

**March 17, 1994**

**DAVIS:** May it please the court, fellow counsel, ladies and gentlemen of the jury. I'm gonna be serious and I'm gonna be brief. But let me warn you first, I told Mr. Fogleman last night--I said, when I stand up they're gonna think they're gonna have to hear the other three attorneys that hadn't talked yet and that's not the case. I'm the last guy who's gonna talk. Because it's the State's burden to prove this beyond a reasonable doubt. And therefore we get the final rebuttal closing argument. There's been a lot of talk about what this case is about. And I'm not here to tug, and this is not my intention--to tug at your heart strings, but I want you to look at those three boys that were murdered because there's been a lot of attention, and the defense attorneys focused on sympathizing or empathizing with their clients.

What I think is a key in this case--is not just who killed these boys although that's the real issue you all have to decide, who's involved in the murder--are these defendants involved. But I think also important is what type of person was involved in these murders that could turn these three innocent-looking little eight-year-olds into the mutilated bodies that we've seen in those photographs. Because what type of person could do that is at the very center of this case. Because the defense has thrown out ideas, such as could have been sexually motivated. Could have been a transient. It could have been a serial killer. But like Mr. Fogleman told you and I think when you look at the evidence and familiarize yourself, and I ask - really do beg of you to go back there and take your time and look through this, and see through it, and rationalize it. Because when you look at this evidence you're going to see that it would be an absolute impossibility - take that back - it would be within the realm of possibility, but that's not within reasonable doubt. For these kids to have been removed from those woods and killed somewhere else and brought back. It would make absolutely no sense whatsoever. And it would have been an ordeal and a task for a group of people to perform, and--because the route you have out across that pipe, through Blue Beacon, or out across that open field--where you would have had to have carried the bodies for quarter of a mile. And you're talking about - the defense want you to believe that it could have happened somewhere else because there's no blood found. And this may be a bad analogy, but remember that it was thirty days between the time these murders occurred and the time that these defendants were arrested and that brings--you remember Mr. Ford mentioning--I may skip around here some--but Mr. Ford mentioned, remember the letter of Gitchell on May twenty-sixth where he said we're blindfolded. Well you remember the testimony of Officer Ridge that they talked with Jessie Misskelley on June third of 1993, and on that night the arrest were made.

And you remember the words of this defendant, Jason Baldwin, and this is through Michael Carson that I put to you he's a credible witness. And they can say he's committed crimes, but Jason Baldwin wasn't gonna be with anybody out there that wasn't in some trouble--I mean that's a fact of life when you're in jail. But, his credibility--he had no reason to lie, he had no motive to lie and he got up here and he told you what Jason said. And it wasn't just the horrendous things that Jason had described that he did, which just happened to be consistent with

the physical evidence in this case. It's what Jason said about Jessie Misskelley. Remember that? If Jessie Misskelley hadn't screwed up I wouldn't be out here right now. And when I get out of here, I'm gonna get off on this, when I get out of here we're gonna have a big party.

Now, Mr. Ford can attribute a great deal of skill and cunning and ability to Michael Carson. That Michael Carson is capable of fabricating this story, putting all these parts in that fit and then getting up here telling us strictly for the purpose of becoming a big shot. And can withstand Mr. Ford, and I'd say that he probably got cross-examined as hard as anybody that Mr. Ford tried. Mr. Ford's voice got higher with him than it did with anybody. Cause he was excited. And he tried to hammer him. He tried to shake him. He got up up there and he went after him. And he didn't shake him an ounce. And even the person in the jail--and I think Michael Carson told you, he was reluctant to talk about what somebody else had said. And he wouldn't normally do it. But when he saw the parents of the victims on TV--and I believe it was the night before the trial in Corning started, when he saw that on TV he picked up the telephone and he called me. And he told me what he knew and he testified to it from the witness stand, and I put to you if he was lying--if he was telling you something that wasn't true, they would have nailed him on some facts about what was going on out at the jail, who he was with, things of that nature. Who was in the jail at the same time, where they were when it was said. You know, if he's gonna fabricate something he could have fabricated something a whole lot more grandiose than that. I mean he could have come up with something that would have nailed--I mean heck, why not go ahead and get the other defendant while you're at it if you're gonna be a big shot. But he told what was accurate with the facts and when you look at judging of credibility you look at reasons and motives for fabrications, and he didn't have it. He didn't have any reason to benefit up here. If he was gonna do it, he could have done it back a long time ago and maybe could have benefited himself--tried to gain something out of it, but his day in court is over with. His situation is done. There's nothing else to be gained.

