Print)	T	Signature Of Pre	100	\sim	·	
AOC-CR-600	11.1V. Milling 1.1VA/	V		1			
Rev. 12/95		(Ov	rer)				

EXHIBIT (EF)

STATEMENT CONCERNING DEFENDANT'S CONFINEMENT

Prior to entry of his guilty pleas in the instant cases, defendant was in the custody of the Department of Corrections at Southern Correctional Institution in Troy, North Carolina for unrelated larceny and breaking and entering convictions. On January 12, 1999, defendant was placed on disciplinary segregation. Defendant entered his guilty pleas in the instant cases on January 28, 1999. On February 1, 1999, defendant's control status was changed to administrative segregation. On February 5, 1999, defendant was placed on maximum control and remained there until he was transferred to Caledonia Correctional Institution on February 26, 1999. Pursuant to state-wide policy, all three levels of control require 23-hour-per-day lock-up, with one hour per day for showering and individual recreation. In addition, inmates held at all three control levels are not allowed phone calls and are permitted only one non-contact week-day visit per week.