

Into the West A.K.A.: “The West Memphis Three”

Classification: Murderer

Characteristics: Satanic ritual? - Rape?

Number of victims: 3?

Date of murder: May 5, 1993

Date of arrest: June 4, 1993

Date of birth: December 11, 1974

Victim profile: Three eight-year-old boys (Stevie Branch, Michael Moore and Christopher Byers)

Method of murder: Stabbing with knife - Drowning

Location: West Memphis, Arkansas, USA

Status: Sentenced to death on April 19, 1994

Damien Wayne Echols (born December 11, 1974) is one of the three men, known as the West Memphis Three, who were convicted in the killing of eight-year-olds Steve Branch, Christopher Byers, and Michael Moore at Robin Hood Hills, West Memphis, Arkansas, on May 5, 1993.

Crimes

Damien Echols was convicted of murder by a jury and sentenced to death by lethal injection. He sits on death row under 23 hours per day lockdown at the Varner Supermax.

Media response

The case has received considerable attention. Many critics charge that the arrests and convictions were a miscarriage of justice inspired by a misguided moral panic, and that the defendants were wrongfully convicted during a period of intense media scrutiny and Satanic panic.

The HBO documentary films *Paradise Lost: The Child Murders at Robin Hood Hills* and *Paradise Lost 2: Revelations*, and a book on the convictions, *Devil's Knot* by Mara Leveritt, all make the case that the convictions were wrongfully obtained and three innocent men are in prison. Another sequel, *Paradise Lost 3*, is currently being filmed. A second book, written earlier than Mara Leveritt's is less supportive. That book, *Blood of Innocents* by Guy Reel, Marc Perrusquia and Bartholomew Sullivan, examines both sides of the case without coming to any definitive conclusion. In light of the DNA tests completed in 2007 that excluded the defendants as contributors, Perrusquia has joined those who publicly doubt whether the convictions were just.

Echols' case has seen significant support from numerous rock and pop musicians, who have popularized the case by staging fund-raisers including benefit CDs and an art auction with

some of his own work. Eddie Vedder of Pearl Jam and Natalie Maines of The Dixie Chicks are among high profile celebrities actively seeking Echols's release. They appeared on a segment of Larry King Live in August 2010, to discuss the case, along with Echols's wife Lorri Davis.

Echols co-wrote the lyrics to the song "Army Reserve", on Pearl Jam's self-titled album. Punk musician Michale Graves, formerly of The Misfits has been writing music to coincide with Echols' poetry. Echols and Graves worked together on an album, *illusions*, released October 2007.

Later life

Echols has published his memoirs, *Almost Home: My Life Story Vol. 1*. His poetry has appeared in the Porcupine Literary Arts magazine (Volume 8, Issue 2), and he has written non-fiction for the Arkansas Literary Forum.

Echols is currently seeking to overturn his conviction based on trial error including juror misconduct, as well as with the results of a DNA Status Report filed on July 17, 2007, which concluded "none of the genetic material recovered at the scene of the crimes was attributable to Mr. Echols, Echols' co-defendant, Jason Baldwin, or defendant Jessie Misskelley. . . . [a]lthough most of the genetic material recovered from the scene was attributable to the victims of the offenses, some of it cannot be attributed to either the victims or the defendants."

Advanced DNA and other scientific evidence — combined with additional evidence from several different witnesses and experts — released in October 2007 has thrown the original ruling into question. A hearing on his petition for a writ of habeas corpus is pending in the Federal District Court for the Eastern District of Arkansas.

He is married to Lorri Davis.

As of 2010 he is incarcerated in the Arkansas Department of Correction (ADC) Varner Unit Supermax. Echols, ADC# 000931, entered the system on March 19, 1994.

On November 4, 2010 the Arkansas Supreme Court ordered a lower-court judge to examine whether the three inmates should be exonerated in light of new DNA evidence. DNA from the crime scene was tested in 2007, and the results of the test "conclusively excluded Echols, Baldwin and Misskelley as the source of the DNA evidence tested," the Supreme Court wrote in its ruling. The justices also said the lower court must examine claims of misconduct by the jurors who sentenced Damien Echols to death and Jessie Misskelley and Jason Baldwin to life in prison. The Justices also ordered new evidentiary hearings for Miskelley and Baldwin.

Wikipedia.org

The West Memphis Three is the name given to three teenagers who were tried and convicted of the murders of three eight-year-old boys in West Memphis, Arkansas in 1993 by a prosecution team that put forth the idea that the only purported motive in the case was that the slayings were part of a Satanic ritual.

Damien Echols was sentenced to death, Jessie Misskelley, Jr., was sentenced to life imprisonment plus 40 years (he received two 20-year sentences in addition to the life sentence), and Jason Baldwin was sentenced to life imprisonment.

In July 2007, new forensic evidence was presented in the case, including evidence that none of the DNA collected at the crime scene matched the defendants, but did match Terry Hobbs, the stepfather of one of the victims, along with DNA from a friend of Hobbs' whom he had been with on the day of the murders. The status report jointly issued by the State and the Defense team on July 17, 2007 states, "Although most of the genetic material recovered from the scene was attributable to the victims of the offenses, some of it cannot be attributed to either the victims or the defendants." On October 29, 2007, the defense filed a Second Amended Writ of Habeas Corpus, outlining the new evidence.

In September 2008, Judge David Burnett (Circuit Court) denied Echols' application for a hearing on the new DNA evidence. The Arkansas Supreme Court heard oral argument on Burnett's decision on September 30, 2010.

On November 4, 2010, the Arkansas Supreme Court ruled that Burnett's interpretation of the DNA statute was too narrow and reversed and remanded all three cases for hearings as to whether new trials should be ordered. The hearings, to be presided over by Judge David Laser, are tentatively scheduled for July, 2011.

Crime

Three eight-year-old boys (Stevie Branch, Michael Moore and Christopher Byers) were reported missing on May 5, 1993. The first report to the police was made by Byers' adoptive father, John Mark Byers, around 7:00 pm. The boys were last seen together by a neighbor, who reported that they had been called by Terry Hobbs, the stepfather of Steve Branch around 6:00. Hobbs later denied seeing the boys at all on May 5. Initial police searches made that night were limited. Friends and neighbors also conducted an impromptu and unsuccessful search that night, which included a cursory visit to the location where the bodies were ultimately found.

A more thorough police search for the children began around 8:00 am on the morning of May 6, aided by Crittenden County Search and Rescue personnel, along with several others. Searchers canvassed all of West Memphis, but focused primarily on Robin Hood Hills, where the boys were reported last seen. Despite a human chain making a shoulder-to-shoulder

search of Robin Hood Hills searchers found no sign of the missing boys. Search and Rescue personnel broke for lunch at 1:00 pm, but police and others continued searching.

Around 1:45pm, Juvenile Parole Officer Steve Jones spotted a boy's black shoe floating in a muddy creek that led to a major drainage canal in Robin Hood Hills. A subsequent search of the ditch found the bodies of three boys. They were stripped naked and had been hogtied with their own shoelaces: their right ankles tied to their right wrists behind their backs, the same with their left limbs. Their clothing was found in the creek, some of it twisted around sticks that had been thrust into the muddy ditch bed. The clothing was mostly turned inside-out; two pairs of the boys' underwear were never recovered. Christopher Byers also had deep lacerations and injuries to his scrotum and penis, most likely caused by post-mortem animal predation.

The original autopsies were inconclusive as to time of death, but the Arkansas medical examiner determined that Byers died of blood loss, and Moore and Branch drowned. A later review of the case by a medical examiner for the defense determined that the boys had been killed between 1:00 am and 5:00 am on May 6, 1993.

The official interpretation of the crime scene forensics for the case remains controversial. Prosecution experts claim Byers' wounds were the results of a knife attack and that he had been purposely castrated by the murderer; defense experts claim the injuries were more probably the result of post-mortem animal predation. Police suspected the boys had been raped or sodomized; later expert testimony disputed this finding despite trace amounts of sperm DNA found on a pair of pants recovered from the scene. Police believed the boys were assaulted and killed at the location they were found; critics argued that the assault, at least, was unlikely to have occurred at the creek.

Byers was the only victim with drugs in his system; he was prescribed Ritalin in January 1993, as part of an attention-deficit disorder treatment. (The initial autopsy report describes the drug as Carbamazepine.) The dosage was found to be at sub-therapeutic level, which is consistent with John Mark Byers' statement that Christopher Byers may not have taken his prescription on May 5, 1993.

Background of parties

Stevie Branch was the son of Steve and Pam Branch, who divorced when he was an infant. Pam was awarded custody, and Steve was allowed visitation with the boy only when Pam was also present. She later married Terry Hobbs. When Stevie was murdered, his biological father owed over \$13,000 in child support, and was under investigation for state tax violations.

Christopher Byers was born to Melissa DeFir and Ricky Murray. After divorcing Murray, Melissa married John Mark Byers, who later adopted her two sons. John Mark Byers had a long criminal history, including charges for making "terroristic [death] threats" against his

first wife, and multiple drug and theft offenses. John Mark Byers was a frequent paid informant for the West Memphis Police Department (WMPD), and, when the boys were murdered, was under Federal investigation for suspected grand theft from the U.S. Postal Service. The elder Byers admitted whipping Christopher with a belt only a few hours before the boys went missing, because Christopher had tried to break into his own home (Christopher was not allowed a house key, and the empty house was locked when he arrived home after school). According to Crittenden County Prosecutor John Fogelman, police and other officials suspected John Mark Byers of committing the murders the day the victims were discovered.

Michael Moore was the son of Todd and Dana Moore. Of the three murdered boys, Michael's parents were the only ones still married and who never had any serious criminal charges or investigations made against them.

Suspects

Baldwin, Echols and Misskelley

At the time of their arrests, Jessie Misskelley was 17 years old, Jason Baldwin was 16, and Damien Echols was 18.

Baldwin and Misskelley had previous records for minor juvenile offenses (for vandalism and shoplifting, respectively) and Misskelley had a reputation for being hot-tempered and engaging in frequent fistfights. Misskelley and Echols had dropped out of high school, but Baldwin earned above-average grades and demonstrated a talent for drawing and sketching, and due to encouragement from a school counselor, was considering studying graphic design in college.

Echols and Baldwin were close friends, due in part to their similar tastes in music and fiction, and due to a shared distaste for the prevailing cultural climate of West Memphis, which was politically conservative and strongly Evangelical Christian. Baldwin and Echols were acquainted with Misskelley from school, but were not close friends with him.

Echols' family was poor, with frequent visits from social workers, and he rarely attended school. His tumultuous relationship with an early girlfriend culminated when the two ran off together. After breaking into a trailer during a rain storm, the pair were arrested, though only Echols was charged with burglary.

Police heard rumors that the young lovers had planned to have a child and sacrifice the infant; based on this story, they had Echols institutionalized for psychiatric evaluation. He was diagnosed as depressed and suicidal, and was prescribed the antidepressant imipramine. Subsequent testing demonstrated poor math skills, but also showed that Echols ranked above average in reading and verbal skills.

Echols spent several months in a mental institution in Arkansas, and afterwards received "full disability" status from the Social Security Administration. During Echols' trial, Dr. George W. Woods testified (for the defense) that Echols suffered from:

"... serious mental illness characterized by grandiose and persecutory delusions, auditory and visual hallucinations, disordered thought processes, substantial lack of insight, and chronic, incapacitating mood swings."

At the time of his arrest, Echols was working part-time with a roofing company and expecting a child with his new girlfriend, Domini Teer.

Chris Morgan and Brian Holland

Early in the investigation, the WMPD briefly regarded two West Memphis teenagers as suspects. Chris Morgan and Brian Holland, both with drug offense histories, had abruptly departed for Oceanside, California four days after the bodies were discovered. Morgan was presumed to be at least casually familiar with all three murdered boys, having previously driven an ice cream truck route in their neighborhood.

Arrested in Oceanside on 17 May 1993, Morgan and Holland both took polygraph exams administered by California police. Examiners reported that both men's charts indicated deception when they denied involvement in the murders. During subsequent questioning, Morgan claimed a long history of drug and alcohol use, along with blackouts and memory lapses. He furthermore claimed that he "might have" killed the victims but quickly recanted this part of his statement.

California police sent blood and urine samples from Morgan and Holland to the WMPD, but there is no indication WMPD investigated Morgan or Holland as suspects following their arrest in California. The relevance of Morgan's recanted statement would later be debated in trial, but was eventually barred from admission as evidence.