They want you to believe it happened somewhere else. Because, that makes it less likely that it was someone who knew the area and was familiar with the area. This area out there, keep in mind--it's the perfect--it's the perfect area to commit this crime. Number one, it has children that play all in this vicinity. Number two, this area of the ditch, if you'll recall from the testimony, that's a big cut bank there--what I call a cut bank, where the ditch has washed it out. And you can stand in the ditch and the bank, the top of the bank is like right here. So if you're down in the bottom of that ditch on those plateaus and flat places when the murders occurred you not only have the benefit of the traffic and sound of the interstate highway, and the seclusion of the woods around you--you're basically down in, kindly a little crater or cavern when you're committing the offense. Now they make a big deal about no blood found there. Well, like I said, there was thirty days elapse.

And all that had to have been done--and of course this was--Mr. Ford, when he cross-examined Dr. Peretti, gave him "X,Y, and Z" examples. But all that had to be done is for something to have been laid on the ground when the children were placed there. Whether it's a

piece of plastic, a piece of Visqueen, and it's folded up and carried with them when they leave the woods that night. And we don't get them for thirty more days. So, I mean, they can leave the stuff in the drainage ditch on the way home. A big coat spread on the ground could have served the same purpose.

It could have been anything that covered the ground or they could have been on the very edge of the water, where their legs were in the water and where they bled into the water. No we don't believe it occurred after dark. Because, primarily--think of it, now they had...

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...if you think of it logically. If they go--the kids are in the woods playing, the last they're seen is going into the woods, when they're found dead less than twenty-four hours later they're in the woods--logic would tell you that it occurred there.

Also they had massive head injuries. The logical scenario was, if--to catch and corral three eight-year-olds, and--I think it would have been nearly like catching a cubby of quail, there had to be more than one person doing it. To inflict injuries from multiple weapons, there had to be more than one person doing it. I mean you could, one person could use three different weapons but logic tells you if you got different type knots tied on the children and extremely different from one side to the next. If you got three different weapons causing the injuries, if you got situations where the injuries are dissimilar--three weapons, three types of knots--those type differences, you realize that it had to be more than one person. If there's one person how do they corral the kids, how do they tie the kids up. The head injuries had to be first. The head injuries - Mr. Ford says they can't be because there's no blood. But the type head injuries that you see here, a lot of the blunt trauma and I think each if the kids sustained some blunt trauma to their head, now there are some injuries that are in the nature of cuts and open wounds. But the blunt trauma type injuries would debilitate the children, yet not cause this massive bleeding. But whether--if they're alive they aren't debilitated first then how in the world could you get them out of the woods. I mean even if they're gagged, it's daylight because they're in the woods around six-thirty--it's still daylight and you're having to take them out with one side an interstate highway and the other side a three-hundred to five-hundred unit apartment complex or a truck wash. I mean how do you get the kids out? And if you do why in the world do you come back and dump them there? I mean, if you want them to be found you could put them in a lot better places and if you didn't want them be found, why in the world would you want to bring them back to where they were abducted in the first place? I mean, it literally doesn't make sense.

This location is an absolute prime spot to abduct children, to ambush children, to commit a murder within what is really a fairly residential and busy area. It's absolutely a prime location. And the fact that that's important is really the main thing--is whoever did this, this wasn't some stranger that popped in off the interstate. Whoever did this, and left those children there, who pushed the clothes down in the mud, was someone that was familiar with this area and familiar

with what went on. Familiar with the goings on with these kids, and to know to commit this crime here, to know that even though it doesn't appear that secluded it's a heck of a place to pull this off. And I put to you, that's consistent with our defendants.

Mr. Ford talks about - he said, there's nothing to connect, you know--they don't have anything to connect my client. And he told you and this was another one of his word games that he likes to play. He said all our witnesses said this couldn't be the murder weapon, this wasn't--incorrect, this wasn't the murder weapon. Ok. Is that what our witnesses said? Think about it. Did our witnesses say this wasn't the murder weapon? What Dr. Peretti said was that the injuries are consistent with a serrated edge of this type. And I ask you like Mr. Fogleman did, please go back and compare and look at this.

