

Serial killer may challenge plea deal

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DENVER - He is Colorado's most prolific serial killer, but a sentencing conflict is raising questions about the plea deal that put Scott Lee Kimball behind bars.

Kimball was released from federal prison in 2002 to work as an FBI informant. Boulder District Attorney Stan Garnett calls that a "catastrophic" decision. "Once he was released, they should have paid attention and monitored him. They didn't and kept it all secret," Garnett said.

Investigators believe Kimball killed at least four people while working with the FBI.

In October of last year, Garnett and the Boulder DA's office reached a plea agreement with Kimball, allowing him to plead guilty to two counts of second degree murder in exchange for a 70 year prison sentence. The Boulder judge ordered that sentence to be served at the same time as another fraud conviction and a firearms conviction in federal court.

However, FOX31 has learned that the judge in the federal case sentenced Kimball to serve 70 months in the federal prison - a sentence that was to be served after the 70 year state sentence was complete.

Some question whether that would give Kimball a basis to try and get out of the plea deal.

"Had I had all the information that I have now, I probably would not have pled guilty to this," Kimball told FOX31 in a jailhouse interview earlier this year. "I probably would have made them prove their case."

Legal analyst Dan Recht says Kimball will likely have to live with the deal.

"People try to withdraw pleas if they think it is to their advantage. This happens all the time," Recht told us. "But courts are loathe to allow it and allow it only under certain, narrowly confined parameters."

"If I was Kimball's attorney, I would go back to federal court."

Recht says this is the kind of legal issue that could be easily resolved without Kimball being allowed to get out of any plea agreement.

Boulder DA Stan Garnett agrees. He says his office was concerned only with the state charges.

"We wanted to make sure Kimball was going to be locked up for the rest of his life on the state sentence, and that's what we obtained," Garnett said. "Keeping him locked up for the rest of his life is a top priority for the Boulder DA's office and we'll do whatever we have to make sure he stays locked up."

Garnett and Recht both point out that no matter what happens with the murder charge, Kimball is not getting out of prison any time soon. He is also serving a 48 year state sentence on a fraud charge.

Kimball's attorney does not want to talk to the media.