"Mr. Bojangles"

The sighting of a black male as a possible alternate suspect was implied during the beginning of the trial, at which time the possibility of conviction of the initial suspects seemed slim. According to local West Memphis police officers, on the evening of 5 May 1993, at 8:42 pm, workers in the Bojangles' restaurant about a mile from the crime scene (a direct route through the bayou where the children were found) in Robin Hood Hills reported seeing a black male "dazed and covered with blood and mud" inside the ladies' room of the restaurant. Defense attorneys later referred to this man as "Mr. Bojangles."

The man was bleeding from his arm and brushed against the walls. The man had defecated on himself and on the floor. The police were called, but the man left the scene. Officer Regina

Meeks responded (by inquiring at the drive through window) about 45 minutes later. By then, the man had left and police did not enter the restroom on that date.

The following day, when the victims were found, Bojangles' manager Marty King, thinking there was a possible connection between the bloody, disoriented man and the killings, called police twice to inform them of his suspicions. According to Regina Meek's testimony during the Echols/Baldwin Trial, after the second telephone call, police gathered evidence from the restroom.

Investigators wore their same shoes and clothes from the Robin Hood Hills crime scene into the Bojangles restaurant bathroom, conceivably contaminating that scene. Police detective Bryn Ridge later stated he lost the blood scrapings taken from the walls and tiles of the restroom. A hair identified as belonging to an African-American male was later recovered from a sheet which was used to wrap one of the victims.

Investigative criticism

There has been widespread criticism of how the police handled the crime scene. Misskelley's former attorney Dan Stidham cites multiple substantial police errors at the crime scene, characterizing it as "literally trampled, especially the creek bed." The bodies, he said, had been removed from the water before the coroner arrived to examine the scene and determine the state of rigor mortis, allowing the bodies to decay on the creek bank, and to be exposed to sunlight and insects.

The police did not telephone the coroner until almost two hours after the discovery of the floating shoe, resulting in a late appearance by the coroner. Officials failed to drain the creek in a timely manner and secure possible evidence in the water (the creek was sandbagged after the bodies were pulled from the water). Stidham calls the coroner's investigation "extremely substandard."

There was a small amount of blood found at the scene that was never tested. According to HBO's documentaries "Paradise Lost: The Child Murders at Robin Hood Hills" (1996) and "Paradise Lost 2: Revelations" (2000), no blood was found at the crime scene, indicating that the location where the bodies were found was not necessarily the location in which the murders actually happened. After the initial investigation, the police failed to control disclosure of information and speculation about the crime scene.

According to Mara Leveritt, investigative journalist and author of *Devil's Knot*, "Police records were a mess. To call them disorderly would be putting it mildly." Leveritt speculated that the small local police force was overwhelmed by the crime, which was unlike any they had ever investigated. Police refused an unsolicited offer of aid and consultation from the violent crimes experts of the Arkansas State Police, and critics suggested this was due to the WMPD being investigated by the Arkansas State Police for suspected theft from the Crittenden County drug task force. Leveritt further noted that some of the physical evidence

was stored in paper sacks obtained from a supermarket (with the supermarket's name pre-printed on the bags) rather than in containers of known and controlled origin.

Leveritt also mistakenly presumed that the crime scene video was shot minutes after Detectives Mike Allen and Bryn Ridge recovered two of the bodies, when in fact the camera was not available for almost thirty minutes afterwards.

When police speculated about the assailant, the juvenile probation officer assisting at the scene of the murders speculated that Echols was "capable" of committing the murders, stating "it looks like Damien Echols finally killed someone."

One expert in the film *Paradise Lost 2: Revelations*, stated that human bite marks could have been left on at least one of the victims. However, these potential bite marks were first noticed in photographs years after the trials and were not inspected by a board-certified medical examiner until four years after the murders. The defense's own expert testified that the mark in question was not an adult bite mark, which is consistent with the testimony of the list of experts put on by the State who had concluded that there was no bite mark. The State's experts had examined the actual bodies for any marks and others conducted expert photo analysis of injuries. Upon further examination, it was concluded that if the marks were bite marks, they did not match the teeth of any of the three convicted.

Evidence and interviews

Police interviewed Echols two days after the bodies were discovered. During a polygraph examination, he denied any involvement. The polygraph examiner claimed that Echols' chart indicated deception. However, when asked to produce the record of the examination, the examiner indicated that he had no written record.

On 10 May 1993, four days after the bodies were found, Detective Bryn Ridge questioned Echols, asking Echols to speculate as to how the three victims died. Ridge's description of Echols' answer is abstracted as follows:

He stated that the boys probably died of mutilation, some guy had cut the bodies up, heard that they were in the water, they may have drowned. He said at least one was cut up more than the others. Purpose of the killing may have been to scare someone. He believed that it was only one person for fear of squealing by another involved.

At trial, Echols testified that Ridge's description of the conversation (which was not recorded) was inaccurate. At the time that Echols had allegedly made these statements, police thought that there was no public knowledge that one of the children had been mutilated more severely than the others. This contradicted John Mark Byers' (the stepfather of victim Christopher Byers) statement to reporters only minutes after the three bodies were found, "that two boys had been badly beaten and that the third had been even worse." At that time, Det. Gitchell had not released that information. Gitchell later said he had told John Mark Byers some

details of the scene first, before the official release to the media. Leveritt also demonstrates that the police leaked some information, and that partly accurate gossip about the case was widely discussed among the public.

Throughout the course of the trial and afterward, many teenagers came forward with statements regarding being questioned and polygraphed by the local police. They said that Durham, among others, was at times aggressive and verbally abusive if they did not say what was expected of them. After the test, when asked what he was afraid of, Echols replied, "The electric chair."

After a month had passed with little progress in the case police continued to focus their investigation upon Echols, interrogating him more frequently than any other person; however, they claimed he was not regarded as a direct suspect but a source of information.

On 3 June police interrogated Jessie Misskelley Jr. Misskelley, whose IQ was reported to be 72 (making him borderline mentally retarded), was questioned alone; his parents were not present during the interrogation. Misskelley's father gave permission for Misskelley to go with police, but did not explicitly give permission for his minor son to be questioned or interrogated. Misskelley was questioned for roughly twelve hours; only two segments, totaling 46 minutes, were recorded. Misskelley quickly recanted his confession, citing intimidation, coercion, fatigue, and veiled threats from police.

During Misskelley's trial, Dr. Richard Ofshe, an expert on false confessions and police coercion and Professor of Sociology at UC Berkeley, testified that the brief recording of Misskelley's interrogation was a "classic example" of police coercion. Critics have also stated that Misskelley's "confession" was in many respects inconsistent with the particulars of the crime scene and murder victims, including (for example) an "admission" that Misskelley "watched Damien rape one of the boys." Police had initially suspected that the boys were raped due to their dilated anuses, but forensic evidence later proved conclusively that the murdered boys had not been raped at all, and their dilated anuses were a normal post-mortem condition.

Subsequent to his conviction, a police officer alleged that Misskelley had confessed to her. However, once again, no reliable details of the crime were provided.

Misskelley was a minor when he was questioned, and though informed of his Miranda rights, he later claimed he did not fully understand them. The Arkansas Supreme Court determined that Misskelley's confession was voluntary and that he did, in fact, understand the Miranda warning and its consequences. Misskelley specifically said he was "scared of the police" during his first confession. Portions of Misskelley's statements to the police were leaked to the press and reported on the front page of the Memphis Commercial Appeal newspaper before any of the trials began.

Shortly after Misskelley's original confession, police arrested Echols and his close friend Baldwin. Eight months after his original confession, on February 17, 1994, Misskelley made another statement to police with his lawyer Dan Stidham in the room continually advising Misskelley not to say anything. Misskelley ignored this advice continually and went on to detail how Damien and Jason abused and murdered the boys, while he watched until he decided to leave. Misskelley's attorney, Dan Stidham, who was later elected to a municipal judgeship, has written a detailed critique of what he asserts are major police errors and misconceptions during their investigation.

Vicki Hutcheson

Vicki Hutcheson, a new resident of West Memphis, would play an important role in the investigation, though she would later recant her testimony, stating her statements were fabricated due in part to coercion from police.

On 6 May 1993 (the day the murder victims were found), Hutcheson took a polygraph exam by Detective Don Bray at the Marion Police Department to determine if she had stolen money from her West Memphis employer. Hutcheson's young son, Aaron, was also present, and proved such a distraction that Bray was unable to administer the polygraph. Aaron, a playmate of the murdered boys, mentioned to Bray that the boys had been killed at "the playhouse."

When the bodies proved to have been discovered near where Aaron indicated, Bray asked Aaron for further details, and Aaron claimed that he had witnessed the murders committed by Satanists who spoke Spanish. Aaron's further statements were wildly inconsistent, and he was unable to identify Baldwin, Echols or Misskelley from photo line-ups, and there was no "playhouse" at the location Aaron indicated.

A police officer leaked portions of Aaron's statements to the press contributing to the growing belief that the murders were part of a satanic rite.

On or about 1 June 1993, Hutcheson agreed to police suggestions to place hidden microphones in her home during an encounter with Echols. Misskelley agreed to introduce Hutcheson to Echols. During their conversation, Hutcheson reported that Echols made no incriminating statements. Police said the recording was "inaudible", but Hutcheson claimed the recording was audible.

On 2 June 1993, Hutcheson told police that about two weeks after the murders were committed, she, Echols and Misskelley attended an esbat in Turrell, Arkansas. Hutcheson claimed that, at the esbat, a drunken Echols openly bragged about killing the three boys. Misskelley was first questioned on 3 June 1993, a day after Hutcheson's Esbat confession. Hutcheson was unable to recall the esbat location, and did not name any other participants of the purported esbat.

Hutcheson was never charged with theft. She claimed she implicated Echols and Misskelley to avoid facing criminal charges and to obtain a reward for the discovery of the murderers.

Murder trials (1994)

Misskelley was tried separately, and Echols and Baldwin were tried together in 1994. Under the "Bruton rule", Misskelley's confession could not be admitted against his co-defendants and thus he was tried separately. They all pled innocent.

On February 5, 1994, Misskelley was convicted by a jury of one count of first-degree murder and two counts of second-degree murder. The court sentenced him to life plus 40 years in prison. His conviction was appealed and affirmed by the Arkansas Supreme Court. On March 19, 1994 Echols and Baldwin were found guilty on three counts of murder. The court sentenced Echols to death and Baldwin to life in prison.

Appeals and new evidence

In May 1994, the three appealed their convictions. The convictions were upheld on direct appeal. In 2007, Echols petitioned for a retrial based on a statute permitting post-conviction testing of DNA evidence due to technological advances made since 1994 might provide exoneration for the wrongfully convicted. However, the original trial judge, Judge David Burnett, has disallowed hearing of this information in his court.

The Knife of John Mark Byers (1993)

John Mark Byers, the adoptive father of victim Christopher Byers, gave a knife to cameraman Doug Cooper, who was working with documentary makers Joe Berlinger and Bruce Sinofsky while they were filming the first *Paradise Lost* feature. The knife was a small utility-type knife, manufactured by Kershaw. According to the statements given by Berlinger and Sinofsky, Cooper informed them of his receipt of the knife on December 19, 1993. After the documentary crew returned to New York, Berlinger and Sinofsky reported to have discovered what appeared to be blood on the knife. HBO executives ordered them to return the knife to the West Memphis Police Department. The knife was not received at the West Memphis Police Department until January 8, 1994.

Byers initially claimed the knife had never been used. Blood was found on the knife and Byers then stated that he had used it only once, to cut deer meat. When told the blood matched both his and Chris' blood type, Byers said he had no idea how that blood might have gotten on the knife. During interrogation, West Memphis police suggested to Byers that he might have left the knife out accidentally, and Byers agreed with this. Byers later stated that he may have cut his thumb. Further testing on the knife produced inconclusive results, due in part to the rather small amount of blood, and because both John Mark Byers and Chris Byers had the same HLA-DQα genotype.

John Mark Byers agreed to, and subsequently passed, a polygraph test during the filming of *Paradise Lost 2: Revelations* in regards to the murders, but the documentary indicated that Byers was under the influence of several psychoactive prescription medications that could have affected the test results. During the filming of the show, Byers also volunteered his false teeth when presented with the challenge he had bit the boys' bodies, although at the time of the murders he had his original teeth, which he later had voluntarily extracted, and later claimed there was a medical reason for the procedure.

Possible teeth imprints

As documented in *Paradise Lost 2*, Echols, Misskelley and Baldwin submitted imprints of their teeth (after their imprisonment) that were compared to apparent bite-marks on Steve Branch's forehead, initially overlooked in the original autopsy and trial. No matches were found.

According to the film, Byers had his teeth removed in 1997—after the first trial. He has never offered a consistent reason for their removal; in one instance claiming they were knocked out in a fight, in another saying the medication he was taking made them fall out, and in yet another claiming that he had long planned to have them removed so as to obtain dentures.