The other thing to keep in mind is-- and John didn't mention this, but remember this knife has two cutting surfaces. It's got one here and it's got this serrated portion back here. Now, the ripping type injuries you see on the children are on the inside of the thighs and the back of the thighs and the inside of the buttocks. Ok. When this surface is being used to remove the genitals and the knife is worked in and they're trying to remove the genitals this back surface is what's going to be coming in contact with the inside of the thigh and the back of the buttocks. The knife that you were shown over here, the Byers knife, it has but one cutting surface. If they're using that knife to remove the genitals, then the back of that knife has no cutting surface at all and wouldn't leave any marks on the inside of the leg or the back of the leg. And I ask you to go back there and look at this and think, when you look at those photographs and where those injuries are--think of how this knife is used, and I know it's not pleasant. But think of it and then look at where those marks are and how they match up with this particular size of blade.

Of course Mr. Ford says that's not evidence. Because he doesn't wanna believe it. Because it incriminates his client. He would rather talk about the mud in the bottom of the sacks. He would rather claim - and I don't even - every case they claim police ineptitude. I mean, that's - as a prosecutor I nearly write that down as something that the defense attorneys are gonna say. They always get up here, and if they don't have anything else to talk about they say, well the police bungled it up, because if they had done a better job, like they do on TV, we'd have all the answers. And so they claim that the police messed up. Well this is nothing unusual except I've never heard them allege that police staged photographs. And accusations like that - why they've reach the point that they're even accusing the police of actually manufacturing things - I don't know if it's reached that point in desperation or what. But what I consider that - not only inaccurate, but totally inappropriate based on the evidence. You look at the photographs, I mean Mike Allen's face when he said that about the watch--you believe that Mike Allen really had more than one watch--that he came out there at a later date.

One thing that he also mentioned - and he said - the fiber. Not a single witness said that that fiber came from that robe. That's true. And you understand - I think now that you heard three experts in fiber testify, it's not like a fingerprint, you can't say that that fiber came from that

particular garment. However, what they can say is that that fiber is microscopically similar in all characteristics to the known fibers we removed from that particular garment. Mr. Ford tries to minimize that and mislead you by saying, 'they can't say it came from there.' No, we can't. We can say it's similar in all respects and the only - the only garment that was found in the searches of any of these places that had a fiber that matched, and you've seen those graphs how well it matches, you know, they run perfectly parallel contrary to what Mr. Lynch, the guy who can't flatten one, says. But, those fibers match that garment. And it's one fiber. But it's microscopically similar - similar in all respects to what came off that robe. And that robe came from Jason Baldwin's house.

They make a big deal about there's no evidence at the scene. But think about it a minute. It's not that there's no evidence connection their client because what evidence was found out there connects to one of these two, for the most part. What they want you to do is say there's no evidence. But there's no evidence out there that points to anybody else. There's no evidence that points the finger - if someone else did it, and that's their argument, you know, there's just not a whole lot of evidence out there that connects to our clients. But if someone else had committed the crime then you'd see fibers out there that didn't match, didn't come back to one of these people. You'd see evidence out there that didn't match either one of these. You'd see evidence that didn't connect. And you don't have that. There's just a scarcity of evidence. Somebody did a good job of cleaning it up. The same person who made sure they punched the clothes down in the mud so they wouldn't float up is the same person that cleaned that area, and they did a dang good job of it, and they removed most of the evidence. But there's a few things they didn't get.

