

February 28, 1994

[Fogleman refers to exhibit 101 (the aerial photo map of Robin Hood Hills) throughout his opening.]

FOGLEMEN: May it please the Court, the attorneys for the defense, ladies and gentlemen of the jury, last week you went through a process that is known as voir dire which literally means to "speak the truth" and that's what you were asked to do as you know, as you were back there being questioned by the attorneys for each side. That process is designed to find 12 people who can be fair and impartial to both sides, not favoring one side or the other, but who can give it both sides an even shake and start off with a blank slate. At this stage of the trial, known as the opening statement, the attorneys for each side, myself on behalf of the state, uh Mr. Ford and Mr. Wadley on behalf of Mr. Baldwin, Mr. Price and Mr. Davidson on behalf of Mr. Echols, have the opportunity to come before you and tell you a little bit about the case and what issues or questions you're gonna be asked to resolve in reaching your verdict in this case. Now our purpose, as I say, is to help you, to aid and assist you, the jury, and not only having some idea of what the evidence is to be but also what issues or questions or what elements uh you'll be asked to decide whether the state's proven or not. Now in this particular case, the charge is capital murder and for you to return a verdict of guilty, on any count, in order to sustain a conviction for the charge of capital murder, I expect at the appropriate time, Judge Burnett will tell you that the state must prove beyond a reasonable doubt, two things as to each defendant and as to each victim. First that Damien Echols or Jason Baldwin, looking at them separately, or an accomplice, somebody acting in concert with them, caused the death on one count Michael Moore, on another count Stevie Branch, and on the last count Chris Byers. That's the first element, that one of these... that this defendant or an accomplice, caused the death of these kids. The second element is that when they did this, when these defendants did this, that they did so with the premeditated and deliberated purpose of doing so.

Now what's the proof expected to show? The proofs expected to show, ladies and gentlemen, that on May the 5th, 1993, Michael Moore was 8 years old, he was a student at Weaver Elementary School in West Memphis, uh, a school right there in the neighborhood where he lived. Stevie Branch was 8 years old in the second grade at Weaver Elementary. Chris Byers was 8 years old and in the second grade at Weaver Elementary. The proofs going to show that there's an area in their general neighborhood known as Robin Hood Hills and the proofs going to show that... that area is a what every kid's dream would be for a place to play, hills and trails and woods, and the kinds of things that kids would love to have to play in and explore and in this case... Ladies and gentlemen, the... to point to this area this entire area all through here and down in here and specifically in this wooded area here is what the proof is going to show is known as Robin Hood Hills, all of that area. This is North 14th Street, right here. This is Goodwin Circle and at the end of where the North 14th intersects with Barton, a little further to the South on this photograph, right on the corner Michael Moore lived, and across on the other corner, Chris Byers lived. Stevie Branch lived a little further south than they did. And at about 6 o'clock on May the

5th, Chris Byers and Stevie Branch were on a bicycle and Michael Moore was on a bicycle and they were seen headed north on 14th, toward this area, and a lady that lived in this house, right here, saw the boys in that area and they were last seen headed towards Robin Hood Hills. This was about 6 o'clock. When the boys didn't come home when they were supposed to, the parents, of course, began searching and um... spent a frantic night of searching. The next morning searching continued, search and rescue people were involved, uh... the entire detective division of the West Memphis Police Department, everybody looking for Michael and Stevie and Chris. Well finally, in this area here, this is a, right here, this is Ten Mile Bayou, and coming into Ten Mile Bayou, coming through these woods, is a smaller, we'll call it a creek, it's probably more like a ditch.... running through this wooded area and into this ditch. People were searching all out in here and in here and practically all over West Memphis and that part of Crittenden County. Over in these woods, just searching everywhere. A tennis shoe is seen floating in the creek. Officer Mike Allen goes to the scene, sees the shoe. He tries to get into the position to to get to the shoe and he falls into the water. And he walks around this tree and gets back into the water. Walks to the tennis shoe, he feels something against his foot. He lifts up his foot and the body of Michael Moore floats up. At that time, they secure the scene... other officers are called to the scene, they secure that area and Detective Bryn Ridge gets into this creek or ditch and goes inch by inch and finds Michael Moore, then removes his body. He's bound, hand to foot, he's naked. I believe his head is to the north, his feet to the south, laying on his side. They go up, they find some clothing, they find tennis shoes, Michael's cub scout cap, [inaudible] they go further to the south in the ditch, and find Stevie Branch. He's naked, bound hand in foot, under the water. They remove him, they go a little bit further to the south, and they find Chris Byers, bound in the same manner. In this area, the proofs going to show that right in the area where Michael Moore was, there's an area that uh.. it didn't look like any of the other surrounding area, uh, there were uh, no leaves on this particular part of the bank, uh, there were uh, had a shining quality to it, it had been, it appeared to have been, the proofs going to show had been, uh, slicked off, or like scuff marks, unnatural marks to the area, where as the area right beside it had leaves on it, and didn't have that appearance. There's no blood. No blood. At all. The clothes were, of the boys err uh, crammed down into the mud, except for the shoes that floated up. Uh, their bicycles were found, right here there's a pipe right here over ten mile Bayou, [inaudible] it's a drainage canal, a big pipe with i-beams beside it and the kids would walk across this i-beam and play over here and you can see some of these trials when you get the photographs and see them up close. And right here at this pipe and the i-beam the searchers found the kids bicycles in the Ten Mile Bayou, where they had been dumped.

Now as the proof develops, there's, I want to tell you in advance, there's going to be a lot of testimony from the Arkansas crime laboratory and some of this evidence is gonna be what we call I guess you call it negative evidence. It doesn't really show a connection to anybody. And there'll be a reason for us putting that on and we'll explain that to you later. But for instance there'll be proof like on the bicycles there aren't any finger prints. On some things that were in the kids pockets, no finger prints. Things like that. And you may wonder why we're putting on

evidence of the negative, but we'll explain that to you later. Now as the proof develops, the proof is going to show, ladies and gentlemen, through scientific evidence, the statements of these own defendants, Damien Echols and Charles Jason Baldwin, and other evidence that they caused the deaths of Michael Moore, Stevie Branch and Chris Byers. Now in the element, on the element of premeditation, when you hear the descriptions of the injuries and see the injuries and we expect the proofs going to show but one conclusions and that is that these deaths were premeditated. The proofs going to show, ladies and gentlemen, that Michael Moore suffered severe head injuries and he was drowned. The proofs going to show that Stevie Branch suffered severe head injuries, the left side of his face was mutilated, and he drowned. The proofs going to show that Christopher Byers had severe head injuries, skull fractures, that his genital area was removed and that he bled to death before being placed in the water. At the conclusion of this case, ladies and gentlemen, after all of the proofs in, after each witness has testified from this witness stand, after Judge Burnett has instructed you on the law, I expect to come back and stand before you and ask for your verdict of guilty on capital murder for the death of Michael Moore, Stevie Branch, and Chris Byers.