After an expert examined autopsy photos and noted what he thought might be the imprint of a belt buckle on Byers' corpse, the elder Byers revealed to the police that he had spanked his stepson shortly before the boy disappeared. He also had a 1988 conviction for terroristic threats that arose from an incident involving his ex-wife, Sandra Byers. Melissa Byers had contacted Christopher's school a few weeks before the murders, expressing concerns that her son was being sexually abused.

A fact not revealed until after the trial was that John Mark Byers had acted as a police informant on several occasions. His prior conviction for the 1988 incident had been expunged in May, 1992, upon the completion of probation, despite the fact that other criminal charges against him should have caused the revocation of his probation.

Vicki Hutcheson recants

In October 2003, Vicki Hutcheson, who played a part in the arrests of Misskelley, Echols and Baldwin, gave an interview to the *Arkansas Times* in which she stated that every word she had given to the police was a fabrication. She further asserted that the police had insinuated if she did not cooperate with them they would take away her child. She noted that when she visited the police station they had photographs of Echols, Baldwin, and Misskelley on the wall and were using them as dart targets. She also claims that an audio tape the police claimed was "unintelligible" (and eventually lost) was perfectly clear and contained no incriminating statements. However, Hutcheson did not testify at the Echols/Baldwin trial.

DNA testing and new physical evidence (2007-2010)

In 2007, DNA collected from the crime scene was tested. None was found to match DNA from Echols, Baldwin, nor Misskelley. In addition, a hair "not inconsistent with" Terry Hobbs, stepfather to Stevie Branch, was found tied into the knots used to bind one of the victims. The prosecutors, while conceding that no DNA evidence ties the accused to the crime scene, has said that, "The State stands behind its convictions of Echols and his codefendants."

On 29 October 2007 papers were filed in federal court by Damien Echols' defense lawyers seeking a retrial or his immediate release from prison. The filing cited DNA evidence linking Terry Hobbs (stepfather of one of the victims) to the crime scene, and new statements from Hobbs' now ex-wife. Also presented in the filing is new expert testimony that the "knife" marks on the victims were the result of animal predation after the bodies had been dumped.

On 10 September 2008 Circuit Court Judge David Burnett denied the request for a retrial, citing the DNA tests as inconclusive. That ruling was appealed to the Arkansas Supreme Court, which heard oral arguments in the case on September 30, 2010.

Foreman and jury misconduct (2008)

In July 2008, it was revealed that Kent Arnold, the jury foreman on the Echols/Baldwin trial, discussed the case with an attorney prior to the beginning of deliberations and advocated for the guilt of the West Memphis Three as a result of the inadmissible Jessie Misskelley statements. Legal experts have agreed that this issue has the strong potential to result in the reversal of the convictions of Jason Baldwin and Damien Echols. If their convictions are reversed, the State is expected to retry them.

In October 2008, Attorney (now Judge) Daniel Stidham, who represented Jessie Misskelley in 1994, testified at a postconviction relief hearing. Stidham testified under oath that, during the trial, Judge David Burnett approached the then-deliberating jury in the Misskelley matter at approximately 11:50 a.m. and advised them they would be breaking for lunch. When the foreman answered "we may almost be done", Judge Burnett responded "well, you'll still have to return for sentencing." When the foreman asked "what if we find him not guilty?" Judge Burnett closed the door without answering. Stidham testified that his failure to request a mistrial based on this exchange was ineffective assistance of counsel and that Misskelley's conviction should therefore be vacated.

Current events and Arkansas Supreme Court ruling

On November 4, 2010 the Arkansas Supreme Court ordered a lower judge to consider whether newly-analyzed DNA evidence might exonerate three men convicted in the 1993 murders of three West Memphis Cub Scouts. The justices also said a lower court must examine claims of misconduct by the jurors who sentenced Damien Echols to death and Jessie Misskelley and Jason Baldwin to life in prison.

In early December 2010, Circuit Court Judge David Laser was selected to replace David Burnett, who was elected to the state Senate, as judge in the appeal hearings.

Echols currently resides in the Varner Unit of the Arkansas Department of Correction.

Family and law enforcement opinions

The families are divided on the belief that the West Memphis Three are guilty. In 2000, the biological father of Christopher Byers, Rick Murray, described his doubts on the West Memphis Three website. In August 2007, Pamela Hobbs, the mother of victim Steven Branch, and John Mark Byers, adoptive father of Christopher Byers, joined those who have publicly questioned the verdicts, calling for a reopening of the verdicts and further investigation of the evidence.

In late 2007, John Mark Byers, adoptive father to Christopher Byers, announced that he now believes that Echols, Misskelley, and Baldwin are innocent. "I believe I would be the last person on the face of the earth that people would expect or dream to see say free the West Memphis 3," said Byers. "From looking at the evidence and the facts that were presented to me, I have no doubt the West Memphis 3 are innocent." Byers is writing a book, and a film biography is being considered for production. Mr. Byers has been speaking to the media on behalf of the convicted and has expressed his desire for "justice for six families."

In 2010, district Judge Brian S. Miller ordered Terry Hobbs, the stepfather of victim Stevie Branch, to pay \$17,590 to Dixie Chicks singer Natalie Maines for legal costs stemming from a defamation lawsuit he filed against the band. Miller dismissed a suit Hobbs filed over Maines' remarks at a 2007 Little Rock rally implying he was involved in killing his stepson. The judge said Hobbs had voluntarily injected himself into a public controversy over whether three teenagers convicted of killing the three 8-year-old boys had been wrongfully condemned.

Documentaries, publications and studies

Two films, *Paradise Lost: The Child Murders at Robin Hood Hills* and *Paradise Lost 2: Revelations*, have documented this case and were strongly critical of the verdict. The movie marked the first time Metallica allowed their music to be used in a movie and drew attention to the cases. The directors are planning two more sequels.

In addition, there have been a few books, including *Blood of Innocents* by Guy Reel and *Devil's Knot* by Mara Leveritt, which also argue that the suspects were wrongly convicted. In 2005, Damien Echols completed his memoir, "*Almost Home, Vol 1,*" offering his perspective of the case.

Wikipedia.org

The Robin Hood Hills Murders

By Burk Sauls - WM3.org

May 5th, 1993 was a Wednesday, and when the Weaver Elementary school bell rang, three 8 year old boys headed home to their nearby West Memphis, Arkansas neighborhood. Only a few hours later they would be reported missing and an informal search by their parents would be under way.

The next afternoon at 1:45 PM, a child's body was pulled from a creek in an area known as Robin Hood Hills. Eventually the bodies of the other two missing children were found nearby. All three of them were naked and they had been tied ankle to wrist with their own shoe laces. The children had been severely beaten, and one child, Christopher Byers, appears to have been the focus of the attack; he had been stabbed repeatedly in the groin area and castrated.

A triple homicide is extremely unusual, and particularly when the victims are children and unrelated to one another. So far, two documentary films have been made about this case, and interest in it shows no sign of fading. The facts surrounding the Robin Hood Hills murders, the events which they triggered, the aftermath, the trials, the verdicts and the hearings have been the focus of an ongoing research project for the past several years and we have reached many surprising conclusions.

Having had no previous experience with this type of murder, the West Memphis Police Department allowed potential evidence to be destroyed at the site where the bodies of Steve Branch, Christopher Byers and Michael Moore were located. Officers who were present made very little apparent effort to preserve or properly document the scene or to make accurate notes. Perhaps this was due to negligence or perhaps it was due to the fact that they were inadequately trained and inexperienced in handling such a crime and the events that naturally follow. Many unidentified people can be seen milling around the bodies in the brief crime scene video, and the Chief Investigator, Gary Gitchell can be seen smoking a cigarette well within the perimeter of the area.

Strangely, a juvenile probation officer was present when the horrible discovery was made and he indulged in speculation with a police officer about who might be responsible for such an unspeakable act. The probation officer had been following the activities of a local teenager named Damien Echols for years, and his first instinct was that the moody, dark haired teen was responsible. In fact, he and the police officer agreed that Damien was the only person they felt was "capable" of such a thing. Both men decided that the triple homicide had actually been a bizarre Satanic ritual sacrifice performed by a "cult" which they imagined Damien was the leader of.

Of course, there was no evidence of any "cult" activity in the woods, and the investigating officers found nothing incriminating the next day when they visited Damien Echols in his trailer in the nearby town of Marion. The juvenile officer had questioned Echols before whenever something happened for which he could find no explanation. When a piece of guidance equipment disappeared from a train that had passed through West Memphis, Damien was questioned even though the train didn't even slow down when it passed through the small truck stop town. When a girl was killed 100 miles away, Damien was questioned. It seems that this juvenile officer was looking for a crime that he could pin on what he saw as a "sinister" teenager, and the homicides of Steve Branch, Christopher Byers and Michael Moore were good enough. Though there wasn't any evidence to connect Damien to the victims or to the murders, the rumors, irresponsible police work and the media created an environment where it was decided, well before the trials, that the three teenagers were devil worshippers who were guilty of the murders.

A local woman who was in trouble for writing bad checks agreed to assist the police in their efforts to investigate Damien by trying to record something incriminating with a hidden tape recorder. Her motive may have been to help catch a killer, but it might have also been the \$30,000 reward that was being offered. She invited Damien to her house, but recorded nothing unusual. This same woman later urged her young son to tell police that he'd seen what had happened in the woods on May 5th. The boy told the police a series of strange tales about people speaking Spanish, riding motorcycles and his eventual escape from these bizarre characters by kicking them and running. The boy's stories became more and more exaggerated, and although after being asked, he agreed with police that Damien Echols had killed his friends, they eventually gave up on the boy providing them with anything reliable that could be used against Echols. Apparently the boy's drawings of Damien with glowing eyes and armor holding up a bloody sword were not convincing enough for an arrest just yet. What they needed was something solid, and since they had destroyed or lost most of the evidence that might have been collected, their only option was hearsay.

Finally, the boy's mother had yet another idea. She urged a mentally handicapped 17-year-old named Jessie Misskelley to go to the police with another eyewitness account of having seen Echols kill the children. Jessie was with the police for twelve hours, yet only a small fragment of this lengthy day of questioning was recorded. Nobody can ever know for sure what transpired before the recording started, but according to the taped fragment, Jessie had finally agreed to give the police the story they were clearly looking for. Despite an obvious unfamiliarity with many of the facts of the murders, Jessie was guided carefully through the questioning by Inspector Gary Gitchell and Detective Bryn Ridge. During the interrogation, Jessie managed to not only corroborate the unfounded suspicions that the West Memphis police had of Damien Echols, but he managed to incriminate Damien's friend Jason Baldwin, and himself.

During Jessie's trial, Dr. Richard Ofshe, a Pulitzer Prize winning expert on false confessions and police coercion testified that the brief recording was a "classic example" of police

coercion. He pointed out how the officers heard Jessie state that the murders had taken place in the morning - but since they knew that the victims had been in school all day, they "suggested" to Jessie that it "must" have been later when he was in the woods. Jessie obligingly agreed. Oddly, the testimony of this expert witness for Jessie's defense was not heard in its entirety by the jury.

Photographs taken of the room where Jessie was given a polygraph test (he "passed" the test, but was told that he had "failed" it) show a baseball bat leaning in the corner, and depending on how West Memphis Police officers normally use this unlikely tool in their questioning, it could have certainly provided serious motivation to a young man with an I.Q of 72. Since very little of this 12 hour ordeal was recorded, we can't know what Jessie was subjected to.

Without hesitation, Jessie Misskelley was arrested, and soon after, so were Jason Baldwin, along with the exclusive focus of the West Memphis Police Department's investigation, Damien Echols.

Portions of Jessie's statements to the police were leaked to the press and reported on the front page of the Memphis Commercial Appeal newspaper before any of the trials began, and Chief Inspector Gary Gitchell, was so sure of his police work that when asked by the local media on a scale of one to ten, how sure he was that he had the correct suspects in custody, he replied "Eleven."

Later, Gitchell would state on camera: ""There's never been a moment that I've ever doubted that we did not arrest the right individuals. Never in my mind. There's never been a doubt." If you overlook his obvious Freudian slip, it's clear that Gitchell believes there is no room for doubt, and that his initial hunch was correct beyond question.

Crowds of angry locals, driven by the hysterical rumors of Satanic human sacrifice and mysterious murdering "cults," waited outside of the courthouses and threw rocks at the defendants, shouted obscenities and told their own tall tales to the media and to each other. Many people came forward with incredible yarns about the mysterious teenager Damien Echols. Rumors were running rampant.