They talk, both attorneys talk about Bojangles. And that's another side of police ineptitude. But think about it, I mean, we got a guy who is literally bleeding like a stuck hog when he comes in Bojangles. I mean, there is blood everywhere. It's in the entrance, it's in the floor, it's on the - it completely soaked the toilet paper roll. Ok. The guy is unsteady, he seems to be kindly out of it. And this is the same guy they're trying to point the finger at and say, that's reasonable doubt, that could be the killer. Mr. Price didn't even have - he couldn't go that far, he said, well it's possible. It's possible. Read that instruction on reasonable doubt. It's possible, but can you believe a crime scene that were so meticulously - I say to you that's the crime scene - that was so meticulously devoid of any signs of struggle or altercation. Even though the bodies, and remember those bodies that were dumped there when they were recovered bled again when they were put up on the bank. And we know they were taken there and dumped but whoever did it was so careful that there's not any blood in the area, you think that's any connection with the guy who's unsteady on his feet and he comes walking in Bojangles about eight-thirty that night. He's got blood all over the walls and got blood all over the toilet paper in the women's bathroom. I mean, come on. You know, use your head and logic. That is a red herring they're throwing out to try to get you off the track.

Mr. Ford talked about--and I'm not sure what set, other than the fact that, I don't know if you find that the children were sexually abused or not. But he's wrong in one thing, because there

was testimony that there was a DNA source consistent with semen found on the pants of one of the children. And Mr. Ford indicated that there was no evidence of that. He talks about no mosquito bites, and I think it is important. Because I think the kids were hit in the head and I think the evidence reflects they were hit in the head, they were tied up, and they were submerged in water before it got dark. In that time frame between, the time they disappeared and the searchers started getting out there and it would have probably scared people of at that point because they're getting close enough to the area where the bodies were ditched. That, between that time period, the reason you don't have mosquito bites on the bodies is because soon after those children went into the woods around six-thirty, not too long after that time period--they're playing in there and they're abducted, they're tied, they're beaten in the head, the terrible cutting injuries are done to them, and they're dumped in the water. And that's why you don't find the mosquito bites, and that's why I'm not concerned about whether you can do this after dark, because I don't think the evidence is consistent with it having been done after dark. I don't think it's consistent with them having been removed out of there. And I think that's a reasonable conclusion you can draw from the evidence.

Mr. Ford is real concerned about the question as to time of death. And - I don't know what got into Dr. Peretti. I swear, I do not have any idea of what the man - what caused him to come up with that time range. But you heard, and the textbooks, you heard Dr. Jennings - even Dr. Peretti leading up to it - like Dr. Jennings said, you can't give an opinion, you can't give an opinion, you can't give an opinion - ok Mr. Ford I guess I'll throw this time range out. And it's just--it is absolutely as inaccurate and doesn't have anything to do - based on lividity alone - that time range has no more - that is no more basis for an estimate as to time of death, it's like he said it's putting the roof on without the foundation. The time of death, the only accurate range is from the last time they were seen until the bodies were discovered. And this isn't a TV show, that's as close with these factors as we can get. And they said well - you know they didn't get all the information we need, but had they gotten a rectal temperature they would have destroyed evidence, possibly of sexual assault. Had they removed the bindings to determine the degree of rigor, they would have possibly destroyed evidence that had to do with those bindings, now remember there's a piece of tissue that was found in one. So, I mean, they had--their decision to do what they did was based on a rational, logical alternative of, we're gonna give up some things to obtain others, and that's what they did.

Mr. Ford talked about guilt by association in regard to Jason. And, remember Dr. Griffis, and I'm kindly--this satanic or occult motive thing is kind of a foreign concept to me. But when you've got people that are doing what was done to these three little boys, I mean--you've got, the normal motives for human conduct don't apply. There's something strange going on that causes people to do this. I mean, you've got some weird people. And when you got a set of beliefs--when you got people out there that are following a particular set of beliefs that include human sacrifice and it's evidenced in the books. I mean, he can say I don't--you know--I don't do it as a custom but I mean this guy's more--his mother said it was a phase he went through, I think he

said he dabbled in it. Well you can judge him from the witness stand. The guy is as cool as a cucumber. He is nearly emotionless, and what he has done in terms of the satanic stuff is a whole lot more than just dabbling or looking into it for purposes of an intellectual exercise. I mean, the guy's handwritten incantations regarding sacrifice, letting the blood flow, all that sort of thing. I mean, that is indication of someone that's got some rather unusual belief system.

Dr. Griffis mentioned, he said, you often times see that you've got one kind of charismatic guy that's heading the group. And he said this is often times what you've got with these offshoots that aren't formalized cults or satanic groups. But they're just kindly offshoot groups that are kindly self-styled occultists, and you usually have one guy that's kind of like the charismatic leader and then you have some followers. Well contrary to what Mr. Echols told you from the stand, I don't think he's the introvert that he says. You see at the ballpark, as Mr. Fogleman pointed out, he has the crowd of people around him. They're younger people, sixteen-year-olds like Jason Baldwin who's his best friend and the testimony was they spent three to four hours together nearly every day, that he would walk across town nearly every day to go out to the trailer park to be with his best friend, Jason. And, you see that--you know--usually when you see people that associate that frequently, there's some sort of tie. Play basketball together, they're in athletics together, they go to school together--they have some common interest that binds them so that they spend that much time together. And I put to you, that the leader in this case is Damien Echols. And the follower--one of the followers in this case, is Jason Baldwin. And, it is so, like Mr. Fogleman said, serial killers don't work in packs, psychotics don't run in packs. When you have multiple people involved in a murder like this there's got to be some thread that connects them, that holds those people together so they act together in a focused effort. And I put to you, as bizarre as it may seem to you and as unfamiliar as it may seem, this occult set of beliefs and the beliefs that Damien had and that his best friend, Jason, was exposed to all the time, that those were the set of beliefs that were the motive or the basis for causing this bizarre murder. And Mr. Ford might not like to accept that. He may make fun of Dr. Griffis, but in this case I think the shoe fits. And the other more normal motives for human actions and the actions that we find here, just don't seem to cut it in this case. Because you got something this bizarre, and this unusual. And, like John said, we didn't make this stuff up. We didn't put the writings in the book, all that. That's stuff that was produced by Damien Echols. And if that indicates--and Mr. Price will say each little object doesn't indicate that he's involved, but it indicates more than just a passing interest. If somebody, when their dress changes, their ideas change, their religious beliefs change to that extent and it's that type of religious beliefs, then it's not a foreign idea to think that that has something to do with their motivations, or motivating their actions, and affecting their actions.

When Damien was telling us - remember about the interview? And he's talking about what Officer Ridge asked him. And he said--you know, I asked him--I said Damien, you know--'you told the officer that whoever did it is probably laughing at the police'. 'Yeah I said that'. 'Why you think that?' 'Common sense would tell you that'. And I thought at that time that that's a

tad strange--now to me, common sense--but maybe I just--I hadn't thought about it, and then he started reeling off these things like the person--it would have happened out in the woods because they couldn't hear them scream. But the person who did would have really liked to have heard them scream, really enjoy hearing them scream. Why you think that? Well common sense would tell you that. And I thought, well, ok. And so it went through and he reeled off a number of things and he kept saying - just looking real flat, unemotional -common sense would tell you that. And I know when I got home that night it started--when we're dealing with somebody, whoever committed this crime has to be one warped individual, and the person who talks in terms of--the person who did this would liked to heard them scream, the person who did this wouldn't mind if they got caught. And that is a mind, you know, that is a frame of mind that fits the person who committed this crime. And it fits the guy who was out there at nine-thirty at night.

And it's kindly funny, you know at one point they wanna believe Narlene but they don't wanna believe Narlene. I mean you can talk them a lot ways, but I don't think Narlene lied to you when she said she saw Damien out there. And once you accept that, and why in the world is Damien and the rest of his group lying to cover him--where he was on the fifth. What difference does it make? Why don't he get up here and level with us? 'Why, heck, I was going down to Love's truck stop on the fifth. Put Domini up here, let her tell you what they were doing. But if Anthony and Narlene are telling you the truth and, you know--you heard her say about getting them in the car but she wasn't gonna have them in the car, she wouldn't let her kids sit on his lap. She know who was out there, I mean--Damien himself admits what a distinctive looking character he is, and you wouldn't drive by and miss with your bright lights on at night if you knew who he was. And she knew who was out there. And if he's out there then he's lying to you. And if he's lying to you--his whole family is lying to you, and the question I got for you is, if they're lying to you about all that, why? Why? Do they got something to hide. I put to you, they do.