John Mark Byers, the stepfather of one of the victims told the media that his step son's testicles had been found in a jar of alcohol under Damien's bed. This, of course, was a complete fabrication, but the local people heard it, and soon had their own vivid memories of that jar. Byers later claimed to have heard the jar of alcohol rumor on his police radio. There were many more rumors, but this one seems to represent them best.

Satanic Panic is a term used to describe a phenomenon which occurs with alarming regularity in areas with deeply rooted Christian traditions. Various forms of Satanic Panic have been observed since the beginning of time, and although the specific details may change with the times, the roots and results are the same as they have been throughout history. Satanic Panics occur when superstitious people in power choose to explain events that are difficult for them

to comprehend by blaming demons and witches. Instead of trying to honestly and rationally understand the complexities of criminal behavior, sickness or mental illness they choose instead to simplify things by imagining a character named Satan who is responsible.

The aftermath of the Robin Hood Hills Murders were obviously a Satanic Panic, and the verdicts of the two trials (Damien and Jason were tried together) bear this out. Jason and Jessie were each sentenced to life in prison, with no possibility of parole, and Damien was sentenced to die by lethal injection. Judge David Burnett later said that he was "not surprised" by the verdicts.

Books written by best-selling author Stephen King were used as evidence against Damien when no real evidence could be found. Black concert T-shirts were held up as evidence in an American courtroom in the 1990s as "proof" that Jason Baldwin was capable of murdering three 8 year olds. Lyrics to songs by BLUE OYSTER CULT and PINK FLOYD were shown to the jury, apparently in an effort to suggest to them that they were relevant to the murders, and somehow showed that the defendants were guilty.

The inconsistent testimony of a jail house snitch and a couple of little girls who claim to have overheard Damien "confessing" at a girl's softball game were taken seriously even after the sources were shown to be less than solid. There was no physical evidence that pointed to Damien, Jason or Jessie. There was nothing to suggest that they had killed the three children except the superstitious suspicions that were being fueled by the local media who seemed reluctant to publish a story unless it contained the word "Satan" or at least "cult."

As with any murder, there was certainly evidence. There had to be. Nobody can commit such a violent act and leave absolutely nothing behind. It seems that the West Memphis Police managed to destroy or lose much of what might have been useful. On the night that the children were reported missing Officer Regina Meek received a call to investigate a man in the ladies restroom of a nearby Bojangles restaurant. According to the manager of the restaurant, the black man was muddy, bleeding and mumbling, but Meek simply drove through the restaurant's drive-through window without getting out to even take a look. Twenty four hours later, long after the bodies had been found, officers returned to the Bojangles restaurant, which was only a few blocks from Robin Hood Hills woods.

This time the officers actually got out of their vehicle and entered the building, but unfortunately they were still wearing the clothes in which they had searched the woods and handled the bodies earlier that day. Whatever evidence might have been collected at the Bojangles restaurant was now contaminated by whatever material the police officers brought in with them on their shoes and clothing.

Blood scrapings were allegedly taken from the walls and tiles in the restaurant, but Detective Bryn Ridge apparently didn't feel that this potential evidence was very important, because he later testified that he lost it.

A scrap of what appears to be dark cloth can be seen in the photographs taken at the site where the bodies were found, held tightly in the hand of one of the young victims. This "fabric like" material is mentioned in the autopsy report filed by Frank Peretti, but was apparently lost during his examination of the victims. This scrap does not appear in any later photographs or reports. We can only guess what happened to it.

Adult human bite marks, which were found on at least one of the victims were also overlooked during the original investigation. This is very likely due to the fact that these bodies were never examined by a Board Certified Medical Examiner. They were buried without ever having been subjected to an autopsy by a qualified forensic pathologist.

Almost five years after the murders, the first board certified medical examiner, forensic pathologist and forensic odontologist to ever examine the victims did so by looking at the autopsy photographs. They testified during Damien Echols' Rule 37 hearing that the bite marks were in fact of human origin, and after obtaining dental impressions from Jason, Jessie and Damien, concluded that the three young men who are currently serving prison sentences for this murder could not possibly be responsible for the bite marks seen in the victim photographs.

More evidence that might have been useful came in the form of human blood found on a serrated knife. This knife had been given to documentary film makers as a gift, but when the film maker noticed what appeared to be blood in the mechanism of the folding blade, he gave it to West Memphis police. The blood was given a cursory test which only determined the blood type, and once this test was done, the blood was ruined for further testing. It was shown that the blood matched the blood type of one of the victims as well as the knife's original owner, but this information was ruled inconclusive by the court. The owner of the knife was John Mark Byers, the stepfather of victim Christopher Byers. Christopher is the victim whose blood type also matched the blood type found on the knife, and he was the one victim who was castrated and repeatedly stabbed and seemed to be focus of the attack. Why did they even bother to do that kind of blood test, when they knew that the results of the test would be inconclusive, and that the evidence would be ruined for further testing?

Many investigators have also noticed a conspicuous lack of blood in Robin Hood Hills where the bodies were found. This strongly suggests to experienced investigators that the murders took place elsewhere and that the wooded area was simply the dump site.

With so much evidence lost, destroyed or overlooked, it's strange how confident Inspector Gary Gitchell remains to this day about his work.

The verdicts and police work have come under serious scrutiny in the two documentary films by HBO (directed by Joe Berlinger and Bruce Sinofsky), various articles and TV programs as well as this web site, but Jason Baldwin, Damien Echols and Jessie Misskelley remain behind bars.

A Rule 37 hearing to prove ineffective counsel was held in Arkansas several years ago for Damien Echols, and as expected, Judge David Burnett, the same judge who presided over the original trials, denied the appeal. Despite testimony from several noted experts on forensic odontology and pathology, Burnett decided that the wounds identified by the experts as adult human bite marks were not bite marks. Burnett remarked at one point during the hearings that he'd never even heard of forensic odontology before, and yet he refused to acknowledge their expert testimony. In April of 2001, his decision was reversed and remanded in part by the Arkansas Supreme Court.

The fact that this case is still alive in the minds of thousands of people who aren't happy with what they saw happen in those Arkansas courtrooms is a testament to the possibility that justice may yet be seen. The release of PARADISE LOST 2: REVELATIONS, the second film about the case by Joe Berlinger and Bruce Sinofsky shows that the many unresolved mysteries of this complicated case won't just go away. The film is a sequel to their critically successful PARADISE LOST, which launched many people on their own crusades to find the truth behind the superstition, rumors and urban legends surrounding this story.

The police not only betrayed the memory of Steve Branch, Christopher Byers and Michael Moore by not investigating their deaths more effectively, they betrayed Jason Baldwin, Damien Echols and Jessie Misskelley by using them as scapegoats to take the fall for their shoddy work.

This betrayal, the solemn photographs of those three murdered 8 year olds and the three young men in prison for something they did not do, are the things that drive people toward a better understanding of the specifics surrounding this phenomenon. If we refuse to turn our backs on this case, and the forces that cause these kinds of things to happen, then maybe, if we really care about things like truth and justice, we can help to keep this type of witch hunt from happening again. -

Burk Sauls, May, 2000 (updated 2001)

Dan Stidham's Case Synopsis

By Dan Stidham - WM3.org

Note: The original version of this synopsis was written during Jessie Misskelley's trial in 1994. At that time Dan Stidham did not have the assistance of a forensic scientist or a criminal profiler. Mr. Stidham has written new notes to update his case synopsis for our web site in order to address newly discovered evidence and findings, to answer questions relating to his client Jessie Misskelley and to point out the important information that the jury was not permitted to see or hear. The new portions of the synopsis are shown in italics and were added by Mr. Stidham on June 27, 1999.

A. Poor investigation of crime scene

1. Crime Scene not properly secured resulting in loss of potential evidence.
 - a. After discovery of first body, the crime scene was literally trampled, especially the creek bed.
 - b. Bodies were removed from the water too quickly, prior to the arrival of coroner (who was almost two hours late in arriving at crime scene) and placed on ditch bank in the sun destroying invaluable evidence regarding time of death, i.e. body temperature, rigor mortis, etc. (creek bed should have been drained leaving bodies where they were, thereby preserving potential valuable evidence).
 - c. Coroner's investigation was extremely substandard which led to the destruction of valuable evidence and ultimate misunderstanding of evidence by police.
 - d. Police did not keep the facts of the crime scene confidential, especially the injuries to the bodies. Rumors of sexual mutilation were reported in the news media and widely circulated throughout West Memphis as evidenced by the officers notes from interrogating potential suspects about what they had heard about the murders.

B. Legitimate facts from crime scene

1. Bodies found nude, bound with own shoe strings in "hog-tie" fashion;
2. All bodies had substantial injuries to head, with one body (C. Byers) having been sexually mutilated, the testicles removed and the head of the penis removed with the shaft intact but having been "skinned". The testicles and head of the penis were not recovered; (Medical examiner testified in Echols/Baldwin trial that whoever did the mutilation had some knowledge of anatomy and was quite meticulous. The mutilation would have taken quite some time to perform even under laboratory conditions, and almost impossible to do in the water, in the dark, with thousands of mosquitoes swarming. Bodies had no insect bites.)

Update: After consulting with forensic experts in 1997 and 1998, it was learned that Dr. Perretti's testimony at the Echols/Baldwin trial was not exactly accurate. The sexual mutilation of the victim Byers was anything but meticulous. In fact, it was quite crude. The testicles and part of the penis were literally ripped off the victim. In addition, the entire genital area of the victim Byers was covered in gouge-like wounds indicative of rage and/or punishment of this particular victim that was not present in the other victims. This has given us tremendous insight into the possible offender(s). For more specific information see Brent Turvey's Criminal Profile of this crime.

In addition, after consulting with a forensic entomologist, it was learned that some of the wounds to the bodies could be the result of post mortem feeding on the bodies by insects or crayfish and not wounds inflicted by the offender(s). The entomologist, along with Mr. Turvey, also gave us interesting insight on the time of death of the victims which makes the times put forth by Misskelley in his so-called confession virtually impossible.

Mr. Turvey, in examining the autopsy photographs of the victim, Branch, discovered what he believed could be a human bite mark. Upon his advise, we consulted a forensic odontologist who testified that the semi-circled mark above the victim's right eye was a human bite mark. Dental impressions were taken of the three convicted defendants, Echols, Baldwin & Misskelley, and they each were occluded as the source of the bite mark on the victim Branch.

3. Most of the boys' clothes were found in the water with the bodies. The clothes were mostly inside out, not torn. The pants were still zipped, but inside out. Two of the boys underwear briefs were not recovered; (Experts say that serial killers often keep the underwear and body parts of their victims as trophies).

Update: Brent Turvey's investigation and criminal profile reveals that the offender(s) in this case most likely knew the victims and were from the area where the victims lived. Nothing in the facts of the case suggest that a serial type killer was responsible for this crime.

4. Two human hairs were found on the bodies, one Caucasian, one Negroid in origin; (Hairs cannot be conclusively matched. Comparisons are done to exclude suspects.) One hair was "microscopically similar" to Echols, but it was also similar to another suspect and one of the victims' father, and as such, has no real evidentiary value. What does have evidentiary value, however, is the Negroid hair, in so much as the teenagers convicted are all Caucasian. In addition, Mr. Bojangles was a black male.

5. Several clothing fibers were found on the bodies; (Fibers, like hair, cannot be matched, only labeled microscopically similar or dissimilar. One fiber was similar to Jason's mother's housecoat, but it was also similar to one of the victims mother's sweaters.)

6. A couple of poor quality footprints were found near the bodies in the mud, one of which was a tennis shoe; (The print was not similar to any found or compared to the convicted teens).

7. No blood at all was found at the scene. Luminol testing done at the crime scene some two weeks after the discovery of the bodies revealed the presence of possible blood at the crime scene in, and on, the ditch bank where the bodies were laid by the police after they were removed from the water. Blood seeped from the bodies unto the soil where the bodies were laid. Luminal testing is not admissible in Court because it is not scientifically reliable; (The medical examiner testified at the Echols/Baldwin trial that it would be impossible for the injuries that were inflicted on those boys to be inflicted without leaving blood at the scene.) No follow up blood test was performed.

Update: Brent Turvey's analysis reveals that most likely the boys were killed elsewhere and that they were dumped at the site where the bodies were recovered. This explains the lack of blood found at the crime scene. See Brent Turvey's profile.

8. No weapons were found at the scene and no artifacts or anything indicating Satanic Activity were present.

Update: Brent Turvey's investigation and profile reveals that there are no indicators of Satanic activity whatsoever. See Brent Turvey's profile.

C. Police misconceptions regarding crime scene / bodies

1. The Autopsy reports took some time to be produced, and because there were almost no real clues, the police were eager to get the report.