Also, remember Damien saying--and I think this is a real, real coincidence, and y'all can play a little detective on your own when you go back here. Remember this book that just comes from the library? See all this stain on the back of it? You all go back there and look at that and kindly tilt it in the light and look at it, and see if that isn't blue wax to you. See if that doesn't look like some blue wax to you. Now you run your fingers on it and it reflects, it got kind of a shiny surface to it. You remember ol Damien telling us that one of those--I mean, whoever was doing this would--probably if it was satanic involved, would probably have some candles out there. Well, we got one of the boys' shirts that had that blue wax on his shirt and--oh, Damien will tell you, well those red marks in his book, you know--they must have been in the library before I got it.

But is this just gonna be another one of those coincidences? You know, Damien's out there at nine-thirty, Damien tells two people who don't know him from Adam--they overhear him say he committed the murder, their mother comes into court and testifies under oath that's what



her daughter said. Narlene and Anthony tell you that. And is this just another coincidence that we've got blue candle wax on the shirt of one of the victims. And we've got blue candle wax on this book involving, dealing with the occult.

You go back there and play--play your own little examination with that. I can't--I know y'all are real tired, and I haven't gone over everything I marked in pink, we'd be here til--I frantically wrote down every time I'd hear something I'd think gee I wanna say something about that. I wrote it down on my notepad and I don't think if I talk about it it would make much difference at this point. I know y'all are tired. But when you go back there and think of what was brought up by the defense attorneys, look at what we have to prove, and what our burden of proof is. And look and see if what they're saying really have anything to do with what we have to prove. And our proof beyond a reasonable doubt. Look and see if it really is something that goes to raise a reasonable doubt or is it something that they threw in as a possibility. Because I've heard that word so many times during this trial I'm getting sick of it. Because possibilities don't have any place in this courtroom. If you find reasonable doubt you can act on that. But possibilities and possible doubts don't count. And that ain't good enough.

Mr. Ford asked you during voir dire, he begged with you and said, I want you, when you get on this case, I don't want to make you--it's so serious, I don't want you to make a mistake. Well I don't want you all to go back there and make a mistake either. Because while they've told you what the price tag and the liberty and freedom of their clients is one side of the line, well, he said the lives of children are on the other side. And we have presented--well, it's a circumstantial case with circumstantial evidence, and it's good enough for a conviction. That's what that rule and instruction tells you. And reasonable doubt, all that means is every day you make decisions in your life. And you make tough decisions, important decisions. And you take all the factors that you got and you have that gut feeling that you're doing right, then you act. And all of us do that. And reasonable doubt is the standard that's applied in every criminal case in this country from the time it began. And every defendant that's been convicted has been convicted based upon that burden of proof, so it's nothing new. It's no miracle hill to climb. It's a certain level and it doesn't get higher because of the nature of the case. It's the same in this case as it is in any other criminal case.

So when you go back there look at that, in regard to Damien. And I think--and there is a connection between--I think Damien is the link with Jason. I think there is a connection between the two that you can consider in determining the guilt of this other defendant. I think there's that connection. And I think you'll find it in the evidence. When you go back there, ask yourself, look at all the evidence, his belief system, what Narlene and Anthony said, what the girls at the softball park said, the fact that the fibers match up, the wax we've got on his book.

In regard to Jason, the red fiber, and what Michael Carson said. Cause this is the time when you gotta make hard decisions. Michael Carson, he's either - he's lying to you or he's telling you the truth. And it's not somewhere in between. And I put to you he's telling you the

truth. Kids like him don't come in here do that for nothing. When they tell something like that and they put themselves in that position, they're shooting you straight, because he don't like that witness stand. And, he's telling you what happened, and when you put all the evidence together, you wrap it up.

We don't have to put evidence out the sky. We gotta convince you so you have that conviction in your stomach when you go back there and look at that evidence. And I put to you that we've done that in this case, that the defendants are guilty of capital murder--couldn't be a worse capital murder ever committed in this state that I'd be aware of. I mean, it's premeditated and deliberated, it's the worst possible kind of killing you can have. And when you go back there, sort through that evidence. Go through it carefully. Look at this knife. Look at those photos. Look at all the evidence, and piece it together, and when you do, you're gonna find that these defendants are guilty beyond a reasonable doubt. And you'll feel - you can feel - good. You don't have to feel guilty which is what defense attorneys want you to do. You can feel good in returning a verdict of guilty. Once you gone through that evidence and made that determination that there's proof beyond a reasonable doubt.

Thank you.