2. MISCONCEPTION: The Autopsy reports revealed that the boys anuses were dilated which seemed to indicate that they had been sodomized, when in fact the dilation was a natural result of the bodies being in the water. Bruising and abrasions of the boys mouths and ears were interpreted by the police as forced oral sex when other explanations were just as plausible.

FACT: The medical examiner testified that there was NO trauma to the boys anuses, something that would virtually have to be present during a sexual assault, especially on a young child. No semen was found in any body cavity of any of the boys at the time of the autopsies.

3. MISCONCEPTION: The police assumed that the time of death had to be between 6:30 p.m. on May 5, 1993, the last time the boys were seen alive, and about 8:30 p.m. when a massive search of the crime scene began.

FACT: Before the Misskelley Trial in Corning, the medical examiner told Misskelley's attorneys that the time of death was impossible to determine because the coroner had done such a poor job in supplying the necessary data. At the Echols/Baldwin trial in Jonesboro, the medical examiner testified that he had done further research and now placed the time of death at between 1:00 and 5:00 a.m. on May 6th, 1993.

Update: See time of death information above.

D. Damien Echols tunnel vision / Satanic Panic

1. The day after the bodies were discovered, the police questioned Damien Echols about the murders. Damien, although highly pressured, professed his innocence and refused to confess to the murders. He even voluntarily gave hair and blood samples to police for comparisons.

2. Police felt that Damien had to be responsible for this crime because of the following:

a. Damien Echols had a bad reputation as being strange and into the occult/Satanism/devil worshipping. The Crittenden County Juvenile Officer, Jerry Driver, was convinced that Damien was involved in the murders based on his past experiences with Damien. Damien told Driver a year before the murders that a cult would be forming in the area and Driver has heard that Damien liked to drink blood. Driver contacted the W. Memphis Police and told them of his belief.

b. The West Memphis Police began receiving tips and suggestions from concerned citizens, psychics and other police organizations, because of the "America Most Wanted" segment that was aired, that if the bodies were sexually mutilated then it was the work of "Satanists" or "Devil Worshipers." There were rumors of Devil Worshipers being in Robin Hood Woods even before the murders.

c. Police, faced with no real clues, and under intense pressure to solve the crime, had a deep rooted belief that Damien was responsible, and being unable to get Damien to confess, began rounding up anyone and everyone who knew Damien Echols.

d. Damien, being foolish, and loving the attention the police and others in West Memphis were giving him, did not deny involvement to his friends. In fact, some kids testified that he bragged about the killings, and took credit for same.

In my opinion, Damien, who by Arkansas standards was really weird in relation to his dress and attitudes, and who would never be the class president or the quarterback of the football team, and who was suffering desperately for attention, liked his newfound status as a celebrity. I don't think Damien ever stopped and considered that he might be arrested based on his own mouth, and there was really no way he could have anticipated Vicky Hutcheson or Jessie's false confession.

NOTE: Two things make me believe this. First, Damien voluntarily gave hair and blood samples to police, not exactly the modus operandi of a guilty person, especially not someone as intelligent as Damien.

Secondly, Damien told Ron Lax that he wasn't mad at Jessie for giving the false statement to police, because he knew Jessie was slow, and he told Ron that if the cops were as hard on Jessie as they were on him, there was no way Jessie could have withstood the pressure.

E. The Vicky Hutcheson connection

a. Background: Vicky Hutcheson had only lived in West Memphis a short time at the time of the murders. Her son Aaron, was a playmate to the boys who were murdered. Vicky previously lived in Northwest Arkansas and basically fled to West Memphis because she had

outstanding warrants for her arrest for hot checks in NW Arkansas. She left her employer in Fayetteville, a lawyer, with the impression that she had a brain tumor and was terminally ill.

b. On the day the bodies were discovered, May 6, 1993, Vicky was in the Marion Police Department for the purpose of taking a polygraph test because some money had come up missing from the cash register at her place of employment in West Memphis. She took Aaron with her, and this angered the Officer who was to conduct her polygraph exam, Don Bray. Don Bray struck up a conversation with Aaron, and Aaron told him that he knew where the missing boys were at "The playhouse." Bray called the WMPD to tell them what Aaron had said, and he was told that the bodies had been found near where Aaron had indicated. (Aaron would later take Police to the scene where the playhouse was supposed to be and no playhouse was found).

c. Aaron would later tell police that he witnessed the murders supposedly seeing men in the woods all dressed up and speaking Spanish, i.e. Devil Worshipers. Each story was dramatically different than the previous version and Aaron finally told police that Mark Byers was there and killed the boys.

IMPORTANT NOTE: Aaron never identified any of the convicted teens until after Jessie's confession, and could not identify Damien or Jason in a photo lineup. This despite knowing Jessie very well because Jessie baby-sat for him. Prosecutors knew they couldn't use this evidence because Aaron had changed his story so often and they knew witnesses placed Aaron far from the crime scene at the time of the murders.

A press leak by a police officer led to a news story about Aaron witnessing the murders and created a media frenzy that severely hampered the three defendants ability to receive a fair trial. In our opinion, Aaron did in fact play in the woods with the victims probably on several occasions, but he was definitely not in the woods on the date of the murders. In an effort to try to help, and at the suggestion of his mother, Aaron probably thinks he was there or dreamed he was. None of his statements accurately reflect facts of the crime scene.

d. Vicky definitely wanted the reward money having stated so publicly before and after the trials. Around June 1, 1993, Vicky was told by the WMPD that they could help her with her legal problems if she would help them get Damien. She agreed to a "wire" of her home and she tried to get Damien to her house to get information out of him. She asked Jessie Misskelley to introduce her to Damien. Jessie's reply was, "I know who he is and I can take you to his house." Jessie, who always tries to help, because that is his nature, obliged and introduced her to Damien, although he didn't know him.

e. Vicky finally got Damien over to her house but he says nothing about the murders on the "wire." The police deny that they have any tapes of the surveillance that are audible. Vicky told us after the trials were over that she had listened to the tapes herself at the WMPD, and that they were quite audible.

f. Vicky tells police on June 2, 1993 that two weeks after the murders she, Damien and Jessie went to an "Esbat" in Turrell, AR, and that Damien drove them there. This coupled with the statement of William Winfred Jones, who told police that he had overheard Damien, in a drunken stupor brag about killing and raping the kids, led police to center their investigation as satanic homicides and on June 3, 1993, police picked up Jessie Misskelley for questioning.

NOTE: William Winfred Jones recanted his statement during the trial of Jessie Misskelley just hours before he was to testify, saying that he made the story up and that he had only heard that Damien had done it.

g. Vicky was never able to lead police to the "Esbat" site or identify anybody else who was present at same.

h. Vicky Hutcheson admitted after the trials were completed that she was so drunk the night of the so called "Esbat" that she woke up in her front yard and could have dreamed the whole "Esbat" thing.

F. False Confession

Background: Jessie Misskelley, Jr. was just four years old when his mother abandoned him, leaving him and his severely retarded brother in the care of Jessie Sr. According to Jessie's family, Jessie's brother was later institutionalized and Jessie Jr. was diagnosed himself as being retarded. Doctor's recommended that Jessie Jr. receive special education and family counseling, but this was never done. Tests conducted at our request after his arrest indicated that Jessie Misskelley, Jr. was operating at the level of a five year old child. His reading level was severely retarded, and his overall IQ was in the range of 72, which indicates that he is borderline mentally retarded.

a. Our research indicated that due to his mental handicap, Jessie was not able to understand any aspect of his "Miranda Rights," which require a sixth grade reading level to understand.

b. Jessie Misskelley, approximately two weeks after the murders, was hanging out with some friends near Bojangles Restaurant in West Memphis. A "bum" asked him and his friends to accompany him to his "Fort" and drink beer. Jessie and his friends refused and called police thinking that this "bum" might be the killer of the three boys. The "bum" was picked up and questioned but released. He was the son of a Crittenden County Sheriff's deputy. Jessie and his friends were told by Police that if they found the killer that they would get the reward money.

c. On June 3rd, 1993, police acting on the information from Vicky Hutcheson, re: the Esbat, picked up Jessie Misskelley, Jr. for questioning. He was taken to the police station at about 9:30 a.m., after Officer Allen told Jessie Sr. that they wanted to talk to Jessie Jr. about Damien. Allen told Jessie Sr. and Jim McNease that Jessie would get the reward money IF he helped in the investigation. In response to police questioning, Jessie said that he had heard

that Damien and a guy named Robert Burch had killed the boys. Jessie told police that he was roofing with Ricky Deese the day of the murders. He denied being at Turrell, AR for a devil-worshippers' meeting with Vicky and Damien, telling police that he had never even been to Turrell at all.

NOTE: Jessie was questioned by police despite the fact that under Arkansas law he could only be questioned if his parents consented to a waiver of his Miranda rights in writing, since he was only 17 years. of age.

d. Police believing that he was lying asked Jessie if he would submit to a polygraph test. Jessie, not knowing what a polygraph test was, told police that he would take the test. Officer Allen took Jessie to get his father's written permission for the polygraph test, but still did not discuss Jessie's Miranda Rights, or their waiver in writing. Instead, when they found Jessie Sr. another discussion was had about Jessie receiving the reward money, if he helped find the killer.

e. Jessie was administered the polygraph at about noon. Jessie was asked a series of ten questions. One of the questions was "do you do drugs," which Jessie answered "NO" There were several very generic questions about the murders. Each time Jessie stated that he knew nothing about the murders. After the test was completed, Jessie was told by Officer Durham that he was "lying his ass off." Jessie admitted that he had lied about the drug question, but officer Durham said that he was lying about the murders, and even told Jessie that he knew he was lying because "Jessie's brain was telling him so."

NOTE: Experts tell us that when a person of limited intellect and who is very suggestible is told that they have flunked a polygraph test, they will often confess falsely as their perception of reality is changed and they see it as their only chance to avoid getting into trouble and the only way they can please their interrogators, and ultimately leave the pressure of the interrogation.

f. Jessie was then interrogated for two hours during which time he vehemently denied any role in the murders. He was denied the right to talk to his father, and was grilled repeatedly by Gitchell and Ridge. Finally, Officer Gitchell showed Jessie a picture of one of the boys bodies which terribly frightened Jessie. Then Gitchell played a tape to Jessie using Aaron's voice which said "Nobody knows what happened but me." This frightened Jessie even more.

g. Then Gitchell showed Jessie a diagram. The diagram contained a circle with three dots in it which represented Damien, Jason and Jessie. Gitchell then drew dozens of dots on the outside of the circle, and asked Jessie if he wanted to be on the outside with the police or on the inside with Damien and Jessie. This all frightened Jessie and he told Gitchell and Ridge he wanted out.

All this finally broke Jessie's will, and his mind told him that the only way out was to tell them what they wanted to hear. After rehearsing the scenario, over and over again, he finally

told them that he had seen Damien and Jason rape and murder the boys. He unwittingly told police enough to cause himself to be an accomplice. Instead of allowing him to go home as police promised, he was locked up. The interrogation itself lasted almost twelve hours, but only about twenty minutes of audio tape exist regarding the confession. Immediately after the confession, when Jessie realized he wasn't going home, he recanted the entire confession, but it was too late.

NOTE: As part of an experiment, Dr. Wilkins and myself were able to get Jessie to confess to committing a robbery that never occurred. This was ruled inadmissible by the Court, and the jury never knew this. I often bragged that I could get Jessie to confess to killing JFK, although he wasn't even born in 1963. I am still convinced I could get him to confess to almost anything.

NOTE #2: Police fearing our defense of false confession, searched feverishly for a way to corroborate Jessie's story. They questioned a friend of Jessie's named Buddy Lucas. Lucas told Officers Durham and Ridge that Jessie confessed to him that he had witnessed the murders the day after the murders occurred. Lucas told the officers that he and an uncle went to Jessie's on the day of the murders and took the Misskelleys some BBQ chicken. According to Lucas, Jessie Jr. wasn't there, but Jessie Sr. told him that Jessie had went to W Memphis w/ some teenagers. Lucas then told the officers that the next day, he went over to Jessie's house and that he and Jessie got their hair cut by Stephanie Dollar. After the hair cuts, Jessie told Buddy everything. Jessie even gave Buddy the shoes he was wearing when the boys were killed which Buddy readily handed over to police.

Suddenly, the West Memphis police had the technology to video tape an interrogation, something they couldn't do with Jessie on June 3, 1993. I went to the Police Department and watched the video of Buddy's statement. The statement seemed strange to me, a poor attempt by Mr. Lucas to give the police something to corroborate Jessie's statement. After the tape was over, Officer Ridge readily admitted to me that as soon as Buddy finished his statement, he refused to take a polygraph exam to confirm same, and even recanted everything he said on the tape. I went to Jessie Sr.'s and asked him about the chicken. He said he Buddy and his uncle never brought him any chicken. Buddy's uncle also denied delivering any chicken, and Stephanie Dollar said she did not cut Buddy's hair on May 6, 1993.

Ron Lax tracked down Buddy, and he and I took a statement from Buddy, on video tape. Buddy said the police threatened him and told him he would go to jail if he didn't tell them about Jessie doing the murders. Buddy said he made up the story to keep from going to jail and that he "hated to have to lie on Jessie" but he was scared of the cops. Buddy said Jessie had given him some tennis shoes long before the murders ever took place, and the shoes that he gave police were not even the ones Jessie had loaned him. When the police took the shoes, they gave Buddy a brand new pair of boots. Buddy told Ron and myself that he was glad to tell us the real story.

When I asked Jessie about Buddy, he said that he hadn't seen Buddy in a long time, and that Buddy was real dumb. Jessie said Buddy was in "special education" in school. If Jessie thought he was slow then you can imagine how slow he really was. We arranged for Buddy to be represented by an attorney, and he was not hassled by the police anymore. When prosecutors learned of his recantation, they did not call him to testify. In a very difficult decision, Greg and I chose not to put Buddy on the stand at trial because he was so nervous and wouldn't have made a good witness. Further, the jury might have believed Buddy's statement to police, which the prosecution surely would have used to impeach him, and this might have been all the jury needed to convict Jessie of Capital Murder something that could have cost him his life.

In addition, Buddy's testimony might be construed by the appellate court as corroboration, something we have submitted all along they did not have. In hindsight, I still think we made the right decision in not using Buddy at trial.

G. Facts of Jessie's confession do not match facts of crime scene

1. Jessie says boys skipped school May 5, 1993.

FACT: Boys were in school all day, so was Jason Baldwin.

2. Jessie says boys were killed at noon on May 5, 1993.

FACT: Boys were in school until 3:00 p.m., and were last seen alive at about 6:30 p.m. ME says time of death was 1:00 TO 5:00 a.m. on May 6th, 1993. Jessie worked with Ricky Deese until about 12:30 p.m.

3. Jessie says boys were raped (sodomized).

FACT: Medical examiner says no trauma to boys anuses, something that would have been there if they were raped.

4. Jessie says Jason castrated Christopher Byers with a single swing of a knife.

FACT: Medical examiner says that the penis of Byers was methodically skinned by someone with extensive knowledge of anatomy and the process would have taken some time to complete even under laboratory conditions.

Update: The mutilation was not skillful or meticulous as Peretti said. It was crudely done. This is still quite inconsistent with Misskelley's confession.

5. Jessie says that the boys were tied up with a brown rope.

FACT: The boys were bound with their own shoestrings.

6. Jessie says the boys were beaten with a big ol' stick and cut with a knife.

FACT: No blood was found at the scene, and ME says those injuries could not be inflicted without a great deal of blood loss. (This leads on to believe that the boys were killed elsewhere and their bodies dumped in the creek. This seems to be corroborated by the fact that search teams were combing the woods that night walked all over the spot where the bodies were recovered)

Update: Brent Turvey's Profile of the case corroborates our belief that the boys were killed elsewhere.

7. Jessie says Damien choked one of the boys with a big ol' stick.

FACT: Medical Examiner says none of the boys had choking or strangulation injuries.

These are just a few of the most obvious inconsistencies.

H. What the experts tell us

1. The defense retained the services of two well-known experts who are recognized as being the tops in their field, Dr. Richard Ofshe and Mr. Warren Holmes.

2. Background on retention of experts:

a. Richard Ofshe:

1. Ron Lax told us about Dr. Richard Ofshe. An attorney friend of Ron's in California recommended Ofshe to Ron for use in Damien's trial as an expert on the occult. Ofshe won a Pulitzer Prize for his work on the Synanon Cult in California. Ofshe has a second area of expertise, False Confessions, and Ron suggested we talk to Dr. Ofshe. I called Ofshe, at the University of California in Berkeley, and explained that I thought Jessie had falsely confessed to the homicides. I further explained that I was appointed by the Court and had no money with which to pay him. This did not deter Ofshe. He asked about evidence against Jessie, independent of the confession, and I informed him there was none. He agreed to look over the transcript of the confession, which I Fed-Exed him that day.

About a week later, Ofshe phoned me and informed me that Jessie's confession was the worst false confession that he had ever seen, and that he felt Jessie was innocent. Ofshe's testimony is part of the trial transcript and is very, very compelling evidence of Jessie's innocence. Ofshe, like myself is absolutely convinced of Jessie's innocence.

From almost the beginning, I wanted to have the polygraph test Jessie had on June 3, 1993, looked over by another expert. The lawyer in me was hesitant though because I was afraid I

might not like the results of the independent analysis. When I discussed this with Dr. Ofshe, he told me, "Don't be afraid, Dan, your client is innocent." That's when I called Warren Holmes in Miami.

b. Warren Holmes

1. I read about Warren Holmes in a Florida case I was researching regarding recordation of interrogations. The case cited Mr. Holmes tremendous experience in the area of polygraphs which includes the following:

a. Mr. Holmes is a consultant to the FBI, the Texas Rangers, the Royal Mounted Canadian Police.

b. Mr. Holmes conducted polygraph examinations in the assassination of JFK and Martin Luther King, Jr. as well as Watergate.

c. Mr. Holmes worked on the William Kennedy Smith case, the Boston Strangler case, and the Hampton Case from Louisiana.

d. He has over 39 years experience as a homicide detective and a polygraph examiner.

2. When I called Mr. Holmes, I explained to him that I had been appointed to represent an indigent kid in Arkansas charged with killing three boys. I explained to him that I had no money to pay him, but that I really needed his help because I felt my client was innocent. Mr. Holmes finally agreed to look over the polygraph charts from Jessie's polygraph.

3. About a week later, Mr. Holmes phoned me and told me that Jessie had only showed signs of deception on one question. The drug question. Jessie had passed all the questions about the homicides, showing no signs of deception on the charts. It was clear that Officer Durham had lied to Jessie, and that Jessie had falsely confessed in large part because he thought the W. Memphis police had this machine that was telling him "his brain was lying to them." This altered Jessie dim view of reality, and he felt that the only way he could get away from his interrogators was to tell them what they wanted to hear.

4. Mr. Holmes has never been paid for help in our case. The State Of Arkansas reimbursed him the two thousand dollars or so of his personal funds spent flying to Arkansas to testify.

5. Dr. Ofshe did receive some reimbursement of his travel expenses. This did not even come close to reimbursing him for all his expenses.

I. What the jury was not allowed to hear

1. Testimony of Dr. Richard Ofshe

a. The Trial judge refused to allow Dr. Ofshe to give all of his opinions with regard to Jessie's case. In short, he was not allowed to tell the jury that, in his opinion, Jessie's confession was a product of police coercion. This despite Dr. Ofshe being allowed to testify to the same issue in Courts around the Country. We made a proffer of what his anticipated testimony would have been, so the Arkansas Supreme Court will be able to determine its admissibility on appeal.

2. Testimony of Warren Holmes

a. The trial judge refused to allow Mr. Holmes to testify in front of the jury about the results of Jessie's polygraph exam, stating that it was inadmissible. The Court did permit him to testify about interrogation techniques in general which he did.

This testimony was crucial to an acquittal for Jessie.

This testimony of both these experts was absolutely crucial to Jessie's defense. When the Judge refused to allow the jury to hear this, it crippled our defense severely. I am convinced that had the jury heard this testimony, Jessie would have been acquitted.

My belief is based on the following:

1. After both Holmes and Ofshe testified at trial, members of the media, and other spectators told Greg and I that they felt we had won the case because their testimony was so compelling. Just think what their reaction might have been had they known everything.

2. We learned, after the trial, that the first vote the jury took in the jury room was 8 for conviction, 4 for acquittal. Despite the limitation the Court imposed on us, we were able to convince 4 jurors he was innocent. We only needed one strong willed juror for a hung-jury and ultimate mistrial, which would have been the next best thing to an acquittal. The 8 wore down the 4, however, and they reached a compromise verdict. Although, we didn't get an acquittal, we were fortunate enough to avoid a capital murder conviction, and thus the death penalty.

We are still hopeful on appeal.

Update: Re: Criminal Profiling of the Case

1. Before the trial in 1994, I attempted to retain a criminal profiler for this case. Limited funds made this quest impossible. Before the trial I came across a newspaper article describing how police investigators were using profile information received from the FBI. There was nothing in the discovery we received from the police and prosecutors that suggested anything about a profile from the FBI I was very interested in this profile information for two reasons. First, I wanted to see if it fit my client at all. Secondly, I wanted to see if it might lead me to the real killer(s). When I asked inspector Gary Gitchell for this

information, he denied ever receiving anything from the FBI. After Misskelley's trial I learned that Gitchell had lied to me and that the FBI did in fact provide an initial profile of the killer in the form of a questionnaire that police officers used to canvass the neighborhood where the boys lived and their bodies were found. The gist of the profile was that the police should be looking for a Vietnam veteran because the wounds to the victim Byers were similar to wounds inflicted on American personnel during the Vietnam War. This profile was given to the WMPD despite the fact that the FBI never visited the crime scene or examined the autopsies. In addition, this FBI profile seemed to be based entirely upon statistical data and not on crime scene data or victimology.

2. When I contacted the PBX in 1994 to ask them about the profile, they gave me the run around and said that they had closed their file since the WMPD had made arrests within a few weeks of the homicides. When I advised them that I felt a serial killer might be responsible for this crime and that he was still on the loose, they assured me that an agent would contact me regarding same. The agent never did and when I flew to Washington in September of 1994 with my case file, the FBI refused to meet with me, again assuring me that an agent would contact me. None did.

3. After several attempts to obtain the services of a criminal profiler, I finally met with success after being referred to Brent Turvey by Kathy Bakken of the WM3 Support Fund group. Turvey agreed to look at the case in 1997 on a pro bono basis since he was interviewing for a job with the Arkansas Criminal Justice Institute and wanted to avoid the possibility of any appearance of bias on his part. Turvey turned down the Arkansas position in part because he was told he could only assist law enforcement and never the defense. If he took the job.

3. Brent Turvey's profile has been invaluable to me and other members of the defense team in assisting us in obtaining new evidence and investigative direction.

J. JESSIE MISSELLEY'S SO-CALLED SECOND CONFESSION

I am often asked to explain the events surrounding my client's so-called second Confession. Many people look to this "second" confession as a way of dismissing the claims by the defense that Misskelley's statements were the product of coercion by police and thereby false. These people do not know the factual basis surrounding Misskelley's post trial statements. In 1994, after Misskelley's conviction and immediately prior to the Echols/Baldwin trial in Jonesboro, prosecutors were desperate for Misskelley's testimony against his co-defendants. They did not feel that they could obtain convictions against Echols and Baldwin without Misskelley's assistance. This is evident for the scene in "Paradise Lost" where prosecutors are explaining to the victims' families that the chances were slim without Misskelley's testimony and cooperation. I prepared a Motion to Dismiss based upon Prosecutorial Misconduct for Echols and Baldwin's attorneys which was denied by the trial Court. In this motion, the factual basis surrounding Misskelley's second confession is laid out. It is public record and set forth herein in its entirety:

IN THE CIRCUIT COURT OF CRAIGHEAD COUNTY, ARKANSAS
WESTERN DISTRICT
CRIMINAL DIVISION

STATE OF ARKANSAS PLAINTIFF

Vs. No.:CR93 _____

DAMIEN WAYNE ECHOLS and CHARLES JASON BALDWIN

DEFENDANTS MOTION

Comes now the Defendants, by and through their Court Appointed Attorneys, and for their Motion, hereby state and allege as follows:

1. That a CoDefendant, Jessie Lloyd Misskelley, Jr., was convicted on February 4, 1994, of the offenses of one (1) count of First Degree Murder and two (2) counts of Second Degree Murder and was sentenced by the Court to life imprisonment on the First Degree Murder charge and twenty (20) years imprisonment on each count of Second Degree Murder to run consecutively. On February 4, 1994, the Court and the Prosecution was informed by counsel for Jessie Lloyd Misskelley, Jr. that said sentences were going to be appealed to the Arkansas Supreme Court. That the Court and the Prosecution was further informed by defense counsel that Jessie Lloyd Misskelley, Jr. had no intention of testifying against his codefendants Damien Wayne Echols and Charles Jason Baldwin.
2. That Damien Wayne Echols and Charles Jason Baldwin are each charged with three (3) counts of Capital Murder and their trial is set to start in Craighead County on Tuesday, February 22, 1994.
3. That the Prosecuting Attorney, his Deputies, the Clay County, Arkansas Sheriff's Department and the Craighead County, Arkansas Sheriff's Department have all known that Daniel T. Stidham and Gregory L. Crow were the duly appointed attorneys for Jessie Lloyd Misskelley, Jr. since June, 1993.
4. That on February 4, 1994, following sentencing of the Defendant, Jessie Lloyd Misskelley, Jr., as set forth above, officers of the Clay County, Arkansas Sheriff's Office transported Jessie Lloyd Misskelley, Jr. to the Arkansas Department of Corrections Diagnostic Unit in Pine Bluff, Arkansas. That during transport of Jessie Lloyd Misskelley, Jr. the officers, in violation of Jessie Lloyd Misskelley, Jr.'s Sixth Amendment right to counsel and his Fifth Amendment Right to Remain Silent, elicited a statement from the Defendant.
5. That the actions of the Clay County Sheriff's Department officers on February 4, 1994, were a willful attempt to make improper contact with the Defendant, Jessie Lloyd Misskelley, Jr., without the knowledge and consent of his Court appointed attorneys, and that said

conduct on the part of the officers is imputed to the Prosecuting Attorney whether the Prosecuting Attorney had direct knowledge of said actions or not.

6. This impropriety represents a conscious, calculated and ongoing attempt by the Prosecution to interfere with the attorney/client relationship between Jessie Lloyd Misskelley, Jr. and his Courtappointed attorneys and to circumvent Jessie Lloyd Misskelley, Jr.'s. Fifth and Sixth Amendment rights as guaranteed him by the U.S. Constitution.

7. That on Tuesday, February 8, 1994, and again on Tuesday, February 15, 1994, the Defendant, Jessie Lloyd Misskelley, Jr.'s court appointed attorney, Daniel T. Stidham, visited with the Defendant, Jessie Lloyd Misskelley, Jr., at the request of the Prosecution.

8. That on Tuesday, February 15, 1994, Daniel T. Stidham, in person, again, notified the Prosecuting Attorney's Office that Jessie Lloyd Misskelley, Jr. had no desire to testify against his codefendant's, Damien Wayne Echols and Charles Jason Baldwin, and would not be testifying against said codefendants.

9. That on Wednesday, February 16, 1994, Deputy Prosecuting Attorney John Fogleman contacted the Defendant, Jessie Lloyd Misskelley, Jr.'s father, Jessie Lloyd Misskelley, Sr., and requested that he talk his son into testifying against his codefendant's in exchange for a forty (40) year sentence. Mr. Misskelley, Sr., again, informed the Prosecution that Jessie Lloyd Misskelley, Jr. would not be testifying against his codefendants in their upcoming trial in Craighead County.

10. That also on Wednesday, February 16, 1994, the Prosecuting Attorney, Brent Davis, requested permission from Jessie Lloyd Misskelley, Jr.'s attorneys to interview Jessie Lloyd Misskelley, Jr. Said permission was not granted.

11. Further, on Wednesday, February 16, 1994, the Prosecution obtained an ex parte Order from the Court to transport Jessie Lloyd Misskelley, Jr. to Craighead County to testify against his codefendants. This Order was obtained without the knowledge and consent of the Defendant, Jessie Lloyd Misskelley, Jr. and his attorneys despite repeated statements to the Prosecution that Jessie Lloyd Misskelley, Jr. would not be testifying against his codefendants. The fact that Jessie Lloyd Misskelley, Jr. was being transported to Craighead County to testify as a witness was communicated to the Media and a copy of the Order transporting him was even shown on television. To this date, Jessie Lloyd Misskelley, Jr.'s attorneys have yet to see said Order.

12. That at approximately 6:15 p.m. on Thursday, February, 17, 1994, the attorneys for Jessie Lloyd Misskelley, Jr. received a phone call from C. Joseph Calvin, Deputy Prosecuting Attorney for Clay County, Arkansas who stated that Jessie Lloyd Misskelley, Jr. was present in his office and desired to make a statement. Mr. Calvin was informed by both of Jessie Lloyd Misskelley's attorneys that he was not to take any statement from their client, Jessie.

13. That the CoDefendant, Jessie Lloyd Misskelley, Jr. was transported to Rector, Arkansas on February 17, 1994, by a member of the Craighead County Sheriff's Office. That during transport of Jessie Lloyd Misskelley, Jr. the officer, in violation of Jessie Lloyd Misskelley, Jr.'s Sixth Amendment right to counsel and his Fifth Amendment Right to Remain Silent, elicited statements from the Defendant and encouraged Jessie Lloyd Misskelley to testify against his Co Defendants. Said officer even promised to bring Jessie Lloyd's girlfriend to the Jail to visit him.

14. That the actions of the Craighead County Sheriff's Department officer on February 17, 1994, were a willful attempt to make improper contact with the Defendant, Jessie Lloyd Misskelley, Jr., without the knowledge and consent of his Court appointed attorneys, and that said conduct on the part of the officers is imputed to the Prosecuting Attorney whether the Prosecuting Attorney had direct knowledge of said actions or not.

15. This impropriety represents a conscious, calculated and ongoing attempt by the Prosecution to interfere with the attorney/client relationship between Jessie Lloyd Misskelley, Jr. and his Courtappointed attorneys and to circumvent Jessie Lloyd Misskelley, Jr.'s. Fifth and Sixth Amendment rights as guaranteed him by the U.S. Constitution.

16. That Daniel T. Stidham and Gregory L. Crow arrived in Rector, Arkansas at approximately 7:00 p.m. and discovered that Prosecuting Attorney Brent Davis was also present at the office of Joe Calvin and that prosecutors had already communicated with their client without their knowledge and consent. That said attorneys were allowed to communicate with their client, Jessie Lloyd Misskelley, Jr., for only approximately fifteen minutes when Prosecutors Davis and Calvin burst into the conference room and demanded to take a statement from Jessie Lloyd Misskelley, Jr. Stidham and Crow objected to the interference and informed prosecutors that they wished to visit with their client uninterrupted. Prosecutors then expressed their fear, in the presence of Jessie Lloyd Misskelley, Jr., that Defense Attorneys would convince Jessie Lloyd Misskelley, Jr. to decline to make a statement to them. Jessie Lloyd Misskelley, Jr. then stood up and announced that he wished to make a statement in spite of the advise and counsel of his attorneys, and exited the conference room and refused to talk to his attorneys further.

17. That the Honorable Judge David Burnett was telephoned at which time Mr. Stidham voiced his objections to his client being present in the prosecutors office in the first place, that his presence at the prosecutor's office was a violation of his client's Constitutional rights, that Mr. Misskelley had requested psychiatric care on Tuesday, February 15, 1994, that he questioned Jessie Lloyd Misskelley, Jr's current mental competency and requested a mental evaluation, and that Jessie Lloyd Misskelley, Jr. had informed him on Tuesday, February 15, 1994 that he did not wish to testify against his codefendant's. The Court denied the objections and request for a mental evaluation by Mr. Stidham and permitted the Prosecution to offer use immunity to Jessie Lloyd Misskelley, Jr. and take his statement over said objections.

18. After taking his statement, the Prosecution transported Jessie Lloyd Misskelley, Jr. to the Clay County Detention Center. Jessie Lloyd Misskelley, Sr. traveled to Clay County to talk to his son but was denied access to his son by Clay County Officials.

19. That the Prosecution, the Court and attorneys for Damien Wayne Echols and Jason Baldwin were notified on February 18, 1994, that the attorneys for Jessie Lloyd Misskelley were "outraged" at the conduct of the prosecution and that the Prosecution was to have no further contact with the Defendant, Jessie Lloyd Misskelley, as reflected in Defendants Exhibit "A" attached hereto.

20. That Prosecutors, again, visited with Jessie Lloyd Misskelley, Jr. without the knowledge and consent of his attorneys on Friday, February 18, 1994, Saturday, February 19, 1994 and on Sunday, February 20, 1994 in direct violation of his Fifth and Sixth Amendment Rights as guaranteed him by the U.S. Constitution.

21. That the abovementioned conduct and actions of the Prosecution are a willful and deliberate attempt to make improper contact with the Defendant, Jessie Lloyd Misskelley, Jr., and said actions and conduct are a conscious and calculated attempt to circumvent the Fifth and Sixth Amendment rights of the Defendant, Jessie Lloyd Misskelley, Jr. Further, said actions and conduct were a calculated and deliberate attempt to interfere with the attorney/client relationship between Jessie Lloyd Misskelley, Jr. and his Court appointed attorneys.

22. Arkansas Law does not permit the prosecutor to call a codefendant as a witness against other codefendants when he has knowledge that the codefendant would be advised to assert his Fifth Amendment privilege against self incrimination. Here counsel for Jessie Lloyd Misskelley, Jr. had repeatedly advised the Prosecution that Jessie Lloyd Misskelley, Jr. would not be testifying against his co defendants, and as such, the Prosecution cannot claim that it was not aware of this fact.

23. That the abovementioned conduct and actions of the Prosecution are a willful and deliberate attempt to circumvent, and make a mockery of, the law as set forth in paragraph twentytwo (22) above, and to violate the Constitutional Rights of the defendants, Damien Wayne Echols and Charles Jason Baldwin. Said actions and conduct on the part of the Prosecution are a conscious and calculated attempt to circumvent the due process rights of said defendants, their right to receive a fair and impartial trial and their right to confront the witnesses against them.

24. That said conduct on the part of the Prosecution, regardless of whether or not Jessie Lloyd Misskelley, Jr. actually testifies against his codefendants, seriously undermines and impairs, or could actually makes it impossible, for Damien Wayne Echols or Charles Jason Baldwin to receive a fair and impartial jury trial due to the fact that said conduct on the part of the prosecution constitutes a "grandstand play" which has improperly drew attention to Jessie Lloyd Misskelley, Jr.'s alleged confession which he submitted throughout the course of his

trial was coerced. Potential jurors will now place emphasis on this improper "grandstand play" by the Prosecutor due to pretrial publicity.

25. That due to the misconduct of the Prosecution as set forth herein, the Defendant's request the following relief:

- a. dismissal of all the charges against the defendants with prejudice;
- b. suppression of any and all statements made by the Defendant, Jessie Lloyd Misskelley, Jr., including any and all references to same;
- c. that the prosecution be Ordered to not have any contact whatsoever, directly or indirectly, with any of the defendants herein, including Jessie Lloyd Misskelley, Jr.;
- d. that the Prosecution be forbidden to call Jessie Misskelley, Jr. as a witness, or make any further reference to him being a witness, at the trial of Damien Wayne Echols and Charles Jason Baldwin;
- e. that the Prosecution be held in contempt of Court for it's alleged misconduct and punished accordingly; and
- f. that a Special Prosecutor be appointed to investigate the allegations set forth herein, preferably one from outside the Second Judicial District.

WHEREFORE, premises considered the defendants pray that this Honorable Court grant their Motion and grant the relief requested herein, and for all other relief to which they may appear entitled.

DAMIEN WAYNE ECHOLS, DEFENDANT

By: _____

Val Price, Bar#

Court appointed Attorney

[address]

Jonesboro, Arkansas 72403

(501) 9326226

CHARLES JASON BALDWIN, DEFENDANT

By: _____

George Wadley, Bar#

Court appointed Attorney

[address]

Jonesboro, Arkansas 72403

(501) 9721100

BRIEF IN SUPPORT

The prosecutor's role is identified in *Floyd v. State*, 278 Ark. 342, 645 S.W.2d 690, 693 (1983) wherein the Court stated: "...State's attorney acts in a quasijudicial capacity and it is his duty to use fair, honorable, reasonable and lawful means to secure a conviction in a fair and impartial trial."

The prosecution overreached its duties in making improper contact with the defendant, Jessie Lloyd Misskelley, Jr., in violation of his Fifth and Sixth Amendment rights. The Prosecution was informed in clear and unequivocal terms that Jessie Lloyd Misskelley, Jr. was not going to testify against his codefendants, Damien Wayne Echols and Charles Jason Baldwin, thereby invoking his Fifth Amendment right to remain silent.

The Prosecution, having this knowledge, is not even permitted to subpoena, or call Jessie Lloyd Misskelley, Jr. as a witness in the trial of his codefendants. In the case of *Foster v. State*, 285 Ark. 363, 687 S.W. 2d 829 (1985), the Arkansas Supreme Court stated that "The Court erred...when it permitted the prosecutor to call Pat Hendrickson, the wife of the deceased, who was charged with capital felony murder, as a witness even though both the Court and the prosecutor knew that Mrs. Hendrickson would be advised to plead her fifth amendment privilege against self incrimination."

Thus, the Prosecution committed misconduct in obtaining an ex parte Order from the Court moving the defendant, Jessie Lloyd Misskelley, Jr., out of the Arkansas Department of Corrections to Craighead County to serve as a witness in the trial of Damien Wayne Echols and Charles Jason Baldwin, having been advised by Mr. Stidham that Jessie Lloyd Misskelley, Jr. would not be testifying in the trial. The Court in *Foster*, supra, and the Arkansas Court of Appeals in *Sims v. State*, 4 Ark. App. 303, 631 S.W. 2d 14 (1982) explained the rationale of forbidding the prosecution from calling a witness to the stand that the prosecutor knows will invoke their fifth amendment privilege. The Arkansas Supreme Court in *Foster*, supra, quoting language from *Sims*, supra and *Douglas v. Alabama*, 380 U.S. 415, 419, 85 S.Ct. 1074 [1077], 13 L.ED.2d 934, 937 (1965) stated:

"The evil in the nontestimony of such a witness is not the mere calling of the witness, but the obvious inferences drawn by a jury to a series of questions, to all of which the witness refuses to answer on fifth amendment grounds. In that case the questions themselves "may well be the equivalent in the jury's mind of testimony.

"Such improper questioning, not technically being testimony at all, deprives an accused of his right to crossexamine the witnesses against him as guaranteed by the Confrontation Clause of the Sixth Amendment to the Federal Constitution."

In *Namet v. United States*, 373 U.S. 179, 83 S.Ct. 1151, 10 L.Ed.2d 278 (1963) the U.S. Supreme Court held that "...the forbidden conduct is the conscious and flagrant attempt to build its case out of inferences arising from use of the testimonial privilege." The Arkansas Supreme Court in *Foster*, *supra*, characterized the prosecutions conduct as a "grandstand play," with the prosecutor trying to "build the state's case out of inferences arising from [the witnesses] assertion of her fifth amendment privilege."

In the case at bar, the Prosecutor's motive in obtaining an Order transporting Jessie Lloyd Misskelley, Jr. to Craighead County "to testify" is quite clear. Having been informed by Mr. Stidham that his client was not going to testify against Mr. Echols and Mr. Baldwin, he sought to bolster his weak case by drawing inferences in the minds of potential jurors in Craighead County that Jessie Lloyd Misskelley, Jr. "might" testify. This move gave the prosecutor an opportunity to accomplish another improper goal. To coerce Jessie Lloyd Misskelley, Jr. into testifying against his codefendants despite being informed by Mr. Stidham to the contrary. This improper conduct is evidenced by the fact that after being informed by counsel for Jessie Lloyd Misskelley, Jr. and by Mr. Misskelley's father that he would not be testifying, the prosecution obtained the Order transporting Jessie Lloyd Misskelley, Jr. some five days prior to jury selection, and almost two weeks prior to his being needed at trial. While it is not uncommon for prisoners from the ADC to be moved to a county jail to testify, it is quite uncommon for a State prisoner to be moved this far in advance. This "advance time" gave the prosecution an opportunity to work on Jessie Lloyd Misskelley, Jr. by violating his Fifth and Sixth Amendment Rights. The Craighead County Sheriff's Deputy advising Jessie Lloyd Misskelley, Jr. on February 17, 1994, that he "should testify" in the trial of his codefendants and his promise that the Court would "drop [some] charges" if he did testify demonstrates a conscious and calculated attempt to circumvent the Fifth and Sixth Amendment Rights of Jessie Lloyd Misskelley, Jr. Said conduct is certainly imputed to the Prosecuting Attorney whether or not he actually knew it or not

Two things indicate that the Prosecutor had actual knowledge of the misconduct. First, Jessie Lloyd Misskelley, Jr. was taken directly to Deputy Prosecutor Joe Calvin's office in Rector despite defense counsel objections. Secondly, the Prosecuting Attorney, himself, Mr. Brent Davis, was present in Mr. Calvin's office when Mr. Misskelley arrived at the office. The Prosecutions deliberate conduct in circumventing Jessie Lloyd Misskelley Jr.'s Fifth and Sixth Amendment Rights are further demonstrated by the fact that when Mr. Stidham and Mr. Crow arrived in Rector, Arkansas at approximately 7:00 p.m. they discovered that Prosecuting Attorney Brent Davis and Deputy Prosecutor Joe Calvin had already communicated with their client without their knowledge and consent. That said attorneys were allowed to communicate with their client, Jessie Lloyd Misskelley, Jr., for only approximately fifteen minutes when Prosecutors Davis and Calvin burst into the conference room and demanded to take a statement from Jessie Lloyd Misskelley, Jr. Stidham and Crow objected to the interference and informed prosecutors that they wished to visit with their client uninterrupted. Prosecutors then expressed their fear, in the presence of Jessie Lloyd Misskelley, Jr., that Defense Attorneys would convince Jessie Lloyd Misskelley, Jr. to

decline to make a statement to them. Jessie Lloyd Misskelley, Jr. then stood up and announced that he wished to make a statement in spite of the advise and counsel of his attorneys, and exited the conference room and refused to talk to his attorneys further. The Honorable Judge David Burnett was telephoned at which time Mr. Stidham voiced his objections to his client being present in the prosecutors office in the first place, that his presence at the prosecutor's office was a violation of his client's Constitutional rights, that Mr. Misskelley had requested psychiatric care on Tuesday, February 15, 1994, that he questioned Jessie Lloyd Misskelley, Jr's current mental competency and requested a mental evaluation, and that Jessie Lloyd Misskelley, Jr. had informed him on Tuesday, February 15, 1994 that he did not wish to testify against his codefendants.

The Court denied the objections and request for a mental evaluation by Mr. Stidham and permitted the Prosecution to offer use immunity to Jessie Lloyd Misskelley, Jr. and take his statement over said objections. The Prosecutors meeting with Jessie Lloyd Misskelley, Jr. on Friday, Saturday and Sunday without the knowledge and consent of his attorneys is a gross instance of misconduct. The Defendants anticipate that the Prosecution will argue that they did not violate Jessie Lloyd Misskelley, Jr.'s Fifth Amendment Rights because they granted him "use immunity" before taking a statement from him, and therefore nothing he says can be used against him. The Defendant's submit that the Court should analyze how this grant of immunity was effectuated. The grant of immunity was obtained by prosecutorial misconduct, i.e. violation of Jessie Lloyd Misskelley, Jr.'s Sixth Amendment rights. Had the prosecutor acted properly he would have never been in a position to even offer the immunity to Jessie Lloyd Misskelley, Jr. The "but for" test the prosecutors deployed in closing arguments at the trial of Jessie Lloyd Misskelley, Jr. is applicable here. In other words, "but for" the prosecutor violating Jessie Lloyd Misskelley, Jr.'s Sixth Amendment rights, he would have never been in a position to even offer use immunity to Jessie Lloyd Misskelley, Jr. The Prosecution should not be allowed, and this Court should not condone, the violation of one codefendant's rights to the extreme detriment of the other codefendants. In fact, the Courts have long condemned the violation of the defendant's right in any respect. This leads us to the next anticipated line of defense the Prosecution will deploy to explain their conduct, the standing of the defendants to argue this motion.

The Defendants, Damien Wayne Echols and Charles Jason Baldwin, have standing to argue this Motion because the prosecutor's misconduct did not just violate Jessie Lloyd Misskelley, Jr.'s rights but their own as well. In violating Jessie Misskelley's rights the Prosecution also violated the rights of Damien Wayne Echols and Charles Jason Baldwin. That the abovementioned conduct and actions of the Prosecution are a willful and deliberate attempt to circumvent, and make a mockery of, the law as set forth in paragraph twentytwo (22) of the Defendant's Motion, and to circumvent the due process rights of said defendants, their right to receive a fair and impartial trial and their right to confront the witnesses against them. That said conduct on the part of the Prosecution, regardless of whether or not Jessie Lloyd Misskelley, Jr. actually testifies against his codefendants, seriously undermines and impairs, or could actually makes it impossible, for Damien Wayne Echols or Charles Jason Baldwin to receive a fair and impartial jury trial due to the fact that said conduct on the part of the

prosecution constitutes a "grandstand play" which has improperly drew attention to Jessie Lloyd Misskelley, Jr.'s alleged confession which he submitted throughout the course of his trial was coerced. Potential jurors will now place emphasis on this improper "grandstand play" by the Prosecutor due to pretrial publicity. In summary, the prosecutor's role identified in *Floyd, supra*, clearly state that the Prosecutor has a duty to use fair and honorable means to secure a conviction and to promote a fair and impartial trial. The Defendants submit that nothing in the conduct of the Prosecution set forth herein is fair or honorable, and it certainly does not promote a fair and impartial trial.

The Court states in *United States v. Serubo*, 604 F.2d 807, 817 (3d Cir. 1979):

"For while in theory a trial provides the defendant with a full opportunity to contest and disprove of the charge against him, in practice, the handling of an indictment will often have a devastating personal and professional impact that a later dismissal or acquittal can never undo. Where the potential for abuse is so great, and consequences of a mistaken indictment so serious, the ethical responsibilities of the prosecutor and obligation of the judiciary to protect against the appearance of unfairness are correspondingly heightened...We suspect that dismissal of an indictment may be virtually the only effective way to encourage compliance with these ethical standards, and to protect defendants from abuse of the grand jury process."

The matter at hand is not a grand jury indictment, however, the difference should not lessen the ethical responsibilities of the prosecutor to protect against unfairness in promotion of a fair and impartial trial and the basic fundamental concept of "presumption of innocence until proven guilty."

Further, the ethical responsibility of protecting Jessie Lloyd Misskelley's Sixth Amendment right to assistance of counsel as afforded by the United States constitution cannot be overlooked. In addition, the impropriety of the prosecution has invaded and compromised these Defendants' constitutional rights by mocking ethical considerations and acceptable protocol. The State has caused aggravated circumstances prejudicing these Defendants resulting in prosecutorial misconduct and/or overreaching. As stated in *United States v. Kessler*, 530 F.2d 1246, 1256 (5th Cir. 1976):

"To find 'prosecutorial overreaching,' the government must have through 'gross negligence or intentional misconduct' caused aggravated circumstances to develop which 'seriously prejudiced a defendant' causing him to 'reasonably conclude that a continuation of the tainted proceeding would result in a conviction,'" citing *United States v. Dinitz*, 424 U.S. 600, 96 S.Ct. at 1080, 47 L.Ed.2d at 274, 44 U.S.L.W. at 4312. See also *United States v. Bizzard*, 493 F.Supp. 1084 (1980).

In order to deter the prosecutorial misconduct and/or overreaching, this matter should be dismissed to preserve fairness, as noted in *United States v. Carrasco*, 786 F.2d 1452 (9th Cir. 1986) wherein the Court stated:

"The purpose of a dismissal may be to preserve fairness to the individual defendant, to deter prosecutorial misconduct, or to protect judicial integrity."

The Defendants pray that the Court grant their Motion.

Respectfully submitted,

DAMIEN WAYNE ECHOLS, DEFENDANT

By: _____

Val Price, Bar#

Court appointed Attorney

[address]

Jonesboro, Arkansas 72403

(501) 9326226

CHARLES JASON BALDWIN, DEFENDANT

By: _____

George Wadley, Bar#

Court Appointed Attorney

[address]

Jonesboro, Arkansas 72403

(501) 9721100

CERTIFICATE OF SERVICE

We, Val Price, and George Wadley Court appointed Attorneys for the Defendants herein, do hereby certify that I have served a copy of the foregoing pleading upon Brent Davis, Prosecuting Attorney, by personally delivering same to him this _____ day of February, 1994.

Val Price [signed]

George Wadley [signed]

As you can see, the atmosphere in which Misskelley gave this statement were not exactly Constitutional or free from coercion. An Officer from the Craighead County Sheriff's office had convinced Misskelley that his lawyers (me) had sold him out and that if he would testify against Echols & Baldwin he would get out of prison. He was promised sex and alcohol in exchange for his testimony by this same officer. Misskelley later told me that prosecutors had bought him cigarettes by the carton when they met with him secretly. After denying the motion set forth above, the Court, citing that it felt that I had lost my objectivity in the case, appointed another lawyer to meet with Misskelley to make sure he didn't want to testify against his co-defendants. Misskelley again stated that he would not testify. In fact, Misskelley told us that he couldn't testify because to say what prosecutors wanted him to say would be a lie.

Absolutely nothing Misskelley told the officers or prosecutors would ever be admissible against him. Prosecutors would only give up harassing Misskelley for his testimony when I threatened to hold a press conference and disclose their efforts to entice his testimony. As I stated previously, Mr. Misskelley is a mentally handicapped person who is quite suggestible. It doesn't take much effort to get him to say or do anything at all.

-- Dan Stidham June 27, 1999

<http://murderpedia.org/male.E/e/echols-damien.htm>